

Looking Ahead

The leisure, hospitality, retail and automotive industries have been the most affected, meaning that as the roadmap to recovery moves ever closer to completion, with the correct government support, these are the industries with the biggest growth potential. Pinch points have been identified, though, with recruitment a concern. There has been an existing shortage of skilled workers within these industries caused by Brexit, and it is felt the pandemic has only amplified that.

Consumers have started to utilise non-essential retail now that it has reopened, hospitality is seeing success even though it is operating at reduced capacity and, despite some trepidation, stage-two openings for venues without outside space have seen a spike in indoor bookings post-17 May.

The vaccination roadmap has been a game-changer, but further clarification on the vaccine passport for international travel and large events will be needed to reduce uncertainty.

Resilience and Recovery

Anecdotal evidence suggests that there are funds available to continue lending to businesses but that there are likely to be more constraints on loans moving forward. Lending growth is forecast to slow to 7.1% according to research from the EY ITEM Club. However, the IMF expects the UK economy to grow by 5.3% in 2021 and by 5.1% in 2022, making it the fastest-growing G7 country at the end of the forecast period. In the West Midlands, the Greater Birmingham Chambers of Commerce Quarterly Business Report for Q1 2021 found that profitability and turnover projections are the highest we have seen in 12 months, with 58% of firms expecting to see an increase in turnover and 49% expecting to see an increase in profits over the next 12 months, meaning we are starting to see an uptick, but we are not yet completely returning to pre-pandemic levels.

What Can Businesses Do?

- Gain a clear understanding of the risks to your business
- Review debt recovery processes
- Review internal information on the activity of customers and suppliers, and look for “warning signs”
- Do not just focus on operations/inventory, but also review your supply chain (particularly if there are cross-border elements to the supply chain)

- Conduct an internal financial audit
- Review discretionary spending
- Review overheads and consider if flexible working could reduce them
- Consider capital investment plans

Workforces and Returning to the Workplace

Most companies will move towards a flexible working model going forward, with organisations considering their approach in three main ways: encouraging returners as soon as June; holding off until September; or no fixed date awaiting voluntary returns. In any event, office configuration will require careful consideration.

A recent business survey conducted by the Greater Birmingham Chambers of Commerce found that a key factor in employees’ reluctance to return to the workplace in the short term is a worry about using public transport. A number of suggestions to assist employers in providing reassurance to employees when needing to use trains and buses to come into the city include:

- Asking leaders or less-reluctant peers to produce video walkthroughs of how they use public transport to get to and from the office
- Suggesting a phased return or staggered start/finish times to allow employees to arrive at, and leave, the office at off-peak times to ensure their first experiences are not at rush hour

Vaccinations

COVID-19 vaccinations are not compulsory and the government has not put in place any legislation to address what employers can or cannot do. We, therefore, need to consider existing legislation and case law. Clearly, employers cannot force an employee to have a vaccination. However, if an employee refuses to be vaccinated on a request from an employer, they could potentially be dismissed for a failure to follow a reasonable management request. Communication is key! It is very important to talk to employees and not to apply a blanket approach across your employee population – ultimately, their reason for refusal will determine whether further action should be taken against them, i.e. whether dismissal is reasonable in all the circumstances.

Elements for consideration in determining the fairness of a dismissal, or whether there is a risk of a discrimination claim under the Equality Act 2010, include:

- Does that employee, by refusing to have a vaccine, pose a risk to colleagues and/or customers?
- Are there ways to mitigate the risk if the employee does not want the vaccination?
- If the employee previously performed duties in a workplace over the last 18 months without the vaccination, what has changed?
- What is the employee's reason for refusal?
- Consider the protected characteristics that could give rise to a discrimination claim:
 - **Disability** – Is there a medical reason as to why they do not want to be vaccinated?
 - **Philosophical belief** – Is it that they do not agree with vaccinations? It seems unlikely that this belief would warrant protection under the Equality Act, but employees should, in the first instance, be listened to in order to understand their concerns.
 - **Religious belief** – Does their religion mean that they cannot be vaccinated?
 - While one of the protected characteristics being present does not mean that an employer cannot dismiss, it does mean that an employer will need to be able to justify their decision objectively as to why the employee must be vaccinated.

Building Back Better

Over the last 12 to 18 months, there has been a huge increase in attention on environmental, social and governance (ESG) issues. This has been a key focus for government policy – we have seen legal commitments to net-zero, and this is being distilled down to consideration at a corporate level. More companies are looking at their carbon footprint and sustainability credentials in more detail. It will be interesting to see changes in business travel as we return to our offices and workplaces more regularly, potentially seeing less business travel, whether commuting or for meetings. One environmental benefit of the lockdown was the fall in emissions within city centres due to fewer employees commuting to their workplace, but it is not clear if that will be a sustained change.

Although there is a lack of standardisation in the measurement of business carbon emissions, there are many well-known voluntary standards, and the United Nations 17 Global Sustainable Development Goals are widely recognised across the world. However, the current variants in benchmarks can make it difficult to compare the sustainability performance of different companies.

Regional Growth

Overall, the near future looks bright for the Midlands, with leading global investment bank Goldman Sachs opening an office in the city centre, and the forthcoming launch of the Commonwealth Games 2022 and HS2 infrastructure will stimulate growth in the region. We hope to be able to talk more about this regional growth at the next in our series of "Staying Connected" events taking place in early September 2021 (who knows, it may even be in person!), so please save the date and look out for the invitation that will reach your inbox soon.

Key Contacts

Nicola Smith

Director
Environmental, Safety & Health
T +44 121 222 3230
M +44 777 172 6555
E nicola.smith@squirepb.com

Anita Lloyd

Director
Environmental, Safety & Health
T +44 121 222 3504
M +44 754 593 5764
E anita.lloyd@squirepb.com

Oliver Ward-Jones

Senior Associate
Restructuring & Insolvency
T +44 121 222 3510
M +44 772 006 4999
E oliver.ward-jones@squirepb.com

Sarah Wilkinson

Senior Associate
Labour & Employment
T +44 121 222 3328
M +44 771 230 4901
E sarah.wilkinson@squirepb.com