



UKVI Compliance Visits

Understand your obligations and what to expect.

A guide for East Midlands care providers and licensed sponsors on their sponsorship obligations and what to look at when preparing for a UKVI sponsor compliance visit.

wilkin chapman llp
solicitors



Table of Contents

1	Glossary	3
2	Introduction	4
3	Sponsor duties - overview	5
4	Compliance visits - overview	7
5	Key personnel	10
6	Reporting duties	12
7	Record keeping duties	15
8	Interviews	21
9	Compliance with immigration laws	24
10	Impact of non-compliance	26
11	How to renew the licence	31

1 Glossary

Compliance Officer	A UKVI employee who will carry out the compliance visit
COS	Certificate of Sponsorship
Key Personnel	A Sponsor's employees who are responsible for ensuring the Sponsor's compliance with sponsorship duties. This includes the Authorising Officer, Key Contact, Level 1 User and any Level 2 User.
SMS	Sponsor Management System
Sponsor	An organisation who has been allocated a Sponsorship Licence and employs migrant workers
UKVI	UK Visas and Immigration, an operational command of the Home Office

2 Introduction

This document covers a Sponsors obligations and duties that they must satisfy when applying for a COS and their ongoing responsibilities as a Sponsor.

In this document we will set out the relevant responsibilities and duties, provide steps a Sponsor should take to ensure they are fulfilling their obligations and helpful hints for complying with a visit from the UKVI.

This document will not cover the steps to achieving a sponsorship licence, for further information on how to become a Sponsor please contact the following:

Oliver Tasker
oliver.tasker@wilkinchapman.co.uk
01522 515 987



Tom Martin
tom.martin@wilkinchapman.co.uk
01522 515 007



Emily Hand
emily.hand@wilkinchapman.co.uk
01522 515 593



3 Sponsor duties - overview

The guiding principle in sponsorship licences is the ethos that sponsorship is a privilege, not a right. All sponsors should play their part in ensuring the immigration system is not abused.

Sponsor duties start from the day a licence is granted and continues until a Sponsor surrenders their licence or a licence is revoked. Before a licence is granted a potential Sponsor must show that they are able to comply with sponsor duties.

Sponsor duties include:

- Reporting duties
- Record keeping duties
- Complying with immigration laws
- Complying with wider UK law
- Not engaging in behaviour or actions that are not conducive to the public good

The objectives of these duties include, but are not limited to:

- Preventing abuse of immigration laws and sponsorship arrangements
- Capturing early any patterns of behaviour that may cause concern
- Addressing possible weaknesses in processes which can cause those patterns
- Monitoring compliance with the immigration rules, all parts of the worker and temporary worker sponsorship guidance, and wider UK law (such as employment law)

Actions or behaviours that occurred when an organisation did not have a sponsor licence can be taken into account.

A Sponsor is also responsible for the migrant workers it sponsors from the day it assigns them a COS. The responsibility ends when:

- It notifies UKVI that it is no longer sponsoring the migrant for any reason

- The migrant leaves the UK and their entry clearance or leave to remain lapses
- The migrant is granted further leave to remain with a different Sponsor or on another immigration category

4 Compliance visits - overview

To ensure compliance with the sponsor duties the UKVI can carry out compliance visits. Compliance visits can take place at any branches or sites under your control, or any relevant client site or third party where your sponsored worker will be working.

There are two types of compliance visits that the UKVI may carry out: pre-licence assessment visits and post- licence compliance visits. It is likely that at some point either before the grant of a licence or in the 4-year period of the licence that a Sponsor will receive an assessment or compliance visit from the UKVI.

Pre-licence assessments are not currently a pre-requisite of being granted a licence, but they are more common.

Both types of visits can be announced or unannounced, although most are unannounced as the UKVI does not want Sponsors to change their working practices or environment solely for the visit. It is therefore important to be well prepared and ensure that all duties and responsibilities are always complied with in case of an unannounced visit.

A Sponsor does not have a right to postpone a UKVI visit. However, the Sponsor can request that the visit is postponed if any or all of the Key Personnel are absent (for example if they were on holiday). The UKVI can decide whether to revisit (either announced or unannounced) or proceed with the visit. If the UKVI decides to proceed with the visit they may contact the Sponsor after the visit by telephone, post or email if required information or documents were not available on the day.

If any sponsored workers perform their duties at a third party's site, the Sponsor should ensure the third party is aware of the possibility of visits and checks being conducted at their premises and ensure full cooperation. If a third party is uncooperative, UKVI could take action against the Sponsor.

