



IRELAND: COVID-19 Employer FAQs

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The following frequently asked questions (FAQs) are designed to address some of the more common questions that employers with operations in Ireland currently face. Employers are also encouraged to consult relevant FAQs put forth by the [World Health Organization](#) (WHO) and the Irish government.

We highlight questions as ***UPDATED*** where the answers have substantively changed since our last FAQs. As this continues to be a fluid and rapidly-changing situation, please keep in mind that different or additional facts may warrant re-assessment of policies and practices so they can serve the best interest of employees, employers and the community at large. Accordingly, employers should consult with their employment counsel to keep updated on any new legislation or related legal development.



TRAVEL RESTRICTIONS

1. Should an employer restrict travel to areas with high levels of cases?

Employers with Irish employees should follow the Department of Foreign Affairs and Trade [country advice guidance](#) for the specific destination, and generally follow the [Irish government's advice](#) to employers. The Department of Foreign Affairs and Trade advises against all non-essential travel overseas until further notice.

With limited exceptions, all arrivals into Ireland must restrict movement for 14 days and provide a negative Covid test.

2. What should an employer do if an employee shares that they plan to travel abroad?

Employers cannot restrict an employee's personal travel, however, the government guidance for returning travellers above should be followed. An employer must ensure that returning travellers do not return to the workplace for the requisite quarantine period.

3. How should an employer handle employees who have family members who have travelled abroad?

Employees who have had a family member travel to affected areas should contact their [local Department of Public Health](#) upon their return.

An employer may wish to do an individualized risk assessment and determine whether to have the employee stay home or work from home, for example, depending on whether that employee has had close contact with the affected person.

4. Can we prevent employees from traveling abroad for personal reasons?

Probably not in most cases. But an employer can institute a requirement that employees disclose their plans so that they can take steps to ensure health and safety in the workplace.

An employer might be able to refuse (or revoke) holiday approval in certain situations. For example, approval potentially could be denied if: (1) an employee discloses that they intend to travel abroad and so they may be required to be under quarantine upon their return; and (2) the employee cannot work from home on return and the employer cannot do without the employee for that length of time.

Note that government guidance is subject to change at any time, and employers should stay informed and follow government advice (see [here](#)).

DISCRIMINATION LAW

5. What discrimination issues should employers address/be aware of?

Preventing travel may indirectly discriminate against certain employees, e.g., employees from other countries. However, it is a defence to a claim of indirect discrimination that the action is a proportionate means of achieving a legitimate aim (i.e., to protect the health and safety of others in the workplace and following government advice). An employer could ask employees to notify them of travel to an affected area and require them to take extra holiday (or unpaid leave) to self-isolate at home after returning.

6. What are the employer's obligations to prevent harassment of those suspected of being infected?

Employers should have anti-harassment policies and training to prevent harassment in order to mitigate risk for harassment, as employers will be vicariously liable if their employees harass colleagues and the employer failed to take "all reasonable steps" to prevent it. Employers may wish to include an anti-harassment reminder to employees in their communications about steps being taken in relation to COVID-19, and refer employees to relevant policies in place.

DISABILITY LAW

7. Can employers take the temperature of employees who are coming to work?

This is recommended under the Work Safety Protocol and accompanying guidance. Employers who wish to start temperature checking should manage their risk of breaching data protection law by undertaking a risk assessment (setting out the legal basis they are relying on) and not processing the health data for any longer than is absolutely necessary or for any other reason i.e. do not keep a

log of employee's temperatures.

8. Are there any rules on what employers are allowed to do concerning subjecting employees to medical examinations or health-related tests that would apply to an emergency situation involving a communicable illness such as COVID-19?

Employers cannot subject employees to testing for COVID-19. Employers can require an employee who is not feeling well and has travelled from abroad, or who has had contact with someone who has been diagnosed, to self-isolate at home for the recommended period. Employers can also encourage an employee to seek medical advice and instruct them to remain away from work for the full recommended period of self-isolation unless they are tested and cleared. (See below for guidance on whether this time must be paid.)

SAFETY & HEALTH RULES

9. *UPDATED* Are non-healthcare employees required to wear respirators or other personal protective equipment?

