



University of  
St Andrews

## Visa and immigration FAQ's: For line managers

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These questions have been prepared to provide Heads of Schools/Units and managers with an overview of visa regulations and are a guide for general information only. It does not represent a full statement of immigration system, if you wish to discuss any aspect of immigration then please contact Human Resources.

## General

### **Do all non-EEA migrants 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. 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.

## Tier 2

### **Does a migrant need to get a Tier 2 visa to work at the University?**

Tier 2 is for non-EEA Migrants coming to the United Kingdom with a job offer to fill a suitable 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. Migrants require a Certificate of Sponsorship assigned by the University which they will need to use when applying for your visa.

There are other visa categories available and HR can provide advice on the most suitable route. Any visa must give the migrant the right to work at the University in line with contract of employment.

### **Why do migrants need a Certificate of Sponsorship?**

The Certificate of Sponsorship gives the University permission from the UKVI to employ a non-EEA migrant in a specific role. It is also mandatory that the migrant has a Certificate of Sponsorship before they apply for their visa.

### **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 UKBA for permission to assign a Certificate of Sponsorship to a non-EEA migrant from a monthly allocation. Restricted Certificates of Sponsorship 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; migrants switching immigration category; or new hires earning over £153,500 per annum (as at April 2014).

### **Can a Tier 2 Certificate of Sponsorship be obtained for any post in the University?**

A Certificate of Sponsorship can only be obtained for a post which meets both required skill level for the job and the 'appropriate rate' of pay as determined by the UKVI. This is to ensure that the resident labour market is not undercut. The salary for the post must be at least £20,500 per annum

or at least the minimum rate quoted in the relevant UKVI code of practice, whichever is higher. If the job does not meet these conditions, the University cannot obtain a Tier 2 Certificate of Sponsorship. If you are unsure if a post is eligible for a Tier 2 visa, please contact Human Resources.

## Resident Labour Market Test

### Do I need to complete the Resident Labour Market Test?

Only jobs which meet both the UKVI requirements on the skill level and the 'appropriate rate' of pay for the job must be advertised for 28 days in order to satisfy the Resident Labour Market Test. For example, Research Fellows and Lecturers must be advertised for 28 days but Chefs and Secretaries do not as these jobs are not at the relevant skill for a Tier 2 visa. You should discuss the Resident Labour Market Test with the recruitment office when at the beginning of the advertisement process.

The Resident Labour Market Test must be completed before a Certificate of Sponsorship can be assigned by the University to the non-EEA migrant.

### The non-EEA migrant I'm employing is specifically named on the Research Grant funding; do I still need to complete the Resident Labour Market Test?

No, if the migrant is explicitly named on the funding then there is no requirement to advertise the job. The permitted exemptions to the Resident Labour Market Test under Tier 2 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

### I have completed the interviews and have offered the job to a non-EEA migrant, what happens now?

You should send the completed Details of Appointment Form to the Recruitment Office. An offer will be sent out to the prospective employee and Human Resources will liaise directly with them as to the most suitable immigration category for them to work in the UK.

### I've offered my employee an extension to their contract, how do they extend their visa?

Once the contract has been formally extended, if the employee is employed under Tier 2 they can apply for an extension of their visa to continue working in the same role. The University is required to assign a new Tier 2 Certificate of Sponsorship, but a further Resident Labour Market Test will not be required as part of the process. If the employee is in a different visa category, then they should apply to the UKVI for an extension. Human Resources can provide the advice regarding the extension process. It is the employee's responsibility to apply to continue working at the University.

## Time and Costs

### How long will it take to get a Tier 2 visa?

A Certificate of Sponsorship must be applied for within 6 months of the date when the post was first advertised. The exception to this rule is where the post is at PhD level such as Research and Teaching post; the Certificate of Sponsorship may be assigned up to 12 months after the start of

the recruitment process. The migrant worker must apply for their visa within 3 months of the date the Certificate of Sponsorship is assigned or if they are applying from inside the UK, before their current visa expires.

The processing times are set by the UKVI and the University has no influence in speeding these up. The average visa processing time from an offer of employment being issued to receiving a Tier 2 visa is approximately 3-4 months. However, this cannot be guaranteed.

### **There has been a delay in the non-EEA migrant getting their visa, how does this affect their contract dates?**

The employment dates will be adjusted accordingly to reflect their arrival date in the UK and their visa validity dates, in instances like this it may result in the contract of employment is slightly shorter than originally offered.

### **Who pays the costs incurred during the visa process?**

The cost of the Certificate of Sponsorship will be paid directly by the University to the UKVI. The individual will be required to pay for their own visa. Human Resources will reimburse the cost of a Tier 2 visa. However, those funded externally may, subject to the terms of the funding, have the cost reimbursed directly from the Research Grant.

## **Other visa categories**

### **Can the prospective employee obtain a different visa other than Tier 2?**

In addition to Tier 2, there are a number of visa categories which grant an individual the right to work in the UK. However, these categories such as a Tier 1 (Exceptional Talent), Tier 1 (Doctoral Extension Scheme), Tier 5 (Youth Mobility Scheme), UK Ancestry visa, the Right of Abode or an EEA Family Permit, have strict eligibility criteria. Human Resources will consider all visa routes for prospective non-EEA employees in order to obtain the entitlement to work at the University in line with their contract arrangements.

## **Non-UK Travel**

### **I want to travel with my research group to another country, do we 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 about most countries using online resources, but it is the responsibility of the employee to obtain the correct visa for any travel.

## **Visitors**

### **Do all non-EEA migrants need a visa to visit at the University even if they are not being paid a salary?**

Non-EEA migrant visiting the University who wishes to participate in any activity must hold an appropriate visa. Visitors holding a general 'tourist' visa are not allowed to participate in any activities in the University.

Depending on the nature of the activities involved, visitors to the University may be required to hold one of the following visas Business Visitor; Academic Visitor; Permitted Paid Engagement or Tier 5 (Government Authorised Exchange). Please see separate section relating to visitors.

## Help and Assistance

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

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