



Home Office

# **Social Care: Q&A – Points-Based Immigration System**

## **FBIS External Engagement**

February 2022

## Points-Based System

**Under the points-based immigration system, how many points does a care worker (not senior) need to be granted sponsorship?**

70 points. The 50 mandatory points plus they will need to acquire 20 tradable points. As care workers are a shortage occupation, they will score these points providing the job meets the minimum salary level of £20,480 per year and £10.10 per hour.

## Salary threshold and working hours

**If a care worker (not senior) is paid less than £25,600, do they need a PhD or some sort of qualification to be able to be sponsored?**

No, care workers are a shortage occupation, so qualify at a lower salary threshold. As long as they meet the English language requirements and minimum salary requirements of £20,480 per year/£10.10 per hour. They will need to demonstrate they can do the job, but there aren't any required formal qualifications (unless the employer is asking for them).

**How many hours per week does the salary threshold relate to?**

The salary requirement for care workers will be a minimum of £20,480 (regardless of the number of hours worked) or £10.10 per hour, whichever is higher. Other working patterns are possible as long as both salary requirements are met.

**If workers are paid more than £10.10 per hour, do they still have to work 39 hours per-week or could this be reduced? Is 39 hours the minimum working week?**

They can work fewer hours, as long as they are still paid at least £20,480 per year. This would mean they need to be paid more than £10.10 per hour in this scenario.

**If we pay a lower hourly rate, can more hours be offered (e.g. £9.50 per hour/45 hours per week = £22,230)?**

No, the basic pay must be at least the higher of £20,480 per year or £10.10 per hour. If more than 39 hours are offered, £10.10 per hour will be the critical factor. If less than 39 hours per week, £20,480 will be the critical factor.

**Could a worker's salary be £9.96 per hour if topped up with sleep in shift payments?**

No, £10.10 per hour basic pay is the minimum for each hour worked.

**Can a live-in carer, working a certain number of weeks on and off qualify – as long as they are being paid the salary threshold?**

Potentially, as long as the salary requirements overall are met, and the worker is paid regularly.

**We are paying sponsored senior carers £10.10 per hour, contracted to work 39 hours per-week. Can we pay them National Minimum Wage (£8.91) for overtime hours?**

No, the £10.10 minimum applies to all hours they are working for you. It would be highly unusual for an overtime rate to be less than the basic pay.

**Does the 39-hour week include unpaid breaks?**

Not if the breaks are unpaid.

**On a 37-hour working week we pay £10.41 per hour, which is based on a FTE of £20,092. Given the hourly rate is above £10.10, is this ok?**

No, because this is below £20,480 per year. Sponsors must pay whichever is higher of £20,480 per year or £10.10 per hour.

**Our full-time hours are 37-hours per week. Does this mean we don't qualify for a sponsorship licence?**

Any care workers you sponsor will need to be paid at least £20,480 per year basic salary. This works out at £10.10 per hour for a 39-hour week, but you could alternatively sponsor them for a 37-hour week as long as you are paying at least £10.64 per hour ( $£20,480 \div 52 \text{ weeks} \div 37 \text{ hours}$ ).

**Are part-time options available?**

Part-time working is possible, but the basic pay must be at least £20,480 per year. If a sponsored worker is working fewer than 39 hours per week, they would need to be paid more than £10.10 per hour to reach this minimum salary.

**A care worker employed with us can work only 30 hours a week for personal reasons. Is this ok?**

If their pay still meets the requirements of the route, they can do so indefinitely. If not, they may be able to do so temporarily, depending on the reasons – temporary reductions in pay are permitted for certain reasons, detailed in this guidance: [Workers and Temporary Workers: sponsor a Skilled Worker - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/workers-and-temporary-workers-sponsor-a-skilled-worker)

**What happens if the individual earns less than £10.10/£20,480 through statutory sick, suspension, or maternity/paternity leave?**

There are certain permitted temporary reductions in pay. See this guidance for details: [Workers and Temporary Workers: sponsor a Skilled Worker - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/workers-and-temporary-workers-sponsor-a-skilled-worker)

**Regarding salary, how does a zero hour or agency contract of employment work?**

Workers cannot be sponsored on zero hours contracts. If they are recruited through an agency, the end client company will need to act as the sponsor.

