

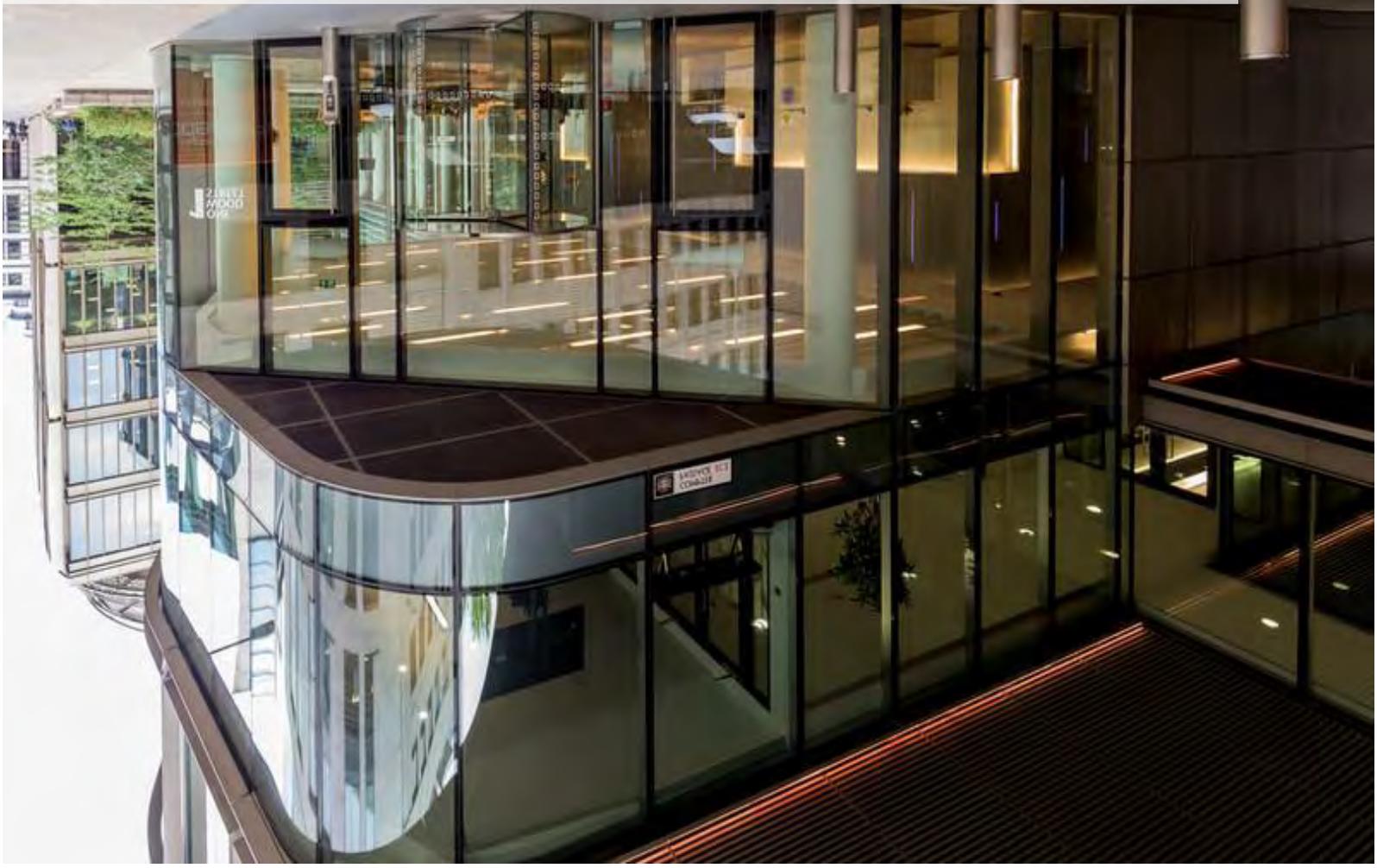
EVERSHEDS SUTHERLAND



The hardest thing is saying hello
Return-to-workplace: guiding principles

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Legal Insights





Health and Safety

Key considerations

Effective planning is key to ensuring a smooth transition back to work and the protection of employees. Set out below is a summary of key steps for multi-national employers to consider:

- duty of care - as employees return to work ensure that such assessments and implementation measures are tailored to the business and working environment and take account of local legal requirements/guidance, including on social distancing, the provision of personal protective equipment (PPE), any additional measures for vulnerable workers and any consultation requirements. Risk assessments should also extend to conducting data protection impact assessments where proposed solutions involve the processing of personal data
- Consult with workforce - once you have undertaken or updated your risk assessments, you should consult with your workforce to obtain their comments on any proposed new ways of working so **that they 'buy into' the new arrangements** rather than potentially challenge them
- personal protective equipment - where PPE is to be provided, ensure it meets local health and safety standards, is suitable for the associated work activity, fits correctly and that sufficient stock can be maintained
- screening measures - check the legality of measures such as temperature testing, health screening, contact-tracing or antibody tests. Where these are to be used, ensure appropriate related-processes are in place, including provision of privacy notices, training, security of data, procedures for denying entry to the workplace based on results and reporting
- training - **train managers on the employer's measures and provide them with information, training and support** to deal with staff queries and concerns and enforcement of policies. Consider if refresher training on risk assessments and work instructions is required for the workforce
- plan for health and safety inspections – ensure robust evidence of compliance can be readily provided of COVID-19 measures in the event of health and safety inspections. Establish a procedure for responding to any such audits
- of premises – prior to allowing the workforce to return to site, undertake a site survey to ensure the working environment is safe. This will include, alongside a general evaluation of the site, a review of fire safety measures, water systems (to manage the risk of legionella bacteria) and statutory inspections on certain items of equipment and machinery (e.g. lifts) which may have expired during the closure of business operations
- wellbeing and welfare - consider if additional support is required for the workforce in view of any changes arising in the re-start of business operations
- looking ahead – consider contingency plans for any future recurrence of COVID-19 or a similar crisis, taking learnings from the current COVID-19 experience

In some jurisdictions, carrying out a risk assessment is a legal requirement. For those jurisdictions which do not operate within this framework, the below checklist will still offer a framework of key issues to take into account. Such a risk assessment would consider appropriate control measures to manage the risks of contracting COVID-19, for example:

- to what extent can the business continue to support remote working where this is possible, taking into account whether a safe working environment can be provided for remote workers, given that the situation is likely to last into the medium and long term
- an appropriate social distancing plan – this may include staggered start and finish times to the working day or alternating days or weeks when employees may work from the business premises

- providing suitable information and instruction to employees and contractors on what to do if they suspect they have contracted COVID-19
- ensuring there are sufficient handwashing facilities within the premises, taking into account social distancing
- considering whether the frequency and intensity of cleaning needs to be increased (for example if hot desks are to be used, taking into account how these will be cleaned to an appropriate standard before another employee works in that area)
- providing PPE where this is identified as necessary and is available
- ensuring suitable ventilation of workplace environments
- consider whether there are any clinically vulnerable people who must take particular care to minimise contact with others outside of their household or clinically extremely vulnerable employees who must practice shielding, in accordance with government guidance.

Additional practical considerations

If premises have been unoccupied, or operated by skeleton staff for a period of time, consideration will need to be given to ensuring that the premises are ready for occupation by the wider workforce. Factors which are likely to be relevant in most jurisdictions will include:

- ensuring that there are an appropriate number of first aiders and fire marshals available on any given day, taking into account the number and location of employees at work
- conducting appropriate property management inspections to ensure that, for example, risks of legionella are considered and controlled as low occupancy buildings can give rise to the risk of legionella bacteria building up in stagnant water
- putting in place barriers or markers to aid with social distancing
- take into account a period of time to engage with employees on the changes to working practices, to ensure compliance with any changes from day 1 of returning to the premises
- consider how employees will be trained and monitored to ensure compliance with any changes to working practices on the premises

Thought should be given to whether any instances of employees being diagnosed with COVID-19 need to be reported to the regulator and a process should be put in place to ensure this is carried out, where required. Following on from this, employers should consider whether notification of a positive diagnosis should be shared with the wider workforce, to limit the spread of the disease and whether there are any local required procedures to follow. Any such disclosures should be made only after taking into account any data protection and privacy concerns.



Employment

Employers' responsibilities

As set out, as companies prepare, or at least begin considering employees returning to their places of work, it is important that employers assess the risks faced by their employees and visitors and implement measures to mitigate those risks.

Key steps include:

- informing employees and, where relevant, recognised unions or other employee representative bodies about proposed return to work measures
- reviewing flexible working arrangements. Identify whether existing contracts, and working arrangements, permit any required additional flexibility – if not, consider how this might be achieved
- reviewing policies governing business travel, holidays, sickness, caring for dependants and home working. Ensure a reasonable and consistent approach
- reviewing relevant insurance policies and guidance issued by insurers
- devising arrangements for dealing with staff who may be at particular risk of contracting COVID-19, or who report symptoms and may have COVID-19

Employer's duty of care – the legal position

Employers have a legal duty, so far as is reasonably practicable, for the health, safety and welfare at **work of their employees and anyone else who may be affected by the employer's business, including** visitors and members of the public.

Regulations, for the UK and in many countries, require employers to undertake a suitable and sufficient assessment of the risks to the health and safety of employees and anyone else who may be affected by **the employer's business. This duty is a continuing one** and there may be a local requirement to record assessments. The UK regulations contain specific provisions in relation to young employees and pregnant women.

