International Mobility Guidance on Overseas Working: for Imperial Staff, Line Managers, and Department Final Approvers

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1.0 Introduction

This guidance document provides an outline of the main areas you should consider and the process you should follow when submitting a request to work overseas. You need to meet the eligibility criteria laid out in section **Error! Reference source not found.** in order to submit an overseas working request. Requests can be made on behalf of yourself (section 4.1) or someone else (section 4.2).

Please note that this guidance document is intended to cover the "overseas working requests" process only, i.e., the carrying out your 'day-to-day' duties from another country.

This guidance **is not intended to** cover either:

(i) business travel / trips (i.e., one-off, short-term trips to attend an overseas conference, or colleague meeting),

(ii) or establishing an overseas legal entity.

Please see Appendix 1 for further guidance on Overseas Working vs. Staff Business Travel.

The International Mobility Team is an advisory body within the university that works with staff, Line Managers and Departments to help outline what might be required in order for any overseas working to be undertaken in a legally compliant manner, while ensuring that the university's duty of care to staff is upheld regardless of where they are.

The university has published the <u>International Mobility Framework</u> that describes how overseas working requests are processed. We recommend that you read the framework in conjunction with this guidance. There are also other materials that you may find useful (FAQs, case studies, user guides etc) available on the university's <u>International Mobility webpage</u>.

This updated guidance on overseas working stipulates that all requests to work outside of your regular country of employment (which in most cases is the UK) are logged in the MyRemoteWork system, in the same way that staff are also required to log any annual leave or sick days in respective systems. This will enable the university to undertake the necessary due diligence and uphold their duty of care as an employer to all staff, regardless of where they are working on the university's behalf.

2.0 Eligibility to work overseas

<u>All requests</u> (i.e. new requests and requests to extend any pre-existing arrangements) must be submitted via the MyRemoteWork system, and approval to work overseas must be granted prior to any travel taking place.

2.1 You can submit a request through this system only if you are:

- A UK based employee requesting to work overseas for a period of time
- A UK based employee being seconded to an overseas partner or institution
- A non-UK based employee requesting to work in different overseas location
- Planning to go on a sabbatical overseas (either paid or unpaid)
- A Line Manager recruiting an employee to work overseas

2.2 We are not able to consider requests if you are:

- A consultant or self-employed contractor
- Agency staff or a casual worker
- Not able to perform your role remotely or from an overseas institution

While the university does have some international hubs, it remains primarily a UK-based institution, and as such, staff are required to be <u>located and carry out their work</u> in the UK in the majority of cases.

Overseas working can carry significant financial, legal, safety and regulatory risks for the individual as well as the university. There can be additional costs relating to tax, social security and other employment law liabilities in both the home country and the jurisdiction in which the work is carried out. The risks vary depending on the jurisdiction, and as many liabilities can apply from 'day one' both short- and long-term arrangements pose risks which need to be addressed and mitigated accordingly.

3.0 Request Process

Please refer to the flowchart: appendix 2

Staff members eligible to work overseas are required to review the following, prior to submitting a request through the MyRemoteWork system:

- Review the <u>International Mobility Framework</u> and <u>accompanying web pages</u>
- Review the FCDO travel guidance for the proposed country
- Discuss with your Line Manager and obtain their support
- Collate any documentation (i.e., Right to Work, insurance, off-site assessment, etc)
- Ensure your emergency contact details are up to date

It is imperative that you provide accurate up-to-date information when making a request, as the details entered form the basis of any assessments made and can influence their outcome.

4.0 Roles and Responsibilities

4.1 Staff:

In the same way that staff are expected to log annual leave or sick leave, staff are similarly required to log all and any overseas working via the MyRemoteWork system.

