

**Bournemouth
University**

New Points Based Immigration System - Briefing

HR Clinics

Introduction

The points-based immigration system will work for the whole of the UK and will apply to all nationalities other than British or Irish citizens from January 2021 (post-Brexit and the end of free movement).

Change

- EEA nationals are treated exactly the same as non-EEA nationals

Timeline

- The new PBS opened on 1 December 2020 (replacing the Tiered system) and all non-UK nationals can now apply under this system.

EU Settlement Scheme

All EU citizens resident in the UK before 11pm on 31 December 2020, will be eligible to apply for the EU Settlement Scheme, which will allow EU citizens to continue living and working in the UK.

Therefore any EU citizen resident in the UK before 11pm on 31 December 2020, will not be subject to the new Points Based Immigration System.

Applications for the EU Settlement Scheme can be made until 30 June 2021.

An applicant will usually be granted 'settled' status if they've:

- started living in the UK by 31 December 2020
- lived in the UK for a continuous 5-year period (known as 'continuous residence')

If an applicant does not have 5 years' continuous residence when they apply, they'll usually receive 'pre-settled' status. They can then stay in the UK for a further 5 years to be granted settled status.

Tier 2 General vs Skilled Worker

Tier 2 (General)	Skilled Worker
Quota 20,700	Annual quota suspended
RLMT	RLMT abolished
Switching in-country restricted	Flexible on switching in-country
Minimum skill level at RQF Level 6	Minimum skill level at RQF level 3
Minimum salary New entrant - £20,800 Experienced - £30,000	Minimum salary: New entrant - £20,480 Experienced - £25,600
Allowances included	Allowances not included
Cooling off period	No cooling off period
Maximum stay of 6 years	No maximum stay
Leads to settlement after 5 years	Leads to settlement after 5 years

Skilled Worker Route

The Skilled Worker Route (SWR) replaces the current Tier 2 (General) route.

The key elements of the SWR are:

- A job offer from a UK licensed sponsor required
- Suspension of the annual cap on entrants to the UK
- No resident labour market test

Due to these changes, there are potential time savings for BU in relation to our current recruitment timelines and the Government have highlighted their intention to further reduce timescales through additional enhancements to the system beyond January.

Eligibility for a Skilled Worker Visa

Under the new Points Based System, points are assigned for specific skills, qualifications, salaries and shortage occupations; and visas are awarded to those who gain sufficient points. All applicants coming to work under the SWR will require **70 points**.

This will comprise of **50 Mandatory points** and **20 Tradeable points**.

50 Mandatory points:

- 20 points - Job offer from an approved sponsor (e.g. BU)
- 20 points - Job at appropriate Skill level (RQ3 compared to RQ6 for Tier 2)
- 10 points - English language – B1 CEFR (the same level as is currently required under Tier 2)

20 Tradeable points:

These can be obtained through the following combinations:

Characteristics	Options	Points
Salary of £25,600 or above or at least the going rate (whichever is higher)	Option A	20
Education qualification: PhD in a relevant subject - Salary of £23,040 or at least 90% of the going rate (whichever is higher)	Option B	20
Education qualification: PhD in a STEM subject relevant to the job - Salary of £20,480 or at least 80% of the going rate (whichever is higher)	Option C	20
Job on the shortage occupation list - Salary of £20,480 or at least 80% of the going rate (whichever is higher)	Option D	20
New Entrant - Salary of £20,480 or at least 70% of the going rate (whichever is higher)	Option E	20
Health or Education occupation - Salary of £20,480 or the going rate (whichever is higher)	Option F	20

Salary Considerations:

- The **general salary threshold** will be lowered from £30,000 to £25,600 a year and **sponsors must pay their skilled workers a salary which equals or exceeds both this threshold and the ‘going rate’** for the occupation (whichever is higher).
- Every role eligible for sponsorship at BU will have an associated SOC, with each SOC having a ‘going rate’ – which reflects the salary that each sponsored role should be paid.
- Under the new system the salary thresholds and going rates for the majority of our sponsored roles (Lecturer/Post Doc Researcher) is **higher** than was the case under Tier 2.
- As under Tier 2, going rates for individual occupations can be pro-rated depending on the applicant’s working pattern, as long as the total applicable general salary threshold is met.

