



GLOBAL MOBILITY – OVEREAS WORKING ARRANGEMENTS POLICY AND PROCEDURE

Author:	Human Resources
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Purpose

- 1.1 While SGUL employment contracts are built around the work location being in the UK, it is recognised that there will be times where work outside the UK is required to support the goals of departments and institutes. This guidance has been written to support staff working internationally and ensure that the risks that cross-border working poses can be mitigated. The policy also supports departments/institutes in making informed decisions when sending employees overseas or choosing to support employees working internationally. Cross-border working must be planned and carried out in a compliant and cost-effective manner.
- 1.2 This policy does not apply to individuals coming to work in the UK from abroad.
- 1.3 This policy applies to all employees when working abroad for business or personal reasons. It does not apply to agency workers, external consultants, or self-employed contractors.

2. Scope of Policy and Procedure

- 2.1 This policy is for all staff
- 2.2 It has been written to:
 - set out the University's position on overseas working including the key statutory and organisational requirements, where this is initiated either by the University or an individual staff member.
 - ensure members of staff, their manager and department understand and carry out their responsibilities on behalf of the University with any plans for working overseas.
 - provide a framework for authorising and implementing agreed overseas working and to ensure that the administrative processes and procedures involved in relocating and /or employing individuals across international boundaries are clearly set out.
 - communicate the consequences of non-compliance or financial liabilities and penalties in relation to international working, specifically in the areas of tax, payroll obligations, social security, insurance obligations, employment or other relevant legislation and immigration.
 - confirm that failure to comply with statutory and organisational requirements could be considered to be a disciplinary matter and non-compliance may lead to consideration under the relevant procedure.

3. Where international work may be considered

- 3.1 Overseas initiatives can lead to increased risks to both the member of staff and to SGUL if not planned properly. For example, disputes with collaborative partners, regulatory action from overseas authorities and reputational damage to SGUL. Overseas work is also likely to incur additional and often ongoing costs to SGUL and it is important that the costs and risks are understood before any overseas work is agreed.

- 3.2 SGUL will seek to support and facilitate overseas work where it is judged that an overseas base will have material benefit to the overall objectives of SGUL. Such work will normally require Director approval. These may be short term or longer-term assignments and most typically this will occur where international collaboration is needed in an overseas nation. This could involve SGUL working with overseas organisations on joint ventures, staff working in foreign universities, either off or on campus, or carrying out research. Other examples could be where an employee needs to be based overseas for a short period but is essential to the completion of critical SGUL work.
- 3.3 Aside from the examples above, given the costs, risks and liabilities involved with international work, the normal expectation is for SGUL staff to be based within the UK. SGUL may consider exceptions but usually this will be on a short-term basis (under 60 days) where, for example, staff have requested to work remotely overseas to care for relatives etc, or where urgent teaching work needs to be completed remotely on a short-term basis. Cases should be considered by the Director on their merit, but advice must be sought from the HR Business Partner before anything is agreed. This will help to ensure all cost and risks are known upfront. The normal expectation is that this will only be a temporary relaxation and that staff must plan to return to the UK within the 60-day timeframe.

4. Overseas Working

- 4.1 The term overseas working typically encompasses, although not exclusively, staff working for more than 1 month: in foreign universities, either off or on campus; carrying out research in the field; teaching; paid research leave; and working from home where their residence is abroad. This list is not exhaustive.
- 4.2 The University has a statutory duty to submit a return to HMRC for anyone who spends more than 183 days out of the UK in any year (depending on country tax treaties). This means the University need to keep records about people who are living or who are working overseas. The time counted includes time on annual leave as well as working days.
- 4.3 Before any overseas working arrangement can commence, approval must be sought and granted from the Director and HR Business Partner, as directed by the policy. Written approval should be obtained a minimum of 90 days before the arrangement is due to commence in order to allow the department to take the necessary steps to ensure compliance.
- 4.4 Line managers retain their duty of care for staff working or travelling overseas. If managers are considering employing staff based overseas or posting an existing member of staff on an overseas assignment, they should contact their HR Business Partner as soon as possible. They will liaise with other specialists (both internal and external, as required) to ensure that managers are provided with the appropriate advice and guidance. It is important to emphasise that overseas working must be authorised in advance and if approved, planned, and carried out in a compliant and cost-effective manner.
- 4.5 Additional terms and conditions apply to staff based overseas for six months or more.

