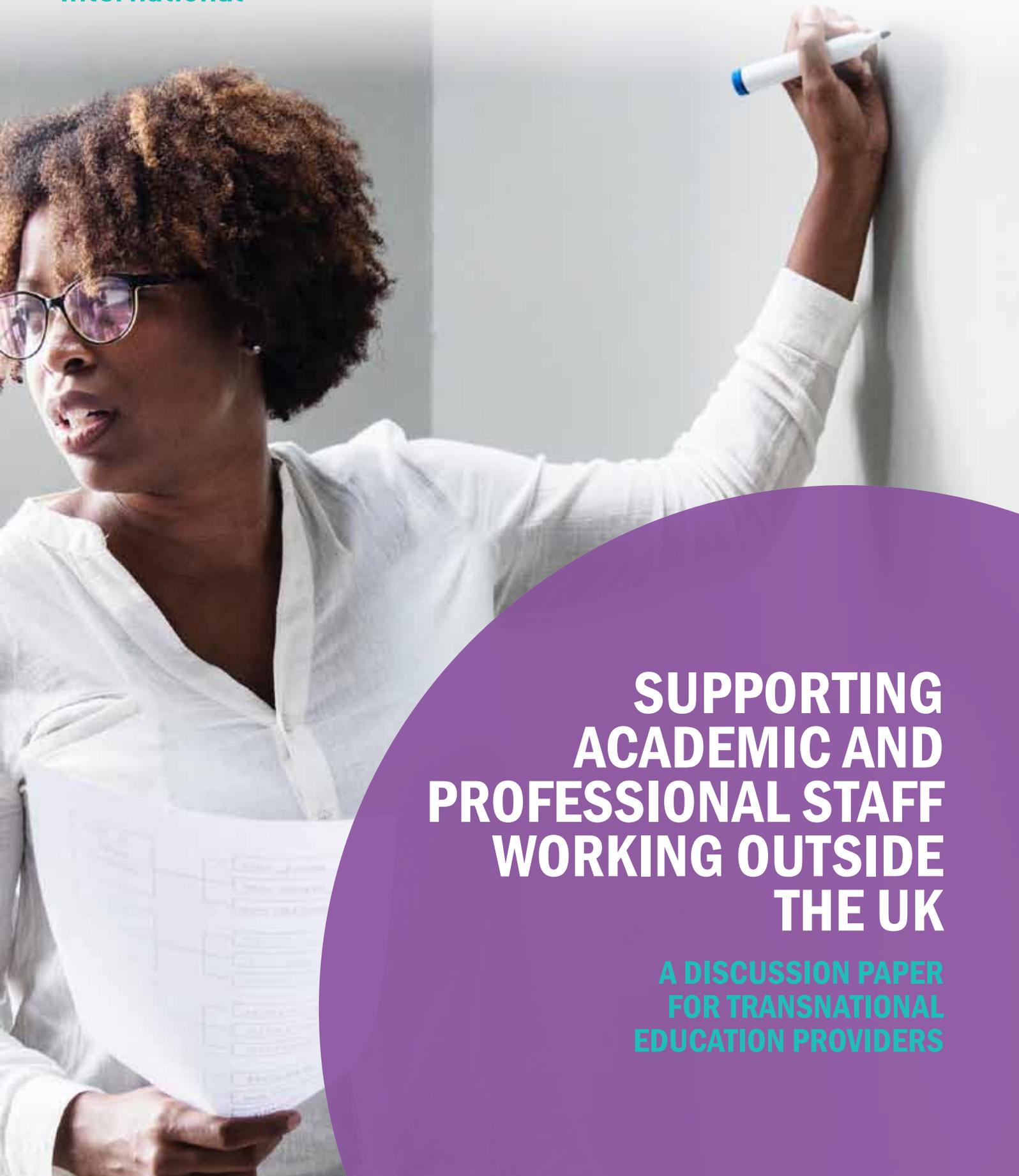




Universities UK
International



SUPPORTING ACADEMIC AND PROFESSIONAL STAFF WORKING OUTSIDE THE UK

**A DISCUSSION PAPER
FOR TRANSNATIONAL
EDUCATION PROVIDERS**

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UNIVERSITIES UK INTERNATIONAL

UUKi is the international arm of Universities UK.

We help UK universities flourish internationally by representing them and acting in their collective interest. We actively promote universities abroad, provide trusted information for and about them, and create new opportunities for the sector. We aim to: enable universities to develop and deliver strong international strategies; influence the policy and regulatory environment through our ability to represent UK universities; and create diverse opportunities through strategic partnerships.

