

From the Chief Executive

Sarah Albon
Health and Safety Executive
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Sent via email

27 May 2021

Rt. Hon. Stephen Timms MP
Chair of the Work and Pensions Select Committee
House of Commons
London
SW1A 0AA

Dear Mr Timms,

Thank you for your letter dated 13 May concerning the approach we would take to enforcement of social distancing in the workplace, should the Government's review conclude it is recommended but not required by law.

HSE's role has never been to enforce any of the specific legal requirements under coronavirus specific legislation that the Government has put in place during the pandemic; including mandatory wearing of face-coverings in certain premises or which businesses were allowed to open during periods of lockdown. HSE's role has always been to support the wider national public health effort through assessing the risk in the workplace associated with the pandemic.

In broad terms, the scenario you outline is therefore a continuation of the existing position. We currently consider whether a business has adequately assessed the risks from COVID in the workplace and whether they have introduced the necessary control measures identified in the Government [guidance](#). This approach is underpinned by the Management of Health & Safety at Work Regulations 1999 rather than any coronavirus specific legislation.

The Government's guidance on COVID secure workplaces does not have any special status in health and safety at work law. However, an employer who is following the Government guidance on COVID secure workplaces is likely to be satisfying relevant health and safety at work law obligations. Conversely where an employer is not acting consistently with the guidance this might indicate that they are not meeting their health and safety at work law obligations, in which case HSE could consider whether it is appropriate to take enforcement action in those sectors for which it is the enforcing authority. There are some differences in Welsh and Scottish coronavirus legislation but as a GB wide regulator our approach as outlined remains consistent.

In the event all legal restrictions are lifted and public health authorities are no longer recommending any particular additional measures to control the spread of COVID, i.e. a move from pandemic to endemic infection risk, HSE's enforcement approach will change to keep pace and we anticipate our focus will return to risks created by the work activity itself. HSE has not previously regulated the control of community diseases, such as influenza, which are also present in the workplace, and would not expect this to be any different with COVID.

As you note, the outcome of the review and any associated changes to the guidance situation are still uncertain but I can assure you that we are involved in discussion, across Government, about the potential impacts.

I hope the above is helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', written in a cursive style.

Sarah Albon
Chief Executive, Health and Safety Executive



Work and Pensions Committee

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From the Chair

Sarah Albon
Chief Executive
Health and Safety Executive

13 May 2021

Dear Sarah,

We are writing to you about the enforcement of social distancing in the workplace by HSE.

As you know, the Government is currently reviewing the approach to social distancing and is expected to report back later this month. It is also aiming for all legal restrictions to be lifted from 21 June.

In that context, we are keen to clarify the approach that HSE would take if, when the Government's review concludes, it is recommended (but not required by law) that social distancing should be maintained in the workplace.

We would be grateful if you could let us know:

1. What would HSE's role be if social distancing is recommended in guidance but not required by law?
2. If social distancing remains in guidance, will employers have to take this into consideration in their workplace risk assessments?
3. If employers must take into consideration social distancing guidance, will HSE have the power to act to manage risks to health and safety arising from covid-19—including the power to issue improvement notices to mandate social distancing?
4. In general, do you consider guidance to employers from the Government to be legally enforceable by HSE?

We appreciate that, until we know the specific recommendations and guidance, some uncertainty will remain. That said, in the light of the clear message that the Government has given about its likely course of action, we hope that it will be possible for you to give us an indication of how HSE would expect to approach this.

It would be helpful to have a response by **27 May**.

Yours sincerely,

Rt Hon Stephen Timms MP
Chair, Work and Pensions Committee