



University of
St Andrews

Employee visa and immigration FAQ's

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These questions have been prepared to provide prospective and current employees with an overview of visa regulations and are a guide for general information only. It does not represent a full statement of immigration system and should not be relied upon in complex immigration cases. As a University employee *“your visa is your responsibility”*.

1. General

Do I need a visa to work at the University?

All employees of the University are required to provide proof of their eligibility to work in the UK. All European Economic Area (EEA) and Swiss nationals have the right to work, live and study in the UK without restriction. Non- EEA migrants require a visa to work in the UK. All prospective employees must provide Human Resources with a copy of their visa or proof of entitlement to work in the UK before commencing employment at the University.

You can check if you need a visa at the following website - <https://www.gov.uk/check-uk-visa>.

Which visa should I apply for?

There are five 'tiers' of the Points Based System (PBS) which regulate visa for non-EEA nationals. In addition, there are number of visa categories that sit out with PBS which grant an individual the right to work in the UK. However, these categories such as a UK Ancestry visa, the Right of Abode or an EEA Family Permit, have strict eligibility criteria. Human Resources will advise on the most appropriate visa route for a non-EEA migrant to obtain the entitlement to work at the University in line with their contract arrangements.

For the most up-to-date information on how to apply for a visa please refer to the UKVI website – <https://www.gov.uk/browse/visas-immigration>.

2. Immigration System

What are the five tiers of the PBS?

The 5 tier points-based system regulates entry into the UK to work or study. The system separates applicants into five 'tiers' based on their purpose of entry into the UK and in order to be eligible for a visa reach a point score above a minimum threshold to be awarded a visa. The minimum number of points required varies for each tier.

Can I apply for under any tier of the Points Based System?

No, there are strict requirements for each tier, and you should only apply for the tier most appropriate to the purpose of your time in the UK.

The five tiers in the points-based system are currently:

- Tier 1: High-value migrants
- Tier 2: Skilled workers
- Tier 3: Low-skilled workers (currently suspended)
- Tier 4: Students
- Tier 5: Temporary workers

Further details can be found at <http://www.st-andrews.ac.uk/staff/policy/immigration/> or <https://www.gov.uk/check-uk-visa>.

What are the various employment tiers of the PBS?

Each tier is split into sub-categories; the most appropriate for employment at the University are detailed below.

Tier 1- High-value migrants

Tier 1 (Exceptional Talent)

This sub-category is available for exceptional people in the science, engineering, humanities, medicine, digital technology, and the arts who wish to enter the UK. People may apply to enter the UK through this route if they can demonstrate to be world leaders in their field (exceptional talent); or demonstrate the potential to become world leaders in their fields (exceptional promise).

There are an annual limit of 1000 places per annum and applicants should apply directly to UKVI. Applicants need to be endorsed by a competent body (Arts Council England, British Academy, Royal Academy of Engineering, Royal Society or Tech City UK) in order to apply for a visa. Further details can be found at <https://www.gov.uk/tier-1-exceptional-talent>.

Tier 1 (General)

This sub-category is only open to current Tier 1 (General) migrants for an extension for their visa. Further details can be found at <https://www.gov.uk/tier-1-general>.

Tier 2 - Skilled worker

Tier 2 (General)

This sub-category is linked to specific employment and migrants who have a job offer. An applicant must meet specific requirements about the type of job, prospective salary and qualifications. Individuals will also need to meet English language and financial maintenance requirements. Sponsorship form a licence UKVI sponsor is required in order to apply for Tier 2 visa. Further details can be found at <https://www.gov.uk/tier-2-general>.

Tier 5 – Temporary Workers

Tier 5 (Government Authorised Exchange)

This sub-category is limited to the University's sponsorship arrangements under the Government Authorised Exchange scheme for sponsored researchers working on hosted research projects. This route is not designed to fill job vacancies within the University. Further details can be found at <https://www.gov.uk/tier-5-government- authorised-exchange>.

Tier 5 (Youth Mobility Scheme)

This sub-category is only open to migrants from countries that have a special reciprocal agreement with the United Kingdom. The Youth Mobility Scheme is for young people who want to live, work and travel in the United Kingdom for a period of up to two years. Further details can be found at <https://www.gov.uk/tier-5-youth-mobility>.

