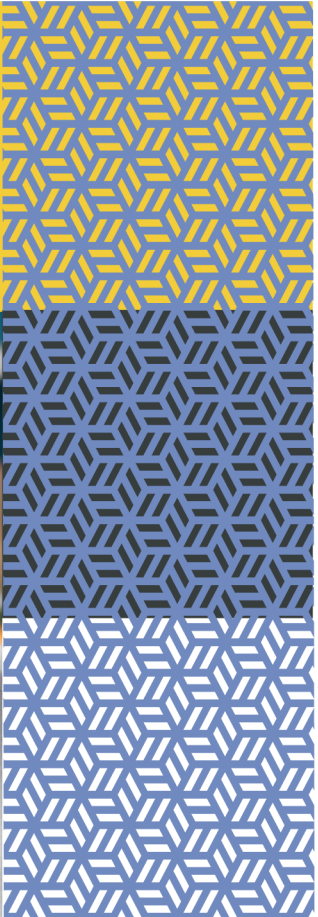
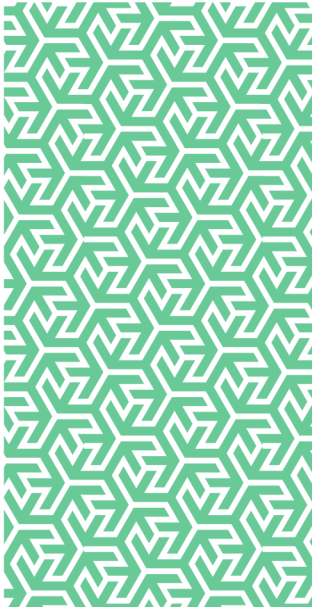


rmp

Risk control

Employees Domiciled
Abroad

Higher Education



In partnership with



In partnership with



Employees Domiciled Abroad

Introduction

Hybrid or remote working models offer opportunities to organisations, including the potential reduction or elimination of operational costs such as office space, an enhanced ability to access larger talent pools, and improved staff retention levels.

From an employee's perspective, the option to work from home can be quite an attractive proposition as it can reduce or eliminate commuting time and associated costs. Furthermore, the creation of a better work life balance, and enhanced productivity through less distractions are also seen as tangible benefits¹.

Additionally, depending on the context and circumstances of the role, homeworker status may fundamentally diminish the importance of the employees' geographical location relative to the employers' place of business. So in the right circumstances working from home can literally mean working from anywhere, whether nationally or internationally.

UK Employees Domiciled Abroad

'Domicile' may be defined as 'a person's fixed, permanent, and principal home for legal purposes'².

In cases where a UK employee is domiciled abroad, both the employer and employee need to consider the potential implications that are created by such an arrangement.

Any variations in employment law, taxation, and health and safety law will need to be clearly identified and addressed.

There may also be insurance implications in respect of the Employer's Liability cover maintained by the employer.

Employment Law

Whilst the employment contract of the employee domiciled abroad may have been created in compliance with UK law, it is important to acknowledge that there may be employment rights within the overseas country in which the employee is domiciled which differ from UK law and that cannot be contractually excluded.

Therefore it is important to ensure that the employment contract of the domiciled employee is compliant with the laws of that country to ensure that it is not considered illegal³.

Taxation

Employees who spend most of their time abroad over a period of a year or more may be able to obtain full UK tax relief on their earnings.

If the employee is employed on an overseas contract, then it is possible that the tax authorities in the overseas country will want to make tax deductions from the employee's income. The tax authorities of that overseas country should be contacted to confirm any requirements in this regard.

Confirmation should also be sought in respect of the payment of National Insurance contributions as the UK may maintain specific agreements with the country the employee is domiciled within⁴.

UK GDPR

It is worthwhile noting that the rules regarding the transfer of personal information outside of the UK as specified by the UK General Data Protection Regulations do not apply where the receiver is an employee of the sender, or the sender and receiver are part of the same legal entity, such as a company⁵.

Health and Safety Law

Although UK statute law, such as the Health and Safety at Work etc. Act 1974, does not apply to employees domiciled abroad, the common law duty of care which requires employers to protect their workers from reasonably foreseeable hazards applies while they are working abroad in the course of their employment⁶.

So, in order to demonstrate that it has fulfilled its duty of care obligations, organisations should, as a minimum, ensure that employees domiciled abroad are compliant with any health and safety requirements placed upon them by the country in which they are domiciled.

The completion of a formal risk assessment process which considers and addresses all significant risks to which the domiciled employee is exposed should be a key undertaking in seeking to maintain the health, safety and welfare of the employee.

Employers' Liability Insurance - HDI

The "Territory" of the Employers' Liability insurance cover provided to universities by HDI has been amended, as set out below, to cater for certain situations of working abroad. However, it is for the university (via its Broker) to establish that the country in which the employee is on a temporary visit or normally domiciled does not maintain any additional insurance requirements that must be complied with, such as workers compensation placement.

HDI Policy Wording

H) Policy Territory

Policy Territory means

- a) Great Britain Northern Ireland the Isle of Man and the Channel Islands
- b) Elsewhere in the world where any Person Employed is
 - i. on a temporary visit or
 - ii. normally domiciled

provided that the action for damages is brought against the Insured in a court of law in Great Britain Northern Ireland the Isle of Man or the Channel Islands

Completion of the renewal form will allow HDI to assess the exposure.

Summary

The world of work has changed significantly for many people over recent years and has led to the adoption of new hybrid and remote working models by organisations that can offer tangible benefits to both employers and employees alike.

However, it is worthwhile noting that these new dynamic ways of working do not present themselves without challenges that need to be considered and managed. Maintaining effective arrangements in respect of Employers' Liability cover is just one of the key factors that universities need to consider, particularly in respect of employees who are domiciled abroad.

RMP and HDI are keen to support its Higher Education clients in adopting dynamic operational models so that they and their employees can benefit from the new and exciting ways of working.

References

1. <https://www.theguardian.com/commentisfree/2023/feb/14/working-from-home-revolution-hybrid-working-inequalities>
2. <https://www.merriam-webster.com/dictionary/domicile>
3. <https://seedlegals.com/resources/what-employment-laws-apply-to-my-staff-who-are-working-abroad/#:~:text=The%20courts%20decided%20that%20for%20employees%20working%20abroad,to%20the%20UK%2C%20then%20English%20law%20would%20apply.>
4. <https://www.gov.uk/guidance/paying-employees-working-abroad>
5. <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/international-transfers/#rules>

6. <https://app.croneri.co.uk/feature-articles/travelling-overseas-work-health-risks#:~:text=The%20criminal%20law%20set%20out%20in%20the%20Health,subject%20to%20the%20legislation%20of%20the%20country%20concerned.>

Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

contact@rmpartners.co.uk



Risk Management Partners

The Walbrook Building
25 Walbrook
London EC4N 8AW

020 7204 1800
rmpartners.co.uk

This newsletter does not purport to be comprehensive or to give legal advice. While every effort has been made to ensure accuracy, Risk Management Partners cannot be held liable for any errors, omissions or inaccuracies contained within the document. Readers should not act upon (or refrain from acting upon) information in this document without first taking further specialist or professional advice.

Risk Management Partners Limited is authorised and regulated by the Financial Conduct Authority. Registered office: The Walbrook Building, 25 Walbrook, London EC4N 8AW. Registered in England and Wales. Company no. 2989025.