



# Immigration Offering

Employment, Pensions and Benefits - 2010

## Morgan Cole's Immigration Offering

Morgan Cole's Immigration team advises on the rights and responsibilities under the points based system for immigration. The team is ranked as a top tier specialist team in this field by the legal directory, Chambers and Partners.

Our clients fall into three groups:

- Educational institutions
- Individual employees or students
- Companies

### Companies

Immigration is a business issue for every employer in the UK.

#### All companies

- We help companies to confirm whether or not particular employees are working illegally where doubts arise. We can ensure that a company follows a fair dismissal procedure where appropriate.
- We design robust policies for companies to ensure illegal working checks are properly and reliably conducted.
- We advise companies who acquire migrant workers under TUPE transfers.
- We ensure that companies comply with the Business Visitor Rules in relation to associates and business contacts from overseas.
- We act for companies who seek to challenge civil penalties awarded against them by the UK Border Agency and, if necessary, can take this to appeal at the County Court.

#### Companies considering employing migrant workers

- We regularly guide companies as to the potential recruitment benefits offered by becoming a sponsor for the purposes of the points based system. In particular, we can point to particular job roles which offer the most scope for recruitment from overseas and can give guidance on the necessary recruitment process.
- We help clients to explore the alternatives to sponsored migration and, in particular, the opportunities offered by Tier 1 of the points based system in relation to investors and highly skilled individuals.
- We provide companies with guidance on the costs, procedures and risks relating to sponsorship and the different routes available under Tier 2 (skilled work or intra company transfer).
- We advise on the requirement to register that can be triggered in certain circumstances: e.g. where an existing employee who is a work permit holder needs to extend their leave.

## Existing sponsors

- We offer fixed price compliance checks to give existing sponsors peace of mind that they have been complying with their sponsorship so as to minimise the risks arising from a UK Border Agency audit.
- We give ad-hoc advice to clients on queries relating to the resident labour market test when necessary, in connection with the issuing of certificates of sponsorship.
- We also provide ad-hoc advice on queries relating to specific notifiable events affecting a particular migrant.
- We provide clients with helpful amendments for their employment contracts and policies to assist with sponsorship duties.
- We can assist key employees and senior management in terms of ensuring that their applications for entry clearance or further leave to remain proceeds smoothly and we can also help them to address any complications relating to their families.
- We are often called on to advise companies when particular scenarios have a detrimental impact on migrant workers and, in particular, the difficulties which arise when a sponsored migrant is considered for redundancy and alternative employment.

## Educational Institutions

Morgan Cole advises higher, further and secondary education providers in relation to student and staff immigration issues. All such institutions must be registered as sponsors if they are to take students from outside of the EEA.

Tier 4 of the points based system governs immigration in relation to child and general students and the typical work we do in this field is as follows:

- Provide amendments to the student contract to ensure that the institution is best placed to comply with its reporting obligations.
- Answer ad-hoc queries in relation to notifiable events concerning students or employees e.g. suspected breaches of the immigration rules.
- We provide fixed-price audits of records and procedures in relation to the sponsorship duties to prepare companies and institutions for UKBA audit visits (which are arranged sporadically and with little warning).

## Individuals

We advise individuals on all options available to them under the various categories of the points based system.

- Tier 1** We advise innovators, investors and generally those who are highly skilled or who have a track record of success, including those who are in a position to invest in the economy. This category also includes those who have recently completed a degree at a UK university and who are interested in working for a further period before returning to their home country.
- Tier 2** We guide those who already have an offer of employment from a registered sponsor or who anticipate such an offer and we give guidance with the leave to remain or entry clearance process, once the Certificate of Sponsorship has been issued. In addition to those with appeal rights within the rights in the UK, we can provide representation at appeal to the AIT.
- Tier 4** We act for students and children of independent schools in relation to further leave to remain applications and, in particular, provide guidance on the proper documentation required to establish maintenance, which is the most common area of difficulty and the most likely reason for refusal of an application for further leave.
- Tier 5** This tier allows us to consider the unusual employment arrangements, such as voluntary work, which can provide a pathway to working in the UK or in some cases to extending leave in the UK.

For further information please contact [Duncan Bain](#) (Thames Valley) on 01865 262 683 or [Kimberley Spiller](#) (Wales) on 02920385481.

---

This publication is © Morgan Cole and may not be reproduced without our express permission. Recipients may forward this publication and view, print and download the contents for personal use only. The contents must not be used for any commercial purposes and the material in this publication or any part of it is not to be incorporated or distributed in any work or in any publication in any form without the prior written consent of Morgan Cole.

Professional advice should always be sought where you require assistance in specific areas of the law. No responsibility can be accepted for any action based on these articles.