

Managing and Retaining Overseas Staff

On the 13th June 2024, we held a webinar focusing on Managing and Retaining Overseas Workers. This included:

- Managing and retaining overseas staff, including responsibilities and compliance.
- Informing UK Visa and Immigration (UKVI) after recruiting overseas workers.

Here, we share some of the questions asked both via our helpline and during the webinar.

1. What happens in the case of dismissing an overseas staff member?

This would be the same as dismissing a non-sponsored worker. The only extra consideration is that you'll need to inform UKVI within 10 working days.

2. What happens regarding maternity for an overseas staff member?

This is exactly the same as for a non-sponsored worker. The only extra consideration is that you'll need to inform UKVI within 10 working days.

3. How much should a solicitor charge to assist staff extending their visa?

This will depend on the specific circumstances of the individual and size of the firm, but anything between £500-£1,500 plus VAT would be reasonable.

4. When someone is on a time limited visa, should the employer issue fixed term contracts in line with the end date of their visa even though the advert was advertised as permanent?

No, there's no need to change the nature of the contract. The contract should state that it comes to an end if the individual no longer has the right to work in the UK.

5. Can you confirm it is good practice to be dating and signing every page on a manual Right to Work check if the documents are downloaded and stored digitally?

Yes, this is good practice to demonstrate when and who undertook the check.

6. For each migrant worker we have sponsored, what pages are we obligated to take copies off?

This will depend on the status of the worker. The government guidance on the documents required is here:

https://assets.publishing.service.gov.uk/media/667438bb64e554df3bd0dbe8/Guidance_Right_to_work_checks_-_an_employer_s_guide.pdf

- 7. Some local authorities require staff to be enrolled onto a NVQ and for overseas staff there's an employer contribution. Is it still legal for them to be enrolled and they pay their own costs directly?**

This will depend on the terms and conditions of the course. It is legal to deduct non-mandatory training costs from employees, or to deduct mandatory training costs when their employment ends, but the deductions should be tapered to reduce the percentage of fees repayable based on the length of the employee's service, as set out in the webinar slides.

- 8. I have a sponsored worker whose availability has changed; I have put a note on the SMS board. Should I be doing anything else?**

You just need to notify UKVI via the SMS, and update their contract accordingly if necessary.

- 9. How can we successfully secure more defined CoS when local authority contracts do not guarantee hours?**

This is difficult, as UKVI is now asking for proof that employers can provide sufficient work for the workers to be sponsored. Employers can do this by providing copies of their contracts (redacted if necessary) and other supporting evidence that the local authority can provide (such as a letter confirming the availability of work).

There is now a process in place for local authorities to support providers to secure new COS. You can contact your Local Authority and ask them to submit a letter of support to UKVI. Please note, the letter of support to help speed up Certificate of Sponsorship applications is optional and is not an endorsement, nor does it guarantee UKVI will accept the application. DASSs can decline to provide a letter of support if they do not have sufficient information, or if they cannot assure themselves that the number of Certificate of Sponsorship applied for is reasonable.

- 10. What paperwork or documents should providers have when they loan settlement funds?**

You should have a formal employee loan agreement that's separate to the employment contract. There are several requirements for these documents to be valid, and so it's a good idea to take independent legal advice.

- 11. When a license is revoked, can this be appealed as GOV UK states no, but providers are saying they are appealing?**

The circumstances in which you can appeal are very limited. Generally, this will only be where there has been a caseworker error or supporting evidence has not been considered by UKVI. This is why it's advisable to seek urgent legal advice if your sponsorship licence has been suspended, as the ramifications for not getting the response right are serious.

- 12. Would offering accommodation and loans to overseas staff and not all staff be seen as discrimination?**

No, as you're permitted to put in place measures that may amount to positive discrimination where you've identified that it is beneficial? desirable to do so.

13. How can we evidence if an appeal is warranted or not?

This can be a difficult and technical decision, and so it's advisable to take legal advice.

14. Should the primary sponsor not authorise workers to undertake supplementary work elsewhere, given they have a responsibility to manage the legal requirements of sponsorship?

Not necessarily. However, it's important to monitor the well-being of your overseas staff in the same way that you would for non-sponsored staff. It is advisable to add a provision into your contract of employment preventing employees from working for other employers without your consent to help you to monitor employees who are working supplementary hours.

15. If someone is working £20ph on a skilled worker visa, what supplementary job can he/she do?

They will not be restricted as to what work they can do for their supplemental work.

16. If a provider does not have enough hours, can they loan the worker to another provider to make their hours up?

No, the sponsor needs to ensure that they are complying with their sponsorship duties by paying the worker above the minimum threshold for sponsorship.

17. Can employers who have had their licenses revoked employ workers for their supplementary 20 hours?

Yes, as secondary employer for employees of other sponsorship licence holding employers, as they are not required to sponsor those employees for their supplemental 20 hours.

18. Does a secondary employer need to evidence their awareness that the employee can only work 20 hours?

Yes, this is recommended and should be reflected in the contract for the worker.

Additional International Recruitment Related Support

You can find lots of advice and guidance via our [International Recruitment Hub](#). We'd also like to signpost you to:

- **HR & Legal Webinars**

If you are a Care Provider in the West Midlands and would like details about our future International Recruitment Human Resources & Legal Webinars, please email our team at hello@wmca.international

- **Legal & HR Advice**

If you need additional legal support please reach out to Lester Aldridge, who have been contracted to provide support until the end of September 2025: <http://irwestmids.co.uk/hr-legal-services-support/>

- **Recruitment & Immigration Support**

Free sponsorship licenses and funding for recruitment and immigration support

Lifted, a Technology platform and expert immigration team, have been commissioned to help Care Providers recruit and retain sponsored workers who are already here in the UK, as part of the International Recruitment Programme 2024/25. They can support with Certificate of Sponsorship applications, compliance and much more. [You can find out more here.](#)