 **Guidelines for employing Skilled Workers/Tier 2 visa holders**

As free movement for EU/EEA/Swiss nationals ceased with effect from 1 January 2021, the UK's Visa and Immigration Service (UKVI) has introduced [a new immigration points based system](https://staffintranet.bournemouth.ac.uk/aboutbu/policiesprocedures/people/immigration/newpointsbasedimmigrationsystem/) which applies to new arrivals of EU/EEA/Swiss nationals as well as new and existing non-EU nationals who require a visa.

As part of this, on 1 December 2020, the Tier 2 (General) visa route closed and was replaced with the Skilled Worker Visa route. The Skilled Worker route allows the University to sponsor nationals from outside the resident labour market to fill skilled jobs at the University.

No further applications for Tier 2 visas can be made, but **existing Tier 2 visa holders** will **retain**their current visas with no change to their conditions, and at the point of extension will apply for a Skilled Worker Visa under the rules of this visa route or under another immigration route such as Indefinite Leave to Remain if eligible.

These guidelines summarise the eligibility to sponsor an individual on a Skilled Worker visa and Managers responsibilities for migrant workers on a Skilled Worker or Tier 2visa.

BU clinics on the new Points Based System and the Skilled Worker Route have been running since November 2020 and slides are available [here](https://intranetsp.bournemouth.ac.uk/policy/Points%20Based%20Immigration%20System%20-%20HR%20Clinics.pdf). These will continue to run in 2021, if you would like to attend one please contact BUVI@bournemouth.ac.uk.

**Eligibility**

The University is an A-rated sponsor licence holder and can issue Certificates of Sponsorship (CoS) to sponsor skilled workers to work for the University. To qualify for a Skilled Worker Visa the individual must score a minimum of 70 points from the following:

|  |  |
| --- | --- |
| **Offer of a job by an approved sponsor (BU)** | 20 points |
| [Job offer at an appropriate skill level (RQF level 3 and above)](https://www.gov.uk/skilled-worker-visa/your-job) **supported by a Certificate of Sponsorship** | 20 points |
| [English language at level B1](https://www.gov.uk/skilled-worker-visa/knowledge-of-english) | 10 points |
| [Minimum Salary requirements met](https://www.gov.uk/skilled-worker-visa/your-job) | 20 points |
| The maintenance requirement must also be met as part of the visa application, but no ‘points’ are attached to this element |

**Academic Technology Approval Scheme (ATAS)**

From 21 May 2021, any Researcher coming to the UK to undertake research in certain [subject area](https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-atas-academic-technology-approval-scheme-atas)s, and who is a non-EEA national (with the exception of some exemptions) will be required to obtain an ATAS certificate prior to applying for a Skilled Worker visa. The subjects are those where the knowledge could be used to develop Advanced Conventional Military Technology (ACMT), weapons of mass destruction (WMDs) or their means of delivery. If the research focus changes while at BU to include the above then an ATAS certificate must be obtained prior to undertaking this activity.

**Costs**

The University covers the cost of the Certificate of Sponsorship and reimburses the cost of a standard Skiller Worker visa application. The employee will need to pay for other associated costs e.g. Immigration Health Surcharge, English Language tests, Dependent applications (if applicable). Details of costs are available on the [government website.](https://www.gov.uk/skilled-worker-visa/how-much-it-costs) The [Immigration Fee Assistance Scheme](https://intranetsp.bournemouth.ac.uk/policy/Immigration%20Fee%20Assistance%20Scheme.docx) offers a salary advance to help cover some of these costs for current employees.

**Certificates of Sponsorship (CoS)**

Under Tier 2, we could apply for both unrestricted and restricted COS and there was a national annual cap on the number of restricted CoSs available. Under the Skilled Worker route the cap has been suspended, however there are still 2 types of Cos that can be issued:

1. **Defined**

Defined CoS are used for individuals applying for a Skilled worker visas from outside the UK. Applications are considered by the UKVI and usually approved within one working day. It may however take longer if further checks are required.

1. **Undefined**

The University has a fixed allocation of undefined CoS which we apply for on an annual basis.

Undefined CoS are used for Skilled Workers applying from inside the UK, and applicants on all other visas.

Examples of when it is appropriate to use an Undefined CoS include:

1) Changes of Employment where:

* A current University employee was last granted leave under a Skilled Worker/Tier 2 visa and has been appointed to a new job which falls in a different SOC code.
* An individual was last granted leave under a Skilled Worker/Tier 2 visa while sponsored by a different UK employer, and has been appointed to start a new job at BU.

