

Planes, Trains And Liabilities

One year on from initial lockdown we are moving from a situation where we felt this would pass reasonably soon to a realisation that we may be entering into a new 'Virus Age'. If not COVID-19, then maybe a successor.

Business travel has met many different challenges in recent years from the 9/11 terrorist attacks to Swine Flu and other 'regionalised' virus scares. The truly global nature of the COVID-19 pandemic has changed focus, however. Business travel has always recovered from the setbacks above, but it took time. The recovery time from COVID-19 will be long, but it may lead to more significant changes than were visited upon each of the previous challenges.

Business travellers are remarkably adept to change, a fact sometimes overlooked by mobility teams as they look to introduce change programmes. Travellers readily accepted the liquids ban, the shoe searches – and as airlines sought cost savings – 'self-service' app-driven approaches to business travel.

Who could have envisaged an elite business traveller tagging their own bag and lifting it onto the conveyer as they checked in? Travellers learned very quickly how to pack smartly and use apps to bypass the traditional airport queues. A unique ecosystem has been built around how to 'travel smart'.

Why Would Travellers Not Equally Adapt In The Post-COVID World?

As companies now realise that they can't sit this phase out, there has been a surge of activity to put in place programmes to manage business travel, remote work, duty of care and wellness in recent months.

This realisation has also forced companies to review processes across multiple internal stakeholders. We at Global Tracker have been advocating for many years for Travel and Mobility teams to work more closely together in managing the business travel population.

As these process reviews have developed, a minefield of potential liability has emerged as companies realise that the new world will require them to focus much more on why people travel, where they travel to, and whether the company has taken the necessary steps to ensure traveller safety, wellness, and sustainability in that journey.



It is a well-established fact that employers are potentially liable for any act that occurs while their employees are on company business. If we go back to the 9/11 situation, companies could rely on state security systems and risk management processes to help mitigate those risks. One of the earliest COVID-19 City lockdowns was in Leicester in the UK. Who could have envisaged that companies would need to monitor travel to and from that location to ensure employee safety, and their ability to enter other countries or return home (Belgium unilaterally banned all entrants who had been in Leicester in the previous 14 days).

There are many more examples that have been publicised over the last year and they all serve to deliver a new phenomenon that employers need to consider: are we liable for any COVID-risks for our traveller when travelling for business?

I am not a lawyer, but it is not a great leap to conclude that companies need to ensure they are mitigating all and any risks to their travellers as they return to business travel. Like our example of the change in airline and airport processes we mentioned above, travellers are ready and waiting for new processes to support their greater safety on future travel events. Travel forum surveys tells us this.

This is an important point; we speak to companies daily who think 'our guys won't do that' and try to look for a background process to manage a phenomenon that can be managed head on with interaction from the traveller. Travellers themselves will want to see visible actions that prove their employers are taking steps to manage their safety and wellbeing while travelling on company business.

Here are a few pointers on how we see this working out:

1. Engage The Traveller At The Earliest Stage Of Any New Process

This is one of the most common policy decisions companies need to make in the new world we face. In the past the demands of the business were always prime – companies did not want to 'burden' travellers with processes or administrative requirements for their most productive employees. This is the first key question that companies need to face now, and they have a willing adaptive employee ready to face change in the new world. They will tag their own bag at check-in, so they will also follow your new process.

2. Introduce A Comprehensive Pre-Trip Approval Process

As COVID-19 hit last year, companies struggled to locate their employees. Travel data, texts, calls and other ad-hoc processes were introduced to discover who was where and what risks they faced. Employer liability will likely require them now to assess every trip and ensure traveller safety on that trip – if the trip can take place at all. While most business travel has ceased in the last year much essential travel has continued. If you have a contract to maintain equipment at a power station in another country, you are going to send an engineer to fix that machine. Companies have introduced manual form processes through to 'COVID Risk' committees to manage these travel requests. This is not going to go away, and when mass travel returns an automated process to assess COVID and other compliance requirements will emerge. The emerging ISO 31030 Risk Management Standard due for release later this year will seek to put formal standards on how companies assess business traveller safety. Your process should follow the standards set out to ensure maximum

compliance. Automated processes can help you implement these standards.

This is where Mobility teams need now to actively engage with their Travel and Risk Management colleagues to understand the processes that may emerge.

Travel & Risk teams tend to see travel only from their silo lens. Mobility teams see the same travel event through a different lens. If you are not talking to your travel teams then you are missing out on a once in a lifetime opportunity to align mobility compliance with travel compliance. If the traveller is being asked where they are going, can you not use that same data to support the Posted Worker, AI and tax compliance requirements of the same trip?

If mobility teams don't engage during this process, they will remain in a reactive mode where compliance events, which could have been avoided, are dealt with after the event. Talk to your travel team and get on that committee re-engineering travel processes. The traveller will tag their bag and answer a couple of extra questions while they are at the screen to give you the data you need to manage mobility compliance.

