

<b>Eligibility To Work in the UK Procedure</b>	
<b>Enabling Policy Statement; Executive Owner; Approval Route:</b>	Our Colleagues – Chief Operating Officer – Operations Committee
<b>Is the Procedure for internal use only (Non-disclosable) ?</b>	Disclosable
<b>Associated Policy Statements:</b>	Our Students
<b>Authorised Owner:</b>	Human Resources Director
<b>Authorised Co-ordinator:</b>	Associate Director (People Services)
<b>Effective date:</b>	03 July 2024
<b>Due date for full review:</b>	03 July 2025 – Annual review required
<b>Sub documentation:</b>	<ul style="list-style-type: none"> <li>• Acceptable Documents For Proving Right To Work In the UK and Checking Process</li> <li>• Points Based System For Skilled Workers Protocol</li> <li>• Additional Information About The Skilled Worker Visa Standard</li> </ul>

### Approval History

<b>Version</b>	<b>Reason for review</b>	<b>Approval Route</b>	<b>Date</b>
1.0	3 Yearly review and migration to the POPP governance structure  Amendments due to legislation changes in April 2024 and update of content	Operations Committee (via Chair's Action)	03 July 2024

## 1. Purpose

The purpose of this procedure is to ensure that the University complies with its legal responsibilities in accordance with the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, by ensuring that all employees hold the appropriate documents to allow them to work in the UK. This procedure will also provide guidance on pre-employment and subsequent checking of documents to ensure ongoing compliance.

Where applicable, the University will act as a Sponsor under the current system of immigration, and this procedure outlines the duties placed on the University as a Sponsor as well as the additional responsibilities of employees who are sponsored by the University.

## 2. Scope and Exceptions to the Procedure

The University has a responsibility to ensure that every employee has the legal right to work in the UK. The consequences of getting it wrong and employing an individual illegally include fines of up to £60,000, criminal prosecution for the University and individual employees, and downgrading or loss of our licence to sponsor visas for current or prospective employees.

Every employee is required to supply the appropriate documents to prove that they have the right to work in the UK before and where applicable throughout their employment with the University. This procedure applies to any worker who is paid by the University through its payroll and therefore includes permanent and fixed term contract employees, Associate staff, External Examiners/Assessors as well as those paid via the Short-Term Teaching Payroll.

This procedure does not form part of any employee's contract of employment. It may be amended from time to time with appropriate consultation with recognised trade union representatives.

## 3. Definitions and Terminology

Frequently used terms:

- **ATAS** - Academic Technology Approval Scheme
- **BRP** – Biometric Residence Permit
- **CoS** – Certificate of Sponsorship
- **GAE** – Tier 5 Government Authorised Exchange
- **GTV** – Global Talent Visa
- **PBS** – Points Based System
- **SOC** - Shortage Occupation Codes
- **UVKI** – UK Visa and Immigration
- **ISL** – Immigration Salary List

## 4. Procedural Principles

### 4.1. Right to Work Checks

The University of Surrey has a duty to prevent illegal working by carrying out document checks on all employees to confirm if a person has the right to work in the UK. A 3 step process will be followed:

*Obtain:* original, acceptable documents before an employee starts work. Acceptable documentation is listed in the 'Acceptable Documents For Proving Right to Work In The UK and Checking Process' sub document.

*Check:* the document's validity in the presence of the holder by taking all reasonable steps to check that the document is genuine and to confirm that the holder is the person named in the document. The document should also allow the individual to do the work in question.

*Copy:* Make and retain a clear copy, verifying and dating the copy to confirm an original has been seen and checked.

Further guidance on checking documents can be found in the 'Acceptable Documents For Proving Right to Work In The UK and Checking Process' sub document.

In some cases, the University may contact the Employer Checking Service for information on certain documents issued by the UK Visas and Immigration (UKVI), or to confirm eligibility to work.

Candidates will also be required to bring in their original qualification certificates relevant to the position they have been appointed to..

Where the documents show that the individual has an automatic or indefinite right to work in the UK no further check on eligibility is normally required during the period of employment. If an individual has a time limit on their right to work the eligibility checks will normally be made annually.

