



Home Office

## Tier 2 and 5: Guidance for Sponsors - Addendum

*This addendum was published on 19 July 2019. It updated version 03/19 of the Tier 2 and 5: Guidance for Sponsors and replaced the addendum published on 17 July 2019. It applies with immediate effect to all Tier 2 and 5 sponsors, including all current and future applications seeking to apply for or renew a sponsor licence.*

1. When a sponsor is granted a Tier 2 or Tier 5 licence, significant trust is placed in them. With this trust comes a direct responsibility to act in accordance with the Immigration Rules, all parts of the Tiers 2 and 5 sponsor guidance, and with wider UK law.
2. There is also a wider responsibility for sponsors to behave in a manner that is consistent with our fundamental values and that is not detrimental to the wider public good. Sponsorship is a privilege, not a right. The Home Office will not license organisations whose actions and behaviour are non-conducive to the public good. These include but are not limited to:
  - fostering hatred or inter-community division;
  - fomenting, justifying or glorifying terrorism; and/or;
  - rejecting the rights of, or discriminating against, other groups or individuals on the basis of their gender, gender identity, sexual orientation, marital status, race, religious belief (including lack of belief), or any other protected characteristic under the Equality Act 2010.
3. The Home Office will refuse a sponsor licence application or take the appropriate compliance actions, if a prospective or existing sponsor is engaging or has ever engaged in such behaviour or actions. The compliance action taken will depend on the gravity of the behaviour and actions but could include compliance actions up to and including revocation.



Home Office

# Tiers 2 and 5: guidance for sponsors

Version 07/20

This guidance is to be used for all Tier 2 and Tier 5 sponsor licence applications made, and for all certificates of sponsorship assigned, on or after 16 July 2020.

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# About this guidance

This guidance is for organisations who want to apply for a sponsor licence to sponsor migrants under Tier 2 and/or Tier 5 of the points-based system. It tells you what we expect if you are a licence holder, the processes you must follow when sponsoring a migrant and how to meet all of the duties and responsibilities associated with being a licensed sponsor. The guidance is subject to change and you should check the dates to make sure you have the latest version.

A [new points-based immigration system](#) will come into effect from 1 January 2021. The future system will apply to both European Economic Area (EEA) nationals and non-EEA nationals. You should refer to [Annex 9](#) of this guidance if you intend to apply for a licence to sponsor workers under the new system.

Separate guidance exists on GOV.UK for [UK education providers](#) who wish to apply for and hold a licence to sponsor international students to come to the UK under Tier 4 to study.

You can find the appendices mentioned in this guidance under sponsorship policy guidance on the '[Guidance for employers and educators](#)' page on GOV.UK.

## Contacts

If you think that the guidance has factual errors or broken links, email the [Business Helpdesk](#).

## Clearance and publication

Below is information on when this version of the guidance was cleared for publication:

- version **07/20**
- cleared for publication on 16 July 2020

## Glossary

Phrase	Meaning
We or Us	The Home Office
You or Your	The sponsor organisation or prospective sponsor organisation including any: <ul style="list-style-type: none"><li>• owner</li><li>• director</li><li>• authorising officer</li><li>• key contact</li><li>• level 1 user</li><li>• person involved in your day to day running</li></ul>

Phrase	Meaning
Relevant offence	<p>Any offence under:</p> <ul style="list-style-type: none"> <li>• the Immigration Act 1971</li> <li>• the Immigration Act 1988</li> <li>• the Immigration Act 2014</li> <li>• the Asylum and Immigration Appeals Act 1993</li> <li>• the Immigration and Asylum Act 1999</li> <li>• the Nationality, Immigration and Asylum Act 2002</li> <li>• the Immigration, Nationality and Asylum Act 2006</li> <li>• the UK Borders Act 2007</li> <li>• trafficking for exploitation</li> <li>• any offence listed in <a href="#">Appendix B</a> of the guidance for sponsors</li> <li>• any offences of: <ul style="list-style-type: none"> <li>○ espionage/terrorism</li> <li>○ dishonesty (theft, corruption, deception and fraud)</li> <li>○ bribery</li> <li>○ proceeds of crime</li> <li>○ money laundering</li> <li>○ abuse and neglect of children</li> </ul> </li> <li>• any offence listed under Class A (homicide, manslaughter and related grave offences) in <a href="#">Annex 1B: List of offences in class order</a> as defined by the <a href="#">Crown Prosecution Service</a></li> <li>• any offence listed in <a href="#">Annex 7</a> of this guidance</li> </ul>
Settled worker	<p>A person who:</p> <ul style="list-style-type: none"> <li>• is a British citizen or an Irish citizen</li> <li>• has a '<a href="#">right to reside</a>' in the UK under the <a href="#">Immigration (European Economic Area) Regulations 2016 (as amended)</a> – this includes nationals of a <a href="#">European Economic Area (EEA) Member State</a> or of Switzerland and their family members, as specified in those Regulations</li> <li>• is a <a href="#">British overseas territories citizen</a>, except those from Sovereign Base Areas in Cyprus; territories included are: <ul style="list-style-type: none"> <li>○ Anguilla</li> <li>○ Bermuda</li> <li>○ British Antarctic Territory</li> <li>○ British Virgin Islands</li> <li>○ British Indian Ocean Islands</li> <li>○ Cayman Islands</li> <li>○ Falkland Islands and dependencies</li> <li>○ Gibraltar</li> <li>○ Montserrat</li> </ul> </li> </ul>

Phrase	Meaning
	<ul style="list-style-type: none"> <li>○ Pitcairn Islands</li> <li>○ St. Helena and dependencies</li> <li>○ Turks and Caicos Islands</li> <li>• is a Commonwealth citizen who has been allowed to enter or remain in the UK under the 'UK ancestry' provisions in <a href="#">Part 5 of the Immigration Rules</a> on the basis that a grandparent of theirs was born in the UK and Islands – note that, for immigration purposes, citizens of Zimbabwe are considered to be Commonwealth citizens</li> <li>• otherwise has settled status in the UK within the meaning of <a href="#">section 33</a> of the Immigration Act 1971 (as amended from time to time) – this includes: <ul style="list-style-type: none"> <li>○ Commonwealth citizens with the '<a href="#">right of abode</a>' in the UK</li> <li>○ persons of any nationality who have been granted '<a href="#">indefinite leave to enter or remain</a>' in the UK (including 'settled status' under the <a href="#">EU Settlement Scheme</a>)</li> </ul> </li> </ul> <p><b>Note:</b> you have a legal responsibility to check that your employees or prospective employees have the legal right to work in the UK and do the work in question: see '<a href="#">Right to work checks: an employer's guide</a>' on GOV.UK for detailed guidance on how to make these checks.</p>
Working days	Any day other than: <ul style="list-style-type: none"> <li>• a Saturday</li> <li>• a Sunday</li> <li>• bank holiday – see <a href="#">UK bank holidays</a> guidance on GOV.UK</li> </ul>
UKVI	<a href="#">UK Visas and Immigration</a> , an operational command of the Home Office

## Migrant information

If you intend to sponsor migrants under Tier 2 or Tier 5, you may need to check how much time they may be allowed to spend in the UK and any other restrictions that may apply to migrants coming to the UK under these tiers. The [Tier 2](#) and [Tier 5](#) policy guidance for migrants and [Part 6A of the Immigration Rules](#) on GOV.UK have more information on this.

## Guidance on sponsor processes

Information on how to complete a certificate of sponsorship, including how to complete an application for a restricted certificate of sponsorship under Tier 2

(General), can be found in [‘Using the sponsorship management system \(SMS\): certificates of sponsorship’](#) on GOV.UK.

## Using a representative

A representative is a:

- person who is qualified to provide immigration advice or services in accordance with [section 84 of the Immigration and Asylum Act 1999](#) (as amended from time to time) by being:
  - regulated by the Office of the Immigration Services Commissioner (OISC)
  - exempt by ministerial order from the requirement to be regulated
  - otherwise compliant with section 84
- regulated member of a designated professional body or designated qualifying regulator, or working under the supervision of such a person – for the purposes of the Immigration and Asylum Act 1999, the designated bodies and regulators are the:
  - Legal Services Board (which has oversight of the Law Society, the Chartered Institute of Legal Executives, and the Bar Council)
  - Law Society of Scotland
  - Law Society of Northern Ireland
  - Bar Council of Northern Ireland
  - Faculty of Advocates

You can use the services of a representative to act on your behalf. A representative must meet our definition above and be based in the UK.

If they act on your behalf without being ‘qualified’ under the Immigration and Asylum Act 1999, they may be committing a criminal offence.

Anyone compliant with section 84 through exemption by ministerial order still has to comply with the OISC code of standards.

The [‘Office of the Immigration Services Commissioner \(OISC\)’](#) page on GOV.UK has more information and links to websites for solicitors, advocates, barristers, legal executives and the Community Legal Service.

## Changes from last version of this guidance

This guidance has been updated to:

- provide information on sponsoring specified health workers under the ‘Health and Care Visa’
- clarify that sports clubs applying for a licence under the Tier 2 or 5 sporting provisions must be based in the UK
- other minor amendments

Details of the changes are set out in the table below.

Paragraph number in this version	Paragraph number in previous version	Details of change
4.6	4.6	Clarification that overseas-based sports clubs are not eligible to apply for a licence under the Tier 2 and 5 sporting provisions.
15.16	N/A	Reference to Health and Care Visa added. Subsequent paragraphs in this section renumbered accordingly.
29.3 to 29.7	N/A	New paragraphs describing the Health and Care Visa and the information sponsors must give when assigning a certificate of sponsorship for this visa. Subsequent paragraphs in this section renumbered accordingly.
29.8	29.3	Sub-heading added before paragraph. Minor amendment to paragraph below bullet points.
Elsewhere	Elsewhere	Minor formatting and house-keeping changes.

## Related content

[Contents](#)

# 1 Applying for a licence

## What is sponsorship?

1. Tiers 2 and 5 of the points-based system are the primary immigration routes for non-European Economic Area (EEA) migrants who wish to work in the UK. These migrants must be sponsored by an organisation or company that holds a Tier 2 and/or Tier 5 licence. A licence is a permission given to an organisation to sponsor workers in its business. The organisation is known as a sponsor. Individual persons are not recognised as sponsors.

**Note:** a new points-based immigration system will come into effect from 1 January 2021. This new system will apply to both EEA and non-EEA workers. If you intend to sponsor migrant workers under this new system, you should refer to [Annex 9](#) of this guidance.

- 1.1 Sponsorship is based on 2 principles:
  - those who benefit most directly from migration; employers, education providers or other bodies who are bringing in migrants, should play their part in ensuring the system is not abused
  - we need to make sure that those applying to come to the UK for work or to study are eligible and that a reputable employer or education provider genuinely wishes to take them on
- 1.2 A migrant must have a sponsor before they can apply to come to, or remain in, the UK for work.
- 1.3 Sponsorship plays 2 main roles in a migrant's application for permission to come to, or remain in, the UK to work:
  - where appropriate, it provides evidence that the migrant will fill a genuine vacancy that cannot be filled with a suitably qualified or skilled settled worker
  - it involves a pledge from the sponsor that it accepts all of the duties expected when sponsoring the migrant
- 1.4 When a sponsor is granted a Tier 2 or Tier 5 licence, significant trust is placed in them. With this trust comes a responsibility to act in accordance with the Immigration Rules and all parts of the Tiers 2 and 5: guidance for sponsors. We have a duty to ensure that all sponsors discharge these responsibilities and will take compliance action when it is considered that a sponsor has failed to do so, or otherwise poses a risk to immigration control. The '[Sponsor duties](#)' section has more information on the duties sponsors must fulfil.
- 1.5 When considering your licence application, we need to establish 4 things:



- are you a genuine organisation operating lawfully in the UK? - to prove this, you must provide certain documents - these are listed in [Appendix A](#) of the guidance for sponsors
- are you honest, dependable and reliable? - to judge this, we look at your history and background, the key personnel named on your application and any people involved in your day to day running
- are you capable of carrying out your sponsor duties and evidencing your compliance in a timeframe and manner set out in the '[Sponsor duties](#)' section? - we judge this by looking at your current human resources and recruitment practices to make sure that you will be able to fulfil your sponsor duties, we may do this by visiting you before your licence is granted
- if you are applying under Tier 2 (General), can you offer genuine employment that meets the Tier 2 (General) skill level and appropriate rates of pay? - the skill threshold for Tier 2 (General) employment currently requires a role to be at or above Regulated Qualifications Framework level 6 (graduate level), unless any of the exceptions set out under 'Skill level for jobs under [Tier 2 \(General\)](#) and [Tier 2 \(Intra-Company Transfer\)](#)' apply

**Note:** from 1 January 2021, you will be able to sponsor migrants at RQF level 3 (A-level and equivalent) or above under the new points-based immigration system. See [Annex 9](#) of this guidance for further information.

We may use the information that you provide to us when you apply for a licence or at any time throughout the period of your licence in accordance with the Home Office Personal Information Charter. In certain circumstances, details may be passed to other government departments and agencies, local authorities and fraud prevention agencies such as HM Revenue and Customs (HMRC), Department of Work and Pensions (DWP) and Credit Industry Fraud Avoidance System (CIFAS) for immigration purposes, the prevention of fraud and criminality and/or to help them carry out their functions. These bodies may provide the Home Office with information about you and your employees. Further details explaining [when information may be passed to other bodies, and how that information may be used](#), is available on GOV.UK.

## Current available immigration routes for workers

1.6 An organisation can apply for recognition under 2 routes:

- Tier 2: is for skilled work
- Tier 5: is for temporary work or an exchange scheme

## Tier 2: skilled workers with a job offer

1.7 There are 4 categories under the Tier 2 route. They are:

- [Tier 2 \(General\)](#) – is for workers who have an offer of a skilled job from an employer in the UK that cannot be filled by a settled worker and includes workers coming to the UK to fill shortage occupations

- [Tier 2 \(Intra-Company Transfer\)](#) – is for an existing employee of a multinational employer who needs to be transferred by the overseas employer to a UK branch which is linked by common ownership or control; for training purposes or to fill a specific vacancy that cannot be filled by a settled or EEA worker either on a long-term basis or for frequent short visits, there are 2 sub-categories of this category:
  - **Long-term Staff:** is for an employee who needs to be transferred to a job which cannot be filled by a new UK recruit; they must have worked for their employer overseas for at least 12 months (unless they will earn at least £73,900 in the UK)
  - **Graduate Trainee:** is for an employee who transfers into a graduate trainee programme for a specialist role; they must be a recent graduate with at least 3 months' experience with their employer overseas
- [Tier 2 \(Sportsperson\)](#): is for elite sportspeople and coaches who are internationally established at the highest level and whose employment will make a significant contribution to the development of their sport at the highest level in the UK, and who will base themselves in the UK
- [Tier 2 \(Minister of Religion\)](#) religious workers who have an offer of a job within a faith community, such as, a minister of religion, missionary, or member of a religious order, in the UK

## Tier 5: temporary workers

1.8 There are 2 categories under the Tier 5 route:

- Tier 5 (Temporary Worker): is for workers to work in a variety of temporary roles with an organisation in the UK which will help to satisfy cultural, charitable, religious or international objectives including volunteering and job shadowing, and for meeting seasonal employment needs in the edible horticultural sector. There are 6 sub-categories in this category:
  - [Creative and sporting](#): is for sports people, entertainers or creative artists who have been offered work in the UK for up to 12 months
  - [Charity workers](#): is for voluntary workers who wish to do unpaid work for a charity; it does not include those doing paid work for a charity
  - [Religious workers](#): is for those who want to do religious work, such as working in a religious order
  - [Government authorised exchange](#): is for those who want to come to the UK for a short time for work experience or to do training, an Overseas Government Language Programme, research or a fellowship through an [approved government authorised exchange scheme](#)
  - [International agreement](#): is for those contracted to do work covered by international law while in the UK, such as, working for a foreign government or as a private servant in a diplomatic household
  - [Seasonal workers](#): this is a pilot route, enabling employers in the edible horticulture sector to employ seasonal workers through an approved scheme operator for up to 6 months
- [Tier 5 \(Youth Mobility Scheme\)](#): is a cultural exchange scheme which aims to promote the UK overseas and to encourage trade and tourism - it

allows young people, aged between 18 and 30, to travel to the UK for mainly noneconomic reasons, and offers young migrants from participating countries and territories, opportunities to work temporarily while experiencing life in the UK

## Consequences of employing migrants illegally

- 1.9 All employers, not just licensed sponsors, must make sure that their employees are entitled to work for them. We will impose a range of penalties on those employing people illegally.
- 1.10 Compliance officers will refer cases of illegal working for prosecution or the issue of a civil penalty. If you are issued with a civil penalty for employing illegal workers, your licence may be suspended and any new licence application may be refused. [‘Sanctions for illegally employing migrants’](#) has more information on the penalties imposed. We reserve the right to suspend your licence or remove your Certification of Sponsorship (CoS) allocation while any investigation is in progress.

## Safeguarding children

- 1.11 Under [Section 55 of the Borders, Citizenship and Immigration Act 2009](#), we must have regard to the need to safeguard children and to promote their welfare when exercising immigration functions. The administration of the sponsor licensing regime supports our immigration functions, whilst not itself constituting such a function. We do not consider that section 55 of the 2009 Act imposes a general duty upon us to consider the welfare of children of sponsored migrants when making decisions about licensing. We do think it appropriate to ensure that employers make sure suitable care arrangements are in place for a child under 18 who will work in the UK. These include arrangements for their:
- travel
  - reception when they arrive in the UK
  - arrangements while in the UK, as well as, parental consent to these arrangements
- 1.12 If you fail to do this, we will revoke your licence.
- 1.13 You must have a [Disclosure and Barring Service \(DBS\)](#) check on any of your workers undertaking a regulated activity for children. The [‘Regulated Activity in relation to Children’](#) page on GOV.UK has information on what constitutes a regulated activity. If your sponsored worker requires a check, they must show you their certificate of good character or criminal record check. If you require a check, you must ensure that it is carried out. The [‘Criminal records check for overseas applicants’](#) page on GOV.UK has information on how to do this.

## Contact point for queries

- 1.14 If you have any queries about the application process, please call us on 0300 123 4699, or email the [Business Helpdesk](#).

- 1.15 You can use the services of a representative to help you complete an online application for a sponsor licence, but they cannot send the application on your behalf. If a representative sends your application, it will be refused and your fee will not be refunded.
- 1.16 If after receiving a licence, you wish to use the services of a representative, you must appoint one using the sponsorship management system (SMS). The [‘What is the sponsorship management system?’](#) section has more information on the SMS. We will not deal with any communications from a representative acting on your behalf unless they have been appointed by you. You can tell us that a representative has helped you to fill in your licence application, but you can only appoint them at the licence application stage if you also want to appoint them as your key contact. We will, however, reject applications where you do not have a level 1 user who is your employee.

## Fees

- 1.17 There is a fee for:

- initial applications for a sponsor licence
- applying to renew an existing sponsor licence
- applying to extend the scope of an existing licence
- assigning each certificate of sponsorship (CoS)

Full payment guidance is available on the [‘UK visa fees’](#) page on GOV.UK.

The fee for a sponsor licence depends on the size of the organisation that is applying. If you have charitable status or you are subject to the small companies regime as set out in [paragraphs 381 to 384 of the Companies Act 2006](#) on GOV.UK you are eligible to pay the ‘small’ sponsor licence fee.

This fee is for our consideration of your licence application and will not be refunded if we refuse your licence application or you withdraw it after consideration of it has begun.

## Immigration skills charge

- 1.18 You may have to pay an [‘immigration skills charge’](#) each time you sponsor a migrant in the Tier 2 (General) category or the Tier 2 (Intra-Company Transfer (ICT)) Long-term Staff subcategory. The charge came into force on 6 April 2017 and the money collected from it will be used to address skills gaps in the UK workforce.
- 1.19 The charge is payable in full each time you assign a certificate of sponsorship (CoS). The amount you have to pay is specified in the Schedule to the [Immigration Skills Charge Regulations 2017](#) and depends on:
- the size and type of your organisation on the date you assign the worker’s CoS, and
  - the length of employment stated on the CoS

- 1.20 If you are a small or charitable sponsor, as defined in [regulation 2](#) of the Immigration Skills Charge Regulations, you will pay the ‘small’ charge, that is:
- £364 for any stated period of employment up to 12 months, plus
  - £182 for each subsequent 6-month period stated on the CoS
- 1.21 In all other cases, you must pay the ‘large’ charge, that is:
- £1,000 for any stated period of employment up to 12 months, plus
  - £500 for each subsequent 6-month period stated on the CoS
- 1.22 When you apply for a licence, or apply to renew your licence, it is essential that you select the correct size or type for your organisation, as this will determine not only the licence fee you will pay, but also the level of immigration skills charge you will pay throughout the life of your licence, or until you tell us of a change of circumstances through the sponsorship management system (SMS) and this has been processed and accepted by UKVI.
- 1.23 To comply with your [reporting duties](#), you must tell us as soon as possible – and in any case within 10 working days – if the size or type of your organisation changes. This will ensure you pay the correct immigration skills charge for each CoS you assign. If you fail to inform us within 10 working days, we may take compliance action against you. This could include [downgrading](#), [suspending](#) or [revoking](#) your licence.
- 1.24 You must not pass any of the charge on to the migrant worker. If we find out that you have done this, we may revoke your licence.

## When you must pay

- 1.25 Unless an exception applies, you must pay the charge each time you assign a CoS to a worker from outside [the European Economic Area \(EEA\)](#) or Switzerland in the Tier 2 (General) category or the Long-term Staff subcategory of Tier 2 (ICT) and the worker is either:
- applying from outside the UK for entry clearance (a visa) to work in the UK for 6 months or more, or
  - applying from within the UK for leave to remain of any duration, including for less than 6 months

## When you don't have to pay

- 1.26 You do not have to pay the charge if you are sponsoring any of the following:
- a worker who is applying for entry clearance from outside the UK for a period of less than 6 months
  - a worker to do a specified PhD-level occupation listed in Table 1 of [Appendix J](#) to the Immigration Rules
  - a worker in the Graduate Trainee subcategory of Tier 2 (ICT)
  - a worker to whom you have previously assigned a CoS where:

- you assign them a new CoS to work for you in a different [standard occupational classification \(SOC\) code](#), and
  - the new period of leave they are seeking will not exceed their current period of leave – if the application would result in a longer grant of leave, you must pay the charge, unless another exemption applies
  - a migrant who has valid leave as a student and is applying under Tier 2 (General) or Tier 2 (ICT) Long-term Staff – note that this exemption continues to apply if you later assign a further CoS to the same migrant to continue in the same role
  - a worker who was assigned a CoS under Tier 2 (General) or Tier 2 (ICT) Long-term Staff before 6 April 2017 and:
    - that CoS resulted in a grant of entry clearance or leave to remain
    - the worker undertook the role for which that CoS was assigned, and
    - the worker has not since ceased to have leave to enter or remain under Tier 2 (General) or Tier 2 (ICT) Long-term Staff
- 1.27 You do not have to pay the skills charge for the worker’s family members (‘dependants’) who are not themselves migrant workers in the Tier 2 (General) or (ICT) categories. The charge does not apply to any other Tier 2 category or any of the Tier 5 (Temporary Worker) subcategories.
- 1.28 There is an [Immigration Skills Charge calculator](#) on GOV.UK to help you work out if you are liable for the charge.

## Consequences of non-payment

- 1.29 Any CoS you have assigned for which you have not paid the full charge (where required) will become and remain invalid until the outstanding charge is paid in full. This means that any application for entry clearance or leave to remain made on the basis of that CoS will be delayed until the charge is paid in full.
- 1.30 You will be contacted by UKVI if you have not paid the charge or have not paid the full amount when you assigned the CoS.
- 1.31 The worker’s application for entry clearance or leave to remain will be refused if you don’t pay the full amount within 10 working days of the first formal reminder to make the payment.

## Refunds and ‘top-up’ charges

- 1.32 The Secretary of State may refund all or part of the charge. A refund will be paid to the debit or credit card the charge was paid with, unless you advise us of different payment arrangements. In some cases, we may need to request a [‘top-up’ charge](#) (that is, request an additional amount from you) if you have not paid the full amount that you owe.

## Partial refund

- 1.33 A partial refund will be made in respect of all whole unused 6-month periods of leave after the first year of employment where the worker:



- is granted for less than the period requested on the CoS - for example, if a 5-year visa was applied for, but a 3-year visa is granted, the balance (£2,000 or £728 for a small sponsor or charity) would be refunded
- starts work for one Tier 2 sponsor, but then voluntarily changes to another sponsor – the first sponsor will be paid the difference between the charge paid and the charge payable for the length of time the Tier 2 worker has worked for the first sponsor, or
- leaves their post early – for example, if they return home due to ill health, are made redundant or dismissed, fail their probation, or fail to secure a necessary professional qualification

1.34 A partial refund will also be made if:

- you assign a CoS to a migrant and pay the large fee, and
- before you assigned that CoS, you had notified us that your company had changed from large to small, or gained charitable status, and we have verified this information

1.35 In these circumstances, we will refund the difference between the large fee and the small fee. We will only issue refunds in respect of CoS issued on or after the date you notified us your change in status. It is therefore important you tell us of any change in status as soon as possible.

### Full refund

1.36 A full refund will be paid where the migrant's application for entry clearance or leave to remain is:

- refused
- withdrawn, or
- granted but the migrant does not travel to the UK or start work for the sponsor

1.37 A full refund will also be made if the relevant CoS is not used to make a valid application for entry clearance or leave to remain.

### How soon decisions on refunds are made

1.38 Decisions on refunds, other than those related to a change in size or charitable status (see paragraphs 1.34 and 1.35 above), are made within 90 days of:

- the date you notified UKVI via the SMS that the migrant didn't come to the UK to start work or has left the relevant employment early
- the CoS expiry date if no valid visa application is made by the migrant
- the date you notified UKVI that you had withdrawn the CoS
- the deadline date for making an administrative review application if the migrant's visa application has been refused and they have not applied for an administrative review, or
- the migrant's administrative review being dismissed

[Contact UKVI](#) if your refund hasn't been paid within 90 days of the relevant date.

- 1.39 Where you have notified us that you now qualify as a small company, or have gained charitable status, we will issue any partial refund (where due) once we have verified that the information you have provided is correct.

### **Circumstances in which no refund will be made**

- 1.40 No refund of the immigration skills charge will be paid where:

- the migrant changes job but remains working for the same employer
- the migrant changes ('switches') from a Tier 2 (General) or Tier 2 (ICT) Long-term Staff visa to another immigration route but remains employed in the same job
- your licence is made 'dormant' (for example, following a [takeover of your company](#))
- your licence is [revoked](#), or
- the migrant's leave is curtailed (shortened), unless the reason for curtailment is because the migrant failed to commence the relevant employment or finished the employment early – a [full](#) or [partial](#) refund may be paid in these circumstances

### **Top-up charges**

- 1.41 We will request additional funds (a top-up charge) if:

- you assign a CoS to a migrant and pay the small fee, and
- before you assigned that CoS, you had notified us that you no longer qualify as a small or charitable sponsor, and we have verified this information

- 1.42 In these circumstances, we will request a top-up charge (the difference between the small fee and the large fee) in respect of any CoS you have assigned on or after the date you notified us of your change in status.

- 1.43 We will also request a top-up charge in any case where you do not pay the full charge (or any charge) for any other reason. See '[Consequences of non-payment](#)' above for what happens if you fail to pay the charge in full.

### **Related content**

[Contents](#)



## 2 How does sponsorship work?

2. To get a licence, you must apply to us using the online application form and supply specified documents to prove that you are suitable and eligible. These documents are listed in [Appendix A](#) of the guidance for sponsors.
- 2.1 A sponsor licence is valid for 4 years, after which it will expire. The only exceptions are if we revoke it or you surrender it before it expires. **We reserve the right to take action against you if we have reason to believe you pose any risk to immigration control.** The 4 years will run from the date your licence is granted.
- 2.2 When we consider your application, we assess whether you meet the requirements below. You must:
  - complete and send the online sponsor application - this includes a declaration from you that you agree to meet all of the duties associated with being a licensed sponsor
  - pay the correct fee
  - provide proof you are based in the UK and provide original or certified copies of the documents listed in [Appendix A](#), unless we say otherwise, to show you are genuine and operating or trading lawfully in the UK; an organisation is deemed to have been 'operating or trading' in the UK from the point at which it was incorporated
  - meet the eligibility and suitability [criteria](#)
  - if asked, provide evidence of holding the appropriate planning permission or Local Planning Authority consent to run your type/class of business at your trading address, if consent is required by your Local Authority
  - where you are a food business, if asked, be able to provide evidence of your registration with, or approval from, a relevant food authority

We will also consider any evidence which suggests you may be a threat to immigration control, or evidence from a public body of your lack of compliance with their rules.
- 2.3 When you complete the online sponsor licence application, you must choose which tiers, categories and subcategories you wish to be licensed under. You can choose as many tiers, categories or subcategories as you need, provided you are eligible for them. If your application is successful, these will then be the only ones you can sponsor a migrant under.
- 2.4 Licence applications may be rejected, refused or granted with an A-Rating. The '[Rating sponsors](#)' section has information about the decision we may make on your application.
- 2.5 If your application for a licence is granted, you will then be able to assign certificates of sponsorship (CoS) to migrants who wish to work for you. We will decide how many CoS you will be allowed to assign.

- 2.6 As a licensed sponsor, you must meet certain duties such as telling us if migrants do not turn up for work or are absent without permission for a significant period. You must keep records on the migrants you sponsor, including up to date contact details and a copy of their biometric residence permit (BRP). You must also give any documents to us on request.
- 2.7 We will monitor your ability and willingness to always comply with your duties. We will:
- set a limit on the number of CoS you can assign
  - visit you, to check you are complying with your duties
  - refer cases for civil penalty action, or possible prosecution if we find evidence that you may have employed migrants illegally

The '[Sponsor duties](#)' and '[Compliance](#)' sections have more information on this.

- 2.8 Throughout the validity period of your licence, we will 'rate' you as either A or B according to our assessment of your ability to comply with your sponsor duties. If you are B-rated you must meet a time limited sponsorship action plan, which you must pay for and which will set out the steps you need to take to gain or regain an A-rating. If you do not meet the requirements of your action plan within the specified time limit, we will revoke your licence. The 'Rating sponsors' section has more information on this.
- 2.9 You have a duty to act honestly in any dealings with us, such as not making false statements and ensuring all essential information is disclosed when applying for a sponsor licence or assigning or applying for a CoS, or while you are a sponsor.
- 2.10 If we believe you have knowingly provided false statements or false information, or not provided information that you held when required to, or pose a threat to immigration control, we will take action against you. See '[What will happen if I don't comply with my sponsor duties](#)' for more information on the action we may take and the processes we will follow in such cases.
- 2.11 If you fail to comply with your duties, we may take action against you. Such action may include the suspension or revocation of your licence.

## **Related content**

[Contents](#)

### 3 How can I apply for a licence?

3. To apply for a licence, you must register your details online by completing the UKVI '[Online sponsor application registration](#)'. Once you have registered, you will be able to log in to the UKVI '[Sponsor application log in](#)'. You will need a credit or debit card to pay for your application. The '[UK visa sponsorship guidance for employers](#)' on GOV.UK has information on how to check if your business is eligible for a sponsor licence and how to choose the type of licence you wish to apply for. [Appendix A](#) of the guidance for sponsors sets out the documentary evidence required to validate your application. You should make sure you will be able to send all of your documents in as soon as you have sent your application.

3.1 If you have all the necessary information before starting, the online sponsor application will take about 30 minutes to complete.

3.2 You must make the application yourself. A representative can help you to fill in your application but must not send it on your behalf. If we find this has happened, we will refuse your application and not refund your fee. The '[Key personnel](#)' section has more information on appointing representatives once a licence has been granted.

3.3 Once you have sent your online application, you must send the following documents to validate it:

- the original submission sheet, not a certified copy, signed and dated by the authorising officer - all pages must be sent
- original or certified copies of all the mandatory documents listed in Appendix A of the guidance for sponsors and on the submission sheet

**These must all be sent in together within 5 working days of the date you complete your online application.**

3.4 If any items are missing or incorrect, your application will be invalid. We reject invalid applications and refund the application fee.

3.5 If there are any documents specified in [Appendix A](#), other than mandatory documents, missing from your application, or if we require any more documents or information, we will contact you by email. We will give you 5 working days to send the documents or information we ask for. We must receive all the documents or information by the end of the deadline date. If you are sending in anything by post, you must respond to our email request by return email, within the deadline, telling us that you have posted the information and providing any postal reference or tracking numbers.

If you have not contacted us by the end of the deadline date, we will assume that you have not responded and your application will then be refused and your fee will not be refunded. It is important that your authorising officer and key contact are available while we consider your application, to deal with any

requests we may need to make. The '[Authorising officer](#)' and '[Key contact](#)' sections have more information.

- 3.6 We always email the person named as your key contact if we need any further information or documents. We may also email your authorising officer.
- 3.7 When making a licence application, as well as providing all the documents required in [Appendix A](#), there are specific requirements for each tier, category, or subcategory. The '[Applying for a licence: tier specific](#)' section has more information on this.

#### **Related content**

[Contents](#)

## 4 Applying for a licence: tier specific

### Tier 2 (General)

4. To be eligible to sponsor a migrant under the current Tier 2 (General) rules, you must be able to offer genuine employment at or above level 6 (graduate level) on the Regulated Qualifications Framework (RQF), or the equivalent level in Wales or Scotland, unless an exception set out in this guidance applies.

From 1 January 2021, you will be able to sponsor European Economic Area (EEA) and non-EEA workers at RQF level 3 (A-level or equivalent) and above under the new points-based system, specifically under the new Skilled Worker route which will replace Tier 2 (General). You may apply for a licence for this now, but you will not be able to sponsor anyone below RQF level 6 until the new system comes into effect. If you intend to apply for a licence to sponsor migrants at RQF level 3 and above from 1 January 2021, refer to [Annex 9](#) of this guidance.

### Tier 2 (Ministers of Religion) and Tier 5 (Temporary Worker) Religious Workers

- 4.1 To apply for a licence, you must be a bona fide religious organisation which:

- is a registered, excepted or exempt UK charity according to the charity legislation in force in your part of the UK, or is an ecclesiastical corporation, either corporation sole or body corporate, set up for charitable purposes; in Northern Ireland, you must have charitable status for tax purposes from HM Revenue and Customs  
**Note:** if you are a charity which is not registered according to the relevant charity legislation, you must tell us the reason for non-registration; the charities acts have more information, see:
  - [Charities Act 2011 for England & Wales](#)
  - [Charities and Trustee Investment \(Scotland\) Act 2005](#)
  - [Charities Act \(Northern Ireland\) 2008](#)
- is the structure for a faith-based community with a common system of belief and spiritual goals, codes of behaviour and religious practice, which exists to support and/or propagate common beliefs and practices and where beliefs:
  - include any religious belief or similar philosophical belief in something transcendental, metaphysical or ultimate, **and**
  - exclude any philosophical or political belief concerned with man, unless that belief is similar to religious belief
- does not exclude from your community on the basis of gender, nationality or ethnicity
- receives financial and material support for your core religious ministry from your congregation or community on a voluntary basis, without promise or coercion
- does not breach, or encourage others to breach any UK legislation

- does not work against the public interest, or have a detrimental effect on personal or family life as commonly understood in the UK

## Tier 2 (Intra-Company Transfer)

4.2 To sponsor migrants under the Tier 2 (Intra-Company Transfer (ICT)) subcategories, you must show a direct link by common ownership or control with the overseas entities from which you will bring migrants to the UK. Common ownership or control may be shown by one of the following:

- one entity controls the composition of the other entity's board
- one entity can cast, or control the casting of, more than half the maximum number of votes at a general meeting of the other entity
- one entity holds more than half the issued share capital of the other entity (apart from any part of that issued share capital that has no right to take part beyond a set amount in a distribution of either profits or capital)
- both entities have a common parent entity that itself or through other entities meets one or all requirements above about both entities that are the subject of the intra-company transfer
- one entity is related to the other entity as both are party to a joint venture agreement
- one entity is related to the other entity in that one is party to a joint venture agreement and the other is formed by that joint venture agreement
- one entity is related to the other by agreement that would constitute a joint venture agreement other than for the fact that joint venture agreements are not permitted in the country of operation or one of the entities is not permitted to enter into joint ventures in the country of operation
- one entity is related to the other in that one entity is party to an agreement that would make up a joint venture agreement other than for the fact that joint venture agreements are not allowed in the country of operation or that entity is not allowed to enter into joint ventures in the country of operation and the other entity is the entity formed by that agreement
- where both entities are either accountancy or law firms, one entity is related to the other by agreement which allows both to use a trademark registered or established under UK law and the jurisdiction of the other entity's country of operation
- where both entities are either accountancy or law firms, one entity is related to the other by agreement which allows both to run under the same name in the UK and in the jurisdiction of the other entity's country of operation
- in the case of unincorporated associations, we may consider the receiving entity to be a linked company if it is a registered company and its Articles of Association with the sending entity show a relationship of control, for example one member has the power to appoint the other's trustees

4.3 Where the link between the 2 entities between which the transfer will take place is that an individual owns shares in each entity, that individual must have a majority shareholding in each entity. You must provide documentary evidence of your shareholding in terms of percentages held.

- 4.4 Where the link is via a joint venture, we must be sure that there is a [genuine vacancy](#) for a migrant before we accept that you can sponsor someone under the Tier 2 (ICT) provisions. There are many forms of joint venture; we will ask you to provide several pieces of evidence to show that the venture is in operation.

You should also supply as many of the following as are applicable to your circumstances:

- if a new company has been formed you should provide references from Companies House and confirm the entities involved in the joint venture together with the owners of the new company
- public announcements of the joint venture
- a copy of an official letter from the overseas company (or foreign investor) to Ministers confirming their intention to invest in the UK, naming the entities involved in the joint venture
- a copy of the binding contract or partnership agreement, signed appropriately, between the entities in the joint venture agreement - this must include the names and positions of the signatories, the investment or ownership agreement of the enterprise, and timescales and phases of the project
- if the joint venture has a previous history of working with the [Department for International Trade \(DIT\)](#) or the equivalent economic government departments in Scotland, Wales or Northern Ireland, we may accept evidence via the DIT listing online of the joint venture

The above is not a complete list and we will ask you for any further evidence we need to assess your circumstances.

We will not accept informal agreements of cooperation as sufficient evidence that a [genuine vacancy](#) exists for a migrant in the UK. The joint venture must already be operating and the vacancy must already exist before we will accept there is a genuine vacancy for a migrant worker.

- 4.5 When you apply for a licence under Tier 2 (ICT), you must send the supporting documents listed in [Appendix A](#) of the guidance for sponsors to confirm the link between you and the overseas entity.

## **Tier 2 (Sportsperson) and Tier 5 (Temporary Worker) Creative and Sporting**

- 4.6 To be allowed to apply for a licence to sponsor sportspeople, you must be a sporting body, sports club, events organiser or other organiser operating, or intending to work in, the sporting sector. You must be based in the UK – you cannot sponsor migrants under these provisions if you are an overseas-based sports club or organisation. You also cannot be a sponsor for sportspeople under these provisions if you are an agent.

- 4.7 Before applying, you must make sure you have an endorsement from the Home Office approved governing body for your specific sport. The list of



governing bodies currently approved by us is in [Appendix M](#) to the Immigration Rules. Through its endorsement, the sports governing body confirms to us that you are a genuine club or equivalent, and you have a legitimate requirement to bring migrants to the UK as sportspeople.

- 4.8 If your sport does not have a Home Office approved sports governing body, you should email the [Economic Migration Policy team](#). We will ask the [Department for Digital, Culture, Media and Sport](#), the [Sport and Recreation Alliance \(SRA\)](#) and/or other sports councils to identify if there is a suitable body who could act as our recognised sports governing body.
- 4.9 Once a suitable sports governing body is identified and we agree that they can endorse your application, you can make an application for a sponsor licence. You must send in all of the documents listed in [Appendix A](#) of the guidance for sponsors that are relevant to you, including your sports governing body endorsement referred to as a 'sporting body endorsement' in the online sponsor licence application form.
- 4.10 If we have had to approve a sports governing body for your specific sport which is not yet listed in [Appendix M](#) to the Immigration Rules and we then grant your licence application, you may not be able to sponsor migrants straight away. This is because your sports governing body must be added to Appendix M before we can grant leave to any migrants in connection with that sport under the Tier 2 (Sportsperson) or Tier 5 (Temporary Worker) Creative and Sporting categories. The Immigration Rules are usually only updated in April and October each year.
- 4.11 We will advise you of the date that your sports governing body will be added to [Appendix M](#) to the Immigration Rules but you must remember that, although you can start assigning certificates of sponsorship (CoS) straight away, timing is crucial because:
- once a CoS is assigned it will only be valid for 3 months
  - if a migrant applies for leave using that CoS before your governing body has been added to [Appendix M](#) to the Immigration Rules, their application will be refused

Below are 2 examples of why timing is important.

#### **Example 1**

We grant your sponsor licence in December and allocate some CoS to your sponsorship management system (SMS) account - your governing body will be added to [Appendix M](#) to the Immigration Rules on 6th April.

You assign a CoS to a migrant on 2nd January.

The migrant cannot apply for leave until 6th April, so the CoS you assigned on 2nd January will expire before they can apply.



### Example 2

We grant your sponsor licence in December and allocate some CoS to your SMS account - your governing body will be added to [Appendix M](#) to the Immigration Rules effective from 6th April.

You assign a CoS to a migrant on 2nd January and they apply for leave on 1st March.

The migrant's application will be refused because on 1st March, your governing body was not in [Appendix M](#) to the Immigration Rules.

- 4.12 When you complete the online sponsor application, you can only choose one sport from the list provided in the 'Sporting body endorsement' section. If you want to sponsor migrants under more than one sport, you must choose one from the list provided and then when giving your reasons for the number of CoS needed, you can list the other sports you want covered on your licence. You must have a separate sport governing body endorsement and unique reference number for each sport.
- 4.13 If a sport does not appear on the list on the online application, please email the [Business Helpdesk](#).

## Tier 5 (Temporary Worker) Charity Workers

- 4.14 To apply for a licence as a sponsor of charity workers, you must be a registered, excepted or exempt UK charity in line with the relevant charity legislation in force in your part of the UK, or an ecclesiastical corporation, either corporation sole or body corporate, established for charitable purposes.

