

National Joint Council for local government services

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**To: Chief Executives in England, Wales and N Ireland
(copies for HR and Finance Directors)
Members of the National Joint Council**

12 June 2020

Dear Chief Executive,

COVID-19: return to work, test & trace and admission to hospital

Please continue to visit the LGA's [Coronavirus: information for councils](#) webpage for all up to date advice.

All information contained in this circular is correct at time of publication but all links to external websites should be checked regularly as official advice is likely to be updated as the situation continues to develop.

Return to work

The Government published its [recovery strategy](#) on 11 May setting out incremental phases for reopening the economy and society as the danger from the COVID-19 pandemic is deemed to recede.

The government's guidance remains that all employees who can work from home should do so.

Those who are classed as [clinically extremely vulnerable](#) are advised to take additional action ('shielding') to prevent themselves from coming into contact with the virus and are strongly advised to stay at home as much as possible and keep visits outside to a minimum.

The situation for employees who live with but do not care for those classed as clinically extremely vulnerable who are at high risk from COVID-19, and cannot work from home, may now start to be reviewed. This review should include the possibility of them returning to work, potential redeployment opportunities, and ensuring that workplaces are [COVID secure](#) (including [stringent social distancing](#)). If the COVID secure requirements are not yet met, the employee should not return to work until the appropriate measures are in place and in the

meantime should continue to remain at home in line with previous NJC guidance. The NHS has issued [advice](#) about what can be done to help protect members of the household who are vulnerable.

For those classed as [clinically vulnerable](#), meaning they are at higher risk of severe illness from COVID-19, the government's updated advice is to stay at home as much as possible and, if they do go out, to take particular care to minimise contact with others outside their household.

With the phased reopening of schools and other services, employers who are looking to resume activity that had been on hold and cannot be delivered from home should now be taking all necessary steps to ensure that workplaces are '[COVID secure](#)'.

If an employee expresses concerns about returning to the workplace it is important that their manager and / or HR ascertains and seeks to address the reason for the concerns and carries out an individual risk assessment. Concerns raised by the employee could include, but are not limited to, their BAME background, gender, age, physical or mental health conditions, other caring responsibilities, vulnerable members of the household or practicalities of uncertain childcare arrangements.

Employees may also have concerns about using public transport to get to and from work, so consideration should be given to staggered start and finish times to help avoid having to travel at peak times. Consideration should also be given to requests from employees to be based at a site other than their usual workplace if this were to facilitate more convenient travel arrangements, for example.

Employers should begin careful conversations by recognising that NHS research shows that around 30% of staff may suffer from post-traumatic stress disorder and similar challenges in the wake of the pandemic crisis. Occupational therapy, employee assistance programmes and other services should be brought into play as part of planning for help for employees with problems.

The employer should be able to demonstrate that all necessary actions have been taken to ensure that everything reasonably practicable has been done to minimise risk.

The government advises that employers should carry out a risk assessment in line with [HSE guidance](#) and consult with employees or trade unions and then share the results of the risk assessment with employees on your website. Separate workplaces should be risk assessed accordingly, eg. offices, depots, call centres etc which may require specific COVID-related risks to be addressed.

To confirm that you have complied with the government's guidance on managing the risk of COVID-19, this [poster](#) should be displayed in a prominent position in each workplace.

If everything has reasonably been done to address an employee's concerns, and action taken accordingly, but they still refuse to attend work, this may constitute unauthorised absence or partial performance (ie. where they are only prepared to carry out certain tasks rather than their full range of duties). The manager should explain the individual's contractual obligations and the potential consequences of refusing to work, including, in extremis, the risk of withdrawal of pay. If there is still no change in the individual's position, the manager should seek immediate advice from HR who should ensure an appropriate and consistent approach

is taken across the organisation. The employee should also be reminded of their right to seek advice from their trade union representative.

However, if an employee has expressed concerns that have not been addressed and they reasonably believe their health and safety is at serious and imminent danger then they have rights under Sections 44 and 100 of the Employment Rights Act 1996 not to face a detriment (or dismissal) for failing to attend an unsafe workplace.

Test & Trace

If an employee is contacted by [NHS Test and Trace](#) and instructed to self-isolate, Part 2 Para 10.9 of the 'Green Book' will apply and their absence should not be recorded as sickness absence. Employees who can work from home should do so. For employees who cannot work at home, employers will have no option other than to accept that they must stay at home on full pay for the duration of the self-isolation period.

As employees are 'well' at this stage they should stay on normal full pay for the duration of the self-isolation period until such time as they are confirmed to have contracted the virus, at which point they transfer to sickness absence leave and the usual provisions of the sickness scheme will apply.

Self-isolation prior to admission to hospital

The NHS has [instructed](#) that anyone who is due to go into hospital as an in-patient (including day surgery) for planned or elective¹ surgery / medical care must self-isolate, along with all members of their household, for 14 days prior to admission.

Unless already on sick pay, and in line with previous NJC guidance, all employees should remain on normal full pay for the duration of the self-isolation period. Those who can work from home (either in their own role or on alternative duties), should do so. We very much hope that dates scheduled for hospital admission do not get deferred, resulting in a further period of self-isolation being required, but this may be something that employers will unfortunately have to accept as a consequence of the current situation.

Yours sincerely,

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Rehana Azam



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Jon Richards

¹ The occupational sick pay scheme provides to cover absence "on account of sickness, disease, accident or assault". It has long been employers' advice that purely elective cosmetic surgery is not sickness. However, there are a range of reasons why people undergo such procedures and it is advisable to consider each case on its merits. It is also preferable to reference such issues in local sick pay policies. It is also advisable to keep a record of occasions where requests are made, the circumstances and the decision reached to ensure a consistent and fair approach across the organisation.