ISSUE 1 | APRIL 2020

# In motion

WORK HEALTH SAFETY, HUMAN RESOURCES AND INDUSTRIAL RELATIONS NEWS

# COVID-19 Employer Toolkit

OFFICIAL BULLETIN OF MOTOR TRADES CARE AND MOTOR TRADERS' ASSOCIATION OF NSW

Motor Trades Care

MOTOR TRADERS' ASSOCIATION OF NSW

ISSUE 1 | APRIL 2020

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WORK HEALTH SAFETY, HUMAN RESOURCES AND INDUSTRIAL RELATIONS NEWS

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WORK HEALTH SAFETY, HUMAN RESOURCES AND INDUSTRIAL RELATIONS NEWS

# In focus: COVID-19 Toolkit

This toolkit has been developed to increase employer awareness and assist them in managing the risks associated with COVID-19 in the workplace. This toolkit should be used as a guide in conjunction with relevant and current health advice and information. **Note:** as information is regularly changing, additional measures may be in force following the date of this publication.

## 1. What is COVID-19

COVID-19 is a coronavirus which causes respiratory infection. The symptoms include, but are not limited to: fever, cough and shortness of breath.

The virus is spread from person to person by:

1. Being in close proximity to an infected person (less than 1.5 m)
2. Coming into direct contact with a contaminated surface, object or the hand of an infected person and then touching your mouth, nose or eyes

A surface is contaminated when respiratory droplets are expelled from an infected person by coughing, sneezing or exhaling. There is currently no vaccine available for COVID-19 but the NSW Department of Health has recommended a number of standard precautions to avoid the spread of the virus, covered off in further points in this toolkit.

## 2. Employer Responsibilities

Employers have a duty of care under the Work Health and Safety (WHS) act and regulations to provide a safe workplace, so far as reasonably practicable. Given the current situation, this includes minimising the risks associated with COVID-19.

To assist you manage the risks in your workplace, ensure you consult the relevant health advice and utilise this toolkit.

## 3. Consultation and Communication

Consultation and communication with your employees during this time is very important. Be sure to update your employees regarding any required changes in work practices, procedures and protocols introduced to assist with managing the risks associated with COVID-19.

When communicating, be sure to take into account the relevant social distancing rules. Information and instruction can be provided by developing work instructions and holding training on the suggested measures. Introduce relevant signs and posters where appropriate.

Additional resources to assist with communicating to your employees is available on the SafeWork Australia website:

**https://www.safeworkaustralia.gov.au/covid-19-information-workplaces.**

These include instructional videos and downloadable materials such as posters and information sheets.

## 4. Customer Communications

Communicate to your customers what you are doing to minimise their risk of exposure to COVID-19 – cover the additional measures that your business has put in place. These may include:

- Additional cleaning regimes implemented within the service centre, sales and operational areas
- Hand sanitisers placed at the entry/exits points for customer use
- Social distancing guidelines implemented
- Vehicle cleaning regimes

Encourage your customers to utilise the hand sanitiser provided, wash their hands regularly and adhere to the social distancing requirements.

Use the resources you have available to stay in touch with your customers remotely, for example:

- Phone

- Video chat

- Virtual vehicle tours

Or this may even include making access to vehicles more convenient for your customers by dropping a vehicle for a test drive at the customer's house (and of course including a cleaning regime).

Additional measures you could take include implementing a process to limit customers coming into the service centre and lining up. When dropping off a vehicle for service and repair work, instruct customers to stay in their vehicle and advise that a service advisor will come to them.



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## 5. Actions to minimise the risks in your workplace and help prevent the spread of COVID-19

Some actions to minimise the risks associated with COVID-19 include social distancing, having good hand hygiene practices, cleaning regularly and maintaining adequate stock of essential items.

### Social Distancing

- Decrease contact between individuals by keeping a distance of at least 1.5 m and maintain an area of no smaller than 4sqm per person
- Increase the workspace around each employee
- Only hold essential meetings
- Reduce meeting group sizes
- Hold meetings outside or in well ventilated areas
- Stagger work shifts and meal breaks
- Avoid close contact with people who are sick
- Stay at home if you are sick
- Request your employee/s stay home or work from home if they have recently travelled abroad or are showing symptoms of being unwell

### Good Hand Hygiene

Encourage employees to:

- Frequently wash hands with soap and water for at least 20 seconds
- Use hand sanitiser containing at least 60% alcohol
- Avoid physical contact with others – do not shake hands
- Avoid touching their face, mouth and eyes
- Cover their mouth to cough or sneeze with a tissue or into their elbow
- Immediately dispose of tissues and items such as gloves following use

Where possible, set up hand sanitiser stations at the entry/exit of your premises and encourage all customers and visitors to use it.

Place posters at entry/exit points of your premises reminding employees, customers and visitors of good hygiene practices.