2) Switching immigration category - this is where an indidviual already in the UK under another immigration category is eligible to switch into the Skilled Worker route. Exceptions to this are Visitors, Short-term students, Parent of a Child Student, Seasonal Worker, Domestic Worker in a Private Household and individuals outside the Immigration Rules.

3) Extension - this is where an indidviual is already working for BU on a Tier 2/Skilled Worker visa and needs to apply for an extension to their visa. Please note there is no maximum period for sponsorship on a Skilled Worker visa for.

Once a CoS is issued the individual must apply for their visa within 3 months.

**Before starting work**

Before the individual starts work, the University must undertake a right to work check. They will be asked to report to Human Resources with evidence of their Skilled Worker visa and passport to complete this check.

If the individual has applied for their visa from outside the UK they will be issued with a short term biometric entry clearance (a vignette in their passport), valid for 30 days (currently 90 days under COVID concessions), in order to travel to the UK to collect their Biometric Residence Permit (BRP). They must then collect their BRP before this visa expires, or within 10 days of their arrival, whichever is later. They can collect this from their nominated Post Office. They will need to show Human Resources their passport (and BRP once collected) for certified copies to be taken, including personal identity details and any relevant entry stamps.

Human Resources will not confirm the start date for an individual until this check has been satisfactorily carried out, orginal qualifications have been copied and verified, satisfactory references have been received and a DBS check has been completed (if applicable).

**Managers responsibilities for Skilled Worker/Tier 2 Visa holders**

The University has a responsibility to monitor all individuals who work under a Skilled Worker/Tier 2 visa. The onus is on the University to ensure that all visa holders abide by the conditions of their immigration category. Therefore, **if you engage an individual under the Skilled Worker route/Tier 2, you (the Manager /Professional Service/ Faculty) will need to do the following**:

* Inform Human Resources immediately if an individual under the Skilled/Tier 2 Worker category fails to attend on their first day of employment (scheduled/agreed activity) as expected.
* Inform Human Resources immediately if an individual is absent from work (scheduled/agreed activity) which has not been authorised. Please refer to the [Attendance at Work Policy](http://intranetsp.bournemouth.ac.uk/policy/attendance-at-work.doc) for further information.
* Inform Human Resources immediately, if an individual no longer requires sponsorship under the Skilled Worker/Tier 2 route eg. they resign, change immigration category or any professional registration ends earlier than shown on the their CoS.
* Inform Human Resources immediately if they are absent from work without pay for 4 weeks or more, which is not covered by the exceptions in reduction in salary i.e ; maternity, paternity, shared parental leave or long-term sick in excess of one continuous calendar month
* if there are any significant changes in the individuals circumstances, for example:
* a promotion or change in job title, or core duties,
* a change of salary from the level stated on the CoS, other than changes due to annual increments or bonuses
* a change of salary from that stated on the CoS due to maternity, paternity shared parental or adoption leave, or a period of long term sick leave lasting one month or longer
* the location they are employed at changes
* Report to the police any information that suggests any migrant you are sponsoring, or endorsing under any visa category may be engaged in terrorism or criminal activity.

**All of the above must be reported to the UKVI within 10 working days of the change/activity. Failure to comply with the above places the University at risk of losing its sponsorship license.**

**Individual Skilled Worker/Tier 2 responsibilities**

Individuals who are working for BU on a Skilled Worker/Tier 2 visa must also ensure they comply with the conditions of their visa. They must notify Human Resources and the Home Office of the following:

* changes to their residential address in the UK or contact details including telephone and mobile telephone number, individuals can update this directly on myHR, (further details are available in the [user guide](https://intranetsp.bournemouth.ac.uk/documentsrep/myHR-User-guide.docx));
* if for any reason an appropriate registration or professional accreditation is lost;
* if they are considering taking up supplementary employment or an alternative role whilst under the University’s sponsorship (Human Resources only);
* resignation from the University’s employment and details of their new employer (if appropriate);
* reasons for absence without permission for more than 10 working days;
* any period of maternity, paternity, adoption or sickness absence of one month or longer;
* any periods of unpaid leave in excess of 4 weeks (including sabbatical and career break);
* if they no longer require sponsorship (e.g. obtain Indefinite Leave to Remain);
* if they are considering taking up a new role in the University or there is a change to your job title and/or duties and responsibilities;
* any changes to their salary (not including annual increments);
* any significant changes to their circumstances (e.g. change of name via marriage or deed poll); and
* any potential breach of the conditions of their leave to remain in the UK (e.g. criminal convictions or civil action).

