

ELIGIBILITY TO WORK IN THE UK

Updated December 2013

Updated June 2015

Updated July 2017

1. Background and Scope

- 1.1 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 £20,000, criminal prosecution for the University and individual employees, and downgrading or loss of our licence to sponsor individuals under Tiers 2 and 5 of the points-based system.
- 1.2 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.
- 1.3 This policy 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.
- 1.4 This policy and 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.

2. Purpose

- 2.1 The purpose of this policy is to ensure that the University complies with its legal responsibilities in accordance with the Immigration, Asylum and Nationality Act 2006, by ensuring that all employees hold the appropriate documents to allow them to work in the UK.
- 2.2 This policy will also provide guidance on pre-employment and subsequent checking of documents to ensure ongoing compliance.
- 2.3 Where applicable, the University will act as a Sponsor under the points based system of immigration, and this policy outlines the duties placed on the University as a Sponsor as well as the additional responsibilities of employees who are sponsored by the University.

3. Right to work checks

- 3.1 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. Where there is a recruitment process all shortlisted

candidates will be asked to bring evidence of their eligibility to work in the UK to the interview. Acceptable documentation is listed in appendix A. If the individual does not have the correct documentation at interview, this will be checked before the individual starts work on their first day.

- *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 is in appendix B.

3.2 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 are being interviewed for.

3.3 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 be more frequent.

4. Who is eligible to work in the UK?

- 4.1 An individual may have an automatic or indefinite right to work because:
- They are a national of a country in the European Economic Area (EEA)
 - They are a Swiss national
 - They have indefinite leave to remain in the UK
 - They have permanent residence as the family member of an EEA national

4.2 EEA member countries

Austria	Greece	Norway
Belgium	Hungary	Poland
Bulgaria	Iceland	Portugal
Croatia**	Ireland	Romania
Republic of Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Liechtenstein	Spain
Estonia	Lithuania	Sweden
Finland	Luxembourg	United Kingdom
France	Malta	
Germany	Netherlands	

** = EU Accession State

4.3 EU Accession states

The nationals of countries newly joining the EU (“accession states”) do not always have the same rights to work in the UK as other E E A nationals. Croatia joined the European Union on 1st July 2013.

From this date Croatian nationals are able to move and live freely in an EU country. They do not need permission to live in the UK, but they do not have the automatic right to work in the UK. They must first obtain ‘worker authorisation’ if they intend to undertake employment in the UK. It will be necessary to obtain such authorisation before the worker commences employment at the University, unless an exemption as listed below applies:

- If a Croatian national has been working legally and continuously for a 12 month period prior to 1 July 2013.
- Once a Croatian national has been working for a period of 12 months (for any employer) they cease being subject to worker authorisation at the end of the 12 month period.
- Any Croatian national who has indefinite leave to remain, permanent residence or is also a citizen of another EU member state.
- Any Croatian national who is the spouse or partner of an EEA national.
- Any Croatian national who has completed a degree from a UK Institution.

If an exemption applies the individual must have a **Blue Registration Certificate** (to show that they are allowed to work freely in the UK).

If an exemption does not apply, Croatian nationals filling skilled vacancies will need to apply for a **Purple Registration Certificate** supported by a valid unrestricted Certificate of Sponsorship under a Tier 2 (General) – Switching Immigration category of the PBS.

Once a Croatian national has been employed in the UK on a Tier two visa for 12 months, they then apply for worker authorisation as a sponsored accession worker.

5. 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.

5.1 Points Based System (PBS)

5.1.1 There is a points based system for immigration into the UK for migrants from outside the European Economic Area (EEA) for the purposes of work or study. The visas under the PBS that are most commonly seen by the University of Surrey are:

Tier 1 – Exceptional Talent Migrants.

Tier 2 – Skilled workers with a graduate level or above job offer. There are unrestricted Tier 2 visas for individuals already in the UK, and restricted visas for those currently overseas.

Tier 4 – Students and Tier 4 - Doctorate Extension Scheme.

