

Employment Practices Liability (EPL), Crime and Cyber

EPL

Employees returning to work and the office provides fertile ground for retaliation and discrimination suits based on:

- Reduced roles/changed roles
- Wrongful Terminations
- Failure to promote
- Discrimination when executing reductions in workforce
- Bringing back certain employees instead of others

Utilize Free EPL Resources

Most employment practices policies contain helpful on line information as well as a free hotline to call with questions. Be sure to use these resources if you purchase Employment Practices Liability insurance.

The best way to manage these risks is to pause and think carefully about how to best bring employees back. The following criteria can be used to justify your decisions:

- Be careful that phased return to work is inclusive of all employees (i.e., all ages, genders, those who may be subject to ADA)
- Anticipate what reasonable accommodations might encompass (ADA)
- Weigh the benefits of a written policy with the fluidity of the COVID Situation
- Do not make assumptions about who would prefer to stay home and who would prefer to return to work
- Inform/Train management for a consistent approach across all business units and locations
- Encourage managers to refer employees to HR with inquiries that guidance has not been given

Crime

Crime risk has increased during the COVID-19 pandemic with factors such as remote work, reduced staff, and stressed employees.

Examples include:

- Social engineering schemes
- Relaxed internal controls like dual sign off of checks and separation of duties
- Anxious employees who are more likely to skip standard protocols to complete tasks.

The best way to manage crime risks is through a combination of communication and vigilance:

- Communicate that protocols are more important now than ever.
- Recommunicate/remind all employees of protocols
- Do not relax internal controls such as separation of duties
- Remind employees what a phishing email or text may look like and to be on alert for social engineering schemes

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Cyber

Cyber risk been affected with the increase in employees working remotely..

Examples include:

- Lost or misplaced devices
- Rogue devices
- Unpatched and outdated systems
- Password sharing

The best way to manage crime risks is through a combination of communication and vigilance:

- Ensure portable devices are encrypted
- Confirm all devices have been patched and software is up to date
- Deploy endpoint detection response throughout your environment
- Consider forcing password resets in case credentials while working remotely

Be prepared to transition back to working from home again and confirm employees know their role in the company's business continuity plan. For example, do employees know they need to bring their laptops home every night in the event they are unable to return to the office?

Utilize Free Cyber Resources

Many policies contain free web-based pre-incident services, information and resources including:

- Employee Training modules
- Business Continuity modules
- Mock "phishing" exercises

Consider typical Protection Acts and how they apply

- Review Americans with Disabilities Act (ADA) requirements for reasonable accommodations requested
- Consider EEOC requirements when hiring/recalling workers
- Evaluate whether Federal and State WARN Act notices are required if unable to recall entire workforce
- Dept. of Labor reminders
- What scenarios qualify for paid leave?
- Proper tracking of nonexempt hours