

Sponsor Licenses for Baptist Churches

This leaflet has been prepared by Anthony Collins to give information and guidance for Baptist churches around sponsoring either a Minister of Religion or a Religious Worker.

SPONSOR LICENCES FOR BAPTIST CHURCHES

SPONSORING A MINISTER OF RELIGION OR RELIGIOUS WORKER

This guidance note has been prepared for the Baptist Union of Great Britain by Anthony Collins LLP to provide some information and guidance for Baptist churches around sponsoring either a Minister of Religion or a Religious Worker under the different religious work routes.

This guidance outlines:

- the key differences between the religious work routes;
- an overview of sponsorship;
- who needs an employer sponsorship licence;
- the process for applying for a licence to sponsor;
- the duties placed on licence holders; and
- potential costs.

This is not intended to be legal advice and when dealing with any of the issues contained in this guidance note, we recommend that legal advice is sought directly.

What is sponsorship?

An organisation that wishes to employ a person who does not have the right to work for the employer in the UK, will need to be authorised by the Home Office to sponsor them to work. This authorisation is known as a "sponsor licence" and employers that hold a sponsor licence are known as "sponsors".

Sponsors are granted access to the UKVI's online sponsor management system (SMS) and use this system to assign a Certificate of Sponsorship (CoS) to a migrant worker in respect of a specific role.

Who needs a UKVI sponsor licence?

Any Baptist church which seeks to employ/appoint any overseas national from outside of the UK as either a Minister of Religion or a 'religious worker' will need to hold a specific sponsor licence in order to sponsor the migrant where the migrant is not a 'settled worker' or does not otherwise have immigration permission to work for the church in the UK. This includes most EU, EEA and Swiss nationals who arrived in the UK after 31 December 2020.

A Baptist church does not have to sponsor certain categories of worker, including Irish citizens (with very limited exceptions), people who have been granted status under the EU Settlement Scheme or people with indefinite leave to remain in the UK (also known as 'settlement').

The specific Home Office department responsible for sponsorship licences is UK Visas and Immigration (UKVI).

Rejection and refusal rates for sponsor licence applications are high so it is important to ensure that you get the application right and include all the requisite information. If a licence is granted, sponsors will be subject to a strict compliance regime and must ensure they have proper systems in place, on an on-going basis, to discharge their duties as a sponsor licence holder, or else risk enforcement action by UKVI.

If a Baptist church is considering applying for a sponsorship licence, it is important to understand how sponsorship works along with the guidance that you are expected to be familiar with. There are detailed guides which relate specifically to the sponsor licence application process and the documents you are required to retain as part of your record keeping duties. We refer to duties placed on sponsor licence holders below.

RELIGIOUS WORK ROUTES: THE KEY DIFFERENCES

The types of roles that are eligible for sponsorship on the Minister of Religion and Religious Worker routes and the key differences are as follows:

Minister of Religion

The Minister of Religion route is for the recruitment of a person who has a key leading role within a faith-based organisation or religious order in the UK such as a minister of religion, a missionary, or a member of a religious order. It replaced the Tier 2 Minister of Religion category on 1 December 2020.

It is primarily for individuals such as ministers who are coming to the UK to undertake preaching or pastoral work. It can also include other religious workers in mainly pastoral roles.

Baptist churches should not use this route to sponsor people who will undertake mainly non-pastoral duties unless the role is a senior position within your organisation (such as a financial controller). Other roles, including those which are mainly administrative should be sponsored on another suitable route.

- **Eligible employment:** pastoral
- **Maximum stay:** Ministers of Religion can be granted an initial visa for three years, extendable to up to/sponsored for up to six years and may be eligible to apply for indefinite leave to remain after accruing five years continuous residence on this route. Sponsorship under this route offers a path to permanent settlement in the UK.