Tier 5 – Temporary workers under the Government Authorised Exchange.

5.1.2 Migrants who enter the UK under the Tier 2 category must have a job offer from a UK employer which is licensed as a sponsor. The sponsorship licence is granted subject to a number of conditions. The University is a registered sponsor with the Home Office and can issue a Certificate of Sponsorship, or CoS, subject to conditions being met.

5.1.3 The University will usually only issue a Certificate of Sponsorship for academic, research and highly skilled technical/professional roles and only when the University has been unable to recruit a suitable employee from within the EEA. The exception to this is where a post is considered a PhD level post – and then the best candidate can be appointed.

5.1.4 Under the PBS Tier 2 - Skilled workers, the University will only issue a Certificate of Sponsorship if an individual can demonstrate that they score enough points from three sets of criteria which are:

- 1) Attributes;
- 2) English Language skills and
- 3) Maintenance.

Individuals will be asked to confirm that they meet the pass mark at the pre-employment stage. See points table in appendix C.

Further information about Tier 2 can be found in appendix D.

This is a summary only. The local HR representative should be contacted for further details about the PBS.

5.2 **Other visas Non EEA nationals with restricted eligibility to work in the UK**

There are other types of visa which provide a time-limited right to work in the UK, the most commonly seen by the University of Surrey are:

- 5.2.1 Points-based system dependant visas – An individual with a Tier 1, Tier 2 or Tier 5 visa may apply to bring their family to the UK as their dependants. Dependant visa holders have the right to work in the UK in any job, at any skill level, except as a Doctor or Dentist in training. Unless the visa otherwise states.
- 5.2.2 EEA Family permits / residence cards – An EEA national can bring their non-EEA family member into the UK to join them. If an EEA national wishes to bring their non-EEA family members to the UK, they must first apply **outside the UK** for an EEA family permit. Once issued, the EEA Family Permit has a validity of six months. Before the EEA Family Permit expires, the individual is expected to apply for an EEA Residence Card, which, if issued, will be valid for five years. The family permit does not grant eligibility to work in the UK, but the EEA Residence Card does.
- 5.2.3 Family of Settled person visa – the family member of a settled person can apply for this visa. If granted, the holder has the unrestricted right to live and work in the UK for as long as the visa is valid.
- 5.2.4 UK Ancestry visa – Some commonwealth citizens with UK ancestry can apply to live and work in the UK. If granted, the holder has the unrestricted right to live and work in the UK for as long as the visa is valid.

For information on other visas and possible eligibility to work please contact the local HR representative.

There are additional duties placed on the University, the employee and the line manager when sponsoring an employee via Tier 2, or employing someone on a time-limited visa, and these are set out further in section 10.

6. **Tier 4 (General)**

6.1 **Student Working Restrictions**

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 or a Biometric Residence Permit (BRP).

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 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 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.

6.2 Tier 4 - Doctorate extension scheme

If studying for a PhD or other doctorate level qualification, students may be eligible to apply for a Doctorate Extension Scheme. This allows students who are nearing completion of a PhD to apply for a visa for a 12 month period to look for work, set up as an entrepreneur or gain practical work in their field.

If the Doctorate Extension Scheme application is approved, the student will be subject to new work conditions once they have successfully completed their course. Under the new conditions, there will be no restrictions on the type of employment except for as a Doctor or Dentist in training or a sports person (including coaches). The International Student Support Team can provide further information on this scheme.

7. Tier 5 Government Authorised Exchange (GAE)

7.1 As a Higher Education Institution, the University of Surrey can use its Tier 5 (GAE) licence to sponsor 'Sponsored Researchers'. This route is "is for those individuals coming to the United Kingdom through approved schemes that aim to share knowledge, experience and best practice through work placements, whilst experiencing the wider social and cultural setting of the United Kingdom."

A sponsored researcher is defined by the UK Visas and Immigration as: "a person who wishes to come to the UK to lead or to take part in any formal research project. Formal research projects are those hosted but not necessarily funded by a UK research institution including universities, non-commercial research organisations, charitable organisations and national research councils. The sponsored researcher fills a research post and works under the full or partial control of the institution, which will itself benefit from the research. Sponsored researchers can be funded from sources in the UK or overseas."