#### **4.2. Who is eligible to work in the UK?**

An individual may have an automatic or indefinite right to work because:

- They are a national of the UK or Ireland
- They hold a valid time-limited visa or permit that doesn't require sponsorship
- They have indefinite leave to remain in the UK

#### **4.3. Time-limited right to work in the UK**

Individuals who do not have the indefinite or automatic right to work in the UK are subject to immigration control and must obtain an appropriate visa before they are permitted to take up employment. This provides the individual with time-limited right to work in the UK. These tend to be via two routes – the Points Based System (PBS), or other visas.

#### **4.4. Recruiting an employee from outside the UK**

The University recognises that it should be active in the global recruitment market in order to attract and retain the most innovative and creative individuals who will make a significant contribution to the UK economy.

If an overseas candidate is a preferred choice to fill a vacancy within the University, then with agreement from the relevant HR Business Partner, the appropriate visa options will be explored for engaging the candidate.

Recruiting managers should be aware that for some posts an Immigration Skills Charge will apply if sponsoring a non UK/ Irish national to a position. HR Operations will advise on this as appropriate.

#### **4.5. Points Based System (PBS)**

The points based system consists of a two-part process in which a visa applicant must gain 70

points from both mandatory and tradeable requirements in order to qualify for a certificate of sponsorship. The mandatory requirements award 50 points and the tradeable requirements award 20 points.

Three criteria must be satisfied to meet the mandatory requirements:

- A visa applicant must have a job offer from a licenced sponsor
- The job must be at least RQF level 3 (A level or equivalent)
- The applicant must have a proven standard of English

20 points are available in the tradeable assessment as follows:

- The job offer must meet the highest of either the salary threshold or the going rate for the job as determined by UKVI, whether the post is full-time or part-time
- If the salary does not gain the full 20 points, then points can be traded if the post requires a PhD as an essential requirement or a PhD in a STEM subject. In some instances, it may be possible to trade points where the applicant meets the new entrant criteria
- The job offer is on the Migration Advisory Committee, Immigration Salary List (ISL) adopted by the UK government.

A more detailed explanation of how the points system is used to assess visa eligibility is contained in the sub-document 'Points Based System For Skilled Workers Protocol'.

#### **4.6. Skilled Worker Visa**

Following an offer of employment being made, providing the candidate can obtain the required 70 points, the University will allocate an undefined Certificate of Sponsorship (CoS) (for overseas workers currently sponsored in the UK) or a defined CoS for approval to enter the UK to work. The University will pay a fee for each CoS allocated. Once approval is given the applicant has a set time to apply for their visa against the unique CoS number. Their application to release the CoS in their name will cost them a set fee. Once the candidate has commenced employment, then they will be able to apply for reimbursement of the standard visa fee and for an interest free loan to assist with the payment of other UK visa costs, including the Immigration Health Surcharge and UK visa fees for dependants (See section 4.18).

Employees who are granted a visa from abroad (non-EU) have a set time to travel and to provide details for their vignette and other conditions they must satisfy on arrival in the UK. If an individual does not meet the set timeframes and is unable to commence work according to the date set out in their certificate of sponsorship, this could impact their employment at the University and could result in the removal of the certificate of sponsorship.

Once a worker has been granted permission, they should normally start working in their sponsored employment no later than 28 days after whichever is the latest of:

- the start date on their CoS (taking into account any changes to that date reported by you before their application for entry clearance or permission was decided)
- the "valid from" date on the worker's entry clearance vignette (visa)
- the date the worker is granted permission to enter, if they entered the UK without entry clearance under the Creative Worker visa concession
- the date the worker is notified of a grant of entry clearance or permission to stay

#### **4.7. Global Talent Visa (GTV)**

This visa route is for established or emerging leaders in academic or research, arts and culture or

digital technology. This visa does not require an employer to sponsor a worker or to take any responsibility for maintaining records or reports like those which are found in the conditions of a skilled worker visa.

There are four routes for eligible academics and researchers to obtain endorsement for a Global Talent visa:

- i.) **Academic and research appointments** – fast-track endorsement for individuals who have accepted an eligible position [at an approved UK higher education institution or research institute](#) with responsibility either for academic, research or innovation leadership and development, or for directing or leading an individual or team research or innovation project or programme of work. This route is administered by the British Academy, Royal Academy of Engineering and the Royal Society.

