

Appendix A

SPONSORSHIP POLICY

Draft (March 2024)

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Scope

This policy applies to all staff both prospective and existing at Manchester City Council and sets out how the Council will comply with immigration requirements, including how sponsorship will be dealt with in the context of recruiting and selecting to vacant roles and where existing employees need to apply for extensions of stay or indefinite leave to remain. The legal framework that sets out eligibility to work in the UK is determined by the Home Office. In addition to the legal framework this policy sets out the principles under which the Council will offer sponsorship.

Purpose

The purpose of this policy is to set out the approach and specific criteria that determine when sponsorship is appropriate to enable consistent decision making with regard to sponsorship of new and existing employees across the Council and to ensure that we have a fair recruitment process. This is important because the number of employees within Manchester City Council who were, for immigration purposes, sponsored to work, has risen significantly over the last 12-24 months. There is a cost to the Council and a set of administrative responsibilities arising from the sponsorship of employees, and it is now common for the Council to receive many applications for a role from candidates who would require such sponsorship.

Terms and definitions

3.1 Eligibility to work in the UK

The Council is legally responsible for ensuring that every employee, including casual workers, is properly entitled to work in the Council. Assumptions about a person's right to work in the UK should not be made on the basis of their background, appearance, accent or name.

Non-British and Irish citizens need a visa to work in the UK. If they do not have the right to work in the UK in their own right, and depending on the nature of the role, it may be possible for the Council to issue a Certificate of Sponsorship to support their application for a visa, however this is by no means guaranteed and will be subject to meeting both the Home Office requirements and the Council's principles determining when to offer sponsorship as set out under section 5 of this policy.

An applicant who is applying for permission to stay must be in the UK on the date of application and must not have, or have last been granted, permission as a Visitor a Short-term student, a Parent of a Child Student a Seasonal Worker a Domestic Worker in a Private Household or outside the Immigration Rules. In addition, it is not possible for somebody without current permission to stay in the UK to switch immigration status within the country. This situation may arise in respect of people awaiting the outcome of asylum applications, seeking humanitarian protection in the UK or otherwise without status whilst UK Visas and Immigration consider their circumstances. It is particularly important that the Council identifies the immigration status of candidates and whether it is possible for them to switch immigration status within the UK or not.

3.2 Certificate of sponsorship

The Council is licensed to provide a Certificate of Sponsorship (CoS) which demonstrates that an individual has a firm offer of appropriate employment and as such supports an individual's visa application (but does not guarantee its approval and does not give the individual the right to work in the UK).

The CoS is not a paper certificate or document, but a virtual document with a reference number, issued by UK Visas and Immigration (UKVI) and provided to the individual via the Compliance team within HROD&T.

Sponsorship in each case provides the Council with an obligation to make specific payments and comply with a set of Government administrative requirements

A CoS assigned to an individual based overseas is classed as 'Defined' and needs to be requested from UKVI via their online system. If successful, they are usually granted within a day or two.

A CoS assigned to an individual currently in the UK is classed as 'Undefined'. An allocation of these types of CoS are granted to the Council on an annual basis. In theory this limits the number of CoS that the Council can offer, however an increase in the number of CoS allocation can be requested via the Sponsorship Management System if a detailed explanation of why it is required is provided.

3.3 Visas

There are many types of visa route available and both job applicants and existing staff who require a change or extension of an existing visa, or dependent visa, are recommended to check their personal eligibility. All provisions are subject to review in accordance with Government policy or changes.

The various types of visas are set out in table 1 below which also indicates the Council's approach to sponsorship in respect of new or existing employees. Sponsorship will only apply if in table listed below

In line with the key principle of skilled worker sponsorship aimed at supporting with recruitment and retention, the Director of HRODT (Human Resources, Organisation Development & Transformation) can use their discretion to make decisions relating to roles contained within Table 1, that may be outside of the approach or timescales outlined within the policy, this will be subject to a robust business case submitted by service.

