

Irish Hotels Federation

Planning for Hotel Re-opening  
Employment Law Considerations

Wednesday 10th June 2020





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  - Regional Account Manager, ARAG Legal Protection Ltd.

## Contents

- **Current Covid 19 Situation – Basics**
- Initial Options for the Return of Staff
- Further Options – Advice and implementation of process
- Need for Advice and availability through ARAG Scheme.



- Businesses Closed and Temporary Lay-off for Most staff
- Allowed to reopen from 29<sup>th</sup> June.
- Government Measures in place to protect business and workers
  - Temporary Measures
    - ❖ Pandemic Unemployment Benefit
    - ❖ Covid 19 Wage Subsidy Scheme
- Subject to review on ongoing basis
- May be extended or amended

- Return to Work Safely Protocol (HSE) – Working Together
- Fáilte Ireland Guidelines for Re-opening Hotels and Guesthouses
- Staffing Resources Property owners/management should review rotas in line with The National Protocol E, subsection 3 which provides that full consultation on these matters is required to ensure sufficient employees are available to maintain physical distancing while completing the tasks to the required standards.
- Employee scheduling must ensure more time is allocated for cleaning and encourage employees to work alone if possible. To achieve this, you should:
  - Consider flexible shifts where appropriate.
  - Schedule small teams.
  - Keep the same team combinations to limit employee interaction. This will assist should contact tracing be required.

You will also need to plan for the impact of employee absences; this may involve reallocating employees from non-essential tasks. Where appropriate, cross-training employees will help maintain staffing levels within your property. If you can't ensure that employees stay 2 metres\* apart at all times, you must apply the Return to Work Safely Protocol.

## Return to Work Safely Protocol (HSE) – Working Together

- First Steps –
  - Covid 19 Response Plan
  - Plan to deal with Suspected Cases
  - Workplace & Policy Changes
  
- Minimising Risk of Exposure in Workplace
  - Pre-return to Work Form
  - Hygiene Measures
  - Physical Distancing
  
- Protocol is non-exhaustive and a “living” document.

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## Planning for the next stage

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- If staff levels upon reopening are likely to be reduced, it is important to look at all options open to Employers for managing this.
- Financial impact of pandemic on Hotels must be considered. Normal business operations may continue to be restricted initially.
- How can this be managed with minimum impact to staffing the business?
- Some considerations:
  - ❖ Natural movement – some people may have found alternative employment during crisis
  - ❖ Foreign workers not returning to Ireland
  - ❖ Some choose not to return to work



## Planning for the next stage

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If Hotel has to reduce employee count how should this be achieved?

- Can some staff stay on government support until roles are open again?
- Renegotiation of Contracts
- Reduction in hours/days

Any changes to terms need to be done with agreement of employee and cannot be enforced. Failure to implement through negotiation and agreement could lead to further claims.

It is important that the options set out above, or other similar suitable options, are given due consideration prior to moving on to consider or to implement Redundancy

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### Redundancy Planning

- Employee cannot claim for redundancy during emergency period, but it is important to start planning now for when this period comes to an end.

### Basics of Redundancy

#### Genuine Redundancy Situations – Redundancy Payments Acts 1967 to 2014

1. Where the employer has ceased or intends to cease the business for which the employee was employed.
2. Requirements of the business have changed so much so that the role in which that employee was employed for, is no longer required for the particular work for which they were employed.
3. The employer intends to carry on the business with fewer or no employees.
4. The employer has decided that the work which is being done by the employee will be done in a different manner for which the employee is not sufficiently qualified or trained for.
5. The employer has decided that the work for which the employee was employed should be done by a person who is also capable of doing other work for which the employee is not sufficiently qualified or trained.

## Decisions relevant to the Redundancy Process

- Voluntary or Compulsory
- Collective or Non-Collective

A **collective redundancy** is a situation where the minimum number of employees being made redundant in a business constitutes the following:

- 5 employees in an establishment employing 21-49 employees
- 10 employees in an establishment normally employing 50-99 employees
- 10% of employees in an establishment normally employing 100-299 employees, or
- 30 employees in an establishment normally employing 300 or more employees

For a **collective redundancy** it is important that an employer take note that under the Protection of Employment Acts, 1977-2014, **it is mandatory to engage in an information and consultation process with employees' representatives and to notify the Minister for Employment Affairs and Social Protection of the proposed collective redundancy.**

## Redundancy Process – Advice on types and implementation of process

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- The need to seek advice on Redundancy Process is paramount.
  
- You need to determine the most suitable process for your organization and ensure your business needs are met:
  - ❖ Skills Matrix
  - ❖ LIFO
  
- Selection must be Impersonal and Objective
  
- Unfair Selection claims are harder to defend against without a solid, documented process.
  
- Wage Subsidy Scheme v's Pandemic Benefit not valid selection criteria

### Decisions relevant to the Redundancy Process

- Number of Staff who qualify
  - ❖ 104 weeks (2 Years) continuous service with business. Know the status of each employee
- Staff already on Statutory Leave – Maternity, Sick Leave, etc – How to deal with these situations within process.
- No longer any Redundancy Rebate for employers
  - Payment can be made from Social Insurance Fund but is repayable.

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Need for Advice and availability through ARAG Scheme.

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- ARAG Policy Condition – Need to seek advice from ARAG on process prior to any implementation
- ARAG need to be involved if any cover to be provided for claims against member down the line.
- Avoid potential WRC claim for unfair selection for Redundancy by implementing the correct process and following all steps – Legal Costs covered in the event of claim if ARAG have been involved
- Important to start planning early so ready to move if and when necessary.
- Any member needs to register with Nuala for inclusion on scheme if you have not already done so for previous matters.
- Legal Advice Helpline to start process.



## SUMMARY

- Covid 19 Situation – Temporary Measures subject to change or extension
- Planning for Next Stage – Options available & Early Planning makes process easier if time comes
- Redundancy Process – If necessary, what is the best option for your organisation and who is impacted?
- Use ARAG assistance to ensure best protection.



Any Questions?