Staff are responsible for:

- Discussing with your Line Manager and obtaining their support, prior to submitting the request
- Submitting the overseas working request via the MyRemoteWork system
- Ensuring that you receive approval to travel prior to making any travel arrangements
- · Keeping the International Mobility Team up-to-date with any changes to your circumstances
- Updating MyRemoteWork, once your period of overseas working has come to an end

It is advised that you submit your request at the earliest opportunity. **You can apply 12 months prior to your trip**. Submitting your request early will help the International Mobility Team ensure that any required areas of due diligence are undertaken in a timely manner.

4.2 Line Managers:

- Review this guidance, paying particular attention to the due diligence section, irrespective of the expected duration of the overseas working.
- If eligible criteria and considerations are met and you support the request, ensure the staff member submits their request via the MyRemoteWork system, and that their emergency contact details are correct.

Line Managers occasionally need to submit a request on behalf of a new member of staff who has not yet started working at the university. Please see Section 3 and refer to the 'How to Manual' for further information.

Regardless of whether UK staff are transferred overseas or recruited locally, it will be necessary to consider who will manage and supervise these individuals, for example, to monitor performance and deal with disciplinary and complaints or conflict issues. The Line Manager will also need to consider how to will communicate and engage with staff overseas to ensure good employee relations are established and maintained.

4.3 Heads of Departments / Final Approvers:

- Review this guidance, paying particular attention to the due diligence section, irrespective of the expected duration of the overseas working.
- Approve / Decline all requests, based on the eligible criteria and considerations outlined within this
 guidance document.

In some cases, the Line Manager will also be the Final Approver by virtue of the role within the university. Therefore, you may also be required to submit a request on behalf of a new member of staff who has not yet started working at the university. Please see Section 3 and refer to the 'How to Manual' for further information.

4.4 The International Mobility Team (IMT)

The International Mobility Team is here to assist and advise with all elements of overseas working, and any queries that colleagues may have, and to assess what is required in order to facilitate overseas working in a legally compliant manner. The International Mobility Team may need to liaise with any of the parties mentioned above throughout the request process and will always discuss any associated costs to the department and obtain sign-off before proceeding with any cost-bearing activities.

For certain overseas working arrangements, the International Mobility Team may issue a contract addendum outlining the approved parameters of any overseas working (which will need to be agreed to and signed by the employee), this will sit on top of the main Contract of Employment, until the agreed end date is reached.

5.0 Types of Overseas Working

The nature of your overseas working request could be for business reasons (i.e., on behalf of the university) or for personal reasons (i.e., requesting permission to work for a short period from your home country of origin). Typically, requests to work overseas can be broadly categorised as outlined below:

5.1 UK based employee requesting to work overseas

In most cases the country stated as the primary location on your Imperial Contract of Employment will be the UK. Any request to carry out 'day-to-day' work duties from any location other than the UK will need to be signed off by the International Mobility Team and your department prior to any work commencing overseas.

5.2 UK based employee to be seconded to overseas partner

As Imperial grows its global presence and continues to establish overseas hubs and research partnerships internationally, opportunities may arise for staff to be seconded for a defined period, or to work temporarily in a 'visiting' capacity at an overseas partner location. In most instances, members of staff assigned or seconded to an overseas partner, institution, or hub will still be considered as Imperial employees and the terms and conditions laid out in their Imperial Contract of Employment will remain valid.

An agreement will also need to be in place before the secondment commences to confirm the responsibilities of both organisations on areas such as intellectual property (IP) rights, health and safety, dispute resolution or termination of the agreement. It should also be noted that the law of some countries (i.e., UAE) does not permit the secondment of employees into the country, instead mandating that staff must be employed by a local organisation.

Further information on the types of overseas secondments and possible approaches to benefits is available at Appendix 3.

5.3 Overseas based employee request to work in a new location

Imperial has a small number of staff who work exclusively outside the UK, and we are equally open to these staff pursuing international opportunities which may be outside of their regular country of work.