EXECUTIVE SUMMARY

UK degrees are now delivered in 228 countries, territories and administrations outside of the UK.

Each of these locations has its own cultural norms, practices and behaviours and laws relating to the treatment of individuals in society and the workplace. These may not align with UK cultural norms, practices, behaviours and laws.

This discussion paper highlights some of the factors that universities should address when deploying staff overseas to support transnational education (TNE) programmes. Four key areas are discussed: supporting diversity and opportunity; legal considerations; expectations of and about staff based overseas; and incorporating these themes in TNE strategy and leadership.

INTRODUCTION

The number of students studying for UK degrees outside of the UK has grown by 6.3% since 2014-15, to 707,915 students in 2016-17.¹

Excluding students from the three main programme providers of distance, blended and flexible TNE, who make up around 55% of provision, the growth in UK higher education TNE between 2015-16 and 2016-17 was 4.2%.²

There are no comprehensive data sources which show the numbers or locations of UK employed staff deployed overseas to support the delivery of TNE programmes. In 2014-15, UUKi-commissioned research found an average ratio of one member of UK university staff employed to every two TNE programmes. Of those, 5% were based overseas for the majority of their time; more were employed directly in the host country by subsidiary companies, like branch campuses.³ Some other data is available through independent, localised studies: for example, British Council Education Services found that 61% of jointly administered programmes between UK and Chinese universities had permanent UK administrative staff in a 2015 survey.⁴

Alongside this, professional practice in managing TNE is evolving rapidly. The growing willingness of universities to share their good practice examples, for example at UUKi's TNE workshops and roundtables, has highlighted the positive impact that having UK employed staff based at or near a TNE site can have. This practice can improve the efficiency of operational practice, support ongoing relationship building with partners, and demonstrate commitment to the programme to students in-country. Some overseas governments set minimum teaching requirements in-country for any programmes that they approve with international partners, which can be explicit in expecting staff employed by the UK university to deliver the teaching element.⁵

The numbers of staff employed by UK universities and based overseas to support TNE delivery in recent years will likely have grown at more than the rate of TNE student numbers growth and will continue to increase in the years to come. This is, at least in part, due to the continuing expansion of TNE models which will likely require some in-country presence, and the increasing recognition of the benefits that having staff in-country offers.

1 Higher Education Statistics Agency, Aggregate Offshore Record 2016-17.

2 Excludes Oxford Brookes University BSc in Applied Accounting, Open University (OU) and University of London International Programme (UoLIP) students.

3 UUKi (2016) The Scale and Scope of UK Higher Education Transnational Education. These responses are based on detailed survey comments from 31 TNE providers, including those with the highest volume of student numbers and variety of provision.

4 British Council and the China Education Association for International Exchange (2017), Research on Current UK-China Transnational Education: From the Perspectives of Administrators and Students, p21.

5 For example, the Ministry of Education in China expects one third of teaching to be conducted by UK staff, and encourages the majority of programmes to be delivered in China.

UK degrees are now delivered in 228 countries, territories and administrations outside of the UK. Each of these locations has its own cultural norms, practices, behaviours and laws relating to the treatment of individuals in society and the workplace. These may not align with UK cultural norms, practices and behaviours. Legislation relating to areas such as equality and diversity may also not exist in some countries hosting UK higher education TNE, or where it does, may diverge from the requirements set out in UK law.

This paper highlights some of the factors that universities should address when deploying staff overseas to support TNE programmes. In particular it looks at the wider support normally incorporated in good people management strategies within the UK base, such as considerations of career progression mechanisms and duty-of-care. Four key areas are discussed: supporting diversity and opportunity; legal considerations; expectations of and about staff based overseas; and incorporating these themes in TNE strategy and leadership. It does not cover formal HR arrangements or contracts; most universities have processes in place to address these, and they can also be managed through various support agencies or consultancies.

Universities delivering degrees abroad will need to consider the application of the local law of the jurisdictions in which they are operating, for example, equality and working conditions. Consideration of these issues by location is outside the scope of this discussion. This paper does not constitute legal nor HR advice; readers should seek legal advice or HR counsel if they require advice on the implications of local law.

WHAT IS UK HE TNE?



Transnational education is education delivered in a country other than the country in which the awarding institution is based. UK higher education transnational education (UK HE TNE) refers to UK degree programmes delivered outside of the UK.

