



# Guidance for Seafood Businesses on how to navigate the Skilled Worker Visa

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**Guide 4:**  
Your ongoing responsibilities as a sponsor of Skilled Workers

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Prepared for Seafish by Darren Stevenson,  
Legal Director at Wiggin LLP

## Overview of the Guides

There are five guides included in the Skilled Worker Visa Guidance, alongside a glossary which explains the technical terms. We recommend you take the time to read through each of these guides before starting the application process. The five guides are summarised here.

[Follow this link](#) to access the other guides



### **Guide 1: Introduction to the Skilled Worker Visa - explaining the fundamentals**

Guide 1 provides an overview of the sponsorship and recruitment process and explains why it has been structured in this way. It also explains the preparation you should take before you start the application process and the costs involved in sponsoring a person under a Skilled Worker Visa. Make sure you have read and understood the details in Guide 1 before you embark on the sponsorship process.



### **Guide 2: How to become a sponsor**

Guide 2 is a detailed step by step guide through the online application process. It includes screenshots from the application systems and explains how to make a successful application. It also details the information, documents, and systems you will need to have in place before you are ready to submit your application.



### **Guide 3: How to employ migrant workers under a Skilled Worker Visa**

Guide 3 covers the process of sponsoring migrant workers via the Skilled Worker route, once your sponsor license has been approved. This includes important things that both you and your potential employee should know, such as job codes, salary and language requirements, the different types of certificate of sponsorship and how they should be used.



### **Guide 4: Your ongoing responsibilities as a sponsor of Skilled Workers**

Visa sponsorship is a long-term commitment, and Guide 4 will help you understand your ongoing responsibilities and how to ensure you are complying with them. These responsibilities include the need to maintain accurate records, to notify the Home Office of any changes, and managing the relationship with your sponsored worker.



### **Guide 5: Your wider legal responsibilities**

The final guide includes general information on your wider legal responsibilities as a seafood business engaging migrant workers. UK employment law is likely to apply to any person working in the UK and in territorial waters. These duties will be in addition to your sponsorship duties and if you fail to meet these wider obligations it could impact on your ability to remain a sponsor.



### **Glossary: Provides explanations of key technical and legal terms that relate to the Skilled Worker Visa**

The glossary contains definitions of key terms used across the Skilled Worker Visa Guidance – see text in **bold** in each Guide.

## Introduction

UK immigration requirements mean that if you wish to employ migrant workers in the seafood industry, either onshore or within 12nm of the shore, you will more than likely need to use a Skilled Worker Visa.

This visa allows for the employment of migrant workers for **certain skilled jobs** in the UK. This includes experienced deckhands on fishing vessels, fish filleters, and seafood processing line operatives, as well as food manufacturing engineers, mechanics, or skippers.

We understand that many seafood businesses will be new to this system and may find it difficult to understand the process involved. This guidance should assist you to:

- Apply to become a sponsor
- Employ overseas workers
- Meet all your responsibilities as a sponsor.

The guidance is specifically tailored to seafood businesses, whether you are a fishing vessel, aquaculture business or a processing company, regardless of where you are based across the UK.

The information contained in these guides is to be used as guidance only. It does not constitute legal advice and if you are unsure about any aspect of the sponsor regime or Skilled Worker Visa requirements you should seek independent legal advice. It is not a substitute for the published official Home Office guidance on the sponsorship regime, or the Immigration Rules. Where possible we have included links to the official guidance.

If you have any questions about this guidance, please email [skilledworkervisa@seafish.co.uk](mailto:skilledworkervisa@seafish.co.uk)

## Contents

1. Duties and responsibilities	6
2. Legal Duties of Sponsor	8
3. Reporting Duties in respect of your business	13
4. Reporting duties in respect of sponsored migrants	15
5. How to report changes	20
6. Record Keeping	21
7. Compliance visits and consequences or non-compliance with the duties	25
8. Sponsor duties and compliance summary	27

This guide details the duties that a licensed sponsor must meet and explains what steps you should take to satisfy these requirements. It covers sponsor duties, SMS reports and record-keeping.

## 1. Duties and responsibilities

As a sponsor you have a range of responsibilities that you must adhere to. These duties are set out primarily in the official guidance entitled "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)". However some additional duties are explained in the following official guidance:

- [Workers and Temporary Workers - guidance for sponsors part 1: apply for a licence](#)
- [Part 2: Sponsor a worker – general information](#)
- [Workers and Temporary Workers: sponsor a skilled worker](#)
- [Appendix D: guidance for sponsors on keeping documents](#)

The full collection of guidance documents for sponsors is found here:

[Sponsorship: guidance for employers and educators](#)

At first sight the guidance may seem very complicated. This guide will help you understand your responsibilities. It is important that you understand the terms of the official policy guidance which we link to.

