THE UNIVERSITY OF BOLTON

Guidance on Employing Staff who require a Certificate of Sponsorship

Introduction

As an employer the University of Bolton has a legal responsibility to prevent illegal migrants working in the UK. The University is an A-rated sponsor licence holder under the Points Based System (PBS) with UK Visas and Immigration (UKVI), and must comply with strict Home Office requirements in order to retain this licence to sponsor international talent.

Sponsorship is based on two principles:

a) Those who benefit most directly from migration (employers, education providers or other bodies who are bringing in migrants) should play their part in ensuring the system is not abused.

b) We need to ensure that those applying to come into the UK for work or to study are eligible and that a reputable employer or education provider genuinely wishes to take them on.

A migrant must have a sponsor before they can apply to come to, or remain in the UK for work or study. The sponsor will be an organisation in the UK that wishes to employ, or provide education to a migrant.

Sponsorship plays two main roles in a migrant's application for permission to come to, or remain in the UK to work or study:

a) It provides evidence that the migrant will fill a genuine vacancy that can't be filled with a suitable qualified or skilled 'settled worker', or that they will be studying for an approved qualification.

b) It involves a pledge from the sponsor that it accepts all of the duties expected when sponsoring the migrant.

A 'settled worker' is a person who:

- Is a national of the UK;
- Is a national of Austria, Belgium, Bulgaria, Croatia*, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Republic of Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland with a right of residence in the UK;
  *NB – workers from Croatia must still be sponsored under Tier 2 or Tier 5 and have work authorisation in order to work lawfully, unless exempt.
- Is a British overseas territories citizen, except those from Sovereign Base areas in Cyprus. (Those included are Anguilla, Bermuda, British Antarctic

Territory, British Virgin Islands, British Indian Ocean Islands, Cayman Islands, Falkland Islands and dependencies, Gibraltar, Monserrat, Pitcairn Islands, St Helena and dependencies and Turks and Caicos Islands).

- Is a Commonwealth citizen who was allowed to enter or remain in the UK on the basis that a grandparent was born here;
- Has settled status in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002.

If offered employment by the University, individuals in all of the above groups will be required to produce satisfactory documentary proof of entitlement to work in the UK in the job they have been appointed to.

For the purposes of this guidance, information is provided in relation to migrants who wish to enter, or remain in the UK for work. Separate guidance exists for education providers wishing to sponsor students. For further information, please consult Student Services or https://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators

Points Based System (PBS) for Migrant Workers

The majority of migrant workers are covered by the Points Based System (PBS), managed by the UKVI and is made up of Tiers:

- Tier 1 (High Value Migrants) – Migrants can no longer apply or extend Tier 1 (General) visa's.
- Tier 2 (General)
- Tier 3 (Low Skilled Workers) – This tier has never been operational.
- Tier 4 (Students)
- Tier 5 (Temporary Workers) – Made up of the youth mobility scheme and temporary worker categories which allow people to travel to the UK mainly for non-economic reasons to satisfy cultural, charitable, religious or international aims.

As an employer the University of Bolton's is licenced to sponsor Tier 2 (General) migrants.

Tier 2 (General)

Tier 2 is the main route through which the University employees staff from outside of the EEA who require a visa/work permit to work in the UK or an extension to their existing visa/work permit. Such jobs are skilled roles that cannot be filled by a settled worker and includes applicants coming to the UK to fill shortage occupations.

Tier 2 (General) migrants must have a job offer from the University and a Certificate of Sponsorship (CoS) from the organisation. The migrant must also score a

minimum of 70 points under the PBS assessment before they can get permission to enter or remain in the UK. Points are awarded for the following factors.

- 50 points for Attributes, which includes having a sponsor and a valid Certificate of Sponsorship and
- 10 points for English Language Skills and
- 10 points for Maintenance (funds)

The UKVI point's calculator self-assessment facility can be used to check whether an individual would be likely to obtain sufficient points to be eligible under Tier 2.

https://www.points.homeoffice.gov.uk/gui-migrant-jsf/SelfAssessment/SelfAssessment.faces

Certificates of Sponsorship CoS

A CoS is not a paper certificate or document, but a virtual document, like a database record.

Tier 2 CoS are obtained by members of the Human Resources (HR) team using the UKVI's online Sponsor Management System (SMS).

The UKVI requires a number of roles to be allocated to University staff in order to operate their Tier 2 licenses via the SMS:

- Authorising Officer – HR Director. This individual is a senior role holder, responsible for the recruitment of all migrant workers and for ensuring that all of the University's sponsor duties are met.
- Key Contact – HR Officer. The key contact is the person that acts as the main contact between the UKVI and the University.
- Level 1 User – HR Officer, 3 x Business Partners. Level 1 users undertake the day-to-day sponsorship activities using the SMS.

