******LMC Law**

**LMC HR FAQs – HR issues and COVID-19**

Disclaimer These FAQs should be taken as general advice and individual circumstances should be considered before implementation. Please do take further legal advice where required or where you feel there are circumstances which may not necessarily fit into the examples given.

**Q1. What is the procedure for staff to self-isolate?**

Staff need to contact their manager in the normal way to report this, as per their sickness absence procedures. Staff cannot come back into the workplace for 14 days even if they feel well in themselves, as they will pose a risk to others during this time

**Q2. What do I do if an employee self-isolates and feels unwell?**

Employees should be paid their contractual sick pay (inclusive of Statutory Sick Pay, and any enhanced provision that you offer) as per your sickness absence procedures and policy and the employee’s contract of employment

**Q3. Employees who self-isolate are eligible to receive SSP from day 1 of their sickness absence period. But what do I do if an employee self-isolates because a member of their household is presenting symptoms of COVID-19, and:**

1. **The employee feels able to work but is NOT unwell?**

Employees should where possible work from home and receive normal pay in line with their contract of employment

1. **The employee refuses to work from home but is NOT unwell?**

Employees should be paid SSP from day 1 of their self-isolation but the payment of any enhanced pay would be discretionary

1. **The employer cannot provide them with the facility to work from home when they are NOT unwell?**

Employers should facilitate home working wherever reasonably practicable, in accordance with the usual parameters around home working (considering GDPR, safeguards, etc). If staff are willing to work from home, and you as the employer are unable to facilitate this, the employee should be paid their normal salary (inclusive of SSP). There is also potentially the option to consider furloughing, subject to the latest government guidance and HMRC parameters, where this will be specific to each individual case

1. **The employee refuses to work when they are NOT unwell?**

If a member of staff does not want to attend the workplace, absence needs to be recorded in one of the following ways – either annual leave, or unauthorised absence. Unauthorised absence is unpaid, and matters would be dealt with in the normal way in line with their contract of employment and terms of service

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**Q4. What do I do if I have vulnerable employees (including those with asthma) who are social distancing?**

Advice in respect of social distancing should be respected and adhered to by both employees and employers both inside and outside the workplace

**Q5. What happens if it comes to my knowledge that a staff member has come into contact with an individual with COVID-19 symptoms within their household?**

As an employer, you have a duty of care to all staff, and as such you would need to send the member of staff home with immediate effect and follow the advice above as appropriate

**Q6. What do I do if an employee has an underlying health condition?**

Employees need to follow the most up-to-date advice and guidance as circulated by the Government. If the employee needs to self-isolate, the advice above applies. If the employee continues to attend the workplace, the employer should consider reasonable alternatives during these times as part of their duty of care to all staff. Examples might include less patient focussed activities, or looking into other possible measures which may help provide protection

**Q7. How can I ensure that I am following a best practice approach as a reasonable employer during these difficult times?**

Treat everyone fairly and consistently, consider each case on its merit, and be mindful of any underlying issues or precedent

**Q8. What are the rights of locum GPs if they are self-isolating?**

The vast majority of locum GPs are self-employed and so would not enjoy normal employment rights. Any benefits due to them would be in line with the government guidance for self-employed workers. However, if a locum GP is operating through an agency, the agency would in these circumstances be the employer, and any benefits would be in line with the contract in place between the locum GP and the agency.

**Q9. What can I do if locums refuse to come to work, or refuse face-to-face appointments?**

If there are grounds for self-isolation, please see above. If locums are providing clinical care, it is perfectly reasonable to request and expect the locum to attend work and carry out face-to-face appointments. If the locum refuses, you can retract the agreement for using their services, as per the normal processes

**Q10. What are the considerations for indemnity if staff are working from different sites?**

Employees are covered if they are part of the NHS indemnity scheme, to work across different sites. However, GPs and nurses would require cover for any items not covered by the NHS indemnity scheme

**Q11. What happens in respect of parental leave?**

All usual leave arrangements apply as per your staff handbook and contract of employment

**Q12. What do I do when employees want/need to defer their holidays?**

The government has confirmed that statutory holiday (28 days including bank holiday entitlement) can be rolled over of up to 4 weeks of unused leave across the next 2 leave years, where employees should be encouraged to take this leave where possible, and not receive a payment in lieu of this leave. Employees can also be paid in lieu of taking holidays or you can agree an alternative arrangement at the discretion of the Practice, where members of staff might have holiday over and above the statutory minimum

**Q13. What happens if I have a pregnant employee?**

The RCOG has stated that pregnant women are a vulnerable group, and those who can work from home should do so and be actively supported in this. Employees should be offered the choice of working in direct patient-facing roles or not doing so during the coronavirus pandemic, and employers should respect and support the employee’s decision

**Q14. What are the recommended contact frequency/approaches whilst employees are off sick?**

Normal sickness absence procedures apply, as per sickness absence policy and contract of employment

**Q15. What happens if an employee member triggers/exceeds the Practice sick policy levels?**

Normal sickness absence procedures would apply, as per sickness absence policy and contract of employment

**Q16. What about staff on maternity due to return mid COVID crisis?**

Employees and employers need to follow the government guidance in place at the time and act accordingly, and their normal terms of service and contract of employment applies. LMC HR can help with any specific HR queries, and advice on a case by case basis

**Q17. Are back-office staff classed as Key Workers**

Current guidance suggests that yes this is the case

**Q18. What types of measures should employers be thinking about to protect employees?**

It is important to assess the needs of the individual, assess other measures or arrangements that you can put in place to provide further protection to employees. You also need to be aware of any needs and issues of individuals and act appropriately on a case by case basis

**Q19. How can I access additional HR advice?**

HR support can be accessed either by telephoning LMC HR (Tel: 0333 207 0307) or by emailing any of the following: - Philip Kirby ([philip@lmchr.co.uk](about:blank)) , Karen Houseman ([karen@lmchr.co.uk](about:blank)) , Pauline Jenkins ([info@lmchr.co.uk](about:blank) ) or Cathy Johnson ([catherine@lmchr.co.uk](about:blank)). Support will be tailored to your needs and covers all HR issues

**Q20. Will Practices be expected to work Good Friday and Easter Monday?**

Current guidance suggests that yes this is the case. Employees can receive either time in lieu for working on these days, be paid their normal hourly rate, or an enhanced hourly rate. Practices will need to check their individual contracts of employment in relation to annual leave and bank holidays, and apply the necessary approach

**Q21. Will Practices be expected to work on the May bank holidays of 8th and 25th May?**

Current guidance suggests that yes this is the case. NHS England will advise further as necessary in due course. If employees are expected to work on these days, the above response applies

1 April 2020