

## Right to Work Policy and Procedure

|                                     |                            |                                   |               |
|-------------------------------------|----------------------------|-----------------------------------|---------------|
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Extended to 30<sup>th</sup> September 2025

|                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>What is in this policy?</b>                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>University Hospitals Bristol NHS Foundation Trust (the Trust) has a legal obligation under the Immigration, Asylum and Nationality Act 2006, to ensure that employees who work for the Trust are able to demonstrate their eligibility to work in the UK.</p> <p>The purpose of this policy is to ensure a fair and consistent approach to the verification of right to work in the UK throughout the Trust.</p> |

| Document Change Control |                |                            |                  |                                                                                                                                                                  |
|-------------------------|----------------|----------------------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date of Version         | Version Number | Lead for Revisions         | Type of Revision | Description of Revision                                                                                                                                          |
| 21/09/2016              | 1.00           | Head of Employee Relations | Major            | New process for terminating employment where the employee doesn't have the right to work. Process flowchart and revision to Employee Services process/checklist. |
| 04/05/17                | 1.1            | Head of Employee Relations | Minor            | Minor change to terms of suspension                                                                                                                              |
| February 2019           | 1.2            | HR Consultant              | Minor            | Minor Updates and on new policy template                                                                                                                         |
| Aug 2024                | 1.3            | HR Policy Manager          | extension        | Extended to 31st December 2024 awaiting Acute Provider Collaborative policy.                                                                                     |
| Nov 2024                | 1.4            | HR Policy Manager          | extension        | Extended to 31st March 2025 awaiting Acute Provider Collaborative policy.                                                                                        |
| Jan 2025                | 1.5            | HR Policy manager          | extension        | Further extension to 30 <sup>th</sup> September 2025 awaiting Acute Provider Collaborative policy.                                                               |

| Sign off Process and Dates |                                             |
|----------------------------|---------------------------------------------|
| Groups consulted           | Date agreed                                 |
| HR Policy Group            | 01/02/2019                                  |
| Joint Union Committee      | <a href="#">Click here to enter a date.</a> |
| Policy Assurance Group     | <a href="#">Click here to enter a date.</a> |
| Approval Authority         | <a href="#">Click here to enter a date.</a> |

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## 1. Do I need to read this Policy?

All Staff who require a VISA to work

Must read the whole policy

All line managers and recruiting managers

Must read the whole policy

## 2. Introduction

The Trust has a legal obligation under the Immigration, Asylum and Nationality Act 2006, to ensure that employees who work for the Trust are able to demonstrate their eligibility to work in the UK.

These obligations require the Trust to initially verify the potential employees' right to work in the UK prior to appointment, and if an employee has a time limit on their right to work, to carry out follow up checks. Acceptable documents providing evidence of right to work must be checked, copied and stored appropriately. This provides the Trust with a defence against potential civil penalties.

Employers have a legal duty under the Equality Act 2010 to avoid unlawfully discriminating against employees on racial grounds. Where complaints of racial discrimination are upheld by a tribunal, employers can be ordered to pay compensation for which there is no upper limit.

*"Assumptions must not be made about a person's right to work or immigration status on the basis of their colour, race, nationality, ethnic or national origins, or the length of time they have been in the UK. To avoid discrimination, employers must treat all job applicants in the same way at each stage of their recruitment process. Employers could face prosecution under the Equality Act and an unlimited fine if they are found guilty of discriminatory processes"* Equality Act 2010.

## 3. Purpose

The purpose of this policy is to ensure a fair and consistent approach to the verification of right to work in the UK throughout the Trust, ensuring that the following aims are met:

- (a) Avoiding discrimination;
- (b) Compliance with legal requirements;
- (c) Raising awareness and providing guidance on right to work checks;
- (d) Consistency of approach throughout all departments the Trust;
- (e) Making all staff aware of their responsibilities.

## 4. Scope

This policy relates to all permanent and temporary employees and agency staff working for and on behalf of the Trust.

## 5. Definitions

The following abbreviations will be used throughout this Policy:

EC – European Community

EEA – European Economic Area

ESR – Electronic Staff Record

ECS – Employer Checking Service

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HRIS – Human Resources Information Systems

TSB – Temporary Staffing Bureau

UH Bristol – University Hospitals Bristol NHS Foundation Trust

UKBA – United Kingdom Border Agency

Statutory Excuse - All employers regardless of whether they hold a Sponsor Licence or not, are expected to carry out prescribed document checks on all employees before they start work. Provided that an employer has carried out the appropriate checks, it will have a **statutory excuse** against liability for a civil penalty if it later comes to light that any worker has been working illegally in the UK

## 6. Duties, Roles and Responsibilities

### 6.1 University Hospitals Bristol NHS Foundation Trust (The Trust)

- (a) The Trust must be able to demonstrate that all employees have a legal right to work in the UK, which can be evidenced on their personal records.
- (b) The Trust is licensed by the UK Border Agency to issue Tier 2 certificates of sponsorship within the Points Based System. Overall responsibility for the licence and associated duties is with the Director of Workforce & Organisational Development, as the Authorising Officer. The Trust must maintain its licence to issue certificates of sponsorship.

### 6.2 Employee (Current)

- (a) All employees have a responsibility to provide evidence to demonstrate their right to work in the UK. This should be done prior to appointment and for any subsequent follow up checks and applies whether you are at work or absent for any reason i.e. on long term sick or maternity, paternity leave etc.
- (b) All employees must ensure that their personal information is kept up to date, by informing their Line manager (or Medical HR if you are a doctor) of any changes. This will include personal details such as visa status, address or contact details.
- (c) Employees with limited leave to remain must ensure that payment and the application for further leave to remain in the UK is submitted to the Home Office UK Visas and Immigration **3 months** prior to the expiry of their existing leave entitlement. Submissions after this date may result in delays in receiving confirmation from the Home Office.
- (d) Employees must present Employee Services and their line manager with evidence of their application or appeal by providing the Home Office acknowledgement letter or in cases where the employee has appealed a decision, the tribunal reference number and proof of date of postage.
- (e) The employee must ensure that they keep up to date on changing requirements for proving their eligibility to work in the UK. This information can be found on the UK

Visas and Immigration website. A link to the UK Visas and Immigration website can be found in the references section at page 9.

