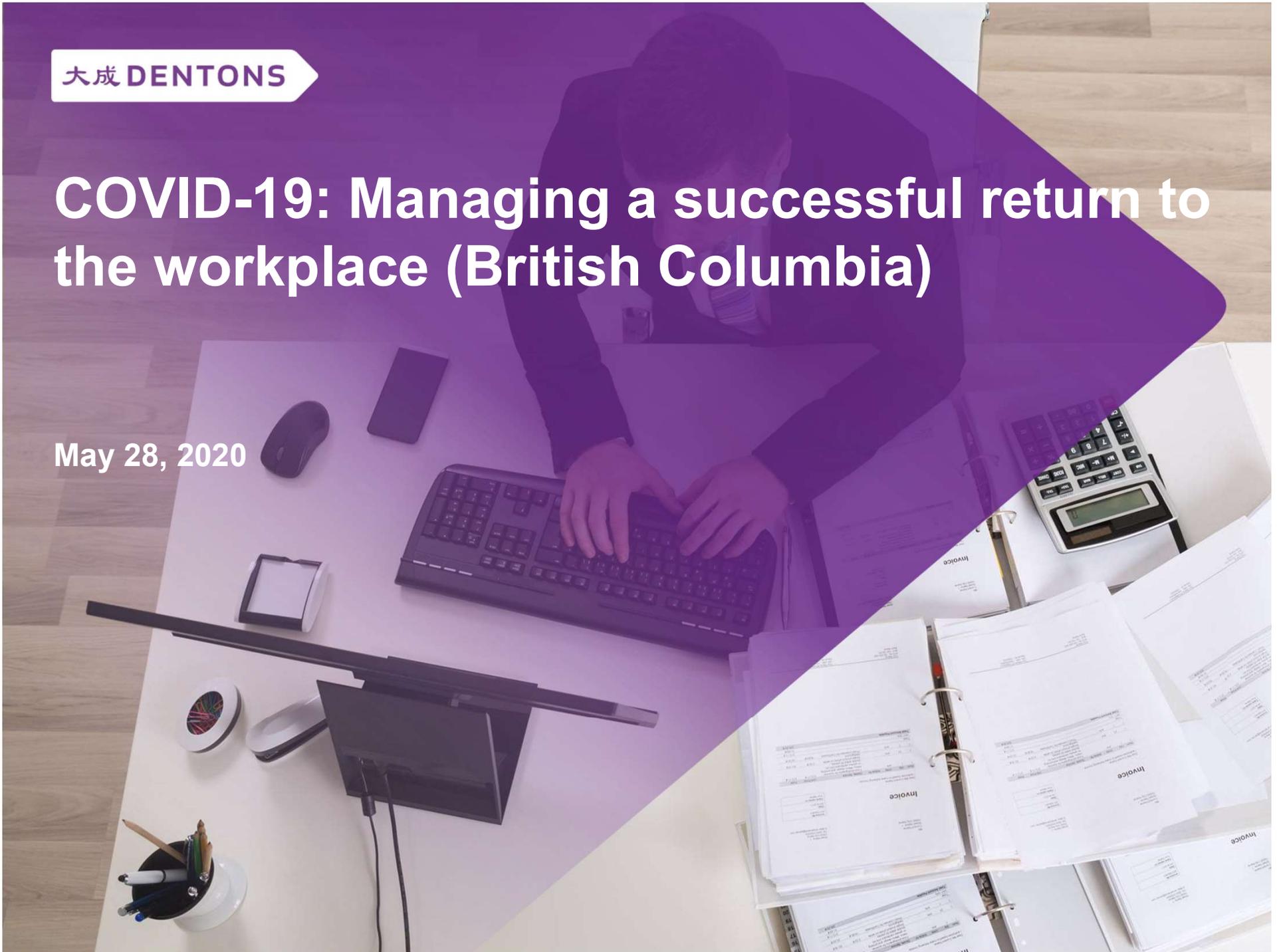


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# COVID-19: Managing a successful return to the workplace (British Columbia)

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# Our team

## Moderator



**Scott Sweatman**  
Partner, Pensions  
scott.sweatman@dentons.com

## Speakers



**Eleni Kassaris**  
Partner, Leader of Labour & Employment  
Group Vancouver  
eleni.kassaris@dentons.com



**Jillian Frank**  
Partner and Chief Talent Officer Labour &  
Employment  
jillian.frank@dentons.com



**Helen Park**  
Partner, Business & Immigration Law  
helen.park@dentons.com



**Taylor Buckley**  
Senior Associate, Pensions  
taylor.buckley@dentons.com



**Jeff Bastien**  
Senior Associate, Labour & Employment /  
Litigation  
jeff.bastien@dentons.com

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# Health and Safety Requirements



