

## Commercial

### Business Continuity Planning

The current globalised economic climate has increased the intensity of risks to the business continuity from worldwide events across practically all industries. The recent decision of the UK to withdraw from its EU membership ("Brexit") is one example. The impact of such events needs to be managed carefully so as to minimize long-term damage to an affected business including its relationships and commercial arrangements.

A business continuity plan (BCP) should be put into place so as to address these types of threats. The aim of such a plan should be to effectively manage a potential crisis. The safety of people affected should be the first priority, followed by limiting damage to the business and, if necessary, resumption of basic services to continue meeting the reasonable demands of customers and others such as employees who rely on the business.

***Depending on the areas in which your business operates you should consider the types of risks likely to be faced. Review the key customers, employees, suppliers and partners and evaluate how they could be affected. Where is the business particularly vulnerable? How likely are the different risks? If certain events take place, what is the probable impact and how can these risks be mitigated? A high level risk analysis can be conducted by 3HR to ensure that your business continues to be compliant with applicable legal requirements and to minimize damage in the event of a calamity or other momentous event such as Brexit. 3HR can also review and prepare your commercial contracts to safeguard the existing and future relationships that are critical to your business and to limit your potential liabilities under English and European Union law.***

#### Contractual Relationships

Risks can be addressed with appropriate contractual wording in commercial agreements to minimize uncertainty and reduce the potential damage from unexpected events whilst protecting key relationships. Such agreements should be carefully drafted at the outset and renegotiated in the case of a threat to business continuity.

#### Responses to a business interruption

3HR can assist your business by providing *ad hoc* legal advice on the appropriate responses needed to manage the risks presented by disruptive events. Particular concerns to address include:

- protecting the business and its partners from reputational harm
- ensuring appropriate steps are taken to minimise damages incurred by third parties
- collecting adequate evidence of third party default for potential future legal action
- dealing with the fall-out effects on commercial agreements and partnership arrangements
- insurance coverage, liability claims and loss prevention matters
- continuity of supply, assessment of suppliers and the management of supply chains
- handling any ensuing litigation in the aftermath of a crisis
- evaluating business critical activities (where interruption would severely impact the business and its customers)
- advice on relevant British, EU and international standards

Every business must have in place adequate security, business continuity and recovery procedures to cope with the risk of disruption from unforeseeable and cataclysmic events such as Brexit and acts of terrorism or natural disasters. Such policies are critical to enable the organisation to plan with certainty for minimum levels of recovery over set time periods.

#### Contact

If you wish to discuss your requirements in this area or for any other commercial law matter, please contact your usual 3HR consultant or Carol Kilgore on +44 (0)20 7194 8140 or [carol.kilgore@3hracs.com](mailto:carol.kilgore@3hracs.com).

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