

C-19

"LIVING WITH COVID" - WHAT DOES THIS MEAN FOR EMPLOYERS?

February 2022

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On 21 February 2022, the government announced plans to lift the final COVID-19 pandemic restrictions imposed in England. It also unveiled its [Living with Covid strategy](#) (the “strategy”), detailing how England will move into a new phase of managing COVID-19.

This briefing summarises the implications of the strategy for employers.

1. **Freedom Day...again?** 19 July 2021 was the first so-called ‘Freedom Day’, when the government removed most COVID-19 restrictions in England. Changes come into effect in stages between 24 February and 1 April 2022. **In common with the first Freedom Day, the strategy once again shifts the onus from government to employers and individuals to determine how best to manage the risk of COVID-19 in the workplace.**
2. **Self-isolation:** From 24 February 2022, the government will remove the legal requirement to self-isolate following a positive COVID-19 test. This will be replaced by guidance which broadly follows the current legal regime: if an individual tests positive, they will be advised to self-isolate for at least five days, until they have no symptoms and two consecutive negative lateral flow tests. There will be specific guidance for staff in particularly vulnerable services, such as adult social care, healthcare, and prisons and places of detention. The requirement for unvaccinated close contacts of COVID cases to self-isolate will also be removed from 24 February. **Employers should consider whether they will continue to ask employees to self-isolate when they test positive for COVID-19, despite the legal requirement ending.**
3. **Worker notifications:** From 24 February 2022, workers will no longer be legally obliged to tell their employers when they are required to self-isolate. The strategy makes no mention of the corresponding provision which prohibits an employer from knowingly allowing a self-isolating worker to attend any place (except the place where they are required to self-isolate) for any purpose connected to the worker’s employment. However, since this prohibition is contained in the same regulations as the notification requirement, it is assumed that the employer prohibition will be lifted on the same date. **Employers should however confirm the position before changing their policies on self-isolation, and should consider whether they will continue asking workers to inform them when they are self-isolating due to COVID-19.**

4. **Sick pay and support payments:** From 24 March 2022, the COVID-19 provisions within Statutory Sick Pay (SSP) and Employment and Support Allowance regulations will end. That means that people will no longer be eligible for SSP simply because they test positive for COVID-19. Symptomatic people with COVID-19 may still be eligible for SSP, subject to the normal conditions of entitlement. The payment of SSP from day 1 of absence due to COVID-19 will also end, meaning that (as for other types of absence) SSP will only be payable from the fourth day of absence. The government will also withdraw the COVID-19 self-isolation support payments from 24 February 2022, although people who were instructed to self-isolate before this date will still be able to claim support payments within the next 42 days. **Employers will need to review their sickness absence policies in light of these changes, and consider whether they wish to continue paying sick pay to all those who test positive for COVID-19 (if they cannot work from home), regardless of their symptoms or SSP entitlement.**
5. **COVID-19 testing:** From 1 April 2022, the Government will no longer provide free universal symptomatic and asymptomatic testing for the general public in England. Limited free symptomatic testing will remain available for a small number of at-risk groups, and to social care staff. **Employers should consider whether they wish to start (or continue) purchasing lateral flow tests on the private market, in order to support their workforce to undertake COVID tests.**
6. **Contact tracing:** From 24 February 2022, routine NHS contact tracing will end. Contacts of people who test positive for COVID-19 will no longer be required to self-isolate or advised to take daily tests. Instead, guidance will set out precautions that contacts can take to reduce risk to themselves and other people. **Employers who have set up their own contact tracing programmes will need to consider if there is still a need (or perhaps now a greater need) for these programmes to continue, in light of the new guidance (when it is published).**
7. **COVID-status certification:** From 1 April 2022, the government will remove the current guidance on domestic voluntary COVID-status certification, and will no longer recommend that certain venues use the NHS COVID Pass. The NHS COVID Pass will remain available within the NHS App for a limited period, to support the use of certification in other parts of the UK. The NHS App will continue to allow individuals access to their vaccination status for international travel, as well as their recovery status for travel to those overseas destinations that recognise it. **Employers who have made use of COVID-status certification will need to consider what alternative measures they may wish to adopt when it is removed.**
8. **International travel:** The current (significantly reduced) travel restrictions in the UK are due to expire on 16 May 2022. The government will review these before Easter and ahead of their expiry date. **Employers with staff who travel internationally for work will need to keep abreast of these changes, as well as the restrictions imposed by other countries.**
9. **Clinically vulnerable individuals:** The majority of people previously considered clinically extremely vulnerable are now advised to follow the same general guidance as everyone else as a result of the protection they have received from vaccination. There will continue to be specific guidance for those whose immune system means they are at higher risk of serious illness from COVID-19 despite vaccination. Employers should continue to consider the needs of employees at greater risk from COVID-19, including those whose immune system means they are at higher risk of serious illness from COVID-19. **Employers must continue to consider their duty to protect the health and safety of these individuals in the workplace,**

