

Managing the Remote Workplace and Employee Engagement

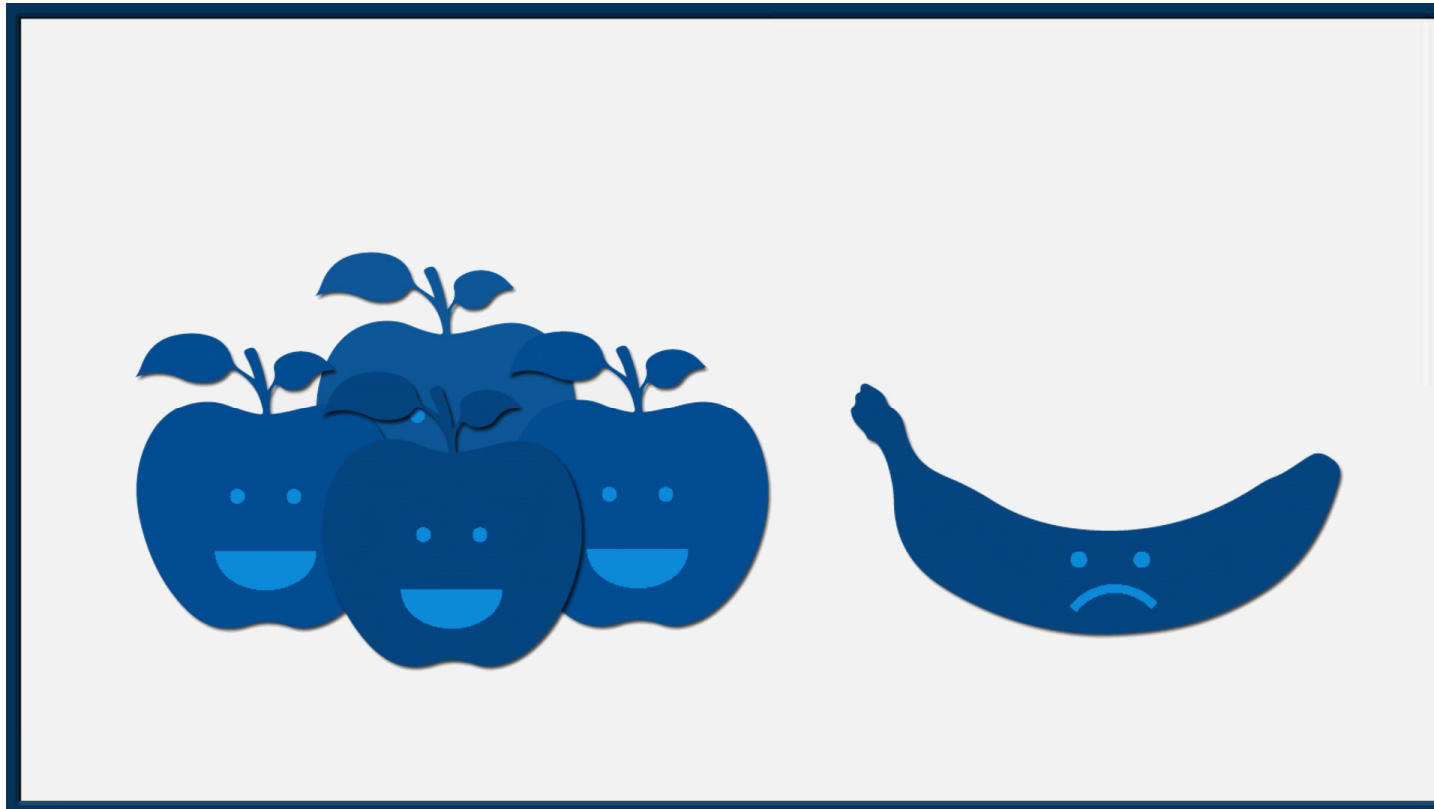
HR Hot Topics 2020

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Intro

- Many organizations allow—and now actively encourage (or required!) , given the coronavirus pandemic—employees to work remotely. But often working remotely can feel like more work than it ought to.
- So how do we make remote work more brain-friendly, inclusive, and productive as it becomes increasingly popular and necessary?
- These are actionable tips, based on brain research, to make virtual work more engaging, build trust and a little less stressful.

