



UKHCA Guidance Document

Pandemic Influenza Guidance for Homecare Providers

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Important information on Swine 'Flu – 25th October 2009

At the time of writing an outbreak of swine 'flu in the UK and other countries is now classified as a pandemic 'flu outbreak by the World Health Organisation, meaning there is sustained transmission in the general population. It is expected that in the UK following the first wave of cases in the early summer, we will now see a further second wave of cases in the autumn and winter, and more waves may follow. It is still very early days in terms of knowledge about swine 'flu.

The following information is based on currently available public information but may be subject to change as more about the virus is discovered. Nothing in the information below is intended to contradict advice from the government and in the case of any conflict, follow government advice (see contact details below). UKHCA will keep updating this section of our guidance with more information as and when it is published so do regularly check our website for newer versions of this guidance.

General information

What are the symptoms?

The symptoms of swine 'flu include sudden onset of fever, cough or shortness of breath, headache, sore throat, tiredness, aching muscles, chills, sneezing, vomiting, diarrhoea, aches and pains, runny nose or loss of appetite.

How severe is the illness?

So far in the UK most cases have been mild, and the virus is one that normally leads to complete recovery within a week or so for most people who have no underlying health conditions. The danger from 'flu is mainly from complications, especially pneumonia. There are concerns about cases where previously healthy people have sadly died, although officials are still stressing that deaths have mainly occurred in those people with underlying health conditions.

Who is most at risk of becoming seriously ill?

People with chronic lung disease, including people who have had drug treatment for their asthma within the past three years, people with chronic heart disease, people with chronic kidney disease, people with chronic liver disease, people with chronic neurological disease, people with suppressed immune systems (whether caused by disease or treatment), people with diabetes, pregnant women, people aged 65 years and older, and young children under five years old. In general it does seem that the virus is one younger people are more susceptible to catching – the 5-24 age group in particular.

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How is swine 'flu spread?

The new strain of swine 'flu, as a new virus, means that no-one will have built up immunity to it. It is a respiratory disease meaning it is spread through coughs and sneezes as others may breathe in the droplets or touch contaminated surfaces. Droplets can reach up to 3 metres. The virus can last 24 hours on hard surfaces and 20 minutes on soft surfaces.

How long are people infectious? When could staff return to work?

As more about the virus is learnt, it is estimated that the incubation period could be up to seven days, although most typically it takes two to five days for symptoms to start. It is important to note that people aren't infectious until they begin displaying symptoms and shedding the virus through coughs and sneezes. It is estimated that once someone starts displaying symptoms they will be infectious for around five days (seven days for children) as this is generally how long swine 'flu is seeming to last in most people. Once symptoms have gone completely the person is no longer infectious and can return to work. From the data it seems about 75% of people take ten days to fully recover.

What is happening on self –certification? I had heard that government may extend the rules to two weeks.

There has been no extension of the self-certification rules as of the time of writing. The Department of Health has issued some guidance on sick certification as some people are needing more than the usual self-certification time to recover (7 calendar days) but are advised not to go and spread the virus by going to the GP for certification after this period. The DH has advised that GPs could use their discretion to provide a medical statement for the person by undertaking a telephone examination, so this option may be available to staff. For more information see:

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_106298

Are people/staff immune once they've had it?

Those who recover from a 'flu virus should have immunity to catching the same virus again. This should be the case with swine 'flu. However bear in mind that the swine 'flu virus may mutate and so people may not have immunity against "new versions" in the future. Previous guidance has suggested that staff who have recovered from the virus could be matched to care for those with the illness, and more official guidance is expected to be published soon. People who have had swine 'flu will still be able to access the planned vaccine.

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What can everyone do to prepare for an outbreak?

Everyone is being encouraged to confirm a network of 'flu friends – friends and relatives –who can help collect medicines and other supplies so people don't have to leave home and possibly spread the virus. If someone is very isolated, members may be interested in contacting the local British Red Cross, as the charity's volunteers are planning to "step in" and help in emergencies, and act as people's flu friends.

It is advisable to have a stock of food and other supplies, such as paracetamol, available at home that will last for two weeks. It may be worth reminding your staff and service users about this advice, and assisting your most vulnerable and isolated service users to build up their supplies if need be.

How many staff may be off work?

For businesses, a revised set of planning assumptions, based on further scientific evidence on the virus has put the worst case scenario at lower than previously thought. It is now thought the virus could infect 12% of the population by May 2010 on average, but looking at different age groups this could be as much as 30% of children under 16. In the "peak weeks" of a pandemic, planners are looking at a possible peak work absence rate of up to 5% of the workforce because of people being ill or needing to look after children. This will need to be added on top of your usual absence rates including for seasonal 'flu this winter. Because the swine 'flu appears to be affecting younger people more than older people, for homecare providers you may find it is your staff, more than your service users, who are affected by the pandemic.

UK revised planning assumptions as of 22nd October 2009.

www.cabinetoffice.gov.uk/media/304850/20091022_swineflu-guidance-planners.pdf

Diagnosis and treatment

What should someone displaying symptoms do?

For anyone feeling unwell with symptoms of swine 'flu should remain at home and they should contact the GP or (in England) the new National Pandemic Flu helpline telephone: 0800 151 3100, for diagnosis over the phone, rather than going to the GP or hospital and spreading the disease. However if someone is particularly vulnerable through eg. pregnancy or underlying health conditions, that are getting worse, the advice in England is still to contact the GP rather than the National Pandemic Flu helpline. Anyone unsure about symptoms can also use the special 'flu symptom checker via the new national Pandemic Flu Service website at www.pandemicflu.direct.gov.uk.

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The emphasis for most people is on treatment and recovery at home and following good hygiene practice at home "CATCH IT, BIN IT, KILL IT".

Who gets access to antivirals? Will my staff get supplies?

On 25th June 2009 the UK moved from a "containment" phase to a "treatment" phase which means diagnosis will rely on symptoms rather than swabbing, and *generally* antivirals are only being offered to those with the 'flu rather than pre-emptively to surrounding close contacts unless there are household members in the higher risk groups. Staff will therefore only generally get antivirals if they are symptomatic. In fact increasingly health officials may well leave otherwise healthy people to "ride out" the illness as on 21 August 2009, the World Health Organisation said that healthy patients with uncomplicated illness need not be treated with antivirals.

How do antivirals help?

Although antiviral drugs are not a cure, if taken within 48 hours of becoming symptomatic they can relieve symptoms, reduce the length of illness by a day and reduce complications. People with the swine 'flu virus have generally responded well to antiviral drugs Tamiflu and Relenza. The UK stockpile is enough to treat half the population and is being expanded to cover 50 million people.

How does an ill person get access to antivirals?

In England the ill person should contact the National Pandemic Flu Service www.pandemicflu.direct.gov.uk or telephone 0800 151 3100. In Wales, Scotland and Northern Ireland people can still continue to contact their GP by phone for diagnosis and for antiviral access. If antivirals are required, the 'flu helpline/a person's GP will give them a voucher reference number with details of where to collect them. A healthy friend or relative can then use this to pick up antivirals from the person's local collection centre.

Will facemasks be issued to the general public?

There is scientific evidence that facemasks do not protect the general public from becoming infected and a decision has been taken across the UK not to issue facemasks for general use.

What about facemasks for careworkers? Do I need respirators?

For those careworkers in close contact (within 1 metre) of an infected person, performing personal care tasks, correctly worn **fluid resistant surgical masks** should provide adequate protection against large droplets, splashes and contact transmission.

