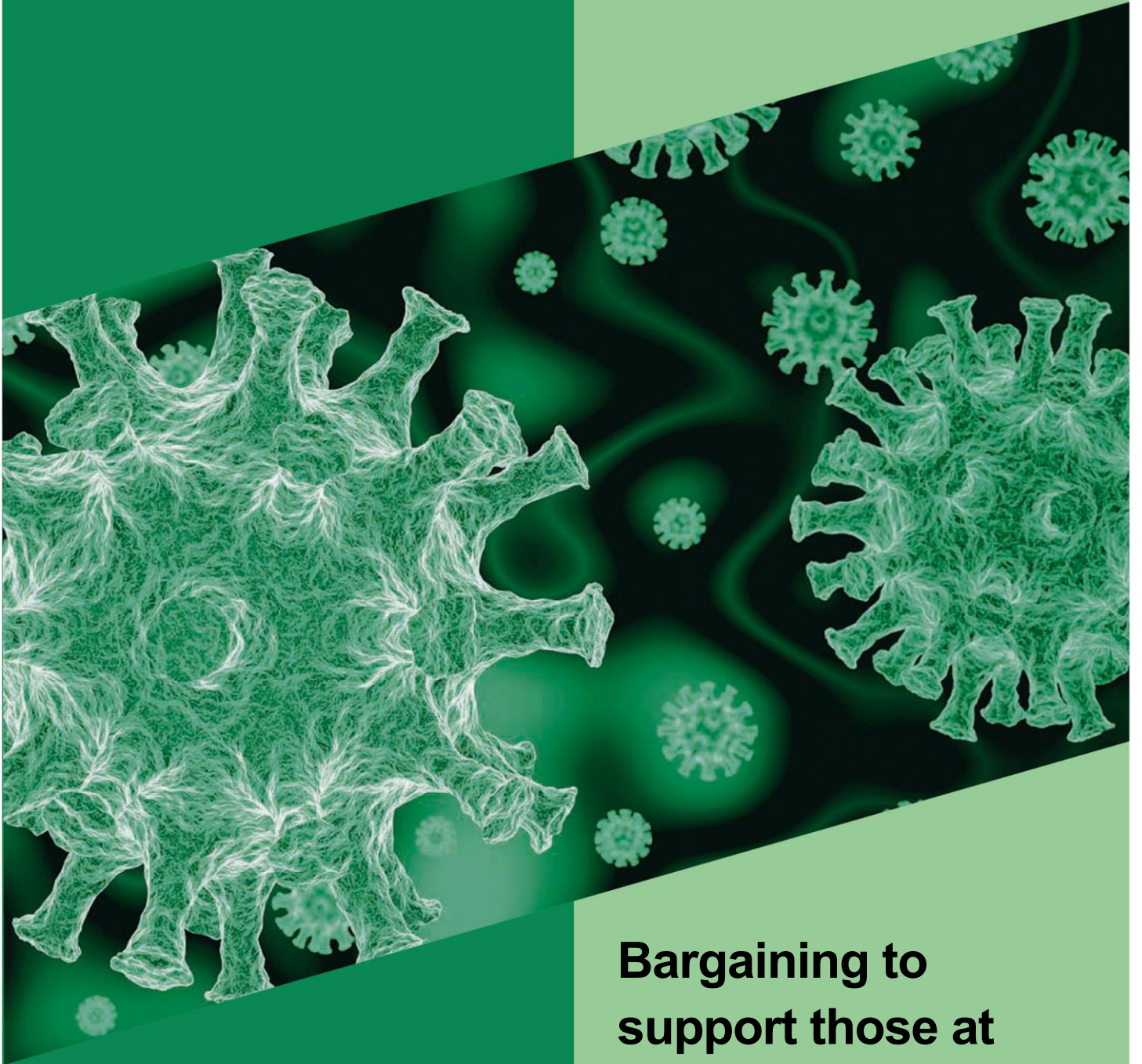


**Bargaining Support Group**



**Bargaining to  
support those at  
higher risk from  
COVID-19**

**UNISON**  
*the public service union*

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For bargaining guidance for branches and reps including guidance on related workplace issues [www.unison.org.uk/bargaining](http://www.unison.org.uk/bargaining)

If there is any concern about the safety of a workplace, the branch should contact their regional organiser ([www.unison.org.uk/regions](http://www.unison.org.uk/regions)) and seek legal advice if appropriate.

## Who are at most risk from COVID-19?

The UK government states that the success of the COVID-19 vaccination programme has meant that the requirement for shielding and identifying people as clinically extremely vulnerable (CEV) is no longer necessary.