We have focused on those parts of the official guidance which are most relevant to a seafood business engaging a skilled worker.

Sponsor duties are intended to ensure that the sponsor is a trusted and responsible organisation, which is reliable, and complies with immigration law and wider legal obligations. The Home Office has an obligation to regulate migrant workers and rely on licenced sponsors to play their part in this function.

Thinking about things in this way will help simplify the duties and responsibilities that are expected of you. You should approach the role of sponsor responsibly. You should be honest and transparent in your dealings with the Home Office. You should be sure to give accurate information at all times in response to requests or in respect of any information which you provide on the **SMS (Sponsor Management System)**.

It is also very important to keep clear records, both to comply with record keeping obligations, and to demonstrate, if necessary, that you are complying with your sponsor duties.

The Home Office state that:

*“Sponsorship is a privilege, not a right – this means that those who benefit most directly from employing migrant workers must:*

- *play their part in ensuring the immigration system is not abused*
- *comply with wider UK law*
- *not behave in a manner that is not conducive to the public good*
- *ensure overseas nationals who apply for permission to enter or stay in the UK to work are eligible, and a trustworthy and licensed employer genuinely wishes to employ and sponsor them*
- *When a sponsor is granted a licence, significant trust is placed in them. With this trust comes a direct responsibility to act in accordance with the UK’s immigration laws, all parts of this sponsor guidance, and with wider UK law, including, but not limited to:*
  - o *UK employment law, such as payment of National Minimum Wage, holiday and sickness pay, maximum working hours, health and safety, and trade union and worker rights*
  - o *preventing illegal working*
  - o *safeguarding children”*

## 2. Legal Duties of Sponsor

As a sponsor you are expected to comply with UK Immigration law and published guidance, along with wider obligations which you may have as a business under UK law. Within Guide 5: "Your wider legal responsibilities" we have signposted some of these wider legal obligations.

In terms of UK immigration law and guidance, the Home Office list a number of sponsor obligations at section C1.38 of the official guidance "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)":

- You must only employ workers who are appropriately qualified, registered or experienced to do the job or will be by the time they begin the job.
- You must keep a copy of any registration document, certificate or reference that confirms they meet the requirements of the specific job
- You must not employ workers where they do not have the experience, qualifications, or immigration permission to do the job in question, and stop employing any workers who, for any reason, are no longer entitled to do the job
- You must not assign a **CoS** where there is no "**genuine vacancy**"
- You must only allow the worker to undertake the roles permitted by the conditions of their stay as communicated to them on the grant of permission.
- You must only assign a **CoS** to workers who you believe will meet the immigration requirements of the route on which you propose to sponsor them, and are likely to comply with the conditions of their permission
- You must disclose (by adding a sponsor note) if you assign a **CoS** to a family member of anyone within the sponsor organisation if it is classed as a small or medium-sized business, or if you are aware you are assigning a **CoS** to a family member of anyone else within a sponsor organisation classed as a large business
- You must only assign a **CoS** to a worker if you are satisfied, they intend to, and are able to, fill the role

These obligations seek to ensure that you only sponsor a worker where you are confident that they are suitably qualified and able to do the job. It is possible to employ someone who will undertake a training role, but nevertheless you must be confident that they can fulfil what is expected of them and retain any references or evidence to confirm that.

The requirements are also focused on ensuring that any work carried out by a sponsored worker is within the terms of the immigration permission, or **visa**, that was granted to them.

A **visa** is usually endorsed with conditions, communicated in the decision notice granting permission. A condition imposed on the **visa** of a sponsored skilled worker is that they are limited to working in the role that they have been sponsored for. They will also have a condition which restricts them from accessing **public funds**.

A sponsored skilled worker can also undertake **Supplementary Employment**.

It is not possible to have the worker carry out another different role within the business from the role you specified in the **CoS**, unless the job remains within the same **Standard Occupation Code (SOC)**. If you wish the sponsored worker to undertake a different role, it will be necessary to issue a further **CoS** for that role and make a further **visa** application. This is discussed below.

