

Coronavirus Disease (COVID-19) – Guidance Note on Employment- Related Matters

Advice as at 3 April 2020

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This Guidance Note provides specific advice to Victorian public health sector entities on employment-related matters. For general and up-to-date advice regarding the Coronavirus Disease (COVID-19), please visit the Department of Health and Human Service's website - www.dhhs.vic.gov.au/coronavirus.

Update

A stay at home direction was signed on 30 March 2020, ordering anyone in Victoria to stay at their usual place of residence, other than to work or study, buy essential goods or services, medical care or compassionate needs or exercise in accordance with public gathering guidelines – <https://www.dhhs.vic.gov.au/stay-home-directions>. This direction replaces the previous Prohibited Gatherings directions.

A restricted activity direction was signed on 30 March 2020, replacing the non-essential activity directions given on 25 March 2020 – <https://www.dhhs.vic.gov.au/restricted-activity-directions>. The new direction bans escort agencies and closes playgrounds, skateparks and outdoor communal gym equipment.

There is an updated 'Stay at Home' Direction operating from 2 April 2020 until 13 April 2020 – [Stay at Home Directions \(No 2\)](#).

Consultation

Employers are reminded that they **must comply with their obligations** under all relevant industrial instruments to consult with their employees and their employees' unions on matters as required by those industrial instruments, and generally as a good people management principle. That consultation must be managed locally where the matters are local – for example, changes to rosters or roster patterns, or assignment to different work or work locations.

Employees (and their unions) will be better placed to respond quickly and positively to proposed workplace changes arising from the coronavirus where they feel they are informed and have had an opportunity to contribute to how those changes will be implemented. **Again, local matters of change and consultation must be managed locally. However, the department is undertaking a broader engagement with public health sector unions with a view to facilitating and streamlining those local consultation processes.**

Employers are also asked to consider whether existing non-coronavirus-related change processes should go ahead at this time as they may distract from meeting the challenges of the coronavirus pandemic.

State of Emergency

The Premier of Victoria and Victoria's Minister for Health have announced a State of Emergency commencing from midday on Monday 16 March 2020, remaining in force for the next four weeks. The announcement of a State of Emergency was to assist with measures designed to 'flatten the curve' of COVID-19 and give our health system the best chance of managing the virus.

On 30 March 2020, the Premier of Victoria announced the decision of the National Cabinet to implement Stage 3 restrictions will come into effect from 11:59pm on that day (<https://www.premier.vic.gov.au/statement-from-the-premier-35/>). These restrictions will be reviewed after four weeks.

Further information on Stage 3 restrictions is available [here](#) on the Department of Health and Human Services [website](#).

Under a State of Emergency, Authorised Officers, at the direction of Victoria's Chief Health Officer, can act to eliminate or reduce a serious risk to public health by detaining people, restricting movement, preventing entry to premises, or providing any other direction an authorised officer considers reasonable to protect public health.

Victoria's Chief Health Officer (or Deputy Chief Health Officer) has issued the following Directions:

- Updated [Stay at Home Directions \(No 2\)](#) was signed on 2 April 2020 and replaces the previous Stay at Home Directions.
- A direction on [restricted activity](#) was signed on 30 March 2020. This replaces the previous [non-essential activity \(No 2\)](#) direction which was signed on 26 March 2020, which updated the non-essential activity direction from 25 March.
- A direction [to detain](#) all people arriving in Victoria on or after midnight was signed on 28 March 2020. This direction allows anyone arriving from overseas to be placed in mandatory quarantine for 14 days in a nominated accommodation facility. This direction supersedes the previous [airport and cruise ship directions](#), which have now been revoked.
- An [isolation \(diagnosis\) direction](#) was signed on 25 March 2020. This direction requires anyone diagnosed with coronavirus (COVID-19) to isolate at home or another suitable location to slow the spread of the disease.
- A direction for [hospital visitors](#) was signed on 23 March 2020. This direction prohibits non-essential visits to hospitals.
- This follows a direction for [aged care](#), which was signed on 21 March 2020. The [Aged Care Directions](#) make provision for restricted access to residential aged care facilities to limit the spread of COVID-19 within a particularly vulnerable population.

The advice below relating to self-quarantine (self-isolation) periods reflects these Directions.

General advice for employers and employees

On 10 March 2020, the Premier of Victoria and Victoria's Minister for Health released the [COVID-19 Pandemic Plan for the Victorian Health Sector](#). The Pandemic Plan is available on the Department of Health and Human Service's [website](#). The Pandemic Plan sets out a comprehensive, four-stage response to COVID-19 (coronavirus).

The Premier's media release on the Pandemic Plan is available at <https://www.premier.vic.gov.au/victorias-health-system-preparing-for-covid-19-pandemic/>.

Precautionary and specific measures are in place in response to the evolving Novel Coronavirus COVID-19 public health emergency.

It is essential that employers and employees are as informed as they can be regarding the coronavirus. Employers should make available – and encourage employees to read – the information and advice available about the coronavirus on the Department of Health and Human Service's website. The Department of Health and Human Services' [website](#) provides up-to-date information for a range of audiences as well as fact sheets, posters and other materials that can be used to help in making information available more broadly.

The Department of Health and Human Services is continuing to work with the Commonwealth Government and our state and territory peers to monitor and identify appropriate actions and advisories that may affect employees of Victorian public health sector entities. The Department of Health and Human Services is also monitoring advice provided by the World Health Organisation.

The Department of Health and Human Services – and the Victorian Government more broadly – will be working with all stakeholders – including unions, professional associations and peak bodies – to ensure appropriate information is provided to Victorian public health sector entities and their employees and to respond to promptly to issues, questions and concerns that may arise.

A selection of common 'Questions and Answers' are set out at the end of this Guidance Note.

Contractors and their staff

While the information in this Guidance Note focusses primarily on arrangements between Victorian public health sector entities and their employees, the information provided in this Guidance Note may provide useful information for the companies and business that supply services to Victorian public health sector entities on a contract basis (contractors) – particularly those which place their staff within public hospitals and health services or whose staff regularly visit or attend public hospitals and health services in undertaking their work.