Compliance visits are one way to ensure a Sponsor is compliant with their duties and responsibilities or to check a prospective Sponsor is suitable to receive a sponsor license.

Compliance visits can be triggered by:

- An application for a sponsor licence
- Information of concern received about the Sponsor from a third party
- A sponsor issuing lots of certificates of sponsorship
- Sponsor applying for a renewal of licence especially where there has been a number of change of circumstance reports in relation to migrant or the organisation
- A change of Key Personnel

What happens at a compliance visit?

The primary purpose of a compliance visit is for the Compliance Officer to assess:

- Whether a prospective Sponsor has the necessary systems and procedures in place to meet its sponsorship obligations
- Whether a Sponsor is meeting its sponsorship obligations
- The accuracy of information given on the sponsor licence application

In order for the UKVI to ensure the Sponsor is complying with their duties they are likely to:

- Speak to migrant workers
- Speak to Key Personnel or any employee involved in the recruitment of migrant workers
- Inspect systems, processes and procedures to ensure sponsor is fulfilling obligations and adhering to immigration rules
- Check documents to ensure record keeping duties are adhered to and information on held by the Home Office accurately reflects the organisation in practice
- Conduct checks and speak to other workers to check right to work compliance

During the meeting the Compliance Officer will take notes of what is said at the meeting. At the end of the meeting the Sponsor should carefully check the records, reflect what was said at the meeting, and only sign the record if it is comfortable everything is accurate. The Sponsor should request a copy of the report at the end of that meeting and follow up with the Compliance Officer to request a typed-up copy of that report to ensure there are no inconsistencies between the two.

At the end of the meeting the Compliance Officer may have some follow up action points, which the Sponsor needs to ensure they comply with within the time frame. The general time frame tends to be three working days but in exceptional circumstances this could be longer.

Digital compliance inspections

This is where a compliance check is carried out by verifying a Sponsors trading presence digitally and conducting interviews with the Sponsor or sponsored worker using remote video conferencing facilities. It may involve the Sponsor having to present evidence prior to, during or after the video conference interview.

At any type of compliance visit the Sponsor should ensure that everyone involved including the migrant workers and Key Personnel cooperate fully with the UKVI and provide answers and documents as requested.

5 Key personnel

Key personnel will be responsible for ensuring the Sponsor's immigration compliance and therefore should keep up to date with the UKVI sponsor's guidance.

Authorising Officer

This must be the most senior person in the Sponsor's organisation responsible for the recruitment of all migrant workers and ensuring that the Sponsor meets all of the sponsor duties. If the Sponsor does not recruit the workers directly, the Authorising Officer should be the most senior person responsible for your activity as a licensed sponsor. The Authorising Officer is responsible for the activities of all SMS users and must comply with the requirements for using the system. It is recommended that the Authorising Officer checks the COSs assigned to workers at least once a month. The Sponsor must have an Authorising Officer throughout the life of the licence.

If a Sponsor fails to have an Authorising Officer in place who meets the requirements, or if a Sponsor fails to report a change in Authorising Officer, the UKVI can take action against the Sponsor.

Key Contact

This is the person who acts as the main contact between the UKVI and the Sponsor. The UKVI will contact them if they have any queries about the sponsor licence.

Level 1 User

Level 1 Users are responsible for carrying out the Sponsors day to day sponsorship activities. The Level 1 User can be the same person as the Authorising Officer or be another person or other persons. When a Sponsor applies for a licence they can only nominate one Level 1 User and they must be an employee, director or partner, once the Sponsor has a licence they can use the SMS to nominate more Level 1 Users. The UKVI will perform checks on new Level 1 Users before they give them access to the SMS. This includes checks against the Home Office records and the police national computer.

It is recommended that the Sponsor does not have too many Level 1 Users as the Authorising Officer is responsible for all of their actions, but there should be enough Level 1 Users to ensure cover for periods of leave and sickness.

A Sponsor must have at least one Level 1 User in place at all times. It is not possible for a Sponsor to meet its duties without a Level 1 User and therefore the Home Office may revoke the Sponsor's licence if one is not in place at all times throughout the license period.

When a Sponsor is appointing new Level 1 Users, they must NOT be any of the following :

- A contractor
- A consultant who is contracted for a specific period of time
- A temporary staff member supplied to the Sponsor by an employment agency
- An undischarged bankrupt

Level 2 User

A Level 2 User has access to the SMS but with fewer permissions than a Level 1 User. They can however create and assign a COS to a worker and report any activity to UKVI on any worker to whom they have assigned a COS, or which have been transferred to them by a Level 1 User.

