GMS2022/23

Reshaping Global Mobility — Is it time to think outside the lines?

New research on cross-border remote working, and the emergence of work from anywhere

Executive summary

On the surface, the ability to use a laptop anywhere in the world and start working seems straightforward. However, this research highlights risks and consequences—from compliance, financial, commercial and people perspectives.

If an organisation has 80,000 employees of which 400 have cross-border remote arrangements, the paradox is while they represent 0.5% of the workforce, the time to provide advisory support and track them is disproportionate.

The associated risks and penalties could be substantial, including;

- Creating a permanent establishment and exposure to tax on corporate profits.

- Breach of compliance regulations.

- Breach of contractual client obligations (on-site working, not remote).

The two fundamental principles to be determined for the organisation:

- What is our philosophy for this type of international work arrangement?

- What risk thresholds are we prepared to accept?

Management of cross-border remote working (CBRW) has fallen squarely on the shoulders of Global Mobility (GM), expanding their scope and visibility at board level. GM are there to review, advise and manage the process, and guide management on the implications of their decisions.

Global Mobility are not the decision makers in every case.

GM leaders report making stronger connections with other functions, including IT, security, tax, real estate and human resources, as the implications of remote working have more inter-dependencies than initially imagined.

Therefore, it is critical for organisations to set their own position on CBRW, to educate managers and employees, and set expectations at source— avoiding continual, time sapping, and reactive fixes of exposures when cases are uncovered.

Communication and education also play different but critical roles in the process. And while transparency is key for all organisations, the level of cascade varies between frameworks and guidelines only for line management through virtual workshops for all employees.

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Overwhelmingly, requests for this work arrangement are employee-driven—by a return to their point of origination, extended families (which may also be *humanitarian care*), or lifestyle—as well as attracting and retaining key talent.

Interestingly, several organisations reported it tended to be more junior or mid-level employees requesting these arrangements, but in reality, and unsurprisingly, they were more likely to be approved for *must keep talent* or senior leaders.

Whilst technology has enabled much greater flexibility for people to work remotely, a country's infrastructure could pose a threat to data security. This is a particular consideration for organisations handling sensitive client data such as financial or defence projects, or their own organisation's data. A one-time risk review is insufficient, and ongoing assessment, essential.

One size does not fit all for cross-border remote working.

Our interviews highlight sectors, by the very nature of their work, product and services, have different attitudes and tolerance levels of CBRW and work from anywhere (WFA)—combined with lesser or greater governance and awareness of when it occurs.

Some have zero-tolerance (culture/mindset, security due to the nature of their work, or additional cost), whilst others tolerate it. One FMCG representative remarked about key talent and senior leadership, "We will do what it takes, but the company does not want to incur any costs or compliance risks unless exceptional circumstances apply".

In terms of governance, those who have implemented frameworks during the COVID-19 pandemic (mid to late 2020), believe they have established greater controls and use a series of methods to identify potential cross-border work arrangements: for example, formalised requests protocols, or immigration and travel requests and business travel tracker tools.

Having a gated/filter qualifying criteria approach not only takes the pressure off Global Mobility, senior management and other functional teams to review cases—it will, in the longer-term, set the right organisational mindset for employees to appreciate the rules, be informed and understand the need for compliance and duty of care before seeking approvals.

Immigration is seen as a critical yes or no process—and it either stops there or continues with other key compliance filters such as tax.

Our online survey findings reported that where organisations have been in breach, the financial penalties are not severe (only 3%) but this may change over the next 12-24 months.

Achieving a preferred CBRW framework and *rules* requires informed engagement and the views not limited to key stakeholders at board level, but also regional and functional levels, too. In decentralised organisations, local business policies and country legislation may differ—it is therefore essential to achieve a harmonised approach, especially in countries where others offer CBRW as a competitive talent attraction tool.

Scope and context

In this report, we explore key learnings and insights on how different sectors have addressed or modified approaches to cross-border remote working and work from anywhere.

