

Sponsors' obligations and duties (updated 4.11.2022)

I am on a Tier 2/skilled worker visa. My employer has sponsored me. What does it mean that they have a sponsor licence from the Home Office?

Only employers who have been assessed as “trustworthy” and responsible are able to sponsor overseas workers to work for them in the UK. The Home Office rules require employers to apply for and maintain a sponsor licence with them. To obtain a licence the employer has to provide stringent evidence of their business and their HR systems and to agree to notify the Home Office if there are changes in a person’s employment or other issues. For an employer it is essential that they carry out these obligations properly as if they do not they can have their licence suspended or revoked and if that happens the employee loses his/her rights to work/stay in the UK. Employers must ensure that they do not lose their licence or have any issues with the Home Office as the implications for them and their employees if they do are very serious

What kind of duties does an employer with a sponsor licence have in relation to their employees working for them as a Skilled Worker/Tier 2 Migrant?

As a sponsor of Tier 2/Skilled workers, your employer has certain duties connected to their sponsor licence. These include (but this list is not exhaustive):

- reporting duties,
- record-keeping duties,
- complying with immigration laws and all parts of the Worker/Temporary Worker sponsorship guidance,
- complying with wider UK law, and
- not engaging in behaviour or actions that are not conducive to the public good.

The duties above include that your employer must:

- report to the Home Office any consecutive period of unauthorised absence from work of 10 days or more;
- report to the Home Office any significant changes in a sponsored worker’s employment, for example, a reduction in salary or if the location where the employee is employed changes;
- stop sponsoring a Tier 2/Skilled Worker who is absent from work without pay for four weeks in total in any calendar year and report this to the Home Office (NB. this does not include absences which are solely due to statutory maternity, paternity, parental, shared parental or adoption leave or sick leave, taking part in legally organised industrial action or assisting with a humanitarian or environmental crisis if agreed);
- report to the Home Office if a sponsored worker’s contract of employment or any relevant professional registration ends earlier than shown on their Certificate of Sponsorship, for example if the worker resigns;

Your employer may therefore be asking you questions in order to establish whether your circumstances require them to take action in accordance with their sponsor licence duties.

Were there exceptions to my employer’s reporting duties due to the coronavirus pandemic?

Yes there were.

Your employer was not obliged to report your coronavirus related absence to the Home Office. This included absences due to illness, the need to isolate or inability to travel due to travel restrictions. Sponsorship did not need to be withdrawn if a sponsored worker was absent from work without pay for more than 4 weeks, for reasons related to coronavirus. Further,

employers did not need to report changes in working arrangements due to working from home. The guidance was, however, clear that other changes to working arrangements had to be reported as usual.

Although separate to the issue of your sponsor's duties, it is important to keep in mind that in applying for settlement after 5 years as a Tier 2/Skilled worker, there are limits to the number of absences that you are permitted to have had, and certain exceptions to those limits.

What happens if my employer does not comply with their sponsor duties?

The Home Office may take action against a sponsor who does not comply with their duties. The action taken could include any of the following sanctions:

- reducing the sponsor's Certificate of Sponsorship allocation (affecting the number of employees from overseas that they can sponsor)
- downgrading their licence rating
- suspending their licence while the Home Office investigates further
- revoking the sponsor's licence
- reporting the sponsor to the police or other relevant authorities

There are implications for you if your employer fails to comply with their duties as their licence could be suspended or revoked by the Home Office, at short notice, which would prevent them from employing people from overseas and also means current employees can no longer work for them.

Thus the repercussions of a failure to act in accordance with their sponsor duties are serious and far-reaching, and mean that a sponsor must be stringent about complying with their duties.