More information is available on the following websites:

- [Charities Act 2011 for England & Wales](#)
- [Charities and Trustee Investment \(Scotland\) Act 2005](#)
- [Charities Act \(Northern Ireland\) 2008](#)

## Tier 5 creative sector

- 4.15 To be allowed to apply for a licence to sponsor creative workers and their entourage, you must be operating, or intending to operate, in the creative sector. Examples include, but are not limited to:

- a national body
- event organiser
- producer
- venue
- agent
- another similar organisation

The '[Tier 5 Creative and Sporting](#)' section has more information on this.

## Tier 5 (Temporary Worker) Government Authorised Exchange

4.16 This category is for migrants coming to the UK through approved schemes that aim to share knowledge, experience and best practice. The existing Government Authorised Exchange (GAE) schemes are listed at [Appendix N](#) to the Immigration Rules. The underlying principles of such schemes are that:

- the scheme must be endorsed by a government department
- the scheme will be administered by a single overarching sponsor

4.17 We wish to avoid any unnecessary proliferation of GAE schemes. While it remains possible to add new GAE schemes to the existing list, we will consider doing so only where there is a compelling case for a new scheme. We reserve the right not to agree proposals for GAE schemes even where these have secured the support of another government department. In addition to requiring that the criteria set out [below](#) must be met, we will only agree proposals for a new GAE scheme, or to the renewal of existing schemes, where:

- (for new schemes) the proposed scheme meets a need that is not catered for by an existing scheme or any other provisions of the Immigration Rules
- the purpose of the proposed scheme does not conflict with wider considerations of immigration policy
- the purpose and foreseeable benefits of the scheme are clearly and directly linked to a specific wider Government policy objective, provide a unique opportunity for the sharing of knowledge or the delivery of workplace experience or training that cannot reasonably be accessed in a non-EEA national's home country or usual country of residence, the delivery of which is best served by admitting non-EEA nationals to the UK
- we are satisfied that the government department endorsing the proposed scheme will put in place measures to monitor the operation of the scheme and assess delivery against the scheme's objectives. This includes reporting to us on an annual basis on the benefits that the scheme is bringing, how it is meeting its objectives and the measures in place to guard against abuse

4.18 If you wish to seek agreement to the introduction of a new GAE scheme, you will need to:

### **Determine who the overarching body will be**

If you want to set up a scheme under the GAE subcategory of Tier 5 but cannot act as the overarching body (for example, if you want a sector wide scheme but you only represent a small part of your sector), you may need to identify an organisation that is suitable to act as the overarching body. This organisation will need to be in a position to comply with the sponsorship obligations set out in this guidance.

## **Secure the endorsement of a government department (or executive agency) for the proposed scheme**

Once the overarching body is identified, it will need to approach a relevant government department, or one of its executive agencies, to seek their endorsement of the proposed scheme. It may wish to consult the Home Office before it does so. It will need to provide the endorsing government department or agency with full details of the scheme. They should explain, for example:

- why the scheme is necessary
- what benefits the scheme will offer to your sector and to the UK
- what participating migrants will do under the scheme including:
  - details of the roles filled
  - salaries or payments that will be made to participating migrants
  - the skill level of the work they will do
- what period of time migrants will spend in the UK under the scheme and why that period is appropriate

4.19 It will be for the government department or agency to make the case to us for the introduction of a new scheme. If the government department, or one of its executive agencies, endorses the scheme, their relevant Accounting Officer must send a letter of endorsement to the Head of the Migration Policy Unit at the Home Office. In addition to the criteria [above](#), we will need to be satisfied that:

- it is not the purpose of the scheme to facilitate the supply of labour - participants must not fill vacancies and must be over and above any normal staffing requirements (supernumerary)
- the roles covered by the scheme must be at a skill level of Regulated Qualifications Framework level 3 or above, or the equivalent in Scotland, unless the migrant is coming to the UK through a scheme which is part of the Erasmus+ programme
- the role must conform to all relevant UK and European employment legislation, such as the National Minimum Wage Act and EU working time directive
- the overarching body is able to meet its sponsorship obligations as set out in this guidance, and will put in place measures which will protect the scheme from abuse

## **Tier 5 (Temporary Worker) International Agreement**

4.20 To be allowed to apply for a licence to sponsor under the Tier 5 (Temporary Worker) International Agreement category, you must intend to sponsor:

- employees of overseas governments
- employees of international organisations
- private servants in diplomatic households or households of officials working for international organisations

You must be a diplomatic mission or international organisation recognised by the UK (an international organisation includes offices of 'states' not recognised

by the UK). The '[List of international organisations whose employees qualify for exempt entry clearances](#)' is available on GOV.UK. If you are applying as an international organisation, you must be named on this list.

- 4.21 An application for a sponsor licence is deemed to include an acknowledgement that we may seek, from your Head of Mission or Head of Organisation, a limited waiver of inviolability and of immunity in order to enter your residence or premises to undertake compliance activity relating to your application or your sponsor licence.
- 4.22 When making your application, you must send a signed letter from your Head of Mission, or Head of Organisation, confirming that they:
- agree to the application being made
  - wish to sponsor migrants under Tier 5 (Temporary Worker) International Agreement
  - accept the sponsorship requirements

## Sponsoring contractual service suppliers and independent professionals

- 4.23 If you have contracted with an overseas supplier for the delivery of services covered by one of the international trade agreements listed in [Appendix F](#) of the guidance for sponsors, and a contractual service supplier or independent professional needs to come to the UK to provide that service to you as the end user of that service, you must sponsor them under the International Agreement subcategory of Tier 5.
- 4.24 If your licence is approved, you can only assign a CoS to a contractual service supplier or independent professional who is coming to the UK to service that specific contract and no others.

## Tier 5 (Temporary Worker) Seasonal Workers

- 4.25 For guidance on how to apply for a licence and sponsor migrants in the Tier 5 seasonal workers subcategory, see [section 38](#) of this guidance.

### Related content

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## 5 Sponsor's structure

### Can a licence reflect the structure of my organisation?

5. If you have a number of different offices, UK based subsidiaries or entities, locations or campuses, which we call 'branches' in this guidance, you can register in a number of ways, including by:
- applying for a single licence that includes your head office and all branches in the UK
  - each branch applying for a separate licence
  - grouping a number of branches in a single licence, such as a large UK wide company might find it more convenient to register all of its operations in a particular region under a single licence
- 5.1 We may ask for evidence to show that your head office and/or group of branches listed, for any tier, are linked by common ownership or control. We assess common ownership or control of branches as we assess it for applications for a [Tier 2 \(Intra-Company Transfer\) licence](#).
- 5.2 We will not allow you to add a branch to another sponsor licence you hold if:
- the branch's sponsor licence is currently suspended whilst we investigate
  - the branch has a B-rating
  - the branch's licence has been revoked within the past 12 months
  - the branch is unable to offer a genuine vacancy that meets the [suitability criteria](#) of your licence
- 5.3 If you have a number of branches that are individually licensed and we revoke the licence from one of those branches or downgrade it to a B-rating, we will not automatically remove or downgrade the licences from the other branches, but we will investigate them.
- 5.4 If you are licensed as a 'head office and all UK branches' and we revoke your licence or downgrade it to a B-rating, this will apply to all your branches. If we revoke your licence, none of your branches will be able to sponsor migrants. If you are sponsoring migrants when your licence is revoked, we will limit the permission they have to be in the UK, because they will no longer be working for a licensed sponsor. The ['What happens to my sponsored migrants if my licence is suspended'](#) section of this guidance has information on what happens to migrants if we are considering action against you, or if we revoke your licence.
- 5.5 If any of your branches later apply for an individual licence, we will take into account any evidence of previous abuse or non-compliance, and the reasons for it, when considering the application.

## Employment agencies, employment businesses and intra-company transfers

- 5.6 If you are an [employment agency](#), you can apply for a sponsor licence but only to sponsor migrant workers who will be directly employed by you in connection with the running of your business. You cannot sponsor a migrant if you will then supply them as labour, to another organisation, regardless of any genuine contractual arrangement between the parties involved.
- 5.7 If you are an [employment agency](#) or intermediary and we grant a sponsor licence to you on this basis, but later find that the migrants you are sponsoring have been supplied as labour to another organisation, we will revoke your licence.
- 5.8 If you are a sponsor that wants to employ a migrant worker who has been supplied to you by an employment agency or an intermediary, you can only assign a certificate of sponsorship to the migrant if you:
- have genuine responsibility for deciding all the duties, functions and outcomes, or outputs of the job the migrant is doing
  - are responsible for agreeing and paying the migrant's salary

## Franchises

- 5.9 If you, either as an organisation, a sole trader or partnership have a number of franchises under your control, you can decide whether to apply for a licence as a 'head office and all UK branches' or have each franchise licensed individually.
- 5.10 If your franchises are separate businesses, not under your control (as the parent organisation), you must have a separate licence for each one.

### Related content

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## 6 Key personnel and others involved with your organisation

### Key personnel

6. The online sponsor application requires you to give certain responsibilities to members of your staff, some or all of whom will have access to the [sponsorship management system \(SMS\)](#) after a licence is granted. We call these people 'key personnel' and there are 4 roles, which are:

- [authorising officer](#)
- [key contact](#)
- [level 1 user](#)
- [level 2 user](#)

6.1 Only level 1 and 2 users will have access to the SMS. If the authorising officer or key contact requires access, they must also be set up as a level 1 or level 2 user.

6.2 Each of your key personnel must:

- be permanently based in the UK for the duration of the period that they fill the role you have appointed them to
- meet the requirements on criminal convictions set out in [Annex 1](#) of this guidance
- be a paid member of your staff or engaged by you as an office holder - the only exceptions are:
  - a level 1 or level 2 user can be an employee of a third-party organisation to whom you have contracted some or all of your human resources function to; however, you must have at least one level 1 user who is an employee, partner or director in your company – we will reject applications where you do not have a level 1 user who is an employee, partner or director in your company
  - a level 2 user can be a member of staff supplied to you, but employed by an employment agency
  - an overarching sponsor licensed under Tier 5 (Government Authorised Exchange) can appoint level 2 users within the organisations taking part in the exchange programme, more information is available in the '[Tier 5 \(Temporary Worker\) Government Authorised Exchange](#)' section
  - an insolvency professional who has been appointed because you have gone into administration can fill any key personnel role
  - a UK based representative can fill any key personnel role except the role of authorising officer - if you already have a sponsor licence but you now want a representative to help assign certificates of sponsorship (CoS), you must add the relevant employees of the representative to the SMS as level 1 or level 2 users



6.3 None of your 'key personnel' can be:

- a representative who is not based in the UK
- a contractor or consultant who is contracted for a specific project
- subject to a Bankruptcy Restriction Order, or Undertaking
- subject to a Debt Relief Restriction Order, or Undertaking
- legally prohibited from being a company director

We may refuse your application where you have previously been named as [key personnel](#) at any sponsor organisation where an application for a licence was refused within the last 6 months or where a licence has been revoked within the last 12 months. More information is given in [Annex 2](#) and [6](#) of this guidance. We also reserve the right to undertake checks on persons associated with sponsors who do not fall under the general definition of 'you' or 'your'. Such persons may include, for example, employees in positions of responsibility who are not directors or key personnel and financiers involved in the running of your institution. Where appropriate, we may refuse your application or take action against your licence.

If you are or have been an owner, director or authorising officer of a sponsor institution that has been ordered to pay costs to the Home Office in any legal proceedings, and those costs have not been paid, we will also refuse your application or take appropriate action against your licence on the basis of litigation debt.

6.4 Where we use the term 'office holder' this has a specific meaning. If an individual holds an office under one of the following types of appointment, it is likely that they are an 'office holder':

- a statutory appointment – this could be registered company directors or secretaries, board members of statutory bodies, judges or tribunal members, or crown appointments, such as, the police
- an appointment under the internal constitution of an organisation – this could be club treasurers or trade union secretaries
- an appointment under a trust deed – this could be trustees
- an ecclesiastical – this could be members of the clergy

6.5 If an individual is an office holder, they are neither an employee nor a worker. You should note holding an office does not prevent an individual from becoming a worker or an employee. An individual can be an office holder and an employee if their working arrangements take the form of a contractual relationship and satisfy the test for employee status. The ['Employment status'](#) page on GOV.UK has more information to help you decide whether a person is an office holder.

6.6 You must name your authorising officer, key contact and level 1 user on the application form. These roles can be filled by the same person or a combination of different people. There can only be one authorising officer and one key contact, but you can appoint more level 1 users once you have been



granted a licence. Level 2 users can only be appointed by a level 1 user so you can only add a level 2 user after your licence has been granted.

- 6.7 You must give contact details for your [key personnel](#) both when applying for a licence and when changing any key personnel or adding new ones after we have granted a licence. The contact address given for each of your key personnel must be either your main address or that of any branch or head office you are including in, or have subsequently added to, your licence. All email addresses you provide for all of your key personnel must be secure, personal to and only accessible by the named individual. You must also provide their National Insurance number if they have one.
- 6.8 Where you are appointing a level 2 user who is an employee of a third-party organisation engaged by you to deliver all or part of your human resources function, the address provided must be the core business address of the third-party organisation.
- 6.9 Where you are appointing a representative to the key contact role, the address must be the representative's main business address.
- 6.10 You are responsible for anything done by anyone you have set up as a user of the SMS, including representatives. If we are considering taking action against you, we will treat anything done by a representative on your behalf as if it was done by you. You may want to take precautions, by checking the identity of the representative and ensuring that they are suitable to do the activity required. If you do not meet your responsibilities, we will take action against you.
- 6.11 We may make checks on you and we will always check authorising officers, key contacts and level 1 users. These include checks against our records and the police national computer, or its equivalent in Northern Ireland. We will make these checks when considering your application and may repeat them at any time during the life of your licence. We may also carry out checks if new individuals take up roles. If any of these people have an unspent criminal conviction for a relevant offence, regardless of whether you have declared them or not, or have been issued with a civil penalty by us, we will:
- refuse your application for a sponsor licence – see [Annex 1](#) of this guidance for more information on the circumstances in which we will refuse your licence
  - if you have already been granted a licence, refuse to accept a person you later nominate for a key personnel role
  - revoke your licence - [Annexes 5](#) and [6](#) of this guidance tells you the circumstances in which we will or may revoke your sponsor licence

Under the [Rehabilitation of Offenders Act 1974](#), criminal convictions may become 'spent' after specified periods of time from the date of conviction if there are no further convictions during that time. Spent convictions do not need to be declared to us.

We do not routinely undertake checks on persons associated with sponsors who do not fall under the general definition of 'you' or 'your'. This could be employees in positions of responsibility who are not directors or key personnel and individual financiers involved in the running of your institution. We do reserve the right to undertake checks and may ask you for information on such individuals as part of the application process. The conduct of such persons, where relevant, may also be taken into account in deciding what action to take. Having taken these factors into account, we may either refuse your licence application or grant you a licence with limitations. Such limitations may include restricting your CoS allocation or asking you to nominate alternative key personnel where appropriate.

6.12 SMS users must not assign a CoS to themselves or assign a CoS to a close relative or partner. A close relative or partner is:

- a spouse or civil partner
- an unmarried or a same-sex partner
- a parent or step-parent
- a son or step-son
- a daughter or step-daughter
- a brother, step-brother or half-brother
- a sister, step-sister or half-sister
- an aunt or uncle
- a nephew, niece or cousin
- a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law

6.13 You must have a minimum of one SMS user who is a settled worker. The only exceptions to this rule are the following:

- if you are a diplomatic mission or international organisation licensed under Tier 5 (Temporary Worker) International Agreement
- if your authorising officer is a person with valid leave as:
  - a Representative of an Overseas Business
  - a Tier 1 (Graduate Entrepreneur) migrant
  - a Tier 1 (Entrepreneur) migrant
  - a Tier 1 (Exceptional Talent) migrant
  - a Start-up migrant
  - an Innovator
  - a Global Talent migrant

## Authorising officer

6.14 When applying for a licence, you must appoint an authorising officer. The person you nominate to this role must be your most senior person responsible for the recruitment of all migrant workers and ensuring that all of your sponsor duties are met. If you do not recruit the migrants you sponsor, this role must be filled by the most senior person responsible for your activity as a licensed sponsor. If there is more than one person who could fill this role, you must decide who to nominate. You are responsible for the actions of your

authorising officer, so we advise that you ensure you are confident that they fully understand the importance of this role.

- 6.15 The authorising officer is also responsible for deciding how many of your staff needs to have access to the SMS and what level of permission they can have. They are responsible for the activities of all SMS users and must comply with our requirements for using the system. If they fail to do this, we will take action against you.
- 6.16 The authorising officer does not have automatic access to the SMS. If they require access to the system, they will need to be set up as a level 1 or level 2 user. This can be done by naming them as the level 1 user on your application, or [adding them as an additional level 1 user or as a level 2 user after your licence has been granted](#). The authorising officer is responsible for the activities of all SMS users, so must have a system in place to check these activities. We recommend that, as a minimum, the authorising officer checks the CoS assigned to migrants on a monthly basis.
- 6.17 You must have an authorising officer in place throughout the life of your licence. The nominated person must always meet the requirements set out in this guidance. If you fail to have an authorising officer in place who meets our requirements, or fail to [tell us of a change in authorising officer](#), we will take action against you.

## Key contact

- 6.18 The key contact is usually the person who acts as the main contact between us and you. We will contact them if we have any queries about your sponsor licence application, the documents sent or the payment. We may also contact your authorising officer if necessary.
- 6.19 The key contact does not have automatic access to the SMS. If they require access to the system, they will need to be set up as a level 1 or level 2 user. This can be done by naming them as the level 1 user on your application, or [adding them as an additional level 1 user or as a level 2 user after your licence has been granted](#).

## Level 1 user

- 6.20 The level 1 user can be the authorising officer or another person in your organisation.
- 6.21 The level 1 user must carry out your day-to-day sponsorship activities using the SMS.
- 6.22 When you first apply for a sponsor licence, you can only nominate one level 1 user and they must be an employee, director or partner. Once you have a licence you can use the SMS to nominate more level 1 users. We will perform checks on new level 1 users before we give them access to the SMS. These include checks against our records and the police national computer, or its equivalent in Northern Ireland.

6.23 You can decide how many level 1 users you need. The authorising officer is responsible for their conduct, so we recommend that you do not have more level 1 users than you really need. You should make sure that you have at least enough to be able to cover periods of leave or sickness.

6.24 The level 1 user must be one of the following:

- a paid staff member or office holder within your organisation
- an employee of a third-party organisation engaged by you to deliver all or part of your HR function
- a UK-based representative

They must not be:

- a contractor
- a consultant who is contracted for a specific project
- a temporary staff member supplied to you by an employment agency
- an undischarged bankrupt

6.25 You must always have a minimum of one level 1 user who is a [settled worker](#). The only exceptions to this rule are:

- if you are a diplomatic mission or international organisation licensed under the [Tier 5 \(Temporary Worker\) International Agreement](#) subcategory
- if your authorising officer is a person with valid leave as:
  - a Representative of an Overseas Business
  - a Tier 1 (Graduate Entrepreneur) migrant
  - a Tier 1 (Entrepreneur) migrant
  - a Tier 1 (Exceptional Talent) migrant
  - a Start-up migrant
  - an Innovator
  - a Global Talent migrant

6.26 You must have at least one level 1 user in place. This is because it is impossible for you to meet all of your sponsor duties without one. If we find you do not have any level 1 users in place, we will take action against you. From 6 November 2014, new sponsors must have at least one level 1 user who is an employee. This is also best practice for existing sponsors. You can have more than one level 1 user, but at least one must be your employee.

6.27 Level 1 users can perform the following actions in SMS:

- ask for more Level 1 users and add Level 2 users to the SMS or remove them
- assign CoS to workers
- ask for an increase in the number of CoS you can assign (your limit)
- tell us about minor changes to your details
- tell us of change of circumstances on the SMS

- report worker activity to us, for example, inform us if a worker goes missing or does not come to work
- withdraw CoS
- tell us of changes to work addresses
- use the bulk data transfer feature
- change user details
- view information about your licence and key personnel
- access key messages that we post from time to time
- apply to renew your licence and track the progress of your application
- apply for premium customer service and track the progress of your application
- apply for Tier 2 and/or Tier 5 premium sponsor status and track the progress of your application

## Level 2 user

6.28 Level 2 users have fewer permissions than level 1 users. Level 2 users can perform the following actions in SMS:

- assign CoS to workers
- report worker activity to us, for example, inform us if a worker goes missing or does not come to work

6.29 You can decide how many level 2 users you need. The authorising officer is responsible for them, so we recommend that you do not have more level 2 users than you really need.

6.30 Level 2 user may be:

- a paid staff member or office holder within your organisation
- an employee of a third-party organisation engaged by you to deliver all or part of your HR function
- a temporary staff member supplied to you by an employment agency
- a UK-based representative

They must not be:

- a contractor
- a consultant who is contracted for a specific project
- an undischarged bankrupt

## Related content

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## 7 Criteria

7. All applications for a sponsor licence must meet the following eligibility and suitability criteria.

### Eligibility criteria

- 7.1 To confirm that you are eligible for a licence, you must provide the supporting documents listed in [Appendix A](#) of the guidance for sponsors and any more documents we request.
- 7.2 We verify these documents to make sure you are genuine and have an operating or trading presence in the UK. If you have no operating or trading presence in the UK, we will refuse your application. If we find that you have no operating or trading presence in the UK after granting a licence, we will revoke it.

### Suitability criteria

- 7.3 The suitability criteria determine whether we grant or refuse your application, [change the rating](#) of an existing licence or revoke an existing licence. It may also affect the limits and review points we set for certificates of sponsorship (CoS) that you can assign.
- 7.4 To assess suitability criteria, we look at whether:
- you have human resource and recruitment systems in place to meet, or continue to meet your sponsor duties - we may judge this by visiting you either before or after your licence is granted
  - we are able to visit and conduct checks to ensure that the sponsor duties are being complied with on an immediate, unannounced basis; this includes checks at any physical addresses where your sponsored employees (would) carry out their employment duties - if access to a third party's site is deemed necessary by us (either at application stage or later as part of compliance checks), we would need to see evidence of arrangements between you and the third party that would ensure full cooperation by the third party
  - you can offer a [genuine vacancy](#) which meets the criteria of the category you are applying to be licensed for; this may mean that if your business involves operating no (or little) physical office space (a 'virtual business model'), we will consider the type of work a sponsored worker will be doing and where the worker will be carrying out their employment duties - we may wish to see contracts between you and any third party
  - you have an unspent criminal conviction for a relevant offence - [Annex 1](#) and [Annex 5](#) of this guidance have more information on this
  - we have any evidence of previous non-compliance by you
- 7.5 You must tell us on the covering letter accompanying your submission sheet if any of the following apply to you, under the general definition of [‘you’ or ‘your’](#), if you:

- have been suspended or removed from any sponsor register within the last 5 years
- have any criminal prosecutions pending
- are aware that an organisation that you have been involved with in a similar role has failed to pay VAT or any other form of excise duty

If you have a criminal prosecution pending, we will put your application on hold pending the outcome unless we have other reasons to refuse it, in which case, we will refuse it without waiting.

## Checks we make

- 7.6 We use risk assessments to guide our compliance activity and focus that activity on the areas of highest risk. If we know little about you or are concerned with the evidence provided, we will make further checks including an on-site visit. We may also make relevant checks with other government departments.
- 7.7 If you operate a virtual business model, it is highly likely that we will conduct an on-site visit to your authorising officer's physical address before making a decision on your application for a licence. If we have significant doubts about your ability to fulfil your sponsorship duties after a visit, we may refuse your application. The '[Compliance](#)' section has more information about compliance visits, including on-site visits.
- 7.8 We may also conduct an on-site visit to any other physical addresses where your sponsored migrants would be carrying out their employment duties.
- 7.9 If there are differences between what you told us and what our compliance officer finds during a check and this is found before a decision has been made, we will let you know whether we need more information before making a final decision.
- 7.10 We ask for a variety of verifiable documents to allow us to consider your application. These are all listed in [Appendix A](#) of the guidance for sponsors and we may check any or all of the documents you send to us. We reserve the right to ask for more documents at any time during the licence application process or the validity period of your licence and sometimes we may ask for other documents which are not listed in Appendix A.
- 7.11 We make further checks in the following circumstances:
- quality assurance checks - we check a certain percentage of applications
  - extra checks - if we have reasonable doubts about your application or the documents sent with your application

## Related content

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## 8 Supporting evidence – documents

8. [Appendix A](#) of the guidance for sponsors lists the evidence we will need from you to support your licence application. Most applications must be supported by a minimum of 4 pieces of evidence. Some of this evidence will be in the form of a document you must send to us and some will simply be an online check that we can do, without you having to send a document to us. Certain evidence is mandatory, in most cases we will only need a maximum of 4 pieces of evidence, but we may ask for more if necessary. If you fail to send us any evidence or documents we ask for within the given time limit, your application will be refused.

- 8.1 Over time, we will start to make more checks online and we are gradually updating Appendix A to show where we will make an online check instead of asking you to send us a document. Where we can conduct an online check, this will count as one piece of evidence.

### Example

You are a charity, registered with the Charities Commission, applying for Tier 2 (Sportsperson). In this example, you must send us 3 documents and we will conduct one online check. Grand total - 4 pieces of evidence.

1. [Appendix A](#): Table 2 - we must have evidence of your charitable status, but we can check this online. This counts as one piece of evidence.
2. [Appendix A](#): Table 3 - we must have evidence of your endorsement from the governing body for your sport. You must send us the relevant document. This counts as one piece of evidence.
3. [Appendix A](#): Table 4 - you must choose 2 more pieces of evidence from Table 4 to bring your total to 4.

- 8.2 If you are applying as a head office and all branches or a group of branches and you are required to be registered with and/or inspected/monitored by a regulatory body, you must send evidence for each individual branch within that group.

### Example

You are a care home in England applying for Tier 2 (General) with 3 additional branches included in your application. In this example, there are 7 mandatory pieces of evidence - one online check on your [Care Quality Commission \(CQC\)](#) status, 3 documents from Table 4 and 3 additional online checks on the CQC status of the branches named on your application.

1. [Appendix A](#), Table 2 - we must have evidence that you are inspected by the CQC. We will check this online, for each care home included in your application. This means we will do 4 online checks.



2. [Appendix A](#), Table 4 - you must choose 3 more pieces of evidence from Table 4.

You will see in Appendix A that there may be times when we could do an online check but might need you to help us locate the right information. For example, if you need to send us your company accounts, but they are available free to view on your website, you will need to let us know your web address so we can find them. In this example, you must include a covering letter along with your submission sheet and any documents you are sending to us. We will then search your website for the accounts, so you don't have to send them to us.

- 8.3 Any documents you send to us must be originals or certified copies. Any affidavits you send must be sworn by a qualified, independent person.

### **Certifying a document**

- 8.4 The person certifying the documents must be:

- the issuing authority
- a practising barrister
- a solicitor
- a chartered legal executive
- a notary
- a chartered accountant for certification of financial documents only

The person must not be:

- related to you
- living at the same address
- in a personal relationship with you
- employed directly by you

The certifier must confirm the copy of the document by:

- writing 'Certified to be a true copy of the original seen by me' on the document
- signing and dating it
- printing their name under the signature
- adding their occupation, address and telephone number

If a document has more than one page, we will accept the document if the pages are bound together and the certification statement includes the number of pages the document contains. If a certifier's details cannot be verified, the document will be rejected.

Printouts of PDF files are copies of an original document and must be certified in line with guidelines above. The certifier must confirm that they have seen the original email containing the file.

- 8.5 Any documents or other evidence that we ask to see that are not in English or Welsh must be accompanied by a certified translation. The translator's credentials should be provided, along with their official confirmation that the translation is accurate.

If you provide certified copies of documents and/or certified translations, we reserve the right to ask for the original documents.

- 8.6 We make further checks if we have any doubts about whether you can meet the requirements of the category in which you have applied. We may email you to ask for more evidence or information. We always email the person you named as your key contact, but we may also email your authorising officer.
- 8.7 Any documents you send to us will be returned by recorded delivery to the address given on your application. If you want the documents returned by special delivery, you must enclose a prepaid special delivery envelope.

## Standard procedure for verifying documents

- 8.8 We may check details or the correctness or genuineness of documents:

- with the issuing organisation, like banks, universities and professional bodies
- with other government departments in the UK and overseas

The procedure for verifying documents is:

- we use a standard format to record the results of enquiries to make sure we record feedback consistently
- if we cannot get an immediate answer to our enquiries, we will normally wait for a maximum of 3 weeks for the information
- we may decide that a compliance officer needs to visit you

## Outcome of document checks

- 8.9 There are 3 possible outcomes after a document check:

- document confirmed genuine - if we conclude the document is genuine, we will consider your application as normal
- document confirmed as false - if we conclude the document is false, we will refuse your application, whether or not the document is essential to your application
- check inconclusive - if we are unable to verify whether or not a document is genuine or false we will not use the document as evidence to support your application, we may ask for further supporting documents

### Related content

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## 9 Rating sponsors

### What are sponsor ratings?

9. A sponsor licence can be rated either 'A' or 'B'.
- 9.1 An A-rating is awarded when you are first granted a licence on the basis that you have systems in place to be able to meet your [sponsor duties](#). Your licence rating appears on the published [register of licensed sponsors](#). We will not grant a licence if you are not able to achieve an A-rating.
- 9.2 After your licence has been granted, if we find evidence that you are unable or unwilling to continue to meet your sponsor duties, or we have evidence of immigration abuse, we may take action against you.
- 9.3 Your rating will usually be the same for all the tiers, categories and subcategories in which you are registered. In exceptional cases, if we later find that you are not meeting your sponsor duties in only one tier on your licence, we will downgrade that tier to a B-rating. The '[Downgrading your licence rating](#)' section has more information.

### Scoring system

- 9.4 When deciding the suitability of an application or when we carry out checks (including if we visit you) after your licence has been granted, we will use the following scoring system when deciding whether to grant your application for a licence.
- 9.5 We give a score of 'met' or 'not met' for the following:
- **human resource systems** - whether you have systems in place that allow you to know when a migrant has not turned up for work, or to identify when their current leave is coming to an end
  - **convictions and civil penalties** - whether or not you have an unspent criminal conviction for a relevant offence or have become liable for a civil penalty, including those issued to landlords under the '[Right to rent scheme](#)'; [Annex 1](#) of this guidance has more information on this
  - **migrant compliance** - whether you are employing any migrants, sponsored or not, who are in breach of the conditions of their leave - for example, a migrant with leave as a Tier 4 student working more hours than they are allowed to
  - **employment** - in respect of Tier 2 (General) licences, we will assess whether you can offer genuine employment which meets the [Tier 2 \(General\) criteria on skill level](#) and appropriate [rates of pay](#)

Below are 2 examples of circumstances in which we may not be satisfied you can offer genuine Tier 2 (General) employment.

**Example 1**

You do not currently employ, or have never employed, anyone in a role which meets the current Tier 2 requirements. This could be if you are a small retail outlet and currently only have people working for you as shop assistants or in other low skilled roles.

**Example 2**

You tell us you require or have already sponsored a person in a managerial role which appears unnecessary. This could be if you are a small fast food outlet and you tell us you need, or have appointed, a full-time business development manager, HR manager or publicity manager.

**Note:** these examples are not exhaustive.

- 9.6 If you are chosen for a visit, we will score your suitability to be a licensed sponsor as shown below:
- meets all of the criteria
  - does not meet one or more of the criteria
- 9.7 We will grant your licence if you meet all of the criteria and there are no other reasons for refusing your application.
- 9.8 We will refuse your application if you do not meet one or more of the criteria.
- 9.9 If we visit you after we have granted you a licence, we assess you again against the suitability criteria as well as making any other checks we need to carry out. If we find that you have not met any or all of your sponsor duties, we will take action against you.

**Related content**

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# 10 Notification of decision

## What happens after a decision on my application has been made?

10. We will write to you to tell you:

- whether we have approved or refused your application
- the reasons for the decision if we have refused your application
- if we have approved your application, the maximum number of certificates of sponsorship (CoS) you will be allowed to assign, or that we have set your allocation of CoS to zero if you are unsure whether or when you may need to recruit any migrants in the future

10.1 We send decision letters and return all original documents to the address given for the authorising officer on your online sponsor application. We send all documents by Royal Mail Signed For delivery.

## If my application is refused, can I apply again?

10.2 There is no right of appeal against the refusal of a licence application. However, if you believe that the refusal decision is either:

- the result of a caseworker error – for example, if we have incorrectly applied the 6-month cooling-off period and you send evidence to us to support this
- the result of supporting evidence sent as part of your application not being considered by us – for example, if we have not considered a specific piece of information and you send evidence to show this was received by us

you can send an 'Error correction request form'. This form is on the ['UK visa sponsorship for employers'](#) page on GOV.UK.

The request must be sent within 14 calendar days from the date of the refusal decision letter. We aim to get back to you within 28 working days of the receipt of your error correction request form.

The pre-licence error correction process does not offer a full reconsideration of a decision to refuse a licence application. We will not consider any additional evidence which was not available at the time of application.

If we establish that a simple caseworker error has occurred, or a piece of information sent at the time of application has not been considered, we will write to you inviting you to send a new online sponsor licence application with the appropriate fee. On receipt of the application, your fee will be refunded. Sending a new application is not a guarantee that a licence will be granted.

10.3 If we maintain our original decision to refuse your licence application, we will write to tell you. The 6-month sponsor cooling-off period will continue to apply from the date of the original refusal decision. A refusal decision will not be

reviewed a second time under this process.

## Cooling-off period following decision to refuse a licence

- 10.4 If you have been refused a licence, you should not make another application until 6 months after the date of the Home Office decision letter refusing your application.

Similarly, if you withdrew a previous application while we were undertaking checks on you which revealed something that was likely to lead to a refusal of that application, you should not make another application until 6 months after the date of the Home Office letter accepting the withdrawal of your application.

If you reapply before 6 months has passed from the date of the previous refusal or withdrawal, we will refuse your application if the previous refusal (or likely refusal had you not withdrawn your application) was because you:

- did not meet the requirements to be a sponsor in the category under which you applied
- sent false documents
- did not have the processes necessary to comply with your sponsor duties
- have, or had, an unspent criminal conviction for a relevant offence – see the [Glossary](#) and [Annex 1](#) for a definition of ‘relevant offence’
- are legally prohibited from becoming a company director, unless this is due to being an undischarged bankrupt – you should note that the authorising officer or level 1 user must not be an undischarged bankrupt
- had no trading presence in the UK

- 10.5 If you have been refused because you have previously been issued with a civil penalty under [section 15 of the Immigration, Asylum and Nationality Act 2006](#), [Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013](#) or [section 23 of the Immigration Act 2014](#), you should only reapply 12 months after the date the penalty became payable. [Annex 1](#) of this guidance has more information on this.

- 10.6 If you have been refused because you have previously been issued with a civil penalty for one of the ‘charges or penalties’ in [Appendix C](#) of the guidance for sponsors, apart from employing an illegal worker or authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status, you should only reapply when 5 years have passed since the date the penalty was issued.

- 10.7 If you have been refused because you previously held a sponsor licence, in any tier, and we revoked your licence or, after we had notified you that we are taking compliance action against you, you surrendered your licence, you must not reapply until 12 months have passed since the date we notified you of the revocation or approval of your licence surrender.

10.8 You may reapply at any time if we only refused your application because either:

- it was sent by a representative
- you did not provide documents or information we requested by a specific deadline for reasons outside your control

10.9 When you reapply, you must ensure that the reasons we refused you no longer apply. As part of the application process, you may receive a visit from a UKVI compliance officer, who will undertake relevant checks to establish that you have the necessary systems and procedures in place to meet your sponsorship obligations. If we are not satisfied that you can fully meet your sponsorship obligations, we are likely to refuse your application.

## Sponsor licence number

10.10 If your application for a sponsor licence is successful, you will receive a sponsor licence number. You must quote this number in all communications with us.

## Additional services

### Premium customer service

10.11 The premium customer service offers an enhanced level of support for A-rated sponsors. A premium customer has their own dedicated account manager who will provide tailored advice and support with all their immigration needs.

The '[Premium customer service for employers](#)' page on GOV.UK has full guidance about the service for employers, explains the benefits, costs, eligibility and how to apply.

If you successfully apply for premium customer service, this will be indicated on our public '[Register of sponsors](#)' where your sponsor rating will show as A (Premium) for large employers or A (SME+) for small and medium enterprises.

### Priority change of circumstances service

10.12 The priority change of circumstances service offers a faster consideration of sponsor change of circumstances requests for A-rated sponsors. The '[Priority change of circumstances service](#)' page on GOV.UK has full guidance about the service for sponsors, costs, eligibility and how to apply.

**Related content**  
[Contents](#)

# 11 Sponsorship management system

## What is the sponsorship management system?

11. Once licensed, you will be given access to use the sponsorship management system (SMS). This online function lets you carry out day to day activities and report any changes to us, such as a change of address. You will also use it to assign certificates of sponsorship (CoS) to migrants who wish to come to, or stay in, the UK to work, and to fulfil your reporting duties for your sponsored migrants. The [‘Reporting duties’](#) and [‘Certificates of sponsorship’](#) sections have more information.
- 11.1 We call a person who has access to the SMS a ‘user’. The SMS allows users 2 levels of access – ‘level 1’ and ‘level 2’. The level decides the type of access (permissions) the user has to the system and the functions they can perform, the [‘Level 1 user’](#) and [‘Level 2 user’](#) sections have more information.
- 11.2 Your SMS account is also a source of information about your sponsor licence. You can see details on how many SMS users you have appointed and who they are, the date your licence will expire, the number of CoS left to assign, and when your allocation of CoS will expire. Your SMS account also has a ‘message board’ where we post useful messages.
- 11.3 You need to regularly access your SMS account to review and update your licence details and to keep up to date with the latest news, messages and any changes that may be coming up. We recommend that your level 1 user accesses your account at least once a month.
- 11.4 When we grant your sponsor licence, we set up your SMS account and send the level 1 user’s ‘user name’ to your authorising officer by post. We send the level 1 user their password by email. Once your level 1 user has successfully accessed your SMS account, they can perform a number of functions. The [‘Level 1 user’](#) section has more information on this.
- 11.5 SMS users must never give their password to anyone else. If they do, we may revoke your licence.

You can use the [SMS](#) on GOV.UK to:

- manage or renew your organisation’s licence or services
- create and assign certificates of sponsorship to prospective employees for Tiers 2 and/or 5
- report changes of circumstances of your sponsored employees or students, including withdrawal of sponsorship

You can also find some helpful guides under ‘User manuals: sponsorship management system (SMS)’ on the [‘Sponsorship: guidance for employers and educators’](#) page on GOV.UK.



- 11.6 You are responsible for your actions and the actions of a representative or employee who assigns CoS on your behalf. Any non-compliance with the rules on assigning CoS will result in us taking action against you. If we find you are employing an illegal migrant worker because your recruitment practices are negligent, we may issue you with a civil penalty and refer your case for prosecution.

You must have at least one level 1 user who must be your employee in place throughout the life of your licence. If we find you have no level 1 user in place at all, this means you cannot fulfil your sponsor duties and we will take action against you. We will also take action against you if you have no SMS users in place at all.

## **Adding tiers**

- 11.7 Once your licence has been granted, you can add more tiers, categories and subcategories to it. To do this, your level 1 user must [log in to the online sponsor licence application form](#) using your original log in details or by registering again. They will then fill in a shortened version of the online application which allows them to apply to add new tiers or categories to your licence. They will not be able to change anything else. You must also pay any extra fee and send us any more mandatory documents that may be needed. The authorising officer must approve this action, and the level 1 user must retain the evidence of the approval.
- 11.8 You will not be allowed to add tiers if your licence is suspended or downgraded to a B-rating.
- 11.9 If you want to apply to add an extra tier or category to your licence, but you want different people to act as authorising officer and key contact for the new tier or category, you must apply for a separate, new licence and pay the fee where applicable. This is because there can only be one authorising officer and key contact named on a sponsor licence.

### **Related content**

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## 12 What happens if my circumstances change?

12. You must tell us of any changes to your details. We may ask for more details and documents to support the change you are requesting.
- 12.1 Your level 1 user must use your [SMS account](#) 'request changes to sponsor details' function to:
- change your address
  - change your name
  - [change the details of, or replace, your authorising officer or key contact](#)
  - tell us about changes to your structure, such as more branches or sites, or new linked entities in the UK or overseas if you are licensed under Tier 2 (ICT)
  - tell us if you are convicted of a relevant offence - [Annex 1](#) and [Annex 5](#) of this guidance have more information on relevant offences
  - tell us about a change in the status of any registration by a governing body that you need to hold
  - amend your organisation details, such as telling us of takeovers and mergers
  - tell us that you have sold all or part of your business
  - tell us of any other changes to your circumstances, such as adding or removing a representative or surrendering your licence

The following changes you report may automatically update your SMS account:

- your main, or head office address
- the address of your authorising officer, key contact, or level 1 user - if their new address matches your main or head office address, or the address of your representative for a key contact or level 1 user

We will write to you if we are able to make these or any other changes automatically.

- 12.2 If you request a change to the name on your licence, we will need to understand why you are changing your name because, in some circumstances, you may have to apply for a new licence. For example, if the only reason you are changing your name is because you are incorporating yourself for the first time, and nothing else is changing, we can change the name on your licence. If your change of name is part of a wider change – for example, if you are involved in a merger or takeover – you may have to apply for a new sponsor licence. The '[Mergers and takeovers](#)' section explains this in more detail.
- 12.3 When you send in the changes, we will tell you what documents you must

send us to support your request. For some changes, such as replacing your authorising officer or surrendering your licence, you also have to sign a declaration. The '[Reporting duties](#)' section has more information on the timescales for reporting changes to us.

- 12.4 There are circumstances when you have to complete more than one action on the SMS. For example, if you tell us of a change of address, you may also need to tell us of a change to the working address for your key personnel. You must request each change separately.

You can find some guides which show you how to request changes using the SMS under 'User manuals: sponsorship management system (SMS)' on the '[Sponsorship: guidance for employers and educators](#)' page on GOV.UK.

