



Essex County Council

Education HR Service

Employment of Overseas Workers Guidance

Connected Learning



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Employment of Overseas Workers Guidance
A Model for Schools & Academies

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1 Introduction

Safe recruitment and selection of overseas workers requires a high degree of attention and scrutiny, ie that all appropriate checks are undertaken to ensure the overseas worker has permission to live and work in the UK and is competent for the intended role. This guidance covers additional and specific requirements in the employment of overseas workers and should be read in accordance with the Recruitment and Selection Policy & Procedure. Schools are responsible for recruiting overseas workers directly. There is a responsibility to ensure that our recruitment and selection practices comply with employment legislation and codes of practice to ensure that all candidates are treated on a fair and equitable basis.

We encourage, value and manage diversity within the workforce and promote equality of opportunity and treatment in relation to colour, disability, marital status, race and ethnic or national origin, religion or belief, sex, sexual orientation, spent convictions, age, pregnancy, trade union membership, part time or fixed term workers.

The information and advice given in this document is not intended to be comprehensive and details relevant to particular circumstances may have been omitted. It is not a complete statement of immigration, laws and policy and the employment of overseas workers. Information on the employment of overseas workers and the prevention of illegal working is complex and will be specific to an individual's immigration status. Therefore, schools will need to refer to the UK Border Agency website and speak to the relevant authorities to ensure all the necessary employment and immigration checks are completed satisfactorily before that individual is offered work.

2 Overseas workers in the UK

There are several broad categories of overseas nationals:

- i. those who are free to enter, remain and work in the UK with minimal restriction on their length of stay or ability to enter or change employment. This includes nationals of the 'old' EEA countries, Swiss nationals and nationals of other countries who have been granted indefinite leave to remain;

- ii. those with greater, but still limited restrictions on their ability to enter and work in the UK. This includes the newer 'Accession 8 or A8' EEA countries, commonwealth nationals with UK ancestry and dependants of British citizens and EEA nationals;
- iii. those admitted with temporary permission as students or participants in short-term employment including exchange schemes, or for training or work experience;
- iv. those admitted to work in certain sectors on a 'permit free' basis (but still requiring specific and time-limited permission);
- v. those requiring full employment-based permission to work in the UK, usually through a sponsored employment with a specific employer under the new points based system.

The main groups who are not subject to immigration control in the UK and who you can employ without restriction are:

- british citizens; and
- commonwealth citizens with the right of abode; and
- nationals from the Common Travel Area (CTA); and
- nationals from European Economic Area (EEA)/European Union (EU) countries and Switzerland; and
- family members of adult nationals from EEA/EU countries and Switzerland, providing the EEA/EU national is lawfully residing in the UK.

See glossary for definition of the above groups

You should not employ any individual solely on the basis of their claim to belong to one of these groups as this will place you at risk of employing someone illegally if their claims are false. Guidance is given in the 'prevention of illegal working' document which can be found on

www.homeoffice.gov.uk/sitecontent/documents/employersand_sponsors/preventingillegalworking/

The Employers helpline can also answer employers' general enquiries on the prevention of illegal working, see contacts section for details.

3 Entry of overseas workers into the UK

Overseas nationals must comply with the entry requirements of various immigration Acts and Regulations. Further information can be found in Appendix A.

Individuals wishing to work and live in the UK will need to prove and retain evidence of right to work and live in the UK in accordance with the law on the prevention of illegal migrant working set out in the Immigration, Asylum and Nationality Act 2006 which came into force on 29 February 2008. Guidance is given in the 'prevention of illegal working' document can be found on:

www.homeoffice.gov.uk/sitecontent/documents/employersand_sponsors/preventingillegalworking/

4 Criminal records bureau checks

Overseas staff must undergo the same checks as for all other staff in schools. This includes CRB disclosure and ISA Register (List 99), although those overseas staff who have arrived recently in the country, the CRB check is unlikely to provide any trace so schools should conduct a CRB check once the applicant has been in post for 6 months. The school should however, still ask the Disclosure Unit to check their name against 'the lists'. CRB disclosures will not generally show offences committed by individuals whilst living abroad. Therefore, in addition to an enhanced CRB disclosure, it is essential that you carry out additional checks such as a Certificate of Good Conduct (which the individual obtains from relevant embassy from their home country before they come to the UK).

5 Checking the equivalence of overseas qualifications

UK NARIC (National Recognition Information Centre) is a national agency responsible for providing information, advice and expert opinion on vocational, academic and professional skills and qualifications from over 180 countries worldwide. Managed on behalf of the UK Government, they provide the only official source of information on international qualifications to organisations recruiting, from overseas and to individuals wishing to work or study in the UK.

The School Workforce Development Team (SWDT) subscribes to NARIC and can provide information and advice about overseas qualifications. Schools can ask

SWDT to check the comparable level of a candidate's overseas qualifications or training, by providing verified photocopies of the following documents:

- degree certificate;
- teaching qualification certificate (if separate from degree);
- secondary school qualification certificate showing details of english, mathematics and science grades to check GCSE equivalence;
- evidence of current or recent registration as a qualified teacher with the appropriate authority in the country in which the teacher trained. (not applicable to all countries).

If schools need to check the comparable level of a candidate's overseas qualifications or training, they should provide verified photocopies of the following documents to the School Workforce Development Team by emailing teaching@essex.gov.uk, telephone 01245 436835 or fax 01245 436395.

For further information, see: www.naric.org.uk

6 Pensions

Teachers: The same details of the teachers' pension scheme apply to overseas teachers. The Teachers Pensions booklet will be given to the individual upon appointment. The employee is automatically entered into the pension scheme unless they choose to opt out. If an employee leaves with less than 2 years service, they will receive a refund of their pension contributions, less any deductions for tax contributions. If an individual leaves with more than 2 years service, they will be deferred and paid to them upon retirement or alternatively they can choose to transfer their contributions into a new pension scheme. The individual will need to check with their new pensions administrator to see if they can transfer their contributions to a new scheme. The individual may be able to transfer their pension contributions to a workplace in their own country and this aspect can be checked with teachers' pensions as soon as they take up their post. Further information can be obtained from: Teachers' Pensions, Mowden Hall, Darlington, Co. Durham, DL3 9EE. Tel No: 0845 6066 166. Website: www.teacherspensions.co.uk

Support staff: the same details of the scheme apply to overseas workers. The LGPS booklet will be given to the individual upon appointment. To be able to join the LGPS, an employee will need to have a contract that is for at least 3 months. They will receive tax relief on their pension contributions. The contributions are deducted from their salary before they pay tax. An individual can opt out of the LGPS scheme if they so wish.

7 Tax and NI contributions

Normal PAYE (Pay As You Earn) tax and national insurance contributions (NICs) rules and procedures apply for employees who come to the UK from abroad. Foreign language assistants require a different PAYE tax procedure. The British Council booklet provides guidance for foreign language assistants on tax issues. They will need to complete HMRC Tax Form P86. For further information please see: www.britishcouncil.org/languageassistants.htm.

If the employee isn't resident or ordinarily resident in the UK and the HMRC will issue a direction informing you how much of your payments to them should be subject to PAYE tax in the UK.

PAYE tax and NICs deductions should be calculated and recorded in the same way as you would for any other employee. Your employee needs to complete HMRC tax form P86. For further information please see www.hmrc.gov.uk and enter in P86 in the search engine.

If the employee does not have a national insurance number, they must contact the local jobcentre plus office and arrange an interview to obtain one. For further information please see: www.hmrc.gov.uk/page/intro/calculations.htm

8 General Teaching Council (GTC) registration

The requirement to register with the GTC applies to full-time, part-time and supply teachers. The GTC has a free secure online service available to schools for checking the registration status of qualified teachers and instructors. If you don't already have access to this free service, please contact the Employer Access Team on Tel: 0121 345 0150.

8.1 Registration status

Full registration - if a teacher holds QTS and wishes to teach in a maintained school, non-maintained special school or pupil referral unit, they must be fully registered with the GTC.

Provisional registration - from 1 September 2009, overseas trained teachers teaching in a maintained school, a non-maintained special school or pupil referral unit must be provisionally registered with the GTC. From 1 September 2009, all instructors who teach in a maintained school, non-maintained school or pupil referral unit must be provisionally registered with the GTC. There is currently no charge for provisional registration.

Overseas trained teachers who trained within the EEA and Switzerland can apply to the GTC to be recognised as a qualified teacher in England.

Overseas trained teachers can work as an unqualified teacher in England, providing they are provisionally registered with the GTC for up to 4 years. By the end of the 4 year period, they will be expected to have gained QTS.

The GTC will monitor this 4 year period and contact the overseas trained teacher to remind them of the deadline and encourage them to obtain QTS. Provisionally-registered teachers can be subject to both competence and conduct hearings.

Overseas trained teachers who trained within the European Economic Area (EEA) and Switzerland can apply to the GTC to be recognised as a qualified teacher in England. The application form for registration is available on the GTC website together with all the relevant guidance available at: www.gtce.org.uk/registration

Teachers who trained outside of Europe (should complete the overseas trained teacher programme run by the Training and Development Agency (TDA).

Schools will be contacted each September by the GTC to advise them of those overseas trained teachers and instructors who are registered at their schools. They will be asked to ensure that any such employees who are not included in the list complete a GTC application form so that the school can continue to employ them.

For further information, see: www.gtce.org.uk

9 Overseas trained teachers

An overseas trained teacher is defined as a person who qualified as a teacher in a country outside of the EEA and Switzerland. They must have successfully completed a course of initial teacher training which is recognised by the relevant authorities in their home country.

The Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663) and the Education (Specified Work and Registration) (England) (amendment) Regulations 2007 (SI2007/2117) set out the conditions under which overseas trained teachers are allowed to carry out specified work (i.e. teach) in state maintained and non-maintained special schools in England.

9.1 Overseas trained teacher programme

All overseas trained teachers are regarded as unqualified teachers in the UK unless they gain qualified teacher status via the overseas trained teacher programme. They have a maximum of 4 years to achieve qualified teacher status from the date of starting their first teaching appointment in the UK.

Potential applicants must hold a teaching qualification comparable to a UK bachelor's degree and hold GCSE grade C or above (or equivalent) in English and Maths. For primary and key stage 2/3 teaching, candidates also need GCSE grade C or above (or equivalent) in Science.

There are special arrangements that give overseas trained teachers the option of presenting themselves for QTS assessments without further training.

The overseas trained teacher programme takes up to 1 year to complete, depending on the amount of additional training required by the applicant. The Training and Development Agency (TDA) pays a grant of £1,750 to cover training costs. The school will pay the salary at a rate for either a qualified or unqualified teacher.

The overseas teacher training programme offers overseas teacher trained teachers the opportunity to gain qualified teacher status while working as a teacher. Once in a teaching position, the trainee follows an individual training and assessment programme leading to qualified teacher status. Overseas trained teachers who were trained in the European Economic area or Switzerland may be eligible for qualified teacher status under mutual recognition arrangements and should first contact the General Teaching Council (GTC) website address:

www.gtce.org.uk

Trainees must fulfill the Home Office requirements for a work permit (applicable if the individual is not a national of the European Economic Area) and Switzerland.

Before undertaking the overseas trained teachers programme, applicants must register provisionally with the General Teaching Council (GTC). For further information, see:

www.gtce.org.uk/registration/provisional_registration

If a school wishes to train a member of staff on the overseas trained teachers programme, it must contact an Employment Based Initial Teacher Training (EBITT) provider to request an assessment. Essex teacher training offers this service and may be contacted on telephone 01279 400139. If the school wishes to use an alternative training provider, they should contact the Training and Development Agency for Schools on 0845 6000 991 for the latest list of providers operating in Essex.

The training provider will conduct an initial assessment to determine whether the teacher already meets the requirements for the award of qualified teacher status. If the teacher does meet the requirements, they should then contact the GTC for confirmation of their qualified teacher status.

If additional training is required, the training provider will tailor this to the teacher's needs.

9.2 Assessment-based training

If an overseas trained teachers considers their skills and experience meet all the qualified teacher status standards with minimum requirements for additional training, they can apply for assessment-based training. If a teacher has a degree and substantial experience of working in a UK school as an instructor or unqualified teacher, or as teacher in an independent school or further education institution, they may be able to qualify with minimal teacher training.