A key sponsorship concept used by the Home Office, is that of a “**genuine vacancy**”. This is defined as follows at C1.44 of the official guidance “[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)”:

- A vacancy that requires the jobholder to perform the specific duties and responsibilities for the job and meets all of the requirements of the skilled worker visa
- does not include dissimilar and/or predominantly lower-skilled duties
- is appropriate to the business in light of its business model, business plan and scale

The Home Office provide examples of situations when a role may not be considered to be genuine:

- a role that does not actually exist
- one which contains an exaggerated or incorrect job description to deliberately make it appear to meet the requirements of the route when it does not, or is otherwise a sham
- a job or role that was created primarily to enable an overseas national to come to, or stay in, the UK
- advertisements with requirements that are inappropriate for the job on offer (for example, language skills which are not relevant to the job) or incompatible with the business offering the employment, and have been tailored to exclude settled workers from being recruited

The '**genuine vacancy**' rule is designed to ensure that there is no abuse of the immigration system and that in all cases a vacancy which you seek to fill with a sponsored migrant worker is legitimate.

The obligation to inform the Home Office if you assign a **CoS** to a migrant worker who is the family member of someone already in the business is designed to ensure that sponsorship is legitimate and not simply to allow a family member of someone in the business to enter the UK. An **SMS** user should never assign a **CoS** to their own close family member.

The Home Office also regard advertising for the role, and a recruitment process, as being an indicator of whether a vacancy which you seek to sponsor is genuine. It is not a legal requirement under the Skilled Worker **visa** that you advertise or try to recruit from the resident labour market before you sponsor a skilled worker. The Home Office seek evidence of advertising and recruitment because this evidence helps support that the vacancy you are seeking to fill is genuine.

The Home Office also wish to ensure that anyone you do engage has been assessed as suitable to carry out the work and that there is a legitimate reason why it has not been possible to recruit from the resident labour market. For catching businesses the lack of available labour is a common complaint and well recognised throughout the industry. Many catching businesses will seek to recruit informally using word of mouth or local contacts. You may have utilised an agent in another country to help secure crew. This approach is not prohibited; however it is important to retain the evidence of these arrangements. This is so that you can prove to the Home Office that the sponsored vacancies are genuine and that there has been a legitimate process to ensure that anyone sponsored is suitable for the role. As with all aspects of sponsor licencing, keeping a clear paper trail as regards the engagement of migrant workers is important.

It is also important to retain a job description for the role you have sponsored, particularly if you have not advertised the role, outlining the skills, qualifications and experience required. You must also retain copies of any documentation confirming that the sponsored worker can undertake the role such as relevant qualifications, safety or competence certificates, and training certificates.

These documents provide further confirmation that a sponsored worker is genuinely able to undertake the role they have been sponsored for, and that you have considered this before sponsoring them.

As an example, it is currently possible to sponsor a Deckhand on a fishing vessel which is 9 meters and above. Under the **Immigration Rules**, the role must also require the worker to have at least 3 years' experience in using their skills. You should that ensure any deckhand that you sponsor is sufficiently

experienced and that you have records to establish that before you sponsor. Such records could include training records, or a service record on suitable vessels contained in their Seaman's book.

You should only assign a certificate of sponsorship to someone whom you believe can meet the requirements of the **Immigration Rules**. One example is the English language requirement. You would only assign a **CoS** to someone who had demonstrated they could meet the English language requirement, or you were reasonable satisfied they will meet the requirement to the required level of B1 on the Common European Framework of Reference.

These duties are designed to ensure that when you sponsor a migrant worker, it is a legitimate and genuine, and that there is no abuse of the system by bringing in workers who are not able to undertake the role.

A Sponsor is also expected to comply with wider legal obligations. We have signposted the kinds of obligations which exist at Guide 5: "Your wider legal responsibilities". These obligations apply to businesses whether or not they chose to become a Sponsor:

- complying with UK employment law, such as National Minimum Wage, Working Time Regulations, and paid holiday entitlement
- complying with [illegal working](#) and [right-to-rent legislation](#).
- holding suitable planning permission, local planning authority consent or any legally required licence registration or approval to run your type/class of business at your trading address (where this is a local authority requirement)
- if you are a food business, being registered with or approved by the relevant food authority
- if you are required to be registered with or inspected or monitored by a statutory body to operate lawfully in the UK ensuring you are registered with the appropriate body
- only employing a worker who has had a Disclosure and Barring Service (DBS) check, where this is a requirement for the role
- where relevant, complying with requirements on safeguarding children
- not engaging in any criminal activity

Note that whilst the illegal working legislation applies UK wide, the right-to-rent legislation is only applicable in England. These laws seek to enforce restrictions on individuals without appropriate immigration permission from working in the UK and renting property.

In addition to duties under immigration law and wider UK law, a sponsor is expected to refrain from behaviour that is not conducive to the public good. This is defined as:

- *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 their sex, age, disability, gender reassignment, sexual orientation, marital or civil partnership status, race, or religion or belief (including lack of belief).*



### 3. Reporting Duties in respect of your business

As a licensed sponsor you will be required to report to the Home Office if there are any changes to your business or to your sponsored worker. It is important that you provide accurate information within the required timeframes.

