



GUIDANCE ON EMPLOYMENT IMMIGRATION

GENERAL

The information in this document is intended to provide an overview of how the new right to work in the United Kingdom (UK) system operates, specifically in relation to the University. It is not intended as definitive guidance to be followed by recruiting Schools/Research Institutes/Departments etc.

Where there is a requirement to employ a non-EEA national (migrant workers) or there are any queries in relation to the employment of migrant workers, please contact your Link Human Resources team for support and advice.

INTRODUCTION

Nationals from non-EEA countries who apply for vacant positions within the University will require authorisation to work in the United Kingdom.

It is a Civil Offence to employ a migrant worker who does not have the right to work in the UK. It is also a criminal offence to knowingly employ a migrant worker who does not have the right to work in the UK.

In order to ensure that applicants have the right to work in the UK, their documentation should be checked in accordance with the guidance contained on the Human Resources pages on the Keele website.

<http://www.keele.ac.uk/depts/uso/hr/policies-procedures/RandS/ProvidingProofofEligibilitytoWorkinTheUKJan08-1.pdf>

LEGISLATION

The UK Borders Agency operates a Points Based System of immigration and migrant workers are required to satisfy the criteria to ensure that they are eligible to work in the UK.

Under this system migrant workers are allocated points to determine their suitability to enter and work in the UK. Points are awarded based on attributes such as age, qualifications and previous or prospective salary.

The points based system consists of 5 Tiers -

- Tier One - Tier 1 - for **highly skilled individuals**, who can contribute to growth and productivity
- Tier Two - for **skilled workers** with a job offer, to fill gaps in the UK workforce
- Tier Three - for limited numbers of **low-skilled workers** needed to fill temporary labour shortages (currently suspended)

- Tier Four- for **students**
- Tier Five - for **temporary workers** and young people covered by the Youth Mobility Scheme, who are allowed to work in the United Kingdom for a limited time to satisfy primarily non-economic objectives

For the purposes of recruitment at Keele, it is expected that the majority of requests will apply to Tiers One, Two and Five.

TIER ONE – HIGHLY SKILLED INDIVIDUALS

The highly skilled worker category is designed to allow highly skilled people to come to the United Kingdom to look for work or self-employment opportunities.

Migrant workers who are in receipt of a Tier One will have applied directly to the UK Borders Agency in order to receive this permit. They do not need a job offer to enter the UK and their eligibility to work in the UK will be clearly defined on their visa.

TIER TWO - SPONSORED SKILLED WORKERS WITH A JOB OFFER

The skilled worker category is for migrant workers who are entering the UK with a job offer. This Tier will be used by migrant workers who have the necessary skills to fill a gap in the workforce that cannot be filled by a settled worker.

If the University wishes to appoint a migrant worker who requires a Tier 2 permit there is a requirement for the University to issue a Certificate of Sponsorship to that individual who will then need to apply to the UK Borders Agency for permission to work in the UK.

In order to issue a Certificate of Sponsorship there is a requirement for the University to complete a Resident Labour Market test (RLMT). The completion of the RLMT provides evidence that the vacant position cannot be filled by an EEA national. In order to satisfy the part of the criteria for the RLMT, positions must be advertised for a minimum of 4 weeks.

If successful, applicants under this system will be granted leave to remain for a maximum of three years and one month or possibly a shorter period of time. At the end of the period applicants must apply to extend their right to work in the UK.

Authorisation to work in the UK is not transferable between employers. In addition where a migrant worker's core duties and/or responsibilities change, or where their position in the hierarchy of the University changes, for example, due to promotion, this has to be treated as a change of employment. A change of employment requires the University to issue a new Certificate of Sponsorship and the migrant worker must make a fresh application for leave to remain (which must be approved before they can start work in their new job).

TIER FIVE – SPONSORED TEMPORARY WORKERS/GOVERNMENT AUTHORISED EXCHANGE CATEGORY

Tier Five allows sponsored researchers the opportunity to enter the UK to undertake unpaid research, general in collaboration with Keele. Sponsored Researchers often bring with them a research grant or Keele may hold a grant for them; the purpose of which is to provide living expenses for them during their stay.

Applicants under Tier Five must have a sponsor and a valid Certificate of Sponsorship.

Applicants who are successful under this system will be allowed to remain in the UK for 24 months or for the length of time on their certificate of sponsorship plus 28 days, whichever is shorter.

Some visiting researchers could enter the UK as a Visiting Academic which does not require a Certificate of Sponsorship. Information on this and all other aspects of employing migrant workers should be obtained from Human Resources.