5. Business Travel

- 5.1 Staff that undertake business travel should familiarise themselves with this policy and report to their Head of Department or Directors of Professional Services any business travel lasting more than 1 month, or if they travel frequently (5+ times a year) for less than a month each time.

Business travel applies to:

Official Business - Travelling on official business trips for activities such as conferences, meetings, attending seminars & lectures, whereby staff are representing the University. This also includes research work conducted outside the UK arranged through the University.

Unofficial Business - Travel where the host organisation invites staff to attend an event and pay for their travel and they are not formally representing the University. Unofficial business is covered by these guidelines depending on the activity and if this is perceived as representation on behalf of the University by the host. In these cases, staff are acting in the interests of the institution and carrying out the normal expectations of their role and need to report their time working overseas.

6. Staff Working Overseas for the University

- 6.1 Overseas initiatives can lead to increased risks and costs to both the member of staff and to the University if not planned properly, for example, disputes with collaborative partners, legal challenge from staff and students, regulatory action from overseas authorities and reputational damage to an institution's global brand. HR and Finance Business Partners should be notified at the earliest opportunity within the planning stage, i.e., at the point of applying for a grant or when a resource requirement is identified and will involve overseas working.
- 6.2 Due to the complex nature of compliance obligations for employees working overseas, heads of departments or directors must ensure that all the relevant legal/financial obligations and costs have been considered at the planning stage, that advice is sought where required, before approval for the proposed overseas working arrangement is sought. No agreement can be legitimately made with the employee or candidate without these steps having been taken and written approval gained.
- 6.3 The terms of any research grants or external funding linked to the individual/project should be checked as it may be possible to use this funding to cover the cost of external advice or other overseas assignment costs. The grant may also be used to reimburse other employee costs directly linked to the overseas assignment (such as tax filing, accommodation, etc.) or provide additional cash allowances. However, it should also be noted that an existing grant may no longer be valid if the employee is working overseas for a significant period, so this should also be verified.
- 6.4 Any additional costs incurred by the University will be borne by the department or directorate the staff belongs to. Sometimes these costs may be borne by the research funder. Staff who are due to work abroad for the University should work with their Institute Director /Director of Professional Services (or another colleague of appropriate seniority who will work with them) to ensure that risks have been properly assessed and that there is sufficient budget to meet related costs including, but not limited to, seeking financial/tax advice, additional insurance, tax and social security, local payroll bureau and personal expenses. The appropriate manager will act as the primary point of contact should the individual have any concerns or questions for the duration of their work overseas.
- 6.5 Staff and managers are encouraged to view the latest travel advice for countries at www.gov.uk/foreign-travel-advice. This essential travel information is regularly updated and can rapidly change.

