



Home Office

**UK Border
Agency**

**TIER 1
(GENERAL)**

Tier 1 (General) of the Points Based System – Policy Guidance

This guidance
is to be used
for applications
made on or after
6 April 2010

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INTRODUCTION

1. This document provides policy guidance on Tier 1 (General) of the points based system. Please note that it reflects policy at the time of publication and is subject to change. For the purpose of these guidance notes, the terms 'we', 'us' and 'our' refer to the UK Border Agency. It should be read in conjunction with the relevant paragraphs of the Immigration Rules.

2. An applicant making an application from outside the United Kingdom for entry clearance should go to the International Group website (formerly known as UK Visas) at <http://www.ukvisas.gov.uk/en/howtoapply/vafs>, where he/she can find the forms and more information on how to fill them in.

3. An applicant making an application from inside the United Kingdom for an initial grant of leave or an extension of his/her existing leave under Tier 1 (General) should go to our website to find the application form at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1general>

4. Applicants in all the points based system categories will be subject to General Grounds for Refusal. This means that even if the applicant qualifies under the specific category of the Rules under which he/she is applying to come here, there may be other reasons (such as his/her previous immigration history) that may lead to the application being refused. Further information on General Grounds for Refusal is available on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDs/idischapter9/>

5. Please be advised that you should not make plans to travel outside of the Common travel Area whilst your application is under consideration. Where you travel prior to a decision being reached on your application, your application will be treated as being withdrawn in accordance with Paragraph 34J of the Immigration Rules.

6. Please be advised that notification of our decision and any documents that you have submitted in support of your application will usually be returned by Royal Mail Recorded Delivery. If you require your documents to be returned by Royal Mail Special Delivery you must provide a pre-paid Special Delivery envelope of a sufficient size to return all your documentation with your application.

GENERAL GUIDANCE FOR APPLICANTS TO THE POINTS BASED SYSTEM

Self-assessment

7. We have a points based calculator that enables an applicant to self-assess whether he/she is likely to score enough points for his/her application to succeed.

8. The points based calculator is on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>

9. An applicant can enter details of his/her age, qualifications, previous earnings and experience in the United Kingdom. The points based calculator then calculates the points we may award for the attributes (main requirements) section of the points assessment. The applicant can also then enter details of his/her English language ability and whether he/she has enough money to support himself/herself in the United Kingdom.

10. The points based calculator will provide a summary of the information an applicant enters, the points awarded for each section and the overall score.

11. Under Tier 1 (General), an applicant must score:

- at least 75 points for attributes (Appendix A of the Immigration Rules); and
- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for maintenance (funds available) (Appendix C of the Immigration Rules).

12. The results of the points based calculator show the possible points an applicant might score and do not guarantee the application will be successful. We make a decision after receiving the full application and the evidence to support it.

Documents we require

13. The applicant must ensure he/she provides all of the necessary supporting documents at the time he/she sends us the application. We will only accept the documents specified in this guidance.

14. If the applicant does not provide the specified documents, we will not contact him/her to ask for them. Therefore, if the applicant fails to send the correct documents we may refuse the application.

15. Any documentary evidence that the applicant provides must be the original (not a copy) unless we say otherwise.

16. Where a document is not in English or Welsh, the original must be accompanied by a fully certified translation by a professional translator. This translation must include details of the translator's credentials and confirmation that it is an accurate translation of the original document. It must also be dated and include the original signature of the translator.

17. We only need evidence that is directly relevant to the application, as set out in this guidance. We will not consider unrelated evidence when calculating the points score.

Verification and other checks

18. We aim to consider applications quickly. However, we must also be confident that applications meet the requirements of the Immigration Rules, and that the information an applicant provides is a true reflection of his/her background.

19. We will ask for a variety of verifiable documents to enable us to consider the application.

20. We may want to check the supporting documents an applicant sends with his/her application. Therefore, he/she must ensure that all the evidence comes from a source that can be clearly identified and that it can be independently confirmed as being genuine.

21. There are two situations in which we will undertake a check:

- **Verification checks** – where we have reasonable doubts that the documents are genuine; or
- **Other checks** – where we carry out further checks, for example, where we have doubts about an application or the documents sent with the application but the doubts are not serious enough for us to make a verification check.

Verification checks

22. Where we have **reasonable doubts** that a specified document is genuine we may want to verify the document with an independent person or government agency.

23. The purpose of these checks is to ensure that the document provided is genuine and accurately reflects statements made in the application. If the document is being used as evidence to score points, we also want to ensure that it entitles the applicant to claim those points.

24. Verification may delay our decision on an application so we will only do it when there are clear reasons for it.

Reasonable doubt

25. There are many reasons why we may doubt that a specified document is genuine and what we consider to be a reasonable doubt will depend on an individual application. However, our judgments will be based on the facts we have.

Outcome of verification check

26. There are three possible outcomes of a verification check:

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.

- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document. Where we confirm that a document is false it will be retained by the UK Border Agency and is likely to jeopardise any future application.

- **Verification check inconclusive.** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If the applicant has sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If the applicant has not sent any other documents, we will award zero points in that area.

Refusing applications without making verification checks

27. We may refuse an application without making verification checks in two circumstances:

- Where we are concerned about a piece of evidence but would in any event refuse the application for other reasons, those reasons will form the basis of the refusal. We will not make verification checks in these circumstances. However, we will always verify passports if we doubt they are genuine.
- Where there is evidence that proves a particular document is false. If we can confirm that a document is false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds

available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document.

Other checks

28. We will make other checks where, for example we have doubts about an application or the documents sent with the application but these are not serious enough for us to make a verification check.

29. These checks may delay our decision on an application so we will only make them when we have clear reasons to do so.

Extra checks

30. Sometimes we will have suspicions about a document, but they will not be enough to make us doubt that it is genuine. For example, this may be because previous verification checks have found that some supporting evidence is invalid and some is genuine, or where evidence provided contradicts information we already have. In these cases, we may carry out more checks.

Outcome of other checks

31. There are four possible outcomes of these checks:

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because

he/she has sent a false document. Where we confirm that a document is false it will be retained by the UK Border Agency and is likely to jeopardise any future application.

- **Check inconclusive.** If we cannot verify that the document is either genuine or false then we will consider the application as if the document is genuine.
- **Check gives us cause to have reasonable doubt about the genuineness of a specified document.** If we cannot verify that the document is either genuine or false but as a result of the checks we find other reasons to doubt the genuineness of a particular specified document, we may decide to make a verification check.

Procedure for verification and other checks

32. The procedures for both verification checks and other checks will usually be similar and will vary from case-to-case, but they may involve:

- checking the details or genuineness of documents with employers, the relevant embassy or high commission, other government departments (in the United Kingdom and overseas); and
- checking the accuracy and authenticity of documents with banks, universities and professional bodies.

Standard procedure

33. We will use a standard form to record the results of our enquiries, to ensure that we record any feedback consistently.

34. If we cannot obtain an immediate answer to enquiries, we will normally wait for up to a maximum of four weeks for the necessary information.

35. If we make checks on an applicant who is self-employed we will try to establish the business presence, for example by checking business and/or tax registration.

36. Our compliance team may visit the applicant's employer or educational institution (if the applicant is a student) before we make a decision on the application.

Additional evidence for sponsored students

37. For the purposes of this section of the guidance, 'sponsored' means 'wholly supported by an award that covers both fees and living costs'.

38. An applicant who has had permission to be in the United Kingdom in one of the following categories, within the last 12 months, may have been sponsored in his/her studies by a Government or an international scholarship agency:

- student; or
- Tier 4; or
- student nurse; or
- student re-sitting an examination; or
- student writing up a thesis; or
- postgraduate doctor or dentist.

39. If the applicant is currently sponsored by a Government or an international scholarship agency, or such sponsorship ended within the past 12 months of this application being made, the applicant must provide us with the sponsor's unconditional consent in writing to us, giving the applicant permission to remain in or re-enter the United Kingdom. If the sponsor does not give unconditional consent or gives permission for a limited time, we will refuse the application.

40. The evidence must be original, on the official letter-headed paper or stationery of the organisation and have the official stamp of that organisation. It must have been issued by an authorised official of that organisation.

41. If an applicant has received private sponsorship during his/her studies (for example from an employer or relative), we do not require the sponsor's consent.

42. For more advice on sponsored students, see **chapter 3, section 3** of the Immigration Directorate Instructions, which you can find on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter3/>

Administrative review (entry clearance applications only)

43. If we refuse an application for entry clearance and the applicant thinks that a mistake has been made, the applicant can ask us to check our decision. This is known as an 'administrative review'. Full guidance on administrative reviews can be found at **Annex C** below. Please note, applicants who are already in the United Kingdom cannot apply for an administrative review.

Appeal Rights (in-country applications)

44. If we refuse an application for leave to remain and the applicant thinks that a mistake has been made, the applicant may be able to appeal against our decision. Details on how and if an applicant can appeal against our decision will be included with his/her reasons for refusal letter.

Date of application

45. The date of application will be taken to be the following:

For applications made in the UK:

- Where the application form is sent by post, the date of posting; or
- Where the application form is sent by courier, the date on which it is delivered to the UK Border Agency of the Home Office; or
- Where the application form is submitted in person at a Public Enquiry Office, the date on which the application and associated payment is accepted.

For applications made outside the UK:

- The date that the fee associated with the application is paid. This means the date shown on your payment receipt, which depends on how you paid for your visa application, for example, at a British Diplomatic Post, visa application centre or online

TIER 1 (GENERAL) OVERVIEW OF TERMS AND CONDITIONS

46. The following table explains some of the key features of Tier 1 (General). Full details of the requirements are at paragraph 245C to 245E of the Immigration Rules.