Key steps include:

- considering whether existing arrangements for protecting staff and visitors take account of the risks arising from COVID-19
- regularly re-assessing risks as the situation develops or new guidance is issued by relevant bodies such as Public Health England in the UK
- conducting risk assessments to identify the likelihood of staff contracting COVID-19 whilst at work (including staff returning to work after a period of closure)
- taking appropriate measures to control the risk of infection

Social distancing

The UK Government has issued guidance on social distancing, advising that those who are clinically vulnerable are at higher risk of severe illness from COVID-19. That group includes those who are aged 70 or older, have certain underlying health conditions or who are pregnant. Employers should pay particular attention to staff falling within these groups in carrying out risk assessments and implementing measures to address risk areas.

Key steps include:

- considering workplace arrangements to ensure social distancing can be adhered to, which may include adjustments to the working environment and limiting the number of employees in the workplace
- informing employees about social distancing and infection control measures
- advising what they need staff to adhere to in relation to these measures
- allowing home working where possible, especially for staff who are at increased risk

If an employer fails to implement appropriate measures then it will potentially leave itself exposed to employees asserting that they have grounds for refusing to attend work, on the basis that doing so would place them in danger.

Protocol implementation

Assemble a project team to oversee the creation and implementation of protocols. Include members specialising in employee relations, insurance, travel and events, communications and occupational health. For those who adopt this approach, it will help to ensure consistent and reasonable treatment, thereby reducing the risk of claims.

Protocols are particularly desirable for dealing with employees:

- who are under mandatory quarantine
- who have self-quarantined
- who have travelled to high risk destinations
- who appear to be at risk or are ill with COVID-19
- who are in vulnerable groups (e.g. over 70s)

Flexible working

Many of the world's governments provided guidance on social distancing that encouraged employees to work from home, where possible. Staff contracts may entitle the employer to require staff to work flexibly and in some jurisdictions this may be imposed in limited circumstances, even where there is no contractual right. Employers should, in any event, normally consult with staff before exercising their rights to require flexible working and should listen sympathetically if staff have personal reasons why they cannot work flexibly.

Key considerations:

- if the employer needs employees to work outside the terms of their existing contracts, then it may have to agree the flexible arrangements with the individual employee, or where applicable with a works council/recognised union/other employee representative body
- if consent is required but cannot be obtained, the employer should take legal advice before proceeding to implement changes
- employers need to be able to justify the need for flexible working and evidence it behaved reasonably and proportionately when implementing different working arrangements
- if the reason for flexibility is personal to the employee, in that the employee is at risk of having been infected, then the employer would usually have good grounds for requiring the employee to work from home, provided their enforced removal from the workplace lasts no longer than is necessary and they are provided with support

Staff who are unable or unwilling to attend work

Some staff may be able but unwilling to attend work, for example because they are concerned about contracting COVID-19 or due to childcare responsibilities with schools remaining closed or partially closed. **The UK's ACAS** guidance advises employers to listen to the reasons for their concerns and to try to find an agreed resolution. Where work can be undertaken from home, employers should consider how this might be achieved.

Unable / unwilling to work:

- employees may be site-based or unable to work due to caring for dependants – depending on local requirements, in these cases it may be possible to agree that time away is taken as holiday or unpaid leave, or there may be statutory pay leave and pay available
- employees concerned about contracting COVID-19 should have access to a communication point to ensure that their concerns can be discussed.
- employers may also be able to provide support and advice via an existing Employee Assistance Programme
- before taking action to address employees refusing to attend work due to risk of infection, employers should ensure that they have undertaken a risk assessment and have taken steps to mitigate any workplace risks which might cause employees concern, especially for any employees who are at increased risk
- employers should also ensure that they deal with requests to remain away from work in a proportionate, reasonable and consistent manner.

“Reasonable” requests:

Employees may be willing but unable to work because they are caring for dependants, schools are shut or their transport is disrupted. Employees in many countries will have a right to request a reasonable amount of unpaid time off work to deal with domestic emergencies. Staff may also request flexible working, in which case any relevant statutory procedures would need to be followed.

Pay entitlement

Whether salary should be paid is dependent on the reason for the non-attendance.

Sick Pay

Staff who cannot work because they have been infected with COVID-19 will normally be entitled to sick pay in the usual way, subject to local requirements and limits.

Carers

Pay for staff members unable to come to work due to caring responsibilities, for example where schools are closed or where they are caring for sick dependants, should be determined in accordance with local statutory requirements, **their employment contract and the employer's usual policy, ensuring that all** requests are treated in a reasonable and consistent manner.

Note that employees have a statutory right, in the UK, to take a reasonable amount of unpaid time off work to deal with domestic emergencies affecting their dependants, including unexpected disruption to arrangements for the care of their children.

Self-isolation

The position of staff absent from work due to self-isolation will often be determined by whether that self-isolation is has been expressly ordered (for example, individuals ordered to quarantine where displaying **symptoms or following travel**) or is the individual's own decision.