Assessment-based training offers the teacher the chance to demonstrate that they meet the standards required to achieve qualified teacher status by compiling and submitting a portfolio of evidence of their abilities as a teacher. Assessment-based training can take up to 1 year to complete.

The University of Gloucestershire administers this process for England. It is available to teachers of a range of subjects and age groups as follows:

- primary;
- mathematics;
- modern languages;
- religious education;
- science;
- art and design;
- geography;
- history;
- physical education.

For further information, see: www.glos.ac.uk/contact/Pages/default.aspx

9.3 Four year rule for overseas trained teachers

Overseas trained teachers are allowed to teach in state maintained schools and non-maintained special schools in England as unqualified teachers for 4 calendar years. (This is a statutory requirement and not linked to work permits, sponsorship

requirements or leave to remain). They are not permitted to teach in Pupil Referral Units (PRU) unless they have been awarded qualified teacher status.

The 4 year period begins on the first day the overseas trained teacher taught in a state maintained school or a non-maintained special school in England and expires exactly 4 years later regardless of whether the overseas trained teacher has taught throughout the 4 year period unless one of the extensions see i) & ii) below apply for example if a teacher first teaches on 10 September 2005, they are allowed to teach without qualified teacher status until 9 September 2009. The expiry date remains 9 September 2009 even if the teacher did not teach for the whole period between 10 September 2005 and 9 September 2009 unless one of the extensions see i. and ii. below apply.

9.4 The position of overseas trained teachers after 4 years

In order to teach after 4 years, an overseas trained teacher must have been awarded qualified teacher status (QTS). Overseas trained teachers who have been awarded qualified teacher status become qualified teachers and are allowed to continue teaching subject to UKBA permission, for example under the terms of their UK entry.

It is unlawful for overseas trained teachers to continue teaching in state maintained schools and non-maintained special schools in England beyond 4 years, if they have not been awarded QTS. Overseas trained teachers without QTS may only teach after 4 years if:

- i. They have taken statutory maternity, paternity, adoption or parental leave or pregnancy related absences during the 4 year period. In such cases, the overseas trained teacher is eligible for extra time equal to the amount of statutory maternity, parental, adoption or parental leave taken under the Employment Rights Act 1996. For example, if a teacher has taken 34 weeks statutory maternity leave during her 4-year period, she is allowed an extra 34 weeks to obtain QTS.
- ii. They are employed as an instructor who fills a teaching post but only when a school is unable to recruit a suitable qualified or trainee teacher. The requirement is that an instructor has skills, qualifications and experience relevant to the teaching post in question. The instructor appointment should

only be made when a school cannot recruit a qualified or trainee teacher. It is a temporary appointment until the post can be filled by a suitable qualified or trainee teacher. It is a temporary appointment until the post can be filled by a suitable qualified or trainee teacher.

If there is no resident qualified teacher or instructor, and providing the overseas person has scored enough points under the new points based system, a certificate of sponsorship may be issued for an instructor for one year initially. Future applications to extend the certificate of sponsorship will also be subject to the individual and school meeting all of the immigration regulations and the required advertising rules.

10 Foreign language assistants

10.1 Foreign language assistants from the British Council scheme

You can recruit foreign language assistants for your school from French, German and Spanish speaking countries and from Italy, China, Japan or Russia.

They must apply to the British Council office in their home country as follows: Argentina, Austria, Belgium, Canada, (Quebec only), Chile, China Colombia, Ecuador, France, Germany, Italy, Japan, Mexico, Paraguay, Russia, Spain, Switzerland.

If the country of the migrant is not listed above, it means that the UK does not have an agreement with their country and they cannot become a foreign language assistant.

If a migrant wishes to be a Chinese foreign language assistant in the UK, they must currently be teaching English in a school in China in order to be eligible. This enables Chinese teachers to receive training and employment in order to get experience teaching Chinese in the UK. Participants teach Mandarin for one academic year and/or promote Chinese culture in UK schools and to get experience in a UK teaching environment. To participate in this programme, they must be a qualified school teacher currently teaching in mainland China. This programme is run in partnership with local education authorities, mainly those in Beijing, Shanghai, Chongqing and Guangzhou where the British Council have centres. The British Council in China do not accept applications from individuals, as

the scheme is based on an agreement between the Chinese and UK Ministries of Education. The opportunity is open to school teachers only and all of the applicants have to go through the official recruitment procedure in China.

If a migrant is interested in applying to the programme as a French foreign language assistant, they should check that they meet the following eligibility criteria:

- be a native speaker of French currently living in the UK;
- have lived in France continuously and been educated in France from the age of 12 onwards if they do not hold a French passport;
- have completed at least 2 years at a French university;
- have at least intermediate level in English;
- be interested in working with children/young people;
- have the BAFA or other relevant experience;
- be available for the full period of the contract from 1st October to end May.

You should not ask foreign language assistants to take sole responsibility for classes unless they are a qualified teacher and agree to this in advance. They should also not be asked to regularly discipline pupils, mark students' work (including exams) or teach subjects other than that of their own language.

10.2 Key points about employing foreign language assistants

Foreign language assistants must work a minimum of 12 hours a week; additional hours (it is recommended a maximum of 18 hours per week) can be negotiated directly with the foreign language assistant and must be paid pro-rata.

It is not possible to offer a foreign language assistant a lower allowance in return for fewer hours. The amounts below are the agreed minimum allowance stipulated by the UK Education departments.

Foreign language assistants from non-EU countries may not extend their weekly timetable of 12 hours. For further information, please contact the British Council which has delegated authority to grant permission on behalf of the Home Office.

Further details can be found on the British Council website:

www.britishcouncil.org/languageassistants

10.3 Working with other schools

If you are not able to offer 12 hours per week, you should attempt to find a partner school which can share the costs and timetable. Foreign language assistants may be shared between a maximum of 3 schools provided travel arrangements are reasonable and you are able to reimburse additional travel costs.

Possible options:

1. Your foreign language assistant works for 2 hours in your school and 10 hours in a local secondary school. You would pay £1,145.30* and the secondary school would pay £5,726.70*
2. You share a foreign language assistant equally with 2 other local schools, 4 hours each. Cost per school £2,290.70*
3. Any other combination of primary and/or secondary schools, as long as the foreign language assistant works in no more than 3 schools and works a minimum of 12 hours per week.

Rates above are for 2009/10 .*Plus national insurance contributions and London Weighting if appropriate. Note: Foreign language assistant allowances will go up slightly for 2010 in line with teachers' salaries.

If you would like to find out how the allowance is calculated, you may download the foreign language assistant allowance calculation, which is available at: www.britishcouncil.org/languageassistant-schools-fla-pay-calculation-0910.doc

If you would like your foreign language assistant to start up to a month earlier or finish up to a month later than the period of appointment, this can be arranged by mutual consent.

If you are considering employing a foreign language assistant in your school, here is some information which outlines the advantages:

For primary schools, see: www.britishcouncil.org/languageassistants-schools-fla-leaflet-primary.pdf

For secondary schools, see: www.britishcouncil.org/languageassistants-schools-fla-leaflet-secondary.pdf

Maintained schools and colleges should make their request(s) to their local authority co-ordinator: andrea.osborne@essexcc.gov.uk who will usually be able to suggest sharing arrangements.

Secondary schools should contact their modern language advisor: andrea.osborne@essexcc.gov.uk.

Primary schools should contact the primary coordinator:
andrea.osborne@essexcc.gov.uk in their local authority.

Local Authority co-ordinators should write to potential host schools for their requests as soon as possible after the start of the winter term, in order to get the provisional number of requests. You should then complete the local authority request form and send it to the British Council. You should check the British Council website for the closing date of the applications. Late requests may be accepted.

Independent schools and post-16 establishments should apply to the British Council directly using the Independent schools' request form. You should check the British Council website for the closing date of the applications. Late requests may be accepted.

Once you have received the dossier of your foreign language assistants you should refer to the British Council's page on:
www.britishcouncil.org/languageassistants-contacting-your-assistants.htm

10.4 What happens next?

In March and April the British Council meet with their partner organisations and decide which foreign language assistants are allocated to which regions. In May, the allocations to individual authorities and schools are made. The British Council are usually in a position to send out the foreign language assistants' application forms to authorities and schools in mid May (Scotland and Northern Ireland) or late May (England and Wales).

10.5 Applying for a second year extension

Requests for second year extensions are often discouraged, but it depends on the language. This is to give new applicants the opportunity to come to the UK and also enable the same number of UK foreign language assistants to work overseas as part of the bi-lateral programme.

10.6 ISA/Safeguarding

Foreign language assistants will be able to provide a police clearance certificate from their embassy in their home country. It is the schools responsibility to ensure this is produced prior to the foreign language assistant commencing work. Once the foreign language assistant is in the UK and has a UK address, the school must

undertake an enhanced CRB check. Foreign language assistants will need to be ISA registered prior to starting their post.

For further information see www.britishcouncil.org/languageassistants

10.7 Employing foreign language assistants independently of the British Council

If a school employs a foreign language assistant independently of the British Council or re-engages a foreign language assistant beyond the period agreed with them, the foreign language assistant becomes a 'normal school employee on recognised pay terms and conditions. In these circumstances the terms and conditions of the British Council foreign language assistant do not apply although schools might want to adopt similar approaches to support and guidance. The employee should be given a different job title to avoid confusion with the programme.

Schools must ensure that the person is eligible to work in the UK outside of the British Council foreign language assistant programme and work permits and leave to remain obtained as necessary.

10.8 Employment options

- It is recommended that the person be appointed as an HLTA on local government terms and conditions. The support and specialist role fits with this role.
- If the foreign language assistant has recognised qualified teacher status (QTS) in the UK (which is unlikely) they may be appointed as a permanent teacher.
- If they do not have QTS, they could be appointed on a fixed term basis as an unqualified teacher pending the appointment of a suitably qualified teacher.

11. Employing overseas workers from 'old' and 'new' countries of EEA and Switzerland

11.1 Employing overseas workers from 'old' countries of EEA and Switzerland

Most EEA and Swiss Nationals are free to enter, live and work in UK without the need to apply to the UK Border Agency (UKBA) for permission. These individuals

have minimal restriction on their length of stay or ability to enter or change employment. These citizens include nationals of the 'old' EEA countries, (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, UK), Swiss nationals and nationals of other countries who have been granted indefinite leave to remain.

For further information, see: www.ukba.homeoffice.gov.uk/workingintheuk/eea/

11.2 Employing overseas workers from 'new' countries of EEA - worker registration scheme

The working registration scheme was introduced in 2004 to allow the UK Border Agency (UKBA) to monitor nationals of the following countries: (known as Accession 8 or A8 countries) which joined the EU. These countries are: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. The worker registration scheme allows the UKBA to monitor where nationals of 'A8' countries are coming into the UK labour market (with the exception of Cyprus and Malta).

Individual workers must apply for worker registration under the worker registration scheme. The worker is required to pay a one-off fee of £90 as part of their application. To apply for worker registration, the worker will need a letter from the employer confirming when they started working, salary and hours of work. If the worker has already obtained worker registration when working for a previous employer, they will have to re-apply for worker registration to gain permission to work for their new employer.

If the worker has applied for a registration certificate during the 1st month, the employer will be authorised to employ them until the UKBA makes a decision on the application. The process takes around 30 days. The UKBA will issue the registration card and certificate to the worker and a copy of the certificate to the employer. The employer will be authorised to employ that worker if and when the UKBA issues the registration certificate.

The employer must keep a copy of the worker's application form to prove they have applied for registration within 1 month of starting work and keep a copy of the valid registration certificate when it is issued.

The employer will be committing a criminal offence, and face a fine of up to £5000, if it continues to employ a worker: who has not applied for a registration certificate within 1 month of starting work; or the employer does not have a copy of their application form.

If the UKBA refuses the worker's application, the employer will no longer be authorised to employ them and must stop doing so immediately.

Note, once a worker has done 12 months work or more with no more than 30 days break, they no longer need to register on the worker registration scheme.

