EMPLOYMENT | Compulsory COVID-19 Testing and Sudden Lockdowns – Are Hong Kong Employers Ready?

The Hong Kong government announced on 1 February 2021 that it will lower the threshold for compulsory COVID-19 testing. They are (in short):

- If one or more new confirmed cases with unknown sources are found in a residential building (including a building with mixed commercial and residential use) or sewage samples collected at the building testing positive for COVID-19, the building will be included in the compulsory testing notice;
- If the Centre for Health Protection considers there is a cluster outbreak in a particular workplace, apart from requiring suspension of operation and disinfection of the workplace, a compulsory testing notice will also be issued requiring persons who have been at the workplace to undergo testing. If two or more confirmed cases are found in the workplace, it will be included in the compulsory testing notice.

A sudden directive for compulsory testing and suspension of operation of a workplace will be disruptive. What should employers do to prepare for the (unfortunate) situation where it occurs? The issues employers should now be turning their minds to include:

1. Keep up-to-date with accurate information

   The situation is very fluid and things can change rapidly. Employers should keep themselves up-to-date with the government directives and monitor the evolving situation closely. Employers should be vigilant in ensuring they receive timely notice of and/or identifying potential cases in and around the workplace and/or the same office building. Establish a communication channel with the building management of the office, if they are not already in place.
2. Review and update the business continuity plan

Employers should review and update their business continuity plan taking into account the latest government directives and the potential risks that can affect the business operation and their employees. Employers should consider revising or expanding the agile and flexible work arrangements, reviewing the need to re-organize teams and re-allocate resources (e.g., the A/B teams arrangement and remote working arrangement) and ensure that sufficient resources are available in the event that the employees are locked down for long hours in (or away from) the office.

3. Have a way for identifying impacted employees

The government may impose compulsory testing in an “ambush style”. Persons within the restricted areas where a “restriction-testing declaration” is made are required to stay at their premises, undergo compulsory testing and can only leave after the relevant test results are mostly ascertained.

This “restriction-testing declaration” may result in employees not being able to attend work if they are at home, or not being able to return home if they are in the office at the time when the declaration is made. Knowing who among the employees are impacted means employers can provide support to impacted employees to the extent they are able to (e.g., through well-being or employee assistance programs) and at the same time help them manage any impact or disruptions to their business caused by absences.

4. Communication

There will be confusion and anxiety if a workplace is suddenly impacted by a COVID-19 case and/or the workplace is the subject of a compulsory testing notice. Timely and open communication about what is happening and what employees should do will help reduce that confusion and anxiety as well as reduce any spread of rumours.

More information on compulsory testing is provided by the government on the COVID-19 thematic website, which is available at: https://www.coronavirus.gov.hk/eng/compulsory-testing.html

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