



Home Office

## Tier 2, Tier 5 and Students: guidance for sponsors

### Appendix D: keeping documents - guidance for sponsors

Version 10/20 - this guidance is to be used from 05 October 2020

This guidance covers:

- documents that must be retained by Tier 2, Tier 5 and Student sponsors
- time for which documents must be retained

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## Introduction

This document is for Tier 2, Tier 5 and Student sponsors. It is an appendix to the full policy guidance on [sponsoring a worker](#) or [student](#). It lists the documents you must keep, to fulfil your sponsorship duties.

The documents can be kept either 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 relating to a migrant whom you sponsor must be kept throughout the period that you sponsor them and until:

- one year has passed from the date on which you end your sponsorship of the migrant, or
- the date on which a compliance officer has examined and approved them, if this is less than one year after you ended your sponsorship of the migrant

You may need to retain some documents specified in this appendix for other purposes (for example, to comply with legislation on [preventing illegal working](#)) and for longer periods of time. You must ensure that you meet any other legal requirements for record keeping, such as ones set either by us or another government department.

**All documents provided as part of your application to become a licensed sponsor must be kept throughout the duration of your licence.**

## Part 1: for each migrant sponsored under Tier 2 or Tier 5

- a. A copy of each sponsored migrant's current passport. You must copy pages showing the migrant's personal identity details and any relevant entry clearances (visas) or leave to enter stamps showing that the migrant has permission to work for you as a licensed sponsor. The only exception to the requirement to make a copy of the migrant's passport is where the migrant is employed for one day or less and it is not practicable to obtain this evidence. For detailed guidance on checking a migrant's right to work in the UK, see ['Right to work checks: an employer's guide'](#) on GOV.UK.
- b. Where relevant, evidence of the migrant's date of entry to the UK. If you sponsored the migrant's most recent application for Tier 2 or Tier 5 entry clearance (a visa to enter the UK), you must check that they entered the UK during the validity of their visa. If they entered before the 'valid from' date on their visa, they will **not** have permission to work for you. If this happens, you should advise the migrant to leave the Common Travel Area (UK, Guernsey, Jersey, Isle of Man and Ireland) and re-enter the UK once their visa becomes valid.

You do not have to carry out this check if the migrant has been granted, or is applying for, leave to remain in the UK. This includes where the migrant is applying for an extension of their Tier 2 or Tier 5 stay or is 'switching' (changing immigration category) to Tier 2 or Tier 5 while they are in the UK. You must, however, carry out the right to work checks and retain the evidence described in paragraph 1a.

In most cases, you can check a migrant's date of entry by looking for an entry stamp, in the form of a wet ink stamp, from an immigration officer. This will normally be endorsed on the migrant's visa. You must make and retain a copy of the stamp.

There are, however, some circumstances in which the migrant will not have an entry stamp, including:

- migrants who hold a valid visa and entered the UK through Ireland
- nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea and the United States of America – since 20 May 2019, nationals of all of these countries have been eligible to use automated e-Passport gates ('e-Gates') to enter the UK if they hold a valid visa

If the migrant does not have an entry stamp in their passport, you must still check that they did not enter the UK before their visa became valid by asking to see other evidence, including, but not limited to, travel tickets or a boarding pass (in paper or electronic form). You must then make a record of the date that the migrant entered the UK, but do not have to retain evidence of the date.

### **Important note – Tier 5 creative and sporting visa concession**

If the migrant is eligible to enter the UK without a visa under the [Tier 5 creative and sporting visa concession](#), they must have a 'leave to enter' stamp from an

immigration officer clearly showing that they have permission to work for you. If the migrant used the e-Gates to enter the UK, they will not have permission to work and must therefore leave the Common Travel Area and seek re-entry to the UK, making sure that they see an immigration officer on arrival.

If the migrant will be entering the UK under the concession via Ireland, they must apply for, and have been granted, leave to enter before they arrive in the UK by using the [‘remote clearance process’](#).

For further information, see ‘Tier 5 creative and sporting visa concession’ in [‘Tier 2 and 5: guidance for sponsors’](#) on GOV.UK.

