

H1N1 Q&As

Updated: October 30, 2009

General guidance for the prevention of H1N1 (human swine influenza) in the workplace

This document has been prepared to help management and employees prepare for the impact that H1N1 will have on business and the workforce. You'll find information about appropriate precautions and work practices to minimize the risk of potential exposure, illness and the spread of H1N1 in the workplace.

Please note: The guidance in this document may change as additional information about H1N1 becomes known. Please check the Department of Health Promotion and Protection's website at www.gov.ns.ca/hpp/h1n1 periodically for updated information.

General information about H1N1

What is H1N1?

Both seasonal influenza and H1N1 are acute viral illnesses of the respiratory tract. There are various strains of influenza; H1N1 is a new type.

What are the symptoms?

Seasonal influenza and H1N1 share the same set of symptoms. They are fever and/or cough, and one or more of the following:
Unusual tiredness;
Headache;
Muscle or joint aches;
Sore throat;
Vomiting and diarrhea in children less than 5 years of age.

How is it spread?

Coughs and sneezes release germs into the air where they can be breathed in by others.

Germs can also rest on hard surfaces like counters and doorknobs, where they can be picked up on hands and transferred to the lungs when someone touches their mouth and/or nose.

What should you do if you think you have H1N1?

If you are sick, stay home from work, school or social settings.

Avoid close contact with others until you are feeling well and able to resume normal day-to-day activities.

For further information and advice, contact HealthLink 811. Like any illness, should symptoms worsen, visit a doctor or walk-in clinic.

Management of H1N1 in the Workplace

What can employers do to protect employees?

Everyone can help slow the spread of viruses through prevention: Wash your hands with soap and water, or use 60-90% alcohol-based hand sanitizer if soap and water are not available.

Cough and sneeze into your arm or sleeve. Tissues can be used to cover coughs and sneezes but be sure to wash your hands after throwing out the tissue.

Do not share drinking glasses, water bottles, mouth guards, cosmetics or eating utensils.

Encourage sick employees to stay home and away from the workplace until they are feeling well and able to resume normal day-to-day activities.

The following are additional prevention options you may wish to consider:

Replenish supplies (soap, paper towels and other handwashing supplies) often.

In instances where handwashing sinks are not available (i.e. common areas like lobbies, corridors, workstations), alcohol-based hand sanitizer (60-90% alcohol) could be considered.

Consider printing posters to remind employees of the importance of proper handwashing. Posters are available for printing on <http://www.gov.ns.ca/hpp/cdpc/h1n1-influenza-posters.asp>.

Provide disinfectant wipes for employees to clean their work surfaces, and appropriate disposal receptacles.

Increase the frequency of cleaning commonly-touched hard surfaces in the workplace, such as work stations, counter tops, door knobs, keyboards and bathroom surfaces. No special disinfectants are required – regular cleaning products are sufficient.

Stay informed. Please ensure you have the most up-to-date information by periodically visiting www.gov.ns.ca/hpp/h1n1 or www.phac-aspc.gc.ca.

What if your employees are in close contact with members of the general public?

Additional infection control practices for employees who interact frequently with the public may include:

Keeping a distance of more than two metres from clients, if possible.

Having a physical barrier (window, glass partition, etc.) between client and the reception.

Limiting the sharing of equipment (e.g. pens, phones, and computers) with co-workers and clients.

Posting information for clients that encourages the use of good hygiene practices (e.g. wash hands, cough into sleeve, etc.).

Consider a separate area for clients who are demonstrating symptoms.

Please note: At this time, experts do not recommend that members of the general public wear masks to protect against contracting H1N1 Flu Virus. There is no evidence to show that this is effective in preventing transmission of influenza.

What can employees do to reduce the spread of H1N1 in the workplace?

If you have flu-like symptoms, stay at home and minimize contact with others as much as possible.

Practice good hygiene – wash your hands thoroughly and often and cough into your sleeve or arm.

If you have come into contact with someone who is sick with H1N1 but you do not have any flu-like symptoms, go about your daily routine as normal.

What should an employer do if an employee comes to work with flu-like symptoms?

Ask the employee to go home as soon as possible and stay home until they are feeling well and able to resume normal day-to-day activities. Until the employee is able to leave the workplace, encourage him or her to practice good basic hygiene. If possible, the employee should keep a distance of more than two metres from others.

When the employee leaves the workplace, ensure the workstation and high-touch areas (e.g. keyboards, doorknobs, etc.) are cleaned as normally would during daily cleaning.

Please consider not requiring your employees to go to a doctor just to get a sick note. This will ensure health services are available to those most in need.

