

# People Management

## What does the new immigration guidance mean for employers?

4 May 2020 By Claire Nilson and Hodon Anastasi

With further details about the UK's future points-based system recently released, Claire Nilson and Hodon Anastasi explain what this means in practice



The UK government issued its *[Points-based immigration system: an introduction for employers](#)* guidance just before the Easter bank holidays. This recent policy statement confirmed what has been known for some time: the implementation of the post-Brexit January 2021 new immigration system remains on track.

This system will be centred around the Tier 2 sponsorship route and not the Australian-style points-based system that the government recently hyped up in the news. In essence, the current Tier 2 sponsorship system to sponsor foreign national workers will receive a makeover. A foreign national worker cannot simply apply for a Tier 2 visa to come and work in the UK. They first need a job offer from a UK-

based employer who holds an A-rated Tier 2 Sponsor Licence. This means employers will have to obtain this licence, if they do not already hold one, before they begin to hire European Economic Area (EEA) nationals.

The guidance says “there will not be an immigration route specifically for those who do not meet the skills or salary threshold for the skilled worker route”. Even though most businesses have immersed themselves in tackling the effects of Covid-19, the UK government saw fit to make this announcement for a new immigration system during this time.

Due to the skills and salary threshold, there are many key worker positions that have been, and continue to be, key to flattening the Covid-19 curve that will not qualify under the new route from January, including many care workers, nurses, hospital porters, cleaners, postal workers, and others. The only ‘low-skilled’ workers that the government envisages letting in are agricultural labourers.

Even though the low-skilled workers are out, under the new immigration system the UK government has confirmed that the minimum skill level needed to be sponsored for a Tier 2 general work visa will be reduced from RQF level 6 to RQF level 3. The difference of these levels means that jobs which are considered to require incumbents of at least a high A-level standard can be sponsored in the new system, instead of the bachelor’s degree qualifications (RQF level 6) which are required currently.

Employers should start to put procedures in place now so they can employ foreign national workers, maintain their staffing level, and meet with their compliance obligations. Employers will need to have a Tier 2 Sponsor Licence in place if they want to be prepared to employ EU and non-EU nationals due to arrive in the UK from January 2021.

We encourage employers who are eager to recruit skilled migrant workers from 2021 to apply for a Tier 2 Sponsor Licence as early as possible.

The government has stated in its guidance that “employers not currently approved by the Home Office to be a sponsor should consider doing so now if they think they will want to sponsor skilled migrants, including from the EU, from early 2021”. In doing this, employers will put themselves in the best position to avoid potential delays and interruptions to application processing times.

One of the most important things that employers can do, even those who already hold a Sponsor Licence, is to know their key personnel and the nationalities of their current workforce. This will help the company to engage in strategic planning for their annual Certificate of Sponsorship allocation request.

For employers who already have an existing Sponsor Licence in place, they should be aware that there may be a heavier reliance on their Sponsor Licence from 1 January 2021 when EU nationals will no longer benefit from free movement and all nationalities will be treated equally under the sponsorship system. Employers must also guarantee that they are compliant with the extensive compliance obligations. They can do this, if necessary, by conducting a basic internal audit and checking their current practices to ensure all is in order and that their teams are duly trained and well equipped to meet the requirements.

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