<p>Description of category:</p>	<p>The Tier 1 (General) category is aimed at migrants who wish to engage in highly skilled employment in the UK.</p> <p>Successful applicants will be free to seek employment without having a sponsor or to take up self-employment/business opportunities in the UK.</p>
<p>Periods of grant:</p> <p>Entry Clearance and Leave to Remain where previous grant of leave was not as a Tier 1 (General) participant (switching)</p> <p>Leave to Remain (Extension) where previous grant of leave was as a Tier 1 (General) Migrant under the Rules in place before 6 April 2010</p> <p>Leave to Remain (Extension) where previous grant of leave was as a Highly Skilled Migrant Programme participant, Writer, Composer or Artist, Innovator, Self Employed Lawyer or a Tier 1 (General) migrant under the Rules in place after 5 April 2010</p>	<p>For a period of 2 years</p> <p>For a period of 2 years</p> <p>For a period of 3 years</p>

Indefinite Leave to Remain	<p>The applicant must have spent a continuous period of five years lawfully in the United Kingdom, of which the most recent period must have been spent with permission to stay as a Tier 1 (General) migrant. The rest of this period may be made up of permission to stay as:</p> <ul style="list-style-type: none">• Tier 1 (General) Migrant;• Tier 2 Migrant;• Highly Skilled Migrant Programme participant;• Work Permit Holder;• Innovator;• Self-Employed Lawyer;• Writer, Composer or Artist. <p>Full requirements for a grant of indefinite leave to remain under Tier 1 (General) may be found at paragraph 245E of the Immigration Rules.</p>
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Switching into the Tier 1 (General) route

Switching is permitted by applicants who have, or were last granted, leave as :

- a Highly Skilled Migrant;
- an Innovator;
- a Participant in the Fresh Talent: Working in Scotland Scheme;
- a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme);
- a Postgraduate Doctor or Dentist;
- a Student;
- a Student Nurse;
- a Student Re-Sitting an Examination;
- a Student Writing-Up a Thesis;
- a Work Permit Holder;
- a Businessperson;
- a Dependant partner of a Tier 4 migrant;
- a Self-Employed Lawyer;
- a Writer, Composer or Artist;
- a Tier 1 (Entrepreneur) Migrant;
- a Tier 1 (Investor) Migrant;
- a Tier 1 (Post-Study Work) Migrant;
- a Tier 2 Migrant; or
- a Tier 4 Migrant.

<p>Conditions applying to applicants</p>	<p>Entry clearance or leave to remain under this route will be subject to the following conditions:</p> <ul style="list-style-type: none"> (i) no recourse to public funds, (ii) registration with the police, if this is required by paragraph 326 of the Immigration Rules, and (iii) no Employment as a Doctor or Dentist in Training, unless the applicant ; <ul style="list-style-type: none"> a) has obtained a primary degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or b) is applying for leave to remain and has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to a condition restricting their employment, whether that is employment as a Doctor or Dentist in Training or otherwise, and has been employed during that leave as a Doctor or Dentist in Training. iv) No employment as a professional sportsperson (including sports coach).
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47. All applicants wanting to travel to the United Kingdom under Tier 1 (General) of the points based system will need prior entry clearance.

48. Applicants who are currently working as a 'Doctor or Dentist in Training' **must** provide the documents specified in Annex D of this guidance. Where an applicant does not include all of the requested information, any grant of leave will be subject to the condition prohibiting employment as a 'Doctor or Dentist in Training'

TIER 1 (GENERAL) - POINTS SCORING

Points scoring requirements

49. In order to obtain entry clearance or leave to remain within Tier 1 (General) an applicant must score enough points and send supporting evidence where appropriate.

50. Under Tier 1 (General), an applicant must score:

- at least 75 points for attributes (Appendix A of the Immigration Rules); and
- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for maintenance (funds) (Appendix C of the Immigration Rules).

51. The points available are:

Attributes: pass mark = 75 Points	Points
For each of the following:	
• Qualifying MBA under the transitional arrangements	75
Qualifications	
• (Initial applications):	30-45
• (Extension applications):	30-50
Previous Earnings	
• (Initial applications):	5-75*
• (Extension applications):	5-75*
• UK Experience;	5
• Age;	5-20
Please see relevant section below for further details.	
English Language: pass mark = 10	

Evidence to prove that the applicant speaks English to the required standard and meets the requirements of this guidance. Please see relevant section below for further details.	10
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Maintenance: pass mark = 10

Evidence to establish that the applicant holds a specified level of funds (£800 for in-country applicants; £2,800 for out of country applicants) to support him or herself in the UK. Please see relevant section below for further details.	10
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* Please note that this table indicates the maximum range of points for each section. For a detailed breakdown of what points are relevant to you, please see the individual tables for each attribute.

52. All the requirements of the Immigration Rules must also be met.

Transitional arrangements for applicants who may be affected by the Tier 1 (General) rules changes

53. Tier 1 (General) of the points based system has been implemented in a phased manner:

- On 29 February 2008, Tier 1 (General) was introduced in the UK and the Immigration Rules for leave to remain as a highly skilled migrant were deleted;
- On 1 April 2008, Tier 1 (General) was introduced in India and the Immigration Rules for entry clearance as a highly skilled migrant in respect of applications made in India, were deleted;
- On 30 June 2008, Tier 1 (General) was introduced throughout the rest of the world, and the remaining Immigration Rules for entry clearance as a highly skilled migrant, were deleted.

54. The above changes have had the following impact:

Applications for highly skilled migrant programme (HSMP) approval letters

- In-country applications for HSMP approval letters made on or before 28 February 2008 will be processed;
- In-country applications for HSMP approval letters made on or after 29 February 2008 will not be processed and will be returned;
- Applications for HSMP approval letters, from India, made on or before 31 March 2008 will be processed;
- Applications for HSMP approval letters, from India, made on or after 1 April 2008 will not be processed and will be returned;
- Applications for HSMP approval letters, from any country other than India or the United Kingdom, on or before 29 June 2008 will be processed;
- Applications for HSMP approval letters made on or after 30 June 2008 will not be processed and will be returned.

Transitional arrangements for applicants under Tier 1 (General) with a valid Highly Skilled Migrant Programme (HSMP) approval letter

55. Arrangements have been put in place for individuals who:

- On 29 February 2008 have already applied for/obtained an HSMP approval letter but have yet to apply for leave to remain as a highly skilled migrant;
- On 1 April 2008 have already applied for an HSMP approval letter but have yet to apply for entry clearance as a highly skilled migrant (applications from India only); or
- On 30 June 2008 have already applied for an HSMP approval letter from a country other than India or the United Kingdom but have yet to apply for entry clearance as a highly skilled migrant.

56. Applicants who have a valid HSMP approval letter and apply under these arrangements will not need to complete the 'Attributes' or the English language sections of the application form. Points for attributes and for English language will be awarded automatically on the strength of the valid HSMP approval letter.

57. Such applicants must however continue to complete all other appropriate sections of the relevant application form, including the Maintenance (funds) section of the form.

58. Such applicants will be charged a reduced Tier 1 (General) fee for their application.

59. Please note that HSMP approval letters are valid for a period of six months from the date of issue.

ATTRIBUTES

MBA Transitional arrangements

60. Applicants who have enrolled on an eligible MBA programme before 30 June 2008 and have completed the MBA within the 12 months prior to making his/her application may claim 75 points for “Attributes”. Please see Annex C of this guidance for further information. Please note that the points based calculator is not currently able to assess applications made under the MBA provisions.

Age

61. Please refer to Appendix A Table 4 and paragraph 31 of the Immigration Rules.

62. This assessment is intended to recognise that it is more difficult for a highly skilled young graduate to score maximum points in the previous earnings category, compared to an older counterpart with the same level of skills. There is a greater potential for young highly skilled individuals to be active in the labour market for longer than their older counterparts. The age assessment involves the award of points depending on age.

Claiming Points – Initial Applications only

63. Applicants can claim points if they are under 32 years of age at the date of their application.

64. Points available are as follows:

- Under 30 years of age: 20 points
- 30-34 years of age: 10 points
- 35-39 years of age: 5 points

65. The points can be claimed provided the applicant falls within the particular age band indicated above, **on the date of their application.**

66. Points can only be awarded where the specified documentary evidence of the applicant’s age has been supplied.

Claiming Points – Extension Applications only

67. Applicants should note that the available points for age differ at extension stage depending on what date you first successfully applied under Tier 1 (General) or the Highly Skilled Migrant Programme (HSMP)

Extension Applications – where an applicant has, or last had leave as a self-employed lawyer and writers, composers and artists or as a Tier 1 (General) Migrant under the Rules in place before 6 April 2010

68. An applicant who is already in the United Kingdom under the self-employed lawyers concession, writers, composers and artists or the Tier 1 (General), provisions of the Immigration Rules and is using the extension requirements of Tier 1 (General) can claim points as follows:

- Under 31 years of age: 20 points
- 31 or 32 years of age: 10 points
- 33 or 34 years of age: 5 points

69. To claim these points, applicants must fall within the age bands specified **on the date of their application.**

Extensions Applications – Highly Skilled Migrants

70. If an applicant is currently in the United Kingdom as a Highly Skilled Migrant and is therefore applying using the extension requirements of Tier 1 (General), they can claim the following points on the basis of their age:

- Under 30 years of age: 20 points
- 30 or 31 years of age: 10 points
- 32 or 33 years of age: 5 points

71. To claim these points, applicants must fall within the age bands specified **on the date of their application.**

Extension Applications-Tier 1 (General) Migrants where the applicants initial period of leave was granted under the Rules in place after 5 April 2010.

72. An applicant who is already in the United Kingdom under Tier 1 (General) where their initial grant of leave in this capacity was granted under the Rules in place after 5 April 2010 and is using the extension requirements of Tier 1 (General) can claim points as follows:

- Under 32 years of age: 20 points
- 32 to 36 years of age: 10 points
- 37 to 41 years of age: 5 points

73. To claim these points, applicants must fall within the age bands specified **on the date of their application.**

Documents Required – All Applications

74. Paragraph 245AA of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

- i) Current valid original passport/travel document. Where an applicant is unable to submit their current original passport/travel document at the time of the application, full reasons must be provided under the 'Passport Information' section of the application form. Where the passport has been lost or stolen a police crime report/number must be provided along with details of the police station the loss was reported to and the date it was reported.

The only exceptional circumstances in which alternative specified documents may be provided are where the applicant's current passport/travel document has been:

- Lost;
- Stolen;

- Expired and returned to issuing Government;
- Submitted to another department of the Agency.

In the exceptional circumstances outlined above, the alternative specified documents are as follows:

- ii) Valid national identity document

or

- iii) Valid United Kingdom driving licence

Qualifications

75. An applicant can claim points according to the level of the qualification he/she has. Please refer to Table 1 and paragraphs 4-7 of Appendix A of the Immigration Rules.

