

How businesses can survive and thrive during Coronavirus

COVID-19 Guide
April 2020





CONTENTS

- 3 **How businesses can survive and thrive during Coronavirus**
- 4 **Employment law - thriving in a time of change**
- 5 **Intellectual property and IT - how to use it to your advantage**
- 6 **Corporate and commercial law - good practices during Coronavirus conditions**
- 7 **Debt recovery - survival of the fittest**
- 8 **Real estate - where one door closes, another one opens**

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The Coronavirus pandemic means UK businesses are facing new and challenging conditions. In spite of the difficulties, there are things that businesses can do now to help them prepare for the return to normal conditions.

In this guide, experts from Stephens Scown's legal teams reveal key ways that employers and business owners can stabilise and strengthen their businesses during the current lockdown.

The advice given in this article is correct as of 17 April 2020. The situation with COVID-19 is developing rapidly, so please do check our [COVID-19 Insights Hub page](#) for the latest updates.



**COVID-19 Insights
Hub page**



EMPLOYMENT LAW – THRIVING IN A TIME OF CHANGE

Finances are understandably a key concern for employers just now, and many are considering furloughing workers or making them redundant. This is an anxious time for your people, with concerns about work, family and finances. What can you do to bring back and retain positivity among your workforce? Our employment team has some suggestions:

- *The most important thing is to act ethically. With so many legal unknowns, it is important to try to do the 'right thing' and be flexible when it comes to your people strategy. While it may feel right to reduce the bottom line, this could have significant negative impacts in the long run, affecting staff morale, employee retention and workplace culture.*
- *Thinking about your staff's wellbeing is another key area. Always give where you can and be transparent where you cannot. Help employees to avoid stress, anxiety and burn out by encouraging people to stay in touch, but also to step away from their laptops and take holiday. Allowing flexibility on working hours where possible can help employees to manage childcare arrangements.*
- *Encourage your staff (including those on furlough) to get involved in volunteering, so they use their time in a positive way. This will increase wellbeing, as well as skills and experiences. As an example, Stephens Scown allows all colleagues two paid hours a week to help vulnerable neighbours living around them. Just remember that employees who are furloughed cannot volunteer to work for you.*
- *Reward those who show their initiative during this time of change. If new opportunities open up to your business, you need agile, flexible and positive team members at your side to help make the most of this. Thanks (whether verbal or through other benefits) will reap great benefits.*



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INTELLECTUAL PROPERTY AND IT – HOW TO USE IT TO YOUR ADVANTAGE

The coronavirus pandemic creates many risks for businesses, but with change comes opportunity. Many businesses are finding that the barriers to digital solutions have disappeared overnight as necessity dictates that they look for new ways of working.

It is important that decisions made now help your business to not only survive in the short term, but also to thrive in the future. Many mistakes that businesses make by rushing into decisions can be easily avoided. Here are some top tips from our intellectual property & IT lawyers:

- *If your business is selling online, remember that consumers have strong protections. These include the right to return, in most circumstances, for a period of up to 54 weeks, even if products are not faulty. This creates a cash flow risk at a time when businesses are jumping to e-commerce precisely to avoid cash flow problems. It also means that consumers, who themselves may be facing cash flow issues, may be more likely to rely on these provisions. To ensure that you do not create further cash flow problems through trading online, ensure that your website is lawfully compliant and that your terms and conditions are up to date.*
- *Selling online increases your potential audience, so check that your trade mark registrations are up to date and that you are not infringing on somebody else's rights. For example, a trade mark which is sufficient for you to use in a certain geographic area might land you in hot water if it also registered in a different territory. Quick checks now will save problems later, and by making sure your own registrations are up to date you can ensure much more control of your online presence than would normally be the case.*
- *Your data protection and cyber security obligations remain in force. Many platforms and digital technologies that businesses are using to share information or provide services do not adequately protect the data subject's data. It's not just a question of security levels of the solutions being used, but also your interaction with your customer. It is well known that a business' reputation suffers significantly following a cyber security issue or a data breach, so make sure that you minimise the risks. This can be done by communicating with your customers, ensuring that any platforms you use are in agreement with them (for example, how you will use their data), and that third party platforms themselves will use that data to the same agreement.*
- *An increase in cyber crime attacks has been reported, which has been linked to the pandemic. Data breaches and successful cyber attacks are usually the result of human error, so ensuring that your teams are trained to spot suspicious activity has never been more important. As more employees are working from home, they have less ability to check whether communications are valid. They may also be less inclined to report breaches, which could cause you, as the employer, to fall foul of their duty to report the same. Make sure that your staff training and reporting culture are up to date.*
- *Businesses who are looking to manage their digital presence (which will help them thrive in the long term) may wish to use our free [IP MOT® service](#), which helps check the legal health of websites and provides points on any corrective action.*



