

Arts InfoPoint UK - Coffee Morning 4 April 2023

FAQs regarding UK visitor immigration rules & Temporary Work - Creative Worker Sponsorship & upcoming changes to visitor visa rules Electronic Travel Authorisations (ETAs)

Visitors

Some useful resources:

- Home Office Immigration Rules applicable to visitors: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-v-visitor>
- Immigration Rules confirming permitted activities by visitors: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-visitor-permitted-activities>
- Visa national list confirming nationalities which must secure a visa before travel to the UK for any reason: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-visitor-visa-national-list>
- Permit Free Festival (PFF) list confirming those festivals currently included under the PFF scheme: <https://www.gov.uk/guidance/immigration-rules/-immigration-rules-appendix-visitor-permit-free-festival-list>
- UK Visas and Immigration Visit caseworker guidance: <https://www.gov.uk/government/publications/visit-guidance>
- UK Visas and Immigration information on Permitted Paid Engagements: <https://www.gov.uk/permitted-paid-engagement-visa>
- Immigration Rules Appendix Visitor: Permit Free Festival List: [Immigration Rules - Immigration Rules Appendix Visitor: Permit Free Festival List - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-visitor-permit-free-festival-list)
- UK Visas and Immigration Common Travel Area caseworker guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061547/Common_travel_area.pdf

Frequently Asked Questions

Within the PPE scheme, how does UKVI assess whether the body inviting the visitor is an 'organisation' for the purpose of the Immigration Rules?

UKVI Visit caseworker guidance (page 60) gives a wide definition of an 'organisation' for these purposes citing, 'all organisations involved in artistic and entertainment activities.' Specific examples include galleries, arts faculties or departments in universities, schools and venues involved in producing or staging of events. It is also confirmed that UK based agents and broadcasters may invite individuals to undertake a paid engagement in the UK.

A significant point within UKVI guidance is that the inviting organisation must be accepted as being genuine. This means that it will often be useful to provide invitation letters on headed paper which includes details for registration with any recognisable bodies, such as the Charities Commission.

Can a PPE visitor who does not need a visa (e.g., a US national, or an EU national) go through an eGate on arrival in the UK, or must they see a Border Officer?

UKVI advice is that arriving PPE visitors should have a passport stamped on arrival by a Border Officer and avoid use of the eGates: <https://www.gov.uk/government/publications/coming-to-the-uk/faster-travel-through-the-uk-border>. Note that the same advice is applicable to those arriving for short-term assignments under the Creative Worker Route.

Can Standard Visitor (non-PPE and non-PFF) have their expenses covered by a party in the UK? What counts as reasonable expenses?

The Immigration Rules (Appendix V, para 4.2(e) and 4.3) confirm that an applicant's travel, maintenance, and accommodation may be provided by a third party in the UK. There must be a genuine professional or personal relationship between the applicant and the third party (evidenced in most cases by a written contract), and the offer of support must cover the intended duration of the applicant's stay as a visitor.

Under UKVI Visit caseworker guidance (pages 23 - 25), there must be sufficient resources to maintain and accommodate the individual *adequately* for the whole of their planned visit to the UK. There is no set level of funds required for an applicant to show this, and what is 'adequate' is not clearly defined.

Covering the cost of flights, hotels, and food must be acceptable given the requirements of the rules, but additional payments which cover neither travel, maintenance, nor accommodation would not be appropriate and would amount to payment, which is expressly prohibited.

Can an individual combine PPE and PFF travel in a single visit?

Those admitted for PPE purposes have the singular purpose of completing the engagement for which they have been invited. Where the PPE visitor is a visa-national and needs to secure a physical visa before travel to the UK, this is immediately obvious. Non-visa nationals have the same nominated purpose, but instead, this is declared at the border (hence the UKVI recommend that PPE visitors are admitted by a Border Officer rather than using an eGate). Combining a PPE and PFF is therefore at odds with UK immigration policy, and appropriate advice would be to leave the UK after the PPE and return for the PFF.

There is no specific limit on the number of visits an individual may complete in the UK in any given year. However, individuals should be careful not to spend more than half of their time in the UK; this would be considered to establish residence in the UK via visits, which is not permitted.

What is the best option where there are multiple engagements (whether PPE, PFF, or Standard Visitor), such a tour?

Where there are multiple engagements and it is not feasible to have repeat short visits, the likely best option is to sponsor the individual under A Creative Worker visa (Temporary Work). This is a longer-term option as the individual can come to the UK for a maximum of up to 12 months, which may then be extended.

Creative Worker (Temporary Work) Sponsorship is obviously more complicated than the less formal support given to a PPE visitor. Sponsors must apply to UKVI for a sponsor licence and will need to assign Certificates of Sponsorship to individuals to formally support their visa applications.