- **Resident labour consideration?** None. There is no longer any need to carry out a resident labour consideration or equivalent (formerly known as the 'resident labour market test'). This makes it much easier to recruit a Minister of Religion from abroad than previously. However, if you sponsored a worker under the Tier 2 (Minister of Religion) route in place before 1 December 2020, you must be able to show that you carried out a resident labour market test as required by the immigration rules then in force. If you recruited a Tier 2 (Minister of Religion) without carrying out a resident labour market test (where required), UKVI will revoke your sponsor licence.
- **English language:** Applicants must meet an English language requirement.
- **Switching/changing immigration category:** Applicants in the UK on another immigration route can switch to Minister of Religion category (with certain exceptions).
- **Cooling - off period:** None. There is no need for a migrant that has been in the UK with permission as a minister of religion to have to wait any period of time from their visa expiring before they can apply to re-enter the UK as a Minister of Religion.

Religious Worker

In contrast, the Religious Worker route is for people coming to the UK for a temporary period to support the activities of a religious institution which would include a Baptist church. The role must involve performing religious duties within, or directed by the sponsoring Baptist church and may include non-pastoral placements. The Religious Worker route was known as the T5 (Temporary Worker) Religious Worker route before 11 October 2021. Baptist churches should take note that this route cannot be used to sponsor Ministers of Religion.

- **Eligible employment:** Pastoral or non-pastoral;
- **Maximum stay:** 2 years with no option of settlement.
- **Resident labour consideration?** Yes. Unless an exemption applies, you must check whether the role could be carried out by a suitably qualified 'settled worker' before you can offer it to a sponsored worker. You can only hire an overseas migrant if the position cannot be filled by a suitable 'settled worker'. Settled workers include UK nationals, people who have been granted status under the EU settlement Scheme or people with indefinite leave to remain in the UK (also known as 'settlement').
- **English language:** Applicants do not have to meet an English language requirement.
- **Switching/changing immigration category:** In-country switching is not permitted. The migrant cannot 'switch' from the Religious Worker route into the Minister of Religion category after two years and will generally be expected to return home. The Religious Worker route is therefore only of use to non-ministers coming to work for a church on a short-term basis.

- **Cooling - off period:** Any migrant that has been in the UK with permission on either the Religious Worker or a Charity Worker routes (including their predecessor routes) will have to wait 12 months from their visa expiring (or the date, they last left the UK, if earlier) before they can apply to re-enter the UK as a Religious Worker.

As you can see it is important that you understand what is possible under each route before you decide to apply for an employer sponsorship licence. You can, and many Baptist churches do, apply for licences under both categories.

It is worth also noting that for both routes, there is a **financial requirement:** If the applicant is applying for entry clearance from outside the UK or has been in the UK for less than one year at the date of application, they must show they have enough funds to support themselves and any family members in the UK. For a Religious Worker, they must have funds of at least £1,270 (and have held them for 28 days in accordance with the Finance Appendix); or the sponsoring Baptist church must confirm on the Certificate of Sponsorship that they will, if necessary, maintain and accommodate the applicant up to the end of the first month of their employment for an amount of at least £1,270.

SPONSORSHIP PROCESS OVERVIEW

Resident labour consideration (formerly known as “the resident labour market test”) required for a Religious Worker

As mentioned above you can only hire an overseas migrant as a Religious Worker if the position cannot be filled by a suitable ‘settled worker’ as defined and explained above.

UKVI guidance is clear that this principal applies to churches:

‘Although not all religious occupations are ‘jobs’ in the traditional sense, this does not mean that the test does not apply. Any migrant you sponsor must not displace a suitable settled worker.’

Unless the job is exempt from the resident labour consideration, you must carry out a national recruitment search and advertise the job you want to recruit for or conduct a search of national records you hold to give settled workers a chance to apply.

You do not have to undertake a resident labour consideration to sponsor a Religious Worker in the following circumstances:

- (a) the role is supernumerary. This means that it is over and above your normal staffing requirements and if the person filling the role was not there, it would not need to be filled by anyone else. An example would be where the worker offers pastoral support to members of a church community as part of their own development, but the work would stop if they were not there, and you wouldn’t replace them;
- (b) the worker will mainly be living within and be a member of a religious order - for example an order of nuns or monks; or
- (c) the worker is applying for permission to stay from within the UK and you:

- assigned the Certificate of Sponsorship which resulted in their last grant of permission; and
- will continue to sponsor them in their current application.

