

What is this guide about?

How should a company, institution or organization deal in a healthy and safe way with the consequences of the coronavirus? This is what this guide from VNO-NCW, MKB-Nederland and AWWN will show you. This guide is intended for, among others employers, managers and personnel officers. The guide contains a compilation of advice, tips and guidelines from various organizations and institutions, such as RIVM, the Ministry of Foreign Affairs, sector organizations, health and safety advisory services, the Dutch Data Protection Authority and the European Economic and Social Committee of the European Union in Brussels.

On the RIVM website you will find the most current and complete information. These recommendations, tips and guidelines are mainly about taking hygienic measures, maintaining the business, in- and outbound travel, the role of the company doctor and the general practitioner, working from home etc. The Guide starts with a chapter on the labour law consequences.

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1 Employment law: questions and answers

To what extent can I give my employees instructions about work and corona?

Employees must follow reasonable instructions as to how the work is to be performed and with regard to good order in the company. The employer can therefore instruct employees to comply with hygiene measures within the company. If working from home is customary or possible, the employer can order the employee to work from home for a certain period of time.

In what cases should wages continue to be paid if employees cannot or do not want to appear at work in connection with the virus?

If the employee is ill, be it here or abroad, the normal rules for illness apply. The employee must report sick and adhere to the further procedures that apply to his employer. In principle, the employer will be obliged to continue to pay the salary up to a certain percentage. The fact that the disease is the result of the coronavirus does not change this.

In a number of cases, RIVM has advised that you stay at home in order fully recover and not to infect others. This applies, among other things, to housemates of patients with the coronavirus and to people who have been in areas where the coronavirus is prevalent and who have colds or fever. In those cases there is also continued payment of wages due to illness.

In a number of cases, the employee will not or cannot appear at work due to the virus without illness. For example in the case of quarantine. If the employee does not perform the work, the main rule is still that the employer must continue to pay the wages. This is only different if the reason why the work is not performed lies within the employee's scope of risk. This is normally the case, for example, of late arrival or refusal to work.

There are examples that employees do not want to come to work because they are afraid of being infected by customers or colleagues. If there is no reason to be afraid of this, try to allay this fear. Nevertheless, if employees do not want to come without having permission, this is considered a refusal to work. The

employer can then stop the wage payment. Do warn the employee that this will be the consequence . If the business situation permits, the employee could also take a holiday in such a case.

In some cases, emergency or short-term leave can be taken, for example if the school or childcare closes and the employee has to pick up his child (ren) as a matter of urgency. Possibly also the next day, if the school or daycare remains closed, and the employee cannot find a babysitter in such a short time.

Emergency or short-term leave can only last a few days. No emergency leave can be taken for quarantine, for example, because it is already clear that this will take longer than a few days. Short-term care leave can play a role if the employee has to take care of the necessary care of a person's illness as defined in the Work and Care Act (family members, etc.).

What can I ask my employees in connection with privacy legislation?

The specific situation now is primarily the responsibility of the government, not that of employers. The usual standardization from privacy legislation therefore remains the starting point. Employees who suspect an infection themselves call their GP (not visit) and stay at home (until after medical check-up).

See also 4. The virus and work: questions and answers.

You may ask employees to which area they have been on vacation. You may also ask employees if they have health problems, but employees are not obliged to answer them. That is of course allowed. However, the employer is not allowed to collect and register medical data , including the employee's answer to the question asked. And not even if the employee spontaneously tells you something.

Employers may feel the need to determine whether their employees go to work fever-free at the beginning of their working day to reduce the risk of corona virus contamination at work.

The Dutch Data Protection Authority uses strict conditions to measure the body temperature of employees. The employee can measure his own temperature, but is not obliged to share the result with the employer. Measurement is also possible under the supervision of a company doctor or health and safety nurse working under the company doctor. These are not legally authorized to communicate the result to the employer .

If the employer decides to give employees the opportunity to measure their body temperature, the following applies:

- in a closed space, out of sight of others
- no obligation to communicate the results
- if the result is positive, the employee reports sick
- the employer only registers the sick report and no other data
- the health and safety service takes sick leave supervision.

