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## Privacy issues in the workplace with COVID-19

**In these highly unusual circumstances we are all, employee and employers, required to continue to comply with the usual good faith requirements of the Employment Relations Act. The calls for calm and common sense when dealing with COVID-19 are the best way to help us through.**

As you will be aware, under the Privacy Act there is a general obligation not to use or disclose an employee's personal information unless an exception applies. COVID-19 is such an exception. If an employee has been diagnosed with, or exposed to Covid-19, then that presents a serious threat to the safety, well-being and health of any other staff member who has contact with the affected employee. In addition to the reporting requirements to the Ministry of Health, other staff will need to be informed so that they can take steps to isolate themselves and monitor their own health. Disclosure of an employee's personal health information should be limited to the extent necessary to protect and inform staff.

If an employee is off work for other reasons, including for disciplinary matters or if they are suffering stress or anxiety, then there is no "serious threat" to other staff and no reason to release their personal information. Some communication may be necessary, however, so that other employees are not unduly alarmed by their colleague's absence. In that case we suggest that other staff are simply informed that the person is away from work for personal reasons. Most employers will have already set up a system for who staff should notify if they have concerns, but it will be important to keep this up to date over the next few weeks.

Now that we are a few days in to the lockdown, it is also a good time to remind staff of their duty to protect company information. People may be working in their living room or garage with other family members about. What steps are they taking to keep their work private and confidential? If they are checking in with their colleagues on a personal level, are they being mindful about how much of their own personal information they are disclosing and careful not to breach someone else's privacy? We suggest you make sure staff have access to the company policies and/or arrange some brief reminders over the coming weeks, and remain communicative and responsive.

With regard to any Official Information Act requests, the Chief Ombudsman, Peter Boshier, has urged agencies and people requesting official information to act fairly, reasonably and with understanding during the course of the COVID-19 emergency. Whether part of an essential service or working from home, we are all working in a rapidly evolving environment with significant demand on resources. If you are subject to an OIA we suggest you remain communicative about your ability to meet the usual deadlines or access the information sought. The current extenuating circumstances will be taken into account in the event of any subsequent complaint.