

Future workplaces: How Indian firms can manage compliance risks in the post-pandemic world

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As the world recovers from the pandemic, organisations globally are observing several challenges in facilitating the smooth transition of employees to the workplace. These challenges are reflective of the changing employee-employer relationship, and are compounded by evolving labour codes and other regulations that define the workplace, and outline employee and employer obligations.

Some of the current concerns include the following

1. **Planning how and where to get the work done:** Selecting the right working arrangement – work from office, a hybrid model, or a fully remote set-up - can pose several challenges. The government is chalking out a legal road map to formalise work-from-home arrangements. In the absence of that, how should organisations treat employees opting for remote working?
2. **Managing employee health and well-being at the workplace:** How should organisations manage employee health and well-being, if vaccination is not mandated by the government? In India, government guidance states that vaccination is voluntary. However, in a few states, such as [Maharashtra](#) and [Karnataka](#), there have been circulars obligating employers to ensure that their employees are vaccinated.
3. **Attracting and retaining talent:** While remote working has increased organisations' access to talented professionals, the challenge lies in determining which state laws can apply to these employees. A significant part of employee compensation and work hours are dependent on state laws.
4. **New disciplinary issues leading to violation of the employment contract:** While new working arrangements have provided employees the flexibility to manage their work and personal commitments, organisations are also observing several disciplinary issues. These include employees moonlighting while working remotely, interview frauds and impersonation, job abandonment, unauthorised absence, and virtual sexual harassment.

How can organisations address these challenges and remain compliant with regulations? Below are some suggestions to consider.

1. **Devise flexible return-to-work strategies:** Organisations need to proactively identify new legal considerations and draft flexible policies to manage their compliance obligations in the near future.

For instance, while several firms undertook surveys asking employees what workplace model can be followed, others have opted for a pre-emptive approach to draft policy documents that empowered managers to decide whether a role can be performed remotely. Models that enable employees to have granular discussions on feasible approaches to work are likely to reduce resistance from employees.

2. **Stay abreast of the latest regulatory developments:** The Supreme Court order in May 2022, stated that governments can roll out reasonable restrictions in terms of vaccinations as long as they are balanced and proportionate with the requirement. This implies that if an employer makes vaccines mandatory and stipulates employment termination upon failure to comply with this norm, the policy can be challenged by the employee.

However, if mandatory vaccination is a condition to enter the workplace premises, that is likely to be justified from a health and safety perspective (provided there is an alternative to working from home). Such regulations need to be adequately studied so that their implications are optimally defined, empowering businesses to formulate effective and compliant employee policies.

3. **Conduct awareness sessions and training:** Employers must strategise how to manage and communicate policies related to infectious diseases, leaves of absence due to medical directives and more to employees. Additionally, organisations must support them in understanding relevant policy changes that will likely affect them, such as return to work and new government directives. Organisations can also conduct awareness sessions to promote vaccinations, maintain integrity at work, and discuss the ramifications of non-compliance to minimise future instances of serious misconduct at the workplace.
4. **Ensure swift crisis management:** Organisations must have a crisis management plan in place that includes inputs from legal advisors and covers the risk of non-compliance. Such a plan should help in assessing the severity of the risk, specifying a course of action, and facilitate post-event impact analysis.

Conclusion

Regulations are evolving fast, putting organisations at the risk of non-compliance. While there can be legal ramifications for non-compliance, businesses also risk losing their competitive edge owing to attrition. Considering the new labour code that the central government has approved, the legal nuances of adapting and complying with these new norms is likely to be a challenge. Organisations need to have flexible policies to strike the right balance between compliance and employee productivity and well being.