For more information, see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/wrs/employers/

11.2.1 Exemption from the worker registration scheme

Citizens of the 'A8' countries have to register under the worker registration scheme if they wish to work in UK for 1 month or more, however, some individuals are exempt if they:

- are self-employed;
- have been working legally in UK for 12 months or more with no more than a 30days break in employment;
- are providing services in UK on behalf of an employer who is not established in the UK;
- have dual citizenship of UK, another country within the EEA (except the A8 countries) or Switzerland;
- are a family member of a Swiss or EEA citizen (except the A8 countries) and that person is working in the UK; or;
- are a family member of a Swiss or EEA citizen who is living in UK as a student, or a retired or self-sufficient person.

For further information, see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/wrs/employers/whomustregister

12 Employing Bulgarian and Romanian nationals

With effect from 1 January 2007, Bulgaria and Romania nationals can move and live reasonably freely in the UK, however, work permits are still required.

For more information, see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/bulgariaromania/

12.1 Work permits for Bulgarian and Romanian nationals

Work permit arrangements continue for employers wishing to recruit Bulgarian and Romanian nationals. Work permits are issued for a specific individual to work in a specific job. There are six different work permit arrangements. You should obtain a business and commercial permit, see section 12.2.

For further information, see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/workpermits/

12.2 Business and commercial permits

The business and commercial permit arrangements allow employers in the UK to employ people from Bulgaria and Romania to fill a vacancy that might otherwise be filled by a resident worker. A business and commercial work permit will be issued for a maximum of 5 years. The school can make a business and commercial work permit application if:

- you are an employer based in the UK; and;
- you can employ an employee and have a genuine vacancy for an employee in the UK and;
- you are responsible for the post and the delivery of any project or piece of work and;
- the gross pay and conditions are what you would give a resident worker and meet the national minimum wage and;
- the employment meets the UK legislation and you have ensured that you and your employee have obtained any necessary registration or licensing and;
- the person is suitably qualified or experienced enough to do the job and;
- there are no suitably qualified or experienced resident workers available.

To qualify for a business and commercial work permit, the post you want to fill must require the following qualifications:

- a UK degree level qualification or;
- a higher national diploma (HND) level qualification, which is relevant to the post on offer or;
- a HND level qualification, which is not relevant to the post on offer, plus one year of relevant fulltime work experience at national/Scottish vocational qualification (N/SVQ) level 3 or above.

Or the job must need the following skills:

- three years fulltime experience of using specialist skills gained through doing the type of job for which the permit is needed. This should be at N/SVQ level three or above.

You can also apply under the business and commercial arrangements if the post is included in the shortage occupations list.

For further information see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/workpermits/applying/

12.3 Work authorisation

To work in the UK, the Bulgarian or Romanian national will also need to apply for an accession worker card, unless they are **exempt** as follows:

- they are coming to the UK under the seasonal agricultural workers scheme (SAWS) and hold a valid work card issued by a SAWS operator or;
- they were given leave to enter or remain in UK before 1 January 2007 and their passport has been endorsed with a condition restricting their employment to a particular employer or category of employment. If this leave to enter or remain expires before they qualify to be exempt from work authorisation requirements, or they wish to engage in employment other than the job for which the leave was granted, they will need to obtain an accession worker card.

Most categories of employment will require the employer to obtain a work permit before the individual can apply for an accession worker card. However in certain permit-free categories, the individual will only have to apply for an accession worker card. These categories are:

- airport-based operational ground staff of an overseas airline;
- au pair placements;
- domestic workers in a private household;
- ministers of religion, missionaries or members of a religious order;
- overseas government employees;
- postgraduate doctors, dentists and trainee general practitioners;

- private servants in a diplomatic household;
- representatives of an overseas newspaper; news agency or broadcasting agency;
- sole representatives;
- teachers or language assistants on an approved exchange scheme;
- overseas qualified nurses coming for a period of supervised practice.

The individual does not have to apply for a registration certificate but can do so, if they would like confirmation that there are no restrictions on them taking employment in the UK.

Individuals will be **exempt** from the requirement to obtain authorisation to work (accession worker card) in the UK if they meet any of the following criteria: (Note: the school will still need to obtain a permit).

- they have leave to enter under the Immigration Act 1971 and that leave does not place any restrictions on taking employment in UK, (for example they have been given leave to remain as the spouse of a British citizen or as the dependant of a work permit holder) or;
- they have been working with permission, and without interruption, in the UK for 12 months ending on or after 31 December 2006. (for example they are already present in UK as a work permit holder or in some other category that confers permission to take employment such as a student who has been in part-time employment continuously for 12 months) or;
- they are providing services in UK on behalf of an employer established elsewhere in EEA or;
- they are also a citizen of the UK or another EEA state, other than Bulgaria or Romania, or Switzerland or;
- they are the family member of an EEA national exercising a treaty right in the UK (except if they are the family member of a Bulgarian or Romanian national who is subject to work authorisation requirements or who is exempt from those requirements, but only by virtue of being a self-employed person, a self-sufficient person or a student) or;
- the spouse or civil partner of a British citizen or person settled in the UK or;

- they are the family member of a Bulgarian or Romanian national who is self-employed, self-sufficient or a student. They will remain exempt provided that their sponsor remains a student, self-sufficient person or self-employed or;
- they are the spouse, civil partner, descendant under the age of 21 or the dependant of a Bulgarian or Romanian national who is subject to work authorisation and holds an accession worker card;
- they are a member of a diplomatic mission, the family member of a diplomat or the family member of anyone who is entitled to diplomatic immunity.

For further information, see:

www.ukba.homeoffice.gov.uk/workingintheuk/eea/bulgariaromania/liveworkuk/

13 Employing overseas workers outside of EEA and Switzerland – points based system

The UK Border Agency (UKBA) introduced a points-based system on 28 February 2008 based on the sponsorship of overseas workers from outside the EEA and Switzerland. Key elements of the points based system are:

- the employer must obtain a sponsor licence before they can employ skilled workers under tiers 2 and 5;
- the employer must comply with their sponsorship duties;
- the employer must issue a certificate of sponsorship to each non-EEA worker who they want to sponsor, so they can apply for a new visa or an extension of their stay;
- the employer must use the sponsorship management system to issue and pay for each certificate of sponsorship and to fulfill their reporting duties.

Note: Schools are not required to obtain a work permit (now replaced by the sponsor licence) for employing overseas workers outside of EEA and Switzerland. Individuals will need to meet various immigration criteria as part of their application process to gain permission to live in the UK. For further information see the UK Visa website: www.ukvisas.gov.uk/en/how-to-apply/vafs

Note: A resident labour market test will need to be undertaken at part of the tier 2 sponsor licence process. See section 14.

Individuals in any tier, except tier 1, must be sponsored by an employer before they can apply to the UKBA. If an employer wants to sponsor an individual under tier 2, 4 or 5, they must apply to the UKBA for a sponsor licence.

Under tier 2 and tier 5, the sponsor must be an employer based in the UK. Under tier 4, the sponsor must be an education provider in the UK. Individuals wishing to come to the UK do not need to be sponsored by a UK based employer under tier 5.

Individuals need to pass a points-based assessment before they are given permission to enter or remain in the UK. The number of points the individual needs and the way the points are awarded will depend on the tier they are applying under.

Points are awarded to reflect the individual's ability, experience and age and when appropriate, the level of need within the sector in which they will be working. The tiers are as follows:

Tier 1 - Highly skilled workers, for example scientists and entrepreneurs;

Tier 2 - Skilled workers with a job offer, for example teachers and nurses;

Tier 3 - Low skilled workers filling specific temporary labour shortages, for example construction workers for a particular project; (This tier is currently suspended)

Tier 4 - Students; See Section 13.3

Tier 5 – for temporary workers; for example musicians coming to play in a concert and participants in the youth mobility scheme – this is not an employment route.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/

For further guidance on employing overseas workers outside of the EEA and Switzerland – points based system, see Appendix A.

13.1 Licence fees

Sponsors pay a licence every 4 years. Schools will pay for their own licence. However, the academies group within the Department for Children, Schools and Families (DCSF) will act as the sponsor for academies. The fees are £300 for employers with less than 50 employees or £1000 for employers with more than 50 employees. For further information on costs and fees, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/costs/

13.2 Tier 2 - skilled worker category

Tier 2 is for migrants coming to the UK with a skilled job offer to fill a gap in the workforce that cannot be filled by a settled worker.

The job must be at S/NVQ level 3 or above and the migrant must earn the appropriate salary or other package of remuneration appropriate for the job in the UK. Before a migrant can apply under tier 2 they must have a sponsor and a valid certificate of sponsorship. When they apply, they are awarded points based on their qualifications, future expected earnings, sponsorship, English language skills and available maintenance (funds).

13.3 Tier 4 – student category

Students from outside the EEA who are over the age of 16 are permitted to take some employment in the UK, providing their conditions of entry to the UK allow this. Those studying here who have entered the UK as 'student visitors' are not allowed to work.

There are strict conditions on the type of work they can take while they are studying in the UK. You can employ a student:

- For up to 20 hours per week only during term time (the only exception to this is where a student may have been placed with you to meet the definition of their sandwich course or internship); or
- Full time only outside of their term time; and
- They must still have valid leave;

A student from outside of the EEA must not:

- Engage in business; or

- Engage in self-employment; or
- Provide services as a professional sportsperson or entertainer; or
- Pursue a career by filling a permanent full-time vacancy.

13.4 Sponsorship management system - user manual for tiers 2

The Tier 2 user manual for the sponsorship management system guides you through some key tasks in the sponsor management system. This guidance is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/sms-user-manual/

13.5 What is the register of sponsors?

The register of sponsors lists all organisations that the UKBA has licensed to employ migrant workers. If you are an employer who wants to act as a sponsor, you will need a sponsor licence. When you are issued with a licence, you are added to the register of sponsors. You can apply for a licence if:

- you are a legitimate organisation working within the law in the UK;
- there are no reasons to believe that you are a threat to immigration control and;
- your organisation will meet its sponsorship duties.

These criteria are to ensure that those working in the UK do so legally. If you are awarded a sponsor licence, you will be given a sponsor rating, either an 'A or B rating', and will be listed on the register.

For further information see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyingforlicence/

13.6 Who is the sponsor?

The sponsor is normally the employer and is responsible for paying the migrant. Essex local authority does not hold a blanket licence for Essex schools. The school will need to be a licensed sponsor before they can issue certificates of sponsorship. Community schools can register as a sponsor if they wish, even if the local authority is the employer. Where the Governing Body is the employer but they are paid by the local authority, then it could act as the sponsor, provided they are able to accept the sponsor responsibilities.

If a migrant is not a direct employee of the sponsor, the UKBA will look closely at the arrangement to ensure that the sponsor can fulfill all of the sponsor duties. The UKBA will monitor the sponsor to ensure that it is fulfilling its duties, and the UKBA will take appropriate action if it finds that the sponsor is not.

13.7 What if you already have a sponsor licence?

If you already have a licence for tier 2 and want to get a licence for additional tiers, you must apply again using the sponsor application online, giving your sponsor licence number where asked. You should select the tiers, categories and sub-categories that you want to add. You will need to send in any additional mandatory documents that may be required along with any additional fee.

For further guidance on certificates of sponsorship, see Appendix B.

For further guidance on sponsorship duties, see Appendix D.

For further guidance on HR systems and compliance, see Appendix E.

14 Resident labour market test

14.1 What is the resident labour market test?

You may want to recruit a migrant from outside the settled workforce for a skilled job that is not on the list of shortage occupations. You can only do this if you complete a resident labour market test and can show that no suitably qualified settled worker can fill the job.

All vacancies must be advertised to settled workers for 28 calendar days. You can choose to do this in one of two 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; or
- advertise the vacancy in 2 stages, where each stage lasts no less than 7 calendar days and both stages added together total a minimum of 28 calendar days. For example, you can initially advertise the vacancy for 14 calendar days. If a suitable settled worker is identified, you can appoint them straight away. However, if no suitable settled worker is identified, you cannot appoint a migrant worker who applies at this stage - you must advertise the vacancy for a further 14 days, making 28 calendar days in total. If no suitable settled workers are identified during either the first or second stage, the resident labour market test has been completed and you can appoint a tier 2 migrant.

