Immigration Guidance

1. Introduction

This guidance sets out the University's arrangements to ensure it fulfils its obligations and compliance with legislation and UK Visas and Immigration (UKVI) rules, whereby the University has a legal responsibility to ensure that individuals in the University (including staff, students, workers, and visiting academics) are eligible to visit, live or work in the UK prior to them taking up work, research, study or other prescribed activities.

Breaches of legislation and immigration rules can result in severe sanctions including large (unlimited) financial fines; imprisonment for up to five years; civil penalties and prosecution for non-compliance; and the loss of the licence to sponsor migrants.

The University is committed to following UKVI advice, guidance and rules to reduce any breaches of immigration legislation, thereby minimising the risk to the organisation.

Anyone who breaches University immigration policies, procedures and/or guidance may be subject to University disciplinary procedures.

2. Sponsorship licence

Migrants outside of the EEA and Switzerland must have a sponsor before they can apply to come to, or remain, in the UK for work or study. Sponsorship licences are issued by the UKVI and they are a permission given to an organisation to sponsor workers or students in its business.

The University is a sponsor and its sponsorship licence is held by People Services. This licence enables the University to sponsor migrants for Tier 2 (General), Tier 4 (Students) and Tier 5 (Government Authorised Exchange). These tiers are the primary immigration routes for non-EEA migrants who wish to work or study in the UK and these migrants must be sponsored by an organisation that holds a Tier 2, Tier 4 and Tier 5 licence.

Having a sponsorship licence means that the sponsor accepts all of the duties expected when sponsoring a migrant. This means that everyone at the University has the responsibility to adhere to the duties required of a sponsor. These responsibilities are listed below.

3. Responsibilities

Responsibilities for any processes and/or procedures relating to immigration **must** be set out in job descriptions as indicated below OR a referral made to this section of the guidance, as follows:

Individuals (including staff, workers, students and visiting academics)

- To comply and cooperate with requests for proof of immigration status and/or related documents to ensure the University can meet its sponsorship obligations, immigration legislation and UKVI rules.

Unit manager/Line manager

- To ensure appropriate administrative processes are in place at Unit level to ensure accurate checking and recording of immigration documents to University procedures. This also includes reporting absences and changes of circumstances.
- To ensure that staff receive appropriate training to enable them to comply with University policies and procedures relating to immigration compliance. This includes ensuring that new staff responsible for the administration of immigration policies and procedures are fully aware of their responsibilities and are briefed/trained at induction and at regular periods e.g. when new or changes to immigration procedures are introduced.
- To report any concerns or issues of non-compliance or suspected non-compliance or any other irregularity of University policies and procedures relating to immigration immediately to the Immigration-queries@open.ac.uk .
- To support staff in obtaining the appropriate immigration documents prior to individuals starting work, study or other activities at the University, including where re-checks or other documents are required, for example due to visas or passports expiring.
- To ensure that individuals who do not meet immigration requirements are not allowed to undertake any activities for the University.

The People and Resourcing Hubs

- To ensure appropriate administrative processes are in place and followed to ensure accurate checking and recording of immigration documents to University procedures. This also includes re-checks when visa or passports have expired and reporting absences and changes of circumstances.
- To ensure up to date knowledge of University policies and procedures relating to immigration compliance, including attendance at relevant briefing and training events.
- To report any concerns or issues of non-compliance or suspected non-compliance or any other irregularity of University policies and procedures relating to immigration immediately to their line manager (or if absent, their deputy).
- To ensure that individuals who do not meet University policies and procedures are not allowed to undertake any activities for the University.

Key personnel

Authorising Officer: The Group People Director is the most senior person responsible for the recruitment of all migrant workers and ensuring all sponsorship duties are met. Responsible for:
- deciding how many staff have access to the Sponsorship Management System (SMS) and what levels of permissions they can have
- the activities of all SMS users and must ensure compliance with UKVI requirements for using the SMS system
- ensuring systems are in place for checking SMS user activities
- checking the Certificate of Sponsorship assigned to migrants on a monthly basis.

Key contact: The main contact between the University and the UKVI. Responsible for:
- completing the University's sponsorship application and subsequent renewals, including dealing with any UKVI queries relating to the licence
- advising the Authorising Officer on the number of SMS users required
- developing UKVI compliant procedures/systems for SMS user activities
- monitoring procedures/systems for SMS users and checking on a regular basis that they are being followed
- circulating appropriate correspondence from the UKVI to relevant staff.

SMS Users – Level 1: Responsible for day to day sponsorship activities using SMS.
SMS Users – Level 2: Fewer permissions than Level 1 users but can: assign a CoS to a worker and report worker activities, such as unauthorised absences and failure to turn up on first expected day of work.

The People Hub and Resourcing Hub: Provide guidance on immigration aspects relating to employment, Tier 2 (General), Tier 5 Visitors and Government Authorised Exchange (GAE). This means they can assist with all immigration related elements relating to recruitment, on-going employment, visiting academics, and GAE.

