 **Promise Care Services Ltd**

**SPONSORSHIP LICENCE FOR**

**EMPLOYMENT OF STAFF FROM OVERSEAS**

Scope

* **Policy Statement**
* **The Policy**
* Sponsorship
* The Responsibilities of the Employer
* Applying for a Licence
* Key Personnel
* Certificates of Sponsorship
* **Related Policies**
* **Related Guidance**
* **Training Statement**

Policy Statement

The Home Office has published new guidance for sponsor licence applications. This reflects changes made to UK immigration rules in December 2020, notably, the replacement of the Tier 2 (General) visa route for sponsored employment with the new Skilled Worker visa route. For foreign workers coming to work for our organisation, it is likely that they will need a Skilled Worker visa. Further, companies must also have a valid sponsor licence in order to assign a certificate of sponsorship to each Skilled Worker visa foreign worker they employ.

If the foreign national has a permanent right to work in the UK, for example, EEA and Swiss nationals who have been granted settled or pre-settled status under the EU Settlement Scheme, they will not need a Skilled Worker visa or a certificate of sponsorship.

Once the employer’s licence is approved, it will be valid for a period of four years with the option for renewal and certificates of sponsorship can be issued during this period.

Since leaving the EU all overseas nationals, including EU citizens who have arrived in the UK since 31 December 2020, are subject to work permits and visa rules.

This organisation also understands that employing foreign nationals who are not permitted to work in the UK is a criminal offence under the Asylum and Immigration Act. Employing an illegal worker could lead to criminal convictions as well as civil penalties.

The Policy

Sponsorship

If the organisation wishes to employ a person under various visa categories, including a Skilled Worker visa, it must be authorised by the Home Office. This authorisation is known as a ‘sponsor licence’, and employers who hold a sponsor licence are known as ‘sponsors’.

The organisation would not require a sponsor licence to employ certain categories of persons, including:

* Irish citizens (with very limited exceptions)
* People who have been granted settled or pre-settled status on the EU Settlement Scheme
* People with indefinite leave to enter or remain in the UK (also known as ‘settlement’)

For a worker to apply for a valid application to stay in the UK on a Skilled Worker visa they must have received an offer of employment from the organisation (as the approved sponsor), and this must be confirmed by a Certificate of Sponsorship for the worker.

Sponsorship will play two main roles in a worker’s application for permission to enter or stay in the UK:

* It provides evidence that the worker will fill a role for the sponsor in an occupation that’s eligible for the route on which they’re being sponsored
* It involves a pledge from the sponsor that it accepts all the duties of sponsorship

The Responsibilities of the Employer

If the organisation is required to be registered with or inspected/monitored by a statutory body to operate lawfully in the UK, it will need to submit proof that it (and any branches covered by the licence) are registered with the appropriate body. They may also need to supply evidence that they hold the appropriate planning permission or local planning authority consent to operate at the trading address.

The Home Office must be satisfied that the organisation is able to offer genuine employment in a skilled occupation and that it will pay the correct rate of salary, as specified by the Home Office.

As part of the licence application, the organisation is pledging to accept all the duties associated with being a sponsor licence holder.

When a sponsor is granted a licence, they have 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:

* 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
* Preventing illegal working

All sponsors must discharge these responsibilities, compliance action will be taken when it is considered that a sponsor has failed to do so, or otherwise poses a risk to immigration control.

There is also a wider responsibility for sponsors to behave in a manner that is consistent with fundamental values and is not detrimental to the wider public good. The Home Office will not license organisations whose actions and behaviour are not conducive to the public good. Such actions and behaviour include, but are not limited to:

* Fostering hatred or inter-community division
* Fomenting, justifying or glorifying terrorism
* Rejecting the rights of, or discriminating against, other groups or individuals based on their sex, age, disability, gender reassignment, sexual orientation, marital or civil partnership status, race, or religion or belief (including lack of belief)

The Home Office will refuse a sponsor licence application or take the appropriate compliance actions if a prospective or existing sponsor is engaging, or has ever engaged, in such behaviour or actions. The compliance action taken will depend on the gravity of the behaviour and actions but could include compliance actions up to and including revocation of the licence.

Applying for a Licence

To be eligible to apply for a sponsor licence, the organisation must have a UK presence and be operating or trading lawfully in the UK. If the organisation has multiple UK branches it is possible to apply for one licence to cover all linked UK entities – alternatively, separate licences for each branch can be applied for, depending on circumstances.

To apply for a licence an online application form through the government website must be completed. Guidance can be found at ‘Workers and Temporary Workers – guidance for sponsors part 1: apply for a licence’. The application must be completed and submitted along with the supporting documents as specified within the guidance along with the fee, this is an amount dependable on the type of licence requested, the application fees differ depending on the size of the organisation as defined under the Companies Act 2006.

