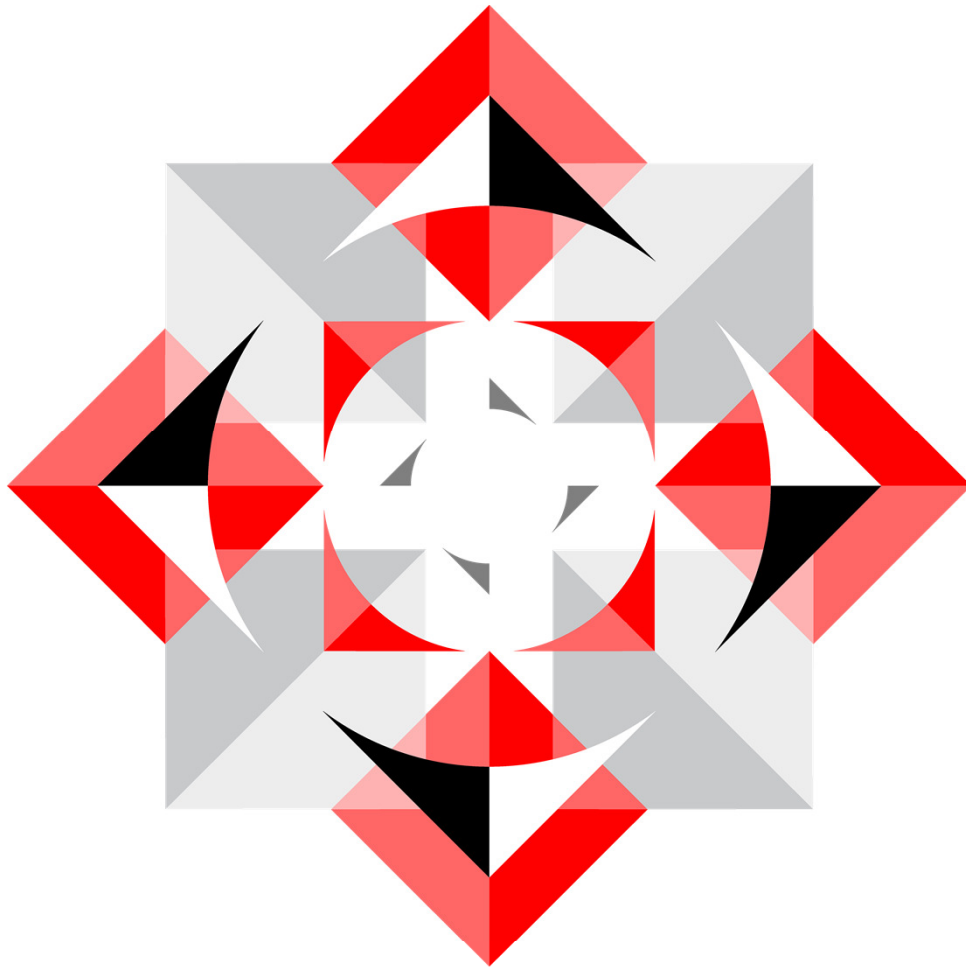# Staffing decisions when reopening workplaces in Ireland - a flowchart

This flowchart is to help employers decide which employees can return to work as part of the Covid-19 road to recovery, and gives guidance on the best approach to managing employees who are unhappy about returning. For more information see our FAQs about managing the return to work, or visit our Covid-19 hub.

For further information on this subject please contact:

James Davies
Partner
T + 44 (0)20 7074 8035
james.davies@lewissilkin.com

Gemma Taylor
Managing Practice Development Lawyer
T + 44 (0)20 7074 3165
gemma.taylor@lewissilkin.com

Catherine Hayes
Senior Associate
T + 353 1 566 4505
catherine.hayes@lewissilkin.com

Staffing decisions when reopening workplaces in Ireland - a flowchart

Can the employee work from home? — yes → Should work from home.

no

Is the employee in a very high risk group or been advised to self-isolate? — yes → Should stay at home on sick leave.

no

Is the employee happy to return to work? — yes → **Is the employee in a high risk group, has other health concerns or pregnant?**

- no → Can return following risk assessment.
- yes → Can return following risk assessment but offer the safest available on site roles and preferential support to maintain a 2 metre physical distance. If not available, consider if acceptable level of risk. Support mental health and wellbeing.

no

Is it because they have no childcare? — yes → Unpaid leave or unpaid Parental leave.

no

Is it because they care for a vulnerable person? — yes → Unpaid leave. Consider if unpaid Carer's leave is appropriate. Risk of claims if required to return to work. If caring for a person in a very high risk group, offer safest available on site roles.

no

Is it because of clinical anxiety or similar medical condition? — yes → Sick leave (if signed off sick) or unpaid leave.

no

Is it because of travel concerns? — yes → No right to pay if do not return to work for this reason unless reasonable belief in serious and imminent danger but make accommodations if possible, especially if pregnant or at risk.

no

Is it because of work dangers? — no → Employee seems unlikely to have good reason to refuse to work – consider unpaid leave or even disciplinary action.

yes

Is the employee pregnant? — yes → Needs special risk assessment: special statutory right to safe suitable alternative work or full pay health and safety leave for 3 weeks (any additional weeks are unpaid) if can't avoid risk.

no

Is the employee a high risk group? — yes → Carry out risk assessment. Offer unpaid leave or safest available on site roles and preferential support to maintain a 2 metre physical distance. Risky to require return if unwilling. No right to pay if do not return to work, unless employee has a reasonable belief that they are in serious and imminent danger. Support mental health and wellbeing.

no → Re-assure that you are controlling risks. Unpaid leave advisable in short term. In time, disciplinary action may be appropriate. No right to pay unless employee has a reasonable belief that they are in serious and imminent danger.