7. Requests to work remotely overseas for Personal Reasons

- 7.1 Our standard terms and conditions of employment are subject to England and Wales employment law and as such, all our employees are expected to work in the UK territory. This means that working overseas (i.e., outside the UK) is not permitted unless this is directly connected to their work and is reviewed, approved, and managed appropriately.
- 7.2 The University recognises that there may be circumstances where an employee may need to submit a request to work overseas for personal reasons, for example for a prolonged visit to an ill relative. The employee should first discuss the proposed arrangements with their line manager and advice should be sought from the HR Business Partner with consideration of the Flexible Working Procedure.
- 7.3 All decisions on overseas working may depend on business interests, service need, costs to the University and are subject to review. Approved requests will only be granted in exceptional circumstances and will be for a time-limited period, and reviewed on a regular basis. The number of requests to work from overseas for personal reasons will be reviewed at Resourcing Review Committee on a regular basis.
- 7.4 Where approved, the 'Register of overseas working form must be completed for each occasion of travel.
- 7.5 Where it is agreed, it is important to note that University staff working overseas for personal reasons will be personally liable for any local tax payments, and employee social security or other similar payments, which may be incurred whilst based overseas. Staff should be aware that such payments are staff members' personal responsibility, and the University cannot indemnify them against any such payments.
- 7.6 Any additional costs incurred by the University will be borne by the department or Institute the staff member belongs to. Sometimes these costs may be borne by the research funder.
- 7.7 Where identified, unauthorised working overseas will be reviewed on a case-by-case basis and may require consideration under the appropriate procedure.

8. Arranging Overseas Working

- 8.1 If the request meets the criteria in the initial assessment, the HR Business Partner will provide the Department/Institute with advice and information, including:

- Analysis of the various implications of the overseas working case
- Risk analysis
- Cost estimates

The HR Business Partner will also inform the Department/Institute if external advice should be sought.

- 8.2 If the request is fully approved by the Director and HR/Payroll following the provision of the advice, the HR Business Partner will support the Department/Institute in its implementation.

9. Planning and notification

- 9.1 The HOD/manager/principal investigator should complete the 'Request for Overseas working Overseas Working Form' and send it to their HR Business Partner who will make an initial assessment of the viability of the request. In all instances where overseas residency of over 60 days is proposed an individual should discuss with their Manager as soon as possible. The Manager must discuss this with their Director), and it is strongly advised that the Director discusses this with their HR Business Partner before making a decision. This should take place at least 90 days prior to any proposed departure.
- 9.2 The HR Business Partner will work with the Payroll and Pensions Manager to identify issues, risks and estimate any additional costs that may be incurred by a proposed overseas assignment. This information will be relayed to the Director. Departments/Institutes should be aware that even if they choose not to provide the individual with any financial support to undertake the arrangement, they could still incur additional costs through overseas employer's social security, or in administering overseas compliance actions. There may also be costs associated with each of the subsequent steps in this process. Therefore, the risk assessment of the request is necessary before any requests are approved.

10. Approval

- 10.1 Once the Director is aware of the substantial costs and risks involved, the individual and their line manager can be notified of the decision. It is recommended that, where an overseas assignment is approved, a review date is used.

11. Global mobility guidance

- 11.1 This section gives general guidance around the risks and costs involved with overseas work. However, this is general advice only and each case will have specific considerations. For example, there are significant differences between jurisdictions which will need to be factored into the specific assignment. As a rule, any individual working abroad, either at another institution or remotely, for anytime over 60 days, may give rise to complex immigration, employment law, tax, and legal issues, which are outlined below.

12. Payroll, Social Security and Tax

- 12.1 Staff working in the UK usually have PAYE (Income Tax) and National Insurance (also called Social Security) deducted from their pay by their employer. When staff are assigned to work overseas this may affect their tax and social security obligations which may have implications for the employee and/or SGUL. Tax and social security liabilities are complex and country and person specific, so specialist advice will need to be taken.
- 12.2 Most countries tax non-residents on workdays in that country, so even where individuals do not become resident in the overseas country, tax is likely to be due.

While each country has different de minimis number of days, after 60 days most countries would seek to tax individuals. Many countries operate a withholding system (similar to PAYE) which may require SGUL to register overseas, at the very least for payroll taxes. However, this can lead to the necessity to register some form of entity, a branch for example, which may have significant implications for SGUL.

