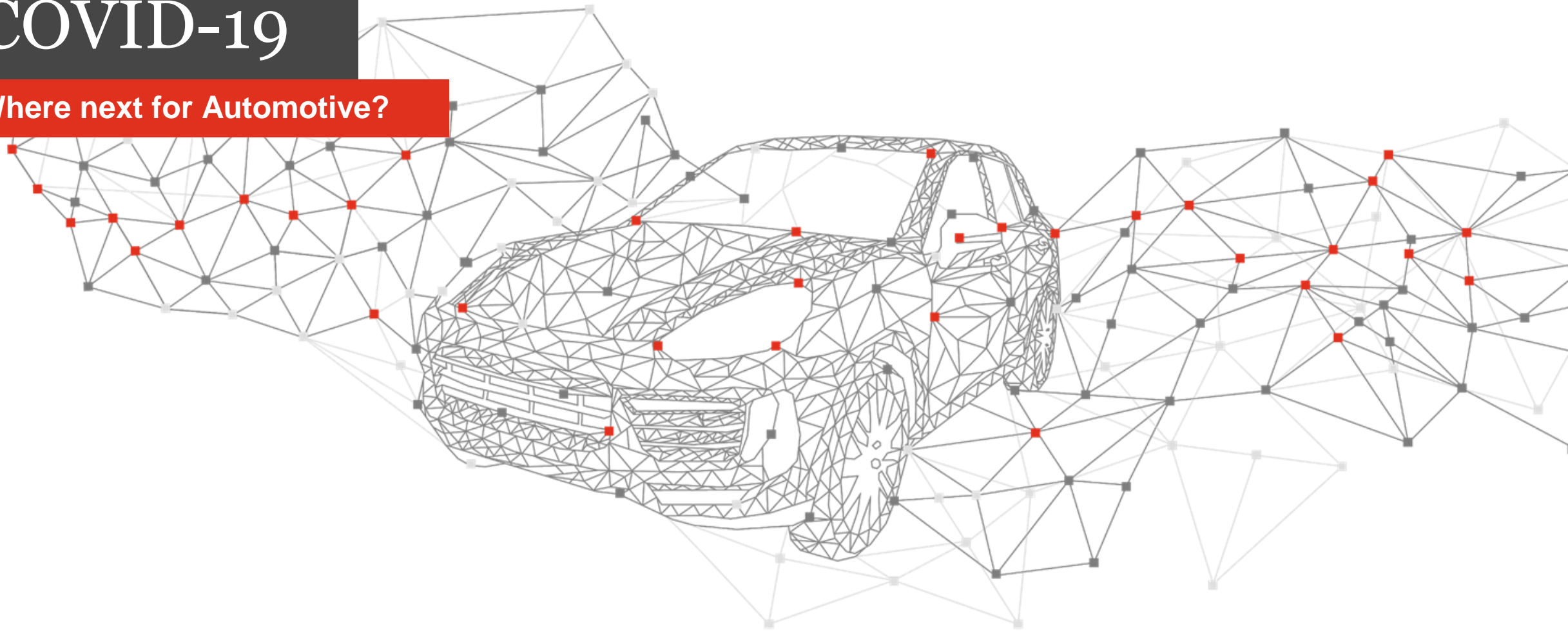# COVID-19

Where next for Automotive?

Businesses who plan their restart based on robust assessment of three areas will be better positioned for success

Demand

1. **Engage with your customers** to understand restart plans

2. **Evaluate demand requirements** to prioritise production based on value creation for your business and determine supply and labour needs

3. **Communicate back to customers** delivery timelines, risks, potential disruptions, etc.

Supply

1. **Assess supply risks** of critical and non critical components and tools due to supplier viability, labour constraints, cross border restrictions, etc.