UK HE TNE can be developed and delivered in many ways: from branch campuses which will likely include specific management appointments to the campus and staff secondments from the UK, to joint degrees and blended programmes, which may require fly-in faculty to visit countries for blocks of time and deliver core modules. UK HE TNE also includes online learning, validation and franchise.

USEFUL RESOURCE: UCEA EMPLOYING HE STAFF OVERSEAS: A TOOLKIT



This toolkit for HR managers includes checklists and case studies, and is specifically designed to help address staffing matters relating to employing UK staff at branch campuses.

Note: access to this toolkit requires University Council for Educational Administration (UCEA) membership.

2017 ROUNDTABLES



Universities UK International, the Equality Challenge Unit (ECU)⁶ and the Staff Working Abroad Special Interest Group (SIG) chaired by Queen Mary, University of London, convened a series of roundtables in 2017 to discuss how staff working overseas to deliver TNE are supported. These aimed to develop guidance on good practice for equality and diversity, and safety and well-being considerations for TNE staff support.

The meetings revealed that, while there are examples of good practice, these tend to have been responsive to specific incidents. There is a need for more senior framing and recognition of the issues that were discussed, before guidance might meaningfully be created.

The roundtable meetings, feedback from workshops delivered jointly between UUKi, ECU and the SIG chair at national conferences, feedback from SIG members and the UUKi TNE advisory group, have informed this discussion paper.

⁶ With effect from 1 April 2018, ECU, Leadership Foundation for Higher Education and the Higher Education Academy merged to form Advance HE.

LEGAL CONSIDERATIONS

The Equality Act 2010 protects individuals from unfair treatment, and promotes a fair and more equal society.

The Act applies to the workplace, to the provision of services, exercise of public functions, managing or letting premises, in education, and for associations including private clubs.

Through the Equality Act 2010 and its later amendments, universities and colleges in England, Scotland and Wales have a general duty to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations. Section 75 of the Northern Ireland Act 1998 places similar responsibilities on institutions in Northern Ireland.

Duty of care is the moral or legal obligation to ensure the safety or well-being of others. Employers, including universities, have a legal duty of care to their employees, to take all steps to reasonably ensure staff health, safety and well-being. This is addressed within various legislation, for example the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999. The extent to which these acts apply to the protection of UK-employed staff who are based beyond the geographical boundaries of England, Scotland and Wales is unclear and there is limited legal precedent in this area. In 2006, *Lawson v Serco* identified that the Employment Rights Act 1996 only applied to those working abroad in exceptional circumstances¹⁰. In 2014, *Clyde & Co LLP v Bates van Winkelhof* identified that if a member of staff is not based wholly overseas but spends some time living or working in Great Britain, a tribunal need only decide a connection is strong enough for a case to be heard in Great Britain.¹¹

USEFUL RESOURCE: ECU (2011), THE EQUALITY ACT ABROAD



This guidance was prepared on behalf of the ECU and discusses: background to the legislation; working wholly or partly in Great Britain; jurisdictional issues; scope of the Equality Act (employment and educational issues); and other considerations.



What is the balance between the legal reach of UK laws into overseas territories, and the ethical reach of UK universities' duty of care to their staff, irrespective of location?



To what extent do universities actively assess their duty of care to staff based overseas?

¹⁰ <http://www.hrmagazine.co.uk/article-details/employment-law-is-there-protection-for-british-workersoverseas>.

¹¹ <http://www.hrmagazine.co.uk/article-details/llp-members-gain-whistleblower-rights-in-landmark-ruling>

SUPPORTING STAFF BASED OVERSEAS

WHAT MIGHT HOST LOCATIONS EXPECT?

Equality and diversity legal provisions are not like-for-like everywhere in the world. In the most extreme examples, characteristics protected in UK law may be illegal in host countries. An employing UK organisation may not feel able to assure its staff's safety in certain locations, or staff with protected characteristics may not want to work in those locations, or may feel anxious about doing so. There may be other factors which are not protected characteristics but influence how staff may consider requests to work overseas – for example, a political affiliation may affect their safety. Such scenarios should not limit staff from career progression or the potential to succeed.

Sometimes, overseas governments will expect to have a role in appointing key staff to universities. It may be a requirement of programme approval and extend to the appointment of UK employees who will deliver approved TNE programmes. Even where the UK university has put in place practices to assure fair recruitment and appointments, these may be impacted on by overseas expectations and their norms of recruitment. Unconscious bias may be considered in different terms by each of the partners making appointments.

