

# Working Overseas - Guidance for Managers On Staff Working Outside the UK

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**Please note** that the College is reviewing its strategic position regarding Imperial staff wanting to work overseas. The following guidance will be revised once this position has been confirmed.

## 1. Introduction

This guidance provides an outline of the main areas you should consider and the process you should follow when contemplating employing new staff who will be based overseas or posting existing members of staff to work overseas.

This guidance does not cover short term business travel or establishing an overseas legal entity. See Appendix 4 for an outline of the activities which would determine whether travel constitutes a business trip or working overseas.

## Process for making a request to employ staff to work overseas

Please be aware that:

- The College is a UK-based institution and, in the majority of cases, requires staff to be located in the UK and work to be carried out in the UK.
- Individuals currently based overseas and employed by the College are expected to move to the UK in order to start work for the College. UK visa application processing times should be factored into the individual's proposed contract start date. In the event of any delay however it may be necessary to postpone the individual's proposed contract start date until it can be confirmed that they are able to come and work in the UK.
- All Imperial College staff will be engaged under the UK tax system initially.
- As outlined in this guidance, working overseas can carry significant financial, legal, regulatory and safety risks for the individual as well as the College. There can be significant additional costs relating to tax, social security and other employment law liabilities in the jurisdiction in which the work is carried out. The risks vary dependent on the overseas location and can affect both short and long term arrangements as many liabilities apply from 'day one'. If these costs are levied by an overseas tax authority then the hiring department will be liable to meet them and therefore they need to be fully cognisant of the issues

- The College is reviewing its position on overseas based work and, in the meantime, all requests (i.e. new requests and requests to extend existing arrangements) are being carefully considered by HR, Staff Compliance and Finance experts, before a final decision is made. Permission to work overseas **must** be requested in advance and will only be granted in exceptional circumstances.
- It is not permitted to engage Casual Workers to carry out work overseas. Any requests will therefore not be considered.
- If, as a Line Manager, you believe that exceptional circumstances to permit an employee to work overseas apply, you must submit a request by following the steps below:

#### **Line Managers:**

- Review this guidance, paying particular attention to the due diligence section, irrespective of the expected duration of the overseas work
- Complete the [Overseas Working Request Form](#) (and any associated forms) and email to your Head of Department for their consideration in the first instance

#### **Heads of Departments:**

- Review this guidance, paying particular attention to the due diligence section, irrespective of the expected duration of the overseas work
- Review the [Overseas Working Request Form](#) (and any associated forms) carefully
- Where you support the request, complete the HoD Authorisation section and email [overseas-working-requests@imperial.ac.uk](mailto:overseas-working-requests@imperial.ac.uk) for review

The Overseas Working Requests inbox will be monitored and will pick up request forms to:

- Review fully completed requests on a regular basis
- Seek input from HR, Staff Compliance and Finance experts
- Confirm the College's final decision as soon as practicable following review

## **2. Options for employing staff overseas**

There are a number of options where we need work to be performed abroad. For each of these options, before agreeing on a contract type, it is important to explore the nature of the contract, in order to understand any implications/liabilities it may entail. The most frequently used contract options are summarised below, a more detailed list of options is available at Appendix 2:

- College members of staff assigned or seconded overseas

Where newly appointed or existing staff are either employed directly by the College or seconded to a partner organisation, they will be employees of the College and their terms and conditions determined by the College. Where possible, the employee will be paid through the College's payroll in the normal way, but if overseas taxes or social security contributions are required it may be necessary to use an international payroll bureau. College salaries are always issued in Pound Sterling (GBP) but can be paid to overseas bank accounts if required. Conversion to the recipient bank currency will be based upon the exchange rate between the issuing and receiving banks. The College will not make any adjustments to pay based on exchange rates.

The health and safety responsibilities for College staff abroad remain exactly the same as if they were in the UK or on College property.

- Employees on local terms and conditions

Where individuals are employed on local overseas terms and conditions and paid in the local currency, this can be undertaken directly by the College or through a partner organisation. Where an employee is directly employed by the College, the services of a payroll bureau or partner organisation will normally be utilised to facilitate the appropriate payment of the member of staff working overseas. This will incur an additional cost that will have to be paid for by the employing department. Specialist legal advice, the cost of which will be met by the department, will also be needed to ensure that the contract of employment meets the requirements of the country. It is expected that the line management responsibilities laid out in College safety policy will apply to local overseas staff, as far as it is reasonably practicable to do so.

