



**The Professional Trades Union for Prison,
Correctional & Secure Psychiatric Workers**

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POA Circular 082/2020

14th May 2020

Dear Colleagues

COVID 19 LATEST ADVICE THOMPSONS SOLICITORS

Please find the latest advice from Thompsons Solicitors in this briefing.

Yours Sincerely

STEVE GILLAN
General Secretary

Yours Sincerely

MARK FAIRHURST
National Chair

ENCLOSURE

GOVERNMENT GUIDANCE ON 'WORKING SAFELY DURING COVID-19'

Labour & European Law Review | Issue 672 | 13 May 2020

The new guidance centres on five key themes:

- Work from home, if you can;
- Carry out a coronavirus (COVID-19) risk assessment, in consultation with workers or trade unions;
- Maintain two metres social distancing, wherever possible;
- Where people cannot be two metres apart, manage transmission risk; and
- Reinforcing cleaning processes.

The new guidance does not supersede any legal obligations relating to health and safety, employment or equalities. It is non-statutory guidance which employers are supposed to 'take into account when complying with existing obligations'.

The duties for managing risk include the following:

- Risk assessments should be carried out and employers 'should consider publishing the results on their website' (all businesses with more than 50 employees are expected to publish the results);
- Employers must reduce workplace risk to the lowest reasonably practicable level by taking preventative measures;
- Consultation with representatives selected by recognised trade unions, or, if there isn't one, a representative chosen by the workers;
- Involving workers in the risk assessment; and
- Implementing measures to protect clinically extremely vulnerable and clinically vulnerable individuals, those needing to self-isolate and equalities.

The process for managing risk should be:

- Increase the frequency of handwashing and surface cleaning;
- Make every reasonable effort to enable working from home as a first option. If working from home is not possible, make every reasonable effort to comply with social distancing guidelines;
- Maintain two metres social distancing wherever possible, including while arriving at and departing from work, and when travelling between sites;
- Where social distancing guidelines cannot be followed in full, consider whether that activity needs to be continued for the business to operate. If so, 'take all mitigation actions possible' to reduce transmission risk;
- Mitigation actions include increasing cleaning, keeping activity time as short as possible, using screens or barriers, not working face-to-face, reducing contact by 'fixed teams or partnering';
- If people must work face-to-face for a sustained period with more than a small group of fixed partners assess whether the activity can safely go ahead; and
- No one is obliged to work in an unsafe work environment.

When it comes to PPE, the guidance says that '...additional PPE beyond what you usually wear is not beneficial. This is because COVID-19 is a different type of risk to the risks you normally face in a workplace, and needs to be managed through social distancing, hygiene and fixed teams or partnering

and not through use of PPE'. The exception given is clinical settings, such as hospitals and a small handful of others as recommended by Public Health England, such as first responder and immigration enforcement officers.

While acknowledging that 'wearing a face mask may be marginally beneficial as a precautionary measure' and that doing so is optional, employers should support their workers using face coverings if they choose to do so.

Gerard Stilliard, head of personal injury strategy for Thompsons Solicitors, considers the application of the new guidance in reality:

"In his statement to the nation on 10 May, Boris Johnson advised workers to avoid using public transport to get to work wherever possible. This advice completely fails to recognise that, for a huge percentage of workers, there is no choice but to rely on public transport. The dilemma between the prime minister's exhortation and reality is not addressed anywhere in the guidance issued.

"The guidance is peppered with qualifications and exclusions – the word 'possible' appears regularly in relation to instructions and work-arounds, but almost always with a caveat of *if at all, as far as* and *wherever*. And there are endless *shoulds*.

"The guidance states that 'no one is obliged to work in an unsafe work environment' in circumstances where '...people must work face-to-face for a sustained period with more than a small group of fixed partners...' and an assessment that the activity cannot safely go ahead. However, it also envisages work being able to proceed where 'the social distance guidelines cannot be followed in full'. It is unclear which statement is the overriding principle.

"There is reference to trade unions and to consultation with workplace representatives, but the expertise of trade unions and their health and safety representatives is not given the full prominence they deserve. There is a risk that the training and expertise unions have to participate in risk assessments and identify the steps which need to be taken to make workplaces safe will not be fully utilised.

"The government has said that they have allocated an extra £14 million in funding for the Health and Safety Executive. However, that goes nowhere near making up for the estimated £100 million in cuts they have suffered over the last 10 years of Conservative austerity. And it is difficult to conceive how it will be possible to recruit and train the inspectors and support staff needed to play an immediate part in assisting monitoring and enforcing compliance with these guidelines."

You can read about the new guidelines in full [here](#).

Articles shared by Thompsons relating to coronavirus (COVID-19) are correct at the time of publication. You should check the government's guidelines for the latest information and advice at <https://www.gov.uk/coronavirus>.

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