- 12.5 The following are circumstances in which you will not be able to use the SMS to report or request a change and where you must fill in a [change of circumstances form](#):

- replace the level 1 user when you have no other level 1 user to do this via the SMS - for example, when the last level 1 user was the only SMS user and has left your organisation
- replace the key contact or authorising officer when you have no level 1 user to do this via the SMS - for example, when the last key contact or authorising officer was also the only SMS user and has left your organisation
- appoint a representative as the level 1 user when you have no other level 1 user to do this via the SMS - for example, when the last level 1 user was the only SMS user and has left your organisation
- surrender your licence if you have no level 1 user who can report this via your SMS account

The '[Key personnel](#)' section has more information on key contacts, authorising officers and level 1 users.

- 12.6 We may ask for and check documents to support any change you request through the [SMS](#) or the change of circumstances form. The documents may be ones other than those listed in [Appendix A](#) of the guidance for sponsors. When you request a change via SMS, a submission sheet will be produced as a pdf document if we need a signed declaration and/or any documents to validate your request. If you send the request using the change of circumstances form, we will write to you or e-mail you to tell you what, if any, documents we need.
- 12.7 You must send any declaration, documents if needed and the submission sheet for requests made via your [SMS](#) account to us within 10 working days. If we ask for more documents, you must also send these within 10 working days. If you do not send us the information by the given deadline, we will refuse your request. If we refuse your request, you can make another one at any time.

## What happens if I become insolvent?

- 12.8 If you go into administration, including special administration, or administrative receivership (receivership in Scotland), you must tell the administrator or receiver that you are a licensed sponsor and tell us within 20 working days of going into administration or receivership.
- 12.9 The insolvency professional appointed as the administrator or receiver must be appointed as your authorising officer (AO). This can be done in 2 ways:
- if they are content for your named level 1 user to stay in that role, then the level 1 user can use the 'request changes to sponsor details' function within your SMS account to replace your AO
  - if they do not want your level 1 user to continue to access your SMS account, they must fill in a [change of circumstances form](#) to appoint themselves as your new level 1 user - see the '[What happens if my circumstances change](#)' section; they must write 'In Administration' across the top of the change of circumstances form so we can make sure that it is dealt with quickly - once we have approved that change, they can then appoint themselves as the new authorising officer using your [SMS account](#)
- 12.10 If the administrator or receiver does not want any of your SMS users to continue accessing your SMS account, they must fill in a change of circumstances form to appoint themselves as a new level 1 user. They must decide whether your SMS users should be replaced, or whether they are content for them to keep their level 1 or level 2 SMS access.
- 12.11 There are different ways in which you can come out of administration, including special administration or administrative receivership (receivership in Scotland) and some will have an impact on your continuing permission to hold a sponsor licence. The deciding reason will be whether or not you continue to own your business.

## Company voluntary arrangement or debt arrangement scheme

- 12.12 If you enter into a [company voluntary arrangement \(CVA\)](#), you must tell us within 20 working days of this being agreed and also tell us if it has resulted in a change of ownership. Where there is a change of ownership, we will treat this as if you had sold your business and will revoke your sponsor licence. If you are sponsoring any migrants when ownership changes and the new owner wants to continue employing them, they must apply for a sponsor licence within 20 working days of taking ownership. The '[Mergers, takeovers and similar changes](#)' section has more information on this.
- 12.13 If the [CVA](#) amounts to an agreement with your creditors, but no change in ownership, then you can continue to hold your sponsor licence. You can also remove the administrator from the position of authorising officer and appoint either your original authorising officer or a new one. You must do this using your [SMS account](#).

- 12.14 If you enter into a [debt management plan](#) or a [debt arrangement scheme \(DAS\)](#) and there is no change in ownership, you can continue to hold your sponsor licence.

## Liquidation or sequestration

- 12.15 If you go into voluntary or compulsory liquidation, you must tell us within 20 working days of ceasing trading. If sequestration has been awarded or you have signed a Trust Deed and either of these means you stop trading, you must tell us within 20 working days of the date you finish trading. If you or any appointed insolvency professional cannot access your sponsorship management system (SMS) account to report this, you must email the Sponsor Compliance team. We will then revoke your sponsor licence.

## Sole traders

- 12.16 If you are a sole trader and you enter into an [individual voluntary arrangement \(IVA\)](#) or a [debt arrangement scheme \(DAS\)](#), you must tell us using your sponsor management system (SMS) account within 20 working days. If your IVA or DAS amounts to an agreement with your creditors where you remain sole owner of your business and continue to trade, you must also tell us about this. If this happens, you can keep your sponsor licence.

- 12.17 If your IVA or DAS results in your business being sold, you must tell us within 20 working days. We will then revoke your sponsor licence. If you are sponsoring any migrants when your business is sold, and the new owner wishes to continue employing them, they must apply for a sponsor licence within 20 working days of taking ownership. The '[Mergers, takeovers and similar changes](#)' section has more information on change of ownership.

If you are a [sole trader](#) and a court issues a [bankruptcy order](#) against you, or sequestration has been awarded, you must tell us this within 20 working days. You will not be able to do this using your SMS account because you will not be permitted to access it. You must email the [Sponsor Compliance team](#) telling us the date you finished trading. We will then revoke your sponsor licence.

## Related content

[Contents](#)

# 13 Mergers, takeovers and similar changes

## What happens if I am involved in a merger, takeover or de-merger?

13. This section explains what you must do if you are involved in:

- a change of ownership
- a merger
- a takeover
- a de-merger

Examples include where you sell all or part of your business, or the controlling number of shares in your business.

It also explains what you must do if you lose or accept sponsored migrants whose employment is being transferred under the [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(TUPE\) arrangements](#) or similar protection. You can find more information about [TUPE](#) and similar protection on the GOV.UK website.

Your sponsor licence is not transferrable and what happens depends on whether:

- there is a change in direct ownership
- you sell all or part of, or the controlling number of shares in, your business organisation
- you are being taken over completely or in part by another organisation
- you are splitting out to form new organisations

[Annex 8](#) of this guidance has more information to help you to understand how this relates to you.

13.1 You must report either:

- change of ownership
- a merger
- a takeover
- de-merger

If you fail to do so, we will take action against you. Any action could lead to any migrants you sponsor having their leave curtailed.

This report must be made by your level 1 user using your SMS account. If your level 1 user is not available because you have been taken over or

merged into another organisation, we will accept the report from the level 1 user at the new sponsor organisation.

Once you have reported the change, we will ask for and verify documents to support the change. These may be documents not listed in [Appendix A](#) of the guidance for sponsors.

Where there is a change in direct ownership of your organisation or business, for example, if it is sold as a going concern or a share sale results in the controlling number of shares being transferred to a new owner, your sponsor licence will be either revoked, or made dormant if sponsored migrants have transferred to another sponsor's licence. The new owners must then apply for a new sponsor licence, unless they already have one, if they wish to continue employing any migrants that you were sponsoring.

- 13.2 If [TUPE](#) or similar protection is triggered and a sponsored worker moves to you, then you will, from the date of the move, take up full responsibility for them as their new sponsor, and must meet all of the associated duties set out in this guidance.

Similar protection to TUPE includes provisions such as the Cabinet Office Staff Transfers in the [Public Sector Statement of Practice](#) and [section 23 of the Public Bodies Act 2011](#). It does not include ad hoc arrangements.

- 13.3 Where migrants are being moved to you under [TUPE](#) or similar protection, but you do not already have a sponsor licence under the tiers and categories needed to sponsor them, you must make an application either for a sponsor licence, or to extend the scope of your existing sponsor licence. Your application must be made within 20 working days of the move taking place. If you:

- do not make a valid application within 20 working days
- do make a valid application, but that application is refused; all of the migrants moved to you, except any that can be sponsored under your existing licence if you have one, will have their leave curtailed

- 13.4 Migrants involved in a merger, de-merger or takeover do not need to make a new application for leave and the new sponsor does not have to assign a new CoS to them. Unless the move involves the migrant changing their job or the migrant does not have TUPE or similar protection. The '[Change of employment](#)' section has more information on this.

## Complete takeovers and mergers

- 13.5 If you are completely taken over or merged into another organisation and your sponsored migrants are moving to a new organisation, you must:

- report the change via your sponsorship management system (SMS) account, including details of all of your sponsored migrants who will be



moving to a new organisation - you must make the report within 20 working days of the change

- use the migrant reporting facility on the SMS to report if any of your sponsored migrants are not moving to the new sponsor - these migrants' leave will be curtailed
- confirm if you need to surrender your sponsor licence - this can be done using your SMS account or using the [change of circumstances form](#)
- the '[What is the sponsorship management system](#)' section for more information on the SMS

13.6 If you have completely taken over, or merged with another sponsor organisation and their sponsored migrants are moving to you, you:

- must make a valid application for a sponsor licence as set out in the 'Mergers, takeovers and similar changes' section within 20 working days of the date they move to you
- can use the [SMS to apply for an increase in your allocation of certificates of sponsorship \(CoS\)](#), if you already have a sponsor licence, and the change means that you may need to recruit more migrants in the future
- must report the change via SMS, including details of any migrants you have accepted sponsorship responsibility for, if you already have a sponsor licence - you must make the report within 20 working days of the change taking place

13.7 We can give you limited access to the old sponsor's licence on the SMS, so that you can report migrant activity for those whose employment has transferred to you.

## Partial takeovers and de-mergers

13.8 This section explains what must happen if you are partially taken over, or if you are splitting out to form one or more new organisations and some of your sponsored migrants will be moved to a new organisation under [TUPE](#) or [similar protection](#).

### **If the sponsor no longer needs its sponsor licence**

13.9 If you are the existing sponsor and the change means that you will no longer have any sponsored migrants, you:

- must report the change using the SMS, including details of migrants moving to the new organisation, within 20 working days of the change
- may want to surrender your licence - this can be done by using the SMS or the [change of circumstances form](#)

The '[What happens if my circumstances change](#)' section has more information.

13.10 If the change leaves you with no sponsored migrants, but you are not sure whether you will need to sponsor any new migrants in the future, you can keep



your licence if you want to. If you do keep it, we will reduce your allocation of (CoS) to zero. If you surrender your licence but then need to recruit migrants again in future, you will have to apply for a new licence.

13.11 If you are the new organisation 'sponsor', you:

- must make a valid application for a sponsor licence as set out in the ['What happens if I am involved in a merger, takeover or de-merger'](#) section within 20 working days of the date they move to you
- can use the [SMS to apply to increase your allocation of CoS](#) if you already have a sponsor licence and the change means that you may need to recruit more migrants in the future
- must report the change via SMS, including details of any migrants you have accepted full sponsorship responsibility for, within 20 working days of the change taking place

13.12 As the new sponsor, you will not be able to report on the migrants who have transferred to you from the old sponsor organisation through SMS, because you will not have a SMS record for them. You must report on these migrants to meet your sponsor duties. You must email the [Tier 2 and 5 Migrant Reporting team](#) with the following:

- old sponsor organisation's name
- old sponsor organisation's licence number if known
- migrants' details
- details of any changes – for example, a migrant is absent from work for 10 consecutive working days without permission

#### **If the existing sponsor still needs its sponsor licence**

13.13 If you are the existing sponsor, you must:

- report the change via SMS, including details of migrants who will be moving to the new organisation, within 20 working days of the change taking place
- tell us if you need to [amend your allocation of CoS via your SMS account](#) – for example, if you will need fewer CoS than was agreed before the change
- continue to report on any sponsored migrants you are still employing, although you will no longer have any responsibility for reporting on migrants who moved to the new organisation

13.14 If you are unsure whether, or when you may need to recruit any new migrants in future, we will reduce your allocation of CoS to zero.

13.15 If you are the new organisation (sponsor), you:

- must make a valid application for a sponsor licence as set out in the [‘What happens if I am involved in a merger, takeover or de-merger’](#) section within 20 working days of the date they move to you
- can use the [SMS to apply for an increase in your allocation of CoS](#) if you already have a sponsor licence and the change means that you may need to recruit more migrants in the future
- must report the change via SMS, including details of any migrants you have accepted full sponsorship responsibility for - you must make the report within 20 working days of the change taking place

13.16 As the new sponsor, you will not be able to report on the migrants that have moved from the old sponsor organisation, because you will not have a SMS record for them. You must report on these migrants to meet your sponsor duties.

You must email the [Tier 2 and 5 Migrant Reporting team](#) with the following:

- old sponsor organisation’s name
- old sponsor organisation’s licence number if known
- migrants’ details
- details of the change – for example, if a migrant has been absent for more than 10 consecutive working days without your permission

13.17 If you have a query on this guidance and need to contact us for advice, please see the [‘Contact point for queries’](#) section.

13.18 The [‘UK visa fees’](#) page on GOV.UK has information on the fees for licence applications and services.

## **Related content**

[Contents](#)

# 14 Sponsor duties

## What are my duties as a licensed sponsor?

14. As a licensed sponsor, you will benefit directly from migration and we expect you to play your part in ensuring that the system is not abused. This means that you must fulfil certain duties. Some of these duties apply to all sponsors, whilst others are specific to those licensed under certain tiers or categories.

The objectives of these duties are to:

- prevent abuse of assessment procedures
  - capture early any patterns of migrant behaviour that may cause concern
  - address possible weaknesses in process which can cause those patterns
  - monitor compliance with Immigration Rules
- 14.1 This document reflects current policy but can change at any time. We will let you know of any change through the sponsorship management system (SMS) message board. The [‘What is the sponsorship management system’](#) section for more information on the SMS.

## When do my sponsor duties start and finish?

- 14.2 Your responsibilities as a sponsor start on the day we grant your licence and end if:
- you surrender your licence
  - we revoke your licence
- 14.3 Your responsibility for each migrant starts on the day you assign a CoS to them.
- 14.4 Your responsibility for each migrant ends:
- when you tell us that you are no longer sponsoring them for any reason
  - when they leave the UK and their entry clearance or leave to remain lapses
  - when they are granted further leave to remain with a different sponsor, or in another immigration category, which means that you do not need to sponsor them under Tier 2 or Tier 5 anymore

### Related content

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# 15 Duties that apply to all sponsors

## Record keeping duties

15. You must keep the following records or documents, and make them available to us on request:
- a photocopy or electronic copy of the relevant page, or pages, of each sponsored migrant's passport or travel document and biometric residence permit (if issued) that show their entitlement to work including their period of leave to remain in the UK – the '[Right to work checks: employer guidance](#)' page on GOV.UK has more information on this
  - each sponsored migrant's contact details - up to date UK residential address, telephone number and mobile telephone number – [Appendix D](#) of the guidance for sponsors has more information on record-keeping
- 15.1 You must give us, when asked, any documents relating to your sponsored migrants or the running of your organisation that we consider relevant to assessing your compliance with your duties as a sponsor. We might, for example, ask for details of your recruitment practices so that we can make sure that a resident labour market test was carried out correctly. If you fail to provide the documents when asked or within a specified timeframe, we will take action against you.
- 15.2 A biometric residence permit is an immigration document issued by the Home Office to migrants who have been granted entry clearance for more than 6 months or leave to remain. It contains details of the holder's immigration status, fingerprints and facial image. Where the migrant has a biometric residence permit, you must keep a copy. More information on '[Biometric residence permits](#)' is available on GOV.UK.
- 15.3 If you sponsor a child aged under the age of 18, you must keep a copy of the letter from their parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child. This should consent to the arrangements for the child's application, travel, reception and care arrangements in the UK. Children aged 16 and 17 have the legal right to live independently in the UK, and may make their own arrangements for accommodation, but they need the consent of their parent(s)/legal guardian to do this and to travel to the UK if applying from overseas.

## Reporting duties

15.4 You must report certain information or events to us using the [sponsorship management system \(SMS\)](#), within any time limit set. Any information reported about a migrant's non-attendance, non-compliance or disappearance will be used to take [enforcement action](#) against them.

15.5 You must report the following within 10 working days:

- if a sponsored migrant does not turn up for their first day of work - you must include any reason given for their non-attendance, for example, a missed flight
- if a sponsored migrant's contract of, or for, employment or services, or registration with a relevant body, is terminated earlier than shown on their certificate of sponsorship (CoS) - for example, if the migrant resigns or is dismissed; you must include the name and address of any new employer that the migrant has moved to, if known
- if you stop sponsoring a migrant for any other reason, such as:
  - you become aware that they have moved into an immigration route that does not need a sponsor
  - they are absent from work without pay for 4 weeks or more, and this absence is not covered by the exceptions in '[Unpaid leave and reductions in salary](#)'
- if there are any significant changes in the sponsored migrant's circumstances, for example:
  - a promotion or change in job title, or core duties, other than those which need a [change of employment application](#)
  - a change of salary from the level stated on the CoS, other than changes due to annual increments or bonuses
  - a change of salary from that stated on the CoS for one of the reasons given in the '[Unpaid leave and reductions in salary](#)' section
  - the location they are employed at changes - this includes where a [sports player moves on loan](#)
- if a sponsored migrant's employment is affected by [TUPE](#) or [similar protection](#) – for example, if you are involved in a merger or demerger
- if the size or charitable status of your business changes – for example:
  - you were a large company but you now qualify as a small company or have gained charitable status
  - you were a small company but are now a large company
  - you previously held charitable status but have ceased to do so

If you are reporting any changes referred to in the first 3 bullet points above, you must include the last recorded residential address and contact telephone number for the migrant, and any personal email addresses you have for them.

15.6 If a sponsored migrant is absent from work for more than 10 consecutive working days without permission, you must report this within 10 working days of the 10<sup>th</sup> day of absence.

15.7 If there are any significant changes in your own circumstances, for example, if

you sell all or part of your business, stop trading, go into administration, substantially change the nature of your business, are involved in a merger or are taken over, you must report this within 20 working days.

- 15.8 You must give the police any information that suggests any migrant you are sponsoring, or endorsing under any tier, may be engaged in terrorism or criminal activity.
- 15.9 You must report details of any third-party intermediary, whether in UK or abroad, that has assisted you in the recruitment of migrant employees.

## Complying with the law

15.10 To make sure you are complying with our immigration laws, you must:

- only employ migrants who are appropriately qualified, registered or experienced to do the job, or in respect of a Tier 2 (General) migrant, will be, by the time they begin the job - such as if the migrant is working as a doctor, you must make sure that they have the correct registration that allows them to practise legally in the UK
- you must keep a copy of any registration document, certificate or reference that confirm they meet the requirements of the specific job, and give this to us on request - we may request further information or evidence from you or the migrant to confirm this requirement
- not employ migrants where they don't have the experience or permission to do the job in question, and stop employing any migrants who for any reason are no longer entitled to do the job
- not assign a CoS where there is no [genuine vacancy](#) or role which meets the Tier 2 or 5 criteria - if you assign a CoS and we do not consider that it is for a genuine vacancy, we reserve the right to [suspend](#) your licence, pending further investigation which may result in your licence being revoked
- only allow the migrant to undertake the specific role set out in their CoS
- only assign a CoS to migrants who you believe will meet the requirements of the tier or category, and are likely to comply with the conditions (rules) of leave
- disclose if you assign a CoS to a family member of anyone else within the sponsor organisation if it is classed as a small or medium sized business, or if you are aware that you are assigning a CoS to a family member of anyone else within a sponsor organisation classed as a large business - this should be done via the 'notes' field on the CoS
- only employ migrants in a [shortage occupation](#) listed in [Appendix K](#) to the Immigration Rules if you qualify to sponsor the migrants, where there are restrictions on who can sponsor them
- comply with [UK employment law](#), for example, National Minimum Wage and paid holiday entitlement
- hold suitable planning permission or Local Planning Authority consent to run your type/class of business at your trading address (where this is a Local Authority requirement)

- if you are a food business, be registered with or approved by the relevant food authority
- if you are employing a migrant who is working for you on a Work Permit, you must comply with all associated conditions, for example, you must pay them at or above the rate of pay shown on the Work Permit
- only assign a CoS to a migrant if you are satisfied that they intend and are able to fill the role
- where applicable, only assign a CoS for a role which is at or above the minimum skill level as set out in this guidance
- only employ a migrant who has had a [Disclosure and Barring Service \(DBS\) check](#), where this is a requirement for the role

## Genuine vacancy

15.11 A genuine vacancy is one which:

- requires the jobholder to perform the specific duties and responsibilities for the job and meets all of the requirements of the tier and category - if you have already assigned a CoS, the vacancy must be for the period of employment stated on the CoS
- does not include dissimilar and/or lower-skilled duties

We may request additional information and/or evidence from you or the migrant to establish that this requirement is met, and may refuse the migrant's application if this is not provided within our deadline.

Examples of vacancies that are not considered to be genuine include but are **not** limited to:

- one which contains an exaggerated or incorrect job description to deliberately make it appear to meet the requirements of the tier and category when it does not
- for a job or role that does not exist in order to enable a migrant to come to, or stay in, the UK
- advertisements with requirements that are inappropriate for the job on offer, and have been tailored to exclude resident workers from being recruited

## Co-operating with us

15.12 You must co-operate and allow our staff full access to any premises or site under your control on demand. If any migrants you sponsor work at a third party's premises, you must also ensure that they are aware of the possibility of visits and checks being conducted at their premises and ensure their full cooperation. Visits, including to a third party's premises, may be prearranged or unannounced. Co-operation includes your, and any third party's, acceptable behaviour on visits.

We will not tolerate:

- swearing and offensive language



- abusive, intimidating or threatening behaviour
- conduct amounting to harassment based on a person's actual or perceived gender, age, gender reassignment, race, religion or belief, sexual orientation or disability
- shouting
- insults about our procedures, our staff or other people
- attempts to use pressure or bribery to get information

You must adhere to any action plan set by us. An action plan for B-rated sponsors may set out extra duties.

You must minimise the risk of immigration abuse by complying with any good practice guidance for sponsors produced with our agreement.

15.13 All duties listed above in this section apply to all sponsors. Those below apply only to Tier 2 (General) and Tier 2 (Intra-company Transfer).

### **Tier specific duties under Tier 2 (General) and Tier 2 (Intra-Company Transfer)**

15.14 Some Tier 2 (General) migrants are subject to an annual limit. You must apply for a 'restricted certificate of sponsorship (CoS)' if you wish to sponsor them. Migrants who are not subject to the annual limit can be sponsored using an 'unrestricted CoS'. You must also understand the different requirements for assigning a restricted or unrestricted CoS.

You must not assign:

- a restricted CoS to a migrant for any job other than the one you described in your application for that restricted CoS
- a restricted CoS where an unrestricted CoS is needed
- an unrestricted CoS where a restricted CoS is needed

15.15 When you assign a CoS under Tier 2 (General) you guarantee one of the following:

- you carried out a genuine [resident labour market test](#) in accordance with the rules in force at the time
- the job is exempt from the resident labour market test
- the job appeared in a UK-wide [shortage occupation](#) listed in [Appendix K to the Immigration Rules](#), on the date that you assigned the CoS
- if the job is in Scotland, the job appeared in a shortage occupation listed for Scotland in Appendix K to the Immigration Rules, on the date that you assigned the CoS

You also guarantee all of the following:



- where it was a requirement to carry out a resident labour market test, the migrant will be paid in line with the rate you stated when you advertised the job
- the migrant will be paid at or above the [appropriate rate](#) including specific permitted allowances for that job
- the job is a genuine vacancy - see [complying with the law](#) and [genuine vacancy](#)

15.16 If you wish to sponsor a specified health worker for a 'Health and Care Visa', you must:

- provide a brief explanation on the CoS you assign to the migrant of how they meet the requirements of the Health and Care Visa
- only assign a CoS in an eligible SOC code
- tell the migrant they are eligible for the Health and Care Visa so they can complete the online visa application form correctly

For further information, see: '[Health and Care Visa](#)'.

## Non-EEA trained nurses and midwives

15.17 If you wish to sponsor a migrant in standard occupational classification (SOC) code '2231 Nurses' or '2232 Midwives' as a pre-registration nurse or midwife, you must ensure that they complete the appropriate steps to achieve registration with the [Nursing and Midwifery Council \(NMC\)](#) within an [8-month timeframe](#).

15.18 Since October 2014, a nurse or midwife trained outside the European Economic Area (EEA) must either hold a qualification that is comparable to the NMC's standards of proficiency or pass the NMC test of competence. This test will assess the candidate's qualifications, training and experience against the NMC's standards to ensure that they are capable of practising safely and effectively in the UK. It also considers whether the candidate has the necessary post-qualifying practice and experience in each appropriate area of nursing or midwifery.

15.19 This section provides a [summary](#) of the registration process. However, the process is subject to change and you must refer to the [Trained outside the EEA](#) page on the NMC website for full, up-to-date details.

## Timeframe for achieving NMC registration

15.20 For the purposes of Tier 2 (General), non-EEA trained nurses and midwives must complete NMC registration within 8 months of either of the following dates:

- for a certificate of sponsorship (CoS) assigned to a migrant to support an initial Tier 2 (General) application to work in the UK as a nurse or midwife: the employment start date stated on their CoS
- for a CoS assigned to a migrant to continue working as a nurse or midwife under Tier 2 (General): start date of their previous employment

15.21 If the migrant fails to achieve registration within 8 months of either of these dates, you must stop sponsoring them. You must not sponsor a migrant who has previously been sponsored by a different sponsor if they have failed to achieve full NMC registration within the timeframes specified above.

## Summary of the registration process

15.22 The table below summarises the steps a nurse or midwife trained outside the EEA must complete to demonstrate that they are capable of safe and effective practice as a nurse or midwife in the UK. You must ensure that the migrant completes these steps within the 8-month timeframe outlined above if you wish to sponsor, or continue sponsoring, them.

Requirement	Details
<b>Qualification</b>	<p>The candidate must have completed a nursing or midwifery training programme leading to registration in their home country as an entry-level registered nurse or midwife.</p> <p>Unless that qualification has been deemed comparable to the NMC's standards of proficiency, they will also need to complete a two-part test of competence:</p> <ul style="list-style-type: none"> <li>• Part 1 is a multiple-choice computer-based test (CBT) administered on behalf of the NMC by a third party and can be taken in a test centre in most countries around the world</li> <li>• Part 2 is a practical nursing or midwifery examination known as the <a href="#">objective-structured clinical examination (OSCE)</a>. The OSCE is only available at <a href="#">NMC-approved OSCE test centres in the UK</a></li> </ul>
<b>Health and character requirements</b>	<p>The candidate will need to meet the health and character requirements for safe and effective practice – see <a href="#">Character and health decision-making guidance</a> on the NMC website for details.</p>
<b>Language requirement</b>	<p>The candidate must demonstrate that that they have the necessary knowledge of the English language for safe and effective practice as a nurse or midwife in the UK.</p>

	See the <a href="#">English language requirements</a> page on the NMC website for details.
<b>Professional indemnity</b>	The candidate will need to confirm that there is in force, or will be in force, cover for them under an appropriate indemnity arrangement.
<b>Payment</b>	Payment of the evaluation fees and the registration fee.

## Objective-structured clinical examination (OSCE)

15.23 Where required, the candidate will be invited to sit the OSCE in one of the approved [NMC UK OSCE](#) test centres.

15.24 Candidates may sit the OSCE up to 3 times as part of one application for registration.

15.25 If the candidate is unsuccessful, they must wait a minimum of 10 working days between attempts.

15.26 If the candidate is unsuccessful after their 3 permitted attempts, their OSCE application will close. If they still wish to register as a nurse or midwife, they will be required to submit a new application to the NMC but will not be able to sit the OSCE again for a minimum of 6 months.

15.27 A candidate who fails the OSCE 3 times is unlikely to be able to achieve their NMC registration within the [8-month timeframe indicated above](#). In such cases, you must immediately stop sponsoring them.

15.28 If you cease sponsorship for this, or any other, reason, you must tell us via your sponsorship management system (SMS) account within 10 working days. If you fail to do so, we may revoke your sponsor licence.

15.29 See '[Reporting duties](#)' for further information.

## Completion of registration

15.30 Once the candidate completes all the registration requirements, the NMC will send them their registration number or personal identification number (PIN). You must retain a copy of their PIN notification.

15.31 You must tell us within 10 working days through your SMS account of the migrant's full NMC registration, confirmation that the migrant is now undertaking the role of a registered nurse or midwife, and is being paid at least:

- if they are a nurse, whichever is the higher of:
  - £20,800 per year, or

- the NHS Agenda for Change Band 5 rate set out in Table 9 of [Appendix J](#) to the Immigration Rules
- if they are a midwife, whichever is the higher of:
  - £30,000 per year (or £20,800 per year if they qualify as a [new entrant](#)), or
  - the NHS Agenda for Change Band 5 rate set out in Table 9 of [Appendix J](#) to the Immigration Rules

## Overseas Nursing Programme

15.32 We have identified that there are some non-EEA migrants in the UK who have been sponsored and granted Tier 2 (General) leave on the basis that they intended to complete the Overseas Nursing Programme (ONP) and obtain registration with the NMC. We are aware that some of these migrants failed to apply to the NMC for permission to undertake the ONP.

15.33 It is now too late for these migrants to apply to undertake the ONP as it closed to new entrants on 31 March 2015. If these nurses have not yet obtained NMC registration, you must stop sponsoring them. If you continue to employ a migrant who has not taken the required steps within the specified time, we may revoke your sponsor licence.

## Tier 2 (Intra-Company Transfer)

15.34 When you assign a CoS under Tier 2 (Intra-Company Transfer (ICT)), you guarantee that:

- the job is an intra-company transfer
- where required, the migrant has been employed for the specified period prior to their move
- where the migrant will be paid in a currency other than sterling, the salary amount entered on the CoS is based on the exchange rate for the relevant currency on the day the CoS was assigned, taken from the rates published on '[OANDA](#)'
- the migrant will be paid at or above the [appropriate rate](#) (including any allowances) for that job as set out in this guidance

### Related content

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# 16 Documents

## What documents must I keep now that I have a sponsor licence?

16. To comply with your duties, you must keep certain documents for each sponsored migrant. [Appendix D](#) of the guidance for sponsors lists these documents and says how long you must keep them. The documents can be kept in paper or electronic form. If kept electronically, you must make sure that all the relevant parts of the document are visible as described in [Appendix D](#).
- 16.1 There is no prescribed method for storing the documents, but they must be available to us on request. If you fail to keep any documents set out in [Appendix D](#) and/or fail to give us any documents when we ask for them, we will take action against you.
- 16.2 Any documents that we ask for which are not in English or Welsh must be accompanied by a certified translation. The translator's credentials should be given, along with their official declaration that the translation is accurate.
- 16.3 Some of the documents you must keep as part of your sponsorship duties may also need to be kept for other purposes. You must meet any legal requirements for record keeping set by us or another government department.
- 16.4 You should read our guidance on preventing illegal working, which recommends specific documents you should keep and the format in which they should be kept. You have responsibilities for this under regulations made under [section 15 of the Immigration, Asylum and Nationality Act 2006](#). The '[Right to work checks: employer guidance](#)' page on GOV.UK has more information on this.
- 16.5 You must also be aware of your responsibilities under the General Data Protection Regulation and Data Protection Act 2018. The '[Guide to the General Data Protection Regulation](#)' page on the Information Commissioner's Office website has information on this.

### Related content

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# 17 Compliance

## Concerns or queries about duties

17. If you have any queries about your sponsorship duties, call us on 0300 123 4699 or email the [Business Helpdesk](#).

## How will you check that I am complying with my sponsor duties?

- 17.1 We may visit you to carry out checks before a decision on your licence application has been made. We may also conduct checks after the decision has been made. This is to make sure that the information you gave is accurate and that you are able and continuing to comply with the duties and responsibilities of a licensed sponsor. We check that:
- information given is accurate and complete
  - you are able to offer employment
  - you are genuine and trading or operating lawfully in the UK
  - there are no reasons to believe you represent a threat to immigration control
  - you are committed to, and actually are, complying with all the duties of sponsorship
- 17.2 We may check sponsors at random. If you are checked, it does not necessarily mean we have doubts about your compliance as a sponsor. We may make these checks before we make a decision on your licence application or after your licence has been granted, during the validity period of your licence. These visits can be announced or unannounced.
- 17.3 If your migrant workers perform their employment duties at a third party's office, it is your responsibility to ensure that the third party is aware of the possibility of unplanned and unannounced visits and checks being conducted at their premises and ensure their full cooperation. If any such third party is uncooperative, we will take action against you.

## What happens during a check?

- 17.4 Our compliance officers carry out the checks and they may visit you and any physical addresses where your migrant workers carry out their work (including a third party's offices).
- 17.5 The compliance officer may want to:
- verify any information you gave on your sponsor licence application which may include taking photographs of the location and the premises from which you are operating your business
  - verify any information you gave in support of any migrant visa or leave applications

- check that you are complying with all of your [sponsor duties](#), or will be able to comply if they visit before your licence application has been decided
- speak to any migrant workers, including any workers you may have previously sponsored
- speak to any of your employees or colleagues involved in the recruitment of migrant workers, inspect records and/or systems to ensure you are following your sponsor obligations and adherence to rules, such as on [‘Record Keeping’](#) as set out in Appendix D of the guidance for sponsors
- conduct checks on other workers to ensure you are complying with your obligation to prevent illegal working

The compliance officer will not give an indication of their assessment or your ability to comply with sponsor duties during the visit.

- 17.6 We may also carry out checks on any licensed sponsor by telephone, or by letter, asking for evidence to support any information you have given us either before or after your licence was granted.
- 17.7 We may also make checks with other government departments.
- 17.8 The compliance officer or any third party working on our behalf, visiting your premises will have official Home Office identification. If you doubt that the official is genuine, you should call us on 0300 123 4699.

## What happens after a check?

- 17.9 If we have carried out a check before making a decision on your application, we will make that decision based on all of the information given by you and gathered by us during the check. We will then tell you of our decision.
- 17.10 If we visit you after we have already approved your application, we will write to you to let you know the outcome of the check.

## Discrepancies or problems discovered during checks

- 17.11 If we find discrepancies on your application after a decision has already been made, we will take action against you.
- 17.12 We may find evidence that you, a representative or a person employed by you who appears to act on your behalf have knowingly deceived us or, cases where we cannot verify statements made or documents given to us by these individuals. In these cases, we will assess the evidence we have and we may take action against you. We may take into account information gained in interviews with your employees.
- 17.13 We may prosecute you, a representative or a person employed by you who appears to act on your behalf under the relevant immigration act or other legislation if you or they have attempted deception. We can refuse future applications involving the same individuals.



## Allegations of abuse of the sponsorship arrangements

- 17.14 If you use deception to get a licence, you may be committing a criminal offence. The compliance officer will consider information about abuse of the sponsorship arrangements and investigate and, if appropriate, tell the relevant authorities.
- 17.15 All sponsorship applications are confidential. We will not pass on information sent with your application to anyone except other government departments, agencies and local authorities where it is needed. However, we will publish sponsors' ratings of A and B on GOV.UK, the ['Rating sponsors'](#) section has more information.
- 17.16 We treat allegations of abuse of the sponsorship arrangements in confidence. Anyone with information about abuse of the sponsorship arrangements can email the [Business Helpdesk](#).

## What will happen if I do not comply with my sponsor duties?

- 17.17 The majority of those who employ overseas workers are honest and willing to comply with their duties. Because sponsorship transfers a significant amount of responsibility for selecting migrants to sponsors, we have a duty to ensure that we deal appropriately with the minority who do not comply with their duties. We place great weight on the importance of trust in the operation of the sponsorship system and the need to ensure that sponsors take their duties seriously.
- 17.18 We have measures to make sure that we enforce sponsors' duties and identify dishonest or incompetent sponsors early. These include your licence being suspended, revoked or downgraded, a limit place on the number of CoS you can assign or unused CoS being withdrawn.
- 17.19 Where we have reason to believe that you have breached your sponsorship duties, we will consider the nature of the suspected breach.

Where the breach is a minor issue, you are willing and able to correct it, and pose no continuing threat to immigration control, we will in most cases support you in making the relevant improvements by issuing an action plan which sets out the steps you must take in order to retain your licence.

Where there is a serious breach indicating:

- a significant or systematic failing
- you no longer meet the eligibility or suitability requirements for holding a licence
- we consider that you constitute a serious threat to immigration control

we may decide either to suspend your licence and investigate further or to revoke your licence without prior suspension.



We may suspend your licence and investigate further when there has been sustained non-compliance over a period of time, or where there have been a number of breaches which are minor in themselves but – taken together – indicate a serious or systematic failing.

If we have grounds to believe that you constitute a serious threat to immigration control, we may revoke your licence without prior suspension.

- 17.20 We may issue a civil penalty if you have broken the rules on illegal working. The '[Penalties for employing illegal workers](#)' page on GOV.UK has information on this.

## Sanctions for employing illegal migrant workers

- 17.21 Employers have a duty to check that their employees have the right to work in the UK and to undertake the work in question. We take action against those who employ illegal workers and do not undertake the correct checks. You can protect yourself by conducting the correct document checks which are set out in published guidance. You must do this check before employment starts. If you employ someone who has no restrictions on their right to be in the UK and work, you only need to make this check once. If the employee has restrictions on their right to be in the UK and to do the work in question, you need to conduct follow up checks. The '[Right to work checks: employer guidance](#)' page on GOV.UK has more information on this.

- 17.22 If you employ workers illegally, you may face the following penalties:

- we may revoke your sponsor licence and you will then be subject to a cooling-off period of 12 months before you can reapply for a licence
- we may issue you with a civil penalty of up to £20,000 for each illegal worker
- if we need to take action to enforce payment of a civil penalty, this could adversely affect your ability to obtain credit
- you may be prosecuted for having in your possession or under your control an identity document (or a copy of it) that is false or improperly obtained and you may go to prison for up to 5 years and/or receive an unlimited fine
- you may be prosecuted for knowingly employing an illegal migrant worker, for which you can go to prison for up to 2 years and/or receive an unlimited fine
- you may be disqualified from acting as a company director
- you may be prosecuted for facilitation or trafficking and if convicted, you may go to prison for up to 14 years and/or receive an unlimited fine
- if you are subject to UK immigration control, and liable for employing illegal workers, this will be recorded on Home Office systems and may be used in the consideration of future immigration applications

- 17.23 If we find that you have employed someone illegally, we may tell other bodies such as:

- the Gangmasters and Labour Abuse Authority
- the Office of the Immigration Services Commissioner (OISC)
- the Insolvency Service.
- HM Revenue and Customs
- another government agency

We publish the details of [employers of illegal workers](#) on GOV.UK.

#### **Related content**

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## 18 Downgrading your licence rating

- 18. If we believe you are not complying with your duties, have knowingly provided false statements or false information, or not provided information that you held when required to, or that you or the individuals you are sponsoring pose a threat to immigration control, we will take action against you.
- 18.1 If you are rated A (Premium) or A (SME+) and we downgrade your licence to a B-rating, we will end your customer services benefits package.
- 18.2 For information on the circumstances in which we **will** downgrade your licence from an A-rating to a B-rating, see [Annex 3](#) of this guidance.
- 18.3 For information on the circumstances in which we **may** downgrade your licence from an A-rating to a B-rating, see [Annex 4](#) of this guidance.

### Process we will follow in deciding what (if any) action to take

- 18.4 Unless downgrading of a licence is mandatory, we will take all the facts of the case into account when deciding what action to take against you under one or more of the circumstances outlined in [Annex 4](#) of this guidance. No two cases are alike and we cannot list all the circumstances in which we may downgrade your licence, limit the number of certificates of sponsorship (CoS) you are allowed to assign or take no action.
- 18.5 If we consider downgrading your licence, we will write to you to tell you what action we propose and why, giving you 20 working days from the date of that letter to respond in writing. We may extend this period at your request if we are satisfied that there are exceptional circumstances.

You may make any written statements you think necessary to respond, including sending evidence. We will not hold an oral hearing. If new evidence comes to light during that period, we will write to you again, giving you another 20 working days to respond on the new evidence.
- 18.6 When we receive a response from you, we will consider this and may ask a compliance officer, other law enforcement agency, government department, agency, local authority, the police, foreign government or other body for information. We will tell you of our decision within 20 working days of receiving your response.
- 18.7 If we do not receive a response from you within the time allowed, we will go ahead with whatever action we believe to be appropriate and will send you our decision in writing. Any decision to downgrade your licence will take effect from the date of the letter we send to you to tell you about our decision. We will send this letter by recorded delivery. The section on '[Sponsorship action plans](#)' provides more information on how and when you must pay your action plan fee.

If we award a B-rating, you will not be able to assign any CoS to sponsor new employees until:

- you have demonstrated your commitment to make improvements by signing up to the measures set out in an action plan
- you have paid the action plan fee

## Sponsorship action plans

18.8 A B-rating is a transitional rating. If you are a B-rated sponsor, you must improve your performance enough to be upgraded to an A-rating within a specified time limit, not exceeding 3 months. If you do not, your licence will be revoked.

18.9 If you are awarded a B-rating, you must adhere to an action plan which will set out the steps you must take to return to, an A-rating. For example, this might include making improvements to your record-keeping, improving your control over staff who assign certificates of sponsorship (CoS), or improving communication between your different branches so you know when a migrant has not turned up for work.

18.10 There is a fee for an action plan, see the '[UK visa fees](#)' page on GOV.UK for more information. This fee covers the cost of preparing the action plan. Where we decide that a B-rating is appropriate, we will write to tell you, and that payment is due for the action plan fee. You will then have 3 options:

- **pay the fee and accept the action plan** - if you do, you must make your payment within 10 working days using the 'Action plan details' function in your SMS account; if you make your payment within 10 working days, you will continue to be a licensed sponsor and we will proceed as set out in paragraphs below
- **decline to pay the fee:**
  - if you are not sponsoring a migrant, you can choose to surrender your licence - to do this you should select the 'decline' option in the 'Action plan payments' function in your SMS account; you must also sign the declaration attached to the letter sent to you, telling you of your B-rating - this confirms you want to surrender your licence; you must return the declaration to us within 10 working days
  - if you select 'decline' but do not return the declaration to surrender your licence within 10 working days, we will revoke your licence
- **do nothing** - if you do not pay the fee within 10 working days, your licence will be revoked

18.11 Once the fee is paid, we will send you your action plan. During the period covered by your action plan, you will not be able to add branches or a new tier to your licence. Also, you will not be able to assign any CoS to new migrants but may assign a CoS to a migrant:

- you are already sponsoring who has leave under Tier 2 or Tier 5 and is eligible to apply to extend that leave
- who holds a valid Work Permit and is already working for you, to apply in the Tier 2 (General) category to continue in the same employment with you

We will agree with you, under the terms of your action plan, how many CoS you can have to cover extension applications during the period covered by your action plan.

