

INTERNATIONAL BUSINESS TRAVEL: WHAT ISSUES SHOULD UK EMPLOYERS BE THINKING ABOUT?

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International business travel is gradually starting to pick up following the relaxation in many countries of Covid-19 restrictions. Many employers are keen to get back to face-to-face meetings to develop relationships with clients. However, a combination of Covid-19 and Brexit has made this less straightforward than it used to be.

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Prior to approving international business travel, UK employers should consider whether employees have the requisite immigration permission for the trip. In terms of inbound travel to the UK, employers need to be mindful of the limitations on visitors, in particular the fact that post Brexit, European Union (EU) nationals are also subject to these restrictions. Where this work goes beyond attending business meetings, they may need to consider whether a Skilled Worker visa is appropriate, the acquisition of which can be a time-consuming process.

As far as outbound travel is concerned, employers will need to establish if a visa is required. Practically, employers should also consider any Covid-19 testing and quarantine requirements before authorising business travel.

BUSINESS TRAVEL TO THE UK

Following Brexit, nationals of European Economic Area ("EEA") member states and Switzerland no longer have the automatic right to work in the UK (other than Irish nationals). Like all other non-UK nationals, in most cases they are permitted to spend up to six months in the UK for tourist and/or business purposes.

EEA and Swiss nationals do not need to apply for a Visitor visa ahead of their trip, as they are not considered "visa nationals". Similarly, nationals of several other countries, such as Australia, Japan, the USA and New Zealand, do not require a Visitor visa. Colombia, India, Thailand and Russia are examples of countries on the "visa nationals" list, whose citizens are advised to apply for a Visitor visa in good time ahead of their travel dates.

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Whatever an individual's nationality, there are strict restrictions on the nature of the business activities that they can carry out while visiting the UK. Business visitors are limited to a narrow set of permitted activities which include attending meetings, participating in limited training and other similar activities. Where an employer wishes for an individual to carry out business activities beyond those permitted under the Visitor regime, they must sponsor the worker.

Sponsorship entails the employer applying for a sponsor licence. The fees vary depending on the size of the organisation. Fees associated with the individual applicant's visa differ depending on the nature of the visa (for example, its length) and, again, the size of the employer. Employers may also need to factor in training costs and legal fees.

BUSINESS TRAVEL ABROAD

British nationals benefit from the Schengen visa waiver. This means that they are permitted to spend 90 days in a 180-day period in the EEA or Switzerland for tourist and/or business purposes. It should be noted that the rules vary in respect of

Bulgaria, Croatia, Cyprus and Romania, and that there are no immigration restrictions in Ireland. If an individual is not a British, EEA or Swiss national, they may need to apply for a Visitor visa for their trip. Similarly to the UK, the EEA and Switzerland restrict the nature of business activities that individuals can carry out. It is advisable for employers to seek local law advice to be sure that an employee's activities fall within those permitted by the country they are to visit, as this is decided at a national level.

If an employee is an EEA or Swiss national, they will not require a visa to visit the EEA or Switzerland, regardless of the nature of the business activities that they carry out, due to the right of free movement.

COVID-19 TESTING AND QUARANTINE REQUIREMENTS

Employers need to be mindful of ongoing Covid-19 testing requirements in the UK. In England, as at the date of publication of this article, if an employee is not fully vaccinated, they must show proof of a negative Covid-19 test taken in the two days before travel. They must also take a test after arrival in England. There are no testing requirements for fully vaccinated individuals. All individuals, regardless of their vaccination status, must complete a passenger locator form in the three days before their arrival. Testing and quarantine requirements abroad vary and should be checked prior to travel.

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KEY TAKEAWAY

"Ultimately, a failure to have the correct permission can result in the individual being denied entry and significant reputational and financial harm for employers. It can also have an impact on their sponsor licence if they have one."

Employers should consider the purpose of an employee's trip well ahead of their planned travel dates to ensure that there is enough time to apply for the correct visa and for the UK, if required, a sponsor licence. Ultimately, a failure to have the correct permission can result in the individual being denied entry and significant reputational and financial harm for employers. It can also have an impact on their sponsor licence if they have one. Individual officers and managers of the company can also be personally liable in certain circumstances where, with their "consent or connivance", a visitor carries out work, despite not having the right to do so. On a practical level, it is also imperative that employers consider any Covid-19 related testing and quarantine requirements.

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