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A specification for masks has been difficult to find, but advice from the Department of Health is to provide "2R fluid-resister surgical mask offering splash protection and a malleable noseband".

A very helpful advice note was sent by the Chief Medical Officer for Wales which provided some answers to questions about facemasks and in particular about respirators. The use of Filtering Face Piece (FFP) respirators, which are to be used in healthcare, are only advised in social care where aerosol generating procedures are being carried out. This is likely to be rare but some providers may have staff who carry out such procedures such as intubation, manual ventilation and suctioning. If you do provide this type of care, the advice should be helpful to you.

Chief Medical Officer Wales:

<http://wales.gov.uk/topics/health/ocmo/publications/cmo/cmo09/masks/?lang=en>

How do I access equipment such as facemasks for my staff?

Every administration in the UK is urging providers to build up their supplies of personal protective equipment, such as gloves and aprons, handgels and rubs. There will be no national stockpile of these.

However it is recognised that it is becoming increasingly difficult to procure own supplies of facemasks. There is a national stockpile of 227 million fluid resistant surgical facemasks and 34 million respirators which has been ordered by the UK government for distribution to health and social care staff – the plans for distribution need to be clarified in some areas but the general information for each administration follows:

In **England** the Department of Health has said a third of this national stockpile of fluid resistant surgical masks is earmarked for social care, and is being delivered in batches to PCTs for onward distribution to Directors of Adult Social Services (DASS's) at local authorities. The Department of Heath's message to DASS's is that this is limited supply but all sectors of social care – private, third sector and statutory services, whether you contract or not with the council, are eligible to access the stockpile where frontline staff are working in direct contact with individuals symptomatic with swine 'flu. On 5 August 2009 a further message about ensuring the stockpile can be accessed by social care providers was issued by the Department of Health to DASS's.

Swine Flu: Letter to directors of adult social services

www.info4local.gov.uk/documents/publications/1309233

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Please note in the case of respirators these were procured and delivered to PCTs for use by health staff who are more likely to be involved in aerosol generating procedures. Therefore the Department of Health advises that social care providers procure their own supplies, or contact their local PCT as some have made provision to local providers to meet specific needs.

In **Wales** the national stockpile is for health and social care services, including independent providers of social care who are an active part of the local pandemic response. Although the Assembly has left some flexibility over local agreements, it appears delivery is to Local Health Boards who have then taken responsibility to forward the social care portion to Directors of Social Services at local authorities, therefore access is via local authorities. The Assembly has issued some "FAQs" on facemasks.

www.ukhca.co.uk/pdfs/walesfacemasks.pdf

In **Scotland** the Scottish Government has stated that in the social care sector, as in the healthcare sector, surgical facemasks will be provided for frontline care staff according to their exposure to the risk of infection. This will cover staff caring for individuals residing at home and will include the public, voluntary and private social care sectors. UKHCA suggests the first point of call for facemasks should be the local social service director.

In **Northern Ireland** a Pandemic Influenza Planning Group has now been set up with UKHCA, RQIA and the five health and social care Trusts to ensure that appropriate advice and support is available to the independent sector in assessing needs for Personal Protective Equipment, in line with current guidance. The DHSSPS has announced that it has stockpiled facemasks and respirator masks for the use of health and social care staff in the event of a pandemic and stocks are being increased. An interim statement on PPE has been published which gives the procedure for accessing facemasks. This can be found at the RQIA website at:

www.rqia.org.uk/what_we_do/registration_inspection_and_reviews/infection_control/swine_flu.cfm

How long should masks be worn before they are replaced?

Fluid resistant surgical facemasks should only be worn once and used according to the manufacturer's instructions. They should be disposed of safely once the care of the infected individual has been carried out. This can be in a tied plastic bag and then placed in the service user's ordinary domestic waste.

The same advice goes for respirators, which are single use only, even though they do last significantly longer than a surgical mask and are designed to be worn for several hours at a time if necessary.

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When will a vaccine be available? Will care staff be prioritised?

A vaccine is now ready – in fact there are two vaccine products which have just been licensed. Both vaccines will provide immunity to the current virus. Most healthy adults will be given the Pandemrix vaccine which is one dose. The first vaccinations have now begun, with 60 million doses of the swine flu vaccine expected to be available by the end of the year. The government has ordered enough vaccine for the whole population, but to reduce the impact of swine flu those at greatest risk will be given priority. This will include frontline social care staff as well as healthcare staff.

All the relevant countries have made statements about frontline social care workers being in the priority list. The definition of what a frontline social care worker is has also been agreed and includes domiciliary care workers providing personal care in people's own homes.

England:

www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_104285

Wales: www.wales.nhs.uk/documents/D83496CE.pdf

Scotland: www.scotland.gov.uk/News/Releases/2009/08/13171445

Northern Ireland: www.rqia.org.uk/cms_resources/HSS_MD_44_2009_-_FURTHER_UPDATE_ON_PANDEMIC_SWINE_INFLUENZA_VACCINATION_PROGRAMME_2009%5B1%5D.pdf

How do staff access the vaccine? Are they obliged to take it?

There is no obligation for social care staff to take the vaccine. Obviously all UK administrations wish to encourage uptake, and UKHCA recognises that the vaccine programme will raise particular Human Resources issues. Please see the HR advice at the back of this guidance which has been updated with advice from Anthony Collins Solicitors LLP. Members can also ring the UKHCA helpline for further HR advice 020 8288 5291.

Much of the operational detail is yet to be published on how staff will access the vaccine, and publicity campaigns have begun with leaflets on the vaccine – see:

www.nhs.uk/news/2009/04April/Documents/SF-vaccination-leaflet.pdf

UKHCA's understanding is that the vaccine should be free to independent social care providers and their staff (we are still seeking an explicit statement in Wales on the issue) therefore if there is any suggestion that homecare providers must pay for this please contact our helpline with the details of what you have been told.

In brief we understand that:

In England, the Department of Health has charged Directors of Adult Social Services at local authorities to work with their PCTs and GPs etc on a local vaccine programme. If there are any costs to local authorities they are to invoice the Department of Health to reclaim any costs.

In the coming weeks it is likely that the Directors of Adult Social Services will want to know from providers how many frontline social care staff you have who want the vaccination. See the Department of Health circular to local authorities on the vaccine programme for social care staff on 15th October 2009.

www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_107196

In Scotland, the Scottish Government has asked each NHS Board to put in the local plans for vaccination of social care staff. Providers may wish to establish contact with their Local NHS Board to find out about local arrangements, if they have not already received contact from officials.

In Wales, Directors of Social Services have been asked by the Welsh Assembly Government to work with their Local Health Boards on a vaccine programme locally. Providers may wish to establish contact with their Director of Social Services to find out about local arrangements, if they have not already received contact from officials.

In Northern Ireland, the Health and Social Care Trust occupational health departments have been charged by DHSSPS to take charge of the vaccine programme. Providers may wish to establish contact with their Trusts if they have not already received contact from officials.

Dealing with an outbreak

What should I be telling staff and service users?

Make sure both staff and service users let your service know immediately if they are diagnosed or have the symptoms of swine 'flu, or if anyone in their immediate household has it so you can put in the precautionary measures needed and alert the appropriate authorities for those service users who have no informal support.

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One of my careworkers thinks they have it– what should they do?

