

SUMMER 2021

 SHAKESPEAREMARTINEAU

Legal advice for life and business

Coronavirus

Your guide to recovery and resilience

Here to help

Continuing to operate through the pandemic has been challenging for every business. Cash flow, supply chains, materials and customers have, in some sectors, disappeared overnight. Keeping your business intact for the benefit of all is tough - there is so much information available for businesses it can be difficult to know the questions to ask and indeed where to even start.

As the UK continues to take steps towards the lifting of national restrictions, it is vital that businesses are prepared in every aspect. Apart from the obvious health ramifications for us all in society, COVID-19 has resulted in major economic disruption at almost every level. Some sectors have been affected harder than others with specific sector disruption to contracts, supply chains, demand disappearing and funding challenges. Other consequences have affected every sector, such as employment challenges, health and safety concerns, IT security, complying with coronavirus legislation and of course Brexit.

We know from everything the UK and the world is experiencing that this disruption is likely to continue for some time yet. Things will not be able to go back to how they were at the start of 2020 and every part of society is looking at how we learn to live with the virus and its impacts.

We are here to help you unlock the potential in your business. As business advisors, we will continue to provide you with expert insight at every opportunity assisting you with the difficult decisions you are facing. This guide to recovery is not meant to replace any of this advice and it doesn't replace a supportive conversation, but it does highlight some of the issues/challenges your business may face and things you need to consider during this phase of business recovery.

The team here at Shakespeare Martineau remains committed to supporting our clients and the community throughout these challenging times, with the depth of experience, collaborative ethos and the creative know-how to lead positively to the future.



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The road to recovery

COVID-19 has triggered a host of challenges that many of us would never have guessed we'd be dealing with in our lifetime. It has taken bravery, compassion, and an unrelenting focus so far, and no doubt will require more over the coming months.

Most businesses have had to adjust to a new, remote way of working. Others have been forced to shut shop, leaving a question mark hanging over their future. However, the UK is evolving from these struggles and if anything, this pandemic has proven just how innovative we are as a nation.

'Normal' may be sometime away for lots of businesses but now is the time to continue with those plans for recovery to ensure a strong bounce back.

Help available

The government has matched such extraordinary times with a range of exceptional support packages. These include the furlough scheme and billions of pounds in loans and grants, offering much-needed financial relief to those facing tough times now and those planning for prolonged uncertainty.

Without cooperation from banks and other business organisations, much of this support would not have been possible. This is further testament to the impressive way this country has come together to help those struggling to stay afloat. In particular, the furlough scheme has been – and will for the moment continue to be – a vital lifeline. It allows companies to dare to look into their longer-term fortunes by keeping people employed rather than having to turn to more drastic measures, such as redundancy.

Our economy

The effect of COVID-19 on the economy has been catastrophic but the recovery is looking strong with companies and individuals pivoting, adapting and rewriting the rule book.

COVID-19 continues to be a global issue, impacting all areas of business, but these will pass and economies will emerge stronger.

The road forward

The government's roadmap out of national restrictions have provided some clarity for businesses. Retail and many parts of the leisure and hospitality sector are open with people eagerly waiting for the vibrancy we have all missed to return.

To support businesses this guide looks in more detail at seven key areas that will affect people and organisations most - financial considerations, premises, people, supply chain and suppliers, compliance and regulation, private wealth and family business and leadership - and what they should consider when moving towards recovery and thrive. As restrictions ease, by supporting each other in life and in business we can make way for a brighter future.

Financial considerations



Whether you are a large corporate with a highly structured board, an SME or an owner managed business, the financial viability and success of your business is key to your own future, your family's future and that of your employees. No

business has experienced, or traded through a pandemic such as this before, which still continues to be played out on a local, national and international stage.

As restrictions ease thoughts turn to the future and businesses that have got through the last year should consider a range of measures to enable them to cope with what could be a slowdown for some industry sectors of the UK. Prudent business owners will be well aware of the predictions and while there will be a bounce back it may take some time for confidence and stability to return from customers and suppliers.

- **Government assistance** – Further financial assistance was announced in the spring Budget, so if you haven't done so already, assess your eligibility for further government support – you may be eligible for financial assistance in the form of a one of a number of business interruption loans / grants. Continue to monitor and review all applicable government grants and economic incentives.
- **Review R&D claims** – Review R&D claims to make sure all eligible costs are identified.
- **Income tax** – On a personal level consider taking advantage of spreading your current January 2021 tax bill over the next 12 months.
- **Talk to your lenders** – Keep the communication lines open. A lender cannot help with financial support if they are unaware of your situation and do this sooner rather than later while there is still some flexibility in the business.
- **Review your banking covenants** – If you are likely to breach these, be prepared to have an early conversation with a proposed plan.