Type of visa held	MCC approach to sponsorship
Student visa	<p>New or existing employees with student visas will normally be expected to switch to a Graduate visa if they have successfully completed their course of study and can provide evidence of completion. The conditions for this are either:</p> <ul style="list-style-type: none"> • The student must be studying a full-time course of study at degree level or above and the start date of their employment occurs no earlier than the course completion date. (A copy of their CAS will be required to confirm the course completion date). or • The student must be studying a full-time course of study leading to an award of a PHD and the start date of their employment is no earlier than 24 months after the start date. <p>The only exception to this is Social Worker roles (and specific roles approved by the Director of HROD&T) where, for both attraction and retention purposes, the Council will normally offer sponsorship (for Health and Care/Skilled worker visa) to individuals with an existing student visa, i.e., they do not have to apply for a Graduate visa themselves. Sponsorship will normally be for 5 years and is always subject to an appropriate business case being provided using the pro-forma at appendix 1.</p>
Graduate visa	<p>Graduate visas last for 2 years and cannot be extended after they expire. The Council will therefore normally consider sponsoring new or existing employees for 5 years once their Graduate visa has expired if they meet the eligibility criteria, <i>and</i> the role is included in the list of roles in table 2 section 5.3.</p> <p>This is subject to an appropriate business case being provided using the pro-forma at appendix 1. Where the role is not listed in table 2 section 5.3 exceptions for existing employees may be approved subject to an appropriate business case.</p> <p>This may be subject to review at a later date as per Govt policy ***Note: This approach is subject to review in accordance with the proposed upcoming changes by the government in relation to the graduate and dependent visa holders. The changes to the student dependent rules which were introduced in January 2024 will mean dependants of postgraduate students are no longer able to qualify for visas to stay in the UK. That will have an impact on graduate dependent visas in the longer term</p>

<p>Currently sponsored by MCC for 3-year period – either Health and Care or Skilled Worker visa</p>	<p>Historically it has been MCC’s position to offer sponsorship for a 3-year period initially, primarily on the basis of cost. Given that we will now normally sponsor for a 5-year period, where the visa of an existing employee expires after 3 years the Council will normally offer sponsorship for a further 2-year period. This will always be subject to an appropriate business case being provided using the pro-forma at appendix 1.</p>
<p>Dependant visa- Changing immigration category There are different types of Dependant visa categories and some employees will be eligible for a visa based on the immigration category of their relatives. A dependent visa allows a family member (partner or children) to remain in the UK as a dependent of the main visa holder. Dependent visa in the UK is linked with specific visa categories, such as spouse visas, civil partner visas, student visas, graduate visas, work visas etc. People on dependent visas can work full-time in the UK without any restrictions.</p> <p>See below for further details:</p>	
<p>New or existing dependent visa holders linked to student visas</p>	<p>Employees will be advised to extend their visa with the main sponsor, for example their partner pursues the graduate visa route and they become a dependent on that visa. Sponsorship will not be offered because there are other options open to the employee.</p>
<p>New or existing dependent visa holder linked to a graduate visa</p>	<p>Employees will be advised to extend their visas based on the main sponsor visa status. If this is not possible, and the employee can provide written evidence (e.g., partner has been made redundant) the Council will normally consider offering sponsorship – normally for 5 years. This is subject to an appropriate business case being provided using the pro-forma at appendix 1. We would sponsor if working in a role in table below, subject to a business case.</p> <p>This may be subject to review at a later date as per Government policy ***Note: This approach is subject to review in accordance with the proposed upcoming changes by the government in relation to the graduate and dependent visa holders. The changes to the student dependent rules which were introduced in January 2024 will mean dependants of postgraduate students are no longer able to qualify for visas to stay in the UK. That will have an impact on graduate dependent visas in the longer term</p>
<p>New or existing dependent visa holders linked to categories other than student or graduate visa</p>	<p>Employees will be advised to extend their visas based on the main sponsor visa status. Sponsorship will not be offered because there are other options open to the employee.</p>

Sponsorship visa with another organisation	A new sponsorship visa is required if a person is changing jobs, and the new job is with a different employer. It is also required if the job changes to a different occupation code (e.g., with the same employer) and they are not in a graduate training programme or if the person leaves a job that is on the shortage occupation list for a job that is not on the list. In these circumstances the Council will normally offer sponsorship as there are no other options open when changing jobs to a different employer or occupation code. This is subject to an appropriate business case being provided using the pro-forma at appendix 1.
Other visas	Will need to be considered on a case-by-case basis, unlikely to require sponsorship

4. Non-compliance

Penalties for non-compliance with the legal requirements are potentially severe, and include:

- On-the-spot fines for each employee without permission to work
- Prison sentences for employers if employees are employed knowingly
- Downgrading or withdrawal of our sponsor licence, with the potential consequence that all sponsored employees would have to leave the Council and the UK.

