



UK Visas & Immigration

Code of practice for workers in film & television under Tier 2 and Tier 5 (Temporary worker – Creative and Sporting)

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Part 1: Introduction

This Code of Practice has been drawn up with representatives of the film and television industry, and has been issued by us (the Home Office) to supplement the “Policy Guidance for Tier 2 and Tier 5 Sponsors of the Points-Based System (PBS)” ([‘sponsor guidance’](#)) – available on our (the Home Office) website.

The Creative & Sporting sub-category of **Tier 5** (Temporary Workers) is for those coming to the UK for shorter periods of time (the maximum length of leave in this category is 12 months) as well as for those with lower skills levels and potential earnings who would not qualify under Tier 2.

This Code of Practice contains a number of categories. Workers falling into one of the categories are deemed to be making an additional contribution to the UK film and TV industry and not displacing the resident labour force, so are exempt from completing the resident labour market test.

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All licensed sponsors will be required to fulfil certain duties; compliance with sector-specific Codes of Practice is one of these duties. Where we (the Home Office) discover that a sponsor has acted in breach of

the relevant Code of Practice, we will be able to take action against the sponsor using a range of measures applied according to the nature of the breach. Further information on the range of action we may take is contained in the [sponsor guidance](#).

If the sponsor is thinking of assigning a Certificate of Sponsorship (CoS) to someone under Tier 2 or Tier 5 to come to the UK as a worker (non-performer) in film and TV, they should consult this Code of Practice to see whether any of the categories apply.

Part 2: Categories

A sponsor may only assign a CoS to workers engaged for specified films or TV programmes, except for workers coming to work in a Visual Effects Company, when it could be across a number of productions.

Sponsors may assign a CoS to a worker, who will be deemed to be making an additional contribution to the UK labour market when:

1. The worker is a Senior Creative Grade

The sponsor must demonstrate the worker possesses the skills and experience of a Senior Creative Grade for the following roles:

- Producer
- Director
- Director of Photography (Cinematographer)
- Production Designer
- Costumer Designer
- Hair/Make Up Supervisor
- Editor
- Composer
- Visual Effects Supervisor
- Sound Designer
- Script Writer

Evidence

Documentary proof is required to show that the worker has the skills and experience in that role, for example, film and TV credits, qualifications, CV, press cuttings, awards, accolades, publicity material or television/radio interviews.

2. The worker is required for production continuity

Sponsors assigning a CoS under this category must be able to demonstrate that the worker is providing significant creative input and must supply proof that the non EEA worker has worked on or will be

working in a post involving creative input on the same piece of work overseas for at least one month.

The sponsor must also demonstrate that the worker has a direct working relationship with a Senior Creative Grade as listed in category 1; for example, a first assistant editor might work directly with an Editor on the same piece of work overseas.

CoS assigned under this category would normally involve no more than one additional worker in addition to a Senior Creative Grade; however, in exceptional circumstances other additional workers may be admitted under this category, where there is case based on production continuity.

Evidence

Documentary proof is required to show the following:

- that the role involves creative input and the worker possesses the skills and qualifications for the role, for example, copies of qualifications, CV, credits, press cuttings, awards or accolades; and
- that the worker is currently, or has worked on, or will be working on the same production outside the UK for at least a month and evidence of current working relationship with a key Creative grade in Category 1, for example, contracts, letters of engagement, casting lists, CV, references in support, credits or press cuttings; and
- In the circumstances where more than one additional worker is sponsored, the case must be set out in supporting documentation from the Sponsor.

3. Other key creative workers

Under this category the sponsor must demonstrate that the worker is providing key creative input and has a significant previous working relationship with a Senior Creative Grade as listed in category 1. A “significant” previous working relationship entails an established pattern of joint working on a number of previous productions rather than isolated or random examples.

CoS assigned under this category will normally involve no more than one worker in addition to a Senior Creative Grade; however, in exceptional circumstances other additional workers may be admitted in this category where there is a creative case.

We will notify the Broadcasting, Entertainment, Cinematograph and Theatre Union (BECTU) promptly for camera, editing and grip grades,

and 1st Assistant Directors and BECTU may request sight of the evidence in support for such grades.

We will notify the Production Guild promptly of the assigning of a CoS for the following grades:

- Executive Producer (when providing the functions of a Line Producer or Financial Controller/Production Accountant)
- Line Producer
- Co-Producer
- 1st Assistant Director
- Unit Production Manager
- Production Supervisor
- Financial Controller
- Production Accountant

The Production Guild may request sight of the evidence in support for the above roles.

