

COVID-19 as an occupational disease in Malta

Dr Luke A. Fiorini

Are there any cases in your country where Covid-19 is recognized as an occupational disease? In which sector, activity, geographical area, or company was Covid-19 recognized as an occupational disease? Are there any limitations to the recognition?

In Malta, COVID-19 has not been formally listed as an occupational disease. In order to be formally recognised as an occupational disease, diseases need to be listed in the fourth schedule of the Social Security Act (Chapter 318, Laws of Malta). The Director of Social Services may however 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. This is not believed to have occurred so far with COVID-19.

COVID-19 is seen primarily as a public health concern and thus relevant legislation and enforcement falls under the Public Health Act (Chapter 465, Laws of Malta). In view of its potential for transmission within workplaces, both between external visitors/clients and employees as well as between different employees, the CEO of the Occupational Health and Safety Authority (OHSA), Dr Mark Gauci, highlighted during a radio interview (KSU, April 2021) that COVID-19 was seen as a potential occupational disease and thus whilst it was primarily legislated as a public health concern, employers were required to protect workers from this hazard as per the Occupational Health and Safety Authority Act (Chapter 424, Laws of Malta). It is worth noting that whilst physicians are encouraged to notify the OHSA of occupational diseases (it is not a legal requirement), such notifications are received very infrequently; subsequently, statistics on the prevalence of occupational diseases in Malta are not published.

Identified cases of COVID-19 are reported during press conferences by the Superintendent of Public Health. Initial press conferences held during the first wave of COVID-19 were carried out daily and provided detail on transmission, including clusters within occupational settings. These included diverse sectors such as transportation (e.g., ferry, airport), healthcare settings (hospitals, homes for the elderly), and hospitality, amongst others. Such press conferences were discontinued once numbers dropped, but were re-instated once the frequency of new cases peaked during a second wave. Press conferences however were less frequent than during the first wave, whilst the information provided was also more restricted. The number of cases identified within occupational settings was however highlighted during these press conferences. An official database of such trends is not published publicly.

What impacts does the recognition have on the employee, on the employer, and on the insurer?

In Malta, an individual who develops a disease as a result of their work may be entitled to compensation via the social security system. Individuals who suffer from an occupational disease and are unable to work may be eligible for up to a year of 'injury leave' on full pay, less the amount of any 'injury benefit' the person may be entitled to (the term used is because the same leave is used for occupational injuries). Workers can be denied this benefit if found to have contravened the employers' safety rules or contributed by means of their negligence. Conversely, benefit paid to the worker by the Social Security can be claimed from the employer by the Director of Social Security if it is proven that the said employer breached the provisions of the Occupational Health and Safety Authority Act. Where occupational diseases result in permanent loss of physical or mental abilities, such workers are entitled to 'Injury Grant' or 'Injury Pension' (which is received depends on the degree of the impairment – those with lesser impairments receive the Injury Grant, whereas those with greater impairments receive the Injury Pension. Individuals determined to have 90% impairment or more receive neither of these, but instead receive an Invalidity Pension). Widows of husbands who die as a result of an occupational disease may also be entitled to a pension, with the amount dependent on the care and custody of children. Furthermore, pensions are provided by the Social Security to pensionable parents or parents incapable of self-support when the person maintaining them dies as a result of an occupational disease.

In terms of COVID-19, two alternative leaves are instead being utilised. Since the onset of COVID-19, the government introduced a new form of special leave entitled 'Quarantine Leave'. This applies to employees ordered to quarantine by the Superintendent of Public Health, or other authorities. When an employee tests positive for COVID-19, workers are to use sick leave. Workers who were quarantined as a precaution, but then develop COVID-19, shift from Quarantine Leave to Sick Leave. Should, once sickness ends, the worker need to remain in quarantine, Quarantine Leave is made use of once again. Workers on Quarantine Leave receive their full wage for the duration of the quarantine order; this is paid for by the employer, who can apply to receive a grant provided for each full-time employee that was placed in mandatory quarantine. Conversely, sick leave entitlement varies by sector and depends on various Work Regulation Orders. In many areas, workers are entitled to their full wages for two working weeks per year. In terms of this sickness benefit, employers pay the first three days of any sickness period in full, whilst from the fourth day a 'Sickness Benefit' is received from the Social Security Department. Thus, from the fourth day an employer can either pay the difference between the Sickness Benefit entitlement and the employee's wage, or the employer can pay the wage of the employee in full and then is refunded the amount of the Sickness Benefit by the employee once it is received. Where sickness exceeds the legal period, employers are no longer obliged to pay for sick leave and workers continue to receive the Sickness Benefit offered by the Social Security Department to which they may be entitled.

