

Bird & Bird & COVID-19 Data Protection guidance

Last updated
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An aerial, high-angle photograph of a busy city street. The central focus is a large zebra crossing with white diagonal stripes on a dark asphalt surface. Numerous pedestrians are seen walking across the crossing and on the adjacent sidewalks. The people are scattered across the frame, some walking in groups, others alone. The perspective is from directly above, looking down at the street. The lighting is bright, suggesting daytime. The overall scene depicts a typical urban environment with high pedestrian traffic.

Summary

		Australia	Belgium	China	Czech Republic	Denmark	Finland	France
Guidance	Formal DPA Guidance	●	●	●	●	●	●	●
Employees & Workers	Can we ask about symptoms?	●	●	●	●	●	●	●
	Can we ask about travel history?	●	●	●	●	●	●	●
	Can we take temperature readings?	●	●	●	●	●	●	●
	Can we ask employees to notify us if they are diagnosed?	●	●	●	●	●	●	●
Mobile / Gig Economy / Agency Workers	Can we ask about symptoms?	●	●	●	●	●	●	●
	Can we ask about travel history?	●	●	●	●	●	●	●
	Can we take temperature readings?	●	●	●	●	●	●	●
	Can we ask individuals to notify us if they are diagnosed?	●	●	●	●	●	●	●
Visitors	Can we ask about symptoms?	●	●	●	●	●	●	●
	Can we ask about travel history?	●	●	●	●	●	●	●
	Can we take temperature readings?	●	●	●	●	●	●	●
	Can we ask individuals to notify us if they are diagnosed?	●	●	●	●	●	●	●
General	Record who is infected	●	●	●	●	●	●	●
	Notify other members of staff	●	●	●	●	●	●	●
	Notify public health authorities	●	●	●	●	●	●	●

Australia

Employees & Workers

Can we ask employees if they have symptoms?	<p>Yes. There are exceptions to relevant privacy laws which allow for the collection, use and disclosure of information where there is consent or, alternatively, where it is impracticable to obtain consent and the collection use or disclosure is reasonably considered necessary to lessen or prevent a serious risk to the life, health or safety of an individual or public health and safety. There is also an employee exemption to the requirements of the Privacy Act in relation to the collection, use and disclosure of information, which applies where the collection, use or disclosure is directly related to a current or former employment relationship. This means that information about the COVID-19 status of an employee can be collected, used or disclosed where it is related to an employment relationship, and also where the relevant activity is necessary for individual or public health or safety purposes.</p> <p>Employers should think carefully about collection, use and disclosure of information about an employee's COVID-19 status. Where practicable, it is sensible to obtain the consent of the individual concerned. Where it is not practicable to obtain consent, it is important to consider carefully the extent of necessary uses and disclosures. Where they are reasonably considered to be necessary for individual or public health purposes, it is appropriate to proceed while also making sure that procedures are in place to limit the use and disclosure of personal information to uses and disclosures which are permissible under applicable privacy laws.</p>
Can we ask about an employee's travel history?	<p>Yes. There are exceptions to relevant privacy rules which allow for the collection, use and disclosure of information where there is consent or, alternatively, it is impracticable to obtain consent and the collection use or disclosure is reasonably considered necessary to lessen or prevent a serious risk to the life, health or safety of an individual or public health and safety.</p> <p>This means that information about the COVID-19 status of an employee – included relevant travel history to high-risk countries - can be collected, used or disclosed where it is related to an employment relationship or records and also where the relevance of the activity is necessary for individuals or public health or safety purposes. The Privacy Commissioner emphasises that employers should collect the minimum amount of information that is reasonably necessary. This might include, for example, information about whether the individual or a close contact has been exposed to a known case of COVID-19 and whether the individual has recently travelled overseas and to which countries.</p>
Can we take temperature readings from employees?	<p>Yes with consent. Consent is usually required for Privacy Act reasons as health information is sensitive information. However, as above, if the information is being obtained in order to meet an employer's obligations under health and safety laws, then consent is recommended but not strictly necessary.</p>
Can we ask about any symptoms of an employee's household?	<p>Yes, but with limitations. This can be done:</p> <ol style="list-style-type: none"> 1. With the individual's consent; or 2. where the household members are not identified (so that personal information is not collected about them); or 3. where the entity reasonably believes that the collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
Can we ask employees to notify us if they are diagnosed?	<p>Yes. The employee records exemption is likely to apply. Even if this was not the case, the exception set out above relating to public health and safety would be likely to apply.</p>
Can we require employees to work from home even if the office is open?	<p>Yes.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes, but with limitations. This is likely to fall within the employee records exemption. The public health exception may also apply where there is recent or prospective contact between the individual and other staff, or clients.</p>
Can we ask about the travel history of such individuals?	<p>Yes, but with limitations. This is likely to fall within the employee records exemption. The public health exception may also apply where there is recent or prospective contact between the individual and other staff, or clients.</p>
Can we take temperature readings from such individuals?	<p>Yes with consent. Consent is usually required for Privacy Act reasons as health information is sensitive information. However, if the information is being obtained in order to meet a company's obligations under health and safety laws, then consent is recommended but not strictly necessary.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>Yes, but with limitations. This can be done:</p> <ol style="list-style-type: none"> 1. With the individual's consent; or 2. where the household members are not identified (so that personal information is not collected about them); or 3. where the entity reasonably believes that the collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes.</p>

Visitors	
Can we ask visitors if they have symptoms?	Yes, but with limitations. This can be done with consent or where it is unreasonable and impracticable to obtain the individual's consent and the entity reasonably believes that the collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
Can we ask about a visitor's travel history?	Yes. The exception set out above relating to public health and safety would be likely to apply.
Can we take temperature readings from visitors?	Yes with consent. Consent is usually required for Privacy Act reasons as health information is sensitive information. However, if the information is being obtained in order to meet a company's obligations under health and safety laws, then consent is recommended but not strictly necessary.
Can we ask about any symptoms of a visitor's household?	Yes, but with limitations. This can be done: <ol style="list-style-type: none"> 1. With the individual's consent; or 2. where the household members are not identified (so that personal information is not collected about them); or 3. where the entity reasonably believes that the collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
Can we ask visitors to notify us if they are diagnosed?	Yes. You cannot however force them to provide this information to you.

General	
Formal DPA Guidance	Yes. See: https://www.oaic.gov.au/privacy/guidance-and-advice/coronavirus-covid-19-understanding-your-privacy-obligations-to-your-staff/
What medical testing can an employer carry out and under what conditions?	Medical testing can only be carried out with an employee's consent as it generally involves physical contact as well as collection of health information.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes, in some cases. The notion of 'consulting' about workplace change is embedded in many workplaces through applicable industrial instruments. Employers should carefully consider whether any of the measures they are taking require consultation with employees and/or their representatives prior to implementation of new or changed workplace practice and procedures. For example, if such measures include redundancies, collective consultation obligations involving trade unions / employee representatives may apply. There is no concept of a works councils in Australia.
Can an employer keep a record of staff who are diagnosed as infected?	Yes.
Can an employer notify other members of staff?	Yes, but with limitations. Thought should be given to the form of any disclosure, in order to limit the information to that which is necessary in order to protect the health and safety of other staff members.
Can an employer notify customers and visitors of an infected member of staff?	Yes, but with limitations. The employer should consider whether this is necessary and disclose on a need to know basis only. Thought should be given to the form of any disclosure, as there is some potential for defamation of a person incorrectly described as having the virus. This is a further reason to limit the disclosure. Such a limitation would assist in seeking to establish the common law qualified privilege defence to a defamation claim. The test for that defence is generally available where the discloser was under a legal, moral or social duty to make a communication and all recipients have a reciprocal interest in receiving the information.
Can I share health data with authorities for public health purposes?	Yes, but with limitations. Reporting anonymised data is permissible. Reporting with the consent of individuals is permissible. In other circumstances, careful thought needs to be given to whether narrow exceptions relating to public health apply.

Belgium

Employees & Workers

Can we ask employees if they have symptoms?	Yes, but with limitations. Employees cannot be compelled to answer. Moreover, employers cannot compel employees to complete medical questionnaires. However, employees can be encouraged to inform the occupational health doctor in case they show symptoms.
Can we ask about an employee's travel history?	Yes, but with limitations. Employees cannot be compelled to answer. A less privacy invasive measure would be to ask employees if they have spent time in an infected area e.g., in the last 30 days. In any case, employers may not compel employees to complete questionnaires about their recent travel.
Can we take temperature readings from employees?	No. General and systematic testing, for example systematic temperature checking of employees, cannot be carried out by an employer but only by the occupational health doctor.
Can we ask about any symptoms of an employee's household?	Yes, but with limitations. An employee cannot be compelled to answer.
Can we ask employees to notify us if they are diagnosed?	No. Employees can only be encouraged to voluntarily report risky travel or symptoms. Moreover, employees cannot be forced to disclose such information to the employer directly (but can disclose such information to the occupational health doctor instead).
Can we require employees to work from home even if the office is open?	No. Homeworking must be agreed upon in writing between parties, and this is the case even if homeworking is strongly encouraged by the Ministry Decree on Emergency Measures to Limit the Spread of Coronavirus COVID-19 dated 18 March 2020.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes, but with limitations. Individuals falling into this category cannot be compelled to answer. Moreover, employers cannot compel individuals to complete medical questionnaires. However, individuals can be encouraged to inform the occupational health doctor in case they show symptoms.
Can we ask about the travel history of such individuals?	Yes, but with limitations. Individuals falling into this category cannot be compelled to answer. A less privacy invasive measure would be to ask individuals if they have spent time in an infected area e.g., in the last 30 days. In any case, employers may not compel workers to complete questionnaires about their recent travel.
Can we take temperature readings from such individuals?	No. General and systematic testing, for example systematic temperature checking of workers, cannot be carried out by an employer but only by the occupational health doctor.
Can we ask about any symptoms of the household(s) of such individuals?	Yes, but with limitations. Individuals cannot be required to answer your question.
Can we ask such individuals to notify us if they are diagnosed?	Yes, but with limitations. Individuals cannot be required to answer your question.

Visitors	
Can we ask visitors if they have symptoms?	Yes, but with limitations. Visitors cannot be required to answer your question.
Can we ask about a visitor's travel history?	Yes, but with limitations. Visitors cannot be required to answer your question.
Can we take temperature readings from visitors?	No. The practice of generalised and systematic temperature checks of visitors by employers cannot be considered to be proportionate.
Can we ask about any symptoms of a visitor's household?	Yes, but with limitations. Visitors cannot be required to answer your question.
Can we ask visitors to notify us if they are diagnosed?	Yes, but with limitations. Visitors cannot be required to answer your question.

General	
Formal DPA Guidance	Yes. In Dutch: https://www.gegevensbeschermingsautoriteit.be/covid-19-en-de-verwerking-van-persoonsgegevens-op-de-werkvloer In French: https://www.autoriteprotectiondonnees.be/covid-19-et-traitement-de-donn%C3%A9es-%C3%A0-caract%C3%A8re-personnel-sur-le-lieu-de-travail
What medical testing can an employer carry out and under what conditions?	The practice of generalised and systematic controls (for example systematically checking the body temperature of workers and / or visitors) by companies or employers cannot be considered to be proportionate. It is the job of the occupational physician to monitor people whose employer presumes that they have been exposed to COVID-19 and / or have symptoms of it. The employer cannot compel workers to complete medical questionnaires or a questionnaire relating to his or her recent trips. It is recommended to encourage workers to voluntarily report risky travel or symptoms. In this case too, the role of the occupational physician must be emphasised.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. If there is one, the Health & Safety Committee must be consulted beforehand.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note however that such processing of personal data would need to comply with data protection principles (see Art.5 GDPR) and the provisions applicable to the processing of special categories of personal data (Art.9 GDPR). In particular the principle of 'data minimisation' (Art.5(1)(c) GDPR), 'purpose limitation' (Art.5(1)(b) GDPR) and 'storage limitation' (Art.5(1)(f) GDPR) will be particularly relevant in this context.
Can an employer notify other members of staff?	Yes, but with limitations. Under the principle of confidentiality (Art.5(1)(f) GDPR) and the principle of data minimization (Art.5(1)(c) GDPR), an employer cannot reveal the names of the infected persons. The employer can only inform other workers of the situation without mentioning the identity of the person(s) concerned.
Can an employer notify customers and visitors of an infected member of staff?	Yes, but with limitations. Under the principle of confidentiality (Art.5(1)(f) GDPR) and the principle of data minimization (Art.5(1)(c) GDPR), an employer cannot reveal the names of the infected persons. The employer can only inform other individuals of the situation without mentioning the identity of the person(s) concerned.
Can I share health data with authorities for public health purposes?	Yes. For the processing of this category of personal data, employers can only disclose the data on the basis of Art.9(2)(i) GDPR if they act in execution of explicit directives imposed by the authorities.