1. Make it Social



The science of in groups



Why ingroups work



Build feelings of in-group



Find ways to build the in-group meetings



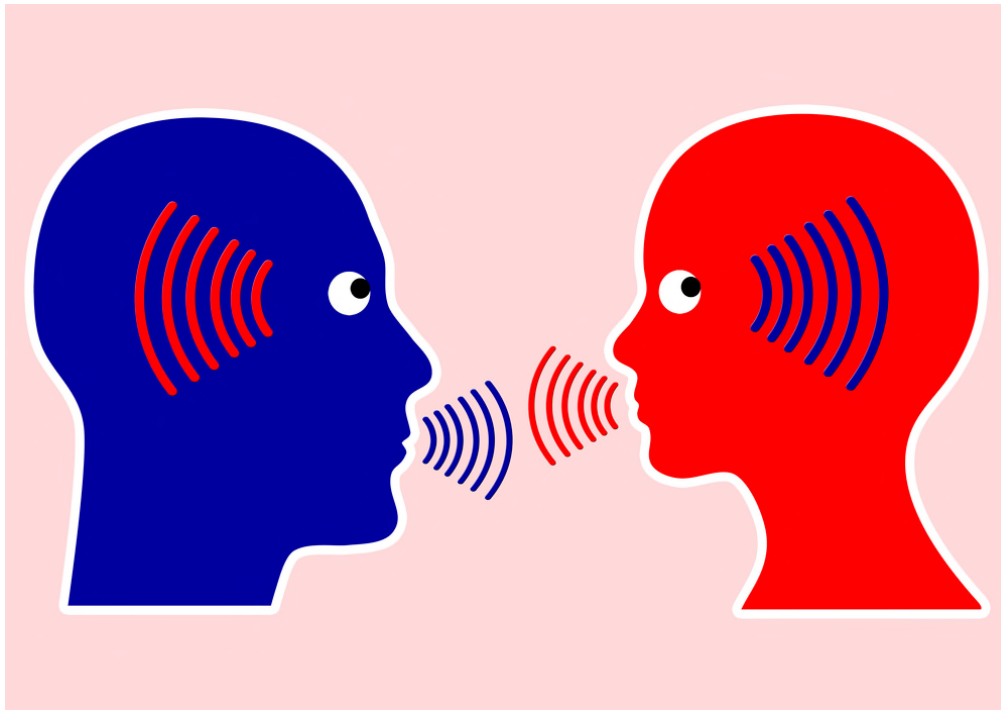
In-Group Out-Group Bias

2. What you see is what you get

WYSIWYG

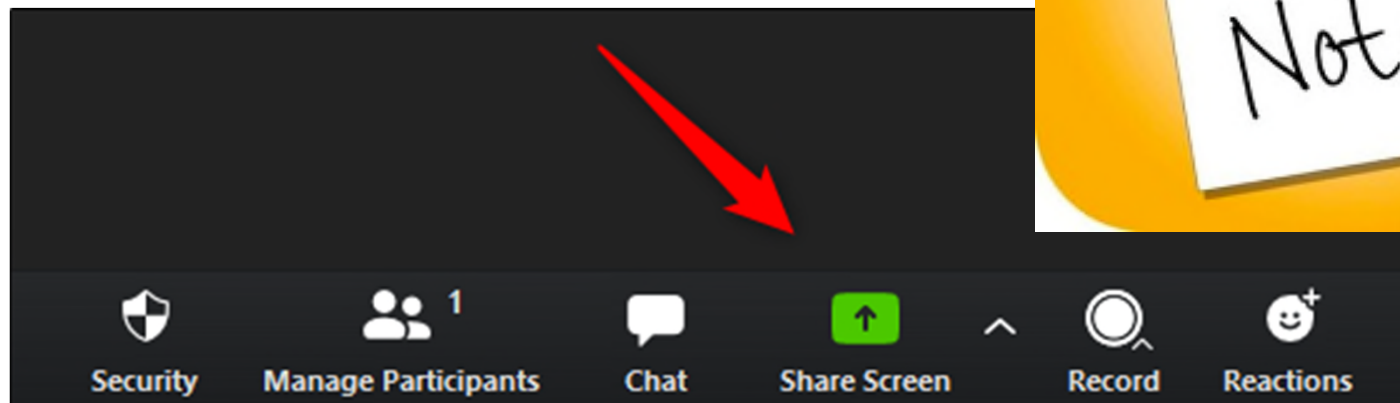
H O E S H O E
A U E A U T
T T

Tip: It is seeing you listen that builds trust



I'll Be
Seeing
YOU

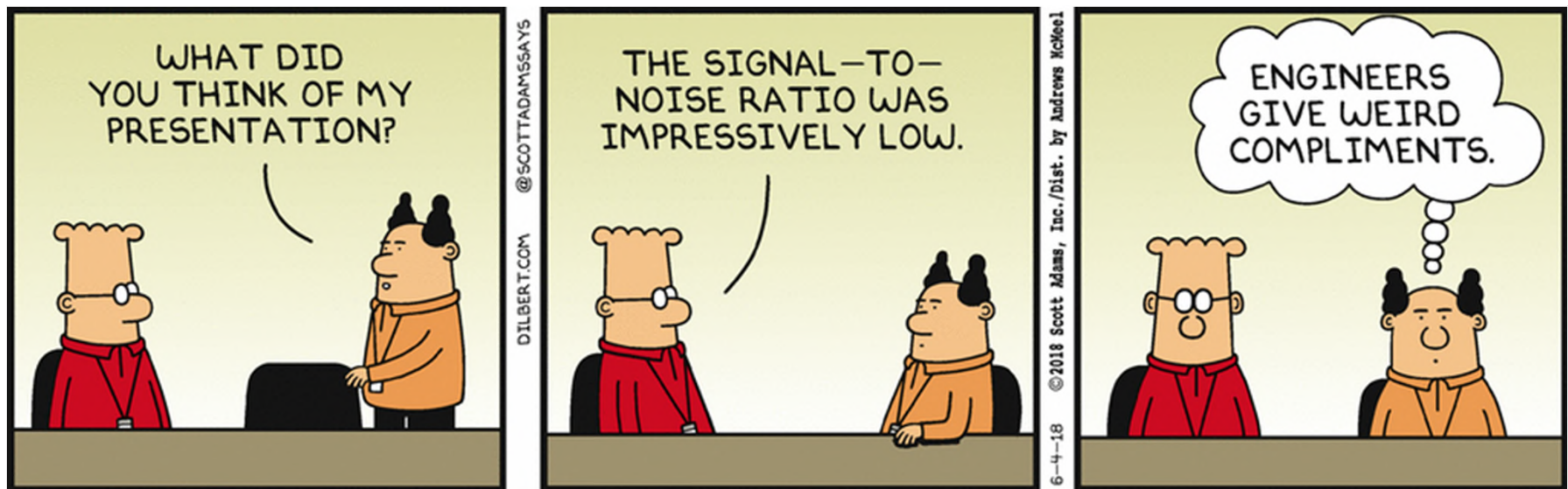
Tip: Share your screen and take notes



Tip: Sit back a little, let them see your hands



3. Sound Advice



4. Cue the Visuals



How-To Geek Poll in Progress 0:14

Attendees are now viewing questions 0 of 0 (0%) voted

1. How did you enjoy our presentation? (Multiple choice)

It was fun and informative!	(0/0) 0%
It was good. I learned a few new things.	(0/0) 0%
Neutral	(0/0) 0%
I almost fell asleep.	(0/0) 0%

2. Would you be willing to attend future presentations?

Yes	(0) 0%
No	(0) 0%

End Polling

5. Leverage back channels



50 Minute Rule for Virtual Meetings



Take Restorative Breaks



Give Time for Insight



**The more reflective you are,
the more effective you are.**



SUMMARY



- In summary, if we manage the when, who, and how of virtual meetings just right, virtual work can be a boon, increasing productivity, reducing costs, and making the majority of employees happier.
- With a little help from science, a bigger focus on virtual work could have long-lasting benefits to your organization and beyond.

How to Reach Me

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Recruitment & Onboarding During COVID-19

The Best and Not so Best Practices





Joseph Fung - CEO at Uvaro



Lisa Brown - VP Talent at Vidyad







From the lens of a CEO

- How would you describe these unprecedented times?
 - What is Uvaro dealing with?
 - How do you navigate and continue to adapt?
-

From the lens of a VP Talent

- How would you describe these unprecedented times?
 - What is Vidyard dealing with?
 - How do you navigate and continue to adapt?
-

Let's dig into Recruiting

How has recruiting changed since COVID-19?

What are some of the best practices you implemented?

Can you share any lessons learned? What worked/didn't work?

Let's dig into Onboarding

Did being remote or hybrid present new challenges when onboarding new employees?

Have you tried any new ways to onboard team members?

