

## Sponsors' obligations and duties

I am on Tier 2/ skilled worker visa. My employer has sponsored me. What does it mean that they have a sponsorship 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 the employers to apply for and maintain a sponsorship 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 happened 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

I have leave to remain as a Skilled Worker/Tier 2 Migrant. I am currently working from home due to the coronavirus. My employer has contacted me on a number of occasions to ask about my whereabouts. Why are they doing this?

As a sponsor of Tier 2/Skilled workers, your employer has certain sponsorship duties. These include:

- 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 the location that the employee is employed at changes;
- stop sponsoring a Tier 2/Skilled Worker who is absent from work without pay for four weeks in total in any calendar year (Nb. this does not include absences which are solely due to maternity, paternity, shared parental or adoption leave or long term sick leave). This must be reported to the Home Office;
- 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 sponsorship licence duties.

I thought there were exceptions to my employer's reporting duties due to the coronavirus?

Yes there are.

Your employer is not obliged to report your coronavirus related absence to the Home Office. This can include absences due to illness, the need to isolate or inability to travel due to travel restrictions. Sponsorship does not need to be withdrawn if a sponsored worker is

absent from work without pay for more than 4 weeks, for reasons related to the coronavirus. Further, employers do not need to report your change in working arrangements due to working from home. The guidance is clear that other changes to working arrangements must still be reported as usual.

Given your employer's usual duties to report and the deadlines to do so, it is likely that they will want to make checks on your circumstances on a regular basis.

Your employer may therefore be asking questions about your whereabouts and intentions in order to establish whether your circumstances fall within the coronavirus concessions and to ensure that they comply with their reporting duties if the coronavirus concessions are not applicable.

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. For more detailed information, please see [here](#).

#### *What happens if my employer does not comply with their sponsorship 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 sponsorship duties are serious and far-reaching, and mean that a sponsor must be stringent about complying with their duties.