



Recruiting International Graduates - A Guide for Employers

This guide has been prepared by the Internationalisation Task Group of the [Association of Graduate Careers Advisory Services \(AGCAS\)](#) to help employers navigate the complexities of recruiting international graduates from UK universities. Its aim is to provide an overview of the key schemes in place in June 2013. This does not, of course, replace the need for employers to seek their own legal advice in these matters but we hope this guide goes some way to demystifying the immigration options available to international graduates.

Myth busting

- ***“Is it true that it is now too difficult to sponsor a graduate and not worth the effort?”***

No, it is relatively straightforward to sponsor international students due to changes to the Points Based System in 2012. These changes mean that as a sponsor it is now much easier to recruit the best person for the job even if they come from outside the European Economic Area (EEA). There are also new routes for PhD students to get a 12 months visa to work in the UK without the need for employer sponsorship.

- ***“If we sponsor a student under Tier 2 we will have to apply the Resident Labour Market Test (RLMT).”***

No, the good news is that if you sponsor a student under Tier 2 you will not have to apply the RLMT providing they are applying from within the UK. This means you can appoint the best person for the post irrespective of nationality and the advertising requirements are waived.

In addition, if a graduate already has a Post Study Work visa and you wish to sponsor them as a Tier 2 Skilled Worker you will not have to apply the RLMT test.

- ***“Surely this will affect the number of Certificates of Sponsorships (CoSs) we will be able to issue?”***

No, because there is no cap on the number of CoSs you can issue under this category (unlike restricted CoSs under the main Tier 2 scheme) provided the graduate applies in the UK with a valid student visa. If for any reason they need to leave the UK and apply for a Tier 2 visa from outside the UK, the cap would apply (as would the RLMT).

- ***“An international student can get their own work permit.”***

This isn't the case. Since the abolition of the Post Study Work Scheme in April 2012 all new graduates have to be sponsored by employers under Tier 2 unless they qualify under some other immigration category which allows them to work on an unrestricted basis in the UK, for example, the new Doctorate Extension Scheme or as a dependant of a student or a family member of a UK/EEA national.

- ***“We don’t currently have a licence to sponsor foreign nationals under Tier 2. We’ve heard it takes a long time to get a licence.”***

There were long delays last year in processing Tier 2 licences by the UK Border Agency, now known as the Home Office. Current processing times are around 1-3 months. In many non-complex cases, legal help in preparing your licence application is not required. We have arranged a fixed fee consultation with specialist immigration law firm [Carter Thomas](#) for employers who would like initial advice.

- ***“It’s OK for a student to start work with us once they have finished their course.”***

Not exactly. Tier 4 students at graduate level have the right to work full time once they have completed their course. But this only gives them permission to do work provided it is **not** a full-time permanent role (at graduate level). However, if they qualify for sponsorship from you under Tier 2 and have submitted their application to the Home Office, in most cases they are eligible to start the graduate role immediately. If you want a graduate to start earlier than this they could either work safely up to 20 hours per week or you may want to seek further legal guidance to explore other alternatives, such as short-term contracts, until they have applied for Tier 2 status.

There are particular provisions for PhD students to switch to Tier 2 status before they have completed their studies (see below).

- ***“It’s OK for us to put a statement on our company website stating all applicants must have permission to work in the UK.”***

No, this is because whilst the law requires employers to only employ individuals with a right to work in the UK it is also unlawful not to employ someone on the basis of their nationality. [Nicholas Moore Specialist Employment Lawyers](#) recommend that you avoid possible claims of indirect race discrimination by using statements such as: *‘the successful candidate must by the start of their employment have permission to work in the UK’* and by only seeking evidence that someone has the right to work in the final stages of the recruitment process.

Main schemes

1. Tier 2 Sponsored Skilled Workers (student route)

This category enables employers to directly sponsor UK trained graduates for up to a maximum of 6 years. After 5 years continuous employment the individual would be able to apply for settlement or permanent residence provided they earned the minimum salary (currently set at £35,000) or more or were in a job that requires a PhD.