Options A, B, C: Salary Considerations

- **Option A** – salary of £25,600 or above or at least the **‘100% of the ‘going rate’** for their SOC (whichever is higher) = **20 points** (and with the mandatory 50 points, will make the migrant eligible for sponsorship)
- **Option B** – salary of £23,040 or at least **90% of the ‘going rate’** (whichever is higher), plus **PhD in relevant subject** = **20 points**
- **Option C** – salary of £20,480 or at least **80% of the ‘going rate’** (whichever is higher), plus **PhD in a STEM subject** = **20 points**

As can be seen, tradeable points (options B and C) are often linked to an individual’s qualifications, and therefore eligibility for sponsorship can no longer be established on the role alone.

Option B and C: PhD's

Applicants can only score points for having a **PhD relevant to the job** and BU must be able to justify where this is used, and also whether it can be considered a STEM PhD. Please note that the individual applicant **must hold a PhD** rather than the role itself being classed as 'PhD level', as was the case under the Tier 2 system.

Applicants will also only be able to score points for having a PhD when working in certain occupations. A list of occupations able to claim PhD points will be kept under review but for the initial launch of the route, the list will include the SOC codes used by BU for the majority of our sponsored roles (e.g. **Lecturer** and **Post-Doc Researcher**). This list also includes a small number of additional STEM jobs, such as lab technicians, which do not appear in the top skill level but which involve research.

Option E - New Entrant

Option E – salary of £20,480 or at least **70% of the ‘going rate’** (whichever is higher) = **20 points**

To be classed as a ‘New Entrant’, the applicant must meet one of the following criteria:

- Under 26 years old
- Postdoctoral positions – scientists or **higher education professionals**
- Most recent leave as a Student (expired less than 2 years before date of application) and sponsored to study (Bachelors, Masters, or PhD)
- Has completed or within 3 months of completion of a course, or completed 12 months of a PhD

The applicant can only qualify as a new entrant for a maximum period of 4 years in total* (whether or not the 4 year period is continuous).

***Time spent in the Graduate route will count towards the total length of time an applicant can be classed as a new entrant.**

Example: Lecturer

LECTURER (2311)

- Based on the 'going rate' for SOC code 2311 (£40,700), the migrant would need to be appointed above the minimum spine point (31) – on **point 35, to score 20 points** based on their salary alone.
- Trading points and reducing the salary to **90% of the 'going rate'** will allow a migrant to be appointed at the minimum spine point (31) and receive **10 points**. However they would also require **a relevant PhD (10 points) to accumulate the required 20 tradeable points**
- No issue with a New Entrant, as they can score **20 points** by being appointed on the minimum spine point (31).

In addition SOC code 2311 will allow all new Skilled Worker applicants to be classed as New Entrants.

Example: Post Doctoral Researcher

Post Doctoral Researcher (2119)

- Based on the 'going rate' for SOC code 2119 (£33,000), The migrant would need to be appointed above the minimum spine point (26) – on **point 28, to score 20 points** based on their salary alone.
- Trading points and reducing salary to **90% of the 'Going Rate'** will allow a migrant to be appointed at the minimum spine point (26) and receive **10 points**. However they would also **require a relevant PhD (10 points) to accumulate the required 70 points**.
- No issue with a New Entrant, as they can score **20 points** being appointed on the minimum spine point (26).

In addition SOC code 2119 will allow all new Skilled Worker applicants to be classed as New Entrants.