How long should an employee with H1N1 stay home?

If you are sick, stay home from work, school or social settings until you are feeling well and able to resume normal day-to-day activities.

Am I obligated to tell my staff that one of their co-workers has a suspected or confirmed case of H1N1?

No, you are not obligated to share this information.

You can remind employees that practicing good hygiene is the best way to prevent illness at work, at home and in the community. This will reduce the risk of contracting the H1N1 virus. It's also important to note that this virus is already present in the community so employees could be exposed anywhere – at work, the gym, the library, the grocery store, etc. Given the fact that the virus is present in the community, employees should be closely monitoring their health in general, and should stay home if they develop flu-like symptoms.

What should I do if my co-worker or family member has H1N1?

If you have come into contact with someone who is sick with H1N1 but you do not have any flu-like symptoms, go about your daily routine as normal.

It is safe to go to work, participate in community activities, and to socialize.

Are there any special considerations for pregnant employees with suspected H1N1 or who have been exposed to H1N1?

Pregnant women, particularly those in the second or third trimester and four weeks postpartum, are at higher risk of complications if they get H1N1 (human swine influenza), so they should speak to a health care practitioner if they develop symptoms.

Like any illness, should symptoms worsen, they should visit a doctor or walk-in clinic.

We are not recommending that pregnant women stay home from work as a preventative measure. The H1N1 virus is already present in the community so pregnant women could be exposed anywhere – at work, the gym, the library, the grocery store, etc.



Occupational Health and Safety

In the workplace what is my role under the Occupational Health and Safety Act in a pandemic?

The Occupational Health and Safety Act (OH&S) is based on the Internal Responsibility System (IRS). IRS requires employers, employees, as well as contractors, and anyone else who comes into the workplace to work together to identify and address health and safety issues at the worksite. Reference Section 2 of the OH&S Act.

In a pandemic, what are the employer's responsibilities under the Occupational Health and Safety Act, and Regulations?

Employers are required to implement measures to address health and safety measures that must be followed. This should include conducting a hazard assessment to identify hazards and the measures implemented for elimination or control of the hazard. Reference Section 13 (1) of the OH&S Act.

Does an employer need to involve employees in pandemic planning for the work site?

Under the internal responsibility system it is prudent for an employer to include employees, the health and safety committee and the safety representative in pandemic planning. It is an opportunity for workplace parties to give input, hear concerns and address issues that may arise. Reference Section 2 & 13 of the OH&S Act.

As an employee what are my responsibilities in a pandemic under the Occupational Health and Safety Act?

As an employee, under the OH&S Act you must take all reasonable steps to protect your own health and safety and that of coworkers, follow health and safety policies and procedures established by your employer and report any health and safety issues to your employer. Reference Section 17 of the OH&S Act.

I'm concerned about my health and safety because my co-worker is at work with flu like symptoms. What can I do?

You should contact your supervisor to discuss your concerns and what preventive measures the employer has implemented to control the spread to coworkers. Reference Section 17 of OH&S Act

My co-worker has symptoms of the flu during a pandemic emergency situation.

Is this "reasonable grounds" for refusing to work for the purposes of the *Occupational Health and Safety Act*? You can exercise your right to refuse under the OH&S Act as long as you have reasonable grounds for believing a health and safety issue exists. You should first report it to your supervisor then to your joint health and safety committee or safety representative. If you are not satisfied with the employer's actions to address your concerns, at any time you can report it to the Health and Safety Division.

Under the OH&S Act, each work refusal is considered on its own merits. An OH&S Officer would be assigned to assess the situation.

Reference Section 43 of OH&S Act.

Must an employer ensure that a worker is trained in the safe operation of the equipment, usage of personal protective equipment and policy and procedures required during a pandemic?

Employers are expected to meet the requirements of the occupational health and safety legislation regardless of whether a pandemic exists. They must ensure you are trained in the operation of equipment that you may be expected to use, the usage of required personal protective equipment, and any policies/ work procedures that apply to you.

Reference Section 13 (1) (c) of the OH&S Act.

Is the employer obligated to ensure workers have personal protective equipment who may be potentially exposed to the influenza pandemic at work?

If H1N1 has been identified through a workplace hazard assessment as a potential hazard and exposure cannot be prevented or minimized in any other way (i.e., by engineered or administrative controls), then the employer is required to ensure appropriate personal protective equipment is used to protect your health and safety.

Reference Section 9 (1) of the Occupational Safety General Regulations.

Does an employer need to provide respiratory protective equipment?

