

CDC Job Protection Guidance: Webinar Questions

The following Q&A stems from a CDC webinar on investor approaches to job protection held on April 23rd, 2020. Answers to Q&A questions should be regarded as indicative and interim, and may be updated in the future.

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What options are there for upgrading skills during COVID-19, particularly where there is a lack of work or workers are temporarily inactive?

Skills retention is core to business continuity, and the (financial and opportunity) cost of losing and subsequently rebuilding 'human capital' needs to be factored into any cost containment approach.

For some companies, particularly those with higher-skilled workforces who are currently inactive, there may be a rationale to redeploy some or all workers – on full salary or an agreed rate – to full-time training, including online training. This may be more relevant to service industries and certain technical specialisms, where there is a known skills demand for an activity which is likely to be viable once recovery starts. A precursor to any skills development programme must include assessment of existing skills and skills gaps within the enterprise, based on existing competency frameworks, and specifying expected learning outcomes for participants. Consideration should be given to non-discriminatory eligibility criteria for access to training, as well as the most effective means of training delivery where restrictions on movement remain in place, specifically e-learning.

What are some ways to involve the human resources (HR) function in business continuity planning?

The crucial role of HR in a number of core business continuity planning workstreams should be reflected in the active participation of HR management in continuity planning:

- ✦ **Maintaining operations wherever possible:** establishing policies and procedures to enable flexible working arrangements including remote working, where possible, and complying with legal requirements to ensure the health and safety of staff.
- ✦ **Developing specific provisions relating to employees' health and caring responsibilities:** establishing and implementing policies and procedures tailored to the business relating to sick leave, care leave, balancing work and family responsibilities, as well as protocols on sending sick staff home and employees' right to refuse unsafe work.
- ✦ **Ensuring that management decision-makers are aware of current legal and policy frameworks:** many countries are modifying their national laws and policies to respond to the challenges presented by COVID-19, and HR is well positioned to ensure that their companies are aware of the changing legal landscape.
- ✦ **Maintaining contact with employees and reassuring staff:** regular and open communication is important, especially when there are likely to be rumours, contradictory information, and significant concerns among the workforce. Regular information can minimise confusion or misunderstanding, build trust, and provide much-needed reassurance to the workforce. It may be necessary to consider how information is communicated beyond the direct workforce in order to ensure that third party workers (e.g. contractor or agency workers) are apprised of material changes to their working status.
- ✦ **Input into labour cost components of strategic scenario planning, ensuring that relevant job protection options are integrated into discussions on cost containment and restructuring:** there are a range of alternatives to dismissals, which should be a last resort. Many of these alternatives can be low cost and can be introduced in a phased manner, starting with those measures which have the least negative impact on workers.

What are some options on reducing or containing wage costs?

Measures aimed at reducing or containing wage costs require careful consideration due to the direct impact on worker livelihoods. Further, access to state support schemes for businesses may require that companies maintain a minimum payroll. Government supports, such as

COVID-19 relief schemes, should therefore be carefully analysed so that companies can fully assess options and minimise impacts on workers.

Where approaches to maintain current worker income are not viable, any approach to payroll management needs to start with careful consideration of national law to ensure compliance with employment legislation, particularly as it relates to the need for employee consultation and consent to modifications of contractual terms. Pay reductions should be administered in a way that is non-discriminatory, fair, and transparent, and there are many examples of senior management taking pay cuts alongside the broader workforce. Where possible, workers and their representatives should be consulted on any proposed measures.

The [CDC Job Protection Guidance](#) provides a few examples of job protection responses that can serve to reduce wage costs without resorting to full retrenchment. These options include:

- ✦ **Modifications to working arrangements to make continued work possible with some reduction to worker income.** This could involve eliminating overtime, introducing short-time working, or ‘job-sharing’ arrangements where two or more part-time workers perform a role that is normally done by one full-time worker.
- ✦ **Measures to retain workers on books with partial wage payment or reductions to worker income.** Furloughs (i.e. temporary dismissals) might be enacted on a ‘rotating basis’ (e.g. two weeks on, two weeks off) in order to maintain some income. Workers might also be asked to take combinations of paid and unpaid leave.
- ✦ **Measures to retain workers on books with no income.** Where other options are not feasible, companies may choose to furlough workers or put workers on unpaid leave, while seeking to connect workers to other available forms of support, including but not limited to social security and social assistance programmes. Companies can also consider limited support measures such as payment of small food allowances or allowing workers to use company facilities (if it’s safe to do so).

How do we integrate worker voice into job protection planning?

Integrating worker voice through consultation should be considered by companies adopting job protection approaches, and consultation is highly advisable when companies take measures that might have a material impact on workers (e.g. reduction in pay or hours). In some cases, consulting with workers before taking certain measures will be required by national law (e.g. in the case of temporary layoffs, or modification of contractual terms of employment).

Consultations should be undertaken with health and safety considerations in mind, and companies should consider using technology (e.g. social media, SMS, phone conferencing), or smaller focus groups to minimise COVID-19 transmission risk.

Integrating worker voice through consultation can happen during different phases of job protection planning, but it is particularly important when developing approaches. This can allow companies to understand worker perspectives, give rise to fresh ideas, develop support for job protection actions, and minimise the possibility of misunderstandings. Companies might also explore options for consultation when job protection measures are already underway. This can allow for companies to understand how measures are impacting workers, and whether revisions or modifications are needed.

