

Remote work – navigating the legal minefield.

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Global Employer Services Turn It Up

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Agenda

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Key Mobility trends

- Impact of recent global events
- Nomad visas
- War on Talent

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Case studies

- Short term remote work outside the UK
- Longer term remote work outside the UK
- Remote work in the UK

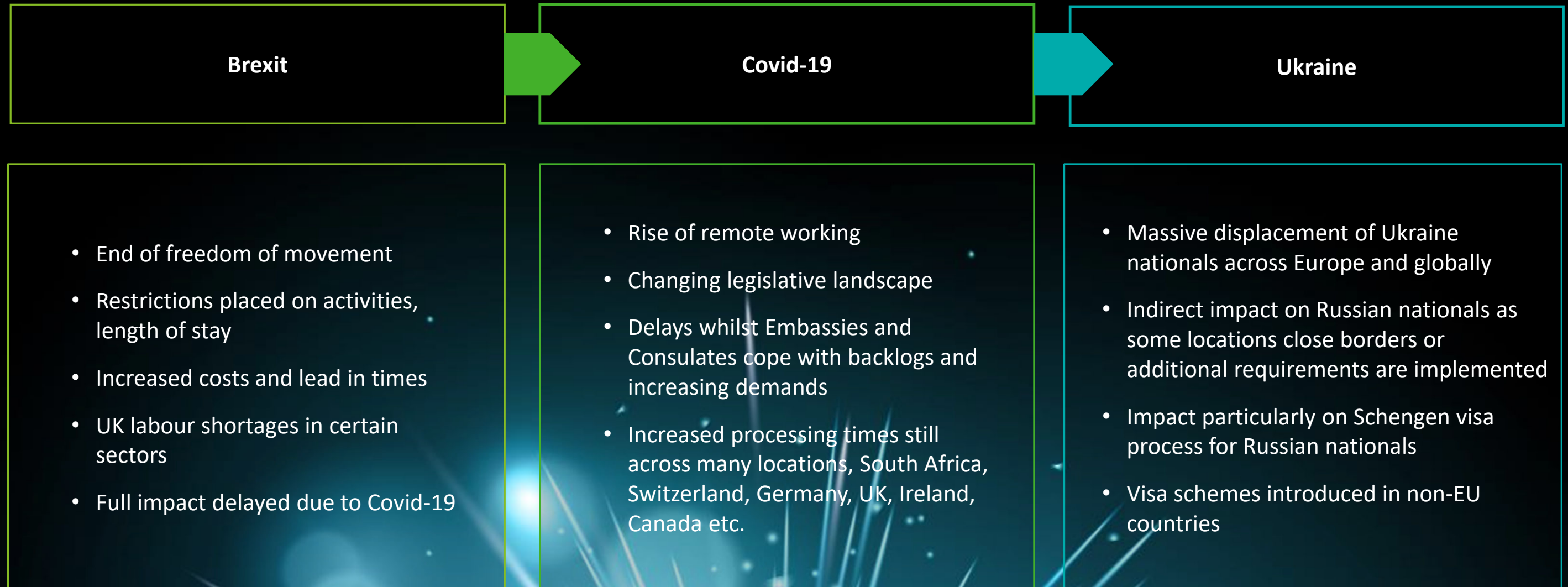
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Summary



Key Mobility Trends

Impact of recent global events



Digital Nomad Visas

- Does not require a work contract
- Allows its holder to work while in the host country, as long as they do it independently and/or remotely
- Varied policies and regulations
- Varying costs and application processes depending on location.



Which countries offer digital nomad visas?

- Antigua & Barbuda
- Anguilla
- Aruba
- Australia
- Bahamas
- Barbados
- Bermuda
- Brazil
- Cape Verde
- Cayman Islands
- Costa Rica
- Croatia
- Colombia
- Curacao
- [Cyprus](#)
- Dominica
- Estonia
- Georgia
- Greece
- Hungary
- Iceland
- Indonesia
- Jamaica
- Malta
- Mauritius
- Montserrat
- Mexico
- Panama
- Romania* *
- Saint Lucia
- Seychelles
- Sri Lanka
- Thailand
- UAE

Digital nomad visas in the pipeline

- Belize
- Grenada
- Italy
- Latvia
- Montenegro
- North Macedonia
- Serbia
- Spain

Which countries offer freelancer/independent contractor visas?

