



Human Resources

Title	School Approach to Staff Working Overseas August 2014
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Executive Summary

This paper covers the HR implications that should be considered when placing London School of Economics and Political Science (LSE) staff in work that will take place overseas. This guidance can be used from initial scoping through to the implementation stages in order to ensure the main implications for staff have been considered. It is based predominantly on experience of existing overseas arrangements, best practice guidance and reference to comparative organisations. The main areas covered in the document are salary, accommodation, travel, pensions, immigration, management arrangements and tax.

Decision / Action Required

For discussion before a final draft is submitted for approval.

Timing

Immediate.

Resource Requirement

It is not anticipated that additional resources within HR are required and the issues raised form part of the mainstream work of the HR Division.

Equality and Diversity impact

There is no immediate impact on Equality & Diversity matters as a result of introducing this document. However, some Equality & Diversity considerations are raised within the paper.

Communications Required

This proposal will need to be communicated across all departments, institutes, research centres and divisions and be available on the HR website.

Background

The School is increasing operating internationally and is increasingly likely to have a number of its staff working overseas for defined periods of time. It is important to make sure that appropriate care is taken when making arrangements for staff to work overseas for the following reasons:

- Employment laws vary between countries. The individual would normally be working on a School contract. While this contract meets UK employment legislation, it may not meet the employment legislation of that country.

- Taxation rules vary between countries. If an individual is working overseas, after a certain period of time it is likely that the relevant government will require employer and employee taxes to be paid (National Insurance and PAYE equivalents but this varies). An individual working overseas could therefore create a tax liability for the School in that jurisdiction which would require the School to set up a tax presence in that country; this can be timely and costly. There may also be statutory requirements on the School as an employer under local law. The relevant institution will need to ensure processes are in place to diarise and fulfil these reporting requirements, as they will often be on very different timescales and systems to the UK requirements. For some overseas workers the School may still be required to make National Insurance contributions in the UK.
- Insurance arrangements will need to be reviewed. An individual will need to make enquiries with Finance to ensure travel insurance is in place. This is relatively straightforward but will not provide professional indemnity or cover extended periods working overseas. In such circumstances, special arrangements will need to be made to ensure that sufficient, appropriate cover is in place. In addition, in certain countries there is no free health care and therefore the School may wish to make arrangements to ensure that private medical cover is arranged for the duration of the individual's time working overseas.
- Immigration arrangements will also need to be reviewed. If an individual is sponsored to work in the UK under a tier 2 or tier 5 visa, then working overseas may compromise the validity of their visa and make it difficult for the School to discharge its sponsor duties to UKBA for the period that the individual is working overseas. In addition, visas are likely to need to be arranged to obtain the right to live and work in the overseas country, especially for longer periods or when the individual does not hold a passport for that country. Each individual's situation would need to be considered and it is likely that external immigration lawyers would need to be consulted.

In addition, there are a number of administrative considerations that are likely to require attention. These will not all apply in every case but may need to be addressed. The possible solutions proposed are ones identified based on worked undertaken to date and best practice; this list is not exhaustive.

The guidance for overseas working paper is attached as appendix 1.

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Appendix 1: Guidance for Overseas Working

1) Salary Package (basic pay, market pay, cost of living allowance)

In many cases, individuals will not receive any additional pay due to working overseas although they will normally be reimbursed for appropriate expenses within a pre-agreed framework (normally as set out by the funder, Research Division, Service Leader or Head of Department).

However it may be necessary in certain cases to review the salary package of the individual to:

- Acknowledge the inconvenience of working overseas (especially if it is difficult to attract individuals to work on a project overseas); this payment could be in the form of a one-off (additional administrative) payment for the duration that the individual was working overseas.
- Reimburse the additional costs of living and working in that environment where the costs of living are higher in that location than in London; it is suggested that cost of living supplements are paid as an allowance and separated from any other payments. It may be appropriate to reimburse expenses such as accommodation and local transport against receipts if this is appropriate. It is important at the outset to be clear what is covered by a cost of living allowance (i.e. is accommodation included or is it treated as an expense item).
- Recognise additional duties the individual is undertaking while working overseas, for example, as director of a project or a centre) for which a pensionable payment may be appropriate. Such additional duties may be related solely to the period of time spent working overseas or may be related to duration of the role on the project regardless of location.