In the summer of 2022, eleven global organisations shared their insights on how cross border remote working had evolved in their businesses. Sectors represented were consulting, defence, FMCG, financial services, global health technology, IT and performance sport. Additionally, an online survey of more than 100 global organisations was conducted to add further dimension.

The combined global workforce for those who contributed, either by interview or online, amount to over two million employees operating on a truly global basis. In the online survey, half of organisations operate in up to 24-countries, three quarters in up to 50-countries and a quarter in more than 50. 12% are in over 100 countries.

Scope

The research is focused specifically on those who live and perform most of their work in one country—but employed in another—which benefits from their work and from where they are paid. The research includes cases of WFA requests, which have gathered momentum over the past two years, especially in the IT sector.

Note: Frontier Workers (those who are employed and work in one country, but live in another) are not included in the report as, despite the similarities, they raise very different issues.

Cross-border remote working arrangements are not a new phenomenon. However, for some sectors, one major outcome of the COVID-19 pandemic has been a seismic shift in requests for remote working or work from anywhere

One respondent to our online survey confirmed they had 3,000 applications a year to work cross-border. Another estimated 50% of their global workforce were undertaking cross-border remote working.

Santa Fe Relocation conducted this research in collaboration with **Crowe**.

Key considerations

- The COVID-19 pandemic, in many cases, demonstrated that employee productivity and effectiveness whilst functioning remotely has been sustainable, if not always desirable from an organisational perspective.

- As pressure continues to intensify for global talent attraction and retention, how important is it for organisations to embrace cross-border remote workers as another formalised international work arrangement?

- CBRW could impact whole organisations and not the relatively smaller cadre of international employees contained in a visible, formalised Global Mobility programme.

- As employees and candidates feel empowered to push for more personalised work-life choices, so the organisational response requires more connected, intuitive leadership in the face of uncertainty, ambiguity and evolving legislation on a global scale.

- This is all happening during a time of increasing global talent scarcity.

Legislation

States are increasingly introducing remote worker legislation. During our research, we learnt that the European Commission is in the early stages of considering laws or guidelines on this subject.

- In many countries these new laws give workers some rights to request remote working from their employer.

- In most cases this right to request remote working does not impose a legal obligation on the employer to agree to requests.

- However, some states, e.g., Portugal, do set-out scenarios where remote work requests should be granted.

- There are also increasing numbers of countries (over 40, including Croatia, Germany, Greece, Hungary, Mexico, Norway, Portugal, Spain and the UAE) which are making legislative provision—often known as digital nomad visas—to formalise the status of foreign nationals who live in their territory, but whose work is elsewhere. This is, of course, in addition to existing compliance legislation.

- Nations are also starting to more proactively assess the tax positions of remote workers—especially as they see income related tax revenues shift away from their Treasuries.
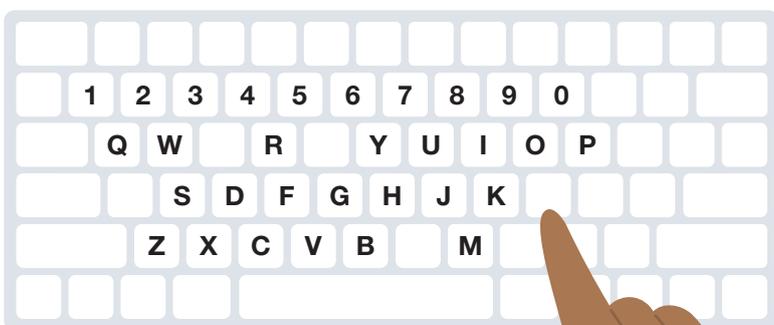
Key findings

1.

Global mobility teams have amplified visibility with leadership due to CBRW and WFA

Organisation insights

CBRW has fallen into the remit of Global Mobility, expanding their scope and visibility in the organisation.

Survey analysis

Who takes ultimate responsibility for approving cross-border remote working in your organisation?

