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COVID-19: Managing workplace safety

Womble Bond Dickinson (UK) LLP

28 May 2020



Key legal duties

- General duty to **take all reasonably practicable steps** to ensure the safety of...
...**anyone** who might be placed at risk by your business undertaking
- Also, **duties of employees** at work to take reasonable care of their safety and of others who they may place at risk!

Sections 2,3 & 7- Health and Safety at Work Act 1974

Key legal duties continued...

- The focus of the law is on the **risk** of harm
- Not expected to eliminate the risk of COVID-19:

“...you need to think about the risks they face and do everything reasonably practicable to minimise them, recognising you cannot completely eliminate the risk of COVID-19”

- Failure to comply may result in criminal enforcement action



Risk assessment is key

- The Management of Health and Safety at Work Regulations 1999

3.—(1) Every employer shall make a suitable and sufficient assessment of—

*(a) the risks to the health and safety of his **employees** to which they are exposed whilst they are at work; and*

*(b) the risks to the health and safety of **persons not in his employment** arising out of or in connection with the conduct by him of his undertaking*



“COVID-19 Secure” guidelines

- Sector specific guidance from the government covering:
 - Construction & other outdoor work
 - Factories, plants & warehouses
 - Labs & research facilities
 - Offices & contact centres
 - Other people’s homes
 - Restaurants offering takeaway or delivery
 - Shops and branches
 - Vehicles

HSE's changing approach to enforcement

- *“HSE is adjusting the focus of its activities, including **visits to business premises and sites** which will be conducted in line with social distancing regulations and guidelines”*
- Sector guidance suggests a co-operative approach:
“The actions the HSE can take include the provision of specific advice to employers through to issuing enforcement notices to help secure improvements”

However,...

Threat of prosecution

- Chief executive Sarah Albon:

“...if there is a risk of serious injury to an individual employee they can issue a notice which prohibits certain activities from taking place.

*Breach of those kind of enforcement notices is essentially a criminal offence and **we can prosecute people who fail to do the right thing**”*

Concluding remarks

- Returning to work without careful planning is a significant risk
- Everyone in the business has a role to play
- Risks to health, safety & **welfare** (including mental health)
- Communication is key
- Keep up-to-date with current guidance & developments

Thank you



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