

Managing Employers' Liability During a Crisis

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Q&A

Audience members can submit questions by typing them into the Q&A window at the bottom of your computer screen.

If a question is not answered during today's programme, someone from Marsh will respond as soon as possible.

Understanding Duties and Obligations

What the Law Requires

What is the risk? Employees will need to show:

- A duty of care was owed.
- There was breach of that duty.
- The breach caused them to suffer injury.
- That the injury was sufficiently proximate and connected to their losses.

Most health and safety legislation applies to homeworkers as well as to employees working at an employer's workplace. These include:

- Management of Health and Safety at Work Regulations 1999 (MHSWR).
- Display Screen Equipment Regulations 1992.
- Manual Handling Operations Regulations 1992.
- Provision and Use of Work Equipment Regulations 1998 (PUWER).
- Control of Substances Hazardous to Health Regulations 2002 (COVID-19 is classed as a biological agent).
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).

Potential grounds for claims/prosecutions?

- Any alleged breach of the above requirements (though claimants will need to show negligence and a loss).
- Contracting COVID-19.
- Anxiety and stress/mental anguish over contracting COVID-19.
- Musculoskeletal issues as a result of display screen equipment being unsuitable in home environments.
- Mental health and wellbeing issues, for example, down to poor communication or isolation.

Remote and Home Working Specific Considerations



Home Working

- Undertake risk assessments for homeworkers and review them.
- Ensure people have access to equipment such as external keyboards.
- Ensure employees inform householder insurers of circumstances.
- Regularly review documents and guidelines.
- Encourage reporting of incidents and ill health.
- Connect with HR to ensure absence is monitored.
- Record everything.



Mental Health

- Set up regular communication networks.
- Webinars – Seeing someone's face makes all the difference.
- Create sub groups – You can't do everything.
- Promote your employee advice line.
- Run mindfulness sessions.
- Remember your mental health is as vulnerable as your employees.
- Promote your mental health champions or if you don't have them work with a provider.
- Keep records of concerns.

Operational Risk Management Considerations (1/3)

Measures to Reduce Risk

1 Strategic actions:

- Keep copies of guidance issued to your organisation.
- Consult with employees or their representatives where practical.
- Keep records of key decision making processes.
- Keep these decisions under review to ensure they remain appropriate.
- Review the Health & Safety Executive (HSE) Website for guidance on dealing with infections.

2 Evidencing compliance via a risk assessment

- Exposure through close contact with carriers.
- Exposure through non essential activities.
- Access/egress from site.
- Lone working.
- Vulnerable workers.
- Mental health and wellbeing.

3 Visit Marsh's COVID-19 resource centre containing a wealth of considerations and measures



<https://www.marsh.com/uk/campaigns/coronavirus-stay-informed.html>

Operational Risk Management Considerations (2/3)

Measures to Reduce Risk

4 Organisations where work continues will need to **revise and offer clear first aider guidance** – this may involve the issue of personal protective equipment (PPE).

5 Identify your **vulnerable categories**, this may be due to age, underlying health conditions, or as defined in legislation (e.g. pregnant workers).

6 If anyone becomes unwell with a new, continuous cough or a high temperature in the business or workplace they should be advised to follow the stay at home guidance for households with possible coronavirus (COVID-19) infection.*

- More details on symptoms can be found here <https://www.nhs.uk/conditions/coronavirus-covid-19/symptoms-and-what-to-do/>.
- The advice from the Information Commission Officer (ICO) on GDPR can be found here: <https://ico.org.uk/for-organisations/data-protection-and-coronavirus/>

7 Enforcement – line managers need to be made aware of new ways of working, including PPE, and **ensure these are adhered to**.

*Source: [Gov.uk](https://www.gov.uk)

Operational Risk Management Considerations (3/3)

Measures to Reduce Risk

8 **Appoint an individual or team to help keep abreast of developments**, daily updates, and advice from HSE, regulators, the UK Government.

9 **Document how** you have implemented controls measures such as sanitation and social distancing. CCTV/photographs could be vital here.

10 **Consider the RIDDOR* implications:**

- An unintended incident at work has led to someone's possible or actual exposure to COVID-19. This must be reported as a dangerous occurrence, OR;
- A worker has been diagnosed as having COVID-19 and there is reasonable evidence that it was caused by exposure at work. This must be reported as a case of disease.

11 **Incidents should be investigated** though this may have to be a curtailed process.

*RIDDOR: Reporting of Injuries, Diseases and Dangerous Occurrences Regulations

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Managing COVID-19 Risks



CORONAVIRUS

Protect your people, operations and revenue from its impacts

Coronavirus (COVID-19) is affecting the entire world, from local businesses to global enterprises. We offer insights, guidance and information to help you keep on top of what this worldwide outbreak means for your organisation.

The time to take action is now. Organisations must move from planning to response.

It is important to take a People-First approach by listening to employees' concerns to ease anxiety and preparing to amend policies and plans based on evolving advice from governments and health officials.

On this page:

- [People](#)
- [Business Implications](#)
- [Insurance](#)
- [Risk Management](#)

For the latest from Marsh and other Marsh & McLennan businesses, visit:

<https://www.marsh.com/uk/campaigns/coronavirus-stay-informed.html>

To register for our upcoming Risk Management Webcast Series, visit:

<https://www.marsh.com/uk/insights/events/mitigating-impacts-maximising-recovery-covid-19-webcast.html>



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