

NHS Joint Trade Unions' Briefing

Reporting Occupational Exposure to Covid-19

This advice by the joint NHS Trade Unions has been developed to help health and safety representatives understand the steps that should be taken following a case of infection or death that is related to occupational exposure to the Covid-19 virus.

As Covid-19 is a new virus within the human population, the long-term health impacts are unknown. According to the World Health Organisation, most people infected with the virus will experience mild to moderate symptoms and not require special treatment. Those with underlying health conditions are more likely to develop serious illness¹. [BAME communities have been disproportionately impacted](#). Age and gender are also considered as risk factors.

At the time of writing, the Health and Safety Executive (HSE) has published guidance on employers' duties under RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations Northern Ireland 1997) to report incidents of disease or deaths relating to Covid-19². The NHS Joint Trade Unions are concerned about an inconsistent approach being taken by NHS providers, which may lead to underreporting of occupational exposure, lead to a lack of follow up by the HSE and subsequent learning on cases of disease and death to healthcare workers, which could hinder measures to better protect health care workers from any second wave or future pandemics [\[insert link to our letter\]](#).

Responsible persons are legally required to report dangerous occurrences, cases of disease due to occupational exposure to coronavirus and deaths due to occupational exposure to coronavirus to the HSE in accordance with published guidance. This can be found here: [RIDDOR reporting of Covid-19](#)

It is unclear what the long-term health impacts related to Covid-19 infections are. Therefore, it is important workers and their union representatives keep records of the circumstances under which the occupational exposure happened. The decision to report an incident to the HSE under RIDDOR is an employer's duty, however in the event of refusal report an incident under RIDDOR, where there is reasonable evidence of occupational exposure, we recommend recording this concern in a letter to the employer *[using the suggested wording below]*.

Occupational Covid-19 Exposure, Trade Union guidance:

1. Infection and/or death linked to occupational exposure to Covid-19 is RIDDOR reportable

¹ World Health Organisation 2020 https://www.who.int/health-topics/coronavirus#tab=tab_1

² The Health and Safety Executive <https://www.hse.gov.uk/coronavirus/riddor/riddor-reporting-further-guidance.htm#work-death-reasonable>

2. Health and safety reps should encourage all healthcare workers to report incidents which put them at risk of occupational exposure using the employer's incident system, including as much detail as possible
3. Employers must support all healthcare workers to report incidents that fall under the HSE's definition

The HSE describes an incident as a:

- ♣ **near miss:** an event not causing harm, but has the potential to cause injury or ill health (in this guidance, the term near miss will include dangerous occurrences)
- ♣ **undesired circumstance:** a set of conditions or circumstances that have the potential to cause injury or ill health, e.g. untrained health care worker handling heavy patients

4. Relevant factors to the incident could include:
 - issues with safe systems of work or risk assessments (including a lack of an individual risk assessment for vulnerable or at risk staff)
 - issues with the provision, use or quality of PPE
 - lack of fit testing for FFP3/P2 masks
 - lack of training in infection control procedures e.g. safe donning and doffing of PPE
 - lack of social distancing measures in rest rooms and changing facilities
 - lack of enforcement of safety measures
 - individual risk factors based on protected characteristics³
5. Black and minority ethnic (BAME) health care workers are disproportionately affected by Covid-19⁴ may be more reluctant to raise concerns. Organisations should actively support BAME health care workers to raise concerns
6. Local Trade Unions should work together to share information on risks and hazards highlighted before the exposure took place
7. Exposure incidents should be reported to the relevant trade union

³ NHS Employers <https://www.nhsemployers.org/covid19/health-safety-and-wellbeing/risk-assessments-for-staff>

⁴ NHS England <https://www.england.nhs.uk/coronavirus/workforce/addressing-impact-of-covid-19-on-bame-staff-in-the-nhs/>

8. Records should be kept, in line with relevant legal and data protection requirements
9. Reporting RIDDOR is an employer's duty over which Trade Unions have limited influence. However, if an employer refuses to report under RIDDOR, carefully document your concerns, including how this infringement may have been to the detriment of the safety of your member/s
10. Use the suggested wording in the letter below to record the objection as a first step in raising this issue with your employer. Where appropriate, seek advice from your union's full time officer
11. Local trade unions should consider all other options, and the benefits or otherwise of reporting a matter to the HSE. In doing so you may wish to take into consideration how and when the HSE investigates a concern
<https://www.hse.gov.uk/enforce/when-how-investigate.htm>

Suggested text for a letter to an employer which refuses to report under RIDDOR

Re: Occupational Exposure to Covid-19

Dear health and safety lead

We are writing to note our concern with the decision taken by [employer] to not report an incident of occupational exposure to Covid-19 to the Health and Safety Executive under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 or the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations Northern Ireland 1997 (RIDDOR).

We understand [our member] has reported the exposure to you using the incident reporting system and has provided reasonable evidence that this was an occupational incident or related to a series of occupational exposures.

Therefore, we respectfully request that you review this decision, and retain a copy of this letter within the incident recording system for future reference.

Your sincerely

[Trade Union/s]

ⁱ RIDDOR Regulation 9 **Exposure to carcinogens, mutagens and biological agents**

9. Where, in relation to a person at work, the responsible person receives a diagnosis of—

(a) any cancer attributed to an occupational exposure to a known human carcinogen or mutagen (including ionising radiation); or

(b) any disease attributed to an occupational exposure to a biological agent,

the responsible person must follow the reporting procedure, subject to regulations 14 and 15.

<http://www.legislation.gov.uk/uksi/2013/1471/regulation/9/made>