How to Create a Safety Policy for Business Travel to Dangerous Locations



The killing of the notorious drug cartel boss known as “El Mencho” triggered an outburst of random violence and shootings across Mexico. Among the civilians caught in the crossfire were thousands of Canadians traveling to the country on business who remained stranded or locked down for days. These events are a wake-up call for companies that send their employees on business trips to not only Mexico but any country experiencing political instability and civil unrest. In addition to the lives and safety of your employees, business travel to hazardous destinations exposes your company to liability risks. Here’s a briefing to help HR directors manage the legal risks before, during, and after sending employees to risky destinations.

Business Travel Liability Risks

Employers are legally responsible for the safety of the employees they send on business trips to dangerous places like Mexico. Potential consequences of failing to meet this responsibility include:

- Liability for occupational health and safety (OHS) violations, specifically failure to prevent “workplace” violence, which is interpreted broadly as covering any location where employees are reasonably expected to perform their job duties including foreign countries they travel to on business trips.
- Workers’ compensation claims for the work-related physical and mental injuries employees suffer while on business trips, including travel to and from the destination.
- Negligence lawsuits seeking money damages against the company for failing to exercise reasonable care to protect them to the extent such claims aren’t preempted by workers’ compensation.
- Claims for breaching the contractual duty, whether express or implied, to furnish the employee a safe work environment.

What the Law Requires

What exactly should employers do to guard against these risks? **Answer:** When you boil it down, the employer’s fundamental legal obligation is to take all reasonable steps in the circumstances to protect employees against the known and reasonably

foreseeable risks they encounter at work, including while traveling to and doing business in locations, either Canadian or foreign, away from the office. Let's break this down into its two key components:

Reasonable foreseeability: First, it's important to recognize that the drug cartel violence dangers associated with traveling to Mexico would likely be deemed known or reasonably foreseeable given the widespread media attention, numerous high-visibility shootings in urban centres, and Government of Canada travel advisories in place before the recent outbursts occurred.

Reasonable steps: Having established that the duty exists, the analysis shifts to the reasonable steps employers must take to protect the safety of the employees they send to Mexico and other hazardous locations. The key to managing the risk is to get in front of it by establishing policies and procedures for such travel.

How to Create Business Travel Safety Policy

While you might already have a business travel policy, it won't safeguard you from liability risks if it treats all destinations the same. You also need to create and implement a policy establishing special safety and security requirements for travel to dangerous locations like Mexico, either as an addendum to your current travel policy or a freestanding policy. Like the template Safe Business Travel Policy on the HR Insider website, your policy should include 12 key elements.

1. **Destination-Specific Risk Assessment**

Travel policies typically require employees to get company approval to go on business trips. Proposed trips to Mexico or other politically unstable or dangerous foreign locations posing a high risk of violence (which we'll refer to collectively as "hazardous locations") should not be approved unless and until HR or another competent person performs a written destination-specific risk assessment that includes:

- Identification of the specific region, country, city, neighbourhood(s), and meeting locations.
- Review of recent incident reports and current Government of Canada travel advisories pertaining to the above.
- Review of the security profile of meeting locations.
- Assessment of proposed transportation arrangements and providers.
- Confirmation of medical, evacuation, and security insurance coverage.
- Assessment of necessity of in-person attendance versus virtual alternatives.

2. **TieredBusinessTravel Approval**

Classify business travel by risk level based on current Government of Canada advisories pertaining to the proposed destination and specify the approval required for each level. Example:

- Level 1: Routine Risk – Exercise normal security precautions.
- Level 2: Elevated Risk – Exercise a high degree of caution.
- Level 3: Restricted Risk – Avoid non-essential travel.
- Level 4: Prohibited Risk – Avoid all travel.

Specify that Level 3 or Level 4 travel requires executive approval, written justification of business necessity, and a written mitigation plan. Level 4 travel should also require extraordinary executive authorization supported by legal review by a lawyer.