Keeping Up to Date with Changes to UKVI Legislation – all HR staff with an allocated role receive UKVI, Home Office Communications via email and have access to the SMS Message Board Service.

In order to obtain a CoS, a number of basic requirements relating to the occupational type, skill and salary level of the job must be met in line with UKVI requirements. Additionally evidence of how the job was advertised will also need to be provided in order to meet a Resident Labour Market Test (RLMT). Any employee will need to quote the CoS number as part of the visa/work permit application process when seeking leave to enter or remain in the UK from the UKVI in order to establish whether they have achieved sufficient points to qualify under Tier 2 (General).

Resident labour market test (RLMT)

The RLMT is there to protect the settled workforce and stipulates that the University must advertise roles in order to give settled workers a chance to apply.

The recruitment of a migrant to a University role can only be carried out if the University have carried out a RLMT in accordance with the guidance of the UKVI and the recruitment panel can demonstrate that no suitable settled worker is available to fill the vacancy or if the job is exempt from the RLMT. A suitable settled worker means any settled worker as outlined on Page 2 of this document, who has the skills and experience to fill the vacancy. (Please see the Recruitment Process on Page 7)

Carrying Out the RLMT

Unless an exemption applies, all jobs must be advertised to settled workers for a minimum of 28 calendar days. The advertisement must be for a single continuous period or for two periods totalling 28 days, should no suitable settled work be recruited following the initial campaign.

Advertisements must include:

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

All jobs must be advertised online to settled workers through the JobCentre Plus Universal Job Match service. (For further details, please see the Recruitment Process on Page 7).

A settled worker cannot be refused employment if they lack qualifications, experience of skills (including language skills) that were not asked for in the job advertisement.

The salary rate in the advertisement must be a true reflection of what the University is prepared to pay e.g. a low rate cannot be advertised and then inflated to allow a migrant to make a successful application. When deciding the salary range to put in a job offer, in line with HERA, you should consider if you are willing to offer a higher salary to a more experienced worker.

<u>**Reporting Duties – Roles and Responsibilities**</u>

In conjunction with the UKVI regulations the University of Bolton has specific reporting duties with regard to the CoS issued to employees. Furthermore, the employee has responsibilities towards the University.

The Employer:

The University of Bolton (HR) is responsible for reporting the following to the UKVI:

- If the employee does not arrive for their first day at work;
- If the employee is absent for more than 10 working days without the employee's permission (all absence should be reported to HR);
- If the contract of employment ends (including if the employee resigns or is dismissed) the UKVI must be notified within 10 working days;
- If the University stops sponsoring the employee for any reason, for example, if the employee moves to an immigration category that does not need sponsorship;
- If there are any significant changes in employment circumstances, for example, a change of job, salary or work location (but not a change of job title, annual pay rise or bonus) the UKVI must be notified within 10 working days;
- Any suspicions that the employee is breaking the conditions of their permission to stay in the UK;
- HR will ensure that annual documentation checks are carried out for all migrant workers. This check will take place in September of each year;
- HR will ensure that they retain copies of an individual's eligibility to work in the UK along with other required documentation.   This is logged on a checklist and kept in the employees file.

Human Resources are responsible for monitoring sickness, fixed-term appointments and leave-to-remain status and write to employee/line manager as appropriate to update our records/request further information or to request that action be taken by the employee or line manager.

The Line Manager

The line manager is responsible for reporting the following to HR:

- If the employee does not arrive for their first day at work. The line manager should contact HR on the employee's start date to confirm whether or not he/she has commenced work. If the contract start date is on a non-working day, non-attendance should only be reported if the employee does not attend on their first available working day;
- If the employee is absent from work for more than 10 working days without the employer's permission (all absence should be reported to HR);
- If the contract of employment ends (e.g. if the employee resigns);
- If there are any significant changes in employment circumstances (e.g. a change to the job description, salary or work location (but not a change of job title, annual pay rise or bonus);
- If there are any changes reported to you with regards to a change of circumstance affecting the employee's immigration status/leave to remain;

- Any suspicions that the employee is breaking the conditions of their permission to stay.

