

## CHANGE OF EMPLOYMENT APPLICATIONS

If a new employer wishes to employ an existing work permit holder, or the same employer wants the work permit holder to do a different job, they need to get permission from Work Permits (UK) first. Caseworkers should ensure that the new application is received within 28 days of a person's previous employment ceasing. If no notification of the termination of the previous employment has been received, it may be appropriate for the caseworker to contact the person's previous employer to find out when that employment ended.

- Same job, different employer
- Different job, same employer
- Different job, different employer

### What to do if?

- The application is received more than 28 days after the person's previous employment ended
- The post has not been advertised
- A change of employment application appears to be appropriate

### Same job, different employer

Employers do not need to demonstrate that they have advertised such a post again and normally a caseworker wouldn't require to see the person's qualifications or references again. If a caseworker has any doubts about previous evidence of a person's qualifications or experience, however, they can request that such information is submitted again (see Qualifications of the Worker/ Experience of the Worker).

### Different job, same employer

A change of employment application is required where there is a substantial change to terms and conditions of the employment for which a work permit has previously been approved. Caseworkers should ensure that a labour market search has been carried out for applications where any of the following circumstances occur except for Tier 1 applications:

- the permit holder's salary has significantly risen in addition to any annual increments, as a higher salary is likely to attract more applicants when the post is advertised appropriately (if the salary has risen only because of annual increments, it may be appropriate to consider any such application under the technical change of employment category).
- the permit holder's salary has been reduced below NMW or 'going rate', as this undercuts resident workers and preventing this from happening is a stated aim of Work Permits (UK).
- the permit holder's hours have been significantly reduced/increased (by at least 10%), as working more or less hours may attract other applicants when the post is advertised appropriately.

- the permit holder's duties have changed due to promotion, demotion or restructuring, as the job will be different from that which we issued in the original approval.

### **Different job, different employer**

Normally, caseworkers should expect to see evidence of advertising in support of such an application unless it is in the Tier 1 category. Caseworkers should also pay attention to the level of the new job and whether the person has the required qualifications, experience and skills to do the job in such circumstances (see Skills Criteria (worker) and see Qualifications of the Worker/ Experience of the Worker).

### **What to do if?**

**The application is received more than 28 days after the person's previous employment ended** - – This should be considered as a new application and therefore treated as First Permission. New advertising of the job would normally be required in these circumstances, however, the EO/HEO may consider waiving the advertising criteria and approving the application exceptionally. If this course of action is approved, the caseworker must ensure that the approval letter states that the case has been approved on an exceptional basis. If waiving the advertising criteria is not appropriate and, after checking with the employer or their representative, no recruitment search has been carried out, the application should be refused and paragraph P83A included in the refusal letter. Caseworkers should note that all refusal reasons should be included in the refusal letter and all letters should be tailored to the individual application.

**The post has not been advertised** - The employer should have explained fully in the relevant question of the WP1 why they did not advertise the post and provide independent verification of their assertions. The pre-sifter should have assessed any reasons and evidence provided and made comments on the risk assessment grid. If an application is to be refused and P83A should be included in the letter. Caseworkers should note that all refusal reasons should be included in the refusal letter and all letters should be tailored to the individual application.

**A change of employment application appears to be appropriate** - The caseworker should continue with the caseworking process.