

COVID-19 Ireland: New Roadmap for Re-Opening Published – What Does it Mean for Employers?

On 31 August 2021, the Irish Government announced the next phase¹ in its response to COVID-19, and launched the COVID-19: Reframing the Challenge, Continuing Our Recovery and Reconnecting (the "Roadmap")¹.

Background

- The Roadmap sets out the final phase before a re-opening of all sectors of the economy after 22 October 2021.
- It is expected that the majority of temporary emergency measures and restrictions will cease with effect from 22 October 2021.
- Attendance at work for specific business requirements may commence on a "*phased and staggered attendance basis*" from 20 September 2021.
- All restrictions on public transport capacity is lifted with effect from 1 September 2021.
- An updated Return to Work Safely Protocol will be published in the coming weeks to support the transition back to the workplace in advance of this date.
- There is a shift in approach in the Roadmap from legal regulation to individual judgment and personal responsibility in relation to behaviours and conduct.

- The implementation of the Roadmap remains subject to change if the epidemiological situation deteriorates.

We have compiled a list below of commonly asked questions to assist employers with their return to the workplace planning.

Can all employees return to the workplace on 20 September 2021?

No – the Roadmap states that attendance at work for specific business requirements may commence on this date but there is not a general green light for all employees to return. The two-metre physical distancing requirement is still in place. Furthermore, there is no green light for all vaccinated employees to return. It is envisaged that this return will be a gradual one with numbers slowly increasing as we move through the interim phase towards 22 October 2021.

What happens on 22 October 2021 - can all employees return at that point?

It is expected that the requirement to work from home will be removed from 22 October 2021 allowing a return to physical attendance in the workplace on a "*phased and cautious basis appropriate to each sector*". The change facilitates a return to work but it does not mandate it. From a practical perspective, employers will need to take a prudent approach and assess the merits of any objections to a return to the workplace. For example,

¹ <https://www.gov.ie/en/publication/3361b-public-health-updates/>

employees with certain medical conditions may be reluctant to engage in a full workplace return and may need to be facilitated on a case-by-case basis.

The Roadmap also notes that while public transport capacity can return to 100% from 1 September 2021, employers should facilitate staggered working arrangements to allow employees to change their travel patterns to less busy times where possible.

Can an employer ask if employees have been vaccinated?

The Roadmap does not provide guidance on the use of vaccination status in determining whether an employee can return to the workplace. Both GDPR and employment law issues may arise if an employer asks employees about their vaccination status or seeks to exclude those who have not been vaccinated from the phased return to the workplace during this transitional period. However, after 22 October 2021, the public health guidance at this point is indicating that all employees can return to office work regardless of vaccination status.

This is consistent with the approach to other sectors where the requirement to demonstrate certification of immunity or a negative PCR test as a prerequisite for access to or engagement in any activities or events is also expected to be lifted (with the exception of international travel) with effect from 22 October 2021.

Do physical distancing measures have to remain in place in the workplace?

Yes – for now. During the phased return to the workplace, employers should continue to ensure employees are well spaced out within the workplace and employers should assess capacity to determine how many employees can be accommodated with physical distance measures in place.

From 22 October 2021, it is envisaged that the formal requirements for physical distancing will

be removed. This will facilitate employers in allowing increased numbers of employees back to the workplace.

Do employees have to wear masks in the workplace?

As outlined above, the current preventative measures, as outlined in the Return to Work Safely Protocol, will remain in place throughout the interim phase up until 22 October 2021.

From 22 October 2021, it is envisaged that the formal requirement for wearing face coverings in indoor private settings will be removed.

The legal requirement to wear a face covering will likely be restricted to public transport, retail, healthcare settings and airports.

What about business travel and marketing events?

The Roadmap states that the Irish Government will continue to review the public health advice and measures applying to those travelling to Ireland and will be examining the use of Rapid Antigen Detection Testing in the place of pre-departure PCR COVID-19 tests for those who do not have proof of vaccination or recovery.

This may facilitate a slow and gradual return to business travel as necessary over the coming months. The Roadmap also highlights that the current restrictions on travel into Ireland are due to expire on 31 October 2021.

From 6 September 2021, organised indoor events can take place with up to 60% capacity with appropriate protective measures (all patrons are immune, i.e. fully vaccinated or recovered from COVID-19) in place. This includes conferences, exhibitions and large scale business events with external audiences.

What next?

The Irish Government has noted that during the interim period of 1 September to 22 October

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2021, a careful and gradual approach should be taken to re-opening.

The Return to Work Safely Protocol will be updated in the coming weeks ahead of 20 September 2021.

The Roadmap expressly notes that employers should develop or finalise their long-term blended working and return to work policy and plans, while having regard to their operational requirements in line with the public health advice. We can assist employers looking to prepare their return to the workplace plans in light of the new Roadmap.

For further information, please reach out to your usual Maples Group contact or any of the persons listed below.

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