### Cleaning

- Continue with your regular cleaning regimes
- Use paper towel or a disposable cloth when cleaning surfaces
- Areas frequented by employees, customers and visitors, should be cleaned multiple times per day
- Regularly clean surfaces and items such as counter tops, door handles and handrails
- Where there is an increased risk, such as in areas where a person has coughed or sneezed, the surfaces should be cleaned as soon as possible

Ensure employees wear disposable gloves while cleaning and wash their hands thoroughly afterwards. Ensure all used gloves, paper towel and cloths are appropriately disposed of after use.

### Maintain Adequate Stock Levels

Maintain adequate stock of items to help keep your workforce safe. These may include:

- Hand wash
- Hand sanitiser
- Disinfectant spray/wipes
- Paper towel/disposable cloth
- Tissues
- Gloves

## 6. Vehicle Handling

Vehicle cleaning is important to ensure employee and customer safety. Cleaning is paramount when a customer provides or collects their vehicle for service and repair work, and when a customer takes a vehicle on a test drive.

The vehicle should be cleaned using a disinfectant spray/wipes on those surfaces to be contacted, such as door handles, steering wheels, keys and other controls.

**Note:** To ensure the disinfectant is effective, leave the area to dry before getting into the vehicle.

Further measures technicians can take are:

- Utilising gloves
- Utilising car seat covers
- Utilising floor mats
- Washing hands before driving the vehicle
- Wearing gloves where appropriate

## 7. Managing risks within workshops and other operational areas

- Follow the Vehicle Handling recommendations above
- Maintain at least a 1.5 metre working distance from other employees in an area no smaller than 4sqm per person
- Avoid employees working in close proximity by having them on the other side of the work bay
- Wipe down tools and equipment regularly

## 8. Sales and service centres

- Follow the Customer Communications recommendations above
- Limit the number of customers within the showroom, sales areas and service centres
- Open windows or adjust air conditioning for more ventilation
- Maintain a minimum 1.5 metre working distance from other employees and customers in an area no smaller than 4sqm per person
- Minimise the number and/or increase the distance between chairs to a minimum of 1.5 metres or one chair in an area no smaller than 4 sqm
- Use tape on the floor to indicate a safe distance when queuing at counters
- It is highly recommend to keep all new and used display vehicles locked at all times to reduce contamination of vehicles and further help prevent the spread of COVID-19

- It is recommended that no more than 2 people at a time should inspect and road test demonstration vehicles in order to practice safe social distancing. Where possible, allow customers to self-test the vehicle
- All vehicles are to be sanitised after they have been inspected or driven, by wiping touch points with sanitising wipes
- All stationary that can be sanitised such as pens should be sanitised after use

## 9. Courtesy drivers

- Restrict customer numbers
- Avoid customers in the front seat
- Regularly disinfect handles, seat belts and other frequently touched items
- Open windows or adjust air conditioning for more ventilation

## 10. Fuel Service Stations

- Promote contactless payment (avoid cash handling)
- Maintain a minimum 1.5 metre working distance from other employees and customers in an area no smaller than 4sqm per person
- Open windows or adjust air conditioning for more ventilation
- Regularly disinfect fuel pumps, counters, eftpos machines and other frequently touched items
- Place posters at fuel bowsers, air and water stations to inform customers of good hygiene practices such as wearing gloves and using hand sanitiser
- Encourage customers to use hand sanitiser and/or gloves

## 11. Lunchroom

- Where possible, eat lunch outside in the fresh air or inside with a window open
- Limit food handling and avoid sharing food or drink
- Wash all dishes, cups and utensils after use with hot soapy water

## 12. Employee wellbeing

This is a difficult time for all and continuous communication and support for all employees is paramount. When communicating, ensure information is current and obtained from a reliable source. It may be helpful to provide employees with a point of contact and a means to discuss any concerns they have.

Below are some tips to assist you to ensure the wellbeing of your employees:

### Share reputable information sources and follow official advice

There is a lot of information circulating, some is more accurate than others. Ensure you only use information that is current, accurate and from reliable sources to guide your discussions and communication.

There are a number of official websites listed within the 'More Information' section of this document that will assist you.

