

# Recruiting International Graduates

## A Guide for Employers



This guide has been prepared by the Internationalisation Task Group of the Association of Graduate Careers Advisory Services (AGCAS) to help employers consider recruiting international graduates from UK universities.

Its aim is to provide an overview of the key schemes in place as at June 2020. This does not, of course, replace the need for employers to seek their own legal advice in these matters but we hope this guide goes some way to demystifying the immigration options available to international graduates and the employers who wish to recruit them.

A new immigration system is due to be in place from 1 January 2021, but no formal law has yet been passed. A new post-study work visa will be available to students from summer 2021 onwards. You should ensure you take legal advice as to what rules are in place at the time.

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**All immigration regulations are subject to rapid change. This leaflet has been carefully checked for accuracy at the time of publication, but we recommend you always check for information on any significant changes to the rules in this area. This leaflet does not constitute legal advice.**

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## Myth busting

### ***"Is it true that it is now too difficult to sponsor a graduate and not worth the effort?"***

No, it is relatively straightforward to sponsor international students. Changes introduced in 2012 mean that it is much easier for an employer to recruit candidates from outside the European Economic Area (EEA) who may require work permission sponsorship. There are also routes for PhD students to get a 12-month visa to work in the UK without the need for employer sponsorship. In addition, recent changes mean a student no longer has to have passed their course to switch to Tier 2, they can apply to switch up to three months before the end of the course.

### ***"If we sponsor a student under Tier 2 will we have to apply the Resident Labour Market Test (RLMT)?"***

The RLMT requires employers to show there is no suitable EEA (including British) candidate who can take the proposed role. The good news is that if you sponsor a student under Tier 2 you will not have to meet the RLMT providing the student applies from within the UK. You can assign an unrestricted certificate of sponsorship to the student straight away. If the candidate is outside the UK, regardless of whether they have held a Tier 4 visa or not, you will have to undertake the RLMT and apply for a restricted certificate of sponsorship unless the job is on the [shortage occupation list](#)

### ***"Surely this will affect the number of Certificates of Sponsorship (CoS) we will be able to issue?"***

A CoS is an electronic reference number which contains information about the candidate you have sponsored. You can apply for a yearly allocation of unrestricted certificates and should think carefully about your requirements each year. You can request an increase to your unrestricted allocation, from the Home Office at any time, on an ad hoc basis however, an increase can take up to eight weeks and it can be difficult to obtain a priority service. As such, it is recommended you ensure you have a certificate available before you make an offer of employment to an international student. Restricted certificates, for candidates located mainly outside the UK, are granted on a monthly basis from a Home Office panel and subject to an annual cap of 20,700 places. To enable an international student to make a visa application, you would issue them with an unrestricted certificate, provided they are in the UK with a valid Tier 4 visa. This route is therefore easier than recruiting from outside the UK.

### ***"An international student can get their own work permit."***

This isn't the case. With the introduction of the Points Based System in 2008 it has been necessary for employers to obtain a sponsorship licence in order to employ individuals, including students, from outside the UK or EEA. The employer effectively "sponsors" the student, who then seeks immigration permission from the Home Office. Without this sponsorship, the student would not gain work permission. There are immigration categories which allow students to work without the employer's sponsorship for example, the Doctorate Extension Scheme or as a family member of a UK or EEA national. See the 'Main Schemes' section (page 3).

### ***"We don't currently have a licence to sponsor foreign nationals under Tier 2. We have heard it takes a long time to get a licence."***

It can take around 8 weeks to get a sponsor licence, or longer if UK Visa and Immigration (UKVI) conduct a visit to review your HR practices and understanding of sponsor obligations. It's key to take advice and ensure you are able to pass UKVI's stringent checks prior to submitting your application because if your application is refused, you will not be able to reapply for 6 months.

Many employers recruit graduates far enough in advance to be able to factor in the timescales for applying for a licence. Further, students generally get at least four months' leave at the end

of their course, which should give sufficient time to obtain a licence. Further details about obtaining a sponsor licence are available here: <https://www.gov.uk/uk-visa-sponsorship-employers>

***"Is there a way that we can employ a non-EEA graduate for a short period without having to apply for Tier 2 sponsorship?"***

There may be. If the opportunity you are offering fits the requirements of Tier 5 (Temporary Worker Government Authorised Exchange) you may be able to employ a graduate for a period of time while they are sponsored by one of the government recognised sponsors. UKVI have created a list of these organisations and their particular schemes, which is available [here](#). (See more information below under 'Main Schemes: Tier 5 Internships/work placements').