In terms of the insurer, the grant to employers for the Injury Benefit for those with an occupational disease, and the Sickness Benefit given during sick leave

are provided by the state's Social Security Department. In terms of the Sickness Benefit, single individuals or those married whose spouse is working receive €13.73 per day. Married individuals whose spouse is not working receive €21.21 per day. In terms of the Injury Benefit, single individuals (and those with working spouses) receive €23.94 per day, whilst those married and their spouse does not work receive €31.82 per day. In terms of quarantine leave, this is administered by the Malta Enterprise, with employers eligible to receive a grant of €350 per employee.

As workers with COVID-19 are not making use of Injury leave, but rather of Quarantine Leave and Sick Leave, there is the potential that a worker who is no longer infectious but develops incapacitating long-COVID symptoms could initially remain with limited support should they exceed the period covered by their sick leave. Furthermore, such workers may find it more difficult to apply for relevant pensions or for their dependents to receive cover in the event of their death. It is not excluded that such workers could obtain occupational benefits as the Director of Social Services may consider submissions from such individuals. No such cases are known to have occurred and the situation is considered complicated as the applicant may find it difficult to prove that the disease was in fact due to occupational transmission.

What measures are applied to the situation when an employee is infected at work by the virus and develops the Covid-19 disease?

When a positive case is detected, individuals are contacted by the state's 'Case Management' team which informs them that they are to quarantine and compiles a database of individuals who have been in contact with those who are positive. Where those positive have attended a workplace, the organisation may be contacted to aid in the compilation of this database. The database compiled by Case Management is then used by the 'Contact Tracing' team who call those in the database, including family, social contacts and work colleagues.

Guidelines for dealing with COVID-19 in the workplace are issued by the Ministry of Health, these include the prevention measures to take in several work sectors, as well as the measures to take when faced with a COVID-19 case. Primarily, employers are advised to isolate workers who develop COVID-19 related symptoms and to call public health for advice. Typically, if symptomatic these will be invited to take a COVID-19-related test and may be asked to isolate until the results are received. In the case of a positive case, the measures to be taken in the workplace will depend on the results of a risk assessment, typically conducted via telephone by the Public Health contact tracing team. Measures may include requesting contacts undertake a COVID-19 detection test, placing workers on preventative quarantine, or allowing work to continue normally. The criteria for this choice are not publicly available. Where in a workplace it is suspected that a COVID-19 case has occurred (or if it is confirmed), the health department states that cleaning and disinfection should take place. Guidelines on how to clean and disinfect workplaces are provided by Public Health. In view of Malta's very high

prevalence of micro organisations, the quarantine of a few workers can sometimes result in organisations being closed down for this period of quarantine. Larger organisations are more resilient in this respect.

In terms of the enforcement of COVID-19-related regulations, this is conducted by various groups including the police, officers from the Local Enforcement System Agency (LESA), Transport Malta, the Malta Tourism Authority, the Armed Forces of Malta (AFM), and environmental health officers.

What is the current national discussion on this issue?

The topic of COVID-19 as an occupational disease has not been a topic of national discussion. The only examples of this being discussed was an August 2020 [newspaper article](#) by a fellow of Malta College of Family Doctors calling for COVID-19 illness acquired by healthcare workers to be classified as an occupational disease.

Most national discussion around COVID-19 has primarily revolved around the provision of wage supplements for those industries severely impacted by the pandemic, and calls for certain sectors to be closed in view of their risk (or to be opened again by individuals who have an interest in such sectors).