- Consultants/Self-employed contractors

Where a service is being provided, a genuine self-employed contractor may be engaged through a contract for services or consultancy agreement. In this instance the individual will not be an employee of the College, and would be responsible for making their own arrangements to pay any local taxes or social security contributions required in the country in which they are working and purchase their own insurance cover.

### **3. Preparing to enter into overseas collaboration**

Due to the potential additional risks and costs of employing staff to work overseas, as a first step you should discuss your intentions with your Head of Department/Faculty for their written approval. As part of this discussion you should cover the following topics:

- The rationale behind entering into the proposed collaboration, which may require staff to be employed or seconded overseas; or
- Your reasons for wishing to undertake a research project/project overseas
- How the collaboration and research/project fits in with the College's/Faculty's overall research/teaching strategy
- How the additional costs will be met, i.e. travel insurance, payroll bureau, etc.
- A Health and Safety risk assessment of the proposal must be completed, during which the academic benefit is weighed against the risk of harm. Risk assessment templates, Emergency response protocol templates and guidance are available on the College Safety Department web pages. You should also consult with your local safety officer.
- The duration of the assignment

At the end of the discussion, if your Head of Department/Faculty agrees that the overseas collaboration or research/project should proceed, you should then contact your Departmental Operating Manager to assist you with working through the next stages as set out below. It should be noted that all due diligence related costs incurred must be met by the department.

### **4. Stage 1: DUE DILIGENCE**

#### **4.1 *Establish where the work needs physically to be done***

If it is likely to be in several different countries (but performed by one individual), it is important to estimate the proportion in each. This is critically important for everything that follows.

#### **4.2 Undertake an initial risk assessment.**

A country specific assessment will need to be carried out to examine the risks and opportunities associated with an overseas collaboration, which could lead to you employing staff to work overseas or sending an existing member of staff overseas.

#### **4.3 Health and safety.**

A risk assessment for the offsite work must be completed and submitted to your local safety advisor and the Head of Department. Risk assessment templates are available from the Safety Department's [offsite working](#) web pages. Action will also need to be taken to ensure the College complies with any local legislative requirements relating to Health and Safety, therefore, it may be necessary to procure specialist health and safety advice from relevant College advisors. Where College staff are employed through a partner organisation or seconded overseas it is important to ensure that the responsibilities of both the College and the partner organisation are clarified.

#### **4.4 Investigate the legal framework and context for employing staff in the host country.**

Specialised country-specific legal advice is likely to be needed and this will be sought by HR. The cost of legal advice will be covered by the department. This will include the following:

##### **4.4.1 Establishing if there will be any restrictions on academic freedom in the host country.**

##### **4.4.2 Establishing if there will be cultural differences that members of staff will need to be briefed/trained on.**

##### **4.4.3 Establishing current immigration requirements and obligations and ensuring that they are complied with.**

Permission to work or a visa may be required for members of staff in order to work overseas. This will depend on the individual's nationality and the country in which they will be based.

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 Staff Compliance team as soon as practicable in order to establish the best UK visa/immigration status to suit the individual's circumstances.

**Please note that the individual will not be permitted to start working overseas until they provide evidence to the Staff Compliance team that they have submitted their UK visa application in order to provide a level of assurance that they are likely to obtain permission to work in the UK.**

Where the individual is not a British or Irish national who holds a current UK visa, please discuss your proposals with the Staff Compliance team as the period of time they work overseas may also have implications for their current UK visa/immigration status, particularly if this expires whilst they are out of the UK, and future applications for Indefinite Leave to Remain, EU Settlement Scheme, etc. Where the individual is a sponsored worker who holds a current Tier 2/Skilled Worker or Tier 5/Temporary Worker (Government Authorised

Exchange) UK visa, please discuss this with the Staff Compliance team asap as any change of circumstances must be reported to the UKVI within 10 working days.