China

Employees & Workers

Can we ask employees if they have symptoms?	<p>Yes. Consent from the employees is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask about an employee's travel history?	<p>Yes. Consent from the employees is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we take temperature readings from employees?	<p>Yes. Consent from the employees is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask about any symptoms of an employee's household?	<p>Yes, but with limitations. Such data collection is possible as long as it is anonymised. However, if the employer can identify a specific natural person (e.g. by holding the record of the employees's household members), the employer should inform the data subjects of purposes, means and scope of such data collection and use, and ensure that the employees are authorised by their household members to share their personal data with the employer, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask employees to notify us if they are diagnosed?	<p>Yes. Employees have the obligation to notify their employers if they are diagnosed. The employers are required to report to the authorities if they are aware of such.</p>
Can we require employees to work from home even if the office is open?	<p>Yes. An employer can require remote working where it is reasonable to do so (taking into account health and safety and other duties and obligations).</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes. Consent from the individuals is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask about the travel history of such individuals?	<p>Yes. Consent from the individuals is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we take temperature readings from such individuals?	<p>Yes. Consent from the individuals is a general pre-condition, unless the employer is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>Yes, but with limitations. Such data collection is possible as long as it is anonymised. However, if a specific household member can be identified, relevant consent and notice requirements should be fulfilled, unless your organisation is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. Employees, including mobile workers, have the obligation to notify their employers if they are diagnosed. The employers are required to report to the authorities if they are aware of such.</p>

Visitors	
Can we ask visitors if they have symptoms?	<p>Yes. Consent from the visitors is a general pre-condition, unless the organisation is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask about a visitor's travel history?	<p>Yes. Consent from visitors is a general pre-condition, unless the organisation is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we take temperature readings from visitors?	<p>Yes. Consent from visitors is a general pre-condition, unless the organisation is authorised to do so or as required under applicable laws and regulations. Guidance issued by the government also emphasizes that organisations should ensure health monitoring of visitors.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. Real-time temperature testing is recommended.</p>
Can we ask about any symptoms of a visitor's household?	<p>Yes, but with limitations. Such data collection is possible as long as it is anonymised. However, if a specific household member of the visitor can be identified, relevant consent and notice requirements should be fulfilled, unless your organisation is authorised to do so or as required under applicable laws and regulations.</p> <p>Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.</p>
Can we ask visitors to notify us if they are diagnosed?	<p>Yes. It is possible, taking into account health and safety and other duties and obligations. Organisations are required to report to the relevant authorities if they are aware of such.</p>

General	
Formal DPA Guidance	<p>Yes. General Notice issued by the CAC, Notice on the Protection of Personal Information and the Use of Big Data to Support Joint Prevention and Control. See http://www.gov.cn/xinwen/2020-02/10/content_5476711.htm (in Chinese only).</p>
What medical testing can an employer carry out and under what conditions?	<p>The usual principles for testing employees will apply. Employers must have grounds for conducting the test (explicit consent is a pre-condition, unless the employers are authorised to do so or as required under applicable laws or regulations).</p> <p>Temperature checks and health-related questionnaires are the most common measures taken by the employers for the purpose of COVID-19 prevention and control.</p> <p>A notice issued by the State Council outlines that if an employee is identified of suspicious symptoms, the employer should take quarantine measures, report to the local medical authorities and arrange medical testing for the employee in accordance with relevant rules.</p> <p>A notice issued by the National Health Commission also instructs that employers who are based in high-risk or medium-risk areas, should delay the implementation of occupational health examinations for new staff (to prevent cross-infection or the run on medical resources).</p>
Does an employer need to consult with works councils or trade unions before taking any measures?	<p>Yes, in some cases. Article 4 of the PRC Employment Contract Law requires any internal policies or major matters/measures which have a direct bearing on the immediate interests of its employees should be passed by the statutory democratic process, i.e. consultation with employee representatives or trade union. Whether taking a measure has a direct bearing on the immediate interests of its employees depends on its real situation.</p>
Can an employer keep a record of staff who are diagnosed as infected?	<p>Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.</p>
Can an employer notify other members of staff?	<p>Yes. You should not disclose the personal information without consent of the data subject, unless this is necessary for the epidemic prevention and control and after de-sensitization.</p>
Can an employer notify customers and visitors of an infected member of staff?	<p>Yes. Where this is relevant to members of staff, including mobile workers, whose roles involve interacting with customers, you can notify your customers and visitors where this is necessary for the epidemic prevention and control and after de-sensitization.</p>
Can I share health data with authorities for public health purposes?	<p>Yes. Organisations and individuals are required to report to the relevant authorities if they are aware of suspected or confirmed patients.</p>

Czech Republic

Employees & Workers

Can we ask employees if they have symptoms?	<p>Yes (subject to guidance). Under the Labour Code, as a general rule, employers cannot request from their employees any information that does not relate to the employment and performance of work. However, employers are required to ensure the protection of the health and safety of their employees at work and employees are required to take all possible care of their own health and safety – as well as the health and safety of other individuals – in the workplace.</p> <p>According to the Ministry of Labour and Social Affairs, employees should notify their employer that they have returned from the affected countries (the guidance was issued at the beginning of March when there were only a few cases of COVID-19 in the Czech Republic). Similarly, we believe that this conclusion would pertain also to other potential risks of the infection by the coronavirus. The processing may be based on Art.9(2)(b) GDPR.</p>
Can we ask about an employee's travel history?	<p>Yes. The Ministry of Labour and Social Affairs states that employees should inform the employer whether they have visited any affected countries as part of the general obligation under the statutory occupational health and safety rules.</p>
Can we take temperature readings from employees?	<p>No. Employers are generally not entitled to carry out any medical checks. However, if an employer suspects that an employee has been infected, it may order a medical check to be carried out on the employee, or it may contact the respective Health Station that may take further steps and adopt appropriate measures.</p>
Can we ask about any symptoms of an employee's household?	<p>No. No specific guidance. Requesting data concerning health status of third parties may be problematic and thus we do not recommend employers do so. An employer may rather adopt general measures under which employees would be required e.g. to work from home if anyone with whom they have been in contact is infected, or to provide the employer with more information that a member of the employee's household (without further specification) is infected.</p>
Can we ask employees to notify us if they are diagnosed?	<p>Yes. No specific guidance. However, based on the guidance from the Ministry of Labour and Social Affairs, we believe employees should notify their employer if they have been diagnosed with coronavirus.</p>
Can we require employees to work from home even if the office is open?	<p>Yes. Strictly speaking, remote working is possible only if such option has been agreed in the employment agreement or if the employee agrees to it. However, given the general obligation to protect occupational health and safety and current recommendations of the Czech Government (remote work arrangements are strongly encouraged), we believe that the employer should be entitled to unilaterally order that employees (whose role allows so) shall work from home.</p> <p>The Czech Labour Code regulates the remote working only to a very limited extent; most conditions for the remote working shall be thus agreed between an employer and an employee. Employees shall be instructed on how to perform their work remotely and appropriate technical solutions shall be adopted/provided in advance.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes. No specific guidance. With respect to agency workers, the legal regime is basically the same as for employees. As regards mobile/gig economy workers (who do not perform their work under employment law contracts recognized by the Czech Labour Code but under civil law agreements), strictly speaking, they are not subject to the employment law rules. However, given the nature of the relationship which often shows signs of regular employment, it is a common approach that such workers are subject to similar measures as regular employees (even in terms of data processing).</p> <p>From employment law perspective, it could be legitimate to ask such workers whether they have any symptoms of COVID-19 as they are likely to share the workplace with regular employees. However, as the obtained information would likely qualify as special category of data (health status data) and the legal basis under Art. 9(2)(b) GDPR is applicable only in the field of employment law, it might be difficult to justify the use of Art. 9(2)(b) GDPR in relation to mobile/gig economy workers.</p>
Can we ask about the travel history of such individuals?	<p>Yes. Same as for the individual's symptoms, except that the obtained information will not qualify as special category data.</p>
Can we take temperature readings from such individuals?	<p>No. Employers are generally not entitled to carry out any medical checks. Such checks may be carried out by healthcare providers. In case of agency workers, medical checks would be the responsibility of employment agency as the official employer.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>No. No specific guidance. Requesting data concerning health status of third parties may be problematic and therefore we do not recommend employers collect this type of data. An employer may instead adopt general measures under which these individuals would be required e.g. to work from home if anyone with whom they have been in contact is infected, or to provide the employer with more information that a member of the individual's household (without further specification) is infected.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. With respect to agency workers, the legal regime is basically the same as for employees. Although gig-economy workers are not employees, given the nature of the relationship which often shows signs of regular employment, it is a common approach that such workers are subject to similar measures as regular employees (even in terms of data processing).</p>

Visitors	
Can we ask visitors if they have symptoms?	No. No specific guidance. Requesting data concerning health status of third parties may be problematic and therefore we do not recommend to do so. A company may rather adopt general measures under which the visitors would be asked to refrain from entering the company's premises if they have visited the affected countries or show symptoms of the infection.
Can we ask about a visitor's travel history?	No. Collecting and processing visitors' travel history would likely be deemed disproportionate.
Can we take temperature readings from visitors?	No. Collecting and processing temperature readings would likely be deemed disproportionate.
Can we ask about any symptoms of a visitor's household?	No. No specific guidance. Requesting data concerning health status of third parties may be problematic and therefore we do not recommend to do so. A company may instead adopt general measures under which the visitors would be asked to refrain from entering the company's premises if they have visited the affected countries or show symptoms of the infection.
Can we ask visitors to notify us if they are diagnosed?	No. No specific guidance. Requesting data concerning health status of third parties may be problematic and therefore we do not recommend to do so. A company may instead adopt general measures under which the visitors would be asked to refrain from entering the company's premises if they have visited the affected countries or show symptoms of the infection.

General	
Formal DPA Guidance	No. The Czech DPA published only a brief statement on data processing in respect of the coronavirus outbreak. See: https://www.uoou.cz/
What medical testing can an employer carry out and under what conditions?	As a general rule, employers are generally not entitled to carry out any medical checks. However, if an employer suspects that an employee has been infected, it may order a medical check to be carried out on the employee, or it may contact the respective Health Station that may take further steps and adopt appropriate measures. An employer cannot carry out medical testing itself (including temperature testing).
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. Any measures relating to the occupational health and safety shall be notified to the trade union organisation (in Czech: odborová organizace) (if there is one). Otherwise, such measures need to be consulted with the work council (in Czech: rada zaměstnanců) and representatives for occupational health and safety protection (in Czech: zástupce pro oblast bezpečnosti a ochrany zdraví při práci) (if there is one). If no such representative body has been established the measures shall be consulted with the employees themselves.
Can an employer keep a record of staff who are diagnosed as infected?	Yes, but with limitations. No specific guidance. We believe that such processing could be justified by the employer's duty to ensure a safe working environment which does not endanger employees' health (based on Art.9(1)(b) GDPR).
Can an employer notify other members of staff?	Yes. This Czech data protection authority has addressed this in its FAQs. Notification to other members may be justified if they have been in contact with the infected individual. As a general rule, the employer should adopt the necessary measures and avoid sharing of any personal data to the greatest extent possible (to protect the dignity and integrity of the infected individual).
Can an employer notify customers and visitors of an infected member of staff?	Yes, if strictly necessary. There is no guidance on this. Employers should generally refrain from providing any specific information concerning their employees to third parties. Although it may be justifiable to inform customers/visitors of the potential risk of the coronavirus infection, provision of any particular information relating to specific employees might be problematic.
Can I share health data with authorities for public health purposes?	Yes. Such processing should be possible on the basis of Art 9(2)(i) GDPR.

Denmark

Employees & Workers

<p>Can we ask employees if they have symptoms?</p>	<p>Yes. Employees are required to inform their employer if they have been infected with coronavirus, or if they suspect they may have been infected.</p> <p>Employers are generally not allowed to ask employees about any symptoms. However, due to the severity of the outbreak in Denmark, we consider it legitimate and reasonable and in accordance with the Danish Working Environment Act for the employer to ask employees to inform if they are experiencing symptoms.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health.</p> <p>Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>
<p>Can we ask about an employee's travel history?</p>	<p>Yes. The employer may require employees to provide information about trips to countries which the Ministry of Foreign Affairs has advised against travelling to. In the event that an employee has been to these countries, the employer can require the employee to provide information that will allow the employer to determine whether the employee must be placed in preventive home quarantine.</p>
<p>Can we take temperature readings from employees?</p>	<p>No. A temperature reading is considered a control measure and certain limitations applies to control measures, e.g. notification requirements in some collective agreements. In addition, a control measure must pursue a legitimate purpose and be proportionate. A temperature reading does not document or exclude that an employee is or may be infected with coronavirus, and therefore a requirement for temperature reading will not be considered legitimate or proportionate.</p>
<p>Can we ask about any symptoms of an employee's household?</p>	<p>No. This will most likely not be considered legitimate and limited to what is necessary.</p>
<p>Can we ask employees to notify us if they are diagnosed?</p>	<p>Yes. Employees are required to inform their employer if they have been infected with coronavirus, or if they suspect they may have been infected.</p> <p>Employers are generally not allowed to ask the employees about his/her sickness absence. However, due to severity of the corona outbreak in Denmark, we consider it legitimate and reasonable to do so, and in accordance with the Danish Working Environment Act for the employer to ask employees to inform if they are diagnosed with COVID-19.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health.</p> <p>Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>
<p>Can we require employees to work from home even if the office is open?</p>	<p>Yes. In the current situation where the government has encouraged all employers to let their employees work from home to the extent possible and where it is deemed necessary to ensure safe and healthy working conditions it is assumed that the employer may instruct employees to work from home. The employer has the obligations to ensure the technical possibility to work from home.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes. No available DPA guidance. Due to the severity of the corona outbreak, it would be reasonable to ask these individuals to inform you if they are experiencing symptoms.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health. Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>
Can we ask about the travel history of such individuals?	<p>Yes. No available DPA guidance. The employer may require individuals to provide information about trips to countries which the Ministry of Foreign Affairs has advised against travelling to.</p> <p>In the event that an employee has been to these countries, the employer can require the employee to provide information that will allow the employer to determine whether the employee must be placed in preventive home quarantine.</p>
Can we take temperature readings from such individuals?	<p>No. No available DPA guidance. A temperature reading does not document or exclude that an employee is or may be infected with coronavirus, and therefore a requirement for temperature reading will not be considered legitimate or proportionate.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>No. This will most likely not be considered legitimate and limited to what is necessary.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. No available DPA guidance. Due to the severity of the corona outbreak in Denmark, we consider it legitimate and reasonable ask individuals to inform if they are diagnosed with COVID-19.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health. Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>

Visitors

Can we ask visitors if they have symptoms?	<p>Yes. No available DPA guidance. Due to the severity of the corona outbreak, it would be reasonable to ask visitors to inform you if they are experiencing symptoms.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health. Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>
Can we ask about a visitor's travel history?	<p>Yes. No available DPA guidance. The employer may require individuals to provide information about trips to countries which the Ministry of Foreign Affairs has advised against travelling to.</p>
Can we take temperature readings from visitors?	<p>No. No available DPA guidance. A temperature reading does not document or exclude that an employee is or may be infected with coronavirus, and therefore a requirement for temperature reading will not be considered legitimate or proportionate.</p>
Can we ask about any symptoms of a visitor's household?	<p>No. This will most likely not be considered legitimate and limited to what is necessary.</p>
Can we ask visitors to notify us if they are diagnosed?	<p>Yes. No available DPA guidance. Due to the severity of the corona outbreak in Denmark, we consider it legitimate and reasonable ask visitors to inform if they are diagnosed with COVID-19.</p> <p>This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health. Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.</p>

Denmark Continued

General	
Formal DPA Guidance	Yes. See: https://www.datatilsynet.dk/presse-og-nyheder/nyhedsarkiv/2020/mar/hvordan-er-det-med-gdpr-og-coronavirus/
What medical testing can an employer carry out and under what conditions?	Generally, the employer cannot carry out medical testing.
Does an employer need to consult with works councils or trade unions before taking any measures?	No. As a general rule, as long as the measures taken by the employer do not constitute control measures, the employer does not need to consult with works councils.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Data minimisation principle is key - not more information than needed must be collected and it must be treated with appropriate safeguards.
Can an employer notify other members of staff?	Yes. Notifying staff would often be legitimate. However, the employer must nevertheless assess individually whether the disclosure is necessary or whether it will be sufficient to provide less information or to fewer recipients. This health data could be processed under Art 9(2)(b) GDPR and para.12 of the Danish Data Protection Act to comply with employment and social protection law obligations and to pursue a legitimate interest that arises from other law or collective agreements or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Where this is relevant and necessary, you can notify your customers. It is unlikely that information about specific individuals will need to be disclosed. However, where identification will be possible, the processing of health-related personal data can be carried out under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health. The employer must assess individually whether the disclosure is necessary or whether it will be sufficient to provide less information.
Can I share health data with authorities for public health purposes?	Yes. It's unlikely that information about specific individuals will be needed but if it is necessary then data protection legislation will not prevent this.

