



Shaping the future of borderless work:

Towards a new
model for cross-border
remote working



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Foreword

We have witnessed increasing interest and demand for cross-border remote working in recent years and this trend poses both challenges and opportunities for UK financial services. On the one hand, we want firms to be able to offer the flexibility that globally mobile talent demands. On the other, we need to retain the benefits of financial and professional services sectors clustering in one place. With this report, the City of London Corporation, in association with EY, seeks to explore how firms and policymakers can navigate this emerging terrain and plot a path forward.

As the voice of the UK's financial and professional services (FPS) sector, the City of London Corporation aims to promote and maintain London and the UK's position as the leading FPS centre in the world and strengthen the UK's competitiveness on the global stage. Undoubtedly, the topic of remote working has recently risen to become a vital issue in this agenda.

Earlier this year, we published a report benchmarking London against other leading financial centres. It found that London remained the most competitive financial centre overall, but was lagging in some areas. London came third in terms of access to talent and skills. It trailed Singapore with its deep talent pool of digital skills and New York City which is becoming more attractive again to international talent. This indicates how, despite the UK's enduring strengths in financial and professional services, it cannot be complacent. We need to work hard to make ourselves more attractive to international talent, capital and businesses. That is why we have been working with EY over the last two years to develop policy on global talent mobility. Clearly, the pandemic-induced explosion in remote working is a current reality and we all need to understand how best to respond to this new world.

Part of the City Corporation's response to the pandemic recovery is a major new campaign called Destination City - an ambitious new programme to reimagine the Square Mile as a world-leading destination for workers, visitors, and residents. With a 2.5-million-pound annual investment, it will deliver outdoor festivals featuring music, and sport in the City's iconic settings and hidden spaces. Our belief is that by boosting our cultural offering, we will diversify the City's economic base - leaning into the historical assets from our past to make us more resilient in the future.

Whilst being open to international talent, the UK must consistently invest in domestic education and skills. We need to invest in digital skills in particular as this is the expertise that firms increasingly need. To widen the pool of talent the City Corporation has led the Socio-economic diversity taskforce to boost socio-economic diversity at senior levels in UK financial and professional services.

We hope that with this report, we can explore the opportunities that cross-border remote working offers and consider what frameworks should be in place to enable a new future of borderless work.



Chris Hayward

Policy Chairman, The City of London Corporation

Foreword

The impact of the Covid-19 pandemic, in terms of travel restrictions and large-scale adoption of remote working, paradoxically pulled humanity further apart and brought it closer together. The combined necessities of corporate and individual resilience, and the availability of technology platforms, put cross-border remote work (CBRW) into the mainstream within a policy and regulatory environment that was not ready for it. As this report notes, global regulatory systems and organisational compliance procedures were not prepared to respond then and remain conflicted now in balancing employee demand and corporate need with their risk and cost appetite.

Challenging as this is for government and industry stakeholders grappling with the implications of this phenomenon, it is also a tremendous opportunity for those countries and organisations that make the right choices on how to benefit from it. National and sectoral policy regimes can enhance competitiveness and increase growth prospects, whilst organisations can attract the best talent from both domestic and international labour markets.

How best to extract the benefits of CBRW whilst maintaining alignment with appropriate tax, employment and social security objectives is a live debate. Therefore, we salute the City of London Corporation for commissioning this report on the opportunities CBRW presents to maintain and enhance London and the United Kingdom's position as a premier financial and professional services market.

However, it's not just about potential benefits. This report argues that the current complexity facing UK employers is impacting their ability to compete for talent. They face an extremely tight domestic

labour market where there has been a rebalancing of power relations in the employee-employer relationship and where there is an increasing disconnect between what these employees expect and what firms can deliver in the face of an ambiguous operating environment. Were this situation temporary, it might be manageable, but it is increasingly apparent that pandemic-induced shifts in employee behaviours and expectations are not receding. Nor are competing regulatory regimes standing still as other financial centres jostle for advantage.

Fresh thinking and action are required to address this new reality and safeguard UK sector competitiveness and employer resilience against geostrategic pressures. It will not be easy and cannot be accomplished without a multistakeholder, multilateral approach. Now is the time to accelerate engagement on this key topic, and our fervent hope is that this report will help drive the discourse forward in an informed and pragmatic way.



Anna Anthony
Managing Partner, EY UK Financial Services

1. Introduction

We were honoured to be invited to collaborate with the City of London Corporation on this timely follow-up to our joint report with The City UK, published in October 2021.¹

In that report, we highlighted the emerging challenges UK employers faced around the pandemic-accelerated phenomenon of cross-border remote work (CBRW). CBRW, we noted, required innovative policy solutions to provide much-needed clarity and to relieve UK employers of unnecessary administrative burdens.

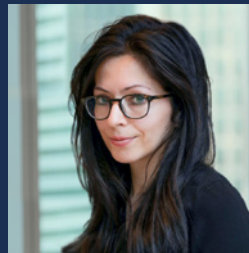
Since then, once marginal CBRW and ‘work anywhere’ models have moved firmly into the mainstream, driven by growing employee demand, global workforce rebalancing and acute geostrategic and economic challenges. A sustainable global framework for CBRW within which businesses can attract and retain talent with competitive agility is no longer a nice-to-have; it has fast become a must-have.

We are delighted, therefore, that this paper lands at a time when policymakers are coming to the table to consider what interventions are appropriate to address gaps in the regulatory frameworks surrounding CBRW. This notably includes a UK government evidential review underway, which will examine the tax and social security implications for companies and employees of working across borders, and the role of digital nomad visas now offered to attract mobile workers globally.²

What the stakeholders we spoke to during our research seek most is clarity and simplification at a time of heightened challenge. Although the global framework gaps for CBRW cannot be solved by any one government alone, the UK government is presented with an opportunity. It can lead innovation, shape multilateral dialogue

to ensure UK competitiveness and guide policymakers towards a pragmatic approach that enables UK employers to maximise the socio-economic benefits that CBRW presents. It must seize that opportunity unhesitatingly.

Now is the time for policymakers to engage with employers and the trade bodies representing them, to understand how to deliver simplicity on CBRW in a complex talent market for this critical mobility pathway.



Dr Seema Farazi,
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Partner, EY

- 1 TheCityUK, The City of London Corporation and EY, “Global Talent Mobility: Ensuring UK competitiveness one year on: our scorecard” (September 29, 2021), Global Talent Mobility: Ensuring UK competitiveness one year on: our scorecard | TheCityUK
- 2 McDougall, Mary, “UK probes tax status of remote workers”, Financial Times (August 31, 2022), UK probes tax status of remote workers | Financial Times (ft.com). Note that despite the 23 September announcement of the closure of the Office for Tax Simplification, the Office will continue to gather evidence on its hybrid and distance working review. See: Office of Tax Simplification, “Government announces closure of Office of Tax Simplification”, GOV.UK (September 23, 2022), <https://www.gov.uk/government/news/government-announces-closure-of-office-of-tax-simplification>

2. Executive summary

The future of work arrived in 100 tragic days of early 2020. The emergence of COVID-19, and the response of governments across the world, fundamentally changed the way we live and work, irreversibly.³



³ Storey, David, "How the future of work arrived in 100 tragic days", EY (May 20, 2020), https://www.ey.com/en_gl/workforce/how-the-future-of-work-arrived-in-100-tragic-days

1. Cross-border remote work (CBRW) existed only on the margins of mobility, pre-pandemic.

Working remotely from a cross-border location was not created by the pandemic but existed only on the margins of mobility, largely without any formal employer mechanisms for approval, and in some cases, even knowledge; or as a flexible arrangement for select employees; and with relatively low levels of demand. As the pandemic struck, working remotely became the norm overnight. With displaced employees, border closures and travel restrictions among many organisational challenges, CBRW helped many businesses navigate the complex landscape of operating a global workforce in the middle of a pandemic.

70%

of respondents enabled CBRW during the pandemic⁴

“Staying in one’s job but performing work remotely [was] an excellent strategy for mitigating job losses and allowing for the continuation of many of our economies’ functions, but also for keeping the population safe.”⁵

⁴ Polling data is taken from our stakeholder group during 27 January 2022 ‘Competing for Global Talent: The challenges and opportunities for Cross Border Remote Working’, Webinar Poll (151 respondents)

⁵ ILO, “Working from Home: Estimating the worldwide potential”, ILO Policy Brief (April 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_743447.pdf. See also further discussion by the Institute of Employers in International Organisation of Employers (IOE), “IOE Position Paper on Remote Work beyond COVID-19” (September 2021), <https://www.ioe-emp.org/index.php?elD=dumpFile&t=f&f=156041&token=2c6ea1790944f78b7509114fdc59f237a2e0cd0e>

2. As the pandemic has subsided, CBRW has not returned to those margins.

On the contrary, it has entered the mainstream, with irresistible forces now driving mutual, sustained demand for globally agile working. Risk owners within organisations have shown some resistance to accepting the permanency of shifts around flexible cross-border working. However, this has proved futile in overriding demand, which is now driven by three forces:

- Reimagined workforce expectations and workforce rebalancing in tight labour markets, amidst a recessionary economic environment.
- Geostrategic volatility necessitating cross-border working, at least for short periods.
- Opportunities for global workforce transformation, delivering significant environmental, social and governance (ESG) gains for organisations and their people.

75%

believe CBRW is a medium-high priority in attracting and retaining talent

“There are two kinds of companies: one is going to embrace work from anywhere, and the second is in denial.”⁶

⁶ Prithwiraj Choudhury, Harvard Business School, quoted in Kelly, Jack, “Harvard and Stanford Professors Predict The Future of Work”, Forbes (January 8, 2022), Harvard And Stanford Professors Predict The Future Of Work (forbes.com)

3. Coherent global regulatory operating frameworks for CBRW are largely non-existent.

If demand for CBRW had been rolled back, many organisational risk owners might have considered that to be an easier path, faced on the one hand with fervent employee demand and on the other with a global regulatory system not yet equipped to respond, or indeed stood up. For all the opportunities that CBRW presents, it is highly complex to manage in the current operating environment from both a technical and operational perspective. Organisations have seen 'sunk' costs, assumed risks and a disjoint between what they *want* to be able to deliver through a workforce transformation lens and what they feel able to accommodate from a risk and cost base.

96%

believe government should take action to support employers in meeting CBRW demand

“Operating in this grey area is becoming more and more challenging. We want to see clearer solutions as we move into the future of work.”⁷

7 Stakeholder response

4. If UK businesses are to remain competitive for global talent, crisis-response frameworks must evolve into a more sustainable infrastructure, as CBRW becomes part of the fabric of work.

Policies thus far have looked at CBRW through an exceptional, crisis-management lens, with compassionate policies and guidance steering decision-makers. However, these are fast falling away, whereas demand is not. It is taking too long for the realisation to set in that this is a permanent shift requiring a sustainable operating framework. Whilst the landscape is still moving, organisations are looking to global governments and regulators to help shift business time away from operating in the grey, and if action is not taken now global regulators could face a wave of disputes in the future.

18%

of all jobs across the UK are at risk⁸

“About one in 16 people employed in the UK (1.9mn workers) intend to work from abroad for at least part of this year.”⁹

8 This is 5.9 million jobs, mainly in ICT, financial and professional services in London and the South-East: 'Looking at the occupational breakdown, Anywhere Jobs are predominantly in professional (36%), technical (30%) and administrative (24%) occupations ... Of the 5.9 million Anywhere Jobs, 1.7 million (28%) are in the finance, research and real estate sectors. These are also the sectors most vulnerable when considering the percentage of their workforce at risk' in Britto, David et al., "Anywhere Jobs: Reshaping the Geography of Work", Tony Blair Institute for Global Change (June 16, 2021), <https://institute.global/sites/default/files/articles/Anywhere-Jobs-Reshaping-the-Geography-of-Work.pdf>

9 Mulholland, Patrick, "The Cross-Border Pitfalls of 'Working from Anywhere'", Financial Times (April 14, 2021), <https://www.ft.com/content/8d3685d5-2fe5-4351-bacb-99cf153defda>. See also: Smith, Matthew, "One in five want to work from home full time after the pandemic", YouGov (April 13, 2021), One in five want to work from home full time after the pandemic | YouGov

5. Closing the global policy gap: enhancing UK competitiveness and attractiveness to talent

Whilst there is a broad spectrum of cross-border remote work, we focus here on where the most acute challenges to UK competitiveness lie: employee and employer-led, time-limited CBRW in the 0–90-day range.

There are steps the UK can take unilaterally to start addressing some of the most challenging employer issues around enabling CBRW to ensure talent competitiveness. Key themes to guide the government on reform should be transparency, simplification, amelioration of unnecessary administrative burden and greater efficiency for business. It will take time and collaboration to secure effective reform at the multilateral level, but that reform is now vital. The UK is well-positioned to unlock an innovative, forward-looking framework for CBRW that takes account of evolving working practices and regulatory ecosystems.

We recommend it does so in the following ways, the benefits of which will be amplified cross-sector.

- **Lead** a multi-disciplinary, multilateral approach to policy design for cross-border remote working that is aligned with the UK's growth plans and steers policymakers towards adopting common standards, leveraging the impending findings of the government's evidential Review on Hybrid and Distance Working.
- **Introduce** unilateral reforms across immigration and tax to drive policy innovation and enhance the UK's global position amongst competitors and attractiveness to talent. This paper sets out detailed technical policy recommendations to implement this effectively.
- **Negotiate** reciprocal provisions with trading partners to enable UK employers to facilitate outbound CBRW with greater transparency and reduced administrative burden.
- **Drive** global efforts towards harmonising policies impacting CBRW that inhibit UK business growth and competitiveness.
- **Prioritise** a purposeful, ESG-driven approach to cross-border remote work that promotes diverse, equitable and inclusive workforces and maximises opportunities around the UK's commitment to Sustainable Development goals.
- **Ensure** appropriate research, data collection and analysis to inform policy design and to better understand the long-term impacts of shifting practices in this space.
- **Engage** with UK businesses and trade bodies to ensure that policy reform remains relevant as practices evolve.

6. Competing for Global Talent: The challenges and opportunities for Cross Border Remote Working

Webinar Poll¹⁰

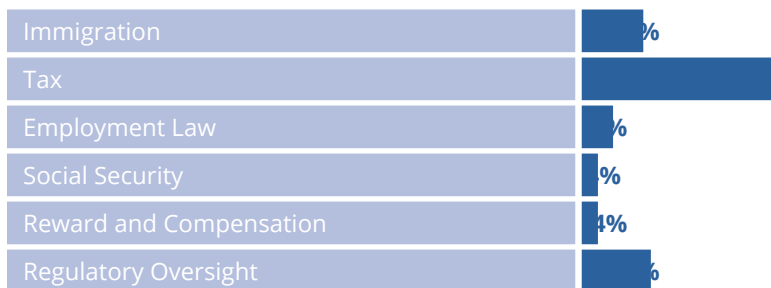
1. Has your organisation allowed cross border remote working (CBRW) during the pandemic, to any degree?

(Single Choice) 100% answered



2. What do you see is the biggest challenge/risk area for organisations that might allow CBRW?

(Single Choice) 100% answered



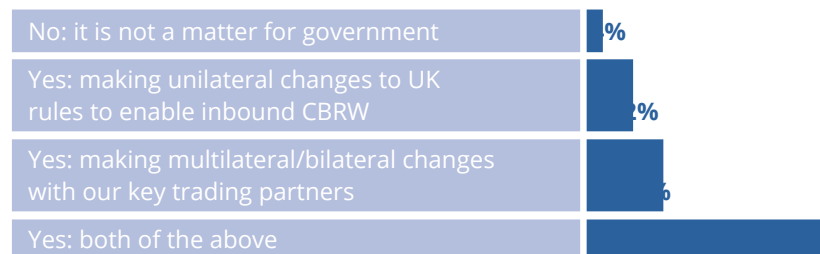
3. How important is CBRW flexibility in attracting/retaining talent at your organisation?

(Single Choice) 100% answered



4. Do you believe government should take action to support employers in meeting CBRW demand?

(Single Choice) 100% answered

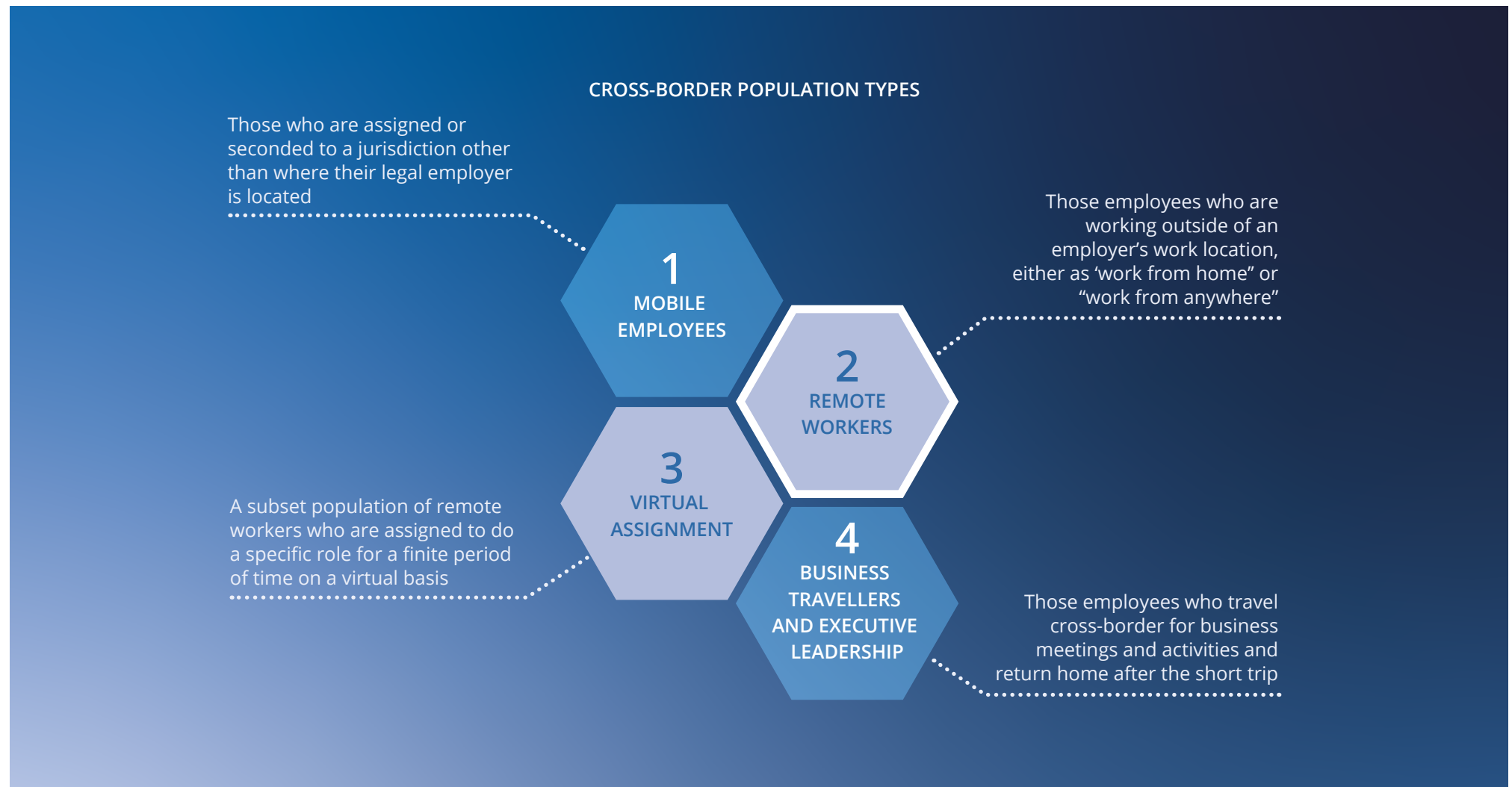


¹⁰ Polling data is taken from our stakeholder group during 27 January 2022 'Competing for Global Talent: The challenges and opportunities for Cross Border Remote Working', Webinar Poll (151 respondents)

3. Common Terminology on CBRW

Whilst internationally mobile populations are comprised of four broad types, this paper focuses on CBRW. CBRW is currently one of the most pressing issues for those who manage international employee mobility.



