

The Resident Labour Market test: Tier 2

The Resident Labour Market test (“the Test”) requires TEFAT to advertise the job you want to recruit for to give settled workers a chance to apply. You can therefore only recruit a migrant if:

- you have completed the Test and can show that no suitable settled worker is available to fill the job: or
- the job is exempt from the Test.

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, you **must** appoint the settled worker even if the migrant is more skilled. The only exception is if the job falls within one of the PhD standard occupation classification codes. These can be found by following the below link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423732/codes_of_practice_april_2015.pdf

Exceptions from the Test

You do not have to carry out the Test if:

- the migrant is already working for TEFAT and they need to extend their leave in the **same immigration category** in order to continue working for TEFAT **in the same job** (for example extending their Tier 2 visa);
- you are looking to fill a job which appears on the Tier 2 shortage occupation list. The migrant must work for a minimum of 30 hours per week in the job that appears on the list. The current list can be found by using the following link but note this list is updated so you should ensure you are using the most recent version:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486107/Shortage_Occupation_List_-_November_2015.pdf
- a migrant you want to sponsor is applying for Tier 2 (General) leave in the UK and has, or was last granted leave to enter, or stay in the UK for post study work;
- the total salary package for the job will be £155,300 or above.

If you are in any doubt about whether you should carry out the Test you must check with **[Bob Anderson]**

How to carry out the Test: Tier 2 (General)

Unless one of the above exemptions applies, all jobs must be advertised to settled workers for 28 calendar days and we will need to assign the Certificate of Sponsorship within 6 months of the date the role was first advertised. You can advertise in 2 ways:

1. advertise the vacancy for a continuous 28 calendar days period; or
2. advertise the vacancy in 2 stages, with each stage being advertised for no fewer than 7 calendar days but where both stages total a minimum of 28 calendar days.

Formulating the advert

The job advert must be in English or Welsh, and it must include:

- The job title;
 - The main duties and responsibilities of the job;
 - The location of the job;
 - An indication of the salary package or salary range or terms on offer;
 - Skills, qualifications and experience needed; and
 - The closing date for applications, unless it is part of a rolling recruitment programme.
- Please note the “expiry date” for the advert on Universal Jobmatch will not suffice - the closing date must be stated in the advert.

Note: you cannot refuse to employ a settled worker if they lack any qualifications, experience or skills not mentioned in the advert.

Advertising the role

The job must be advertised using two of the following methods. Note that an advertisement on Jobcentre plus is usually **mandatory**.

Method One: Jobcentre plus

- If the job is based in England, Wales or Scotland, it will usually need to be advertised online through the Jobcentre Plus Universal Jobmatch service. There are certain exceptions to this (e.g. certain creative sector roles; milkround recruitment; PHD level roles; where annual salary is more than £72,500 etc).
- Information about how to advertise through Jobcentre can be found here: <https://www.gov.uk/advertise-job>
- The standard job advertisement period on Universal Jobmatch is 60 days, but you can set an earlier closing date. You should ensure that the closing date is stated in the job description otherwise it will not be visible to applicants.

Note: you must keep a screenshot from the website hosting the advert, which is taken on the day the advert was first advertised. The screenshot must clearly show the logo of the government website; the full content of the advert; the Job ID number; the date; the URL (which should also contain the Job ID number); and the closing date for applications.

Method Two: National newspaper

- You can advertise the job in a national newspaper. The newspaper must be published at least once a week and marketed throughout the UK, or throughout the devolved nation in which the job is located.

Method Three: Professional journal (e.g. TES)

- You can advertise the job in a professional journal. A professional journal is one that is:
 - published for a particular field;
 - available nationally either through retail outlets or subscription;
 - published at least once a month; and
 - relevant to the job.
- Professional journals relevant to the job include relevant trade journals, official journals of a professional occupational body and relevant subject-specific publications.

Method Four: Milkround

- You can advertise the job via a milkround. A milkround is an annual recruitment programme where employers from a range of sectors visit universities to give presentations and/or interview students, usually as part of university careers fairs.
- You must visit at least three UK universities, or all UK universities which provide the relevant course, whichever is the lower number.
- If you advertise the milkround or graduate recruitment programme via one of the following websites, **and** in either a professional journal or via a national newspaper (as set out above), then you do not need to advertise it through Universal Jobmatch: www.jobs.ac.uk, www.milkround.com/, www.prospects.ac.uk/ or www.targetjobs.co.uk/

Method Five: Rolling recruitment campaigns

- These allow employers to pick out skilled individuals who might fill future, undefined vacancies.
- These are permitted but when a specific vacancy does become available, it must meet the requirements of the RLMT.

Note: all documentary evidence must show that it is a rolling recruitment exercise and must indicate the period of the recruitment exercise.

Method Six: Recruitment agency and head-hunters

- You can use an agency or head-hunter to recruit on our behalf but the recruitment exercise must meet the requirements of the RLMT.

Method Seven: Internet

- You can advertise the job online and whilst we are not restricted to specific websites, it must be one of the following:

- The website hosting the Jobcentre Plus Universal Jobmatch service;
 - An online version of a national newspaper;
 - An online version of a professional journal; or
 - A website of a prominent or professional recruitment organisation.
- As we have over 250 employees in the UK, we can also advertise the job on TEFAT's website.
 - If you advertise online, the website must not charge a subscription or any fee to look at the job advertisements or to apply for jobs via these advertisements.

Note: you must keep a screenshot from the website hosting the advert, which is taken on the day the advert was first advertised. The screenshot must clearly show the name of the website; the contents of the advert; the date and URL; and the closing date for applications.

Record keeping

- For each advertising method, you must keep the documents listed in Part 2 of [Appendix D](#) of the Home Office's guide for sponsors.
- You must retain the following documents from any recruitment process:
 - All applications short-listed for final interview in the medium they were received and which includes the applicant's name, address, DOB
 - The names and total number of applicants short listed for final interview
 - For each settled worker who was rejected, interview notes which show the reasons why they have not been employed
- All documents evidencing the resident labour market test must be kept for whichever is the shorter period of either:
 - One year from the date you end your sponsorship of the migrant, or
 - If the migrant is no longer sponsored by you, the point at which a compliance officer has examined and approved them

If you have any questions about the Test please ensure that you contact **[Bob Anderson]** before the role is advertised.

Please note, you must not offer a role to the candidate until we confirm that you may do so.