

COVID-19 in Canada: Key Questions for Employers to Consider

Article By:

John Illingworth

As of March 3, 2020, the Canadian government has confirmed 33 cases of the coronavirus (COVID-19) across the country: 20 cases in Ontario, 12 in British Columbia, and one in Quebec. The Public Health Agency of Canada (PHAC) continues to assess the public health risk as low. Nevertheless, Canadian employers may want to ensure that the risk of exposure in the workplace is minimized. Here are some key questions for employers to consider.

1. Are employees anxious about workplace exposure?

Employers may want to let their employees know that they are monitoring the situation. In addition, employers can provide employees with updates as appropriate. The federal government and several provinces, such as [Canada](#), [British Columbia](#), [Ontario](#), and [Quebec](#), have posted awareness resources and updates on their webpages:

Employers may also want to remind their workers (for example, via email or postings in common areas) of the simple steps they can take to minimize risk, including the following:

- If you have flu- or cold-like symptoms, please stay at home.
- Reduce your exposure to crowded places.
- Cover your mouth and nose with a tissue or your sleeve when coughing or sneezing (not with your hands).
- Wash your hands often for at least 20 seconds with soap and water, or use a hand sanitizer (alcohol based) if soap and water are not available.
- Clean surfaces and objects that are frequently touched.

Some individuals may express a desire to wear a mask at work. However, the PHAC does not recommend that healthy individuals, or individuals who have not travelled to a COVID-19–affected area, wear masks.

2. Do employees travel for work?

Currently, individuals who have returned from the Hubei province in China (including the city of Wuhan), or Iran, are being asked to contact their local public health unit within 24 hours and to self-isolate by staying at home for 14 days. For individuals returning from other areas (such as Italy, South Korea, and Japan) under a travel health advisory, the PHAC has asked that they monitor their health for fever, cough, and difficulty breathing for 14 days after returning to Canada. Employers may want to share this information with any employees who travel.

Some employers have considered imposing a quarantine on employees who have traveled to affected areas. This may be prudent when such employees are exhibiting signs of fever, coughing, and/or difficulty breathing. However, before implementing any broader protocol, employers may want to consider whether such a plan could be discriminatory: the Ontario Human Rights Commission, for example, has already issued a statement cautioning that discriminatory action “against any persons or communities because of an association with the novel coronavirus (COVID-19), perceived or otherwise, is prohibited by the Ontario *Human Rights Code*.” Employers may also need to decide whether any mandated time away from work will be paid.

Employers may also want to consider alternative steps to mitigate the risks of travel, which include the following:

- Restrict business travel to affected areas.
- Use videoconferencing where possible instead of meeting in person.
- Limit the number of visitors to the workplace.
- Advise employees to avoid crowded places; contact with animals (dead or alive); and high-risk areas such as farms, live-animal markets, and areas where animals may be slaughtered.
- Permit employees to work remotely upon initial return from business travel, if appropriate.

3. What if an employee is exhibiting flu- or cold-like symptoms?

It may be prudent to encourage employees who are sick to stay at home. Under the *Employment Insurance Act* and its regulations, employees placed under medical quarantine due to COVID-19 may be eligible for employment insurance sick benefits. Therefore, employers may want to review their current sick leave policies as well as the statutory leave entitlements provided by the applicable employment or labour standards legislation (in addition to personal leave, employees may also be eligible for statutory leave to care for a family member). Employers may also want to ensure their employees are aware of any benefits or entitlements that are in place to assist them if they need to be off work.

4. What if an employee refuses to work?

In all Canadian jurisdictions, an employee may refuse to work if he or she has reasonable cause to believe that there is a danger to his or her health and well-being in the workplace. If such a situation exists, employers are required by law to immediately investigate it and attempt to resolve it with the

employee. In the event that the situation cannot be remedied, the employer must notify the relevant inspector or officer as dictated by applicable employment or labour standards legislation or collective agreement (if any).

Employers are prohibited from sanctioning or otherwise penalizing an employee for reasonably exercising his or her right to refuse to work. In some cases, employers may find alternative work for an employee who has exercised his or her right to refuse work while awaiting the resolution to a problem.

While the legitimacy of a work refusal is determined on a case-by-case basis, it is currently unlikely (in most workplaces) that a work refusal would be upheld by an investigative authority. Nevertheless, a work refusal made in good faith must be taken seriously, and employers may want to use proper investigative procedures to ensure compliance with applicable regulations. Hopefully, with good communication and prudent precautionary measures, Canadian employers will continue to maintain safe and healthy workplaces.

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