

# Remote Control - Ensuring Your Organisation Has A Handle On Policies And Benefits To Better Support Your Remote Workforce

**As we are six months post lockdown and with a rise in flexible working arrangements and remote working, how can HR manage such requests when working “from home” is in a different country?**

For many of us, remote working has become our new normal. Technology has enabled us to breeze through our meeting schedules with ease from our new temporary workspaces.

Or are they temporary? A recent survey<sup>1</sup> from the Chartered Institute of Personnel and Development (CIPD) revealed that the proportion of UK workforce who work from home continuously will rise to 22% post pandemic, compared with the previous rate of 9%. Business leaders are reviewing how these new patterns may benefit their strategies and models of working, reviewing office space leases and questioning the need for full occupancy.

Employers are showing flexibility with their teams, and remote working continues to be a valid option for many.

But how flexible should an employer be when employees are working remotely in another country? Can employers' flexible new working practices extend to work anywhere? What if the employee is working in a location where the business does not have a legal presence or entity?

We all have familiar examples of individuals getting stuck in locations when borders closed, or started new roles before being able to fully transfer to their new locations perhaps waiting for a visa service to reopen. Such cases were temporary and in most cases, easier to manage as the intention was always to move as soon as borders reopened.

However, we are now six months post lockdown and in some parts of the world longer. You may have employees who have been temporarily located during this crisis who are considering a more permanent arrangement. Employees are experiencing increased family commitments, and accommodating requests for ongoing remote working are becoming more common.

A policy outlining the scenarios when such requests are feasible and can be accommodated may prove useful for line managers who want to keep their teams motivated and on board.

A key factor is whether your organisation has an entity in the location where your employee will be working. The simplest route would be to transfer employment to a host entity

The willingness to support personal requests needs to be balanced with an understanding of the key issues: legal presence, employment rights, tax and social security withholding, payroll obligations, PE risk, right to work and employment benefits. To support your organisation's retention goals, by ensuring your employees feel valued and can fully engage in their work, it

will be important for employers to prioritise addressing these questions.

A key factor is whether your organisation has an entity in the location where your employee will be working. The simplest route would be to transfer employment to a host entity. This will ensure that the employee is paid in the right location, is paying tax and social security to the correct authorities and employment benefits are provided where they are needed.

However, the situation becomes more complex when there is a lack of corporate presence in the new location.

A common arrangement is to have the employee on a contract and payroll in one country (e.g.,UK) but working in another. This arrangement may seem the simplest approach, but means that any taxes or social security payments which may be due in the country in which they sit may not be being made. Benefits delivered in the UK are unlikely to be of use to an employee living in Belgium, for example. How does the employee access local services such as healthcare? Mandatory payroll and tax withholding will need to be managed in the host location usually through the set up of a shadow payroll, this of course involves greater administration and unplanned cost. Variances in rates of pay between the base country and host will also present issues if not reviewed and benchmarked.

The following compliance areas will need to be reviewed and addressed:

**1. Legal Rights** – An employee with an employment contract issued in one country but working in another on a permanent basis is likely to raise questions regarding employment rights. An employee may gain rights in the country of work so a full assessment would be recommended to avoid any challenges later on.

**2. Tax Withholding** – Remote working is likely to trigger a tax liability in the country of work and even a double liability if there are cross border duties. There may be a requirement to file tax returns and complete registrations to remain compliant. Where does the social security liability exist and is the correct paperwork

in place? For UK employers, what are the implications with Brexit?

**3. Payroll Obligations** – What are the requirements for payroll both in the country of employment and overseas? Such obligations need to be checked to ensure reporting is done accurately and the business remains compliant.

**4. Permanent Establishment** – are the activities of the employee giving rise to a corporate tax presence? A sales generating role on behalf of one entity, for example, may unintentionally create tax implications for the business in the new location as well as for the employee.

**5. Right to work checks** – Does the employee have the correct immigration status in the country in which they are working? If the employee's right to work in a country is linked to their partner's presence in that country, does this create a risk for the individual working for you?

There may be an appetite to go ahead with setting up an entity. A costly exercise for one individual but worth exploring if business is expected to grow in the future. This approach also facilitates hiring future

such as healthcare? Are the insurances in place for the organisation sufficient to cover employees permanently located in a different location? Are employers failing to comply with local regulation?

How flexible are the benefits available? Do they support employees' financial, physical, and emotional wellbeing, particularly at a time of such significant change and in preparation for what is anticipated to be a period of economic downturn? Do they support a robust framework for delivery of Duty of Care? Do they maintain a positive culture upon which to ensure continued business success? Of particular focus for employers are benefits such as employee assistance plans (EAP), access to virtual medical services/doctors, return home policies? How do your procedures, policies and benefits cover the costs associated with a pandemic and help mitigate the risk to your organisation's wellbeing? Do your schemes offer access to testing, treatment or vaccinations?

How does the new working arrangement affect the employee's pension and retirement benefits? Are there restrictions on the right to maintaining this benefit with

being overseas for a fixed period or long-term? Are there options for transferring the benefit to an overseas plan and if so, is it a Qualified Recognised Overseas Pension Scheme (QROPS)?

Providing the right level of benefits comparable to the local market and the provision of services elsewhere within your organisation is key. A holistic approach to your people strategy that delivers the right benefits and compensation to your workforce will help you attract, retain and engage top talent and set your organisation apart as better than its competitors. With this strategic approach, your benefits will meet the business needs and equally support a focus on duty of care. Two-way communication with your employees on their benefits and the impact to their wellbeing is critical to maintaining their engagement.

As the Mobility industry evolves to accommodate our new ways of working, it is clear that HR & Mobility teams need to have clear oversight and control over the policies, programmes and benefits that support remote workers. The issues are complex and require careful review and planning to avoid costly surprises later on.

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employees in the longer-term and works for a long-term investment.

A Global Employment Organisation (GEO) offers a more efficient option if the organisation chooses not to go through the formal entity set up. Employment and payroll are managed by a third party in the host country acting as the employer of record. This ensures that payroll and mandatory requirements are adhered to correctly without the lengthy formal entity creation.

Whichever route is most suitable, one of the most important areas to consider in any scenario are the employment benefits, and a review is essential. If an employee is not employed in their primary location then how do they access local services



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