5.4 Sabbatical (paid or unpaid)

Sabbaticals at imperial fall into two distinct categories:

- (i) Sabbatical leave for academic refreshment (up to 3 terms maximum, and may be paid or unpaid)
- (ii) Sabbatical leave for personal refreshment (between 3 and 12 months, unpaid)

Requests for Sabbatical leave overseas will need to be considered by the International Mobility Team, following Departmental approval.

5.5 I am a Line Manager recruiting an employee to work overseas

There may be occasions where an employee is required to commence work or work primarily for Imperial from overseas, i.e., the employee will not be located in the UK during their employment. In this scenario we recommend that the Line Manager reaches out directly to the International Mobility Team to discuss the most appropriate course of action. It may be that the Line Manager would submit the request to work overseas on the employee's behalf.

The International Mobility Team may need to liaise with other members of HR to ensure that the Contract of Employment makes referenced to all relevant issues, i.e., any overseas working, and any eventual return or relocation to the UK (or main country of employment).

5.6 Other routes for working overseas: Consultants/Self-employed contractors

Where a service is being provided, a genuine self-employed contractor may be engaged through a contract for services or a consultancy type agreement. In this instance the individual will not be a payroll employee of the university and would therefore be responsible for making their own arrangements (i) to pay any local taxes, (ii) social security contributions, and (iii) obtain the relevant insurance coverage, as required in the proposed country of work. We cannot legally hire someone as a consultant by means of circumventing employer liabilities and requirements that may arise from overseas working, and there is legislation in place (IR35) to ensure that individuals who 'should' be classed as employees are not hired on a consultancy basis.

Prior to confirming if the consultancy route is a viable working arrangement, or if a Contract of Employment is required instead, the proposed duties/role must be assessed by the department against IR35 regulations, more information on which can be found on <u>Check employment status for tax</u>. If the department then decides to move forward with a consultancy agreement, it would be advisable to liaise with (i) your departmental HR person, (ii) the university's legal team, and (iii) the university's procurement team (as contractors are classed as single source suppliers).

If in doubt, please feel free to contact the International Mobility Team who can offer assistance in confirming the most appropriate course of action.

6.0 Due diligence / Considerations:

It cannot be stressed enough that specialist legal and tax advice may be required to avoid potential problems later on. These costs will need to be covered by the department (via the existing grant or allocated budget). Outlined below are the principal areas that will need to be taken into consideration prior to submitting a request, and upon which the outcome of the request will be based.

6.1 Right to Work / Immigration status:

(i) Immigration status (outside the UK):

Just as employees coming to the UK to work for the university need to do so legally, the same is true for employees wishing to work overseas. As an employer, we must stipulate that all staff have the relevant Right to Work in place prior to working for Imperial in any location (remotely or otherwise). Permission to work will depend on (i) the individual's nationality and the (ii) country in which they intend to work.

(ii) Immigration status (in the UK):

For sponsored workers with a Tier 2/Skilled Worker or Tier 5/Temporary Worker (Government Authorised Exchange) UK visa, please discuss with the Staff Compliance team, as any change of circumstances must be reported by the university to the UKVI within 10 working days. Further information on UK specific visas can be found on the Imperial webpages.

For all other UK visa holders, any time working overseas could have UK visa / immigration status implications, particularly in cases where; (i) the visa expires while the staff member is outside of the UK, and (ii) for Indefinite Leave to Remain, or EU Settlement Scheme applications, etc.

(iii) UK in-bound immigration:

Where the individual is not a British or Irish national and needs a visa in order to enter and undertake work in

the UK, please discuss this with the <u>Staff Compliance team</u> as soon as practicable in order to establish the best UK visa/immigration status to suit the individual's circumstances. Please note that no staff member will be permitted to start work until they have (i) provided evidence that they have submitted their UK visa application (i.e., UK visa status is pending), and (ii) are likely to obtain permission to work in the UK. In these circumstances we can consider permitting the individual to temporarily work from their home country.

