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### Commentary

## COVID-19 as an occupational disease: enhancing social protection for at risk workers in Malta

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**Abstract:** COVID-19 has had a great impact upon workers, particularly those working in healthcare. A relevant consideration, which is the focus of this paper, is the social protections afforded to such workers. Whilst the state introduced measures that provide affected workers with social protection, the introduced measures do not adequately cover all situations, such as when workers suffer from Long-Covid or experience other health-related complications. This commentary argues that such instances could be remedied by recognising COVID-19 as an occupational disease, thus providing affected workers with access to social measures such as Injury Leave. The paper also acknowledges that determining whether COVID-19 was occupationally transmitted or not can often be challenging. It is thus proposed that COVID-19 is automatically recognised as an occupational disease in groups of workers who are disproportionately at risk of this disease. In particular, priority should be given to healthcare workers and those working within healthcare settings.

**Keywords:** COVID-19; healthcare workers; occupational disease; sick leave; social protection

### Commentary

COVID-19 has impacted upon almost every facet of individuals' way of life. Work tasks, social interactions, family life, everyday tasks and education have all

been affected. Policy makers have been faced with the challenge of having to develop a multitude of measures to diminish the spread of disease (Cuschieri et al., 2020) whilst also attempting to stimulate the economy, protect jobs and save enterprises (Fiorini, 2021). The current paper, however, questions if more can be done to support workers who suffer from COVID-19, in particular healthcare workers and others working within healthcare settings.

No occupational groups have faced the health implications of COVID-19 to the same degree as those working within healthcare. Whereas other occupational groups make regular contact with potentially infected individuals, various healthcare workers are involved in testing and determining who is COVID-19 positive, caring for the ill, treating those with long-term repercussions of the illness, and coping with distressing situations. In fact, Mutambudzi et al. (2021) found that healthcare workers are seven times more likely to experience severe COVID-19 than other 'non-essential' workers. More specifically, medical support staff, including nursing assistants and hospital porters, were reported to have the highest risk of severe COVID-19, followed by associate health professionals, a group that included nurses and paramedics, and healthcare professionals, which included doctors and pharmacists.

Faced with the novel situation of ordering vast numbers of people to quarantine, a new form of leave, termed quarantine leave, was introduced into Maltese legislation (Minimum Special Leave Entitlement Regulations, 2008, as updated by Legal notice 62 of 2020). Quarantine leave provides all workers with leave without loss of wages for the duration of a quarantine order. Furthermore, in their guidance to employers, the

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Department for Industrial and Employment Relations (DIER) stated that those who test positive for COVID-19, including those who were previously on quarantine leave, should make use of sick leave (DIER, 2020).

On the face of it, these measures provide workers, including those working in healthcare settings, with a good level of income protection and the opportunity to recover, if needed. However, several situations that may impact workers fall outside the scope of sick leave and quarantine leave. These include situations where: (i) COVID-19 may exceed a workers' sick leave cover (which may be of particular relevance to those working outside of government employment); (ii) workers develop chronic symptoms which persist beyond the period where workers are COVID-19 positive and require to quarantine (often termed Long Covid); and (iii) workers may develop other medical conditions secondary to COVID-19 in the future. Furthermore, should a worker die of COVID-19, the highlighted measures provide no support for their dependents. These considerations do appear to be valid; UK statistics highlight that around 1 in 10 of COVID-19 cases exhibited symptoms for a period of 12 weeks or longer, whereas initial UK data indicates that COVID-19 hospitalisation may be linked to subsequent adverse health events (Office for National Statistics, 2020). In fact, in those admitted to hospital with COVID-19, the chance of complications and reduced functional abilities are high, including in previously healthy young individuals (Drake et al., 2021).

Malta, like other EU countries, has measures in place for diseases and injuries suffered due to one's work. Injury leave provides workers with up to a year of leave on full pay, less the amount of any injury benefit the employee may be entitled to in terms of the Social Security Act, when suffering from an injury or a disease attributed to one's work (Minimum Special Leave Entitlement Regulations, 2008; Social Security Act, 1987). A Wage Regulation Order (WRO) for Hospitals and Clinics (1977) goes further by highlighting that workers in these settings who contract a disease while on duty, are entitled to leave on full injury pay, less the full amount of the benefit provided by the Social Security Act, for the duration of the disease.

Furthermore, where occupational diseases result in permanent loss of physical or mental abilities, the Social Security Act (1987) has provisions for entitled workers including an 'Injury Grant' or 'Injury Pension' – this depends on the degree of impairment. In those instances, where Individuals are determined to have a

90% impairment or more, they are instead granted an Invalidity Pension. Malta also has measures in place to support dependants of those who pass away as a result of an occupational disease or injury; surviving spouses of those who die as a result of such a disease may be entitled to a pension, the amount of which depends on whether the surviving spouse has the care and custody of children. Additionally, pensions are available for parents who are on pensions or for parents who are incapable of self-support, when the person maintaining them dies as a result of an occupational disease.

Two key considerations which can influence workers' eligibility for such social measures merit discussion. The first regards the disease in question. The Social Security Act (1987) highlights that benefits are payable when workers suffer from a formally recognised occupational disease. These are listed on the fourth schedule of this same Act; COVID-19 is not formally listed as an occupational disease in this schedule. The Act, however, contains a clause whereby the Director of Social Services may entertain submissions from individuals who have developed diseases that are not listed in the schedule but are believed to have developed as a result of their work. The WRO for those working in hospitals and clinics does not exclude coverage on the basis of the type of disease in question. A second consideration involves determining whether the disease in question was in fact contracted during the discharge of a workers' duties. A worker's eligibility for such occupational support measures would depend on the decision of a Medical Board organised by the Department of Social Security.

The International Labour Organisation (ILO) (2009) defines an occupational disease as one 'contracted as a result of an exposure to risk factors arising from work activity.' COVID-19 has the potential of being an occupational disease as it is transmitted between workers or between workers and clients (e.g., patients). Problematically for those workers who suffer from COVID-19 and wish to make use of the aforementioned benefits, proving that it has been contracted during one's work duties can be challenging. Whereas in some cases workplace transmission may be identified, in other cases the source of the disease may be difficult to determine.

As is the case in Malta, EU countries provide support for those who suffer from an occupational disease. European and international bodies such as the European Trade Union Institute (ETUI) and the International Labour Office (ILO) have thus pushed for COVID-19 to be recognised as an occupational disease. Substantial

differences exist between various EU countries' insurance and compensation systems, making them difficult to compare. However, almost all EU countries have classified COVID-19 as an occupational disease, allowing workers access to relevant benefits. Furthermore, some countries, such as France, Germany, Italy, and Portugal have provided special automatic recognition of COVID-19 as an occupational disease for healthcare workers, or more broadly, for those working within the health service (ILO, 2021).

In view of COVID-19's propensity to spread within workplaces, the emergence of 'Long Covid' and COVID-19's link to the possible development of secondary diseases, it would therefore benefit workers to be aware of the occupational social measures that may be available to them. In particular, Injury leave could provide workers with support in situations where they experience long-term symptoms that exceed the quarantine period. Grants and pensions may be of benefit for those who experience permanent health-related changes. In order to facilitate claims by affected individuals, policy makers should consider adding COVID-19 to Malta's list of recognised occupational diseases. Furthermore, workers would benefit from the introduction of mechanisms whereby occupational disease social measures could automatically apply to all workers who are disproportionately exposed to infection. In particular, the disproportionate risk healthcare workers and those others who work in healthcare settings experience should be recognised, and claims for social support by such workers should be facilitated.

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## Conflicts of Interest

The author reports no conflicts of interest.

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