

Unwinding lockdown: when can office workers return to the workplace?

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Unwinding lockdown: when can office workers return to the workplace?

With good progress being made on the Government's proposed roadmap out of lockdown and the vaccination roll out, we consider when office-based employers can bring workers back to the workplace.

When can office workers return to workplace?

The "stay at home" order was lifted on 29 March 2021. While that order was in place it was a criminal offence to leave home to go to work unless it was not reasonably possible to work from home. The fact that the order has been lifted means it is now no longer unlawful to leave home to go to work.

However, the lockdown rules are not the only consideration for employers. Importantly, employers must comply with the Health & Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and the relevant non-statutory guidance. Here, office-based employers should consult the [COVID-19 Secure Guidelines for Offices and Contact Centres](#) (the **Guidelines**). Employers must take reasonably practicable steps to make the workplace safe for staff and third parties. The Guidelines provide the framework for achieving that as far as COVID-19 is concerned.

The Guidelines state that office workers should continue to work from home if they can until at least step 4 of the [Government's roadmap out of lockdown](#). Step 4 is the stage at which all restrictions on social contact are due to be lifted, and employers may reopen fully. Step 4 will take place not earlier than 21 June 2021.

Are there any circumstances in which workers may return to the office before Step 4?

There are some exceptions to this guidance. The Guidelines provide that workers may attend the office before Step 4 is

reached if:

- they cannot work from home;
- it is appropriate in the light of a worker's mental or physical health difficulties; or
- it is appropriate in the light of a worker's "particularly challenging" home working environment.

The Guidelines do not expand on what counts as "particularly challenging", but it's reasonable to conclude that it must be something more than being bored of working from home or wanting to socialise with colleagues. It might well cover things like:

- poor internet access;
- disruption caused by a house move or building works;
- inability to concentrate due to a noisy environment;
- cramped working conditions; and/or
- lack of privacy.

However, the Guidelines go on to say that employers should encourage a mix of home and office-based working where full homeworking is not possible. In other words, full-time office-working should be avoided for the time being where possible.

What's the position for workers who are clinically extremely vulnerable or at higher risk?

The shielding guidance for clinically extremely vulnerable people was paused with effect from 1 April 2021. The Guidelines state that such individuals are advised to work from home where possible but may attend work if they cannot work from home. Where it's necessary for such individuals to attend the workplace, employers are advised to consider whether they can take on alternative roles or change their working patterns temporarily to avoid travelling during busy periods.

More generally, employers should consider the risks to certain higher-risk groups as part of their risk assessment. These groups include:

- older males;
- those with a high body mass index;
- those with certain health conditions such as diabetes; and
- those from Black, Asian and minority ethnic backgrounds.

It's also worth noting that the clinically extremely vulnerable and those at higher risk remain eligible to be furloughed under the Coronavirus Job Retention Scheme, despite the fact that the shielding guidance has been paused.

What's the position for workers who are pregnant?

There is [special guidance](#) in place for pregnant women which advises that a "precautionary approach" on returning to work is adopted for women who are: (i) 28 weeks pregnant or more; or (ii) pregnant and have underlying health conditions which put them at greater risk of severe illness from COVID-19. The guidance provides that this precautionary approach may require flexible working from home in a different capacity and that employers should consider how to redeploy these staff and how to maximise the potential for homeworking, wherever possible. Where this is not possible, affected women may need to be suspended from work on full pay on health and safety grounds

The position is different for pregnant women who are less than 28 weeks pregnant and have no underlying health conditions. For this group, a risk assessment should be conducted, and affected women should only attend the workplace if the risk assessment says it is safe to do so. If it is not safe, then suitable alternative work or working arrangements (including working from home) should be offered, or, again, affected women may need to be suspended from work on full pay on health and safety grounds.

Do employers need to update their risk assessments before workers return to work?

Yes. Before allowing workers to return to the office (whether on or before Step 4 of the roadmap), employers must update their risk assessments to reflect their return to work plans.

The risk assessment should address a variety of things including the maximum number of people who can attend the office safely at one time, the specific risks to higher risk groups and any adjustments needed for staff with disabilities.

Employers must also consult with staff about their return to work plan, share the risk assessment with them and develop appropriate communication and training materials for workers before they return to the workplace.

What sort of control measures should office-based employers put in place to facilitate the safe return to work?

In terms of the control measures recommended by the Guidelines, these are largely the same as contained in previous iterations and are centred around social distancing, frequent cleaning, good hygiene and adequate ventilation. However, some key recommendations are worth highlighting:

- **The working day:** staggered arrival and departure times should be adopted to reduce crowding into and out of the workplace.
- **Use of fixed teams:** the number of people each person has contact with should be reduced where possible by the use of fixed teams.
- **Meetings:** in-person internal and external meetings should be avoided, and virtual tools used wherever possible.
- **Hot desking:** hot-desking should be avoided. Where it has to be used, desks should be shared by the fewest number of people and workstations and equipment should be cleaned between uses.

- **Face coverings:** face coverings are not mandatory for workers in most office settings. They may be used if desired but should not be relied upon as a tool for controlling risk.
- **COVID-19 testing:** regular COVID-19 testing will be key to controlling risk in the future. Staff should be consulted before testing is introduced. [Separate guidance](#) recommends that lateral flow tests are performed twice a week for those attending the office.
- **Vaccines:** control measures must still be taken even where staff have been vaccinated. Currently, the Guidelines do not talk about either enforcing or encouraging staff vaccination as a means of controlling risk. If you would like to know about vaccinations and the workforce, you can view our recent [webinar](#) on the topic.

BDBF is currently advising many employers and employees on the challenges presented by the coronavirus pandemic, including preparing for the return to the workplace. If you or your business needs advice on any coronavirus-related matter please contact Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.

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