Finland

Employees & Workers

Can we ask employees if they have symptoms?	Yes, but with limitations. In certain sectors, it is reasonable to ask. There is no general answer for all sectors. If there is a risk for infection due to the position, we believe one can ask (simple question, probably best to pair it with other questions like “have you travelled recently to X, is someone in quarantine in your close circle etc.”). We cannot give a categorical yes, as there might be cases where employees can self-quarantine or may stay at home for other reasons without sanctions. It depends also on the guidance given before. If there is no danger to others, employers may not ask.
Can we ask about an employee’s travel history?	Yes, if strictly necessary. This can be done by asking for generic data and “yes or no” answers (“Have you travelled in epidemic areas as classified by the Finnish authorities (list)?”).
Can we take temperature readings from employees?	No. In principle only healthcare professionals should carry out tests.
Can we ask about any symptoms of an employee’s household?	No. We recommend issuing guidance to employees on measures to take when symptoms occur in an employee’s household.
Can we ask employees to notify us if they are diagnosed?	No. Employees should be advised to contact occupational health care which can evaluate the need for absence from work. However, there might be situations where it is necessary to ask for the employee to notify (e.g. at risk groups).
Can we require employees to work from home even if the office is open?	Yes. Employees can be instructed to work from home.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes, but with limitations. There is no difference regarding asking employees at home or at the office per se. One might argue that for those at home there is even less reason to ask, as they are no longer a danger. It would depend on why the person asking the individuals would ask. If it is about entering the work place again and pros and cons are weighed, asking might be permitted, as currently other methods (going to a doctor) are very much restricted. A general checking for continuity would in our view not be permitted. If there is no danger for others, employers may not ask.
Can we ask about the travel history of such individuals?	Yes, if strictly necessary. This can be done by asking for generic data and “yes or no” answers (“Have you travelled in epidemic areas as classified by the Finnish authorities (list)?”).
Can we take temperature readings from such individuals?	No. In principle only healthcare professionals should carry out tests.
Can we ask about any symptoms of the household(s) of such individuals?	No. We recommend issuing guidance to these individuals on measures to take when symptoms occur in the individual’s household.
Can we ask such individuals to notify us if they are diagnosed?	No. Individuals should be advised to contact occupational health care which can evaluate the need for absence from work.

Finland Continued

Visitors

Can we ask visitors if they have symptoms?	Yes, but with limitations. There is no clear answer. We believe that the risk to ask visitors about symptoms is low. However, DPA guidance is quite strict. Practically, visitors may refuse to answer. All visitors can be refused entry provided that the company owns the premises and does not use any unjustified discriminatory measures.
Can we ask about a visitor's travel history?	Yes, but with limitations. There is no clear answer, however we believe in limited cases it might be justified for reasons of public health. Such roles may include sales representatives and other individuals who come into regular contact with the general public. This must be assessed on case by case basis.
Can we take temperature readings from visitors?	No. In principle only healthcare professionals should carry out tests.
Can we ask about any symptoms of a visitor's household?	Yes, but with limitations. There is no clear answer. We believe that the risk to ask visitors about symptoms in the household is low. However, DPA guidance is quite strict. Practically, visitors may refuse to answer.
Can we ask visitors to notify us if they are diagnosed?	Yes, but with limitations. There is no clear answer/specific guidance. We believe that the risk to ask visitors if they have been diagnosed is low. However, DPA guidance is quite strict. Practically, visitors may refuse to answer. All visitors can be refused entry provided that the company owns the premises and does not use any unjustified discriminatory measures such as skin color.

General

Formal DPA Guidance	Yes. See: https://tietosuoja.fi/en/article/-/asset_publisher/tietosuoja-ja-koronaviruksen-leviamisen-hillitseminen
What medical testing can an employer carry out and under what conditions?	An employer cannot carry out any medical testing.
Does an employer need to consult with works councils or trade unions before taking any measures?	No. Unless those concern measures that would be close to surveillance (heat cameras or mandatory checks), an employer does not need to consult with works councils. Measures that need to be discussed with employee representatives are in §19 of the act on cooperation within undertakings.
Can an employer keep a record of staff who are diagnosed as infected?	Yes, in special circumstances. There is no specific guidance on this. A reason for keeping such a record would be for example tracking infections within the company and informing others of the danger. In case someone is infected but there is no danger for other employees (e.g. person is on maternity leave), the information may not be tracked by the employer.
Can an employer notify other members of staff?	Yes. Unless essential for the protection of health, the identity of the infected staff member must not be disclosed.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Unless essential for the protection of health, the identity of the infected staff member must not be disclosed.
Can I share health data with authorities for public health purposes?	No. Occupational healthcare professionals rather than the employer can transfer the information. It might be that the government will get more competences to order that information.

France

Employees & Workers

Can we ask employees if they have symptoms?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires concerning employees and their relatives.
Can we ask about an employee's travel history?	No. Employers cannot require employees to disclose information about personal travels which are in the sphere of employees' private life, but employers can prohibit business travel.
Can we take temperature readings from employees?	No. Temperature readings are strictly listed by the CNIL as being prohibited.
Can we ask about any symptoms of an employee's household?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires concerning employees and their relatives
Can we ask employees to notify us if they are diagnosed?	<p>Yes, but with limitations. Employers can ask employees to provide, either to the company or to the competent health authorities, individual feedback of information concerning them in connection with a possible exposure to the virus. Employers can also encourage employees to contact the occupational doctor.</p> <p>However, according to the CNIL's guidelines, in case an employee informs his or her employer of a possible infection, the employer can only record:</p> <ul style="list-style-type: none"> • the date and identity of the person suspected of having been exposed; • the organizational measures taken (containment, teleworking, the fact that the employee was put in contact with the occupational doctor ...)
Can we require employees to work from home even if the office is open?	Yes. At this stage, the French government has ordered confinement measures, therefore remote working is promoted.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires.
Can we ask about the travel history of such individuals?	No. Employers cannot require these individuals to disclose information about personal travels which are in the sphere of the individual's private life, but employers can prohibit business travel.
Can we take temperature readings from such individuals?	No. Temperature readings are strictly listed by the CNIL as being prohibited.
Can we ask about any symptoms of the household(s) of such individuals?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires concerning relatives.
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. Employers can invite these individuals to provide, either to the company or to the competent health authorities, individual feedback of information concerning them in connection with a possible exposure to the virus. Employers can also encourage employees to contact the occupational doctor.</p> <p>However, according to the CNIL's guidelines, in case an individual informs the employer of a possible infection, the employer can only record:</p> <ul style="list-style-type: none"> • the date and identity of the person suspected of having been exposed; and • the organizational measures taken (containment, teleworking, the fact that the employee was put in contact with the occupational doctor).

France Continued

Visitors

Can we ask visitors if they have symptoms?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires.
Can we ask about a visitor's travel history?	No. Employers cannot require these individuals to disclose information about personal travels which are in the sphere of the individual's private life, but employers can prohibit business travel.
Can we take temperature readings from visitors?	No. Temperature readings are strictly listed by the CNIL as being prohibited.
Can we ask about any symptoms of a visitor's household?	No. In its guidelines the CNIL indicates that employers must refrain from collecting information relating to the search of possible symptoms in a systematic and generalised manner, or via individual requests and questionnaires concerning relatives.
Can we ask visitors to notify us if they are diagnosed?	No. There are no specific guidelines on this point. However, since at this stage the French government has ordered confinement measures, in principle there should not be visitors.

General

Formal DPA Guidance	Yes. https://www.cnil.fr/fr/coronavirus-COVID-19-les-rappels-de-la-cnil-sur-la-collecte-de-donnees-personnelles
What medical testing can an employer carry out and under what conditions?	<p>Medical testing may only be carried out by an occupational doctor, or by a health professional, not by the employer.</p> <p>The French Ministry of Labour has issued FAQs and reminds that: "The occupational doctor has an exclusive role in the prevention of occupational risks and in providing information to the employer and employees. As such, the occupational health service relays to its members the health instructions issued by the government. The employer may also request the occupational health service to implement these recommendations [from the Ministry of Labour]. As a reminder, the occupational doctor is not competent for issuing a sick leave certificate."</p>
Does an employer need to consult with works councils or trade unions before taking any measures?	<p>Yes. The mission of the Social and Economic Committee (CSE) is to promote health, safety and the improvement of working conditions in the company</p> <p>In addition, in companies with more than 50 employees, the CSE shall be informed and consulted on the organisation, management and general running of the company, in particular on working hours or conditions of employment, work and professional training, and on any major developments modifying health and safety or working conditions.</p> <p>This is in particular the case for:</p> <ul style="list-style-type: none"> • major changes in the organisation of work; • use partial activity; and • exemptions to the rules on working hours and rest periods.
Can an employer keep a record of staff who are diagnosed as infected?	<p>Yes, but with limitations. In the case where an employee reports his or her condition to the employer, the employer can only record:</p> <ul style="list-style-type: none"> • the date and identity of the person suspected of having been exposed; and • the organizational measures taken (containment, teleworking, the fact that the employee was put in contact with the occupational doctor). <p>The employer can then communicate such information to the health authorities, at their request.</p>
Can an employer notify other members of staff?	Yes, but with limitations. The identity of the affected staff member must be kept confidential. The employer has an obligation of discretion regarding an employee's state of health once a problem has been brought to its attention.
Can an employer notify customers and visitors of an infected member of staff?	Yes, but with limitations. The identity of the affected staff member must be kept confidential. The employer has an obligation of discretion regarding an employee's state of health once a problem has been brought to its attention.
Can I share health data with authorities for public health purposes?	Yes. The employer will communicate to the health authorities, at their request, the recorded information mentioned above.

Germany

Employees & Workers

<p>Can we ask employees if they have symptoms?</p>	<p>Yes. There are no specific guidelines from the DPAs yet. However, we think it is justified to ask if an employee has specific COVID-19 symptoms (which can be listed). A yes/no answer should be sufficient.</p> <p>Personal data of employees may also be collected and processed if an infection has been detected (i.e. the employees have been tested positive) or contact has been made with a person who is proven to be infected or stayed in a risk-area.</p>
<p>Can we ask about an employee's travel history?</p>	<p>Yes, but with limitations. According to the DPAs, employers are not permitted to ask employees about their general travel history. However, an employer may ask if the employee stayed in an area classified as a "risk area" by the Robert Koch Institute (RKI).</p> <p>Since these lists are updated on a daily basis, employees can also be asked on a daily basis. However, limiting it to the actual high risk countries issued by an institution (like the Robert Koch Institute in Germany) may not be enough since one has to go two weeks backwards.</p> <p>We therefore think (though a grey area) that there are also arguments to extend this list (but DPAs do not share this view).</p>
<p>Can we take temperature readings from employees?</p>	<p>Yes, but with limitations. There are no specific guidelines from the DPAs yet. According to general opinion, temperature testing can be considered admissible if the results are only used for making decision about employees accessing the workplace. Such decisions must be yes/no decisions and the readings themselves should not be recorded.</p>
<p>Can we ask about any symptoms of an employee's household?</p>	<p>Yes, but with limitations. There are no specific guidelines from the DPAs yet. However, general questions about possible symptoms may only be asked as far as relevant.</p> <p>If it is about employees working on premises and who have contact with other employees, we think it can be justified insofar as the response amounts to a yes/no to a list of symptoms rather than recording each symptom of household members.</p>
<p>Can we ask employees to notify us if they are diagnosed?</p>	<p>Yes. On the basis of the employer and employee's duties of loyalty and care, the employee has a duty to inform the employer about the existence of an infection with the coronavirus.</p>
<p>Can we require employees to work from home even if the office is open?</p>	<p>Yes. There are no specific guidelines yet from the DPAs since this is a labour law issue.</p> <p>In principle, employers have no right to dispose of their employees' private housing. So they can usually not unilaterally order work from home, but an agreement between employer and employee is required. In the current situation and in order to avoid contagion, however, we think that it is possible to do this to limit the spread of the virus, in particular because this is the clear recommendation of the government.</p> <p>It may still be useful to agree on the possibilities of home office work in principle and more frequently.</p> <p>If the work in the company or office involves considerable risks (e.g. because a colleague has reported a COVID19 infection/symptoms), then clearly the duty of care requires employers to prohibit the employee from working in the office (whether the employee can then be asked to work from home is a matter of labour law as described above).</p>

Germany Continued

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. There are no specific guidelines from the DPAs yet. However, we think it is justified to ask whether an individual falling in this category has specific COVID-19 symptoms (which can be listed). A yes/no answer should be sufficient.
Can we ask about the travel history of such individuals?	Yes, but with limitations. According to the DPAs, employers are not permitted to ask such individuals about their general travel history. However, an employer may ask if the individual stayed in an area classified as a “risk area” by the Robert Koch Institute (RKI). Since these lists are updated on a daily basis, individuals can also be asked on a daily basis. However, limiting it to the actual high risk countries issued by an institution (like the Robert Koch Institute in Germany) may not be enough since one has to go two weeks backwards. We therefore think (though a grey area) that there are also arguments to extend this list (but DPAs do not share this view).
Can we take temperature readings from such individuals?	Yes, but with limitations. There are no specific guidelines from the DPAs yet. According to general opinion, temperature testing can be considered admissible if the results are only used for making decision about individuals accessing the workplace. Such decisions must be yes/no decisions and the readings themselves should not be recorded. Where an individual is not required to come to the employer’s office, temperature testing would not be permissible.
Can we ask about any symptoms of the household(s) of such individuals?	Yes, but with limitations. There are no specific guidelines from the DPAs yet. However, general questions about possible symptoms may only be asked as far as relevant. If it is about individuals working on premises and who have contact with other employees, we think it can be justified insofar as the response amounts to a yes/no to a list of symptoms rather than recording each symptom of household members. Where, instead, the individual does not work in the office, then it is not permissible to ask this question.
Can we ask such individuals to notify us if they are diagnosed?	Yes. There are no specific guidelines from the DPAs yet. However, we assume that there is a duty on the basis of the employer and employee’s duties of loyalty and care to inform about the existence of an infection with the coronavirus.

