The new Work Safely Protocol:
Updated guidance for employers

In May 2020, the Return to Work Safely Protocol was published[1]. A revised and updated version has now been published, which is simply called the Work Safely Protocol.

The Work Safely Protocol is a general document applicable to all sectors. It sets out the minimum measures required in every place of work to prevent the spread of COVID-19 and to facilitate the re-opening of workplaces following temporary closures and the ongoing safe operation of those workplaces. Revision of the original Protocol was necessary to reflect the government's Resilience and Recovery 2020 – 2021: Plan for Living with COVID-19 (the **Plan for Living with COVID-19**) which was published in September and is due to remain in place until at least March 2021.

As was the case with its predecessor, the previous Return to Work Safely Protocol (the **original Protocol**), the Work Safely Protocol emphasises a collaborative approach between employers and workers which is essential to achieve success and maximum buy-in.

We highlight below key updates and considerations for employers arising from the Work Safely Protocol.

Employer's COVID-19 response plan

As per the Return to Work Safely Protocol (the **original Protocol**), employers must have a COVID-19 response plan in place. This plan needs to be developed in line with an up to date occupational health and safety risk assessment and safety statement, and must be regularly reviewed and updated. It must include a plan to deal with a suspected case of COVID-19. It must also contain contingency measures to address increased rates of worker absenteeism and implementation of the measures necessary to reduce the spread of COVID-19, which may involve changing work patterns[2].

Employers should give consideration to particular locations in the workplace, such as washroom facilities and canteens which can be particular hotspots for transmission. The response plan should include specific communication measures that are required for workers whose first language may not be English. In such workplaces, employers should identify leads who can act as communicators to particular groups.

Policies and procedures for prompt identification and isolation of workers

The original Protocol introduced the requirement to maintain contact logs of employees who attend the workplace, which could then be accessed by health authorities in the event of an outbreak at the workplace. Under the Work Safely Protocol, employers are additionally required to maintain up-to-date information on all workers, including their name, contact phone number and address for health authorities to access in the event of a case or outbreak, which should be kept in line with data protection requirements. The Data Protection Commission has provided guidance on the implications of the Work Safely Protocol, available here.

The Work Safely Protocol introduces a requirement to provide staff with information on how to receive illness benefits.

There are now additional requirements for workers. These include not going to work if ill; to immediately self-isolate or restrict movements at home if displaying any signs or symptoms of COVID-19 and contact their doctor to arrange a

---

[1] Read our briefing here.

[2] Employers should take account of the employment law considerations that arise in connection with any proposed change to working patterns/hours and, specifically, of the need to obtain employee consent to any material changes to their terms and conditions of employment.

test; and to stay at home if identified as a close contact of a confirmed case of COVID-19.

Workplace policies

It is suggested that where an occupational health service is available it may provide training and advice on the measures recommended in the Work Safely Protocol to reduce the spread, as well as advice on case or outbreak management and on fitness to return to work.

The HSE COVID-19 tracker app is referred to as an important measure, which employers should encourage workers to download.

Infection prevention and control

This section of the Work Safely Protocol emphasises the importance of physical distancing, proper hand hygiene and respiratory etiquette. It outlines how employers should facilitate this by providing materials such as hand sanitiser, in addition to guidance and training for staff. The guidance outlined in the original Protocol, in terms of implementing a no handshaking policy; organising workers into teams or pods who consistently work or take breaks together; and measures relating to canteen use continue to apply.

Pre-return to work measures

The Work Safely Protocol continues to oblige employers to establish and issue a pre-return to work form, which must be put in place where workers are returning for the first time after a workplace closure. The requirement for the form to be completed three days in advance has been removed, which is welcomed as it may suit organisations to do this closer in time to the return to work.

The Work Safely Protocol has helpfully clarified that the pre-return to work form may be issued and returned electronically or via an app and now provides that employers may require employees to reconfirm that the details in the pre-return to work form remain the same following periods of absence (e.g. annual leave) or where a worker only accesses the workplace infrequently.