Staff need to be aware of the advice that for anyone with symptoms of swine ‘flu the advice is to stay at home (“self isolate”) and contact the GP or Pandemic Flu helpline in England for diagnosis over the phone, rather than going to the GP or hospital and spreading the disease. Anyone unsure about symptoms can also use the special ‘flu symptom checker via the new national Pandemic Flu Service website at www.pandemicflu.direct.gov.uk. The emphasis is on treatment and recovery at home and following good hygiene practice at home “CATCH IT, BIN IT, KILL IT”.

Do I need to tell service users if a careworker who visits them has become ill with swine flu?

There is no official written advice from the government but it is inadvisable to disclose personal medical information about your staff to service users for data protection reasons, and in any case it may alarm service users unnecessarily. The staff member is unlikely to have passed it to service users if they were free of symptoms at the time they were giving care (and they should not be working if they are symptomatic), and once swine ‘flu becomes prevalent again in the autumn, the reality is that service users could contract it from any number of sources.

One of my careworkers has come to work ill with the symptoms – what should I do?

If it seems that staff may have inadvertently come to work and spread the illness, they should go home immediately (avoiding public transport if possible and practicing good hygiene and wearing a facemask if they can be supplied with one) as once symptomatic they are infectious. Ask them to get a diagnosis and let you know as soon as possible if they have been diagnosed with swine ‘flu.

What happens if staff have been exposed to infected individuals – should they come to work?

In scenarios such as, for example, where a careworker may have a child or other close contact who has swine ‘flu in their household, the official Health Protection Agency guidance at present is that as long as they do not have flu-like symptoms and are feeling well then people should go about their normal business. Bear in mind that in the height of the pandemic most people are likely to be in increasing contact with ill family and friends and there will be a heightened need for well people to keep working. Some businesses are allowing “well staff” to stay at home as precautionary measure but that is an individual business decision. Of course staff may also have caring responsibilities and need reasonable time off anyhow (see Section 11 for “Difficult employment issues and pandemic ‘flu).

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I have a pregnant careworker concerned about catching swine 'flu – what should I do?

Deal sensitively with people who believe they may be at more risk if they are in contact with service users with swine 'flu. This includes pregnant workers, those with asthma or other respiratory conditions (see above for more on those at risk).

The Chief Medical Officer in England has published some official guidance specifically for pregnant women and it does advise that they should avoid being in contact with someone with swine 'flu or is suspected to have swine 'flu (see www.dh.gov.uk/en/Publichealth/Flu/Swineflu/DH_103068). Therefore it is reasonable to match pregnant members of staff with uninfected service users. Also see "Section 11 – Difficult employment issues and pandemic 'flu."

What are my obligations to service users in a pandemic?

It is rational that during the height of the outbreak you may need to explain to service users that you may have to reduce components of less vital care, as your service could well be significantly affected through staff absence or pressures of caseloads. Make sure that people using services know what measures you may need to take to protect your staff or if your service is significantly affected.

Is there any other message I should be promoting amongst staff and service users?

General public health advice is to follow good hygiene practice to prevent the spread of swine 'flu. When coughing or sneezing it is important to follow the rules of good hygiene, by carrying tissues, covering your mouth and nose when you cough and sneeze, bin the tissues after one use and wash your hands with soap and hot water or a sanitiser gel often. The message is "CATCH IT, BIN IT, KILL IT". It's a good idea to keep promoting and refreshing this message with your staff and with service users.

There is some excellent workplace advice for businesses on how to reduce transmission in the workplace with both environmental, organisational and individual actions and using a risk assessment matrix. This can be found on the Health and Safety Executive website www.hse.gov.uk/news/2009/swineflu.htm

Will I still need to do criminal record checks in a pandemic? What are the regulators saying?

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Until the height of the outbreak it is unclear how central government will approach the issue of criminal record checks. No official announcements have been made at the time of writing and providers should only follow government guidance. Local authorities or Trusts do not have the power to request providers to start staff without undertaking the necessary checks required under law. Most of the regulators are indicating that it will continue to be business as usual in terms of inspections but acknowledging that systems will be reviewed as the pandemic evolves.

Problems and issues

UKHCA has written to all UK governments asking for consistent access to antivirals, vaccinations and equipment for social care staff, who should have the same priority as health professionals should swine 'flu become prevalent in the community. UKHCA will keep members updated on progress prioritising care staff. Do let us know if you are facing any particular problems or issues and we will do our best to raise them at a national level. Chief Executive, Lesley Rimmer, is a member of the Department of Health's Pandemic Influenza Group (PIG), representing the views of the homecare sector to senior officials and UKHCA's board members and vice-presidents are also representing UKHCA across the administrations.


Disclaimer

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Further information

Swine 'Flu recorded information line 0800 1513 513


Swine 'Flu posters and leaflets can be downloaded from:

 www.dh.gov.uk/en/Publichealth/Flu/Swineflu/DH_098802


New National Pandemic Flu helpline England 0800 151 3100 (for symptom checking and access to antivirals)

 www.pandemicflu.direct.gov.uk


NHS direct Wales 0845 46 47

 www.nhsdirect.wales.nhs.uk

NHS 24 in Scotland 08454 242424

 www.nhs24.com/content

Northern Ireland NHS helpline 0800 0514 142

 www.nidirect.gov.uk/index/health-and-well-being/swine-flu.htm

Business Link dedicated page on planning for swine 'flu


 www.businesslink.gov.uk/bdotg/action/detail?type=ONEOFFPAGE&itemId=1082470688

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1. Introduction

Contingency planning is a necessity for all businesses, and domiciliary care agencies are no exception. In the last two years, UKHCA has been directly involved in the Department of Health's planning for the future possibility of pandemic 'flu (a worldwide outbreak of influenza that can be passed from one human to another).

At the time of writing (Winter 2009) the worldwide outbreak of swine 'flu has been classed as a pandemic. The services of homecare providers will be essential for the wellbeing of service users and the ability of homecare workers to maintain their health and safety while working under exceptional circumstances.

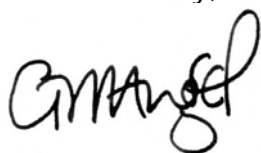
This document has been produced as part of good practice contingency planning and we encourage providers to familiarise themselves with the information provided in this document. Good contingency planning is needed for all emergencies, not just the threat of a 'flu pandemic, so many principles in this document may be useful to other situations.

UKHCA's website now contains information about how the homecare sector should manage a future pandemic. This document is provided as a service to UKHCA members and will be subject to future updates. The most up-to-date version of this document and more information from UKHCA can be found at the easy to remember web address www.ukhca.co.uk/flu. We also have a contingency planning template for members online on this page.

With a pandemic now a reality, UKHCA intends to continue to provide services to our members. Most importantly, we expect the Members' Telephone Helpline to continue to operate. Contact details for UKHCA, including our website and helpline numbers are given on page 6.

We will not know the full impact of the swine 'flu pandemic or how severely it will affect the delivery of homecare. However, UKHCA is confident that the dedication and commitment of our membership will play a vital role in ensuring essential services are delivered to the people for whom we care.

Yours sincerely,



Colin Angel

Head of Policy and Communication

2. Important information

This document is subject to periodic revision as new information becomes available. The most recent version of this document can be obtained from:

 www.ukhca.co.uk/flu

The information provided in this booklet is a service to UKHCA member organisations and domiciliary care providers around the UK. Nothing in this document intentionally conflicts with guidance from:

- The Department of Health (England)
- The Department of Health and Social Services (Wales)
- The Scottish Government Health Department (Scotland)
- The Department of Health, Social Security and Public Safety (Northern Ireland)
- The Health Protection Agency, which is an independent body advising health professionals dealing with infectious diseases
- The Cabinet Office Civil Contingencies Secretariat (UK), which works to prepare the entire UK for emergencies.
- The World Health Organisation (WHO), the international agency with responsibility for worldwide health and which advise on the worldwide status of a pandemic.