Claiming points – Initial applications

76. An applicant can score the following points for a qualification:

- PhD* 45 points
- Master's degree* 35 points
- Bachelor's degree* 30 points

(*or equivalent vocational or professional qualification)

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 31 March 2009

77. An applicant can score the following points for qualification:

- PhD* 50 points
- Master's degree* 35 points
- Bachelor's degree* 30 points

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010.

- PhD* 50 points
- Master's degree* 35 points

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) migrant under the Rules in place after 5 April 2010.

- PhD* 45 points
- Master's degree* 35 points
- Bachelor's degree* 30 points

(*or equivalent vocational or professional qualification)

78. An applicant can only score points for one qualification.

79. To score the relevant points, the academic qualification must meet, or exceed, the recognised standard of a United Kingdom bachelor's, master's or PhD, as verified by the National Academic Recognition Information Centre for the United Kingdom (UK NARIC). Points can also be awarded for vocational and professional qualifications where they are at least equivalent to one of the levels set out above providing that they can be verified either through UK NARIC or by the appropriate UK professional body.

80. Points can only be awarded if we receive the specified documentary evidence of the applicant's qualification. More information on this is contained in the section below .

81. There may be a very small number of applicants who are currently in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme and whose qualification has previously been assessed to be of a higher level than shown by the Tier 1 (General) points based calculator.

These applicants may claim the higher points score, in line with the previous assessment, provided they are using the same qualification as used in their initial application. Appendix A paragraph 7 of the Immigration Rules gives more details.

82. An applicant who is not sure what points he/she was previously awarded under the HSMP should contact the Customer Contact Centre on 0114 207 4074.

83. In these cases, we will refer to our records. We will only be able to award a higher points score where each of the following requirements is met:

- the applicant is currently in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme;
- the applicant is relying on the same qualification for which we previously awarded points in this area;
- the earlier assessment of the qualification confirmed that it was equivalent to a higher level of qualification than is now shown by the points based calculator; and
- there is no evidence that the applicant used deception to obtain the earlier decision.

How qualifications are assessed

84. We will always assess the qualifications an applicant uses by referring to the points based calculator on our website. The calculator contains information from UK NARIC on the equivalency of overseas qualifications.

85. UK NARIC is a private company that specialises in comparing overseas qualifications to United Kingdom academic levels. An applicant should claim points if the points based calculator confirms that the qualification used meets or exceeds the recognised standard of a Master's degree or a PhD in the United Kingdom and for extension applications the recognised standard of a Bachelor's degree.

Checking qualifications

86. An applicant should check the level of his/her qualification by using the points based calculator which is on our website at: www.ukba.homeoffice.gov.uk.

87. For academic qualifications, if the applicant cannot find details of his/her qualification on the points based calculator, he/she may still wish to claim points for it. If so, he/she should contact UK NARIC directly for an assessment of the level of the qualification and, if UK NARIC confirms it is of the required level, obtain a letter and/or confirmation certificate from UK NARIC. Contact details for UK NARIC are on its website at <http://www.naric.org.uk>. UK NARIC may charge a fee for confirming qualifications.

88. If UK NARIC cannot confirm these details, we will not award points for the academic qualification. In this case, an applicant may wish to use an alternative qualification if he/she has one.

89. For professional/vocational qualifications, where the applicant is unable to find details of his/her qualification on the points based calculator, he/she may still wish to claim points for the qualification in question. In these circumstances the applicant should obtain written confirmation from the appropriate UK professional body of the qualification's equivalence to UK academic levels. Please note the alternative evidence will only be accepted where UK NARIC have made no assessment. If UK NARIC have assessed the qualification, we will use that assessment in scoring the application and disregard any evidence supplied from the professional body.

Documents required – all applications

90. An applicant who has previously been given permission to stay in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme, and previously scored points for the same qualification for which he/she wishes to claim points in his/her current application, does not need to send evidence of his/her qualification again.

91. Paragraph 245AA of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

i) Original certificate of award of the qualification. This document must be the original (not a copy) and must clearly show the:

- applicant's name;
- title of the award;
- date of the award; and
- name of the awarding institution.

We will not accept original **provisional** certificates.

92. The original certificate of award must always be provided unless the applicant is awaiting graduation having successfully completed their degree or the applicant no longer has the certificate and the institution who issued the certificate is unable to produce a replacement. In which case he/she should send:

ii) An original academic reference from the institution that is awarding the degree together with an original academic transcript.

93. If the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement, he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

94. The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

- applicant's name;
- title of award;

- date of award, confirming that it has been/ will be awarded; and
- either the date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to re-issue the original certificate or award.

The academic transcript must be on the institution's official paper and must show the:

- applicant's name;
- name of the academic institution;
- course title; and
- confirmation of the award.

95. If the applicant cannot provide his/her original certificate for one of the reasons given above and is claiming points for a qualification with a significant research bias (frequently doctorates) he/she may not be able to provide an academic transcript. In these cases we will accept an academic reference alone. The academic reference must include all the information detailed above.

Additional documents required for qualifications that cannot be found on the points based calculator.

96. Where an applicant cannot find details of his/her academic qualification on the point-based calculator, he/she must, in addition to the document or documents listed above, submit an original letter/certificate from UK NARIC confirming the equivalency of the level of his/her qualification.

97. Where an applicant cannot find details of his/her professional/vocational qualification on the points based calculator, he/she should, in addition to the document or documents listed above, submit an original letter from the appropriate UK professional body confirming the equivalence to UK academic levels of his/her qualification. This must clearly show:

- the name of the qualification, including the country and awarding body; and

- confirmation of which UK academic level this qualification is equivalent to.

Previous earnings

98. Further information can be found in Appendix A of the Immigration Rules (table 2 and paragraphs 8 -23).

Earnings period we will assess

99. An applicant can claim points for the earnings he/she has previously made for his/her work.

100. The applicant can claim points for previous earnings in any single, consecutive 12-month period during the 15 months immediately before the date of applying. An applicant may claim points for a 12-month period of earnings outside of this 15 months if they can show that he/she has been:

- away from the workplace for a time during the last 12 months because of a period of maternity or adoption-related absence.

101. All the periods we specify are calendar months (for example 14 January – 13 February).

102. If an applicant claims for a period of earnings that is more than 12 months we will assess the most recent period of 12 months for which he/she has provided evidence.

103. Additionally, we will not consider evidence of earnings from a period outside the 15 months immediately before the application, except when an applicant is claiming a period of absence for maternity or adoption-related absence.

104. An applicant does not have to be in continuous or full-time employment during the 12 months being assessed.

105. An applicant may claim for a period of earnings of less than 12 months if they have earned sufficient funds to claim the necessary points.

106. We will only consider actual earnings. We will never consider earnings claimed on a **pro rata** basis (for example when the applicant has worked part-time and tries to claim for what he/she might have earned if the work had been full-time).

Maternity or adoption-related absence

107. The provision for maternity or adoption-related absence is designed to allow an applicant to claim points for previous earnings under Tier 1 (General) if he/she has been unable to earn during the 12 months before the application because of a period of maternity or adoption-related absence from the workplace.

108. This rule allows an applicant to claim previous earnings for 12 months of the most recent 15-month period in which he/she has been working, not counting the period of maternity or adoption-related absence.

For example: An applicant has been working for four months, takes a period of maternity or adoption-related absence for 12 months, then returns to work for eight months before applying. In these circumstances we would consider the combined periods of four and eight months during which the applicant worked, but would not count the 12 months of maternity or adoption-related absence.

109. The maximum period of maternity or adoption-related absence that we will discount is 12 months.

110. If the applicant is still absent from work for maternity or adoption-related reasons at the time of his/her application, we will consider a period of 12 months taken from the 15 months immediately before the absence began.

111. An applicant who has had maternity or adoption-related absence in the 12 months before his/her application can claim for earnings during this period if they wish, such as statutory maternity or adoption payments.

Documents required

112. For us to consider earnings from a period before the 15 months immediately before the application, because of maternity or adoption-related absence from the workplace (for the purposes of paragraph 245AA of the Immigration Rules) the applicant must provide **two pieces** of specified evidence to prove that absence was for maternity or adoption reasons. The specified documents that meet the requirements of the Immigration Rules are listed below.

i) Birth certificate or certificate of adoption (as appropriate). This should be the original full birth certificate or original full certificate of adoption (containing the names of parents/ adoptive parents) of the child for whom the period of maternity or adoption-related absence was taken. This certificate should always be sent if one has been issued.

The applicant must also send one of the following (or both if the birth certificate or certificate of adoption is not available):

ii) Letter from the applicant's employer. This should be an original letter, on the company headed paper, and must confirm the start and end dates of the period of maternity or adoption-related absence.

and/or

iii) Wage slips or other payment or remittance documents. These should cover the entire period for which the maternity or adoption-related absence is being claimed and should show the statutory maternity or adoption payments to the applicant. Documents provided must be original, and on the official letter-headed paper of the issuing authority.

If the birth certificate or certificate of adoption is not available then an applicant should provide the documents specified at ii) and iii) above.

If the applicant is unable to supply two documents from the three listed above, he/she may use another document listed at iv) below as an alternative for one of the pieces of evidence required. However, at least one piece of evidence to prove the maternity or adoption-related absence must be one of those specified in i) to iii) above.

iv) Other documents. In certain circumstances the applicant will be unable to supply two of the documents specified at i) to iii) above (for example if no birth certificate has been issued). In these cases, the applicant should fully explain the reasons and supply alternative documents as evidence of the maternity or adoption-related absence for the period claimed. The alternative documents must be from an official source and must be independently verifiable.

We can only accept other documents as evidence of maternity or adoption-related absence if we are satisfied that the specified documents cannot be provided.

Where two of the specified documents at i) to iii) above are not available we will accept the following alternative documents or types of documents:

- official adoption papers issued by the relevant authority;
- any relevant medical documents that the applicant is content to let us see;
- a relevant extract from a register of birth provided it is accompanied by an original letter from the issuing authority.

We will not accept the following documents or types of documents:

- personal letters of confirmation;
- newspaper announcements;
- other unofficial document.