Continued...

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Financial considerations

■ **Business planning should ideally be a continuous process** – Continue to review your plans, revise your forecasts and draw up new plans and be in a position to implement changes. Adapt your management information in line with this.

■ **Manage all change carefully** – Ensure any changes you make are essential for the future of the business. Introduce and monitor internal spending reviews to see where you can make savings, cut costs, and move spending away from non-crucial areas. Now is the time to take stock of savings that have been made as a result of new working practices enforced on businesses by the coronavirus. Some of these may well be beneficial and save costs in the future.

■ **Credit terms** – These should be revisited and recommunicated to all customers regularly. Strict payment terms should be encouraged as cash is king and will ensure cash flow and working capital for the future. [Read our guide on improving cash collection.](#)

■ **Check your insurance** – A recent test case bought by the FCA sought clarity on various policy wordings in non property damage business interruption policies. The test case was successful, so insurers will potentially now have to pay out billions of pounds to those businesses who rightly claimed on their business interruption insurance, (and for those yet to claim) providing a major financial lifeline at this challenging time. It is still important to look at the specific wording in each policy. This analysis will work out whether you are eligible or not. Most insurers will have

been in contact with policyholders affected but you should not wait. You should take a pro-active step yourself and get the policy reviewed. [Check out our fixed fee support to help you do this.](#)

■ **Look at the detail** – Review your financial control measures and look to make them more robust if required. Review expenses policies, review sign off limits, ensure audit trails are in place.

Communication

■ **Keep talking** – Communicate with your key customers and keep them informed of the measures you are taking for your business. If they are in difficulty, be supportive where you can and agree action plans with them. [Read our blog for top tips on how communication can be used to stay afloat.](#)

■ **Be on the front foot** – Have upfront conversations with your suppliers. Consider changes to credit terms – being more flexible to support suppliers if possible.

■ **Contact suppliers** – Where you may have difficulties in paying, approach with a prepared action plan and be prepared to negotiate. If you have longer term contracts consider whether there is any room for renegotiation of any of the key terms whether immediately or in the coming months.

■ **Internal communication** – It's often appreciated by employees if they are taken along on the journey rather than being kept in the dark. Having a workforce who understand and appreciate the challenges and the reasons behind any decisions you take for the business helps any action that may be required.

Opportunities

■ **Bigger picture** – Stay abreast of all opportunities that may assist your business – e.g. online activities and be alert to acquisition opportunities and possible investments.

■ **Consider new possibilities** – The past year has forced / encouraged working in new and different/ flexible ways to make many businesses stand out from the crowd. Continue to consider new avenues to develop new products or services that meet the changing needs of your customers or new areas of demand that have opened up because of the pandemic.

■ **Keep up to date** – Continue to [monitor and review all applicable government grants and economic incentives.](#)

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Your employees



Managing a workforce of any size can have its challenges, let alone one that is recovering from a global crisis. Many businesses will have [furloughed employees](#) or made the difficult decision to make a number of their workforce redundant. For those businesses that haven't, it's highly likely they will still face having to make difficult choices, albeit further down the line.

The knock-on effects of the COVID-19 outbreak have changed the way employers engage with, and effectively manage, their employees. The processes, policies and guidelines that worked previously may no longer be fit for purpose for your business, or for your workforce, in the new working landscape. With the rollout of the COVID vaccine facilitating the gradual return of employees back into the physical workplace, this in itself will [bring a host of new opportunities and challenges](#).

Now that the Brexit transition period is over, it is vital that employers are also aware of their new obligations and responsibilities regarding recruiting from abroad.

Current workforce and future recruitment

- **Redundancies** – Ensure that correct procedures are followed and your HR team has all the resources they require to deal with the process. [Our blog on making redundancies](#) outlines the risks involved and key points to consider if you're planning to make more than 20 employees redundant.
- **Identify skills gaps** – If your business has diversified its product line, or moved into a new market, then you may need to consider targeting recruitment at these emerging opportunities, which may include recruitment from outside of the UK.
- **Training and development** – Identify where you can upskill your employees to allow for resource sharing. This is a useful exercise to determine which departments are over/under-resourced.
- **HR teams** – Ensure your HR team has all the resources it needs to deal with an increased number of people-related issues and that they keep up-to-date with the various guidance issued by the government, such as [dealing with workplace injuries](#) when employees are working remotely, [protecting staff in the physical workplace](#) and [making reasonable adjustments for employees with a disability](#).

Continued...

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Your employees

Current workforce and recruitment cont'd...

- **New immigration system** – If you currently recruit skilled workers from outside of the UK, including EU nationals, and do not have a sponsor licence, you need to apply for one now. Our blog on the new [points-based immigration system](#) outlines your new obligations and responsibilities regarding recruiting from abroad.