However, there remains a smaller number of people whose immune system means they are at higher risk of serious illness from COVID-19, despite vaccination.

The government states that enhanced protections, such as those offered by specific treatments, and/or additional vaccinations alongside other protective behaviours may benefit these individuals.

## In England

[In England](#), the government recognises that there is a smaller number of people whose immune system means they are at higher risk of serious illness from COVID-19, despite vaccination.

The people identified most at risk are those who are immunosuppressed, or have specific other medical conditions, that may give them a reduced ability to fight infections and other diseases, including COVID-19.

Severe immunosuppression includes people who had or may recently have had:

- blood cancers (such as leukaemia or lymphoma)
- lowered immunity due to treatment (such as steroid medication, biological therapy, chemotherapy or radiotherapy)
- lowered immunity due to inherited disorders of the immune system
- an organ or bone marrow transplant
- diseases that affect the immune system such as poorly controlled HIV
- other diseases or treatments as advised by your specialist.

In addition, it includes some people who have:

- Down's syndrome, or another chromosomal disorder that affects their immune system
- certain types of cancer or have received treatment for certain types of cancer
- sickle cell disease
- certain conditions affecting their blood
- chronic kidney disease (CKD) stage 4 or 5
- severe liver disease
- had an organ transplant
- certain autoimmune or inflammatory conditions (such as rheumatoid arthritis or inflammatory bowel disease)
- HIV or AIDS and have a weakened immune system
- a condition affecting their immune system

- a condition affecting the brain or nervous system, such as multiple sclerosis, muscular dystrophy, motor neurone disease, myasthenia gravis, Huntington's disease, Parkinson's disease or certain types of dementia
- certain lung conditions or treatments for lung conditions.

Most people in this group will be under the care of a hospital specialist. NICE has further guidance on those at greater risk [www.nice.org.uk/guidance/ta878/chapter/5-Supporting-information-on-risk-factors-for-progression-to-severe-COVID-19](https://www.nice.org.uk/guidance/ta878/chapter/5-Supporting-information-on-risk-factors-for-progression-to-severe-COVID-19)

## In Scotland

[In Scotland](#), the government has ended its highest risk list, but similarly recognises that people who are immunosuppressed might not develop the same level of immunity from the vaccination as others. This means that some people who are immunosuppressed will still be at higher risk from COVID-19.

Specific guidance remains [for those who have a weakened immune system](#) have a medical condition, or are undergoing treatment, which means their immune system is weakened.

This includes but is not limited to people who have or had:

- a blood cancer (such as leukaemia or lymphoma)
- a weakened immune system due to a treatment (such as steroid medicine, biological therapy (sometimes called immunotherapy), chemotherapy or radiotherapy)
- an organ, bone marrow or stem cell transplant
- a condition or disease which affects your immune system.

Some people will be permanently immunosuppressed because of a long-term condition or treatment, while others will be immunosuppressed for shorter periods, while being treated for a shorter-term condition.

Many people with immunosuppression will be in regular contact with a hospital clinician or their GP.

## In Wales

[In Wales](#), the government has also ended their shielding patient list. However, they still recognise that those [in the list below](#) are at an increased risk of severe illness from coronavirus (COVID-19):

- Down's syndrome
- certain types of cancer (such as a blood cancer like leukaemia or lymphoma)
- sickle cell disease
- certain conditions affecting your blood
- chronic kidney disease (CKD) stage 4 or 5
- severe liver disease
- had an organ or bone marrow transplant

- certain autoimmune or inflammatory conditions (such as rheumatoid arthritis or inflammatory bowel disease)
- HIV or AIDS and have a weakened immune system
- a condition affecting your immune system
- a rare condition affecting the brain or nerves (multiple sclerosis, motor neurone disease, Huntington's disease or myasthenia gravis)
- a severe problem with the brain or nerves, such as cerebral palsy
- severe or multiple learning disabilities (or you're on the learning disability register)
- a weakened immune system due to a medical treatment (such as steroid medicine, biological therapy, chemotherapy or radiotherapy)

## In Northern Ireland

[Northern Ireland's guidance](#) warns the public that if they are at higher risk from COVID-19 or previously identified as 'clinically extremely vulnerable' or 'vulnerable', they may wish to take extra precautions. This includes those whose immune system has been severely suppressed, either as a result of an existing medical condition they have, or a treatment they're currently receiving.

As in the other nations, additional treatments are available for people who have symptoms and have tested positive, using a lateral flow test for COVID-19 and are [at highest risk of getting seriously ill](#).