6.2 Areas of Additional Concern:

(i) Job type:

There are some job families for which it is not possible to undertake duties from outside of the contracted country of employment (i.e., roles that cannot be undertaken remotely).

(ii) Collaborations:

An assessment will need to be undertaken to examine the risks and opportunities associated with any overseas work being undertaken for the university or any research opportunity, to ensure that the planned activities are aligned with the university's core values.

(iii) Teaching overseas:

Some activities pose a disproportionate risk to the university when undertaken overseas and therefore cannot be considered; the university is unable to facilitate <u>any teaching roles or roles that entail teaching associated duties overseas</u> (including, but not limited to, assisting with teaching, lesson preparation, marking and grading). Such duties must be undertaken in the contracted country of employment only, otherwise there are potential Permanent Establishment and Corporation Tax liabilities.

The International Mobility Team can advise on what duties can be undertaken and from which jurisdiction on a case-by-case basis.

(iv) GDPR and data protection principles:

Under the General Data Protection Regulation, where personal data is transferred out of the European Economic Area (EEA), the university must ensure that the recipient country provides an adequate level of protection for the data and that the individual to whom the data refers is aware that their personal information will be sent outside the EEA.

6.3 Health and safety:

(i) Offsite Working - Risk Assessments:

The university has a duty of care to staff to ensure that they are working in a safe environment and that the appropriate safety measures are in place even when staff are not working on an Imperial campus.

As such, staff are required to review the information on the Safety Department's <u>offsite working</u> web pages, and complete and submit the relevant Risk Assessment form prior to any travel commencing. Requirements will vary depending on the nature of any planned overseas working.

 Where university staff are visiting an overseas institution, employed through a partner organisation, or seconded overseas, it is important to ensure that the responsibilities of both institutions are clearly outlined.

- Where staff are undertaking Fieldwork Activities (FW1) form must be completed for 'hazard and risk identification', in conjunction with the associated relevant detailed risk assessment forms.
- Where overseas working requests are of a personal nature, i.e. working remotely from a family home, then a Risk Assessment will not be required.
- All staff should ensure that their emergency contact details are up to date prior to travel.

(ii) Evacuation procedures:

In the event that the security or political situation in the host country deteriorates to a point that it is no longer safe to operate, plans need to be in place to ensure the safety of the member of staff. This should be agreed in advance through your discussion with your Line Manager. UK nationals would typically return to the UK, while non-UK nationals may not wish to do this or may not be permitted to do so due to UK visa requirements.

Please ensure that you follow the <u>Offsite Work Emergency Response Procedure</u> as well as ensuring that all relevant colleagues are aware of its contents (Line Manager, offsite work supervisor, colleagues abroad).

6.4 Travel and Health Insurance policies:

The university has a duty of care to ensure that all staff have the relevant travel insurance policy in place and are able to access a doctor or healthcare overseas, should it be required while working outside of the contracted country of employment.

Please review the university Insurance web page for further details on how this can be obtained:

For overseas working that is personal in nature, employees should obtain their own health and/or travel insurance policy prior to travel and be able to document that this in place.

6.5 Tax, Social Security and Payroll obligations:

Where possible, the employee will be paid through the university's home payroll in the normal way, but if overseas taxes or social security contributions are required it may be necessary to establish an international payroll to ensure the local contributions are made. All request for overseas working will undergo an assessment of the employee's tax and social security position, to ensure that appropriate arrangements can be put in place, if required.

- Tax and Social Security rules are complex, differ from country to country according to bilateral and
 reciprocal agreements, and the individual circumstances of the employee. In some cases, a UK based
 member of staff working temporarily overseas may remain liable for tax and social security on their UK
 earnings, and also become liable for both tax and social security in the overseas jurisdiction.
- It may therefore be necessary for the International Mobility Team to procure specialist services to advise, calculate and ensure that the appropriate contributions are made in the appropriate jurisdiction, and to advise on whether it is possible to continue to pay a member of staff based overseas through the university payroll, or if alternative measures would need to be implemented (i.e., the establishing of an overseas payroll). The university's 'International Payroll Governance Group' would be required to approve any overseas payrolls, reviewing each request on a case-by-case basis.
- University salaries are always issued in GBP (with the exception on Imperial Global Hubs). We are able to
 facilitate payments into overseas bank accounts if required. Conversion to the recipient bank currency will
 be based upon the exchange rate between the issuing and receiving banks on the day of payment. The

university will not make any adjustments to pay based on exchange rates.