Importantly, since all Council Directorates are housed under one sponsor licence, non-compliance from just one area could mean consequences for the entire Council.

The government’s UK Visas & Immigration department undertakes visits to check compliance with the relevant legislation, policies and regulations. These visits can be unannounced.

To keep the Council compliant, we need to do the following:

- Be aware of our individual roles and responsibilities
- Conduct right to work checks for all employees
- Follow this policy in relation to sponsoring non-British/Irish workers and our responsibilities in relation to recruitment, reporting, and record-keeping.

5. Circumstances in which the Council would consider sponsorship

5.1 Legal eligibility criteria

These are set out by the Home Office, and need to be met before the Council could consider sponsorship, as follows:

- The role requires skill deemed equivalent to Level 3 of the Regulated Qualifications Framework in the UK, which is at the level of A level, access to higher education diploma or advanced apprenticeship
- The role must be on the list of eligible occupations as set out by Home Office

- The role should pay a salary of at least £26,200 in most cases. The minimum salary threshold will increase to increase to £38,700 from April 4, 2024. This is exempt for roles that qualify under the Health and Care visa route.
- The “going rate for the job,” as defined by the Government, is also being paid; and
- There is a genuine need for the role to be undertaken in the UK.

5.2 Council factors to be applied

Where the eligibility criteria are met the Council’s approach as to whether to offer sponsorship (subject to approval by the Home Office) is then dependant on a number of factors including

- the role to which the applicant/employee is being appointed/currently fulfils
- the type of visa currently held (see table 1 above)
- the cost to the Council and
- whether there are other options available to the applicant/employee, irrespective of cost to them – normally where there are other options available applicants/employees will be expected to pursue these options

Any decisions to sponsor individuals will be based on a business case and not on the level of cost to the applicant/employee, or other personal factors. Where appropriate, applicants/employees will be required to provide relevant and genuine written evidence to support sponsorship applications.

5.3 Roles for which the Council normally offers sponsorship

The Council has identified a small number of roles where it is considered appropriate to offer sponsorship where this is required to enable the applicant/employee to carry out the role. These roles are set out in table 2 below. The roles come under the Standard Occupational Classification codes provided by UK Visas and Immigration and elucidated on by the Office for National Statistics. The main rationale for identifying these roles is essentially because there is traditionally difficulty in recruiting to the roles. The other factors listed above should also be taken into consideration

This applies to both new and existing roles however for existing employees who require a change or extension of their current visa, there may be different considerations to consider (see existing employees' section 6).

Additional roles may be added from time to time where there is clear justification, e.g. difficult to recruit to, subject to the approval of the Director of HROD&T.

Appointments should be made in line with existing pay policy and appointments should not be escalated to top of grade for purposes of getting sponsorship.

SOC	Role	Salary Required (by UK Visas & Immigration)
2461	Social Worker (Adults and Children)	Grade 6 and above NHS Agenda for Change- SW with less than 3 years' work experience- £33,546 (35hrs pw)

2314 & 2312	Primary & Secondary education teaching professionals and Further Education Teaching Professionals (MAES Teaching roles)	Teachers National Pay Scales English FE Pay Scales Unqualified Lecturers- £23,200 Qualified Lecturers- £27,786
2133-2139 inclusive	Specialist IT roles	From £37,240

5.4 Business case

In each case where sponsorship is being considered a business case using the pro-forma at appendix A should be produced. This is to maintain the robustness of the process, ensure adherence to the policy and to provide evidence for record-keeping purposes.

Under no circumstances should commitments, guarantees or indications relating to sponsorship be given to prospective or existing employees until the business case has been approved by the Director of HROD&T. Applies to existing and prospective employees.

