



COLLYER BRISTOW

The Future of Work & Managing a Hybrid Workforce

12 May 2022

AGENDA

GOLLYER BRISTOW

THE FUTURE OF WORK AND MANAGING A HYBRID WORKFORCE

- **Tania Goodman, Partner & Head of Employment:**
Welcome and introduction
- **Daniel Zona, Associate:**
Hybrid, agile and flexible working
- **Emma Burroughs, Associate:**
Health and safety in a hybrid workplace
- **Sinead Kelly, Associate:**
Employee monitoring

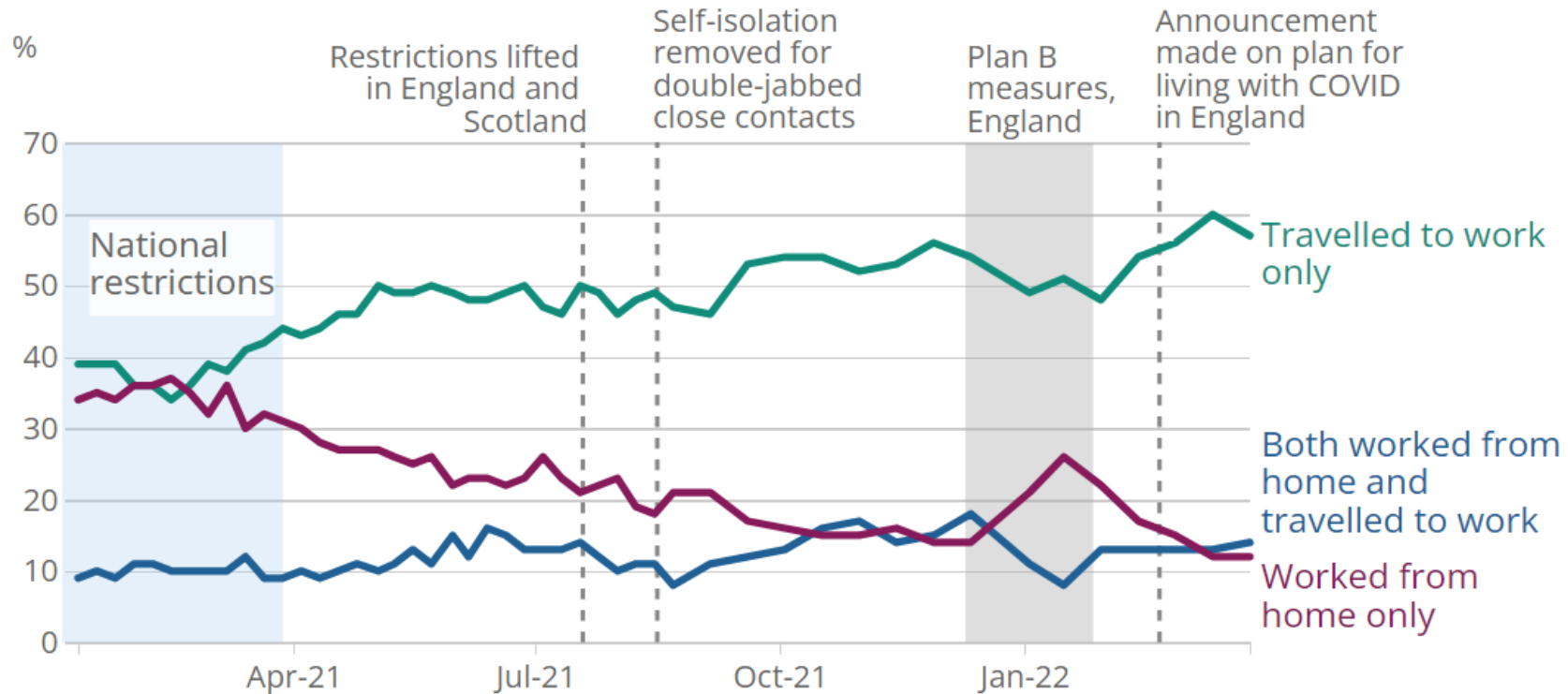


HYBRID, AGILE AND FLEXIBLE WORKING

DANIEL ZONA, ASSOCIATE

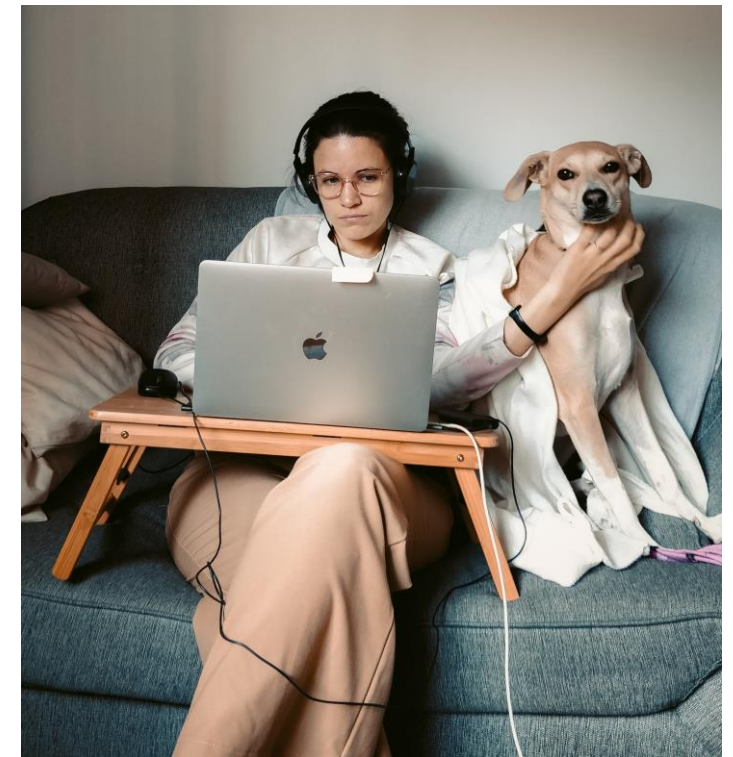
Figure 2: Around 6 in 10 (57%) of working adults were travelling to work only in the past seven days

Percentage of working adults, Great Britain, January 2021 to March 2022



Source: Office for National Statistics – Opinions and Lifestyle Survey (COVID-19 module)

What is your current working pattern?



