

COVID-19 Guidance

For Employers and Personal Assistants

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COVID-19 (also known as Corona virus) is a current global pandemic. Certain precautions need to be taken to help prevent this virus spreading and to protect the health of yourself and your employee. This guide contains the most common questions asked and some important information for employing personal assistants. Please be aware that Government guidelines and legal requirements are changing nearly every day. These FAQ's are for guidance only and legal advice should be sought also. If you have any queries, please call us on 0208 831 6088.

Where can I get medical advice if I am concerned about the Corona virus?

The Government are urging you to follow the NHS guidelines which is being kept up to date on their website: <https://www.nhs.uk/conditions/coronavirus-covid-19/>. At present the public are being asked not to go to the GP or call NHS 111 unless you cannot cope with your symptoms at home, your condition gets worse or your symptoms do not get better after 7 days.

Who needs to self-isolate?

The first person to show symptoms in a household must self-isolate for a minimum of 7 days or longer until symptoms have subsided. Everyone else in the house must self-isolate for 14 days unless they show symptoms when they restart the count for a minimum of 7 days or longer until symptoms subside.

My PA has self-isolated as they or someone in their household have shown these symptoms. What should they do?

Self-isolating employees are legally defined as unfit to attend work. They should therefore notify you of their intention to self-isolate in accordance with the sickness and absence procedures you uphold.

What are their employee rights?

They have the right to remain absent from work for 14 days from the symptoms becoming known. Here is the Government's guidance on staying home due to possible infection of COVID-19: <https://www.gov.uk/government/publications/covid-19-stay-at-home-guidance>.

Your employee is entitled to Statutory Sick Pay (SSP), if eligible, from day one of absence.

Employees are eligible for SSP if they:

- Are employees or workers (including zero hour contract and casual workers) who earn on average £118 per week over the last 8 weeks and,

- Have given you the correct notice

If your employee is not eligible for SSP, you must provide them with the SSP1 form to explain why, which will allow them to claim for possible benefits. If you need to issue this form to your employee, please contact Ruils and we can provide you with a template.

SSP is paid at a rate of £94.25 per week, rising to £95.85 on 6th April 2020.

The Government have announced that they will reimburse employers any payments of SSP, up to 14 days, for each employee.

If your employee does have Corona virus, they will probably need more than 14 days off. The NHS should expect to hear from them if symptoms have not improved after 14 days and so it is likely that they will need further medical treatment and testing. If the sickness absence continues beyond 14 days, your normal sickness reporting procedures are still applicable, as will ongoing payment of SSP. At this stage you may feel it appropriate to obtain medical evidence to support the claim for ongoing SSP.

What kind of medical evidence?

With normal cases of sickness absence, you can ask your employee for a medical certificate after the first seven days of absence. Under self-isolation however, we advise that you should not need to press for such medical evidence as the current guideline for those self-isolating is not to go to a GP. Hopefully you trust your PA enough to be able to take their word for it.

How do I ensure I am still getting the support I need?

If you have other employees, you may ask them to cover some of the absences. Casual workers may be called to fill in these hours too. If you have no other employees, using a temporary agency may be a possible alternative. Please contact Ruils if you cannot find temporary cover or require emergency support and we will do our best to help arrange for someone to support you. We ask for anyone who is self-isolating and has family members in their household to provide as much support as possible in these difficult times.

If I self-isolate does that mean I go without care?

No. Even though the Government has instructed that all non-essential workers must stay at home, it is recognised that you may not be able to manage without your PA and so you are under no compulsion to send them home. Carers are essential key workers, so they are permitted to travel and attend work despite the latest restrictions.

However, it is vital that whilst your employees still work in your home, you are undertaking all the necessary precautions to ensure that your home is a safe place to work. This may include providing Personal Protective Equipment (PPE), such as gloves, masks and hand sanitiser. Please follow the Government's guidelines on best practice:

<https://www.gov.uk/government/publications/covid-19-stay-at-home-guidance>

<https://www.gov.uk/government/publications/covid-19-residential-care-supported-living-and-home-care-guidance/covid-19-guidance-for-supported-living-provision>

Make sure you explain fully the new health and safety procedures to your employees. You should record the new measures you have implemented and keep a record of the PPE you have received.

PPE will be available to collect from the DAAC soon. Please wait for confirmation as to when stock will be available. Other retailers that are also stocking PPE are eBay, who seem to deliver within a week, and local pharmacies.

What should I tell my employees to do?

Whilst your employees are fit and able to work, they should carry on fulfilling their duties. It is absolutely vital that they take this situation seriously and adhere to any new health and safety rules you implement. This is not just to protect you and them, but to prevent spreading the infection to the larger public.

