

Remote Working Outside the UK Guidance



Version Control

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Purpose	These notes provide guidance on remote working outside the UK, including what employees need to consider before making such requests and what managers need to consider before supporting any requests.		

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1.0 Introduction

- 1.1 This guidance provides information regarding the requirements that both employees and managers must consider and the process to follow when submitting or managing any requests to work remotely outside of the UK.
- 1.2 The guidance applies to all council employees (including those on fixed term and temporary contracts) and all workers (including those on casual working agreements and those on temporary agency assignments). It does not cover short term overseas business travel or establishing an overseas legal entity by having permanent overseas workers.
- 1.3 Walsall Council employment contracts require employees to be resident in the UK. This means that employees' main home / residence is in the UK, that they live in the UK for the majority of the year, and pay income tax in the UK.
- 1.4 Walsall Council is unable to accommodate requests from employees to work remotely permanently outside of the UK. The council will not employ any employees/workers who are permanently based outside of the UK. This is because overseas working can carry significant finance, legal, regulatory, data protection and safety risks etc. for both the employee and the council. There can be significant additional costs relating to income tax, social security contributions and employment law liabilities, including immigration and right to work.
- 1.5 Where employees wish to work remotely outside of the UK on a short-term, temporary basis this must be discussed with their line manager in the first instance. The employee and the manager must undertake the necessary research / seek advice to ensure any risks are identified, as these may differ depending on the work location (refer to section 2.0 accountabilities and section 4.0 implications). The manager should also take advice from Information Governance, DaTS, HR, and Payroll (as appropriate), before supporting a request, the request will then need to be sent for approval to the Head of Service (or above). The Head of Service (or above) should only approve the request if they are assured that all risks and liabilities can be appropriately managed / justified once they have taken advice from the service areas listed above.
- 1.6 Permission to work remotely outside of the UK on a short term, temporary basis must be requested in advance and will only be granted in exceptional circumstances. For example, on compassionate grounds, where individuals wish to support close relatives who live overseas or where the employee (or dependent) needs to receive specialist medical care, and where there is a business critical reason for them to continue working whilst there.
- 1.7 The council defines short term, temporary basis as a maximum of 90 calendar days (i.e. 3 months) in a tax year (April to April) regardless of the overseas working location(s). The exception to this is where there is a requirement to work abroad on formal Walsall Council business (rather than a personal preference to work remotely), where approval is required by the Executive Director.

- 1.8 Where it is agreed that an employee may work remotely outside of the UK for a period not exceeding 3 months a Temporary Remote Working outside of the UK Agreement must be completed. The agreement must be signed by the employee and their manager, and a copy of the agreement retained by both the employee and manager.
- 1.9 Where employees are requesting to work remotely outside of the UK for personal reasons, they will be expected to cover all travel, expenses and relocation costs, and costs incurred if as the employer Walsall Council require them to return to the UK for work related business reasons.
- 1.10 A temporary remote working agreement is not required where an employee / worker wishes to access the council's systems such as One Source or MS Teams via their own devices using the council's Bring Your Own Device (BYOD) process.
- 1.11 Employees should never take their council devices on leave with them unless it has been agreed in advance for them to undertake remote working, as this poses a significant risk to security of those devices for which employees are individually responsible. The use of council devices is discouraged whilst on annual leave to ensure work/life balance and support employee wellbeing.
- 1.12 Please note that in accordance with council and data protection policies, access to the council's information and technology systems is monitored for data protection and cyber security reasons.
- 1.13 Where agreement is given to working remotely outside of the UK the principles of the Ways of Working Policy and Procedures, and other council policies will still apply.

2.0 Employee accountabilities

- 2.1 Employees are accountable for:
- requesting via their manager to work remotely outside the UK in advance of any such activity;
 - ensuring they comply with any right to work obligations of that country;
 - ensuring they are aware that depending on the country they intend to be located in, that there may be obligations to pay additional taxes, insurance or other national contributions as defined by that countries employment and or income requirements;
 - ensuring they are aware of any healthcare, medical or insurance requirements of working in that country and ensure they have adequate cover to protect them;
 - ensuring that all relevant policies, procedures and standards including but not limited to Information Governance, security and data protection are adhered to;

- ensuring they will have access to appropriate broadband (at their own expense) to be able to access council systems for remote working outside of the UK;
- ensuring they have undertaken a 'home suitability and simple risk assessment' for the remote working location (refer to the Ways of Working Policy);
- ensuring they are able to work in accordance within their contractual hours of employment including UK start and finish times.

