

EMPLOYMENT

Antigen testing, vaccinations and ventilation: *What's new in the updated Work Safely Protocol?*

In May 2020, the Return to Work Safely Protocol was published. In December 2020, a new version was published, which was renamed the Work Safely Protocol. On 14 May 2021, a second revision was made to the Work Safely Protocol.

This new revision of the Work Safely Protocol reflects the recent public health measures announced by the government in April 2021 under 'Recovery and Resilience: The Path Ahead'. In this briefing we take a look at the updated Work Safely Protocol (the Protocol), with a particular focus on what's new.

5 MIN READ

Overview

The Protocol is a general document applicable to all sectors and allows for further specific measures to be introduced in particular sectors or workplaces. The Protocol advises and provides guidance to employers and employees on measures to contain the spread of COVID-19 in the workplace.

Like the previous versions, the Protocol is a collaborative effort between the Health and Safety Authority, the Department of Enterprise, Trade and Employment, the Health Service Executive, the Department of Health, the Labour Employer Economic Forum and the Department of the Taoiseach.

The Protocol continues to provide the previous advice for employers and employees to reduce the risk of exposure to COVID-19 in the workplace, namely:

- Appointment of at least one lead worker representative in each workplace
- Keep their COVID-19 response plan up to date
- Implement and maintain policies and procedures for prompt identification and isolation of employees who have symptoms of COVID-19
- Develop, update, consult, communicate and implement workplace changes or policies
- Implement the COVID-19 infection prevention and control measures, including, hand hygiene, respiratory hygiene, physical distancing, pre-return to work measures and use of PPE.

Key updates

We set out below some of the key changes in this new version of the Protocol:

Antigen tests

Rapid Antigen Diagnostic tests (RADTs) or Antigen tests are tests that detect the presence or absence of specific antigens or proteins on the surface of the virus. Some employers have sought to implement antigen testing as an additional measure to prevent the spread of COVID-19. Indeed the Tánaiste has commented that he is encouraging more employers to do so. The Protocol sets out information to assist and inform employers on the issues that need to be considered in advance of any decision or investment being made to implement such an additional check.

The Protocol states that the primary reason to use antigen tests is as an aid to public health in detecting COVID-19 cases. Where such tests are being used, public

health advice and guidance regarding hand washing, mask wearing, respiratory etiquette, physical distancing and ventilation must all still be adhered to. Symptomatic individuals still need to contact their GP to arrange a COVID-19 (PCR) test.

The Protocol emphasises the importance of communication and consultation with employees (and their representatives, as applicable) regarding the establishment of an antigen testing regime in the workplace. The Protocol suggests that such engagement is done as part of the employer's implementation of the COVID-19 Response Plan and should involve the Lead Worker Representative(s) and the Safety Representative(s).

The Protocol outlines steps employers should take in setting up antigen testing, which include the following:

- Establish whether an internal or external run programme is most suited to your business
- Determine the most appropriate regime (for example, twice a week; daily etc.) based on the needs of the business

- Agree the process for employees who do not wish to take part in antigen testing
- Complete a risk assessment to take account of the testing and associated risks
- Train all staff who are engaged in such testing
- Agree protocols for management of positive cases, including access to a confirmatory PCR test
- Maintain personal information collected in line with GDPR requirements
- Continue to implement all public health advice

Vaccination

The Protocol emphasises that regardless of the vaccination roll-out, the public health measures (such as physical distancing, hand hygiene, face coverings, adequate ventilation) and working from home (unless the employee's physical presence in the workplace is necessary) are all still applicable. Employers and employees still need to adhere to the Protocol and employers must ensure that their COVID-19 response plan and workplace risk assessments are kept up to date.

The Protocol confirms that the decision to get a vaccination is voluntary. The Protocol states that employers may wish to provide advice and information on the vaccination programme to employees so that they can make an informed decision regarding vaccination.

The Protocol provides specific advice in respect of workplaces where COVID-19 is an occupational exposure, which indicates that where an employee decides not to avail of a vaccination the employer must review their risk assessment and decide whether the employee can carry out the work without vaccination and whether other protective measures are required. However, this is not generally applicable advice and the Protocol emphasises that the COVID-19 vaccine roll-out is a matter for public health and not the employer. The updated Protocol does not provide guidance to employers on the relevance of vaccinations in a workplace where COVID-19 is not an occupational exposure.

Ventilation

Due to the increased understanding globally of how COVID-19 is spread, there is a new section in the Protocol on ventilation. The Protocol states that it is important to maximise ventilation in areas where people are in close contact; opening windows and doors or using ventilation systems can decrease the airborne concentration of droplets containing COVID-19 and remove the particles from the air. However ventilation is not a replacement for the other infection prevention and control measures.

The Protocol sets out detailed advice and guidance on:

- the regulatory requirements in the workplace (the Safety, Health and Welfare at Work (General Application) Regulations 2007, requires employers to make sure there's an adequate supply of fresh air (ventilation) in enclosed areas of the workplace)
- assessing ventilation in the workplace as part of the risk assessment

- the use of mechanical ventilation
- use of carbon dioxide (CO₂) monitors as a proxy to identify poorly ventilated areas
- other equipment and systems, including local air cleaning using HEPA filters.

Extremely vulnerable/very high risk employees

The Protocol now provides that in planning a return to the workplace for employees in the very high risk category, the employer should consider whether a fitness for work medical assessment needs to be completed with an occupational health practitioner and/or the employee's doctor.

Biological agent risk assessment

In workplaces with direct exposure to COVID-19, for example for employees working directly with infected patients/ service users, laboratories and testing facilities handling the virus and waste companies handling contaminated waste, the Protocol states that a biological agent risk assessment should be completed.



Conclusion

With the exception of additional information for employers regarding antigen testing and vaccination and an increased emphasis on the importance of ventilation in stopping the spread of COVID-19, the advice and guidance contained in the previous version of the Protocol continues to apply.

Employers should ensure that their COVID-19 response plan and policies and procedures relating to COVID-19 in their workplace are up to date and aligned with the latest version of the Protocol.

Employers are reminded that the Health and Safety Authority has a range of useful templates and checklists [here](#) regarding the return to the workplace and preventing the spread of COVID-19 in the workplace.

For more information in relation to this topic, please contact [Triona Sugrue](#), Knowledge Lawyer, [Ciarán Lyng](#), Solicitor, or any member of the [ALG Employment Team](#).



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