The Human Resources Division and Finance will calculate any allowance based on reasonable data sources such as the World Bank, Foreign and Commonwealth Office and the US State Department Quarterly Indexes. Allowances and salaries levels, where appropriate, will take account of fluctuations in exchange rates and therefore either be increased or decreased as appropriate.

Generally overseas posting will work better for staff who have worked at the School for a period of time and completed their review period successfully (and, in exceptional cases relating to new staff, to ensure monitoring and review arrangements are in place appropriately).

The basic salary would normally be retained at the level (subject to promotions and contribution increments) the individual was paid prior to working overseas. As described above, any increases in pay should be in the form of time limited additional duties payments, market pay and cost of living allowances (as appropriate).

Checklist options:

- ✓ One off payments (performance linked)
- ✓ Cost of living allowance (and expenses reimbursement)
- ✓ Market Pay
- ✓ Director Payment (normally pensionable)
- ✓ Additional Duties payment (either pensionable or non-pensionable)

2) Living Arrangements

i) Accommodation

Practice varies with regards to accommodation arrangements. Depending on local pricing, availability of options, length of the time overseas, administrative duties involved in renting and the personal preference of the individual the type of accommodation used will vary. Options may include:

- Hotels (negotiate preferential rates for long stays especially if multiple rooms are required), the Finance Division keeps a list of booking partners that can be utilised for discounted rates.
- Serviced apartments (more space than a hotel normally including a kitchenette and seating area but with some hotel services such as cleaning). The School has a partnership with Club Quarters who provide discounted rates on apartments. Details can be obtained from the Finance division.
- Rental apartment/property (this can be rented by the School, the individual or a third party involved in the project); furnished or unfurnished.

It should be noted that the provision of accommodation has to be fit for purpose for the local environment - there are incredible variations of accommodation, simply reflected by the wealth of the country. Furthermore, depending on local environmental hazards such as pollution, temperature and water quality, other adjustments or equipment may need to be considered.

Where a cost of living allowance exists, it is important to be clear whether accommodation is included. Typically, the School would expect a budget to be set and for costs to be reimbursed on receipt of expenses.

Staff and managers should be mindful of additional charges for rental properties such as council tax (or equivalent tax), utility bills, concierge or cleaning charges, and rental agency charges as these will need to be budgeted for.

Certain assignments may sometimes find it more cost effective to hire an apartment for members of a project to stay in while working in that location as it may be more cost efficient for a single rental to be taken out. This would depend on the timing of visits and the particular requirements of that project.

It is important to be mindful of individual preferences as accommodation can be quite a personal issue, especially when individuals are considering bringing their partner and/or children for all or part of the time that they are working overseas.

ii) Childcare, School Fees and other dependent costs

Depending on the nature of the overseas assignment and the local infrastructure, consideration may need to be given as to whether other costs relating to dependents need to be met. These may be childcare costs or school fees where the local provisions would not be suitable or provide a provision comparable to that available in London (in

terms of cost or quality). Such considerations will need to be made on a case by case basis and should take account of individual circumstance, funding source and professional reports or advice on local arrangements in comparison to London.

Checklist:

- ✓ Hotels, serviced apartments or rental accommodation
- ✓ Cost of living allowance to cover cost of accommodation
- ✓ Accommodation for family members where appropriate
- ✓ Relocation allowance / reimbursement of moving expenses
- ✓ Reimbursement of cost of service charges, council tax, utilities
- ✓ Consider whether other dependents costs should be reimbursed

3) International Flights

It is often easier to set a budget rather than negotiating frequency and class (e.g. business, premium economy or economy) and then subsequently trying to estimate a budget for flights. If there are funder restrictions then these need to be observed. The School's Air Class Travel policy should also be followed which is available on the Finance Division's website.

It is suggested that the international flight budget needs to allow for a reasonable number of return flights per annum (pro rata), say two return flights per annum. However the requirements of the individual's department or other grant duties may require this to be more frequent.

If the individual is bringing their family overseas with them then the international flight budget may need to be extended to allow for all to travel, where this is possible within the terms of the grant. It would be suggested this should be limited to a partner and children and not more extended members of the family (although specific cases may require flexibility). However it may be the case that individuals need to fund these additional travel costs for their family and that no funding is available from the School to cover this.

