

**Issues, Actions and Risk in Setting up Overseas Working Arrangements**

Initial Set Up and Design	
<b>Issue</b>	Before any agreement is made to send an employee overseas, consideration should be given to the operating model of the venture and to important issues such as the method of employment, corporate and individual tax affairs, management arrangements and intellectual property.
<b>Action</b>	Managers are advised to speak to their HR Manager to discuss employment options well in advance of the start of any venture, and should be prepared to pay for external specialist advice should any be needed. A number of options exist for staff working overseas, including in some circumstances secondment to another institution, registration of a local company with local employment, a local employment contract from Southampton and consultancy arrangements (where appropriate).

Right to Work (Corporate)	
<b>Issue</b>	The University must ensure that it has the appropriate permissions in place for the work we wish to undertake and/or the arrangements we wish to utilise.
<b>Action</b>	Managers must check requirements of the host country and obtain any relevant permission to undertake work, prior to entering into any formal arrangements. Any subsequent changes in the scope or duration of an overseas assignment should trigger a reconsideration of the requirements.
<b>Risk</b>	Failure to secure the appropriate permissions may result in the University being blacklisted from operating in a host country and has the potential to lead to the imprisonment of employees.

Visas and Immigration (Individuals)	
<b>Issue</b>	Individual employees working for the University of Southampton overseas must have the right to work in the host country and have obtained appropriate documentation that specifically enables them to do so.
<b>Action</b>	Managers are advised to ensure that they understand the entry for work requirements of the host country and be satisfied that the individuals concerned are able to meet such requirements, prior to making recruitment or staffing decisions. All the correct entry documentation must be obtained prior to travel (it is often unacceptable, for instance, to travel on a tourist visa with the aim of seeking a business visa later). Any subsequent changes in the scope or duration or an overseas assignment should trigger a reconsideration of an individual's status in the host country for the purposes of carrying out work. HR Managers can provide more information.
<b>Risk</b>	Staff working in a host country with no or the incorrect authorisations in place could be subject to fines, deportation or detention, and they and the University may be blacklisted from employment in the host country.

Health & Safety	
<b>Issue</b>	Overseas work should be subject to the same due diligence in health and safety matters as work taking place in the UK (unless more stringent rules apply in the host country). The University has a continuing duty of care to the individual whilst they are overseas. The level of risk assessments that need to be undertaken will depend on the type of employment, whether an employee is a visitor or an employee of the other organisation.
<b>Action</b>	Documented risk assessments should be undertaken in conjunction with organising and/or approving the work overseas. The risk assessments should take into account any unusual travel hazards and must include the activities being carried out whilst overseas. It may be that if working in other organisations that examples of risk assessments of the activity can be obtained and used. These should be reviewed on arrival. Faculty Health and Safety officers can provide advice on conducting risk assessments. It is the responsibility of line managers and supervisors to ensure that any risk assessments are carried out. Permission must be sought from the Vice-Chancellor's Office for travel to severe or high risk countries as defined by the Foreign & Commonwealth Office. Further information can be sought from Safety and Occupational Health's Offsite Working Policy Note and Flowchart.
<b>Risk</b>	Failure to address these matters could put employees at increased risk of harm and damage the University's business risk and reputation. Significant incidents may lead to legal proceedings involving investigations by the Health and Safety Executive.

Security and Insurance	
<b>Issue</b>	The University has a continuing duty of care to the individual whilst they are overseas. As part of this duty of care, the University should ensure that overseas working arrangements are appropriately managed, supported and insured (travel, health, employer liability, public liability etc.)
<b>Action</b>	Appropriate insurance should be procured in consultation with the University Insurance Officer. Comprehensive and informative fact sheets on working in different countries are available from the University's insurers, these should be downloaded and read before travel. The insurance office must be advised of any member of staff working outside of the UK on any arrangement that is more than a short term business trip from Southampton.
<b>Risk</b>	Failure to address these matters could put employees at increased risk of harm and leave the University at risk of prosecution and inadequate or no insurance in place for that activity.