Evidence

Documentary proof is required to show the following:

- that the worker is in a creative or technical role and possesses the skills and qualifications for the role, for example, copies of qualifications, CV, credits, press cuttings, awards or accolades; and
- previous working relationship with a key Creative Grade in category 1, for example, CV, references in support, credits or press cuttings; and
- In the circumstances where more than one additional worker is sponsored per Department head, the case must be set out in a supporting documentation from the sponsor.

4. The role is highly specialist, where advertising is demonstrably not appropriate.

For certain highly specialist roles, it would not be reasonable to expect an employer to undertake a resident labour market search. One example would be a role which requires particular attributes considered unlikely to be available from the resident labour force, for example where the role involves the application of highly specialist skills or new technology or proprietary technology or special effect, or unique knowledge.

Evidence

Documentary proof is required to show the following:

- that it would not be reasonable to expect the sponsor to undertake a resident labour market search, for example, in relation to the above example, proof that:

- the role requires certain highly specialised skills, for example, a job description; and
- The worker possesses those skills, for example, qualifications, CV or credits.

For all roles under this category, we will notify BECTU promptly of the assigning of a CoS and BECTU may request sight of the evidence in support for such grades.

5. International Co-productions

Sponsors assigning a CoS to workers taking part in international co-productions structured under one of the UK's bilateral co-production treaties, or under the European Convention on Cinematographic Co-Production, need to provide the following evidence:

Evidence

Documentary proof is required to show the following:

- provisional approval from the British Film Commission certification department that the film is being structured as an official co-production; or
- Interim certification from the British Film Commission Certification Department.

Where none of the above categories applies and the role is not on the [shortage occupation list](#), the role should be advertised in accordance with the next section of this Code of Practice.

Part 3: Advertising

Where the worker does not meet the above criteria, the sponsor must be able to demonstrate that a resident labour market search has been carried out and no suitably qualified EEA worker has been found.

Where advertising is required and it is for the purposes of assigning a Tier 2 CoS, the sponsor must advertise the job in Jobcentre Plus in addition to one of the methods listed above. This is a mandatory requirement. This is a mandatory requirement except where a Tier 2 exemption applies as stated in the [sponsor guidance](#); any sector specific media may be used as well, but not instead of, this advertising.

For roles where formal advertising is not the usual industries practice for recruiting for a particular role:

For these roles, the sponsor must carry out suitable and reasonable searches of the resident labour market, such as contacting agents,

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organisations, diary services or semi-formal worker networks. Where such informal recruitment methods are used, the sponsor must demonstrate a reasonable period within which it has searched the resident labour market, this should be for a least a period of two weeks.

Where formal advertising is usual for a role:

For these roles, the sponsor must advertise the role to suitably qualified resident workers in an appropriate journal, newspaper, website or online directory. The choice of advertising medium should be appropriate for the particular role.

The following advertising media may be appropriate: searching relevant online directories such as the Knowledge Online, Production Base, or through industry organisations such as the Production Guild. Other forms of advertising may be appropriate depending on the type of role.

For longer term contracts advertisements in Guardian Media, Broadcast, Screen International, and Marketing Week would be appropriate.

A period of two weeks should elapse between the date the advertisement appears and the date the CoS is assigned. The advertisement should be placed within the six months before the date the CoS is assigned.

Evidence

The sponsor must be able to provide documentary proof that a thorough and suitable search for a worker from the EEA was undertaken prior to engaging the worker. This should include the following:

- proof that a resident labour search was undertaken, or the role was advertised in accordance with standard industry practice; and
 - the details of all the agents, organisations and key intermediaries contacted; and
 - A statement of the reasons why EEA nationals were not engaged, or not suitable, or unavailable, summarising actions taken and outcomes.
- a) Under this category, in the case of camera, editing and grip grades, and 1st Assistant Directors, we shall promptly notify BECTU of the assigning of a CoS and BECTU may request sight of the evidence of the steps to search for resident labour for these roles.
- b) Under this category, in the case of Executive Producer (when providing the functions of a Line Producer or Financial Controller/Production Accountant) Line Producer, Co-Producer,

1st Assistant Director, Unit Production Manager, Production Supervisor, Financial Controller, Production Accountant grades, we will promptly notify the Production Guild of the assigning of a CoS and the Production Guild may request sight of the evidence in support for such roles.