and whether additional measures are needed in light of the other changes being made by the strategy.

10. **Risk assessments:** From 1 April 2022, the government will remove the health and safety requirement for every employer to explicitly consider COVID-19 in their risk assessments (other than for employers that specifically work with COVID-19, such as laboratories). The intention is to empower businesses to take responsibility for implementing mitigations that are appropriate for their circumstances. Employers would nonetheless be well advised to continue including COVID-19 in their risk assessments at this stage, to ensure they are applying adequate measures to protect the health and safety of their workforce.
11. **End of 'Working Safely' guidance:** From 1 April 2022, the government will replace the existing set of 'Working Safely' guidance with new public health guidance. The government will consult with employers and businesses to ensure guidance continues to support them to manage the risk of COVID-19 in workplaces. Employers will be aware that the working safely guidance did not change their legal duties to protect the health and safety of their employees. They should therefore continue to consider what workplace measures are appropriate and necessary to comply with that duty, despite the withdrawal of the guidance. For instance, the strategy specifically suggests that employers and businesses should continue identifying poorly ventilated spaces and take steps to improve fresh air flow. Given the other changes made by the strategy, it may be that employers need to take greater steps than currently, to ensure they are complying with their health and safety obligations. That could for example include continuing social distancing and mask wearing in the workplace.
12. **COVID vaccinations:** Further vaccinations (boosters) may be recommended for people who are most vulnerable to COVID-19 this autumn and, ahead of that, a spring booster for groups considered to be at particularly high risk. The government will also continue to support the NHS in delivering vaccines to those who have yet to take up their initial vaccine offer, particularly in areas with lower rates of uptake. Also from April 2022, all 5 to 11 year olds will be able to come forward for a course of COVID-19 vaccine (2 doses, 12 weeks apart). Employers will therefore need to maintain (or implement, if they do not already have one) a policy on COVID vaccinations, covering for instance time off to get vaccinated and cope with any side effects. This may need to include vaccination for children of workers, as well as workers themselves.
13. **Long COVID:** the strategy makes little mention of long COVID, other than to confirm that the NHS will continue to support patients with long COVID, through specialist services which have been established throughout England. Employers should nonetheless be aware that long COVID is likely to affect members of their workforce for some time to come. The Chartered Institute of Personnel and Development (CIPD) recently published a [warning](#) that nearly half (46%) of employers have employees who have experienced long COVID in the last 12 months. It is not yet clear whether long COVID may amount to a disability for the purposes of the Equality Act 2010, and employers should proceed with caution and take advice where appropriate.
14. **Looking further ahead:** the strategy makes clear that there is a range of possible futures for the course of the pandemic. All scenarios assume that a more stable position will eventually be reached over several years, but most also foresee a resurgence in infections during autumn/winter 2022-23, of varying degree and severity. The emergence of new

variants will be a significant factor in determining the future path of the virus. Employers should therefore be prepared for some restrictions to be re-imposed intermittently, and to adjust their policies and working patterns accordingly.

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