# WorkSafeBC: Preventing Exposure to COVID-19 in the Workplace

- Following the Provincial Health Officer's orders and guidance from the BC Centre of Disease Control represents the minimum standard that all employers must meet
- WorkSafeBC laws continue to apply and employers have the same responsibilities to assess risks and hazards and implement proper health and safety measures
- Industry-specific guidelines have been released by WorkSafeBC to assist employers navigate their return to the workplace

<https://www.worksafebc.com/en/resources/about-us/guides/preventing-exposure-to-covid-19-in-the-workplace?lang=en>

# WorkSafeBC: Health and Safety Responsibilities When Working From Home

- Published March 19, 2020: <https://www.worksafebc.com/en/about-us/news-events/announcements/2020/March/health-safety-responsibilities-when-working-from-home>
- At minimum, the employer should have a basic health and safety policy that requires:
  - Employees to conduct an assessment of their workplace and report any hazards to their manager
  - Protocols for evacuating from the home or temporary workplace to a safe location if needed and how contact the employer in case of emergency
  - Discussion of safe workplace practices and how to report any work-related incidents or injuries
  - Discussion of ergonomic considerations
- For remote work, the home is an **extension of the workplace**
  - Emphasis in guidelines that regular **health and safety laws apply equally** for at-home workers as they do for more traditional workplaces (including reporting workplace injuries, requirements for OHS education and training and the worker's duty to follow safe work procedures)

# Workers' Compensation Legislation

## Duty to report occupational disease?

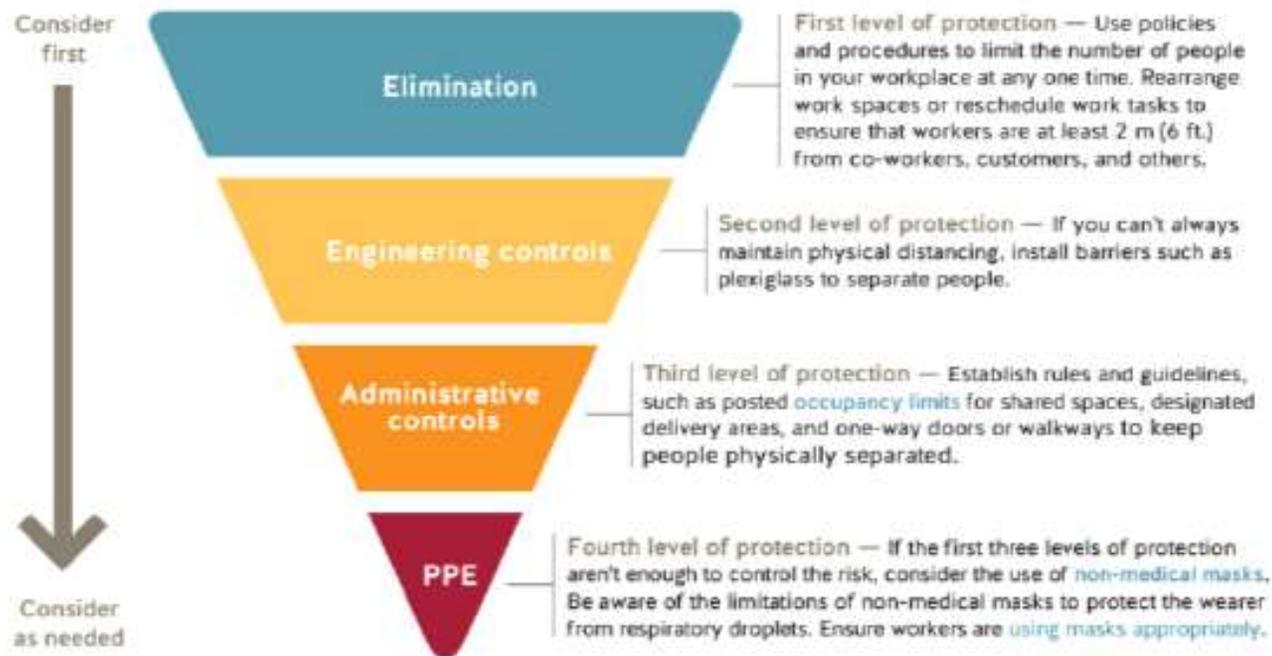
- Yes, within three days of “injury”
- WorkSafeBC FAQs confirm that COVID-19 will be considered work-related when a worker contracts COVID-19 as a direct result of their employment and if the following conditions are met:
  - Evidence that the worker has contracted COVID-19, either:
    - a medical diagnosis in a medical report, or
    - non-medical factual evidence where other evidence establishes the existence of COVID-19.
  - The nature of the worker’s employment created a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large.
- Claims submitted for COVID-19 contracted through a work-related exposure are adjudicated on a case-by-case basis.
- If in doubt if work-related: likely best to report and file a Form 7
- Also advisable to report to local public health unit