In addition to confirming the role the business case should address the following points, where appropriate -

- Is there traditionally a difficulty in recruiting in this role?
- Does the role require a specific type of experience which resident candidates are unlikely to have?
- Is value added by candidates requiring sponsorship in respect of prior knowledge or work experience?
- Is there a strategic benefit served by keeping an employee in position (e.g. graduate visa expires therefore requires sponsorship).
- Is a graduate visa due to expire, and therefore the employee requires sponsorship?
- Is there likely to be a significant gap in service delivery if the employee is not sponsored?
- Can the role be advertised as an apprenticeship to attract Manchester residents?
- Has the employee completed their probationary period and is performing at a satisfactory level in the position?
- The employee has no significant performance issues in their role.

If one or more of these factors applies, the consideration should also be balanced against the following risk factors:

- Any potential challenge in meeting the administrative requirements of sponsorship
- The likelihood of a large number of applications if sponsorship was considered appropriate, which may be disproportionate.

Having made the assessment, the business case regarding sponsorship should be provided to the Resourcing Team.

Roles other than those set out in the table above may be approved on an *exceptional* basis by the Director of HROD&T (or the Strategic Head of HR on their behalf). In each case a business case will be required that sets out the rationale taking into consideration the points set out above.

5.5 Rationale for declining to sponsor

There are a series of reasons why the Council may wish to decline the sponsorship of a prospective or existing employee in addition to it not being one of the roles identified above. Some common examples of reasons to choose not to sponsor include the following:

- An assessment of the costs and benefits of such sponsorship. It may be that, in view of the number of applications that have been received, the quality of other candidates, the skill and shortage of the relevant role and the benefits the candidates seeking sponsorship may offer, the cost of the sponsorship is disproportionate to its benefit. Note that cost alone is not a justifiable reason to decline a request.
- It may be that the candidate's performance whilst holding a different visa does not justify sponsorship. This would be relevant in respect of those already working at the Council with limited leave to remain (such as the graduate visa) who may seek sponsorship prior to the conclusion of this.
- An assessment of shortage in the relevant skill sector.
- The urgency of the vacancy and whether it would in fact be possible for an overseas candidate to acquire the necessary permission to work in sufficient time.
- The length or duration of the contract and the assessment of the eligibility for sponsorship.
- Any wider Council considerations as in place from time to time relating to the recruitment and/or development of staff.

6. Existing employees

There are likely to be situations in which those with existing visas seek the Council's sponsorship. Consideration to this should be given on a case-by-case basis and in line with the approach set out in this policy, i.e., the legal eligibility requirements, the type of visa currently held (see table 1), the type of role (see table 2) and the costs to the Council. The Council may decide to sponsor existing employees, even if they are not employed in one of the roles set out in table 2, if the business case demonstrates that they meet other criteria.

In terms of timings of extensions or changes to existing visas, the Council will write to employees 2 months prior to the existing visa's end date. Note that an application to the Home Office to extend a visa cannot be submitted more than 3 months in advance and the Council is not able to supply a CoS more than 3 months in advance. The Council will not agree to requests from existing staff to review their existing visas due to new charges or changes prior to the end date. As indicated previously any decision to sponsor individuals will be based on a business case and not on the level of cost/affordability to the employee, or other personal factors.

Existing employees with a skilled worker visa are eligible to apply for Indefinite Leave to Remain after 5 years working in the UK, although it is their responsibility to check the Home Office guidance for full information.

7. Recruitment and Selection to vacant posts

The Council has a wider set of legal obligations in respect of employment law to conduct non-discriminatory recruitment.

Adverts will include the following statement:

What we will need from you if you're successful:

This will apply to all successful candidates.

- **Passport/ID:** You will be required to provide documentary proof of your right to work in the UK – **please note that visa sponsorship is not guaranteed for this role**
- **Qualifications:**
- **Proof of Manchester residency (grades 1-3)**
- **BPSS Clearance (as applicable)**

The Council's application process incorporates questions which determine if a candidate has the right to work in the UK or requires permission to do so and whether sponsorship would be necessary for this to be obtained. Where candidates confirm that they already have the right to work in the UK but are unable to provide documented proof of this they are not able to progress their application.

Where candidates confirm that they do not currently have the right to work in the UK, if they indicate either that they can acquire a right to work permit or that they require sponsorship they are then asked to describe their situation. The candidate is then allowed to proceed with their application. The response to this question is only visible to the manager if the candidate record progresses to the interview stage.