Figure 1: Internationally mobile population types

CBRW is typically defined as working, on a temporary or permanent basis, in a country different from the country where the role is formally based, and there is no business reason for the employee to be working in that country. It is, in other words, employee-led mobility.

We take a broader approach in this paper, also including employer-driven CBRW. Often these circumstances still require the employee to perform the same work for the same employer as before the move, but from a different location – from where it is most expedient, rather than in the formal location of their employment – a key feature that makes their working pattern different from traditional mobility assignments.

The terms cross-border remote work and work anywhere are often used interchangeably. Work anywhere certainly encompasses CBRW but has a broader scope: to include, for example, domestic and cross-border remote working.

The terms **cross-border remote work** and **work anywhere** are often used interchangeably. **Work anywhere** certainly encompasses CBRW but has a broader scope: to include, for example, domestic and cross-border remote working.

Borderless work is generally used (as it is in this paper) not in the literal sense but to denote work that is not limited or dictated by geography or physical borders.

The term **digital nomad** is often used loosely in CBRW discussion, but it can be misleading in the present context. Digital nomads are location-independent workers who use technology to perform their job, often living a nomadic lifestyle. However, in immigration policy terms, it is largely aligned with freelance rather than employed work. This is explored more fully around immigration responses to CBRW.

Anywhere jobs is a term used in recent research to denote jobs that can be done anywhere in the UK and from anywhere in the world.¹¹

Finally, **agile working** is a concept where employees perform their duties from where it is most expedient from a professional perspective (business travel) or a personal perspective (cross-border remote working) rather than in the formal location of their employment.

A full glossary of terms, and the spectrum of CBRW, is found later in this paper.

¹¹ Anywhere Jobs: Reshaping the Geography of Work | Institute for Global Change

4. CBRW spectrum and the 10 personas

CBRW manifests across a broad spectrum that includes both employee and employer-driven CBRW.



CBRW 'personas'

NOT IN SCOPE	INDIVIDUAL CHOICE	EMPLOYEE INITIATED							EMPLOYER INITIATED	
'Onshore' or 'near' remote work	1. Freelance nomad	2. Business travel plus	3. Holiday maximiser	4. Working holidaymaker	5. Employee exceptional needs	6. Hybrid commuter	7. Full commuter	8. Digital nomad ('can't relocate, won't relocate')	9. Employer exceptional needs	10. Strategic talent location
<p>Working remotely but within their primary country of contractual employment.</p> <p>Outside the scope of this report as there is no cross-border element (other than in countries where state-to-state movement triggers some CBRW risk, e.g., US, Switzerland).</p>	<p>Working remotely either as a freelancer, contractor, self-employed person or across multiple employers.</p> <p>This persona forms part of an increasingly large global talent pool, but there is no tie to any one employer. Risk and regulatory frameworks will often differ, compared to the personas below.</p>	<p>Employees request to extend a business trip to perform non-business trip activities (e.g. work they would perform in their 'home' country) to take advantage of being in another country at the employer's expense.</p> <p>This persona existed pre-pandemic, but was not an actively encouraged model.</p> <p>With tightening ESG agendas, it will be interesting to observe the impact of reduced business travel on this form of CBRW.</p>	<p>Employees request to spend a few days working in a foreign location as part of their holiday (e.g., to extend the time the family can be elsewhere on holiday). Short holiday + requests.</p> <p>This persona increased in the second phase of the pandemic, in summer 2020 and 2021, in response to Government lockdowns.</p> <p>This persona is actively being written into policy by employers in the current market.</p> <p>Spikes in demand are seen around summer and winter in particular.</p>	<p>Employees request to spend an extended, but non-permanent, period of time working from another location, perhaps from a parental home in another country (e.g. covering a school holiday period) or from a holiday home.</p> <p>Longer holiday + requests.</p> <p>This persona has become more prominent across organisations due to its promotion of work life balance, although this creates organisational challenges.</p> <p>To ensure governance and control, organisations need to consider their risk appetite and whether there is adequate infrastructure to manage compliance requirements effectively.</p>	<p>Employees request to spend time working from another location for short periods due to personal/family emergencies such as bereavement, medical treatments, caring responsibilities, etc.</p> <p>This is a generally accepted persona arising from 'one off', discrete and usual exceptional circumstances.</p> <p>This presented with most ferocity in the early onset of the pandemic, with sudden border closures to control infection rates.</p>	<p>Employees who accept a role based in another country and do not relocate but take advantage of hybrid working arrangements to work from a home in another country for 2-3 days a week and commute to their country of work for 2-3 days a week.</p> <p>This is a twist on a persona typically seen in the pre-pandemic period although it comes with greater risks involved as the amount of time the employee spends working in their home country is much higher.</p> <p>This persona has capitalised on the shift in employer expectations around how often employees should be present in the office, by choosing not to relocate to the country of employment as they 'only' need to visit the office 2-3 days a week. This is one of the most operationally complex personas.</p>	<p>Employee requests to work full (or near full) time from a country whilst living in another, typically traveling at weekends.</p> <p>Similar in characteristics to the hybrid commuter, the full commuter existed before the pandemic and depending on an organisation's remote working policy (or absence thereof) may still exist today.</p> <p>This arrangement is typically driven by personal reasons where an individual accepts a role in a new country but does not relocate their family but rather lives in their home country and commutes weekly to the location of their work in another country on Mondays and Fridays.</p>	<p>Employees request to work permanently from a home in another country and only visit the country of employment on business trips.</p> <p>Though demand in this category has increased since the pandemic, the incidence of this persona depends on the culture of an organisation.</p> <p>Some organisations may allow this form of CBRW for talent retention and only allow for select employees.</p> <p>This form of CBRW exposes organisations to the most risk.</p> <p>Some employees base themselves where they want to take advantage of open immigration rules (digital nomad), whilst others seek to work full-time in their country of origin (can't relocate, won't relocate).</p>	<p>As a response to global and local crises, remote work can be temporarily mandated to ensure employee safety and operational resilience.</p> <p>Organisations that find critical employees displaced will often look to enable remote work in the temporary location to safeguard employee stability and wellness, and ensure operational continuity.</p> <p>These are short-term arrangements, with long-term relocation strategies typically running in parallel.</p> <p>This persona presented during early 2020 because of the pandemic, in Spring 2022 as a result of the war in Ukraine, and so, too, it arises around international conflict and climate change displacement more broadly.</p>	<p>Organisations encourage talent fluidity, allowing employees to work remotely, on a permanent or temporary basis, as part of a global strategy and business model; strategic talent location planning – with roles moving to talent, rather than talent moving to roles.</p> <p>This persona recognises the strategic value, as well as potentially realised cost savings, in not only locating talent around the world (potentially through global employment organisations (GEOs)) but in sourcing talent globally and opening the business to a broader global talent pool.</p> <p>Emphasis is on a globally agile workforce, and having the right talent, in the right place, at the right time.</p> <p>There are significant gains around diversity, equity and inclusion (DEI) and sustainability from this approach.</p>

This paper focuses on personas that most significantly impact employers (2 to 6, and 9), primarily in the 0 to 90 day ranges.

An activity-based approach: 'remotability' of roles

One common feature of any CBRW analysis is that the role of the employee has often been the starting point and, often, the determining factor for whether CBRW is permissible or practical. Employers will consider the tasks performed by their employees, whether these can be done remotely and if this could create extra compliance risk because of the nature of what their employees do (e.g., regulated activities).

Traditionally, there was a fall back on the assumption that certain professions or roles would always require on-site presence. These assumptions reduced the pool of potential cross-border remote workers and meant that employers found their compliance considerations relatively straightforward. However, these assumptions were to some extent displaced by the pandemic:

Firstly, at the height of the pandemic well-being, safety and resilience were prioritised over 'remotability' when employers assessed urgent CBRW requests.

Secondly, innovative approaches were taken in sectors that would have been considered outside of CBRW scope, such as life sciences and energy; and an increasing body of research on the remotability of roles across sectors that points to the view that *'approximately one in six [jobs] at the global level and just over one in four in advanced countries'* could be performed remotely.¹² Similarly, *'around 37% of EU27 employees are in occupations*

that can technically be carried out from home' and *'the share of employees in teleworkable occupations ranges between 35% and 41% in most EU countries'*.^{13 14}

Thirdly, the pandemic has focused attention on workforce inequities and is prompting important dialogue and research.¹⁵

Remotability remains a key consideration for employers in how they operationalise CBRW but it is no longer a default push-back, which increases the pool of employees in the 'grey' zone, where the difficult conversations around governance and control and organisational challenges lie. For example, how will an organisation communicate, monitor and enforce CBRW policies across an entire global workforce?

A time-based approach

There are three types of time-based CBRW that organisations have been planning for in their post-pandemic models:

Short-term: requiring light touch approvals on red line risks only, such as the right to work in the location.

Medium-term: requiring formal approval processes but needing no additional compliance or administration.

Long-term: requiring approval and additional compliance and administration.

12 ILO, "Working from Home: Estimating the worldwide potential", ILO Policy Brief (April 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_743447.pdf

13 ILO, "Working from Home: Estimating the worldwide potential", ILO Policy Brief (April 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_743447.pdf

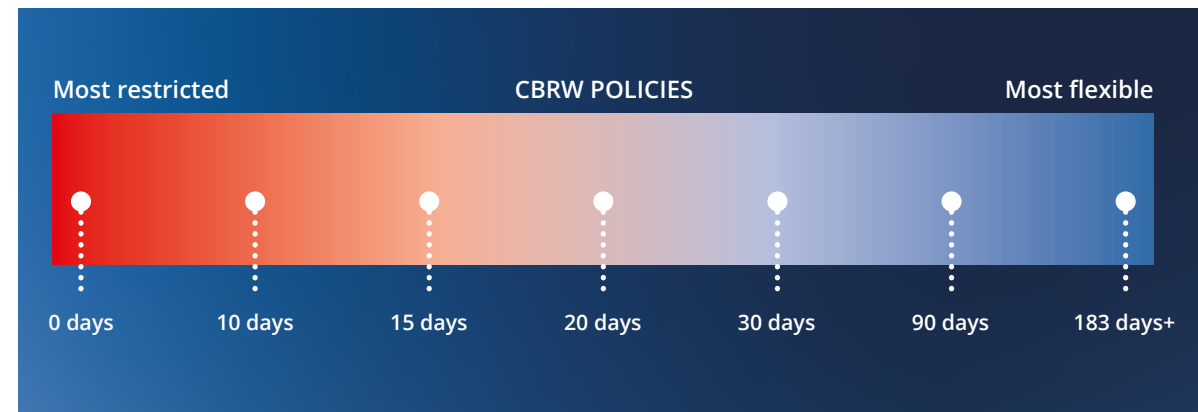
14 European Commission, "Who can telework today? The teleworkability of occupations in the EU", Science for Policy Briefs (2020), https://joint-research-centre.ec.europa.eu/system/files/2020-11/policy_brief_-_who_can_telework_today_-_the_teleworkability_of_occupations_in_the_eu_final.pdf

15 European data suggests 75% of jobs in the highest-paying quintile can be done remotely, compared with just 3% of those in the lowest quintile, Do not let homeworking become digital piecework for the poor | Financial Times (ft.com)

Most financial services organisations had focussed on implementing programmes that manage short-term CBRW and were in a 'wait and see' mode on medium to long-term CBRW before investing resources in establishing informal or formal programmes for it. Some financial services organisations (particularly, FinTech) saw the need for medium and long-term CBRW as inevitable (from both an employee demand and employer strategy perspective) in the early days of the pandemic and planned for its introduction.

Considering several factors such as industry, employment duties and risk profile, this spectrum in Figure 2 demonstrates where employers are landing with their CBRW policies.

Figure 2: The spectrum of day thresholds in organisational policy on CBRW



0 days:

Organisations may not permit CBRW for several reasons, including the role of the employee (e.g., performing regulated activity) and organisational risk appetite.

Up to 30 days:

Having assessed the immigration, tax, regulatory, social security and compliance risks, the chosen threshold within this range represents a comfortable position for most in the sector.

60 to 90 days:

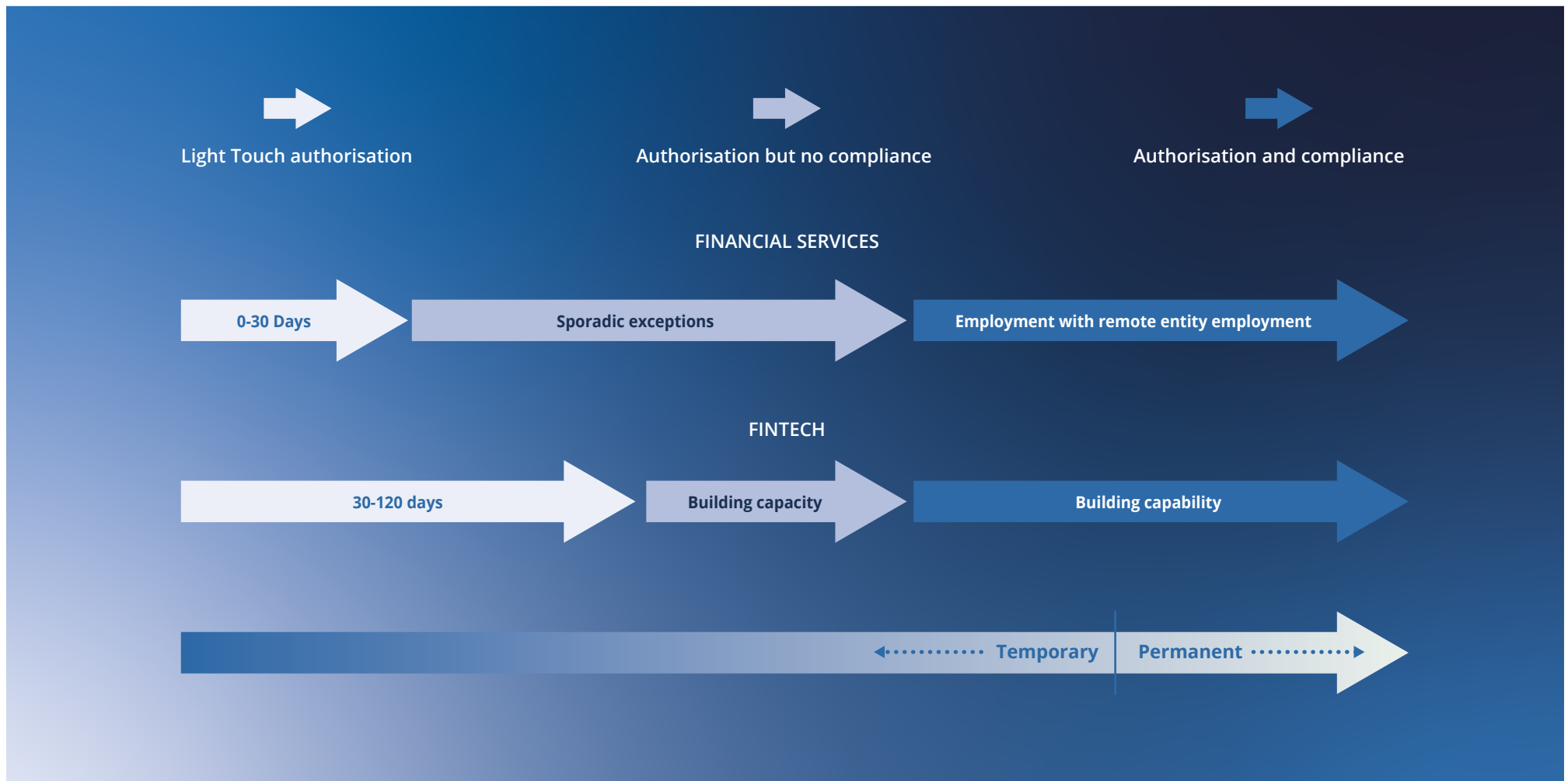
Some organisations are allowing CBRW for more extended periods, but this comes with having implemented processes to ensure that any compliance requirements are satisfied.

120 to 183+ days:

Moving towards more long-term arrangements, organisations that allow this form of CBRW tend to do so for strategic talent location reasons or to maximise attractiveness to global talent.

Some financial services organisations (particularly, FinTech) saw the need for medium and long-term CBRW as inevitable.

Figure 3: Cutting across industries: where day thresholds and organisational strategy collide



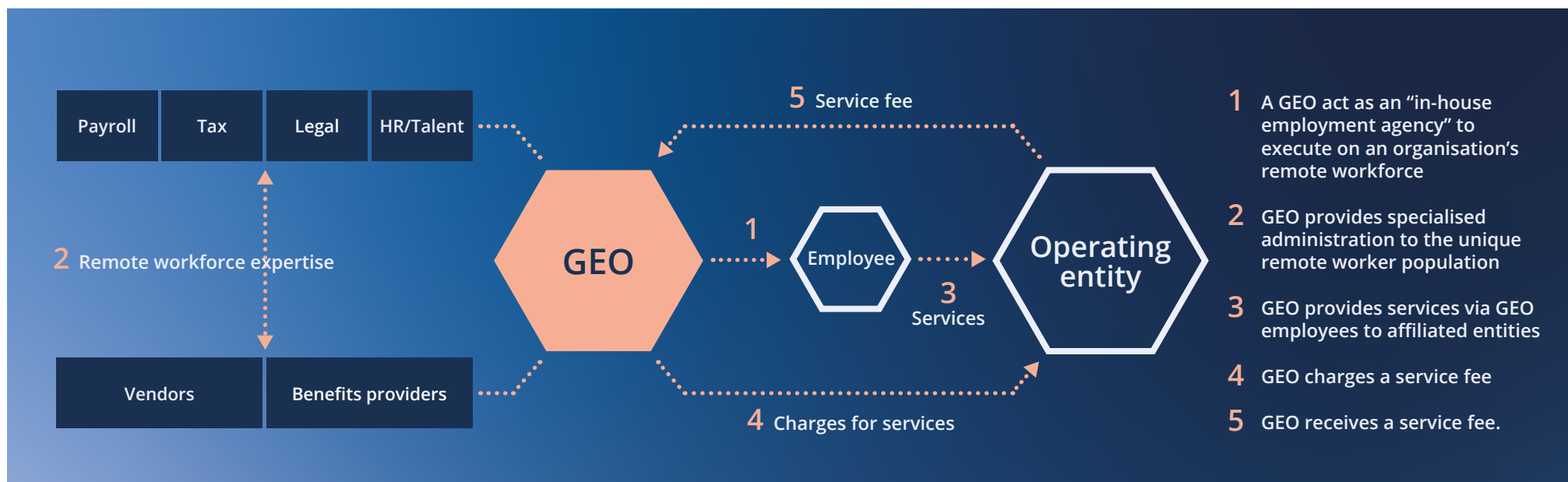
A Global Employment Organisation (GEOs) approach

The increased demand for CBRW has seen some organisations turn to a GEO as a way to ‘future proof’. A GEO is an operational model for internationally mobile employees that has been used for many years, at differing times and for differing reasons, some strategic and some tactical, to help manage cross-border and remote workforces in a tax-effective and administratively efficient environment whilst simultaneously providing employees with benefits and a worthwhile employee experience.