Level 2 User may be any of the following:

- a paid staff member or office holder within your organisation
- an employee of a third-party organisation engaged by you to deliver all or part of your HR function
- a temporary staff member supplied to you by an employment agency
- a UK-based representative

A Level 2 User must **NOT** be:

- A contractor
- A consultant which is contracted for a specific project
- An undischarged bankrupt

6 Reporting duties

Key personnel must use the SMS to report certain information or events to the Home Office within specified time limits as set out below.

Changes in respect of sponsored workers (notification required within 10 working days)

- **A delayed work start date** – where they do not start within 28 days of the start date of their COS, their valid entry date (if applicable) or notification of entry clearance. The notification period runs from the end of this period. The reason for the delay will need to be notified.
- **Authorised absences from work** – where the worker absent without pay, or on reduced pay, for more than 4 weeks for a permitted reason. The notification period runs from the absence starting.
- **Unauthorised absence from work** – where the worker is absent without permission for more than 10 consecutive working days, giving details of the duration of absence and attempts made to contact the worker if they remain absent. The Sponsor will also need to notify as to whether they intend to continue sponsoring the worker. The notification period runs from the tenth day of absence.
- **Change of role** – any significant changes to the worker's employment should be reported within 10 working days of the change. Changes include change in job title or core duties, changes in salary, and changes to the employer including as a result of a TUPE transfer.
- **Change of job location** – a change to a worker's normal work location (as recorded on the COS) should be reported within 10 working days of the change. This includes a change of branch or site, and any change to remote working.
- **End of sponsorship** – where If the Sponsor stops sponsoring a worker, they must report this within 10 working days of sponsorship ending. This includes where the sponsored worker resigns or is dismissed, or moves to a different immigration route not requiring a Sponsor.

Changes in respect the Sponsor (notification required within 20 working days)

- **Changes of details** – any significant changes to the organisation details including name, address, branches, status or nature of the business are required to be reported. The Sponsor should also report if they cease trading or enter into an insolvency procedure. The reporting period runs from the date of the change.
- **Change to size or charitable status of Sponsor** – the reporting period runs from the date of the change.
- **Any merger, takeover or similar** – any change in ownership or share structure should be reported along with any takeover or change in formation. The timing runs from the date of the change.
- **Change to Key Personnel** – any changes in their details, or where any are added or removed. The reporting is within 20 working days of the change.
- **Convictions for an immigration offence** – where owner, director, Authorising Officer, Key Contact, Level 1 User, or person involved in the day-to-day running of the Sponsor is convicted of a relevant immigration offence.
- **Where the Sponsor intends to surrender its License.**

Notification before change

This required where the **Sponsor is replacing its Authorising Officer or Key Contact**. The UKVI must approve the change before it goes through.

Notification as soon as reasonably practicable

This is required where the worker:

- **Has breached their conditions of stay** – the Sponsor must report this if they know or suspect this to be the case. This includes if a worker has made a claim or is in receipt of most state benefits, or if they undertake additional employment that does not meet the supplementary employment criteria.

- **Is engaged in terrorism or criminal activity** – the Sponsor must report this and give the police any information that suggests any worker they are sponsoring on any route may be engaged in terrorism or criminal activity.

When the Sponsor submits its report, it must also, where relevant, include the last recorded residential address and contact telephone number for the worker and any personal email address it has for them. It is important the Sponsor seeks compliance from the employee by inserting relevant reporting obligations into the employment contract.

How?

To report activity relating to a migrant worker, a Level 1 User, or if applicable, a Level 2 User will need to access SMS, select the COS on which the Sponsor wishes to report, from the report new activity drop down menu choose the appropriate reason and input the relevant information.

To report changes to the Sponsor organisation a Level 1 User must make the report via the “request changes to sponsor details” function on the SMS. A submission sheet will be generated if UKVI needs a signed declaration and any documents to validate the notification. These must be sent to UKVI within 5 working days.

7 Record keeping duties

Sponsors must keep certain mandatory documents and records in relation to their migrant workers. We also suggest keeping stated recommended documents as evidence of the genuine job being undertaken by the workers. These documents must be made available to the Home Office on request and will be reviewed during any compliance visit.

It is imperative that the Authorising Officer, Key Contact and all Level 1 Users are aware of where and how to access this information.

