[Company Name / Logo]

Guidance: Right to Work Document

Introduction

All UK employers have a responsibility to prevent illegal working. It is therefore a requirement that when recruiting employees, or where an existing employee’s immigration status has a defined duration, an employer conducts a right to work check. The right to work check ensures that the applicant/employee is not disqualified from carrying out work in the UK because of their immigration status and that the employer remains legally compliant.

This guide spells out the most common forms of documentation used to prove a right to work in the UK and may be given to applicants and employees to inform them of the documentation that can be used to prove their right to work in the UK.

How to Generate Your Policy

Throughout the policy, you will see <red text> for any details that should be customised with your own relevant information. Text in *blue italics* is for your information only and should be removed from the final document.

Customising Your Policy

**Delete this page by clicking Insert -> Cover Page -> Remove Current Cover Page. You should delete this prior to updating your table of contents, to ensure that the page references are all correct.**

1. Introduction

As an employer we have a duty to prevent illegal working by carrying out checks to confirm if a person has the right to work in the UK. Checks are conducted before anyone starts working for us as well as during employment when the legal right to work is for a defined duration.

There are three types of right to work checks:

1. a manual check
2. a Home Office online check
3. a check using IDVT (identification document validation technology) via the services of an IDSP (identity service provider).

Where a manual check is conducted, we check and make a clear copy of the original acceptable documents. The copy is retained by us with a record of the date the check was made.

Where a Home Office online check is conducted, we check and make a clear copy of the response provided by the online right to work check. The copy is retained by us with a record of the date the check was made.

Should we use the services of an IDSP, they will act on our behalf with the responsibility for the checks remaining with us. Using an IDSP to conduct digital checks is for UK and Irish nationals only.

If a person has a time limit on their stay, we will carry out the required repeat checks. If a person has a restriction on the type of work they can do and/or the number of hours they can work, we will not employ them in breach of these restrictions.

Where somebody has an outstanding EU Settlement Scheme application or is undergoing a case review or appeal with the Home Office, we shall use the Employer Checking Service for verification.

1. Employer Checking Service

We will use the Home Office online Employer Checking Service in cases where an application is outstanding, if there is a review or appeal pending an outcome, or if the immigration status requires verification by the Home Office.

1. Manual Checks

## The Process

Those who hold a Biometric Residence Card, Biometric Residence Permit or Frontier Worker Permit **cannot** evidence their right to work in the UK via the manual process. They can **only** use the Home Office online service.

For all other individuals, the following three steps must be completed before an employee can start work:

1. You must provide the company with an original document as set out in the list of acceptable documents (list A or list B).
2. The company will check the original documents so that we are satisfied they support the legal right to work in the UK. This will include checking the documents are genuine, that the person holding them is the employee/ new starter and therefore the rightful holder and allowed to do the type of work that we are offering.
3. For all candidates, we will also check:
	1. that the documents are originals and appear to belong to the person who has given them
	2. that any photographs are the same across all documents and look like the person
	3. that the dates of birth are the same across all documents
	4. that expiry dates have not passed
	5. that the person has permission to do the type of work that is being offered, including any limit on the number of hours that can be worked
	6. where there is a discrepancy on two documents or more, we will ask the reasons for this and ask for further documents to substantiate the changes, for example marriage certificate, divorce document or deed poll.
4. The company will take a clear copy of each original document. This copy will be in a format which cannot be manually altered and it will be retained securely on the personnel file. A record of the date on which the check has been conducted will also be recorded. The copy will be kept securely throughout the duration of your employment and for two subsequent years – after which it will be destroyed securely.
5. **For those who have a restriction on the type of work they can undertake and/or the number of hours they can work:** We will not employ anybody in breach of the restrictions in which they have obtained a legal right to work in the UK.
6. **For those who have a legal right to work for a defined period:** A follow-up repeated check of the above steps will be carried out just prior to the expiry of the pre-settled status/visa.
7. List of Acceptable Documents

Manual right to work checks will require you to provide one of the following **original** documents which will be checked, copied and filed as evidence of your entitlement to work. All original documents will be returned safely.

The documents that are acceptable for proving someone has the right to work in the UK as part of a manual check are split into two lists:

* **List A** – documents show that the holder is not subject to immigration control, or has no restrictions on their stay, so they have an ongoing right to work in the UK. The person has a permanent right to work in the UK. No further checks will be required during employment.
* **List B** – documents show that the holder has been granted leave to enter or **remain** in the UK for a limited period and/or has restrictions on their right to work. We will carry out repeat document checks shortly before their permission to be in the UK expires.