Right to Work checks

Right to Work checks between 1 January 2021 and 30 June 2021:

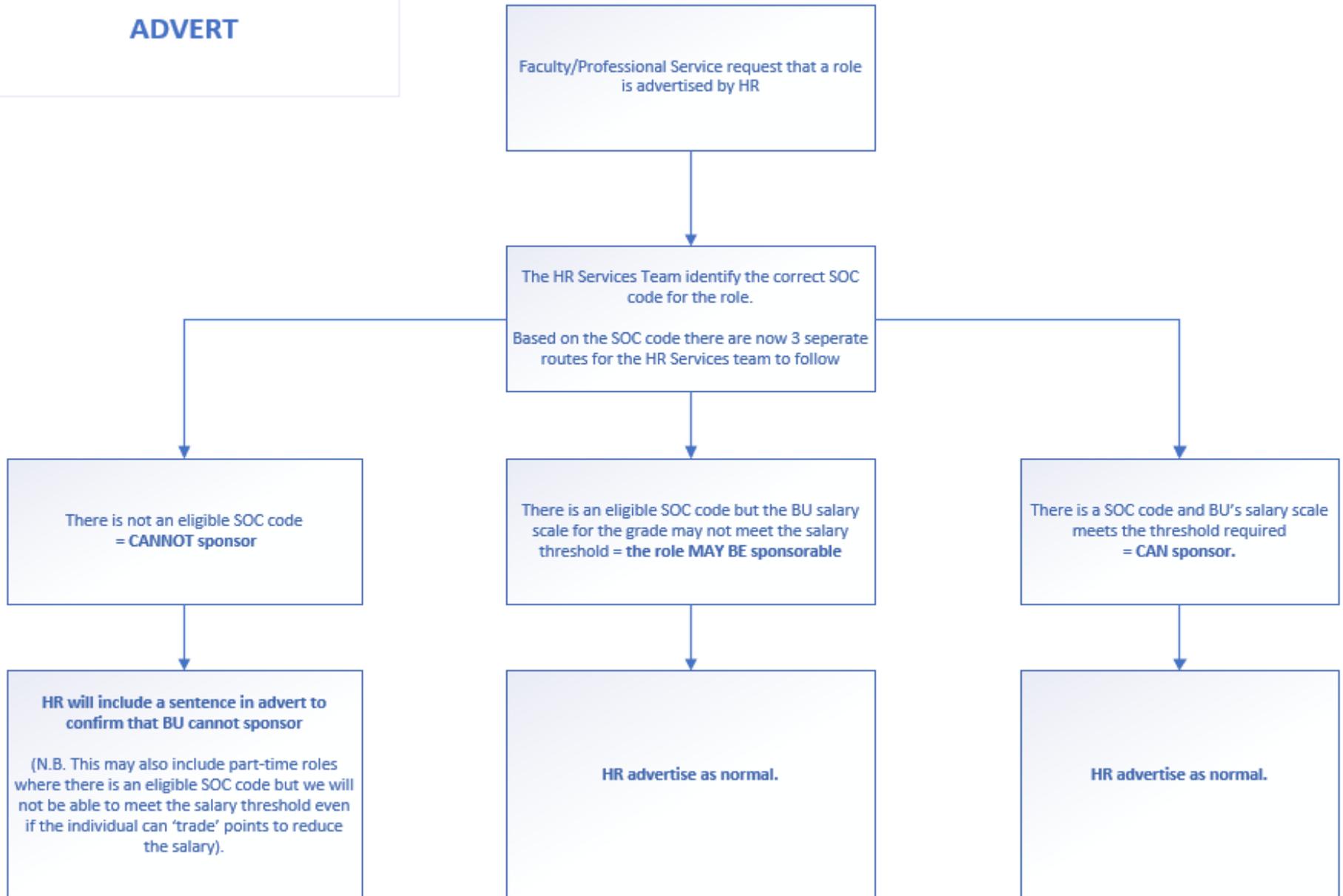
- Employers are currently advised to complete right to work checks in the same way as they are now, e.g. a **Passport** or **EU National Identity card** can still be used as evidence of an EU citizen's right to work, **without needing to confirm whether they have applied for the EU Settlement Scheme**.
- The Home Office have confirmed that there is nothing to stop employers enquiring if an individual has settled or pre-settled status, however **applicants are not obligated to provide this information or share evidence**.
- It is important that asking this question does not lead to any discriminatory action (e.g. **it should not determine a recruitment decision**).