***"It's OK for a student to start work with us once they have finished their course."***

Tier 4 students at undergraduate or postgraduate level have the right to work full time once they have completed their course until expiry of their student visa. The role cannot be a permanent one and they will not be able to take work as a professional sports person or sports coach, an entertainer or as a doctor or dentist in training. It is therefore usual to offer a fixed term contract to coincide with expiry of the visa.

However, if the student qualifies for sponsorship from you under Tier 2 and has submitted their Tier 2 application to the Home Office, in most cases they are eligible to start the permanent graduate role immediately. If you want a graduate to start earlier than this they could either work safely up to 20 hours per week or you may want to seek further legal guidance to explore other alternatives, such as short-term full-time contracts, until they have applied for Tier 2 status.

There are particular provisions for PhD students to switch to Tier 2 status before they have completed their studies (see section 1A below on *When can graduates apply for their Tier 2 visas?*).

***"It's OK for us to put a statement on our company website stating all applicants must have permission to work in the UK."***

No, this is because whilst the law requires employers to only employ individuals with a right to work in the UK it is also unlawful not to employ someone on the basis of their nationality. It is recommended that you avoid possible claims of indirect race discrimination by using statements such as: *"the successful candidate must by the start of their employment have permission to work in the UK"* and by only seeking evidence that someone has the right to work in the final stages of the recruitment process, rather than at the initial application stage.

## **Main schemes**

### **1. Tier 2 Sponsored Skilled Workers**

This is the main type of work visa for individuals taking up a skilled role in the UK. An employer with a sponsor licence can assign a certificate of sponsorship to a student, once they have completed their course, provided that the role is skilled enough and paid at the right salary level. After five years' continuous employment and provided their employment will continue and be paid at the correct salary level, the individual can apply for indefinite leave to remain, which can then lead to citizenship. An individual can only hold continuous leave under Tier 2 for a maximum of 6 years. Where an individual's Tier 2 visa ends, a 12-month cooling off period applies before they can make a new Tier 2 visa application.

As the employer you would need to ensure that you have a licence under Tier 2 to sponsor migrants.

Further information on the process to obtain a licence is on the [GOV.UK - UK visa sponsorship for employers webpage](#), however it is advisable to seek legal advice to fully understand the Tier 2 sponsorship process. It is essential that you offer a job with a salary/skill level in line with the relevant [Codes of Practice](#) (refer to Table 2 for graduate jobs which fit the requirements of Tier 2, and Table 1 for those jobs skilled to PhD level). The "new entrant" salary rate applies to students switching into Tier 2 from within the UK, however there is an overall Tier 2 salary minimum currently £20,800. Each job code will have its own specific salary levels, so the job you are offering may need to be above the £20,800 level. You also need to ensure that the salary is correct for the number of hours worked – it may be necessary to gross up where the individual will be working a longer week for you. It is important you choose a code which contains the job description that best matches the role you want to recruit for, even if the job title you use is different from the one in the Codes of Practice. Once you have the right code, it is possible to assign the CoS, enabling the graduate to lodge a Tier 2 visa application.

#### **A) When can graduates apply for their Tier 2 visas?**

The majority of graduates can apply up to three months before they have completed their courses provided you have assigned them a CoS. If you are employing a graduate before their final result is out, you will need confirmation from the university of the course the student has been taking and expected date of completion. Often there is overlap between the graduation date and the student's visa expiry date, allowing time for the student to apply for Tier 2 permission from within the UK.

You can sponsor a PhD student before they have completed their degree as long as they have done at least 12 months of their course.

#### **B) Can the graduate start the graduate job before they get their Tier 2 visa?**

Yes, provided they have submitted their Tier 2 visa application to the Home Office and had a Tier 4 visa that was issued after 6 April 2012. If, for any reason, their visa was refused then they would have to stop work. If you want a graduate before they have submitted their Tier 2 application, they could either work safely up to 20 hours per week or you may want to seek further legal guidance to explore other alternatives, such as short-term full-time contracts, until they have applied for Tier 2 status but they must not fill a full time permanent role until the Tier 2 visa application is lodged.