Both the Victorian public health sector entities and the contractors have occupational health and safety obligations to ensure the workplace is safe and without risks to the health of employees and others. This includes assessing and managing infection risk possibilities in both directions – that is, the risk of bringing the coronavirus into the hospital or health service as well as coming into contact with it there.

Victorian public health sector entities are encouraged to share this Guidance Note with those contractors whose staff are located within or regularly attend their hospital/health service and to otherwise work with those contractors to reduce infection risks.

Employees exposed or at risk of exposure to Coronavirus

All healthcare workers, other employees, healthcare students, volunteers and contractors who have been informed by the Department of Health and Human Services (or a department from another state or territory) that they are a close contact with a confirmed case of coronavirus OR have returned from overseas travel must:

- Immediately self-quarantine (self-isolate) yourself;
- Call your supervisor – do not physically meet with your supervisor;
- Monitor for symptoms for fourteen (14) days since last contact with the confirmed case (or from arrival into Victoria after overseas travel); and
- If fever or respiratory illness (even if mild) occur, isolate and seek medical attention as soon as possible.

During the 14-day period of self-quarantine (self-isolation) in addition to the above you must also:

- avoid public settings – this means you should not attend work, school, childcare, university or go to other public places such as restaurants, cinemas or shopping centres, and should not use public transport or taxis;
- not allow visitors into your home – only people who usually live in the household should be in the home;
- stay in a different room from other people as much as possible – where you must be in the same room as other people try to remain 1.5 metres (approximately the equivalent of your arm span) away from the other person(s) wherever possible;
- if you begin to feel unwell and develop a fever or shortness of breath, a cough or respiratory illness, you should call the dedicated hotline on 1800 675 398 for advice – this number is staffed 24 hours a day, seven days a week.

In almost all situations, the Department of Health and Human Services proactively identifies close contacts and contacts close contacts as above. All healthcare workers, other employees, healthcare students, volunteers and contractors who have not been contacted by the department but remain concerned that they may have had close contact with a confirmed case of coronavirus should:

- Immediately self-quarantine (self-isolate) yourself;
- Call your supervisor – do not physically meet with your supervisor;
- Contact 1800 675 398 in order to discuss the situation; Nurse On Call may then initiate a discussion or referral to public health officers at the department.

We are mindful that this is a fluid environment so employers and employees should regularly check the Department of Health and Human Services' [website](#) for up-to-date information.

Employees arriving or returning from overseas destinations

The Commonwealth Government has increased its travel restrictions. Advice on the latest travel restrictions can be found through the Department of Health and Human Services' [website](#).

From midnight on Saturday **28 March 2020**, travellers arriving into a Victorian port from overseas will be placed in mandatory quarantine for fourteen (14) days in a nominated accommodation facility (hotel rooms and other accommodation facilities) after submitting an Isolation Declaration Card. (This direction supersedes the previous

[airport and cruise ship directions](#), which have now been revoked.) Interstate travellers can return to their home states after fulfilling the mandatory 14-day quarantine requirements.

Any employee who returned from overseas travel **prior to midnight on Sunday 15 March 2020** and travelled to a country identified as 'high risk' by the Australian Government was required to self-quarantine (self-isolate) for a period of fourteen (14) days from the date of their return to Australia.

Any healthcare worker or residential aged care workers who returned from any overseas travel at or after midnight 15 March 2020 – other than a citizen or permanent resident of a Pacific Island, or a person intending to live indefinitely on a Pacific Island and who is travelling through an airport in Victoria in transit to the Pacific Island – was required to self-quarantine (self-isolate) for a period of fourteen (14) days.

Employers and employees should refer to the Commonwealth Government's [Home isolation guidance](#).

Because this situation is fluid, the travel restrictions imposed by the Commonwealth Government is subject to change. You can check the status of the Commonwealth Government's advice regularly through the Department of Health and Human Services' [website](#). Information is also available on the Commonwealth Government's Smart Traveller website - <https://www.smarttraveller.gov.au/>.

Leave for periods of absence from work

Employers should ensure that they apply the appropriate leave types to their employees' absences from work during the coronavirus pandemic by following the guidance below. A leave-type 'flow chart' is provided in Appendix 2 to this Guidance Note.

Payment during absences from work

Where an employee is absent from work on paid leave, an employee's salary during their absence should be calculated as follows:

- If the leave of absence is covered by an existing leave entitlement (for example, Personal/Carer's Leave) under a relevant enterprise agreement, payment for the period of absence will be calculated in accordance with the provisions of the enterprise agreement;
- If the leave of absence is paid Special Leave granted at the discretion of the employer under this Guidance Note, generally payment for the period of absence will be calculated by reference to the rate of pay the employee ordinarily receives in the course of their duties, excluding payment for overtime, stand by, travel allowance, incidental expenses or any other payment of a temporary character, unless a better entitlement is available under a relevant enterprise agreement.

Notwithstanding the above, where paid Special Leave is provided, employers should seek to avoid either advantaging or disadvantaging employees in the level of payment an employee will receive during that period of paid Special Leave. For example, if the employee is unable to work due to self-quarantining (self-isolation) requirements, and would have been in receipt of shift penalties had they been able to work, the employer should pay the employee those shift penalties as if the shifts had been worked. The level of payment the employee would have received if the period of absence had been taken as Personal/Carer's Leave, rather than as paid Special Leave, may provide a useful guide under some industrial instruments.

Where an employee has an illness

In all cases, where an employee is absent from work because they have or have contracted an illness (whether the coronavirus or another illness), it is expected that the employee will use their Personal Leave in the first instance.

Where the employee has contracted an illness in the course of their duties, the employee may be able to make a WorkCover claim.

Where the employee is required to self-quarantine (self-isolate)

Employees who are required to self-quarantine (self-isolate) – or otherwise not attend work – in accordance with Victoria’s Chief Health Officer’s requirements will be able to access paid Special Leave from their employer during the self-quarantine (self-isolation) period. However, paid Special Leave will not be granted upon return to Australia from:

- overseas travel that commenced prior to midnight on 15 March 2020, if [Smart Traveller website](#) advice for an employee’s overseas destination – including a transiting point – was ‘do not travel’ or ‘exercise a high degree of caution’ on the date of their departure and they still travel; and
- any overseas travel commencing after midnight on 15 March 2020.