### Keep an open line of communication (talk to your employees)

Have regular discussions to give updates to staff who are working from home along with those who remain in the workplace. As a guide:

- Ensure you are honest, authentic and sincere in what you say
- Acknowledge the uncertainty and the stress it may be causing
- Be prepared to say that you don't know and that you will come back to people with answers
- Consider your audience when providing information
- Ensure you communicate separately with your managers, to see what additional assistance is required or what other issues have been identified

### Consider the impact this has on everyone

We are all vulnerable to poor mental wellbeing, and whatever our circumstance this will have an impact on how we think and feel about ourselves and the world we live in. Make note of the following:

- Work is great for our mental health and it's important that we preserve the opportunity to enjoy the benefits of work where we can
- Understand that there is a proportion of employees that are at greater risk of poor mental health than others
- When planning your communications, consider how it could affect employees from differing backgrounds and stages of mental health and adjust accordingly
- Ensure you encourage others to act in a way that protects the physical and mental health of all employees
- Know your people and do a little extra for those who are more vulnerable if you notice behavioural changes
- Assist each other to stay composed by encouraging and reminding people of how good a job people are doing

### Promote access to support

Your organisation may have an Employee Assistance Program (EAP), if so:

- Ensure the EAP is well advertised
- Find out if they have specific resources relating to COVID-19
- Ensure employees are aware of who they can speak to internally

### Use technology for work and social aspects

- Provide equipment and support for employees to keep in touch with colleagues and their managers
- Offer support for those not used to working with technology
- Encourage workers to maintain the informal conversations if they are working from home
- You may have an instant messenger or intranet MS Teams, but text messages and calls work as well
- A daily check in with teams and direct reports, with weekly manager briefings is a good idea

### Encourage personal planning and self-care

Encourage your employees to plan for how they will manage under self-isolation, or quarantine:

- Check-in with them to provide regular updates and advice and encourage employees to discuss their plans with their manager
- If employees are at home already make sure you keep in touch
- Include employees working from home in meetings and discussions

Where required, refer employees to relevant support services such as your employee assistance program or one of the organisations below:

**Lifeline - 13 11 14 is available 24 hours a day, 7 days a week**

**Kids Helpline - 1800 555 1800 www.kidshelpline.com.au**

**Beyond Blue - 1300 22 4636 www.beyondblue.org.au**

**MensLine Australia - 1300 78 99 78**

For additional organisations go to COVID-19 Support: www.headtohealth.gov.au/covid-19-support/covid-19

## 13. Working from home

If you require your employees to work from home, you should provide guidance on establishing a safe home office environment. Also provide a self-assessment checklist, and insist your employees comply with good ergonomic practices including keeping physically active, maintain regular contact, and provide them with continued access to your employee assistance program.

Working from home may change, increase or create work health or safety risks. Consultation with employees about working from home and the home environment is important.

Risks that an employer should consider:

- Workstation set up
- Work hours and breaks
- Physical environment such as heat, cold, lighting, electrical safety and home hygiene
- Psychosocial risks such as isolation, reduced social support from managers and colleagues, fatigue, online harassment and domestic violence

For more information about how to work safely from home, please refer to the following links:

- Remote and isolated work (includes those who work from home)
- Design and layout of work environment

## 14. What to do if an employee is suspected or has contracted COVID-19

Increased workplace controls are required to ensure that sick employees do not come to work. The general advice is that anyone with even a mild cough or fever MUST stay at home, that is, to not enter the workplace.

If you notice an employee showing signs that they may be unwell and you think they should not be at work, you should follow your usual workplace policies and procedures. This may include directing the employee to go home. If you decide that the employee is to stay away from work, you may still be obliged to pay them. Please contact the Fair Work Ombudsman for further information on 13 12 94 or if you are a member of MTA, contact the MTA Employment Relations Department on 02 9016 9000 or by emailing eradvice@mtansw.com.au

### If an employee tests positive for COVID-19

If an employee is confirmed to have COVID-19, you should ensure that the employee does not return to work while infectious and follows the health advice from the National Coronavirus Health Information Line on 1800 020 080 or healthdirect on 1800 022 222.

The employee is to be on sick leave until they receive a doctors' clearance to return to work.

If the person was infectious while at work, you must notify SafeWork NSW by calling 13 10 50.

You will also need to obtain consent from the employee to inform other employees who may have been potentially exposed to the virus in the workplace. You will still need to adhere to privacy legislation in this process.

Any employees that have had direct contact with a confirmed case of COVID-19 are also required to seek medical attention immediately from a doctor or hospital and request to be tested for COVID-19. There is a shortage of test kits so doctors will only test those who meet the criteria stipulated by the Department of Health.

In addition, the employee who has been confirmed to have COVID-19 may be required to provide a list of those who could be deemed close contacts of theirs so that the health authorities can contact these people to notify them and advise on what action to take.

Person to person spread of coronaviruses generally occurs between people who are close contacts with one another. A close contact is typically someone who has been face to face for at least 15 minutes, or been in the same closed space for at least 2 hours, with a person that was infectious. The public health unit will keep in touch with people who are close contacts of patients with COVID-19 infection. If any symptoms develop contacts must call the public health unit to report those symptoms.

If contact with the person was less than this, there is a much smaller risk of being infected. However, as a precaution the advice is to still monitor your health until 14 days after last exposed to the infectious person. If symptoms develop including a fever and/or respiratory signs, call ahead to talk to a doctor or call healthdirect on 1800 022 222.

