



Immigration Policy

Purpose of policy

The purpose of the policy is to clarify the obligations of employees and the LSE as an employer with the respect to the right to work in the UK.

Background

As an employer, LSE has a duty to prevent illegal working. The LSE has a statutory duty to ensure that all employees can demonstrate that they have the right to work in the UK before they start their employment and for the duration of their contracts.

It is illegal to employ someone aged 16 or over who is subject to immigration control if they are not allowed to undertake the work in question. In addition, it is a criminal offence for an individual to work illegally in the UK.

Conducting a right to work check ensures that LSE has a statutory excuse against liability for a civil penalty. This means that if the UK Visa and Immigration (UKVI) find that the School has employed someone who does not have the right to work, but it has correctly conducted document checks as required, the School will not receive a civil penalty for employing that illegal worker.

If LSE fails to carry out these checks correctly, or at all, and are found employing someone illegally, the UKVI will take tough action. LSE could face a large financial penalty known as a civil penalty of up to £20,000 for each illegal worker, or if it knowingly employs an illegal worker it carries up to 2 years' imprisonment and/or an unlimited fine for the individual who has the authority to appoint.

In addition, the sponsorship licence for staff could be revoked. This means that LSE will no longer be able to sponsor any new staff and all existing sponsored staff would be unable to continue to work with immediate effect. LSE's sponsor licence for students would also be affected, which would affect the School's ability to sponsor overseas students.

EEA Nationals

As the UK has now left the EU, the Freedom of Movement legislation which previously allowed

EEA nationals to live and work freely in the UK has ended. This means that EEA nationals arriving in the UK on or after 1 January 2021 will need a visa to work.

The exception to this is if an EEA national was already living in the UK by the time the transition period ended on 31 December 2020 and has applied under the EU Settlement Scheme. The EU Settlement Scheme was established to protect the rights of EEA nationals who were already living in the UK when the UK left the EU and so they are allowed to continue to work in the UK beyond 1 January 2021 without any further action.

Frontier Workers

A Frontier Worker is an EU national who is normally a resident overseas, and who commutes to the UK on a regular basis for work purposes. As they are not a resident of the UK, they are not eligible to apply under the EU Settlement Scheme. However, the government has protected the rights of EU nationals who had been commuting to the UK for work prior to 31 December 2020, given that they were previously able to enjoy this right under the Freedom of Movement legislation.

Frontier Workers who can demonstrate that they had a commuting arrangement in place for work prior to 31 December 2020 will need to apply for a [Frontier Worker Permit](#) and they have until 30 June 2021 to do so. Employees wishing to start a new commuting arrangement after 1 January 2021 will need to ensure that their visa status allows them to commute to the UK before making any changes to their working pattern. There may also be other implications to be aware of, such as tax, social security etc, and so individuals should also refer to their HR Partner for further information.

What is a right to work check?

In order for LSE to meet its statutory duty to prevent illegal working, all recruiting managers must ensure that their employees demonstrate that they have the right to work in the UK before they start their employment and for the duration of their contracts.

The term 'right to work' describes individuals who have the appropriate permission to live and work in the UK.

UK nationals have the automatic right to work in the UK, whereas all other nationals (including EEA nationals from 1 January 2021) will need a visa to work in the UK.

A right to work check is the process by which an employer checks that an individual has the right to undertake the work that is being offered to them before they start the work. The process requires an individual to present their documents, which are inspected in their presence to ensure that they are valid and their photograph is a true likeness. A copy of the documents is retained on the employee's personal file as evidence that the check was conducted.

The School reserves the right not to pay an individual for any work undertaken before a satisfactory right to work check is completed or in cases where the documents presented do not meet with current Home Office guidelines.

When should a right to work check be conducted?

The UKVI rules state that a right to work check must be taken before you employ a person to ensure they are legally allowed to do the work in question for you. It is not enough to simply undertake the check on the first day of employment if the employment has already started.