The Sponsor must keep the following documents and evidence of the relevant information:

Document	Information it must demonstrate
Current passport pages	Showing all personal identity details (including biometric details) relevant visa or leave to enter stamps showing the migrants entitlement to work for the organisation.
Evidence of the migrant's date of entry to the UK	<p>This will normally be a copy of the wet ink entry stamp, stamped on the migrant's visa by an immigration officer. The only exception to this is when a migrant is employed for one day or less and it is not practicable to obtain a copy of the documents.</p> <p>If the migrant does not have a wet ink stamp endorsed on their visa (if they entered the UK through Ireland or via an automated ePassport gate, for example) their date of entry to the UK must still be checked by asking to see other evidence, such as their travel tickets or boarding pass (in paper or electronic form). Their date of entry to the UK should then be recorded on the copy of the migrant's visa. There is no requirement to retain the evidence of their date of entry.</p>

	<p>If the migrant entered the UK before the “valid from” date on their visa they will not have permission to work and should be advised to leave the common travel area (UK, Guernsey, Jersey, Isle of Man and Ireland) and re-enter the UK within the validity of their visa.</p>
Biometric Residence Permit	<p>A copy of the migrant’s biometric residence permit (BRP).</p>
National Insurance Number	<p>A copy of the migrant’s National Insurance (NI) number unless the migrant is exempt from requiring one. This could be a copy of one of the following:</p> <ul style="list-style-type: none"> • Migrant’s NI card or NI number notification letter from HMRC or the Department for Work and Pensions (DWP) • Migrant’s BRP, if this shows their NI number. • Migrant’s payslip • Migrant’s P45 • Migrant’s Real Time Information (RTI) starter checklist, formerly P46 • Migrant’s P60 • P11 free of tax pay: employer’s declaration sent to HMRC • RTI Employment Payment Summary sent online to HMRC, formerly P14: employer’s annual return sent to HMRC manually • RTI Full Payment Submission sent online to HMRC, formerly P35: employer’s annual return to HMRC
Contact details	<p>A history of the migrant’s contact details (UK residential address, telephone number, mobile telephone number and email address). This must always be kept up to date.</p>

Leave from work	A record of the migrant’s absences from work for any reason (kept electronically or manually), including sickness, annual leave, paternity leave, maternity leave or parental leave.
Payslips	<p>Copies of the migrant’s payslips, clearly showing their name, NI number, tax code, any allowances paid and deductions made.</p> <p>If the migrant does not receive payslips in the UK, specify where and how quickly these can be accessed if they are requested by the Home Office.</p> <p>For limited liability partnership members, copies of the migrant’s evidence of drawings and profit share must be kept.</p>
Salary Payments	<p>Evidence of the amount and frequency of all salary payments made to the migrant, showing the transfer of each payment into the named migrant’s bank account or onto their pre-paid card, for example a FOREX card.</p> <p>Where other account records are relied upon, the Home Office must be able to clearly identify the specific migrant’s wage in order to assess whether the migrant is being paid in line with what was originally stated on the migrant’s COS and with rules set out in Home Office guidance.</p>
Contract of Employment	<p>A copy of any contract of employment or contract for services with the migrant which clearly shows all the following:</p> <ul style="list-style-type: none"> ● The names and signatures of all parties involved ● The start and end dates of the contract ● The job title and details of the role that the migrant is required to perform (or reference to a Job Description)

	<ul style="list-style-type: none"> • Details of the salary and allowances which the migrant will be paid <p>These details should match the details on the COS.</p>
Additional Allowances	<p>Where the migrant receives any allowances as part of their salary package, evidence of the value of those allowances must be kept unless they are clearly shown in a contract of employment, contract for services or on the migrant's payslips.</p> <p>The value of any allowances paid in cash or by way of goods or services must be accurately documented, so that the Home Office can be satisfied that they are being paid in accordance with the Immigration Rules and Home Office guidance.</p> <p>Example - If the migrant is living at a property owned by the sponsor, there must be an independent assessment of the monthly rent achievable from the property concerned.</p>
Job description	<p>A detailed and specific job description outlining the duties and responsibilities of the post which must include the skills, qualifications and experience required for the role.</p>
Qualifications and references	<p>Copies of any qualifications the migrant holds to confirm skill level, such as degree certificate, higher national diploma or documents that show the migrant has the skills and experience to do the job. This could also be references from a previous employer or other evidence of experience.</p>
Professional Accreditation	<p>Copies of any registration or professional accreditation documents or any confirmation letter the migrant is required to have in order to do their job.</p>