Creative workers often need to perform or work at several different venues or events. If there is a single sponsor (UKVI gives the example of an agent), and there are no more than 14 calendar days between each engagement, the sponsor can issue a single Certificate of Sponsorship to cover the whole period in the UK. If, however, there will be multiple sponsors, for example, individual venues, producers or promoters, each sponsor must issue a Certificate of Sponsorship to cover their own show. The periods of work stated on the certificates must not overlap, but the individual can apply for one single visa covering the duration of the combined certificates. Tours have the potential to become complicated – we would recommend seeking specific legal advice based on the proposed itinerary.

Individuals who are sponsored in this way must meet additional requirements, including evidence of appropriate finances. Either the individual must have funds of at least £1,270, that they have held for a period of 28 days OR the sponsor can ‘certify’ this requirement. This means that the sponsor gives an undertaking that they will, if it is necessary, maintain and accommodate the individual up to the end of the first month of their employment for an amount of at least £1,270. This certification is confirmed via the Certificate of Sponsorship.

Can a Standard Visitor artist enter the UK if they are paid by a non-UK source?

It is possible for both visa and non-visa nationals paid by a non-UK source to enter through the visitor route. It is at the Border Officer’s discretion to determine if the artist is a genuine visitor, and whether they intend to only undertake permitted activities listed under the Immigration Rules Appendix Visitor: Permitted Activities [under paragraph PA 14.1](#). Regarding evidence of this, it would be recommended that the artists carry with them letters/documentation outlining the main reason for their visit to the UK, as well as dates of all engagements and the sources of (overseas) funds they are receiving for these engagements.

Can individuals appeal if their visas are refused, or they are denied entry to the UK?

Those applying for visitor visas – or arriving at the border and requesting entry – are not afforded a right of appeal if the request is denied. Applicants for visas or entry under the sponsored provisions fare slightly better with a right to request AN Administrative Review of their refusal, but this is not an independent appeal process and seeks only to correct the most egregious errors in UKVI decision-making.

Often visitors and those being sponsored for short periods (eg 12 months or less) are denied for subjective reasons. These will be hard to challenge, particularly as there is no right of appeal against a visit visa refusal or refusal of entry at the UK border and the only option is Judicial Review. This is an independent assessment of the procedural fairness of the UKVI decision-making process, pursued in the Upper Tribunal of the Immigration and Asylum Chamber in the UK. It is not an appeal, and the outcome of a successful Judicial Review is for UKVI to reconsider the application, not to issue a visa or permit entry. For this reason, coupled with the lengthy processing times and high costs, Judicial Review is often an undesirable method of seeking legal redress.


However, the first stage of Judicial Review is correspondence with UKVI (a “pre-action protocol letter”), and this can be an effective means of challenging decisions that are plainly wrong or unfair. This formal pre-action letter is an opportunity to set out concerns about the refusal received, and to invite UKVI to reconsider before litigation is pursued. This may be a good option where a negative decision has arisen from clear prejudice, misunderstanding, or mistake and there are no other legal options available.

What is the process for entering the UK via Ireland for a PPE?

Those coming to the UK via Ireland (ROI) for a permitted paid engagement can stay in the UK on the basis of Article 6 Deemed Leave for up to one month. Deemed leave is permission to enter the UK via Ireland without your passport being stamped. This is because the visitor won't necessarily meet a Border Officer whilst crossing the borders between the UK and Ireland. Visitors do not have to apply for deemed leave. Deemed leave starts from the date the visitor first enters the UK from Ireland. This deemed leave ends when the visitor leaves the UK.

Temporary Work - Creative Worker Sponsorship

Some useful resources:

| | |
|-----------------------------------|---|
| Immigration Rules | Immigration Rules, Appendix Temporary Work—Creative Worker |
| | Immigration Rules, Appendix Creative Worker Codes of Practice |
| | Immigration Rules, Appendix Finance |
| Home Office guidance | Workers and Temporary Workers Sponsor Guidance, Sponsor a Creative Worker  |
| | Temporary Work caseworker guidance  |
| Home Office visa information tool | Temporary Work—Creative Worker visa  |

Frequently Asked Questions

How long does it take to become a registered Sponsor and how much does it cost including lawyers' fees?

The online application process is simple enough, taking about 30 minutes to complete. However, it is important that you engage with the various sources of sponsor guidance referenced above in order to understand your responsibilities before proceeding.

The government fee for a small (< 50 employees, broadly speaking) organisation or charity is £536. For larger organisations, it is £1476. The licence is valid for 4 years. Lawyers' fees vary considerably.