Therefore, as a minimum, the right to work check should be conducted before the individual conducts any work for the School. For example, this could be before their first day, or by 9:30am on the morning of their first day before they start work.

It is the responsibility of the employee to demonstrate that they have the right to work before they commence their employment at the School. It is the responsibility of the recruiting manager to ensure that the LSE right to work process is followed. It is the responsibility of the Heads of Department/Centre Directors/Service Leads to ensure the local processes are compliant with the School policy. If an employee is unable to produce original evidence of their right to work, they will not be able to start their employment. In these cases, the School will defer an employee's start date until their right to work is confirmed. Any salary, continuous service and other such related benefits will start from the new start date. Salary will not be backdated.

However, it is good practice for the interview chair to conduct an "informal" right to work check at the interview stage, by asking the individual to bring their proof of their right to work in the UK with them to the interview. However, even where this occurs, the new starter must bring proof of their right to work on or before their first day of employment, and be brought to HR.

Right to work checks must be completed by HR and in accordance with the LSE process in order to provide LSE with a statutory excuse against liability for a civil penalty.

What constitutes 'work'?

Work is any activity that is related to the individual's employment at the School and includes anything that helps to facilitate the person joining the School or starting their role. Examples could include, but are not limited to, issuing a staff card or IT access, being introduced to the team and/or other colleagues, being given a tour of the office and/or campus, being given training and/or equipment or undertaking any relevant reading. This means that the right to work check must be carried out before any of these activities take place.

Who needs a right to work check?

All employees and potential employees require a right to work check before undertaking any employment at the LSE. The right to work check lasts for the duration of the individual's employment at the School and so if they leave employment and then return at a later date (also known as a 'break in service'), they will need a new right to work check for the new period of work.

Temporary staff or contractors engaged via a recruitment agency will also need right to work checks, however this is normally the responsibility of the agency and they should have done this before they send the individual to undertake the assignment.

For example, if you wish to re-employ someone who has worked for you previously, they will need to have a new right to work check, every time you employ them.

What documents can individuals use to show they have

the right to work?

If an employee or new employee has an ongoing right to work, they will be able to show one of the documents that are stated under 'List A' (See Annex 1).

If an employee or new employee has a time-limited right to work, they will be able to show one of the documents that are stated under 'List B' (See Annex 2).

An employee will need to demonstrate that they have the right to work for the duration of their contract. If they have a visa which is subject to an expiry date, the contract will run until the same date, and the individual will need to obtain an extension before their current visa expires, or switch to a new visa in order to continue their employment.

At present, an EEA national can still demonstrate their right to work in the UK with their valid EEA passport, however this will change from 1 July 2021 in line with the recent changes to the immigration system. Therefore, this guidance will be amended accordingly. However, recruiting departments should check with their new employee if they are eligible to apply under the EU Settlement Scheme. If they are not, or they are arriving in the UK after 1 January 2021, the EEA national will need a visa before they can be allowed to start work.

What is the LSE process for conducting a right to work check?

The LSE's terms and conditions state that employment is offered subject to the right to work in the UK.

The contract letter and enclosure documents clearly state that new starters are required to undertake a right to work check before they start work and no later than 9:30am on their first day. The contract also includes an FAQ document on right to work, as well as a copy of the list accepted documents for right to work.

It is the responsibility of the recruiting manager to ensure that the right to work check is completed by 9:30am on the first day of employment, and in any case before the individual starts any work. If a recruiting manager would like their new starter(s) to start work later on their first day, for example because of team availability or because they work a different shift pattern, please send an email to HR.Admin@lse.ac.uk with details of the situation and confirmation that the person had not started work before they did their right to work check.

Right to work documents must be inspected in the presence of the holder and normally, documents should be originals. However, at the time of writing, the UKVI has allowed employers to undertake a virtual right to work check process using scanned copies of documents to remove the need for an individual to come to HR in person. This exception has been provided by the Home Office due to the COVID-19 pandemic and is expected to be reviewed and/or removed when the situation improves.

