



## COUNCIL OF MINISTERS

### Immigration Sponsor Licensing Policy

Laid before Tynwald: 15 May 2018

1. The policy set out in this document is issued by the Council of Ministers and may be cited as the "Immigration Sponsor Licensing Policy".
2. The Immigration Sponsor Licensing Policy sets out the requirements that must be met by:
  - a. applicants for sponsor licences under Tier 4 and Tier 5, and
  - b. licensed sponsors in order to sponsor migrants under Tier 4 and Tier 5, of the Points Based System of the Immigration Rules made under section 3(2) of the Immigration Act 1971 (of Parliament) as that Act extends to the Island<sup>1</sup>.
3. Terms defined in the Immigration Act 1971 (of Parliament) or the Immigration Rules have the same meaning in this document as they have in those enactments.
4. This policy is made —
  - a. to set parameters by which a sponsor may obtain a Licence and sponsor migrants under the Points Based System, and
  - b. to set requirements and responsibilities which a licensed sponsor must meet for the purpose of sponsoring migrants.
5. The appendices referred to in the Immigration Sponsor Licensing Policy form part of the policy.
6. The Immigration Sponsor Licensing Policy (GC 2018/0002) applies to all applications made on or after 6 April 2018.

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<sup>1</sup> SD 62/05 made by the Council of Ministers and laid before Tynwald pursuant to section 3(2) of the Immigration Act 1971 (of Parliament) (c.77) as extended with modifications to the Isle of Man by the Immigration (Isle of Man) Order 2008 (SI 2008/680) as amended.

7. Sponsor Licences, Certificates of Sponsorship and Confirmations of Acceptance of Studies for Tiers 4 and 5, issued prior to 6 April 2018, will remain valid until the expiry date applicable to the relevant document.
8. The Immigration Sponsor Licence Policy (GC 2018/0002) applies to all new applications and renewal applications made on or after 6 April 2018.
9. This Government Circular 2018/0002 revokes and replaces Government Circular 2017/0006.

Will Greenhow  
CHIEF SECRETARY  
March 2018



## **Immigration Sponsor Licensing Policy**

### **Sponsor Licences, Certificates of Sponsorship and Confirmations of Acceptance for Study**

For applications for Sponsor Licences under Tier 4 and Tier 5 of the  
Immigration Points Based System

For applications for Certificates of Sponsorship under Tier 5 of the  
Immigration Points Based System

For applications for a Confirmation of Acceptance for Studies under Tier 4 of  
the Immigration Points Based System

Other documents that form part of this Policy:

- Appendix A: Supporting Documents for Licence Applications
- Appendix B: Document Retention Policy

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## Introduction

This Immigration Sponsor Licencing Policy applies to persons intending to sponsor applicants under Tier 4 and Tier 5 of the Points Based System in order to temporarily employ someone or enrol students from outside of the Isle of Man, the European Economic Area (EEA) and Switzerland.

A Non EEA national migrant must have a Licensed Sponsor before they can apply to come to, or remain in the Isle of Man for temporary work or study.

This document sets out the current policy which may change at any time. It sets out the requirements that must be met by:

- a. applicants for Sponsor Licences under Tier 4 and Tier 5; and
- b. Licensed Sponsors in order to sponsor migrants under Tier 4 and Tier 5 of the Points Based System contained in the Immigration Rules made under section 3(2) of the Immigration Act 1971 (as it extends to the Island).

Significant trust is placed on a Sponsor when a licence is granted. With this trust comes a responsibility to act in accordance with the Immigration Rules and this Policy.

A Register of Licensed Sponsors can be found on the immigration pages of the [www.gov.im](http://www.gov.im) website.

Sponsoring an individual does not guarantee that he or she will be allowed to come to or stay in the Isle of Man. Non EEA national migrants must apply and meet all the relevant requirements for a visa to come to, or remain in the Isle of Man.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then please contact [immigration@gov.im](mailto:immigration@gov.im).

### Fair Processing

Companies interested in locating to the Island are also advised to contact the Department for Enterprise (DfE). Please note that Immigration Officers and DfE are separate bodies and their mandates (compliance versus business development) are separated to avoid conflicts of interest.

If a prospective Sponsor wishes Immigration Officers to be able to discuss aspects of their application with the DfE, it must give explicit permission either using the application form or in a separate letter sent to the Immigration Office. In the absence of this, Immigration Officers cannot share application data with DfE.

The Isle of Man Cabinet Office is registered as a data controller in accordance with the Data Protection Act 2002.

### Fair Processing Notice:

The Isle of Man Immigration Service has a Fair Processing Notice which informs you how we collect and use the personal data you provide us with and how we will process your application. This information is important, therefore, we encourage you to read the Fair Processing Notice carefully.

The Fair Processing Notice is available by visiting our website at [www.gov.im/immigration](http://www.gov.im/immigration).

For information about how to obtain a copy of the information which we hold about you or to report a concern please visit <https://www.gov.im/about-the-government/existing-access-to-government-information/>

# Sponsor Licencing

## Overview

An employer requires a Sponsor Licence to temporarily employ someone who is not an Isle of Man worker or a national from outside the European Economic Area (EEA) and Switzerland to work in the Isle of Man. Employment includes paid work and unpaid work such as charity work.

If an education establishment wishes to enrol students from outside the EEA or Switzerland, it is also required to hold a Sponsor Licence to do so.

### Overview of Sponsorship under Tier 5

Tier 5 of the Points Based System is a route for non-EEA migrants who wish to work temporarily in the Isle of Man. These migrants must be sponsored by an organisation or company that holds a Tier 5 Sponsor Licence. The organisation is known as a Sponsor, individual persons are not recognised as sponsors.

A certificate of sponsorship may only be assigned to a migrant by a Licensed Sponsor if the licence holder:

- has responsibility for deciding all the duties, functions and outcomes of the job the migrant is doing; and
- is responsible for agreeing and paying the migrant's salary.

Tier 5 has two categories - Youth Mobility (for international exchange schemes) and Temporary Workers. The Temporary Worker category is split into five sub-categories:

- **Creating and Sporting** – sports people, entertainers and creative artists who have been offered work in the Isle of Man for up to 12 months;
- **Charity Workers** – voluntary workers doing unpaid work for a charity;
- **Religious Workers**- religious work such as preaching or teaching;
- **Government Authorised Exchange** – for work experience, training or research through a GAE programme; and
- **International Agreement.** Workers covered by international law such as diplomatic staff or Youth Mobility Scheme for workers aged between 18-30 via an international exchange scheme.

When considering a Sponsor Licence application, Immigration Officers need to establish four things:

- is the applicant an organisation operating in the Isle of Man? The applicant must provide certain documents to prove this. These are listed in Appendix A to this Policy;
- is the applicant honest, dependable, and reliable? Immigration Officers may consider the applicant's history and background, the key personnel named on the application and any people involved in the day to day running of the organisation or any of its listed branches or related entities to judge this;
- is the applicant capable of carrying out its sponsor duties? Immigration Officers look at the applicant's current human resources and recruitment practices to make sure that it is able to fulfil its sponsor duties. Immigration Officers may do this by visiting the applicant before the licence is granted; and
- can the applicant offer employment that meets the skill level and appropriate rates of pay? Immigration Officers will consider the Codes of Practice for Skilled Workers set out in Appendix J of the Immigration Rules and any job advertisements to assess this.

#### Overview of Sponsorship under Tier 4

Tier 4 of the Points Based System is the primary immigration route for non-EEA students who intend to study full-time in the Isle of Man. These students must be sponsored by an education provider that holds a Tier 4 licence and is based in the Isle of Man. The education provider<sup>1</sup> is known as a Sponsor.

An education provider can apply for a licence in two categories:

- Tier 4 (General) student. This route is for migrants aged 16 or over who come to the Isle of Man for their post-16 education.
- Tier 4 (Child) student. This route is for students aged 4-17 who come to the Isle of Man for their education. Tier 4 (Child) students may only be educated at independent schools.

## **Applying for a Sponsor Licence**

All applications will be treated in confidence and will be processed in line with the Fair Processing Policy that can be found on the immigration pages of the Gov.im website.

When applying for a Sponsor Licence the application must specify which tiers, categories and subcategories the applicant wishes to be licensed under. Providing the relevant eligibility criteria are met, an applicant may be licenced for as many tiers as needed, but will only be able to sponsor migrants under those tiers, categories or subcategories for which the licence is granted.

If an applicant has not included with its application all the mandatory documents, as set out in Appendix A of this Policy<sup>2</sup>, Immigration Officers will consider it invalid and reject the application. Other documents in addition to Appendix A may be requested at any time by Immigration Officers.

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<sup>1</sup> Health Education England (HEE) is a Tier 4 sponsor. HEE sponsor all non-EEA students on the two-year foundation programme for postgraduate doctors and dentists.

<sup>2</sup> Appendix A of this Policy sets out the documentary evidence required to validate an application. Other documents may be requested at any time.



If any documents (other than mandatory documents) are missing from the application, or if further documentation or information is required, Immigration Officers will contact the Key Contact named in the application. The further documentation requested should be provided to Immigration Officers within 7 working days.

Sponsors have a duty to act honestly in any dealings with Immigration Officers, such as not making false or misleading statements and ensuring all essential information is disclosed when applying for a Sponsor Licence, assigning a COS and whilst holding a Sponsor Licence. If a Sponsor fails to comply with its Sponsor duties, knowingly provides false information, poses a threat to immigration control or commits an offence relating to illegal employment then Immigration Officers will take action against such Sponsors. Such action may include revocation of a Sponsor Licence or prosecution.

### Eligibility criteria

When applying for a sponsor licence, an applicant must meet the eligibility and suitability criteria.

<b>Category or Tier</b>	<b>Eligibility Criteria to be a Sponsor</b>
Tier 5 (Temporary Workers) Creative and Working	Must be a sports club, sporting body or events organiser in the sporting sector who is endorsed by the governing body of the sport and approved by the Department of Economic Development. Agents are not eligible.
Tier 5 (Temporary Workers) Charity Workers	Must be registered as a charity in the Isle of Man.
Tier 5 (Creative Workers)	Must be operating as national body, event organiser, producer, venue or similar.
Tier 5 (Government Authorised Exchange)	Must be a body included on the list of GAE schemes listed in Appendix N of the Immigration Rules and/or endorsed by DED.
Tier 5 (Temporary Worker) International Exchange	Must be a diplomatic mission or organisation recognised by the United Kingdom "List of international organisations".
Tier 4	A genuine education provider that has acceptable educational quality standards, and is operating lawfully in the Isle of Man, complying with all appropriate rules and regulations and must be considered eligible and suitable to hold a Tier 4 Licence

Applicants need to show that they meet the eligibility criteria by providing:

- the completed relevant application form and submitting it with the appropriate fee and supporting documentation to the address specified on the application form. This application includes a declaration from the applicant that they agree to meet all of the duties associated with being a Licensed Sponsor;
- provide proof that it is a genuine organisation operating or trading lawfully in the Isle of Man;

- provide original or certified copies of documents listed in Appendix A of this Policy;
- appoint Key Personnel and provide contact details for them;
- indicate the number of migrants intended for sponsorship within the first year the Licence is to be held;
- show there are no reasons to believe that the Sponsor is a threat to immigration control; and
- if asked, provide evidence of holding the appropriate planning or building control permission from the Department of Environment, Food and Agriculture or Building Control authority.

Immigration Officers will consider any evidence which suggests a Sponsor may be a threat to immigration control or evidence from a public or professional body of a Sponsor's lack of compliance with the public or professional bodies' rules.