- c. A copy of the migrant’s biometric residence permit (BRP). If the migrant entered the UK with a short-term biometric visa (valid for 30 days), they must collect their BRP before this visa expires, or within 10 days of their arrival, whichever is later. You must make a copy of the migrant’s BRP. For further information on BRPs, see: [‘Biometric residence permits: overseas applicant and sponsor information’](#) on GOV.UK.
- d. If you employed a Croatian national who was subject to worker authorisation between 1 July 2013 and 30 June 2018 (inclusive), a copy of their worker authorisation (‘purple’) registration certificate showing that they were allowed to work for you, and do the work in question, during that period.
- e. A copy of the migrant’s National Insurance (NI) number, unless the migrant is exempt from requiring one. This could be a copy of one of the following:
  - migrant’s NI card or NI number notification letter from HM Revenue & Customs (HMRC) or the Department for Work and Pensions (DWP)
  - migrant’s biometric residence permit, if this shows their NI number
  - migrant’s wage slip
  - migrant’s P45
  - Real Time Information (RTI) starter checklist - formerly P46
  - P60
  - P11 free of tax pay (FOT): employer’s declaration sent to HMRC
  - RTI Employment Payment Summary (EPS) sent online to HMRC - formerly P14: employers annual return sent to HMRC manually
  - RTI Full Payment Submission (FPS) sent online to HMRC - formerly P35: employer’s annual return to HMRC
- f. A history of the migrant’s contact details (UK residential address, telephone number, mobile telephone number). This must always be kept up to date.
- g. In the case of the employment of a child aged under 18, you must make a copy of a letter from the migrant’s parents or legal guardians, 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.

- h. A copy of the migrant's Disclosure and Barring Service (DBS) check where required for the role undertaken by the sponsored migrant.
- i. A record of the migrant's absences, which may be kept electronically or manually.
- j. Any other document set out in the relevant code of practice in Appendix J to the Immigration Rules and, where relevant, the [Code of Practice for Sports Governing Bodies](#).
- k. If you are licensed under Tier 5 (Temporary Worker) 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 of the following:
  - the tender document for that contract
  - evidence of how the contract was awarded if it was not formally tendered

## Part 2: resident labour market test for Tiers 2 and 5

- a. Where you have used a rolling recruitment programme, all the documents set out in this section must clearly show that it is a rolling programme and must indicate the period of the recruitment exercise.
- b. 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.

**Note:** although there is no requirement to undertake a resident labour market test in all cases, if you have told us you have done so you should retain the evidence.

- c. 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.
- d. A copy of the contents of the job advert which must include the job title, the location of the job, the main duties and responsibilities of the job which must include the skills, qualifications and experience needed, an indication of the salary package or salary range and the closing date for applications.
- e. Where the vacancy was advertised on the internet, including where it is advertised on your own website (where this is allowed in the guidance), you

must keep a screen shot from the website hosting the advertisement, on the day the vacancy is first advertised, which clearly shows **all** of the following:

- name of the website
- contents of the advert
- the Uniform Resource Locator (URL) (website address)
- date the vacancy was first advertised (if stated)
- closing date for applications

**Note:** 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.

f. 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.

g. Where the vacancy has been advertised online through Find a Job (or its predecessor, Universal Jobmatch), JobCentre Online (for jobs in Northern Ireland), or the GOV.UK 'Teaching Vacancies' service (for teaching jobs in England), you must keep a screen shot from the relevant government website on the day the vacancy is first advertised which clearly shows **all** of the following:

- logo of the relevant government website hosting the job advertisement
- URL
- contents of the advert
- date the vacancy was first advertised (if stated)
- closing date for applications
- any job reference number (if stated)

**Note:** 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.

h. If the job was not advertised through Find a job (or its predecessor, Universal Jobmatch), JobCentre Online, or the GOV.UK 'Teaching Vacancies' services because of Stock Exchange disclosure requirements, you must keep a copy of the formal announcement such as a screen shot of the published announcement, made via a regulated information service approved by the [Financial Conduct Authority \(FCA\)](#).

i. If you recruit under the Tier 2 (Sportsperson) and/or Tier 5 (Temporary Worker) Creative and Sporting categories in the sports sector, you must keep a copy of the endorsement from the relevant sports governing body as evidence of the resident labour market test and any other document set out in the relevant code of practice.

j. If you recruit a sponsored researcher under Tier 2 (General), you must keep evidence of the competitive process that took place. This could be an

advertisement for the grant, a programme for the selection process, the judging criteria or any other evidence.

- k. 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 - this should include the applicant's details such as name, address, date of birth
  - the names and total number of applicants short listed for final interview
  - for each settled worker who was rejected or did not take up the offer of employment, interview notes or other documentation which show the reasons why they have not been employed

### Part 3: appropriate rate for Tiers 2 and 5

- a. Copies of the migrant's payslips, clearly showing the name, NI number, tax code, any allowances paid, and deductions made. For limited liability partnership (LLP) members, you must keep copies of the migrant's evidence of drawings and profit share.
- b. 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 migrant's wage to assess whether the migrant is being paid in line with what you originally stated on their certificate of sponsorship and with the rules set out in [Tier 2 and 5: guidance for sponsors](#). 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.