Employment contracts and policies

- **Flexible working** – With employees having experienced the benefits and flexibility of a better work/life balance, prepare for a surge in flexible working requests as the UK adopts a 'new way of working'.
- **Review existing policies** – Ensure that you are ready to deal with any such requests. If you don't have a formal policy on flexible working then you should consider introducing one now.
- **Right to work** – Update policies related to pre-employment checks and [right to work checks](#) to incorporate changes post Brexit.
- **Remote working** – Review your existing remote working policy to ensure safe working, productivity and compliance. Our guide sets out [seven practical considerations for employers](#).

- **New policies** – If you don't already have a remote working policy or a [vaccination policy](#) in place then now is the time to introduce them. Work with your HR team as well as your employees to ensure they work for everyone. Map policies against staffing needs to ensure you have contingency plans in place.

- **Expenses** – If adopting a remote working policy, consider including additional provisions for work-related costs your employees may incur when working remotely, such as printer paper and ink.

- **Contracts of employment** – You may need to make changes to employees' contracts of employment where there are changes to the working hours or days, rates of pay or the nature of work.

- **Check what elements of employment contracts can be changed** – Even if you don't have to legally consult your employees, it's still a good idea to talk to any affected employees before making changes, to avoid potential grievances and, in a worst-case scenario, claims.

- **Statutory sick pay** – Ensure your HR team is fully aware of the most [up-to-date guidance](#) relating to statutory sick pay and self-isolation, including the criteria for employees to claim, when this should be paid from, and who is responsible for funding the cost.

- **Annual leave** – Following the government's announcement allowing employees to carry over four weeks of holiday into the next two leave years, you may wish to set out guidelines for how this could be managed. With recent guidance suggesting that businesses, in some

circumstances, can force employees to take holiday during furlough leave, you may wish to consider this further.

Benefits and rewards

- **Existing benefits** – Review your existing benefits package to see if it's still relevant and offers value to your employees.

- **Value of existing benefits** – Identify, if you're able to, if you're paying for benefits that aren't being taken up by your employees.

- **Access to wellbeing support** – Ensure that your employees are aware of where and how they can access mental health and psychological support services. This could be provided by dedicated internal resource or through an external employee assistance plan.

- **Cycle to Work scheme** – As more and more people return to work, people will be looking at alternative ways of commuting to the workplace. If you don't offer this already, the government's Cycle to Work scheme may be a worthwhile addition to your benefits package.

- **Bonus and incentive schemes** – It may be wise to review your current compensation packages, such as annual bonuses and performance-related pay. Assess if/how you may still be able to reward employees if the business has suffered a significant financial hit.

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Buildings, workspaces and leases



As the world and economy moves forward out of lockdown, owners and investors of real estate as well as occupying tenants will have to consider the adjustments they now need to make whilst the restrictions around social distancing continue.

They will need to find new ways of working and inevitably different ways to use their space over the coming months and, at the same time, consider how to manage the cost of premises in these changed circumstances.

Landlords and tenants

- **Are you a landlord?** You may have had to freeze rents, offer deferments or other concessions for your tenants over the past year - do keep the communications lines open. Consider how you will manage service costs/charges as the economy reopens in order to mitigate service charges whilst still keeping people safe.
- **Are you a tenant?** You may be struggling through no fault of your own in some cases, if ordered to close your premises by the government. A landlord knows a good tenant is hard to find so continue to work with your landlord about rent holidays, suspensions, reductions or more manageable payment schedules as you try to maintain cash flow. You may find yourself needing less space if your business has contracted –continue to monitor your lease break options so that you are sure they can be exercised if required and how much that may save/cost.

Change management

- **Review and prioritise** – Any plans you had underway in terms of capital expenditure or major projects. Prioritise those that are critical and look to reschedule others.
- **Review your operations** – Is it possible to consolidate the number of sites / people into one location? Can you redeploy space to be used in a more cost effective way?

Continued...

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Buildings, workspaces and leases

Change management cont'd...

- **New working practices** – If not done so already you should plan to adapt your space to comply with all new and ongoing legislation. You may need more space to comply with social distancing practices which could go on for some time. Alongside this, remote working could become the norm where practicable.
- **Adapting your business** – Many businesses have moved online through necessity and it is likely to be here to stay for many businesses. If you are considering more online activity, do review your IT security systems to ensure they are robust enough to cope and you have the correct measures in place to ensure data security. [Watch our webinar on cyber security and how to identify the different types of threats.](#)
- **Protections for your business** – A raft of protections were introduced as part of the new coronavirus legislation but remember you still have to comply with existing legislation (e.g. health and safety) and you may need to make adjustments to reflect the changes in the working environment.

