

Coronavirus and the Workplace - Its EVERYONE'S Responsibility

As the coronavirus (COVID-19) continues to spread around the world and we begin to see cases in the Australian community, it is important that employers and employees consider their Workplace Health and Safety obligations in the event of a COVID-19 diagnosis or potential exposure in the workplace.

While employers have an obligation to ensure the health and safety of their workers and other people at the workplace – as far as practicably possible, employees also have obligations. Limiting the spread and the impact of this virus is a social responsibility that is only as strong as its weakest link. Employers and employees must work together to successfully deal with this growing issue. The situation is further complicated as it is changing quite rapidly and the legislation provides employers with no specific direction with regards to a pandemic situation.

While COVID-19 is a health issue it is also an economic and workplace issue. The impact to business will increase exponentially with the health issues we may be facing. As such, it is important that employers formulate a plan and work with their employees to prepare for the worst case scenario while hoping for the best.

Workplace Essentials has previously provided some advice regarding COVID-19 and the workplace however the situation has escalated since that time and it is important that growers plan ahead and consider how they may deal with this evolving situation.

Health Authorities have advised that it is unlikely that a COVID-19 vaccine will be available within 18 months. The effects of the current virus could be felt over two financial years, it is important that growers consider this and have a plan in readiness should their farms be impacted.

What can employers do right now?

Employers should consider taking the following steps as soon as possible:

- Put up signage and posters

It is recommended that you place posters around the workplace advising of the symptoms of COVID-19, proper hygiene procedures, and self-isolation information. You can find some copies produced by the QLD Government at the bottom of this page [HERE](#)

- Limit morning teas, stagger lunch breaks, cancel face to face meetings etc.

Consider shared staff facility hygiene processes, arrange meetings with staff or contractors via skype or face time. Limit hand shaking, consider a respectful bow rather than a traditional handshake. Do not provide or allow food for shared consumption such as morning teas or shared birthday cakes.

- Ensure workplace cleaning is adequate

Discuss workplace cleaning with employees or contractors responsible. Ensure that the cleaning routine is adequate and thorough.

- Begin discussions on what to do

Consultation with employees over significant changes to their employment is a requirement of the Fair Work Act. Additionally it is also the responsibility of employees to maintain a healthy and safe environment. You may wish to form a committee consisting of management and staff to develop a response plan and to ensure all viewpoints are considered. The committee should consider things such as:

- Maintaining employee hygiene
 - Managing absenteeism
 - Managing employees presenting to work while symptomatic
 - How to reduce an employee's time on public transport
 - Implementing a policy where failure to comply with COVID-19 instructions may result in disciplinary action
- Consider criteria for sending an employee home

As COVID-19 will likely coincide with the regular flu season it is important to identify situations before they arise where by an employee would be asked to leave the workplace. A cough or cold should not be confused with COVID-19 symptoms. We suggest that if an employee is presenting with a fever and shortness of breath they be asked to leave the workplace and obtain a medical clearance to return. Some employers are distributing thermometers to their employees so they can be confident the employees can easily monitor themselves for fever.

Lawful and reasonable directions by an employer

It is an employee's obligation to follow any lawful and reasonable direction given by their employer. What is considered to be a reasonable direction is subjective and dependent on the situation presented at the time.

Legal professionals have advised that a direction that is to protect the health and safety of workers will likely be considered lawful, it is the circumstances surrounding the direction that will determine if it is reasonable.

Employees' obligation to disclose information

As previously mentioned it is an employee's obligation to ensure they are not jeopardising the health and safety of others in the work place. An employee would be obligated to stay away from the workplace if they identify a requirement to self-isolate.

In addition to this it will likely be considered a reasonable direction that all employees would inform the employer of the following information:

- Of any international travel, including the places visited upon their return
- If any family or household member has been diagnosed or exposed to COVID-19
- If they are displaying any COVID-19 symptoms
- If they have had contact with anyone diagnosed or spent time in any identified hot spots

Growers should consider the action plan formulated in consultation with their employees and take the appropriate action.

Who presents a risk?

As the virus continues to spread through the community any employee, contractor, or customer may be infected. Contact with the following groups may present a higher risk:

- People who are symptomatic, fever, shortness of breath etc.
- People who are asymptomatic and recently returned from a known COVID-19 hotspot
- People who are asymptomatic and exposed to a cluster of diagnoses
- People who are asymptomatic and exposed to a confirmed case of COVID-19

What to do if an employee is diagnosed and has been present in the workplace

If an employee is confirmed as having COVID-19 they should be removed from the workplace immediately. The employee should be allowed to work from home if possible or to access their personal leave. Casual employees unable to work from home would not be entitled to any paid leave.

Queensland Heath Representative, Dr Sonya Bennett, advises the COVID-19 virus is contagious if a person spends 15 minutes in a confined area with a person carrying the virus or two hours in more open spaces. It can remain contagious on surfaces for up to 12 hours. Any employee who has worked in close proximity to a confirmed case will be at high risk of exposure.

Best business practice, as advised by Harmers Workplace Lawyers is that any exposed persons be advised of their risk and all should be directed to self-isolate for 14 days. If possible the employees should be allowed to work from home. If the employee is not unwell and you direct them not to come to work they would ordinarily be entitled to be paid their ordinary wages. If you are required to direct an employee not to attend work to ensure the health and safety of other employees and it is not possible to engage them in meaningful work, the time off work may be considered a reasonable direction, for a reason outside the employers control, which would mean the employee would not be entitled to be paid. All growers should seek legal advice specific to their situation before standing down employees without pay.

Employees may request to use their annual leave or long service leave, if they are entitled, during a stand down period. A request of this nature should not be unreasonably denied.

Any employees who have been diagnosed or have been in self isolation can be requested to provide a clearance from their doctor before their return to work. This will fulfil their obligations to WHS and also provide employers peace of mind that they are keeping their workplace as safe as practicably possible. Medical clearances should only be requested if there were serious health concerns regarding the employee in question.

Employers should ensure that the workplace is thoroughly cleaned before allowing any employees back into the workplace to ensure the health and safety of their workers and other visitors.

Employers should enact the strategies outlined in their action plan, this may include providing employees with additional PPE, authorising leave or a shutdown of part or all of their business. Before considering a shutdown employers should seek legal advice.

COVID-19 and Workers Compensation

Legal counsel have advised that if an employee is diagnosed with COVID-19 and it is found that they were exposed in the workplace the employee may have a claim for workers compensation. It is important that all employers are aware of the risks in their workplace, are proactive and take all practical measures to limit the potential exposure of their employees.

The information in this alert is correct as of March 13 2020. I have included some links below that will provide you with the most up to date information.



Growcom will endeavour to keep you up to date with this evolving situation.

Kind Regards
Susie Butterworth
Workplace Relations Advisor

Useful links

- Queensland Health - <https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/diseases-infection/diseases/coronavirus>
- Guidelines for Queensland Clinicians Webpage - <https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/novel-coronavirus-qld-clinicians>
- Australian Government Department of Health - <https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov>
- Australian Government novel coronavirus resources - <https://www.health.gov.au/resources/collections/novel-coronavirus-2019-ncov-resources>
- Smart Traveller - <https://www.smarttraveller.gov.au/news-and-updates/coronavirus-covid-19>
- World Health Organisation - <https://www.who.int/westernpacific/emergencies/covid-19>

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