The employer and employee may also consider ‘working from home’ arrangements for some or all of the self-quarantine (self-isolation) period where practical and appropriate.

Where an employee who travelled before midnight on 15 March 2020, or before their destination or transit point was identified as ‘do not travel’ or ‘exercise a high degree of caution’, has self-quarantined:

- If the employee becomes unwell or is subsequently tested and found to have contracted the coronavirus, it is expected that the employee will then utilise their Personal (Sick) Leave for the balance of their period of absence from work. Where the employee does not have enough Personal Leave to cover that further period of absence from work, other paid and unpaid leave entitlements can be used (such as Annual Leave). Access to further paid Special Leave will be considered on a case-by-case basis.
- If the employee is not unwell and does not test positive for the coronavirus, the employee can continue to access paid Special Leave for the balance of the required self-quarantine (self-isolation) period.

Where the employee is otherwise required to be absent from work

Where an employee is not required to self-quarantine (self-isolate) but is required to not attend work in accordance with Victoria’s Chief Health Officer’s advice – such as in the case of contacted with a suspected case of coronavirus, the employee will be able to access paid Special Leave from their employer during the period they are required to not attend work.

In such circumstances, the employer and employee may also consider ‘working from home’ arrangements for some or all of the relevant period where practical and appropriate.

Where the employee is a carer for an affected family/household member

Where an employee is absent from work to care for a family or household member who is required to self-quarantine, it is expected that employees will use their Personal/Carer’s Leave or another type of paid leave. Access to paid Special Leave will be considered on a case-by-case basis.

The employer and employee may also consider ‘working from home’ arrangements for some or all of the relevant period where practical and appropriate.

Employers and employees should note that an employee who is a carer for a family or household member who is diagnosed as having coronavirus may themselves become subject to Victoria’s Chief Health Officer’s self-quarantine (self-isolate) or absence from work requirements.

Where there is no requirement for an employee to self-quarantine (self-isolate)

In absence of the employee:

- contracting a personal illness; or
- having a caring responsibility for a member of their immediately family or household who has contracted a personal illness or injury; or

- having come into close contact with a person who has contracted coronavirus requiring a period of self-quarantine (self-isolation); or
- having a requirement to self-quarantine (self-isolate) due to returning from overseas travel;

the employee is expected to attend work as usual unless on approved leave or other working arrangements have been agreed with their employer.

Similarly, employer decisions on requiring employees to self-quarantine (self-isolate) or to otherwise adjust their working conditions to maintain a safe workplace must be based on, and informed by, the advice of Victoria's Chief Health Officer, the Commonwealth Government and/or the Department of Health and Human Services. While employers must undertake their own risk assessments, their decisions and conduct may be unlawful under discrimination laws – even if they arise from a genuinely held concern regarding the coronavirus – unless made on appropriate and reasonable grounds.

Employers should also be aware of the [Aboriginal Cultural Safety Framework](#) and ensure that cultural safety is included in their decision making.

Casual employees and independent contractors (fee-for-service)

Casual employees and independent contractors engaged directly by Victorian public health sector entities may also be affected by the self-quarantine (self-isolation) and absence from work requirements mentioned above.

Typically, casual employees and independent contractors do not have paid Personal Leave or Annual Leave entitlements to draw upon, nor would they normally have access to paid Special Leave. Nonetheless, casual employees and independent contractors provide a valuable resource to these entities and face the same infection risks as the entities' direct employees.

Where a casual employee or independent contractor is required to self-quarantine (self-isolate) or otherwise be absent from work, the employer may make arrangements with that person to work from home for some or all of the relevant period where reasonable, practical and appropriate in light of the health or caring responsibilities of that person.

Employers should use their discretion in assessing whether to provide casual employees with paid Special Leave or other financial assistance on a case by case basis, taking into account:

- Where a casual employee has been employed and working for the hospital on a regular and systematic basis for at least three (3) months, and is anticipated to continue to be employed on a regular and systematic basis, paid Special Leave will be provided to cover any required period of self-quarantine (self-isolate) or period required to be absent from work (subject to the exception for voluntary employee travel to a known risk area). The amount of paid Special Leave provided will be reflective of the likely work pattern for the employee concerned had they not been required to self-quarantine (self-isolate).
- For casual employees who have been employed and working for less than three months, or who have not been working for the hospital on a regular and systematic basis, employers should use their discretion in assessing appropriately whether or not to provide paid Special Leave or other financial assistance on a case by case basis.

Employers may require the casual employee to provide a statutory declaration or other reasonable evidence to substantiate the requirement to self-quarantine (self-isolate). Where evidence is required, a casual employee must provide it to be eligible for paid Special Leave. Where the casual employee's requirement to self-quarantine (self-isolate) relates to a return from overseas travel, employers may have regard to the timing of and destination(s) visited or transited through during that travel in making a decision to provide support to the employee.

Employers are encouraged to consider the financial impact on independent contractors and find accommodations that avoid or mitigate their financial disadvantage where they are required to be absent from the workplace through no fault of their own.

Safe working practices

Employers and employees have mutual obligations to ensure the workplace is safe and without risks to the health of employees and others.

Employers must – as far as is reasonably possible – eliminate, or otherwise minimise risks. Victorian public health sector entities are – or operate in – a high-risk environment in terms of infection risk and this level of risk must be appropriately addressed. They are also environments where vulnerable people seek care and attention.

Employers should communicate and work with their employees to identify risks in the workplace. This includes understanding which of their employees may themselves be vulnerable to infection and adverse consequences from the coronavirus. Employees who are aged over sixty-five (65) and employees with pre-existing medical conditions such as heart and lung disease are more at risk of experiencing severe symptoms.

Employers should offer strategies and options to reduce risks for these employees, including working from home arrangements where practical, temporary transfer to other duties, or other flexible arrangements. In some cases, employers and employees may reach agreement on the taking of paid leave to mitigate the risks.

