

Coronavirus disease 2019 questions and answers for multinational employers

LAST UPDATED: MARCH 17, 2020

Please note: The spread of the coronavirus (COVID-19) is a quickly changing situation. For the most up-to-date information and resources, visit the website for your country's health agency.

Multinational clients

What is a multinational employer's duty of care to its employees?

Employers have an obligation to act prudently toward employees to avoid reasonably foreseeable injuries and assess hazards that arise from work-related activities and travel abroad. This is a legal obligation in most countries, enshrined in laws and jurisprudence governing occupational health and safety and duty of care. To avoid legal and reputational liabilities, employers should implement means for sufficiently mitigating or eliminating potential hazards.

Multinational employers face the complicated challenge of complying with all health and safety regulations applicable in each of the countries in which they employ people and do business. These are generally communicated through countries' public health agencies or labor ministries. Corporate compliance can be achieved by working effectively with local vendors, providers, and obtaining the advice of local legal counsel. Most countries mandate employers to take reasonable precautions to protect the health and safety of employees.

An increasing number of countries and cities are issuing strict regulations on how to contain the virus in places of work. These may include employer reporting obligations, self-isolation requirements, workplace sanitation protocols, and new leave and pay requirements.

Example: Moscow's new Sanitary and Epidemiological Safety Temporary Rule (SESTR) requires employers to do the following:

- Check the body temperature of all employees and send home those with an elevated temperature.
- Ensure that their employees who traveled to WHO hub virus locations comply with a new temporary self-isolation plan.
- Provide SESTR with all personal information (includes professional contact information) for all infected employees and disinfect the workplace where the infected employees were located.

Failure to comply can result in prosecution and fines.

Employers who do not assess and act to mitigate risks, risk liability for failure to adequately protect employees. In the case of the coronavirus, an employer's duty of care may indicate a need to cancel group meetings, reduce domestic travel to only that which is essential, and eliminate or require top-level permission for international travel.

The number of coronavirus cases continues to expand across the world. How should multinational employers prepare?

Each country is taking its own steps to maintain and quarantine the disease, which will require businesses to adapt quickly to local legislation. The number of local cases, local healthcare structure and local employment regulations varies in every country. There are, however, some general rules to follow. Events are unfolding quickly, and prudent employers will continuously monitor the available public health advice.

Businesses should do the following:

- Establish an emergency preparation team responsible for monitoring the coronavirus outbreak.
- Prepare business continuity plans.
- Seek input from members overseeing employee health and safety.
- Publish internal and external communications.
- Review leave management policies.
- Provide technology support.
- Manage legal affairs related to outbreak.

In countries where work councils and health and safety councils are in place, or where employee consultation is a part of the statutory labor relations regulations, employers should be sure to undertake appropriate consultation with the representative bodies. Multinational employers should include regional human resources employees to provide guidance on country-specific adherence to local legislation, appropriate communications with employee work councils and government reporting requirements. Additionally, companies should identify leaders with immediate decision-making authority on office closures, leave requests and remote working.

What are the consequences of temporarily closing an office?

Most countries distinguish between a necessary shutdown and a voluntary shutdown.

Necessary shutdown

If the company is obligated to temporarily shut down its operations due to a necessary shutdown, most countries will allow employment contracts to be temporarily suspended based on force majeure, an official health alert or any unavoidable protective measure. The obligation to pay the employees' salaries and leaves of absence will differ depending on the country. For instance, in Spain, salary payment is not required, but the employer will have to keep paying social security contributions. In Italy, however, the employer won't be liable to pay employees' salaries during the necessary shutdown period.

Voluntary shutdown

A voluntary shutdown of operations as a preventive measure is possible in most countries. Employers should consult with their local legal counsel before acting. Employers' obligations regarding salary payment and paid leave will differ depending on the country. For instance, in Spain, Netherlands and Italy, the employer will be liable to provide paid leave and payment of salaries.

Are employers allowed to ask their employees to work remotely?

Yes, remote work is permissible in almost all countries, but there may be relevant legal procedures, compensation conditions and occupational health implications. In some countries, the normal formalities are being temporarily suspended in response to the coronavirus threat. Multinational employers should consider developing temporary policies for remote work in locations where these arrangements are not regulated by the government. In addition, school and daycare closures may impact an employee's ability to work in the office, so remote work should be available where feasible.

