

Summary of Main Duties and Responsibilities as a Tier 2 (General) Licensed sponsor

1 Record keeping duties

There are specific documents that you must retain for each sponsored migrant that you employ. We recommend that you refer to Appendix D of the Home Office guidance for Tiers 2 and 5 for full details of these documents and how long you must keep them.

In addition, you must keep the following documents/ records and make them available to the Home Office upon request:

- Photocopy/ electronic copy of relevant pages of each sponsored migrant’s passport; worker authorisation; or UK immigration status document and biometric residence permit, that show their entitlement to work including their period of leave to remain in the UK;
- Each sponsored migrant’s up to date contact details - address, telephone and mobile number; and
- Documents relating to your sponsored migrants or the running of your organisation which they consider relevant to assessing your compliance with your duties as a sponsor (e.g. HR system flow processes, recruitment practices etc).

2 Reporting duties

You must report certain information or events to the Home Office using the Sponsor Management System (SMS) within certain set time limits:

| What? | When? | To whom? |
|--|-----------------|-------------|
| If a sponsored migrant does not turn up for their first day of work. | 10 working days | Home Office |
| If a sponsored migrant’s contract of employment ends earlier than shown on their Certificate of Sponsorship (‘CoS’) (e.g. resignation or dismissal). | | |
| If a sponsored migrant moves into an immigration route that does not need a sponsor. | | |
| If a sponsored migrant is absent from work without pay for 4 weeks or more where this is not covered by the exceptions permitted in the sponsor guidance. | | |
| If there are any significant changes in the sponsored migrant’s circumstances, for example: Promotion, change in job title or core duties. Change of salary above that stated on CoS (due to maternity, paternity, shared parental or adoption leave, or a period of long term sick leave lasting one month or longer). Location of employment changes. | | |
| If a sponsored migrant’s employment is affected by TUPE or similar provisions (e.g. if involved in a merger/demerger). | | |

| | | |
|--|-----------------|------------|
| If a sponsored migrant is absent for more than 10 consecutive working days without permission. | 20 working days | |
| If there are any significant changes in your own circumstances (e.g. if you sell all or part of the business, stop trading, substantially change the nature of your business or change key personnel responsible for the Licence). | | |
| You must report details of any third party who has assisted you in recruiting migrant employees. | When requested | |
| You must report any information which suggests sponsored migrants may be engaged in terrorism or criminal activity. | When arises | The Police |

3 Genuine vacancies

You must only assign a CoS where there is a genuine vacancy or role which meets the Tier 2 criteria. A genuine vacancy is one which requires the jobholder to perform specific duties and responsibilities for the job, and meets all the requirements of the tier and category. It should not include dissimilar or lower-skilled duties.

If you assign a CoS and the Home Office do not consider that it is for a genuine vacancy, they have the right to suspend and/or revoke your licence.

4 Co-operating with the Home Office

You must:

- Allow Home Office staff full access to any premises or site under your control or demand (even when visits are unannounced)
- Adhere to any action plan set out by the Home Office
- Minimise the risk of immigration abuse by complying with any good practice guidance for sponsors issued by the Home Office

5 Restricted/ unrestricted Certificates of Sponsorship

You must know the difference between assigning a 'restricted' and 'unrestricted' CoS. The Tier 2 Sponsor Guidance provides further detail to assist you with this but should you need any further guidance, please get in touch.

You must not assign:

- a restricted CoS to a migrant for any job other than the one you described in your application for that restricted CoS;
- a restricted CoS where an unrestricted CoS is needed;
- an unrestricted CoS where a restricted CoS is needed.

When you assign a CoS under Tier 2 (General) you guarantee that:

- You carried out a genuine resident labour market test in accordance with the rules in force;

- The job appeared on the shortage occupation list published by the Home Office on the date you assigned the CoS (if relevant);
- where it was a requirement to carry out a resident labour market test, the migrant will be paid in line with the rate you stated when you advertised the job;
- the migrant will be paid at or above the appropriate rate including specific permitted allowances for that job;
- the job is a genuine vacancy.

If you want to assign a CoS to a migrant who will be employed as a nurse or midwife, there may be a number of additional duties for you to comply with. If you require further details of these then please let us know.

6 Complying with the law

In order to ensure that you are complying with immigration laws, further to the obligations set out so far, you must also:

- only employ migrants who will be appropriately qualified, registered or experienced to do the job by the time they begin the job, and with the relevant permission to do the job. You should stop employing any migrants who are no longer entitled to do the job for any reason;
- keep a copy of any registration document, certificate or reference that confirms that the migrants meets the requirements for the job and give this to the Home Office on request;
- disclose if you assign a CoS to a family member of anyone else within your organisation;
- only assign a CoS to migrants where there is a genuine vacancy, you believe they will meet the requirements of the tier or category and they are likely to comply with the conditions of leave or worker authorisation;
- only employ migrants on the shortage occupation list if you qualify to sponsor the migrants, where there are restrictions on who can sponsor them;
- only assign a CoS to a migrant if you are satisfied that they intend and are able to fill the role;
- where applicable, only assign a CoS for a role which is at or above the minimum skill level as set out in this guidance;
- comply with UK employment law (e.g. National Minimum Wage and holiday pay entitlement);
- hold the appropriate planning permission or Local Planning Authority consent to run your type/ class of business at your trading address;
- comply with all associated conditions of any Work Permit; (e.g. pay them at the rate on the Work Permit)
- if you are a food business, ensure you are registered or approved by the relevant food authority; and
- only employ a migrant who has had a Disclosure and Barring Service (DBS) check where this is a requirement for the role.

FAQs

When do my sponsor duties start and finish?

Your responsibilities as a sponsor start on the day your licence is granted and end when the licence is surrendered or revoked.

Your responsibilities towards individual migrants start on the day you assign a CoS to them. Your responsibilities will end:

- if you inform the Home Office that you no longer sponsor them;
- when they leave the UK and their entry clearance or leave to remain lapses;
- when they are granted further leave to remain with a different sponsor or in another category;
- where they are a Croatian national and they have worked in the UK for a period of 12 continuous months.

How will the Home Office check that I am complying with my sponsor duties?

The Home Office may visit your premises to carry out checks prior to making a decision on a licence application or during the period of your licence. Checks may seek to verify that information provided is accurate and complete; you are genuine and trading or operating lawfully in the UK; and you are committed to complying with your duties of sponsorship and immigration legislation.

Visits may be unannounced. Checks can also be made by the Home Office by telephone, letter or with other government departments.

What will happen if I do not comply with my sponsor duties?

There are a number of measures in place to ensure sponsors comply with their duties. These include:

- support in making improvements through issuing an action plan;
- revocation, suspension or downgrading licences to a B-rating;
- cooling -off periods applied before you can re-apply for a licence;
- reduction in the number of CoS you are allowed to assign;
- stopping you from using any assigned but unused CoS pending investigations;
- a civil penalty of up to £20,000 per illegal worker and/or imprisonment of up to 5 years, if you are found to be employing workers illegally;
- disqualification from acting as a director;
- impact on future immigration applications;
- naming and shaming.

This advice is current as at 02 December 2016. Please ensure that you keep up to date with any further developments through the Sponsor Management System message board.