

Guidance on Sponsoring a Migrant

1. Introduction

The University holds a sponsor licence for Skilled Workers which means we can apply to sponsor skilled migrants from outside the UK (Irish citizens do not require sponsorship) to work at the University in certain roles. The visa allows the individual along with their family members (partner and children under 18) to live and work in the UK. The route can lead to settlement after 5 years which enables them to stay permanently in the UK.

The Skilled Worker route replaced Tier 2 on 1 December 2020. All details on the Skilled Worker pages of any guidance documents are relevant to current Tier 2 visa holders. No action for current Tier 2 visa holders needs to be taken. Any visa extension or change of employment will be done under the Skilled Worker requirements.

Units should be aware that there are no guarantees that any valid application will result in sponsorship or the migrant having an automatic right to work in the UK or where applicable, extend their stay.

2. UKVI criteria for sponsoring a migrant

To be able to sponsor a migrant under the Skilled Worker visa, the University must be able to satisfy the following:

Genuine Vacancy

A genuine vacancy is one which:

- requires the postholder to perform the specific duties and responsibilities for the job and meets all of the requirements of the relevant route
- does not include dissimilar and/or predominantly lower skilled duties
- is appropriate to the business in light of its business model, business plan and scale.

The Home Office details that a role could not be considered genuine if:

- duties in the job description have been exaggerated or incorrectly listed in order to make the role look like it is eligible for sponsorship
- the job adverts have requirements that are inappropriate for the job, for example a language skill which is not relevant
- the job has been primarily created to enable an overseas worker to come to the UK.

Job Description

It is important that the job description accurately reflects the requirements of the role, and that the applicant's qualifications, skills and experience meet the selection criteria detailed in the job description.

Qualification

While the strict Tier 2 advertising rules no longer apply, there is a requirement that the role is a 'genuine vacancy'. The advert/job description must accurately reflect the requirements of the vacancy, and the applicant must hold the 'qualifications required' for the role. It is not possible to sponsor someone for a Skilled Worker visa who does not hold the 'qualifications required', as described in the job description, as they would not be considered to be suitably qualified to take up the role.

Undertake a Skilled Job

The role must be considered to be skilled to at least A-Level or equivalent.

The Home Office maintains a list of occupations for which sponsorship can be provided, entitled Eligible occupation codes. The main duties detailed on the job description for the role is compared to this list to identify the correct occupation. It is not based on the job title, but the actual activities the role will entail. The Immigration Team can confirm which occupation code is appropriate for any particular role if a copy of the job description is provided. Departments are not expected to review all the codes and the Immigration Team will make the decision on what code is appropriate to ensure consistency across the University and compliance with the requirements, as the wrong choice of occupation code could be seen as a compliance issue.

The following roles are the most commonly sponsored occupations:

- **Researchers** - Academics who are undertaking independent research. This includes positions like 'Postdoctoral Researchers', 'Senior Research Associates' and 'Research Assistants' (depending on their level of autonomy).
- **Higher Education Teaching** – Teaching staff at undergraduate level or above, who may also undertake research activities.

Salary Threshold

The Skilled Worker salary thresholds and calculations can be complex so the following details are provided for information.

Going Rate

Each occupation which is eligible for sponsorship under the Skilled Worker visa has a specific 'going rate' based on a 39-hour working week. This can be pro-rated for other working patterns, based on the hours of work the individual will undertake.

The salary must meet or exceed the 'going rate' specific to the occupation, and £25,600 per year, unless the applicant meets the requirements for new entrant or tradeable points detailed below.

New Entrant

Individuals can be sponsored as a 'New Entrant' for up to a maximum of 4 years if:

- they are under the age 26 when applying
- they hold or last held (within the past 2 years) a Student (Tier 4) visa and they have completed a UK bachelor, masters degree, or at least 12 months study towards a UK PhD

- the job offer is a postdoctoral position in codes including 2311 for higher education teaching professionals or 2119 used by the University for all postdoctoral researcher positions
- they are switching within the UK from a Tier 1 (Graduate Entrepreneur) visa.

New Entrants must be paid 70% of the 'going rate' or £20,480 per year, whichever is higher.

Tradeable Points

Some occupations can have a lower salary requirement where tradeable points can be obtained:

Criteria	Applicants salary must equal or exceed both
The role is on the <u>Shortage Occupation List</u>	£20,480 per year and 80% of the going rate
Individual holds a PhD in a subject relevant to the job (for certain <u>occupations</u>)	£23,040 per year and 90% of the going rate
Individual holds a PhD in a STEM subject relevant to the job (for certain <u>occupations</u>)	£20,480 per year and 80% of the going rate

If tradeable points for holding a PhD or STEM PhD are being relied upon, the Certificate of Sponsorship the Immigration Team issue will confirm how the PhD is relevant to the job, and if applicable that it is a PhD in a STEM subject. A summary of how the PhD is relevant to the job will be requested from the hiring Department where tradeable points are being relied upon.