3. Tier 2 (General)

What is Tier 2 visa?

Tier 2 is for non-EEA Migrants coming to the United Kingdom with a job offer to fill a position that cannot be filled by a settled worker. Tier 2 is the most common route for non-EEA migrants to work at the University. In visa applications, points are awarded according to the completion of the Resident Labour Market Test, the applicant's prospective salary, English language ability and maintenance funds.

How do I get a Tier 2 visa?

In order to get a Tier 2 visa, the University must satisfy the Resident Labour Market Test and then assign a Certificate of Sponsorship. On receipt of the Certificate of Sponsorship it is your responsibility to apply for a Tier 2 visa. Details can be found at <https://www.gov.uk/tier-2-general>. When you apply you must prove that you can satisfy the English language ability and have enough maintenance (available funds) to support yourself.

What is the Resident Labour Market Test (RLMT)?

The RLMT requires that the University advertise the position for a minimum of 28 days on suitable media to ensure that no suitably qualified settled workers are displaced by migrant workers. If the University carries out the RLMT and can show that there are no suitable qualified settled workers to fill the job; or an exemption applies then the University can assign a Tier 2 Certificate of Sponsorship. The requirements for a RLMT can be waived provided one of the limited exemptions can be satisfied.

What are the exemptions to the RLMT?

The exemptions to the RLMT are:

- * Extending a visa and continuing to work in the same occupation and for the same sponsor
- * The job is on the UKVI Shortage occupation list
- * Post Study Work, if migrant to be sponsored has, subject to strict criteria:

*Valid Tier 1 (PSW), Tier 1 (Graduate Entrepreneur) visa
Valid Tier 4 visa & received results confirming Bachelor/Masters
Completed 12 months' study towards UK PhD*

- * Any job with a salary of £153,500 per annum or above
- * Supernumerary Research Positions where the migrant is explicitly named on research funding

If one of the above is satisfied, then the University does not have to conduct the RLMT.

What is a Certificate of Sponsorship?

In order to apply for a Tier 2 visa, the applicant must have a Certificate of Sponsorship assigned by the University otherwise their visa applications will automatically be rejected. Certificates of Sponsorship can only be assigned where the University has satisfied the RLMT or an exemption applies. A Certificate of Sponsorship is not a paper certificate but a 'virtual document', which contains a unique reference number. The University must give this reference number to migrant as it forms a key part of their application for permission to come to the UK if they are overseas (known as 'entry clearance'), or permission to stay in the UK if they are already here (known as 'leave to remain').

Please note a Certificate of Sponsorship will only be assigned to the prospective or current employee. Dependents do not require a Certificate of Sponsorship.

What is the difference between a Restricted and Unrestricted Certificates of Sponsorship?

The UKVI has implemented a UK-wide annual limit on the number of Certificates of Sponsorship available under Tier 2 (General). The total number of Certificates of Sponsorship available for jobs to be filled by migrants entering the United Kingdom from overseas is 20,700 per year. These are referred to as Restricted Certificates of Sponsorship and involve the University applying to the UKVI for permission to assign a Certificate of Sponsorship from a monthly allocation. Restricted Certificates of Sponsorship only apply to migrants submitting their visa application overseas and entering the UK.

However, within Tier 2 (General), the following circumstances will be exempt from the annual limit and these are Unrestricted Certificates of Sponsorship. These apply to extensions to current Tier 2 visas within the UK; visa applications due to changes of employment or migrants switching immigration category; or new hires earning over £153,500 per annum (as at April 2014).

How long can I stay in the UK on a Tier 2 visa?

The maximum permitted time on a Tier 2 visa is six years. Migrants who wish to remain in the UK to work beyond six years must apply for settlement if they are eligible to do so. Those who are not eligible to apply for settlement will be required to leave the UK after six years.

What is the Tier 2 Cooling off period?

To prevent repeat grants of Tier 2 leave, the UKVI introduced a “cooling off period”. This means if a Tier 2 Migrant leaves the UK then the earliest they can apply for a new Tier 2 visa is 12 months after their last leave as a Tier 2 migrant expired or the date the visa was curtailed. This applies even if the RLMT has been conducted. Migrants in this situation will be unable to apply for a Tier 2 visa for 12 months although they can apply for Tier 1 or another work visa provided the relevant eligibility criteria is met.

