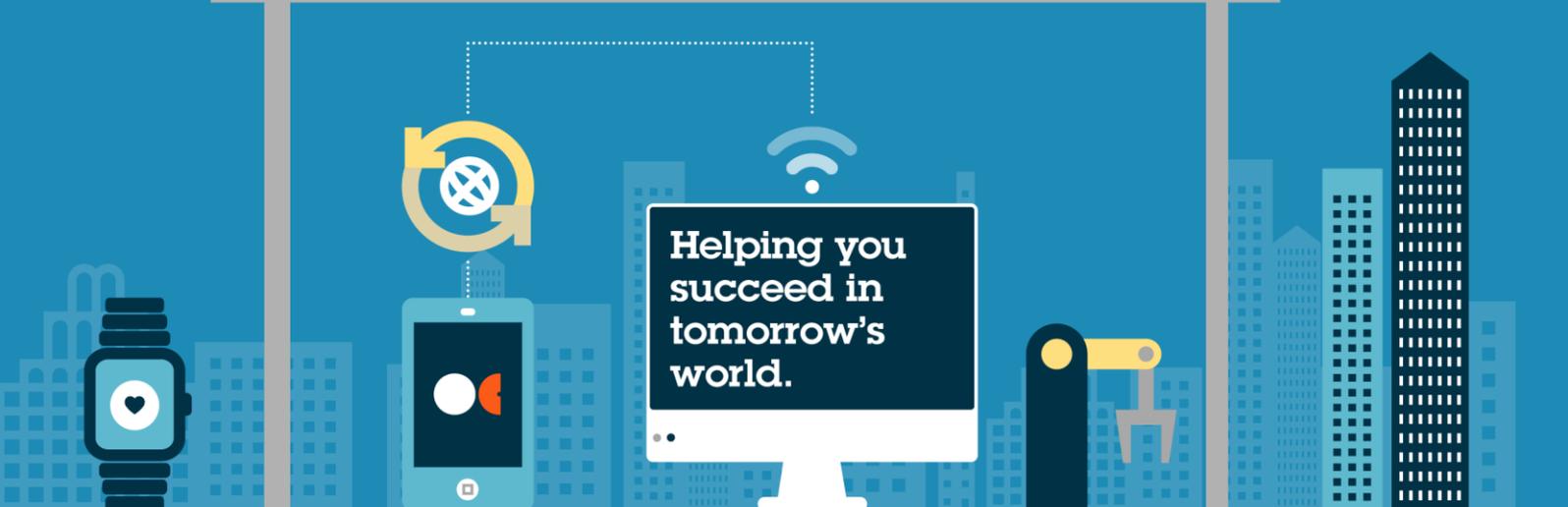




Exiting from lockdown: Key issues for UK employers

April 2020

Private & Confidential

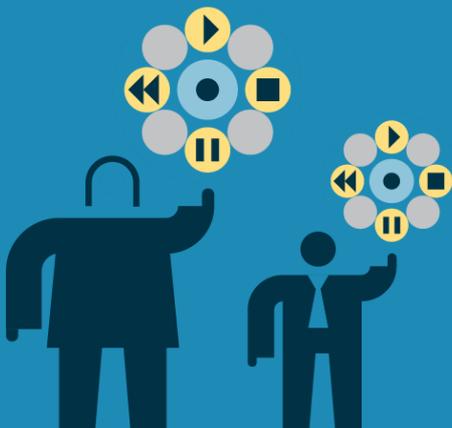


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- 01 International perspective - lessons to be learned
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Boris Johnson has promised to set out plans to win the 'second phase' in the battle to defeat coronavirus, including 'refining' the lockdown 'in the coming days'. Businesses who have been focusing on a strategy for business continuity, minimising workplace costs, supporting employees and managing employee relations must now manage these issues in a changing and uncertain environment.

The UK is not alone; governments worldwide are seeking to re-invigorate their economies whilst continuing to respond to the urgent medical situation. Different countries are adopting different strategies. Whilst opinion differs as to when relaxation in the UK might start and what form any exit strategy will take, it is clear that there will not be an immediate return to business as usual and employers must do their best to prepare as much as they are able, keeping a close eye on government guidance, existing employment law and health and safety considerations, the impact on their employer brand and lessons from other jurisdictions.



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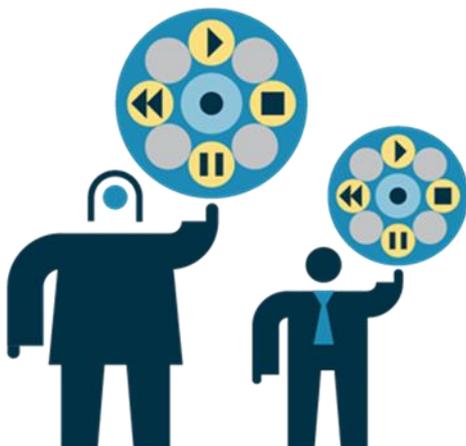
International perspective



International perspective

Whilst we wait for the UK government to confirm our approach to coming out of lock-down, we are seeing a number of other countries tentatively starting to relax their lockdown restrictions. We can look to these countries to understand different approaches being adopted, identify what potential measures might be taken and understand what considerations should start to be assessed.