DIFFICULTIES AND PITFALLS

GOLLYER BRISTOW

IMPLEMENTING AND MANAGING A MORE REMOTE AND MOBILE WORKFORCE

- Communication, connection and collaboration
- Visibility
- Discrimination
- Culture
- This list is non-exhaustive!



ADVANTAGES OF HYBRID WORKING

GOLLYER BRISTOW

AND HOW THEY CAN BE MAXIMISED

- Productivity
- Empowerment
- Mobility
- Cost savings to employers and employees
- This list is also non-exhaustive!





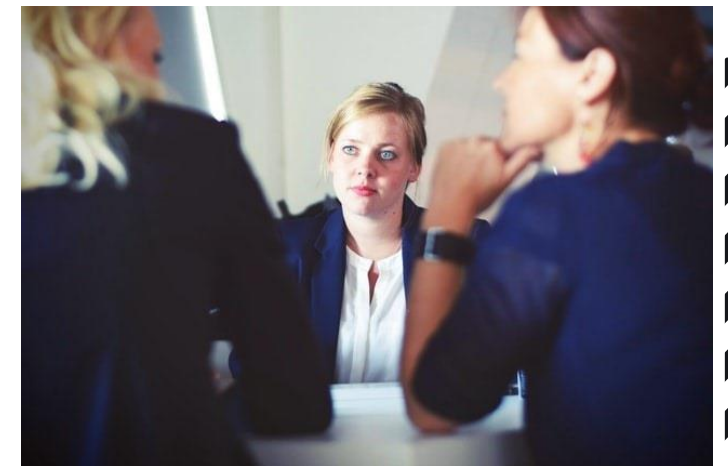
HEALTH AND SAFETY IN A HYBRID WORKPLACE

EMMA BURROUGHS, ASSOCIATE

WHAT RESPONSIBILITIES DO EMPLOYERS HAVE?

GOLLYER BRISTOW

- General duty to employees to ensure health, safety and wellbeing whilst at work as far as reasonably practicable
- Physical and mental wellbeing
- Applies both whilst working from home and in the office
- Employees have responsibility for their own health and safety





WHAT DO EMPLOYERS NEED TO DO?