Can you share any lessons learned? What ~~worked/didn't work?~~

Try something new -

Lisa Welcome Video



Joseph Onboarding Video



It has been an unprecedented year...

I think we can agree:

- The rules are all different
 - Everything is on the table
 - It's ok to think differently
-

Top 3 takeaways - Joseph

1. We're competing & supporting globally now
 2. Management skills are much more critical
 3. Embrace "sales tech" (esp. video!)
-

Top 3 takeaways - Lisa

1. Be creative, what works for your company
 2. Be prepared to keep changing
 3. Embrace video!
-

Thank-you

Q&A

A photograph of construction workers in white hard hats and high-visibility vests looking up at a modern building under construction. The building has a glass facade and is surrounded by construction equipment. The image is overlaid with a large, semi-transparent purple circle.

HR HOT TOPICS 2020 NOVEMBER 17, 2020 EMPLOYMENT UPDATE

NOVEMBER 17, 2020

P.A. NEENA GUPTA



AGENDA

- The Attack on Contracts
- Accessibility for Ontarians with Disabilities Act, 2005 (AODA)
- COVID, COVID COVID COVID COVID – Ontario's Framework

THE ATTACK ON CONTRACTS



WAKSDALE v. SWEGON NORTH AMERICA INC., 2020 ONCA 391

- Short-service employee terminated on a without cause basis
- Sued for wrongful dismissal
- Contract had strong ESA clause
- Argued both “cause” and “without cause” provision unenforceable
- “without cause” clause likely enforceable on its own, but
- “with cause” provision violated the *Employment Standards Act*, 2000, SO 2000 c 41 (“ESA”)
- Employer argued severability clause to save “without cause” provision

WAKSDALE v. SWEGON NORTH AMERICA INC., 2020 ONCA 391

- Lower court - Superior Court - held “Cause” provision was **unenforceable**, but did not impact “without cause” provision
- Held that common law reasonable notice was sufficiently rebutted and ESA applied
- Court of Appeal disagreed
- Termination provisions should be interpreted as a whole
- Severability clauses cannot save termination provisions, **if even one part invalid, all is invalid**
- **Common law prevailed**

WAKSDALE v. SWEGON NORTH AMERICA INC., 2020 ONCA 391

- **WARNING**

- Most employment agreements with “cause” termination clauses may be invalid
- Ensure contracts are updated for new employees and employees being promoted
- Contract templates need to be reviewed annually, if not more frequently