- (f) If an employee is unable to demonstrate their right to work in the UK, they must be aware that this could lead to their employment being terminated. This will include instances where an application to renew has been unsuccessful and where an existing document has expired.

Failure to comply with any of the above steps may result in disciplinary action being taken in line with the Trusts Disciplinary and Staff Conduct Policy.

### **6.3 Employee (Prospective)**

- (a) Prospective employees are responsible for providing evidence that they have the right to work in the UK for the position being offered. Where a prospective employee cannot provide appropriate evidence they will not be appointed.

### **6.4 Line Managers**

- (a) Line Managers should be aware of any staff within their department who have limited leave to remain in the UK through the recruitment process. This should include an awareness and record of upcoming expiries, renewals and annual checks.
- (b) Line Managers must ensure that staff submit evidence of their right to work to the Employee Services department on request (ES will send a reminder to the manager but it is the line managers responsibility to action this).
- (c) Where there is a change in line manager this information must be handed over to the new manager.
- (d) If staff within a department are working on a visa that includes restrictions, it is the Line Managers responsibility to ensure that these are adhered to. Restrictions might include the number of hours worked and the type of work undertaken. When employing staff on Visas that include restrictions, managers are responsible for checking whether the employee has any other assignments substantively, on the bank or outside the Trust (by asking the individual) and must ensure the employee does not exceed the number of permitted hours as set out in their Visa.

### **6.5 Recruitment Team (Resourcing)**

- (a) The Recruitment Team in Resourcing will ensure that no member of staff will be allowed to commence employment without evidence of right to work for the position they are being appointed to.
- (b) Ensure the employees Visa data is accurately recorded on Employee Staff Record (ESR) on appointment.
- (c) Certificates of Sponsorship within Tier 2 of the Points Based System for prospective employees will be issued by the Recruitment Team. For more information please see Appendix I.
- (d) To check whether the employee has a dual assignment (including bank contracts and assignments with other organisations) on appointment where an employee has

visa restrictions and informing the recruiting manager of this so that they can monitor the employees working hours going forward.

## **6.6 Employee Services / Medical HR / Temporary Staffing Bureau**

The relevant teams will:

- (a) Ensure documents are retained on the employee's eStaff file and records maintained on ESR. This will include copies of all checks taken for employees with limited leave to remain in the UK, and evidence of applications/appeal.
- (b) Ensure upcoming expiries and annual checks are highlighted and reviewed on regular reports.
- (c) Ensure signed consent from the employee for any necessary Visa follow up checks. This is including Employer Checking Service Checks (ECS).
- (d) Contact the employee and the line manager if right to work is due to expire to ensure that they renew their documents in order to continue their employment with the Trust.
- (e) Check evidence relating to employees who are entitled to work in the UK for a limited period at least once every 12 months.
- (f) Comply with checking standards set out in this policy and retain documentation on the eStaff file.
- (g) Manage the Certificates of Sponsorship within Tier 2 of the Points Based System for current employees extending their contract. See Appendix I.

## **7. Right to work process**

### **7.1 What is a right to work check?**

The Trust must have documentation that the Home Office deems acceptable to verify permission to work. This check must be carried out in the presence of the holder of the document before they are employed to ensure they are legally allowed to do the work in question. The Trust is also required to conduct a follow up check on employees who have time-limited permission to work in the UK.

The following three steps must be undertaken to verify a person's right to work:

- (a) Obtain the persons original document;
- (b) Check them in the presence of the holder; and
- (c) Make and retain a clear copy, and make a record of the date of the check.

*Further guidance on how to conduct a right to work check can be found at Appendix K.*

### **7.2 When do we need to conduct right to work checks?**

The Trust is required to carry out an initial right to work check on candidates before employing them. In addition to this the Trust is required to carry out follow-up right to work checks on

employees if they are from outside the European Economic Area and Switzerland and have time-limited permission to do the work in question.

If a candidate or employee provides the Trust with acceptable documents from List A at [appendix E](#) there is no restriction on their right to work in the UK, and a continuous statutory excuse is established for the duration of the person's employment with the Trust. In this situation no further checks on this individual are required.

If a candidate or employee provides the Trust with acceptable documents from [List B](#) in appendix F, there are restrictions on their right to work in the UK, and a time-limited statutory excuse is established. The Trust is required to carry out follow-up checks on this individual. The frequency of these follow-up checks depends on whether the documents provided are from Group 1 or Group 2.

**Group 1** documents provide a time-limited statutory excuse which expires when the person's permission to work expires. This means that you should carry out a follow-up check when the document which proves their permission to work expires.

**Group 2** documents provide a time-limited statutory excuse which expires 6 months from the date specified in your Positive Verification Notice from the Home Office. This means that you should carry out a follow-up check when this notice expires

#### **Follow-up Check Process (for List B document holders only)**

A repeat right to work check is only required where the employee is a List B document holder, and their employment is to be extended beyond the expiry date of their visa.

A person's application must be made *before* their right to work in the UK expires for it to be deemed 'in-time.' The Trust recommends employees submit their application **3 months** before their right to work in the UK expires to allow time for the relevant checks to be carried out. Employees must inform their Manager and Employee Services that they have submitted an application or appeal and provide evidence of this.

If an employee makes an application *after* their permission to be in the UK has expired, **or** if the Trust receives a Negative Verification Notice in response to a right to work check they will no longer have a statutory excuse and cannot continue to employ that person. In these circumstances a meeting will be arranged to terminate the employee's employment (see Section 7.6 for steps).