GOLLYER BRISTOW

- Suitable and sufficient risk assessments
- Practical steps to mitigate the risks
- Regularly review risk assessments
- Consultation with staff
- Whistleblowing/reporting mechanism?

WHAT SHOULD BE CONSIDERED IN A RISK ASSESSMENT?

GOLLYER BRISTOW

- Full risk assessment in the office
- Self-assessment at home
- Mitigating the risks?
 - Policies
 - Training
 - Employee Assistance Programmes
- Consider different groups of staff when conducting risk assessments

IMPLICATIONS

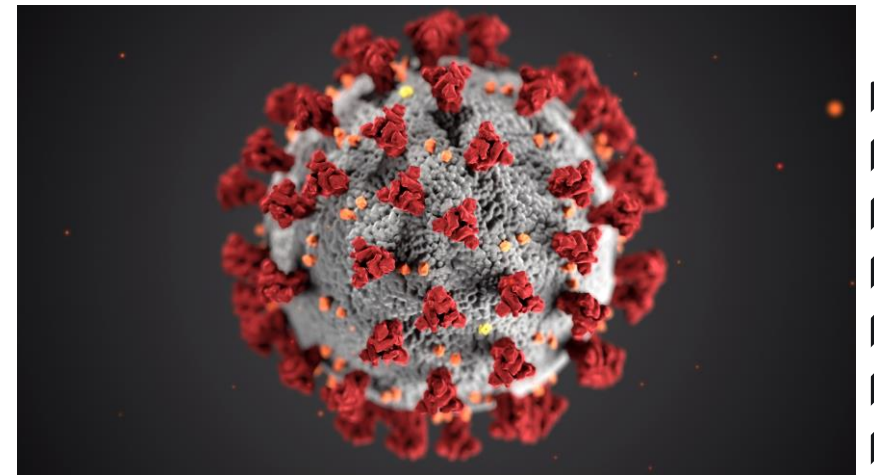
GOLLYER BRISTOW

- Staff discontent
- Poor staff retention/high turnover
- Recruitment issues
- Employer liability:
 - Breach of contract
 - Unfair dismissal – potentially automatically unfair?
 - Detriment/discrimination
 - Also: offence under H&S legislation, personal injury, negligence?

COVID IN THE WORKPLACE

GOLLYER BRISTOW

- Requirement to specifically consider Covid in risk assessments has ceased for most employers
- Discussions with employees are vital
- Take legal advice if an employee is refusing to return to the office



COVID IN THE WORKPLACE

GOLLYER BRISTOW

- Practical steps to reduce respiratory infections in the workplace
 - Ventilation
 - Encouraging and enabling vaccination (not mandating, which has its own set of risks)
 - Cleanliness
- Testing? Not without risk e.g. data protection issues and unfair dismissal risk
- Greater emphasis on individual responsibility for infection control – guidance for individuals on living with Covid

COVID IN THE WORKPLACE

GOLLYER BRISTOW

- No automatic grant of SSP
- Employers to consider how best to support and enable employees to follow the guidance
- Company sick pay to stay at home?
- Long Covid - potentially a disability?





EMPLOYEE MONITORING

SINEAD KELLY, ASSOCIATE

WHAT IS EMPLOYEE MONITORING

GOLLYER BRISTOW

When employers use or process information about their employees to look at (i) what work is being done, (ii) where it is being done; and/or (iii) how it's being done.

Types of monitoring	Why employers use monitoring tools
<ul style="list-style-type: none">• Spot email checks	<ul style="list-style-type: none">• Tracking productivity
<ul style="list-style-type: none">• Monitoring internet usage	<ul style="list-style-type: none">• Wellbeing purposes
<ul style="list-style-type: none">• Recording phone calls	<ul style="list-style-type: none">• Compliance with regulatory requirements
<ul style="list-style-type: none">• Checking call logs	<ul style="list-style-type: none">• To ensure confidentiality
<ul style="list-style-type: none">• Remote screen access	
<ul style="list-style-type: none">• Checking log on times	
<ul style="list-style-type: none">• Reviewing GPS information	
<ul style="list-style-type: none">• Installing tracking software e.g. to monitor key strokes, mouse movement	
<ul style="list-style-type: none">• Surveillance via web cams	

LEGAL FRAMEWORK DATA PROTECTION ISSUES

GOLLYER BRISTOW

Do you have a lawful basis to process data?

