

# Guidance for UK Employers on the Immigration Implications of COVID-19

Article By:

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In light of the Home Office now making regular policy announcements and issuing revised guidance, here are the main immigration law issues that employers may want to keep in mind in order to consider the implications of COVID-19 on their organisations.

## 1. United Kingdom (UK) Visa Processing

Some UK Visa and Citizenship Application Services (UKVCAS) centres and in-country processing centres are still currently closed, which makes some issues in relation to UK visa processing quite complicated. The Home Office is aware that some applicants may need to withdraw their outstanding applications due to circumstances related to the pandemic and has therefore updated its [refund policies for withdrawing applications and requesting refunds](#) accordingly.

### *Applying From Within the United Kingdom*

From 1 June 2020, some UKVCAS service points started to reopen on a phased basis. Applicants with existing appointments should have automatically received a cancellation email, with instructions to log into their UKVCAS account 24 hours later to view a rescheduled appointment date and time. Rescheduled appointments are guaranteed to take place at the same centre on a future date. The Home Office's commercial partner responsible for managing in-country biometric appointments has confirmed that this will have no impact on submitted applications, as it will notify the Home Office directly of the delayed appointment.

New applicants who have submitted online application forms and need to book an appointment, should register an account with UKVCAS and check for updates on booking availability.

From 15 June 2020, the UK Visas and Immigration (UKVI) Service and Support Centres started operating on a reduced-capacity; the Home Office should have contacted applicants either by email or by post to make an appointment at one of these centres.

The [Post Office](#) has not made any announcement about suspending the processing of biometric enrolments and the Home Office confirmed on 28 April 2020 that individuals would not be penalised for being unable to collect their biometric residence permit (BRP) while coronavirus measures are in

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place.

The government [regularly updates](#) which UKVCAS centres are open.

### ***Applying From Abroad***

From 1 June 2020, UKVCAS started to reopen where it was allowed under local arrangements. Applicants with appointments already booked should have already been contacted by a commercial partner, either [TLScontact](#) (for migrants in Europe, Africa, or parts of the Middle East) or [VFS Global](#) (for all other countries), directly, depending on which country the application is being filed from. If an applicant has already been granted a visa but is unable to travel during the 30-day window of the temporary entry clearance visa, he or she may need to obtain a new 30-day entry visa before travelling. The Home Office has [confirmed](#) that a person whose temporary 30-day visa has expired or is about to expire, can request a free replacement visa until the end of 2020. A person who seeks a replacement visa must email [CIH@homeoffice.gov.uk](mailto:CIH@homeoffice.gov.uk), with “REPLACEMENT 30 DAY VISA” in the subject line, and then include the visa holder’s name, nationality, date of birth, and GWF reference number in the body of the email. Individuals who use this process will be contacted once the relevant UKVCAS has reopened to arrange for a replacement visa with revised validity dates to be placed in their passports. On 15 June 2020, [the Home Office confirmed that the new visa would be valid for 90 days](#).

## **2. Self-quarantine Measures for New Arrivals to the United Kingdom**

**New self-quarantine measures were put in place from 8 June 2020 for the majority of new arrivals in the United Kingdom.**

Within 48 hours of arriving in the United Kingdom, travellers must complete a [Public Health passenger locator form](#) in which they include their contact details and travel information. The purpose of the form is so that the traveller can be located if someone he or she may have been in contact with develops COVID-19. Travellers who have not arranged suitable accommodations will be provided with government-arranged accommodations at their own cost. Travellers will also be encouraged to download the NHS contact-tracing app.

Following entry into the United Kingdom, travellers must use personal transport to get to their accommodations and then self-isolate for 14 days. Those who refuse to give their contact details can be fined £100 and could be refused entry if they are not a British citizen or UK resident. A fine of £1,000 may also be imposed in England and Wales if it is found that self-quarantine has been breached.

Originally, some individuals were exempt from the self-quarantine measures, including those who entered the United Kingdom from the Common Travel Area (CTA), (only if they had been within the CTA for the last 14 days before entering the United Kingdom). However, on 3 July 2020, the UK Government [announced a list of 59 destinations](#) that form part of a travel corridor exemption for some countries. From 10 July 2020, individuals will not have to self-isolate when they arrive in England if they:

- “are travelling or returning from one of the countries with travel corridor exemption”;
- have not been to or stopped in a country that’s not on the travel corridors exemption list in the previous 14 days.

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This applies to all travel to England, by train, ferry, coach, air or any other route.”