Addressing the needs of a remote workforce requires cross-organizational collaboration and cohesiveness as never seen before.¹⁶

¹⁶ Rachel D’Argenio, EY Global Lead on GEOs

Figure 4: How a GEO operates across multiple jurisdictions



Businesses are attracted not only to the cost savings which GEOs can deliver for their organisations when they have large numbers of in scope employees but benefits in terms of managing CBRW risk. See Figure 5.

Whilst this far end of the spectrum represents the ‘future state’ (persona 10), this decipherable shift towards GEOs across global employers demonstrates again the direction of travel in CBRW.

Figure 5: The value of GEOs



Businesses are attracted not only to the cost savings which GEOs can deliver for their organisations but benefits in terms of managing CBRW risk.

5. Towards a future of borderless work: irresistible forces

Globalisation has already delivered the free flow of trade, capital, knowledge and communication across borders. Now the mobility of people is taking centre stage.



¹⁷ Razavi, Lauren, "The Great Migration: Remote Work, Digital Nomads and the Future of Citizenship", Tony Blair Institute of Global Change (December 8, 2021), <https://institute.global/policy/great-migration-remote-work-digital-nomads-and-future-citizenship>

Our methodology

In gathering evidence for this paper, it was important to test the alleged permanency of global shifts in CBRW, to distinguish employee from freelancer (nomad) trends and to challenge whether CBRW could, or indeed should, play a mainstream role in the future of work.

Our research kicked off with a multi-disciplinary webinar in January 2022 with the Organisation for Economic Co-operation and Development 'OECD' and other leading subject matter professionals to start to question approaches to CBRW post-pandemic. We spoke with world-leading academics on work anywhere, the Confederation of British Industry 'CBI' and tax and migration representatives from the OECD to understand their members' concerns. We subsequently conducted a series of roundtables and interviews with a wide group of stakeholders:

- Employers in the financial and related professional services sector, including representatives from high-street banks, tech companies, legal firms and insurers.
- Trade associations representing various sectors, including tech, financial services and professional services.
- Representatives of central, local and devolved governments in the UK and overseas.
- World-leading academics on talent, work anywhere, the future of work, immigration and the economy.
- Geostrategic experts on macro trends impacting global workforces and labour markets.
- Leading research institutes on work anywhere.
- Representatives of tech companies on the future evolution of remote work technology.

These stakeholders represent a diverse group with a wide range of priorities. In broad terms, they share a desire for the UK to remain competitive – and attractive to, and retentive of, global talent. At the same time, and as in previous reports, stakeholders were keen to encourage, in parallel, the upskilling of the UK's resident workforce. They understood the need for sensible controls to avoid abuse of regulatory frameworks around CBRW and to uphold public confidence.

We sought views on CBRW and the future of work, geostrategic pressures that could come to bear in the sector in the coming five years, and whether demand for CBRW was exaggerated or, for that matter, understated. We drew on the extensive data and research in the EY Work Reimagined Survey 2022 and EY Geostrategic Trends Outlook 2022 to map stakeholder views against broader macro trends.

We have summarised our key findings below.

A. Irresistible forces of change

B. Reimagined employee expectations and workforce rebalancing

C. Geostrategic volatility

D. Global workforce transformation

E. Bringing policymakers to the table

A. Irresistible forces of change

There are now three key forces accelerating a shift towards borderless work.

- Reimagined expectations and workforce rebalancing
- Geostrategic volatility
- Global workforce transformation

These forces are non-binary, overlapping to create a now irresistible pressure on employers. They can be segmented into those that arise from employee demand and those that are led by employer operational needs or transformational strategy.

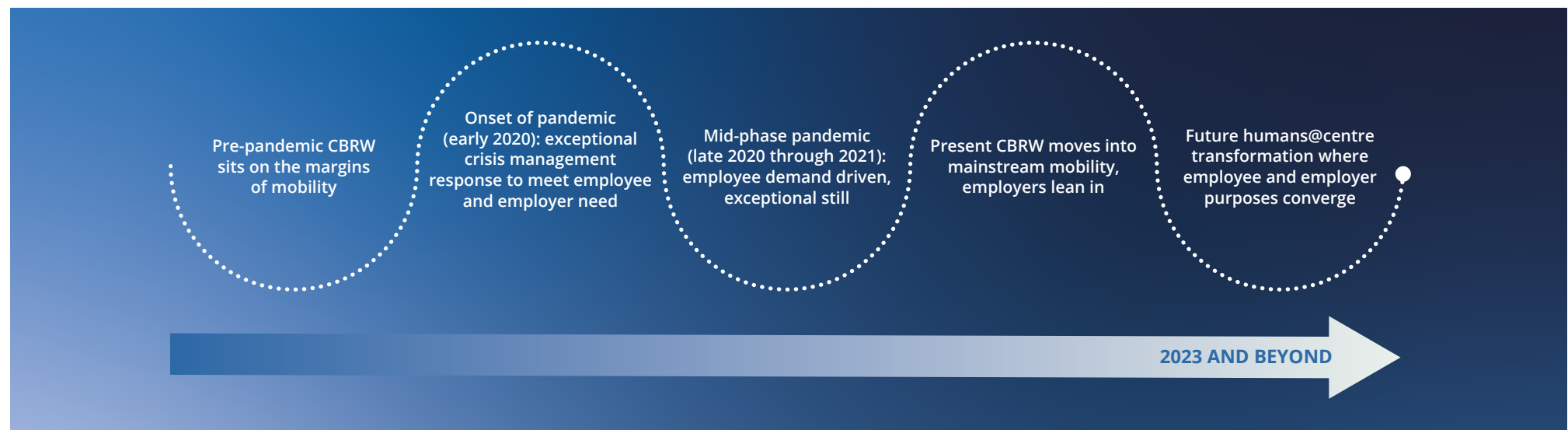
The relative weight of these forces is in flux at any time. From the start of the war in Ukraine to now, reliance on CBRW has again heightened, with suddenly displaced employee populations creating both employee and employer needs, as in the early phases of the pandemic. Whether CBRW is enabled as a crisis response or as part of a long-term transformation strategy, the positive impact on employees and organisations of a humans at the centre approach is evident.¹⁸

¹⁸ See EY's Work Reimagined 2021 Survey data on the positive impact of values-driven pandemic responses from employers and leaders, and EY's research collaboration with the University of Oxford on a human-centred approach to transformation: Fealy, Liz, Gardner, Errol and Loneragan, Norman, "How transformations with humans at the center can double your success", EY (June 24, 2022), How human-centric transformation can double your success | EY - Global

"[The pandemic] has ... contributed to greater manager-employee and employee-employee trust, mitigating potential market failures in labour markets."¹⁹

¹⁹ Grzegorzczuk, Monika, et al., "Blending the physical and virtual: a hybrid model for the future of work", Policy Contribution no. 14/21 (2021). <https://www.bruegel.org/wp-content/uploads/2021/06/PC-Hybrid-work.pdf>

Figure 6: Shifting phases of CBRW



B. Reimagined employee expectations and workforce rebalancing



One of the most exciting things to come out of the pandemic is that companies accepted the fact that they need to listen to their employees and cater to their needs, especially as there's a war for talent happening.²⁰

Shift in employee expectations

Dramatic changes in how people work and think about work have caused a tidal shift in how employees view priorities and prospects in daily life. The pandemic accelerated a work realignment already in progress and transformed the understanding of success, purpose and value. Seventy-two percent of employers are considering or have implemented a policy to temporarily work from another location.²¹ The rapid adoption of remote-working technologies during the pandemic has loosened the link between job and geography, and this continues to evolve.

Our global engineering teams are hugely focused on enabling hybrid work around where the employee wants to work, not dictating where that should be.²²

These perspectives from employers come at a time when remote work is an ever-greater part of worker expectations. Eighty percent of employees say they want to work at least two days remotely per week. The 'work-anywhere-in-the-world movement will continue to accelerate with remote work becoming commonplace'.²³

Work from home is loved worldwide, even if Wall Street hates it.²⁴

Employees demand permanent flexibility in the future, want company investments and are prepared to quit if they don't get it.

67% of employees would **rather have flexibility in when and where they work** than receive top on-site amenities within assigned offices.

51% of employees believe **where they work** is extremely important rather than having a fixed work location.

57% of employees agree that a **temporary work-from-anywhere policy** is important when making career choices.

²⁰ Kelly, Jack, "The New Trend Of Wanderlust, Work-From-Anywhere Digital Nomads", Forbes (June 20, 2021), <https://www.forbes.com/sites/jackkelly/2021/06/20/the-new-trend-of-wanderlust-work-from-anywhere-digital-nomads/?sh=15e9e7387ddd>

²¹ Fealy, Liz and Feinsod, Roselyn, "The EY 2022 Work Reimagined Survey reveals employee and employer insights amid a "Great Resignation." Some employees feel empowered; gaps remain.", EY (April 18, 2022), https://www.ey.com/en_gl/workforce/work-reimagined-survey. The EY 2022 Work Reimagined Survey reveals insights from more than 17,000 employees and 1,575 employers across 22 countries and 26 industries.

²² Stakeholder response

²³ Kelly, Jack, "The New Trend Of Wanderlust, Work-From-Anywhere Digital Nomads", Forbes (June 20, 2021), <https://www.forbes.com/sites/jackkelly/2021/06/20/the-new-trend-of-wanderlust-work-from-anywhere-digital-nomads/?sh=15e9e7387ddd>

²⁴ Clawson, Trevor, "Starting From Zero: What Can Estonia Teach Us About Building A Startup Ecosystem?", Forbes (September 22, 2022), <https://www.forbes.com/sites/trevorclawson/2022/09/22/starting-from-zero-what-can-estonia-teach-us-about-building-a-startup-ecosystem/?sh=3a2476ba7436>

About one in 16 people employed in the UK (1.9mn workers) intends to work from abroad for at least part of this year.²⁵

Employers are instigating flexible work measures to maximise their employee satisfaction and productivity.

56% of employers strongly agree it is **important for their organisations to provide flexibility** in where employees work.

74% of employers are prepared to hire employees with critical skills from anywhere and **allow them to work from anywhere**.

79% of employers are **committed to providing flexibility** in when and where their employees work.²⁶

Workforce rebalancing

The diverging perspectives between employers and employees on hybrid and flexible work is only one example of what can be seen as a rebalancing of leverage in favour of employees. Perceptions of workforce culture, productivity, advancement potential and mobility show significant differences between employers and employees and could further fuel an already hot race for talent.

The great reshuffle is real.²⁷

The post-pandemic en-masse voluntary movement of talent has caused skills shortages globally, with 44% of employees now defining themselves as active 'job seekers'.²⁸ Growing organisations have made employee attraction, retention and development central to their corporate strategies. Ninety percent of employers are hiring for new roles in 2022. Those planning to offer fully remote work (76%) have the greatest confidence, whilst those hiring for onsite work are only 'somewhat confident' (63%).²⁹ Research suggests that the top hiring challenge in the UK is "finding candidates with the skills that I need" and has risen from 34% of employers in 2021 to 51% in 2022; this is echoed in ONS data.³⁰

According to ONS data, the number of job vacancies from January to March 2022 rose to a new record high of 1,288,000, an increase of 492,400 from the pre-pandemic level in January to March 2020.³¹ More than half of the businesses that reported a worker shortage stated they could not meet demands. Increasing vacancies and falling unemployment could indicate a tightening of the labour market as there are fewer people to fill vacancies. The number of unemployed persons per vacancy fell to 1.2 in the three months to October 2021, the lowest on record.³²

28 WTW, "2022 Global Benefits Attitudes Survey" (June 2, 2022), <https://www.wtwco.com/en-US/Insights/2022/06/2022-global-benefits-attitude-survey>

29 Gentle, Stuart, "UK hiring plans up while skill shortages greater than ever says new Monster report", Onrec (April 22, 2022), <https://www.onrec.com/news/statistics/uk-hiring-plans-while-skill-shortages-greater-than-ever-says-new-monster-report>

30 Office for National Statistics (ONS), "Business insights and impact on the UK economy" (October 6, 2022), <https://www.ons.gov.uk/economy/economicoutputandproductivity/output/datasets/businessinsightsandimpactontheukeconomy>

31 ONS, "Vacancies and jobs in the UK: April 2022" (April 12, 2022), <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/jobsandvacanciesintheuk/april2022>

32 ONS, "Changing trends and recent shortages in the labour market, UK: 2016 to 2021" (December 20, 2021), <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/changingtrendsandrecentshortagesinthelabourmarketuk/2016to2021>

25 Mulholland, Patrick, "The Cross-Border Pitfalls of 'Working from Anywhere'", Financial Times (April 14, 2021), <https://www.ft.com/content/8d3685d5-2fe5-4351-bacb-99cf153defda>. See also: Smith, Matthew, "One in five want to work from home full time after the pandemic", YouGov (April 13, 2021), One in five want to work from home full time after the pandemic | YouGov

26 Fealy, Liz and Feinsod, Roselyn, "The EY 2022 Work Reimagined Survey reveals employee and employer insights amid a 'Great Resignation.' Some employees feel empowered; gaps remain.", EY (April 18, 2022), https://www.ey.com/en_gl/workforce/work-reimagined-surveys

27 Ahuja, Vikram, "The War For Talent In The 'New Normal'", Forbes (July 8, 2022), <https://www.forbes.com/sites/forbesbusinesscouncil/2022/07/08/the-war-for-talent-in-the-new-normal/?sh=7fc0724c689e>

Internet searches for ‘work from anywhere’ jobs have risen by 48% in the space of a year.³³

This trend is mirrored globally. The number of unemployed people in the EU has fallen below 11mn for the first time – an all-time low of 6.6% of the workforce, with 3% of jobs in the EU unfilled in the second quarter of 2022.³⁴ In the US, there were 0.6 unemployed persons per job opening in August 2022.³⁵ Some are introducing favourable immigration policies as a result. Australia has said it will allow tens of thousands more immigrants into the country to ease labour shortages.³⁶ The UK has recently committed to ensuring the immigration system works for business and encourages highly skilled people and high-growth businesses to locate and invest in the UK and is setting out plans to ensure ‘the immigration system supports growth whilst maintaining control’.³⁷ In April 2022, the European Commission put forward an ambitious and sustainable legal migration policy to attract skilled talent, noting that it was ‘losing the global race for talent’.³⁸

The World Economic Forum has suggested that 1bn people need to be trained in new and evolving skills by 2030.³⁹

29% of CEOs consider the **scarcity and cost of attracting and retaining the right talent** as an impediment to growth.⁴⁰

43% of employees say they’re **likely to leave their employer** in the next year. This represents a significant rise from 2021 when just 7% said they’d be unlikely to stay.

68% of employer respondents say **employee turnover has increased** in the past 12 months.⁴¹

33 ‘Work from anywhere jobs’ up 48% – HRreview

34 Eurostat, “Job vacancy statistics”, Eurostat (September 2022), https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Job_vacancy_statistics#Job_vacancies_between_2009_and_2022

35 Bureau of Labor Statistics (BLS), “Graphics for Economic News Release”, BLS (accessed on October 6, 2022), <https://www.bls.gov/charts/job-openings-and-labor-turnover/unemp-per-job-opening.htm>

36 Raval, Anjali, “Talent wars: why businesses have to battle to hire the best”, Financial Times (September 25, 2022), <https://www.ft.com/content/e79e1497-1eb3-4ca1-bd1f-b12679e24576>

37 HM Treasury, “The Growth Plan 2022”, GOV.UK (September 23, 2022), <https://www.gov.uk/government/publications/the-growth-plan-2022-documents>

38 European Commission, “Legal migration: Attracting skills and talent to the EU”, European Commission (April 27, 2022), https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2654

39 Why skills are more important than ever | Financial Times (ft.com)

40 Guerzoni, Andre, Mirchandani, Nadine and Perkins, Barry, “The CEO Imperative: How to remain resolute on investment as inflation surges”, EY (October 4, 2022), https://www.ey.com/en_gl/ceo/ceo-outlook-global-report

41 Fealy, Liz and Feinsod, Roselyn, “The EY 2022 Work Reimagined Survey reveals employee and employer insights amid a “Great Resignation.” Some employees feel empowered; gaps remain.”, EY (April 18, 2022), https://www.ey.com/en_gl/workforce/work-reimagined-survey EY’s Work Reimagined Surveys 2021 and 2022

C. Geostrategic volatility



Rampant inflation fears, geopolitical tensions and the shadow of the COVID-19 pandemic are the critical threats occupying the minds of global CEOs.⁴²

Attitudes and strategies towards work are being moulded by other macro trends. Analysis from the World Bank shows expectations for slowing economic growth and persistently high inflation in coming years and a need for coordinated action to address the severe costs of weather and climate disasters.⁴³

This backdrop colours the landscape for business investment and employee sentiment.

Whilst the global operating environment is never static, more recent levels of geopolitical disruption present significant challenges in the present context and have accelerated a shift toward a multipolar world. Indeed, multiple disruptive forces are shaping the global operating environment, including climate change, technological innovation, global skills shortages, demographic shifts and the rising influence of non-state actors. This creates a highly uncertain outlook for the future of globalisation, directly impacting how employers think about their global workforce.

Yet as employees demand borderless work and employers look to enable greater flexibility, borders are under renewed pressure. “Food shortages, climate change and intolerance toward dissent are seeing migrants seeking to leave their homes”.⁴⁴ Climate change alone is predicted to internally displace over 200 million people across six world regions by 2050, according to the World Bank.

Leading academics argue that these ‘frictions of geographic mobility’ could be solved by a work-from-anywhere approach.⁴⁵

42 Guerzoni, Andre, Mirchandani, Nadine and Perkins, Barry, “The CEO Imperative: How to remain resolute on investment as inflation surges”, EY (October 4, 2022), https://www.ey.com/en_gl/ceo/ceo-outlook-global-report

43 The World Bank, “Global Economic Prospects”, International Bank for Reconstruction and Development (2022), World Bank Global Economic Prospects (worldbank.org)

44 Mathieson, Rosalind, “Europe Strains Under Fresh Migration Challenge”, Bloomberg (September 30, 2022), <https://www.bloomberg.com/news/newsletters/2022-09-30/europe-strains-under-fresh-migration-challenge>

45 Baskin, Kara, “In a Work-from-Anywhere World, How Remote Will Workers Go?”, Harvard Business Review (June 3, 2022), <https://hbswk.hbs.edu/item/in-a-work-from-anywhere-world-how-remote-will-workers-go>

D. Global workforce transformation



As an increasing number of workplaces embrace remote work and allow people the flexibility to live where they choose, the employment and living landscape is poised for a drastic, historic change.⁴⁶

32% of CEOs are reshaping their operations to manage threats by adopting new working models / talent strategy to attract and retain employees.

