

## PERSONNEL and STAFF DEVELOPMENT

### GUIDANCE NOTE FOR NEW STAFF ON UK LAW TO PREVENT ILLEGAL WORKING

#### Introduction

The UK Government has introduced regulations (the Immigration, Asylum and Nationality Act 2006) to ensure that employers only employ people who are legally permitted to work in the UK. These regulations require an employer to verify a new employee's right to work in this country by checking and copying certain documents and to undertake annual checks on employees whose right to work in the UK is time-limited. This requirement applies to all new members of staff, irrespective of their nationality. It is a criminal offence to employ someone who does not have the right to work in the UK.

#### Procedure for New Staff

During your first week of employment with the University, you should bring the document(s) detailed in the appendix to:

Exeter-based staff: Catherine Bailey, Personnel and Staff Development in Room 357A on the third floor of Northcote House (on the Streatham Campus) during the following days/times: Mondays to Fridays – 2.00 pm to 4.00 pm.

Cornwall-based staff: University College Falmouth Personnel Office, located in Tremough House, during the following days/times: Mondays, Wednesdays and Fridays: 10.00 am to 11.00 am

Staff in the Peninsula College of Medicine and Dentistry: PCMD HR staff, based at St Luke's campus each Thursday.

If you are unable to present these documents during your first week of employment, please contact the Personnel Officer or Manager for your School/Service (see [www.admin.ex.ac.uk/personnel/contact\\_us.shtml](http://www.admin.ex.ac.uk/personnel/contact_us.shtml)) before you commence your employment to discuss alternative arrangements.

#### Procedure for Individuals Paid on a Claims Basis

The new requirements to check the right to work in the UK also apply to individuals undertaking casual work, who are paid on a claims basis. You should hand the appropriate documents, as detailed below, to your manager with the PD81 starter form. Your manager will take a copy of the documents and return the originals to you.

#### How to Prove you have the Right to Work in the UK

In summary:

- If you are not subject to immigration control, or have no restrictions on your stay in the UK, you should be able to produce a document, or a specified combination of documents, from List A. This will ensure that the requirements of the Act are met for the duration of your employment. **The most convenient way of satisfying the requirements of the Act is to bring a valid passport (if you are a member of an EU/EEA member state).**
- If your leave to enter or remain in the UK is time-limited, you must provide the document or documents specified in List B. It will be necessary for the University to repeat the check at least once every twelve months, until you provide specified document(s) from List A indicating that you can remain permanently in the UK, or your employment with the University ends.

In the event that you are unable to produce document(s) which satisfy the requirements of the Act on or before your first day of employment, then it may be necessary for the University to delay the

commencement of your employment and, if you continue to fail to meet the requirements, withdraw the offer of employment.

The Act requires the University to check the validity of the document(s) and satisfy itself that the employee is the person named in the documents they present and that the document(s) allow them to do the work in question. This includes checking that any photographs contained in the documentation are consistent with the appearance of the employee; checking the consistency of dates of birth across documents; and checking that the expiry dates of any limited leave to enter or remain in the UK have not passed. If you present documents which have different names, you will be asked for a further document (eg marriage certificate, divorce decree, deed poll document or statutory declaration) to explain the reason for this.

The Act also requires the University to make a copy of the relevant page(s) of the document(s) and to retain a copy for the duration of your employment and for a further two years after your employment has ceased.

### Nationals from the European Economic Area

Nationals from European Economic Area (EEA) countries and Switzerland (see list below) can enter the UK without any restrictions. However, not all EEA nationals can work in the UK without restrictions. Nationals from all EEA countries and Switzerland should be able to produce a document from List A showing their nationality.

### Workers Registration Scheme for A8 and A2 Workers

Nationals from the A8 countries (A8 workers) are free to come to the UK to live and seek work. The Government has established a Worker Registration Scheme (WRS) to monitor the participation of A8 workers in the UK labour market.

The University has a duty to ensure that it is authorised to employ an A8 worker. The University is authorised to employ someone during their first month of employment and, provided they have applied for a registration certificate during this one-month period, the University is authorised to continue to employ them until the UK Border Agency makes a decision on that application. If a registration certificate is issued, the University will continue to be authorised to employ the A8 worker, but if the application is refused, the University must terminate the employment. The University is required to keep a copy of the worker's completed application form to prove they have applied for registration within one month of starting work; and receive and keep a copy of the valid registration certificate when it is issued.

An A8 worker, in addition to the checks above, is advised to register with the WRS and retain a copy of the application form and registration certificate. An A8 worker may start work without registering first, but they should apply to register with the UK Border Agency within one month of starting their employment. To do this, you will need to provide evidence of your employment (eg the letter of appointment). Personnel and Staff Development will need to take a copy of the completed application form before you send it to the UK Border Agency. Once the worker has successfully registered, the UK Border Agency will send the University a copy of the registration certificate confirming this, which should be retained by the University.

Once an A8 worker has been working legally in the UK (for another employer) for 12 months without a break, they will have full rights of free movement and will no longer need to register with the WRS. The A8 worker can then get a residence permit confirming their right to live and work in the UK. Although you are not obliged to apply for a residence permit, if you are unable to provide to the University a registration certificate or a residence permit, you will need to prove (using payslips) that you have worked in the UK for 12 months, with no more than 30 days break, since they applied for the WRS and provide the WRS registration certificate.