Candidates must not be rejected on the grounds that they do not hold the right to work in the UK at the shortlisting stage. Case law has established that this could amount to indirect discrimination on the grounds of national origin as those currently without right to work may be able to obtain it through a variety of means.

Recruiting managers should therefore follow the normal recruitment and selection procedures and produce a shortlist by assessing all candidates against the key criteria in the role profile and then carry out a selection process. The right to work should only be considered after the selection process has been completed and a successful candidate has been identified.

8. Offers of employment

All successful candidates will receive, in the first instance, a conditional offer of employment. This will require the successful candidate to provide evidence of the right to work in addition to a number of other requirements.

Once receipt of the required evidence has been received a final offer and statement of particulars will be provided. This will contain the following wording:

Limited leave to remain

This post is offered with the knowledge and understanding of both parties that your current right to work in the U.K is limited to **[remain date]** as per your 'legal right to remain' status affirmed by the UK Visas & Immigration in a 'positive verification notice'/share code verification. In accordance with the Asylum and Immigration Act, 1996 and to comply with the law you will be required to submit documentary evidence of your continuing legal right to work in the U.K status prior to **[remain date]** or earlier/later if this right changes. Failure to provide the necessary documentation may result in your dismissal from employment with the City Council. Please note that this offer of employment does not attract any guarantee of a visa sponsorship.

9. Roles and responsibilities

The structure set out below is in place to ensure compliance with immigration rules and the sponsorship management system, as required by the Home Office.

Authorising Officer – Strategic Head of HR

- Has oversight of the Council's Immigration Policy and is able to enforce the policy and ensure the appropriate administrative arrangements are in place.
- Oversees business cases making final recommendation to the Director of HROD&T

Key Contact – HR Operations Manager

- Has expertise in immigration law and has access to suitable resources to develop and maintain expertise, receive training, and cascade this to other members of the team.
- Ensure that the key personnel and licence details are up to date.
- Be aware of the sponsor's duties and responsibilities regarding sponsored worker(s) record-keeping, monitoring, and reporting.
- Be alert to instances when Level 1 and/or Level 2 users must be contacted to report relevant matters. For example, the person in charge of managing the Sponsor Management System (SMS) should be informed of any proposed changes to a sponsored worker's employment or personal circumstances (including changes to salaries, absences etc).

Level 1 – Team Leaders

- Day to day management of the sponsorship licence.
- Viewing information and updates about the sponsorship license and notifying the UK Visas and Immigration (UKVI) of changes in the organisation.
- Carrying out sponsorship activities such as assigning and withdrawing Certificates of Sponsorship (CoS).
- Requesting for additional allocation of certificates.
- Reporting changes in the circumstances of sponsored workers.
- Processing additional users for the same level and adding or removing Level 2 Users.
- Reviewing, renewing and tracking sponsorship licence applications.

Level 2 – HR Officer Level 2 (Sponsorship)

- Create and assign certificate of sponsorship (CoS) to workers
- Submit reports on workers created or for workers where the CoS has been transferred to them by a Level 1 user.

Other roles

Recruiting Manager/Service

- Determine in each situation whether sponsorship is possible or not with those decisions made with reference to this policy
- Complete business case providing as much information as possible to justify the request to sponsor
- Be aware of the immigration status of the non-British /Irish staff employees, ensuring that they make applications for an extension of their visas in a timely manner
- Be aware of changes that need to be reported for sponsored workers and report the changes immediately on SAP and to the Resourcing Team

HR Business Partners

- Review and comment on business cases provided by managers

Director of HROD&T

- Act as final approver of business cases requesting sponsorship
- Approve additional roles as required

Employees/prospective employees

- Complete the declaration form
- Take ownership of own immigration status, including reading any communications from the Home Office and the Council
- Ask questions if uncertain about any aspect of the process
- Provide additional information when requested by the Council

10. Costs

Details of employer and employee costs are set out in the tables below.

An employer with a sponsorship licence must pay fees upfront to sponsor a worker. Each time a new Certificate of Sponsorship (Cos) is issued the Council must therefore pay the Certificate of Sponsorship (CoS) fee and Immigration skills charge (ISC).

The Immigration Skills Charge is paid by a sponsoring organisation when a Certificate of Sponsorship is issued to a worker. The fee is intended to provide additional funding to the Department of Education for training and resources to fill existing skills gaps in the UK labour market.

