

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



AS WE LOOK TOWARD LIFE AFTER THE WORST OF THE COVID-19 CORONAVIRUS PANDEMIC HAS PASSED, BUSINESS RECOVERY WILL BE PARAMOUNT.

This includes assessing business operations, bringing employees back to work, and ensuring a safe workplace. Even if these steps are further in the future for some employers than others, the time to begin thinking about these issues is now, because with these next steps comes a whole new set of Human resources challenges:



GENERAL HR STRATEGY

What steps can we take to prepare for employees to return to the worksite?

Preparation and communication are of utmost importance as crises like COVID-19 are anxiety and stress ridden. Having a thorough plan in place to establish a safe and healthy workplace and sharing that plan provides peace of mind for your employees and their families. In addition, it establishes credibility for you, your function and your company as you will be organized, competent and prepared.

Some factors to consider include:

- **Structure:** Implement a structure to ensure a high degree of preparedness for every possible scenario to ensure a safe workplace and the ability to deliver products and services to your customers. This is especially important to ensure consistency within each worksite and across multiple worksites. Consider developing:
 - Strategy and response committees with clear roles and responsibilities which include members from key functions;
 - Decision-making matrices to address key decisions such as closure, travel, positive case response, who should be consulted and who is final decision-maker;
 - Protocols and procedures; and
 - Policies.
- **Communication/Education/Training:** Establish clear communications to employees and management about new processes and expectations for their return to work. This includes addressing:
 - Timing (before return to work, pre-shift, and during shift);
 - Signage posted at all points of entry and key locations to effectively share and remind employees of the new requirements;
 - Communications drafted and ready to go in the event of a positive COVID-19 case within the workplace; and
 - Business plans and impact.
- **Safe Workplace Protocols:** Establish processes to prevent potential infection in accordance with WHO/CDC/OSHA guidelines. This includes addressing:
 - Social distancing rules for work areas and common areas such as restrooms, employee entrances and exits, vending/food service, conference rooms, and break areas;
 - PPE and other mitigation measures if social distancing is not possible;

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



- Visitor, contractor and vendor access; and
- Positive case response and management.
- **Cleaning/Disinfection:** Create protocols including frequency of cleaning of work stations and common areas, increased sanitizing stations, inventory and restocking requirements, and disposal of PPE in accordance with WHO/CDC/OSHA guidelines. Besides routine cleaning and disinfection procedures, you should address deep cleaning and disinfection after a potential or confirmed exposure.
- **Healthy Workforce:** Implement daily health/risk screenings to confirm the health and exposure of employees and anyone entering the work site. This could include screening measures at home and at the workplace.

When employees trust that you are being honest and transparent in your communications, and that you are taking every step possible to ensure their safety, they will be more likely to return to work and perform their jobs as required. Frequent and strategic communications are a necessity until the fear of coronavirus is behind us.

What key stakeholders should we communicate with as we scale up to return to work?

This pandemic has shown that a robust communications strategy and action plan are more important than ever. During a crisis like this, people generally want to know how it affects them and their jobs, what they need to do at home and at work, and how the organization is impacted by and handling the crisis. Many organizations develop key messages, talking points and holding statements to be utilized for a number of different scenarios that may occur including return to work, response to positive COVID-19 cases, reduced operations, temporary closure, etc.

Determine your audience, their concerns, the avenues you will use to communicate with them, the frequency of communication and who will provide the communications. In addition, there are a number of key stakeholders to consider, both internally and externally:

- **Employees:** Your goal is to assure employees that you have a solid plan in place to maintain a safe workplace and a healthy workforce. Consider your communication to them in advance of their return to work, e.g., virtual town hall or webinars, and while at work. Key points will include date(s) to reopen/scale up operations, proactive measures to ensure a safe workplace, new protocols, pre-screening, etc. Keep your signage, procedures and messaging simple. Do not fear over communicating.
- **Management and supervisors:** Special attention should be given to preparing members of this team as they are on the front lines when responding to employees during this pandemic. Conduct advance training sessions for management and supervisors to prepare them on all new policies and protocols and how to respond to employees with questions or concerns. An emphasis on active listening, two-way communications, quickly identifying and resolving employee issues, and being proactive in checking in with employees are all good practices to ensure a positive employee relations environment in your organization. Once back to work, ensure timely updates are shared with them on an ongoing basis regarding impact to the

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



business, e.g., customers, supply chain issues, staffing status, positive cases within the workplace, policy and protocol changes, and FAQs.

- **Contractors, vendors and on-site visitors:** They will need to understand protocol for access to your workplace as well as new rules that impact them.
- **Suppliers and Customers:** Your start-up plan may need to be coordinated with your customers and suppliers. In some cases, discussions on risk mitigation, inventory management and capital may be necessary so you can prioritize accordingly.
- If you are a large employer, consider if pro-active outreach and periodic updates to community VIPs or the local health department would be helpful as your workforce returns *en masse* in the coming weeks.

How can we ensure engagement at the workplace in the new world of social distancing?

