



**UK Immigration Advice for  
Companies and Employees  
(Sponsor Licence and Tier 2)**

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**Legal 500, 2020**



## SPONSOR LICENCE FOR EMPLOYERS

Any UK based Company (including international companies that have an overseas office, subsidiary or sister company in the UK) that wishes to sponsor a person from outside the EU / EEA and Switzerland to come and work in the UK under a Tier 2 Skilled Migrant Visa (see below) needs to have in place a Sponsor Licence.

The Company must apply for a Sponsor Licence from the UK Home Office before making any application for a Tier 2 visa. It is important to keep in mind it can take up to 2 months for the Sponsor Licence to be issued if the application is successful.

(N.B. From 1 January 2021, the rules relating to EU / EEA citizens being able to come to the UK to live and work free of immigration restrictions will end and visas for EU / EEA citizens will be required).

### Eligibility

- The Company cannot have unspent criminal convictions for immigration related offences or certain other crimes such as money laundering, or any history of failing to carry out its sponsorship duties.
- The Company will need to have appropriate systems in place to monitor sponsored employees and keep up to date personnel files, which must be kept readily available to the Home Office for inspection.
- The Company must be a lawful organisation operating in the UK.

### Information to be provided

- The exact list of documents that need to be provided with the Company Sponsor Licence application will vary and be on a case by case basis depending on the Company and its structure. However, as a general guide the following documents are likely to be required:
  - The answers to the list of 10 questions in (Appendix 3 of the Immigration Rules)
  - Organisational and Hierarchy charts of the Company
  - Corporate overview documents

- Various sets of company accounts for the UK Company and possibly any group company accounts (if applying for the Company to be able to apply for Tier 2 Intra-Company Transfer visas)
  - Company tax return (CT 600)
  - Company HMRC PAYE welcome letter
  - Company employer's liability insurance certificate
  - Company professional indemnity insurance certificate
  - Company bank statements
  - Company certificate of registration for VAT and a VAT return
  - Affidavit from a director of the Company (required for the Company to be able to apply for Tier 2 Intra-Company Transfer visas)
  - Licence agreement for the UK office premises
  - Job description / offer letter or employment contract for the proposed sponsored individual
  - Various Company and incorporation documents relating to the Company
- These documents are also required to be original documents or certified copies. The certification requirements are specific and the Home Office may reject the application if the certification of the documents is not done properly.

### Costs of making the sponsor licence application (excluding legal costs)

- The costs of applying for a sponsor licence are set out below. In addition, the costs of applying for a Tier 2 visa will vary depending on the specific circumstances but as a general guide please see below:

#### **Sponsor Licence Costs**

Sponsorship Certificate fee	£199
Sponsor Licence fee	£1,476- for medium or large sponsors £536- for small or charitable sponsors

#### **Tier 2 Costs**

Tier 2- General / ICT	£610 (for initial 3-year visa) £610 for each dependent of the main visa holder £704 for renewal of the initial visa after 3 years, the same for each dependent of the main visa holder £1,220 (for visa with more than 3 years)
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Immigration Skills Surcharge	£1,000 a year, per employee, therefore an upfront fee of £3,000 on the basis of a 3-year visa or £5,000 for a 5-year visa.
NHS Surcharge fee for each Tier 2 visa application (£400 per year) (the cost is the same for each dependent)	£1,200 (on the basis of a 3-year visa) and £2,000 on the basis of a 5-year visa.

All government fees are correct at the time of producing this note but are subject to change in April every year.

### Types of Tier 2 Visa

- General Tier 2 Visa – this can be either (1.) by way of a restricted sponsorship certificate (the employee earns under £159,600 per year and the job is not on the UK shortage occupation list or (2.) by way of an unrestricted sponsorship certificate (either the employee earns £159,600 per year or above or the job is on the UK shortage occupation list), or the employee can switch in country within the UK (switching from one visa category to another).
- Intra-Company Transfer Tier 2 Visa– for employees working for a foreign company outside the UK, who wish to move to an overseas office, subsidiary or sister company of that foreign Company in the UK.
- It is important to know what type of Tier 2 Visa the Company is seeking (either General or ICT) as this information needs to be included on the Sponsor Licence application.

### Key Personnel

- The Company will need to appoint people within the UK Company to run and manage the Sponsor Licence and all employees who are sponsored by the company. These persons are as follows:
  - **Authorising Officer** – responsible for the actions of the Company in relation to the Sponsor Licence and any Tier 2 applications
  - **Key Contact** – point of contact for the UK Home Office
  - **Level 1 User** – responsible for the day to day management of the licence using the Sponsor Management System
- It is possible for the same person to be appointed to fulfil all three roles.
- These persons must be permanently based in the UK, have no criminal convictions and should normally be employees of the Company.