Personal Assistants to Directors and Producers of international status

Sponsors may assign a CoS to a single, non-technical, non-creative personal assistant who supports a Director or Producer under category 1, who have demonstrable international status, for example, are known worldwide for international box office success.

The sponsor must notify BECTU promptly of the assigning of a CoS under this category for a Personal Assistant to a Director and must notify the Production Guild promptly of the assigning of a CoS for a Personal Assistant to a Producer. They may request sight of the evidence in support for such roles.

Sponsors assigning a CoS to someone under this category must be able to supply documentary proof of the following:

- that the worker has a significant previous working relationship with the Director/Producer (a “significant” previous working relationship entails an established pattern of joint working on a number of previous productions rather than isolated or random examples); and
- the worker works only as a Personal Assistant to the Director/Producer and does not undertake creative or technical duties; and
- The Director or Producer is of international status, for example, known worldwide or they have demonstrable box-office appeal worldwide.

Evidence

Documentary proof is required to show the following:

- that the worker has the skills and experience in that role, for example, a reference in support from the Director or Producer, film and TV credits, qualifications or CV.
- that the Director or Producer has international status, for example, press cuttings, awards, accolades, publicity material, television/radio interviews, film and TV credits; or, documentary proof that they have demonstrable worldwide box-office appeal through box office figures for films they have led.

Part 4: Salary

Payment of non EEA workers in all cases must not be below UK market rates. Minimum rates can be found on the PACT and BECTU websites at www.pact.co.uk and www.bectu.org.uk

No worker may be paid less than the national minimum wage.

Part 5: Compliance and notification

Sponsors must only assign CoS to workers who meet the requirements of this Code and the other rules relating to the Tier. Sponsors must play their part in ensuring the system is not abused. Sponsors must collate and maintain documentary evidence demonstrating that the worker meets the requirements for the particular category under which the CoS is assigned. Records may be retained in original or electronic form.

When a sponsor assigns a CoS to someone working as a non-performer in TV or film, BECTU and the Production Guild will be notified electronically by us. This notification will provide BECTU and the Production Guild with details of the CoS.

Once this notification has been made, BECTU and the Production Guild can request that the sponsor demonstrate that the worker falls into one of the categories above by providing the evidence specified above for the category concerned. On such request, sponsors shall promptly send BECTU copies of such supporting evidence demonstrating that the certificate was issued in compliance with this Code, within eight working days of such a request.

Sponsors should ensure that the passing of the worker's personal data to BECTU and the Production Guild complies with the Data Protection Act 1998.

This evidence is required solely for the purpose of enabling BECTU and the Production Guild to ascertain whether this Code of Practice has been complied with and requests will be proportionate depending on the worker and the category concerned.

We may also ask to see this evidence relating to one or more workers who have been assigned a CoS, as part of our regular checks that sponsors are complying with their duties. We will take into account the views of BECTU, the Production Guild and the sponsor, assessing all of the available evidence during the course of our checks on sponsors, and will take the final decision as to whether the sponsor has complied with this Code.

Part 6: Disputes

In the event that BECTU or the Production Guild, believes that:

- a) the worker does not fall within the categories above, or
- b) The information has not been provided as required under categories 2 and 5.

BECTU or the Production Guild will firstly raise the issue directly with the sponsor.

Any objections by BECTU or the Production Guild must be made within eight days of receipt by them of the supporting documentation.

The sponsor should then have the opportunity to provide further information in order to demonstrate that the criteria have been met.

In cases where there is no resolution, BECTU, Production Guild or the sponsor may report the matter to us for a final decision on whether the sponsor has complied with the Code of Practice.

In making a final decision, we will carry out our own investigations; examining all relevant evidence and taking into account the views of BECTU, the Production Guild and the sponsor. We will take the final decision based on our assessment of whether the sponsor has complied with this Code, taking action as appropriate.

Queries regarding this Code of Practice may be addressed to:

Home Office:	BusinessHelpdesk@homeoffice.gsi.gov.uk
BECTU:	aegan@bectu.org.uk mspence@bectu.org.uk
PACT:	andrew@pact.co.uk
Production Guild:	david@productionguild.com
British Film Commission:	Samantha.perahia@britishfilmcommission.org.uk