# Working from Home – additional considerations

- Revisit **confidentiality and technology policies**
  - Remind employees the current circumstances are not an excuse for non-compliance (e.g. emailing documents to personal email accounts, etc.)
  - Address **security** vulnerabilities: passwords, encryption, anti-virus software, etc.
  - Secure storage of records, **shredding** of paper, or return records to workplace to be shredded
- Communicate to employees that they should not expect the right to be able to permanently work from home once COVID restrictions are lifted
- Consistently apply criteria for deciding who may be able to continue to work from home or who may be required to return
- Hours worked: *Employment Standards Act* requires employers to keep records of hours worked; use clear policies to set expectations and avoid overtime that is not pre-approved

# Returning to the Workplace: COVID-19 Safety Plan

- Employers must **post at the workplace** and on **website** (if they have one) a COVID-19 safety plan that outlines policies, guidelines and procedures in place to reduce risk of COVID-19 transmission



Source: WorkSafeBC <https://www.worksafebc.com/en/resources/health-safety/checklist/covid-19-safety-plan?lang=en&direct>

# Returning to the Workplace: COVID-19 Safety Plan

Guide to developing a COVID-19 safety plan: <https://www.worksafebc.com/en/resources/health-safety/checklist/covid-19-safety-plan?lang=en>

## 1. Assess the risks of the workplace

- Workplace walkthrough, involve joint OHS committee

## 2. Implement protocols to reduce the risks

- Guidance for office workplace protocols is summarized on following slides

## 3. Develop policies

- Who can attend the office, who cannot, what if someone feels unwell, working from home policy, etc.

## 4. Develop communication plans and training

- Ensure everyone is trained, familiar with policies; first aid attendants aware of OFAA protocols

## 5. Monitor workplace and update plans as necessary

## 6. Assess and address risks from resuming operations

- e.g. ensuring machinery that has been out of use is safe to restart, etc.

<https://www.worksafebc.com/en/resources/health-safety/information-sheets/covid-19-guide-to-reducing-risk?lang=en>

# Returning to the Workplace: COVID-19 Safety Plan

Risk-reduction protocols will depend on the nature of the business, but by way of example will often include:

- Building access
  - Hand sanitizer stations, signage
  - Stagger start/end times
- Physical distancing
  - 2 metres apart, barriers if not possible
  - Designated entry/exit doors or up/down staircases
- Communal spaces
  - Establish and post occupancy limits
  - Limited/staggered access
  - Allow communal doors to remain open to reduce contact with door handles

# Returning to the Workplace: COVID-19 Safety Plan

- Outside visitors
  - Meet virtually if possible
  - Ideally pre-arranged, staggered, and safety protocols pre-communicated
  - Visitors login/logout
- Elevators
  - Post occupancy limits
  - Markings on ground to indicate where occupants should stand when waiting
  - Frequently disinfect buttons

# Returning to the Workplace: COVID-19 Safety Plan

- Industry-specific risk-reduction protocols may also be appropriate:
  - <https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-industry-information>
- Check whether professional or industry associations have issued guidelines or suggested best-practices
- Safety-plan should include applicable policies
  - Who is prohibited from entering the workplace
  - What to do if someone feels ill at the workplace
  - Training for employees and managers

# Industry Specific Guidelines

## Phase 1

- Agriculture
- Construction
- Forestry
- Health care
- Hospitality
- Manufacturing
- Municipalities
- Retail
- Small business
- Transportation

## Phase 2

- Arts and cultural facilities
- Child care
- Education (K-12)
- Gyms and fitness centres
- Health professionals
- In-person counselling
- Offices
- Parks
- Personal services
- Real estate
- Restaurants, cafes, pubs
- Retail