The first set of reporting duties we will summarise relate to changes to your business. When you seek a licence, the Home Office grant the licence based on what is known about your business at that time. As discussed in Guide 2: “How to become a sponsor”, you will provide a variety of company documents, and background information to help the Home Office make a decision on your licence.

Therefore, it is important to ensure that the Home Office are kept up to date with changes to your business which are relevant to your duties as a sponsor, such as a change to the people involved with the licence, or a change to the business details.

At C2.4 of the official guidance [“Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance”](#) the Home Office list the changes a Sponsor is expected to report:

- *a change in company address contact details, head office details, or the address of any sites or branches*
- *a change in any key personnel, such as a change in **Authorising Officer**, or Key Contact, or a change in their contact details*
- *a change your company’s name or the name of any of your branches*
- *the addition of branches or sites in the UK*
- *a change in the size of your business*
- *the sale of all or part of your business*
- *if you are involved in a merger or are taken over*
- *if you stop trading or go into an insolvency procedure*
- *if you substantially change the nature of your business*
- *if anyone involved in the licence is convicted of a “relevant offence”*
- *if you are appointing, removing, or changing a representative*

You should report such changes promptly. If you are replacing key personnel this must be reported immediately. You must have an **Authorising Officer**, **Level 1 User** and Key Contact in place at all times. If you anticipate that your key personnel will change to someone else you must report that change immediately and before the existing individual leaves the business. Other changes can be reported within 20 working days.

Some of the changes that you are required to report might impact your ability to hold a licence. For example, if there is a change in your direct owner (because your business is merged or taken over), the Home Office will normally require a new sponsor licence application to be made. A sponsor licence is not transferrable to another business or organisation. This can even be the case if the business is largely carrying on as before, but with new owners. It can be possible for existing sponsored workers to transfer to the new licence once it is granted to the business, however if this situation arises, specialist advice is recommended.

If your business enters an insolvency procedure, there are specific requirements, stipulated at C3.1 onwards of the official guidance "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)". These matters can be complex and specialist advice is recommended. In some circumstances a sponsor licence will be revoked and this will affect the visas of any sponsored workers.

Other changes noted above are focused on ensuring that the Home Office has up-to-date information on the business, such as its name and location. The reference to a change in the size of your business relates to changes from a 'small' organisation to an organisation that is not small, as defined under the Companies Act 2006, or in relation to a sole trader which employs over 50 people. The reason why this change is important to notify is that there are higher fees, for example in relation to the **Immigration Skills Charge**, for a business which is not classified as small. Equally if your business changes to become small, this should be reported, as you will then qualify for lower fees.



## 4. Reporting duties in respect of sponsored migrants

These reporting duties focus on ensuring that the Sponsor retains responsibility for the migrant worker and that the sponsored migrant continues to perform the role for which they are sponsored, at the salary which was stipulated in the **CoS**.

You will need to report if your relationship with the sponsored worker has changed, and you may have difficulty in discharging your responsibilities as a sponsor. This could be because the migrant worker finishes the engagement prematurely from the date stipulated on the **CoS**, leaves your employment, or is absent without leave from their engagement. These are matters which should be reported as soon as possible; within 10 working days of the event.

Once a report that a sponsor no longer has responsibility for the worker has been made, the Home Office will normally then take action to cancel the migrant's **visa**, limiting the time remaining on it to 60 days. The Home Office state that "Any information reported about a worker's non-attendance, non-compliance or disappearance may be used to take enforcement action against them."

The full list of reporting duties in respect of a sponsored worker are specified in the official guidance "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)" at C1.13. There are a number of key duties, which we will explore below.

### The engagement between the Sponsor and sponsored worker

**Scenario:** *If a sponsored worker does not start the role for which they are being sponsored.*

A sponsored worker must commence work for you within 28 days of the latest date of the following:

- the start date on their **CoS** (taking into account any changes to that date reported by you, via a sponsor note, before their application for entry clearance or permission was decided)
- the "valid from" date on the worker's **visa**
- the date the worker is notified of a grant of entry clearance or permission to stay

You must report if the worker does not start work for you within those periods. There is a risk that the worker's visa will be cancelled. However the visa may not be cancelled if there is a valid reason for the delay, such as:

- travel disruption due to a natural disaster, military conflict or pandemic
- the worker is required to work out a contractual notice period for their previous employer – if the worker is in the UK, their conditions of stay must allow them to do this
- the worker requires an exit **visa** from their home country and there have been administrative delays in processing this
- illness, bereavement or other compelling family or personal circumstances

You must report the delay, and if you wish to continue sponsorship, you must provide a valid reason for the delay. Note that the reason for the delay may not be accepted by the Home Office.