- 12.3 SGUL cannot normally operate overseas payrolls. As such, where this is required, it needs to be outsourced to accounting firms and the expense, which can be significant, will need to be picked up by the department. This underlines the importance of planning, so that additional costs that need to be picked up on an ongoing basis, are known.
- 12.4 It is important to note that SGUL has an obligation in the UK to operate PAYE and deduct National Insurance. This is separate from a member of staff's obligation to pay UK Income Tax which may arise whether or not SGUL has operated PAYE/NIC. This may also apply overseas. A personal tax liability may arise whether or not the SGUL is deducting money from an employee's pay.
- 12.5 When assigned overseas, SGUL will continue to deduct PAYE/NIC. Staff who believe that this is incorrect should contact HM Revenue & Customs (HMRC) to discuss their circumstances. This needs to be done personally by an employee as the HMRC will not discuss individual circumstances with SGUL as an employer. If HMRC believe that PAYE/NIC deductions should stop, they will issue SGUL with a tax code which stops the deduction of PAYE. For National Insurance, SGUL can only stop employer and employee contributions if an appropriate certificate of coverage is issued by the overseas country. More information on these points can be found on the HMRC website.
- 12.6 Whether or not SGUL has deducted PAYE/NIC, staff remain responsible for ensuring that they have paid the correct amount of Income Tax for each tax year.
- 12.7 This guidance cannot cover the tax and social security rules in every country that staff might visit. As a rule, however, the longer an individual visits a country, the more likely it is that they should pay tax in that country. Unlike the UK, failing to correctly pay taxes in some countries may affect an individual's ability to enter and leave that jurisdiction. It is the member of staff's responsibility to ensure that they investigate and ensure they meet any tax obligations in the country they are in. The key point is that where there is consideration of an employee being based overseas in excess of 60 days, advice is taken before it is agreed.

13. Immigration

- 13.1 The effect of an overseas base on any staff who have a certificate of sponsorship, or other time limited immigration clearance within the UK, will be another consideration. Spending significant periods outside the UK can breach the rules of the visa etc. which may mean it is curtailed. This will need to be avoided so it is important this is considered in advance.
- 13.2 Staff are responsible for making sure that their passports are valid for the duration of their time working abroad and must ensure they have the relevant right to work in the respective country.
- 13.3 The UK Government provide UK citizens with comprehensive online advice and guidance regarding passport requirements, and it is recommended that staff

familiarise themselves with this guidance before planning work abroad. Similarly, it is recommended that individuals who are not UK citizens check their home country's website for appropriate guidance.

- 13.4 Individuals may wish to consider applying for an [additional passport](#) to avoid delays relating to multiple visa applications. Staff should check whether visas are required for their nationality in destination countries and are responsible for arranging their own visas.
- 13.5 Staff are encouraged to view the [latest travel advice](#) for countries. This essential travel information is regularly updated and can rapidly change.

14. Pensions

- 14.1 Staff based abroad will continue to have pension contributions taken from their pay unless they take action to leave the pension scheme. Following Brexit there has been a change in the UK cross border regulations with the EU, and USS have recently confirmed that it is now possible for individuals working in the EU to remain a member of USS.
- 14.2 In the event that a member of staff stops having National Insurance deducted, entitlement to a UK Basic State Pension may be affected. The member of staff is responsible for deciding whether to pay voluntary National Insurance or not.

15. Legal and Intellectual Property considerations

- 15.1 Where individuals work overseas, SGUL may need to amend contracts so that they are locally compliant. Alternatively, secondments may be considered dependent on the situation and any joint work with an overseas organisation. Where an individual is seconded to another institution or employer, they are normally subject to that institution's terms and conditions. During the secondment the other organisation should be responsible for accounting for any local tax and social security due. Legal Services should be involved in discussions around any SGUL overseas venture.
- 15.2 Academic members of staff who work overseas and are based with a host institution are often asked to sign an Honorary/Visitors contract stating that any intellectual property created belongs to the host institution.