3. Brexit Hasn't Had An Impact Yet (And Posted Worker And Economic Employer)

The lack of travel has slightly masked the impacts of Brexit and the now implemented Posted Worker obligations. The requirement to count days spent in the Schengen zone for the UK-based worker will become a new reality for mobility teams. This data is readily available in travel systems and travellers will look to their employers to advise them when they are approaching thresholds. Who could have thought that you would need your employees to also record their holiday travel into the EU as the Schengen requirements cover 'days of presence', not 'days of work'. A month in the sun in August could potentially have significant implications on travel in the 3rd quarter.

The latest iteration of Posted Worker directive came into force in July, 2020, but with a world focused on COVID-19 there have been no real horror stories yet. They will soon come to pass. If you have not set up your processes to manage this new administrative phenomenon then this is the optimum time to do so.

Swedish employers are coming to terms also with new legislation around the 'Economic Employer' concept. Day counting is now a 'must' as travel beyond 15 consecutive or 45 cumulative days now requires shadow payroll or withholding obligations.

Each of these new catalysts can converge into a single process that can be managed by one traveller – the 'pre-trip' approval process – so while the safety team is considering the COVID risk you can secure data to help you manage the mobility risks.

Beware however, the efficacy of travel agency data or trip booking data. Travel

agencies mainly exist to secure bookings so their 'reason for travel' lists can be sparse. 'Meetings-Internal' or 'Meetings-External' won't really give you the data you need to really understand the actual work activity going on in the destination. Seek out a more comprehensive listing of 'activities' so you can avoid unnecessary secondary processes by gleaning more detailed information from the traveller when they book their trip. If you are re-engineering the new travel process, then make it easy for the traveller to do everything in one visit to the screen or smartphone. Travellers learnt quickly how to add the additional data to tag their bags so they will pick this up quickly also.

4. Don't Forget The Remote Workers

Most LinkedIn timelines and blog feeds have been filled with speculative features on how remote working will prevail post-COVID. The answer will usually lie in the middle in that some form of Hybrid working will emerge.

Remote workers will carry the same risk attributes as business travellers, they are displaced from their normal place of work for an extended period, maybe within their same tax residence, maybe within a jurisdiction they have a 'right to work' in, but maybe not.

'Pre-Remote Work Request' will become as commonplace as 'Pre-trip request'. Employees will be asked to submit these requests under policies (still to be developed in many companies) and employers will evaluate these requests under all the same variables that cause compliance issues for business travellers.

Remember that 'Remote Work' – is just, that – 'Work' – so some of the grey areas around 'meetings' and 'conferences' that sometimes obfuscate business travel liabilities can't be applied to remote workers. They are 'working' from day 1, so tax, immigration and posted worker obligations arise immediately. Day counting in the remote location is an entry-level requirement.

To highlight the importance of mobility in the new world, ensure you get remote workers on to that 'return to work' committee agenda and if it is a separate committee then you should look to merge the two working groups together. Failure to merge these committees may result in two processes for employees to resolve; new business travel requirements and new remote working requirements, which isn't suitable in this age of User Experience (UX) and system/process integration.

5. Corporates Are Under Scrutiny

The COVID-19 pandemic has emptied many countries coffers in supporting citizens and businesses. At the same time, global corporates are still reporting healthy revenues, aside from critically hit sectors such as hospitality and travel. Governments will turn to corporates to

secure additional tax revenues, as evidenced recently by Corporation Tax increases in the UK from 19% to 25%. There are large bills to pay for the COVID-disruption and the Corporates reporting healthy profits can expect greater scrutiny in the years to come.

In Summary:

Writing this piece almost exactly 12 months on from the first wave of lockdowns experienced in Europe, the global travel landscape has undergone immense change. Humans have an innate desire to travel; we're beginning to talk about pent-up energy that'll result in a surge of business travel events when lockdowns ease, or vaccination programmes allow, but we must be cogent that future travel will come with significant changes.

We will no longer describe travelling populations as 'Maverick'. Talent wants to know they will be safe and will engage with Pre-Trip and Pre-Remote Work approval processes provided they are simple to navigate. These pre-approval methodologies, will for the first time, provide compliance stakeholders with an opportunity to become proactive in their mitigation of compliance events. This is imperative to navigate complex legislation, where countries have differing interpretations of 'common' concepts. Add into the mix duty of care and wellbeing, this environment becomes even more complex highlighting the need for clear policies and well-thought-out processes to ensure safe and compliant travel in the post-COVID world.



TOM CROSBY

Tom leads the relationships Tracker Software Technologies (GT Global Tracker) has with our Partner-firms and ensures that organisations who are new to the Tool are benefitting from all its features in a way that meets the needs and culture of the organisation concerned. There are many variables when implementing compliance processes, from customer experience to technology configuration and Tom helps compliance stakeholders navigate this environment and ultimately create a system that works for the company and their talent. Tom can be found on LinkedIn, or contacted at Tom@gtglobaltracker.com if you wish to explore any of this article in greater detail.