**4.4.4 Establishing what local employment laws will apply that may affect both the member of staff and the College and what the member of staff's employment rights and obligations will be with regards to contractual issues and statutory rights.**

For example, *within* Europe the Posted Workers Directive (1996) provides protection to workers being posted to another European Union member state for up to one year to ensure the terms and conditions of work meet the legal minimum of the country to which they are posted. This means that members of staff could potentially be entitled to enhanced terms and conditions e.g. maternity leave. Workers posted overseas from the UK may still have statutory rights under domestic employment law e.g. the right to claim unfair dismissal regardless of the application of the Posted Workers Directive.

The governing law of the employee's contract of employment, any mandatory local labour laws and the jurisdiction for settling disputes should all be considered.

**4.5 Establishing if there are any travel restrictions associated with the destination country.**

This should form part of the Health and Safety risk assessment. The Foreign and Commonwealth Office, the College's Insurers, Safety Department offsite work and the College's Insurance office web pages should all be consulted and further advice sought where necessary.

**4.6 Establishing if there are any restrictions on the type of activity.**

This should form part of the Health and Safety risk assessment. Consult with your Safety Officer for further information.

**4.7 Establishing if there are any sanctions or trade embargos, ethical or human rights issues associated with the host country.**

This should form part of the Health and Safety risk assessment.

**4.8 Establish what the tax framework/social security situation is in the host country.**

It is essential to seek specialist tax advice at an early stage, from the Payroll & Pensions Manager in the first instance. This will include:

**4.8.1 Check the taxation position and ensure appropriate arrangements are in place.**

When a member of staff is paid in the UK and is working overseas, they may remain liable to pay tax and social security on their earnings in the UK. Conversely the member of staff and the College may also become liable for tax and social security in the country that they are working. As tax rules differ from country to country it may be necessary to procure specialist services to advise, calculate and ensure appropriate tax is paid in the overseas territory. It is generally the Payroll & Pensions Department's responsibility to determine whether a member of staff based overseas can be paid through the College payroll or if an overseas payroll agency will be needed.

#### **4.9 Check the pension position.**

There may be implications for eligibility to join or remain in a specific pension scheme for staff based overseas.

The College 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 United Kingdom, unless that person:

- is seconded for a limited period (generally no more than 5 years),
- was employed by the College in the United Kingdom prior to the commencement of the secondment
- will return from that secondment to work for the College in the UK
- or will fully retire directly from that secondment.

If the member of staff is based outside of the UK, the College will need to assess their position with regards to eligibility for pension scheme membership.

Further information about pensions can be obtained via the Staff Hub.

#### **4.10 Check that all relevant insurance is in place.**

Insurance requirements for staff based overseas will be affected by the period of time that they are based overseas and the country within which they are based, the overseas trip or placement needs to be registered using the link from this page:-

<http://www.imperial.ac.uk/finance/financial-services/insurance/>

Staff away from the UK for a period of over 12 months are classified for insurance purposes as being secondees and there are some restrictions in respect of Medical and Emergency Travel Expenses such as routine medication. Contact the Insurance Manager for further details.

#### **4.11 Check how the member of staff will be able to access a doctor or healthcare overseas.**

This check should form part of the offsite work health and safety risk assessment. An emergency response protocol should also be completed. Please refer to your Safety Officer and the College Safety Department web pages for guidance and advice.

A Hazard and Risk Identification for Fieldwork Activities (FW1) form must be completed in conjunction with the associated relevant detailed risk assessment forms and in relation to the College [guidance on offsite working](#).

#### **4.12 Check how the member of staff will purchase items/ kit needed for the research**

If there is likely to be a requirement that items or equipment needed for the research are to be purchased in country, it should be established how this would work in advance as some countries require purchases to be made mainly in cash. If this is the case the Purchasing section should be consulted.

#### **4.13 Ensure that no data protection principles are breached.**

Under the General Data Protection Regulation, where personal data is transferred out of the European Economic Area (EEA), the College 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.

## **Stage 1 Summary**

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 grant or allocated budget.

The completed due diligence should be discussed with your Departmental Operating Manager and Head of Department and agreement reached on whether the overseas research/project should proceed. If the decision is taken that the research/project should proceed, you and your Head of Department must complete the [Overseas Working Request Form](#) and forward it to [overseas-working-requests@imperial.ac.uk](mailto:overseas-working-requests@imperial.ac.uk) for review, prior to starting the resourcing process. Confirmation on the College's final decision will follow as soon as practicable, following review and any additional sign-offs that may be required from the Faculty and Provost's Board.