28% Business Head

17% Global Mobility/HR

14% HR Director

10% Board Members

2.

Sector and organisation culture drive acceptance of CBRW and WFA

Organisation insights

The corporate interviews highlight that organisational risk appetite and risk awareness vary by size, sector, leadership attitudes and roles.

Some organisations will not entertain it, so simply say "no or stop". *Make-and-meet* organisations reliant on in-person production and selling activities have less tolerance for these arrangements.

The strictest approaches were taken by organisations with the highest regulatory, information security burdens and contractual client obligations.

At the outset, it is important to establish board-level philosophy of the acceptance and tolerance of these work arrangements.

For some roles, the talent marketplace is not industry aligned, for example a technology professional working at a bank also has cross-over career opportunities in other sectors, which may have a different attitude to CBRW and WFA.

Survey analysis

What is your best estimate of how many cross-border remote workers you have globally?

65% Have less than 200

19% Were unaware

11% Have more than 500

5% Have 201-499

In line with our interviews, for those where this arrangement fits their business model or are larger organisations, it is more likely to have taken action to establish governance. For the majority (65%) how much time is spent managing these cases depends on whether they have a structured programme in place.

3.

Drivers

Organisation insights

Point of origination, extended families (which may also be *humanitarian care*) lifestyle as well as attracting and retaining key talent are key drivers.

A senior global reward leader said, "The extended family is coming back into being because welfare is requiring it".

What has been the most significant impact on remote, cross-border working arrangements for individuals and teams?

34% Unknown—no formal assessment

25% Effective for certain roles such as projects

18% Discovered many unknown and unauthorised CBW cases

13% Effective for all types of work or roles

6% Unsuccessful—cost and compliance outweigh benefits
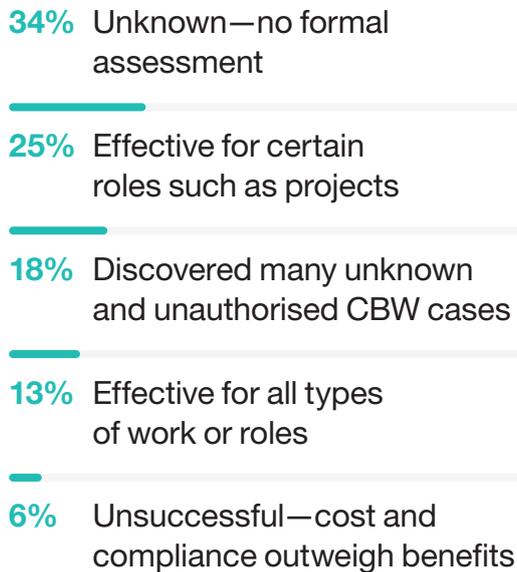
The findings suggest it is not a universally effective work arrangement, and more evaluation of the return on investment is required.

T A L
E N T

4.

Talent—some sectors see a competitive advantage in offering CBRW or WFA e.g. up to 30 days per annum policies

Cross-border working permissions, as exceptions, are given to the scarcest talent in organisations. The exceptions could be a cross-border arrangement or formalised assignment. One organisation shared, "The business view is that if we have real talent, we will do whatever it takes".

All organisations are seeing workplace agility and flexibility including country flexibility, as a key feature of recruitment demands and negotiations. Only one organisation interviewed adopted a rigid approach, where job and location had to be the same even for the most senior talent or employees.

One high-performance sports organisation was already using CBRW pre-pandemic. They continue to build the best teams with the best talent, regardless of location – which for them, was business as usual.

Do you limit or cap cross-border remote working by time?

