**VEEVE Employing Foreign Nationals Policy**

Procedure to follow for hiring managers and employees of Veeve

Under UK immigration rules, it is unlawful to employ a person who is not entitled to work in the UK. Any employer who employs a worker who cannot legally work in the UK may face a civil penalty of up to £10,000 for each illegal worker, and if the employer knowingly employs an illegal worker they may face a criminal penalty of up to two years’ imprisonment for employing them.

It is essential that, before employing any candidate, you check the relevant documentation to ensure he or she has the right to work in the UK. You are also required to retain a copy of the relevant documents.

Verification of the right to work

You can rely on the Statutory Excuse, under the Immigration (Restrictions on Employment) Order 2007, if you have checked before the candidate starts work that the candidate has at least one of a range of documents verifying his or her right to work in the UK. This will enable you to avoid (or where necessary minimise) any liability for the above penalties. The following documents are acceptable on their own (List A):

* a passport confirming that the candidate is a British citizen

or

* a passport or identity card of a European Economic Area (EEA) national (in addition, further evidence of the person’s right to work is required if he or she is a Romanian or Bulgarian citizen – see further details below).

Alternatively, you can request that the candidate produces certain combinations of two documents (List B), for example:

* a document giving the candidate’s permanent National Insurance Number and a full UK birth certificate

or

* a valid work permit and a passport confirming the candidate has the right to remain in the UK and to work in the UK.

You should ensure that the verifying documents are originals and you must satisfy yourself that the candidate is the rightful owner of any document he or she presents to you. For example, are the photograph and date of birth consistent with the appearance of the individual? You should also check that the documents allow the candidate to do the type of work you are offering. If you inadvertently accept a forgery you may be subject to legal action if the falsity of the document is reasonably apparent. This means that an untrained person could reasonably be expected to realise that the document is not genuine or the prospective employee is not the rightful owner.

You must make and retain copies of any original documents you inspect. A list of all acceptable documents, and further detailed guidance, is available from the Home Office’s UK Borders Agency (UKBA) website, [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk).

Where an employee has only limited permission to remain or work in the UK, you are required to note the expiry date of the documentation and put a reminder system in place to check the documents. These checks must be carried out at least every 12 months of employment. There is no requirement to continue checking if the employee produces the necessary documents, indicating that he or she now has the right to remain permanently in the UK, or if he or she leaves your employment.

Documentation checks when acquiring a new business

Where an employer acquires an employee under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) it is the new employer’s responsibility to check the relevant documentation to ensure that each employee has the right to work and remain in the UK. Employers are given 28 days’ grace to carry out the necessary documentation checks to comply with the regulations.

If it is discovered that an employee does not have the legal right to work in the UK, he or she could be dismissed. Employers are also responsible for informing the UKBA, which may reduce any penalty otherwise due.

Employees from Europe

All citizens of the European Economic Area (EEA) have the right to free movement in European Union (EU) countries, and do not require a work permit to come to the UK. However, not all EEA citizens are eligible to work in the UK. There are two levels of entitlement:

1. People who can work in the UK without further documentation

EEA nationals from the ‘historic’ EU countries (listed below) are free to work in the UK without any restrictions. The ‘historic’ EU countries are:

Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the UK.

With effect from April 2011, EEA nationals from the eight former Eastern bloc countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) are free to work in the UK without any restrictions.

Employers should, however, perform the usual pre-employment checks detailed above, in the same way as they must for all new employees.

1. For people from Romania and Bulgaria, they will be permitted to work in the UK from 1st January 2014 without having an appropriate Accession Worker Card. Additionally from 1st January 2014, employers of Bulgarian and Romanian Nationals will not be required to carry out annual reviews on these nationals’ right to work. Furthermore. From 1st January 2014, freedom of movement rights will also extend to eligible family members of Bulgarian and Romanian nationals.

Points-based system

For all non-EU nationals, a ‘points-based’ system came into force on 29February 2008. Migrants seeking to enter the UK are awarded points that are scored for a variety of factors such as qualifications, aptitude, work experience and income.

There are five tiers as follows:

Tier 1 Highly skilled migrants (i.e. doctors, engineers, finance experts and IT specialists, entrepreneurs and innovators). The Highly Skilled Migrant Programme (HSMP) allows migrants to come to the UK without a job offer. The HSMP is designed to allow highly skilled people to come to the UK to look for work or self-employment opportunities.

Tier 2 Skilled workers (e.g. nurses, teachers and administrators) with a job offer to fill shortages in the labour market

Tier 3 Low-skilled temporary or seasonal labour

Tier 4 Students

Tier 5 Youth mobility and temporary workers (e.g. volunteers).

Employers seeking to employ migrant workers under the points-based system must first apply for a licence to be a Sponsor from the Home Office Borders and Immigration Agency.

Further details of the above schemes can be found on the UKBA website.

Penalty for employing unregistered workers

Under UK immigration rules, if you knowingly employ an unregistered national for more than one month without obtaining and retaining a valid copy of the worker’s application form, certificate of registration, Accession Worker Card, or in breach of their conditions of stay, you may be committing a criminal offence as detailed above. This will not apply if the worker in question is exempt from the registration requirement. Similarly, if the Home Office notifies you that the worker’s application has been refused and you continue to employ that person, you may also be committing an offence.

In addition to the civil penalty of up to £10,000 for each illegal worker and the criminal penalty of up to two years’ imprisonment, you may also be liable for additional costs (for example unpaid taxes, social security payments and/or the cost of repatriating the illegal worker). The UKBA also has the authority to serve ‘on the spot’ penalty notices if an employer is found to be less than diligent in their recruitment and employment practices.

Avoiding unlawful race discrimination

In carrying out the above checks and procedures, you should be careful that you do not discriminate unlawfully against any candidate on the grounds of his or her race, nationality or ethnic origin. To avoid a finding of race discrimination, you should ensure that you treat all candidates in the same way at each stage of the recruitment process.

Additional guidance is available from senior management and/or the Home Office Sponsors’ and Employers’ Helpline on 0845 010 6677.

Code of practice

The Home Office has produced two codes of practice, which apply from February 2008 and which are both available to download on the UKBA website ([www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)). The codes of practice provide guidance to employers on how to avoid the civil and/or criminal penalties that can be imposed as well as guidance on how to avoid unlawful discrimination. The website also offers general advice, a detailed checklist of relevant documentation, as well as an interactive guide in relation to the checks required by employers.

It is recommended that the codes of practice are followed. Failure to follow these codes is not a breach of the law. However, in the event that any proceedings should follow, the fact that you have followed a code of practice will be taken into account by an employment tribunal.