### **Suitability Criteria**

The suitability criteria determine whether or not the applicant's licence should be granted or revoked. To assess suitability, Immigration Officers will take into account any relevant factors including (but not limited to):

- **human resource systems** - the applicant has suitable human resource and recruitment practices in place to meet, or continue to meet its sponsor duties;
- **in relation to Tier 5** - the applicant can offer a genuine vacancy which meets the criteria of the specific category or tier of Sponsor Licence which it has applied for;
- **convictions and penalties** - the applicant does not have any unspent convictions; and
- **migrant compliance** - any evidence of previous non-compliance.

The applicant must complete the relevant sections of the application form to confirm whether in respect of: (1) the applicant; (2) any of its owners or controllers, (3) its Key Personnel, (4) its directors/partners/trustees or (5) anyone involved in the day to day running of the applicant or a related entity has:

- previously been removed or suspended from any register of sponsors held in the Isle of Man or United Kingdom within the last 5 years;
- any criminal prosecutions (including any pending actions); or
- failed to pay VAT or other excise duty (in the Isle of Man or United Kingdom).

In addition to eligibility and suitability criteria above, an education provider applying for a Tier 4 Sponsor Licence must also provide evidence to show it is:

- compliant with the Education Act 2001, Immigration Officers reserve the right to conduct checks with the Department of Education, Sport and Culture;
- an education provider with acceptable education standards which is operating lawfully in the Isle of Man, complying with all appropriate rules and regulations;

- considered eligible and suitable to hold a Tier 4 licence; and
- capable of carrying out its duties as a sponsor.

In order to establish whether or not an applicant for a Tier 5 or Tier 4 Sponsor Licence meets the criteria, Immigration Officers will consider a number of factors, including (but not limited to) an applicant's history and background, the Key Personnel named on its application and anyone involved in the day-to-day running of the organisation.

Immigration Officers consider any dishonest conduct or involvement with immigration crime, either by the organisation as a corporate entity or by individuals in the organisation very seriously and may refuse an application solely on the basis that such activities have taken place.

Immigration Officers will consider whether an applicant is eligible and suitable to hold a Sponsor Licence and will take into account any relevant factors, including (but not limited to) whether or not:

- the applicant, the Key Personnel, or any individuals involved in the day-to-day running of the organisation or any of its sites/branches have:
  - complied with the Immigration Rules and any Immigration Sponsor Licence Policy in the past (including consideration of whether a previous Sponsor Licence issued in the Isle of Man or elsewhere has been revoked or suspended);
  - any unspent criminal convictions for a relevant offence;
  - received a civil penalty for immigration offences in the UK; or
  - previously come to the notice of Immigration Officers for potential investigation;
- in addition in relation to Tier 4 applications, whether or not:
  - the education provider where applicable complies with the Education Act 2001;
  - the education provider is an institution that is operating lawfully in the Isle of Man, including registering for VAT with Customs and Excise if required to do so; holding a Fire Certificate issued by the Isle of Man Fire and Rescue Service;
  - holding the appropriate planning or building control permission from the Cabinet Office or the appropriate Building Control Authority at its education premises; and
  - have policies and procedures in place to monitor student attendance and provides courses which meet an acceptable educational standards.
- the applicant has systems, policies and processes in place that enable it to meet its Sponsor duties; and
- the applicant has at any time misrepresented its sponsorship status on its website or marketing material (for example, by claiming it was a Licensed Sponsor whilst its Sponsor Licence was revoked or suspended) in the Isle of Man or UK.

Immigration Officers will examine the information and documents to check that they are correct and genuine. They will check them against records held by issuing authorities such as banks, universities, and professional or regulatory bodies and government departments and bodies in the Isle of Man, United Kingdom and overseas.

Immigration Officers reserve the right to undertake checks on persons associated with Sponsors including employees in positions of responsibility who are not directors, office holders or key personnel and financiers involved in running the organisation. The conduct of such persons may also be taken into account in making decisions about the application or Sponsor Licence. The action taken depends upon a number of factors including the nature and seriousness of any conduct, when the conduct occurred, any mitigating factors, compliance with any remedial measures and any previous criminal conduct or dishonesty.

If Immigration Officers consider that an applicant is not suitable to hold a licence, the application will be refused.

If a Sponsor ceases to be suitable to retain its Sponsor Licence the Sponsor Licence may be revoked.

### **Key Personnel**

An applicant must appoint named individuals as Key Personnel to carry out certain functions. They must be named on the application form. These roles can be filled by the same person, or a combination of different people. The two roles are:

- Authorising Officer, and
- Key Contact.

Immigration Officers can only discuss matters relating to a Licence or Certificates of Sponsorship with the named Key Personnel only.

A Licenced Sponsor must notify Immigration Officers of any changes to Key Personnel within 20 working days.

One of the Key Personnel must be a settled worker (a settled worker includes an Isle of Man Worker, a British Citizen or other EEA national) unless the Sponsor is a diplomatic mission or international organisation under the Tier 5 Category.

Each of the Key Personnel must:

- be permanently based in the Isle of Man for the duration of the period that he or she fills the role appointed to them;
- must not have an unspent conviction for a relevant offence; and
- must be a paid member of the applicant's staff or engaged by the Sponsor as an office holder.

The Key Personnel cannot be:

- a representative who is not based in the Isle of Man;

- a contractor or consultant who is contracted for a specific project;
- subject to a bankruptcy order or similar sanction imposed in any jurisdiction; or
- legally prohibited from being a company director.

The Sponsor and its Key Personnel must not assign a Certificate of Sponsorship or a Confirmation of Acceptance of Studies to themselves or to a relative or partner. A relative or partner is a:

- spouse or civil partner;
- unmarried or same-sex partner;
- parent or step-parent;
- son or step-son;
- daughter or step-daughter ;
- brother, step-brother or half-brother;
- sister, step-sister or half-sister;
- nephew, niece, cousin; or
- father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

#### Authorising Officer – Overview

An Authorising Officer must be an employed individual, director or office holder of the organisation. The Authorising Officer must be in place when applying for a Sponsor Licence and throughout the period of the validity of the Sponsor Licence.

The person appointed to this role must be the most senior person responsible for recruitment of migrants or students in the organisation and will be responsible for ensuring all sponsor duties are met.

#### Key Contact – Overview

The Key Contact may also be the Authorising Officer or another individual within the organisation.

The Key Contact will be the delegated point of contact with Immigration Officers and will be contacted with any queries about the application, the documents supplied with it or the fee.

## **Fees**

In order for a Sponsor Licence application to be considered the relevant fee must be paid. Fees may change from time to time. Information relating to the relevant fee can be found on the Immigration pages of the [www.gov.im](http://www.gov.im) website.

The fee is for the consideration of a Sponsor Licence application and will not be refunded if the application is refused.

#### Tier 5

The fee for a Sponsor Licence depends on the size of the applicant's organisation. If the applicant has charitable status the 'small' sponsor licence fee will apply.

Applicants for a Tier 5 Sponsor Licence must pay a fee for the following applications:

- for a Sponsor Licence;
- to renew an existing Sponsor Licence;
- to extend the scope of an existing Sponsor Licence by adding other Tiers; and
- to apply for each COS.

#### Tier 4

Applicants for a Tier 4 Sponsor Licence must pay a fee for the following applications:

- for a Tier 4 Sponsor Licence, or to renew it;
- to extend your existing Sponsor Licence by adding other Tiers; and
- to apply for each Confirmation of Acceptance of Studies (CAS).

If the correct fee is not paid on submission of the application, that application will be rejected. If an overpayment is made for the tier/category applied for, the excess payment will be returned via the method of payment made.

### **Sponsor's Structure**

In this Policy, Isle of Man based subsidiaries, entities or the locations of business or the campuses of an applicant or Sponsor are referred to as "branches". An applicant which is not an Isle of Man legal entity must have a registered branch and presence in the Isle of Man and that registered branch must be the licence holder.

#### Sponsor Licence options

An applicant may apply:

- for a single licence that includes the head office and all branches in the Isle of Man. A large entity may find it convenient to register all of its operations in the Isle of Man under a single licence;
- for each branch to have a separate sponsor licence; or
- to group a number of Isle of Man branches under a single sponsor licence.

Immigration Officers may ask for evidence to show the common ownership or control of the head office and branches.

Where a number of branches are individually licenced and a licence for one of those branches is revoked, the licences for the other branches will not automatically be revoked, however, they will be investigated.

If the head office and all branches are a single licence and that licence is revoked, revocation will apply to all branches. This means the branches will not be authorised to sponsor migrants.

If any branches later apply for an individual licence, evidence of previous abuse or non-compliance, and the reasons for it, will be taken into account when considering the application.

#### Employment agencies, employment businesses and intra-company transfers

If the applicant is an employment agency or any third party (intermediary) who supplies workers to a client, a Sponsor Licence will only be granted to sponsor migrant workers who will be directly employed in connection with the running of the applicant's business. An applicant cannot sponsor a migrant in order to supply them as labour to another organisation, regardless of any contractual arrangement between the parties involved.

If a Sponsor Licence is granted to an employment agency or intermediary, and later Immigration Officers identify that a sponsored migrant has been supplied as labour to another organisation, the Sponsor Licence will be revoked.

### Franchises

If the applicant is an organisation or partnership which has a number of franchises under its control, it may apply for a single licence as a 'head office and all Isle of Man branches' or have each franchise entity licensed individually.

Franchises operated by individuals and which are not a separate legal entity are not eligible to become a Sponsor.

If the franchises are separate businesses, i.e. not under the applicant's control (as the parent organisation), a separate licence must be obtained for each one.

## Sponsor Duties

A Licensed Sponsor benefits directly from migration and is expected to play a significant part in ensuring that the system is not abused. This means certain duties must be fulfilled. Some of these duties apply to all Sponsors, whilst others are specific to those licenced under certain tiers or categories.

The objectives of these duties are to:

- prevent abuse of assessment procedures;
- capture early any patterns of migrant behaviour that may cause concern;
- address possible weaknesses in process which can cause those patterns; and
- monitor compliance with Immigration Rules.

The responsibilities as a Licensed Sponsor start on the day the licence is granted and end if the licence is surrendered or revoked.

The responsibility for each migrant starts on the day a CoS or CAS is assigned to him or her. The responsibility for each migrant ends:

- when the Sponsor Licence holder tells the Immigration Officers that the migrant is no longer sponsored by it for any reason;
- when the migrant leaves the Isle of Man and his or her entry clearance or leave to remain lapses; or
- when a migrant is granted further leave to remain with a different Licenced Sponsor or in another immigration category which does not require the migrant to hold a CoS or a CAS.

Immigration Officers will only discuss matters relating to a Sponsor's Licence and its sponsored migrants with the Sponsor's named Key Personnel.

### **A) Record Keeping Duties**

Appendix B to this Policy is the Document Retention Policy and lists the documents that must be kept by a Licensed Sponsor to meet these record keeping duty requirements.

There is no prescribed method for storing the documents listed in Appendix B; but they must be made available to Immigration Officers upon request. A licence holder should also be aware of and comply with its legal obligations under the Data Protection Act 2002 and storing documents that includes details of its employees.

Sponsors must also make available to Immigration Officers any other documents relating to the running of its organisation, the sponsoring of migrants which they consider necessary in order to assess whether or not a Sponsor is complying with its duties as a Sponsor.

### **B) Reporting Duties**

A licence holder must report certain information or events to Immigration Officers, within the time limit set. Any information reported about a migrant's non-attendance, non-compliance or disappearance may be used to take enforcement action.



A licence holder must give the police any information that suggests any migrant sponsored, or endorsed under that licence, under any tier, may be engaged in terrorism or criminal activity.

