

OCCUPATIONAL SAFETY & HEALTH GUIDANCE FOR EMPLOYERS DURING COVID-19

Your Legal Obligations as an Employer

In light of the arrival of COVID-19 to the island, we as the Occupational Safety and Health Office want to provide specific resources to you as employers to assist in your efforts to protect your workplace. We all have a responsibility to ensure that this virus is contained and its impact on the Bermuda community is minimized. However, the Occupational Safety & Health Act required specific actions of employers to protect the safety and health of employees.

Definitions

Administrative controls - these involve changes in work policies or procedures to reduce or minimize exposure to a hazard.

Engineering Controls - these involve methods that are built into the design of a plant, equipment or process to minimize the exposure of the worker to the hazard.

PPE - personal protective equipment (PPE), which is used to protect a worker from a given workplace hazard. PPE is the last line of defense in the hierarchy of controls. Examples, include: gloves, safety glasses, respirators and high visibility clothing.

Hierarchy of Controls - when controlling workplace safety and health risks, the hierarchy of controls is used to ensure that risk is minimized as much as reasonably possible. Not all control methods are practical for every workplace and in some instances a combination of controls may be needed. See Figure 1 below.

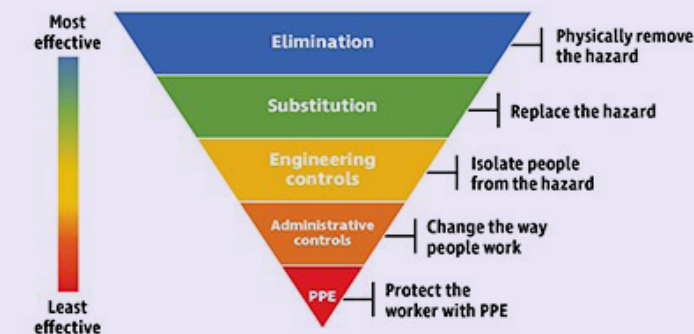


Figure 1. Hierarchy of controls

Meeting your Legal Obligations

To ensure that you meet your legal obligations as an employer in this ever evolving situation, our office recommends the following steps, which are consistent with advice given by the Center for Disease Control & Prevention (CDC). **Note:** Some of these recommendations may not apply to your facility, if your employees are currently working remotely. However, these would apply to your employees at their

1. Implement your business Emergency Response Plan. This [Plan](#) should clearly outline what to do in the event of any foreseeable emergency, including an infectious disease outbreak or pandemic, such as COVID-19. At this point all employees should be informed of this Plan.
2. Require basic infection prevention measures throughout your facilities. Specifically, ensure good hand hygiene and infection control practices, such as:
 - **Proper hand hygiene and respiratory etiquette** - encourage frequent and thorough hand washing. For proper hand washing techniques, see: <https://www.gov.bm/coronavirus-videos>. Where soap and running water are not immediately available, provide an alcohol based sanitizer with at least 60% alcohol. Workers must also follow proper [respiratory etiquette](#), such as covering coughs and sneezes with a tissue and disposing of that tissue right away where required, as well as avoid touching their face.
 - **Social distancing** - require workers to stay home when sick and, where reasonably practical, make arrangements for work to be done remotely at home as per the new Occupational Safety & Health (COVID-19) Regulation found [here](#). Social distancing measures must be required for essential service personnel who cannot work from home, to ensure a minimum social distance of 2 meters (6 feet) is maintained between individuals. For current social distancing recommendations in Bermuda, see <https://www.gov.bm/coronavirus>.

- **Cleaning and disinfection** - increase the cleaning and disinfection of your workplace, paying particular attention to all frequently touched surfaces. Frequently touched surfaces may include, phones, keyboards, counters, tables, desks, chairs, hand rails, light switches, door knobs, drawer, cabinet and closet handles.
- **Use of work equipment** - discourage workers from using co-workers' phones, desks, offices, and other work tools and equipment as much as possible. Workers must be encouraged to wipe down their work spaces thoroughly throughout the day with an alcohol based solution (at least 60% alcohol).

Note: staff that are working remotely from home, must follow these infection control practices at their respective remote work stations. Arrangements for working remotely must be in compliance with the Occupational Safety and Health (COVID-19) Regulations 2020.