Some communication and recognition activities that were common before COVID-19, such as large employee meetings or company events such as picnics, can't take place now in the same manner as they were pre-pandemic. You will need to evaluate "cultural activities" that were in place, if they can occur with or without modification, if they should be eliminated for a period of time and how they might be replaced.

This is actually a great opportunity for engagement. Ask your employees which activities they value the most. If activities have to be eliminated or modified, get their input and ideas on what can be done instead. You can see which activities are truly valued by employees and how they can be modified or replaced with activities that have meaning to your team yet will still accomplish your communication and recognition goals. Of course, thorough communication to your employees during this process will help them recognize your efforts to maintain a safe and healthy workplace.

2

POLICIES AND BEST PRACTICES

What policies may be impacted or need to be changed due to the COVID-19 pandemic?

You will need to implement measures to ensure the health and safety of your employees but may also need to change other policies and practices to accommodate the new normal. A thorough analysis of existing policies should be undertaken to include adjustments made for recent legislation. Some of the policies may include:

- Attendance;
- Vacation/Paid Time Off;
- Remote work;
- Work hours, including start/stop time, breaks, lunch times, flexible hours, and staggered work hours;
- Timekeeping including clock in/out procedures;

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



- Leave policies including sick leave;
- Travel policies including business and personal travel; and
- Information technology and usage.

In addition, you may need to work closely with your IT/IS team as many of your changes in policies and the new local, state and federal laws may impact your HRIS system.

When returning employees to work, can we or should we issue new policies and handbooks?

Employers who are not otherwise limited by a collective bargaining agreement are certainly permitted to issue new policies or handbooks when returning employees to work. And many may decide this is a good opportunity to update policies, procedures and handbooks.

There are some issues to consider, however. If you modified policies by reducing benefits such as PTO, vacation, or holiday pay and you are uncertain whether or when you will return the benefits to pre-COVID-19 days, it may be more practical to wait to update and finalize your policies at a later date. If you intend to maintain the modified policies for a significant length of time, issuing a new handbook may be in order. If you made no changes but have not done a thorough review of your handbook in recent years, this may be an excellent time to update and re-issue your handbook to all returning employees and those who stayed working.

Our employees have been on furlough. When we call them back to work, do we need to treat everyone as a new hire?

Some state laws address this situation, but generally most employees returning from furlough or a temporary layoff do not need to “re-hired” in the traditional sense. If these employees stayed on your payroll, most employers can simply return the employee to their prior position at the same pay rate and benefit eligibility as when the employee left. You should document the return-to-work date using your normal personnel action form document. If there are any significant changes to wages and benefits for the returning employee, those changes should be communicated in writing.

If we terminated employees instead of laying them off or furloughing them, how do we go about re-hiring them? What should the application process include?

If you terminated employees and wish to re-employ them, the best practice would be to put the “applicant” through your company’s normal application screening process, even if you forego formal interviews. This should include an application, I-9 form (depending on the length of time the employee has been terminated) and the normal hiring paperwork. This process may also include criminal background and credit checks, drug tests, and post-offer/pre-employment physical exams.

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



Once you have re-hired the individual, you should require the incoming employees to execute all new hire paperwork, which may include a handbook acknowledgment, arbitration agreement, restrictive covenant agreements, to name a few.

Do we need to update our personnel files when our employees return?

Not necessarily. While the return-to-work period may be a good opportunity to review personnel files for completeness, your staff may not have the bandwidth to tackle a complete review. At a minimum, you may want to determine whether there are critical missing documents in the file, such as arbitration agreement, I-9 form, signed policies, etc. The returning employee should be asked to complete those upon return.

Another important check you should perform is to ensure that medical information, including workers' compensation documents return-to-work notes and any other documents which contain an employee's medical information are separated from the personnel file. Under the Americans with Disabilities Act and many state laws, employee medical information must be stored in separate confidential medical files.

We have not used arbitration agreements in the past. When we call employees back from furlough, should we ask them to sign an arbitration agreement?

Employers always need to carefully evaluate timing when implementing an arbitration program. Without thoughtful communication and explanation, employees can have negative reactions to an arbitration program. If, for your business and its particular circumstances, the ramp-up period within your company seems like the right time to implement arbitration, it would be a good time to roll out your program.

On this side of the curve, we see that our company's paid leave policies have been too generous. Our future financial circumstances are shaky. Can we change our paid leave policies?

Generally, employers may make a prospective change in the types of benefits they provide to employees absent a collective bargaining agreement. You should confirm whether state law imposes any specific requirements and should avoid the forfeiture of any pre-existing benefits prior to the layoff or furlough.

Are my required posters (including FFCRA) correctly placed in my workplace?

You are obligated to post numerous employment law related posters in locations throughout your facilities. Every employer covered by the Families First Coronavirus Response Act (FFCRA) must post in a conspicuous place on its premises a notice of the statute's requirements. You may satisfy this requirement by emailing or mailing the notice to its employees or posting it on the internal or external website.

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



3

REMOTE WORK CONSIDERATIONS

We see a lot of value in continuing our remote work plan (hiring flexibility, reduced rent, greater efficiency, morale, etc.). What do we need to keep in mind?

