



NORWOOD UK

Eligibility to Work in
the UK

1. Background and Scope

- 1.1** The company 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 company and individual employees.
- 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 company.
- 1.3** This policy applies to any worker who is paid by the company through its payroll and therefore includes permanent and fixed term contract employees.
- 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.

2. Purpose

- 2.1** The purpose of this policy is to ensure that the company 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 company will act as a Sponsor under the points based system of immigration, and this policy outlines the duties placed on the company as a Sponsor.

3. Right to work checks

- 3.1** The company 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 3 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.
 - 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

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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 company 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 4 ** = 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 EEA 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.

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 5 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. The visas under the PBS that are most common 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.

5.1.3 Under the PBS Tier 2 - Skilled workers, the company 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.

5.2.1 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 company, 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 Workers not eligible to work in UK

6.2.1 The company 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 company will end the employee's employment.

6.2.2 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 Director within 10 working days.

7. Duties of the company

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

8. Record keeping duties

The company 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.

9. Reporting duties

The company 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 company 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 company may have that the sponsored worker is breaking the conditions of his or her leave to enter or remain.

The company 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.

10. Complying with the law

To ensure that it is complying with the law, the company 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.

11. Co-operating with the UK Visas and Immigration

The company 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. 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 company'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.

13. 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 start work without their eligibility to work in the UK being checked by their HR Representative
- 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

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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. An Indefinite Leave to Remain (ILR) stamp in an expired passport is no longer acceptable. 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

- 10) National Insurance number and their name issued by a Government Agency or a previous employer.
- 11) 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 company 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

- 1) Obtain acceptable documents from List A or List B.
- 2) Accept original documents only.
- 3) An expired passport of a UK national or a national of a European Economic Area country or Switzerland is acceptable.
- 4) 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:

- 1) Photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation.
- 2) Expiry dates for permission to be in the UK have not passed.
- 3) 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).
- 4) 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).
- 5) 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:

- 1) 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
- 2) 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.

Signed for and on behalf of the company

A handwritten signature in blue ink, appearing to read 'Jo Shuttlewood'.

Jo Shuttlewood – HR Director