Employers should follow the appropriate legal procedures before the start of any remote or flexible work schedule, which differ depending on the country. For instance, in Spain, a remote working agreement should be entered into before the start of the telework. In the Netherlands, employers must provide an adequate home office (computer, etc.). In other countries, the employment contract must be amended or a collective agreement established. Employers may be required to pay an allowance or premium to employees working remotely, and they may be required to clearly define remote working hours.

What should be communicated to employees? What other measures should we take to help protect our workforce?

Companies should give employees accurate information regarding how to prevent the spread of infection for health, legal and practical reasons. This may include information regarding means of transmission and symptoms as well as the physical means to act on that information, like sanitizing stations or work-from-home policies. Companies should share public health guidelines and official sources of information on which the organization will rely.

Additional measures include:

- Establish communication protocols for employees and business partners regarding infectious disease outbreak response plans and the latest coronavirus information.
- Update contact details of employees, and circulate emergency contact details for key employees.
- Post hand-washing reminders in restrooms. Encourage employees to frequently wash hands for at least 20 seconds.
- At building entrances and in conference rooms, provide alcohol-based hand sanitizers that contain at least 60% to 95% alcohol. Use surface disinfectant to curtail the spread.
- Consider adopting a temporary "no handshake" policy, and support social distance in meetings (standing 3 feet from others).

- Encourage employees who develop symptoms of fever, cough and shortness of breath to stay home, and call ahead to alert a medical provider if symptoms worsen.
- Offer telecommuting for those with mild symptoms but who are still able to work, if feasible.
- Conduct routine environmental cleaning of the office and communicate these measures to employees.
- Partner with travel management companies for intelligence on where your employees are traveling and develop a communication plan should you need to deliver information while they are abroad.
- Review visitor policies and make adjustments to limit visitor exposure to your employees.
- Train managers to emphasize to employees how to stay healthy and encourage employees to stay home if they develop symptoms such as fever, cough and shortness of breath.

How should employers prepare for the potential impact the coronavirus has on existing work conferences and employee travel plans?

If there is evidence of a local coronavirus outbreak, employers should consider canceling work-related meetings or events. In a growing number of countries, there are emerging temporary regulations banning events, gatherings and conferences above certain sizes or involving international attendees. Due to the outbreak in other countries, travel restrictions may limit the ability of employees to return home. Employers should closely monitor travel recommendations from the WHO and consider canceling nonessential business travel.

Example: The government of Israel announced that effective March 12, 2020, foreign travelers, including U.S. citizens, arriving from any country will be required to home quarantine until 14 days have passed since the date of entry into Israel; non-Israeli residents will be required to prove that they have the means to self-quarantine before being allowed entry into Israel. Travelers are not permitted to self-quarantine in a hotel or dormitory. In addition, Israeli authorities will deny entry to any person who is not an Israeli resident or citizen and who has traveled in the last 14 days to: China, Italy, South Korea (including connecting flights in these locations), Thailand, Hong Kong, Singapore, Macau, Japan, France, Germany, Switzerland, Spain, Austria, San Marino, Andorra and Egypt (does not apply to connecting flights in these locations if the person did not leave the airport). This also applies to any traveler in the last 14 days who attended any gatherings of more than 100 people or an international conference. The government of Israel is continually updating its travel restrictions and quarantine policies.

Example: Moscow's SESTR requires all employees returning from China, South Korea, Italy, France, Germany, Spain (more countries may be added soon) and other states displaying signs of infection to do the following:

- Self-isolate for 14 days and avoid public places and the workplace.
- Report to Moscow city hotline upon their return.
- Seek medical help at home and not at a medical facility if the first symptoms of the disease appear.

What should we do if an employee tells us they have tested positive for the coronavirus?

Companies should establish a protocol to report confirmed cases to human resources, where and as required by local regulations; instructions should be distributed to managers to ensure consistent treatment of confidential information.

If an employee tests positive for the coronavirus, employers should follow the latest recommendations from their countries' public health agency or labor ministry, which may include sending home for a 14-day period all employees who worked closely with that employee. Multinational employers should follow all applicable public health reporting requirements in the countries where they are located.

Can we inform all our employees if an employee or their family member is suspected of having the coronavirus?