DBS check	A copy of the migrant's Disclosure and Barring Service check, if required for the role undertaken by the migrant.
Any other document	Any other documents set out in the relevant code of practice (SOC code) for the role as set out in <i>Appendix Skilled Occupations</i> of the Immigration Rules.
Recruitment process	Where a recruitment process was carried out, objective reasons why unsuccessful applicants were rejected.
Certificate of Sponsorship	A copy of the COS.
SOC code	A copy of the SOC code for the role as at the date of assigning the certificate(s) of sponsorship to the migrant which shows the minimum salary level for jobs within that SOC code.
CV	A copy of the migrant's CV.
English Language requirements	A copy of evidence that show how the migrant meets the English language requirements
Notifications	Copies of any notifications made on the Sponsor Management System in respect of a change of circumstances for the migrant.
Letters	Letters of promotion or in respect of changes to the migrant's salary, job title, core duties or place of work.

Documents and records can be held either as paper copies or in an electronic format.

All documents relating to a worker must be kept throughout the period that a worker is sponsored and until whichever is the earlier:

- One year has passed from the date on which the Sponsor ends the sponsorship of the worker

- The date on which a Compliance Officer has examined and approved them

Some of these documents may need to be kept for other purposes and for longer periods of time in accordance with the Sponsor's data retention guidelines.

All documents provided in support of the organisation's application to become a Sponsor must be kept throughout the duration of the licence.

Review of personnel files

Compliance officers are expected to review at least three personnel files of sponsored workers (or all files if there are fewer than three sponsored workers) and the same number of right to work checks during a compliance visit.

Where there are large numbers of sponsored workers, compliance officers are expected to review 10% of the personnel files and 25% to 40% of the right to work check documentation. This process can, therefore, take a considerable length of time and the documents need to be readily accessible.

8 Interviews

During either type of compliance visit the compliance officer may want to speak to migrant workers, Key Personnel, any other employee involved in the recruitment process of migrant workers and any other workers in the organisation.

Interviewing sponsored workers

Interviewing migrant workers will be undertaken to show evidence that the workers work at the site listed on the COS, are being employed in line with UK employment and immigration law and their role mirrors the information given in the COS.

The compliance officer is likely to check for any abuse of the workers by discussing their annual leave entitlements, hours of work and rate of pay. Questions around day-to-day duties and responsibilities will be asked.

It is particularly important that sponsored workers in specialist or technical roles can explain their roles in simple terms that are understandable to a non-specialist compliance officer. Sponsored workers should also be familiar with the job description used on their COS, as it is the job description that the compliance officer will compare their statements against.

The sponsored worker may be asked to confirm any of the following:

- Name, address and contact details
- Start date of employment with the Sponsor
- Details of previous employment
- Job title, salary and benefits
- Duties and responsibilities
- Hours of work
- Any changes to their role and benefits since starting
- Whether they have management responsibilities
- Details of the recruitment process

These should match the details on the COS and any subsequent SMS notifications or company records.

Interviewing key personnel

Key personnel should be present at the compliance visit, especially if it is an announced visit. Any discrepancies between information held by the UKVI including the COS, Sponsor records, Sponsored workers responses and Key Personnel responses could suggest non-compliance with record keeping and reporting duties and potentially call into question whether sponsored roles were genuine vacancies and objectively filled by candidates with sufficient skills and qualifications for the roles.

Key Personnel may be asked the following common questions:

- How long has the organisation been trading or operating in the UK?
- What does the organisation do?
- Does the organisation own or have links to any other business?
- Does the organisation have a website? If not, why not?
- Who are they Key Personnel and do they have secure email addresses?
- What are the organisation's premises, and are they owned or leased?
- Is the organisation operating lawfully?
- Does the organisation have any mandatory accreditations?
- How is the organisation funded?
- How much space is there at each of the organisation's premises?
- How many staff does the organisation employ at each of its premises?
- How many staff are overseas nationals?
- Does the organisation have a staff list?
- What is the organisation's long-term staffing strategy regarding overseas workers?
- What was the sponsor's annual COS allocation and how many undefined COS have been used this year?
- Why does the organisation need a Skilled Worker licence?
- Who submitted the sponsor licence application?
- Are the key principles behind the sponsorship system and the organisation's main duties and responsibilities understood?