## **5. Stage 2: RESOURCING**

### **5.1 Recruitment**

HR will advise on the employment law provisions that apply in the host country together with advice on recruitment and selection and appropriate contractual arrangements. Please note: if this results in additional costs the Department/Faculty will be charged.

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. In addition provision will need to be made for the training and development of UK staff who are working overseas temporarily, with particular emphasis on cultural awareness familiarisation, prior to any overseas work commencing. As the line manager you will also need to consider how you will communicate and engage with staff overseas to ensure good employee relations are established and maintained.

### **5.2 Seconded Employees**

Where an employee is seconded to a partner organisation or employed through the partner organisation agreements will need to be in place to clarify the responsibilities of the College and the partner organisation. This is to ensure that areas such as intellectual property rights, health and safety, dispute resolution or termination of the agreement are clarified before the secondment is taken up. It should also be noted that the law of some countries (e.g. UAE) does not allow overseas staff to be seconded into the country, i.e. staff must be employed by a local organisation.

### **5.3 Employment Contract**

The employment contract needs to cover all relevant issues specific to both the move overseas and any eventual return to the UK.

Where employees are recruited to work overseas for more than one month, the following details must be given in their employment contract:

- the period for which the employee is required to work outside the UK;
- any additional remuneration and benefits to be provided as a result of the overseas assignment;
- any terms and conditions relating to the employee's return to the UK.

If the need to work overseas arises after the employment contract has been signed, the College must provide the employee with details of the changed terms by the earliest of:

- 2 months after the date on which their employment began;
- 1 month after the change was made to the terms;
- The date on which the employee departs overseas.

As the employee's consent to the changes must be obtained, a contractual change letter setting out the changes to their terms and conditions of employment will be issued and must be signed by the employee.

#### **5.4 Cultural differences**

It is important that the implications of cultural differences may have for the project are understood and should be considered as part of your Health & Safety risk assessment where appropriate.

See Appendix 3 for an overview of some ways in which culture might differ from country to country.

#### **5.5 Managing the overseas research or project from the UK**

An offsite work supervisor should be established within the UK based Department that is conducting the offsite work. Please refer to the [Offsite Working policy](#) for further information.

#### **5.6 Monitoring the operation of the international project**

A mechanism should be in place to regularly review the operation of the project during its lifetime. Any partnership agreements should not be allowed to roll on from year to year without a formal review.

### **6. Stage 3: EXIT**

#### **6.1 What happens if things go wrong?**

If a dispute arises, do not ignore it. Firstly, check the documentation that exists. If you have done your preparatory work prior to setting up the overseas assignment, you should already have an agreed dispute resolution mechanism with a clear indication of the jurisdiction/law that will apply when managing the dispute. If no agreement is reached or it is agreed that the overseas jurisdiction should apply then early legal advice is essential as is notifying your Head of Department and Faculty Dean.

#### **6.2 Ending of the overseas agreement**

As the overseas secondment/employment is nearing its end you will need to give consideration to ending the overseas agreement and repatriating the member of staff back to the UK, unless they are a locally employed individual, and terminating their contract of employment.

When considering ending an international agreement you will need to consider:

- ***Any local regulations relating to employee consultation on redundancy or TUPE regulation, alongside College policies and procedures as applicable.***
- ***What notice period applies.***
- ***The process for repatriating a member of staff at the end of an overseas assignment.***
- ***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.

### **6.3 Emergency evacuation procedures**

In the event that the security or political situation in the 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 may differ between British and Irish nationals and other nationalities but should be agreed in advance.

UK nationals would normally return to the UK. Non-UK nationals may not wish to do this or may not be permitted to do so due to UK visa and entrance requirements.

Please ensure that you complete an Emergency Response Protocol form before travel. Discuss its contents with your line manager and your Safety Officer. Ensure that your colleagues abroad are aware of its contents and that a copy is left with your offsite work supervisor in the UK.