Employers will be adopting a myriad of innovative solutions to resolve common challenges; this really is an occasion where we can learn from each other, sharing ideas and experimenting with practical solutions.



Homeworking is set to present future occupational advantages and potential challenges for employers, particularly those operating in different countries. Will employees who have positively experienced working from home, now be placing greater demands on employers to work flexibly? Are there advantages and costs/benefits to the employer of adapting existing ways of working e.g. less business travel, less office-based staff and therefore smaller premises required.

PPE and testing are also set to become dominant issues with the potential for different jurisdictions to adopt different guidelines, but also raising reputational issues where front-line health workers have insufficient PPE equipment. Some businesses are managing the reputational aspects of this by sourcing PPE that complies with guidelines for a safe workplace, but not necessarily the higher requirements for health-care workers. Testing staff may be considered an invasion of privacy, so will need careful consideration. Some governments are proposing voluntary apps to 'track and trace' to alert those who have been in proximity with Coronavirus - how this sits within the employer/employee relationship will need close scrutiny once the process is understood.

Other jurisdictions have introduced **health and safety regulations** emphasising the importance of a health-first approach at work, supported by measures around social distancing appropriate to sector and workplace.

International perspective

A European roadmap to 'restart community life and the economy'

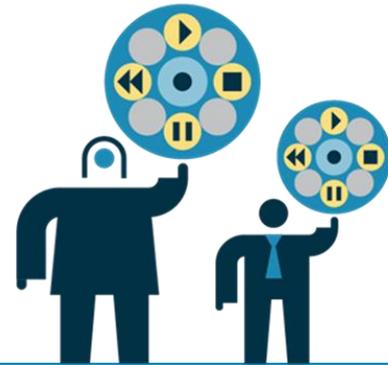
On 15 April 2020 the Commission and the European Council jointly published 'A European roadmap to lifting coronavirus containment measures' and which sets out recommendations to Member States "with the goal of preserving public health while gradually lifting containment measures to restart community life and the economy".

Specifically on business the roadmap proposes:

- The re-start of economic activity should be "***phased in***", with an initial focus on "*less endangered groups*" and on sectors essential to facilitate economic activity (such as transport).
- Remote (or "***teleworking***", in the Commission's language) **should continue to be encouraged** ahead of any general return to the workplace.
- Gatherings of people should be "***progressively permitted***", with a focus on schools and universities, on commercial activity – "*with possible gradation, e.g. maximum number of people allowed*" – and then on social activity such as restaurants, again with gradation on restricted opening hours and numbers of people.

- Within that context, low risk transport such as private cars "*should be allowed as soon as possible, while collective means of transport should be gradually phased in with necessary health-oriented measures*".

(our emphasis)



This joint exit strategy from the Commission and the Council contains only recommendations.

However, as Simon Beswick, the International CEO of Osborne Clarke, observes, "*the roadmap is a useful document for companies and businesses across the EU and beyond as they start to think about what a possible end to national lockdowns could look like and how a phased return to work across different sectors will work – and the challenges and opportunities that will represent*".

02

The UK approach



The UK approach

Prime Minister, Boris Johnson has promised to set out plans to win the 'second phase' in the battle to defeat coronavirus, including 'refining' the economic and social restriction on lockdown 'in the coming days' (27 April 2020). Indeed, the Institute of Directors is just one of the organisations to make clear that organisations of all sizes are 'clamouring' for information.

A 'health-based' approach

The weight of agreement is that we will need a 'health based approach' to coming out of lock-down to underpin any strategy adopted.

A successful return to business is dependent on both employee and consumer confidence in their health and safety. Employee engagement is vital, with union and employee forum support as appropriate. Employees will need to accept and adhere to guidelines and adapt as measures change will be critical if a second lock-down is to be avoided.

Employers must remember that there will only be a move to the second phase 'when we're sure that this first phase is over and that we're meeting our five tests: deaths falling, NHS protected, rate of infection down, really sorting out the challenges of testing and PPE, avoiding a second peak'. Further, despite the promise of more clarification around the UK approach, we may still be

'lacking specifics in the immediate future with Boris Johnson alluding to the fact that in the process 'difficult judgments will be made and we simply cannot spell out how fast or slow, or even when, those changes will be made..'

Note:

- It is clear that even once stage two is triggered, the refining of restrictions will be phased. The government will be focused on gradually re-starting the economy to avoid another peak.
- Scotland has published its own framework. Wales may also issue its own guidelines.

'We will be relying as ever on the science to inform us, as we have from the beginning...

Because I know there will be many people looking now at our apparent success and beginning to wonder whether now is the time to go easy on those social distancing measures. And I know how hard and how stressful it has been to give up even temporarily those ancient and basic freedoms – not seeing friends, not seeing loved ones, working from home, managing the kids, worrying about your job, and your firm..

I want to get this economy moving as fast as I can but I refuse to throw away all the effort and sacrifice of the British people and to risk a second major outbreak and huge loss of life and the overwhelming of the NHS.

I ask you to contain your impatience because I believe we are coming now to the end of the first phase of this conflict. And in spite of all the suffering we have so nearly succeeded'.

