

International Remote Working Requests

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This policy will be reviewed periodically to ensure compliance with changes in financial regulations, HMRC guidelines including any relevant tax agreements, employment law and equality and diversity legislation. In the event that this policy or procedure is not compliant, the relevant legislation shall prevail.

Changes to this policy will be subject to consultation with the University's recognised Trade Unions before implementation

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1. INTRODUCTION

- 1.1 While the majority of employees at the University have a contractual place of work that is based in the UK, we recognise there will be times when working remotely from overseas is desirable. This policy seeks to enable informed decision making when considering requests to work remotely from overseas* and sets out the guiding principles to be applied.
- 1.2 While remote working from overseas has always been an important issue, the global pandemic and Brexit have accelerated the number of cases and requests. As we continue to embrace hybrid working practices, it is important that we have clear expectations and guidelines for working remotely from overseas.
- 1.3 It is important that remote working overseas is managed in a planned and compliant manner as there are significant risks to both the University and individuals that must be considered in advance. Depending on the jurisdiction, these risks can be severe and encompass many areas including tax and social security (personal and corporate), immigration laws, equality, employment law, data security and health and safety.

2. SCOPE

- 2.1 The policy applies to all employees at the University including new starters who may request to work remotely from overseas as part of contract negotiations and existing colleagues who wish to make a flexible working request that includes working overseas.
- 2.2 This policy should be read in conjunction with the University's Travel and Expenses Policy and the Flexible Working Policy and Hybrid Working Guidelines and the Health and Safety Policy.
- 2.3 This policy does not apply to approved business travel requirements such as an international assignment or official business trip. The University has a number of existing arrangements with partners overseas and will support and facilitate overseas work where an overseas base will have material benefit to the overall objectives of the University. These arrangements are covered in the Global Mobility Policy.

3.1 PAYROLL, SOCIAL SECURITY AND TAX IMPLICATIONS

- 3.2 Employees working in the UK usually have PAYE (income Tax) and National Insurance (Social Security) deducted from their pay by the employer. When employees work overseas they may trigger tax and social security obligations in that country and this can have implications for both the employee and the University.
- 3.3 Tax and social security can be complex and requirements vary depending on the specific circumstances and jurisdiction so specialist advice will need to be taken in advance.
- 3.4 Tax and social security risks increase depending on how many employees have/are working in a particular country as well as other activities the University may be undertaking in a country; and whether these activities trigger a corporate presence ('Permanent Establishment'). Permanent establishment (PE) is an area of focus of most tax authorities and every country has its own measures to identify when business activity stops being sporadic or short-term and reaches a level that will prompt PE and subsequent double taxation for either employment taxes or corporation taxes or both.
- 3.5 The greater presence we have and the more time spent collectively by employees from any part of the University in one country, the more we increase the risk of additional tax obligations for individuals and the University. This also means that agreeing for an individual to work remotely may have implications for other employees who are, or may be in the future, working from the same country, or any activities the University may initiate in a country in the future
- 3.6 Failure to comply with the necessary tax filing requirements, withholding and reporting obligations, as well as not managing a PE correctly, could lead to serious ramifications such as:
- high penalties;
 - interest charges;
 - reputational damage;
 - significant cost repercussions;
 - unfunded corporate tax liabilities;
 - indirect tax cost in a country if appropriate VAT registrations have not been made;
 - increased audits from tax authorities resulting in increased management time and cost being incurred;
 - imprisonment or detention when entering/leaving the UK, in severe cases.

4 IMMIGRATION IMPLICATIONS

- 4.1 In most countries, international remote work is still considered as 'productive work' and will require a work permit, visa or citizenship to carry out work duties. Consequently, any international remote working requests where the employee does not have the legal right to work in that country cannot be approved.
- 4.2 Even in situations where an employee does have the right to work in that country, approval will still need to be granted as the tax and social security factors outlines above will still need to be considered.
- 4.3 Employees who hold a UK work visa (either sponsored or non-sponsored) or another form of a UK immigration status, may be in breach of the UK immigration rules if they are

spending a significant time outside of the UK. This will need to be reviewed in advance of any decision.