## **7. Guidance and advice**

- **Faculty or Campus Safety Officer**
- **Offsite Coordinator**
- **HR – HR Partners or HR Recruitment/Staff Hub**
- **Staff Compliance – Pippa Chalmers, Head of Staff Compliance, email: [p.chalmers@imperial.ac.uk](mailto:p.chalmers@imperial.ac.uk)**
- **Safety Department: <http://www.imperial.ac.uk/safety/safety-by-topic/off-site-working/>**
- **College Insurance – <http://www.imperial.ac.uk/finance/financial-services/insurance/>**

- **Tax office** – Manchester Chapel Wharf Area, Trinity Bridge House, 2 Dearmans Place, Salford, M3 5BS. Telephone: 0845 300 0627. College reference: 951/C1YY
- **Payroll** – Steven Howes, Payroll & Pensions Manager, email: [s.howes@imperial.ac.uk](mailto:s.howes@imperial.ac.uk)
- **Pensions** – Carey Southward, Senior Pensions Specialist, email: [c.southward@imperial.ac.uk](mailto:c.southward@imperial.ac.uk)
- **Risk Management** – Paul Manning, Interim Director of Risk Management, email: [p.manning@imperial.ac.uk](mailto:p.manning@imperial.ac.uk)
- **Security Control** (in an emergency): 020 7589 1000 or direct on extension 4444
- **Foreign Commonwealth Office** web pages

**Appendix 2: types of overseas assignment and possible approaches to benefits**

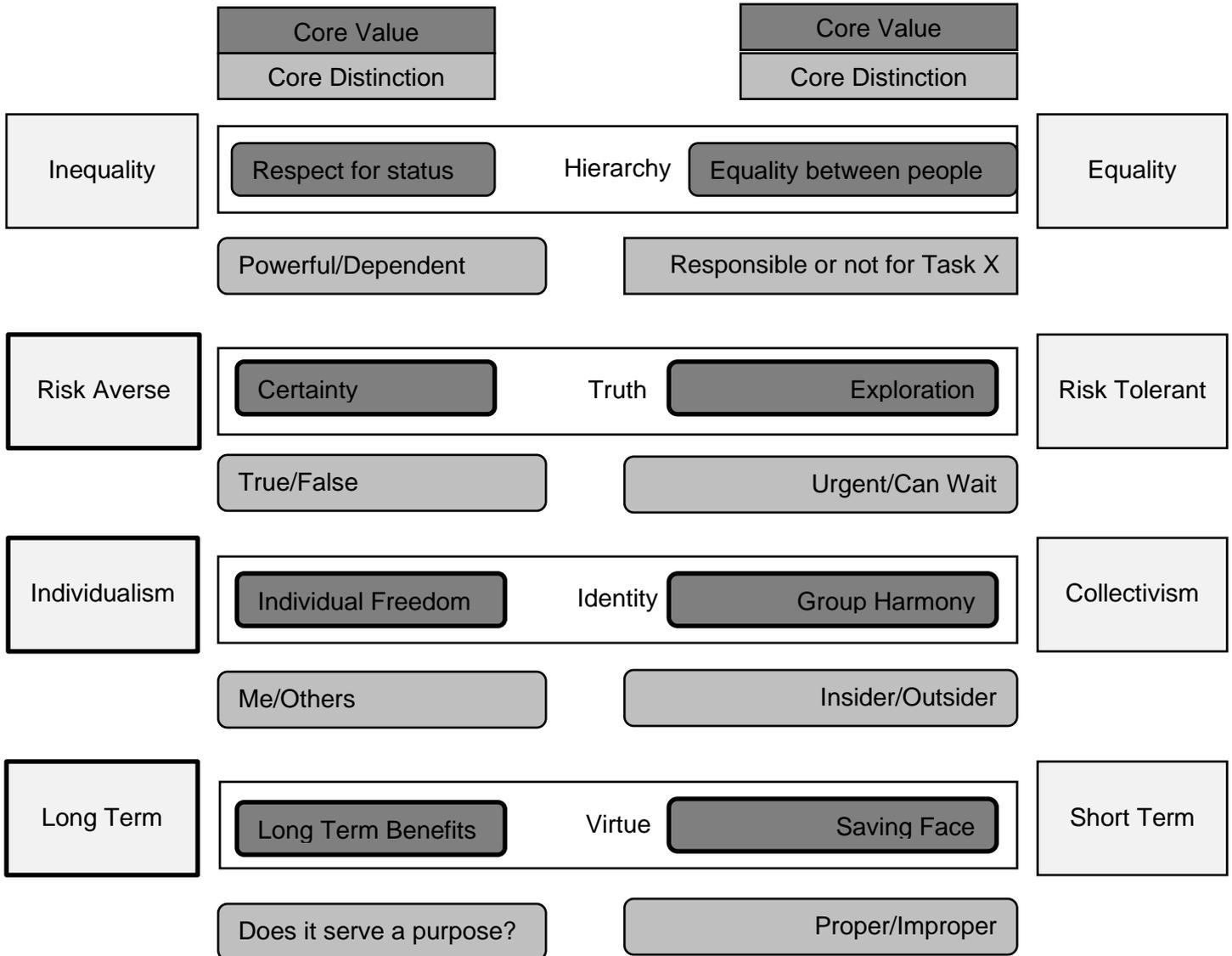
Global Mobility Policy	Short Term Secondment	Commuter Secondment	Long Term Secondment		Permanent Transfer
			Host based approach	Home based approach	
<b>Employment Status</b>	Remains an Imperial employee	Remains an Imperial employee	Transfer to host entity with right of return to Imperial at end of fixed period of host country employment	Continues in Imperial but no guarantee of return to the same position after the assignment but continuity of service recognised	Permanent or temporary employee of host entity with permanent transfer, possibly recognising prior Imperial service as continuous
<b>Duration</b>	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
<b>Base Salary Structure</b>	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	Salary based on Imperial salary level and adjusted for differentials in cost of living and housing	Host entity salary structure