Boris Johnson, 27 April 2020

The UK approach

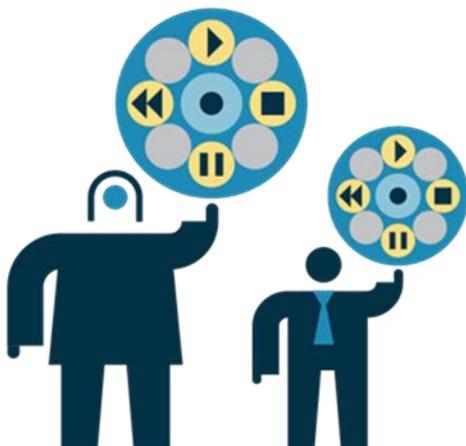
'Freedom within a framework'

We are anticipating further government guidance addressing how businesses will be expected to operate as they return to work.

However, the Confederation of British Industries (CBI) has called for there to be a *'freedom within a framework'* – that businesses should be permitted to manage their compliance in a way that meets their specific workplace needs, underpinned by the necessary government guidelines.

Note:

- Where employers are legally permitted to open or scale-up their operations under the current guidelines, they may wish to do so cautiously. The impact on their employees and suppliers as well as their reputation in the market, their customers, investors and any regulatory and trade bodies should all be considered.



Easing measures by sector or type of workplace

Whilst commentators have suggested that a natural path would be for businesses to return on a sector by sector basis, the Confederation of British Industries (CBI) has indicated that one approach to lockdown being explored is a return by type of workplace; the health and safety considerations for retail unit are very different to those for a factory and likewise an office.

Note:

- A workplace approach will require employers to get a handle on different sets of government guidelines depending on the different types of workplace operating within their organisation, (as well as guidance from sector bodies etc.);
- Employers will need to adapt their own policies and procedures to cope with employees returning physically to work at different times depending on their workplace and personal circumstances;
- We anticipate in line with other EU countries, home-working will continue to be encouraged through out the transition back to normality, particularly given the concerns about how people can safely use public transport.

03

Key considerations

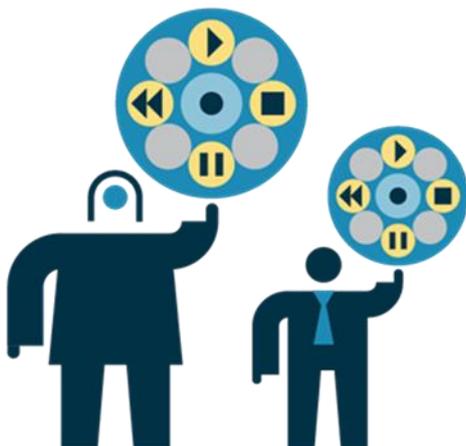


Protecting health & safety

Health and safety must underpin all employers return to work strategies. As well as government guidelines for employers in managing the wellbeing of employees in the workplace at this difficult time, employers remain bound by the existing framework of health and safety legislation in the UK.

Risk assessments and employee confidence in and agreement to and return to work strategy is key. This is very much a live issue as evidenced by over 2,000 emails sent to a parliamentary select committee from workers concerned about PPE, hygiene and social-distancing measures at work.

If sufficient protections are not in place, not only may an employer be exposed to legal liability and the associated financial and reputational repercussions; as demonstrated by concerns raised by some employees returning to work in other jurisdictions, workplace disruption and employer brand may face significant damage.



Actions:

- Talk to your trade unions or employee representative bodies; can you pre-empt any concerns? How will you instill confidence that you are taking appropriate steps? With heightened publicity around health and safety, public interest disclosures are a significant risk.
- Have in place a strategy for dealing with any concerns raised. As was the case with the period before lock down, the circumstances will be impacting individuals in different way.
- Put in place clear health and safety policies and procedures for employees and third parties visiting the workplace.

The Trade Unions Congress has demanded that all employers produce risk assessments before lockdown is eased. **Polling by it has also demonstrated that two in five workers are concerned about returning to work with concerns raised including:**

- Not being able to socially distance from colleagues in the workplace;
- Not being able to socially distance from customers and clients;
- Exposing members of their household to greater risks; and
- Not having appropriate access to PPE at work.

Protecting health & safety

Social-distancing

Whatever approach is taken to easing restrictions, it seems clear that social-distancing will continue to be central to work arrangements for some time yet. Some businesses have already taken steps to return where they are able to meet the current government requirements on social-distancing and are legally permitted to open, whilst others are actively preparing to do so.

Action:

- Understand existing government guidance on social-distancing for your sector. Concerns have been expressed over the requirement that where workers cannot remain 2m apart they should 'work side by side, or facing away from each other.. if possible'. This specific requirement may be tightened in light of this.

Useful links to current guidance

[Social distancing in the workplace sector guidance](#)

[Financial Conduct Authority coronavirus response page](#)

[British retail consortium social distancing guidelines](#)

[ACAS guidance at work](#)

- Social-distancing brings a number of practical issues for employers including:
 - How will the workplace be organised – can spacing be introduced?
 - Will teams need to be split to minimise contact?
 - What access will be provided and when to communal areas?
 - Will employers need to re-visit working hours (including to cater for any travel concerns)?
 - Putting policies in place on meetings and business travel. Should these be limited by number? Can they be carried out remotely?

Hygiene & Personal Protective Equipment (PPE)

Workplaces will need to maintain recommended government hygiene measures.