3. Implement Policies and Procedures for prompt identification and isolation of sick workers. Ensure that all staff are aware of the reporting requirements should this be needed.
4. Implement and communicate workplace flexibilities and protections. As outlined in the Occupational Safety & Health (COVID-19) Regulations, employers must make all reasonable arrangements to ensure that workers can work remotely from home. This includes allowing for work stations to be set up remotely. As an employer you must also ensure, that leave policies are flexible and consistent with public health recommendations and that all staff are aware of these policies.
5. Implement workplace controls according to the hierarchy of controls as they apply to your organization (see figure 1). Since elimination and substitution is not relevant as it relates to COVID-19, other forms of controls should be considered as they apply to your operation. Examples of workplace controls that could be effective in minimizing employee infectious diseases risk, such as COVID-19, are listed below.

- **Engineering Controls** such as, increasing ventilation in the work environment; installing physical barriers such as clear plastic sneeze guards; installing drive-through or delivery windows for customer service.
- **Administrative controls** such as, encouraging sick workers to stay home; monitoring employees for symptoms when they come to work*; changing work practices to minimize contact among workers, clients and customers; establishing alternating days or extra shifts that reduce the total number of employees in a facility at a given time; providing workers with up-to-date education and training on COVID-19 risk factors and protective barriers; training workers who need to use PPE on its proper use.
- **Personal Protective Equipment (PPE)** including, gloves, safety glasses or face shields, and respiratory protection may be needed in certain workplace scenarios. Not all of the able PPE is required in every workplace setting. During an outbreak of an infectious disease, such as COVID-19, PPE requirements for a given operation or job task will change depending on various factors, such as the type of workplace, the risk of exposure to an infected person and the type of contact made with an infectious person.

* Employers must recognize that temperature screening may not capture asymptomatic carriers of the COVID-19 virus. Likewise, depending on how the testing is conducted, adequate cleaning and sanitization of the thermometer is required.

Appendix A lists frequently asked questions (FAQs) that employers may have on the safety and health of your employees in light of COVID-19. For more information on Control and Prevention of COVID-19 in your workplace see the additional Guidance on Preparing Workplaces for COVID-19 from the Occupational Safety & Health Administration [here](#).

It is important during this time of uncertainty and constantly evolving information that you stick to reputable sources of information. Regularly consult the Government of Bermuda website here: <https://www.gov.bm/coronavirus> for up to date information on COVID-19 and other useful resources for protecting your workplace, family and ultimately the community at large.

Additional Resources:

- Interim Guidance for Businesses and Employers from the Centers for Disease Control and Prevention (CDC) can be found [here](#).

Should you have any specific questions related to COVID-19 in your facility, contact the helpline at **444-2498 between 9AM – 9PM**

APPENDIX A - Employer's Frequently Asked Questions (FAQs)

The following provides a list of FAQs that employers may have in response to COVID-19 and its impact on safety and health in your workplace. Please note that this situation in Bermuda is constantly changing as new information becomes available. For the most current information consult the Government of Bermuda COVID-19 website at <https://www.gov.bm/coronavirus>.

1. An employee has tested positive for COVID-19 – what does the employer do?

The employee who has tested positive should not be permitted to return to the workplace until they are free of the COVID-19 virus. Likewise, all employees who worked closely with the infected employee should also be removed from the workplace for at least a 14-day period to ensure the infection does not spread in the workplace.

What constitutes “closely” will depend on the workplace and the nature of interactions between employees. Employers should err on the side of caution and take reasonable measures, to the extent possible, to protect the identity of any employee who contracts COVID-19.

2. One of our employees has just been tested for COVID-19, and the results are still pending. What should I do as their employer?

As with a confirmed case, the employee should be removed from the workplace. The Department of Health encourages any person who has even mild symptoms to stay home and call their family physician or the COVID-19 hotline at 444-2498. They will provide advice on what the employee should do. Other employees who have been exposed should be informed **and** removed from the workplace for at least a 14 day period or until the diagnosis of COVID-19 is ruled out by health authorities.

3. One of our employees has tested positive for COVID-19, when can they safely return to work?

All persons testing positive for COVID-19 are required to undergo mandatory isolation with public health monitoring for a minimum of 14 days. Following this time period, and providing they display no further symptoms of infection, the Public Health Authorities will determine that they no longer require public health surveillance measures. Once this determination is made, we recommend that written notification be required of their family physician to confirm that they are fit to return to work.

