

Canadian Employment Safety and Health Guide

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WORKPLACE POLICIES: ENSURING THAT THEY REFLECT THE RISKS AND REALITIES OF A RETURN TO OPERATIONS DURING THE COVID-19 PANDEMIC

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[Editor's note: This article pertains to workplaces in British Columbia.]

Workplace policies play an integral role in management of the workplace. Your policies reflect decisions that the company has made with respect to a variety of matters. Putting those decisions in writing ensures that all employees have knowledge and understanding of the approach that the workplace takes. An integral part of the development of your Safety Plan for return to operations during the pandemic is the development and refinement of your workplace policies.

The policies that you need to ensure are in place with resumption of operations include policies with respect to sick days, remote working and health and safety policies. Also consider whether your workplace requires a policy with respect to who can be at the workplace, a policy with respect to dealing with workers who exhibit signs of illness in the workplace and a policy with respect to how workers can be kept safe in the new working conditions, particularly, if your workplace is one that has extensive interactions with the public. In developing or revising your workplace policies the guidance of the provincial health officer and the BC Centre for Disease Control must be kept in mind. That guidance includes the following:

- Anyone who has had symptoms of COVID-19 in the last 10 days must self-isolate at home. Symptoms include fever, chills, new or worsening cough, shortness of breath, sore throat and new muscle aches or headache.
- Anyone under the direction of the provincial health officer to self-isolate must follow those instructions.
- Anyone who has arrived from outside of Canada, or who is a contact of a confirmed COVID-19 case, must self-monitor for symptoms.

Self-isolation requires workers to stay at home. They are not to go work, school or public areas and are not to use public transport or taxis. Self-isolation can end 14 days after the last contact or return to Canada if the individual has not developed symptoms.

Your workplace may have an existing sick day policy. Consider whether that policy should be revised in light of the requirements of COVID-19. Remember that under the BC *Employment Standards Act* employees are entitled to job protected COVID-19 leave. An employee can take unpaid, job protected leave related to COVID-19 if they are unable to work for any of the following reasons:

- they have been diagnosed with COVID-19 and are following the instructions of a medical health officer or the advice of a doctor or nurse;
- they are in quarantine or self-isolation and are acting in accordance with an order of the provincial health officer, an order made under the *Quarantine Act* (Canada), guidelines from the BC Centre for Disease Control or guidelines from the Public Health Agency of Canada;
- their employer has directed them not to work due to concern about their exposure to others;
- they need to provide care to their minor child or a dependent adult who is their child or former child for a reason related to COVID-19, including a school, daycare or similar facility closure; or
- they are outside of British Columbia and unable to return to work due to travel or border restriction.

Employment is considered continuous while an employee is on COVID-19 job protected leave. The employee must continue to get any wage or benefit increases that they would normally receive and employers are required to continue to make payments to benefit plans. Annual vacation, termination entitlements, pension, benefits or length of service must be calculated including the time taken during the COVID-19 leave. When the leave ends, the employee is entitled to come back to their job or one like it. An employer cannot terminate an employee or change their job conditions due to the COVID-19 leave, without the employee's written agreement.

There is no requirement to provide paid sick days in British Columbia however employers should give careful consideration to what policy they can implement to ensure that workers are not attending the workplace when ill. The financial pressure of losing pay can lead to workers attending when they shouldn't. This needs to be balanced against the significant financial cost associated with providing paid sick days. The Federal Government has announced that it will be working with the provinces to create a paid sick leave program which may fill this void. Details of the plan have not yet been released although conceptually it involves workers getting 10 paid days of sick leave.

If your workplace is going to have remote working, you need to develop work from home procedures to ensure that workers are working safely. In developing that policy, consider the following:

1. Who will be eligible to work remotely?
2. What are your availability expectations for employees that are working remotely?
3. Should you implement a rule regarding response time?
4. How will productivity be measured? Generally, it is best to measure outcome rather than the number of hours.
5. What equipment will be needed to facilitate working from home?
6. Will tech support be offered to remote workers and if yes, how will that be facilitated?
7. Are there any physical requirements around the work from home workspace including confidentiality of documents?
8. Should working in public places or on public WIFI be prohibited?
9. Client confidentiality.

A health and safety policy should be updated or put in place to ensure that government and public health requirements and recommendations are addressed. Items that should be addressed in your health and safety policy include physical distancing requirements, use of personal protective equipment and hygiene and sanitization requirements.

Development or refinement of your workplace policies to reflect the realities of COVID19 will assist with the transition to resumption of operations and help ensure the health and safety of your workplace.

If you would like more information on issues discussed in this article or advice about how to safely return your workers to the workplace, please contact [Rose Keith, QC](#) or [Scott Marcinkow](#).

Rose is Associate Counsel with the Harper Grey. Her practice focuses on Workplace Law helping both employers and employees find solutions to workplace issues. The guiding principle for Rose is finding the right legal solution for her clients and in doing so nothing is more important than being respectful, compassionate and responsive. She can be reached at rkeith@harpergrey.com or 604.895.2911.

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