

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. Further details on UK immigration are available on the [UK Visas and Immigration](#) website.

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 we 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 on Tier 2 and Tier 5 and all existing staff on Tier 2 or Tier 5 would need to leave our employment with immediate effect. In addition, the School's Tier 4 licence for students would be affected, which would affect our ability to sponsor overseas students.

What is a right to work check?

The term right to work is given to describe individuals who have the appropriate permission to work in the UK.

An individual will either be UK or EEA nationals, who have the automatic right to work in the UK, or a non EEA national who holds a visa (or equivalent) which gives them the right to work.

A right to work check is the process by which an individual's original passport and/or visa is checked by the employer to ensure that it is valid, and appropriate copies are retained on the employee's personal file.

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?

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.

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.

This means that LSE is obliged to conduct a right to work check before anyone starts work – even if they have worked at the School previously. In cases where the right to work check is made on the first day of employment, the LSE is required to demonstrate that the check took place before the employee actually commenced any work. This includes salaried, hourly and casual contracts.

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, he or she 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.

What constitutes as '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. **This includes new employees and those who have worked at LSE previously and are returning after a break in employment. It also includes any temporary members of staff brought in through an agency who will be paid via the School payroll.**

Nationals of the European Economic Area (EEA)

Individuals that hold either a British or EEA passport have the right to work in the UK without a visa. The current list of EEA countries is set out in **Annex 1**.

Croatian nationals

With effect from 1 July 2018, Croatian nationals no longer need to register to work or study in the UK. This means that they are able to work in the UK without restriction, in the same way as any other EEA national. Croatian nationals will now be able to demonstrate their right to work by presenting their original passport, or National Identity card.

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.

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.

As part of the contract, new starters are required to come to HR on their first day of employment and produce the documents which demonstrate their right to work. The contract letter states the following paragraph:

Right to Work

This offer is made on the understanding that you have the right to work in the UK and your start date is subject to you being able to demonstrate proof of your right to work before you start work.

You are required to come to the HR Division in person and present original documentation confirming your right to work, in accordance with the current Home Office guidelines for acceptable right to work documents. Please refer to Annex <> for the full list of accepted documents.

Please come to the HR Division with your original documents as soon as possible after receiving this letter and no later than 9:30am on your start date.

If you have an application in progress with the Home Office, LSE is required to conduct further checks. Please contact the HR Division immediately to discuss your situation so that appropriate checks can be made before you start work. Please note that you will not be allowed to start work until these checks have been made and if necessary, your start date will be postponed until the checks are completed. You are required to keep the HR Division informed of the progress of your application, and you are required to bring evidence of your new visa when you receive it.

In the event that you are unable to provide evidence of your right to work by 9:30am on your start date, or the documents that you have presented do not meet the current Home Office guidelines (see Annex <> in this letter) you will not be allowed to start work. Your start date will then be deferred until your right to work status is formally confirmed by the HR Division. Your salary, continuous service and other such related benefits will start from your new start date. Salary cannot be backdated.

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.

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.

Right to work documents must be inspected in the presence of the holder and scanned or photocopies of documents will not be accepted.

When an employee arrives, a member of HR will check the validity of the original documents and take electronic copies of them for the School's records.

The HR staff member will insert the following text onto the copy which has been taken:

I certify that I have seen the original and this is a true copy taken on <date>

The HR staff member will then **sign** the copy of the document and save it to the employee's electronic personnel file.

In addition, Tier 4 students must bring their student card and proof of their term dates before they start work. 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.

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.

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 some 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 non-EEA nationals under Tier 2 or Tier 5. 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 attached to the role meets the minimum salary threshold.

Sponsorship for professional services roles will be considered on an exceptional basis either where there is evidence that there is a strategic need to sponsor under Tier 2 either because the role has an international focus and requires international expertise, or it requires very specific and/or scarce skills that are not widely available in the UK or EEA.

It is the School's decision as to whether to sponsor a role under Tier 2 or Tier 5.

Further information on [Tier 2 sponsorship](#) is available on the HR Immigration Compliance webpages.

Supplementary employment under Tier 2 or Tier 5

The Home Office guidelines state that those sponsored under Tier 2 or Tier 5 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 profession 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.

Employees who are sponsored as a researcher and have been assigned to a Research Code of Practice are not considered by the Home Office to be in the same profession as academic or teaching staff and so would not meet the criteria as set out in point a) above.

Therefore, individuals who are sponsored under Tier 2 or Tier 5 as a Researcher at LSE or elsewhere will not be permitted to undertake additional or ad-hoc teaching under the supplementary employment clause of their visa.

Tier 4 (students)

Tier 4 students 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. Recruiting managers must ensure that any such potential applicants are made aware of this restriction should they be shortlisted for interview.

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 Tier 4 visa for their viva or corrections, are also restricted to 20 hours work per week during term-time.

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 Tier 4 students 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 Tier 4 students and departmental responsibilities for ensuring compliance](#) can be found on the HR Immigration Compliance website.

Tier 4 students are strongly advised to see the [International Student Visa Advice Team](#) webpages for more information on their visa obligations.

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. Tier 4 students 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

For clarification on whether an individual has the right to work in the UK, please contact your HR Adviser (salaried recruitment) or the Hourly-Paid Contracts team (casual and hourly-paid recruitment).

Further information on ensuring compliance, right to work and Tier 2 sponsorship is available on the HR Immigration Compliance webpage.

For information on Tier 4 student visas, please see the [International Student Visa Advice Team](#) website.

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Annex 1

The European Economic Area (EEA)

The following countries are part of the EEA and nationals of any of these countries have the right to work in the UK.

Austria
Belgium
Bulgaria
Croatia
Republic of Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Italy
Latvia
Lithuania
Liechtenstein
Luxembourg
Malta
Netherlands
Norway
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Switzerland
Sweden
UK

Annex 2

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 or national identity card 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.

Annex 3

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.