Tier 2/Skilled Worker visa holders must also:

* provide BU with a National Insurance Number,
* provide BU details of a UK bank account in their name for their salary to be paid into,
* register with the police if they are resident for more than 6 months and they are from [some countries](https://www.gov.uk/register-with-the-police); and
* are not allowed to access state benefits or other public funds. See the UKVI website for [full definitions](https://www.gov.uk/government/publications/public-funds--2).

To notify Human Resources of the above email hrenquiries@bournemouth.ac.uk. To notify the Home Office, complete a [Change in Circumstances form](https://www.gov.uk/government/publications/notification-of-change-of-circumstances-form-mcc).

**Supplementary Work**

In addition to the work for which their visa was issued, Skilled Worker/Tier 2 visa holders may take up supplementary work so long as the role is **either:**

* + A job in the same profession **and** at the same professional level as the work for which the Certificate of Sponsorship was assigned; **Or**
	+ A job on the [Shortage Occupation List](https://www.gov.uk/guidance/immigration-rules)

**And**:

* Is for **no more than 20 hours** per week;
* is conducted outside of the normal working hours for which the Certificate of Sponsorship was assigned; **and**
* the person remains working for the sponsor in the job for which the CoS was assigned

The UKVI do **not** consider research and teaching as the same profession. Therefore, a researcher would not normally be permitted to give lectures as 'supplementary employment'.

If, however, a researcher has some lecturing responsibilities as part of the role for which their Skilled Worker/Tier 2 visa was issued, and the lecturing responsibilities were noted on the CoS, then the migrant may give additional lectures as 'supplementary employment', providing this also complies with the above rules.

Prior to a sponsored individual undertaking supplementary employment at BU, if they are not a current employee of the University, a [right to work check](http://intranetsp.bournemouth.ac.uk/policy/Immigration%20Regulations%20%28Guidance%29.docx) **must** be taken and a letter provided confirming:

* They’re still working for their sponsor;
* The job description and occupation code of their sponsored employment (if supplementary employment is not in a shortage occupation);
* Their normal working hours.

In addition, we require confirmation in writing from the prospective member of staff that they are not doing any other supplementary employment with another employer to ensure they will not be doing more than 20 hours a week in total of supplementary employment.

Working hours must be agreed and input into the Immigration Spreadsheet by the line manager a minimum of 24 hours in **advance** of the visa holder undertaking supplementary work in line with the conditions of their visa and the University’s policy. The Immigration Spreadsheet is used to record all working hours offered to visa holders with restricted working hours across the organisation. This is to ensure that even where a Skilled Worker/Tier 2 visa holder holds multiple contracts, the University does not offer hours in excess of 20 per week. **Line managers have a personal responsibility to follow this step of the procedure, updating the** [Immigration Spreadsheet](https://livebournemouthac.sharepoint.com/sites/CasualStaffCompliance/SitePages/Casual-Staff-Compliance%281%29.aspx)**, and failure to do so will be treated seriously by the University.**

To be granted access to the [Immigration Spreadsheet](https://livebournemouthac.sharepoint.com/%3Ax%3A/s/CasualStaffCompliance/EQh-zCdrp0RKhTHRePKLkl8B_RnKDjGsSI5NAi7ExPpF0Q?e=csY8gY), line managers must complete mandatory [Part Time Hourly Paid line manager training](https://brightspace.bournemouth.ac.uk/d2l/le/lessons/25709/units/1071694). This training, alongside the Immigration Spreadsheet guidance page, provides line manager support and guidance to fulfil this responsibility.

**PTHP pay claims must be checked against the immigration spreadsheet before they are approved.** **No retrospective changes to the immigration spreadsheet should be made**, however where more hours have been worked than were recorded in the immigration spreadsheet, this must be immediately reported to Humans Resources.

**Study**

Skilled Worker/Tier 2 visa holders may do courses of study. There is no limit on the numbers of hours they can study or level of course they undertake, however any study done should not affect their ability to carry out the job that they have been sponsored to do. Further information can be found in section S8.22 of the [Workers and Temporary Workers: guidance for sponors - part 2](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492799/Tier_25_guidance_11-15_word_v1_1_addendum.pdf).

**If you have any questions on this guidance please contact the** **Human Resources Team** **or call +44 (0)1202 961133 (internal – 61133).**

An equality Analysis of the points based immigration system, including the Skilled Worker route is available [here.](https://intranetsp.bournemouth.ac.uk/policy/Equality%20analysis%20-%20new%20PBS.docx)