COOPER GRACE WARD
LAWYERS

Employers' COVID-19 safety toolkit
A summary guide for Australian businesses

May 2020

On 24 April 2020, the National Cabinet agreed to the National COVID-19 Safe Workplace Principles and Safe Work Australia has since built on these principles with an in-depth COVID-19 Resource Kit. Cooper Grace Ward has prepared the following guide to summarise the practical safety issues arising from the Resource Kit, to assist Australian employers as restrictions are eased and employees return to their workplaces.

Background

On 24 April 2020, the Australian Government released the National COVID-19 Safe Workplace Principles, comprising a set of 10 principles for workplaces. Building on this, the Safe Work Australia website now contains a COVID-19 Resource Kit, aimed at guiding businesses and their workers through the various issues that may arise when restrictions are eased and workers return to their workplaces.

The COVID-19 Resource Kit contains 1,300 pages of information applying to 23 industry sectors, allowing businesses and workers to access precise information on topics including:

- existing duties under WHS laws
- workers' rights
- consultation
- risk assessments
- emergency plans
- COVID-19 in the workplace
- physical distancing

- hygiene
- cleaning
- personal protective equipment (**PPE**)
- mental health
- work-related violence
- family and domestic violence
- working from home.

To help employers sift through the practical issues arising from the Resource Kit, the workplace relations and safety team at CGW has summarised the key information and tips, including:

- **COVID-19 in the workplace** – steps an employer should take if it reasonably suspects someone has, or has been exposed to, COVID-19

- **Conducting risk assessments** – when and how to conduct risk assessments, including information on what is 'reasonably practicable'

- **Physical distancing** – how to calculate and adhere to physical distancing rules such as the 4 square metre rule and what to do if these cannot be strictly adhered to

- **Cleaning and disinfecting the workplace** – how to clean and sanitise the workplace and when to do so

- **Worker mental health** – what causes psychological injury and tips on how to manage mental health in the workplace, including when employees are working from home.

Employers should remember to consult with workers and their representatives on health and safety matters relating to COVID-19 and its effect on workers, the workplace and others.

COVID-19 in the workplace

Employers have a work health and safety (**WHS**) duty to minimise the risk to workers and others in the workplace of being exposed to COVID-19, so far as reasonably practicable. This necessitates a process to ensure, so far as is reasonably practical, that a person who is unwell is not attending the workplace, and not risking the health and safety of others.

If an employer reasonably suspects that someone has visited the workplace who has COVID-19, or has been exposed to COVID-19, there are a number of steps an employer should promptly take in order to manage that risk.

We briefly summarise the steps below. However, it is important that an employer's response is consistent with advice from the appropriate state or territory health unit and WHS regulator. If that advice differs from the steps below in a particular circumstance, please follow the advice from the health unit and WHS regulator in the first instance.

Steps if the person concerned is at the workplace

Workers who have COVID-19, or are being tested for COVID-19, should already be at home. Despite this, Safe Work Australia have set out six steps an employer should take in circumstances where a person (a worker, client, customer or other visitor) is displaying symptoms or shares information that would give rise to reasonable concerns about the health and safety of others in the workplace. The six steps are:

- isolating the person

- seeking advice and assessing the risks

- ensuring the person has transport home

- cleaning and disinfecting affected areas

- identifying and telling close contacts

- reviewing COVID-19 risk management controls.

Steps if the person has recently been at the workplace

An employer must also continue to meet its WHS duties when aware that a person who has recently been at the workplace has, or may have, COVID-19. Safe Work Australia has stated that this may mean taking steps above and beyond public health requirements to eliminate or minimise the risk of workers and others in the workplace contracting COVID-19, so far as is reasonably practicable. The four steps are:

- seeking advice and assessing the risks

- identifying and telling close contacts

- cleaning and disinfecting affected areas

- reviewing COVID-19 risk management controls.

Closing down the workplace for cleaning

A business is not automatically required to close their entire workplace for cleaning following a suspected or confirmed case of COVID-19. Whether a workplace will need to suspend operations will depend on factors such as:

- size of the workplace

- nature of work

- number of people

- suspected areas of contamination.

It may be unnecessary for a workplace to close if a person has had limited contact in the workplace or if health officials advise that the risk of exposure is low.

Return to work following recovery from COVID-19 or quarantine

A person diagnosed with COVID-19 may return to the workplace once they are fully recovered and have been cleared under the criteria set out by the relevant the state or territory. Employers and workers should always check with a medical practitioner or the public authority that they are meeting the requisite criteria and, if unsure, contact the appropriate state or territory helpline.

A person who has completed a 14-day quarantine period without developing symptoms of COVID-19 does not need medical clearance to return to the workplace.

Notifiable incidents

Depending on an employer's state or territory, exposure to COVID-19 may be a notifiable incident – Safe Work Australia has developed a [fact sheet](#) to guide employers in each jurisdiction.

Conducting risk assessments

Risk assessments are important in ensuring an employer remains proactive in responding to, and preparing for, risks in the workplace. In the context of COVID-19, conducting a risk assessment allows an employer to take a planned, systematic approach to considering the implications and likelihood of someone being exposed in the workplace. When considering risks, employers should take into account how severe the risk is, any existing control measures in place, and whether any further action is required.

The exposure of workers and others in the workplace to COVID-19 is a foreseeable risk which an employer must assess and manage within the context of its operating environment. When assessing the risk of exposure in the context of an employer's specific operating environment, an employer should consider:

- which workers are at risk

- what sources and processes are causing the risk

- what control measures should be implemented

- the effectiveness of existing control measures.

When a risk assessment should be conducted

All operating businesses need to conduct a risk assessment of the risks posed by COVID-19 and implement appropriate control measures. Employers should consider other risks caused by COVID-19 that are not exposure related, such as customer aggression, high work demand and working in isolation.

Employers should also conduct a risk assessment in relation to vulnerable workers, considering characteristics of the worker, the workplace and the work. This may involve redeploying vulnerable people to different roles, if possible. More information on vulnerable workers can be found here.

Safe Work Australia has provided a list of other instances where an employer must conduct a risk assessment, including where a business:

- changes work practices, procedures or the work environment

- recommences operations following a shut down

- increases operations following a period of reduced operations

- introduces workers back into the workplace following the cessation of working from home or stand-down arrangements

- is responding to workplace incidents (e.g. where a worker has tested positive to COVID-19)

- is responding to concerns raised by workers, health and safety representatives, or others at the workplace.

Risk assessments should be reviewed periodically in order to stay up to date with changes, including changes to public health orders or when new information becomes available.

How to conduct a risk assessment

Risk assessments are a necessary part of eliminating or minimising health and safety risks that arise from an employer's business. Practical guidance about managing risks through a risk assessment process can be found in the Model Code of Practice: How to manage work health and safety risks.

A risk assessment involves:

- identifying hazards

- assessing the risks posed by the hazards, including:
    - the harm that could be caused
    - how serious the harm might be
    - the likelihood of harm

- implementing effective control measures to control risks

- reviewing hazards and measures.

To assist employers conducting risk assessments during COVID-19, Safe Work Australia have developed a document setting out key considerations for business to take into account when assessing the risks associated with COVID-19, as well as an example risk register.

What risk management processes will look like in a business will be different for each employer, depending on the size of the workplace and the severity of the risk. Employers should consult with workers throughout the risk management process in order to gain a better idea of the potential risks and ways they could be eliminated or minimised.

What is 'reasonably practicable'

Whether a control measure is reasonably practicable will depend on a number of factors, including:

- the likelihood of the hazard or risk occurring

- the degree of harm that might result from the hazard or risk

- knowledge about the hazard or risk, including knowledge of precautions to eliminate or minimise the hazard or risk

- availability and suitability of precautions to eliminate or minimise the risk

- costs associated with the available precautions.

Safe Work Australia also provides a guide to determining what is reasonably practicable.

The costs associated with the available precautions to eliminate or minimise a risk are often cited by employers as one of the main barriers to implementing effective control measures. Despite this, cost only becomes relevant when the cost of implementing a control measure is 'grossly disproportionate' to the risk. Detailed information on what 'costs' includes and when costs are grossly disproportionate can be found by navigating through the Safe Work Australia website to the 'risk assessment' page for your specific industry.

Physical distancing

Physical distancing refers to ensuring there is 4 square metres of space per person and that people remain 1.5 metres from others, where possible. Current health advice provides that everyone, including people at workplaces, must implement physical distancing measures whenever possible.

4 square metres of space per person

In order to satisfy the 4 square metre 'rule', employers should calculate the area of the room and divide it by 4. For example, a room that is 100 square metres in size should only have up to 25 people in the room.

1.5 metres between people

Employers should consider and adjust the layout of the workplace to ensure workers can perform their duties and remain 1.5 metres away from the nearest person.

Safe Work Australia suggests this may be achieved by spreading out furniture or plant, considering floor and wall markings and signage to identify 1.5 metres distancing requirements.

Employers should review areas that usually require close interaction and identify ways in which they could modify tasks and processes to increase social distancing between workers where it is practical and safe.

Physical distancing – FAQs

Q. Do I need to adhere to both the 4 square metre rule and the 1.5 metre rule?

A. Yes. Employers should, where they can, ensure that there is 4 square metres per person in the workplace as well as keeping everyone 1.5 metres apart.

Q. Can my workers perform work if they cannot maintain a physical distance of 1.5 metres?

A. Yes. The nature of some tasks requires workers to be in close proximity and, as such, maintaining a 1.5 metre distance from other workers is not always possible. Employers in this circumstance should ensure that the work being conducted cannot be done at a later date and, if it cannot be, conduct a risk assessment to determine appropriate control measures. Safe Work Australia suggests that some appropriate control measures may include:

- minimising the number of people within an area at any time or limiting access to the workplace or parts of the workplace to essential workers only

- staggering workers' start, finish and break times where appropriate

- moving work tasks to different areas of the workplace or off-site if possible

- if possible, separating workers into dedicated teams and have them work the same shift or work in a particular area and consider whether these dedicated teams can have access to their own meal areas or break facilities

- ensuring each worker has their own equipment or tools.

Q. Do I need to provide PPE to workers who are in close contact with each other?

A. Where, despite control measures, workers will be in close contact with each other or with other people for longer than the recommended time (more than 15 minutes face to face cumulative over the course of a week or more than two hours in a shared closed space), employers should consider the use of PPE.

Q. How do workers required to travel together practice physical distancing?

A. Employers should ensure that only two people are in a five seat vehicle – the driver and one worker behind the passenger seat. Only one person should be in a single cab vehicle. For trips over 15 minutes, air-conditioning should be set to external airflow or the windows should be opened. Vehicles should be cleaned frequently, at least following each use by workers.

Q. Does physical distancing apply to lunch breaks or travelling to and from work?

A. Yes. Workers should adhere to the relevant public health directions as they apply at the time. This means that workers should remain 1.5 metres from each other at lunch and to and from work. Some public health restrictions also limit gatherings and may prohibit or limit the number of workers that are able to have lunch in certain public places, including parks.

Cleaning and disinfecting the workplace

Employers, in order to control the spread of COVID-19 and maintain a safe workplace, should implement appropriate cleaning and disinfecting measures.

How to clean and disinfect

Cleaning means to physically remove germs, dirt and grime from surfaces, while disinfecting means using chemicals to kill germs on surfaces. Below are some important principles explaining how to clean and disinfect the workplace.

- It is important to clean before disinfecting because dirt and grime can reduce the ability of disinfectants to kill germs.

- Cleaning should start with the cleanest surface and move towards the dirtiest surface.

- Cleaned surfaces should be left as dry as possible to avoid slip hazards and the spread of COVID-19 through droplets.

- Disinfectants should be left for 10 minutes before removing, unless the packaging or instructions outline another time.

For more information on cleaning and disinfecting specific surfaces, Safe Work Australia has released a cleaning guide.

Which areas to clean and when

Employers should ensure that cleaning is done at least daily. Prioritise any surfaces that are frequently touched (door handles, counters, phones) and clean all surfaces that are dirty or contain spills as soon as identified. If a business has a high volume of people that are likely to touch surfaces such as EFTPOS machines, lift buttons and door handles, more frequent cleaning may be necessary. While surfaces that are touched deliberately or incidentally should be cleaned and disinfected, an employer is not required to clean and disinfect surfaces that are never touched (e.g. ceilings or cracks and crevices in machinery). When deciding what areas and equipment to clean, employers should take into account that research suggests the virus can survive for up to 24 hours on porous surfaces and up to 72 hours on hard surfaces such as plastic and stainless steel. Remind workers to regularly clean personal items such as phones and glasses with disinfectant wipes.

Disinfecting is only necessary if a surface becomes contaminated with potentially infectious material. Whether routine disinfecting along with daily cleaning is necessary will depend on whether a business has many customers or others entering each day. A workplace that has a confirmed or suspected case of COVID-19 will need to be thoroughly cleaned and disinfected before allowing people to return.

Safe Work Australia has advised the following are **not** required when cleaning due to a case of COVID-19 in the workplace:

- an ISO accredited cleaner

- fogging (not recommended either)

- swabbing surfaces following disinfection.

Medical masks should be used if cleaning an area impacted by a suspected or confirmed case of COVID-19.

Choosing and using cleaning products

When cleaning and disinfecting:

- it is best to use detergent and warm water to clean (anything labelled detergent is acceptable)

- use disinfectants that contain greater than or equal to 70% alcohol, quaternary ammonium compounds, chlorine bleach or oxygen bleach on hard surfaces

- limit store-bought disinfectant to those that have anti-viral activity

- diluted bleach can be used (in accordance with the manufacturer's instructions)

- sanitisers are not recommended as they are not as strong as disinfectants

- if store-bought disinfectant is not available, an employer may prepare its own with bleach and water (vinegar, baking soda, essential oil, mouthwash or saline solution are not adequate)

- antibacterial cleaner should not be used as it does not kill COVID-19

- 2-in-1 products for cleaning and disinfecting may be used

- avoid methods that may disperse the virus (e.g. using pressurised water or pressurised air)

- wear gloves (gowns and disposable suits are not necessary).

Workplace measures

In addition to cleaning and disinfecting in accordance with the information above, employers should be proactive and implement preventative measures such as:

■ minimising touching of surfaces and putting up appropriate signage for workers and customers

■ reducing the number of touch points for workers

■ providing hand washing facilities or hand sanitiser at entry and exit points.

Worker mental health

An employer's WHS duties extend to doing what is reasonably practicable to eliminate and reduce the psychological risks to workers and others at the workplace. As part of an employer's risk assessment and risk management process, an employer should identify and assess risks to mental health, consulting workers and implementing appropriate control measures.

Psychological hazards and causes of psychological injury

A psychological hazard is something in the design or management of work that causes stress, being either a physical, mental or emotional reaction. COVID-19 has given rise to a number of psychological hazards, compounding on non-work related hazards such as concerns about future employment and social isolation.

Safe Work Australia has provided examples of a number of psychological hazards arising from COVID-19, including:

■ exposure to physical hazards and poor environmental conditions (concern about exposure, poor management of risks or exposure to heat, cold or noise in temporary workplaces)

■ exposure to violence, aggression, traumatic events and discrimination (work-related violence, colleague or client illness, racial stigmas and self-isolation)

■ increased work demand (workloads, time at work, adjustments to rapid change)

■ low support and isolated work (working from home, failure to implement policies)

■ poor workplace relationships (increased bullying and harassment, racism, less two-way communication, decreased social connections and interactions)

■ poor organisational change management (lack of planning, continual restructures, insufficient consideration of WHS and performance impacts of COVID-19)

■ increased emotional distress (limitations on assistance for colleagues and clients, witnessing others' distress).

Eliminating psychological hazards

Employers should manage psychological risks in the same way as physical risks. Safe Work Australia has developed the Infographic: Four steps to preventing psychological injury at work, which shows how the risk management process can be applied to psychological risks. Detailed guidance is also available in the Work-related psychological health and safety: A systematic approach to meeting your duties guide provided.

Some things employers can do to manage COVID-19 related stress include:

■ regularly asking workers how they are going

■ acknowledging workers' feelings and providing them with reassurance

- staying informed with information and sharing this with workers

- consulting workers about psychological risks

- providing workers with a point of contact to discuss concerns

- making workplace information available in a central place

- informing workers about their entitlements if they become unfit for work or have caring responsibilities and providing them with information on their rights under WHS law

- proactively supporting workers who are more at risk

- referring workers to appropriate support when needed (there is a [Coronavirus Mental Wellbeing Support Service](#)).

Although not legally obligated, employers should consider taking steps to address non-work related causes of stress. This may include stress arising from financial circumstances, balancing work and caring responsibilities, concerns for vulnerable family and friends and changes to activities that used to support good mental health. Employers should, if they can, offer increased support and flexibility throughout the COVID-19 period in light of these factors.

Working from home

An employer's WHS duties extend to all workplaces, including where a worker is working from home. The same forms of stress experienced in the workplace may occur when a worker is working from home, however, the control measures may need to be adjusted. When conducting a risk assessment for psychological risks, employers should consider what tasks are being given to those working at home and consider whether doing these in relative isolation could cause unnecessary stress. During this process, employers should also remember to consult workers, discussing any stress they may be feeling and inviting them to suggest ways to reduce stress.

It is essential that employers maintain meaningful communication with workers who are working from home. Where possible, employers should communicate with workers via telephone and videoconference to check in and discuss any concerns or additional support.

Bullying and harassment

Maintaining a work environment free from bullying and harassment is an integral part of managing the health and safety of workers. Bullying during COVID-19 may be more prevalent in the workplace or on different platforms – e.g. through workplace chat forums. Employers should ensure that they take a proactive approach to identifying unreasonable behaviour and situations likely to increase the risk of workplace bullying occurring.

Further information

If you require work health and safety advice for your organisation, please speak with your usual Cooper Grace Ward contact or reach us on the number listed below.

This publication is for information only and is not legal advice. You should obtain advice specific to your circumstances and not rely on this publication as legal advice. If there are issues you would like us to advise you on arising from this publication, please let us know.