Assessment of previous earnings

113. We will assess an applicant's earnings.

114. If an applicant is in salaried employment, we will assess the applicant's gross salary before tax. This includes self-employed applicants who draw a salary from their businesses. If the applicant earned the money in a country with no tax system, we will consider his/her total earnings for the period.

115. If an applicant is self-employed and has chosen to retain the profits within the business, his/her earnings are limited to the share of the business's net profits to which he/she is entitled. We will only consider profits made during the 12-month earnings period for which the applicant is claiming.

116. We will not consider earnings made during a time when the applicant was in breach of the United Kingdom's immigration laws.

For example: Earnings made from United Kingdom employment will only be considered if the applicant had leave to enter or remain in the United Kingdom at the time they were earned, and in a category which permitted the applicant to take that employment.

117. If an applicant has earned monies in the UK for a period during which he/she remained overseas (eg. a company director drawing a UK salary but remaining based outside the UK) such earnings will be accepted.

Earnings we will include in the assessment

118. We will include previous earnings from:

- salaried employment; or
- self-employed activities.

119. Where an applicant is claiming earnings for self employment in the UK, additional documentation will be required to demonstrate that they are established as being self employed.

120. An applicant's overall total earnings can include those from several sources of work, including a combination of salaried employment and self-employed activities.

121. Earnings do not need to have been with a single employer.

122. Earnings can be considered from full-time, part-time, temporary and short-term work.

123. Earnings may include, among other things:

- salaries (includes full-time, part-time, and bonuses);
- earnings from self-employment;
- earnings from business activities;
- statutory maternity pay and contractual maternity pay;
- allowances (such as accommodation, schooling or car allowances) that form part of an applicant's remuneration package;
- dividends paid by a company in which the applicant is active in the day-to-day management, or where the applicant receives the dividend as part or all of his/her remuneration package;
- income from property rental, where this forms part of the applicant's business; and
- payment in lieu of notice (a payment made instead of requiring an employee to work the normal period of notice when leaving a job).

124. Unearned sources of income that we will not consider as previous earnings include:

- expenses (such as accommodation, schooling or car allowances) that reimburse the applicant for money he/she has previously spent;

- dividends, unless paid by a company in which the applicant is active in the day-to-day management, or unless the applicant receives the dividend as part or all of his/her remuneration package;

- income from property rental, unless this forms part of the applicant's business;

- interest on savings and investments;

- funds that were inherited;

- money paid to the applicant as a pension;

- expenses where the payment reimburses the applicant for money he/she has previously spent;

- redundancy payment;

- sponsorship for periods of study;

- state benefits; or

- prize money or competition winnings, other than where they are directly related to the applicant's main profession or occupation.

Allowances

125. We will only include allowances (such as those for accommodation or schooling for an applicant's children) in the assessment of an applicant's previous earnings if they are part of an applicant's remuneration package and are not paid to reimburse the applicant for money he/she has previously spent.

126. We will only accept allowances as earnings if they are declared in the applicant's payslips and there is a contractual obligation on the employer's part to make these payments.

Points available for earnings claimed – initial applications

127. An applicant making an initial application can claim the following points for previous earnings:

Earnings	Points available
£25,000-£29,999	5 Points
£30,000-£34,999	15 Points
£35,000-£39,999	20 Points
£40,000-£49,999	25 Points
£50,000-£54,999	30 Points
£55,000-£64,999	35 Points
£65,000-£74,999	40 Points
£75,000-£149,999	45 Points
£150,000 or more	75 Points

Converting overseas earnings into pounds sterling (£)

128. Earnings made overseas must be converted into pounds sterling so that we can assess them. The official exchange rate we use is the one produced by OANDA.

129. An applicant should use the closing exchange rate on the OANDA website at www.oanda.com/currency/classic-converter on the last day of the period for which he/she has claimed earnings in that currency. This is an independent website, for which we are not responsible.

130. If the applicant's overseas earnings fall either side of a period of maternity or adoption-related absence, we will calculate earnings using the closing exchange rate for the last day of each period of earnings claimed.

Adjusting overseas earnings

131. To reflect differences in income levels across the world, the income level required to score points varies depending on where the applicant was working at the time he/she earned the money. We use a series of calculations (known as uplift ratios) to bring overseas salaries in line with their United Kingdom equivalents. The level of uplift we give depends on the average income in the country in which the earnings were made. This calculation is made automatically using the points based calculator on our website at <http://www.ukba.homeoffice.gov.uk/workingintheuk/pointsbasedsystem/applying/>

[selfassessment/](#) Table 2A of Appendix A (Attributes) of the Immigration Rules lists countries and the appropriate conversion rate.

132. The country in which the applicant has physically undertaken the work, rather than his/her nationality, the currency payment is made in or the country in which payment is made, determines the income band against which we will assess the earnings.

133. Where an applicant has earnings from more than one country, the points based calculator will apply the appropriate uplift ratio for each country in which the relevant earnings were made in order to provide a total UK equivalent value of earnings.

Points available for earnings claimed – extension applications

132. Applicants should note that the available points for earnings differ at extension stage depending on what date you first successfully applied under Tier 1 (General) or the Highly Skilled Migrant Programme (HSMP).

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 31 March 2009

Earnings	Points available
£16,000-£17,999	5 points
£18,000-£19,999	10 points
£20,000-£22,999	15 points
£23,000-£25,999	20 points
£26,000-£28,999	25 points
£29,000-£31,999	30 points
£32,000-£34,999	35 points
£35,000-£39,999	40 points
£40,000 or more	45 points

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010

Earnings	Points Available
£20,000-£22,999	15 points
£23,000-£25,999	20 points
£26,000-£28,999	25 points
£29,000-£31,999	30 points
£32,000-£34,999	35 points
£35,000-£39,999	40 points
£40,000 or more	45 points

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place after 5 April 2010

Earnings	Points Available
£25,000-£29,999	5 points
£30,000-£34,999	15 points
£35,000-£39,999	20 points
£40,000-£49,999	25 points
£50,000-£54,999	30 points
£55,000-£64,999	35 points
£65,000-£74,999	40 points
£75,000-£149,999	45 points
£150,000 or more	75 points

135. If, during the period for which we are considering the applicant's previous earnings, he/she has earned money from outside the United Kingdom, he/she can include these in the calculation to score points for earnings. The applicant should provide details of the overseas earnings, in the original currency in which they were paid. The applicant should convert these earnings into pounds sterling by using the closing exchange rate on the OANDA website for the last day of the period for which he/she has claimed earnings in that currency.

136. We will not make any uplift calculations on overseas earnings for extension applications. The applicant must clearly show on the application form which of the earnings were made in the United Kingdom and which were earned overseas. We will add the pounds sterling value of these overseas earnings to any United Kingdom earnings. We will then consider the total figure against the points-scoring table above.

Documents required

137. We will only award points for previous earnings if the applicant sends specified supporting documentary evidence with his/her application.

138. The applicant must provide at least **two different types** of supporting document for each source of earnings claimed. Each piece of supporting evidence must be from a separate source and support all the other evidence so that together they clearly prove the earnings claimed. For example: When providing documents for salaried employment, an applicant should not send payslips together with a P60, because we consider both of these documents to be from the same source.

139. Supporting documents must show all the relevant earnings claimed by the applicant. If earnings from a particular source have been paid in more than one way, the applicant must send two types of document for each part of the payment claimed.

For example: An applicant has been paid for his/her salaried employment by means of a salary and a dividend. If the gross and net dividend payments are included on the applicant's payslip, and can be supported by details of the net dividend payment on the applicant's bank statements, the applicant could submit bank statements and payslips as supporting evidence for both the salary and the dividend claimed. However, if the dividend details are not included on the payslips, the applicant must also send

separate dividend vouchers to support the dividend payments and cross-reference these with the bank statements he/she provides.

140. In addition to the documents required to demonstrate earnings, applicants claiming points for self employed earnings made in the UK **must** provide documents to show that they are registered as self employed.

141. Paragraph 245AA of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

i) Payslips: These should be either formal payslips or on company headed paper. Where formal payslips are produced on plain paper they **must** be stamped and signed by the employer. Payslips which are not on headed paper or the applicant receives all pay slips online, he/she must authenticate the evidence by asking the employer to sign and stamp a printout. If the applicant provides payslips, they must cover the whole period claimed (for example, if payslips are produced monthly, the applicant must provide the payslip for each month of the period claimed).

ii) Personal bank statements showing the payments made to the applicant: Bank statements provided must be on official bank stationery, and must show each of the payments that the applicant is claiming. If the applicant wishes to submit electronic bank statements from an online account he/ she should also provide a supporting letter from the bank on company headed paper confirming that the documents are authentic. Alternatively an electronic bank statement bearing the official stamp of the bank issuing the statements will be accepted. This stamp must appear on every page of the statement. For the purposes of this guidance an online bank account is one that operates solely over the internet and sends their bank statements to their customers electronically

(for example over the internet or via email).

iii) Letter from the applicant's (previous and/ or present) employer(s) (or in the case of winnings, the relevant awarding body) confirming that he/she has received the exact amount claimed. This is a letter on company headed paper which clearly shows the applicant's earnings during period claimed, and the date and amount of each payment. This letter should be dated after the period for which earnings are being claimed and should clearly show the applicant's gross and net pay."

(Where an employer letter includes only total gross and net earnings figures for the whole earnings period claimed, we will consider this document. However, only where the dates of the earning period and the total gross/net earnings stated in the letter exactly correspond with the information included in the other documentary evidence of these earnings provided, will we be able to award points.)

iv) Official tax document produced by the tax authority or employer, showing earnings on which tax has been paid or will be paid in a tax year. For these purposes, we define official tax documents as:

- a document produced by a tax authority that shows details of declarable taxable income on which tax has been paid or will be paid in a tax year (for example a tax refund letter or tax demand);
- a document produced by an employer as an official return to a tax authority, showing details of earnings on which tax has been paid in a tax year (for example a P60 in the United Kingdom); or
- a document produced by a person, business, or company as an official return to a tax authority, showing details of earnings on which tax has been paid or will be paid in a tax year. The document must have been approved, registered, or stamped by the tax authority (this is particularly relevant to some overseas tax systems, for example SARAL in India).