Checklist:

- ✓ International flight budget (consideration given to frequency, cost at peak times, class of travel)
- ✓ Allowance for flights for family members
- ✓ Consider funder restrictions

4) Pension arrangements

It will normally be important to individuals that their pension contributions continue to be made while they are working overseas. In the event that they are not being paid directly by the School but have been seconded to a third party, it will be important that arrangements are made for the employer and employee contributions continue to be passed to USS should the employee wish them to and it be, as long as it is allowed under the Scheme regulations. The continuation of payments to USS will ensure that death in service and other associated benefits are retained, should the employee wish these arrangements to continue.

It is, at times, possible for the individual to arrange for just death in service arrangements to continue. The member should make the pensions team aware if this option is their preference at the point they contact the pension team.

The pension team must be contacted before the individual leaves to work overseas to ensure arrangements for any monthly payments to USS, if applicable, are made or appropriate notifications are provided. In addition, USS rules change depending on the individual's circumstances, therefore specific information is required.

If the individual is in the SAUL pension scheme please contact the pensions team for advice.

It will be important to identify a solution that is manageable from an administrative perspective but also allows maintenance of pension contributions and/or benefits if desired and possible under scheme rules.

Checklist:

- ✓ Pension contributions may continue to be deducted
- ✓ University to make monthly transfers if required
- ✓ Contact Pensions team before considering secondments and arrangements for work overseas as rules vary.
- ✓ Full contributions must continue for benefits to be maintained

5) Immigration and visa (both for receiving country and impact on UK visa)

When placing individuals on projects overseas, consideration must be given to their right to work in that country and the impact that working outside the UK will have on their UK visa arrangements and the School's sponsor duties (if relevant).

UK Right to Work

It is initially important to understand the nationality of the individual and the right to work arrangements they are currently working under (e.g. EU passport, Indefinite Leave to Remain - ILR, Tier 2 Visa, other arrangement). Contact the respective HR Partner to understand what implications, if any, may be brought about if the individual was to work outside the UK for a period of time. For example, if an individual was working on a tier 2 visa and hoping to apply for ILR in a couple of years, an extended period of working overseas may affect his/her eligibility to apply for ILR.

In addition, there may be implications for the tier 2 visa in the event that the School intended to second the individual to a partner organisation. Due to the many variations and complexities, advice should be sought from HR on a case-by-case basis.

Right to Work in the 'receiving' country

Arrangements for obtaining right to work vary between countries and also vary depending on the issuing country of the individual's passport. As a result, it may be helpful in the first instance to seek the support of professional visa support companies when applying for visas for long term work overseas. This will not always be necessary and individuals may feel comfortable contacting the relevant embassy directly but it may be prudent to confirm any independent action with immigration lawyers before proceeding.

Individuals should be clear on the restrictions and requirements placed on them by their visa. The School can help with advice and clarification but most countries place the burden of compliance on the individual.

Some countries require individuals who are working for an extended period of time to register with the local police or council. This must be undertaken if required. Ernest and Young produce an annual guide to tax and immigration matters on a country by country basis which is a useful reference guide, it is available from their website

Checklist:

- ✓ Understand implications on UK visa arrangements (including dependents)
- ✓ Visa for 'receiving' country that is appropriate for the activity undertaken and duration
- ✓ Understand restrictions and requirements of overseas visa
- ✓ School to take and store copies of visas and other relevant documents
- ✓ Get advice from HR team and external immigration experts

6) Management, Reporting and Termination Arrangements

Prior to the commencement of the project or period of working overseas, it is helpful to state in writing any reporting, management and governance arrangements that should be in place. It is more challenging to manage projects and communicate effectively when working in different time zones and locations therefore it may be helpful if expectations are set from the start of the project and made explicit in writing. It may be appropriate to create a list of duties and attach/refer to these in any Director or individual one-off payment letter or confirmation of arrangements letter.

In addition, it is especially important when placing staff on long term projects overseas to understand the termination arrangements that can be instigated by either the School or the individual. Consideration should be given to factors such as notice periods, minimum initial period of commitment, handover of duties and emergency arrangements. While these will vary depending on the nature of the project, it may also be helpful to detail these arrangements in writing especially where additional payments are attached to working overseas which may be discontinued should the individual return to work in the UK.

