

Addendum

Before making an application, you should consider this additional guidance which updates existing guidance elsewhere in this document.

As set out in this guidance, some applicants can demonstrate their English language ability by passing a secure English language test arranged by an approved test provider. These approved tests are listed in Appendix O of the Immigration Rules. On 1 July 2014, Appendix O was updated to amend the list of approved test providers and approved tests. This addendum sets out transitional arrangements for this change.

(1) Transitional arrangements for applicants who hold a TOEIC or TOEFL English language certificate issued by Educational Testing Services (ETS)

On 1 July 2014, Appendix O was updated to remove the TOEIC and TOEFL English language tests, administered by ETS from the list of approved English language tests. This follows the expiry of ETS' licence to carry out secure English language tests for immigration purposes on 6 April 2014.

To allow applicants applying outside the UK time to adjust to this change, we have introduced transitional arrangements. If an applicant has a TOEIC or TOEFL English language test administered by ETS, this will be recognised as an approved test under Appendix O as it applied on 30 June if they have made an application for:

- leave to remain before 1 July 2014
- entry clearance before 22 July 2014

(2) Transitional arrangements for applicants who hold a English language certificate issued by Cambridge International Examinations (CIE)

On 1 August 2014, Appendix O will be updated to remove CIE and their associated tests. This affects the following qualifications:

- Cambridge IGCSE English as a first language; and
- Cambridge IGCSE English as a second language.

To allow applicants time to adjust to these changes, we have introduced transitional arrangements to cover the following circumstances. If an applicant has one of the above tests administered by CIE, it will be recognised as an approved test under Appendix O as it applied on 31 July 2014 if they have made an application for:

- leave to remain before 1 August 2014; or
- entry clearance before 22 August 2014.

(3) Transitional arrangements for applicants who hold the following English language

certificates issued by Cambridge English and Trinity College London

On 01 August 2014, Appendix O will be updated to remove a number of tests provide by Cambridge English and Trinity College London. This affects the following qualifications:

- BULATS online test issued by Cambridge English;
- Trinity College London:
- Entry Level Certificate in ESOL Skills for Life;
- Level 1 Certificate in ESOL Skills for life; or
- Level 2 Certificate in ESOL Skills for life.

To allow applicants time to adjust to these changes, we have introduced transitional arrangements to cover the following circumstances. If an applicant has one of the above tests administered by Cambridge English or Trinity College London, it will be recognised as an approved test under Appendix O as it applied on 31 July 2014 if they have made an application for:

- leave to remain before 01 August 2014; or
- entry clearance before 22 August 2014.



Tier 1 (Entrepreneur) of the Points Based System – Policy Guidance

This document gives the policy guidance for Entrepreneurs coming to the UK under Tier 1 (Entrepreneur) of the Points Based System, and should be read with paragraphs 245D to 245 DF of the Immigration Rules (these can be found on the gov.uk website at: www.gov.uk/government/collections/immigration-rules).

It is correct at the time of publication but may change, so you should always check that you have downloaded the right version by going to our website.

For more information on how to apply, go to the visa and immigration section of the gov.uk website which can be found at: www.gov.uk/visas-immigration.

This guidance is to be used for applications made on or after 6 November 2014

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Introduction

1. The Tier 1 (Entrepreneur) category of the Points Based System is for those investing in the United Kingdom by setting up or taking over, and being actively involved in the running of one or more businesses in the United Kingdom (UK).
2. This document provides guidance on Tier 1 (Entrepreneur) policy. It will be subject to change and should be read together with the relevant paragraphs of the Immigration Rules.
3. The section of the Immigration Rules titled General Grounds for Refusal will also apply to you. This means that your application may be refused for other reasons (such as your previous immigration history). Further information is available on our website at: [www.gov.uk/ government/publications/general-grounds-for-refusals-rfl03](http://www.gov.uk/government/publications/general-grounds-for-refusals-rfl03).
4. In this document, 'we', 'us' and 'our' refer to the Home Office. 'You' and 'your' refer to the person making the application.
5. When we refer to a grant of leave, we mean permission to stay in the UK.
 - If you apply from overseas, you are applying for entry clearance.
 - If you apply from within the UK, you are applying for further leave to remain.

General information on making an application

Applying outside the UK (Entry Clearance)	Applying inside the UK (Initial or Extension application)
Application form at: www.gov.uk/tier-1-entrepreneur/apply	Application form at: www.gov.uk/tier-1-entrepreneur

Self-assessment

6. The online calculator helps you assess whether your application is likely to be successful, and whether your qualification is likely to meet the English language requirements. The online calculator is on our website at: www.points.homeoffice.gov.uk/gui-migrant-jsf/SelfAssessment/SelfAssessment.faces.
7. The results show the possible points you could score, they do not guarantee your application will be successful. We make a decision after giving full consideration to your application and evidence.

Date of application

You are outside the UK	You are inside the UK
The date of application is the date that you pay your application fee which is the date shown on your payment receipt.	The date of application is the date of posting or date delivered by courier to the Home Office.

When should you apply

8. You will need to send us documentary evidence and you should check that you have everything needed before making your application. In some cases you must send us documents dating back some time.
9. If you are in the UK we encourage you to apply at least a month before your existing leave expires. If you apply much earlier than this you risk having a shortfall in leave if you choose to apply for settlement. This is because any further grant of leave is given from the date that we make the decision, not the date your leave expires.

10. Changes to applications from overstayers: Applications for further leave to remain under the Points Based System decided on or after 1 October 2012 will fall for refusal if you have overstayed for more than 28 days, unless there were exceptional circumstances which prevented you from applying within the 28 day period. The 28 day period of overstaying is calculated from the latest of:

- the end of the last period of leave to enter or remain granted;
- the end of any extension of leave under sections 3C or 3D of the Immigration Act 1971; or
- the point a written notice of invalidity is deemed to have been received, in accordance with paragraph 34C or 34CA of the Immigration Rules, in relation to an in-time application for further leave to remain.

If there are exceptional circumstances which prevented you from applying in time you must submit evidence of the exceptional circumstances with your application. The threshold for what constitutes 'exceptional circumstances' is high and will depend on the individual circumstances of the case, but for example may include delays resulting from unexpected or unforeseeable circumstances such as the following:

- serious illness which meant that you or your representative were unable to submit the application in time (where supported by appropriate medical documentation);
- travel or postal delays which meant that you or your representative were unable to submit the application in time;
- inability to provide necessary documents. This would only apply to exceptional or unavoidable circumstances beyond your control, such as the Home Office being at fault in the loss of, or delay in returning, travel documents, or delay in obtaining replacement documents following loss as a result of theft, fire or flood (where supported by evidence of the date of loss and the date replacement documents were sought).

10. You should not make plans to travel outside of the Common Travel Area whilst your application is under consideration. Where you request your passport back from us in order to travel prior to a decision being reached on your application, your application will be treated as being withdrawn in accordance with Paragraph 34J of the Immigration Rules.

Verification and other checks

11. We may want to check the supporting documents you send with your application. You must ensure that all the evidence comes from a source that can be clearly identified and that we can independently confirm it as being genuine. More information is given in Annex C.

Outcome of the decision

12. We will notify you of the decision and return documents by Royal Mail Recorded Delivery. If you require your documents to be returned by Royal Mail Special Delivery, you must provide a pre-paid Special Delivery envelope that is large enough for your documents with your application.

Administrative review (entry clearance applications only)

13. If we refuse an application for entry clearance and you think that a mistake has been made, you can ask us to check our decision. This is known as an 'administrative review'. Full guidance on administrative reviews can be found at **Annex B**.

Appeal Rights (in-country applications)

14. If we refuse an application for leave to remain and you think that a mistake has been made, you may be able to appeal against our decision. Details on how and if you can appeal against our decision will be included with your refusal letter.

Change of circumstances

<p>To change your:</p> <ul style="list-style-type: none"> • contact details; or • details of your criminal convictions; or • representative’s details; or • dependants details <p>complete a change of circumstances form which is available on our website at: www.gov.uk/change-circumstances-visa-brp.</p> <p>We will confirm that we have noted your change of circumstances in a letter. You should keep this letter with the original documents from your application.</p>	<p>If your current grant of leave was made by means of a Biometric Residence Permit (BRP), to change your:</p> <ul style="list-style-type: none"> • name • date of birth • nationality • gender • appearance <p>you must send a new application on form NTL or TOC. Please see the related link: changes to BRP available on our website at: www.gov.uk/transfer-visa.</p>
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15. You, or any member of the public, can report illegal immigrants and other immigration offences via our website www.gov.uk/report-immigration-crime.

Documentary evidence

16. You must provide all of the documents to support your application when you submit it. These documents must be originals (not copies) unless stated otherwise. We only accept the documents specified in the Immigration Rules and covered in this guidance. We will not consider unrelated evidence when calculating the points score.

17. If you have submitted specified documents in which:

- Some of the documents in a sequence have been omitted (for example, if one bank statement from a series is missing); or
- A document is in the wrong format (for example, if a letter is not on letterhead paper as specified); or
- A document is a copy and not an original document; or
- A document does not contain all of the specified information;

we may contact you or your representative in writing, and request the correct documents. We must receive the requested documents at the address specified in the request within 7 working days of the date of the request. We will not ask for further information where:

- we do not anticipate that a correction of minor errors or omissions will lead to a successful application because it would be refused for other reasons; or
- where a specified document has been completely omitted.

If you have submitted a specified document that is:

- in the wrong format; or
- a copy and not an original document; or
- which does not contain all of the specified information, but the missing information is verifiable from:
 - other documents submitted with the application; or
 - the website of the organisation which issued the document; or
 - the website of the appropriate regulatory body;

we may approve your application exceptionally if we are satisfied that the specified documents are genuine and that you meet all the other requirements. We reserve the right to request the original documents in the correct format and to refuse applications if the specified documents are not provided.

If your situation is unusual or particularly complex you may wish to consider including a covering letter with your application to:

- Give an explanation of how you are claiming points, where it is not immediately clear how you score the necessary points from the specified documents you are providing with your application, and offer clarification on any complex parts to your application (if applicable); and
- For extension applications, give a brief history of the business or businesses you have created or joined, the investments you have made, and the jobs you have created since your initial application was granted.

We will process your application without this letter, but it may speed up our consideration if your situation is unusual or particularly complex and you provide it. It is important to note that, in all circumstances, your application will be subject to the evidence principles set out in this guidance and in the Immigration Rules. For example, if you omit a specified document, which is not part of a sequence of documents provided with your application, we will not contact you to request such missing document, even if this is referred to in your covering letter. The information you provide in your letter will in no circumstances serve as a substitute for any of the specified documents and information the Immigration Rules require that you provide with your application.

Additional evidence for sponsored students

18. If you have been studying in the UK and have been sponsored in your studies by a Government or international scholarship agency, you must provide us the sponsor's consent for you to stay in the UK. Please see Annex D for a further explanation.

Tier 1 (Entrepreneur) overview of terms and conditions

19. The following section explains key features of Tier 1 (Entrepreneur) category. Full details of the requirements are at paragraph 245D to 245DF of the Immigration Rules.

Length of leave

<p>Type of Leave Entry clearance</p> <p>Switching (Leave to remain where previous grant of leave was not as Tier 1 (Entrepreneur)).</p> <p>Extension (Leave to remain where previous grant of leave was as a Tier 1 (Entrepreneur), Businessperson or Innovator)</p>	<p>Length of grant: Three years plus four months</p> <p>Three years</p> <p>Two years</p>
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20. Information on how to apply for Indefinite Leave to Remain (settlement) is available on the Home Office website on:
<https://www.gov.uk/government/publications/chapter-6a-section-1-points-based-system-tier-1>

Eligibility to apply in the UK

21. You are allowed to make an initial application in the UK (including switching from one immigration category to another) if you are here with permission to stay as:

- a highly skilled migrant;
- a Tier 1 (Entrepreneur) migrant;
- a Businessperson;
- a Work Permit holder;
- a Self employed Lawyer;
- an Investor;
- a Tier 2 migrant;
- a Tier 1 (General) migrant;
- a Tier 1 (Investor) migrant;
- a Tier 1 (Graduate Entrepreneur) migrant;
- an Innovator;
- a Writer, Composer or Artist;
- a participant in the International Graduates Scheme (or its predecessor, the Science & Engineering Graduate Scheme);
- a participant in the Fresh Talent: Working in Scotland Scheme;
- a Prospective Entrepreneur.

22. a) If you are in the UK with permission to stay as:

- a Tier 4 migrant;
- a Student;
- a Student re-sitting an examination;
- a Student nurse;
- a Student writing up a thesis;
- a Postgraduate Doctor or Dentist.

you are allowed to make an initial application in the UK **only if you have specific types of funding**. You must have access to £50,000 or more from:

- i. one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment (UKTI) website; or
- ii. one or more UK Government Departments or Devolved Government Departments in Scotland, Wales or Northern Ireland, which is made available by the Department(s) for the specific purpose of establishing or expanding a UK business.

If you are in one of the above study categories without funding from a seed funding competition or UK/devolved government department, you are not permitted to switch into the Tier 1 (Entrepreneur) category in the UK.

23. b) If you are in the UK with permission to stay as a Tier 1 (Post-Study Work) migrant:

From 11 July 2014, you are allowed to make an initial application in the UK **only if you have specific types of funding or if you qualify under the transitional arrangement below**. You must have access to £50,000 or more from the following specific types of funding:

- i. one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment (UKTI) website; or
- ii. one or more UK Government Departments or Devolved Government Departments in Scotland, Wales or Northern Ireland, which is made available by the Department(s) for the specific purpose of establishing or expanding a UK business.

Tier 1 (Post-Study Work) Transitional arrangement – 11 July 2014

If you are applying to switch from Tier 1 (Post-Study Work), you can also make an initial application in the UK if you have:

- access to £50,000 or more from another source (including your own funds or money from third parties, which may include venture capital firms regulated by the FCA), and
- been continuously engaged in business in the UK since before 11 July 2014

Care Arrangements for Children

23. You must be at least 16 years old to use this route.

24. Under Section 55 of the Borders, Citizenship and Immigration Act 2009, the Home Office must have regard to the need to safeguard children and to promote their welfare. All children working in the UK must have suitable care arrangements in place for their travel, reception on arrival in the UK and living arrangements while here.

25. Please note that 16 and 17 year olds have the legal right to live independently in the UK, and may therefore make their own arrangements for accommodation. If you are 16 or 17 years old on the date that your application is decided, you must have your parent(s) or legal guardian(s) written consent to the arrangements that have been made in regard of your application, travel, reception and care arrangements. You must submit a letter from your parent(s) or legal guardian(s) giving their consent to you making this application and to the arrangements for your care in the UK. The letter must be original (not a copy) and must confirm if your parent(s) or legal guardian(s) have legal custody or sole responsibility for you. If they have sole responsibility they must sign the letter. If they do not, the letter must confirm that each parent or legal guardian agrees to the content of the letter and must be signed by each parent or legal guardian.

