

1. Is It Necessary to Prepare an Unlocking Plan? What Should It Contain?

Strictly legally necessary, no, but we nonetheless strongly recommend that an unlocking plan be prepared. This need not be very long, but it should at least cover the following points:

- Adapting the premises to comply with the deconfinement plan communicated by the Ministry of Labour
- Barrier measures (cleaning, social distancing, etc.)
- Hours arrangements to limit overlapping employee presence in the workplace
- Teams in teleworking and/or, where appropriate, furlough on a rotating basis
- Updating risk prevention documentation, if necessary
- How the employer intends to communicate with its employees
- Designation of a “barrier-safety gesture” person in each unit – either the health, safety and environment manager or an employee volunteer
- The protocol to be followed if someone comes down with COVID-19 symptoms in the workplace
- Expected duration of measures such as changes in schedules, etc.

This document can be drawn up quickly – there is no magic wording necessary! It can also be developed and re-issued over time in line with changes in circumstances or relevant government guidance.

The important thing is to prepare and implement all practicable measures to ensure social distancing and to anticipate difficulties related to possible new cases of COVID-19.

2. Is It Necessary to Consult the Works Council on the Unlocking Plan?

Yes. The way the employer intends to implement the unlocking obviously has an impact on the general running of the company and, therefore, falls within the remit of the Works Council, as it deals at least with “health, safety and working conditions”:

It is, therefore, advisable to consult with the Works Council and any separate health and safety commission. In all cases, invite the health and safety agency representative, the Labour Inspector and the occupational physician to the consultation meeting.

3. How to Update the Single Risk Prevention Document

It is sufficient to ensure that the document remains relevant to each work unit concerned and so deals with any changes in:

- Risks related to the resumption of activity – physical proximity of employees, lack of ventilation, repeated handling of machines by different people, etc.
- The psychosocial risks linked to resuming activity – isolation of teleworking employees, anxiety-provoking periods for some employees, etc.
- The measures proposed to remedy this

4. What Are the Main Changes to Be Implemented?

First priority: Calculate the number of people who can be simultaneously present in the workplace (the “gauge”).

In order to ensure that the one-metre distance between each person is respected, a minimum space of four square metres per employee must be created. This space does not include that occupied by furniture and machines. It is only the residual area (the truly empty area) that counts towards the calculation of the four square metres.

For example, in a warehouse, the surface occupied by shelving must be removed from the total surface area before calculating the four square metres. For a warehouse of 1,000 square metres, there might be 350 square metres of shelving, so this must be subtracted from the 1,000 square metres. This means that a residual surface area of 1,000- 350 = 650 square metres, divided by four, so a maximum of 162 employees can occupy such a warehouse at the same time.

The national deconfinement protocol gives several concrete examples of how this calculation may be made in offices, supermarkets, etc.

As a second step, after this first calculation, arrange the work organisation to guarantee this gauge and the absence of physical contact:

- **Limit the number of people present:**
 - By favouring teleworking
 - By organising physical presence on a rotational basis
 - By using partial furlough if there is no other solution
 - By physically marking work areas and intervention zones for external personnel (deliveries, repairers, etc.)
 - By favouring appointment scheduling for reception in the departments

• **Regulating the flows:**

- Organise “sliding” (non-simultaneous) working schedules to limit the simultaneous presence of employees and/ or customers at entrances and exits and other potential bottlenecks
- Provide a traffic plan in the company and, in particular, to avoid crossings and groupings at traffic points (ascents, descents, lifts, etc.), for example by providing a one-way travel plan in corridors and passageways (with appropriate signposting), where practicable

• **Reduce the risk of virus transfer through physical contact:**

- Avoid face-to-face work
- Prohibit all physical contact
- Organise systematic cleaning of machines and tools before handing over to a colleague
- Regularly ventilate the rooms
- Organise the daily cleaning of the premises
- Make sanitiser liquid available to employees on the premises

If the social distancing cannot be guaranteed with certainty, the use of masks in the workplace should be made mandatory.