Similarly, employees working in these environments must take appropriate precautions by following policies and procedures aimed at reducing risk and by informing their employer of risks in and to the workplace, including where their own personal circumstances may contribute to those risks. Employees must comply as far as is reasonably possible with lawful and reasonable instructions given to them by their employer so that the employer can comply with its responsibilities.

The *Occupational Health and Safety Act 2004* (OHS Act) requires employees to take reasonable care for their own health and safety and the health and safety of others who may be affected by their acts or omissions at the workplace. Employees must also co-operate with their employer with respect to any action taken by the employer to comply with the OHS Act

Employees also have a duty to take reasonable care for their own health and safety and to not adversely affect the health and safety of others. Workers should be reminded to always practice good hygiene and other measures to protect themselves and others against infection. This includes:

- Washing their hands often, with soap and water, or carrying hand sanitiser and using it as needed.
- Covering their mouth when coughing or sneezing, but not using their hands to do so.
- Seeing a health care professional if they start to feel unwell.
- If unwell, avoiding contact with others (including shaking hands or other touching, such as hugging).

Social distancing

Consistent with the advice of Victoria's Chief Health Officer, employers and employees should implement measures to reduce the risk of transmission and protect vulnerable people.

Social distancing in the workplace may include practices such as:

- if you're in quarantine or isolation, you can't:
 - leave that place except in an emergency.
 - allow other people into the home if they don't live there.
 - be closer than 1.5 metres (approximately the equivalent of your arm span) where possible;
- if you are with other people, you must observe the rule of 1 person for every 4 square metres to ensure a safe physical distance;
- deferring or cancelling large meetings or other gatherings;
- reducing as far as possible the number of people from other employers or the general public who need to visit the workplace;
- holding meetings by alternate means (for example, video or phone conferencing);
- reconsidering non-essential business travel, including any travel by public transport or on domestic airlines;

- ensuring workstations and other surfaces are cleaned regularly;
- minimising food handling or sharing in the workplace;
- changing usual work practices or hours – for example, staggering working hours to avoid public transport congestion, or all or most employees working from home (where feasible).

To ensure social distancing measures are effective employers and employees should take the following steps:

- practice enhanced personal and workspace hygiene by regularly washing or sanitising hands and wiping down your workstations. Efforts should focus particularly on high touch points. Employers should also any steps which can reasonably do to enhance cleaning arrangements;
- where employees have mobile devices (tablets, laptops etc) but don't regularly use them remotely, it is essential that these devices be taken home and employee's practice logging on to the network remotely including testing remote use of any commonly used software applications;
- schedule branch level trials of remote working arrangements, this will have a dual function to both trial remote working capabilities and reduce the number of people in our workplaces and in transit during trialling;
- discuss with employees' options for staggering start times between team members to reduce the number of people travelling on public transport at peak times; and
- if you are over 65 or have a health complaint – particularly if you have lower immunity levels – you should discuss alternative working arrangements with your manager now, including working from home (where feasible) for an extended period.

Personal protective equipment (PPE)

Part of the employers' responsibilities in minimising risk is providing appropriate personal protective equipment (PPE) such as gloves, gowns, masks, eye protection and respirators. However, the provisions of such equipment will be commensurate with the level or risk faced by an employee in terms of the duties they perform and the direct environment in which those duties are performed. This is particularly relevant and important at this time as the nature of the public health threat posed – and the response required – will place pressure on the availability and supply of these items worldwide.

Victoria's Chief Health Officer has advised Victorian public health sector entities to be aware of and follow the World Health Organisation's current guidance relevant to the coronavirus. The World Health Organisation has issued clear guidance on appropriate clinical practices, including guidance on who does NOT need to wear PPE if proper protocols are in place and followed. The World Health Organisation's current guidance on the appropriate use of PPE is available on its website (<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>) and includes specific advice for health workers.

The Department of Health and Human Services has issued further guidance on PPE in a factsheet for healthcare workers. The factsheet can be found at <https://www.dhhs.vic.gov.au/coronavirus-covid-19-healthcare-workers-ppe-guidance-0>. Further advice on PPE – including where healthcare workers move between workplaces – will be made available soon. This advice on PPE is updated regularly.

The World Health Organisation has also published information about threats to the availability and supply of PPE (<https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide>).

The Commonwealth Government also has guidance on the appropriate and effective use of PPE which is available at <https://www.health.gov.au/sites/default/files/documents/2020/03/interim-advice-on-non-inpatient-care-of-persons-with-suspected-or-confirmed-coronavirus-disease-2019-covid-19-including-use-of-personal-protective-equipment-ppe.pdf>.

Employers and employees should be aware of and follow this guidance on PPE.

Employees who become sick while at work

Where an employee becomes sick at work after exposure to a person infected with the coronavirus that employee should absent themselves from work. Alternatively, an employer may direct that employee to absent themselves

from work. The period of the employee's absence will be informed by Victoria's Chief Health Officer's self-isolation guidelines and/or by the employee's medical practitioner(s). Access to paid and unpaid leave will be in accordance with the advice set out above.

An employee who contracts coronavirus through their work can exercise their rights to make a WorkCover claim.

Employer holds a reasonable belief that an employee may have contracted coronavirus

Where the employer has a reasonable belief that the employee has a medical condition which is a danger to themselves or another person, they may exercise any power provided to them under the relevant enterprise agreement or other relevant legislation to require the employee to absent themselves from the workplace. In making a decision to direct an employee to be absent from their workplace, the employer must be mindful of their obligations under Victorian occupational health and safety legislation, the Fair Work Act 2009, anti-discrimination protections and any other legal obligations relevant to the circumstances.

Access to paid or unpaid leave will be provided in accordance with **Leave for periods of absence from work** above.

Employee notification

Employers should ask employees (including casual employees and independent contractors) to notify them immediately if they:

- have travelled to an affected area since the beginning of 2020 or have travelled overseas since 15 March 2020; and/or
- are suffering, or have suffered, flu-like symptoms since the virus was first detected.

If the answer to either of these questions is 'yes', employers should respond according to Victoria's Chief Health Officer's self-quarantine' (self-isolate) and 'absence from work' guidelines and direct the employee not to attend work during the risk period.