Appendix E and L set out the Follow up Check Process.

### **7.3 Transfer of Undertakings (TUPE)**

If the Trust acquires staff as a result of a Transfer of Undertakings (Protection of Employment) (TUPE), a grace period of 60 days is provided from the date of the transfer of the business to correctly carry out their first statutory document checks in respect of these new employees.

The Trust should not rely on checks made by the previous employer, as they will not provide a statutory excuse in the event that any workers acquired are working illegally.

There is no such grace period for the follow-up checks undertaken to retain the statutory excuse.

#### **7.4 *What if the employee doesn't have the right to work in the UK?***

##### **At recruitment stage**

If it is established that the applicant is not permitted to work in the UK, then they must not be allowed to commence employment. If a decision on their entitlement is pending from UK Visas and Immigration or the Home Office and this is likely to significantly delay the recruitment process, then the offer of employment must be withdrawn.

##### **During employment**

If at any stage of checking an employee's 'right to work' the Trust receives a 'Negative Verification Notice' or establishes an employee submitted an application 'out of time' e.g. after the expiry of their original visa the Trust will no longer have a statutory excuse and should not continue to employ that individual. The individual's employment will therefore be at risk of termination and the steps in Section 7.5 should be followed.

#### **7.5 *Terminating employment where the employee doesn't have the right to work.***

If at any stage of checking an employee's 'right to work' the Trust receives a 'Negative Verification Notice' or establishes an employee submitted an application 'out of time' e.g. after the expiry of their original visa, the employee no longer has the right to work and the Trust must consider whether termination of the employee's contract is appropriate on the grounds of statutory restrictions e.g. immigration regulations.

In these circumstances the following steps should be followed:

On receiving a Negative Verification Notice or establishing an individual has made an application for visa extension after the expiry of their visa or unreasonably delays its renewal resulting in expiry the line manager, in consultation with Employee Services or Medical HR, will place the individual on unpaid leave or on suspension without pay. These arrangements will be confirmed in writing and will remain in place until the matter is resolved.

- (a) A formal meeting should be arranged by a manager who has the authority to dismiss, supported by an Employee Services representative. This meeting should be held no later than 5 working days after the suspension meeting and the employee should be invited, in writing, to attend the formal meeting at the suspension meeting. The invitation will specify the circumstances that have led to consideration of the termination of the relevant employment. All employees who are the subject to this procedure will have the right to be accompanied by a trade union representative or work colleague.
- (b) At the meeting the employee will be given the opportunity to state his/her case and raise any factors they wish to have considered. If, following the discussion, it is

determined that the individual's employment should cease, they will be advised that their employment will be terminated for 'contravention of a statutory restriction'. This decision may be given verbally at the meeting and will be confirmed in writing within five working days of the meeting. Where it is not possible to give a decision at the meeting the employee will be advised of the delay.

- (c) The letter shall also notify the individual employee of their right to appeal against any adverse decision in line with the Trust's Appeal Policy.
- (d) Contractual notice should be paid in line with the employee's contract of employment and a termination e-form should be raised accordingly.

## 8. Compliance

The Trust must be able to demonstrate that all employees have a legal right to work in the UK, which can be evidenced on the eStaff file/employment record. Failure to comply with this obligation could result in a civil penalty of up to £20,000 for each illegal worker. Therefore in order to comply, the Trust must:

- Check right to work in the UK prior to appointment, copying and validating the relevant documents and storing them on the personal file.
- Demonstrate an ongoing eligibility of employees to work in the UK.

If an employee is unable to demonstrate their eligibility to work in the UK then their employment may be terminated. This is because if an employee is not entitled to work in the UK, they cannot legally be employed by the Trust.

The Trust must also comply with the following legislation:

- Equality Act 2010
- Data Protection Act 2018
- Immigration, National and Asylum Act 2006
- UK Borders Act 2007
- The Border, Citizenship and Immigration Act 2009

## 9. Standards and Key Performance Indicators

### 9.1 Applicable Standards

| Key Performance Indicator                                                             | Lead Responsible for Audit | Evidence                       | Reviewed by / Frequency | Lead Responsible for any Required Actions |
|---------------------------------------------------------------------------------------|----------------------------|--------------------------------|-------------------------|-------------------------------------------|
| 100% of staff will have pre-employment checks prior to being placed on payroll system | HR Resourcing Team Leader  | eStaff file /employment record | All new starters        | Head of Resourcing                        |

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|                                                                                                             |                           |                                |                                         |                            |
|-------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|-----------------------------------------|----------------------------|
| 100% of staff will have pre-employment checks prior to being placed on Electronic Staff Record (ESR) system | HR Resourcing Team Leader | eStaff file /employment record | All new starters                        | Head of Resourcing         |
| 100% of work permits will be checked for expiry                                                             | Employee Services Team    | ESR                            | Employee Services Administrator Monthly | Head of Employee Relations |
| 100% of staff respond to requests for confirmation of rights to work                                        | Employee Services Team    | ESR                            | Employee Services Administrator Monthly | Head of Employee Relations |
| 100% of staff will be informed when rights to work are due to expire                                        | Employee Services Team    | ESR                            | Employee Services Administrator Monthly | Head of Employee Relations |

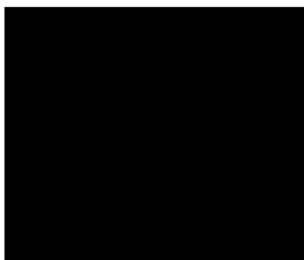
## 10. References

Home Office Website: <http://www.homeoffice.gov.uk/>

NHS Employers: <http://www.nhsemployers.org/Pages/home.aspx>

UK Visas and Immigration Website: <https://www.gov.uk/browse/visas-immigration>

## 11. Associated Internal Documentation



HRWeb: Right to Work Page

Medical & Dental Disciplinary Policy & Procedure

Temporary Staffing Bureau Standard Operating Procedure

Trust Disciplinary Policy and Procedure

Trust Recruitment Policy

Staff Records Policy

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## 12. Appendix A – Monitoring Table for this Policy

