



Rely on **TDS**

H1N1 – Are you Ready

By Terra Welsh



THOMPSON
DORFMAN
SWEATMAN
LLP

201 Portage Ave, Suite 2200 | Winnipeg, Manitoba R3B 3L3 | 1-855-483-7529 | www.tdslaw.com

Member

LexMundi
World Ready

Lex Mundi is the world's leading network of independent law firms with in-depth experience in 100+ countries worldwide.

While there has been a flurry of media attention paid to H1N1 in recent months, there has been limited focus on what Manitoba businesses should do to prepare for an H1N1 pandemic. A pandemic could have a devastating effect on business operations and it is vital that businesses do what they can to be ready. Provincial workplace safety and health, employment standards, and human rights legislation place certain obligations on employers and employees. This brief article will highlight some of the reasons that employers should prepare for an H1N1 pandemic and the statutory obligations and rights of which Manitoba employers should be mindful. Please note that the obligations of health care providers and child care centres are beyond the scope of this article.

Why business should prepare for an H1N1 pandemic

Many health authorities are reporting that it is a matter of when, not if, an influenza pandemic will occur. This decade alone Canadians have combated SARS, the avian flu, and now H1N1. A pandemic flu, whether it be H1N1 or some other virus, may have a serious impact on business operations. It has the potential to cause high rates of employee absenteeism, supply chain problems, changes in the demand for certain products, drops in productivity and revenue, loss of reputation, loss of customers, and loss of market share.

By creating a pandemic plan, a business can do its best to prevent, or at least minimize the impact of, these potentially devastating effects. Additionally, employers should create a pandemic plan because of the statutory obligations they have under Manitoba law and because of the liability they may face if they cannot meet their contractual or regulatory obligations during a pandemic.

Preparing for H1N1 will also help reduce the spread of the flu and comfort employees during the stressful pre-pandemic, pandemic, and post-pandemic periods.

Statutory Rights and Obligations

Employers should be aware of their obligations and rights under Manitoba law, including those relating to:

- The duty to ensure the safety, health and welfare of all employees at work;
- The duty to provide information, instruction and training to employees to ensure the safety, health, and welfare of employees at work;
- The duty to consult and cooperate with the workplace safety and health committee or the workplace safety and health representative when one exists;
- Employees who are suffering from flu-like symptoms;
- Options for employees who are absent from work because they are sick, they are caring for a sick family member, or are assisting in the community;
- Options for emergency overtime;

- The duty to accommodate an employee with a disability; and
- The payment of employees should the workplace be shut down, the employer be unable to provide work to the employees, or the employees be unable to work.

Employers should also be mindful of the statutory obligations and rights of employees, including those relating to:

- The duty to take reasonable care to protect their health and safety and the health and safety of others who may be affected by their acts or omissions;
- The right to refuse dangerous work and the reporting requirements when such a refusal is made;
- The right to be paid if there is a dangerous work environment;
- Compassionate care leave and unpaid family leave; and
- The right not to be discriminated against based on disability.

Other Considerations

It is strongly recommended that businesses have a pandemic plan in place. In addition to the statutory rights and obligations outlined above, such a plan should consider what preventative measures the business will take. Employers must also review current company policies and employment agreements to ensure the pandemic plan complies with them.

Once a plan is formalized, it is very important that the plan's contents, and any other expectations that the employer has, are shared with all employees.

If you have not yet finished your planning, wish us to review what you have prepared, or wish for additional information on any of the items listed above, a TDS lawyer would be happy to assist you.

Please [click here](#) to sign up for @TDSLAW, our quarterly e-newsletter.

DISCLAIMER

This article is presented for informational purposes only. The content does not constitute legal advice or solicitation and does not create a solicitor-client relationship. The views expressed are solely the authors' and should not be attributed to any other party, including Thompson Dorfman Sweatman LLP (TDS), its affiliate companies or its clients. The authors make no guarantees regarding the accuracy or adequacy of the information contained herein or linked to via this article. The authors are not able to provide free legal advice. If you are seeking advice on specific matters, please contact Don Douglas, CEO & Managing Partner at dgd@tdslaw.com, or 204.934.2466. Please be aware that any unsolicited information sent to the author(s) cannot be considered to be solicitor-client privileged.

While care is taken to ensure the accuracy for the purposes stated, before relying upon these articles, you should seek and be guided by legal advice based on your specific circumstances. We would be pleased to provide you with our assistance on any of the issues raised in these articles.

ABOUT THE AUTHOR

Terra Welsh

Phone: 204.934.2383 | Email: tlw@tdslaw.com | Web: www.tdslaw.com/tlw



Terra's practice is focused in the areas of labour and employment law, administrative law, and civil litigation. She primarily provides advice to employers and employees on employment contracts, employee manuals, collective agreement administration, discipline, terminations, wrongful dismissals, employment standards, human rights issues, and workplace safety and health matters