Employees should not remove PPE without your permission and should inform you when stocks are low.

How can I show that my employee is a 'key worker' and ensure they are able to travel into work in line with the Government's restrictions?

You should be aware that Personal Assistants are classified as 'key workers'. This means that under the Government's guidelines, PA's are able to leave home and travel to and from work, as this is necessary for them to complete their essential work in society. To show that your PA is a key worker, please provide your PA with a letter to verify their role when travelling. ***Ruils can provide you with a template for this.***

I do not want my employees coming into my home whilst my household is self-isolating, and I believe I can cope without paid support for 14 days, what are my employee's rights?

For permanent employees who work regular hours you may find that there is a right in their contract to put them on a period of lay off. This means a temporary suspension of their work and pay. ***Please note that this will only apply if your contract is very clear that you have a right to lay off the employee under these circumstances.***

An employee on lay off has a right to statutory guarantee pay which is up to £29 per day (rising to £30 from 6th April 2020) and is only payable for the first five days of absence.

If you do not have a lay off clause you can ask the employee not to attend work and pay them in full during the absence. If there is a lay off clause, but you want to pay your employee anyway, it would be sensible to check with the Local Authority to make sure they are happy for you to pay it.

If you use casual or zero hours workers and work has not already been agreed in advance, you do not have to offer them work during this time.

The Government have suggested that people over 70, those who are pregnant and those with serious health conditions are high-risk and should consider social distancing for 12 weeks. I or someone in my household fall into that category, but I still need care, what can I do?

Firstly, abiding by the Government's latest guidelines to stay at home is essential to ensuring that everyone in your household remains safe and to reduce risk of infection. However, employees are still able to come into your home to provide care. Of course, if no one in the household has any symptoms of the virus and neither do your employees, there isn't a compulsory need to put in place strict health and safety procedures above and beyond your current regime. However, as you are a high-risk household you can choose to insist on greater standards and hygiene and care from your employees. See the Government guidance on supported living management:

<https://www.gov.uk/government/publications/covid-19-residential-care-supported-living-and-home-care-guidance/covid-19-guidance-for-supported-living-provision>

I am in the high-risk category and do not want to risk having PA's coming into my home, I'd prefer to have unpaid support from family for a 12 weeks period, what can I do?

This depends on your circumstances. Such a large gap in cover from an employee would usually result in terminating the employee's contract on grounds of redundancy, as they are now not needed to work. However, you probably want to re-instate the employee once the 12 week period is over and so wouldn't want the suspension of their role to be permanent.

As you have a direct payment, any changes you make will need to be agreed with the Local Authority. Speak to the Ruis Direct Payment support team for guidance on the options which can be summarised as the following:

1. Terminate the employee's contract on grounds of redundancy. Your employee would be entitled to a statutory redundancy payment if they have completed two years' service. You would also need to pay the employee in full for any notice period and annual leave which has been accrued and not taken.
2. Pay the employee in full whilst they are not attending work. You should seek confirmation from your funding body before making this decision.

3. If redundancy appears to be a very realistic option, meaning the employee faces the permanent termination of employment and there is no way to simply cover their full pay instead, the final option is to lay them off by mutual agreement. The unique circumstances may encourage an employee to go on a period of leave without pay, until such time as the 12 weeks has passed. In agreeing to a period of lay off, the employee gains the chance to keep their continuity of service in place and know they can return to work at the end of the 12 weeks. Holidays also continue to accrue at the same rate that they did while the PA was working. You could offer, in exchange for this agreement, to relax the rules on fidelity which would allow the employee to accept work elsewhere during the 12 weeks.

Please remember that the Government are changing the law regularly to ensure they are taking the steps to protect the UK. It is possible that emergency legislation could be introduced that will allow you to lay off an employee without pay whether a contractual right exists or not. Please ensure you take advice if you are facing a long absence from your workers.

Where 12 weeks of absence isn't a realistic consideration for you remember that the employee has accrued annual leave which can be used to give them time off with full pay.

If you use casual or zero hours workers and work has not already been agreed in advance, you do not have to offer them work during this time.

My PA is in the high-risk category but wants to continue working, can I allow them to?

Yes, you can. The Government have made recommendations for high-risk individuals to stay at home, but it is not mandatory.

If your employee continues to attend work, it would be wise to increase your hygiene and health and safety procedures so you are doing everything you can to prevent the risk of spreading infection between you. Make a written record of steps you have taken to protect each other.

Please contact us for further support:



0208 831 6088



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www.ruils.co.uk



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Richmond Council community hub helpline: 0208 871 6555