37% No

34% Yes, typically up to 3 months

15% Yes, typically up to 6 months

7% Yes, more than 1 year or no limit

6% Yes, typically up to 12 months
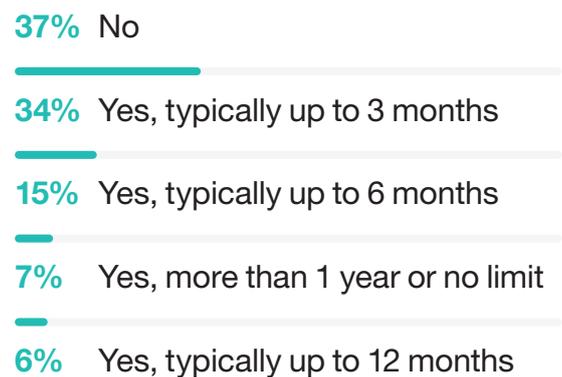
These responses suggest that for WFA arrangements, up to three months are most frequently reported. Some organisations were generally more risk-averse, with a cap between ten and 30-days. Six months being the exception.

For long-term CBRW, other employment approaches could be used. One organisation uses *hosted heads*, employed in country A, but working for the benefit of country B. To achieve this, the correct compliance protocols are established. Alternatively, organisations reported for key/senior talent they would formalise into traditional short or long-term assignment positions.

5.

WFA varies between organisations. Some are more conservative, with a cap of 10-days as an extension of holiday; others allow up to 30-days, and the outliers at 60-days— without further review

All organisations reported a *gated* or *funnel filter* and a formalised request managed by Global Mobility.

Right to work is a definite requirement, and other factors impacting IT data security/business/personal safety and security and triggering payroll compliance also need to be approved. Where organisations are assessing Permanent Establishment (PE) risk, certain countries result in lower thresholds, i.e. spending less time in the country.

Survey analysis

Has any type of cross-border remote working impacted the organisation?

44% Unknown

35% No

13% Other

6% Impact on commercial activities

1% Significant fines (PE)— more than €100K

1% Alleged breach of client contract

1% Lawsuit for breach of client contract
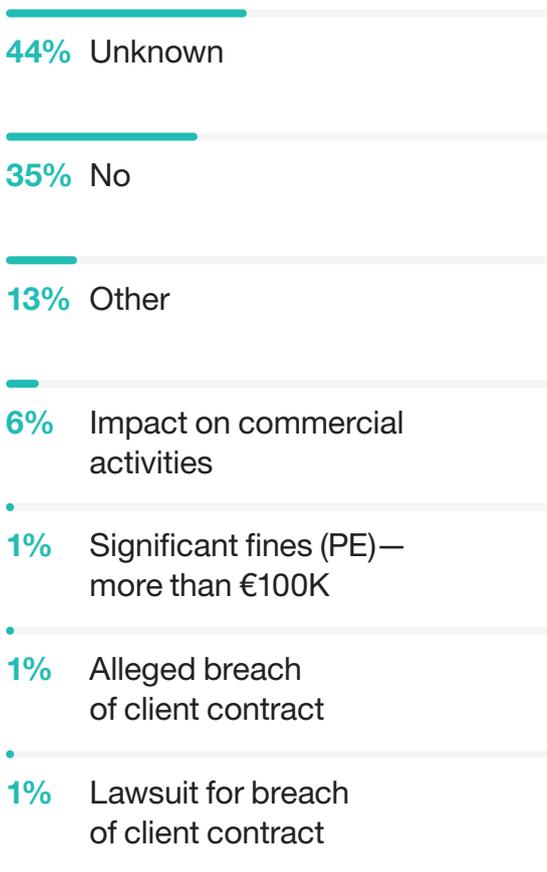
Having governance in place is a combination of effective internal management and external compliance.

Our poll suggests that limited risk has impacted respondents, but it is prudent to have the right processes in place to mitigate potential compliance breaches.

6.

***Early movers* who has established governance and more likely to be efficient and effective in managing new cases?**

Organisation insights

Those with policies, frameworks, processes, communication protocols and tracking tools believe they can more easily manage new cases arising from compliance breaches, or via some other business discovery.

A key learning from this group is the requirement for infrastructure and local business connection to ensure the employee continues to make a connection with, and contributes to, the business.

