

CHECKLIST: DECIDING YOUR POLICY FOR MANAGING EMPLOYEE ABSENCE DUE TO QUARANTINE AFTER OVERSEAS TRAVEL

Background

From 8 June 2020, the Government intends to introduce a 14 day self-isolation period for passengers arriving in the UK from overseas (the quarantine period). This means that all passengers returning to the UK from overseas on or after 8 June, including British nationals and those who live in the UK (other than those on the exemption list), will need to complete a contact form and self-isolate for 14 days.

Self-isolation means that individuals should not go to work, school, or public areas, or use public transport or taxis.

Individuals travelling from Ireland, the Channel Islands and the Isle of Man (the Common Travel Area), will not need to complete the contact form or self-isolate on returning to the UK, unless they have been outside the Common Travel Area in the past 14 days.

The rules will be reviewed every three weeks.

What does this mean for employers?

Individuals subject to the quarantine rules must not attend the workplace. If an employee can work from home, then they can continue to work from home during the quarantine period and should be paid their normal pay.

If an individual cannot work from home, they must not come to work. This has cost and operational implications for employers, whether employees travel overseas during a period of holiday booked from work, or on non-working days. Many employees may currently have overseas trips booked which they are hoping to go on.

We do not recommend that you instruct employees not to make personal trips overseas. Instead, communicate clearly to employees what your policy on quarantine periods is, and that it may change depending on any future Government guidance on how employers should treat them. Knowing what absence is permitted and the status of that absence may influence employees' behaviour

when they consider where they wish to travel for their holidays, e.g. it could dissuade someone from booking a long weekend trip abroad. The stance you take may depend on whether an employee has booked their holiday before or after you communicate your approach to quarantine periods.

Note that the Government has not yet addressed the status of quarantine periods in the employment relationship. It is possible that statutory sick pay (SSP) will be payable during quarantine periods, but the Government has not yet confirmed whether or not this is the case.

The following checklist will help you decide what approach your business should take to quarantine periods for employees who return from personal overseas travel.

FOR MORE INFORMATION ABOUT THE STATUS OF THE QUARANTINE PERIOD AND THE IMPACT ON THE EMPLOYMENT RELATIONSHIP, SEE OUR FAQs ON 'MANAGING EMPLOYEES DURING THE PANDEMIC'.

Issue	Comment
<p>Statutory sick pay (SSP) and company sick pay</p> <p>If SSP is payable for the quarantine period and you have company sick pay, what approach would you like to take to company sick pay?</p> <p>Does the wording in your current sick pay policy suggest that employees would be entitled to company sick pay during any quarantine period?</p> <p><i>(You may be able to take the view that company sick pay is not payable or is payable at less than the usual rate in cases of quarantine self-isolation where an employee is not actually ill, on the basis that any company sick pay policy was not designed to – and does not – cover such circumstances. However, we suggest that you seek advice if you wish to make changes to your company sick pay provision).</i></p> <p>If you do not pay company sick pay for quarantine periods, how does this sit with your approach to other periods of self-isolation? And how will you handle employees who call in sick during the quarantine period or claim that they need to self-isolate for another reason in order to get company sick pay? (In cases where you suspect this is not genuine, it could be difficult to establish that an individual is not genuinely ill.)</p> <p>Will you count quarantine periods towards the triggers under your attendance management policy? If so, will you make any exceptions where overseas travel is necessary for particular purposes, such as attending a family funeral?</p> <p>Would you be obliged to consult, e.g. with a works council or trade union?</p>	
<p>Status of quarantine periods</p> <p>If SSP is not payable, do you want to require employees to book holiday to cover this extra time off?</p> <p>How will you treat employees who do not have enough holiday to cover the quarantine period?</p> <p>Would you allow employees to take unpaid quarantine leave to cover the quarantine period?</p>	
<p>Operational considerations</p> <p>Will too many people be on holiday/post-holiday quarantine at the same time due to pre-booked holiday for you to accommodate bearing in mind operational requirements?</p> <p>How will you choose who is allowed to have the time off and who isn't?</p> <p>Are there any particular factors to consider in your workplace, such as employees who have family overseas who may be particularly adversely affected by the quarantine requirements, particularly busy operational periods when you won't be able to accommodate a lot of absence, or large numbers of shielders meaning that you already have a high level of absence?</p>	