Please note that because tax documents are usually produced at the end of a fixed tax period they will not necessarily show the entire period for which the applicant is claiming previous earnings unless they are for the exact period claimed. An applicant should therefore be cautious about using these documents unless he/she is sure they show the exact amount of earnings for which he/she is claiming points.

v) Dividend vouchers. Dividend vouchers must show the amount of money paid by the company to the applicant, normally from its profits. They should confirm both the gross and net dividend paid. An applicant should provide a separate dividend voucher or payment advice slip for each dividend payment, to cover the whole period claimed.

vi) Self-employed applicants only - letter from the applicant's accountant (confirming that the applicant received the exact amount he/she is claiming, or the net profit to which he/she is entitled). This is a letter from the applicant's accountant on headed paper confirming the gross and net pay for the period claimed. The letter should give a breakdown of salary, dividends, profits, tax credits and dates of net payments earned. If the applicant's earnings are a share of the net profit of the company, the letter should also explain this. All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body such as ACCA, CIMA, ACA, CIPFA etc.

vii) Invoice explanations or payment summaries from the applicant's accountant. These are summaries or explanations created by an applicant's accountant. These explanations should include a breakdown of the gross salary, tax deductions and dividend payments made to the applicant. The total gross salary and dividend payments should be the same as the applicant's earnings. The payment summary should enable us to check that these correspond with the net payments into the applicant's personal bank account. All accountants must be

either fully qualified chartered accountants or certified accountants who are members of a registered body such as ACCA, CIMA, ACA, CIPFA etc

viii) Company or business accounts that clearly show the net profit of the company or business. Accounts must show both a profit and loss account (or income and expenditure account if the organisation is not trading for profit) and the balance sheet should be signed by a director. Accounts should meet statutory requirements and should clearly show the net profit made over the earnings period to be assessed.

ix) Business bank statements showing the payments made to the applicant: Bank statements provided must be on official bank stationery, and must show each of the payments that the applicant is claiming. If the applicant wishes to submit electronic bank statements from an online account he/ she should also provide a supporting letter from the bank on company headed paper confirming that the documents are authentic. Alternatively an electronic bank statement bearing the official stamp of the bank issuing the statements will be accepted. This stamp must appear on every page of the statement. For the purposes of this guidance an online bank account is one that operates solely over the internet and sends their bank statements to their customers electronically (for example over the internet or via email).

x) Where an applicant is submitting a combination of bank statements and a letter/invoice summary from their accountant, they must also provide copies of any invoices generating during the period for which earnings are being claimed.

142. If the applicant is claiming earnings from self employment in the UK, a minimum of two documents, as described below, must be provided in addition to the documents listed in paragraph 141:

i) Employers Liability Insurance from an authorised insurer. (Authorised insurers are

individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers). A copy of this document may be provided if the original is legally required to be displayed at the applicant's premises.

ii) Proof of registration with HM Revenue & Customs (HMRC) as self employed.

Provide each partner's Unique Tax Reference Number (UTR) and/or the Partnerships/Businesses Unique Tax Reference Number (UTR).

iii) Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Provide proof of PAYE Reference Number & Accounts Office Reference Number.

iv) Certificate of VAT registration and latest VAT return confirming VAT registration number. (If turnover in excess of £64,000)

v) Latest Annual self-assessment tax return to HM Revenue & Customs (HMRC) - Statement of Account (SA300 or SA302).

vi) Latest Corporate/Business Bank Statement along with a letter from the Bank setting out the dealings it has had with the organisation, including the nature and duration of its dealings.

vii) Proof of ownership of Business Premises and other Fixed Assets or Proof of Lease of Business Premises

Extra information required

143. An applicant must provide full contact details for each source of income he/she gives us, so we can verify all supporting documents if necessary.

144. An applicant should also provide any information or explanation of the documents submitted that may help us to consider the earnings claimed.

For example:

An applicant is operating through a limited liability company that is administered on his/her behalf by a managing agent/accountant. The name on the payment advice may therefore differ from the credit payment entries on the applicant's bank statements. In these cases the applicant should provide a letter from his/her managing agent or accountant to clarify the relationship between everyone concerned; or

An applicant is one of a number of shareholders in the business and is claiming for net profits made over the earnings period. The applicant should provide a letter from his/her accountant, confirming the percentage share he/she is entitled to receive from the business's net profit (before the applicant has paid any additional tax due).

Examples of document combinations to provide

145. The evidence an applicant can provide will depend on his/her circumstances and how he/she earned the money. We give examples of typical combinations of documents below. We have divided them into employment types to help an applicant find the right examples.

146. These examples are not the only combination of documents we will accept for each employment type and an applicant can use other combinations of documents, providing these meet the requirements of the 'documents required' section above:

Employees who receive a salary:

A salaried employee could provide a combination of:

- personal bank statements covering the full 12-month earnings period;
- and either:
 - payslips for the full 12-month earnings period; or
 - a letter from their employer.

- (We consider that payslips and letters from an employer are from the same source and an applicant should therefore not provide a combination of these two types of document.)
- Employees who receive a salary and dividend payments:
- If the applicant is paid with a combination of salary and dividends, and both payments appear on the applicant's payslip, this employee could provide:
- personal bank statements for the full 12-month earnings period
- and either:
- payslips for the full 12-month earnings period; or
- a letter from his/her employer.

If the applicant is paid with a combination of salary and dividends, and the salary and dividend payments do not both appear on the applicant's payslip, this employee could provide the documents listed above plus:

dividend vouchers for each dividend payment claimed, showing both the gross and the net dividend.

Self-employed earnings within a business or company structure:

If an applicant has worked in a self-employed capacity in his/her own business or company structure and has chosen to keep his/her earnings within the business or company, he/she could provide:

- business or company accounts that meet statutory requirements and show the net profit made for the earnings period claimed; and
- Personal/Business bank statements.

If the applicant is not the sole shareholder of the company he/she should also provide:

- a letter from his/her accountant confirming his/her shareholding and the proportion of net profit before tax to which he/she is entitled for the earnings period claimed.

Contractors:

If the applicant is a contractor who does not operate either through his/her own company or as an employee, he/she may provide:

- an accountant's letter confirming a breakdown of his/her gross and net earnings for the period claimed; and
- personal bank statements clearly highlighting all credit payments made to his/her account from employment undertaken during the earnings period claimed.

UK experience

Claiming points – initial applications only

147. An applicant should read Appendix A, table 3 and paragraphs 24-30 of the Immigration Rules.

148. An applicant can claim a maximum of five points if he/she has either:

- successfully scored points for previous earnings and at least £25,000 of those earnings were made in the United Kingdom; or
- undertaken a period of full-time study in the United Kingdom, of at least one full academic year, and been awarded a qualification at bachelor's degree level or above. The qualification should have been awarded no more than five years before making the application.

149. An applicant may only claim points under one of the above requirements.

150. We will not award points for United Kingdom earnings if the applicant was in breach of the United Kingdom's immigration laws at the time those earnings were made.

151. We will only award points for periods of study in the United Kingdom if the applicant has supplied the specified documents showing his/her period of study in the United Kingdom.

Claiming points – extension applications only

152. An applicant can claim a maximum of five points if he/she has scored points for previous earnings and those earnings were made in the United Kingdom.

153. We will only award points for United Kingdom earnings if the applicant's immigration status in the United Kingdom legally entitled him/her to be in the United Kingdom and work here throughout the period during which the earnings were made.

Previous UK experience (earnings) – all applications

154. Applicants should note that the available points for UK experience differ at extension stage depending on what date you first successfully applied under Tier 1 (General) or the Highly Skilled Migrant Programme (HSMP).

Extension applications- Applications for leave to remain where the applicant has, or was last granted, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 6 April 2010

An applicant may claim points for previous United Kingdom earnings if:

- he/she has scored points in the section for previous earnings; and
- the earnings for which those points were awarded were made in the United Kingdom.

155. If an applicant has claimed points in the section for previous earnings, and these were for earnings made both in the United Kingdom and outside the United Kingdom, at least £16,000 of the earnings must be United Kingdom earnings to receive the points for UK Experience.

Extension applications- Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place on or after 6 April 2010.

An applicant may claim points for previous United Kingdom earnings if:

- he/she has scored points in the section for previous earnings; and
- the earnings for which those points were awarded were made in the United Kingdom.

156. If an applicant has claimed points in the section for previous earnings, and these were for earnings made both in the United Kingdom and outside the United Kingdom, at least £25,000 of the earnings must be United Kingdom earnings to receive the points for UK.

157. There are no specific documentary requirements for claims in this area as the necessary documentation will have been provided in respect of the Previous Earnings assessment.

Previous United Kingdom Experience (Study) – Initial Applications only

158. An applicant may claim points in this scoring area for their United Kingdom studies provided he/she has:

- Been awarded a qualification at or above bachelor's degree level;
- Been awarded this qualification within the last five years;

- Undertaken a period of full-time study in the United Kingdom equivalent to at least one full academic year, or three consecutive academic terms in order to obtain this qualification;
- Studied during this time at a United Kingdom academic institution or at a United Kingdom based overseas academic institution.

159. The qualification being relied upon may be an academic, vocational or professional qualification. It must be of a level that meets, or exceeds, the recognised standard of United Kingdom bachelor's degree.

160. Qualifications submitted by applicants will, in all cases, be assessed by referring to the points based calculator which is available on our website at www.ukba.homeoffice.gov.uk. This tool contains information on qualifications provided by UK NARIC.

161. Points will only be awarded where the specified documentation has been supplied and the points based calculator confirms that:

- The qualification claimed equates to an appropriate United Kingdom level academic qualification; and
- The qualification was awarded by an accredited institution.

162. For the purposes of the qualifications criteria of an application made under Tier 1 (General), an accredited institution is a place of study assessed by UK NARIC to be a bona fide provider of academic, professional or vocational course of study.

163. An applicant should check the level of his/her qualification by referring to the points based calculator which can be found at www.ukba.homeoffice.gov.uk.

164. Where the applicant is unable to find details of their academic qualification on the points based calculator, they may still wish to claim points for the qualification in question. In these circumstances applicants should contact UK NARIC directly for an

assessment of the level of their qualification and, where their qualification is found to be of the required level, obtain a letter and/or confirmation certificate from UK NARIC.

