

WORKPLACE TRANSFORMATION: CREATING WORKING MODELS FOR THE POST-PANDEMIC WORLD

The COVID-19 pandemic has changed many aspects of life beyond recognition and perhaps none so much as our working lives. The sudden and dramatic impact of three national lockdowns has accelerated changes to our ways of working that had been evolving slowly over many years.

It will be the businesses that embrace the new opportunities of this changed landscape that will likely recover most swiftly from the pandemic and be better placed for future growth. Now is not the time to return to old ways of working but to “build back better”, creating working models and spaces ready to meet the needs of the post-pandemic world.

This toolkit is designed to assist businesses in preparing for new ways of working. Click on the links at the bottom of each page to navigate through the key action points for businesses.

Key action points for businesses:

- Strategic operations
- People management
- Culture and engagement
- Tax and remuneration
- Premises and facilities management
- ESG and Sustainability
- Data protection and security
- Commercial contracts
- Immigration



STRATEGIC OPERATIONS

- Decide which working model fits best with your business and workforce: **office-centric**, **fully remote** or a **hybrid** model (where working time is split between the office and home). **Engage** with unions or other employee representative groups, or directly with staff, before making changes
- Consider whether any changes are required to **business operations** or **corporate structure** to align with strategic changes driven by new ways of working. Consider **divesting** non-core businesses or assets
- Consider whether changes to roles and skill sets necessitate a **restructure** of your workforce and, potentially, **redundancies**. Ensure you meet legal requirements to **consult** on an individual and, in some cases, a collective basis
- Consider how a newly acquired target may be successfully **integrated** with an existing business, when one or both workforces are largely working remotely



PEOPLE MANAGEMENT

- Review **key HR policies**: introduce a new hybrid-working or home-working policy if applicable, and update existing policies addressing remote-working, flexible-working and business travel
- Consider whether **contractual changes** are required to employment contracts: for example, changing place of work and including a contractual requirement to attend the workplace for specific reasons if employees are otherwise fully-remote. Be aware of the trigger for the legal requirement to **collectively consult** with your workforce
- Address challenges associated with long-term remote-working, such as **health and safety** risks, adequate **supervision** of staff and ensuring employees' **well-being**
- Consider how changes to ways of working will impact staff **retention** and **recruitment**
- If there is a change in place of work or ways of working, consider how this may impact the enforceability of **restrictive covenants**
- Consider if any additional policies are needed in relation to Covid, such as vaccination and self isolation policies or if exiting policies , such as sick pay policies, need to be updated



CULTURE AND ENGAGEMENT

- Consider ways to develop an **inclusive and cohesive culture** within the organisation: identify the role of effective **leadership** and clear **communication** to engage your workforce
- Identify new ways to **train, develop** and **supervise** staff members with less in-person contact time
- Deliver training and guidance to line managers on new methods and approaches appropriate for a different working model, including how to undertake **effective appraisals** and **performance management**
- Consider how to **integrate** new team members in a largely remote environment
- Ensure **fair allocation** of work and opportunities across the workforce



TAX AND REMUNERATION

- Review your **compensation strategy**: will **regional differences** in salary remain applicable to a largely remote workforce and should **geographic weightings** and **travel allowances** be phased out? Consider how to recruit more diverse talent, while motivating and retaining existing talent
- Decide on a consistent approach to requests to work remotely from further afield, especially from **overseas**, considering the **legal and tax implications**, including: whether there are local tax reporting and filing obligations in respect of employment taxes and social security contributions; the risk of creating a taxable presence in the overseas location; and whether there is a requirement to register and account for local VAT, as well as any immigration issues
- If you are providing financial assistance to your employees for **remote working expenses** (such as travel and living costs), check whether there are related income tax, social security costs and reporting obligations



PREMISES AND FACILITIES MANAGEMENT

- Consider how best to make use of your existing premises: assess whether new premises or a changed **configuration and fit-out** may encourage and support new working practices
- Review your leases to check whether you have any **break rights** to exit sites that are no longer required due to increased remote working. Discuss with your landlord an early **surrender** of any leased sites that are no longer in use
- If you are thinking about bringing different businesses under one roof to save on leasing costs, check whether your **lease** permits that
- Explore the possibility of **sub-letting** premises and whether that is permitted
- Explore the potential to carry out workplace **alterations** to accommodate social distancing and other health and safety requirements (such as the removal of partitioning to create more open space) or to create new agile working spaces. Leased properties will likely impose restrictions or require consent on the carrying out of works. Consider ways in which to adapt your premises to ensure compliance with the recommended guidance on **ventilation and airflow**
- Incorporate **contractual provisions** which cater for unforeseen developments and any future waves of COVID-19. If renewing a lease, negotiate provisions allowing the tenant additional flexibility, such as shorter terms, additional tenant break rights, different methods of rent calculation (such as being based on tenant turnover), or rent free periods in the event the tenant is prevented from trading



