

Worker is concerned about spreading or being exposed to COVID-19

What to do when a worker thinks they're at risk of spreading COVID-19 but is not required to self-isolate, or a worker is concerned that going to their workplace puts them at risk of exposure.

In all cases below, the worker and employer will not be eligible for the COVID-19 Leave Payment, as the worker is not required to self-isolate under Ministry of Health guidance and is not sick with COVID-19.

If the worker cannot work from home

- Worker must notify employer that they:
 - believe they are at risk of spreading COVID-19 and why
 - are concerned that attending their workplace places them at risk of exposure to COVID-19 and why.
- Employers and workers should be guided by latest public health guidance from the Ministry of Health on COVID-19.
- If the employer agrees there is a reasonable belief or concern about COVID-19, they must do what is reasonably practicable to address the risk. If the risk affects a large group of workers, address this in good faith with the wider workforce. If the risk affects individuals or a small group of workers, address this in good faith with those workers.
- Ways to address either type of risk could include:
 - mitigations in the workplace, such as the provision of health or hygiene supports
 - agreeing when paid leave (including paid special leave) or unpaid leave will be used
 - an employer may need to institute a policy where they instruct some workers to not come to work (and pay those workers normally), in order to manage the risk. If an employer decides that they should institute such a policy, then lets a worker come to the workplace in breach of the policy, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Where the employer does not agree there is a reasonable belief or concern, the employer must tell the worker this and why. The employer may agree the worker will come to the workplace and the worker will be paid normally. The employer and worker may also agree to other arrangements, for example paid special leave. If an employee does not agree to one of these options, they will need to take unpaid leave.
- In all such cases, the employer should regularly check in with the worker.

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 - believe they are at risk of spreading COVID-19 and why
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- If the employer agrees there is a reasonable belief or concern about COVID-19, they must do what is reasonably practicable to address the risk. If the risk affects a large group of workers, address this in good faith with the wider workforce. If the risk affects individuals or a small group of workers, address this in good faith with those workers.
- Ways to address either type of risk could include:
 - mitigations in the workplace, such as the provision of health or hygiene supports
 - agreeing when individual workers will work from home and that they will be paid normally
 - agreeing when paid or unpaid leave will be used.
 - an employer may need to institute a policy where they instruct some workers to not come to work (and pay those workers normally), in order to manage the risk. If an employer decides that they should institute such a policy, then lets a worker come to the workplace in breach of the policy, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Where the employer does not agree there is a reasonable belief or concern, the employer must tell the worker this and why. The employer may agree the worker will come to the workplace or may agree they work from home. In both cases, the worker will be paid normally. The employer and worker may also agree to other arrangements, for example paid special leave. If an employee does not agree to one of these options, then they will need to take unpaid leave.
- In all such cases, the employer should regularly check in with the worker.

If the worker wants to come to workplace

- Worker must notify employer that they:
 - believe they are at risk of spreading COVID-19 and why
 - are concerned that attending their workplace places them at risk of exposure to COVID-19 and why.
- Employers and workers should be guided by latest public health guidance from the Ministry of Health on COVID-19.
- If the employer agrees there is a reasonable belief or concern about COVID-19, they must do what is reasonably practicable to address the risk. If the risk affects a large group of workers, address this in good faith with the wider workforce. If the risk affects individuals or a small group of workers, address this in good faith with those workers.
- Ways to address either type of risk could include:
 - mitigations in the workplace, such as the provision of health or hygiene supports
 - agreeing when individual workers will work from home and that they will be paid normally
 - agreeing when paid or unpaid leave will be used
 - an employer may need to institute a policy where they instruct some workers to not come to work (and pay those workers normally), in order to manage the risk. If an employer decides that they should institute such a policy, then lets a worker come to the workplace in breach of the policy, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Where the employer does not agree there is a reasonable belief or concern, the employer must tell the worker this and why. The employer may agree the worker will come to the workplace or may agree they work from home. In both cases, the worker will be paid normally. The employer and worker may also agree to other arrangements, for example

paid special leave. If an employee does not agree to one of these options, then they will need to take unpaid leave.

- In all such cases, the employer should regularly check in with the worker.

If the employer wants the worker to come to workplace, but worker does not want to

- Worker must notify employer that they:
 - believe they are at risk of spreading COVID-19 and why
 - are concerned that attending their workplace places them at risk of exposure to COVID-19 and why.
- Employers and workers should be guided by latest public health guidance from the Ministry of Health on COVID-19.
- If the employer agrees there is a reasonable belief or concern about COVID-19, they must do what is reasonably practicable to address the risk. If the risk affects a large group of workers, address this in good faith with the wider workforce. If the risk affects individuals or a small group of workers, address this in good faith with those workers.
- If an employer does not address the belief of concern first, then they should not require any worker to come to work or the employer will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Ways to address either type of issue could include:
 - mitigations in the workplace, such as the provision of health or hygiene supports
 - asking individual workers to work from home and paying them normally
 - agreeing when paid or unpaid leave will be used
 - an employer may need to institute a policy where they instruct some workers to not come to work (and pay those workers normally), in order to manage the risk. If an employer decides that they should institute such a policy, then lets a worker come to the workplace in breach of the policy, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Where the employer does not agree there is a reasonable belief or concern, the employer may agree the worker will come to the workplace or may agree they work from home. In both cases, the worker will be paid normally. The employer and worker may also agree to other arrangements, for example paid special leave.
- If one of these options is not agreed, the worker must follow the reasonable instructions, policies and procedures of their employer (including those that give effect to their Health and Safety at Work Act 2015 (HSWA) obligations). This means the employer may instruct the worker to come to the workplace.
- In all such cases, the employer should regularly check in with the worker.

Please note that this is general advice only and will vary for each specific situation. In addition, this continues to be an evolving situation. For specific and current advice relating to your unique situation, please get in touch with an expert from our employment team.