WR LAW
BENDIGO

WORKPLACE LAWYERS

& HR EXPERTS

COVID-19 | Transitioning back to business as usual

Contents

NOTE: Throughout the booklet there is a range of websites listed. We provide the following key to assist the reader to assess the relevance of accessing each website:

1. Useful resource – site provides current and useful information for employers to provide a COVID-19 safe workplace, including posters/signage

2. Information only – site provides additional information with more detail relevant to each element

Background

Coronavirus disease (COVID-19) has resulted in unprecedented circumstances worldwide.

COVID-19 is a respiratory illness that can spread from person to person. Further details relating to the spread of the virus can be found on the Health Department's [website](#).

Safe Work Australia (National guide for safe workplaces – COVID-19, updated 14 August 2020, *https://www.safeworkaustralia.gov.au/doc/national-guide-safe-workplaces-COVID-19 - useful resource*) states:

> *"The COVID-19 pandemic has had an unprecedented impact on the way people live and work. Australian workplaces of all sizes and across all industries have had to significantly modify their operations to protect their workers and the broader community. Until there is an effective vaccine or treatment, there can be no return to business as usual. Workplaces must find a 'new normal' and must continue implementing measures to reduce the spread of the virus, respond to the re-emergence of cases and to play their part in preventing health systems from being overwhelmed and preventing unnecessary deaths.*
>
> *COVID-19 is a public health matter, which means the risks associated with COVID-19 in the workplace must be managed in accordance with public health laws in the state or territory the business is located. Depending on the state or territory, there may be a number of public health laws that determine what businesses can and cannot do during this pandemic, including whether they need to prepare a COVIDSafe plan. Everyone must always follow the rules that apply in their state or territory. More information on [public health laws and COVIDSafe plans is available on the Safe Work Australia website.](#) – useful information"*

This booklet provides a framework for assisting businesses to comply with a COVID-19 safe workplace and provides links to online resources which can be accessed to facilitate your business to enhance its COVID-19 safe workplace and safely returning employees to the workplace.

In the COVID-19 environment the manner in which businesses operate has changed drastically with an increased risk to health and safety while at work – for employees and/or anyone entering the workplace i.e., customers/clients. Therefore, this requires relevant and effective planning, including conducting a risk assessment in relation to COVID-19 in the workplace to minimise the spread of the virus.

The information in this booklet is current at the time of writing. You are encouraged to read it in conjunction with the Department of Health website. Available resources include:

Safe Work Australia – Guidelines (Useful information)
https://www.safeworkaustralia.gov.au/COVID-19-information-workplaces

Department of Health – Information for Employers (Information only - Last updated May 2020)
https://www.health.gov.au/resources/publications/coronavirus-COVID-19-information-for-employers

Planning

This booklet is dated October 2020, therefore it is assumed that businesses have conducted a COVID-19 risk assessment and have in place policies and practices to address the risks associated with your workplace. This may include, but not be limited to:

- **Policies and procedures relating to COVID-19**, including considerations such as:

  - If demonstrating symptoms and the requirement to stay at home – your business' leave arrangements in such circumstances

  - If deemed to be a close contact what are your business' requirements?

  - Policy requiring employees to stay home if unwell

  - Returning to work from an illness and/or COVID-19 testing – documentation requirements etc

  - Temperature checking on arrival at site

  - Consultation with employees (and Health & Safety Representative(s) HSR's if applicable)

  - Briefing and/or training of employees on all new policies and procedures

  - On-going communication in relation to COVID-19 arrangements due to the changeable landscape

  - Regular review and monitoring of the policies and procedures to ensure currency of the status relating to the Government guidelines

- **Working from home** – is this a viable option for your organisation and/or some roles within your organisation?; if so, implementing a policy/procedure to ensure this is conducted safely and efficiently:

  - Consultation with relevant employees, including talking about the availability of an appropriate workspace at home

  - Provision of appropriate technology to support employees working from home

  - Discussion regarding expectations and key deliverables

  - Provision of support and maintaining contact to aid the health and well-being of the employee.

WorkSafe Victoria have valuable information/resources relating to working at home. See https://www.worksafe.vic.gov.au/minimising-spread-coronavirus-COVID-19-working-home

NOTE: The Victorian Department of Health and Human Services (DHHS) states:

- Stay up-to-date with current work restrictions on the <u>Work and study </u>page.

- Continue working from home. If you can work from home, you must work from home.

- Employers should continue to provide flexible work arrangements, encourage their employees to work from home, ensure good hygiene standards and provide necessary physical distancing in all workplaces.