72% of executives say they must radically transform their operations during the next two years to compete effectively in their industry.

60% of CEOs intend to increase investment in people and skills in the next six months.⁴⁷

In its 2020 paper on policy options on ‘teleworking’, the OECD stressed that teleworking is impactful, even in the short-term: “The pandemic showed us that large-scale, long-lasting teleworking has a non-neutral impact on people (employers, employees), places and firms, even in the short term”.⁴⁸

Future-seeking leaders know that flexibility, which once was considered a competitive advantage, is now table stakes.⁴⁹

Employers are increasingly looking at strategic talent location as a transformational opportunity:

- Allowing them to access critical skills from a wider geography in increasingly decentralised and global labour markets.⁵⁰
- Enhancing the diversity of their workforces with more equitable access to global talent.⁵¹
- Positively impacting the socio-economic fabric of their workforces and communities, e.g., levelling up by improving access to opportunity whilst reducing ‘brain drain’.
- Reducing carbon footprint associated with traditional forms of worker mobility.⁵²

48 OECD, “Exploring policy options on teleworking: Steering local economic and employment development in the time of remote work”, OECD Local Economic and Employment Development (LEED) Papers, No. 2020/10 (November 2020): 29, <https://doi.org/10.1787/5738b561-en>

49 Bremen, John M., “Managing Talent Shortages, Inflation and Recession Concerns at the Same Time”, Forbes (May 31, 2022), Managing Talent Shortages, Inflation And Recession Concerns At The Same Time (forbes.com)

50 ‘.. [I]f the best product manager lives in Tel Aviv, we want to have that person work with us. It doesn't really matter if they sit in Germany or Portugal’ in Moritz Claussen in Mulholland, “The Cross-Border Pitfalls of ‘Working from Anywhere’”

51 Baskin, “In a Work-from-Anywhere World”

52 ‘The future of globalisation is changing for one ineluctable reason. The cost of moving weightless things (ideas and data) is falling radically faster than the cost of moving heavy things (goods). Telemigration – namely, working from home when home is abroad – is a small but fast-growing aspect of globalisation's weightless future’ in Baldwin, Richard and Dingel, Jonathan I., “Telemigration and Development: On the Offshorability of Teleworkable Jobs”, NBER Working Paper Series (October 2021), https://www.nber.org/system/files/working_papers/w29387/w29387.pdf

46 Prithwiraj Choudhury in Baskin, Kara, “In a Work-from-Anywhere World, How Remote Will Workers Go?”, Harvard Business Review (June 3, 2022), <https://hbswk.hbs.edu/item/in-a-work-from-anywhere-world-how-remote-will-workers-go>

47 Guerzoni, Andre, Mirchandani, Nadine and Perkins, Barry, “The CEO Imperative: How to remain resolute on investment as inflation surges”, EY (October 4, 2022), https://www.ey.com/en_gl/ceo/ceo-outlook-global-report

E. Bringing policymakers to the table

It was clear in our conversations with government stakeholders that objectives varied, but there are broadly three factors actively bringing policymakers to the table on this issue.

1. Opportunity to boost local economies

“The normalisation of virtual work that began with the COVID-19 pandemic is creating meaningful perks for local economies, allowing countries and regions to attract talent, reverse brain drain from the suburbs and redefine demographics in many locations motivating countries whose economies were previously dependent on overseas tourism to target digital nomads inviting them to come, work, pay taxes and contribute to the economy.”^{53,54,55}

Digital nomads invest their time and money in the local economy without taking local jobs and build bridges with local knowledge workers – a win-win for both remote workers and local communities.⁵⁶

2. Talent attraction

Many are focused on the net gain of attracting ‘anywhere workers’ and retaining that talent in the economy, creating a knowledge nexus and building innovation hubs to drive the next big tech disruptor. There are suggestions also “that the model could support levelling up, with the right infrastructure,

training regimes and the social contract to reflect how technology is creating a more mobile, flexible and global labour markets”.⁵⁷

In an environment where talent is not just more expensive but is also perceived as more valuable and where pricing power will be limited by softening final demand, business executives will increasingly have to focus on productivity and efficiency gains to offset higher labour costs.⁵⁸

53 Kelly, Jack, “The New Trend Of Wanderlust, Work-From-Anywhere Digital Nomads”, Forbes (June 20, 2021), <https://www.forbes.com/sites/jackkelly/2021/06/20/the-new-trend-of-wanderlust-work-from-anywhere-digital-nomads/?sh=15e9e7387ddd> The New Trend of Wanderlust, Work-From-Anywhere Digital Nomads (forbes.com)

54 Girma, Lebewit L., “New Sobering UNWTO Data Suggests Full Tourism Recovery Won’t Arrive Until 2024”, Skift (June 2, 2021), <https://skift.com/2021/06/02/new-killjoy-unwto-data-suggests-full-tourism-recovery-wont-arrive-until-2024/> and Razavi, The Great Migration”

55 Baskin, Kara, “In a Work-from-Anywhere World, How Remote Will Workers Go?”, Harvard Business Review (June 3, 2022), <https://hbswk.hbs.edu/item/in-a-work-from-anywhere-world-how-remote-will-workers-go>

56 Choudhury, Prithwiraj, “How ‘Digital Nomad’ Visas Can Boost Local Economies”, Harvard Business Review (May 27, 2022), <https://hbr.org/2022/05/how-digital-nomad-visas-can-boost-local-economies>

57 Britto, David et al., “Anywhere Jobs: Reshaping the Geography of Work”, Tony Blair Institute for Global Change (June 16, 2021), <https://institute.global/sites/default/files/articles/Anywhere-Jobs-Reshaping-the-Geography-of-Work.pdf>

58 Markovitz, Gayle, “How to prepare for a new economic reality and protect the most vulnerable - experts explain”, World Economic Forum (September 30, 2022), <https://www.weforum.org/agenda/2022/09/4-experts-explain-how-to-prepare-for-a-new-economic-reality-and-protect-the-most-vulnerable/>

3. Risk of inaction

Others are less inclined to adapt policy but see the risk of inaction. The UK, as a service-sector-oriented economy, has the highest potential for remote working in the G7, meaning the UK is particularly exposed to any shifts in demand for white-collar jobs: “the technological transformation is putting highly skilled individuals in non-routine jobs at risk of being moved abroad or of facing greater competition from elsewhere”.⁵⁹ Competitors are becoming more decentralised, creating a risk that the UK loses jobs, not to any one competitor hub but a wider range of places. With the globalisation and virtual hiring processes, the risk is that the UK may not be seen until the impact is felt.

Eighteen percent of all jobs across the UK are at risk. This is 5.9 million jobs, mainly in ICT, financial and professional services in London and the South-East.⁶⁰

These irresistible forces have collided with seemingly immovable objects - barriers to CBRW in the current operating environment. In our stakeholder group, 96% believe government should take action to support employers in meeting CBRW demand, either through changes to UK rules to enable UK-inbound CBRW or through multilateral/bilateral reforms with the UK's key trading partners, or both.

*This potential transformation in workforces could be as profound as that seen in manufacturing over the past 40 years but with a potential timeframe of the next 5 to 10 years.*⁶¹

59 Britto, David et al., “Anywhere Jobs: Reshaping the Geography of Work”, Tony Blair Institute for Global Change (June 16, 2021), <https://institute.global/sites/default/files/articles/Anywhere-Jobs-Reshaping-the-Geography-of-Work.pdf>

60 “Looking at the occupational breakdown, Anywhere Jobs are predominantly in professional (36%), technical (30%) and administrative (24%) occupations ... Of the 5.9 million Anywhere Jobs, 1.7 million (28%) are in the finance, research and real estate sectors, 1.1 million (18%) are in transport and communication, and 0.8 million (13 percent) in manufacturing. These are also the sectors most vulnerable when considering the percentage of their workforce at risk” in Britto, David et al., “Anywhere Jobs: Reshaping the Geography of Work”, Tony Blair Institute for Global Change (June 16, 2021), <https://institute.global/sites/default/files/articles/Anywhere-Jobs-Reshaping-the-Geography-of-Work.pdf>

61 Britto, David et al., “Anywhere Jobs: Reshaping the Geography of Work”, Tony Blair Institute for Global Change (June 16, 2021), <https://institute.global/sites/default/files/articles/Anywhere-Jobs-Reshaping-the-Geography-of-Work.pdf>

6. Towards a future of borderless work: the immovable objects

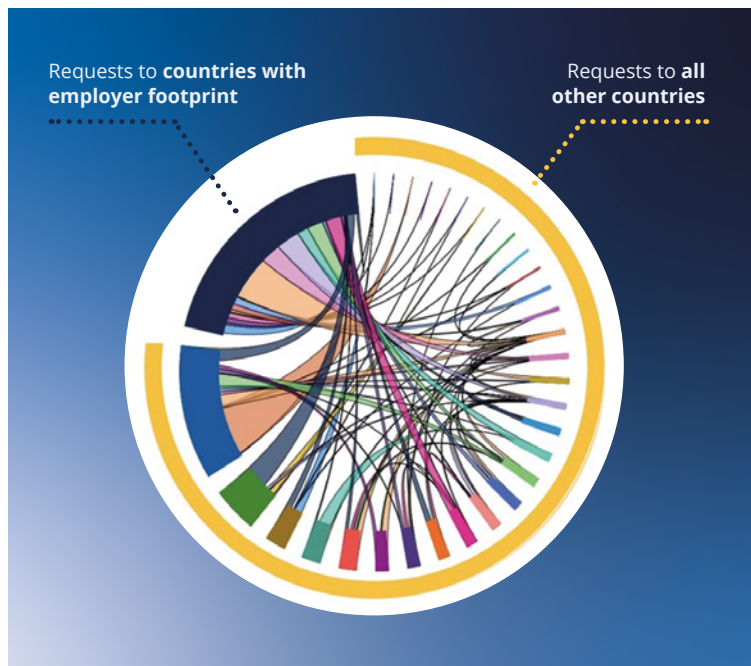
During the pandemic, governments temporarily relaxed rules to account for the near-total shutdown of international travel and the complex situations faced by stranded workers.⁶²



⁶² The cross-border pitfalls of 'working from anywhere' | Financial Times (ft.com)

The cross-border manifestation of agile work carries significant complexity for organisations looking to manage associated risks.⁶³ There are myriad risk areas that employers must address. To add to the complexity, whereas traditional mobility follows an employer footprint, CBRW follows the employee footprint and so requests for CBRW often flow into locations where employers lack resources or the infrastructure around local regulatory requirements.

Figure 10: CBRW Employer and employee footprint disparity



Operating in this grey area is becoming more and more challenging – we want to see clearer solutions as we move into the future of work.⁶⁴

Immigration risk

Paid remote work typically requires a work-permitting visa for non-settled nationals. Employees working remotely in a jurisdiction where they do not have a right to work can face civil and criminal liability, which extends to the employer where a nexus is established, carrying significant reputational risk. The law is unclear in many jurisdictions, making it costly and burdensome for employers to navigate. Whilst 'nomad visas' are now abundant, these are largely directed at freelancers and do not relieve these pressures effectively in the employer-employee context.

There's what we call the doctrine of unintended consequences: you can solve an immigration issue but create a tax consequence that was not anticipated or expected.⁶⁵

⁶³ Global workforce and talent management issues, in terms of operationalising CBRW, are outside the scope of this paper but present critical considerations for organisations

⁶⁴ Stakeholder response

⁶⁵ Shawn Orme, Debunking workforce mobility myths | EY - Global

Corporate tax compliance

Employees working remotely, particularly at more senior levels, can create a new taxable presence for entities in an overseas jurisdiction, exposing them to corporate income tax or VAT. Managing potentially higher tax costs and additional filing and reporting requirements are just some of the associated resource burdens for organisations. There is also the risk of permanent establishment as employees' presence in a new location may create organisational exposure and require a potential profit shift to a new taxable presence.

55% anticipate more permanent establishment corporate tax risks connected to more employees working remotely in the next two years.⁶⁶

Employment taxes

The location of work and the benefits package received are key drivers of much employment tax compliance. Organisations recognise that employment income for cross-border remote workers may be taxable, triggering local employer tax obligations such as registering the company in another jurisdiction. What constitutes employment income is not always straightforward; for example, are pandemic concessions subject to employment tax in another jurisdiction?

Personal tax compliance

Employees can trigger tax residence and income tax obligations by working in another jurisdiction. This presents several complex issues for employees, such as the potential double taxation of

employment income and the taxation of personal investment income and capital gains. In addition, the taxation of incentives (including bonus and equity) can vary considerably across jurisdictions and result in potential trailing liabilities in the location where work is performed. Simultaneously, employers grapple with 'home' regulations and domestic laws applicable to cross-border remote workers.

Regulatory oversight

In regulated professions, employers may have to consider whether professional qualifications are recognised and whether there are any industry regulatory barriers to CBRW.

Payroll, reward and benefits

Organisations may need to register cross-border remote workers for reporting and withholding. Payroll obligations vary by jurisdiction, and different country combinations can give rise to different outcomes. Organisations need to evaluate whether to operate a 'shadow' payroll for remote workers, as well as the technical complexities associated with country-by-country treatment of compensation items, benefits, pensions and trailing liabilities on deferred incentives.

Social security and access to healthcare

Cross-border remote workers can trigger social security obligations in the location where services are provided, with potential penalties for non-compliance. On an employee level, this could impact an individual's ability to access healthcare and other benefits in the country.

⁶⁶ Realizing the value of your tax and finance function | EY - Global

Employment law

Employers are responsible for their employees' work environment regardless of where the work is performed. Employers are faced with navigating local employment laws, such as working time requirements, overtime and leave entitlements or termination rights, which may be deemed to apply and could impact employment contracts.

There are disjointed approaches globally: some jurisdictions have introduced legislation – for example, requirements on visits to the office, mandatory home-office work environment inspections and obligations for employers to cover expenses related to remote/hybrid work setup.

Figure 11: Putting the pieces together

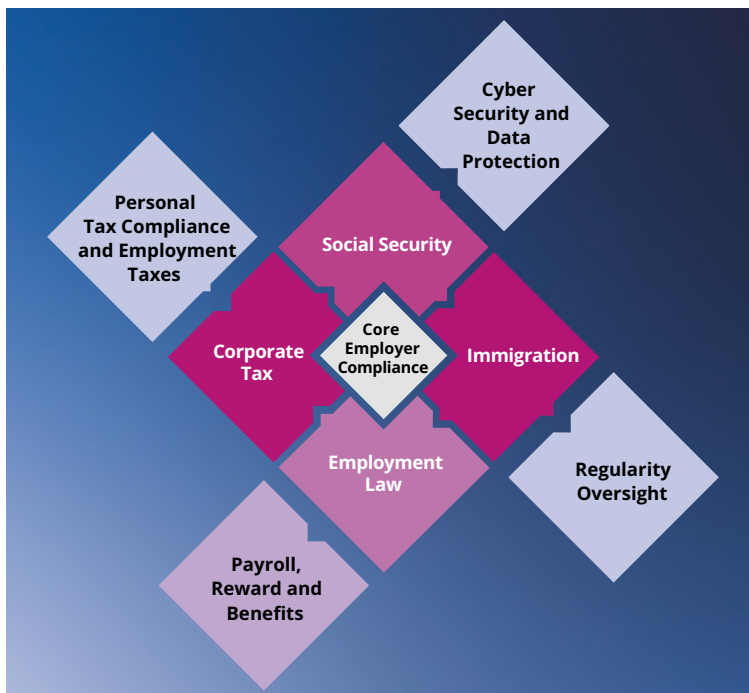
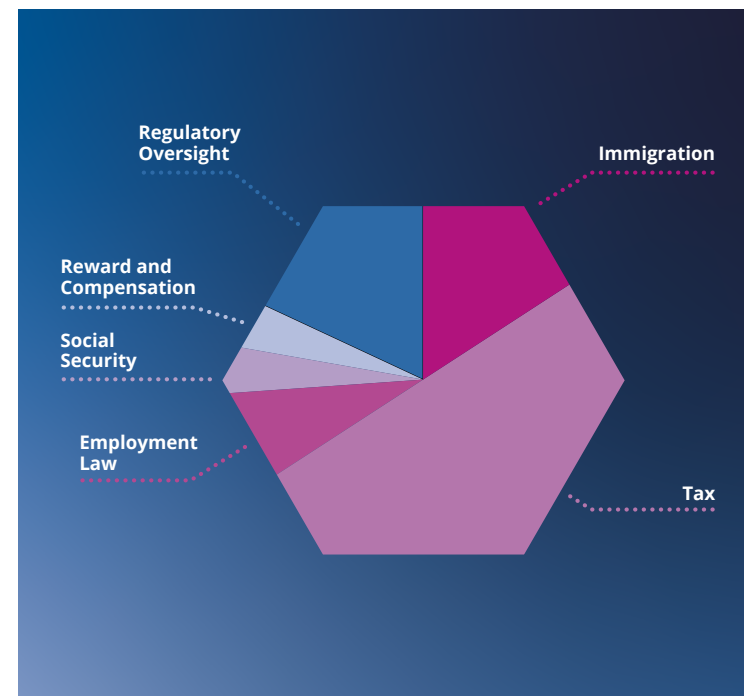


Figure 12: What do you see is the biggest challenge/risk area for organisations that might allow CBRW? (Single Choice)⁶⁶



⁶⁶ Polling data is taken from our stakeholder group during 27 January 2022 'Competing for Global Talent: The challenges and opportunities for Cross Border Remote Working', Webinar Poll (151 respondents).

7. Global snapshots

Global financial centres are not standing still – they are jostling for advantage in a challenging labour market. Here we look at innovative global initiatives.



Focus on CBRW in the European Union (EU)



Borderless work within the EU

With remarkable speed and flexibility, the pandemic has overhauled traditional ways of working within the EU. But what remains of this fast-paced evolution now that the pandemic-related concessions are coming to an end?

Free movement

With Europe being home to the world's largest free movement zone, barriers to migration and mobility are at an absolute low. There is a freedom to relocate without hindrance to work – largely extending to remote work options as well – but this is only available to citizens and permanent residents within the zone. For them, the main issue is not immigration but the fact that there is no specific legal status when working from a different EU Member State than the normal place of employment. This can impact the employee's social security rights, personal income tax and on the applicable labour law. In addition, the employer's taxes can be impacted.

Third-country nationals

Third-country nationals do not enjoy the same benefits, making remote working in the EU more cumbersome. There are, however, some nuances depending on the CBRW persona.

Frontier workers typically benefit from tailored regulations and concessions, allowing them to exercise their activities across borders. Telecommuters (those working remotely from the same country as their employer) are also not controversial from an immigration point of view, as most EU countries allow for this kind of remote working with some additional requirements (ranging from an addendum to the employment contract to a migration notification).

Workers not in either of these categories fall within a grey area and are faced with a severe lack of regulation and harmonisation. Third-country nationals looking to take up remote work (or work as a digital nomad) will generally need a specific immigration status in the host country. The problem is that obtaining immigration status across the EU without local activities or sponsorship is nearly impossible.

