



BISHOP GROSSETESTE UNIVERSITY

Document Administration

Document Title:	Preventing Illegal Working Policy	
Document Category:	Policy	
Version Number:	2	
Status:	Approved	
Reason for development:	Minor update	
Scope:	This procedure applies to all Staff	
Author / developer:	HR Adviser	
Owner	Head of HR	
Assessment: (where relevant)	Tick relevant assessments	Tick if not applicable
	<input checked="" type="checkbox"/> Equality Assessment	
	<input type="checkbox"/> Legal	<input type="checkbox"/>
	<input type="checkbox"/> Information Governance	<input type="checkbox"/>
	<input type="checkbox"/> Academic Governance	<input type="checkbox"/>
Consultation: (where relevant)	<input type="checkbox"/> Staff Trade Unions via HR <input type="checkbox"/> Students via Bishop Grosseteste University Students' Union <input type="checkbox"/> Any relevant external statutory bodies	
Authorised by (Board):	SLT	
Date Authorised:	October 2014	
Effective from:	October 2014	
Review due:	October 2017	
Document location:	University Website	
Document dissemination / communications plan	All Staff via upload to SharePoint	
Document control:	All printed versions of this document are classified as uncontrolled. A controlled version is available from the University Website.	

Bishop Grosseteste University

Preventing Illegal Working

Manager responsible for policy	Head of HR
Forum for initial approval as delegated by the Governing Body	Senior Leadership Team
Date revised	October 2014

Our obligations as an employer, under our sponsorship licence, require that all people regardless of nationality or immigration status who are employed by the University even for a limited period, and whose main employment may be with another employer, must have their documents viewed, checked and copies kept to demonstrate that they have the right to work in the UK. Carrying out such checks gives the University a statutory defence if it is later discovered that the person does not have the right to work in the UK (May 2014 Civil Penalty Scheme for Employers). This applies to staff employed under a contract of employment, service or apprenticeship, whether expressed or implied and whether in oral or in writing.

To safeguard the University from possible future civil penalties for employing illegal workers, we must undertake document checks on **ALL** people we employ before we employ them. This includes Visiting Tutors, Students and External Examiners. All offers of employment will be subject to the candidates providing the required original documents to evidence their right to work in the UK.

Original documents must be obtained from either List A or list B (see below) of acceptable documents produced by the Home Office as outlined on their website and available from HR on request.

If a successful candidate is unable to provide evidence of their right to work in the UK the job offer will be withdrawn.

List A contains a range of documents which we may accept for a person who has a permanent right to work in the UK. If undertaken correctly before employment, no further checks are required.

List B contains a range of documents which may be accepted for a person who has a temporary right to work in the UK. This will establish a time limited excuse and follow up checks may be required.

The document checks must be carried out in the presence of the holder (this can be a physical presence in person or via a live video link) and in accordance with Home Office guidance. See Appendix B

A clear copy of the document must be retained securely in a format which cannot later be altered: electronically or in hard copy. Documents must be kept for no less than two years after the person has ceased employment. We must also make a record of the date on which the check is made either on the document copy or a manual or digital record which can be reproduced as evidence if required.

UK and EEA nationals are free to work without any restrictions. Where a worker who is subject to immigration control is to be employed advance notice must be given to HR in order to ensure that the University is able to meet the conditions for a Certificate of Sponsorship to be issued to such an individual

Additional evidence required for International Students.

International students are often able to work part time during their studies in the UK or full time during vacations and any period between completing their studies and their permission to be in the UK expiring. Some International students have no right to work at all. Where a student has permission to study under Tier 4 of the points based system their conditions allow them to work where they are following a course of study. Entitlement to work in these circumstances only applies if they are following or have completed the required course of study. **The University may be liable to a civil penalty if we knowingly employ a student who no longer has the right to work because that student is no longer studying.** Acceptable evidence in these circumstances is specified by the Home Office and will be checked by HR.

External Examiners

If the external examiner has a certificate of Sponsorship with another academic institution then they can undertake external examining work under the Supplementary Employment rules. Supplementary Employment does not have to meet the resident labour marker test. Supplementary Employment must:

- Be in the same profession and at the same level as the work for which the certificate of sponsorship was assigned
- Be no more than 20 hours per week
- Be outside the normal working hours for which the certificate of sponsorship was assigned.

Lists of acceptable documents for right to work checks

List A

Acceptable documents to establish a continuous statutory excuse

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7. A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B

Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave

1. A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A **current** Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4. A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

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

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is

permitted to take employment which is **less than 6 months** old **together with a Positive Verification Notice** from the Home Office Employer Checking Service.

2. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, **together with a Positive Verification Notice** from the Home Office Employer Checking Service.
3. A **Positive Verification Notice** issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

Appendix B Home Office guidance on The 3 Step Check

Step 1 - Obtain

You must obtain **original** documents from either **List A** or **List B** of acceptable documents at Appendix A

Step 2 Check

You must check that they are genuine and that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work you are offering. You must check: 1) photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation; 2) expiry dates for permission to be in the UK have not passed; 3) any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed); 4) the documents are genuine, have not been tampered with and belong to the holder; and 5) the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll). Supporting documents should also be photocopied and a copy retained.

Step 3 Copy

You must make a clear copy of each document in a format which cannot later be altered, and retain the copy securely: electronically or in hardcopy. You must retain a record of the date on which you made the check. You must copy and retain: 1) Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question. 2) All other documents: the document in full, including both sides of a Biometric Residence Permit. You must retain the copy or copies securely for not less than two years after the employment has come to an end.