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Returning to the workplace during times of COVID-19: Where do Boards come in?

The way back to normality

Working during the Corona lockdown was challenging. And it remains so, despite the fact that further governmental deconfinement measures have been paving the way to more normality since 6 and, most recently, 19 June 2020. More businesses and institutions have reopened, (spontaneous) meetings of over 30 people as well as events for up to 1000 people are permitted again and minimum distance for social distancing was reduced to one and a half meters. The recommendation to work from home has also been scrapped, which is why most employees are starting to return to the workplace now at the latest.

On their slow but steady journey back to (a new?) normality, our customers around the world are concerned with how to plan, communicate and bring hundreds of thousands of employees back to the workplace, with new policies and principles to maintain the health of both employees and the company. As a result, returning to the workplace is fraught with questions, not only for the returning employees but also for employers and their Board.

How should organizations transition out of remote working back to the workplace, while ensuring that security and hygiene measures ordered by the health authorities can be upheld, employee wellbeing maintained and business and operations continuity safeguarded? What aspects does a company have to observe if it had sent its employees into a reduced hours regime?

Employers have a duty of care towards their employees and, thus, are legally obliged to take all of the appropriate measures necessary to safeguard their employees' health and wellbeing. And last but not least, every organization should ask itself whether it is expedient to just go back to business as usual. It is an open secret that crises provide opportunities to change and innovate, and this social disruption has been especially good at showing where companies are lacking.

The Board's role

Since employers are responsible for their employees' health, safety and wellbeing up to a certain degree, employers should establish a return-to-workplace plan that takes into consideration measures preventing disease transmission. This plan also has to comply with applicable government regulations.

Employers have to:
- ensure a safe working environment
- instruct employees to comply with security and hygiene measures (e.g. washing hands, disinfecting workspaces and devices, maintaining social distancing, wearing masks if social distancing cannot be observed, etc.)
- inform/remind employees of such measures repeatedly (e.g. by email)
- remind employees to stay at home if they suspect exposure to or discover symptoms of an infection

While all of these pressing tasks are primarily in the responsibility of Management, essentially the mandatory oversight duties remain with the Board. This means that the Board must make sure it oversees and understands the challenges Management is facing. Ideally, the Board will act as a sparring partner to the executives, making sure they ask the right questions, have the right focus to efficiently and successfully deal with the most pressing aspects of matters and do not ever lose their holistic view, which is crucial to position the business in such a way that it not only survives but emerges from the crisis stronger.

Thus, the Board is obliged to make sure they get the information they need to understand, challenge and, ultimately, guide Management's return-to-work strategy. The Board should make sure that the strategy is agile and flexible enough to address changing conditions and different stakeholder needs and that any corporate communication, internal as well as external, is clear and comprehensive so as to create trust and drive the desired culture.

Here is a non-exhaustive list of the most pressing questions the Board should discuss with the management:

Do our employees need to return to the workplace?
Although infection and death rates in Europe are decreasing, the Coronavirus has not been eradicated. It is therefore likely to stay a menace until a certain level of herd immunity has been achieved or a vaccine is found. The return of the workforce to the workplace will most likely increase the risk of infection due to the movement and interaction of populations that until now have largely been confined to their homes.

Currently, and despite the gradual easing of the measures by the Swiss Federal Council, including the withdrawal of the official working-from-home recommendation, it is still recommendable to keep the number of social contacts to a controllable amount. Employers have to understand what they want to achieve and what to expect when allowing employees or groups of employees to return to the workplace. In this regard, a risk/benefit analysis of business or operations should be made before considering a return. For this, it is important to get employee buy-in, so the management must lead with empathy and demonstrate an understanding for the diverse needs of their employees.

We have compiled a list of questions Boards should think about carefully when reviewing or challenging a return-to-work plan (see box).

What about employees who are especially vulnerable?
On 19 June 2020 the government decided to abolish the requirements for the protection of employees who are especially vulnerable. They may therefore basically no longer claim to be put on paid leave in the event that they refuse to return to their workplace. However, because employers have the duty of care, their organizations must still take measures to protect, in particular, persons clinically at high risk. Where this is reasonable, it therefore makes more sense to allow such persons to remain working from home and to make sure that they are properly equipped in terms organizational and technical aspects.

If working from home is impossible because of the type of work engaged in, the workplace and processes must be adapted to comply with hygiene requirements. In the event that the employer is unable to meet such requirements or that employees at especially high risk refuse to return to their workplace, and working from home is not possible, employers must put the affected individuals on paid leave. In this case, the employee must provide a personal declaration to that effect and the employer may request a medical certificate confirming the employee's condition.

An opportunity to drive change?

The COVID-19 crisis has presented many challenges on all levels, disrupting business as usual, but also inspiring quick reactions and innovative ideas of working together. These extraordinary times will surely have left their mark as we reconsider our current work models and redefine the way we work, create and interact with one another.