An employee who is established to be infected is to be denied access, of course, based on the obligation to prevent from health & safety legislation.

Under the current circumstances, can an employer return to commitments, for example to enter into or renew an employment contract?

If there is an unconditional commitment, and the employee has accepted it, this is an (employment) agreement. It is in principle irrelevant whether it concerns a written or an oral promise. In the case of an oral promise, the question may be what exactly has been promised, and whether an agreement has actually been concluded through acceptance. The employer could still appeal to unforeseen circumstances if the company threatens to fall due to the promise being fulfilled. In many cases this will not yet be possible at this stage of the crisis .

Can an employee unilaterally withdraw a set holiday?

Determining and withdrawing holidays is regulated extensively by law. An employer can only withdraw the set holiday if there are serious reasons for doing so. He must then compensate the damage that the employee suffers as a result.

The law does not regulate the employee's withdrawal of a set holiday. Therefore, he cannot unilaterally withdraw an already set holiday. After all, an agreement has been made about taking vacation days. However, a good employer will only reject a request if he has a good reason to do so. For example, because of the crisis, or because he has already provided replacement, there is not enough work available.

Can you oblige employees to take a vacation?

No, you cannot simply do that. The employer may ask, but not enforce. He may only determine the holiday without the employee's consent, if there are agreements on this. But then the employee must have time to prepare his holiday, so telling employees that they are having time off the following week is not possible.

Employers can of course ask their employees to take time off. This also happened a lot during the financial crisis in 2008/2009. Experience then taught that if the situation demands it, many employees are willing to contribute. It is of course also about their employment.

Do I no longer have to call employees with a zero-hour contract in the current crisis?

In general, the employer is obliged to offer on-call workers with a zero-hour contract work if there is work. But if there is no work, then this duty will lapse.

To what extent is the employer obliged to continue to pay a fixed irregularity allowance (ORT) if work is cancelled?

That depends on how this is formulated in the employment conditions scheme or collective labour agreement. Legally speaking, the employer will be obliged to continue to pay the average ORT, measured over a certain period, such as the last 12 months.

I pay a fixed travel allowance to my employees. Can I continue to pay it during a long absence, for example due to compulsory working from home due to the corona crisis?

The method of determining the level of the fixed monthly travel allowance and whether the fixed travel allowance can be paid tax-free in the event of the employee's long-term absence depends on which method was chosen.

Method 1

This method specifies the maximum fiscal space for paying a fixed travel allowance to travel to a fixed workstation with a maximum of 75 kilometres one way. The condition for application of this scheme is that the employee is expected to travel to a permanent place for work on 5 days (or less with part-time employment) in at least 36 weeks. This is the situation for the majority of employers, who additionally cap the number of kilometres for which a fixed travel allowance is paid in the travel expenses scheme to a certain maximum (for example, 50 kilometres one way).

If the employer pays a fixed travel allowance for a single travel distance of more than 75 kilometres, so-called subsequent calculation is mandatory. At the subsequent calculation, the employer will determine whether the fixed, untaxed travel allowance corresponds to the actual number of commuting kilometres in the calendar year times the kilometre allowance of a maximum of € 0.19 per kilometre.

Method 2

In method 2, the employee does not always travel to a fixed place. In that case, the fixed, untaxed travel allowance may be based on 214 travel days per year if the employee travels to the fixed workplace on at least 128 days per calendar year. Here too, the fixed travel allowance is based on a maximum of € 0.19 per kilometre. Under this scheme, the employee can work from home for up to 2 days a week (with full-time employment) while retaining the tax-free travel allowance. In the event of a long absence, it has to be determined whether the employee has travelled to the fixed workplace for at least 128 days on an annual basis. If the 128-day test is not met, the employer can reimburse a maximum of € 0.19 per actually travelled commuting distance.

What are the consequences of the tightened measures of March 23 regarding the gathering of groups on my business operations?

The measures that relate to meetings of groups of three people (m / f) or more mainly concern the outdoor area. This is essentially a form of a ban on gathering together.

