

Tier 5 Sponsorship

A comprehensive guide for departments and colleges

April 2024



Microsoft Teams Training

Microphone:

- Due to the number undertaking training, please mute or turn off your mic.

Questions:

- The training will be broken into sections, with a 'pause' at certain points for questions.
- You can type in questions in the chat panel or turn on your mic to ask.

Staff Immigration Team

Website: <http://staffimmigration.admin.ox.ac.uk>

James Baker – Head of Staff Immigration

Tel: (2)89908

Email: james.baker@admin.ox.ac.uk

Tim Currie – Staff Immigration Officer

Tel: (2)89903

Email: tim.currie@admin.ox.ac.uk

Lisa Crook – Staff Immigration Officer

Email: lisa.crook@admin.ox.ac.uk

Staff Immigration Assistant

Email: sit-administration@admin.ox.ac.uk

Kim Proffitt – Administrative Assistant
(College Tier 4 Hours Monitoring)

Tel: (2)89894

Email: collegetier4@admin.ox.ac.uk

Staff Immigration Advisors:

**Medical Sciences / Humanities / GLAM / UAS /
Continuing Education**

Angelina Pelova

Email: angelina.pelova@admin.ox.ac.uk

Paul Deeble

Email: paul.deeble@tss.ox.ac.uk

MPLS / Social Sciences / Colleges

Lyn Davis

Email: lyn.davis@admin.ox.ac.uk

Richard Birt

Email: richard.birt@admin.ox.ac.uk

What we do

- Advise departments, colleges and visa holders on:
 - Global Talent, Skilled Worker and Tier 5 process and requirements
 - Right to Work checks
 - Visitor immigration requirements
- Process Skilled Worker and Tier 5 Certificate of Sponsorship applications and hold all data on these visa holders centrally.
- Manage complex cases and matters of non-compliance with external legal input where necessary.
- Support any EU/EEA Frontier worker applications and any staff applying late for the Pre-Settled/Settled status due to reasonable grounds.
- Provide regular training on Global Talent, Skilled Worker, Tier 5, right to work and visitors.
- Represent the collegiate University's comments and concerns with immigration policy to the Home Office.
- Provide assurance to the Audit and Scrutiny Committee on immigration and right to work compliance.

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Points-Based System

Global Talent

- For highly skilled academics and researchers, and those in the arts and digital technology
- Accelerated routes for external funded posts, Individuals Fellowships and Senior Academic and Research appointments

Skilled Worker

- Worker with a job offer, and sponsored by the University

Student Visa

- Managed by Student Immigration team
- Graduate Scheme – DPhil – 3 years post study visa, all other graduates – 2 years

Tier 5

- Government Authorised Exchange (supernumerary researchers, lecturers, external examiners)
- Youth Mobility Scheme (for people under 31 from qualifying countries)

Tier 5 overview

- Now called *Government Authorised Exchange – Temporary Worker – Sponsored Researcher* – easier to still call it Tier 5
- All nationals who require a visa to visit the UK, including EU/EEA and Swiss nationals.
- Take part in supernumerary research/ teaching/ external examining
- Not part of normal staffing requirements and are not filling vacancy
- Usually paid by overseas institution/ external grant – may be paid by Oxford
- Funding must meet or exceed National Living/ Minimum Wage
- If coming to carry out research as part of studies outside the UK Student visa or student Visitor visa routes should be used not Tier 5

Permitted activities

A Tier 5 sponsored visa holder may:

- Collaborate on University-hosted research where they are not filling an advertised position and the work is additional to the department/college's normal staffing requirements
- Undertake research as an intern where the work is additional to the department/college's normal requirements
- Give a lecture/lectures on their research – must not be filling an advertised position and the work must be additional to the department/college's normal staffing requirements
- Act as an external examiner

Rules change on 31 January 2024 the **Academic Visitor** visa route now also permits private and/or collaborative research (but only if coming for up to 6 months, for visits over 6, up to 12, months only private research is permitted). NB: only academics employed outside UK are eligible.

For visits less than six months it is worth considering Academic Visitor visa instead of a Tier 5 visa.

The importance of compliance

- Compliance with Home Office rules is mandatory
- Oxford has a good relationship with the Home Office and has lobbied successfully in the past for key changes
- Consequences of non-compliance with Home Office rules include:
 - **Down-grading** of the University's sponsor licence which means we would not be able to sponsor new applicants from overseas
 - **Withdrawal** of the sponsor licence, with the consequence that **all** sponsored visa holders would have to leave the University and the UK.
 - On-the-spot fines of up to £20,000 for **each** illegal worker
 - A maximum **2-year prison sentence** and/or an **unlimited fine** if illegal workers are employed knowingly

A breach of Home Office requirements from a single college or department (including those who do not have any Tier 2 or Tier 5 sponsored visa holders) may result in serious consequences for entire Collegiate University.

