

Immigration Update

February 2019

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Veristat specialises in providing immigration advice, support and other services to employers and education providers, as well as individuals applying for leave to enter/remain in the UK.



****NEW** Hourly retainer advice/support packages for employers and education providers. Call 01344 624016 for further details and a quote.

Working in the UK

Restricted Certificates of Sponsorship (RCoS)

UK Visas and Immigration (UKVI) have published their restricted Certificates of Sponsorship (RCoS) allocation for January 2019.

All valid applications received by 5th January were successful if they scored at least 21 points.

A total of 1,462 restricted certificates were granted in January 2019. The total number of certificates available for allocation in February 2019 is 2,317.

Further information can be viewed [here](#).

Inside our February update

Working in the UK

[Restricted Certificates of Sponsorship \(RCoS\)](#)

[Right to Work](#)

[Tier 2 /5 sponsor guidance – updated](#)

[Renewal of annual CoS allocation](#)

[Codes of practice on preventing illegal working](#)

Studying in the UK

[Tier 4 sponsors: - updated guidance](#)

[Short-term students](#)

Other immigration news

[EU Settlement Scheme – new public test phase](#)

[No deal arrangements for EU citizens](#)

[Guidance for PBS dependants](#)

Veristat Services

[Advice/support packages](#)

[Immigration training](#)

[Immigration audits](#)

[File inspection days](#)

[Presentations for EU nationals living and working in UK](#)

Please contact us on 01344 624016 or by email at enquiries@veristat.co.uk for advice or guidance on any aspect of Tier 2 sponsorship or the recruitment of migrant workers.

<https://www.gov.uk/government/publications/employer-sponsorship-restricted-certificate-allocations>

Right to Work

The Home Office (UKVI) have updated their guidance to employers on conducting right to work checks on prospective and existing employees.

The key changes are as follows:

- The introduction of online right to work checks; and
- An amendment to the acceptable document list to remove the requirement that a British birth certificate must be the full (long) certificate. A short or long UK birth certificate are now both acceptable documents to demonstrate a right to work in combination with an appropriately documented national insurance number.

The updated guidance for employers on right to work checks can be viewed [here](#).

In addition to this, UKVI have also published an updated right to work checklist, which can be viewed [here](#).

<https://www.gov.uk/government/publications/right-to-work-checklist>

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

Sponsoring a Tier 2 or 5 worker: updated guidance

The guide on applying for a Tier 2 or 5 sponsor licence and how to sponsor a migrant worker has been updated by the Home Office (UKVI).

The key changes are as follows:

- References to the Tier 5 Seasonal Workers pilot scheme have been added to reflect the introduction of that scheme. (Para. 1.8 and 4.25)
- Paragraphs have been added to reflect changes to the NMC's processes (Para. 15.18 to 15.34)
- New paragraphs have been added about the pay of nurses and midwives undertaking clinical practice before registration with the NMC. (Para. 26.9 to 26.13)

- A note has been added before paragraph 28.18 reminding employers who wish to sponsor a Tier 2 (General) migrant in the creative sector to refer to the guidance for Tier 5 creative workers. (Para. 28.18)
- A new code of practice for models has been referenced. (Para. 34.2)
- Changes have been made to reflect that Tier 5 (Religious Workers) entering under this route will no longer be permitted to work as a minister of religion. (Para. 36 and 36.2)
- A new section has been added to reflect the introduction of the Tier 5 (Temporary Workers) Seasonal Workers subcategory. (Para. 38 to 38.17)
- Changes have been made to reflect new cooling off periods for Tier 5 (Charity Workers) and Tier 5 (Religious Workers). (Para. 40.1 to 40.8).
- New grounds for revocation have been added for Tier 5 (Seasonal Workers) sponsors. (Annex 5, rows mm – rr)

The updated Tier 2/5 sponsor guidance can be viewed [here](#).

<https://www.gov.uk/government/publications/sponsor-a-tier-2-or-5-worker-guidance-for-employers>

Renewal of annual CoS allocation (Tier 2 sponsors)

The window is now open for Tier 2 sponsors to renew their annual CoS allocation (also known as “follow-on” allocation) for the 2019/2020 allocation year. There is no fee for doing so, therefore if you need to issue any CoS for visa extensions or you anticipate that any planned recruitment campaigns may attract migrant workers, then you should renew now to avoid any delays later.

If you do not renew your annual CoS allocation by the end of the window, you can still do so during the allocation year, but you may need to pay a fee of £200 to expedite the request if you need the CoS quickly.

We provide advice and support to Tier 2 sponsors on all aspects of sponsorship, including applying to renew their CoS allocation and/or applying to increase the CoS allocation, so please call 01344 624016 or email enquiries@veristat.co.uk if you require any support with this.

Code of practice on preventing illegal working

The Home Office have published an updated version of their code of practice on preventing illegal working, which sets out the prescribed checks that employers should conduct to avoid a civil penalty in the event of illegal working and the factors that the Home Office takes into account when determining the amount of any penalty.