7.2 In order to obtain a Tier 5 visa, the University must sponsor the individual. Funding for the position can come from a variety of sources but the individual cannot fund themselves. An individual on a Tier 5 GAE visa must:

- Not fill a normal post or a genuine vacancy.
- Meet the points requirements for having a valid CoS and maintenance funds.
- Conform to UK employment legislation and any funding/salary received must meet national minimum wage requirements.
- Be carrying out work which is skilled to at least level 3 on the National Qualification Framework.

The visa is valid for 2 years maximum and cannot be extended beyond this date. Further information about the Tier 5 GAE visa can be obtained from the local HR representative.

8. Visitor Visas

Overseas visitors to the University will normally have one of two types of visitor visa.

8.1 Visitor (Standard)

This visa was introduced in April 2015 and consolidated the following main types of visa:

- General visitor
- Business visitor
- Academic visitor
- Child visitor
- Sports visitor Entertainer visitor

The UK Visas and Immigration webpages set out the range of permitted activities that individuals can undertake on the Visitor (Standard) visa. Some of these which are relevant to the University are:

- Attend meetings, conferences, seminars, interviews;
- Give a one-off or short series of talks and speeches provided these are not organised as commercial events and will not make a profit for the organiser;
- As a scientist and researcher visitor:
 - Gather information and facts for a specific project which directly relates to their employment overseas;
 - Share knowledge or advice on an international project that is being led from the UK, provided the visitor is not carrying out research in the UK.
- As an academic visitor
 - Take part in formal exchange arrangements with UK counterparts (including doctors);
 - Carry out research for their own purposes if they are on sabbatical leave from their home institution;
 - Eminent senior doctors or dentists, taking part in research, teaching or clinical practice provided this does not amount to filling a permanent teaching post.

The Visitor (Standard) visa will be issued for a maximum of either 6 months or 12 months, depending on the type of activity being undertaken. The visitor will normally require an invitation issued by the University in order for them to apply for their visa.

Holders of a Visitor (Standard) visa cannot

- Undertake any form of employment in the UK
- Fill a normal post or a genuine vacancy even on a temporary basis
- Receive payment from their work from any UK source (except genuine expenses)

8.2 Visitor for permitted paid engagements

This visa allows visitors to come to the UK for up to one month 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.

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

9. NHS Surcharge

From 6th April 2015, UK Visas and Immigration introduced an NHS surcharge on top of the standard visa fee. The surcharge has been introduced by the government to ensure that non-EEA 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.

Individuals who apply for a time-limited visa for more than 6 months will be charged an additional £200 per person per year (including dependants) that their visa is valid, on top of the visa application fee. The full cost must be paid by the individual at the point of application.

An Immigration Skills Charge of £1,000 per employee per year was introduced in April 2017 and levied on employers employing migrants in skilled areas. There is a reduced rate of £364 per year for small or charitable organisations. The levy was designed to cut down on the number of businesses taking on migrant workers and incentivise training British staff to fill those jobs.

An exemption to the charge applied to PhD-level jobs and international students switching from student visas to working visas. This exemption applies to the majority of vacancies at the University and only a small number of posts will attract the levy. If Managers are unsure whether a vacancy they want to fill will attract the levy or not should contact their HR Department.

10. Biometric residence Permit

10.1 Between March and July 2015, UK Visas and Immigration phased out the issuing of visas inside passports for those individuals applying from outside the UK. Instead, all non-EEA nationals applying from overseas for permission to stay in the UK for more than 6 months will be issued with a Biometric Residence permit (BRP) which they must collect within 10 days of their arrival in the UK. This will replace the visa sticker inside

the passport.

- 10.2 On issue a 30 day short validity 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.

11. Workers not eligible to work in UK

- 11.1 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.
- 11.2 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 will 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 Vice-President, HR within 10 working days.

12. 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 tiers 2 and 5.