The University is currently able to support visas under this route for those academic roles that meet the relevant criteria, normally Senior Lecturer and above.

- ii.) **Individual fellowships** – fast-track endorsement for individuals who have been awarded an [individual fellowship on the list](#) approved by the British Academy, Royal Academy of Engineering and the Royal Society. The fellowship must be held currently or within the last five years.

- iii.) **Endorsed funders** – fast-track endorsement for researchers and specialists whose name or job title is specified in a successful grant application from [an endorsed funder approved by UKRI](#). In order to be eligible, researchers must be hosted or employed by [an eligible institution approved by UKRI](#).

- iv.) **Peer review** – standard endorsement for individuals who submit an application for [full peer review](#) by the British Academy, Royal Academy of Engineering or Royal Society.

To be considered for entry under the Global Talent visa the individual would normally need to apply for endorsement (peer review/endorsed funders route/s) from one of the recognised professional science, academic and technical institutions, and then apply for their visa. There are no set requirements for salary levels, and individuals can apply to stay in the UK for up to 5 years at a time.

In most cases the University will reimburse for visa fees connected to the Global Talent Visa for the individual only. For other associated costs e.g. dependent fees the University offers an interest free loan.

#### 4.8. Visitor Visa

The Visitor Visa is for individuals who need to visit the UK regularly, but who are not employed or living full time in the UK.

A standard visitor's visa lasts up to 6 months, but academic visitors who meet the requirements may be able to stay for up to 12 months. Holders can enter and leave the UK as many times as they want during the period granted on their visa.

The holder of a visitor's visa enables them to:

- Travel around the UK as a tourist
- To visit family and friends
- To attend business meetings, negotiate and sign contracts

- To present papers to conferences
- To collaborate academically

While on a visitor visa, an individual cannot do paid or unpaid work, live in the UK for long periods of time, claim public funds, undertake a course of study for longer than 6 months or marry or register a civil partnership.

#### **4.9. Youth Mobility Scheme (YMS)**

This is a two-year scheme agreed between the UK and other countries (presently Australia, Canada, Monaco, New Zealand, Japan, Hong Kong, Republic of Korea, San Marino and Taiwan) enabling citizens of both countries to stay on the YMS visa to experience life and work in that country. To be eligible, the applicant must be aged between 18 and 30 and not have been on the visa before. They must also meet maintenance requirements.

There are few restrictions on the type of work holders of this visa may undertake, however it should be noted that individuals cannot hold the visa for more than 24 months.

#### **4.10. Temporary Worker - Government Authorised Exchange (Tier 5)**

The Temporary Worker – Government Authorised Exchange (GAE) visa is applicable for individuals who want to come to the UK for a short period of time to undertake training, work experience, research or a fellowship through an approved GAE scheme. Individuals must have a sponsor, this can be their current employer, or an external funding body, meet the maintenance criteria and be issued a Certificate of Sponsorship by the University.

The University is allocated a limited number of Temporary Worker – GAE Certificates of Sponsorship on an annual basis, applicants will need to provide evidence that they meet the criteria before being assigned a CoS. HR Operations will be able to advise when this is the appropriate route to use.

#### **4.11. UK Ancestry Visa**

Allows grandchildren of UK born grandparents from the Commonwealth to stay and work in the UK for up to 5 years. Individuals are required to apply directly for this visa and are not sponsored by the University. There are no work limitations or reporting requirements for the University attached to this visa.

#### **4.12. Graduate Scheme**

This is a two or three year visa for individuals who have successfully completed a course in the UK, and must be applied for from within the UK. Individuals can apply for this visa if they are in the UK, hold a current Student or Tier 4 (General) visa, and have studied and successfully completed a UK bachelor's degree, postgraduate degree or other eligible course. There are limited work restrictions and no reporting requirements for the University attached to this visa.

#### **4.13. Student Visa**

##### *Student Working Restrictions*

There are some occasions on which the University will employ students to undertake substantive roles, however the recruiting manager should be aware that there may be restrictions that apply to this appointment.