This includes some people who have:

- Down's syndrome, or another chromosomal disorder that affects your immune system
- certain types of cancer or have received treatment for certain types of cancer
- sickle cell disease
- certain conditions affecting your blood
- chronic kidney disease (CKD) stage 4 or 5
- severe liver disease
- had an organ transplant
- certain autoimmune or inflammatory conditions
- HIV or AIDS and have a weakened immune system
- a condition affecting your immune system
- certain lung conditions or treatment for lung conditions
- certain conditions affecting the brain or nerves, such as:
  - multiple sclerosis
  - muscular dystrophy
  - motor neurone disease
  - myasthenia gravis,
  - Huntington's disease
  - Parkinson's disease



- certain types of dementia.

A doctor or specialist will confirm if individuals are eligible for treatment.

## **UNISON's call for additional protection for all those who are at the highest risk from COVID-19**

As restrictions have changed, the UK government now advises those previously regarded as clinically extremely vulnerable, “are advised to follow the same guidance as everyone else on staying safe and preventing the spread of COVID-19 and other respiratory infections, as well as any further advice received from their healthcare professional.”

### **Government advice for those at high risk from COVID-19**

**In England**, as well as getting vaccinated against COVID-19 the advice for those at high risk includes:

- trying to avoid contact with people who have symptoms of COVID-19 or other respiratory infections
- wearing a face covering
- keeping your distance from others
- ventilating rooms by opening windows and doors to let fresh air in when there are visitors
- asking visitors to your home to take additional precautions, such as keeping their distance, taking a lateral flow device (LFD) test before visiting (although these are no longer free), asking them to wear a face covering,
- working from home if you can
- washing your hands regularly and avoiding touching your face

**In Scotland**, as well as ensuring you have had all of the vaccines you are eligible to receive, the advice includes:

- continue to follow any condition-specific advice you may have been given by your specialist
- avoid meeting with people who are feeling unwell with symptoms of respiratory infection such as COVID-19 and flu
- if you have symptoms and do need to go out, you may wish to wear a well-fitting face covering
- if you have visitors, ventilate your home by opening windows and doors to let fresh air circulate
- meet outside where possible - this can help lessen the risk of transmission
- keep distance as appropriate when indoors

- when out and about, you can continue to physically distance from others where possible if this feels right for you
- try to avoid spending time in enclosed and crowded spaces
- if you would like to make others aware you would like them to give you space or take extra care around you, you can get a free Distance Aware badge or lanyard from libraries, or you can order online for a small charge. Free badges are also available at some Asda stores. For more information please visit the Distance Aware page
- wash your hands regularly and avoid touching your face. Use hand sanitiser where available.

**In Wales**, those at a higher risk are advised:

- getting vaccinated against COVID-19
- continuing to wear a face covering
- continuing to stay at least 2 meters away from people (particularly indoors or in crowded places)
- trying to work from home if you can, or talk to your employer about how they can help reduce your risk at work
- washing your hands with soap and water or use hand sanitiser regularly throughout the day
- limiting the number of people you meet inside and avoid crowded places
- meeting people outside if possible
- opening doors and windows to let in fresh air if meeting people inside
- thinking about asking people to wear a face covering if meeting them inside
- trying not to meet people who have tested positive for COVID-19 until 10 days after they got their positive test result
- trying not to meet people who have symptoms of COVID-19 and have a temperature or feel unwell until they feel better
- thinking about asking people to take a rapid lateral flow test if meeting them inside.

**In Northern Ireland**, people who are at higher risk from COVID-19, or previously identified as 'clinically extremely vulnerable (CEV)' or 'vulnerable', are reminded that the single most effective measure you can take to protect yourself is to get vaccinated, as well as getting any booster vaccination doses you are offered.

They stress that there is no 'once size fits all' advice and individuals should consider what is best for them and the necessary precautions they can take to minimise personal risk. They are encouraged to take advice from their GP, clinician/ specialist consultant if needed.

**More details on safer workplaces:**

**Health and Safety Executive (HSE)**

[www.hse.gov.uk/coronavirus/index.htm](http://www.hse.gov.uk/coronavirus/index.htm)

**In England:**

Reducing the spread of respiratory infections, including COVID-19, in the workplace

[www.gov.uk/guidance/reducing-the-spread-of-respiratory-infections-including-covid-19-in-the-workplace](http://www.gov.uk/guidance/reducing-the-spread-of-respiratory-infections-including-covid-19-in-the-workplace)

**In Scotland:**

Coronavirus (COVID-19): safer workplaces and public settings

[www.gov.scot/publications/coronavirus-covid-19-general-guidance-for-safer-workplaces/](http://www.gov.scot/publications/coronavirus-covid-19-general-guidance-for-safer-workplaces/)