Access to paid and unpaid leave (or other compensation) will be in accordance with the advice set out above.

Other exclusions from the workplace

In addition to employees excluding themselves from the workplace where they have travelled to or through high risk countries (or who have otherwise been exposed to – or come into contact with – the coronavirus), Victorian public health sector entities should also apply restrictions on others who might visit their entities.

Appropriate signage and other notices should be visible and information of any local policies in this regard should be circulated or otherwise be made available to those likely to be affected by such restrictions and their cooperation and understanding sought.

Restrictions on hospital/residential aged care visitors and workers

New restrictions have been introduced to reduce the spread of coronavirus into hospitals by people who may pose a risk and do not have an important reason to be there. Details can be found in the latest [Fact Sheet for Hospital Visitors](#).

The Chief Health Officer's [Aged Care direction](#) makes provision for restricted access to residential aged care facilities to limit the spread of coronavirus within a particularly vulnerable population.

Minimising Unlawful Discrimination and Vilification

Employers have a responsibility to ensure that employees are not unlawfully discriminated against – knowingly or unknowingly – by their managers, their colleagues or the organisation. Employers should remain aware of the potential for heightened unlawful discrimination in the workplace during a time of heightened public health concerns and possible pandemic.

Employers should be aware that if an infectious disease originates from a particular geographical region, employees from that region (or perceived to be from – or connected to – that region) may be at an increased risk of experiencing unlawful discrimination from others. Employers should monitor this and intervene where necessary to remind employees and clients of their obligations to behave respectfully toward others at work. Any inappropriate workplace behaviour by Employees may be subject to misconduct investigation.

Further, it is likely that contracting coronavirus would be characterised as a 'disability' for the purposes of anti-discrimination laws.

Assigning and managing work

Employers may need to adopt policies and arrangements that allow a dynamic response to how work is to be performed and by whom. Employers should also be alive to concerns and reservations that staff may have about working with patients exposed to or infected by the coronavirus.

Employers may require staff to work from home or from alternative work locations for periods of time. Employers should consider the consultation requirements and any additional entitlements under the relevant enterprise agreement which may apply. Employers may test or trial some arrangements in advance to ensure systems and ways of working are practical in the event of changed directions. Employees may be required to undertake different duties for a period of time, commensurate with the employee's qualifications, training, skills and classification level.

Employers should ensure that employees have access to up-to-date information from the Commonwealth Government and the Department of Health and Human Services about the coronavirus, and employees should familiarise themselves with that information.

Employee concerns over attending/performing work

Providing the workplace is safe, employees are expected to report for work as usual. Employers should ensure that employees are aware that they will be expected to report for work unless they are on approved leave. Employees should discuss any concerns with their employer. If employees request to work from home, or to take some form of paid or unpaid leave, these requests are subject to the normal application and approval processes in the workplace.

Some employees may feel anxious about coming to work during this period. Encouraging their participation in planning processes and providing clear and regular communication is crucial to alleviating employee concerns and minimising unnecessary absenteeism.

While employers have the right to issue lawful and reasonable directions to their employees, that right must be exercised with caution and some flexibility should be adopted.

If an employee is refusing to come to work – or to perform certain tasks, or perform them in the way directed – because they hold genuine fears for their health and safety, the stress that may arise from being directed to attend to do so anyway, or to face any threat of discipline action, may itself adversely affect their health.

Where an employee has a legitimate concern for their own health and safety – for example, where an employee falls into an 'at risk' category regarding coronavirus (such as a relevant pre-existing illness or medical condition, or pregnancy) – the employer should seek to accommodate the employee through a temporary transfer to other duties, or other flexible arrangements. In some cases, employers and employees may reach agreement on the taking of paid leave.

Employers should also be aware of the [Aboriginal Cultural Safety Framework](#) and ensure that cultural safety is included in their decision making.

Employers who run Employee Assistance Programs or similar should ensure that employees who have concerns about their wellbeing are aware of these programs and are able to access them.

Where possible, employers should offer employees the opportunity to work from alternative locations – including working from home – to reduce their risk of coming into contact with the coronavirus. Similarly, employers should

try to accommodate employees' requests for such arrangements. Obviously, operational considerations will be relevant to authorising any alternative working arrangements.

Maintenance of critical functions

In some circumstances it may not be appropriate to provide employees with the opportunity to work from alternative work locations because employees are required to attend the workplace in order to maintain critical functions or services or implement the Government's response to an outbreak of coronavirus. In such circumstances, employers must ensure that as far as is reasonably possible they have taken steps to minimise risks to employees and clients.

In some cases, it may be necessary to temporarily direct employees to undertake alternative duties, which are within their skills and qualifications in order to maintain critical public service functions and services. Where it is necessary and required to redirect employees to alternate duties, employers must:

- consider the requirements of relevant enterprise agreements, including consultation requirements, and engage with the relevant union(s) to seek a collaborative approach to the maintenance of critical functions during this time;
- consider the skills and capabilities of the employees proposed to be redirected to ensure they are qualified and capable of performing those duties;
- ensure any employees redirected are remunerated in the accordance with the requirements of the relevant enterprise agreement;
- assess the risks to employees and take reasonable steps to mitigate them as required by Victorian Occupational Health and Safety legislation;
- provide as much notice as practicable of any changes to work locations and duties (noting the circumstances of operating in a pandemic);
- consider the availability of appropriate and safe travel options to and from any alternative location;
- consider the employee's family and personal circumstances, including caring responsibilities;
- consider the continuation of any workplace reasonable adjustments or flexible working conditions wherever possible.

Clinical areas

Areas such as Intensive Care Units, emergency departments and pathology laboratories are among those that are likely to experience higher than usual demand because of the coronavirus. Employers should identify employees with skills that can be utilised in or support these areas.

Where employees are identified as potential 'surge' staff, they should be familiarised with the relevant environment and undergo appropriate training in the use of equipment including personal protective equipment (PPE) relevant to the environment, the duties they will be asked to perform and the nature of their contact with patients.

Non-clinical areas

Where possible, employers should offer employees the opportunity to work from alternative locations – including working from home – to reduce their risk of coming into contact with the coronavirus. Similarly, employers should try to accommodate employee's requests for such arrangements. Obviously, operational considerations will be relevant to authorising any alternative working arrangements.