26. The letter must clearly show:

- the relationship between the parent(s) or legal guardian(s) and you;
- that your parent(s) or legal guardian(s) have given their consent to this application;
- that your parent(s) or legal guardian(s) agree to your living arrangements in the UK; and
- your parent(s) or legal guardian(s) full name and address.

Private Foster Care Arrangements

27. Children (under 16 years old or 18 years old if disabled) are privately fostered when they are cared for on a full-time basis by adults, who are not their parents or a close relative, for more than 28 days. It is the responsibility of the parent, carer, and anyone else involved in making the private fostering arrangement to notify their UK local authority of the private fostering arrangement.

28. In the UK local authorities are responsible for safeguarding and protecting children. They must make sure that private foster carers are suitable and that they get any support and guidance that they may need to help them care for a child. You must tell us if you are living under local authority care in the UK. If you are in local authority care you must provide a letter from the local authority that is caring for you confirming that you are currently in local authority care. The letter must be original (not a copy) and be on official headed paper.

29. A close relative, parent or legal guardian caring for a child is not considered to be a private foster carer and so will not need to register with a UK local authority. A close relative is a

grandparent, brother, sister, step-parent, uncle (brother or half-brother of the child's parent) or aunt (sister or half-sister of the child's parent) who is aged 18 or over.

Conditions of stay

30. Permission to stay under this route will be subject to the following conditions:

- a. no recourse to public funds (which means you will not be able to claim most benefits paid by the state);
- b. registration with the police, if this is required by paragraph 326 of the Immigration Rules;
- c. no employment other than working for the business or businesses that you have established, joined or taken over but working for such business(es) does not include any work you do which is effectively employment with another business (for more details— see Annex A, A41), and
- d. no employment as a professional sportsperson (including as a sports coach).

Tier 1 (Entrepreneur) - points scoring

Points scoring requirements

31. In order to obtain entry clearance or leave to remain within Tier 1 (Entrepreneur) you must score enough points and send supporting evidence where appropriate.

32. Under Tier 1 (Entrepreneur), you must score:

- at least 75 points for attributes (Appendix A of the Immigration Rules);
- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for Maintenance (funds) (Appendix C of the Immigration Rules).

33. You will find explanations of some of the terms we use in Annex A.

Attributes for initial entry

34. Points available for attributes are in the table below. This table applies to you if you are seeking:

- entry clearance or leave to enter as a Tier 1 (Entrepreneur) migrant and did not have leave in this category within the last 12 months; and
- further leave to remain in the UK in this category when your previous permission to stay was given under a category **other than** Tier 1 (Entrepreneur) or one of the former Businessperson, or Innovator, categories, so you are switching categories.

Attributes table for initial applications	
Attributes: pass mark = 75 Points	Points available
<p>a) You have access to not less than £200,000, or</p> <p>b) You have access to not less than £50,000 from:</p> <ul style="list-style-type: none"> i. one or more registered venture capital firms regulated by the Financial Conduct Authority (FCA) (not available to all applicants, please see the 'Eligibility to apply in the UK' section for more information) ii. one or more UK Entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment (UKTI) website, or iii. one or more UK Government Departments or Devolved Government Departments in Scotland, Wales or Northern Ireland, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business, or <p>c) You :</p> <ul style="list-style-type: none"> i. are applying for leave to remain, ii. have, or were last granted, leave as a Tier 1 (Graduate Entrepreneur) migrant, and iii. have access to not less than £50,000, or <p>d) You:</p> <ul style="list-style-type: none"> i. are applying for leave to remain, ii. have, or were last granted, leave as a Tier 1 (Post-Study Work) migrant, iii. have been continuously engaged in business activity (see annex A,A41) since before 11 July 2014 and up to the date of application, and during this period you have been continuously: <ul style="list-style-type: none"> (1) registered with HM Revenue and Customs (HMRC) as self-employed, or (2) registered with Companies House as the director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points, iv. since before 11 July 2014, and up to the date of application, have been continuously working in an occupation which appears on the list of occupations skilled to National Qualifications Framework (NQF) level 4 or above, as stated in the Codes of Practice in Appendix J of the Immigration 	25

<p>Rules www.gov.uk/government/publications/immigration-rules-appendix-i and the Codes of Practice for Tier 2 Sponsors www.gov.uk/government/publications/sponsorship-codes-of-practice-for-skilled-workers . 'Working' in this context means that the core service your business provides to its customers or clients involves the business delivering a service in an occupation at this level. It excludes any work involved in administration, marketing or website functions for the business and</p> <p>v. have access to not less than £50,000.</p> <p>The money is held in one or more regulated financial institutions.</p> <p>The money is disposable in the United Kingdom. If you are applying for leave to remain, the money must be held in the UK.</p> <p>Please see the relevant section below for more details.</p>	<p>25</p> <p>25</p>
English Language: pass mark = 10	
Evidence to prove that you speak English to the required standard and meet the requirements explained in this guidance. Please see relevant section below for further details.	10
Maintenance: pass mark = 10	
A certain amount of funds to support yourself (and any dependants) in the UK. Please see relevant section below for more details.	10

Genuine Entrepreneur Test

35. We may ask you to demonstrate that the funds you have used to apply remain available to you beyond the date of your application. The funds must continue to be available to you until they are spent for the purposes of your business or businesses. 'Available to you' means that the funds must be in one of the following:

- 1) in your own possession,
- 2) in the financial accounts of a UK incorporated business of which you are the director, or
- 3) available from the third party or parties named in your application (if applicable).

'Spent' by your business' excludes spending on all of the following:

- 1) your own remuneration,
- 2) buying the business from a previous owner, where the money goes to that previous owner rather than into the business,
- 3) investing in other businesses, and
- 4) any spending which is not directly for the purpose of establishing or running your own business or businesses.

36. The declaration from your third party funds donor must confirm that the funds will remain

available to you until they are transferred to you or to your business.

37. We may request further evidence or verify that the money will remain available and we will refuse your application if this evidence is not provided or if we cannot satisfactorily verify it. If your application is refused on other grounds we may not carry out the genuine entrepreneur test assessment, but if we reconsider the decision we may do the assessment then.
38. If you already have leave as a Tier 1 (Entrepreneur) migrant we may curtail your leave if the funds you have used to apply cease to be available to you (unless you have spent them in the **establishment or running of your business or businesses**). **'Spent' excludes spending on your own remuneration.**

Entrepreneur teams

39. Money for investment can be shared by a team of a maximum of two entrepreneurs. Each team member may apply to come to the UK as a Tier 1 (Entrepreneur) using the same investment funds. Neither applicant must have used the same funds with any other applicant. **Please note:** you should provide all the documents needed for evidence with your own application. Your team member should also provide all the documents needed with their application. In some cases this means that your team will need to send two sets of documents. It will help in processing your application if you do not rely on information presented with anyone else's application.
40. No points will be awarded for funds that are made available to anyone else, other than your entrepreneurial team member (if you have one).

You may use your money that is held in a joint account with your spouse or partner (defined as a person who has been living together with you in a relationship akin to a marriage or civil partnership, for at least two years prior to the date of application), and your spouse or partner is not (or is not applying to be) another Tier 1 (Entrepreneur) Migrant.

41. Where this guidance refers to funding being available, unless stated otherwise, this means available to:
- You; or
 - Your entrepreneurial team members; or
 - Your business.

Where this guidance refers to your business, your business must be a company and you must be registered as a director of that business in the UK, and provide a Companies House document showing the address of the registered office in the UK, or head office in the UK if it has no registered office, and your name, as it appears on the application form as a director.

Claiming points for attributes

Section a: £200,000 funding

42. You or the entrepreneurial team must have £200,000 of your own money available to make a fresh investment into business in the UK. You should supply documentary evidence of the money in your/ each member of the entrepreneurial team's name as specified in the 'Immigration Rules and in the 'Documents we require' section below.
43. You or your entrepreneurial team can include money made available by other people (known as 'a third party or parties', and this can include money from your (or your entrepreneurial team member's) husband, wife or partner). In this case you must also provide a declaration that the money is available to you and your entrepreneurial team member (if applicable), or to the business that you or your entrepreneurial team are running. You must provide a declaration from each contributor of funds, together with confirmation that the declarations are valid.

44. This money can be made up from money already invested in a UK business together with access to any balance of money needed to total £200,000.

45. If you are applying from inside the UK your funds must be held in the UK

Section b: £50,000 funding

46. You or the entrepreneurial team must have access to £50,000 or more from:

- i. one or more registered venture capital firms regulated by the FCA;
- ii. one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UKTI website; or
- iii. one or more UK Government Departments or Devolved Government Departments in Scotland, Wales or Northern Ireland, which is made available by the Department(s) for the specific purpose of establishing or expanding a UK business.

47. You must supply documentary evidence as specified in the Immigration Rules and in the 'Documents we require' section below. This will include a letter from each venture capital firm, seed funding competition, or UK Government Department or Devolved Government Department in Scotland, Wales or Northern Ireland, allowing you to use the funds, and evidence of the funds.

48. Funds from more than one of these sources may be combined to total the required £50,000. However, funds from a venture capital firm cannot be included if you are applying to switch from Tier 4/other relevant student categories, or Tier 1 (Post-Study Work) (unless you can take advantage of the **Tier 1 (Post-Study Work) Transitional arrangement – 11 July 2014**).

49. You may not mix your personal or other third party funds with the funding from the venture capital firms, seed funding competitions and/or UK Government Departments/Devolved Government Departments towards the £50,000. If you wish to mix the funding you will need to invest £200,000 into the UK business.

50. This money can be made up from funding obtained from the venture capital firm(s), Seed funding competitions and/or UK Government Department(s)/Devolved Government Departments already invested in business together with access to any balance of money from these sources needed to total £50,000.

51. If you have formed an entrepreneurial team with another applicant, the documents must confirm that the funds are available to both team members or your business.

Where this guidance refers to your business, you must be registered as a director of that business in the UK, and provide a Companies House document showing the address of the registered office in the UK (or if there is no registered office, the head office in the UK). The document must show your name (as it appears on the application form) and your team member's name both listed as directors.

Your entrepreneurial team member must also qualify to use the same amount of investment if the total amount available to your entrepreneurial team is £50,000 or more. If the other team member does not also qualify for this level of investment, the total amount available to the team must be at £200,000 or more.

52. Only the following sources of funding will be accepted for this section. These are:

Registered venture capital firms regulated by the Financial Conduct Authority

(FCA): To be considered acceptable as a source of investment funds, venture capital firms must be registered with Financial Conduct Authority (FCA) and their entry onto the register must include permission to arrange, deal in or manage investments or to manage alternative investment funds. The FCA website is at www.fca.org.uk/.

UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade and Investment (UKTI) website:

The list of competitions that have been endorsed for this purpose and can be considered for the award of points is given on the UKTI website on www.gov.uk/government/publications/entrepreneurs-setting-up-in-the-uk/entrepreneurs-setting-up-in-the-uk

UK Government Departments or Devolved Government Departments in Scotland, Wales and Northern Ireland, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business:

Where a UK Government Department or Devolved Government Department is providing all or some of the funds specifically for the purpose of setting up or expanding a business in the UK, the funding package can be considered for the award of points. Please see www.gov.uk/ for information on UK Government Departments and Devolved Government Departments.

Section c: Leave as a Tier 1 (Graduate Entrepreneur) Migrant and £50,000 funding

53. You must be applying from within the UK and have last been granted leave as Tier 1 (Graduate Entrepreneur) migrant. You will not be asked to provide documentary evidence of this, we will use your travel document or passport and our records.
54. You must also have £50,000 of your own money available to make a fresh investment into business in the UK. You must supply documentary evidence of the funds as specified in the Immigration Rules and the '**Documents we require**' section below. Your funds must be held in the UK.
55. You can include money made available by other people (known as 'a third party or parties') but you must also provide a declaration that the money is available to you or the business that you are running, from each contributor of funds, together with confirmation that the declarations are valid. If you are relying on money held by your husband, wife or partner, they will be regarded as a third party.
56. This money can be made up from money already invested in business together with access to any balance of money needed to total £50,000.
57. If you have formed an entrepreneurial team with another applicant, the documents must confirm that the funds are available to both team members.
 - Your entrepreneurial team member must also qualify to use the same amount of investment if the total amount available to your entrepreneurial team is £50,000 or more.
 - If the other team member does not also qualify for this level of investment, the total amount available to your entrepreneurial team must be at £200,000 or more.

Section d: Leave as a Tier 1 (Post-Study Work) Migrant and access to £50,000

58. You must be applying from within the UK and have last been granted leave as a Tier 1 (Post-Study Work) migrant. You will not be asked to provide documentary evidence of this; we will use your travel document or passport and our records.

You must:

- i. Be applying for leave to remain.

You must be in the UK and be applying to switch to Tier 1 (Entrepreneur). You may not use **section d** (see the attributes table for initial applications) if you are applying for entry clearance or leave to enter.

ii. Have been last granted leave as Tier 1 (Post-Study Work) migrant.

iii. Have been continuously engaged in business activity.

You have been continuously engaged in business activity (which was not, or did not amount to, activity pursuant to a contract of service – see annex A, A41) with a business other than your own since before 11 July 2014 and up to the date of application, and during this period you have been continuously:

- registered with HM Revenue and Customs (HMRC) as self-employed, or
- registered with Companies House as the director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.

If you cannot demonstrate that you have been continuously engaged in business activity since before 11 July 2014, you may only apply using £50,000 funds from a listed seed funding competition or UK or devolved government departments (**not from** a venture capital firm).

The evidence required to show you were continuously engaged in business activity since before 11 July 2014, can be found in the section, **Tier 1 (Post-Study Work) migrants – continuous business activity – documents we require**.

iv. Have been in an occupation skilled to graduate level. Other than the work necessary to administer the business, your main business activity must be working skilled to National Qualifications Framework (NQF) 4 or above. We will not take into account the tasks involved with the running of the business for this assessment.

For example:

- If the business is software sales and your main activity is developing software, you may qualify for points;
- If the business is a taxi firm, the main occupation is driving a taxi and you will not score points even though you manage the business. Your main activity is providing a taxi service which is not skilled to graduate level.

Guidance on what is work skilled to NQF 4 or above, as stated in the Codes of Practice for Tier 2 Sponsors published by the Home Office is found on our website at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/305304/Tier_2_5_Sponsor_Guidance_04-14.pdf and in Appendix J of the Immigration Rules.

v. You must also have at least £50,000 to invest in UK business. Your funds must be held in the UK.

59. **Please note:** If you cannot demonstrate that you have been continuously engaged in business activity since before 11 July 2014, you may only apply using £50,000 funds from a listed seed funding competition or UK government departments (not from a venture capital firm).

60. You must supply documentary evidence of the funds as specified in the Immigration Rules and in the 'Documents we require' section below.

You can include money made available by other people or organisations (known as 'a third party or parties') but you must also provide a declaration that the money is available to you or the business that you are running, from each contributor of funds, together with confirmation that the declarations are valid. If you are relying on money held by your husband, wife or partner (and not in a joint account with you), they will be regarded as a third party.

61. This money can be made up from money already invested in business (providing the investment was made not more than 12 months before the date of application and you provide evidence of this investment as specified in the Immigration Rules and the '**Documents we require**' section below) together with access to any balance of money needed to total £50,000

62. If you have formed an entrepreneurial team with another applicant, the documents must confirm the funds are available to both team members or your business. Both team members must qualify in their own right. For example:

- If the total amount available to the entrepreneurial team is £50,000 of their own funds, and one applicant is a Tier 1 (Post-Study Work) migrant but the other is not, then only the Tier 1 (Post-Study Work) applicant can be approved.
- If the total amount available to the team is £200,000 of their own funds, but they have not been continuously engaged in business since before 11 July 2014, and one applicant is switching from Tier 1 (Post-Study Work) and the other is switching from Tier 2, then only the Tier 2 migrant can be approved.

You and your entrepreneurial team member can qualify if you meet the following criteria:

A team consisting of one Tier 1 (Post-Study Work) migrant applying in-country, and one migrant applying from overseas who have established a business together before 11 July 2014 and have £200,000 held in a joint account to invest in the business.

In this example:

- The Tier 1 (Post-Study Work) applicant qualifies as the team has over £50,000 funding and he has been continuously engaged in business since before 11 July 2014; and
- The overseas applicant qualifies as the team has access to £200,000 funding.

Available funds - all applicants

Funds already invested.

63. You may not use the same funds to score points for your funds available for investment and for maintenance funds for yourself and any dependants.

64. If you have already legally established a business in the UK while under a different immigration category, you may use this investment to claim points if it satisfies the requirements. If all of the money needed has been invested, all of the points needed for attributes can be awarded (75 points), provided all of the specified documents required are submitted to show:

- the amount of money invested; and
- you have established a business in the UK, in which the money was invested

65. The investment must have been made in the 12 calendar months before the date of application, or 24 months if you were last granted leave as a Tier 1 (Graduate Entrepreneur). Any investment made more than 12 months (or 24 months if you were last a Tier 1 (Graduate Entrepreneur) migrant) before your application will not be counted.

66. We recognise that, as an entrepreneur, you may have moved on to other activities and no longer be involved in the business in which you initially invested, but we still require this evidence to show that the money was invested.

67. The amount of money invested should not:

- include the value of any residential accommodation or property development, or property management; or
- be in the form of a director's loan, unless it is unsecured and is subordinated in favour of the third-party creditors.

68. If you have bought property for your business which includes residential accommodation, we will not accept the value of this part of the property as investment in the business. The value of this part of the property should be deducted from the amount of your investment. You must provide an estimate of the value of this living accommodation from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced

and dated within the three months prior to the date of application. For more information on membership of RICS please see www.rics.org.

Money available for investment must be in a regulated financial institution

69. Confirmation of the money available to you must come from a financial institution that is regulated by the home regulator. The home regulator is an official financial regulatory body, in the country where the financial institution operates and the funds are located. The regulatory body must be appropriate for the type of financial transaction.
70. Money held in the UK must be held in an institution that is regulated by the FCA and the Prudential Regulation Authority (PRA). The PRA website is at www.bankofengland.co.uk/pr/Pages/default.aspx.
71. We will not accept evidence of your money from a financial institution with which the Home Office is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements can be found in Appendix P of the Immigration Rules at: www.gov.uk/government/publications/immigration-rules-appendix-p.

Money available for investment must be disposable in the UK

72. If the money is not held in the UK, all of the funds required must be freely transferable to the UK and able to be converted to pounds sterling.
73. Money held in an overseas account but in a financial institution that is regulated by the FCA/PRA will satisfy this requirement.
74. Money held overseas in an institution that is not regulated by the FCA/PRA must have confirmation that the money can be transferred into the UK. This can be a document from your financial institution. Please note that if the institution holding the money does not have the same name as one listed by the FCA/PRA, evidence that the money can be transferred to the UK must be provided. Please also note that banks are not being asked to provide any guarantees that the money will be transferred.
75. If you are applying from inside the UK, the money must be held in the UK.

You should also read the English and maintenance sections of this guidance.

Attributes for extension applications

76. In order to obtain an extension to your leave to remain as a Tier 1 (Entrepreneur) migrant you must score enough points and send supporting evidence where appropriate.
77. Points available for attributes are in the table below. This table applies to you if your previous leave was as a:
- Tier 1 (Entrepreneur) migrant, a Businessperson or Innovator in the 12 months immediately before the date of this application; or
 - You are applying for leave to remain and have or were last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) migrant, a Businessperson or an Innovator.

Attributes: pass mark = 75 points
Points available

<p>A. You have invested, or had invested on your behalf, not less than £200,000 (or £50,000 if, in your last grant of leave, you were awarded points for funds of £50,000) directly into one or more businesses in the UK.</p>	20
<p>B. You have:</p>	
<ul style="list-style-type: none"> • registered with HM Revenue & Customs (HMRC) as self-employed; or 	20
<ul style="list-style-type: none"> • registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points. <p>Where your last grant of entry clearance, leave to enter or leave to remain was as a Tier 1 (Entrepreneur) migrant, one of the above conditions must have been met within six months of the specified date. The specified date being either:</p> <p>The date of your entry to the UK, where you were granted entry clearance as a Tier 1 (Entrepreneur) migrant and where there is evidence to establish your date of entry to the UK; or</p> <p>The date of your grant of entry clearance, where you were granted entry clearance as a Tier 1 (Entrepreneur) migrant and where there is no evidence to establish your date of entry to the UK; or</p> <p>The date of your grant of leave to remain, in any other case.</p> <p>This does not apply where your last grant of leave prior to the grant of leave that you currently have was as a Tier 1 (Entrepreneur) migrant, a Businessperson or an Innovator.</p>	
<p>C. On a date no earlier than three months prior to the date of application, you were:</p> <ol style="list-style-type: none"> a) registered with HMRC as self-employed, or b) registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points. 	15
<p>D. You have:</p> <ul style="list-style-type: none"> • established a new business or businesses that has/have created the equivalent of at least two new full-time jobs for persons settled in the UK; <p>OR</p> <ul style="list-style-type: none"> • taken over or invested in an existing business or businesses and your services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of at least two new full time jobs for persons settled in the UK. <p>Where your last grant of entry clearance or leave was as a Tier 1 (Entrepreneur) migrant, the jobs must have existed for at least 12 months for the period for which the previous leave was granted.</p>	20
<p>English language: pass mark = 10</p>	
<p>Evidence to prove that you speak English to the required standard and meet the requirements explained in this guidance. Please see the relevant section below.</p>	10

Maintenance: pass mark = 10	
A certain amount of funds to support yourself (and any dependants) in the UK. Please see the relevant section below	10

78. You will find explanations of some of the terms we use in Annex A.

Entrepreneur teams

79. The money for investment can be shared by a team of up to two entrepreneurs. Each member of the team may work in the UK as a Tier 1 (Entrepreneur) using the same investment funds. A maximum of 2 people in an entrepreneurial team is allowed. Neither applicant must have used the same funds with any other applicant.

Claiming points for attributes

Section A: investment of funds

80. You must show that either the full amount of £200,000 or of £50,000 if appropriate, in cash has been invested in business in the UK. You must supply documentary evidence as specified in the Immigration Rules and the **'Documents we require'** section below.
81. If you provided evidence of the funds as part of your last successful application you do not need to provide that evidence again.
82. We recognise that, as an entrepreneur, you may have moved on to other activities and no longer be involved in the business in which you initially invested, but we still require this evidence to show that the money was invested.
83. If you entered the Tier 1 (Entrepreneur) category as part of an entrepreneurial team, both team members can use the same evidence for creating employment.
84. The amount of money invested should not:
- Include the value of any residential accommodation or property development or property management; or
 - be in the form of a director's loan, unless it is unsecured and is subordinated in favour of the third-party creditors.
85. If you have bought property for your business which includes residential accommodation, we will not accept the value of this part of the property as investment in the business. The value of this part of the property should be deducted from the amount of your investment. You must provide an estimate of the value of this living accommodation from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced and dated within the three months prior to the date of application. For more information on membership of RICS please see www.rics.org.

Section B registered within six months of entering

86. You must have been registered as self-employed with HMRC, registered a new company in which you are a Director, or been registered as a Director of an existing company within the six months after entering the category (your specified date is defined in the glossary). You must meet the requirement if your previous leave was as a Tier 1 (Entrepreneur), and supply documentary evidence as specified in the Immigration Rules and the **'Documents we require'** section below. You must provide this evidence even if you were registered as self-employed or as a director before you entered the route. Your leave may be curtailed (removed) if you are found not to have fulfilled this requirement.
87. If your last grant of leave, prior to the grant of leave that you currently have, was as a Businessperson, or Innovator, you will not need to fulfil this requirement. These points will be awarded if you tick the appropriate box in the extension application form, and if you are registered at the time of your application to extend your leave (see section C below).
88. You must have been registered within six months of your specified date. If you wish your specified date to be the date you entered the UK you must provide evidence to establish this date. Otherwise the six months will be calculated from the date you were granted entry clearance or leave to enter the category. Evidence we will accept includes: Passport containing the Visa stamped on entry to the UK; flight tickets and boarding card, but where you can not provide either of these pieces of evidence you can supply other documents for consideration which prove the date you entered the UK.

89. We recognise that you may have moved on and no longer be engaged in the business in which you were originally working when you first entered the Entrepreneur category, but we still require evidence that you were engaged in business within six months of entering the route.

Section C registered when you apply for the extension

90. You must be engaged in business activity at the time of your application to extend your leave and provide the specified evidence to show that you were registered as self-employed, or as a director in the three months before you apply. You must supply documentary evidence as specified in the Immigration Rules and in the '**Documents we require**' section below

91. You may change from being self-employed to being a Director, or from Director to self-employed, as long as you are engaging in business in the UK as one or the other.

92. The evidence must be dated within 3 months of making the application to extend your leave.

93. You may choose which evidence to supply if you have acted in both capacities, but we will only award points for one registration.

Section D job creation

94. If you have established new businesses, those businesses must have, between them, created the equivalent of two extra full-time paid jobs for at least two people who are settled in the UK and those jobs must have existed for at least 12 months each. You must supply documentary evidence as specified in the Immigration Rules and in the '**Documents we require**' section below.

95. Where you have taken over or invested in an existing business, your services and investment must have resulted in the businesses providing, between them, the equivalent of two extra full-time jobs during the period when you held leave as a Tier 1 (Entrepreneur) migrant. These jobs must have been taken by people who are settled in the UK and those jobs must have existed for at least 12 months each.

96. We consider a 30-hour working week to be full-time. Part-time work can form part of the total number of hours of employment created.

97. If your previous leave, prior to the grant of leave that you currently have, was given under one of the former Businessperson or Innovator categories, you are only required to show that you have created two extra full-time jobs. You do not need to show that the employment has been for 30 hours per week or for a continuous 12-month period.

98. If you are self-employed you must employ the workers directly. If you are a Director of a business you must show that your business has created two new posts.

99. If you entered the Tier 1 (Entrepreneur) route as part of an entrepreneurial team, both team members can use the same evidence for creating employment.

The employment created:

- does not need to be in a single period. It can be made up of shorter periods; and
- must comply with the UK regulations, including the working time directive. You can find more information on the GOV. UK website: www.gov.uk/.

100. Only employees of your business will qualify. Self-employed contractors who are working for your business will not qualify for the award of points.

101. **EXAMPLES:** We would consider the following as acceptable employment:

- The working hours of two part-time workers can be combined to add up to 30 hours a

week or more and form the equivalent of one full-time post.

- A worker who is employed for part of a year and then leaves the post can be replaced by another worker so that the employment as a whole adds up to 12 months. However, if there is a gap between one worker leaving a post and another worker starting employment, the period when the post is not filled will not be counted. Only periods during which a worker is employed in a post will be considered.

The policy guidance previously included these examples:

- A single worker can be employed for 24 months. The employment can also be made up of a six-month period for one worker and an 18-month period for another.
- If four workers are employed for 26 weeks (six months) each, their hours of employment may be added together.

These examples go further than the Immigration Rules. The Immigration Rules at Appendix A Tables 5 and 6 state that you must create the equivalent of two or more full-time jobs that have existed for a total of at least 12 months during your last period of leave as an Entrepreneur in order to extend your leave or meet the settlement criteria. Appendix A, paragraphs 49 and 50 provide additional explanation.

For those applying for entry clearance or switching into the route from 6 April 2014, the employment must be for at least two separate jobs, and must exist for at least a full 12 months each.

Transitional arrangement – people who successfully applied to enter the route before 6 April 2014 may continue to employ:

- a single worker for 24 months; or
- one worker for 6 months and one for 18 months; or
- four workers for six months each

and still meet the requirements when they apply for extensions and for settlement. Anyone applying to enter the route on or after 6 April 2014 must create employment for at least two separate people and the jobs must exist for at least a full 12 months each.

Documents we require

102. Paragraphs 39B of the Immigration Rules states that where the Rules require that specified documents be provided, only such specified documents will be accepted as evidence of the relevant requirement. Paragraph 39B also applies to determine whether any specified documents provided are valid. The specified documents for applications for Tier 1 (Entrepreneur) are given below.

103. Where specified documents provided are not in English or Welsh you must provide the original and a full translation that can be independently verified. The translation must:

- confirm that it is an accurate translation of the original document; and
- be dated; and
- include the full name and original signature of the translator or an authorised official of the translation company; and
- include the translator or translation company's contact details; and
- if you are applying in the UK, be fully certified and include details of the translator or translation company's credentials.

104. Where we have concerns about whether you are genuinely intending to pursue a business in the UK, we reserve the right to ask for more information and may ask you to attend an interview. We may ask for information about your business intentions, your previous educational and business experience and your immigration history and previous activity in the UK. If you have already registered in the UK as self-employed or as the director of a business, we may check any compliance with requirements for your sector, and we may request additional information and evidence to support the assessment. Any requested documents must be received by the Home Office at the address specified in the request within 28 calendar days of the date of the request. We will not carry out the assessment if your application already falls for refusal on other grounds, but we reserve the right to carry out this assessment in any reconsideration of our decision.

Evidence of the amount of money available to invest

105. You should use this evidence of funds available to invest for your initial application under **sections a; b; c and d** (see the attributes table for initial applicants).

106. You must provide one or more of the following documents:

- a letter from a financial institution;
- for money held in the UK only, an account statement;
- for money from a venture capital firm, seed funding competition or UK Government Department or Devolved Government Department, a letter from an authorised accountant.

We will not accept evidence of your money from a financial institution with which the Home Office is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements can be found on our website in Appendix P of the Immigration Rules at: www.gov.uk/government/publications/immigration-rules-appendix-p.

Where you provide documents which show the required level of funds (either £50,000 or £200,000), are held in more than one place, for example in two different bank accounts, the evidence must show the total amount (either £50,000 or £200,000) is available on the same date. That money must remain available to you as described earlier in this guidance.

More information is set out below.

107. A letter from a financial institution holding the funds, to confirm the **amount of money** available to you, your business (or your team if you have formed an entrepreneurial team).

The total amount of available money must be either at least £200,000; or at least £50,000 as applicable. If the money is held in several financial institutions, you must supply a recent letter from each institution. If the money is not held in pounds sterling, we will use the rate of conversion on the Oanda website at www.oanda.com to convert the money into pounds sterling, using the exchange rate that applies on the date of the application.

Each letter must:

- be an original document and not a copy;
- be on the institution's official headed paper;
- have been issued by an authorised official of that institution; and
- have been produced within the three months immediately before the date of your application.

Each letter must also confirm each of the following details:

- the account number;
- that the institution is regulated by the appropriate body;
- your name, and your team member's name if you have formed an entrepreneurial team;
- the date of the document;
- the amount of money available from your own funds (if applicable) that are held in that institution
- the amount of money available to your business. If the money is available to your business rather than to you by name, you must be registered as a director of that business in the UK and provide a Companies House document showing the address of the registered office in the UK or head office in the UK. The Companies House document must also show your name (and the name of your team member if appropriate) as it appears on the application form as a director.
- for money available from any third party (if applicable) that is held in that institution, confirm that the third party has informed the institution of the amount of money it intends to make available, and that the institution is not aware of the third party having promised to make that money available to any other person;
- the name of each third party and their contact details. These must include their full address including postal code and where available a landline phone number and e-mail address.
- that if the money is not in an institution regulated by the FCA/PRA, the money can be transferred into the UK.

Please note: it is important to ensure that any letter from the third party's financial institution states that the third party has confirmed that they intend to make the money available to you. This is to ensure that the funds are made available to you (and your team member, if applicable) and not to anyone else.

A template is included in Annex E at the end of this guidance (document 1) for your convenience if you wish to use it.

108. **For money held in the UK only**, a recent personal bank or building society statement from the UK financial institution holding the funds, which confirms the amount of money available to you or your entrepreneurial team.

109. The total amount of available money must be either at least £200,000; or at least £50,000, as applicable. If the money is held in several financial institutions, you must supply a statement from each institution.

- The statements must be original documents and not a copy.
- The bank or building society holding the money must be based in the UK and regulated by the FCA/PRA;
- The money must be in cash in the account. We will not accept Individual Savings Accounts (ISAs) or assets such as stocks and shares;
- The account must be in your own name only (or both names for an entrepreneurial team) only. You may use your money that is held in a joint account with your husband, wife, civil partner or unmarried or same-sex partner, but only if they are not applying to be a Tier 1 (Entrepreneur) migrant. Accounts in the name of a business or third party will not be accepted;
- Each bank or building society statement must be on the institution's official stationery and confirm each of the following details:
 - Your name;

- The name of your team member if you have formed an entrepreneurial team
- The name of your husband, wife, civil partner or unmarried or same-sex partner if you hold a joint account;
- The account number;
- The date of the statement;
- The financial institution's name and logo;
- The bank or building society statement must have been issued by an authorised official of that institution.

Electronic statements: We will not accept printouts of electronic statements without either a supporting letter from the bank, on the bank's headed paper, confirming the authenticity of the statements, or without the official stamp of the bank in question on each page of the statement.

Bank statements can only be provided as evidence if the funds are held in your personal bank account. If the funds are held in a business bank account, including a business of which you are a director, you are unable to supply bank statements as evidence. If the funds are coming from your business, you must provide the evidence for third party funding.

110. For £50,000 from a venture capital firm, seed funding competition or UK Government Department/Devolved Government Department, a recent letter from an accountant confirming the amount of money made available to you or your business.

Each letter must:

- be an original document and not a copy;
- on the institution's official headed paper;
- have been issued by an accountant engaged by the venture capital firm, Seed funding competition or UK Government Department/Devolved Government Department to provide the information. If a UK Government Department/Devolved Government Department is providing the funds, the letter does not need to be issued by an accountant and can be issued by an authorised official instead; and
- have been produced within the three months immediately before the date of the application.

Each letter must also confirm each of the following details:

- your name, the name of your team member if you have formed an entrepreneurial team or the name of your business;
- the amount of money available to your business. If the money is available to your business rather than to you by name, you must be registered as a director of that business in the UK, and provide a Companies House document showing the address of the registered office in the UK, or head office in the UK. The Companies House document must also show your name (and your team member's name if appropriate) as it appears on the application form, as a director;
- the date of the document;
- the amount of money available to you or your business from the venture capital firm, seed funding competition or UK Government Department or Devolved Government Department in Scotland, Wales or Northern Ireland;
- the name of the venture capital firm, Seed funding competition or UK Government

Department or Devolved Government Department in Scotland, Wales or Northern Ireland and the contact details of an official of that organisation. These must include their full address including postal code, and where available a landline phone number and email address.

The accountant must be a member of a recognised UK supervisory body. If they are not, we will not accept this item of evidence and will not award any points for this evidence.

Additional evidence for third-party funding

111. You should use this for your initial application under **sections a; b; c and d** (see the attributes table for initial applicants) if you are relying on money made available from someone else. This is in addition to the evidence of the money available to you to invest, as set out in the section above.
112. If you are relying on third-party funding, and the money is not in the name of your business, your name, or joint names with you as a signatory on the account you must also supply each of the following documents:
- i. A declaration from every third party that they have made the money available for you to invest in a business in the United Kingdom

This declaration must be an original document and not a copy. It **must** contain:

- the names of the third party and your name, your team member's name if you have formed an entrepreneurial team or the name of your business;
- the date of the declaration;
- your signature and the signature of the third party (where you have formed an entrepreneurial team, you and your team member must both sign);
- the amount of money available to you or your business from the third party in pounds sterling;
- a confirmation that the money will remain available to you until it is transferred to you or your business;
- the relationship(s) of the third party to you.
- For a venture capital firm only, confirmation of whether this body is an FCA-registered venture capital firm, in the form of a document confirming the award and the amount of money, and including the FCA registration number and confirmation that its entry in the register includes permission to arrange, deal in or manage investments, or to manage alternative investment funds, and/or
- For a UK entrepreneurial seed funding competition only, a document confirming that you have been awarded money and that the competition is listed as endorsed on the UKTI web- site, together with the amount of the award and naming you as a winner, and/or
- For a UK Government Department or Devolved Government Department, a document confirming that it has made money available to you for the specific purpose of establishing or expanding a UK business, and the amount.
- For third party funding provided by a business in which you are self-employed or a director, confirmation of your status within that business and that you are the sole controller of that business's finances. If you are not the sole controller of that business's finances, the letter must be signed by another authorised official of the business.

You or your business must be able to have access to and dispose of the money freely in the UK. Where you are part of an entrepreneurial team sharing investment funds both entrepreneurs must have equal access to, and be able to dispose of, the money in the UK.

A template is included in Annex E for the convenience of applicants who wish to use it (document 2).

In addition you must also provide

- ii. A letter from a legal representative who is independent from the third party or parties confirming the validity of signatures on each third-party declaration provided.

This must confirm that the declaration from the third party contains the signatures of the people stated. It can be a single letter covering all third-party permissions, or several letters from several legal representatives. It must be an original letter and not a copy, and it must be from a legal representative permitted to practise in the country where the third party or the money is.

The letter must clearly show the following:

- the name of the legal representative confirming the details;
- the registration or authority of the legal representative to practise legally in the country in which the permission or permissions was/were given;
- the date of the confirmation letter;
- your name (and your entrepreneurial team member's name if appropriate) and third party's name. The third party cannot be the legal representative themselves or their client;
- that the declaration from the third party is signed and valid;
- For individuals who are third party donors only, the number of the third party's identity document (for example a passport or national identity card), the place of issue and dates of issue and expiry. This is not needed from a venture capital firm, seed funding competition or UK Government Department or Devolved Government Department in Scotland, Wales or Northern Ireland.

Money that has been invested in business

113. You should use this for initial applications under **sections a; b; c and d** (see the attributes table for initial applicants) if you have already invested some or all of the required level of funds or for **section A** of your extension application if applicable.

Evidence to show how much has been invested

114. You must provide all the appropriate specified documents needed to establish the amount you have already invested from the following list.

- i. Audited accounts

Registered companies that are required to produce audited accounts must do so. For information on who needs to produce these accounts please refer to the Companies House website on www.companieshouse.gov.uk/about/gbhtml/gba3.shtml.

- ii. Unaudited accounts and an accountant's certificate of confirmation

Businesses that are not required to produce audited accounts must provide unaudited accounts, sometimes called management accounts, together with an accounts compilation report from a suitably regulated accountant (see below).

Audited or unaudited accounts must be prepared and signed off in accordance with statutory requirements and must clearly show the investment in money made directly by you, in your own name, or on your behalf and showing your name. You should indicate where this is shown on your evidence. If you have invested by way of share capital the business accounts must show the shareholders, the amount and value of the shares (on the

date of purchase) in your name as it appears on your application. If the value of your share capital is not shown in the accounts, then share certificates should be submitted in addition to the accounts as documentary evidence.

The accounts should clearly show the name of the accountant and the date the accounts were produced. The accountant must be a member of a recognised UK supervisory body (see glossary); if not, we will not accept this evidence. The accounts must show how much you have invested in the business.

iii. Director's loan

If you have made the investment in the form of a director's loan, it must be shown in the relevant set of accounts provided, and you must **also** provide a legal agreement, between you (in the name that appears on the application) and the company.

This agreement should show:

- the terms of the loan;
- any interest that is payable;
- the period of the loan; and
- that the loan is unsecured and subordinated in favour of third-party creditors.

If it is not clear from the information provided that the loan is unsecured and subordinated in favour of third-party creditors, we will not accept the loan for the award of points.

- iv. If you are claiming points for investing £50,000 from a seed funding competition or UK Government department, and have not been awarded points in a previous application for having those funds available, you must provide a letter as evidence of the source of those funds. This letter must contain all of the information set out in paragraph 109 - but the letter does not need to have been produced within the three months immediately before the date of the application.

Evidence that it is a UK business

115. For each business you are providing evidence of investment in, you must supply the appropriate evidence from the lists below to prove that it is a UK business. One piece of evidence from each of rows 1, 2 and 3 in the table should be provided for each business or company. The required evidence differs depending on whether you were self-employed or a director of the company.

Please see table on next page.

Type of business	Self-employed applicants		Directors of companies
1.	Business premises in the United Kingdom	Not all self-employed applicants will have a business office. If you had no business premises we will use your registration with HMRC to show that the business is based in the UK.	Printout of a Companies House document showing the address of the registered office, or head office if it has no registered office, and your name, as it appears on the application form, as a director.
2.	Business has a United Kingdom bank account of which you are a signatory	<p>a) Personal bank statement showing transactions for your business;</p> <p>b) Business bank statement; or</p> <p>c) A letter from the UK bank, on its headed paper, confirming that you have a business and act through that bank for the purposes of that business.</p>	<p>a) Company bank statement showing that the company has a UK account; or</p> <p>b) A letter from the UK- bank, on its headed paper, confirming that the company has a bank account and you are a signatory of that account.</p>
3.	Business must be subjected to United Kingdom taxation	<p>You must be registered as self-employed for National Insurance (NI) assessment. You must supply one of the following:</p> <p>a) the welcome letter from HMRC;</p> <p>b) an HMRC Exception certificate;</p> <p>c) a copy of the NI bill from HMRC; or</p> <p>d) your bank statement showing that NI is taken by HMRC by direct debit.</p>	Business must be registered for corporation tax and you must provide documentation from HMRC) which confirms this. For example, form CT41G from HMRC or a completed HMRC tax return document showing the tax reference number for the company. If the reporting is done online, you should provide a printout of the form and sign it as correct.

Investment in business premises that also includes residential accommodation

116. If you have bought property that includes residential accommodation the value of this part of the property will not be counted towards the investment. The value of this part of the property should be deducted from the amount of the business investment. You must provide an estimate of the value of the living accommodation if it is part of the premises also used for the business, from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced in the three months prior to the date of application. For more information on membership of RICS please see www.rics.org.

Initial applications under sections a; b; c and d (see the attributes table for initial applicants)

117. If some of the money has been invested into a business in the UK, the balance of funds must be held in a regulated financial institution and disposable in the UK. In this case you should use the evidence required for the previous investment of money together with the evidence required for your access to the balance of sufficient funds to meet the requirement.

Evidence of registration as self-employed or as a director – extension applications only

118. You should use this for section B of your extension application. You must provide evidence of your registration within the 6 months after your specified date. Your specified date can be the date of entry to the UK (if you were given Entry Clearance and have the evidence of your date of entry), or the date of your grant of entry clearance, or the date of your grant of leave to remain if you applied in the UK.

119. If your last grant of leave, prior to the grant of leave that you currently have, was as a Businessperson, or Innovator, you will not need to fulfil this requirement. These points will be awarded if you tick the appropriate box in the extension application form, and if you are registered at the time of your application to extend your leave.

Self-employed applicants

120. If you were self-employed you must provide one of the following:

- i. Original welcome letter from HMRC: If you registered as self-employed you will have received a welcome letter from HMRC containing your unique taxpayer reference number. The original, dated document should be provided.
- ii. An Exception Certificate from HMRC: If you took advantage of the HMRC exception provision you will have received a certificate. The original, dated document should be provided.

HMRC will issue the welcome letter or the exception certificate at any time up to six weeks from the date of first contact with a self-employed worker. We will accept a letter or certificate that is dated up to eight calendar months from your specified date. For example, if your grant of leave is dated 1 May 2011, the letter or certificate must be dated on or before 30 December 2011. If your letter or certificate is dated more than eight calendar months after your specified date we will not consider it.

- iii. A National Insurance (NI) bill from the HMRC dated in the 6 months after the specified date. This must be an original document and not a copy.
- iv. Your bank statement dated in the 6 months after the specified date, showing the direct debit payment of NI to HMRC.

Director of a new or existing company

121. If you were a director of a new or existing company you must provide the following:

Current Appointment Report from Companies House: This will list the Directors of a company and the dates of their appointment. Even if you are no longer a Director of the same company, we require the Current Appointment Report for the date that you became a Director of that company.

If the date on the Current Appointment Report was more than 8 months after your specified date we will not award any points for this section.

Evidence of current registration as self-employed or as a director

122. You should use this for **section C** for extension applications.

Self-employed applicants

123. If you are self-employed when you apply, you must provide evidence that you are paying Class 2 National Insurance (NI) contributions. You may also pay Class 4 NI, but we only need to see evidence of Class 2 payments.

124. NI contributions may be paid by bill or direct debit, or you may have applied for a small earnings exception certificate. If you have registered recently you will have a welcome letter.

125. You must provide one of the following documents, according to your individual circumstances.

If you receive a NI bill:

You must provide the bill from the billing period immediately before the application. This must be an original document and not a copy.

If your NI is paid by direct debit:

You must provide a copy of your most recent bank statement issued before the application, showing the direct debit payment of NI to HMRC.

If you have very low earnings and have applied for an HMRC exception certificate:

You should provide an original exception certificate issued by HMRC for the most recent return date.

If you have recently registered and have not yet paid a contribution:

You should provide the original, dated welcome letter from HMRC containing your unique taxpayer reference number.

Directors

126. If you are a Director of a UK company when you apply you must provide:

A Current Appointment Report from Companies House:

A current appointment report will list the Directors of a company and the dates of their appointment. You must obtain a printout of the Current Appointment Report from Companies House.

127. The date of this document should be within the three months immediately before the date of this application.

128. The report must show your name, as named in your application form, as the Director of a business that is actively trading and not struck-off, or dissolved or in liquidation on the date that the printout was produced.

129. Note that Directors who are on the list of disqualified Directors provided by Companies House will not be awarded points, as they are not able to continue as Directors in the United Kingdom. We will check this list before awarding points. You can see the list of disqualified Directors on the Companies House website: www.companieshouse.gov.uk/d-dir/.

Tier 1 (Post-Study Work) migrants - continuous business activity

You should use this for your initial application under **section d** (see attribute for initial applications).

130. If you are applying using £50,000 from any source, other than seed or UK government funding, you will only qualify if you have already started a business and have been continuously engaged in business activity since before 11 July 2014 and up to the date of your application (see also Annex A, A41).

During that period, you must have been continuously registered:

- with HM Revenue and Customs (HMRC) as self-employed, or
- with Companies House as the director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.

Documents we require

131. If you are claiming points for being a director of a UK company:

- At the time of your application, you must provide a printout of a Current Appointment Report from Companies House, dated no earlier than three months before the date of your application, listing you as a director of a company that is actively trading and not dormant, or struck-off, or dissolved or in liquidation, and showing the date of your appointment as a director of that company.
- Other than the company of which you are a currently a director, at any time before the date of your application, you must provide a printout from Companies House of your appointments history, showing that you have held directorships continuously during the period in which you claim to have been a director.

You will not be awarded points if you appear on the list of disqualified Directors provided by Companies House.

132. If you are claiming points for being self-employed either at time of your application or at any other time during the period commencing before 11 July and up to the date of your application you must provide one of the following documents to show your compliance with National Insurance (NI) requirements:

- if your Class 2 NI is paid by bill you must provide the original bills covering the continuous billing period during which you claim to have been self-employed;
- If your Class 2 NI is paid by direct debit you must provide bank statements covering the continuous period during which you claim to have been self-employed, showing the direct debit payment of Class 2 NI to HMRC;
- If you have very low earnings and have applied for an HMRC exception certificate you must provide all original small earnings exception certificates issued to you by HMRC,

covering the continuous tax period during which you claim to have been self-employed.

If you are applying before 31 January 2015 and have not yet become liable for paying NI, or have not yet received the documents listed above, you must provide:

- The original, dated welcome letter from HMRC containing your unique taxpayer reference number.

You may have been self-employed for part of the time and a director at another time. However, the above evidence must cover a continuous period commencing before 11 July 2014 up to no earlier than three months before the date of your application. In this context, if you are claiming points for being self-employed at the time of your application and the evidence consists of documents issued by HMRC referred to in the first, third and fourth bullet points above, you must submit the most recent document issued before the date of your application as evidence of your status at the time of your application.

133. You must also provide the following evidence to show that your business has premises in the UK and is subject to UK taxation:

- A printout of a Companies House document showing the address of the registered office in the UK, or head office in the UK if it has no registered office, and your name, as it appears on the application form, as a director.
- Documentation from HMRC which confirms your business is registered for corporation tax;
- If you are self employed, a personal bank statement showing transactions for your business (which must be currently active), or a business bank statement, or a letter from a bank, on its headed paper, confirming that you have a business and act through that bank for the purposes of that business; or
- If you are a director, a company bank statement showing that your company has a UK account, or a letter from a UK bank, on its headed paper, confirming that the company has a bank account and you are a signatory of that account.

If you are providing evidence as a director, the evidence above must relate to a company that is actively trading and not dormant, or struck-off, or dissolved or in liquidation.

Not all self-employed applicants will have a business office. If you had no business premises we will use your registration with HMRC to show that the business is based in the UK.

Evidence of graduate level occupation

134. You should use this for your initial application under **section d** (see the attributes table for initial applicants).

135. You must show that since before 11 July 2014 and up to the date of your application you have been continuously working in an occupation which appears on the list of occupations skilled to National Qualifications Framework (NQF) level 4 or above, as stated in the Codes of Practice on our website. 'Working' in this context means that the core service your business provides to its customers or clients involves the business delivering a service in an occupation at this level. It excludes any work involved in administration, marketing or website functions for the business.

136. You must provide the Standard Occupational Classification (SOC) code of the occupation that you are working in, and confirm that this appears on the list of occupations skilled to NQF level 4 or above, as stated in the Codes of Practice.

More information on selecting this occupation is given on our website at www.gov.uk/government/publications/sponsorship-codes-of-practice-for-skilled-workers.

To find the relevant code of practice for your occupation, you must first identify the SOC code that most closely matches your work (other than the work that you do to administer your business). You must also check that this SOC code is listed in the Codes of Practice as being skilled to at least NQF level 4. The SOC codes are published by the Office for National Statistics. Please do not ask us to match a job title or a job description to a SOC code for you, you must make this decision based on your own duties and responsibilities.

137. You must confirm your business activity and that you are trading.

Business activity

You must provide one or more documents from the following list covering (either together or individually) a continuous period commencing before 11 July 2014 up to no earlier than three months before the date of your application to confirm your business activity:

- Advertising or marketing material that has been published locally or nationally, showing your name (and the name of the business if applicable) together with the business activity. This can include printouts of internet advertising or, where your business is trading online, confirmation of your ownership of the domain name of the business's website;
- Article(s) in a newspaper or other publication showing your name (and the name of the business if applicable) together with the business activity. This can include an online link to the publication;
- Information from a trade fair(s) that you have had a stand or given a presentation to market your business. This must show your name (and the name of the business if applicable) together with the business activity;
- Personal registration with a UK trade body linked to your occupation.

AND

Trading activity

You must also provide one or more of the following documents showing trading, covering (either together or individually) a continuous period commencing before 11 July 2014 up to no earlier than three months before the date of your application:

- i. Contracts for service. We will accept original documents or copies, but if it is a copy you must sign each page of the contract. The contract must show each of the following:
 - your name and the name of the business
 - the service provided by your business
 - the name of the other party/parties involved in the contract and their contact details. These must include their full address including postal code, and where available a land- line phone number and email address
 - the duration of the contract.
- ii. One or more original letters from a UK-regulated financial institution with which you have a business bank account, on the institution's headed paper, confirming the dates that the business was trading during the period commencing before 11 July 2014 up to no earlier than three months before the date of your application).

Employment creation

138. Use this for **section D** of your extension application.

139. Other partners or directors in your business/es

If you are not the sole partner or sole director in your business or businesses, you must provide all of the following:

- The names of the other partners or directors
- Whether any of the other partners or directors are also Tier 1 (Entrepreneur) migrants;
- The dates that any other Tier 1 (Entrepreneur) migrant became a partner or director of the business;
- Whether you and the other Tier 1 (Entrepreneur) migrant are team members who will be sharing evidence of job creation; and
- If they have made (or are making) an application for an extension you must provide the names of the jobholders they are claiming points for.

140. You may use evidence from your business if you have been self-employed or a director, or a combination of the two towards evidence of having created two full time posts.

Section 1: Evidence that the employee is a settled worker:

141. Only jobs that are given to people who are settled in the UK will qualify for the award of points.

142. Documents kept by an employer as evidence that an employee is a settled worker will often be the passport pages from a UK passport that contain the employee's personal details, and the page containing the UK Government stamp or endorsement, if appropriate. It may also be the worker's full birth certificate, showing the name of at least one parent.

143. Full guidance on the documents is in the section on employing legal workers, which can be found on the gov.uk website at: www.gov.uk/government/publications/prevent-illegal-working-in-the-uk.

Section 2: Number of hours worked by an employee

144. You must have the appropriate evidence to support your claims about every employment.

145. Employers must register with HMRC notify HMRC of the employment, and the earnings, of their employees. We are not able to offer advice on registering as an employer or on the records that an employer must keep. You can find advice on the HMRC website at www.hmrc.gov.uk or through the sponsorship and employers' helpline on 0845 7143 143.

146. You must supply evidence to prove you have created no less than two new full-time posts, and provide the following documents for each worker as evidence. (If the business employed workers before you joined it, we will also require the extra documents detailed in the 'Extra documents needed if you took over or joined an existing business' section below):

- i. an Employee Payment Record that you have signed and dated (for example a P11);
- ii. an original form P45 or P46: This need only be submitted in cases where the employee payment record does not show the start date for the worker; and
- iii. duplicate payslips or wage slips issued to the worker covering the full period of employment of the worker used as evidence for this application.

i) Employee Payment Record

147. The hours claimed for the award of points must be supported by an Employee Payment Record entry.
148. The employer must keep a record of the Employee Payment Record for at least three years. This form will show details of the earnings for the employee for each week that he/she worked for the employer.
149. The Employee Payment Record (as used to report to HMRC) is the employer's record of the earnings of each separate employee. These details will remain confidential and will be used to assess your claim for points.
150. You must also provide any changes to the worker's hourly rate and the dates of this change. This enables the hours worked to be accurately calculated by dividing the earnings by the hourly rate.

ii) Form P45 and P46 (also called a Full Payment Submission)

151. If the date of the start of the employment is not shown in the employee payment record you must provide a print out of the Full Payment Submission (FPS), sent to HMRC, which includes the start date of the worker. This forms part of submission under the Real Time Initiative (RTI). In this case you should initial each of the print outs.

iii) Pay statements (wage slips)

152. You must provide duplicate pay statement documents, often known as pay slips or wage slips, for each worker for whom points are being claimed. These must cover the full period of the employment for which points are being claimed.

Hourly rate

153. For the purposes of the extension application you are also required to state the hourly rate for each employee used to claim points, including any changes in the hourly rate and the dates of the changes. This will enable us to calculate how many hours of work were created for each worker.

Assessing the date that you joined the business

154. You can only use employment created when you were engaged in the business. If you joined an existing company as a Director you may only submit hours of employment created after you joined the company
155. **For Directors of a company:** the information from the Companies House Current Appointment Report will be used for two assessments: We will check that you were a Director of the company that employed the worker; and we will also check that you were a Director of the specific employing company at the time that the settled worker was employed.
156. **For self-employed applicants:** We will cross-check the details of the business with the evidence you provide to show that it was a UK business. This will include the dates that you became self-employed, the names on the Employee Payment Record and bank account, and the address of the business.
157. For new businesses, established after you entered the UK, we will accept that the posts created are additional to jobs that existed in the UK before you arrived.

Extra documents needed if you took over or joined an existing business

158. If you have taken over or joined a business that employed workers before you joined it, you must provide extra evidence to support a claim for points for creating jobs in the business. In addition to the evidence specified for the number of hours of work created, you must show that

you have created new posts.

159. You must provide payroll information in the form of:

- a duplicate form P35 document or Full Payment Submission (FPS); and
- an original accountant's letter verifying that the new posts have been created.

160. If your previous permission to stay in the UK was made under one of the former Businessperson or Innovator categories you do not need to provide these documents unless you choose to.

iv) Full Payment Submission (FPS)

161. Following the introduction of the Real Time Initiative (RTI), form P35 is no longer used. You should instead provide a signed and dated print out of the FPS to HMRC for the business used to provide evidence of employment.

- You must provide a document for the year before the jobs were created and the year that the jobs were created.
- You must sign and date each of the print outs to confirm their content.
- If you used a form P35 to record this information you must provide the P35 for the year before the jobs were created and the year that the jobs were created.
- You only need to provide this information for any business that you are using for evidence of your creation of employment.
- The documents should show the net increase of two posts. This means that the total number of employees should have increased by the number of posts that you claim to have created. If other posts have been lost, points will not be awarded unless the total number of posts has increased by the number claimed.
- To assess the net creation of jobs, we will compare the number of workers before you joined the business with the number of workers afterwards.
- If the posts were created too recently for a P35 to have been produced, you should provide a signed and dated draft copy or a FPS.

v) Accountant's letter verifying that the new posts have been created

162. This letter should verify that there has been a net creation of jobs, and confirm the number of posts. The accountant must be a member of one of the following professional bodies: The Institute of Chartered Accountants in England and Wales (ICAEW), the Institute of Chartered Accountants in Scotland (ICAS), the Institute of Chartered Accountants in Ireland (ICAI); the Association of Chartered Certified Accountants (ACCA); and the Association of Authorised Public Accountants (AAPA). The letter must be an original document and contain the following details:

- the name and contact details of the business;
- your status in the business;
- the number of posts created in the business and the hours worked;
- the dates of the employment created;
- the registration or permission of the accountant to operate in the United Kingdom;
- the date that the accountant created the letter on your behalf; and
- that the accountant will confirm the content of the letter to us at our request.

English language requirement

English language assessment

163. English is the most widely spoken language of the UK. The ability to speak English to a competent level promotes success in the UK labour market and assists in integration into the UK.
164. You must provide the specified documents to show that you have a good knowledge of English.
165. There are three ways in which you can show you meet the English language requirement. These include:
- being a national of a majority English speaking country; or
 - passing an English language test detailed in this guidance; or
 - holding a degree that was taught in English and is equivalent to a UK bachelor's degree or above.

Claiming points

166. You can also meet the English language requirement, without the need to provide evidence, if you were last given permission to stay in the UK:
- under Tier 1 (General) or Tier 1 (Entrepreneur) and are applying for an extension of leave to remain; or
 - as a Businessperson (under Paragraphs 200-210 of the Immigration Rules); or
 - as a Highly Skilled Migrant Programme (HSMP) participant under the Immigration Rules which came into force on 5 December 2006 and you are applying for an extension of leave to remain under a Tier 1 category; or

You can also meet the English language requirement without the need to provide evidence if you have ever been given leave to remain (permission to stay):

- as a Tier 2 (General) migrant under the Rules in place on or after 6 April 2011, provided that when you were granted that leave you obtained points for having a knowledge of English equivalent to level B1 of the Council of Europe's Common European Framework (CEFR) for Language Learning or above; or
- as a Tier 1 (Exceptional Talent) migrant providing you scored points for your English language ability in that application; or
- as a Tier 4 (General) student, and the Confirmation of Acceptance for Studies (CAS) used to support that application was assigned on or after 21 April 2011; or
- leave as a Minister of Religion (not as a Tier 2 (Minister of Religion) migrant) under the Rules in place on or after 19 April 2007; or
- as a Tier 2 (Minister of Religion) migrant, provided that when you had that leave you obtained points for English language for being a national of a majority English speaking country, a degree taught in English, or passing an English language test;

provided that when you were granted that leave you obtained points for having a knowledge of English equivalent to level B1 (or above) of the Council of Europe's Common European Framework for Language Learning.

167. Applications from people who are unable to score 10 points in the section for English language requirements will be refused. Under Appendix B of the Immigration Rules, we will

refuse these applications even if you have attained the pass mark of 75 for attributes and have met all the other requirements of the Immigration Rules for permission to stay as a Tier 1 migrant.

National of a majority English speaking country

168. Nationals of the majority English-speaking countries listed below automatically meet the English language requirement:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- Canada;
- Dominica;
- Grenada;
- Guyana;
- Jamaica;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- Trinidad and Tobago; and
- the United States of America.

Documents we require

169. Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are:

i. Current valid original passport or travel document

If you are unable to submit your current original passport or travel document at the time of the application you must give full reasons for this in the Passport Information section of the application form.

The only valid exceptional circumstances in which alternative specified documents may be provided are where your current passport or travel document has:

- been lost;
- been stolen;
- expired and been returned to the relevant authorities;
- been sent to another part of the Home Office.

If your passport or travel document is not available for one of the reasons above, you may exceptionally provide the following alternative specified documents:

ii. Current national identity document

iii. Original letter from your home government or embassy. This document must be original,

on the letter-headed paper of the government or embassy and must bear the official stamp of that institution. It must have been issued by an authorised official of that institution and must confirm your:

- Full name
- Date of birth
- Nationality

English language test

170. We will only accept test certificates from providers that have been assessed as meeting our requirements. Details are available on the gov.uk website at: www.gov.uk/tier-1-entrepreneur/knowledge-of-english. You must check that you have passed an English language test that is still within its validity period, and have achieved or exceeded level B1 of the Council of Europe's Common European Framework for Language learning in all four components (reading, writing, speaking and listening).

Documents we require

171. You must provide the documents given in Appendix O of the Immigration Rules with your application to confirm your qualification. The documents should clearly show:

- your name;
- that you have achieved or exceeded level B1 of the Council of Europe's Common European Framework for Language learning in all four components (reading, writing, speaking and listening), unless you are exempted from sitting a component on the basis of a disability or a qualification obtained;
- that where two or more components (reading, writing, speaking and listening) of an English language test are examined and awarded together, for example a combined exam and certificate for reading and writing skills, the specified evidence you submit must show that you achieved the required scores in all the relevant components during a single sitting of that examination, unless exempted from sitting a component on the basis of your disability;
- the date of the award; and
- that your test documents are still valid and have not expired.

Degree taught in English

172. You may provide evidence that you hold a degree which is equivalent to a UK Bachelors level or higher and which was taught or researched in English to a particular level as evidence of your English language ability.

173. Your degree **must**:

- be recognised by National Academic Recognition Information Centre for the United Kingdom (UK NARIC) as equivalent to at least a UK Bachelor's degree; and
- have been taught in English to a standard comparable to that of level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment. Details can be found on the Council of Europe website at www.coe.int/t/dg4/linguistic/DNR_EN.asp.

174. Where the degree was taken in a majority English speaking country, listed below, we will

assume it to have been taught in English:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- Dominica;
- Grenada;
- Guyana;
- Ireland;
- Jamaica;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- Trinidad and Tobago;
- the United Kingdom;
- the United States of America. (Please note that Canada is not on this list.)

175. Where the degree was taken in a country that is not on the list above, we will always assess it using the points based calculator on our website. The calculator contains information from UK NARIC on whether overseas qualifications are equivalent to UK Bachelors level or higher.

176. You can claim points when the points based calculator confirms that the degree:

- meets or exceeds the equivalent level to UK Bachelors degree; and
- was taught to a competent standard of English equivalent to level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment.

Checking qualifications

177. You should check your degree by referring to the points based calculator on our website at: www.points.homeoffice.gov.uk/gui-migrant-jsf/SelfAssessment/SelfAssessment.faces.

178. Where the points based calculator is unable to confirm these details, points will not be awarded for the qualification in question.

179. Where you are unable to find details of your qualification on the points based calculator, UK NARIC will not be able to verify whether a qualification satisfies the English language requirement. In these circumstances, you should either present an alternative qualification from the points based calculator if you possess one, or select an alternative means of satisfying the English language requirement.

Documents we require

180. Only the following specified documents will be accepted as evidence of this requirement:

i. Original certificate of award.

This document must be original and must clearly show:

- your name;
- the title of the award;
- the date of the award; and,
- the name of the awarding institution.

Please note that original provisional certificates are not acceptable.

This document must always be provided unless you are awaiting graduation but have successfully completed your degree or no longer have the certificate and the awarding institution is unable to issue a replacement, in which case the following should be sent

ii. Original academic transcript.

If you are awaiting graduation but have successfully completed the degree, we can consider an original academic transcript, or original letter in the case of a PhD qualification.

The academic transcript must be on the institution's official headed paper and must show:

- your name
- the name of the academic institution
- the title of the award
- confirmation that the qualification has been or will be awarded
- the date that the certificate will be issued (if you have not yet graduated) or confirmation that the institution is unable to reissue the original certificate or award.

This evidence must be an official document, on the official stationery of the organisation and bear the official stamp of that organisation. It must have been issued by an authorised official of that organisation.

You should ensure that the contact details for the awarding body are up-to-date, because if we need to verify the details and are unable to contact the institution we will not accept this evidence and may therefore refuse the application.

Maintenance (funds)

Maintenance requirement – all applications

181. One of the requirements of Tier 1 is that an applicant coming to the UK must be able to support them self for the entire duration of his/her stay in the UK without use of public funds (benefits provided by the state). An applicant who is unable to support them self could face financial hardship because they will not have access to most state benefits.

182. In order to qualify for entry clearance under Tier 1, you must show that you have enough money to support yourself (and any dependants). The maintenance requirement is detailed below:

- ;

- If you are outside the UK seeking entry clearance you must have at least £3,310 of personal savings which you must have held for a consecutive 90 day period before the date of your application;
- If you are in the UK seeking further leave to remain you must have at least £945 of personal savings which must have held for a consecutive 90 day period prior to the date of your application.

183. You may not use the same funds to score points for investment funds and to score points for maintenance funds for yourself or your dependants.

184. The conversion of overseas currency will be made using the OANDA exchange rate on the date of application on www.oanda.com.

185. You may want to check the potential costs of living in the United Kingdom. If you do not expect to get any income from your work in the UK after the first month, you may want to check that you have enough money to support yourself and any dependants.

186. Any dependants wishing to join you must also provide evidence that they have sufficient funds. Please refer to the Dependants guidance which can be found on the gov.uk website at: www.gov.uk/tier-1-entrepreneur/family-members. Where your application is made at the same time as applications by your partner or child, each applicant must have the total requisite funds specified in the relevant parts of Appendices C and E of the Immigration Rules. If each applicant does not individually meet the requirements of Appendices C and / or E, as appropriate, all the applications (the application by the Relevant Points Based System migrant and applications as the partner or child of that Relevant Points Based System migrant) will be refused.

187. We will not consider money earned during a time that an applicant was in breach of the UK immigration laws as evidence of maintenance funds.

For example: Earnings made from UK employment will only be considered if you had leave to enter or remain in the UK at the time they were earned, and in a category which permitted you to take that employment.

Documents we require

188. The evidence used to support personal savings for at least a consecutive 90 day period must be original, and issued by an authorised official of that organisation.

189. Evidence must be in the form of cash funds held in an account (this includes savings accounts and current accounts even when notice must be given). Other accounts or financial instruments such as shares, bonds, overdrafts, credit cards, pension funds etc, are not acceptable, regardless of notice period.

190. Where you are providing evidence of maintenance from a single account, we will always assess the funds available to you from the closing balance given on the document provided.

191. Where two or more pieces of evidence from a single account are submitted (for example two consecutive bank statements) we will assess the funds available to you from the closing balance of the most recent document.

192. Where evidence from two or more accounts are submitted, we will assess the funds available to you using:

- the most recent closing balance of one account, plus
- any additional money available to you on the date of that closing balance, for which you have provided the required evidence.

We will always use the closing balance date from the account that most favours you.

193. No points will be awarded where the specified documents show that the funds are held in a financial institution with which the Home Office is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements is published on the gov.uk website in Appendix P of the Immigration Rules at: www.gov.uk/government/collections/immigration-rules#immigration-rules-appendices.

194. If you wish to rely on a joint account as evidence of available funds, you must be named on the account along with one or more other named individual

195. Only the following specified documents will be accepted as evidence of this requirement:

i. Personal bank or building society statements covering a consecutive 90 day period:

The most recent statement must be dated no more than 31 days before the date of application.

The personal bank or building society statements should clearly show:

- your name;
- the account number;
- the date of the statement;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there are enough funds present in the account. The balance must always be £3,310 or £945 (as appropriate), covering the 90 day period before the date of application.

All statements must be on the bank's stationery, unless you are submitting electronic statements.

Ad hoc bank statements printed on the bank's letterhead are admissible as evidence (this excludes mini-statements from cash points (ATMS)).

If you wish to submit electronic bank statements these must contain all of the details listed above. In addition, you will need to provide either:

- a supporting letter from your bank, on the bank's headed paper, confirming the authenticity of the statements; or
- an electronic bank statement bearing the official stamp of the bank in question will be accepted. This stamp should appear on every page of the statement.

We will not accept statements which show the balance in the account on a particular day as these documents do not show that you have held enough funds for the full period needed.

ii. Building society pass book covering a consecutive 90 day period, ending no more than 31 days before the date of application.

The building society pass book should clearly show:

- your name;
- the account number;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there are enough funds present in the account. The balance must always be £3,310 or £945 (as appropriate), covering the 90 day period before the date of application.

iii. Letter from bank confirming funds and that they have been in the bank for at least 90 days:

The letter from a bank or building society should show:

- your name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in your account;
- for applications received before 1 July 2014, that the funds of £3,310 or £945 (as appropriate), have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The letter must be dated no more than 31 days before the date of application.

All statements must be on the bank's letterhead/official stationery

We will not accept letters which show the balance in the account on a particular day as these documents do not show that you have held enough funds for the full period needed.

iv. Letter from a financial institution

The letter(s) from a regulated financial institution that you send us must cover a consecutive 90 day period ending no more than 31 days before the date of your application. The letter(s) must be the original (not a copy) and must clearly show:

- your name; and
- the account number; and
- the date of the letter; and
- the financial institution's name and logo; and
- the money in the account; and
- for applications received before 1 July 2014, that the funds of £3,310 or £945 (as appropriate), have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The financial institution must be regulated by either the Financial Conduct Authority (FCA), the Prudential Regulatory Authority (PRA) or, in the case of overseas accounts, by the home regulator (the official regulatory body for the country the financial institution is in and where the money is held) for the purpose of personal savings accounts.

We will not accept letters which show the balance in the account on a particular day as these documents do not show that you have held sufficient funds for the full period needed.

Tier 1 (Entrepreneur) - Indefinite Leave to Remain

196. If you wish to apply for Indefinite Leave to Remain (Settlement) in the UK you can find the information needed for the application on the gov.uk website at:

www.gov.uk/government/collections/chapter-6a-settlement-immigration-directorate-instructions.

Annex A - Glossary of Terms and Further Information

A business

A1. A business means an enterprise which is a sole trader; or a partnership; or a company registered in the United Kingdom.

Currency Conversion

A2. The exchange rate used for overseas currency will be a rate conversion made using the exchange rate shown on the OANDA website on www.oanda.com on the date the application was made. This is an independent website, for which we are not responsible.

A new investment is required

A3. The money used will only qualify for the award of points if it will be new investment in the United Kingdom. A new investment is one made within the 12 calendar months before the date of application.

A4. If you have already legally established a business that complies with relevant UK legislation in the UK while here under a different immigration category, you must satisfy the full requirements for the Tier 1 (Entrepreneur) initial application before you can be considered for approval. This means that if you made the investment in the business more than 12 months before applying to enter the category, you must make a further investment of £200,000.

If you were previously a Tier 1 (Graduate Entrepreneur) migrant and you invested your money more than 24 months before applying to enter the category, you must make a further investment of £50,000.

If you are relying on funds previously invested in a UK business, you must provide specified evidence to demonstrate that:

- the amount of money has been invested directly, in your own name or on your behalf (showing your name);
- the relevant business is established in the UK; and
- you are registered as self employed or as a director in that business.

Full details of the evidential requirements are available in earlier sections of this guidance.

Assets or possessions will not be accepted for the award of points

A5. Funds that you claim are available but that have not been converted to money will not be accepted for the award of points. For example, this includes estimates of the money that will become available when assets are sold. This is because until the sale of these assets is complete, and money transferred to the seller, there is no guarantee that the estimated value of the assets will be realised.

Multiple sources of funding

A6. Where your funds are held in multiple bank accounts and you are required to submit multiple pieces of specified evidence, the documents must demonstrate that the total amount required (£50,000/£200,000) is available on the same date.

We will not accept evidence that does not show the full investment is available. For example:

You must show you have access to £200,000:

- You have a bank statement which ends two weeks before the date of application showing £100,000; and
- a letter from a different bank, dated one week before the date of application which states that you have access to £100,000.

This evidence does not demonstrate you have access to the full £200,000 as this could be the same £100,000 which has been moved between the two different accounts.

Financial institutions

A7. For the purposes of this guidance, a financial institution is one that acts as an agent that provides financial services for its clients. Common types of financial institutions include banks, building societies, credit unions, stock brokerages and asset management firms. This is not intended to be an exhaustive list. Financial institutions are responsible for transferring funds from investors to companies in need of those funds. Financial institutions fall under financial regulation from a government authority.

Financial regulation

A8. Financial regulations are a form of control or supervision, which subjects financial institutions to local requirements, restrictions and guidelines, aiming to maintain the integrity of the financial system. This may be handled by either a government or non-government organisation. In the UK, by law, most financial service firms must be authorised by the Financial Conduct Authority (FCA) and/or the Prudential Regulation Authority (PRA) to do business in the UK.

The home regulator

A9. The home regulator is an official financial regulatory body, appropriate to the type of financial transaction, in the country of operation where the transaction was made.

Only money held in a regulated financial institution will be accepted for the award of points

A10. The money must be held in one or more financial institutions (for example a bank or building society), each of which must be regulated by the appropriate regulator in the country where they are operating. In order for a firm to hold money on someone's behalf the financial institution must first be authorised by its home regulator and meet the minimum requirements to safeguard these funds. This activity is usually referred to as 'deposit taking'.

Money held in a financial institution that is not regulated by the home regulator will not be accepted for the award of points.

Confirmation that the financial institution is regulated by the home regulator

A11. We may seek to confirm that a financial institution is regulated by the home regulator. We may do this by accessing the appropriate website and/or by contacting the institution directly.

A12. We will access the Financial Services Register at first, through its website at www.fca.org.uk/firms/systems-reporting/register/search. Institutions are registered as 'firms' under the name of the institution or as 'individuals' if a person is the authorised body.

The FCA and PRA listing process

A13. The authorisation process has been split between FCA and PRA. Firms carrying out PRA regulated activities as a bank, credit union, insurer, or managing agent of a Lloyds syndicate need to apply to the PRA for authorisation, but authorisation will not be granted unless the FCA is also satisfied that it should be. Firms that will be dual regulated should apply to the PRA unless directed otherwise. Solo regulated firms e.g. e-money institutions and payments service institutions and other providers will need to apply to the FCA for authorisation. Firms that have applied to the FCA/PRA for registration may not carry on regulated activities until their registration is complete. This may take three months or longer in some cases.

Overseas institutions not regulated by the FCA/PRA

A14. For overseas companies not registered with the FCA/PRA, we will use the information available from the Companies House list of overseas regulatory institutions under Worldwide registries at www.companieshouse.gov.uk/links/introduction.shtml .

Alternatively for overseas institutions not registered with the FCA/PRA, we may also use the International Organization of Securities Commissions (IOSCO) general membership lists at: www.iosco.org/.

Ordinary, associate and affiliate members make up a very high percentage of all overseas financial regulatory bodies on this site. Enquirers searching for a regulatory body may need to look under all three membership categories. For example, Canada's regulatory bodies are listed under affiliate bodies.

Central banks may also have supervision over some financial markets. For a list of international central banks not registered with the FCA/PRA, we will use the list of central bank websites on the Bank for International Settlements website at: www.bis.org/central_bank_hub_overview.htm.

A15. Overseas regulatory bodies appearing on any of these websites will be accepted as an appropriate regulatory body. Only overseas regulatory bodies appearing on the websites listed may be accepted for the purpose of this guidance. If an application relies on money held in a financial institution not regulated by one of these bodies, it will not be accepted for the award of points.

European Economic Area (EEA) financial institutions

A16. If the EEA firm is already operating in the UK it will be on the Financial Services Register. If not, the firm must be registered for operations in the country in which it operates (see the lists of regulatory bodies on the IOSCO website under A13 above). Under what is termed 'passporting' agreements, an EEA firm can provide financial services in the United Kingdom if it is entitled to carry on an activity in another EEA state, but in this case the firm must still be regulated by the appropriate overseas authority.

Financial exchanges are not responsible for control.

A17. Financial exchanges are a form of market for the financial industry, and may be in charge of some of the listing and disclosure requirements for traded financial products on stock markets. These exchanges are not likely, however, to operate any form of control or monitoring of firms. Therefore listing on a financial exchange cannot be accepted as an appropriate form of regulation of an overseas firm. For example if a bank is listed on a recognised stock exchange, this is no guarantee that the bank is properly regulated and authorised. We will need to seek evidence of registration from an authority on one of the websites listed above.

Accounting periods

A18. You can find more information on accounting periods at www.gov.uk.

Recognised United Kingdom supervisory bodies for accountants

A19. Evidence submitted from accountants must be members one of the following supervisory bodies: the Institute of Chartered Accountants in England and Wales (ICAEW), the Institute of Chartered Accountants in Scotland (ICAS), the Institute of Chartered Accountants in Ireland (ICAI); the Association of Chartered Certified Accountants (ACCA); and the Association of Authorised Public Accountants (AAPA).

Types of investment accepted for the award of points

A20. Direct cash investment In order to ensure that the money is used by the business, you should provide the accounts of that business for assessment. These accounts must show the investment in money made directly by you, in your own name.

Share capital This only applies to migrants with a company structure that can raise money

through shares.

You must give us business accounts showing the shareholders in the business. The amount and value of the shares (on the date of purchase) owned by you (in your name as it appears on your application) must be shown. If the value of your share capital is not shown in the accounts, then share certificates should be submitted as documentary evidence.

Director's loan This only applies to migrants who become directors of a company. A director's loan to the company will be considered for the award of points as long as it is unsecured and subordinated in favour of third-party creditors. (For the purposes of this guidance an unsecured loan is where you have loaned money to the business that is not secured by property or assets that become subject to seizure on default. Third-party creditors are those individuals or companies that the business owes money to, not including you.)

Types of investment excluded from the award of points

A21. Investment and business activity does not include investment in any residential accommodation, **does not include property development or property management, and must not be in the form of a director's loan, unless it is unsecured and subordinated in favour of the business.** We will use any legal agreement between you and the company to assess this. If no legal agreement is provided or if the investment appears to be in the form of a loan which does not meet these conditions, no points will be awarded for this investment.

We define **property development** as any development of property (real estate) owned by the applicant or his business to increase the value of this property with a view to earning a return either through rent or a future sale, or both.

We define **property management** as the management of property (regardless of who owns it - whether or not it is owned by the applicant or his business) for the purposes of renting it out or for resale.

The restrictions on investment in property development and property management are intended to ensure that the Entrepreneur route is used to promote United Kingdom competitiveness in business.

There is no objection, however, to you investing in companies that are mainly involved in construction.

Money should be fully used in the business and not held in the business bank account in order to qualify for the award of points.

Money deposited in a bank account, even if it is in a United Kingdom business bank account, is not counted as investment in business. The money should be used in the business to encourage growth or expansion, to improve services or products and to ensure the business is profitable.

What is a business in the UK?

A22. For the purposes of this application, you must have made a capital investment in a business operating within the UK economy and subject to UK taxation. We will consider a United Kingdom business to be one that:

1. has its business premises (unless you are self-employed and do not have a premises) or its registered office or, if it has no registered office, its head office (for a Director of a company) in the UK;
2. has a UK bank account showing transactions for the business that are current (this may be either a business bank account, or a personal bank account for self employed migrants); and
3. is subject to UK taxation.

Any business that benefits from your £200,000 (or £50,000) investment used for the purposes of claiming points for this application must be this type of business.

What is a 'new' business?

A23. A business will be only considered to be new if it was established no earlier than 12 months before the start of a period throughout which you have had continuous leave as a Tier 1 (Entrepreneur) migrant, and which includes your last grant of leave. Continuous leave is not considered to be broken in the circumstances defined in paragraphs 245AAA(a)(i) to (iii) of the Immigration Rules.

For applicants who held entry clearance or leave to remain as a Tier 1 (Graduate Entrepreneur) no more than 28 days before the application which led to the start of the continuous period, a business will be considered to be new if it was established no earlier than 24 months before the start of that period.

Registration as self-employed

A24. A person setting up as self-employed must register as such with HMRC within six months of starting up. For more information on the legal requirements see the section Business and Self-employed at www.gov.uk/browse/business.

Current appointment report from Companies House

A25. You must obtain the report from Companies House, for a fee, and send it with your application. This document shows when you became a director of a company. This will be the same document for a new business as for those becoming directors of an existing business. For more information on registration with Companies House, please contact Companies House www.companieshouse.gov.uk/contact/contactUs.shtml For information on obtaining the current appointment report please see www.companieshouse.gov.uk/toolsToHelp/findCompanyInfo.shtml.

Franchises

A26. Businesses that are set up as franchises can be accepted for the award of points. You will either be self-employed or employed, depending on how you decide to structure the franchise business, and should provide the appropriate evidence.

New employment created

A27. The jobs created must meet United Kingdom legislation. We are not able to offer you advice on compliance with employment legislation. You should see Employing people at www.gov.uk/ Other information is available from HMRC at www.hmrc.gov.uk or from its new employer helpline on 0845 607 0143, Monday to Friday 0800 – 2000 or Saturday and Sunday 0800 – 1700, or textphone 0845 602 1380.

What is an employee?

A28. Not everyone who works for someone else is an employee.

You can claim points for employees who are:

- part-time and full-time workers; or
- workers under an employment contract.

However, you cannot claim points for a self-employed worker who is contracted to work for you. In this case the person will have a contract for service and will not be accepted for the award of points as an employee.

It is your responsibility to consider the status of employees, and advice on this should be sought from the HMRC website www.hmrc.gov.uk/employment-status/index.htm) or from the Gov. UK website.(www.gov.uk/) The HMRC employer helpline can also offer advice, on 0845 714 3143. You should not contact us for advice on employee status.

What is a settled worker?

A29. Only jobs that are given to people with settled status in the UK will qualify for the award of points. Paragraph 6 of the Immigration Rules defines what we mean by “settled in the United Kingdom” This can be viewed on: www.gov.uk/government/collections/immigration-rules.

For the purposes of these guidance notes a ‘settled worker’ is a person who is:

- A national of the UK;
- A national of Austria, Belgium, Bulgaria, Croatia*, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Republic of Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland who is exercising an EC Treaty Right in the UK;

*NB – Workers from Croatia, unless exempt from worker authorisation, must have such authorisation (for instance a purple registration certificate) in order to commence work;

- British overseas territories citizens except those from Sovereign Base Areas in Cyprus. Those included are Anguilla, Bermuda, British Antarctic Territory, British Virgin Islands, British Indian Ocean Islands, Cayman Islands, Falkland Islands and dependencies, Gibraltar, Montserrat, Pitcairn Islands, St. Helena and Dependencies and Turks and Caicos Islands;
- Commonwealth citizens who were allowed to enter or to remain in the UK on the basis that a grandparent was born here;
- Settled in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

Note that workers requiring approval to work in the UK, such as holders of an immigration employment document under the work permit arrangements, will not count towards the award of points even if they have permission to work for your business. Any holder of a letter of permission to work under Tier 1 of the Points Based System such as under the Tier 1 (General) category will not count for the award of points.

Evidence of settled worker status

A30. When you or your business employs a worker for whom points will be claimed, the employer is responsible for checking that the worker is not an illegal worker. The employer is required to copy certain documents and keep them. These documents are listed in the Summary guidance for employers on preventing illegal working, which you can download from www.gov.uk/government/publications/prevent-illegal-working-in-the-uk .

Why is full-time work set at 30 hours a week?

A31. Posts which are less than 30 hours a week are regarded as part-time by the Department for Business, Innovation and Skills (BIS) and on the National Statistics Online records. Therefore we consider 30 hours a week to be the minimum that qualifies as full-time.

HM Revenue & Customs (HMRC) registration forms

A32. Every employer must register with HMRC and notify it of the employment, and the earnings, of their employees. We are not able to offer advice on registering as an employer or on the records that an employer must keep. You can find this advice on the HMRC website on www.hmrc.gov.uk or from its employer helpline on 0845 714 3143.

HMRC requires an employer to keep an Employee Payment Record for at least three years. This record will show details of the earnings for the employee for each week that he/she worked for the employer.

If you employ more workers but do not use their employment to support their claim of points, you do not need to send information on those workers. We only need details of the employment created and used to claim points for this application.

How to assess the dates of the employment from the Full Payment Submission (FPS)

A33. In order to qualify for points the post must be created as a result of your contribution to the United Kingdom economy. The posts you have created or have been created by your business, must be new posts.

A34. If you are joining an existing business you must create posts as a result of your contribution. When awarding points, we will only accept evidence of posts created after the date that you started work in the business.

A35 The FPS shows the dates of employment of the worker. You must supply the printout of the FPS showing the dates of starting employment.

Pay statement (wage slip)

A36. You must provide copies of pay statements, often known as pay slips or wage slips, that have been issued to the workers used to claim points. These must cover the full period for which the points are claimed. For more information on pay statements see www.gov.uk/ We cannot advise on employer obligations on pay statements. You should contact the Department for Business, Innovation and Skills (www.bis.gov.uk) with any queries on legal requirements.

Legal representative

A37. This is a person who oversees the legal affairs of someone else. Examples include the executor or administrator of an estate and a court-appointed guardian of a child or incompetent person. We will accept a lawyer or a notary public as a legal representative.

Lawyer A professional person authorised to practise law, conduct lawsuits or give legal advice.

Notary public A public official whose main powers include administering oaths and confirming signatures.

What is notarisatation?

A38. Notarisatation is the certification by a notary public that the signature appearing on a document is genuine. Notaries assess documents and confirm that copies are exact representations of the original. A notarisatation should include a notary's signature and an official stamp.

What is the specified date?

A39. A Tier 1 (Entrepreneur) migrant must have met the conditions of the category within six months (26 weeks) of either:

- The date of your entry to the UK if you were granted entry clearance as a Tier 1 (Entrepreneur) migrant and where there is evidence to establish the date of your entry to the UK; or
- The date of your grant of entry clearance, if you were granted entry clearance as a Tier 1 (Entrepreneur) migrant and where there is no evidence to establish the date of your entry to the UK; or
- The date of your grant of leave to remain, in any other case.

This does not apply where your last grant of leave prior to the grant of leave that you currently have was as a Tier 1 (Entrepreneur) migrant, a Businessperson or an Innovator.

Where you have been found not to have fulfilled one or more of the following within six months of the specified date you may have their leave curtailed:

- Registered with the HMRC as self-employed;
- Registered as a new business in which you are a director; or
- Registered as director of an existing business.

Entrepreneurial teams

A40. You may claim points for the same investment and business activity with another person if you have formed an entrepreneurial team. In this case you must both have equal level of control over the investment funds and/or business(es) formed.

Both members of the entrepreneurial team must be shown by name in each other's applications, and in the evidence of funds.

Neither of the team members must have previously been granted leave as a Tier 1 (Entrepreneur) migrant on the basis of investment and/or business activity linked in this way with any applicant other than each other if the same funds are being relied on as in a previous application.

Genuine Entrepreneur Activity (contract of service with another business)

A41. If you are granted leave to enter or remain as Tier 1 (Entrepreneur) migrant, your leave will prohibit you from engaging in employment except where you are working for the business which you have established, joined or taken over. You will comply with this restriction if, for example, you are employed as the director of the business in which you have invested, or if you are working in a genuinely self-employed capacity. In this capacity you will have a contract for service.

You may not, however, be considered to be working for your own business if the work you undertake amounts to no more than employment by another business (for example, where your work amounts to no more than the filling of a position or vacancy with, or the hire of your labour to, that business, including where it is undertaken through engagement with a recruitment or employment agency). In this capacity you would have a contract of service. This applies even if it is claimed that such work is undertaken on a self-employed basis.

In considering whether your work amounts to genuine self-employment (and is therefore work for the business which you have established, joined or taken over) or is in fact employment by another business, we will take into consideration the factors set out at:

www.hmrc.gov.uk/employment-status/index.htm#1.

If your work amounts to no more than employment by another business, we may consider you to be working in breach of your conditions of stay, and that you are therefore liable to curtailment of your stay and/or removal from the United Kingdom.

Annex B - Administrative Review

(Entry clearance applications only)

1. What is Administrative Review?

Administrative Review is the mechanism for reviewing refusal decisions made under the Points Based System where an applicant believes an error has been made in the decision. The Administrative Review is free of charge.

Administrative Review is an entitlement but the request must be made within 28 days from the date the refusal notice is received by you. For time limits for making a request, see further paragraphs 6 and 7 below.

Administrative Review is a non-statutory scheme; that is there is no legislation setting out what it covers or who is eligible to apply. The policy is contained in this guidance.

2. What if the Administrative Review request refers to matters outside the scope of the Administrative Review?

Where this occurs the matters should be dealt with under the normal complaints procedure. In such cases you will be advised in writing.

3. Who conducts the Administrative Review?

An Entry Clearance Manager will conduct the administrative review. This may mean that in some cases, an Entry Clearance Manager from another Post will conduct the Administrative Review. You may receive the result of the Administrative Review from an entry clearance post that is different to the one that considered the original entry clearance application.

4. Who can apply for Administrative Review?

Anyone refused entry clearance under the Points Based System, where they believe the Entry Clearance Officer has made an incorrect decision.

5. How does the applicant apply?

You will receive the Administrative Review Request Notice with the entry clearance refusal notice. You must complete the Request Notice in full and send it directly to the address stated on the Request Notice.

You must not send any additional documents such as passport or supporting documents with the Administrative Review request notice. If the refusal is subsequently overturned, you will be asked to send in your passport.

6. What is the deadline for applying for Administrative Review?

You have 28 days from the date of receipt of the refusal notice, to submit a request for Administrative Review.

7. What if an application is submitted late?

Where an Administrative Review request is received outside the 28-day period, the administrative reviewer will consider if there are exceptional circumstances to accept the application outside of the deadline.

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to you with a letter explaining why it is not being accepted.

8. How many times can you request an Administrative Review?

You may request only one Administrative Review per refusal decision. Any further review requests received for the same refusal decision will not be accepted. They will be returned to you.

However, where the Administrative Review upholds a refusal but with different refusal grounds, you may request an administrative review of these new refusal grounds.

If you have new or further information, documents or other paperwork that you failed to submit with your original application, you will need to make a new application and pay the appropriate fee.

9. How long will the Administrative Review take?

The administrative reviewer will complete their review and notify you in writing of their decision within 28 days from the date of receipt of the Administrative Review request notice.

If, in exceptional circumstances, the administrative reviewer is unable to complete the Administrative Review within the 28 days, they will notify you in writing as to when to expect a decision.

10. What will the administrative reviewer look at?

The administrative reviewer will examine the evidence submitted with the original application, copies of which will be kept at the refusal post.

You are not allowed to provide new evidence. Any new evidence must be disregarded unless you were refused under paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal (see paragraph 12).

Any new evidence you submit will be returned to you together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

The administrative reviewer should focus on the areas which you have asked to be reviewed. They will check that:

- points have been correctly awarded;
- documents have been correctly assessed; and
- verification checks have been properly carried out.

The administrative reviewer may recommend that the reason for refusal should be overturned, if they find that the Entry Clearance Officer:

- failed to properly consider evidence submitted with the original application;
- failed to apply the Immigration Rules correctly;
- made a mistake in processing the application;
- failed to give adequate reasons for refusing entry clearance. In this case, the administrative reviewer will recommend the Entry Clearance Officer revoke the original refusal and serve a new refusal notice giving a full explanation for the refusal.

Where the administrative reviewer recommends in line with the above, that the reasons for refusal should be revoked, you may still be refused but with new grounds for refusal.

The administrative reviewer will not recommend that the original decision is overturned simply because you claim there is a fault with the Home Office's underlying processes or policies.

12. Does Administrative Review cover General Grounds for Refusal?

Yes. Administrative Review will also look at refusals on the basis of paragraph 320 of the Immigration Rules on “General Grounds for Refusal.”

Reviews of refusals made under paragraphs 320(7A) and 320(7B) of the Immigration Rules

You may submit further information with the Administrative Review request, if the refusal is based on paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal.

If an application has been refused because a false document was used or a false representation was made, you may claim that you were unaware of the false documents or false representations. The refusal will still stand but you would have to prove that you did not know that false documents or false representations were used, if you are not to have any future applications automatically refused for 10 years. Where the documents related directly to you (for example, employment references, qualifications or financial details), such a claim would be likely to fail unless you have clear evidence that an error has been made (for example, written confirmation from an employer, financial institution or educational establishment that you have supplied us with incorrect information at the time we verified the original documentation).

If the administrative reviewer does accept that you did not knowingly use false documents or false representations, the refusal will still stand, but you will not automatically have any future applications refused under the rules (paragraph 320 (7B) where false documents or false representations were used.

13. Does Administrative Review cover verification?

Yes. As part of the administrative review process the administrative reviewer will ensure that the Entry Clearance Officer has followed the correct verification procedures.

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

- Uphold decision, reasons for refusal remain the same;
- Uphold decision, with revised reasons for refusal;
- Overturn decision and issue entry clearance.

15. How are you informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

- the administrative reviewer will notify you by letter. You will not be entitled to a further Administrative Review as the grounds for refusal has not changed.

Decision upheld but with revised reasons for refusal:

- A new refusal notice (GV51) will be served along with the Administrative Review letter from the administrative reviewer stating why the refusal has still been upheld. If there are fresh reasons for refusal which were not notified originally, you will be able to submit a further Administrative Review request limited to those fresh reasons.

Decision overturned and entry clearance to issue:

- The administrative reviewer will notify you by letter and request your passport.

16. Limited Right of Appeal

You can only appeal on any or all of the grounds referred to in section 84 (1)(b) and (c) of the Nationality, Immigration and Asylum Act 2002. These are that the decision is unlawful by virtue of section 29 of the Equality Act 2010 (discrimination in the exercise of public functions etc) so far as

relating to race as defined by section 9(1) of that Act, and/or that the decision is unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights.

All entry clearance applicants under the Points Based System who are refused will be limited to residual grounds of appeal stated above.

The process for dealing with limited rights of appeal remains unchanged.

Annex C - Verification and other checks

1. What may be checked?

We may want to check the supporting documents you send with your application. Therefore, you must ensure that all the evidence comes from a source that can be clearly identified and that it can be independently confirmed as being genuine.

These checks may delay our decision on an application so we will only make them when we have clear reasons to do so.

2. When will verification checks be made?

Where we have reasonable doubts that a specified document is genuine we may want to verify the document with an independent person or government agency.

What we consider to be a reasonable doubt will depend on an individual application. However, our judgments will be based on the facts we have.

The purpose of these checks is to ensure that the document provided is genuine and accurately reflects statements made in the application. If the document is being used as evidence to score points, we also want to ensure that it entitles you to claim those points.

3. When will other checks be made?

We will make other checks where, for example, we have doubts about an application or the documents sent with the application but these are not serious enough for us to make a verification check.

This may be because previous verification checks have found that some supporting evidence is invalid and some is genuine, or where evidence provided contradicts information we already have. In these cases, we may carry out more checks.

4. What are the possible outcomes of checks?

There are four possible outcomes of a check:

- **Document confirmed as genuine.** If we conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if you send us a bank statement to show that you have enough funds available, and we have evidence that the statement is false, we will refuse the application because you do not meet the funds requirement and because you have sent a false document. Where we confirm that a document is false it will be retained by the Home Office and is likely to jeopardise any future application.
- **Check inconclusive (verification checks).** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If you have sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If you have not sent any other documents, we will award zero points in that area.
- **Check inconclusive (other checks).** If we cannot verify that the document is either genuine or false then we will consider the application as if the document is genuine.

5. Check gives us cause to have reasonable doubt about the genuineness of a specified document (other checks). If we cannot determine that the document is either genuine or false but as a result of the checks we find other reasons to doubt the genuineness of a particular specified document, we may decide to make a verification check. **when would an application be refused without making verification checks?**

We may refuse an application without making verification checks where:

- We are concerned about a piece of evidence but would in any event refuse the application for other reasons, those reasons will form the basis of the refusal. We will not make verification checks in these circumstances. However, we will always verify passports if we doubt they are genuine.
- There is evidence that proves a particular document is false without verification checks.

6. What is the procedure for verification and other checks?

The procedures for both verification checks and other checks will vary from case-to-case, but they may involve:

- checking the details or genuineness of documents with employers, the relevant embassy or high commission, other government departments (in the United Kingdom and overseas); and
- checking the accuracy and authenticity of documents with banks, universities and professional bodies.

We record the results of our enquiries.

If we cannot obtain an immediate answer to enquiries, we will normally wait for up to a maximum of four weeks for the necessary information.

Our compliance team may visit your employer or educational institution (if you are a student) before we make a decision on the application.

Annex D - Additional evidence for sponsored students

1. For the purposes of this section of the guidance, 'sponsored' means 'wholly supported by an award that covers both fees and living costs'.
2. If you have had permission to be in the United Kingdom in one of the following categories, within the last 12 months, you may have been sponsored in your studies by a Government or an international scholarship agency:
 - Student; or
 - Tier 4; or
 - Student nurse; or
 - Student re-sitting an examination; or
 - Student writing up a thesis; or
 - Postgraduate Doctor or Dentist.
3. If you are currently sponsored by a Government or an international scholarship agency, or such sponsorship ended within the past 12 months of this application being made, you must provide us with the sponsor's unconditional consent in writing to us, giving you their permission to remain in or re-enter the United Kingdom. If the sponsor does not give unconditional consent or gives permission for a limited time, we will refuse the application.
4. The evidence must be original, on the official letter-headed paper or stationery of the organisation and have the official stamp of that organisation. It must have been issued by an authorised official of that organisation.
5. If you have received private sponsorship during your studies (for example from an employer or relative), we do not require the sponsor's consent.
6. For more advice on sponsored students, see the chapter on Restrictions for some Students with Official Financial Sponsorship in the Tier 4 Policy guidance, which you can find on the gov.uk website at: www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student.

Annex E - Templates

Document 1

Letter for AFI, this should be submitted as an original document, and not a copy, on the letter-headed paper of the financial institution

CONFIDENTIAL

For the attention of the Home Office

In regards to the application of Mr/Mrs/Ms **[Name]** for Entrepreneur status in the United Kingdom:

I have the consent of **[name]** to share these findings with the Agency. I will confirm the contents of this letter to the Agency at their request.

[name/s] has £ available for investment in the United Kingdom on deposit with this financial institution.

On this date **[give date]**

The applicant has the following amount of money IN THEIR OWN NAME available for investment in a business in the United Kingdom [£] if applicable. Or, the applicant has agreed to form an entrepreneurial team with [name] and has the following amount of money IN THEIR OWN NAMES available for investment in a business in the United Kingdom [£] if applicable. If these funds are already in the United Kingdom, please give the date of entry to the United Kingdom [date of entry of money into the United Kingdom dd/mm/yyyy]

The applicant/s has/have the following amount of money available for investment in a business in the United Kingdom, held in this institution under the names of [please enter details in the table provided if applicable].

I am not aware of [name of the funds holder] having promised to make that money available to any other person.

Name of third party contributor	Relationship to applicant or each applicant	Contact details	Amount of money from the third party available to the applicant or both applicants	If these funds are already in the United Kingdom, the date of entry to the United Kingdom must be given
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Name and address of Authorised Financial Institution:

This institution is regulated by the FCA/PRA **[state form of registration]**

Name and contact details of the Author of this document:

Signature of authorised person of the Authorised Financial Institution

Document 2

Declaration of availability of third party funds used for an application for Entrepreneur status. This must be an original document and not a copy.

CONFIDENTIAL

For the attention of the Home Office

I agree that this letter may be shown to the Home Office. I will confirm the contents of this letter at the request of the Agency.

In regards to the application/s of Mr/Mrs/Ms [applicant's name or names] for Entrepreneur status in the United Kingdom:

I [name] am the [state relationship] of [name] who has made an application for Entrepreneur status in the United Kingdom. I am willing to share this information with the Home Office.

I have £ (please give amount in Pounds Sterling) and I will make it available to [name of applicant or applicants who have agreed to form an entrepreneurial team] or the business they run in the United Kingdom.

I confirm that this money will remain available to [name of applicant or applicants who have agreed to form an entrepreneurial team] until it is transferred to them or to their business.

OR

I [name] represent [corporate body] which has £ (please give amount in pounds sterling) and will make it available to [name of applicant] or the business they run in the United Kingdom. I confirm that this money will remain available to [name of applicant or applicants who have agreed to form an entrepreneurial team] until it is transferred to them or to their business.

Contact details of third party, including: Full address including postal code Landline telephone number Email address if available. Third party's identity document number (e.g. passport or national identity card), place of issue and dates of issue and expiry

Signature of third party

Signature of applicant

Signature of both applicants who have agreed to form an entrepreneurial team (if applicable)

Date that the declaration was made [dd/mm/yyyy]

Extra information needed where the £50,000 investment provision is used

For venture capital firms –the name and registration number that they are listed under with the FCA as permitted to operate as a venture capital firm (its entry in the register includes a permission to arrange, deal in or manage investments, or to manage alternative investment funds) and confirmation of the funding agreement; or

For Seed funding Competition – confirmation that the competition is listed by the UK Trade and Industry and the name that it is listed under or

For UK Government Departments or Devolved Government Departments in Scotland, Wales or Northern Ireland funding made available for the specific purpose of establishing or expanding a UK business – confirmation that the Department is contributing funds directly to the applicant/s or applicant's business.

Extra information needed where the third party is another business in which the applicant is self employed or a director

Confirmation of the applicant's status within that business and that the applicant is the sole controller of the business's finances. If the applicant is not the sole controller of the business's finances, the signature of another authorised official of that business.