What are some interventions for vulnerable workers, including migrant workers outside the social safety net?

Interventions aimed at vulnerable workers should be based on a firm understanding of the impacts that company measures, such as job protection measures or retrenchment, will have on these groups. Migrant workers may rely on employers for accommodation and lack support within a community, informal workers may be unable to access welfare schemes, gig workers may not have access to company-provided PPE, women may face direct or indirect discrimination if temporary dismissals are taken.

Although specific options will be context-specific, measures that can assist vulnerable workers include:

- ✦ Allowing workers to make continued use of facilities if it is safe to do so. This might include canteens, accommodation, subsidised shops, or on-site health clinics.
- ✦ Identifying and referring workers to relevant state-based or civil-society-led social assistance programmes and support initiatives. This can include organisations that assist workers with job searching, provide income support, or link workers with social protection initiatives.
- ✦ Considering small allowances or payments to workers that have been temporarily laid off in order to cover basic expenses. This could be needs-based depending on a company's financial position.
- ✦ If job protection measures are not possible and retrenchment is required, criteria for retrenching workers can include vulnerability factors where permitted by law or collective agreements, for example consideration of number of dependents.

What can the travel or tourism industry do to ensure job protection during COVID-19 crisis?

Given COVID-19's significant impact on the travel and tourism sector, understanding, assessing, and accessing available state supports will be crucial, and has led to various relevant calls to action (see e.g. [here](#) and [here](#)). Although necessarily context specific, further measures might involve:

- ✦ Consulting with applicable worker organisations on any proposed measures.
- ✦ Ensuring the workplace is safe for any staff remaining. This may involve reorganising shifts or implementing worker rotations to reduce numbers in the workplace.
- ✦ Identifying vulnerable workers, for instance migrant or contracted workers, in order to provide support or to connect workers with external supports. For instance, trade [unions in Morocco](#) are assisting laid off subcontracted workers get necessary documents in order to qualify for government relief payments. Where migrant workers are left without work, supports might involve provision of accommodation or food to meet basic needs.
- ✦ For some companies, it may be possible to repurpose assets (e.g. hotel space) to support emergency response. In other cases, it may be possible to temporarily redeploy staff for maintenance or cleaning activities, or support workers to seek employment opportunities in an in-demand activity (delivery, e-commerce) while on temporary furlough.
- ✦ Consider upskilling ahead of possible return to work, focusing on relevant skills such as digital skills development / e-commerce and language-learning.

How do options such as mandatory leave or unpaid leave fit in?

Asking workers to take paid or unpaid leave (or combinations of both) is one possible job protection response that might be considered depending on a company's situation and applicable employment legislation. It may require modifications or exceptions to a company's HR policy and / or contracts of employment.

Where continued work is not possible, workers might be asked to take all of their paid leave entitlement as a means of providing some income while keeping workers on the books. If paid leave entitlements do not cover the period where continued work is not possible, it might be possible to combine the paid leave period with unpaid leave.

What are some key considerations when managing retrenchment in the context of COVID-19?

Retrenchment may have to be considered when all job protection options have been exhausted. Where this is the case, retrenchment should be conducted responsibly and in line with national law and applicable collective bargaining agreements.

The document [Interim Advice for IFC Clients on Supporting Workers in the Context of COVID-19](#) provides an overview of responsible retrenchment considerations in light of COVID-19. This includes consulting with unions and workplace representatives; developing a retrenchment plan which seeks to reduce adverse impacts on workers; ensuring that selection criteria for retrenchment are objective, fair, and transparent; implementing procedures to challenge retrenchment selection decisions; and providing severance payments in line with national law. Job loss is challenging at the best of times, and these challenges are amplified in the context of COVID-19. Companies may consider additional measures such as extending healthcare coverage or other benefits to workers if feasible, offering preferential re-hiring to retrenched workers, and assisting workers find other employment or community-based / government supports. Further guidance on retrenchment has been produced by [IFC](#) and [EBRD](#).

Beyond the direct workforce, what considerations can be given to retrenchment within the contracted workforce or supply chain workforce?

This is undoubtedly a very challenging area. IFC PS2 provisions on retrenchment do not apply to contracted workers or supply chain workers, although PS1 requires clients to identify and manage *all* relevant social and environmental risks and to look at impacts on vulnerable people.

It is important to consider very carefully what the options are before taking a definitive course of actions which may create a range of highly-undesirable knock-on effects. A good practice approach is for the company (off-taker or contracting party) to exercise responsibility in their business relationships with 3rd parties, including suppliers and contractors, including payment terms. There is a shared business interest in ensuring suppliers are still able to supply.

In the context of contracted workers engaged on core business functions, there may be scope to engage with labour contractors to review their policies and procedures, the terms on which they engage workers, and the extent to which those workers can be redeployed in other client companies. The fundamental shared interest here is to maintain some degree of income

security with a particular focus on the most vulnerable, and contracted outsourced workers may well fall into that category.

Assess the feasibility of including contracted workers within the scope of job protection planning and, where retrenchment is unavoidable, including contracted workers within the scope of active measure to mitigate the impacts of retrenchment, which may include support for retraining or micro-enterprise start-up, making links to local employment services or social security institutions, or other state or private-based initiatives.