The COVID-19 pandemic has shown many employers the values and efficiencies associated with remote work. There are four main issues to evaluate or re-evaluate if your business will continue remote work practices: proper infrastructure, implementation, remote work plans and a comprehensive remote work policy.

First, assess or re-assess your technological capabilities. Did you implement sufficient security and privacy protocols to protect your business or do you need to retool?

Second, determine whether your remote workers had the equipment needed to get their jobs done. Can you ensure they will continue to have access to the proper equipment? Can you provide remote “help desk” assistance on a long-term basis?

Third, implement, re-implement, or even re-tool the work plan. Evaluate the effectiveness of your work assignment and communications system, attendance and timekeeping records, to name a few.

Finally, review your existing remote policy to determine whether it needs updating – or implement a remote work policy if you started the practice without one. A remote work policy needs to be adjusted to fit your business needs and your organization’s expectations for your workforce, including that you might prefer separate policies for exempt and non-exempt employees.

In a panic, we allowed remote work without a policy or procedure. Now that things have calmed down, should we be more formal about remote work?

You may have allowed remote work with no policy or prepared a policy specifically designed for the COVID-19 coronavirus outbreak. In either case, you should develop an appropriate standardized remote work plan that addresses your business needs for when the crisis is over.

We are ready to call our employees back to our worksite, but an employee has expressed a preference for working from home. What can we do?

Some employees may have a real preference for working from home, but you can refuse remote work so long as the employee is not seeking a reasonable accommodation under the Americans with Disabilities Act (ADA). If an accommodation is being requested, you should conduct an interactive process with the employee to determine whether an obligation exists to provide such or another accommodation.

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



4

BUSINESS CONTINUITY & CRISIS MANAGEMENT

What should we consider from a human resources standpoint to ensure there is continuity in critical businesses processes?

What would happen if your CEO, CFO, IT team, front-line supervisors or payroll coordinator tests positive for COVID-19 and cannot work? The COVID-19 pandemic has shown the importance of having a business continuity plan in place. If your organization does not have a plan in place, now is certainly the time to do so to ensure you are able to provide needed products and services to customers.

Be upfront with your employees about this activity and ask for their input so you have the best possible information and ideas on the table as you develop your plan. Identify essential processes in your operations. Then ensure those processes are thoroughly documented so they can be carried out by other individuals. Back-up employees should be identified and cross-trained on these processes including systems access required to perform the job. In the event key individuals are unavailable to work, a short-term and long-term succession plan should be adopted to provide stability in daily operations of the organization.

Now is the time to analyze and plan, understanding that those plans need to be flexible as circumstances evolve in the coming months.

What should we consider from a documentation standpoint during and after the pandemic?

In your H.R. career, you may have dealt with several crises. This pandemic has certainly presented us with challenges we probably never thought we would encounter. Documentation may not be at the forefront of our minds when we think about crisis management – but it should be.

Many organizations are experiencing turnover. When people leave, so does a significant amount of institutional knowledge. This knowledge may be very useful the next time, but you may no longer have access to it if someone is no longer an employee.

In addition, most crises have many components that are common. Why reinvent the wheel every time? By having an established starting point, you can focus on other critical matters that demand your attention. While it is still fresh on your mind, take a few hours to document. Consider maintaining any documents related to the following:

- **Your project plan.** Include key elements, dates and responsible parties identified.
- **Your logistical plan.** Where, when and how did you meet? What challenges did you face? How did your daily operations change?

BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers / HR Considerations



- **Technology and HR systems.** Were there any gaps in your information technology that need to be corrected? If you have multiple locations, did the technology work across the entire enterprise? What was the impact to your HRIS and other HR systems?
- **Policies and procedures.** Do you have a policy inventory? What policies were changed based on the crisis? What key decisions were made related to employees?
- **Communications.** Maintain a copy of the communications you sent to your employees and other key stakeholders. Were your communications effective? What gaps existed in your communications strategy? Are you planning to survey your employees to gauge their reaction to the way you managed this crisis?
- **Reflection.** How did you manage this crisis? What was employee morale throughout this crisis? What gaps existed in your preparation? Did you react quickly enough?

By taking time to document what happened you will create a road map for your future crisis planning, minimize company risks and improve the efficiency with which you manage the next major event.

What can we do from a care and compassion standpoint if an employee dies during this pandemic given new standards for social distancing?

Many employers have programs in place that are intended to show care and concern to employees and their family members when an employee passes away. These programs typically involve sending flowers to a funeral home, sending food to the home of the affected family, and ensuring management attend funeral events. You can show care and concern, as well as sympathy, in new ways that do not involve physical contact.

This includes considering how to handle benefits coordination, internal announcements to co-workers, determining how to recognize the death such as making a charitable contribution, internal activities such as observing a moment of silence or flying a flag at half-staff, external communications (if needed), alternate recognition if in-person services cannot be attended by company representatives and co-workers and the return of personal belongings left at work. A review of your current programs and planning will ensure your organization is prepared to compassionately manage these circumstances.

For support in preparing or enacting a return-to-work strategy post-COVID-19, or other HR needs during this time, please contact us at 859.286.1100 or FHRC@FoundationsHR.com.