Visitors

Can we ask visitors if they have symptoms?	Yes. To protect the health of its own employees, an employer may ask if visitor has specific COVID-19 symptoms (which can be listed). A yes/no answer should be sufficient. In addition, a company may decide in its discretion under which circumstances it allows access. However, visitors may decide not to answer the questions and then they may not be entitled to access.
Can we ask about a visitor’s travel history?	Yes. In our view a company may ask if the visitor stayed in an area classified as “risk area” by the Robert Koch Institute (RKI) and possibly also in areas the company considers risky (house right). Answers on yes/no basis should be sufficient.
Can we take temperature readings from visitors?	Yes, but with limitations. You can require this as entry condition, but people may say no and then not enter the building. There are no specific guidelines from the DPAs yet. According to general opinion, temperature testing can be considered admissible if the results are only used for making decision about individuals accessing the workplace. Such decisions must be yes/no decisions and the readings themselves should not be recorded.
Can we ask about any symptoms of a visitor’s household?	Yes, but with limitations. There are no specific guidelines from the DPAs yet. However, general questions about possible symptoms may only be asked as far as relevant. Visitors may more likely refuse to answer the questions and not enter.
Can we ask visitors to notify us if they are diagnosed?	Yes. Even though there is no specific guidance on this question, we assume a duty to notify arises from general duties of consideration, conduct or cooperation. In the current situation, such obligations will be regularly accepted as soon as the company premises are entered. It is useful to obtain the consent of the visitor.

General	
Formal DPA Guidance	Yes. See: https://www.bfdi.bund.de/DE/Datenschutz/Themen/Gesundheit_Soziales/GesundheitSozialesArtikel/Datenschutz-in-Corona-Pandemie.html?nn=5217154
What medical testing can an employer carry out and under what conditions?	There are no specific guidelines from the DPAs yet. Asking relevant questions and temperature reading can be considered admissible if the data are only used for making decision about individuals accessing the workplace. Such decisions must be yes/no decisions and the readings themselves should not be stored. This will need to be carefully considered on a case-by-case basis.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes, but consider timing. There are no specific guidelines from the DPAs yet. From a labour law perspective, however, co-determination rights can arise. This applies in particular if the measure influences “the order in the company” or “the behaviour of the employees in the company”, for example by wearing certain protective clothes or temperature readings. However, given the urgency of the situation, we think it can be argued that – as an exception – urgent measures are implemented and in parallel discussed with the works council. Government guidance is clear that processes should not lead to jeopardizing people’s lives.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes, but with limitations. According to the DPAs, an employer may only disclose personal data (i.e. the identity) of demonstrably infected persons or persons suspected of being infected to other individuals they have come in contact with if this is necessary in order to prevent or contain the spread of the virus among employees. We acknowledge that this is a grey area and it is possible that authorities will be more and more tolerant here in the coming weeks.
Can an employer notify customers and visitors of an infected member of staff?	Yes, but with limitations. According to the DPAs, an employer may only disclose personal data (i.e. the identity) of demonstrably infected persons or persons suspected of being infected to other individuals they have come in contact with if this is necessary in order to prevent or contain the spread of the virus among employees. We acknowledge that this is a grey area and it is possible that authorities will be more and more tolerant here in the coming weeks.
Can I share health data with authorities for public health purposes?	Yes. This must be assessed on a case-by-case basis. If there is a (legal) obligation to notify the local health authorities, then the employer may do so. Where authorities request information companies can fulfil these requests but must ensure that any processing of personal data complies with the data protection principles.

Hong Kong

Employees & Workers

<p>Can we ask employees if they have symptoms?</p>	<p>Yes. Data collected must be fair, necessary and non-excessive. Asking employees about their symptoms to prevent or control the spread of disease in the workplace is likely to be allowed, particularly in the context of an employer's duty to provide a safe working environment to all employees. On or before obtaining data on the individual's symptoms, employees must be notified of prescribed information (e.g. what data is collected, the purpose of use, voluntary/mandatory to provide the data etc).</p>
<p>Can we ask about an employee's travel history?</p>	<p>Yes. Data collected must be fair, necessary and non-excessive. Asking employees about their symptoms to prevent or control the spread of disease in the workplace is likely to be allowed, particularly in the context of an employer's duty to provide a safe working environment to all employees. On or before obtaining data on the individual's symptoms, employees must be notified of prescribed information (e.g. what data is collected, the purpose of use, voluntary/mandatory to provide the data etc).</p>
<p>Can we take temperature readings from employees?</p>	<p>Yes. This is based on an employer's health and safety duty, as well as other duties and obligations. Data collected must be fair, necessary and non-excessive. For instance, inquiring employees on their temperature readings to prevent or control the spread of disease in the premises is likely to be allowed, particularly in the context of an employer's duty to provide a safe working environment to all employees. On or before obtaining data on the employees' symptoms, employees must be notified of prescribed information mentioned above.</p>
<p>Can we ask about any symptoms of an employee's household?</p>	<p>Yes. Data collected must be fair, necessary and non-excessive. For instance, asking employees about their household members' symptoms to prevent or control the spread of disease in the workplace is likely to be allowed, particularly in the context of an employer's duty to provide a safe working environment to all employees. On or before obtaining data on employees' household member symptoms, the employer must ensure that the employee has notified the relevant individual in his/her household of the prescribed information mentioned above. We recommend incorporating a warranty clause in the privacy notice to effect the above.</p>
<p>Can we ask employees to notify us if they are diagnosed?</p>	<p>Yes. Data collected must be fair, necessary and non-excessive. Asking employees about their symptoms to prevent or control the spread of disease in the workplace is likely to be allowed, particularly in the context of an employer's duty to provide a safe working environment to all employees. On or before obtaining data on the individual's symptoms, employees must be notified of prescribed information (e.g. what data is collected, the purpose of use, voluntary/mandatory to provide the data etc).</p>
<p>Can we require employees to work from home even if the office is open?</p>	<p>Yes. Where it is reasonable to do so (taking into account health and safety and other duties and obligations). We recommend telling employees to remain at home and not come into work if they are unwell / are required to self-isolate even if they are not showing symptoms. Where this applies, employees will be entitled to sickness allowance in accordance with the Employment Ordinance (Cap. 57) if the requisite thresholds are met, and company policy (noting possible enhancements to the statutory entitlements provided by the employer in the employment contract or company policy). The Government has recently mandated that travellers entering Hong Kong from any foreign country except Taiwan and Macau will be issued compulsory home quarantine orders, regardless of whether they are Hong Kong residents. Contravening the quarantine requirement would be a criminal offence. Offenders are subject to a maximum fine of \$25,000 and imprisonment for six months. Red Outbound Travel Alert (OTA) is also on for all countries and territories other than mainland China, Macau and Taiwan.</p> <p>You may require employees to work from home even if they are serving any compulsory home quarantine orders. You may also want to consider instructing employees to remain at home and not come into work where they have recently come into contact with others who have travelled abroad returned less than 14 days ago. Such employees would be entitled to normal pay, noting that the position may be different for salaried and hourly-paid or casual employees and workers, depending on their terms of employment. It is important to consider any distinctions in treatment (salaried v hourly paid employees, compulsory quarantine v self-directed isolation), you should ensure that your approach does not inadvertently help the spread of the virus by encouraging employees to come into work when they should really remain at home and you should be mindful of any wider implications for employee relations.</p> <p>Employers should also consider their approach to dealing with employees who are not required to be quarantined or self-isolated but want to stay at home to avoid being infected by others - particularly those deemed high-risk (for example, by virtue of their age or any underlying health concerns). For high-risk employees, the employer should consider requests to stay away from the office carefully given the potential risks. Employees will be entitled to be paid in the usual way for working from home; the position is less clear cut where they are willing but unable to work from home, either because their job cannot be done from home or because the employer has not put in place the systems and equipment to do so. Employers can treat the refusal of a reasonable request to attend the office as a disciplinary issue - taking into account the circumstances. Employers should ensure that they consider any employee concerns carefully and should keep their approach position under review as the situation develops.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. Data collected must be fair, necessary and non-excessive. Asking individuals about their symptoms to prevent or control the spread of disease in the workplace is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information (e.g. what data is collected, the purpose of use, voluntary/mandatory to provide the data etc).
Can we ask about the travel history of such individuals?	Yes. Data collected must be fair, necessary and non-excessive. For instance, asking individuals about their travel history (e.g. if they have been to any COVID19 prone areas) to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.
Can we take temperature readings from such individuals?	Yes. Data collected must be fair, necessary and non-excessive. Collecting temperature readings from individuals to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.
Can we ask about any symptoms of the household(s) of such individuals?	Yes. Data collected must be fair, necessary and non-excessive. For instance, asking individuals about their household members' symptoms to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on individual's household member symptoms, data user must ensure that the individual has notified the relevant individual in his/her household of the prescribed information mentioned above. We recommend incorporating a warranty clause in the privacy notice to effect the above.
Can we ask such individuals to notify us if they are diagnosed?	Yes. Data collected must be fair, necessary and non-excessive. For instance, collecting data on an individual's positive diagnosis to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.

Visitors

Can we ask visitors if they have symptoms?	Yes. Data collected must be fair, necessary and non-excessive. For instance, asking visitors about their symptoms to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information (e.g. what data is collected, the purpose of use, voluntary/mandatory to provide the data etc).
Can we ask about a visitor's travel history?	Yes. Data collected must be fair, necessary and non-excessive. For instance, asking visitors about their travel history (e.g. if they have been to any COVID19 prone areas) to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.
Can we take temperature readings from visitors?	Yes. Data collected must be fair, necessary and non-excessive. For instance, collecting temperature readings from visitors to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.
Can we ask about any symptoms of a visitor's household?	Yes. Data collected must be fair, necessary and non-excessive. For instance, asking visitors about their household members' symptoms to prevent or control the spread of disease in the premises is likely to be allowed. However, on or before obtaining data on visitor's household members' symptoms, data user must ensure that the visitor has notified the relevant individual in his/her household of the prescribed information mentioned above. As this is likely to be impractical, the data user would likely not have the right to collect and use such data.
Can we ask visitors to notify us if they are diagnosed?	Yes. Data collected must be fair, necessary and non-excessive. For instance, collecting data on a visitor's positive diagnosis to prevent or control the spread of disease in the premises is likely to be allowed. On or before obtaining data on the individual's symptoms, individuals must be notified of prescribed information mentioned above.

Hong Kong Continued

General	
Formal DPA Guidance	Yes. PCPD issued Media Statement on “The Use of Information on Social Media for Tracking Potential Carriers of COVID-19”. See: https://www.pcpd.org.hk/english/media/media_statements/press_20200226.html
What medical testing can an employer carry out and under what conditions?	<p>The usual principles for testing employees will apply. Employers must have grounds for conducting the test (explicit consent is a pre-condition, unless the employers are authorised to do so or as required under applicable laws or regulations).</p> <p>Temperature check and health-related questionnaires are the most common measures taken by employers for the purpose of COVID-19 prevention and control.</p> <p>Where testing is used to enforce absence, employers should ensure employees understand the implications (particularly where this will be used to enforce absence or reduced duties and this may have implications for their pay).</p> <p>Testing should only be used where it provides significantly better evidence than other less intrusive means and this is a justified means to achieving the employer’s legitimate aim. If your reason is to protect the workforce on health and safety grounds, this may not be sufficient justification, depending on the wider circumstances.</p> <p>Testing should be carried out by a reputable provider and based on reliable scientific evidence and should be focused solely on the relevant matters - here, that would mean testing for COVID-19 only.</p> <p>You should not test all workers, whether randomly or not, if only employees carrying out a particular activity or in a particular location pose a risk. Employees in different jobs will pose different risks. Similarly, post-incident testing, where there is a reasonable concern that the employee has COVID-19 is more likely to be justified than random testing.</p>
Does an employer need to consult with works councils or trade unions before taking any measures?	No. Trade union activity is generally very minimal in Hong Kong and there is no concept of works councils in Hong Kong.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such data may not be retained for longer than is necessary for the purpose for which it was collected. If it has become obsolete, the data user must promptly delete the same. The types of data kept must also be fair, necessary and non-excessive.
Can an employer notify other members of staff?	<p>Yes, but with limitations. The identity of employee must be kept confidential.</p> <p>Check the scope of employee privacy notice as to whether it is wide enough to cover circumstances of disclosure for ensuring health and safety of the workplace. Otherwise, express consent from the relevant individual is likely required. Although section 59 of the Personal Data (Privacy) Ordinance (Cap. 486) (“PDPO”) provides an exemption for health data to be disclosed without the express consent of the individual, this only applies if it can be shown (in each case) that obtaining express consent from the individual for the disclosure would likely cause serious harm to the employee, visitor, customer or others.</p> <p>Disclosing the identity of the employee when notifying other members of staff could expose the employee to risks of disability discrimination, vilification and victimisation from such members of staff.</p>
Can an employer notify customers and visitors of an infected member of staff?	<p>Yes, but with limitations. The identity of employee must kept confidential.</p> <p>Otherwise, express consent from the relevant individual is likely required. Although section 59 of the PDPO provides an exemption for health data to be disclosed without the express consent of the individual, this only applies if it can be shown (in each case) that obtaining express consent from the individual for the disclosure would likely cause serious harm to the employee, visitor, customer or others.</p>
Can I share health data with authorities for public health purposes?	<p>Yes. Section 60B of the PDPO provides an exemption for the sharing of personal data, including health data, if the use of the data is, among others, required or authorized by or under any laws or court order in Hong Kong. This would include requests properly made by the legal authorities under the relevant laws e.g. under the Prevention and Control of Diseases Ordinance.</p> <p>Section 59 of the PDPO also provides an exemption for disclosing health data if the employer/data user can show (in each case) that obtaining express consent from the individual for the disclosure would likely cause serious harm to the employee, visitor, customer or others.</p>