The reporting requirements of the project must also be clearly observed, especially where governance boards and working groups are a contractual obligation.

Checklist:

- ✓ State the key duties, management and reporting requirements in writing Define and communicate termination arrangements
- ✓ Understand and make arrangements for all contractual obligations to be met (including confidentiality and intellectual property rights)

7) Departmental Duties and School Positions

If the individual is an academic member of staff then it may be necessary to grant them leave of absence from any named School positions and/or specific departmental responsibilities; this should be discussed with the Head of Department or, with regard to School positions, the relevant School committee or Pro-director.

In addition, arrangements may need to be made for academic staff for teaching and general administrative duties to be covered for the period of time spent working overseas. These matters should be discussed with the Head of Department. Consideration will need to be given as to whether arrangements need to be made for the ongoing supervision of the individual's PhD students or whether their visits back to the UK are sufficiently regular to avoid any need for a change in supervisor.

Checklist:

- ✓ School positions – arrange temporary leave of absence if appropriate
- ✓ Teaching and general administrative duties - cover to be arranged and funding for backfill appointments where this is possible PhD supervisions
- ✓ Other research grant activity - can this still be undertaken in conjunction with the international project?

8) Local Employment Law

If the individual is working overseas under a School contract (this would normally be the case), it will be necessary to engage employment lawyers who have an expertise in the relevant local employment laws to ensure that the contract of employment is compliant with local legislation. For example, some countries have different maternity or sickness minimum requirements to the UK, so these would need to be adjusted for the period of the individual's work overseas.

In addition, it may be necessary to hire local staff. Advice would need to be sought on a case by case basis as to the most appropriate route to use. It may be possible to second these staff onto the project from a partner organisation, or issue them with contracts for services whereby they are working for the project on a self-employed basis, or issue them with a contract of employment from the School. In the first instance the relevant HR Partner should be contacted who will liaise with the School's legal advisors and external consultants as appropriate to recommend the best solution in each circumstance.

Those setting up projects should be aware of the potential of additional costs due to local employment law. Some countries require statutory employee insurance, high levels of social security payments and lump sum payments when an employee's contract ends.

Checklist:

- ✓ Check School contract to ensure compliance with local employment laws
- ✓ Advice on hiring local staff overseas
- ✓ Possible use of secondments

9) Tax and Insurance

It is very important to seek advice from the tax and insurance specialists in the School as soon as possible as the tax implications of various arrangements may influence the solutions adopted. The tax implications will be both personal for those individuals placed overseas and for the School as a corporate entity. Ernest and Young produce an annual guide to tax and immigration matters, available from their website which may help initial discussions. The Finance and HR division can help provide and source advice as necessary.

In addition, the School would prefer to only create tax presences in countries of strategic importance to the School thereby reducing the administrative burden on the tax office. The procurement team in the School's Finance Division may be able to advise on alternatives to establishing a presence.

Tax regimes and arrangements vary significantly between countries hence external local tax advice will be required. Budget for the cost of this advice and for payment of international taxes will need to be considered when costing a project.

Insurance arrangements must be considered to ensure that the individual is personally and professionally covered. It may be necessary to pay a tax allowance to an individual, claimed through receipts/invoices, where a country's tax arrangements are complex. In addition, the buildings and locations in which the School is operating overseas must also be appropriately covered by insurance. As project arrangements will vary, the advice of the Finance Division at the earliest opportunity is advised.

In addition, medical insurance cover may need to be provided in countries where there is no free healthcare and the individuals are resident for a prolonged period. The costs of this cover would be charged to the funder, if relevant.

Other types of specialist insurance may be required such as employer liability insurance, professional liability insurance, building and contents insurance and other mandatory insurances as required by local law. Individual specific advice will need to be obtained on a country specific basis, the Finance and HR division can help provide and source advice as necessary.

Checklist:

- ✓ Employer and employee tax liability overseas
- ✓ Seek advice on tax costs and appropriate arrangements
- ✓ Seek travel, personal and professional insurance advice for the individual and to cover buildings and activity overseas
- ✓ Medical insurance cover
- ✓ Dependents needs in relation to the above checklist

10) Safety, Security and Risk Assessments

At the early stages of a project, advice should be sought about safety and security matters. The School's council has approved a policy statement on fieldwork and other off-site activities; this guidance should also be considered whilst planning and undertaking any overseas projects. Detailed guidance is available from the School's Health and Safety team. Undertaking a risk assessment, may then highlight the need for a range of the actions including, but not limited to, pre-travel medical assessments, implementation of special equipment and the management of pre-existing medical conditions.

