



P O Box 10800 Market Harborough LE16 0HU
cfa@chilledfood.org www.chilledfood.org @chilledfood
RIDDOR & CORONAVIRUS/COVID-19
HSE RESPONSE TO CFA

To: CFA Health & Safety WG
Date: 15/4/20

There has been an e mail discussion with Warren Pennington of the HSE about COVID 19 as a reportable disease and the consequences of this for the food industry. I attach below Warren's reply to my e mail of yesterday. I hope you find the clarification helpful. Please let me know if there are other points to raise.

Best regards,

Dr Ken Johnston
Consultant
Chilled Food Association
Mob: +447561219245
www.chilledfood.org
ken.johnston@chilledfood.org

From: Warren.Pennington@hse.gov.uk [<mailto:Warren.Pennington@hse.gov.uk>]
Sent: 14 April 2020 17:57
To: ken.johnston@chilledfood.org
Cc: phil.kelly@2sfg.com; cfa@chilledfood.org
Subject: RE: RIDDOR and COVID 19 as an Occupational Disease in food industry workers

Hi Ken,

1. I can only comment on GB legislation and I accept that the answer to this is somewhat legally technical.
2. An overarching principle of RIDDOR is that accidents, diseases, dangerous occurrences are only reportable where they result from *matters arising out of or in connection with work*; hence the limitations in terms of COVID-19 and RIDDOR reporting expectations as detailed in the [webpage](#) to which you refer.
3. As a result, the second sentence in the your below opening paragraph is very nearly correct, but I would have preferred it to have read "..... COVID-19 was unlikely to be an issue for the food industry". The bottom line is that employers should not necessarily be reporting (under RIDDOR) all suspected employee cases of COVID-19 related illnesses, deaths etc.; to be reportable (under RIDDOR) employers need to have reasonable evidence that the COVID-19 element is indeed work-related.

4. I have previously given this advice, which may also help in this case:

- As the prevalence of COVID-19 increases in the general population, it will be very difficult for employers to establish whether or not any infection in an individual was contracted as a result of their work. Therefore, diagnosed cases of COVID-19 are not reportable under RIDDOR unless there is reasonable evidence suggesting that a work-related exposure was the likely cause of the disease.
- In some limited circumstances, where an individual has either been exposed to or contracted COVID-19 as a direct result of their work, those instances could be reportable under RIDDOR either as a Dangerous Occurrence (under Regulation 7 and Schedule 2, paragraph 10) or as a disease attributed to an occupational exposure to a biological agent (under Regulation 9 (b)), or as a death as a result of occupational exposure to a biological agent under Regulation 6 (2):
 - For an incident to be reportable as a Dangerous Occurrence, the incident must result (or could have resulted) in the release or escape of COVID-19. An example could include a vial known to contain COVID-19 being smashed in a laboratory, leading to people being exposed.
 - For an incident to be reportable as a disease due to occupational exposure to a biological agent, there must be reasonable evidence suggesting that a work-related exposure was the likely cause of the worker contracting COVID-19. Such instances could include, for example, frontline health and social care workers (e.g. ambulance personnel, GPs, social care providers, hospital staff etc) who have been involved in providing care/ treatment to known cases of COVID 19, who subsequently develop the disease and there is reasonable evidence suggesting that a work-related exposure was the likely cause of the disease. A doctor may indicate the significance of any work-related factors when communicating their diagnosis.
 - For an incident to be reportable as a death due to occupational exposure to a biological agent, there must be reasonable evidence suggesting that a work-related exposure to COVID-19 was the likely cause of death. A doctor may indicate the significance of any work-related factors when communicating the cause of death.
- COVID-19 has been listed as a notifiable disease under the Health Protection (Notification) Regulations 2010. This change in law requires GPs to report all cases of COVID-19 to Public Health England (<https://www.gov.uk/government/news/coronavirus-covid-19-listed-as-a-notifiable-disease>).

5. Happy to discuss, or for you to forward this as you deem appropriate.

Regards

Warren



Warren Pennington | HM Inspector of Health & Safety
General Manufacturing Sector | Food and Drink | Engagement and Policy Division
Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS
Direct: 020 3028 3614 | Mobile: 07771 806218

Find out how HSE is [Helping Great Britain work well](#)

From: ken.johnston@chilledfood.org <ken.johnston@chilledfood.org>

Sent: 14 April 2020 16:04

To: Warren Pennington <Warren.Pennington@hse.gov.uk>

Cc: Phil Kelly <phil.kelly@2sfg.com>; cfa@chilledfood.org

Subject: RIDDOR and COVID 19 as an Occupational Disease in food industry workers

Dear Warren,

The CFA is aware of the RIDDOR requirements for reporting COVID-19 cases which arise in the work environment (<https://www.hse.gov.uk/news/riddor-reporting-coronavirus.htm>). Karin Goodburn had a conversation with Simon Brentnall at BFFF on 9/4/20, who said that the HSE had commented at an FDF meeting that RIDDOR reporting of a Dangerous Occurrence with COVID-19 was not an issue for the food industry as it was outside the scope.

We have also seen this interpretation which was shared by a Principal Inspector last week with Health Trusts in Northern Ireland:

Reporting cases of COVID 19 to persons at work

1. Coronavirus is classified as a biological as defined in regulation 2(1) of the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003.
2. For a report of coronavirus infection / death to be reportable under RIDDOR there must be:
 - a. Reasonable evidence that someone diagnosed with COVID-19 was likely exposed because of their work (e.g. a work-related exposure to coronavirus would be a health care professional who is diagnosed with COVID-19 after treating patients with COVID-19); AND
 - b. The person making the report has received a written statement prepared by a registered medical practitioner diagnosing the disease [Coronavirus / COVID 19 in this case]; AND
 - c. The work of the person who has the disease involves one of the following activities:
 - i. Work with micro-organisms; OR
 - ii. Work with live or dead human beings in the course of providing any treatment or service or in conducting any investigation involving exposure to blood or body fluids; OR
 - iii. Work with animals or any potentially infected material derived from any of the above;

3. If the criteria in 2 above are met you must report a case of coronavirus infection at work using <https://www.secure.hseni.gov.uk/Forms/Disease.aspx>.

Reporting dangerous occurrences involving COVID 19 at work

4. This category is invoked if there has been an unintended incident at work has led to someone's possible or actual exposure to coronavirus. An example of a dangerous occurrence would be a lab worker accidentally smashing a glass vial containing coronavirus, leading to people being exposed. It does not include where, for example, coronavirus was found on a surface due to a failure of cleaning etc. As stated it is likely to be limited to research or clinical settings where the virus is being handled.

5. If you believe that a dangerous occurrence has happened you must only make a report using <https://www.secure.hseni.gov.uk/Forms/AccidentOrDangerousOccurrence.aspx?AD=D>.

Cyril Anderson

Principal Inspector

Tel: 028 9054 7085 (ext: 47085)

Mob: 07879487848

[X]<<http://www.hseni.gov.uk/>>

On the basis of the above interpretation and comments, do you agree that it is also inappropriate to make a RIDDOR report of any instances of COVID-19 diagnosed in food industry workers as an Occupational Disease?

Thank you for your help,

Best regards,

Ken

Cc: Karin Goodburn, CFA Director
Phil Kelly, Chair of CFA H&S Working Group

Dr Ken Johnston

Consultant

Chilled Food Association

Mob: +447561219245

www.chilledfood.org

ken.johnston@chilledfood.org