

COVID-19 CRISIS LEADERSHIP FRAMEWORK AND BACK-TO-WORK INDEX

Goal: Provide standardized policies, procedures, standards, and recommendations that can be implemented across facilities worldwide and readily adapted to local conditions. Create durable systems to address concerns and mitigate the effects of the virus and its economic impact on business operations. The following are examples for consideration.

OFFICES AND OTHER FACILITIES

REOPENING GUIDANCE

- Provide all personnel, clients, and guests with assurances that the spaces are clean and safe and minimize risk of infection while complying with all legal requirements and relevant guidance.
- Navigate and implement often-competing federal, state, and local mandates and guidance on reopening offices and other spaces.
- Be a thought leader for clients/customers and other community members by providing pragmatic approaches to reopening.

GLOBAL AND LOCAL CRISIS RESPONSE TEAMS

- Establish COVID-19 Crisis Response Teams at the international, national, state, and individual office levels.
- Teams should span all professionals and staff across operations, communications, HR, etc.
- Use teams to communicate policies throughout the organization and to raise concerns upwards.

ESTABLISH HYGIENIC AND DISTANCED SPACES

- Establish protocols for additional office cleaning and sterilization of publicly used spaces, such as conference rooms, restrooms, reception areas, cafeterias, gyms, elevators, etc.
- Establish protocols for clients and guests that enter offices and other facilities, including temperature checks, masks guidance, symptom questionnaires, handwashing stations, sterilization, and tracing.
- Establish protocols for and implement social distancing in the work place, including space between desks and personnel, operating procedures for split-team arrangements, and other considerations.
- Review HVAC, sewage, and drainage systems for potential virus-contamination hot spots, and eliminate or mitigate those hot spots.
- Consider changes to any workplace-provided transportation and policies surrounding public transport and ride sharing.

RETHINK PHYSICAL LOCATIONS

- Revisit real estate needs given remote working and other changes to the work environment.
- Review existing leases and negotiate new lease terms.
- Consider rethinking and restructuring work-from-home policies.
- Establish hoteling and hot-desking policies to expand social distancing and decrease real estate needs.

MAKE REINFECTION/REBOUND PLANS

- Create and define tiered employee-and-customer-protection response plans based on risk considerations (e.g. if an employee was in contact with an infected person, an employee's family member is infected, or an employee or multiple employees are infected).
- Create cleaning and hygiene policies based on that tiered system, as well as employee and customer safety policies.
- Define baselines for multiple start-up and shut-down scenarios if shelter-in-place laws return.
- Invest in business-continuity and crisis-response planning for multiple start-up/shut-down phases.
- Account for employee, partner, vendor, and customer health, profit-and-loss metrics, reputational considerations, etc.

PEOPLE

ESTABLISH RETURN-TO-WORK GUIDANCE

- Know what you can and will require of your employees under all legal requirements.
- Consider limits on staff by age or health categories (keeping in mind ethical and legal employment and other considerations) and on numbers of staff.
- How to assess those who will return, want to return, do not want to return.
- Consider new protocols for in-person meetings and travel.

SAFEGUARD THE SAFETY AND WELLNESS OF EMPLOYEES

- Understand obligations and legal and practical limitations on screening, testing, and contact tracing.
- Consider what outside expertise might be needed, such as expertise from medical professionals, nurses, epidemiologists, etc.
- Consider daily temperature tests and other screening and how to manage employee responses, including refusal.
- Acquire and distribute PPE, hand sanitizer, thermometers, and other items.
- Determine whether masks are legally required or should be required in the office or other workplace.
- Consider the use of apps for contact tracing.
- Anticipate non-conformity to vaccine use.
- How to navigate occupational health and safety regulatory considerations and privacy laws.

ADJUST TO COVID-19'S IMPACT ON TRADITIONAL EMPLOYMENT LAWS

- Discrimination and retaliation laws are still in place. Older/vulnerable individuals are at issue (in US, re: White House's "Opening Up America" guidance and various states' opening orders); navigating tensions between asking vulnerable individuals to stay home and other legal obligations.
- Consider "reasonable" accommodations for COVID-19 under the Americans with Disabilities Act ("ADA") and similar legislation, such as end dates and trial periods for reasonable accommodations.
- Consider coverage of old and new leave laws relating to COVID-19.
- Whistleblowers remain protected.

