

## UK Border Agency compliance inspection visits: top 10 tips for tier 2 sponsors

Nisha Patel  
Tuesday 26 February 2013 15:14



**Solicitor Nisha Patel sets out some practical tips for tier 2 sponsors to follow before and during an inspection visit.**

Employers that employ foreign nationals under tier 2 of the points-based system must comply with certain duties under their sponsorship licence. The UK Border Agency's (UKBA) primary purpose during a compliance inspection visit is to assess whether or not a sponsor has carried out and is able to carry out their sponsorship duties, including in relation to the prevention of illegal working.

Sponsors need to be vigilant and fully prepared for both pre-arranged and unannounced (ie "surprise") inspection visits. If a sponsor is found to be non-compliant during an inspection visit, this can have very serious repercussions, including the possibility of a downgrading, suspension or revocation of the sponsor's licence and curtailment of the immigration permission of all sponsored migrant workers.

### Before an inspection visit

1. Keep comprehensive and readily available records.

Applicable electronic and/or paper records (which are specified in UKBA guidance) should be kept in a logical and well-ordered way. As a rule of thumb, it should be possible to find every necessary record within five minutes of commencing a search.

2. Have robust attendance monitoring systems in place.

Attendance monitoring is one the key sponsorship duties. Relevant absences should be monitored on a daily basis and appropriate backup systems should be put in place. It is easy to envisage how monitoring can fall behind (and the requirement to report relevant absences within 10 working days can be missed altogether) if only one person has sole responsibility and that person is on holiday or off work sick.

3. Keep up to date with the latest changes in UK immigration law.

UK immigration law changes on a regular basis, often without notice. It is not safe to prepare to show compliance with rules as they were when last reviewed by the sponsor's staff weeks or months ago.

4. Arrange a "mock" inspection visit.

It is generally advisable for tier 2 sponsors to have their compliance systems regularly "stress tested" by immigration solicitors. In the event of a planned UKBA inspection visit, it is highly advisable to have a mock inspection visit.

### During an inspection visit

5. Ensure relevant staff are available to be interviewed.

All "key personnel" must be available to be interviewed during a planned inspection visit in case the UKBA wishes to interview them, and all or some migrant workers - depending on how many migrant workers are sponsored - should also be available. (The UKBA may be prepared to rearrange an inspection visit if members of key personnel are not available when an unannounced visit is made.)

6. Be familiar with your own compliance systems.

## Mission Make your workforce more productive and engaged

### Six steps to double the business value of HR data and metrics: part 2

In the second of our two-part series exploring HR data and metrics, Nick Kemsley looks at the final three steps any HR function can take to double the business value of the information they provide.

## PersonnelToday Jobs

Search

Head of Human Resources - London  
Salary: £51,821 - £60,966pa.  
Location: London  
Senior Occupational Health Specialist,  
Salary: circa £38-40,000 gpa  
Location: Derby  
Occupational Health Advisor - Central London SE1 - 2 days a week  
PERM  
Salary: £35K - £38K + Good benefits  
Location: Central London  
Interim HR Business Partner - £35-37K - 1 year FTC - Housing  
Salary: £35,000 - £37,000  
Location: London  
HR Officer - Retail - Permanent  
Salary: £30,000  
Location: London

## Latest news

### Millions giving up work to become carers

07 Mar 2013

### Majority of men would consider taking paternity leave

07 Mar 2013

### Employers urged to rethink talent strategies

05 Mar 2013

### Commons and Lords clash over caste discrimination

05 Mar 2013

## Latest legal content on XpertHR

## Most read

### Parental leave to increase from 13 to 18 weeks on Friday

04 Mar 2013

### 2013 employment law changes: 10 things employers need to know

02 Jan 2013

### Commons and Lords clash over caste discrimination

05 Mar 2013

### Employers urged to rethink talent strategies

05 Mar 2013

## Featured buyers' guide



### A buyers' guide to recruitment process outsourcing

Read our FREE guide to help you make an informed decision about outsourcing your recruitment processes. **More »**

It can create a bad impression and put doubt into a UKBA officer's mind if a sponsor's staff are not familiar with their own compliance systems. All key personnel and other staff who have a role to play in ensuring compliance should be able to demonstrate familiarity and confidence when describing and demonstrating compliance systems to visiting UKBA officers.

7. Be accompanied by an immigration solicitor.

Many sponsors will pass UKBA inspection visits without the presence of a solicitor. However, the chances of passing an inspection visit can be significantly increased by the attendance of an immigration solicitor, particularly if it is known in advance that there are areas of non-compliance.

8. Be prepared to explain any areas of non-compliance.

If a sponsor is aware of any areas of non-compliance, a senior member of key personnel (ideally the authorising officer) and/or the sponsor's immigration solicitors should be prepared to discuss those areas, to answer any questions and to set out any mitigating circumstances.

9. Be friendly and positive.

UKBA officers are humans too and compliance visits can proceed more smoothly if the visiting officers are made to feel welcome. Even though compliance visits should be based purely on legal considerations, first impressions and the attitude of a sponsor's staff can make a difference in practice.

10. Delegate to colleagues, if appropriate.

The visiting UKBA officers will take a note of what is said during inspection visits. It is therefore particularly important that different members of staff only speak about areas that are within the scope of their roles and responsibilities (including as members of key personnel) and delegate to better-placed colleagues as appropriate. It is preferable to delegate to a better-placed colleague than to guess or give an incorrect answer because of a lack of familiarity relating to specific areas of compliance.

*Nisha Patel is an associate solicitor in the immigration law team at Russell-Cooke Solicitors*

The XpertHR employment law manual includes information on the law on employing foreign nationals, including under the points-based system.

Take part in our employee recognition schemes survey

08 Mar 2013

Tribunal update: Chef's caste discrimination claim "doomed to fail" under Equality Act 2010

08 Mar 2013

Case report round-up: Agreement to new contract implied from employee's application for benefit

08 Mar 2013

Personnel Today Jobs  
Your industry, your job site

Reach  
1000s  
of HR  
professionals

Find out  
more

RECRUITMENT CHECKLIST  
OF 1,000s OF QUALITY  
CANDIDATES  
OF RECOGNISED INDUSTRY  
JOB SITE  
OF COST-EFFECTIVE  
RECRUITMENT ADVERTISING  
OF HR PROFESSIONALS ONLY