

FAQ: KEY ISSUES THAT EMPLOYERS NEED TO CONSIDER COVID-19

As COVID-19 continues to spread globally, it's imperative for local and international businesses to implement contingency plans to limit its impact.

The following information aims to help Australian based employers understand their current rights and expectations, in accordance with legislation.

Please note, this information is effective as at 25 March 2020 and is subject to change, depending on Government directives and announcements.

My business is still operating, how do I manage an employee that has been in contact with the coronavirus?

- **What does it mean if my employee is unable to work because they are ill with the coronavirus?**

If an employee is unable to work because they are ill with the coronavirus, the employee is entitled to paid personal leave. If the employee has exhausted their personal leave, they are entitled to unpaid leave for as long as they are temporarily unable to work. You cannot terminate the employment of the employee while they are on leave in these circumstances.

- **What can I do if my employee lives with someone who has contracted or has been in direct contact with the coronavirus? Are they still entitled to their pay, and for how long?**

If an employee lives with someone who is in direct contact or has contracted the coronavirus or has otherwise been exposed to the virus, you must direct them not to attend work until the self-isolation period has expired and they are otherwise clear of any risk of spreading the virus.

You can ask them to work from home if appropriate. In these circumstances, the employee is entitled to be paid for the duration of their enforced absence from work. You should also consider whether the employee may have been in contact with other employees and, if so, whether other employees should also be directed to work from home.

Tip: Conduct a workforce assessment and consider any particular 'at risk' workers and consider whether specific arrangements need to be taken for these people now. Communications with employees and your stakeholders will play a crucial role in responding to the COVID-19 outbreak. Ensure you have a clear pathway to communicate and stay connected with workers on the latest issues and what tools can enable this such as zoom, Skype for Business, Yammer etc.

We solve complex business problems

+61 2 8651 8700

Level 1 ▪ 25 King Street ▪ Sydney NSW 2000 Australia

ashstreet.com.au

Resource links:

- Australian Department of Health – [Click here](#)
- Safework Australia, advice for employees – [Click here](#)
- OAIC, Privacy obligations – [Click here](#)

I have to close some or all of my business:

- **Under what circumstances am I legally able to stand down an employee without pay?**

You can stand down an employee without pay if the employee cannot be usefully employed because of a stoppage of work for a cause for which you, as an employer, cannot reasonably be held responsible e.g. if you are forced to curtail your operations or activities for a period of time and the employee is not able to work from home.

If there is a contract of employment or an enterprise agreement that applies to the employee's employment and it has provisions that deal with the standing down of the employee, those provisions prevail.

- **Under what circumstances can I terminate an employee and would redundancies apply?**

You can terminate the employment of an employee if they cannot be usefully employed indefinitely but in these circumstances you would have to pay the employee their full entitlements on termination including notice, redundancy and their accrued leave entitlements.

- **Can I instruct an employee to take annual leave and how much notice do I need to provide them with?**

If an employee cannot be usefully employed, you can direct an employee to take annual leave but only if the workplace is closed for business completely for a period of time. In the current circumstances, this could probably be done without the need to provide advanced notice of the closure.

- **Can I agree with my staff for them to work reduced hours or modified duties or for them to use their accrued annual leave / long service leave?**

There is nothing to stop you from making other arrangements by agreement with your employees. For example, an employee may be prepared to work reduced hours or modified duties or use their accrued annual leave and, if applicable, long service leave. These options should be considered before taking steps to stand down employees or terminate their employment. Most employers are looking at these options to best position their business to resume normal operations once the current crisis has abated.

You must consider the individual circumstances of each employee and must also be prepared to adapt your response as the circumstances may change. It is also critically important to ensure that you and your employees are communicating on a regular basis about any coronavirus concerns so that appropriate and timely action can be taken.

We solve complex business problems

+61 2 8651 8700

Level 1 ▪ 25 King Street ▪ Sydney NSW 2000 Australia

ashstreet.com.au

Tip: Look at strategies that can proactively mitigate any employment and industrial issues that may arise.

- Prepare a standard direction for any employee that is unable to work if needs to go on isolation leave. This includes policies for employees to access accrued annual leave or long service leave, or even access annual leave in advance.
- Consider setting up a new leave code for isolation leave in payroll systems to track and measure employee non-attendance in these circumstances.
- Planning for alternate rosters to help with separation of teams and management of key-person risks.

Employees may also refuse to work if it would create a risk to their health and safety by exposing them to COVID-19. Employers will need to quickly assess the legitimacy of health risks raised by employees. If employees refuse to attend work, we recommend that you seek legal advice immediately.

Resource link:

- Australia workplace laws, Fair Work – [Click here](#)

There are steps you can take now to prepare for disruptions to your workforce and business-as-usual environment.

Important to Note

This information is effective 25 March 2020 and is subject to change, depending on Government directives and announcements.

The information set out above is general guidance only and is not intended to be relied on as a substitute for legal advice. It provides you with a quick snapshot of what your rights and obligations are as an employer but note, it depends greatly on your circumstances. Also, the situation is evolving rapidly and you should seek up to date information before taking any action.

Need help understanding your rights? Call 0414 245 528 to secure an appointment with our Employment Consultant, Chris Barton.

106250

We solve complex business problems

+61 2 8651 8700
Level 1 ▪ 25 King Street ▪ Sydney NSW 2000 Australia
ashstreet.com.au