ESG AND SUSTAINABILITY

- The pandemic has accelerated the sustainability agenda. Review your **policies and procedures** to ensure that these align with best practice and consider how you may operate your business in a more sustainable way
- Take this opportunity to incorporate **sustainability** and **environmental considerations** into your procurement decisions
- Implement policies and procedures for ensuring the **wellbeing** of a largely remote workforce, training managers to identify early signs of stress and burnout, and taking proactive steps to protect the **mental health** of your staff
- Update policies and procedures to address the new business environment: review **modern slavery** statements, **anti-bribery** policies and **equal opportunities** policies



DATA PROTECTION AND SECURITY

- Take preventative steps to safeguard your business' **sensitive and confidential information** in a virtual working environment and also in relation to different employment models
- Consider whether appropriate **data protection** policies are in place, and whether these have been updated to address risks presented by remote working. Even if this was considered at the start of the pandemic, now is the time to refresh your procedures and policies, including IT security, data protection and remote-working policies
- Update your **privacy notice** to reflect any changes in the processing of data resulting from new working arrangements or other changes in protocol
- Consider the risks arising from staff members accessing data via their **personal devices**, and whether it is possible to extend access to work provided laptops and phones
- Does the business have a **data retention** policy, and are employees aware of it?
- Are employees able to print confidential or data sensitive documents at home? If so, consider what processes are in place to ensure documents are disposed of securely
- Consider whether a **data protection impact assessment** (DPIA) needs to be carried out, and if so, how the outcomes of such assessment will be evaluated and what actions can be implemented to mitigate or address areas of risk
- Has a **legitimate interests assessment** been carried out previously? If so, consider the success of any actions implemented as a result and whether continued changes in working patterns and environments warrant a DPIA



COMMERCIAL CONTRACTS

- Consider whether your requirements for certain **services** (for example, office cleaning, waste removal, security requirements and delivery of office supplies including stationery, cleaning supplies, food and drink and sanitary and hygiene products) may have changed or might change going forwards
- Review relevant **supplier contracts** to assess whether they can be varied, suspended or terminated (and, if so, the procedure for doing so), and which of these options best suits business needs. Consider:
 - **Varying** a contract if you still require the services or goods provided under the contract, but the frequency or volume has changed
 - **Suspending** a contract if the business does not currently require certain services or goods, but anticipates needing them in the near future
 - **Terminating** a contract if the business no longer requires the services or goods, you wish to re-tender, or if varying or suspending the contract are not options available to you
- Consider adopting or extending the use of an **electronic signature** platform (and its possible integrations with other internal systems) to increase remote business efficiency and assist with risk management for both internal processes and approvals, and commercial agreements



IMMIGRATION

- Consider how **right to work checks** will be undertaken if staff continue to work remotely. From 6 April 2022, in person checks may be required again, although the Home Office is reviewing this
- If the business has a sponsor licence, consider the impact on your sponsor licence and **sponsor obligations** of any changes to place of work or ways of working. If workplaces are closed, you will need to contact the Home Office. If sponsored migrants will be working remotely on a long-term basis, or if roles or salaries change, you will also need to make notifications
- Consider how you will manage a **Home Office visit** if the Level 1 User and Authorising Officer works from home and a Home Office official turns up at the premises unannounced. How will sponsor licence and sponsored migrants' **documents** be stored and accessed?
- Consider how you will comply with certain sponsor obligations if sponsored migrants work remotely, such as keeping track of any **absences**
- If you need to **hire non-British nationals** to fill vacancies, apply for a **sponsor licence** as soon as possible. If you already have a licence, ensure processes are in place to enable compliance with all sponsor obligations to reduce risk of licence being revoked



CONTACT US

If you would like any further information on anything you have read in this workplace transformation toolkit then please get in touch with your usual Stevens & Bolton contact or one of the people below.



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The information contained in this guide is intended to be a general introductory summary of the subject matters covered only. It does not purport to be exhaustive, or to provide legal advice and should not be used as a substitute for such advice.

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