18.12 All action plans are set for a fixed period of 3 months. We believe that 3 months is the maximum length of time needed to put right any issues that resulted in you failing to meet your sponsor duties.

After the end of this period, we will visit you to check whether you have met all of the requirements in your action plan and if:

- you have not met the requirements of your action plan, we will revoke your licence
- you have met all of the requirements of your plan and we have no other concerns about you, we will award you an A rating; we will review your allocation of CoS where necessary so that you are able to sponsor new migrants again if needed
- we find other areas of non-compliance have arisen which are not addressed by the current action plan, but are set out in this guidance as circumstances in which we will, or may award a B-rating - then a new, second action plan will be required, you must pay a fee for any further action plan

18.13 If you request it, we will visit you before the end of the 3-month period, but you should only request this if you are certain you have already met all of the requirements set out in your action plan. If you request an earlier visit, we will take the action set out in paragraph 18.12, whether or not the 3-month period has ended. Subject to paragraph 18.14, we will only visit you once to check that you have met all those requirements.

18.14 During the period covered by your action plan, we reserve the right to carry out additional compliance visits if we have information or evidence to suggest that you may be failing to meet your sponsor duties for a reason not covered by your current action plan.

18.15 We will closely monitor your use of any CoS that you assign whilst B-rated. If we find either during the life of your action plan, or later, that you have used any of those CoS to sponsor a new migrant, we will revoke your licence.

18.16 You can only be B-rated and subject to an action plan for a maximum of:

- 3 months at any one time in respect of any single action plan
- 2 times during the validity period of your licence

- 18.17 If you have been B-rated and subject to an action plan twice within the validity period of your licence and we have any further concerns about you which are set out in [Annex 3](#) of this guidance as circumstances in which we will award a B-rating, we will revoke your licence. The validity period of your licence is the 4-year period for which it was first granted and each subsequent 4-year period after a successful renewal.
- 18.18 When you renew your sponsor licence, if the period covered by your action plan starts during the period of your old licence, and ends during the period of your renewed licence, you will be treated as having been B-rated during your new licence and this will count towards the number of times you are allowed to be B-rated during the period of your renewed licence.

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# 19 Revoking a licence

## Can my licence be revoked after it has been granted?

19. Certain circumstances can lead to your licence being revoked. If this happens, it will be revoked in all the tiers, categories and subcategories which you are licensed under.
- 19.1 If any circumstances in [Annex 5](#) of this guidance arise, we will revoke your licence and may do so immediately. We will write to you to tell you that your licence has been revoked. There is no right of appeal and you will not be allowed to apply again for a sponsor licence until the end of the appropriate [cooling-off period](#) from the date your licence is revoked. If we do not revoke your licence immediately, we will suspend your licence pending further investigation. For more information, please see [suspending a licence](#).
- 19.2 For information on the circumstances in which we may revoke your sponsor licence, see [Annex 6](#) of this guidance.
- 19.3 We cannot define in which exceptional circumstances we may not revoke your sponsor licence but, when one of the circumstances listed in [Annex 6](#) of this guidance applies, we view this as a serious matter. We will look for evidence that you have robust processes and procedures in place and have taken all reasonable steps to verify information that you are required to obtain and hold in connection with your duties under this guidance, as well as any information that you send to us.
- 19.4 If the circumstances in [Annex 6](#) of this guidance arise and we believe that the evidence we have shows that you are breaching your duties and/or pose a threat to immigration control, we will suspend your licence. For more information, please see [suspending a licence](#).
- 19.5 If any circumstances in [Annex 4](#) of this guidance arise and we do not believe it is necessary to suspend your licence, we may [downgrade it to a B-rating](#) section has more information.

## What happens to my sponsored migrants if my licence is revoked?

- 19.6 If we revoke your licence, we will:
- immediately curtail the permission to stay in the UK of any migrants whom we believe were actively and knowingly involved (complicit) in the reasons for the revocation of your licence – such as if the migrant agreed that you would arrange a non-existent job for them so they could come to the UK
  - curtail the permission to stay in the UK of any other migrants who were not actively involved usually to 60 calendar days - if the migrant has fewer than 60 calendar days of their leave remaining, we will not shorten it
- 19.7 In the first case above, any migrant with leave in Tiers 2 or 5 will have to leave

the UK or face enforced removal. In the second case above, they will also have to leave or face enforced removal if, at the end of the 60 calendar days, they have not made an application for leave to remain in a category for which they qualify.

- 19.8 We will take action against any migrant with leave in Tiers 1, 2 or 5 who remains in the UK after their permission to stay here has expired. This may result in migrants being detained and removed from the country and any application they make to come to the UK within the next 10 years may be refused.
- 19.9 If your licence is revoked, any CoS you have assigned automatically become invalid. This means that any application for entry clearance to the UK or leave to remain in the UK made on the basis of the CoS will automatically be refused.
- 19.10 Where a migrant has already been granted entry clearance to the UK when we revoke your licence, if they have not yet travelled to the UK, their entry clearance will be cancelled under [paragraph 30A \(ii\) of the Immigration Rules](#). If the migrant has travelled to the UK, they will be refused entry to the country under [paragraph 321A\(1\) of the Immigration Rules](#).
- 19.11 If your sponsor licence is suspended while we are considering an application for settlement, also called 'indefinite leave to remain' (ILR), from a Tier 2 or 5 migrant that you are sponsoring, we will not make the decision on their settlement application until the outcome of the suspension is decided. If the licence is revoked, we will then refuse the settlement application.

### **If my licence is revoked, can I apply again?**

- 19.12 Once your licence has been revoked, you cannot make a further application for a sponsor licence until the end of the appropriate cooling-off period from the date your licence was revoked. If you do make an application before this period has passed, it will be refused. The only exception to this is if your licence was revoked in error. If this happens, we will contact you to make arrangements for it to be reinstated.
- 19.13 If you do apply again after the [cooling-off period](#), we will treat it the same as any other application. You will have to pay the right fee and send in all relevant documents suitable to the tier, category or subcategory you are applying for. You should address any reasons why your previous licence was revoked before you re-apply.

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## 20 Suspending a licence

20. If we believe you are breaching your duties and pose a threat to immigration control, for example, assigning certificates of sponsorship (CoS) to migrants who do not qualify to come to the UK, we may suspend your licence while we make further enquiries.

20.1 You will not be able to assign any CoS while your licence is suspended. You must continue to comply with all sponsor duties and any requirements set out in this guidance, throughout the period of suspension. If your licence is due to expire during the period of suspension, you must still apply to renew it if you want to keep it.

20.2 If your licence is suspended, it is suspended in all the tiers and categories you are licensed under and we will remove your entry from the public version of the register of sponsors during the suspension period.

Migrants who you are sponsoring at the time of the suspension won't be affected, unless we decide to revoke your licence.

20.3 If we decide to revoke your licence, we will write to you to tell you of this. There is no right of appeal and you won't be allowed to apply for a sponsor licence again until the end of the appropriate [cooling-off period](#) from the date your licence is revoked.

20.4 If we decide not to revoke your licence, we will lift the suspension and reinstate your entry on the public version of the register of sponsors on the GOV.UK website.

### Process we will follow in deciding what (if any) action to take

20.5 Where any of the criteria arise listed in [Annex 6](#) as those which 'may' result in revocation of your licence, we will first consider downgrading your licence. However, we may decide to suspend your licence without first downgrading it. For more information, please see [downgrading to a B-rating](#).

20.6 If we suspend your licence, the process will then continue in one of the following ways:

#### **Process 1**

20.7 Where we are satisfied that we have enough evidence to suspend your licence without further investigation, we will write to you giving reasons for the suspension.

20.8 You have 20 working days from the date of the written notification, to respond to our letter. This is your opportunity to seek a review of our decision and to set out any mitigating arguments you believe exist. Your response to us must be made in writing and set out, with supporting evidence, which grounds you

believe to be incorrect and why. We may extend this period if we are satisfied that there are exceptional circumstances. We will not hold an oral hearing.

20.9 If we identify any additional reasons for the suspension of your licence during that 20-day period, including any additional information gained during the course of discussions or interviews with migrants to whom you have assigned a CoS, we will write to you again, giving you another 20 working days to respond in writing to the additional reasons.

20.10 When we receive a response from you, we will consider this and may ask any compliance officer, other law enforcement agency, government department, agency, local authority, the police, foreign government or other body for information.

20.11 If we do not receive a response within the time allowed, we will go ahead with whatever action we believe is appropriate and tell you of our decision in writing.

Appropriate action may be to re-instate your licence with either an A-rating or a B-Rating, and/or stop you from assigning CoS and prevent the use of any assigned but unused CoS, or to revoke your licence.

20.12 We will tell you of our final decision within 20 working days of receiving your response unless the consideration is exceptionally complex or we are waiting for information from a third party such as HM Revenue & Customs. In this case, we inform you of the delay.

Any action taken as a result of our decision will take effect from the date of the letter we send to you telling you of our decision. We will send this letter by Royal Mail Signed For delivery.

## **Process 2**

20.13 Where we have evidence that warrants your licence being suspended pending a full investigation, we will write to you giving our initial reasons for suspension and telling you that an investigation will take place. It may not be possible to say how long the investigation will take, but we will update you on our progress at regular intervals. During this period, you can make any written statements to respond, including sending evidence. Any statement or evidence will be taken into account during the investigation.

You have 20 working days from the date of the written notification, to respond to our letter. This is your opportunity to seek a review of our decision and to set out any mitigating arguments you believe exist. Your response to us must be made in writing and set out, with supporting evidence, which grounds you believe to be incorrect and why. We may extend this period if we are satisfied that there are exceptional circumstances. We will not hold an oral hearing.

20.14 When the investigation has been conducted, we will write to you again, giving the initial reasons for the suspension of your licence.

20.15 If we identify any additional reasons for the suspension of your licence during

that 20-day period, including any additional information gained during the course of discussions or interviews with migrants to whom you have assigned a CoS, we will write to you again, giving you another 20 working days to respond in writing to the additional reasons.

- 20.16 When we receive a response, we will consider it and may ask any compliance officer, other law enforcement agency, government department, agency, local authority, the police, foreign government or other body for information. We will tell you of our decision within 20 working days of receiving your response unless the consideration is exceptionally complex or we are waiting for information from a third party such as HM Revenue & Customs. In this case, we will tell you of the delay.
- 20.17 If we do not receive a response from you, we will go ahead with whatever action we believe is appropriate and will tell you of our decision in writing. (Appropriate action may be to re-instate your licence with either an A-rating or a B-Rating, and/or stop you from assigning CoS and prevent the use of any assigned but unused CoS, or to revoke your licence.)
- 20.18 Any action taken will take effect from the date of the letter we send to you telling you of our decision. We will send this letter by Royal Mail Signed For delivery.

### **What happens if my sponsor licence is reinstated after being suspended?**

- 20.19 If your licence has been suspended and we do not later revoke it, we will reinstate it either as an A-rating or a B-rating.
- 20.20 If we reinstate your licence with a B-Rating, you will not be given a further 20 working days to reply as this process will have been completed during the period your licence was suspended.
- 20.21 Re-instatement with a B-rating means you must comply with an action plan. We may also reduce, or set to zero, the number of CoS you are allowed to assign. See the '[Sponsorship action plans](#)' section for more information.

### **What happens to my sponsored migrants if my licence is suspended?**

- 20.22 You will not be able to assign any certificates of sponsorship (CoS) when your licence is suspended.
- 20.23 While your licence is suspended, if a migrant makes an application supported by a valid CoS that you assigned before your licence was suspended, we will not decide their application until the reason for suspension has been resolved, unless the application falls for refusal on other grounds (including where we consider that the job is not a genuine vacancy).

- 20.24 If a migrant has already been granted entry clearance on the basis of a CoS assigned by you but they have not yet travelled to the UK, they will be allowed to enter the UK and start working for you. We advise all migrants to check the [status of their sponsor's licence](#) before they travel.
- 20.25 During the time that your response is being prepared or considered, we may tell migrants who have been assigned a CoS by you that you are suspended from the sponsor register, however, we will not disclose the reasons why.

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## 21 Surrendering your licence

21. If you no longer wish to sponsor migrants, and have no sponsored migrants working for you, you may surrender your licence using your sponsorship management system (SMS) account. When you send the request to surrender your licence, we will tell you what documents you must send to us where appropriate. You will also need to sign a declaration. We will remove your entry from the '[Register of licensed sponsors: workers](#)' on GOV.UK. The '[What happens if my circumstances change](#)' section has more information on what to do if you do not have a level 1 user and cannot surrender your licence using your SMS account.
- 21.1 We will not refund all or part of your licence fee if you surrender your licence.
- 21.2 You may choose to surrender your licence in all the tiers, categories and subcategories at the same time or surrender just in certain tiers, categories or subcategories. You must clearly show which part you are surrendering when requesting the change of circumstances using your SMS account.
- 21.3 When you make this request, you must give evidence that you no longer have responsibility for any migrants whom you previously sponsored. If you do have any migrants, we will revoke your licence and curtail the migrants' permission to stay in the UK, which may lead to them being removed from the UK.
- 21.4 If you surrender your licence, you can re-apply to join the sponsor register at any time. You will have to pay the right fee and produce all relevant documents appropriate to the tier, category, or subcategory you are applying for.
- 21.5 If you wish to surrender your licence while we are taking compliance action against you (from when we tell you about your suspension by email), you may do so but you will be subject to the appropriate [cooling-off period](#) before you can reapply for another licence.

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## 22 Renewing your sponsor licence

22. Your licence start and end date, and the date you can make an application to renew your licence, can be viewed using the 'Licence summary' function in sponsorship management system (SMS) account. Your licence end date is the last date you can make an application to renew your licence. If you do not make your renewal application by this date, your licence will expire the following day. If we grant your application to renew your licence, your end date and future renewal date will be updated.
- 22.1 If you have been granted a licence and later applied for an extra tier, category or subcategory, the expiry date of the original licence will apply to all extra tiers, categories or subcategories which you added.
- 22.2 If you do not apply to renew your licence and it expires, you will no longer be a licensed sponsor from the date that it expired. This means that:
- you will not be able to access your SMS account
  - you cannot assign any more certificates of sponsorship (CoS)
  - we will curtail (shorten) the Tier 2 or Tier 5 leave of any migrants you are sponsoring to 60 calendar days
  - your details will be removed from the ['Register of licensed sponsors: workers'](#) on GOV.UK
- 22.3 If you have any sponsored migrants working for you, you must renew your licence before it expires if you want them to continue working for you, even if you do not plan to sponsor any new migrants.
- 22.4 It is your responsibility to renew your licence and you must make sure you apply in good time. We will send you reminders but if you leave it until the last minute and have a problem, such as if there is a problem with your internet service, we cannot stop your licence from expiring.

### How to renew your licence

- 22.5 You must apply to renew your licence using your SMS account. You will be able to make your renewal application from 90 days before the expiry date of your licence.
- 22.6 You must review the current version of the sponsor guidance to ensure that you are aware of any changes that affect you, for example, you must have an employee who is a level 1 user, in order to ensure that you will be able to fulfil your sponsor duties. You must ensure that you are compliant with any requirements that have been introduced since your first licence approval.
- 22.7 We will write to you 120 calendar days before the expiry of your licence to confirm your licence expiry date and tell you that you will soon need to apply to renew it. We will write to you again 90 calendar days before the expiry of your licence to remind you to renew your licence.

More reminders to renew your licence will be sent:

- 60 calendar days before it is due to expire
- 30 calendar days before it is due to expire
- 14 calendar days before it is due to expire

22.8 There is a fee for renewing your licence. The fee will be the same as it would be if you were applying for a licence for the first time. Fees can be found on the '[UK visa sponsorship for employers](#)' page on GOV.UK.

This guidance explains that there are different fees for small and large companies. Understanding the difference is important because if you pay the wrong fee, your application to renew your licence may be rejected. You may also be charged incorrect [immigration skills charge](#) fees throughout the life of your licence.

## How the application process works

22.9 The licence renewal function in your sponsorship management system (SMS) account can only be accessed by a level 1 user. You should talk about your licence renewal with your authorising officer before a level 1 user sends your application. When the level 1 user sends the application, they will be confirming that they have the consent of your authorising officer.

22.10 At the end of the process, the level 1 user will be asked to make an online payment to cover the licence renewal fee and print off a summary sheet for your information. You do not need to send us any documents at this stage.

22.11 If you pay:

- the small licence fee when you should have paid the large fee, your application will be rejected
- the large fee when you should have paid the small fee, your application will be accepted and we will refund the difference

22.12 If your application is accepted, we will temporarily extend the expiry date of your licence to allow us time to conduct any checks we decide necessary before deciding your application.

22.13 The checks we make could include asking you to send us some documents. We may want to see any documents listed in [Appendix A](#) of the guidance for sponsors as mandatory documents for anyone applying for a new sponsor licence. We may also ask for other information or documents not listed in [Appendix A](#). If we write to you to ask for any information or documents, you must send them within 5 working days.



22.14 If you do not send the documents within this time, we will take action against you. This can include:

- reducing or removing your CoS allocation
- [downgrading your licence to a B-rating](#)
- [suspending your licence](#) pending further investigation
- [revoking your licence](#)

22.15 We may visit you when you apply to renew your licence. If you are an A-rated sponsor at the time you apply and, on our visit, we have concerns about any of your actions as sponsor, we will either:

- grant your application to renew your licence but [downgrade it to a B-rating](#)
- revoke your licence - [Annexes 5](#) and [6](#) of this guidance set out the circumstances in which we will, or may, revoke your licence

22.16 If your licence is B-rated at the time you apply, you will remain under your sponsorship action plan and we will not make a final decision on your application until the period covered by your plan has passed. For example, if your licence is due to expire on 1 July 2020, but you are subject to an action plan until 30 June 2020, we will not make a final decision on your application before 30 June 2020.

22.17 If your licence is suspended but is due to expire, you must still renew it. If you don't renew it and the result of the suspension does not lead to your licence being revoked, we will not be able to reinstate your licence if it has expired.

22.18 If we have granted you access to a dormant sponsor licence because you have been involved in a merger, takeover or other restructuring exercise, you do not need to do anything about that dormant licence expiring. You will continue to be able to access it until the last grant of leave for a migrant sponsored under that licence has expired.

## Timing your licence renewal application

22.19 We recommend that you renew your licence early, or at least one month before the expiry date. If you apply in good time, you will have the chance to apply again if your application is rejected. If your licence has expired when we make a decision to reject or refuse your application, you will not be able to make another application to renew your licence.

22.20 If you delay your renewal application and it is rejected, you risk the possibility that your licence expiry date will have already passed and you will not be able to make another application to renew because it will have expired. Paragraph 22.2 above has more information on the consequences of your licence expiring.

## Declining to renew your licence

22.21 You may decline to renew your licence because you no longer sponsor any migrants and do not intend to sponsor any in the future.



- 22.22 The renewal function in your SMS account includes an option to 'decline' to renew your licence. If you choose to decline and work through this process to its end, you will not be able to change your mind afterwards and your licence will expire on its due date. Nothing can be done to change or reverse this.
- 22.23 If you decline to renew your licence, either deliberately or in error, once it has expired, we will curtail the leave of any migrant you were sponsoring, normally to 60 calendar days. Paragraph 22.2 above has more information.
- 22.24 If you do successfully apply again for a new licence, you cannot continue to sponsor migrants as though nothing has happened. You are in the same position as a newly licensed sponsor and if you want to employ a migrant again, where appropriate you must first carry out a resident labour market test properly, unless an exemption applies.
- 22.25 If the resident labour market test shows there are no suitable settled workers available to fill the post, or there is an exemption from the resident labour market test, only then can you continue to employ that migrant. You must assign a new CoS to them and they must apply for leave to remain in the UK before their current leave expires. If a Tier 2 or Tier 5 migrant's leave expires before they make a further application, they will have to leave the UK or face enforced removal.

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## 23 Certificate of sponsorship

### What is a certificate of sponsorship?

23. A certificate of sponsorship (CoS) is not a paper certificate or document, but a virtual document, like a database record. When you have followed all of the rules set out in this guidance and you are ready to sponsor a migrant under Tier 2 or Tier 5, you must assign a CoS to them using your sponsorship management system (SMS) account. This involves working through a short online form where you give us information about the migrant you want to sponsor and the work they will do. All of the information you enter will be stored and can be viewed by us. A CoS can only be assigned by a person who has access to the SMS as a level 1 or level 2 user.
- 23.1 When you assign a CoS, a reference number is generated and you must give this number to the migrant you want to sponsor. They must then include the reference number in their application for entry clearance if outside the UK, leave to remain under Tier 2 or Tier 5 if inside the UK. When you give the CoS number to the migrant, you should treat it as a secure and confidential document.
- 23.2 The migrant may ask for other information that was part of the process of generating the reference number. You can give the migrant a copy of their CoS, although they don't need it, and there is a function within your SMS account to print any CoS you have assigned. You can do this by using the 'View CoS' function, where you can open the CoS and choose 'Print'. The ['SMS user guide'](#) has more information on how to use this function.
- 23.3 As the Tiers 2 and 5 leave to remain application forms can now only be accessed online, any migrants you sponsor may ask you to allow them access the Internet at your premises. You should consider allowing them to do so, especially if they wouldn't otherwise have access to the Internet, as failure to do so may mean they would not be able to apply to extend their stay in the UK. You should also consider offering support, but without giving immigration advice, to those who do not have the ability or confidence to use online services on their own, so they can complete their application.
- 23.4 When a CoS you have assigned has been used to support an application, it will show in your SMS account as 'used' and it cannot then be used again. If the migrant's application is refused and they wish to re-apply, you must assign a new CoS to them to quote on their new application. The only exception is where the CoS has been assigned to and used by a migrant who is a non-visa national and who is entering the UK for no more than 3 months under the [Tier 5 Creative and Sporting visa concession](#).
- 23.5 If the migrant's application was rejected or withdrawn, the CoS will still show in your SMS account as 'assigned'. It can then be used again to support a further application.

- 23.6 Processes are in place at the port of entry for migrants who come to the UK under the [Tier 5 Creative and Sporting visa concession](#), if they have not applied for entry clearance because they are:
- non-visa nationals; that is, not nationals who must always have a visa to enter the UK – see [Appendix V.2](#) to the Immigration Rules
  - seeking entry to the UK for 3 months or less
- 23.7 Under the Tier 5 (Temporary Worker) Creative and Sporting, you can assign a 'group CoS' to all members of a group. The '[Assigning a CoS under Tier 5 in the creative and entertainment sector](#)' section has more information about a group CoS.
- 23.8 Once you have assigned a CoS, it can be used by the migrant you have assigned it to in support of their application at any time during the 3-month period from the date it was assigned. During this period, a migrant cannot be assigned another CoS by any other sponsor. If the migrant does not use the CoS within this 3-month period to make an application, it will expire and will show as 'expired' in your SMS account. Please note, that a migrant cannot apply for Tier 2 or Tier 5 leave more than 3 months in advance of the start date stated on their CoS.
- 23.9 The start date given on the CoS must be the date that the migrant is expected to start working for you at the time the CoS is assigned.
- If such start date for a Tier 2 (General) migrant is subsequently changed after leave has been granted, it must be within 28 days from the later of:
- the date on which their entry clearance or leave to remain is granted
  - the start date on their CoS (taking into account any changes to start date properly reported before leave is granted)
- 23.10 Assigning a CoS does not guarantee that the migrant will succeed in being granted entry clearance or leave to remain. They must meet all of the criteria for the Tier 2 or Tier 5 leave they are applying for.
- 23.11 Before assigning a CoS, you should talk to the migrant about their current immigration status, as this may affect any application they make because of the rules on switching ('changing') from one immigration category to another. The rules on switching for Tier 2 and Tier 5 migrants can be found in '[Part 6A of the Immigration Rules](#)' on GOV.UK.

## How many certificates of sponsorship will I be allowed to assign?

- 23.12 When applying for a licence, we ask you for an estimate of the number of certificates of sponsorship (CoS) you may assign in your first year in each tier, category or subcategory. You must justify your request.
- 23.13 You can only have an annual allocation of Tier 2 (General) CoS for the

following, which we call 'unrestricted' CoS:

- any migrants already working for you under Tier 2 (General) or via a Work Permit, who will need to extend their stay in the UK to continue working for you
- high earners – any migrants you may recruit with an annual salary of £159,600 or more
- any migrants you may recruit who are already in the UK under another immigration category and who are allowed to switch ('change') into Tier 2 (General)

**Note:** the only exception to this is where the migrant is in the UK as the dependant of another migrant who was last granted leave under Tier 4 and will be paid less than £159,600; these dependants count towards the annual limit under Tier 2 (General), they must have a restricted CoS to apply for leave, the ['Tier 2 \(General\) limit'](#) section has more information

23.14 We allocate unrestricted CoS under Tier 2 (General) and all Tier 2 (ICT) CoS in line with the financial year. When you ask for CoS under those categories, you must tell us how many you may need to the end of the financial year in which you are applying and justify why you need them. [Appendix A](#) of this guidance tells you what information you should provide about the jobs you wish to fill.

23.15 You cannot have an annual allocation of CoS to employ new migrants who will be paid less than £159,600 per annum and who will apply from overseas for leave to enter the UK under Tier 2 (General). Instead, you must follow the guidance which explains how to apply for these 'Restricted' CoS. The ['Restricted CoS application cycle'](#) and ['How to apply for a restricted CoS'](#) sections have more information.

23.16 If we approve your licence, we will set a limit on the number of CoS you can assign, and your request may not be granted in full. The limit may be either:

- your requested number of CoS
- a lower limit if you are B-rated (and have paid the fee for a sponsorship action plan), a start-up organisation or have any history of not complying with the Immigration Rules
- your allocation of CoS may be set to zero if you are unsure whether or when you may need to recruit any migrants in the future

23.17 In setting the limit, we consider:

- your previous record in dealing with us including dealings with the work permit arrangements
- the kind of business you conduct
- the extent of the business you conduct
- the length of time trading

23.18 Once we agree the number of CoS you can assign, we will allocate them to

your SMS account. You have 12 months from the date your licence started, in which to assign them. We call this your 'CoS year'. For unrestricted CoS under Tier 2 (General) and all CoS under Tier 2 (ICT), the CoS year will always run from 6 April in one year to 5 April in the following year. Your first allocation under those tiers will run out on 5 April.

- 23.19 If, part way through your CoS year, you think you will not have enough to last until the end of your CoS year, you can apply for more. You do this using your [SMS account](#). The exception is if you want any Tier 2 (General) 'restricted' CoS, which you can only apply for using the process in the '[Restricted CoS application cycle](#)' and '[How to apply for a restricted CoS](#)'.
- 23.20 We may reduce the number of CoS you are allowed to assign if your circumstances change taking into account the reasons above. This could be if you down-size, or if we believe you pose a threat to immigration control such as if, after your original CoS allocation, we take action against you as described throughout this guidance.
- 23.21 We also keep your performance under review and may change the number of CoS you can assign at any time if circumstances make it necessary. We reserve the right to refuse any request or application for a Tier 2 (General) CoS if we are not satisfied that you are able to offer genuine employment that meets the Tier 2 (General) requirements on skill level and appropriate rates of pay.
- 23.22 Any CoS that remain unused at the end of your CoS year will be removed from your SMS account. You cannot carry over any unused CoS to the next year. At the end of each CoS year, you can [apply for a further allocation for the next CoS year](#) if you think you will need some, using your SMS account. This is an annual process that occurs during the validity period of your licence.
- 23.23 In some cases, you will not have to apply for your next year's allocation; we will simply give you a further year's allocation which will be equal to the number of CoS you assigned in the previous year. If we are able to do this, we will write to tell you. If we have not told you that we will do this, you must apply as usual towards the end of your CoS year.
- 23.24 You are responsible for anything done by a representative or a person employed by you who appears to act on your behalf. We can revoke, suspend or downgrade your licence or reduce or remove the number of CoS you can assign if you do not comply with the rules on assigning or applying for an allocation of CoS.

## **Cancelling a certificate of sponsorship**

- 23.25 We can cancel a certificate of sponsorship (CoS) assigned by you if we find it should not have been assigned, for example, if it was assigned through misrepresentation or fraud.
- 23.26 You can withdraw a CoS assigned to a migrant which has not yet been used to support an application for leave to enter, or remain in, the UK. This can be

done using your SMS account.

23.27 A migrant can only have one CoS assigned to them at any given time. If you have assigned a CoS to a migrant who intended to start working for you, but then decided to take up a job offer with a different sponsor, they must contact you to arrange the withdrawal of their CoS. This is because the sponsor who they want to start work for will not be able to assign a CoS to them until you have withdrawn the one you assigned. They must request this in writing or by email giving you 5 working days to action this. If you do not action their request, they must send a reminder, after which you will have a further 5 working days.

23.28 If you refuse, or fail to withdraw, the CoS within the set time the migrant can ask us to cancel it. We will not cancel it until we have talked to you about why you have not done as they have asked. Failure to action this request from a migrant, within the set time, may lead to us taking action against you.

23.29 When a CoS is cancelled or withdrawn, the fee will not be refunded and we will refuse any application that is supported by that CoS.

23.30 If a migrant is in the UK with entry clearance or leave to remain, we will cancel or curtail their leave if we find the CoS which supported their application was improperly assigned. If this happens:

- their permission to be in the UK as a Tier 2 or Tier 5 migrant will be curtailed, normally to 60 days if they were not actively involved in the CoS being assigned, or issued improperly
- immediately curtailed if they were actively involved

#### **Related content**

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## 24 Sponsoring migrants

24. All migrants you wish to sponsor under Tier 2 and Tier 5 must have been granted entry clearance before coming to the UK. The only exception is for non-visa nationals in the Tier 5 (Temporary Worker) Creative and Sporting subcategory who are seeking entry for less than 3 months. See [Tier 5 \(Temporary Worker\) Creative and Sporting visa concession](#) for more information on this.
- 24.1 Migrants cannot make a valid application for entry clearance or leave to remain in the UK under the Tier 2 or Tier 5 categories without a CoS.
- 24.2 A CoS is confirmation from you as a licensed sponsor that:
- you wish to sponsor a migrant
  - you have met all of the rules set out in this guidance in respect of the information you have entered on the CoS
  - the migrant will be able to make a successful application for permission to enter, or remain in, the UK
- 24.3 We make the final decision on who is allowed to enter, or remain in, the UK and this will be based on the requirements of the Immigration Rules. Assigning a CoS does not guarantee an application will be granted.
- 24.4 All payments you make to migrants that you sponsor under Tier 2 or Tier 5 must be made into their own bank account in the UK or overseas. You must not pay them in cash. Pre-paid cards such as FOREX are acceptable, but you must be able to give evidence that you have made payments onto the migrant's card.
- 24.5 For each migrant, you must keep the documents specified in [Appendix D](#) of the guidance for sponsors.

### Tier 2 skilled workers

- 24.6 Tier 2 allows UK employers to employ nationals from outside the settled workforce to fill skilled jobs which cannot be filled by settled workers. A migrant sponsored under any Tier 2 category must not displace a suitable settled worker, which means that you can only offer a job to a migrant you wish to sponsor under Tier 2 if there is no suitable settled worker available to fill the vacancy.
- 24.7 A settled worker cannot be made redundant to create a vacancy to be filled by a Tier 2 migrant.

### Skill level for jobs under Tier 2 (General) and Tier 2 (Intra-Company Transfer)

- 24.8 Apart from the exceptions listed below, migrants sponsored under Tier 2 (General) and Tier 2 (Intra-Company Transfer (ICT)) can only work in a skilled



occupation at or above Regulated Qualifications Framework (RQF) level 6, or the equivalent in Wales or Scotland. This does not mean that the person employed to fill the job must be educated to that level, it means that the work that person will do is pitched at that level.

24.9 The only exceptions to this skill level rule are where the migrant:

- will be sponsored under Tier 2 (General) for a job in a [shortage occupation](#) listed in [Appendix K](#) to the Immigration Rules
- will be sponsored under Tier 2 (General) for a job listed in Table 2A of [Appendix J](#) to the Immigration Rules
- will be sponsored in one of the following creative sector standard occupational classification (SOC) codes:
  - 3411 – Artists
  - 3412 – Authors, writers and translators
  - 3413 – Actors, entertainers and presenters
  - 3414 – Dancers and choreographers
  - 3422 – Product, clothing and related designers
- will be applying for entry clearance or leave to remain for employment at RQF level 3 or above under the new points-based immigration system that will come into force from 1 January 2021 – see [Annex 9](#) for details

**Note:** the transitional arrangement for extension and change of employment applications for workers sponsored before 6 April 2011 at RQF level 3 only applies to CoS assigned before 6 April 2017. This transitional arrangement closed on 5 April 2017. We will continue to allow workers sponsored at the RQF level 3 to apply for settlement on or after 6 April 2017. Similarly, the transitional arrangement for extension and change of employment applications for workers sponsored between 6 April 2011 and 13 June 2013 at RQF level 4 only applies to CoS assigned before 6 July 2018. This transitional arrangement closed on 5 July 2018. We will continue to allow workers sponsored at the RQF level 3 to apply for settlement on or after 6 July 2018.

24.10 If you sponsor a migrant who is already in the UK, you will need to find out when they were first granted leave under Tier 2 or the Work Permit arrangements to work out whether they are allowed to take the job you intend to offer them. You should ask for any evidence they have from when they first successfully applied for Tier 2 or the Work Permit arrangements before assigning a CoS. If you assign a CoS and their application is refused because the skill level requirement is not met, we will not refund the CoS fee.

24.11 Further information about which jobs are at these different skill levels is available in [Appendix J: codes of practice](#) and in [Appendix K: shortage occupation list](#) to the Immigration Rules, which are available on GOV.UK.

You should use the Codes of Practice in [Appendix J](#) to determine what the skill level and appropriate rates of pay are for any job you may want to recruit for, and to obtain the relevant Standard Occupational Classification (SOC) code needed when assigning a certificate of sponsorship. The SOC is a



common classification of occupations developed by the Office for National Statistics.

[Appendix J](#) includes tables of SOC codes broken down by skill level. You should check the example job tasks to determine the relevant SOC code you want to recruit for, and to confirm the appropriate pay rate for that role.

[Appendix J](#) includes positions which meet the current Tier 2 criteria and those which are of a lower skill level. You must select the most appropriate SOC code for the position.

If you already know the SOC code or occupational description for a job ('2231' or 'nurses' for example), you can perform a keyword search using the word search function in your browser. Clicking through the search results will take you to all references within the document, including the supplementary descriptions and salary rates for this job.

[Appendix J](#) also contains a table for the conversion of a formerly used SOC 2000 code to the relevant corresponding SOC 2010 one. These are listed in numerical order. (If you know the SOC code you want to use, but you have not used it since 6 April 2013, you should check this table to make sure it has not changed since you last used it.)

You can find more information, including example job tasks and guides to help you match jobs to the most appropriate SOC code, on the Office for National Statistics website. If you require assistance in obtaining a SOC code, however, please contact the Office for National Statistics by sending an email to [occupation.information@ons.gov.uk](mailto:occupation.information@ons.gov.uk), and supply the following information:

- the job title
- job description
- qualifications needed to do the job

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## 25 Standard occupational classification code

25. When you assign a certificate of sponsorship (CoS), you must choose the standard occupation classification (SOC) code which contains the job description that best matches the role you want to recruit for. The codes of practice in [Appendix J](#) to the immigration Rules contains information about each SOC code and sample job titles and duties that fit within each code. You should be able to find the correct SOC code by searching Appendix J for job titles or key words.
- 25.1 You may find that if you search for job titles, the SOC code containing that job title does not match the duties that the migrant will perform. This is because different employers use the same job title to describe different jobs, or use generic job titles that cover several different jobs. If this happens, you should search further, for example, using key words, for a job description that matches the migrant's duties.
- 25.2 If you use the wrong SOC code when assigning a CoS or applying for a restricted CoS, this could lead to an application being delayed or refused.

### Transitional arrangements for standard occupational classification code: skill level

- 25.3 If you are already sponsoring a migrant whose certificate of sponsorship (CoS) was assigned before 6 April 2013 and their occupation now falls within a standard occupational classification (SOC) code that no longer meets the requirements on skill level, and they wish to apply to extend their stay to continue in that job, their application will not be refused on this point. The '[Skill level for jobs under Tier 2 \(General\) and Tier 2 \(Intra-Company Transfer \(ICT\)\)](#)' section has more information.

### Information on the overseas criminal record certificate requirement

- 25.4 From 6 April 2017, Tier 2 (General) applicants being sponsored to fill a vacancy covered by one of the standard occupation classification (SOC) codes listed below will be required to send a criminal record certificate from each country in which they have been present continuously or cumulatively for 12 months or more in the 10 years before making their visa application:
- 1181 - Health services and public health managers and directors
  - 1184 - Social services managers and directors
  - 2211 - Medical practitioners
  - 2212 - Psychologists
  - 2213 - Pharmacists
  - 2214 - Ophthalmic opticians
  - 2215 - Dental practitioners

- 2217 - Medical radiographers
- 2218 - Podiatrists
- 2219 - Health professionals not elsewhere classified
- 2221 - Physiotherapists
- 2222 - Occupational therapists
- 2223 - Speech and language therapists
- 2229 - Therapy professionals not elsewhere classified
- 2231 - Nurses
- 2232 - Midwives
- 2312 - Further education teaching professionals
- 2314 - Secondary education teaching professionals
- 2315 - Primary and nursery education teaching professionals
- 2316 - Special needs education teaching professionals
- 2317 - Senior professionals of educational establishments
- 2318 - Education advisers and school inspectors
- 2319 - Teaching and other educational professionals not elsewhere classified
- 2442 - Social workers
- 2443 - Probation officers
- 2449 - Welfare professionals not elsewhere classified

Their adult family members ('dependants') are also subject to this requirement.

We advise you to inform prospective employees of this new requirement as early as possible to ensure they are made aware in advance of applying for a visa so that they have sufficient time to acquire the relevant documentation.

Further guidance about the requirement can be found on the '[Criminal records check for overseas applicants](#)' page on the GOV.UK website.

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## 26 Rates of pay

### Appropriate rate for Tier 2 (General)

26. The rules concerning rates of pay for Tier 2 (General) migrants are set out in paragraphs 79 to 79D of [Appendix A](#) to the Immigration Rules.

26.1 Unless an exception as outlined in this section applies, the minimum salary you must pay a Tier 2 (General) migrant is **whichever is the higher of:**

- £30,000 per year
- the appropriate rate for the job as stated in [Appendix J](#) to the Immigration Rules

26.2 These thresholds have been set to make sure that the resident labour market is not undercut. The rates are in line with current earnings of settled workers and are updated regularly to reflect the latest available salary data.

**Note:** the salary thresholds for skilled workers will change from 1 January 2021 under the new points-based immigration system. For further information see [Annex 9](#) of this guidance and '[The UK's Points-Based Immigration System: Policy Statement](#)' on GOV.UK.

### New entrant rates

26.3 For most jobs in [Appendix J](#) to the Immigration Rules, there are 2 pay thresholds. The lower pay threshold is for 'new entrants'; the other pay threshold is for 'experienced' workers. If the migrant qualifies as a 'new entrant', you must pay whichever is the higher of:

- £20,800 per year
- the appropriate 'new entrant' rate specified in [Appendix J](#) to the Immigration Rules

26.4 The new entrant pay threshold reflects the fact that people in the early stages of their career are generally paid less than their more experienced counterparts. Unless the CoS is assigned for more than 3 years and one month, the new entrant threshold applies if you have met the resident labour market test by carrying out a [milkround](#), or the migrant is changing ('switching') into Tier 2 (General) under the [post-study work](#) provisions.

26.5 Unless the CoS is assigned for more than 3 years and one month, the new entrant pay threshold also applies if the migrant is under the age of 26 on the date of their application for Tier 2 leave.

26.6 You should not sponsor a migrant at the 'new entrant' pay threshold if you expect that you will want to sponsor them for more than 3 years and one month and you will not pay them the experienced rate after this time.

26.7 In all cases, including where the migrant is applying for a period of leave which

will bring their total stay under any combination of Tier 2 leave, or as a Work Permit holder, beyond 3 years and one month, the 'experienced worker' threshold must be paid. This means that any worker initially sponsored at the 'new entrant' threshold must be paid at least £30,000 or the 'experienced worker' rate for their job as specified in Appendix J, whichever is the higher, if they are needed for more than three years. This includes where:

- the migrant is still under the age of 26, but is applying to extend their stay in a Tier 2 category to 5 years
- you assign a CoS for more than 3 years and one month

## Public service occupation

26.8 If the migrant will be sponsored in one of the following public service standard occupational classification (SOC) codes, you must pay a minimum of £20,800 per year or the appropriate rate of pay in the codes of practice in [Appendix J](#) to the Immigration Rules, whichever is higher:

- 2217 Medical radiographers
- 2231 Nurses – but see below if you are sponsoring a pre-registration nurse
- 2314 Secondary education teaching professionals – subject teachers in maths, physics, chemistry, computer science and Mandarin only
- 3213 Paramedics

## Pre-registration nurses and midwives

26.9 If you are sponsoring a pre-registration nurse (SOC 2231) or pre-registration midwife (SOC 2232) under Tier 2 (General), you can pay them at the [NHS Agenda for Change](#) Band 3 rate until they achieve full Nursing and Midwifery Council (NMC) registration, provided you confirm that they will sit an objective-structured clinical examination (OSCE) to obtain NMC registration no later than 3 months after the start date on their CoS. You must be able to provide evidence of this from the NMC if asked to do so.

26.10 In these circumstances, you can pay the pre-registration nurse or midwife at the Band 3 rate until the earliest of the following events:

- registration with the NMC is successfully completed
- the application for registration is closed
- 8 months from either:
  - the start date on their CoS (if it is their first application for Tier 2 entry clearance or leave to remain as a pre-registration nurse)
  - the start date of their previous employment if they are applying for an extension to continue working as a pre-registration nurse

26.11 You must confirm that if the migrant achieves full NMC registration, you will continue to sponsor them as a nurse or midwife and pay them at least:

- if they are a nurse, whichever is the higher of:
  - £20,800 per year, or

- the NHS Agenda for Change Band 5 rate set out in Table 9 of [Appendix J](#) to the Immigration Rules
- if they are a midwife, whichever is the higher of:
  - £30,000 per year (or £20,800 per year if they qualify as a new entrant), or
  - the NHS Agenda for Change Band 5 rate set out in Table 9 of [Appendix J](#) to the Immigration Rules

26.12 You must not continue sponsoring a nurse or midwife if they fail to achieve NMC registration within 8 months. For further information on the registration process, see [Non-EEA trained nurses and midwives](#).