In principle, this limitation does not apply to work-related gatherings such as meetings. It goes without saying that these (physical) meetings should be prevented as much as possible and where they do occur, that the usual guidelines regarding safety and hygiene are observed. This is more nuanced for companies with crucial professions, since it is not always possible there to keep the distance directive. See also 5. Business continuity plan.

Do employees also have to keep a distance of 1.5 meters in the workplace?

The government and RIVM advise people to keep a 1.5 meters distance. That advice therefore also applies to the workplace. The distance of 1.5 meters is intended to protect the employee and others against coronavirus infection. See also 5. Business continuity plan.

2 Facts about the virus: questions and answers

What are the symptoms of the new coronavirus?

Common complaints are:

- Fever
- Respiratory complaints such as coughing
- Cold
- Sneezing
- Shortness of breath

When should employees stay at home?

Employees may not come to the workplace at:

- Nose cold
- Runny nose
- Sneezing
- Sore throat
- Slight cough
- High temperature (up to 38 degrees)

If someone has a cold with a fever, everyone in the household should stay at home. Employees in a vital profession who do not have these complaints are excluded.

When do you call the doctor?

Call the doctor if the symptoms get worse:

- You have a fever (over 38 degrees Celsius) and you cough or have trouble breathing
- You are older than 70 years with a chronic illness or less resistance AND you get a fever

If you have serious complaints, you must immediately contact the doctor by telephone .

How contagious is the virus?

The disease is transmitted from person to person. The virus comes out of the nose, throat or lungs through coughing and sneezing. The virus enters the air through small droplets. These droplets do not remain in the air for a short time but descend quickly. It is currently assumed that one sick person can infect two other people on average. The sicker a person is, the more he spreads the virus.

Can the new corona virus spread via money and parcel post ?

The chance of people becoming infected through money and goods is very small. Parcels from China and other contaminated areas are on the road for a few days. Any new coronavirus will not survive. So it is simply safe to order packages from China. Because the new corona virus can be transmitted through dirty hands, regularly washing ones hands is a good measure to prevent spreading..

How quickly can you heal after an infection?

This depends on the severity of the complaints. People with mild complaints often heal after a few days. People who are hospitalized generally take longer to recover, sometimes weeks.

3 Checklist for risk management - points for attention

This checklist can assist in risk management:

- Consult the RIVM website regularly: www.rivm.nl
- Consult the website of your own trade association. It may also contain instructions and guidelines
- Take hygienic measures and if you want to use face masks, use them correctly
- Employees have the name, telephone number and possibly e-mail address of their GP's available
- It is known when employees have been in a contaminated area
- Draw up a business emergency plan including vital parts
- Draw up a business continuity plan tailored to the company
- Familiarize yourself with the symptoms of the coronavirus so that you can recognize them
- Postpone outbound trips to contaminated area, consult the website of the Ministry of Foreign Affairs for an overview of areas
- Be alert for symptoms during inbound travel.

How you could develop this checklist is detailed in the following chapters.

4 The virus and work: Questions and answers

How do I keep my company / organization running?

It is important to avoid essential work being halted due to absenteeism due to the coronavirus. Therefore, prepare an emergency plan in time. Identify the vital parts of your company, which work really needs to be carried out and which people are involved. Make sure there is sufficient replacement. Also look at activities that can be pushed forward and the possibilities for working from home. In addition, take adequate hygiene measures. See also the text under business continuity plan, elsewhere in this Guide.

Can the employer test the employee for corona or measure his temperature?

An employer is not allowed to process medical data of his staff and therefore cannot ask about their health or take a test for verification. This is regulated in the privacy law, the General Data Protection Regulation (GDPR). The employer may, however, have a (company) doctor or an occupational health nurse working under the supervision of the company doctor test his employee. The employee may also test himself, but is not obliged to share the result. See also 2. Employment law: questions and answers.

Is it useful to measure the temperature of the employee?

Employers may feel the need to determine whether their employees are working fever-free to minimize the risk of infecting others with the corona virus at work. However, the body temperature does not provide absolute certainty about whether or not it is infected with the coronavirus. In practice, various situations arise. The employee, who has cycled, walked or exerted himself for half an hour, may perspire as a result, but that is not an indication of fever. Conversely, an employee who has just come out of the cold outside air can have a cool forehead and a fever. Furthermore, employees can also be infected without having a fever.

