Yorkshire & Humber Region
ASC International Recruitment Fund

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Market Support and Training Package

Home Office Audits



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- Began working in immigration in 2012 as a caseworker for UKVI
- Became OISC regulated in 2016
- Currently OISC level 2 regulated
- 12 years of experience within the field
- 4 years at immigration advice service





What is the purpose of a Home Office Audit?

To Ensure:

- The information currently on record is accurate and complete;
- you can offer genuine employment in the UK;
- your organisation is bona fide and is trading/operating lawfully in the UK;
- there are no reasons to believe that the organisation represents a threat to immigration control; and
- the organisation is able and committed to continue to comply with the duties of sponsorship

Pre-Visit

- The audit visit can be either announced or unannounced
- If announced a selection of dates will likely be offered – If you can't make any of the dates you may need to provide evidence as to why
- Information requested pre-visit can include, but is not limited to, the following:
  - The number of total and migrant staff employed
  - A list of staff including their details such as their name, nationality and DOB
  - Details of the Authorising Officer, Level 1 and Level 2 users
  - Copies of company policy documents, Sponsor Licence summary page
  - Details of work locations
  - Sample employment contract
  - A detailed and specific job description

What will be checked during the visit

The visit aims to check the company:

- will not employ anyone illegally and holds documentary evidence of your employees' entitlement to work or study;
- will be able to keep up to date contact details for sponsored migrants;
- will retain documents relating to sponsored migrants;
- will be able to inform the Home Office of any circumstances relating to sponsored migrants listed in the sponsorship duties; and
- will ensure employees hold the appropriate registration or professional accreditation where this is legally required.

Overview of Sponsor Duties





What will happen during the visit

- verify any information you gave in your sponsor licence application
- verify any information you gave in support of any worker's application
- check you are complying with all of your sponsor duties
- speak to any sponsored workers
- speak to any of your employees or colleagues involved in the recruitment of sponsored workers
- inspect records and/or systems
- conduct checks on other workers to ensure you are complying with your obligation to prevent illegal working



Interview with Authorising Officer (AO)

The purpose of the interview with the AO is for the Home Office to establish if you are meeting your duties as a sponsor in the UK and that your HR systems and processes meet the requirements and guidance set-out by the Home Office

The interview will likely be lengthy and can last up to 2 hours.

The interview will cover many areas of the company's structure, procedures and processes such as the following examples:

- Structure of the company and ownership
- Staff numbers and their current work locations
- Details on staff payroll, rotas, and disciplinary processes
- Where HR files are kept for staff and what's within these files
- Recruitment and Right to work checks processes
- Supplementary work



Interviews with Skilled Workers

The purpose of this interview is for the Home Office to establish if the employer is meeting their duties as a sponsor in the UK and that your sponsorship meets the requirements set-out by the Immigration Rules and is in line with the skilled workers assigned Certificate of Sponsorship

The interview will cover many areas of the company, as well as the specific employee being interviewed, such as the following examples (some of the questions will be the same as for the AO, with answers to be cross checked for discrepancies):

- When the employee arrived in the UK and the start date of their employment
- Details of the duties they have been carrying out
- Details on when payslips and pay are received
- Staff rotas and their work location
- Recruitment and Right to work checks processes
- Conditions of their visa and its expiry date

Examples of evidence that could be requested

From the Sponsor:

- National Insurance numbers for all managers and staff.
- Evidence of entry into the UK since the start of their sponsorship – visa vignette stamps in the Passport.
- Payroll bank accounts showing wages going out.
- Invoice/sales bank accounts showing turnover of the company.
- All evidence of sponsored workers authorised international travel expenses for work (including flights) incurred since the start of their sponsorship.
- All evidence of sponsored workers skills, qualifications and CV.

From the Skilled Workers:

- HM Revenue and Customs (HMRC) P60 document, for the previous financial year.
- Last 12 months payslips.
- Evidence that the last 12 months payments have been made into the sponsored worker's personal bank account – 12 months of their bank statements.
- Your last 12 months of RTI – full submission

Review of HR Files and Systems

HR files and systems will be reviewed during the audit to ensure the correct records, documents and checks are being carried out such as the following:

- Evidence and frequency of salary payments – to ensure its in line with the CoS
- Right to Work (RTW) check documents – to ensure all staff are working legally
- CV, qualification and registration documents of the employee which match the requirements on the job advert description
- Documentary evidence of how the staff member was recruited