The period of advertising starts from the date the advertisement first appears.

When you issue a certificate of sponsorship on the sponsorship management system under Tier 2 (general), you must confirm that:

- you have completed a resident labour market test as set out in the relevant code of practice and cannot fill the post with a settled worker; or
- the test does not apply to the job (see below).

14.2 Do I have to complete a resident labour market test?

You do not have to complete a resident labour market test before sponsoring a migrant under Tier 2 if the job is on the shortage occupation list;

If an occupation is on the shortage occupation list, it means there are not enough resident workers to fill the available jobs in that particular occupation. You cannot assign a certificate of sponsorship for a job on the shortage occupation list unless the migrant is going to work for at least 30 hours a week.

All teaching posts in special schools, secondary maths and science teaching posts are exempted from the resident labour market test as they are still recognised as skills shortage occupations, however sponsors still need to issue a certificate of sponsorship so that these teachers can apply for entry clearance to the UK. To view the shortage occupation list 'UK Border Agency shortage occupation list from 14 December 2009', go to the following link:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/shortageoccupationlist/

If the job you are recruiting for is not on the shortage occupation list, you must complete a resident labour market test. For further information see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/residentlabourmarketttest/

14.3 How do I complete a resident labour market test?

This section explains how to complete a resident labour market test before you employ migrants under Tier 2. It also contains information about the types of application where you do not have to carry out a resident labour market test.

Even if you do not have to carry out the test, you need to check the code of practice to check that the job is skilled and is paid at the appropriate rate. For further information, see the code of practice available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice

Even if the job meets these conditions, this does not necessarily mean that the migrant's application will be approved. The migrant will still need to score enough points to qualify under the skilled migrant tier. Each code of practice includes the following:

- skilled jobs at National or Scottish Vocational Qualification (NVQ or SVQ) level 3 or above in each occupation that sponsors are allowed to issue a certificate of sponsorship for;
- minimum appropriate salary rates, as defined by the 25th percentile of the Annual Survey of Hours and Earnings (ASHE) or by an alternative code of practice;
- acceptable media and methods for meeting the resident labour market test.

14.4 Skill level of job

The job must be at S/NVQ level 3 or above for the skilled worker of tier 2 to make sure it is a skilled job. The code of practice contains more guidance about which jobs are at this level. This is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/#5

14.5 Appropriate rates of pay

All migrants must be paid the appropriate salary rate to make sure that the resident labour market is not undercut. You can assess the appropriate rate by using the information in the code of practice.

If the migrant will be working in the UK for less than 12 months, the rate of pay must be based on an annual salary. For example, earnings of £10,000 on a six month contract would mean an annual salary of £20,000.

To meet the resident labour market test requirements, all jobs must be advertised at the appropriate rate of pay for that job in the UK to make sure that there has been a genuine attempt to fill the vacancy with a resident worker. Migrants, when taken on, must be paid at least at the rate advertised.

For further information, see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest/

For further guidance on the resident labour market test, see Appendix C.

A qualification below degree level is one or more passes at United Kingdom GCE A level; or a qualification from the United Kingdom that is the same as or above a GCE A level, but below degree level; or a qualification from outside the United Kingdom where you have the supporting evidence that is the same as or above a GCE A level, but below degree level.

The documents in list C of Appendix A of the full sponsorship guidance can be provided in addition to the mandatory documents but cannot replace the mandatory documents. This is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbguidance/

15 Contacts

Sponsorship and employers' helpline

This UK Border Agency telephone helpline can provide:

- information for employers and education providers about sponsorship under the points-based system;
- a service to employers who want to verify the entitlement to work for people who are awaiting the outcome of an application made to the Home Office; and
- advice to employers about preventing illegal working, and particularly about carrying out the document checks necessary to attain a defence against conviction.

Email: Sponsor application enquiries - sponsorshipPBsenquiries@ukba.gsi.gov.uk.

(The email address above should only be used for sponsors' enquiries about the sponsor application process under tiers 2, 4 and 5 of the points-based system. If you are not a sponsor or your enquiry relates to a different subject, you will not receive a response. If you have a general or specific enquiry about how migrants apply under the points-based system, please contact the immigration enquiry bureau. They aim to respond to emails within two working days.) Queries regarding visits to your organisation - sponsor.visits@ukba.gsi.gov.uk

Phone: 0300 123 4699 Opening Hours: Monday to Friday 0900 - 1700

Prevention of illegal working employers helpline

The UK Border Agency telephone helpline can provide:

- answers to general enquiries on prevention of illegal working,
- general advice about the WRS for workers from the European Union countries
- general advice about the authorisation scheme for Romanian and Bulgarian nationals

Phone: 0845 010 6677 Opening Hours: Monday to Friday 0900 - 1700

British Council

The British Council telephone helpline can provide:

- answers to general enquiries on the employment of foreign language assistants

Phone: 0161 957 775 Opening Hours: Monday to Friday 0900 – 1730

Immigration Enquiry Bureau (IEB)

The Immigration Enquiry Bureau can provide:

- answers to immigration issues

Phone: 0870 606 7766

Appendix A Employing overseas workers outside of EEA and Switzerland – points based system

1. Applying for a sponsor licence

The UKBA process sponsor applications for licences within 6 weeks so schools should make their sponsor application as early as possible.

You can apply for licences for the following categories within tier 2.

- skilled workers;
- intra-company transfers;
- sports people;
- ministers of religion.

You can apply for licences for the following categories within Tier 4:

- general;
- student.

Requirements that all sponsors must meet

You must meet the following requirements to become a licensed sponsor:

- you must be a genuine organisation or sole trader operating legally in the UK;
- there must be no evidence that you are a threat to immigration control. The UKBA look at the history and background of your organisation and key personnel;
- you must nominate a level 1 user, a key contact and an authorising officer for the sponsorship management system;
- you must be able to comply with your sponsor duties, the UKBA look at your processes such as your HR systems to make sure you can carry out your duties;

- you must send all your supporting documents when applying; and
- you must meet the additional requirements for the tier and category you are applying under.

For further information, see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/HRandcompliance/

The process for applying for a sponsor licence is as follows:

- register online at www.points.homeoffice.gov.uk/gui-sponsor-jsf/Register/SponsorRegister.faces with your name and email address;
- read all the information in 'applying for a licence' at: www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyforlicence/applyonline/
- read the policy guidance for Tier 2 at: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/
- submit your application online, print off your submission sheet and send it to the UKBA with your fee and supporting documents;
- the UKBA process your application, making any necessary checks that are necessary;
- the UKBA send you notification of their decision;
- when the UKBA give you a licence, your organisation name and rating are published on their register of sponsors;
- when the UKBA give you a licence, you will be able to issue certificates of sponsorship using the sponsorship management system;

You will need to pay the appropriate fee when you make your application. This fee will not be refunded if your application is refused because you do not meet the requirements.

You must make the application yourself. You can use a representative to help with your application, but they cannot submit the application on your behalf. Any applications submitted by a representative will be rejected.

For further information see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/

2. Roles you need to allocate to apply for a sponsor licence

As a potential sponsor, you must allocate some responsibilities to members of your staff. These roles can all be filled by the same person, or by a combination of different people. You will be able to appoint additional level 1 and/or level 2 users later on if necessary. All of these people must be based in the UK. There are four roles:

- authorising officer;
- level 1 user;
- level 2 user; and
- key contact.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyforlicence/rolestoallocate/

3. Who has access to the sponsorship management system?

Only level 1 user and level 2 user will have access to the sponsorship management system. The authorising officer is responsible for staff who use the sponsorship management system for example the authorising officer is responsible for deciding how many staff will have access to the system and what level of permission they will have. The level 1 user is responsible for setting up accounts for all additional sponsorship management system users. The authorising officer must decide whether they will need to be level 1 user, or if not, which staff member to appoint to the role.

The UKBA make checks on the authorising officer, key contact and level 1 user. These will include checks against their own records and the police national computer.

4. Information you need to fill in the sponsor application

The sponsor application form will take you approximately 30 minutes to complete. You can download a copy of the sponsor application form to help you prepare for your application.

This is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyforlicence/applyonline/

To fill in the sponsor application online, you will need the following information:

- organisation details and names of the authorising officer, key contact, level 1 user, and other users;
- the number of certificates of sponsorship you need and your reasons for this number;
- the names and trading dates of your organisation if it has traded under another name in the last four years;
- your organisation's size and sector;
- the name and registration number of any accrediting or governing body;
- your PAYE, VAT or national insurance numbers;
- details of any staff criminal convictions or civil penalties for any staff named as key personnel;
- your supporting documents; and
- payment details.

Make sure you fully understand the process and what supporting documents you must send with your application before applying. You can save a partially completed application at any time and go back to it later if you need to, but you can only save one application. Saving an application will overwrite any previously saved application. You can also finish incomplete applications. You can view submission sheets or finish paying for incomplete applications (which are those that the UKBA have all information except your payment, submission sheet and supporting documents).

5. Supporting documents

When completing the online application form. You should always check the sponsorship guidance to make sure you are sending the right documents. This is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pb/sguidance/

To use the list, you should:

- choose your type of organisation;
- read the guidance, which gives you further instructions on the types of documents your organisation needs to send; and;
- find out what mandatory documents (list A), primary documents (list B) with exceptions, and secondary documents (list C), you must send.

The following link explains the documents you should provide to support your application for a licence:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/supportingevidence/

6. Submission sheet

After you have submitted your application on the sponsorship management system, you are taken to the submission sheet page, which you must print, complete and send with your payment and documents selected earlier for your supporting evidence. You must send it all to the address on the submission sheet. It is advisable you keep a copy for your records.

If the list of documents on your submission sheet is incorrect, cross out any documents that do not apply to you, and add the ones you are substituting. All applications must include at least four documents from Appendix A of the sponsorship guidance. This is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbguidance/

If you have a specific query about your particular application, contact the sponsor licensing unit on sponsorlicensing@ukba.gsi.gov.uk.

7. How to withdraw your application

If you want to withdraw your application for a sponsor licence at any time, you should use the 'sponsor change of circumstances form'. This is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyforlicence/withdrawapplication/

8. Mandatory documents

The UKBA will refuse your application if you do not provide the appropriate mandatory documents. These are shown in list A of Appendix A of the full sponsorship guidance. This is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/

In most cases you will need to supply only one piece of documentary evidence: the proof that you are subject to a system of reviews or hold valid accreditation.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/eligibility/tierstudents

However, sometimes the UKBA may need to see additional documents. For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/applyforlicence/applyonline/typeoforganisation/

9. Primary documents with exceptions

The documents in list B of Appendix A of the full sponsorship guidance are mandatory for certain types of organisation in certain sectors. The UKBA will refuse your application if you do not provide the appropriate mandatory documents.

This guidance is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/

10. Secondary documents

The documents in list C of Appendix A of the full sponsorship guidance can be provided in addition to the mandatory documents but cannot replace the mandatory documents. This is available at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/

11. Sending original documents

You must send the original documents or certified copies. A certified copy is one that includes a signed statement, either by the issuing authority or by a solicitor or notary, confirming that it is an accurate copy of the original document. Any documents that the UKBA request 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. The UKBA reserve the right to ask for original documents.

12. Missing original documents

If you do not provide the UKBA with all the documents needed when you apply, the UKBA will write to you to ask for the necessary documents. If the missing documents are not sent within the time allowed, the UKBA will refuse your application.

13. How the UK border agency return your documents

The UKBA return the documents to you by recorded delivery to the address given on the application. If you want the documents to be returned by special delivery, you should enclose a prepaid special delivery envelope.

14. Additional documents

The UKBA may ask for further documents if they doubt whether your organisation meets the requirements for the category in which you have applied.

