



The Westwood Organisation
Clear and concise immigration advice



INTERNATIONAL RECRUITMENT: SPONSORSHIP OVERVIEW

Should you wish to recruit an individual from outside the UK, it is likely they will require sponsorship to enable them to apply for a Tier 2 (general) visa. This will grant them a limited period of leave to enter and/or remain in the UK. Initial Tier 2 visas are typically granted for three years, at which point they will need extending, but an employer can choose the length of the initial certificate up to a maximum of 6 years. The maximum stay on a Tier 2 visa is 6 years, but an individual will be able to apply for indefinite leave to remain (settlement) at this stage. The requirements for settlement are a salary of £36,200 (from April 2020); this is worth bearing in mind that if you wish to continue to employ an international worker, they can only do so if they meet the requirements of the immigration rules.

SPONSORSHIP

Before an individual can apply for a Tier 2 visa, they require a certificate of sponsorship (CoS). A CoS is a virtual document – similar to a database record. Each CoS has a unique reference number which contains information regarding the role you are being sponsored for, how the requirements for sponsorship are met etc. There are two types of CoS, unrestricted and restricted.

Types of Certificates of Sponsorship

Unrestricted Certificates of Sponsorship

Every sponsor has an annual allocation of certificates of sponsorship; these can be assigned at any time throughout the year. Unrestricted CoS are assigned to *migrant workers who are in the UK* and able to switch visas into the Tier 2 category, or current Tier 2 employees who require an extension.

Restricted Certificates of Sponsorship

These are for individuals who will apply for their Tier 2 visa from *outside of the UK*, and those who are switching visa from a Tier 4 (student) dependent visa and are within the UK. This type of CoS is granted in addition to an employer's annual allocation, and an application needs to be made to the monthly UKVI panel. Timings surrounding restricted certificates of sponsorship are therefore affected by the dates of these monthly panels.

REQUIREMENTS FOR SPONSORSHIP

In order to assign a CoS to an individual, the job to which they are being recruited must meet the requirements for sponsorship.

Job Role/Code of Practice

Every sponsored worker is sponsored for a particular role, which will fall under a Standard Occupation Classification (SOC code). SOC codes are found within the Codes of Practice at Appendix J of the Immigration Rules; this sets out the skill level and appropriate salary rate for jobs, as well as any specific advertising requirements should the resident labour market test be required.

Correct as of 25 April 2020.

Please note the publication date of this article; changes may have occurred.

Immigration law changes rapidly. This document may not reflect the most current legal developments.

Appropriate Rate Salary

Unless an exception applies (these are outlined within the Tier 2 guidance), the minimum salary you must pay a Tier 2 migrant is whichever is the higher of £30,000 per year or the appropriate rate for the job stated within Appendix J. e.g. Under SOC code 1121: Production Managers and Directors in Manufacturing, the new entrant level salary is £24,500. Therefore, the appropriate salary would be £30,000.

Resident Labour Market Test

The resident labour market test (RLMT) is there to protect the settled UK workforce. It requires sponsors to advertise jobs in order to give settled workers a chance to apply. A migrant worker can only be appointed if the RLMT has been conducted, and there is evidence that no suitable settled worker is available to fill the role. RLMT typically means advertising for 28 days

Exemptions from RLMT

Certain SOC codes are exempt from having to conduct the RLMT, so it is important to be clear which SOC code the role falls within. Such roles include those that fall within the Shortage Occupation List, or PhD level roles.

EMPLOYER COSTS OF SPONSORSHIP (3-year visa)

Certificate of Sponsorship	£199
Immigration Skills Charge	£1092 (small or charitable sponsors) £3000 (medium or large sponsors)

*In order to meet the financial requirements for a Tier 2 visa, the individual must show they have personal savings of £945 (held for 90 consecutive days), or the employer can 'certify maintenance'. This means the employer has the option to provide a loan to the individual of £945, if they need it. In order to certify maintenance, it is simply a case of selecting a radio button when creating the certificate of sponsorship.

EMPLOYEE COSTS - to consider reimbursing (3-year visa)

Visa Fees *	£464 (shortage occupation role) £610 (other roles)
Immigration Health Surcharge (£400 per person, per year of stay)	£1200
Relocation	Dependent on location

*The cost of the visa will depend on whether or not the individual is currently in the UK, the job they will be doing and the length of visa. More information can be found here: <https://www.gov.uk/tier-2-general>.

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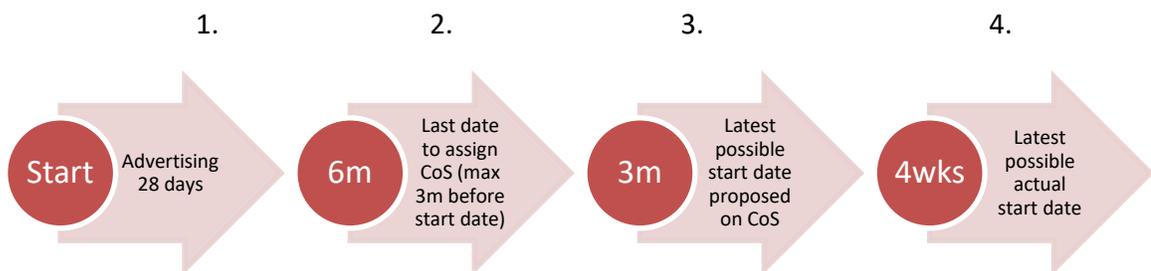
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TIMESCALES