In the UK guidance on self-isolation is published by Public Health England, NHS National Services Scotland or Public Health Wales. That guidance makes clear that individuals should self-isolate where they have symptoms of COVID-19 or because someone in the household is displaying symptoms, or because they have a letter from the NHS or a GP telling them to stay at home for a least 12 weeks ("**shielding**"). Eligible employees in the UK are entitled to receive statutory sick pay from the first day of absence (normally the fourth day of absence) where the period of self-isolation started on or after 13 March 2020 or period of shielding started on or after 16 April 2020

Safe place to work

Employers are obliged to maintain a safe place of work and should consider taking appropriate steps to prevent staff who are infected (or who are likely to be infected) from coming into the workplace. See Health and Safety above.





Employers' liability

Employers' liability and risk mitigation

In most jurisdictions employers have a general responsibility to take care of their employees safety. Whilst the COVID-19 crisis may present a unique challenge to an employer's duty of care, it does not remove it or fundamentally alter it.

Although each government will have issued its own guidance in relation to understanding what steps firms should be taking to protect their staff against the spread of the virus, many of the fundamental concepts will be similar, although the details may differ. The guidance issued by each government will also change over time as the situation in each country develops. The key is to ensure that the regulations and government guidance in each jurisdiction is complied with consistently. There are some general steps that should be considered by way of a general approach across multiple jurisdictions. Things to consider in the context of each business include:

- a new COVID-specific risk assessment should form the basis of any measures implemented. How can the risk of transmission in the workplace be eliminated or at least reduced to the lowest reasonable level. In addition to a multi-jurisdictional assessment, specific assessments taking into account the local law and guidance will be necessary. A template for the local assessments may be helpful and achieve some consistency of approach over multiple jurisdictions
- special consideration should be given to particularly vulnerable groups – it may not be safe enough for them to return to work as early as others
- re-assess pre-COVID working models. Can some roles be done from home? Is more flexibility in terms of hours, location, job description necessary?
- employees who can work from home, should continue to do so
- adequate hand washing provision should be available - if possible, providing soap, water, hand sanitizer and tissues and encourage staff to use them
- avoid face-to-face meetings and use protective screens where possible
- keep canteens closed
- make regular announcements to remind staff and/or customers to follow social distancing advice and wash their hands regularly
- stagger arrival and departure times
- where it is possible to remain a safe distance apart, use floor markings to mark the distance, particularly in the most crowded areas
- where it is not possible to remain two metres apart, provide personal protective equipment to reduce risk

If an employer can implement and maintain these measures along with any specific local requirements then they will stand a good chance of establishing that they have discharged their duty of care to their staff.

Injury claims and COVID-19

In order to succeed in any injury claim the employee must show that his or her employer was in breach of the duty owed to them and that the breach caused the injury:

- normally an employee would have to show that he contracted the virus at work due to a breach of duty on the part of his employer

- this may present a real challenge – it is simply not possible to identify where the contact was made that actually caused the infection
- this difficulty means that the courts will probably adopt a different test that is used where a direct line of causation is impossible to prove in practice
- this test will vary in line with the local law applicable to the claim but technical legal difficulties of this nature are not likely to be allowed to stop claims being brought
- in any workplace where the guidelines have not been consistently enforced, and in the context of a disease that many people may have symptom free and unknowingly, although the test will vary in line with the local law applicable to the claim, technical legal difficulties of this nature are not likely to be allowed to stop claims being brought

Evidence collation

What the courts will want to know is what measures were put in place, whether those measures were adequate and whether they were consistently enforced.

Questions will include areas such as:

- could the work be done at home?
- was the risk assessment adequate?
- were appropriate and effective protective measures put in place?
- were the local guidelines and regulations complied with and imposed consistently?
- was the risk assessment updated as and when further guidance was issued?

Risk assessments need to be enforced and kept under constant review as the situation and government guidance changes.

Statements explaining, and justifying, the risk assessment process and risk control measures put in place will be helpful, as will be the minutes of meetings documenting health and safety decisions. These documents will be needed to defend any claims brought. Make sure that such documents are kept safely for an extended period of time as claims may be brought many years out from now. It is much easier to collate this evidence whilst the process of risk assessment and implementation of new working practices **is carried out than in 6 or 12 months' time.**

Vicarious liability

There will be instances where employers have put in place all reasonable measures, but a small number of employees fail or refuse to comply. In some jurisdictions an employer may be liable for the breaches of duty of its employees without any fault on its own part.

For example:

- if an employee ignores social distancing rules and one of the members of staff he gets too close to becomes sick, an employer can be vicariously liable
- this is true even if markers are on the floor, signs erected and every opportunity to remind employees of the rules, has been made

The best course of action for an employer to take is to make it as difficult as possible for employees to go against the measures which have been put in place. If a member of staff is careless in complying with the risk assessment then, depending upon the level of breach, employees should be warned, sent home or in some instances dismissed entirely. It should be treated in the same way as any other health and safety **breach under the firm's disciplinary procedure.**

Claims and damages

It is important to remember that there remain many unknowns surrounding COVID-19. For instance, we do not yet know if there will be any long-term residual symptoms which may affect those who have contracted it or how prevalent such long-term issues will be within the population.

