

Tier 2 Sponsor Compliance Report

This report has been generated based on the answers that you have given to 16 questions about sponsor duties as a Tier 2 and/or Tier 5 sponsor.

Your answers have automatically flagged potential risk areas and provided an indication of the risk level to your company if a Home Office inspector visited your offices.

Your answers remain confidential. Only a copy of this report is accessible to our immigration experts should you want to discuss the results with a no obligation, no-fee conversation.



Your answers suggest three areas in which the Home Office might have mandatory grounds to revoke your sponsor licence(s) and five areas in which the Home Office will build a case for discretionary revocation of your sponsor licence(s).

The above risk rating has been automatically generated by the answers that you have given in the questionnaire. Each question relates to a specific ground on which an inspector can revoke a sponsor licence. Some of these points are discretionary grounds, which only cause an issue when there are several of these grounds identified. Other points raise issues that are mandatory grounds for revocation, where only one point would need to be identified to revoke a sponsor licence.

Revocation means the cessation of a sponsor licence and therefore the curtailment of all visas for those being sponsored by the company at that time. The Home Office would usually suspend a sponsor licence first pending further investigation, but 65% of suspensions result in revocation at the conclusion of that investigation.

The risk rating is based on a red, amber, green rating system. Red indicates there being at least one mandatory ground for revocation or three or more discretionary grounds for revocation. An amber rating indicates more than one but less than three grounds for discretionary revocation. A green rating indicates no points of potential revocation being suggested in your answers.

Points of concern:

Your answers suggest the following issues:

- ◆ Disclosing an SMS password to another person is a discretionary ground for the revocation of a sponsor licence. This may seem the most convenient option, but it is straightforward to create more user profiles. If you don't have any SMS users who are still employed by the company, this is an additional discretionary ground for revocation.
- ◆ You must have at least one Level 1 User who works for your company. You also need at least one Level 1 User who is a settled worker. You cannot completely outsource this responsibility to either a third party or an overseas office of your business otherwise you are at risk of two separate grounds for discretionary revocation.
- ◆

Failing to know where a sponsored worker is working day-to-day and not having a full record of all absences from work could lead to a finding that the company doesn't have sufficient procedures in place to comply with its sponsor duties. This is always a double discretionary ground for revocation since it always follows that where there is no procedure there is also a failure to meet sponsor duties.

- ◆ Failure to be able to evidence having run a valid Resident Labour Market Test (RLMT) within the requirements of the Home Office rules could lead to a finding that a Certificate of Sponsorship (CoS) has been assigned without an RLMT having been undertaken. This would be a mandatory ground for the revocation of the sponsor licence. Failure to maintain the correct documentation on file would also mean being vulnerable to two grounds of discretionary revocation which both concern the failure to comply with sponsor duties and having the correct processes and procedures in place to be able to comply with these duties.
- ◆ Failure to be able to evidence the rationale for hiring a non-EU national over a settled worker could potentially be a mandatory ground for refusal. Settled workers cannot be declined on the basis that they either did not possess certain skills that were not expressly communicated in the job advert, or where they are not the best candidate owing to lack of experience. Where a settled candidate meets the requirements for a job as specified by the job advert, then the conclusion to the Resident Labour Market Test should be that a suitable settled worker has been found. Failure to be able to evidence why a settled worker wasn't suitable could cause big issues upon inspection.
- ◆ Although it is potentially very common for companies to misplace documents pertaining to an individual's employment, especially with a high turnover of staff undertaking the Level 1 user role within a company, having no evidence of having followed the correct procedure means that upon inspection, you as a company are reliant on the benefit of the doubt from the Home Office to trust that you have. The worst case scenario is that the company cannot defend a claim by the Home Office that the Resident Labour Market Test was not carried out, which is a mandatory ground for the revocation of a licence. The best case scenario is that this exposes historic failures to comply with sponsor duties and a failure to have had processes in place to be able to comply with these duties, which are two discretionary grounds for revocation.

Next steps:

It would appear highly likely that important steps need to be taken to be prepared for a Home Office inspector.

If you are sponsoring workers at present, or are looking to sponsor workers in the near-future, you need to review your current documents and processes and upskill staff with regards understanding sponsor duties with more confidence.

We would recommend speaking to a member of our team who will quickly be able to assess what actions can be taken to review, remedy and train your team to dramatically reduce the risk of losing your sponsor licence.

Your results have been shared with the experts that put the questionnaire together who will reach out to you to see if you would like to talk through your results in more detail.

Our experts offer a range of solutions to help companies of all shapes and sizes prepare for a Home Office audit. We have worked with universities, FTSE 100 companies and SMEs to prepare companies for inspections.

For more information, please contact a member of our Immigration team:



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