3.0 Manager accountabilities

3.1 Managers are accountable for:

- checking if there are any tax, reporting or work visa requirements for that country before approving the request. Seeking advice from HR and Payroll in support of their assessment;
- verify that the individual will have access to the internet and can work securely and confidentially while abroad. Seeking advice from DaTS and Information Governance on GDPR and data sharing outside of the UK;
- ensuring a home working and simple risk assessment has been undertaken for the temporary remote working location;
- ensuring the employee has read, understood and countersigned the Temporary Remote Working Outside of the UK Agreement;
- ensuring they are fully aware of and have taken appropriate action to mitigate or reduce any potential risk in relation to ability of an employee to fulfill their role or the way in which the service is delivered. Managers are responsible for assessing and understanding the risks, and following appropriate advice, while considering whether or not to approve the remote working outside of the UK agreement.

4.0 Implications for consideration for remote working outside of the UK

4.1 When working outside of the UK employees and the council will need to follow employment and associated rules applicable to the overseas country the employee is working from including;

- **Income tax:** If an employee spends a significant amount of time working overseas they are likely to have tax liabilities and other possible reporting obligations in that host country, and may be considered tax resident there, depending on the applicable tax rules in that host country. The fact that the employee works for a UK employer and receives pay in the UK may lead to being them being taxed twice. However, generally, short term working overseas means the employee is taxed in the UK but not overseas, but there may still be reporting obligations on the employee and/or employer to the authorities in the overseas country. Advice can be sought from the HMRC.
- **Social Security (National Insurance):** Social security needs to be considered separately from income tax. Even if an employee is not taxed overseas they may still be liable to pay social security contributions, this is in addition to UK National Insurance. Payment of overseas social security will be the employee's responsibility, however the council may be liable for paying the employer contributions for that country.
- **Payroll withholding:** Dependent on the above income tax and social security position, the council may have payroll withholding or other compliance obligations for the overseas country in respect of the

employee's presence there. For example, the council may need to collect and pay over foreign withholding taxes each time the employee is paid.

- Data Protection:** If an employee's role involves processing personal data, this could give rise to data protection issues. Data protection advice will need to be taken and consideration given to whether any personal data is being transferred to another country and whether this is classed as processing of data. Some countries have a data protection agreement with the UK, such as countries within the EU/EEA, however the majority do not so advice will need to be sought from the Information Governance team. If there is a data breach whilst working remotely abroad this will need to be raised and the normal reporting process followed.
- Immigration law (visa requirements):** Individuals seeking to work from a country that they are not a national of will need to take immigration advice. Most countries determine the need for a visa by the activity that is undertaken and not the duration of a stay, therefore a visitor's visa may not necessarily permit work to be undertaken, even if the work is remote. Each country has its own rules and so should be assessed on a case-by-case basis. Advice can be sought from a [UK-based embassy](#) of the applicable country.
- Employment law:** There may be local labour laws that apply for working in a different overseas country, even when doing remote work from that country.
 For example annual leave - employees retain their UK contractual entitlement to annual leave, however in some cases annual leave may need to be adjusted / used to account for any local statutory holidays in the overseas country. Any leave should be requested/approved the same way as it would if the employee were working in the UK.
 For example working time – there may be restrictions on the number of working hours an individual may undertake in a certain period in the overseas country. The employee and manager should ensure compliance with local laws.
- Health and safety:** If the workplace has changed a health and safety risk assessment of the workplace will need to be completed. The council has a duty to protect the health, safety and welfare of the employees, irrespective of where they are working, therefore a 'home suitability and simple risk assessment' must be completed for the new remote working location. If employees are working remotely outside of the UK they must ensure they are compliant with local health and safety laws of the overseas country.

4.2 Generally if the overseas working is only short term, temporary the issues/risks above may be reduced dependent on the country.

- 4.3 The employee, and manager agreeing to remote working outside the UK, will need to get specific tax, immigration, legal advice etc. for the country concerned, as working overseas can have implications for both the employee and the council.
- 4.4 Managers are responsible for assessing and understanding the risks. If any potential risks are identified managers must seek and follow appropriate advice (from HR, Payroll, DaTS and Information Governance, as applicable), before agreeing to remote working outside of the UK.

5.0 Further Reading

- 5.1 Further reading can be found on the gov.uk website;

[Tax while working abroad](#)

[National insurance while working abroad](#)

[Health and insurance while working abroad](#)