



# Managing HR issues during COVID-19



The onset of the COVID-19 pandemic has created significant changes in people's lives, personally, professionally and socially. Even though we are well into the pandemic at this stage, we are still having to continue with the basic preventative steps to ensure that we are reducing the spread of this highly contagious virus.

**O**n a personal basis, the pandemic has created different reactions from people, and within people of different age groups. We are all aware that the older you are, the greater the risk. It would be fair to say that in most cases people are genuinely concerned about the virus, and when talking to people, the most common comment I have come across is people saying it is the thought of them infecting somebody else, which is their biggest worry.

## So how has this virus affected the workplace?

Within the workplace, companies have had to feel their way through the crisis and learn what preventative steps they should be taking

to ensure the safety of their customers and their staff.

Employers have obligations under the Safety, Health and Welfare at Work Act to ensure that the workplace is safe. While employees also have an obligation to ensure they work in a safe manner, the primary responsibility still lies with the employer. We have seen quite onerous preventative protocols being issued by the Government. Measures range from employees attending work confirming they have not been in contact with someone with COVID-19, to asking employees to submit contact documentation so that contact tracing can be carried out in the most expeditious way. Other measures include the introduction of isolation areas and designating routes that a person should follow, as well as a multitude of other provisions to protect everyone.

It would be fair to say the efforts made by everybody throughout the country have been a significant contributor to managing the virus. We are all in an environment of suppression and, as can be seen in recent spikes not just in Ireland but around the world, this virus is willing and able to spread quickly once it is given the opportunity.

## How has this affected people in the workplace?

The virus has affected people differently, from employees realising that they can work effectively from home, or that they do not want to work from home, to companies realising that they may not have to rent as much office space going forward.

Requiring people to come back to work has also triggered responses. These

vary from situations where some people are reluctant to go back to work because they have a genuine fear that they are exposing themselves to unnecessary risk, family pressures not to return and, despite Government guidelines, people insisting on travelling to countries where the infection rate is higher than Ireland, resulting in two weeks isolation.

To employers, all of these difficulties have caused challenges. Restarting a business and at the same time incurring restrictions on the number of people on the premises at any time, especially in the case of retail and maintaining social distancing in the workplace, is difficult because of the nature of the business and its processes. Employers have had to invoke new rules and require employees to comply



with them. Most employees will comply, but regrettably there will always be someone that will not. This results in confrontation with the employee and also makes colleagues feel uncomfortable. All this puts the employer in a difficult position as they must keep the workplace safe. This will inevitably result in conflict with people who are not willing to comply with the rules. This means that employees are now potentially exposed to disciplinary action up to termination of employment. If an employer does not act responsibly, they will be accused of not keeping the workplace safe and employees cannot be allowed to behave in such a way that makes other people feel unsafe. This could form the basis of someone saying the employers' failure to address these matters in effect means they are allowing others to be intimidated, feel unsafe or bullied.

### Childcare

Childcare is another issue. This was probably more difficult when children should have been at school. Ultimately as the phases have moved on difficulties have reduced, albeit there will still

be people with a difficulty coming to work for childcare reasons. It should be noted that employees are required to come into work, if work is available. This has meant that employers are being expected to behave in a reasonable manner in situations where employees indicate they have difficulties. We recommend clients to take a reasonable approach. Identify how arrangements can be made to allow appropriate childcare arrangements to be made. Hopefully, in the short-term they can be facilitated. However, it would be fair to say that employees do not have the right to refuse to come to work because of childcare reasons.

### Employees with health concerns

Similar difficulties have arisen for people who are fearful for their health. A person may genuinely be nervous of returning to work and regard themselves as someone in a vulnerable group. Unfortunately, this virus is not going to disappear tomorrow, which means we as a society must learn to live with the virus and manage it in the best way that we can until solutions

are found. Therefore, when someone indicates they are vulnerable we recommend the employer meet and discuss their concerns, identify how they can be reassured and encourage them to come back to work. If an employer needs that person back the employer would be entitled to insist that person returns and the return to work protocols should be put in place.

### Working from home

During lockdown, people had to make do with what they could in their home to work. For many it was a new adventure. Many found they could get more work done and saved a significant commute, resulting in a positive contribution to their lifestyle. They may now want to remain working at home. Some found it difficult to separate work from home, spending more time at work than if they had been in the workplace. Others found they would prefer to be working in the workplace where they can start work and leave work in the office and go home to their personal lives.

How is this going to be dealt with going forward? Some companies will be happy to continue but companies should realise they are not

entitled to instruct someone to work from home if the normal terms and conditions of employment, is the office. If a company wishes people to work from home, then it has a health and safety obligation and will need to put in the necessary infrastructure to ensure the employee is working safely. Therefore, the employer's workplace and obligations may significantly expand because of this. Other companies want employees to return to the workplace. There are many good reasons for this. Employers may believe the day-to-day interaction is a positive contribution to how the business runs and how it develops, and sharing information allows opportunities for new ideas which will contribute to the success of the business.

Another issue is someone who is suffering from COVID-19 or has symptoms — they must take the appropriate steps. If someone has a genuine concern because they are sniffing, have a sore throat or are experiencing breathlessness, they should request a test and will have to isolate. In many cases companies will not pay sick pay and therefore people will be subject to State benefits. However, where companies do pay, this will result in employers having to pay staff and then paying somebody else to cover.

In examining how an employer approaches these challenges, we recommend the employer be as inclusive as possible and involve all staff in steps to ensure they keep themselves and their colleagues safe. In doing so, they are making a contribution towards ensuring the business continues to operate. These steps will not guarantee the future of the business but will contribute to the safety of the company and their future employment. This time we are all in this together and all have a responsibility both inside and outside work.