6.6 Pension:

There may be implications for eligibility to join or remain in a specific pension scheme for staff based overseas. The university may choose not to admit any employee into a UK pension scheme who carries out their day-to-day work in any country other than the UK, unless that person is:

- Working overseas or seconded for a limited period (generally no more than 3 or 5 years).
- Was employed by the university in the UK prior to the commencement of the overseas working period.
- Will return to work for the university in the UK.
- Will fully retire directly from the period of overseas working.

If the member of staff is based outside of the UK, the university will need to assess the position with regards to eligibility for pension scheme membership. Further information can be found on the university pension web page.

6.7 Grant Funding:

In some cases, the research funding grants awarded to staff are done so on the understanding that all related work will be undertaken from the same jurisdiction.

The International Mobility Team have encountered cases where funding has subsequently been withdrawn, when the funders became aware that staff members were working overseas.

In most cases, shorter overseas working arrangements would not be cause for concern, however longer periods working overseas (where staff might trigger a foreign tax residency) would need to be investigated to ensure that ongoing funding is not at risk of being withdrawn.

6.8 Ending an overseas working agreement:

When considering ending an international agreement the following may need to considered:

- Any notice periods that would be applicable.
- The process for repatriating or localising a member of staff at the end of an overseas assignment.
- Local regulations relating to employee consultation or TUPE regulation, alongside university policies and procedures, as applicable.
- Other factors such as:
 - The time and support the employee will need for completing work, settling bills, closing bank accounts and relocating their family.
 - Where a member of staff is being repatriated, whether the College needs to consider providing any transitory arrangements, such as temporary accommodation, schooling and housing.

7.0 Guidance and Advice

If you need further information or have any questions, please contact the International Mobility Team via international-mobility-team@imperial.ac.uk. Alternatively, you can find other suggested points of contact listed below:

- Foreign Commonwealth and Development Office: <u>view Foreign Commonwealth and Development Office</u> web pages
- HR: HR Partners or HR Recruitment/Staff Hub web pages
- Insurance: visit Imperial's web pages
- Offsite Coordinator
- Payroll: Dominic Burchnall, Payroll & Pensions Manager: d.burchaall@imperial.ac.uk
- Pensions: Carey Southward, Senior Pensions Specialist: c.southward@imperial.ac.uk
- Risk Management: Paul Manning, Interim Director of Risk Management: p.manning@imperial.ac.uk
- Safety Department: web pages on off site working
- Security Control: (in an emergency) 020 7589 1000 or direct on extension 4444
- Staff Compliance: Pippa Chalmers, Head of Staff Compliance, email: p.chalmers@imperial.ac.uk
- **Tax office:** Manchester Chapel Wharf Area, Trinity Bridge House, 2 Dearmans Place, Salford, M3 5BS. Telephone: 0845 300 0627. University reference: 951/C1YY

8.0 Appendix

Appendix 1: Differentiating Business Travel from Overseas Working

Business travel incorporates travelling to another country for a one-off, or short-term trip business trip (e.g. to attend an overseas conference or attend a meeting with overseas colleagues).

If the proposed activities fall within the guidelines for permissible activities in that location: your Line Manager can approve business travel. Please consult the relevant <u>Staff Travel guidance</u> for further information and ensure all necessary arrangements are in place prior to travel.

