

News *Flash*

TUESDAY 7TH JULY 2020



Navigating through Victoria's latest COVID-19 climate

As Victoria experiences what some are calling a second wave of the virus, this is a cause of anxiety for some parents, resulting in some services experiencing a drop off in attendances and some families withdrawing their children altogether. This of course is leading to anxiety among those individual service providers who are being affected.

Whilst the impact is not financially significant this week as we are still receiving a fixed income under the relief package, the transition back to CCS from next Monday, along with the exit from JobKeeper the following Monday will naturally increase the impact.

Whilst the Transition Payments should assist service providers experiencing decreased attendance, the scenario still requires careful consideration.

There are a number of areas of consideration for our Victorian members over the coming weeks as the situation unfolds.

Operations, health and hygiene

In line with advice from the Victorian Chief Health Officer, the Victorian Government announced a return to Stage 3 Stay at Home Restrictions for some Victorian postcodes in response to increased coronavirus (COVID-19) transmission in these areas.

That means, if you live in these postcodes, there are only four reasons to leave home:

- shopping for food and essential supplies
- care and caregiving
- exercise
- study or work – if you cannot do it from home.

These restrictions will be in place for four weeks from midnight on 1 July to midnight 29 July 2020.

- All early childhood education and care services in these restricted postcodes should continue to operate, except where there is a confirmed case of a child or staff member with coronavirus (COVID-19).
- Children and staff who live outside the restricted postcode area can continue to attend services within the restricted postcodes.
- Children and staff who live in a restricted postcode can continue to attend services outside the restricted postcodes.

If your service is directed to close as a preventative measure (whether in a locked down suburb or elsewhere), you'll be advised directly and given detailed advice to support you through the process and you are required to report the closure to the Regulatory Authority as follows:

- All services, including family day care, are required to 'notify the Regulatory Authority within 24 hours of any incident that requires the approved provider to close or reduce the number of children attending the service for a period'.
- You need to lodge a notification through the National Quality Agenda IT System (NQA ITS) within 24 hours of closure.

We encourage you to continue to practice the [recommendations of the Victorian Chief Health Officer](#) which are designed to support early childhood services to continue to provide safe environments for children and staff and to continue to communicate with your families on this front.

Useful webpages:

- [DET- Service operations](#)
- [DET- Health and hygiene](#)

Child Care Subsidy and Transition payments

We understand that you are concerned about what may eventuate if you are required to close or your attendances are low from next Monday onwards.

If you are required to close on public health advice you will continue to receive the transition payment and CCS for your enrolled children and you may waive the gap fee (in place until 31 December 2020).

If you are open, you will receive the transition payment and CCS and fees as normal from those families still attending AND you are required to collect fees from families whose children are not attending.

We recognise that the requirement to collect gap fees from parents whose children are not attending is likely to prove problematic in many instances. This is an active and ongoing topic of discussion with the Federal government and we will keep you abreast of any change.

Staffing issues

No doubt one of the things on your mind is how to manage your staff during a period of low occupancy. As you are aware, between now and 20 July all services must transition their employees off JobKeeper. From 20 July onwards, should you need to adjust your staffing levels down because of a drop off in enrolments or attendances, please be careful to do so in accordance with your legal obligations.

A little like earlier in the year before JobKeeper came in, you may be considering stand downs, redundancies or other alterations to staffing levels. It is highly unlikely that any circumstance other than a forced closure will enable you to use a stand down without pay provision.

It is possible that you may also be affected by staff absences, whether from illness, quarantine or self isolation. This may, in some situations, alleviate the issue of staffing numbers – only time will tell.

Should this not be the case and you do find yourself needing to reduce staffing levels, our advice is to be cautious and careful – please read on for more detail. If in doubt at any stage, please call our **Workplace Relations Helpline** on **1300 817 787** for advice.