Right to Work checks

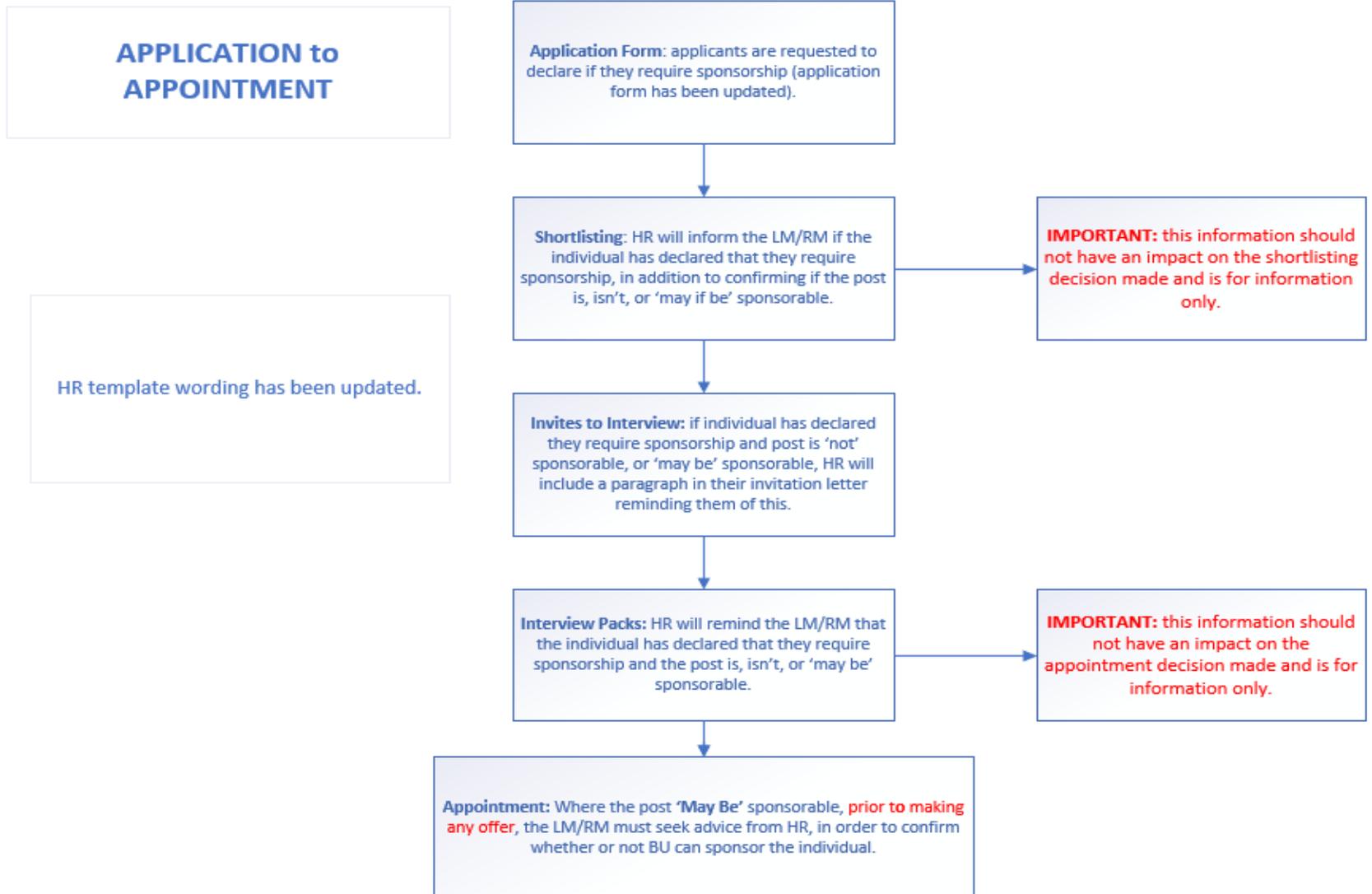
- If BU are made aware that an EU citizen is not eligible to apply for the EU Settlement Scheme and does require a visa, then we would no longer be able to rely on a Passport or EU National Identity card to provide a statutory excuse against a potential illegal working fine.
- EU citizens granted a Skilled Worker visa will be provided with an e-visa, rather than a Biometric Residence Permit. In order to complete a Right to Work check, they will be able to provide a 'Share Code' to enable HR to complete a Government online Right to Work check.
- EU citizens can also evidence their status under the EU Settlement Scheme to HR using the same online Right to Work check.
- Non-EU citizens granted a Skilled Worker visa will continue to be issued a Biometric Residence Permit and as such their visa can be verified both in person OR online by the HR Services team.