There is currently no consolidated approach within the EU to address this issue, leaving it up to the autonomy of Member States. Although there is an increasing number of EU Member States setting up digital nomad programmes, the main category of third-country national remote workers is left without an EU legal framework.

Looking ahead

There is a severe lack of regulation and harmonisation within the European Union, particularly for third-country nationals. Competence largely remains with Member States, and there is currently no consolidated approach. Employers are facing a country-by-country approach if they want to keep up with the demand for remote working – especially now that pandemic-related concessions are fast phasing out. The question is whether the European Union will seize this opportunity and address these issues – shaping the future of remote working in Europe. Immigration, tax, and to a certain extent, social security remain at the core of national competence, but with EU support, a cohesive and future-proof policy is possible.

On the following pages we evaluate different ways governments are innovating and introducing new policies to attract international talent and build competitiveness.



Austria strongly encouraged remote work during the COVID-19 pandemic. The Federal Ministry for Digital and Economic Development also encouraged the formation of Digital Team Austria to support teleworking. Digital Team Austria was set up by a group of IT companies offering SMEs digital services. Services are free of charge for a minimum of three months.⁶⁸

Services are free of charge for a minimum of three months.



Belgium, France, Germany and Luxembourg all concluded mutual agreements to prevent cross-border and frontier workers from experiencing tax disadvantages as they were forced to work from home due to travel restrictions. Income from days worked at home due to the pandemic would continue to be taxable in the state of work.⁶⁹

All concluded mutual agreements to prevent cross-border and frontier workers from experiencing tax disadvantages as they were forced to work from home.



Chile is pioneering a policy to attract talent. Over the past decade, the country has incentivised entrepreneurs through Start-Up Chile, which provides qualified entrepreneurs with a year-long visa and equity-free grants. In return, entrepreneurs must participate in Chile's economy. The programme has attracted over 2,000 start-ups from 88 countries.⁷⁰

The program has attracted over 2,000 start-ups from 88 countries.



Estonia has innovative policies to attract talent, specifically entrepreneurs, through initiatives such as the Start-up Visa and e-Residency schemes. The Start-up Visa Scheme provides non-EU founders with the opportunity to work and grow their company in Estonia and has so far attracted over 4,000 people.⁷¹ The e-Residency Scheme allows entrepreneurs from all over the world to obtain virtual Estonian citizenship – allowing them to run an EU business entirely online from anywhere in the world. The country, with a population of only 1.3 million, has been the source of 10 \$1 billion tech companies and currently has 1,456 start-ups.⁷² Estonia was also one of the first countries to introduce a digital nomad visa. The visa was announced in June 2020, and applications opened on 1 August 2022.⁷³

A population of only 1.3 million, has been the source of ten \$1 billion tech companies.

⁶⁸ OECD, "Exploring policy options on teleworking: Steering local economic and employment development in the time of remote work", OECD Local Economic and Employment Development (LEED) Papers, No. 2020/10 (November 2020): 29, <https://doi.org/10.1787/5738b561-en>

⁶⁹ OECD, "Exploring policy options on teleworking"

⁷⁰ Baskin, Kara, "In a Work-from-Anywhere World, How Remote Will Workers Go?", Harvard Business School (June 3, 2022), <https://hbswk.hbs.edu/item/in-a-work-from-anywhere-world-how-remote-will-workers-go>

⁷¹ Clawson, Trevor, "Starting From Zero: What Can Estonia Teach Us About Building A Startup Ecosystem?", Forbes (September 22, 2022), <https://www.forbes.com/sites/trevorclawson/2022/09/22/starting-from-zero-what-can-estonia-teach-us-about-building-a-startup-ecosystem/?sh=3a2476ba7436>

⁷² Clawson "Starting From Zero"

⁷³ Brown, Hannah, "FAQs about Estonia's digital nomad visa", Republic of Estonia E-Residency (July 7, 2020), FAQs about Estonia's Digital Nomad Visa (e-resident.gov.ee)



Japan was encouraging remote work even before the pandemic. The government granted subsidies for teleworking uptake and issued guidelines on teleworking. To further encourage remote work, the government introduced a scheme for SMEs that adopted remote working in response to the crisis. The government covers 50% (up to JPY1 million) of the cost of introducing IT solutions, training workers and other costs caused by adopting this.⁷⁴

The government covers 50% (up to JPY 1 million) of the cost.



Portugal made remote work mandatory for any jobs compatible with working from home during the state of emergency caused by COVID-19.⁷⁵ Workers could also unilaterally choose to work remotely if they could perform their role from home.⁷⁶ To support this, the government developed several free digital tools in Portuguese, including a contact centre for support.⁷⁷ Even after remote work was no longer mandatory, the government continued encouraging it. In December 2021, they issued a legal act that defines new rules and rights on remote working. The act came into effect on 1 January 2022.⁷⁸ The act entitles employees to request remote work if their employer has the resources for it and the role can be done remotely. The employer can deny the request, but a written refusal must be provided that includes the reasoning for the refusal. It also outlines circumstances in which the employee is entitled to remote work always. Furthermore, the

75 Diário da República Eletrónico, "Decreto n.º 2-B/2020, de 2 de abril" (April 2, 2020), <https://dre.pt/dre/detalhe/decreto/2-b-2020-131068124>

76 Diário da República Eletrónico, "Decreto-Lei n.º 10-A/2020, de 13 de março" (March 13, 2020), <https://dre.pt/dre/detalhe/decreto-lei/10-a-2020-130243053>

77 Estamos On, "A Resposta De Portugal À COVID19" (accessed on October 3, 2022), <https://covid19estamoson.gov.pt/>

78 L&E Global, "Portugal: New Rules on Remote Work in Portugal effective January 2022" (January 31, 2022), <https://knowledge.leglobal.org/portugal-new-rules-on-remote-work-in-portugal-effective-january-2022/>

law prevents employers from contacting employees outside of working hours.⁷⁹

Portugal has also announced a digital nomad visa for remote workers, valid for up to a year. This is in addition to the existing D7 visa, introduced to attract offshore retirees. The D7 visa allows anyone from outside the European Economic Area (EEA) with a passive income, earning above minimum wage in Portugal, who commits to spending most of the year in the country to apply for Portuguese residency. Although the D7 is sometimes used for remote work, the new digital nomad visa is expected to be specifically for remote workers and, therefore, also a better fit for remote workers.⁸⁰

The legal act entitles employees to request remote work if their employer has the resources for it.

79 L&E Global, "Portugal"

80 Thier, Jane, "Portugal is launching a 'digital nomad' visa specifically for remote workers", *Fortune* (October 4, 2022), [Moving to Portugal just got easier with new 'digital nomad' visa for remote workers | Fortune](https://fortune.com/2022/10/04/portugal-digital-nomad-visa/)



Spain, like many countries on this list, strongly encouraged remote working during the pandemic.⁸¹ To facilitate this, the Acelera pyme Programme was introduced, which supports the digitalisation of SMEs through grants and loans.⁸² Spain recently announced the introduction of a digital nomad visa, which will be available to applicants from outside the EEA. Although the legislation has not been passed yet, it is expected that the visa will initially be valid for one year, renewable for up to five years, and applicants can bring their close family. The scheme also includes a tax break for visa holders, who will be taxed at 15% instead of the standard 25% base rate for the first four years.⁸³

The Acelera pyme Programme was introduced, which supports the digitalisation of SMEs through grants and loans.

81 ILO, "Country policy responses" (accessed on October 3, 2020), <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang-en/index.htm#ES>

82 Acelera pyme, "About Acelera pyme" (accessed on October 3, 2020), <https://acelerapyme.gob.es/en/sobre-acelerapyme>

83 Burgen, Stephen, "Spain plans 'digital nomad' visa scheme to attract remote workers", *The Guardian* (September 25, 2022), [Spain plans 'digital nomad' visa scheme to attract remote workers | Spain | The Guardian](https://www.theguardian.com/world/2022/sep/25/spain-plans-digital-nomad-visa-scheme-to-attract-remote-workers)

74 Alesia International Law Office, "Grants and Subsidies for SMEs in Japan under COVID-19 situation" (April 21, 2020), <https://alesia-law.com/en/2020/04/grants-and-subsidies-for-smes-in-japan-under-covid-19-situation/>



CISCO has partnered with Venywhere – a programme aiming to attract anywhere-workers to Venice. The programme was launched to repopulate Venice and diversify its economy after the drastic fall in tourism due to the COVID-19 pandemic.⁸⁴ Sixteen CISCO employees have relocated to Venice from Spain, Italy, France and Greece as part of the pilot programme “that’s shaping the future of work”.⁸⁵ CISCO’s Chair and CEO, Chuck Robbins, said that companies must offer hybrid work options to attract and retain the best people, and the partnership with Venywhere is giving the company important insights into the future of work.⁸⁶

CISCO has partnered with Venywhere – a programme aiming to attract anywhere-workers to Venice.

//MobSquad

MobSquad was launched in 2018 to help US tech start-ups attract and retain key talent. Many were struggling with visa issues in the US, which were exacerbated when immigration was temporarily suspended during the COVID-19 pandemic.⁸⁷ MobSquad has coworking spaces in several Canadian cities, allowing talent to avoid the US immigration system by obtaining fast-track work permits through Canada’s Global Talent Stream instead. Therefore, these individuals work for US companies from Canada, where they also pay taxes.⁸⁸

MobSquad has coworking spaces in several Canadian cities, allowing talent to avoid the US immigration system by obtaining fast-track work permits.

tulsa remote

Tulsa Remote was established to attract diverse newcomers to a city struggling with increasing out-migration and brain drain.⁸⁹ The programme offered remote workers \$10,000 each to relocate to Tulsa and received over 10,000 applications for just 250 spaces.⁹⁰

Tulsa Remote was established to attract diverse newcomers to a city struggling with increasing out-migration and brain drain.

84 Bennett, Catherine, “Can Remote Workers Keep Venice Afloat?”, Bloomberg UK (January 18, 2022), <https://www.bloomberg.com/news/features/2022-01-18/eager-for-new-residents-venice-lures-remote-workers>

85 PR Newswire, “Cisco and Venywhere reimagine the future of hybrid work in Venice ‘living lab’”, Bloomberg UK (April 13, 2022), <https://www.bloomberg.com/press-releases/2022-04-13/cisco-and-venywhere-reimagine-the-future-of-hybrid-work-in-venice-living-lab>

86 PR Newswire, “Cisco and Venywhere reimagine the future of hybrid work”

87 Choudhury, Prithwiraj, Kerr, William R., and Ma, Susie L., “MobSquad”, Harvard Business School (July 14, 2020), <https://hbsp.harvard.edu/product/821010-PDF-ENG>

88 Choudhury, “Our Work-from-Anywhere Future”

89 Holder, Sarah, “The Great Tulsa Remote Worker Experiment”, Bloomberg (February 28, 2020), <https://www.bloomberg.com/news/features/2020-02-28/the-great-tulsa-remote-worker-experiment>

90 Choudhury, Prithwiraj, “Our Work-from-Anywhere Future”, Harvard Business Review (November-December 2020), <https://hbr.org/2020/11/our-work-from-anywhere-future>

Case Study:

Focus on UAE



Over the last year and a half, the UAE government has led interesting innovations in remote work policy. Their approach has been driven by a holistic talent attraction and retention strategy – easing processes and reducing bureaucracy for employees, employers and digital nomads alike.

The UAE have reformed their immigration system – a system with major features that had largely remained untouched since the 1970s, introducing innovative policies. Among these is the Remote Work Visa (the UAE's digital nomad visa). Their purpose: to attract and retain global talent. These changes are part of the UAE's strategy for talent attraction and retention adopted by the Cabinet in April 2021.⁹¹

The UAE is well positioned as a talent attractor – ranked 7 out of 134 countries in 2021 by the Global Talent Competitive Index (CGI) for its ability to attract talent. The challenge is retention, in which the UAE rank 55.⁹² This became evident when the pandemic hit, and as such, a multifaceted initiative to attract and retain talent was launched.

'In conversation' with the Ministry of Economy, United Arab Emirates

What does the UAE government see as the net gain/benefits of talent attraction and retention?

"The benefits go beyond attracting business and investment. Our goal is to create a knowledge and innovation hub within the UAE to ensure future innovation. To do so, it is not enough to attract talent. The UAE must be able to retain talent too."

Overview of the UAE's approach to CBRW, talent attraction and retention

"Our approach is based on an individual's lifecycle and focused on four pillars: (1) immigration, (2) social security, (3) data, (4) marketing strategy. The reform to the immigration system is designed to ensure that diverse types of talent (e.g. artists, investors, professionals) and distinct types of work (e.g. freelancing, remote work, multi-disciplinary jobs) are equally welcomed and provided with stability once they arrive in the UAE. For this reason, the mandate for a visa to be tied to employment is being defined, and new categories not tied to an employer are being introduced.

This is where the second pillar comes in – providing individuals with the ability to stay in the UAE and cope with unemployment and other unforeseen circumstances – in other words, allowing people to build a life and a future in the UAE. The UAE also does not impose social security taxes on foreign nationals.

The third pillar is central to the UAE's approach and ensures that economic planning is based on data. It allows them to identify skills in demand, trends and talent gaps, which in turn allows them to equip local talent with the right skills and identify and attract global talent.

Finally, the last pillar fully focuses on attracting talent through marketing and promoting their comprehensive approach to retain talent in the long term."

continued >

⁹¹ The Official Portal of the UAE Government, "The UAE Strategy for Talent Attraction" (accessed on September 15, 2022), The UAE Strategy for Talent Attraction and Retention – The Official Portal of the UAE Government

⁹² INSEAD, Portulans Institute and Accenture, "The Global Talent Competitiveness Index 2021: Talent Competitiveness in Times of COVID" (2021), The Global Talent Competitiveness Index 2021 (insead.edu)

The UAE'S Remote Work Visa

The UAE's Remote Work Visa is considered key to attracting talent. Announced in March 2021 and opened to applicants a year later, over 1,000 visas have been approved so far. Applicants can bring their family, and the visa is valid for up to 12 months and is renewable. The list of requirements is straightforward.⁹³

Additionally, the government implemented a 10-year Golden Visa in 2019 and will be implementing the 5-year Green Visa in 2022 – both being self-sponsored residence visas. Like the Remote Work Visa, these permit types do not need a local company or national sponsor. The sponsorship remains with the individual, and only a separate non-sponsored ID Card (work authorisation) is required to work for a UAE employer or, in the case of freelancers, a Freelancer Licence to pursue self-employment.

Direction of travel

"The UAE is looking to offer holistic solutions, with government departments dedicated to attracting investment, talent and outward Foreign Direct Investment (FDI), as part of a proactive strategy to ensure the UAE can take advantage of emerging trends as early as possible."

An example is the recently announced NextGenFDI – a national initiative launched by the Ministry of Economy in July 2022 in partnership with banks and free zones, such as the ADGM and Dubai Internet City, to attract digitally-enabled companies.⁹⁴

This partnership is also the result of another characteristic that is key to the UAE's talent attraction success: their close relationship with business. The government talks to businesses directly to understand their needs. Therefore, policy is directly influenced by the private sector, and once implemented, the sector is left to do what it does best in a very hands-off approach. These characteristics are intended to create an environment advantageous to innovative immigration policies, which the UAE consider crucial to talent attraction.

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⁹³ The Official Portal of the UAE Government, "Remote work visas" (accessed on September 15, 2022), <https://u.ae/en/information-and-services/visa-and-emirates-id/residence-visa/remote-work-visas>

⁹⁴ Gulf Today, "NextGenFDI programme adds more entities to lure global firms" (September 21, 2022), NextGenFDI programme adds more entities to lure global firms - GulfToday. See also: United Arab Emirates Ministry of Economy, "What is 'NEXTGEN FDI'" (accessed on September 15, 2022), <https://www.moec.gov.ae/en/nextgenfdi>

8. Shaping a new model for CBRW

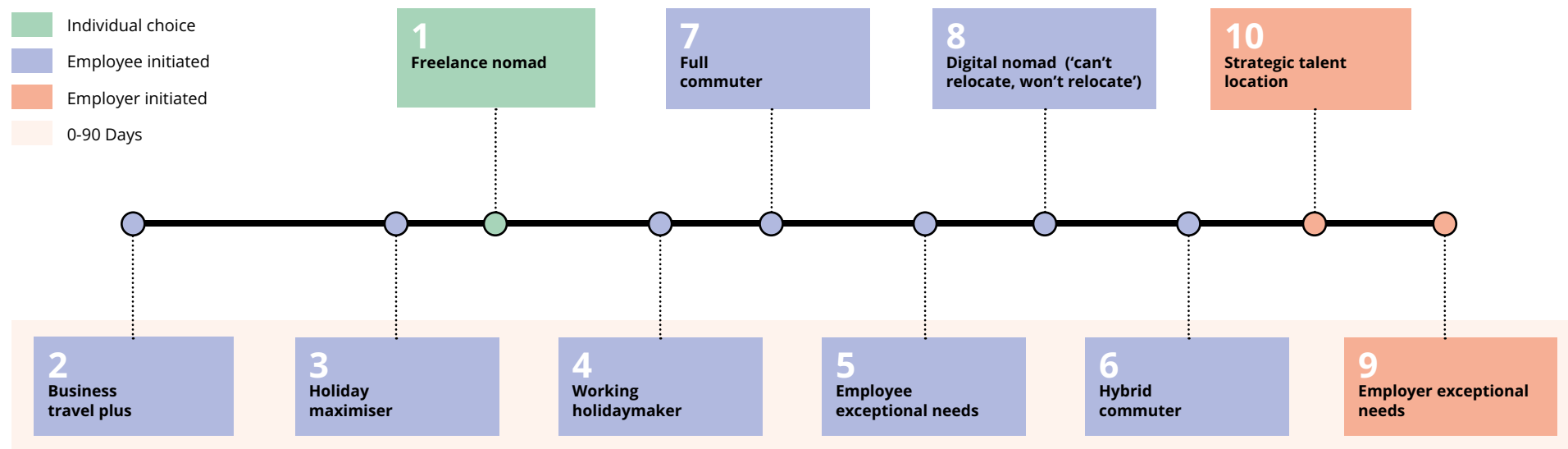
For the last two years, we have been going around in circles as the answers are all so grey. We cannot operate effectively in this talent market without something unambiguous, something predictable.⁹⁵

⁹⁵ Stakeholder response



We focus here on the key areas – immigration, corporate tax, employment law, personal and employment tax, and social security – which policymakers must address to move towards a more sustainable framework around CBRW for the key personas that impact employers most acutely (2-6 and 9):

Figure 13:



Immigration, right to work and CBRW

CBRW is considered 'productive work' in immigration speak. To undertake CBRW in a country where an employee is neither a citizen nor qualifying resident, they must meet local immigration requirements.⁹⁶

- CBRW is not generally permitted as visitor activity
- There is no neat immigration category into which it sits
- It is not an intra-company transfer (ICT) as this category is presently known⁹⁷

This has meant that CBRW largely falls into an immigration policy black hole.

This was acutely felt by businesses during the end of 2020, when employers were faced with dislocated employees due to the pandemic, and the immediate removal of free movement rights for UK nationals across the EEA, following the UK's exit from the European Union. This meant that those UK nationals who may have been compliantly working remotely with family or in extenuating circumstances across the EEA until 31 December were immediately caught by these new restrictions after that.