Not unless the employee is required to wear a face mask in accordance with government's public health rules e.g. the employee is working in a retail environment.

10. Can an employer with a public-facing business, prevent employees from wearing a surgical mask or respirator?

No.

11. What if an employee requests not to wear some type of mask as an accommodation?

An employer should have a discussion with any employee making a request related to a medical condition to determine the reason for the specific request. It may be appropriate to seek medical advice about the best approach - an employer should not make assumptions about medical matters. Alternatives should be considered, such as face shields or working in a different role from home.

12. For employers that have events for large gatherings scheduled, should they cancel them?

Yes. There are very few public gatherings permitted at present.

IMMIGRATION

13. Has your country's government issued travel advisories? (If so, please summarise the guidance and provide a link to the government's website (if applicable)).

See response to question 1.

14. An employee who recently travelled abroad is having difficulty re-entering your country:

(a) How can an employer help the employee get back into their country?

The employer cannot directly help the employee. They may support the employee financially or by offering flexible working arrangements, though. Seek legal and tax advice on specific situations, as there may be tax and other potential consequences to remote working from a different country.

(b) In the case of a foreign employee, will the government's travel advisories affect an employer's ability to get the foreign employee back into the country?

Yes, this is likely going to be a problem with employees returning from overseas, but it will be based on their travel and not on their nationality per se.

UNEMPLOYMENT & OCCUPATIONAL RISK LIABILITY

15. Do employer-instituted quarantines or temporary shutdowns or mass lay-offs entitle workers to unemployment benefits or severance?

Yes, employees and self-employed workers who have lost their job because of Covid-19 are entitled to a special COVID-19 Pandemic Unemployment Payment. See a summary of employee entitlements [here](#).



The government has set up an Employment Wage Subsidy Scheme, details of which can be found [here](#).

16. What are an employer's workers compensation obligations if an employee travelled to an affected area for work and contracted COVID-19?

If the contract of employment provides for company sick pay, then it should be paid as a matter of contract law. Otherwise, an employer does not have to pay wages for employees who do not turn up to work (but may do so if they wish as a matter of policy).

WORKS COUNCIL/INDUSTRIAL UNIONS

17. In the event of a government-declared quarantine or state of emergency, does your country's law override contractual provisions and allow for actions that might contradict a collective bargaining agreement (CBA)?

Such powers have not currently been implemented.

PRIVACY

18. According to your government's health department, what are the steps that employees should follow to notify the authorities that they suspect or are confirmed to have a COVID-19 infection?

Individuals who are unwell and have symptoms of COVID-19 should contact their local Department of Public Health or 999 if an emergency (if they are seriously ill).

19. Can an employer require employees to self-report if having a COVID-19 infection?

If they are tested and confirmed positive, this information will already have been handled in accordance with government guidelines.

20. If one of our employees is quarantined, what information can we share with our employees? Who can we share it with?

Employees are protected by data protection law especially in relation to health data, which is "special category personal data." Processing such data is limited to specific legal grounds, one of which could be that it is necessary for the purposes of obligations imposed by law in relation to employment (which arguably covers an employer's health and safety duties). Any communication of health data must be in order to meet the employer's health and safety obligations and must be necessary and proportionate to this purpose.

In accordance with these principles, if an employee has been diagnosed with COVID-19, an employer may have a duty, either express under new government advice or implied as part of its general health and safety duty, to warn staff who have been in contact with the employee. The employer should then direct them in accordance with then-current government guidance (seek medical advice, self-isolate etc.).

If possible, such a warning should be given to those potentially exposed without specifically identifying the diagnosed employee or sharing identifying information more broadly than necessary.

21. What privacy concerns do we need to be aware of when we are asking for the health information of our employees in order to evaluate whether they need to be quarantined?

See response to question 20. In asking for health information, as this is special category data, the employer should be satisfied they have a legal basis on which to process the data. Without such a legal basis, an employer can impose a presumptive 14-day quarantine if there are reasonable grounds for concern that the employee could expose others in the workplace to COVID-19, e.g., if they have recently returned from overseas. An employer can impose the applicable quarantine period in such a case subject to the employee being medically cleared to return sooner.