**Scenario:** *If a sponsored worker is absent from work for more than 10 consecutive working days without permission.*

You must report this, even if the worker has returned to employment, within 10 working days of the 10th day on which the worker is absent. The Home Office expect to be told:

- the date the unauthorised absence started
- if the worker has since returned to work, the date they returned
- if the worker has not returned to work, details of any attempts you have made to contact the worker
- whether you have made, or will be making, any salary deductions for the period of unauthorised absence, and what those deductions are
- whether you intend to continue sponsoring the worker

**Scenario:** *A sponsored worker is absent from work without pay, or on reduced pay, for more than 4 weeks in total in any calendar year.*

Normally if this occurs a sponsor must end sponsorship. However there are a number of exceptions to this rule, set out at S4.27 of the official guidance: [“Workers and Temporary Workers: guidance for sponsors Part 2: Sponsor a worker – general information”](#):

- statutory maternity leave
- statutory paternity leave
- statutory parental leave
- statutory shared parental leave

- statutory adoption leave
- sick leave
- assisting with a national or international humanitarian or environmental crisis, provided you agreed to the absence for that purpose
- taking part in legally organised industrial action
- jury service
- attending court as a witness

The Home Office may, exceptionally, accept other reasons to consider an exception from the absence rules, but this is not guaranteed and there is a risk that the sponsored worker's visa will be cancelled.

The **Immigration Rules** have recently been amended to include a provision which would allow for unpaid rest weeks and variable hours, in circumstances where a sponsored worker may, on some weeks, work more than 48 hours. A sponsor is now permitted to average out the weekly hours of work over a maximum 17-week cycle, up to a maximum average of 48 hours. This average can include unpaid rest weeks which are not counted as absences from employment. This may be of particular relevance to catching businesses, since a crewmember could now, for example, work 60 hours per week for 8 weeks, returning home on rest for 4 weeks on a regular cycle. This 12-week cycle would equate to 40 hours per week average for the purposes of the **Immigration Rules** and salary calculations, and the crew member could have 4 weeks unpaid in that regular cycle without this being counted as an absence.

**Scenario:** *You stop sponsoring the migrant worker.*

There can be a number of reasons why you may stop sponsoring the migrant worker, in all cases you must notify the Home Office:

- you become aware the worker's application for entry clearance or permission (a **visa**) has been refused, or their permission has been cancelled, and any administrative review of, or appeal against, that decision has finally been determined.
- the worker decides not to take up the post, or you withdraw the job offer
- the worker's contract of employment or contract for services ends earlier than the date shown on their **CoS**
- any professional registration or accreditation the worker is legally required to hold to work in the UK in their sponsored employment is withdrawn
- the worker is absent from work without pay, or on reduced pay, for more than 4 weeks and this absence is not covered by any of the specified exceptions

- you become aware the worker has been granted settlement (indefinite leave to remain), or permission on an immigration route that does not require sponsorship
- the worker resigns or is dismissed, or is made redundant
- the Home Office inform you that a change in the details of the worker's employment or salary you have reported is not permitted

**Scenario:** *A change to a sponsored worker's job title or duties.*

If the sponsored worker's job duties change so that it would fall under a different **Standard Occupation Code (SOC)**, then it will be necessary to make a fresh **visa** application supported by a new **CoS** which is assigned under that particular occupation. If there is a change in job title and/ or duties but the worker is still doing a job in the same occupation code then it is not necessary to make a new **visa** application, but the change must be reported. This is set out in the official guidance "[Workers and Temporary Workers: guidance for sponsors Part 2: Sponsor a worker – general information](#)" at S9.10.

**Scenario:** *A sponsored worker's normal work location changes from the address given on the **CoS**.*

This includes when the worker is, or will be, working at a different site, branch or office of your business. Or the worker will be working remotely from home on a permanent or full-time basis (with little or no requirement to physically attend a workplace). A move to a hybrid working pattern must also be reported if it is a permanent change. Note that if you wish a worker to move to a new branch or site then it may also be necessary to add that location or entity to the licence as a change of circumstances on the **SMS**.

**Scenario:** *A change to the sponsored worker's salary as specified on the **CoS**, not related to absence.*

You do not have to report increases in salary. You must report if the worker's salary is reduced from the figure which you provided on the **CoS** for reasons unrelated to absences, covered above. This is important because of the significance given to salary levels under a Skilled Worker **visa** and stipulated at S4.30 of the official guidance entitled: "[Part 2: Sponsor a worker – general information](#)".