When you assign a Certificate of Sponsorship, you must fully explain why it is exempt by adding a sponsor note. It is not enough to simply say the role is supernumerary. You must explain why.

If the role does not fall within any of the above exemptions, your church must carry out a resident labour consideration and either you must carry out a national recruitment search and advertise the job you want to recruit for or conduct a search of national records you hold to give settled workers a chance to apply.

You will need to consult [Appendix D](#) and the relevant sections of the general guidance to understand exactly how the resident labour consideration must be conducted, and which documents must be retained to evidence that you have carried out the resident labour consideration, but some key requirements are that you must:

- advertise the job for at least 28 days.
- advertise in a national medium which is appropriate to your own denomination, for example, the Pastoral Vacancy List on The Baptist Union of Great Britain.
- alternatively, you can advertise on you own website but only if this is how you normally reach out to your community on a national scale and is where you normally advertise vacant positions (it seems unlikely that an individual church's website will fit this criteria).

If a suitable settled worker applies for, or is available for the job, you must offer them the job before you can appoint a migrant worker. A suitable settled worker means any settled worker who has the skills and experience you are seeking. If you find that you have more than one candidate with all the necessary skills and experience you advertised for, where one is a settled worker and the other is a migrant worker, you must appoint the settled worker, even if the migrant worker is more skilled or experienced.

If no suitable settled worker applies or is available, or if they do not take up the job offer with you, you can appoint a suitably qualified migrant worker to the role.

You must retain evidence that you have carried out a resident labour consideration. Familiarise yourself with [Appendix D](#) to the sponsor guidance for further information on evidence to keep for that and any search of national records done. Among other evidence, your church should keep:

- a copy of each job advertisement you placed /vacancy reference numbers.
- 'screenshots' of the website hosting the advert. These must be taken on the date the advert goes live.
- a record of interview notes which state the reason why a settled worker was not selected.

The sponsoring Baptist church must ensure the role meets all the following requirements:

- (a) the role must involve performing religious duties within, or directed by your organisation to support the activities of our Baptist church; and
- (b) the religious duties must not include work which falls under a role of a Minister of Religion (which means the applicant must not have core duties of leading a congregation in performing the rites and rituals of the faith and in preaching the essentials of the creed).

UKVI will revoke your sponsor licence if it finds out that you have sponsored a Religious Worker without first carrying out a resident labour consideration (where required) in accordance with the Immigration Rules and this guidance.

Resident labour market consideration (formerly known as “the resident labour market test”) – no longer required for a Minister of Religion

When you assign a Certificate of Sponsorship (CoS) to a Minister of Religion, you will be asked to confirm that you have carried out a resident labour market test and to provide details of how you met this requirement. Although the test no longer applies for Ministers of Religion, you must tick the box to say you have carried out the test, otherwise you will not be able to submit the CoS. In the free-text box, you can either enter details of how you recruited the worker, or else state ‘RLMT not required’. You cannot leave the box blank.

Even though there is no resident labour consideration requirement for the Minister of Religion route, you must still retain information on how you recruited the worker to help UKVI establish that the role is a genuine vacancy. You must familiarise yourself with [Appendix D](#) to the sponsor guidance for details.

You must also keep an exacting record of this recruitment process on file, as part of your sponsorship duties. Be sure that, if you are inspected, evidence of the recruitment process will be one of the first ports of call by UKVI.

The fact that Baptist churches are no longer required to carry out a resident labour consideration for a minister has removed the difficulties churches faced when selecting for the role based on God’s calling to be the minister.

Certificates of sponsorship

Once you have undertaken the resident labour consideration (if applicable) then you can apply for a Certificate of Sponsorship (CoS). A CoS is a virtual document which you assign to the migrant, armed with which, the migrant can then apply for his or her visa.