- c. A copy of any contract of employment or for services, or a written statement of employment particulars, between the sponsor and the migrant which clearly shows all the following:
- the names and signatures of all parties involved - normally, this will only be you and the migrant
  - the start and end dates of the contract
  - details of the job, or piece of work that the migrant has been contracted to do
  - the hours the migrant will work
  - an indication of how much the migrant will be paid

**Note:** if you are sponsoring a contractual service supplier or independent professional under the Tier 5 (Temporary Worker) International Agreement subcategory, the contract between you and the supplier of the service does not



have to specify how much an individual migrant will be paid. This is not required, as it is unlikely that you will know how much your sponsored migrant will be paid.

- d. 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.

Below are 2 examples

#### **Example 1**

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.

#### **Example 2**

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 (Temporary Worker) International Agreement category.

- e. Any other document set out in the relevant code of practice.

## **Part 4: skill level for Tiers 2 and 5**

- a. A detailed and specific job description outlining the duties and responsibilities of the post which must include the skills, qualifications and experience required for the post, if not already provided at Part 2d.
- b. Where it was a requirement within the job advert, copies of any qualifications the migrant holds to confirm skill level, such as degree certificate.
- c. In Tier 2 (General) where no resident labour market test was undertaken, copies of any qualifications the migrant holds to confirm skill level, such as degree certificate and/or documents that show the migrant had the skills and experience to do the job. This could be references from a previous employer or other evidence of experience.
- d. Copies of any registration and/or professional accreditation documents and/or any confirmation letter the migrant is required to have to do their job – for example, where the migrant is a doctor, proof of registration with the General Medical Council.

- e. If sponsored under Tier 2 (Sportsperson) or the sporting provisions of Tier 5 (Temporary Worker) Creative and Sporting, a copy of the sports governing body endorsement specific to the migrant.
- f. For those coming to the UK under the entourage provisions in the Creative and Sporting subcategory of Tier 5, details of the migrant's technical or specialist skills must be retained.

## **Part 5: for each migrant endorsed under Tier 1 (Graduate Entrepreneur) or Start-up**

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

## **Part 6: for each migrant enrolled under the Student route or Child Student route (including migrants previously enrolled on Tier 4)**

- a. Copy of each sponsored migrant's current passport. You must copy all pages showing any personal identity details including biometric details, stamps, or immigration status document including their period of permission to stay in the UK. This must show the migrant's entitlement to study with a licensed sponsor in the UK if the applicant is a non-EEA national or an EEA national who does not have a chip checker passport

EEA nationals (who have a chip checker passport) applying under the Student or Child Student routes after the end of the transition period will receive a biometric immigration document in the form of an online immigration status rather than a vignette and a physical Biometric Residence Permit, the validity of the Student or Child Student permission will be confirmed on the digital status. They will be subject to the requirements of the Immigration (Biometric Registration) Regulations 2008. An EEA national can prove their status by accessing the following link <https://www.gov.uk/view-prove-immigration-status>. EEA nationals can obtain a share code which can be used to prove an individual's immigration status. Sponsors should record information received from the share code in order to meet the record-keeping requirement.

You must always check the date on which the migrant entered the UK, to ensure they entered during the validity of their Student or Child Student permission and therefore have the ability to study<sup>1</sup>. However, if the migrant is an EU national, EEA national or a national of Australia, Canada, Japan, New Zealand, Singapore, South Korea or the United States of America, they may enter the UK through an

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<sup>1</sup> If a student enters the UK before the start date stated on their Student or Child Student permission, they will not have entered on the basis of their Student or Child Student permission and will not be able to commence their studies. They will need to leave the common travel area and re-enter on or after the start date on their Student or Child Student permission to activate their Student or Child Student permission.

automated e-Passport gate ('e-Gate') if they hold valid permission confirmed by digital status or a vignette or Biometric Residence Permit. In such cases, they will not have an entry stamp in their passport.

If the student does not have an entry stamp, you must still check the date of entry by asking to see other evidence such as, but not limited to, e-tickets or a paper or electronic boarding pass. You must then record that the date the student entered the UK, but do not have to retain evidence of the date of entry.

- b. Copy of the migrant's biometric residence permit (BRP) or digital status. Where the Student or Child Student has digital status, you must keep an electronic copy of the status.
- c. Record of the migrant's absence/attendance, this may be kept either electronically or manually.
- d. A history of the migrant's contact details to include UK residential address, telephone number and mobile telephone number. This must be kept up to date with any changes to these details.
- e. Where the student's course of study requires them 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. If the Student is exempt from providing an ATAS certificate due to their nationality, you do not need to request an ATAS certificate from the Student.
- f. If you are a Higher Education Provider (HEP) endorsing a migrant under the Tier 1 Start-up route, you must keep evidence of the selection process that resulted in that endorsement.
- g. For migrants in the 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 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 Child 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.
- h. Copies or originals where possible of any evidence assessed by you as part of the process of making an offer to the migrant; this could be copies of references, or

examination certificates. Higher Education Providers with a track record of compliance must keep records of the documents used to obtain the offer for their students at degree level or above but these documents do not need to be submitted with the Student's visa application.