The concept of nomad visas has, in some ways filled a wide gap, and global immigration policy makers innovated at speed from the very early onset of the pandemic.⁹⁸

Immigration systems will generally treat CBRW in one of four ways:

1. Expressly prohibited: Individuals who will undertake CBRW will require work authorisation under standard work permit rules.

2. Permitted by Nomad visa application: Individuals can apply for a Nomad or Digital Remote visa, allowing them to work, other than for a local employer.
3. Permitted only where incidental: Business travel rules may permit incidental, remote work, although this will be highly restricted. It will not allow someone to enter for the purpose of remote work but will allow someone with leave in another capacity to do very limited remote work. The UK is in this category.
4. Ambiguous rules: There are no permit categories to allow it and no immigration regulations or laws to prohibit it. This makes it difficult for employers to govern; given the compliance risks, businesses want to avoid this grey area.

The benefits and shortcomings of nomad visas

There has been a proliferation of nomad-style visas since the pandemic. More and more countries are introducing these innovative remote working visas to create new economic development and innovation opportunities and attract cross-border talent. There are now at least 30 countries with transparent, live nomad routes, and the number is growing almost every quarter.⁹⁹

⁹⁶ A qualifying resident could be a permanent resident, a long-term resident, a family member of a national with residence rights etc. Visitors are not deemed to be 'resident' in immigration law

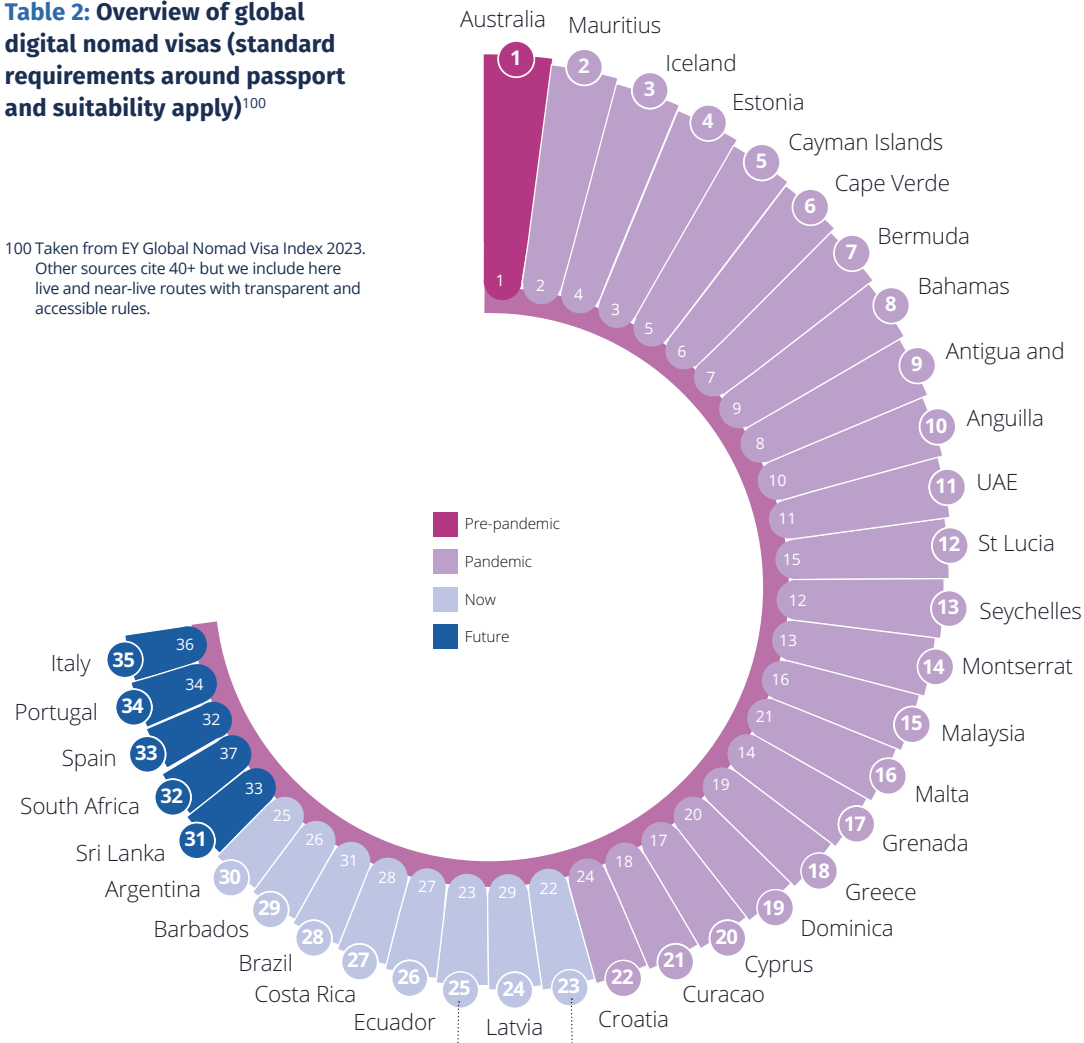
⁹⁷ CBRW is not usually an employer-led transfer, nor is it tied to a host entity. It will often happen in a country where the home employer has no footprint

⁹⁸ On a large range of policy issues. See Joint report by EY, City of London Corporation and The City UK, Global Talent Mobility: Ensuring UK competitiveness one year on: our scorecard | TheCityUK

⁹⁹ Other sources cite 40+ but we have included here only live routes with transparent and accessible rules.

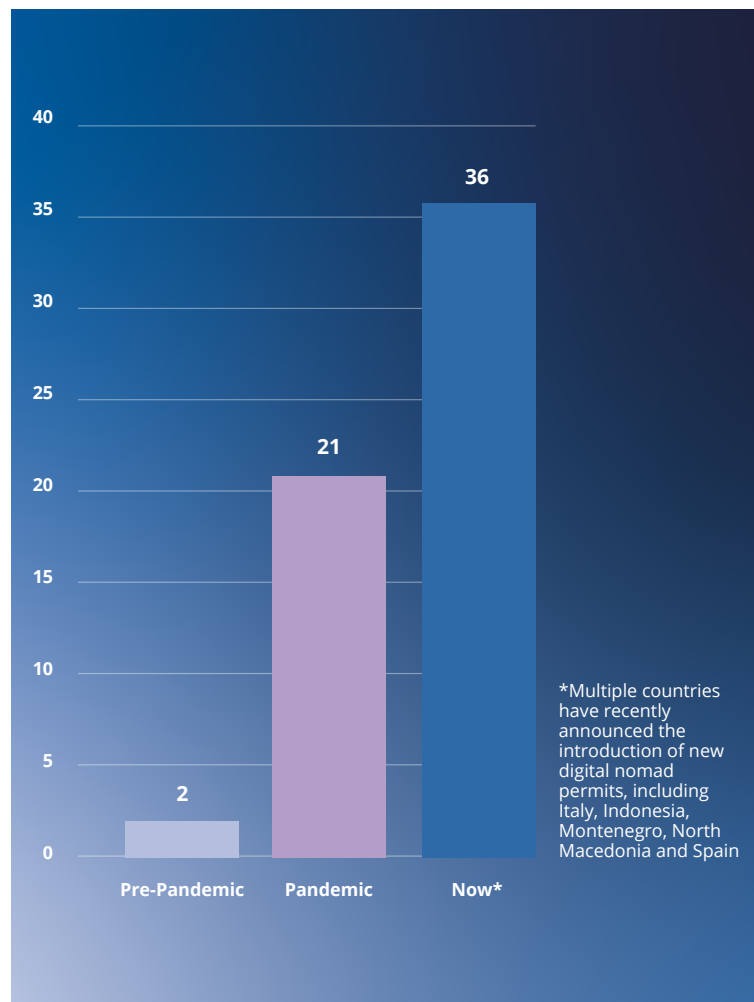
Table 2: Overview of global digital nomad visas (standard requirements around passport and suitability apply)¹⁰⁰

¹⁰⁰ Taken from EY Global Nomad Visa Index 2023. Other sources cite 40+ but we include here live and near-live routes with transparent and accessible rules.



Country	Year introduced	Length of permit	Key qualifying criteria
Italy	2023 onwards	1 year	Employment, proof of funds, other details to be confirmed
Portugal	2023 onwards	1 year	Employment, proof of funds, other details to be confirmed
Spain	2023 onwards	1 year	Employment, proof of funds, other details to be confirmed
South Africa	2023 onwards	Unconfirmed	Unconfirmed
Sri Lanka	2023 onwards	1 year	Employment, proof of funds, other details to be confirmed
Argentina	2022	6 months	Employment, professional qualifications, funds
Barbados	2022	1 year	Funds, health insurance
Brazil	2022	1 year	Employment, funds, health insurance
Costa Rica	2022	1 year	Employment, funds, health insurance
Ecuador	2022	2 years	Employment, funds, employment, health insurance
Hungary	2022	1 year	Employment or company ownership, funds, health insurance
Latvia	2022	1 year	Health insurance, residence, funds
Romania	2022	6 months	Health insurance, residence, funds
Croatia	2021	1 year	Employment, funds, health insurance
Curacao	2021	6 months	Employment, funds, health insurance, residence
Cyprus	2021	1 year	Employment, funds
Dominica	2021	Up to 18 months	Employment, funds, health insurance
Greece	2021	1 year	Employment, funds
Grenada	2021	1 year	Employment, funds, health insurance
Malta	2021	1 year	Employment, funds, health insurance, residence
Malaysia	2022	1 year	Employment funds, health insurance
Montserrat	2021	1 year	Employment, funds, health insurance
Seychelles	2021	30 days	Management position, health insurance, residence
St Lucia	2021	1 year	Residence
UAE	2021	1 year	Employment, funds, health insurance
Anguilla	2020	3-12 months	Employment, funds, health insurance
Antigua and Barbuda	2020	2 years	Employment, funds, health insurance
Bahamas	2020	1 year	Employment
Bermuda	2020	1 year	Employment, funds, health insurance
Cape Verde	2020	6 months	Employment, funds, health insurance
Cayman Islands	2020	2 years	Employment, funds, health insurance
Estonia	2020	1 year	Employment, funds
Iceland	2020	6 months	Employment, funds, health insurance
Mauritius	2020	1 year	Employment, funds, health insurance
Australia	1975	1 year	Funds

Figure 14: Growth in remote work and digital nomad visas



There is no one standard nomad route – there are nuances across each jurisdiction. Applications are relatively straightforward, however, and leave is usually granted for up to 12 months. Common requirements include:

- Valid citizenship.
- Continued terms of employment with a foreign employer.
- Sufficient funds for maintenance and accommodation.
- Health insurance.
- Suitability (e.g., clean criminal record and immigration history).

The problem with nomad routes

Firstly, not all immigration systems will want one. Many countries are in a 'wait and see' mode and are not trying to establish a positive benefit focal point, pushing back instead onto existing immigration routes. Secondly, nomad routes do not generally allow the holders to participate in the local economy, and income must derive outside the nomad country. However, some countries, such as Malta, UAE and Mauritius, will allow nomads to switch to local immigration categories, from where they can integrate into local markets.

Nomad routes are simply not designed for employers and therefore support only a small subset of mobility requests. They are not a 'fix' for most employee-led mobility requests, which tend to be short-term: an employee might be going home to visit family and wish to add a couple of weeks or months of work to their holiday. In contrast, countries that have introduced nomad routes want to see holders immerse in the local economy for a period.

This shift will have a significant and ongoing impact on people's relationship with their country, redefining what it means to be a citizen in the 21st century.¹⁰¹

There are suggestions that immigration policy should redefine routes to citizenship for nomads to drive this mobility. From an immigration pathways perspective, this would entail allowing flexible switching and accumulating time to count towards residency. These are steps that have been taken in some jurisdictions.

Overall, some policy development is needed in this space regarding how nomads interact with the host country, with the domestic labour market, and whether there might be some streamlined conversions from nomad to long-term or permanent status. Nomad routes support employers in a limited direct way, and indirectly in terms of potential global knowledge hubs. They do not yet provide adequate relief regarding CBRW's administrative burden and cost on UK employers.

Frictions may ... prevent valuable opportunities from being grasped.¹⁰²

Remote work visitor approach: a better way forward?

A visitor is typically defined as a person coming to a country for no longer than six months to carry out a permitted activity, whether as a business or general visitor. With a few rare exceptions, a visitor:

- Should not receive payment from a local source for any activities undertaken.
- Should not be performing work activities in the destination country – this includes remote work (exemptions may apply).
- Must be a genuine visitor and intend to leave the country at the end of the visit.
- Should not be seeking to live in the country for extended periods.

We have identified three divergent policy approaches globally around CBRW and visitors:

5. **Remote work is prohibited as a visitor.** This is clear for business but inflexible against the demand pressure.
6. **Visitor rules are silent.** This gives arguable flexibility but is complex and costly to govern as it falls on the employer to take risk-based approaches.
7. **Remote work is permitted as a visitor.** There is a small subset of countries that allow CBRW within defined parameters. The UK is an example where a person can undertake some remote work activity but only as ancillary to the main purpose of their visit.

¹⁰¹ Razavi, "The Great Migration"

¹⁰² Grzegorzczak, et al., "Blending the physical and virtual"

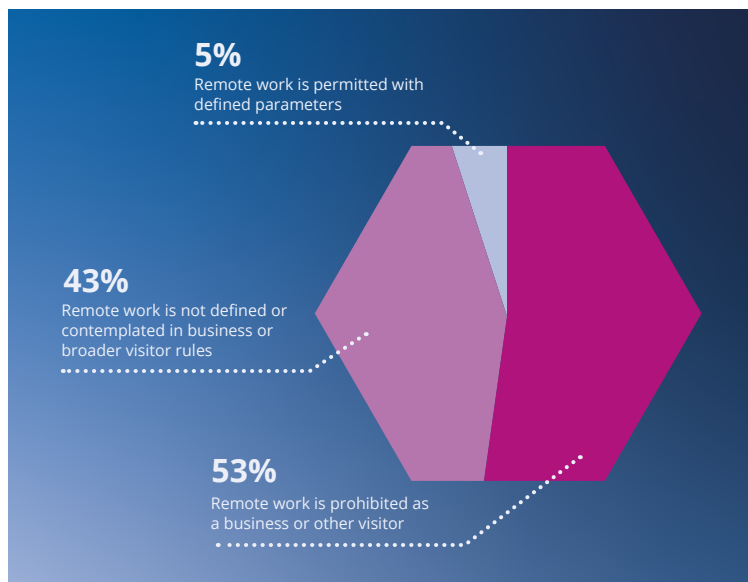
We reviewed immigration rules in 40 countries with key business travel lanes for the UK in the sector against the above three approaches. The challenge for business is stark.

52% of countries **strictly prohibit CBRW** when entering the country as a visitor.

43% of countries are **in the grey** and do not define remote work in their local visitor rules.

5% of countries we reviewed **explicitly permit remote work** when entering the country as a visitor.

Figure 15: Visitor status vs remote work classification for key Financial Services hubs ¹⁰³



¹⁰³ Countries with high levels of business travel

Moving forward

Employers are left with a deep chasm between the demand upon them to enable more agile ways of working and outdated immigration policy. This will change over time, and immigration systems will catch up to properly recognise the shift in global ways of working identified in this paper. The UK should lead this reform.

Intra-company transfer (ICT) options could provide some relief, but CBRW will often be in a country where the home employer has no 'host' operation or 'sponsoring' entity. Therefore, the reach of ICT-based measures is necessarily limited.

The prevailing gap is around the immigration framework for visitors, and failure to make relevant changes would be a missed opportunity.

In our 2021 joint report¹⁰⁴, we called on the UK government to adapt the visit rules in line with the business need for short-term productive work. We are encouraged that the Migration Advisory Committee echoed that recommendation¹⁰⁵ in its October 2021 report to consider expanding visit rules.

¹⁰⁴ <https://www.thecityuk.com/media/ppniju5q/global-talent-mobility-ensuring-uk-competitiveness-v2.pdf>

¹⁰⁵ <https://www.gov.uk/government/publications/review-of-the-intra-company-transfer-ict-route-2021/intra-company-transfer-report-october-2021-accessible-version>

Accordingly, to drive UK competitiveness at a time of acute global talent and economic challenge, the UK's focus should be directed towards driving reform of how CBRW is treated in visitor immigration policy:

- Visitor rules globally must evolve to recognise CBRW as a permitted 'Remote Work Visitor' activity in itself. This could be restricted, e.g., up to 60 or 90 days, rather than 180, but would provide significant relief and clarity to support compliant UK businesses and enhance their attractiveness to talent.
- Recognising that much of the pressure on UK business comes from employee demand for short periods of *outbound* CBRW, the UK should proactively take this issue into trade agreement negotiations to build a global consensus around a refreshed Mode 4. The UK should bring trade and mobility policy in line with now-entrenched changes in global ways of working and employee-led mobility.
- The UK can unilaterally lead from a build on its own innovative approach by recognising certain forms of CBRW as permitted under a 'Remote Work Visitor' activity stream, rather than only where it's a secondary purpose to a current visit. Appropriate controls can be built in to ensure public confidence and integrity. There should be consultation on tax implications to ensure clarity around any differentiation between pure remote work activity (employee-led) and business visit activity (employer-led).

Case Study:

Evolution of work: time for a fresh approach to tax?

Global approaches to corporate tax risk arising from CBRW

The sudden closures of borders and restrictions on movement in the early stages of the pandemic meant that many employees found themselves unable to physically perform their duties in their country of employment and instead worked remotely.¹⁰⁶ This raises tax issues around how the right to tax is divided between countries, which is governed by international tax treaty rules that delineate taxing rights.

Crisis response

- On 3 April 2020, the OECD published its 'Analysis of Tax Treaties and the Impact of the COVID-19 crisis'¹⁰⁷, which provided guidance on the tax implications of dislocated cross-border workers due to the pandemic. It was predicated on the assumption that the dislocation of workers was extraordinary, temporary and would need to be re-assessed as the crisis unfolded.¹⁰⁸
- Four major concerns were covered relating to the creation of permanent establishment (PE), the residence of companies, the residence of individuals and the taxability of employment income of cross-border employees.
- OECD analysis generally observed that these exceptional circumstances should not cause meaningful changes in the tax position (under a treaty) of employees or employers in respect of PE, residence and the taxation of employment income.
- It was recommended that tax administrations should produce directions or regulations to address the tax issues arising.

continued >

¹⁰⁶ How COVID-19 is disrupting immigration policies and worker mobility: a tracker | EY - Global

¹⁰⁷ https://read.oecd-ilibrary.org/view/?ref=127_127237-vsdagpp2t3&title=OECD-Secretariat-analysis-of-tax-treaties-and-the-impact-of-the-COVID-19-Crisis

¹⁰⁸ COVID-19: How are governments responding to the call for stimulus? | EY - Global

On 21 January 2021, OECD published its 'Updated guidance on tax treaties and the impact of the COVID-19 pandemic'¹⁰⁹, which revisited the earlier guidance and provided more clarity and certainty.