**In Wales:**

Public health advice for employers, businesses and organisations: coronavirus

[www.gov.wales/public-health-advice-employers-businesses-and-organisations-coronavirus-html](http://www.gov.wales/public-health-advice-employers-businesses-and-organisations-coronavirus-html)

**In Northern Ireland:**

Coronavirus (COVID-19): staying safe at work

[www.nidirect.gov.uk/articles/coronavirus-covid-19-staying-safe-work](http://www.nidirect.gov.uk/articles/coronavirus-covid-19-staying-safe-work)

Whilst all governments recommend vaccination for those at higher risk from COVID-19, the [NHS](#) does stress that there is a chance you might still get or spread COVID-19 even if you have a vaccine.

Enabling working from home continues to be one clear way of keeping particularly at-risk staff safe from the virus and any new variants that emerge.

**UNISON's position is that employers should continue to allow workers who are at higher risk from COVID-19 to work from home or to be temporarily redeployed to a role that can be done at home. This advice is particularly important for workers who are immunosuppressed or immunocompromised.**

**If this is not possible, then the employer should individually risk assess the workers and temporarily redeploy them to the safest onsite role.**

[Kidney Care UK](#), the leading charity providing advice, support and financial assistance to thousands of people suffering from kidney disease, has published a series of 'Safe At Work' letters for everyone who is at highest risk from Covid-19 to use in discussion with their employers about how to keep safe at work, updated as government guidance changes.

[www.kidneycareuk.org/news-and-campaigns/news/safeatwork-coalition-downloadable-letter/](http://www.kidneycareuk.org/news-and-campaigns/news/safeatwork-coalition-downloadable-letter/)



## Pregnant workers

Employers already have a legal obligation under the Management of Health and Safety at Work Regulations to assess the workplace risks for **pregnant employees** and their unborn children, and breastfeeding mothers who have returned to work. This continues but now should also address the potential risk of contracting COVID-19.

The **Health and Safety Executive (HSE)** states:

“If a significant health and safety risk is identified for a new or expectant mother, which goes beyond the normal level of risk found outside the workplace, you must take the following actions:

- **Action 1:** Temporarily adjust her working conditions and / or working hours; or if that is not possible
- **Action 2:** Offer her suitable alternative work (at the same rate of pay) if available; or if that is not possible
- **Action 3:** Suspend her from work on paid leave for as long as necessary to protect her health and safety, and that of her child.”

### Further information:

**Equality and Human Rights Commission information** on employer duties on pregnancy and maternity in relation to COVID-19

[www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers-your-duties-pregnancy-and-maternity](http://www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers-your-duties-pregnancy-and-maternity)

**UNISON’s toolkit: Protecting the health and safety of pregnant workers and new mothers** [www.unison.org.uk/unison-health-and-safety/health-safety-key-issues/protecting-the-health-and-safety-of-pregnant-workers-and-new-mothers/](http://www.unison.org.uk/unison-health-and-safety/health-safety-key-issues/protecting-the-health-and-safety-of-pregnant-workers-and-new-mothers/)

## Disabled workers

It is clear that many of those whom the government and NHS had classified as ‘clinically vulnerable’ or ‘clinically extremely vulnerable’ or at highest risk from COVID-19 will be considered **disabled workers** under the equality legislation.

In the case of disabled workers, health and safety protections are supplemented by the demands of equality legislation. Under the Equality Act 2010<sup>1</sup>, it is against the law to discriminate against someone because of disability. The legislation’s definition is that “a person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's

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<sup>1</sup> In Northern Ireland, this requirement is enshrined in the Disability Discrimination Act 1995

ability to carry out normal day-to-day activities.”

## **Who else may be more at risk from COVID-19?**

There are other things that can make people more likely to get seriously ill from coronavirus, including if they are:

- over 60 – your risk increases as you get older
- from a Black, Asian or minority ethnic background (as described by the NHS).

Therefore, as identified by the government, these vulnerable workers, many of whom may also be disabled workers, as well as those who are pregnant or older warrant some special consideration with regard to the risks from COVID-19.

In addition, if **a worker lives with someone who is at higher risk** then best practice is for the employer to also give some special consideration to these risks. It is important for workers to tell the employer their particular circumstances.

**UNISON reps and branches should seek to secure additional protection and support for all our members who have been identified as more likely to get seriously ill from COVID-19, and those members who live with someone who is more vulnerable.**

## **Will the employer agree that those workers who are at the highest risk from COVID-19 can work from home?**

If the vulnerable worker’s job can’t be done from home, then the employer should consider whether they can temporarily redeploy the worker to a job that can be done at home.