### Tier 5 Reporting Duties

The Licensed Sponsor must notify Immigration Officers in writing within 10 working days of any of the following:

- if a sponsored migrant does not turn up for their first day of work with the Licensed Sponsor. The notification should include the last recorded residential address, email address and contact telephone number for the migrant in addition to any reason given for his or her non-attendance, for example a missed flight;
- if a sponsored migrant's contract for employment, or services is terminated earlier than shown on his or her CoS, for example, if the migrant resigns or is dismissed. The notification should include the last recorded residential address and contact telephone number for the migrant. Where the migrant has moved to a new employer the name and address of the new employer, if known, must be included in the notification;
- if it stops sponsoring a migrant for any reason
- if there are any significant changes in the sponsored migrant's circumstances, for example:
  - a promotion or change of job title, or core duties, other than those which need a change of employment application (change of employment section);
  - a change of salary from the level stated on the CoS, other than changes due to annual increments or bonuses;
- where a sponsored migrant is absent from work for more than 10 consecutive working days without permission, it must be reported as soon as possible; and
  - change of main or head office address
  - change of Sponsor's name
  - change of Key Personnel or their contact details
  - change in the status of any registration by a governing body that the Sponsor needs to hold
  - sale of all or part of the Sponsor's business Notification of insolvency and appointment of liquidator or receiver over any part of the Sponsor's business
- where there are changes in the circumstances of the licence holder, for example:
  - change of main or head office address;
  - change of Sponsor's name;
  - change of Key Personnel or their contact details;
  - change in the status of any registration by a governing body that the Sponsor needs to hold;
  - change of control, merger, take-over or sale of all or part of the Sponsor's business
  - appointment of liquidator or receiver over any part of the Sponsor's business or an application for bankruptcy or administration

- There are specific time periods for notifications of changes which under apply to migrants affected by Transfer of Undertakings where a Sponsor undergoes a sale or merger. Please refer to the Change of Employment section below for further information.

#### Tier 4 Reporting Duties

Tier 4 Sponsors should report each of the below events or circumstances to Immigration Officers in writing.

	<b>If...</b>	<b>Then...</b>
a.	a student withdraws from their course before he or she travels to the Isle of Man	The Sponsor must: <ul style="list-style-type: none"> <li>• report it to Immigration Officers within 10 working days of becoming aware of it; and</li> <li>• inform Immigration Officers if the student is joining another institution and the name and address of that institution if known.</li> </ul>
b.	a student's start date is delayed before the student enters the Isle of Man but after the student has been granted entry clearance	The Sponsor must: <ul style="list-style-type: none"> <li>• agree with the student whether or not he or she can still complete the course within the dates given on their visa. If he or she can, then it does not need reporting to Immigration Officers;</li> </ul> If he or she cannot then the Sponsor must: <ul style="list-style-type: none"> <li>• assign a new CAS; and</li> <li>• advise the student to apply to vary his or her leave to include a later finish date.</li> </ul>
c.	a student does not enrol within the enrolment period.	The Sponsor must: <p>report to Immigration Officers within 10 working days of the enrolment period ending including the reasons for non-enrolment, for example, the student;</p> <ul style="list-style-type: none"> <li>- missed their flight;</li> <li>- decided not to come to the Isle of Man to undertake the course enrolled on;</li> <li>- delayed his or her enrolment; or</li> <li>- is doing a course with a different sponsor.</li> </ul>
d.	a student misses 10 consecutive "expected contact" points without being granted reasonable permission. Examples of "expected contacts"	The Sponsor must: <ul style="list-style-type: none"> <li>• inform Immigration Officers within 10 working days of the last expected contact</li> </ul>

<p>include:</p> <ul style="list-style-type: none"> <li>- attending formal academic or pastoral care activities including:</li> <li>- a lesson, lecture, tutorial or seminar;</li> <li>- a test, examination or assessment board;</li> <li>- a meeting with a supervisor or personal tutor;</li> <li>- an oral examination</li> <li>- an appointment with a welfare adviser or international student adviser;</li> <li>- submitting assessed or unassessed coursework; or an interim dissertation, coursework or report; and</li> <li>- registration (for enrolment or matriculation).</li> </ul>	<p>point, that you intend to withdraw sponsorship of that student; and</p> <ul style="list-style-type: none"> <li>• provide the name and address of any other sponsor the student has moved to, if known.</li> </ul>
<p>e. A student defers his or her studies after the student has arrived in the Isle of Man and is no longer actively studying.</p> <p>The sponsorship of a student who has deferred his or her studies may continue for up to a maximum of 60 days providing the Sponsor can continue to carry out the sponsorship duties and the student will be able to complete the course within his or her existing period of leave. If the Sponsor believes the student will not resume his or her studies after 60 days the Sponsor must withdraw sponsorship.</p> <p>In exceptional circumstances, such as serious illness or injury, a Sponsor may continue to sponsor a student for longer than 60 days providing the student can still complete the course within his or her existing period of leave when he or she resumes his or her studies.</p> <p>It is the Sponsor's decision as to whether or not it is prepared to continue sponsoring a student during a deferral and, if necessary, provide evidence to verify this decision to</p>	<p>The Sponsor must report that the student has deferred his or her studies within 10 working days of agreeing the deferral.</p> <p>If the Sponsor withdraws sponsorship of the migrant, the student's permission to stay is no longer valid and the Sponsor must advise the student to leave the Isle of Man and United Kingdom.</p> <p>Once the student is ready to resume his or her studies, the Sponsor must assign a new CAS and the student must reapply for a new visa with the new CAS.</p>

	Immigration Officers.	
f.	<p>The Sponsor stops sponsoring the migrant for any reason.</p> <p>Or</p> <p>There is a significant change in the student's circumstances. These include:</p> <ul style="list-style-type: none"> <li>• a change in where they study or do their work placement;</li> <li>• a change of course; or</li> <li>• anything that suggests that they are breaking the conditions of their permission to stay in the UK, such as working in breach of their conditions.</li> </ul>	<p>The Sponsor must:</p> <ul style="list-style-type: none"> <li>• Inform Immigration Officers within 10 working days of knowing about any issue that has led to the Sponsor ceasing sponsorship.</li> </ul> <p>Or</p> <p>Report the changes to Immigration Officers within 10 working days of the Sponsor becoming aware of it.</p>

### C) Duty to comply with the law

Sponsors have a duty to comply with the Immigration (Restrictions on Employment) Order 2008. The requirements to be met are set out below.

To ensure a Sponsor is complying with the immigration laws, a Sponsor must:

- only employ migrants who are appropriately qualified, registered or experienced to do the job - for example, if the migrant is working as a doctor, the licence holder must ensure that the or she has the correct registration that allows him or her to practise legally in the Isle of Man;
- a copy must be kept of any registration document, certificate or reference that confirms the migrant meets the requirements of the specific job, and give this to Immigration Officers on request - further information or evidence may be requested from the licence holder or the migrant to confirm this requirement;
- not employ migrants where the migrant does not have the experience or permission to do the job in question and stop employing a migrant who for any reason is no longer entitled to do the job, for example, because the migrant no longer holds a relevant qualification or registration;
- not assign a CoS where there is no vacancy or role which meets the Tier 5 criteria. If a CoS is assigned and Immigration Officers do not consider that it is for a vacancy, a Sponsor licence may be suspended pending further investigation which may result in the licence being revoked;
- only allow the migrant to undertake the specific role set out in his or her CoS.

This means a Sponsor must:

- only assign a CoS to migrants who will meet the requirements of the tier or category, and are likely to comply with the requirements and conditions of leave as set out in the Immigration Rules;
- comply with Isle of Man employment law;
- make Immigration Officers aware if you intend to assign a CoS to a person who is a family member of anyone within the Sponsors organisation;
- only assign a CoS to a migrant if you are satisfied that the migrant intends and is able to fill the job;
- only apply for a CoS for a role which is at or above the minimum skill level set out in the Codes of Practice for Skilled Workers at Appendix J of the Immigration Rules; and
- only employ a migrant who has had a Disclosure and Barring Service (DBS) check, where this is a requirement for the job or under the Immigration Rules.

## **D) Duty to ensure a Genuine Vacancy**

A genuine vacancy is one which:

- requires the jobholder to perform the specific duties and responsibilities for the job and meets all of the requirements of the tier and category - if the Sponsor has already assigned a CoS, the vacancy must be for the period of employment stated on that CoS; and
- does not include dissimilar and/or lower-skilled duties.

Immigration Officers may request additional information and/or evidence from the Sponsor or the migrant to establish this requirement, and may refuse the migrant's visa application if this is not provided within a set deadline.

Examples which are not considered to be a genuine vacancy include, but are not limited to:

- one which contains an exaggerated or incorrect job description to deliberately make it appear to meet the requirements of the tier and category when it does not;
- a job or role that has been created to enable a migrant to come to, or stay in, the Isle of Man;
- advertisements with requirements that are inappropriate for the job on offer, and/or have been tailored to exclude resident workers from being recruited, or dissuade resident workers from applying.

## **E) Duty of Co-operation**

Sponsors must co-operate and allow Immigration Officers access to any premises, site or campus under their control on demand. Visits by Immigration Officers are usually pre-arranged at a

mutually convenient time but may also be unannounced. For further information see the 'Compliance Checks' section of this Policy.

## **H) Duties that apply to Tier 4 migrants undertaking the Foundation Programme**

A migrant's United Kingdom Tier 4 visa may be recognised as valid for the purposes of undertaking the Foundation Programme in the Isle of Man provided that the following points are met:

- a. have graduated from a UK medical school;
- b. have been allocated a place on the Foundation Programme at Nobles Hospital in the Isle of Man;
- c. hold a valid Tier 4 (General) student visa issued by the UK Home Office which is sponsored by the UK Registered Sponsor "Health Education England" and has been issued for the purposes of undertaking the Foundation Programme; and
- d. provide evidence to Isle of Man Immigration Officers of points a., b. and c. above, including evidence of the valid Tier 4(General) visa and any biometric resident permit.

On production of the information prescribed above, Immigration Officers will issue a letter confirming that the Tier 4 migrant has satisfied these requirements. It will confirm his or her UK Tier 4 (General) student visa is recognised as valid for leave in the Isle of Man, and that the migrant is not required to obtain a separate Isle of Man Tier 4 (General) student visa.

In these circumstances, the Isle of Man employer of the Tier 4 migrant will be treated as the migrant's sponsor for the purpose of record keeping, reporting and other sponsorship duties in relation to the migrant whilst the migrant is in the Isle of Man and employed by it. The Isle of Man employer must retain all documents listed above in addition to the documents set out in Appendix A of this Policy. These documents must be made available to Immigration Officers on request.

## **I) Duties that apply to Tier 2 migrants undertaking the Speciality Training Programme**

A migrant's United Kingdom Tier 2 visa may be recognised as valid for the purposes of undertaking a Speciality Training Programme post in the Isle of Man provided that the following points are met:

- a. have been allocated a place on a Speciality Training Programme at Nobles Hospital in the Isle of Man;
- b. hold a valid Tier 2(General) visa issued by the UK Home Office which is sponsored by the UK Registered Sponsor "Health Education England" and has been issued for the purpose of undertaking a Speciality Training Programme; and
- c. provide written evidence to the Isle of Man Immigration Officers of points a. and b. above, including evidence of the valid Tier 4(General) visa and any biometric resident permit.

On production of the information prescribed above, Immigration Officers will issue a letter confirming that the Tier 2 migrant has satisfied these requirements. It will confirm his or her UK Tier 2(General) visa is recognised as valid for leave in the Isle of Man, and that the migrant is not required to obtain a separate Isle of Man Tier 2(General) visa.

In these circumstances, the Isle of Man employer of the Tier 2 migrant will be treated as the migrant's sponsor for the purpose of record keeping, reporting and other sponsorship duties in relation to the migrant whilst the migrant is in the Isle of Man and employed by it. The Isle of Man employer must retain all documents listed above in addition to the documents set out in Appendix A of this Policy. These documents must be made available to Immigration Officers on request.

