



COVID-19 FAQs FOR NGOS

The COVID-19 pandemic has created a rapidly evolving situation for everyone. All NGOs and community organisations are being called on to react quickly to what is an unprecedented event. We understand that managing the impact of COVID-19 on your organisation raises a number of legal issues and may feel complex and daunting.

We have compiled some resources to help you navigate some of the key legal issues that may arise in the coming days, weeks and months and to signpost to where legal help and support will be available. The six identified areas are: employment law, corporate governance, contracts, data protection, insurance and increasing complexity of client concerns.

1. Employment Law

Q: What are my obligations to my staff team as an NGO employer? Some are now remote working, some on sick leave, some continue to work with our clients on the frontline. We want to ensure we are equipped to deal with any legal issues arising.

COVID-19 presents a significant number of both standard and novel employment law issues for NGO employers. Organisations have a duty of care towards their employees and must ensure their health and safety as far as reasonably practicable. What is 'reasonably practicable' at any particular time will depend on the worker, the job, the environment and the risks. It can change over time. The organisation will need to ensure it is taking appropriate steps to manage all staff in a manner consistent with that duty of care in the face of this pandemic. It will be vital to monitor up-to-date information provided from [WHO](#) and the [HSE](#) and act on any guidance provided as well as the usual employment law legislation, regulations and caselaw.

Sources of advice for NGOs on employment law issues:

- The law firm **A&L Goodbody** has put together a list of top 10 employer COVID-19 FAQs [here](#)
- **The Wheel** has put together a list of useful resources for NGO employers which you can access [here](#)
- The **Department of Employment Affairs and Social Protection (DEASP)** has produced Guidance for Employers available [here](#)
- The **Health and Safety Authority** have produced Guidance on Working from Home [here](#)
- The **Health Protection Surveillance Centre** has provided [COVID-19 Guidance in settings for vulnerable groups](#), such as Homeless, Travellers, refugees/asylum seekers and others. The measures outlined are mainly focused on congregate settings or facilities managed by staff and can be applied in direct provision centres, hostels, hubs or residential settings including those without clinic or in-house nursing, medical or healthcare support.
- If the above resources do not answer your legal query, [PILA](#) can seek out a pro bono lawyer who can advise on general matters relating to employment and COVID-19. Unfortunately we can't intervene in individual employment law disputes.

2. Corporate Governance

Q: We are concerned about our ability to meet some of our corporate governance obligations at this time. In particular, the publication of our annual report may be delayed. Where can I get reliable information about how to handle this?

The Board of your NGO are responsible for, among other things, anticipating and managing the risks which the NGO may face. The recent spread of COVID-19 is likely to create risks for the NGO, which the boards of directors should consider and address. The Charities Regulator has already put together a comprehensive collection of FAQs on how charities can manage their corporate governance in the current circumstances. You can access these FAQs [here](#)

In particular, in respect of annual reports the Charities Regulator has acknowledged that the impact of this crisis may result in delays in the filing of annual reports and are conscious that all organisations are facing challenges at this time. They have asked that charities endeavour to file annual reports on time using the Charities Regulator’s online portal but have stated that that the Regulator “*will be considerate and proportionate in how we deal with such issues where they arise. While we do not propose to formally extend filing deadlines at this time, we will keep this under review.*”

There is no specific requirement to notify the Charities Regulator that your charity has closed due to illness. However, in line with good governance, procedures should be put in place to deal with the possibility of your charity not being in a position to provide essential services to service users for a period of time.

Sources of advice for NGOs on Corporate Governance Issues:

- The **Charities Regulator** FAQs on governance and COVID-19 are available [here](#) and the Regulator can be contacted [here](#)
- The law firm **Arthur Cox** has issued specific guidance on AGMs and Covid-19 [here](#)
- The **Carmichael Centre** are contactable by email for advice or guidance on governance related issues infor@carmichaelireland.ie
- If the above resources do not answer your legal query, [PILA](#) can seek out a pro bono lawyer who can advise on matters relating to corporate governance and COVID-19.

3. Funding agreements, contracts and service-level agreements

The impact of COVID-19 means we think we might be prevented or delayed from performing or complying with our contractual obligations to funders and others – what should we do?

NGOs should consider the potential staffing, operational and financial impacts of COVID-19 on the organisation and how these may have consequences for delivery of existing contract commitments. All funders, both State and philanthropic will be acutely aware that this crisis will place many organisations in great difficulty, and many will be willing to discuss and renegotiate the terms of existing contracts in light of the evolving situation. It is advisable to speak with funders at an early opportunity to explore possible options.

Every contract is different. Some contracts will contain in-built provisions which allow the parties to vary or change the terms where some unexpected event (like a pandemic or “force majeure”) happens. Others contain “termination” or “hardship” clauses. The particular contract should be examined carefully and evaluated on a case-by-case basis. However, specialist legal advice should

always be sought before suspending performance of contractual obligations, terminating the contract or seeking to vary the terms of the contract.