3. **Insurance Coverage Verification Protocols**

Before approving business travel to hazardous locations, somebody from the company should review pertinent insurance policies and, if necessary, get brokers to provide written confirmation of:

- The validity of medical coverage in the hazardous location.
- Security evacuation coverage.
- Supplemental kidnap and ransom coverage.
- Repatriation coverage.
- Policy exclusions or limitations.
- Territorial exclusions.
- Coverage activation thresholds.

4. **Transportation Safety Controls**

Establish controls and restrictions governing transportation to and from and transit within the business trip location. Example:

- All transportation must be pre-arranged and furnished by car services or other providers vetted by the company.
- Street-hailed taxis may not be used.
- Routes must be planned to avoid identified high-risk or no-go zones.
- Travel itineraries may not be publicly disclosed.

5. **Accommodations Safety Controls**

Require pre-approval of all hotels or accommodations and list safety criteria for approval. Example: Proposed accommodations must:

- Be located in business districts or areas assessed as lower risk.
- Maintain 24-hour controlled access.
- Have on-site security personnel.
- Not be short-term rental properties.

6. **Employee Communication & Contact Protocols**

Require employees who travel to hazardous locations for company business to:

- Submit their full itinerary to HR or a manager before departure.
- Furnish real-time contact information.
- Confirm their safe arrival after getting to the location.
- Maintain periodic contacts or check-ins as directed.
- Immediately report security incidents, threats, or significant disturbances.

7. **ProhibitedEmployee Conduct**

Employees may undermine your carefully prepared security arrangements by engaging in unsafe conduct. So, say that while in hazardous locations, employees must not:

- Travel to regions or areas identified as high-risk or no-go in the risk assessment.
- Travel outside approved areas without authorization.
- Got to or attend events in areas where recent incidents of violence occurred.
- Deviate materially from their approved itinerary without authorization.

8. **Pre-Travel Security Briefing**

Before departing for approved travel to hazardous locations, require employees

to receive a pre-travel security briefing to go over the above transportation, accommodations, communications, and conduct rules. The briefing should also cover:

- Curfew recommendations, if any.
- Emergency Canadian embassy contact information.
- Current regional risks.
- Areas to avoid.
- Local emergency procedures.
- Kidnap and extortion awareness (without alarmism).
- The contact, check-in, and communication schedules and instructions.
- Incident reporting procedures.

Have employees sign an acknowledgement that they received and understood the briefing information and agree to comply with all safety controls. Retain written records of the briefing and acknowledgement.

9. **Employee Refusal Rights & Reprisal Protections**

Assure employees that you won't require them to travel to hazardous locations against their will and remind them of the OHS rights to refuse dangerous work. Also make it clear that employees have the right to express their safety concerns without fear of reprisal and that such concerns will trigger a reassessment of the need to travel and availability of virtual and other alternatives.

10. **Incident ResponseInstructions**

Require that employees receive instructions on what to do if they experience or face the imminent risk of violence, lockdown, kidnapping, arrest, detention, or other emergencies. Such instructions should stress the need to prioritize their own personal safety, immediately notify their emergency contact, and follow the instructions of whoever at your company is responsible for crisis response. Provide immediate debriefing and post-incident support to victims, including access to your company's Employee Assistance Program and referrals to sources of medical treatment or psychological counseling providers in your community.

11. **Security Monitoring of High-Risk Business Trips**

Establish protocols for continuously monitoring security conditions when employees travel on business to hazardous locations and immediately responding to incidents or escalations of risk levels, including emergency communication, evacuation, and relocation procedures. You should also require employs to de-brief you after they return so that you can assess the effectiveness of your security measures and identify problems you need to correct.

12. Documentation & Records Retention

Require that pre-travel hazard assessments and briefings, approval records, insurance confirmations, incident reports, reassessments, and other documentation provided for in the policy to be retained for at least the minimum periods prescribed by OHS regulations for those particular records or, where no minimum retention periods are specified, at least two years after the employee returns from the hazardous location.