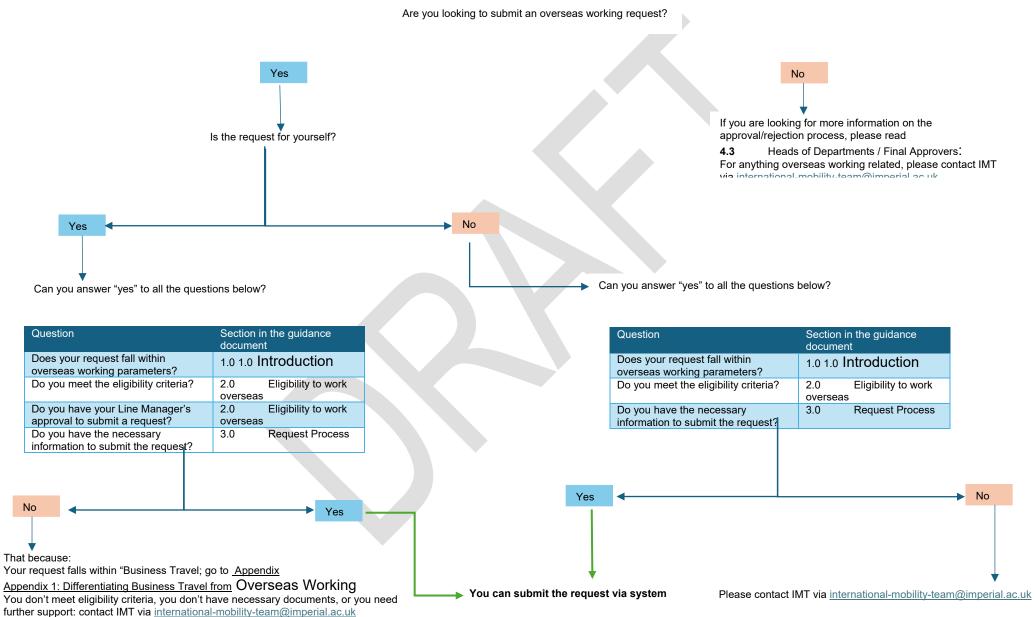
<u>The undertaking of your day-to-day duties is not permissible</u> without first obtaining the appropriate Right to Work permission in that destination.

If you are unsure regarding the type of travel your request falls into, please contact the International Mobility Team via international-mobility-team@imperial.ac.uk.



| Business Trip | Overseas Working |
|--|---|
| Attending business meetings or discussions, including representing their home employer in meeting with third party | On the job training; adjustment to a new job (integration into the organisation) |
| Attending negotiations | Install or repair machinery, computer software or equipment, or perform other technical duties |
| Hosting or attending project-related presentations | Working with or co-operating with project teams |
| Attending seminars or project kick-off meetings | Project work |
| People management, team meeting, conduct face to face interviews (as described below) | Conduct Audits |
| Knowledge transfers | Coming to host country for project work as Project Manager |
| Meetings and workshops where work is planned, scope is discussed and defined, responsibilities discussed, etc. Project kick-off meeting Brainstorming meetings to get aligned Preparation meetings to define | Meetings and workshops where people meet to get work delivered such as: • Project workshop in execution phase, where documents are created, requirements defined, testing is done, value is created, output is created • In their role as project team member, Project Manager, finance manager, sourcing manager, etc. |
| Team meetings with goal to: Align & collaborate Get to know each other Understand e.g. team objectives, processes, organisation changes No output in the sense of a program is written, a document created: Any training or seminar where people listen and learn Any people work: Mid/end year review Discussion of development plan Objective setting and performance improvement plan | Meetings to create output: Budget meetings – where budgets are aligned and finalised, discussed Job descriptions are created with hiring manager A Request For Proposal, Service Level Agreement, Statement of Work, etc. is created and discussed or finalised Testing is being done, test scripts executed Associates coming over to host country to work from there |