Amended Recruitment Process

ADVERT



HR Services: Recruitment Process



Discrimination Considerations:

- It is extremely important to ensure that recruitment decisions are not based on an applicant's nationality and their assumed or known right to work in the UK.
- Offers should be made to the best candidate for the role, however **if your preferred candidate requires sponsorship and the role is 'not' sponsorable or 'may be' sponsorable, no offer should be made without prior discussion with HR.**
- In certain cases, the LM/RM may need to sensitively liaise with the preferred candidate in order to obtain further information or to discuss right to work options (e.g. the applicant may be eligible to apply for a visa under another immigration category).
- Any policy or recruitment practice which disproportionately impacts EEA, Swiss citizens and non-EU nationals is likely to expose employers **to indirect race discrimination claims.**

Example: Cannot Sponsor

- HR receive a request to advertise a Full Time Global Engagement Coordinator role and a Part Time (0.5 FTE = £12,970) Demonstrator role
- Upon review by HR, the Global Engagement Officer role does not have an eligible SOC code and is therefore ineligible for sponsorship.
- The Demonstrator role does have an eligible SOC code (3563), however the 'Going Rate' is £23,400, with an absolute minimum salary of £20,480 (including for New Entrants), therefore even if appointing at the top of Grade 5 (which would lead to issues of equity), this role would still not be eligible for sponsorship at 0.5 FTE (due to salary requirements)
- These roles are advertised with wording included to advise that they are not eligible for sponsorship.
- At shortlisting stage, two applicants advise that they require sponsorship, the LM/RM are informed and advised that the post is ineligible for sponsorship, but this should not impact their recruitment decision.

Example: Cannot Sponsor

- In their 'invite to interview', the two applicants who advised that they require sponsorship, receive an additional paragraph, confirming that these posts are not eligible for sponsorship.
- The LM/RM would like to make an offer to the two individuals who require sponsorship **(they inform HR before making any offer)**.
- HR advise the LM/RM that conversations should now take place with these individuals to determine if they may be eligible to work in the UK under another immigration category.
- HR will advise that these discussions should support the individuals, ensuring that no discriminatory action is taken, whilst also being clear that the Skilled Worker route is not an option, either due to the lack of an eligible SOC code (Global Engagement Coordinator role) or the inability to meet the appropriate salary threshold (Demonstrator role).