5. What Can We Impose on Employees? What Can We Not Impose?

| | Can Be Imposed | Cannot Be Imposed | Remarks |
|--|----------------|-------------------|---|
| Respect of the distance of one metre | X | | |
| Respect for ground markings | X | | |
| Scheduling arrangements | X | | Be sure to consult your Works Council on this subject. |
| Furlough by rotation | X | | The partial activity can now be individualised (by collective agreement or with the Works Council's approval) to enable the unlocking issues to be addressed. |
| Respect for the direction of traffic | X | | |
| Mask wearing | X | | If the wearing of masks is mandatory, the masks must be provided by employers. |
| Teleworking | X | | Professional expenses related to telework must be paid by the employer (a fixed allowance, from €10 to €50 per month, depending on the number of days teleworked, is recommended by the government, which will not be subject to social security charges). |
| Temperature measurement | | X | On 4 May, the government ordered that employees could not be punished for refusing to take their temperature or to disclose the results to their employer. It is advisable to provide for a reasonable temperature standard that triggers a recommendation to the employee to contact a doctor for diagnosis, in principle without any further action, but if the employer does not allow the employee access to their workstation, it may be required to pay them for the lost day. In all cases, any temperature-testing procedure must be set down in an internal note, which may be annexed to the internal regulations (and, therefore, follow the appropriate procedure), and employees must be informed in advance. Systematic temperature readings designed to be sent to the management of the company (as opposed to relevant medical practitioners), as well as the blanket collection of medical forms or questionnaires from all employees/agents, would be unlawful. |
| Screening or serological testing for COVID-19 | | X | The government reiterated on 4 May that this matter was a matter of medical secrecy, absolute secrecy. In addition, serological tests on employees are not yet authorised by the Ministry of Labour. On the other hand, employees showing symptoms of COVID-19 must be requested to stay at home, and all staff must be informed of the government's health messages on this point. |
| Signature of a waiver by which the employee undertakes not to sue the company if he or she contracts the illness | | X | This type of document is frequently requested and should be avoided. It is unlawful and will be unenforceable against both the employee and the authorities in the event of a dispute over the possible origin of a COVID-19 infection in the workplace. |

6. What to Do if a Worker Shows Symptoms of Covid-19?

Follow the procedure laid down in the government's deconfinement protocol. This procedure should provide for:

- The rapid isolation of the employee in a dedicated room
- The designation of a health professional dedicated to the establishment, a rescuer or the COVID-19 contact person; this professional must wear a mask in dealings with that person
- The protection of other employees (who must not come into contact with the worker if at all possible)
- Looking for signs of serious illness and taking emergency action if necessary

If there are signs of infection but not of serious illness, contact the occupational physician or ask the person to contact his or her attending physician for medical advice. Arrange for the person to return home avoiding public transport. If there are signs of medical crisis (e.g. respiratory distress), call the emergency services.

In all cases, after taking care of the person:

- Contact the occupational health service and follow its instructions, including cleaning the workstation and monitoring employees.
- Try to work out which employees may have had close contact with the infected employee at the workplace. Those "close contact" employees should discuss with the employer any teleworking arrangements that could be put in place. If teleworking is not practicable, the employee should contact his or her doctor, who may prescribe a work stoppage if he or she considers it necessary.

7. What About Employees Who Have to Care for Children?

As from 1 May, these employees can be placed on furlough if their child's school is closed.

8. Focus on Data Security and Confidentiality

Given the number of employees who are currently teleworking, it is highly recommended that employers now take time to check that any procedures that were put in place in haste to face COVID-19 do, in fact, comply with the regulations on the protection of personal data.

In particular:

- Verify and amend, if necessary, the name files created to alert or contact employees, assess risks to individuals or evaluate work reorganisation
- Complete the information notes on data processing, carry out impact assessments, fill in the register of processing activities and ensure retention periods
- Publish a teleworking security charter or, in the current context, at least a set of minimum rules to be respected, and communicate this document to employees in accordance with the internal regulations

- Verify and reinforce security measures:
 - Check the quality and safety of the videoconferencing tools in place
 - Equip all your employees' workstations with at least one firewall, antivirus software and a tool to block access to malicious sites
 - Promote company tools on employees' personal equipment (BYOD model)
 - Set up a VPN to avoid direct exposure of your services on the internet, as soon as possible; enable two-factor VPN authentication, if possible
 - Regularly check access logs of remotely accessible services for suspicious behaviour

9. Reminder of the Tools Available in the Event of a Second Wave

Unlocking does not mean the end of the pandemic and a second wave is to be anticipated, with renewed office closures and partial or total cessation of certain activities. Here is a brief recap of the tools available in these circumstances:

- "Partial activity" (the French version of furlough).
- Negotiation of collective agreements on the taking of paid leave.
- The compulsory taking of paid time off and other accrued rest days.
- "Modulation of working time" that may not only make it possible to cope with the downturn in activity, but also to guarantee fixed remuneration for employees.
- Derogating working hours in sectors defined as essential.
- Training: Businesses can negotiate agreements to supplement the personal training accounts of their employees, particularly for those in partial activity. It is also possible to bring forward the planning of training sessions to allow candidates to accelerate the certifications in progress, which will allow them to be more available when economic activity rebounds.
- Postponement of the profit-sharing bonus: The employer may postpone payment of the sums allocated to employees under any profit-sharing/incentive agreement where economic difficulties have been generated for it by COVID-19. The deadline is extended to not later than 31 December 2020.
- The "exceptional purchasing power bonus" (PEPA): The conditions for payment of the PEPA have been relaxed. The bonus is exempt from social security contributions and income tax. This PEPA bonus is €2,000 per employee for companies that have implemented a profit-sharing agreement at the date of the payment, i.e. by 1 December 2020.

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