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

12.1 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 EEA national was rejected.

12.2 Reporting duties

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

- If the sponsored worker does not turn up for his or her 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.

12.3 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 requirements of the tier.

12.4 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.

12.5 Duties of the migrant worker

Migrant 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 their HR representative.
- Show the original qualification certificates relevant to the role to their HR representative.
- Applying for the appropriate visa and leave to remain in a timely way.
- Inform their HR representative 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 their HR representative of any prolonged absence from the work place (i.e. more than 10 consecutive working days) by complying with local reporting procedures.
- Any other change which may have an impact on the sponsorship is reported to HR prior to the changes taking place.
- Comply with the conditions of their visa.

12.6 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 ShortTerm 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 immediately.
- Resignations or retirements of migrants are reported to HR immediately.
- Any change in circumstances for a Tier 2 migrant is reported to HR in advance of the change occurring.

13 Managerial oversight and review

The Vice-President, Human Resources as Authorising Officer for Tier 2 and Tier 5 for the University and a member of the University's Executive Board is accountable for providing assurance that the University is compliant with sponsor guidance as noted in "Tier 2 of the Points Based System: Guidance for Sponsors" and the Immigration Rules.

APPENDIX A

ACCEPTABLE DOCUMENTS FOR PROVING A RIGHT TO WORK IN THE UK

The documents that are acceptable for proving someone has the right to work in the UK are split into two lists.

List A documents show that the holder is not subject to immigration control, or has no restrictions on their stay, so they have an ongoing right to work in the UK.

List B documents show that the holder has been granted leave to enter or remain in the UK for a limited period of time, and/or has restrictions on their right to work.

If a person has an outstanding application with UK Visas and Immigration and therefore cannot produce acceptable documentation, HR will request a verification notice to confirm if the person has the right to work in the UK.

Frequency of document checks

- List A – before employment starts only
- List B – Group 1 – before employment starts and again when permissions expire
- List B – Group 2 – before employment starts and again after 6 months.

Validity of passports

From 16 May 2014, the following documents must be current i.e. have not expired in order to evidence of the right to work in the UK:

- Biometric Residence Permit (BRP);
- Immigration status document;
- Passports which are not held by a British Citizen (or a citizen of the UK and Colonies having a right of abode in the UK) or a national of a European Economic Area (EEA) country or Switzerland; and
- Residence Card (including Accession Residence Cards and Derivative Residence Cards) issued to non EEA national who is a family member of a national of an EEA country or Switzerland.

UK Immigration endorsements in expired passports are no longer acceptable. Migrant workers are now required to transfer their visa to a new passport or apply for a Biometric Immigration Document.

Migrant workers may not commence employment until acceptable documentation is produced.

List A – Documents which show an on-going right to work

1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the UK.
2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3. A Registration Certificate or document certifying or indicating Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK or has no time limit on their stay in the UK.
7. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government Agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland together with an official document giving the person's permanent National Insurance number and their name issued by a Government Agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen together with an official document giving the person's permanent National Insurance number and their name issued by a Government Agency or a previous employer.

List B – Group 1 - Documents which show a right to work until the expiry date of leave

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B – Group 2 – Documents where a time-limited statutory excuse lasts for 6 months

1. A Certificate of Application which is less than 6 months old issued by the Home Office to or for a family member of a national of a EEA country or Switzerland stating that the holder is allowed to take employment together with a positive verification letter from the Home Office's Employer Checking Service.
2. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

APPENDIX B

CHECKING A PERSON'S DOCUMENTS

Checking a person's documents to determine if they have the right to carry out the type of work offered comprises of 3 key steps. Where a right to work in the UK check is carried out before someone starts employment the University will establish a 'statutory excuse' against payment of a civil penalty if an illegal worker is employed.

Step 1 - Obtain the person's original documents

- Obtain acceptable documents from List A or List B.
- Accept original documents only.

- An expired passport of a UK national or a national of a European Economic Area country or Switzerland is acceptable.
- Documents held by nationals outside of the EEA or Switzerland must be current.