The following table sets out the monitoring provisions associated with this policy. Please ensure any possible means of monitoring this policy to ensure all parts are fulfilled are included in this table.

| Objective                                 | Evidence                                             | Method                         | Frequency                               | Responsible                                                                   | Committee                                |
|-------------------------------------------|------------------------------------------------------|--------------------------------|-----------------------------------------|-------------------------------------------------------------------------------|------------------------------------------|
| Policy                                    | Review of policy to ensure fit for purpose           | Review                         | Every 24 months or before if necessary. | Employee Services Team                                                        | Policy Group and Trust Partnership Forum |
| Right to Work Checks are being undertaken | Audits to ensure all checks are undertaken correctly | Monthly ESR Visa Status checks | Monthly                                 | Employee Services                                                             | n/a                                      |
| Documentation filed correctly             | Audit of files                                       | 6 monthly random file Audit.   | Every 6 months.                         | Resourcing, Employee Services, Temporary Staffing Bureau and Medical Staffing | n/a                                      |

## 13. Appendix B – Dissemination, Implementation and Training Plan

The following table sets out the dissemination, implementation and training provisions associated with this Policy.

| Plan Elements                                                                                                                  | Plan Details                                  |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>The Dissemination Lead is:</b>                                                                                              | Head of Employee Relations                    |
| <b>Is this document: A – replacing the same titled, expired policy, B – replacing an alternative policy, C – a new policy:</b> | A                                             |
| <b>If answer above is B: Alternative documentation this policy will replace (if applicable):</b>                               | [DITP - Existing documents to be replaced by] |
| <b>This document is to be disseminated to:</b>                                                                                 | HR Web, Newsbeat and through Divisional HRBPs |
| <b>Method of dissemination:</b>                                                                                                | HR Web, Newsbeat and through Divisional HRBPs |
| <b>Is Training required:</b>                                                                                                   | No                                            |
| <b>The Training Lead is:</b>                                                                                                   | [DITP - Training Lead Job Title]              |

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| Plan Elements       | Plan Details |
|---------------------|--------------|
| Additional Comments |              |
| N/A                 |              |

## 14. Appendix C – Equality Impact Assessment (EIA) Screening Tool

Further information and guidance about Equality Impact Assessments is available here:

| Query                                                        | Response                                                                                                                                                                                                                  |
|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| What is the <b>main purpose</b> of the document?             | <i>The purpose of this policy is to ensure a fair and consistent approach to the verification of right to work in the UK throughout the Trust</i>                                                                         |
| Who is the target audience of the document?                  | Add <input checked="" type="checkbox"/> or <input checked="" type="checkbox"/>                                                                                                                                            |
| Who is it likely to impact on? (Please tick all that apply.) | Staff <input checked="" type="checkbox"/> Patients <input checked="" type="checkbox"/> Visitors <input checked="" type="checkbox"/> Carers <input checked="" type="checkbox"/> Others <input checked="" type="checkbox"/> |

| Could the document have a significant <b>negative</b> impact on equality in relation to each of these characteristics? | YES | NO                                  | Please explain why, and what evidence supports this assessment in relation to your response. |
|------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------|----------------------------------------------------------------------------------------------|
| <b>Age</b> (including younger and older people)                                                                        |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Disability</b> (including physical and sensory impairments, learning disabilities, mental health)                   |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Gender reassignment</b>                                                                                             |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Pregnancy and maternity</b>                                                                                         |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Race</b> (includes ethnicity as well as gypsy travelers)                                                            |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Religion and belief</b> (includes non-belief)                                                                       |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Sex</b> (male and female)                                                                                           |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Sexual Orientation</b> (lesbian, gay, bisexual, other)                                                              |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Groups at risk of stigma</b> or social exclusion (e.g. offenders, homeless people)                                  |     | <input checked="" type="checkbox"/> |                                                                                              |
| <b>Human Rights</b> (particularly rights to privacy, dignity, liberty and non-degrading treatment)                     |     | <input checked="" type="checkbox"/> |                                                                                              |

Will the document create any problems or barriers to any community or group? NO

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Will any group be excluded because of this document? NO

Will the document result in discrimination against any group? NO

If the answer to any of these questions is YES, you must complete a full Equality Impact Assessment.

| Could the document have a significant positive impact on inclusion by reducing inequalities? | YES                                 | NO                                  | If yes, please explain why, and what evidence supports this assessment. |
|----------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------------------|
| Will it promote equal opportunities for people from all groups?                              | <input checked="" type="checkbox"/> |                                     | By ensuring everyone has the right to work                              |
| Will it help to get rid of discrimination?                                                   | <input checked="" type="checkbox"/> |                                     | By ensuring everyone has the right to work                              |
| Will it help to get rid of harassment?                                                       |                                     | <input checked="" type="checkbox"/> |                                                                         |
| Will it promote good relations between people from all groups?                               | <input checked="" type="checkbox"/> |                                     | By ensuring everyone has the right to work                              |
| Will it promote and protect human rights?                                                    | <input checked="" type="checkbox"/> |                                     | By ensuring everyone has the right to work                              |

On the basis of the information/evidence so far, do you believe that the document will have a positive or negative impact on equality? (Please rate by circling the level of impact, below.)

| Positive impact |      |             |      | Negative Impact |      |             |
|-----------------|------|-------------|------|-----------------|------|-------------|
| Significant     | Some | Very Little | NONE | Very Little     | Some | Significant |

