

Sponsor Licence revocation overturned following a Pre-Action Protocol challenge

Newfields Law recently acted for an established UK care provider whose sponsor licence was revoked following a Home Office compliance visit.

The Home Office identified that prescribed online right to work checks for several sponsored workers had been completed after employment commenced and that the appropriate evidence was not available during the visit.

The company accepted that its process had failed. It did not seek to minimise the seriousness of the issue, blame an individual employee or suggest that later checks retrospectively corrected the original breach.

The central question was whether that historic failure justified permanent revocation after the company had accepted responsibility, identified the root cause and implemented a substantially revised compliance framework.

Following an urgent challenge under the Pre-Action Protocol for Judicial Review, the Home Office reversed the revocation decision and reinstated the sponsor licence.

Responding to the Suspension

Newfields Law assisted the company in preparing detailed representations in response to the suspension notice.

The representations identified several underlying weaknesses, including excessive reliance on one administrator, the absence of an effective pre-employment approval process, inadequate storage and retrieval of evidence, and insufficient management oversight.

The company accepted director-level responsibility and introduced a structured compliance framework designed to prevent the same issue recurring.

The revised arrangements included:

- documented pre-employment management approval;
- enhanced electronic right to work records;
- automated expiry alerts to senior management;
- an incident and exception log;
- regular director-level compliance reviews;
- specialist staff training; and
- independent auditing and ongoing monitoring.

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The company also offered to provide progress reports to the Home Office and accept further compliance scrutiny.

Despite this evidence, the Home Office revoked the sponsor licence.

The Legal Challenge

Sponsor licence revocation decisions do not carry a conventional right of appeal. The principal remedy is Judicial Review.

Newfields Law therefore issued an urgent Pre-Action Protocol letter challenging the lawfulness of the decision.

The challenge argued that the Home Office had failed to engage properly with the company's remediation evidence.

The company had accepted the historic breach. The important remaining issue was whether its revised systems demonstrated that it could be trusted to comply with its sponsor duties going forward.

Simply repeating that checks had been completed late did not address that forward-looking question.

The challenge also argued that the Home Office had failed to consider exceptional circumstances under the sponsor guidance.

The decision relied on grounds within Annex C2. Those circumstances will normally result in revocation, but the guidance preserves discretion where exceptional circumstances exist and directs the Home Office to consider evidence of adequate processes and procedures.

Relevant factors included:

- there was no allegation that any worker lacked permission to work;
- there was no allegation of illegal working, deception or non-genuine employment;
- the company had candidly accepted the failure;
- directors had assumed responsibility;
- the cause of the failure had been identified;
- substantial corrective measures had been introduced; and
- the company was willing to accept restrictions, monitoring and further scrutiny.

The challenge further argued that the Home Office had treated the historic breach as determinative without properly assessing whether the revised systems were now adequate.

It also failed to explain why a monitored alternative, such as reinstatement with an action plan, reporting obligations, training requirements, sponsorship restrictions or a further compliance visit, would not sufficiently protect immigration control.

The Outcome

Following receipt of the Pre-Action Protocol letter, the Home Office reversed the revocation decision and reinstated the sponsor licence.

Judicial Review proceedings did not need to be issued.

The matter was resolved at the pre-action stage and does not create a binding legal precedent. It does, however, demonstrate the potential value of a carefully prepared and promptly issued public law challenge.

Lessons for Sponsors

A written compliance policy is not enough. Sponsors must be able to show that their policies operate effectively in practice.

A response to suspension should also go beyond apology or mitigation. It should identify the root cause, demonstrate senior management accountability and provide clear evidence of the measures introduced to prevent recurrence.

Finally, a revocation decision should not necessarily be accepted without specialist review. Where the Home Office has failed to apply its policy, engage with material evidence, provide adequate reasons or lawfully exercise its discretion, Judicial Review may offer an effective remedy.

Sponsor licence suspension and revocation cases are urgent and can have immediate consequences for a business and its sponsored workers.

For advice following a compliance visit, suspension notice or revocation decision, contact Newfields Law's specialist business immigration team.

This article provides general information only and does not constitute legal advice.