- **Risk to third parties** – Consider and assess the risks of third parties coming into your workplace e.g. suppliers, customers. As an occupier and as an employer you have a legal obligation to these people too.
- **Review your insurance policies** – See if any of these additional costs mentioned can be claimed on your insurance.
- **Take time to review your insurance provision** – Going forward ensuring it is fit for purpose and takes into account the new situations we all find ourselves in and you are suitably covered.
- **Insurance breaches** – Check no breaches have occurred during any time you may have had away from your premises that could lead to a claim.
- **Review any regulatory licences** – You need to ensure you are up to date, nothing has expired and review any additional requirements you may need.

Safety of workplace premises

- **Consider your facilities and maintenance activities** – Additional procedures may be necessary to reassure employees that the workspace is a safe environment to work. This may require scheduling of additional deep cleans etc. You may need to consider providing additional hygiene facilities such as hand sanitiser, soaps etc.
- **Back to work plan** – When employees do start to come back into the work environment once again, a lot will have changed and is likely to be changed for the foreseeable future. Communicate openly and consider producing a back to work plan/information pack detailing the changes/requirements, commitments you are making to the working environment and how you need them to respond and play their part. This will help employees feel safe back in the workplace.
- **New or additional signage** – We will all be working to additional legislation and amended working practices for some time so ensure you comply with any legislation/best practice and tell everyone about it – social distancing, wearing of appropriate PPE etc.
- **Travelling to work** – Many of your employees will be looking for new ways to travel to work to avoid crowded public transport. Consider finding and providing additional safe facilities for bicycles and lockers for employees or additional car parking.

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Suppliers and supply chain



Many businesses have struggled to comply with their contractual obligations as a result of the COVID-19 pandemic and may have been forced to rethink their supply chains. A focus in recent years on minimising costs, reducing inventories and maximising asset utilisation has often resulted in a reduced ability to cope with disruption. Whilst the impact of the COVID-19 pandemic is unprecedented in modern times, disruption to the global economy is an increasing risk, whether due to political events such as Brexit, US-China trade tensions, or climate change.

As the [UK has finally left the EU customs union](#) and single market, now is the time to review your supplier network. You need to ensure that your supply chain will hold up and allow you to get the products, parts and raw materials that you need to continue to trade and deliver revenue.

New EU trading arrangements and regulations

- **Tariff and quotas** – To qualify for the preferential tariff arrangements agreed with the EU, goods must comply with the applicable rules of origin set out in EU-UK Trade and Cooperation Agreement. Where goods include materials or components made in more than one country, compliance may not be straight forward.
- **Customs formalities** – Goods traded between the EU and the UK are now subject to customs formalities. All goods imported into the EU will need to meet EU standards and will be subject to regulatory checks and controls. Be prepared and allow for the risk of delays and additional costs.
- **Separate regulatory systems** – UK manufacturers now need to have their products assessed for compliance with an EU notified body. Ensure you understand the compliance requirements to enable you to continue to trade.

[Watch our webinar on the impact of Brexit on commercial contracts and supply chains.](#)

Supply chain resilience

- **Improving supply chain visibility** – Identify those key elements where a failure to obtain a product or service will fundamentally affect the ability of your business to function and gain a better understanding of where components are coming from for sourced sub-assemblies.

Continued...

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Suppliers and supply chain

Supply chain resilience cont'd...

- **Prioritising resources** – Ensure your key suppliers can continue to operate by paying them on time and helping to manage their cashflow.
- **Communication and information sharing** – You need to be aware of potential issues affecting your immediate suppliers and those further down the supply chain. This will help you to work together with suppliers to draw up contingency plans for multiple scenarios, identify problems quickly and to enable you to take rapid remedial action.
- **Diversification** – Rather than rely solely on particular suppliers, or regions of the world, is it possible to diversify your supplier base to mitigate your risk exposure? Dual sourcing has the potential not only to offer greater protection against disruption, but may also stimulate increased competition.
- **International suppliers** – As part of diversification, many UK businesses are considering the possibility of bringing at least a portion of their supply chain back to the UK, with rapid developments in automation and robotics offering the potential of reduced costs.
- **Utilising UK-based suppliers** – You may now face longer lead-times with products supplied from outside of the UK. Utilising UK-based suppliers may be particularly attractive if a quick turnaround of physical products is essential to the running of your business.

Commercial contracts and agreements

- **Breaches of contract** – You need to safeguard your business from any potential claims of not fulfilling your contractual obligations. It is important to remember that in the absence of appropriate contractual protection, simply ceasing to supply because circumstances have made a contract too hard or expensive to perform, will almost always result in a claim for breach of contract.
- **Assess risks and action** – If you believe that you or the counter-party to your contract will not meet the obligations under the contract, through delivery dates or failure to meet agreed service levels, you should consider whether there are any pre-agreed consequential payments (such as liquidated damages for delay) or pricing changes. You should also review whether there are any additional provisions that may also apply, such as material adverse change provisions, and what the potential consequences are.
- **Supplier agreements** – Review all supplier agreements and clarify what each party's obligations are. Should a supplier not be meeting its contractual obligations, is that supplier in breach of contract or is there a 'force majeure' provision that can be invoked?

