



UNIVERSITY_{OF}
WINCHESTER

Sponsored Workers (VISA) Policy

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<p>Indicate whether the document is for public access or internal access only.</p> <p>Indicate whether the document applies to collaborative provision?</p> <p><i>(Strikethrough text, as appropriate)</i></p>	<p>Public Access</p> <p>Internal Access Only</p> <p>Applies to Collaborative Provision</p>
<p>Summary:</p> <p>This policy sets out core compliance requirements, for workers, managers and the People & Culture team, in relation to overseas workers sponsored by the University, across the end-to-end employment cycle.</p> <p>These requirements are informed directly by regulations set out by the UK Visa & Immigration Division of the Home Office (UKVI). As such, this Policy should be read in conjunction with the latest UKVI guidance (as available at the time from GOV.UK).</p>	

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1. Purpose

As a holder of an Employer's Sponsor License (*HFY2PDMC4*), The University of Winchester ('the University') is able to sponsor overseas workers, subject to the prevailing immigration rules at the time of sponsorship.

Sponsorship is a privilege not a right. Significant trust is placed in sponsors and there is a requirement to comply with immigration law and wider UK law. All sponsors, including the University, must fulfil certain duties. These duties include, but are not limited to:

- Preventing abuse of immigration laws and sponsorship arrangements.
- Capturing early any patterns of behaviour that may cause concern.
- Addressing possible weaknesses in process which can cause those patterns.
- Monitoring compliance with the Immigration Rules, all parts of the Worker and Temporary Worker sponsor guidance, and wider UK law (such as employment law).

The UK Visa & Immigration Division of the Home Office (UKVI) requires employers to undertake a range of responsibilities, linked to the above duties. These responsibilities are broad and include the issuing of Certificates of Sponsorship (CoS) for workers, record keeping and reporting duties.

Failure to comply with UKVI requirements may result in the loss or suspension of the University's licence to sponsor overseas workers and/or students.

The Director of People & Culture is the Authorising Officer for the University's Worker Sponsor License and has overall accountability for worker UKVI compliance.

The People & Culture Operations team are responsible, on a day-to-day basis, for ensuring that the University complies with UKVI requirements, as set out on [GOV.UK](https://www.gov.uk).

Workers, and managers of sponsored staff also have specific duties, including notifying the People & Culture Operations team of any changes that may impact a sponsored worker's status (for example, a change in working hours/ pattern) and escalating cases of absence (including unauthorised absence) in a timely fashion.

The purpose of this Policy, which should be read in conjunction with the latest UKVI guidance (as available at the time from GOV.UK), is to confirm key responsibilities and actions for managers and the People & Culture team relating to sponsored workers.

2. Scope

This Policy covers the administration of:

- Overseas workers applying for roles at the University, who require sponsorship to be able to work in the UK.

This Policy does not apply to the administration of:

- Students of the University (NB. provisions for students are covered in the '*VISA Sponsorship Policy*').
- Overseas workers who have the legal right to work in the UK, but who are not sponsored by the University (for example, those on spousal visas or other forms of definite leave to remain). These workers fall within scope of the '*Recruitment Policy*'.

3. Summary of Key Requirements

The People & Culture Team shall -

- Allow access to UKVI staff; apply their guidance; supply ad hoc data; use the UKVI on-line Sponsor Management System (SMS) and strive to ensure that the University's sponsored workers arrive, conduct their role/ duties, and comply with other VISA requirements, to the extent reasonably practical.
- Before commencing with a sponsored worked process, ensure that a genuine vacancy exists, consistent with relevant UKVI requirements.
- Issue CoS for workers that meet the relevant UKVI requirements. The CoS contains essential information, including the worker's proposed job role, salary and English language competency (where required). The CoS is a key instrument used by the worker in support of a visa application.
- Retain documents relating to the recruitment process for sponsored workers, on their e-file, as required according to UKVI guidance (known as 'Appendix D' requirements).
- Ensure right to work checks are conducted and retained for sponsored workers before they start work, on their e-file, and to the standard(s) required by the UK government.
- Report, through the SMS, sponsored workers who do not start employment, who are absent for more than 4 weeks (without a qualifying exemption), or who have changes to their job role (including hours, salary and/or termination of employment) that may impact immigration status.
- Contact sponsored workers, approximately three months before CoS and/or VISA expiry, to explore possible next steps.
- Withdraw sponsorship, as is appropriate, where a sponsored worker does not comply with the conditions of their sponsorship and/or VISA.

Line Managers of sponsored workers shall -

Inform the People & Culture Team, **as soon as possible**:

- If a sponsored worker does not attend the workplace on their first day, regardless of the reason given.
- If a sponsored worker is absent from work without permission.
- If a sponsored worker is not attending work regularly. It is important that all absence is recorded promptly using the University's People Information System.
- If a sponsored worker is planning to take any period of family friendly leave (for example, maternity leave, paternity leave, adoption leave etc.)