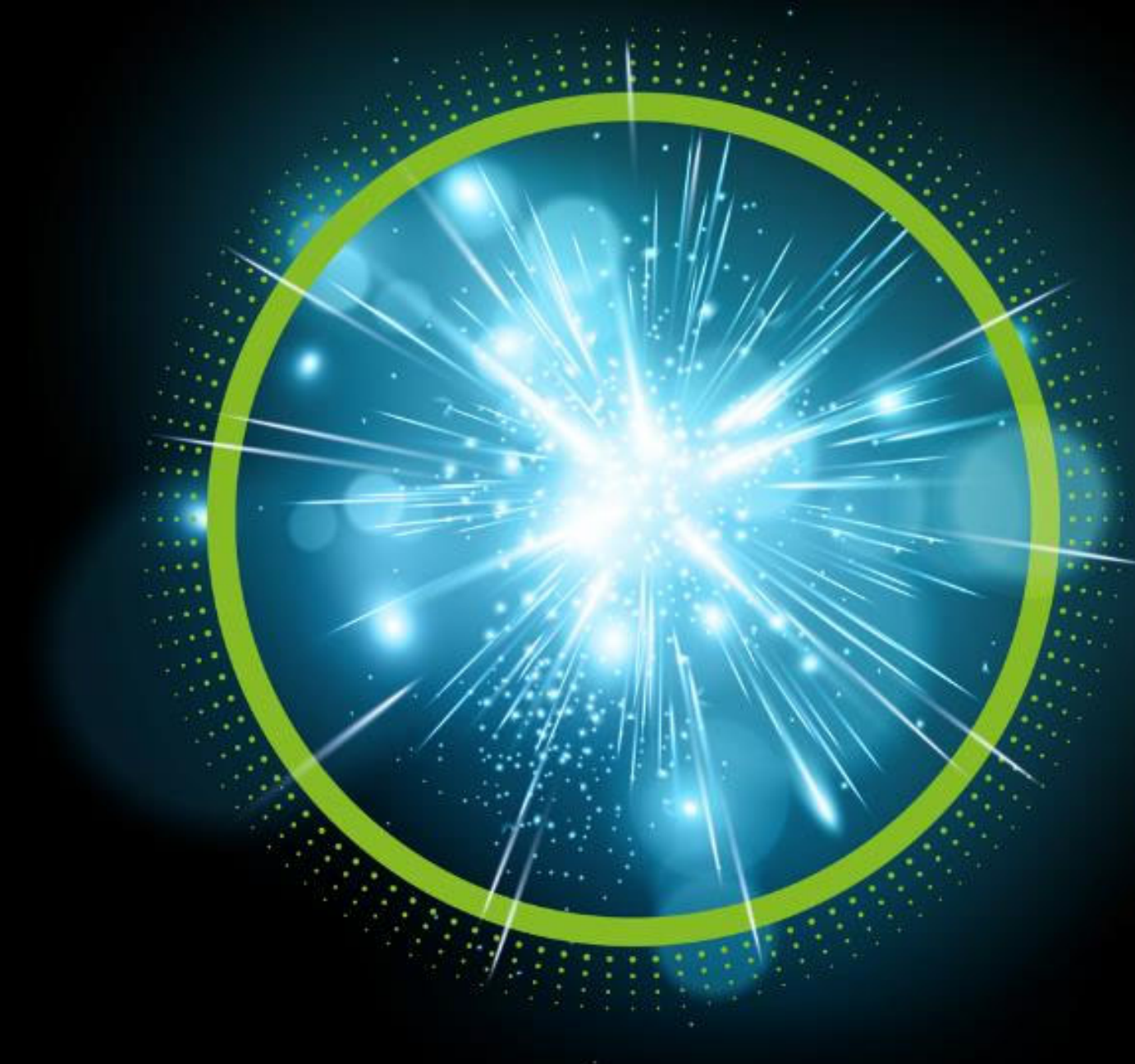
Unlike digital nomad visas, freelancer visas usually require an individual to be self-employed and possibly hold a trade licence in the destination country.

- Bulgaria
- Czech Republic
- Germany
- Italy
- Norway
- Portugal
- Spain

Growing competition for global talent

War on Talent

- Employers:
 - “We want to hire the best people for the role, wherever they are”
 - Matching geo-locations containing specific employee expertise with competitive packages
 - Rise in requests for Deloitte to assist with remote work policy design
- Employees:
 - Opportunities for remote work being raised by candidates at interviews
 - Successful candidates listing remote work as a factor in choosing between roles
 - Clamour from existing employees for facilitated remote work opportunities:
 - “our competitors allow it, why don’t we?”