15. Applications by post

Once you have completed the online application, you must print off your submission sheet, include your payment details and send them with your supporting documents. You can send in more documents later on, as long as they reach the UKBA before they make a decision on your application. You should send your submission sheet, documents and payment details to:

UK Border Agency
PBS Sponsor Licence Applications
PO Box 501

Durham
DH99 1WH

16. Applications by courier

Your submission sheet, payment and supporting documents must arrive during the UKBA's normal business hours (0830 to 1630 Monday to Friday, excluding bank holidays), or receipt cannot be guaranteed. If you want to use a courier, send your submission sheet, documents and payment to:

UK Border Agency
Room 326
Millburngate House
Durham
DH99 1SA

Appendix B Certificate of sponsorship

A certificate of sponsorship is not a paper certificate like a work permit. It is a 'virtual document', with a unique reference number which you issue to a migrant so that they can apply for permission to enter the UK if they coming from overseas (known as 'entry clearance'), or permission to stay in the UK if they are already here (known as 'leave to remain').

For further information on costs and fees for certificates, see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/costs/

1. Sponsorship fees

The certificate of sponsorship is £170 for each overseas worker applying for entry into the UK. The DCSF will pay for the certificate of sponsorship fees on behalf of the state maintained schools, including academies.

For further information on costs and fees, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/costs/

2. How to issue a certificate

Before you issue a certificate of sponsorship, you need to check the latest code of practice and standard occupational classification codes. The codes of practice can be viewed at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/

Before you can sponsor a skilled migrant, you need to check that the job you are sponsoring them to do meets all the conditions of the relevant code of practice. If the job does not meet the conditions of the code of practice, you cannot issue a certificate of sponsorship.

To find the relevant code of practice you must first choose the Standard Occupational Classification (SOC) code that most closely matches the job you are sponsoring a migrant to do. The office for national statistics has produced a guide to help you choose the right SOC code. SOC codes are used only to classify

job titles and job descriptions are contained within the (SOC) code summary tables and Education Codes of Practice – Section P. The codes of practice and guidance is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/

You should not ask the UKBA to match a job title or a job description to a SOC code for you. This is part of your duties as a sponsor, as you know most about the duties and responsibilities involved in the job. The relevant code of practice explains which jobs meet the following Tier 2 conditions:

- the job must be skilled at N/SVQ level 3 or above; and;
- the job must be paid at the appropriate rate or above.

The relevant code of practice also explains:

- which jobs in the SOC code are on the shortage occupation list; and;
- How to meet the resident labour market test for jobs that are not on the shortage occupation list.

An employer can advertise jobs in other media and recruit in other ways as well as those set out in the code of practice. However, to pass the resident labour market test you must also advertise in Jobcentre Plus and use at least one of the recruitment methods set out in the relevant code of practice before you can issue a certificate of sponsorship.

3. How to assign a certificate

You can assign a certificate of sponsorship using the sponsorship management system, which you get access to once you are a licensed sponsor.

To assign a certificate, you complete the migrant and sponsorship details (including salary, skill level, and whether the job meets the resident labour market test, or is a shortage occupation).

A certificate of sponsorship can only be assigned by an employee of the sponsoring organisation, or by a representative who is in the UK and has been given access to the sponsorship management system. Once you have assigned a

certificate of sponsorship, you must give the reference number to the migrant. The migrant must then apply for permission to enter or stay in the UK, and must quote the reference number on their application form.

A migrant cannot apply for initial permission to enter the UK for more than three months before the date when they are due to start work.

The fact that a certificate of sponsorship has been assigned does not guarantee that the migrant will succeed in getting permission to enter or stay. The migrant must meet certain requirements for the relevant tier and category, and apply for permission to enter or stay.

To assign a certificate of sponsorship in the sponsorship management system go to the following link:

www.ukbahomeoffice.gov.uk/sitecontent/documents/employersandsponsors/sms-user-manual/createcertificates/create-cert-based-on-cert.pdf

If you are thinking about assigning a certificate of sponsorship to a migrant who is already in the UK, you should understand the effect that their current immigration status may have on their application for permission to stay because of the rules on 'switching'.

For further information on switching see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/howlongworkerscanstay/

4. How you should send the certificate to the migrant

You must forward the certificate of sponsorship number to the migrant and treat it as you would a secure and confidential document. You must print and send the details of the certificate of sponsorship on the system to the migrant, as they may need the information (such as the details of the resident labour market test) when they apply to the UKBA.

The migrant will need the certificate of sponsorship reference number to apply for permission to enter or stay in the UK. Some migrants (non-visa nationals travelling for under three months) do not need to apply for permission to enter before they travel to the UK.

5. How long is the certificate valid for?

A certificate of sponsorship under tier 2 is valid for three months from the date of issue.

The certificate of sponsorship will automatically become invalid if the migrant does not use it within this time to apply to enter or remain in the UK. During this time, the migrant cannot be assigned another certificate of sponsorship by any other sponsor. If a migrant does not want to do the job, they should contact their sponsor to cancel or withdraw the certificate of sponsorship before applying for another job.

6. What is the duration of the certificate?

The duration of the certificate of sponsorship should match the contract of employment but only up to a maximum of 3 years. For overseas trained teachers, after a period of 3 years, the sponsor will need to issue a second certificate of sponsorship for the overseas trained teacher and apply for a further 1 year to remain in the UK if they have not attained qualified teacher status at this point, or apply for 2 years leave to remain if they have obtained qualified teacher status after 3 years. After 5 years, the overseas trained teacher becomes eligible to apply for indefinite leave to remain in the UK.

7. If you issue a certificate outside the sponsorship rules

If you issue a certificate of sponsorship, you are held fully responsible for the actions of an employee who acts on your behalf. Any non-compliance with the rules on issuing or allocating certificates of sponsorship may result in the UKBA withdrawing your licence or downgrading it to a B-rating.

If the UKBA find you are employing an illegal migrant worker because your recruitment practices are negligent, the UKBA may issue you with a civil penalty and may refer the case for prosecution. For further information on illegal working see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorsandratings/illegalworking/

8. How many certificates you can apply for

When you apply for a licence, the UKBA ask you to give an estimate of the number of certificates of sponsorship you expect to issue each year in each tier or category that you are applying for a licence in. The number must include existing migrants who will apply for extensions of their permission to stay and any new migrants you want to sponsor. The UKBA will ask you to justify the number of certificates of sponsorship needed.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/numberofcertificates

9. Your allocation of certificates

When the UKBA approve your licence application, they decide what limit to set on the number of certificates of sponsorship you can issue. This may be:

- your requested number of certificates of sponsorship; or
- a lower limit if you are B-rated, a start-up organisation or have any history of not complying with immigration rules.

When you request an allocation of certificates of sponsorship on the sponsor application online, you should make sure you have evidence to support the number you request.

When the UKBA set the limit, they take into account all the circumstances, including your estimated requirements and other factors, for example:

- your previous record in dealing with the UKBA (including your previous dealings with the work permit arrangements);
- your type of business;
- the size of your business; and;
- the length of time that you have been trading for.

You will not be able to assign certificates if you have used up the limit you were allocated when you got your sponsor licence.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/numberofcertificates/#header2

10. Unused certificates

Any certificates of sponsorship that are unused at the end of each year will be removed from the sponsorship management system and you must apply for a new allocation for the following year. It is not possible to carry over any unused certificates of sponsorship.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/numberofcertificates/#header2

11. How you can change a certificate

You must make sure that the migrant's details are correct when you create a certificate of sponsorship.

If the details are wrong, you must cancel the certificate and assign a new one if needed to make sure the details are the same as the one in the migrant's application. You will need to pay for a new certificate of sponsorship.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/cancelcertificate

12. When the UKBA will cancel a certificate

The UKBA can cancel a certificate of sponsorship at any time if they find that you were not entitled to issue it, for example if it was issued through misrepresentation or fraud.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/cancelcertificate/#header3

13. How you can cancel a certificate

You can withdraw a certificate of sponsorship at any time using the the sponsorship management system.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/cancelcertificate/#header3

14. How the migrant can cancel a certificate

If a migrant does not want to take up employment, they can contact the sponsor in writing or by email, to cancel or withdraw the certificate of sponsorship before applying for another job.

You must action this request within five working days. If you do not, then the migrant will be expected to send a reminder after which you have a further five working days to action the request.

If you refuse or fail to cancel or withdraw the certificate of sponsorship within the allowed time, the migrant can contact the Sponsor Licensing Unit at sponsorlicensing@ukba.gsi.gov.uk or telephone 0870 606 7766 who will cancel or withdraw the certificate of sponsorship for the migrant. You must be aware that failure to take action when receiving such a request from the migrant, within the allowed time, may lead to the UKBA taking further action against you. When a certificate of sponsorship is cancelled or withdrawn, the fee will not be refunded.

For further information, see:

<http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/cancelcertificate/#header3>

15. Extension of permission to stay

Migrants in the UK under tier 2 can apply to extend their permission to stay. They must meet the following requirements:

- they have a certificate of sponsorship for their continued employment before applying to extend their stay;

- the job is still at or above level S/NVQ3, and the salary is at or above the correct rate.

Another resident labour market test will not be needed because you will have shown on the initial application that the job could not be filled from the resident labour market test. They can, however, leave the UK and reapply for permission to enter (known as 'entry clearance') on a new certificate of sponsorship after they have reached the end of their stay. For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/howlongworkerscanstay/header#2

16. What if the migrant changes their employment?

If a migrant sponsored under Tier 2 is changing jobs, the new job must have been subject to a resident labour market test (where appropriate) which has shown that no suitable settled workers are available to fill the post.

If the migrant is continuing to work for the same employer but their core duties and/or responsibilities change, or their position in the employer's hierarchy changes (for example because of a promotion), this is treated as a change of employment.

The (new) sponsor must issue a new certificate of sponsorship and the migrant must then make a new application to stay in the UK under Tier 2. The migrant's application must be approved by the UKBA before they can start work in their new job, whether the new job is with the same sponsor or with a new sponsor. In the meantime, the migrant can continue working in their original job, for their original sponsor (provided their previous permission has not expired) until the start date of the new job, which should be the start date given on the new certificate of sponsorship.

Migrants will automatically get points for English language skills because they will have shown this for their initial application. Additionally, migrants will not have to prove they have maintenance (funds).

Some employers are temporarily reducing workers' hours to avoid making redundancies. The UKBA will **not** consider a migrant to have undergone a change of employment if:

- the migrant has current permission to work here under tier 2; and;
- they are continuing to work in the same job, with reduced working hours; and;
- their reduced working hours are part of a company-wide policy to avoid redundancies; and
- you are not treating migrant workers more or less favourably than resident workers; and;

- the migrant's pay or working hours have not been reduced by more than 30%; and;
- any reduction in their wages is proportionate to the reduction in hours; and;
- the arrangements will be in place for no more than one year.

Before you assign a certificate of sponsorship, you may want to make sure that the migrant can meet the relevant conditions for that tier, category or sub-category you issue it for. For further information, see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/howlongworkerscanstay/header#2

17. What if the migrant switches their immigration status?

Switching is the term the UKBA use when a migrant who is already legally in the UK changes immigration status from one immigration category to another. When the migrant does this, they must meet the initial entry requirements for the new category.

Migrants must meet certain requirements when changing their immigration status and the UKBA will impose certain restrictions. The UKBA will only approve an application for a migrant to change immigration category while in the UK if they:

- meet the specific requirements of the immigration rules to be given permission to stay in the UK within the category that they are switching into; and;
- are already in the UK within one of the categories that allows switching into another category while in the UK.

A migrant who is in the UK without having leave to enter or remain for their current stay cannot be given leave to remain in certain categories, and the UKBA will refuse these applications. As a sponsor, you may want to make sure that the migrant's current immigration status allows them to switch into the desired immigration category. If the migrant's immigration status is not in one of the eligible categories, they will not be allowed to switch and the UKBA are likely to refuse the application for leave to remain.

For further information, see:

www.ukbahomeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/howlongworkerscanstay/header#2

Appendix C Resident labour market test

1. How do I complete a resident labour market test?

To complete a resident labour market test for any job in the tier 2 (general) category, you must use the advertising methods permitted by the code of practice for the sector or job. The code of practice is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/#5

The advertisement must include:

- the job title;
- the main duties and responsibilities of the job (the job description);
- the location of the job;
- an indication of the salary package or salary range or terms on offer;
- the skills, qualifications and experience needed; and
- the closing date for applications, unless the job is part of your organisation's rolling recruitment programme (in which case the advertisement should state the period of the recruitment programme).