Note: sponsored workers are not permitted to take unpaid leave in excess of one month in any twelve-month period from January to December (except in the case of maternity, paternity, adoption, shared parental leave and notified sick leave).

- If there is a change of circumstance for a sponsored worker. A change in circumstance may be personal (for example, a change in name) or professional (for example, a change in core duties/job title, working hours, working location etc.). **The University must formally report changes in circumstance for sponsored workers to the UKVI within 10 working days of the change.**
- If a sponsored worker's employment is due to come to an end, or ends, for any reason.

Sponsored workers shall –

- Cooperate with the University in all matters relating to sponsored worker compliance, including provision of required documentation, as may be required from time to time.
- Ensure that, at all times, the University has accurate and up to date contact information, including residential address, mobile telephone number, and home telephone number (if different to mobile telephone number). These details should be kept updated in the University's People Information System.
- Ensure the University is made aware if they anticipate being in a location where they may be unreachable for more than a day at a time (for example, during a field trip in a remote location).
- At promptly ahead of any VISA expiry, by contacting the People & Culture team, approximately three months before their CoS expires, to explore possible next steps.
- **At all times, comply with the requirements of their sponsorship and/or VISA.**

Note: the University will consider withdrawing sponsorship where a sponsored worker does not comply with the conditions of their sponsorship and/or VISA.

4. Specific Responsibilities

The above responsibilities are now set out below in more detail.

For individuals undertaking the responsibilities below, the requirements are complex, and full information is available from UKVI guidance available on [GOV.UK](https://www.gov.uk).

4.1 Sponsor Management System (SMS)

The SMS is the mandatory UKVI system for the administration of sponsored workers. The People & Culture Operations team uses the SMS, alongside the People Information System, to administer the details of sponsored workers.

UKVI Requirement	Responsibility
Approval of new Level 1 and Level 2 SMS users.	Director of People & Culture
Assignment and update of Level 1 and Level 2 SMS users.	People & Culture Operations Team
Maintaining knowledge, through ongoing learning and development, on changes to functionality of the SMS.	People & Culture Operations Team
Maintaining the overall integrity of sponsored worker data in the SMS.	People & Culture Operations Team

SMS users must not administer any data or process CoS for themselves, their partner or any relative (however distant). Any such situation must be escalated to the Director of People & Culture for advice and guidance.

4.2 CoS Issuing

A valid Certificate of Sponsorship (CoS) must be assigned to a worker to allow them to make a successful application for permission to enter or stay in the UK. Once the University has assigned a valid CoS to a worker, and paid any Immigration Skills Charge, the worker can use the CoS, within a period of 3 months, to make an application for entry clearance, permission to enter, or permission to stay.

UKVI Requirement	Responsibility
<p>Issue/ assign CoS where:</p> <ul style="list-style-type: none">▪ The University wishes to sponsor a worker, and;▪ The worker meets the relevant immigration requirements, and;▪ The University is eligible to sponsor the worker on the relevant route, and;▪ The University is able to abide to the terms and conditions as stated on the SMS. <p>Note. the above is in addition to ensuring a robust recruitment process for any role, as set out in the University's '<i>Recruitment Policy</i>'.</p>	Recruitment Team
<p>Pay the fee for each CoS assigned, and any Immigration Skills Charge (where applicable). Note. these fees must not be reclaimed from the</p>	Recruitment Team

worker.	
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Note. the University only issues CoS's where there is a direct employment relationship between the University and the Worker.

4.3 Right to Work Checks

All employers in the UK have a responsibility to prevent illegal working. As such, the University must complete right to work checks for all employees and workers, including sponsored workers. The University must conduct checks and retain records, to the standard(s) required by the UK government, in order to establish a 'statutory excuse' against liability for civil penalty under illegal working legislation.

The following types of right to work checks are acceptable for the University to establish a statutory excuse:

1. A manual right to work check
2. A right to work check using a digital verification service (British and Irish citizens only)
3. A Home Office online right to work check (non-British and non-Irish citizens)

One of the above right to work checks must be satisfactorily completed by the University before employment commences.

UKVI Requirement	Responsibility
Conduct right to work checks for sponsored workers, in line with Government requirements, before commencement of employment.	Recruitment Team; and Sponsored worker

4.4 Record Keeping

Record keeping is an essential part of UKVI compliance. Documents can be kept either as paper copies or in an electronic format, and should be held within the People & Culture Team. Documents must be retained for the duration of a sponsored worker's employment, and in the case of termination of employment, for at least one year thereafter (Note. right to work check documents must be retained for at least two years following termination of employment).

