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In this blog we consider: What are the immediate challenges facing businesses as a consequence of the impact of Covid-19? What measures have been announced in the UK to support consumers and SMEs during this period of economic disruption and what others are expected? How to protect your business?

What are the immediate challenges facing businesses as a consequence of the impact of Covid-19?

Three of the key challenges that businesses have highlighted are:

**Imports and exports**

Businesses that rely on supplies from countries or organisations that have restricted travel and the import and export of goods as a consequence of concerns about the spread of the Coronavirus could find themselves under increasing financial pressure as a consequence.

Whilst imports are now starting to flow out of China, it will take time for the supply chain to return to “normal”. Our colleagues in Asia have written advisory notes on the [legal implications of Covid-19 in China](#) and this morning released an update on [supply chain issues](#).

**Employees**

One of the biggest challenges faced by businesses is employee self-isolation and how that affects day to day operations. Do/should employees self-isolate? How can the business operate if staff have to work from home and/or are ill? Can working hours or practices be
changed to accommodate concerns? Our employment colleagues provide answers and practical advice to employers in this comprehensive Q&A.

Social distancing

The UK high street has seen a notable decrease in footfall as people decide to avoid public places. At the moment, this is individual choice, but if, as we have seen in Italy the Government imposes restrictions on movement the economic impact will be much worse.

Those sectors that are likely to be worst affected by “social distancing” are retail, sports and leisure. We have already seen the impact on travel after Fly-Be collapsed into administration, citing the adverse impact of Covid-19 as one of the reasons for its failure.

It is unlikely that the sole reason for its failure was the impact of the virus – the company had been under pressure for some time – but what its failure demonstrates is the vulnerability of a business that was already in distress prior to the outbreak of the virus. The impact of Covid-19 on such businesses could be the end of the road for many.

On the upside, in the UK at least, there has been some evidence of a surge in on-line buying but (for the moment) there are no restrictions on movement on people or goods.

This update sets out in more detail key legal considerations for businesses covering employment, supply chain issues, health and safety, communication, GDPR and the effect on contracts. Whilst focusing on issues from a UK perspective the points are relevant to businesses in most jurisdictions.

What measures have been announced in the UK to support consumers and SMEs during this period of economic disruption and what others are expected?

The UK Chancellor will announce measures in today’s Budget to support businesses in the short term. The measures are expected to include extending time to pay tax and business rate relief.

Co-ordinating efforts with the Chancellor’s announcements, the Bank of England announced earlier this morning a “timely and powerful package” to support consumers and SMEs including:

- a drop in interest rates from 0.75% to 0.25%; and
- a new term funding scheme

This package is aimed to alleviate the economic impact of Covid-19 by supporting cash flow, incentivising banks to lend to businesses by increasing the availability of short-term credit and working capital.

Nevertheless, should there be any concern about whether the business can survive, directors must take professional advice to ensure that they meet their obligations and duties as directors.

How to protect your business?

UK businesses are arguably be better placed to deal with the economic pressure that Covid-19 could bring having already had to consider how to prepare for a “worst case” in the lead up to Brexit.

Many will have already considered whether there are alternative suppliers in the event of
supply chain issues, have considered and stockpiled raw materials/goods and having done so are in a good place to move quickly if restrictions in the UK are enforced.

Many will have considered the impact of material disruption to their workforce in considering the immigration impact of a no-deal Brexit.

As a timely reminder, we set out below some of the key points that businesses should consider when planning how to tackle challenges presented by Covid-19:

**Government plans**

- What does the Government plan to do to delay/contain the virus? It is important to know what restrictions are in place or could be put in place in the short to medium future and consider, in light of the below, how those might impact on key business operations. For example, the UK Government is considering requiring all individuals displaying symptoms of a cough or cold to stay at home for a minimum of 7 days – how does that impact day to day operations?

- Find out what financial support or relief is available from the Government to support businesses struggling as a consequence of Coronavirus restrictions.

**Business plans and operations**

- Review and consider the financial health of the business. Know the financial strength of the business and understand the figures.

- How long can it survive if key supplies are restricted or employees cannot get to work? Can it survive a forced closure for 7 days, 14 days or even a month?

