25 APRIL 2017
Staff Immigration and Right to Work News Bulletin
From the Staff Immigration Team

Who should read this bulletin?
- Staff involved in the administration of Certificates of Sponsorship (CoS) and visa applications
- Staff who manage sponsored visa holders
- Staff involved in completing right to work checks

Feedback welcome
We would welcome your feedback about the Staff Immigration and Right to Work News Bulletin.
Please email tim.currie@admin.ox.ac.uk

Staff news
We are sorry to announce David Richardson will be leaving the University at the end of May. He has become a key member of the Staff Immigration Team over the last few years and will be greatly missed. Plans for his successor are in hand and will be announced shortly.

Immigration news and updates

BREXIT & advice for EU/EEA staff
SIT has received many enquiries from EU staff in recent months and understand that the triggering of Article 50 on 29 March may have added to their concerns. SIT is happy to help with any enquiries, and support EU staff with advice on the requirements and application process for a document to show Permanent Residence, if they do wish to submit an application to demonstrate their rights as an EU citizen.

The University’s ‘Oxford and Brexit’ website (www.ox.ac.uk/news-and-events/oxford-and-brexit) provides news, information, and analysis; and our ‘Information for EU staff’ website (www.ox.ac.uk/staff/communications/oxford-and-eu-information-staff) provides a video podcast of one of our information sessions for EU/EEA staff. We would be grateful if you could highlight to staff the opportunity to join our mailing list, mentioned on our ‘Information for EU staff’ website, to receive updates and information on government announcements.

While some applications can be fairly simple, such as those based on five or more continuous years of employment, please encourage anyone with queries to contact SIT; especially cases relying on periods under different categories (as a worker, self-employed, a student, or self-sufficient) and any cases where an application has been refused.

Please direct any queries from EU/EEA staff to James Baker (on (2)89908 / james.baker@admin.ox.ac.uk) or Tim Currie (on (2)89903 / tim.currie@admin.ox.ac.uk).

SIT is happy to come and speak to groups of EU staff in your department/college if this would be useful.

Indefinite Leave to Remain for dependants – previous rule change removed
The change in Home Office rules we announced in our December 2016 Bulletin, requiring dependants applying for Indefinite Leave to Remain (ILR) to also meet the ‘continuous residence’ requirement, has now been reversed.

The ‘continuous residence’ requirement, of not having been absent from the UK for more than 180 days in any 12 month period of the five year qualifying period, counting back from when the ILR application is submitted, still applies to main applicants.
Changes in Tier 2 salary thresholds
With effect from 6 April 2017:
- the **Tier 2 minimum salary threshold** for ‘Experienced Workers’ has now risen to £30,000 p.a. (for further details see our explanation of this change and its effects in the Annex to this Bulletin);
- the **Tier 2 job specific salary thresholds** have been updated, with most increasing slightly; and
- the **Codes of Practice**, which detail the types of jobs sponsored under Tier 2 and the job specific salary thresholds (laid out under Standard Occupational Classification (SOC) codes) are now found in Appendix J of the Immigration Rules at:

Immigration Skills Charge (ISC)
The government has introduced an Immigration Skills Charge (ISC), which takes effect from 6 April 2017. The ISC is classified as a tax, with the stated aim of ‘reducing demand for migrant labour’. The ISC is being levied on employers who sponsor applicants under Tier 2 to take up certain roles, but few University roles are affected.

What are the exemptions from the ISC?
Thanks in part to lobbying by the University through the House of Lords and other channels (alongside other Russell Group Universities, UCEA, UUK, and other organisations), several exemptions were included in the ISC legislation.

The ISC does **NOT** apply to:
- **Research** (SOC code 2119) and **Lecturer** (SOC code 2311) roles, which fall under the ‘PhD level’ SOC codes;
- **Overseas** applicants coming for **less than 6 months**;
- Applicants **switching from a Tier 4 student visa** into Tier 2 from within the UK;
- **Existing Tier 2 visa holders**, whose Tier 2 CoS were issued before 6 April 2017, who are applying to extend their visa, or for a new Tier 2 visa with a new employer/sponsor;
- Tier 2 CoS being issued for **Croatian** nationals.
Immigration Skills Charge (ISC) (contd.)