## Health and Care & Skilled Worker visa

### **Where do we go to apply for the Health and Care visa?**

[Health and Care Worker visa: Your job - GOV.UK \(www.gov.uk\)](https://www.gov.uk/health-and-care-worker-visa-your-job)

### **What qualifications and experience do care workers applying to the Health and Care visa need? Can we sponsor them if they have no qualifications or relevant experience?**

There are no specific immigration requirements relating to skills or qualifications. The sponsor must still be satisfied that the person they are sponsoring is capable of doing the job, and an application can be refused if they are not.

### **Do care workers applying to the Health and Care and Skilled Worker visa have to complete an English language test?**

Yes, there is an English language requirement. Further details can be found here: [Skilled Worker visa: Knowledge of English - GOV.UK \(www.gov.uk\)](https://www.gov.uk/skilled-worker-visa-knowledge-of-english)

### **Is there a criminality check? Is there any guidance on criminal record checks for overseas applicants?**

Please see here: [Guidance on the application process for criminal records checks overseas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/criminal-records-checks-overseas)

### **Is there an age limit applied to applicants of the Health and Care and Skilled Worker visa?**

Applicants must be at least age 18. There is no upper limit, as long as the applicant is able to do the job.

### **Does the Health and Care and Skilled Worker visa allow the applicant access to the NHS?**

Yes, successful applicants have full access to the NHS (covered through paying the Immigration Health Surcharge).

### **Are care workers on the Health and Care and Skilled Worker visa able to apply for settlement?**

They will be able to apply for settlement after 5 years.

### **What is the processing speed of the Skilled Worker visa?**

Skilled worker visas are usually processed within 3 weeks.

### **How do you qualify for the Health and Care visa rather than a Skilled Worker visa? What evidence is required?**

Details of the Health and Care visa can be found in this guide: [Health and Care Worker visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/health-and-care-worker-visa)

**Do children’s social workers qualify for the Health and Care visa if employed by a local authority that can sponsor, or is it only adult social care?**

Only adult social care qualifies for the Health and Care visa. However, children’s social workers can be sponsored under the regular Skilled Worker visa. For a full list of occupations, see link: [Skilled Worker visa: eligible occupations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/skilled-worker-visa-eligible-occupations)

**How long will we be able to recruit care workers from the Health and Care visa and Shortage Occupation List? Will this be extended or made permanent?**

This is an initial 12-month offer. There will be a joint Government review later in 2022 to determine its continuation.

**Do European candidates applying to the social care sector who have EU settlement status need a Health and Care or Skilled Worker visa?**

No, if they have an immigration status under the EU Settlement Scheme, they can work in any job without a work visa.

**Should we be prioritising recruitment of UK workers or basing appointments on merit?**

We encourage employers to prioritise recruitment from the resident labour market. There is no longer a Resident Labour Market Test requiring you to try to recruit resident workers first, but the Immigration Skills Charge will apply if you are sponsoring overseas workers. The charge is designed to incentivise investment in resident workers.

## Switching into the Health and Care & Skilled Worker visa

**Can a person switch into the Health and Care visa from a Visitor (temporary) visa? i.e. could someone come to the UK on a Visitor visa and then be offered a job and sponsored whilst in the country?**

They cannot switch in the UK. They will have to make an out of country application for a visa under the Health and Care visa.

**Can I switch from a Student visa into the Health and Care visa?**

Students can switch into the Health and Care visa within the UK. They can also continue their studies under the Health and Care visa, providing this does not interfere with their sponsored duties. Details can be found here: [Health and Care Worker visa: Switch to this visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/health-and-care-worker-visa-switch-to-this-visa)

**What about those on a Student visa who have finished their course? Can they work in the care sector?**

Students who have finished their course are able to work, but their immigration status will likely be ending soon, so you should check whether they need sponsoring if they will be working for you long term. They can apply to switch their immigration status within the UK.

**Can a tier 2 visa holder switch into the Health and Care visa?**

Yes, if they are changing job or sponsor, they can do this within the UK.

## Shortage Occupation List

**What date is the care worker job role being added to the Shortage Occupation List (SOL)?**

This took effect on Tuesday 15<sup>th</sup> February, for an initial 12-month period.

