

# A comparison of the Covid-19 workplace guidance in England and Wales

	England	Wales
<b>Source</b>	Government guidance: <b>Working safely during coronavirus (Covid-19)</b>	<ol style="list-style-type: none"> <li><b>Regulation 6A of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020</b> and accompanying guidance: <b>Taking all reasonable measures to maintain physical distancing in the workplace</b> (plus supplementary guidance).</li> <li>Also general workplace guidance: <b>Keep Wales safe at work</b>.</li> </ol>
<b>Details</b>	General five steps to working safely guidance along with 8 sector specific guides	<ol style="list-style-type: none"> <li>Statutory duty to “take all reasonable measures to ensure that a distance of two metres is maintained” and guidance on what is meant by “reasonable measures”.</li> <li><b>Keep Wales safe at work</b> guidance: sets out five key principles for workplaces.</li> <li>Also some sector specific guidance e.g. Return to work protocol for manufacturing.</li> </ol>
<b>Requirements</b>	<p>Five basic steps:</p> <ol style="list-style-type: none"> <li>Carry out a Covid-19 risk assessment – by reference to HSE guidelines.</li> <li>Develop cleaning, handwashing and hygiene procedures.</li> <li>Take “reasonable steps” to help people to work from home if possible.</li> <li>Maintain 2m social distancing, where possible.</li> <li>Where people cannot be 2m apart, manage transmission risk e.g. keep activity as short as possible, back to back working, screens</li> </ol>	<p><b>Regulation 6A of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020</b></p> <ol style="list-style-type: none"> <li>Statutory duty to take all reasonable measures to ensure that a distance of two metres is maintained between any persons on the premises.</li> <li>Duty to have regard to guidance issued by the Welsh Ministers about reasonable measures to be taken to ensure that a distance of two metres is maintained.</li> </ol> <p><b>Guidance issued under Regulation 7A: Taking all reasonable measures to maintain physical distancing in the workplace</b></p> <ol style="list-style-type: none"> <li>General message is ‘work at home if possible’ and physical distancing is intended to supplement a range of other actions being taken to seek to minimise risk.</li> <li>Every employer who can achieve workplace distancing is expected to do so but not an absolute requirement – recognised that there will be some workplaces where it is not possible.</li> <li>The most effective way of ensuring physical distancing it is to enable some or all staff to work from home, some or all of the time.</li> <li>“Reasonable measures” includes expectation that employers should be as flexible as possible and make adjustments wherever that is possible. This may include issuing laptops or mobile phones to facilitate home working.</li> <li>Where working from home is not possible – the reasonable measures required will need to be taken in the workplace.</li> <li>No hard and fast rule on what is reasonable but test is objective and considerations include cost, nature of the work, whether measures might affect the health and safety of others, the nature of other individuals in the workplace e.g. children or vulnerable adults.</li> <li>Examples of measures include reducing number of people on the premises, staggering shifts, increasing distances between workers and marking out spaces and increasing space available for rest breaks.</li> <li>Even when two metre distancing is not possible at all times measures should be taken to ensure that this happens as much as possible.</li> <li>Where two metre distancing is not possible, other measures should be considered e.g. minimising the level of interaction, physical barriers and improved hygiene.</li> <li>Enforcement – failure to abide by the regulation 6A is an offence punishable by means of a Fixed Penalty Notice.</li> </ol>

		<p><b>Workplace guidance: Keep Wales safe at work</b></p> <ol style="list-style-type: none"> <li>1. Sets out general principles including: <ol style="list-style-type: none"> <li>a. Workers are only allowed to return to the workplace if it is not reasonably practicable for them to work from home</li> <li>b. Any employees in work who develop symptoms should be sent home and advised to self-isolate.</li> <li>c. Physical distancing – see above</li> <li>d. Track and tracing – see below</li> <li>e. Risk assessments - all risks should be assessed, with meaningful discussion with staff and/or their trade union, before re-commencing work.</li> </ol> </li> <li>2. Then sets out the five key principles: <ol style="list-style-type: none"> <li>a. Health comes first - workers are only allowed to return to the work place if it is not reasonably practicable for them to work from home. For those who cannot work from home, employers should establish through an initial assessment whether it is safe for staff to work. Particular care is required in respect of vulnerable groups who are at higher risk.</li> <li>b. The laws which keep us safe must be obeyed - employers must continue to fulfil their legal duties under new and existing health and safety laws to protect the health, safety and welfare of their employees, customers and visitors to their premises. If they cannot provide a safe environment, they should determine what steps are necessary to create one or if that is not possible, cease operations.</li> <li>c. Employers and employees share responsibility for a safe workplace and regular and meaningful engagement should be maintained. It is essential that everyone knows what is expected of them.</li> <li>d. Adapt - consultation between employers and employees should be used to identify the hygiene protocols, equipment and measures needed to keep the workplace safe</li> <li>e. Communication - clear, precise and constant communication between employers, employees and other visitors to the workplace regarding actions taken to protect workplace safety is essential. Employers should ensure that communications are consistent and accessible for all staff.</li> </ol> </li> </ol>
<p><b>Sector specific guidance applying to offices</b></p>	<p>Requirements include:</p> <ol style="list-style-type: none"> <li>1. Assess and manage risk – steps similar to general five point guidance above but also refers to duty to consult employees on health and safety.</li> <li>2. Stated objective is that everyone should work from home, unless they cannot work from home.</li> <li>3. Shielding individuals are strongly advised to work from home. Those who are clinically vulnerable (rather than extremely clinically vulnerable) who cannot work from home should be offered the option of the safest available on site roles.</li> <li>4. 2m distancing should be maintained whenever possible but where not possible further mitigation is required e.g. barriers, increased cleaning, reduced contact time.</li> <li>5. Steps required to reduce contact on arrival departure e.g. staggered start times, one way systems, different entry/exit, avoiding touch pads (and providing hand sanitisation if not possible).</li> </ol>	<p>There does not appear to be any Welsh guidance directed specifically at offices.</p>