A PhD taught overseas will require confirmation from UK NARIC that the qualification is equivalent to a UK PhD. The UK NARIC code will need to be added to the Certificate of Sponsorship.

Allowances

Only guaranteed basic gross pay can be relied upon to meet the salary requirements. Allowances cannot be included.

3. Applying for sponsorship

An assessment of an individual's Right to Work status should be undertaken. An applicant may require sponsorship under the Skilled Worker visa if they do not have a UK visa or their current UK visa does not permit them to undertake the role being offered.

Certain visas carry restrictions on what work the holder can do and/or the hours they are permitted to work. The visa usually clearly states any restrictions, but please contact the Immigration Team if you are unsure.

EU, EEA and Swiss Nationals

Free movement and the transitional arrangements in place for EU, EEA and Swiss nationals ended at 11pm on 31 December 2020. The EU Settlement Scheme closed on 30 June 2021.

European nationals who arrived from the 1 January 2021, who have not been resident in the UK previously require an appropriate visa, such as the Skilled Worker visa to work in the UK.

Irish nationals automatically have the right to live and work in the UK and do not require a visa.

Tier 2/Skilled Worker visa holder

- **Individual already employed by the University:** Please send a copy of the new job description to the Immigration Team who will consider the new role against the individual's current appointment. If this falls within the same occupation it is likely this will just need to be reported to the Home Office. If significantly different, new Skilled Worker sponsorship will be required with the new visa granted before they can commence the role.
- **Individual employed by an external organisation:** A new Skilled Worker visa will be required with sponsorship from the University.

Student (Tier 4) visa holder

International students who have been sponsored under a student visa to study in the UK can switch into the Skilled Worker route to undertake their first full time role.

Graduate route visa holder

The Graduate route is a work route for those who have a degree or other relevant qualification from an approved UK Higher Education Institution (HEI). Applications opened on 1 July 2021. The application does not need sponsorship or any endorsement by an employer or by a university.

The key requirement is that when an individual applies, they have a UK degree or other relevant qualification that they received during their current period of Tier 4 or Student permission.

Individuals applying to the Graduate route do not require visa sponsorship and therefore will not receive a Certificate of Sponsorship (CoS).

Key Points:

- The Graduate route is available to international students who have completed a degree at undergraduate level or above at a Higher Education Institution (HEI) and must have valid Tier 4 or Student permission at the time of application.
- Successful applicants on this route at bachelor's or master's level will be able to stay in the UK and work, or look for work, at any skill level for two years. Doctoral students will be able to stay for three years.
- The route does not count towards settlement. However, Graduates will be able to apply to other routes at the end of their two or three year stay e.g. the Skilled Worker route.

Requesting a Certificate of Sponsorship (CoS)

The engaging Unit must ensure the criteria above are met before putting forward an application for sponsorship to the People Services Hub for the Immigration Manager (or nominee) to review. Once it has been confirmed that the individual may be sponsored, the formal offer of employment may be sent out.

No Certificate of Sponsorship will be assigned to an individual until they have accepted their offer of employment in writing.

The Unit is responsible for liaising with the People Services Hub to update the system for the successful candidate and must send all relevant documentation to the People Services Hub including:

- The Appointment Recommendation form.
- A copy of the relevant Job Related Information (including job description and person specification).
- The candidate's application form.
- Endorsed copy of the successful candidate's qualifications, if applicable (where a Unit is relying solely on an individual's qualification(s) as confirmation of the required skills level, the Unit is responsible for checking equivalency with NARIC where necessary).
- Copy of references (if the individual is appointed on the basis of experience, the references must confirm their skills level).
- Appropriate endorsed eligibility documents for the successful candidate, and the Right to Work Checklist once completed. Where no right to work check has been carried out, for example, when an international candidate was interviewed via Skype, please provide scanned copies.
- The fully completed Certificate of Sponsorship (COS) form.
- Job description that will be used to evidence grant of CoS required by the Home Office (maximum 1000 characters).
- Evidence of a completed DBS/DS check, where relevant to the job.
- Evidence of competitive process for sponsored researcher, if applicable.

The Immigration team in the People Services Hub will check the documentation and then apply online for a Certificate of Sponsorship (CoS). If the application is successful, a CoS will be assigned by the Immigration Team, who will send the individual their CoS so that they can apply for their visa. It is the individual's responsibility to ensure they meet any required deadlines and send all appropriate and relevant documentation to the UKVI. The University is not regulated to give immigration advice on individual immigration applications.

UKVI rules require individuals applying to work in certain occupations along with their adult dependants aged 18 or over, to submit a criminal record certificate from any country in which they have lived continuously or cumulatively for 12 months or more in the 10 years before making their application.

Once the visa is received by the individual must inform the People Services Hub so that a Right to Work check can be carried out.