You must stop sponsoring the worker if their revised salary is lower than the requirements under the skilled worker **visa**, explained in Guide 3: 'How to employ

migrant workers under a Skilled Worker Visa'. There are a number of exceptions to this, as relevant to a seafood business using the skilled worker route:

- the reduction coincides with a temporary reduction in the worker's hours, or a phased return to work, for individual health reasons, provided:
  - o this is supported by an occupational health assessment; and
  - o the reduction does not result in the hourly rate falling below any hourly rate requirement which applied when the person obtained their most recent grant of permission
- the person would continue to be eligible under the Immigration Rules on salary levels, even after the reduction. This could be because the individual could qualify as a new entrant and is being paid at a higher rate before the reduction, but is still paid above the new entrant rate after the reduction
- the reduction in salary has been authorised as a result of a grant of a new visa

Salary reductions, calculations and changes can be complex, and you may consider seeking specialist advice if you have concerns.

*Reporting on the entry and exit of sponsored workers from UK territorial waters.* This is a new requirement brought in by the Nationality and Borders Act 2022, and effective from 12 April 2023. In summary if you sponsor a crew member who will work on a vessel operating inside territorial waters you must notify the Home Office of the dates on which the sponsored worker enters and leaves territorial waters.

Note that this notification is not required if the worker has first entered the UK landmass and passed through border control before entering territorial waters. Notification is only required when the worker will enter UK waters without first entering by land and passing through border control. The full requirements are specified at C1.23 of the official guidance entitled: "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance.](#)"

It is not currently possible to make these reports using the **SMS**, and so an email address is provided in the guidance above [offshoreworkernotificationsinbox@homeoffice.gov.uk](mailto:offshoreworkernotificationsinbox@homeoffice.gov.uk).

## 5. How to report changes

The **Sponsor Management System (SMS)** is an online system that licenced sponsors are provided access to, via the appointed **Level 1** and **Level 2 Users**. The **SMS** is used to communicate with the Home Office about changes to your business, and to any migrants that you sponsor. It is also used to assign **CoS** to sponsored workers and perform administrative tasks relevant to sponsorship, such as adding **sponsor notes** to amend details on a **CoS**.

Reports to the Home Office about changes to your business or sponsored worker are made, in most cases, via the **SMS**. There is a special process if you lose access to the **SMS**, for example, if your appointed **Level 1 User** leaves your employment unexpectedly, and a form can be utilised to appoint a new **Level 1 User**, found [here](#).

The Home Office has produced a number of [helpful guides](#) to the **SMS**, which we will link to.

### Reporting changes to the sponsoring business

Reports in respect of the business are accessed under the **SMS** menu “Licence summary, applications and services” and then “request changes to your licence details”. For changes to the business the Home Office will normally expect the sponsor to email a submission sheet which is generated on the **SMS** system and specified supporting evidence to support the change. The submission sheet must be sent within the stipulated timeframe, normally 10 working days. Some changes are applied immediately, others will take some time to be processed. It is possible to pay an additional fee to seek priority for the change, detailed [here](#).

### Reports on sponsored workers

These types of reports are accessed under the **SMS** menu “workers” and “report migrant activity”. By clicking on the menu item “report migrant activity” you are able to search for an individual you have sponsored using their **CoS** reference number or other personal details such as the individual’s passport number.

Once you have located the individual’s record, you are able to then select from a number of different options, for example that you have stopped sponsoring the migrant worker, or that there has been a change in the migrant worker’s circumstances. Note that if you have issued more than one **CoS** for a worker, for example, if they have extended their **visa** to work for you, then it is very important to select the correct **CoS** to report against. A guide on using the **SMS** to report worker activity is contained [here](#).

## 6. Record Keeping

A Sponsor is obligated to retain a variety of documents. There is an official guidance document on the kinds of records that you must keep entitled; [Appendix D guidance for sponsors on keeping documents](#).

Appendix D states that documents must be retained for one year after you have ended your sponsorship of a worker, or less than one year if a compliance officer has examined and approved them. However for some purposes, such as ensuring that you have complied with the illegal worker guidance, you may be required to hold certain documents for longer periods. You may also need to retain records for longer periods to comply with other regulations or requirements. You should ensure, in terms of General Data Protection Regulation (GDPR) that you hold personal data for no longer than is justified by any obligation. Documents can be stored physically or electronically. For more information on the GDPR, please visit the [Information Commissioner's Office](#) webpage.

The documents to be retained fall into the following categories:

### Evidence of right to work checks

A **right to work check** ensures that any individual who works for you has the correct permission to do so. A **right to work check** is completed by following the official guidance, "Employer's guide to **right to work checks**". It is important to closely follow the official guidance so that the **right to work check** is effective.