What funds are required for the maintenance check and how long must they be held for?

Evidence needs to be provided that you have £945 (April 2014) of available funds which must have been held for a minimum of three months immediately before the date of application. You will also need evidence of an additional £630 per dependent who is accompanying you to the UK.

Alternatively, if needed, the University of St Andrews can certify the maintenance for the migrant and their dependants for the first month of their employment.

How can I prove I have the necessary standard of English?

There are three ways that you can meet the English Language requirement:

- * A national of a predominantly English-speaking country.
- * Pass an English language test. You will need to pay for any English language test you need to take; this will not be paid for by the University.
- * Hold a degree that was taught in English and is equivalent to a United Kingdom Bachelor's degree or above.

You must provide the appropriate evidence along with your visa application.

How many points do I need to obtain to be issued with a Tier 2 visa?

You must score a total of 70 points in order to get a Tier 2 visa points. Points are available as follows:

- * Assigned a certificate of sponsorship by UK Sponsor – 30 points
- * Appropriate prospective salary as set by the UKVI code of Practice– 20 points
- * English language ability - 10 points
- * Maintenance - 10 points

The Points Based calculator allows you to calculate how many points you may get, and indicates whether you may be eligible to work in the UK under the points-based system – <https://www.points.homeoffice.gov.uk/gui-migrant-jsf/SelfAssessment/SelfAssessment.faces>

Please note the calculator does not guarantee that a visa will be issued by UKVI.

Do I need to undertake a Tuberculosis (TB) pre-screening before applying for my visa?

There are a growing number of countries considered to have a high incidence of tuberculosis whose nationals must provide a valid medical certificate issued by an approved medical practitioner. This confirms that they have undergone screening for active pulmonary tuberculosis (TB) and that they have been diagnosed as being free from active pulmonary tuberculosis if they are applying to come to the UK for more than six months.

It is important that if you are applying from countries where TB pre-screening is required that you are tested as soon as possible in advance of your application as additional tests and/or treatment will significantly delay your application to come to the UK.

Please refer to the UKVI website for country-specific information to determine whether TB pre-screening is required and for full details in relation to the process and testing for dependants (including children).

How much will it cost to apply for a visa / entry clearance?

The cost of the Certificate of Sponsorship is paid directly to the UKVI by Human Resources. It is your responsibility of to submit and pay for the visa application. The University will reimburse the visa application fee as per our Immigration Reimbursement Policy which can be found at <http://www.st-andrews.ac.uk/staff/policy/immigration/costs/>.

The current cost of visas can be found at <https://www.gov.uk/government/publications/visa-regulations-revised-table>

4. Extensions and Changes to visa

How do I extend my Tier 2 visa if I'm in the UK?

If you have been offered an extension to your contract or you have an open ended contract, then you can extend your visa to continue working in the UK. The process involves the University assigning an Unrestricted Certificate of Sponsorship. The RLMT is not required as you are continuing to work in the same occupation and for the same sponsor. Upon receipt of the Certificate

of Sponsorship it is your responsibility to apply to the UKVI for an extension to your current visa. You must ensure that your application is submitted before your current visa expires.

Further details can be found at <https://www.gov.uk/tier-2-general/extend-your-visa>.

I want to change jobs; will this affect my visa?

If you are currently in the UK under Tier 2 and you change employers, you must make an application to UKVI to update your visa. The application must be supported by a new Certificate of Sponsorship assigned by the new sponsor in line with Tier 2 requirements. You are unable to commence work at your new sponsor until UKVI have approved your new visa application.

If you currently have a Tier 2 visa and want to change jobs within the University, then you may need to make a visa application supported by a new Certificate of Sponsorship to update your visa. If you are continuing to work in a new job within the same SOC code quoted on your current Certificate of Sponsorship, then you do not have to make a new application. For example, if you are changing from a Lecturer to Professor then you do not need to update your visa as these occupations are in the same SOC code. If you are changing occupations and will still be employed by the University but your new job is in a different SOC code, you must make a new application after the completion of a Resident Labour Market Test. For example, if you are changing from a Research Fellow to Lecturer then you need to update your visa as these occupations are in different SOC codes.

