

Immigration and changing your structure



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“Does the new merged entity need just one licence for the whole group, or will you need licences for each separate entity?”

Organisations shouldn't underestimate the immigration considerations when faced with a change in structure.

You may be affected if you already have a licence to sponsor migrant workers from outside the EEA or you are considering applying for one in order to sponsor new arrivals from the EEA from 1 January 2021.

A licence can reflect your organisation's structure, so it might cover multiple legal entities and locations, in the UK and overseas. If there are changes to your structure, whether in relation to a merger, takeover or acquisition, a change in employment arrangements such as those outlined in Paul and Bill's article on page 19, or simply down to internal restructuring, you need to consider the impact on the licence. Unfortunately, the rules aren't straightforward.

What if there are no changes to your day-to-day operations or the employment relationship with existing sponsored migrants? In some instances, you will still be required to surrender your existing licence and reapply for it. This can have a knock-on effect on existing migrants and you will need to ensure their sponsorship transfers (irrespective of TUPE applying).

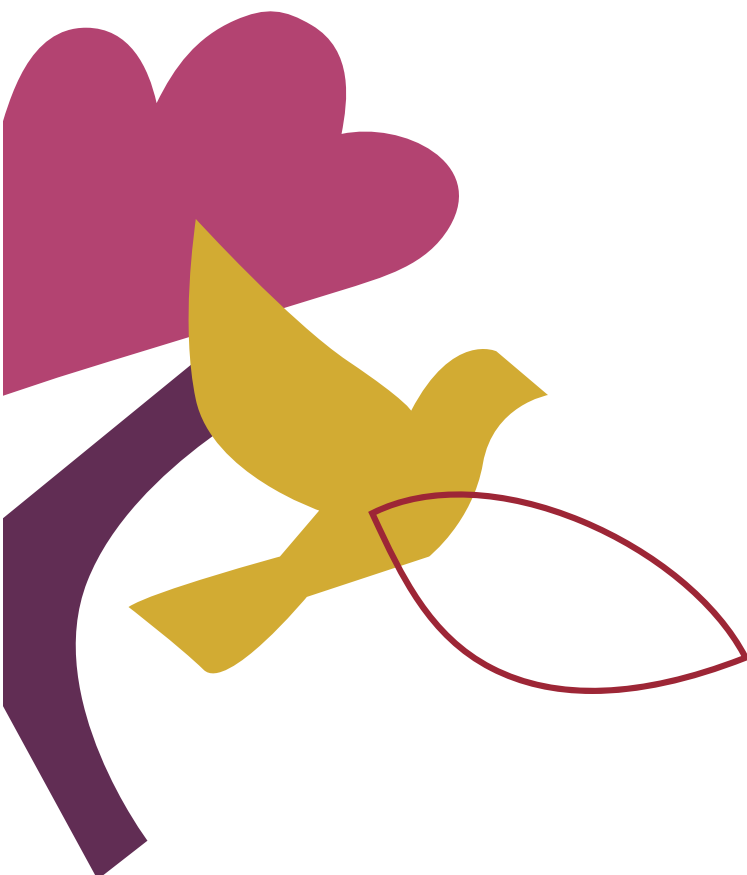
What if the situation doesn't require a whole new licence? You still need to notify any changes to UK Visas & Immigration (UKVI) in a prescribed manner and within strict time limits (normally 20 working days).

In the case of mergers or takeovers, each organisation may already have its own separate licence and may be treated differently by UKVI depending on the details of how ownership and control is changing.

Five questions to ask yourself

1. Do any of the relevant organisations already have a licence? If so, are they currently sponsoring any migrant workers, or do they intend to do so in the future?
2. What are the specific proposed changes to the structure and how far removed are they from the entity holding the licence? Is there going to be a change in the immediate ownership or control of the organisation?
3. Will each entity continue to operate as a separate concern? Does the organisation require one licence for the entire group, or do they require individual licences for each (or just for specific) entities?
4. Does the organisation operate from a number of different premises that may need to be covered by a licence?
5. Will employees continue to be employed by the same organisation or will their employment be transferred? Will TUPE apply?

It's important that you consider the immigration aspect of any structural change early on, as otherwise you may face the wrath of UKVI.





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