Individuals who have been to or stopped in a country that is not on the travel corridors exemption list is required to self-isolate until 14 days have passed since they left that country. These individuals must still complete a passenger locator form and present these details on their arrival in the United Kingdom. The government will keep the conditions in these countries and territories under review. The UK government [website](#) includes a full list of the countries and territories exemption list.

### 3. Passport Applications for British Citizens Abroad

Applications for British passports can be made online; however, applicants who are abroad and need to attend a UKVCAS will only be able to complete their applications if the local UKVCAS is open.

British citizens without a passport, who urgently need to travel back to the United Kingdom, will need to contact [the British embassy, high commission, or consulate](#) in the country where they are located.

### 4. Visa Holders With Looming Expiry Dates

The Home Office updated its “[Coronavirus \(COVID-19\) advice: for UK visa applicants and temporary UK residents](#)” on 2 July 2020. It confirmed that all holders of a UK visa with an expiry date between 24 January 2020 and 31 July 2020 could apply to have their stay extended to 31 July 2020 if they were not planning to stay in the United Kingdom but cannot leave the United Kingdom due to travel restrictions or self-isolation because of COVID-19. This policy covers all nationalities and visa categories.

All migrants who already had their leave extended to 31 May 2020 will automatically receive an extension to 31 July 2020. Migrants who have not yet applied for an extension and need their visa extending to 31 July 2020 must do so via an online form. Individuals, who previously sent an email to the main helpline email address in order to request an extension, and have not received a reply, should also complete and submit the online form. The Home Office anticipates being able to reply within five working days of receiving it. Migrants who need a status letter confirming the extension or a new BRP with the revised expiry date can make a request to the Coronavirus Immigration Team (CIT) at [CIH@homeoffice.gov.uk](mailto:CIH@homeoffice.gov.uk).

It is important to note that an extension may be declined if it does not relate to travel restrictions or self-isolation. Although this process should not be used for individuals who were planning to extend their leave in-country, it may be necessary to do so in some circumstances.

### 5. Health and Social Care Workers

On 31 March 2020, the government [announced](#) that NHS doctors, nurses, and paramedics whose visas are due to expire before 1 October 2020 would have their leave to remain extended for one year. On 29 April 2020, the government [expanded this provision](#) to automatically grant a one-year visa extension to frontline health and social care workers working both for the NHS and in the independent sector whose visas expire between 31 March 2020 and 30 September 2020. It is important to note that care workers in nursing homes and private residences are exempt.

The arrangements also cover the dependant family members of eligible workers. Extensions will be

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issued automatically, and individuals will be exempt from having to pay the government application fee and Immigration Health Surcharge. The Home Office will identify and contact eligible applicants. The guidance also notes that, “NHS workers who have paid for an unresolved application will be offered the option of a refund.”

It was also announced on 29 April 2020 that family members of frontline workers who die from COVID-19 will be offered free and immediate indefinite leave to remain (ILR). [A bereavement scheme policy was subsequently published on 20 May 2020](#), stating that ILR will be granted to any non-European Economic Area family member of any NHS worker, including support staff, or a healthcare or social care worker in the independent health and social care sector. Eligible individuals should be contacted by the Home Office, but can also contact [UKVINHSTeam@homeoffice.gov.uk](mailto:UKVINHSTeam@homeoffice.gov.uk) if they have not been contacted and believe they are eligible.

## **6. Switching Immigration Categories**

Provided the application is submitted by 31 July 2020, anyone with a visa expiring between 24 January 2020 and 31 July 2020 (who would normally have to depart the United Kingdom in order to submit a long-term visa application from abroad), is permitted to submit their application in the United Kingdom instead. The usual in-country UK immigration fees will apply.

It is also possible to apply from the United Kingdom if one’s visa expires after 31 July 2020, but there is an urgent need to make a new application (e.g., to start a new job the individual cannot leave the United Kingdom to apply from overseas). The government has not defined what constitutes an urgent need and further guidance is needed in this regard.

Applicants who are intending to submit their application within the United Kingdom will still need to satisfy all of the other requirements of the relevant visa category in the usual way and delays in receiving a decision may be encountered due to factors such as UKVCAS and English-language testing centre closures or UKVI staff shortages. The Home Office is still in the process of considering issues such as whether applicants still need to complete tuberculosis screening in cases where it would have been required.

On 14 April 2020, the government announced that [Tier 2](#) or Tier 5 applicants whose in-country applications are pending may start work in their new roles before their applications have been decided as long as they have been assigned a Certificate of Sponsorship (CoS) by the sponsors of the new roles. Individuals must have submitted their applications online before their current visas expired and provide evidence of the submitted application to their sponsors. The job an individual starts must be the same as the one listed on the CoS connected to the individual’s pending application.

