

# COVID-19 Ireland Update: Revised Work Safely Protocol for Employers and Workers in Ireland

Against a backdrop of almost 92% of adults fully vaccinated in Ireland, the Irish Government has published the revised version of the Work Safely Protocol – COVID-19 National Protocol for Employers and Workers<sup>1</sup> (the "Protocol"). The Protocol was published ahead of the phased and staggered return to the workplace commencing this week in line with the Irish Government's 'Reframing the Challenge: Continuing our Recovery and Reconnecting' guidance roadmap<sup>2</sup>. We look at the highlights for employers in Ireland.

## Attendance at the Workplace

There is no longer a blanket directive to work from home. Attendance at the workplace recommences in Ireland this week for "specific business requirements" provided that it is on a "phased and staggered basis". The return to workplaces must take be conducted in a cautious and careful manner taking into account:

- Appropriate attendance levels;
- The use of staggered arrangements (non-fulltime attendance and flexible working hours); and
- That attendance initially is prioritised for specific business requirements.

## Keep Your Distance – Preventative and Control Measures Remain in Place for Now

The guidance remains largely the same in respect of the preventative and control measures in the workplace. The Protocol states that the following measures should remain in place:

- Physical distancing (two metres);
- Hand and respiratory hygiene;
- Face coverings / masks in common areas;
- Adequate and increased ventilation which is monitored; and
- Working from home where possible to facilitate the gradual and phased return of others.

## Employers Cannot Insist on Knowing Workers' Vaccination Status

The Protocol acknowledges that vaccination is a preventative measure but it is expressed to be a "useful supplement to existing prevention and control measures". The emphasis remains, for now, on adherence to the existing preventative and control measures because of the risk of transmission and infection among the vaccinated population.

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<sup>1</sup> <https://www.gov.ie/en/publication/22829a-return-to-work-safely-protocol/#>

<sup>2</sup> <https://www.gov.ie/en/publication/3361b-public-health-updates/>

Helpful advice from the Irish Data Protection Commission<sup>3</sup> explains that employers in the majority of situations will struggle to justify requesting or processing personal data relating to vaccination status.

The Protocol recognises that the decision to accept a vaccination or not is voluntary. An employer should provide information to employees in respect of the COVID-19 vaccination programme but the emphasis remains on existing preventative and control measures rather than using vaccination status as a single risk assessment tool. Where vaccination status is known and the data is accurate, that can be used to inform the employer's risk assessment.

## **Maintain the Appointment of the Lead Worker Representative**

Employers must appoint at least one Lead Worker Representative who assists with the implementation of, and monitors adherence to the Protocol within the workplace.

Employees can engage with their employer through the Lead Worker or other representative in relation to concerns in the workplace. Failing that, if concerns continue with respect to the implementation of the Protocol within a workplace, an employee may raise these concerns with the Workplace Contact Unit of the Health and Safety Authority ("HSA"). The HSA will review all complaints and will follow up as appropriate.

## **Communicate Now with Employees**

The additional categories of information which should be provided by employers to their employees include:

- Confirmation that risk assessments have been carried out on every workspace / communal area and that the results of risk assessments have been provided to staff in a clear and understandable manner;

- Confirmation that CO2 monitors have been provided in rooms where the risk assessments advise that they should be placed / installed;
- Where physical distancing is not possible, confirmation that other mitigation measures apply and details of those measures; and
- Information in respect of the COVID-19 vaccination programme.

## **Brief round-up – what else is new?**

- The previous advice that business trips and face-to-face interactions should be reduced to the absolute minimum has been updated and the Protocol now notes that these activities should be "limited to those that are necessary".
- The Protocol now expressly acknowledges that if a close contact has been fully vaccinated and is asymptomatic, they may not need to restrict their movements.
- The Protocol also reiterates that the Irish Government has called on employers, in consultation with their employees, to start to develop and finalise their long-term arrangements for blended or remote working having regard to their operational requirements and in-line with public health advice.

## **What steps do employers need to take?**

- Ensure that employees are provided with all relevant information including details of risk assessments and information in respect of the COVID-19 vaccination programme;
- Retain all current preventative and control measures such as physical distancing and face coverings where appropriate, and ensure that the workplace risk assessment is updated to reflect the latest revisions to the Protocol;

<sup>3</sup> <https://www.dataprotection.ie/en/dpc-guidance/processing-covid-19-vaccination-data-context-employment>

- Consider how many employees can return to the workplace while adhering to the physical distancing requirements;
- Avoid utilising vaccination status as a preventative and control measure in the workplace;
- Ensure that employees are aware of who their Lead Worker Representatives are in case of concerns arising in respect of health and safety in the workplace.

For further information, please reach out to your usual Maples Group contact or any of the persons listed below.

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