Is a full equality impact assessment required? YES

Date assessment completed: 20/02/19

Person completing the assessment: [REDACTED]

## 15. Appendix D – Right to Work Checks – Prospective Employees

Procedure (Non Clinical)

### RIGHT TO WORK CHECKS – PROSPECTIVE EMPLOYEES

|                  |                                                                          |
|------------------|--------------------------------------------------------------------------|
| <b>SETTING</b>   | Trustwide                                                                |
| <b>FOR STAFF</b> | Resourcing and Medical HR                                                |
| <b>ISSUE</b>     | Procedure for checking right to work documentation prior to appointment. |

#### PROCEDURE

The following procedure is completed by Resourcing and Medical HR prior to the appointment of a member of staff.

| Comment                   | Resourcing / Medical HR Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>General Principles</b> | <ul style="list-style-type: none"> <li>NHS Employment Check Standards are mandatory for all applicants for NHS positions and staff in ongoing NHS employment.</li> <li>Further guidance is available via HRWeb</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Application Form</b>   | <ul style="list-style-type: none"> <li>Applicants are asked to indicate their nationality (UK, EC, EEA nationals), and to provide information on their current immigration status on the application form.</li> <li>This will include details of any visa currently held, and any conditions restricting employment or occupation in the UK.</li> <li>The Trust uses the TRAC.</li> </ul>                                                                                                                                                                                                                                          |
| <b>Shortlisting</b>       | <ul style="list-style-type: none"> <li>Applicants will be selected for interview against the criteria set out in the person specification.</li> <li>Right to work entitlement for the position being appointed to is checked for applicants successful at interview during the employment checks process.</li> </ul>                                                                                                                                                                                                                                                                                                               |
| <b>Appointments</b>       | <ul style="list-style-type: none"> <li>Those successful at interview are offered employment subject to satisfactory completion of employment checks, including right to work.</li> <li>Original documentation is required from the applicant. Document/s are copied and verified, held on the applicant's recruitment file, details entered onto their ESR record, and noted on a checklist.</li> <li><b>See Appendix H for copying and verifying documentation.</b></li> <li>Right to work checks carried out at recruitment must be done in conjunction with verification of identity checks, so the Trust can assure</li> </ul> |

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|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>itself that the applicant is the true owner of the right to work documents presented.</p> <ul style="list-style-type: none"><li>• Applicant files are reviewed and signed off as complete prior to the issue of a final offer letter, and prior to the commencement of employment.</li><li>• Applicants with right to work for a limited time period are informed in their final offer letter that they will be required to provide evidence at least once every 12 months of their ongoing right to work entitlement.</li><li>• The applicant's new line manager is also informed.</li><li>• If a decision on their entitlement is pending from UKBA or the Home Office and this is likely to significantly delay the recruitment process, then the offer of employment may be withdrawn</li></ul> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## 16. Appendix E – Right to Work Checks – Current Employees

Procedure (Non Clinical)

### RIGHT TO WORK CHECKS – CURRENT EMPLOYEES

|                  |                                                                                                                                                 |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SETTING</b>   | Trustwide                                                                                                                                       |
| <b>FOR STAFF</b> | Employee Services, Medical HR, Temporary Staffing Bureau                                                                                        |
| <b>ISSUE</b>     | Procedure for ongoing monitoring of employees with limited leave to remain in the UK. This includes both monitoring expiries and annual checks. |

#### FOLLOW UP CHECK PROCEDURE

The following procedure is completed by Employee Services, Medical HR or the TSB according to staff group.

A repeat right to work check is only required where the employee/casual worker is a List B document holder, and you wish to extend their contract beyond the expiry date of their visa.

You do not need to conduct a repeat right to work check on any List A document holders.

Migrants who apply for an extension to their visa as soon as possible (around three months before the existing visa expires) are likely to receive their new visa from the Home Office before their existing visa expires. The employee should bring their new visa into Employee Services means that you will not need to seek and retain proof that an application was made or contact the employers checking service.

A report is generated each month providing visa details for all staff within the Trust, and provided to Employee Services, Medical HR and the TSB according to the relevant staff group. This will highlight staff where their visa is due to expire within 3 months. The spreadsheet will also list all staff with missing or incorrect visa information.

| Comment           | Employee Services / Medical HR / TSB Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Overall Report | <ul style="list-style-type: none"> <li>This report will provide details on every member of staff within the trust, and will also include those with multiple assignments, who will appear on the list once for each assignment.</li> <li>Employees should only be entered on to the spreadsheet once in order to avoid discrepancies with data.</li> <li>Those employees with multiple assignments must be identified and it be determined whether they have a substantive assignment.</li> <li>Where staff have a substantive post in addition to a bank assignment,</li> </ul> |

