

# Compliance training

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# What we will cover

1. Overview of Skilled Worker route [*Health & Care Worker*]
2. Compliance duties

Home Office sponsor guidance notes:

- Sponsorship: guidance for employers and educators – GOV.UK ([www.gov.uk](https://www.gov.uk))
  - Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance – GOV.UK ([www.gov.uk](https://www.gov.uk))
  - Sponsor guidance appendix D: keeping records for sponsorship – GOV.UK ([www.gov.uk](https://www.gov.uk))
  - Points-based system – sponsor compliance visits: caseworker guidance – GOV.UK ([www.gov.uk](https://www.gov.uk))
- **The information provided is based on current Immigration Rules (March 2024).**

# Skilled worker route

Main route for work visas

Employer needs a sponsor licence

Genuine vacancies – skill and salary level

Can bring partners and children only if main applicant was sponsored under the category prior to 11<sup>th</sup> March 2024

Settlement after 5 years

# Role and salary

- Appropriate skill level – only work in that SOC code [Skilled Worker visa: eligible occupations and codes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/skilled-worker-visa-eligibility-occupations-codes)
- Minimum salary threshold – £20,960 for carers & senior carers
- Hourly rate – £10.75
- Basic salary only – no allowances or shift premiums
- State on CoS if eligible for health and care visa

*\* The information provided is based on current Immigration Rules (March 2024).*

# Sponsoring a worker

Step 1: obtain a sponsor licence



Step 2: obtain and assign a CoS



Step 3: employee applies for their visa using the CoS



Step 4: employee starts work for sponsor

# Certificates of Sponsorship

- Two different types of CoS
  - Defined** – for people who are overseas
    - takes 1-2 days to obtain
  - Undefined** – for people already on a visa in the UK
    - annual allocation
    - otherwise takes 18 weeks
    - priority service
- Apply for and assign CoS through the SMS

# Fees

CoS £239

Payable by sponsor

Immigration skills  
charge £1,000/yr  
(£364/yr for small  
employers)

Payable by sponsor

Visa application  
fee £284 to £551

Payable by employee

Exempt from  
immigration health  
surcharge (£1035/yr)

Usually payable by  
employee

## Authorising Officer

Most senior person responsible for recruitment of all migrant workers

## Key Contact

Main contact between Home Office and sponsor

## Key Personnel

## Level 1 User

Access to SMS

## Level 2 User

Access to SMS  
Fewer permissions



# Importance of Compliance

*"Sponsorship is a privilege not a right. The sponsorship system reflects that those who benefit directly from migration (employers, education providers or other organisations who bring in overseas nationals) should play their part in ensuring the immigration system is not abused. Significant trust is placed in sponsors, and they must ensure they comply with immigration law and wider UK law, and not behave in a manner that is not conducive to the wider public good."*

# Sponsor duties

Reporting

Record keeping

Complying with  
Immigration law  
and HO guidance

Complying with  
UK law

Behaviour not  
conducive to  
public good

# When do duties apply

## Duties as a sponsor:

- Start on the day your licence is granted
- End when you stop having a licence (e.g. you surrender, it is revoked)

## Duties to a worker:

- Start the day you assign a CoS
- End when:
  - CoS is withdrawn before it's used
  - worker's permission expires
  - you report that you've stopped sponsoring the worker

# Reporting: 10 working days

- Does not start the role within 28 days – including any reason given (e.g. missed flight, illness or bereavement)
- Absent from work for more than 10 consecutive working days without permission\*
- Absent without pay (or on reduced pay) for more than 4 weeks in a calendar year with a valid exception
- Pay is reduced from the figure on their CoS
- Changes to the employment which does not require a fresh application e.g. promotion, change of duties, TUPE
- Normal place of work changes
- You stop sponsoring a worker for any reason at all\*

\* Include with the report the worker's current personal address, phone number and email address.

**Note: be aware of a potential change of employment application**

# Reporting: 20 working days

You must report any significant change to your organisation within 20 working days. Examples include:

- change of company name or the name of any branches or their addresses
- sale of all or part of the business
- involvement in a merger or acquisition
- stop trading or go into an insolvency procedure
- change in organisation size or charitable status
- change in status of any registration or accreditation you are legally required to hold
- substantially change the nature of your business
- conviction of a relevant offence as defined in Home Office guidance.

# Reporting: immediately

If you suspect a worker you are sponsoring has breached their conditions of stay

Give the police any information that suggests any worker you are sponsoring may be engaged in terrorism or criminal activity.