## **2. Doctorate Extension Scheme (DES)**

This is a scheme to allow PhD students to remain in the UK for 12 months to look for work or start work without needing an employer to sponsor them. Instead, they are sponsored by the Tier 4 University where they studied their degree. PhD students can only apply for the DES once they are very close to completing their degrees. They will be able to start working full time with you in a graduate role as soon as their degree has been awarded, provided they have submitted their DES application to the Home Office. If you want to employ a PhD student earlier than this, you would need to look at sponsoring them under Tier 2 (see above).

If you want to retain an employee holding a DES visa you can then sponsor them under Tier 2 as described above with all the benefits of no RLMT or cap, providing they meet all the requirements. Most universities provide some form of support to their international students who wish to apply under this category.

## **3. Tier 5 Internships/work placements**

Employers may be able to recruit an international student under a Tier 5 (Temporary Worker - Government Authorised Exchange) visa for a stay of up to two years in the UK for work. The government states that the aim of this scheme is to "*share knowledge, experience and best practice, and to experience the social and cultural life of the UK*". Sponsorship under this route is mainly for internships, training or supernumerary roles. In these cases, the overarching Tier 5

sponsor rather than the employer sponsors the graduate and the employer simply ensures that the graduate works in line with the terms of their sponsorship. See the [full list of approved sponsor schemes](#). One of the advantages of employing a graduate under Tier 5 (Temporary Worker - Government Authorised Exchange) is that you do not have to meet the minimum salary/skill requirements stipulated under the Tier 2 visa. The employer, however, must pay above the National Minimum Wage or the National Living Wage (for individuals over 25 years old).

Some of the organisations with whom employers have arranged successful sponsorship for non-EEA graduates include [Access Tier 5](#) (which is a part of AIESEC UK Ltd), [BUNAC – Intern in Britain](#) and the [Tier 5 Intern scheme](#) (which is managed by GTI Recruiting Solutions). Contact the organisations directly to see how they work with employers and potential employees.

There are also other Tier 5 routes, such as the [Tier 5 Youth Mobility Scheme](#), which may be applicable to the graduate you are looking to employ.

It is also worth remembering that graduates with UK/EEA ties may be able to work in the UK due to these connections.

## **New Post Study Work Visa – “Graduate Immigration Route”**

A new visa route will be available for students graduating from summer 2021 onwards.

The route allows an individual to stay in the UK for up to two years and work without the need for a Tier 2 sponsor. The work is not subject to a skill level or salary threshold, unlike Tier 2. At the end of the two-year period, the graduate can apply to switch into Tier 2. Nothing has yet been put into law, so we are awaiting the finer details of this route.

## **Useful sources of information and support**

### **1. Home Office**

The Home Office UK Visas and Immigration (UKVI) provides a specialist support service for employers who want to check whether a person is allowed to work legally in the UK: [gov.uk/check-job-applicant-right-to-work](https://www.gov.uk/check-job-applicant-right-to-work)

### **2. Legal advisors**

Immigration advice is generally provided by solicitors and advisors accredited by the Office of the Immigration Services Commissioner (OISC). Immigration advisors can be located on the following websites: England and Wales: [solicitors.lawsociety.org.uk/](https://www.solicitors.lawsociety.org.uk/); Scotland: [lawscot.org.uk/find-a-solicitor/](https://www.lawscot.org.uk/find-a-solicitor/); OISC: [home.oisc.gov.uk/register\\_of\\_regulated\\_immigration\\_advisers/register.aspx](https://www.home.oisc.gov.uk/register_of_regulated_immigration_advisers/register.aspx)

### **3. UK Council for International Student Affairs (UKCISA)**

Most universities are members of UKCISA, which provides information on immigration routes for international students and graduates to remain in the UK to work. The public pages of their website are a useful starting point for information <https://www.ukcisa.org.uk/Information--Advice>

### **4. University careers services and international student services**

Many universities provide some form of specialist information services to their international students who want to explore their options to remain in the UK. In a few cases they may also provide more specialist help in preparing their immigration applications to the Home Office. It is always worth checking with your potential recruit what level of support they can access as it is, of course, in everyone's interests that their application is not rejected for an avoidable reason.