

# Immigration services for educational establishments

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# Introduction

## Why prioritise immigration compliance?

With UK education exports valued at £26mn (8% of all UK service exports) and international students a keystone of institutional funding, immigration compliance is one of the most complex and complicated issues educational establishments have to deal with today because of its direct impact on international students and access to the highest quality teaching staff.

Engaging with UK immigration brings various risks with it, financial, organisational and reputational. Ever-changing rules and procedures make ensuring compliance more difficult.

UK education has, for more than a decade, been a key target for Home Office compliance and enforcement visits – with concerns often raised regarding students failing to attend courses or working in excess of the hours permitted by their immigration conditions.

In the first quarter of 2023 the Home Office issued 346 penalties to UK businesses to the value of over £6 million for employing migrants who did not have the right to work. Since 2018, almost 5,000 penalties have been handed down, with a total value of over £88 million.

Equally, in the first quarter of 2023 193 sponsor licences were suspended (an increase of 103% on the previous quarter) and 179 licences were revoked (an increase of 184% on the previous quarter).

Downgrading or loss of a sponsor licence can mean that existing students are unable to extend their visa and you are left unable to sponsor new students or teachers for the academic year. Worse still – loss of a licence can mean that existing students are unable to complete their courses and forced to return to their home country leaving institutions open to legal claims, lost income and reputational damage.

We are seeing a clear upwards trend in Home Office compliance visits, and less of a willingness to ‘forgive’ employer/sponsor transgressions when it comes to the prevention of illegal working and sponsor compliance.





## Birketts' UK immigration team

With a rich heritage spanning more than 160 years, Birketts has built a track record advising educational institutions across the UK and internationally on a wide variety of subjects. We are a full service, top 50 UK law firm with offices across East Anglia, London and the South East.

We have more than 1,100 employees, all sharing a common commitment to deliver the best possible outcome for our clients. We are large enough to provide specialist expertise in most areas of the law, but not at the expense of maintaining a personal and tailored service. Our reputation for providing high quality legal advice and client service has resulted in the firm regularly achieving high level legal awards.

Our immigration team has over 30 years of experience managing clients' immigration programmes. Over the years we have developed strong relationships with the UK's immigration authorities (i.e. the Home Office). An integral part of that is taking the knowledge we have accumulated to build a solid visa application and compliance support framework for our clients. We are knowledgeable and enthusiastic about our subject, keeping up to date with the myriad of changes to the UK's immigration landscape to provide you with an effective and efficient service.

As organisations, your structures, size and priorities may be diverse, but your legal requirements have a common thread – the need for legal advice which is commercial, proactive and sector aware. Through collaboration with different departments within Birketts, we have gained a deep understanding of the education sector, whether this is an independent school, a college or a university. We spend time getting to know you to understand how your organisation operates and how we can best support your objectives. We will then tailor our support to suit your organisation.

Throughout our collaboration with you we will remain proactive and responsive because we understand that dealing with immigration requirements can be stressful for the organisation and individuals alike. We will never become complacent. Remaining agile and able to support our clients through every change in the UK immigration landscape means we can easily adapt to new government processes and procedures and help you adjust your immigration and compliance programmes accordingly.



## What we offer

We know that education establishments are keen to get immigration compliance right. Many will have in-house expertise in relation to visa applications for students and staff, and often also a dedicated right to work and sponsor compliance team. But often it is good to have a fresh pair of eyes looking at your processes to see if efficiencies can be gained and improvements made. In doing that, we will bring our sector experience to bear for you, evaluate your immigration set up, advise on industry best practice, and suggest changes that will make your immigration compliance programme best in class. While we of course focus on ensuring your organisation is legally compliant, we will always ensure that our advice is accessible, practical and feasible, regardless of where in the organisation you might find yourself.

## Employer compliance

### Student visa compliance

We provide a mock audit and compliance advice service that mirrors the Home Office's approach to compliance audits. However, while the UK authorities often target a specific sector, and look for specific issues, we will stress-test all of your existing systems and processes holistically to ensure they are compliant. This will mean we can identify current and potential future issues and suggest solutions that will remedy any weaknesses and significantly reduce the risk of non-compliance.