Corporate Tax Affairs, Company Registration and Accounting	
<b>Issue</b>	The presence of University employees overseas may create a Permanent Establishment (PE). This may render the University liable for corporate taxes in the host country. In addition, regardless of PE, the University may be liable for local VAT, withholding and other business taxes.
<b>Action</b>	Managers are advised to consult with relevant Finance contacts to obtain tax advice to ensure the University's liabilities are covered. Any associated advisory costs will need to be budgeted for by the Faculty.
<b>Risk</b>	Failure to comply with tax requirements (in the UK or in the host country) may result in financial penalties or prosecution of the University.

Individual Tax Affairs	
<b>Issue</b>	Individual employees and the University may be liable for tax and/or social security payments in the host country, as well as the UK. Rules differ from country to country. In some cases reciprocal agreements exist between countries, allowing for payments to be made in just one country. Whilst the payment of appropriate tax is usually an individual's responsibility, the University may also be held responsible for ensuring that correct tax and social security contributions are deducted and paid to the authorities.
<b>Action</b>	Managers are advised to consult with relevant Finance contacts to obtain tax and social security advice to ensure the University's liabilities are covered. Any associated external advisory costs will need to be budgeted for by the Faculty. Individual employees should be strongly encouraged to seek independent tax advice to ensure that they understand and take advantage of any appropriate dual taxation agreements.
<b>Risk</b>	Failure to comply with tax requirements (in the UK or in the host country) may result in financial penalties or prosecution of the individual and/or the University.

Data Protection	
<b>Issue</b>	The UK Data Protection Act requires that the University ensure that any personal data transferred outside of the European Economic Area (EEA) is only sent to countries who provide an adequate level of protection. Generally, individuals must consent to their personal data being processed in this way.
<b>Action</b>	Managers are advised to consider individual and project-specific data requirements and ensure adequate data security in transit, receipt and storage, where personal data is so transferred. Managers can seek advice from Legal Services.
<b>Risk</b>	Failure to comply with the Data Protection Act could lead to an enforcement notice by the ICO and eventually a criminal offence or a fine.

Bribery	
<b>Issue</b>	The UK Bribery Act covers the actions of employees or those acting on behalf of the University throughout the world. The Act makes it an offence on the University to fail to prevent bribery, in addition to the offences committed by individuals.
<b>Action</b>	All employees and others working on behalf of the University must comply with the University's Anti-Corruption, Fraud and Bribery policy and the provisions of the Bribery Act. Advice may be sought from Legal Services.
<b>Risk</b>	Failure to comply with the Bribery Act could lead to imprisonment for individuals and fines on the University.

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Culture	
<b>Issue</b>	Employees working overseas should understand the culture and laws of the country and specific locations they will be working in, and act accordingly.
<b>Action</b>	Managers and individual employees should research the laws and culture of the host country and specific locations of work. If individuals feel that there are laws or customs that they may not be able to comply with, they can seek advice from their manager or HR Manager prior to travel.
<b>Risk</b>	Failure to abide by the laws and customs of the host country may lead to deportation or imprisonment.

Provision and Recording of Information	
<b>Issue</b>	When a University employee works overseas for a period of more than 30 days, the University is required by law to provide the employee with details of their rights, including the duration they will be overseas, the currency in which they will be paid, and details of any arrangements for their return. This requirement may also extend to those recruited locally or specifically for an overseas assignment.
<b>Action</b>	Managers are requested to notify Human Resources prior to travel where an employee will be overseas for more than 30 days, and of any employee recruited locally or specifically for an overseas assignment. Human Resources should be provided with passport copies, contact details of individuals and their next-of-kin and any specific information to be called upon in case of emergency. For existing employees, most records can be updated using MyHR Dashboard. HR Managers can be contacted to provide further advice.
<b>Risk</b>	Failure to supply and record sufficient information may jeopardise the University's ability to adequately manage staff overseas and may lead to a breach of the University's duty of care.

Management Contact and Communication	
<b>Issue</b>	Managers are responsible for the day-to-day management of employees working overseas and should be aware of any additional risks related to an assignment. Managers are advised to have clear arrangements with employees on how they will communicate with them and should maintain a regular schedule of communication.
<b>Action</b>	It is advisable for staff and managers to create a communication plan, confirm contact information and agree a schedule of contact. Speak with your HR Manager if you would like more guidance.
<b>Risk</b>	Failure to communicate may lead to a breakdown in management oversight and may lead to issues not being resolved appropriately.