



POINTS BASED SYSTEM

SKILLED TIER 2 (SPORTSPEOPLE) AND TEMPORARY TIER 5 – SPORTING CODE OF PRACTICE FOR SPORT GOVERNING BODIES

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INTRODUCTION

The sportspersons category of Tier 2 of the Points Based System is for elite sports people and coaches who are internationally established at the highest level, whose employment will make a significant contribution to the development of their sport at the highest level in the UK and who intend to base themselves in the UK.

The sportspersons category of Tier 5 of the Points Based System is for internationally established sports people at the highest level in their sport and/or whose employment will make a significant contribution to the development and operation of that particular sport in the UK. It is also for coaches who must be suitably qualified to fulfil the role in question. This category is for temporary workers who come to the United Kingdom for up to 12 months.

Sponsors will need to obtain approval from the relevant recognised governing body (which is recognised by the UK Border Agency ('the Agency') for the purposes of Tier 2 and Tier 5 of the Points Based System) in the form of a governing body endorsement of their application for a licence before they can issue a certificate of sponsorship to a sportsperson. They will also have to obtain an endorsement from the relevant recognised governing body for all applications made for individual sports people and coaches.

Contacting us

If you have any queries about this code of practice or becoming a governing body recognised by the UK Border Agency for the purposes of Tier 2 or Tier 5 endorsements, please contact us at PBSsportpolicy@ukba.gsi.gov.uk.

PART 1 – ROLE OF THE GOVERNING BODY

GENERAL PRINCIPLES

1. Under the sportspersons categories of Tier 2 and Tier 5, it is the responsibility of the recognised governing body to:
 - a. agree, publish, maintain and implement requirements under which they will issue endorsements for sponsor licences and initial, change of employment and extension applications for migrants.
 - b. consider and issue a governing body endorsement to an organisation (for example a club) who wishes to obtain a licence to become a sponsor licensed by the UK Border Agency under the sportspersons categories of Tier 2 or Tier 5.
 - c. consider and issue an endorsement to endorse the issue of a certificate of sponsorship by a sponsor for each individual migrant either wishing to enter the UK or extend their stay under the sportspersons categories of Tier 2 or Tier 5.
2. The Agency will recognise one governing body for each sport. However, where a sport has a number of home country governing bodies for each home country, (England, Scotland, Northern Ireland and Wales), we will recognise one governing body from each home country for the purpose of both setting the endorsement requirements and issuing endorsements. Alternatively, the home countries may, if they wish, agree to appoint a lead governing body to represent them all when consulting the Agency about the endorsement requirements.
3. The system of endorsement requires the recognised governing body to actively participate in ensuring the Points Based System is not abused. All recognised governing bodies involved are required to fulfil certain duties as set out in this document.
4. In fulfilling its duties the recognised governing body must adhere to the following principles:
5. Accountability – The recognised governing body must be accountable for its actions and decisions to sponsors, stakeholders and the Agency. It must:
 - a. take a leading and controlling role in its function as the recognised governing body relating to the Points Based System.
 - b. carry out its role in a responsible manner with regard to the needs of the sport and the immigration system.
 - c. be aware of its duties in issuing an endorsement under the Points Based System and comply with them in a responsible manner.
6. Openness – The recognised governing body should be as open and transparent as possible in their role. It must:
 - a. be clear in its actions and decisions and be prepared to account for them.
 - b. ensure the processes it has in place for issuing endorsements are clear and not open to abuse by those administering them.

- c. ensure that its administration systems are rigorous and constantly maintained and developed if necessary.
- d. ensure that documentary evidence is kept to support any changes to the endorsement requirements and decisions on individual applications and make them available to the Agency officials on request. (See sections on record keeping and retention of information.)
- e. ensure there are no conflicts of interest involved in the making of decisions. If there is a conflict of interest, then the recognised governing body must provide a solution to ensure impartiality.

PART 2 – THE RECOGNISED GOVERNING BODY’S RELATIONSHIP WITH OTHERS

RELATIONSHIP WITH THOSE INVOLVED IN THE SPORT

7. It is the responsibility of the recognised governing body to consult and reach a consensus of all interested bodies in the sport, for example other governing bodies (where there is more than one governing body for a particular sport in a home country), player associations and employer bodies, before the published Tier 2 and Tier 5 endorsement requirements are finalised or any changes are made.
8. If the recognised governing body is approached by another body in the sport with a proposal for changing the endorsement requirements, it is the responsibility of the recognised governing body to discuss this with all interested parties and for it to be given full consideration.
9. Where home countries in a sport are represented by separate recognised governing bodies, each body should consult with the other home countries to ensure their Tier 2 and Tier 5 endorsement requirements are compatible and support appropriate cross border movement in the sport. This should be completed before consulting with the Agency.