Right to Work (RTW) Checks

- Evidence you have checked that each of your sponsored workers has the **legal right to work in the UK and do the work in question for you.**
- You must carry out these checks both to comply with your sponsor duties and to establish a ‘statutory excuse’ against liability for a civil penalty. You must carry out these checks, and retain evidence you have done so, in accordance with the published guidance ‘Right to work checks: an employer's guide’ on GOV.UK.
- You should conduct a right-to-work check **before the person starts working for you.** This check should be dated and should precede the employment start date. You should also conduct a follow-up check shortly before the worker’s permission is due to come to an end.
- A system in place that notifies you when a visa is due to expire – preferably around 3 months before expiring and keeps notifying.
- RTW check documents include but are not limited to the following:
    - BRP’s and/or online eVisa sharecode checks
    - British or Irish passport

Recruitment Evidence

- If you stated in your job advertisement that a certain qualification is mandatory for the job, you must retain evidence that the worker you are sponsoring for the role has that qualification, keeping CV's, qualifications and registrations on their file.
- If you are sponsoring a worker on a route that does not require a formal resident labour market test, or the role was otherwise exempt from the test, **you must still retain evidence of any recruitment activity you have undertaken.** If you did not advertise the role, you must be able to explain how you recruited the worker. This information will help establish, where necessary, that the role is a genuine vacancy.
- Pre-January 2021 - If you were required to carry out a formal resident labour market test, or otherwise take steps to protect the settled workforce, before employing a migrant worker, you must keep evidence that you have done so. The evidence you need to keep depends on the route in which you are, or were, sponsoring the worker.

Record Keeping

All documents must be kept throughout the period that you sponsor them and until:

- two year has passed from the date on which you end your sponsorship of the migrant

OR

- the date on which a compliance officer has examined and approved them, if this is less than two years after you ended your sponsorship of the migrant

Sponsor Management System (SMS) Updates



You must report certain changes that affect your sponsored workers or your organisation within the time limits set out below:

- changes to a sponsored worker's circumstances – unless otherwise stated, you must report these changes within 10 working days of the relevant event occurring
- changes to your organisation,– unless otherwise stated, you must report these changes within 20 working days of the relevant event occurring

You must also, as soon as reasonably practicable:

- report if you know or suspect a worker you are sponsoring has breached their conditions of stay
- give the police any information that suggests any worker you are sponsoring on any route may be engaged in terrorism or criminal activity

Outcomes of Audit

The Home Office have a range of measures to make sure that they enforce sponsors' duties and identify dishonest, incompetent, or otherwise inappropriate sponsors early on. Action they may take includes:

- reducing your certificate of sponsorship (CoS) allocation
- downgrading your licence to a B-rating
- suspending your licence
- revoking your licence
- cancelling the permission of your sponsored workers to remain in the UK

Downgrading Licence and Action Plans

- The Home Office may downgrade your licence from an A-rating to a B-rating – for example, if they believe you do not have the necessary processes in place to comply with your sponsor duties or have not provided information you held when asked you to provide it.
- In general, they will only downgrade your licence for relatively minor breaches of the sponsorship system that they believe can be resolved by issuing an action plan. In more serious cases, they will suspend or revoke your licence.
- If your licence is downgraded to a B-rating, you will have to comply with a time-limited action plan, for which you must pay a fee, and you will not be allowed to sponsor any new workers until you have regained your A-rating. They will revoke your licence if you do not comply with the action plan or make the necessary improvements during the time limit.

Suspending or Revoking Licence

- If they believe that you are breaching your sponsor duties and/or pose a threat to immigration control, or are engaging in behaviours or actions that are not conducive to the public good, they may suspend your licence while they make further enquiries.
- You will not be able to assign any CoS while your licence is suspended. You must continue to comply with all sponsor duties and any requirements set out in this guidance throughout the period of suspension.
- Workers you are sponsoring at the time of the suspension, and who have valid permission to enter or stay, will not be affected, unless or until they decide to revoke your licence.
- If they decide to revoke your licence, they will write to you to tell you of this. There is no right of appeal and you will not be allowed to apply for a sponsor licence again until at least 12 months have passed since the date you were notified of the revocation.

Other important points to be aware of

- They may also carry out checks on any licensed sponsor by telephone, video conferencing, or by letter, asking for evidence to support any information you have given us either before or after your licence was granted.
- They may also make checks with other government departments.
- The compliance officer will not give an indication of their assessment or your ability to comply with sponsor duties during the compliance check.
- The compliance officer, or any third party working on UKVI's behalf, visiting your premises will have official Home Office identification. If you doubt that the official is genuine, you should call 0300 123 4699.

ias
Immigration Advice Service

Q&A