Case studies

Scenario 1 – Short term remote work outside the UK

Scenario 1

UK based Employee wants to work from southern Europe for 3 months, to stay with family.

As the employee can 'do their work remotely', they feel they can do it from anywhere. So why not go and stay abroad over the summer months.

Employee has read that they can enter the EU without a visa for up to 90-days.



Immigration considerations

- Entry requirements are not the only 'test' for compliance.
- Need to look at activities that will be performed from day 1, *and* the 'intention of travel'.
- Can the activities/intention be supported as a Business Visitor?
- Do the activities require a work authorisation (visa or permit)?
- Does the host country support remote work?
- Need to be aware of time limits and knock on impacts (e.g. within the Schengen Zone)



Employment Law considerations

- Shorter duration may mitigate risk of local employment laws applying.
- However, there is a risk in some countries of local law rights applying from day 1
- Practical considerations: how to deal with public holidays, whether UK core working hours will apply, are there any processes impacted by the remote work arrangement (recruitment, consultation, line management/appraisals)
- How are employee benefits and insurances impacted?
- Contractual restrictions around processing client confidential/personal data in another country/transferring that data cross-border?

Scenario 2 – Longer term remote work outside the UK

Scenario 2

UK based Employee wants to work from overseas location for 6-12 months.

Company has an internal policy to allow secondments and/or remote working where pre-approved.



Immigration considerations

- Longer period of remote work will likely require a permit/visa.
- Some nationalities will have exemptions to requirements for permits (e.g. EU nationals working in other EU countries)
- Does host location support remote working?
- Some locations have specific qualification for 'local' permits such as;
 - Local contract requirements
 - Local payroll
 - Employment in a host country entity
- Consider Nomad visa locations as 'preferred' locations.



Employment Law considerations

- Longer period of remote work is likely to increase technical risk of local employment law rights applying and practical risks of such rights being enforced and/or a trigger event taking place (e.g. dispute, dismissal)
- Similar practical considerations as set out in Scenario 1
- Highest risk areas:
 - does a CBA apply? If so, are any enhanced benefits provided?
 - enhanced severance with no or more favourable qualifying period
 - registration with any local labour authorities
 - remote work allowances in certain countries
- Logistical/wellbeing considerations: public holidays, working in different time zones, isolation from team

Scenario 3 – Remote work in the UK

Scenario 3

US based Employee wants to work from UK for 6 months, to spend time with family.

Employee has read that they can enter the UK without a visa for up to 6-months.



Immigration considerations

- UK does not recognise 'remote work' per se for foreign nationals
- Business Visitor vs Work Permit
- Need to look at 'intention of travel' under the visitor rules and activities from day-1 to assess eligibility.
- If work permit required, will need a UK entity holding a UK Sponsor licence, to sponsor the individual on assignment/secondment (other eligibility criteria apply)



Employment Law considerations

- Consider how employee benefits and insurances are impacted
- How will time zone difference be managed for ongoing US-based work?
- Put in place contractual documentation to reflect the arrangement – employer right to terminate the arrangement?
- Will the employee obtain UK employment law rights? If so, are they more or less favourable than US employment law rights?

Key Takeaways



Immigration considerations

- Remote work has evolved from 'displacement' to 'dispersal'. To embrace remote work policies, employers need to define their short/long term remote work policy to set boundaries on minimum requirements.
- Entry requirements are not the only 'test' for compliance.
- Need to look at activities that will be performed from day 1, and the 'intention of travel'.
- Business Visitor vs Work authorisation
- Consider Nomad visa locations as more viable
- Work permit requirements may preclude employees from remote work in host locations.



Employment Law considerations

- Assess risk of local jurisdiction employee rights and/or CBA applying
- Check if any company benefits are invalidated during/in respect of period spent working abroad and, if so, whether business is contractually obliged to make other benefits arrangements
- Check if business is obliged to take any proactive steps in the local jurisdiction: e.g. register with labor authority, open bank account, health & safety obligations
- Check if certain roles or activities are subject to regulatory considerations
- Consider if certain roles cannot be carried out cross-border due to contractual restrictions
- Consider adapting onboarding/wellbeing/ supervision processes to reflect international remote work arrangements
- Consider "source of truth" for an employee's location of remote work and how to discharge employer duty of care



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