### Transitional arrangements

26.13 You must pay a minimum of £20,800 per year (or the appropriate rate of pay in [Appendix J](#) to the Immigration Rules if this is higher than £20,800) if the applicant is applying for leave to remain and they:

- previously had leave as a Tier 2 (General) migrant on the basis of a CoS which was assigned to them before 24 November 2016, and
- have not been granted entry clearance in this or any other route since their grant of leave above

### Appropriate rate for Tier 2 (ICT)

26.14 The rules concerning appropriate rate of pay for Tier 2 (ICT) migrants are set out in paragraphs 75 to 75E of [Appendix A](#) to the Immigration Rules.

### Long-term Staff

26.15 The minimum salary you must pay to sponsor a migrant in the Tier 2 (ICT) Long-term Staff category is £41,500 per year or the appropriate pay threshold for the job as stated in the codes of practice in [Appendix J](#) to the Immigration Rules, whichever is higher.

26.16 The only exception to this is where the migrant:

- is applying for leave to remain in the Long-Term Staff sub-category,
- previously had leave as a Work Permit Holder or a Tier 2 (ICT) migrant under the rules in place before 6 April 2011, and
- has not been granted entry clearance in this or any other route since that grant of leave

26.17 In these circumstances, you must pay the appropriate rate specified in [Appendix J](#) to the Immigration Rules

### Graduate trainee

26.18 The minimum salary you must pay to sponsor a migrant in the Tier 2 (ICT) Graduate Trainee subcategory is whichever is the higher of:

- £23,000 per year

- the appropriate rate specified in Appendix J to the Immigration Rules

## Salary information on a certificate of sponsorship – all Tier 2 categories

26.19 When you assign a CoS to a migrant, you must give 3 pieces of information about the salary package:

- the gross salary figure which must represent the total amount paid to the worker, gross of any tax paid whether paid in the UK or overseas, and must include any permitted allowances and guaranteed bonuses
- a separate figure for the total of all allowances and guaranteed bonuses
- a detailed breakdown of each allowance and each guaranteed bonus showing their value

Where the migrant is paid hourly, the appropriate salary consideration will be based on earnings up to a maximum of 48 hours a week, even if the migrant works for longer than this. For example, a migrant who works 60 hours a week for £10 per hour would be considered to have a salary of £24,960 (10x48x52) and not £31,200 (10x60x52). This migrant would therefore not be awarded points for appropriate salary.

26.20 Where the migrant will be working in the UK for fewer than 12 months, the rate of pay must be based on an annual salary. For example, earnings of £15,000 on a 6-month contract would add up to an annual salary of £30,000.

26.21 The figure given for the gross salary must not be inflated in expectation of any tax relief, such as relief on expenditure related to the employment, or tax incurred by the employment of a resident worker, but not incurred for a migrant.

An example of this is if the gross salary package is £21,000, but the migrant worker will have the same net package after tax as a resident worker who is paid £25,000 before tax, the CoS must show that the salary package is **£21,000**, not £25,000.

26.22 Salary may be paid in the UK or abroad. Where the migrant will be paid from abroad in currency other than pounds sterling, the salary entered on the CoS must be based on the exchange rate for the relevant currency on the day the CoS is assigned, taken from the rates published on '[OANDA](#)'.

26.23 The salary package on the CoS may also include any guaranteed allowances, such as London weighting or accommodation, which will be paid for the duration of the applicant's employment in the UK. These allowances may only be included if they would also be paid to a settled worker. There is one exception to this: you may also pay Tier 2 (ICT) migrants allowances to cover the additional cost of living in the UK and mobility premiums paid as a percentage of base pay.

26.24 The salary package on the CoS must not include:



- bonus or incentive pay which is not guaranteed
- employer pension contributions
- other payments which cannot be guaranteed
- overtime pay, whether or not overtime is guaranteed
- allowances to cover business expenses including (but not limited to) training, hotels and business travel within the UK, or travel to and from the migrant's country of residence or home country
- one-off payments, such as those associated with the cost of relocation, which do not form part of the migrant's regular salary package
- any payments or allowances (whether monetary or in-kind) for which the migrant must reimburse the sponsor
- the value of any shares which the migrant receives when offered a job under an employee shareholder employment contract
- perks such as medical benefits or tuition fees

26.25 The '[Evidence for migrant's application for leave](#)' section has more information on how we take allowances into account.

## Unpaid leave and reductions in salary

26.26 Migrants sponsored under Tier 2 or Tier 5 (Temporary Worker) can take short periods of unpaid leave but you must stop sponsoring a migrant who is absent from work without pay for 4 weeks or more in total in any calendar year. The only exceptions to this are where the unpaid absence is for one or more of the following reasons:

- statutory maternity leave
- statutory paternity leave
- statutory parental leave
- statutory shared parental leave
- statutory adoption leave
- sick leave
- assisting with a national or international humanitarian or environmental crisis overseas, provided you agreed to the absence for that purpose
- taking part in strike action as part of a legally organised industrial action

26.27 Where you are required to stop sponsoring a migrant who has been absent from work without pay for 4 weeks or more, you must report this using your sponsorship management system (SMS) account. This applies whether the migrant is absent from work over a single period or more than one period during any calendar year (1 January to 31 December). The 4 weeks is worked out according to the migrant's normal working pattern.

An example of this is if the migrant works 3 days per week (3 days x 4 weeks), it would be 12 working days.



26.28 If a sponsored migrant wishes to take a longer period of other unpaid leave, such as a sabbatical, you must stop sponsoring them and report this using your SMS account.

26.29 If you decide to cut a migrant's salary package to a lower rate than you stated on their CoS, such as, if the allowances offered have changed, the new rate that you pay to them must meet the current appropriate rate requirements.

26.30 If the new rate is below the appropriate rate, you cannot continue to sponsor them and you must report this to us using your SMS account.

26.31 The only exceptions to this rule are where:

- the reduction in salary is due to a period of leave for any reason given in [paragraph 26.26](#) above
- the reduction is due to the migrant undertaking professional examinations to assess whether their skills meet UK standards before starting work for you, where the passing of such examinations is a regulatory requirement for the job the migrant will be sponsored to do – this could include:
  - nurses undertaking the objective-structured clinical examination (OSCE)
  - doctors undertaking the Professional and Linguistic Assessment Board (PLAB) test
- in the case of a Tier 2 (Intra-Company Transfer) migrant, the reduction is due to them not being physically present in the UK

26.32 If the migrant was granted leave under Tier 2 (General) as a 'high earner' and the reduction in salary takes them below the high earner threshold, the migrant must make a new application for leave.

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## 27 Tier 2 (General)

27. As a Tier 2 (General) sponsor, you will normally be the employer and responsible for paying the migrant. There are certain circumstances, such as in parts of the creative sector, where there is no direct employer/employee relationship. In such circumstances, the migrant must still have a sponsor that is able and willing to accept all of the responsibilities and duties associated with being their sponsor.
- 27.1 There will also be circumstances where there is a clear statutory relationship between the employing body and a publicly funded body, where the publicly funded body can intervene in the running or funding of the employing or paying body. In these cases, the publicly funded body can be the sponsor.

Below are 2 examples of this.

### **Example 1**

A Local Authority has powers of control and direction over self-governing schools, so the Local Authority can sponsor teachers in these schools.

### **Example 2**

A Strategic Health Authority, through its Deanery, Local Education and Training Board (LETB) or provider/commissioning organisation, has funding control of training posts for doctors and dentists within NHS Trusts, even though it is not the paying body. In this case, the Deanery or LETB can be the sponsor.

- 27.2 Where a migrant is not your direct employee, we will look closely at the arrangement to make sure that you can fulfil your sponsor duties. We monitor you to make sure that you are fulfilling your duties and take action if we find that you are not.

## **The Tier 2 (General) annual limit**

- 27.3 There is an annual limit of 20,700 certificates of sponsorship (CoS) available to sponsors under Tier 2 (General). The limit runs from 6 April each year to 5 April the following year.
- 27.4 Unless the migrant qualifies under one of the exceptions in paragraph 27.5 below, the limit applies to:
- CoS for migrants applying for entry clearance (a visa) to the UK from overseas
  - CoS for the dependent partner of a migrant who was last granted leave under Tier 4, where that dependant is already in the UK and wishes to change ('switch') into Tier 2 (General)

We call these 'restricted' jobs, for which a 'restricted' CoS is needed.

27.5 The following are exempt from the limit and we call these 'unrestricted' jobs, for which an 'unrestricted' CoS is needed:

- [high value inward investment posts](#)
- high earners - where the annual salary for the job is £159,600 or more
- all applications by migrants who are applying from within the UK, including those extending their stay in Tier 2, changing employer, or switching immigration category - the only exception to this is where the migrant was last granted leave as the partner of a Tier 4 migrant (student): you must apply for a restricted CoS for such migrants
- the migrant is being sponsored to work in standard occupational classification code '2211 Medical Practitioners' or '2231 Nurses'
- the migrant will be sponsored to work in a PhD-level occupation as listed in Table 1 of [Appendix J](#) to the Immigration Rules

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## 28 Resident labour market test

### Resident labour market test: Tier 2 (General)

28. The resident labour market test is there to protect the settled workforce and means that you must advertise the job you want to recruit for to give settled workers a chance to apply. You can only recruit a migrant if either:
- you have completed a resident labour market test in accordance with this guidance and can show that no suitable settled worker is available to fill the job
  - the job is exempt from the resident labour market test
- 28.1 A suitable settled worker means any settled worker who has the skills and experience you are seeking. If you find that you have more than one candidate with all the necessary skills and experience you advertised for, where one is a settled worker and the other is a migrant, you must appoint the settled worker even if the migrant is more skilled or experienced. The only exception is if the job falls within one of the PhD level standard occupation classification (SOC) codes listed in [Table 1 of Appendix J](#) to the Immigration Rules, when you can appoint a migrant if they are the most suitable candidate.

### Exemptions from the resident labour market test

- 28.2 This section sets out where you do not have to carry out a resident labour market test before you can assign a certificate of sponsorship (CoS) under Tier 2 (General).

### Continuing to work in the same occupation

- 28.3 If the migrant is already working for you and they need to extend their leave in the same immigration category to continue working for you in the same occupation, you do not need to carry out a resident labour market test. If they are changing ('switching') immigration categories and are not covered by another exemption, you must advertise the post.

### Shortage occupations

- 28.4 Shortage occupations are ones where there are not enough settled workers to fill available jobs in particular sectors. The shortage occupation list in [Appendix K](#) to the Immigration Rules on GOV.UK is reviewed regularly. The document includes a separate list of shortage occupations for Scotland. If you are filling a vacancy which is listed only on the shortage occupation list for Scotland, the vacancy must be in Scotland.
- 28.5 You do not have to carry out a resident labour market test before assigning a Tier 2 (General) certificate of sponsorship (CoS) to fill a job in a shortage occupation in [Appendix K](#) to the Immigration Rules. The exception is if the job is in the occupation code '2231 Nurses', where you must carry out a resident labour market test. You can only assign a CoS for a job on the shortage occupation list if the migrant will work for a minimum of 30 hours per week.

If you are assigning an unrestricted CoS for a nurse, you should select the “Have you met the resident labour market test?” option and give details in the box below. If you select the shortage occupation option, you will be unable to complete this box, which may lead to the nurse’s application being delayed or refused.

28.6 You must also meet any additional criteria for employing migrants in shortage occupations as specified in Appendix K to the Immigration Rules.

## Post-study work

28.7 You do not have to carry out a resident labour market test if a migrant you want to sponsor is already in the UK and is applying to switch into Tier 2 (General) leave and has, or was last granted leave to enter, or to remain in, the UK under one of the following categories:

- Tier 1 (Post-Study Work),
- Tier 1 (Graduate Entrepreneur), or
- Tier 4, provided:
  - the migrant’s last grant of Tier 4 entry clearance or leave to remain was to study at either:
    - a higher education provider listed on the [Tier 4 register of sponsors](#) as ‘Tier 4 sponsor - track record’
    - an overseas higher education institution to undertake a short-term study abroad programme in the UK
  - the migrant has:
    - completed, or is applying for leave to remain no more than 3 months before the expected completion date for, a course leading to a UK recognised bachelor’s or master’s degree (not a qualification of equivalent level which is not a degree)
    - completed, or is applying for leave to remain no more than 3 months before the expected completion date for, a course leading to a UK Postgraduate Certificate in Education or a Professional Graduate Diploma of Education (not a qualification of equivalent level), or
    - has completed a minimum of 12 months study in the UK towards a UK PhD
  - the migrant studied for the course or period of research mentioned above at a UK [recognised or listed body](#), or one which holds a sponsor licence under [Tier 4 of the Points Based System](#), and
  - the migrant studied, or is studying, for the course mentioned above during their last grant of leave or a period of continuous leave which includes their last grant of leave

For full details of the requirements Tier 4 migrants must meet to switch into Tier 2 (General), see [paragraph 245HD\(b\)\(ii\) and 245HD\(d\)](#) of the Immigration Rules and paragraphs 17 to 19 and 107 to 118 of [Tier 2 of the points-based system: policy guidance](#).

## High earners

28.8 You do not have to carry out a test where the total salary package for the job will be £159,600 or above. This also applies if a high earner's salary is cut to an amount below the high earner threshold that applied on the date their original CoS was assigned – they must make a new application for Tier 2 leave but you do not have to carry out a resident labour market test.

## Academic leave

28.9 You do not have to carry out a resident labour market test if you are a higher education provider and were previously sponsoring a migrant who is returning to resume their post following a period of academic leave. The migrant must have previously been granted entry clearance or leave to remain as a Tier 2 (General) migrant and the break in their employment must have been solely due to a period of academic leave. This does not override the rules on [cooling-off](#) periods which will still apply if the migrant is still applying to return to the UK.

## Established researcher

28.10 You do not have to carry out a resident labour market test if you are a higher education provider or Research Council and:

- you wish to sponsor a migrant to continue working as a member of an existing research team
- the migrant has previously worked with the lead researcher as part of their team for:
  - a continuous 12-month period immediately before the date of the application, or
  - 12 months during the 24 months immediately before the date of the application, if the migrant has had a period of absence for any of the following reasons:
    - statutory maternity leave
    - statutory paternity leave
    - statutory parental leave
    - statutory shared parental leave
    - statutory adoption leave
    - sick leave
    - assisting in a national or international humanitarian or environmental crisis overseas
    - taking part in strike action as part of a legally-organised industrial action

## Supernumerary research positions

28.11 You do not have to carry out a resident labour market test where the job is in a supernumerary research position, over and above your normal staffing requirements. This is where the migrant has been granted a scientific research award or fellowship by either:

- a third-party organisation, and the award or fellowship cannot be transferred to anyone else, or
- you (the sponsor) if:
  - the migrant has been selected through a competitive process on the basis of their own research proposal, and
  - the funding of the research is secured in an agreement between the sponsor and a third-party organisation, which includes objectively justified requirements that effectively prohibit any settled worker from undertaking the role

This exemption continues to apply after the relevant third-party funding has ended, as long as the migrant is being sponsored to continue to undertake the same research.

## Postgraduate doctors and dentists in speciality training

28.12 You do not need to carry out a resident labour market test if the migrant:

- will be sponsored as a doctor in speciality training where their salary and the costs of their training are being met by the government of another country under an agreement with the UK government
- has already started speciality training as a doctor or dentist in the UK and they are applying to continue that training or return to that training (with the same National Training Number) after an out-of-programme experience

You must confirm on the certificate of sponsorship (CoS) that this exception to the resident labour market test applies.

28.13 If a speciality training doctor or dentist wishes to undertake an out-of-programme experience in the UK, then the organisation providing this will need to become the new sponsor. You, as the current sponsor, must tell us that you no longer have sponsorship responsibilities for the migrant because they are taking an out-of-programme experience. If you are the sponsor that is offering the out of programme experience, you must have carried out the resident labour market test before you assign a CoS.

28.14 When the out-of-programme experience in the UK has finished, the migrant may need to return to their speciality training. You must assign a new CoS but will not need to carry out a resident labour market test if the migrant is returning to the same training programme. You must confirm on the CoS that an exception to the resident labour market test applies. If you were the sponsor for the migrant when they did their out-of-programme experience, you must tell us that you are no longer sponsoring the migrant.

28.15 When a postgraduate doctor or dentist is accepted for speciality training they are given a National Training Number (NTN). You must produce this when asked for, as evidence that the doctor or dentist was undertaking training before the out-of-programme experience.

## High value inward investment posts

28.16 You do not need to carry out a resident labour market test where the job offer is for the migrant to work in support of a posting from an overseas firm to you in connection with the relocation of a high value business to the UK or a significant new inward investment project, where:

- you were registered in the UK with Companies House no earlier than 3 years before the date the CoS was assigned
- you are the registered branch or wholly owned subsidiary of a business which has its headquarters and principal place of business outside the UK
- the relocation or inward investment involves new capital expenditure of £27 million or the creation of at least 21 new UK jobs

**and** you are able to provide evidence of this, if required. You or the overseas business of which you are the branch or subsidiary must be the entity directly making the investment - for this purpose, working in support of an inward investment project does not include the supply of services to a third-party client who is making an investment. The capital expenditure or job creation does not need to have taken place before you assign the CoS, but you must be able to provide evidence that this will take place as part of the existing project.

## How to carry out the resident labour market test: Tier 2 (General)

28.17 Unless an [exemption](#) as outlined in this section applies, all jobs must be advertised to settled workers for 28 calendar days. You can advertise jobs in 2 ways:

- advertise the vacancy for a single continuous period, with a minimum closing date of 28 calendar days from the date the advertisement first appeared
- advertise the vacancy in 2 stages, with each stage being advertised for no fewer than 7 calendar days but where both stages total a minimum of 28 calendar days - below is an example of this

### Example

You could at first advertise the vacancy for 14 calendar days and appoint any suitable settled worker who applies. If no suitable settled worker applies, you cannot appoint a migrant worker at this stage as you must advertise the vacancy for a further 14 calendar days, making 28 calendar days in total. If no suitable settled worker applies during either the first or second stage, then the resident labour market test has been passed and you can appoint a Tier 2 migrant.

The vacancy must have been advertised for at least 28 days within the 6 months before you assign the CoS to a migrant.

28.18 You must place 2 advertisements using the methods set out in this guidance. The job advertisement must be in English, unless based in Wales where it



may be in English or Welsh, and it must include all of the following:

- the job title
- the main duties and responsibilities of the job (job description)
- the location of the job
- an indication of the salary package (including allowances) or salary range or terms on offer: see the '[Rates of pay](#)' section for more information
- skills, qualifications and experience needed
- the closing date for applications, unless it is part of a rolling recruitment programme - if it is a rolling recruitment programme, the advertisement should show the period of the recruitment programme

28.19 All jobs must be advertised online to settled workers through the [relevant online government job-search service](#). The only exceptions to this rule are for:

- milkround recruitment exercises for new graduate jobs and internships
- pupillage positions for trainee barristers
- jobs which fall within the PhD level SOC codes listed in [Table 1](#) of Appendix J to the Immigration Rules
- jobs where the annual salary package will be £73,900 or more, or £72,500 or more where the post was advertised before 6 April 2017
- jobs where there will be stock exchange disclosure requirements
- jobs covered by the creative sector codes of practice in Table 8 of [Appendix J](#) to the Immigration Rules – you must follow the relevant code of practice to ensure that you are not displacing a suitable settled worker
- jobs where the resident labour market test is not needed – see '[Exemptions from the resident labour market test](#)' above for more information on this

28.20 Where advertising online using the [relevant online government job-search service](#) is not mandatory, you must still advertise the job using 2 of the methods and one can be online advertising through Jobcentres.

28.21 You cannot refuse to employ a settled worker if they lack qualifications, experience or skills, including language skills that were not asked for in the job advertisement.

## Advertising and salary rate

28.22 The salary rate in your advertisement must be a true reflection of what you are prepared to pay and the rate you ultimately pay must be in line with the rate that was advertised. Unless the [transitional provision](#) outlined below applies, you cannot advertise at a low rate (for example, the new starter rate) and then offer a higher rate to a migrant to allow them to make a successful application. Below is an example of this.

### Example

If you advertised a salary rate of £32,000 to £35,000, you can only sponsor a migrant if the salary you state on their CoS is within that range. If you want to pay a higher salary, you must carry out the resident labour market test again,

advertising at the higher rate, as there may be settled workers who would apply for the job at the higher rate.

- 28.23 When deciding the salary range to put in a job advertisement, you should consider if you are willing to offer a higher salary to a more experienced worker. This is important because the purpose of the resident labour market test is to make sure job opportunities are made available to the settled workforce.

### Transitional provision for jobs advertised before 30 March 2019

- 28.24 The appropriate rates of pay in [Appendix J](#) to the Immigration Rules were updated on 30 March 2019 (see the '[Rates of pay](#)' section of this guidance). If you advertised a job before 30 March 2019, but you assign a CoS on or after that date, you may find that the highest salary stated in your advertisement is lower than the new appropriate rate set out in the 'Rates of pay' section. If this happens, the salary you state on the CoS must meet the new appropriate rate. If this is higher than the rate you originally advertised, you do not need to carry out a new resident labour market test.

#### Example

You advertised a job before 30 March 2019 with a salary range of £32,000 to £35,000. At the time the job was advertised, the appropriate experienced worker rate for the job as specified in Appendix J to the Immigration Rules was £34,500. However, for CoS assigned on or after 30 March 2019, the new appropriate rate is £36,000.

In this scenario, as long as you pay the migrant at least £36,000, you do not need to carry out a further resident labour market test.

### Evidence of resident labour market test

- 28.25 For each recruitment method, where you have carried out the resident labour market test, you must keep the documents listed in [Appendix D](#) of the guidance for sponsors. If you fail to advertise a job vacancy in line with the requirements set out in this guidance, we will take action against you.

### Resident labour market test: Tier 2 (General) advertising methods

- 28.26 The following paragraphs describe the different methods of advertising we accept when carrying out a resident labour market test. Unless an exemption applies, all jobs must be advertised using 2 of the methods set out in this section. In many cases, this will be mandatory online advertising through the [relevant government job-search service](#) (Find a Job, JobCentre Online, or Teaching Vacancies), plus one other method. Where advertising through an online government job-search service is not mandatory, you can choose any of the permitted media to advertise in – for example, you could choose one [national newspaper](#) and one [professional journal](#). We will also accept 2 advertisements using the same form of media, for example, advertisements on 2 different websites, provided the websites meet our [criteria for websites](#).

## Relevant online government job-search service

28.27 Unless an exception listed in paragraph 28.20 applies, one of your advertisements must be via a relevant online government job-search service. Which service you use depends on where the job is based and the type of job. The relevant services are:

- Find a Job (which replaced the Universal Jobmatch service from 14 May 2018) for jobs based in England, Scotland or Wales
- JobCentre Online for jobs based in Northern Ireland
- the GOV.UK Teaching Vacancies service for teaching jobs based in England

28.28 These services will only accept online vacancy advertisements when there is a current vacancy at the time the advertisement is placed. If you use rolling recruitment programmes, you will need to make sure that your vacancies are placed when there are actual posts to fill. You must adhere to the rules set out by these services. If your online vacancy advertisement is refused, you will not be able to meet the resident labour market test criteria and will not be able to assign a CoS.

## Find a Job

28.29 If the job is based in England (other than certain teaching vacancies – see below), Wales or Scotland, it must be advertised via the [Find a Job](#) service on GOV.UK. Jobs are advertised online directly by employers using [Advertise a Job](#).

28.30 The standard period for an advertisement to run on Find a Job is 30 days but you can set an earlier closing date. The closing date for applications will not be visible unless it is included in the job description so if you advertise a job with a closing date that is earlier than 30 days from the date it was first advertised, you must make sure that it is stated in the job description. In all cases, you must ensure that the job is advertised for a [minimum total period of 28 days](#).

## JobCentre Online

28.31 If the job is based in Northern Ireland it must be advertised through [JobCentre Online](#) on the Department for Communities website. Jobs can also be placed via the [Employers Online NI website](#), by email or fax, or by speaking to an advisor on the telephone number given on the website. All jobs which are advertised on Jobcentre Online are also available to view in Jobs & Benefits Offices and JobCentres in Northern Ireland.

28.32 Jobs advertised using JobCentre Online can run for up to 6 weeks. Employers are normally contacted after 2 weeks to assess the position, unless you ask for a different closing date. The closing date will be shown on the advertisement.

## Teaching Vacancies

28.33 [Teaching Vacancies](#) is a service, hosted by the Department for Education, for publicly funded schools that provide primary and secondary education in

England.

28.34 You can satisfy the resident labour market test for teaching jobs based in England by advertising via Teaching Vacancies. You can choose to advertise via Find a Job instead of, or as well as, Teaching Vacancies. However, if you use both services, this will count as one advertisement for the purposes of satisfying the resident labour market test and you will still need to advertise via one other acceptable medium listed below.

### National newspaper

28.35 A national newspaper is one published at least once a week and marketed throughout the UK or throughout the devolved nation in which the job is located. This could be The Scotsman and The Herald, which are suitable national newspapers for jobs in Scotland; The Western Mail for jobs in Wales; and the Belfast Telegraph for jobs in Northern Ireland.

### Professional journal

28.36 A professional journal is one published for a particular field and is available nationally either through retail outlets or subscription. The journal must be published at least once a month and be relevant to the job, this could be:

- a relevant trade journal
- the official journal of a professional occupational body
- a relevant subject specific publication

### Milkround for new graduate jobs and internships

28.37 A 'milkround' is an annual recruitment programme where employers from a range of sectors visit universities to give presentations and/or interview students, usually as part of university careers fairs. If you use a milkround to recruit new graduates or interns, you must visit a minimum of 3 UK universities, or all UK universities which provide the relevant course, whichever is the lower number.

28.38 The milkround or graduate recruitment programme does not need to be advertised through Find a job or Jobcentre Online in Northern Ireland, to meet the resident labour market test but must be advertised through 2 methods permitted by this guidance, one of which must be a prominent graduate recruitment website which does not charge a fee to jobseekers to view job advertisements or to apply for jobs via those advertisements.

You must keep evidence to prove that no suitable settled workers were available to fill the vacancy.

### Rolling recruitment campaigns

28.39 Rolling recruitment programmes allow companies to pick out skilled individuals who might fill future, undefined vacancies rather than specific ones.

28.40 We understand why you may want to identify migrants through these programmes and we don't want to stop this happening. However, to meet the

requirements of the resident labour market test when a specific vacancy becomes available, it must be advertised as set out in this guidance to give settled workers a chance to apply.

## Recruitment agency and head-hunters

28.41 You can use an agency or head-hunter to help with your recruitment. They may recruit for the post on your behalf, but the recruitment exercise must meet the requirements of the resident labour market test.

28.42 Where an agency or head-hunter carries out the recruitment exercise, you are fully responsible for the resident labour market test. If it is not done in line with the rules, we will take action against you.

## Internet

28.43 You can advertise the job online. We do not restrict you to specific websites, but it must be one of the following:

- the relevant online government job-search service (Find a Job, JobCentre Online, or Teaching Vacancies) – this is mandatory, unless an exception in paragraph 28.19 above applies
- an online version of a national newspaper that would meet the requirements - see [national newspapers](#) for more information on this
- an online version of a professional journal that would meet the requirements - see [professional journal](#) for more information on this
- website of a prominent or professional recruitment organisation

28.44 If you are a multi-national/global operation, or have over 250 employees in the UK, you can advertise the job on your own website.

28.45 If you advertise the job online, the website must not charge a subscription or any fee to look at job advertisements or to apply for jobs via these advertisements.

### Related content

[Contents](#)

## 29 Tier 2 (General) certificate of sponsorship

**Note:** if you intend to assign certificates of sponsorship at RQF level 3 or above under the points-based immigration system that will come into force from 1 January 2021, see [Annex 9](#) of this guidance.

### Overview

29. When you assign a Tier 2 (General) certificate of sponsorship (CoS), you are confirming that either:

- you have carried out a [resident labour market test](#) as set out in this guidance and have been unable to identify a suitable settled worker to fill the post
- a resident labour market test is not required

29.1 All CoS, restricted or unrestricted, must be assigned within 6 months of the date the vacancy was first advertised. Where the vacancy has been advertised in 2 stages, the CoS must be assigned within 6 months of the date the first of the 2 advertisements appeared.

Exceptions to this 6-month limit are where:

- a migrant is recruited via a milkround, a CoS must be assigned within 48 months of the milkround taking place, providing the migrant was offered the job within 12 months of that recruitment campaign ending
- the job falls within one of the PhD level standard occupational classification (SOC) codes listed in Table 1 of Appendix J to the Immigration Rules, a CoS must be assigned within 12 months of the start of the recruitment process
- the migrant has been recruited to a pupillage position for trainee barristers, a CoS must be assigned within 24 months of the pupillage position first being advertised
- the job advertised is for a rank and file (tutti) orchestral musician, the CoS must be assigned within 24 months of the date the job was first advertised

This makes sure the results of advertising reflect the current availability of the skills you need.

29.2 When you assign a CoS, you must:

- give full details of the resident labour market test carried out, including:
  - the dates the job was advertised
  - where the job was advertised
  - any relevant job advertisement reference numbers, including the Find a Job, Jobcentre Online, or the GOV.UK Teaching Vacancies service job reference number, if applicable

- say why the resident labour market test was not used and explain which exemption from the resident labour market test applies

You must also give the details of any third party that helped you recruit the worker (in or out of the UK).

## ‘Health and Care Visa’ for key health workers

29.3 From 4 August 2020, eligible health workers who have been trained to a recognised standard and have good working English can apply for a ‘Health and Care Visa’. The benefits of the Health and Care Visa include fast-track entry to the UK, the support of a dedicated team within UKVI in processing migrants’ and their dependent families’ visa applications, reduced visa fees and exemption from the Immigration Health Surcharge. The Health and Care Visa forms part of the Tier 2 (General) category for skilled workers.

**Note:** you can assign a CoS to an eligible migrant for a Health and Care Visa before 4 August 2020, but the migrant will not be able to apply for a Health and Care Visa before that date.

29.4 If you wish to sponsor a Tier 2 (General) migrant for a Health and Care Visa, you **must** read Section A of the [Tier 2 Policy Guidance](#) for detailed information on the eligibility criteria.

29.5 Among other requirements set out in the [Tier 2 Policy Guidance](#), only migrants employed in the following SOC codes are eligible for the Health and Care Visa:

- 2112 – Biological scientists and biochemists
- 2113 – Physical Scientists
- 2211 – Medical Practitioners
- 2212 – Psychologists
- 2213 – Pharmacists
- 2214 – Ophthalmic Opticians
- 2215 – Dental practitioners
- 2217 – Medical Radiographers
- 2218 – Podiatrists
- 2219 – Health Professionals not elsewhere classified
- 2221 – Physiotherapists
- 2222 – Occupational Therapists
- 2223 – Speech and Language Therapists
- 2229 – Therapy professionals not elsewhere classified
- 2231 – Nurses
- 2232 – Midwives
- 2442 – Social Workers
- 3213 – Paramedics

29.6 If the migrant will not be working in one of the above SOC codes, they will not be eligible for the Health and Care Visa and will have to qualify under the standard Tier 2 (General) arrangements.



29.7 When you assign a CoS to a Tier 2 (General) migrant for a Health and Care Visa, you must:

- include in the 'Notes' field of the CoS a brief explanation of how the migrant meets the Health and Care Visa criteria
- if you are a private organisation which provides services commissioned by the NHS, provide brief information in the Notes field about the contract or agreement you have with NHS trusts or bodies to provide those services – we may ask you to submit evidence of these arrangements and you must do so if asked
- tell the migrant they are eligible for the Health and Care Visa so they can correctly complete their visa application form – if you fail to do so, the migrant's visa application may be rejected
- advise the migrant that they must not apply for their Health and Care Visa before 4 August 2020

## Nurses and midwives: start date on CoS

29.8 When you assign a CoS to a migrant who will be sponsored in SOC code '2231 Nurses' or '2232 Midwives', the start date you give on their CoS should be the earliest date of:

- the date they will start working for you in familiarisation training
- the date they will start working for you as a full NMC registered nurse or midwife - if they have already passed the objective-structured clinical examination (OSCE) and received their registration number (PIN)
- the date on which they will sit their OSCE

If you are sponsoring a pre-registration nurse or midwife, you should also read the information on [sponsoring non-EEA trained nurses and midwives](#).

## Unrestricted certificate of sponsorship

29.9 These are for:

- Tier 2 (General) workers who will be paid £159,600 or more a year
- Tier 2 (General) workers who are already in the UK working for you and need to extend their leave
- Tier 2 (General) workers who are already in the UK working for you and are changing jobs and the new job is in a different standard occupational classification (SOC) code
- Tier 2 (General) workers who are already in the UK and who want to start work for a new sponsor
- individuals already in the UK under another immigration category and who are eligible to switch into Tier 2 (General); this doesn't include those who are in the UK as the partner of a Tier 4 migrant – such people require a restricted CoS
- [high value inward investment posts](#) - where the job offer is for the migrant to work in support of a posting from an overseas firm to you in connection



with the relocation of a high value business to the UK or a significant new inward investment project

- nurses using SOC code 2231
- doctors using SOC code 2211
- migrants who will be sponsored to work in a PhD-level job listed in Table 1 of Appendix J to the Immigration Rules

When you apply for a licence, you must tell us how many Tier 2 (General) CoS you would like to assign in the first year of your Tier 2 licence. These are called unrestricted certificates because there is no limit on how many you can get, providing you can justify your request.

You must provide evidence to support your request.

We may ask you for further information before we take a decision.

We will also take a number of reasons into account, including:

- any agents that you will use to recruit workers and whether they have been linked to immigration abuse in the past
- the purpose of your organisations business
- the number of workers now employed at your organisation
- the length of time that you have been operating
- your history of compliance with the Immigration Rules and sponsor guidance (if you have one)

If we grant fewer CoS than you asked for, this may be because:

- you have a history of non-compliance
- you cannot justify your need for the number you asked for
- we do not consider your need to be credible based on your current circumstances
- you are unsure whether or when you may need to recruit any migrants in the future

We will add your CoS allocation to your SMS account and give you 12 months from the beginning of your licence to assign the CoS. After that time, any unassigned CoS will expire.

29.10 If you are a Tier 2 (General) sponsor and your CoS year is coming to an end, you can apply for a 'follow-on' allocation for the next year. [SMS guide 2: manage your sponsorship licence](#) has more information on this.

29.11 Before assigning a Tier 2 (General) unrestricted CoS, you must make sure that:

- you have identified the right type of CoS to assign, for example, 'Tier 4 graduate switching into Tier 2'
- the job is at the right skill level

- the vacancy filling process used complies with the [resident labour market test requirements](#), where required
- the migrant will be paid a salary package at or above the [appropriate rate](#)

29.12 If you assign unrestricted CoS to migrants who require a restricted CoS, we may revoke your sponsor licence.

## Restricted certificate of sponsorship

29.13 Each year, there are a limited number of restricted certificates of sponsorship (CoS) available to Tier 2 (General) A-rated sponsors each month. The annual limit is 20,700 and they are divided into 12 monthly allocations, as follows:

Application period	Provisional monthly allocation
6 March – 5 April	2,200
6 April – 5 May	2,000
6 May – 5 June	2,000
6 June – 5 July	2,000
6 July – 5 August	2,000
6 August – 5 September	2,000
6 September – 5 October	1,500
6 October – 5 November	1,500
6 November – 5 December	1,500
6 December – 5 January	1,500
6 January – 5 February	1,500
6 February – 5 March	1,000

The monthly total will be adjusted in line with any restricted CoS which have been unallocated, returned or reclaimed during the last month, in line with the procedures set out in paragraphs 83 to 84A of [Appendix A](#) to the Immigration Rules.

29.14 If you need to assign a restricted CoS to a migrant, you must apply for it using the restricted CoS application process. We cannot guarantee your application will be successful. If your licence is B-rated for Tier 2 (General) or suspended, you are not allowed to apply for any restricted CoS.

## The restricted certificate of sponsorship application cycle

29.15 The application process works to a monthly cycle. You can make an application at any time using your sponsorship management system (SMS) account. Each application we receive will be scored against a set of criteria.

On the 11<sup>th</sup> day of each month we will decide how many applications made on or before the 5<sup>th</sup> day of the same month can be approved. We call this the 'allocation date'.

Applications will be decided on the next working day if the 11<sup>th</sup> day of the month falls on either a:

- Saturday

- Sunday
- [bank holiday](#) in England

If your application is successful, your restricted certificates of sponsorship will appear in your SMS account on the relevant allocation date.

## How to apply for a restricted certificate of sponsorship

- 29.16 You apply for a restricted certificate of sponsorship (CoS) using your sponsorship management system (SMS) account. The application can only be made by a level 1 user. There is no fee to apply for a restricted CoS.
- 29.17 You should only apply for a restricted CoS if you intend to assign it no more than 3 months after the allocation date appropriate to your application. If your application is successful, the restricted CoS will be allocated to your SMS account, but if not assigned after 3 months it will be removed from your account. If a restricted CoS is removed and you still need it, you will have to apply again.
- 29.18 When you apply for a restricted CoS, you must have carried out a resident labour market test (where applicable) that meets the requirements in this guidance.
- 29.19 When you make your application, you must fill in all mandatory fields marked with an asterisk. If you do not, you will not be able to send your application. All information you give on salary payments, skill level and the resident labour market test must be in line with how a Tier 2 (General) unrestricted CoS is assigned. The 'Tier specific duties under Tier 2 (General) and Tier 2 (Intra-Company Transfer (ICT))' section has more information on this.
- 29.20 We may wish to check the information you send with your application, for example, if we have doubts about its validity. If we need to make any checks, we may ask for more information or documents. You must send us any information or documents within 10 working days. If you do not, your application will be rejected.
- 29.21 If you do send the information or documents within the time limit, but the date we receive them is on or after the allocation date you have applied for, or we are unable to make the necessary checks before the allocation date you have applied for, we will hold your application until the following allocation date. If we have been unable to carry out those checks by the following allocation date, your application will be rejected.

## Points criteria for a restricted CoS

- 29.22 Applications for a restricted certificate of sponsorship (CoS) will be scored and prioritised based on:
- the "Job and recruitment" criteria set out in the [table](#) below, and
  - the gross annual salary you pay to the migrant (see '[Points for salary](#)' below)

- 29.23 No application for a restricted CoS will be granted unless it scores points for both “Job and recruitment” and for gross annual salary.
- 29.24 We cannot guarantee any valid application will result in the allocation of a restricted CoS. For example, if your application scores 30 points for “Job and recruitment” but we complete checks which reveal that you have not carried out a resident labour market test in accordance with this guidance, we will not award those points and your application will be rejected.
- 29.25 We cannot guarantee that a salary which is approved in a restricted CoS application will be accepted when a migrant makes a Tier 2 application. For example, if you apply for a restricted CoS with a salary of £20,800, but you later assign it to a migrant who is not exempt from the £30,000 salary threshold, their application will be refused.

## Points for job and recruitment

- 29.26 The table below sets out the points that will be awarded based on the type of job the migrant will do and the recruitment campaign used (where relevant):

Job and recruitment	Points
<a href="#">Shortage occupation</a>	320
Resident labour market test met via the <a href="#">milkround</a> , and the individual being sponsored meets the <a href="#">post-study work</a> requirements (other than they will be applying for entry clearance rather than leave to remain)	30
The job is in one of the following public service occupations: <ul style="list-style-type: none"> <li>• 2217 Medical radiographers</li> <li>• 2314 Secondary education teaching professionals – subject teachers in maths, physics, chemistry, computer science and Mandarin only</li> <li>• 3213 Paramedics</li> </ul> and the job passes the <a href="#">resident labour market test</a> or an <a href="#">exemption</a> applies	30
Job passes the <a href="#">resident labour market test</a> or an <a href="#">exemption</a> applies	20

- 29.27 Your application can only score points for one entry in the table above. For example, if a job is a [shortage occupation](#) but you have carried out a resident labour market test, your application will score 320 points, not 340.

## Points for salary

- 29.28 We will award one point for each £1,000 of gross annual salary, up to a

maximum of £160,000. We calculate the salary in accordance with the rules in paragraphs 79 to 79C of [Appendix A](#) to the Immigration Rules – see '[Salary information on a certificate of sponsorship](#)' for further guidance.

29.29 In your application, you must state the salary that you will pay to the migrant if you are allocated a restricted CoS. If you do not yet have a confirmed salary, you must state the minimum salary that you are willing to pay. If you are subsequently allocated a CoS, you can increase the salary when you come to assign it to a migrant (subject to the limitations stated in paragraph 29.46) but you cannot pay less than you stated you would in your application for a restricted CoS.

29.30 We will not award points for salary if it is not at or above the [appropriate rate](#) for the job.

### Scoring an application: example

29.31 Below is an example of how we might score an application:

The job is in a specified public service occupation and passes the resident labour market test, and the salary (including permitted allowances) is £36,600. Your application will score 30 points for “Job and recruitment”, plus a further 36 points for salary (provided the salary meets the appropriate rate specified in Appendix J to the Rules), giving 66 points in total.

### The monthly allocation process

29.32 Each application received for a restricted certificate of sponsorship (CoS) will be scored in line with the points table above. All applications received up to and including the 5<sup>th</sup> of each month that are not subject to checks will be considered on the 11<sup>th</sup> of that month - the ‘allocation date’.

An example of this is if you apply between 6 November and 5 December, your application will be decided on the 11 December.

29.33 We will approve valid applications solely on the number of points scored, starting with the highest. If the number of valid applications received is more than the number of CoS available, those applications scoring the lowest points are less likely to be approved.

29.34 We may reach a point where there are more applications that score the same amount of points than we have CoS available. Below is an example of this.

#### Example

We have allocated all applications scoring between 480 points and 48 points, and we are left with more applications that have scored 47 points than we have CoS left to allocate. If this happens, we cannot make a fair decision as to whether any of these are more urgent or worthy than others. Therefore, we will either approve all of them, or none of them.

29.35 We will approve all applications that score the same number of points if this

means that we exceed our monthly allocation limit by 100 or fewer.

Below are 2 examples which show what happens when the monthly allocation is exceeded.