Can my new starter arrive for their right to work check later than 9:30am on their first day?

Some recruiting managers would like their new starters to arrive for work later on their first day so that they have come time in the morning to make arrangements for their arrival. If you have agreed locally that your new starter should come in later than 9:30am, please send an email to

HR.Admin@lse.ac.uk stating the person's name, their new start time and confirmation that they will not be starting work until after the right to work check has been taken.

Similarly, if a person has arrived later than 9:30am for a different reason, such as different shift patterns, the recruiting manager should email HR.Admin@lse.ac.uk with details of the situation and confirming that the person had not started work before they came to HR for their right to work check.

Offering contracts

It is only the Head of Department/Institute/Centre or the Department/Institute/Centre Manager (or equivalent) who is authorised to make offers of employment. This is so that the contract process can be managed via a central point and to reduce the risk of offers being made without the correct process and/or right to work checks being made.

Sponsorship

The School has a licence to sponsor individuals who require a visa to work in the UK under the Skilled Worker route, which replaces the Tier 2 visa category, with effect from 1 January 2021. The School will only act as a sponsor if the role meets the criteria for sponsorship and the department and the employee confirm that they will abide by their visa obligations.

The School will normally sponsor academic and research roles, providing the salary for the role meets the minimum salary threshold.

However, sponsorship for professional services roles will normally be considered on a case-by-case basis and, in accordance with the rules for sponsoring individuals under the Skilled Worker route. Therefore, departments will need to make a business case to the School if they wish to sponsor a role under the Skilled Worker visa route.

Further information on [visa sponsorship](#) is available on the HR website.

Supplementary employment under the Skilled Worker route

The Home Office guidelines state that those sponsored under the Skilled Worker route are allowed, in limited circumstances, to undertake other supplementary employment as well as that which their Certificate of Sponsorship was assigned for.

Supplementary employment must meet the following criteria:

- a) be in the same Occupational Code of Practice and at the same professional level as the work for which the individual's Certificate of Sponsorship was assigned or
- b) be a job which is on the UK's current 'Shortage occupation list'
- c) be for no more than 20 hours a week
- d) be outside of the normal working hours for which the individual's Certificate of Sponsorship was assigned.

In order for a Skilled Worker Visa holder or Tier 2 visa holder to undertake additional teaching under the supplementary employment clause of their visa, they must be able to demonstrate

that they are being sponsored in the Occupational Code of Practice for Higher Education Teaching Professionals (2311).

Therefore, individuals who are sponsored to undertake research and are sponsored under a Occupational Code of Practice for research work, such as:
Natural and Social Science Professionals not elsewhere classified (2119) (normally used at LSE) or

- 2111 Chemical Scientists,
- 2112 Biological scientists and biochemists,
- 2113 Physical scientists,
- 2114 Social and humanities scientists,

are not permitted to undertake additional or ad-hoc teaching under the supplementary employment clause of their visa.

Student visa holders (formerly known as Tier 4 visas)

Student visa holders are only permitted to work a **maximum of 20 hours per week during term-time**. This includes paid and unpaid work. A week period is defined as Monday to Sunday.

PhD students, 1-year Masters and 2 year Masters students who are in their 2nd year do not have a summer vacation and cannot work more than 20 hours per week during this period.

PhD students who have submitted their thesis but need to extend their visa for their viva or corrections, are also restricted to 20 hours work per week during term-time.

Therefore, as part of the right to work check process, LSE is required to obtain confirmation that the student is registered for study at a UK university and confirmation of their term dates so that their working hours can be monitored appropriately. Acceptable proof of term dates is either:

- a) a screen print of their university website showing their term dates, or
- b) a letter from their university confirming their term dates.

