

CERTIFICATES OF SPONSORSHIP (TIERS 2 AND 5)

Document Change Control

Date	Version	Comments
July 2016	1.0	First version of policy drawn up after advice from Legal Department, University Home Office Compliance Manager, Assistant Directors of HR and Director of HR.
April 2017	1.1	Second version includes reference to Immigration Skills Charge and updated RLMT wording

1. About this procedure

- 1.1 The University of Reading is an A-rated sponsor with a licence to issue a limited number of Certificates of Sponsorship (CoS) under Tier 2 General and Tier 5 Temporary Worker, Sponsored Researchers only, of the Government's points-based system (PBS). The licence was obtained after rigorous examination of our HR processes and procedures to ensure that we comply with legislation on the prevention of illegal working.
- 1.2 This document summarises the University policy and procedures on the operation of the issuing of Tier 2 and Tier 5 CoS.
- 1.3 This procedure applies to all employees and prospective employees of the University including full and part-time employees, those on fixed term and temporary contracts of employment regardless of length of service. It also applies to individuals working on an unpaid or supernumerary basis for the University. Checks are made on all employees, regardless of race or nationality.

2. Certificates of Sponsorship (Tiers 2 and 5)

- 2.1 Under the PBS, all Non-EEA and Switzerland migrants must meet the points for their chosen Tier. There are mandatory requirements for English language and maintenance (funding). There is also a requirement for migrants to pay a healthcare (or NHS) surcharge.
- 2.2 This policy focusses on the requirements for Tier 2 and Tier 5 CoS.
- 2.3 **Tier 2 General:** This category is for highly skilled migrants who have a job offer. There are mandatory requirements for a CoS, an 'appropriate' salary, English language (10 points) and maintenance (10 points). The latest maintenance requirements can be found at: <https://www.gov.uk/tier-2-general>. There are two categories of CoS under Tier 2:

- a. Restricted CoS – these are for applications for initial entry into the UK where the salary is less than £155,300 per annum. An application for one of a limited number of CoS must be made by the University directly to UKVI. A monthly allocation committee will decide on the outcome of applications.
 - b. Unrestricted CoS - these are for applications for candidates already in the UK under an immigration status that allows extension or switching into Tier 2 or new hires with a salary of £155,300 or more. The University allocated a limit number of CoS that we can issue directly to migrants who meet the criteria.
- 2.4 If the UK visa comes with conditions attached on the type of work the prospective employee can undertake, a Tier 2 CoS is required. Tier 2 CoS are not transferable from one employer to another and are generally not available for posts at Grade 5 or below. Should an employee hold a Tier 2 CoS with the University and wishes to change their job, the changes must be reported to UKVI and it be necessary to apply for a new Tier 2 CoS.
- 2.5 **Tier 5 (Sponsored Researchers):** This category is specifically for Sponsored Researchers. These are non-EEA academics, who do not meet the UKVI criteria for Business/Academic Visitor and who wish to visit the University to carry out formal research. Further detail of Tier 5 (Government Authorised Exchange) can be found at: <https://www.gov.uk/tier-5-government-authorised-exchange/overview>
- 2.6 The CoS is a virtual number, not a hard document and is issued by the HR Operations team.
- 2.7 On receipt of a CoS, the migrant must apply for leave to enter or remain in the UK within three months of the CoS being issued.
- 2.8 A CoS does not give the prospective employee the right to work in the UK: it merely enables them to submit an application for a UK visa. The decision on whether to issue a visa is not made by the University, but by the Home Office. It is not possible, under any circumstances, for the University to guarantee that a visa will be issued by the Home Office.
- 2.9 The cost of issuing the CoS is met by the University. Consideration can also be given in certain circumstances for the University to underwrite the maintenance funds required for the prospective employee to secure a UK visa.
- 2.10 The cost of the Immigration Skills Charge (if applicable) is met by the University.
- 2.11 The costs of securing a UK visa for themselves and their dependents and the healthcare surcharge are met by the prospective employee.

3. Responsibilities

- 3.1 The **Human Resources Department** is responsible for:
- a. Issuing CoS for Tier 2 and Tier 5;
 - b. Compliance with reporting and monitoring requirements in any changes in relation to those sponsored under Tier 2 and Tier 5 by the University as set out in paragraph 9 below;
 - c. Ensuring document retention requirements of UKVI are met;

- d. Signposting managers in Schools and Functions to the best sources of guidance on immigration routes to the UK. Please note they are not sufficiently qualified to provide advice on these subjects.

