

## TIER 2, TIER 4 AND TIER 5 OF THE POINTS BASED SYSTEM – GUIDANCE FOR SPONSORS

### APPENDIX D – KEEPING DOCUMENTS

The following documents can either be kept as paper copies or in an electronic format. There is no prescribed method for storing the documents, but you must be able to make them available to us on request.

All documents must be kept for the following periods unless otherwise stated.

1. If the migrant is sponsored for less than one year, the documents must be kept:
  - for the duration the migrant is sponsored;
  - OR**
  - until a compliance officer has examined and approved them, whichever is the longer period.
2. If the migrant is sponsored for one year or more, the documents must be kept:
  - for one year;
  - OR**
  - until a compliance officer has examined and approved them, whichever is the longer period.

The only exception to these rules is for Tier 5 (Creative and Sporting) sponsors, operating in the creative sector. If you sponsor migrants under Tier 5 (Creative and Sporting) to work in the creative sector, you must keep documents for the following periods unless otherwise stated:

3. If the migrant is sponsored for less than one year, the documents must be kept:
  - for the duration the migrant is sponsored;
  - OR**
  - until a compliance officer has examined and approved them, whichever is the shorter period.
4. If the migrant is sponsored for one year or more, the documents must be kept:
  - for one year;
  - OR**
  - until a compliance officer has examined and approved them, whichever is the shorter period.

#### **Destroying documents.**

After a compliance officer has visited you, they will write to you to confirm that you can destroy any documents that they examined and were satisfied with, and any other documents that they did not examine, which were more than 12 months old on the day the visit took place.

Some documents that you must keep as part of your sponsorship duties may also need to be kept for other purposes and for longer periods of time. You must ensure that you meet any other legal requirements for record-keeping, such as ones set by us or another government department.

**TIER 2, TIER 4 AND TIER 5 OF THE POINTS BASED SYSTEM – GUIDANCE FOR SPONSORS  
APPENDIX D – KEEPING DOCUMENTS**

**Sponsor Licence**

All documents submitted as part of your application to become a licensed sponsor. **These documents must be kept for the duration of the period covered by your licence.**

**For Each Migrant Sponsored under Tier 2 or Tier 5**

Copy of each sponsored migrant's current passport pages showing all personal identity details (including biometric details), leave stamps, or immigration status document including their period of leave to remain (permission to stay) in the UK. This must show the migrants entitlement to work for you as a licensed sponsor.

The only exception to this is when a migrant is employed for one day or less and it is not practicable to obtain a copy of the documents.

Copy of the migrant's UK Biometric Card.

Where the migrant is a Croatian national who is subject to worker authorisation, you must keep a copy of their Purple Registration Certificate which shows their entitlement to work for you as their sponsor.

Copy of the migrant's National Insurance Number, unless the migrant is exempt from requiring one. For example, where applicable, copy of the migrant's NI card (or NI number notification letter from HMRC or the Department for Work and Pensions), wage slip, P45, P46, P60, P11 (employers declaration to HMRC), P14 (employers return to HMRC), P35 (employers annual return to HMRC).

A history of the migrant's contact details (UK residential address, telephone number, mobile telephone number). This must always be kept up to date.

In the case of the employment of a child aged under 18, a copy of a letter from the migrant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, consenting to the arrangements that have been made with regard to the child's application, travel, reception and care arrangements in the UK.

Record of the migrant's absence(s). For example, this may be kept either electronically or manually.

Copy of any contract of/for employment/service between you and the migrant.

Any other document specified in the relevant code of practice.

If you are licensed under Tier 5 (International Agreement) to sponsor contractual service suppliers or independent professionals, you must keep a copy of any contract you have awarded for the supply of service to you and either:

the tender document for that contract; or

evidence of how the contract was awarded if it was not formally tendered.

**Resident Labour Market Test Tier 2 and Tier 5**

NOTE - where you have used a rolling recruitment programme, all the documents specified in this section must clearly show that it is a rolling programme and must indicate the period of the recruitment exercise.