Since lockdown the use of PPE has come under the spotlight for key workers in retail outlets such as super-markets, those operating public transport, as well as for those caring for the sick and vulnerable in hospitals and care-homes.

Action:

- Make sure relevant notices are displayed in the workplace clearly stating hygiene requirements.
- Ensure sufficient hand-sanitisers and tissues are available.
- Put in place appropriate cleaning processes.

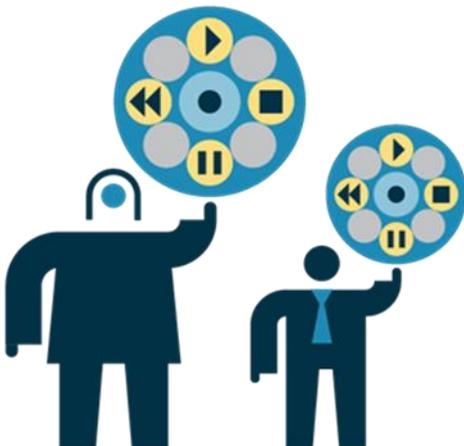
Protecting health & safety

Action ... continue:

- Be clear on the necessary steps if someone falls ill with COVID-19 symptoms at work.
- Keep a watch on any recommendations made by the government on PPE. Whilst it may be tempting to pre-order, factor in the supply and demand for the UK's front-line workers and the impact on employer brand. Explore and understand all options available (for example, purchasing non-medical grade PPE that may still meet your requirements).

Vulnerable individuals

It is increasingly clear that the most vulnerable groups in society will still need to be shielded even once measures start to be eased. Employers should already have an understanding of who in their organisation is impacted in this way, but will need to ensure that managers are clear on the organisation's obligations to these workers and a consistent approach is adopted, tailored to take account of any specific circumstances.



Action:

- Keep up to date with the latest [government guidance](#) on vulnerable people.
- Vulnerable individuals can currently be furloughed under the Coronavirus Job Retention Scheme and that has been extended until 30 June 2020. There are calls for the Scheme to be extended but we could see an alternative wage funding arrangement put in place. Employers must keep watch on what wage support is available for vulnerable employees.
- With other employees returning to work, vulnerable workers will necessarily feel unsettled. Employers should provide appropriate reassurance within the context of any longer-term economic difficulties which may impact the workforce as a whole.
- With vulnerable workers including individuals aged over 70, the age profile of a workforce is a significant factor in an employer's ability to kick start its business. Businesses with a higher age profile may take longer to return to 'business as usual'.

Protecting health & safety

Medical monitoring

Potential medical monitoring/testing is a high profile issue. Some employers may have considered this prior to lock-down, but it is now something most employers will need to think about as the government is considering a wider testing programme (at present focused on key workers and their families).

Compulsory testing (whether it be temperature testing or a more formal COVID-19 testing) raises significant privacy and data processing issues. Employees could be requested to submit to tests and disclose the results on a voluntary basis; but this would require careful handling to avoid any issues of coercion and breach of trust and confidence. Employees may also feel discriminated against given indications that BAME individuals may be more susceptible to COVID-19.

Action:

- Specific legal advice should be taken on any proposals to introduce any form of testing (or disclosure of results) on a compulsory or voluntary basis.
- Employers should remind employees of their health and safety responsibilities towards others employees and employers can request an employee informs them if they are diagnosed with COVID-19 or need to self-isolate due to COVID-19 symptoms.

- The government has indicated that it is looking to introduce an app where people can self-report symptoms of COVID-19 and which will then alert other people who have been in contact with them. How this impacts your workplace will need to be considered, along with any requirement for employees to download the app on work-devices.

Indications are that the **UK app** will keep a record of which phones have been in close contact using Bluetooth. Users will apparently be able to notify the app if they start developing symptoms, at which point it will send out a 'yellow' alert to anyone who's been in the vicinity. If the user subsequently gets an official diagnosis, they will be given a verification code to enter into the app which will then issue a red alert.

Matt Hancock, Health Secretary, has stated that the app will anonymously alert other users. It is an opt-in app. *'All data will be handled according to the highest ethical and security standards and would only be used for NHS care and research'*.

Previous reports have suggested 60% of the adult population of the UK would need to sign up to the app for it to be effective in combatting the spread of COVID-19.

Protecting health & safety

Mental health

Mental health has been another dominant concern during lockdown. Employers have had to adapt existing policies and procedures swiftly to accommodate the specific concerns raised by COVID-19. Regular team and manager catch-ups have been encouraged and informal social contact maintained via social media – although care must be taken to ensure these are arranged around childcare commitments (e.g. lunch breaks).

Employers will need to show flexibility when building any plan for transitioning back to the workplace; a risk assessment to understand the trigger points which need to be accommodated will be key and employers can refer to the Health & Safety Executive's Workbook on 'Tackling Work-Related Stress using the Management Standards Approach'.

Action:

- Communicate your plans clearly and as far in advance as possible. Seek to pre-empt and allay any concerns, for example, over risks within the workplace or in travelling to and from work.
- Make sure managers are supported in potentially sensitive conversations regarding a return to work;
- Be sensitive to those employees who have been more severely impacted by COVID-19 (e.g. a bereavement);
- Ensure employees are clear on what support is available to them and how they can access it.