The Employee:

The employee is responsible for reporting the following to their line manager/HR:

- If you are unable to come to work for any reason, you must inform your line manager/immediate supervisor before 10.00am on the first day of absence. You should indicate the reason for this absence and the likely duration.
- If you wish to resign from your position. Your contract of employment may be terminated upon delivery of the relevant notice period by yourself to your line manager
- Any changes to your UKVI status or changes in circumstances affecting your immigration status/leave to remain (e.g. if you obtain indefinite leave to remain, or any form of visa/work permit which is not sponsored by the University).
- You must ensure that the HR department has up to date contact details for you **at all times**, including your home address, home and mobile telephone numbers. It is important that you notify your HR department immediately if any of these details change.
- If you are a student at the University and have a Tier 4 (General) Student visa, you are allowed to work 20 hours per week during term-time and full-time during vacation time. Please note postgraduate students may not be allowed to work unlimited hours during normal University holidays. You must notify the University if your total hours worked (whether at the University or other employment) approaches the 20 hour limit in any given week.

Record Keeping

The University records data for migrant workers in two places:

- **iTrent – HR and Payroll System.** Information regarding passport and work permits including issue and expiry dates are held on iTrent. This enables HR staff to run monthly reports from the system to check when a migrant's visa/work permit is due to expire.
  Absences including sickness, maternity, paternity, unpaid leave, and paid discretionary leave are also logged using iTrent. Again, this enables HR staff to run monthly reports in order to monitor leave.

- **Illegal Working Spreadsheet.** This spreadsheet is used by HR to record details of all CoS and work permits held by migrant employees. The type of permit held, the expiry date, the annual review date and any relevant case notes is recorded on the spreadsheet.

HR Recruitment Process for Roles Expected to Receive Interest from Overseas Applicants

Advertisement Stage

Roles are advertised between 14-30 days. Where roles are expected to receive interest from overseas they should be advertised for a minimum of 28 days for a single continuous period, or for two periods totalling 28 days should no suitable settled worker be recruited following the initial campaign.

Roles are advertised on using the following media:

- Universal JobMatch (Jobcentre Plus)
- Jobs.ac.uk
- Internal staff bulletin
- University Website
- Other media can be considered depending upon the role e.g. total jobs, fish4jobs, THES, Guardian.

Copies of advertisements including text, email confirmations of placement, website addresses are kept in a lever arch file for review.

Adverts are posted in a minimum of two places suitable for the industry/job in question. In order to meet the requirements of a valid RLMT the advertisement includes details of job title; main duties and responsibilities; location; salary; skills; qualifications and experience and the closing date. Such advertisements are also posted for 30 days. Links to a Job Description and Person Specification are also provided for prospective applicants.

Application and Shortlisting Stage

As applications are received, they are collated in a job file and it is noted whether the applicant is a UK/EU/EEA national and/or if they are here under a visa/work permit or if they would require a certificate of sponsorship. This information is taken from the Confidential Record on the Application Form. Job files are kept for a period of 12 months. Job files in respect of overseas appointments are kept longer-term for audit purposes.

After the closing date short-listing packs are sent to the short-listing panel (including a HR representative) and applications are scored A-C depending to what extent they meet the criteria as set out in the Person Specification for the role. The Confidential Record is not included in the short-listing pack, ensuring that the panel are not aware of any confidential data, including visa/work permit requirements.

On completion of the short-listing grid, applicants scoring the highest are invited to interview. If a role does not meet the requirements of the RLMT, i.e. a lower graded role, advertised for a short period of time, any applicants requiring a CoS are excluded by the HR Representative.

Interview Stage

Interview invitations are sent out, including a Right to Work in the UK form. Candidates are asked to bring this form signed, along with their passport and any relevant qualifications.

A member of the HR team should copy the following information, in colour from the applicant's passport where available:

- Front cover
- Photograph page
- Entry clearance stamps
- Associated entry clearance documentation
- Biometric card (both sides)
- Any existing visa/work permit

Once copied all copies should be signed and dated confirming that they are true copies of the originals.

On completion of the interview, the interview panel score the candidates scored A-C depending to what extent they meet the criteria as set out in the Person Specification for the role. The candidate with the most A's would be classed as first choice. The HR representative would check whether this candidate is a non-UK/EU/EEA national. If not the offer of employment would be made subject to the normal pre-appointment checks.

If the highest scoring candidate is non-UK/EU/EEA national, the panel would look at the scoring grid to see if any other candidates are appointable in terms of qualifications, experience and skills. If this is the case the UK/EEA candidate should be offered the role. In cases where no other candidates match the scoring of the non-UK/EEA candidate, an offer of appointment would be made, subject to normal pre-appointment checks. The only exception is if the job falls within one of the PhD SOC codes listed below, when a migrant can be appointed if they are the most suitable candidate:

- 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 (for Tier 2 this includes researchers in research organisations other than universities)
- 2150 – Research and development managers
- 2311 – Higher education teaching professionals

Pre-Appointment Stage

At this point the HR Business Partner (HRBP) for the relevant recruiting area would complete a Certificate of Sponsorship (CoS) Checklist noting all the details required when logging onto the UKVI Sponsorship Management System (SMS).