The updated Code of Practice for illegal working can be viewed [here](#). The modernised guidance for how UKVI detects illegal workers has also been updated and can be viewed [here](#).

We provide right to work audits on behalf of employers to provide reassurance that they are meeting their obligations as an employer to prevent illegal working. For further details and a quote for our right to work audits, please call 01344 624016 or at enquiries@veristat.co.uk.

<https://www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers-2018>

<https://www.gov.uk/government/publications/preventing-illegal-working>

Studying in the UK

Tier 4 sponsors – updated guidance

The Home Office (UKVI) has published updated guidance to education providers on how to apply for a Tier 4 sponsor licence and how to sponsor a student.

Changes have been made to the four key documents as follows:

Document 1: Applying for a Tier 4 licence

- References to Health Education South London have been removed due to this body being replaced by Health Education England in 2016 (Para. 2.1)
- Added a footnote on the roles of the Welsh Government and HEFCW in respect of specific course designation and educational quality. (Para. 3.10)
- Deletion of an outdated paragraph referring to transitional arrangements.

Document 2: Sponsorship duties

- References to Health Education South London have been removed due to this body being replaced by Health Education England in 2016 (Para. 4.31)
- A change has been made to clarify that a student cannot hold a position of a Student Union Sabbatical Officer for more than two years at the same institution. (Para. 4.35)
- Additional guidance has been included that confirms a student is unable to apply for a third year as a Student Union Sabbatical Officer, unless it is under a new grant of leave at a different institution or at a national level with the National Union of Students (NUS). (Para 4.38)
- Examples of the types of activity which are prohibited due to them being interpreted as work as a professional sportsperson (including sports coach) have been included in the guidance, to provide clarification to Tier 4 sponsors. (Para. 6.14)
- Added timescales for reporting various events for which timescales were not previously specified. (Para. 9.4)

Document 3: Tier 4 compliance

- Deleted the previous policy requirement that a discretionary BCA assessment could not be conducted on a fourth successive occasion. (Para. 2.24) *Para. 2.26 already allows UKVI to take account of the number of previous discretionary assessments when deciding whether a further discretionary assessment is appropriate.*

Document 4: Higher Education regulatory reform

- A definition of a Higher Education Provider has been added to the glossary.
- A new paragraph has been added to clarify that Higher Education Providers in the Devolved Administrations will be eligible to obtain the full privileges of Tier 4, provided they meet the qualifying criteria. (Para. 2.8)
- Removal of the requirement that private providers which have entered into franchise arrangements to offer higher education courses will be assessed by the OfS under the registration of the validating partner. Such providers still require Education Oversight for their courses, in line with the existing policy. (Para. 3.3)
- A paragraph has been added to set out when an English Higher Education provider which is a Tier 4 sponsor does not need to register with the OfS, because it does not teach any Tier 4 students at Higher Education level. (Para. 3.5)

The updated guidance for educators on Tier 4 can be viewed [here](#).

The guidance for those applying for leave to enter or remain under Tier 4 of the points based system has also been updated by the Home Office and can be viewed [here](#).

<https://www.gov.uk/government/publications/sponsor-a-tier-4-student-guidance-for-educators>

<https://www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student>

Short-term students

The Home Office (UKVI) has updated guidance for their staff on how short-term student applications for entry clearance or leave to enter are considered. The guidance has been significantly re-drafted following a review.

The key changes are as follows:

- References to the Higher Education Funding Council for England have been replaced with the Office for Students
- Guidance around ATAS and TB certificates and when they are needed have been added.

- Clarity has been given around the maximum length a student can extend their stay in the UK further to their declared intentions in their visa application.
- They have added clarification in the short-term student section on frequent and successive study, studying at a UK institution by distance learning and part-time study on a course exceeding 6 months (or 11 months for English study) in the UK.

Further information can be viewed [here](#).

<https://www.gov.uk/government/publications/short-term-students>

Other immigration news

EU Settlement Scheme: pilot scheme

The public test phase of the EU Settlement Scheme was launched on 21 January 2019.

You can apply for status under the EU Settlement Scheme during the public test phase, if you are either:

- A resident EU citizen (but not a British citizen) with a valid EU passport; or the
- Non-EU citizen family member of an EU citizen and you have a biometric residence card (BRP)

You'll also need to have access to an Android device to use a Home Office app to enable UKVI to confirm your identity as part of the application process.

Please note that Irish citizens do not need to apply but may do so if they wish.

Citizens of Iceland, Lichtenstein, Norway or Switzerland are not eligible to apply during this test phase. They will be able to apply when the scheme is fully open by 30 March 2019.

Further information about the pilot can be viewed [here](#). You can read additional information about the EU Settlement scheme [here](#).

The Home Office (UKVI) has also published their key findings following the second test phase of the EU Settlement Scheme. You can view the report [here](#).