All jobs advertised to settled workers must now be advertised:

- in Jobcentre Plus; and
- using one other method permitted by the relevant code of practice (unless there is no code of practice for the job).

If a settled worker applies for the job but does not have the necessary qualifications, experience or skills, you cannot refuse to employ them unless you specifically requested these qualifications, experience or skills in the job advertisement.

If you want to sponsor a migrant to do a job that you have advertised under the resident labour market test, you must assign the certificate of sponsorship no more than six months after you first advertised the job (If the vacancy has been

advertised in two stages, you must assign the certificate of sponsorship within six months of the date when the **first** of the two advertisements first appeared.) This is to make sure that the results of your advertising reflect the current availability of the skills you need. The only exception to this six-month rule is where a migrant has been recruited via a milkround, in which case you can assign a certificate of sponsorship up to 48 months after the milkround took place.

When you have completed a resident labour market test, you must keep the documents listed in the guidance document. This is available at: www.points.homeoffice.gov.uk/gui-sponsor-jsf/SponsorHome.faces

2. Advertising periods

All vacancies must be advertised to settled workers for 28 calendar days. You can choose to do this in one of two 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; or
- advertise the vacancy in two stages, where each stage lasts no less than 7 calendar days and both stages added together total a minimum of 28 calendar days for example you can initially advertise the vacancy for 14 calendar days. If a suitable settled worker is identified, you can appoint them straight away. However, if no suitable settled worker is identified, you cannot appoint a migrant worker who applies at this stage - you must advertise the vacancy for a further 14 days, making 28 calendar days in total. If no suitable settled workers are identified during either the first or second stage, the resident labour market test has been completed and you can appoint a tier 2 migrant.

The period of advertising starts from the date the advertisement first appears.

When you issue a certificate of sponsorship on the sponsorship management system under tier 2, you must confirm that:

- you have completed a resident labour market test as set out in the relevant code of practice and cannot fill the post with a settled worker; or

- the test does not apply to the job.

3. Methods of advertising

This section provides a list of methods you might use to advertise the job. All jobs must be advertised in Jobcentre Plus (except where indicated below) and using one other method. The relevant code of practice will explain which other methods you can use.

4. Jobcentre plus

The Jobcentre Plus website contains information on how to advertise a vacancy. For further information see:

www.jobcentreplus.gov.uk/JCP/Employers/AdvertisedVacancy/

You can place an advertisement online (using the free service Employer Direct online), by email, employerdirect-vacancies@jobcentreplus.gsi.gov.uk; by fax 0845 601 2002 or by telephone 0845 601 2001. All vacancies are advertised on the Jobcentre Plus website and are made available in Jobcentre Plus offices and other locations across the UK.

The standard period for an advertisement to run in Jobcentre Plus is four weeks. If you advertise your vacancy for the full four weeks, the advertisement will not show a closing date. If you want to specify a closing date, you should tell Jobcentre Plus so that this will appear on the advertisement.

Jobcentre Plus will only accept a vacancy advertisement if there is a current vacancy when the advertisement is placed. If you also use milkrounds or rolling recruitment programmes, you must make sure that you place your vacancies when there are actual posts to fill. It is important to adhere to the Jobcentre Plus rules. If your vacancy advertisement is refused, you will not be able to complete a resident labour market test and will not be able to assign a certificate of sponsorship for that vacancy.

5. National newspapers or professional journals

The job may be advertised using the employment section appropriate for the job, of a national newspaper or a professional journal. A national newspaper is one that is available throughout the UK from the majority of newsagents. A professional

journal is one that is published for a particular field and is available nationally either at a majority of newsagents or through subscription.

6. Milkrounds

If the code of practice allows it, you may recruit using an annual graduate recruitment programme, known as a 'milkround'. This is a system where employers from a wide range of sectors visit universities to give presentations and interview prospective graduates, usually as part of university career fairs.

If you recruit through a milkround and have visited at least three UK universities as part of this, you do not need to advertise the job in Jobcentre Plus in order to complete the resident labour market test. However, you will need to have advertised the job through two external recruitment channels permitted by the relevant code of practice (one of which must be a recruitment website listed in that code of practice) in addition to the milkround.

7. Rolling recruitment programmes

The points-based system has been developed to allow sponsors to recruit skilled migrants to fill specific vacancies that cannot be filled by settled workers. Rolling recruitment programmes exist to allow companies to pick out skilled individuals who might fill future, undefined vacancies.

The UKBA are not trying to stop employers from identifying migrants through these programmes, however, when a specific vacancy becomes available, you must advertise it to resident workers first in order to meet the requirements of the resident labour market test.

8. Recruitment agencies

If the code of practice says so, you may use an agency to help with your recruitment. The agency may recruit for the post either by advertising in Jobcentre Plus or as set out in the relevant code of practice. This is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/#5

9. Internet

You may use the internet to advertise a job. The internet site you can use will be in the relevant code of practice for the sector or job. You can use your own website

only if your organisation is a multi-national or global company or a large organisation with over 250 permanent employees in the UK. This is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/#5

10. Headhunters

The head-hunter may recruit for the job either by advertising in Jobcentre plus, a national newspaper or professional journal, or by finding potential candidates through market research.

You must keep documents related to the resident labour market test as stated in Appendix D of the full sponsorship guidance, which is available at:

www.points.homeoffice.gov.uk/gui-sponsor-jsf/SponsorHome.faces

Appendix D Your Sponsorship Duties

This section explains your sponsorship duties, including your duties under different tiers, and your duties of recordkeeping, reporting and compliance.

As a sponsor, you must meet certain duties to make sure immigration controls remain effective. The aims of these duties are to:

- prevent abuse of assessment procedures;
- capture any patterns of migrant behaviour early which cause concern;
- address possible weaknesses in your processes which cause those patterns; and
- monitor compliance with immigration rules.

If you have any queries about your sponsorship duties, you should raise them with the UKBA visiting officers who provide advice and act as a general point of contact.

You can use the employer checking service telephone 0300 123 4699 that offers employers an opportunity to check the status of individuals to work in the UK.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/tierspecificduties

www.ukba.homeoffice.gov.uk/employers/preventingillegalworking/

1. Recordkeeping

This section explains your record keeping duties as a sponsor. Further information is available at:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/recordkeeping

2. What documents you must keep

You must keep the following records or documents and be prepared to give them to the UKBA officials if asked:

- a photocopy or electronic copy of each sponsored migrant's passport or UK immigration status document and their ID card, showing evidence of their entitlement to work including the time of their permission to stay in the UK. Sponsors who are employers should be aware of their responsibilities to help prevent illegal working in the UK; and
- each sponsored migrant's contact details (address, telephone number, mobile telephone number), which must be kept up-to-date;

You must give documents about sponsored migrants that the UKBA think are relevant. eg, the UKBA may ask for details of your recruitment practices, so they can make sure the resident labour market test is met correctly. For further information on how to keep documents, see:

www.ukbahomeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbs/guidance

3. Identity cards for foreign nationals

From 2008 the UKBA commenced the introduction of ID cards for foreign nationals. These are a new type of immigration status document containing details of the holder's immigration status, photograph and fingerprints. If the migrant has an ID card, you must keep a copy of it. For checking identity cards for foreign nationals, see the following:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/icfn-info-guidance/

4. Reporting

This section explains your reporting duties as a sponsor. They apply to all sponsors in all tiers and categories. For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/reporting/

5. What information you must report to the UKBA

You must report the following information or events about sponsored migrants to the UKBA within the time limit given.

- If they do not turn up for their first day at work, you must report this within 10 working days. You must include the reason the migrant gives for non-attendance (for example, a missed flight).*
- If they are absent from work for more than 10 working days, you must tell the UKBA within 10 working days of the 10th day of absence.
- If their contract of employment or registration ends (including if they resign or are dismissed), you must tell us within 10 working days of the event in question, and give us the name and address of any new employer or institution that they have joined if you know it.*
- If you stop sponsoring them for any other reason (for example, if they move into a immigration category with a different sponsor or one that that does not need a sponsor, or their permission to stay in the UK ends), you must tell us within 10 working days.*
- If there are any significant changes in their circumstances – for example a change of job (but not a change of job title), a change of salary (but not an annual pay rise or a bonus), a change in the length of their course of study or a change of work location, you must tell us within 10 working days.*
- If you have any information which suggests that they are breaching the conditions of their leave, you must tell us within 10 working days.*
- If there are any significant changes in your circumstances (for example if you stop trading or become insolvent, substantially change the nature of your business, are involved in a merger or are taken over), you must tell us within 28 calendar days.
- You must also send us details of any third party or intermediary, in the UK or abroad, that helped you recruit employees or students.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/reporting/

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/

6. How to report information

You should report information using the sponsorship management system. For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/

7. Terrorism or any other criminal activity

If you suspect an individual is engaging in terrorism or any other criminal activity you must give the police any information you have.

8. How the UKBA use the information you report

Information about migrants' non-attendance, non-compliance or disappearance will be used to proceed with enforcement action against an individual.

9. Compliance

As a sponsor, you must comply with the immigration laws and meet the following obligations:

- you must make sure the migrant who is coming to work is legally allowed to do the job, and has the right registration or professional accreditation where needed by law, and keep a copy of the registration document or certificate which you can give the UKBA if they ask;
- you must not employ someone whose immigration status (or lack of status) does not allow them to do the job they are applying for, and you must stop employing someone who stops being allowed to work for any reason;
- you must only assign certificates of sponsorship to those who, to the best of your knowledge, meet the requirements of the tier or category they are applying under specified in the immigration rules, and who are likely to meet the conditions of their permission to enter or stay in the UK.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/compliance

10. Co-operating with the UKBA

This section explains the rules you must follow to co-operate with the UKBA as a sponsor. You must:

- allow the UKBA staff access to any of your premises on demand. Visits may be either prearranged or unannounced;
- stick to any sponsorship action plan set by the UKBA;
- look to minimise the risk of immigration abuse by complying with any good practice guidance that the UKBA or any sector body may produce for you.

For further information, see

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/cooperatingwithus

Appendix E HR systems and compliance

1. How the UKBA assess HR systems and compliance

The UKBA rate your HR systems and your previous compliance with immigration law while employing migrants. The UKBA do this when you apply for a licence to sponsor migrants. The UKBA may also conduct checks after you have been granted a licence.

The UKBA assess five areas of your HR systems, which are:

- monitoring immigration status and preventing illegal employment;
- maintaining migrant contact details;
- recordkeeping;
- migrant tracking and monitoring;
- professional registrations and accreditations.

The UKBA will rate your HR systems and compliance from 1 to 3 as follows:

- i. You meet all of the criteria or are fully compliant.
- ii. You only meet some of the criteria or are partially compliant.
- iii. You do not meet any of the criteria or are non-compliant.

For further information on how the UKBA manage sponsors and ratings, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorsandratings/

For further information on HR systems and compliance, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/HRandcompliance/

2. The standards the UKBA use

The UKBA use specific standards when assessing whether to give you an A or B rating, or whether to refuse or withdraw your licence. The UKBA assess:

- whether you have the correct HR systems to make sure that you can meet your sponsorship duties; and;
- whether you are complying with, or have previously complied with, the work permit arrangements and other immigration law.

3. The rating the UKBA give you

Following the assessment, the UKBA will usually give an A rating when the organisation poses little or no risk and the organisation has been awarded the top rating for both its HR systems and compliance.

The UKBA will usually give a B rating when they have given an organisation a rating of 2 for its HR systems or compliance, or both of these.

The UKBA are likely to refuse the application when they have given an organisation a rating of 3 for either its HR systems or compliance.

It may also be possible to get an A or B rating with an action plan if the UKBA give the sponsor a 1 or 2 for compliance but a 3 for HR systems.

The UKBA will take into account both the severity and frequency of any non-compliance when deciding the appropriate rating.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/HRandcompliance/howratecompliance/

4. How the UKBA rate compliance

The UKBA rate your previous compliance with immigration law while employing migrants. Your compliance will affect your application for a licence to sponsor migrants.

5. Full compliance

The UKBA decide you are fully compliant if, for example there is no historical record of any non-compliance and they find you to be fully compliant during a pre-licensing visit.

