



*\*Note that their policy covers both Service Ceilings Limited t/a SCL Interiors & SCL Interiors (London) Limited\**

### **Introduction**

Under the Immigration, Asylum and Nationalist Act (2006), employers have a responsibility to prevent illegal immigrants working or studying in their organisations.

On 29<sup>th</sup> February 2008, the UK Government introduced new legislation for the prevention of illegal working which applies to individuals who commence employment with their employer on or after 29<sup>th</sup> February 2008.

The Points-Based System (PBS) which comes in force from 1<sup>st</sup> January 2021 replaces the work permit scheme and standardises and secures the methods that individuals are able to use and to enter the UK to work or study.

From 1st July 2021, an EU passport or national identity card alone is no longer valid proof of someone's right to work in the UK; a right to work check will need to include a share code and their date of birth.

This information is compliant with Home Office Guidance which can be found here: <https://www.gov.uk/guidance/right-to-work-checks-employing-eu-eea-and-swiss-citizens>

This information will be retained for at least 2 years after the individual has left the employer. Irish citizens can continue to use their passport or passport card to prove their right to work.

### **Purpose**

The purpose of the procedure for employing migrant workers is to provide guidance on how SCL will ensure compliance with the Immigration Asylum and Nationality Act 2006.

The primary objectives of the procedure are as follows:

1. To ensure the fair recruitment and engagement of employees from outside the European Union (EU);
2. To support those individuals from the accession states (called A8 States) within the EU who have additional employment requirements placed on them by the UK government;
3. To ensure that checks are made in an appropriate manner and in accordance with the Data Protection Act, along with the requirements of the Immigration, Asylum and Nationality Act 2006 and in line with best practice. These checks will include right to work, annual checks of details and absence from work;
4. To provide guidance on how SCL will ensure a continued right to work in the UK and the monitoring of staffing issues, such as absence from duty, changes in circumstances (domestic, contact and in employment terms) and the monitoring of this information.

### **Roles and Responsibilities under the procedure**

In order to support the implementation of the procedure the responsibilities of staff are as follows:

#### *Managers will*

- Ensure that fair recruitment processes are adhered to in line with our recruitment procedure.
- Ensure that all relevant permits are obtained prior to any staff member starting work at SCL, including those on temporary contracts. These include sponsorship certificates, resident worker status confirmation etc.
- Ensure that all staff sickness absences are reported in accordance with our employee handbook for the management of sickness absence.
- Ensure that all staff members follow SCL's procedure for requesting annual leave and any other form of leave as per the employee handbook;
- Ensure that HR is informed of any staff resignations and retirements;



- Engage positively with all staff in a fair and equitable manner and ensuring compliance with SCL's Equality and Diversity Policy and relevant race discrimination legislation;
- Notify HR where there is unauthorised absence by a staff member.

#### *Staff will*

New appointees will not be able to start employment at SCL until their right to work has been established. This will include identity checks for UK citizens (in line with HR Services procedure), confirmation of successful sponsorship status for migrant workers and obtaining resident worker status if the individual is an A8 accession EU state citizen within one month of commencing employment.

#### Staff will be required

- To ensure that any of his or her absences is authorised under the relevant SCL policies and procedures, e.g. annual leave, sickness absence, career break leave, maternity leave, compassionate leave etc.
- Ensure that any change in personal circumstances (e.g. home address) must be reported immediately to line managers and to HR and changes to role are authorised through the correct procedure and permission is obtained prior to taking up such changes (such as a new sponsorship status being granted);

#### *HR will*

- Ensure compliance with the Immigration, Asylum and Nationalist Act 2006, including obtaining the relevant permits prior to the engagement of migrant workers and checking information related to recruitment, changes in circumstances, such as hours worked or change of address, annual checking of continued right to work in the UK, absence recording and resignation/redundancy.
- Ensure that fair and transparent recruitment procedures are adhered to at all times, allowing for the fair employment of migrant workers and the prevention of illegal working.
- Ensure that all data and information is stored in an appropriate manner and any changes are checked to ensure that employment may continue under the relevant permission, such as sponsorship status.

#### **Equality impact assessment and monitoring**

In order to avoid discrimination against prospective applicants and staff, (including migrant staff) it is important that all members of staff and job applicants are treated. SCL therefore will continue to follow our policy on recruitment and ensure all the necessary eligibility checks are conducted.

#### **Data Protection Act 1998**

In implementing this policy, SCL will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with the requirements of the Data Protection Act 1998.

#### **Penalties for failing to comply with the legislation**

Under the legislation an employer and its employees can face civil penalties or possible imprisonment. The penalties consist of a sliding scale which is set by the UK Border Agency. Although the actual amount payable will be decided on a case-by-case basis, on 23 January 2024, the Government issued an updated [Code of practice on preventing illegal working: Right to Work Scheme for employers](#) which



provides that civil penalties for employing illegal workers will increase from 13 February 2024. The penalty for a first breach will increase from £15,000 to £45,000 per worker; the penalty for repeat breaches will increase from £20,000 to £60,000 per worker.