## 15. What to do if there is a confirmed or uncontrolled exposure to COVID-19 in the workplace

- Contact National Coronavirus Health Information Line on 1800 020 080 or healthdirect on 1800 022 222
- Notify SafeWork NSW – Call 13 10 50 immediately or within 48 hours
- Notify icare or your respective scheme agent/insurer within 48 hours and follow the usual injury notification process. Late notifications can attract financial penalties
- You will be required to deep clean the areas where the employee has been. For advice on cleaning, see information from your state and territory. For more information about environmental cleaning, go to the Australian Government Department of Health website.
- Refer to further advice above in point 14 on obligations in notifying others who may have been exposed to the infected employee

## 16. Lodging a workers' compensation claim for COVID-19

In some circumstances your employee may be entitled to make a claim for workers' compensation for COVID-19, however, work activities must be proven to be the main contributing factor to contracting the virus.

If an employee is making a claim, a Certificate of Capacity will need to be obtained from the nominated treating doctor, confirming the diagnosis and other required information by icare or the relevant scheme agent/insurer.

When notifying icare or your scheme agent/insurer, please ensure that sufficient information is collected and made available to assist to determine liability.

icare notes that it may be difficult to determine that employment was the main contributing factor, and each claim will be assessed on its individual merits. Please consult with icare or your scheme agent/insurer regarding the claim and whether it is compensable.

## 17. Privacy and communication

If an employee has tested positive to COVID-19, seek permission from the employee as per the relevant privacy requirements to communicate this in the workplace. Appropriate communication will be required to inform other employees who may have been potentially exposed to the virus due to being in close contact with the affected person.

In order to manage COVID-19 while respecting privacy, employers should aim to limit the collection, use and disclosure of personal information to what is necessary to prevent and manage COVID-19 in the workplace and to take reasonable steps to keep the personal information secure.

Please see link at the bottom of this document for further information regarding privacy.

## 18. Recovery at work

As an employer, you are expected to support the health and recovery of your employees through early intervention while the claim liability is in process and being determined. Maintain regular contact with the employee (if they are well enough), keep up to date with their medical treatment and obtain the relevant information/paperwork in relation to the claim.

While recovery at work is not possible with COVID-19, you may be able to make arrangement for the employee to work from home if they are well enough. You will need to consider what other steps you may need to take to keep the employee safe at home.

## 19. Workers compensation premium – icare support

You are encouraged to reach out to icare on 13 44 22 to discuss how they can best support you and your policy needs.

Depending on your individual circumstances, icare may be able to assist you in the following ways:

- Reducing your wages and coverage to reflect your new circumstances.
- Refunding you the unused portion of your premium while keeping your policy active in readiness for when you return to business. Note: If you are eligible for a refund on your premium as a result, we will issue you your refund within one week of adjusting your wages, provided you have no other premium amounts outstanding.
- Deferring your premium payments for up to six months if you're experiencing financial hardship.

For further information and guidance please refer to https://www.icare.nsw.gov.au/icare-coronavirus-information/icare-coronavirus-information-for-employers/

## 20. COVID-19 workers' compensation claims & your premium

At this stage it is unknown how COVID-19 claims will impact your premium, however SIRA has indicated that they are working with insurers to mitigate the potential premium impacts of workers' compensation claims arising from COVID-19. For further information please visit the SIRA website.

## 21. Questions and Answers

**Q: a) Why is social distancing important?**

**A:** COVID-19 is spread from person to person and therefore, the further the distance between you and others, the harder it is for the virus to spread.

**Q: b) What is best practice for hand washing?**

**A:** Please see below information provided by healthdirect.

**Q: c) Customers are concerned about getting their vehicle serviced. What can I do?**

**A:** Assure customers that you are taking precautions to help prevent the spread of COVID-19. Advise them what actions you have taken.

**Q: d) What does self-isolate mean and what must an employee do?**

**A:** An employee required to self-isolate should stay home until cleared by the doctor. If sharing a home with others, where possible, they should:

- Remain in a separate room from others
- Use a separate bathroom from others (if possible)
- Wear a surgical mask when around others and practice infection control and hand hygiene
- Avoid sharing household items e.g. cups, dishes, utensils, bedding, towels, etc. These items should be thoroughly washed after use.