RESPECT PRIVACY CONCERNS OF EMPLOYEES

- Follow transparency and confidentiality requirements and expectations when collecting COVID-19 data.
- Continued screening, testing, contact tracing, and reporting to health authorities.
- Consider privacy implications in use of temperature screening and other biometric tools.
- Make COVID-19 contact tracing privacy compliant.
- Using immunity certificates and data protection.
- Establish procedures for responding to employee alerts or requests for information.
- Understand new applications of laws relating to private health and genetic information.

PLAN FOR WORKFORCE CHANGE

- Follow rules for layoffs, reductions in force.
- Onboarding formerly furloughed employees.
- Laying off employees due to decreases in demand.

ANTICIPATE COLLECTIVE BARGAINING

- Understand restrictions tied to having received federal or state aid.
- Know what constitutes protected activity.
- Be prepared for new demands related to COVID-19.

REVIEW WAGE AND HOUR ISSUES

- Need to reclassify workers?

BUSINESS OPERATIONS

CRISIS COMMUNICATIONS

- To the extent not already done, prepare internal and external crisis communications in case of other outbreaks, closures, clients in the news, employee concerns, and other issues.

REVIEW STRATEGIC PARTNERSHIPS

- Do they still make sense?
- Consider how to adjust to anticipate or react to supply chain reconfigurations (see below).

REVIEW CONTRACTUAL OBLIGATIONS

- Conduct a detailed review of all significant contracts to identify potential offensive and defensive contract strategies.
- Consider backing out of force majeure situations, how to handle contractual implications related to COVID-19 “exit” strategies.
- Examine insurance policies for future projects based on virus/pandemic, supply chain, and force majeure considerations.

ENSURE A HEALTHY SUPPLY CHAIN

- Review in detail any significant supply chain issues.
- Plan for surges and stoppages in supply chain needs.
- Consider need for on-shoring and near-shoring.
- Simplify supply chains and product lines where possible.
- Consider over-ordering necessary stock and early-ordering to use ocean freight to avoid increases in air-freight charges.
- Be prepared for “bull whip” supply chain delays and find ways to “fatten” lean supply chains.
- Consider whether valuation changes present opportunities for supply chain reconfiguration and transfer pricing planning.

ELECTRONIC TRANSACTIONS

- Consider ways to accelerate the move to digital transactions—if there is one thing the current crisis has made clear, it is the benefits of digitalization. From ecommerce to digitalization of B-to-B transactions and recordkeeping, to remain competitive businesses will have to accelerate the transition.
- Confirm that electronic transactions are supported with notices and consents needed to establish binding agreements and address “written disclosure” requirements.

CONDUCT A FINANCIAL HEALTH CHECK

- Develop a 12-month cash flow forecast and identify potential liquidity concerns.
- Review existing loan documents to identify any covenant or other breaches.
- Maintain an open line of communication with existing lenders, critical suppliers, and key customers.
- Continually monitor the financial health of suppliers, distributors, and customers.
- Consider the pros and cons of modifying payment schemes for customers who may be facing significant liquidity issues.
- Review existing credit lines and short-term and long-term liquidity options.

GOVERNMENT LOANS AND OTHER PROGRAMS

- Review implications and downstream effects of applying for, accepting, and using loan proceeds, including reputational risks.

RISK MANAGEMENT

ANTICIPATE POTENTIAL LITIGATION

- Consider and prepare for potential litigation arising out of shutdown (force majeure, contract breaches, employment litigation, etc.).
- Virus-exposure-liability issues (exposure by family members of employees, third parties, class action liability, etc.).

CYBERSECURITY

- Evaluate cybersecurity risk profile in light of changing workplace conditions and workforce arrangements.
- Recognize increased prevalence of COVID-19-related scams.
- Confirm reasonable and appropriate safeguards for any COVID-19 info-gathering efforts and tools.
- Consider the role of Chief Information Security Officers and Data Protection Officers in the context of COVID-19 measures.
- Consider new cybersecurity risks given expansion of telework and other policies.

GOVERNMENT RELATIONS

- Consider relationships with local, state, and national governments. How are you positioned? Are there relationships you wish you'd had at the start of the crisis or that you will need if there is a second wave?
- Given the current wave of legislation and other government actions, find opportunities to address legal and regulatory issues relevant to the organization.