

ADVICE FOR EMPLOYERS REGARDING COVID-19

31 March 2020

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Many doctors employ staff, and as an employer, you owe a duty of care to employees. It is important that you consider the steps you can take to minimise the risks associated with COVID-19.

The below advice is of a general nature and you will need to tailor your response to meet your individual business needs.

We recommend you regularly check

https://ww2.health.wa.gov.au/Articles/A_E/Coronavirus for clinical updates and resources, which may impact the advice or action you take in relation to your employees.

Employers have a legal obligation to provide their employees with a safe work place and should develop practice procedures to reduce the risk of Covid-19 transmission including:

- Provision of PPE
- Screening of potential patients
- Telehealth consultations where appropriate
- Hand hygiene and cleaning schedules
- Facilitating social distancing at the workplace
- Directing employees who are sick to stay at home

Who needs to self-quarantine?

- As of 12.00am 16 March (AEST) all people returning from international travel must self-isolate for 14 days after the date of return to Australia. Self-isolation does not apply to other members of the household who have not travelled overseas.
- Those who have been in close contact with a confirmed case of COVID-19, must isolate themselves for 14 days after the date of last contact with the confirmed case.
- As of 13:30 24 March all people returning to Western Australia from other states and territories within Australia to Western Australia need to self-isolate for a period of 14 days.

As an employer, what are my obligations to my employees?

- 1. If an employee meets the above outlined self-quarantine criteria (or the most up-to-date advice regarding required self-quarantine) then they *must not* come to work.**

- 1.1** If the employee is fit but is unable to return to work due to self-quarantine requirements, the *Fair Work Act* does not have specific rules for these kinds of

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situations. Employees and employers therefore need to come to their own arrangement. Options include:

- 1.1.1 Asking employees to work from home – provided you are able to facilitate this whilst maintaining self-quarantine requirements. For example, the employee does not have to come to work to collect equipment such as a laptop or phone; or
- 1.1.2 Provide **leave without pay** to the employee.
- 1.1.3 Providing employees special leave – in other words, continuing to pay their salary for the self-quarantine period. Please note, employers are under no obligation to provide leave with pay; or
- 1.1.4 Employees may wish to access other paid leave entitlements, including annual leave, long service leave. You may consider discussing accessing leave entitlements at half pay to cover greater periods of absence; or
- 1.1.5 Casual employees who are not entitled to paid leave entitlements may be able to access payments via the Federal Government to compensate for loss of income.

1.2 Personal leave should be paid to eligible employees in the event of illness or caring responsibilities. You may wish to consider reviewing evidentiary requirements in light of the current situation.

2. If you have not already done so, you should develop a policy for Covid-19

- 2.1 This policy should outline how you will manage staff who are required to self-quarantine, who you will require to self-quarantine (if different from official advice) and why, and how you intend to manage those employees during the quarantine period.
- 2.2 The policy should also outline working from arrangements if they are applicable to your business.

3 Employees who are ill or become sick where the exposure to COVID-19 occurs in the workplace may have a right to workers' compensation.

4 Employees who have caring responsibilities are entitled to access personal leave.

5 Employees who are casual or have exhausted their personal leave accruals are entitled to unpaid personal leave.

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6 Discussions should be held with staff now to gauge their personal and family circumstances in the event that schools close and there are further restrictions in movement.

7 What happens if my practice needs to close?

- 7.1 Prior to making any decisions around business closure or reduction in staff/hours, employers should consider whether they would be able to continue their operations and retaining their staff on current conditions with the assistance of the “JobKeeper payment”.
- 7.2 If the status quo cannot be maintained even with the Government JobKeeper payment, employers are reminded that if there are any changes to the operations of their business they must consult with their employees. This includes a reduction of hours.
- 7.3 Employers cannot unilaterally change contracted hours of work or the employment status of their employee from permanent to casual.
- 7.4 Federal system employers may rely on Modern Award provisions for temporary close down of Medical Practices. In such case employers should allow employees to access accrued annual leave entitlements, including leave in advance.
- 7.5 State system employers who wish to temporarily close their Practice, will need to reach agreement with their employees around how this can be effected, and can discuss various payment options with staff including leave without pay, annual or long service at half time or annual leave in advance.
- 7.6 Employers who are seeking to reduce staffing numbers on a permanent basis may be obliged to consider making staff redundant. This will require discussions with employees, canvassing of any alternative employment options, providing the required statutory or contractual notice (or pay in lieu), and payment of severance pay if applicable. Please note that severance pay does not apply to employers who employ less than 15 employees (headcount).
- 7.7 Alternatively federal system employers may be able to stand down employees under section 524 of the *Fair Work Act 2009*, where the employees cannot be

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usefully employed due to a stoppage of work for reasons outside the employer's control and responsibility.

- 7.8 The preferable path forward in the circumstances would be for employers and employees to agree on more long term arrangements of leave without pay or reduced hours in order to avoid redundancies or forced stand down without pay under section 524 of the *Fair Work Act 2009*.
- 7.9 Employers should advise affected employees who will receive no income from the business to contact Services Australia (Centrelink) to see whether they are eligible for financial assistance including:
 - Temporary early access to superannuation
 - Income support

8 JobKeeper Payment

On 30 March 2020 the Federal Government announced a \$130 billion economic stimulus package for employees to prevent layoffs of workers in the face of businesses struggling with the fallout from the COVID-19 crisis. The details of the stimulus are:-

- 8.1 Available to businesses with **up to \$1 billion annual turnover** who have experienced a **30% fall in revenue**, or businesses with **greater than \$1 billion annual turnover** who have experienced **50% fall in revenue** since 1 March 2020 over a minimum one months period;
- 8.2 Employers eligible to receive up to \$1500 per fortnight, per eligible employee (i.e. employee who was on the employer's payroll as at 1 March 2020);
- 8.3 Eligible businesses can pay the allowance to eligible employees immediately and will be reimbursed from the first week of May 2020;
- 8.4 The payment extends to full time, part time and stood down employees, as well as casuals who have been with the employer for at least the previous 12 months;
- 8.5 Eligible employees include Australian residents, New Zealand citizens in Australia who hold a subclass 444 special category visa, and migrants who are eligible for JobSeeker Payment of Youth Allowance;

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8.6 Eligible businesses can apply online and register their interest via ato.gov.au

The obligations of employers will depend on a number of factors including whether they are covered by the state or federal employment relations systems. The AMA (WA) recommends members contact the Association via covid19@amawa.com.au to discuss the obligations and options available to your specific circumstances.

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