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|                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                      | <p>the bank assignment row should be removed, and the employee assigned to Employee Services.</p> <ul style="list-style-type: none"> <li>Where staff have multiple bank assignments, but no substantive post only one bank assignment should be left and the employee assigned to the TSB.</li> <li>All substantive Agenda for Change staff should be assigned to Employee Services.</li> <li>All Medical and Dental staff should be assigned to Medical HR.</li> <li>All staff with only a bank assignment should be assigned to TSB.</li> <li>Employees whose nationality is either British or EU should be filtered out and transferred to a separate tab.</li> <li>The staff who now remain on this list should be those from a Non-EU country, who will then be filtered to determine whether there are any exceptions that need to be investigated, or whether they require an annual check on their documents.</li> <li>Of these, those staff with limited leave to remain in the UK should also be removed to a separate tab. This will include all employees where there is a time limit on their stay. These staff will be subject to annual checks as outlined below.</li> </ul> |
| 2. Visa due to Expire within 3 months                | <ul style="list-style-type: none"> <li>Of the remaining employees within each staff group, these should be filtered or sorted to show those staff whose 'Visa Expiry Date' is within the next 3 months.</li> <li>Contact these staff in order to request an update to their records, following the process outlined at (6) below.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3. No Visa Data Recorded                             | <ul style="list-style-type: none"> <li>Where there is no visa data recorded for Non-EU employees then these should be transferred to a separate tab.</li> <li>Contact these staff in order to request an update to their records, following the process outlined at (6) below.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 4. Residence Category: Temporary but No Visa Details | <ul style="list-style-type: none"> <li>If the Residency Status states Temporary but there is no Visa Data recorded then these entries should be transferred to a separate tab for chasing.</li> <li>Contact these staff in order to request an update to their records, following the process outlined at (6) below.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 5. Residence Category: Permanent but No Visa Details | <ul style="list-style-type: none"> <li>If the Residency Status states Permanent but there is no Visa Data recorded then these entries should be transferred to a separate tab for chasing.</li> <li>Contact these staff in order to request an update to their records, following the process outlined at (6) below.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 6. Contacting employees to request Visa Information  | <ul style="list-style-type: none"> <li>This procedure must be followed when making contact with any staff member with regard to upcoming expiries.</li> <li>Up to date addresses will need to be retrieved from the system for these staff using either a query or an address report.</li> <li>One letter will be sent to these staff, followed by one chasing letter if a response is not received within 2 weeks. The manager will be copied in</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|  | <p>to each of these letters via email.</p> <ul style="list-style-type: none"> <li>• <b>Failure to respond to these requests may result in disciplinary action being taken against the employee contract.</b></li> <li>• If an employee brings in their documents then copies will be taken and retained on file. <b>The date of the check should be recorded in 'Date Right to Work Checked' on ESR to keep a record of this. The new Visa information will also be updated on ESR and the VISA Spreadsheet.</b></li> <li>• If an employee makes contact and states that they are unable to submit their documents as they have recently applied for a new Visa to the Home Office, then a copy of the acknowledgement letter from the Home Office will be requested and placed on file. The employee will be required to provide regular updates on their application to the relevant department once a month, and to submit their new documents to the Trust on receipt so that copies can be placed on file, and the system updated.</li> <li>• Once the Trust is reasonably satisfied that an application to extend the visa was made before the existing visa expires, the person's permission to work is extended for a further 28 days beyond the expiry date of their visa while they await their new visa from the Home Office. A reminder should be set to check whether the employee has produced their visa within 21 days of the expiry date of the original visa.</li> <li>• If Employee Services still have not received the employees visa 21 days after the date the employees original visa expired the following steps must be carried out:</li> <li>• Contact the Home Office's Employers Checking Service to confirm that an application was received from the migrant and that they can continue to work. Employee Services should contact the Employers Checking Service no later than 21 days after the date the visa expired as it takes up to five days for the Home Office to respond. You will need to complete an interactive online form and will therefore need to have the following information ready:</li> </ul> <p>The employee's full name</p> <p>Their date of birth</p> <p>Their nationality</p> <p>The job title</p> <p>The hours worked per week</p> <p>Their home address</p> <p>Their Home Office reference number or case ID (if they have either)</p> <p>The Trust name</p> |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                        | <p>The Trusts contact information</p> <ul style="list-style-type: none"> <li>• Within 5 working days of submitting a request to the Employer's Checking Service, the Home Office will respond to verify whether they have received an application from the migrant and whether they may continue to work. A Positive Verification Notice from the Home Office valid for a further 6 months. A reminder should be set for Employee Services to check whether the employee has produced their visa 3 months from the date of the Positive Verification Notice and the VISA spreadsheet should be updated.</li> <li>• During the 6 months validity of the Positive Verification Notice, the employee should keep in regular contact with Employee Services to check when they have received their new visa and complete a Right to Work check using new visa once it has been received.</li> <li>• If, during any of the stages above it is established an employee's visa application has been rejected or the Employers Checking Service cannot confirm that an application was received, the individual's employment will be at risk of termination and the process in Section 7.5 should be followed.</li> </ul> |
| <p>7. Non-EU staff with Valid Visa information, who do not require an annual check</p> | <ul style="list-style-type: none"> <li>• These staff should be kept on a separate tab so that their details can be referred to if necessary.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## 17. Appendix F – Right to Work List of Documents

| Step 1 for physical check                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <ul style="list-style-type: none"> <li>You must obtain original documents from either List A or List B of acceptable documents for a manual right to work check</li> </ul>                                                                                                                                                                                                                                                                                  |  |
| List A                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
| 1. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> A Permanent Residence Card issued by the Home Office, to the family member of a national of a European Economic Area country or Switzerland.                                                                                                                                                                                                                                                                                    |  |
| 5. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> A birth (short or long) or adoption certificate issued 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.                                                                                                                                                                                               |  |
| 9. <input type="checkbox"/> A birth (short or long) 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. <input type="checkbox"/> 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.                                                                                                                                                                                          |  |
| List B Group 1                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |
| 1. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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.                          |  |
| List B Group 2                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |
| 1. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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.                                                                                                                                                                                               |  |

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## 18. Appendix G - EEA Nationals and Switzerland

The majority of nationals from European Economic Area (EEA) countries and Switzerland are free to live and work in the UK. Whilst residing lawfully, their immediate family members (whether or not they are EEA nationals) are also able to live and work freely in the UK. Their documents must still be checked to prove this right to work prior to appointment.

### **EEA nationals who can work in the UK without restriction**

Austria  
Belgium  
Czech Republic  
Cyprus  
Denmark  
Estonia  
Finland  
France  
Germany  
Greece  
Hungary  
Iceland  
Ireland  
Italy  
Latvia  
Liechtenstein  
Lithuania  
Luxemburg  
Malta  
Netherlands  
Norway  
Poland  
Portugal  
Slovakia  
Slovenia  
Spain  
Sweden

### **Bulgaria and Romania**

Applicants from **Romania and Bulgaria** (known as EU2 or A2 nationals) are subject to special controls. These workers are free to come to live in the UK, but unless exempt may be subject to worker authorisation.