### **Transfer of undertakings**

Should SCL acquire new members of staff as a result of a TUPE transfer, there will be a 'grace' period of 28 days following the transfer during which HR will undertake the necessary document checks.

## **Section two: Conducting checks on the immigration status of prospective employees**

This section gives guidance on conducting checks on prospective employees immigration status.

### **Complying with the law**

SCL must check the migrant worker's eligibility to work in the UK by copying either one original document, or two of a specified combination, from list A or list B ( see appendices A&B).

### **Procedure for checking documentation**

Once SCL has obtained the specified documents from either list A or list B we must carry out some basic checks to ensure that the documentation presented relates to the individual in question. Please see appendix C for full guidance on checking documents.

Checks will need to include the following:

1. That any photograph in the document (s) provided by the individual bears a reasonable resemblance to him or her;
2. That any date of birth on the document (s) appears to correspond to the individual's age;
3. That any expiry date regarding limited leave to enter or remain in the UK has not passed;
4. That a document does not appear to be a forgery, or to have been altered in any way. There might for example, be indications that a passport photograph has been replaced. Staff of SCL are not, however required to be expert in identifying forged documents.
5. Where two documents are provided and the names on the documents are different, SCL will need to ask the individual for an explanation, together with further documentary evidence to support this explanation for example, a marriage certificate or a divorce decree.
6. Once the relevant documentation has been obtained and checked, copies of the documentation will be made. If the document is not a passport or other travel document, a copy of the entire document should be taken. If the document is a passport or other travel document, the pages that should be copied are:
  - a. The front cover
  - b. Any page containing the holder's personal details, including nationality
  - c. Any page containing the holder's photograph;
  - d. Any page containing the holder's signature;
  - e. Any page containing date of expiry and
  - f. Any page containing endorsements by officials of the UK Border Agency or UK Visas.
  - g. Copies of the documents need to be kept securely for a period of not less than two years after employment has come to an end. Standard archiving procedures apply, namely the keeping of all leavers files for the appropriate timescales as set out in the Data Protection Act and good practice procedures.

If an individual is not able to produce the relevant documents or have not procedure the appropriate documents, they should contact HR. Where an individual is unable to produce a document and



indicates that this is the result of having an outstanding application for leave to remain, SCL will also use the Department of Immigration's Employer Checking Service to verify the individual's right to work in the UK. The onus is on the individual to establish that he or she does have permission to work in the UK. If SCL is not satisfied with an applicant's documentation, SCL may decline to proceed with the offer of work.

### **Ongoing checks**

Those individuals who have no restrictions on their stay in the UK or are not subject to immigration control should produce the required document (s) from List A. Those who are time-restricted in terms of their leave to enter the UK or remain will produce documents from List B.

Where an individual produces the required documentation from List A, and this has been checked and copied, SCL is not required to carry out any subsequent document checks on the individual.

### **Responsibilities for ongoing checks**

We have an on-going responsibility to check documentation in List B for staff at least once every 12 months;

HR will be responsible for ongoing checks for all permanent and fixed term members of staff.

If a member of staff's leave to remain expires sooner than 12 months from the last review date, HR must ensure that it checks immigration status prior to the leave expiring. If the member of staff does not make a valid application for leave to remain prior to the expiry, she or he will automatically become an overstayer. As a result of this, if the individual continues in employment, SCL could be liable for a civil penalty and/or criminal liability.

Please note that non-compliance with this procedure may be a disciplinary offence.

### **Reporting Duties**

SCL is obliged by law to report information concerning migrant workers non-attendance, non-compliance or disappearance to the UK Border Agency, within any time limit specified.

- If a sponsored migrant does not turn up for his or her first day of work at the expected time a report must be provided to the UK Border agency within 10 working days and must include any reason given by the migrant for his or her non-attendance (e.g. missed flight).
- If a sponsored migrant is absent from work or study for more than 10 days, without SCL's reasonably granted permission. In this case a report must be provided to the Border and Immigration Agency within 10 working days of the tenth day of absence.
- If the migrant's contract of employment or registration is terminated (including where the migrant resigns or is dismissed) a report must be given within 10 working days of the event in question, and should include the name and address of any new employer or institution that the migrant has joined, if SCL knows it.
- If SCL stops sponsoring the migrant for any other reason (e.g. if the migrant moves into an immigration route that does not require a sponsor)
- If there are any significant changes in the migrant's circumstances, for example a change of job or salary (but not job title or annual pay rise)
- Any suspicions it may have that a migrant is breaching the conditions of his or her leave
- If there are any significant changes in the sponsor's circumstances – for example if a SCL trade ceases trading or becomes insolvent, substantially changes the nature of its business, is involved in a merger or is taken over;



SCL must also give the police any information it may have that suggests that the migrant may be engaging in terrorism or any other criminal activity. If you suspect this may be the case for a staff member, please discuss this matter.

