

What Ontario Employers Need to Know

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The Ontario government has issued a public statement setting out its plan for addressing the potential impact of COVID-19 on the province's health system and citizens. Although Health Canada continues to maintain that risk of transmission within the country remains low, increased incidents of travelers returning home with the virus has caused authorities to step up their pandemic planning and has prompted employers to ask, "What can we do to protect our workforce?" There are some practical, immediate steps that employers can take to help mitigate the potential impact of COVID-19 on their workplace.

- 1. Choose a Team Leader:** At this stage, the most important step employers can take is to communicate with their employees about their expectations reporting for work when they are experiencing flu-like symptoms or after they – or a member of their household – has returned from travel to a location that is currently experiencing an outbreak. Since the list of impacted regions changes frequently, we recommend designating a specific member of the management or human resources group to serve as a point person for your COVID-19 risk management project. That person should regularly monitor Health Canada's website and travel notices, as well as the Ontario Ministry of Health website for updates, and report back to critical decision makers when it looks like policies need to change or specific action needs to be taken to help mitigate risk. This leader should also be tasked with developing an emergency protocol if a pandemic is declared and/or widespread quarantines are imposed.
- 2. Review and Update Policies:** Now is the time to review your work at home, sick leave and workplace safety policies to ensure that your pandemic planning measures are supported by an appropriate policy framework. Employees who are asked to stay home and self-quarantine after potential exposure will want to know if that time will be paid and whether or not they are able to work remotely. If your policies are out of date or do not support working from home, consider issuing a temporary policy update. Point form or lists are fine. The point is to ensure that employees know what is expected of them and how you will support them if they are required to miss work because of issues related to COVID-19.
- 3. Implement a Travel Protocol:** We strongly recommend prohibiting employees from embarking on business travel to areas that have been identified by Health Canada as potential hot spots for COVID-19. We also recommend advising employees that if they or any member of their household returns from an impacted region, they must refrain from reporting to the office for a period of 14 days, during which time they must remain symptom-free.
- 4. Good Hygiene is Critical:** Health authorities have been very clear that proper, frequent handwashing is our best defence against the spread of any infectious disease, including COVID-19. We recommend posting reminders in the workplace regarding hygiene protocols and also providing

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greater access to hand sanitizers and sanitizing wipes.

5. **Incentivize People to do the Right Thing:** If you do not provide employees with paid sick days or flexible work arrangements, employees will be highly motivated to continue coming into work even where it would be advisable for them to stay home. Health Canada currently recommends that anyone who has been exposed to COVID-19 remain in self-isolation for 14 days. That is a long time to go without pay and some employees may not be able to accommodate such an impact on their earnings. We recommend allowing employees to work from home, where their jobs permit, or to use accrued vacation to cover all or a part of the time away from work. Quarantined or ill employees may also be eligible for Employment Insurance benefits and should be encouraged to apply for such benefits where appropriate. Creating a communication plan that encourages employees to think of the health and well-being of their colleagues and their colleagues' family members, demonstrates the company's commitment to workplace safety and emphasizes individual accountability. This can also assist with creating an environment where employees feel that they have a role in mitigating the potential risks of COVID-19.
6. **Be Mindful of Human Rights Issues:** The fact that COVID-19 has primarily been associated with international travel may cause some people to rely on prejudices regarding different nationalities or places of origin. Management and human resources should refrain from making assumptions about employees' potential exposure on the basis of their national origin, race or cultural background. Employers should also be mindful of the fact that anyone who does contract COVID-19 will likely be viewed as having a disability within the meaning of human rights legislation and will be entitled to accommodation on that basis.
7. **Remember Statutory Leaves:** Employees who have caregiving responsibilities as a result of a family member contracting COVID-19 may be eligible for family responsibility leave, family medical leave or a family caregiver leave under the *Employment Standards Act, 2000*. Employees will be entitled to use personal sick leave if they contract the virus themselves. Employers are entitled to ask for reasonable documentation to support each of these leaves but we do not recommend overburdening the health care system by requiring employees to present doctor's notes to justify a leave. Other provinces have similar entitlements under their employment standards legislation.
8. **Restrict Unnecessary Visitors to the Workplace:** Access to your workplace should be based on operational necessity and all visitors should be required to sign in and indicate with whom they are meeting. This will allow you to notify impacted individuals in the event that one of your visitors is later tied to COVID-19.
9. **Balance Privacy with Safety:** As a rule, employers are advised not to ask employees for particulars of any health issues that are keeping them out of the workplace. However, employers are entitled to reasonable information required to allow them to appropriately manage any return to work and to address potential safety issues arising from the illness. As COVID-19 is engaging public safety issues, we recommend requiring employees to disclose if they have been diagnosed with COVID-19. This will allow you to notify other potentially affected individuals and ask them to refrain from reporting to work to prevent further transmission.

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As noted earlier, the Government of Canada has repeatedly stated that the threat presented by COVID-19 to Canadians is low and we are not currently facing any directives from authorities that would impact how employers manage their employees or their workplaces. However, COVID-19 has a very high profile in the media and employees will be looking to their employers for guidance and support. Employers have the opportunity to proactively manage risk and show leadership to their workforce.

The Cassels Employment & Labour Group will continue to monitor the situation and provide updates as they become available.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.