As an employer it is good practice to carry a **right to work check** on every worker which you engage, regardless of whether you decide to become a sponsor. To avoid discrimination, **right to work checks** should be carried out on all prospective workers, including UK workers. **Right to work checks** can be carried out online in many cases.

If you are a fishing business and utilise a **transit visa** to engage crew, it will not be possible to carry out a **right to work check**, because these crew are in the UK under a special exemption from immigration law. If you have concerns regarding the right to work for crew on **transit visas**, you should consider seeking specialist advice. Crew on transit **visas** cannot lawfully work inside UK territorial waters.

It is also important to check the date that the worker has entered the UK to make sure that they entered during the period of their **visa**, and not before the **visa** commenced.

We use the term "**visa**" in this guidance to signify a grant of permission to enter or to stay in the UK. There are a number of different ways in which a **visa** will be granted.

The traditional method was to place a vignette, or stamp, in a person's passport. This is becoming less common. A skilled worker may have a 30-day or 90-day entry vignette in their passport to allow travel to the UK, however once in the UK (and for stays over 6 months) they will be issued with a **Biometric Residence Permit (BRP)** which is proof of the **visa**, and the expiry date.

**BRPs** are being phased out by January 2025 to be replaced by status held and confirmed online. This means that if you sponsor someone for a **visa** that has an expiry date beyond December 2024, the **BRP** will be issued with an expiry date in December 2024, however the individual's permission will continue to run until the expiry date of their permission, as communicated in the grant of the **visa**.

Alternatively, it is possible for a **visa** to be granted digitally via an online communication, with the status held and confirmed online. The individual will receive no physical stamp or plastic card. A holder of digital status can check their **visa** online, using the '[view and prove](#)' service which provides a "share code". An employer can use an [online service to confirm that the individual has a right to work](#), using the share code provided by the employee.

It is important to follow the official guidance, "[Employer's guide to right to work checks](#)" carefully; it is only by following the procedures in that guidance, and retaining the appropriate evidence, that you will establish a defence in the event of illegal working.

Common issues that might lead to illegal work are if a worker's **visa** has been cancelled by the Home Office but you have not been informed. If you have followed the checks properly, in the event you are not aware of a cancellation, you would have a defence to an illegal working allegation, for the duration of the **visa** you have checked.

## Human Resource Records

The official guidance [Appendix D guidance for sponsors on keeping documents](#) provides a list of document which you must retain. This includes:

- A history of the worker's contact details (UK residential address, personal email address, telephone number (mobile and/or landline). This must always be kept up to date.
- A copy of the worker's National Insurance (NI) number, unless the worker is exempt from requiring one. This can be shown on a copy of:
  - o the worker's NI card or NI number notification letter from HM Revenue and Customs (HMRC) or the Department for Work and Pensions (DWP)
  - o the worker's BRP or the result of an online **right to work check**, if this shows their NI number
  - o the worker's wage slip
  - o the worker's P45
  - o Real Time Information (RTI) starter checklist - formerly P46
  - o P60
  - o P11 free of tax pay (FOT): employer's declaration sent to HMRC
  - o RTI Employment Payment Summary (EPS) sent online to HMRC - formerly P14: employers annual return sent to HMRC manually
  - o RTI Full Payment Submission (FPS) sent online to HMRC - formerly P35: employer's annual return to HMRC
- A record of the worker's absences, which may be kept electronically or manually.
- Evidence of the salary paid to a sponsored worker. This is particularly important given the significance of salary levels under the Skilled Worker route. You must retain:
  - o Copies of the worker's payslips, clearly showing the name, NI number, tax code, any allowances paid, and deductions made.
  - o A copy of any contract of employment or for services, or a written statement of employment particulars, between the sponsor and the worker, which clearly shows all the following:
    - the names and signatures of all parties involved - normally, this will only be you and the worker
    - the start and end dates of the contract
    - details of the job, or piece of work that the worker has been contracted to do

- the hours the worker will work
- an indication of how much the worker will be paid
  - o Evidence of any allowances paid, whilst these cannot be included in the salary calculation for the Skilled Worker **visa**, it is sensible to retain this evidence.
- Evidence of any recruitment activity and job details

These documents are intended to confirm:

- That you are up to date on the worker's home address and contact details
- That you are paying the correct amount
- That you are complying with the absence reporting duties
- That the vacancy you have sponsored is a 'genuine vacancy'



## 7. Compliance visits and consequences for non-compliance with the duties

In order to ensure that a Sponsor is complying with the duties and obligations of sponsorship, the Home Office will engage in a variety of compliance checks. If a sponsor is found to be non-compliant a variety of actions can be taken. These can range from a requirement to improve or rectify certain matters, to the **revocation** of the licence which will impact the **visas** of the workers your sponsor.

