



## Update on employing Migrant Workers within Oxfordshire County Council

Since the introduction of the new points-based system it has become evident that there is a need to clarify the options available for Schools and Directorates when employing these workers.

- ❖ **Tier 1 (General)** (previously the highly skilled migrant programme) is for workers who wish to engage in highly skilled employment.  
<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1generalguidance310309.pdf> **This is a self assessment route** and by using the calculator link below the applicant can assess whether they meet the points required. <http://www.ukba.homeoffice.gov.uk/pointscalculator>  
An applicant must score 75 for attributes (age, qualifications, previous earnings, and experience in the United Kingdom); 10 points for English language and 10 points for available maintenance (funds). Applicants assess whether they have sufficient points and then apply directly and information about this is available on the Borders Agency website. Confirmation they are able to work in the UK is in the form of either a visa stamp in their passport/a residence permit or Foreign Nationals Identity Card. It is necessary for the appointing manager to copy the document and check and record this on an annual basis. This permission to work is time limited.
- ❖ **Tier 2 (General)** OCC holds a Sponsorship Licence for issuing Certificates of Sponsorship for skilled workers for jobs at skill level N/SVQ 3 or greater. <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2guidance.pdf> There are 2 ways we can recruit via this route:-
  1. **Shortage occupation route** which is for Secondary School Teachers in Maths and Science, Teachers in Special Educational Needs, Children's Social Workers and Senior Care Workers qualified at NQF level 3 or above. Applicants need to score a total of 50 points for attributes, 10 points for English language and 10 points for maintenance. If candidates meet this requirement then it is necessary to email [immigrationcheck@oxfordshire.gov.uk](mailto:immigrationcheck@oxfordshire.gov.uk) for an application pack.
  2. **Resident Labour Market Test** requires us to demonstrate that we are unable to recruit a suitable settled worker to fill the post. The following evidence is required.  
<http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest/> To comply with the Resident Labour Market Test at a minimum the advert must be advertised on the OCC website and at Job Centre Plus for **4 weeks**.

**It is important if you are advertising for a hard to fill vacancy that you include an advert at the Job Centre Plus if not then you will be unable to apply for a Certificate of Sponsor.** If you can demonstrate you have met these requirements application packs are available from [immigrationcheck@oxfordshire.gov.uk](mailto:immigrationcheck@oxfordshire.gov.uk)

A Certificate of Sponsorship incurs a fee of £170. Once a certificate number is provided the applicant will then need to apply for an Identify Card for Foreign Nationals and to do this they must enrol their biometrics (fingerprints and facial image). The locations of biometric enrolment centres can be found on the UK Borders Agency website. A copy of this identity card must be retained on their personal file before commencing work and supplied to the Borders Agency on request.. A Sponsorship Duties Agreement which explains your responsibilities must be signed and returned. It is essential that there is full compliance with the duties identified and any changes reported to [immigrationcheck@oxfordshire.gov.uk](mailto:immigrationcheck@oxfordshire.gov.uk). **The liabilities of non-compliance are extensive. Not only could we be fined up to £10,000 but also risk losing the sponsorship license which would jeopardise recruitment into hard to fill posts across the Council.** This permission to work is time limited.

- ❖ Transitional arrangements for current employees who hold a valid work permit. When their work permit comes to an end and they remain in the same role they must renew via the Tier 2 (General) route.
  - If they have not been in the UK for a total period of 5 years they will require a Certificate of Sponsorship which must confirm the job is at N/SVQ level 3, however they will not have to meet the full points based system criteria
  - Where an employee wishes to extend their leave beyond five years they must apply under the full Tier 2 (General) route as identified above.
- ❖ **Other ways** migrant workers may have permission to work in the UK. This could be as a student or as a dependant etc. This will be identified by a visa or stamp in their passport or from an Identity Card for Foreign Nationals a copy of which needs to be retained on their personnel file. The Borders Agency provides an Employers Checking Service on 03001234699 and they will assist in confirming whether individuals have permission to work. The following website also provides useful information and will assist in identifying any restrictions that may apply. <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking>
- ❖ A Working Holiday Visa is a 2 year visa which allows the holder to work for 12 months and then holiday for 12 months. Please be aware that this visa **cannot** automatically be switched to the points based system and will require the candidate to return to their country of origin in order to apply for right to work in the UK.