**Section three: Sponsorship under Tier 2 (former work permits) for employees from outside the UK (EU)**

**Principles of the points-based scheme**

- Any individual wanting to enter the UK or work or study under the PBS will need to show that he or she has enough points to qualify. Points can be earned in different ways – attributes, competence in English language, qualifications and maintenance funds. In addition to this, there are also further tier specific criteria which must be fulfilled.
- Before an individual is eligible to apply they will require a sponsor to work in the UK (except under Tier 1 known as the highly skilled tier of the PBS)
- There are five tiers under the PBS

Tier 1 – Highly Skilled Workers, investors, Entrepreneurs and post-study workers (no sponsor required)

**Tier 2 – Skilled Workers with a job offer to fill gaps in the UK labour force.**

Tier 3 – Limited numbers of low-skilled workers needed to fill temporary labour shortages (this tier is currently suspended).

Tier 4 – Students

Tier 5 – Temporary Workers and Youth Mobility Scheme (individuals allowed to work in the UK for a fixed period – 12 or 24 months to satisfy non-economic objectives)

**It is agreed that SCL will not be a sponsor, but in the event that this changes then the below stages outline the process.**

Stage 1 – SCL can apply for a Certificate of Sponsorship for a prospective employee. This individual would then be allocated a unique reference number.

Stage 2 – Once the individual obtains a Certificate of Sponsorship then she/he will need to apply to the Home Office – UK Border Agency for entry clearance. However, this does not guarantee that his/her application will succeed as the final decision lies with the Border and Immigration Agency. The Border and Immigration Agency can refuse entry in the UK if immigration suggest that their presence is not desirable.

Stage 3 – Once entry clearance is given the individual is able to live and work in the UK and become a SCL employee.

**Sponsorship Duties**

Should the situation change and SCL decide to become a sponsor, it will then be required to fulfil a range of duties to ensure that immigration controls are effective.

Record keeping duties;

- SCL must keep the following records or documents and make them available to officials of the UK Border Agency on request;



- A photocopy or electronic copy of each sponsored migrant's passport or UK immigration status document (and, in time, his or her ID card), showing evidence of his or her entitlement to work or study. Each sponsored migrant's contact details (address, telephone number, mobile telephone number). These details must be updated as necessary (Appendix D).

### **Complying with the law**

To ensure that it is complying with UK government immigrations law, SCL must also fulfil the following duties:

- Ensure that a migrant who is coming to work for SCL is legally entitled to do the job in question and therefore has appropriate qualifications/professional accreditation.
- Not employ a migrant if the conditions on the migrant's leave (or the migrant's lack of leave) mean that he or she is not allowed to undertake the work in question, and to stop employing any migrant who ceases, for any reason, to be entitled to undertake the work;
- Only issue Certificates of Sponsorship to migrants who, to the best of UEL's knowledge and belief, will meet the requirements of the Tier or category of the PBS under which the certificate is issued, and are likely to comply with the conditions of their leave. The requirements and conditions of leave are set out in the immigration rules.

### **Co-operating with the UK Border Agency:**

In order to allow the UK Border Agency to manage the Sponsorship system properly, SCL must also comply with the following duties:

- Allow the UK Border Agency's staff access to any of its premises on demand. Visits may be either prearranged or unannounced;
- Adhere to any action plan set by the UK Border Agency;
- Seek to minimise the risk of immigration abuse by complying with any good practice guidance that the UK Border Agency or that any sector body may produce for sponsors in particular Tiers or Sectors, with the UK Border Agency's agreement.

### **Duties specific to sponsors under particular parts of the Points Based System**

The above duties apply to all sponsors across the Points Based System. Those set out below apply to Tier 2 only.

#### **Skilled workers (Tier 2)**

SCL will only be licensed to sponsor migrants under Tier 2 (general) if decided to be a designated sponsor. It can only issue a Certificate of Sponsorship to a migrant if SCL is satisfied that the migrant intends to and is able to do the specific skilled job in question, which must be of at least NVQ3 skill Level. SCL must indicate when issuing / applying for an individual certificate of sponsorship either:

- That SCL has carried out the Resident Labour Market Test (RLMT) in line with the guidance from the UK Border Agency. The guidance outlines the advertising media for roles at an appropriate salary for the UK and requires confirmation that there were no suitable European Economic Area (EEA) applicants or
- The job concerned appears on the list of shortage occupations published by the UK Border Agency at the date that UEL issues a certificate of sponsorship in respect of that job.



**For a list of appendices related to this procedure, please refer to MSP56.1**

**Monitoring and review**

This policy will be reviewed annually and in line with any legislation changes on employing migrant workers

Name: ADAM NURSE

Signature: [Handwritten Signature]

Position: DIRECTOR

Date: 08.08.24