For the contact details of the above bodies please see Contact details, Section 14.

In the event of any conflict between this advice and that issued by the statutory bodies listed above, advice from the statutory body should be followed.

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3. Contacting UKHCA

Subject to the effects of pandemic influenza on UKHCA's staff, the Association's services to member organisations will function as normally as possible, particularly in relation to the UKHCA website and the Members' Telephone Helpline.


The UKHCA website

Information specifically relating to pandemic influenza will be found on:

 www.ukhca.co.uk/flu

UKHCA Members' Helpline

The UKHCA Members' Helpline can be contacted between 09:00 hrs and 17:00 hrs between Monday and Friday on:

 **020 8288 5291**

 helpline@ukhca.co.uk

Please note that this service is **only** available to organisations in full membership of the Association. Please quote your membership number when getting in touch. Helpline services are not available to organisations not in membership or whose membership has expired.

More information on joining UKHCA can be found at:

www.ukhca.co.uk/joining.aspx

If your membership of UKHCA has expired, please contact us on the number above to request a renewal form (renewal forms are also available on our website).

Media enquiries

Genuine enquiries from the media can be made to:

 **07920 788993**

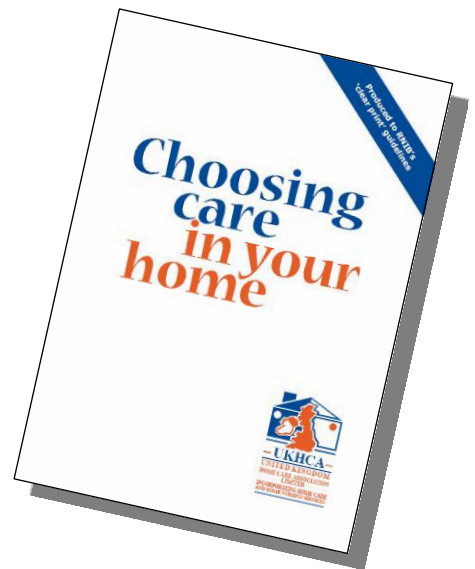
 media@ukhca.co.uk

Please note that these contact details must **not** be used for helpline enquiries or other business, including enquiries from the public.

4. Information for members of the public


This information has been prepared for domiciliary care providers and has been written to meet their needs in providing services to people who need services. This guidance has therefore not attempted to answer questions of service users, their families or members of the public.

UKHCA does not provide homecare services itself, but can provide members of the public with contact details in their local area, based on the UK postcode of the person who needs homecare. This information can be accessed from the UKHCA website as follows:



 www.ukhca.co.uk/memberlist.aspx

A leaflet called "Choosing Care In Your Home" is available from the UKHCA website at:

 www.ukhca.co.uk/downloads.aspx?download=108

At the time of writing a national leaflet drop has taken place following the outbreak of human swine influenza. Members of the public looking for information about pandemic influenza may like to visit these websites.:

The Department of Health:

 www.dh.gov.uk/PandemicFlu

NHS Choices for up to date health advice and a 'flu symptom checker

 www.nhs.uk

Preparing For Emergencies (HM Government):

 www.direct.gov.uk/en/Governmentcitizensandrights/Dealingwithemergencies/Preparingforemergencies/index.htm

Swine 'Flu recorded information line 0800 1513 513

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5. Pandemic 'flu predictions

Over the last century there have been three major outbreaks of pandemic influenza. A pandemic is a global epidemic of a 'flu virus strain which is markedly different from previous viruses. This means that few people (if any) have immunity to the virus, allowing it to spread rapidly worldwide. Pandemic 'flu should not be confused with "seasonal" or "ordinary" 'flu which is caused by viruses circulating in the population already.

The World Health Organisation (WHO) has been warning that another 'flu pandemic is both inevitable and imminent, but no-one would be able to predict when it will occur. That warning has now come true, and we now have a pandemic of swine influenza. We are still learning about swine 'flu. But generally, pandemics are likely to be more serious than ordinary 'flu and cause illness in at least one quarter of the population. Mortality rates amongst those affected for those with swine flu has been downgraded, but could be more in other pandemics. An estimated 12% of adults might be affected directly by swine flu, and 30% of children and it may hit the population in "waves" lasting 15 weeks or more. Subsequent waves may be weeks or months apart and the second wave could be more severe than the first. It is also uncertain which age group may be affected the most, but presently the swine 'flu outbreak appears to be affecting the younger – 5-24 – age group more than others.

As of April 2009 the swine influenza A/H1N1 virus infection has taken hold in several countries including the UK. Like the avian influenza virus ("bird flu") which had the potential to mutate or evolve to be passed between humans in the future, and so become a pandemic, swine influenza is a respiratory disease normally found in pigs but human cases can and do happen. This new strain of virus is thought to be transmitted in the same way as seasonal 'flu.

In the opening pages of this guidance we provide more information on the specifics of swine 'flu. The rest of this document is intended to provide general advice and strategies to help homecare businesses plan ahead for swine 'flu and future pandemics. In the following sections we signpost information which should be of use to homecare providers in both infection control and business contingency planning.

A serious pandemic is likely to cause disruption to the daily life of many people, lead to intense pressure on health and other services and cause many deaths. Latest estimates, although downgraded, state that up to 5% of staff could require time off because of sickness or caring responsibilities in the peak weeks during the pandemic, with an infected individual being absent for an estimated 7-10 days. In future pandemics this could be very different and more serious for businesses.

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Further Reading


World Health Organisation fact sheet on pandemic influenza

 www.who.int/csr/disease/influenza/pandemic10things/en

World Health Organisation information on swine 'flu

 www.who.int/csr/disease/swineflu/en/index.html

Department of Health – pandemic 'flu site with articles

 www.dh.gov.uk/PandemicFlu

6. How will pandemic 'flu be treated?

There are two forms of treatment which will be developed to target pandemic 'flu.

A vaccine will first be available for the new strain of 'flu an estimated 4-6 months after pandemic 'flu first appears in the population. Seasonal 'flu vaccinations, even those given recently, are unlikely to provide protection for pandemic 'flu. However people who meet the criteria for seasonal 'flu vaccine should still follow medical advice as seasonal 'flu will continue each year as normal. A vaccine is now available for swine 'flu, as noted in the introductory pages of this guidance.

Antiviral drugs are medicines for the treatment of viral infections. They have been shown to be helpful in the treatment of ordinary 'flu and so they may be effective in the treatment of pandemic 'flu. However, it will remain unknown as to how effective they will be until the pandemic 'flu virus is circulating. In the case of human swine influenza testing has shown that the human swine influenza H1N1 can be treated with the antivirals oseltamavir (Tamiflu) and zanamivir (Relenza).

Antivirals won't stop the 'flu from developing but treatment with antiviral drugs may shorten the duration of the disease, alleviate symptoms and reduce complications and serious illness. As noted in the introductory pages, the Department of Health has purchased enough antiviral drugs to treat fifty percent of the population, and plans to purchase more to cover up to 80%. Other UK administrations have announced similar coverage and plans. Antivirals will need to be prioritised if demand outstrips supply and they are generally only being distributed now to those who have serious symptoms or are at high risk. Many people are being advised just to "ride out" the illness.

