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COVID-19 (Novel Corona Virus) FAQ for small businesses – Last update March 18, 2020

The situation with COVID-19 is new and evolving rapidly, and to a large extent will continue to put pressure on businesses. The priority is and should be the health of employees and the public.

This document is a guide to help small businesses navigate the Human Resources and Legal implications as well as some measure of contingency planning. Please keep in mind that the responses set out below are designed for general application. All cases are factually-dependent and adjustments may need to be made depending on your particular workplace. Employers are encouraged to seek advice from experts on issues that will impact the workplace.

A. COMMUNICATE: What can I / should I communicate to employees?

- Most business owners are not medical experts, so all communication regarding symptoms, and or other health issues should be from official sources and should be to direct employees where to find care and information
 - How employers communicate will calm or alarm employees, employees look to their leaders to communicate facts, empathetically and frequently.
 - Ensure there is a single person of contact for all employee questions so that there is no confusion or mixed messages. A single point of contact also allows for addressing coming concerns faster and more consistently.
 - A [state of emergency](#) has been declared on March 17, and all employers that are not included in the mandate to shut down are asked to facilitate virtual work arrangements to enable employees to work from home where possible to enable workers to limit their activities, care for children and to self-isolate. However, we recognize that there are a number of workplaces where this is not possible. We ask those employers to use their judgement to sustain operations in a manner that maintains social distancing.
 - If you have not already done so, draft and communicate a plan for contingency. A sanitation and hygiene of your workplace and protocol to maintain IF you must still have employees report to work. Consider how you can arrange shifts so there is
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as much social distancing as possible, how you can use technology for remote work, how you can enable people to speak up if they do not feel well, how to limit all in person meetings and so on .

- If you are able to have your teams work from home, ensure that you have a plan for confidentiality and privacy of information, use of personal equipment, phones and data plans and how you intend to support that financially for cost claims.
- Utilize Facetime, Skype, Zoom, WebEx, or Google Hangouts to schedule and connect regularly with your team if they are working remotely. Arrange for Questions and Answers even if you do not have all the answers at the time, explain that you will endeavor to find the answers and do so.
- Employers have an obligation to take special care in respect of individuals that are particularly vulnerable. With that in mind, reach out and ask employees to advise if they have any factors that would make them more vulnerable to developing major complications from COVID-19 than the average person. This will ensure that an individualized plan is in place to address the employee's heightened risk if it becomes necessary as well as may prioritize your contingency plan. You cannot ask specific medical information. Collecting personal health information could result in breaches of applicable human rights, health information and privacy legislation.
- You cannot restrict personal travel, however based on government's direction you can ask employees if they will be traveling outside of Canada, and be advised that, if they do proceed with their plans to travel, they may NOT return to the workplace until they receive medical clearance or have been asymptomatic for at least 14 days.
- You can ask employees to declare travel in the last 2 weeks and future plans of travel and to declare any symptoms of COVID-19.

