

Immigration Compliance



Achieving compliance in a complex regulatory landscape

UK Immigration Law is complex and subject to frequent changes. With a mixture of statutes and internal guidance by the UK Border Agency (UKBA) to keep up with, it is increasingly difficult for organisations to manage compliance.

Your obligations

You are legally required to make sure that every person you employ, regardless of nationality and length of service, is legally permitted to work in the UK. Additionally, since November 2008, you must obtain a licence from the UKBA if you wish to sponsor migrants.

“The introduction of the points-based system has radically improved our ability to respond quickly to changing economic circumstances.”

Alan Johnson
Home Secretary

Strict new enforcement policies

UKBA Enforcement Officers can visit your business premises at any time, without prior notice, check that your HR systems comply with immigration legislation and demand to see the ID documents for all of your employees.

“This is part of the biggest transformation of our border controls in a generation.”

Phil Woolas
Border and Immigration Minister

Additionally the UKBA can request to inspect all documentation in relation to the recruitment and retention of sponsored migrants and verify that you have periodically checked this information as prescribed under immigration rules.

“Our priority in enforcement against employers is to identify employers who knowingly flout the rules, often on a continual basis and often on a large scale. However, under immigration law any employer found to have employed people with no right to work here can face a civil penalty.”

Lin Homer
Chief Executive of the UK Border Agency

The UKBA employs over 1,000 enforcement officers and intends to inspect 5,000 organisations this year. Your business could be next.

Harsh new penalties

Businesses found employing staff without the legal right to work in the UK will face strict civil penalties and, in some cases, criminal sanctions.

“It is a law with regulations so complicated that even the UK’s top law officer cannot follow them. And a law which empowers a quango – the UK Border Agency – to issue large fines that could ruin unsuspecting, struggling small businesses.”

Dr Eamonn Butler
Director, Adam Smith Institute



Managing your obligations and reducing your risk

The Points-Based System (PBS) rules complements the Immigration, Asylum and Nationality Act 2006 and other existing legislation, creating complex employer obligations and increasing risk of prosecution. However there are procedures you can follow to create a statutory defence.

Common pitfalls

Many companies make the mistake of thinking that they do not need to check their staff who they believe to be British or are still following historical processes such as simply asking for a National Insurance number.

As the case of Baroness Scotland demonstrated, all employers are responsible not only for checking the immigration status of their staff but for retaining proof of the documents checked.

Employers also need to be careful not to discriminate; all employees must be checked equally regardless of race or nationality.

There are numerous combinations of different documents which must be checked and retained in a specific format, depending on each employee's background and circumstances. Simply asking all employees regardless of their nationality and visa status for a copy of their passport is not sufficient to achieve a statutory defence.

Compliance officers

Additionally, the Points-Based System requires you to elect an Authorising Officer who is personally responsible for ensuring that your company is 100% compliant. Other roles which must be assigned to your staff responsible for compliance are Key Contacts, Level One and Level Two users. The penalties for non-compliance are severe and the elected staff are personally liable.

How DavidsonMorris can help

DavidsonMorris Solicitors are immigration law specialists. We provide a suite of legal services and compliance management solutions. We reduce compliance risk by delivering legal advisory services combined with web-based technology, giving organisations a one-stop solution for immigration compliance.



" Under the new legislation we needed to apply for a Sponsor License and none of our HR team felt confident enough to approach this task."



Practical tools for managing on-going compliance



Our Online Compliance Management Software complements your existing HR system and is designed for non-legally qualified staff to operate; tracking and managing all of your employees in the UK. Using this solution eliminates illegal working practices as prescribed by UKBA and satisfies your legal obligations under the PBS legislation.

The Online Compliance Management solution empowers your HR to fulfill their on-going immigration compliance obligations confidently and without the need for further legal advice, saving time and money.

Research has shown that automated compliance processes are extremely cost-effective. According to Gartner Group, companies that use compliance management systems will typically spend 50% less annually to meet legal requirements than those that do not.

Web-based training

Recognising the need for flexibility in training, delivery and convenience for our clients, we provide a comprehensive series of web based immigration training courses. The courses have proven to be popular and are very cost-effective. Courses can be attended by several employees simultaneously and can be recorded so that other employees can benefit from the same information at a later date.

Insurance

In response to the increase in litigation, DavidsonMorris has developed an insurance based risk management scheme, to protect employers against the costs involved in dealing with UKBA and employee claims. This provides a practical and cost-effective way to manage future risk.

DavidsonMorris Insurance is tailor-made to the size of your business, your internal HR resources and your staffing requirements. We work with you to identify which level of cover best suits your business. Contact us for more information.

Key features

- Bespoke software reflecting your business
- Audit review reports
- Key event alerts (e.g. visa expiry and changes to the rules)
- UKBA compliance reports
- Access to legal document templates
- Step by step guidance
- Web-based training
- Secure hosted solution
- Ongoing compliance management

Benefits

- Centrally collated information reducing the need to rely on multiple systems
- Tailored to your specific business requirements
- 360 degree visibility of employee immigration status
- Reduces duration of staff audits significantly
- Low IT footprint
- Cost effective solution
- Peace of mind for your Authorising Officer and Compliance Officer



“We were able to reduce our staff audits from months into days – and we were able to get the right reports out to the right people at the right time.”

Contact us

For a full demonstration of our compliance management solutions contact our compliance team on compliance@davidsonmorris.com or call **020 7061 6210** or **01224 826 573**