Community Management Solutions
GUIDANCE • ADVICE • SUPPORT

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COVID-19 (Coronavirus) and the Workplace – Update

As you are aware the Federal Government has now put in place that all international passengers that arrive in Australia are required to self-isolate for 14 days. If you have an employee returning from overseas they will be required to abide by this direction from the Government.

The Federal Government travel ban continues to apply too mainland China, Iran, South Korea and Italy. These bans are in place until to further notice. But now any arrivals in Australia will be required to self-isolate for the 14 days.

Note: Self-isolation means staying at home and not accepting visitors.

Employees will be required to inform their employer they are unable to attend work or is required to be quarantined for 14 days due to the virus.

Under the Industrial Relations Act 2016 there are no specific rules in dealings with situations as the Coronavirus. It is up to the employer and employee to agree on the arrangements.

Governments are suggesting that it would be appropriate for the employees to access their leave entitlements.

Leave the employee could access:-

- Sick leave if the employee is sick
- Annual Leave
- TOIL (Time off in Lieu)
- Other leave that may be available (Long Service Leave, depending on the length of service)
- Any other paid leave or unpaid paid that is mutually agreed between the employer and employee.

Can the employer request the employee to stay home?

Employers and Employees have responsibilities under work health and safety laws to ensure the workplace is a safe environment. Employers are obliged to provide and maintain a workplace that poses no risk to health and safety of their employees.

If an employee is at a risk of infection, travelling through the ban countries or they have been in contact with someone with the virus, the employer can request the employee to obtain a medical clearance before returning to work and to work from home where possible.

If the employer directs a full time or part time employee not to attend work, the employee is entitled to be paid and no leave is deducted from their entitlement. Casual employees are not entitled to payment in these circumstances.

Under the Industrial Relations Act 2016, *employers may stand down an employee on a day, or for part of a day, when the employee cannot be usefully employed because of something that happened – for which the employer is not responsible; or over which the employer has no control. The employer may stand down the employee without pay, unless an industrial instrument provides otherwise.* A direction from the Government that a workplace cease operating due to the Coronavirus would meet this criteria.

The procedure to enforce stand down without pay is also subject to the applicable award, contract of employment and policies for the workplace.

Coronavirus and the Workplace – Update

Employees request to stay home

An employee requests to stay home as a preventative measure to avoid exposure to coronavirus. If it is possible they could work from home, if this is not the case than they can request to take paid or unpaid leave such as annual leave. There is no "right" to paid leave in these circumstances and it is up to the employer to decide if they grant paid annual leave in these circumstances.

Managing Employees Annual Leave

If you have employees who have already had their annual leave approved and they are travelling overseas. The employer does not have the right to cancel an employee's annual leave which has previously been approved. The employer may request the employee to postpone or modifying or even cancelling their annual leave, however the decision can only be mutually agreed between the employer and employee.

The employer will need to advise the employee when they return from their holiday they will not be able to return to work until they have self-isolated for a period of 14 days. Again, this is not a direction from the Employer, but is instead an obligation placed upon a returning traveller by the Federal Government. Therefore, the employee is not entitled to paid sick leave unless they are showing symptoms of illness.

Pandemic – what rights of the employer

The World Health Organisation defines a pandemic as "the worldwide spread of a new disease".

The Federal Government has advised what people and business are to do. In the case that your business is to be effected then the 'Stand Down" provisions of the Industrial Relations Act 2016 will apply.

This means "*employers may stand down an employee on a day, or for part of a day, when the employee cannot be usefully employed because of something that happened – for which the employer is not responsible; or over which the employer has no control. The employer may stand down the employee without pay, unless an industrial instrument provides otherwise.*"

The employee can request to access their other leave entitlements during this period of shut down. As stated above, there is no "right" to paid leave in these circumstances. The decision on whether to offer paid annual leave, long service leave, or personal leave will depend on the financial capacity of the employer to fund such payments.

Finally hygiene is so important not only in this situation but at all times, and the two biggest things that can counter coronavirus is not coming to work when employees are sick and washing hands thoroughly. It is very important as the employer to communicate this message to employees regularly.

One other thing, if you do have bins that have no lid, and people are disposing tissues and towels, then consider getting some bins with lids. Provide plenty of hand sanitiser and invest in surface wipes and encourage staff to use these regularly.

Keep up to date with the **Commonwealth Department of Health** and **Smartraveller** websites as these sites are being updated all the time.

Any further assistances, please contact the CMSolutions Employment Relations Team.