2. **Address and tackle possible disruption areas** by supporting at-risk suppliers, triggering alternative sourcing options, or reviewing make vs. buy decisions

3. **Explore contractual supplier terms** Investigate opportunities for greater flexibility and/or more favourable terms

Workforce

1. **Assess workforce** to understand considerations for restart and identify risks of critical skill shortfalls

2. **Introduce preventative measures** to protect returning employees from "second wave" of infection

3. **Develop contingency plans** that improve workforce agility and flexibility to address labour disruptions

Returning to the workplace: Top 10 employment law issues to consider

We have identified ten urgent issues employers should act on now in the key priority areas of workplace safety, workforce demand and productive remote working.

Workplace safety

Employers have a legal duty to provide a safe place of work for their employees. Failure to do so can result in personal injury claims and criminal liability as well as significant reputational damage. And employees can legitimately refuse to return to a workplace they consider to be unsafe. In order to mitigate these risks, employers must consider:

1 How to undertake and document a comprehensive health and safety risk assessment. In line with government guidance and health and safety laws, businesses need to evaluate and document their ability to provide a safe working environment. Employers will be expected to have risk assessed complex issues such as how employees will travel to and from work, how to manage enclosed spaces such as lifts and protecting employees who interact with the public or operate off-site.

2 How to gather, record and manage employee personal health data. To protect the health of the workforce, employers will need to know who has or may have contracted the virus. Employers will need to think about how they can do this in a legally compliant way. Routing testing of employees, deploying contract tracing app tech and even the use of immunity certificates are all potential possibilities but employers will need to ensure that they do not breach data privacy laws, do not discriminate and/or breach the human rights of employees.

3 How to lawfully introduce changes to working patterns to protect the health and safety of workers There will need to be a radical rethink of the working environment to limit the risk of COVID-19 being spread within the workplace. Employers will need to consider options such as staggered working times, physical or technological barriers (such as the introduction of a proximity tracking app) and enhanced access to hygiene facilities.

Effective planning will be required to ensure that such changes can be introduced in a legally compliant way which may include consultation with trade unions and health and safety representatives and even implementing changes to terms and conditions.

4 How to ensure the wellbeing of vulnerable workers. Employers must be especially careful in relation to employees who are deemed as vulnerable. Requiring vulnerable employees to come into work could put employers at risk of legal claims. Employers will need to consider options such as allowing working from home or temp redeployment to remote duties. Employers will also need to think about employees who are caring for vulnerable family members.

Workforce demand

The Coronavirus Job Retention Scheme ("CJRS") has been extended for another four months until the end of October 2020. Until the end of July there will be no changes to the scheme, however from August to October 2020 furloughed employees can be brought back to work part-time and employers will be expected to contribute to the scheme. Employers should plan now for a smaller government grant and for employees returning from furlough. Issues to consider include:

5 Whether and how to amend the contracts of those returning from furlough. These changes could include reducing working hours, reducing pay, changing roles or job descriptions on a temporary or permanent basis. Employers will need to think through and plan for different scenarios, some of which will include information and consultation processes with employees, trade unions or representative bodies.

6 Whether and how to keep employees on leave following the closure of CJRS. Employers may want to keep employees on 80% of pay as part of ongoing leave as a result of closure of the CJRS. However, employers will need to fully consider the legal risks around this course of action including potential breach of contract and unlawful deduction of wage claims.

Returning to the workplace: Top 10 employment law issues to consider

7 **Whether and how to reduce your workforce.** Employers may determine that the only viable option for the business to begin a rationalisation process in order to reduce headcount. Employers will need to ensure that the correct legal procedures and processes (for example in relation to notification, selection criteria, pooling and consultation requirements) have been followed to ensure the redundancies are fair and to minimise the risks of unfair dismissal claims.

Productive remote working

The return to the workplace is likely to be on a phased basis. Those who can work from home may need to continue to do so for a period while others begin to return to the workplace. At the same time there may be employees who, for a variety of reasons, wish to continue working from home. Employers will need to consider the risks involved with continued work from home arrangements just as fully as their workplace risks. Employers will need to consider:

8 **What support to offer employees from a mental health perspective.**

UK health and safety law requires employers to look after mental health, as well as physical health of employees. Employers need to ensure that they have conducted a risk assessment or updated existing risk assessments and implemented reasonably practicable control measures in relation to managing mental health and wellbeing for those who continue to work from home.

