

Emerging trends in the workplace:
Living with COVID



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Emerging workplace trends and what to be aware of

In the current stage of the pandemic, with South Australia “living with COVID” for the first time, we are seeing some emerging trends within workplaces.

As more families prepare for children returning to school, as employers gradually bring more workers back to site, and amidst changing rules around isolation and testing, we consider it timely to share our recent experience and broaden discussion about COVID and the workplace.

Whilst there are very few things of which we can all be certain at present, we hope this paper will at least stimulate discussion within your workplace or peer groups. We also provide, for your consideration, a recommended series of questions to ask employees who are lodging or considering lodging a claim.

In coming weeks, Lawson and Duddy Shopov will be hosting open discussions over Zoom. This will be a great opportunity to share experience and ideas in relation to a critical community issue. If you would like to participate, please email enquiries@lawsonrisk.com.au or contact Jared Simes on 0455 554 416 or Claire Victory on (08) 8110 5508.

What’s happening?

We are increasingly being asked to advise employers on COVID in the workers’ compensation context; specifically, *what happens if someone lodges a claim asserting that their COVID infection arises from employment?*

Whether a COVID illness is compensable will, of course, depend on the facts and circumstances of the particular case. However, there are measures employers can implement which we expect will serve the dual goals of:

- Minimising the chances of a COVID transmission, or spread, in the workplace
- Putting the employer in the best possible position to establish that the infection did not (on the balance of probabilities) arise in the course of employment.

Minimising the likelihood of workplace COVID spread has an obvious WHS benefit, and positions an employer to establish that, on the balance of probabilities, a worker’s COVID infection was more likely contracted somewhere other than the workplace.





We make recommendations below based on advice and experiences.

According to SA Health, most people with COVID will have mild to moderate symptoms¹ and will recover following a short period of rest. Our experience is showing that many people seeking compensation, or support, with COVID are doing so out of concerns about their immediate financial wellbeing. The interests of both employer and worker may be best served by removing this anxiety and avoiding employees feeling the need to come to work sick, or to lodge a claim for compensation.

1. Workplace health and safety measures

Ensure that your worksites adopt best practice around COVID-safe measures, through ensuring both access to resources and compliance with policies, for employees, contractors and visitors alike. The appropriateness and practicability will depend on the industry and type of workplace but may include:

- Hygiene measures – hand washing facilities, hand sanitiser, disinfectant products, regular cleaning
- Provision and use of PPE including gloves and masks, and Rapid Antigen Tests for employees required to visit high risk locations; also ensuring correct disposal
- Workspace measures – physical distancing, screens and dividers, ventilation, air purifiers
- Keep detailed records of who people worked closely with, every day

Even if you choose not to mandate vaccination within your workforce, you should encourage vaccination amongst your staff and actively promote this, including through measures such as:

- Allowing employees to attend vaccination appointments with no loss of pay
- Making arrangements for appropriate medical staff to attend at the worksite to administer vaccinations and/or booster shots

2. Demonstrate a workplace culture of caution, consideration and support

Not only will this reduce the negative impacts on productivity in the event of a workplace spread; it will demonstrate a positive and supportive culture in the current *Talent War* context.

We recommend actively promoting a culture in which employees do their best to ensure they do not bring COVID to work. Do not just rely on written policies or directives; be practical. Do not condone people coming to work with symptoms. Encourage people to exercise caution when they know or suspect they've been exposed to COVID, even when current rules do not mandate isolation in their circumstances, e.g. staying home when a household member or close contact is suspected of being positive but has not yet received a positive result.

¹ COVID 19 health support (SA Health link)



Actively encourage such caution by being flexible (and even generous) with working arrangements and leave entitlements:

- If someone can work remotely for the relevant period, allow and facilitate it
- Do not be pedantic about leave types; if someone has accrued leave, let them access it, even if it means excusing compliance with the usual leave application and approval processes and timelines
- Consider implementing a system to support workers who do not have accrued leave entitlements: for those who are entitled to leave but currently have a nil balance, consider letting them take leave in advance of accrual; or, for those with no leave entitlements (e.g. casuals), consider introducing some form of special leave for those compelled (by the rules or by good conscience) to stay home due to suspected exposure.

3. Company-wide awareness of and commitment to these measures

Ensure that everyone – Board, management, and workforce – is aware of the standards and expectations in place to prevent workplace COVID spread.

4. Be prepared for claims

Ensure that if a workers' compensation claim is lodged, it can be determined within the 10-day timeframe. Factors which weigh *against a workplace infection* should be clear from implementation of the above measures, and you may find it helpful to prepare a checklist to demonstrate this. Factors which weigh *in favour of a non-workplace infection* should become clear through questioning of the worker – see our suggested questions on the next page.

We look forward to continuing in discussion and hope to see you at an upcoming Zoom chat.



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A guide to questioning an employee upon lodgement of a claim



Below you will find a series of questions and reference points to use as a guide when questioning a worker regarding their lodgement of a claim.

Current health status of worker

Confirm a positive result has been obtained, and ascertain whether this was obtained through a PCR, a RAT or both. If the worker hasn't had a PCR test yet, confirm whether they are willing to go and get one in order to progress their claim. If no – explain that their claim may be rejected. Then run through the following questions:

COVID

- Date of onset of symptoms?
- Date of test?
- Date of result?
- How are you feeling?
- How have your symptoms progressed/improved?
- Do you know where you acquired the infection?
- Can I confirm the last day you worked in the workplace and what time you knocked off?
- Can you confirm you are currently self-isolated?
- Who resides with you in your household?
- Has anyone in your household been diagnosed as positive for COVID?
- Was that diagnosed through a RAT or PCR test (or both)?
- What was the date of their RAT result?
- What was the date of their PCR test?
- What was the date of their PCR result?
- Did anyone in your household experience COVID symptoms before you?



Cases in order (if positive members within household)

- Case 1 (e.g. worker)
- Case 2 (e.g. partner/roommate)
- Case 3 (e.g. eldest child)

SA Health

1. Can you please confirm whether you have been notified by SA Health of being a close contact, and if so, when and where did this close contact occur?
2. What instructions have you been given to follow?

Employment questions (if relevant)

1. Do you have a second job?
2. If yes, how many days per week, hours per day do you work?
3. When was your last shift with this employer?

Additional questions

1. What locations have you been to in the last 7 days?
2. To the best of your knowledge could you please confirm that the information you have provided today is true, and correct?
3. Is there anything else you'd like us to know?
4. Can you please send through a copy of your positive PCR result to me ASAP?



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