## **Licence Validity**

A Sponsor Licence is valid for 4 years from the date on which the licence is granted, after this it will expire unless the licence is either revoked or surrendered prior to its expiry.

A Sponsor must apply to renew its Sponsor Licence before it expires, or it will be removed from the Register of Licensed Sponsors. A Sponsor who does not have a valid Sponsor Licence cannot continue to sponsor existing migrants, recruit new migrants or issue a new CoS.

## **Compliance Checks**

The majority of those who employ overseas workers are honest and willing to comply with their duties. Sponsorship transfers a significant amount of responsibility for selecting migrants to Sponsors, therefore Immigration Officers have a duty to ensure that all Sponsors comply with their duties.

Immigration Officers may carry out checks before a decision on a Licence application has been made, and may also conduct checks after a decision has been made. This is to ensure that the information provided in the Sponsor Licence application is accurate and that the Sponsor is able and continuing to comply with the duties and responsibility of a licenced Sponsor. Immigration Officers check that:

- information given is accurate and complete;
- the Sponsor is able to offer employment;
- the Sponsor is genuine and trading lawfully in the Isle of Man;
- there are no reasons to believe that the Sponsor represents a threat to immigration control; and
- the Sponsor is committed to, and actually is, complying with all the duties of sponsorship.

Compliance visits will usually be prearranged at a mutually agreed time, however they may also be unannounced and Immigration Officers may check Sponsors at random. A compliance visit does not necessarily mean that Immigration Officers have doubts about the Sponsor's compliance.

During a check an Immigration Officer may want to:

- verify any information provided in the Sponsor Licence application which may include taking photographs of the location and the premises from which the business is operated;
- check that the Sponsor is complying with all its duties, or will be able to comply if the visit is conducted before the Licence is granted;
- speak to any migrant workers sponsored by the Sponsor;
- speak to any of the Sponsors employees or colleagues involved in the recruitment of migrant workers, inspect records and/or systems to ensure the Sponsor is complying with the Sponsor Duties as set out in this Policy;
- check records about Tier 4 Students;

- where applicable, check the relevant registration has been obtained and retained under the Education Act 2001 for both independent, maintained or provided for schools (as defined in Education Act 2001); in order to do so Immigration Officers may undertake checks with the Department of Education and Children.

Immigration Officers may also carry out checks on a Sponsor by telephone or by letter, asking for evidence to support any information provided either before or after the Licence was granted.

Checks may also be made with other Government Departments.

Immigration Officers visiting a Sponsor's premises will have Isle of Man Government, Cabinet Office identification confirming that the individual has been warranted as an Immigration Officer under the Immigration Act 1971 as extended to the Isle of Man by the Immigration (Isle of Man) Order 2008.

During a compliance check if discrepancies on the Sponsor's application are found after a decision has already been made to issue or renew a Sponsor Licence, then action may be taken. Where Immigration Officers have reason to believe that the Sponsor has breached its sponsorship duties the nature of that suspected breach will be considered.

Where the breach is a minor issue, and the Sponsor is willing and able to correct it, and poses no continuing threat to immigration control, Immigration Officers will, in most cases, support the Sponsor in making the relevant improvements by issuing an action plan. This will set out the steps the Sponsor must take in order to retain its licence.

Where there is a serious breach indicating a significant or systematic failing, that the Sponsor no longer meets the eligibility or suitability requirements for holding a Sponsor Licence, or Immigration Officers consider that the Sponsor constitutes a serious threat to immigration control; Immigration Officers may decide either to suspend the Licence and investigate further or to revoke the Licence without prior suspension.

Immigration Officers may suspend the Licence and investigate further when there has been sustained non-compliance over a period of time, or where there have been a number of breaches which are minor in themselves but – taken together – indicate a serious or systematic failing. If Immigration Officers have grounds to believe that the Sponsor constitutes a serious threat to immigration control, Immigration Officers may revoke the Licence without prior suspension.

## **Suspending a Licence**

If Immigration Officers believe a Sponsor is breaching its duties and poses a threat to immigration control, for example, by applying for Certificates of Sponsorship for migrants who do not qualify to come to the Isle of Man, the Sponsor Licence may be suspended whilst Immigration Officers make further enquiries.

A Sponsor will not be able to assign any CoS while the Licence is suspended. The Sponsor must continue to comply with all of its Sponsor duties and any requirements set out in this Policy, throughout the period of suspension. If the Licence is due to expire during the period of suspension, the Sponsor must still apply to renew it if they wish to continue sponsoring migrants.

If a Licence is suspended it is suspended in all of the tiers and categories the Licence is held for. The Sponsor will be removed from the public version of the Register of Licensed Sponsors during the suspension period.



Migrants who are sponsored under the Licence at the time of suspension will not be affected, unless Immigration Officers decide to revoke the Licence.

Where Immigration Officers are satisfied that there is enough evidence to suspend the Licence without further investigation, Immigration Officers will write to the Sponsor providing reasons for the suspension.

The Sponsor has 20 working days from the date of the written notification, to respond to that letter. This is the Sponsor's opportunity to seek a review of the decision and to set out any mitigating arguments. The response must be made in writing to Immigration Officers and set out, with supporting evidence, which grounds the Sponsor believes to be incorrect, the reasons why and any mitigation circumstances. Immigration Officers may extend this response period if satisfied that there are exceptional circumstances. Oral hearings will not be held.

If any additional reasons for suspension come to light during that initial 20 working day period, including additional information gained during the course of discussions or interviews with migrants to whom the Sponsor has assigned a CoS, Immigration Officers will write to the Sponsor again, allowing another 20 working days to respond in writing to the additional reasons.

When Immigration Officers receive a written response from the Sponsor, it will be considered and Immigration Officers may ask any Immigration, Police or Customs officer, other law enforcement agency, government department, regulatory body, agency, local authority, foreign government or other body for information.

If a written response is not received within the given timeframe above, Immigration Officers will go ahead with whatever action they believe to be appropriate and inform the Sponsor of the decision in writing.

Appropriate action may include: reinstatement of the Licence, or not allowing any further CoS applications to be made, or to revoking the Licence. The decision will be provided to the Sponsor within 20 working days of receiving the Sponsor's written response (provided the Sponsor responds within the permitted period), unless the consideration is exceptionally complex or Immigration Officers are awaiting further information from a third party such as the Income Tax Division, United Kingdom Home Office etc.

During the time that a Licence is suspended, Immigration Officers may tell migrants who have been assigned a CoS by the Sponsor that the Licence has been suspended from the Register of Licensed Sponsors, however the reasons why will not be disclosed.

The fee or any part of it will not be refunded if a Sponsor Licence is suspended.

## **Revoking a Sponsor Licence**

A Sponsor Licence may be revoked following suspension and further investigation or may be revoked without prior suspension. If a licence is revoked it will be revoked in all tiers, categories and sub categories for which the licence is held. The revocation will apply to the head office and all branches.

Circumstances in which a Sponsor Licence may be revoked are set out in Annex 1 of this Policy. Immigration Officers will inform a Sponsor in writing that a licence has been revoked with immediate effect.

If a Licensed Sponsor is sponsoring migrants at the date its Sponsor Licence is revoked by Immigration Officers, the migrant's leave will be curtailed in line with the Immigration Rules. Immigration Officers will suspend consideration of any migrant's application for indefinite leave to remain whilst it is considered whether or not the migrant was complicit in the circumstances which led to the revocation of the Sponsor Licence.

The fee or any part of it will not be refunded if a Sponsor Licence is revoked.

## **Surrendering a Sponsor Licence**

When a Sponsor no longer wishes to sponsor migrants, and has no sponsored migrants working or studying with it, the Sponsor may surrender its licence.

A Sponsor may wish to surrender its licence in all tiers, categories and subcategories at the same time or may surrender certain tiers, categories or subcategories.

In order to do this, a Sponsor must declare in writing to Immigration Officers that it wishes to surrender its Sponsor Licence stating the date upon which it wishes the grant of the Sponsor Licence to cease. This declaration must also be accompanied by evidence that migrants are no longer sponsored by the Sponsor.

If a Licensed Sponsor is sponsoring migrants at the date the declaration to surrender the Licence is made to Immigration Officers, the migrants' leave in the Isle of Man will be curtailed in line with the Immigration Rules.

If a Sponsor has surrendered a licence, it may apply at any time for a new licence. A new application form together with the relevant fee and all relevant documentation must be submitted with any new application.

The fee or any part of it will not be refunded if a Sponsor Licence is surrendered.

## **Renewing a Sponsor Licence**

A Sponsor must apply to renew its Sponsor Licence prior to its expiry if it wishes to continue to sponsor migrants. If the Sponsor Licence is not renewed it will expire the day after its expiry date. The Sponsor Licence will expire for all tiers and categories irrespective of whether an additional tier or category was added subsequently to the initial grant of the Sponsor Licence.

A Sponsor must apply to renew its Sponsor Licence 28 working days prior to the expiry date of its current Sponsor Licence.

Immigration Officers may request further documentation from the Sponsor to ensure its continued compliance with both the eligibility and suitability criteria. This may include requests for documents listed in Appendix A to this Policy but they may also request additional documentation not listed in Appendix A. Sponsors must comply with the Policy requirements that are in force on the date of renewal.

Immigration Officers may also request further documentation to ensure the Sponsor's continued compliance with the sponsorship duties as described in this Policy.

Where further documentation is requested the Sponsor must submit it to Immigration Officers within 7 working days. If documents are not submitted within this time the application will be refused.

When considering the renewal application, Immigration Officers may visit a Sponsors' premises to ensure continued compliance with the eligibility and suitability criteria and sponsorship duties.

## **Declining to renew a Sponsor Licence**

A Sponsor may decide not to renew its licence, because it no longer sponsors any migrants and does not intend to sponsor any in the future.

If a licence is not renewed once it has expired, Immigration Officers will curtail the leave any migrant, sponsored by that Sponsor under its expired licence, to 60 calendar days from the Licence expiry date.

If a previous Sponsor Licence has expired and the Sponsor makes a successful application for a new licence, the Sponsor may not continue to sponsor migrants on the expired licence. If the Sponsor wishes to employ the same migrant a Resident Labour Market Test must be carried out, if this is applicable to the relevant tier or category.

A migrant must apply for a new CoS or CAS and must also apply for further leave to remain with their new CoS or CAS before his or her current leave expires or the curtailment period of 60 calendar days comes to an end.

If a migrant's leave expires before he or she makes a further application, the migrant will have to leave the Isle of Man and the United Kingdom as the migrant will have no valid leave to remain.

## Sponsoring Migrants

### What is a Certificate of Sponsorship or a Confirmation of Acceptance for Studies?

All migrants that a Sponsor wishes to sponsor under Tier 4 or Tier 5 must have been granted entry clearance before coming to the Isle of Man.

Migrants cannot make a valid application for entry clearance or leave to remain in the Isle of Man under the Tier 4 or Tier 5 categories without having been issued with a Certificate of Sponsorship (CoS) or Confirmation of Acceptance for Studies (CAS).

Individuals applying for a Tier 4 or Tier 5 visa for entry clearance or further leave to remain must also meet the requirements of the Immigration Rules. Immigration Officers make the final decision on who is granted leave to enter or leave to remain in the Isle of Man. The assignment of a CoS or CAS does not guarantee a migrants' application for leave will be successful.

A Sponsor must make a request in writing to Immigration Officers for the release a CoS or CAS by completing the relevant application form (found on the Immigration pages of the [www.gov.im](http://www.gov.im) website) for the tier and subcategory that the individual is to be sponsored under.

A CoS or CAS will be allocated by Immigration Officers to the Sponsor to issue to the migrant to enable the migrant to make his or her relevant visa application.

