

INTRA-COMPANY TRANSFERS

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INTRA-COMPANY TRANSFERS

Introduction

This category is for employees of multinational companies who are transferring to a skilled post in the UK based branch of the company.

Essential company knowledge and experience

Caseworkers should check the reasons given on the WP1 to ensure that the employer requires the employee because of their previous company knowledge and experience. Caseworkers should ensure that a resident worker could not have fulfilled this role with minimal training. Some areas of essential company knowledge that might satisfy this part of the criteria include:

- Having a full understanding of unique company software
- Working on a project on which the overseas national has played an essential and unique role
- Use of corporate management techniques developed overseas
- Having a full product knowledge of the company

Caseworkers should also ensure that the worker has been **employed by the overseas company for at least six months** in a role that would have allowed them to gain the required knowledge.

Linking the overseas employer with the UK-based employer

Employers must demonstrate a genuine link between the overseas employer and the UK-based employer. Caseworkers should look for documentary evidence confirming the link if we have not already received this with a previous application. Any evidence received should be noted on the employer comments on gLOBE.

Acceptable evidence confirming the link can be in the form of share certificates or an annual report but, in both cases, these must show direct ownership either way or that both companies are part of a group of companies where overall ownership and/or control is with the same parent or holding company.

What to do if?

The post does not require the worker to have essential company knowledge – Where the caseworker is satisfied that the post does not require essential company knowledge, the application should be considered under the Tier 2 category and references, qualifications and evidence of advertisements should be requested. If this information is provided, it may be assessed against the appropriate criteria. (See Advertising, Establishing the Overseas National and/or Qualifications of the worker.) Where no references or qualifications are submitted, the application should be refused using paragraph P81A/B/C/E in the refusal letter. Where no evidence of advertising is produced, the case should be refused using either paragraph P83A/B in the refusal letter. Caseworkers should note that all refusal reasons should be included in a refusal letter and all letters should be tailored to the individual application.

The worker does not have six months experience of working with the overseas company – Where the worker has not worked with the overseas company for at least six months they will not have had minimal time to absorb company knowledge and a resident worker may be able to do the job with minimal training. The application should be considered under the Tier 2 category and references, qualifications and evidence of advertisements should be requested. If this information is subsequently provided, it may be assessed against the appropriate criteria. (See Advertising, Establishing the Overseas National and/or Qualifications of the worker.) Where no references or qualifications are submitted, the application should be refused using paragraph P81A/B/C/E in the refusal letter. Where no evidence of advertising is produced, the case should be refused using either paragraph P83A/B in the refusal letter. Caseworkers should note that all refusal reasons should be included in a refusal letter and all letters should be tailored to the individual application.

There is no link between the overseas company and the UK-based employer – Where the employer has not demonstrated the link between themselves and the overseas employer, the application should be considered under the Tier 2 category and references, qualifications and evidence of advertisements should be requested. If this information is subsequently provided, it may be assessed against the appropriate criteria. (See Advertising, Establishing the Overseas National and/or Qualifications of the worker.) Where no references or qualifications are submitted, the application should be refused using paragraph P81A/B/C/E in the refusal letter. Where no evidence of advertising is produced, the case should be refused using either paragraph P83A/B in the refusal letter. Caseworkers should note that all refusal reasons should be included in a refusal letter and all letters should be tailored to the individual application.

The overseas national will be required to work on a contract for a third party – Caseworkers should ensure that the overseas national has essential company knowledge and that experience would be essential to work at the third party site. Where the caseworker is satisfied that the post does not require essential company knowledge, the application should be considered under the Tier 2 category and references, qualifications and evidence of advertisements should be requested. If this information is provided, it may be assessed against the appropriate criteria. (See Advertising, Establishing the Overseas National and/or Qualifications of the worker.) Where no references or qualifications are submitted, the application should be refused using paragraph P81A/B/C/E in the refusal letter. Where no evidence of advertising is produced, the case should be refused using either paragraph P83A/B in the refusal letter. Caseworkers should note that all refusal reasons should be included in a refusal letter and all letters should be tailored to the individual application.

Please note that in each of the above scenarios, caseworkers should be completely satisfied that there is a genuine vacancy for an employee in

the UK and/or the employer has made a genuine attempt to recruit from the resident labour force before they approve the application.

The evidence provided meets the requirements of the work permit criteria for ICT – Continue the caseworking process.

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