Step 2 – Check them in the presence of the holder

Take all reasonable steps to check that the document is genuine and that the holder is the person named in the document.

Check that the document allows them to do the work in question. For

each document check:

- Photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation.
- Expiry dates for permission to be in the UK have not passed.
- Any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, a copy of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed must be obtained and retained).
- The documents are genuine, have not been tampered with and belong to the holder; and the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll).
- Supporting documents should also be photocopied and a copy retained.

Step 3 – Copy the documents(s)

This should be a clear copy of the document in a format which cannot later be altered. The copy must be of the relevant page or pages of the document. In the case of a passport or other travel document, the following parts must be photocopied or scanned:

- Any page containing the holder's personal details. In particular any page that provides details of nationality, their photograph, date of birth, signature, date of expiry or biometric details; **and**
- Any page containing UK immigration endorsements showing that the holder has permission to be in the UK and has the right to carry out the work in question.

Other documents must be copied in full; this includes both sides of a Biometric Residence Permit.

UK Visas and Immigration no longer require the front page of the passport to be copied in order to establish and retain a statutory excuse.

Sign and date every page of the documents you copy to show that the original(s) has been seen.

APPENDIX C

POINT BASED SYSTEM FOR SKILLED WORKERS (TIER 2)

At least 70 points are required from this table (including 10 for maintenance and 10 for English)

Section	Certificate of sponsorship	Points	Prospective Earnings	Points
A (50 points needed)	Assigned Certificate of Sponsorship having met the requirements of: <ul style="list-style-type: none"> • Shortage occupation; or • Job offer with a salary of £159,600 or more; or • Completion of a resident labour market test by the sponsor and job at Graduate Level; or • Post study work (switching from this category); or • Extension – continuing to work in the same job for the same sponsor 	30	Below £30,000 pa. Above £30,000 pa or £21,600 for new entrant	0 20
B	Maintenance Requirement* – Migrants will need to show that they have £945 in savings that they will be able to use while in the United Kingdom and if they intend to bring any dependants with them a further £630 for each dependant.			10
C	Competence in English – Migrants will be required to show that they speak English to a basic user standard <ul style="list-style-type: none"> • If the migrant is a national of a majority English speaking country or • If the migrant has passed an English language test or • If the migrant has a degree taught in English which has been confirmed by NARIC as being the equivalent to a UK Bachelor degree 			10

Further information on the points based system for Tier 2 is available on the Home Office website

APPENDIX D

FURTHER INFORMATION ABOUT TIER 2

Employing individuals under Tier 2 (General) is a complicated process which must be followed in order to comply with immigration legislation. This appendix gives a summary of the process, but further information sought be sought from the local HRrepresentative.

Defining the vacancy and SOC Codes

All employees sponsored under Tier 2 (General) must meet minimum skill level and salary requirements:

- The minimum skill level for the job must be degree level or above.
- The minimum salary must be either £21, 600 or the minimum rate as set out in the relevant Standard Occupational Classification (SOC) Code of Practice for the job -whichever is greater.

The SOC Codes are the method used for classifying jobs according to their titles and activities.

There are slightly different process rules for the PhD level SOC codes:

- 2111 Chemical Scientists
- 2112 Biological Scientists and Biochemists
- 2113 Physical Scientists
- 2114 Social and Humanities Scientists
- 2119 Natural and Social Science Professionals not elsewhere classified
- 2150 Research and Development Managers
- 2311 Higher Education Teaching Professionals

Advertising, selection and the Resident Labour Market Test

Before assigning a Tier 2 Certificate of Sponsorship (CoS), the UK Visas and Immigration require the University to conduct a 'Resident Labour Market Test' (RLMT). This test is intended to ensure that the position cannot be filled by a settled worker before someone is sponsored someone from outside the EEA.

To do this, all vacancies should be advertised for a minimum of 28 days in the most appropriate sector specific medium (i.e. jobs.ac.uk, regional/national publications, etc) as set out in the UK Visas and Immigration Code of Practices.