Graduate School: Provides guidance on immigration for Tier 4 (Students).

Training for relevant staff

Training will be provided for relevant staff depending upon their role responsibilities. Training could be in the form of a Podcast, on-line training, briefing packs, face to face briefings and/or external courses.

4. Review of policies and procedures

Immigration related policies, procedures and other relevant documents must be reviewed as new guidance becomes available from the UKVI. This can sometimes be several times per year. Appropriate communications must be circulated and/or briefing/training provided to ensure responsible staff are competent and able to put the changes in place effectively.

Relevant staff will be identified as being responsible for updating policies, procedures and other relevant documents and checks will be made to ensure updates are completed. The list of roles responsible for amending and/or implementing policy, guidance, procedures and other immigration related documents is at Appendix A.

5. UKVI Compliance Group

The University has a UKVI Compliance Group that meets every 3 months and comprises of representatives from around the University whose Units have additional responsibilities for processing immigration documents. Additional attendees are invited to attend where appropriate.

The Terms of Reference for the group are:

- To provide strategic direction regarding immigration controls covering OU staff, partners, visitors and students in order to prevent illegal working and ensuring the right to study.
- To ensure that adequate immigration controls and monitoring are in place to satisfy the UKVI.

- To prioritise resources and accountabilities to support ensuring effective immigration controls are in place and operating effectively to include all areas including validating organisations.
- To monitor progress against plans and KPI's.
- To review and manage risks identified including those from the Audit Unit.
- To advise on changes to OU immigration policy, guidance, procedures and best practice.

6. Data Protection

All Unit/Line managers, unit administrative staff, SMS users, People Services, the Graduate School and other staff involved in the obtaining, handling and/or processing of immigration documents must comply with data protection legislation.

7. Breaches of policy, guidance and procedures

Failure to follow University policies and procedures and UKVI rules relating to immigration may result in disciplinary action being taken against you.

Process for reporting breaches

Anyone who either suspects, or knows, of any breaches of University policies and procedures and UKVI rules relating to immigration must report them immediately to Immigration-queries@open.ac.uk. Representatives of the UK Compliance Group, along with representatives from the affected Unit will meet to determine scope of breach. The UKVI Compliance Group will complete an assessment to determine the risk level to the University and to decide what action is required. The overall lead accountable and responsible Unit is People Services.

The process for reporting breaches is shown in Appendix B. The procedures for the UKVI Compliance Group for determining risk level is in Appendix C.

Risk Register

Medium to high risks of breaches of University procedures and UKVI rules, including poor practices or omissions, should be entered onto the relevant risk register and appropriate levels of management informed.

The process for informing appropriate levels of management is in Appendix B and C.

8. Useful references

Right to Work Procedures
Right to Work Checklist
Immigration Right to Work Podcast
Immigration Routes for Academic Visitors
Tier 5 Government Authorised Exchange Guidance
Guidance on Sponsoring a Migrant
Sponsored Migrant Summary Form
Certificate of Sponsorship Form (for Tier 2/Tier 5 sponsorship)
Tier 2/Tier 5 Declaration Form
Tier 4 Declaration Form
Tier 2 Minimum Salary Requirements Flowchart

Appendix A

Immigration roles and responsibilities for developing new and amending/updating existing policies, procedures and other immigration-related documents.

Job role/title	Responsible for	Relevant documents/document name	Frequency
Authorising Officer	Overall for ensuring policies and procedures are in place and working effectively	All listed in this document	Continuous
Key Contact	Applying for renewal of licence; Updating procedures; Implementing changes to procedures and/or processes as a result of new or changes to University documents procedures; SMS Users Form	Application for Renewing Licence Procedures Certificate of Sponsorship Procedures Tier 4 to Tier 2 Switch Procedures	Every 4 years As directed by the Immigration Manager
Immigration Manager	Instructing relevant teams/individuals of changes to immigration rules; advising on interpretation and checking all documents are fully compliant with UKVI rules and immigration legislation; Check Authorising Officer, Key Contact and SMS Users details are checked annually	All listed in this document UKVI SMS Level 1 or 2 User Request Form UKVI Sponsorship Management system Key Personnel Declaration	Continuous but at least annually Annually in June
Graduate School	Implementing changes to procedures and/or processes as a result of new or changes to University documents	Research Degrees Procedures	As directed by the Immigration Manager
Policy Team	Updating policies, procedures and forms	Immigration Guidance and Appendices RTW Checklist	As directed by the

		Certificate of Sponsorship Form Guidance on Sponsoring a Migrant Immigration Right to Work Podcast RTW Procedures Sponsored Immigrant Summary Form Tier 2 Minimum Salary Requirements Flowchart UKVI Sponsorship Management System (SMS) Level 1 or Level 2 User Request Form RTW User Guide FAQ's (Jointly with MI and Systems Manager) Immigration Sections of: Visiting Academic Policy Visiting Academic Guidance Notes Visiting Academics Nomination form Overseas Non-EEA Visiting Academic Policy Immigration Document Checks for Visiting Academics Notes for Overseas Visitors	Immigration Manager
People Services Systems Manager	Updating procedures with the Immigration Manager