Changing terms and conditions (and JobKeeper Enabling Directions) for employees

As of 20 July 2020, your employees will need to return to their pre-JobKeeper employment conditions and you will no longer be able to access JobKeeper enabling stand down directions. As such, you will no longer be able to have your employees:

- stood down;
- working different days/hours;
- working different duties.

If you have not done so already, you will need to notify your employees that as of 19 July 2020 they will no longer be stood down under a JobKeeper enabling direction and they are to return to their normal contracted days and/or hours of work.

If you cannot accommodate an employee's return to work on their contracted days and/or hours of work, you may want to commence discussions to mutually agree to amend their contract on a temporary basis. Please see below for further guidance on this issue.

When making any decisions relating to employment, it is important that you understand the requirement to maintain employment levels as specified in the Transition Payment Grant agreement (Clause 10). If you have not read this clause thoroughly, I recommend you make yourself familiar with it, as it outlines the amount of work required to be offered and categories of staff to whom the guarantee does not apply.

As some of your employees may have been stood down during the pandemic, it is important to get them up to speed with changes that have occurred in the centre since their absence in order for them to be ready to recommence work on 20 July 2020. This may include notifying and training your employees in:

- new hygiene and control measures that have been implemented;
- new policies and guidelines (from both an employment and regulatory view point); and
- the social distancing measures that you have implemented.

Template letter for communication with your team of staff

We have created a template letter - [downloadable here](#) - which you can use when communicating to your team of staff about this transition and what it means for them.

Unpaid pandemic leave during quarantine and self-isolation

Employees in our sector who are employed under the Children's Services Award (only) have access to unpaid pandemic leave, which is up to 2 weeks of unpaid pandemic leave (or more by agreement with their employer) if they can't work:

- because they need to self-isolate in line with government or medical authorities, or on the advice of a medical practitioner, or
- because of measures taken by government or medical authorities in response to the pandemic (for example, an enforceable government direction closing non-essential businesses).

The leave is available to full-time, part-time and casual employees in full immediately. They don't have to accrue it.

Employees don't have to use all their paid leave before accessing unpaid pandemic leave. All eligible employees can take the 2 weeks' leave. It is not pro-rated for employees who don't work full-time.

In addition, instead of a CSA employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay. (This agreement must be in writing.)

These provisions are currently available until 30 September 2020. Please note the provision that afforded these leave opportunities to employees under the ESTA ceased as of 30 June.

Forced closure

If your service centre is required to close on public health grounds, this will constitute a situation leading to a stand down and you will be able to inform your employees that they are being stood down (without pay) for the duration of the closure as they cannot be usefully employed because of a stoppage of work due to the Government mandate to close due to the risk of COVID-19. The stand down period must align with the mandated closure due to COVID-19 risk (usually a couple of days). If employees have annual leave and you take steps to implement a stand down, it would be reasonable to approve any requests for annual leave to limit the financial burden on individuals.

Attendance numbers have gone down and I need to reduce staff levels

If this situation arises, you can have discussions with your staff with a view to reaching agreement to amend their contract/s on a temporary basis, or for staff to take paid or unpaid leave. This can only be done by genuine agreement.

If you cannot reach agreement and you are considering your options such as termination, reducing hours or redundancy as a result of reduced occupancy, please bear in mind that you may be in breach of clauses within your Transition Grant agreement. As discussed earlier, please ensure that you understand the requirements in Clause 10 of this agreement before making decisions about your educator's employment.

We understand that the recent Stage 3 Restrictions in Melbourne coupled with the transition back to the CCS over the coming weeks may give rise to concern. Please rest assured that we continue to be in active discussions with Federal and State Government to ensure that this vital sector continues to receive adequate support.

We will continue to provide you with advice and support as we navigate through these changes. In addition to the *Workplace Relations Helpline* outlined above, please feel free to call the office for advice on 03 9532 2017.

Warm regards,



Sarah Tullberg
President, ACA Victoria



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