BUDDLE FINDLAY

Managing health and safety in the post Covid workplace

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It has been over two months since community transmission of Covid-19 was last detected in the country. However, it is important to avoid complacency; overall global cases are still rising, and New Zealand continues to detect new cases in managed isolation from those returning from overseas. With a vaccine potentially years away, there is always a risk of a further outbreak of Covid-19 in New Zealand, and a return to more restrictive Alert Levels.

It is a good time for employers to draw on lessons learnt from recent experience with the lockdown. Taking the time to prepare and develop your policies and practices now will help to ensure your employees and work environment are safely managed and to ensure you meet your legal obligations at any alert level.

General considerations

Under the Health and Safety at Work Act 2015 (the Act) an employer is a person conducting a business or undertaking (PCBU) and has a primary duty of care to ensure, so far as is reasonably practicable, the health and safety of workers and others in the workplace or affected by its work. PCBUs must take 'reasonably practicable' steps to protect workers and others from infectious diseases which may spread in the workplace or whilst workers are carrying out their duties.

We suggest taking the following general steps to update your health and safety practices:

- **Keep up to date with official guidance:** Official guidance can change frequently. It is important that you review your policies and control measures in light of updated guidance from the Government. The WorkSafe website is a particularly useful source of information

- **Review operations:** Carry out an assessment of how you operated at alert levels 2 to 4 from a health and safety perspective. Seek input from various sources. Consider what worked well, and what didn't, and identify any specific issues. Consider how any problems may be addressed going forward

- **Identify your vulnerable workers:** Identify and keep a register of your high risk/vulnerable workers. Consider whether they should, for example, work from home more frequently than other staff or at certain alert levels. You may be able to offer increased support such as parking space to make it easier for them to avoid public transport

- **Review and implement changes to policies:** Consider implementing amendments to your policies to cover contact tracing, taking of sick leave, reporting of symptoms and reporting on Covid testing results. Make sure employees know where and how to access policies and information. Provide training sessions and communicate any changes to policies

- **Sick leave:** Review your policy on sick leave and consider increasing paid sick leave above the statutory minimum of 5 days or introducing other flexible leave options. This will help to ensure that employees who are unwell are not coming to the office due to financial worries or pressure

- **Keep records:** PCBUs should keep records of any measures they have taken to keep employees safe and reduce risk, and reasons for doing so. This should include measures which were considered but dismissed and the reasons why. In case of an incident, PCBUs may be subject to an investigation (eg by WorkSafe) and having a clear record of actions taken and why will assist with this

- **Insurance policies:** Review your insurance policies or consider taking out further insurance. Fines under the Act remain uninsurable, but policies can cover investigation costs and defence costs in case of a prosecution

- **Co-operation with other PCBUs:** Consider how you'll work with other PCBUs that you may have overlapping duties with. You need to plan for worker safety when staff visit other premises as part of their role. Consider how you will manage shared spaces like stairwells, lifts, and foyers.

In the office

- **Contact tracing:** Review how you keep track of visitors to the workplace, and the check-in process for visitors. Do you keep a

record of everyone who enters the workplace (eg couriers) and how long are records kept for? Similarly, review how you keep track of where employees go if you work in a large building. Consider initiatives such as requiring employees to swipe their individual cards at every access point, rather than following someone through a door

- **Physical distancing:** Consider dividing your workplace into areas or zones and how you might limit movement between them in case of a return to a higher alert level. If you can keep track of or limit employees' movements this can help manage situations of a worker testing positive or displaying symptoms. Have a plan of where people will sit if physical distancing in the office has to be implemented again. Update it regularly as personnel changes with new joiners, or people leaving

- **Reporting:** Consider a dedicated email address, which workers can use to report any health and safety issues on the ground

- **Cleaning:** Review your cleaning procedures and work with facilities management, or contractors to consider any updates or changes to normal practices, depending on the alert level. For example, you may wish to introduce more regular cleaning of frequently touched surfaces such as door handles or lift buttons or consider more regular cleaning of things that are traditionally not cleaned very often such as air conditioning units

- **Supply of cleaning products, soap, and sanitizer:** When Covid-19 started to emerge as a global issue, there was a world-wide shortage of products such as hand sanitizer. Work with your suppliers or facilities team to consider how you'll make sure you have ongoing supplies of essential cleaning and hygiene products.

Working from home

The lockdown acted as a catalyst for many employers to introduce either informal or formal flexible working arrangements. A workplace is defined very broadly in the Act as being a place where work is being carried out, or is customarily carried out, and includes any place where a worker goes, or is likely to be, while at work. An employee's home can be classed as a 'workplace' and accordingly you will still owe a duty to your workers to ensure their health and safety whilst they work at home.

If your workplace is considering flexible working arrangements, then we suggest taking the following steps:

- **Review:** Undertake an initial review of employee's experience working from home. Consider what worked well for them and what didn't, for example whether they needed any additional equipment

- **Flexible working policy:** Formulate a specific policy on flexible working arrangements. This should contain guidelines on the circumstances when flexibility is allowed, the application process and the parties' respective health and safety obligations when a worker is working from home. The policy can also include the need for regular breaks; responsibility for having a working space that is safe and ergonomically sound; and who the employee should contact if they have any concerns about their health or wellbeing at home

- **Performance management:** Revision of performance management and performance evaluation will be needed to adapt to new ways of working and monitoring staff. Set clear expectations for staff as to how you envisage remote working will look and how you will monitor their performance

- **Equipment:** Have a register recording what equipment people have at home, and what they can take home from the office if there is a further return to remote working. Employees should be clearly told what equipment can be removed from the workplace.

- **Electrical safety:** Electrical equipment should be safe and well maintained. Test and tag electrical appliances that employees will be taking home to check the equipment is safe

- **Mental health:** During lockdown and extended periods of working from home, feelings of isolation are common and can impact on workers' general wellbeing and mental health. Be aware of these issues and consider initiatives you might be able to put in place to combat any increased risks to mental health. These could include regular zoom meetings and newsletters to make people feel connected.

Employers will be judged in the future on how they responded to the challenges posed by Covid-19. It is worth taking the time to consider what changes can be implemented in your workplace as a result of the lockdown. Prioritising the health and wellbeing of your staff and providing them with a healthy environment will help position your business for post Covid recovery.

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