GROVES v. UTS CONSULTANTS INC., **2020 ONCA 630**

- Founder of company sold business
- Continued as employee under new ownership until termination in 2017
- Turned on termination provision in employment agreement – “calculated from the date of this letter...”
- Superior Court held common law notice rights not limited
- Prior service could not be waived
- Termination provision unenforceable

GROVES v. UTS CONSULTANTS INC., **2020 ONCA 630**

- Awarded 24 months notice for entire period of service
- Court of Appeal dismissed appeal
- Statutory and common law liability unaffected by Share Purchase Agreement or Release given at time of closing

GROVES v. UTS CONSULTANTS INC., 2020 ONCA 630

- **Implications:**
 - Reconsider standard form agreements used in Share Purchase transactions
 - Require post-dated **resignations** from principal
 - Consider indemnity from Seller for actions brought by principal relating to termination of principal that extends beyond normal indemnity period

MATTHEWS v. OCEAN NUTRITION CANADA LTD., **2020 SCC 26**

- Key employee since 1997 as Vice President, New and Emerging Technologies
- Aspects of role removed in 2011
- Clearly personality conflict between new management and Matthews
- Matthews resigned and brought claim for constructive dismissal
- At issue were incentive and variable compensation entitlements, including stock options

MATTHEWS v OCEAN NUTRITION CANADA LTD., **2020 SCC 26**

- Language requiring employee to be “full time” or “active” ineffective
- Exclusion clause did not cover “unlawful” termination
- Even if it did, it would still be ambiguous

MATTHEWS v. OCEAN NUTRITION CANADA LTD., 2020 SCC 26

WARNING

- reinforces that reasonable notice (or compensation/damages for) for ALL compensation elements is *always the starting point in every analysis*;
- implicitly approves lower courts' ongoing efforts to demand *virtually perfect* drafting, processes and conduct from employers;
- game-changer is recognition of an **(as yet undefined) employer duty to draw attention to harsh forfeiture provisions, even if those provisions are common or "industry standard"**

BATTISTON v. MICROSOFT CANADA INC., **2020 ONSC 4286**

- Bonus based on performance appraisal
- Policy did not remove common law entitlement to bonus during notice period
- Poor performance did not remove common law entitlement to bonus during notice period
- Interestingly, poor performance in fiscal year 2018 nullified bonus entitlement for the year worked, but did not nullify claim during notice period.

BATTISTON v. MICROSOFT CANADA INC., **2020 ONSC 4286**

- Stock Award Agreement unambiguously excluded right to unvested shares following termination
- Court found provisions harsh and oppressive
- Provisions were not sufficiently brought to employee's attention, even though in "click through" acceptances on numerous occasions
- Therefore entitled to damages for unvested shares

BATTISTON v. MICROSOFT CANADA INC., 2020 ONSC 4286

- **Implications:**
 - Bring termination provisions limiting employees' rights to their attention
 - **Corporate documents need to be redrafted**
 - Failure to notify **explicitly** will nullify an effective termination provision
 - Keep records of presentations and signed agreements
 - Be careful of “click through” agreements

WHAT ABOUT THE AODA?

AODA REMINDERS

- Companies with 20+ employees must report every 3 years on their progress under the *Accessibility for Ontarians with Disabilities Act, 2005*.
- December 31, 2020 deadline has been moved to **June 30, 2021** due to COVID-19
- Use the additional time to make sure that you are compliant and ready!

AODA REMINDERS

- Large employers (50+ employees in Ontario)
- Control website (directly or via contract)
- Must meet WCAG 2.0 Level AA standard, except 2 technical exceptions:
 - (i) success criteria 1.2.4 Captions (Live)
 - (ii) success criteria 1.2.5 Audio Descriptions (Pre-recorded)
- Defence of “where meeting the requirement is not practicable” – no AODA case law
- Unclear whether it applies to portions of website arguably not available to public (i.e. requiring specific log-in credentials) – no AODA case law