Transport

A significant concern for all businesses on the easing of lockdown is the impact of social-distancing measures on the availability of public transport. It is estimated that we may see public transport reduced in its capacity by 25% to 50% (although the rail network is said to be preparing to ramp up towards a full timetable for the end of May).

Employees may also have their own concerns on using public transport to travel to and from work, particularly with London Mayor, Sadiq Khan pushing the government to make face masks compulsory on public transport, reflecting the stance taken in other countries.

Action:

- Keep a watch on government guidance, particularly around any PPE requirements. Can you assist employees in this respect?
- Practical considerations include:
 - Will employees request changes to their start and end times to avoid 'peak' travel?
 - Should any internal car-parking policy be adapted to provide for more vulnerable workers and can a 'car-sharing system be implemented?
- As with the position before lockdown, employers should address any concerns sensitively; they may otherwise risk breaching trust and confidence.
- Will employees show an interest in cycle to work schemes? Is this something that you offer or could put in place?

Home working & childcare

Home working

Home-working has become the norm for many and it is anticipated that with a health-based approach supported by social-distancing at the forefront of the government's easing of restrictions, those who can work from home will be amongst the last to return to their place of work.

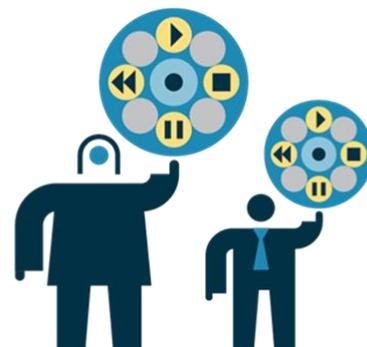
Action:

- An employer's health and safety obligations are just as relevant to homeworking as they are to a designated place of work. For many employers the move to home-working was swift. As employees now continue with these arrangements more long-term, now is a good opportunity to ensure that any risk assessments have been conducted, suitable equipment provided and a home-working policy is in place.
- HR departments should also adapt to 'virtual HR':
 - Can grievance and disciplinary investigations and hearings be carried out remotely?
 - What guidance should be given to managers conducting performance reviews on-line?
 - Remind employees of relevant policies and procedures, including any around acceptable use of IT (e.g. what online meeting platforms are permitted), dress code and harassment.
 - Remind employees of their obligations regarding the protection of confidentiality and company property (including personal data).
- Review what benefits are provided and clarify expenses arrangements for home-working.

Closure of schools and nurseries

For many employees, a real challenge has been the closure of schools and nurseries meaning children have had to be cared for and 'home-schooled'. When the government will begin opening schools is uncertain; some countries have been fairly swift in getting children back to school, no doubt mindful that this largely underpins any return to normal working duties for many.

At present, employees who are unable to work due to childcare may be furloughed under the Coronavirus Job Retention Scheme. However, at present the Scheme is only in place until 30 June. Employees may be reluctant to suggest furlough where they fear this could count against them should more permanent reductions in staff be required. They may also only receive 80% pay where their employer does not top-up wages.



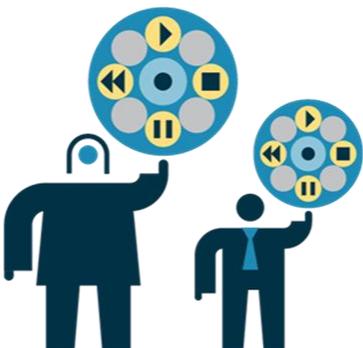
Childcare & travel

Action:

- Employers should recognise that even if workplaces reopen, employees may be unable to return without child-care in place. It is likely that even when schools and nurseries do re-open, they will do so on a phased basis; perhaps some school years only at first or with children returning on a reduced timetable.
- Any communications around a return to work will need to factor in the fact that each employee may have their own concerns, particularly around childcare. Where employees are based across different geographical locations and with differing childcare needs, one approach is unlikely to work.

Travel

It seems inevitable that business travel will continue to be hardest hit – not only from a cost perspective but also the potential risks of cross-border transmission. At present the Foreign and Commonwealth Office's position remains that individuals should not travel overseas.



Action:

- Where international business travel is essential, care must be taken to check the current conditions in that country and take on board any concerns raised by the employee accordingly. Insurance policies should be given careful consideration.
- Employers may wish to advise employees against essential international travel for personal reasons and explain the potential implications where an employee is subsequently unable to return to the UK or displays COVID-19 symptoms. However, care must be taken not to discriminate on grounds of race, ethnic or national origin.

FCO: Covid-19 Exceptional Travel Advisory Notice

As countries respond to the COVID-19 pandemic, including travel and border restrictions, **the FCO advises British nationals against all but essential international travel.** Any country or area may restrict travel without notice. If you live in the UK and are currently travelling abroad, **you are strongly advised to return now**, where and while there are still commercial routes available. Many airlines are suspending flights and many airports are closing, preventing flights from leaving.

Wage support

All employers are understandably keen to know what economic measures will be in place to support a phased return to work. The Coronavirus Job Retention Scheme providing for employers to receive a grant of 80% of an employee's wages (subject to a cap of £2,500) where an employee has been furloughed, has now been extended to 30 June 2020. However, some sectors are calling for the scheme to be extended further, whilst others have highlighted the difficulties in re-building a business where the scheme does not permit short-time work. It is important to remember that a 'furloughed' employee can do no work at all.