The changes to add care workers to the Shortage Occupation List and Health and Care visa enable Home Office licensed sponsors to recruit care workers from outside the UK and those non-UK workers already in the UK. Applicants can be sponsored for applications within the UK or overseas.

**What is the occupation code for care workers?**

Senior care workers are occupation code 6146. Care workers are 6145.

**How broad is the definition of a care worker? Why is the rate for support workers the same as senior support workers when their role and responsibilities differ?**

We are guided by the Office for National Statistics 'Standard Occupational Classification'. Care workers come under SOC code 6145, which included the following related job titles: Care assistant, Care worker, Carer, Home care assistant, Home carer, and Support worker (nursing home). This is not an exhaustive list.

Both roles must meet the minimum pay requirement for the Skilled Worker route. Beyond that, it is for employers to determine their pay structures – it is likely that more senior roles within an organisation would attract higher pay.

**Does the Shortage Occupation List apply to supported housing staff?**

Supported housing staff are not on the Shortage Occupation List. You can see the full list of occupations on the SOL here: [Immigration Rules Appendix Shortage Occupation List - Immigration Rules - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/immigration-rules-appendix-shortage-occupation-list)

**Is this applicable to Homeless Supported Accommodation and Reach Out services?**

No, these changes only relate to care workers. Social workers are already included on the Health and Care visa.

**Approximately how many care workers is the Government looking to recruit using this route over the next 12 months?**

We have not set a target. Recruitment is led by employers, not the Government. There is no limit so it will depend on how many workers employers recruit who need sponsorship.

# Sponsorship

## **How do I become a Home Office approved sponsor?**

Please see the guidance here: [UK visa sponsorship for employers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-visa-sponsorship-for-employers)

## **Can new care providers apply for a sponsorship licence?**

Yes, see here for details on how to apply for a licence: [UK visa sponsorship for employers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-visa-sponsorship-for-employers)

## **How long does it usually take to be allocated a defined Certificate of Sponsorship (CoS)?**

If no further information is required, defined CoS are usually allocated within 24 hours.

## **How long does it take for a reply after an employer sends additional information requested for a Certificate of Sponsorship (CoS)?**

On average, it takes 13 weeks across post license. Some requests will take less time depending on the number of CoS requested or how complex the changes are.

## **Is the Home Office looking to increase the priority services for sponsorship for those within the care system?**

The number of available priority slots will increase in Spring 2022 in line with a range of service improvements.

## **Is the Certificate of Sponsorship for just on employee?**

You must assign a Certificate of Sponsorship to each foreign worker you employ. Further details can be found on gov.uk: [UK visa sponsorship for employers: Certificates of sponsorship - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-visa-sponsorship-for-employers-certificates-of-sponsorship)

## **Can we sponsor a care worker for more than 12 months?**

Yes, there will be a 12-month window for applications from 15<sup>th</sup> February 2022. In that time, all the rights, benefits and obligations as other Health and Care visas apply – including visa length (up to 5 years) and ability to apply for settlement.

## **Is there a maximum number of care workers I can bring in a 12-month period?**

No, once you have been a licensed sponsor, there is no maximum number, providing genuine vacancies exist.

## **Is there a minimum number of sponsorship licences that can be granted to one organisation/care home?**

No, there is no minimum number of workers you can sponsor.

## **Are sponsor licences only offered to organisations in England?**

No, the immigration system applies UK-wide.

## **Is there a cost for employers to obtain a sponsorship licence?**

Yes, see this guidance for details of costs: [UK visa sponsorship for employers: Apply for your licence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-visa-sponsorship-for-employers-apply-for-your-licence)

**How would I go about requesting a quicker decision for a licence?**

Please see the guidance: [Premium customer service for employers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/premium-customer-service-for-employers)

**Can care organisations/owners of care homes register to be sponsors? Does this include recruitment agencies?**

Care homes can become sponsors. Recruitment agencies cannot become sponsors.

Care homes themselves would need to be the sponsors, as they will be responsible for the work the applicant would be doing. Care homes can work with recruitment agencies for the purposes of recruitment, but recruitment agencies cannot directly sponsor workers they are supplying as labour to a third party.

