



The Government has announced that from Sunday 26th July, anyone returning from Spain (including mainland Spain, Balearics and Canaries) will be required to self-isolate for 14 days on their return to the UK.

Understandably, a lot of employers will now have questions about what options they have for employees who will need to quarantine following their return to the UK. It is to be noted that in England, there are significant fines (up to £3,200) and criminal consequences for individuals breaking the quarantine rules, so it is important that employers are not seen to be encouraging employees to breach those rules and return to work.



## What countries are marked as being on the quarantine list?

The Government has maintained a list of countries which are exempt from quarantine requirements (<https://www.gov.uk/guidance/coronavirus-covid-19-travel-corridors>).

If an employee travels to the countries and territories noted on this list, unless they have visited or transited in a country or territory which is not on the list, they do not need to self-isolate for 14 days on their return to England.

Guidance for Northern Ireland can be found [here](#).

Guidance for Scotland can be found [here](#).

Guidance for Wales can be found [here](#).

## Question:

**Are there any specific individuals who are exempted from the requirement to self-isolate when returning from a country not noted on the Government's exempt list?**

Yes, you may not have to self-isolate when you arrive in England if you are travelling from one of the [countries or territories listed below](#). That is because these countries or territories are:

- Covered by the travel corridor exemption
- Within the common travel area (Ireland, the Channel Islands, the Isle of Man)
- British Overseas Territories

You will need to self-isolate if you visited or made a [transit stop](#) in a country or territory that is not on the list in the 14 days before you arrive in England.

This applies to all travel to England, by train, ferry, coach, air or any other route.

From 31 July 2020, health and care professionals who are registered with a professional regulator (such as nurses and physiotherapists) who travel to the UK from high-risk countries will no longer be exempt from quarantine and will be required to self-isolate for 14 days.

The move will bring health and care professionals in line with the general public and other health and social care workers. This decision has been made to reduce the risk of onward chains of transmission that might infect the wider population.

Due to the varying guidance between England, Wales, Scotland and Northern Ireland, if circumstances arise whereby an employee may be exempted for the requirement to self-isolate, it would be advisable to seek specific advice.

## Question:

**What do employees entering England need to do?**

On reaching the UK Borders, the employee will be required to complete a Public Health Passenger Locator Form.

Current Government guidance confirms that the employee must return to their home or other suitable place and self-isolate for 14 days. During this period, they are not permitted to leave the residence unless it is to seek urgent medical assistance or as advised by the NHS, or to acquire necessary food or medical supplies.

## Question:

**When does the 14-day quarantine start and end?**

The 14-day quarantine starts upon arrival in England. The quarantine ends at the end of the 14th day after the day on which the individual arrived in England, e.g. individual returns to England on 28 July, the 14-day quarantine ends at midnight on 11 August.

## Question:

**Can I require my employee/worker to work during their 14-day quarantine period?**

Yes, the current regulations do not prohibit workers from working remotely. Therefore, providing that the worker can carry out their role from home (or the place in which they are self-isolating), the employer can instruct their worker to work during the self-isolation period.

It is important to note that as the need to self-isolate for 14 days is a legal requirement, an employer should not permit a worker to physically attend their workplace during the self-isolation period.

# FAQs - Air Travel and Government Imposed Quarantine

(Last update: 31.07.20)



## Question:

**Is an employee/worker entitled to receive Statutory Sick Pay (SSP) when they are self-isolating for 14 days?**

Under the current guidance, if employees or workers are self-isolating after returning to the UK and cannot work from home, they are not entitled to Statutory Sick Pay (SSP) unless they are displaying symptoms or they are self-isolating with someone who is displaying symptoms. In these circumstances, the regular guidance relating to self-isolation will apply.