No work can be carried out or any payment made until the sponsorship is obtained.

Please refer to Appendix 1 for a summary of the sponsored migrant process.

Please note that all employees on Tier 2/Skilled Worker visas, including Temporary Worker (Government Authorised Exchange), are required to complete the Skilled Worker/Temporary

Worker Declaration Form and ensure they are fully aware of their compliance responsibilities as per the terms of their visa. Units and Faculties need to ask these individuals to complete the form before they commence work at the University.

4. Keeping documents and recording information for sponsored migrants

For applications involving the appointment of a Skilled Worker including Temporary Worker (Government Authorised Exchange), ALL documentation relating to the recruitment process must be kept for the duration of the individual's employment plus one year after their employment terminates.

UKVI rules state that copies of certain documents must be kept by the University for each sponsored migrant, one of which is their **current** passport. On expiry of a sponsored migrant's passport, the Immigration team will notify individuals whose passport is expiring.

Staff are responsible for recording their absences on the system. Units are responsible for ensuring the migrant's sick leave is recorded and that their sickness record is kept up to date in case UKVI request such information. Units must inform the Immigration Team in the People Services Hub if the migrant is absent for 10 or more consecutive days due to sickness or for any other reason.

5. Applying for extensions/changing roles

Extensions or changes of employment can affect the category of eligibility of the migrant and a new CoS application or 'Change of Employment' application will be required, depending on the specific circumstances.

The Unit should contact the People Services Hub without delay for advice on the process required where:

- They want to extend leave for a migrant who is already in the UK and sponsored under Tier 2/Skilled Worker including Temporary Worker (Government Authorised Exchange)
- A migrant is affected by TUPE.

Units should contact the People Services Hub without delay for advice on the process required where:

- They want to recruit a migrant who is already in the UK in another immigration category and who is allowed to switch into Skilled Worker visa under the immigration rules.

The process required will differ depending on factors such as whether the individual is currently working for the University or another employer and whether or not the new job is within the same eligible occupation code. It is therefore extremely important that advice is sought from the Immigration team at the earliest opportunity.

6. Sponsorship reporting duties

Employers have an additional responsibility for reporting certain information to the UKVI. Failure to report non-attendance, non-compliance (of a migrant's immigration conditions) and disappearance of a sponsored migrant to the UKVI within 10 days of the event occurring, can result in penalties for the University, leading to a possible loss of the sponsor licences. The University is also responsible for reporting any changes to a migrant's employment. For

example, if there is any change to their working hours, duties or pay, these must be reported to the UKVI within 10 days of the event occurring.

The Sponsored Migrant Summary Form must be completed to report a change in a migrants circumstances by the sponsored worker's line manager, any time there are changes in a migrant's circumstances.

Line manager responsibilities

Line Managers are responsible for advising the Immigration Manager (using the Sponsored Migrant Summary Form) **immediately** if:

- The sponsored migrant does not turn up for their first day of work.
- The sponsored migrant's employment contract is terminated earlier than was indicated on their CoS, for example where the migrant resigns or is dismissed.
- The University stops sponsoring the migrant for any other reason.
- There are significant changes in the sponsored migrant's circumstances, such as a promotion or change in core duties, a change of salary (except annual increments or bonuses) including where this is due to a period of maternity/paternity/adoption/shared parental leave or sick leave of one month or longer, the location employed at changes, or the duration of their contract is shortened.
- The migrant's employment is affected by TUPE or similar e.g. a merger or demerger.
- The migrant is absent from work for more than 10 consecutive days without permission.
- You have any information that suggests that any sponsored migrant may be engaging in terrorism or other criminal activities.
- The sponsored migrant changes their visa category.
- The sponsored migrant is absent from work without pay for 4 weeks or more and is not covered by the exceptions in reduction in salary.
- You have any information that suggests the sponsored migrant or is breaching the conditions of their leave.

In addition, Units must inform the People Services Hub immediately if a potential employee/job applicant produces documents that appear to be fraudulent or belong to someone else.

Units must also advise the People Services Hub of the details of any third party or intermediary, whether in the UK or abroad, that has assisted in the recruitment of the migrant employee.

The People Services Hub responsibilities

The People Services Hub is responsible for:

- Reporting any of the absences or changes in circumstances of the sponsored migrant, as advised by Units, to the UKVI within the specified timescales.
- Reporting any potential fraudulent/misused documents to the UKVI.
- Reporting any significant changes in the University's business to the UKVI.
- Running regular reports to identify individuals who have time limited leave to work in the UK and notifying Units for action.

7. Useful references

Certificate of Sponsorship Form
Sponsored Migrant Summary Form
Skilled Worker/Temporary Worker Declaration Form
Right to Work Procedures
Immigration Right to Work Podcast
Immigration Guidance

Appendix 1: Summary of the sponsored migrant process