STAGE 1: ENGAGEMENT OF APPLICANT

Identifying when a Tier 5 visa is appropriate

- **Supernumerary** research / teaching opportunity identified by academic
- Applicant identified (usually due to expertise/interest in a specific area)
- Opportunity confirmed as **supernumerary** – i.e. it is not part of normal staffing requirements nor filling vacancy – Tier 5 is not for employment
- **Funding** and **dates of visit** agreed (externally funded, paid by employer overseas, department pay allowance etc.). **NB** If funding for the proposed work is part of a larger research grant then work is required under grant conditions, is not supernumerary & not Tier 5
- **Project plan** mutually agreed – what will they be doing during their visit?
- Visit confirmed in writing between department and applicant (subject to obtaining satisfactory right to work)

Certificate of Sponsorship

- A Tier 5 Certificate of Sponsorship (CoS) must be assigned by the Staff Immigration Team **before** an applicant can submit their visa application
- A CoS is an electronic document that includes:
 - the **personal information** of the applicant;
 - the **details** of their project;
 - the **dates** of their visit; and
 - the **funding** amount in GBP.
- A Tier 5 CoS can be assigned for up to 2 years

Applying for a CoS

- The department/college must complete a **Tier 5 CoS form** and email to the [Staff Immigration Advisor](#) together with **relevant supporting documents**
- The Tier 5 form is Excel based form which provides drop downs and error messages. The form can be found here:
<https://staffimmigration.admin.ox.ac.uk/forms-guidance>
- All applications and supporting documents to be sent electronically and securely using **7-zip** file locked with a password
- Mark email as confidential & include 'Tier 5', applicant's name & start date in subject line
- Should apply to SIT **3 months before** start date
- If coming for >6 months a TB certificate may be needed if they have lived in a [listed country/countries](#) for more than six months – testing takes time
- Staff Immigration Advisor will check and return comments on the right-hand section

Funding letters and project plans

Funding letter

1. It must state the **amount of funding** that the researcher will be receiving
2. The letter must also include the **exact dates** of the visit
3. If the letter states the funding is covering multiple expenses such as **living maintenance, transport costs and accommodation allowance**, we need a break down of these.
4. The letter must be **dated and signed** (or stamped)

Project plan

1. Should include a list of **research activities** the visitor will be undertaking
2. The activities must all be **supernumerary** (i.e. the visitor is not filling a vacancy or undertaking work we would not employ someone to do)

ATAS Certificate

Applicant may need to obtain an **ATAS certificate** from the Foreign, Commonwealth and Development Office (FCDO) if:

1. Undertaking an element of research at PhD level or above in an area that could be used to develop military technology, and weapons of mass destruction
2. Not on the nationality exempt list
 - EU/EEA nationals, Australia, Canada, Japan, New Zealand, Singapore, South Korea, Switzerland and the USA

Process

- Identify all relevant [‘CAH Codes’ using the spreadsheet](#)
- If ATAS required HR issue a letter to individual, using [HR Template Letter](#)
- Individual submits a free online application to FCDO
- Certificate received in approx. 2 weeks, although can be up to 4 weeks in busy period.

CoS cannot be issued until ATAS certificate obtained.

Visa application

- SIT issue CoS to applicant by email along with details on how to apply for their visa. The email will be copied to the department/college HR contact
- Advise applicants to apply as soon as possible to avoid delay in start date
- Must apply no later than three months after CoS is issued (CoS expires after three months)

Application process:



Online application

Main applicant, and each dependant

Staff Immigration Advisor can check draft pdf.



Payment

Visa fee
NHS Surcharge
Priority service available in some counties.



Biometric details

In country: Submit at UKVCAS Sopra Steria Centre

Overseas: Make appointment to attend Visa Application Centre



Submit documents

For example, passport, photographs, evidence of relationship to dependants (marriage/birth certificate)

STAGE 2: ARRIVAL

Arrival in the UK

1. Any **delay** in start date (can't be >28 days late) / **do not arrive** notify SIT
2. **Conduct RTW check before** visa holder commences engagement
3. Departments fill out Right to Work screen in People XD
4. Add to list of List B document holders and expiry dates
5. Fill out Arrival Form and send to SIT within **five working days** of start date with:
 - Contact details (even if temporary)
 - NI number (if applicable) – with confirmation that this has been recorded on People XD (or other HR system – colleges)
 - Contract copy (if applicable)
 - RTW copy
6. Communicate with visa holder about reporting contact details, absence and non-UK travel (**police registration requirement has now been abolished – 09/11/22**)

BRPs still issued to some but no longer accepted as proof of RTW

If new starter whose Home Office letter states they will be issued a BRP is unable to collect their BRP before commencing engagement:

- Can rely on vignette as proof of right to work while waiting for BRP
- Advise visa holder to collect BRP within 10 days of arrival into the UK and BEFORE vignette expires
- BRP cannot be relied on as proof of right to work but they will need the BRP number to generate a 'share code' so you can carry out an online right to work check
- Online right to work check must be completed before the vignette expires

