

# Business Continuity and Covid-19: The Operational Risks



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The magnitude of the covid-19 crisis is encouraging businesses to re-evaluate their operational risk framework.

History has shown us that cataclysmic events do happen. Putting technology at the vanguard has, however, changed the ability of businesses to deal with existential threats and become a critical component of the business continuity toolkit.

## Technology is a game changer

Technology offers a level of resilience that would have been unthinkable if COVID-19 had struck, say, 30 years ago when the Internet was in its infancy. As the business world and governments reel from one COVID-19 crisis to another, many businesses are turning to technology – with people (employees, customers and suppliers) collaborating online over encrypted VPNs, holding virtual meetings and sending secure messages. In short, many businesses are finding they can continue operating and communicating from the kitchen tables and living rooms of their staff, and indeed with their customers and suppliers. A COVID-19 crisis in the absence of technology may have taken us to an even darker place.

## Business continuity: risks and opportunities

But technology can only help if businesses have robust, up-to-date business continuity plans that respond to ever-changing realities. Continuity plans must be mindful of the myriad operational issues that businesses need to consider these days and how such risks can be mitigated. This challenge is particularly acute when businesses operate supply chains on a just-in-time basis across multiple regions.

Before we look at some of these risks, business continuity need not only be about risk mitigation. Continuity planning can also look for opportunities. Although this might at first seem strange, periods of disruption create new realities, create new opportunities, create the need for businesses to re-purpose and provide solutions to changed circumstances. The role of business in society has traditionally been to provide solutions to societal needs, and periods of disruption create new needs.

Peter F Drucker, an influential management thinker, stressed that the ultimate responsibility of most businesses is to perform effectively: “Every act, every decision, every deliberation of management, has economic performance as its first dimension.” This means businesses best benefit society by performing optimally, but as Drucker was equally at pains to stress, to achieve optimal performance, management has to manage organisations' social impacts and social responsibilities. Giving the last word to Drucker: “[No] institution exists by itself and is an end in itself, [business] cannot be justified as being good for business. It can be justified only as being good for society.”

Most businesses will have a form of business continuity planning, and these plans need to consider the principal operational risks, which will cut across all business functions. Operational risks do not sit in isolation, and boards and management must therefore take steps to ensure these risks are integrated in the decision-making processes of all key business units. Only then will business risks be properly understood and contextualised from an operational risk perspective.

The nature of business continuity plans will vary according to the services being provided by companies. “Oven-ready continuity plans” do not exist: there is no “one size fits all” template that can be rolled out. However, there are certain commonalities, good practices and features that will be relevant across all businesses, such as regularly reviewing and updating plans on the occurrence of certain key events (e.g. major acquisitions or disposals).

## Business continuity and operational risks

Whenever a crisis strikes, certain areas of any business, particularly if carried on in multiple regions (for example, if suppliers are based overseas), may have important operational risks, including:

- Staff dealings (employees and contractors)

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- Supply chain (just-in-time sourcing concerns)
- Workplaces (e.g. hygiene and social distancing measures where health is an issue)
- Technology (e.g. providing equipment and protocols for staff working at home)
- Insurance (e.g. the scope and extent of business continuity insurance)
- Strategy (e.g. changes required to business models)
- Communications (e.g. the need to communicate regularly and effectively with stakeholders)
- Operational risk (e.g. physical damage, position of customers, financial and compliance)

### Staff dealings and associated risks

The multitude of risks that businesses have to consider when dealing with employees is emblematic of the myriad of complex operational issues that require attention when a global emergency arises.

All businesses need to prioritise the impact of a crisis event on their people, which to a significant extent means looking at local employment requirements. In a fast moving global situation as typified by COVID-19 where significant impact on staff is anticipated (e.g. worksite lockouts, short-time working, reorganisations and instructions to work from home), there will be a whole host of complex operational questions for companies and their advisers to consider, all of which will need to be jurisdiction specific.

The examples below give a flavour of the type and complexity of staff questions that many employers face:

- How to protect the health and safety of employees and contractors across regions, including any specific, granular local guidance?
- In what circumstances are benefits payable (e.g. payments to be made if staff are absent through illness or are otherwise unable to work), and how do these differ to employees across regions where staff are employed?
- Has advice been given by global institutions (e.g. WHO), and how, and to what extent, can this advice be implemented in the workplace?
- Is there an employee representative body (such as a works council), that you should coordinate with prior to changes to work practices being made?
- What are the rules for taking holidays during extended periods of absence (e.g. can unused holiday leave be carried forward beyond the normal period, can employees take sick leave during annual leave, etc.)?
- Is it preferable for staff to work from home; if so, do they have the right equipment and advice on how to use this including setting up 24 x 7 help centres for this purpose?

- If emails cannot be sent or accessed to and from employees, is there a backup system, and if employees need to be contacted by phone, are contact details up-to date?
- Will changes need to be made to the workplace (e.g. advanced hygiene practices); if so, is it safe for staff to remain during the period of change?

### Supply chains and associated risks

Supply chains can be one of the most complex areas of the business, with components for end products often being sourced from suppliers across multiple regions. As we are seeing with COVID-19, it's difficult for businesses to maintain continuity when there is a crisis of this magnitude, particularly if components are sourced on a just-in-time basis with products therefore not being stockpiled. Once the current crisis is over, it would not be surprising to see many businesses taking steps to radically shorten their critical supply chains, as well as building-in alternative providers should core products cease to be available from some regions. This would represent a sea change from commonly accepted business practices that are designed to reduce costs to a minimum, even if this means constructing complex supply chains. In the future, pricing considerations may cease to be the paramount objective, with supply chains being simplified even if doing so results in higher costs. Greater stockpiling of critical components may also be a feature, even if this brings attendant problems of future redundancy and of capital being tied-up. Many businesses will have to face up to difficult decisions on sustainability and pricing, and whether their business models need to be changed as a consequence. Additionally, contracts with major suppliers may need to be reviewed in light of changed operational realities. The key contractual issues may include: termination rights; force majeure clauses, and service level commitments.

There are also a number of issues around business insurance; for example, whether standard interruption insurance and contingent business interruption insurance will respond to the types of losses we are seeing at the moment. There are similar issues around cancellation insurance, and in particular whether standard exclusion clauses, which often specify diseases, will preclude claims from being made. What is clear is that businesses, if they have not already done so, will need to review their policies extremely carefully and consider taking advice from its internal and external advisors because the policy wording may be critical.

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