The period of advertising starts from the date the advertisement first appears:

- In the Jobcentre Plus (excluding PhD level roles)
- Using one other method permitted by the relevant code of practice. Jobs.ac.uk and the University website are permitted methods of advertising.

The advertisement must include:

- The job title;
- The main duties and responsibilities of the job (the job description);
- The location of the job;
- An indication of the salary package or salary range or terms on offer;
- The skills, qualifications and experience needed; and
- The closing date for applications.

Evidence of the RLMT

The following evidence must be kept to demonstrate the RLMT has taken place.

- Where the vacancy was advertised on the internet, including the University website (where this is permitted), a screen shot must be kept from the website hosting the advertisement, on the day the vacancy is first advertised showing:
 - The name of the website; and
 - The contents of the advert; and
 - The date and the URL; and
 - The closing date for applications.
- Where the vacancy has been advertised in Jobcentre Plus, a screen shot must be kept from the Jobcentre Plus (or DirectGov) website which clearly shows:
 - The Jobcentre Plus logo; and
 - The contents of the advert; and
 - The vacancy reference number; and
 - The date and URL; and
 - The closing date for applications.
- Where the vacancy has been advertised in printed media, a copy of the advert as it appears in print should be kept.
- All applications short-listed for final interview, in the medium they were received. For example, emails, CV's and application form.
- The names and total number of applicants short-listed for final interview.
- Notes from the final interviews conducted and for each EEA national who was rejected, showing reasons why they have not been employed.

These documents should be retained for a year or until a UK Visas and Immigration Compliance Officer has approved them, whichever is the longer.

The RLMT is not required where:

- The gross annual salary package for the job will be £159,600 or more.
- The CoS is for a current employee continuing in the same occupation (SOC code) for example a contract extension.
- The role is for a named researcher.
- The CoS is for any individual switching to a Tier 2 (General) visa from one of the following types of visa:
 - Tier 4 (General) student visa
 - Tier 4 Doctorate Extension scheme visa

- Tier 1 (Post-study work) visa
- Tier 1 (Graduate Entrepreneur) visa
- The job is on the UK Visas and Immigration shortage occupation list.

Offering the Job

If there is no appointable worker from the UK or EEA then the University can make an offer of employment to an overseas worker subject to normal criteria. However if the post is at PhD level the University is able to choose the best candidate regardless of whether they need a certificate of sponsorship

Offers made to individuals requiring sponsorship must:

- Be subject to the individual getting entry clearance or leave to remain in the UK to undertake the job.
- Be in line with the advert (e.g. salary range, allowances, length of contract).
- Follow the salary rules as set out in the SOC Codes of Practice.

The Code of Practice for each SOC contains two rates of salary: the 'new entrant' rate and a higher 'experienced' rate.

A 'new entrant' employee is one who is:

- A graduate switching from Tier 4 to Tier 2 under the UK Visas and Immigration's post-study route.
- Anyone aged 25 or under on the date of their initial Tier 2 application.

An experienced worker is:

- Anyone not meeting the definition of a 'new entrant' above, or
- Anyone applying to extend their stay in the UK under Tier 2 beyond 3 years and 1 month will be treated as an experienced worker.

The Certificate of Sponsorship

If required, the University will issue the certificate of sponsorship to the overseas worker to enable him or her to apply for their leave to enter or remain in the UK. They will need to provide evidence of their eligibility to work in the UK prior to starting their employment.

A Certificate of Sponsorship is required for all individuals sponsored under Tier 2 and Tier 5. This is an electronic record, not a physical document. Each certificate has its own number which a worker will use to apply for their visa.

Certificates must be used within 3 months of application and 3 months from assigning to the migrant worker. A Certificate of Sponsorship must be assigned within six months

of the role being advertised (or 12 months if it is in a PhD-level SOC code). If this is not met, a new Resident Labour Market Test must be carried out.

The University will ask to see evidence that the individual meets the points requirement before applying for the CoS.

