

BOARD LEVEL POST

Caseworkers should check that the application meets the criteria as set out in the section on Board Level Posts in the guidance notes. Caseworkers do not need to see evidence of advertising as such posts are classed as Tier 1 applications. (See Tier 1 guidance)

- WP1
- Job Description
- Salary

What to do if?

- The job description does not show that the overseas national will hold a seat on the board, or daily input into directing the company
- The salary package does not reflect the level of the post
- The application meets the criteria and qualifies as Tier 1 Board level post

WP1

Caseworkers should check the relevant section of the WP1, which sets out the position the overseas national will take within the company and the level of responsibility to be held (Caseworkers should check the job description not just the job title). The overseas national should normally be taking up a position that includes a seat on the board of the UK-based company. These may include Managing Director, Chief Executive, Vice President or Chairperson of the company. Some other senior positions that do not necessarily include a seat on the board fall into this category. These will normally be very senior posts, which may include chief financial advisor, chief accountant, or head of a speciality department

Job Description

Caseworkers must look at the job description as well as the job title to establish the post is at board level. The overseas national must be taking up a post where they will have a personal daily input into directing the company at strategic level. Caseworkers should be satisfied that the overseas national will have extensive managerial responsibility or a high degree of specialised individual responsibility to qualify in this category. An overseas national must have substantial senior board level experience (normally a minimum of three years experience at the level of the post on offer).

Salary

Caseworkers should use the salary as an indication of the senior nature of the post. Applications qualifying under this category will attract a substantial salary package. However, the size of the company should be taken into consideration, as smaller companies may offer smaller salaries. If in doubt, caseworkers may ask for salary details of employees along with a hierarchy chart.

Employers have a right, under the Data Protection Act provisions, to refuse to provide **personal data** (i.e. names, NI numbers, etc.) of staff who are not work permit holders. In this instance, caseworkers should advise employers to provide the information requested with personal data for resident staff removed.

What to do if?

The job description does not show that the overseas national will hold a seat on the board, or daily input into directing the company – The caseworker should go back to the employer/representative and ask for a hierarchy chart and any other evidence the employer can provide to show the level of the post. If upon receipt it is clear that this is a board level post, the application may be approved where all other work permit criteria is met. If no information is received or the information does not show that the post on offer is board level, the application may be considered as Tier 2. Caseworkers will need to consult with their Executive Officer (EO)/Higher Executive Officer (HEO) and consider whether it is appropriate to approve exceptionally, waiving ads. If unsatisfied that a genuine vacancy has been made available to resident workers, or unsatisfied that the position is of such a level that resident workers would not be available, the application should be refused and P83A/P83B included in the letter. Caseworkers should note that all refusal reasons should be included in the refusal letter and all letters should be tailored to the individual application.

The salary package does not reflect the level of the post - The application should be refused including P83A/P83B and P85C included 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 application meets the criteria and qualifies as Tier 1 Board level post – Continue the case working process.