

# GUIDANCE NOTES TO RECRUITING/HIRING MANAGERS IN RESPECT OF BREXIT AND IMMIGRATION CHANGES POST 31 DECEMBER 2020

On 31 December 2020, free movement of EU nationals to and from the UK will end. Coming into effect from 1 January 2021 will be the new Points-based immigration system which assigns points depending on skill sets and applies equally to EU nationals who are not already resident in the UK on or before 31 December 2020 as well as to non-EU nationals. This replaces the Tier 2 visa route.

As a result, there are additional considerations for recruiting/hiring managers to take into account when recruiting staff with an expected start date on or after 1 January 2021.

Please note Irish citizens do not require sponsorship and EU nationals who are already resident in the UK **on or before 31 December 2020** will not require sponsorship or a Visa to work in the UK. See HR colleagues for specific information on the transitional arrangements for EU citizens between 1 January and 30 June 2021.

## Considerations:

- 1) Before Advertising

**HR Co-ordinators will confirm whether a role meets the eligibility criteria for possible sponsorship under the Points-based Visa Scheme.**

Whether or not it is possible to obtain a Certificate of Sponsorship is dependent upon whether the job role is listed on the Government's Shortage Occupation List.

You should therefore liaise with your HR Co-ordinator to determine whether the job role and salary level meets the necessary criteria for sponsorship so that the advertisement can clearly indicate whether this type of sponsorship is an option.

**If you are recruiting to a fixed-term role, please consider carefully the length of time you wish to employ someone before submitting your SRF and advertising the role.** If your successful candidate should require a Certificate of Sponsorship then the visa will be issued for a specific period of time and if you should later require an extension to the contract, this will attract additional (and perhaps unnecessary) visa processing costs for both the University and the individual (see below).

**The Resident Labour Market Test has now been removed.** However, in the interests of reaching the widest pool of potential applicants, the University's requirement to advertise for a minimum period of 28 days for roles at Grade 6 or above, or where sponsorship may be possible, will remain in effect.

If you receive **any questions from potential applicants regarding their immigration eligibility, please forward the email or direct the individual to your HR Co-ordinator for response.** HR will signpost the individual to the Government's Immigration Tool to check their own eligibility.

## 2) Shortlisting

**Continue to shortlist, as normal, based upon the essential and desirable criteria as set out in the Person Specification.** You should continue to assume that all applicants meet the necessary Right to Work requirements or meet the eligibility requirements to be issued with a Certificate of Sponsorship. Rejecting applications on the basis of assumed eligibility to work in the UK can lead to claims of indirect discrimination, therefore you should never shortlist for reasons connected to eligibility to work in the UK.

## 3) Interviewing

**HR will continue to invite candidates to interview and remind them in their interview invitation of the need to have the right to work in the UK.** HR will continue to ask for identification either at the interview (if in person) or a scanned version of a current valid passport to be sent prior or at the interview and certainly prior to any job offer being made.

Any questions relating to an individual's right to work in the UK should be raised at offer stage.

## 4) Offering the position

Once a decision has been made regarding appointment, **the Chair of the Panel/Line Manager (as appropriate) should verbally offer the position to the successful candidate making it clear in that conversation that the offer is subject to having the right to work in the UK** (which may require the University submitting and securing a Certificate of Sponsorship). If for any reason a Certificate of Sponsorship is not approved and the individual does not have the right to work in the UK, then any job offer will be withdrawn.

**Please liaise with your HR Co-ordinator prior to offering the role to ensure any minimum earnings threshold is satisfied** in order to accumulate sufficient points for successful sponsorship. You will need to be able to demonstrate/evidence why a particular salary/spinal point is being offered to a particular candidate in order to avoid any salary differentials with others in the team undertaking the same role. The reason of needing to offer a particular salary in order to meet immigration requirements is not an accepted reason on its own.

**Please consider an appropriate start date when offering the role.** If sponsorship is required it may take a number of weeks for the Visa application to be approved. Your HR Co-ordinator will be able to provide guidance on appropriate start dates.

Once the offer has been accepted, **please advise your HR Co-ordinator who will confirm whether the successful candidate already has the right to work in the UK or whether sponsorship and/or a visa is required.** Your HR Co-ordinator will then liaise with the successful candidate regarding next steps.

**It is expected that employees will undertake their duties / work in the UK.** If there is any possibility that the successful candidate will not be working in the UK, this needs explicit approval and must be discussed with HR in advance of any offer of employment being made. There are employment, payroll, tax and social security implications for these arrangements and advice and approval must be sought.

**If you are in any doubt, please liaise with your HR Co-ordinator prior to making any verbal offer.**

## 5) Sponsorship

**The University will make the application for a Certificate of Sponsorship.** In order to make the application, information and documentary evidence will need to be provided by the successful candidate, such as Passport Number. This can take some time and you should allow 8-10 weeks from job offer to allow for the Visa application to be processed fully before the individual can start work.

**Please note the cost to the University for each Certificate of Sponsorship application is £199.** There is a limit on the number of applications that can be made by the University each year. This number has not yet been advised.

**Once a Certificate of Sponsorship has been issued, it is the successful candidate's responsibility to apply for their visa.**

**The cost to the individual for a Points-based visa application is c£1000.** This includes the Visa processing fee and the Immigration Health surcharge. **Please note that if it is later decided to extend the contract, then the individual will need to pay this fee again.** There is no reduction in cost for an extension of a very short period. If the individual is bringing family members, then additional fees apply for each family member.

If sponsored, **an individual who already has a visa with an alternative employer will need to make a new application each time they change employer or change job with their existing employer** if the new role is from a different job category.

## 6) Other possible Visa routes

Candidates from overseas may have other forms of right to work in the UK permission or be eligible for an alternative Visa route. These may include:

- As a Dependant
- As a Highly Skilled Worker (details are not yet available for this scheme)
- Via the Global Talent Visa (replaces Tier 1 (Exceptional Talent) category)
- Via the Student route (replaces Tier 4 Student Visa category)
- Via the Graduate route (replaces Tier 4 Doctoral Extension scheme category but extended to include completed undergraduate, masters and PhD studies - due to launch in Summer 2021).

Other Points-based routes:

- Government Authorised Exchange route
- Health & Care route
- Creative route
- Sporting route
- Youth Mobility route

Your HR Co-ordinator will be able to provide further details on these alternative routes.

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