If a company is invited to perform at a festival what is the best route for their performers and support staff?

Where the performer(s) can be admitted to the UK as a visitor, personal or technical staff or members of the production team may give support in the UK provided they are attending the same event as the performer(s) and are employed to work for them outside of the UK.

Where the performer(s) has sponsorship, it is different. A person can be sponsored as a Creative Worker if they are someone who works in the creative industry, for example; an actor, dancer, musician, or film crew member. As a result, Creative Workers can be sponsored in non-performing

roles where it is relevant to the event/production and all other requirements are met (such as payment of minimum salary as set by Equity, PACT or BECTU as appropriate).

Can a sponsoring entity subcontract sponsored workers to other venues?

The Home Office guidance titled [Sponsoring a Creative Worker](#) states the following information for assigning a Certificate of Sponsorship to a Creative Worker for multiple or consecutive engagements:

Assigning a CoS for multiple or consecutive engagements

CRW5.15. Due to the nature of the creative sector, Creative Workers are sometimes needed to do a number of engagements at different venues. If you will be the worker's only sponsor in the UK and there are no more than a maximum of 14 days between each engagement (excluding time spent outside the UK), you can assign a single CoS to cover the whole period. This is known as assigning a CoS for 'multiple engagements'.

CRW5.16. If the worker will have more than one sponsor while in the UK – for example, a number of venues, producers or promoters – then each one of those sponsors must assign a CoS to cover its own engagement. Where this is the case, none of the CoS can overlap and there must not be a gap of more than 14 days (excluding time spent outside the UK) between each CoS assigned. This is known as having 'consecutive engagements'.

The Home Office acknowledges that, due to the nature of the creative sector, artists may be required to perform in multiple engagements at various venues. For example, where the Creative Worker has only one sponsor and there will be no more than 14 calendar days between each engagement (which includes rehearsal periods), a single CoS may be assigned to cover multiple or consecutive engagements.

If the Creative Worker will be sponsored by individual venues, or there will be more than 14 calendar days between engagements, a separate CoS must be assigned for each engagement. If there are more than 14 days between engagements, the Creative Worker must leave the UK and apply for entry clearance with a new CoS, unless they are a non-visa national, and the new CoS is assigned for a period of three months or less. Each CoS must not overlap.

While it is permitted for the artist to be sponsored by individual venues on separate CoS, it is often more practical for one sponsor to assign a CoS to cover the whole period they are in the UK. Often, this will be assigned by a national body with the relevant sponsor licence.

Electronic Travel Authorisations

Some useful resources:

- [Electronic Travel Authorisation \(ETA\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/electronic-travel-authorisation)
- [Nationality and Borders Bill: Electronic Travel Authorisation factsheet - GOV.UK \(www.gov.uk\)](https://www.gov.uk/nationality-and-borders-bill/electronic-travel-authorisation-factsheet)

The Electronic Travel Authorisation (ETA) is a new requirement that will be applied, through a gradual roll-out starting 15 November 2023, to individuals who currently do not need a visa before entering the UK for short trips, plus Jordan.

Non-visa nationals, citizens of countries currently eligible for an electronic visa waiver and Jordanian citizens will be required to obtain an ETA for:

- Visits to the UK for up to six months for tourism, visiting family and friends, business or study;
- **Visits to the UK for up to three months under the [Creative Worker visa concession](#)**; and
- Transit through the UK.

The ETA scheme will not apply to:

- British and Irish citizens;
- Individuals with the right of abode in the UK;
- Holders of an existing UK visa;
- Holders of a EU frontier worker permit; and
- Non-visa nationals who are legally resident in Ireland and are entering the UK from Ireland, Guernsey, Jersey or the Isle of Man.

Application process

The scheme will operate in a similar way to the USA's Electronic System for Travel Authorisation (ESTA), whereby nationals of certain countries who do not need a visa to enter the USA must obtain prior permission to visit.

Applications will be made online or via an 'ETA App'. Applicants must have a valid chipped passport, take a digital photo and enrol their biometrics. The cost of an ETA is yet to be announced. The processing time is estimated to be three working days, unless further checks are required.

An ETA will have a two-year validity or will expire in line with the passport if the passport expires earlier. It can be used for multiple visits. If a person who requires an ETA travels to the UK without one, they may be refused permission to enter.

Three-phase rollout

The requirement to obtain an ETA in advance of travel is being rolled out gradually, starting with nationals of Qatar who wish to travel to the UK from 15 November 2023 for the above short-term purposes. From 22 February 2024, it will apply to nationals of:

- Bahrain
- Jordan
- Kuwait
- Oman
- Saudi Arabia
- United Arab Emirates

More countries will be added to the scheme at a later date.