

# Recruitment of Overseas Staff Procedure

## Section 1 - Background Information

(1) This Procedure has been developed to explain the University's approach when employing staff from overseas and the process that should be followed. The principles in this document should apply to all appointments of persons from overseas in order to comply with Australian visa conditions. This includes obtaining the persons rights to work in Australia. A failure to comply with Australian laws and regulations could result in serious consequences for both the new hire and the University.

## Section 2 - Overview

(2) A recruitment and selection process may include an international search or result in a candidate who requires working rights or has working rights that require an action by ACU. The University may also invite an overseas staff member to an appointment at ACU. All types of appointees that require the University to take a work rights action will be subject to the rules of the [Department of Home Affairs](#) (DHA).

(3) Any overseas candidate must have the relevant right to work in Australia before they commence their employment with the University. It is a joint responsibility of the University and the overseas candidate to ensure that they have valid Australian work rights for the duration of their employment or activities at the University.

(4) Due to the complexity of employing staff from overseas it is important that assistance is sought from People and Capability.

(5) All temporary visa types have employer obligations and it is the University's responsibility to ensure the obligations are met. ACU must comply with strict immigration regulations in accordance with [Department of Home Affairs](#) compliance obligations prior to hiring the successful applicants who require sponsorship. Failure to effectively manage these obligations may result in penalties, financial and reputational risks.

## Section 3 - Scope

(6) This Procedure applies to hiring managers and delegated approving officers who are recruiting overseas staff to the University as they are required to obtain a valid entry permit (visa) before arriving in Australia and commencing employment at the University.

## Section 4 - Procedure Purpose

(7) The purpose of this Procedure is:

- a. to establish the University's approach when a recruitment and selection process results in the hiring of an overseas candidate and selecting the best fit for purpose visa;
- b. to explain what the University's staff sponsorship obligations are when hiring an overseas candidate; and

- c. to ensure compliance with immigration regulations.

## Section 5 - Principles

(8) The visa type and any associated work rights must be appropriate to the nature of the employment and is determined by the intended purpose of a prospective staff member to the University.

(9) Every contract of employment is conditional upon the prospective staff member holding a valid passport, satisfying Australian immigration requirements and being declared medically fit and appropriately vaccinated to live and work in Australia. It is very important that each of these requirements have been met prior to the new hire's commencement.

(10) There are a number of visa options that can be matched to the purpose of the appointment and the prospective staff member must have the appropriate visa in place prior to arrival in Australia.

(11) Overseas recruitment practices at ACU will be based on the following principles:

### Reasons to hire staff overseas

(12) Reasons to hire overseas international staff:

- a. to acquire desired skills and knowledge that are not currently available in Australia;
- b. to enhance managerial competence and operational expertise; and
- c. to improve ACU's research capability and performance.

### Selecting the fit for purpose visa

- a. Global Talent Program (subclass 858) Visa;
- b. Employer Nomination Scheme Visa (subclass 186);
- c. Temporary Work 'Short Stay Specialist' Visa (subclass 400);
- d. Training Visa (subclass 407);
- e. Temporary Activity Visa - Research Activities (subclass 408);
- f. Temporary Skill Shortage 'TSS' Visa (subclass 482); and
- g. Visitor Visas (subclass 600), (subclass 601), (subclass 651).

### Compliance with Department of Home Affairs

(13) ACU is a temporary visa sponsor that must comply with certain obligations set out by the [Department of Home Affairs](#). These obligations include:

- a. providing terms and conditions of employment to foreign nationals that must remain no less favourable than those given to Australians;
- b. the Visa holder is to perform only the specified duties of their appointed occupation/role;
- c. records are kept by ACU in accordance with the requirements of the [Department of Home Affairs](#); and
- d. ACU providing notification to the [Department of Home Affairs](#) of certain changes of circumstance within mandatory timeframes.

### Changes to Visa Conditions

(14) Visa holders are employed for a particular role that is recorded on their visa. When a visa holder changes their role within the University, they must notify People and Capability of the change in role so that an alternate visa, if required, can be obtained.

## Payment of Costs

(15) At times the University may consider supporting a permanent residency (PR) visa. This would require a recommendation to be approved in writing by the senior executive member.

(16) Where ACU nominates a person to receive a visa, it will pay the following reasonable costs:

- a. Applicable nomination costs; and
- b. Skilling Australians Fund levy.

(17) An employee in receipt of a PR visa will be responsible for the costs of return travel if PR is obtained.

## Labour Market Testing

(18) This is a requirement placed on the University to provide specific evidence of advertisements that demonstrate that it has attempted to recruit suitably qualified and experienced Australian citizens or permanent residents to fill a position.

(19) Evidence of labour market testing will be required if a person applies for any type of visa.

(20) Labour Market Testing (LMT) involves advertising the position over a four-week period during the eight weeks prior to lodgement of sponsorship of a visa. The advertisement must be listed on a minimum of two online platforms plus the Government online platform - Job Active. This requirement is, however subject to change by the [Department of Home Affairs](#).

## Approval

(21) Appointment of staff from overseas must be approved in accordance with the [Delegations of Authority Policy and Register](#).

## People and Capability support

(22) Hiring managers are required to consult with People and Capability staff after identifying an overseas candidate for appointment. P&C will:

- a. require details of the purpose and proposed overseas hire, proposed start date, duration, level and salary, position description;
- b. ensure a position description is approved;
- c. assist the requesting portfolio in issuing a contract of employment, confirming the terms and conditions of employment;
- d. investigate and confirm the potential compliance obligations, risks and mitigation strategies that apply to the overseas hire; and
- e. assist the requesting portfolio to manage ongoing regulatory and compliance obligations such as visa expiries.

(23) In the event of complex international hires, it may be necessary for People and Capability and/or the Office of General Counsel to engage specialist providers such as immigration or employment law specialists. The portfolio will bear the costs of the engagements.

## Section 6 - Revisions made to this Procedure

(24) The University may make changes to this Procedure from time to time to improve the effectiveness of its operation. In regard, any staff member who wishes to make any comments about this Procedure may forward their

suggestions to People and Capability.

(25) Unless otherwise indicated, this Procedure will still apply beyond the review date.

## **Section 7 - Further Assistance**

(26) Any staff member who requires assistance in understanding this Procedure should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required, staff should visit [Service Central](#).

## **Section 8 - Associated Information**

(27) For related legislation, policies, procedures and guidelines and any supporting resources please refer to the Associated Information tab.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	19th December 2023
<b>Review Date</b>	23rd July 2024
<b>Approval Authority</b>	Vice-Chancellor and President
<b>Approval Date</b>	19th December 2023
<b>Expiry Date</b>	Not Applicable
<b>Responsible Executive</b>	Angelle Laurence Chief People Officer
<b>Responsible Manager</b>	Angelle Laurence Chief People Officer
<b>Enquiries Contact</b>	Bernardine Lynch ER and Safety Committees and Policy Officer <hr/> People and Capability