- The language used in the updated guidance was more definite, e.g. the updated guidance provided that an exceptional and temporary change in the location where employees exercise their employment because of the COVID-19 pandemic 'should not' create new PEs for the employer, whilst the April 2020 guidance had indicated that such a situation was 'unlikely' to create a PE. This is in context of a temporary event rather than an ongoing behavioural change in working pattern.
- It examined the longer-term impact, and whether the analysis and the conclusions outlined in the April 2020 guidance continue to apply where the circumstances persisted for a significant period.

The challenges then

- OECD recommendations are not binding and, by default, did not directly impact domestic tax laws.
- The analysis only covered country combinations where a double taxation treaty governed by OECD guidance exists. So the pandemic could still impact the taxation of companies and individuals in other circumstances.
- OECD issued clarifications on a few aspects of taxation, but other issues had to be worked through with the competent authorities across the globe.

The challenges now

- The OECD guidance allows for a flexible approach. Still, we may see an inconsistent global application, with jurisdictions taking different positions in the same situation (e.g. it is left up to jurisdictions to include or exclude temporary interruptions when calculating the time threshold).
- Service PE issues are not specifically addressed, and the guidance only covers the OECD Model Tax Convention. In contrast, provisions in bilateral double tax treaties may differ from the OECD Model, and such differences would need to be considered in analysing the result in any given situation.

Moving forward

It is clear that temporary measures aimed at removing friction during a global pandemic are no longer appropriate and open to interpretation. Global reform is necessary. A holistic approach is needed, and the UK government's move to conduct an evidential Review of Hybrid and Remote Working is welcome. It is multi-dimensional, and the evidence gathered across various aspects of remote and hybrid work arrangements should help drive sensible discussions on appropriate long-term reform at the global level.

Given the diversity of the UK workforce, it is more likely that UK-based employees would want to work in another jurisdiction rather than the UK being their hub for remote working. Coupled with a potential increase in the collection of other taxes, mainly VAT and other indirect taxes, the UK Exchequer ought not to be adversely impacted if the rules on remote working in the UK were to be simplified, taking into account the new way of working.

¹⁰⁹ <https://www.oecd.org/coronavirus/policy-responses/updated-guidance-on-tax-treaties-and-the-impact-of-the-covid-19-pandemic-df42be07/>

Framing the conversation in the post-pandemic world

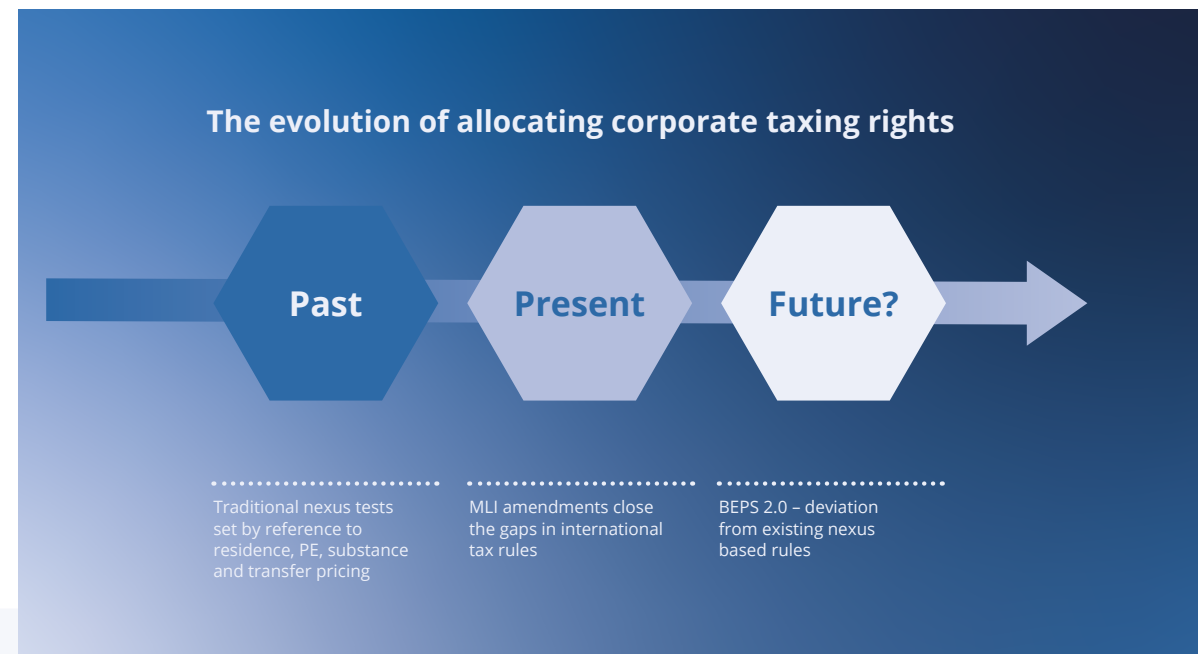
We are seeing a new environment being applied to old rules.¹¹⁰

For the UK's domestic approach, there is a strong case for the UK simplifying its rules on corporate residence and recognition of a UK permanent establishment to take account of the following:

- The evolving working practices and future work trends set out in this paper.
- The evolving international tax environment – which reflects the international consensus that increasingly, profit and value are generated by intangible assets and technology rather than principally focusing on the place where employees are physically located.

A simplified and more generous framework should make the UK more attractive as a place to live, work and conduct business, thereby generating more revenue for the UK Exchequer in the round.

Figure 16: Past, present and future approaches to physical presence



¹¹⁰ UK probes tax status of remote workers | Financial Times (ft.com) and see also 'The cross-border pitfalls of working from anywhere'

Evolving approach to taxing multinational businesses: de-emphasising physical presence in the future?

The taxation of large multinational businesses is an area of intense political discussion. One particular area of debate is how to determine the allocation of taxing rights over the profits of multinationals between different countries. The global tax system is built on two key sets of rules in this regard. Firstly, 'nexus' rules based on physical presence (e.g. for companies, corporate residence or the existence of a branch or, in tax-speak, 'permanent establishment' or 'PE'). And secondly, 'profit allocation' rules based on the arm's length principle.

However, this construct has already been put under considerable pressure by globalisation and digitisation – in particular, where businesses are generating significant profit and value from the development and exploitation of intangible assets and technology, which have reduced or even eliminated their need to have a meaningful physical presence in target markets.

The OECD BEPS 2.0 project obtained political agreement from approximately 137 countries in October 2021. Pillar One seeks to create new taxing rights for market jurisdictions independent of physical presence and determined using a revenue-based allocation key. If implemented, it will apply only to very large multinational groups.¹¹¹ In addition, Pillar Two sets out global minimum tax rules designed to ensure that large multinational businesses pay a minimum effective rate of tax of 15% on profits in all countries, which in certain circumstances allows taxing rights to be re-allocated to jurisdictions other than those in which the profit is treated as arising for tax purposes.¹¹²

In summary, how large multinational businesses are subjected to corporate tax is already in flux, and physical presence should become less important in this 'brave new world' than it has traditionally been.

But physical presence is still important under current tax rules

Notwithstanding the developments noted above, physical presence is still, and will remain, a very important factor for determining a country's taxing rights, including the UK's, not least because those are the parameters set by the current international tax treaty framework.

- Firstly, the nexus rules and 'profit allocation' rules noted above remain fully in place, irrespective of the final outcome of the Pillar One and Pillar Two initiatives. If implemented, Pillar One and Pillar Two would sit alongside those rules.
- Secondly, as noted above, Pillar One will only apply to a relatively small group of (very large) multinationals. Most businesses, therefore, will need to continue to be taxed solely based on the current nexus rules.
- Thirdly, there is a complete exclusion from Pillar One for the regulated financial services and extractive sectors.
- Finally, it is not at all clear that Pillar One will be implemented – as it will likely need a multilateral treaty to be concluded to take effect and, as things stand currently, that looks like an extremely ambitious target.

¹¹¹ Those with a global annual turnover in excess of EUR 20 billion (decreasing in the future to a turnover threshold of EUR 10 billion), and pre-tax profit margin above 10%

¹¹² Those with a global annual turnover in excess of EUR 750 million

What are the corporate tax challenges potentially posed by cross-border working?

In the meantime, then, multinational businesses continue to navigate the challenges of cross-border working in several contexts, as they have already been doing for some time.

Here are some (hypothetical) examples that illustrate some of the challenges that can arise:

All of these six scenarios give rise to potential UK corporate tax issues for the entities in question.

In all six scenarios, a careful analysis would need to be undertaken as to whether the employing entity would have a taxable UK PE. If the answer to that question were yes, then that would give rise to UK tax filing obligations and consideration of how much, if any, profit was attributable to the UK PE (applying arm's length principles) and taxable in the UK.

SCENARIO 1:

A is employed by a French asset management company based in Paris.

A travels to the UK for three days every month to meet potential clients and, where the opportunity arises, negotiates the substantive terms of contracts with those potential clients before they come on board as clients of the French company.

SCENARIO 2:

B works for a Brazilian bank. B has moved permanently from Brazil to the UK and works full-time from home.

The Brazilian bank has no offices in the UK. B is a senior trader and conducts and executes trades in the UK. B is also on the board of directors of the bank and participates remotely from the UK in key management decisions made at those board meetings.

SCENARIO 3:

C is employed by a commodities trading company in Dubai.

The Dubai company has a subsidiary in the UK. C is seconded from the Dubai company to the UK subsidiary for three years and will live in the UK for almost all that period. The terms of the secondment agreement make clear that C will work for the UK subsidiary over the term of the secondment agreement. However, C will also continue to spend a few hours a week in the UK approving trades that C's colleagues in Dubai wish to execute.

SCENARIO 4:

D is a financial controller employed by a Swiss asset management company and is based in Geneva.

D's partner is based in the UK, and D works from the UK over a period of 20 weeks on average every year from the partner's home. D generally works remotely, in both Geneva and the UK and is in regular discussions with colleagues, including providing constant direction to team members, but has no interaction with external stakeholders or clients.

SCENARIO 5:

E is a senior investment manager employed by a UK asset management company and is based in London.

E is also on the board of directors of a Luxembourg fund entity. Before the Covid-19 pandemic, E would fly to Luxembourg to participate physically in all board meetings of the Luxembourg company. During Covid, E participated remotely in such meetings from the UK, with all the other directors physically present in Luxembourg. E would like to continue with such arrangements in the future.

SCENARIO 6:

F is a UK national employed by a US bank as a senior M&A banker in its New York offices.

F visits the UK twice a year to visit family and friends. F would like to work from the family's home and/or hotel accommodation whilst in the UK. F may be called upon to negotiate the substantive terms of the M&A transactions that F is leading.

In scenarios 2 and 5, consideration would also need to be given to whether the employing entity could be said to be resident for UK tax purposes – potentially subjecting all of the entity's profits to UK tax.¹¹³ These examples, and there are many others, demonstrate that the constraints imposed by UK tax rules may not be necessarily conducive to the smooth functioning of business or to evolving expectations of how employees wish to manage their ways of working, particularly in a world where remote working is becoming a more prevalent trend. They illustrate the need for multinationals to deploy considerable time and effort to ensure that they can appropriately set boundaries for and manage the UK tax issues identified above.

Those efforts may typically encompass the following:

Putting in place a specific framework for managing PE risk across relevant jurisdictions, including the UK.

- Crafting guidelines, typically a do's and don'ts list for employees, and where relevant, local transfers or secondees.
- Monitoring employee activity, whether electronic tracking, self-reporting by employees or checks by the HR function.
- Sanctioning employees for breaches of guidelines, or failure to obtain requisite internal approvals.
- Escalation and review of specific situations, including obtaining external advice and/or HMRC clearance as appropriate.

Moving forward: how can the UK enhance competitiveness?

There are three areas for potential intervention here.

- Recognition that the shifting ways of work set out in this paper requires a robust and cohesive approach to the tax challenges around CBRW. It is encouraging that in the course of our research, the UK has established a comprehensive Review of Hybrid and Remote Working¹¹⁴ to gather an extensive evidence base. This will provide a critical opportunity for the UK to drive sensible policy reform in this space.
- Broader multilateral cooperation.
- Enhancing UK competitiveness now, with pragmatic 'quick wins' that ameliorate some of the risks and burdens with minimal impact on UK tax revenues.

Unilateral measures: Introduction of some 'hard and fast' rules or guidelines

Current UK corporate tax residence rules and determination of whether there is a UK PE largely operate by reference to well-understood principles – but these are subjective in nature. They do not have clear, bright lines that are easy to manage in practice. To help businesses navigate these issues more time- and cost-efficiently, the UK could consider introducing some clear, bright-line objective tests under either primary legislation or HMRC guidance that would remove the risks identified above.

¹¹³ Albeit that in scenario 5 there is a specific statutory exemption potentially available. Scenario 3 may also give rise to UK CFC (Controlled Foreign Companies) considerations.

¹¹⁴ <https://www.gov.uk/government/publications/review-of-hybrid-and-distance-working-scoping-document>

The UK should use the current review to identify an evidence base for areas with broad consensus. We set out some possible examples that would not be expected to result in any material reduction to the UK tax take and would be in line with best international practice.

Fixed place of business PE:

- **Working from home and other non-office locations:** Clarification that where individuals work from the same physical location, which is not dedicated office space provided by their employer for less than [183] days per year, that location will not be considered to be ‘at the disposal’ of the enterprise (in line with the OECD Model Commentary guidance, and consistent with rulings provided by several tax authorities provided in other jurisdictions) and therefore do not create a fixed place of business PE in the UK.
- **Minimum number of UK days:** The introduction of a bright line number of minimum days for individuals who work principally from one or more locations outside the UK but may spend time in the UK, without the need to take them into account in determining whether a non-UK entity has a fixed place of business PE in the UK. Specifically:
 - Individuals spending no more than [1 to 2] days a week working in the UK.
 - Individuals spending no more than [183 days] per year in the UK, who are working in the UK, so long as not doing so for business purposes at the specific request of their employer.

Agency PE:

Confirmation that none of the following circumstances would give rise to an agency PE in the UK for a non-UK resident company:

- Any activity carried on by its employees in the UK whilst on short-term business trips to the UK. For these purposes, a ‘short-term business trip’ would be any trip of any duration as long as they did not together aggregate to more than 60 days in any year (aligning broadly with the current PAYE position for short-term business visitors).
- Any activity carried on by its employees in the UK whilst on employee-led personal visits to the UK (i.e., any visit that is not undertaken for business purposes at the specific request of the employer).
- All non-‘front-office’ functions (i.e., internal, group-related services, including internal management, HR, tax, legal, finance and IT).
- For regulated financial services businesses (and to the extent not already excluded in the previous bullets), any activity carried on by its employees in the UK that did not give rise to any UK regulatory reporting or other requirements. Put another way, the UK tax regime should in no circumstances impose more onerous obligations on non-UK companies than the UK regulatory regime.
- Any activity carried on by a person who is seconded by a non-UK company to a UK affiliate company, where that person spends most of their time (at least the equivalent of [4] days a week) performing those activities, acting for and on behalf of the UK company.

Personal and employment tax

Corporate tax residence:

Clarification that, unless there is a clear case of UK tax avoidance, participation by a single director physically located in the UK at the board meeting of a non-UK company where both the majority of directors and the principal place of business operations are outside the UK, will not result in that company becoming UK tax resident.

Extension of statutory exclusion for corporate UCITS and AIFs in section 363 TIOPA 2010 to cover PE risk:

UK tax legislation specifically provides (section 363A(2) TIOPA 2010) that where a UCITS or AIF is a body corporate that otherwise would be treated as tax resident in the UK, that entity is to be treated as not a UK tax resident. By extending these provisions, if such entity would otherwise be treated as having a UK PE, that entity is to be treated as not having a UK PE.

Interaction with transfer pricing:

Clarification that so long as services rendered by any persons located in the UK are rewarded on an arm's length basis in a UK entity (e.g., in the case of a secondment), then there should be no need to consider UK PE or any other UK direct tax issues. This should be aligned with international tax principles, particularly following the BEPS Action 8–10 amendments to the OECD Transfer Pricing guidelines.

Compliance:

Introduction of a simplified compliance process where a PE is created only as a result of remote working: for example, a simplified CT return which is limited to the number of FTE days in the year and simplified transfer pricing for allocating profits to the UK.

There are no easy answers to address the personal and employment tax complexities that arise from CBRW. The tax rules do, however, need to evolve to provide more clarity for business, and there is also a need to simplify the administration of the rules when it comes to compliance. Engaging with businesses and advisors through the recent Office for Tax Simplification 'OTS' review on hybrid work is a welcome first step and incorporating this new mode of working into HMRC guidance examples is needed to address the current uncertainty. The rules should be easy for businesses and employees to understand, reducing the administrative burden as far as possible, and ensuring that businesses can viably offer cross-border remote work opportunities to employees.

Income tax

There already is an international personal tax system for employees in the same way there is an international corporate tax system. Most Double Tax agreements include clauses on the taxation of income from employment and directorships and, thanks to the OECD, operate along the same broad lines.

The international personal tax system states that employees should pay tax where they live and where they work. It then provides relief where employees are liable in two locations. This includes a complete tax exemption for short-term periods of work for an employer not based in that country.

This system does address many of the key areas needed to bring clarity to the personal and employment tax issues associated with CBRW, but in every case, there is a varying need for countries to improve their alignment with the broad rules. There are no rules in the international system that govern employer obligations to administer the system, such as tax withholding, and here unilateral

action is needed to minimise the administrative burden that can fall on employers of employees whose CBRW triggers complex personal tax outcomes under the rules of the international system.

The key features necessary to create clarity and simplicity are:

1. **Agreement on the definition of short-term vs medium to long-term:** 183 days in a year is the trigger point in most cases that determines whether a stay in a country is long-term and so necessitates an employee paying tax in that country. Most deviations from this rule are sourced from older double taxation agreements that counted 183 days by reference to a tax year rather than any 12 months period, which is the more common and recent approach.
2. **Defining the source of employment income from a geographical perspective (i.e. where do you work?).** The definition of where you work is based on the physical presence of the employee in nearly all countries. However, there are some exceptions to this, and during the pandemic, some jurisdictions sought to impose pandemic-related definitions of where work is performed unilaterally.
3. **Determination of personal tax residence (i.e. where you live).** Only in extreme cases, typically where an individual genuinely lives in two countries, does the international tax system create ambiguity
4. **Determination of whether the employer is based in a country such that the employee must pay tax where they work even if they work there for a short period.** This issue overlaps in several ways with the discussion above on corporate residence. There is highly subjective OECD guidance on this issue, but not all countries adopt that guidance and where some do, they simplify their interpretation. Furthermore,

in the context of a group that operates a branch structure (e.g. in Financial Services industries), the commonly applied definition of whether an employer is based in a country can lead to a determination that, to the employee, seems incongruous and unfair as it produces a different outcome from organisations that operate internationally through subsidiaries.

5. **From an employer tax administration perspective, there are two key issues:**

- Does the employer of the employee undertaking CBRW have an employment tax withholding obligation when the employee's CBRW renders them liable to tax in the country where they are working?
- Suppose the employer still has an obligation to operate withholding tax in the country of employment. Can they provide any relief from double taxation if the employee is liable to tax in the country of CBRW?

There is a wide variety of rules operated by countries in this respect. In terms of (a) obligations typically apply in a country based on one of three models:

- The employer is required to operate withholding tax as soon as a tax liability arises and irrespective of whether or not the employer has any presence in the country.
- The employer is required to operate withholding tax only if they have a presence in the country.
- If the employee works for an entity that is not their employer but has a presence in the country, then that entity takes on the employer's obligations.