However, it is important that workers are not forced to take on different roles just in order to keep their job. Agreement should be on a voluntary basis and with proper support provided by the employer such as additional training if needed. Any redeployment is likely to mean a variation in the employment contract unless there is a ‘flexibility clause’ in the worker’s contract that allows a change to the job and duties.

## **What alternatives should be negotiated if working from home is not possible?**

If working from home is not possible, even with redeployment, then the next step is for the employer to consider other options that will keep the worker safe. Best practice is to allow those who are at much higher risk from COVID-19 to stay at home on **special leave on full pay** for the duration of any resurgence of COVID cases or at least seek a significant extension of paid special leave for such staff.

## **What if the employer still expects them to return to the workplace?**

If the worker cannot work from home, then the employer should individually risk assess them. They should take steps to minimise their risk in the workplace, also considering if they travel by public transport to and from work.

**UNISON maintains that any worker who is either clinically vulnerable or clinically extremely vulnerable or identified as at a higher risk from COVID-19 should be offered an individual risk assessment. This should be extended to Black workers as well as all other more vulnerable groups identified above.**

Employers should carefully consider whether any return to the workplace of more vulnerable workers constitutes an acceptable level of risk.

## Individual risk assessments

The individual risk assessment should cover the following:

- does the vulnerable worker come into contact with other people at work?
- does their job allow them to maintain appropriate social distance from colleagues and members of the public?
- do they have any reasonable adjustments that need to be taken into account?

It is also best practice to include how they travel to work.

The employer must then look at how to remove or reduce the risks that have been identified. This could include some or most of the following:

- organising the vulnerable worker's workload to allow them to work from home as much as possible
- redeploying them to the safest available on-site role, enabling them to maintain social distance
- reducing their shift lengths so they have less interaction with other people
- providing them with additional personal protective equipment (PPE)
- staggering their start time so that they can travel when public transport is less busy.

## Reasonable adjustments for a safe return for disabled workers

Any reasonable adjustments for a safe return to the workplace must be assessed and provided if the worker is disabled, as failure to provide reasonable adjustments may constitute a breach of the equality legislation.

The [Equality and Human Rights Commission](https://www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers-reasonable-adjustments-employees) has further information on employer responsibilities providing reasonable adjustments for disabled workers in relation to COVID-19 [www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers-reasonable-adjustments-employees](https://www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers-reasonable-adjustments-employees)

The [Access to Work programme](#) is administered through Jobcentre Plus and may

provide grants towards the cost of various adjustments including adapting or purchasing equipment. Many employers are unaware of the existence of Access to Work. Workers are eligible if they have a disability or health condition. The employer or worker then purchases the equipment, etc and reclaims the grant from Access to Work. The employer may have to make contributions.

For latest details on levels and eligibility for grants, it is important for disabled workers to check directly with an Access to Work Adviser. Contact details are at [www.gov.uk/access-to-work](http://www.gov.uk/access-to-work) ([www.nidirect.gov.uk/articles/access-work-practical-help-work](http://www.nidirect.gov.uk/articles/access-work-practical-help-work) for workers in Northern Ireland).

Raise awareness amongst members by highlighting **UNISON's resources for disabled members including information on reasonable adjustments, disability leave and much more**

[www.unison.org.uk/about/what-we-do/fairness-equality/disabled-members/](http://www.unison.org.uk/about/what-we-do/fairness-equality/disabled-members/)

## Quick checklist

- Seek preference for working from home where an employee or those they live with have greater vulnerability to severe health consequences from contracting COVID-19, particularly for those who are immunosuppressed or immunocompromised.
- If the job cannot be done from home, will the employer consider redeploying the employee to another role that can be done at home?
- Aim for achieving continued full pay for any staff member who is unable to work due to the vulnerability of their health.
- If this cannot be achieved, seek a significant extension of paid special leave for such staff.
- Review procedures to ensure that any related absence does not contribute to triggers for management action in disciplinary, capability, attendance management or redundancy policies.
- If the employee has greater vulnerability to severe health consequences from contracting COVID-19 and is still expected to return to the workplace, has the employer undertaken an individual risk assessment?
- Has the employer considered how to remove or reduce the risks that have been identified? This could include: redeploying them to the safest available on-site role, enabling them to maintain social distancing at all times; reducing their shift lengths so they have less interaction with other people; providing them with additional personal protective equipment (PPE); staggering their start time so they travel when public transport is less busy PPE.
- If the worker is disabled, do they have any reasonable adjustments that need to be taken into account?