Action:

- Employers may wish to consider rotating employees on furlough to ensure that no employee is out of the workplace for too long. However, any period of furlough must be for a minimum of three weeks
- A further extension to the Coronavirus Job Retention Scheme has not been ruled out but concerns have been raised that it is geared towards 'hibernation'; it does not actively encourage individuals back to normal working practices. However, employers should obviously plan on the basis that at present the wage support ends on 30 June 2020 and it is assumed that the government will inevitably be factoring this into its approach.

- It is feasible that a new scheme could be approved by the EU and put in place permitting short-time working. This would support a phased transition back to work. However, whilst the Coronavirus Job Retention Scheme has been impressively delivered in a short space of time, with the first payments now sent out under the scheme, it has highlighted the challenges of introducing a funding arrangement against the backdrop of complex employment laws; there have now been over eight versions of the guidance setting out how the scheme operates.

71% of private firms have furloughed employees in response to the coronavirus lockdown, according to a British Chambers of Commerce (BCC) survey.

The portal to make claims opened on Monday 20 April 2020 and by Wednesday 22 April 2020, **more than 285,000 businesses had claimed for furloughed employees**. Employers have now started receiving their first payouts under the scheme.

Adam Marshall, director general of the BCC, has commented that “Ministers will also need to consider keeping the scheme in place for longer, to help businesses transition as the lockdown is eased and the economy moves gradually toward a new normal.”

Reducing costs & using paid leave

The move from phase 1 to phase 2 will also require employers to re-evaluate their economic short-time and long-term viability. What does the government's easing of measures mean for the business? If the supply chain is not up and running the business may still be crippled despite the fact that operations can technically recommence. As workplaces re-open, cost-saving measures will remain at the fore; there will be no immediate return to the way business was before lock-down.

Sick pay

Statutory sick pay rules have been amended to deal with COVID-19. Employers should continue to make use of these rules as appropriate where an employee is sick, self-isolating or shielding due to COVID-19 on a return to work.

Utilising paid leave

Employers should consider whether they wish to require employees to take holiday on a return to work to prevent significant holiday accruing and a build-up of holiday requests at the end of the year. New regulations provide that statutory holiday may be carried over for up to two years where it has not been reasonably practicable for an employee to take it. An employer can only reject a request with good reason.

Redundancies

Employers will also need to consider carefully where redundancies may be needed. This may require individual and collective consultation depending on the numbers involved and employers will need to remain particularly alert to discrimination issues, given the particular impact that the COVID-19 emergency has had on vulnerable employees (those with underlying health conditions, aged over 70 or pregnant) and those with child-care responsibilities

Employers will need to keep under consideration what costs are avoidable and also how they can be managed going forward. For example, some of the practical measures we have seen employers introduce in light of COVID-19 include:

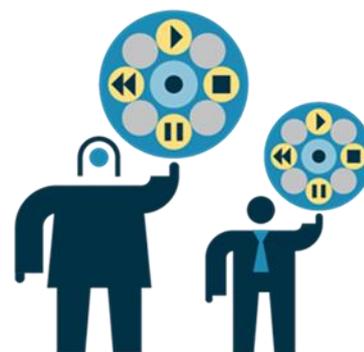
- recruitment freezes;
- using discretion to freeze pay and bonus award scheme;
- reducing salaries and working hours in agreement with employees; and
- inviting employees to take sabbaticals and career breaks.

A significant number of employers have also made use of the furlough scheme

Reducing costs & using paid leave

Actions:

- Where employees have already had their salaries and working time reduced, be careful to manage expectations about whether these will revert to normal when a workplace reopens.
- Is it appropriate to clarify the company's position on sick leave and pay in light of the recent amendments to the Statutory Sick Pay rules?
- Consider whether you wish to require holiday to be taken; if so, appropriate notice under the contract or statute must be given. It may be appropriate in any event to set out the business' expectations with respect to taking holiday.
- Given the difficult economic conditions, managers must take care not to give any assurances on long-term employment. Depending on any extension to the Coronavirus Job Retention Scheme or any other wage support mechanism put in place, redundancies may be inevitable.
- Where redundancies are instigated take legal advice on the legal requirements and understand what payments are due to employees. Ensure any departing employee is aware of their obligation to protect the business.



Returning to work - additional considerations for employers:

- Enhanced workplace cleaning, particularly of frequently touched workspaces
- Reconfiguring of workspaces to provide for appropriate social distancing
- Limiting in person meetings and visitors to the workplace
- Staggering shifts and lunch breaks
- Staggering start times around public transport peaks
- Considering whether face-masks/coverings will be required
- Providing sufficient hygiene products in the workplace e.g. hand sanitisers, tissues
- Amend work travel policies
- Clear guidelines where an employee displays symptoms
- Make sure policies are applied in a way which does not discriminate/harass different groups of employees
- Identifying and managing your vulnerable employees.