Example: 'May Be' able to sponsor

- HR receive a request to advertise a Service Desk Support Analyst role (Grade 4 - £21,814), x2 positions.
- Upon review by HR, this role has an eligible SOC code (3132), but due to the associated salary requirements, the role can only be classed as 'May Be' eligible for sponsorship ('going rate' of £24,400, therefore the higher general salary threshold of £25,600 applies).
- HR advertise the role as normal.
- At the shortlisting stage, two applicants advise that they require sponsorship, the LM/RM are informed and advised that the role 'May Be' sponsorable, and that this information should not impact any recruitment decision.
- In their 'invite to interview', the applicants who advised that they require sponsorship, receive an additional paragraph, confirming that the post 'May Be' eligible for sponsorship.

Example: 'May Be' able to sponsor

- The LM/RM would like to make an offer to the two individuals who require sponsorship. **They inform HR before making any offer and advise the potential salaries to be offered** (both offers being one point above the minimum spine point, at point 16, £22,417).
- HR review the relevant 'Application forms' in an attempt to determine if the individuals are eligible for sponsorship, e.g. do they have a PhD (this will be relevant for certain SOC codes, however not this role), or in this case, can the individuals be classed as a 'New Entrant'? **If further information is required, the LM/RM are to liaise with the individuals based on guidance/wording from HR.**
- In this case, one individual is 25 years old and can be classed as a 'New Entrant'. As they will be offered £22,417, this is above £20,480 or 70% of 'Going Rate' (whichever is higher).

Example: 'May Be' able to sponsor

- This individual would therefore be eligible to be sponsored under the Skilled Worker route in this role (utilising Option E)

IMPORTANT: Consideration needs to be made regarding the fact that within 4 years* (the maximum duration of time a migrant can remain a 'New Entrant'), the applicant would need to meet 100% of the 'Going Rate'. In this case, factoring in potential cost of living and increment increases, the applicant is likely to meet 100% of the 'Going Rate' within this time period.

However if this was not the case, **HR will have discussions with the LM/RM** regarding the potential need to terminate the migrant's employment after 4 years*, if they were unable to meet the appropriate salary threshold at that point.

***Time spent in the Graduate route will count towards the total length of time an applicant can be classed as a new entrant.**

Example: 'May Be' able to sponsor

- For the applicant who can be classed as a 'New Entrant', they can be offered the role at point 16, and will receive offer paperwork confirming that that they require and can be offered sponsorship.
- The other applicant is 28 years old and is unable to be classed as a 'New Entrant' under the New Entrant criteria (e.g. they are not a recent student). Therefore they would need to be paid £25,600 in order to be eligible for sponsorship. In this case, they were to be offered £22,417 (point 16).
- The **LM/RM is unable to justify a 5 point increase** in the salary offered to the individual, to point 21 (£25,941), and to do so would cause issues equity in relation to pay within the team. Therefore this individual would be unable to be sponsored under the Skilled Worker route for this role.

Example: 'May Be' able to sponsor

- HR will confirm to the LM/RM that this individual would not be eligible for sponsorship under the Skilled Worker route, and that conversations should now take place with the individual to determine if they may be eligible to work in the UK under another immigration category.
- HR advise that this discussion should support the individual, ensuring that no discriminatory action is taken, whilst also being clear that the Skilled Worker route is not an option, due to the inability to meet the appropriate salary threshold for the role.
- **This example highlights how dependent upon the applicant, and the salary offered, a role may or may not be eligible for sponsorship.**

Example: 'Can' sponsor

- HR receive a request to advertise a Full Time Tutor Mentor role (Grade 5).
- Upon review by HR, the Tutor Mentor role has an eligible SOC code (2319) with a 'Going Rate' of £21,300 (therefore the general salary threshold of £25,600 applies).
- If offering at the minimum spine point of Grade 5, at point 21, £25,941, the salary threshold will be met, therefore this role would be eligible for sponsorship under the Skilled Worker route, regardless of the applicant.
- HR advertise the role as normal.
- At the shortlisting and interview pack stage, HR inform the LM/RM that the role can be sponsored, and highlight applicants who will require this.
- If the successful applicant requires sponsorship, HR will issue offer paperwork confirming that they require and can be offered sponsorship.