If you are considering changing jobs and are unsure of the requirements to update you visa, please contact Human Resources.

I don't have a Tier 2 visa, but I need to extend my visa to continue working at the University. How do I extend my current visa?

If you need to extend your visa, then you should apply to the UKVI for an extension. The relevant extension process will be detailed on the UKVI website and if you have any questions please contact Human Resources to discuss the process. You may be eligible to switch into another immigration category. It is your responsibility to submit an application to continue working at the University.

My visa has already expired, and I am still in the UK, what should I do?

You should contact Human Resources or UKVI immediately for advice and further information.

5. Switching visa category

I think I'm eligible for a different immigration category?

If you think that you are eligible for a different immigration category, other than Tier 2, then please contact Human Resources to discuss. Any visa that you obtain must give you the right to work at the University.

I'm in the UK can I switch to another immigration category?

There are strict rules about switching from one immigration category to another; this depends on your current category, the category you wish to move into and the specific category rules. UKVI rules may prevent you switching immigration categories while in the UK, which means that you must

make submit application from overseas. For further information please see guidance on the UKVI website or contact Human Resources.

6. Non-UK Travel

I want to travel to another country; do I need a visa?

The visa requirements for countries outside the United Kingdom will depend on a number of factors including nationality, length of stay and activities conducted during your stay. Anyone traveling outside the United Kingdom should check the visa requirements with the countries embassies/consulates before traveling. Human Resources can provide general advice using freely available online resources, but it is the responsibility of the employee to obtain the correct visa for any travel.

I want to travel to a Schengen country; do I need a Schengen Visa?

The Schengen area includes 25 European countries which have decided to remove all internal border controls. You do not need an individual visa for each country, and you do not have to show your passport when crossing borders between countries within the Schengen area. However, at the area's external boundaries - the borders with non- Schengen area countries - all travel documents are carefully checked.

Schengen area countries have strict border controls for travellers crossing the external borders of the single travel zone Bulgaria, Romania, Cyprus, Ireland and the UK are outside the borderless Schengen area. These five countries have their own rules for issuing short-stay visas. Most non-European nationals will need a Schengen visa to visit Europe. If your nationality requires a visa to enter any of the Schengen countries, then you should apply for a Schengen visa before travelling.

For further information please see <http://www.schengenvisa.cc/>.

Where can I get a letter confirming employment for my visa application?

If you require a letter to confirming your employment for a visa application, then please contact Human Resources via humres@st-andrews.ac.uk.

7. Settlement Status/ Indefinite Leave to remain

When can I apply for Settlement Status/ Indefinite Leave to remain?

A non-EEA national may apply for permanent residency in the UK (settlement status or indefinite leave to remain) once the individual has been continuously employed in the UK for at least five years. It is the individual's responsibility to make such an application, however the University can provide advice and any necessary supporting documents. Human Resources will notify the employee before they are eligible for Settlement based on their employment at the University of St Andrews. If you have work elsewhere in the UK, then you may be eligible to apply for settlement prior to five years' service at the University; if so please contact Human Resources.

What are the requirements for settlement?

You can apply for settlement while in the UK on a Tier 2 visa if you meet the following:

* Hold a valid a Tier 2 (General) visa and applying before it expires.

- * Been living and working in the UK for 5 years and spent no more than 180 days outside the UK in any 12-month period.
- * The University still needs you for your job.
- * You get paid the relevant salary listed in the Codes of Practice or the earnings threshold whichever is relevant.
- * You have passed the Life in the UK Test.
- * Passed and hold a valid English language test, if required.

Once you have obtained Settlement, then you are free from immigration control and can work without restriction in the UK.

What is the earnings threshold for Settlement?

You may apply for settlement in line with the requirement above, however with effect from 6th April 2016, if you are applying for settlement from Tier 2 and you entered under Tier 2 under the rules in force from 6th April 2011 you must meet the earnings threshold. Migrants must be at least £35,000 per annum from April 2016 (£35,500 from April 2018 and £35,800 from April 2019) or the appropriate rate in the relevant UKVI Code of Practice, whichever is higher.

Please note that migrant workers who are in PhD level roles such as Research Fellows and Lecturers are exempt from the earnings threshold for settlement, although you must still be paid at least the appropriate rate for the occupation. Individuals who do not apply for or obtain settlement must leave the UK on expiry of their leave and will be subject to the Tier 2 cooling off period.

