

Your Business and COVID-19 – FAQs surrounding your rights and obligations to your employees



During this COVID-19 pandemic, employers need to know their obligations to employees and consider what needs to be done to protect the physical and financial health of your employees and business.

The Fair Work Act 2009 provides that employers have a right to stand down employees in certain circumstances. Modern awards, enterprise agreements or employment contracts may also contain stand down provisions and generally such periods are unpaid.

WHAT IF YOUR EMPLOYEE IS UNABLE TO RETURN FROM OVERSEAS OR IS QUARANTINED?

Consider if there is any way for the employee to work remotely. This may not be possible if they are overseas and do not have access to work laptops.

Employers should choose if the employee can access their paid personal/carer's leave entitlements or annual leave. Employers may decide that employees can take other paid or unpaid leave.

WHAT IF YOUR EMPLOYEE CAN'T ATTEND WORK BECAUSE THEY HAVE OR ARE SUSPECTED OF HAVING CORONA VIRUS OR THEY ARE CARING FOR SOMEONE IN THIS SITUATION?

In the first instance, consider if the employee can work from home in any capacity at all. If not, employees should use their paid personal/carer's leave entitlements. If these are exhausted, your employees might wish to consider other alternatives, such as taking annual leave or leave without pay. Happy HR recommends that employee receives a medical clearance prior to them returning to work.

WHAT IF YOUR EMPLOYEES WANT TO STAY AT HOME AS A PRECAUTION?

Employees will need to request to work from home or to take some form of paid or unpaid leave. Employers should treat these requests as you would treat other applications for this type of leave.

WHAT IS YOUR OPERATIONAL NEEDS CHANGE BECAUSE OF A DOWNTURN OR SUPPLY-CHAIN ISSUES?

The Fair Work Act stand down provisions are likely to apply, subject to any provisions in your employment arrangements, meaning that some employees may be able to be stood down without pay.

It is vital to consider whether you intend to pay your employees during any stand down. A plan to communicate this message to employees should be done before an event not during or post but before you do this you should obtain advice if uncertain of your obligations. Standing an employee down without pay when you do not have the right to may lead to Fair Work cases against you which is no ideal in the current climate.

IS IT NECESSARY TO CLOSE IS A STAFF MEMBER TESTS POSITIVE?

If an employee tests positive for COVID-19, you are not mandated to close the store but we would strongly suggest vigorous cleaning to any areas they had been in the store and everyone who had been on shift with the employee to get tested.

IF WE ARE FORCED INTO LOCKDOWN, DO I NEED TO STILL PAY MY EMPLOYEES?

The Fair Work Act stand down provisions are likely to apply, subject to any provisions in your employment arrangements, meaning that some employees may not be paid.

It is vital to consider whether or not you intend to pay your employees during any lock down. A plan to communicate this message to employees should be done before an event not during or post but before you do this you should obtain advice if uncertain of your obligations!

If the lockdown happens for your city or business, leave without pay if they don't have any leave pay left might be the only option.

WHAT ARE SOME WAYS I CAN BETTER MANAGE CASHFLOW BETTER AT THE MOMENT?

At this point in time, it is wise to look at what are your essential and non-essential spending. If they are monthly costs you can reduce or stop, we strongly suggest this.

Any services that generate a positive ROI (i.e. help you generate more income that they cost) should be kept.

Additionally, we strongly suggest continuing using the service providers who give you guidance, advice or support as these are the times you need them most. They are experts who can guide you through difficult times and ensure your business is minimising the damage of the COVID-19

pandemic. No is not the time for impulsive and misguided actions which will cost you more in the long run.

WHAT ARE SOME FAIR NEGOTIATIONS I CAN MAKE WITH MY EMPLOYEES IN REGARD TO PAY?

You may need to consider reduced hours for your employees for the short term and this conversation should happen in a constructive way as your trying to preserve the relationship with the employee while fulfilling your obligations as a Director to remain solvent. Working with people to request reduced hours is a way to maintain the employment while staying solvent.

WHAT IF I CAN'T PAY MY STAFF?

If you can't pay your staff under ASIC you could be trading while insolvent so you should immediately contact your accounting partner to look at finance options and or a way to manage the situation.

WORKING FROM HOME BEST PRACTICE

If your employees have the capacity to work from home, we strongly suggest they do due to the following reasons:

- Less chance of spread of infection
- Reduced expenses to you (power, amenities etc)
- Reduced expenses to your employees (travel costs etc)
- Ability to care for children if school is closed

Ensure your employees have everything they need if they are to work from home. Some processes may need to be flexible in this time so be open to ideas from employees that will allow productivity to stay high.

If you are not already using meeting or screen sharing software, consider things such as Skype or Zoom.

WHAT ELSE SHOULD YOU DO?

Remind employees on general hygiene precautions.

Employers should remind employees and others entering their workplaces of the importance of high personal hygiene standards which are vital to protect against the spread of infection.

Display signage reminding people to wash their hands regularly and thoroughly "clean hands protect against infection". A quick splash of water will not do the job.

You could consider installing hand sanitiser dispensers in bathrooms, meeting rooms and high pedestrian traffic areas such as reception areas.

Disclaimer: *The information is general in nature. You should consider whether the information is appropriate to your needs, and where appropriate, seek professional advice from an employment lawyer.*

Need more help surrounding how to best protect your business during the COVID-19 pandemic?
Email through your query in detail to help@happyhr.com and one of our qualified HR consultants will be in touch.

At Happy HR we are here to help all Australian businesses.