Survey analysis

Over the next 12-months, what changes will, or might you make, to your cross-border travel programme?

19% Educate stakeholders on non-compliance risk

18% None

16% Introduce a technology solution to track business travellers

16% Limit business travel to critical trips
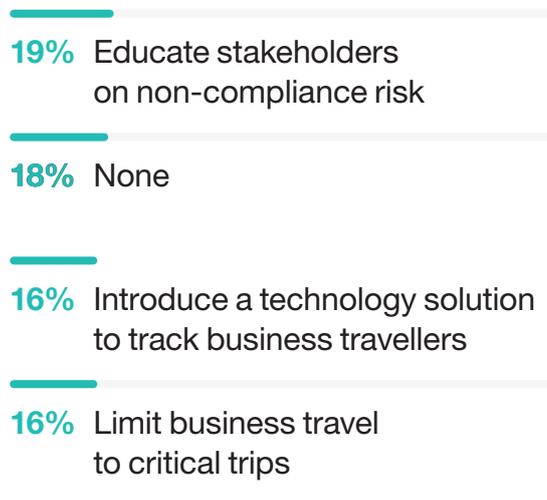
How compliance is governed varies by organisation, but is likely to be a combination of people, process and technology.

No process is 100% guaranteed, but where a breach has occurred, having protocols in place enables quicker resolution, and externally demonstrates to government authorities that a pro-active approach is taken, which could mitigate penalties and fines.

7.

Approach, education and communication

Generally, organisations are taking a reactive approach as cases arise, rather than pro-actively searching for them. Only by exception are organisations using IP addresses as a way of discovery. In these cases, the focus is on tracking assets and data, not the individual, as part of contractual client agreements.

Several larger organisations with defined policies and protocols have implemented organisation-wide communication, sponsored by leadership, to ensure the organisation's position. Others have reported a *wait until it occurs approach*, to avoid requests for CBRW or WFA.

There is a careful balancing act between protecting time, resource and costs—and creating a demand and entitlement.

8.

Reward

There is a split approach to how to compensate longer-term CBRW employees. Market-rate for the country for whom the employee works— or follow the reward in the country where they reside?

There is a tension between flexibility and compensation for example— the longer an employee performs their role from another country, the stronger the logic to move them to local compensation. This potentially has an adverse impact and creates organisational retention issues.

As a wider point, where employment and social taxes are triggered, organisations are leaving this to be borne by the employee. The same is true for commuting costs —which are for the employee's own account. They will, however, fund the structural set-up costs for compliance, such as shadow payrolls and potentially tax preparation support.
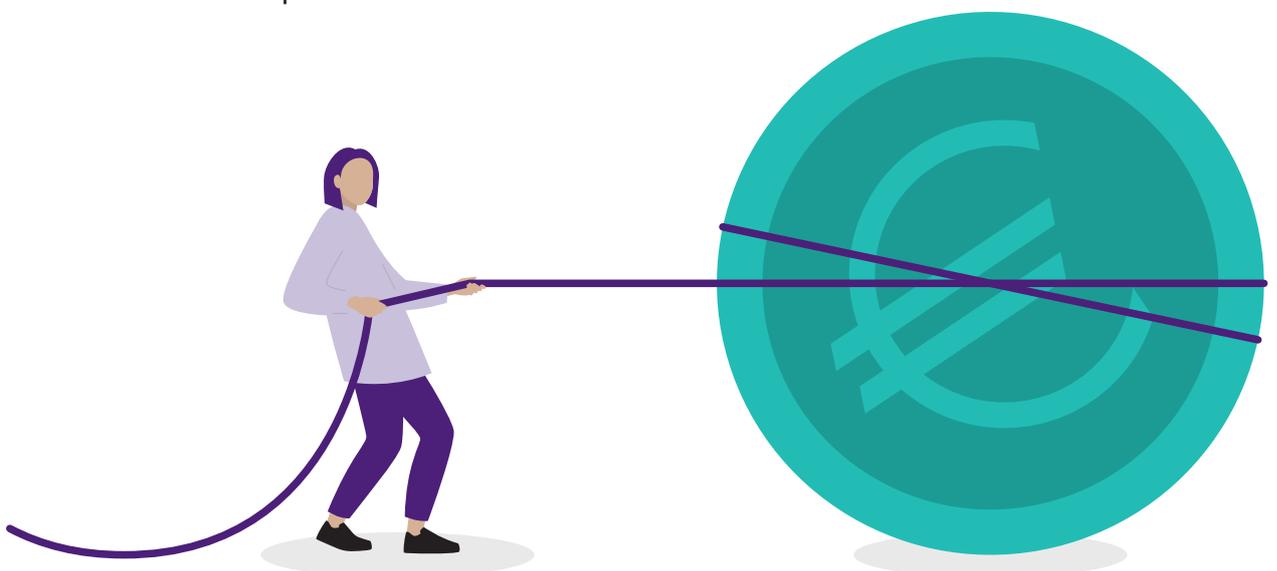
Conclusions and key takeaways

