Home Office

DRAFT: Employer’s guide to right to work checks

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1. Introduction

All employers in the UK have a legal duty to prevent illegal working. They do this by conducting simple right to work checks before they employ someone, to make sure the individual is not disqualified from carrying out the work in question by reason of their immigration status.

If checks are conducted as prescribed by the Home Office in legislation and statutory codes of practice in force at the time the check was made, employers will have a statutory excuse against liability for payment of a civil penalty. This means that if the Home Office identifies that an employer has employed someone who does not have the right to carry out the work in question, but the employer has correctly conducted a right to work check, they will not be liable for payment of a civil penalty in relation to the illegal worker(s).

Why do we need to prevent illegal working?

The ability to work without permission is a driver of illegal migration. It undermines the effective operation of the UK's immigration system and can expose individuals to exploitation and abuse, including modern slavery in the most serious cases. It may also have adverse impacts on compliant employers and the wider labour market, including through unfair competition and breaches of employment and tax laws.

There are compelling business and public policy reasons why an employer should ensure those they employ have a right to work in the UK. Some examples include:

- If illegal workers are removed from a business, it may disrupt operations and result in reputational damage.
- There could be adverse impacts for an employer's health and safety and safeguarding obligations, as well as potential invalidation of insurance, if the identity, qualifications and skill levels of individuals carrying out work or services are not as claimed.
- Right to work checks are also a requirement of the majority of international best practice standards and the audits that go with them.

This list is not exhaustive.

Legislation

The legislation underpinning the Right to Work Scheme ("the Scheme") applies across the whole of the UK and is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 ("IANA 2006"), section 24B of the Immigration Act 1971, and Schedule 6 of the Immigration Act 2016 ("2016 Act").

The IANA 2006 replaced section 8 of the Asylum and Immigration Act 1996 ("1996 Act") in respect of employment commencing on or after 29 February 2008. Section 15 of the IANA 2006 creates the civil penalty liability. Where an employer employs an individual who is disqualified from carrying out the work in question by reason of their immigration status, they may be liable for a civil penalty. The Secretary of State may serve an employer with a notice requiring the payment of a civil penalty.

The Border Security, Asylum and Immigration Act 2025 ("BSAI 2025") amends the IANA 2006 by extending the scope of employers required to prevent illegal working under the Scheme, and the sanctions for non-compliance, beyond traditional employment relationships to a wider range of working arrangements.

Section 48 of the BSAI 2025 amends and expands the definition of "employer" for the purposes of sections 15 to 24 of the IANA 2006 and inserts a new section 14A into the IANA 2006. Section 14A provides that references to a person employing another individual includes engaging an individual under a worker's contract, engaging an individual sub-contractor and through an online matching service providing details of an individual who is a service provider to potential clients or customers. In these circumstances, an employer can prevent illegal working and establish a statutory excuse by carrying out a prescribed right to work check.

Section 48 of the BSAI 2025 inserts a new section 15A into the IANA 2006, under which civil penalty liability may also extend beyond the employer who holds the direct contractual relationship with the worker. This is referred to as extended liability. Extended liability applies where:

- a person is under a contract to provide work or services to a third party and enters into a contract with another employer providing workers to fulfil that contract.
- an online matching service provides details of a service provider to clients or customers, and the service provider enters into a contract with a client or customer, or
- an employer employs an individual to provide work or services, and the contractual arrangements allow the individual to substitute their work or services to another individual.

This means the person contracted to provide work or services to a third party, an online matching service or the employer in the case of a substitution clause, may be treated as employing any individual who personally provides the work or services. In these circumstances, they can prevent illegal working and establish a statutory excuse through compliance with the prescribed requirements relating to the contractual arrangements.

References

'3C leave' (Section 3C of the Immigration Act 1971) extends existing immigration permission, and any associated conditions, to a person who makes an 'in-time' application to extend their stay in the UK. 'In-time' means the application was made before the existing permission expired. The individual will continue to hold 3C leave while they are awaiting a decision on that application and while any appeal or administrative review they are entitled to is pending.

'Breach' or 'breaches' mean that section 15 of the IANA 2006 has been contravened by employing someone who is:

- subject to immigration control, and
- aged 16 and over, and
- not allowed to carry out the work in question because either they have not been granted Leave to Enter or Remain in the UK, or because their Leave to Enter or Remain in the UK:

  (i) is invalid,

  (ii) has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise, or

  (iii) is subject to a condition preventing them from accepting the employment such as not being permitted to work, restrictions on the type of work that can be conducted or limits on the number of hours that can be worked. Individuals working in breach of these conditions will be doing so illegally.