Before applying, it is important to:

* Read the governments guidance: ‘Workers and Temporary Workers - guidance for sponsors part 1: apply for a licence (accessible)’
* Decide which routes the organisation wishes to be licensed under
* appoint an Authorising Officer to manage the application and nominate a Level 1 User
* If there are multiple branches or sites, decide which branches of the organisation would be employing and sponsoring workers and whether individual branches will hold their own licences
* Decide how many workers are likely to sponsor in the first year – this will determine how many Certificates of Sponsorship will be required
* Send all relevant supporting documents listed in Sponsor guidance Appendix A
* Any government request for further information, evidence or documents should be answered within 5 working days

All sponsorship applications are confidential and kept in accordance with UK GDPR 2018. However, personal information provided to the government when applying for a licence may be used at any time throughout the period of the licence, or in any other dealings with the government, in accordance with the Home Office Personal Information Charter.

In certain circumstances, information about the organisation or the employees may be passed to other government departments and agencies, local authorities, and fraud prevention agencies, such as HM Revenue and Customs (HMRC), the Department for Work and Pensions (DWP), and the UK’s Fraud Prevention Community, (Cifas), for immigration purposes, the prevention of fraud and criminality and/or to help them carry out their functions. These bodies may provide the Home Office with information about the organisation and the employees.

Occasionally, the Home Office may require additional documents such as evidence of the company’s HR processes to assess whether the compliance requirements and sponsorship duties will be met. During an assessment of the licence application, the Home Office may also conduct a compliance visit at the company premises.

Key Personnel

The online sponsor application form requires the organisation to give certain responsibilities to members of staff, some, or all of whom will have access to the sponsorship management system (SMS) after a licence is granted. These people are the ‘Key Personnel’ and there are 4 roles:

* Authorising Officer
* Key Contact
* Level 1 User
* Level 2 User

Only level 1 and 2 users will have access to the SMS. If the Authorising Officer or Key Contact requires access, they must also be set up as a Level 1 or Level 2 User.

Each of the Key Personnel must:

* Be based in the UK for the period they fill the role appointed to them
* Not have any unspent criminal convictions as set out in the ‘Workers and Temporary Workers - guidance for sponsors part 1: apply for a licence (accessible)’
* Be a paid member of staff or engaged as an ‘office holder’, unless one of the following exceptions applies:
  + A Level 1 or Level 2 User can be an employee of a third-party organisation to whom the organisation has contracted some or all of their human resources function; however, the application will be rejected if there is one Level 1 User who is an employee, partner or director in the organisation
  + A Level 2 User can be a member of staff supplied to the organisation but employed by an employment agency
  + A UK-based representative can fill any Key Personnel role except the role of Authorising Officer; however, you must first appoint the representative via the SMS before the organisation can add them as a Level 1 or Level 2 User

None of your Key Personnel can be:

* A representative who is not based in the UK
* A contractor or consultant who is contracted for a specific project
* Subject to a Bankruptcy Restrictions Order or Bankruptcy Restrictions Undertaking
* Subject to a Debt Relief Restrictions Order or Debt Relief Restrictions Undertaking
* Legally prohibited from being a company director

The organisation must name their Authorising Officer, Key Contact and Level 1 User on the sponsor licence application form. These roles can be filled by the same person or a combination of different people. There can be only one Authorising Officer and one Key Contact, but it is possible to appoint more than one Level 1 User once the licence is granted (unless the company has a Provisional rating). Level 2 Users can only be appointed by a Level 1 User after the licence has been granted.

Certificates of Sponsorship

A Certificate of sponsorship (CoS) is an electronic document generated on the Sponsor Management System (SMS) after a licence is granted.

To sponsor a migrant worker, the organisation must first request a Certificate of sponsorship from the Home Office through SMS. Once this is granted, the organisation will need to assign it to the migrant worker they intend to sponsor to generate a unique reference number for the candidate to submit during their visa application.

Under new sponsor licence rules, the Home Office has rebranded its previous two types of CoS depending on the immigration status of the migrant worker:

Defined CoS

These certificates are required for those who are based outside the UK and making an entry clearance application as a Skilled Worker.

Undefined CoS

The annual allocation of undefined CoS runs from 6 April to 5 April each year. The organisation can request multiple undefined CoS before the deadline on 5 April if they foresee a need to extend the leave of an existing employee or have identified someone, they wish to sponsor who requires an undefined CoS (for example, someone “switching” visa category). If the organisation can justify the need for the request, then the CoS will be granted from 6 April.

Related Policies

Data Protection Legislative Framework (UK GDPR)

Recruitment and Selection

Related Guidance

GOV.UK: UK visa sponsorship for employers

[https://www.gov.uk/uk-visa-sponsorship-employers/eligibility](about:blank)

GOV.UK: Sponsorship: guidance for employers and educators

[https://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators](about:blank)

GOV.UK: Guidance: Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance (accessible version)

[https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance-accessible-version](about:blank)

GOV.UK: Guidance: Workers and Temporary Workers - guidance for sponsors part 1: apply for a licence

[https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-1-apply-for-a-licence](about:blank)

Training Statement

All staff, during induction, are made aware of the organisation's policies and procedures, all of which are used for training updates. All policies and procedures are reviewed and amended where necessary and staff are made aware of any changes. Observations are undertaken to check skills and competencies. Various methods of training are used including one-to-one, online, workbook, group meetings, individual supervisions and external courses are sourced as required.

Date Reviewed: May 2023

Person responsible for updating this policy: **IFEYINWA ODOEMENAM**

Next Review Date: May 2024