

Coronavirus advice for employers

Is the Trust liable for not providing PPE?

Under the Health and Safety at Work etc. Act 1974, an employer has a duty, so far as is reasonable, to ensure the health, safety and welfare at work of its employees. This duty extends and includes providing a safe working environment to all those affected, for instance, third party contractors and visitors.

As such, an employer has a duty to provide personal protective equipment ('PPE') to its staff, contractors and visitors where they are exposed to risk. Failure to provide a safe working environment could result in the employer being found liable to compensate employees for injury and losses which they prove were caused or materially contributed to by that failure.

However, given the current COVID-19 pandemic and the recognised shortage of PPE, it is highly unlikely that the Health and Safety Executive (HSE) would deem it to be in the public interest to enforce such legislation, or prosecute for failure to comply with the legislation at this time. Currently, individual COVID-19 cases are not classified as RIDDOR reportable and so would not be investigated. Moreover, in a civil context, it would be incredibly difficult for someone to show that they contracted COVID-19 from their place of work.

Nonetheless, all organisations are encouraged to act proactively and ethically in response to this global crisis. The Government guidance is changing on a daily basis, and so close monitoring and adherence to the advice is strongly advised and will help to protect your staff and others.