



Coronavirus: legal advice for GP surgeries

Property

When must we be open?

Opening hours can be altered by NHS England to include days you would normally be closed, such as bank holidays. You may have already worked the Easter bank holidays and it is likely that you will have to remain open for the May bank holidays.

We need more space. Can we expand?

On 9 April new temporary permitted development rights were given to local authorities and health service bodies which enable them to carry out emergency development on land owned, leased, occupied or maintained by them. [Read more here.](#)

We've let part of our surgery. What happens if our tenant cannot pay their rent?

As part of the government's emergency legislation for COVID-19, new protections were brought in on 26 March 2020 to protect business tenants being evicted from their business premises due to non-payment of rent to their landlord.

Currently, forfeiture under a relevant business tenancy for non-payment of rent may not be enforced until 30 June 2020, and there is provision for this period to be extended.

Employment

Our staffing needs have changed. Are we able to furlough staff?

Potentially, but guidance from HMRC

indicates that where employers receive public funding for staff cost, and that funding is continuing, employers should use that money to continue to pay their employees in the usual way and therefore not furlough them. [Read more here.](#)

We need our staff here. Can we require them to cancel their booked holiday?

Yes, you can require employees to cancel their previously approved holiday by giving them at least the same amount of notice as the time they are taking off. For example, if an employee has booked five days holiday, you must tell them at least five days before the holiday starts that it's cancelled.

Can we ask staff to take their holiday now?

Yes, you can ask employees to take statutory holiday by giving them at least twice as much notice as the time they are taking off. For example, if you want to close for five days, you should tell your employees at least ten days before.

Can our employees carry over their holiday?

[The Working Time Regulations](#) have been amended to allow workers to carry over up to four weeks of annual leave into the next two leave years where it is not reasonably practicable for a worker to take this annual leave due to the coronavirus.

Are employees entitled to Statutory Sick Pay if they have to self-isolate?

Those with the symptoms of coronavirus are advised to self-isolate for seven days, and if



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you live with someone else, you should all self-isolate for 14 days.

Sections 37 and 38 of the [Coronavirus Bill 2020](#) enables employers with under 250 employees to recover up to 14 days of [Statutory Sick Pay \(SSP\)](#) from HMRC for an employee who has taken sick leave due to the coronavirus and also enables employees to claim SSP from day one of being on sick leave rather than day four. This legislation is now in force and works retrospectively for employees who have been unable to work since 13 March 2020.

The government has indicated that if NHS 111 or a doctor advises an employee or worker to self-isolate, they would be entitled to statutory sick pay. However, an employee with no symptoms who has voluntarily gone into self-isolation - for example, because they are concerned about contracting the virus - will probably not be entitled to sick pay.

There are some exemptions though such as if they are vulnerable and in the shielding group, or have a disability within the meaning of the [Equality Act 2010](#) which would place them at greater risk. In these circumstances, the employer may have a legal duty under the act to make reasonable adjustments to the employee's working arrangements.

Do we have to pay employees who can't work because they have to care for children?

Under s57A of the [Employment Rights Act 1996](#) an employee has a right to take leave where there is an unexpected disruption to the arrangements to care for the dependant.

However, at present, there is no statutory right for an employee to be paid if they do so, although contractual provisions may provide for payment in certain circumstances. Some healthcare providers are choosing to pay individuals where they cannot work because they are caring for someone.

Can we pool our resources with other practices?

As a healthcare provider, you can now share information, staff and resources in ways which would previously have been considered anti-competitive in order to help address the coronavirus pandemic.

These are temporary changes which will no doubt be reverted by the Secretary of State once things have settled. However, practices will still need to comply with data protection and employment law provisions. [Read more here.](#)

For more information, visit Brachers' [COVID-19 support hub](#).

Useful links

- [COVID-19: guidance for employees, employers and businesses](#)
- [ACAS Coronavirus \(COVID-19\): advice for employers and employees](#)
- [NHS Coronavirus latest updates](#)
- [COVID-19 guidance for NHS workforce leaders](#)
- [Royal College of Nursing employment guidance for NHS staff](#)

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“The firm’s healthcare department is extremely expert, with a great depth of experience. Members are always helpful and approachable, and they provide the advice and support we require very efficiently.”

Chambers UK

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