Next Steps: Post Offer

- HR will issue a Certificate of Sponsorship under the Skilled Worker route and support the individual with their visa application (BU will reimburse the standard cost of a Skilled Worker visa £704/£610, however all other fees must be met by the individual).
- As part of their visa application, the individual will need to provide:
 - ❑ proof of their [knowledge of English](#)
 - ❑ a bank/building society statement or letter that shows they have enough [personal savings](#) (£1,270 in a bank account in their name for at least 28 days). **BU can certify maintenance on their behalf by exception.**
 - ❑ a current passport or travel document to prove they can travel – with a blank page in their passport for their visa
 - ❑ expired passports or travel documents to show travel history (if requested)
 - ❑ a [tuberculosis test results if they're from a listed country](#)
 - ❑ a criminal record certificate (if working with vulnerable people)

Next Steps: Post Offer

- If applying for Skilled Worker visa from **outside the UK**, a decision on the visa should be made within **3 weeks** (subject to attending an appointment at a UK Visa Application Centre to provide biometric information).
- If applying for a Skilled Worker visa from **within the UK**, a decision on the visa can take between **8 and 12 weeks**, dependent upon the complexity of their application and the volume of applications received.
- To receive a faster decision on a visa application the Priority and Super Priority services may be available (subject to additional fees).
- A start date cannot be confirmed, and an individual cannot commence work, until a Skilled Worker visa has been verified by a member of the HR Services Team.

Other Immigration Routes

Global Talent Scheme

- The global talent scheme will be opened up to EU, EEA and Swiss citizens. It allows highly-skilled scientists and researchers to come to the UK without a job offer. To be considered for entry under the Global Talent visa, applicants must gain an **endorsement** from one of six **endorsing** bodies engaged by the Home Office (e.g. Tech Nation, UK Research and Innovation).

International Students – Graduate Route

- The Graduate route will be launched in summer 2021 to provide international students with the opportunity to stay in the UK to work or look for work after they graduate. **Undergraduate and Master's** degree students will be able to live and work in the UK for **two years** under the route, whilst **PhD** students will be able to stay for **three years**.

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Other Immigration Routes

Temporary Worker - Government Authorised Exchange visa (formerly Tier 5)

- BU will continue to be able to sponsor Temporary Worker researchers.
- Temporary Worker researchers are able stay in the UK for up to 24 months.
- HR will be able to assess if an applicant meets the Temporary Worker criteria (e.g. they are unable to fill a permanent role), and if applicable HR will issue a Certificate of Sponsorship and support the applicant in their visa application.
- As with the Skilled Worker route, as BU will be sponsoring the researcher, certain employer responsibilities will apply, and no work can commence HR has verified the Temporary Worker visa.

Other Immigration Routes

Visiting the UK

- EU, EEA and Swiss citizens and other non-visa nationals will not require a visa to enter the UK when visiting the UK for up to 6 months. All migrants looking to enter the UK for other reasons (such as **work** or study) will need to apply for entry clearance in advance.
- Academic and Business Visitors will continue to be allowed under the new immigration system; business visitors can come to the UK for meetings and to negotiate and sign business contracts; leading academics can present their latest research; or scientists, for example, can share their knowledge with colleagues on international projects.

Key Points

- Regardless of an applicant's nationality, or their requirement for sponsorship where the role is not eligible, all recruitment decisions should be based on progressing the best applicants for the role, **up until the point of offer**. To do otherwise may expose BU to claims of Indirect Race Discrimination.
- Where you have been informed that the role **'Is Not'** or **'May Be'** eligible for sponsorship, **always liaise with HR before making any offer** to an applicant who has advised that they require sponsorship.
- HR are reviewing current recruitment timelines in light of the new Points Based System and will share a further update in due course.
- If you have any queries at any time regarding the recruitment process and immigration (under all routes) please email:

BUVI@Bournemouth.ac.uk