- What will be the roles of the overseas nationals which the organisation proposes to sponsor?
- How does the organisation ensure potential employees have the qualifications necessary for their role?
- Do staff require professional accreditations to do their jobs?
- Does the organisation obtain references for all new employees?
- How many hours per week are sponsored migrants contracted to work?
- What is the hourly rate of pay or annual gross salary for the roles held by sponsored migrants?
- Are staff expected to work overtime and, if so, what is the rate of overtime pay?
- How often does the organisation pay staff?
- How does the organisation pay staff?
- Including public holidays, how many days paid annual leave are staff entitled to?
- How does the Sponsor track absences?
- Does the organisation offer any benefits to its employees?
- Do any of the staff work directly with vulnerable people?
- Where are personnel files kept?
- Where are policies and procedures kept?
- Is payslip and payroll information readily accessible?
- Are job descriptions kept for all roles?
- Do staff have contracts of employment or for services?
- How is staff absence monitored?
- Where are workers based?
- What is the organisation's recruitment process?
- Does the organisation make attempts to recruit in the UK?
- What interview questions are asked? Does the organisation have a set list of questions when interviewing?

9 Compliance with immigration laws

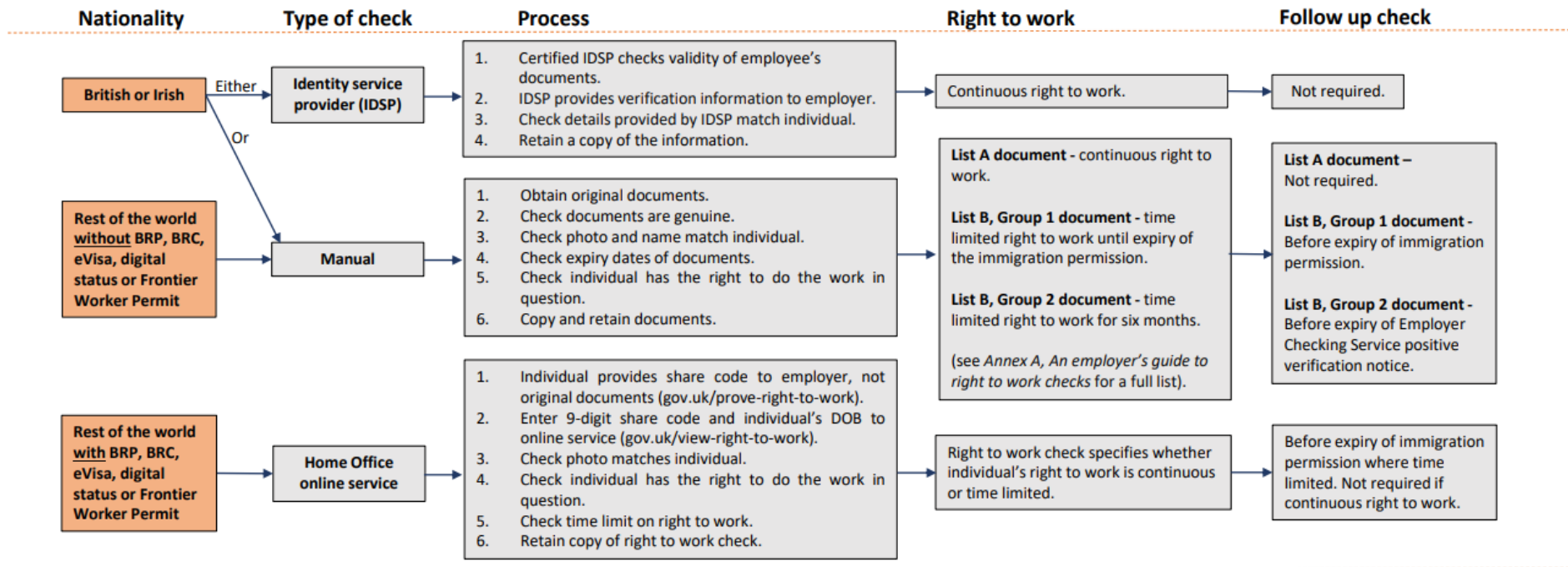
Complying with immigration laws is one of the main Sponsor duties. All employers in the UK have a responsibility to prevent illegal working. The Sponsor does this by conducting simple right to work checks before they employ someone, to make sure the individual is not disqualified from carrying out the work in question by reason of their immigration status.

During a compliance visit the Compliance Officer will want to ensure that the Sponsor does not pose a threat to immigration control. To evidence this the Compliance Officer will carry out checks to ensure right to work checks have been carried out for all employees and not just those who receive a certificate of sponsorship.

The following flowchart shows how, when and with what frequency right to work checks should be carried out.

A Sponsor can be fined up to £20,000 per worker found to be working illegally in the UK for any Sponsor.