A student with restricted right to work in the UK may be permitted to obtain employment to supplement their studies. It is important to remember that the leave to remain was granted to study in the UK, and this must remain the focus of their stay.

Work permitted during the student's studies is stated on the visa which may be an endorsement in the passport, Biometric Residence Permit (BRP) or via an online Share Code.

If permitted to work, there are restrictions placed on the number of hours which may be worked per week. The number of permitted hours will depend on the level of study for which the Certificate of Acceptance of Studies (CAS) was granted.

Students can do most kinds of work, but must not:

- take a permanent full-time job
- be self-employed
- be employed as a professional sportsperson including as a sports coach
- work as a doctor or dentist in training

UK Visas and Immigration introduced the requirement to obtain evidence of term and vacation dates as part of the right to work in the UK check. UK Visas and Immigration consider acceptable evidence to be one of the following:

- A printout from the student's education institution's website; or
- other material published by the institution setting out its timetable for the student's course of study; or
- A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- A letter addressed to the proposed employer from the education institution confirming term time dates for the student's course.

Where a student has multiple employment contracts the total number of hours worked each week on the combined contracts must not exceed the conditions of the visa. It is essential that the number of hours worked per week is managed by both the Line Manager and the student.

Unless otherwise stated on the visa, foundation level students who are studying below degree level and some pre-session programmes (CAS dependent) may work up to 10 hours per week during term time. Undergraduate, postgraduate and students studying for a PhD may work up to 20 hours per week during term time.

For Tier 4 students working through Unitemps, a similar process is in place to ensure they do not work more than their permitted hours. For further details, please contact Unitemps.

#### **4.14. Permitted paid engagements**

This visa allows visitors to come to the UK to carry out permitted paid engagements. The types of activity allowed under this visa and relevant to the University are:

- An academic may examine students and/or participate in or chair selection panels, if they have been invited by a UK Higher Education Institution as part of that institution or organisation's quality assurance processes.
- An expert may give lectures in their subject area, if they have been invited by a UK Higher Education Institution provided this does not amount to filling a teaching position for the host organisation.

An individual can come to the UK for up to 6 months, but they must undertake the engagement in the first month.

Individuals who have this visa can be paid via the Short Term Teaching Payroll.

#### **4.15. Academic Technology Approval Scheme (ATAS)**

ATAS is the 'Academic Technology Approval Scheme' and applies to international researchers who are intending to undertake research in certain subjects.

Visa applicants coming to the UK to work in these designated subjects must receive ATAS clearance before commencing research activity. When an offer of employment is made to commence a new role, the relevant HR contact will advise the individual that they are required to receive ATAS clearance, and only once this is received will they then apply for and issue a Certificate of Sponsorship.

#### **4.16. Immigration Health Surcharge**

UK Visas and Immigration has introduced an Immigration Health Surcharge on top of the standard visa fee.

The surcharge was introduced by the government to ensure that non-UK and Irish nationals contribute to the NHS whilst they are living and working in the UK. The payment will go directly into the NHS and will ensure the individual is entitled to full access on the same terms as a permanent UK resident.

The current costs of the Immigration Health Surcharge can be seen below:

- £776 per year for students, their dependants, and those on a Youth Mobility Scheme visa, for example £1,552 for a 2-year visa
- £776 per year for visa and immigration applicants who are under the age of 18 at time of application
- £1,035 per year for all other visa and immigration applications, for example £3,105 for a 3-year visa

Dependants aged 18 or over usually need to pay the same amount as the new employee.

Payment for half of the yearly amount will be made if an application includes part of a year that is less than 6 months.

Payment for a whole year will be made if the application includes part of a year that is more than 6 months.

The full cost of the Surcharge must be paid by the individual at the point of application. Current employees can request an interest free loan to support with Immigration Health Surcharge costs as part of their UK visa fees.

#### **4.17. Immigration Skills Charge**

The University may have to pay an additional charge when we assign a certificate of sponsorship to someone applying for a Skilled Worker or Intra-company Transfer visa. This is called the 'immigration skills charge'.