In summary, the cost of the application process will be borne by the relevant service in the Council including the fees for the Certificate of Sponsorship and Immigration Skills Charge. Fees in respect of the visa application, Biometric fee and Immigration Health Surcharge will be paid by the employee.

The Council will not pay application fees relating to the dependents of an individual acquiring permission to work in the UK. The only exception to this shall be where a member of the Executive Leadership Team has specifically authorised such payment on an exceptional basis and provision to claw back the costs is set up and confirmed in writing.

10.1 Employer costs

The longest the Council can sponsor a worker for is 5 years and the application fee depends on the type and duration of the visa. The employer fee must be paid by the employer, not the worker.

The below costs are accurate as of March 2024 and may be subject to UKVI changes.

Mandatory employer costs	Amount
Certificate of Sponsorship (CoS)	£239
Immigration Skills Charge	£1000 for each 12 months

Type (Skilled Worker Visa)	Employer Costs
CoS and Immigration Skills Charge – initial 3 years	£3,239
CoS and Immigration Skills Charge for the subsequent 2 years (if the cost remains the same after the initial 3 years)	£2,239
CoS and Immigration Skills Charge – 5 years	£5,239
Student Visa to Skilled Worker Sponsorship category CoS and Immigration Skills Charge – 3 or 5 years	£239

10.2 Employee Costs

The employee needs to pay for their visa application. The fee paid to the Home Office by the employee varies and is dependent on the type of application, duration of the visa and whether it is made from within or outside the UK.

The breakdown of costs to the employee applying from within the UK is as follows:

Employee Costs- Skilled Worker Visa	
Type	Employee cost
Skilled Worker (not on shortage occupation list) – 3years	Application fee- £827 Health surcharge- £1035 X 3 Biometric fee- £19.20 Total- £3,951.20

Skilled Worker (not on shortage occupation list) – 5 years)	Application fee- £1500 Health surcharge- £1035 X 5 Biometric fee- £19.20 Total- £6,694.20
Skilled Worker (on shortage occupation list) – 3 years)	Application fee- £551 Health surcharge- £1035 X 3 Biometric fee- £19.20 Total- £3,675.20
Skilled Worker (on shortage occupation list) – 5 years)	Application fee- £1084 Health surcharge- £1035 X 5 Biometric fee- £19.20 Total- £6,278.20

Employee Costs- Health and Care Visa		
Type	Employee Cost	Total Costs
Health and Care Visa- 3 years	Application fee- £232 Biometric fee- £19.20	£251.20
Health and Care Visa- 5 years	Application fee- £464 Biometric fee- £19.20	£483.20

11. Appeals

In the event of any challenge by a candidate/employee to a decision not to sponsor, an appeal may be considered and this will take the form of a desktop review. The individual will need to set out the grounds for appeal to their line manager through the Compliance Team in the first instance, which will be sent for consideration to the Director of HROD&T. The appeal officer will examine the case with reference to the relevant business case and this policy.

Appeals will be considered within 20 working days of receipt and outcomes will be provided within 5 working days of the appeal.

Appendix 1

Sponsorship Business Case

Name of Employee	
Job Title	
Personnel No	
<u>Skilled Worker Eligible Occupation</u> <u>Category code</u>	
Does the request qualify for a Transitional or New Entrant arrangement?	
Existing visa – type and expiry date	
Grade/ Salary (include any flexibility payment which is part of the annual salary)	
Contract- (Permanent/ Temporary)	
Hours of Work	
Type of visa/ Number of years requested	
Business case (please address points under 2 above)	
I confirm that the current employee has completed their probationary period and is performing at a satisfactory level in the position	
I confirm that the employee has no significant performance issues in their role as stated above	

The service wishes to proceed with the sponsorship visa and cover the associated fees for obtaining the certificate of sponsorship.

Cost Centre number	
Manager Name	
Manager Signature & Date	
Head of Service Name	
Head of Service Signature & Date	

Recommendation by HRBP

Name: Signature: Date:

Recommendation/approval by Strategic Head of Human Resources

Name: Signature: Date:
Approved by Director of HROD&T: Yes / No (delete as appropriate)
Signature:
Date: