

## How to Effectively Respond to the Threat of the COVID-19 Pandemic in the Workplace.

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Coronavirus (COVID-19) is a new respiratory virus that originated in Wuhan, China. The virus is contagious and potentially fatal. It is suspected that it is transmitted through coughing and sneezing by infected individuals. At the present time, there is no vaccine, cure or specific treatment. The outbreak of COVID-19 presents many issues for employers. Businesses should be vigilant and plan for a potential outbreak, as the WHO recently announced that it expects the disease to continue to spread globally and Zimbabwe is no exception.

WHO's guidance identifies various steps that employers can take to reduce the risk of worker exposure to COVID-19 in the workplace, including the development of an infectious disease preparedness and response plan, which should take into account the level(s) of risk associated with various worksites and job tasks workers perform at those sites. Employers should consider the following in the development of such a plan:

- **Identification of Sources of Exposure to Workers** - Consider where how sources of your employees might be exposed to COVID-19. Employees need to be proactive in ensuring proper workplace hygiene and sanitize all customers and employees at points of entry into business premises.
- **Prepare to Implement Basic Infection Prevention Measures** - Protecting workers will depend on emphasizing basic infection prevention measures, discouraging workers from using other workers' phones, desks, offices or other work tools, when possible and maintaining regular housekeeping practices, including routine cleaning and disinfecting of surfaces, equipment and other elements of the work environment.
- **Develop Policies and Procedures for Prompt Identification and Isolation of Sick People, If Appropriate** – Employers need to put in place protocols regarding response to an employee who is experiencing COVID-19 symptoms, including isolation and protection of workers in close contact with the sick person.
- **Implement Workplace Controls, including:**
  - **Engineering Controls** - Engineering controls involve making changes to the work environment to reduce work-related hazards. These controls are preferential because they are permanent changes that reduce exposure to hazards and do not rely on workers or customers to change their behavior in order to be effective. Employers could install high-efficiency air filters or increasing ventilation in the workplace.
  - **Administrative Controls** - Administrative controls modify workers' schedules and tasks in ways that minimize their exposure to workplace hazards, for example, encouraging sick employees to stay home, encouraging telecommuting and considering changing work schedules to minimize the number of workers who must be at the worksite at one time.

- **Safe Work Practices** - Work practices are procedures for safe and proper work that help to reduce the duration, frequency, and intensity of exposure to workplace hazards, for example, providing resources and a work environment that promote personal hygiene (*e.g.*, providing hand soap, hand sanitizer, tissues, no-touch trash cans and disinfectants for employees to clean their work surfaces).
- **Personal Protective Equipment** - Although engineering and administrative controls are considered to be more effective in minimizing exposure to Coronavirus, the use of Personal Protective Equipment (PPE) may also be needed to prevent certain exposures. Employers are required to provide their employees with the PPE needed to keep them safe while performing their jobs. The types of PPE required during a Coronavirus outbreak should be based on the risk of being infected while working and job tasks that may lead to exposure.

During an outbreak of infectious diseases, such as Coronavirus, recommendations for PPE specific to occupations or job tasks may change and employers are encouraged to check the Ministry of Health and Child Care (MoHCC) guidance regularly. Employers should also keep in mind that PPE must be based on the hazard to the worker, properly worn, and fitted or re-fitted; properly removed, cleaned, disinfected, and stored (if reusable) or properly removed and disposed of to avoid contamination of self, others, or the environment (if disposable); and regularly maintained and replaced.

## **GUIDANCE ON THE FAIR LABOR PRACTICE**

### **Offering Alternative Work Arrangements to Quarantined Employees.**

An employer may encourage or require employees to telework as infection control or prevention strategy. Employers are encouraged to be accommodating and flexible with workers impacted by government-imposed quarantines. Employers may offer alternative work arrangements, such as teleworking to such employees. Telecommuting may be offered as a reasonable accommodation, and employers must provide such employees with all the support needed to successfully meet their work obligations.

### **Reimbursement for Telework Expenses.**

If an employee is required to work from home, an employer may not require an employee to pay for or reimburse the company for the business expenses of the employer where doing so reduces the employee's earnings below the required minimum wage and overtime compensation.

### **Employees Infected with Coronavirus Are Entitled to Sick Leave.**

Employees who are infected with Coronavirus are entitled to sick leave in accordance with the provisions of Section (14) of the Labour Act which states that "Unless more favorable conditions have been provided for in any employment contract or in any enactment, sick leave shall be granted in terms of this section to an employee who is prevented from attending his duties because he is ill or injured or undergoes medical treatment which was not occasioned by his failure to take reasonable precautions".

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The duration of such leave from work is to be guided by the subsection (4) of the same Act.

### **No Entitlement to Leave to Avoid Exposure.**

The Labour Act does not provide guidance on how to deal with employee Leave from work taken to avoid exposure to the COVID-19 virus. Any unauthorized Leave taken by an employee for the purpose of avoiding exposure to the virus can be treated as absenteeism. Special leave can be granted to employees as stipulated in section (14B) of the Labour Act which states that “Special leave on full pay not exceeding twelve days in a calendar year shall be granted by an employer to an employee—

(a) who is required to be absent from duty on the instructions of a medical practitioner because of contact with infectious disease”

### **Sending Employees Home.**

Employers may send employees home if they show symptoms of COVID - 19. Employers must be sure to apply any policies or protocols in a uniform, neutral manner and in compliance with laws prohibiting discrimination in the workplace on the basis of race, sex, age, color, religion, disability, and other categories that may be protected under state and local laws. Employers must obtain objective evidence that the employee poses a direct threat (*i.e.*, a significant risk of substantial harm) and determine that there is no available reasonable accommodation (that would not pose an undue hardship) to eliminate the direct threat. Employers’ policies on sick leave as well as any applicable employment contracts or collective bargaining agreements could determine whether employers must pay employees who are not at work.

### **Ability to Seek Medical Information from Employees Returning to Work.**

Employers may require an employee who is out sick with pandemic influenza to provide a doctor’s note, submit to a medical exam, or remain symptom-free for a specified amount of time before returning to work; however, employers should bear in mind that during a pandemic, healthcare resources may be overwhelmed and it may be difficult for employees to get appointments with doctors or other health care providers to verify they are well or no longer contagious. Employers are required to notify employees in advance if the employer will require a fitness for duty certification to return to work. If the state or local law or terms of a collective bargaining agreement govern an employee’s return to work, those provisions should be applied.

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