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<p>Pre-booked overseas travel</p> <p>Do you want to take a different approach in relation to time off and/or pay for employees who had already booked their overseas trip before the quarantine rules were announced and/or before you had communicated your approach to quarantine periods?</p> <p>If so, will it make a difference if they have booked holiday to cover the trip or if they had not needed to book holiday from work (e.g. a weekend away, or a trip taken on non-working days?)</p> <p>Will you require evidence of the date of booking the overseas travel?</p>	
<p>Homeworking</p> <p>Are you concerned that those who can work at home may be treated differently from those who cannot work for home (e.g. those who can work at home would not be required to take holiday/unpaid leave, etc. during any quarantine period) and the impact this may have on employee relations?</p> <p>For those who cannot do their normal job at home, would you consider instead providing them with some work to do at home, even if it isn't their usual work?</p>	
<p>Single and multiple trips</p> <p>Will you treat employees who have more than one personal overseas trip booked differently from those who only have one personal overseas trip booked within a given timeframe?</p>	
<p>Maximum leave in a single block</p> <p>Do you currently have a maximum amount of holiday that can be taken in one go? Will you adjust this going forward and by how much?</p>	
<p>Scheduled shutdowns</p> <p>Do you have scheduled shutdowns and how might quarantine periods impact on operations immediately after shutdown periods?</p>	
<p>Requiring details of employees' travel plans</p> <p>Will you ask employees to notify you in advance of any overseas travel plans?</p> <p>Will you require employees to agree with you before they travel overseas that they can be absent for the quarantine period?</p> <p>If they don't, what is the sanction? You would be entitled to treat the absence as unauthorised and take disciplinary action.</p>	

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<p>Reimbursement of cancelled holiday costs</p> <p>What will be your approach to the cost of cancelled overseas holidays if an employee has to cancel a holiday because you are no longer able to accommodate their absence? (In this regard, note that if you act unreasonably in cancelling an employee's holiday plans, there is a risk that this could amount to a breach of the implied duty of mutual trust and confidence.)</p>	
<p>Holiday approval process</p> <p>Is your current holiday booking process clear? Is it still fit for purpose?</p> <p>Does it remind employees of your right to refuse holiday requests and the way you deal with competing requests?</p> <p>Does it require employees to get their holiday request approved before booking any travel?</p>	
<p>Misconduct and breach of quarantine</p> <p>How will you communicate to employees that any breach of the quarantine rules will be treated as gross misconduct?</p>	
<p>Return to work procedures</p> <p>When an employee returns to work after a holiday, will you ask them to confirm whether they have travelled overseas and, if they have, that they have completed the 14 day quarantine period?</p> <p>At the end of a 14 day quarantine period, do your managers know to carry out a return to work interview before the employee enters the workplace and mixes with other staff?</p>	

We appreciate that there are many considerations and that your internal resources, time and/or specialist expertise may be stretched in these difficult times. We have an experienced and dedicated team of Make UK HR & legal consultants available to help you work through any queries or concerns. If you would like to find out how we can provide practical guidance in HR or legal support, please contact your Account Manager, Legal Adviser, or Nicola Kibble from our HR & Legal Commercial Services Team, who will be able to discuss your particular requirements.

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Disclaimer: This Checklist is intended to provide information and guidance on the HR and employment law factors that employers should consider when determining their policy on quarantine periods in the context of Covid-19. It does not constitute legal advice and should not be relied upon as such. Make UK members should speak to their adviser for guidance on their particular circumstances before implementing policy or contractual changes.