Implementing changes to procedures and/or processes as a result of new or changes to University documents | RTW User Guide RTW User Guide FAQ's (Jointly with Policy Team) | As directed by the Immigration Manager |
| The Resourcing Hub | Implementing changes to procedures and/or processes as a result of new or changes to University documents | Revised People Services procedures | As directed by the Immigration Manager |
| The People Hub | Implementing changes to procedures and/or processes as a result of new or changes to University documents | Revised People Services procedures | As directed by the Immigration Manager |

SMS Users Level 1 and Level 2	Implementing changes to procedures and/or processes as a result of new or changes to University documents	Revised People Services procedures	As directed by the Immigration Manager
Unit Managers/Line Managers	Oversee the implementation of changes to procedures and/or processes as a result of new or changes to University documents	Revised People Services procedures/Unit procedures	As directed by the Immigration Manager
Sponsors of Visiting Academics and Visitors	Complying with changes to procedures and/or processes as a result of new or changes to University documents	Immigration Sections of: Visiting Academic Policy Visiting Academic Guidance Notes Visiting Academics Nomination form Overseas Non-EEA Visiting Academic Policy Immigration Document Checks for Visiting Academics Notes for Overseas Visitors	As directed by the Immigration Manager
Other e.g. Visiting Academics and Visitors	Complying with changes to procedures and/or processes as a result of new or changes to University documents	Immigration Sections of: Visiting Academic Policy Visiting Academic Guidance Notes Visiting Academics Nomination form Overseas Non-EEA Visiting Academic Policy Immigration Document Checks for Visiting Academics Notes for Overseas Visitors	As directed by the Policy Team
UKVI Compliance Group	Approve new policies and procedures and major changes to existing documents	All listed in this document	As required

This list is to be reviewed as the structure of Units/People Services change or duties change.

Appendix B

Outline reporting process for breaches of immigration procedures and UKVI rules
*or in their absence, their deputy

Breach of University policy, guidance, procedures or UKVI rules identified. Report breach **immediately** to line manager* and immigration-queries@open.ac.uk.

Line Manager* to report to immigration-queries@open.ac.uk within 1 working day of breach discovered, sending the completed Immigration Issue Reporting Form.

A minimum of 3 UKVI Compliance Group members to assess the risk level of the breach, following the University's Risk Assessment Procedure.
Assessment to be completed within 3 working days of the receipt of the UKVI Compliance Group Reporting Form.

UKVI Compliance Group to inform Authorising Officer of the risk level within 1 working day of assessment.

Authorising Officer to advise University Secretary of any medium/high level risks within 1 working day of information received from UKVI Compliance Group.
Authorising Officer to advise Key Contact (for Tier 2) and Graduate School (for Tier 4 and Tier 5 GAE) to report to UKVI.

Immigration Manager to add risks to risk register. Action plan to be developed and approved by the UKVI Compliance Group and Authorising Officer.

Affected units to provide monthly updates to UKVI Compliance Group on action plan progress until risk reduces to low risk.

UKVI Compliance Group to advise Immigration Manager when it's applicable to remove risk from risk register

Appendix C

Immigration Issue Reporting Form

This form is only to be used for reporting potential, suspected or actual breaches of UKVI rules and/or any University procedures relating to immigration.

Immigration Issue Reporting Form	
Name	Job title
Phone no.	Unit
Please indicate which tier or type of staff are affected: Tier 2 Tier 4 (Student) Tier 5 (Visitor) Tier 5 (Visiting Academic) Tier 5 Government Authorised Exchange (GAE) **Or** other (please state):	
Please indicate number of staff affected (if not known, please estimate):	
Please describe the nature of your concern or breach of procedures/rules:	

Part 1: For completion by UKVI Compliance Group	
Date of initial meeting	
Names of UKVI Compliance Group attendees and reps from Unit	
Summary of breach	
Details of evidence produced	
Further information or evidence asked for by UKVI Compliance Group Plus deadline for receipt of information or evidence	
Date of next meeting	
Details of findings of UKVI Compliance Group	
Rating against Risk Management Framework (insert link)	
UKVI Compliance Group recommendations	

Part 2: Checklist and actions for completion by UKVI Compliance Group	
Recommendations reported to Authorising Officer – by whom and when	
Responsibility for developing action plan to address the identified risks and deadline	
Action plan approved by Authorising Officer	
Name of senior person/s responsible for taking actions forward and reporting progress to the UKVI Compliance Group	
Date risk added to risk register (if applicable)	
Date Authorising Officer reported breach to University Secretary (if applicable)	
Date removed from risk register (attach evidence of the Authorising Officers approval or request to take this action)	

Authorising Officers Name	Signature	Date

Attach evidence of breach, recommendations, action plan and risk assessment and any other relevant information to this form and send to Immigration-queries@open.ac.uk for logging.