165. Contact details for UK NARIC can be found on the following website at www.naric.org.uk. Please note that there may be a charge for this service.

166. Where UK NARIC is unable to confirm these details, points will not be awarded for the academic qualification in question. In such cases, applicants may wish to consider presenting an alternative qualification if they possess one.

167. For professional/vocational qualifications, where the applicant is unable to find details of his/her qualification on the points based calculator, he/she may still wish to claim points for the qualification in question. In these circumstances the applicant should obtain written confirmation from the appropriate UK professional body of the qualification's equivalence to UK academic levels.

168. To assess whether the qualification was awarded within the last five years, the date of award will be taken as the date upon which the applicant was first notified in writing, by the awarding institution, that it had been awarded. This date must be no more than five years prior to the date of application.

Documents required – initial applications only

169. Paragraph 245AA of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

- An original letter from the United Kingdom institution/United Kingdom based overseas institution at which the applicant studied.

This must be an original letter, on the official letter-headed paper of the awarding institution and bearing the official stamp of that institution. It must have been issued by

an authorised official of that institution and must confirm the following details:

- The applicant's name;
- The title of the qualification;
- The date of award of the qualification (as defined above);
- Confirmation that, in order to obtain this qualification, the applicant undertook a period of full-time study equivalent to at least one full academic year, or three consecutive academic terms;
- Start and end dates of the period of study in the United Kingdom.

- confirmation of which UK academic level this qualification is equivalent to.

170. Where the applicant is relying upon the same qualification that has been provided for points under the Qualification points scoring area, the original certificate of award, or an original letter from the institution of study should already have been supplied. This document will have confirmed the applicant's name and the title of the qualification. In these circumstances the letter need only cover the remaining three requirements.

Additional documents required for qualifications not found on the points based calculator

171. Where an applicant cannot find details of his/her academic qualification on the points based calculator, he/she must, in addition to the document listed above, submit an original letter/certificate from UK NARIC confirming the equivalency of the level of his/her qualification.

172. Where an applicant cannot find details of his/her professional/vocational qualification on the points based calculator, he/she should, in addition to the document listed above, submit an original letter from the appropriate UK professional body confirming the equivalence to UK academic levels of his/her qualification. This must clearly show:

- the name of the qualification, including the country and awarding body; and

ENGLISH LANGUAGE REQUIREMENT

English language assessment

173. English is the most widely spoken language of the United Kingdom. The ability to speak English to a competent level improves an applicant's potential to succeed in the United Kingdom labour market and assists in integration into the United Kingdom.

174. Therefore, in order to qualify an applicant must provide the specified documents to show that they have a good knowledge of English.

175. There are three ways in which an applicant can show he/she meets the English language requirement. The applicant can:

- be a national of a majority English speaking country; or
- pass an English language test detailed in this guidance; or
- hold a degree that was taught in English and is equivalent to a United Kingdom bachelor's degree or above.

Claiming points

176. An applicant meets the English language requirement, without the need to provide evidence, if he/she was last given permission to stay in the United Kingdom:

- under Tier 1 (Entrepreneur), the Business Persons route or Tier 1 (General) and are applying for an extension of leave to remain; or
- as a Highly Skilled Migrant Programme participant under the Immigration Rules which came into force on 5 December 2006 and they are applying for an extension of leave to remain under a Tier 1 category.

177. Applications from people who are unable to score 10 points in the section for English language requirements will be refused. Under Appendix B of the Immigration Rules, we will refuse these applications even if the applicant has attained the pass mark of 75 for attributes and has met all the other requirements of the Immigration Rules for permission to stay as a Tier 1 migrant.

National of a majority English speaking country

178. Nationals of the majority English-speaking countries listed below automatically meet the English language requirement:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- Canada;
- Dominica;
- Grenada;
- Guyana;
- Jamaica;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- Trinidad and Tobago; and
- the United States of America.

Documents we require

179. Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are:

i) Current valid original passport or travel document

An applicant who is unable to submit his/her current original passport or travel document at the time of the application must give full reasons for this in the Passport Information section of the application form.

The only valid exceptional circumstances in which alternative specified documents may be provided are where the applicant's current passport or travel document has:

- been lost;
- been stolen;
- expired and been returned to the relevant authorities;
- been sent to another part of the UK Border Agency.

Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The applicant may exceptionally provide the following alternative specified documents:

ii) Current national identity document.

iii) Original letter from the applicant's home government or embassy. This document must be original, on the letter-headed paper of the government or embassy and must bear the official stamp of that institution. It must have been issued by an authorised official of that institution and must confirm the applicant's:

- full name;
- date of birth; and
- nationality.

English language test

180. We will only accept test certificates from providers that have been assessed as meeting our requirements.

181. English language tests that have been assessed as meeting our requirements are available on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier1/general/eligibility/pointsassessment/englishlanguage/>

182. Applicants with disabilities (for example, hearing difficulties) are not exempt from the English language requirement. They should contact a test provider for details of support that can be provided while taking the test.

Applicants waiting to sit an English language test or waiting for their test result (in country applications only)

183. Some people applying for leave to remain under Tier 1 need to make their application before they have taken, or received the results of, an English language test.

184. For those applications only, the applicant must give us the date of his/her English language test within 10 working days of submitting the application. This information should be submitted in writing, sent to the following address, giving the applicant's payment reference number:

**UK Border Agency
PO Box 3468
Sheffield
S3 8WA**

185. Once the applicant has sat the test and received the results he/she must provide the certificate within five working days.

186. When the applicant provides an English language test certificate, we will complete our assessment of the application.

187. If the applicant provides confirmation from the test provider that he/she has sat a test or has a confirmed date to take the test we will continue to hold the application open for the applicant to complete this process.

188. If the applicant does not pass the test on the first attempt, the application will not be held open to allow for more attempts to be made. We will consider the application on the basis of the evidence already provided. In these circumstances, we will refuse the application because the applicant will not have scored 10 points for English language.

Documents we require

189. Only the following specified documents will be accepted as evidence of this requirement:

i) Original test result certificate. The certificate must clearly show the:

- applicant's name;
- qualification obtained; and
- date of the award.

190. The only exception to this requirement is where the applicant has undertaken the PTE Academic test. In these cases the applicant should provide a print out of their online score report. Applicants should also ensure that they have made their online results available to the UK Border Agency on the Pearson verification system. Where an applicant fails to do this no points will be awarded for English Language.

Degree taught in English

191. An applicant may provide evidence that he/she holds a degree which is equivalent to United Kingdom Bachelors level and which was taught or researched in English to a particular level as evidence of his/her English language ability.

192. The degree **must**:

- be recognised by National Academic Recognition Information Centre for the United Kingdom (UK NARIC) as equivalent to a United Kingdom Bachelor's degree; and
- have been taught in English to a standard comparable to that of level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment (CEFR). Details can be found on the Council of Europe website at http://www.coe.int/t/dg4/linguistic/CADRE_EN.asp.

193. Where the degree was taken in a majority English speaking country, listed below, we will assume it to have been taught in English:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- Dominica;
- Grenada;
- Guyana;
- Ireland;
- Jamaica;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- Trinidad and Tobago;
- the United Kingdom;
- the United States of America.

Please note that Canada is not on this list.

194. Where the degree was taken in another country we will always assess it using the points based calculator on our website. The calculator contains information from UK NARIC on whether overseas qualifications are equivalent to United Kingdom Bachelors level or higher.

195. Applicants can claim points when the points based calculator confirms that the degree:

- meets or exceeds the equivalent level to United Kingdom Bachelors degree; and
- was taught to a competent standard of English equivalent to level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment (CEFR).

Checking qualifications

196. An applicant should check his/her degree by referring to the points based calculator on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>

197. Where the points based calculator is unable to confirm these details, points will not be awarded for the qualification in question.

198. Where the applicant is unable to find details of their qualification on the points based calculator, UK NARIC will not be able to verify whether a qualification satisfies the English Language requirement. In these circumstances, applicants should either present an alternative qualification from the points based calculator if they possess one, or select an alternative means of satisfying the English Language requirement.

Documents we require

199. Only the following specified documents will be accepted as evidence of this requirement:

i) Original certificate of award. This document must be original and must clearly show the:

- applicant's name;

- title of the award;
- date of the award; and,
- name of the awarding institution.

Please note that original provisional certificates are not acceptable

This document must always be provided unless the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement, he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

- applicant's name;
- title of award;
- has been/will be awarded; and
- either the date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to re-issue the original certificate or award.

The academic transcript must be on the institution's official paper and must show the:

- applicant's name;
- name of the academic institution;
- course title; and
- confirmation of the award.

The applicant should ensure that the contact details for the awarding body are up-to-date, because if we need to verify the details and are unable to contact the institution we will not accept this evidence and may therefore refuse the application.

MAINTENANCE (FUNDS)

Maintenance requirement – all applications

200. One of the requirements of Tier 1 is that an applicant coming to the United Kingdom must be able to support himself/herself for the entire duration of his/her stay in the United Kingdom without use of public funds (benefits provided by the state). An applicant who is unable to support himself/herself could face financial hardship because he/she will not have access to most state benefits.

201. In order to qualify for entry clearance, or leave to remain under Tier 1 an applicant must show that he/she has enough money to support himself/herself. The maintenance requirements are detailed below:

202. Applicants outside the United Kingdom seeking entry clearance must have at least £2,800 of personal savings which must have been held for a consecutive 90 day period prior to the date of application.

203. Applicants in the United Kingdom seeking further leave to remain must have at least £800 of personal savings which must have been held for a consecutive 90 day period prior to the date of application

204. The exchange rate of overseas currency will be made using the OANDA rate conversion on the date of application. www.oanda.com

205. Applicants may want to check the potential costs of living in the United Kingdom. If an applicant does not expect to get any income from his/her work in the United Kingdom after the first month, he/she may want to check that he/she has enough money to support himself/herself and any dependants.

206. Any dependants wishing to join the main applicant must also provide evidence that they have access to sufficient funds. Please refer to the Dependants guidance which can be found on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/>.

207. We will not consider money earned during a time that an applicant was in breach of the United Kingdom's immigration laws as evidence of maintenance funds.

