

Worker is Sick with COVID-19

What to do when a worker is sick with COVID-19, as identified by Ministry of Health guidelines.

If the worker cannot work from home

- Worker should not go to work.
- Worker must notify employer that they are sick with COVID-19.
- Employee can take paid sick leave (if available).
- If paid sick leave is not available, paid special leave should be considered. Other forms of paid leave can be used by agreement between the employer and the employee.
- Employer should regularly check in with the worker.
- The employer is likely to be in breach of their Health and Safety at Work Act 2015 (HSWA) duty if they require the worker to come to the workplace.
- The employer can apply for the COVID-19 Leave Payment for the period of sickness, to help pay for the leave period.

If the worker can work from home

- Worker should not go to work.
- Worker must notify employer that they are sick with COVID-19.
- Employee can take paid sick leave (if available). If paid sick leave is not available, paid special leave should be considered. Other forms of paid leave can be used by agreement between the employer and the employee. The employer can apply for the COVID-19 Leave Payment for the period of sickness, to help pay for the leave period.
- If the worker does not feel sick and is willing and able, the worker can offer to work from home and agree with the employer to do so. If that is the case, the worker will be paid normally (with no entitlement to the COVID-19 Leave Payment).
- Employer should regularly check in with the worker.
- The employer is likely to be in breach of their Health and Safety at Work Act 2015 (HSWA) duty if they require the worker to come to the workplace.

If the worker wants to come to workplace

- Worker should not go to work.
- Worker must notify employer that they are sick with COVID-19.
- Employer should instruct worker to stay away from the workplace.
- If an employer lets a worker come to the workplace, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- Worker and employer can agree that worker will work from home if willing and able. If that is the case, the worker will be paid normally (with no entitlement to the COVID-19 Leave Payment).
- Employee can take paid sick leave (if available). If paid sick leave is not available, paid special leave should be considered. Other forms of paid leave can be used by agreement between the employer and the employee. The employer can apply for the COVID-19 Leave Payment for the period of sickness, to help pay for the leave period.
- Employer should regularly check in with the worker.
- If worker comes to the workplace after being told not to, they can be suspended from work.
- If a worker fails to follow these reasonable directions they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).

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

- Worker should not go to work.
- Worker must notify employer that they are sick with COVID-19.
- Employer should not ask worker to come to the workplace.
- If an employer asks a worker to come to the workplace, they will likely be in breach of the Health and Safety at Work Act 2015 (HSWA).
- If employer asks worker to come to the workplace, the worker has the right to refuse to do so on the basis that going to the workplace would expose other people to a serious risk to health or safety.
- Employer should seek and follow latest guidance from the Ministry of Health on COVID-19.
- Employee can take paid sick leave (if available). If paid sick leave is not available, paid special leave should be considered. Other forms of paid leave can be used by agreement between the employer and the employee. The employer can apply for the COVID-19 Leave Payment for the period of sickness, to help pay for the leave period.
- If the worker does not feel sick and is willing and able, the worker can offer to work from home and agree with the employer to do so. If that is the case, the worker will be paid normally (with no entitlement to the COVID-19 Leave Payment).
- 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.