What is the role of the company doctor?

The company doctor mainly has an advisory role. He can advise on (company-specific) preventive measures to prevent contamination and appropriate measures should one of the employees become infected. All this, of course, in

coordination with the national guidelines on this matter from the government. Determination of an infection with corona is a task of the general practitioner, in consultation with the GGD.

Should people returning from a contaminated area be temporarily banned from work?

According to RIVM, it is not necessary to keep employees who have been in contaminated areas away from the workplace as long as they do not have any health complaints. For preventive reasons, it is recommended that someone work from home for the first two weeks after returning.

What to do if an employee suspects that he has been infected during work?

An employee who suspects he is infected goes home and has to contact the doctor by telephone. Do not take further measures before the GP and GGD have made a diagnosis. Do inform the company doctor.

What if my employee has a cold?

Does an employee have cold or flu symptoms? In that case, you may send this employee home - under the special circumstances of the corona crisis.

Does it make sense to wear a mask to protect against the virus?

No. In the Netherlands, face masks are only recommended for medical / nursing staff. People who work with (possibly) infected people use professional face masks. These face masks only help if you use them correctly; they should close very well over nose and mouth, and you should change them regularly. The simple (paper) ones do not protect the carrier against the virus. Incorrect use of the face masks gives a false sense of security.

I want to visit an event. Do I need to take precautions?

When events are allowed again: it is important to observe the preventive measure of 1.5 meters and follow the standard hygiene measures that apply to all viruses that can cause flu and colds.

Travel

Many countries are taking drastic measures to prevent the further spread of the coronavirus and have closed borders or are in lockdown. Look at the [Netherlands Worldwide](#) for questions about the current situation in a country.

5 Business continuity plan

With the business continuity plan, a company or organization prepares for the (possible) consequences of the new coronavirus. Based on the business continuity plan, the employer draws up his own action plan.

Central crisis team

Start by appointing a central crisis team within the organization that draws up a business continuity plan, then draws up an action plan and carries out the resulting actions to be taken. The names, telephone numbers and email addresses of this team must be clearly communicated to all concerned and employees.

Risk profile

Critical processes

Make an inventory of the critical processes within the organization. Make a distinction between processes that should not fall out, processes that are allowed to fail short-term (about two weeks) and processes that are allowed to fail for a longer period of time (about three months). Argument choices made. **Appendix 1** contains a format for this inventory in the [Employer Advice Coronavirus](#) of Human Capital Care .

Critical support processes

The critical processes often depend on supporting processes (see above format). Continuity must also be guaranteed. Think for example of:

- ICT: availability of hardware and software, stability of the network when working at home on a large scale
- Facilities: use of extra hygiene products and cleaning to prevent contamination
- HR: extra focus on health and absenteeism policy.

Vulnerabilities / dependencies

Bottlenecks can arise due to the loss of personnel, knowledge and information, means of communication, ICT and other business resources. This also includes suppliers who may have run out of stock or a lack of (semi) manufactured products due to the suspension of transport. An inventory can be made of the

vulnerabilities / dependencies within the organization using the format in **Appendix 2** of the aforementioned Employer Advice.

Some examples:

- HR: dependence on employment agencies.
- ICT / Facilities: shortages at suppliers, restrictions in the transport of goods.

Resilience measures

Make an inventory of the resilience measures that guarantee continuity, both of the critical and of the supporting processes. See the format in **appendix 3** of the Employer Advice.

Not all resilience measures are feasible in the short term. It is therefore advisable to make an action plan in addition to the business continuity plan in order to realize these measures in the long term. It is advisable to test and / or practice the action plan.

Possible resilience schemes are:

- assignment of responsibility
- replacement / mandate
- broad employability / job rotation
- flex pool formation
- recording basic and urgent procedures
- alternative forms of consultation
- contract management (third party guarantees)
- shared use of facilities and
- alternative options (working from home).

Care measures

In addition to measures to keep the organization running, also consider whether measures should be taken aimed at caring for the employees. For the time being, the same regular measures apply to vulnerable workers (such as those with a chronic condition and or pregnant women).