9 **How to deal with flexible working requests.** Employees with caring responsibilities or who may be anxious about returning to the workplace may request a more flexible way of working. School closures in particular have presented a particular challenge meaning that some employees may be more inclined to request a flexible working pattern. Given that homeworking has become the 'new normal' employers may have difficulty establishing a legal justification for refusing requests for continued homeworking and may also risk indirect sex discrimination where the requests are linked to childcare responsibilities.

10 **How to manage annual leave entitlement.** Businesses will want to avoid a situation where they are bombarded with holiday requests when work has returned to normal. The UK government has also introduced changes to allow employees to carry over a specified amount of statutory annual leave where they have been unable to take it due to COVID-19. Employers should consider how they will treat requests to carry forward holiday and whether they can require employees to take holiday.
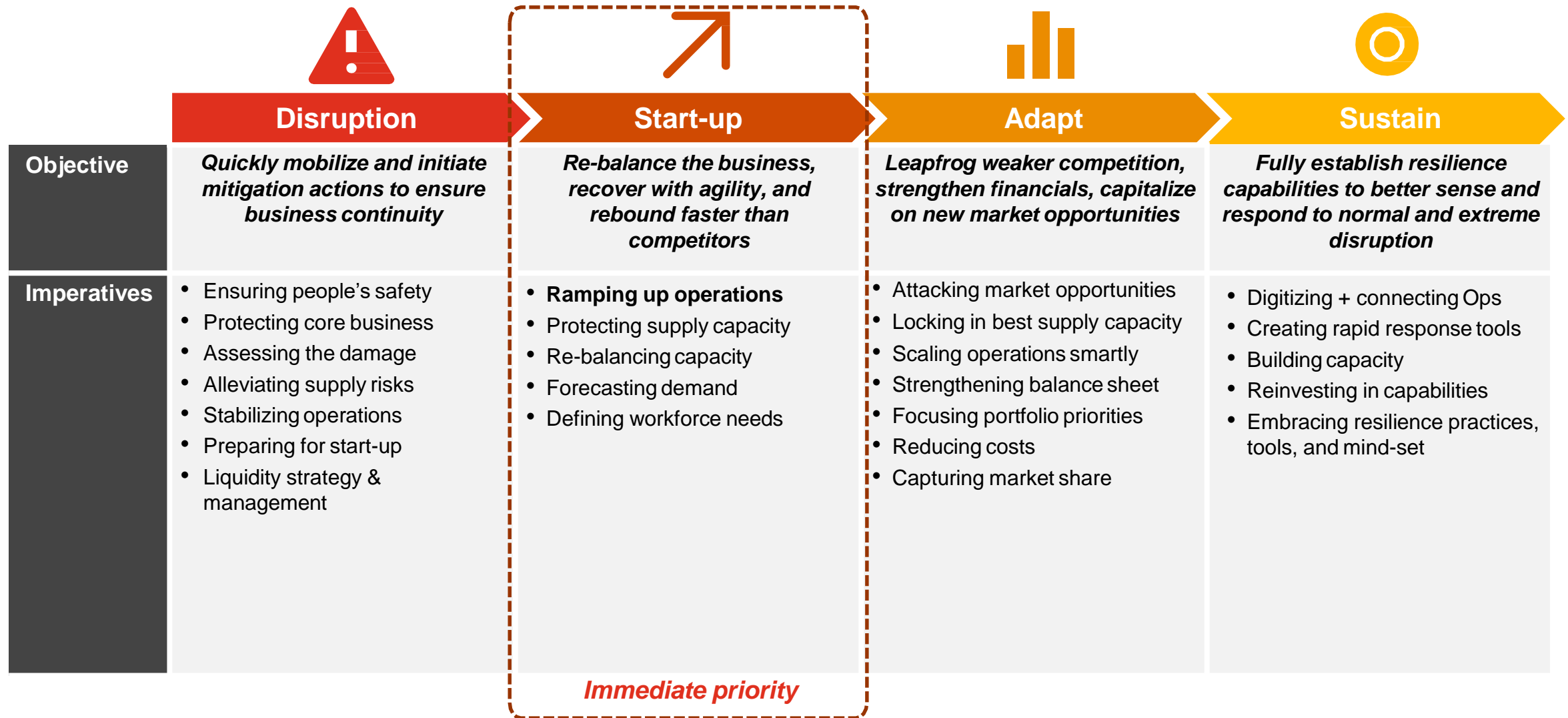
How we can help