**COVID, COVID, COVID,
COVID.....**

COVID-19 OBLIGATIONS

**NEW COVID-19 RESPONSE
FRAMEWORK:
KEEPING ONTARIO SAFE AND OPEN**

OVERVIEW

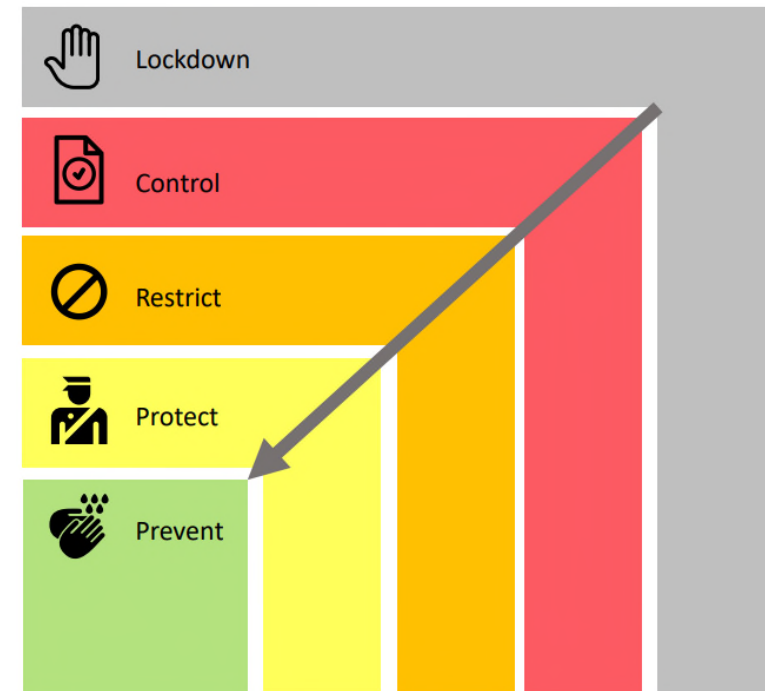
- **NEW Covid-19 Response Framework**








- **Daily Screening Requirements**
- **Communication Plan**
- **Safety Plan**

COVID-19 RESPONSE FRAMEWORK: KEEPING ONTARIO SAFE AND OPEN

- Most recent changes came into effect as of Monday, November 16, 2020 (except for Toronto Public Health, where they came into effect on Saturday, November 14, 2020)
- Includes colour-coded legend regarding each “zone”.
- The goal is to have every public health unit region in the “**PREVENT**” zone.
- The different zones or levels are now defined by the incidence rate of COVID-19 cases in each area, based on the previous 2 weeks of data.
- It is important to figure out what zone your region is in, in order to understand your obligations at any given time.



Indicators and Thresholds: Adjusting and Tightening Public Health Measures

 PREVENT (Standard Measures)	 PROTECT (Strengthened Measures)	 RESTRICT (Intermediate Measures)	 CONTROL (Stringent Measures)	 LOCKDOWN (Maximum Measures)
Epidemiology <ul style="list-style-type: none"> Weekly incidence rate is < 10 per 100,000 % positivity is < 0.5 Rt < 1 Outbreak trends/ observations Level of community transmission/non-epi linked cases stable Health System Capacity <ul style="list-style-type: none"> Hospital and ICU capacity adequate PH System Capacity <ul style="list-style-type: none"> Case and contact follow up within 24 hours adequate 	Epidemiology <ul style="list-style-type: none"> Weekly incidence rate is 10 to 24.9 per 100,000 % positivity is 0.5-1.2% Rt is approximately 1 Repeated outbreaks in multiple sectors/settings OR increasing/# of large outbreaks Level of community transmission/non-epi linked cases stable or increasing Health System Capacity <ul style="list-style-type: none"> Hospital and ICU capacity adequate PH System Capacity <ul style="list-style-type: none"> Case and contact follow up within 24 hours adequate 	Epidemiology <ul style="list-style-type: none"> Weekly incidence rate is 25 to 39.9 per 100,000 % positivity is 1.3-2.4% Rt is approximately 1 to 1.1 Repeated outbreaks in multiple sectors/settings, increasing/# of large outbreaks Level of community transmission/non-epi linked cases stable or increasing Health System Capacity <ul style="list-style-type: none"> Hospital and ICU capacity adequate or occupancy increasing PH System Capacity <ul style="list-style-type: none"> Case and contact follow up within 24 hours adequate or at risk of becoming overwhelmed 	Epidemiology <ul style="list-style-type: none"> Weekly incidence rate ≥ 40 per 100,000 % positivity ≥ 2.5% Rt is ≥ 1.2 Repeated outbreaks in multiple sectors/settings, increasing/# of large outbreaks Level of community transmission/non-epi linked cases increasing Health System Capacity <ul style="list-style-type: none"> Hospital and ICU capacity at risk of being overwhelmed PH System Capacity <ul style="list-style-type: none"> Public health unit capacity for case and contact management at risk or overwhelmed 	Trends continue to worsen after measures from Control level are implemented.

NOTES:

- Indicators will generally be assessed based on the previous two weeks of information. However, movement to apply measures will be considered sooner than two weeks if there is a rapidly worsening trend.
- Local context and conditions will inform movement, including potential regional application of measures.
- Thresholds within a region may not all be met at the same time; decisions about moving to new measures will require overall risk assessment by government.

PREVENT (STANDARD MEASURES) – GREEN



- This is the **STANDARD** or baseline of public health measures. Requirements include:
 - Face coverings at indoor workplaces or indoor public spaces
 - **Workplace Screenings**
 - Development and implementation of a **communication/public education plan** (highlighting risk)
 - Social gathering limit:
 - 10 people indoors
 - 25 people outdoors
 - Worker protections such as eye protection where patrons without face coverings are within 2 metres of workers
 - Maintain physical distancing
 - Advice to restrict non-essential travel from areas of high-transmission to areas of low transmission

PROTECT (STRENGTHENED MEASURES) – YELLOW



- Face coverings at indoor workplaces or indoor public spaces
- **Workplace Screenings**
- Development and implementation of a **communication/public education plan** (highlighting risk)
- Worker protections such as eye protection where patrons without face coverings are within 2 metres of workers
- **Certain businesses must develop a Safety Plan**
(must be available upon request) including Restaurants, Bars, Food or Drink Establishments, Sports and Recreations Fitness, Meeting and Event Spaces, Retails (Malls), Personal Care Services, Casinos, Bingo Halls and Gaming Establishments, Cinemas, Performance Art Facilities

