**The Tier 2 cooling off period**

38.4 If a migrant has been sponsored under Tier 2 and their leave has ended or expired, they must wait 12 months before applying again under any Tier 2 category. We call this the ‘Tier 2 cooling off period’.

38.5 The cooling off period applies where the migrant is:

 overseas and their last grant of Tier 2 leave has expired or ended or

 in the UK and had an earlier period of Tier 2 leave, but then changed (‘switched’) into a different immigration category and now wishes to apply again under Tier 2

38.6 The Tier 2 cooling off period starts the day after the migrant’s last leave under Tier 2 ended or expired.

38.7 If the migrant’s earlier grant of leave under Tier 2 was shortened, this could be if they had worked in the UK before with leave under Tier 2 and:

 the work they came to do finished early

 their sponsor notified us of this

 we shortened their leave to 60 calendar days

The cooling off period starts from the day after their shortened period of leave expired - at the end of the 60 calendar days.

38.8 Where the migrant left the UK before their last period of Tier 2 leave expired, the cooling off period can start earlier than the date their leave expired, but only if they can give us evidence of them having not been in the UK with Tier 2 leave for a period before that date.

Evidence may include, but is not limited to:

 travel tickets or boarding card stubs, but **only** if you, or the migrant’s last sponsor also sent an SMS report at the time, confirming their **empl**oyment in the UK had ended

 exit or entry stamps in the migrant’s passport confirming they were not in the UK

 a letter from the migrant’s overseas employer confirming the date they started work overseas, after returning from the UK

 other evidence that shows the migrant was not in the UK

Where evidence is produced and accepted, we work out the cooling off period to start from the earliest date supported by evidence.

38.9 The cooling off period does not apply where the migrant:

 is in the UK and applying for an extension to their existing leave

 is in the UK and is making a change of employment application

 is applying as a high earner – someone whose gross salary package accepted for a Tier 2 application is £155,300 or higher

 is applying under the Tier 2 (ICT) Long-term Staff sub category and their last grant of Tier 2 leave was as an intra-company transfer migrant under the rules in place before 6 April 2011, or in one of the following intra-company transfer categories:

o Skills Transfer

o Graduate Trainee

o Short-term Staff

 was only in the UK as a Tier 2 migrant during the last 12 months for a short period(s) with a CoS which was assigned for 3 months or less. This could be where a migrant:

o was assigned a CoS of 3 months or less in the preceding 12 month period, and had no other Tier 2 leave during that period, the cooling off period will **not** apply

o has had more than one period of Tier 2 leave in the last 12 months and each CoS was assigned for less than 3 months, even where they may total over 3 months, the cooling off period will **not** apply

**Note**: it is the intention that this waiver permits only short term periods of leave in the UK. If you intend to sponsor a migrant in the UK for longer than 3 months, you should assign the CoS under the appropriate sub category

o was assigned a CoS of 6 months in length but you notified us that they finished working for you in the UK after 2 months, the cooling off period **will** apply (as the CoS was assigned for more than 3 months)

If you want to sponsor a migrant under any sub category of Tier 2, they should be able to tell you if they have had a period of leave under Tier 2 before, so that you can check if they are allowed to make a further