There may be preconceptions about what 'British' looks like. Overseas students and partners may expect UK staff to look or act a certain way, which may differ from UK standards or expectations. There is a risk that an appointed role holder might not be accepted because of their appearance or actions. In considering how to challenge these preconceptions, universities will need to think about their role in actively preventing discrimination against staff who might otherwise be appointed to senior roles. Appointments which reflect multicultural societies can also be important in showcasing a modern UK.

WHAT MIGHT UK UNIVERSITIES EXPECT?

Working overseas can be an opportunity for staff to extend their cultural immersion and develop new skills. It can represent an opportunity for career progression, which might be difficult to secure in established senior management structures at home. Some of the challenges about addressing equality and diversity considerations when resourcing TNE in-country have already been discussed; it is worth also noting that staff may have chosen not to disclose their protected characteristics to the UK university, but find they are asked to work in areas where their well-being may be at risk due to their undisclosed characteristics.

Universities will normally provide a relocation offer with specific services to their employees who move overseas for periods of time to support the university's TNE programmes. This often extends to families and dependents, such as school registration for children or language training for partners.

USEFUL RESOURCE: STONEWALL (VARIOUS), GLOBAL WORKPLACE BRIEFINGS

www.stonewall.org.uk/global-workplace-briefings

These briefings provide advice for employers on how to create inclusive and equal workplaces for LGBT employees around the world. They outline the legal, socio-cultural and workplace situation for LGBT people in the specified country, and showcase progressive workplace practices.



Complex negotiations to determine fair contractual arrangements can be handled by external agencies, including salary setting. Taxation and whether the employer or staff member is responsible for returns, and to which governments both during and after a posting overseas, needs professional advice. There may be an employee assistance programme, and it may extend to overseas locations. But many of the infrastructures that universities offer in the UK, such as LGBT networks or Women in Leadership fora, may be less commonplace for staff based overseas. There may also be new support needs to consider, such as homesickness or the need to adapt to new cultural environments. There appears to be varied practice amongst universities in how they incorporate these needs into staff support packages.

The complexities of a university's duty of care to its staff delivering TNE do not start and finish with recruitment, or the time that staff spend overseas. On return to the UK, staff will be entitled to a fair posting which does not penalise them for their time spent overseas; they may even be stronger candidates for career progression as a consequence of their time overseas. They may have different well-being needs as a consequence of their TNE posting, for example, reintegrating into their home culture and organisation can be challenging, and perhaps not considered in the staff support opportunities currently offered.

 What assessments are made of the support environment available to staff who are posted overseas to deliver TNE?

 What measures are in place to consider equitable experiences and support infrastructure for staff irrespective of location?

 How does an overseas posting to support TNE delivery differ to international travel that other staff at a university might routinely undertake, such as research field visits or recruitment missions?

STAFF SUPPORT WITHIN TNE STRATEGY AND LEADERSHIP

TNE is increasingly delivered through partnerships, which have become more equitable as management practices have evolved.

Where TNE is delivered with a UK partner, the UK partner is usually the lead on the UK's global calling cards of higher education excellence: curriculum, quality assurance and assessment. Beyond that, there is an increasingly equal distribution of responsibility, or strong focus on joint delivery and ownership.

Attention has recently turned to the strategic synergy of these partnerships. Governing bodies and Vice-Chancellors' advisory teams generally ask questions not just about whether the particular TNE collaboration makes sense for all organisations involved, but also whether there is a cultural fit, taking into account partners' existing portfolios of activity, future ambition and organisational values.

Meanwhile, leadership considerations are constantly being refined for TNE. The Leadership Foundation for Higher Education's insight paper 'Challenges for the leadership of TNE HE: balancing risk and innovation' (2016) set out five key challenges: institutional engagement, evaluation, operational phase, quality assurance, and enhancement¹²

Effective and well-planned strategy and contractual arrangements for TNE are vital. Growing focus on managing those professionally is welcome, and critical to the future success of UK universities' degree activity overseas.

ECU's Equality Act Abroad (2011) briefing suggested that "many HEIs will wish to ensure that staff or students based overseas receive the same protection from discrimination as their counterparts who are based in Britain."¹³ However, in the joint 2017 roundtable discussions with staff from universities, the issues outlined in this paper seem to be addressed only if and when they arise, rather than actively considered from the outset.