RESTRICT (INTERMEDIATE MEASURES) – ORANGE



- Face coverings at indoor workplaces or indoor public spaces
- **Workplace Screenings**
- Development and **implementation of a communication/public education plan** (highlighting risk)
- Worker protections such as eye protection where patrons without face coverings are within 2 metres of workers
- **Certain businesses must develop a Safety Plan & Must Screen Patrons** including Restaurants, Bars, Food or Drink Establishments, Sports and Recreation, Fitness, Meeting and Event Spaces, Retails (Malls), Personal Care Services, Casinos, Bingo Halls and Gaming Establishments, Cinemas, Performance Art Facilities

CONTROL (STRINGENT MEASURES) – RED



- All measures from previous levels (including **Communication & Public Education Plan, Safety Plan & Screenings**)
- Gathering limit for all organized public events and social gatherings
 - 10 people indoors
 - 25 people outdoors
- Maximum number of patrons in restaurants = 10
- Maximum number of people in gyms and fitness studios (10 indoors, 25 outdoors)

LOCKDOWN (MAXIMUM MEASURES) - GREY



- Widescale measures and restrictions, including closures
- Consider a declaration of emergency

DAILY SCREENING REQUIREMENTS

- All Workplaces in all Zones are required to implement screening of **all workers** and **essential visitors** entering the work environment (not including customers entering a grocery store, restaurant, bar or other food or drink establishments).
- Some businesses in **Orange** & **Red** zones must also **screen patrons**
- Screening should occur before or when a worker enters the workplace at the beginning of their day or shift, or when an essential visitor arrives.
- At a minimum, questions regarding symptoms, travel outside of Canada and contact with confirmed/probable COVID-19 cases must be asked.
- No requirement of form, but ensure that you have proof that you are performing this screening
 - Online form, text message, sign-in sheet confirming that employee has answered "No" to all questions.

DAILY SCREENINGS – REQUIRED QUESTIONS

Required Screening Questions

1. Do you have any of the following **new or worsening** symptoms or signs? *Symptoms should not be chronic or related to other known causes or conditions.*

Fever or chills	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Difficulty breathing or shortness of breath	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Cough	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Sore throat, trouble swallowing	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Runny nose/stuffy nose or nasal congestion	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Decrease or loss of smell or taste	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Nausea, vomiting, diarrhea, abdominal pain	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Not feeling well, extreme tiredness, sore muscles	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2. Have you travelled outside of Canada in the past 14 days?

☐ Yes ☐ No

3. Have you had close contact with a confirmed or probable case of COVID-19?

☐ Yes ☐ No

COMMUNICATION / PUBLIC EDUCATION PLAN

- **NEW REQUIREMENT** : "Workplaces must develop and implement a communication/public education plan (highlighting risk)"
- Standard public health measure – applicable to **all workplaces** in **all zones**
- Communication / Public Education Plan would be specific to the type of establishment you operate and the zone you are in.
- Should include up-to-date COVID-19 measures imposed by the province applicable to your workplace.

SAFETY PLAN

Reopening Ontario (A Flexible Response to COVID-19) Act, 2020 (REGULATION 263/20)

- Where a business or person is required to prepare a safety plan (see Framework) they are required to do so **within 7 days** of the requirement first applying to them.
- Must be **in writing**
- Must be made available to any person for review on request.
- Must be **posted** in a conspicuous place where it is most likely to come to the attention of individuals working in or attending the location (ex. employee bulletin Board)

SAFETY PLAN (CONTENT)

- Describe the measures and procedures which have been implemented or will be implemented in the business, place, facility or establishment to reduce the transmission risk of COVID-19.
- Describe how the requirements the COVID-19 Reopening Framework and other public health requirements will be implemented in the location:
 - screening
 - physical distancing
 - masks or face coverings
 - cleaning and disinfecting of surfaces and objects
 - wearing of personal protective equipment.

TORONTO PUBLIC HEALTH – ADDITIONAL MEASURES

- Workplaces should **appoint a compliance officer** to ensure implementation of occupational health and safety and infection prevention and control measures
- 1 compliance officer **per physical location**
- The training requirements for compliance officers are unclear – should be kept informed on COVID-19 measures, safety plan, communication plan, etc.
- Time spent acting as compliance officer, or in training related to compliance officer position is paid work time.

USEFUL RESOURCES

- **Ministry of Health**

<https://www.ontario.ca/page/covid-19-response-framework-keeping-ontario-safe-and-open>

- **Public Health (Waterloo)**

<https://www.regionofwaterloo.ca/en/health-and-wellness/2019-novel-coronavirus.aspx>

USEFUL RESOURCES

- <https://gowlingwlg.com/en/topics/covid-19-how-will-coronavirus-impact-your-business/canadian-resources/>



COVID-19: HOW WILL CORONAVIRUS IMPACT YOUR BUSINESS?