	<ol style="list-style-type: none"> <li>6. Take steps to maintain social distancing when moving around building e.g. one way systems, reducing movement between sites or different areas of the building.</li> <li>7. Maintain social distancing between individuals when they are at their workstations.</li> <li>8. Avoid face to face meetings or if not possible, ensure 2m distancing.</li> <li>9. Minimise attendance at offices by clients or other parties and ensure that visitors to the office know what they are expected to do to maintain safety.</li> <li>10. Carrying out cleaning procedures and providing hand sanitiser before restarting work.</li> <li>11. Keeping the workplace clean so as to prevent transmission through contaminated surfaces.</li> <li>12. Support employees who want to wear face coverings but this is not compulsory and is not an alternative to workplace distancing.</li> <li>13. Review the way work is organised to create distinct groups and reduce the number of contacts each employee has.</li> <li>14. Avoid unnecessary work travel and keep people safe when they do need to travel between locations e.g. minimise shared travel.</li> <li>15. Ensure all workers understand Covid-19 related safety procedures.</li> </ol>	
<p><b>Other relevant Welsh guidance</b></p>		<p><b>Keep Wales Safe - Return to Work Protocol For The Manufacturing Sector In Wales</b></p> <p>Provides employers and their staff with examples of how to return to work safely, but notes that the statutory guidance on the physical distancing duty must be followed in fulfilling that duty and the protocol does not supplant that guidance. Issued with the manufacturing industry in mind, but many of the examples can be adopted to other environments. Covers health and safety issues and the well-being of employees. In particular includes Vulnerable Employee Assessment Process with quite onerous obligations on employers to assess vulnerable employees and not just the extremely clinically vulnerable (shielding) employees.</p> <p><b>Track, Trace, Protect</b></p> <p>Specific guidance has been issued to employers in respect of WG's Track and Trace system. It gives guidance to employers on when employees should be tested and how to deal with resulting issues e.g. if an employee tests positive and is told to self-isolate.</p> <p><b>PPE</b></p> <p>The Welsh guidance does not currently provide that those working outside clinical or care settings should wear PPE as a means of reducing the risk of Covid-19. However WG, in line with WHO, has just announced that they are recommending the use of three layer face-coverings in situations where social distancing are more difficult to achieve (indoors only). This may therefore change.</p>

		<p><b>Retailers: coronavirus workplace guidance</b></p> <p>Updated guidance publishes on 21 June 2020. Intended to help anyone operating a retail facility in Wales to understand how to operate safely during the pandemic, whilst keeping as many people as possible two metres apart. Deals with carrying out risk assessments, managing risk and consulting with staff about health and safety. Also contains sections on protecting the workforce, in particular protecting vulnerable members of staff and assessing who should be in work.</p> <p><b>Restarting public transport: guidance for operators</b></p> <p>A guide to help organisations to provide safer workplaces and services for their workers and passengers across all modes of private and public transport as public transport in Wales is restarted. It outlines measures to assess and address the risks of Covid-19) in the transport sector across Wales and deals with matters such as risk assessment, who should be at work,, physical distancing and PPE, workforce planning and other measures to protect workers.</p>
<p><b>Commentary on differences between England and Wales</b></p>		<p>The main difference is that there is a legal requirement in Wales to take “reasonable measures” to maintain workplace distancing of two metres. This is set out in the Coronavirus Regulations and accompanying statutory guidance. Failure to abide by the regulations is a criminal offence. In England there is only guidance on workplace distancing and this is not a legal requirement. However, existing health and safety law continues to apply and it is likely that this will be interpreted in accordance with government guidance. Prosecutions may therefore still be possible in England under existing laws.</p> <p>There is more sector specific guidance in England and that guidance is more prescriptive than the guidance in Wales which is more general in nature (save for the Manufacturing Protocol). However, there does appear to be much more emphasis in Wales on allowing employees to work from home if at all possible. The English guidance also recommends this but the Welsh guidance says that workers are not allowed to return to the workplace unless it is not reasonably practicable for them to work from home. This is perhaps a reflection of the fact that Wales has generally been slower to lift restrictions than England.</p>

**If you have any questions or would like to discuss the Covid-19 workplace guidance, please contact:**



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