4. One of our employees told us that they came into contact with someone who has COVID-19. What should we do?

Once the contact is confirmed, the employee should be removed from the workplace for at least 14 days or as otherwise directed by public health authorities. Co-workers who may have come into close contact with the employee should also contact public health authorities and be removed from the workplace for at least a 14 day period, should there be a risk of contracting COVID-19.

5. Can an employer fire an employee if they contract COVID-19?

No. Employers may not terminate an employee or otherwise discriminate against an employee due to physical disability (which may include COVID-19) under human rights legislation.

6. What if employees refuse to work because they are afraid of contracting COVID-19 in the workplace?

Employers have an obligation to take all reasonable care in the circumstances to protect the health and safety of employees under the occupational safety and health legislation. If an employee reasonably believes that there is a dangerous condition in the workplace, or that their duties present a danger to their health and safety (which is not an inherent or normal condition of their work), the employee may initiate a work refusal according to Section 7C of the Occupational Safety & Health Act.

In the context of the COVID-19 pandemic, employers may see work refusals from employees based on:

- a confirmed or pending case of COVID-19 in the workplace;
- a confirmed case of COVID-19 in an employee's immediate family or other close contact;
- the risk of potential exposure to COVID-19 from contractors, customers or clients depending on the nature of the workplace or its customers; or
- concerns from employees who are particularly vulnerable (i.e. the elderly, those with compromised immune systems or underlying medical condition) not wishing to report to work.

Whether or not a work refusal based on the above or other grounds is reasonable will depend on individual circumstances. In the event of a work refusal, the employer must respond in accordance with the occupational health and safety legislation. This response will include an investigation into the concerns and, if appropriate, adopting measures to eliminate or reduce the workplace danger. This investigation will, in large part, be based upon the current scientific understanding of COVID-19 and the specific facts in the individual workplace. No reprisal for properly exercising a health and safety right may occur.

Employers should also understand that, where the Occupational Safety & Health office is required to resolve the work refusal, the way this is done could be different than what might ordinarily occur.

The determination might be made without meeting with the workplace parties in person, or there may be other steps or measures implemented for the protection of its staff, that is unusual.

7. Can employees be disciplined for a work refusal?

Bermuda's occupational health and safety legislation provides that employers cannot dismiss, discipline, or intimidate employees for properly exercising a health and safety right. Where an employer decides to discipline an employee for refusing work as outlined in the occupational safety and health legislation, legal counsel should be consulted.

8. As an employer, can I require my employees to work remotely?

According to the Occupational Safety and Health (COVID-19) Regulations, 2020, employers are required to make arrangements for employees to work remotely from home, using electronic means or otherwise, wherever reasonably practicable. An employer who does not comply with this duty, commits an offence under subsection 21 of the Occupational Safety Act 1982 and is liable to the penalties set out in that section.

9. Do I have to buy personal protective equipment (PPE) for my employees?

Employers have a duty to provide a safe working environment and the steps taken to ensure this will depend on the duties of the employees and specific risk(s) in the workplace. If employees run the risk of becoming infected at work because of the work they perform, the employer must implement specific controls, including appropriate PPE.

10. This is a stressful time for me and my staff. Do you have advice on how we can cope with this stressful situation?

Admittedly, this is a very stressful time for everyone; however, there are practical steps that we all can take to help us cope during these difficult times. Encourage your employees to follow stress coping mechanisms, including:

- Taking care of their body by eating healthy well-balanced meals, getting adequate rest, exercising regularly and staying hydrated.
- Making time to unwind and doing activities they enjoy. Outdoor activities that your employees enjoy in their yard is also advisable.
- Taking designated breaks from listening, watching and reading new stories about the pandemic, including social media posts. Repeatedly hearing about the pandemic can be upsetting.
- Connect with others. Encourage your employees to talk with the people they trust about their concerns and how they are feeling. For additional help, employees can reach out to the Employee Assistance Program (EAP) if offered by you as their employer.

For additional advice on maintaining employee well-being during COVID-19 download Guidance from the Ministry of Health [here](#).