When can I apply for citizenship?

As a non-EEA migrant, you can only apply for citizenship once you have held indefinite leave to remain for 12 months. There is no requirement to obtain citizenship to continue working in the UK and it is your responsibility to apply for citizenship. The University will not reimburse the cost of obtaining citizenship. Further details can be found at <https://www.gov.uk/becoming-a-british-citizen>.

8. Dependants

Can my dependants accompany me to the UK?

Your family members (dependants) can accompany you to the UK. Dependants are required to apply for their visa and meet the relevant requirements for that visa category.

Can my elderly relatives come to the UK as my dependants under Tier 2?

Adult and elderly dependants can only settle in the UK when it can be demonstrated that they need a level of care which can only be provided by a relative in the UK. More information on Tier 2 dependants is available on the UKVI website.

Can my dependants work in the UK?

Dependants can work provided their visa does not have any restrictions on their employment here.

I'm on a Tier 2 and my baby has recently been born in the UK; what are the immigration options open to us?

Having a baby does not adversely affect your visa, although you will not be able to claim child benefit while on a Tier 2 visa. Birth in the UK does not automatically make a baby a British citizen. The baby needs to have a parent with British citizenship or settled status in the UK in order to be born British. If your baby is not a British citizen, it is quite lawful for him or her to remain in the UK without making an immigration application. The baby will need immigration permission to re-enter the UK after any travel abroad. You therefore can either apply for your baby's Tier 2 dependant visa after their birth; apply overseas for your baby's Tier 2 dependant's visa before you re-enter the UK or include your baby as a dependant when you extend your visa. Further details can be found at <https://www.gov.uk/tier-2-general/family-members>.

9. Rights and Responsibilities

What are my rights and responsibilities while in the UK on a Tier 2 visa?

While you are in the UK you must:

- * Comply with all the conditions of your visa
- * Only undertake supplementary employment if your visa conditions allow it
- * Ensure the University has your most up-to-date contact information
- * Inform the University of any absences from work
- * Provide the University with a copy of your passport and visa
- * If required register with the police
- * Not claim any public funds
- * Inform the University if you switch visa category

Do I need a National Insurance Number?

To work in the UK, you need a National Insurance number. You must apply for one as soon as you start work, the University can provide assistance to obtain a National Insurance number. You will pay National Insurance contributions to build up your entitlement to certain state benefits, including the State Pension. The exact amount you pay will depend on your annual salary.

Can I claim benefits while in the UK?

No, you will not be eligible for public funds during your time in the UK as a Tier 2 migrant. Public funds are defined as income-related benefits paid by the state. Public funds include a range of benefits that are given to people on a low income including, but not limited to, income support, child tax credit, child benefit, council tax benefit, carer's allowance or disability living allowance. Benefits paid as a result of your employment contributions, such as the state pension, incapacity benefits or statutory maternity pay are not considered to be public funds.

Claiming public funds when you are not eligible is considered to be benefit fraud and it is a criminal offence.

Do I need to register with the police?

You may need to register with the police when come to the UK. Your visa will indicate if you must register with the police, for example it may state 'police registration within 7 days of arrival'. You could be fined £5,000 and jailed for 6 months if you fail to register with the police. Further details can be found at <https://www.gov.uk/register-with-the-police>.

10. Tier 4 visa and work

Can I work on a Tier 4 visa?

Students studying at UK institutions, who are not nationals of an EEA country, can work subject to certain conditions under Tier 4. Neither the employer nor the student needs to obtain further permission for this. Students must not work for more than 20 hours per week during term time and can work full time per week during vacation periods.

Can I switch from Tier 4 into another visa category to work full time?

There are various visas open to Tier 4 students to work full time these include Tier 1, Tier 2, Tier 4 (Doctorate Extension Scheme) and Settlement. If you are offered a contract of employment Human Resources will consider all visa options open to you. If you want to discuss the available visa options then please contact Human Resources or Student Services.

11. Help and Assistance

If you have any questions, or require further information, please contact Cameron Little in Human Resources on 01334 462497 or himmigration@st-andrews.ac.uk or alternatively visit the UKVI website at <https://www.gov.uk/visas-immigration>.

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