3.2 The **Schools and Functions** are responsible for:

- a. Ensuring that start dates are agreed with prospective employees once their Right to Work in the UK has been confirmed.
- b. Ensuring the employee or prospective employee presents current, original identification to prove their Right to Work in the UK when required by the University;
- c. Ensuring that any changes to the terms of employment of a sponsored employee is communicated to the HR Department, so changes can be reported to the UKVI.

3.3 The **Employee** or **Prospective Employee** is responsible for:

- a. Meeting the cost of their UK visa and any additional charges (such as the NHS Surcharge) as outlined by the UKVI;
- b. Presenting current, original identification to prove their Right to Work in the UK when required by the University;
- c. Keeping the University informed of their current UK address, email address, UK telephone number and mobile number;
- d. Informing the University of any changes to their immigration status;
- e. Co-operating with the University and the UKVI, particularly if the UKVI makes a compliance check or requires further information.

4. Recruitment process – Tier 2

4.1 It is a University requirement that all posts of a year or more must be advertised.

4.2 A CoS can only be issued when:

- The minimum salary requirements for Tier 2 are met as set out in the UKVI Codes of Practice;
- The role is sufficiently skilled as set out in the UKVI Codes of Practice; and
- The requirements of a Resident Labour Market Test (RLMT) have been satisfied (if applicable).

4.3 For the University to sponsor a migrant worker, a RLMT must be completed (unless an exemption applies) to demonstrate that no suitably qualified settled worker (no restrictions on their right to work in the UK) meet the requirements of the job.

4.4 The requirements of the RLMT in relation to University appointments are as follows:

- a. all Grade 6 (graduate level) and above roles must be advertised for a minimum of 4 weeks, in two media including JobCentre Plus;
- b. the only exception to advertising on JobCentre Plus is if the post is on the UKVI Ph.D SOC code list (accessed at <https://www.gov.uk/government/publications/sponsorship-codes-of-practice-for-skilled-workers>); Academic posts are included on this list;
- c. two media are still required if the post does not require a JobCentre Plus advert;

- d. the two media can be from the following: a UKVI approved website e.g. the University website; jobs.ac.uk; an approved national newspaper or magazine; JobCentre Plus when mandatory.
- 4.5 The advertisement must include:
- a. The job title;
 - b. The main duties and responsibilities of the job (the job description);
 - c. The location of the job;
 - d. An indication of the salary package or range, and the terms on offer;
 - e. The skills, qualifications and experience needed; and
 - f. The closing date for applications, unless the job is part of a rolling recruitment programme (in which case the advertisement should state the period of the recruitment programme). This must demonstrate the vacancy was advertised for at least 4 weeks.
- 4.6 Salary cannot be paid at a higher or lower rate than was advertised: If the adverts states £30,000 per annum that is what must be paid; if a salary scale is used then the figure used must fall within that range. The University cannot issue a CoS with a starting salary of £30,000 and then re-negotiate a starting salary at a higher rate. UKVI must be notified of any changes and a re-advertisement may be required.
- 4.7 At shortlisting stage, to avoid unfair discrimination all applicants should be treated the same whether or not they require permission to work in the UK.
- 4.8 Once a selection decision is made, the following information must be forwarded by the Hiring Manager to the HR Operations team to demonstrate the case that no suitably qualified settled worker was able to fill the vacancy. The documentation required to demonstrate this are:
- a. Completed Shortlisting feedback, giving clear reasons why applicants with the unrestricted right to work in the UK were not shortlisted for the vacancy;
 - b. Completed Interview feedback: giving clear reasons why applicants with the unrestricted right to work in the UK were not offered the position.
- 4.9 For non-exempt roles, when there are two appointable candidates, but only one vacancy available, the position must be offered to the settled worker (with unrestricted permission to work in the UK) in the first instance (whether or not this is the preferred candidate) as it will not be possible to meet the criteria of the RLMT for a Tier 2 CoS to be offered to the other non-settled candidate.
- 4.10 For posts on the UKVI Ph.D. SOC code list, where there are two appointable candidates, but only one vacancy available, the position should be offered to the best candidate based on suitability.
- 4.11 An application for a Tier 2 CoS must be made within six months of the advertisement, or 12 months if the post is on the UKVI Ph.D. SOC code list.
- 4.12 A CoS is only valid for three months from the date of issue.
- 4.13 Once the Tier 2 CoS is issued, it is the employee's/prospective employee's responsibility to secure a UK visa to give them the right to work in the UK. They are not permitted to

commence employment until the UK visa has been issued. This is not simply a University stipulation, this is a legislative requirement.