The outbreak of the new coronavirus responsible for COVID-19 has left every business uncertain of the future.

Overview Canadian resources Global insights and resources Key contacts

The screenshot shows a webpage with a dark background. On the right side, there is a large, detailed illustration of a coronavirus particle, colored in shades of blue and purple. The text 'COVID-19: HOW WILL CORONAVIRUS IMPACT YOUR BUSINESS?' is prominently displayed in white, bold, uppercase letters. Below this, a subtitle in smaller white text reads: 'The outbreak of the new coronavirus responsible for COVID-19 has left every business uncertain of the future.' At the bottom of the page, there is a navigation bar with four links: 'Overview', 'Canadian resources' (which is underlined in blue), 'Global insights and resources', and 'Key contacts'.



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GOWLING WLG




Proactive Approach to Mental Health Resiliency

Presented by: Robin Bender, Mega Health at
Work Inc



Why employers should pay attention to Resiliency?

- In general, resilience is defined as the ability to bounce back from adversity, and resilient people practice resilience by assessing and exploring all of their options and then taking action
- A lack of resilience can have an immediate impact on [motivation](#), [cognitive functioning](#), and [emotional wellbeing](#). In cases of a serious lack of resilience, it leads to [helplessness](#) and [functional deterioration](#)
- 4 important reasons: *General Employee Well-being; Career Development; Maintaining Capabilities; Improved Team Dynamics*

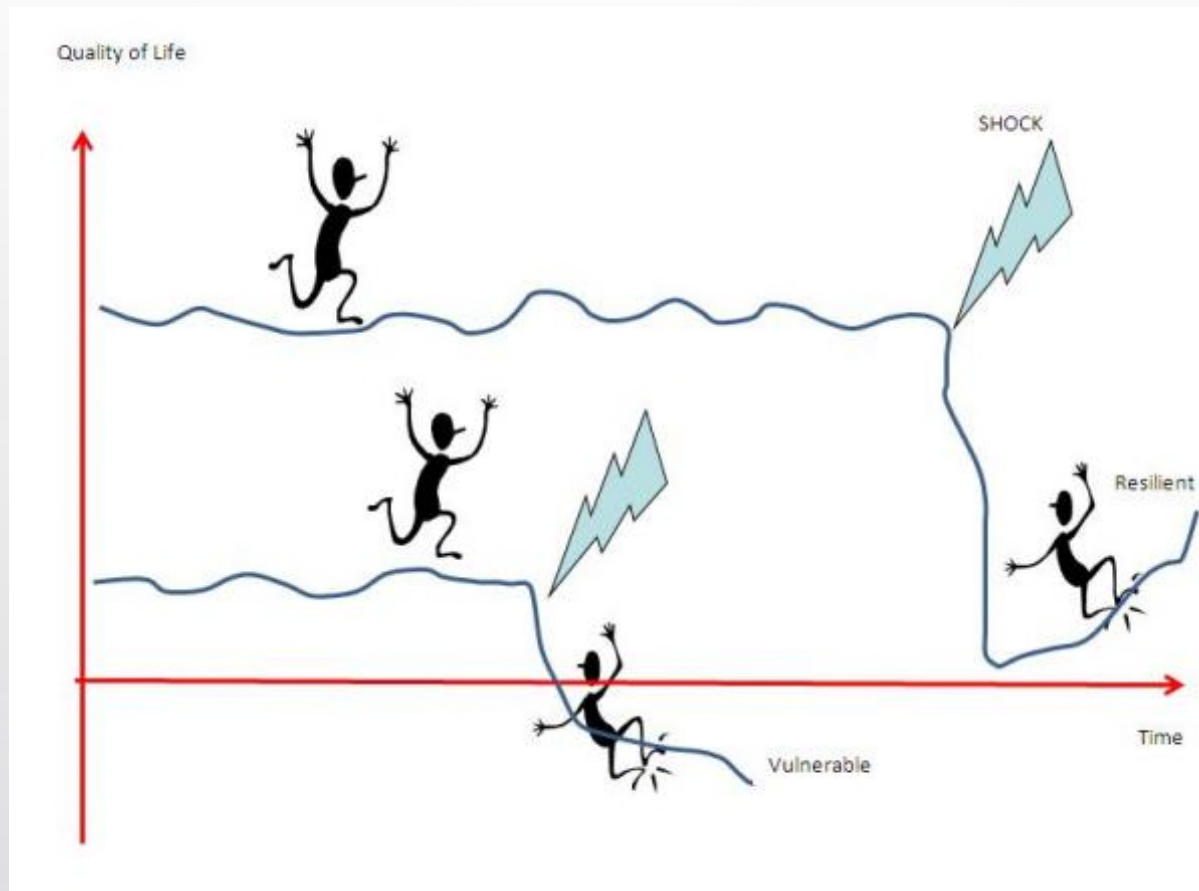



Why employers should pay attention to Resiliency?