We anticipate that for the majority of COVID-19 claims, it will involve minor symptoms resulting in a few weeks bed rest. These will be akin to minor whiplash or holiday food poisoning claims, attracting limited damages. These claims will present a particular risk to large-scale employers such as national supermarkets, where large numbers of employees are coming into contact with the general public on a daily basis.

The total cost of many low value claims such as these will likely outweigh a much smaller number of high value claims. Nevertheless, one large claim for a smaller business that finds itself uninsured could prove disastrous. We expect:

- high value damages will arise where long recovery periods have prevented an employee returning to work in a previous capacity or at all, resulting in large future loss of earnings claims
- there is considerable potential for damages being increased with claims including allegations of serious Post Traumatic Stress Disorder. This will be where the physical symptoms have been such that claimants have understandably feared for their lives. Psychological injuries of this type can **affect a claimant's ability to work and care for dependants**
- at the top end of the scale, we will inevitably see fatality claims where the deceased had dependants relying on his or her income

Another category of claim employers should be prepared for, is from members of the infected employee's household. Given how contagious COVID-19 is, it is foreseeable that other members of the same household will also become ill, if the virus is brought into the home. If a claimant can establish that their employer breached their duty of care and caused the original infection, then there is a real risk that the **employer will be deemed liable for the infected family members' claims too**, providing that they are within the same household.

The key to avoiding claims will be to understand that the assessment and control of the risk presented by COVID-19 is not a "one time" activity. **Few employers will attract liability because they have not adequately identified the risks** – many will do so because they have failed to ensure that the control measures that they put in place, are consistently obeyed in the longer term.



Insurer indemnity – UK

Employers' liability insurance

In the UK most employers are required by law to insure against liability for injury or disease to their employees arising out of their employment.

Employers' liability insurance is designed to cover employers for most situations regarding their employees, and the terms of any policies which employers have in place should be reviewed:

- clarify with insurers what the position is under the policy in relation to COVID-19
- the process of reviewing renewals should start early
- consideration should be given to the wording of policies that provide cover up to a maximum total for a single incident – will each claim be counted as a separate incident or will the pandemic be considered as one event?

Employer's liability insurance is unlikely to be invalidated by a breach of the guidance - the insurance is there to provide cover where employers breach their duties. However, a wholesale disregard of the guidance is likely to attract the unwelcome attentions of the Health and Safety Executive.

Public liability insurance

In relation to Public liability (PL) insurance, there is more risk that the terms of these policies may not be wide enough to provide cover for COVID-19 related claims. All PL policies should be checked carefully now and clarification sought where necessary.





Data and privacy – EU



Screening measures and privacy

When considering screening measures such as temperature testing, health screening, contact-tracing and antibody tests, organisations need to understand the privacy implications of doing so and how to comply with applicable data protection rules. Data concerning health is a special category of personal data under the GDPR, and therefore is strictly protected.

Important to know:

- **capturing an identified individual's temperature on a testing device (even if the result is not recorded) as well as using that data for any purpose (e.g. making a decision not to allow entry to the individual) would likely be considered as "processing" data under GDPR**
- the temperature information would also likely be classed as special category personal data

Organisations that wish to carry out testing will need to consider whether they comply with the regulations first and foremost and, make a decision as to whether it is necessary and proportionate.

Data management and screening measures

Companies need to consider how screening measures are conducted so that personal data processing does not occur or is minimised. If personal data is necessarily going to be collected then a legal basis for that collection is required:

- **consent isn't** always available or the best option for this sort of personal data collection, particularly **in respect of employees' health data**
- consent can be withdrawn at any time, and if the individual does not have a genuine choice, consent may be invalid
- reliance on an argument that testing is in the substantial public interest may be more successful but this still could be challenged in certain cases
- clear communication, and fair processing notices, will need to be provided to visitors and anyone testing will need to carefully consider minimising data collected and its retention

Regulatory approaches

The UK's Information Commissioner's Office (ICO) has stated that it is there to help organisations and that it will adopt a pragmatic and proportionate approach with regard to data protection practices during the coronavirus crisis. It has reminded businesses that collection of special category personal data (such as health data) must be proportionate and necessary.

The ICO has also acknowledged that employers have an obligation to ensure the health and safety of employees, as well as a duty of care, and that data protection law doesn't prevent them from doing this.

Recent "Workplace testing – guidance for employers" emphasises that employers will need to consider their data protection responsibilities when testing staff upon their return to the office. Among other things, data protection impact assessments should be conducted, notices provided and processes put in place to ensure that individuals' rights can be exercised effectively. In addition, the data minimisation principle should be put into practice and organisations should explore whether they can achieve the desired result through less privacy intrusive means.