The CoS or CAS is a record of confirmation that a Sponsor;

- wishes to sponsor a migrant;
- has met all of the requirements set out in this Policy; and
- believes the migrant will be able to make a successful application for permission to enter, or remain in the Isle of Man in the relevant category by complying with the Immigration Rules.

A new CoS or CAS will be required for each application an individual makes for entry clearance or leave to remain.

If a sponsored migrant is required to apply for leave to remain in the Isle of Man, an application in writing for a new CoS or CAS should be made to Immigration Officers by the Sponsor prior to the expiry of the sponsored migrant's visa. The migrant must submit a visa application with that CoS or CAS prior to his or her visa expiry date.

### How many CoS or CAS will a Sponsor be permitted to assign?

#### Initial application

On applying for a first Sponsor Licence, a Sponsor must provide an estimate of the number of CoS or CAS it wishes to assign within the first year of sponsorship in each tier, category, or sub category. The Sponsor Licence application must give reasons to justify this estimated number.

#### Annual notification

There is an annual notification requirement and therefore 10 working days prior to the anniversary of the grant of the Sponsor Licence each year a Sponsor must notify Immigration Officers in writing to confirm how many CoS or CAS documents will be required by it in during the next 12 month period, giving reasons to justify this number.

If a Sponsor wishes to increase the number of CoS or CAS part way through any 12 month period then a written request should be made to Immigration Officers, indicating the total new number requested and giving reasons to justify this number.

Factors that Immigration Officers will take into account regarding the number of CAS requested per year include:

- any agents that the Sponsor uses or intends to recruit international students, and whether they have been linked to immigration abuse in the past;
- the number, type and level of courses provided by the Sponsor;
- the student-teacher ratio in classes for the courses provided;
- the number of students currently studying at the organisation;
- the number of academic (teaching) staff which the Sponsor employs on a full-time basis;
- the total student capacity of the Sponsor's premises and any capacity restriction written in to the Sponsor's planning permission or building control approvals;
- the length of time that the Sponsor has been operating; and
- the Sponsor's history of compliance with the Immigration Rules and this Policy.

## **How long is a CoS or CAS valid for?**

A CoS or CAS is linked to a migrant's visa and changes to the CoS or CAS must also be changed with the visa and vice versa.

Once granted a CoS or CAS is valid for three months from the date of issue and must be used to support the migrants' visa application within this time period. If the three month period lapses the Sponsor must apply for a new CoS or CAS to support the sponsored migrant's visa application.

No refund will be given in respect of an unused or expired CoS or CAS (as applicable).

A CoS or CAS may only be used once for one single visa application. Where a visa application is refused, a new CoS or CAS must be applied for.

Where a visa application is successful, the CoS or CAS remains linked to that visa for the duration of the visa's validity.

A new CoS or CAS is required for each new visa. Therefore the Sponsor must also apply for a new CoS or CAS to support that visa application.

Where significant changes are made to a migrant's job role a new CoS must be applied for, this means the migrant's visa will also require renewal in line with the new CoS.

## **Cancelling a CoS**

Immigration Officers may cancel a CoS if it is found that it should not have been issued, for example where it has been issued due to misrepresentation, fraud or issued in error by Immigration Officers.

A migrant can only have one CoS assigned to them at any given time. If a Sponsor applies for a CoS for a migrant who intended to start working for the Sponsor, but then decided to take up a job offer with a different sponsor, the Sponsor must inform Immigration Officers to arrange for the withdrawal of the CoS. This is because the Sponsor who the migrant wants to start work for will not be able to apply for a CoS for the migrant until the first CoS has been withdrawn. Sponsors must request the cancellation of a CoS in writing or by email to Immigration Officers as soon as it is known that the cancellation is necessary.

## **Change of Employment**

If a migrant sponsored under either the Tier 5 category changes employer, and this is permitted under the Immigration Rules, then the migrant must make a new application supported by a CoS from his or her new Sponsor. An exception applies if the change of employer is due to a Sponsor transferring its trade, business or undertaking due to a take-over, merger, de-merger or similar arrangement which is covered by the Transfer of Undertaking arrangements set out in Rule 323AA(b)(ii) (IOM) of the Immigration Rules. In these circumstances (referred to below as a "Transfer of Undertaking"), the existing Sponsor must notify Immigration Officers in writing with the following information within 28 days of the date of the Transfer of Undertaking:-

- a) the full name of the employee;
- b) the CoS number;
- c) the date of the termination/Transfer of Undertaking; and
- d) the name and address of the new employer.

If the new employer does not already hold a Sponsor Licence covering the relevant licence category for the migrant then the new employer has a 28 day period from the date of the Transfer of Undertaking within which to make a successful application for a Sponsor Licence.

If the new employer (i) fails to apply for a Sponsor Licence within that period; or (ii) applies for a Sponsor Licence which is refused; or (iii) applies for a Sponsor Licence which does not cover the relevant category, then the migrant will be deemed to have made a prohibited change to employment with effect from 28 days of the date of the Transfer of Undertakings.

Sponsors who are considering selling or re-organising their businesses are advised to consult Immigration Officers or with their legal advisors early in the process so that any potential impact on migrants who are employed by them can be addressed in advance.

Where either:

- a Licensed Sponsor is already sponsoring a migrant who wants to continue working for them in a new job within the same Standard Occupational Classification (SOC) Code quoted on his or her CoS; or
- a migrant is transferring to a Sponsor under a Transfer of Undertaking, and as part of the transfer the migrant moves into a new job within the same SOC code that was on the CoS assigned to the migrant by the previous sponsor,

the migrant does not have to make a new visa application. A new visa application is required if the migrant is changing from a job which is on the list of shortage occupations, to a job that is not. In all cases, the rate of pay for the migrant's new job must meet the appropriate rate requirements set out in this Policy.

If a sponsored migrant is changing occupations and will still be employed by the same Sponsor, but the new job is in a different SOC code, the migrant must make a new visa application – with a new CoS. The same applies where a migrant is affected by Transfer of Undertaking and as part of his or her transfer the migrant changes occupations and the new job is in a different SOC code.

Where a sponsored migrant is required to make a new visa application because of changes to his or her employment, and the Sponsor is required under this Policy to carry out a Resident Labour Market Test, the RLMT must be undertaken before the Sponsor can apply for a new CoS for the migrant.

If the new job is not exempt from the Resident Labour Market Test, then the Sponsor must carry out the Resident Labour Market Test and must only appoint the same migrant if no suitable settled workers are available to fill the job.

As a CoS and visa are intrinsically linked, if a new CoS is applied for then the migrant must make a new visa application. The migrant's application must be approved before he or she can start work in the new job. This applies in all cases whether the new job is with the same Sponsor or a new Sponsor. A migrant can continue working in his or her original job, for his or her original sponsor, provided his or her last period of leave has not expired, until the start date of the new job, as stated on his or her new CoS.

## **What happens if a migrant's leave lapses or expires when they are not in the Isle of Man or UK?**

If a Tier 4 or 5 migrant's leave lapses, or expires, while he or she is not in the Isle of Man or the UK the migrant will not be able to re-enter unless he or she makes a further successful application for leave which must be supported by a new CoS or CAS.

## **Biometric Residence Permits**

Migrants applying for entry clearance to the UK will have to apply for a biometric residence permit (BRP). They will be provided with a short term biometric entry clearance (a vignette in their passport), valid for 30 days, in order to travel to the UK to collect their BRP that will confer the full visa validity.

This is not the process in the Isle of Man. The relevant overseas post should grant Entry Clearance to the Isle of Man for the full validity of the visa granted.

If a migrant has been incorrectly issued with a vignette in his or her passport for a period of 30 days, he or she must email [EntryClearance.Errors@fco.gsi.gov.uk](mailto:EntryClearance.Errors@fco.gsi.gov.uk) with a scan of the vignette. UKVI International will consider if an endorsement error has been made and if there is an error, will advise on the process for a replacement vignette to be issued.

Where a migrant has been granted leave in the UK and is moving to the Isle of Man, he or she must submit their BRP with their passport and visa application to the Immigration Officers in the Isle of Man.

## **Resident Labour Market Test for Tier 5 (Temporary Worker) Religious Workers**

When recruiting a person who will be sponsored under Tier 5 (Religious Workers), the Sponsor must carry out a Resident Labour Market Test. Although not all religious occupations are 'jobs' in the traditional sense, this does not mean that the test does not apply. Any migrant sponsored must not displace a suitable settled worker.

Religious organisations can also sponsor the admission of workers to fill temporary positions through the Tier 5 (Temporary Workers) – Charity Workers sub category, provided the work is unpaid and comes within the applicable definition of voluntary fieldwork. This definition includes a requirement that the work is directly related to the organisation's charitable objectives and can be found in more detail at paragraph 6 of Part 1, and paragraph 111 of Appendix A of the Immigration Rules.

### When is a Resident Labour Market Test not required?

A Resident Labour Market Test is not required where the:

- role is supernumerary; this means it is over and above normal requirements and if the person filling the role was not there, it wouldn't be filled by anyone else - one example might be where the migrant offers pastoral support to members of a church community as part of his or her own development, but the work would stop if the migrant was not there and the migrant would not be replaced;
- the migrant will mainly live within and be a member of a religious order - for example, an order of nuns or monks; a religious order is defined for Immigration purposes as a lineage of communities or of people who live in some way set apart from society in accordance with their specific religious devotion, and which must be part of a bona fide religious organisation.

A position that is vital to your requirements is not supernumerary.

## **Payments made to sponsored migrants under Tier 5 (Temporary Worker) Religious Workers**

All migrants sponsored under Tier 5 (Temporary Workers) Religious Workers must receive pay and conditions at least equal to those given to settled workers in the same role. This may be a traditional salary, customary offering, board and lodgings or a combination of these, but must comply or be exempt from the Isle of Man Minimum Wage regulations.

The gross salary figure on the CoS application must represent what the Sponsor will pay to the migrant, gross of any tax paid (whether paid in the Isle of Man or overseas) and must include any permissible allowances and guaranteed bonuses. The total of all allowances and guaranteed bonuses paid, and included in that figure, should be entered in the CoS application, then broken down and detailed.

For each migrant sponsored, the Sponsor must keep the documents specified in Appendix B of this Policy.



## **Codes of Practice: for Skilled Workers Standard Occupational Classification Codes**

A Sponsor which applies for a CoS must choose the standard occupational classification (SOC) code which contains the job description that best matches the vacancy. The 'Codes of Practice for Skilled Workers' set out in Appendix J of the Immigration Rules contain information about each SOC code and sample job titles and duties that fit within each code.

### **Sponsoring Tier 5 Temporary Workers**

The Tier 5 (Temporary Worker) category offers migrants a range of ways to come to the Isle of Man to work in a variety of temporary roles.

It is recognised that under Tier 5 the Sponsor may not always be the employer. In some circumstances, a migrant may meet all of the Tier 5 criteria where there is no direct employer/employee relationship. Even though an employer/employee relationship may not exist, there must be a Sponsor who is able and willing to take responsibility for the migrant and meet all of the Sponsor duties. A Licensed Sponsor who takes on this role, will be responsible for the migrants it sponsors, even if the Sponsor is not the employer of the migrant.

Where a migrant is not a direct employee, Immigration Officers will examine the sponsorship arrangements and monitor the Sponsor closely to ensure the Sponsor fulfils its Sponsor duties.

When a Sponsor applies for a CoS for a migrant under any sub category of Tier 5, the gross salary figure on the CoS application must represent what the Sponsor will take steps to ensure that the migrant is paid, gross of any tax paid whether paid in the Isle of Man or overseas, and must include any permissible allowances and guaranteed bonuses. The total of all allowances and guaranteed bonuses paid, and included in that figure, should be entered in the in the CoS application, then broken down and detailed.