The University must pay the immigration skills charge if an individual is applying for a visa from:

- outside the UK to work in the UK for 6 months or more
- inside the UK for any length of time

The University will also not have to pay the charge if sponsoring someone with one of the following occupation codes:

- chemical scientists (2111)
- biological scientists (2112)
- biochemists and biomedical scientists (2113)
- physical scientists (2114)
- social and humanities scientists (2115)
- natural and social science professionals not elsewhere classified (2119)
- research and development managers (2161)
- other researchers, unspecified discipline (2162)
- higher education teaching professionals (2311)
- clergy (2463)
- sports players (3431)
- sports coaches, instructors and officials (3432)

The cost of the immigration skills charge to the University is £364 for the first year and £182 for every 6 months thereafter.

#### **4.18. Loan Facility**

The University of Surrey can provide an interest free loan to assist current employees and their dependants with the payment of UK visa fees. This may include Skilled Worker, Global Talent, Indefinite Leave to Remain (ILR), Immigration Health Surcharge (IHS) fees as well as support for meeting the maintenance requirement. The loan does not cover costs incurred for IELTS, Ecctis or premium biometric appointments.

Eligible employees are those who have commenced employment at the University and are applying for a UK visa and/or are liable for payment of Immigration Health Surcharge (IHS). This includes employees who are non-EEA nationals and are applying for Indefinite Leave to Remain. The loan amount is up to £10,000 and evidence of the costs incurred (or costs planned to be incurred) will need to be provided. For any amount over £5,000 this will require approval from the HR Business Partner for that area.

The loan will need to be recovered over a period that is no longer than 24 months. Consideration will be given in respect to the contract length of the employee and minimum salary requirements. The University may review the repayment period for employees who are on a fixed term contract.

If an employee leaves the University of Surrey's employment before the loan is repaid, the outstanding debt will be deducted from their final salary payment, or, if this is insufficient, they will need to repay the outstanding balance within 14 days from their last day of employment.

#### **4.19. Biometric Residence Permit (BRP)**

All non- UK/Irish nationals applying from overseas for permission to stay in the UK for more than 6 months are currently issued with a Biometric Residence permit (BRP) which they must collect

within 10 days of their arrival in the UK. This will replace the vignette inside the passport.

A vignette will be provided to enable travel to the UK. This short-term biometric residence permit can be used as proof of right to work in the UK. However, in order to continue working beyond the expiry of the short term permit the individual must collect the BRP and show the original to HR, along with a right to work Share Code.

#### **4.20. Workers not eligible to work in the UK**

The University takes its responsibilities very seriously and if at any point it becomes clear that an employee is not eligible to work in the UK (perhaps due to expiration of Leave to Remain or production of incomplete or fraudulent documents) then the University will end the employee's employment.

The employee will be notified in writing and invited to attend a meeting to discuss their eligibility to work. The employee will have the right to be accompanied. The notification letter will set out that if the employee cannot provide evidence to demonstrate that they can work in the UK, then they could be summarily dismissed without notice. An employee has the right to appeal against any formal decision of dismissal and should address their written grounds of appeal to the Director of HR within 10 working days.

#### **4.21. Duties of the University**

The University has a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK. The University must also comply with its responsibilities and obligations as a sponsor of international staff under the points based system.

All staff have a role in ensuring the University remains compliant with immigration law.

#### **4.22. Record keeping duties**

The University must keep the following records for each sponsored worker and make them available to officials of the UK Visas and Immigration on request:

- A photocopy or electronic copy of the passport showing evidence of entitlement to work or study in the UK (having seen the original).
- Any page containing the holder's personal details including nationality, date of birth, signature, date of expiry, and their photograph. Any page showing leave stamps or immigration status including their period of leave to remain.
- Copy of the workers UK biometric card (both sides).
- A photocopy or electronic copy of the ID card when available (having seen the original).
- Up to date contact details (home address, telephone number, and mobile telephone number).
- Recruitment records including advertising details, screenshots of the advertisement, applications, shortlisting and interview notes demonstrating why each UK / Irish national was rejected.

