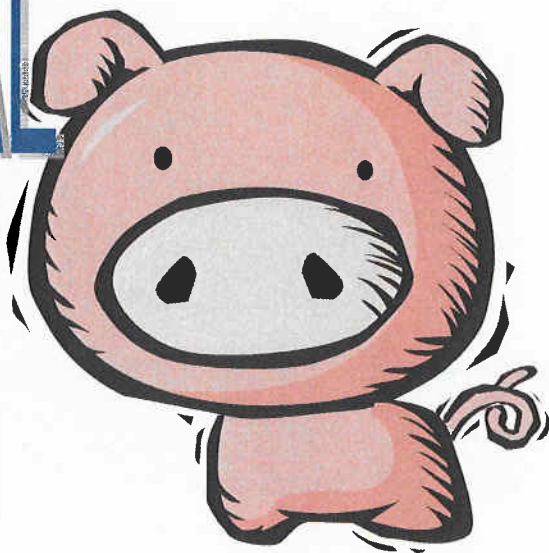


SWINE FLU SPECIAL

The H1N1 virus, more commonly known as swine flu, is spreading rapidly throughout the United Kingdom. Employers should therefore be prepared to deal with a flu outbreak to minimise any potential health risk to both their employees and the wider business community.

We have been inundated with enquiries from businesses and no doubt employers have plenty of questions about what safeguards can be implemented in order best to deal with an outbreak of swine flu in the work place. We have therefore put together some FAQ's that we hope you will find helpful.



Q How serious is swine flu?

A There have been 29 swine-flu related deaths in the UK at the time of writing this. In the majority of these there has been a pre-existing medical condition, and in the coming months the number of fatalities is expected to increase, though at present in the majority of cases the severity of the condition is mild. Health Secretary, Andy Burnham, has reported that the number of swine flu related cases are doubling every week. It is likely that by the end of August 2009 there will be over 100,000 people suffering with the condition. Should it escalate, the resulting impact on businesses and the wider economy could be considerable.

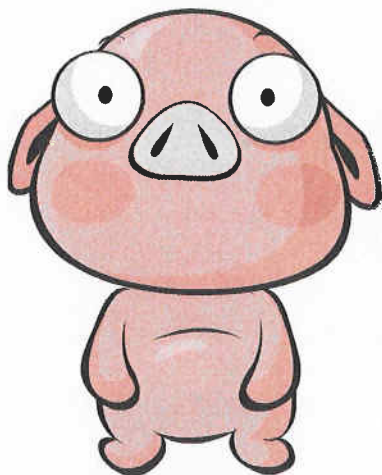
Q What can be done to minimise the impact of swine flu?

A As it stands, more than a third of Britain's businesses do not have a contingency plan in place to deal with an outbreak of swine flu in the workplace. It is this lack of planning that leaves employers vulnerable. By making a contingency plan in advance of an outbreak, an employer can minimise disruption to the business should swine flu hit. This should therefore be high on an employer's list of priorities.

When drawing up a contingency plan an employer should highlight the key business functions which allow the day-to-day running of the business to take place and calculate how many employees, in a worst case scenario, would be required to enable the business to continue unhindered. Employers should consider the following: -

- The possibility of employees working from home. This would minimise the chance of the virus spreading to more of the workforce.
- Putting in place an effective emergency communications plan to enable the employer to contact employees and other key individuals in an emergency.
- Prior consultation with suppliers, sub-contractors and distributors.

The contingency plan should be communicated to all employees and if need be, appropriate training should be given. If employees are kept well informed it is more likely that they will be amenable to any future changes that may need to be put into effect. Visit www.direct.gov.co.uk for further information on contingency plans.



Q What are the duties of an employer concerning the health & safety of staff?

A In employment law, an employer has a general duty to provide to the employee a safe place and system of work. Employers are thereby required to take precautionary steps to ensure that their employees are protected from reasonably foreseeable dangers. That said, only reasonably foreseeable dangers will give rise to a personal injury and/or employment claim, and therefore, employers will not be held responsible for an employee being injured by a truly unforeseen event. It may be however, that a Court may say that the risk of contracting swine flu is a reasonably foreseeable event and as such, an employer must take reasonable precautions to minimise any potential risk to the employee.

Employers also have a statutory duty to ensure the health, safety, and welfare of all employees at work under s.2 of the Health & Safety at Work Act 1974.

The important part of this act that needs to be taken into consideration in times such as this is s.2(2)(e) of the Act which states that this duty extends to the provision and maintenance of a working environment for employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

To meet the common law and statutory obligations during the pandemic, an employer may need to put into place specific health and safety policies aimed at preventing the spread of the illness amongst employees. The following are some of the measures that can be considered: -

- Making employees aware of the symptoms of the virus;
- More frequent cleaning to minimise germs in all common work places and providing anti-bacterial gel dispensers;
- Making temporary changes to working practises, such as avoiding face-to-face meetings;
- Identifying employees who are most at risk of contracting infection and giving consideration to how these risks can be minimised;
- Planning how to reintroduce those employees who have been off sick or caring for unwell dependants.



Q I am concerned that some people will use this outbreak as an excuse to take time off of work. Am I entitled to check on employees claiming to have been infected?

A When an employee claims to have been infected with swine flu the employer should treat the illness as they would with any other periods of absence due to sickness. An employee can self certificate for 7 days and after this they should provide a certificate from their GP. In some cases, when there is an issue over company sick pay, an employer can request that a certificate from the GP be provided before the seven day period, or if there is a reasonable belief that the employee is not actually ill. It has been widely reported that the Government are considering extending the self certification period from 7 days to 1, should the effects of the pandemic worsen.

