

Children at home due to Coronavirus – Q&A's for Employers

Following the Governments' announcement last night of a further National lockdown until February 2021, as working parents, many of us find ourselves once again in the difficult position of trying to juggle work with childcare responsibilities and home schooling.

Colleges, primary (reception onwards) and secondary schools will remain open for vulnerable children and the children of critical workers only. All other children will learn remotely until February half term.

Work

The guidance updated on 4th January 2021 states that workers may only leave their home for work if they cannot reasonably work from home.

Where people cannot work from home - including, but not limited to, people who work in critical national infrastructure, construction, or manufacturing - they should continue to travel to their workplace.

Where it is necessary to work in other people's homes - for example, for nannies, cleaners or tradespeople – they are able to do so.

Employers and employees should discuss their working arrangements, and employers should take every possible step to facilitate their employees working from home, including providing suitable IT and equipment to enable remote working.

Childcare

There are several ways that parents and carers can continue to access childcare during the lockdown period:

- Early Years settings (including nurseries and childminders) remain open
- Vulnerable children and children of critical workers can continue to use registered childcare, childminders and other childcare activities (including wraparound care).
- parents are able to form a childcare bubble with one other household for the purposes of informal childcare, where the child is under 14. This is mainly to enable parents to work, and must not be used to enable social contact between adults
- some households will also be able to benefit from being in a support bubble
- nannies will be able to continue to provide services, including in the home



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Vulnerable Children

Vulnerable children and young people include those who:

- a). are assessed as being in need under section 17 of the Children Act 1989, including children and young people who have a child in need plan, a child protection plan or who are a looked-after child
- b). have an education, health and care (EHC) plan
- c). have been identified as otherwise vulnerable by educational providers or local authorities (including children's social care services), and who could therefore benefit from continued full-time attendance, this might include:
 - children and young people on the edge of receiving support from children's social care services or in the process of being referred to children's services
 - adopted children or children on a special guardianship order
 - those at risk of becoming NEET ('not in employment, education or training')
 - those living in temporary accommodation
 - those who are young carers
 - those who may have difficulty engaging with remote education at home (for example due to a lack of devices or quiet space to study)
 - care leavers
 - others at the provider and local authority's discretion including pupils and students who need to attend to receive support or manage risks to their mental health

Critical Workers

Parents who work within the following sectors may be considered critical workers:

Health and social care, Education/childcare, Key public services, Local/National government, Food and other necessary goods, Public safety and national security, Transport/Border, Utilities/communications and financial services.

A more detailed list of those workers who are considered critical can be found by using this link:

<https://www.gov.uk/government/publications/coronavirus-covid-19-maintaining-educational-provision/guidance-for-schools-colleges-and-local-authorities-on-maintaining-educational-provision>

FAQ's

1) What options are available to working parents during this period if they are unable to access childcare?

- Work from home or other short-term flexible working arrangements. One option for people with younger children may be splitting childcare with the other parent so that both parents are able to continue working albeit part-time.

If an employee cannot reasonably work from home:

- Request annual leave;
- Take emergency family leave – an employee may assert their right to time off to care for a dependant. If an employee proceeds with this, their time off is unpaid unless there is a contractual right to pay or an employer exercises its discretion. Where discretion is exercised, employers should ensure that they apply this consistently across their workforce.
- If appropriate, an employer can consider placing an employee on furlough leave with the agreement of the employee. The furlough scheme (Coronavirus Job Retention Scheme) has been extended until 30 April 2021. Employers will continue to pay furloughed staff 80% of their usual wages up to £2,500 per month – or more if that's been agreed with the employee or worker. Employers can furlough those who are temporarily unable to work because they have childcare responsibilities.

2) Can an employer refuse to allow an employee to work from home if they will also be looking after children during the working day?

Under the current lockdown restrictions, workers may only leave their home for work if they cannot reasonably work from home.

Since the outbreak of COVID-19 employers may need to be more pragmatic and communicate its reasonable performance expectations when working from home and balancing childcare responsibilities where necessary.

Where an employees' performance is adversely affected and falls below the expected level, an employer should address this with the employee informally initially to discuss any issues and set realistic targets. If there is no reasonable improvement, employers can explore the other options available set out above such as annual leave or emergency family leave or may consider whether a formal performance process is required in the circumstances.

3) What to do if an employee needs time off work to look after someone:

When necessary, an employee is entitled to take reasonable amount of unpaid time off work to deal with situations which affect their dependants.

This would apply to situation related to coronavirus. Examples include: -

- Employees who have children they need to look after or arrange childcare for because their school has closed;
- Employees who need to help their child or another dependant if they're sick, or need to go into isolation or hospital;

It is discretionary if an employer wishes to pay an employee during this time period however, there is no statutory right to pay an employee for time off.

Another option available is for an employee to request holidays during this period.

4) What steps should an employer consider during this period?

- Talk to your employee about any potential time off that needs to be taken.
- Consider any measures that can be put in place by the employer to assist with employees' mental health and well being.
- Speak to your employee and both plan ahead.
- Try and agree flexible working as opposed to long periods of time off.

Disclaimer

- Please note – this guidance is not intended to be taken as legal advice – for individual situations you will need to take specific legal advice.
- This guidance should be read alongside the government's own guidance.
- The information in this guide is correct as of 5th January 2021.

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