Consulting on workloads and overtime

While employers can ask their employees to work additional hours, those additional hours must be reasonable.

Employers have a both a practical – and in some cases, a legal – obligation to consult with their employees where there is likely to be a prolonged increase to employees' working hours and/or workloads. Some enterprise agreements require employers to consult in advance where higher workloads are expected but this is good practice to adopt for all employees.

Employers must continue to meet their industrial and legal obligations.

Managing fatigue

Managing fatigue will be essential for a surge period that may last many weeks. Employers must comply with all legal obligations to provide a safe working environment and to avoid placing excessive or onerous workloads on their employees. This includes obligations arising from enterprise agreements and from legislation such as the *Safe Patient Care (Nurses to Patients and Midwives to Patient Ratios) Act 2015* (Vic).

Employers should consider all available options to meet increased or changed service needs, including offering additional hours to part-time and casual employees, offering paid overtime or time-off-in-lieu arrangements or engaging additional resources.

Employers should also consider discussing leave plans with employees who are likely to be in high demand if the pandemic escalates and encourage opportunities for the taking of some period(s) of leave in advance of increasing demand where possible to allow employees to 'refresh' beforehand.

As demand does escalate, employers and employees should also consider the possibility of 'rotations' through different duties and clinical areas – intermixed with some leave breaks – during the high-demand phase to provide some relief from what will be a high-pressure and high-intensity environment.

Managing leave requests

Employees are and remain entitled to request and to take leave in accordance with their awards and enterprise agreements, and in accordance with the *Fair Work Act 2009* (Cth).

Where approval is discretionary under the relevant industrial or statutory terms for the type of leave requested, that discretion should be exercised cautiously and in consultation with the employee. If leave is to be disallowed for operational reasons – such as staffing shortages or higher workloads influenced by the coronavirus – this should be made clear, and all alternatives to disallowing the requested period of leave be explored and discounted. The employer may also seek to negotiate a different period of leave, or for the leave to be taken at a different time.

Employers should also be aware of the [Aboriginal Cultural Safety Framework](#) and ensure that cultural safety is included in their decision making.

Leave entitlements

Many employees will require leave during a time of heightened threats to public health for a variety of reasons. In a pandemic or other emergency that affects public health, employees may find that access to medical practitioners is limited.

Employers should establish local procedures for recording and approving applications for leave during this period. For example, employers may wish to accept statutory declarations in place of the requirement for the provision of a medical certificate.

It is important that processes are established in advance to protect vulnerable employees, and to ensure sick employees do not report for work during a pandemic. Employers need to consider how best to manage employees once they have exhausted their Personal/Carer's Leave entitlements.

Leave cancellations

Given the travel restrictions now in place, some employees are likely to want to cancel or defer previously approved periods of Annual Leave or Long Service Leave that are yet to occur. **Similarly, employees who have had their travel cut short by – or otherwise impinged on travel restrictions or self-quarantining (self-isolating) requirements – may wish to have (some of) their Annual Leave or Long Service Leave recredited.** Employers should be flexible in accommodating employees' requests to cancel leave requests.

Exceptions may occur where the employee has an excessive Annual Leave balance and the approved period of leave was part of leave plan to reduce the excessive balance or where recruitment action has occurred, and a replacement employee has been engaged to cover the agreed period of leave.

Employees' requests to convert a period of Annual Leave or Long Service Leave to paid Special Leave should be considered on a cases-by-case basis informed by other information contained in this Guidance Note.

Employers should be mindful that they may be asking their employees to cancel previously agreed leave arrangements to help meet patient demand, so corresponding flexibility with employees' request to cancel previously agreed leave arrangements will help to engender cooperation on this front.

Leave arrangements for school or childcare centre closures

The following arrangements will apply if an employee is unable to attend work because they are required to care for one of more of their children as a result of a school and/or a childcare centre being closed on the advice of the Victorian Chief Health Officer.

Ongoing and fixed term employees

Other than where employees elect to use accrued Personal/Carer's Leave, employees may be required by their employer to work from home where reasonable, practicable and appropriate.

Where working from home is not feasible, the employee will be granted a maximum of twenty (20) days paid Special Leave (pro-rata for part-time employees). This paid Special Leave may be used in a single unbroken period, or in multiple periods as agreed with the employer.

Payment during this paid Special Leave will be in accordance with **Payment during absences from work** above.

Paid Special Leave is not available for use during scheduled Victorian school holidays.

Where an employee exhausts this level of paid Special Leave, the employee will be expected to utilise other accrued paid or unpaid leave entitlements such as Personal/Carers Leave or Annual Leave.

Casual Employees

Casual employees may be required by their Employer to work from home where reasonable, practicable and appropriate.

Where working from home is not feasible, the following will apply:

- Where a casual employee has been or is working for their employer on a regular and systematic basis, and is anticipated to continue to be employed on a regular and systematic basis, the employee will be entitled to paid Special Leave for either:
 - a two-week period reflective of the likely work pattern of the employee had they been at work, or
 - where a roster of four weeks or more duration has been posted including that employee, for up to a four-week period in accordance with the posted roster.
- For casual employees who have not been, or are not, working for their employer on a regular and systematic basis, employers should use their discretion in assessing appropriately whether or not to provide paid Special Leave or other financial assistance on a case by case basis.

Payment during this paid Special Leave will be in accordance with **Payment during absences from work** above.

The period of paid Special Leave available to an employee under this section is reduced by any paid Special Leave already granted to the employee under this Guidance Note.

Employees undertaking overseas travel

As of 18 March 2020, the Commonwealth Government has its travel advice relating to the coronavirus on its Smart Traveller website to 'Do Not Travel' for all overseas destinations. This is the Commonwealth Government's highest level of warning (Level 4 of 4).

From 11:59pm on Saturday 28 March 2020, all travellers returning from overseas to Victoria will be placed in enforced quarantine for a self-isolation period of fourteen (14) days. Travellers are required to quarantine in the Australian state they arrive in, irrespective of where they live.