We can tailor the scope of our mock audit service to the areas you would like us to investigate. Usually, our audits are undertaken on site, but we can also undertake them remotely. We can undertake file reviews, interviews with those involved in delivering your immigration programme, and evaluate systems and processes to ensure they cover all areas of sponsor, visa, and right to work compliance.



Birketts is extremely professional, responsive, and helpful. They are experts in immigration law. I have complete confidence in them. ”

*Legal 500 [UK 2023]*

## Work visa compliance

We have extensive experience in auditing public and private organisations for compliance in the Skilled Worker, Temporary Work, and Global Business Mobility visa categories. We understand the various pressure points. We seek to understand what works for you, and then consider how to tweak and, where necessary, amend your ways of working to achieve maximum improvements in your compliance with minimum fuss.

Much like our approach to Student visa compliance audits, we will look at the same areas of compliance as the Home Office. This ensures that any potential weaknesses are identified before the UK authorities pay you an unannounced visit and point them out to you.

We can tailor the scope of the audit to the areas you would like us to investigate. Usually, our audits are undertaken on site, but we can also undertake them remotely. We can undertake file reviews, interviews with those involved in delivering your immigration programme, and evaluate systems and processes to ensure they cover all areas of sponsor, visa, and right to work compliance.

We understand how the education sector approaches work visa compliance, but you will also benefit from our knowledge and experience of how public and private sector companies deal with these requirements. We will let you know which parts of your system (if any) would benefit from adjustments, and how these can be made in the most straightforward and cost-effective way.

## Right to work checks

The UK's prevention of illegal working regime has changed significantly on numerous occasions over recent years – in particular with a recent transition to digital checks. It is difficult for employers and their HR departments to keep up with the newest changes and how they affect existing processes.

Every employee needs to confirm they have the legal right to work in the UK, regardless of whether they are British, Irish, European or from anywhere else in the world. But all of these groups require checks in different formats, and also have different requirements when it comes to continuing to check their right to work in the UK.

Getting this checking process wrong can saddle an employer with significant fines, suspension or loss of sponsor licence(s), the requirement to stop sponsoring students and employees immediately, reputational damage, and in a worst-case scenario jail time for a member of management.

Auditing your right to work processes can be part of your Student or work visa audit, or we can undertake this audit on a stand-alone basis. Whichever way you choose to structure your audit, you will receive a report that sets out our findings in clear and unambiguous language. We will let you know where your systems and processes cover all areas of compliance, where improvements might be useful, and where your set up has deficiencies that need to be amended immediately and how.

## Audit services at a glance

Service	Student only	Work and Temporary visas only	Prevention of illegal working only	Full audit across all areas
Scoping call/virtual meeting	Can be included	Can be included	Can be included	Can be included
Call/virtual meeting to plan the day(s) if audit is undertaken on site	Can be included	Can be included	Can be included	Can be included
Review of sponsor compliance policies	Can be included	Can be included		Can be included
Review of right to work policies			Can be included	Can be included
Review of sponsored student files for sponsor document compliance	Can be included			Can be included
Review of sponsored employee files for sponsor document compliance		Can be included		Can be included
Review of employee files for right to work evidence			Can be included	Can be included
Interview of Key Personnel named on the sponsor licence	Can be included	Can be included		Can be included
Interview student recruitment member of staff	Can be included			Can be included
Interview student admissions member of staff	Can be included			Can be included

Service	Student only	Work and Temporary visas only	Prevention of illegal working only	Full audit across all areas
Interview student record-keeping member of staff	Can be included			Can be included
Interview student monitoring member of staff	Can be included			Can be included
Interview employee record-keeping member of staff		Can be included		Can be included
Interview employee monitoring member of staff		Can be included		Can be included
Interview employee right to work check member of staff			Can be included	Can be included
Interview 2 sponsored students	Can be included			Can be included
Interview 2 sponsored employees		Can be included		Can be included
Draft report within 3 weeks	Can be included	Can be included	Can be included	Can be included
Final agreed report	Can be included	Can be included	Can be included	Can be included
Presentation of findings to management	Available on request			
Legal Advice Privilege	Available on request			



## Follow-on remediation work

In the event that your audit has identified parts of your immigration programme which require attention, we provide follow-on remediation support across all areas.