#### **4.23. Reporting duties**

The University must report the following information or events to the UK Visas and Immigration within 10 days:

- If the sponsored worker does not turn up for their first day of work.
- Any unauthorised absence lasting more than 10 working days.
- If the sponsored worker discontinues his or her duties, or if his or her contract is

- terminated (including resignation or dismissal).
- If the University stops sponsoring the worker for any other reason.
  - If there are any significant changes in the sponsored worker's circumstances such as a change of job or address.
  - A change of salary due to maternity, paternity or adoption leave, or a period of sickness that lasts for one month or longer.
  - Any suspicions the University may have that the sponsored worker is breaking the conditions of his or her leave to enter or remain.

The University must also give the police any information it may have that suggests that the sponsored worker may be engaging in terrorism or other criminal activity.

#### **4.24. Complying with the law**

To ensure that it is complying with the law, the University must also fulfil the following duties:

- Ensure that the sponsored worker is legally entitled to the job in question and has the appropriate registration or professional accreditation where legally required.
- To not employ or stop employing sponsored workers if their leave to enter or remain in the UK does not allow them to undertake the work in question.
- Only to issue certificates of sponsorship to workers who, to the best of the University's knowledge, meet the relevant requirements.

#### **4.25. Co-operating with the UK Visas and Immigration**

The University must allow UK Visas and Immigration staff access to any of its premises on demand and adhere to any action plan set by the UK Visas and Immigration.

#### **4.26. Duties of the sponsored worker**

Sponsored workers have the duty to:

- Provide original documents showing their eligibility to work before commencing employment and on a regular basis, responding quickly to any such request made by HR.
- Show the original qualification certificates relevant to the role to HR.
- Inform HR Operations of any changes in their circumstances such as changes relating to their leave to enter or remain in the UK, changes to their contact details (new home address or telephone numbers) and changes to their marital status.
- Comply with the University's yearly request for up to date contact details and requests for information within a timely manner.
- Inform HR Operations and their line manager of any prolonged absence from the workplace (i.e. more than 10 consecutive working days) by complying with local reporting procedures.
- Record time (half a day or more) when work is not carried out at their contracted work base or from home using Outlook and provide a printed or electronic copy on request from HR.
- Report any other change to HR Operations which may have an impact on their sponsorship before any change takes place.
- Comply with the conditions of their visa.

#### **4.27. Duties of the line manager**

Line managers have the duty to ensure:

- A fair recruitment and selection process has been conducted for all positions.
- Proof of eligibility has been taken for staff prior to the start of the contract. Line managers

need to ensure that no workers, including staff hired by Unitemps, Associate staff and those paid via the Short Term Teaching Payroll, start work without their eligibility to work in the UK being checked by their HR Representative or Unitemps.

- All non-attendance, unauthorised absences, or disappearances of migrants are reported to HR Operations immediately.
- Resignations or retirements of sponsored workers are reported to HR immediately.
- Any change in circumstances for a sponsored worker is reported to HR Operations in advance of the change occurring. This might typically be a change in job title, working abroad for more than 10 continuous days in one period or more.

## 5. Governance Requirements

### 5.1. Implementation: Communication Plan

The procedure was embedded when first published and is available on SurreyNet (HR Procedures Page) for all staff to access.

### 5.2. Implementation: Training Plan

Training of staff was undertaken with original implementation of the procedure. If there are any further changes to the procedure or related legislation further training will be provided by the HR department.

### 5.3. Review

This procedure is scheduled for an annual review but may be updated sooner if there is a change in legislation or UKVI guidance.

### 5.4. Legislative Context and Higher Education Sector Guidance or Requirements

The Procedure will be guided by the requirements set out by UKVI and any relevant legislation. This means that there may be changes to the offering of this procedure based upon any changes in either of the aforementioned areas.

### 5.5. Sustainability

This procedure has no impact on sustainability.

## 6. Stakeholder Engagement and Equality Impact Assessment

An Equality Impact Assessment was completed on 22 April 2024 and is held by the Authorised Co-ordinator.

Stakeholder Consultation was completed, as follows:

Stakeholder	Nature of Engagement	Request EB Approval (Y/N)	Date	Name of Contact
Governance	Review of V1.0	N	11 December 2023	Andrea Langley
H&S	Review of V1.0	N	24 January 2024	Matt Purcell
Sustainability	Review of V1.0	N	15 December 2023	Martin Wiles
Executive Owner, Our Students	Review of V1.0 (section 4.13)	N	23 April 2024	Kerry Matthews