Immigration, Right to Work and Recruitment update – March 2016

1. Changes to Tier 2 arising from the Migration Advisory Committee’s Review

Last year, the Migration Advisory Committee (MAC) consulted with employers and undertook a review of Tier 2 of the points-based immigration system on behalf of the government. The MAC made a number of recommendations for change, which the government has now considered. These changes will apply when the University intends to sponsor an overseas worker under Tier 2 and are detailed below.

- **Minimum Salary Threshold increasing in 2016 and 2017** - Tier 2 (General) salary thresholds for ‘experienced workers’ (that is, those over 26 years old or applying for a Tier 2 visa of more than 3 years duration) will be increased from £20,800 up to £25,000 in autumn 2016, and £30,000 in April 2017. The first increase will result in a negligible impact on our recruitment through Tier 2 and we have some time to prepare for the second increase. Further information will follow on this at a later date.

- **The Resident Labour Market Test permitted exemption for Tier 4 switchers to continue** - this is the exemption from having to advertise a role in accordance with UK Visas and Immigration (UKVI) rules (advertising for a specified period, in certain media and including mandatory information) that currently exists for Tier 4 students switching to a Tier 2 visa. This is very welcome news – we had expected to lose this exemption.

- **A new Immigration Skills Charge to be levied from April 2017** - whilst a new charge of £1,000 per person per year will be introduced for many employers who sponsor individuals who require Tier 2 visas, there will be an exemption to this charge for PhD occupations and for Tier 4 students switching to Tier 2. For non-PhD level roles, the rate charged to the University will be £364, which is the rate charged for charities. This is more welcome news, which follows a period of intense lobbying by the Higher Education sector about this charge.

2. Reminder about not accepting right to work evidence within an expired document

After a recent query, we would like to remind departments that since May 2014 it has not been permitted in law to accept a visa or indefinite leave (ILR) to remain endorsement within an expired document (e.g. passport) as evidence of right to work in the UK. This is to enable the Home Office to remove a raft of insecure immigration documents and replace them with secure Biometric Residence Permits (BRPs). Details of how individuals with a visa or ILR endorsement in an out-of-date passport can obtain a BRP are available on the GOV.UK webpages [here](http://www.gov.uk).

3. Retention of recruitment documents

Please ensure that there are arrangements within your department for all documentation relating to a recruitment process (including notes taken during interviews, assessment outcomes and scoring systems) to be retained securely. It is important that we have these records in the event of a complaint, subject access request or Employment Tribunal and to ensure we comply with any legal and audit obligations concerning Tier 2 Sponsorship. Depending on the outcome of the process, the time period for retention may range from one to four years, as detailed below:

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1 If you have received job applications via any method other than the University’s e-jobs online application form, you will need to ensure that these are retained in the medium in which they were received. Copies of application forms for anyone who reaches final interview stage will need to be provided to HR in the event that the successful applicant requires a Tier 2 visa and the Resident Labour Market Test needs to be met.
• Retain for one year – all documents relating to the recruitment process where the successful candidate does not require a Tier 2 Certificate of Sponsorship or the Immigration team has confirmed that there is an exemption from the Resident Labour Market Test. Documents relating to unsuccessful applicants must be destroyed securely after one year.

• Retain until advised (normally up to four years) – all documents relating to the recruitment process where the successful applicant requires a Tier 2 Certificate of Sponsorship and the Resident Labour Market Test must be met (which was described in our last update dated January 2016, found [here](#)). Documents can only be destroyed once we have been audited by UKVI and they have confirmed that the destruction can take place. In practice, this could mean that we have to retain documents for up to four years or more (we are supposed to be audited at least once every four years).

4. Exemption for Australia and NZ from Immigration Health Surcharge ending on 6 April

When the Immigration Health Surcharge (sometimes known as the NHS surcharge) was introduced last year for overseas nationals coming to the UK for six months or more or extending their stay in the UK, there was an exemption for individuals from Australia and New Zealand. However, this will be coming to an end on 6 April and the £200 per person per year fee to use the NHS will now apply to citizens of these countries from this date. Further information about this change can be found on the GOV.UK web pages [here](#). Details of the University’s schemes to provide financial support to those struggling to pay the Immigration Health Surcharge are found [here](#).

5. New Immigration and Recruitment Adviser

Linda Walsh ([l.walsh@warwick.ac.uk](mailto:l.walsh@warwick.ac.uk)) joined the Immigration team within HR Shared Services on 21 March as Immigration and Recruitment Adviser. Julia Foulks, Immigration Officer, now reports to and is supported by Linda, on immigration and right to work matters. Linda will also be responsible for recruitment policy and practice and will work closely with the HR Administrators responsible for advertising, recruitment and offer letters.

Linda’s appointment reflects the importance which the University places on immigration compliance. It will enable the progression of work to improve immigration processes and support preparations for an expected audit by UKVI.

6. Expected increase in minimum salary levels in Standard Occupational Classification (SOC) codes

We are expecting that UKVI will announce increases in the minimum salary levels in SOC codes during April.

[SOC codes](#) are the method the government uses for classifying jobs according to their titles and activities. When an individual requires a Tier 2 visa, we must select the relevant SOC code for their job. We must then ensure that they will be paid either a minimum of £20,800 or the rate specified in the SOC code.

We will provide a further update when details are available but, in the meantime, please consult the Immigration team if you require any advice on the minimum salary rate for an individual requiring a Tier 2 visa.

If you have any questions about this update, please contact the Immigration team via HR.immigration@warwick.ac.uk.