## Question:

**What are the options for employers with employees who are self-isolating following their return to the UK from a non-exempt country?**

- If the person can work from home, they can do this for their self-isolation period and their work may not be affected by having to self-isolate
- You could agree with the employee that they take extra annual leave to cover the 14 days of self-isolation. There would be an obvious impact on the business as the employee would not be able to work for this period. However, they will be paid during their leave and will be running down their entitlement for the year which they won't be taking later in the year
- An employer can choose to pay the employee SSP, or a higher rate of sick pay. As explained above, this is not required and would be at the expense of the business
- An employee could take some unpaid leave. However, there will again be an impact on the staffing levels of the business

- ACAS suggests that an employer could consider putting an employee on furlough for the time they're self-isolating, if the employer and employee agree to do so. This option is only available for employees who have previously been furloughed for a minimum of 3 weeks at any time between 1 March 2020 and 30 June 2020. We consider this may not be consistent with the intention of the CJRS
- Depending on what approach the employer would like to take and how 'aggressive' they want to be, an employer could decide to treat the absence as unauthorised for employees who willingly and knowingly go on holiday to a non-exempt country. An employer could then commence a disciplinary process against the employee in question

**Please note**, we suggest that you take advice before you bring a disciplinary against any employee for an unauthorised absence, as there are potential legal implications

## Question:

**Do I have to grant additional holiday for the 14-day quarantine period?**

Providing that there are no restrictions noted with the employment contract and any holiday policy enforced, an employer can exercise their discretion in authorising the additional holiday.

Practically, there may be issues as to whether the employee has sufficient annual leave to cover the 14-day self-isolation period. The employer and employee may seek to agree the 14 days self-isolation period as being unpaid.

# FAQs - Air Travel and Government Imposed Quarantine

(Last update: 31.07.20)

## Question:

**Can an employer require an employee or worker to take annual leave for the 14-day self-isolation period?**

Potentially yes. In the first instance, it would be advisable to review the employee or worker's contract to ascertain whether a period of annual leave can be designated in a particular manner. In addition, the contract may quote the Working Time Regulations noting that there is a relevant agreement in place. This will permit the employer to require the employee to take annual leave.

If the contract does not permit this, the employer can provide the employee or worker with notice under the Working Times Regulations requiring them to take annual leave. The important matter here is that the employer must give double the length of the holiday's notice for this to be exercised correctly. For example, if you are requiring an employee to take 2 days' leave, then you must give them 4 days' notice, 2 weeks' leave then 4 weeks' notice prior to the leave commencing.



## Question:

**Can an employer cancel an employee or worker's annual leave to prohibit them from travelling to a non-exempt country?**

Generally, it would be unreasonable for an employer to control what the employee does during their annual leave. However, if the annual leave has been already pre-approved, then it ought to only be cancelled if it is reasonable to do so, for example, if the employer can demonstrate a strong business case to support the cancellation of the leave.

## Question:

**Does an employer need to pay employees or workers who cannot return to the UK due to flight restrictions?**

Where employees are not sick but simply cannot return to the UK, employers may wish to consider offering the use of annual leave or unpaid leave whilst the individual remains overseas.

There could be scope to classify it as unauthorised absence. However, as advised above, due to the legal implications, it is strongly recommended that employers take separate legal advice in respect of this.



# FAQs - Air Travel and Government Imposed Quarantine

(Last update: 31.07.20)

## Question:

**Are there any steps an employer can take now to better manage these circumstances?**

To avoid the influx of queries from employees, we would recommend that a business wide communication is sent out advising the workforce that the business will not be able to cover this additional 14 days' quarantine period and informing them of the options available to them.

Employees should be encouraged to consider speaking with their line manager for approval and, in advance of booking overseas travel, consider the 14 days' quarantine period. Also, if they have overseas travel already booked, they should contact their line manager/HR to ensure that they are provided with the most appropriate advice. In practice, for those individuals who had booked travel prior to the restrictions being announced, and who cannot obtain a refund or claim on their insurance, the employer may wish to permit this period of leave.

The key will be to provide the employees with all relevant information on company policy. It is perfectly reasonable for an employer to say that whilst the travel quarantine requirements are in place, employees would have to request additional holidays, or the time would be unpaid. Ensuring staff know the company policy on this will be key to enforcement.

It is possible to take disciplinary action where employers have in place a clear policy or procedure in relation to booking foreign holidays given the current pandemic and these are subsequently not complied with by an employee. However, it is important that staff clearly understand the expectations and the policy.

Furthermore, employees who are not British nationals and travel abroad to see family may argue that the company's policy to seek to stop foreign travel is discriminatory if held not to be a proportionate means of achieving a legitimate aim—so it is important requests are considered on their own merits.