Over the course of April and May 2020, we have seen various commentary emerge from European governments and their data protection authorities – this has not always been consistently supportive – but will likely evolve and inform a collective view on the use of testing and other screening measures.



Property matters - Europe

Accessing places of work

Whilst no vaccine is widely available, new measures will need to be adopted for accessing places of work. Landlords and tenants will need to devise entrance protocols for their buildings to ensure compliance with social distancing measures. These may include:

- guidance as to how to access properties perhaps reducing congestion by having increased entry points to the workplace or staggering access admission times, or by implementing an entrance entry point and an exiting entry point (both with hand sanitation points)
- requirements to wear face-masks in common parts of buildings
- reducing maximum occupancy for lifts, providing hand sanitiser for the operation of lifts, and encouraging the use of stairs
- implementing meeting room protocols, corridor, lift and staircases protocols
- introducing one-way flow routes through buildings
- the installation of alternatives to touch-based security devices such as keypads
- the staggered use of facilities including: kitchens, cycle stores, lockers and showers
- testing employees and guests entering buildings including temperature testing (although it is worth noting that this will not be permitted in some jurisdictions and for all there are data privacy issues to consider)

Steps will need to be taken to bring buildings back to operational level again. Landlords, surveyors, building managers and facility managers will need to work together to devise solutions best suited to each building. Changes will need to be implemented quickly, with their potential legal ramifications examined and planned for now.

Building regulations

The rules and regulations stating how a building/estate should run, and how occupiers can use its common parts, will need to be reviewed and probably varied to allow landlords to enforce the new post-lockdown, socially-distanced rules.

Landlords and tenants should review their letting documents to check whether any approval or consultation is needed, or other barrier negotiated to change the regulations. Eversheds Sutherland can help with this process and has the Artificial Intelligence tools to analyse portfolios of documents cost effectively.

Alterations required to implement social distancing measures

To make any necessary alterations to the common parts of a building, or an estate, to implement new ways of working, landlords will have to review the letting documents to check if consent is required from tenants or any superior landlord; and, if so, whether further documentation is required before works are carried-out.

Many tenants will also need to implement their own rules for social-distancing, which may require works to be carried-out to their spaces, including the removal or installation of new partitioning and protective areas for guests to offices. Letting documents will need to be reviewed to see if consent is needed from their landlord or any superior landlord for these alterations.

Common areas and service charges

Landlords are not always solely responsible for all the common areas in a building or an estate. For example, sometimes the toilets on a particular floor are demised to the tenants of that floor and plant within the demise might be the responsibility of the tenant to maintain. Landlord and tenants need to review their letting documents to make sure they understand their responsibilities.

Occupiers in a building, or estate, are usually responsible for a fair and reasonable proportion of the services that the landlord provides via the service charge regime. The parties will need to review the service charge provisions in any letting documents to understand the contributions that they will be required to make to any COVID-19 related alterations to the building.

Landlords will need to be wary of service charge caps, because these new post-lockdown costs will probably be in addition to the usual annual costs incurred for a building or an estate.



Product checklists

Checklist

- estimate sales
- market analysis
- _____
- _____
- _____

Health and Safety: business restoration planning checklist

 COVID-19 risks	
Risk assessment	COVID-19 control measures, social distancing plan, consider symptom testing (and the management of personal data), consider a specific enclosed room to isolate any person displaying symptoms
Health	Guidance and instruction on COVID-19 management and notification of symptoms
Hand washing facilities	Increase facilities and frequency of washing
Contingency plan	Consideration for a second wave of COVID-19
Cleaning procedures	Increase frequency and intensity of cleaning operations, introduce pre-use clean, post-use clean of workstations, equipment, machinery, cabs of vehicles and regular touch points (rails, buttons), provision of additional cleaning and disinfection facilities, consider the use of single-use items in kitchens, regular housekeeping in bathroom and kitchens
PPE	Is this required? Would it alleviate workforce concerns? Disposable masks, gloves, aprons
Ventilation	Open windows in premises, cabs
 SMS & SSoW	
RA and SSoW	Revisit risk management documentation to implement necessary revisions, communication and implementation, ensure effective change management strategy
PPE and equipment	Consider additional PPE and installation of equipment - plexiglass barriers, personal hand sanitiser, gloves, overalls (change of clothes) if required, disable touch screens, remove high-touch equipment (white boards, remote controllers), institute a clear desk policy, create designated storage areas for personal items, encourage workforce to use own stationary and equipment
DSE	Revisit DSE workstation self-assessments for an increased workforce working from home, consider if reasonable adjustments are required
Cohorting	Consider cohorting to reduce number of teams and limit social interaction (teams, alternate working weeks, staggered arrival and departure times) and implement a handover process where required
Lone working	Consider policy and guidance where lone working now arises, ensure a system for regular communication and reviews

