

National Insurance Number Allocation - Employment Inspired 'Right to Work' Frequently Asked Questions for CCUs

Question	Answer	Action
<p>Asylum Seekers – do Asylum Seekers have the “right to work” in the UK?</p>	<p>Most asylum seekers will have an Application Registration Card (ARC) that states “Employment Prohibited”.</p> <p>Exception If an initial decision on an asylum claim is not made within 12 months, and the delay is not caused by the applicant. These applicants may request the right to work under Immigration Rule 360. In these cases an ARC may be issued showing “Employment Permitted”. Once a decision is then made, the asylum applicant will retain permission to work until the appeals rights are exhausted.</p>	<ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence <p>Exception</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO
<p>Recourse to Public Funds (Visitors) - do visitors to the UK have recourse to Public funds?</p>	<p>Visitors are not coming to the UK for employment purposes, therefore they do not have recourse to public funds or the right to work.</p>	<ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence

<p>Expired Right to Work – are there any circumstances where employment may continue when “right to work” has expired?</p>	<p>Timescales for Expiry of Right to Work -</p> <p>Where documents show that an applicants “right to work” has expired CCU should ask if they have applied to renew their right to work status or have an appeal outstanding.</p>	<p>If an applicant has a right to work on the day of the interview which then expires before the application is complete</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO <p>If the answer is yes</p> <ul style="list-style-type: none"> ▪ CCU should contact Home Office for an update ▪ The NINO application cannot be processed further until satisfactory confirmation of renewed “right to work” status is received form Home Office or supplied by the applicant. ▪ Confirmation received - Subject to other qualification criteria CCU can allocate a NINO ▪ Confirmation not received - CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence <p>If the answer is no</p> <ul style="list-style-type: none"> ▪ CCU should refuse a National
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		<p>Insurance Number for employment purposes</p> <ul style="list-style-type: none"> ▪ CCU should inform Home Office of possible offence
<p>Employer/Occupation specific “right to work” granted - what if the applicant changes employer or job?</p>	<p>Employment specified on the Work Permit would be the main employment. The applicant must demonstrate they are employed as specified in the Work Permit/permission letter. Supplementary employment is allowed subject to these following conditions –</p> <ul style="list-style-type: none"> ▪ Employment is not more than 20 hrs a week ▪ Employment is similar nature to the work specified in the Work Permit/permission letter ▪ Employment is not entered into through an employment agency <p>Note: An applicant can only be considered to have full permission to work when he/she provides evidence of both a work permit/permission letter AND a stamp/vignette in their passport granting leave to enter/remain</p>	<p>If work is for that specified on the Work Permit and no supplementary work is being undertaken</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO <p>If work is primarily for that on the Work Permit and any supplementary employment meets the 3 conditions</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO <p>If the work is not primarily for that specified on the Work Permit (regardless of any supplementary work meeting the 3 conditions)</p> <ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence <p>If the supplementary work is</p>

		<p>actually an applicants main employment</p> <ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence
<p>Working Holidaymakers (WHM) – do working holidaymakers have a right to work in the UK?</p>	<p>Working Holidaymakers have a right to work provided they are not working as a professional sportsperson. NB: see below for WHMs who are in self employment</p>	<p>If the applicant is a WHM and employed but not as a professional sportsperson</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO <p>If the applicant is employer and working as a professional sportsperson</p> <ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence
<p>Working Holidaymakers (WHM) – can Working Holidaymakers be self employed?</p>	<p>Working Holiday Makers can undertake self employment e.g. on a contract basis, provided they do not</p> <ul style="list-style-type: none"> ▪ set up a business ▪ acquire premises ▪ make a substantial investment in equipment ▪ employ others. 	<p>If the applicant is self employed and, through asking direct questions*, CCU is satisfied that they are not in breach of their immigration conditions</p> <ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO

If the applicant is WHM and self employed and, through asking direct questions*, CCU aware of a reason why the applicant may be in breach of their immigration conditions

- CCU should **refuse** a National Insurance Number for employment purposes
- CCU should inform Home Office of possible offence

*DWP have advised that in these circumstance Jobcentre Plus should ask the applicant questions such as:

- Have they set up a business?
- Have they acquired business premises?
- Have they invested in equipment?
- Are they employing any staff?

If the answer to any of these questions is yes, then the applicant would be in breach of their immigration conditions.

Cases of extreme doubt should be referred to the Home Office for advice prior to processing the application further.

<p>Au Pairs – Are Au Pairs eligible for NINO?</p>	<p>Where the application is made by a person who is in the country as an Au Pair their nationality must be checked. This category is mainly considered a cultural exchange.</p> <p>Note: This advice only applies to Au Pairs granted leave to enter the UK under the Immigration rules for the Au Pair category. Other persons engaging in Au Pair Work are not subject to the same restrictions</p>	<p>If the applicant is Turkish:</p> <ul style="list-style-type: none"> • Subject to other qualification criteria CCU can allocate a NINO • there would be no need for us to inform Home Office as there is no offence. <p>If the applicant is not Turkish:</p> <ul style="list-style-type: none"> ▪ CCU should refuse a National Insurance Number for employment purposes ▪ CCU should inform Home Office of possible offence
<p>A8 Nationals – Are A8 nationals eligible for a NINO?</p>	<p>Accession nationals are eligible for a NINO</p>	<ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO
<p>Students – Are students eligible for a NINO?</p>	<p>This category is eligible for a NINO. Students have restrictions on the number of hours they can work during term time. However, this does not affect their underlying eligibility for a NINO subject to other qualification criteria.</p>	<ul style="list-style-type: none"> ▪ Subject to other qualification criteria CCU can allocate a NINO. ▪ Cases of extreme doubt should be referred to the Home Office for advice prior to processing the application further.