We can help you with the legal risk analysis of your return to work strategy including:

- Virtual workshops to assist in creating a strategy and prioritising next steps.
- Minimising risk around personal data when using monitoring apps/ testing/ collecting sensitive medical information.
- Review of your approach to managing health and safety risks.
- Review of HR arrangements to establish what flexibility exists to change working arrangements and identify risks in changing contractual terms.
- Review of existing HR policies and procedures around flexible and remote working.
- Developing a strategy for dealing with holiday accrual, requiring employees to take holiday and carry forward.
- Planning for and implementing processes and procedures to implement permanent workforce change, specifically in relation to individual and collective redundancies and any associated consultations.

How to prioritise the immediate and medium-term challenges
Four phases of COVID-19 recovery and beyond

	Disruption	Start-up	Adapt	Sustain
Objective	*Quickly mobilize and initiate mitigation actions to ensure business continuity*	*Re-balance the business, recover with agility, and rebound faster than competitors*	*Leapfrog weaker competition, strengthen financials, capitalize on new market opportunities*	*Fully establish resilience capabilities to better sense and respond to normal and extreme disruption*
Imperatives	• Ensuring people's safety • Protecting core business • Assessing the damage • Alleviating supply risks • Stabilizing operations • Preparing for start-up • Liquidity strategy & management	• **Ramping up operations** • Protecting supply capacity • Re-balancing capacity • Forecasting demand • Defining workforce needs	• Attacking market opportunities • Locking in best supply capacity • Scaling operations smartly • Strengthening balance sheet • Focusing portfolio priorities • Reducing costs • Capturing market share	• Digitizing + connecting Ops • Creating rapid response tools • Building capacity • Reinvesting in capabilities • Embracing resilience practices, tools, and mind-set

Immediate priority

"

The Chinese use two brush strokes to write the word 'crisis'.
One brush stroke stands for danger,
the other for opportunity.
In a crisis, be aware of the danger —
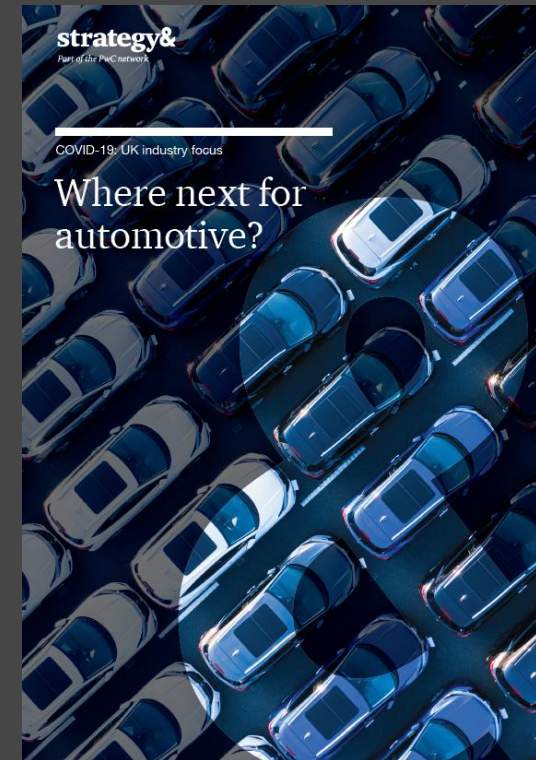*but recognize the opportunity.*

John F. Kennedy

Thank you

Our 'Where Next?' series looks at how COVID-19 is affecting industries and how organisations can transform to meet the challenge.

You can download the automotive report here.

pwc.com