### **Sponsoring Tier 4 Migrants**

All students who wish to come to the Isle of Man under Tier 4 of the Points Based System must obtain a visa before they travel. Students who are already in the Isle of Man can apply for an extension of leave under Tier 4 for 'further leave to remain'.

Students cannot apply for a visa or extension of their permission to stay without a CAS.

Students cannot apply for a Tier 4 visa or further leave to remain any earlier than three months before the date that their course starts.

Students applying for a Tier 4 visa or further leave to remain must meet the requirements of the Immigration Rules.

Sponsors wishing the sponsor students must complete the Application Form for a Sponsor Licence for Tier 4 of the Points Based System of the Immigration Rules and pay the relevant fee.

#### Care arrangements for children

Sponsors who recruit a child under the age of 18 must ensure suitable care arrangements are in place for them in the Isle of Man. This must include arrangements for the child's

- travel;
- reception when they arrive in the Isle of Man; and
- care while in the Isle of Man.

### Applying for a CAS

There are two routes available to sponsor a student. These are Tier 4 (Child) and Tier 4 (General).

Tier 4 (Child) is for students aged 4-17. Tier 4 (Child) students may only be educated at independent schools. Tier 4 (General) is for students aged 16 or over.

To apply for a CAS a Sponsor must apply to Immigration Officers by completing the relevant application form and paying the correct fee.

### What to consider before assigning a CAS

- Complying with the law
- English language requirements
- Students studying at degree level and above
- Students studying below degree level
- Exceptions to the English language requirements
- Place of study
- How long a sponsored student can stay in the Isle of Man

### Complying with the law

The Sponsor must only apply for a CAS to a student whom it reasonably believes will:

- meet the requirements of the Tier 4 category under which the Sponsor assigns the CAS; and
- comply with the conditions of his or her permission to stay in the Isle of Man.

### English Language Requirement for Tier 4 (General) students

Before applying for a CAS for a Tier 4 (General) Student, the Sponsor must assess the student's English Language ability. In some circumstances, the Sponsor is required to check this using the Secure English Language Test (SELT) from an approved test provider in Appendix O to the Immigration Rules.

If the student successfully passes a SELT the student will be given a unique reference number. The Sponsor should quote this number on the CAS application. The student will also need to quote this reference number on the visa application.

### Exceptions to the English Language Requirement

Sponsors do not have to confirm English language competence for:

- Tier 4 (Child) students;

- students moving from Tier 4 (Child) into Tier 4 (General);
- those who have successfully obtained an academic qualification (not a professional or vocational qualification) from an educational establishment in the UK or Isle of Man, which is at a Bachelor's degree level or above;
- those who have previously completed an academic qualification equivalent to a UK degree which was taught in a 'majority English speaking' country (see the table below);

<b>A-H</b>	<b>I-P</b>	<b>Q-Z</b>
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 United States of America

- those who are nationals from what countries classed as 'majority English- speaking' countries, (see the table below).

<b>A-H</b>	<b>I-P</b>	<b>Q-Z</b>
Antigua and Barbuda Australia The Bahamas Barbados Belize Dominica Grenada Guyana	Jamaica New Zealand	St Kitts and Nevis St Lucia St Vincent and the Grenadines Trinidad and Tobago United States of America

How long can a sponsored student stay in the Isle of Man?

The period of leave given to a successful visa applicant is based on the length of his or her study course. The length of the course will be calculated using the start and end dates of the course which the Sponsor enters on the CAS application.

A Tier 4 (General) student is allowed to spend no more than two years studying in the Isle of Man below RQF/QCF 6 or SCQF 9 (i.e. studying courses which are below degree level).

In addition, the total time which a Tier 4 (General) student can spend studying at degree level or above is limited to five years unless:

- the student is studying a course at or above degree level in one of the following exceptional subject areas:
  - Architecture;
  - Medicine;
  - Dentistry;
  - Law; or
  - Veterinary Medicine & Science;

- the student is studying a master's degree, following completion of an undergraduate degree where the duration of that degree course was at least four academic years. If this applies, the limit will be set at six years in total instead of five; or
- the student is on the Doctorate Extension Scheme.

#### How to sponsor a student

A Tier 4 Licensed Sponsor must apply for a CAS by completing the relevant application form found on the immigration pages of the [www.gov.im](http://www.gov.im) website and submitting it to Immigration Officers at the Passport, Immigration and Nationality Office at the address stated on the form.

A student can study only with the Sponsor named on their CAS or visa letter, including at any partner institution named on the CAS or visa letter. The exceptions to this are:

- where a student has a new sponsor with Tier 4 Sponsor status who has assigned the student a new CAS and they have applied before the student's existing permission to stay has expired; or
- where a student is also undertaking supplementary study, in addition to the studies he or she is taking with the Sponsor named on the student's current CAS, at another education provider.

The Sponsor must complete the Tier 4 Sponsor Declaration contained in the CAS application form to confirm it has satisfied the following requirements:

the Sponsor is assigning a CAS under the appropriate Tier 4 route i.e. (General) or (Child)
the student intends and is able to follow the course of study concerned
the student will successfully complete his or her course on the date specified on the CAS
the course which the student intends to follow will lead to an approved qualification
the student is aware of his or her responsibility to abide by the conditions of his or her Tier 4 visa, including the student's obligation to study at the sponsor institution (unless studying at a partner institution or undertaking supplementary study), the student's working restrictions and the student's obligation to leave the Isle of Man upon expiry of his or her visa expires unless an extension has been validly obtained for further leave
the course to be undertaken by the student represents academic progression if the student is continuing his or her studies and is applying from within the Isle of Man

#### Applying for a CAS to a student who wants to extend his or her stay in the Isle of Man.

Where a Sponsor is considering applying for a CAS to someone who already has leave in the Isle of Man as a Tier 4 migrant, the Sponsor should consider the current immigration status of that individual and whether he or she is able to apply for further leave to remain under Tier 4.

If a Tier 4 (General) student is currently sponsored by

- a Higher Education Institution (HEI) designated under the UK's immigration rules;
- an overseas HEI designated under the UK's immigration rules;

- an embedded college offering pathway courses in the Isle of Man; or
- an independent school in the Isle of Man or UK,
- then the Tier 4 (General) student may apply to extend his or her period of leave with either the same Sponsor or a new Sponsor.

A Tier 4 (General) student who is sponsored by any other type of institution must apply for a visa from outside of the Isle of Man if he or she wishes to undertake further study under Tier 4.

A Tier 4 (General) student who is applying to extend his or her leave in Tier 4 must be academically progressing (unless they are exempt from demonstrating academic progression). A student can only demonstrate academic progression if the student has successfully completed his or her previous course.

All migrants, including students, who wish to extend their period of leave must do so before their existing leave expires.

The student has completed the course for which the student was given permission to stay

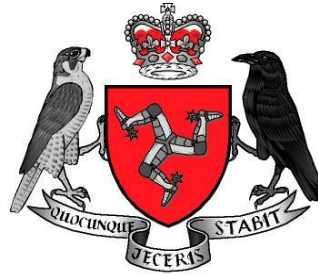
If a student has completed the course of study for which his or her permission to stay was granted, and the student wishes to study a different course with the same Sponsor, the student must make a new application to extend this or her leave for the new course.

The Sponsor must apply for a new CAS to enable the student to make a visa application for the leave to remain.

## Annex 1: Circumstances in which a Sponsor Licence may be suspended or revoked

Reference	Circumstances
1.	If it is found that after the Sponsor Licence has been granted, that false or misleading information was provided on the Sponsor Licence application form, or in support of the application and, had the correct information been provided, the application would have been refused.
2.	The Sponsor stops trading or operating for any reason, including if: <ul style="list-style-type: none"> <li>• the business is sold (including under insolvency circumstances)</li> <li>• trading ceases as a result of administration, liquidation or sequestration or any similar procedure;</li> <li>• a court issues a bankruptcy order against the Sponsor; or</li> <li>• the Sponsor ceases to have a genuine operating or trading presence in the Isle of Man.</li> </ul>
3.	The Sponsor ceases to be accredited by or registered with any regulatory body that is a requirement in order to obtain or maintain the Sponsor Licence.
4.	If the Sponsor has knowingly provided a false statement or false information, or not provided information that it held when required to do so by Immigration Officers or any other UK or Isle of Man Government Department.
5.	A migrant is employed by the Sponsor in a job that does not meet the skill level requirements set out in the Codes of Practice for Skilled Workers in Appendix J of the Immigration Rules.
6.	The Sponsor does not hold, or stops holding appropriate planning permission or Local Planning Authority consent to operate the type/class of business at its trading or operating address (where this is a requirement) or where previously granted approval it has since been withdrawn or lapsed..
7.	The Sponsor fails to meet the safeguarding children standards set by the Safeguarding Children Board.
8.	The Sponsor is a food business that is required to be approved or registered by a relevant food authority and either has never been approved or registered, or where previously granted approval it has since been withdrawn or lapsed.
9.	The Sponsor ceases to have (or it is found that there never was) an operating or trading presence in the Isle of Man.
10.	A Sponsor Licence is granted to an employment agency or employment business and later it is found that a migrant sponsored under that Sponsor Licence has been supplied to a third party as labour.
11.	Where documentation or information is requested and is not produced within the given time limit.

12.	A CoS is assigned for a vacancy that is not considered to be a genuine vacancy.
13.	Failure to assign a new CoS, and where appropriate, fail to properly carry out a Resident Labour Market Test, to any migrant that needs to make a change of employment application.
14.	The role undertaken by a migrant sponsored under CoS does not match one or both of the following: <ul style="list-style-type: none"> <li>• the job description in the SOC code in the Codes of Practice for Skilled Workers at Appendix J of the Immigration Rules; or</li> <li>• the job description on the CoS that the Sponsor assigned to the migrant.</li> </ul>
15.	The Sponsor fails to pay a migrant sponsored under Tier 2 or Tier 5 at least the appropriate rate for the job they are being sponsored to do, as set out in this Policy and the Codes of Practice for Skilled Workers.
16.	A director of the Sponsor becomes legally prohibited from acting as a company director.
17.	The Sponsor fails to comply with any of its Sponsor duties.
18.	As a result of information available to Immigration Officers, they are not satisfied that the Sponsor is using processes or procedures necessary to comply fully with its Sponsor duties.
19.	Where it is found that the Sponsor has sponsored or employed a migrant who has not complied with the conditions of his or her permission to stay in the Isle of Man or UK, and the Sponsor has not been following good practice as set out by this Policy.
20.	The Sponsor has no Authorising Officer in place who meets the requirements set out by this Policy.
21.	The Sponsor does not supply, when asked and within the specified time limit, any document requested by Immigration Officers to support any changes reported.
22.	The Sponsor fails to comply with the Education Act 2001.



## **Appendix A**

### **Supporting Documents for Sponsor Licence Applications**

This Appendix A forms part of the Immigration Sponsor Licensing Policy



## Introduction

This document is for organisations that want to apply for a sponsorship licence. It is an appendix to the Immigration Sponsor Licensing Policy. It lists the documents an applicant must provide to support an application for a Sponsor Licence.

You need to provide at least 4 documents unless you are a:

- public body recognised by the Isle of Man Government, such as a local authority in the Isle of Man; or
- company listed on the London Stock Exchange Main Market.

The documents must be originals or certified copies.

'We' for the purpose of this Appendix means 'Immigration Officers' and 'You' for the purposes of this Appendix means the organisation applying for a Sponsor Licence.

## Certify a copy of an original document

A certified copy of a document is one that includes a signed statement by any of the following:

- the issuing authority; or
- an advocate, barrister, solicitor, or notary who is a practising member of a recognised professional body.

The certifier must confirm that it is a true and accurate copy of the original document. Each page of a document submitted must be certified, clearly detailing the certifier's name, signature his or her position or capacity to act as a certifier and contact details.