# Record keeping

- Home Office guidance *Appendix D: keeping documents – guidance for sponsors*
- Documents relating to a sponsored worker must be kept throughout the period that you sponsor them and until whichever is the earlier of:
  - one year after you stop sponsoring the worker, or
  - the date on which a compliance officer has examined and approved them if this is less than one year after you ended your sponsorship of the worker
- Sponsor licence application documents must be kept for as long as you hold the licence

# Record keeping: worker documents

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Right to work check

Worker's entry date into the UK if they have entry clearance e.g. passport stamp

National Insurance number

History of worker's contact details e.g. UK residential address, email, phone number

Copy of DBS check, if required

Record of worker's absences



# Record keeping: recruitment activity

- If Resident Labour Market Test was required at the time of recruitment – must keep evidence
- If no RLMT, retain evidence of any recruitment process relating to the role including:
  - details of the advert e.g. screenshot or text of the advert and where the job was advertised
  - number of people who applied
  - number of people shortlisted for interview and any other stage
  - one other item of evidence e.g. interview notes of successful candidate, interview Qs, brief notes on reasons for selecting and rejecting candidates
- If no advertising, you need to explain and evidence how you identified the worker was suitable

# Record keeping: salary and role

- Copies of worker's payslips
- Evidence of the amount and frequency of all salary payments showing the transfer of each payment into the named worker's bank account
- A copy of any contract of employment
- Job description with duties and responsibilities
- Worker's qualifications
- Proof of registration (if applicable)

# Complying with Immigration laws

You must comply with immigration laws and all parts of the sponsor guidance, including:

- not employing individuals without necessary experience, qualifications or immigration permission
- not assigning a CoS when no genuine vacancy exists
- only allowing the worker to undertake the role permitted by their visa
- only assign a CoS to a worker who is likely to comply with conditions of their visa
- only assign a CoS to a worker who you are satisfied intends, and is able, to fill the role
- disclose if you assign a CoS to a family member of anyone within the organisation.

# Complying with wider UK law



Complying with UK employment law e.g. National Minimum Wage, Working Time Regulations, auto-enrolment



Complying with the duty to prevent illegal working (right to work checks)



Being registered with any necessary regulatory body



Holding planning permission to run the business, if required



DBS check if required for the role



Paying VAT or other duties.

# Behaviour not conducive to the public good

- Sponsors must behave in a manner that is consistent with HO fundamental values and is not detrimental to the wider public good
- Cannot be a sponsor where the organisation's actions and behaviour are non-conducive to the public good e.g.:
  - fostering hatred or inter-community division
  - fomenting, justifying or glorifying terrorism
  - rejecting the rights of, or discriminating against, other groups or individuals on the basis of any protected characteristic

# How to report changes via the SMS

- Level 1 user reports most changes via the Sponsorship Management System (SMS)
- Use “request changes to sponsor details” function e.g. to appoint key personnel, amend organisation’s details or report changes in organisation’s structure
- Use “report migrant activity” function to report changes to a sponsored worker’s employment
- May need to make more than one report for the same event e.g. new address
- SMS may produce PDF submission sheet for signed declaration and/or request supporting documents
- If Home Office requests supporting documents – send within 5 working days

# Reporting changes: Priority Service

- You cannot use the SMS to report changes if you no longer have a Level 1 user.
- Note this is a breach – you must have at least one Level 1 user in place at all times
- Use the change of circumstances form for Priority service:
  - Appoint a new level 1 user and other Key Personnel
  - Replacing or amending the details of AO or Key Contact
  - Adding a Legal Representative
- Home Office may contact to request any supporting documents as evidence – send within 5 working days

# Compliance checks

The Home Office could do any of the following to check compliance:

- request documents or information
- check with government departments, HMRC, agencies and local authorities
- a digital compliance inspection via video call
- a scheduled onsite visit
- an unannounced onsite visit

Onsite visit can be at any address the worker works from, including a third party



# Compliance visits



You must co-operate with the Home Office



Allow full access to any premises under your control and any third party premises the worker works at



Key personnel and sponsored workers should expect to be interviewed



Sponsored workers' HR files will be checked, their role and salary may be investigated



Inspection of systems and processes e.g. HR system incl. attendance monitoring and RTW checks incl. dates for follow up checks

# Compliance visits: preparation and tips

Be familiar with HO guidance

Be able to explain your HR systems

Use your employment contract

Collate documentation in advance and make it accessible

Diarise regular SMS check-ins

Train staff on how to deal with a visit and have a plan

Record all information and documents provided at visit

Check compliance officer's notes thoroughly before signing

# Non-compliance



# Renewing your licence

- Your licence will be valid for 4 years. You may lose your licence if you do not meet your responsibilities as a sponsor.
- Your licence start and end date, and the date you can make an application to renew your licence, can be viewed using the 'Licence summary' function in your SMS account.
- If you do not apply to renew your licence [*unless it is auto –renewed*] and it expires, you will no longer be a licensed sponsor from the date that it expired
- If you have any sponsored workers working for you, you must renew your licence before it expires if you want them to continue working for you, even if you do not plan to sponsor any new workers.
- Auto-renewal of Licence to be enforced by Home Office from 6<sup>th</sup> April 2024. However, it has implemented it for sponsor licences, due for renewal early 2024.

# Questions?

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# Thank you

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