RELATIONSHIP WITH THE UK BORDER AGENCY

10. The recognised governing body must consult the Agency and provide a final copy of the Tier 2 and Tier 5 endorsement requirements to be used for issuing endorsements in its sport, and of any subsequent changes, for comment **before** publication. The Agency reserves the right to request changes to be made where appropriate.
11. Each governing body must provide the Agency with a main contact.
12. Any processes set in place must meet the requirements of the Points Based System and the Agency reserve the right to ensure that this is the case.
13. The recognised governing body must keep a record of decisions made. It must also keep a record of any meetings held with other governing bodies in setting or changing the endorsement requirements or about individual applications. They must make these records available to officials of the Agency on request.

COMPLYING WITH THIS CODE

14. If the recognised governing body is found to be failing to comply with any of its duties within the Points Based System the Agency will meet with the recognised governing body to discuss any issues and agree an action plan to address them. If the recognised governing body does not adhere to the action plan or the Agency still has specific concerns, the Agency, in consultation with Department for Culture, Media and Sport (DCMS), CCPR or relevant home sports council, for example Sport England, where appropriate, will consider changing the Agency recognised governing body for that sport.

PART 3 – ROLE OF THE UK BORDER AGENCY

15. The Agency will not arbitrate on any disputes relating to whether the Tier 2 and Tier 5 endorsement requirements set by the recognised governing body are met in a particular case. The endorsement decision, based on the published requirements, is final.
16. The recognised governing body should raise any queries they have about their duties as endorsers with the Agency. The Agency will provide the recognised governing body with a contact in relation to the setting and monitoring of the endorsement requirements.
17. The Agency may periodically monitor endorsements issued, including numbers, and may ask for further information about a given endorsement from the recognised governing body responsible.
18. The recognised governing body will also be supported by the Agency's regionally based teams of account managers who will provide advice on the Points Based System generally and individual endorsements and applications if required.
19. The Agency reserves the right to check the activities of the recognised governing body's role in the endorsement process at any time.

PART 4 – THE RECOGNISED GOVERNING BODY’S ROLE IN THE PROCESS OF SETTING ENDORSEMENT REQUIREMENTS AND THE ISSUING OF ENDORSEMENTS

PRINCIPLES

20. The purpose of an endorsement for a prospective sponsor is to confirm to the Agency officials processing sponsor applications that the application is from a bona fide sports club or equivalent that has a legitimate requirement to bring migrants to the UK as sportspeople.
21. The purpose of a endorsement for a migrant is to confirm that he/she is an internationally established sportsperson at the highest level, will make a significant contribution to the development of his/her sport at the highest level in the UK and that it is appropriate to fill the post from outside the European Economic Area.
22. Decisions on sponsor and migrant endorsements must:
 - a. be impartial;
 - b. be consistent;
 - c. be based solely on any published endorsement requirements or immigration requirements applying to that sport at the time of the application;
 - d. not act to give unfair advantage or disadvantage to any one sponsor or group of sponsors or individual or group of individuals;
 - e. not advantage or disadvantage entrants from one country over another.
23. The recognised governing body must have a clear dispute resolution process in place for those who wish to challenge its decision.

SETTING THE ENDORSEMENT REQUIREMENTS

24. The recognised governing body is responsible for the published Tier 2 and Tier 5 endorsement requirements against which requests for endorsements are considered. The recognised governing body may set the same endorsement requirements for Tier 2 and Tier 5 or, they can set different endorsement requirements for Tier 2 and Tier 5.
25. Any published Tier 2 and Tier 5 endorsement requirements should be made available in an easily accessible and well-publicised place, and kept up to date to ensure those requiring endorsement are clear about the criteria against which endorsements for sponsors and individuals are assessed.
26. The Tier 2 and Tier 5 endorsement requirements should comply with any immigration regulations, UK legislation and the principles of Points Based System as detailed on our website.
27. The recognised governing body may set Tier 2 and Tier 5 endorsement requirements for a specified period. This is recommended when the sport operates a recognised season. The period of validity may be set differently for Tier 2 and Tier 5.
28. Once the Tier 2 and Tier 5 endorsement requirements have been published for that specified period, no changes should be made during the course of that period, unless

required by legislative or changes outside the control of the recognised governing body or the Agency. This enables sponsors and migrants to be clear about the requirements they must meet.

29. Review – If a specified period or end date is not set, the endorsement requirements may continue in place indefinitely. However, the Agency recommends that the recognised governing body should review the endorsement requirements no more than six-monthly and not less than every two years after publication.