- Just understanding and thinking about how your business works from the bottom to the top and how restrictions on movement of people and goods impact at all levels will give you a greater understanding of how resilient your business if restrictions are imposed.

**Suppliers**

- Who are your suppliers and who are their suppliers? Are they or will they be impacted by global restrictions on travel and movement of goods and people? If yes, what does this mean for the business. Will supply just be delayed or cease all together?

- Does your business have one key supplier? What will happen if that supplier fails? Is there an alternative supplier? If yes, what are the costs implications and how quickly could they step into the breach if your current supplier cannot supply? Can or should you look to engage with them now?

- What stock/material does the business have and how long can it survive if supply and demand is reduced, delayed or stalled all together?

**Logistics and transport**

- How does your business receive and distribute goods? Will there be restrictions on transport that could delay or stop distribution.

**Customers/end users**

- Is there still demand for the goods and services which the business provides?
• Is there or could there be restrictions on businesses or individuals who buy the goods or services.

• Who is your end user/buyer? Even if the business can manufacture goods, what impact will restrictions on businesses and consumers have on demand? Can your end-buyer physically get to the shops to buy your product or can you get it to them?

• How reliant is the business on future bookings/orders? What if all future bookings are cancelled?

Financial support

• How much headroom does the business have? Will lenders agree that they won’t demand payment if the business breaches the terms of its facility? Will banks extend facilities or give additional time to pay?

• It is important to know what support your lender/financiers provide if cash and margins become tight. Speak to your bank or financier to find out what support they can or are willing to provide. Ensure dialogue is kept open and understand at what point there could be a financial pressure point.

Employees

• What will happen if, as predicted in the UK, 1 in 5 employees have to stay at home? Many employees can work remotely but other businesses (e.g. manufacturing businesses, trade) can only operate if employees are physically present. Can the business still function with a reduced number of staff?

• Are your employees required to travel, what if they can’t and remote working isn’t an option?

• If the Government requires all employees to stay at home for a period of time what impact will this have and how long can your business survive without its workforce before it becomes non-viable.

Contractual obligations

• What effect will any of the above have on the business’s ability to fulfil its contracts? Consider how or indeed can a business fulfil its contractual obligations. Can it work with its customers to ensure those obligations are met if the business is constrained by supply issues or its workforce is depleted. Will customers agree to extend time?

• What are the consequences if it breaches a contract or its suppliers breach their contracts? Whilst legally there might be a claim against a supplier for breach of contract (subject to whether it can rely on force majeure) that does not address the question of how a business can fulfil its own contractual obligations if its suppliers can’t supply.

• Consider the points we make above about finding an alternative supplier – is there one and at what costs?

• There will be an immediate economic impact if a business cannot supply. It won’t get paid. How will that impact liquidity and cash flow?

Records
Maintaining up to date records and producing short term cash flow forecasts will not only help inform business decisions and how well the business is coping, it will also help install confidence in funders that the business can continue.

The situation has caused unprecedented action and continues to change on a daily basis. There is likely to be a period of intensive and immediate pressure placed on all businesses and trying to manage the risk and challenges may well see businesses in all sectors face significant financial distress.

There is only so much a business can do, to mitigate the possible impact of the spread of the virus and if ultimately the economic and social impact of restrictions cause cash flow issues that cannot be managed, then directors must seek professional advice.

Keeping records of key decisions will help directors should – as we have seen in the case of FlyBe – the company not survive and they later have to justify why those decisions were made.

**Looking to the future**

Countries have to balance the risk to public health against the risk to its economy and the decision to impose restrictions will not be taken lightly, but even if the restrictions are short term business must also factor in how quickly trade will return to “normal” in future forecasting and cash requirements.

The impact on trade is likely to be felt for many months to come.

The UK Government has issued an action plan. The UK is currently in the “delay” phase but expect to move into the “containment” phase at some point. This may see “population distancing strategies (such as school closures, encouraging greater home working, [and] reducing the number of large-scale gatherings)”. Although the Government hopes to ensure that the country continues to run “as normally as possible” there is no doubt that there is likely to be significant economic distress.

The impact is likely to be immediate, requiring a rapid response to rapidly changing circumstances.

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