Hungary

Employees & Workers

Can we ask employees if they have symptoms?	<p>Yes. Employers should require employees to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries).</p> <p>If the employee reports potential exposure to the virus or if the employer suspects infection based on other factors, the employer can process data regarding the symptoms based on legitimate interest and exception the employment law condition in Art. 9(2)(b) GDPR.</p>
Can we ask about an employee's travel history?	<p>Yes. If the employee reports potential exposure to the virus or if the employer suspects infection based on other factors.</p>
Can we take temperature readings from employees?	<p>Yes, but with limitations. Ordering medical checks for all employees in general and systematically does not comply with data protection law. However, medical checks may be carried out if the employee voluntarily reports symptoms or if the employer reasonably suspects a case of infection based on the assessment of all relevant circumstances or based on the employer's risk assessment. Medical checks must be conducted or supervised by medical professionals.</p> <p>In this case the legal basis is legitimate interest and the condition in under Art.9(2)(h) applies, together with the measures set out in Art.9(3) GDPR.</p>
Can we ask about any symptoms of an employee's household?	<p>No. The processing of any symptoms of an employee's household is likely to be disproportionate and excessive under Hungarian data protection law.</p>
Can we ask employees to notify us if they are diagnosed?	<p>Yes. Employers should require employees to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries). The employer must have a legitimate interest if it wants to engage in this kind of data processing.</p>
Can we require employees to work from home even if the office is open?	<p>Yes. Under Hungarian law, an employer can require that the employee works in a place other than his or her normal place of work for a maximum of 44 working days or 352 working hours of work in a calendar year.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes. Employers should require these individuals to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries).</p> <p>If the individual reports potential exposure to the virus or if the employer suspects infection based on other factors, the employer can process data regarding the symptoms based on legitimate interest and exception the employment law condition in Art. 9(2)(b) GDPR.</p>
Can we ask about the travel history of such individuals?	<p>Yes. If the individual reports potential exposure to the virus or if the employer suspects infection based on other factors.</p>
Can we take temperature readings from such individuals?	<p>Yes, but with limitations. Ordering medical checks for all employees in general and systematically does not comply with data protection law. However, medical checks may be carried out if the employee voluntarily reports symptoms or if the employer reasonably suspects a case of infection based on the assessment of all relevant circumstances or based on the employer's risk assessment. Medical checks must be conducted or supervised by medical professionals.</p> <p>In this case the legal basis is legitimate interest and the condition in under Art.9(2)(h) applies, together with the measures set out in Art.9(3) GDPR.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>No. The processing of any symptoms of this individual's household is likely to be disproportionate and excessive under Hungarian data protection law.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. Employers should require these individuals to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries). The employer must have a legitimate interest if it wants to engage in this kind of data processing.</p>

Hungary Continued

Visitors

Can we ask visitors if they have symptoms?	Yes. Employers should require visitors to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries). If the individual reports potential exposure to the virus or if the employer suspects infection based on other factors, the employer can process data regarding the symptoms based on legitimate interest and exception the employment law condition in Art. 9(2)(b) GDPR.
Can we ask about a visitor's travel history?	Yes. If the visitor reports potential exposure to the virus or if the employer suspects infection based on other factors.
Can we take temperature readings from visitors?	No. The processing of visitor temperature readings is likely to be disproportionate and excessive under Hungarian data protection practice. However, there is no clear guidance on this question.
Can we ask about any symptoms of a visitor's household?	No. The processing of any symptoms of a visitor's household is likely to be disproportionate and excessive under Hungarian data protection law.
Can we ask visitors to notify us if they are diagnosed?	Yes. Employers should require visitors to report potential exposure to the virus and other circumstances specified in the employer's general notice (e.g. travelling to high risk countries). The employer must have a legitimate interest if it wants to engage in this kind of data processing.

General

Formal DPA Guidance	Yes. See: https://naih.hu/files/NAIH_2020_2586_EN.pdf
What medical testing can an employer carry out and under what conditions?	Ordering any kind of medical checks for all employees in general and systematically is not in compliance with data protection law. However, if the employee reports voluntarily or based on the assessment of all relevant circumstances or based on the employer's risk assessment and in case of positions that are particularly exposed to diseases, any necessary medical checks conducted or supervised by medical professionals can be ordered. In this case the legal basis is legitimate interest and exception under Art. 9(2)(h) applies with the guarantee set out in Art. 9(3) of the GDPR.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. Works councils have a general right to information on health and safety issues, so it is advisable to inform and involve the works council in any measures taken.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes. The individual's identity must not be disclosed and you must not provide more information than necessary. Note there is an obligation of the employer to ensure their health and safety and to generally inform the employees about important conditions relating to the employment relationship.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Where this is relevant to employees, including mobile workers, whose roles involve interacting with customers, you can notify your customers where this is necessary. However, you must not disclose personal data of the infected individuals.
Can I share health data with authorities for public health purposes?	Yes. However, an employer must only do this if the authorities issue a formal order to do so.

Employees & Workers

Can we ask employees if they have symptoms?	<p>Yes, but with limitations. Except for reading of temperature at the entrance of the premises to prevent entrance of those that reach the 37,5°C threshold, an employer cannot ask employees about symptoms. This restriction does not apply to the sanitary surveillance visits that the H&S doctor can decide to implement to ensure safety at workplaces (please note that as of March 24, only essential businesses are allowed to remain operating).</p> <p>Please note that this is based on the current emergency legislation, i.e. the DPCM 22 March 2020 that expressly refers to the Protocol co-signed on March 14 by the Italian Government and the Unions (https://www.cisl.it/in-evidenza/15467-coronavirus-sottoscritto-protocollo-governo-sulle-misure-di-contrasto-per-limitare-il-contagio-nei-luoghi-di-lavoro.html) which lists in extensive detail all the organizational measures that must be put in place in organisations permitted to continue operating during the emergency period. This is the main legal reference used for the purpose of this table.</p>
Can we ask about an employee's travel history?	<p>Yes, if strictly necessary. An employer may only ask about travel history where this is strictly necessary. This must be considered on a case by case basis and employers cannot request this information from all employees. Where an employer asks for information about travel history, it should be limited to a simple declaration as to whether the employee travelled in high risk areas (Italian and foreign). It is not possible to ask for details of the areas.</p>
Can we take temperature readings from employees?	<p>Yes, but with limitations. Employers (whose business is permitted being “essential” according to the list approved by the DPCM 22 March 2020) are required to read the temperature of employees. If this exceeds 37.5°C, the employer must register the reason why an employee cannot enter the workplace.</p>
Can we ask about any symptoms of an employee's household?	<p>No. An employer can only ask an employee to state whether he or she has had contact with people tested positive for COVID-19, and exceptionally if this is strictly necessary (this depends on a case by case and it cannot be implemented as a general measures). It is not permitted to ask for more details about whom this person is.</p>
Can we ask employees to notify us if they are diagnosed?	<p>Yes, but with limitations. An employee is only required to notify the employer if he or she has symptoms during the working day.</p>
Can we require employees to work from home even if the office is open?	<p>Yes. This is indeed recommended (or mandatory, depending on the sector of activity. See DPCM 22 March, 2020) provided that their job can be done remotely and they are provided with the proper equipment.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	<p>Yes, but with limitations. Except for reading of temperature at the entrance of the premises to prevent entrance of those that reach the 37.5°C threshold, an employer cannot ask employees about symptoms. No other symptoms may be asked or collected in relation to these individuals. Where these individuals do not require to work from a particular location alongside other employees, an employer cannot collect this information.</p>
Can we ask about the travel history of such individuals?	<p>Yes, if strictly necessary. An employer may only ask about travel history where this is strictly necessary. This must be considered on a case by case basis and employers cannot request this information from all employees. Where an employer asks for information about travel history, it should be limited to a simple declaration as to whether the employee travelled in high risk areas (Italian and foreign). It is not possible to ask for details of the areas. Where these individuals do not require to work from a particular location alongside other employees, an employer cannot collect this information.</p>
Can we take temperature readings from such individuals?	<p>Yes, but with limitations. Employers (whose business is permitted being “essential” according to the list approved by the DPCM 22 March 2020) are required to read the temperature of employees. If this exceeds 37.5°C, the employer must register the reason why an employee cannot enter the workplace. Where these individuals do not require to work from a particular location alongside other employees, an employer cannot collect this information.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>No. An employer can only ask an individual to state whether he or she has had contact with people tested positive for COVID-19, and exceptionally if this is strictly necessary (this depends on a case by case and it cannot be implemented as a general measures). It is not permitted to ask for more details about whom this person is.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes, but with limitations. An individual is only required to notify the employer if he or she comes to the workplace and has symptoms during the working day.</p>

Italy Continued

Visitors

Can we ask visitors if they have symptoms?	No. Except for reading of temperature at the entrance of the premises to prevent entrance of those that reach the 37.5°C threshold, an employer cannot ask visitors about symptoms.
Can we ask about a visitor's travel history?	Yes, but with limitations. This should be treated as an exception. An employer must implement all other organizational measures listed in the Protocol and only if it is absolutely essential that these visitors enter the premises (e.g. cleaning personnel, providers of essential and unpostponable services). If so, the same rules described for the employees apply.
Can we take temperature readings from visitors?	Yes, but if strictly necessary. Employers (whose business is permitted being “essential” according to the list approved by the DPCM 22 March 2020) are required to take the temperature of those who must come to the workplace as a matter of necessity (e.g. cleaning services, workers of providers of essential and unpostponable services). If the temperature exceeds 37.5°C, the employer can register the reason why the visitor cannot enter if there is a contractual reason to do so.
Can we ask about any symptoms of a visitor's household?	Yes, but with limitations. Generally this should be treated as an exception. An employer must implement all other organizational measures listed in the Protocol and only if it is absolutely essential that these visitors enter the premises (e.g. cleaning personnel, providers of essential and unpostponable services). If so, the same rules described for the employees apply.
Can we ask visitors to notify us if they are diagnosed?	No. Notification will be done through the official channel by the competent authorities when tracking back the contacts.

General

Formal DPA Guidance	Yes. The guidance from the DPA (https://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9282117#1) is very basic and is partially superseded by the most recent emergency legislation. Please refer also to the Protocol mentioned above (https://www.cisl.it/in-evidenza/15467-coronavirus-sottoscritto-protocollo-governo-sulle-misure-di-contrasto-per-limitare-il-contagio-nei-luoghi-di-lavoro.html).
What medical testing can an employer carry out and under what conditions?	Only tests provided by health surveillance programme set by company's doctor can be carried out.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. They need to agree on the internal Protocol based on the one referred into the DPCM 22 March 2020.
Can an employer keep a record of staff who are diagnosed as infected?	Yes, but with limitations. Only the information related to the fact that the infected status has been detected during working time. No other records/list of infected employees is permitted.
Can an employer notify other members of staff?	No. This should be done by public health authorities (directly or through the company doctor) if deemed relevant according to the health protocols approved by the health authorities for the COVID-19 and only for those colleague who may be under a risk of contagion.
Can an employer notify customers and visitors of an infected member of staff?	No. This should be done by public health authorities (directly or through the company doctor) if deemed relevant according to the health protocols approved by the health authorities for the COVID-19 and only for those colleague who may be under a risk of contagion.
Can I share health data with authorities for public health purposes?	Yes. Following a request from a competent health authority, the employer can disclose information about suspected or confirmed cases of infection.

Netherlands

Employees & Workers

Can we ask employees if they have symptoms?	No. According to the Dutch DPA, employers are not allowed to ask employees about symptoms of any illness they may have. It is allowed, however, to ask employees to see the company doctor or send them home in case the employer suspects that the employees might have COVID-19 symptoms.
Can we ask about an employee's travel history?	No. According to DPA guidance only the company doctor may ask this.
Can we take temperature readings from employees?	No. The DPA previously indicated that in the healthcare sector employers may test employees on COVID-19. This appears to have been retracted by the DPA. The current guidance states that employers in all sectors are not allowed to test employees on COVID-19, but employers may ask employees to test themselves (e.g. by taking their own temperature).
Can we ask about any symptoms of an employee's household?	No. The processing of any symptoms of an employee's household is likely to be considered disproportionate and excessive.
Can we ask employees to notify us if they are diagnosed?	No. Employers may not ask anything material regarding any illness.
Can we require employees to work from home even if the office is open?	Yes. There is no specific guidance from the Dutch DPA on this. However, we believe employers can require employees to work from home where it is reasonable to do so (taking into account health and safety and other duties and obligations).

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	No. According to the DPA, employers may not ask anything material regarding any illness. However, the employer may send the employee home or to the company doctor if he suspects that the employee might have symptoms of COVID-19.
Can we ask about the travel history of such individuals?	No. The DPA has not provided specific guidance on this, but it seems reasonable to assume that the DPA will treat these workers the same as employees. In that case only a company doctor would be allowed to ask this information.
Can we take temperature readings from such individuals?	Yes, but with limitations. The DPA previously indicated that in the healthcare sector employers may test employees on COVID-19. This appears to have been retracted by the DPA. The current guidance states that employers in all sectors are not allowed to test employees on COVID-19, but employers may ask employees to test themselves (e.g. by taking their own temperature).
Can we ask about any symptoms of the household(s) of such individuals?	No. The processing of any symptoms of a worker's household is likely to be considered disproportionate and excessive.
Can we ask such individuals to notify us if they are diagnosed?	No. Employers may not ask anything material regarding any illness.

Visitors

Can we ask visitors if they have symptoms?	Yes. There is no DPA guidance available, but considering the severity of the corona outbreak, it would be reasonable to ask visitors to inform you if they are experiencing COVID-19 symptoms. Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. Visitors may decide not to answer the questions and then they may not be entitled to access.
Can we ask about a visitor's travel history?	Yes. The Dutch DPA has not provided any guidance on this, but in our opinion employers may ask visitors whether they have been in high risk areas before granting them entry. Answers on yes/no basis should be sufficient.
Can we take temperature readings from visitors?	Yes, but with limitations. There is no DPA guidance on this. In our opinion, you can require this as entry condition, but people may say no and then not enter the building. The company should ensure that no more information is collected than necessary and not store the temperature readings.
Can we ask about any symptoms of a visitor's household?	Yes, but with limitations. The Dutch DPA has not provided guidance on this, but in our opinion it is possible to ask general question about symptoms of the visitor's household as long as no more information is collected than needed. Visitors may refuse to answer the questions and not enter.
Can we ask visitors to notify us if they are diagnosed?	Yes. There is no DPA guidance available, but considering the severity of the corona outbreak we consider it legitimate and reasonable to ask visitors to inform the company if they are diagnosed with COVID-19.

Netherlands Continued

General	
Formal DPA Guidance	Yes. No published guidelines, but only informal guidance in the form of a FAQ on the DPA's website: https://autoriteitpersoonsgegevens.nl/nl/onderwerpen/werk-en-uitkering/mijn-zieke-werknemer#mag-ik-mijn-werknemers-controleren-op-corona-7633
What medical testing can an employer carry out and under what conditions?	According to the Dutch DPA employers cannot carry out any medical testing, unless there is a specific law allowing this. Currently there is no law authorizing employers to test on COVID-19. The DPA previously indicated that in the healthcare sector employers may test the employees on COVID-19. However, this appears to have been retracted by the DPA. The current guidance states that employers in all sectors are not allowed to test employees on COVID-19, but employers may ask employees to test themselves (e.g. by taking their own temperature).
Does an employer need to consult with works councils or trade unions before taking any measures?	No, but with limitations. The DPA has not provided guidance on this. This can only be assessed on a case-by-case basis - not for 'measures' in general. However, given that the measures to be taken likely are of a temporary nature and hence do not constitute a (n 'irreversible') change of a 'policy', we consider very well defensible not to seek works council consultation in respect of COVID-19-measures.
Can an employer keep a record of staff who are diagnosed as infected?	No. Only a company doctor may do this
Can an employer notify other members of staff?	No. Notification should be done by public health authorities (which can be alerted by the company doctor).
Can an employer notify customers and visitors of an infected member of staff?	No. Notification should be done by public health authorities (which can/must be alerted by the company doctor)
Can I share health data with authorities for public health purposes?	No. The company doctor rather than the employer can transfer the information.

Poland

Employees & Workers

<p>Can we ask employees if they have symptoms?</p>	<p>Yes, but with limitations. As a rule employers should not collect in a systematic manner information on symptoms. The collection of such information should be left to public health authorities.</p> <p>The employer may forbid employees who have COVID-19 symptoms to enter the workplace. Then the employer may collect information the employees voluntarily provide about their symptoms.</p> <p>The employer may request health authorities to decide on appropriate preventive measures to be implemented in its organization, which may include collecting symptoms. Such decision, if issued by the authorities, will become a legal basis for proactively collecting personal data related to symptoms.</p> <p>The Upper Chamber of Parliament passed on 28 March changes to the COVID-19 Act known as the Anti-crisis shield but they do not address the issue in question.</p>
<p>Can we ask about an employee's travel history?</p>	<p>Yes, but with limitations. As a rule companies should not collect in a systematic manner information on whether employees have been in the high risk areas (Polish or foreign) in the last 14 days.</p> <p>By law all individuals returning from abroad as of 15 March are obliged to stay under quarantine for 14 days. The employer may forbid employees who have been in such areas within the set timeframe to enter the workplace. Then the employer may collect information the employees voluntarily provide about their travel history.</p> <p>The Upper Chamber of Parliament passed on 28 March changes to the COVID-19 Act known as the Anti-crisis shield but they do not address the issue in question.</p>
<p>Can we take temperature readings from employees?</p>	<p>Yes, if strictly necessary. In our opinion, under specific circumstances an employer can carry out temperature tests (depending on the type of business, sector, work organisation, company's work regulations and procedures).</p> <p>The employer may request health authorities to decide on appropriate preventive measures to be implemented in its organization, which may include collecting symptoms. Such decision, if issued by the authorities, will become a legal basis for proactively collecting personal data related to symptoms.</p> <p>The Upper Chamber of Parliament passed on 28 March changes to the COVID-19 Act known as the Anti-crisis shield but they do not address the issue in question.</p>
<p>Can we ask about any symptoms of an employee's household?</p>	<p>No. As a rule employers should not collect in systematic manner information on symptoms suffered by household members of their employees.</p>
<p>Can we ask employees to notify us if they are diagnosed?</p>	<p>Yes. The employer may request an employee to provide such information voluntarily so that the employer can take additional precautionary measures.</p> <p>The employee is required by law not to continue working. The employee must notify the employer that he or she intends to take sick leave and confirm it with a medical certificate. From the medical certificate, the employer might deduce that employee has COVID-19.</p>
<p>Can we require employees to work from home even if the office is open?</p>	<p>Yes. The COVID-19 Act specifies that the employer may order the employee to perform work specified in the employment contract out of the office for a specific period. It does not stipulate further conditions.</p> <p>Home working can cover only the type of work that employee can performed from home.</p> <p>The employer needs to provide the employee with working tools or allow for private use of the employer's equipment.</p> <p>For organizational purposes, the employer should impose at least basic rules of home working e.g. terms and conditions of private of use of equipment, time reporting, working hours.</p> <p>Remote working is strongly recommended by the government.</p> <p>The Upper Chamber of Parliament passed on 28 March changes to the COVID-19 Act known as the Anti-crisis shield but they do not address the issue in question.</p>

Mobile / Gig Economy / Agency Workers

Poland Continued

Can we ask such individuals if they have symptoms?	<p>Yes, but with limitations. As a rule companies should not collect in a systematic manner information on symptoms suffered by such individuals. The collection of such information should be left to public health authorities.</p> <p>The employer may forbid such individuals who have COVID-19 symptoms to enter the workplace. Then the employer may collect information such individuals voluntarily provide about their symptoms.</p> <p>The employer may request health authorities to decide on appropriate preventive measures to be implemented in its organization, which may include collecting symptoms. Such decision, if issued by the authorities, will become a legal basis for proactively collecting personal data related to symptoms.</p>
Can we ask about the travel history of such individuals?	<p>Yes, but with limitations. As a rule companies should not collect in a systematic manner information on whether such individuals have been in the high risk areas (Polish or foreign) in the last 14 days.</p> <p>By law all individuals returning from abroad as of 15 March are obliged to stay under quarantine for 14 days. The employer may forbid individuals who have been in such areas within the set timeframe to enter the workplace. Then the employer may collect information such individuals voluntarily provide about their travel history.</p>
Can we take temperature readings from such individuals?	<p>Yes, if strictly necessary. In our opinion, under specific circumstances the company can carry out temperature test (depending on type of business, sector, company's regulations and procedures).</p> <p>The employer may request health authorities to decide on appropriate preventive measures to be implemented in its organization, which may include collecting symptoms. Such decision, if issued by the authorities, will become a legal basis for proactively collecting personal data related to symptoms.</p>
Can we ask about any symptoms of the household(s) of such individuals?	<p>No. As a rule companies should not collect in a systematic manner information on possible symptoms about the individual's household members. The collection of such information should be left to public health authorities.</p>
Can we ask such individuals to notify us if they are diagnosed?	<p>Yes. The employer may request such individuals to voluntarily provide such information in order the employer takes additional precautionary measures. Such individuals are required by law to not continue working.</p>

Visitors

Can we ask visitors if they have symptoms?	<p>Yes, but with limitations. As a rule companies should not collect in a systematic manner information on possible symptoms suffered by visitors. The collection of such information should be left to public health authorities.</p> <p>The employer may forbid visitors who have COVID-19 symptoms to enter workplace. Then the employer may collect information visitors voluntarily provide about their symptoms.</p>
Can we ask about a visitor's travel history?	<p>Yes, but with limitations. As a rule companies should not collect in a systematic manner information on whether visitors have been in the high risk areas (Polish or foreign) in the last 14 days.</p> <p>By law all individuals returning from abroad as of 15 March are obliged to stay under quarantine for 14 days. The employer may forbid individuals who have been in such areas within the set timeframe to enter the workplace. Then the employer may collect information visitors voluntarily provide about their travel history.</p>
Can we take temperature readings from visitors?	<p>Yes, if strictly necessary. In our opinion, under specific circumstances an employer can carry out temperature test (depending on type of business, sector, company's regulations and procedures).</p> <p>The employer may request health authorities to decide on appropriate preventive measures to be implemented in its organization, which may include collecting symptoms. Such decision, if issued by the authorities, will become a legal basis for proactively collecting personal data related to symptoms.</p>
Can we ask about any symptoms of a visitor's household?	<p>No. As a rule companies should not collect in a systematic manner information on possible symptoms about the visitor's household members. The collection of such information should be left to public health authorities.</p>
Can we ask visitors to notify us if they are diagnosed?	<p>Yes. The employer may request visitors to voluntarily provide such information in order the employer takes additional precautionary measures.</p>

General

<p>Formal DPA Guidance</p>	<p>No. The DPA has not issued formal guidance. However, it did release a statement in which the DPA indicates that:</p> <ul style="list-style-type: none"> • processing of health data in order to prevent the spread of the COVID-19 is regulated by so called COVID-19 Act (in Polish: Ustawaz dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych) • COVID-19 Act provides tools for employers to take specific actions that result from both the recommendations of the Chief Sanitary Inspector and the Prime Minister • these provisions correspond to the GDPR, which also provide legal bases of processing personal data for purposes related to the protection of health and prevention of the spread of infectious diseases (Article 9 (2) and 6 (1) (d) of GDPR) • anyone interested in the details of activities related to the fight against coronavirus should contact the Chief Sanitary Inspector, as the competent authority in this case. • https://uodo.gov.pl/pl/138/1456 <p>In addition, the DPA addressed the Chief Sanitary Inspector:</p> <ul style="list-style-type: none"> • The Inspector (and the sanitary authorities in general) should act in accordance with law. Currently the sanitary authorities have very broad competences on the basis of Art. 17 of the COVID-19 Act. The sanitary authorities may issue decisions that impose certain obligations, recommendations and guidelines that describe the way to act (“Measures”). The activities undertaken on the basis of those Measures by the Inspector and the entities to which the Measures are addressed will be lawful. The Measures are legal basis for processing data necessary to take activities. • The Inspector should consult its DPO in its activities. The DPA is eager to consult the Inspector in case of any questions related to data protection. • The Inspector should pay particular attention to what information are disclosed, in particular during public conferences, and that they should be limited to the minimum. • https://uodo.gov.pl/pl/138/1471
<p>What medical testing can an employer carry out and under what conditions?</p>	<p>There are no official guidance or legal obligations to carry out such medical testing. In our opinion under specific circumstances employers can carry out temperature test (depending on type of business, sector, work organisation, company’s work regulations and procedures).</p>
<p>Does an employer need to consult with works councils or trade unions before taking any measures?</p>	<p>No. This is organisational and management action to be immediately implemented.</p>
<p>Can an employer keep a record of staff who are diagnosed as infected?</p>	<p>No. There is no legal obligation to keep such record. Additional measures can be imposed on employer by the Chief Sanitary Inspector.</p>
<p>Can an employer notify other members of staff?</p>	<p>Yes. In our opinion, as a rule, an employer can notify other staff members provided that the identity of the infected staff member is kept confidential. There is no explicit obligation to notify, but we would highly recommend it as an occupational health and safety measure.</p>
<p>Can an employer notify customers and visitors of an infected member of staff?</p>	<p>Yes. In our opinion, as a rule, an employer can notify customers and visitors provided that the identity of the infected staff member is kept confidential. However, there is no obligation to notify.</p>
<p>Can I share health data with authorities for public health purposes?</p>	<p>Yes. As long as the public health authority makes such a request.</p>

Singapore

Employees & Workers

Can we ask employees if they have symptoms?	Yes. Employers can collect personal data of their employees (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we ask about an employee's travel history?	Yes. Employers can collect personal data of their employees (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we take temperature readings from employees?	Yes. The Tripartite partners (the Ministry of Manpower (MOM), National Trades Union Congress and the Singapore National Employers Federation) have issued several guidelines on the measures employers should adopt in the workplace. One of which is for employers to conduct temperature screening.
Can we ask about any symptoms of an employee's household?	Yes. Only to the extent this is necessary to respond to COVID-19, which would fall under the emergency exception.
Can we ask employees to notify us if they are diagnosed?	Yes. Employers can collect health information on whether the employee has been diagnosed without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we require employees to work from home even if the office is open?	Yes. The Tripartite partners (the Ministry of Manpower (MOM), National Trades Union Congress and the Singapore National Employers Federation) have issued several guidelines on the measures employers should adopt in the workplace. One of the measures encouraged is for employers to set up business continuity plans and allow staff to work from home where feasible. To our knowledge, many companies in Singapore have required their employees to work from home even though the office is open.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. Employers can collect personal data of these individuals (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we ask about the travel history of such individuals?	Yes. Employers can collect personal data of these individuals (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we take temperature readings from such individuals?	Yes. The Tripartite partners (the Ministry of Manpower (MOM), National Trades Union Congress and the Singapore National Employers Federation) have issued several guidelines on the measures employers should adopt in the workplace. One of which is for employers to conduct temperature screening.
Can we ask about any symptoms of the household(s) of such individuals?	Yes. Only to the extent this is necessary to respond to COVID-19, which would fall under the emergency exception.
Can we ask such individuals to notify us if they are diagnosed?	Yes. Employers can collect health information on whether the worker has been diagnosed without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).

Visitors	
Can we ask visitors if they have symptoms?	Yes. Employers can collect personal data of visitors (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we ask about a visitor's travel history?	Yes. Employers can collect personal data of visitors (e.g. health symptoms and travel history) without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can we take temperature readings from visitors?	Yes. The Tripartite partners (the Ministry of Manpower (MOM), National Trades Union Congress and the Singapore National Employers Federation) have issued several guidelines on the measures employers should adopt in the workplace. One of which is for employers to conduct temperature screening.
Can we ask about any symptoms of a visitor's household?	Yes. Only to the extent this is necessary to respond to COVID-19, which would fall under the emergency exception.
Can we ask visitors to notify us if they are diagnosed?	Yes. Employers can collect health information on whether the visitor has been diagnosed without obtaining consent under the exception that it is necessary to respond to an emergency that threatens the life, health or safety of other individuals. That said, employers should comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).

General	
Formal DPA Guidance	Yes. See https://www.pdpc.gov.sg/Advisory-on-CUD-for-COVID-19
What medical testing can an employer carry out and under what conditions?	At the time of writing, we are not aware of any specific testing which employers may carry out. Based on the advisory by the Ministry of Manpower (MOM), an employer may encourage an employee who is feeling unwell to visit a doctor. The doctor seeing the affected employee will then decide if he/she should be sent to the hospital for further testing. Apart from the above, MOM also encourages employers to administer temperature taking of its employees (twice a day).
Does an employer need to consult with works councils or trade unions before taking any measures?	We are not aware of any legal obligations imposed on the employer when they encourage their employees to visit a doctor.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Employers may keep a record of staff who are diagnosed as infected but must continue to comply with the data protection obligations under the PDPA (e.g. ensuring reasonable security arrangements are in place and that the personal data will not be used for other purposes without the consent of the data subject or permitted under law).
Can an employer notify other members of staff?	Yes. Employers may notify members of staff to the extent that is necessary to respond to the emergency i.e. COVID-19, which means that the employer should consider whether its contact tracing and response measures require the disclosure of the name at all or if other measures can be taken, or if disclosure should only be made to a limited group of staff for example.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Where this is relevant to members of staff, including mobile workers whose roles involve interacting with customers, you can notify your customers where this is necessary. It is unlikely that information about specific individuals will need to be disclosed.
Can I share health data with authorities for public health purposes?	Yes. If such health data is required by the Director of Medical Services of the Ministry of Health pursuant to the Infectious Diseases Act, or to the extent that such disclosure falls under the PDPA exception which allows for disclosure without consent to a public agency that is necessary in the public interest, or the emergency exception. Sharing any/all health data would likely be too broad.

Slovakia

Employees & Workers

Can we ask employees if they have symptoms?	Yes. No explicit guidance from the Slovak DPA. However under the Act No. 124/2006 Coll. on health and safety at work, the employer is obliged to take measures necessary to ensure health and safety in the workplace, including health risk assessments and taking appropriate measures to protect employees' health. Asking employees if they have symptoms (or other questions – see below) can be considered as measure taken to prevent risks to other employee's health. Data minimization principle is key – do not collect more information than needed and ensure it is treated with appropriate safeguards. Questionnaire form is recommended in order to minimize personal data processing to fulfil the purpose and to have standardized set of questions which are the same for all employees.
Can we ask about an employee's travel history?	Yes. Under the Act No. 124/2006 Coll. on health and safety at work, the employer is obliged to take measures necessary to ensure health and safety in the workplace, including health risk assessments and taking appropriate measures to protect employees' health. No DPA guidance.
Can we take temperature readings from employees?	Yes. Under the Act No. 124/2006 Coll. on health and safety at work, the employer is obliged to take measures necessary to ensure health and safety in the workplace, including health risk assessments and taking appropriate measures to protect employees' health. The Slovak DPA confirmed that the recording of temperatures could be considered where this was necessary for reasons of public health (Art.9(2)(i) GDPR). However, the Slovak DPA did not clarify the circumstances in which it would be acceptable to take the temperature of employees.
Can we ask about any symptoms of an employee's household?	Yes, but with limitations. Although there is no DPA guidance, the processing of health data of household members (without other evidence pointing to infection, e.g. symptoms or travel history) could be considered to be excessive and not in line with the data minimisation principle. However, it is common practice for employers to ask if any relatives in the household are diagnosed as positive. In line with the employer's duties under Act No. 124/2006 Coll., it is possible in certain cases to request this information from employees.
Can we ask employees to notify us if they are diagnosed?	Yes. Based on the employer's obligations under Act No. 124/2006 Coll. This health data could be processed under Art 9(2)(b) GDPR to comply with employment and social protection law obligations (i.e. Health & Safety) or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health.
Can we require employees to work from home even if the office is open?	Yes. Based on the Act No. 124/2006 Coll. requesting employees to work from home could be one of the preventive measures to protect employees' health. DPA guidance recommends to take appropriate measures to protect data in employees' computers while working from home, as other people (family members) could have access to it.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes, but with limitations. If individuals come into contact with other employees, then the employer's obligations under Act No. 124/2006 Coll. will prevail. However, where the individual does not come into contact with other employees or is not based in the office, it is not possible to ask about symptoms.
Can we ask about the travel history of such individuals?	Yes, but with limitations. If individuals come into contact with other employees, then the employer's obligations under Act No. 124/2006 Coll. will prevail. However, where the individual does not come into contact with other employees or is not based in the office, it is not possible to ask about travel history.
Can we take temperature readings from such individuals?	Yes, but with limitations. If individuals come into contact with other employees, then the employer's obligations under Act No. 124/2006 Coll. will prevail. The Slovak DPA confirmed that the recording of temperatures could be considered where this was necessary for reasons of public health (Art.9(2)(i) GDPR). However, the Slovak DPA did not clarify the circumstances in which it would be acceptable to take the temperature of individuals. Generally, where the individual does not come into contact with other employees or is not based in the office, it may not be possible to take the individual's temperature.
Can we ask about any symptoms of the household(s) of such individuals?	Yes, but with limitations. If individuals come into contact with other employees, then the employer's obligations under Act No. 124/2006 Coll. will prevail. Generally, the processing of health data of household members (without other evidence pointing to infection, e.g. symptoms or travel history) could be considered to be excessive and not in line with data minimisation principle. However, it is common practice for employers to ask if any relatives in the household are diagnosed as positive. That being said, where the individual does not come into contact with other employees or is not based in the office, it is not possible to request this information.
Can we ask such individuals to notify us if they are diagnosed?	Yes, but with limitations. If individuals come into contact with other employees, then the employer's obligations under Act No. 124/2006 Coll. will prevail. However, where the individual does not come into contact with other employees or is not based in the office, it is not possible to request the individual to notify you.

Visitors	
Can we ask visitors if they have symptoms?	Yes. In light of the employer's obligations under Act No.124/2006 Coll., the employer may take measures in respect of visitors where it is appropriate for the purposes of protecting the health and safety of employees.
Can we ask about a visitor's travel history?	Yes. In light of the employer's obligations under Act No.124/2006 Coll., the employer may take measures in respect of visitors where it is appropriate for the purposes of protecting the health and safety of employees.
Can we take temperature readings from visitors?	Yes. In light of the employer's obligations under Act No.124/2006 Coll., the employer may take measures in respect of visitors where it is appropriate for the purposes of protecting the health and safety of employees.
Can we ask about any symptoms of a visitor's household?	Yes. In light of the employer's obligations under Act No.124/2006 Coll., the employer may take measures in respect of visitors where it is appropriate for the purposes of protecting the health and safety of employees.
Can we ask visitors to notify us if they are diagnosed?	Yes. In light of the employer's obligations under Act No.124/2006 Coll., the employer may take measures in respect of visitors where it is appropriate for the purposes of protecting the health and safety of employees.

General	
Formal DPA Guidance	No. The Slovak DPA only released a very brief statement stating that temperature readings constitute sensitive data and that controllers should consider such data processing under the Art. 9 GDPR for reasons of public health.
What medical testing can an employer carry out and under what conditions?	There is no explicit guidance on what medical tests can be carried out on employees. Therefore, general data protection principles must be followed, including data minimisation. Temperature readings can be accepted as a measure to prevent risks to other employees' health. However, as stated previously, this must be proportionate and only carried out where strictly necessary. An employer cannot compel remote workers to provide temperature readings and such measures would unlikely be considered as necessary or proportionate.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. Measures to protect employees' health requires consultation with works councils under the Slovak (Labour Code section 237 (2e)).
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Although there is no explicit guidance from the Slovak DPA, the DPA indicated that processing of personal data related to COVID-19 could be processed based on Art. 9 GDPR – for reasons of public interest in the area of public health. GDPR principles have to be followed, in particular the data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes, but with limitations. The Slovak DPA has not issued guidance on this point. Disclosing the identity of the individual is generally not recommended. Notifying other employees who worked with the individual that they have been in contact with someone suspected or confirmed to have COVID-19 is recommended. However, such notification should be carried without revealing the individual's identity. Reporting on the number of affected employees to higher levels of management on a need-to-know basis is possible. However, we do not recommend notifying the general employee population of the same information. Whether the identities of affected employees need to be reported to higher levels of management should be considered on a case by case basis, taking into account the data minimization and other data protection principles. In our view, this approach is not recommended, unless strictly necessary to take preventative measures.
Can an employer notify customers and visitors of an infected member of staff?	Yes. The Slovak DPA has not issued guidance on this point. Anonymous reporting is possible. However, disclosing the identity of the individual is generally not recommended, unless strictly necessary for reasons of public health.
Can I share health data with authorities for public health purposes?	Yes. Where requested by the relevant authorities, an employer can share personal data but must ensure that such sharing complies with data protection principles.

Spain

Employees & Workers

Can we ask employees if they have symptoms?	Yes. The AEPD states that employers can ask people about the existence of symptoms. It would be contrary to the principle of data minimisation to circulate extensive and detailed health questionnaires, or questionnaires that include questions not related to the disease.
Can we ask about an employee's travel history?	Yes. The AEPD states that it is justified to ask for information related to risk factors such as countries visited. Nevertheless, according to the proportionality principle, questions should be limited to those countries with a high prevalence of the virus and in the incubation period of the disease (for the last two weeks).
Can we take temperature readings from employees?	Yes. Taking temperature readings may constitute a proportionate measure for supervising health of employees. Nevertheless, the information obtained needs to be processed in compliance with data protection law.
Can we ask about any symptoms of an employee's household?	Yes. The AEPD does not mention the possibility of asking for information about employee's household. However, following the minimisation and proportionality principles we would suggest to ask employees to notify if they have been in contact with someone infected with COVID-19.
Can we ask employees to notify us if they are diagnosed?	Yes. Employees should notify their employer and the occupational risk prevention team, if they are diagnosed with COVID-19.
Can we require employees to work from home even if the office is open?	<p>Yes. AEPD guidance is silent on this point. Employers are entitled to adopt the necessary measures to ensure the right to health protection of other employees and to prevent contagion within the company.</p> <p>From a employment law point of view, the general rule is that the employer cannot require employees to work from home if there is not a prior agreement in this regard -it would be sufficient if the Company asks its employees if they want to work from home and they accept.</p> <p>This measure must be temporary and exceptional (ie. for the duration of the state of alarm).</p> <p>Please note that remote working is strongly recommended by the government: Occupational risk prevention obligations will be considered fulfilled by the Labour Inspectorate provided that each employee carries out a self-evaluation.</p>

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. The AEPD states that employers can ask people about the existence of symptoms. It would be contrary to the principle of data minimisation to circulate extensive and detailed health questionnaires, or questionnaires that include questions not related to the disease.
Can we ask about the travel history of such individuals?	Yes. The AEPD states that it is justified to ask for information related to risk factors such as countries visited. Nevertheless, according to the proportionality principle, questions should be limited to those countries with a high prevalence of the virus and in the incubation period of the disease (for the last two weeks).
Can we take temperature readings from such individuals?	Yes. Taking temperature readings may constitute a proportionate measure for supervising health of employees. Nevertheless, the information obtained needs to be processed in compliance with data protection law.
Can we ask about any symptoms of the household(s) of such individuals?	Yes. The AEPD does not mention the possibility of asking for information about the individual's household. However, following the minimisation and proportionality principles we would suggest to ask individuals to notify if they have been in contact with someone infected with COVID-19.
Can we ask such individuals to notify us if they are diagnosed?	Yes. Individuals should notify the employer and the occupational risk prevention team, if they are diagnosed with COVID-19.

Visitors	
Can we ask visitors if they have symptoms?	Yes. The AEPD states that employers can ask visitors about the existence of symptoms. It would be contrary to the principle of data minimisation to circulate extensive and detailed health questionnaires, or questionnaires that include questions not related to the disease.
Can we ask about a visitor's travel history?	Yes. The AEPD states that it is justified to ask for information related to risk factors such as countries visited. Nevertheless, according to the proportionality principle, questions should be limited to those countries with a high prevalence of the virus and in the incubation period of the disease (for the last two weeks).
Can we take temperature readings from visitors?	Yes. AEPD guidance does not address taking temperature readings from visitors. In light of an employer's obligation to protect the health and safety of their employees, including to prevent infections, it may be reasonable to take the temperature of visitors.
Can we ask about any symptoms of a visitor's household?	Yes. The AEPD does not mention the possibility of asking for information about a visitor's household. However, following the minimisation and proportionality principles we would suggest to ask visitors to notify you if they have been in contact with someone infected.
Can we ask visitors to notify us if they are diagnosed?	Yes. The AEPD does not mention the possibility of asking visitors if they have been diagnosed. Nevertheless, this health data could be processed under Art 9(2)(b) GDPR to comply with employment and social protection law obligations (i.e. Health & Safety) or under Art 9(2)(i) GDPR, where it is necessary for reasons of public interest in the area of public health.

General	
Formal DPA Guidance	Yes. See https://www.aepd.es/es/documento/2020-0017.pdf https://www.aepd.es/sites/default/files/2020-03/FAQ-COVID_19.pdf
What medical testing can an employer carry out and under what conditions?	The AEPD does not mention anything about medical testing except the possibility of taking temperature readings. From an employment law point of view, in principle, the employer may ask the employee to undergo a voluntary medical examination in order to confirm if the employee is infected or not. However, in a health emergency situation like the current one, if it is necessary to know the health status of an employee because it represents a risk to him/herself or to other employees, the company can compel him/her to undergo a medical testing. There must be genuine suspicions of symptoms or possible contagion that requires medical control.
Does an employer need to consult with works councils or trade unions before taking any measures?	The AEPD's guidance does not include information about consulting works councils. Works councils have a general right to information on health and safety issues, so it is advisable to inform and involve the works council in any measures taken.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes. Generally, the individual's identity will not need to be disclosed, unless otherwise required by public health authorities or other public bodies. It is necessary to comply with the purpose limitation and proportionality principles, while complying with the recommendations issued by competent authorities, especially public health authorities. Notifying other members of staff without revealing the individual's identity is recommended. However, if it is not possible to maintain the individual's anonymity, then you can disclose personal data about the individual.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Generally, the individual's identity will not need to be disclosed, unless otherwise required by public health authorities or other public bodies. It is necessary to comply with the purpose limitation and proportionality principles, while complying with the recommendations issued by competent authorities, especially public health authorities. Notifying customers or visitors without revealing the individual's identity is recommended. However, if it is not possible to maintain the individual's anonymity, then you can disclose personal data about the individual.
Can I share health data with authorities for public health purposes?	Yes. It's unlikely that information about specific individuals will be needed but if it is necessary then data protection legislation will not prevent this.

