

Strategy Committee – 24 February 2016***UKVI – Tier 2 & 5 Monitoring Requirements***

The University (and therefore the School) is required to be able to state the whereabouts of all staff on UKVI Tier 2 and Tier 5 visas. The School currently has 27 such staff (all on Tier 2 visas).

Whilst there is a lack of clarity as to the precise level of granularity required, it is proposed that the School adopt the following principles:

- Relevant staff to advise the School of absences from Edinburgh (with some basic details) during the working week (Monday to Friday, excluding the Christmas and New Year closure). Effectively, such absences are likely to be of least one working day.
- Relevant staff provide a means of contact (ie a mobile telephone number) to allow them to be contacted during the working day (assumed to be 9.00am to 5.00pm, Monday to Friday, although recognising that staff may not follow this work pattern, however any UKVI inspection visit will be within these times).

This means that, during any working day, the School may contact any Tier 2 or Tier 5 staff and ask them to attend a meeting with UKVI Inspectors or, where appropriate, the School may evidence the reason for absence of such staff.

There are a number of ways in which absence recording may be implemented.

Option 1

Relevant staff send an email to a designated email account advising their intended absence (with basic details such as reason for absence and location). Information is retained in the inbox but not monitored and only accessed if required in the case of a UKVI inspection or for spot compliance auditing.

It is not considered that UKVI would regard this as the School (and, therefore, the University) adequately executing its duty to undertake due monitoring of Tier 2 and Tier 5 staff.

Option 2

Relevant staff send an email to a designated email account advising their intended absence (with basic details such as reason for absence and location). The information is then transposed into a calendar application by admin staff.

It is considered that this would meet UKVI requirements, however it concentrates the additional workload on a limited number of staff, where it may create issues of capacity to undertake the work.

Option 3

Relevant staff record their intended absence (with basic details such as reason for absence and location) in a calendar application accessible by designated staff (eg level office staff and/or InfHR).

It is considered that this would meet UKVI requirements and spreads the burden for the recording of the absence amongst the relevant staff.

Further considerations

- Each of the above processes makes the assumption that permission for absence, where required, has been granted by the line manager of the staff member.
- The School may limit the above process to staff with UKVI Tier 2 and Tier 5 visas or the School may make it applicable to all staff.
- Sickness absence and other unplanned absence (eg emergency parental leave) would be notified to a designated email account and transposed by admin staff who would also notify the staff member's line manager of the absence. There would be advantages in making this processes applicable to all staff (in terms of improved absence recording (both individually and collectively), implementing and monitoring of return to work interviews and identifying cases where staff may require additional support (for example through occupational health referral)).

Monitoring

The School is required by the University to monitor compliance with the above Tier 2 and Tier 5 process, by relevant staff, by undertaking periodic audit checks.

Martin J Wright

Director of Professional Services

17 February 2016

Annex 1 - College of Science and Engineering - Tier 2 (Employee) and Tier 5 (Temporary worker)
Attendance Monitoring

Annex 2 - Extract from UKVI Tier 2 and 5 of the Points Based System Guidance for Sponsors

College of Science and Engineering

Tier 2 (Employee) and Tier 5 (Temporary worker¹) Attendance Monitoring

Governance

The Head of School and Director of Professional Services/School Administrator have overall responsibility for compliance with Tier 2 and Tier 5 UK Visas and Immigration (UKVI) sponsor obligations for their School.

Attendance Monitoring

Each School will:

- Communicate local arrangements to employees for requesting and taking planned leave e.g. annual leave, conference attendance, sabbatical leave, fieldwork, maternity leave etc., subject to the normal management approvals, or for notifying the School of unplanned absences, e.g. sickness absence, emergency family leave, compassionate leave.
- Record all leave and absences to ensure that accurate records are available for managing sick pay arrangements, to assist in workload planning and allocation, and for notifying the UKVI in the event of unauthorised absence of those working in the School under the terms of a visa. The record must be maintained at School level and, will be subject to audit by the University and UKVI.
- Designate an employee or 'contact officer' whose operational responsibilities will include monitoring compliance with UKVI Tier 2 and Tier 5 attendance monitoring requirements in the School. This will include briefing those with visa restrictions (and their line managers where possible) on the local processes for requesting leave and notifying the School of absences.
- Comply with regular University location check requests to ensure that sponsored employees/researchers actual whereabouts are accurately reflected in what is contained in the official leave and absence record. A record of this check will be made and will be subject to audit by College HR.
- Immediately notify College HR in the event that a new sponsored employee/researcher does not arrive on the date specified in the CoS application; provide the explanation for their non-arrival and where appropriate, confirmation of the new arrival date.
- Have processes in place to immediately notify College HR if it becomes evident that the location of a sponsored employee/researcher cannot be identified or confirmed.
- Once located, ensure that an employee/sponsored researcher whose whereabouts were unknown, is reminded of their obligations under the UKVI Tier 2/ Tier 5 requirements and School reporting requirements.

Reporting to UKVI

College HR will be responsible for meeting the UKVI deadlines for the following:

¹ This normally means a sponsored researcher in the UoE

- Reporting when a new sponsored employee/researcher has not arrived on the start date specified on their CoS application, **within 10 working days of that date**. The explanation provided by the School will be given along with, where appropriate, the revised start date.
- Where a sponsored employee/researcher is absent from work without permission for more than 10 consecutive working days and all attempts to locate them have failed, reporting this **within 10th working days of the 10th day of absence**.

ANNEX 2

Extract from UKVI Tier 2 and 5 of the Points Based System Guidance for Sponsors

17.3 We may check sponsors at random. If you are checked it does not necessarily mean we have doubts about your compliance as a sponsor. We may make these checks before we make a decision on your licence application or after your licence has been granted, during the validity period of your licence. These visits can be announced or unannounced.

What happens during a check?

17.4 Our compliance officers carry out the checks and they may visit you.

17.5 The compliance officer may want to:

- a) verify any information you gave on your sponsor licence application which may include taking photographs of the location and the premises from which you are operating your business.
- b) check that you are complying with all of your sponsor duties (or will be able to comply if they visit before your licence application has been decided)
- c) speak to any migrant workers
- d) speak to any of your employees or colleagues involved in the recruitment of migrant workers, inspect records and/or systems to ensure you are following your sponsor obligations and adherence to rules, for example, on Record Keeping as set out in Appendix D
- e) Conduct checks on other workers to ensure you are complying with your obligation to prevent illegal working.

Tier 2 and 5 of the Points Based System Guidance for Sponsors (p55)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492799/Tier_2_5_guidance_11-15_word_v1_1_addendum