

## **Introductory Guide for Racehorse Trainers employing Non European Economic Area (EEA) nationals**

This Introductory Guide has been prepared after a number of issues were highlighted by UK Visas and Immigration (UKVI) during recent inspections of trainers who were employing Non EEA nationals. If you already employ Non EEA Nationals (or are considering doing so) this guide covers these areas for improvement identified by UKVI, however the full guidance on employing Non EEA nationals can be obtained [here](#).

The EEA stands for European Economic Area which is a group of European Countries that operate in a single market, which allows the free movement of people between member states. The list of countries within the EEA is listed [here](#) - Non EEA nationals are those from any other country and for which conditions apply for their entry to (and employment in) the UK.

### **Before you Employ a Non EEA National**

You must be a registered Sponsor with the Home Office before employing Non EEA nationals who are subject to immigration control (anyone requiring a Visa to come to the UK).

You have to apply to the Home Office to become a registered Sponsor. Details of this application process can be found on the Home Office website: [here](#).

### **The Sponsorship Management System (SMS)**

The online sponsor application requires you to give certain responsibilities to members of your staff, some or all of which will have access to the sponsorship management system (SMS) after a sponsorship licence has been granted.

These people are called 'Key Personnel' and there are 4 roles which are:

1. Authorising Officer – trainer / or senior staff position responsible for the recruitment of all migrant workers
2. Key Contact – acts as the main contact between the sponsor and UKVI
3. Level 1 user – undertakes day to day sponsorship activities on the SMS. For example they can assign restricted and unrestricted Certificates of Sponsorship (CoS)
4. Level 2 user – additional user (not mandatory to have one) can access SMS to assign unrestricted CoS and report migrant activity to UKVI



The Employer (usually the trainer) will fill the role of Authorising Officer. They can also hold the roles of Key Contact and Level 1 User, or delegate those roles to another employee.

Level 1 and Level 2 users are the people who access the SMS site and allocate CoS. You need to have a Level 1 User but you do not need to have a Level 2 User. Each person at Level 1 and Level 2 will have their own passwords – DO NOT SHARE PASSWORDS

The people who fill these roles must be employees who are permanently based in UK. The Registered Sponsor (the employer - usually the trainer) will be responsible for the actions of all Key Personnel. The Sponsor must be aware of - and authorise - the actions of your *Key Personnel*.

Full details of these roles can be found at the 'Key Personnel' section of the Tiers 2 and 5: Guidance for Sponsors document: [here](#).

### **Employing Non EEA Nationals**

Current Immigration Rules dictate that Non EEA stable staff (work riders, grooms, yard staff) no longer qualify under the Tier 2 Sponsorship guidelines.

Stable staff can only be brought into the UK under Tier 5 Sporting sponsorship guidelines, which relate to entourage or support staff for sports teams or organisations that travel the world and operate on an international level. These visas are issued for short term employment in the UK (less than 12 months) as they are expected to move with the employer to different locations throughout the world to conduct their sporting activities.

A Sponsor (the employer – usually the trainer) must have a specific Sponsorship Licence to sponsor/employ Non EEA staff under Tier 5. Most trainers / training operations would not meet the criteria for a Tier 5 Sponsorship Licence to employ stable staff. Guidance for employing Non EEA Jockeys under Tier 5 can be found [here](#).

### **Sponsoring a Migrant who is moving from another racing yard**

*If employing a migrant who obtained Tier 2 (General) Visa, a work permit (or equivalent) prior to 6 April 2011*

- The role needs to be at National Qualification Framework (NQF) Level 3 (which includes, Head Lad/Lass, Travelling Head Lad/Lass or Work Rider).
- The employee needs to have been working at this level in another yard in the UK.
- The employee needs to be paid a basic salary of at least £14,300<sup>1</sup>

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<sup>1</sup> Figure correct as of 27/09/2016 but thresholds are updated so you will need to check the current levels

*If employing a migrant who was obtained a Tier 2 (General) Visa between 6 April 2011 – 13 June 2012*

- The migrant can only be sponsored / employed to fill a vacancy at NQF level 4 or above. (NQF Level 4 includes the role of Racehorse Trainer, so other roles within a yard are unlikely to be at NQF Level 4 or above)

The migrant will have either a Visa or Work Permit in their passport demonstrating the date of their initial Visa (referred to as Entry Clearance).

**If the Migrant has Indefinite Leave to Remain (ILR)**

If the migrant has Indefinite Leave to Remain (ILR) there is no restriction on their employment and you do not need to be a registered sponsor to employ them. A person with ILR can be treated in the same way as a British National when considering their employment.

The migrant will have a biometrics (photo) ID Card or Passport Endorsement which will state “Indefinite Leave to Remain”

**After you have employed a Non EEA migrant**

If you do become a Registered Sponsor and employ a Non EEA national there are certain on-going requirements for you as the Sponsor.

Your requirements include:

- verifying and keeping copies of passports and Visas;
- maintaining up to date records of home address, telephone number, etc;
- keeping effective attendance monitoring and notifying UKVI of absence or failure to show.

You must report the following to UKVI within 10 working days:

1. If a sponsored migrant does not turn up for their first day of work. You must include any reason given for their non-attendance – for example, a missed flight.
2. If a sponsored migrant's contract of employment is terminated earlier than shown on their certificate of sponsorship (CoS) – for example, if they resign or are dismissed. (*You must include the name and address of any new employer that the migrant has moved to, if known*).
3. If you stop sponsoring a migrant for any other reason – for example, if they obtain indefinite leave to remain.

4. If there are any significant changes in the sponsored migrant's circumstances –for example:
  - a promotion or change in job title, or core duties, other than those which need a change of employment application;
  - a change of salary from the level stated on the CoS, other than changes due to annual increments or bonuses;
  - a change of salary from that stated on the CoS due to maternity, paternity or adoption leave, or a period of long-term sick leave lasting one month or longer;
  - the location they are employed at changes;
  - the duration of their contract of or for employment or services, is shortened.
5. If a sponsored migrant is absent from work for more than 10 consecutive working days without permission, you must report this within 10 working days of the 10th day of absence.
6. If there are any significant changes in your own circumstances, for example, if you sell all or part of your business, cease trading, go into administration, substantially change the nature of your business, are involved in a merger or are taken over, you must report this within 20 working days.

**This is an outline guide of the most common issues found during UKVI checks upon trainers with sponsorship licences – it is not a comprehensive list of all your requirements. Please note that immigration policy and guidance is often updated/altered therefore it is your responsibility to ensure you are kept up to date with these changes.**

**The information contained within this document is given to the best of our understanding. It is not offered as a definitive legal interpretation and is not a substitute for formal advice. If formal advice is required you should consult with UKVI or an Immigration Advisor who is registered with the Office of the Immigration Services Commissioner (OISC). Further information on finding an immigration adviser can be found [here](#).**

### **Further Assistance / Guidance**

#### UKVI Helpdesk

Business helpdesk - helpdesk service for business customers launched 1 July 2013

Tel – 0300 123 4699

Comprehensive Sponsor Guidance and Appendices can be found [here](#).

**Date of Creation:** September 2016