



UK Visas & Immigration

Code of practice for performers in film & television 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 representatives of the film and television industry 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 performers such as actors, dancers and stunt performers, in film and TV in the UK under Tier 2 or Tier 5 of the PBS.

This Code of Practice contains a number of categories. Those falling into one of the categories are deemed to be making an additional contribution to the UK film and television industry and not displacing the resident labour force, so are exempt from further resident labour market testing.

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](#).

If the sponsor is thinking of assigning a Certificate of Sponsorship (CoS) to someone under Tier 2 or Tier 5 to come to the UK as a performer in film or television, they should consult this Code of Practice to see whether any of the categories apply.

Categories

Sponsors may assign a CoS to a performer, who will be deemed to be making an additional contribution to the UK labour market when:

1. The work is for continuity

Sponsors assigning a CoS to performers under this category must be able to supply proof that the performer has worked on, or will be working on the same production overseas for at least one month.

Where a sponsor wishes to assign a CoS for reasons of continuity involving a performer that has worked on the same piece of work overseas for less than one month, the sponsor must notify Equity at least 5 working days prior to assigning a CoS with details of the filming schedules. This is in order to verify that the performer is being genuinely engaged for reasons of continuity.

Sponsors may assign a CoS for performers to enter the UK to undertake post-production work only and provided that such post-production work solely relates to their own role in the film or TV production. For such roles, neither the one month requirement nor prior notice to Equity procedure applies.

Evidence

- Documentary proof is required to show that the performer has worked on, or will be working on, the same production outside the UK for at least a month, for example, contracts, press cuttings or cast lists.

2. The performer has international status

Sponsors assigning a CoS to performers under this category must be able to supply proof that performers are known internationally, or they have demonstrable international box-office appeal.

Evidence

- Documentary proof is required to show that the performer has international status, for example, press cuttings, awards, accolades, publicity material, television/radio interviews, film and TV credits; or,
- Documentary proof is required to show that the performer has demonstrable international box-office appeal through international box office figures for films they have starred in or led as a principal performer.

3. Highly specialist or unusual roles

For certain highly specialist or unusual roles, it may not be possible or reasonable to recruit from the EEA because the role requires specific or specialist attributes, including but not limited to: physical appearance; physical talent and linguistic or vocal skills.

In such circumstances, where appropriate, sponsors should first attempt to conduct searches in the EEA as set out in category 3 to a reasonable degree. However, it is recognised that the extent of such searches within the EEA shall be proportionate to the rarity and specialty of the attributes of the role.

Evidence

Documentary proof under this category is required to show the following:

- the role requires certain highly specialist attributes; and
- the performer possesses those attributes; and
- evidence of the casting process and casting considerations; and
- evidence of reasonable and appropriate searches in the EEA (if applicable); and
- a list of any EEA candidates who were unavailable at the required time.

4. Featured guest in an entertainment programme or subject of a factual programme

Under this category the sponsor must demonstrate that a performer is to be a featured guest on an entertainment programme or subject of a factual programme.

For example, actors, comedians or other performers booked to appear on a chat show or a professional variety show, or scheduled to be subject of an arts programme or documentary.

Evidence

Documentary proof under this category is required to show the following:

- Formal letter from the broadcaster or producer or a copy of the relevant section of the commissioning agreement confirming the reason the performer is required (for example, to feature in an entertainment programme); and
- the name of the programme concerned; and
- Details of any recording or filming schedules.

5. Performers who are tied to the finance of the production

The sponsor under this category must demonstrate that a performer is necessary to a production because the finance is contingent on the particular performer being cast in the film or TV production.

Evidence

Documentary proof under this category is required to show the following:

- A formal letter of confirmation from the production's principal financier.

6. Performers who do not meet the key criteria but who are commercially important

Under this category the sponsor must demonstrate that the performer is commercially important to the production. This may be demonstrated by a formal letter in support from a principal financier or distributor.

Sponsors who wish to assign a CoS on these grounds must adhere to the following procedure:

- a) The sponsor must give prior notice to Equity providing supporting evidence detailing: a description of the role and film, the reasons why advertising was not appropriate and a letter in support of this.
- b) Sponsors should give prior notice to Equity as early as possible, but where practicable, at least eight working days prior to assigning a CoS under this category. This is in order to verify that the performer is genuinely of commercial importance.