**Example 1**

On 11 September, all valid applications scoring between 480 points and 48 points have been approved. We have 150 CoS left to allocate and 250 applicants scoring 47 points. We will award CoS to all 250 applicants as it will only lead to our monthly allocation being exceeded by 100.

**Example 2**

On 11 September, all valid applications scoring between 480 points and 48 points have been approved. We have 150 CoS left to allocate. There are 400 valid applications that all score 47 points. We will not allocate any CoS for any valid application scoring 47 points because we would exceed our monthly limit by more than 100. We will carry over the 150 unallocated CoS to the following month.

- 29.36 The decision we make is based on the number of points your application has scored. Nothing else will be taken into account and there is no right of appeal. If your application is successful, your restricted CoS will appear in your SMS account on the relevant allocation date. If unsuccessful, you can apply again at any time.
- 29.37 If the monthly allocation process is undersubscribed, we will carry over any CoS that remain unallocated to the following month. Any CoS that remain unallocated at the end of each year covered by the limit will not be carried forward to the next year's allocation.
- 29.38 There may be compelling circumstances where a CoS can be granted exceptionally, before the next allocation date. Applications will be considered on merit and in line with relevant policy. It is not possible to give a full list of circumstances that might be defined as 'compelling', however approvals should be rare. Examples might be:
- where delays caused by us resulted in a newly licensed sponsor needing a CoS for a migrant who is due to start work before the 11<sup>th</sup> of the next month
  - a consultant surgeon has been recruited and needs to be appointed at once because patients need life-saving surgery before the 11<sup>th</sup> of the following month
- 29.39 We will not consider any application made due to delays caused by you that could have been avoided. For example, where a recruitment/appointment was delayed because your staff were absent.
- 29.40 If you need to apply in this circumstance, you must send your application using your SMS account, and email the [Tier 2 Limits team](#) asking for your application to be considered urgently, and explaining the reasons for this. We

may ask for documentary evidence to support your application and may visit you.

- 29.41 We only consider applications where, had they been made earlier, it would have been granted on the last allocation date. But there is no guarantee that any application will be granted. Each case will be considered on its merits and we expect robust evidence as to why the application couldn't have been made earlier.
- 29.42 We cannot guarantee a timescale for considering urgent applications. This is because it may take longer if we need to visit you or ask for documentary evidence to support your application. If we cannot verify an application before the next allocation date, it will be considered for the one after, but only if we can verify it in time. See '[How to apply for a restricted CoS](#)' for more information.
- 29.43 Any application for urgent consideration that we refuse will be carried forward to the next allocation date for a decision. Where we do grant any applications for urgent consideration, we will reduce the next monthly allocation accordingly.

## Reclaimed and returned certificate of sponsorship

- 29.44 If we find, after granting you a restricted certificate of sponsorship (CoS), that your application for that CoS was invalid for any reason, we will reclaim it from your sponsorship management system (SMS) account.
- 29.45 If you decide that you no longer need a restricted CoS, you must do one of the following:
- if the CoS is part of an application for a number of identical CoS, you must first assign the ones you do need then email the [Tier 2 Limits team](#) to let us know that it can be returned
  - if the CoS did not form part of an application for a number of identical CoS, you can email the [Tier 2 Limits team](#) to let us know that it can be returned
- 29.46 You must let us know about any restricted CoS which can be returned. We can then make them available to other sponsors.
- 29.47 The status of any CoS that is returned or reclaimed will be updated in your SMS account. It will display as 'returned' or 'reclaimed'.

## Use of restricted certificate of sponsorship

- 29.48 If your application for a restricted certificate of sponsorship (CoS) is successful, you will have 3 months to assign it to a migrant. If you do not assign it after 3 months, it will be removed from your account.
- 29.49 If you have any restricted CoS in your SMS account which are less than 3 months old, and which you have not yet assigned, and you are downgraded to



a B rating for Tier 2 (General) or your licence is suspended, you will not be able to assign them and they will still be removed from your account after 3 months.

- 29.50 You can only assign a restricted CoS to fill the restricted job that you described on your application. When you apply for a restricted CoS, the information you give in your application, such as the salary and job description, will appear on the CoS that is allocated to you if your application is successful. When you assign that CoS, you will not be able to change any of these pre-populated fields.
- 29.51 We accept that there may occasionally be circumstances in which some of the details you enter on a successful restricted CoS application may have changed by the time the CoS is allocated to you, or you come to assign it. Although you cannot amend the pre-populated fields when assigning the CoS, you can add a sponsor note to let us know of the following changes:
- **salary increase** (where the salary package that you will pay to the migrant is higher than the amount you stated on the application) – unless a [transitional provision](#) following updates to the appropriate rate applies, this is only permitted if the higher rate is still within the salary range quoted in the job advertisement; see '[Advertising and salary rate](#)' for further information
  - **start and end date** – you can amend either or both of these dates, but you should remember that a restricted CoS must be assigned within 3 months of it being allocated to your SMS account

Once the CoS has been assigned, the migrant then has only 3 months to use it to support an application for leave.

- 29.52 If you do amend the salary rate using a sponsor note, you must also state, when adding that sponsor note, the salary range that was advertised.
- 29.53 These are the only changes you can make to a restricted CoS when you assign it. If anything else has changed, such as a reduction in salary or a change to the standard occupation classification (SOC) code or job description, you must return the restricted CoS to us. You must carry out a new resident labour market test where required and apply again at a later date if necessary.
- 29.54 You must only assign a restricted CoS to a migrant who needs one. You should not assign a restricted CoS to a migrant who is [eligible to be assigned an unrestricted CoS](#).
- 29.55 You must only assign a restricted CoS if you intend to employ the migrant on the conditions stated on the application you made for it, or in any sponsor note added in the circumstances permitted above. If we subsequently find that you gave false information on your application for a restricted CoS, we will revoke your sponsor licence. Examples include, but are not limited to:

- the salary you pay to a migrant whose application for leave was supported by a restricted CoS is lower than the salary stated on your application for that CoS
- you said you had carried out a resident labour market test that met the requirements of this guidance, but you had failed to do so

**Related content**

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## 30 Tier 2 (Intra-Company Transfer)

30. The Tier 2 (Intra-Company Transfer (ICT)) is for migrants who have been working for multinational organisations and who are being transferred by an overseas employer to a related UK employer. There are 2 subcategories of this category:

- Long-term Staff
- Graduate Trainee

30.1 Where we refer to 'employees' who may be 'working for' you, in the context of the intra-company transfer arrangements, this also includes partners where you are, for example, a Limited Liability Partnership.

30.2 This route cannot be used to transfer a migrant who is employed by an organisation which is not linked by common ownership or control, but who has been contracted by their own employer to work for one of the overseas linked entities. Below is an example of this.

### Example

Company A overseas and Company B in the UK is linked by common ownership or control. The migrant is employed by Company C overseas, which is **not** linked by common ownership or control to Company A or Company B, but they have been contracted by Company C to work at Company A. This migrant cannot move to Company B under the Tier 2 (ICT) category.

30.3 Because of the nature of transfers, you do not need to carry out a resident labour market test. But there are requirements unique to each subcategory which must be met, and migrants must be paid at least the appropriate salary rate permitted for the subcategory under which they will apply for leave.

30.4 Under the ICT subcategories, the job the migrant will do must meet the rules on the skill level and appropriate salary rates as set out in this guidance. The ['Skill level for jobs under Tier 2 \(General\) and Tier 2 \(Intra-Company Transfer\)'](#) and ['Rates of pay'](#) sections have more information.

### Long-term Staff

30.5 This subcategory is for employees to be transferred to the UK to fill a post which cannot be filled by a settled worker. Migrants must meet one of the following:

- will be paid an annual salary of £73,900 or more for the job
- have been working for your organisation for at least 12 months, either:
  - outside the UK for a business established outside the territory of the UK which is linked by common ownership or control to you
  - inside the UK, as long as they had permission to work for you as a Tier 2 (ICT) Long-term Staff or Short-term Staff migrant

- as a Representative of an Overseas Business where you are the business established by the migrant while they had leave in that capacity
- any combination of the above

30.6 The 12-month period above must be one of the following:

- a continuous period of 12 months immediately prior to the date of their application for leave
- an aggregated period of at least 12 months overseas within any timeframe, provided the migrant has been working continuously and lawfully for your organisation, either overseas or in the UK, since the start of that aggregated 12-month period – for example:
  - the migrant worked for you overseas for 6 months, then worked for you for 2 years in the UK as the dependant of another migrant, before working for you overseas for a further 6 months - you can add the two 6-month overseas periods together to make the required 12 months
- an aggregated period of at least 12 months within a 24-month period immediately prior to the date of their application for leave if, within the 12 months immediately prior to their application, they have been absent from work for any of the following reasons (or the equivalent type of absence or leave in the country or territory where the migrant was working for the linked overseas business):
  - statutory maternity leave
  - statutory paternity leave
  - statutory parental leave
  - statutory shared parental leave
  - statutory adoption leave
  - sick leave
  - assisting in a national or international humanitarian or environmental crisis overseas
  - taking part in strike action as part of a legally-organised industrial action

30.7 A migrant can have leave granted under the Long-term Staff subcategory for any period of time up to a maximum of 5 years in total. If the migrant is a high earner (salary of £120,000 or more), they can extend their stay up to a maximum of 9 years.

30.8 Where a migrant leaves the UK after a period of Tier 2 leave granted under the Long-term Staff subcategory, but you want them to return to the UK in future, they may be affected by the [cooling-off period](#).

## Graduate Trainee

30.9 This subcategory of Tier 2 (ICT) can be used to transfer recent graduate recruits to the UK for training for any period up to a maximum of 12 months. This route must not be used to fill long term posts. A migrant in the Tier 2 (ICT) Graduate Trainee subcategory must be coming to the UK as part of a structured graduate training programme with progression towards a managerial or specialist role within the organisation.

- 30.10 You must not use this route to transfer all of your graduate recruits. It is only for those on accelerated promotion schemes.
- 30.11 The migrant must have been employed outside of the UK by you for a minimum of 3 months before coming to the UK. Time spent in the UK under the previous Tier 2 (ICT) Skills Transfer subcategory (now removed) does not count towards the 3-month qualifying period for the Tier 2 (ICT) Graduate Trainee subcategory.
- 30.12 This subcategory is specifically targeted at the best graduate recruits and you are limited to transferring no more than 20 migrants per financial year under this subcategory. If you transfer more than 20 graduate trainees, we will take action against you.
- 30.13 Where a migrant leaves the UK after a period of leave in the Tier 2 (ICT) Graduate Trainee subcategory but you want them to return to the UK in the future, they may be affected by the [cooling-off period](#) if they return under any Tier 2 category other than the Tier 2 (ICT) Long-term Staff subcategory.

## Evidence for migrant applications for leave

- 30.14 Migrants applying in the Tier 2 (Intra-Company Transfer) category may have to give us evidence to prove that they have been working for you or the linked overseas business for the required period. The evidence may include payslips, bank or building society statements or building society pass books, and evidence of any absences referred to in paragraph 30.6 above. The evidence that may be required is specified in paragraph 74C-SD of [Appendix A](#) to the Immigration Rules.

## Salary and allowances

- 30.15 Migrants in both of the Tier 2 (ICT) subcategories must be paid at the appropriate rate. The '[Rates of pay](#)' section has more information on this. The salary may be paid in the UK or abroad. Where the migrant will be paid abroad in a currency other than pounds sterling, the salary entered on the certificate of sponsorship (CoS) must be based on the exchange rate for the relevant currency on the day the CoS is assigned, taken from the rates published on '[OANDA](#)'. We take account of:

- basic pay excluding overtime
- allowances and guaranteed bonuses - allowances can include payments to cover extra costs of living whilst in the UK but cannot include:
  - benefits such as overtime, bonus or incentive pay which is not guaranteed
  - employer pension contributions
  - allowances to cover business expenses including travel between the source country and the UK
  - the value of any shares which the migrant receives when offered a job under an employee shareholder employment contract

- accommodation allowances, but only up to a maximum of 30% of the total gross salary package - this is whether allowances are made available in cash or kind; the migrant's salary and other (non-accommodation) allowances must be at least 70% of the maximum package that we take into account. This applies only to applications supported by a CoS assigned under the Tier 2 (ICT) Long-term Staff subcategory

Below are 2 examples of how Long-term Staff allowances are worked out.

### **Example 1**

You assign a CoS under the Long-term Staff subcategory. The CoS details the following figures:

- salary and other (non-accommodation) allowances total £42,000
- accommodation allowances total £14,000

Add these 2 figures together to get the total package offered = £56,000.

We work out the maximum package we can take into account by dividing the salary and other (non-accommodation) allowances by 70% (0.7)  
 $£42,000 \div 0.7 = £60,000$ .

The total offered is less than the maximum package we can take into account. We will therefore take the entire package into account.

### **Example 2**

You assign a CoS under the Long-term Staff subcategory. The CoS details the following figures:

- salary and other (non-accommodation) allowances total £24,500
- accommodation allowances total £21,000

Add these 2 figures together to get the total package offered = £45,500.

We work out the maximum package we can take into account by dividing the salary and other (non-accommodation) allowances by 70% (0.7)  
 $£24,500 \div 0.7 = £35,000$ .

The total offered is more than the maximum package we can take into account. We will therefore only take into account £35,000 which is below the minimum acceptable rate for the Tier 2 (ICT) Long-term Staff subcategory so the application will be refused.

30.16 Due to higher costs for short term accommodation, where an application is supported by a CoS assigned under the Tier 2 (ICT) Graduate Trainee subcategory, we take account of accommodation allowances up to 40% of the gross salary. This means the migrant's salary and other (non-accommodation) allowances must be at least 60% of the maximum package that we will take into account. This applies where either:

- the migrant is applying from outside the UK with a CoS that has been assigned for 12 months or less
- the migrant is applying for an extension that will take their total stay in the UK to 12 months or less

Below is an example of how the Tier 2 (ICT) Graduate Trainee allowances are worked out.

### **Example**

You assign a CoS under the Tier 2 (ICT) Graduate Trainee subcategory. The CoS details the following figures:

- salary and other (non-accommodation) allowances total £18,000
- accommodation allowances total £10,000

Add these 2 figures together to get the total package offered = £28,000.

We work out the maximum package we can take into account by dividing the salary and other (non-accommodation) allowances by 60% (0.6), instead of 70%  $£18,000 \div 0.6 = £30,000$ .

The total package offered is less than the maximum package we can take into account. We will therefore take the entire package into account.

### **Related content**

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## 31 Tier 2 (Minister of Religion)

31. This category is for those coming to fill vacancies as religious workers in bona fide religious organisations. The only exception applies to the Ministry of Defence who can apply to be a sponsor under this category provided they will be employing religious personnel.

31.1 The Tier 2 (Minister of Religion) category includes anyone doing preaching and pastoral work.

Pastoral duties include:

- leading worship regularly and on special occasions
- providing religious education for children and adults by preaching or teaching
- leading at marriages, funerals and other special services
- offering counselling and welfare support to members of the organisation
- recruiting, training and co-ordinating work of local volunteers and lay preachers

31.2 Migrants sponsored under this category may undertake a wider range of other duties as well as the above.

31.3 This category is also for migrants coming to the UK as missionaries or as members of religious orders, for example, a monastic community of monks or nuns, or a similar religious community involving a permanent commitment.

31.4 The duties of a missionary need not be restricted to preaching and teaching and may include the organisation of missionary activity, but should not be mainly administrative or clerical, unless filling a senior post. A senior post may be one which does not involve the migrant doing fieldwork themselves, but where they will be supervising staff and/or co-ordinating the organisation of missionary work. They may also be in charge of activity such as accounts, finance, personnel management or IT. Working full-time as a teacher in a school run by a church or missionary organisation does not count as missionary work, but translating religious texts does.

31.5 The work of a member of a religious order must be within the order itself, or outside work directed by the order. Teachers working in schools not maintained by their order must be sponsored under Tier 2 (General). Novices whose training is taking part in the daily community life of their order can be sponsored under this category, but anyone studying for a qualification on a formal full-time course or training in an academic institution not maintained by the order should be sponsored under Tier 4. People who are not members of a religious order, but who are working or studying within such a community are not allowed to apply under this category. They must be sponsored under the relevant work or study category if they can meet all of the requirements.

## Resident labour market test for Tier 2 (Minister of Religion) and Tier 5 (Temporary Worker) Religious Workers

- 31.6 When recruiting a person who will be sponsored under Tier 2 (Minister of Religion) or Tier 5 (Religious Workers) you must carry out a resident labour market test. Although not all religious occupations are 'jobs' in the traditional sense, this does not mean that the test does not apply. Any migrant you sponsor must not displace a suitable settled worker.
- 31.7 You should use these routes only to sponsor migrants who will carry out religious duties, unless they are filling a senior leadership or management role within a religious organisation. For example, a financial controller. Other roles, including those which are mainly administrative, should be sponsored under another suitable route. For example, schools that are maintained by a religious organisation who wish to sponsor a teacher must do so under the Tier 2 (General) category.
- 31.8 Religious organisations can also sponsor the admission of workers to fill temporary positions through the Tier 5 (Temporary Workers) Charity Workers subcategory, provided the work is unpaid and comes within the definition of voluntary fieldwork which applies to that subcategory (which includes a requirement that the work is directly related to the organisation's charitable objectives). The '[Tier 5 \(Temporary Workers\) Charity Workers](#)' section has more information on this.

## When a resident labour market test is not required

- 31.9 A resident labour market test is not required where the:
- role is supernumerary; this means it is over and above normal requirements and if the person filling the role was not there, it wouldn't be filled by anyone else - one example might be where the migrant offers pastoral support to members of a church community as part of their own development, but the work would stop if they were not there and you wouldn't replace them
  - migrant will mainly live within and be a member of a religious order - for example, an order of nuns or monks; a religious order is defined for our purposes as a lineage of communities or of people who live in some way set apart from society in accordance with their specific religious devotion, and which must be part of a bona fide religious organisation - see the '[Tier 2 \(Minister of Religion\)](#)' section for more information on this
- 31.10 A position that is not supernumerary is one vital to your requirements. Examples might include, but are not limited to:
- a pastor or clergyman responsible for leading regular worship or for the pastoral needs of their own, or the wider community - if that person left, but those duties still existed and you had to find someone to replace them, the role is not supernumerary

- a teacher in a school or college maintained by a religious organisation - if that person left, but classes they taught had to continue, the role is not supernumerary

31.11 You must justify that a role is supernumerary. When assigning a CoS for a supernumerary role, you must fully explain in the 'Details of labour market test' box (Tier 2) or by adding a sponsor note (Tier 5), why the role is supernumerary. Stating 'the role is supernumerary' is not enough, you must explain why. Also, if the migrant mainly lives within a religious order, you must say this to justify why a resident labour market test is not applicable. If there is no explanation or we are not sure about any explanation you have given, we may ask you for more information and it is possible that the migrant's application for leave may be refused.

## Advertising the role to meet the resident labour market test requirements

31.12 Where a role is not supernumerary or does not involve living within and being a member of a religious order, a national recruitment search must always be undertaken. We call this a resident labour market test. You must carry out a resident labour market test to make sure that you are not denying or displacing a settled worker by filling the role with a migrant.

31.13 The role must be advertised for a minimum of 28 days in a national media appropriate to your religion or denomination, for example, a magazine, or newspaper such as the Church Times, The Catholic Herald, The Jewish Chronicle. Any publication must be available throughout the UK, or throughout whichever part of the UK the role is situated. For example, for a role in Glasgow, the publication used must be available throughout Scotland. Media only available in a local area is not acceptable, for example, a local or county-wide evening newspaper.

31.14 If there is no suitable national form of media for your religion, you can advertise online either through the [Find a job service](#) (or, in Northern Ireland, [JobCentre Online](#)), or the employment section of a national newspaper. A national newspaper is one published at least once a week and is marketed throughout the UK or throughout the devolved nation in which the job is located. This could be The Scotsman and The Herald, which are acceptable for jobs in Scotland; The Western Mail for jobs in Wales; and the Belfast Telegraph for jobs in Northern Ireland.

31.15 You can also advertise on your own website if this is how you usually reach out to your community on a national scale and this is where you normally advertise vacant positions. If you do advertise on your own website, the pages containing the advertisement must be free to view. If your website requires people to pay a fee or make a donation to be able to view an advertisement for a vacant role, this does not meet our requirements, so you must also advertise in some other form of national media as described in this section.

31.16 Where the role is not advertised, you can still meet the requirements of the

resident labour market test if you can prove that your own national records of all available individuals show that no suitable settled worker is available to fill the role.

31.17 After you have carried out a resident labour market test, you must assign a CoS within 6 months of the date the role was first advertised. When assigning a CoS, you must explain how you met the resident labour market test in the 'details of labour market test' box for Tier 2 or by adding a sponsor note for Tier 5. You may also provide this evidence in a covering letter to be sent by the visa applicant at the time of application. We may verify the information. You must include:

- where the role was advertised including any reference numbers
- the period it was advertised for
- details of any national records you hold and an explanation of why there is no suitable settled worker available to fill the role

If these details are missing or unclear, we may ask for more information but it is possible that the migrant's application for leave will be refused.

## **Payments you make to sponsored migrants under Tier 2 (Minister of Religion) and Tier 5 (Temporary Worker) Religious Workers**

31.18 All migrants sponsored under Tier 2 (Minister of Religion) or Tier 5 (Temporary Worker) Religious Workers, must receive pay and conditions at least equal to those given to settled workers in the same role. This may be a traditional salary, stipend, customary offering, board and lodgings or a combination of these, but must comply or be exempt from the [National Minimum Wage](#).

31.19 You must comply with the National Minimum Wage (NMW) regulations where they apply. (You are not allowed to withhold payments from a migrant if they are entitled to the NMW, just because they support themselves from their own personal funds or donations.) If the NMW regulations do not apply, you must explain how and why they do not apply on the CoS in the 'Details of labour market test' box for Tier 2, or by adding a 'sponsor note' for Tier 5.

31.20 When assigning a CoS under Tier 2 (Minister of Religion), you confirm that:

- the migrant is qualified to fill the role – such as, is an ordained minister of religion, where ordination is prescribed as the sole means of entering the ministry; or missionaries who have been trained as missionaries, or have worked as missionaries and are being sent to the UK by overseas organisations to work full time as a missionary
- the migrant intends to be based in the UK throughout the period they have permission to stay
- the migrant will comply with the conditions (rules) of their permission to stay and, where they have been granted leave under Tier 2, will leave the UK when it expires

- you have carried out a resident labour market test for the role, where this is required
- where the role is supernumerary, the migrant will be additional to your normal staffing requirements and they will not be filling a vacant position that could otherwise be filled by a settled worker
- you accept the duties of sponsorship
- the migrant will be supported through funds and/or accommodation that are enough to maintain themselves throughout the period of their permission to stay, and are equal to, or exceed those you would normally give to a settled worker in the same role

31.21 Migrants need a valid CoS to be able to apply for leave under Tier 2 (Minister of Religion). They must also meet all the requirements for maintenance and competence in the English language as set out in the [guidance for migrants](#) which is available on GOV.UK.

31.22 The gross salary figure on the CoS must represent what you will pay to the migrant, gross of any tax paid (whether paid in the UK or overseas) and must include any permissible allowances and guaranteed bonuses. The total of all allowances and guaranteed bonuses paid, and included in that figure, should be entered in the 'gross allowances' box on the CoS, then broken down and detailed in the free text box that follows.

31.23 For each migrant sponsored, you must keep the documents specified in [Appendix D](#) of the guidance for sponsors.

## Codes of practice: standard occupational classification codes

31.24 When you assign a certificate of sponsorship (CoS), you must choose the standard occupational classification (SOC) code which contains the job description that best matches the role you want to recruit for. [Appendix J](#) to the Immigration Rules contains information about each SOC code and sample job titles and duties that fit within each code. You should be able to find the correct SOC code by searching [Appendix J](#) for job titles or key words.

31.25 You may find that if you search for job titles, the SOC code containing that job title does not match the duties that the migrant will perform. This is because different employers use the same job title to describe different jobs or use generic job titles that cover several different jobs. If this happens, you should search further, for example, using key words, for a job description that matches the migrant's duties.

### Related content

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## 32 Tier 2 (Sportsperson)

32. This category is for elite sports people and coaches who are internationally established at the highest level and whose employment will make a significant contribution to the development of their sport at the highest level in the UK, and who will base themselves in the UK.
- 32.1 When assigning a certificate of sponsorship (CoS) you are guaranteeing that:
- the migrant intends to be based in the UK for the duration of their stay and
    - has been approved by the sport governing body for their sport
    - will comply with the conditions (rules) of their permission to stay and, where they have been granted leave under Tier 2, will leave the UK when it expires
  - you accept the duties of sponsorship
- 32.2 If you fail to meet any of those duties, we will take action against you.
- 32.3 The gross salary figure on the CoS must represent what you will pay to the migrant, gross of any tax paid (whether paid in the UK or overseas) and must include any permissible allowances and guaranteed bonuses. The total of all allowances and guaranteed bonuses paid, and included in that figure, should be entered in the 'gross allowances' box on the CoS, then broken down and detailed in the free text box that follows.
- 32.4 All migrants in this category must be endorsed by the appropriate sports governing body. This confirms that they meet the sport governing body requirements as agreed between us and them, and confirms that:
- the migrant is internationally established at the highest level
  - the migrant will make a significant contribution to the development of their sport at the highest level in the UK
  - it is suitable to fill the post with a migrant and not a person who is settled in UK
- 32.5 When you assign a CoS to a migrant under Tier 2 (Sportsperson), you must enter the governing body endorsement reference number in the appropriate field. A CoS can only be assigned for the period covered by the governing body endorsement. Some sport governing bodies may only give an endorsement for 12 months at a time, regardless of the length of the migrant's contract. If the migrant will continue to be employed beyond the period covered by the sport governing body endorsement, you must get a new endorsement for this period and must assign a new CoS.
- 32.6 You must ensure that the migrant has a copy of the endorsement to provide with their application for a visa.
- 32.7 For each migrant, you must keep the documents specified in [Appendix D](#) of the guidance for sponsors.



## Codes of practice – standard occupational classification codes

32.8 When you assign a certificate of sponsorship (CoS), you must choose the standard occupational classification (SOC) code which contains the job description that best matches the role you want to recruit for. [Appendix J](#) to the Immigration Rules contains information about each SOC code and sample job titles and duties that fit within each code. You should be able to find the correct SOC code by searching [Appendix J](#) for job titles or key words.

32.9 All CoS assigned to migrants in the Tier 2 (Sportsperson) category must be sponsored in either of the following SOC codes:

- 3441 – Sports players
- 3442 – Sports coaches, instructors and officials

These SOC codes are ineligible for CoS assigned in the Tier 2 (General) or Tier 2 (Intra-Company Transfer) categories. [Appendix J](#) has more information on this.

## Sports players moving on loan

32.10 Where the relevant governing body permits it, sports players can move on loan to another club but only if they will return to their original club after the period of the loan. If your player is moving on loan, you must report this to us using your sponsorship management system (SMS) account within 10 working days of the move.

32.11 During the loan period, you continue to be responsible for the player and must make arrangements with the loan club so that you can continue to meet your duties. The loan club does not need to make an application for a governing body endorsement, nor have a sponsor licence. When the player returns from loan, you must report this to us using your SMS account within 10 working days.

32.12 If your player is permanently transferred to another UK club, you must tell us using your SMS account and the new club must make an application for a governing body endorsement on behalf of the player. The new club must be a licensed sponsor and the player must make a new application for leave. The player must have been granted leave to play for their new club before they play for them.

32.13 Players on loan from an overseas club to a UK club must meet all the requirements of Tier 2 or Tier 5 and have a governing body endorsement.

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## 33 Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Worker) categories

33. Tier 5 is made up of the Youth Mobility Scheme and Temporary Worker categories, which allow people to travel to the UK for mainly non-economic reasons to satisfy cultural, charitable, religious or international aims.
- 33.1 If you only need a temporary service from a migrant who does not meet the Tier 2 requirements, you may be able to register under Tier 5.

### Tier 5 (Youth Mobility Scheme)

- 33.2 The Tier 5 (Youth Mobility Scheme) category is a cultural exchange scheme which aims to promote the UK overseas and to encourage trade and tourism. It allows young people, aged between 18 and 30, to travel to the UK for mainly noneconomic reasons, and offers young migrants from participating countries and territories, opportunities to work temporarily while experiencing life in the UK.
- 33.3 Sponsors under the Tier 5 (Youth Mobility Scheme) are the national governments of participating countries and territories, not individual employers or other organisations.
- 33.4 Sponsored young people from participating countries and territories are allowed to come to the UK for up to 2 years. Young UK nationals enjoy similar opportunities in participating countries. These young people are free to do any work in the UK, except professional sport, or work as a doctor in training unless they obtained their medical qualification in the UK. Restrictions also apply for individuals who want to set up their own business. They can also study but this should not be the main purpose of their visit.

Further information on the scheme and the requirements migrants must meet are in the [‘Tier 5 \(Youth Mobility Scheme\) Guidance’](#) on GOV.UK.

### Tier 5 (Temporary Worker)

- 33.5 The Tier 5 (Temporary Worker) category offers migrants a range of ways to come to the UK, to work in a variety of temporary roles.
- 33.6 We recognise that under Tier 5 the sponsor may not always be the employer. In some circumstances, a migrant may meet all of the Tier 5 criteria where there is no direct employer/employee relationship. Even though an employer/employee relationship may not exist, there must be a sponsor who is able and willing to take responsibility for them and meet all of the duties associated with being their sponsor. If you are taking on this role, you will be responsible for the migrants you sponsor, even if you are not their employer. Below are 3 examples of where the sponsor is not the direct employer.



**Example 1**

In parts of the arts and entertainments sector, a migrant may be employed through an entity such as a Special Purpose Vehicle - if this is the case, we expect the sponsor to be a producer, co-producer or general management company even though they do not directly employ the migrant.

**Example 2**

Where a musical group or theatre troupe, and their support entourage, is on tour in the UK temporarily, they will not usually be employees of the sponsor.

**Example 3**

There will be occasions within the Tier 5 (Temporary Worker) Government Authorised Exchange subcategory where an overarching sponsor must administer schemes but cannot be the direct employer of any migrants it sponsors to participate in its scheme.

- 33.7 Where a migrant is not your direct employee, we will look closely at your arrangements and monitor you to make sure that you are fulfilling your sponsor duties. We will take action against you if you are not fulfilling all your sponsorship duties.
- 33.8 When you assign a CoS to a migrant under any subcategory of Tier 5, the gross salary figure on the CoS must represent what you will ensure the migrant is paid, gross of any tax paid whether paid in the UK or overseas, and must include any permissible allowances and guaranteed bonuses. The total of all allowances and guaranteed bonuses paid, and included in that figure, should be entered in the 'gross allowances' box on the CoS, then broken down and detailed in the free text box that follows.

## **Codes of practice: standard occupational classification codes**

- 33.9 When you assign a CoS, you must choose the standard occupational classification (SOC) code which contains the job description that best matches the role you want to recruit for. [Appendix J](#) to the Immigration Rules contains information about each SOC code and sample job titles and duties that fit within each code. You should be able to find the correct SOC code by searching Appendix J for job titles or key words.

You may find that if you search for job titles, the SOC code containing that job title does not match the duties that the migrant will perform. This is because different employers use the same job title to describe different jobs or use generic job titles that cover several different jobs. If this happens, you should search further, for example, using key words, for a job description that matches the migrant's duties.

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## 34 Tier 5 (Temporary Worker) Creative and Sporting

34. The Tier 5 (Temporary Worker) Creative and Sporting subcategory is for those who come to the UK to work or perform as sports people, entertainers or creative artists for the following periods of time:

- sports people - up to a maximum of 12 months
- creative artists - up to an initial maximum period of 12 months, with the choice to extend up to a maximum of 24 months in total

34.1 Since 6 April 2012, there is an extra route for migrants in the creative sector who will be visiting the UK for one month or less, which allows them to undertake certain permitted paid engagements.

If you are considering sponsoring a migrant in the creative sector who does not need to be in the UK for more than one month, you may wish to check if this visitor route will better meet their needs.

More information on this route is available the '[Permitted Paid Engagement visa](#)' page on GOV.UK.

### Where the migrant will be employed within the creative sector

34.2 Where appropriate, you must follow the Creative codes of practice in Table 8 of [Appendix J](#) to the Immigration Rules and consider the needs of the resident labour market in that sector. Table 8 covers the following 6 areas:

- ballet dancers
- dancers other than ballet dancers
- performers in film and television
- performers in theatre and opera
- workers in film and television
- models

34.3 When you assign a certificate of sponsorship (CoS) in the creative or sporting sector, you are guaranteeing that the migrant:

- is seeking entry to the UK to work or perform in the relevant sector
- is not intending to establish a business in the UK
- poses no threat to the resident labour market
- will meet with the conditions (rules) of their permission to stay and, where granted leave under Tier 5, will leave the UK when it expires

34.4 You must keep all the required documents specified in [Appendix D](#) of the guidance for sponsors.

## Resident labour market test for the creative and entertainment sector

- 34.5 Before you assign a certificate of sponsorship (CoS) under the creative provisions of the Tier 5 (Temporary Worker) Creative and Sporting category, you must satisfy yourself that you have followed the relevant code of practice which says if a resident labour market test must be carried out and how. You should explain to us which code of practice that you have followed. You can include this information in the free text box on the CoS or by returning to the CoS to add a 'Sponsor note' after you have assigned the CoS.
- 34.6 If there is no code of practice, you must show that the migrant will not be displacing a settled worker. This could be through having advertised the post to let settled workers apply, or by virtue of the migrant being who they are, for example, a musician with international status, or a member of a unit company. The [Creative code of practice in table 8 of Appendix J](#) to the Immigration Rules explains what a unit company is. The principles set out in [Table 8](#) can also be applied to other sectors where there is no code of practice.
- 34.7 You must explain on the CoS how you have met the resident labour market test and retain any documentary evidence as explained in [Appendix D](#) of the guidance for sponsors.

Examples include but are **not** limited to:

- evidence of recruitment activity such as advertisements placed
  - written support from a suitable industry body, or sector labour market information showing that the role couldn't be filled by a settled worker
  - evidence that the migrant has international status in their field - this is different to being well known only in one country
  - evidence that the migrant is part of a unit company which exists in another country outside the European Economic Area (EEA) and has performed at least once in that country - examples of unit companies include theatre, opera or dance companies, orchestras and other musical groups, circus troupes or acts such as a troupe of acrobats
  - evidence that the migrant has a certain attribute or appearance that is unlikely to be available in the EEA, for example a certain physical appearance, talent, linguistic or vocal skill
  - evidence that the migrant is needed for continuity; this means that the migrant has worked for a period of one month or more during the past year on the same production outside the EEA before the production came to the UK - the 'same production' is one which is largely the same in terms of direction and design as the production outside the EEA
- 34.8 When you assign a CoS, you must tell us how you have met the requirements of the relevant code of practice. If there is no code of practice, you must explain how the migrant will not be displacing a settled worker. This could be one or more of:

- a statement that the migrant has international status
- evidence of any advertisements you have placed
- that the migrant is a member of a unit company or is needed for continuity

You can include this information either in the free text box or by returning to the CoS after you have assigned it to add a 'sponsor note'. If you are assigning a group CoS for a unit company, all you need to do is tick the box confirming that the group is established and has performed overseas.

## Assigning a certificate of sponsorship under Tier 5 (Temporary Worker) in the creative and entertainment sector

- 34.9 Due to the nature of the creative sector, migrants are sometimes needed to do a number of engagements at various venues. If you will be the migrant's only sponsor in the UK and there is no more than a maximum of 14 days between each engagement, you can assign a single certificate of sponsorship (CoS) to cover the whole period. If the migrant will have more than one sponsor while in the UK, for example, a number of venues, producers or promoters, then each of those sponsors can assign a CoS to cover its own show. Where this is the case, none of the CoS can overlap.
- 34.10 Any CoS you assign can include rehearsal periods. You must make sure that you only assign a CoS for the period needed, covering only the period of engagements the migrant has in the UK as described in paragraph above. If we find you have assigned a CoS incorrectly, such as to falsely extend a migrant's stay in the UK, we will take action against you.
- 34.11 You can assign a group CoS, where appropriate. You may want to do this where the migrant is part of a group and this can also include their migrant's entourage. Below are 2 examples of when you might assign a group CoS.

### Example 1

For all the members of a unit company such as a ballet company or dance group, circus troupe, orchestra or group of musicians, or theatre group who are seeking to enter the UK to fulfil a contractual obligation to perform as a group.

### Example 2

For people whose work is directly related to the employment of an entertainer, cultural artist, sportsperson or a dramatic production - any migrant who is part of an entourage must have proven technical or other specialist skills.

- 34.12 You must assign a CoS to each member of the group which confirms they are a member of the named group and fill in all relevant details but you only have to pay one CoS fee to cover the entire group.

34.13 Each group member's CoS must show their share of any group fee. If you are not the migrants' direct employer, you must find out what share of the group fee each migrant will be paid. The exception to this is where there is no code of practice. In these cases, you may enter a nominal rate of £0.01.

## Where the migrant will work within the sporting sector

34.14 The sporting provisions of Tier 5 (Temporary Worker) are for sportspeople (and their entourage where appropriate) who are internationally established at the highest level in their sport and/or their employment will make a significant contribution to the development and operation of that sport in the UK. Coaches must be suitably qualified to undertake the role in question.

All CoS assigned to migrants in the Tier 5 (Temporary Worker) Creative and Sporting category as a sportsperson must be sponsored in either of the following SOC codes:

- 3441 – Sports players
- 3442 – Sports coaches, instructors and officials

These SOC codes should not be used for CoS assigned in any other Tier 5 category.

34.15 All migrants in this category must be endorsed by the appropriate sports governing body. This confirms that they meet the governing body endorsement requirements as agreed between us and them and confirms that as a player or coach they:

- are internationally established at the highest level and/or
- will make a significant contribution to the development of their sport in the UK

34.16 When you assign a CoS to a sports person under the sporting provisions of Tier 5, you must enter their governing body endorsement reference number in the relevant box on the CoS. You must ensure that the sports person has an electronic copy of their endorsement to print out and provide with their visa application.

34.17 A migrant who has already been granted leave under Tier 5 for a job as a footballer, may change ('switch') into Tier 2 (Sportsperson) if they will still be employed as a footballer and can meet the Tier 2 (Sportsperson) migrant requirements.

34.18 When you assign a CoS in the creative or sporting sector, you are guaranteeing that the migrant:

- is seeking entry to the UK to work or perform in the relevant sector
- is not intending to establish a business in the UK
- poses no threat to the resident labour market

- will comply with the conditions (rules) of their permission to stay and, where they have been granted leave under Tier 5, will leave the UK when it expires

## Tier 5 Creative and Sporting visa concession

- 34.19 Migrants sponsored under the Tier 5 (Temporary Worker) category must normally have been granted entry clearance (a visa) before coming to the UK. The only exception is for non-visa nationals in the Tier 5 (Temporary Worker) Creative and Sporting subcategory who are seeking entry for no more than 3 months under paragraph 245ZN(b) in [Part 6A of the Immigration Rules](#).
- 34.20 A 'non-visa national' means someone who is not a national of a country or territory specified in Appendix 2 to [Appendix V](#) of the Immigration Rules (whose nationals always require visas to come to the UK). This concession does not apply to visa nationals.
- 34.21 There are arrangements at the UK border to allow non-visa nationals to gain entry to the UK under this concession. They must present their CoS number to the immigration officer, and any evidence for the points they are claiming. We recommend you make sure that when assigning a CoS, migrants understand these arrangements and that leave to enter may take a little longer to process due to the checks that Border Force staff must carry out. We recommend that your sponsored migrants have your contact details in case they need to contact you.
- 34.22 If you are sponsoring a non-visa national to come to the UK under this concession, you need to be aware that, on entry to the UK, they will be subject to the general grounds for refusal in [Part 9 \(paragraphs 320 and 321A\) of the Immigration Rules](#). This means that even if they might otherwise qualify for entry, there may be other reasons, such as their previous conduct, that may lead to the application being refused. Non-visa nationals may apply for entry clearance in advance of travel if there is any concern their entry will be delayed or prevented.

## Use of ePassport gates

- 34.23 Since 20 May 2019, nationals of seven countries (Australia, Canada, Japan, New Zealand, Singapore, South Korea and the United States) have been able to use ePassport gates ('eGates') to enter the UK if they are coming as visitors or hold a valid UK entry clearance (visa) prior to their arrival.
- 34.24 However, those coming to the UK under the Tier 5 creative and sporting visa concession are not able to benefit from this change. This is because an individual who enters the UK through an eGate will not have their CoS activated and will not be granted the right type of leave to enter to allow them to work.
- 34.25 You must therefore advise individuals whom you are sponsoring under this concession that they **must** see an immigration officer at a manned desk and that they must not seek to enter the UK through an eGate. If they mistakenly

use an eGate, they will need to leave the Common Travel Area and re-enter the UK, making sure that they see an immigration officer, in order to have their CoS activated and obtain the correct form of leave.

**Note:** the Common Travel Area is the UK, Ireland, the Isle of Man and the Channel Islands (Bailiwick of Guernsey and Bailiwick of Jersey).

## Entry through Ireland

34.26 If a non-visa national who would otherwise qualify under this concession will be entering the UK via Ireland, they must either apply to be granted leave to enter remotely (using the [remote clearance process](#)) or obtain a UK visa in advance of their arrival in the UK. This is because individuals travelling from Ireland to the UK will not necessarily encounter an immigration officer to endorse the correct form of leave to permit entry under this concession. Further information can be found in the [Common Travel Area guidance](#) on GOV.UK.

34.27 The option to request leave to enter remotely is only available if the migrant will enter Ireland from outside the Common Travel Area (CTA) and then proceed directly to the UK. They must apply (or you, as their sponsor, must apply on their behalf) for remote clearance at least 72 hours before they enter the UK. If they enter the UK before they have been granted remote clearance, they will not have permission to work and must leave the CTA. They will then need to seek readmission to the UK, making sure that they either:

- see an immigration officer on arrival (if re-entering the UK from outside the CTA), or
- apply for remote clearance at least 72 hours before arriving in the UK (if they will re-enter Ireland from outside the CTA before returning to the UK)

34.28 The option to request leave to enter remotely is **not** available if the individual will commence a contract of employment which, because of the nature of that employment, would require their employer to undertake right to work checks. This is because remote clearance would not provide the employer with a 'statutory excuse' under illegal working legislation. In such cases, the migrant must obtain a UK visa before entering through Ireland. For further information on preventing illegal working, see '[Right to work checks: an employer's guide](#)' on GOV.UK.