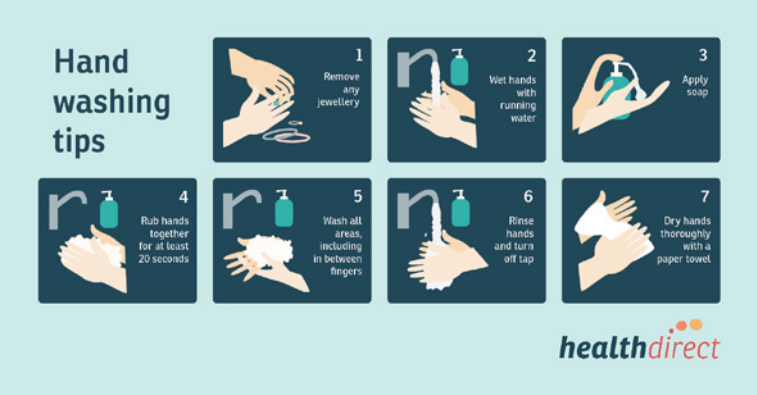
The public health authorities will also contact individuals affected by COVID-19 and any 'close contacts' to provide advice on what they are required to do. More information regarding self-isolating can be accessed here.

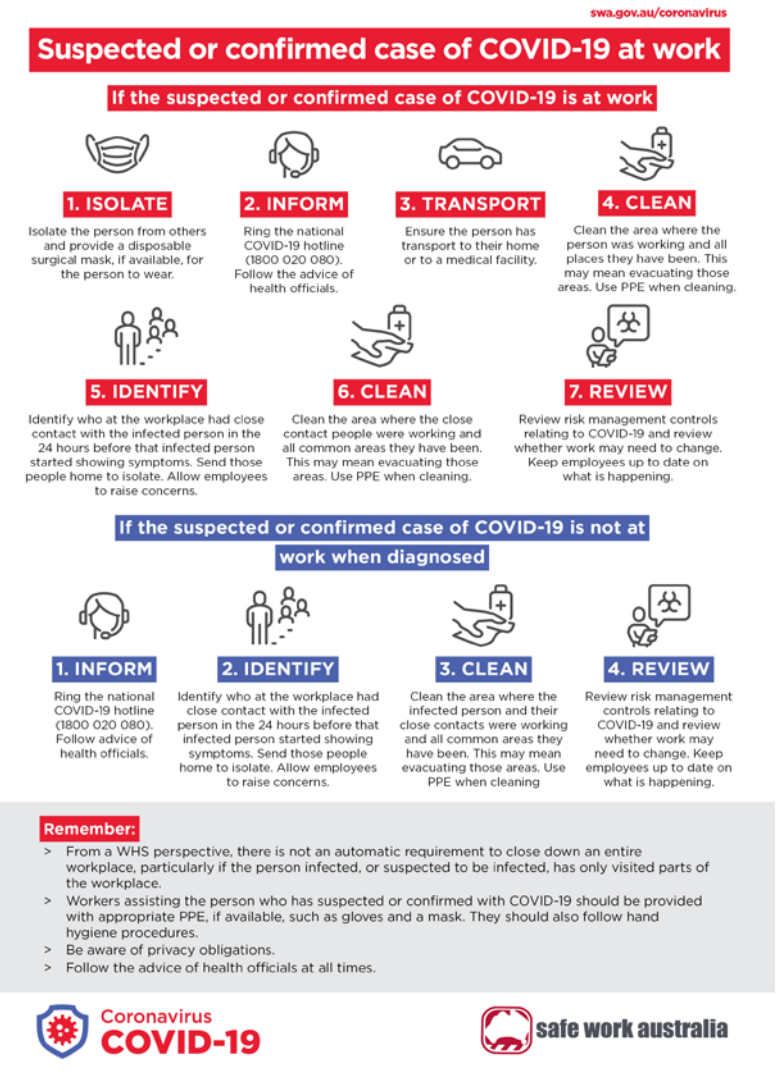
**Q: e) What should I do if there is a suspected or confirmed case of COVID-19 at work?**

**A:** Refer to point 14 in this document for useful advice, along with the below information provided by Safe Work Australia.

**Q: f) What do I do if there is a tenuous link between an employee and a person affected by COVID-19 such as a friend, family member or child of the employee?**

**A:** NSW Health have advised that only those who have been a 'close contact' of a confirmed COVID-19 case are required to self-isolate for 14 days.



If an employee has been in contact with a person identified as a 'close contact' of another person with confirmed COVID-19, the employee does not need to self-isolate (although the close contact does) and does not need to take any other special precautions. However, if the close contact of the employee develops symptoms and is confirmed as a COVID-19 case, public health authorities will determine who, if anyone, has been in close contact with them while they were infectious, and these people will be directed to self-isolate.

More information on this can be found via the NSW Health website by clicking here.

**Q: g) What to expect when a claim for COVID-19 is made by your employee?**

**A:** If your employee is diagnosed with COVID-19 and makes a claim for workers' compensation, icare notes there are two likely scenarios for claims:

"The employee believes the virus was contracted in the course of employment through contact with a person who has the virus or contact with virus particles on a surface, or

The employee states that the virus was contracted in the course of employment in the above circumstances and the virus has aggravated a pre-existing underlying condition."