- Highly resilient people:
 - Develop high-quality connections
 - Manage stress effectively
 - Act in accordance with their strengths and values
 - Develop grit (the passion and perseverance to pursue long-term goals)
 - Stay inspired and find meaning
 - Stay flexible and mentally tough
 - Actively manage change and setbacks



- "Resilience is not a sign of exceptional strength, but a fundamental feature of normal, everyday coping skills." Donald Meichenbaum *Roadmap to Resilience* (2012)
- "Experience is not what happens to you; it's what you do with what happens to you." Aldous Huxley *Texts and Pretexts* (1932)
- "Although the world is full of suffering, it is also full of overcoming" Hellen Keller *Optimism* (1903).





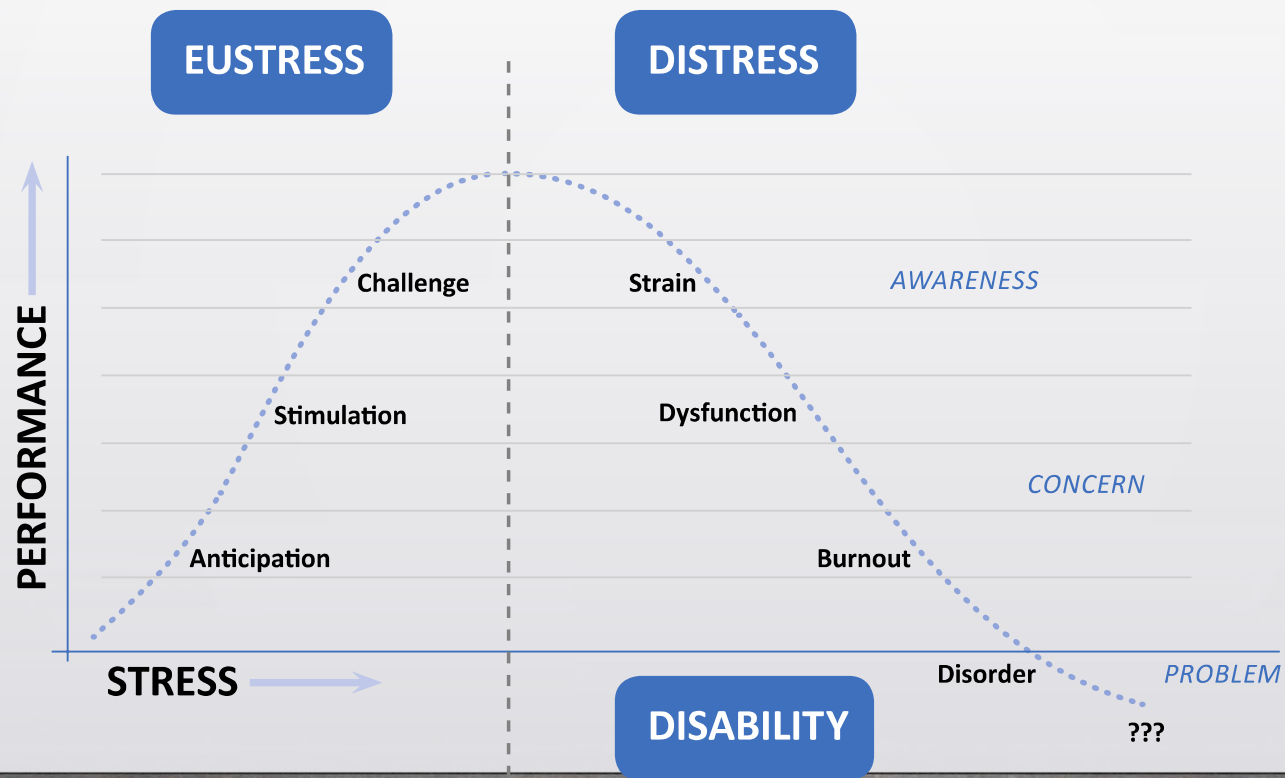
Psychological Health & Safety

- Workplace culture plays a significant role in how workers respond to challenges
- **ROI (\$2.30 for every \$1.00)**
 - Increased productivity
 - Greater attendance
 - Improved worker engagement
 - Improved recruitment and retention of talent
 - Reduced absenteeism and turnover,
 - Fewer disability claims
 - Less conflict
 - Fewer performance or morale problems.
- **General Recommendations**
 - Strategy and Program Development
 - Workplace Campaigns
 - **Education and Training**
 - Mental Health Providers
 - Intervention and Treatment
 - Data and Evaluation



Mental Health Statistics

- 50% of people will develop a mental health or substance use problem in their lifetime
- The two most common mental health problems are depression & anxiety
- Depression is the most widespread mental illness on earth





Where do you Start?

- You have already started by being here today
- Look at each factor and determine what seems to be a priority and begin the work.
- Choose formal / informal measures of the factors: the numbers do inform. E.g.:
 - Absentee rates / booking off
 - Sick leave
 - Unexpected turnover
 - Engagement
 - Safety participation / compliance
 - **Training – Mental Health Standard (Now Virtual!)**



Mental Health First Aid – MHFA Standard

Feedback:

- builds confidence in the ability to handle a mental health crisis
- reduces stigma
- signs into declining mental wellbeing
- self assessment



MHFA Standard - Virtual

- 2 hours of self directed Learning
- 6 hours of virtual facilitations
- Delivered over zoom
- Minimum 8 – Maximum 15 participants
- info@megahealth.ca