If a document has more than one page we will accept the document if the pages are stapled or otherwise attached together and the top page is certified as described above. The certification must also clearly state how many pages have been certified. If a certifier's details cannot be verified, the document will be rejected. Documents which are in a foreign language must be accompanied by a certified translation, we may require further verification of such documents.

Printouts of PDF files are copies of an original document and must be certified in line with guidelines above. The certifier must confirm that he or she has seen the original email containing the pdf file.

## Supporting evidence

The following tables list all of the information we will need to check and tell you whether you need to send a document. The easiest way to work out which documents you need to send is to work your way through each of the following tables starting with Table 1.

**Note: All applications must be accompanied by proof of employers' liability insurance for at least 5 million pounds from an insurer. A copy of this document may be provided if the original is legally required to be displayed at your premises.**

**Table 1:**  
Sets out some limited circumstances when you **do not** have to provide 4 documents. If you are listed in this table you need only provide the documents described, and in some cases you may not need to provide any documents at all. **If your organisation is not listed in Table 1, you should then look at Table 2.**

**Table 2:**  
Sets out all the mandatory documents which you must provide based upon your organisation type or structure. It also sets out some other documents we will accept from you in addition to those which are mandatory. **Once you have identified any documents in Table 2 that you must send us, you should then look at Table 3.**

**Table 3:**  
Sets out all of the mandatory documents which you must provide based on the tier and category you are applying for. If you have **not** identified 4 documents to provide to us (after looking at Tables 1, 2 and 3), **you must then look at Table 4** which lists all of the other documents we will accept to make your total up to **4 documents**.

**Table 4:**  
Sets out all other documents you can provide if you still need to make your total number of documents up to **a minimum of 4**.

**All the documents must be sent with the application for your Sponsor Licence**

If there are any other documents specified in this Appendix missing from your application, or if we require any additional documents, we will contact you.

We will give you 7 working days to send those documents to Immigration Officers. If you do not send them within 7 working days, we will refuse your application. If an application is refused the full fee will not be refunded.

**Online checks**

As you work through the Tables, you may find that we could do an online check to establish or check the information but will need some help from you to locate the relevant web page. If this is the case, you must send us a covering letter giving the address of the website where the information can be found. If that registration is in a different name to the one you have given on your licence application, you will need to tell us what name you are registered under and you can do this by enclosing a covering letter with your application form and any other documents you send to us. If you provide certified copies or certified translations we reserve the right to request the original documents.

**Table 1**

Circumstances when you do not have to send 4 documents. If you are listed in this Table you need only send the documents described, and in some cases you may not need to send any documents at all. **If you are not listed in Table 1, you should then look at Table 2.**

<b>Organisation</b>	<b>Documents you need to send</b>
If you are an Isle of Man <b>Public Body</b>	You must provide a link to your Isle of Man sponsor Departments' website that clearly sets out that you are a public body, or a letter on headed paper produced by the Isle of Man sponsoring Department confirming they are an Isle of Man Public Body.
If you are an Isle of Man <b>Government Department</b>	You do not need to send any documents.
If you are an Isle of Man <b>Local Authority</b> and listed on the gov.im website	You do not need to send any documents.
If you are: <ul style="list-style-type: none"> <li>• an <b>Overseas Government</b></li> <li>• a <b>Diplomatic Mission</b></li> <li>• an <b>International Organisation</b></li> </ul>	<ol style="list-style-type: none"> <li>1. A signed letter from the Head of the Mission (or international organisation or overseas government) or his or her delegated person confirming that they are seeking a Sponsor Licence, and</li> <li>2. Any other document required as tier specific in Table 3</li> </ol>

**Table 2**

This Table sets out all mandatory documents you must provide based upon your organisation or structure. It also sets out some other documents that will be accepted in addition to those which are mandatory. **Once you have identified any documents in Table 2 that you must submit, you should then look at Table 3.**

<b>Organisation</b>	<b>Documents you must submit</b>
<p><b>Start-ups:</b> if you have been operating or trading in the Isle of Man for less than 18 months on the date you make your application, the checks we will make are different to those we carry out on more established businesses.</p>	<p>You must submit evidence that you have a current, corporate bank account with a bank licenced by the Isle of Man Financial Services Authority.</p> <p>You must also send any mandatory information set out in Table 3 of this Appendix. We must be able to check 4 different pieces of information. It is recognised that some start-ups may not be able to provide certain documents that more established businesses can provide.</p> <p>If you are unable to submit 4 documents from Tables 1 to 3, you can also send us any of the following:</p> <ul style="list-style-type: none"> <li>• a certificate of VAT registration;</li> <li>• a letter from your corporate banking provider, setting out the dealings it has had with you, including the nature and duration of those dealings;</li> <li>• any document from Table 4 of this Appendix; or</li> <li>• a letter from the Department of Economic Development confirming that your business is working with them; this letter can only be issued where your company/business already has a demonstrable working relationship with the Department.</li> </ul>
<p>If you are a <b>Franchise</b></p> <p>If you are <b>required to be registered with and/or inspected/monitored by a regulatory body</b> to operate lawfully in the Isle of Man your registration will need to be checked and to see your last inspection report where appropriate, such as:</p> <ul style="list-style-type: none"> <li>• nursing/care homes, domiciliary care agencies, and other businesses, which must be registered with the Isle of Man Department of Social Care see</li> </ul>	<p>You must <b>submit your Franchise Agreement</b> signed by both parties.</p> <p><b>If you are regulated by any of the bodies listed on the left</b>, we will carry out an online check so you do not need to send us any registration or inspection evidence unless we later ask you to. We will check you and any branches you have asked to be included on your Sponsor Licence.</p> <p><b>Note:</b> if you have applied for your Sponsor Licence under a different name to the one you have given to any of these bodies, you can either send your last inspection report or send us a covering letter telling us the name you have given to the regulatory body so that we can do an online check.</p>

<ul style="list-style-type: none"> <li>• Financial or insurance businesses carrying out regulated activities which must be registered with the Isle of Man Financial Services Authority</li> <li>• Healthcare and medical providers, who must be registered with the Isle of Man Department of Health and Social Care</li> <li>• Online gaming companies who are required to be licensed by the Isle of Man Gambling Supervision Commission</li> </ul> <p><b>This is not an exhaustive list.</b></p>	<p><b>If you are regulated by a body not listed on the left</b>, you can either send us documentary evidence of your registration and any branches or sites you have asked to be included on your Sponsor Licence where appropriate, or a web link to a page on the regulatory body’s website where we can verify your status online and the status of any branches you have asked to be included on your Sponsor Licence.</p> <p><b>Note:</b> if you are applying as a head office and all branches or a group of entities, we must see evidence of any registration for each individual entity within that group where that registration is a legal requirement.</p> <p><b>Note:</b> membership or registration with a professional body or with Companies Registry is generally not relevant to your application and we do not need any evidence of such a registration. This section only applies where you have to be registered with a body which has the authority to take action against you for any failings and where, if it removed your registration or authorisation, you would no longer be able to operate lawfully some or all of your business.</p>
<p>If you are a <b>food business</b> you are required to be registered with the Isle of Man Department of Environment, Food and Agriculture</p>	<p>You must send evidence of your <b>registration with the Isle of Man Department of Environment, Food and Agriculture (DEFA)</b>.</p> <p><b>Note:</b> if you have applied for this Sponsor Licence under a different name to the one on your DEFA Registration, you must send us a covering letter telling us the name you have been registered under.</p>
<p>If you are a <b>Charity</b></p>	<p>You must provide evidence of your registration with the Isle of Man Central Registry under the Charities Registration Act 1989.</p>

**Table 3**

This Table sets out all of the mandatory documents you must provide based on the tier and category you are applying for. If you are applying for a Sponsor Licence in more than one tier and category you must supply the documents for each tier and category.

Intended Tier/Category of Sponsor Licence	Documents you need to send:
<p>If you are applying for</p> <ul style="list-style-type: none"> <li>• <b>Tier 5 (Temporary Worker) Creative &amp; Sporting Migrant</b></li> </ul> <p>because you want to sponsor sportspeople and/or coaches</p>	<p>You <b>must</b> send an endorsement from the governing body, for that particular sport, which has been approved by the Department of Economic Development. The document must include the governing body's endorsement unique reference number.</p>
<p>If you are applying for:</p> <ul style="list-style-type: none"> <li>▪ <b>Tier 5 (Temporary Worker) International Agreement Migrant</b> because you want to sponsor contractual service suppliers or independent professionals.</li> </ul>	<p>You <b>must</b> provide evidence to show that a contract was tendered and awarded under the GATS agreement.</p>
<p>If you are applying for:</p> <ul style="list-style-type: none"> <li>▪ <b>Tier 5 (Temporary Worker) Government Authorised Exchange (GAE) Migrant</b></li> </ul>	<p>You <b>must</b> provide a letter from the Department of Economic Development, confirming its approval of the government authorised exchange scheme.</p>
<p>If you are applying for:</p> <ul style="list-style-type: none"> <li>• <b>Tier 5 (Temporary Worker) Religious Worker Migrant</b></li> </ul>	<p>You <b>must submit a document setting out the following information about you:</b></p> <ul style="list-style-type: none"> <li>• the faith/religion you belong to or represent;</li> <li>• details of your parent organisation and how you are connected to them, if applicable;</li> <li>• a hierarchy chart, if applicable, that shows where you are in the structure;</li> <li>• the size of your adult congregation;</li> <li>• the number of clergy you currently employ, if applicable;</li> <li>• addresses of your regular meeting places; and</li> <li>• your scheduled days and hours of worship.</li> </ul> <p>Where there is a set hierarchy within your faith, you must send us a letter of support from the head of your faith body organisation, or their nominated legal representative which confirms that you are</p>

	<p>part of that organisation.</p> <p>You must submit evidence of a registered charity number. Charities who are not registered under the Charities Registration Act 1989 must explain the reason for non-registration along with their application for a Sponsor Licence.</p>
<p>If you are applying for:</p> <ul style="list-style-type: none"><li>• <b>Tier 4 (General) Student Migrant</b></li><li>• <b>Tier 4 (Child) Student Migrant</b></li></ul>	<p>You <b>must</b> provide all of the following documentation:</p> <ul style="list-style-type: none"><li>• Proof that you are based in the Isle of Man;</li><li>• Proof that you are operating and trading in the Isle of Man;</li><li>• a copy of your certificate of registration for VAT with the Isle of Man Customs and Excise Division of the Isle of Man Treasury, if required to do so;</li><li>• a valid Fire Certificate issued by the Isle of Man Fire and Rescue Service;</li><li>• copies of your planning decision and building control authority consent (if required) to evidence that you have appropriate planning permission or building consent to operate the relevant type or class of organisation at your trading address;</li></ul> <p>ny documentation which demonstrates that the sites, exceptional arrangements and/or partnerships meet all of the relevant requirements</p> <p><b>Note:</b> we may ask for other documents at any time.</p>

#### Table 4

If you have **not** identified 4 documents to send to us (after looking at Tables 1, 2 and 3), **you must then look at Table 4** which lists all of the other documents we will accept to make your total up to **4 documents**.

<b>Other documents you could provide</b>
Evidence that you have employer's liability insurance cover for at least £5m from an authorised insurer.
Proof of your listing on the London Stock Exchange Main Market or AIM markets
Proof of your registration with the Isle of Man Treasury Income Tax Division for income tax and national insurance purposes
Latest annual employer's return submitted to Income Tax Division of the Isle of Man Treasury
A copy of your last annual return or declaration to Isle of Man Companies Registry
Copy of the entry in the Isle of Man Land Registry, title deeds or lease agreement as evidence of ownership or lease of your business premises. If you send a copy of the lease agreement it must be signed by all parties concerned.
Licence for premises to serve alcohol.