You will be exempt from applying the RLMT in this category and no cap applies. As the employer you would need to ensure that you have a licence under Tier 2 to sponsor migrants. Further information on the process to obtain a licence is on the [Home Office UK Border Agency](#) website.

It is essential that you offer a job with a salary in line with the relevant [Codes of practice](#), and as a minimum over £20,300 per annum. It is important you choose a code which contains the job description that best matches the role you want to recruit for, even if the job title you use is different from the one in the Codes of Practice. Following this you will be able to provide the

electronic reference from the Certificate of Sponsorship (CoS) to the graduate who will use this to apply for their Tier 2 visa.

When can graduates apply for their Tier 2 visas?

a. The majority of graduates can only apply after they have been awarded their degrees and you have issued them a CoS. The date of award is the date on which the university formally notifies a student they have been successful, and not to be confused with provisional results which may be released earlier. These dates will vary between universities so it is important that you check this individually with the student.

b. You can sponsor a PhD student before they have completed their degree as long as they have done at least 12 months of their course.

Can the graduate start the job before they get their visa?

Yes, provided they have submitted their Tier 2 visa to the Home Office and had a Tier 4 visa that was issued after 6 April 2012. If, for any reason, their visa was refused then they would have to stop work. If you want the graduate to start before they have submitted their Tier 2 visa application they could only work up to 20 hours a week on their student visa as they are not permitted to take a graduate role on their Tier 4 visa.

2. Doctorate Extension Scheme (DES)

This is a new scheme to allow PhD students to remain in the UK for 12 months to look for work or start work without needing an employer to sponsor them. Instead, they are sponsored by the Tier 4 university sponsor at which they studied their degree. PhD students can only apply for the DES once they are very close to completing their degrees. They will be able to start working full time with you in a graduate role as soon as their degree has been awarded provided they have submitted their DES application to the Home Office. If you want to employ a PhD student earlier than this you would need to look at sponsoring them under Tier 2 (see above).

If you want to retain an employee holding a DES visa you can then sponsor them under Tier 2 as described above with all the benefits of no RLMT or cap providing they meet all the requirements. Most universities provide some form of support to their international students who wish to apply under this category.

3. Tier 5 Internships/work placements

Employers may be able to recruit an international student under Tier 5 (Government Authorised Exchange) for a stay of up to 2 years in the UK for work. The government states that the aim of this scheme is to *"share knowledge, experience and best practice, and to experience the social and cultural life of the UK"*. Sponsorship under this route is mainly for internships, training or supernumerary roles. In these cases, the overarching Tier 5 sponsor rather than the employer issues the CoS and the employer simply ensures that the international student works in line with the terms of their sponsorship. See the full list of [approved schemes](#).

Useful sources of information and support

1. Home Office

The Home Office provides a specialist support service for employers who want to check whether a person is allowed to work legally in the UK:

www.ukba.homeoffice.gov.uk/aboutus/contact/contactspage/?item=137223

2. UK Council for International Student Affairs (UKCISA)

Most universities are members of UKCISA which provides up-to-date information on the latest schemes for international students to remain in the UK to work. The public pages of their website are a useful starting point for any employer who wants further information:

www.ukcisa.org.uk

3. University careers services and international student services

The majority of universities provide some form of specialist information services to their international students who want to explore their options to remain in the UK. In some cases they may also provide more specialist help in preparing their immigration applications to the Home Office. It is always worth checking with your potential recruit what level of support they can access as it is of course in everyone's interests that their application is not rejected for an avoidable reason.

4. Carter Thomas Solicitors

We have arranged a fixed fee consultation with specialist immigration law firm Carter Thomas for employers who would like initial advice on securing a sponsor licence:

www.carterthomas.co.uk

5. Nicholas Moore Specialist Employment Lawyers

If you, or the employers you are advising, need further guidance regarding employment law considerations when recruiting and employing international graduates, please contact Nicholas Moore Specialist Employment Lawyers:

www.nicholas-moore.co.uk

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