Employees will be advised to isolate themselves and not to work in contact with other people by the Department of Public Health if they are a carrier of, or have been in contact with, an infectious or contagious disease, such as COVID-19.

Employers should use reasonable discretion around the need for medical evidence for a period of absence where an employee is advised to self-isolate due to suspected COVID-19.

22. Please provide URL link to or copy of any government form required to notify relevant authorities of a COVID-19 infection, if one exists.

An employee may be diagnosed only by a medical professional, who then will inform the relevant authorities. If an employer needs advice in relation to disinfecting the workplace and protecting other employees after an employee has a confirmed diagnosis, they should contact the [local Department of Public Health](#).

PLANNING FOR RETURN TO WORK

23. *UPDATED* Has the Irish government announced when they plan to ease any current restrictions or instructions on freedom of movement/business openings, or when such a decision will be taken?

Yes, the government has published the [COVID-19 Resilience and Recovery 2021 - The Path Ahead](#).

24. When will restrictions be eased?

The reopening of the society and business will take place based under a framework of restrictive measures depending on the spread of the virus. Areas with the highest infection rate will be moved to higher levels of restrictions. Currently the entire country is on Level 5, which is the highest level of restriction.

25. What has been announced about how restrictions will be eased?

The '[COVID-19 Resilience and Recovery 2021 - The Path Ahead](#)' gives a breakdown about how each sector of society may be reopened under each framework level. There is currently no guidance when Ireland will move to a lower tier, as this will depend on infection rate.

26. Is the general public going to be required to wear masks and gloves in public spaces?

Wearing a cloth face covering is recommended in almost all indoor, public situations. Face coverings are mandatory on public transport and in all retail and service locations (including supermarkets). Gloves are not mandatory.

27. What, if any, “social distancing” guidelines will be applicable to employers (e.g., employees must wear masks; business must implement staggered work start/stop times; physical space separating employees must be at least six feet; etc.)?

The Irish government has published its Work Safely Protocol which details practical steps employers must take depending on the working environment. This includes social distancing, staggered working times and temperature checking in line with public health guidance. The full protocol can be found [here](#).

Under Level 5, only essential workers should travel to work. All other employees should work from home unless they are providing an essential service and need to be physically present.

28. Will employers be permitted to take the temperature of employees, and if so, what compliance steps are required (e.g. written consent, data privacy notice, etc.)?

Yes, in line with public health guidance and the usual other principles i.e. data protection law, employment law, medical record laws etc.

29. Will employers be able to require nonemployee visitors (suppliers, delivery personnel, customers, etc.) to submit to temperature testing before entering premises?

There is no guidance in this respect, therefore the usual principles apply i.e. data protection law, criminal law in relation to assault, medical record laws etc.

It is likely to be reasonable and lawful to do so in most situations.

30. What are the steps that employers should follow to notify the authorities that they suspect or are confirmed to



have a COVID-19 infection?

At present, there are no mandatory reporting requirements if an employee has a suspected case of COVID-19. However, as a matter of health and safety, the employer should not permit the employee to attend the workplace if they reasonably believe this may cause a safety issue for other employees.

31. Can an employer require employees to self-report having a COVID-19 infection or other relevant health information (e.g., symptoms of COVID-19)?

The Government has not issued specific guidance on whether an employer can require employees to self-report a COVID-19 infection or other relevant health information, such as symptoms of COVID-19.

As the collection and sharing of data about the health of a worker is highly regulated under Irish and EU law (including under GDPR), employers will need to balance their data protection and privacy obligations and their health and safety obligations to their employees in general. In practice, employers may decide that the latter takes precedence, and require employees to notify them of COVID-19 infections or risks. If they do so, they should ensure that any health information obtained is kept confidential. Employees should be informed of the infection risk, but the identity of the affected employee must not be disclosed. Employers should ensure they remind employees that they should stay home if they (or anyone in their household) has COVID-19 symptoms, in line with government guidance.

Littler will continue monitoring employment law developments resulting from the spread of COVID-19, and our additional guidance is available [here](#).