IP MOT



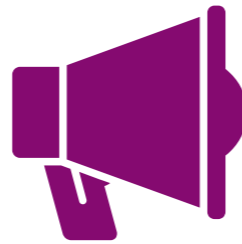
CORPORATE AND COMMERCIAL LAW - GOOD PRACTICES DURING CORONAVIRUS CONDITIONS

The fine print has never been more important. All businesses should take a good look at their existing contracts and conditions, as our corporate team explains:

- *Take this opportunity to review your terms and conditions. These are often overlooked when times are good, but can come under scrutiny when trading is tough. What do your terms say on key areas such as force majeure, [frustration and termination](#) and late payment, for example?*
- *Review your sales process to ensure that your terms and conditions are properly incorporated into any customer contract. Equally, check the terms used by your supplier for any onerous terms such as automatic renewals.*
- *Treat customers and suppliers fairly – significant reputational damage can come from acting unethically, even if this behaviour doesn't break any laws.*
- *Ensure good levels of corporate governance by reviewing your articles of association and any shareholders' agreements. Ensure that complete minutes of all board meetings are kept, with the reasons behind any difficult decisions properly set out.*
- *Plan ahead for when lockdown restrictions are lifted. Can you project what trading conditions will be like in your sector and what opportunities may arise? Make sure you have adequate resources to take advantage of any opportunities that may come up, and ensure that groundwork is done while trading conditions are quiet.*
- *The current climate has seen a sharp rise in businesses innovation, so consider which of these new practices and innovations you carry on once the lockdown lifts. Many businesses can emerge stronger from a period of crisis – look at changes that you can make to your business to increase its resilience and ability to thrive in the longer term.*



**Frustration and
termination**



DEBT RECOVERY - SURVIVAL OF THE FITTEST



Without doubt, many businesses are going to be under severe financial pressure and will want to be very sure that they are entitled to be paid. There are a number of golden rules to help with this:

- *Carry out proper credit checks of customers. If you are able to offer payment on account, or a discount for advance payment then escrow accounts can be used. At the very least, make sure you have carried out credit checks on current and future customers.*
- *Be clear of your contract terms and dates for payments. Consider getting your contracting documentation reviewed to ensure that it is as strong as possible. Spending a few hundred pounds now is much more sensible than losing a few thousand for want of decent documentation. If you are being asked to extend credit terms, try and improve your position by obtaining security (personal guarantees/ charge over property) or interest. At the very least, it will stick in the mind of any debtor and get you to the top of the queue.*
- *Push for payment. While there will be many businesses who 'can't pay', there will also others who 'won't pay'. Be clear which you are dealing with, and in respect of the latter ones ensure that you press hard for payment.*

We offer a specialist debt recovery and collection service, Debtlink, [click here](#) to find out more.

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Debtlink



REAL ESTATE - WHERE ONE DOOR CLOSES, ANOTHER ONE OPENS

This is a difficult time for all commercial landlords and tenants, and the retail, leisure and hospitality sectors have been hit particularly hard during the current global lockdown. As businesses adapt, our real estate team has heard of repurposing and pro-active measures that owners and occupiers are coming up with to keep premises functioning where possible during the current crisis. These efforts are helping to keep cashflows alive, and also assist in the global fight against the virus:

- *Best Western have opened a 100-room South London hotel for occupancy by NHS key workers. Hilton and Holiday Inn have also opened up some of their hotels to vulnerable groups and NHS staff. Some holiday parks also offering their accommodation to NHS key workers, so that they can continue to work and stay away and isolate themselves from their families.*
- *Pubs and restaurants might have repurposed their premises and adapted to provide a take away service.*
- *The next few months may see a continued lull in business, which makes it the perfect time to do the things you have been putting off until your properties were empty. As an example, consider installing more energy-efficient equipment, subject to this being possible within the current lockdown restrictions and any lease provisions.*
- *One of our clients has come up with a novel way to fill empty warehouse space on an out-of-town industrial estate. A tenant within their portfolio is a national furniture retailer, and was conscious that they had a lot of stock sat on container ships about to arrive in the UK following orders placed in the New Year. With not enough space to store the furniture at their existing premises, one phone call later from the client to the furniture retailer saw their problem solved with the client's recently vacated warehouse space, which created a clear solution to the furniture retailer's supply issue.*

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