Customers

- **Review your contracts with your customers** – Undertake a review of all your current contracts to see what flexibility they may offer you going forward. Also, consider what rights you and your customer may have to terminate contracts altogether, and how this might impact your business.
- **Enforce your credit terms** – Remind your customers of their credit terms and obligations to ensure a steady flow of cash through your business.
- **Talk to your customers** – Check on their financial position and whether there are likely to be issues or delays with making current or future payments.
- **Follow any contractual process** – Contracts may have a pre-agreed mechanism or formalities for effectively dealing with variations to terms, such as delivery dates or price changes. You should ensure that you follow these mechanisms and document agreements properly to avoid arguments later that they did not apply. As a general rule, properly document these changes regardless of any formal mechanism.

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Private wealth, family businesses and family



The effects of COVID-19 will undoubtedly have a huge impact on our economy for years to come, with many businesses collapsing under the strain and levels of unemployment set to rise. However, what is less widely reported on is the effect it is having, and will continue to have, on families and personal wealth. We've already seen that the pandemic has led to an increase in people looking at how they may pass on their wealth to the next generation – and even more so for those that own family businesses.

Global markets are still volatile but whilst the scope of what our future may look like is still evolving, one aspect that can be controlled is putting measures and provisions in place to plan for the future and protect the wealth of you and your family. As we all try to pick up from where we left off, there are plenty of opportunities out there for effective wealth planning that will make a real difference.

Wills

- **Review your existing will** – It's a good idea to regularly review an existing will, particularly if circumstances change such as entering into new relationships, having children or acquiring new assets.
- **Make a will** – If you don't already have a will then you should look to put one in place. Begin putting your thoughts down on paper so you can gain a better understanding of your position and the provisions you may wish to make. [Read more about the process of making a will to ensure your assets are passed into the right hands.](#)
- **Executors of your will** – Decide on who you would wish to appoint as your executives and trustees to administer your will.
- **Choose the right people for the role** – you shouldn't simply appoint people just because they are family and you feel a sense of obligation.
- **Guardians** – If you have children under the age of 18, consider appointing a guardian who will take over a parental responsibility. Family heirlooms and specified assets - consider whether you wish to leave specific items of personal belongings, or indeed specific sums of money, to named individuals or charities.
- **Funeral wishes** – Although not legally binding, if you have a preference for how you wish your funeral to be carried out, and/or have strong wishes in relation to cremation or burial, then you should consider including instructions within your will.

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- **Investments** – Seek advice about how a change in the investment market, particularly one where asset values are decreasing, could be a good time to make estate planning decisions.

Continued...

Private wealth, family businesses and family

Powers of attorney

- **Appoint attorneys** – Make sure an ordinary power of attorney, and/or lasting powers of attorney in relation to both your finances and your health and welfare, are in place for you and for family members who do not already have them. Ideally, these should be prepared at the same time as preparing a will.
- **Appoint people you trust** – Ensure that the people you trust the most can help you if ever you're unable to make decisions relating to your property and financial affairs, personal health or welfare. Read our guidance on [what is expected of attorneys](#) acting under a lasting power of attorney.
- **Specific powers** – Consider whether you wish for your attorneys to have wide-ranging general powers, which would enable them to manage all your property and financial affairs entirely on your behalf, or have more specific and restricted powers to carry out a particular task or transaction.

Tax saving opportunities

- **Capital gains tax (CGT)** – If the value of your assets have decreased then now may be a good time to make gifts of those assets. As an asset value decreases, then so does the impact of CGT.
- **Inheritance tax** – Inheritance tax can arise not only on death, but can also be triggered in certain circumstances when lifetime gifts are made. As with CGT, the tax is based on the value at the time the asset is gifted. You should explore opportunities to make lifetime gifts either to individuals, companies or through trust structures,

whilst asset values are depressed. [Our guide outlines what lifetime gifts are exempt from inheritance tax.](#)

- **Future changes in taxation** – Any abolition or amendment of tax reliefs and measures could result in significantly higher taxes and a reduction in the options available. Therefore, you should act now and plan ahead.
- **Donate to a charity** – Gifts to registered charities are exempt from inheritance tax, both in your lifetime and on death. Gifts can be made directly or, if you want to be more actively involved, you can set up a charitable trust either during your lifetime or under your will. [See how our dedicated charity lawyers can guide you through the process.](#)

Family businesses

- **Protecting wealth** – Now may be a good time to reorganise the share capital of family businesses to create different levels of shares, reorganising them in a way that satisfies all parties in relation to reward and control, whilst potentially mitigating any one or more of inheritance tax, capital gains tax and income tax.
- **Loss of capacity** – Consider making lasting powers of attorney specifically relating to your business role, or reviewing existing ones to ensure that important decisions can still continue to be made should you become incapacitated.

