



# Duty of care: Protecting traveling employees

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## Author

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Business travel and international operations are part of every multinational corporation's daily operations. The Global Business Travel Association estimates \$1.3 trillion was spent on business travel in 2016 and is estimating an increase of 6.1 percent in 2018. Business travel can be as simple as an employee crossing the street to meet a client or as complex as flying across the globe to negotiate a deal. The global nature of business in today's world creates additional risk for every organization. The health, safety and security risks of traveling employees are easy to underestimate and overlook. With the implementation of duty-of-care laws around the world, multinational corporations should carefully develop and analyze their travel programs to be sure they fulfill their duty of care for all employees.

## What is duty of care?

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The legal concept of duty of care presumes individuals and organizations have legal obligations to act toward others and the public in a prudent and cautious manner to avoid the risk of reasonably foreseeable injury to others. Employers have the moral and legal responsibility and obligation for the health, safety and security of their employees, especially those traveling on behalf of the employer.

## Why focus on duty of care?

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Employer duty-of-care obligations extend beyond employees to the spouses and children of employees, as well as to board members, consultants and contractors. Making sure an organization has a proactive, comprehensive duty-of-care program is essential to avoiding legal ramifications when an incident arises.

Many developed countries around the world are enforcing the employer’s duty of care by implementing legal statutes and referencing extensive case law that often sides with the employee. In 2007, the United Kingdom passed the Corporate Manslaughter and Corporate Homicide Act of 2007 (Manslaughter Act). This law imposes criminal liability on corporations where there is a gross breach of duty of care that results in a death of a person, such as an employee, person at a work site or traveler. Since this law was implemented in 2008, there have been 26 convictions.

Many other countries have passed, or are in the process of passing, similar laws. Australia, Belgium, Canada, France, Germany, Netherlands, Spain and the US all have varying degrees of legislation in place. Some countries, such as Belgium, have extended these obligations to travel to and from work as well. Below are a few examples of legal cases based on duty-of-care laws:

Country	Case summary
Australia	A spouse of an employee on assignment at an international location was severely injured in a fall on a staircase at housing provided by the employer. Damages were awarded to the spouse against the employer.
France	The employees of a French company working in Pakistan were killed by a suicide bomber. The French company was found liable for failure to provide adequate security measures for their employees.
United Kingdom	A contractor was injured at a work site in Germany and sued in the UK. The court decided the contractor was an employee of the UK company and that the employer failed to provide a safe working environment.

## What risks do business travelers face?

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Business travelers face many unforeseen risks while traveling on behalf of their employer. Travel-related infections such as malaria, respiratory infections and hepatitis can be prevalent in developing areas. An urgent healthcare need can arise at any time for a myriad of reasons: food poisoning, flu, minor injuries or acute onset of serious illness. Political and cultural conflict is continually increasing around the world, presenting both logistical and security challenges. Natural disasters are often completely unexpected and require an urgent employer response to ensure the health, safety and security of travelers at a moment's notice. Being prepared to respond to any possible incident at any time is essential to protect a company's reputation and employee morale.



## How to manage an employer's duty-of-care obligation

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Managing duty of care is part of every stakeholder's responsibility. Everybody within the company, from the CEO, human resources, risk management, legal, operations, finance and the travelers themselves, all have responsibility for duty of care. Development and management of a program should have input and buy-in from all parties. Successful duty-of-care program development can be achieved by following these four basic steps:

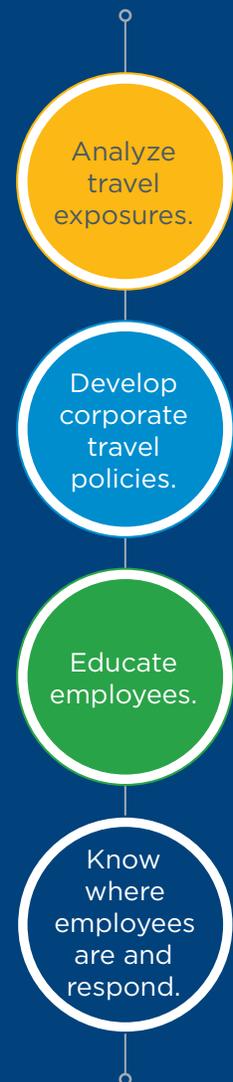
### 1. ANALYZE TRAVEL EXPOSURES

The first step is to determine the travel risk. Employers need to define and analyze their global travel exposures. This includes procuring information on all groups of employees affected worldwide. Location, job function, employee behavior, dependent travel and sojourn travel should all be a part of this analysis. Special locations, risks and coverages must be considered; for example, expatriate and long-term assignee needs are unique and require special consideration compared to the needs of short-term business travelers.

### 2. DEVELOP CORPORATE TRAVEL POLICIES

Once the travel exposures are known, employers must develop both proactive and reactive strategies. Selecting the right kind of insurance programs (business travel accident, business travel medical, foreign commercial packages, employee benefit plans, evacuation and assistance, kidnap and ransom, etc.) helps ensure employers are fulfilling the needs of business travelers. Development of a corporate travel policy is also a key element of duty of care. Selecting travel management companies, airlines, hotels and ground transport, as well as providing employees with destination risk assessments, setting employee concentration limits, educating employees about city dynamics and ensuring good communication are all a part of a corporate travel policy.

### Steps to achieve duty of care:



### 3. EDUCATE EMPLOYEES

Once a corporate travel policy is established and both proactive and reactive measures have been implemented, it is essential to educate all employees about the program. A key aspect of educating employees is providing pretrip destination information to help mitigate risks associated with the business trip. This communication includes information about infrastructure, customs, cultural context, medical care standards, political risks, security risks, insurance coverages, local emergency numbers and global assistance hotlines. Many apps for mobile devices provide much of the critical information. These apps can be free, available for purchase or even included in insurance products. Apps continue to evolve and improve and now offer recorded spoken medical translations into foreign languages, online identification cards and integration with Google Maps to find nearby contracted doctors and hospitals. For American travelers, using the US government Safe Traveler Enrollment Program (STEP) allows travelers to receive alerts and warnings while they are traveling, and it also informs the nearest US Embassy or Consulate that the traveler is visiting the country. The more prepared employees are, the more successful the assignment or trip will be.

### 4. KNOW WHERE EMPLOYEES ARE AND RESPOND

Knowing where employees are during a crisis is critical to managing the corporation's risk. Assistance companies and travel management companies offer programs allowing companies to compile and track travel itineraries for real-time data of all employees worldwide. Some of these programs can even use GPS technology to track a person via their company-provided mobile device. The ability to communicate quickly and clearly to employees in real time also helps manage risks. Multiple forms of communication should be considered while developing the duty of care programs because often in natural disasters and political or security situations, conventional communication methods, such as phone and email, may not be available. Cell phone calls, emails, text messages and local contacts are all necessary in the event of an urgent crisis. Even in the US, communication can be a serious challenge during natural disasters once power and telephone lines are down, as happened recently during hurricanes Harvey, Irma and Maria in 2017.



## Conclusion

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Companies have a duty of care for employees' health, safety and security while they are traveling on behalf of the organization. Identifying foreseeable risks and planning for unforeseeable risks can be achieved by developing a strategic corporate travel strategy. Employers must demonstrate they have prepared their employees for the risks associated with travel as well as how to respond to these risks. Employers must also consistently monitor destinations for changing conditions so they can quickly support and communicate with their employees.

Employers should remain vigilant of their legal and corporate social responsibilities related to their duty of care, both domestically and internationally. Proper planning and buy-in from all levels of the organization is critical to deploy an effective duty-of-care program.

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