Employers of these workers may need to apply for a work permit. If this is the case, the individual will need to wait for UKBA to grant the work permit and issue them with a letter of approval. The individual will then use this to apply for an accession worker card. This means that they are only able to work in the UK if they hold a valid accession worker authorisation document or if they are exempt from authorisation.

Once the individual has been legally working in the UK for a continuous period of 12 months they gain full rights of free movement and Home Office restrictions no longer apply.

### **Non-EEA Nationals**

Nationals from non-EEA countries will require either a visa or an entry certificate before travelling to and working in the UK. This will specify the type of leave and any restrictions that may apply. This could include restrictions on hours worked or type of occupation.

**Indefinite leave** - an employee, or prospective employee, with indefinite leave to remain, has no set time limit on their right to remain in the UK. They are therefore **not** subject to annual checks on their right to work documents.

**Limited leave to remain** – an employee, or prospective employee, with limited leave has a specified time limit on their right to remain in the UK. All employees with limited leave will be subject to annual checks on their right to work documents.

Some non-EEA nationals may be sponsored by the Trust under the Points Based System to enter or remain in the UK. Please see Appendix E for further information.

### **Points Based System / Certificates of Sponsorship**

There are several tiers under which a person can apply to work in the UK, and the UKBA award points depending upon the attributes of the individual. The Points Based System only covers individuals from outside of the EEA and Switzerland.

Tier 1: Highly skilled workers such as scientists or entrepreneurs.

Tier 2: Skilled workers with a job offer to fill gaps in UK labour force.

Tier 4: Students. UK education providers can sponsor students.

Tier 5: Youth mobility and temporary workers – those allowed to work in the UK for a limited period of time.

The Trust is only licensed to sponsor migrant workers under Tier 2.

For those staff on a Tier 2 Certificate of Sponsorship the Trust must also monitor and report on certain activities to the UKBA. This will include instances of unauthorised absence and any significant changes to their employment.

Full details on sponsorship and the creating and assigning of certificates must be reviewed on the UKBA website [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk). All certificates of sponsorship are managed through the online Sponsorship Management System. Only authorised members of the Human Resources function have access to this through a specific log-in.

### **Asylum Seekers and Refugees**

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## **Asylum Seekers**

An asylum seeker is a person who has made an application to be recognised as a refugee. An asylum seeker does not have a subsisting right to work. Only a small number of asylum seekers are permitted to work in the UK whilst they await a decision on their claim.

If an asylum seeker is permitted to work, the Home Office will have issued them with an Application Registration Card (ARC). An asylum seeker will only be granted limited leave and therefore if employed will be subject to a repeat check at least once every 12 months.

The ARC must be checked using the UKBA Employer Checking Service prior to any appointment being made.

## **Refugees**

An asylum seeker whose claim is successful is granted refugee status.

Refugees and those with humanitarian protection have no restrictions on the type of work they can do, as long as they continue to hold this qualifying status. Refugees do not need to be sponsored under the points based system.

Refugees will not normally have national passports and are unlikely to have copies of other official documents, such as birth certificates or photo-cards. When granted leave to remain in the UK, a refugee will be issued with an Immigration Status Document (ISD) by the Home Office, which will indicate their refugee status as outlined above. This document can be used for identification purposes. They may also have a travel document.

Refugees are generally granted 5 years limited leave to enter or remain in the UK and then they may apply for indefinite leave / settlement.

## 19. Appendix H – Conducting a Right to Work

### Conducting a Right to Work Check

#### Step 1: Obtain Acceptable Documents

The Trust must obtain original documents from either List A or List B of acceptable documents. These are set out at Appendix 1. The Trust must obtain an original document or document combination, specified in one of these lists.

**List A** contains the range of documents which you may accept for a person who has a permanent right to work in the UK. If you conduct the right to work checks correctly before employment begins, you will establish a continuous statutory excuse for the duration of that person's employment with you. You do not have to conduct any further checks.

**List B** contains a range of documents which may be accepted for a person who has a temporary right to work in the UK. If you conduct the right to work checks correctly you will establish a time-limited statutory excuse. You will be required to conduct a follow-up check in order to retain your statutory excuse.

#### Step 2: Check the validity of documents

The Home Office requires that employer's make the following checks on documents presented by an employee or candidate as proof of their right to work in the UK:

- **The document appears genuine and belongs to the holder** – employers are not expected to be expert in recognising fraudulent documents but they are expected to reject a document that is "reasonably apparent" that the document is not genuine and/or does not belong to the holder.
- **Photographs and dates of birth are consistent** – photographs and dates of birth must be consistent across documents (where multiple documents are presented) and must be consistent with the appearance of the employee/casual worker.
- **Visas are in date and permit the work in question** – certain visas (e.g. Tier 2, Tier 5 and Tier 4) carry restrictions on what work the holder can do and/or the hours they are permitted to work. The visa usually clearly states any conditions/restrictions.
- **Difference in name across documents** – you must seek further documentation (such as a marriage certificate, decree absolute etc.) to explain any difference in name across documents. You must see original documentation and retain a copy of file to explain the reason for the difference in names.

When checking the validity of the documents this must be carried out in the presence of the holder. This can be a physical presence in person or via a live video link.

The Trust may be liable for a civil penalty if it is reasonably apparent that documentation provided is false. This means that a person who is untrained in the identification of false documents, examining it carefully, but briefly, and without the use of technological aids could reasonably be expected to realise that the document in question is not genuine.

If a candidate or employee provides a false document or genuine document that does not belong to them, the Trust should report the individual to the Home Office.

#### Step 3: Retaining evidence

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Documents must be copied in their entirety (including both sides if information is contained on both sides) except where a passport is presented, in which case any pages containing a photo, expiry date of the document, nationality, date of birth, signature, UK visas and biometric details must be copied.