A person's health condition is confidential and should not be shared with other employees. Employees should be encouraged to work remotely if symptoms are present. For public safety and health purposes, in almost every case, employers will be obligated to disclose even protected health information of employees to authorities, such as their infected or potentially infected employees. However, employers should be certain that the protected health data is treated consistently with local regulations and the company's data privacy protection policy. Employers must also be certain to comply with applicable data privacy regulations such as the General Data Protection Regulation (GDPR) regarding the data of EU residents and local data privacy regulations or laws where protected data is transmitted.

Are employees mandated to let employers know if they have or think they have the coronavirus?

For public safety and health purposes, employees may be mandated to disclose personal health data if they are at high risk for infection or actually become infected. The employee should report anything that could interfere with their ability to perform the essential functions of their job or that could increase the risk of infection to others in their workplace.

If public health officials order an employee to take specific action, what should we do?

If an employee who has been ordered by local public health officials to take specific action, you must support the employee in complying with this action. If working remotely is an option for the employee, then employers should allow the employee to do so. Otherwise, employers should follow the relevant local guidance on leave policy.

Are employers required to provide infected employees with paid leave?

Some countries require employers to provide paid leave and others do not. Many governments are implementing new paid sick leave policies in response to the coronavirus outbreak, so employers should monitor these updates to ensure employees are paid correctly. For instance, the United Kingdom introduced emergency and temporary coronavirus legislation that entitles infected workers to statutory sick pay from the first day (rather than the fourth day) of absence from work. The Indian state of Karnataka, whose capital is Bangalore, recently mandated 28 days of paid leave be granted to an employee who has contracted the coronavirus. This leave is in addition to existing statutory leave entitlements.

However, regardless of whether it is mandated or not, employers should review their current leave policies and determine if these policies need to be adjusted to allow employees to care for themselves and impacted family members. Companies should evaluate the level of income protection provided to employees while on extended absence and determine if these should be temporarily increased to assist those who exceed the allotted sick leave. While the company may not be legally obligated to extend sick leave, by doing so, it is more likely that employees will not return to work prematurely, reducing exposure to the rest of the workforce.

Is the employee's well-being an issue that should be considered in this emergency?

Yes. In a highly stressful environment, employers should consider how they can support the well-being of their employees. For instance, employers might want to provide them with information on supportive resources, such as an Employee Assistance Program.

Management of stress and anxiety can be a legal requirement in some countries. In the United Kingdom, for instance, employers are required to take reasonable measures to prevent stress-related activities in the workplace. Employers are required to mitigate the psychological impact of stressful situations on their employees and accommodate them when needed. This would include accepting any remote work requests based on the fear of infection.

Other countries might have similar provisions. Employers should thoroughly review all current and new regulations that might have an impact on the coronavirus situation.

Are multinational employers required to comply with anti-discrimination laws in every country where they are located?

Yes. Employers should be mindful to ensure there is no breach of anti-discrimination laws when putting plans into effect. Increased discrimination has emerged amidst the anxiety surrounding the virus, and employers should be aware that conduct may be unlawful even if it arises from a genuinely held fear about the virus.

What cross-border travel medical coverage is available for coronavirus tests, treatments and quarantine under my cross-border medical coverage?

International medical, business travel medical and business travel accident plans

Most global medical, business travel medical and business travel accident plans will continue to provide coverage for medically prescribed tests, care or quarantine in a hospital required for treatment for the coronavirus. Some carriers are waiving copays and cost shares or making other concessions to the circumstances. Hotel quarantine that does not require medical care is likely not covered.

How do my global employees receive testing and treatment for the coronavirus?

Coverage will vary by national health providers and medical insurance companies. Employees who are symptomatic should first review instructions issued by the local public health agency before seeking care. The public health agency will direct them to the appropriate medical facility and provide directions to a testing location.

What resources do I have available to help me navigate the changes in legislation, reporting requirements and medical coverage for my global workforce?

Human resources professionals should consult the following resources:

- Payroll provider
- Local insurance broker
- National health provider or medical insurer
- Travel management company
- Business travel medical or business travel accident insurer
- Employment lawyer

What are other considerations for my global workforce?

- Changes to public transport availability that impact an employee's ability to get to work.
- Global mobility: employees on assignment and pending.
- Canteen services and external food delivery.
- Wellness initiatives: Consider adjusting incentive requirements to limit exposure (gym visits, etc.).
- Compensation programs for sales employees.