List A – Acceptable Documents to Establish a Continuous Statutory Excuse

1. A passport (current or expired) showing the holder is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or passport card (in either case, whether current or expired) showing that the holder is an Irish citizen.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
4. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK or has no time limit on their stay in the UK.
5. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK, together with an official document giving the person’s permanent National Insurance number and their name issued by a government agency or a previous employer.
6. A birth or adoption certificate issued in the UK, together with an official document giving the person’s permanent National Insurance number and their name issued by a government agency or a previous employer.
7. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person’s permanent National Insurance number and their name issued by a government agency or a previous employer. (Definition includes a full birth certificate issued by a UK diplomatic mission, i.e. British Embassy or British High Commission.)
8. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person’s permanent National Insurance number and their name issued by a government agency or a previous employer.

List B: Group 1 – Documents Where a Time-Limited Statutory Excuse Lasts Until the Expiry Date of Leave

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question. (This includes a current passport endorsed with a stamp showing an individual has been granted leave to enter and there are no work-related conditions attached. If, under the conditions of the individual’s leave, work was restricted or prohibited, the endorsement placed in the individual’s passport would explicitly set that out as a condition).
2. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
3. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person’s permanent National Insurance number and their name issued by a government agency or a previous employer.

List B: Group 2 – Documents Where a Time-Limited Statutory Excuse Lasts for Six Months

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules (known as the EU Settlement Scheme) on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. A Certificate of Application (digital or non-digital) issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules (known as the EU Settlement Scheme), on or after 1 July 2021, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man showing that the holder has made an application for leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules or Appendix EU to the Immigration Rules (Bailiwick of Guernsey) Rules 2008, or Appendix EU to the Isle of Man Immigration Rules together with a Positive Verification Notice from the Home Office Employer Checking Service.
4. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
5. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.
6. Home Office Online Checks

## When to Use the Online Checking Service

An online right to work check may not always be possible in every situation. The online service currently allows digital checks to be conducted where the person holds:

* Biometric Residence Permit
* Biometric Residence Card
* Status issued under the EU Settlement Scheme
* Status issued under the points-based immigration system
* British National Overseas (BNO) visa
* Frontier Worker Permit.

## The Process

To enable us to perform an online check, you must provide us with your date of birth and the ‘share code’ generated by the Home Office online right to work checking service. This share code will be valid for 90 days from the point it has been issued and the code will begin with the letter ‘W’ to denote that the code has been generated to evidence the right to work. Where the code begins with either an ‘R’ or ‘S’, this will **not** be acceptable as it cannot prove the right to work in the UK; these codes relate to other services.

Where it has expired, we shall ask you to resend your new right to work share code. Online checks will only be conducted with your permission. If you choose not to give permission, we will conduct a manual check instead.

The process, when choosing to provide us with your proof of your legal right to work, is as follows:

1. You will need to visit <https://www.gov.uk/view-prove-immigration-status> to view your Home Office right to work record and to obtain a share code. You must provide the share code to the company either directly to us or via the online service where we will receive an email from right.to.work.service@notifications.service.gov.uk. The share code must begin with the letter ‘W’.
2. We will use the share code along with your date of birth to access your right to work profile page via <https://www.gov.uk/view-right-to-work>. We will then conduct our online right to work check to obtain a statutory excuse for employing you.
3. We will check that the photograph on the online right to work checking service is a picture of you by checking this whilst in your presence either in person or via live video link.
4. So that we can establish a statutory excuse for employing you, the online service must confirm to us that you do have the right to work in the UK and do the work in question.
5. We will retain evidence of our online right to work check by retaining a copy of your profile page, which will include your picture and the date on which we conducted the check. We will either file a print-out or save the evidence as an electronic (PDF/HTML) file on our systems as our evidence.

*<Include the following if you use a third party to carry out right to work checks. Remember that whilst they will act on your behalf, the responsibility for the check being conducted remains with you. Employers do not have to use an IDSP.>*

1. Right to Work Checks via an Identity Service Provider (IDSP)

### [Either] We currently do not undertake right to work checks using a third party Identity Service Provider. However, we may choose to do so in the future.

### Should we use a third party on our behalf to carry out right to work checks, the provider will be certified and fulfil the requirements of an IDSP service provider, which includes meeting a medium level of confidence as defined by the government.