### Rejected Applications

- If the Company's application for a sponsor licence is rejected there is normally a cooling off period of six months before the company is able to make a renewed application.

## Successful Applications

- If the Company's application is successful, the authorising officer will be sent a letter containing a code, which the authorising officer passes to the Level 1 user, so the Level 1 user can access the Sponsor Management System.
- The Level 1 User is the only person who is allowed to access the online sponsor management system. The level 1 User uses the SMS system to apply for a Sponsorship Certificate for the employee they want to sponsor. Only once the sponsorship certificate has been granted, can the Tier 2 visa application proceed.
- With restricted sponsorship certificates the Government hold a monthly ballot on the 11<sup>th</sup> day of each month to allot restricted sponsorship certificates. Only when the Company has been successful in the monthly ballot and received an allocation for a restricted sponsorship certificate, can the Company proceed to assign the sponsorship certificate to an employee and proceed to make a Tier 2 general visa application.
- Unrestricted sponsorship certificates are not subject to the monthly government ballot process.





## TIER 2 - General Visa

In order to be able to apply for a Tier 2 general visa, the Company wanting to sponsor an employee will need to have in place a Sponsor Licence. The UK government publish a full list of all businesses and organisations in the UK that are authorised to hold a sponsor licence.

This visa is for foreign individuals who have been offered a skilled job in the UK.

### Restricted or Unrestricted Sponsorship Certificates

- In order to qualify for an unrestricted sponsorship certificate, the individual must be paid a minimum of £159,600 per year or the job must be on the UK shortage occupation list, which is available on the government website. Qualification for an unrestricted sponsorship certificate also applies in the situation where an employee is switching in country within the UK (switching from one visa category to another).
- An individual will fall within the restricted sponsorship certificate category where they are to be paid less than £159,600 per year or the job is not on the UK shortage occupation list.
- A person applying for a Tier 2 general visa cannot own more than 10% of the sponsoring Company's shares unless they earn more than £159,600 per year.

### Tier 2 General Resident Labour Market Test

- In the case of a restricted sponsorship certificate, the company must advertise the role to UK employees. This is known as the resident labour market test.
- The advertisement must last for a minimum of 28 days and be advertised on at least two job recruitment sites (one of them being the government website Find a Job) and the Company will need to be able to show that they could not find a suitable employee already in the UK to fill the role.
- The advertisement ensures that there are no suitable indigenous employees already living in the UK with the skills to do the job being advertised and that it is a genuine job vacancy. Therefore, it is important that the employee has a specific and sought-after skill set, if the visa being applied for is linked to a restricted sponsorship certificate.

## Eligibility and Application

- The employee will need to do the following:
  - Show they are being paid an appropriate level of salary for the role.
  - Either pass an approved English language test with at least CEFR level B1 in reading, writing, speaking and listening or have an academic qualification that was taught in English and is recognised by UK NARIC as being equivalent to a UK bachelor's degree, master's degree or PhD.
  - Have at least £945 in cash funds available for a period of 90 days before the application is submitted, unless the company is prepared to guarantee the employee's maintenance.
  - Show their travel history for the past five years.
  - Test negative for a tuberculosis test if the employee is from a listed country.
  - Provide a criminal record certificate from any country they have lived in for 12 months or more in the last 10 years, if they will be working with vulnerable people.
- The employee will need to provide documentation to evidence the above.
- The employee will need to provide a valid certificate of sponsorship with the application.

## Costs (excluding legal fees)

- The costs of applying for a general Tier 2 visa will vary depending on the specific circumstances but as a general guide please see below.

	Up to 3 years	More than 3 years
Application Fee	£610	£1,220
Dependants	£610 per person	£1,220 per person

- **Shortage occupation**

	Up to 3 years	More than 3 years
Application Fee	£464	£928
Dependants	£464 per person	£928 per person

- There will also be a healthcare surcharge of £400 per year for each year of the visa and an immigration skills surcharge of £1,000 per year for each year of the visa. The healthcare surcharge also applies to all dependents of the main visa holder.



## Timeframe

- The Home Office will review the application and make a decision in approximately 3 weeks.
- It is possible to get a priority service if this service is available in the country the employee is applying from. A decision will then be made within five working days. There will be additional costs for using the priority service.
- The employee can stay in the UK for a maximum of five years and 14 days under the General Tier 2 Visa or the length of time the employee's visa allows if shorter.
- The Tier 2 general visa does lead to settlement and the employee can make an application for indefinite leave to remain (permanent residence) in the UK, after completing 5 years on this visa.
- Permanent residence can be applied for, as long as the employee has not spent more than 180 days per year outside the UK during the 5 years of the visa.
- If the employee's ultimate goal is to naturalise to become a British Citizen, after achieving permanent residence, the employee must not have been (1.) outside the UK for more than 450 days in aggregate over the 5 year life of the visa and (2.) in the 12 months after achieving permanent residence the employee must not have been outside the UK for more than 90 days.