Due to the nature of COVID-19, it may be difficult to determine that employment was the main contributing factor. icare notes, each claim will be assessed on its individual merits and "consideration may be given to (but not limited to):

- Travel to an area with a known COVID-19 outbreak,
- Activities that include engagement or interaction with people who have contracted COVID-19."

**Q: h) What should I consider for employees working from home?**

**A:** You need to ensure that you have measures in place to minimise the physical and psychological risks to your employees. Considerations should include discussing:

- Workstation set up (provide a checklist)
- Agreement on work hours and breaks
- The physical environment, for example heating, cooling and lighting
- Psychosocial risks such as isolation, fatigue, reduced social support from managers and colleagues

**Q: i) If one of my employees is injured while working from home due to COVID-19, are they covered by workers' compensation?**

**A:** Yes, they may be covered if they have been directed or encouraged to work remotely or at home because of COVID-19. The employee will need to show their work played a substantial contributing factor to the injury. The claim will be assessed on its own individual merits.

**Q: j) Can I collect information in relation to COVID-19 from employees and visitors?**

**A:** Yes you can, however, you should only collect information that is reasonably necessary for preventing or managing COVID-19 in line with advice from the Department of Health, for example, to identify and manage the risk of:

- Whether the person or close contact has been exposed to a known case of COVID-19
- Whether the person has recently travelled overseas and identify where

**Q: k) Can I inform my employees of someone who may or has contracted COVID-19 in the workplace?**

**A:** Yes, you may inform your employees that a person in the workplace or a visitor may or has contracted COVID-19, but you should only use or disclose personal information that is reasonably necessary in order to prevent or manage COVID-19 in the workplace.

For example, depending on the circumstances, it may not be necessary to disclose the name of person in order to prevent or manage COVID-19, or the disclosure of the name may be restricted to a limited number of people on a 'need-to-know basis' only. Seek advice from the Department of Health as to whether disclosure is necessary.

Please refer to link below on COVID-19 understanding your privacy obligations.

## 22. Further information

For information and advice regarding COVID-19, contact the National Coronavirus Hotline available 24 hours per day, 7 days per week on **1800 020 080**

## Useful APPS

**Coronavirus Australia**
Official Government Info

**healthdirect**
Australian health advice

## Useful Links

www.preview.nsw.gov.au/covid-19
www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert
www.health.gov.au/resources/publications/coronavirus-covid-19-information-for-employers
www.health.nsw.gov.au/Infectious/alerts/Pages/coronavirus-faqs.aspx#1-13
www.safework.nsw.gov.au/resource-library/Coronavirus-advice-and-guidance-for-NSW-workplaces
www.safework.nsw.gov.au/news/safework-public-notice/coronavirus
www.safeworkaustralia.gov.au/system/files/documents/2003/infographic_-_what_to_do_if_a_worker_covid-19.pdf
www.oaic.gov.au/assets/privacy/guidance-and-advice/coronavirus-covid-19-understanding-your-privacy-obligations-to-your-staff.pdf
www.sira.nsw.gov.au/news/bulletins/workers-compensation-bulletin-issue-88-march-2020
www.icare.nsw.gov.au/icare-coronavirus-information/icare-coronavirus-information-for-employers/

# Motor Trades Employment Relations - Questions and Answers

**Q: If my business is facing a downturn as a result of the impacts of COVID-19, can I reduce employees' hours or let them go?**

**A:** If your business is facing a downturn as a result of the economic effects of COVID-19 then you will first need to comply with the consultation requirements in an Award. This involves meeting with your employees to discuss the issues the business is facing and what measures you can implement to try maintain everyone's' employment whilst remaining financially viable. Some suggestions may include:

- Transitioning full time employees to part time or casual employment;
- Having employees take a period of paid or unpaid leave to see if business activity increases;
- Making positions redundant; or
- Any other suggestions that your employees may have.

With regards to the abovementioned first two options, the employee/s will need to be agreeable to these changes or period of leave before these can be implemented by the employer. If an employee/s is not agreeable, then these cannot be enforced and other options will need to be explored such as redundancy.

Standing down an employee because there is not enough work does not satisfy Section 524 of the Act and the employer will therefore be required to pay the employee their full rate of pay.

**Q: If the school closes and my employee has to look after their child/children am I required to pay them their normal pay whilst at home?**

**A:** Section 97 of the Act states that an employee is entitled to take carer's leave:

"to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:

(i) a personal illness, or personal injury, affecting the member; or

(ii) an unexpected emergency affecting the member."

The Fair Work Ombudsman has taken the approach that a school closing on short notice and for a short period due to concerns about COVID-19 (e.g. because someone at the school has tested positive) is an unexpected emergency for this purpose. There is no definition within the Act for an 'unexpected emergency' so each individual employee's circumstances will need to be reasonably assessed.

Individual circumstances may include:

How much notice was provided by the school? Would it have been reasonable for the employee to make other arrangements during the notice period?