04

Building back better



Building back better

Emerge stronger than ever before

With his upbeat optimism, Prime Minister Boris Johnson has rallied the public and businesses stating *'I have absolutely no doubt that we will beat it together, we will come through this all the faster and the United Kingdom will emerge stronger than ever before'*

Build back better

Emerging stronger than before reflects a key message coming from the CBI that businesses should take this opportunity to 'build back better'.

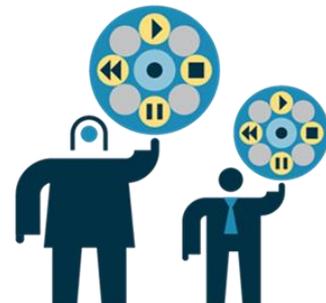
It is recognised that the lockdown represents an unprecedented global turning point in how businesses have operated to date. For those that survive, economic measures may force costs to be cut and with flexible working required in the short-term, financial drivers, and employee demand, may make this a longer-term change. These are issues which other jurisdictions are also tackling. The UK government is still to publish its promised Employment Bill in which pre COVID-19, it was proposing to extend the right to request flexible working to all employees.

Employers should also use this opportunity to understand what has worked well and where temporary adaptations could be made more permanent. For example, are there changes needed to IT provision to suit more permanent home working? Are new communication approaches working well? For example, online meetings can

create more equality in meetings where people feel more able to speak up.

Contingency planning is key

Whilst it is critical that employers plan now for a return to normality through well considered steps consistent with government guidelines, employers must remain mindful that a second lock-down remain possible and measures may be tightened or loosened depending on how the changes impact the control of COVID-19. This should be factored into any contingency planning. The government's thinking is still developing, but we hope more clarification will be forthcoming sooner rather than later.



With increasing pressure from stakeholders on issues such as climate change and diversity, policies on business travel, home-working and flexible working hours may find themselves centre stage. Indeed potential clients may be keen to understand how a business responded to COVID-19 and the lessons it has taken on board in its own workplace practices.

05 Checklist



Key actions

General

- Confirm your team for dealing with the easing of restrictions and the impact on your workplace.
- Keep on top of the latest government guidance and any guidance issued by any trade bodies, regulators etc.

Protecting health & safety

- Talk to your trade unions or employee representative bodies; can you pre-empt any concerns? How will you instill confidence that you are taking appropriate steps? With heightened publicity around health and safety, public interest disclosures are a significant risk.
- Have in place a strategy for dealing with any concerns raised. As was the case with the period before lock down, the circumstances will be impacting individuals in different ways.
- Put in place clear health and safety policies and procedures for employees and third parties visiting the workplace.

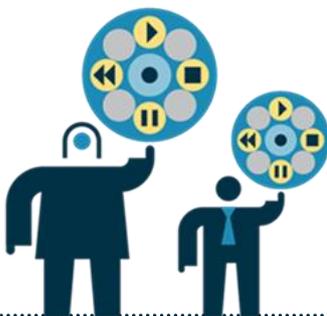
Social distancing

- Understand existing government guidance on social-distancing in your sector. Concerns have been expressed over the requirement that where workers cannot remain 2m apart they should 'work side by side, or facing away from each other.. if possible'. This specific requirement may well be tightened in light of this.

- Social-distancing brings a number of practical issues for employers including:
 - How will the workplace be organised – can spacing be introduced?
 - Will teams need to be split to minimise contact?
 - What access will be provided and when to communal areas?
 - Will employers need to re-visit working hours (including to cater for any travel concerns)?
 - Putting policies in place on meetings and business travel. Should these be limited by number? Can they be carried out remotely?

Hygiene & PPE

- Make sure relevant notices are displayed in the workplace clearly stating hygiene requirements.
- Ensure sufficient hand-sanitizers and tissues are available.
- Put in place appropriate cleaning processes.
- Be clear on the necessary steps if someone falls ill with COVID-19 symptoms at work.
- Keep a watch on any recommendations made by the government on PPE. Whilst it may be tempting to pre-order, factor in the supply and demand for the UK's front-line workers and the impact on any employer brand. Explore and understand all options available (for example, purchasing non-medical grade PPE that may still meet your requirements).



Key actions

Vulnerable individuals

- Keep up to date with the latest government guidance on vulnerable individuals.
- Vulnerable individuals can currently be furloughed under the Coronavirus Job Retention Scheme and that has been extended until 30 June 2020. There are calls for the Scheme to be extended, but we could see an alternative wage funding arrangement put in place. Employers must keep watch on what wage support is available for vulnerable employees.
- With other employees returning to work, vulnerable workers may feel unsettled. Employers should provide appropriate reassurance within the context of any longer-term economic difficulties which may impact the workforce as a whole.
- With vulnerable workings including individuals aged over 70, the age profile of the workforce is a significant factor in an employer's ability to kick start its business. Businesses with a higher age profile may take longer to return to 'business as usual'.

Medical monitoring

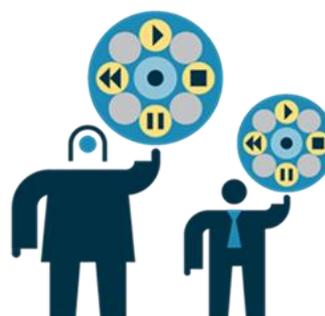
- Specific legal advice should be taken on any proposals to introduce any form of testing (or disclosure of results) on a compulsory or voluntary basis.
- Employers should remind employees of their health and safety responsibilities towards each other. Employers can request an employee informs them if they are diagnosed with COVID-19 or need to self-isolate due to its symptoms.
- The government is considering an app where people can self-report symptoms of COVID-19 and which will then alert other people who have been in contact with them. How this impacts your workplace will need to be considered, along with any requirement that employees download the app on work-devices.