Unrestricted certificates

Can be assigned at any time and are not subject to the annual UK limits. These certificates are for:

- In country switch
- Contract extensions
- Change of employment applications
- High earners
- Croatian nationals

The University is allocated a certain number of unrestricted certificates each year.

Restricted certificates

Subject to the annual UK limit and must be approved by the UK Visas and Immigration. Applications for a restricted certificate must be made before the 5th of each month and will be confirmed or rejected by the 11th of that month. These certificates are for new hires applying from outside of the UK.

Tier 2 (General) visa requirements

When applying for a visa under the points-based system, applicants are allocated a certain number of points. Under Tier 2 (General), applicants must gain a minimum of **70 points**:

- 30 points for having been assigned a Certificate of Sponsorship
- 20 points for earning at least the appropriate salary for Tier 2 (General) – i.e. the greater of £30,000 and the minimum rate for jobs falling within the relevant SOC code)
- 10 points for meeting the UK Visas and Immigration English language criteria
- 10 points for meeting the UK Visas and Immigration Maintenance criteria

For current employees of the University who are applying to extend their current Tier 2 visa, the English Language and Maintenance requirements do not need to be met. Therefore, these individuals are only required to score 50 points to qualify for a new Tier 2 visa.

Maintenance Requirement

As the University is an 'A' rated sponsor, it can 'certify' the Maintenance of sponsored individuals at their own discretion. What this means is that the University provides a

guarantee that the individual will have enough money to support themselves for the first month of employment. If the University does certify Maintenance the employee will not be required to submit any evidence of funds as part of the visa application. However, any monies used to support the employee within the first month of employment will be treated as a salary advance under the University Relocation policy.

Applying for leave to enter/remain

It is the responsibility of the migrant worker to apply for leave to enter or remain in the UK. This should happen before the Certificate of Sponsorship expires but no earlier than three months before its start date. The University will reimburse the employee for the cost of a successful standard leave to remain or leave to enter visa via an expenses claim form with appropriate receipts/evidence of payment once employment has commenced. Where an individual has used a premium/one day visa route, costs will be met up to the amount of a standard application.

The University will not pay the costs of a Tier 1 application, additional costs for dependents of a Migrant worker, the NHS surcharge or any additional costs related to the visa application. After 5 years of employment in the UK, it is expected that the sponsored worker will apply for indefinite leave to remain in the UK. This cost will not be met by the University.

Starting work

At some point **before** the individual starts work, a right to work check must take place. This must be done in line with the policy guidance on taking right to work checks.

For individuals sponsored under Tier 2 the right to work check cannot be done at interview so we recommend that you ensure that the individual brings evidence of their right to work in the UK on their first day. They **must not** start work on their first day until their right to work documentation has been checked. The template welcome letter is designed to support this process.

If these copies are taken on the day the individual arrives, then you must also write the time at which the copy was taken, and this time must be **before** they started work.

Supplementary employment

Individuals sponsored under Tier 2 are allowed, in limited circumstances, to undertake other work in addition to that for which their Certificate of Sponsorship (CoS) was assigned. This is called supplementary employment.

There are fewer restrictions attached to supplementary employment:

- Supplementary employment can be undertaken with **any** employer and they do not have to be a licensed sponsor.
- Supplementary employment does not have to meet the resident labour market test requirements.

- The sponsored individual does not have to inform UK Visas and Immigration that they are undertaking supplementary employment.
- The employer is not obliged to undertake any reporting or record keeping duties whilst the sponsored individual is completing supplementary employment.
- A sponsored individual can undertake supplementary employment even if they no longer have a 'primary sponsor' (i.e. they have left the employment for which they were assigned a CoS and had their visa curtailed, but still wish to work in the UK until the new visa end date).

However, supplementary employment **must**:

- Be **either**:
 - A job on the Shortage Occupation List; **or**
 - A job in the same profession and at the same professional level as the work for which the Certificate of Sponsorship was assigned. **And,**
- Be for no more than 20 hours per week; and
- Be conducted outside of the normal working hours for which the Certificate of Sponsorship was assigned.