

Transformative Management of a Global, Increasingly Mobile Workforce

Global companies today operate with talent deployed across every major region of the world, navigating across networks of offices in dozens of countries and client sites, distribution channels, and alliances in an even broader expanse of geographies. As business is conducted on this increasingly global scale, companies face an essential need to move workers into multiple markets, and the vehicles for this mobility are increasingly versatile – from short-term international business travel to multi-country assignments or indefinite relocation.

This uptick in mobilisation carries with it progressively greater risk as security and economic interests have led world governments to impose a greater array of controls with aggressive penalties that can undermine company revenues and reputation. The rapid emergence of new economies - where the rule of law is still developing - has stimulated new types of risk that can impede business growth, compromise the company's brand, and challenge the company's financial and operational health.

A company's ability to manage risk in this environment requires a transformation in HR management. As a first step, the HR department of the past – one primarily focused on administration of payroll, benefits, and employee relations – must cede to a stronger executive function that promotes and protects a culture of compliance and integrity across locations and levels. At a minimum, companies need to address five essential elements of mobility management:

1. **Governance.** A model for leadership of the new risk paradigm must be established – one where the Chief Legal Officer works in tandem with the company leaders of the HR and Global Mobility functions.
2. **Culture.** These leaders must stimulate development of a common culture of integrity and compliance premised on key behaviours and values.
3. **Prevention.** The company must adopt, implement, document, and continuously reinforce a reliable decision-making process for any mobile assignment, travel, or relocation.
4. **Preparedness.** The company must establish preparedness plans to respond to enforcement incidents, including government audits or investigations, employee complaints, or whistleblower actions.
5. **Transparency.** Both the global governance leadership group and the local or business unit managers must have the ability to identify and monitor the movement of its work force in real time.

Based on discussion with major companies in a variety of sectors, including consulting, IT, financial services, complex manufacturing, media, and health care, we have identified different approaches to each of these issues.

Trend One: Governance and Culture

Increasingly, major companies have established departments exclusively dedicated to managing the mobility of their workflow. These Global Mobility departments typically interact with HR, particularly in local countries of destination for mobile workers, but have their own mandate and accountability within the organisation to business and compliance leadership. These departments are a specialised type of shared global administration, and have the dual responsibility for creating ease of mobility – critical to achieve accelerated business needs – as well as meeting the company's compliance and policy protocols.

The heightened risk quotient that the volume and breadth of mobility engenders has led the Chief Legal Officer in many companies to become involved in the oversight of mobility. For example, one critical aspect that tests the integrity of a company's management of its people function is the movement of personnel into emerging markets, where the rule of law is not mature or stable. This brings a host of risk issues into play, from corruption issues permeating visa filings to data protection, because of how different jurisdictions mandate privacy. These types of high-impact risk issues regularly fall within the domain of the General Counsel.

Administration of mobility issues, however, also requires a dedicated group of leaders with broad understanding of the foundational regulatory requirements governing moves across borders – be those visa, tax, benefits, or privacy rules – as well as a service mentality that provides employees in the organisation with empathetic and experienced support during any relocation. The attentiveness to the employee experience is gone, while the organisation is unlikely to optimise mobile assignments as the disruptiveness in-built in relocation and mobility could leave the employee frustrated or distracted.

Optimal frameworks for the governance of the function free the General Counsel's office to focus on risk management while the Global Mobility and HR departments are more immersed in assignment administration, relocation facilitation, and mobility support. Both, however, need to actively drive a culture of compliance, and link education of new, often counter-intuitive rules mandates in host countries to the assignment preparation and post-placement integration processes.

Trend Two: Prevention and Preparedness

Having clear lines of decision-making and a culture of compliance is essential to managing risk. In today's high-enforcement environment, it is also important to include deliberate preventative processes that the company can use to demonstrate compliance and good faith. Best practices begin with having a documented policy for mobility decision-making, which includes reasonable parameters for identifying when

individuals are engaged in productive employment – thus typically requiring a work-authorized permit and temporary residency visa, when tax obligations are triggered, and when host country employment protections apply. Because of the high volume of business travel companies face today, a diagnostic tool to address when travel activities or length of stay compromise entry as a pure visitor, and periodic audits of travel records as well as training sessions for high-volume travel business units are important methods to demonstrate a commitment to getting this issue right. Similarly key, is including ongoing audit of worksites by the company teams to ensure foreign workers are allowed to work in country and in a status that allows such work. When the government inspector shows up for a shop floor audit or a more aggressive investigation, the company's ability to cite to its regular monitoring of these issues will go a long way to protect it from penalties.

Preparing for the inevitable government visit needs to be made a priority. Increasingly, we hear about government officials approaching administrative personnel or business managers – neither of whom are likely to be schooled in what data is available or appropriate to provide in response – during such unannounced inspections. A clear protocol for where to escalate such questions and what the key steps to respond are absent – companies can provide misinformation, agitate the work corps, and augment risk even when compliance is largely met. In many countries, this type of lapse can lead to criminal penalties and hefty civil fines, and once the company record is blemished it is difficult to restore a level playing field by the authorities reviewing the company filings in future.

Trend Three: Transparency

One challenge to the organisation is the lack of a clean line of sight into a business spread over so many locations and business lines. Until recently, a common approach used by companies was to establish central or "hub" HR oversight with shared services administration, perhaps supplemented by HR advisory centres with local and business unit administration. As noted above, the acceleration of rapidly-changing, short-term "mobility" has led many companies to

establish Global Mobility departments to manage the monitoring of and relocation of individuals, visas, work authorisations, and cross-cultural preparation and training. The challenge for many companies remains having an effective line of sight into who is moving where and for how long, in real time.

The process begins with having an accepted framework for reporting assignments and travel, with resilient automated systems that are accessible and easy to navigate. Equally important is the education of the management and HR corps across the organisation – in each business unit and profit centre – that the immediacy of the data is important. Even the most high-performing Global Mobility departments typically express concern that business managers will fail to provide data and seek guidance on the best means for deployment of personnel to other locations if a project need is particularly urgent. With the volume of personnel movement today, no system will work if data is provided in an ad hoc or after the fact manner.

To achieve a true transparency, companies need to obtain buy-in from key stakeholders – country managers and business unit leaders – and provide them vehicles for ease of data sharing. If Global Mobility departments can Partner with local HR to make the mobility process easier, managers are more likely to share data as a reciprocal practice. But it will be important that the rules of when and by what means to provide data are well understood, accepted, and easy to implement.

Conclusion: Re-invention

The global mobility function of the past was much more fragmented than today's function, where mobile assignments are part and parcel of the way we conduct business. The "up in the air" and virtual pull of business is evident across industries, as is the rigor of regulation and risk of penalty inherent to heightened travel. To navigate effectively in this environment, companies require a committed management team that incorporates both the legal risk prevention and HR service administration elements of the workplace in one framework. That management team needs real-time access to the decision-making in the organisation, and the resources to teach understanding and appreciation of the costs of failing to manage mobility actively and continuously. With those tools in place, companies can optimise the flow of movement, helping to ease the impact to the employees in transit and focus them on productivity in their global projects.

If you have any questions or require specific advice on the matters covered in this Update, please contact your usual Mayer Brown contact or:

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