A2 workers are free to come to the UK, but may be subject to worker authorisation. This means that they are only able to work in the UK if they hold a valid Accession Worker card (Purple Work card) or if they are exempt from authorisation (Blue Registration Certificate).

An A2 worker, in addition to the checks above, will require authorisation before they begin work, unless they are exempt. The authorisation will be in the form of a card or a certificate, which will set out any conditions on their employment. If you do not have a Blue Registration Certificate the

University will be required to apply for a work permit. Upon receipt of the work permit (if approved) you will need to apply for an Accession Worker card (Purple Work card) using the form BR3. Further details are available on the UK Border Agency website <http://www.bia.homeoffice.gov.uk/workingintheuk/bulgariaromania/applying/>. The University is required to take a copy of the relevant worker authorisation document (or any documents that establish that the person is exempt from authorisation) before the A2 worker starts work.

### Certificate of Sponsorship

If you are not a national of an EU/EEA member state and do not have the right to work in the UK, in most cases it will be necessary for the University to issue a Certificate of Sponsorship (CoS) under the Points Based System (PBS). (The PBS replaces work permits from November 2008.)

The University will contact you to obtain the information which is required for a CoS to be issued. You cannot start work until a CoS is issued and you have an appropriate visa.

The type of visa is dependant upon if you are already in the UK or applying from outside. If you are currently living outside the UK, you will need to apply for 'leave to enter' by visiting your nearest British Diplomatic Mission/British Embassy/High Commission. If you are currently living in the UK, you will need to apply for 'leave to remain'.

When you apply for your visa, you will need to present the CoS (this is a reference number which the University will email to you) and satisfy the Entry Clearance Officer in the British Diplomatic Mission/British Embassy/High Commission that you meet the requirements of the PBS with reference to 'maintenance' and 'English Language Skills' – see the UK Border Agency website for more information: <http://www.ukba.homeoffice.gov.uk/pointscalculator>

When the University sends you the CoS, you will be given further information about the evidence you will need to present to the Entry Clearance Officer when you apply for a visa.

The University will meet the cost of the CoS but it is your responsibility to meet the application fee for your visa.

### Students

Most students from non-EEA countries are permitted, on a student visa, to supplement their funds by working part-time while they study. If your visa reads '*Work (and any changes) must be authorised by the Secretary of State*' or '*Able to work as authorised by the Secretary of State*', you can work a maximum of 20 hours per week during term-time and unlimited hours during holidays. If your visa reads '*No work*', then you must not work while you study. The University of Exeter strongly advises its students not to work more than 15 hours per week as extra work may adversely affect your studies. Postgraduate students should also be aware that they may not be allowed to work unlimited hours during normal University holidays, as their courses do not necessarily follow the usual University calendar. International students of the University of Exeter can seek advice from the International Student Adviser. For more information, see: <http://offices.exeter.ac.uk/international/information/exeter/workingduringstudies.shtml>. (Students at other Institutions should seek advice from their University's International Student Adviser.) If your circumstances change (for example, you cease to be a student), you should inform your line manager and Personnel & Staff Development at the earliest opportunity.

### National Insurance and Taxation Arrangements

When you commence work in the UK, it will be necessary for you register with HM Revenue and Customs and Department of Work and Pensions for Income Tax and National Insurance purposes. Further information is available from [www.admin.ex.ac.uk/personnel/international\\_staff/](http://www.admin.ex.ac.uk/personnel/international_staff/).

<b>Members of the EEA who can work without restriction.</b>	<b>A8 Countries</b>	<b>A2 Countries</b>
Austria * Belgium * Cyprus* Denmark * Finland * France * Germany * Greece * Iceland Ireland * Italy * Liechtenstein Luxembourg * Malta* Netherlands * Norway Portugal* Spain * Sweden * UK* * also members of the European Union.	Czech Republic Estonia Hungary Latvia Lithuania Poland Slovakia Slovenia	Bulgaria Romania

## List A Documents

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 United Kingdom.
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 the European Economic Area or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office or the UK Border Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Immigration Document issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. An Immigration Status Document issued by the Home Office or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, when produced in combination 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 certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents, when produced in combination 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 full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents when produced in combination 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 birth certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
12. A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
13. A letter issued by the Home Office or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom when produced in combination 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 Documents

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
  2. A Biometric Immigration Document issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
  3. A work permit or other approval to take employment issued by the Home Office or the UK Border Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office or the UK Border Agency to the holder or the employer or prospective employer confirming the same.
  4. A certificate of application issued by the Home Office or the UK Border Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old when produced in combination with evidence of verification by the UK Border Agency Employer Checking Service.
  5. A residence card or document issued by the Home Office or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.
  6. An Application Registration Card issued by the Home Office or the UK Border Agency stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the UK Border Agency Employer Checking Service.
  7. An Immigration Status Document issued by the Home Office or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, when produced in combination 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 letter issued by the Home Office or the UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
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