If H1N1 has been identified through a workplace hazard assessment as a potential hazard and exposure cannot be prevented or minimized in any other way (i.e., by engineered or administrative controls), then the employer is required to provide either a mask or a respirator as determined by the hazard assessment.

Reference Section 13 (1) of the Occupational Safety General Regulations.

If respiratory protection is needed, does fit testing need to be done?

Fit testing is required to ensure the proper respirator is chosen for the user.

Reference Section 13 (3) of the Occupational Safety General Regulations.



Is the employer required to meet first aid requirements for services when there are fewer workers on site?

Yes, the Occupational Health and Safety First Aid Regulations still apply. First aid supplies, services and first aid attendants are based on the number of employees in the worksite. Reference Occupational Health and Safety First Aid Regulations.

As a first aid attendant am I responsible for providing first aid to someone who has flu symptoms?

As the designated first aid attendant at the worksite you must be available to provide first aid services to the extent of your training. As an attendant, you would be required to use all appropriate personal protective equipment to protect yourself from exposure.

Reference Section 11 of the Occupational Health and Safety First Aid Regulations.

Could an employer require an employee to provide a note from a doctor to confirm absence due to illness?

The *OHS Act and Labour Standards Code* has no such requirement. However, an employer's policy or a collective agreement binding on an employee could contain this provision.

If wash basins are not available at work, will waterless hand cleaners be suitable?

Yes. When wash basins are not available, hand wipes, hand sanitizers and other alternatives should be used to maintain good hygiene.

Reference Section 13(1) (c) of the Occupational Safety Act.

How do I protect myself from exposure to influenza at work?

Please refer to the suggested and recommended good health and hygiene practices available through the Departments of Health and Health Promotion and Protection.

Where do employers and workers get information about health and safety precautions related to a pandemic?

NS Dept of Health Promotion and Protection provides information about health effects and preventing the spread of infection. In the event of a pandemic, it will lead the health sector response, and will establish an Emergency Operations Centre. It will support coordination among regional health authorities, coordinate vaccine delivery across the province, provide information, collect data on the spread of the disease in NS and help resolve any health care issues that may arise.

Labour and Workforce Development will have information for employers and employees on its website at <http://gov.ns.ca/lwd>. Each provincial government department will have contingency plans for the delivery of provincial services, and will assist HPP and EMO, health authorities and municipalities. For additional information, go to

NS Health Promotion and Protection
<http://www.gov.ns.ca/hpp/cdpc/h1n1-influenza.asp>

Public Health Authority of Canada
<http://www.phac-aspc.gc.ca>

Emergency Management Office
<http://www.gov.ns.ca/emo>

Labour Standards and Labour Relations

What provisions exist in the *Labour Standards Code* for sick leave?

The *Labour Standards Code* does not require an employer to grant sick leave to an employee. Employees are entitled to 3 unpaid days per year for medical appointments or to care for ill family members. There is also an unpaid compassionate care leave to allow employees to provide care and support to gravely ill family members, but this would only apply in cases of very serious illness, where the family member is at risk of death. (Employment Insurance may be available for part of a compassionate care leave). (Link to <http://www.servicecanada.gc.ca/eng/sc/ei/benefits/compassionate.shtml>)

Does that mean I won't be able to stay home if I am sick?

No. Most employers will understand that it is in everybody's interests that potentially infectious employees stay home. Your employer may have a policy around sick leave or their may be a specific provision in your contract or agreement of employment.

The *Labour Standards Code* includes an unpaid emergency leave for employees who cannot work because of an emergency declared by Public Health or Emergency Management officials, or who cannot work because they need to care for a family member affected by the declared emergency. This means that if there is a pandemic so serious that the government declares an emergency, employees' job security is protected.

Do unionized employees have sick leave or compassionate leaves?

Collective agreements may contain various provisions for paid or unpaid leaves of absence, including sick leave or compassionate leave. Check your collective agreement.



If a non-unionized employee does not go to work because of illness or because of the illness of other employees and the employer fires the employee, what can an employee do?

The employee could claim he or she was fired without cause and make a claim for pay in lieu of notice under the *Labour Standards Code*. Labour Standards staff would assess each claim on its own merits. Special rules may apply to employees with 10 years or more service.

An employee could also decide to seek legal advice and pursue a civil claim for wrongful dismissal.

Are there a specific number of days of absence, without notification by the employee, after which an employer may fire that employee?

Not in the *Labour Standards Code*. However, employees do have a responsibility to notify their employer of absences if possible, and failure to do so could be misconduct that allows the employer to fire the employee.

Can an employer require an employee to provide a note from a doctor to confirm absence due to illness?