The Foreign and Commonwealth Office (FCO) has a constantly updated country specific guide to travel. The FCO also produce Overseas Business Risk guides to help organisations plan and minimise risks of operating overseas which should be considered. Nationals of other countries should also consult with their respective government's travel advice, as this may differ from the FCO's advice. If appropriate the School may need to obtain advice from a security specialist.

Checklist:

- ✓ Check FCO guidance before starting project
- ✓ Seek specialist security and safety advice
- ✓ Undertake risk assessment before travel

11) Equality and Diversity

A number of equality and diversity matters may arise due to an overseas assignment. This may be whilst a member of staff considers an overseas assignment but also once a member of staff is placed overseas.

Employees who are primary carers may need to be provided with more support when considering overseas opportunities, and may need assistance with relocating a whole family including family immigration issues, childcare, education, insurance and healthcare for dependents. The School may need to consider, and if appropriate in consultation with the funder, extra support packages including:

- dependent relocation expenses,
- childcare expenses,
- dependent health insurance costs,
- and school /education expenses.

Local laws and customs differ widely and accepted practices in the UK may cause offence or even be classed as a criminal activity in other countries. When considering overseas working, care needs to be taken that those working overseas or considering it understand cultural differences and local laws before any decisions are made. In particular the most common areas that need to be considered are local customs in respect of gender, religious practices and employees who are lesbian, gay, bisexual or transgender. The FCO country specific guide highlights local laws and customs which can be considered. Specialist immigration or country specific advice may need to be sought from a legal advisor.

For those staff with disabilities taking or considering overseas working may require extra equipment, equipment to be transported or new adjustments to be made. Discussions with the staff member should begin at the earliest stages to ensure appropriate measures and equipment can be put in place. The respective HR Partner can be contacted for advice and if appropriate guidance can be sought from the School's occupational health service.

Checklist

- ✓ Consider extra support including dependent expenses
- ✓ Check local laws and customs
- ✓ Seek further advice from local specialists as appropriate

12) Further considerations

While this paper focuses on strategic international projects, the reasons why individuals across the School are working overseas will vary. As a result, when considering the type of package that can be offered and the administrative arrangements that the School can enter into, these can be categorised into three groups:

1. Those members of the School who are being asked to work overseas as part of a high profile / strategically important project for the School. They are expected to

resume the duties associated with their substantive role in London, after the end of the period of working overseas (the focus of this paper).

2. Those researchers or other similar staff working for the School for a fixed period of time who need to work overseas as part of a research project (this may be temporarily or for the full duration of the project). It may be that the research is location dependent.
3. Those individuals who have requested to work overseas at the start or part-way through their contract with the School: this is often for personal or family reasons, or can be because they have other work commitments overseas.

For the first group of staff, which often involves established academics travelling overseas to work on strategically important projects, the list of arrangements listed above is likely to be most fully considered although individual cases/projects/budgets will vary.

For the second group, the international element is normally part of the arrangements and duties associated with their contract of employment which they were aware of when taking on the contract. As a result, reimbursement of expenses (travel, accommodation), taxation and insurance will be required but this arrangement is unlikely to require additional salary supplements. If they are working overseas for short period, it may be that this is not of concern especially if they are making short trips and regularly returning to the UK (always check as local country rules vary). If the project is of a longer duration then more substantive arrangements may need to be put in place, including establishing a tax presence or seeking a local host organisation.

For the third group, while the particular circumstances of each case varies, the School has tended to ask whether it is possible for those individuals to work under a contract for services whereby they are self-employed and invoice the School for the services they will provide. This avoids significant administrative costs to the School which may not be proportionate to the benefit to the School of the individual working overseas. This arrangement is subject to the School's and HMRC guidance on employment status.

Given the potential costs of making the above provision for individuals working overseas it is important that the financial requirements are reviewed and appropriate budgetary provisions are made at the start of setting up an international grant/project. Therefore, the early involvement of the Research, Finance and Human Resources Divisions is crucial.