The official guidance "[Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance](#)" at C7 sets out the Home Office approach to sponsor compliance. This is a complex topic and outside the scope of this guidance. It is recommended that you have regard to the official guidance and consider seeking specialist advice if you have concerns regarding compliance checks or Home Office action.

The Home Office wish to ensure that a sponsor:

- does not pose a threat to immigration control,
- is complying with the sponsor duties, immigration law, and wider legal obligations
- has not engaged in behaviour or actions that are not conducive to the public good

The Home Office utilise a variety of methods to ensure compliance:

- asking you for additional documents or information
- verifying documents and information you have provided
- visiting you on-site
- conducting a digital compliance inspection which involves interviewing you via remote video conferencing facilities
- making checks with other government departments, agencies or local authorities
- considering any other information or evidence that comes to light – for example, during the course of considering applications from your sponsored workers or through allegations from members of the public

Compliance checks can arise before the sponsor licence is granted, or at any time you are a sponsor. This is why it is important to keep on top of sponsor duties. A sponsor is expected to cooperate with the Home Office in any compliance check.

A compliance check may involve an in-person visit to any of your offices, or locations at which migrant workers are engaged. The compliance officer may wish to:

- verify any information you gave in your sponsor licence application – this may include taking photographs of the location and the premises from which you are operating your business
- verify any information you gave in support of any worker’s application for a **visa**
- check you are complying with all of your sponsor duties, or will be able to comply if they interview you before your licence application has been decided
- speak to any sponsored workers, including any workers you may have previously sponsored
- speak to any of your employees or colleagues involved in the recruitment of sponsored workers
- inspect records and/or systems to ensure you are following your sponsor obligations and adherence to rules, such as those on record keeping set out in Appendix D of the sponsor guidance
- conduct checks on other workers to ensure you are complying with your obligation to prevent illegal working
- conduct checks (including criminal record and civil penalty checks) on anyone involved, or closely associated with your business

If, following a compliance check, a licence holder is found to be in breach of their duties or other obligations, the Home Office may take a variety of actions. For relatively minor issues, the Home Office may:

- Informally require you to make improvements or remedy issues
- Formally require you to remedy matters by downgrading your licence to a “B” rating, and imposing a time-limited action plan

The majority of sponsor licences are granted with an “A” rating. A “B” rating is a temporary measure, and you must meet the terms of any action plan for improvement to return to an “A” rating. Whilst “B” rated you will not be able to issue further **CoS**.

For more serious breaches, the Home Office may either **suspend** or **revoke** your licence. A licence **suspension** will prevent you from issuing any new **CoS** or appoint new key personnel whilst matters are investigated. The **visas** of existing sponsored workers are not affected; however a licence **suspension** can lead to a licence **revocation** which will affect existing sponsored workers’ **visas**. Issues can also arise if an existing sponsored worker’s **visa** needs to be renewed and the licence is suspended so that you cannot issue a further **CoS** for the extension. When a licence is revoked the **visas** of existing sponsored workers will be cancelled.

## 8. Sponsor duties and compliance summary

The duties expected of a sponsor may seem complex, however they are directed towards ensuring that the sponsor keeps an open line of communication with the Home Office, pro-actively informing of relevant changes to the business, and matters affecting the migrant workers that are sponsored.

The duties are also intended to ensure that any sponsored worker is filling a **genuine vacancy**, that they are being paid appropriately and that there is oversight of their work in the UK.

Issues inevitably can arise. Immigration law is very complex and a sponsor may have a variety of other duties and obligations. It is also easy to let matters slip when running a busy organisation. This is particularly common when a business sponsors only a few migrant workers. Once a **visa** is obtained it is easy to forget about the licence and duties. You may have limited engagement with the Home Office over the period of the licence. However you should treat the licence obligations in the same way that you treat matters such as tax and VAT. Honest and genuine attempts to understand and comply with the guidance can go a long way to reducing the prospect of serious adverse action.

If in doubt about any matter, it is best to seek advice, either from a legal professional or the Home Office directly. Early identification of potential issues and a responsible approach to the engagement of migrant workers can be of great importance. The duties and obligations exist to ensure the rules and requirements of the sponsorship regime are maintained.

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**Seafish**

18 Logie Mill  
Logie Green Road  
Edinburgh  
EH7 4HS

E: [seafish@seafish.co.uk](mailto:seafish@seafish.co.uk)

Last updated July 2023