- **Social distancing** – in order to determine what are the risk areas in your workplace a risk assessment must be conducted. Once the risk assessment has been completed you will be able to identify what control measures are reasonably practicable to implement.

  - Some measures which may be considered are:

    - Provide four square metres of space in enclosed spaces in accordance with health advice per person

    - Where this is not possible you may consider:

      - Reducing the number of tasks completed per day

      - Working from home if possible

      - Splitting shifts

      - Discouraging car pooling between employees to and from work.

    - Direct employees to maintain 1.5 metres of space between each other

      - This may be supported by posters

      - Where it is safe, putting barriers and/or protective shields between workers

      - Floor markers to remind employees of the appropriate distancing

      - Limit contact between employees i.e., telephone contact, digital meetings

    - If premises are shared you may need to develop protocols in relation to shared spaces (i.e., lifts, foyers)

  - Social distancing provisions are required to be maintained in breaks.

  - Businesses are encouraged to introduce **workforce bubbles.** A workforce bubble is a place in the working environment where employees are separated from other employees in the business on purpose to keep bubbles of employees together and away from other bubbles of employees.

- The benefit of a workforce bubble is that it separates employees into groups- for example by department or by floor levels, etc. The practice is that there is no face-to-face contact between each bubble to minimise the impact if a COVID related matter occurs in one bubble.

NOTE: A COVID-19 risk assessment should be conducted in the same manner as a work health and safety risk assessment i.e., assessing the risk(s) (and the likelihood of these occurring); controlling the risks and regularly reviewing the controls.

Resources to assist with social distancing include:

Department of Health – Physical distancing for coronavirus (COVID-19 - (Useful resource)
https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-COVID-19/physical-distancing-for-coronavirus-COVID-19

Australian Public Service Commission – COVID-19, Social distancing and transmission reduction advice, for agency managers – (Information only)
https://www.apsc.gov.au/COVID-19-social-distancing-and-transmission-reduction-advice-agency-managers

ACT Government – What an Employer needs to know to have a safe workplace – (Information only):
https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/5015/~/work%2C-health-and-safety-and-COVID-19---what-you-need-to-know

Safe Work Australia – Fly in Fly out; Drive in Drive out – Physical distancing – (Information only):
https://www.safeworkaustralia.gov.au/COVID-19-information-workplaces/industry-information/fifo-dido/physical-distancing

WorkSafe – Signage and Posters – (Useful resource):
https://www.safeworkaustralia.gov.au/doc/signage-and-posters-COVID-19

Visitor Management – What is a Work force Bubble? – (information only):
https://visitormanagementsystem.com.au/blog/2020/09/02/workforce-bubbles-what-are-they/

Australian Financial Review – Work force bubble – (information only):
https://www.afr.com/politics/federal/workforce-bubbles-to-be-part-of-victoria-s-reopening-plan-20200831-p55r00

- **Hygiene in the workplace** – The World Health Organisation wrote a paper (Getting your workplace ready for COVID-19, March 2020, https://www.who.int/docs/default-source/coronaviruse/getting-workplace-ready-for-COVID-19.pdf - information only). This paper provides simple low-cost ways of minimising the spread of COVID-19 in your workplace. These measures will also help prevent the spread of infections in your workplace, such as colds, flu and stomach bugs, and protect everyone coming to your workplace.

  They include:

  o   Ensure your workplace is clean and hygienic:

This article has been prepared for information purposes only and is not legal advice. For legal advice regarding your specific circumstances, please contact WR Law directly on (03) 54996131 or by email at admin@wrlaw.com.au

- Surfaces (e.g. desks, tables and door handles) and objects (e.g. telephones, keyboards) need to be wiped with disinfectant regularly

- If premises are shared you may need to consult with other occupants on appropriate protocols regarding hygiene is shared areas.

o Promote regular and thorough handwashing by all entering the workplace

- Put hand sanitizer in prominent locations at the workplace, including (but not limited to entries, exits) – ensure sanitizer is regularly refilled/replaced

- Display hand washing posters prominently throughout the workplace

- Provide regular communication to your employees about these mechanisms

- Ensure the sanitizer and/or hand washing facilities are readily accessible for all entering the workplace.

o Wear appropriate PPE. In Victoria as a minimum this includes a face mask

- Develop protocols regarding the wearing of PPE and provision of PPE.

NOTE: In Victoria it is mandatory (at the time of writing this booklet) for all people over 12 years of age to wear a face mask.