Family matters

- **Court hearings** – Family court hearings are continuing, although the default position for the time being is for these to be held remotely via

video technology. If you are the applicant then the responsibility for making these arrangements falls to your solicitors. If you do not have solicitor representation yet then the respondent's solicitors will need to make these arrangements.

- **Child arrangements** – If your child's time is usually divided between yourself and another parent then that child should continue to see both parents (subject to any restrictions which may override those existing arrangements, such as households having to self-isolate with COVID-19 symptoms). Take a common-sense and co-operative approach to making and adhering to arrangements during this difficult time. However, if you're unable to reach an agreement with your co-parent, speak to a solicitor to negotiate and settle the arrangements on your behalf.
- **Reviewing existing child arrangements** – The widespread introduction of agile working may provide separated parents with more time to take on equal childcare responsibilities. [Our step-by-step guide](#) explains the process and the approaches available when making child arrangements.
- **Divorce financial settlements** – If you're in the middle of negotiations then it may be that the disclosure you have already exchanged reflects a much healthier previous financial position. Considerations should be given to existing valuations, and also if there has been a sudden change of income, as this is likely to negatively impact access to capital. [Our blog on the impact of coronavirus on financial settlements](#) explains the position where it looks likely that one party may be declared bankrupt in the near future.

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- **Brexit** – The jurisdictional grounds to bring a divorce have now changed, with a petitioner only being able to start divorce proceedings in England and Wales if the English court has jurisdiction to deal with those proceedings. [Read more about the impact of Brexit on divorce and family law.](#)

Compliance - Health and safety



Employers have clear duties under existing health and safety legislation. Obligations to comply with health and safety at work, and to manage and control workplace risks, includes protecting workers and others from the risk of COVID-19 infection in the workplace.

That duty is to do everything “reasonably practicable” to manage these risks. The onus of demonstrating that everything reasonably practicable has been done falls to the employer. The best way to demonstrate compliance with the law is usually to follow government and industry-led guidance wherever possible.

Health and safety legal obligations cover employees and third parties and the potential physical interaction between them when they visit your working environment as well.

What is the current guidance on returning to work?

Government guidance remains that, for now, employees should continue work from home where possible. If it is not possible then businesses planning on returning to work will have to review and assess what the risks to employees and others will be, taking account of any guidance.

Detailed government guidance has been issued on a sector specific and work type basis for businesses to continue to control the risks of COVID-19 in the workplace. Some businesses may work across a number of work types such as offices, factories and outdoors and therefore may need to consult more than one of these guides. Each business will have differing needs and requirements when considering how they should reopen and allow employees and others to visit their place of work. This guidance is to protect and support employees with their physical work and their mental health. Businesses can access and read the detailed guidance [here](#).

Remember, employers are also responsible for the health and safety of their employees while they are working from home too. [Our guide highlights what employers need to know and how risks can be reduced.](#)

Need more help?



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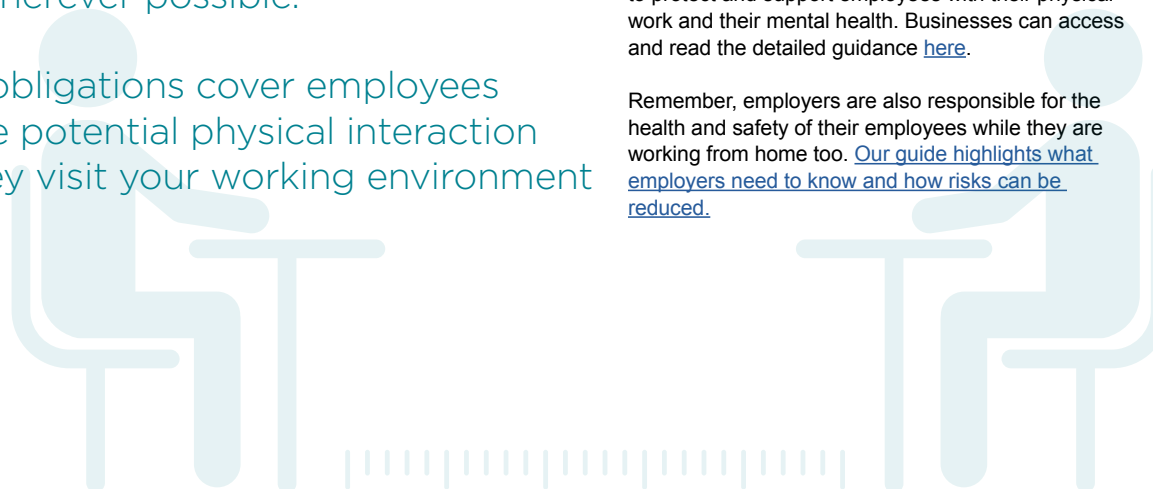
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Continued...