The approach and standpoint to managing these challenges depends on the organisation's size, available resource (or willingness to allocate)—and the investment of executive time. While there are currently few reports of substantial penalties, it is dangerous to assume it will not have an impact.

Without a strategic plan, policies and process, this could consume a disproportionate amount of time, compared with the needs of the vast majority of employees—presenting organisations with potential risk.

Considerations for thinking outside and inside the lines on cross-border remote working include…

Organisation

1. Culture drives attitudes to cross-border remote working

What is the C-suite mindset and philosophy on hybrid (remote versus in-office) presence?

2. Strategic workplace design

Is this a structural change to work, or a short-term work variation request?

3. Does one size fit all?

In large organisations, different roles have individual needs for in-person presence and teaming.

- Have flexibility and do not be too rigid—because that simply does not work.

- If you are zealous, you will spend an organisation's profit on compliance issues—not what the senior leaders want.

4. Ensure you have a referee

Differing groups and stakeholders have alternative views. Ensure you have someone on the team setting the approach, coordinating and managing the breadth of opinion.

Talent

5. Does this align with talent needs?

Who benefits, and are CBRW roles for more junior employees declined?

- They cost time and money and can create risk. If you are going to make the required investment, align with the right level and talent.

- If you are telling people to go back to their base (employment) location and they do not want to, be prepared that you may lose that talent.

6. Human approach

Employee wellbeing should be top priority—balance getting people back to their base location, with a more flexible, human approach.

7. The extended family is back

Employee care and related responsibilities are driving more occurrence of cross-border working.

8. Reward—beware of contradictions

In the real world, flexibility comes with challenges. What should the employee be paid; how does that change with a remote working role?

Governance

9. Connection, contribution and local infrastructure

Cross-border remote workers cannot just be placed anywhere. They need an organisation, support to enable them to function, and for their role to succeed.

10. Target minimal cases that require review

Building a system that pre-approves cases means your resources are focused on a smaller number of the complex, more risky cases that need attention.

11. Setting thresholds

Detailed thinking is key. How many days, how many countries, over what period, how many trips, what roles?

12. Provision (price-in) things not going to plan

Thresholds you set may be seen as absolute entitlements by employees. So trips of the maximum duration and planned by employees. When things do not go to plan, thresholds can be breached. Consider lower thresholds, pricing-in an extension, illness or missed flights.

13. Do you remain current on legislation?

Existing and potential—the European Commission is assessing and compiling legislation to be applied across the EU, giving employees the right to work from anywhere.

Implementation

14. Educate line managers to avoid and not make decisions

This is a complex technical area. Focus on explaining what decisions can and cannot be made by line managers, rather than educating how to make them.

15. How do you measure success?

Tailor to the organisation's business and purpose, for example, in FMCG as a business that makes and sells things— the growth of the business is our key metric.

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