

From the Chief Executive

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Sent via email

29th July 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 21 July concerning the role HSE has in enforcement of self-isolation rules.

As set out in my previous letters, of 27 May and 16 July, HSE was not given legal power to enforce any of the specific legal requirements under coronavirus legislation that the Government has put in place during the pandemic; including enforcement of self-isolation rules. The Department of Health and Social Care is responsible for these rules.

We recognise, however, that with Ministers identifying an increasing number of sectors where exemptions can be arranged, it remains vital that employees enter workplaces that are controlling the risks of COVID-19 transmission. In my letter of 16 July, I outlined HSE's approach to prepare businesses for Step 4 of the Roadmap, which I believe answers your question about lack of clarity about the measures which are legally enforceable – this approach is reiterated below for ease.

HSE published updated guidance on 19 July to reflect changes as a result of the lifting of coronavirus restrictions in England. The webpage [Keeping workplaces safe as coronavirus \(COVID-19\) restrictions are removed \(hse.gov.uk\)](https://www.hse.gov.uk/coronavirus/restrictions-removed/) outlines what the changes mean for business and signposts to public health requirements that do not fall within HSE's remit, such as vaccination and test, track and trace requirements, including self-isolation.

Leading up to Step 4, we have worked with BEIS and other government departments to produce straightforward 'working safely' guidance for businesses and self-employed people to explain what the changes mean; particularly the removal of social distancing and the direction to work at home if possible. We also continue to work with the devolved governments in Wales and Scotland as they take their own paths away from prescriptive rules.

Our communications approach will be to support business in the transition from prescriptive rules back to taking responsibility for managing risk in their workplaces and considering the right controls. We will help to build business confidence by promoting the updated 'working safely' guidance in both HSE and centrally led communications.

We will focus on the key actions that duty holders should consider to ensure good risk management, such as reviewing and updating risk assessments: adequate ventilation: and hygiene, and cleaning. We will also clearly set out the legal 'must' and 'should dos' as well as other mitigations duty holders may still wish to retain, such as measures to reduce close contact in the workplace. Given the wide variety of work activities and workplaces we anticipate that employers, in consultation with workers, will select a different range of control measures to reflect individual circumstances; for example. a sparsely occupied well ventilated office is likely to need a different approach from a more confined and busier workplace.

We will continue our proportionate approach to regulation and enforcement. This will involve case by case judgements about risk and controls, considering Government's scientific advice and the guidance that applies and we will make regulatory decisions accordingly. Where businesses are not managing risk and protecting workers, the public and others, action will be taken. We will also continue providing sensible advice for employers to help them comply with current legislation.

Our Spot Check Programme will continue 'as is' in Scotland and Wales and will adapt to the emerging requirements in each. In England, we have adapted our approach taking into account the changes at Step 4. Our support to employers will remain and our concerns and complaints phone lines will of course continue to be available. We will continue to act where we find inadequate approaches to risk. We will also continue to support Local Authority partners, delivering Spot Checks on their behalf, and underpin other activity by signposting businesses to the relevant guidance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', with a stylized, cursive script.

Sarah Albon
Chief Executive, Health and Safety Executive



Work and Pensions Committee

House of Commons, London SW1A 0AA

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From the Chair

Sarah Albon
Chief Executive
Health and Safety Executive

21 July 2021

Dear Sarah,

As you will know, the number of people told to self-isolate (or “pinged”) by the NHS Covid app has risen sharply in recent weeks. In the first week of July, over half a million alerts were sent to users of the app.

This has, understandably, created problems for businesses where a significant proportion of staff have been told to self-isolate. Up to 1 in 10 workers in the meat production industry have been told to self-isolate, which is having a severe impact on operations. One employer in that sector told Radio 4’s Today Programme that he did not know whether he could tell staff to ignore the app, as he was unsure of the legal position with HSE.¹

We raised this issue with the Secretary of State when she gave evidence on 7 July. She told us that the Government has provided guidance to employers about making their workplaces Covid-secure, but it now appears there is still a lack of clarity amongst employers about whether they are legally required to follow these provisions. We note that the Government’s guidance says that it is “illegal to knowingly require or encourage someone who is being required to self-isolate to come into work”.²

It would be helpful to have answers to the following questions:

- 1. If an employee is advised to self-isolate, what role—if any—does HSE play in enforcing this? For example, could HSE take enforcement action against an employer who asks or requires an employee to attend their workplace even if they have been told to self-isolate?**

¹ On 16 July 2021

² Gov.uk, [Working safely during coronavirus \(COVID-19\): Guidance from Step 4, Offices, factories and labs](https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19-guidance-from-step-4-offices-factories-and-labs)

- a. If not HSE, who is responsible for taking any action against employers who require or encourage self-isolating employees to come into work?
 - b. What repercussions could an employer face if they tell an employee to ignore advice from the Covid app?
- 2. The lack of clarity around whether these provisions are legally enforceable could lead to employers taking a “risk averse” approach to Covid safety in the workplace, to the detriment of their business, to avoid enforcement action. Does HSE have any plans to strengthen or provide new guidance to employers about what is legally enforceable and what isn’t?

It would be helpful to have a response by Friday 30 July.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Timms', with a horizontal line above the name.

Rt Hon Stephen Timms MP

Chair, Work and Pensions Committee