There are similar varieties of rules that apply for providing relief for double taxation in the payroll of the employee's home country.

As an example of alternative thinking in this area, the New Zealand Inland Revenue, in their Operational Statement in Dec 2021 ("Non-resident employers' obligations to deduct PAYE, FBT and ESCT in cross-border employment situations"), include an example of remote work that does not create a withholding obligation for the non-resident employer, nor a New Zealand tax return obligation for the employee. Including CBRW in tax authority guidance and practice has the benefit to businesses of ensuring they do not waste time and resources on areas of personal and employment tax that are unclear in the law or subject to different views.¹¹⁵

Moving forward: How can the UK enhance competitiveness?

The UK has a broad employment tax framework that is conducive to enabling CBRW but there are several areas where this could be unilaterally improved.

- Provide guidance on how the host employer rules operate in the context of CBRW to give employers clarity that PAYE withholding is not necessary should a liability arise.
- Allow so-called Appendix 5 arrangements in all circumstances where an employee is liable to non-UK tax whilst working abroad and remaining a UK tax resident. Appendix 5 arrangements allow for foreign tax credits to be claimed by a reduction in an employee's PAYE obligation, but HMRC only allows these in certain circumstances.
- Allow an organisation's election that a non-UK branch of a non-UK entity be separately taxed for Corporate Tax purposes to apply in the context of employment tax, such that an employee of a non-UK branch working remotely in the UK for that branch may be taxed in the same way as an employee of an overseas subsidiary.
- Extend the definition of what duties are to be considered 'incidental' to non-UK employment to allow more substantial activity in the UK if the activity takes place for a limited period. Under UK rules, time spent working in the UK is not considered UK work for tax purposes if it is incidental to the work performed abroad. This definition is not entirely aligned to new ways of working. Extending the definition to wider working activities where the employee is in the UK for a limited period and is not resident in a country with which the UK has a double tax treaty would have minimal impact on the public revenue (given the extensive Double Taxation Agreement network) and provide a welcome easement for employers.

Social Security

There are a limited number of regional multilateral agreements (e.g. within the EU) and when compared to Tax Treaties, a limited number of bilateral social security agreements agreed between two countries.

Where they do exist, they generally cover:

1. The payment of social security contributions.
2. The totalisation/aggregation of social security benefit entitlements.
3. Healthcare.
4. Any combination of the above.

There is no overarching global ownership of the social security system as there is within taxation (e.g. no OECD or United Nations/ILO approach) and most will operate domestic law provisions in isolation when it comes to home and host considerations.

There are broadly two forms of fiscal levy:

1. Payments by an employee, employer or self-employed worker to the state that directly or indirectly accrue social security benefits in that country (such as health coverage, pension benefits, unemployment payments).
2. Other payments labelled social security that do not enable the accrual of social security benefits but are, in essence, a payroll tax if paid by the employer and an income tax on earnings if paid by the employee.

The purpose of the international system is primarily targeted at 1 but occasionally applies to items that are properly classified under 2. The system is designed to help people build social security benefits in as few locations as possible during their lives, preferably only in the country that is their long-term home. And

where pension benefits are fragmented across multiple countries, to minimise the impact on the individual when it comes to passing contributory thresholds that often exist before individuals can accrue state pension rights. The system achieves its objectives by:

1. Allowing individuals to remain in their home country's social security system despite periods of temporary work abroad (sometimes this is limited solely to social security contributions that accrue social security benefits).
2. Allowing people to include periods of contribution in more than one country when determining their eligibility for pension and other state social security benefits rights. Assessing the social security compliance requirements for cross border workers in a global context is complicated enough, given the lack of standardised rules (no OECD equivalent model provisions) and the limited number of bilateral or multilateral social security contribution treaties that currently exist (where there is a far less extensive network than we see in relation to for example Double Taxation agreements).

When 'new ways of working' including agile and remote or tele working scenarios are governed using existing, more traditional social security provisions, navigating the statutory provisions and determining responsibilities and exemptions becomes even more complex.

That, coupled with the need to assess individuals' rights to benefits and health care, risks associated with industrial injuries and accidents at work and governments not setting 'de minimis' limits around time spent working in a country (for fear of avoidance and abuse arising), has meant most authorities are not yet prioritising new or revised legislation.

As in other areas considered in this paper, certain concessions were applied during the pandemic e.g., within the EU. In the main, these concessions:

- Came in the form of 'guidance'.
- Were not necessarily universally adopted.
- Often had to be 'applied for', rather than operated automatically.
- Were subject to individual authority review based on individual facts and circumstances rather than applied 'across the board'.

As a result, there have been widely differing approaches taken globally. Often these concessions (while imminently sensible in pure social security contribution compliance terms) do not cover all scenarios employers and their employees face, and in many respects fail to identify the ongoing impact on health cover and access to future benefits.

Outside of limited multilateral and bilateral agreements, from a social security perspective the majority of the globe is still what we refer to as 'non agreement' i.e. no social security treaty exists to supersede the application of domestic law provisions to each individual's set of facts and circumstances, where there remain very limited exceptions to the principle of 'pay where you physically carry out your work'.

Moving forward

Authorities have not immediately recognised that domestic relaxations on reporting timelines and schemes to help employers navigate during the pandemic did not cover CBRW challenges. This will need to be addressed with more modern provisions (reflecting new working patterns and the ability to work from almost anywhere) enacted to reduce administration and payroll cost while protecting individual's rights to benefits and access to healthcare going forward.

An evolution of approach is required as many bilateral social security agreements are structured on international assignments rather than more agile forms of working. The UK should work with co-signatories of bilateral totalisation agreements to recognise and build for new ways of work, simplifying process and providing clarity to employers.



Employment law and the cross-border 'remote worker'

In most jurisdictions, there are no specific regulations regarding remote working.

In the early days of the pandemic, requests for CBRW were often flowing in without employers yet having 'stood up' an established mechanism or workflow to process requests through all the risk areas. As explored earlier, the need to accommodate CBRW to some extent remains acute – not least due to the desire to attract or retain a key employee or a particular skill set – but countervailing cost implications, complex risks and the risk of potential discrimination issues arising present particular challenges from an employment law perspective.

Remote worker is not a defined legal term divesting any specific status or rights within the UK. There is no consistent international approach to what constitutes a remote worker or how remote working should be regulated. Due to the abrupt shift to remote working during the pandemic, many countries introduced domestic legislative measures addressing aspects of remote working arrangements. Some of these were originally intended to be interim measures, but several countries have decided to retain these going forward or have since initiated permanent changes.

Some countries (such as Portugal) have recently introduced specific employment laws regarding remote and hybrid work. These laws require:

- A written agreement.
- The employer to cover expenses related to hybrid/remote work.
- Inspections in the employee's home.

Does the employee have a right to work?

This question has been considered above largely as it relates to immigration laws. However, it often crosses paths with employment law; for example, where an employee asserts a right to work in a country where an employer has taken a different view, usually because the immigration laws are grey. This scenario has arisen repeatedly post-Brexit, where UK nationals who had regularly spent periods working in an EU location pre-Brexit questioned their employer's approach to the new immigration framework.

Which employment law applies?

It may be tempting for employers to consider that their current standard terms and conditions of employment will continue to apply as normal to employees who are working remotely from outside the country, particularly where an employee has worked for some time under those provisions in the UK before moving to work from another country. That is not always the case.

- The general principle is that parties are free to agree on the law that will apply to the employment contract. However, where that choice has not been set out in writing, the applicable law will be that of the employee's usual place of work. Even where a contract expressly states that a particular law applies, this will, in many cases, not prevent an employee from acquiring rights under the 'mandatory' employment law provisions of the country where they work.
- Employees who work remotely from outside the UK will also not necessarily lose existing employment rights acquired under UK law. This may be the case even in circumstances where remote working from outside the UK starts on a temporary basis but becomes a longer-term arrangement.

Employers have therefore had to tread carefully to ensure clarity with employees on how long the CBRW arrangement is intended to last, the extent to which existing terms and conditions will continue to apply and any changes to existing terms that will be required depending on the degree to which local employment law provisions differ.

When deciding to grant a CBRW request, employers must ensure that any employment contract and employment practices that would otherwise apply to employees comply with the relevant employment law of the country where the employee will be working. Ideally, this advice should be acquired before an employer agrees to any particular CBRW arrangement, as the issues arising vary dramatically from country to country.

In the early stages of the pandemic, this was not always possible.

However, as we move into a longer-term CBRW environment, these issues will be critical for employers to build into their CBRW infrastructures. And they are highly complex.

Other key areas where local employment law can deviate significantly from the UK position include:

- Minimum salary rules.
- Minimum statutory holiday entitlement.
- Sick leave entitlement.
- Restrictions on working hours.

Factors such as whether the employing entity can or should remain the UK entity can also be relevant. Employers should also consider how any future changes to terms and conditions in relation to cross-border remote workers can be implemented, including any obligations that may exist to engage in collective

consultation with staff representative bodies about certain matters.

Duty of care

Employers owe a duty of care to employees who work remotely and must consider how these duties apply in a CBRW situation:

- The extension of UK laws, local country regulations, existing contractual provisions and policies and any changes that will be required.
- Compliance with laws, including, for example, in relation to how and when risk assessments are to be carried out.
- Whether access to state healthcare exists or if relevant private healthcare will be provided. Employers should review entitlement to existing health insurance policies, as employees working remotely may not automatically be covered.

Data protection

CBRW adds complexity to data protection issues, including the cross-border transfer of personal information and potentially increased data privacy risks. Employers will increasingly have to ensure that they adhere to the requirements of the applicable data protection laws in relation to all relevant jurisdictions; that existing data privacy guidance and cybersecurity measures are robust enough; and that they are clear on issues such as the extent to which they are permitted to monitor employees working from home in another jurisdiction.

Workforce planning

Decisions to permit employees to work remotely, particularly from abroad, can also have implications for future workforce planning. For example, it may be difficult for employers to justify termination on the grounds of geographical redundancy or the closure of a particular workplace. In addition, affected employees may acquire new rights in relation to termination payments, or more onerous consultation obligations may exist.

Moving forward and adapting for the future

Employers have to adapt to meet employees' demands in relation to CBRW. Whilst there are no specific international legal mechanisms regulating CBRW, it is important to note that from an EU perspective, certain EU directives are relevant to the working conditions of remote workers. The EU Working Time Directive 2003 includes provisions aimed at protecting the health and safety of workers, including remote workers. The General Data Protection Regulation (GDPR) has implications for employee monitoring, which can have particular significance when considering remote workers.

Whilst an element of latitude in how EU member states implement EU directives into domestic employment law has resulted in some variation, relatively speaking, there is an element of alignment across the EU on key areas of employment regulation. Post-Brexit, all UK employment law that stemmed from EU law has been 'retained'. As governments begin to address emerging issues related to ways of working (including the approach to remote working), UK law and policy may, however, increasingly diverge from the EU position. This potentially results in added complexity in delivering cross-border remote working where UK employees wish to work remotely from EU member states and vice-versa.

Key areas where policymakers may now turn to provide greater clarity include:

- How remote working will be defined and whether regulation will differ depending on the specific type of arrangement – i.e., fully remote working arrangements, hybrid-working arrangements and cross-border remote working arrangements.
- The degree to which express agreement will be required between parties concerning how CBRW arrangements will operate in practice.
- The impact of the location from which services will be performed on how the employment relationship is managed.
- The extent to which there should be a 'right to work remotely' and the interface between requests for remote working/CBRW and existing legal frameworks governing flexible working.
- Issues relating to the management of working time, for example, in relation to 'hidden overtime' where workers are, in effect, never switching off. Several countries, such as France and Greece, have sought to address this by introducing a 'right to disconnect' that protects workers from detriment arising from not replying to work-related communications such as emails and phone calls outside of contracted hours. Other countries have set out minimum entitlements to disconnect in any 24-hour period. More regulation of working time issues like this will likely develop, and different jurisdictions will have different approaches.
- Development of health and safety rules at work to enhance regulation of remote working arrangements. Working away from an employer's premises increases the complexity of risk assessment processes and the enforcement of health and safety standards.

- How costs and expenses incurred by remote workers should be treated, particularly where they relate to costs not normally incurred by employees (or tax allowances to address employee expenses incurred as a result of homeworking).
- Protection against the less favourable treatment of remote workers compared with 'on-site' employees.
- The role of collective bargaining in regulating remote working and regulations governing the information and consultation of remote working employees.

From a UK unilateral perspective, there are areas where increased guidance would also be helpful:

- BEIS, in relation to how the government defines remote workers in an employment context and how far this aligns with the approach to tax.
- HSE, in relation to the approach to health and safety risk assessments.
- ICO, in relation to data protection issues specific to remote workers.

Where the government is proposing specific policies, there should be continued and adequate consultation, particularly in the context that the government will be considering how it wishes to deviate from the existing employment law framework to the extent it is driven by EU law over the next 15 months.

The trends towards the digitalisation of work and increased flexibility have created new job opportunities for people who would not have otherwise joined the labour market, particularly women and people with certain disabilities. How these working relationships are managed in future will potentially present new challenges in how existing equality law is applied, how employers meet their duties and, more broadly, how employment disputes are litigated.

Difficult questions lie ahead on how employment law can move flexibly around this new world of work and empower more diverse and inclusive workforces and mobile talent to decide their own pathways, with increased regulation and the risks posed there compared with deregulation risks around exploitation.

9. Gap Analysis

Closing the global policy gap: recommendations to enhance UK competitiveness and attractiveness to talent and enable a sustainable future.



Risk area	Problem	Present state	Towards a sustainable future state
Multilateral cooperation	CBRW requires UK employers to manage issues arising across multiple jurisdictions with mostly bilateral cooperation at best.	There is no globally cohesive framework or 'common standard' covering all issues on CBRW to help UK employers provide greater agility to the workforce.	<p>The ESG benefits of CBRW provide a business case for greater multilateral cooperation of a type that the global community delivers for other issues.</p> <p>UK should lead a multi-disciplinary, multilateral approach to policy design that aligns with the UK's growth plans and steers policymakers towards common standards, leveraging the evidence base in the government's Review on Hybrid and Distance Working.</p> <p>Negotiate reciprocal provisions with trading partners to enable UK employers to facilitate outbound CBRW with greater transparency and reduced administrative burden.</p> <p>Prioritise a purposeful, ESG-driven approach to CBRW that promotes diverse, equitable and inclusive workforces and maximises opportunities around the UK's commitment to Sustainable Development goals.</p>
Immigration	Employers must be satisfied with an employee's right to work in their location.	Right-to-work rules around CBRW are ambiguous, placing an unnecessary burden on UK employers. Significant policy gaps exist. The proliferation of digital nomad options gives some flexibility to individuals, but there is no effective framework for UK employers.	<p>Visitor rules globally must evolve to recognise CBRW as a permitted 'Remote Work Visitor' activity in itself.</p> <p>Engage proactively in trade agreement negotiations, recognising that much of the pressure on UK business comes from employee demand for short periods of outbound CBRW.</p> <p>Lead unilaterally by recognising certain forms of CBRW as permitted under a 'Remote Work Visitor' activity stream.</p>
Corporate tax	Employers need certainty about the corporate tax impact of enabling employee CBRW.	Old rules are being applied to a new environment, leading to ambiguity and lost opportunity to support meaningful growth.	<p>Enhance multilateral cooperation and build a cohesive approach to the tax challenges around CBRW.</p> <p>Introduce clear, objective tests under primary legislation or guidance in key areas, e.g., simplification of rules on corporate residence and clarity on UK permanent establishment rules for CBRW scenarios.</p>

Personal and employment tax	Employers need certainty around the employment tax impact of enabling employee CBRW, and their employees need clarity on the personal tax obligations of engaging in CBRW.	<p>The international personal tax system is rigid, complex, and prone to subjectivity, particularly when individuals spend short periods (up to six months) working in a country.</p> <p>The variation across jurisdictions and the subjectivity makes CBRW a difficult area to navigate technically and logistically from an individual/organisational level.</p>	<p>Tax rules governing the definition of an employer for tax purposes need to evolve to provide more clarity for business, enable employee agility and reduce the administrative burden.</p> <p>Engaging with businesses and advisors through the recent OTS review on hybrid work is a welcome first step and incorporating this new mode of working into HMRC guidance examples is needed.</p> <p>We identify five key features of sustainable infrastructure and four practical steps to help deliver the required clarity.</p>
Social security	Employers need certainty around the social security implications of enabling employee CBRW.	The international social security system should broadly be supportive of CBRW, but social security agreements are not always producing sensible or purpose-aligned outcomes, when faced with CBRW fact patterns.	<p>Evolution of approach is required as many bilateral social security agreements are structured on international assignments rather than more agile forms of working.</p> <p>Work with co-signatories of bilateral totalisation agreements to recognise and build for new ways of work, simplifying process and providing clarity to employers.</p>
Employment Law	Employers have to consider myriad issues and risks such as employment relationship, time management, health and safety, data security and employer liability.	Inconsistency in global approaches to employment law issues arising from CBRW.	<p>Areas where we may see some attention from policymakers in the UK:</p> <ul style="list-style-type: none"> • The government's definition of remote workers in an employment context and how this aligns with the approach to tax. • The approach to health and safety risk assessments. • Data protection issues specific to remote workers. • Continued and adequate consultation is critical. • Focus on areas for greater harmonisation at the multilateral level.
Continuous stakeholder engagement	Rapidly evolving labour market; need for continued engagement.	No current forum for ongoing dialogue between UK employers and policy makers.	<p>Ensure appropriate research, data collection and analysis to inform policy design and to better understand the long terms impacts of shifting practices in this space.</p> <p>Engage with UK businesses and trade bodies to ensure that policy reform remains relevant as practices evolve.</p>

10. Moving forward

Irreversible change has arrived in cross-border remote working, and with it, an abundance of challenge and opportunity. As UK employers embrace this changed ecosystem, they look to the UK government to support with a relevant operating infrastructure. A combination of controlled policy reforms within the UK's current system and more innovative measures at the multilateral level could deliver significant benefits to the UK economy.

If UK businesses can attract and retain the world's best talent, then the UK will be positioned as a leading international centre for the sector. We call on policymakers to consider how these recommendations could be implemented. Industry is eager to engage with government on the findings in this report, and ready to provide policymakers with any technical support that they may need to ensure UK competitiveness.

The UK government is presented with an opportunity to lead innovation, to shape multilateral dialogue to ensure UK competitiveness, and to guide policy makers towards a pragmatic approach that enables UK employers to maximise the socio-economic benefits that these trends present.



Glossary

Acronym	Full Name/Meaning
BEPS	Base erosion and profit shifting
CBI	Confederation of British Industry
CBRW	Cross-border remote work
CFC	Controlled Foreign Company
ESG	Environmental, Social, and Governance
GEO	Global employment organisation
ILO	International Labour Organisation
IME	Investment management exemption
IOM	International Organization for Migration
IRW	International remote work
Labour law	Laws facilitating the relationships between employing entities, workers, government and trade unions
MLI	Multilateral instrument
OECD	The Organisation for Economic Co-operation and Development
ONS	Office for National Statistics
PE	Permanent establishment
WFA	Work from anywhere
WFH	Work from home

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