208. For example: Earnings made from United Kingdom employment will only be considered if the applicant had leave to enter or remain in the United Kingdom at the time they were earned, and in a category which permitted the applicant to take that employment.

Documents we require

209. The evidence used to support personal savings for at least a consecutive 90 day period must be original, and issued by an authorised official of that organisation.

210. Evidence must be in the form of cash funds held in an account (this includes savings accounts and current accounts even when notice must be given). Other accounts or financial instruments such as shares, bonds, pension funds etc, are not acceptable, regardless of notice period.

211. If the applicant wishes to rely on a joint account as evidence of available funds, he/she must be named on the account along with one or more other named individual.

212. Where an applicant is providing evidence of maintenance from a single account, we will always assess the funds available to an applicant from the closing balance given on the document provided.

213. Where two or more pieces of evidence from a single account are submitted (for example two consecutive bank statements) we will assess the funds available to the applicant from the closing balance of the most recent document.

214. Where evidence from two or more accounts are submitted, we will assess the funds available to the applicant using:

- the most recent closing balance of one account, plus
- any additional money available to the applicant on the date of that closing balance, for which the applicant has provided the required evidence.

We will always use the closing balance date from the account that most favours the applicant.

215. Only the following specified documents will be accepted as evidence of this requirement:

i) Personal bank or building society statements covering a consecutive 90 day period: The most recent statement must be dated no more than one calendar month before the date of application.

The personal bank or building society statements should clearly show:

- the applicant's name;
- the account number;
- the date of the statement;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there are enough funds present in the account (the balance must always be at least £2,800 or £800, as appropriate) covering the 90 day period before the date of application;

All statements must be on the bank's stationery, unless the applicant is submitting electronic statements.

Ad hoc bank statements printed on the bank's letterhead/stationery are admissible as evidence (this excludes mini-statements from cash points).

If the applicant wishes to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, the applicant will need to provide either:

- a supporting letter from his/her bank, on company headed paper, confirming the authenticity of the statements; or
- an electronic bank statement bearing the official stamp of the bank in question will be accepted. This stamp should appear on every page of the statement.

We will not accept statements which show the balance in the account on a particular day as these documents do not show that the applicant holds enough funds for the full period needed.

li) Building society pass book covering a consecutive 90 day period, ending no more than one calendar month before the date of application:

The building society pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there have been enough funds present in the account (the balance must always be at least £2,800 or £800, as appropriate) covering the consecutive 90 day period before the date of application.

iii) Letter from bank confirming funds and that they have been in the bank for a consecutive 90 day period, ending no more than one calendar month before the date of application :

The letter from a bank or building society should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account;
- that the funds of £2,800 or £800 have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The letter must be dated no more than one calendar month before the date of application.

All statements must be on the bank's letterhead/official stationery.

We will not accept letters which show the balance in the account on a particular day as these documents do not show that the applicant holds enough funds for the full period needed.

iv) Letter from a financial institution regulated by the Financial Services Authority (FSA) or, in the case of overseas accounts, the home regulator (official regulatory body for the country in which the institution operates and the funds are located) confirming funds and that they have been held for a consecutive 90 day period, ending no more than one calendar month before the date of application:

The letter from the financial institution regulated by the Financial Services Authority or home regulator should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account; and
- that the funds of £2,800 or £800 have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The letter must be dated no more than one calendar month before the date of application. All statements must be on the bank's letterhead/official stationery.

We will not accept letters which show the balance in the account on a particular day as these documents do not show that the applicant holds sufficient funds for the full period needed.

ANNEX A - PREVIOUS EARNINGS UPLIFT CONVERSION RATES

Conversion Rate – 1.0

Andorra; Aruba; Australia; Austria; Belgium; Bermuda; Canada; Cayman Islands; Channel Islands; Denmark; Finland; France; French Polynesia; Germany; Gibraltar; Guam; Hong Kong (Province of China); Iceland; Ireland; Italy; Japan; Kuwait; Liechtenstein; Luxembourg; Monaco; Netherlands; Norway; Qatar; San Marino; Singapore; Sweden; Switzerland; United Arab Emirates; United Kingdom; United States of America; Vatican.

Conversion Rate – 2.3

American Samoa; Antigua and Barbuda; Argentina; Bahamas; Bahrain; Barbados; Botswana; Brunei Darussalam; Chile; Costa Rica; Croatia; Cyprus; Czech Republic; Estonia; Faroe Islands; Greece; Greenland; Grenada; Hungary; Israel; Korea (South); Latvia; Lebanon; Libya; Macao, (Province of China); Malaysia; Malta; Mauritius; Mexico; Netherlands Antilles; New Caledonia; New Zealand; Northern Mariana Islands; Oman; Palau; Panama; Poland; Portugal; Puerto Rico; Saudi Arabia; Seychelles; Slovak Republic; Slovenia; Spain; St Kitts and Nevis; St Lucia; Taiwan; Trinidad and Tobago; Uruguay; Venezuela; Virgin Islands.

Conversion Rate – 3.2

Albania; Algeria; Belarus; Belize; Bolivia; Bosnia & Herzegovina; Brazil; Bulgaria; Cape Verde; China (Peoples Republic of); Colombia; Dominica; Dominican Republic; Ecuador; Egypt; El Salvador; Fiji; Gabon; Guatemala; Honduras; Iran; Jamaica; Jordan; Kazakhstan; Lithuania; Macedonia; Maldives; Marshall Islands; Micronesia; Morocco; Namibia; Nauru; Paraguay; Peru; Philippines; Romania; Russian Federation; Samoa; South Africa; St Vincent & The Grenadines; Suriname; Swaziland; Syrian Arab Republic; Thailand; Tonga; Tunisia; Turkey; Turkmenistan; Vanuatu; West Bank and Gaza.

Conversion Rate – 5.3

Angola; Armenia; Azerbaijan; Bangladesh; Benin; Bhutan; Burma (Union of Myanmar); Cameroon; Comoros; Congo (Republic of); Cote d'Ivoire; Cuba; Djibouti; Equatorial Guinea; Gambia; Georgia; Guinea; Guyana; Haiti; India; Indonesia; Iraq; Kenya; Kiribati; Kosovo; Lesotho; Mauritania; Moldova; Mongolia; Montenegro; Nicaragua; Pakistan; Papua New Guinea; Senegal; Serbia; Solomon Islands; Sri Lanka; Sudan; Timor L'Este (East Timor); Ukraine; Uzbekistan; Vietnam; Yemen; Zambia; Zimbabwe.

Conversion Rate – 11.4

Afghanistan; Burkina Faso; Burundi; Cambodia; Central African Republic; Congo, (Democratic Republic of); Chad; Eritrea; Ethiopia; Ghana; Guinea-Bissau; Korea (North); Kyrgyz Republic; The Lao People's Democratic Republic; Liberia; Madagascar; Malawi; Mali; Mayotte; Mozambique; Nepal; Niger; Nigeria; Rwanda; Sao Tome and Principe; Sierra Leone; Somalia; Tajikistan; Tanzania; Togo; Uganda.

ANNEX B - ADMINISTRATIVE REVIEW

(Entry clearance applications only)

1. What is Administrative Review?

Administrative Review is the mechanism for reviewing refusal decisions made under the Points Based System where an applicant believes an error has been made in the decision. The Administrative Review is free of charge.

Administrative Review is an entitlement but the request must be made within 28 days from the date the refusal notice is received by the applicant. For time limits for making a request, see further paragraphs 6 and 7 below.

Administrative Review is a non-statutory scheme; that is there is no legislation setting out what it covers or who is eligible to apply. The policy is contained in this guidance.

2. What if the Administrative Review request refers to matters outside the scope of the Administrative Review?

Where this occurs the matters should be dealt with under the normal complaints procedure. In such cases the applicant will be advised in writing.

3. Who conducts the Administrative Review?

An Entry Clearance Manager will conduct the administrative review. This may mean that in some cases, an Entry Clearance Manager from another Post will conduct the Administrative Review. The applicant may receive the result of the Administrative Review from an entry clearance post that is different to the one that considered the original entry clearance application.

4. Who can apply for Administrative Review?

Anyone refused entry clearance under Points Based System, where they believe the Entry Clearance Officer has made an incorrect decision.

5. How does the applicant apply?

The applicant will receive the Administrative Review Request Notice with the entry clearance refusal notice.

The applicant must complete the Request Notice in full and send it directly to the address stated on the Request Notice.

Applicants must not send any additional documents such as passport or supporting documents with the Administrative Review request notice. If the refusal is subsequently overturned, the applicant will be asked to send in their passport.

6. What is the deadline for applying for Administrative Review?

The applicant has 28 days from the date of receipt of the refusal notice, to submit a request for Administrative Review.

7. What if an application is submitted late?

Where an Administrative Review request is received outside the 28-day period, the administrative reviewer will consider if there are exceptional circumstances to accept the application outside of the deadline.

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to the applicant with a letter explaining why it is not being accepted.

8. How many times can an applicant request an Administrative Review?

Applicants may request only one Administrative Review per refusal decision. Any further review requests received for the same refusal decision will not be accepted. They will be returned to the applicant.

However, where the Administrative Review upholds a refusal but with different refusal grounds, the applicant may request an administrative review of these new refusal grounds.

If the applicant has new or further information, documents or other paperwork that they failed to submit with their original application, they will need to make a new application and pay the appropriate fee.

9. How long will the Administrative Review take?

The administrative reviewer will complete their review and notify the applicant in writing of their decision within 28 days from the date of receipt of the Administrative Review request notice.

If, in exceptional circumstances, the administrative reviewer is unable to complete the Administrative Review within the 28 days, they will notify the applicant in writing as to when to expect a decision.

10. What will the administrative reviewer look at?

The administrative reviewer will examine the evidence submitted with the original application, copies of which will be kept at the refusal post.

The applicant is not allowed to provide new evidence. Any new evidence must be disregarded unless the applicant was refused under paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal (see paragraph 12).

Any new evidence submitted by the applicant must be returned to them together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

The administrative reviewer should focus on the areas which the applicant has asked to be reviewed. They will check that:

- points have been correctly awarded;
- documents have been correctly assessed; and
- verification checks have been properly carried out.