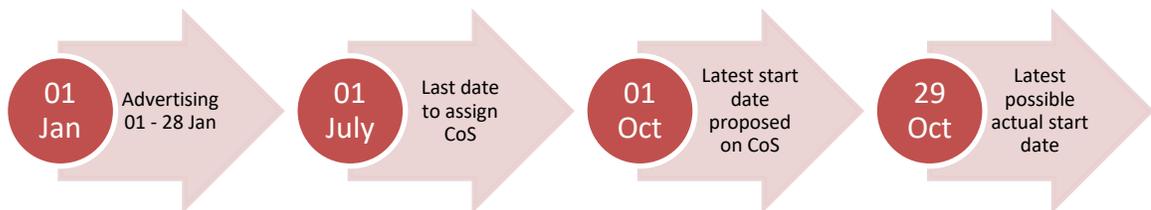
Actual timings are dependent upon response times from both the individual and UKVI. The information below highlights the potential timescales that recruiting managers need to be aware of.

1. A vacancy must be advertised for 28 days, to meet the RLMT (unless exempt).
2. For vacancies that fall within PhD level SOC codes, the CoS must be assigned within 12 months of the job advertisement release date. For all other vacancies, the CoS must be assigned within 6 months of the job advertisement release date.
3. A CoS can be assigned up to 3 months before the individual's proposed start date. (A CoS is valid for 3 months once it is assigned).
A visa application using an unrestricted CoS takes approximately 4-6 weeks to process. A visa application using a restricted CoS takes approximately 6-10 weeks to process.
4. Candidates must commence employment within 4 weeks of the start date stated within the CoS.

This process chart highlights the maximum length of time recruitment can take – for an unrestricted (in country) CoS for a job that is not at PhD level. (For PhD level jobs the CoS can be assigned up to 12 months after the advertising release date). Please note these are the last possible dates that actions can be taken.



Example maximum timeline for a job advertised from 1st January:



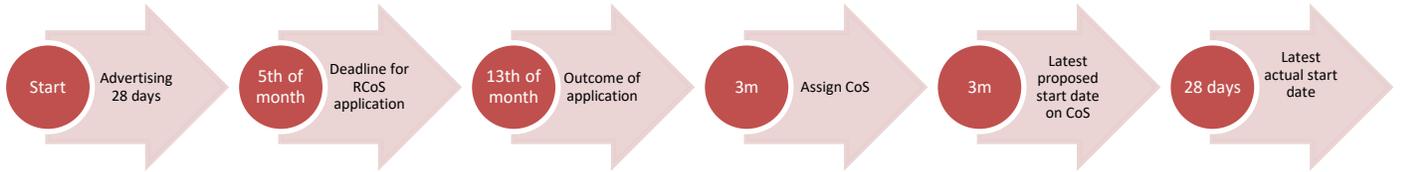
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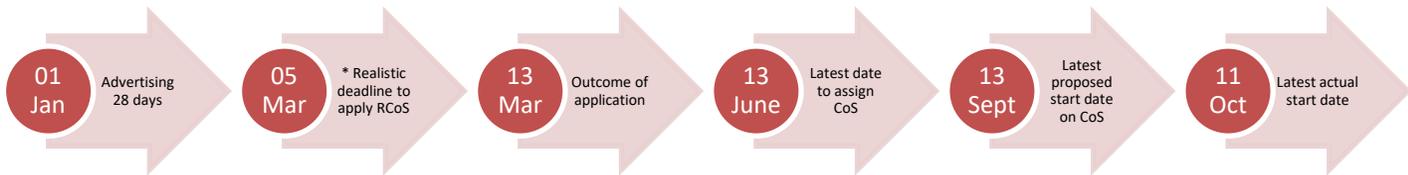
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ADDITIONAL TIMESCALE CONSIDERATIONS FOR RESTRICTED COS

- Applications for a Restricted CoS must be submitted on the Sponsorship Management System by the 5th of the month.
- UKVI panel meets on or around 11th of the month.
- Outcome of application typically received by the 13th of month (email will go to the individual who submitted the online application).
- The CoS must be assigned within three months or it will be removed from account.



Example maximum timeline for a job advertised from 1st January:



** In the process flow above, the realistic deadline to apply for a RCoS (5th March) factors in the closing date of advertising (28 Jan) and the subsequent shortlisting, interviewing, job offer/acceptance process. For this to happen by the 5th Feb deadline for applications would be no mean feat! It is worth considering the 5th March deadline might not be met, which would delay your RCoS applications until the April panel. This is why a restricted CoS process comes with additional time considerations.*

ADDITIONAL INFORMATION

- Individuals coming to the UK (Restricted CoS) will receive a vignette (sticker) within their passport to enable them to travel into the UK. They will then be required to obtain their biometric residence permit (BRP) from a Post Office, within 30 days of arriving within the UK.
- All employees must present evidence of their right to work (passport/visa) before starting work. Individuals with a temporary vignette can provide this as evidence but must provide their BRP *as soon as they receive this*. It is vital for UKVI compliance that the BRP is copied before the expiry date of the vignette.

USEFUL RESOURCES

- [Appendix J: Codes of Practice](#)
- [UKVI Tier 2 Guidance](#)
- [Appendix D: Guidance for Record Keeping](#)

For any questions, please contact us!

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