Further Reading

Department of Health – pandemic 'flu site with articles on antivirals and vaccines along with other medical responses



www.dh.gov.uk/PandemicFlu/

7. Infection control for general public

Limiting the spread of pandemic 'flu will be crucial and public information campaigns will have a large role to play. The government has sent information leaflets to all households on swine 'flu. A national 'flu helpline that provides information and advice to the public has been launched in England, to help alleviate pressure on GPs.

Until the scale and impact of the pandemic is known it is impossible to say what measures the government may recommend to limit the spread of the disease. For example, there may be controls on public gatherings such as football matches or concerts, and limits on travel.

Pandemic 'flu is spread through respiratory secretions and droplets. Transmission will be through coughs, sneezes, direct physical contact with infected individuals, as well as physical contact with inanimate objects which might be contaminated (eg. door handles).

Public health information campaigns are therefore promoting basic hygiene measures amongst the general public, such as effective hand washing, covering nose and mouth when coughing and sneezing, using tissues, and disposing of dirty tissues promptly and carefully (bagging and binning) to reduce the risk of contamination, then washing hands with soap and water or sanitizing gel. The three steps are collectively being described as "Catch it, Bin it, Kill it".

The government considers that face masks have limited value in terms of being recommended for general use by the public, for example, on public transport. In terms of the current swine 'flu outbreak the government has stated that there is no convincing scientific evidence that the widespread issue of facemasks to healthy people can stop the disease spreading, and may give false reassurance, encouraging people to ignore straightforward hand hygiene measures.

Most medical treatment will be delivered at home and people are likely to be asked to nominate a "flu friend" who can collect medication from collection points, rather than risk spreading the infection outside of the home.

The key messages for the public on becoming ill will be:

- Stay at home
- Don't spread it around
- Telephone the national 'flu helpline

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For more on the current approach during the swine 'flu pandemic see our introductory pages.

8. Infection control in homecare

Although infection control is already a prominent part of training in homecare, it is set to gain much greater prominence during the pandemic and homecare providers will be expected to ensure that staff are trained in and operate to good hygiene standards in order to support the infection control strategy for pandemic 'flu.

In terms of preparing staff, it is important to emphasise the importance of personal hygiene and reinforce the messages of "Catch it, Bin it, Kill it". Leaflets and posters are available to download from the Department of Health website, or from Primary Care Trusts which help get these messages across (see further information). PCTs in England also hold hand hygiene posters which they have been encouraged to make available to homecare providers on request.

Handwashing

UKHCA's basic handwashing guidance has also been included in this document. Revise with staff the simple steps of handwashing, to take place on arrival at a service user's home before donning gloves, after removal and disposal of gloves or contact with used tissues and bodily fluids, and finally before leaving the service user's home. The practice should involve:

- Using warm water, comfortable to the touch
- Neutral detergent hand wash or a clean bar of soap
- Drying hands on a disposable tissue or clean towel
- Not rubbing hands so vigorously they become tender
- Not using a scrubbing brush

Facemasks

Face masks may be provided to staff in close contact (about 1 metre) with infected people. Further guidance and announcements on the use of protective equipment in health and social care and the distribution of a national stockpile are available in our swine 'flu FAQs in the beginning of the document.

To be effective facemasks should be:

- Worn correctly, following the manufacturer's instructions

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- Changed frequently, at least between service users. Single use items should never be re-used
- Removed properly, with minimal handling, preferably only by the ties or loops
- Disposed of safely, into a tied plastic bag and then into normal refuse which should be discarded frequently
- Combined with good hygiene measures, so handwashing should follow every removal of a mask.

Cleaning contaminated surfaces

Evidence suggests that the virus can last for up to 24 hours on hard surfaces but only for a much shorter period of time on soft surfaces. It is therefore important to ensure that surfaces are cleaned daily. The virus is easily killed by common household cleaning products and detergents. Use a damp cloth when dusting, and use a household detergent and water to clean surfaces. Pay particular attention to surfaces in the bedroom, kitchen and bathroom and remember to clean doorknobs, taps, telephones and children's toys.

Further Reading


"Effective hand washing for home care workers", written by UKHCA and shown on the following page. Further copies can be downloaded from:

 www.ukhca.co.uk/downloads.aspx?download=112

The **"Home Care Workers' Handbook"**, the essential guide to care at home. More information at:

 www.ukhca.co.uk/handbook.aspx

Lastly, UKHCA has produced an **"Infection Control Pack"** to be used as a "Train the Trainer" pack, raising awareness within homecare organisations of the causes of infection and what can be done to reduce or prevent infection.

 www.ukhca.co.uk/productdesc.aspx?ID=5

The UK wide pandemic 'flu plan **"A national framework for responding to an influenza pandemic"** which contains all the details of infection control plans and rationale, can be found at:

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080734

Effective hand washing for homecare workers

Hand washing is vital to reduce the spread of infection between careworkers and service users. Hands should be washed:

1. On arrival in a service user's home, after removing jewellery from the hands and wrists and before putting on latex gloves (or other well-fitting procedure gloves);

2. After removing and disposing of gloves and following any contact with faeces or body fluids such as urine, blood, sweat or secretions from the nose or mouth;

3. Before leaving the service user's home.

Hands should be washed thoroughly using a squirt of a neutral detergent hand wash (or a clean bar of soap if handwash isn't available). The water should be warm and comfortable to the touch, rather than hot.

Hand washing should be performed carefully, but avoid rubbing the hands so vigorously that they become tender with repeated washing. Do not use a nail brush as this can damage the skin and harbour bacteria.

The following six diagrams show the correct way to wash your hands. Pay special attention to the tips of fingers, the thumbs and the palms of the hands: Tests have shown that these are the areas where bacteria are hardest to remove.

Some people find that applying an unscented hand cream after the last hand wash at each service user's home reduces the risk of their hands becoming dry. Hand creams should be for personal use only, rather than from tube or container used by several people. When outside in cold weather it is also a good idea to wear some well-fitting gloves.



1 Wet hands with warm water and use handwash to build up a lather. Wash the hands and wrists.



2 Wash the hands with palms facing and remembering to wash between the fingers of both hands.



3 Wash the backs of both hands, again remembering to wash between each of the fingers.



4 Link the fingers of one hand with the other and continue to wash.



5 Wash the thumbs of each hand thoroughly using one hand to wash the opposite thumb.



6 Finally, wash the palms of each hand as this is an area often neglected. The hands are then rinsed thoroughly and dried on disposable paper towels (or a clean hand towel).

9. Local preparation for a 'flu pandemic in social care

Under the Civil Contingencies Act 2004 local authorities and Health and Social Care Trusts in Northern Ireland are obliged to plan for their functions in the event of an emergency. This means that all these bodies should be putting into place action plans to deal with pandemic 'flu. The Act also allows for the suspension of normal council services, including social services. This may mean that local authorities and Trusts redeploy staff to help in the crisis or rely on temporary staff banks and volunteers. Non-essential services such as cleaning or basic personal care may be suspended, and there may be other restrictions on statutory and voluntary services such as meals on wheels.

There is also a possibility that full criminal record checks may have to be suspended so that staff or volunteers can be seconded quickly to care roles. It is also possible that the statutory regulators in each country may also delay inspections or take a flexible approach. Members should act as normal until these measures are in place. There is no guarantee that such measures will be taken but governments and statutory agencies are planning for the possibility.