Resources include:

https://www.health.gov.au/resources/publications/coronavirus-COVID-19-print-ads-good-hygiene-is-in-your-hands - information only

https://www.nhmrc.gov.au/sites/default/files/documents/reports/clinical%20guidelines/ch55g-how-wash-hands-poster.pdf - useful resource

https://www.cdc.gov/handwashing/posters.html - useful resource

https://www2.health.vic.gov.au/about/publications/policiesandguidelines/wash-your-hands-regularly-poster - useful resource

- **Identification of vulnerable employees** – vulnerable employees are deemed to be those who may be at increased risk of a serious infection.

  Vulnerable employees may include:

  o Aboriginal and Torres Strait Islander people (50 years and older with one or more chronic medical conditions)

  o People 65 years and older with one or more chronic medical conditions

  o People 70 years and older

  o People with compromised immune systems.

Access the Department of Health website to access further information in relation to vulnerable employees.

If it is not viable for a vulnerable employee to work from home a risk assessment should be conducted. Similar to any other risk assessment the risks need to be considered and controls implemented and reviewed. Some options may include:

- Re-assigning the vulnerable employee to roles where they do not need to have contact with others i.e., non-customer-based roles

- If suitable adjustments cannot be made consultation needs to occur between the employer and employee – leave may be an alternative arrangement

    o If vulnerable workers take leave regular contact should be maintained with the employee to maintain the employer-employee relationship.

Communication

Harvard Business Review, 5 Tips for Communicating with Employees During a Crisis, by Brooks Holtom, Amy C. Edmondson, and David Niu, July 9, 2020 states:

> *"Every leader knows that communication during a crisis is critical. When leaders communicate with urgency, transparency, and empathy, it helps people adjust to the constantly changing conditions crises bring. A tone of urgency encourages people to make quick decisions to mitigate harm. Transparency builds trust in leaders and conveys respect for employees by implicitly recognizing them as capable of coping with what is being shared. And showing empathy and conveying a compelling message of hope can foster resilience in facing the challenges that lie ahead."*

The COVID-19 crisis certainly falls within this auspice. Therefore, now more than ever it is important that communication with employees is a focus of the organisation – the benefits of doing so are multiple and include:

- Maintaining engaged employees

- Providing a forum for effective two-way communication which can lead to quality outcomes

- Providing a supportive workplace environment

- Ensuring current, factual and relevant information is shared.

Therefore, consideration should be given to:

- Communicating frequently

    o Reduces the risk of fear and uncertainty

    o Shows commitment and helps promote loyalty

    o Repetition of core messages can assist the message be 'heard'.

- Providing safe channels of communication

    o Ensures privacy/confidentiality

    o A variety of options available for provision of feedback.

- Assisting employees work from home.

- Addressing job concerns

    o Open, honest and timely conversation.

- Providing a plan for the future
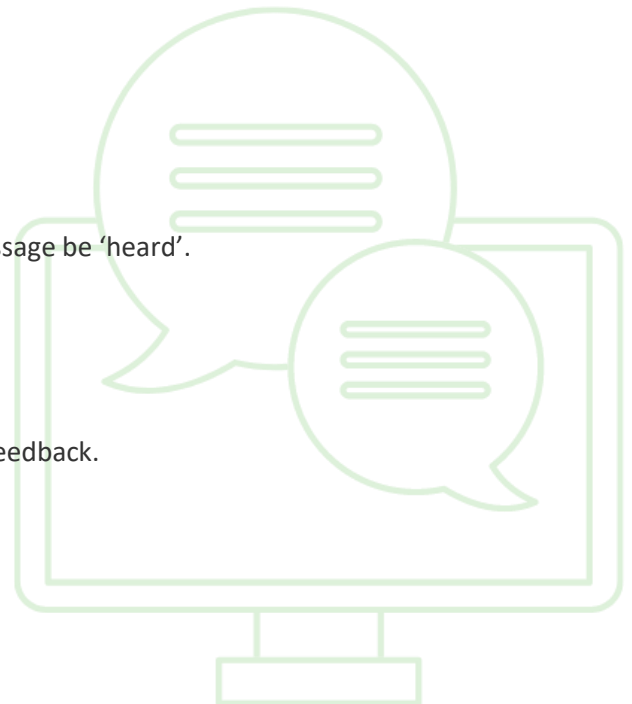
o   Share as much information on how the business is performing as possible.