There are various ways we can support you, such as:

- drafting and suggesting amendments to your policies
- suggesting process improvements
- assisting on site to implement changes to processes
- further/full file reviews
- training sessions for sponsor licence key personnel or any other staff benefiting from refresher training
- sample audits to test newly implemented processes and procedures
- declaring historic non-compliance to the Home Office where appropriate.

## UK visa applications for your institution

### Work and visit visas

We can support employees who need to make Skilled Worker entry clearance visa applications from outside the UK, as well as employees making leave to remain applications from inside the UK. We can also support them to submit Indefinite Leave to Remain applications, British citizenship and passport applications.

Advising on hundreds of visa applications per year, we are well versed in all UK visa categories, including work visas, visiting academic visas and visas to cover Permitted Paid Engagements in particular for academics and lecturers. Quality end to end immigration support and advice means that refusal of applications is unlikely, protecting your sponsor licence status.

### Outbound travel visa advice

We understand how important it is for educational establishments to be able to send members of staff abroad. You will want to have one point of contact for immigration questions, regardless of the jurisdiction. We work with carefully selected teams of local lawyers from around the world to take the pain out of having to find this support yourself. This allows us to meet all of your immigration needs – wherever required – by providing integrated local expertise within a global context.

We can also provide broad support in relation to pre-travel registration requirements including the new UK Electronic Travel Authorisation scheme (ETA) being implemented throughout 2024, and the roll out of the European Entry/Exit System (EES) and Travel Information and Authorisation System (ETIAS) in 2025.

# UK visa applications for parents of students

## Parent of a Child Student visa

If you sponsor students under the age of 12, and you are an independent school, one of your student's parents can apply for a Parent of a Child Student visa and accompany their child to the UK. This visa has various eligibility requirements, such as the parent having to maintain a home outside the UK, and the visa only being available until the child reaches the age of 12. The parent also cannot work while in the UK.

These visa applications are not entirely straight forward and quite document-heavy. We would be very happy to assist these individuals with their visa applications.

## Work and visit visas

We are also happy to support the parents of your students with other visa applications that may be available to them. This covers visas for employed work (such as the Skilled Worker visa), visas for self-employed work (such as the Innovator visa), and visas for exceptionally talented individuals in their field (such as the Global Talent visa).

We undertake many of these applications on a regular basis, so are well-placed to advise the parents of your students on their UK visa options.

## How we will work with you

We have your short and long-term goals in mind in everything we do. At Birketts we want to forge a long-term, collaborative approach to immigration with you. We want to become an extension of your team. We believe that we can provide a better service if we clearly understand your organisation, its needs and processes.

Where appropriate we will engage with your organisation directly to provide the relevant visa application support. Where we are assisting parents with their immigration needs we will take them on directly as our clients and you will not need to be involved in their application process.

Once we have established the correct visa category we will do the heavy lifting for you and your employee (or the parent(s) of your students), assisting with the drafting of the application form, collating all supporting documents required, and submitting the form and booking a biometrics appointment. Where applications are not completely straight forward, we will draft representations to the UK authorities to explain any special circumstances.

Where required we will advise you on the sponsor duties you need to comply with during the entire time you are sponsoring your employee. Your employee will also have to comply with the requirements of their visa, so we will explain to them what they are responsible for in terms of keeping the UK authorities updated on their circumstances.

Here is what we would like to offer you:

- A dedicated team member who will work on or supervise all of your visa application
- Establishment of most suitable visa option
- Up front information on time scales and costs
- Drafting of application form(s)
- Provision of template letters where required
- Provision of supporting documents list
- Review of application form(s) and supporting documents
- Submitting application form and supporting documents and booking biometrics appointment (where required)
- Making legal representations to the Home Office on complex or unusual cases
- Confirming visas have been issued correctly
- Advising you and your employee on compliance duties throughout the live of the visa(s)
- Typically we also offer a fixed fee model to give you certainty around legal costs and a range of support models to suit your budget.

**Whatever your requirements or concerns are, we are here to help you put your mind at ease. If you would like to discuss anything that is not covered in this brochure, please do not hesitate to contact a team member (contact details below).**



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