Evidence

The sponsor must provide Equity with the following documentary proof:

- the details of the performer required, their role, a description of the production; and
- the reasons why the role has not been advertised; and,

- a formal letter in support of the performer from a financier or distributor; and
- If the performer is an up-and-coming performer, or cast to appeal to a particular overseas audience, then evidence of their CV, reviews, previous work, awards/accolades, and/or evidence of audience appeal.

7. International Co-productions

Sponsors assigning a CoS to performers taking part in international co-productions structured under one of the UK's bilateral co-production treaties, or under the European Convention on Cinematographic Co-Production need to provide the following evidence:

Evidence

Documentary proof under this category is required to show the following:

- Provisional approval from the British Film Commission certification department that the film is being structured as an official co-production; or
- Interim certification from the British Film Commission Certification Department.

Where none of the above categories applies 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

Under this category the sponsor may assign a CoS to a non-EEA performer, if having undertaken searches within the EEA, a suitable candidate was not found to fulfil the role. The sponsor must be able to demonstrate there has been a reasonable and suitable resident labour market search for the role prior to casting the performer.

The role must be subject to a resident labour search in accordance with standard industry practice, which will normally involve engagement of casting agents within the EEA and contacting performers' agents. Although not mandatory, a resident labour search (depending on the role) could also include advertising on the Equity's job information service or Spotlight magazine.

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

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[sponsor guidance](#); any sector specific media may be used as well, but not instead of this advertising.

Sponsors should seek to commence the resident labour market search for at least four weeks before assigning a CoS, but where this is not possible it must always be conducted within a reasonable and suitable period of time. The resident labour searches should take place no more than six months before assigning a CoS.

Evidence

Documentary proof is required to show that a thorough and suitable search for a performer from within the EEA has been undertaken. This would include the following:

- the name or description of the specific role; and
- evidence that the labour market search was carried out in accordance with standard industry practice; and
- evidence that casting agents were employed to seek resident labour; or evidence that performers' agents were approached; or evidence of appropriate advertising of the role;

And, if applicable

- the details of any EEA performers who were contacted, interviewed and/or auditioned, as well as the details of any performers offered the part; and
- A statement of the reasons why any EEA performers contacted interviewed and/or auditioned were not suitable.

Stunt performers

If a stunt performer is sponsored under the above categories, the sponsor must also demonstrate that the worker possesses the equivalent skills and competence to UK industry standards.

Evidence

Documentary proof under this category is required to show the following:

- evidence of qualifications and skills; and
- Evidence of competence.

This may be demonstrated by either;

- 1) A reference in support from a UK based expert with demonstrable knowledge of the UK stunt industry; or
- 2) Evidence of competence at a level equivalent to UK industry standards.

Salary

Payment of Non-EEA performers should be at least at the level of the appropriate UK market rates.

Minimum rates are negotiated by Equity with Pact, BBC and ITV. These can be obtained from Equity at www.equity.org.uk or from 020 767 00246.

No worker may be paid less than the national minimum wage.

Workers in film and television

Workers in film and television who are engaged in non-performing roles are covered by a separate Code of Practice.

Sponsors may assign a CoS to non-performing personal assistants who support performers of international status under category 2.

Non-EEA performers may also enter the UK as business visitors to carry out publicity and other associated activities and will not therefore require a sponsor.

Compliance and notification

Sponsors must only assign a CoS to those 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 performer 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 for someone working as a performer in TV or Film, 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 performer falls into one of the categories above by providing the evidence specified above for the category concerned. On such request, sponsors shall promptly send Equity copies of such supporting evidence demonstrating that the CoS was issued in compliance with this Code, within eight days of such a request.

Sponsors should ensure that the passing of any personal data 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 requests will be proportionate depending on the performer and the category concerned. For example, where a performer 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 performers 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 believes that:

- the non-EEA performer does not fall within the categories above, or
- The information has not been provided.

Equity will first raise the issue directly with the sponsor.

Any objections by Equity must be made within eight days of receipt by Equity of the supporting documentation.

The sponsor should then have the opportunity to provide further information in order to demonstrate that the criteria have been met.

In cases where there is no resolution, Equity or the sponsor may report the matter to us for a final decision on whether the sponsor has complied with the Code of Practice.

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, taking action as appropriate.

Queries regarding this Code of Practice may be addressed to:

- Home Office: BusinessHelpdesk@homeoffice.gsi.gov.uk
- Equity: lmcmullan@equity.org.uk
- PACT: andrew@pact.co.uk

- British Film Commission: Amelie.Truffert@ukfilmcouncil.org.uk
Samantha.perahia@britishfilmcommission.org.uk