STAGE 3: CHANGES DURING SPONSORSHIP

Changes during sponsorship

1. Use the Changes/Leaver Form to inform SIT **within 5 working days** of:
 - Change in **start date** on CoS / did not arrive on start date
 - Change in **circumstances** (*e.g. title / duties / salary / hours / work location*) – if funding changes/ceases visa holder must notify department/college HR immediately. Department/college HR must notify SIT immediately
 - **Unauthorised absence** (of more than ten consecutive working days)
 - Authorised **unpaid leave** of up to total of four weeks in twelve months (Jan-Dec)
 - Change in funding due to **leave** (*maternity, paternity, shared parental, adoption, sick*)
 - Change in **immigration status** (*e.g. granted other visa/ other nationality*)
 - **Left early** (*e.g. finished early/ funding withdrawn/ dismissed*)
 - **Left as expected** in line with visa

SIT is required to record/report above changes to the Home Office

2. **Update People XD** with above changes (departments only)
Change in residential/contact details only need to be reported to SIT if not entered onto People XD (*these details must always be kept up to date*)

Form at <https://staffimmigration.admin.ox.ac.uk/tier-2/5-changes-and-leavers-form>

Absence recording and reporting

Normal work related travel – does not need to be recorded or reported

Annual leave and sick absence

- Record according to staff group and keep in department/college
- Communicate with visa holders about this policy
- Records for T5 visa holders who are not employees must still be kept

Unauthorised absence – does not arrive for an expected contact (e.g. to give a guest lecture)

- If a visa holder does not show for visit when expected – contact them immediately!
- If absence is explained (e.g. sick, family emergency) – not classed as unauthorised
- Record unauthorised absence and report unauthorised absences of more than ten consecutive working days to SIT (Changes/Leaver Form)

Contact details vital – must be able to contact visa holder in reasonable time

- If visa holder is travelling to out of contact area, they must notify admin

Tier 5 visa extensions

- **New CoS required** (use Tier 5 CoS Extension form)
- Apply for CoS approx. **3 months before visa expiry date**
- Max. **2 years total** stay on Tier 5 visa
- Details of visit must **remain same** as on original CoS (duties, location, job title etc.)
- Salary/funding increases as a result of annual increments permissible
- Visa application to be made no later than six weeks before visa expires
- Draft visa application can be checked by SIT prior to submission
- Super Priority (24-hour decision) appointments available for urgent applications

Visa restrictions and conditions

- Must be **paid into own bank account** – cash payments prohibited
- Must **report immediately if funding ceases** – will not be able to continue to sponsor visa
- **Volunteering and voluntary work only** permitted if this is detailed on the CoS
- **No recourse to public funds** (i.e. must not claim benefits) – exclusions apply for nationals of some countries
- Tier 5 visas are specific for visit – **supplementary employment permitted** under specific circumstances

Supplementary employment

Supplementary employment permitted (as long as they are still undertaking their research) where the supplementary work is:

- **in the same profession** as the job specified on the CoS
e.g. if lecturing on research may take up supplementary teaching or for another department or organisation, or in a job which is on the 'shortage occupation list'
- **at the same professional level** as the job specified on the CoS
e.g. paid at the same level
- for no more than **20 hours per week**
- **outside the working hours** covered by the CoS.

NB Tier 5 visa holder would only be permitted to undertake teaching work if they are giving lectures on their research as part of their visit and if their funding organisation has no objections to them undertaking this work

4 April 2024 rules change permitting Skilled Worker visa holders to take up any Skilled Worker type work as supplementary employment does NOT apply to Tier 5 – must be same type of work for Tier 5

Data holding

- **Hard copies** to be kept by department/college
- SIT will hold an electronic data record for Tier 5 visa holders centrally except:
 - **Absence and sick records** – to be recorded according to staff group and retained by department/college
 - **Identification and confirmation of opportunity paperwork** – do not destroy until 6 months after visa holder leaves/ the University stops sponsoring them
- Send data to SIT at three stages:
 - **Engagement** – using CoS form
 - **On arrival** – using arrival form
 - **During/end of sponsorship** – using Changes/leaver form
- See <https://hr.admin.ox.ac.uk/retention-periods-for-university-personnel-records> for info on how long documents need to be retained

Application fees

- **CoS** – paid for by SIT and cross-charged to department (colleges contact SIT for payment details) – currently £25
- **Visa application fees** – paid by applicant
- **NHS Surcharge** – paid by applicant
- Latest fees <https://www.gov.uk/tier-5-government-authorized-exchange>

Recommendation on reimbursement of visa costs can be found:
<https://staffimmigration.admin.ox.ac.uk/reimbursement-policy>

Summary

- If coming for research as part of studies use Student routes, not Tier 5
- Ensure Tier 5 opportunities are **supernumerary** (not filling a vacancy and additional to normal staffing requirements)
- All EU/EEA and Swiss nationals coming to the UK for the first time to **undertake collaborative research will need to apply for a Tier 5 visa.**
- SIT need to review ATAS details as part of complete CoS application before ATAS letter is issued to applicant
- Keep People XD **up to date** (departments only)
- Keep up to date list of **List B document holders** and expiry dates
- Report changes within **five working days**
- Keep up to date **absence records** (sick and annual leave)
- **Self-audit** to ensure that all required past changes have been notified

Questions and feedback