Appendix 2: Request Process Flowchart



Appendix 3: Types of overseas secondments and possible approaches to benefits

| | Short-Term Secondment Commuter Secondment Long-Term Secondment | | | Permanent Transfer | |
|--------------------------|---|--|--|--|---|
| | | | Host-based approach | Home-based approach | |
| Employment Status | Remains an Imperial employee | Remains an Imperial employee | Transfer to host entity with right of return to Imperial at end of fixed period of host country employment | no guarantee of return to | of host entity with permanent transfer, possibly recognising prior Imperial service as continuous |
| Duration | Intended duration of up to one year | Intended duration of one to five years | Intended duration of one to five years | Intended duration of one to five years | Indefinite |
| Base Salary Structure | Home country salary continued (NB possible tax issues if recharged to host country) | Home country salary continued | Salary aligned to host country entity salary structure (Destination Pay) wherever there is an established host entity presence | Imperial salary level and adjusted for differentials in cost of living | , , |

| Payroll Delivery | Continue home currency on home payroll for base salary. Per diem protected in host country currency usually expensed in on home expenses system | home payroll for base salary with per diem protected in host country currency | entity payroll | Paid via home payroll if ongoing home country employment | Host currency via host entity payroll |
|-----------------------|--|---|--|--|---|
| Housing Allowance | Provided in hotel or similar | Provided in hotel or similar | Differential between owned and rented on discretionary basis | Host country rented less home country housing contribution | Temporary housing only for 4 weeks – discretionary thereafter |
| Home Leave | Once a month | Once a week | One per completed assignment year for accompanying family | One per completed assignment year for accompanying family | N/A |
| Incentives | Hardship to selected countries | Hardship to selected countries | Hardship to selected countries | Hardship to selected countries | N/A |
| Social Security | Home country continuation | Home country where possible up to maximum time limit. | Host country scheme | Home country where possible up to maximum time limit. Liability also for host country social security in non-reciprocal agreement countries. | Host country scheme. |
| Relocation Package | N/A | N/A | Standard relocation package | Standard relocation package | Standard relocation package with home sale and home purchase support on discretionary basis |
| Predeparture | | | | | |

| Immigration Support | External assistance to obtain work permit, unless employee has automatic right to work in host country (e.g. within EU). | External assistance to obtain work permit, unless employee has automatic right to work in host country (e.g. within EU). | External assistance to obtain work permit, unless employee has automatic right to work in host country (e.g. within EU). | External assistance to obtain work permit, unless employee has automatic right to work in host country (e.g. within EU). Also applies to partner where possible. | External assistance to obtain work permit for employee and partner where possible. Residency applications also supported with 'claw backs' in case employee leaves. |
|-----------------------------|--|--|--|--|---|
| Pre- Assignment Visit | No | No | Provided where assignee is not familiar with host country, usually return flights plus hotel accommodation, with meals or Per Diem Allowance for 5 days. | Provided where assignee is not familiar with host country, usually return flights plus hotel accommodation, with meals or Per Diem Allowance for 5 days. | Provided where assignee is not familiar with host country, usually return flights plus hotel accommodation, with meals or Per Diem Allowance for 5 days. |
| Relocation Support | No | Relocation consultant for home search, usually 2-3 days home search and 1 day settling in | Relocation consultant for home and school search if appropriate, usually 2-3 days home search and 1 day settling in service. | Relocation consultant for home and school search if appropriate, usually 2-3 days home search and 1 day settling in service. | Relocation consultant for home and school search if appropriate, usually 2-3 days home search and 1 day settling in service. |
| | | service, depending on location | School search usually carried out and charged separately. | School search usually carried out and charged separately | School search usually carried out and charged separately |
| Cultural Training | No | No | External training provided where host country presents major cultural differences and assignee not familiar with new location. | where host country presents major cultural | External training provided where host country presents major cultural differences and assignee not familiar with new location. |
| Language Training | Provided as needed | Provided as needed. | Provided as needed. | Provided as needed. | Provided as needed. |