## Leaving and returning to the UK under this concession

34.29 Where a non-visa national is granted leave to enter under this concession, their leave will lapse (end) as soon as they leave the Common Travel Area. This means that they will not automatically be able to re-enter the UK on the basis of their original leave.

34.30 We understand that the migrant may need to come back to the UK to fulfil their engagements. In these circumstances, the migrant must give an immigration officer their original CoS number again on arrival at the UK border. An immigration officer will ask the migrant to give evidence of meeting the



maintenance requirements again. They will carry out checks to make sure that you have not withdrawn your sponsorship since the migrant's original entry. We may speak to you again to confirm the details on the CoS. If the migrant meets all the criteria, we will be able to grant leave to allow them to finish the engagements for their sponsor within the period of their original grant of leave.

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## 35 Tier 5 (Temporary Worker) Charity Worker

35. Migrants coming to work temporarily in the UK as charity workers must only be doing voluntary fieldwork directly related to the purpose of your charity. You cannot offer paid employment under this category. 'Voluntary fieldwork' means activities which would not normally be offered at a waged or salaried rate and which contribute directly to the achievement or advancement of the sponsor's charitable purpose. It does not include work ancillary to the sponsor's charitable purpose including, for example, routine back office administrative roles, retail or other sales roles, fund-raising roles and roles involved in the maintenance of the sponsor's offices and other assets.
- 35.1 When you assign a certificate of sponsorship (CoS) under the Tier 5 (Temporary Worker) Charity Worker category, you are guaranteeing that the migrant:
- intends to undertake voluntary fieldwork related to the purpose of your charity for up to 12 months
  - will not be paid or receive other remuneration for their work (with the exception of reasonable expenses outlined in [section 44 of the National Minimum Wage Act 1988](#) (as amended from time to time)
  - will not be filling a permanent position - this includes temporarily undertaking a position which is permanently required
  - will comply with the conditions (rules) of their permission to stay and, where granted leave under Tier 5, will leave the UK when it expires
- 35.2 Migrants entering the UK under the Tier 5 (Temporary Worker) Charity Worker category will be given a maximum of 12 months' permission to stay. Their dependants are allowed to work if they are with or joining them in the UK.

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## 36 Tier 5 (Temporary Worker) Religious Worker

36. The Tier 5 (Temporary Worker) Religious Worker category is for migrants coming to work temporarily in the UK as one of the following:
- religious worker where their duties may include non-pastoral work and must not be as a Minister of Religion (see below)
  - religious worker who is employed overseas in the same capacity (provided it is not as a Minister of Religion) as they are seeking to come to the UK to work, although the detail of their duties in the UK may differ - this employment should be ongoing and the time spent in the UK should be in line with a break from their employment
  - member of a religious order such as a monastic community of monks or nuns, or a similar religious community involving a permanent commitment - a religious order is defined for our purposes as a lineage of communities or of people who live in some way set apart from society in accordance with their specific religious devotion, and which must be part of a bona fide religious organisation

**Note:** since 10 January 2019, you can no longer sponsor a migrant in the Tier 5 (Temporary Worker) Religious Worker subcategory to fill the role of a Minister of Religion. A Minister of Religion is someone who is a religious functionary whose main regular duties comprise the leading of a congregation in performing the rites and rituals of the faith and in preaching the essentials of the creed.

- 36.1 Before you assign a certificate of sponsorship (CoS) under the Tier 5 (Temporary Worker) Religious Workers category, you must carry out a resident labour market test where appropriate. The '[Resident labour market test for Tier 2 \(Minister of Religion\) and Tier 5 \(Temporary Workers\) Religious Workers](#)' section has more information on how to do this and when a role is exempt from the test.
- 36.2 When you assign a CoS under the Tier 5 (Temporary Worker) Religious Workers category, you are guaranteeing that:
- the migrant is qualified to do the job
  - the migrant will not take employment except as a religious worker
  - the migrant will not fill the role of a Minister of Religion
  - the migrant will only work at the location given unless you tell us of any change of location via your sponsorship management system (SMS) account
  - you accept the responsibilities of sponsorship for the migrant
  - the migrant will be supported through funds and/or accommodation that are enough for them to maintain themselves for the full period on their

CoS - migrants sponsored under this route do not have access to most state benefits

- the migrant will not displace a suitably qualified settled worker
- the migrant will comply with the conditions (rules) of their permission to stay and, where they have been granted leave under Tier 5, will leave the UK when it expires

36.3 The work of a member of a religious order must be within the order itself, or outside work directed by the order. Teachers working in schools not maintained by their order must be sponsored under the Tier 2 (General) category. Novices whose training consists of taking part in the daily community life of their order can be sponsored under this category, but anyone studying for a qualification in an academic institution not maintained by the order should be sponsored under the [Tier 4 student route](#). People who are not members of a religious order, but who are working or studying within a community are not allowed to apply under this category and must be sponsored under the relevant work or study category if they can meet all of the requirements.

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## 37 Tier 5 (Temporary Worker) Government Authorised Exchange

37. The Tier 5 (Temporary Worker) Government Authorised Exchange (GAE) category is for migrants coming to the UK through approved schemes that aim to share knowledge, experience and best practice.

37.1 All schemes fall under one of 4 types as below:

- **work experience programme** - these schemes offer work experience including volunteering, job-shadowing and internships. Work exchange programmes between the UK and other non-EEA countries are also included in this category. The aim is for migrants to gain experience of work in the UK. Approved schemes will allow migrants to take part for a maximum of 12 months
- **research programme** - these schemes allow migrants to undertake research programmes and fellowships on a scientific, academic, medical, or government research project at a UK Higher Education Institution or another research institution operating under the approval of a relevant government department. (The relevant government department may also offer financial sponsorship for the institution.) Approved schemes allow migrants to take part for a maximum of 24 months
- **overseas language programme** - these schemes are professional language training programmes that are fully or partially paid for by an overseas government or an organisation affiliated to an overseas government for up to 24 months
- **training programme** - approved schemes allow migrants to take part for a maximum of 24 months and offer formal, practical training in the fields of science and medicine. This includes:
  - training delivered by HM armed forces or UK emergency services
  - training programmes created for qualifying postgraduate students who need to undergo a period of formal training to gain their full qualification before leaving the UK

37.2 These categories cannot be used to fill job vacancies or to provide a way to bring unskilled labour to the UK. Migrants employed under a Tier 5 (Temporary Worker) GAE scheme are only allowed to fill supernumerary roles. This means that the role is over and above your normal requirements and if the person filling the role was not there, it wouldn't be filled by anyone else.

37.3 Any work or activity done by migrants on a Tier 5 (Temporary Worker) GAE scheme must be at or above RQF level 3, or the equivalent in Scotland. The exception is for schemes set up as part of the EU Lifelong Learning Programme where the skill level can be lower. Appendix J to the Immigration Rules lists all jobs which are at RQF Level 3 and above.

37.4 To stop potential abuse of this subcategory and the creation of small, isolated schemes which are similar to each other, individual employers and

organisations are not allowed to sponsor migrants under this route, even if they are licensed as a sponsor under other tiers or other subcategories of the points-based system. The only exceptions to this are:

- where you are a Higher Education Institution (HEI) or UK Research and Innovation (UKRI) and organisations endorsed in the Science, Research and Academia programme, and are recruiting:
  - a sponsored researcher
  - a visiting academic who will give lectures, act as an examiner or work on a supernumerary research collaboration
- where you are a government department or an executive agency of a government department

37.5 Apart from the exceptions listed above, the sponsor for a Tier 5 (Temporary Worker) GAE scheme must be an overarching body which administers the exchange scheme and acts as the licensed sponsor for any migrants in the scheme.

37.6 Since 6 April 2012 there is an extra route available for visiting academics who wish to come to the UK for no more than one month. This allows them to carry out certain paid engagements. If you use the Tier 5 (Temporary Worker) GAE category to sponsor migrants, you may wish to look at the rules for visiting academics as it may be better for a migrant to use this route rather than Tier 5 (Temporary Worker) GAE. The [‘Permitted paid engagement visa’](#) page on GOV.UK has information on this route.

37.7 Details all [Tier 5 \(Temporary Worker\) GAE schemes](#) are set out in [Appendix N](#) to the Immigration Rules on GOV.UK.

37.8 When you assign a CoS to a migrant who will take part in a Tier 5 (Temporary Worker) GAE scheme, you are guaranteeing that the migrant:

- is seeking to work or train here temporarily through an approved scheme
- will not establish a business in the UK
- meets the requirements of the scheme
- will not take part in any activities as part of the scheme that have not been endorsed by your sponsoring government department or approved by us
- will not take part in work or training for a period longer than approved for the scheme
- will comply with the conditions (rules) of their permission to stay and, where they have been granted leave under Tier 5, will leave the UK when it expires

37.9 If you assign a CoS for a period longer than approved for your scheme, we will take action against you. We will also speak to your endorsing government department and ask them if they wish to continue endorsing your scheme.

37.10 You are responsible for all of the migrants you sponsor under the scheme. It is important that you work closely with other bodies or organisations where your sponsored migrants are placed. If you do not have enough control over your

scheme, for example, if migrants are not doing work you said they would, we will take action against you.

#### **Related content**

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## 38 Tier 5 (Temporary Worker) Seasonal Worker

38. This subcategory is for migrants coming to the UK as seasonal workers in the edible horticulture sector through an approved scheme operator. This is a pilot scheme that will run between March 2019 and December 2020.
- 38.1 The 'edible horticulture sector' means those growing:
- protected vegetables – those grown in glasshouse systems
  - field vegetables – those grown outdoors, including vegetables, herbs, leafy salads and potatoes
  - soft fruit – those grown outdoors or under cover (for example, in glasshouses or a polytunnel), such as strawberries, raspberries, blackcurrants, blueberries and all ribes and rubus species
  - top fruit (orchard fruit) – trees that bear fruit, such as apples, plums, cherries, and apricots
  - vine and bines – both twining or climbing flexible stems of certain plants – for example, hops is a bine, and grapes is a vine
  - mushrooms – typically covers *Agaricus bisporus* species but can also include more exotic species; typically grown indoors
- 38.2 'Seasonal work' means employment which fluctuates or is restricted according to the season or time of the year.
- 38.3 To be allowed to apply for a licence to sponsor seasonal workers you must be:
- endorsed by the [Department for Environment, Food and Rural Affairs \(DEFRA\)](#) to be an approved scheme operator, and
  - licensed by the [Gangmasters and Labour Abuse Authority](#)
- 38.4 Individual employers and organisations are not allowed to sponsor migrants under this route, even if they are licensed as a sponsor under other tiers or other subcategories of the points-based system.
- 38.5 Only two approved scheme operators will be endorsed by DEFRA for this pilot. The approved scheme operators, Concordia (UK) Ltd and Pro-Force Limited, are listed in [Appendix U](#) to the Immigration Rules.
- 38.6 The Home Office reserves the right to refuse a sponsor licence application, even where a DEFRA endorsement has been secured.
- 38.7 Any work or activity carried out by migrants on a Tier 5 (Temporary Worker) Seasonal Workers scheme must be in a seasonal role with an employer in the horticultural sector, assigned by an approved scheme operator.
- 38.8 For 2020, this pilot is subject to an annual quota of 10,000, set by the Home

Office, and divided between the two scheme operators. You will not be permitted to exceed this quota.

38.9 You can sponsor a migrant for a maximum period of 6 months' employment in the UK within any 12-month period. Migrants cannot stay in the UK for longer than 6 months under this scheme.

38.10 You must undertake robust and comprehensive monitoring of all the migrants you sponsor in their work place, including ensuring that:

- their work environment is safe and complies with relevant Health and Safety requirements
- they are treated fairly by their employer
- they are paid properly – this includes satisfying National Minimum Wage regulations and Holiday Pay
- they are allowed time off, and proper breaks
- they are provided with appropriate equipment to do their job safely
- they are housed in hygienic and safe accommodation
- they are not transported in unsafe vehicles
- they are not threatened with, or subjected to, violence
- their passport is not withheld from them
- procedures are in place to enable migrants to report any concerns to you, and to enable them to move to another employer where possible

38.11 You can find guidance on meeting these requirements in the '[Employing people](#)' section of the GOV.UK website.

38.12 You must not place any additional charges on participating migrants, beyond the costs of administrating the scheme.

38.13 You cannot use the Tier 5 (Temporary Worker) Seasonal Workers subcategory to source your own labour needs.

38.14 Migrants must have prior entry clearance (a visa) to come to the UK in this subcategory. They will not be permitted to extend their stay in the UK.

38.15 When you assign a CoS to a migrant who will take part in a Tier 5 Seasonal Workers scheme, you guarantee that the migrant:

- is at least 18 years old
- will not establish a business in the UK
- will only take employment in a seasonal job permitted by this scheme, and with an employer in the horticultural sector that has been assigned by you
- will comply with the conditions of their entry clearance and will leave the UK when it expires

38.16 You must not assign a CoS than for longer than you need the migrant or beyond the maximum period permitted by your scheme (6 months).

38.17 If you assign a CoS for a period longer than approved for your scheme, we will revoke your licence. We will also speak to the Department for Environment, Food and Rural Affairs (the endorsing government department) and ask them if they wish to continue endorsing your scheme. You are responsible for ensuring that you sponsor only those migrants who you are satisfied are genuinely coming to the UK to undertake seasonal employment in the horticultural sector, and who intend to leave the UK once their entry clearance has expired. Specifically, we will revoke your licence if, within any 12-month period, any of the following occur:

- fewer than 95 percent of your sponsored migrants are granted entry clearance
- 3 percent or more of your sponsored migrants who obtain entry clearance fail to arrive at their place of employment
- fewer than 97 percent of your sponsored migrants who obtain entry clearance return overseas at the end of their permitted stay

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## 39 Tier 5 (Temporary Worker) International Agreement

39. The Tier 5 (Temporary Worker) International Agreement (IA) category is for migrants coming to the UK under contract to give a service to you which is covered under international law. This includes:

- employees of overseas governments and international organisations
- private servants in diplomatic households
- migrants coming to the UK to service contracts awarded under specific international trade agreements

39.1 More information about how long a migrant can be sponsored for under IA is available in the [guidance for Tier 5 migrants](#) and paragraphs 245ZM to 245ZS in [Part 6A](#) the Immigration Rules.

39.2 Any employment undertaken by a Tier 5 (Temporary Worker) International Agreement migrant must conform to relevant UK and European employment legislation, such as the [National Minimum Wage Act](#).

### Employees of overseas governments and international organisations

39.3 When you assign a CoS to an employee of an overseas government or international organisation, you are guaranteeing that the migrant will:

- be under a contract with the overseas government or international organisation
- not take up any employment other than that on the CoS you have assigned to them
- will comply with the conditions (rules) of their permission to stay and, where granted leave under Tier 5, will leave the UK when it expires

39.4 When you assign a CoS to a private servant, you are guaranteeing that the migrant:

- is aged 18 or over
- will be employed as a private servant in the household of
  - a named member of staff of a diplomatic or consular mission who has diplomatic privileges and immunity defined by the Vienna Convention on Diplomatic Relations or
  - a named official employed by an international organisation who enjoys certain privileges and immunities under UK or international law
- intends to work full-time in domestic employment
- will not take up any other employment other than as a private servant to a named individual in the given household
- has a written statement of terms and conditions for their work

- where granted leave under Tier 5, will leave the UK when their permission to stay has ended or when the named member of staff they are working for leaves the UK, whichever is sooner

39.5 When you assign a CoS to a private servant, you must add a sponsor note giving the name of the migrant's employer who must meet the requirements set out above. The migrant must include their written statement of terms and conditions for the work they will do with their application for leave to enter the UK. This written statement must be as set out in the guidance for [Tier 5 migrant](#) applications and [Appendix 7](#) to the Immigration Rules.

## **Contractual service suppliers and independent professionals under international agreements**

39.6 Tier 5 (Temporary Worker) International Agreement can be used to bring a migrant to the UK to service a contract covered by the UK's commitments under international trade agreements. The contract must be for 12 months or less.

39.7 These trade agreements allow employees of an overseas business ('contractual service suppliers') and self-employed people established outside the UK ('independent professionals') to come to the UK if:

- the work is pursuant to a contract to supply services to you (the UK sponsor) by an overseas business established on the territory of a party to the General Agreement on Trade in Service or a similar trade agreement that has been concluded, is in force, and under which the UK has relevant binding commitments, and that has no commercial presence in the UK
- the service supplied falls within a sector in which the UK has commitments under the relevant agreement
- the migrant is a national of the country in which the overseas business is established

39.8 The agreements are:

- the General Agreement on Trade in Service – contractual service suppliers only
- EU-Chile Free Trade Agreement – contractual service suppliers only
- EU-CARIFORUM Economic Partnership Agreement
- EU-Georgia Association Agreement
- EU-Ukraine Free Trade Agreement
- EU-Moldova Association Agreement
- EU-Andean Free Trade Agreement
- EU-Canada Comprehensive Economic and Trade Agreement
- EU-Japan Economic Partnership Agreement
- Least Developed Country (LDC) services waiver – these are additional commitments notified to the World Trade Organisation by the European Union (EU) in November 2015 in respect of service suppliers of least developed countries

- 39.9 [Appendix F](#) of the guidance for sponsors sets out the sectors covered and the countries in which the contractual service supplier or independent professional must be established.
- 39.10 The service supplied must be in line with a genuine contract covering 12 months or less which has been awarded through an open tendering or other procedure which guarantees that it is a bona fide contract and where you will be the final user of the service. You cannot sponsor a contractual service supplier or independent professional if you will then supply them as labour to another organisation.
- 39.11 Where the migrant is a contractual service supplier, they must have been employed by the sending business for at least one year before the date of their application for leave. Contractual service suppliers and independent professionals must also meet the skills requirements set out in this guidance.
- 39.12 Migrants may be granted Tier 5 leave to work as a contractual service supplier or independent professional under these arrangements for a maximum of 6 months in any 12-month period. If they are first granted leave for a period of less than 6 months, they can apply again in the UK to extend their stay up to the maximum period.
- 39.13 You must not use this route to sponsor intra-company transferees, who must be sponsored under the Tier 2 (Intra-company Transfer) category.

## Skills and experience

- 39.14 Any migrant applying for leave as a contractual service supplier or independent professional must have a university degree or a technical qualification showing knowledge at the same level.

The exceptions are where contractual service suppliers will provide one of the following:

- advertising and translation services - they must have relevant qualifications
- management consulting services, or services related to management consulting - they must have a degree (not a technical qualification)
- technical testing and analysis services - they must have a degree or technical qualification demonstrating technical knowledge
- chef de cuisine services - they must have an advanced technical qualification
- fashion model services or entertainment services (other than audio visual services) – there is no requirement for any specific qualifications

- 39.15 They must also have relevant professional qualifications, where they are legally required in the UK to carry out the work they will do, and:

- 3 years relevant experience in the sector if they are a contractual service supplier (unless supplying chef de cuisine services under the EU-

CARIFORUM agreement, in which case they must have 6 years' experience as a chef de cuisine)

- 6 years relevant experience in the sector concerned if they are an independent professional

## **Sponsoring contractual service suppliers and independent professionals**

39.16 When you assign a CoS, you are guaranteeing that:

- the migrant is employed by a business or is self-employed on the territory of a country outside the UK that is party to an eligible trade agreement – see [Appendix F](#) of the guidance for sponsors for a list of eligible agreements
- will be engaged in work that is covered by the UK's commitments under one of those agreements
- will comply with the conditions (rules) of their permission to stay and will leave the UK when it expires

39.17 If you want to bring contractual service suppliers or independent professionals to the UK under a new contract, you must tell us about this and not assign any CoS in connection with this until we have agreed it meets the requirements set out in this guidance. You can use your SMS account 'Request change of circumstances function' to tell us about any new contract. Once reported, we will ask you for supporting evidence and you must send us any documents or information within the time limit set.

39.18 We will revoke your sponsor licence if you assign a CoS in connection with a contract that:

- you have not told us about
- you have told us about, but we have not yet confirmed that you can assign a CoS for that contract
- we have told you does not meet the requirements set out in this guidance

## **Important notes about assigning a certificate of sponsorship to a contractual service supplier or independent professional**

39.19 When assigning a certificate of sponsorship (CoS) you will come to a box that asks you to tell us how much the migrant will be paid. This is mandatory and you must enter a figure. We know that you will not be paying a salary to the migrant, so you can enter a nominal figure, for example, £0.01.

39.20 You must also say in the 'Summary of job description' box that the CoS is for either a 'contractual service supplier' or an 'independent professional' by entering one of those phrases. If you forget before you assign the CoS, you can retrieve it from within your SMS account and add a 'Sponsor note' that says 'Contractual service supplier' or 'Independent professional'. Once assigned, you can add a 'Sponsor note' at any time before the migrant uses it



to make an application for Tier 5 leave. If it is not clear from the CoS that the migrant is a contractual service supplier or independent professional, their application may be delayed or refused.

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## 40 General information

### Migrants' initial permission to stay

40. Migrants applying under the Tier 2 and Tier 5 categories cannot apply for initial leave more than 3 months in advance of their employment start date, as stated on their certificate of sponsorship (CoS). You must make sure the timing of your recruitment and the date you assign the CoS does not put the migrant in a situation where they cannot make a successful application for leave to enter or remain in the UK.

### The cooling-off period

- 40.1 If a migrant has been sponsored in any Tier 2 category, or in the Religious Workers subcategory or Charity Workers subcategory of Tier 5 (Temporary Worker), and their leave has ended or expired, they must wait 12 months before applying again in the relevant category. We call this the 'cooling-off period'.
- 40.2 The cooling-off period applies where:
- the migrant has, in the 12 months immediately preceding the current application, had entry clearance or leave to remain in a category referred to in paragraph 40.1 ('relevant category'), and that leave has since expired
  - in the case of a Tier 2 migrant, the CoS which led to that grant of leave was issued for more than 3 months, and
  - the migrant is either:
    - applying for entry clearance from outside the UK, or
    - in the UK and had a previous period of Tier 2 leave, but then changed ('switched') into a different immigration category and now wishes to apply again under Tier 2
- 40.3 While the cooling-off period applies:
- a migrant who was previously sponsored in any Tier 2 category cannot be granted any further entry clearance in any Tier 2 category, or apply to switch into Tier 2 (General), Tier 2 (Minister of Religion), or Tier 2 (Sportsperson)
  - a migrant who was previously sponsored in either the Charity Workers subcategory or Religious Workers subcategory of Tier 5 (Temporary Worker) cannot be granted any further entry clearance in either of those subcategories
- 40.4 If you want to sponsor a migrant under any category of Tier 2, or in the Charity Worker or Religious Worker subcategory of Tier 5, they should be able to tell you if they have had a period of leave in one of those categories, so that you can check if they are allowed to make a further application.
- 40.5 The cooling-off period starts the day after the migrant's last leave in the relevant category has ended or expired.

- 40.6 If the migrant's previous grant of leave was curtailed for any reason, the cooling-off period starts from the day after their curtailed period of leave expired.
- 40.7 Where the migrant left the UK before their last period of leave in a relevant category expired, the cooling-off period can start earlier than the date their leave expired, but only if they can give us evidence of them having not been in the UK with leave in a relevant category for a period before that date.

Evidence may include, but is not limited to:

- travel tickets or boarding card stubs, but **only** if you, or the migrant's last sponsor also sent an SMS report at the time, confirming their employment in the UK had ended
- exit or entry stamps in the migrant's passport confirming they were not in the UK
- a letter from the migrant's overseas employer confirming the date they started work overseas, after returning from the UK
- other evidence that shows the migrant was not in the UK

Where evidence is produced and accepted, we work out the cooling-off period to start from the earliest date supported by evidence.

## Additional exceptions under Tier 2

40.8 The Tier 2 cooling-off period does not apply where the migrant:

- is in the UK and applying for an extension to their existing leave
- is in the UK and is making a change of employment application
- is applying as a high earner – someone whose gross salary package accepted for a Tier 2 (General) application is £159,600 or higher, or £120,000 or higher for a Tier 2 (ICT) application
- is applying under the Tier 2 (ICT) Long-term Staff subcategory and their last grant of Tier 2 leave was in one of the following intra-company transfer categories:
  - Skills Transfer
  - Graduate Trainee
  - Short-term Staff
- was only in the UK as a Tier 2 migrant during the last 12 months for a short period(s) with a CoS which was assigned for 3 months or less. This could be where a migrant:
  - was assigned a CoS of 3 months or less in the preceding 12-month period, and had no other Tier 2 leave during that period, the cooling-off period will **not** apply
  - has had more than one period of Tier 2 leave in the last 12 months and each CoS was assigned for less than 3 months, even where they may total over 3 months, the cooling-off period will **not** apply

**Note:** it is the intention that this waiver permits only short-term periods of leave in the UK. If you intend to sponsor a migrant in the

UK for longer than 3 months, you should assign the CoS under the appropriate subcategory

- was assigned a CoS of 6 months in length but you notified us that they finished working for you in the UK after 2 months, the cooling-off period **will** apply (as the CoS was assigned for more than 3 months)

## Maintenance (available funds)

40.9 Migrants in all tiers must show that they have enough money to support themselves and any dependants when they enter the UK, until they start to receive an income. The '[Guidance for dependants of UK visa applicants \(Tiers 1, 2, 4, 5\)](#)' on GOV.UK has more information on this.

40.10 To qualify for entry clearance, or leave to remain in the UK under the Tier 2 or Tier 5 categories, the migrant must meet the maintenance requirements set out in the [Tier 2](#) and [Tier 5](#) guidance for migrants and Appendix C to the Immigration Rules.

40.11 If your licence is rated A, A (Premium) or A (SME+), you can certify maintenance for any migrant sponsored under the Tier 2 or Tier 5 categories. You can also certify maintenance for dependants of any Tier 2 or Tier 5 migrants.

40.12 If you want to certify maintenance for a migrant and their dependants under the Tier 2 or Tier 5 categories, you should 'tick' the box on their CoS. If you do not wish to certify maintenance for dependants you must add a 'Sponsor note' on the CoS, saying this.

If you certify maintenance under the Tier 2 or Tier 5 categories you confirm that you will, if needed, maintain and accommodate the migrant up to the end of their first month of employment in the UK. You may limit the amount of the undertaking, but any limit must be at least £945. If you certify maintenance for a Tier 2 or Tier 5 migrant's dependants, you confirm that you will maintain and accommodate them for the first month of any leave that is granted to them. You may limit this, but it must be at least £630 per dependant.

40.13 If you certify maintenance, you must make sure the migrants are aware that they must not claim state benefits. If they do claim state benefits with your knowledge, we will take action against you.

40.14 If you do not wish to certify maintenance at all, the migrant and their dependants must all meet the maintenance requirements as set out in the relevant guidance and the Immigration Rules and give us the required evidence with their application for leave.

## Switching while in the UK

40.15 Switching is the term we use when a migrant who is already legally in the UK moves from one immigration status to another. We only approve an application for a migrant to switch immigration category while in the UK if they:

- meet the requirements of the [Immigration Rules](#) to be allowed to stay in the UK within the category that are applying to switch into
- are already in the UK within one category that allows them to switch into the category they are applying to switch into

40.16 If you want to sponsor a migrant under the Tier 2 or Tier 5 categories who is already in the UK under another immigration category, you should check that their current immigration status allows them to switch into the Tier 2 or Tier 5 category. This is important if the migrant is in the UK as the dependant of another migrant. This is because any dependant switching into Tier 2 (General) counts towards the annual limit under Tier 2 (General) which means they will need a restricted CoS. The [Tier 2 \(General\) annual limit](#) section has more information on this.

40.17 Further guidance on switching rules is available in the [work visa](#) guidance and [Part 6A of the Immigration Rules](#) on GOV.UK.

## Extension of permission to stay

40.18 A migrant with leave under the Tier 2 or Tier 5 categories can apply for an extension of their permission to stay, which is known as further leave to remain.

40.19 Where the migrant is already working for you and wishes to extend their period of leave, for example, if their contract is extended, you must assign a new CoS for the extended period. Under the Tier 2 and Tier 5 categories, the requirements for extension applications are that:

- the migrant has been assigned a CoS for their continued employment in the same role before making an application for an extension of stay
- if the migrant's original CoS was assigned before 6 April 2013, and the job they have been doing is not contained in one of the SOC 2010 codes listed in [Table 7 of Appendix J](#) to the Immigration Rules, you can assign a CoS under the most appropriate SOC 2010 code but only if it is clear that the job the migrant is doing did fit in the SOC stated on their original CoS and does not fit in one of the transition SOC's **or**
- the migrant has been assigned a CoS for their continued employment in another role within the same SOC code that was on their original CoS before making an application for an extension of stay **and**
- the job is still at the appropriate skill level (see transitional arrangements for SOC codes – skill level for transitional arrangements in respect of changes to the SOC codes from 6 April 2013 that may have led to the skill level of a particular job being assessed as lower than before)
- the migrant will continue to be paid at or above the appropriate rate, the '[Rates of pay](#)' section has more information on when the 'experienced' rate must be paid to a Tier 2 migrant
- in the case of a private servant sponsored under Tier 5 (Temporary Worker) International Agreement, that they will continue to work for the employer named on their original CoS

- 40.20 If you originally carried out a resident labour market test before you started sponsoring the migrant, you do not have to do another one.
- 40.21 We only extend a migrant's permission to stay up to the maximum time allowed under the relevant tier and/or subcategory.
- 40.22 When you assign a CoS to extend a migrant's leave in the same tier and category, the start date on the CoS should be the day after their current leave expires but the migrant cannot apply for leave more than 3 months before that date.

## Change of employment

- 40.23 If a migrant sponsored under the Tier 2 or Tier 5 categories changes employer, where the conditions (rules) of leave allow this, they must make a new application supported by a CoS from their new sponsor. The exception is if they are moving to a new sponsor with [the Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(TUPE\) arrangements](#) or [similar protection](#) to continue in the same job, due to a takeover, merger or de-merger or other circumstance in which TUPE is triggered.

- 40.24 Where either:

- you are already sponsoring a migrant who wants to continue working for you in a new job within the same SOC code quoted on their CoS **or**
- a migrant is transferring to you with [TUPE](#) or [similar protection](#) and as part of the transfer they move into a new job within the same SOC code that was on the CoS assigned to them by their last sponsor

they do not have to make a new application **unless** they are changing from a job which is in a short occupation listed in [Appendix K](#) to the Immigration Rules, to one that is not. In all cases, the rate of pay for their new job must meet the [appropriate rate](#) requirements set out in this guidance.

- 40.25 If a sponsored migrant is changing occupations and will still be employed by you but their new job is in a different SOC code, they must make a new application. The same applies where a migrant is affected by [TUPE](#) or [similar protection](#) and, as part of their transfer, they change occupation and the new job is in a different SOC code.
- 40.26 The exception is where the migrant is sponsored in a graduate training programme. They may change occupation within the programme or at the end of the programme without you needing to carry out a further resident labour market test or for them to make a new application. You must tell us of the change of occupation via the SMS.
- 40.27 Where a sponsored migrant must make a 'Change of employment' application, you must first carry out a resident labour market test, if this guidance requires it, before you assign a new CoS to them. This could be if a migrant you are already sponsoring under Tier 2 (General) wants to continue working for you but in a different occupation which is in a different SOC code to the one you

quoted on their original CoS. You cannot simply give them the job and assign a new CoS to them straight away unless there is an exemption from the resident labour market test.

40.28 If the new job is not exempt from the resident labour market test, you must carry one out and must only appoint that same migrant if **no** suitable settled workers are available to fill the post. If you fail to carry out a resident labour market test in accordance with this guidance, we will take action against you.

40.29 If you assign a CoS to a migrant to change employment, they must then make a new application. Their application must be approved before they can start work in their new job.

This applies in all cases whether the new job is with the same sponsor or a new sponsor. The migrant can continue working in their original job, for their original sponsor, provided their last grant of leave has not expired, until the start date of the new job, as stated on their new CoS.

40.30 If you sponsor a migrant under Tier 2 who is already in the UK under Tier 2 having been sponsored by someone else, you need to know about the rules that limit a migrant to a maximum of 6 continuous years' leave in the UK under Tier 2. These rules are explained in the [guidance for Tier 2 migrants](#) and in [Part 6A of the Immigration Rules](#).

## **Transitional arrangements for changes of job within the same standard occupation classification code**

40.31 If you sponsor a migrant whose original certificate of sponsorship (CoS) was assigned before 6 April 2013 using a SOC 2000 code and you want to move them to a new job that used to be in the same SOC code as the one on their CoS, they will not have to make a change of employment application if the new job falls within one of the equivalent SOC 2010 codes. You can check this by looking at Table 7 in [Appendix J](#) to the Immigration Rules, which lists the transition from SOC 2000 to SOC 2010 codes. For example, if the migrant's original job fell within SOC 1123 – Managers in Mining and Energy, and their new job falls within either:

- SOC 1123 – Production managers and directors in mining and energy
- SOC 2424 – Business and financial project management professionals

they will not have to make a change of employment application.

## **Leaving and returning to the UK**

40.32 If a Tier 2 or Tier 5 migrant needs to travel in and out of the UK on a regular basis in connection with their job, you can choose to tick the 'Multiple entry' box when assigning their CoS. If you do this, it does not involve any extra benefits or restrictions on the migrant's ability to travel but does help to show their intentions and likely travel plans to us. 'Multiple entry CoS' holders must, like other applicants, obtain prior entry clearance unless seeking entry for no more than 3 months as a non-visa national under the [Tier 5 Creative and](#)



### [Sporting visa concession.](#)

- 40.33 A multiple-entry CoS is not needed by a migrant wanting to travel overseas for leisure or domestic purposes during the period you sponsor them. If they take annual leave and return home during that period, they can still return to the UK to resume work if their leave is still valid.
- 40.34 If a migrant has been assigned a multiple entry CoS, this does not override the rules on periods of unpaid leave. See the '[Unpaid leave and reductions in salary](#)' section for more information on this.
- 40.35 If a Tier 2 or Tier 5 migrant has been granted leave to remain in the UK for 6 months or less, or they are a Tier 5 migrant who was granted leave to enter under the [Tier 5 Creative and Sporting visa concession](#), their leave will end (lapse) if they leave the Common Travel Area (CTA). The CTA is the UK, Ireland, the Isle of Man and the Channel Islands (Bailiwick of Guernsey and Bailiwick of Jersey).
- 40.36 If a Tier 2 or Tier 5 migrant's leave lapses as a result of leaving the CTA, or otherwise expires while they are outside the UK, they will not be able to re-enter the UK unless they make a further successful application for entry clearance, which must be supported by a new CoS. The migrant may also be affected by the [cooling-off period](#). The exception to this is where they are a non-visa national who entered the UK under the [Tier 5 Creative and Sporting visa concession](#) and they are returning under that concession to complete the engagements stated on their original CoS.

## **The biometric residence permit**

- 40.37 Migrants applying for entry clearance to the UK for more than 6 months must apply for a biometric residence permit (BRP) as part of the application process. This involves enrolling their fingerprints and facial image to have their identity confirmed. If a successful decision is made on their application for entry clearance, a decision letter will tell the migrant from which nominated Post Office in the UK they must collect their BRP. They will be provided with a short-term biometric entry clearance (a vignette in their passport), valid for 30 days, in order to travel to the UK to collect their BRP. The migrant then has 10 days from their arrival in the UK to collect their BRP from that nominated Post Office. The BRP will be the sole way of evidencing that the migrant is here lawfully and any conditions (rules) of their leave. The '[Biometric residence permits](#)' page on GOV.UK has more information.
- 40.38 Tier 2 and Tier 5 migrants applying for leave to remain in the UK have to apply for a BRP. Before receiving the BRP, the migrant must give their fingerprints and facial image, have their identity confirmed and a successful decision made on their application for leave.
- 40.39 The vast majority of Tier 2 or Tier 5 migrants will use their BRP to evidence their [right to work in the UK](#). If they need to start work before collecting their BRP, however, they will be able to evidence their right to work by producing the short-term biometric entry clearance in their passport which they used to

travel to the UK, as long as it is still current. In these circumstances, you will need to ask to see their BRP when this vignette expires (30 days after issue). The '[Right to work checks: an employer's guide](#)' page on GOV.UK has information on how to establish an excuse against a civil penalty liability for employing an illegal worker.

40.40 Those coming to live in the UK for more than 6 months will be required under the BRP regulations to collect their BRP within 10 days of arrival.

## **Migrants working on a contract basis**

40.41 Where a migrant is working on a contract basis and is being supplied to one organisation by another organisation, their sponsor must be whoever has full responsibility for all the duties, functions and outcomes or outputs of the job the migrant is doing. Below is an example of this.

### **Example**

Company A has a contractual obligation with a client 'Company Z' to deliver an IT solution within an agreed period of time.

A migrant who is sponsored by Company A to do a job on the IT project may be sent to work for the length of the contract at Company Z's premises, but they remain employed by Company A throughout the whole period of the contract.

As Company A is fully responsible for all the migrant's duties, functions, outputs or outcomes, Company A must be the migrant's sponsor.

40.42 You can only assign a CoS if you have genuine responsibility for deciding all the duties, functions and outcomes or outputs of the job the migrant will be doing. Where the migrant is employed by you to do work for another organisation to fulfil a contractual obligation on your behalf, they must be contracted by you to provide a service or project within a certain period of time. This means a service or project which has a specific end date, after which it will have ended or the service provided will no longer be operated by you or anyone else. They must not be:

- agency workers, hired to another organisation to fill a position with them, whether temporary or permanent, regardless of any genuine contract between you and any employment agency or third party (intermediary) who supplies workers to an organisation – the '[Employment agencies and employment businesses](#)' section has more information
- contracted to undertake an ongoing routine role or to provide an ongoing routine service for the third party (intermediary), regardless of the length of any genuine contract between you and another organisation

40.43 If the migrant is self-employed, there must be a genuine contract for employment/services between you and the migrant. This contract must show:

- the names and signatures of all involved (normally, you and the migrant)
- the start and end dates of the contract

- details of the job, or piece of work the migrant has been contracted to do
- an indication of how much the migrant will be paid

40.44 Where we think that you are supplying a migrant to another organisation as labour, we may ask for confirmation from the other organisation, that:

- the migrant works independently from them, and you, as the sponsor, have full control over all their duties, functions, outputs or outcomes
- the migrant is not being supplied to them to undertake a routine role

If we find this has happened, we will take action against you.

## Supplementary employment

40.45 Migrants sponsored under the Tier 2 and Tier 5 categories are allowed, in limited circumstances, to undertake other work as well as that which their CoS was assigned for. We call this supplementary employment. The exception is for private servants sponsored under the Tier 5 (Temporary Worker) International Agreement subcategory who are not allowed to take supplementary employment.

40.46 Supplementary employment does not have to meet the resident labour market test requirements and the employer does not have to be a licensed sponsor.

Supplementary employment must:

- be in the same profession and at the same professional level as the work for which the migrant's CoS was assigned or be a job which is in a [shortage occupation](#) listed in [Appendix K](#) to the Immigration Rules - if the occupation is later removed from the list of shortage occupations, the migrant must finish that employment
- be for no more than 20 hours a week
- be outside of the normal working hours for which the migrant's CoS was assigned

Migrants do not need to advise us of any supplementary employment they undertake as long as it meets these criteria.

40.47 A migrant should advise their new employer that the employment is supplementary to the work they are being sponsored to do, so that their supplementary employer can make the necessary checks described in our guidance for employers on illegal working. The '[Right to work checks: an employer's guide](#)' page on GOV.UK has more information.

## Secondary employment

40.48 Once a migrant sponsored under Tier 2 has used their CoS to gain leave to enter or remain in the UK and has started work, they are allowed to apply to take other employment which does not meet the supplementary employment criteria. We call this secondary employment.

40.49 Any secondary employment must be with a licensed sponsor and the migrant must be able to meet the criteria relevant to the category in which their secondary employment falls. The secondary employer must have recruited them in line with the rules set out in this guidance. The secondary employer must assign a new CoS to the migrant so that they can make an application to vary their existing leave or worker authorisation.

**Note:** a second CoS cannot be assigned to a migrant until the migrant has used their first one.

## Educational courses

40.50 Migrants sponsored under Tier 2 and Tier 5 may do courses of study. There is no limit on the number of hours they can study or level of course they undertake. However, we would expect that any study done does not affect their ability to carry out the job they have been employed to do. If they intend to study a discipline listed in [Appendix 6 to the Immigration Rules](#) and are 18 years of age or over, they must obtain an [Academic Technology Approval Scheme \(ATAS\) clearance certificate](#) in respect of this course from the Counter-Proliferation Department of the [Foreign and Commonwealth Office](#) prior to commencing their study. Study may be undertaken anywhere the migrant chooses and does not have to be with a licensed Tier 4 sponsor.

## What happens if a migrant applies for settlement (also called indefinite leave to remain)?

40.51 The maximum time that a Tier 2 migrant may be in the UK under the Tier 2 (General), Tier 2 (Minister of Religion) or Tier 2 (Sportsperson) categories is 6 years. After 5 years, the migrant may [apply for settlement \(also called 'indefinite leave to remain' \(ILR\)\) in the UK](#).

40.52 If a Tier 2 migrant applies for ILR as a Tier 2 migrant, you will need to support this application with evidence. This is currently a letter confirming the:

- migrant is still wanted for the same job, and will be needed for the foreseeable future
- absences of the person from the UK, the periods and purposes of work-related absences and their periods of annual leave
- amount of the migrant's salary and that this is their regular salary – you will also need to confirm that the salary is not expected to reduce once they have been granted ILR, and that the salary is at or above the appropriate rate

We may check this during a compliance visit.