Where the vacancy was advertised in a national newspaper or professional journal, you must keep a copy of the job advertisement as it appeared in the given medium. The copy must clearly show the title and date of the publication and the closing date for applications.

Where the advertisement does not show your name, a copy of a letter or invoice from the newspaper and/or journal will be required, to prove an advertisement was placed.

For milkrounds you must keep a letter from each university, on their headed paper, confirming the milkround, the dates it was conducted and method used, for example, presentation and/or interview method.

Detailed job description outlining the duties and responsibilities of the post which must include the skills, qualifications and experience required for the post.

Where the vacancy was advertised on the internet, including where it is advertised on your own website (where this is permitted), you must keep a screen shot from the website hosting the advertisement, on the day the vacancy is first advertised, which clearly shows:

- the name of the website; and
- the contents of the advert; and
- the date and the URL; and
- the closing date for applications.

N.B if the website clearly shows the date the vacancy was first advertised, the screen shot can be taken at any point during the period the vacancy is advertised.

Where the advertisement is not on your own website and does not show your name, a copy of a letter or invoice from the website will be required, to prove that an advertisement was placed.

**Resident Labour Market Test Tier 2 and Tier 5 - continued**

Where head-hunters were used for the recruitment prior to 6th April 2011, you must keep:

- a copy of the contract between you and the head-hunter; and/or
- a copy of the brief; and/or
- a copy of the report produced; and
- copy of the invoice; and
- copies of adverts placed by the head-hunter showing the title(s) of the publication, the date(s) and the advert as it appeared.

Where the vacancy has been advertised online through Jobcentre Plus or Jobcentre Online, you must keep a screen shot from the relevant government website which clearly shows all of the following:

- the logo of the relevant government website hosting the job advertisement;
- the contents of the advert;
- the vacancy reference number (for Universal Jobmatch vacancies this is the 'Job ID number' and for Jobcentre Online this is the Job Reference number);
- the date;
- the URL(which for Universal Jobmatch vacancies also contains the Job ID number); and
- the closing date for applications.

Please note that GOV.UK website will, over time become the main portal for government services and information in the UK. The following are accepted as relevant government websites for jobs advertised using Universal Jobmatch (or Jobcentre Plus for jobs advertised before 19 November 2012):

- GOV.UK
- JobCentre Online
- Direct Gov

If the job was not advertised through JobCentre Plus or Jobcentre Online because of Stock Exchange disclosure requirements, you must keep a copy of the formal announcement (for example a screen shot of the published announcement) made via a regulated information service approved by the Financial Conduct Authority (FCA) and named on their website at [www.fca.org.uk/firms/markets/ukla/information-dissemination/announcement](http://www.fca.org.uk/firms/markets/ukla/information-dissemination/announcement)

If you recruit under Tier 2 (Sportsperson), you must keep a copy of the governing body endorsement as evidence of the resident labour market test and any other document specified in the relevant code of practice.

**Resident Labour Market Test Tier 2 and Tier 5 - continued**

If you recruit a sponsored researcher under Tier 2 (General), you must keep evidence of the competitive process that took place. For example, an advertisement for the grant, a programme for the selection process, the judging criteria or any other evidence.

If the recruitment was done using a recruitment agency, you must keep the following:

- a copy of the contract between you and the recruitment agent;
- a copy of the invoice; and
- copies of any adverts placed which clearly show the title of the publication, the date(s) and the advert as it appeared.

You must retain the following documents from any recruitment process:

- All applications short-listed for final interview, in the medium they were received. For example, emails, CV's, application form etc. This should include the applicants name, address, etc; and
- The names and total number of applicants short-listed for final interview; and
- Notes from the final interviews conducted and for each EEA national who was rejected, showing reasons why they have not been employed.

**TIER 2, TIER 4 AND TIER 5 OF THE POINTS BASED SYSTEM – GUIDANCE FOR SPONSORS  
APPENDIX D – KEEPING DOCUMENTS**

**Appropriate Rate**

Copies of the migrant's payslips, clearly showing the name, NI number, tax code, any allowances paid and deductions made.

Evidence of the amount and frequency of all salary payments made to each migrant, showing the transfer of each payment into the named migrant's bank account or onto their pre-paid card, for example a FOREX card.