The HRBP would then create and assign a CoS using the SMS and this is normally done within a week of the recruitment exercise, and should be done well within the six week period required. Any queries can be checked via the UKVI website or via a personal call for guidance with notes taken as appropriate.

The CoS number should then be issued to the applicant with the pre-appointment paperwork including; Exclusivity of Service Checks, Medical Clearance, reference requests and any overseas Disclosure and Barring Service Checks. The applicant should apply to the UKVI for their visa/work permit within the 6 month period stated on the CoS. If the applicant does not complete this within the 6 month period, any offer of employment would be withdrawn.

Appointment Stage

Once all pre-appointment checks are in place a formal offer of employment would be issued along with a Contract of Employment. Any start date would be subject to the applicant being given the relevant leave to remain in the UK. A letter confirming the start date would be issued once the applicant has provided the biometric visa/work permit to HR for copying.

Induction & Employment Stage

In conjunction with UKVI regulations the University has specific reporting duties with regard to sponsorship of our employees; furthermore the employee and their line manager also have certain duties.

Either prior to the employees start date or on their first day (at induction), the candidate, their relevant HRBP and line manager will be issued with a list of responsibilities towards the University and the UKVI. (See Reporting Duties – Roles and Responsibilities).

Monitoring

On an annual basis in September of each year, all staff working at the University of Bolton under a specific visa/CoS, are written to asking them to confirm that their circumstances and immigration status remain unchanged.

A log of staff working at the University is kept and three months before the end of the employee's leave to remain, they are contacted reminding them that they need to obtain further leave to remain. This log is linked to Microsoft Outlook producing reminders, and the HR and Payroll system iTrent is currently being reviewed in order to send out automatic reminders.

Individuals are asked to provide evidence that they have submitted an application for further leave to remain. If this is the case, they can continue working whilst their application is being processed. Without confirmation, employees will be suspended prior to the last date on their visa/work permit.

If an employee is already working for the University and we wish to extend their period of leave, for example if their contract is extended, the HRBP must assign a new CoS for the extended period under Tier 2 (General). Individuals are asked to report to HR with their new biometric card as soon as it arrives and copy should be made for file purposes. In the event of any delay HR can contact the UKVI Employer Update Service to check that the process is ongoing.

Leaving University Employment

In the event that the contract of employment ends (including if the employee resigns or is dismissed), a leaver checklist is sent to payroll, which reminds the HR Administrator that the UKVI should be notified where applicable. The relevant HRBP would then log onto the SMS and inform the UKVI that the employee has left the employment of the University.

Tier 4 (General) Requirements

Students studying at the University with a Tier 4 (General) visa are allowed to work during their studies. This will be stated on the sticker in their passport or on their residence permit. Students are only eligible to work the maximum number of hours specified on their visa each week in term time. This is normally 20 hours per week but in some circumstances may be less. It is essential that visa details are checked by the recruiting manager or HR before the student is engaged in employment.

Students on Tier 4 (General) visas are often allowed to work full-time during vacation however; Postgraduate students do not have set term-times and therefore are limited to 20 hours per week all year round.

At the University of Bolton, students on a Tier 4 (General) visa are normally employed on A-Typical contracts such as Temporary Supply or Variable Hours Tutoring Contracts. As with core members of staff a member of the HR team should copy the following information, in colour from the student's passport where available:
- Front cover
- Photograph page
- Entry clearance stamps
- Associated entry clearance documentation
- Biometric card (both sides)
- Any existing visa/work permit

Once copied all copies should be signed and dated confirming that they are true copies of the originals.

The student must also provide documentary evidence of term dates for the course they are studying which must be kept on file by the employer.

It is important that the student must not engage in work for more than the maximum weekly hours set out by their visa/work permit. This limit is also specified in their Contract of Employment. Line managers are also made aware of this stipulation which is outlined on time sheets and claim forms and are responsible for weekly checks, notifying HR and Student Services should there be any concerns or discrepancies.

Monthly timesheets are submitted to HR and checked by the relevant HR Administrator for weekly compliance.

As with core members of staff, on an annual basis in September of each year, all students working at the University of Bolton under a Tier 4 (General Visa), are written to asking them to confirm that their circumstances and immigration status remain unchanged.