<b>Payroll Delivery</b>	Continue home currency on home payroll for base salary. Per diem protected in host country currency usually expensed in on home expenses system	Continue home currency on home payroll for base salary with per diem protected in host country currency usually paid via expense system	Host currency via host entity payroll	Paid via home payroll if ongoing home country employment	Host currency via host entity payroll
<b>Housing Allowance</b>	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
<b>Home Leave</b>	Once a month	Once a week	One per completed assignment year for accompanying family	One per completed assignment year for accompanying family	N/A
<b>Incentives</b>	Hardship to selected countries	Hardship to selected countries	Hardship to selected countries	Hardship to selected countries	N/A
<b>Social Security</b>	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.
<b>Relocation Package</b>	N/A	N/A	Standard relocation package	Standard relocation package	Standard relocation package with home sale and home purchase support on discretionary basis

<b>Predeparture</b>					
<b>Immigration Support</b>	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.
<b>Pre-Assignment Visit</b>	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.
<b>Relocation Support</b>	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

<b>Cultural Training</b>	No	No	External training provided where host country presents major cultural differences and assignee not familiar with new location.	External training provided where host country presents major cultural differences and assignee not familiar with new location.	External training provided where host country presents major cultural differences and assignee not familiar with new location.
<b>Language Training</b>	Provided as needed	Provided as needed.	Provided as needed.	Provided as needed.	Provided as needed.

Appendix 3: some ways of describing differences in culture between countries



## Appendix 4: the difference between business trips and working overseas

Business Trip	Professional Activity (Work)
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
<p>Meetings and workshops where work is planned, scope is discussed and defined, responsibilities discussed, etc.</p> <ul style="list-style-type: none"> <li>• Project kick-off meeting</li> <li>• Brainstorming meetings to get aligned</li> <li>• Preparation meetings to define</li> </ul>	<p>Meetings and workshops where people meet to get work delivered.</p> <ul style="list-style-type: none"> <li>• Project workshop in execution phase, where documents are created, requirements defined, testing is done, value is created, output is created</li> </ul>
<p>Team meetings with goal to:</p> <ul style="list-style-type: none"> <li>• Align &amp; collaborate</li> <li>• Get to know each other</li> <li>• Understand e.g. team objectives, processes, organisation changes</li> </ul> <p>No output in the sense of a program is written, a document created</p>	<p>Meetings to create output:</p> <ul style="list-style-type: none"> <li>• Budget meetings – where budgets are aligned and finalised, discussed</li> <li>• Job descriptions are created with hiring manager</li> <li>• A Request For Proposal, Service Level Agreement, <b>Statement of Work</b>, etc. is created and discussed or finalised</li> <li>• Testing is being done, test scripts executed</li> </ul>

**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

Associates coming over to host country to work from there

- In their role as project team member, Project Manager, finance manager, sourcing manager, etc.