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# Your rights in the workplace

Working with a rheumatic or musculoskeletal disease (RMD) is always a challenge. In times of the COVID-19 pandemic many questions are added. The German patient magazine Mobil has compiled important information.

## **I am afraid because of my illness, to infect me. Do I still have to go to work and if so, what protective measures can I expect and ask from my employer?**

If the business continues, employees who are fit for work in principle are obliged to appear for work. How risk groups are specifically protected, unfortunately, cannot be answered in a generally valid way. With the current pandemic, and the different transmission paths of COVID-19, the individual employment groups are affected to different degrees - for example, someone who works in an individual office, is less at risk than a supermarket worker.

Often the employer is not aware of any previous illnesses of his employees. However, the Occupational Health and Safety Act requires the employer to organise the work in a way, that a hazard is avoided or minimized as best as possible. Contact persons for questions about possible protective measures are, for example, the company doctor or the works or staff council. In some situations, also the representation of severely handicapped persons or the youth and trainee representation could be involved. Protective possible measures could include for example changed areas of responsibility without customer contact, a stricter separation from colleagues or customers, home office or changed working hours, for example, to limit contacts with colleagues.

## **Do I have a right to do home office if I belong to the group of vulnerable people?**

There is no legal claim, to work from home. But company agreements or collective agreements can provide for such a claim.

## **Can I stay home when colleagues show signs of an infection?**

There is no universal right to stay away from the work due to an outbreak of a disease wave like COVID-19. The labor law does contain a rule on unreasonableness (§ 275 paragraph 3 BGB). However, this only applies if the work for the person concerned poses a considerable objective danger or at least a serious objectively justified suspicion of danger to life and limb or health. Whether it represents objective reason, must be checked for the individual case. The coughing and sneezing of colleagues alone is not sufficient reason to apply this rule.

## **I have to look after my child at home. Is there any financial support?**

First of all, parents must make all reasonable and possible efforts to ensure childcare in other ways, like by the other parent. If working parents, for example, have used up also their flexitime or overtime credit they have a right to a compensation payment. The indemnity payment amounts to 67 per cent of net monthly income (maximum EUR 2 016). The employer takes over the payment. This can be made for a maximum of six weeks (Section 56 IfSG).

## **What must the employer do, to protect me?**

The Occupational Safety and Health Act obliges the employer to evaluate the risks to health and safety for its employees at the workplace (so-called risk assessment) and to derive measures from it. Within the scope of the pandemic planning (civil protection), employers, where appropriate, have to investigate further and to apply further measures if needed. Special protective measures are required, when a person employed in a job with biological substances, for example in health care. In this case, the Biological Substances Ordinance applies (§ 4 BioStoffV), and possible pathogens must be considered in the risk assessment. From the risks, the employer must derive protective measures for its employees and implement these. Sometimes contact with infected people cannot be excluded - for example, in the case of public access or in the doctor's office. Then the protection orientates itself according to the protection of workers under the pandemic plan of the respective state government. The Infection Protection Act (IfSG) sees in this case the possibility of taking the necessary protective measures from the pandemic plan by regulatory to enforce the order. This can be enforced by an official decree, which is addressed to the employer.

The sources of this information included the website of the Federal Ministry of Labour, the Federal Ministry for Family Affairs, Senior Citizens, Women and youth, the Robert Koch Institute and the German Federation of Trade Unions.