Personnel policy

In the area of personnel policy, the following measures can be taken:

- Check with the company doctor or health and safety service whether sufficient precautionary measures have been taken.
- If an employee has a fever (38 degrees or more), he must go home immediately.

- If an employee shows symptoms and has been in a risk area and has had contact with a corona patient, he must go home, avoid contact with others and contact his own doctor immediately by telephone.
- If an employee has to take care of the sick or loved ones, point to the special forms of leave (care leave, emergency leave).

Personnel traveling abroad

It is recommended to travel as little as possible, and certainly not to risk areas. Check the current travel information from, for example, RIVM, the Ministry of Foreign Affairs and the [National Coordination Center for Travelers Advice](#). Also note that developments often anticipate official reporting.

If an employee returns from a risk area without symptoms, the advice is to have him / her work from home for fourteen days after returning home. Keep in touch with workers who have visited or visit risk areas. Travelers must take extra care on site to ensure good hygiene. NB: these are not (sufficiently) available everywhere in the world! Also take into account insufficient availability of medical facilities in another country due to congested or underdeveloped healthcare. Check whether it is necessary to recall employees.

Hygiene

Observe the hygiene rules of RIVM, such as washing hands regularly with soap and water, drying with paper towels and regularly using alcohol-based disinfectant hand gel. Cough and sneeze into the inside of the elbow, use paper tissues or tissues and use only once. Avoid touching the eyes, nose and mouth as much as possible. Display announcements at the entrance, lunch rooms and toilets. Wearing face masks is not protective, except in specific cases (such as for the sick or medical personnel).

A safe workplace

Make sure there is enough hand soap, disinfectant gel and tissues available. Clean several times a day with regular cleaning products: counters, door handles, light knobs, stair railings, keyboards, computer mice, telephones, taps, soap holders, sinks and toilets. By introducing 'greetings without contact', shaking hands and other direct contact between people are avoided and the risk of hand transmission is significantly reduced. Also make this policy clearly known. Pay attention to washing dishes and cutlery with soap and water. Preferably at a high temperature in the dishwasher. Provide good ventilation. The

coronavirus can not be spread through air conditioning, as the drops can only span two meters and are too heavy to be absorbed by the air conditioning.

Social distancing

By keeping a distance of 1.5 meters at a minimum, the risk of contamination and further spread as a result of sneezing and coughing can be limited. Therefore, organize the work in such a way that employees work 1.5 meters away from each other or customers, suppliers and / or visitors. This is always custom work.

Focus areas:

- Have employees work from home as much as possible
- Preferably use conference calls or video conferencing
- Limit physical meetings in terms of time, frequency and number of participants or provide a space in which participants can keep a safe distance from each other.
- Spread employees upon entering and leaving the workplace
- Avoid crowds in the staff restaurant with flexible lunch times and arrange the space in such a way that employees can keep their distance from each other
- Protect cash register and counter employees with, for example, plexiglass plates between employee and customer, visitor or supplier
- Avoid contact with persons with proven contamination; employees and visitors to the workplace who are again sick
- Implement 'touch-free greetings', including no shaking hands or other direct contact
- Use the elevator with a maximum of two people at the same time or avoid elevators entirely and encourage stair climbing
- Avoid large groups of people
- Communicate the above measures to employees, customers, suppliers and visitors. Also make sure that people adhere to this and address each other accordingly
- Use protocols, if they exist. For example, the [Responsible Shopping](#) protocol .

Continuity management

Organization

In addition to the crisis team, continuity management is essential. Therefore, divide the responsibilities of the organization to be able to quickly prioritize and respond quickly. The names, phone numbers and email addresses of key figures should be clearly communicated to all stakeholders and employees.

Communication

In addition to good preparation, also provide information to employees and, if necessary, customers, suppliers and visitors. Provide information about the measures taken in the context of the coronavirus, about guidelines for sick leave and special leave and about bridging employment (if applicable). Consider setting up a central communication point for the different target groups.

Colophon

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www.vno-ncw.nl

www.mkb.nl

www.awvn.nl

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