5. Tier 5 Certificate of Sponsorship

- 5.1 The maximum length of time a Tier 5 UK visa can be issued for is 2 years.
- 5.2 The Home Office allows academic institutions to bring individuals to the UK, on a temporary basis, under the Tier 5 (Government Authorised Exchange) route. The purpose of these visits is to collaborate on University-hosted research where they are not filling an advertised position and the work is additional to the School or Function's normal requirements.
- 5.3 It is not possible for the University to issue a Tier 5 CoS to a temporary worker who intends to take part in any activity other than supernumerary research or teaching.
- 5.4 The University holds its own allocation of Tier 5 CoS which can be issued to those who qualify as temporary workers.
- 5.5 The following information must be submitted to the HR Operations team to issue a Tier 5 CoS is as follows:
 - a. Written confirmation in English from the funding organisation, giving the amount in £GBP of the amount of funding and the length of time it covers. This is so the University has assurance the migrant will receive funding of more than the National Minimum Wage or National Living Wage (as appropriate) at the time of application.
 - b. The completion of a Tier 5 Sponsorship application form to confirm the details of the migrant, the placement and supervisor.
 - c. Copy of the passport front and photopage of the applicant.

6. Non-EEA student workers

- 6.1 Students from outside the European Economic Area (EEA) are permitted to take limited work if their conditions of entry allow this. The terms they are permitted to work to are recorded on their Biometric Residence Permit (BRP).
- 6.2 Student visitors are not allowed to do any work.
- 6.3 Students must be able to demonstrate what their term and vacation dates are to ensure they meet the hours specified and the work being offered.
- 6.4 When students have been sponsored by the University of Reading under Tier 4, the maximum working hours quoted on their Biometric Residence Permit or visa must be strictly adhered to. Any breach to these terms can have an adverse impact on the University's 'A' rated sponsor status to issue CoS under Tiers 2 and 5. It will also negatively impact the University's Tier 4 Sponsor Licence and ability to issue Certificate of Confirmation for Studies (CAS) to non UK/EEA students.

7. Employee life-cycle

- 7.1 Once an employee has commenced work that has been sponsored under Tier 2 or Tier 5, the University has the following responsibilities:
 - To ensure the employee contact details are kept up to date on Trent.

- To comply with its reporting obligations under paragraph 9 below.
- For all employees, the University is required to ensure that current Right to Work in the UK documentation is seen, copied, recorded and stored on Trent to establish a **statutory excuse** for each University employee.

8. Document retention

8.1 All documents relating to the migrants sponsored under Tier 2, Tier 4 and Tier 5 by the University will be retained in line with UKVI guidance.

<https://www.gov.uk/government/publications/keep-records-for-sponsorship-appendix-d>

8.2 The documents can be stored in either paper or electronic format, the UKVI does not stipulate which, but does require that the documents are available on request. The University aims to ensure all documentation is stored on Trent for employees.

9. Reporting Obligations

9.1 The University must report the following information/ events to the UKVI within the time limits specified:

Event	Timescale for reporting to the UKVI
If the prospective employee does not turn up for work on the first day	Report within 10 working days, with the reason given by the migrant
Absence for more than 10 days without permission	Report within 10 working days of the 10 th day of absence
If a sponsored employee's contract of employment is terminated earlier than indicated in the CoS e.g if the migrant resigns or is dismissed	Report within 10 working days and give the name of the new employer if you have these details
If you stop sponsoring the employee for any other reason	Report within 10 working days
Significant changes in the sponsored employee's circumstances, i.e. promotion, change in job title/ core duties, change in salary (other than due to annual increments or bonus), change of location where the person works, change of salary due to maternity/paternity/adoption/shared parental leave or long term sick leave of over a month, change in contract duration for the sponsored worker	Report within 10 working days

Any information which suggests that a sponsored employee is breaching the conditions of their leave	Report within 10 working days
If the sponsored employee's employment is affected by TUPE	Report within 10 working days
Significant changes in the University's circumstances	Report within 28 calendar days

Appendix 1: Abbreviations

2006 Act	Immigration, Asylum and Nationality Act 2006
BRP	Biometric Residence Permit – this demonstrates the valid dates of the holder's Right to Work in the UK.
CoS	Certificate of Sponsorship
EEA	European Economic Area. The countries currently in the EEA can be found at: https://www.gov.uk/eu-eea
PBS	Points-based System
RLMT	Resident Labour Market Test – see Section 5 of this policy for guidance on how this is conducted at the University of Reading.
SOC code	Standard Occupational Classification code
UKVI	UK Visas and Immigration - formerly known as the UKBA (UK Borders Agency)