<https://www.gov.uk/guidance/eu-settlement-scheme-public-test-phase-applicant-eligibility>

<https://www.gov.uk/settled-status-eu-citizens-families>

No deal arrangements for EU citizens

The Home Secretary, Sajid Javid, announced on 28 January 2019, the provisions for EU citizens coming to the UK after EU exit in the event of a 'no deal'.

If Britain leaves the EU without agreeing a deal, the government will seek to end free movement as soon as possible and has introduced an [Immigration Bill](#) to achieve this. Further information about the Home Secretary's announcement can be viewed [here](#).

There would also be a transitional period only, whereby EEA citizens and their family members, including Swiss citizens, would still be able to come to the UK for visits, work or study and they would be able to enter the UK as they do now. However, if they intended to stay for longer than 3 months, they would need to apply for permission and receive *European Temporary Leave to Remain*, which would be valid for a further 3 years.

Further information about the transitional immigration arrangements for EU citizens arriving in the UK after free movement has ended can be viewed [here](#). You can also view guidance for EU citizens coming to the UK with no Brexit deal [here](#).

<https://www.gov.uk/government/news/government-outlines-no-deal-arrangements-for-eu-citizens>

<https://www.gov.uk/guidance/european-temporary-leave-to-remain-in-the-uk>

Guidance for dependants of UK visa applicants (Tiers 1, 2, 5 and 5)

The Home Office (UKVI) has published updated guidance for applications by the family of people who have UK visas under the points-based system (PBS dependants).

The updated PBS dependant guidance can be viewed [here](#).

<https://www.gov.uk/government/publications/guidance-for-dependants-of-uk-visa-applicants-tiers-1-2-4-5>

Good character: nationality policy guidance

The Home Office (UKVI) has published updated guidance on assessing the good character requirement in nationality applications.

The updated good character guidance can be viewed [here](#).

<https://www.gov.uk/government/publications/good-character-nationality-policy-guidance>

Veristat Services

Advice/Support packages

These packages can either be on a fixed rate monthly retainer basis, which can include a number of services, such as: acting as your Level 1 user, issuing of CoS/CAS, immigration audit, etc. Alternatively, you can purchase an annual package of either 5, 10, 15 or 20 hours' advice/support per year at reduced rates.

If you are interested in discussing our retainer or hourly advice/support packages further, then please contact us on 01344 624016 or email us at enquiries@veristat.co.uk.

Training for employers and education providers

We provide bespoke training on all aspects of immigration matters, including Right to Work, Tier 2 sponsorship, Tier 4 sponsorship, and identification of fraudulent documents.

These training sessions are conducted on the client's premises for a standard half-day rate for up to 12 persons per session.

If you think your organisation would benefit from training in any of these areas, please contact us for a quote by emailing us at enquiries@veristat.co.uk. If you would like to discuss the contents of our training packages or require a bespoke training package to be delivered, please contact us by telephone on 01344 624016 or email us as above.

Audits and Inspections

Veristat is hugely experienced at providing compliance audits across all immigration tiers. We have worked with hundreds of employers, ranging from small family businesses to multi-nationals, high street retailers and professional sports clubs. In the education sector, we have also worked with over 30 universities and a significant number of colleges and schools.

Our audit/inspection service is fully flexible and can be tailored to individual requirements, and is based on sound practical experience of UKVI's policies, culture and approach.

- For employers, we offer on-site Tier 2 compliance inspections (with staff aware or unaware to simulate a surprise UKVI visit). We also offer right to work compliance visits.
- For education providers, our service ranges from a "lite" health-check to a comprehensive review of Tier 4 activities, assessing compliance with UKVI requirements and sharing best practice. We also offer targeted inspections covering specific issues, such as BCA, Tier 2 compliance, policies, student unions, relationships with partner institutions, etc.

On completion, we provide a comprehensive, evidence-based report, together with an assessment of how compliant the business or institution is with UKVI's requirements. We will support the introduction of change if required and offer a 'spot check' follow up service at a later date if required to reassure management that recommendations have been implemented.

If you're interested in booking an audit/inspection, please call us on 01344 624016 or email us at enquiries@veristat.co.uk.

File Inspection Days

If you're unsure whether you require a full compliance audit or specific training but would like an independent check of your files to ensure they are fully compliant with Home Office requirements, we can provide a UKVI file compliance inspection of either your staff or student files.

Depending on the number of employees/students you have, we would either check all files or an agreed sample. After the inspection has taken place, we would provide a written report outlining any risks, feedback and recommendations.

For further information or a quote for our file inspection days, please call us on 01344 624016 or email us at enquiries@veristat.co.uk.

Presentations for European nationals (Brexit)

We provide sessions targeted at European nationals currently living and working in the UK. We can come to your premises and speak directly to your EU/EEA and Swiss employees, outlining their position now, and the likely situation they may find themselves in following Brexit. These practical sessions are designed to clarify the situation and more importantly their options moving forwards.

If you're interested in booking a session for the European nationals working for you, please call us on 01344 624016 or email us at enquiries@veristat.co.uk.

[Click here to return to start of document](#)

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