



Path to sustained remote working

In several jurisdictions, the COVID-19 pandemic forced an experimental shift to remote working on short notice. This has resulted in many employees requesting to continue remote work arrangements in the long term. Likewise, many employers that have witnessed a positive remote work experience overall are contemplating a move to a virtual workforce for certain jobs on a more permanent basis or allowing a hybrid working model. In an environment where reducing costs is high on the agenda, the potential cost-savings of releasing office space in prime locations is also recognised.

We set out some key considerations for employers that are contemplating introducing remote working on a more permanent basis going forward.



Temporary or Permanent?

- For existing employees, employers will need to consider whether the change to remote working is a temporary or permanent arrangement. Employers may wish to introduce a trial period to see whether the arrangement works for both parties.
- Where there is a change to the terms and conditions of employment, employee consent is likely to be required. Employers must plan in advance as to how such consent will be obtained and documented.
- For some jurisdictions (e.g. mainland China), employers are required to go through a statutory consultation procedure before implementing a new employment policy.

Eligibility



- Some initial questions employers will need to consider are:
 - Can the job be performed remotely?
 - Are any positions excluded?
 - Are any jurisdictions excluded?
- Employers should establish objective criteria for accepting or rejecting an application to avoid discrimination or unequal treatment claims.

Data Protection and Confidentiality



Employers should:

- pay particular attention to the security of personal data and confidential information
- consider implementing a data privacy impact assessment and ongoing data privacy/confidentiality training for remote workers
- should ensure comprehensive data privacy, IT and confidentiality policies are in place with remote workers

Remote working agreement – other important terms



- The remote working agreement should clearly specify what equipment the employer will provide to the employee e.g. laptop etc. Employers should consider what is reasonably required by the employee in order to properly perform the job.
- Employers will need to give consideration to the following terms:
 - salary /cost of living adjustments
 - working days and hours/rest periods
 - statutory holidays and annual leave
 - requirement to attend office for certain events?

Location of employee?



- If an employee will be working remotely from a different jurisdiction, local employment laws may apply (depending on the jurisdiction).
- The arrangement could also potentially create a permanent establishment risk for the employer.
- Employers will need to assess salaries tax withholding and social security contribution obligations etc.
- Employers need to ensure that employees who work abroad do so legally. Breach of immigration requirements can have serious consequences for the individual and the employer.

Health and Safety - Physical and Mental



- Employers will have health and safety obligations towards remote workers and will need to examine employees'/worker compensation insurance coverage etc.
- Employees working remotely may feel isolated/disconnected from co-workers. Employers should consider how best to integrate remote employees into the team and ensure regular communication.
- Employers should consider specialised training for managers on mental health and how to manage remote workers.

Managing remote employees



Employers should:

- clearly communicate the job responsibilities, deliverables and how productivity will be monitored
- consider how any disciplinary process will be conducted in a remote environment

The Future of Remote Work – Key Employer Considerations in Asia Pacific



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