Compliance - Health and safety

Don't forget the value of risk assessments

Risk assessments are a key part of this process and will allow businesses to assess the working environment to identify and evaluate the hazards and risks (including at risk persons such as vulnerable and/or shielded people), determine appropriate and proportionate controls and record those steps before implementation.

Risk assessments should address all aspects of the working environment including shared office resources (such as kitchens, canteens and printers) and personal office resources (such as desk spaces).

Remember that risk assessments not only help create the practical solutions to ensure that you comply with your ongoing health and safety obligations but also create the necessary audit trail to demonstrate that compliance. Keep your risk assessments up to date and review and update where necessary. Do not disregard employees who continue to work at home in this process.

Some common issues

Most risk assessments will address concerns and practical steps to deal with:

- Vulnerable and shielded employees.
- Steps to protect employees, customers and third parties visiting the work place.
- Practical implementation of social distancing in the work place environment for as long as it is needed.

- Regulation and use of shared or communal spaces including access, lifts and canteens.
- Benefits and pitfalls in sourcing and using personal protective equipment.
- Enhanced cleaning or increased access to and provision of sanitising products Isolation procedures for symptomatic persons.
- [Mental health and wellbeing of employees](#) (including those who continue to work at home).
- The impact of any changes on the office environment and the ability to work safely.

Engagement should be encouraged with individuals to ensure practical steps are taken to manage individual risks and concerns.

Practical suggestions

Each work environment is different and businesses should consult the most up to date guidance or seek industry or legal advice on the steps they are or are proposing to take.

Practical solutions encouraged:

- **Policies and procedures** – Ensure staff and third parties are aware of your policies and procedures when visiting the working environment including your own guidance on how the working environment should operate now to mitigate risk.
- **Test and Trace** – Maintain records of employees, customers and visitors. NHS Test and Trace is a key part of the COVID-19 response and maintaining up to date information will aid with the efforts to minimise transmission.

- **Hygiene** – Provide and promote handwashing and sanitising facilities and enhanced cleaning function in the office/premises to maximise hygiene standards (particularly in communal spaces).
- **Use of PPE** – Consider the use of PPE in the working environment and where that would be appropriate and how your policy will meet the needs and expectations of those visiting.
- **Physical environment** – Review the physical working environment and what controls and measures can be taken to maintain as far as reasonably practicable social distancing of 2m and avoid crowding for as long as it is needed.
- **Staggered return** – Consider a staggered, phased or rota return to work where social distancing may prove problematic due to space or access constraints for as long as it is needed.

- **Different working patterns** – Consider staggered start times or shift working and liaising with other occupants in shared buildings where joint access is used to agree a common approach.
- **Working practices** – Consider the need to reduce or limit time spent on face to face contact and how to promote remote working practices in the work environment.
- **A full list of the guidance** produced by the government can be found [here](#).

If in doubt, remember to take professional or industry led advice on best practice and the latest guidance given the evolving situation.

Need more help?



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Leadership



Strong leadership is a cocktail of authenticity, collaboration, passion, compassion, and a great deal of bravery.

We all know the best results occur when we are pushed out of our comfort zones and the ingredients are shaken up; and COVID-19 has done exactly that.

With the end of restrictions in sight, the time for positive leadership is now. It's time for us to take control of what we can and create an environment with enough certainty where our people can feel safe enough to flourish centre stage.

[Sarah Walker-Smith](#)
Chief Executive

Passionate and positive

Creating certainty through positive behaviour has never been more important. Passion is contagious: when we truly believe in the purpose and vision of the business, others will too.

Growing a purpose-driven organisation with a positive attitude is like Pilates for the soul, strengthening awareness, control, and commercial conviction. By creating this culture of positivity, rates of engagement and collaboration will increase, and so will commerciality. And people will feel they have a template to help devolve decisions and empower action without endless rules and policies.

While the future of the political world may be hazy, it is this passion and vision, along with a strong but adaptable business plan that can help to fill a vacuum where people may have lost trust.

The world we live in has changed. And people cope with change very differently, your people included. Allow your team to adjust and treat them with compassion in the process. You can still be a strong leader and be kind. Meet people where they are and they will come with you.

