

TODAY'S NEWS

UK IMMIGRATION LAW NEWSLETTER



31 January 2025

Announcement

The Home Office has unveiled crucial updates to sponsor guidance, introducing sweeping changes to the visa sponsorship landscape that will significantly impact UK organisations holding or seeking sponsor licences. These transformative modifications demand immediate attention and strategic adaptation of existing practices to ensure compliance and maintain competitive advantage.

Revolutionary Regulations on Sponsorship Cost Recovery

In a bold move, the Home Office has implemented stringent restrictions on the transfer or recovery of specific sponsorship-related expenses from sponsored employees. These game-changing prohibitions encompass:

- (1) *Certificate of Sponsorship (CoS) fees for certificates issued from 31 December 2024 onwards.*
- (2) *Skilled Worker sponsor licence application fees and associated administrative costs, including charges for premium services, where recovery is attempted on or after 31 December 2024, regardless of when the fees were initially incurred.*

It's crucial to note that costs directly linked to the visa application, such as the Home Office processing fee and the Immigration Health Surcharge, remain legitimately transferable to the worker.

The Immigration Skills Charge continues to be exempt from any clawback provision, offering a silver lining in this new landscape.

Non-compliance with these restrictions could lead to devastating consequences, including licence revocation, potentially causing severe disruption to organisational operations and recruitment strategies.

To safeguard your organisation's interests and maintain a competitive edge, it's imperative to conduct a comprehensive review of your current practices, including clawback clauses and financial policies, and implement strategic revisions without delay.

Groundbreaking Expansion of Sponsorship Entities

In a move that underscores the Home Office's commitment to comprehensive accountability, the definition of a 'sponsor' has been significantly broadened.

This expanded definition now encompasses individuals identified as Persons with Significant Control (PSC) on the organisation's Companies House profile, in addition to owners, directors, and designated key personnel (e.g., Authorising Officers and Level 1 Users).

This pivotal change reflects the Home Office's determination to ensure compliance from all individuals with substantial influence over the organisation.

To stay ahead of the curve, employers must verify the accuracy of their Companies House records and ensure all listed individuals fully comprehend their sponsorship responsibilities.

Revolutionary Revisions to Key Personnel Criteria

Effective from 1 January 2025, the criteria for key personnel have undergone a radical transformation. At least one Level 1 User on a sponsor licence must now simultaneously fulfil two critical conditions: **(1) *be a director, employee, or partner within the organisation***, and **(2) *hold "settled worker" status, such as British citizenship or indefinite leave to remain***. This represents a seismic shift from the previous arrangement where these requirements could be met by separate individuals.

Furthermore, the guidance emphatically stipulates that individuals acting as key personnel must not be legally barred from acting as company directors unless court permission has been granted.

The guidance also formally reiterates the essential requirement for all key personnel to possess a valid National Insurance number, unless exempt.

While these changes currently apply to organisations applying for a sponsor licence on or after 31 December 2024, the guidance strongly suggests potential extension to all sponsors. As such, it is imperative for sponsors to proactively review their Level 1 users to ensure compliance with this revised requirement, staying one step ahead of regulatory changes.

Existing licence holders must prioritise identifying suitable individuals within their organisation in light of the new regulations and, if necessary, provide comprehensive training to ensure unwavering compliance.

Moreover, with the imminent implementation of the cutting-edge "Sponsor UK" system, organisations should prepare for the removal of Level 2 User roles and ensure all necessary staff meet the enhanced Level 1 User criteria, positioning themselves at the forefront of regulatory compliance.

Decisive Prohibition on Personal Capacity Sponsorship

In a move that reinforces the fundamental principles of the sponsorship regime, employers are now explicitly prohibited from utilising a sponsor licence to employ workers in a personal capacity.

This far-reaching prohibition extends to:

- (1) Roles benefiting an individual or household where the sponsor is not engaged in business or service activities*
- (2) Positions unrelated to the organisation's core activities, such as nannies, housekeepers, or personal assistants employed for private purposes*

An exception exists for private servants working in diplomatic households. Employers operating in this context must ensure rigorous compliance with the specific regulations governing these roles. Organisations that previously sponsored workers in a personal capacity are no longer permitted to assign CoS for such roles. Non-adherence to this regulation may result in severe consequences, including licence revocation. To maintain a competitive edge and ensure full compliance, employers are strongly advised to update their internal policies and communicate these changes to all relevant stakeholders without delay.

Critical Supplementary Updates

The guidance includes additional updates that demand immediate attention:

(1) Defined CoS must now be issued within a strict 90-day window of allocation, replacing the previous three-month guideline. Employers must establish robust internal processes to meet this updated requirement, ensuring they stay ahead of the competition.

(2) The Certificate of Sponsorship category on the Sponsorship Management System for post-study sponsorship has been strategically revised to "Student course complete switching to Skilled Worker," replacing the previous "Tier 4/Student graduate switching to Skilled Work." This change aims to address confusion that led to misapplication and potential delays or refusals, offering a clear advantage to those who adapt quickly.

(3) Following the removal of the renewal requirement, licences can now be B-rated and subject to an action plan twice within any rolling four-year period. This modification, introduced in the October guidance update, has resolved inconsistencies in paragraphs C8.22 and C8.24, providing greater flexibility for sponsors.

Finally, employers are urged to familiarise themselves with the groundbreaking eVisa transition rules, notably the phase-out of Biometric Residence Permits (which have not been issued since October 2024). It is imperative that employers review their right to work procedures and provide comprehensive personnel training as required to ensure seamless compliance with the new digital verification system, positioning themselves as leaders in regulatory adherence and efficiency.

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Location Overview
<p>Organisation Level of Advice: Level 1</p> <p>Organisation Categories of Advice: Level 1 Immigration; Level 1 Asylum and Protection</p> <p>Organisation Fee Paying Type: Fee Charging</p> <p>Organisation Phone: 07879942892</p> <p>Organisation Website: http://www.britolia.com</p> <p>Organisation Email Address: info@britolia.com</p>

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