Which types of roles within the collegiate University will be affected?

Roles which do not fall under the 'PhD level' SOC codes will be affected by the ISC; however, these make up a minority of the roles sponsored by the University under Tier 2, currently approx. 40 out of around 900. These include various IT positions, Research Managers, Statisticians, PR professionals, and other support roles. These are the roles which must be advertised on Universal JobMatch (JobCentre Plus as it was previously) under the Tier 2 advertising rules.

If you are advertising a position which is not a Research or Lecturer role, and expect to have candidates who may require a Tier 2 visa, you should contact SIT for confirmation of whether the ISC will apply.

How much is the ISC?

The ISC is a charge of £364 per year based on the length of the Tier 2 Certificate of Sponsorship (CoS) paid upfront, along with the CoS fee, when issuing the CoS. The ISC is normally £1,000 per year, however, the lower charge of £364 per year applies as the University has charitable status.

The ISC amount payable is as follows:

<table>
<thead>
<tr>
<th>Immigrant Skills Charge</th>
<th>30 to 36 months (3 years)</th>
<th>£1,092</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 months or less</td>
<td>£364</td>
<td>36 to 42 months</td>
</tr>
<tr>
<td>12 to 18 months</td>
<td>£546</td>
<td>42 to 48 months</td>
</tr>
<tr>
<td>18 to 24 months</td>
<td>£728</td>
<td>48 to 54 months</td>
</tr>
<tr>
<td>24 to 30 months</td>
<td>£910</td>
<td>54 to 60 months (5 years)</td>
</tr>
</tbody>
</table>

For example: A Tier 2 CoS for a 2½ year role would result in an ISC fee of £910 in addition to the £199 CoS fee, with a total of £1,109 to be paid by SIT when the CoS is issued and cross-charged back to the sponsoring department, or college cheque.

How will the ISC be paid?

In cases which are not exempt, the ISC will be paid by SIT along with the CoS fee when issuing the Tier 2 CoS. The ISC fee will then be cross-charged back to departments, along with the CoS fee. Colleges will need to provide a cheque covering both the Tier 2 CoS fee and ISC. Please note this charge is an employer cost and must not be passed on to the Tier 2 worker. Our CoS application forms have been updated to highlight roles where the ISC applies, and the amount which will be charged.

Will the ISC be refunded in any circumstances?

The ISC will be refunded in full where:

- the Tier 2 visa application is refused or withdrawn;
- a visa is granted but the visa holder does not take up the role;
- no visa application is made.

A partial refund in respect of all whole unused 6 month periods will be paid where:

- the Tier 2 visa is granted for less than the period requested on the CoS;
- the visa holder after their first year, voluntarily changes to another sponsor;
- the visa holder, after their first year, leaves their post early, due to ill health, redundancy, or being dismissed, for example.

Home Office decisions on refunds are made within 90 days after the above events are reported. Refunded ISC fees will then be credited back to the sponsoring department from SIT by Finance in the following monthly credit card reconciliation. Colleges will be refunded by BACS.
New overseas criminal record certificate requirement

A requirement to provide overseas criminal record certificates, when applying for a visa to come to the UK, was applied to the Tier 1 (Entrepreneur) and Tier 1 (Investor) visa routes in September 2015. This requirement is now being introduced for some Tier 2 visa applications.

PLEASE NOTE: the new requirement does not apply to the Researcher (SOC code 2119) and Lecturer (SOC code 2311) roles sponsored most frequently by the University, or any other job types SIT normally encounter, only senior administrative roles which fall under SOC code 2317.

The new requirement only affects certain job codes under Tier 2 in the education, health and social care sectors. Of the job codes currently affected the only one which SIT has identified as relevant within the collegiate University is SOC code 2317, which is used (very infrequently) for senior administrative posts such as ‘Course Director’ or ‘Director of studies’.

What is the new requirement?