Authenticity

A fast-track way of gaining trust of your organisation: authenticity is key. Let's throw away the rule book and initiate new ways of working, starting by bringing our whole selves to work.

Continued...

Leadership

Authenticity cont'd...

A CEO can lead the charge here – let people get to know the whole you, shout about your interests outside of the office, and draw on experience from wider life; be honest at all times and not afraid to show how you are feeling. And don't be concerned about using humour to help keep the human side in full view.

In times like these, where physical meetings are few and far between and most communication is still virtual, it's never been more important to ensure that what you say is authentic and consistent. Whether that's through establishing relatable and personal dialogue with your people or injecting some humour into a presentation. By being creative and real, by putting yourself in their shoes, having genuine empathy, you can break the fourth wall as a leader.

Collaboration

To drive meaningful change and empower our people, thinking outside the box isn't enough. We need to burst through it completely. Leadership is no longer about one individual: it's about helping a group charge forward.

In a changing world, empowerment is key to establishing and cultivating mutually profitable relationships, both inside and outside of the business. Working together brings diversity of thought and rich ideas that everyone believes in.

We need to foster a sense of team goals and 'abundance mentality' – make the cake bigger for everyone's benefit rather than focusing on getting the best slice for ourselves. Measure and reward this openly.

Trust

Trust is a two-way street. As leaders, we all want to gain the trust of our people, however, we need to put our trust in them too. The coronavirus pandemic has encouraged many businesses to adapt for safety reasons, forcing even the most reluctant of leaders to introduce measures of working from home.

The secret is to treat people like adults at this time – refrain from constraining them with too many rules, empower them to make decisions and do the right thing. Measure outputs and ensure they have the support to get things done. Never manage to the lowest common denominator but if people take advantage there is no excuse for brilliant line management – deal with it in the moment. The days of an annual review are well and truly over. Let them decide how they want to make life and business work for them, because when they start thriving, you'll see how much they give back to the business and the team because they feel happier and more balanced in themselves.

The best way you can build trust is to be constantly honest, even with the bad news, and ensure your words and actions continue to match.

Bravery

Never underestimate the power of a 'can-do' mentality and a clear focus on the future. In the current climate, dialogue across all levels of the workplace has been forced to evolve. To keep businesses agile, we shouldn't be starting with 'why?', we should be comfortable starting with 'why not?' and appreciate that we may occasionally get things wrong. The COVID-19 situation has shown us how incredibly people can adapt when they need to – as things return to the new version of normal continue to ask 'if we only had two weeks how would we do this?' Make decisions in a timely manner and accept sometimes you may get this wrong.

A courageous, front-footed approach goes hand-in-hand with the ability to step outside of our comfort zone and seek opportunities in any situation. Being wrong is not a failure, it is simply an invitation for us to learn and grow.

Keep grounded

Where the lines between home and work life have become blurred, establishing a routine is more important than ever. Have breaks, set boundaries with colleagues and with yourself, and focus on the things that you can, at least in part, control.

Taking time away from work and staying grounded is essential if we are going to perform to the best of our abilities as leaders.

The days of the illusive, faultless, impenetrable leader are gone – we leaders are now able to show we are simply humans – each with our strengths and weaknesses, just doing our best – like everyone else. And remember above all not to confuse being in a position of power and authority with being a leader. The former is simple fact – the latter is much, much harder to achieve and only endures through listening, adapting and learning.

It's what we do now, in the moments that really matter, that defines who we really are... be brave, be honest, be kind.

[Sarah Walker-Smith](#)

We are here to support you

Shakespeare Martineau has a free legal helpline offering bespoke guidance on a range of subjects from employment and general business matters, through to director's responsibilities, insolvency, restructuring, funding and disputes. We also have a team of experts on hand for any queries on family and private matters too. Available from 10am-12pm Monday to Friday, call **0800 689 4064**

Prefer a video call?

We understand sometimes it's better to talk face to face. So in addition to our free helpline we're offering businesses the opportunity to [book a free 20 minute video session](#) via Zoom with our employment and commercial law specialists.

Designed as a one stop shop for all your commercial and employment queries, these video calls will put you in front of a team of senior lawyers, ready to work through the issues affecting your business and employees.

C-19 Business Pledge

Shakespeare Martineau has joined over 300 organisations in a global initiative – pledging to support its people, clients and its local communities through the coronavirus crisis. The pledge encourages businesses and universities to be a force for good by making a commitment to do what they can to tackle the coronavirus pandemic.

Supporting you

In response to the pandemic our [coronavirus hub](#) includes advice, guidance and insight to help you navigate these times. As we plan for the future, our hub will evolve to provide you with further help and resources for reviving and thriving in life and business.

[Listen and watch our latest podcasts](#), webinars and video content.

Or why not [contact us](#).



SUMMER 2021

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