THE ENDORSEMENTS

30. Recognised governing bodies should issue Tier 2 and Tier 5 endorsements for the individual to sponsors only, not direct to the migrant.
31. Endorsements for sponsors or migrants may be issued in any format - email, fax or letter, providing the recognised governing body and sponsors have a robust system in place for tracking and confirming the validity of each endorsement.
A suggested format for a Tier 2 or 5 governing body endorsement can be found in Annex A.
32. Endorsements for migrants and sponsors will be required for each certificate of sponsorship, that is initial (entry clearance), change of employment and extension (leave to remain) applications. A separate endorsement will be required for each Tier that a sponsor wishes to sponsor under. For example, if a sponsor is already licensed under Tier 2 they would still need a governing body endorsement to register as a sponsor under Tier 5.
33. The Agency and the recognised governing body cannot place any limit or quota on the number of Tier 2 and Tier 5 endorsements a governing body may issue.
34. Where a recognised governing body is also acting as a sponsor it must still follow the same procedure for endorsing the sponsor licence and migrants. It must ensure that it keeps all the documentary evidence to verify the decisions made.

RECORD KEEPING

35. The recognised governing body must operate a numbering system of Tier 2 and Tier 5 endorsements to more easily track those issued. Each endorsement should be assigned a unique reference number in a format specified by the Agency that will be used by all recognised governing bodies irrespective of the sport they represent. A recognised governing body must not use a format other than that detailed below.
36. The sponsor endorsement must be in the following format:
- Sport abbreviated to four letters and governing body home country
number/year/sequential sponsor endorsement number
- For example: An English Rugby Union Club endorsement in 2008, sequential
sponsor endorsement number 16 would be:
RUGU01/08/S016

37. The migrant endorsement must be in the following format:

Sport abbreviated to four letters and governing body home country
number/year/allocated sponsor number/sequential migrant endorsement number

For example: An English Rugby Union player endorsement in 2008, Sponsor endorsement number S016 would be:
RUGU01/08/S016/45

38. The recognised governing body must ensure that all information is kept according to the requirements of the Data Protection Act. More information on data protection is available at: www.ico.gov.uk/for_organisations.aspx

RETENTION OF INFORMATION

39. For sponsor endorsement: All documents submitted as part of the sponsor's application for an endorsement and any information the recognised governing body uses to make their decision must be kept for the duration of the sponsor's licence.
40. For migrant endorsement: All documents submitted as part of the sponsor's application for a migrant endorsement and any information the recognised governing body uses to make their decision (for example statistical data) until two years after the migrant is no longer endorsed.

REVIEW AND AMENDMENTS TO THIS CODE OF PRACTICE

41. This code will remain in place until reviewed or revised. The Agency will consult recognised governing bodies through the named contacts before making any major changes. However, the Agency reserves the right to amend the code at short notice without consultation to deal with situations that have arisen suddenly.

ANNEX A - SUGGESTED FORMAT OF TIER 2 OR 5 GOVERNING BODY ENDORSEMENT

(The endorsement should always be on governing body letter headed paper)

The issue of this endorsement confirms that at the time of the request the club/migrant* met all the Points Based System governing body endorsement requirements for the tier listed below.

Details of the endorsement

Tier: *(for sponsor: 2 or 5 or both;, for migrant: 2 or 5)*

Endorsement reference number:

Endorsement issued to *(sponsor full name)*:

Sponsor address:

Enter for migrant endorsement only

Endorsement issued for *(migrant full name)*:

Address migrant employed at:

Job title:

Salary (where appropriate):

Period of employment the endorsement issued for: (*See below)

Or

Start date of sponsor endorsement:

Date endorsement issued:

Governing body endorsement issued by:

If an extension period is required or there are changes to the above details a new governing body endorsement will be required.

The issue of this governing body endorsement does not guarantee that subsequent endorsements will be issued as each endorsement will be considered against requirements and information at the time of the request.

*Governing Body Endorsements should be issued for a period appropriate to the period of approval for sponsorship or the tier under which the application is being made, that is:

As a Sponsor - Tier 2 or Tier 5 - for 4 years

Migrant Tier 2 Sport

Initial application - length of contract or up to 3 years maximum, whichever is the shorter period

Extension application - length of contract or up to 2 years maximum, whichever is the shorter period.

Migrant Tier 5 sporting – length of contract or up to 12 months, whichever is the shorter period.

If stated in their governing body endorsement requirements, governing bodies may endorse an individual for a shorter period than the employment contract, e.g. a season. If this is the case, the individual must be made aware that their certificate of sponsorship and consequently entry clearance or leave to remain will be limited to the length of the endorsement and will not be for the length of the contract.

(signed by named representative of governing body)