## Extensions

- If an employee wants to extend their current visa, they must apply to do this before their current visa expires.
- The employee must have the same job as the one they obtained under the original visa, they must still earn an appropriate salary and already be the UK. Any dependants should also be in the UK, including children who have turned 18 during the period of the original visa.
- The applicant will have to provide biometric information with the application.
- The cost to extend a General Tier 2 Visa will vary depending on the specific circumstances but as a general guide please see below.

	Up to 3 years	More than 3 years
Application Fee	£704	£1,408
Dependants	£704 per person	£1,408 per person

### ➤ Shortage occupation

	Up to 3 years	More than 3 years
Application Fee	£464	£928
Dependants	£464 per person	£928 per person

- As with the original application, a employee will also have to pay the healthcare surcharge and immigration skills surcharge. All dependents of the main visa holder will also have to pay the healthcare surcharge.
- The Home Office will make a decision on an extension application in around eight weeks. The priority service is available for an additional cost.

All government fees are correct at the time of producing this note but are subject to change in April every year.





## TIER 2 – Intra-Company Transfer Visa

In order to be able to apply for a Tier 2 Intra-Company Transfer visa (ICT), the Company wanting to sponsor an employee will need to have in place a Sponsor Licence.

This visa is for persons who already work for a company outside the UK but wish to come and work in the overseas office, subsidiary or sister company of that company in the UK.

### Types of Intra-Company Transfer Visa

- There are two main types of ICT Visa:
  - Long-term staff where an employee has previously worked for the overseas Company and the employee is transferring to the UK office, subsidiary or sister company in the UK. The employee will need to have worked for a foreign branch of the Company for either 12 months or more or be paid a minimum salary of £73,900 per year in the UK role to be able to come to the UK on an ICT visa. They will need to provide documents to prove this.
  - Graduate trainee where the person is a recent graduate and has at least three months' experience with the Company outside of the UK.

### Eligibility

- Similar, to the General Tier 2 Visa, the employee will need to do the following:
  - Show they are being paid at least £41,500 per year for long-term staff, or £23,000 per year for graduate trainees.
  - Have at least £945 cash funds available for a period of 90 days before the application is submitted, unless the company is prepared to guarantee the employee's maintenance.
  - Show their travel history for the past five years.
  - Test negative for a tuberculosis test if the employee is from a listed country.

- Show they have worked for the Company outside the UK for the required period of time.
- The employee will need to provide documentation to evidence the above.
- The employee will need to provide a valid certificate of sponsorship with the application.

### Costs (excluding legal fees)

- The costs of an intra-company transfer visa will vary depending on the specific circumstances but as a general guide please see below:

- **Graduate Trainee**

Application Fee	£482
Dependants	£482 per person

- **Long-term Staff**

	Up to 3 years	More than 3 years
Application Fee	£610	£1,220
Dependants	£610 per person	£1,220 per person

- There will also be a healthcare surcharge of £400 per year for each year of the visa and an immigration skills surcharge of £1,000 per year for each year of the visa. The healthcare surcharge also applies to all dependents of the main visa holder.

### Timeframe

- The Home Office will make a decision on an application in around three weeks.
- It is possible to get a priority service if this service is available in the country the employee is applying from. A decision will then be made within five working days. There will be additional costs for using the priority service.
- The employee can stay in the UK for:
  - 12 months (graduate trainee)
  - 9 years (long term staff earning more than £120,000 per year)
  - 5 years and 1 month (long term staff earning less than £120,000 per year)

or for the amount of time given on their certificate of sponsorship if shorter.

## Extensions

- If an employee wants to extend their current visa they must apply to do this before their current visa expires.
- The employee must have the same or a similar job to the one they obtained under the original visa, still work for the same Company, still earn an appropriate salary and already be in the UK. Any dependants should also be in the UK, including children who have turned 18 during the period of the original visa.
- Long term staff can have their visa extended for the time given on the certificate of sponsorship plus five days, the maximum time allowed in this category is five years (nine years if the employee earns more than £120,000 per year).
- Graduate trainees can extend their visa by up to 12 months if the original visa was for less than 12 months.
- The cost to extend an intra-company transfer visa will vary depending on the specific circumstances but as a general guide please see below:

	Up to 3 years	More than 3 years
Extension	£704	£1,408
Dependants	£704 per person	£1,408 per person
Biometrics	£19.20	£19.20

- As with the original application, an employee will also have to pay the healthcare surcharge and immigration skills surcharge. All dependents of the main visa holder will also have to pay the healthcare surcharge.
- The Home Office will make a decision on an application in around three weeks.
- It is very important to note that a Tier 2 Intra-Company Transfer visa never leads to settlement in the UK.

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