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# Managing the Risks of Immigration Compliance in Small and Specialist Providers

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## Foreword

GuildHE as one of the officially recognised representative bodies in higher education is actively involved in policy discussions with the Home Office and UKVI. Through bodies such as the Home Office's Education Sector Forum and Co-regulation groups we engage with developing guidance and policy, as well as lobbying around specific issues - such as the impact of the 10% visa refusal threshold for institutions with smaller numbers of international students, and the accessibility of the premium service to smaller providers.

We also seek to share best practice with our members and are pleased to be working with Uniac to develop this short briefing around compliance with UKVI visa regulations. The regular updating of the Home Office's regulations, as well as the potential impact resulting from removal of Tier 4 or 2 sponsor status, can have a significant impact on an institution and is rightly often considered one of the highest risk areas on institutional registers.

Uniac is a shared internal audit and assurance service that has a diverse membership including a number of GuildHE members. They play a key role in helping their members manage the risks around compliance and to develop and adopt efficient and effective control mechanisms.

This briefing is aimed at heads of institutions and governors to give an overview of the key issues and to suggest some possible ways in which colleagues might mitigate the risks. If you have any questions, would like additional support, or have suggestions about ways we could develop the information that we provide to members, please contact [info@guildhe.ac.uk](mailto:info@guildhe.ac.uk).

Joint GuildHE/Uniac Good Practice Event  
13 September - Woburn House, London  
Tier 2/4 Compliance including speakers from UKVI.

Contact [jack.fleming@guildhe.ac.uk](mailto:jack.fleming@guildhe.ac.uk) for more information



## Key Risks and Mitigation

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### Basic Compliance Assessment: Refusal Rates

In April 2015, the Home Office made a number of changes that brought about the end of the Highly Trusted Sponsor (HTS) Status and introduced the Basic Compliance Assessment (BCA). BCA must be undertaken every 12 months, and to pass the sponsor (i.e. the higher education institution) must ensure the following three things:

- a visa refusal rate of less than 10%
- an enrolment rate of at least 90%; and
- a course completion rate of at least 85%

One of the most challenging of these three areas to comply with has been visa refusal rates, particularly since its reduction from 20% to 10% in July 2014. The UKVI either accepts or refuses visa applications from potential students sponsored by higher education institutions. The reduction has placed greater strain on institutions with smaller international student numbers, as the refusal rates are calculated against the proportion of total Tier 4 students sponsored. Equally, visa refusal rates are often harder to control due to the application process for visas resting directly with the applicant and without direct oversight from the institution. It should however be noted that UKVI have power to exercise discretion for those institutions with very small number of international students (less than 50).

### Mitigation

Two of the most common reasons for visa refusal is (1) failure in credibility interviews and (2) inaccuracies in financial evidence provided by applicants for proof of maintenance whilst studying in the UK. This latter issue is the most common, with students being required to provide evidence of funds to support their study in the UK (9 months at £1,265 per month if studying in London, or £1,015 per month if studying outside London) to be evident in their bank account for 28 consecutive days.

One of the key challenges has been ensuring that students understand these requirements. Common failures are often due to the type of financial evidence used, the account holder's name, the amount held, or in not meeting the full 28 days requirement.

#### Checking financial evidence

In order to mitigate these issues some institutions undertake checking financial evidence

themselves, and, indeed, in at least one case Uniac is aware of this has reduced refusal rates significantly. However, this still does not provide total assurance around refusal, in particular given the subjective nature of credibility interviews.

Clearly, undertaking visa checking on behalf of applicants will also have resource implications. One potential mitigation of these implications would be to ensure that those responsible for facilitating international student's applications, such as agents and partner institutions, are required to provide a level of checking and oversight themselves. In addition, agents and partners could have an enhanced role in preparing students for credibility checks and ensuring they are aware of what the process is likely to entail.

#### Communicating with applicants

Effective communications with applicants prior to them applying for a Visa to ensure they fully understand the relevant requirements is also likely to be vital. Whilst care needs to be taken not to undermine marketing efforts, ensuring that requirements are reinforced through all relevant communications and engagement channels at all appropriate moments will help to improve awareness and understanding of requirements. Focusing on ensuring applicants are aware of the consequences of not submitting the correct information in the correct format should be emphasised, and the use of good practice, such as walk-through examples and FAQs, should be considered.

### **International student compliance infrastructure**

Common risks across all systems and processes, and in particular for smaller institutions, is business continuity and succession planning, and ensuring that knowledge is not lost when individuals are either temporarily unavailable or leave the institution. A particular challenge for smaller institutions looking to grow their international student numbers is that the kind of business resilience required to mitigate this is simply not affordable to be financed from low numbers of students. Additional challenges in ensuring resilience are also caused by the need to maintain consistent interpretations of rules in local contexts and in the frequency of changes in rules.

### **Mitigation**

If resources permit, the likely costs of putting in place comprehensive and detailed compliance measures associated with growing international student numbers should be clearly factored into any institutional business case for investment in growth.



Early investment in comprehensive and detailed compliance mechanisms is likely to be a fundamental enabling aspect of any significant growth strategy. However, where lack of resources mean only basic controls can be put in place, or where recruitment is not sufficiently certain, having clear documented protocols in place to ensure that component parts of the process can be picked-up by other departments if staff are not available is an avenue to mitigating the risk.

It is also generally more practical for small institutions to spread the knowledge across a number of different teams, though how this is done is generally dependent on the structure of the institution.