- Consent?
- Employment Contract
- Legitimate interest, for example:
 - to improve employee productivity
 - to monitor employee wellbeing
 - to ensure compliance with company policies

What steps should you take to ensure compliance:

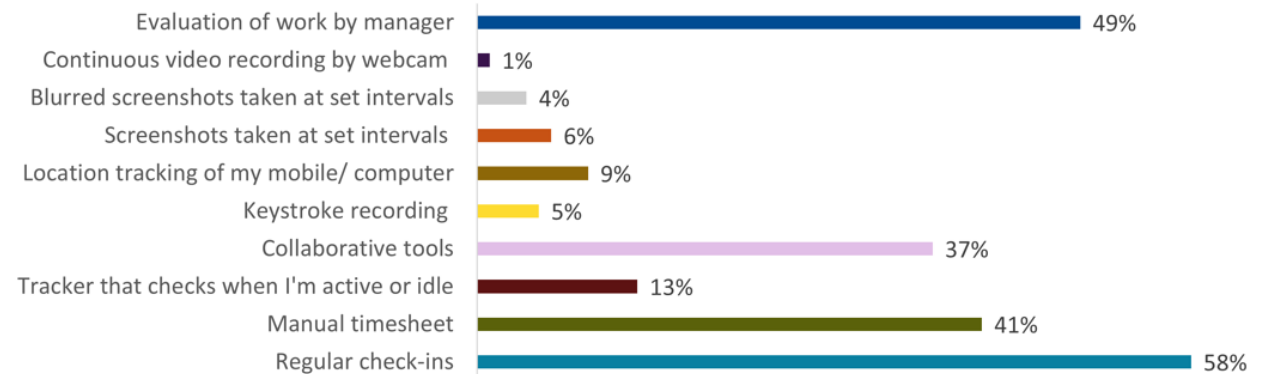
- Legitimate interest assessment ('LIA')
- Privacy Notice
- Data Protection Impact Assessment ('DPIA')

LEGAL FRAMEWORK EMPLOYMENT / HR ISSUES

GOLLYER BRISTOW

1. Discrimination claims under the Equality Act 2010
2. Impact on employee morale and motivation
3. Employee wellbeing
4. Breach of trust and confidence
5. Constructive dismissal claims

What types of monitoring would you accept?



Source: Skillcast Employee Monitoring Survey (Feb-Mar 2021)

OTHER CONSIDERATIONS

GOLLYER BRISTOW

1. Article 8 – Right to privacy
2. Use of personal equipment
3. Reviewing and updating policies, procedures, handbooks, privacy notices and contracts of employment



QUESTIONS





TANIA GOODMAN

PARTNER & HEAD OF
EMPLOYMENT

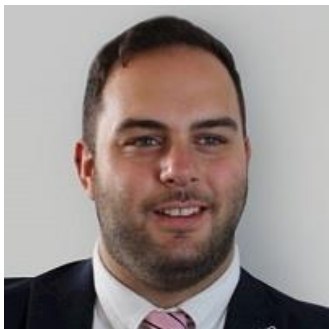
TANIA.GOODMAN@COLLYERBRISTOW.COM



SINEAD KELLY

ASSOCIATE

SINEAD.KELLY@COLLYERBRISTOW.COM



DANIEL ZONA

ASSOCIATE

DANIEL.ZONA@COLLYERBRISTOW.COM



EMMA BURROUGHS

ASSOCIATE

EMMA.BURROUGHS@COLLYERBRISTOW.COM

COLLYER BRISTOW

COLLYERBRISTOW.COM



[@COLLYER_BRISTOW](https://twitter.com/@COLLYER_BRISTOW)



[@COLLYER-BRISTOW-LLP](https://www.linkedin.com/company/@COLLYER-BRISTOW-LLP)

The information and opinions contained in this webinar are for general interest and information purposes only and are not intended to constitute specific legal, commercial or other professional advice and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances. While we seek to ensure that the contents are not misleading or outdated, users should obtain specific legal advice before making or refraining from making any business or personal decisions.

Collyer Bristow and its partners and staff accept no responsibility for any loss or damage arising from any content in this webinar.