Those applying for a Tier 2 visa for a role affected by the new requirement will have to provide either an original or a scanned copy of a criminal record certificate from the relevant authority in any country in which they have been resident for 12 months or more (whether continuously or in total) in the past 10 years, while aged 18 or over. Any dependants who are over 18 years old must also meet this requirement.

The Home Office provides contact details for the relevant authorities in different countries along with details of how to apply.

What effect will the new requirement have on applications?

We understand that the main effect of this requirement, since its introduction for Tier 1 (Entrepreneur) and Tier 1 (Investor) visa applications, has been delays as a result of having to apply for and obtain certificates, often from more than one country. We recommend that if a senior administrative post (such as those mentioned above) is being advertised the department/college should contact SIT as early as possible to determine whether this requirement will apply if the chosen candidate requires a Tier 2 visa.

While the Home Office have stated that this requirement will be extended to all Tier 2 visa applications, they have not confirmed a timescale for this expansion of the requirement, and have indicated that this will not be for some time.

As this requirement will not affect the vast majority of Tier 2 applicants sponsored by the University, please contact SIT for links to the relevant guidance if you are advertising a role which you think may be affected, or if you would like more information.

Beware of scams

There has recently been a case where an employee of the University was contacted by phone in an immigration scam stating that unless a fee was paid their status in the UK was at risk.

Please highlight to your sponsored and other visa holders that unless they are in the process of applying for a visa they should be wary of any contact by phone or email stating that they must pay a fee. If they have any doubts whether a message or call is genuine recommend that they contact SIT as soon as possible, so they can verify whether this is genuine contact from the Home Office.

We would be grateful if you could also circulate a link to Home Office guidance on avoiding and reporting scams at: www.gov.uk/report-suspicious-emails-websites-phishing
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Genuine Home Office expiry emails

We understand that some sponsored visa holders, whose visas are due to expire within a few weeks, are being contacted by the Home Office via email. These Home Office emails ask whether they are in the UK, whether they have submitted a further application, and whether their status is correct.

If any sponsored visa holders receive such an email from the Home Office they should contact SIT so that we can help ensure that the information they provide in their response is correct and corresponds with the details reported to the Home Office to avoid any complications.

Roles & Responsibilities

SIT has produced a detailed breakdown of the various areas of responsibility for Immigration and Right to Work, and how they are split between the Staff Immigration Team and departments/colleges.

The ‘Immigration and Right to Work Roles & Responsibilities’ document was circulated through department and college key contacts but is also available on the SIT website at:

www.admin.ox.ac.uk/personnel/permits/

Six year limit under Tier 2 & ILR employer template letter

A maximum limit of six years spent under Tier 2 was introduced in April 2011 and the first Tier 2 visa holders sponsored by the University after this date are now at or approaching this limit, beyond which they cannot extend. In order to remain in the UK they will need to apply for Indefinite Leave to Remain (ILR) or under a different visa route.

SIT is identifying those approaching their six year limit under Tier 2, and is contacting them 4-6 months in advance to provide information and offer advice on the ILR requirements and process. SIT will copy the sponsoring department/college when contacting the Tier 2 visa holder. If you receive queries in relation to ILR applications, or are aware of someone approaching their six year limit who has not yet been contacted by SIT, please contact Tim Currie (on (2)89903 / tim.currie@admin.ox.ac.uk).

When applying for ILR, Tier 2 visa holders will require a letter from their employer confirming details of their role, that their employment is continuing, and that their salary will not drop in the foreseeable future. The letter must also confirm the history of absences from the UK which the applicant lists in their ILR application. A template employer letter is available from SIT. Letters from any previous employers confirming absences from the UK during the periods working in previous roles within the 5 year qualifying period for ILR will also be required.

Tier 1 Exceptional Talent/ Promise (ET/EP)

During 2016 SIT successfully supported a small number of academics and senior research staff to apply under the Tier 1 Exceptional Talent/Promise visa route. The team will continue to support Tier 1 ET/EP applicants taking up new senior appointments (normally Associate Professors or equivalent) and visa holders eligible to switch from within the UK across Departments and Colleges.