UKHCA does not yet have a national picture on how local authorities and the Health and Social Care Trusts will deal with existing contracts during this 'flu pandemic. However guidance has been published in the UK administrations on how social and community care services should operate during an outbreak.

How the public authorities react will clearly have a major effect on independent homecare providers. There is clear encouragement at government level that local authorities and Trusts should work with their independent local care providers – in England the Department of Health has said that having strong relationships with local providers is key in managing an outbreak. UKHCA has responded to pandemic 'flu consultations to reiterate that local authority and Trust planners need to:

- Involve homecare providers in training, including hygiene training and awareness and guide providers on how to manage deaths in their leading role in making arrangements.
- Map and identify capacity of the homecare sector to offer assistance in an emergency, and operate a memorandum of understanding with the sector so as to set out terms of work in a crisis situation.
- Offer support to small independent providers who may struggle with minimum staffing levels in event of pandemic.
- Consider guidance on the status and deployment of staff, including criminal record checks as appropriate to that UK administration.

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- Consider how to balance restrictions against risk of social isolation for homecare service users.

ENGLAND

An operation and strategic framework: planning for pandemic influenza


 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080755

Planning for pandemic in social care will be a series of modules on best practice planning in a pandemic. Some are under development. To read more see:


 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093380

SCOTLAND

An operational and strategic framework: planning for pandemic influenza


 www.scotland.gov.uk/Publications/2007/10/23104313/0

Guidelines for community care staff

 www.scotland.gov.uk/Publications/2007/10/23095221/0


WALES

Planning for Pandemic Influenza in Social Services

 <http://wales.gov.uk/publications/accessinfo/drnewhomepage/healthdrs/Healthdrs2008/socialcareflupandemicguidefeb08/;jsessionid=V11IJ4Lb7qhNd2Q2Lbm2tnWzZyCJGx83bHN81dZPRmj18yQyRLh2!1116311810?lang=en>

NORTHERN IRELAND

Planning for Pandemic Influenza in Personal Social Services: Guidance for Personal Social Services Providers in the Statutory and Independent Sector

 www.dhsspsni.gov.uk/planning-for-pandemic-influenza-in-pss-guidance-for-pss-providers.pdf

10. Preparing your homecare business

With the uncertainty and unpredictability surrounding pandemic 'flu, it is good practice for businesses to plan ahead and consider how they might deal with a variety of scenarios.

Amongst other challenges for homecare providers are:

- A pandemic will cause a rise in demand for homecare either because of 'flu itself or because people's support networks have become unavailable. For example informal carers may be too ill to assist, or local authorities or the NHS may ration their services to only the most seriously ill or in need.
- Up to 5% staff may be absent from work at any one time due to the 'flu or due to caring responsibilities for family members or problems with travel according to the latest revised planning assumptions for swine flu (see FAQs on swine flu in our introductory pages). In other pandemics this could be more. This will bring challenges in maintaining sufficiently trained staff to provide care, and raise human resource issues around sick pay and compassionate leave.
- Office-based staff as well as careworkers may also be absent from work. Key business functions such as payroll, IT, co-ordination and supervision and assessment of new service users may all come under pressure.
- Issues around supplying staff with adequate protection given a surge in demand for personal protective equipment, especially facemasks.
- Natural concern from employees, service users and their families over coming into contact with infected people. There could be cultural objections from staff at being asked to take vaccines, once they become available or concerns from those who may be pregnant or have low immunity.
- Disruption to other external essential services, including transport, food, and IT support which could cause business interruptions, for example with banking.
- An increase in mortality (a rise in the death-rate) and greater demand for funeral directors who may have to provide a higher capacity of service.

There is an expectation that local councils should work with local care providers to ensure that they have robust business continuity plans in place.

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UKHCA advises that homecare providers consider scenarios (such as those listed above) which will need to be planned for in order to protect both your employees and service users in the event of an outbreak.

Contingency planning with staff

As well as reinforcing the principles of good personal hygiene with staff, and training staff in correct handwashing, use of facemasks and cleaning contaminated surfaces, familiarise yourself with good practice guidance on business contingency and planning for business interruptions (see further reading below).

Agencies should assess whether they need to train and develop existing staff to undertake critical roles to ensure business continuity. This might include amongst other matters: on-call functions, authorisation of CRB disclosures, staff payroll and complaints management.

Contingency arrangements should include agreeing in advance and seeking support from staff for your continuity plan – which might include limits to time off during an emergency, and agreeing with staff who have had pandemic ‘flu and recovered if they would offer personal care as they should have immunity and be unable to infect others. It should also include arrangements for homeworking.

Keep staff informed about your plan, and listen to anxieties and try to answer questions. Undoubtedly staff will feel increased levels of stress in the midst of a pandemic, but help staff keep a sense of proportion by keeping them continuously updated. Explain expectations about continued working but don’t encourage unreasonable risks or heroism, and bear in mind the need to comply with the requirements of the Working Time Regulations 1998 if staff are doing overtime. Balance your need for continued operation with your staff’s ability to terminate their contract.

Tell staff when they should go home if sick (avoiding using public transport if possible) and seek appropriate medical advice, and encourage them to call in sick and notify you immediately as soon as feeling unwell with the symptoms of ‘flu. All staff should stay at home until the symptoms resolve.

The following questions will help you identify issues for your plan:

- Do all your staff know about the principles of good hygiene and handwashing?
- Do they know what to do should they fall ill or come into contact with an ill person?

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- Do you have plans to cover sickness of managers?
- Do you have the "in case of emergency" contacts for your staff?
- Are there enough staff to authorise payments and deal with your bank?
- Do you have enough staff to run payroll?
- Are all staff trained with any rostering systems?
- Are there sufficient unrostered staff to cover short notice absence?
- Do you know which staff will increase their usual hours?
- Do you know which staff have their own means of transport if use of public transport is advised against?
- Do you have sufficient supplies including personal protective equipment?
- Have your key suppliers of products and services developed their own contingency plans?
- Do you have provisions for emergencies – for example if careworkers are unable to withdraw cash and get petrol?

UKHCA's recommended solicitors, Anthony Collins, has prepared a series of questions and answers on "Difficult Employment Issues" in the event of a pandemic. This can be found at the end of this guidance.

Remember UKHCA can offer members HR advice through our helpline and keep abreast of advice through signing up to our regular email alerts.

Contingency planning with service users

In the event of a pandemic it will be important to discuss with both your publicly funded as well as self funded service users the arrangements you are putting in place. Official government guidance suggests that homecare managers postpone non-essential services. A homecare service will need to know which users will get help from their families, if they have established "flu friends", next of kin and GP contacts, and whether they have made provision for themselves in terms of supplies of food.

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If you are forced to restrict homecare services, assess services currently undertaken through some form of risk assessment based on a high – medium – low grade of service. UKHCA suggests preparing a matrix which could take into account high priority client needs such as assistance with medication, meal preparation and assistance with maintaining nutrition and hydration, as well as assistance with elimination for those service users unable to use the bathroom independently. Medium priority needs could include assistance with hygiene other than elimination, and shopping where the service user has no-one. Low level services could include shopping where a relative can undertake the task, and cleaning.

Each service user's package should also be measured on whether they are likely to have any assistance from other informal carers, and components identified so that certain tasks can be scaled back eg. so that a 1 hour call of medium/high priority tasks becomes 30 minutes of high priority tasks only.