Sponsors must comply with reporting responsibilities from the point at which they assign the CoS, not from the date an application is granted. Relevant changes are required to be reported on the CoS as usual.

## **7. Tier 2 General Work Visas—Indefinite Leave to Remain (ILR)**

Tier 2 General work visa migrants who would like to apply for ILR in the United Kingdom are subject to a rule on absences. In order to obtain ILR, migrants cannot exceed 180 days absence from the United Kingdom in any 12-month period. One exception to this rule is when absences are due to exceptional circumstances, in which case it may be possible that Tier 2 visa holders who accrue

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absences abroad due to travel restrictions due to COVID-19 may be able to argue that this amounts to an exceptional circumstance. However, the Home Office has yet to publish any formal guidance on this issue.

## **8. Tier 2 Cooling-off Period**

If a Tier 2 visa holder is unable to return to the United Kingdom before his or her visa is due to expire, the holder may be caught by the cooling-off period, which will prevent him or her from returning to the United Kingdom on a Tier 2 visa for 12 months. Employers therefore may want to be mindful of Tier 2 visa holders who are currently stranded abroad, or requests from Tier 2 migrants who wish to return to their home country or to travel to another country and work remotely.

The cooling-off period does not apply for migrants who:

- are applying for a Tier 2 General visa and whose salary is above £159,600;
- are applying for a Tier 2 Intra-company Transfer visa and their salary is above £120,000; or
- have an original certificate of sponsorship that was granted for three months or less.

## **9. Tier 2 Sponsor Licence Holders**

Employers holding a Tier 2 sponsor licence have specific reporting and record-keeping duties in relation to sponsored employees. The spread of COVID-19 and the restrictions on travel as a result could have implications for complying with sponsor licence duties. For example, delays to start dates and changes in work location would usually have to be reported on the UK visa sponsor management system (SMS) within 10 working days. The impact of COVID-19 on the economy may also mean that sponsors might have to cut salaries or place employees on unpaid leave. Again, these are changes in circumstances that the sponsor would usually have to report on the SMS in relation to Tier 2 workers.

On 3 April 2020, the government announced that employers can reduce a sponsored worker's pay to 80 percent of the worker's salary or £2,500 per month, whichever is lower. However, any changes must be part of a company-wide policy to avoid redundancies in which all workers are treated the same. This applies even where the Standard Occupational Classification code minimum salary is higher than £30,000 (or other applicable general minimum threshold). The reduction is permitted only as a temporary measure and, once the relevant policy has ended, the salary must return to the previous rate in accordance with the CoS. SMS reports must be submitted to notify the Home Office of all salary changes. In certain circumstances, employers may have to consider terminating the employment of sponsored workers in light of the economic downturn, which will again trigger reporting requirements for the sponsor and will have immigration implications for individuals.

Sponsors are required to report changes in circumstances as normal, including any changes to their key personnel. Under the current Home Office guidance, a Tier 2 migrant can only delay his or her start date by up to 28 days once the visa has been granted. At the current time, due to travel restrictions, sponsors may have workers who are unable to enter the United Kingdom to start work; therefore, their work start date will be delayed. Any delay to start dates must be reported on the SMS. If it seems as though a start date will be delayed more than 28 days, sponsors may want to contact the Home Office.

The Home Office has confirmed that a Tier 2 employee working from home temporarily in this circumstance is not a change of work address requiring an SMS report. However, sponsors may want to continue to report any other changes, for example, if a sponsored employee is working out of another office abroad, or continues to work from home either in the United Kingdom or abroad in circumstances that are no longer related to COVID-19 restrictions. In normal circumstances, a Tier 2 worker cannot take unpaid leave of four weeks or more per calendar year. However, the Home Office has published a concession allowing unpaid absences from work due to the COVID-19 outbreak.

A CoS must be assigned within three months. Once assigned, it must be used within three months. If either of these deadlines are missed, the CoS will become invalid and a new CoS will be required. However, where the CoS expired because the applicant was unable to travel due to the COVID-19 pandemic, it may still be accepted by the Home Office. Employers or sponsors may want to submit the details to the Coronavirus Immigration Help Centre at [CIH@homeoffice.gov.uk](mailto:CIH@homeoffice.gov.uk) where decisions can be made on a case-by-case basis.

## 10. Right to Work Checks

A conventional right to work (RTW) check may not be possible while social distancing measures apply. An RTW check would usually involve an employee of the employer meeting with a new starter or an existing employee in-person to check the employee's documents. Under the government's existing guidance, employers must still conduct RTW checks even if they are not able to meet with individuals face-to-face.

The government is [providing leniency](#) around how RTW checks are done during the COVID-19 pandemic.

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