Social distancing	Update working practices - stagger breaks, side by side working or facing away working arrangements, enforce building control measures with two metre markings and signage and one direction foot-traffic, queue management - entering and leaving premises, use stairs rather than lifts, discourage lift shares (different guidance in England, Wales and Scotland)
Supply chain	Communication with supply chain in relation to safe deliveries procedure – control the entry points, staggered delivery times, plexiglass shields where appropriate, cleaning of packages, additional hand washing facilities
Welfare	Regular engagement with the workforce, introduce stress and wellbeing initiatives, consider virtual work support, monitor working patterns to tailor guidance and assistance
RIDDOR	Awareness of RIDDOR, or equivalent legislation on safety reporting requirements in other jurisdictions - issue guidance where required

 <h2>Premises</h2>	
Security	Review of security and general condition of the premises and undertake remedial works prior to re-entry, check electrical equipment and appliances
Fire Life Safety	Review fire safety arrangements, inspect firefighting equipment and life safety systems ensure quota of first aiders and fire marshals on site,
Water Risks	Review legionella risk assessments, consider flushing regime and treatment
Statutory Inspections	Review equipment and machinery (engineers categorised as essential workers)
Site reorganisation	Re-design spaces and reduce capacity in lobby, reception and canteen areas, consider office furniture reconfigurations, convert shared spaces and meeting rooms to single capacity, reduce the number of printers/copiers

 <h2>People</h2>	
Consultation, guidance and instruction	Develop and execute a comprehensive return to work plan, communication on COVID-19 control measures and ongoing support to mitigate workforce anxiety – consider a centralised Q&A platform, modifications to SMS and SSoW, regular updates on evolving government and PHE guidance, engage workforce in the back-to-work plan, ensure leadership alignment on re-entry, manage employee expectations consider the introduction or update to policies on home working, travel (to include “commuting” whether via public transport or employer provided/sponsored vehicles (vans, coaches etc)), sickness, health screening and reporting, data privacy and information security (home working risks)
Training	COVID-19 measures, refresher training, PPE guidance, changes in SSoW and re-skill training

Employers' checklist: reopening workplaces

[\(global guide available here\)](#)

Planning Allow sufficient time for careful advance planning, including any consultation with representatives, before fixing a return to work schedule

Be flexible – organisations should prepare to change approach to maintain safe operations reflecting a fast-moving and evolving situation

Consider measures which may be necessary to make the business resilient in case of a further lockdown

Be led by the local government guidance when published and take advice on local employment law requirements

Risk assessment Revise assessments of the likely COVID-19 risks to employees by returning to work

Devise measures to mitigate the identified risks

Pay attention to the particular needs of high-risk and vulnerable employees, those living with individuals in such categories and consider discrimination risks in all decision-making

Obtain a copy of the local **government's guidance and follow it, consistently**

Collaboration & communication Consider any local requirements to consult on any return to work measures, including any screening measures

Take all possible steps to inform employees of the measures taken to reduce risks arising from COVID-19

Protocols Put in place a Health & Safety COVID-19 return to work protocol/policy, reflecting risk assessments and measures

Ensure that managers are fully briefed and able to respond appropriately to staff concerns

Adapt disciplinary and grievance policies to deal with COVID-19 specific issues such as failures to comply with social distancing

Consider requiring all employees returning to work to confirm they have understood and will abide by new workplace protection rules (e.g. on screening, social distancing, hygiene practices and self-reporting illness)

Establish anonymous reporting for workers to report unsafe practices and be prepared to address any such reports rapidly

Ensure a senior team keeps up to date with government guidance and changes to it. Re-assess risk and protocols as guidance changes

Working arrangements To the extent that the measures necessitate changes in working arrangements, audit employee contracts and policies to determine if the changes can be **introduced without the need to change employees' terms of employment**