It is also an opportunity for the Board to take advantage of the momentum and ask where the company can do better and create lasting changes. Here are a few questions the Board may raise in this context:

- Did we experience the required/desired level of commitment and loyalty from our employees during the lockdown? If not, what does that mean for our culture and leadership style? How can we improve?
- Have we discovered / experienced new ways of working that are viable for the future
- Are we aware of the impact that working from home has had on (our expectations of) efficiency, culture and corporate identity?
- Have we identified areas / jobs that are no longer needed or that we need to create?
- Do we have to adjust and/or accelerate our digital strategy?
- Do our business plans reflect the full potential of technology to improve our performance?
- Will the possibility of home office (and similar flexible working arrangements) become a key element in the war for talent or even an industry standard?
- Do we really still need the full workplace space we are currently renting? Have we identified other saving potential (e.g. can we adjust expense policies in view of increased home office)?

- Did the lockdown reveal processes customary in the past that are no longer necessary (for example, maybe not as many meetings are necessary to get the work done)?
- Can we develop more inclusive hiring and employment methods?
- Do virtual meeting platforms allow us to recruit in other (foreign) markets?
- Have we learnt our lessons from the crisis and are we prepared to (re-)act faster and better in case of another crisis?

How can Boards support Management?

For executives, the Corona crisis, ie its management and overcoming it, has been incredibly disruptive. Not only that, it has also brought with it previously almost unimaginable challenges, incredible pressure and high expectations from all stakeholders.

Thus, as simple as it may sound, one of the key task of the Board when overseeing the return to normalcy is to ask themselves how it can best support Management. The most straightforward response to this question is probably by empathically standing by Management's side so as to empower it to successfully lead the business and its employees. We have compiled a list of questions that will help Boards challenge Management in a productive manner, thus truly bringing the company up to speed (see page 4).

Questions to think about before returning to business as usual

Return-to-workplace plan:

- Which employees/functions should be returning to their workplace and in which order?
- Which employees/functions can keep on working from home?
- Is a staggered return to work suitable for my organization?
- Over what period of time should the return-to-workplace plan be rolled out?
- How should we define split teams and their shifts (home office versus workplace)?
- When are all employees expected to return to their workplace?
- Which internal function should be consulted to review and validate the return-to-workplace plan?
- How should the return-to-workplace plan be communicated to employees?

Employee health and safety:

- What risks are employees exposed to when required to return to their workplace
  (close proximity to others at work, using public transport to get to work, etc.)?
  What means of transportation should commuters use (public transport versus private means)?
  What does this mean for infrastructure (parking)?
- Should commuting employees be encouraged to avoid using public transport entirely, or at least during peak times?
  Should we introduce flex time?
- Should we, the employer, check employees' temperatures before they are allowed to their workplace?
  If so, what happens to the data – where is it stored and who may access it?
- Can employees be requested to wear hygiene masks and/or gloves in the workplace, workplace or in certain defined
  areas? If so, should the employer provide such equipment?
- Should employees uphold social distancing when performing their work at the workplace?
- Should other spaces, such as conference rooms, focus rooms, learning labs, and break-out rooms be used
  as additional dedicated seating areas so everyone has sufficient space?
- How can we track where employees are seated if they do not have dedicated desks?
- Can employees be forced to attend internal and/or external meetings? If yes, what are the restrictions
  and safeguards to be put in place?
- How should we respond if an employee, his/her partner, roommate or family member tests positive for COVID-19?
- How should we respond if an employee is sick and/or presents symptoms consistent with COVID-19?
- Do we apply the required level of empathy and clarity when communicating all of this to our employees?
- How do we handle changing shifts so not too many persons encounter each other at close quarters?

Workplace or office cleaning and hygiene:

- What do we have to do in order to uphold the mandatory security and hygiene measures ordered by the health
  authorities at the workplace? What additional equipment and means should be put in place in order to meet the said
  mandatory security and hygiene measures?
- Is the workplace and/or workspace adapted for such measures?
- What are the costs of such measures?
- Should the measures be put into place by the employer or should third parties be involved? If third parties are to be
  involved, which ones?
- How often should the workplace or workplace be cleaned?
- What measures should be taken regarding contractors and cleaning staff accessing the workplace or workplace,
  and how should our requirements be communicated?
- What should be done if a desk or workstation has been used by an employee who has tested positive for COVID-19?
- How can we enforce hygiene rules for visitors, clients and others accessing the employer's premises?

Questions to think about before returning to business as usual (continued)

Home office:

- Can we ask employees to stay in home office? If yes, for how long and for which employees?
- Can employees continue working from home?
- Can certain roles or functions continue with home office?
- Can the employee be asked to split work between home office and the workplace?
- Are employees sufficiently well equipped to continue working from home?
- Does the employee have sufficient IT and internet connectivity support?
- Does the employer have to pay costs related to home office, or have to refund certain costs to the employee?
- Does the employee's personal situation enable him/her to continue working from home?
- What is the impact of home office on the employee's wellbeing (e.g. mental health)?

Interacting with others:

- How do we interact with our customers?
- Should we set up a protocol for our visiting vendors?
- What do we need to keep in mind as business travel starts up again?
- Can we force our employees to travel to certain places for business suspected to be high risk?
- How do we handle employees visiting high-risk areas on their vacation? Do we enforce quarantine? What does this mean for jobs for which home office is inappropriate?

Legal aspects:

- What do we have to do for staff working under a reduced hours regime?
- Who is responsible if staff catch Coronavirus at work?

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