A number of new requirements for workers have been included. Reference is explicitly made

to staying at home if unwell. There is updated advice on what to do regarding self-isolation and restricting movements. Employees are obliged to cooperate with the employer on the prevention measures and undergo any COVID-19 testing as part of serial/mass testing.

At risk workers

There are two levels of higher risk – very high risk (extremely vulnerable) and high risk. There is different public health advice for each of these groups and employers should follow and adopt this advice. If an at risk worker cannot work from home, employers must make sure they are supported to maintain a physical distance of two metres from others at the workplace.

Reporting requirements if a worker contracts COVID-19

There is no requirement for an employer to notify the Health and Safety Authority (HSA) if a worker contracts COVID-19[3]. At present, diseases or occupational illnesses are not reportable under the Safety, Health and Welfare at Work (Reporting of Accidents and Dangerous Occurrences) Regulations 2016. This may change in the future as the HSA is carrying out a regulatory impact assessment on a proposal to introduce a legislative requirement for all employers to report cases of COVID-19 to the HSA.

Working from home

The Work Safely Protocol contains updated guidance to that in the original Protocol. The Work Safely Protocol provides that all staff should continue to work from home to the greatest extent possible and refers to the HSA's guidance in this regard. It also refers to following the Plan for Living with COVID-19. Read our guide to Remote Working here.

Business meetings and travel

Under the Work Safely Protocol, face-to-face business meetings should continue to be kept to an absolute minimum, and employers should implement virtual alternatives as far as reasonably practicable. For necessary work related trips the sharing of vehicles by colleagues is discouraged.

---

[3] Except where COVID-19 is an occupational exposure; the Safety, Health and Welfare at Work (Biological Agents) Regulations 2013, as amended, apply

Where workers need to share a work vehicle, or where travelling to work with others in a vehicle, a face covering or mask should be worn in line with public health advice. The Work Safely Protocol now incorporates Ireland's adoption of the EU "traffic lights" approach in relation to foreign travel, which discourages travel abroad unless essential. Employers should ensure any company travel policy is up to date.

Agency worker considerations

The Work Safely Protocol specifically addresses the use of agency workers, and now provides that businesses must ensure that arrangements with agency worker suppliers support the prevention of COVID-19 in the workplace. Additionally, employers who rotate staff (including agency workers) across several workplaces or locations are advised to minimise such rotation where at all possible.

Temperature and COVID-19 testing

The Work Safely Protocol continues to provide that temperature testing must be implemented as advised by Public Health. Currently there is no general public health requirement, save for certain specific sectors and workplaces.

In a similar vein to temperature testing, the Work Safely Protocol goes on to provide that employers must carry out COVID-19 testing of employees as part of mass or serial testing requirements as advised by Public Health.

Further public health advice and information

The Work Safely Protocol contains a new appendix which provides public health advice and information on the following areas:

- Management of a case/outbreak in a workplace[4]
- Choosing a hand sanitiser
- Use of identified teams or pods
- Face coverings – face masks – visors
- Sectoral specific advice and guidance

Conclusion

Employers should update their COVID-19 Response Plan to ensure it aligns with the Work Safely Protocol and the Plan for Living with COVID-19. Response Plans should include new worker requirements and encompass all infection prevention and control measures outlined in the Work Safely Protocol. It should also specify that employees will be required to comply with any testing required by Public Health Authorities. In addition, employers should review and update their Pre-Return to Work Forms.

The Health and Safety Authority has helpfully updated its templates and checklists in line with the Work Safely Protocol and these are available here.

For further information on this topic, please contact Triona Sugrue, Knowledge Lawyer, Mark Thuillier, Solicitor, Joe Mahon, Solicitor, or any member of the ALG Employment team.

---

[4] Employers should follow the Guidance on management of COVID-19 outbreaks in the workplace