## [Or] The Process

We use [insert company name], a certified third party, to conduct right to work checks on our behalf. We ensure that:

1. We only accept checks via an IDSP that satisfies a medium level of confidence. The Good Practice Guide contains four levels of confidence regarding proof of identity: low, medium, high and very high.
2. The IDSP provider is certified and fulfils the requirements of an IDSP service provider.
3. Right to work checks via an IDSP provider can only be undertaken if you hold either a British or Irish passport (or Irish passport card). If you do not hold one of these passports, or you do not wish to prove your identity through an Identity Service Provider, then you may do so either by a manual check or via a Home Office online check.
4. We will retain a clear copy of the digital identity document identity check outcome for the duration of employment and for two years after, when it will then be disposed of securely.
5. Circumstances in Which to Contact the Home Office to Verify the Right to Work

In most cases, the right to work check will be carried out either manually, via the online checking service, or where a third party is used, via an IDSP. However, there are circumstances in which we would be required to contact the Home Office directly to establish a statutory excuse for employing. This would be in circumstances when:

1. You present the company with a Certificate of Application which is less than six months old and indicating that work is permitted.
2. You present an Application Registration Card which states that you are permitted to undertake the work in question, and which is still in date (some may have an expiry date). Any work will be restricted to employment in a shortage occupation.
3. We are satisfied that you have not been provided with an acceptable document because you have an outstanding application with the Home Office which was made before your previous permission expired or where you have an appeal or administrative review pending against the Home Office decision and therefore cannot provide evidence of your right to work.
4. You consider that you have not been provided with an acceptable document, but you present other information indicating you are a long-term resident of the UK and you arrived in the UK before 1988.

In these above circumstances we will be able to employ/continue to employ you only where you have been issued with a Positive Verification Notice (PVN). This is official confirmation from the Home Office confirming that you are allowed to carry out the work in question.

### **Outstanding Applications, Appeals and Administrative Reviews**

We will wait at least 14 days after your application, appeal or administrative review has been delivered or posted to us or the court before requesting a verification check through the Employer Checking Service. When we do, we must obtain confirmation from you of when you made the application, appeal or administrative review to the Home Office.

### **Evidence**

### We will check the certificate of application to verify that it is not more than six months old. A copy of this document along with the Positive Verification Number (PVN) will be made and stored in line with the guidance set out in the Home Office ‘Employer’s Guide to Right to Work Checks’.

### Earlier versions of the Application Registration Card (issued pre-July 2017) are no longer being issued but can continue to be used until they expire. We can accept a new biometric style or an old ARC as evidence of a right to work so long as we have verified the right to work and any restrictions by obtaining a Positive Verification Notice. The statutory excuse for being able to legally employ you will expire six months from the date of the Positive Verification Notice, meaning that a further right to work check will be necessary.

1. Implications of Not Having the Legal Right to Work

Once the above checks have been carried out, if it is found that the person is not permitted to work, or if there are any discrepancies or queries on the information supplied during any part of the recruitment process that give cause for concern, these will be discussed with the person for the company to investigate further.

If it is found that the information is incorrect or false, or the discrepancy cannot be resolved, we reserve the right to withdraw the offer of employment or, in the case of an employee needing to evidence a right to continue working, may terminate the employment contract.

1. Further Information

You can read the Home Office guidance document for detailed information around right to work checks. The document is titled “Employer’s guide to right to work checks” and is available via <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>.

1. Appendix 1: Conducting a Manual Right to Work Check
2. Make the offer of employment and issue the offer letter requesting the application starts the right to work process.
3. Applicant provides original documents from either List A or B prior to starting employment and the check is conducted in their presence.
4. Take a clear copy of each document in a format which cannot be manually altered. Write on the copy “dd/mm/yy is the date the check was undertaken”.
5. Record any expiry dates when the right to stay is for a limited period and diarise a further right to work check just prior to the end date.
6. Store copies confidentially and retain throughout employment and for two years afterwards, after which they must be securely destroyed.
7. Appendix 2: Conducting a Home Office Online Right to Work Check
8. Make the offer of employment and issue the offer letter requesting the applicant starts the right to work process.
9. Applicant visits https://right-to-work.service.gov.uk/prove/id-question to obtain a 9-character share code (which starts with the letter **‘W’**), either sharing it with you or sending it to you via the Home Office online service. It is valid for up to 90 days.
10. Access the Home Office online service to carry out the right to work check: <https://www.gov.uk/view-right-to-work>.
11. Carry out the online check.
12. Record any expiry dates when the right to stay is for a limited period and diarise a further right to work check just prior to the end date.
13. Retain evidence of the right to work check.
14. Store copies confidentially and retain throughout employment and for two years afterwards, after which they must be securely destroyed.

Checklist

Upon completion of customisations please ensure you have:

* customised all red relevant text and removed all blue italic text
* diarised a reminder to review and update the form
* removed the front cover (see instructions on front cover)
* removed this checklist!