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-industry-information>

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# Employee privacy



# Employee Privacy in a Pandemic

## General Privacy Principles

- Generally, organizations may collect, use and disclose personal information about employees only with meaningful (i.e. informed) consent or notice (when collection, use or disclosure is for the purpose of establishing, managing or terminating an employment relationship)
- The purpose for the collection must be reasonable
- Organizations that collect personal information must take appropriate measures to protect that information
  - The more sensitive the information, the greater the protection
  - Health information is considered very sensitive
  - Once personal information is no longer required, the organization should no longer keep it

# Employee Privacy in a Pandemic

## Privacy Principles Applied – Planning

- Privacy impact assessment (PIA) – An evaluation of a proposed initiative, technology or practice that identifies and analyzes the relevant risks to privacy and forms the basis for how these risks should be managed
  - It is best practice to conduct a PIA prior to implementing any screening program
  - PIAs are required for public bodies subject to the *Freedom of Information and Protection of Privacy Act*
- Think about what information is necessary and useful – have a reasoned basis for collecting information
  - This will vary from workplace to workplace
- Design information governance policies to match the purpose of the collection and the nature information collected

# Employee Privacy in a Pandemic

## Privacy Principles Applied - Implementation

- Provide notice or, where necessary, get consent
- Give information about why you are collecting information and how it will be used
- Assure employees that their information will be protected (and protect it)
- Collect the information discreetly and respectfully, respond to the information respectfully
  - Only share the information with necessary personnel
  - Consider if there are less intrusive ways to collect the necessary information
- Do not keep information indefinitely

# Employee Privacy in a Pandemic

## Specific issues

- Active screening (questionnaires)
  - Currently recommended by public health authorities
  - Public health guidance may create a reasonable purpose for collection, but the information collected must itself be reasonable
  - Screening questions should be based on current health guidance
- Temperature and thermal screening
  - Blanket health-related testing is generally not permissible
  - It is more acceptable to test individuals on a case-by-case basis where an organization has reasonable cause to require a particular person to have their temperature checked
  - However, in the exceptional circumstances of COVID-19, it is likely that an organization's occupational health and safety obligations may justify temperature screening – particularly for a vulnerable population

# Employee Privacy in a Pandemic

## Specific issues (cont'd)

- Biometric identifiers (e.g., fingerprints, retinal scans, facial recognition)
  - Biometric information is sensitive personal information and organizations will almost always require express consent
  - Consider whether there is a less privacy-invasive way to identify or authenticate individuals
- Contact tracing
  - Organizations should not promote or recommend a contact tracing app without understanding how it incorporates privacy principles
  - Organizations should inform individuals about how their information may be used and of the privacy risks associated with the use of contact tracing apps
  - Organizations which are using a third-party contact tracing app should have detailed and specific agreements in place that include provisions in respect of data sharing, data use, and data security

# Employee Privacy in a Pandemic

## Specific issues (cont'd)

- Employee monitoring
  - Notify employees about the program and what information is collected
  - Avoid continuous, real-time collection of personal information, such as keystroke logging or screen capturing
  - Avoid collecting more information than necessary.
  - Implement training and policies for the employees who will manage tracking tools
  - Log access to the system and periodically review to ensure proper use
  - Periodically evaluate the effectiveness of the program, including whether there is a less intrusive way of addressing the issues

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# Frequently Asked Questions



What screening should I do of employees and customers? Can I check temperatures? Does everyone have to wear masks?

What can I do to get my foreign workers into the country?

# Temporary Foreign Workers

## Covid-19 Travel Restrictions

- Based on [Order in Council](#) (2020-0370), one may request entry to Canada from the US if meet the following criteria:
  1. No symptoms of COVID-19;
  2. Seeks to enter Canada for non-optional and non-discretionary purpose; and
  3. Must have a written 14 Days Quarantine Plan
- Based on [Order in Council](#) (2020-0184), one may request entry to Canada from a country outside the US if:
  1. Hold a valid work permit and proof of continued employment in Canada;
  2. Hold a work permit approval letter issued by IRCC and provide proof of entry for non-discretionary purpose; or
  3. Entering Canada to provide essential services including medical and emergency services, truck drivers, agricultural workers, food processing occupations, those providing critical infrastructure support.
  4. And must have a written 14 Days Quarantine Plan (unless exempt)

# Temporary Foreign Workers

## Covid-19 Travel Restrictions

- The following applicants may be exempt from 14 Day Quarantine Requirement
  - transportation – truck drivers and crew members of aircraft critical to movement of people or goods cross border
  - cross border employment – those who live in US and work in Canada
  - technicians needed to maintain or repair critical infrastructure
  - those onboard fishing vessel entering Canada to carry out aquaculture – related activities
- ❖ \*NEW\* Expedited change of employer for foreign workers
  - To keep those in Canada working, applicant can apply to switch employers and receive preliminary approval to work for a new Canadian employer within 2 weeks

How do I manage refusals to return to the workplace? Do I have a duty to accommodate?