**Do you have to be registered with the Care Quality Commission (CQC) to become a Home Office approved sponsor?**

Checks with the CQC will be undertaken by caseworkers. Some businesses may not be eligible for CQC registration but still be able to become a sponsor. You should highlight in your sponsor application why you are not CQC registered.

**Could one organisation act as a licence holder for a number of smaller organisations if there is an agreement to work together?**

In some cases (e.g. care home groups under common ownership), umbrella organisations can act as sponsors for all organisations within their group. However, the general principle is the sponsor must be the organisation which has responsibility for the duties and outputs of the person's work. It is also important that the organisation is able to meet their obligations as a sponsor – for example, reporting if there are major changes to the person's job, if they are absent without their employer's permission, or if they leave their employment.

**If we have sponsored someone to come to the UK to work, can they then apply for other UK jobs?**

You can sponsor a visa for up to 5 years at a time. They can apply for other jobs, but the work conditions on their visa are linked to the job you are sponsoring them for. They can work for up to 20 hours a week in a second job, providing they are still working in their sponsored job. If they leave their sponsored job, they will need to make another visa application before they could work for a new employer. They can make this application within the UK.

**Can an employer dismiss a sponsored worker within the 5-year visa? Are they committed to the 5 years?**

You are not committed to the 5 years. However, if you stop sponsoring a worker before the end of their CoS, you should notify the Home Office (details are in the sponsor guidance).

**If we pay for their visa for 5 years and they leave after 2 years, can we get a refund?**

No. The fees are for the visa consideration and are not refundable.

**What happens to the worker if an employer's license is revoked?**

Their visa will normally be shortened to 60 days, during which time they will need to make an application to remain in the UK on another basis (e.g. working for a new sponsor) or make arrangements to leave the UK.



**When you are granted a sponsorship licence, do you get any defined Certificate of Sponsorship (CoS)?**

No, a defined Certificate of Sponsorship must be requested as and when they are needed.

**Is it best to apply for a defined Certificate of Sponsorship before or after an offer of employment?**

A defined Certificate of Sponsorship should be requested when you are ready to assign them. You will need to have made a job offer before requesting a CoS.

**What checks are conducted by the Home Office before a sponsor licence is approved?**

Detailed guidance on sponsorship (including the checks we may make) can be found here:

[Sponsorship: guidance for employers and educators - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/sponsorship-guidance-for-employers-and-educators)

**If an overseas employee is offered a 12-month contract, can they renew this without leaving the UK?**

They would need a new Certificate of Sponsorship and make a new application to extend their visa. Details can be found here: [Health and Care Worker visa: Extend your visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/health-and-care-worker-visa-extend-your-visa)

**If we had a sponsorship licence a number of years ago but this has now lapsed, can we renew the licence, or should we re-apply?**

If a significant amount of time has passed since it lapsed, you would need to apply again as if you were a new sponsor. An application is also needed to renew a licence, but this is more straightforward if your previous licence is still current.

**What role does a solicitor play in the sponsorship process?**

There is no requirement to engage a legal representative, and the services they offer may vary. In most cases, they will prepare and submit the documentary evidence and application on your behalf. The Home Office will communicate with your legal representatives through the Sponsor Management System (SMS) as long as you tell us they represent you.

**Can a care worker be promoted within the organisation? How does this affect their sponsorship?**

Yes. Any changes to the job should be notified to UKVI via the Sponsorship Management System (SMS). If the change is significant enough to involve a change in occupation code, you would need to assign a new Certificate of Sponsorship for the new role, and the person would need to make a new application.

Any other significant changes (such as the start and end of maternity/paternity leave) should be reported via the SMS.

**If we take someone as a senior care/care worker, but they help in other duties as any other staff would for service continuity (e.g. in the kitchen or cleaning), would this cause issues with their sponsorship?**

The job must be that of a care worker. If we encounter care workers working in kitchens or as cleaners, we would need to assess the “as any other staff would” part of your scenario, and would need to be satisfied they were genuinely employed as a care worker. If we concluded you were in

fact employing them in another role, we may take a range of compliance actions, potentially including revoking the worker's visa and your sponsor license.

## Cost / charges

### **What costs are involved in the recruitment of an overseas care worker?**

Occupations under the Health and Care visa, which now include care workers, are exempt from the Immigration Health Surcharge. The Immigration Skills Charge will still apply.