Yes. The *Labour Standards Code* has no such requirement. However, an employer's policy or a collective agreement binding on an employee often contains this provision.

However, we encourage employers to be flexible about this, since the Department of Health Promotion and Protection ([link http://gov.ns.ca/hpp/cdpc/h1n1-influenza-information.asp](http://gov.ns.ca/hpp/cdpc/h1n1-influenza-information.asp)) does not encourage people who have flu-like symptoms but are not gravely ill to seek medical attention in a pandemic situation. Flu-like symptoms are fever and/or cough with one or more of: unusual tiredness, head/muscle/joint aches or sore throat. Employees should stay home and avoid close contact with others. If their symptoms worsen, they should see their healthcare provider.

Can an employer send an employee home if he has flu-like symptoms?

Yes. The Department of Health Promotion and Protection recommends ([link http://gov.ns.ca/hpp/cdpc/h1n1-influenza-information.asp](http://gov.ns.ca/hpp/cdpc/h1n1-influenza-information.asp)) that employees with symptoms stay home. Under the *Labour Standards Code*, an employer can suspend an employee for six consecutive days for any reason and may suspend for a longer period with reasonable cause.

Should an employee stay home or an employer send an employee home because the employee may have been exposed but s/he has no flu-like symptoms?

No. Unless you display flu-like symptoms, you should maintain your normal daily activities, including coming to work and socializing. Exposure is not a reason to send an employee home from work.

If a non-unionized employee is fired or laid off without notice or pay in lieu of notice because of a pandemic and the employer claims that the economic hardship of the pandemic justifies the action, what remedy does an employee have?

The employee could file a claim under the *Labour Standards Code* for pay in lieu of notice. Special rules may apply to employees with ten years or more service.

There are exceptions to the requirement to provide notice if the lay offs are caused by sudden unforeseeable and/or unpreventable events, if the employer has shown due diligence.

Layoffs of six consecutive days or less do not require notice.

The *Labour Standards Code* includes an unpaid emergency leave for employees who cannot work because of an emergency declared by Public Health or Emergency Management officials, or who cannot work because they need to care for a family member affected by the declared emergency. This means that if there is a pandemic so serious that the government declares an emergency, employees' job security is protected. Employees on emergency leave generally cannot be terminated.

Does the *Labour Standards Code* have rules about the maximum hours of work in a day or week when urgent work is necessary, for example; where emergency medical services are needed?

No, the *Labour Standards Code* does not set maximum hours. There is a rule that employees receive one day off in seven, but emergency work is exempt from this requirement. Most employees who work more than 48 hours in a week are entitled to overtime pay.

What legislation specifically addresses employment of emergency service personnel?

The *Trade Union Act* prevents police and firefighters from striking or being locked out. Similar provisions apply to civil servants, highway workers, and corrections employees.

If my children are sick or if schools close, can I stay home to look after them?

This should be part of your employer's pandemic plan. Discuss this with your employer and work out a reasonable solution. If you can save some vacation time or bank overtime for this type of event, that may be one alternative to use.

In the *Labour Standards Code*, employees are entitled to 3 unpaid days off per year to care for ill family members and for medical appointments.



Amendments to the *Labour Standards Code* presently awaiting passage by the Legislature create an unpaid protected leave for employees who need to care for family members because of a declared emergency. If this legislation passes, and if there is a pandemic so serious that the government declares an emergency, employees' job security will be protected if they have to stay home to look after children or other family members.

In some situations, the *Human Rights Act* may also require that employers grant employees time off to care for a spouse, child or parent, as a form of accommodation on the basis of family or marital status.

Human Rights Commission - <http://gov.ns.ca/humanrights/>

During a pandemic do minimum standards of employment still apply?

Yes. Any employment conditions or agreements for lesser standards are against public policy and void.

Other Questions for the Workplace

In the event of a pandemic emergency, can trained health care professionals not currently registered in Nova Scotia be allowed to practice their occupation?

Each profession's regulatory organization is responsible for ensuring that professionals are qualified to perform restricted activities identified in their legislation. You can contact the appropriate College or Professional Regulatory Organization for further information in the event of a pandemic emergency.

Can the Human Rights Act be used to protect me from discrimination if my employer or coworkers are unreasonably concerned that I may be infectious during a pandemic?

The *Human Rights Act* protects against discrimination based on an irrational fear of contracting an illness or disease. If an employee was ordered to stay home because of an irrational perception that the employee was infectious the employee could complain to the Nova Scotia Human Rights Commission.

Human Rights Commission - <http://gov.ns.ca/humanrights/>