6. Partial compliance

The UKBA decide you are partially compliant if:

- you have not informed them of any technical change(s) of employment relating to your migrants, for example during the pre-licensing visit, the UKBA found that a work permit holder was doing a job in a different location and you did not tell them; or
- the employment circumstances, job role or salary do not reflect those declared on the work permit application form but you can give them a reasonable explanation for the differences.

7. Non-compliance

The UKBA decide you are non-compliant if:

- you have had work permit applications refused or withdrawn because your facilities were not good enough to cope with the increased staff, and you did not have plans to expand to take account of that increase, or;
- you supply false information on any application to the UKBA or to one of their officers, or ;
- the employment circumstances, job role or salary do not reflect those declared on the work permit application form and you were unable to offer a reasonable explanation for the differences; or;
- you failed to co-operate with any request from the UKBA without a good reason, for example if you have repeatedly failed to meet their officers or refused access to your premises; or;
- the level of abuse is so high that a significant number of your current work permit holders have had or will have their permits withdrawn. For example if you were found to have serious salary breaches with a number of work permit holders and are unable to offer any explanation for why those members of staff were being paid salaries significantly lower than those given on the work permit application forms; or;

- there is evidence which suggests that you have seriously breached any other part of the work permit arrangements. For example if you declared on a work permit application form an annual salary of £23,000 but a compliance check showed that the work permit holder's salary was £14,000. The work permit holder would also be paid a non-guaranteed bonus of £9,000, but only after staying at the organisation for a certain period of time, to encourage them to stay; or;
- there is no valid trading presence in the UK or you are not a genuine organisation.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/HRandcompliance/howweratecompliance/

8. How the UKBA rate your HR systems

The UKBA rate your HR systems to monitor migrant's immigration status and prevent illegal employment. The UKBA do this when you when you apply for a licence. The UKBA may also conduct checks after you have been granted a licence.

9. Monitoring immigration status and preventing illegal employment

To comply with your sponsorship duties, you should: keep the following records or documents, and make them available to the UKBA if they ask:

- keep a photocopy or electronic copy of your sponsored migrants' passports or immigration status documents and their ID cards, showing they are allowed to work when appropriate; and
- have procedures in place to ensure you do not employ or continue to employ any migrant if the conditions on their permission to stay (or the migrant's lack of permission to stay) mean that they are not allowed to do the job in question.

It is strongly suggested that you follow the procedures outlined in the comprehensive guidance for employers on preventing illegal working to fully protect yourself from a fine for employing illegal workers. This guidance is

available on the following link:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/currentguidanceandcodes/comprehensiveguidancefeb08.pdf

10. Maintaining migrant contact details

You must keep the following records or documents, and make them available to the UKBA if they ask:

- each sponsored migrant's contact details (UK residential address, telephone number, and mobile telephone number). These details must be updated as necessary;
- have a procedure in place to ensure these are updated, such as;
- an electronic self-service system; or ;
- conduct a regular audit; or ;
- issue clear instructions to ensure your sponsored migrants are aware that they should notify you of any changes and how they should do this.

11. Recordkeeping

You must provide any documents for migrants that the UKBA think are relevant. They might, for example, ask for details of your recruitment practices to make sure that you are meeting the resident labour market test where appropriate.

To comply with your sponsorship duties you should have effective record keeping systems according to good practice.

12. Migrant tracking and monitoring

The UKBA rate the way you plan to use your HR systems to track and monitor their sponsored migrants.

You must report the following information or events to the UKBA within any time limit specified:

- if a sponsored migrant does not turn up for their first day of work at the expected time. The report must be provided within 10 working days and must include any reason given by the migrant for the non-attendance (for example a missed flight);

- if a migrant is absent from work for more than 10 working days, without your reasonably granted permission. The report must be provided within 10 working days of the 10th day of absence;
- if a migrant stops their studies or if the migrant's contract of employment or registration is terminated (including where the migrant resigns or is dismissed). This report must be provided within 10 working days of the event in question, and should include the name and address of any new employer or institution that the migrant has joined, if you know it;
- if you stop sponsoring the migrant for any other reason (for example if the migrant moves into an immigration category that does not need a sponsor), the report must be provided within 10 working days;
- if there are any significant changes in the migrant's circumstances, for example a change of job or salary (but not job title or annual pay rise) or if the length of a course of study shortens;
- any suspicions you may have that a migrant is breaching the conditions of their leave (permission to be in the UK), the report must be provided within 10 working days;
- if there are any significant changes in your circumstances, for example if you stop trading or become insolvent, substantially change the nature of your business, merge your company with another company, or are taken over, the report must be provided within 28 working days; and
- details of any third party or intermediary, whether in the UK or abroad, that has assisted you in the recruitment of migrant employees or students.

The UKBA will use information about migrants' non-attendance, non-compliance or disappearance to decide on enforcement action against you.

13. Professional accreditations and registrations

The UKBA rate the way you use your HR systems to make sure you use good recruitment practices and check professional registrations or accreditations where they are legally required. To make sure that you are complying with immigration laws you must:

- make sure that a sponsored migrant who is coming to work for you is legally entitled to do the job in question and has the appropriate registration or professional accreditation where this is legally needed. You must keep a copy of any appropriate registration document or certificate, and supply it to us on request.

For further information, see:

www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/HRandcompliance/howrateHR/

For sponsorship guidance, see:

www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbguidance/

Appendix F Pre-employment checks for overseas workers

Category	Restrictions	Exemptions	Work Permit	CRB	GTC (for teaching posts only)	Sponsor Licence - (Points Based System)
'Old' EEA countries and Switzerland	No restrictions	N/A	N	Y	Y	N/A
'New' EEA countries that is Cyprus and Malta	No restrictions	N/A	N	Y	Y	N/A
A8 countries – Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia	No restrictions	N/A	N	Y	Y	N/A

Category	Restrictions	Exemptions	Work Permit	CRB	GTC (for teaching posts only)	Sponsor Licence - (Points Based System)
A2 countries – Bulgaria and Romania	Work permit - business and commercial. work Authorisation – accession worker card	Y	Y – Business and commercial permit and accession worker card	Y	Y	N/A
Turkey	Sponsor licence. Certificate of Sponsorship	Y	Y Sponsor licence and certificate of sponsorship	Y	Y	Y
Countries outside of the EEA and Switzerland	Sponsor licence. Certificate of sponsorship	Y	Y Sponsor licence and certificate of sponsorship	Y	Y	Y
Foreign Language Assistants	If engaged through British Council, they are responsible for the employment and immigration checks. If	Y	Dependent on their immigration status	Y	N	Y – British Council

Category	Restrictions	Exemptions	Work Permit	CRB	GTC (for teaching posts only)	Sponsor Licence - (Points Based System)
	employed independently of the British Council, the school is responsible for the checks depending on the individuals' immigration status.					

*Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia.

Appendix G Glossary

British citizen

British citizens have the right to live in the United Kingdom permanently and are free to leave and re-enter the country at any time. British citizenship is given to people who have a close connection with the United Kingdom, which includes the Channel Islands and the Isle of Man. A close connection may be by birth, adoption, descent, marriage, registration or naturalisation.

British dependent territories citizenship

Now known as a British overseas territories citizen. An individual will be a British overseas territories citizen if they are connected with a British overseas territory because they, their parents or their grandparents were born, registered or naturalised in that British overseas territory.

British dependent territory

Now known as British overseas territories. The territories are: Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands and Dependencies, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands. (The sovereign bases of Akrotiri and Dhekelia do not count as qualifying territories for nationality purposes.) South Georgia and the South Sandwich Islands were the dependencies of the Falkland Islands, but were not dependent territories between 3 October 1985 and 3 December 2001. Hong Kong stopped being a British dependent territory on 30 June 1997 when sovereignty returned to China. St Christopher and Nevis was a British dependent territory until 18 September 1983, when it became an independent Commonwealth country.

British diplomatic post

A British diplomatic post is a United Kingdom embassy, high commission or consulate.

British extraterritorial jurisdiction

The application of British law to a person with British nationality who is living in another country.

British national

A British national is anyone who has a form of British status. There are six forms of British nationality: British citizenship, British overseas citizenship, British overseas territories citizenship, British protected person, British subject, and British national (overseas).

Only British citizens have the right to live and work in the United Kingdom.

British national (overseas)

A person who was a British overseas territories citizen by connection with Hong Kong was able to register as a British national (overseas) before 1 July 1997. It is no longer possible to become a British national (overseas).

British overseas citizen

British overseas citizenship is a category of British citizenship that was gained by certain residents of Hong Kong on 30 June 1997, when sovereignty of Hong Kong returned to China.

British overseas territories citizen

An individual will be a British overseas territories citizen if they are connected with a British overseas territory because they or their parents were born, registered or naturalised in that British overseas territory. If they were born before 1 January 1983, they may gain the citizenship through their grandparents.

British overseas territory

These were formerly known as the British dependent territories. The territories are: Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands and Dependencies, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, the Sovereign

Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands. (The sovereign bases of Akrotiri and Dhekelia do not count as qualifying territories for nationality purposes.) South Georgia and the South Sandwich Islands were the dependencies of the Falkland Islands, but were not British overseas territories between 3 October 1985 and 3 December 2001. Hong Kong stopped being a British overseas territory on 30 June 1997 when sovereignty returned to China. St Christopher and Nevis was a British overseas territory until 18 September 1983, when it became an independent Commonwealth country.

British protected person

This is a form of British nationality held by a resident of a former British protectorate who did not take the citizenship of the country to which he/she belonged before it stopped being a protectorate.

British protectorate

Protectorates and protected states were foreign territories to which British protection was extended in some form.

British subject

Until 1949, nearly everyone with a close connection to the United Kingdom was called a British subject. All citizens of Commonwealth countries were British subjects until January 1983. Since that date, very few categories of people have qualified as British subjects. It is a form of British nationality.

Certificate of sponsorship

This is a virtual document (a unique reference number) that an organisation gives to migrants they want to employ, and that the migrant uses when applying under the points-based system for coming to the United Kingdom to work, train or study. Also known as confirmation of acceptance for studies.

Common travel area

The common travel area is a 'free movement' area comprising the United Kingdom, the Republic of Ireland, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man. The United Kingdom currently makes no routine immigration

checks on passenger travel within this area, and passengers do not need to carry a passport or national identity document for immigration purposes.

Dependant

Someone who depends on another person financially, such as a husband, wife, partner, or child.

Dependants

Children under 18 years of age, husband, wife, civil partners, or unmarried/same sex partner.

Diplomatic post

A British diplomatic post is a United Kingdom embassy, high commission or consulate.

Discretionary leave to remain

Permission to stay in the United Kingdom for reasons that are exceptional. This is sometimes given to someone who does not qualify for asylum but whom we believe should be allowed to stay for other reasons

European economic area

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Irish Republic, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. Iceland, Liechtenstein and Norway are not members of the European Union (EU) but citizens of these countries have the same rights to enter, live in and work in the United Kingdom as EU citizens.

European union

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Irish Republic, Italy, Latvia, Lithuania,

Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

Freely landed

Applies to people who entered the United Kingdom before immigration time restrictions were imposed. These were usually Commonwealth citizens and they will normally have entry stamps in their passports with no conditions attached.

Further leave to remain

An extension of an individual's existing permission to stay in the United Kingdom for a specified length of time.

ID card

An official document that provides details that enable confirmation of a person's identity.

Immigration category

A category of the UKBA Immigration Rules. A migrant may be given permission to enter or stay in the UK under one of these categories.

Immigration control

This term normally applies to a person who is in the United Kingdom under a category of the immigration rules that imposes restrictions on them, for example how long they can stay in the country and whether or not they can work.

Immigration offence

An act committed by someone when they break the laws to do with immigration, for example by entering or staying in the country illegally.

Immigration status document

A document that confirms a person's legal position in relation to immigration controls, for example a visa or an ID card.

Immigration time restrictions

Free of immigration time restrictions: This means an individual does not have any time limit on your stay in the United Kingdom. Usually this is because the UKBA have given the individual permission to stay permanently (known as indefinite leave to remain) in the United Kingdom. It may also be because the individual has a 'no time limits' stamp in their passport or have the right of abode in the United Kingdom. It also applies to an EEA national or the family member of an EEA national who has gained permanent residence status because he/she has lived in the United Kingdom for a continuous period of five years that ended after 30 April 2006.