It is possible to apply for a CoS *after* you have applied for a licence. However, in practice it is generally advisable to apply for a CoS at the same time that you apply for a licence. If you do not, then UKVI are likely to reject or refuse your application on the basis that you have no

apparent need for a licence. In addition, it can take a long time to obtain a CoS if you apply after you have been granted the licence.

It is important to get your application right, as if your application is refused (rather than 'rejected') this is more problematic because then there is a 'cooling off period' of six to twelve months before a new application can be made.

Applying for the licence

If applying to sponsor a Minister of Religion, there is no need to look at the resident labour consideration. However, if you are applying to sponsor a Religious Worker, it is generally advisable to apply for the licence *after* you have completed the resident labour consideration and shown that your prospective migrant employee was the only suitable candidate.

The licence itself is valid for four years and can be renewed (and must be renewed if you are sponsoring migrants at the time your licence expires, otherwise any sponsored migrants will have their visas curtailed). However, it has been announced that sponsor licences will no longer be renewable from 6 April 2024, and this applies to all licences expiring after this date. Therefore, if you apply for a licence now it is highly unlikely that you will ever be required to renew it.

[Appendix A](#) is essential reading when preparing your Minister of Religion sponsor licence application. It sets out the precise documents and information required for the application.

Please note that it is not only the requested documentation which is mandatory but also all of the information they request, particularly around the resident labour consideration (if recruiting a Religious Worker) and the nature of the organisation. So, if you fail to provide *any* of the requested information it will likely lead to a rejection.

Assigning the CoS

Once you have been allocated a CoS then you will then need to assign it to the migrant. At the point of assignment, if relevant (for a Religious Worker only) you will have to give further evidence of how you have met the resident labour consideration.

At this point you must also input the migrant's start date of employment, and this can only be changed in limited circumstances.

A company which had its sponsor licence revoked on the basis of failing to assign the CoS within six months (and therefore had to terminate the employment of its sponsored staff) sought to challenge this decision in the courts. As usual the High Court sided with UKVI, no doubt emboldening UKVI to take enforcement action on this issue where it can.

R (Sri Prathinik Consulting Limited) v Secretary of State for the Home Department [2017] EWHC 3204 (Admin)

Applying for the visa

The migrant must submit his/her visa application within three months of the CoS being assigned or else the CoS becomes invalid, and so if you miss this deadline, you could be looking at starting the whole process again, including the resident labour consideration if relevant.

The migrant can submit the visa application three months prior to his or her start date of employment (as stated when the CoS is assigned to the migrant). The migrant can come to the UK up to 14 days before the start date as stated on the CoS.

What duties are placed upon sponsor licence holders?

Sponsor licence holders must comply with a number of duties. A failure to comply with these duties could result in a sponsor licence being downgraded, suspended, or revoked. If revoked, the migrant worker's contract of service and right to work would be terminated. Therefore, it is really important that Baptist churches are familiar with their sponsorship duties and to avoid UKVI enforcement action.

UKVI monitors sponsor licence holders and may carry out a range of compliance checks in order to ensure that licence holders are complying with their duties. These checks can include:

- (a) Requesting various documents or information;
- (b) On-site visits that may be unannounced;
- (c) Digital compliance inspections;
- (d) Making checks with other government agencies; and
- (e) Considering other documents that it discovers, including allegations made by members of the public.

Reporting Duties

Sponsor licence holders must make certain reports to UKVI using the SMS. There are strict time limits for doing so. These are categorised into matters that need to be reported within 10 working days of occurring (such as where the Minister of Religion or Religious Worker does not start their role or is absent for more than 10 consecutive days without permission) and matters that need to be reported within 20 days of occurring (including a change in the organisation's name by way of example). Baptist churches should ensure that they are familiar with their reporting triggers. Guidance for sponsors on the reporting duties are set out in Part 3: Sponsor duties and compliance (Workers and Temporary Worker: guidance for sponsors) which can be found [here](#). These are updated from time to time.

Record keeping duties

Sponsor licence holders are required to retain certain documents for each worker that it sponsors. These documents can be kept in either hard copy or electronically.

