

Employers could face legal action over COVID-19 exposure, expert warns

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Professor Andrew Watterson, of the University of Stirling, has questioned whether adequate procedures and resources are in place to identify and investigate all work-related illnesses and deaths linked to the virus, specifically in non-health or social care settings. Credit: University of Stirling

Employers across the UK could face legal action from employees who return to work and contract the COVID-19 virus, a leading health and

safety expert has warned.

Professor Andrew Watterson, of the University of Stirling, has questioned whether adequate procedures and resources are in place to identify and investigate all work-related illnesses and deaths linked to the virus, specifically in non-health or social care settings.

In such cases, employees and their families may not have the COVID-19 link recognized or compensated—which could, in turn, lead to civil court action, he explained.

The expert in occupational and [environmental health](#) believes further evidence and clarity is required on exactly how the 'test, trace and isolate' approach will protect workers—especially when untested workers may be asymptomatic—and he also reemphasised the "critical" importance of the use of appropriate [personal protective equipment](#) and two-meter social distancing.

Professor Watterson's concerns are outlined in a new paper published in peer-reviewed journal *New Solutions* and in a separate letter, published as a BMJ Rapid Response. The publications—based on policy analysis and data—suggest that science has been "ignored" at times and also highlight a lack of research on the impact and potential impact of the virus on many workers who are not employed in health or social care—such as those working in shops, construction, food processing, transport and small businesses. He said it was critical for employers and regulators to engage with workers and their representatives on health and [safety issues](#) linked to the virus.

Professor Watterson said: "Employers have a duty to report occupational diseases. However, COVID-19 is not yet classified as an occupational disease under the Prescribed Industrial Diseases scheme, which would generate workers' compensation. Under current legislation, incidents

where a [worker](#) is exposed, or possibly exposed, to COVID-19 is reported to the Health and Safety Executive under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.

"There are concerns that occupational COVID-19 cases will not be reported, and those that are may not be fully investigated, recognized or compensated for.



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"At a later date, there could be civil actions in the courts by employees who contracted the virus at work, or by their families, if fatalities

occurred."

The *New Solutions* paper cites previous research on COVID-19 transmission routes, especially relating to airborne as well as droplet transmission—the touching of contaminated surfaces, viral aerosolization in a confined space, and contact with asymptomatic infected people—and states: "Knowledge of these routes should have informed decisions weeks ago in the UK about occupational health and safety precautions, availability of sanitisers, what personal protective equipment was needed, by whom and in what settings."

Professor Watterson said a continued lack of planning was responsible for the threat posed by COVID-19 to workplace health and safety in the UK.

He added: "A catalog has emerged in the UK of missed opportunities and failures by various government bodies, agencies and organizations, and employers to plan for the pandemic and to equip staff with the necessary health and safety equipment and procedures to protect themselves and the public from COVID-19. In contrast, UK trade unions and non-governmental organizations issued early warnings of a pandemic—and offered important guidance on solutions to mitigate its impact on workers and, hence, wider society.

"Prior to the pandemic, the Health and Safety Executive and other regulators in local authorities should have been checking pandemic health and safety planning, and the availability and capability of appropriate personal protective equipment for health and social care workers, as well as those employed in shops, warehouses, transport and other workplaces. It is not clear from information in the public domain that they did so."

In the BMJ Rapid Response letter, Professor Watterson highlights that

workplace exposure to COVID-19 has occurred in four waves: with frontline healthcare workers in the first; social care workers in the second; key workers—such as transport and service sector staff—in the third; and, now, construction workers in the fourth.

He said: "COVID-19 has emerged in a very short period of time as an 'occupational disease' but gaining official recognition and establishing workplace exposures as its cause may well still prove highly problematic. The task may be easier for healthcare workers than other occupational groups. For that reason, it is critical that the health and [safety](#) need of the third and fourth waves of exposed workers are addressed and appropriate preventative action taken, supported by the necessary research."

More information: Andrew Watterson, COVID-19 in the UK and Occupational Health and Safety: Predictable not Inevitable Failures by Government, and Trade Union and Nongovernmental Organization Responses, *NEW SOLUTIONS: A Journal of Environmental and Occupational Health Policy* (2020). [DOI: 10.1177/1048291120929763](https://doi.org/10.1177/1048291120929763)

Provided by University of Stirling

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