Indefinite leave to remain

Indefinite leave to remain (often known as ILR) is permission to stay permanently (settle) in the United Kingdom, free from immigration control.

Independent commonwealth country

A member of the Commonwealth, which is an association of independent countries.

Intra-company transfer

This applies to sponsors who transfer employees within their organisation to a skilled job under Tier 2 of the points-based system for coming to the United Kingdom to work, train or study.

Leave to remain

Leave to remain is permission to stay in the United Kingdom, either temporarily (limited leave to remain) or permanently (indefinite leave to remain).

Legally settled

Living in the United Kingdom with permission to stay here permanently (this includes indefinite leave to remain).

Licensed sponsor

An organisation that is licensed by us to sponsor migrants to come to the United Kingdom under the points-based system.

Limited leave to remain

Permission to stay in the United Kingdom temporarily, for the length of time stated on your visa.

Multiple entry certificate of sponsorship

A multiple entry certificate of sponsorship may be issued to a migrant based overseas who needs to enter the United Kingdom on a regular basis.

Multiple entry work permit

This type of permit allows employees who are based overseas to enter the United Kingdom on a regular basis within the period of the permit to work for the same employer. Work permits have now been replaced by tier 2 of the points-based system.

Nationality

This may be the same as an individual's citizenship, but it is possible to hold a nationality of a country without being a citizen of that country. For example, British subjects are British nationals but not British citizens.

Nationality checking service

This is a service run by a number of local authorities to check naturalisation applications, copy documents and send complete applications to the UK Border Agency.

Naturalisation

Naturalisation is a legal process by which someone with no automatic claim to British citizenship can become a British citizen and obtain the same rights and privileges as someone who was born a British citizen. You can normally apply for naturalisation as a British citizen if you have lived in the United Kingdom for 5 years

or more, or are married to a British citizen and have lived in the United Kingdom for 3 years or more.

Naturalised in the United Kingdom

A term that describes someone who was not born a British citizen but became one through the legal process of naturalisation.

Non-visa national

A non-visa national is a national or citizen of any country that is not listed in Appendix G (nationals of countries listed in Appendix G are visa nationals). A non-visa national does not need a visa to come to the United Kingdom for less than six months, unless it is a requirement of the immigration category under which they are entering. A non-visa national coming to the United Kingdom for more than six months will need a visa.

Ordinarily resident

This means the individual you can prove you have a close link with a country that shows that country is where you normally live. Proof of ordinary residence would be the length of time you have spent in the country, the continuity and general nature of the residence.

Ordinary residence

Proven close link with a country that shows that country is where an individual is settled and normally live. Proof of ordinary residence would be the length of time they have spent in the country, the continuity and general nature of the residence, which must be voluntary and legal.

Otherwise than by descent

British citizenship gained in their own right (not by descent through their parents or grandparents). This type of citizenship can be passed on to their own children.

Points-based assessment

The method for deciding whether the individual qualifies to come to work, train or study in the United Kingdom under the points-based system. To qualify, they must earn a certain number of points in various categories.

Points-based system

Our immigration system for managing applications by people who wish to come to the United Kingdom to work, train or study.

Previous earnings

This is a category for which an individual may score points under the points-based system for coming to the United Kingdom to work, train or study. It means the amount of money an individual has earned in 12 consecutive months during the 15 months immediately before they make their application.

Protected state

Protectorates and protected states were foreign territories to which British protection was extended in some form.

Qualifying period

The length of time an individual must live in the United Kingdom legally before they can apply for permanent residence or naturalisation as a British citizen. For naturalisation, the period is five years, or three years if they are married to or in a civil partnership with a British citizen.

Qualifying territory

Qualifying territories are the British overseas territories that qualify under certain sections of the nationality rules. They are all of the British overseas territories except for the sovereign base areas of Akrotiri and Dhekelia.

Rating

This term is applied to a sponsor under the points-based system for coming to the United Kingdom to work, train or study. It is one of two levels (A or B) awarded by the UKBA when a sponsor joins the register of sponsors.

Register of sponsors

A list of all organisations licensed to sponsor migrants under the points-based system.

Registration

Registration is a legal process by which someone can gain British citizenship, or other British nationality status. Registration as a British citizen is available only to people who already have specific connections to the United Kingdom, the British overseas territories, or Hong Kong.

Registration document or certificate

A document that confirms a person's qualifications to practice a certain profession.

Registration or professional accreditation

Recognition by or registration with the appropriate authority in the United Kingdom that permit a person who gained their qualifications in another country to practice a certain profession in the United Kingdom.

Resident labour market

The pool of workers who qualify as resident workers. A resident worker is a person who is a national of the European Economic Area (EEA) or is legally settled in the United Kingdom with permission to work here.

Resident labour market test

This is the process an employer must follow before employing a person who is not a permanent resident of the United Kingdom if he/she is first required to show that no resident worker could be found to take a job.

Resident worker

A person who is a national of the European Economic Area (EEA) or is legally settled in the United Kingdom with permission to work here. In some cases, an employer who wishes to employ a person who is not a permanent resident must show that no resident worker could be found to take the job.

Residential qualifying period

This is the length of time a person must have lived legally in the United Kingdom before qualifying to apply for naturalisation as a British citizen or for permanent residence. For naturalisation, the period is five years, or three years if you are married to or in a civil partnership with a British citizen.

Responsible adult

A parent or guardian, or another person aged 18 or over, who takes responsibility for a child for a short time.

Right of abode

The right to live and work in the United Kingdom.

Settled

You are normally resident in the United Kingdom with no immigration restriction on the length of your stay. To be free of immigration restriction you must have the right of abode or indefinite leave to enter or remain in the United Kingdom.

Settled status

You are normally resident in the United Kingdom with no immigration restriction on the length of your stay. To be free of immigration restriction you must have the right of abode or indefinite leave to enter or remain in the United Kingdom.

Settled worker

A person who is a national of the European Economic Area or is legally settled in the United Kingdom with permission to work here. In some cases, an employer who wants to employ a person who is not a permanent resident must show that no settled worker could be found to take the job.

Shortage occupation list

The official list of jobs that there are not enough resident workers to fill. Employers who wish to hire a worker from outside the European Economic Area to fill a vacancy that is on a list of shortage occupations may do so without carrying out a resident labour market test.

Shortage occupations

Specific types of work that have been officially listed as ones for which there are not enough resident workers to fill available jobs. Employers who wish to hire a worker from outside the European Economic Area to fill a vacancy that is on a list of shortage occupations may do so without carrying out a resident labour market test.

Sponsor licence number

The number you are given by the UKBA when you are added to the register of organisations that wish to sponsor migrants under the points-based system.

Sponsor licensing unit

The unit that makes all decisions on applications to join the register of organisations wishing to sponsor migrants under the points-based system. It awards licences, including the rating.

Sponsored skilled worker

A migrant supported by an employer to work in the United Kingdom in a job at S or NVQ level 3 or above.

Sponsorship compliance officers

These are also called visiting staff and are any person from the UKBA sponsor management unit who will help sponsors comply with their duties when sponsoring migrants under the points-based system.

Sponsorship duties

The responsibilities organisations have when they sponsor migrants under the points-based system. The duties are record keeping, reporting, compliance, co-operating with us and tier specific duties.

Sponsorship management system

An IT system used by organisations that sponsor migrants under the points-based system. It allows sponsors to allocate certificates of sponsorship to migrants, carry out the administrative functions necessary to comply with their sponsor obligations and duties, and communicate information to us.

United Kingdom

The United Kingdom includes England, Scotland, Wales, and Northern Ireland. The Channel Islands and the Isle of Man are considered as part of the United Kingdom for nationality purposes, but have their own immigration laws and policies. The Channel Islands are not treated as part of the United Kingdom for value added tax (VAT) purposes.

United Kingdom experience

Under the points-based system for coming to the United Kingdom to work, train or study this is one of the categories (known as 'attributes') for which an individual can score points. They may be able to score points for this if they scored points for previous earnings in the United Kingdom, or have a qualification at bachelor's degree level or above that was gained in the United Kingdom.

Visa

An official endorsement in a passport authorising the bearer to enter or leave and travel in or through a specific country or region.

Visa national

A person who is a national or citizen of certain countries and will always require a visa to come to the United Kingdom. These countries or territories are listed in Appendix G. below. Some visa nationals may pass through the United Kingdom on the way to another country without a visa, but in some circumstances they will require a direct airside visa or visitor in transit visa.

Work permit

Legal authorisation which allows a person to take employment in a country where one does not hold citizenship.

Appendix H Visa requirements for the United Kingdom

Immigration rules

1. Subject to paragraph 2 below, the following persons need a visa for the United Kingdom:

a. Nationals or citizens of the following countries or territorial entities:

Afghanistan

Albania

Algeria

Angola

Armenia

Azerbaijan

Bahrain

Bangladesh

Belarus

Benin

Bhutan

Bolivia

Bosnia Herzegovina

Burkina Faso

Burma

Burundi

Cambodia

Cameroon

Cape Verde

Central African Republic

Chad

People's Republic of China (except those referred to in sub-paragraphs 2(d) and (e) of this Appendix)

Colombia

Comoros

Congo

Cuba
Democratic Republic of the Congo
Djibouti
Dominican Republic
Ecuador
Egypt
Equatorial Guinea
Eritrea
Ethiopia
Fiji
Gabon
Gambia
Georgia
Ghana
Guinea
Guinea Bissau
Guyana
Haiti
India
Indonesia
Iran
Iraq
Ivory Coast
Jamaica
Jordan
Kazakhstan
Kenya
Korea (North)
Kuwait
Kyrgyzstan
Laos
Lebanon
Lesotho
Liberia
Libya
Macedonia

Madagascar
Malawi
Mali
Mauritania
Moldova
Mongolia
Morocco
Mozambique
Nepal
Niger
Nigeria
Oman
Pakistan
Peru
Philippines
Qatar
Russia
Rwanda
Sao Tome e Principe
Saudi Arabia
Senegal
Sierra Leone
Somalia
South Africa
Sri Lanka
Sudan
Surinam
Swaziland
Syria
Taiwan (except those referred to in sub-paragraph 2(g) of this Appendix)
Tajikistan
Tanzania
Thailand
Togo
Tunisia
Turkey

Turkmenistan

Uganda

Ukraine

United Arab Emirates

Uzbekistan

Venezuela (except those referred to in sub-paragraph 2(i) of this Appendix)

Vietnam

Yemen

Zambia

Zimbabwe

The territories formerly comprising the socialist Federal Republic of Yugoslavia

b. Persons who hold passports or travel documents issued by the former Soviet Union or by the former Socialist Federal Republic of Yugoslavia.

c. Stateless persons.

d. Persons who hold non-national documents.

2. The following persons do not need a visa for the United Kingdom:

a. those who qualify for admission to the United Kingdom as returning residents in accordance with paragraph 18;

b. those who seek leave to enter the United Kingdom within the period of their earlier leave and for the same purpose as that for which that leave was granted, unless it;

i. was for a period of six months or less; or

ii. was extended by statutory instrument or by section 3C of the Immigration Act 1971 (inserted by section 3 of the Immigration and Asylum Act 1999);

c. those nationals or citizens of the People's Republic of China holding passports issued by Hong Kong special administrative region;

d. those nationals or citizens of the People's Republic of China holding passports issued by Macao special administrative region;

- e. those who arrive in the United Kingdom with leave to enter which is in force but which was given before arrival, so long as those in question arrive within the period of their earlier leave and for the same purpose as that for which leave was granted, unless that leave.
- i. was for a period of six months or less, or
- ii. was extended by statutory instrument or by section 3C of the Immigration Act 1971 (inserted by section 3 of the Immigration and Asylum Act 1999);
- f. **Deleted**
- g. those nationals or citizens of Taiwan who hold a passport by Taiwan that includes the number of the identification card issued by the competent authority in Taiwan in it.
- h. those nationals or citizens of Venezuela who hold a passport issued by the Republic of Venezuela that contains biometric information held in an electronic chip.

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