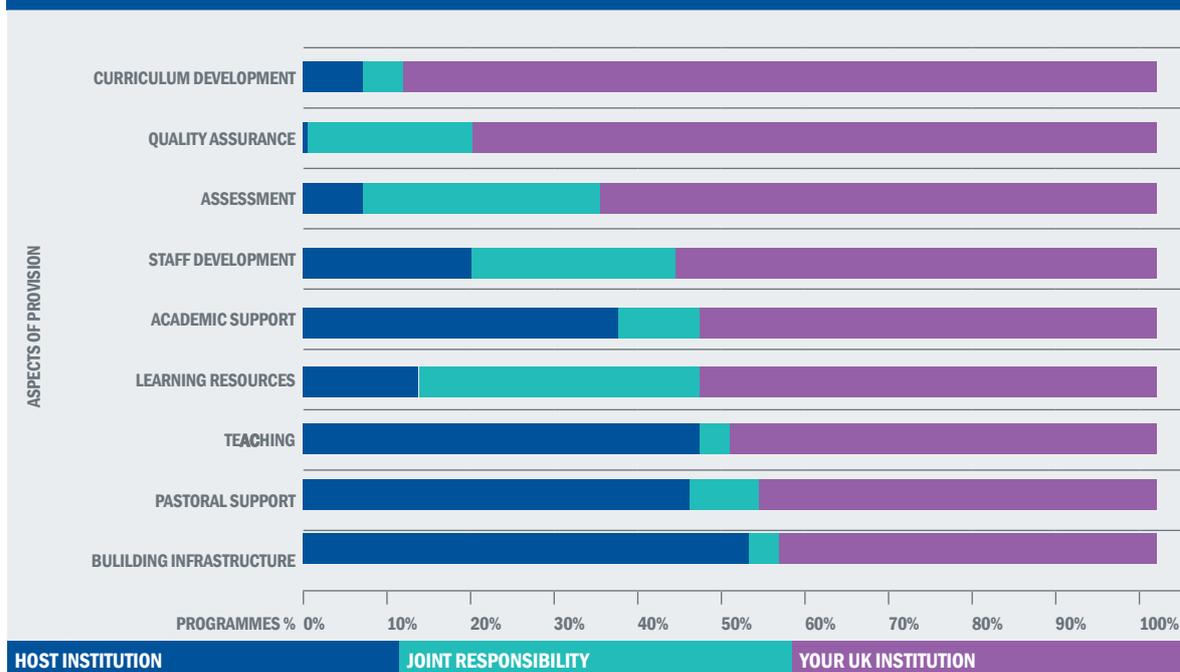
 How are values considered in due diligence practices for managing TNE?

 What examples can senior leadership set in demonstrating clear expectations about protecting staff from discrimination, irrespective of location, and to all partners?

12. Leadership Foundation for Higher Education (2016) Challenges for the leadership of TNE HE: balancing risk and innovation <https://www.lfhe.ac.uk/en/research-resources/publications-hub/leadership-insights/leadership-insights-detail/challenges-for-the-leadership-of-transnational-education-in-higher-education-balancing-risk-and-innovation.cfm>.

13. ECU (2011) Equality Act Abroad, <https://www.ecu.ac.uk/publications/equality-act-abroad/> p11.

MANAGING THE PARTNERSHIPS: RESPONSIBILITY FOR DIFFERENT ASPECTS OF PROVISION



Source: UUKi, The Scale and Scope of UK Higher Education Transnational Education, June 2016

CONCLUSION

This paper has highlighted just some of the ways that supporting people beyond the basics of employment contracting is not only good practice for HR, but meets wider legal expectations for organisations who employ staff.

It is essential to ensuring an organisation functions well, and that the staff within that organisation feel valued and connected. It has highlighted where this may be a challenge when supporting staff based overseas for TNE, and some areas of challenge. It sets out questions in four key areas: supporting diversity and opportunity; legal considerations; expectations of and about staff based overseas; and incorporating these themes in TNE strategy and leadership. Each of these four thematic areas can form the basis for future discussion.

This discussion paper highlights the areas that led UUKi, the ECU and the SWA SIG to convene meetings, and some of the examples surfaced at those roundtables. Further work is needed by universities and the agencies supporting them to highlight and share good practice in supporting staff when they spend time overseas to support the growth of TNE. Tackling these at both strategic and practical levels will help to ensure that the UK's universities continue to be world-leading through effective, well-thought-out, and considerate delivery of their duty of care to staff, irrespective of location.



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