Sweden

Employees & Workers

Can we ask employees if they have symptoms?	Yes. Employees are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask about an employee's travel history?	Yes. Employees are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we take temperature readings from employees?	No. Generally, it should not be necessary for employers to measure body temperatures in order to fulfil its obligations according to Swedish employment law. In our view, in very specific situations, the employer could argue that such measure would be strictly necessary in order to protect the employees and the workplace. However, if such safety measure is adapted, this needs to be agreed with the safety delegate(s) or safety committee (where such has been established) and preferably consulted with relevant trade union(s) before implementation.
Can we ask about any symptoms of an employee's household?	Yes. Employees are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask employees to notify us if they are diagnosed?	Yes. Employees are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we require employees to work from home even if the office is open?	Yes. Employees may be required by law to self-quarantine in case of suspected COVID-19 infection (Swedish Infectious Disease Control Act).

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. Workers are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask about the travel history of such individuals?	Yes. Workers are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we take temperature readings from such individuals?	No. Generally, it should not be necessary for employers to measure body temperatures in order to fulfil its obligations according to Swedish employment law. In our view, in very specific situations, the employer could argue that such measure would be strictly necessary in order to protect the employees and the workplace. However, if such safety measure is adapted, this needs to be agreed with the safety delegate(s) or safety committee (where such has been established) and preferably consulted with relevant trade union(s) before implementation.
Can we ask about any symptoms of the household(s) of such individuals?	Yes. Workers are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask such individuals to notify us if they are diagnosed?	Yes. Workers are required by law to inform their employer about any potential COVID-19 infection (Swedish Infectious Disease Control Act).

Visitors	
Can we ask visitors if they have symptoms?	Yes. Visitors are required by law to notify any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask about a visitor's travel history?	Yes. Visitors are required by law to notify any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we take temperature readings from visitors?	No. Generally, it should not be necessary for employers to measure body temperatures in order to fulfil its obligations according to Swedish employment law. The Swedish DPA does not address whether it is allowed to measure visitor's body temperature. In our view, in very specific situations, the employer could argue that such measure would be necessary in order to protect the employees and the workplace. However, the DPA states that registration of body temperature in e.g. a IT-based visitor's system, should generally not be allowed.
Can we ask about any symptoms of a visitor's household?	Yes. Visitors are required by law to notify any potential COVID-19 infection (Swedish Infectious Disease Control Act).
Can we ask visitors to notify us if they are diagnosed?	Yes. Visitors are required by law to notify any potential COVID-19 infection (Swedish Infectious Disease Control Act).

General	
Formal DPA Guidance	Yes. The guidance only focus on the processing of personal data and does not provide any guidance on the employer's obligations under employment law. See https://www.datainspektionen.se/nyheter/coronavirus-och-personuppgifter/ (Updated 2020-03-18)
What medical testing can an employer carry out and under what conditions?	Generally, the employer cannot carry out medical testing.
Does an employer need to consult with works councils or trade unions before taking any measures?	Yes. The safety delegate(s), or safety committee where such has been implemented, needs to be involved in the work environment risk impact assessments and action plans that need to be made and continuously updated. If the employer is bound by collective agreement, trade union representatives should be informed.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes. Since COVID-19 is classified by the Swedish Government as a disease which threatens public safety, employers are allowed to provide the identity of COVID-19-infected employees to the safety delegate(s), members of the safety committee as well as colleagues who have been in close contact with the infected employee.
Can an employer notify customers and visitors of an infected member of staff?	No. The message to customers and visitors should be that the member of staff is absent or unavailable.
Can I share health data with authorities for public health purposes?	Yes. It's unlikely that information about specific individuals will be needed but if it is necessary then data protection legislation will not prevent this.

UAE

There is currently no federal data privacy law, and consequently no federal data protection authority in the UAE. There are currently only two data privacy laws in the free zones of Dubai International Financial Center (DIFC) and Abu Dhabi Global Markets (ADGM) and neither regulator in these free zones has issued any guidance.

Aside from data protection laws, there are two laws in the UAE that specifically relate to the protection of health data.

1. Dubai Health Care City (DHCC) - another free zone in the UAE - has a Health Care Data Protection Law that applies to the protection of patient health information. However, this law only applies to entities incorporated in the DHCC. While it protects patient health information from being disclosed to third parties without their consent, such information can still be used if it is "necessary to prevent or lessen a serious and imminent threat to public health or public safety".
2. The Federal Health Data Law, which also prevents the disclosure of health information to third parties absent the individual's prior consent, allows for such disclosure when it is necessary to take a preventive measure or to inspect, control or protect public health.

As such, employers may request health and travel information from their employees (including temporary consultants) as well as from visitors on the basis of preserving public health and safety.

Employees & Workers

Can we ask employees if they have symptoms?	Yes.
Can we ask about an employee's travel history?	Yes.
Can we take temperature readings from employees?	Yes.
Can we ask about any symptoms of an employee's household?	Yes. ADGM's Office of Data Protection have stressed the important of data minimisation when requesting additional health data from their employee. In addition, once the data is collected, employers still have to ensure that it is treated with the appropriate safeguards, as specified under the DP regulations.
Can we ask employees to notify us if they are diagnosed?	Yes.
Can we require employees to work from home even if the office is open?	Yes. According to ADGM's ODP, Data Controllers can ask their employees to work from home, as long as they have implemented robust IT security measures to protect any Personal Data that may be processed during that period.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes.
Can we ask about the travel history of such individuals?	Yes.
Can we take temperature readings from such individuals?	Yes.
Can we ask about any symptoms of the household(s) of such individuals?	Yes.
Can we ask such individuals to notify us if they are diagnosed?	Yes.

Visitors

Can we ask visitors if they have symptoms?	Yes.
Can we ask about a visitor's travel history?	Yes.
Can we take temperature readings from visitors?	Yes.
Can we ask about any symptoms of a visitor's household?	Yes.
Can we ask visitors to notify us if they are diagnosed?	Yes.

General

Formal DPA Guidance	Yes for ADGM only.
What medical testing can an employer carry out and under what conditions?	There is no specific guidance on the type of medical testing that can be carried out. The most common have been temperature checks.
Does an employer need to consult with works councils or trade unions before taking any measures?	N/A. There are no work councils or trade unions in the UAE.
Can an employer keep a record of staff who are diagnosed as infected?	Yes.
Can an employer notify other members of staff?	Yes. According to the ADGM ODP, Data Controllers have an obligation to keep employees informed about any cases of COVID19 and take the necessary measures to protect employees. They must not however share more information than is necessary and should avoid naming individuals, whenever possible.
Can an employer notify customers and visitors of an infected member of staff?	Yes.
Can I share health data with authorities for public health purposes?	Yes. As per the guidance of ADGM ODP, Data Controllers can share such information with the relevant authorities provided there is a legal basis for the processing of the Personal or Sensitive Personal Data and appropriate safeguards have been met.

Employees & Workers

Can we ask employees if they have symptoms?	Yes. ICO states that it would be reasonable to ask people to inform you if they are experiencing symptoms. Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we ask about an employee's travel history?	Yes. ICO states that, where necessary, the collection of additional data from employees may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we take temperature readings from employees?	Yes, if strictly necessary. ICO guidance does not prevent collecting and recording employees' temperatures. However, this should only be considered where it is strictly necessary, i.e. where alternative measures (such as remote working) are not possible. The available lawful bases are compliance with health and safety obligations under employment law (Article 9(2)(b) GDPR; para.1, Sch.1 DPA 2018) and for reasons of public health (Art.9(2)(i) GDPR; para.3, Sch.1 DPA 2018).
Can we ask about any symptoms of an employee's household?	Yes. ICO states that, where necessary, the collection of additional data from employees may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. For example, we recommend not to collect information about specific symptoms about each household member.
Can we ask employees to notify us if they are diagnosed?	Yes. This health data could be processed under Art 9(2)(b) GDPR and para.1, Sch.1 DPA 2018 to comply with employment and social protection law obligations (i.e. Health & Safety) or under Art 9(2)(i) GDPR and para.3, Sch.1 DPA 2018, where it is necessary for reasons of public interest in the area of public health.
Can we require employees to work from home even if the office is open?	Yes. Where it is reasonable to do so (taking into account health and safety and other duties and obligations), employers can require employees to work from home. We recommend telling employees to remain at home and not come into work if they are unwell / are required to self-isolate even if they are not showing symptoms. Where this applies, employees will be entitled to sick pay in accordance with applicable regulations and company policy (noting the changes to Statutory Sick Pay entitlements). You may also want to consider instructing employees to remain at home and not come into work where they have recently travelled to, or come into contact with others who have travelled to, high risk areas. Such employees would be entitled to normal pay, noting that the position may be different for salaried and hourly-paid or casual employees and workers, depending on their terms of employment. It is important to consider any distinctions in treatment (salaried v hourly paid employees, medically-sanctioned quarantine v self-directed isolation), you should ensure that your approach does not inadvertently help the spread of the virus by encouraging employees to come into work when they should really remain at home and you should be mindful of any wider implications for employee relations. Employers should also consider their approach to dealing with employees who are not required to self-isolate under PHE guidance, or due to infection, but want to stay at home to avoid being infected by others - particularly those deemed high-risk (for example, by virtue of their age or any underlying health concerns). For high-risk employees, the employer should consider requests to stay away from the office carefully given the potential risks. Employees will be entitled to be paid in the usual way for working from home; the position is less clear cut where they are willing but unable to work from home, either because their job cannot be done from home or because the employer has not put in place the systems and equipment to do so. Employers can treat the refusal of a reasonable request to attend the office as a disciplinary issue - taking into account the circumstances. Employers should ensure that they consider any employee concerns carefully and should keep their approach position under review as the situation develops.

Mobile / Gig Economy / Agency Workers

Can we ask such individuals if they have symptoms?	Yes. ICO states that it would be reasonable to ask people to inform you if they are experiencing symptoms. Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we ask about the travel history of such individuals?	Yes. ICO states that, where necessary, the collection of additional data from individuals may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we take temperature readings from such individuals?	Yes, if strictly necessary. ICO guidance does not prevent collecting and recording individuals' temperatures. However, this should only be considered where it is strictly necessary, i.e. where alternative measures are not possible. Where the individuals come into contact with employees or return to the office, the available lawful bases are compliance with health and safety obligations under employment law (Article 9(2)(b) GDPR; para.1, Sch.1 DPA 2018) and for reasons of public health (Art.9(2)(i) GDPR; para.3, Sch.1 DPA 2018). Where, however, the individuals do not come into contact with employees or return to the office, only the public health ground would be available.
Can we ask about any symptoms of the household(s) of such individuals?	Yes. ICO states that, where necessary, the collection of additional data from individuals may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. For example, we recommend not to collect information about specific symptoms about each household member.
Can we ask such individuals to notify us if they are diagnosed?	Yes. Unless mobile workers visit one of your offices, this health data can be processed under Art 9(2)(i) GDPR and para.3, Sch.1 DPA 2018, where it is necessary for reasons of public interest in the area of public health. Where, instead, mobile workers visit any of the employer's premises, then the same grounds as for employees apply.

Visitors

Can we ask visitors if they have symptoms?	Yes. ICO states that it would be reasonable to ask people to inform you if they are experiencing symptoms. Data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we ask about a visitor's travel history?	Yes. ICO states that, where necessary, the collection of additional data from individuals may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards.
Can we take temperature readings from visitors?	Yes, if strictly necessary. ICO guidance does not prevent collecting and recording individuals' temperatures. However, this should only be considered where it is strictly necessary, i.e. where alternative measures are not possible. As visitors will likely come into contact with employees as part of their visit to the office, the available lawful bases are compliance with health and safety obligations under employment law (Article 9(2)(b) GDPR; para.1, Sch.1 DPA 2018) and for reasons of public health (Art.9(2)(i) GDPR; para.3, Sch.1 DPA 2018).
Can we ask about any symptoms of a visitor's household?	Yes. ICO states that, where necessary, the collection of additional data from individuals may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. For example, we recommend not to collect information about specific symptoms about each household member.
Can we ask visitors to notify us if they are diagnosed?	Yes. This health data could be processed under Art 9(2)(b) GDPR and para.1, Sch.1 DPA 2018 to comply with employment and social protection law obligations (i.e. Health & Safety) or under Art 9(2)(i) GDPR and para.3, Sch.1 DPA 2018, where it is necessary for reasons of public interest in the area of public health.

General

Formal DPA Guidance	Yes. See https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/03/COVID-19-general-data-protection-advice-for-data-controllers/
What medical testing can an employer carry out and under what conditions?	<p>The usual principles for testing employees will apply. Employers must have grounds for conducting the test (in practice, likely only to be justified for health and safety reasons). Where testing is used to enforce absence, employers should ensure employees understand the implications (particularly where this will be used to enforce absence or reduced duties and this may have implications for their pay). Generally, given the intrusive nature of testing, you are most likely required to carry out a DPIA.</p> <p>Testing should only be used where it provides significantly better evidence than other less intrusive means and this is a justified means to achieving the employer's legitimate aim. If your reason is to protect the workforce on health and safety grounds, this may not be sufficient justification, depending on the wider circumstances.</p> <p>Testing should be carried out by a reputable provider and based on reliable scientific evidence and should be focused solely on the relevant matters - here, that would mean testing for COVID-19 only.</p> <p>You should not test all workers, whether randomly or not, if only employees carrying out a particular activity or in a particular location pose a risk. Employees in different jobs will pose different risks. Similarly, post-incident testing, where there is a reasonable concern that the employee has COVID-19 is more likely to be justified than random testing.</p>
Does an employer need to consult with works councils or trade unions before taking any measures?	No. Unless the employer has agreed to consult with a works council or trade union about such matters (this would be rare in the UK), then consultation is not required. Do note that if such measures include proposed redundancies, collective consultation obligations involving trade unions / works council may apply.
Can an employer keep a record of staff who are diagnosed as infected?	Yes. Note that such collection of data would need to comply with data protection principles. In particular data minimisation and purpose limitation will be important.
Can an employer notify other members of staff?	Yes. Generally the individual's identity will not need to be disclosed and you should not provide more information than necessary. Note there is a duty of care owed to employees and an obligation to ensure their health and safety. The ICO states that data protection does not prevent you from complying with these obligations.
Can an employer notify customers and visitors of an infected member of staff?	Yes. Where this is relevant to members of staff, including mobile workers, whose roles involve interacting with customers, you can notify your customers where this is necessary. It is unlikely that information about specific individuals will need to be disclosed. However, where identification is not possible, the processing of health-related personal data can be carried out under Art 9(2)(i) GDPR and para.3, Sch.1 DPA 2018, where it is necessary for reasons of public interest in the area of public health.
Can I share health data with authorities for public health purposes?	Yes. It's unlikely that information about specific individuals will be needed but if it is necessary then data protection legislation will not prevent this.



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