



OVERVIEW OF THE POINTS BASED IMMIGRATION SYSTEM

Introduction

The United Kingdom's points-based 5 tier visa system is the main immigration route for migrants from outside the European Economic Area (EEA) to come to the UK to work, study, invest or train.

The system separates applicants into five 'tiers'. In order to be eligible for a visa in any of the five tiers the migrant must pass a points-based assessment. In work visa applications, points are generally awarded according to the applicant's ability, experience and age.

The migrant must reach a point's score above a minimum threshold if their application is to be successful. The minimum number of points required varies for each tier.

The four 'tiers' that will apply for staffing at the College are as follows:

The current categories are:

- Tier 1 (Exceptional talent) - people who are internationally recognised as world leaders or potential world-leading talent in the fields of science and the arts.
- Tier 2 - skilled workers with a job offer
- Tier 4 – students who are able to work for up to 20 hours per week in term time or 35 hours per week out of term time if they are studying towards a degree or higher qualification. All Tier 4 students are required to complete a Declaration of Working Hours form.
- Tier 5-youth mobility and temporary workers (including sponsored researchers * (Government Authorised Exchange Scheme)).

Tier 2 was launched on 27 November 2008 and required major changes to the way in which the College employs migrants. The new immigration requirements have created the need for a change in approach from all staff involved in recruitment and employment of staff. All departments need to understand their individual responsibility for compliance and that non-compliance could lead to penalties including the loss of the College's right to sponsor and employ overseas staff.

Switching tiers and applying for Indefinite leave to remain

Individuals with visas under Tiers 1, 2, and 4 will be eligible to apply for a visa under another tier once they are in the UK, if they can meet the requirements of that tier.

Those who travel to the UK under Tier 1 and Tier 2 visas (excluding Intra-Company transfers under Tier 2) may later be eligible to apply for UK permanent residence providing they meet

the permanent residence requirements at the time of their application. In 2012, the UK government introduced a minimum salary requirement. From 2016 onwards, only people who earn £35,000 or more annually will be able to apply for permanent resident status.

The Points Based System

The College has been granted a Highly Trusted Status Sponsorship Licence. The Licence allows the College to apply for individual "Certificates of Sponsorship" for prospective employees from overseas. Instead of being issued with a work permit document from the Home Office, the certificate is a virtual document with a unique identification number.

The Points Based System places an onus on the College to ensure that a migrant is suitable for a position. This will mean that we have to ensure compliance with the Resident Labour Market Test, verification of qualifications and confirmation of why a European Economic Area (EEA) national could not undertake the post. It is also the responsibility of the College to ensure that migrants will meet the requirements for entry clearance or leave to remain. When HR is satisfied that compliance has been met, an application for the Certificate of Sponsorship will be made electronically.

The application process depends on whether the migrant is coming to the UK from overseas, or whether they are already in the UK (in-country).

Points Structure

In each tier, an applicant must score a sufficient number of points to gain entry clearance or to extend his or her leave to remain in the United Kingdom.

Applicants in Tier 1 & Tier 2 are awarded points for their ability, experience and age. Points may also be awarded to an applicant when there is a skills shortage which the applicant can meet.

Applicants under Tier 4 (students) are awarded points for:

- Having a valid confirmation of acceptance for studies at a UK educational establishment
- Having an acceptable level of ability in English
- Having sufficient money to cover fees and living expenses

Tier 5 contains six different subcategories:

- Temporary worker – creative and sporting
- Temporary worker - charity worker
- Temporary worker – religious workers
- Temporary worker – government authorised exchange*
- Temporary worker – international agreement
- Temporary worker – youth mobility scheme

Those applying under the first five categories are awarded points for having a sponsor and a valid certificate of sponsorship. Sportspeople must also have a certificate from their sport's governing body certifying that they are internationally established at the highest level.

Those applying under the youth mobility scheme are awarded points if they come from certain specified countries.

- Australia
- Canada
- Japan
- Monaco
- New Zealand
- Republic of Korea
- Taiwan

They must also be between 18 and 30 years old and have at least £1,800 in cleared, available cash funds.

Overseas applicants (Restricted Certificate of Sponsorship)

For new out of country applicants and dependents of Tier 4 migrants switching into Tier 2, the College is required to submit a formal request for a restricted Certificate of Sponsorship for that post from a monthly national quota held by the UK Border Agency. If the formal request is granted, the College will be allocated a Certificate of Sponsorship which can only be issued for the specific post in question, and at the specific salary detailed in the application.

All requests for Certificates of Sponsorship for overseas applicants received by UK Visas and Immigration (UKVI) on or before the 5th of each month will be considered on the 11th of the same month.

We would advise that a Certificate of Sponsorship is applied for at least three months before the migrant is due to commence employment.

All overseas migrants who have been issued a Tier 2 Certificate of Sponsorship must obtain entry clearance/visa before arriving in the UK.

In-country applicants (Unrestricted Certificate of Sponsorship)

For in-country applicants as well as those in other immigration categories who are eligible to switch into Tier 2 (General) from within the UK, Royal Holloway holds a separate allocation of Certificates of Sponsorship which can be issued to eligible migrants. Certificates from this allocation cannot be used for applicants who are overseas.

All in-country applicants who have been issued a Tier 2 Certificate of Sponsorship must apply for leave to remain in the UK.

When a Certificate of Sponsorship has been issued, the migrant will then have to apply for entry clearance in to the UK (previously the visa entry system).

All migrants have to obtain biometric identity cards. Note that the issuing of a Certificate of Sponsorship will not automatically mean that an application for entry clearance will succeed. The UKVI will still make the final decision about who is allowed to enter the UK.

Responsibilities for Compliance

The College must comply with certain duties for all migrants including employees, students and academic visitors. The responsibility to ensure compliance will be significant and includes the following:

- Non-attendance, non-compliance or disappearance of migrants must be reported
- Identity documentation must be checked and verified on an annual basis.
- Correspondence addresses, telephone and mobile telephone numbers must be checked and verified on an annual basis.

Non-compliance could result in the College's licence being down-graded and an action plan being put in place; the licence being cancelled; civil penalties being incurred or even criminal prosecution.

Recruiting managers are therefore asked to assist the HR Department with the collation of information for the Certificate of Sponsorship and to report any non-attendance, non-compliance or disappearance of migrant employees within 10 working days.

For more information about roles and responsibilities in compliance please see the HR Website/Immigration.

Attendance Monitoring

If a member of staff Tier 2 or a Tier 5 worker does not attend for work a report must be provided to the UKBA within ten working days and must include any reason given by the migrant for the non-attendance (for example a missed flight). The focus is unauthorised absence, therefore it is imperative that HR are kept informed of sickness absence and agreed leave as well as unexpected unauthorised absence. For further information please refer to the College's Absence Management Policy and Procedure.

***Sponsored Researchers and Academic Visitors**

These categories of staff are covered by specific regulations under the new points based arrangements. For more information please see the HR Website/Immigration.

Please ensure that you liaise with HR before engaging any staff on these terms.