Each person quarantined will be supported with self-isolation care packages of food and other essentials.

Facts sheets relating to confirmed cases, suspected cases and close contact are available on the Department of Health and Human Services' website at <https://www.dhhs.vic.gov.au/health-services-and-general-practitioners-coronavirus-disease-covid-19>. This applies to all travellers, including Australian citizens.

In all cases where employees may be travelling overseas, employers should ensure those employees receive relevant advice on minimising the risk of exposure to coronavirus. This includes engaging in good hand hygiene and cough/sneeze etiquette. Employees should monitor their health closely while they are away and seek urgent assessment of any symptoms of coronavirus. If unwell, the employee should isolate from others whilst awaiting assessment.

Employers and employees should also visit the Commonwealth Government's [Smart Traveller website](#) for the latest travel advisories.

Overseas travel on official business

The Department of Health and Human Services does not believe that overseas travel for any work-related purpose is advisable at this time and strongly recommends that Victorian public health sector entities defer any work-related travel, with exceptions to be approved by the entity's Chief Executive Officer.

Where work-related travel is deemed necessary, employers should undertake a risk assessment for that work-related travel and consult openly and directly with those employees.

In undertaking a risk assessment, specific considerations should include:

- Whether the staff member is in a high-risk group or travelling with someone who is. This includes young children, the elderly or those with pre-existing medical conditions or are immunocompromised. Travellers in high risk groups are more likely to become severely unwell if they contract coronavirus.
- Ensuring travel restrictions and advice are reviewed not only for the destination country, but also for countries that the employee may transit through. Employees should be mindful not only of the case numbers being reported in these countries, but also the level of health care available in these countries if they were to become unwell and variable travel restrictions for entry and exit from the country.
- Travel disruptions by airlines and travel/tour operators which may precede an increased travel advice rating from the Commonwealth Government. Employees should consider how this could disrupt their travels.
- Availability and the level of travel insurance provided, especially coverage of medical and evacuation costs should an employee become unwell with coronavirus in the countries to be visited.
- Implications for the employer if an employee (well or unwell) was to be quarantined on their return.

Overseas travel for education or research purposes

The Department of Health and Human Services does not believe that overseas travel for any work-related purpose is advisable at this time and strongly recommends that Victorian public health sector entities defer any work-related travel, with exceptions to be approved by the entity's Chief Executive Officer. This includes travel for professional development (including Continuing Medical Education) or Sabbatical Leave purposes.

The employer should work with the employee to identify alternatives to that travel, or to reschedule it for a time when the risks have reduced. The same risk assessment criteria mentioned above for work-related travel are applicable.

In some cases, the employer may refuse authorisation for the employee to undertake such travel where the risks to the employee and the organisation are deemed very high. No such decision should be made without consulting the employee first and explaining the employer's assessment of the risks involved.

Where an employer seeks to cancel or withhold approval for an employee's travel for operational purposes – for example to ensure an appropriate complement of critical staff is maintained to address this unfolding health event – the employer should not cause disadvantage (financial or otherwise) to the employee. The employer needs to be mindful of costs the employee would incur if required to cancel/modify their travel arrangements.

Personal travel

Where an employee has booked, is booking, or is otherwise planning overseas travel to a 'risk' country for personal purposes – whether that be for a holiday or for family purposes – employers should ensure that those employees understand the implications this may have for them on their return from that travel. This includes any periods of self-quarantine (self-isolation) or absence from work suggested or required by Victoria's Chief Health Officer.

Employees must be advised that where they choose to go ahead with their travel arrangements, any period of self-quarantine (self-isolate) or absence of work required under Victoria's Chief Health Officer's guidelines must be met from their own paid and unpaid leave entitlements. Access to paid Special Leave will not be available in this case.

As mentioned above, where approval for the related leave is discretionary under the relevant industrial or statutory terms for the type of leave requested, that discretion should be exercised cautiously and in consultation with the employee. The reasons for disallowing the period of leave should be made clear and all alternatives to disallowing the requested period of leave be explored and discounted. The employer may also seek to negotiate a different period of leave, or for the leave to be taken at a different time. The employer needs to be mindful of costs the employee would incur if required to cancel/modify their travel arrangements.

Interstate travel on official business or for work-related purposes

Individual states and territories can apply their own restrictions, including closing their state borders. Where border crossing restrictions are in place, employees travelling to such a destination may result in the employee having to complete with a self-quarantine (self-isolation) period before they can return to Victoria.

Therefore, the Department of Health and Human Services recommends against interstate travel by employees and recommends that Victorian public health sector entities defer any work-related travel, with exceptions to be approved by the entity's Chief Executive Officer. This includes travel for professional development (including Continuing Medical Education) or Sabbatical Leave purposes.

Employee Assistance Programs and debriefing

Employers who run employee assistance programs or similar should ensure all employees are aware of these programs and can access them if they have concerns about how coronavirus is affecting them, their family or their colleagues.

Employers should ensure that appropriate peer-support and debriefing is available for employees directly involved in the testing and treatment of patients suspected to have and who have contracted the coronavirus.

Questions and Answers

What should employers do to reduce their risks around the coronavirus?

Employers have a duty to eliminate or reduce risks and hazards at work, monitor the health of employees and monitor the conditions at any workplace under their management and control.

Employers should remind employees and others entering their workplaces of the importance of high personal hygiene standards which are vital to protect against the spread of infection. We recommend the following:

- Display signage reminding people to wash their hands regularly and thoroughly and practice cough etiquette.
- Ensure there are hand sanitiser dispensers in meeting rooms and high pedestrian traffic areas such as reception areas.
- Remind employees that they should not present at work if they are unwell, and they should sneeze or cough into their elbows and not their hands.
- Employees who share equipment such as phones or laptops should wipe down this equipment with a sanitising wipe after use.
- Employees who use work vehicles should also ensure that they wipe down door handles, steering wheels, control stalks, dash switches/components and other surfaces they may have touched with a sanitising wipe after use.

What about employees who have returned from overseas or who may be contagious?