Where do the employee and their child live? Do they easily have access to child minding facilities or other options to have their child looked after?

How old is the child? Does the child have a health condition or a disability? Do they actually require the care or support of the employee?

An employee must give their employer reasonable evidence of the unexpected emergency if their employer asks for it.

**Q: If an employee has to self-isolate, what types of leave are they able to use?**

**A:** If an employee voluntarily elects to self-isolate or is directed by a Government order to self-isolate, then the employee can take unpaid leave or request to use their annual leave or long service leave entitlements (if applicable). Long service leave entitlements need to be taken in conjunction with the applicable long service leave legislation which restricts how many separate periods it can be used.

If the employee actually falls ill, then this will be sick leave.

If the employer issues a directive for a full time or part time employee to self-isolate and not come to work when the employee is otherwise willing and able to work, then the employer needs to pay the employee their full rate of pay. This means what the employee would have otherwise earned had they been at work which includes:

- Incentive-based payments (e.g. commissions) and bonuses;
- Loadings;
- Monetary allowances;
- Overtime or penalty rates; and
- Any other separately identifiable amounts.

In addition, if an employer directs an employee to stay home and it is not possible for them to perform work from home, you will need to pay the employee their full rate of pay for this period and continue to accrue their leave entitlements as usual.

**Q: If an employee contracts COVID-19 do I have to shut my business?**

**A:** If an employee contracts COVID-19, you do not necessarily need to shut your business. This will depend on what is 'reasonably practicable' for you as the person conducting business or undertaking (PCBU), i.e. the employer, in accordance with the Work Health and Safety Act 2011 (the WHS Act).

Section 18 of the WHS Act defines 'reasonably practicable' as the following:

"In this Act, reasonably practicable, in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:

(a) the likelihood of the hazard or the risk concerned occurring, and

(b) the degree of harm that might result from the hazard or the risk, and

(c) what the person concerned knows, or ought reasonably to know, about:

(i) the hazard or the risk, and

(ii) ways of eliminating or minimising the risk, and

(d) the availability and suitability of ways to eliminate or minimise the risk, and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk."

You will need to assess the likelihood and the risk to other employees of contracting COVID-19 and whether this is grossly disproportionate to the cost to the business. If the likelihood and the risk are high, then shutting the business for the 14 day quarantine period would be the recommended control measure. Circumstances where this may apply include if other employees have been in 'close contact' with a confirmed case. A 'close contact' is someone who has been face to face for at least 15 minutes, or been in the same closed space for at least 2 hours, as someone who has tested positive for COVID-19 when that person was infectious.

Whereas if the likelihood and the risk are low, e.g. employees do not have 'close contact' with other employees, then other measures may be more suitable such as:

- Shutting the business for a short period to have the workplace disinfected (this would fall within the provisions of Section 524 of the Act of being able to stand employees down on unpaid leave);
- Allowing employees to work from home if possible;
- Providing employees access to face masks, anti-bacterial wipes, surface disinfectants, hand sanitiser and hand wash;
- Ensuring employees are training in effective infection control and hand hygiene. Posters and guidelines can be printed from the NSW Health website here.
- Practising social distancing.

Employers should keep in mind that failing to exercise your duty of care under the WHS Act so far as reasonably practicable can result in hefty fines and even criminal charges in severe cases.

**Q: If a Business has to close due to an employee being infected with COVID-19, do we have to pay our employees?**

**A:** Under Section 524 of the Fair Work Act 2009 (the Act), an employer is entitled to stand down their employees on unpaid leave if there is a stoppage of work for any cause for which the employer cannot be held responsible for. This would apply in such circumstances if the employee was a confirmed case of COVID-19.

However, employees can request to use their annual leave or long service leave entitlements (if applicable) during this time.

## Further Info

MTA NSW Members should contact the MTA Employment Relations Department on 02 9016 9000 or by emailing eradvice@mtansw.com.au if they have any concerns around the health and safety of their employees relating to COVID-19.

In motion

ISSUE 1 | APRIL 2020

WORKPLACE HEALTH & SAFETY, HUMAN RESOURCES AND INDUSTRIAL RELATIONS NEWS FOR THE MOTOR TRADES INDUSTRY

# Motor Industry Employment Relations News

## Changes to Clerks Award – COVID - 19

**(Member access only)**

**02 Apr 2020**

Effective from first full pay period on or after 28 March 2020 up until 30 June 2020, the following changes are in place under the Clerks Award.

**Read More**

## Public Health Order – Leaving Home

**01 Apr 2020**

The New South Wales State Government released on the evening of the 30th March, 2020 an updated Public Health Order (PHO) being Public Health (COVID – 19 Restrictions on Gathering and Movement) Order 2020. The essence of the new PHO was to state that people "must not, without reasonable excuse, leave a persons' place of residence". The PHO goes onto to set out a number of exceptions to this blanket rule.