5 PROCEDURE

- 5.1 Employees who wish to work remotely from overseas temporarily or as part of hybrid working arrangements should raise their request with their Head of Department at the earliest opportunity and ideally at least 60 days before their desired travel date.
- 5.2 The Head of Department must immediately forward and discuss the request with the College's Vice-Provost and Dean or the appropriate Director of Professional Services who will review the request from a College/Directorate strategic perspective including any future plans that may have global mobility implications
- 5.3 The request must also be forwarded to HR who will undertake an initial review of the immigration, tax, payroll and social security risks and costs associated with the request to work overseas, including any collective presence that may be created. HR will also consult with the Head of Financial Control (Finance Directorate) to understand if there are any wider tax issues driven by other activity within the country which need to be taken into consideration. The Health and Safety risks will also need to be considered as per Section 7.

Where external advice is required to understand compliance risks and costs, the costs of this advice will be discussed with the Vice-Provost and Dean or Director first to ensure they are willing to incur the additional costs. as this will need to be funded by the relevant College/Directorate.

- 5.4 Details of the original request, any issues, risks and costs identified by the review and any external advice will be forwarded to the Provost and Associate Director of HR – Employment Services for consideration. The Associate Director of HR will notify the Vice-Provost and Dean and Head of Department or the Professional Services Director of the decision.
- 5.5 No decision should be relayed to the employee making the request until after the approval process has concluded. In the case of new starters, no written or verbal offer of employment that includes an element of overseas remote working should be made until after the approval process has concluded.
- 5.6 Employees who wish to make a flexible working request to change their contractual place of work to include overseas working should make a Flexible Working Request in line with the University's Flexible Working Policy. However, due to the additional personal and corporate risks, any such request will be considered by the Provost and Associate Director of HR as outlined above.

6. DISPLACED EMPLOYEES

- 6.1 There may be cases where colleagues are displaced for a specific duration overseas outside of their control (for example due to travel or quarantine restrictions as a result of Covid-19 or due to personal injury). If this happens, please contact HR as soon as possible who will then advise on next steps.
- 6.2 If a displaced employee is unable to work remotely in line with this policy, or found to be working in a different country without prior approval, they may be required to take paid or unpaid leave until they are able to return to their contracted location. This will also be the

case if an employee's international remote working request is approved for a limited period but they are unable to return at the end of that approved duration.

7. HEALTH AND SAFETY

7.1 The University has a legal obligation to take reasonable care of employees working for us overseas. Where a request to work remotely internationally has been approved, managers and employees must undertake a full risk assessment in advance of the employee commencing work overseas. The line manager must then agree with the employee any actions required to mitigate any risks to the employee's health, safety and security associated with their travel arrangements, location, accommodation and the nature of the work being conducted.

7.2 When assessing the risks involved you may have to consider serious threats such as:

- crime;
- extreme climate;
- infectious diseases;
- political unrest;
- natural disasters;
- terrorism.

7.3 Risk assessments should be undertaken in advance by the manager and employee as they are best placed to understand the nature of the work and the work environment and together they will need to agree arrangements to keep in touch. Advice and support is available from the HR Directorate and/or the Health, Safety and Environment Team.

7.4 This duty of care extends to cover more subtle threats to wellbeing that could also arise while working remotely internationally such as:

- access to important amenities, including healthcare;
- language barriers and whether the inability to communicate may impact on their wellbeing;
- the ability to communicate freely and regularly with their manager, teams and their personal support systems in the UK;
- local customs and laws and cultures e.g. where manners are different, where women are expected to cover their hair or where LGBT+ colleagues may be at risk.

7.5 Based on the risk assessment noted above, the essential mitigating actions will vary based on the specific circumstances but may include:

- putting a realistic and manageable system in place that enables regular communication to monitor their safety;
- testing systems to ensure they work effectively; This may involve seeking guidance from the Health and Safety and Environment, HR and Security Teams.
- preparing and educating employees about the location they will be working in.

7.5 Further advice and support relating to your health and safety risk assessment can be obtained by contacting the Health, Safety & Environment team (HSET) – health@safety@brunel.ac.uk