



UK Visas & Immigration

Code of practice for ballet under Tier 2 and Tier 5 (Temporary worker – Creative and Sporting)

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Introduction

This Code of Practice has been drawn up with Equity, Society of London Theatre (SOLT), Theatrical Management Association (TMA), National Campaign for the Arts (NCA) and Independent Theatre Council (ITC) and has been issued by us (the Home Office) to supplement the “Policy Guidance for Tier 2 and Tier 5 Sponsors of the Points-Based System (PBS)” ([sponsor guidance](#)) – available on our (the Home Office) website.

This is a Code of Practice for sponsors of nationals from outside the European Economic Area (EEA) who will be working as dancers in ballet under Tier 2 or Tier 5 of the PBS. For dancers in theatre and opera, see the Code of Practice applying to theatre and opera. For dancers in dance forms other than ballet, see the Code of Practice applying to dance forms other than ballet.

The Creative & Sporting sub-category of **Tier 5** (Temporary Workers) is for those coming to the UK for shorter periods of time (the maximum length of leave in this category is 12 months) as well as for those with lower skills levels and potential earnings who would not qualify under Tier 2.

All licensed sponsors will be required to fulfil certain duties; compliance with sector-specific Codes of Practice is one of these duties. Where we (the Home Office) discover that a sponsor has acted in breach of the relevant Code of Practice, we will be able to take action against the sponsor using a range of measures applied according to the nature of the breach. Further information on the range of action we may take is contained in the [sponsor guidance](#).

This Code of Practice contains a number of categories. Dancers falling into one of the categories are deemed to be making an additional contribution to ballet in the UK and not displacing the resident labour force, so are exempt from completing the resident labour market test.

Categories

Sponsors may assign a Certificate of Sponsorship (CoS) to a dancer, who will be deemed to be making an additional contribution to the UK labour market when:

1. The dancer is required for continuity

This means that the dancer will have worked for a period of one month or more during the past year on the same production outside the EEA prior to coming to the UK. The “same production” means one which is largely the same in terms of direction and design as the production outside the EEA.

Evidence

Proof is required to show that the dancer is currently working, or has worked, on the same production outside the EEA and has done so, or did so, for at least one month during the past year E.g. A contract of employment, press cuttings or cast list.

2. The dancer has international status

This means that the dancer is internationally famous in their field (this is different to being well-known only in one country).

Evidence

Proof is required to show that the dancer has international status, for example, press cuttings, awards, publicity material, television/radio interviews or programmes.

3. The dancer is engaged by a unit company

A unit company is a ballet company which exists in a country outside the EEA and has put on at least one production in that country.

Evidence

Proof is required to show that the company has put on at least one production in its home country, for example, press cuttings, awards, publicity material, television/radio interviews or programmes.

Proof is required to show that the individual is engaged by the unit company for the production in the UK, for example, a contract of employment.

The dancer is recruited from a specified school for a specified company
This means that the dancer is recruited from:

- The English National Ballet School for English National Ballet;
- The Royal Ballet School for the Royal Ballet; or
- The Royal Ballet School or Elmhurst School for Dance for Birmingham Royal Ballet.

Evidence

Proof is required to show that at the time of recruitment, the dancer was or recently had been a student at the school concerned, for example, a letter of confirmation from the school.

Proof is required to show that the dancer has been engaged by the company concerned, for example, a contract of employment or letter of confirmation from the company.

Where none of the above categories apply and the role is not on the [shortage occupation list](#), the role should be advertised in accordance with the next section of this Code of Practice.

Advertising

Roles cast after a genuine labour market search within the EEA

Where advertising is required (see above), the role must be advertised to suitably qualified EEA-resident dancers in accordance with standard industry practice through at least one of the following: dance agencies, 'The Stage', 'Dance Europe', 'The Spotlight Link', 'Dancing Times' and Equity's Job Information Service. In order to comply with equal opportunities legislation, sponsors should avoid using the latter as the sole forum for advertising.

Where advertising is required and it is for the purposes of assigning a Tier 2 CoS, the sponsor must advertise the job in Jobcentre Plus in addition to one of the methods listed above. This is a mandatory requirement except where a Tier 2 exemption applies as stated in the [sponsor guidance](#); any sector specific media may be used as well, but not instead of, this advertising.

A period of at least four weeks should elapse between the date the advertisement appears and the date the CoS is assigned to a dancer for the role concerned.

The advertisement should appear within six months before the date the CoS is assigned.

Evidence

The sponsor must be able to provide evidence that a thorough and genuine search for a dancer from within the EEA was undertaken prior to casting a non EEA dancer, which must include:

- the name or description of the specific role;
- proof that the role was advertised in accordance with standard industry practice through at least one of the channels set out above;

And, if applicable:

- a list of any EEA dancers who were contacted, interviewed, auditioned and/or offered the role; and
- A statement of the reasons why any EEA dancer who was auditioned was not suitable.

Salary

Payment of dancers should be commensurate with industry standards.

Agreed minimum salaries are set out in Equity's collective agreements, most of which are negotiated with ITC, SOLT and TMA. The current rates of pay can be found at: www.equity.org.uk; www.itc-arts.org; www.solt.co.uk; and www.tmauk.org.

Compliance and Notification

Sponsors must only assign a CoS to those applicants who meet the requirements of this Code of Practice and the other rules relating to the Tier. Sponsors must play their part in ensuring the system is not abused. Sponsors must collate and maintain documentary evidence demonstrating that the dancer meets the requirements for the particular category under which the CoS is assigned. Records may be retained in original or electronic form.

When a sponsor assigns a CoS to someone working as a dancer in ballet, Equity will be notified electronically by us. This notification will provide Equity with details of the CoS.

Once this notification has been made, Equity can request that the sponsor demonstrate that the dancer falls into one of the categories above by providing the evidence specified above for the category concerned.

Sponsors should ensure that the passing of any personal data relating to the dancer to Equity complies with the Data Protection Act 1998.

This evidence is required solely for the purpose of enabling Equity to ascertain whether this Code of Practice has been complied with and will be proportionate depending on the dancer and the category concerned. For example, where a dancer is of international status, their name may be sufficient. Further evidence may need to be provided in other cases.

We may also ask to see the evidence relating to one or more dancers who have been assigned a CoS, as part of our regular checks that sponsors are complying with their duties. We will take into account the views of Equity and the sponsor, assessing all of the available evidence during the course of our checks on sponsors, and will take the final decision as to whether the sponsor has complied with this Code of Practice.

Disputes

In the event that Equity, or another third party, believes that:

- a) a non EEA dancer does not fall within one of the categories above and the role has not been advertised as set out above;
- b) the role has not been advertised as set out above;
- c) evidence requested has not been provided; or
- d) The sponsor has not complied with this Code of Practice in any other way.

Equity, or the third party concerned, will first raise the issue directly with the sponsor.

In cases where no resolution is reached, Equity or the sponsor may refer this to us for a decision on whether the sponsor has failed to comply with this Code of Practice. We will carry out our own investigations, taking action as appropriate.

In making a final decision, we will carry out our own investigations; examining all relevant evidence and taking into account the views of Equity and the sponsor. We will take the final decision based on our assessment of whether the sponsor has complied with this Code of Practice, taking action as appropriate.

Queries regarding this Code of Practice may be addressed to:

The Home Office: BusinessHelpdesk@homeoffice.gsi.gov.uk
Equity: lmcmullan@equity.org.uk
ITC: j.elliman@itc-arts.org (for members only)
SOLT: louise@soltma.co.uk (for members only)
TMA: louise@soltma.co.uk (for members only)