The documents should be stored securely but must also be readily available if UKVI request to see any documents. A failure to produce any documents in the timeline requested by UKVI could result in it taking action, which could include the sponsor licence being downgraded, suspended, or revoked. UKVI's guidance on sponsor record keeping duties is contained in its [Appendix D](#).

Compliance with immigration and wider UK law

As well as complying with the UK immigration laws, sponsors are also required to comply with wider UK law such as employment law such as the National Minimum Wage Regulations and Working Time Regulations.

WHAT ARE THE COSTS ASSOCIATED WITH SPONSOR LICENCES?

There are various costs associated with sponsorship under the Religious Worker routes.

Application Fees

Applicants must pay a fee for applying for a sponsor licence. The application fee is £536 for small or charitable organisations. The Home Office guidance suggests the processing time for an application is up to 8 weeks. However, we do hear of some applications taking in excess of 4 months to process.

A church may be able to request an expedited review of its application. Expedited requests will be considered within 10 working days of the £500 fee being paid. The expedited service is very limited – usually, a maximum of 30 requests will be accepted each day.

Recruitment Costs

There are a number of costs that a Baptist church may be required to pay as a sponsor. Some of these costs might be payable by the worker being sponsored instead, however it is common for the sponsoring employer to offer to pay most, if not all, of these costs as the burden of paying the additional costs might otherwise be a barrier to recruitment. The costs that that an organisation might be required to pay include:

- (a) Visa costs – for Religious Workers, the application for each person applying is £298 regardless of whether you are applying from inside or outside the UK.
- (b) Visa costs – for Ministers of Religion - £719 per person for up to three years (if applying from outside the UK) or £827 per person for up to three years (if applying from within the UK).

- (c) The cost of assigning a Certificate of Sponsorship to the individual (currently £239 per Certificate that is being assigned).
- (d) The Immigration Health Surcharge (which allows use of the NHS) (depending on the type of visa being obtained) will cost £1,035 per year (as of 6 February 2024).
- (e) The English Language test which is usually around £150 if the test is required; and
- (f) The funds for the individual to meet the Home Office's financial requirements, which is currently £1,270 plus an additional £285 for a dependent partner, £315 for a dependent child and £200 for each subsequent dependent child (please note that this can only be paid by the sponsor if their licence is at least A-Rated).

The cost of applying for the employer sponsorship licence and assigning the Certificate of Sponsorship must be met by the Baptist Church. The visa and health surcharge fees are the responsibility of the migrant, although in practice these are often covered by the employer.

In respect of the English Language test, this may be required in order for the individual being sponsored as a Minister of Religion to show that they have sufficient knowledge of the English language. If the individual cannot provide evidence to show that they have sufficient knowledge of the English language, they will not be eligible for recruitment under the Minister of Religion route.

If the individual has a GCSE, A Level or an equivalent Scottish qualification that they obtained at a school in the UK that they started attending before they were 18, or if they have a degree-level academic qualification that was taught in English, then providing evidence of this will be sufficient for the individual to prove their knowledge of English and the individual will not be required to take any additional tests. If the individual cannot prove their knowledge of English, they will need to take a Secured English Language Test with an approved test provider. This usually costs around £150.

The English Language test does not need to be taken if the individual is a national of one of the following:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- The British overseas territories;
- Canada;
- Dominica;
- Grenada;
- Guyana;

- Jamaica;
- Malta;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadine;
- Trinidad and Tobago; and
- USA.

Please note that the above list may be subject to change. We would suggest checking the latest list available on the Home Office website before informing a sponsored worker that they do not need to take the English Language test.

In respect of the financial requirements, please note that an individual does not need to provide proof of funds if they have been living in the UK for 12 months or more with permission (i.e. under a visa).

This report is correct as at the date below. We recommend that Baptist churches consider the guidance or contact katherine.sinclair@anthonycollins.com or hazel.findlay@anthonyollins.com for specific advice or assistance with applying for a sponsorship licence.

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CORRECT AS AT 8 FEBRUARY 2024