The Immigration Skills Charge is designed to raise funds for skills programmes and to incentivise investment in resident workers rather than sponsored workers. These issues apply as much to care workers as any other occupation.

Depending on the size of the organisation, there are reduced fees. Please see here for more information: [UK visa sponsorship for employers: Immigration skills charge - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-visa-sponsorship-for-employers-immigration-skills-charge)

### **When should I pay for the Certificate of Sponsorship (CoS) and Immigration Health Surcharge (IHS)?**

The CoS fee is paid when you assign the CoS to the worker. The IHS is paid when the worker uses that CoS to make their application. Health and Care visa holders are exempt from paying the IHS.

### **Of the charges an employer incurs, what can be passed on to the candidate being recruited?**

The visa application fee and IHS are payable by the applicant, although some sponsors choose to cover these. Sponsor fees, such as the CoS fee and the Immigration Skills Charge, must not be passed on to the applicant.

## Right to Work checks

### **Is there any guidance for employers on conducting Right to Work checks? Will employers sponsoring via this route only be able to conduct right to work checks on their new employees arriving in the UK via online share codes?**

Please see the guidance here: [Right to work checks: an employer's guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/right-to-work-checks-an-employer-s-guide)

## English language test

**When / where does the English language test have to be done? In the UK or overseas?**

**Which are the approved exam boards?**

We have test centres in the UK and around the world. Details can be found here: [Prove your English language abilities with a secure English language test \(SELT\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/visas/health-and-care-worker-visa/health-and-care-worker-visa-requirements)

**What documentation evidence is required for successful completion of an English language test?**

Details can be found in this document: [English language requirement \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/644222/english-language-requirements-for-care-workers.pdf)

**What are the English language requirements for all care workers?**

The requirement is B1 level in all four components, the same as for other Skilled Worker applications. This is around IELTS 4-5.

Details of the English language requirement can be found here: [Health and Care Worker visa: Knowledge of English - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/visas/health-and-care-worker-visa/health-and-care-worker-visa-requirements)

**Can a GCSE certificate in English language be used as evidence to meet this requirement?**

Applicants can rely on GCSE English, if it was gained through study at a UK school, which began while the applicant was under 18.

**If the applicant holds a degree, can this be used as evidence to meet the English language requirement?**

If their degree was taught in English, they can rely on that to meet the English language requirement and do not need to take a separate test. They will need to apply for English proficiency confirmation through Ecctis if their degree was awarded outside the UK: [Visas and Nationality Services \(ecctis.com\)](https://www.ecctis.com/)

**We want to sponsor a student who is already in the UK and working in care. Are they still required to prove the English language requirement has been met?**

If they previously met an English language requirement for their student visa, they would not need to meet it again.

**What happens if a candidate does not meet the English language requirement, do they have to leave?**

This is an entry requirement, so they would not be granted the visa if they did not meet it.

## Dependents

**If offered sponsored employment in the UK, can overseas candidates bring their family?**

**What age should the children be?**

Yes, applicants can bring spouses/partners and dependent children under age 18. Details of how family members can apply can be found here: [Skilled Worker visa: Your partner and children - GOV.UK \(www.gov.uk\)](#)

**Is there an English language test for dependents?**

There is no English language requirement for dependents, until they apply for permanent settlement.

**Can a dependent working in the UK switch into a Skilled Worker / Health and Care visa?**

Yes.

## Refugee / Asylum Seekers

**How can we support qualified refugees looking for work?**

Guidance can be found on gov.uk: [Help people who have come to the UK from Afghanistan - GOV.UK \(www.gov.uk\)](#)

In addition, REN is an organisation who can assist employers: [Transitions - Renaisi](#)

**Can a Certificate of Sponsorship (CoS) be given to those seeking asylum?**

Asylum seekers who have been waiting for over 12 months for a decision can apply for permission to work in shortage occupations – which include care workers, as of 15<sup>th</sup> February. They do not need a Certificate of Sponsorship.

**What about those seeking asylum whose applications have failed, but are still in the UK?**

If a person's asylum application has been refused, they will not have permission to be in the UK, unless they already have another immigration status. They would not be able to apply within the UK.