Sources of advice for NGOs on contract issues:

- If you have concerns about contractual commitments, you can contact [PILA](#) who can seek out a pro bono lawyer to advise on your individual situation.

4. Data Protection

The Office of the Data Protection Commissioner (ODPC) has noted that many of the steps which voluntary organisations may be taking to contain the spread and mitigate the effects of COVID-19 will involve the processing of personal data (such as name, address, workplace, travel details) of individuals, including in many cases sensitive, 'special category' personal data (such as data relating to health). The increased numbers of employees who are now working remotely will also raise data protection issues.

The ODPC has said that 'measures taken in response to Coronavirus involving the use of personal data, including health data, should be necessary and proportionate. Decisions in this regard should be informed by the guidance and/or directions of public health authorities, or other relevant authorities'.

Sources of advice for NGOs on data protection matters:

- The **Data Protection Commissioner** has issued two guidance notes specifically in respect of COVID-19. The first includes a series of FAQs covering subjects such as health questionnaires and privacy requirements related to health care. You can access it [here](#)
- The second relates to data protection in the context of remote working. You can access that [here](#)
- The law firm **McCann Fitzgerald** have issued some general guidance for employers on data protection [here](#)
- If you have concerns about specific data protection issues, you can contact [PILA](#) who can seek out a pro bono lawyer to advise on your individual situation.

5. Insurance

It is advisable to try to carefully identify the impact of COVID-19 on your organisation, especially what loss has been and may be suffered by the organisation as a result. Some typical examples may be cancelled events or fundraisers, cancelled travel plans or employees impacted by the virus or reduced productivity. It is always useful to record a chronology of key details and events and retain any relevant documentation. Insurers will expect you to take reasonable steps to reduce (mitigate) any loss, so think about how you can minimize the damage to the organisation and keep this under review. This can be a complicated and lengthy process so do not be rushed by insurers to finalize your claim. You will also need to consider whether the organisation is at risk from claims by others against the organisation.

The next step is to review your insurance policies to understand whether insurance might cover those impacts. Your organisation should then confirm the scope of insurance cover and the policy conditions with your broker.

Sources of advice for NGOs on insurance matters:

- If you have concerns about specific legal issues related to insurance, you can contact [PILA](#) who can seek out a pro bono lawyer to advise on your individual situation.

6. Client Concerns: Additional legal issues arising for Clients and Service Users

Q: Many of our service users and clients are now facing additional challenges that have been caused or amplified by the current crisis in the areas of housing and homelessness, job loss, worries about financial commitments and increased threats of domestic violence. Where can they access legal advice themselves?

The consequences of COVID-19 will be felt across a number of sectors in which NGOs are already working: housing, homelessness, health, domestic abuse, immigration, penal reform, debt and poverty. It may particularly impact on the work of NGOs whose clients are already disadvantaged and marginalised; those with insecure immigration status, those suffering domestic abuse, those who are homeless or in insecure housing, older persons, those with a disability, prisoners etc. It is likely that many of these issues will have a legal aspect and it is important that NGOs have access to reliable advice that may lie outside their areas of usual expertise.

Sources of legal advice for your clients:

- **Citizens Information** have produced guidance on a number of issues:
 - Employment rights of individuals during COVID-19 restrictions [here](#)
 - Social welfare rights of individuals during COVID-19 [here](#)
 - Finances and COVID-19 [HERE](#)
 - Older people and COVID-19 [here](#)
- **FLAC** will endeavour to keep our telephone information and referral line open during this time. If you have a legal information query you can contact us on 1890 350250 or 01 8745690. The phonenumber will be open Monday to Friday 9.30-1pm and 2-5pm.
- **Community Law & Mediation** will be running free legal advice clinics by phone in the areas of social welfare, housing, debt and employment. To book a phone consultation, please contact 01 847 7804 or 061 536 100 and leave your name, number and the county you are calling from.
- **Threshold** have produced guidance for renters whose tenancies are affected by COVID-19 [HERE](#)
- The **Women's Aid** 24hr National Freephone Helpline 1800 341 900 continues to offer confidential information, support and understanding to women being abused. The National 24-Hour Freephone **Rape Crisis Helpline** 1800 77 88 88 will also remain open for those who need to access crisis counselling and support.
- The **Immigrant Council of Ireland** Information and Support Service provides detailed confidential information about complex issues within the Irish immigration system see [here](#) **Irish Refugee Council Law Centre** can accept referrals in certain circumstances see [here](#)

The information above is [not legal advice](#) but a list of key issues for consideration. Organisations must conduct their own risk assessment and get advice on their specific circumstances, operational needs, responsibilities and legal obligations. PILA will keep this document under review and update it as the situation develops.