Newfields Law recently acted for a founder-led UK business whose sponsor licence application was refused following a Home Office digital compliance check.

The refusal centred on a single issue: a prescribed right to work check had not been completed before the founder's employment was considered to have commenced. The Home Office treated this as sufficient to create "significant doubts" about the company's ability to comply with its future sponsor duties.

That conclusion was reached despite several important facts. The founder held valid immigration permission allowing her to work in the UK throughout the relevant period. There had been no illegal working. A compliant right to work check was subsequently completed and supplied to the Home Office before the compliance interview and refusal decision. The company's proposed Authorising Officer also demonstrated that she understood how online right to work checks should be conducted.

No wider concerns were identified about the company's HR systems, recruitment practices or ability to meet its sponsor duties.

The refusal nevertheless placed decisive weight on the timing of the original check.

The Legal Challenge

As sponsor licence refusals do not ordinarily carry a right of appeal, Newfields Law challenged the decision through judicial review.

Two detailed letters were first sent under the Pre-Action Protocol for Judicial Review. The Home Office maintained its decision on both occasions. Proceedings were therefore issued in the Administrative Court.

The claim advanced five interconnected public law grounds.

First, it was argued that the Home Office had misdirected itself on the legal effect of a right to work check. A prescribed check can provide an employer with a statutory excuse against a civil penalty if a worker is later found not to have permission to work. The absence of a check does not, by itself, mean that illegal working has occurred. In this case, the founder had permission to work at all relevant times.

Second, the claim challenged the conclusion that one administrative omission created "significant doubts" about the company's future compliance capability. That assessment failed to reflect the fact that the issue had been corrected, the founder had always been lawfully entitled to work, and the proposed Authorising Officer understood the relevant process.

From sponsor licence refusal to Skilled Worker success: a judicial review case study

Third, it was argued that the Home Office had failed to consider relevant evidence. The proper question was forward-looking: could the company comply with its sponsor duties if granted a licence? The decision instead became dominated by one historic issue and gave insufficient weight to the remedial action taken, the absence of wider concerns and the Authorising Officer's demonstrated knowledge.

Fourth, the refusal appeared to treat the omission as automatically fatal. The sponsor guidance required an evaluative assessment of the company's suitability and systems. It did not state that every failure to complete a check at the correct time must lead to refusal. The claim therefore argued that the Home Office had unlawfully fettered its discretion by applying an inflexible rule.

Finally, the process was said to be procedurally unfair. The timing of the right to work check was the decisive issue, yet it was not meaningfully put to the Authorising Officer during the compliance interview. The company was therefore deprived of a proper opportunity to explain the circumstances before the refusal was issued.

The Outcome

After proceedings were issued, the Home Office conceded before filing its Grounds of Defence.

There was no final contested hearing and the case does not create a binding precedent. However, the result was significant. The Home Office had maintained its position through two rounds of pre-action correspondence, but changed course once the full judicial review challenge had been issued.

Newfields Law subsequently assisted the business with a further sponsor licence application. That application was successful. The company was then able to sponsor the founder in a genuine Skilled Worker role, and the founder has now been granted a Skilled Worker visa.

Lessons for Self-Sponsorship Cases

This case highlights the level of preparation required in founder-led and self-sponsorship applications.

Right to work evidence, HR systems, the genuine nature of the proposed role, salary arrangements, business finances and the Authorising Officer's knowledge should all be addressed before an application is submitted.

It also demonstrates that a refusal should not always be accepted at face value. Where a decision is based on an error of law, irrational reasoning, an inflexible application of policy or an unfair process, judicial review may provide an effective remedy.

For this client, the result was not merely the reversal of an adverse decision. It delivered the complete commercial and immigration outcome sought from the outset: a sponsor licence for the business and Skilled Worker permission for its founder.