Questions to ask in terms of contingency planning for service users include:

- Do service users know to alert you if they contract the 'flu virus, so that you can put in place measures to protect your staff before arriving to give care?
- Do you have the next of kin and GP contacts for service users?
- Do you know which service users will get help from their family?
- Do you have plans to target care to the most dependent service users?
- Do you have provisions for emergencies, in case service users are without food?

Contingency planning with councils and Trusts

Make sure you have an up-to-date copy of your local authority's plan for pandemic influenza once it is published.

Contact the local council(s) or Health and Social Care Trust with whom you work in order to request involvement in their contingency planning for pandemic 'flu and to receive regular updates on progress with their action plans and how they will operate contracts in an outbreak.

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Even if you do not provide statutory funded services, it is advisable to make your local council(s) aware of your services, your terms of business and your contingency plan, so they know what homecare capacity there is in the local area in the event of emergency, and ask to be put onto their mailing lists for local information.


In the event of a pandemic you should cooperate with councils wherever possible as there will be an expectation that most people will be cared for in the home. For this reason homecare will be a vital service for authorities, so it is important that councils ensure that independent sector staff and council staff have fair and equitable treatment.

The following questions might be ones to pose to councils with which you contract:

- Will pandemic 'flu be classed as a *Force majeure* event?
- Will the council give a temporary relaxation of performance criteria and penalties? For example, obligation to fill, fill rates, electronic monitoring. If so, when, and if not, why not?
- Will they pay a *reasonable* enhancement to the hourly rate, given additional costs of Personal Protective Equipment or enhanced pay?
- Have they understood zero hour contracts and the numbers of staff on these contracts?


Further Reading

"**Homecarer**" magazine, September 2007, page 6, contained information on business continuity planning

 www.ukhca.co.uk/homecarer.aspx

The cabinet office has published a series of publications for businesses and other organisations to use, should they so wish.

"**Introductory material on pandemic influenza**" as basis of advice to their staff during the current pandemic alert period.

 www.cabinetoffice.gov.uk/media/132829/intro_staffadvice_flu_planning.pdf

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“Pandemic influenza checklist for businesses”, also by the Cabinet Office, helps businesses identify actions which can be taken in advance of a pandemic.



www.cabinetoffice.gov.uk/media/132464/060516flubcpchecklist.pdf

“Guidance for businesses – risk assessment in the occupational setting” has been published by the Department of Health to raise an awareness of measures that can be taken in the workplace to avoid spread of ‘flu.



www.cabinetoffice.gov.uk/media/187638/flu_businesses_risk_guidance.pdf

“Pandemic Flu”, A general guidance produced by the Health and Safety Executive for employers and employees to use if the Chief Medical Officer declares a pandemic flu within the UK.



www.hse.gov.uk/biosafety/diseases/pandflu.htm

11. Difficult employment issues and pandemic 'flu

UKHCA is grateful to Anthony Collins Solicitors LLP for the following questions and answers on difficult employment issues which may be encountered during a pandemic.

This guidance aims to answer some of the employment questions most likely to be raised by care agencies in the event of pandemic flu. The guidance given is necessarily general and you should take specific advice on particular situations. Please note the disclaimer at the bottom of the guidance.

Q: I have a staff member who wants to take time off to look after a family member with flu – are they entitled to do this and do I need to pay them for this time off?

A: Employees are entitled to take reasonable time off where it is necessary to:

- Provide assistance when a dependant falls ill; or
- to make longer term care arrangements for a dependant who is ill; or
- to deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependent.

Dependants include spouses, civil partners, children or parents of the employee.

There is no definition of what is a definition of what is "reasonable" in terms of a maximum (or minimum) amount of time permitted. Employers should discuss such requests with their employees on a case-by-case basis.

It is possible that the employee in question will be entitled to take a limited amount of time initially to provide assistance to their family member when they fall ill and any time needed to make longer term care arrangements. This time would be unpaid (unless the employer has agreed that it will be paid).

If employees are not entitled to take this unpaid time (perhaps because the time isn't really necessary to provide assistance or to make longer term care arrangements or because they have exceeded what is reasonable) an employee might still request to take unpaid or annual leave or to work a different shift pattern.

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Whilst they might not strictly be entitled to do this, you will obviously need to consider the importance of good relationships with your staff members and the fact that you may well need to call upon staff to work flexibly and/or beyond usual requirements in order to cover for the absence of other staff.

Q: One of my care workers has said that her daughter's school has been closed due to the 'flu and she needs time to organise alternative childcare – can she take this time off?

A: The mother would be entitled to take reasonable unpaid time off where it is necessary for her to make alternative arrangements for the care of her daughter.

If, however, it isn't really necessary for her to take time in order to time off, perhaps because another family member could make those arrangements or could provide care, then she would not be permitted time off.

She would not be entitled to unlimited time off but only what is "reasonable". The amount of time that is regarded as reasonable will be dependant on the circumstances and could be significant if alternative childcare is simply not available – which might be the case if there was widespread disruption due to 'flu.

Even if she is not strictly entitled to time off, you might consider giving it in any case if you consider that this would be worthwhile in terms of maintaining good relationships with your staff.

Q: One of my care workers has been working for a service user who has died or gone into hospital. I have no other work that I can allocate to them. Am I obliged to pay them even though I have no work for them?

A: Much will depend on the terms of the contract that you have with your care worker. The first scenario is if the care worker was specifically employed to provide care only to that particular service user. It is likely that their employment contract will be regarded as having been "frustrated" by the death of the service user, automatically terminating on the death of the service user. You would probably not be regarded as having dismissed the care worker and so there should be no need to give notice or a redundancy payment.

The second scenario is if the care worker in question is employed on a permanent employment contract on guaranteed hours to work for a number of service users from time to time as may be directed by you. On the death of one of the service users, unless there are clauses in the contract which entitle you to stop giving them work and not to pay them, you will be obliged to continue to pay them even though they are not working.

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The third scenario is if the worker is on a zero hours contract. Then it is likely that the particular assignment will be regarded as “frustrated” by the death of the service user resulting in the automatic termination of the assignment without the need to continue paying for the remainder of the assignment. This assumes that there is no obligation in the zero hours contract to offer further assignments to the care worker or any obligation to be paid between assignments.

Q: I am concerned that one of my care workers is unwell and although I have asked staff not to come to work if they are unwell, this care worker has insisted on coming in. Can I send him home and do I have to pay him?

A: You could send the care worker home and would probably be wise to do so, in order to avoid the risk of spreading the ‘flu amongst your workforce and service users. You might also consider requiring the employee to be certified as fit to return by their doctor. You may wish to review your sickness policy to specifically state that you may require your staff to undergo a medical examination at any time, although in the circumstances of a widespread and significant outbreak of pandemic ‘flu, certification of fitness to return to work is likely to be a reasonable request regardless of what your policy says.

As regards payment, the general rule is that if a worker is ready, willing and able to work, then they are entitled to full pay even if they are for some reason required not to work. Unless the care worker is obviously unfit to do their work, you may therefore have to pay them in full. This general rule is, however, subject to the limitation that if the employer has no obligation to provide any work or to pay where no work is provided (as is usually the case in a zero hours agreement), then there will be no need to pay other than for work already offered and accepted.

Q: One of my care workers who is on a zero hours contract has not made themselves available for any new work because of their worry about catching flu. Can I take any action against them for this?

A: Assuming the care worker is not required to make themselves available or to accept work offered (as is usually the case with zero hours contracts) then you will not have any right to take disciplinary action if the employee refuses to make themselves available to work or declines to accept work offered.

