

UCU – University and College Union (North West)

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Principal Inspector
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Date: 26th April 2022

Dear Marie,

I am writing to let you know the conclusions of our investigation into the death of Donna Coleman in January 2021. Firstly, I would also like to apologise that it took longer than anticipated to reach a conclusion.

As you are aware, HSE has been investigating the circumstances surrounding the death of Donna Coleman in December 2020. We were first notified of Donna's death in January 2021 as a concern, particularly in relation to RIDDOR and COVID-19. You will also be aware that HSE investigated a number of other concerns about alleged shortcomings in COVID-19 control measures at Burnley College.

This alleged non-reporting of a COVID-19 fatality prompted investigation as to whether or not Donna Coleman's death was RIDDOR reportable.

The focus of the investigation has been on whether or not Donna Coleman's death was RIDDOR reportable. For cases of, or deaths from, COVID-19, there must be reasonable evidence linking the nature of the person's work with an increased risk of becoming exposed to COVID-19 to meet the reporting requirements. Factors that HSE have taken into account when making this decision include:

- Whether or not the nature of the person's work activities increased the risk of them becoming exposed to coronavirus
- Whether or not there was any specific, identifiable incident that led to an increased risk of exposure
- Whether or not the person's work directly brought them into contact with a known coronavirus hazard without effective control measures, as set out in the relevant PHE guidance, in place such as personal protective equipment (PPE) or social distancing

Donna Coleman tested positive on the 14th December 2020, for the purposes of this investigation the incubation period considered is from the 7th December to the 11th December 2020.

HSE has concluded that the evidence presented as to whether Donna Coleman contracted the virus at work, or as a result of work activity, is inconclusive. It is impossible to conclude that from the evidence presented, on the balance of probabilities, that Donna Coleman's exposure to COVID-19 took place within the workplace. The evidence does not present a specific, identifiable incident that led to an increased risk of exposure and there is no clear link between Donna Coleman's work and exposure to COVID-19. The information gathered confirms that at the time when Donna Coleman tested positive for COVID-19, the general levels of COVID-19 infection within the community was very high.

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There is strong evidence to demonstrate that Burnley College failed to ensure appropriate control measures, in line with the guidance at the time, were in place and remained in place, in an environment which presented greater risk of transmission and where they were increasing cases of COVID-19. There is no evidence to indicate that Donna Coleman did not take suitable precautions to protect herself.

As I have identified contraventions of health and safety law which are material breaches, Burnley College have received a notification of contravention (NoC) letter. The NOC letter tells them about the health and safety laws broken and it also explains how the laws were broken. Burnley College will have to pay a fee because I have identified contraventions of health and safety law which are material breaches. My reasons for this are summarised below.

I am of the view that Burnley College was not taking all reasonably practicable measures to control COVID-19 within the workplace at the relevant time because:

- There is evidence that there was failure to meet social distancing requirements within the office that Donna shared with two colleagues, one of whom also tested COVID-19 positive on 14th December 2020 and used the office at least part of the time that they worked there. The workspace was relatively small and as such didn't allow for social distancing. The only ventilation option available in Donna's office was a window, which relied on the confidence of employees to open the window during the winter months.
- There is evidence that there was failure to meet social distancing requirements during meetings held within college with external parties such as the Senator Group. HSE has been informed by an anonymous source that social distancing was lacking during the meeting and that not all attendees wore face coverings. In addition, HSE has received a photo taken during the meeting, showing attendees, including Donna, standing side by side and no one in this photo was wearing a face covering.
- There is evidence that there was failure to meet social distancing requirements during social activities held by the college on site. On the 18th December 2020, Burnley College held a Christmas party for all staff members, despite the increasing number of COVID-19 cases within staff. HSE has been informed by an anonymous source that persons attending this party failed to socially distance. HSE have also been shown a video clip of the party showing persons not socially distancing.
- There is evidence that there was failure to inform close contacts of those who tested positive and suggestions this was common practice. Staff were being encouraged not to report close contacts and staff and students were not notified if they were defined as a 'contact'. In addition, persons representing the Senator Group who visited Burnley college on 10th December 2020 were not notified by Burnley College that they were close contacts to Donna Coleman, who was confirmed positive on the 14th December 2020.
- There is evidence that there was failure to monitor and enforce wearing of face coverings by some staff members and some senior managers.

As such, Burnley College had failed to ensure, so far as is reasonably practicable, the health, safety, and welfare of their employees at work because they had not implemented necessary measures to prevent the spread of COVID-19.

Burnley College took steps in early 2021 to improve COVID-19 control measures.

As there is no longer a requirement for all employers to explicitly consider COVID-19 in their statutory health and safety risk assessments, no further actions are now required on this point.

From the evidence reviewed, HSE has concluded there is no reasonable evidence linking Donna Coleman positive diagnosis and her tragic death, from exposure of COVID-19 within the workplace, or as a result of work activity. Overall, in line with HSE's guidance, the death of Donna Coleman does not meet the criteria of RIDDOR reportability.

Please get in touch if you wish to discuss HSE's findings further.

Yours faithfully,



