

Immigration considerations – restructuring, cutbacks and curtailments

Wednesday 10 May 2023

Presented by:

Emma Morgan , Partner - Employment & Immigration Specialist

Amy Leech, Senior Associate – Employment & Immigration Specialist

What we will cover

- ✓ Redundancies, reorganisations and how these interplay with sponsored workers and reporting obligations for sponsor licence holders
- ✓ The impact of an insolvency procedure on a sponsor licence including reporting obligations
- ✓ Immigration considerations of corporate restructures or when an acquisition takes place
- ✓ Questions?

Redundancies, reorganisations and sponsored workers

Redundancies and reorganisations

- Redundancy
- Definition set out in legislation
- Three potential redundancy situations:
 - Closure of a business
 - Closure of a place of work
 - Reduction in employer's need for employees to do work of a particular kind
- Duty to look for alternatives to redundancy
- Reorganisations / restructure

Impact on sponsored workers

- Termination of employment due to redundancy
- Alternative employment in different role with same employer
- Alternative employment in different location with same employer
- Alternative employment with group company
- Reducing hours and/or pay

Immigration considerations arising out of corporate restructures / acquisitions

Change in ownership

- Reporting duties arising when a restructure and/or acquisition takes place
- Sponsor licences are not “transferable”
- Change of “direct ownership”
- TUPE

Change in ownership

- Report the change of direct ownership within 20 working days of the change
- Include details of affected sponsored employees
- Supporting documents need to be provided with the report

Restructures

- Corporate groups will often carry out internal restructures.
- Can result in change of ownership of company holding sponsor licence.
- Always seek advice in these circumstances.

New licence or transfer to existing licence?

- Buyer may need to apply for new sponsor licence
- Application must be made within 20 working days of the transaction taking place
- Buyer may already have its own licence – what happens then?

Missed report

- Company may not be aware of obligations to report acquisitions
- Take reasonable actions if this happens
- Make report as soon as you become aware
- Could trigger compliance visit from the Home Office

The impact of an insolvency procedure on a sponsor licence

Insolvency procedures

- What is insolvency?
- Part 3 (sponsor duties and compliance) of the Home Office's guidance for sponsor licence holders
- Reporting obligations
- Trigger point for reporting depends on type of insolvency procedure:
 - Administration
 - Liquidation
 - Sole traders

Insolvency – key considerations

- Tricky area to navigate
- Seek advice as soon as possible
- Redundancies and/or dismissals as a result of insolvency – are any of these employees key personnel on the licence?
- Right to work checks still need to be carried out
- Liability passes to administrator



Questions?

Thank you for attending



Emma Morgan, Partner
Employment & Immigration
03700 86 5503
Emma.Morgan@shoosmiths.co.uk



Amy Leech, Senior Associate
Employment & Immigration
03700 86 8328
Amy.Leech@shoosmiths.co.uk