Q: One of my care workers on a guaranteed hours contract has refused to work because of a concern about catching the ‘flu even though they are obliged to accept work and to work at times notified to them by us. What can I do about this?

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A: What action you decide to take will very much depend on the particular circumstances and on whether it is reasonable for the employee to refuse to work taking account of all the circumstances including:

- the likelihood of catching flu;
- the known situation at the time;
- government advice about working;
- any steps that the agency has taken to enable staff to protect themselves and the health of the service users in question.

If the flu outbreak in this country becomes widespread and causes significant numbers of deaths, then it is possible an Employment Tribunal would regard an employee's refusal to work in these circumstances as reasonable and find that any action taken against them was unlawful. Beware of taking action against care workers who have refused to work on the basis of a reasonable and genuinely held belief of serious and imminent danger to their health if they work.

Dismissal on these grounds will be unfair and action short of dismissal will be an unlawful detriment. You should consider carefully whether to withhold pay in these circumstances.

On the other hand, if the government is advising people to continue to go to work, it is likely that the care worker will be in breach of their contract and this might justify a decision to dismiss the employee. They will also not be entitled to be paid for the time that they have refused to work.

Q: We have a care worker on a zero hours contract who has accepted an assignment but now refuses to carry out this assignment. What action can we take?

A: Assuming that the care worker does not have a right to terminate or give notice to terminate the assignment, then the care worker will be in breach of contract.

What action you decide to take may well depend on how much notice you have been given, as well as the reasonableness of the care workers refusal to work. As mentioned above in relation to the guaranteed hours worker, this will largely depend on particular circumstances of the situation.

Q: What steps could we take to ensure that staff absence is minimised?

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A: Agencies would be well advised to:

- keep their staff informed about health risks and ensure that they have reliable ways of communicating with their staff;
- review hygiene practices and improve these, where necessary;
- ask any employees who feel unwell to stay at home and consult their doctor
- ask employees to report to management if they have flu like symptoms and have travelled to a country where person-to-person transmission is occurring;
- have contingency plans for staff absence;
- consider putting in place arrangements for home working (e.g. for staff who are usually office-based) where appropriate;
- review relevant employment policies and consider how these might be modified.

VACCINATION QUERIES

Q: Should I encourage my staff to be vaccinated against swine flu?

A: The swine flu vaccination is now available to front line health care and social care workers. Your workers who provide personal care to service users, including those in the Government's "at risk" groups, will fall into this category. The government is encouraging social care staff to take up the vaccine

As part of your duty of care, both to your workers, and also to your service users, we suggest that you make your staff aware that the vaccine is available and ask them to consider being vaccinated, informing them that the government is encouraging social care staff to be vaccinated. You may wish to avoid strongly encouraging staff to be vaccinated just in case it later appears that there is a problem with the vaccine.

To help them make an informed choice about being vaccinated, you may wish to refer staff to an information leaflet on the vaccine which is available at:

http://www.nhs.uk/Conditions/pandemic-flu/Documents/SF%20vaccination%20leaflet_web.pdf

You could also suggest that staff consult their GP if they have any concerns.

Q: Can I compel my workers to be vaccinated?

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A: No. You are not able to insist that workers must be vaccinated against the swine flu virus, in the same way that you are not able to insist workers must be vaccinated against seasonal flu. To do so, could open you up to employment claims.

Q: What should I do if one of my workers declines to be vaccinated?

You should carry out a thorough and individual risk assessment of that individual's working environment, including analysis of the service users they come into contact with. Where possible, if a worker has not been vaccinated, contact with other individuals with symptoms of swine flu should be avoided in the workplace, whether with colleagues or service users. In other words, workers with swine flu should not come into work, while employers would be wise to ensure that only those vaccinated from swine flu provide care to those showing flu like symptoms, unless other precautionary measures including personal protective equipment have been put in place for that worker as under current government advice (see next question).

If you decide that a **zero hours worker** should not attend work, then normally you could decide not to offer any work, as generally zero hours contracts do not give any right to be offered work. In relation to a zero hours worker where work has been arranged, it may be that the worker's contract allows you to terminate the assignment. However, where the contract does not provide for this, and you ask the worker not to carry out any work because they are not vaccinated, you should still pay the worker for that assignment.

If you decide that, in the interests of health and safety **a guaranteed hours worker** should not attend work, you must continue to pay them at their normal rate. A failure to do so could lead to claims in the employment tribunal. The only exception to this would be where the contract of employment gives a clear contractual right to withhold pay. If you feel this could be the case, we recommend that you seek legal advice to confirm.

Q: If a worker refuses to have the vaccine, can they still do personal care?

A: It is for the individual employer to take a view, from the evidence of a full and detailed health and safety risk assessment carried out in respect of the individual unvaccinated worker. This risk assessment must take into account any precautionary measures that could be taken in respect of the worker, including any personal protection equipment available.

Q: Do I need to pay for my staff for their time in actually going to get the vaccine?

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A: There is no requirement for you to pay workers to be vaccinated, unless if the vaccination is arranged by the employer and takes place during working hours. However, it may serve as an additional incentive to staff to receive the vaccine, if they will be paid for their time actually getting the vaccine, although there are obviously cost implications of this.

Q: What happens if a member of my staff is vaccinated and has an adverse reaction – am I responsible?

A: So long as employers do not force their staff to be vaccinated, our view is not. Assuming workers will not be obliged to receive the vaccine, it will be their informed decision as to whether or not to have it. Employers would be wise to keep full records of any vaccination process on their premises, and ask workers to sign a consent form to the vaccination to be held on the individual's personnel file, setting out that the worker has made the decision on information provided by government guidance.



The form could also be worded to say that the employer is not liable for any adverse reactions to the vaccine. Where workers are asked to sign a consent form that attempts to exclude the employer's liability on the form, it is debatable that this would be valid. This type of consent form might discourage workers from being vaccinated, and may not be enforceable. However, a consent form could deter workers from bringing claims against their employers.



ANTHONY COLLINS SOLICITORS DISCLAIMER

This guidance is only intended to be a summary of the law. You should therefore take legal advice specific to your situation before taking or refraining from action based on the content of this guidance.


12. Contact details for UK pandemic 'flu advice



England

The Department of Health (DH):  **020 7210 4850**
 **www.dh.gov.uk**

The Care Quality Commission:  **03000 616161**
 **www.cqc.org.uk**

Wales

The Department of Health and Social Services:  **0845 010 3300**
 **new.wales.gov.uk**



The Care and Social Service Inspectorate Wales (CSIW):  **01443 848450**
 **new.wales.gov.uk/cssiwsite/cssiw/?lang=en**



Scotland

The Scottish Executive Health Department:  **0131 556 8400**
 **www.scotland.gov.uk**

The Care Commission:  **0845 603 0290**
 **www.carecommission.com**

Northern Ireland

The Department of Health, Social Services and Public Safety (DHSSPS):  **028 9052 0500**
 **www.dhsspsni.gov.uk**

The Regulation and Quality Improvement Authority (RQIA):  **028 9051 7500**
 **www.rqia.org.uk**

UK wide and international

The Cabinet Office "Preparing for Emergencies" website:  **www.direct.gov.uk/en/Governmentcitizensandrights/Dealingwithemergencies/Preparingforemergencies/index.htm**

The World Health Organisation:  **www.who.int/topics/influenza/en/**

The Health Protection Agency:  **www.hpa.org.uk/**

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