Any student wishing to work more than 20 hours per week will need to demonstrate that they are eligible to do so **before undertaking the additional hours**. Students will be asked to provide evidence that they are either on vacation, or that they have completed all course requirements. Acceptable evidence is either a screen shot of the student's university website showing their term dates or a letter from their university confirming that the student is on vacation, or that the student has completed all course requirements.

Students are responsible for ensuring that they do not breach their working hours. The School reserves the right to monitor the working hours that student visa holders claim for and will refuse to pay any student for hours that they work over and above the maximum that they are permitted.

In addition, LSE is obliged to report any student who is found to be in breach of their visa obligations to the UKVI.

Further information about [employing students and departmental responsibilities for ensuring compliance](#) can be found on the HR Immigration Compliance website.

Students should be directed to the [International Student Visa Advice Team](#) webpages for more information if they have any queries about their visas.

Other visas

Other visas may permit the holder to work in the UK. It is the responsibility of the individual to ensure that they do not breach their visa obligations and that they renew their visa before it expires.

Ensuring compliance

It is the responsibility of the employee to demonstrate that they have the right to work throughout the duration of their contract and, where relevant, to take appropriate action to renew their visa before it expires.

It is the responsibility of the Department/Institute/Centre/Division, via the Head of Department or equivalent to ensure that:

1. Employees are provided with contracts before they start work
2. Employees (including those who return after a break in service) are asked to present their right to work documents to HR before they undertake any work at the School
3. Student visa holders do not work more than 20 hours per week during term-time.

Further information on departmental responsibilities for [ensuring compliance](#) can be found on the HR Immigration Compliance website.

Cases of non-compliance will be escalated to either the Pro-Director for Faculty and Resources or the Chief Operating Officer, where relevant.

Employer Checking Service

LSE reserves the right to check an individual's right to work in the UK using the Home Office's Employer Checking Service if there are any reasonable concerns around whether they have the right to work.

Reimbursement of visa application fees

The School will only reimburse the visa application fees as specified in the 'Visa Reimbursement Guidance'.

Loss of the right to work

If a new employee cannot demonstrate the right to work before they start work, the offer of employment will be withdrawn and the individual will not be able to commence work.

If an existing employee loses their right to work during their employment at the School, or cannot produce evidence that they have the right to work, he or she will be required to stop working immediately and his or her employment will be at risk of termination.

Further information

Further information on visa sponsorship is available on the [HR website](#).

Further information on student visas is available on [Student website](#).

Annex 1

Lists of acceptable documents for right to work checks

List A: Acceptable documents to establish a continuous statutory excuse

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport showing 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 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 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 National Insurance number and their name issued by a Government agency or a previous employer.

10. 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.

**1 Please note that the list of acceptable documents is due to be updated by the Home Office in line with the new immigration system in June 2021. However, from 1 January 2021, where an EEA national is arriving in the UK for the first time, they will also require a visa in order to work, unless they have already applied for pre-settled or settled status under the EU Settlement Scheme.*

Annex 2

List B

Group 1 – Documents where a time-limited statutory excuse lasts 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 Economic 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.

In addition to their passport and BRP, **Tier 4 students must bring their student card and proof of their term dates** either in the form of a screen print of their university website showing their term dates, or a letter from their university confirming their term dates.

If a Tier 4 student wishes to work more than 20 hours per week, they will also need to demonstrate that they have completed all elements of their course, or they are on vacation. Acceptable evidence will either be a letter from their university confirming that they have completed all elements of their course, or that they have been formally granted vacation from their studies.

Group 2 – Documents where a time-limited statutory excuse lasts for 6 months

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to 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 together with a Positive Verification Notice from the Home Office 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.

Review schedule

Review interval	Next review due by	Next review start
1	July 2021	June 2021

Version history

Version	Date	Approved by	Notes
9	5 February 2021	SMC	

Contacts

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Communications and Training

Will this document be publicised through Internal Communications?	No
Will training needs arise from this policy	No
If Yes, please give details	