Considerations for employing overseas residents outside the UK

Departments should follow this section of the guidance when considering the employment or engagement of an overseas resident, who will also work outside the UK (i.e., such employees live and work outside the UK throughout their employment/engagement with the University).

The considerations below should be read thoroughly, and departments are advised to use their discretion and own judgement on the extent of the applicability of each of the consideration in every individual situation.

Employment status and contract type

Before a job is advertised, departments need to consider carefully what employment status and contract type the role should have attached to it. Where a department wishes to employ a non-UK resident who will be based outside the UK for the entire duration of their employment with the University, it is important to decide on the most appropriate employment status and contract type early in the process.

Employment of overseas residents who will continue to live and work outside the UK can be complicated to arrange and manage, and the recruitment process can be lengthy. In addition, departments may also incur additional costs associated with overseas employment. Where an individual is based overseas as an employee of the University, the University might be liable for additional obligations in that country of work. For example, the University may need to register with the local authorities for tax and social security purposes, which would normally incur significant additional fees for the department. In some cases, other means of engagement may be more appropriate, for example, where a service is being provided, it may be possible to engage an individual as a self-employed consultant or contractor (or a worker with a contract for services), rather than as an employee on a Chancellor, Masters and Scholars (CMS) employment contract. The Finance Division web pages contain further information about consultancy arrangements.

Departments should consult their HR Business Partner for further advice, who in turn may need to seek further guidance from the Payroll team and/or Legal Services. This can be a complex area since the employment requirements are country-specific and departments are encouraged to seek advice as early as possible.

Pre-employment checks

The University's standard pre-employment checks should be followed in the event of the recruitment of an overseas resident who will be based outside the UK. However, employees who are non-UK residents and who will be based outside the UK for the duration of their employment with the University will not be required to provide proof of their right to work in the UK, unless they will undertake work in the UK as part of their employment duties. Please see the 'Visas and immigration matters' section below, for further information.

Departments should note that obtaining and verifying information for a prospective employee from overseas is likely to be a time-consuming exercise and in most cases will add time to the recruitment process. Where possible, departments should account for this additional time in their recruitment exercise. In some cases owing to either legal constraints or the operating conditions in a specific country, the necessary information may be limited or not be available.
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altogether. The University’s Security Services team might be able to assist with certain overseas checks and should be contacted for advice early in the process.

Where it may not be possible to carry out the required checks or in cases where there is insufficient assurance from the checks, before proceeding with the employment of that individual, departments should seek advice from their HR Business Partner, who in turn may need to liaise with the Legal Services team.

Health and Safety

Departments need to be aware that local legislative Health and Safety requirements may apply to staff working overseas. The Safety Office can be contacted for further advice on health and safety matters related to staff working overseas.

Visas and immigration matters

Departments should check that the employee based overseas has a legal right to work and live in that country. Carrying out an identity check, for example, by obtaining a photocopy of a valid passport, birth certificate or national ID card, may be adequate in many cases. The University’s Security Services team can be contacted for advice on verifying pre-employment checks for overseas staff.

If an overseas employee will be expected to visit the UK in order to undertake any duties as part of their employment with the University, they must have the right to work in the UK and therefore may require a visa. In such cases, the right to work check requirements will apply. The Staff Immigration team should be contacted for further advice.

Insurance

Before proceeding with any insurance arrangements for overseas residents based overseas, the Insurance team should be contacted for advice in the first instance.

In most cases, separate arrangements will be required for University employees who will be permanently based overseas. Although there may be instances where the University’s UK insurance arrangements could be utilised, in some countries local policies would need to be purchased at an extra cost (paid for by the department).

Contact details and keeping in touch

Departments should have the following details for members of staff based overseas:

- contact details for the employee (including agreement on the most appropriate means of communicating);
- next of kin (ideally two contacts) who can be contacted in case of an emergency;
- if relevant, information about any health conditions;
- arrangements for the employee to make regular contact with the department/their line manager; and
- an agreed process on what to do if contact is not made as anticipated.

It is the responsibility of the member of staff to inform their department of any changes to their contact details.
Expenses and allowances

Expenses and allowances whilst working abroad should be agreed with the employee before travel/work commences. For further guidance, see the Expenses guide.

Management issues

Departments will need to agree with the employee a number of practical arrangements in relation to the management of their employment overseas.

The principles outlined in the ‘Working from home’ guidance should also be followed for overseas workers, especially in relation to:

- keeping in touch;
- recording working time, holidays and sickness;
- the employee's terms and conditions of employment;
- the employee's letter of appointment;
- providing and maintaining equipment;
- data protection and information security rules;
- responsibility for the health and safety of the employee.

The employing department should also agree with the employee in advance how performance management and PDR processes will be followed. This could be by email, regular telephone calls, Skype calls, teleconferences or a combination of the above.

Record-keeping

Departments should ensure that good record-keeping is maintained for all employees. For those employees who will be travelling/working overseas, it is particularly important to maintain accurate records for the following:

- risk assessment documentation;
- contact details for the employee, including their next of kin;
- protocols for contact (e.g., agreed means and frequency of contact).

In addition, all new starters at the University must have a ‘Right-to-Work’ screen filled out in CorePersonnel.

Where the employee will work outside the UK for the entire duration of their employment with the University, the option “Working overseas, RTW not required” should be selected. Where employees may be expected to come to the UK for work during their employment, right-to-work checks will apply.

Refer to QRG PA10 Maintaining Right to Work Data (183kb) for guidance on updating Core.

All other employment-related events must be recorded in Core for all employees.

Data Protection and Information Security

Departments and employees alike should be aware of their responsibilities under the Data Protection Act. It should be noted that special rules and restrictions apply in relation to transferring personal data outside the European Economic Area (EEA). Please contact the
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University’s Data Protection Office if you have any concerns or issues regarding data protection.

**Tax and Social Security for non-UK residents based overseas**

Where a department employs an individual from overseas to undertake work that is based outside the UK, (ie they will not work in the UK throughout their employment with the University), they should be aware that there may be overseas tax and social security liabilities for the individual and the University alike, in the country of work and/or in the country of the employee's normal residence. Non-UK residents working abroad are often exempt from obligations to pay UK tax and National Insurance Contributions (NICs).

Departments should liaise with the Payroll team in advance of recruiting an overseas-based staff member, to ensure an accurate pay record can be set up for them and that the deduction of any tax and NICs is made correctly (or not at all in some cases).

In certain cases it will be necessary to engage the services of a third party payroll software provider, who will liaise and/or register with the host country’s authorities and take on the responsibility of local social security and tax legislation and payments. There is a significant cost associated with this approach, which would be borne by the employing department. For further advice, please contact the Payroll manager.

**Payments into overseas bank accounts**

The University does not ordinarily make payments into non-UK bank accounts. Where a department appoints a non-UK national who will also work and live outside the UK, the Payroll team should be contacted in advance for advice on payment of salary.

**Pensions**

Employees who do not normally live in the UK and who will also live and work outside the UK for the entire duration of their employment with the University are not eligible to join the University’s pension scheme and should not be auto-enrolled. When issuing contracts to such employees, the attachment on pension auto-enrolment should be excluded. Departments must contact the Pensions Office to advise them of any such employees in order to ensure that they are excluded from auto-enrolment.

Where working arrangements and/or the residence status of the employee is unclear or complicated, the Pensions Office should be contacted for advice.

**NB** the University may be liable to pay an employer contribution into a bona fide pension scheme in the employee’s country of residence/work outside the UK.