Code of practice for religious workers under the skilled migrant tier (Tier 2) and the temporary worker tier (Tier 5)

Introduction

1. This code of practice is for sponsors of migrants under the Tier 2 (Ministers of religion) and the Tier 5 (Religious workers) categories. It supplements the “Guidance for sponsor applications – Tier 2, Tier 4 and Tier 5 of the points-based system” (sponsor guidance) available on the UK Border Agency website.

2. If a sponsor has been granted the appropriate license, they can sponsor a migrant under either Tier 2 or Tier 5. Sponsored migrants may carry out a variety of skilled work in either tier, which may include preaching and/or pastoral work. However, the tier they apply under will affect how long they are able to stay in the United Kingdom. Migrants cannot switch between Tier 2 and Tier 5 once they are here.

3. These categories are only for migrants seeking to carry out skilled religious duties. Other applicants should apply under the relevant work or study category. For example, schools not maintained by a religious organisation who wish to sponsor a teacher must do so under Tier 2 (General). The role must also not be essentially administrative or clerical in nature, unless it is a senior post. Further details are available in the sponsor guidance.

4. All licensed sponsors are required to comply with the codes of practice. The UK Border Agency is able to take action against sponsors who have acted in breach of the relevant code of practice. Further information on the range of action the UK Border Agency may take is contained in the sponsor guidance.
**Official letter from a senior representative**

5. Applicants must provide an official letter from a senior representative of the sponsoring organisation with their application. If there is no formal hierarchy, the letter must be signed by someone with authority within the organisation. In either case, the person who has signed the letter must not be subject to immigration control.

6. The letter must confirm that the applicant is being sponsored to perform religious duties, and provide an outline of these duties.

7. The letter must also confirm that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role, and provide details of the remuneration. This may be a traditional salary, stipend, customary offerings, board and lodgings, or a combination of these. However, sponsors must comply with the National Minimum Wage regulations where they apply. If the regulations do not apply to the applicant, the letter should explain why they do not apply.

8. Finally, the letter must provide details of how the role passes the resident labour market test (see below).

**Resident labour market test**

9. Not all religious occupations are “jobs” in the traditional sense. However, this does not mean that the resident labour market test does not apply. To pass the test, the migrant who is being sponsored must not be displacing or denying an opportunity to a suitable settled worker.

10. If the role is supernumerary (in other words, if the migrant was not there, the role would not need to be filled by anyone else), then the official letter must explain this. Supernumerary roles pass the resident labour market test as no settled workers are being displaced or denied an opportunity.

11. Where the role is not supernumerary, a national recruitment search must always be undertaken. The official letter must provide an overview of any recruitment method(s) the sponsor has used, including when and where any advertisements were placed. Sponsors must keep evidence of the method(s) they have used. Full details of the evidence required are described in Appendix D of the sponsor guidance. Advertising requirements are set out in the section below.

12. If the role is not advertised, other acceptable recruitment methods may include selection through theological colleges, or the sponsor holding records at a national level of all available individuals which show that no suitable settled workers are available for the role.
Advertising

13. Advertisements must include:

- the job title;
- the main duties and responsibilities of the job (job description);
- the location of the job;
- an indication of the remuneration and other terms on offer;
- the skills, qualifications and experience required; and
- the closing date for applications, unless it is part of the organisation’s rolling recruitment programme.

14. A certificate of sponsorship must be issued within six months of the advertisement being placed, to ensure that the results of the advertising reflect the current availability of suitable religious workers for the role.

15. Sponsors may only recruit a migrant if no suitable resident workers respond to the advertisement. Sponsors must allow the advertisement to run for a minimum of two weeks from the date of publication before recruiting a migrant.

16. The sponsor should use an advertising medium appropriate to their own religion or denomination, for example Church Times, The Catholic Herald, The Jewish Chronicle, etc. This should be available either throughout the whole of the United Kingdom, or throughout either England, Scotland, Wales or Northern Ireland (as appropriate). A medium which is only available in a local area is not acceptable.

17. If there is no suitable national medium specific to their religion, sponsors may advertise in either Jobcentre Plus or the employment section of a national newspaper.

18. A national newspaper is one that is available throughout the United Kingdom from a majority of newsagents. The Scotsman and the Herald are acceptable as suitable national newspapers for vacancies in Scotland and will also be acceptable for the bordering counties of England. The Western Mail for posts in Wales and the Belfast Telegraph for posts in Northern Ireland are also acceptable.