Mental health

- Communicate your plans clearly and as far in advance as possible. Seek to pre-empt and allay any concerns, for example, over risks within the workplace or in travelling to and from work.
- Make sure managers are supported in potentially sensitive conversations regarding a return to work.
- Be sensitive to those employees who have been more severely impacted by COVID-19 (e.g. a bereavement).
- Ensure employees are clear on what support is available to them and how they can access it.

Transport

- Keep a watch on government guidance and particularly around any PPE requirements. Can you assist employees in this respect?
- Practical considerations include:
 - Will employees request changes to their start and end times to avoid 'peak' travel?
 - Should any internal car-parking policy be adapted to provide for more vulnerable workers and can a 'car-sharing system be implemented?
- As with the position before lock-down, employers, should address any concerns sensitively; they may otherwise risk breaching trust and confidence.
- Will employees show an interest in cycle to work schemes? Is this something that you offer or could put in place?



Key actions

Home working

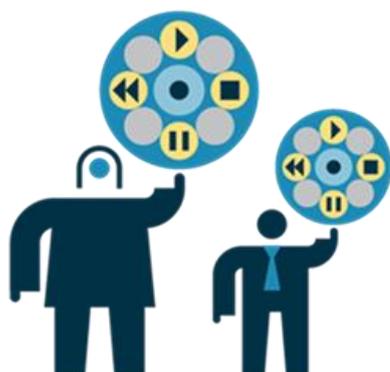
- An employer's health and safety obligations are just as relevant to homeworking as they are to a designated place of work. For many employers the move to home-working was swift. As employees now continue with these arrangements more long term, now is a good opportunity to ensure that any risk assessments have been conducted, suitable equipment provided and a home working policy is in place.
- HR departments should also adapt to 'virtual HR':
 - Can grievance and disciplinary investigations and hearings be carried out remotely?
 - What guidance should be given to managers conducting performance reviews on-line?
 - Remind employees of relevant policies and procedures, including any around acceptable use of IT (e.g. what online meeting platforms are permitted), dress code and harassment.
 - Remind employees of their obligations regarding the protection of confidentiality and company property (including personal data).
- Review what benefits are provided and clarify expenses arrangements for home working

Child-care

- Employers should recognise that even if workplaces reopen, employees may be unable to return without childcare in place. It is likely that even when schools and nurseries do re-open, they will do so on a phased basis; perhaps some school years only at first or with children returning on a reduced timetable.
- Any communications around a return to work will need to factor in the fact that each employee may have their own concerns, particularly around childcare. Where employees are based across different geographical locations and with differing childcare needs, one approach is unlikely to work.

Travel

- Where international business travel is essential, care must be taken to check the current conditions in that country and take on board any concerns raised by the employee accordingly.
- Insurance policies should be given careful consideration.
- Employers may wish to advise employees against essential international travel for personal reasons and explain the potential implications where an employee is subsequently unable to return to the UK or displays COVID-19 symptoms. However, care must be taken not to discriminate on grounds of race, ethnic or national origin.



Key actions

Wage Support

- Employers may wish to consider rotating employees on furlough to ensure that no employee is out of the workplace for too long. However, any period of furlough must be for a minimum of three weeks
- A further extension to the Coronavirus Job Retention Scheme has not been ruled out, but concerns have been raised that it is geared towards hibernation; it does not actively encourage individuals back to normal working practices. However, employers should obviously plan on the basis that at present the wage support ends on 30 June 2020 and it is assumed that the government will inevitably be factoring this into its approach.
- It is feasible that a new scheme could be approved by the EU and put in place permitting short-time working. This would support a phased transition back to work.

Reducing costs and using paid leave

- Where employees have already had salaries and working time reduced, be careful to manage their expectations about whether these will revert to normal when the workplace reopens.
- Is it appropriate to clarify the company's position on sick leave and pay in light of the recent amendments to the Statutory Sick Pay rules?
- Consider whether you wish to require holiday to be taken; if so, appropriate notice under the contract or statute must be given. It may be appropriate in any event to set out the business' expectations with respect to taking holiday.
- Given the difficult economic conditions, managers must take care not to give any assurances on long-term employment. Depending on any extension to the Coronavirus Job Retention Scheme or any other wage support mechanism put in place, redundancies may be inevitable.
- Where redundancies are instigated, take advice on the legal requirements and understand what payments are due to employees. Ensure any departing employee is aware of their obligation to protect the business.

Useful information:

The following resources should be regularly checked for the latest position.

- [ACAS guidance](#)
- [World health organisation](#)
- [UK government](#)
- [NHS](#)
- [Foreign and Commonwealth Office](#)
- [Osborne Clarke coronavirus insights](#)

Exceptional circumstances – practical advice

As a specialist team we recognise that in the current circumstances it may not be practicable to comply in full with all existing UK employment protection legislation, and can advise on how best to mitigate the risks involved where this is the case.



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