The Tier 1 Exceptional Talent route comprises of two sub-categories:

- Exceptional Talent (for those who can demonstrate that they have made significant contribution as a leader in their field)
- Exceptional Promise (for those who are at an early stage in their research career, but can demonstrate that they have already showed the potential to make significant contributions as a future leader in their field).

The first SIT training course on the Tier 1 process and requirements will take place on Friday 28 April. To book a place please see: http://www.admin.ox.ac.uk/personnel/permits/sittrain/

Departments/Colleges who identify a potential Tier 1 (ET/EP) applicant should complete and submit to SIT an Initial Tier 1 Internal Application Form found at:

http://www.admin.ox.ac.uk/personnel/permits/forms/

Please direct any queries to Lisa Crook on 289919 or lisa.crook@admin.ox.ac.uk
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Tier 2 and 5 CoS applications – reminders

CoS details - It is imperative that all details provided in CoS applications are current and correct to avoid unnecessary requests for clarification, delays in issuing CoS, and (in the worst cases) requiring the addition of sponsor notes to amend details after the CoS is issued (such as incorrect or old residential address and passport details). Departments and colleges are reminded to check personal and job details carefully before submitting CoS applications to SIT.

Consent letters - Where a Tier 4 student visa holder is applying to switch into Tier 2, departments and colleges must check whether they have been sponsored during their studies. Those who have been wholly sponsored for fees and maintenance by a government or international scholarship agency will require an official letter from their sponsoring organisation(s) giving unconditional consent to remain in the UK for unlimited time. Information about any sponsorship should be provided with the CoS application so that SIT can determine whether consent letters are required. If a consent letter is required and is not provided, does not give unconditional consent, or gives consent only for a limited time, the visa application will be refused by the Home Office.

Tier 2 adverts - Please remember that if advert printouts do not clearly show the URL and date of printing they cannot be relied on and re-advertising may be required. Some internet browsers may not include the URL and date of printing by default, so you should carefully check advert printouts.

Right to work news and updates

Right to Work and the New Casual Payroll System

By April, all departments will be following the casual pay process for casual workers. As part of this process, all casual workers need a valid right to work record to be present on their CoreHR record.

Phase one of the casuals project has highlighted that there are many open casual records that don’t have a valid right to work on the system. The new process will help to address this over time. However, to reduce the time spent chasing missing information, we are asking all departments who have not already done so (with the exception of Data Service users) to take the following action:

- Run tab three of the report PERDEP41_Immigration and Right to Work with the parameter for Employee Status set to “Worker” to identify all open casual records in your department.
- Export the report to Excel and filter to identify those records that have a missing or invalid right to work entry.
- Either add the right to work record to the UDF in CorePersonnel following the guidance contained in section D1 of QRG PA11 OR end the appointment if appropriate following the guidance in section J.

Out-tutors spreadsheet can now be used to check right to work for other teaching related work, but not other types such as admin or bar work

SIT have communicated to Colleges via training that the Out-tutors spreadsheet can now be used to establish right to work for List A document holders undertaking all teaching related work, but not other types of work such as admin or bar work. The Conference of Colleges will also be communicating this to Colleges.

Do not hesitate to contact us if you have any queries

http://www.admin.ox.ac.uk/personnel/permits/
Changes to the Tier 2 minimum salary threshold

For convenience the following sections repeat the explanation of the changes and their effects that were included in the December 2016 bulletin.

SUMMARY

The Tier 2 minimum salary was increased from £20,800 p.a. to £25,000 p.a. on 24 November 2016 and has now risen again to £30,000 p.a. with effect from 6 April 2017.

These changes will not affect:
- Recruitment to roles at Grade 7 or above (as these salaries meet the thresholds);
- Existing Tier 2 visa holders, whose CoS were issued before 24 November 2016, when they apply to extend their visa; and
- New Tier 2 applicants who are aged 25 or under, or are switching into Tier 2 from a Tier 4 student visa.