How to conduct a UK right to work check



List A documents include:

- Passport (current or expired) showing the holder is British or a citizen of the UK and Colonies with the right of abode in the UK.
- Irish passport or passport card.
- Valid passport endorsed to show the holder is exempt from immigration control, allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

List B, Group 1 documents include:

- Current passport showing that the holder is allowed to stay in the UK and can do the type of work in question. This includes an endorsement with no work related conditions attached. Any prohibition or restriction on work will be explicitly stated on the endorsement.

List B, Group 2 documents include:

- A Positive Verification Notice (PVN) issued by the Home Office Employer Checking Service to the employer which indicates that the individual can stay in the UK and do the work in question.
- A Home Office document showing the holder made an EU Settlement Scheme (EUSS) application on or before 30 June 2021, together with a PVN.
- A Certificate of Application showing the holder made an EUSS application after 30 June 2021, together with a PVN.
- An Application Registration Card together with a PVN.

The Employer Checking Service (ECS)

If an individual has an outstanding immigration application or appeal and cannot otherwise evidence their status, the employer can ask the Home Office ECS to confirm their right to work. The employer may be liable for criminal sanctions and civil penalties if it employs someone after receiving a Negative Verification Notice from the ECS.

10 Impact of non-compliance

The UKVI will write to the Sponsor following a compliance visit with the outcome. The potential outcomes are:

- The sponsor licence application will be approved
 - The current sponsor licence status will be maintained
- OR
- Refusal of the sponsor licence application
 - A sponsor allocation of COSs reduced or removed
 - A sponsor's rating of their licence downgrade from an A-rating to a B-rating and be placed on a time limited action plan
 - A Sponsor's licence is suspended, pending further enquiries
 - A Sponsor's licence is revoked

If your application for a license is refused, the Sponsor may be able to:

- Ask for the Home office to review the decision through the 'Error correction request' process, if the Sponsor believes there has been a simple case working error
- Apply again, but only after the appropriate 'cooling off-period', if applicable has ended

Downgrading

Sponsors are granted an "A-rating" when they are awarded their licence. If UKVI is concerned about a sponsor's ability to comply with its duties as a Sponsor, it can downgrade the licence to a "B-rating" and give the sponsor an "action plan" to follow. The Sponsor will need to pay a fee to accept the action plan.

Circumstances in which UKVI **WILL** downgrade a sponsor licence to a B-rating:

- The sponsor has certified that a migrant will not claim state benefits and that migrant then does claim benefits with the sponsor's knowledge
- As a result of information available to UKVI compliance officers, they are not satisfied that the sponsor is using a process or procedure necessary to fully comply with its sponsor duties

- UKVI has asked the sponsor to send it any document or information and the sponsor does not send the document or information within the given time limit

Circumstances in which UKVI **MAY** downgrade a sponsor licence to a B rating

- The Sponsor fails to provide any documents listed in Appendix D of the Guidance for Sponsors, when requested within the specified time limit
- The Sponsor fails to comply with any of its other Sponsor duties

Effect:

- A sponsor cannot assign any COS to sponsor new employees (they can assign COSs to existing sponsored workers with agreement by the UKVI)
- The action plan will set out steps the sponsor must take to return to an A-rating
- A B-rating is temporary and will last for no longer than three months
- A licence will be revoked if the Sponsor does not make the improvements within the allocated time frame

Suspension

If the UKVI has concerns about a Sponsor and is considering taking enforcement action, its first step in most cases will be to send the Sponsor a notice of suspension letter, suspending the licence pending further investigation.

The notice of suspension will outline the concerns about the operation of the licence, alongside the relevant extracts from the Immigration Rules and the Guidance for Sponsors. The notification will also specify the documents that the Sponsor must send to the UKVI.

A full response to the notice of suspension (including copies of any requested documents) must be submitted to UKVI within 20 working days from the date of the notice of suspension. It is advisable for the Sponsor to obtain legal advice at early stage in the suspension. The Sponsor should also request a full copy of the Sponsor interview record. The suspension should also be communicated promptly to sponsored workers and applicants recently issued with a valid COS.

The suspension will usually last 8 weeks from the date of the notice of suspension letter (20 working days for the sponsor to respond to the notice and a further 20 working days for UKVI to make a final decision).

