



24th February 2016

Graeme Ross graeme.ross@admin.cam.ac.uk

Topics for discussion

- Tier 2 extension/change of employment
- Dependants
- Settlement
- Dependants for ILR
- Citizenship
- Financial and legal support for staff

Welcome to the UK.... sort of....

- Nationals from outside the European Economic Area (EEA) are subject to immigration control and, for work and study purposes, the UK Points-Based System (PBS).
- PBS was implemented in 2008 and it replaced 80 individual schemes, including 'work permits'. If an individual has a job offer in the UK but has no ties to the UK (e.g. marriage, ancestry), it is usually the only route through which they can obtain the right to work in the UK.

UK Legislation	Guidance and Policy
Immigration Act 1971	Over 600 different immigration guidance and policy documents The Immigration Rules – over 10,000 pages of Rules governing the issuing of visas
British Nationality Act 1981	
Immigration and Asylum Act 1999	
Nationality, Immigration and Asylum Act 2002	
Immigration, Asylum and Nationality Act 2006	
UK Borders Act 2007	
Border, Citizenship and Immigration Act 2009	
Immigration Act 2014	
Immigration Bill 2016 (pending)	



**KEEP
CALM
you
MADE
IT**

Tier 2 extensions

- Easier process than initial application

Main points:

- No need to meet English language or Maintenance requirements
 - First Tier 2 visa issued before 6 April 2011 – unlimited number of Tier 2 visas for any employer
 - First Tier 2 visa issued after 6 April 2011 – limit of 6 years in total with any employer
- **Cannot** apply more than 3 months before current visa expires.
- Changing jobs within the University – same SOC Code. New visa not required. New job details reported to UKVI.

Tier 2 Change of Employment

- If you change employer or move to a different profession, you must make a new Tier 2 visa application with a new Certificate of Sponsorship
- You cannot start work for the new employer/new job until your Tier 2 visa has actually been issued.
- You can remain working for your former employer/former position.
- Application process:
 - Standard – 6-8 weeks
 - Priority/Premium – 10 working days

All Visa extensions

- You **can** still work while your visa application is pending, but:
 - You **must** make an 'in-time' application.
 - You **must** provide evidence of your visa application to your department.
 - You **cannot** leave the UK if your existing visa expires.
- 28 day 'grace period' – **cannot** work during this time.
- Applications made beyond 28 days – overstayer and 'exceptional circumstances'.

Tier 2 dependants

Spouses/Partners

- Individuals who wish to apply for a dependant visa must be the spouse or civil partner, unmarried or same-sex partner of a person who is **either**:
 - Present in the UK and holds valid leave as a relevant Points-Based System Migrant; **or**
 - Is, at the same time, applying for leave (either inside or outside the UK) as a relevant Points-Based System Migrant.
- For **unmarried and same-sex partners**, the couple **must** have been living together in a relationship akin to marriage/civil partnership for a period of at least two years.

Tier 2 dependants

Children

- The whole family is applying for visas at the same time (and if applying from abroad will all enter the UK at the same time); **or**
- Both parents are present in the UK with the children applying to join them from abroad; **or**
- One parent is present in the UK and the other parent is applying for a visa from abroad at the same time as the children.
- Exceptions:
 - They are the sole surviving parent of the child(ren); **or**
 - They hold 'sole responsibility' for the child(ren); **or**
 - There are serious or compelling family considerations which must be taken into account.

Dependant applications

- Can switch to a dependant visa whilst inside the UK from any visa type, **except:**
 - A visitor visa
 - Short-term study visa
 - Parent of a Tier 4 (child)
- No English language requirement.
- Maintenance requirement– can be certified by the University or minimum of £630 in named account for at least 90 days.
- **Cannot** switch inside UK from dependant to Tier 2 (General).

What next?

- Settlement is available after 5 years or 10 years. This is mandatory before being eligible for Citizenship.
- 5 Years:
 - 5 years if any combination of work visas (Tier 1 or 2) lawfully and continuously
 - 5 Years if hold a UK spouse visa or Ancestry visa
 - Dependants can apply in line with main applicant but not on their own.
- 10 Years:
 - **Any** combination of UK visas (except visitor visas) provided they were held 'lawfully' and 'continuously'

Settlement - general rules

Rules applicable to both 5 year and 10 year routes:

- Cannot apply more than 28 days before qualifying period.
- Passing the Life in the UK Test.
- Meeting the English language requirements:
 - National of English Speaking country; or
 - Hold a minimum of Bachelor's degree from any English speaking country, including UK but not Canada; or
 - Hold valid leave and previously passed an English language test; or
 - Pass an English language test.
- From 6 April 2016 – for Tier 2 applicants, must receive £35,000 minimum salary.
Does not apply to PhD level roles - 0.1% of all staff may be affected.

Settlement – lawful and continuous residence

- Is the leave ‘lawful’ and ‘continuous’?

Yes, if:

- You are in the UK and your contract ends, but you make an ‘in-time’ application for a visa renewal/switch; or
- You are in the UK and you make a visa application within the 28 days ‘grace period’; or
- Your visa expires and you leave the UK, but **apply** for a new visa within 28 days and subsequently re-enter the UK; or
- Your visa is still valid and you leave and re-enter the UK in accordance with the maximum absence limits.

Absence Limits – 5 years

- Can include the time after the visa is first issued, **provided** you arrive in the UK within 90 days of visa being issued.
- Must not have been out of the UK for more than 180 days in each year of the 5 year qualifying period:

Year 5	11 September 2015	to 12 September 2014
Year 4	11 September 2014	to 12 September 2013
Year 3	11 September 2013	to 12 September 2012
Year 2	11 September 2012	to 12 September 2011
Year 1	11 September 2011	to 12 September 2010

- Absences can be for any business or personal reason. Must be declared by employer(s).
- Absences beyond 180 days will only be permitted if ‘exceptional’.

Absence Limits – 10 years

- Cannot be absent from the UK for more than 540 days/18 months in the full 10 year period.
- Cannot be absent for more than 6 months at **any one time**.
- Absences can be for any reason.
- Absences beyond 540 days will only be permitted if 'exceptional'.

ILR for dependants

5 year route

- Must hold a dependant visa, be in a subsisting relationship and have been living in the UK for the specified periods:
 - Where the dependant visa was issued **before 9 July 2012** - 2 years
 - Where the dependant visa was issued **after 9 July 2012** - 5 years

10 year route

- Cannot apply as dependants of the main applicant in the 10 year route. **Must** meet the 10 year requirements on their own merits.

Citizenship

Requirements for UK Citizenship

- **Must** first hold settlement. EU nationals **must** now hold PR card.
- Passing the Life in the UK Test and meeting the English language requirements.
- Must **not** be absent from the UK for more than 90 days following settlement being granted and making a Citizenship application.
 - If Spouse of a UK citizen, can apply for Citizenship as soon as settlement is awarded.
 - In all other cases, application can only be made 12 months after Settlement has been awarded.

Further Support

Financial

- No central University policy or funds to cover visa costs
- Departmental discretion to cover costs

Legal

- Immigration and Compliance Manager
 - Accredited Immigration legal advisor
 - Advice/guidance free of charge to all current and prospective staff/students
 - 100% success rate, even in most complex cases
 - But, c.1500 international staff. I am one person!

A final thought....



“I fully recognise that the Immigration Rules, which have to deal with a wide variety of circumstances, will never be “easy, plain and short.” But the aim should be that the Rules should be readily understandable. That is not the case at present.”

Lord Justice Underhill,
Court of Appeal,
12 November 2014

Questions