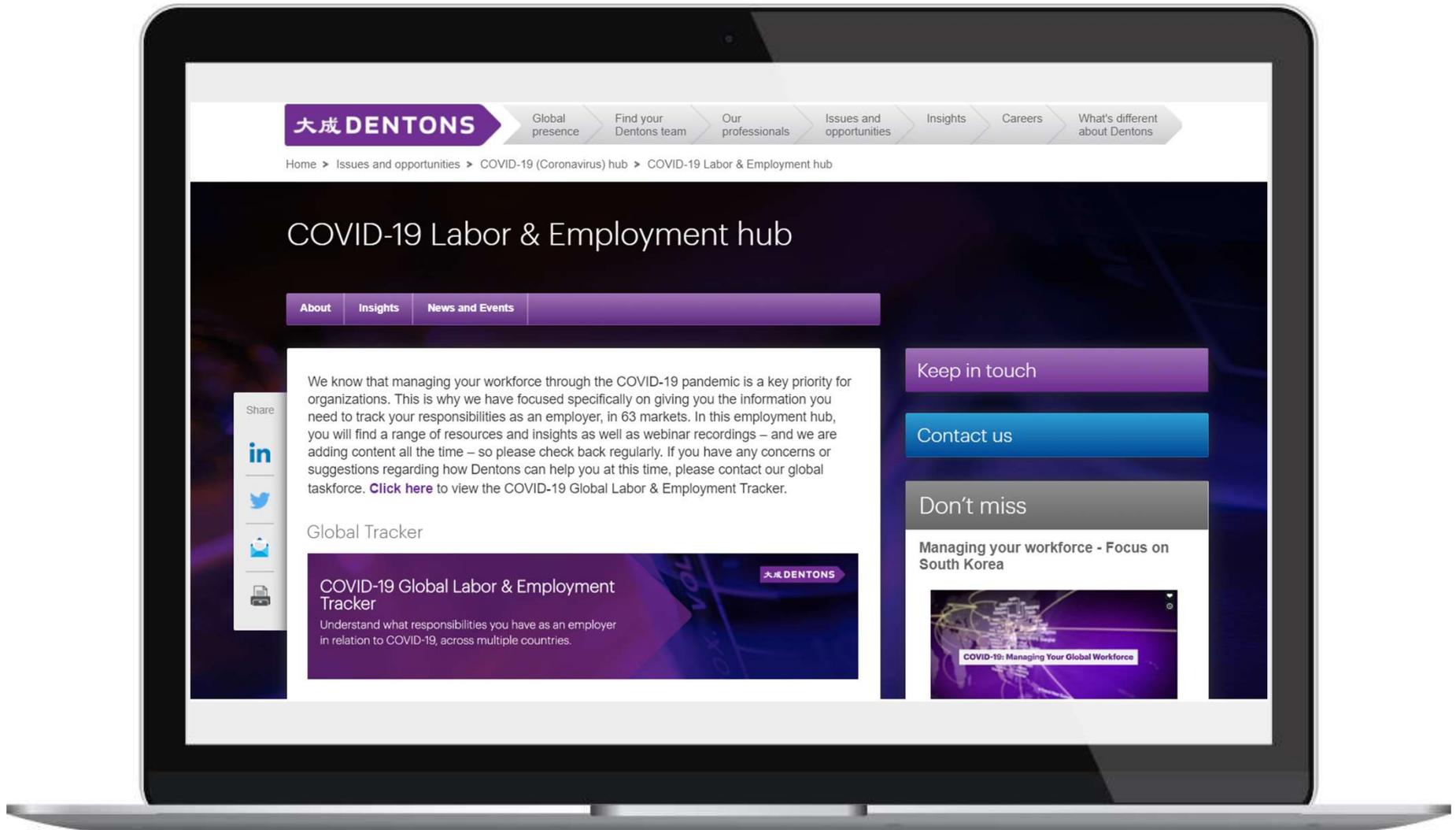
What if employees are not following COVID-19 protocols?

Can I get employees to consent or waive requirements if certain measures are not possible like ensuring physical distancing?

What do I do if there is an outbreak in the workplace?

# Questions?

# COVID-19 Labour & Employment hub



# Thank you

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Dentons Canada LLP  
250 Howe Street  
20th Floor  
Vancouver, British Columbia V6C 3R8  
Canada

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