UKVI Requirement	Responsibility
Retain documents relating to the recruitment process for sponsored workers as required according to UKVI guidance (known as 'Appendix D' requirements).	Recruitment Team
Retain right to work check documents for sponsored workers, in line with Government requirements.	Recruitment Team
Retain Disclosure and Barring Service (DBS) checks for sponsored workers, where required for the role.	Recruitment Team
Keep evidence of salary levels and payments (e.g. payslips) for sponsored workers.	Payroll & Pensions Services Team
Maintain an accurate history of contact details for sponsored workers (i.e. UK residential address, personal email address, telephone number (mobile and/or landline).	Sponsored worker: and Line Manager; and People & Culture Operations Team

Maintain accurate absence records for sponsored workers, including periods of paid and unpaid absence.	Line Manager; and Payroll & Pensions Services Team
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4.5. Monitoring and Reporting Requirements

Ongoing monitoring and reporting requirements for sponsored workers are stringent. These requirements ensure, that at any time, UKVI have the most up-to-date information on sponsored workers, helping to prevent abuse of immigration laws and sponsorship arrangements.

UKVI Requirement	Responsibility
Report a sponsored worker who does not start employment within 28 days of the planned start date.	Line Manager; and People & Culture Operations Team
Report a sponsored worker who is absent without permission for more than 10 consecutive working days.	Line Manager; and People & Culture Operations Team
Ensure that the sponsored worker continues to conduct the role and duties for which they have been sponsored.	Sponsored worker; and Line Manager; and People & Culture Operations Team
Unless valid exception reason applies, report a sponsored worker who is absent without pay, or on reduced pay, for more than 4 weeks in total in any calendar year.	Line Manager; and Payroll & Pensions Services Team
Report changes in circumstance, within 10 working days , for a sponsored worker, that may impact their sponsored status, e.g. reduction in salary, significant changes to job role and/or duties, change of normal work location,	Sponsored worker; and Line Manager; and People & Culture Operations Team
Report changes to planned start and end dates for sponsored workers, including where employment and/or sponsorship comes to an end for any reason.	Line Manager; and People & Culture Operations Team
Report suspected or actual breaches of conditions of stay for a sponsored worker.	Line Manager; and People & Culture Operations Team
Report instances where a sponsored worker does not comply with the terms of their sponsorship and/or VISA, e.g. working beyond permissible hours	Line Manager; and People & Culture Operations Team
Report relevant changes to the organisation within 20 working days of the relevant event occurring, e.g. change of Authorising Officer, change of organisational address etc.	Authorising Officer or People & Culture Operations Team

The People & Culture Team shall also support the managers of sponsored workers to undertake and understand their duties in relation to this policy on an ongoing basis. This will be through regular communications, provision of 1:1 training (where required), and support and guidance. At least every two years, the People & Culture team will perform, or commission, checks on a sample of sponsored workers, to ensure that the requirements of this policy continue to be met.

Finally, the People & Culture Team shall escalate to the Executive Leadership Team, any contravention of the requirements of this policy.

5. Advice and Guidance

Should managers or colleagues have any questions about this policy, then they should contact the People & Culture Operations Team, in the first instance, for advice and guidance.

The People & Culture Team have arrangements in place to seek external expert guidance, in relation to compliance for sponsored workers, where required.

Equality Impact Assessment	
Summary of process undertaken to determine equality impacts:	<p>Assurance of access, equity and inclusivity and that no process or required procedure places an unfair advantage or disadvantage for any person possessing, associated with or perceived to be possessing any of the protected characteristics as defined in the Equalities Act 2010.</p> <p>In particular, ensuring that right to work checks are conducted for all workers and employers, not just sponsored workers.</p> <p>Reference to UKVI regulations (and associated requirements) as set out on GOV.UK.</p>
University Committee (name/ date) where equality impacts discussed (may be Committee of approval, or another):	<ul style="list-style-type: none"> Executive Leadership Team University Leadership Team
Has this policy been screened to ensure compliance with the University's Free Speech expectations?	Yes
Identified equality impact(s) on colleagues and students (i.e. any specific impacts related to this policy that may cause disadvantage for people due to one or more particular protective characteristic)	
Protected Characteristic	Impact(s) identified and any action(s)/mitigation(s) to address these impact(s), as necessary.
Age	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Disability	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Gender Identity	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Marriage/Civil Partnership	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Pregnancy and Maternity	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Race (incl. nationality)	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Religion and Belief	Where applicable, this policy is subject to the rules and regulations of the UKVI.

Sex	Where applicable, this policy is subject to the rules and regulations of the UKVI.
Sexual Orientation	Where applicable, this policy is subject to the rules and regulations of the UKVI.