The checker must **sign, state original seen and date** the copy to show it has been certified. If signatures are not clear, then the person checking must print their name. Copies must be retained on the employee or candidates file in a format that cannot be altered (such as photocopy or pdf) for the duration of the employment/ engagement for a further six years after their employment has ceased. Please refer to the Staff Records Policy for further information.

Where right to work is proven and candidates are offered a role right to work information must be input on ESR for audit purposes and to enable the Trust to run reports to establish when follow up checks are required.

### **Additional evidence for Student Visas**

International students are often able to work part-time during their studies in the UK and full-time during their vacations and any period of time between completing their studies and their permission to be in the UK expiring. Some international students have no right to work at all. **Appendix 2** contains information about permitted employment for students.

When conducting checks, if the Trust is presented with documents indicating that the holder is a student with a limited right to work in the UK during term time, we are required to obtain and retain evidence of their academic term and vacation dates. This will make it easier for us to know when an international student employee may work part-time for us, and when they are permitted to work full-time.

Before employing a student who has a limited right to work during term time, the Trust must obtain evidence of their academic term and vacation dates covering the duration of their studies in the UK for which they will be employed by us. This evidence should be requested from the student. This evidence should originate from the education institution which is sponsoring the student. The Trust may obtain the dates for the entire duration of the course. The Trust must also carry out regular checks to ensure the student has attended their course.

The following evidence is acceptable:

- (i) A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study, (you should check the website to confirm the link is genuine); or
- (ii) A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- (iii) A letter addressed to the Trust from the education institution confirming term time dates for the student's course.

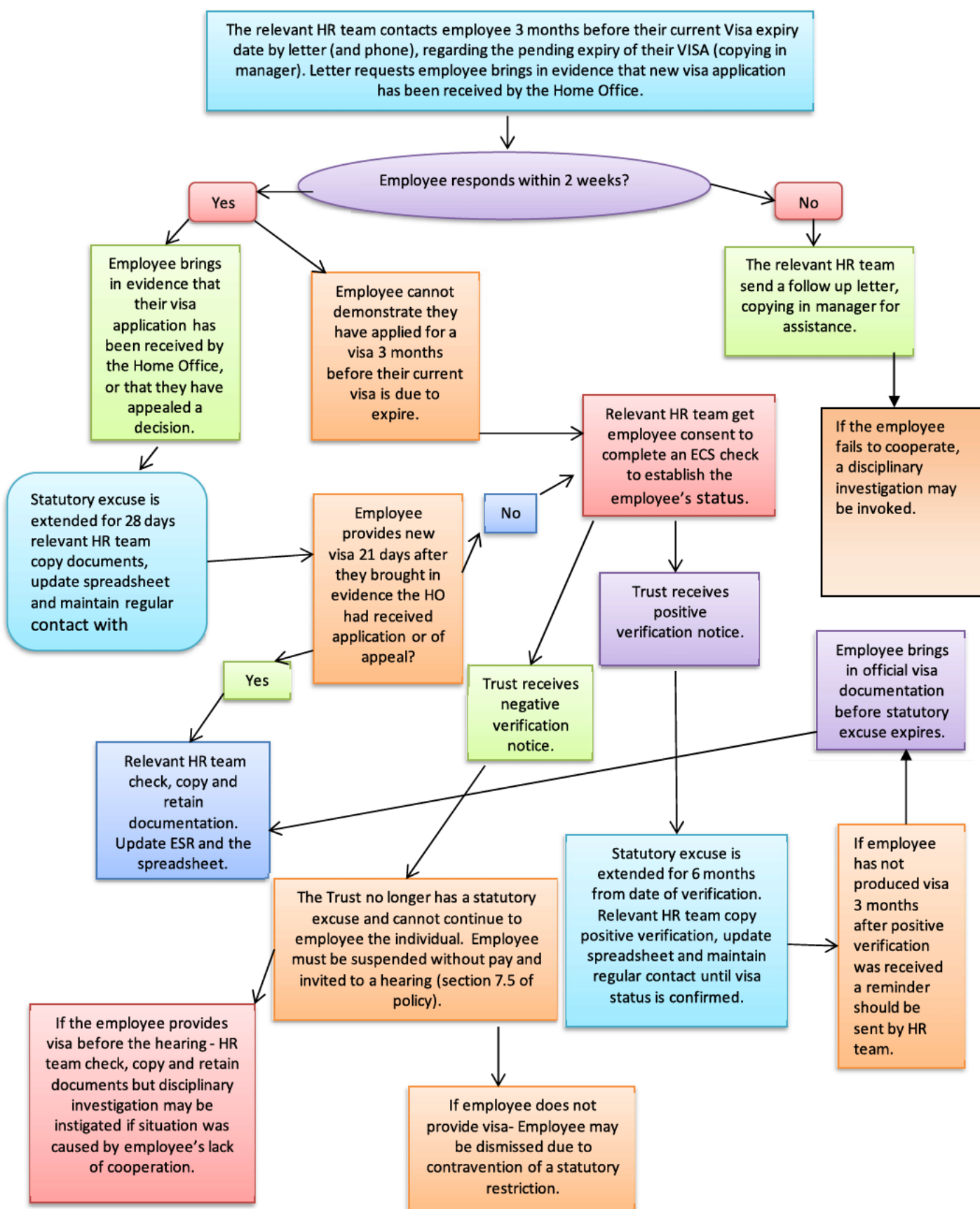
In exceptional circumstances, for example where the student is following a course timetable which differs from that published, the Trust may need to obtain bespoke evidence from the sponsor. The Trust requires this evidence in order to establish and retain a statutory excuse against liability for a civil penalty.

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## 20. Appendix I – Process flow chart for follow up visa checks



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