We recommend that employers ask their employees to notify them immediately, if they:

- returned from overseas travel to a 'risk' country or countries prior to midnight on 15 March 2020 or from any overseas destination after midnight on 15 March 2020; and/or
- are suffering, or have suffered, from flu-like symptoms since the virus was first detected.

If the answer to either of these questions is 'yes', employers should respond according to their pandemic plan and should advise the employee to seek medical advice. Employers should also ensure that Victoria's Chief Health Officer's guidelines on 'self-quarantine' (self-isolation) and 'do not attend work' are followed by the employee. That includes directing the employee not to attend work during the relevant risk period.

From 11:59pm on Saturday 28 March 2020, all travellers returning from overseas to Victoria will be placed in enforced quarantine for a self-isolation period of fourteen (14) days. Travellers are required to quarantine in the Australian state they arrive in, irrespective of where they live.

Each person quarantined will be supported with self-isolation care packages of food and other essentials.

Can an employee who was required to self-quarantine (self-isolate) return to work before the fourteen (14) days self-quarantine (self-isolation) period expires if they do not feel unwell, or have tested negative to coronavirus?

No. An employee might not experience symptoms immediately and testing earlier than fourteen (14) days does not obviate the need to remain in self-quarantine. Employers should avoid introducing risk into their workplaces.

Most employees in our administration area have agreed to work from home, but some employees cannot perform their roles from home. Can we ask those employees to take Personal Leave?

No, you can't ask an employee to take Personal Leave if they are not injured or unwell. Similarly, you can't ask an employee to take Carer's Leave if an immediate family or household member is not injured or unwell.

Asking or allowing employees to take their Personal/Carer's Leave in these circumstances will not exhaust their legal entitlement. They could seek to reclaim their entitlements later if they become unwell.

What are you asking patients and visitors to do?

Many health services are displaying coronavirus information material in their reception areas and/or in email footers that is consistent with guidance coming from the World Health Organisation. We suggest you consider this approach to indicate to patients and visitors that you have expectations about what they should do while in your workplace.

Posters and information sheets are available from the websites of the [Department of Health and Human Services](#), the [Commonwealth Government](#) and the [World Health Organisation](#).

What if employees are fearful of attending/performing work?

Some employees will hold genuine fears for their own health and safety and these fears must be responded to. Responses include providing information, counselling, alternative work arrangements, flexible working arrangements and access to leave. Employees should be made aware of Employee Assistance Programs or similar where these are available.

Fear may also cause some employees to behave inappropriately to colleagues or patients who have recently returned from overseas or who have family who have recently travelled overseas. You should monitor this and intervene where necessary to remind employees of their obligations to behave respectfully towards others at work.

What if your employee can't attend work because they are caring for someone who has or is suspect to have the coronavirus?

In the first instance, employees should use their paid personal/carer's leave entitlements. If these are exhausted, your employees may wish to consider other alternatives, such as taking annual leave or leave without pay. Employers may request that the employee seeks medical clearance prior to returning to work. Access to paid Special Leave will be considered on a case-by-case basis. Working from home or other flexible working arrangements may be explored.

What if an employee can't attend work because schools and/or pre-schools are closed due to coronavirus concerns?

For full-time and part-time employees, other than where employees elect to use accrued Personal/Carer's Leave, employees may be required by their employer to work from home where reasonable, practicable and appropriate. Where working from home is not feasible, the employee will be granted a maximum of twenty (20) days paid Special Leave (pro-rata for part-time employees). This paid Special Leave may be used in a single unbroken period, or in multiple periods as agreed with the employer.

Casual employees may be required by their Employer to work from home where reasonable, practicable and appropriate. Where a casual employee has been or is working for their employer on a regular and systematic basis and is anticipated to continue to be employed on a regular and systematic basis, they will be able to access paid Special Leave which is capped based on their roster pattern.

Do you need to reconsider work-related international travel?

The Department of Health and Human Services does not believe that overseas travel for any work-related purpose is advisable at this time and strongly recommends that Victorian public health sector entities defer any work-related travel, with exceptions to be approved by the entity's Chief Executive Officer. Employers should consider whether any scheduled international business travel is necessary in the current environment.

If the travel related to a conference, seminar or meeting, other participation options (for example, teleconference, videoconferencing or webcasting) should be considered and explored.

You should also review your insurance coverage for upcoming travel. Insurers have set 21 January 2020 as the cut-off date for coronavirus-related claims, being the date when the virus became a 'known event' for insurance purposes.

What is the position regarding international travel for medical staff under Continuing Medical Education (including Sabbatical Leave) arrangements?

The Department of Health and Human Services does not believe that overseas travel for any work-related purpose is advisable at this time and strongly recommends that Victorian public health sector entities defer any work-related travel, with exceptions to be approved by the entity's Chief Executive Officer.

Employers should consider whether any scheduled international business travel is necessary in the current environment and considering current Commonwealth Government travel advisories.

Staff should consider alternative options such as teleconferencing, videoconferencing and webcasting to minimise risk. Health services should review the insurance policy for the staff member who is travelling for work-related purposes.

What if your employee is quarantined, or unable to return from overseas or interstate?

Consider whether the employee can access their paid Personal/Carer's leave entitlements (if unwell or caring for an immediate family or household member), annual leave or other paid or unpaid leave. Access to paid Special Leave will be considered on a case-by-case basis.

What if your employees want to stay at home as a precaution?

Employees will need to request to work from home or to take some form of paid or unpaid leave. You should treat these requests as you would treat other applications for this type of leave. Operational requirements will form part of that consideration.

Working from home – what to check?

You are likely to have a working from home policy or procedure in place. You should check that it meets your needs if employees are subject to quarantine. It is timely to review your IT Systems and business continuity arrangements to ensure the business can continue to operate if a large number of employees need to access IT systems remotely.

A reminder – you need to consult

You should remember that you have obligations to consult on health and safety matters, including in relation to changes you put in place. For many employers a failure to do so may be a breach of your occupational health and safety responsibilities. While the Department of Health and Human Services is engaging with unions at a high level, it cannot address matters of a local nature. **Consultation with staff and unions on these local matters remain the responsibility of the relevant health sector entity.**

Which Leave Type (in first instance)?

Ongoing or Fixed-Term Employee