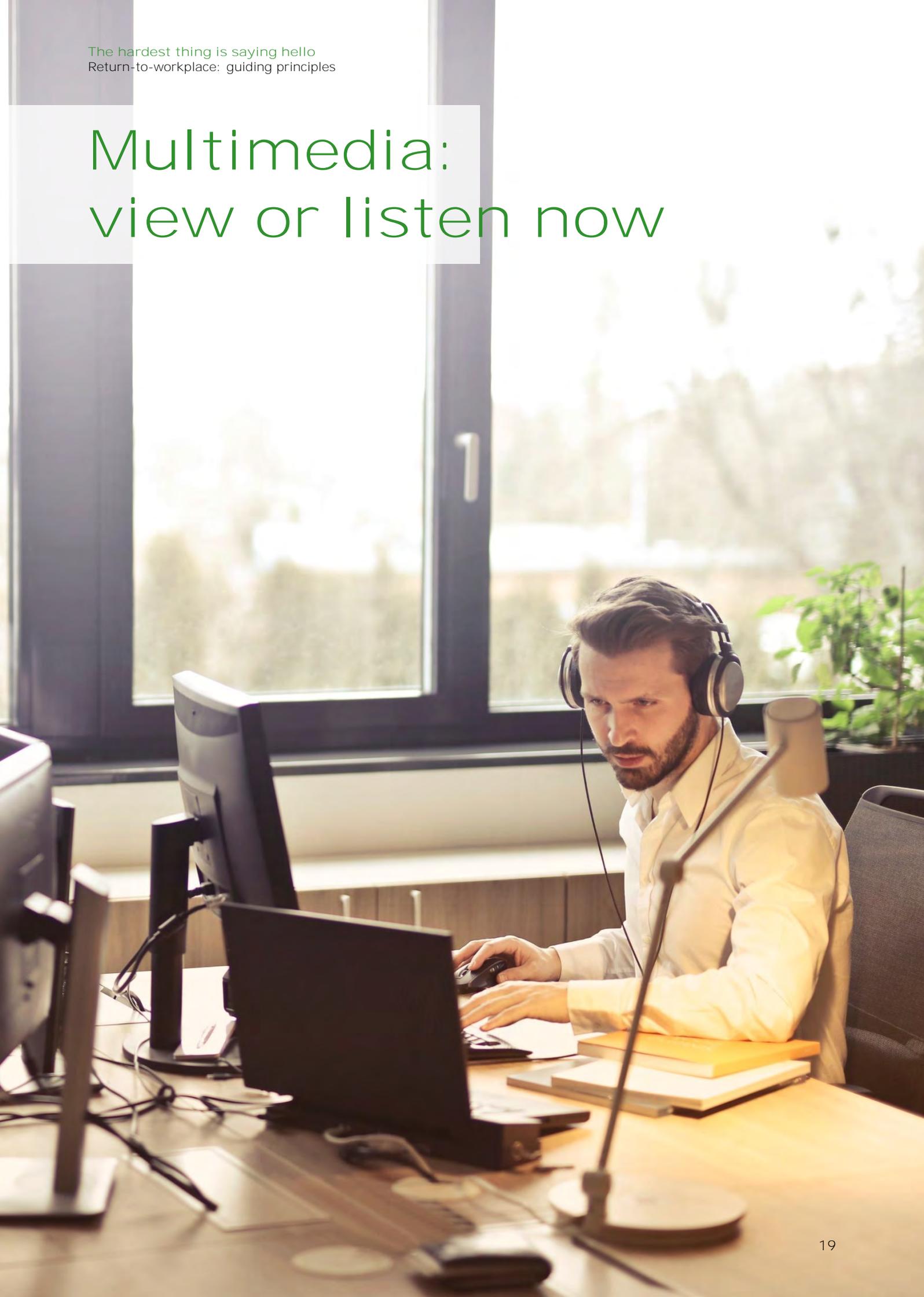
Consider a sustainable policy for staff who are continuing to work at home and/or are high-risk or otherwise vulnerable and ensure that it is applied consistently, fairly and reasonably

Data privacy **Under data protection law, information about an individual's health is a 'special category' of personal data which may only be processed in limited circumstances**

The processing of this data will require a lawful basis. Appropriate privacy notice information (for instance what and how it will be used and with whom it will be shared – as strictly necessary) should be made provided to staff and employers should ensure that the processing is necessary and appropriate for the stated purpose and is carried out in a proportionate manner. Maintaining the security of the personal data will be fundamental

Take advice on maintaining employee confidentiality and privacy when instituting COVID-19 infection control and screening measures

Multimedia: view or listen now





Multimedia resources

Health & Safety podcast series

Guidance from our Chambers and Partners Band 1 team.

Series includes: Guidance on how viruses are spread

[Listen now](#)

Employment global update

Guidance from our Chambers and Partners Band 1 (National leaders) team.

Get a country-by-country overview of employment and labour law

[Global update](#)

Listen to our Return to Work webinar – France

[How to prepare for returning employees](#)

UK Beyond Lockdown series:

[Reopening workplaces webinar recording](#)

[Reopening workplaces: returning to work safety - briefing](#)

[Redundancies in a virtual world - UK briefing](#)

Global employers' podcast series

[Avoiding chaos for global employers – UAE](#)

[Avoiding chaos for global employers – Italy](#)

[Avoiding chaos for global employers - Sweden](#)

[Avoiding chaos for global employers – Kingdom of Saudi Arabia](#)

[Avoiding chaos for global employers – Hong Kong and mainland China](#)

Pensions podcast series

Guidance from our Chambers and Partners Band 1 team.

Understand what pension plan trustees and employers/sponsors should be doing to manage their risks in the UK.

[Pensions and COVID-19 UK series](#)

The hardest thing is saying hello
Return-to-workplace: guiding principles

Contact a lawyer





Contact us for expert advice

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