For more information see:

https://hbr.org/2020/07/5-tips-for-communicating-with-employees-during-a-crisis - information only

Accordingly, communication is key during the COVID-19 crisis. It is paramount that employers keep their employees up-to-date and informed as things change (beforehand wherever possible, including seeking feedback as this can enhance the policies/procedures, together with keeping employees engaged).

Wherever possible having visual representations around the workplace is valuable. Changing this regularly is also a key to assist the messages remain in the forefront of people's mind and to reduce complacency. WorkSafe has a range of posters which can be downloaded:

https://www.safeworkaustralia.gov.au/doc/signage-and-posters-COVID-19 - useful resource

As we are all aware mental health is being impacted by the COVID-19 crisis. It is timely for employers to provide support to their employees in this regard. Consideration may be given to:

•   Employee Assistance Program

•   Provision of information relating to the services that are available (i.e., Beyond Blue, Black Dog Institute, Head to Health)

•   Posters and/or booklets being accessible for employees, including in tea rooms

Resources include:

https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/ongoing-support-during-coronavirus-COVID-19/looking-after-your-mental-health-during-coronavirus-COVID-19-restrictions - information only

https://www.health.gov.au/sites/default/files/documents/2020/08/coronavirus-COVID-19-help-when-you-need-it-supporting-your-mental-health-coronavirus-COVID-19-help-when-you-need-it---supporting-your-mental-health.pdf - useful resource

Transition back to the workplace

As Victoria starts to open up from the second COVID-19 outbreak businesses may be considering employees returning to the workplace.

If this is the case it is imperative that this is done safely and in as healthy a way as possible for all parties (i.e., employer, employee and customers/clients).

Following are some considerations prior to transitioning your employees back to the workplace:

- Check the State Government's advice to see if your business can operate

- Make a plan to address any restrictions which may be in place (i.e., currently the wearing of face masks in Victoria)

- Conduct a risk assessment, in consultation with employees and/or HSR's – following the risk assessment process put in place appropriate controls and monitor

- Implement appropriate control measures and, in consultation, with employees and HSR's review the control measures

- Re-visit elements listed in Point 2 above. Are they appropriate to address the current situation?

- If it is appropriate to transition employees back into the workplace:

  o Can the workplace support all employees returning to work at the same time?

  o Do the returning workers have any personal circumstances which need to be considered (i.e., vulnerable worker, family responsibilities for a vulnerable person)?

  o Has training been provided on all changed policies/procedures in the workplace relevant to them?

  o Encourage feedback from the employees

  o Provide on-going communication providing status updates to employees.

NOTE: Proactive communication should occur with employees prior to the transition being made to ensure that positive outcomes are achieved for all parties. Wherever possible employers should not 'rush' the return to work process as this may increase risk.

As has been stated earlier COVID-19 has had a significant impact on the mental well-being in our community. Concerns about physical *risks*, such as exposure to COVID-19, work-related violence, or changes to the work environment or work demands can create additional *risks* to psychological health. Employers must eliminate or minimise the risk to psychological health and safety arising from work so far as is reasonably practicable. Therefore, you should:

- Conduct a risk assessment

This article has been prepared for information purposes only and is not legal advice. For legal advice regarding your specific circumstances, please contact WR Law directly on (03) 54996131 or by email at admin@wrlaw.com.au

- Consult with employees

- Monitor your employees for signs that they may be anxious in relation to returning to the workplace

- Set clear expectations in relation to their job role, workload

- Genuinely consider flexibility requirements by individual based on their personal circumstances

- Maintain communication with your employees

- Keep up-to-date with the status of COVID-19 in your state and make adjustments as may be required (in consultation with employees and HSR's, ensuring you keep employees informed)

- Provide an accessible place for employees to find COVID-19 information (i.e., tea rooms)

- Provide employees with information regarding mental health services, including Employee Assistance Program (EAP) where applicable

- Ensure employees are clear what processes to follow if they show signs of COVID-19 and/or are in close contact with someone who has COVID-19 etc.

Resources available include:

Safe Work Australia: Transitioning back to usual workplaces
https://www.safeworkaustralia.gov.au/COVID-19-information-workplaces/other-resources/transitioning-back-usual-workplaces#how-do-i-meet-my-whs-duties-as – information only

Worksafe – Checklist: Transitioning back to usual workplaces
https://www.safeworkaustralia.gov.au/sites/default/files/2020-07/COVID-19%20Transitioning%20back%20to%20usual%20workplaces%20Checklist_17July2020.pdf – useful resource

Business (Victoria) – Returning to Work
https://www.coronavirus.vic.gov.au/creating-a-covidsafe-workplace - information only