



HIRING MANAGER – BULLETIN 2

International candidates and eligibility to work October 2024

Background

All candidates must be considered in the same way when it comes to reviewing their application, whether or not they require eligibility to work in the UK.

This bulletin highlights important Do's and Don'ts as well as where you can find important information for the different stages in the process

1. Internationally educated candidates

It is essential that NHS Boards ensure that all recruitment of international health and social care personnel to fill vacancies or to take part in exchanges or education initiatives, is carried out in line with the Scottish Code of Practice for the international recruitment of health and social care personnel.

Information on what this involves as well as other useful supporting documents can be found on the ERRS website [here](#)

2. Recruitment Process – Application & Shortlisting Stage

All candidates have the right to be considered for any job to which they apply, regardless of from where they come. Being from overseas is not a reason to exclude a candidate, on a single basis.

Since the changes brought in as part of the BREXIT agreement, in 2021, there is no longer a Resident Labour Market Test in place (i.e. there is not a requirement to prioritise those who have eligibility to work in the UK over those who will need a visa to work).

Managers must assess all applications against the shortlisting criteria and make decisions on suitability to be selected against these requirements alone. Guidance on shortlisting can be found [here](#)

3. Recruitment Process – Interview & Preferred Candidate

It is not possible to justify not offering someone a role due solely to their visa or need for sponsorship status. There must be another factor involved.

If the reason the department doesn't want to offer Skilled Worker or Health & Care Worker visa sponsorship is purely due to costs, again this is not justifiable, on the

basis that case law explains that it is discrimination if the decision is based on costs alone.

Where the post advertised is permanent and the successful candidate requires sponsorship for the right to work, which is time-limited (maximum of 5 years), you cannot appoint the candidate on a fixed term contract basis for the same term as their sponsorship term. This would be direct discrimination.

From 1/4/24, changes were made to what is eligible to be considered for a Skilled Worker or Health and Care Worker Visa. These included increases to the minimum salary threshold that is applicable in both cases and changes to the occupations that are eligible for both types of visa.

It is important to remember that the Health and Care Worker visa is **NOT** applicable to every NHS job.

In terms of the salary, where the appointment is on a part-time basis, the minimum salary threshold must still be met. It might be that it is not possible to sponsor the candidate, based on the hours that they would be working.

Further guidance is available from the ERRS team, by submitting a ticket via our [Service Now](#) platform, using the Overseas Worker Visa option.

Further information on what you can and cannot do when considering a candidate who requires eligibility to work in the UK, can be found on our Overseas Worker FAQ page, which is regularly updated, [here](#).

4. Introduction of the UK eVisa

After 31/12/24, candidates and employees will be able to prove their immigration status online instead of using a physical immigration document like a biometric residence permit (BRP).

The eVisa is an online record of:

- immigration status
- the conditions of the type of permission to enter or stay in the UK

Further information can be found [here](#)

5. ERRS website

Further information on all parts of the recruitment process is available on our [ERRS website](#)

Kind regards
ERRS Senior Management Team