Other possible approaches to mitigating risks in this area, other than committing to internal ongoing resources, involve the use of external resources. There are a number of options that could be possible. These include:

- The use of temporary short-term specialist staff to bridge resource needs that can be scaled up as numbers increase
- The Home Office offers a 'Premium Customer Service' for sponsors that could be of benefit
- Sharing compliance functions between institutions in a shared service model
- Use of internal assurance functions to examine specific requirements, provide assurance on the approach taken, and advise of potential improvements
- Separate academic admission decisions from those regarding sponsorship. This ensures that it is not the same staff who review applications for academic qualifications who review it for likelihood of visa refusal

## **Student working hours**

Ensuring Student working hours remain within permissible levels has been a high profile area over the last 18 months in UKVI Compliance, and remains a key area of risk. A number of HEIs have reported non-compliance in this area, resulting in most instances in a full audit of Tier 2 and Tier 4 compliance from the Home Office.

Ensuring compliance in this area is a challenge. Different working hour restrictions are imposed for students above and below degree level and on different visas; and students can often have multiple roles within University that are paid through alternative non-standard routes. Controls around term time hours can also be challenging, particularly for PhD students. Students

studying courses in private providers or publicly funded further education colleges are not allowed to work whilst studying.

Whilst controlling and having oversight of student working is challenging, particularly where students have several concurrent jobs, the Immigration Enforcement have undertaken audits and issues civil penalties on HEIs where degree level students employed by the HEI have been found to work over 20 hours in a single week.

## Mitigation

Varying approaches have been taken across the sector for managing student working hours and this is generally related to the size and structure of the HEI. One of the more common approaches in smaller institutions is to centralise the process for scheduling working hours through a central database or pool system.

A frequent problem is also communication within the organisation, and ensuring that individuals who are responsible for scheduling working hours are aware of their responsibilities and of working restrictions. Where we have identified non-compliance, this has often been the underlying issue.

Other mitigation strategies include:

- regular updates to all responsible staff, and having clear and easily accessible central and locally documented procedures which outline restrictions;
- controls on scheduling and timesheet systems, where working hours are managed to restrict students from working more hours than their visa states;
- ensuring student changes of circumstances are communicated promptly and systematically to HR to ensure that the students no longer eligible to work are not inadvertently employed.
- periodic reconciliation of the student record system to the population of students working on a regular basis to ensure that students who are curtailed are no longer employed by the University;
- Some institutions have introduced a maximum hour level lower than the 20 working hours i.e. 16 to provide a safety net.

## Engagement and Attendance Monitoring

Since the Points Based system was introduced, attendance monitoring has been one of the more controversial areas. Interpreting the guidance around the number of contact points was

initially challenging and thus many institutions invested and embedded sophisticated attendance monitoring systems. One of the key areas remaining at the forefront of the UKVI's focus is to ensure that there is oversight of where students are, and that they are engaging with their studies. Many institutions on the back of the strict guidance were driven to embed electronic attendance monitoring systems or systems which involved a significant amount of resource to manage. It is particularly challenging to monitor students on placement, in writing up periods, or where they have non-standard study. It is also challenging to manage PhD students. Institutions also understandably often do not want to discriminate against international students, so requirements such as attendance monitoring can often impact on home students as well.

## Mitigation

The re-registration system outlined in the sponsor guidance gives the institution the ability to check students' attendance over a 12-month period to ensure that the student has not missed more than 10 consecutive contact points. We have found for smaller institutions that this is an effective approach.

Re-registration is also an opportunity to check documentation, as well as being a health check for each student to ensure that they are engaging sufficiently, and to identify any additional support needs. Good practice is to use these re-registration events to check the student's immigration documentation.

The following additional controls will also help ensure compliance with the UKVI regulations:

- Having central oversight of attendance helps ensure that departments responsible for are complying
- Stringent escalation systems and processes which clearly outline timeframes for actions and that directly reference UKVI requirements if student fails to engage
- Tracking students on placement and writing-up periods on a monthly basis.

## GuildHE

**GuildHE** is an official voice for UK higher education, especially for universities and colleges with a tradition of learning, research and innovation in the industries and professions. Its 42 member institutions include:

- multi-faculty universities, offering a wide range of subject disciplines
- leading providers in professional subject areas including art and design, music and the performing arts, agriculture, education, healthcare and sports.
- institutions with roots in Victorian philanthropy and a commitment to education and the crafts, including specialist institutions and those with church foundations
- high-quality private institutions from both not-for-profit and for-profit sectors
- further education colleges delivering higher education.

GuildHE members are autonomous institutions, each with a distinctive mission and priorities. Together, they provide a dynamic and diverse contribution to UK higher education, nurturing innovation and creativity and providing more choice for students and for graduate employers.

Many are global organisations engaged in significant partnerships and world-leading research, successfully attracting talented international students. Members are diverse but will often share a specialist mission.

## Uniac

**Uniac** is a shared internal audit and assurance service for [universities](#) - some of whom own Uniac as members and some who are clients. For almost twenty-five years, we've been delivering a service that combines the intensive local knowledge of in-house internal audit teams with the breadth of knowledge offered by larger providers. We:

- provide specialist, high quality and valued assurance to the Higher Education sector based on the delivery of risk based audits;
- are a visible and valued advisor of audit committees and senior management teams, enhancing business processes and internal control environments;
- offer training on risk, control, compliance and governance related matters to staff and audit committees in universities. Training is delivered both by Uniac experts and by eminent external speakers; and
- publish briefing notes and benchmarking reports on audit-related topics.

As a shared service, we listen to what each of our [universities](#) wants, and we tailor our style and delivery to meet those expectations. We also provide a forum for universities to exchange best practices and hear expert speakers from inside and outside the sector alike.

If you'd like to find out more about Uniac and how your institution can become a member please contact us on [enquiries@uniac.co.uk](mailto:enquiries@uniac.co.uk)