16. Travel, Insurance and Expenses

- 16.1 All SGUL funded travel and accommodation should be approved by the staff member's budget manager in advance of travelling.
- 16.2 SGUL has a Business Travel Insurance policy that will insure SGUL employees and students who are normally resident in the UK. When travelling on SGUL business you'll need to [register your trip](#).
- 16.3 Travel and accommodation should normally be booked by staff through the SGUL's appointed [travel management company](#). Guidance on what travel rates can be claimed is available from the finance website.
 - 16.4 Information relating to the claiming of expenses incurred while on university business can be found in the [University's Expenses Policy](#). Staff who are unsure as to whether a particular expense is claimable should contact their [Finance contact](#) in the first instance.

17. Health and Safety

- 17.1 SGUL has a responsibility to make a suitable and sufficient risk assessment of the risks to the health and safety of our staff. Whilst UK health and safety law does not generally apply to overseas accidents, there will still be responsibilities under local and civil law, and the Health and Safety Executive here retain the right to prosecute if they feel that management failings in the UK have contributed to an overseas accident. Staff should follow local regulations.
- 17.2 Before a member of staff works overseas, it is important that a risk assessment is carried out to ensure that any risks are identified and that steps are taken to mitigate these.
- 17.3 A more detailed risk assessment must be undertaken for working abroad that will involve greater risks, including postings to destinations/areas where the Foreign & Commonwealth Office advises against travel (or 'all but essential' travel), or where the planned activities are deemed to be potentially hazardous.
- 17.4 Overseas travel may involve working in unstable environments, where staff need to make quick mental assessments and manage risks 'on the hoof'. Staff should ensure that they do not expose themselves to needless danger and enlist the help of SGUL's insurers emergency assistance when appropriate.
- 17.5 Staff should declare any pre-existing medical conditions to their line manager which could be worsened as a result of travel. Where staff do not wish to share personal health information, they should seek an assessment from their GP or occupational health advisor to ensure they are fit to travel and work abroad.
- 17.6 Preventative medication is required for many countries. It is the member of staff's personal decision as to whether they wish to take any medication and to arrange this prior to travel. The NHS provide up-to-date information and guidance around [what vaccinations are required](#), when these are appropriate and whether or not they are available via the NHS on their Travel Vaccinations webpages. The University will pay for any work-related vaccines or medications recommended by the NHS Fit for Travel website.

18. Risks and Liabilities

- 18.1 18.1 Under the Corporate Criminal Offences (CCO) legislation, Criminal Finances Act 2017, the University would be strictly liable were any of their associated persons (including employees) to criminally facilitate the evasion of tax in the UK or overseas.
- 18.2 The University could face unlimited fines if a person associated with it has, even unwittingly, enabled or facilitated tax evasion. A successful prosecution could also lead to a public record of the conviction resulting in significant reputational damage and adverse publicity.
- 18.3 There are risks associated with tax and social security payments that need to be made in overseas countries by individuals and in some cases the University (including from day 1 in some cases); visa and immigration issues with staff working overseas where they do not have the right to do so (especially following Brexit); risks associated with intellectual property with access to the University's network through local IPS being used by staff to access the University from overseas; and having an employee working overseas may inadvertently create a permanent establishment status for the University in that country which will lead to further financial costs and liabilities.

- 18.4 The University must make proper legal and financial/tax arrangements for staff working overseas, if not, the University may face fines for not declaring the presence of staff working in these countries or for delays on meeting employer obligations. In some countries, the University may need to set up a local pay bureau (this will have costs associated with each depending on each country).
- 18.5 An example of potential costs includes the need to pay employer social security in overseas countries; this is 11.3% in the UK, and up to 40% in some countries.

19. Further Advice

- 19.1 For further advice, please contact your HR Business Partner.
- 19.2 From time to time, it might be appropriate to engage with third party organisations specialising in international mobility due to the complex nature of this area.

20. Review of Policy

- 20.1 This policy is not contractual and may be varied from time to time.

Appendix 1 – Flowchart for request and approval