Effect:

- Whilst suspended the Sponsor's name will be removed from the public register
- The sponsor will not be permitted to adding any further COS
- If a migrant worker's leave is due to expire during the period of suspension the sponsor will need to request permission from UKVI to assign them a COS

Revocation

UKVI will usually only revoke a licence without prior suspension if it has grounds to believe the sponsor constitutes a serious threat to immigration control. Circumstances in which UKVI **WILL** revoke a sponsor licence:

- UKVI discovers, after the licence has been granted, that the organisation gave false information on or in support of its sponsor licence application, and, had it given the correct information, UKVI would have refused the application
- The Sponsor stops trading or operating for any reason
- The Sponsor is issued with a civil penalty for employing one or more illegal workers, and the fine for at least one of those workers remains at the maximum amount once the Sponsor's objection and appeal rights have been exhausted
- The Sponsor employs a migrant in a job that does not meet the skill level requirements
- The Sponsor assigns a COS to a migrant worker and the salary stated on that COS is different from the amount paid
- The sponsor assigns any COS to a migrant and tells UKVI on that COS that the job was exempt from the Resident Labour Market Test and it was not
- The sponsor has been B-rated and has not met any of the requirements of their action plan within the specified period

- A SMS user assigned their own COS or assigned a COS to a family member/partner
- The sponsor is, or is acting as, an employment agency or business and has supplied a migrant it is sponsoring to a third party as labour
- UKVI has asked the sponsor to send it a document or information and the sponsor has failed to do so within the given time limit
- The sponsor fails to assign a new COS, and where appropriate, fails to properly carry out an RLMT, to any migrant that needs to make a change of employment application
- The sponsor failed to employ a resident worker who met the requirements for a job it subsequently offered to a sponsored worker
- UKVI is satisfied on the balance of probabilities that the sponsor artificially inflated the salary of a migrant to assist them to obtain indefinite leave to remain in the UK

Circumstances in which UKVI **MAY** revoke a sponsor licence:

- The sponsor fails to pay a migrant sponsored under Skilled Worker, GBM or Temporary Worker at least the appropriate rate
- The sponsor fails to comply with any of its sponsor duties
- The sponsor has no SMS users in place
- Any of the sponsor's Level 1 or Level 2 users disclose their SMS password to another person
- The sponsor pays a sponsored migrant in cash
- The sponsor fails to co-operate with a compliance visit or delays compliance activity
- The sponsor assigns an undefined COS to a migrant who requires a defined COS

Effect:

- The COS are effectively cancelled, accordingly any sponsored migrants must immediately stop working for the employer and will need to be dismissed
- The previously sponsored employees will have their permission to stay in the UK curtailed

- If UKVI believes that a sponsored migrant was actively and knowingly involved and complicit in the reasons for the licence revocation their permission to stay in the UK will be curtailed immediately
- If a sponsored migrant was not actively involved in the reasons for the licence revocation, their leave will usually be curtailed to 60 days
- Any further application for a new sponsor licence would usually be barred for the 12-month cooling-off period

11 How to renew the licence

A Sponsor licence is usually valid for 4 years, the exact end date of your licence can be found using the licence summary function in your SMS account. Your licence end date is the last date the Sponsor can make an application to renew the licence. If the Sponsor does not make the renewal application by this date, the licence will expire on the following day. If the Sponsor fails to renew it before the expiry date they will have to apply for a new licence.

If the Sponsor does not apply to renew the licence and it expires, they will no longer be a licensed sponsor from the date that it expired. This means:

- The Sponsor will not be able to access their SMS account
- The Sponsor cannot assign any COS
- The Home Office will usually shorten the permission of any workers the Sponsor is sponsoring to 60 calendar days if their visa doesn't expire before then
- The Sponsor's details will be removed from the Register of Licensed Sponsors

If the Sponsor has a sponsored workers working for them, they must renew the licence before it expires if the Sponsor wants them to continue working for them, even if they do not plan to sponsor any new workers.

How?

The Sponsor can apply up to 90 days before the expiry date. It is advisable to apply as soon as possible in case the application for renewal is rejected. If the application is rejected before the expiry date the Sponsor will have the chance to apply again. If the licence has expired when the decision is made to reject or refuse the application, the Sponsor will not be able to make another application to renew the licence.

The licence renewal function in the SMS account can only be accessed by a Level 1 User. When the Level 1 User sends the application they will be confirming that they have the consent of the Authorising Officer. At the end of the process, the Level 1 User will be asked to make an online payment to cover the licence renewal fee and print off the summary sheet. No documents need to be sent to

the Home Office at this stage. If the application is accepted the expiry date of the licence will be temporarily extended to allow the Home Office to conduct any checks they believe are necessary before making a final decision on the application. If the Home Office contacts the Sponsor asking for further documents they must provide these within 5 days of the request.

The fee for renewing the licence is the same as it would be if they were applying for a licence for the first time.