**Read More**

## Job Keeper Payment Scheme

**(Member access only)**

**01 Apr 2020**

On 30 March 2020, the Government announced a temporary JobKeeper Payment Scheme aimed at helping businesses retain their employees. The JobKeeper wage subsidy will provide eligible employers a payment of $1,500 per fortnight for each of their eligible employees. The payments will commence at the start of May 2020 but will be back dated to 30 March 2020. This wage subsidy will assist employers in keeping their staff employed so that they can effectively 'bounce back' without having to re-hire staff once the COVID-19 crisis is over.

**Read More**

## Changes to Long Service Leave Provisions – Covid-19 Measures

**(Member access only)**

**01 Apr 2020**

On the 24 March 2020 NSW Parliament passed temporary laws to allow for greater flexibility around the taking of Long Service Leave (LSL) under the NSW LSL Act 1955. Key changes are.

**Read More**

## Coronavirus (Covid-19): Advice and Guidance for Members

**(Member access only)**

**31 Mar 2020**

In relation to the current situation regarding the Coronavirus (COVID-19), this update seeks to provide information to assist Members with related, health, and employment relations issues in the workplace which have arisen in relation to the management of the global COVID-19 pandemic.

**Read More**

## Border Closures NSW/QLD Border Crossings - COVID – 19

**25 Mar 2020**

Members will have heard that the Queensland Government has announced further restrictions on people movement into and out of the state of Queensland, to assist in the prevention of the spreading of Covid-19 virus. These new measures commence at 12midnight this evening the 25th March, 2020. It is important that Members appreciate that exceptions to these rules apply to the normal operation of their businesses. The measures to take effect are:

**Read More**



Motor Trades Care

MOTOR TRADERS' ASSOCIATION OF NSW

### Role of Automotive Supply Chain as Essential Services

**(Member access only)**

**24 Mar 2020**

MTA NSW, working with our national body, the Motor Trades Association of Australia (MTAA), and its State and Territory Motor Trades Associations and Automobile Chambers of Commerce have formed a national position that the Automotive Supply Chain is an Essential Service, during times of disaster, crisis, or event where jurisdictional Governments and the Commonwealth Government may need to define, describe, proclaim and / or enact essential service provisions.

**Read More**

### Restrictions on Non Essential Gatherings - Covid - 19

**(Member access only)**

**23 Mar 2020**

In recent days in response to the growing number of reported infections from Covid-19, the Federal and State Governments has placed severe restrictions on what have been classified as "Non Essential Gatherings". The Governments initially defined these Non-Essential gatherings to include:

**Read More**

### Good Hygiene Practices When Servicing Customers' Vehicles

**20 Mar 2020**

There is evidence that the Caronavirus (COVID-19) spreads from person to person. Some reports suggest the virus can last for several days on surfaces including plastics found in vehicles. Good Hygiene can prevent infection from coronavirus as well as the common flu.

**Read More**

### NSW Government Announces $2.3 Billion Health Boost and Economic Stimulus

**17 Mar 2020**

As you may be aware, the NSW Government today a major $2.3 billion health boost and economic stimulus package to protect the community and help protect jobs in response to the current Coronavirus situation. This package has two key components: $1.6 billion in tax cuts to support jobs and $700 million in extra health funding.

**Read More**

# Useful Links

### Work Health and Safety (WHS) in NSW

The Work Health and Safety Act 2011 (NSW) and Work Health and Safety Regulation 2017 (NSW) govern the WHS obligations of both the employer and employee in NSW. A copy of these pieces of legislation can be accessed below. Members are also encouraged to download the Work Health and Safety Manual and Policies. This should be adapted by each business and be distributed to all workers.

Work Health and Safety Act 2011 (NSW)

Work Health and Safety Regulation 2017 (NSW)

Work Health and Safety Manual and Policies
(Member access only)

### The Work Health and Safety Roadmap for NSW 2022

The Work Health and Safety Roadmap for NSW 2022 was launched on 22 August 2016. The Roadmap is a six-year plan which sets out several targets to reduce rates of injury, illness and fatalities in the state.

The Roadmap aims to reduce work-related fatalities by 20 percent, serious injuries and illnesses by 30 percent and serious musculoskeletal injuries and illnesses by 30 percent through engaging and empowering workplaces to manage health and safety in a more effective manner.

Download the Roadmap

Watch a video explaining what the Roadmap is all about

For further information, please visit
http://www.safework.nsw.gov.au/roadmap

# Get in touch today!

**Contact MTC for WHS and RTW advice on 1300 006 826 or enquiries@motortradescare.com.au**

**or**

**Contact MTA NSW for Employment Relations advice on 02 9016 9000 or www.mtansw.com.au/contact**

**MTC**

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