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Dear Sarah

Tel: 020 8943 6600

Request for clarification of RIDDOR – reporting coronavirus (COVID-19)

I am writing on behalf of AIRTO, the Association of Innovation, Research & Technology Organisations, which represents the UK's Innovation, Research & Technology (IRT) sector (encompassing Public Sector Research Establishments, PSREs, Catapult Centres and long-established Research & Technology Organisations, RTOs), which employs more than 57,000 highly skilled people and adds an estimated £34Bn of GVA per annum to the economy.

We are tremendously grateful to the Her Majesty's Government for all the hard work it is doing to save lives during the Covid-19 pandemic. We recognise that both the government and Civil Service, including the HSE are working under intense pressure to make the right decisions at pace for the whole population, and we recognise all the hard work that is going into the national fight against this disease, and minimising the economic consequences. **AIRTO and its members are keen to support the government and our society during this time of unprecedented national challenge.**

The [HSE has recently issued guidance to organisations about when and how they should report 'coronavirus' incidents under RIDDOR](#) (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013). **The instructions issued present a number of conundrums for organisations operating outside of healthcare settings, in deciding when a coronavirus infection or death should be reported under RIDDOR. We are requesting urgent clarification on issues presented by the HSE's instructions as follows:**

Organisations *'must only make a report under RIDDOR, relating to coronavirus, when:*

- ***an unintended incident at work has led to someone's possible or actual exposure to coronavirus. This must be reported as a dangerous occurrence.***
 - i. COVID-19 is a disease caused by a novel coronavirus identified in 2019, and known as SARS-CoV-2. The term 'coronavirus' describes a category of numerous related viruses that cause respiratory tract infections in birds and mammals, including humans, many of which are mild illnesses, including some cases of the common cold. The term 'coronavirus', though widely used in the media, is imprecise, as many coronavirus entities exist which do not cause COVID-19. The wording of this instruction needs to be revised to specify that the HSE is referring specifically to SARS-CoV-2.
 - ii. Exposure to the virus that causes COVID-19 is an invisible process, occurring through inhalation/contact with invisible virus in exhaled air by another person who may or may not be symptomatic or via contact with invisible traces of the virus on surfaces (including handrails, door handles etc.). No validated test exists that employers could use to identify the presence of the virus in the air or on surfaces, and workplace testing of staff outside of healthcare settings is not available. Whilst our members accept that there may be some obvious examples where exposure to the virus could have occurred in an unintended incident (such as direct unintended bodily contact with a clinical sample in a laboratory), in the majority of workplaces, including laboratories, it is going to be a matter of guess work to identify whether any employee has been exposed to the virus at work. Furthermore, many staff have been instructed by their employers to work from home because of the government's instructions on social distancing. This means that many employees are now working in an environment over which their employers have no jurisdiction.

In summary, the HSE's instruction is imprecisely worded with reference to the name of the virus and it is insufficiently clear as to how employers should decide whether possible or actual exposure to the virus has occurred.

- ***a worker has been diagnosed as having COVID-19 and there is reasonable evidence that it was caused by exposure at work. This must be reported as a case of disease.***

The pathogenesis of the disease COVID-19 occurs as a result of exposure to the novel coronavirus SARS-CoV-2. As referenced in the above bullet point, the route of transmission is invisible occurring through inhalation/contact with invisible virus in exhaled air by another person who may or may not be symptomatic, or via contact with invisible traces of the virus on surfaces (including handrails, door handles etc.). No validated test yet exists that employers could use to identify the presence of the virus in the air or on surfaces; workplace testing of staff for the virus outside of healthcare settings is not available, and Public Health England are no longer undertaking contact tracing to identify sources of infection. These factors mean it is almost possible for employers outside of healthcare settings to establish whether a case of COVID-19 has occurred as a result of workplace exposure to the virus. It should also be noted that work colleagues of an affected employee could carry and transmit the virus asymptotically, in which case the source of a clinical infection would be unidentifiable. In addition, any employee with the disease could easily have contracted it from a family member, or in a public place such a shop or public transport. The situation is further complicated by the fact that many employees, at the request of the government, have been instructed by employers to work from home, so even in the course of their working hours they could potentially contract COVID-19 via exposure to the virus from their cohabitants. Would such a scenario constitute contracting the illness at work and be reportable under RIDDOR? In the majority of workplaces outside of healthcare settings (where there is a known elevated risk to staff of contracting COVID-19) it is not going to be possible to establish if there is '**reasonable evidence**' that an incidence of the disease in the workforce was caused by exposure to the virus at work.

In summary, the HSE's instruction is insufficiently clear as to how employers should identify 'reasonable evidence' upon which to establish whether occupational exposure to the virus has definitively occurred and resulted in pathogenesis of COVID-19.

- ***a worker dies as a result of occupational exposure to coronavirus.***
 - i. As referenced in the first bullet point above, COVID-19 is a disease caused by a novel coronavirus identified in 2019 and known as SARS-CoV-2. The term 'coronavirus' describes a category of numerous related viruses that cause respiratory tract infections in birds and mammals, including humans, many of which are mild illnesses, including some cases of the common cold. The term 'coronavirus', though widely used in the media, is imprecise as many coronavirus entities exist, which do not cause COVID-19. The wording of this instruction needs to be revised to specify that the HSE are referring SARS-CoV-2. It is this specific virus that is tested for in clinical settings to diagnose COVID-19. Confirmed cases inform the formal 'cause of death' to be referenced by a registered medical practitioner on a death certificate.
 - ii. As referenced in the second bullet point above, exposure to the virus and subsequent pathogenesis is invisible, and there is an absence of contact tracing and workplace testing. Therefore, clarity is needed on for employers on how medical practitioners will identify whether an individual who has died of COVID-19 did so as a result of contracting the virus through occupational exposure, or via social contact with family members/cohabitants, or in a public place.

In summary, the HSE's instruction is imprecisely worded with reference to the name of the virus and it is insufficiently clear as to how medical practitioners (supplied with evidence from employers) should decide whether occupational exposure to the virus has definitively occurred in employees working outside of healthcare settings.

On behalf of our sector, I am appealing to the HSE to urgently clarify the guidance issued. I should be very pleased to discuss the issues raised further with you if that would be helpful.

Yours sincerely,

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