

Corporate Commercial Client Alert

Employment & Pensions

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Unprecedented moment for modern Hong Kong: Things for employers to consider to prepare for the potential lock-down

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The Government has announced that universal testing push shall be launched as early as mid-March 2022, and some are anticipating that large scale lockdown will also take place. If the Government decides to proceed with a large scale lockdown, how can employers prepare for it in the absence of legislation or guidance from the Government?

Paid Leave or No pay leave?

During the lockdown, it is anticipated that most employees (save as the exempted categories) may not be able to travel to report for duty at their respective workplaces. Of course, thanks to modern technology, some employees may still work from home. However, what about those whose job duties cannot be carried out remotely (e.g. tea lady, messenger, retail shop or F&B outlets front line staff)?

In case of potential lockdown, an employer may not be able to make its workplace available, and therefore, the employer may also not be able to fulfil its duty of providing a workplace. It is unlikely that the employment contracts will have any specific provision catering for such situation where both the employer and the employees may not be able to fulfil their duties. In this regard, it is advisable for the employer to think ahead and agree in advance the arrangement with employees in case of lockdown – will the employees be required to take annual leave or take no pay leave, or will the employer pay normal or a different rate of salary? Please note that if the employer decides to request the employees to take annual leave, at least 14 days' prior notice is required under the Employment Ordinance. To avoid disputes later, the employer should consider better communication as soon as possible.

Employees Tested Positive!

After the universal testing, some employees may be tested positive. As proposed in the amendments to the Employment Ordinance, employees who have caught the virus or are subject to mandatory quarantine are entitled to paid sick leave.

Most importantly, employers shall start to think of emergency work plans in case there is a shortage of manpower after the universal testing. Each business is different, and discussion with the staff members is important.

Employees' support and work morale

Staff morale is another matter employers shall pay attention to. Given the negative social environment, the chance of getting the virus, and the shortage of workforce, it is important for employers to consider ways to boost up the staff morale so that business can pick up as soon as possible. Open discussion with staff members to listen to their needs may be a helpful way to provide assistance to them, and for them to understand that the employer is working together with them during this difficult period of time.

We wish all our readers safe and healthy!

Want to know more?

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