

Principles Governing Return to Work

The year 2020 has been historic in many ways. It will always be remembered for the changes it caused to be imposed on the global workplace as a consequence of the COVID-19 Pandemic. Many businesses have been forced to scale down or closed their operations. Invariably, many workers have been placed on the breadline. Changes to conditions of work have more or less been induced. In some instances, employers have resorted to placing workers on reduced hours of work, and have engaged the practice of working from home. All of this has been in an effort to reduce the cost of operations.

Whereas the changes to working conditions may have been necessitated by the fallout from the pandemic and the consequential forced lock downs, it is questionable whether the changes to the employees' conditions of work could be unilaterally made by the employer, without consultation with them or their trade union, which is their representative body. It would be expected that there are principles which would guide the return to work after a lockdown under COVID-19. The principle would provide for discussion and consultation to take place on any proposed changes to the conditions of work. To do otherwise would be to violate a basic principle of employment law. Employers and managers who choose to ignore this principle, run the risk of creating resentment by their employees, thus leading to a labour dispute. Following the path of engaging and consulting with the staff and their trade union, will help to build respect and confidence which the employer and/or management is likely to earn.

Employers and managers should be mindful that before proceeding to make any intended changes, irrespective of how significant they may appear to be in the given circumstances,

they must show respect for the existing collective bargaining. Employees are well within their rights to call for justification of any proposed changes, before giving their support for the same. It is a good practice to invite their comments, suggestions and recommendations, as this tends to convey that the employer and/or management respect the principle of participation in the decision-making process. It seems highly inconsiderate and inappropriate that management should act authoritatively. It is even disgusting and insensitive when an employer chooses to communicate changes to the operation simply by way of an open letter. It can be embarrassing when employees first learn of the revision to the workplace through the medium of the press.

It is to be expected that an employer and management which have the safety, interest and welfare of the members of staff at heart, would be paying attention to ensuring a safe return to work. This means that they ought to be addressing matters such as safety practices and protocols which have been identified by the local health authorities. In the time of a health pandemic, none of these matters are to be taken lightly. Employers therefore should be proactive in making any required physical adjustments to the plant and putting any other arrangements as are deemed necessary, to ensure the safety of staff, customers and the general public. Ad hoc responses by employers in making adjustments to the plant or place of business so as to ensure the health and safety workers, amounts to nothing short of callousness. Employers should forever be aware that it is their responsibility to provide a safe place of work. Part of that responsibility is also to ensure that safety practices and established health protocols are strictly adhered to.

It is common to find that Occupational Safety and Health legislation places a responsibility on the employer to provide a safe place of work. Where the employer or management fails to meet their obligation to protect the health and safety of staff, employees are within their right to challenge the safety conditions the work environment. The proactiveness of the

employer and management in treating to occupational safety and health, starts with the establishment of a Safety and Health Committee. At the level of the Committee whose membership comprises of equal representation of management, employees and their trade union representatives, matters can be readily identified and addressed. The beauty of the work of the committee is that it can virtually police the workplace to ensure compliance with the standards which are set.

Amidst the global Covid-19 Pandemic, the world is expected to continue to function. The restoration of a semblance of normalcy is contingent on how best workers return safely to work. It basically requires that workplaces must follow the COVID-19 secure guidelines.

The long and short of the story is that those businesses which continue to close their doors indefinitely, will find it harder to restart. As already been established, the employer has a duty of care to identify and manage risks, to ensure that the workplace is sufficiently safe to recommence its operations. Finally, let the upfront discussions with the employees and their trade union representative, form the basis for mutual agreements on the matters related to a safe return to work.

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