B. COMPLY: What is my responsibility as an employer?

- As an employer you have a Legal obligation for the Health and Safety of your employees, and COVID-19 is considered a Potential Safety Hazard – ensure that you are following OSHA regulations for health and safety and that you have the measures in place to comply with regulations . Regulations on having a health and safety committee/representative differ by size of your company . To know more about OSHA requirements: <https://www.osha.gov/>
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- Employees have the right to refuse work if they feel it is not safe for them, their perception may be biased because of these uncertain times but you have to ensure you investigate and take every reasonable measure to remove those risks (cleaning, masks, sanitization, reduction of customer facing activities etc.)
 - As an Employer, the obligation to report a confirmed case of COVID-19 to federal or provincial health authorities is not on you. The medical professional who received the diagnosis has the obligation to report the positive test result to provincial health authorities.
 - However, if an employee in the workplace is diagnosed, employers may want to voluntarily contact public health authorities to receive advice and assist in identifying contacts the infected employee had in the workplace.
 - Additionally, if the employee becomes ill or dies from COVID-19, and it is determined that infection occurred at the workplace or in the course of employment, there is to be an obligation, under health and safety and workers' compensation legislation, to notify the Health and Safety Board.
 - Ensure that you are treating everyone fairly and consistently. Confidentiality and privacy should be maintained for each person and there should be no discrimination.
 - Employers have a duty to accommodate in the case of school closures. If an employee requires accommodation for childcare during the period of school closure, an employer must grant such accommodation (provided it does not cause "undue hardship"). However, we note that the duty to accommodate does not require an employer to pay an employee if they are not working.
 - With that in mind, options for accommodation could include:
 - an unpaid leave of absence;
 - flexible hours;
 - a work from home arrangement;
 - relaxing the company's vacation policy requirements; or
 - providing the employee with an opportunity to make up for lost hours by providing extra hours at a later date to allow income replacement (subject to the limitations on hours of work and overtime pay requirements contained in applicable employment standards legislation). This is requiring clear documentation
 - If you have reduced business/shortage of work, you have different options to explore and consider:
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- As of March 18, the government has put together an economic plan to support employers and employees during this time . Several options are available depending on the employee/employer needs and eligibility for Employment Insurance and health situation . We advise you weigh the circumstances relevant to your business and find the details here <https://www.canada.ca/en/department-finance/news/2020/03/canadas-covid-19-economic-response-plan-support-for-canadians-and-businesses.html>
 - Allowing employees to use their vacation time , offer flexibility in scheduling time off. Note that while Employment Standards allows employers to schedule vacations as they see needed, for the purpose of and during this time, forcing time off may not be viewed in your favour and should be the employee's choice.
 - Work-Share Program which is an adjustment program designed to help employers and employees avoid layoffs when there is a temporary reduction in the normal level of business activity that is beyond the control of the employer. The measure provides income support to employees eligible for Employment Insurance benefits who work a temporarily reduced work week while their employer recovers. For full details please visit <https://www.canada.ca/en/employment-social-development/services/work-sharing.html>
 - Temporary Layoff if there is anticipated loss of business and shortage of work for the foreseeable future, in this case you can recall employees later on before 13 weeks, and they are able to collect Employment Insurance if applicable to them
 - Permanent Layoff – if you do not intend to recall employees later on when business/life resumes. In this case you need to ensure that you follow all Statutory compensation and layoff procedures and all severance requirements are met. This is a difficult time for anyone to lose their work permanently. We caution against this.
 - You should not use layoffs as a means to terminate a poor performing person at this time, if the layoff is intended for shortage of work due to business closure/emergency or COVID-19 .
 - If you have an employee who is impacted, has contacted COVID-19:
 - They are eligible to Sick benefits and the wait period for EI sick benefits is being revised for this situation. There is a specific hotline for COVID-19 for EI at this time and wait time is upwards of an hour so advise your impacted team members.
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- If an employee contracts COVID-19 in the course of employment, the employee may be entitled to receive benefits under the applicable workplace safety and insurance legislation. If a suspected or confirmed case of COVID-19 arises in the workplace, employers should confirm the circumstances under which the employee believes he or she contracted the virus. If such circumstances are linked to the workplace, the employer should file the appropriate form with the applicable workers' compensation board.
- Employers should be mindful of their duty to protect an employee's private information. Accordingly, if an employee is confirmed to have COVID-19, employers should take steps to determine those other employees, vendors, clients, etc., that were in close proximity to the affected employee. These individuals should be notified by the employer of the possible exposure to COVID-19. However, employers should **not disclose the identity of the affected individual** to any other person without receiving the employee's prior consent.
- The Government is enacting a legislation for Job Protection; to provide job security due to COVID-19 and this is yet to be clarified. The job protection is not an indication of compensation but just to provide job security. More information to be shared as this becomes clearer.
- In Ontario, if the employer has asked that employees are to refrain from travel to Affected Destinations (or international travel, at the employer's discretion) and advised that doing so will result in an unpaid period of self-isolation, employers may choose to require the employee self-isolate without pay, unless the employee is continuing to work remotely and so would be paid.

C. CONNECT: staying connected, showing compassion:

Whether your business can operate remotely or reducing hours or participating in Work-sharing – ensure that you stay connected with your team and your business:

- Get their updated contact information not only to stay in contact but also to trace back any updates should you have to trace back contact at work
 - Show leadership and presence for your team members, likely you want and need their return
 - Connect the dots on ways to build contingency plans
 - Connect to yourself during this stressful time and find ways to forward think to future growth and rebound.
 - Connect with subject matter experts for specific advice and support in your community
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- Connect with other small businesses and see how they are faring during this time and learn and share updates as needed.

Sources and References

- Dr. David Williams, Chief Medical Officer of Health, and Dr. Barbara Yaffe, Associate Chief Medical Officer of Health, will hold daily media briefings to provide updates on the province's ongoing response to the 2019 novel coronavirus (COVID-19). Continue to stay tuned to the live stream daily <http://video.isilive.ca/ontariomhms/english/>
 - World Health Organization (WHO) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>
 - Public Health Agency of Canada <https://www.canada.ca/en/public-health.html>
 - The Provincial Ministry of Health on COVID-19 https://www.ontario.ca/page/2019-novel-coronavirus?_ga=2.68915793.1715661819.1584568471-1417750406.1584568471
 - Ontario Press releases <https://news.ontario.ca/newsroom/en>
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- Public Health Ontario has excellent [fact sheets](#) on how to self-monitor and self-isolate.
- If one is unwell and needs to seek health assessment for COVID-19 there are three options available:
- A Self-Assessment Tool available at: <https://www.ontario.ca/page/2019-novel-coronavirus>
 - Telehealth Ontario at: 1-866-797-0000 (24/7)
 - One's primary care provider - they should call their primary care provider and they will provide virtual assessment by phone or other technology. One should not book an in-person visit for COVID-19 assessment without first having a virtual assessment.
 - If one requires an in-person health assessment, they will be referred to an appropriate location for in-person health assessment. Only people with COVID-19 symptoms will be tested.
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- **Steikemen LLP** <https://www.stikeman.com>
 - **Mathews Drinsdale Employment Lawyers** <https://mathewsdinsdale.com/covid-19-and-the-workplace-frequently-asked-questions/>
 - **Human Resources Professional Association**
 - **Economic and Social Development Canada** <https://www.canada.ca/en/employment-social-development/corporate/notices/coronavirus.html>
 - **Employment Standards Ontario – Guide to Termination** <https://www.ontario.ca/document/your-guide-employment-standards-act-0/termination-employment>
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