40.53 Since 6 April 2016, Tier 2 (General) and Tier 2 (Sportsperson) migrants must earn a minimum salary level to be successful in an ILR application. They must be paid whichever is the higher of:

- a minimum of the relevant salary threshold listed below
- the appropriate rate as stated in [Appendix J](#) to the Immigration Rules

40.54 The minimum salary threshold referred to above for applications made on or after 6 April 2019 is £35,800.

40.55 Salary for ILR applications is calculated in the same way as that for Tier 2 leave applications, including any of the following that apply:

- basic pay (excluding overtime) up to 48 hours per week
- guaranteed allowances which would be paid to settled workers in similar circumstances

40.56 The following are not included:

- other allowances and benefits
- employee-owner shares
- earnings from supplementary employment

40.57 Migrants in jobs that are in a [shortage occupation](#) set out in [Appendix K](#) to the Immigration Rules, were on the shortage occupation list in the preceding 6 years at a time the migrant was sponsored to do that job, or are in PhD level occupation listed in [Table 1](#) of Appendix J to the Immigration Rules, are exempt from the threshold.

40.58 If your licence is suspended when the migrant applies for ILR, we will not decide their application until the reason for the suspension has been resolved. If your licence is revoked, we will refuse their application for ILR.

#### **Related content**

[Contents](#)

# Annex 1: circumstances in which we will refuse your application

This page sets out the circumstances in which we will refuse your sponsor licence application. We reserve the right to refuse your application if we have reason to believe you pose any risk to immigration control.

Reference	Circumstances
a.	If you knowingly send any false document with your application. If this happens, and we believe that a criminal offence has been committed, we will refuse your application and refer your case for prosecution.
b.	If you do not meet a requirement of the tier or category under which you are applying. If you fully meet the requirements for some of the tiers or categories but not others, we will only licence you for the tiers or categories under which you qualify.
c.	If you have been issued with any civil penalty under <a href="#">Section 15 of the Immigration, Asylum and Nationality Act 2006</a> or <a href="#">the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013</a> for employing illegal workers and you were or are still liable once your objection and appeal rights have been exhausted, your application will be refused if it is made within 12 months of the date the penalty was fully paid, or the date the penalty was issued if no fine was imposed.
d.	An owner, director or the authorising officer have been issued with <b>more than one</b> civil penalty under Section 21 of the <a href="#">Immigration Act 2014</a> for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status and you were or are still liable once your objection and appeal rights have been exhausted, your application will be refused if it is made within 12 months of the date the penalty was fully paid, or the date the penalty was issued if no fine was imposed.
e.	If you have not paid an outstanding civil penalty issued for employing an illegal migrant worker, and you are still liable once your objection and appeal rights have been exhausted.
f.	An owner, director or the authorising officer have not paid an outstanding civil penalty issued for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status, for which they are still liable having exhausted their objection and appeal rights have been exhausted.

Reference	Circumstances
g.	<p>If you have been issued with a civil penalty in the 5 year period immediately prior to your application for a 'charge or penalty' in <a href="#">Appendix C</a> of the guidance for sponsors, apart from:</p> <ul style="list-style-type: none"> <li>• employing an illegal migrant worker</li> <li>• authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status</li> </ul>
h.	<p>If you have a criminal conviction for a relevant offence. Relevant offences are:</p> <ul style="list-style-type: none"> <li>• any offence under: <ul style="list-style-type: none"> <li>○ the Immigration Act 1971</li> <li>○ the Immigration Act 1988</li> <li>○ the Immigration Act 2014</li> <li>○ the Asylum and Immigration Appeals Act 1993</li> <li>○ the Immigration and Asylum Act 1999</li> <li>○ the Nationality, Immigration and Asylum Act 2002</li> <li>○ the Immigration, Asylum and Nationality Act 2006</li> <li>○ the UK Borders Act 2007</li> <li>○ trafficking for sexual exploitation</li> <li>○ any other offence listed in <a href="#">Appendix B</a> of the guidance for sponsors</li> </ul> </li> <li>• any offences of: <ul style="list-style-type: none"> <li>○ espionage/terrorism</li> <li>○ dishonesty (theft, corruption, deception and fraud)</li> <li>○ tax or excise duty avoidance</li> <li>○ bribery</li> <li>○ proceeds of crime</li> <li>○ money laundering</li> <li>○ abuse and neglect of children</li> </ul> </li> <li>• any offence listed under Class A (homicide, manslaughter and related grave offences) in <a href="#">Annex 1B: List of offences in class order</a> as defined by the <a href="#">Crown Prosecution Service</a></li> <li>• any offence listed in <a href="#">Annex 7</a> of this guidance</li> </ul>
i.	<p>If you are legally prohibited from becoming a company director unless an exemption applies, see the <a href="#">key personnel</a> section. Note: that the authorising officer or level 1 user must not be an un-discharged bankrupt.</p>
j.	<p>If you have previously held a sponsor licence under any tier and that licence was revoked by us in the 12-month period prior to the date of your application. Before 6 November 2014, this cooling-off period was 6 months.</p>



Reference	Circumstances
k.	<p>If you have had an application refused within the last 6 months for one or more of the reasons listed below:</p> <ul style="list-style-type: none"> <li>• you did not meet a requirement to be a sponsor in the category under which you applied</li> <li>• you sent a false document</li> <li>• you did not have one of the processes necessary to comply with your sponsor duties</li> <li>• you have an unspent criminal conviction for a relevant offence (see the section titled 'When we will refuse a sponsor licence')</li> <li>• you are legally prohibited from becoming a company director (unless this is due to being an un-discharged bankrupt). Please note that the authorising officer must not be an un-discharged bankrupt or</li> <li>• you have no trading presence in the UK</li> </ul>
l.	If your application is sent by a representative.
m.	If we have asked you to send us any document or information to validate or support your application and you do not send the document or information within the given time limit.
n.	If the information available to us suggests that you do not yet have in place a process necessary to comply with your duties as a sponsor. For example, an employer's internal communications may not be good enough for it to know if a sponsored migrant has not reported for work.
o.	If you are applying under Tier 2 and we are not satisfied that you can offer genuine employment that cannot be filled by a resident worker, and/or that meets the Tier 2 requirements.
p.	If you have no operating or trading presence in the UK.
q.	You fail to meet all the requirements set out in <a href="#">safeguarding children</a> .
r.	Where you state that you will employ a migrant under the <a href="#">shortage occupation provisions</a> but do not meet one or more of the sponsor criteria for employing a migrant under these provisions.

## Related content

[Contents](#)

## Annex 2: circumstances in which we may refuse your application

This page tells you about the circumstances in which we may refuse your sponsor licence application. We reserve the right to refuse your application if we have reason to believe you pose any risk to immigration control.

Reference	Circumstances
a.	If you have a previous record of non-compliance or poor compliance with the duties of sponsorship or with the work permit arrangements. You should see <a href="#">Annex 1</a> of this guidance if you have previously had a sponsor licence and it was revoked.
b.	If you have previously been asked to provide evidence to allow us to decide whether an organisation was complying with the sponsorship or work permit arrangements and that information was not provided.
c.	If the Office of the Immigration Services Commissioner (OISC) has removed your authorisation, or the authorisation of any organisation that you have been involved with in a similar role. (This applies to individuals or organisations that provide immigration advice or services.)
d.	You have knowingly provided a false statement or false information, or not provided information that you held when required to, to us (or the former Immigration and Nationality Directorate, Border and Immigration Agency or UK Border Agency) or any other Government Department.
e.	You have, or you are aware that a sponsor organisation that you have been involved with in a similar role within the last 5 years has, been issued with a penalty for failure to pay VAT or duty.
f.	You have any unspent conviction for an offence-which we believe to be of relevance to you discharging your sponsor duties.
g.	If you have been issued with more than one civil penalty in the 5-year period immediately prior to your application for a 'charge or penalty' for employing an illegal migrant worker.
h.	An owner, director or the authorising officer has been issued with a civil penalty in the 5-year period immediately prior to your application for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status.

Reference	Circumstances
i.	**You have previously been named as 'key personnel' at any sponsor organisation whose sponsorship licence has been revoked in any tier within the last 12 months.
j.	If the EU or UN have imposed sanctions on you which will be contravened by giving you a licence.
k.	If you are or have been an owner, director or authorising officer of a sponsor organisation that has been ordered to pay costs to the Home Office in any legal proceedings, and those costs have not been paid.

We do not routinely undertake checks on persons associated with sponsors who do not fall under the general definition of 'you' or 'your'. Such persons may include employees in positions of responsibility who are not directors or key personnel and financiers involved in the running of the institution. But we reserve the right to do so and may ask you for information on such individuals as part of the application process and throughout the life of your sponsor licence. The conduct of such persons, where relevant, may also be taken into account in deciding what action to take.

Previous non-compliance may result in our refusing your licence where it is one of several grounds we have considered leading to the decision, or where it is warranted by the actions of that person and their previous organisation's revocation.

\*\* The action we take will depend on:

- the seriousness of the past conduct (including conduct that led to revocation of a licence) and what you have done to improve the situation
- how long it is since the conduct took place and any mitigating circumstances;
- concerns we may have about any of your associated persons or employees, and the role they have within your organisation, in particular, where they have been employed or associated with an organisation that has been removed from the sponsor list for abuse or serious non-compliance within the last 5 years
- whether we believe your previous criminal conduct has a bearing on your suitability to be a sponsor

We may use the information that you provide to us when you apply for a licence or at any time throughout the period of your licence in accordance with the Home Office Information Charter.

## Related content

[Contents](#)

## Annex 3: circumstances in which we will downgrade your licence to B-rating

This page tells you about the circumstances in which we will downgrade your sponsor licence.

Reference	Circumstances
a.	You have certified that a migrant will not claim state benefits and that migrant then does claim benefits with your knowledge.
b.	As a result of information available to our compliance officers, we are not satisfied that you are using a process or procedure necessary to fully comply with your sponsor duties.
c.	If we have asked you to send us any document or information and you do not send the document or information within the given time limit.

### Related content

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# Annex 4: circumstances in which we may downgrade your licence to a B-rating

This page tells you about the circumstances in which we may downgrade your sponsor licence.

Reference	Circumstances
a.	You sponsor more than 20 migrants in the Tier 2 (Intra-Company Transfer) Graduate Trainee category with start dates in the same financial year.
b.	You fail to provide any document listed in <a href="#">Appendix D</a> of the guidance for sponsors, when requested within the specified time limit.
c.	You fail to comply with any of your sponsor duties.

## Related content

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## Annex 5: circumstances in which we will revoke your licence

This page tells you about the circumstances in which we will revoke your sponsor licence.

Reference	Circumstances
a.	We find, after your licence has been granted, that you gave false information on your sponsor licence application, or in support of your sponsor licence application, and, had you given the correct information, we would have refused your application.
b.	<p>You stop trading or operating for any reason, including if:</p> <ul style="list-style-type: none"><li>• you sell your business (this includes circumstances where this happens as a result of you becoming insolvent)</li><li>• you go into liquidation, or sequestration is awarded and you stop trading as a result of that</li><li>• a court issues a bankruptcy order against you</li><li>• you stop having an operating/trading presence in the UK</li></ul>
c.	You stop being accredited or registered with any body that you need to be accredited or registered with to get a licence.
d.	<p>You are issued with a civil penalty listed in <a href="#">Appendix C</a> of the guidance for sponsors, apart from:</p> <ul style="list-style-type: none"><li>• employing an illegal migrant worker</li><li>• authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status</li></ul> <p>unless we withdrew the penalty or it was cancelled on appeal.</p>
e.	You are issued with a civil penalty for employing one or more illegal workers, and the fine for at least one of those workers remains at the maximum amount once your objection and appeal rights have been exhausted.
f.	An owner, director or the authorising officer is issued with more than one civil penalty for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status, and the penalties remain payable once their objection and appeal rights have been exhausted.

Reference	Circumstances
g.	You are issued with a civil penalty for employing an illegal worker for a first offence, where the fine is below the maximum amount, and you have failed to pay the fine in full or set up a payment instalment plan with us, by the 29th day after you are notified of liability which may be after an initial objection or appeal determination.
h.	An owner, director or the authorising officer is issued with a civil penalty for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status for a first contravention, and they have failed to pay the penalty in full or set up a payment instalment plan with us, by the 29th day after they are notified of liability which may be after an initial objection or appeal determination.
i.	You are paying a civil penalty fine by an agreed payment instalment plan and you breach the conditions of that plan.
j.	<p>If you are convicted of a relevant offence.</p> <p>Relevant offences are:</p> <ul style="list-style-type: none"> <li>any offence under: <ul style="list-style-type: none"> <li>the Immigration Act 1971</li> <li>the Immigration Act 1988</li> <li>the Immigration Act 2014</li> <li>the Asylum and Immigration Appeals Act 1993</li> <li>the Immigration and Asylum Act 1999</li> <li>the Nationality, Immigration and Asylum Act 2002</li> <li>the Immigration, Asylum and Nationality Act 2006</li> <li>the UK Borders Act 2007</li> <li>trafficking for sexual exploitation</li> <li>any other offence listed in <a href="#">Appendix B</a> of the guidance for sponsors</li> </ul> </li> <li>any offences of: <ul style="list-style-type: none"> <li>espionage/terrorism</li> <li>dishonesty (theft, corruption, deception and fraud)</li> <li>tax or excise duty avoidance</li> <li>bribery</li> <li>proceeds of crime</li> <li>money laundering</li> <li>abuse and neglect of children</li> </ul> </li> <li>any offence listed under Class A (homicide, manslaughter and related grave offences) in <a href="#">Annex 1B: List of offences in class order</a> as defined by the <a href="#">Crown Prosecution Service</a></li> <li>any offence listed in <a href="#">Annex 7</a> of this guidance</li> </ul>
k.	You have knowingly provided a false statement or false information, or not provided information that you held when required to, to us (or the former Immigration and Nationality Directorate, Border and



Reference	Circumstances
	Immigration Agency or UK Border Agency) or any other Government Department, public body or local authority.
l.	You have been B-rated and have not met any of the requirements of your action plan within the specified period.
m.	You have been B-rated twice before during the validity period of your licence and we find again that you have failed to meet your sponsor duties to the extent that, but for it being our policy that a third instance of a B-rating will result in revocation, we would award a B-rating again.
n.	You have been awarded or downgraded to a B-rating and have failed to pay the action plan fee within 10 working days.
o.	An SMS user that you have appointed assigns their own CoS or assigns a CoS to a family member or their partner.
p.	You are a B-rated sponsor and have used a CoS that we have granted specifically to extend an existing migrant's leave, to sponsor a new migrant.
q.	You give false information on an application for a Tier 2 or Tier 5 CoS.
r.	You employ a migrant in a job that does not meet the skill level requirements as set out in this guidance.
s.	You assign a Tier 2 or Tier 5 CoS to a migrant and the salary stated on that CoS is different from the amount paid (including any allowances) to that migrant taking into account the salary stated on any sponsor note you have added to it.
t.	You use a Tier 2 or Tier 5 CoS to fill a vacancy other than the one specified on the CoS you assign for that role.
u.	<p>You assign a Tier 2 or Tier 5 CoS to a migrant and on that CoS (or the letter you give an overseas migrant as evidence that you have carried out a resident labour market test) or on the application for that CoS (if it is a restricted CoS) you stated any of the following:</p> <ul style="list-style-type: none"> <li>• that you carried out a resident labour market test and the test you carried out did not meet the requirements set out in this guidance, including assigning the CoS within 6 months of the date the job was first advertised</li> <li>• that you carried out a resident labour market test and you had not</li> <li>• that the vacancy was in a <a href="#">shortage occupation</a>, when it was not</li> </ul>

Reference	Circumstances
	<ul style="list-style-type: none"> <li>that the job is on the shortage occupation list for Scotland only, and the job is not based in Scotland</li> </ul>
v.	You assign any Tier 2 or Tier 5 CoS to a migrant and tell us on that CoS that the job was exempt from the resident labour market test (as set out in this guidance) and it was not.
w.	You do not hold, or you stop holding appropriate planning permission or Local Planning Authority consent to operate your type/class of business at your trading address (where this is a Local Authority requirement).
x.	You fail to meet any of the requirements set out in <a href="#">safeguarding children</a> .
y.	You are, or you are acting as, an employment agency or business and you have supplied a migrant that you are sponsoring to a third party as labour.
z.	You are a food business that is required to be approved or registered by a relevant food authority and either you have never been approved or registered, or you have, but that approval has been withdrawn.
aa.	<p>You sponsor a migrant under Tier 5 (International Agreement) as a contractual service supplier or independent professional, to service a contract that:</p> <ul style="list-style-type: none"> <li>you have not told us about</li> <li>you have told us about, but we have not yet confirmed that you can assign a CoS in connection with that contract</li> <li>we have told you does not meet the requirements set out in this guidance</li> </ul>
bb.	You stop having (or we find that you have never had) an operating or trading presence in the UK.
cc.	You are an employment agency or employment business and we grant a sponsor licence to you on this basis, but later find that a migrant you are sponsoring has been supplied to a third party as labour.
dd.	If we have asked you to send us a document or information and you do not send the document or information within the given time limit.
ee.	You assign a CoS for a vacancy that was not genuine. For example, where:

Reference	Circumstances
	<ul style="list-style-type: none"> <li>it contains an exaggerated or incorrect job description to deliberately make it appear to meet the requirements of the tier and category you assigned it under when it does not</li> <li>it is for a job or role that does not exist in order to enable a migrant to come to, or stay in the UK</li> </ul>
ff.	You fail to assign a new CoS, and where appropriate, fail to properly carry out a resident labour market test, to any migrant that needs to make a change of employment application.
gg.	<p>The role undertaken by a migrant you have sponsored does not match one or both of the following:</p> <ul style="list-style-type: none"> <li>the job description in Appendix J to the Immigration Rules containing the SOC code stated on the CoS you assigned to them</li> <li>the job description on the CoS that you assigned to them</li> </ul>
hh.	You failed to employ a resident worker who met the requirements for the job.
ii.	You have employed or applied to employ a migrant under the <a href="#">shortage occupation</a> provisions but do not meet one or more of the sponsor criteria for employing a migrant under these provisions.
jj.	You have assigned a CoS to a sportsperson or coach under Tier 2 (Sportsperson) or Tier 5 (Temporary Worker) – Creative and Sporting without having a current endorsement from the appropriate governing body.
kk.	You pay any migrant sponsored in the Tier 5 (Temporary Worker) – Charity Worker subcategory more than reasonable expenses as defined in section 44 of the National Minimum Wage Act 1998 (as amended from time to time).
ll.	We are satisfied on the balance of probabilities that you artificially inflated the salary of a migrant to assist them to obtain indefinite leave to remain.
mm.	<p>You are sponsoring migrants in the Seasonal Workers subcategory of Tier 5 (Temporary Worker), and within any 12-month period:</p> <ul style="list-style-type: none"> <li>fewer than 95 percent of your sponsored migrants are granted entry clearance (a visa);</li> <li>3 percent or more of your sponsored migrants who obtain a visa fail to arrive at their place of employment; or</li> <li>fewer than 97 percent of your sponsored migrants who obtain a visa return overseas at the end of their stay</li> </ul>

Reference	Circumstances
nn.	You hold a licence for the Tier 5 Seasonal Worker subcategory and the government department that supported your licence application withdraws their endorsement.
oo.	You hold a licence for the Tier 5 Seasonal Worker subcategory and you fail to monitor, to our satisfaction, the welfare of the migrant workers you are sponsoring.
pp.	You hold a licence for the Tier 5 Seasonal Worker subcategory and you allow migrant workers fill job roles that are not seasonal and/or not in the horticultural sector.
qq.	You hold a licence for the Tier 5 Seasonal Worker subcategory and your licencing by the Gangmasters and Labour Abuse Authority is revoked.
rr.	You hold a licence for the Tier 5 Seasonal Worker subcategory and you charge migrants fees in excess of those to cover the administration of the scheme.

#### Related content

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## Annex 6: circumstances in which we may revoke your licence

This page tells you about the circumstances in which we may revoke your sponsor licence.

Reference	Circumstance
a.	You or any organisation that you have been involved with in a similar role has its authorisation removed by the Office of the Immigration Services Commissioner (OISC) under the Immigration and Asylum Act 1999. (This applies to individuals or organisations that give immigration advice or services.)
b.	You fail to pay a migrant sponsored under Tier 2 or Tier 5 at least the appropriate rate for the job they are being sponsored to do, as set out in this guidance and <a href="#">Appendix J</a> to the Immigration Rules.
c.	You fail to provide a document listed in <a href="#">Appendix D</a> of the guidance for sponsors or evidence that you are required to keep for shortage occupations listed in <a href="#">Appendix K</a> to the Immigration Rules, when requested within the specified time limit.
d.	You become legally prohibited from acting as a company director.
e.	You become an un-discharged bankrupt.
f.	You fail to comply with any of your sponsor duties.
g.	We find that you have no level 1 user in place that is able to undertake your day to day sponsorship activities, who meets the requirements set out in the <a href="#">level 1 user section</a> .
h.	You have no SMS users in place.
i.	As a result of information available to us, we are not satisfied that you are using a process or procedure necessary to fully comply with your sponsor duties.
j.	We find that a migrant you have sponsored or employed has not complied with the conditions (rules) of their permission to stay in the UK, or, where the migrant was a Croatian national subject to worker authorisation before 1 July 2018, the conditions of their grant of worker authorisation, and you have not been following good practice guidance set out by us or a relevant sector body.

Reference	Circumstance
k.	You are issued with any civil penalty that is not listed in <a href="#">Annex 5</a> of this guidance.
l.	You are issued with more than one civil penalty for employing an illegal worker during the validity period of your sponsor licence and you are still liable once your objection and appeal rights have been exhausted.
m.	An owner, director or the authorising officer is issued with a civil penalty for authorising occupation of premises under a residential tenancy agreement by an adult who is disqualified because of their immigration status during the validity period of your sponsor licence, and they are still liable once objection and appeal rights have been exhausted.
n.	You assign a CoS under the Tier 5 (Temporary Worker) Government Authorised Exchange (GAE) scheme for a period longer than has been authorised for your scheme and it has been used successfully in an application for leave.
o.	Any of your level 1 or level 2 users disclose their sponsorship management system (SMS) password to another person.
p.	You sponsor more than 20 migrants in the Tier 2 (Intra-company Transfer) Graduate Trainee subcategory with start dates in the same financial year.
q.	You have no authorising officer in place that meets the requirements set out this guidance.
r.	You do not supply when asked and within the specified time limit, any document we request to support any change you have reported via the SMS or the sponsor ' <a href="#">Change of circumstances form</a> '.
s.	You, or as far as you are aware any organisation that you have been involved with in a similar role, have been issued with a penalty for failure to pay VAT or duty within the last 5 years.
t.	You have an unspent conviction for an offence which we believe to be of relevance to you discharging your sponsor duties.
u.	** You have previously been named as ' <a href="#">Key personnel</a> ' at any sponsor institution whose sponsorship licence in has been revoked in any tier within the last 12 months.
v.	You pay a migrant sponsored under Tier 2 or Tier 5 in cash.
w.	You fail to co-operate with a compliance visit, or delay compliance activity.

Reference	Circumstance
x.	If the European Union (EU) or United Nations (UN) have imposed sanctions on you which will be contravened by you continuing to have a licence.
y.	If you are or have been an owner, director or authorising officer of a sponsor institution that has been ordered to pay costs to the Home Office in any legal proceedings, and those costs have not been paid.
z.	You assign an unrestricted Tier 2 (General) CoS to a migrant who requires a restricted one.
aa.	You are, or were, liable to pay an immigration skills charge in respect of a migrant whom you are, or were, sponsoring, and you have asked that migrant to pay some or all of the charge, or you have recouped, or attempted to recoup, some or all of the charge from them.

We do not routinely undertake checks on persons associated with sponsors who do not fall under the general definition of ‘you’ or ‘your’. Such persons may include, for example, employees in positions of responsibility who are not directors or key personnel and financiers involved in the running of the institution. However, we reserve the right to do so and may ask you for information on such individuals as part of the application process and throughout the life of your sponsor licence. The conduct of such persons, where relevant, may also be taken into account in deciding what action to take.

Previous non-compliance may result in our revoking your licence where it is one of several grounds we have considered leading to the decision, or where it is warranted by the actions of that person and their previous organisation’s revocation.

\*\* The action we take will depend on:

- the seriousness of the past conduct (including conduct that led to revocation of a licence) and what you have done to improve the situation
- how long it is since the conduct took place and any mitigating circumstances
- concerns we may have about any of your associated persons or employees, and the role they have within your organisation, in particular, where they have been employed or associated with an organisation that has been removed from the sponsor list for abuse or serious non-compliance within the last 5 years
- whether we believe your previous criminal conduct has a bearing on your suitability to be a sponsor
- we may use the information that you provide to us when you apply for a licence or at any time throughout the period of your licence in accordance with the Home Office Information Charter

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## Annex 7: list of unspent convictions we will take into account

This page tells you about the unspent convictions that we will take into account referenced in [Annex 1](#) and [Annex 5](#) of this guidance. The table below lists the unspent convictions

Number	Unspent conviction for
1.	An offence under section 4 of the Offences against the Person Act 1861 (soliciting murder).
2.	An offence under section 18 of that Act (wounding with intent to cause grievous bodily harm).
3.	An offence under section 16 of the Firearms Act 1968 (possession of a firearm with intent to endanger life).
4.	An offence under section 17(1) of that Act (use of a firearm to resist arrest).
5.	An offence under section 18 of that Act (carrying a firearm with criminal intent).
6.	An offence of robbery under section 8 of the Theft Act 1968 where, at some time during the commission of the offence, the offender had in his possession a firearm or an imitation firearm within the meaning of the Firearms Act 1968.
7.	An offence under section 1 of the Protection of Children Act 1978 (indecent images of children).
8.	An offence under section 56 of the Terrorism Act 2000 (directing terrorist organisation).
9.	An offence under section 57 of that Act (possession of article for terrorist purposes).
10.	An offence under section 59 of that Act (inciting terrorism overseas).
11.	An offence under section 47 of the Anti-terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).
12.	An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).
13.	An offence under section 113 of that Act (use of noxious substance or thing to cause harm or intimidate).
14.	An offence under section 1 of the Sexual Offences Act 2003 (rape).

<b>Number</b>	<b>Unspent conviction for</b>
15.	An offence under section 2 of that Act (assault by penetration).
16.	An offence under section 4 of that Act (causing a person to engage in sexual activity without consent).
17.	An offence under section 5 of that Act (rape of a child under 13).
18.	An offence under section 6 of that Act (assault of a child under 13 by penetration).
19.	An offence under section 7 of that Act (sexual assault of a child under 13).
20.	An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity).
21.	An offence under section 9 of that Act (sexual activity with a child).
22.	An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity).
23.	An offence under section 11 of that Act (engaging in sexual activity in the presence of a child).
24.	An offence under section 12 of that Act (causing a child to watch a sexual act).
25.	An offence under section 14 of that Act (arranging or facilitating commission of a child sex offence).
26.	An offence under section 15 of that Act (meeting a child following sexual grooming etc).
27.	An offence under section 25 of that Act (sexual activity with a child family member) if the offender is aged 18 or over at the time of the offence.
28.	An offence under section 26 of that Act (inciting a child family member to engage in sexual activity) if the offender is aged 18 or over at the time of the offence.
29.	An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice).
30.	An offence under section 31 of that Act (causing or inciting a person with a mental disorder to engage in sexual activity).
31.	An offence under section 34 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder).

Number	Unspent conviction for
32.	An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement etc).
33.	An offence under section 47 of that Act (paying for sexual services of a child) against a person aged under 16.
34.	An offence under section 48 of that Act (causing or inciting child prostitution or pornography).
35.	An offence under section 49 of that Act (controlling a child prostitute or a child involved in pornography).
36.	An offence under section 50 of that Act (arranging or facilitating child prostitution or pornography).
37.	An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence).
38.	An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).
39.	An offence under section 5 of the Terrorism Act 2006 (preparation of terrorist acts).
40.	An offence under section 9 of that Act (making or possession of radioactive device or materials).
41.	An offence under section 10 of that Act (misuse of radioactive devices or material and misuse and damage of facilities).
42.	An offence under section 11 of that Act (terrorist threats relating to radioactive devices, materials or facilities).
43.	<ol style="list-style-type: none"> <li>1) An attempt to commit an offence specified in the preceding list or murder.</li> <li>2) Conspiracy to commit a listed offence or murder.</li> <li>3) Incitement to commit a listed offence or murder.</li> <li>4) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence or murder is the offence (or one of the offences) which the person intended or believed would be committed.</li> <li>5) Aiding, abetting, counselling or procuring the commission of a listed offence.</li> </ol>

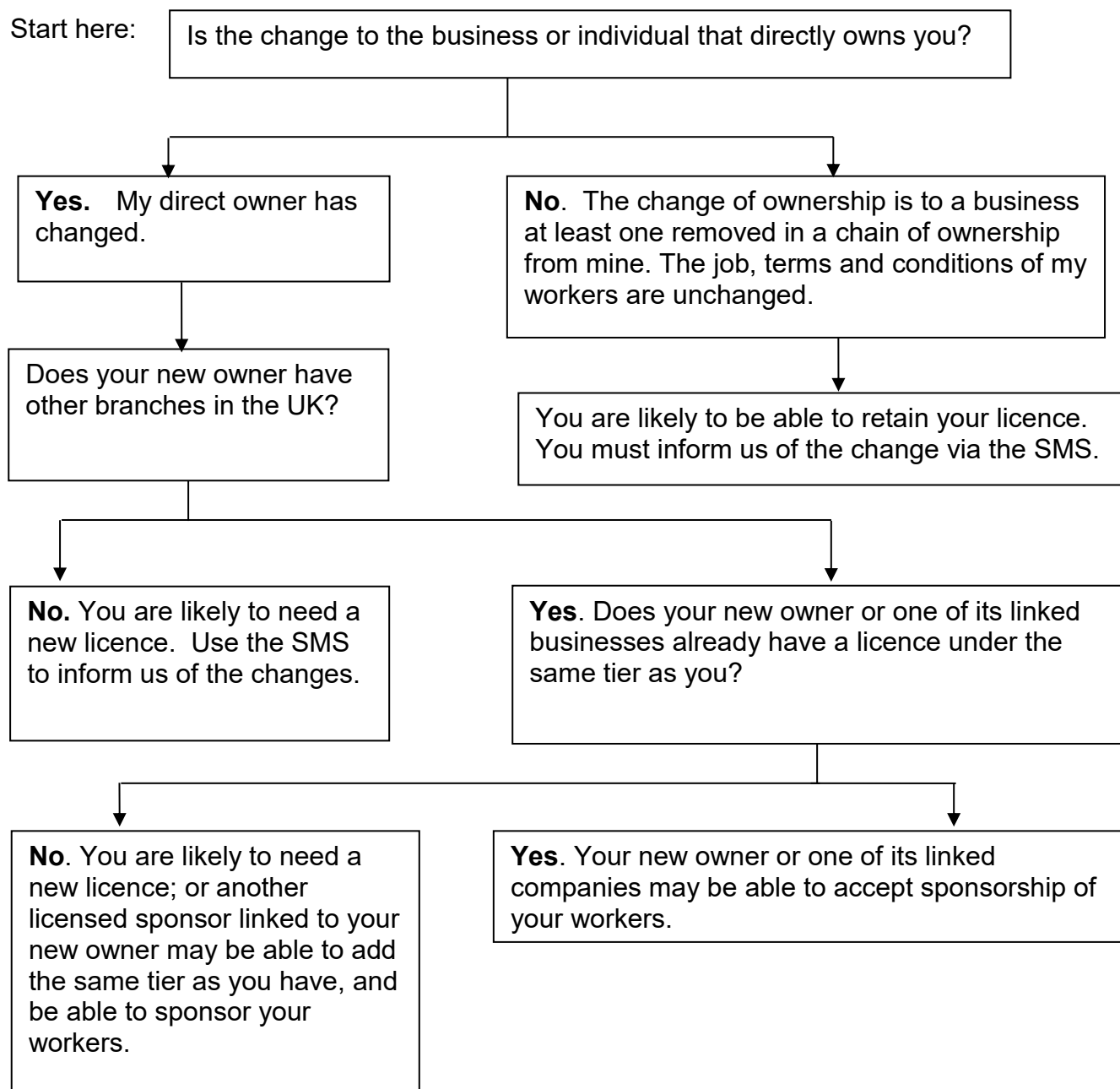
## Related content

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## Annex 8: further help on mergers and takeovers

This page tells you about mergers, takeovers and similar changes. The flowchart is to help you to understand what to do if you are involved with a change as described in the '[Mergers, takeovers and similar changes](#)' section of this guidance. You must report changes via your sponsorship management system (SMS) account.

Start here:



This page gives examples of mergers, takeovers and similar changes to provide more information on the steps needed. The [Mergers, takeovers and similar changes](#) section of this guidance must also be followed.

**Example 1 - a takeover when the new owner already has a licence**

Company A is a licensed Tier 2 (General) sponsor.

Company A is taken over by Company B.

Company B is a licensed Tier 2 (General) sponsor.

All of Company A's workers move to Company B with TUPE protection.

Both sponsors must report this change to us within 20 working days of the takeover.

Company A must confirm to us the details of the sponsored migrants that are moving to Company B and that they are content to have their licence made dormant.

Company B must confirm that they are taking full sponsorship responsibility for any migrants moving to them from Company A and provide the supporting evidence.

We will make Company A's sponsor licence 'dormant'. We will grant Company B limited access to Company A's licence records, sufficient for them to be able to report against the sponsored migrants who have transferred to them.

**Example 2 - a takeover when the new owner does not have a licence**

Company A is a licensed Tier 2 (General) sponsor.

Company A is taken over by Company B.

Company B is not a licensed sponsor.

All of Company A's workers move to Company B with the [TUPE](#) arrangements.

Company A must report this change to us within 20 working days of the takeover.

Company A must confirm the details of their sponsored migrants moving to Company B and confirm that they are content to have their licence made dormant.

Company B must make an application for a sponsor licence within 20 working days of the takeover.

Once their licence is granted, Company B must confirm with us that they are taking full sponsorship responsibility for any migrants moving to them from Company A with the supporting evidence.

We will make Company A's sponsor licence 'dormant' and grant limited access to it, to Company B, sufficient for them to be able to report against the sponsored migrants who have transferred to them.

If Company B is unable to make a successful licence application, the sponsored migrants' leave will be curtailed.

**Example 3 - a partial takeover when the new owner already has a licence**

Company A is a licensed Tier 2 (General) sponsor.

Company A is taken over by Company B.

Company B is a licensed Tier 2 (General) sponsor.

Some of Company A's workers move to Company B with the [TUPE](#) arrangements, others remain with Company A.

Both sponsors must report this change to us within 20 working days of the takeover.

Company A must confirm to us the details of the sponsored migrants that are moving to Company B, and that they wish to retain their licence and continue to report on the sponsored migrants they will still be employing. Company A may also wish to amend their CoS allocation.

Company B must confirm that they are taking full sponsorship responsibility for any migrants moving to them from Company A and provide supporting evidence for the transfer. Company B may also wish to increase their CoS allocation.

Company B must report on the migrants that have moved from Company A. They will do this by emailing us the details.

**Example 4 - a takeover but the change is one removed from the sponsor**

Global Company G is selling part of its business. It will sell Company B which owns Company A. Company B will remain the same company and will continue to own Company A.

Company A is a sponsor licence holder.

Company A does not have a new direct owner, as it is still owned by Company B - the change of ownership is one removed from Company A (It is Company B whose ownership has changed, not Company A).

Company A must tell us of the changes via the SMS, it is likely that provided there is no change to Company A's operations and to the jobs, terms and conditions of its workers, Company A will not require a new licence and can carry on as before.

**Example 5 - a takeover when the overall owner remains the same but the immediate owner changes**

Global Company G is restructuring. It owns 100% of Company A through a holding company (Company B).

Company A is a sponsor licence holder.

Global Company G establishes a new holding company (Company H) and transfers Company A to Company H.

Global Company G still owns 100% of Company A through Company H. Company A has a new direct owner and must apply for a new licence to continue to employ the workers. The [TUPE](#) arrangements will not apply because there is no change of employer, but employees can be moved to the new licence without a change of employment.

Company A must report the change within 20 working days via the old licence.

Once the new licence is granted, Company A must confirm with us that they are taking full sponsorship responsibility for any migrants under the new licence, and provide the supporting evidence.

#### **Example 6 - a takeover when TUPE is not triggered but employees can be transferred**

Company M is a sponsor licence holder. It transfers the controlling number of its shares to a private individual who has had no prior involvement with Company M.

Company M continues to trade and there are no other changes.

Company M must report this to us and must make a new application for a sponsor licence with 20 working days of this change taking place. The [TUPE](#) arrangements will not apply because there is no change of employer, but employees can be moved to the new licence without a change of employment.

Once the new licence is granted, Company M must confirm with us that they are taking full sponsorship responsibility for any migrants under the new licence, and provide the required evidence.

#### **Example 7 - restructuring where another branch can act as sponsor**

Global Company G owns a portfolio of brands, trading across the world under the respective brand names where Company G is the ultimate parent company. Company G has several branches in the UK.

- Branch A, a licensed sponsor, is to be wound up. Its employees will move with the [TUPE](#) arrangements to Branch B
- Branch B is not a licensed sponsor
- Branch A will finish trading and must tell us of this within 20 working days of it finishing trading
- Branch B must apply for a sponsor licence, and send the supporting evidence, within 20 working days of Branch A's employees transferring to them

#### **Related content**

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# Annex 9: new points-based immigration system from January 2021

This Annex provides additional information for employers who wish to apply for a licence to sponsor migrant workers under the new points-based immigration system that will come into effect from 1 January 2021.

## Background

On 19 February 2020, the Government published a policy statement setting out the high-level details of the [UK's points-based immigration system](#). These new arrangements will start operating from 1 January 2021, once freedom of movement with the European Union (EU) has ended. It will provide for a single system for EU and non-EU citizens alike and aims to attract people who can contribute to the UK's economy. Irish citizens will continue to be able to enter and live in the UK as they do now.

The new points-based system will include a route for skilled workers who have a job offer from an approved employer ('sponsor'). This will replace the existing Tier 2 (General) route. From 1 January 2021, the job will need to be at a required skill level of level 3 or above on the Regulated Qualifications Framework (RQF), or the equivalent level in Wales or Scotland. This is approximately equivalent to A-level standard. The migrant will need to be able to speak English. The minimum general salary threshold will be reduced from £30,000 to £25,600 (with lower salaries in certain circumstances, such as new entrants to the labour market). An individual migrant may be able to 'trade' certain characteristics against the salary that they would otherwise be required to earn for the occupation in question. Further information on how the new points-based system will work are in the [policy statement](#).

## If you are not currently a licensed sponsor

If you are not currently approved to be a sponsor but think that you are likely to need to sponsor skilled migrant workers from 1 January 2021, you can apply for approval (a 'sponsor licence') now. You will need to show that you will be able to offer genuine employment skilled to level RQF3 or above. Details of which jobs are currently considered to be RQF3 or above are contained in [Appendix J to the Immigration Rules](#). You should note that this list is subject to change and jobs that are currently considered to be RQF3 may not be when the new system goes live. Further information on this will be provided later in the year.

You must meet all of the requirements set out in this guidance, except the current requirement to offer employment at RQF6 or above. You are strongly advised to read all parts of the sponsor guidance for employers, including relevant appendices, before you apply. These are available on the '[Sponsorship policy guidance](#)' page on GOV.UK.



## How to apply for a licence

To apply, you must complete the [online application form](#) on GOV.UK and provide the mandatory documents specified in [Appendix A](#) to the sponsor guidance.

On your application form, you should provide as much information as you can on how many migrant workers you are likely to employ during the first year of your licence, including any you wish to sponsor at RQF level 3 and above from 1 January 2021. This will determine your allocation of [certificates of sponsorship \(CoS\)](#) if your application is approved. A CoS is an electronic record that you will need to 'assign' to a migrant before they can apply for entry clearance (a visa) to, or leave to remain in, the UK.

You are encouraged to apply early, even if you are not currently in a position to sponsor migrants under the existing system, or are not sure if or when you will need sponsor migrants under the new system from January 2021. In such cases, provided you meet all of the other requirements set out in this guidance, we can grant you a licence but will not allocate any CoS to you at this stage. Once you know that you will need to appoint migrant workers, you can request the number of CoS you need. Guidance on how to do this is contained in [Sponsorship Management System \(SMS\) Manual 2](#) in the section entitled 'How to request and withdraw a request for a CoS/CAS allocation increase'.

## If your application is approved

If your application for a sponsor licence is approved, you should note that:

- you will not at the current time be able to assign any CoS to sponsor migrants for jobs at RQF levels 3 to 5, unless an [exception to the current skill level requirement](#) set out in this guidance applies – see '[Assigning a CoS for RQF level 3 to 5 jobs](#)' below for further information
- any migrant sponsored to undertake a job at RQF levels 3 to 5 must not apply for entry clearance or leave to remain until the new points-based system comes into effect, unless an [exception to the current skill level requirement](#) set out in this guidance applies – if they do, their application will be refused and we may take compliance action against you
- the list of jobs currently considered to be RQF3 or above may change before the new system comes into effect
- a CoS for jobs for EU, EEA or Swiss migrants at RQF level 6 or above is only required where those migrants are applying to come to the UK on or after 1 January 2021
- if you are not allocated any CoS, you can apply for an [increase to your CoS allocation](#) when you know that you will need to appoint a migrant worker

## Assigning a CoS for RQF level 3 to 5 jobs

If your application is approved, you will not be able to assign any CoS to sponsor migrants at RQF levels 3 to 5 yet, unless the job is covered by one of the [current skill-level exceptions](#).

We intend to start accepting applications under the new points-based system from Autumn 2020. We will provide further detail on GOV.UK over the coming months and will update this guidance as soon as possible to confirm the earliest date:

- you can assign CoS for use under the new system
- migrants can apply for entry clearance or leave to remain under the new system

You can assign any CoS you have been allocated under the current Tier 2 (General) arrangements as soon as you need to, provided the job meets the [current skill-level](#) and all other relevant requirements.

## If your application for a licence is refused

If we are not satisfied that you can offer genuine employment at RQF level 3 or above, or you do not otherwise meet the requirements set out in this guidance, we will refuse your application. If your application is refused, we will not refund your application fee and you will not be eligible to apply again for at least 6 months (longer in some cases). See [sections 7, 8 and 9](#) of this guidance for information on how we consider applications, and [section 10](#) for information on 'cooling-off' periods if we refuse your application.

## Further information

Further information on the new points-based system will be published on the GOV.UK website as it becomes available. We will also update this guidance as the new system develops.

You can also [sign up for email updates](#) on the new system.

## Related content

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