Where you wish to rely on other account records, we must be able to clearly identify the specific migrants wage in order to assess whether the migrant is being paid in line with what you originally stated on their certificate of sponsorship and with rules set out in this guidance. Accounts that show only 'wages for personnel' but not specifically the migrant by name or other unique identifier are not considered acceptable.

This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (International Agreement).

A copy of any Contract of/for Employment/Services between the sponsor and the migrant which clearly shows;

- the names and signatures of all parties involved (normally, this will only be you and the migrant); and
- the start and end dates of the contract; and
- details of the job, or piece of work that the migrant has been contracted to do; and
- an indication of how much the migrant will be paid.

Note. If you are sponsoring a contractual service supplier or independent professional under Tier 5 (International Agreement) the contract between you and the supplier of the service does not have to specify how much an individual migrant will be paid. (It is unlikely that you will know how much your sponsored migrant will be paid.)

Where the migrant receives any allowances as part of their salary package, evidence of the value of those allowances must be kept unless they are clearly shown in a contract of/for employment/services, or on the migrant's payslips. For example, if the migrant receives help with accommodation by way of housing being provided, you must have evidence from the owner or letting agent for the property concerned which clearly states the value of the rent payable by you on the property. Or if the property is owned by you, there must be an independent assessment of the monthly rent achievable from the property concerned. This is not an exhaustive list and you must be able to accurately document the value of any allowances you pay in cash or by way of goods and/or services so that we can be satisfied that they are being paid in accordance with the rules set out in this guidance.

This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (International Agreement).

Any other document specified in the relevant code of practice.

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APPENDIX D – KEEPING DOCUMENTS**

**Skill Level**

Where it was a requirement within the job advert, copies of any qualifications the migrant holds to confirm skill level. For example, degree certificate, HND etc.

This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (International Agreement).

Copies of any registration and/or professional accreditation documents and/or confirmation letter the migrant is required to have in order to do their job. For example where the migrant is a doctor, proof of registration with the General Medical Council.

This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (International Agreement).

Where appropriate a copy of the sport governing body endorsement specific to the migrant.

**For each Migrant Endorsed Under Tier 1 (Graduate Entrepreneur)**

Copies (or originals where possible) of evidence assessed by you as part of the process of selecting the migrant you have endorsed.



**TIER 2, TIER 4 AND TIER 5 OF THE POINTS BASED SYSTEM – GUIDANCE FOR SPONSORS  
APPENDIX D – KEEPING DOCUMENTS**

**For Each Migrant Enrolled Under Tier 4 (General) or Tier 4 (Child)**

Copy of each sponsored migrant's current passport pages showing all personal identity details (including biometric details), leave stamps, or immigration status document including their period of leave to remain (permission to stay) in the UK. This must show the migrant's entitlement to study with a licensed sponsor in the UK.

Copy of the migrant's UK Biometric Card.

Record of the migrant's absence/attendance, this may be kept either electronically or manually.

A history of the migrant's contact details (United Kingdom residential address, telephone number, mobile telephone number). This must be updated regularly.

Where the student's course of study requires him/her to hold an Academic Technology Approval Scheme (ATAS) clearance certificate, you must keep a copy of the certificate or the electronic approval notice received by you, from the Foreign and Commonwealth Office.

For migrants in the Tier 4 (Child) Student category who are going to be cared for in the UK in a private foster care arrangement during their stay, you must, as soon as you become aware of the migrant's arrival, provide details of the name of the foster carer and of the address where the foster carer and the migrant will be living, to the local authority in whose area the child will be living. In addition, where a Tier 4 (Child) Student is already in the UK and a private foster care arrangement subsequently commences, you must provide details of the name of the foster carer and the address where the foster carer and the student will be living, to the local authority in whose area the child will be living as soon as you become aware of the change in their care arrangements. This is to ensure that the local authority is made aware of the arrangement as soon as possible. You must keep a record of the notification to the local authority.

Copies (or originals where possible) of any evidence assessed by you as part of the process of making an offer to the migrant. For example copies of references, examination certificates etc