But they will affect:
- New Tier 2 applicants who are aged 26 or over and are not switching from Tier 4; and
- New Tier 2 applicants taking up part-time work such that their pro-rata salary would be below the threshold, and existing Tier 2 visa holders wanting to reduce their hours.

What were the Tier 2 salary thresholds?

Under the Tier 2 requirements the applicant’s salary package must meet both the Tier 2 minimum salary threshold and the salary threshold specific to the type of work the role falls under.

The Tier 2 minimum salary threshold was £20,800 p.a. and the job specific salary threshold consisted of two levels for ‘New Entrants’ and ‘Experienced Workers’. For example, a Tier 2 research role had to meet both the £20,800 p.a. Tier 2 minimum threshold and either the ‘New Entrant’ £21,600 p.a. or ‘Experienced Worker’ £28,000 p.a. threshold, as appropriate.

‘New Entrants’ are:
- graduates switching from Tier 4 into Tier 2; and
- anyone aged 25 or under on the date of their Tier 2 visa application.

‘Experienced Workers’ are:
- anyone not switching into Tier 2 from Tier 4 and aged 26 or over when applying for a Tier 2 visa;
- anyone where a Tier 2 CoS is to be issued for longer than 3 years 1 month (even if they would otherwise be a ‘New Entrant’).

What has changed?

The Home Office split the Tier 2 minimum salary threshold into ‘New Entrant’ and ‘Experienced Worker’ levels. While the ‘New Entrant’ minimum threshold remains at £20,800 p.a. the new ‘Experienced Worker’ minimum threshold was increased to £25,000 p.a. on 24 November 2016, and has now risen to £30,000 p.a. with effect from 6 April 2017.
Changes to the Tier 2 minimum salary threshold (contd.)

What do the changes mean for existing Tier 2 visa holders?
Under transitional arrangements, existing Tier 2 visa holders whose CoS were issued before 24 November 2016 will not have to meet the new ‘Experienced Worker’ minimum salary thresholds when they apply to extend their Tier 2 visa to continue in their role or take up another role within the collegiate University which is of the same type of work.

How will the changes affect part-time working?
If a new Tier 2 applicant is to undertake part-time work, or an existing Tier 2 visa holder wants to reduce their hours, their pro-rata salary would still have to meet the Tier 2 minimum salary threshold. The new minimum threshold for ‘Experienced Workers’ of £30,000 p.a., means that part-time work will in most cases no longer be possible, unless they are a ‘New Entrant’.

What roles within the collegiate University will be most affected?

Support and Academic related roles: While few Support and Academic related roles are eligible for sponsorship under Tier 2, there are some with salaries under £30,000 p.a. From 6 April 2017 we are no longer able to sponsor Tier 2 visas for "Experienced Workers" where the salary is less than £30K.

Grade 6 Research Assistant roles: While salaries for Grade 6 Research Assistant roles will meet the thresholds for Tier 2 applicants who are ‘New Entrants’, ‘Experienced Workers’ would only meet the thresholds if appointed on the top points of the Grade 6 salary scale. As in many cases Grade 6 Research Assistant roles do not involve sufficient levels of individual/ independent research to fall under the Researcher job code, please seek advice from SIT on whether the role will be eligible for sponsorship under Tier 2.

College Junior Research Fellow (JRF) roles: In many cases housing allowances are used to supplement salaries offered for College JRF roles in order to meet the Tier 2 salary thresholds. While the ‘New Entrant’ thresholds are not changing, higher salaries and/or housing allowances may have to be offered if 'Experienced Workers' are likely to be chosen for these roles. SIT will be happy to discuss with colleges how the changes may affect JRF roles. Please note that if the salary package offered is higher than that stated in the adverts the role would have to be re-advertised to meet the Tier 2 requirements.

If you are unsure, or want to discuss the implications, of the Tier 2 minimum salary threshold changes please do not hesitate to contact SIT www.admin.ox.ac.uk/personnel/permits/

If the salary offered does not meet the relevant Tier 2 thresholds, and the chosen candidate requires a visa please contact SIT who can help explore whether they could apply under a different visa route.