The administrative reviewer may recommend that the reason for refusal should be overturned, if they find that the Entry Clearance Officer:

- failed to properly consider evidence submitted with the original application;
- failed to apply the Immigration Rules correctly;
- made a mistake in processing the application;
- failed to give adequate reasons for refusing entry clearance. In this case, the administrative reviewer will recommend the Entry Clearance Officer revoke the original refusal and serve a new refusal notice giving a full explanation for the refusal.

Where the administrative reviewer recommends in line with the above, that the reasons for refusal should be revoked, the applicant may still be refused but with new grounds for refusal.

The administrative reviewer will not recommend that the original decision is overturned simply because the applicant claims there is a fault with United Kingdom Border Agency's underlying processes or policies.

12. Does Administrative Review cover General Grounds for Refusal?

Yes. Administrative Review will also look at refusals on the basis of paragraph 320 of the Immigration Rules on "General Grounds for Refusal."

Reviews of refusals made under paragraphs 320(7A) and 320(7B) of the Immigration Rules

The applicant may submit further information with the Administrative Review request, if the refusal is based on paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal.

If an application has been refused because a false document was used or a false representation was made, the applicant may claim that they were unaware of the false documents or false representations. The refusal will still stand but the applicant would have to prove that they did not know that false documents or false representations were used, if they are not to have any future applications automatically refused for 10 years. Where the documents related directly to the applicant (for example, employment references, qualifications or financial details), such a claim would be likely to fail unless the applicant has clear evidence that an error has been made (for example, written confirmation from an employer, financial institution or educational establishment that they had supplied us with incorrect information at the time we verified the original documentation).

If the administrative reviewer does accept that the applicant did not knowingly use false documents or false representations, the refusal will still stand, but the applicant will not automatically have any future applications refused under the rules (paragraph 320 (7B) where false documents or false representations were used.

13. Does Administrative Review cover verification?

Yes. As part of the administrative review process the administrative reviewer will ensure that the Entry Clearance Officer has followed the correct verification procedures.

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

- Uphold decision, reasons for refusal remain the same;
- Uphold decision, with revised reasons for refusal;
- Overturn decision and issue entry clearance.

15. How is the applicant informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

- the administrative reviewer will notify the applicant by letter. The applicant will not be entitled to a further Administrative Review as the grounds for refusal has not changed.

Decision upheld but with revised reasons for refusal:

- A new refusal notice (GV51) will be served along with the Administrative Review letter from the administrative reviewer stating why the refusal has still been upheld. If there are fresh reasons for refusal which were not notified originally, the applicant will be able to submit a further Administrative Review request limited to those fresh reasons.

Decision overturned and entry clearance to issue:

- The administrative reviewer will notify the applicant by letter and request the applicant's passport.

16. Limited Right of Appeal

The applicant can only appeal on any or all of the grounds referred to in section 84 (1) (b) and (c) of the Nationality, Immigration and Asylum Act 2002. These are that the decision is unlawful by virtue of section 19B of the Race Relations Act 1976 (discrimination by public authorities), and/or that the decision is unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights.

All entry clearance applicants under the Points Based System who are refused will be limited to residual grounds of appeal stated above.

The process for dealing with limited rights of appeal remains unchanged.

ANNEX C - MASTER IN BUSINESS ADMINISTRATION (MBA) TRANSITIONAL ARRANGEMENTS

The 2004 Budget announced a new provision for graduates of some of the top business schools to work in the UK upon completing their MBAs. This provision was launched on the 12 April 2005 as part of the Highly Skilled Migrant Programme (HSMP).

This provision is being removed under Tier 1 (General) of the points based system, but the MBA Transitional Arrangements will continue for applicants who enrolled on an eligible MBA course prior to 30 June 2008 only, and submit their application within 12 months of completing a qualifying MBA. Applicants enrolling on an MBA course after this date will not be eligible to claim points under the MBA transitional arrangements, but may be able to claim points for the qualification under the “attributes” required for Tier 1 (General) migrants.

Points Available under the MBA Provision

An applicant can score 75 points under the MBA transitional arrangements. These points are available only to initial applicants.

Migrants who are making applications under the extension requirements of Tier 1 (General) - including those who are already in the UK under the Highly Skilled Migrant Programme or the Self-Employed Lawyers' concession or the Writers, Composers and Artists provisions of the Immigration Rules, are not eligible to claim points under the MBA transitional arrangements.

Claiming Points

To claim 75 points under this provision, an applicant must have been awarded an eligible MBA at the time the MBA is on the list of eligible programmes.

The 'MBA Eligible Programmes' document, included at the end of this annex, lists the 50 eligible MBA programmes as compiled by HM Treasury.

Please note that Executive MBAs (EMBA) awarded by the eligible institutions are also acceptable under this provision.

The MBA transitional arrangements are only being extended to applicants who have enrolled on a qualifying MBA course prior to 30 June 2008 and who have graduated with a qualifying MBA within the 12 months prior to submitting their Tier 1 (General) application. Any individual making an application under Tier 1 (General) of the points based system who does not meet this criteria will not be eligible to claim points under the MBA transitional arrangements.

An applicant cannot apply for entry clearance or leave to remain on the basis of the MBA transitional arrangements until he/she has completed his/her MBA.

Points can only be awarded where an applicant provides the specified documentary evidence of his/her MBA.

Documents Required

Paragraph 245ZA of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are:

- i) An original MBA Certificate and a letter from the awarding Institution confirming the date of enrolment on the MBA course.

The certificate must be original and must clearly show:

- the name of the applicant; and
- the title of the award; and
- the date of the award; and
- the name of the awarding institution.

Please note that original provisional MBA certificates are not acceptable

The letter from the awarding institution must be original, on the official letter headed paper of the awarding institution and clearly show:

- the name of the applicant; and
- the title of the award; and
- the date the applicant enrolled on the MBA course.

These documents must be provided in all cases, unless:

- the applicant has only recently completed his/her qualification but is awaiting graduation; or
- the applicant is no longer in possession of his/her original certificate of award and the academic institution by which it was issued is unable to produce a replacement certificate.

If the applicant is unable to provide their original MBA certificate, then the applicant should fully explain the reason why they are unable to provide it. They should also provide the following evidence as an alternative:

ii) An original academic reference and an original transcript:

If the applicant is unable to provide his/her original certificate of award for one of the reasons given above then he/she should provide an original academic reference from the institution awarding the qualification together with an original academic transcript.

The original academic reference must be on the official headed paper of the institution and clearly show:

- the name of the applicant; and
- the title of the award; and
- the date that the applicant enrolled the course; and
- the date of the award confirming that it has been awarded.

The academic transcript must be on the institution's official paper and must show the following details:

- the name of the applicant; and
- the title of the award; and

- the name of the awarding institution;
- confirmation of the award.

MBA Eligible Programmes

UK

Ashridge
 Bradford School of Management/Nimbus
 City University: Cass
 Cranfield School of Management
 London Business School
 Manchester Business School
 University of Cambridge: Judge
 University of Oxford: Said
 University of Strathclyde
 Warwick Business School

USA

Babson College: Olin
 Boston University School of Management
 Carnegie Mellon University
 Columbia Business School
 Cornell University: Johnson
 Dartmouth College: Tuck
 Duke University: Fuqua
 Emory University: Goizueta
 Georgetown University: McDonough
 Harvard Business School
 MIT: Sloan
 New York University: Stern
 North Western: Kellogg
 Rice University: Jones
 Stanford University
 UC Berkeley: Haas
 UCLA: Anderson
 University of Chicago
 University of Maryland: Smith
 University of Michigan
 University of North Carolina: Keenan-Flagler
 University of Pennsylvania: Wharton
 University of Rochester: Simon
 University of Southern California: Marshall
 University of Virginia: Darden
 Vanderbilt University: Owen
 Yale's School of Management

Australia

Australian Graduate School of Management
 Melbourne Business School

Canada

University of Toronto: Rothman University of Western Ontario: Ivey

Ireland

University College Dublin

Germany

Bradford School of Management/Nimbus

China

Ceibs

Italy

SDA Bocconi

Switzerland

IMD

France

Insead

Singapore

Insead

Spain

Iese Business School Instituto de Empresa
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Netherlands

Bradford School of Management/Nimbus Rotterdam School of Management Universiteit Nyenrode

ANNEX D - APPLICANTS CURRENTLY ON AN NHS FOUNDATION PROGRAMME OR WORKING AS DOCTOR OR DENTIST IN TRAINING

Where an applicant was last granted leave which was not subject to a condition restricting their employment and they were employed during this period on an NHS foundation programme or:

Where they have obtained a degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System

they can apply to be exempted from the condition prohibiting this type of employment.

In order to qualify for this exemption an applicant should provide the following evidence:

To prove that they are/were on the Foundation Programme- a letter from their Postgraduate Dean that satisfies the requirements of the Immigration Directorate Instruction (IDI) on Postgraduate Doctors and Dentists (see in particular page 17 of that IDI) confirming:

- That the applicant has/had during their last period of leave a place on a Foundation Programme; and
- The Foundation Programme is recognised by the medical community; and
- The place on the Foundation Programme is/was full time.

To Prove that they are/were working as a Doctor in Training- the applicant must provide a letter from the NHS Trust employing them, confirming that they are/were (during

the period of their last leave) working in a post/programme that has been approved by the Postgraduate Medical Education and Training Board as a training programme or post.

Where an applicant does not include all of the requested information, any grant of leave will be subject to the 'Doctor in Training' restriction.

To prove that they have obtained a degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.

i) Original certificate of award of the qualification. This document must be the original (not a copy) and must clearly show the:

- applicant's name;
- title of the award;
- date of the award; and
- name of the awarding institution.

We will not accept original provisional certificates.

The original certificate of award must always be provided unless the applicant is awaiting graduation having successfully completed their degree or the applicant no longer has the certificate and the institution who issued the certificate is unable to produce a replacement. In which case he/she should send:

ii) An original academic reference from the institution that is awarding the degree together with an original academic transcript.

If the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement,

he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

- applicant's name;
- title of award;
- date of award, confirming that it has been/will be awarded; and
- either the date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to re-issue the original certificate or award.

The academic transcript must be on the institution's official paper and must show the:

- applicant's name;
- name of the academic institution;
- course title; and
- confirmation of the award.