## **Appendix B**

### **Document Retention Policy**

This Appendix forms part of the Immigration Sponsor Licensing Policy

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## **Introduction**

This document is for Licensed Sponsors sponsoring migrants under Tiers 4 and/or 5 of the Points Based System. It is an appendix to the Immigration Sponsor Licencing Policy and lists the documents which Licensed Sponsors must keep in order to meet their sponsorship duties.

The documents referred to in this Appendix can either be kept as paper copies or in an electronic format. There is no prescribed method for storing the documents, but Licensed Sponsors must be able to make them available to Immigration Officers upon request.

All documents relating to the sponsorship of a migrant must be kept for one year from the date that sponsorship of the migrant ends.

**Note:** some documents that must be kept as part of your sponsorship duties may also need to be kept for other purposes and for longer periods of time. Licensed Sponsors must ensure that they meet all other legal requirements for record keeping including but not limited to the Immigration (Restrictions on Employment) Order 2008.

A Licensed Sponsor should also be aware of and comply with the legal obligations imposed by the Data Protection Act 2002 in relation to storing documents and processing the personal data of employees.

**All documents provided as part of an application to become a Sponsor must be kept for the duration of the period covered by the licence .**

## **Part 1: Documents for each migrant sponsored under Tier 5**

A Licensed Sponsor must keep:

- a. a copy of the front page and any page containing the holders personal details including nationality, the holders photograph and/or signature (including biometric details), the date of expiry. Copies of all immigration visa, status document and/or leave stamps, including the migrant's period of leave to remain (permission to stay) in the UK or Isle of Man. This **must** show the migrant's entitlement to work for you as an **Isle of Man Licensed Sponsor**, i.e by reference of a CoS.

In the absence of an entry stamp, other evidence such as the travel ticket to the UK and Isle of Man or boarding card should be kept. The only exception to this is when a migrant is employed for one day or less and it is not practicable to obtain a copy of the documents.

- b. If a migrant has been issued with a UK Biometric Resident Permit (BRP) a copy of the migrant's UK BRP, where applicable.
- c. A copy of a document showing the migrant's National Insurance (NI) number, unless the migrant is exempt from requiring one. This could be a copy of one of the following:
- migrant's NI card or NI number notification letter from the National Insurance Section, Income Tax Division of the Isle of Man Treasury;
  - migrant's wage slip;
  - where applicable, a migrant's T20 (Employee Commencing Certificate);
  - migrant's T14;
  - where applicable a migrant's T21 (Employee Leaving Certificate); or
  - employer's annual return T37 to the Income Tax Division of the Isle of Man Treasury including all T14s enclosed with the return.
- d. A history of the migrant's contact details (residential address, telephone number and mobile telephone number). This must always be kept up to date.
- e. In the case of the employment of a child aged under 18, a copy of a letter from the migrant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, consenting to the arrangements that have been made with regard to the child's application, travel, reception and care arrangements in the Isle of Man.
- f. A copy of the migrant's Disclosure and Barring Service (DBS) check where required for the role undertaken by the sponsored migrant.
- g. A record of the migrant's absences, which may be kept electronically or manually.
- h. Any other document set out in Appendix C: Codes of Practice for Skilled Workers.
- i. If licensed under Tier 5 (Temporary Worker) International Agreement to sponsor contractual service suppliers or independent professionals, the Sponsor must keep a copy of any contract awarded for the supply of service to the Sponsor and either of the following:
- the tender document for that contract; or
  - evidence of how the contract was awarded if it was not formally tendered.

## **Part 2: Documentary evidence of the Resident Labour Market Test - Tier 5**

- a. Where a rolling recruitment programme has been used, all the documents set out in this section must clearly show that it is a rolling programme and must indicate the period of the recruitment exercise.
- b. Where the vacancy was advertised in a national newspaper or professional journal, the Sponsor must keep a copy of the job advertisement as it appeared in the given medium. The copy must clearly show

the title and date of the publication and the closing date for applications.

Where the advertisement does not show the Sponsor's name, a copy of a letter or invoice from the newspaper and/or journal will be required, to prove an advertisement was placed by the Sponsor.

**Note:** although there is no requirement to undertake a resident labour market test in all cases, if the Sponsor informs Immigration Officers it has done so then the Sponsor should retain the evidence of this.

- c. For milkrounds, the Sponsor must keep a letter from each university, on their headed paper, confirming the milkround, the dates it was conducted and method used, for example, presentation and/or interview method.
  - d. A copy of the contents of the job advert which must include the job title, the location of the job, the main duties and responsibilities of the job which must include the skills, qualifications and experience needed, an indication of the salary package or salary range and the closing date for applications.
  - e. Where the vacancy was advertised on the internet, including where it is advertised on the Sponsor's own website (where this is allowed under the Policy), the Sponsor must keep a screen shot from the website hosting the advertisement on the day the vacancy is first advertised, which clearly shows **all** of the following:
    - name of the website;
    - contents of the advert;
    - date and the Uniform Resource Locator (URL); a global address used to locate the vacancy on the internet; and
    - closing date for applications.
- Note:** if the website clearly shows the date the vacancy was first advertised, the screen shot can be taken at any point during the period the vacancy is advertised.
- f. Where the advertisement is not on the Sponsor's own website and does not show its name, a copy of a letter or invoice from the website will be required, to prove that an advertisement was placed.
  - g. Where the vacancy has been advertised online through The JobCentre, the Sponsor must keep a screen shot from the relevant government website on the day the vacancy is first advertised which clearly shows **all** of the following:
    - logo of The JobCentre hosting the job advertisement;
    - contents of the advert;
    - vacancy reference ID number;
    - date advert placed;
    - URL for the vacancy, this also contains the Reference ID number; and
    - closing date for applications
  - h. If the Sponsor recruits under Tier 5 (Temporary Worker) Creative and Sporting categories in the sports sector, a copy must be kept of the governing body endorsement as evidence of the resident labour market test and any other document set out in the relevant code of practice.
  - i. The Sponsor must retain the following documents from all recruitment processes:
    - all applications short listed for final interview, this should include the applicant's details such as name, address, and date of birth;
    - the names and total number of applicants short listed for final interview; and
    - for each IOM worker and EEA National who was rejected, interview notes which show the reasons why they have not been employed.

### Part 3: Documents establishing appropriate rate of pay

- a. Copies of the migrant's payslips, clearly showing the migrant's name, NI number, tax code, any allowances paid and deductions made. For limited liability partnership (LLP) members you must keep copies of the migrant's evidence of drawings and profit share.
- b. Evidence of the amount and frequency of all salary payments made to each migrant, showing the transfer of each payment into the named migrant's bank account.

Where the Sponsor wishes to rely on other account records, Immigration Officers must be able to clearly identify the specific migrant's wage in order to assess whether the migrant is being paid in line with what was originally stated on his or her certificate of sponsorship and with rules set out in the Codes of Practice for Skilled Workers at Appendix J of the Immigration Rules. Accounts that show only 'wages for personnel' but not specifically the migrant by name or other unique identifier are not considered acceptable.

This is not required for contractual service suppliers sponsored under Tier 5 (Temporary Worker) International Agreement Migrants category.

- c. A copy of any contract of/for employment/services between the Licensed Sponsor and the migrant which clearly shows all the following:
  - the names and signatures of all parties involved -normally, this will only be the Sponsor and the migrant;
  - the start and end dates of the contract;
  - details of the job, or piece of work that the migrant has been contracted to do;
  - an indication of how much the migrant will be paid; and
  - the names and signatures of all parties involved -normally, this will only be the Sponsor and the migrant.

**Note:** if a Licensed Sponsor is sponsoring a contractual service supplier or independent professional under the Tier 5 (Temporary Worker) International Agreement category, the contract between the Sponsor and the supplier of the service does not have to specify how much an individual migrant will be paid. This is not required as it is unlikely that the Sponsor will know how much the sponsored migrant will be paid.

- d. Where the migrant receives any allowances as part of his or her salary package, evidence of the value of those allowances must be kept unless they are clearly shown in a contract of/for employment/services, or on the migrant's payslips.

Below are 2 examples:

#### Example 1

If the migrant receives help with accommodation by way of housing being provided, the Sponsor must have evidence from the owner or letting agent for the property concerned which clearly states the value of the rent payable by the Sponsor on the property.

#### Example 2

If the property is owned by the Sponsor, there must be an independent assessment of the monthly rent achievable from the property concerned.

This is not an exhaustive list and the Sponsor must be able to document accurately the value of any allowances paid in cash or by way of goods and/or services so that Immigration Officers can be satisfied that the migrant is being paid in accordance with the Immigration Rules and Immigration Sponsor Licensing Policy

This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (Temporary Worker) International Agreement category.

- e. Any other document set out in the code of practice for Skilled Workers at Appendix J of the Immigration Rules.

#### **Part 4: Documentary evidence of skill level**

- a. If not provided at Part 2d (above), a detailed and specific job description outlining the duties and responsibilities of the post which must include the skills, qualifications and experience required for the post.
- b. Where it was a requirement within the job advert, copies of any qualifications the migrant holds to confirm skill level such as degree certificate or Higher National Diploma (HND).  
This is not required for contractual service suppliers or independent professionals sponsored under Tier 5 (Temporary Worker) International Agreement category.
- c. Copies of any registration and/or professional accreditation documents and/or any confirmation letter the migrant is required to have in order to do the job. If the migrant is a doctor, this could be the proof of registration with the General Medical Council.  
This is not required for contractual service suppliers or independent professionals sponsored under the Tier 5 (Temporary Worker) International Agreement category.
- d. Where appropriate, a copy of the sport governing body endorsement specific to the migrant.
- e. For those coming to the Isle of Man under the entourage provisions in the Creative and Sporting sub category of Tier 5, details of the migrant's technical or specialist skills must be retained.

#### **Part 5: Documents for each migrant sponsored under Tier 4 (General) Student or Tier 4 (Child) Student**

- a. Copy of the relevant page or pages of each sponsored migrant's current passport or immigration status document showing all personal identity details including biometric details and leave stamps, including the migrant's period of leave to remain (permission to stay) in the Isle of Man. This must show the migrant's entitlement to study with a Licensed Sponsor in the Isle of Man. In the absence of an entry stamp, other evidence such as the travel ticket to the UK or Isle of Man or boarding card should be kept.
- b. Where appropriate a copy of the migrant's biometric residence permit (BRP) or biometric page of the Migrant's passport in addition to a copy of the relevant Tier 4 Visa.
- c. Record of the migrant's absences/attendance, this may be kept either electronically or manually.
- d. A history of the migrant's contact details to include residential address, telephone number and mobile telephone number. This must be updated regularly.
- e. If the student's course of study requires the student to hold an Academic Technology Approval Scheme (ATAS) clearance certificate, the Sponsor must keep a copy of the certificate or the electronic approval notice received by the Sponsor from the United Kingdom Foreign and Commonwealth Office.
- f. For migrants in the Tier 4 (Child) Student category who are going to be cared for in the Isle of Man in a private foster care arrangement during their stay, the Sponsor must, as soon as it becomes aware of the migrant's arrival, provide details of the name of the foster carer and of the address where the foster carer and the migrant will be living, to the relevant Isle of Man Government Department in whose area the child will be living. In addition, where a Tier 4 (Child) Student is already in the Isle of Man and a private foster care arrangement subsequently commences, the Sponsor must provide detail of the name of the foster carer and the address where the foster carer and student will be living as soon as the Sponsor becomes aware of the change in his or her care arrangements. This is to ensure that the relevant Isle of Man Government Department is made aware of the arrangement as soon as possible. The Sponsor must keep a record of the notification to the relevant Isle of Man Government Department.
- g. Copies or originals where possible of any evidence assessed by the Sponsor as part of the process of

making an offer to the migrant, this could be copies of references or examination certificates.