'Cancelled document' is a document that is no longer valid and therefore cannot be used to prove a right to work. It may have been replaced by another document. A cancelled passport will have its corner clipped.

'Certificate of Application' (CoA)' is a digital, or non-digital document which individuals can rely on to demonstrate their eligibility to work, rent, and access benefits and services. This document is issued when a valid application is made to the EU Settlement Scheme (EUSS).

'Civil Penalty Notice' means a notice given under section 15(2) of the IANA 2006 that requires an employer to pay a penalty of a specified amount.

'Current document' means a document that has not expired.

'Days' has two separate meanings:

- when referring to the civil penalty scheme – this means calendar days, including Saturdays, Sundays and bank holidays, and
- when referring to the Employer Checking Service – it does not include Saturdays or Sundays, Christmas Day or Good Friday, or any day which is a bank holiday in England.

'Disqualified from working by reason of their immigration status' means an individual has:

- not been granted leave to enter or remain in the UK; or

- their leave to enter or remain in the UK:
    - o is invalid.
    - o has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
    - o is subject to a condition preventing the person from doing work of that kind.

'Document' means an original document which may include a digital document, where specified.

'EEA citizen' means citizens of EEA countries or Switzerland. The EEA countries can be found on GOV.UK and are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

'Employer' means a person who employs an individual;

- under a contract of employment (a contract of service or apprenticeship).

- under a worker's contract.

- as an individual sub-contractor, or

- when operating as an online matching service providing the details of an individual who is a service provider to potential clients or customers.

In the context of this guidance, the definition of 'employer' is in relation to the Right to Work Scheme only.

References to 'employment' or 'employ' include the types of working arrangements described and references to a 'contract' include a contract that is express or implied, and whether oral or in writing.

Where specified elsewhere in this guidance, references to an employer may include any other person who is liable for a civil penalty under the relevant legislation.

'Employer Checking Service (ECS)' refers to the enquiry and advice service operated by the Home Office that employers are required to contact in certain circumstances to check whether an individual is allowed to work in the UK and, if so, the nature of any restrictions on that individual's right to do so.

'EU Settlement Scheme (EUSS)'. The EUSS provides a basis for European Economic Area (EEA) and Swiss citizens resident in the UK by 31 December 2020, and their eligible family members, to apply for the UK immigration status which they require to remain here.

'eVisa' is an online record provided by the Home Office of an individual's immigration status and the conditions of their permission to enter or stay in the UK.

'Facial recognition technology' is a digital system that identifies or verifies individuals by analysing the unique features of their face.

'Home Office online right to work checking service' means the online system allowing employers to check whether an individual is allowed to work in the UK and, if so, the nature of any restrictions on that individual's right to do so. For the avoidance of doubt, this system is accessible to employers on the check a job applicant's right to work: use their share code page. No other online portal relating to immigration status may be used for right to work checking purposes.

'Immigration permission' (also known as 'leave') should be read as 'Permission to Enter/Leave to Enter or Permission to Stay/Leave to Remain.

'Individual sub-contractor' means an individual who has entered into a contract with a person to provide work or services, in circumstances where that other person has entered into a contract with a third party to provide, or arrange for the provision of, the work or services but the individual has not.

'Joining Family Member' is an individual of any nationality (including EEA) who was not themselves resident in the UK by 31 December 2020 but is joining an EEA national or relevant sponsor in the UK who either holds EUSS status or, in limited circumstances, would be eligible for EUSS status if they applied.

'Leave to Enter' or 'Leave to Remain' see 'Permission to Enter' and 'Permission to Stay'.

'Negative Verification Notice (NVN)' is a negative confirmation that an individual does not have the right to work from the ECS. If an employer receives an NVN, but continues to employ this individual, the employer will not have a statutory excuse and may be liable for a civil penalty or be committing a criminal offence.

'Non-EEA citizens' means the citizens of countries outside the EEA (Countries in the EU and EEA - GOV.UK).

'Online matching service' means a person who, in the course of a business:

(a) keeps a register of service providers for the purpose of matching them with potential clients or customers.

(b) provides an online service by which potential clients or customers can submit enquiries for the purpose of being matched with suitable service providers and

(c) charges a fee or commission in return for making such matches.

'Online right to work check' means the response generated by the Home Office online right to work checking service in relation to an individual.

'Passive authentication' verification is the process of reading and verifying a chip and data as authentic using digital technology that can communicate with the document's data chip.

'Permission to Enter' also known as 'Leave to Enter'. Immigration documents and guidance may refer to either term: both are appropriate. This means that an individual has permission from the Home Office to enter the UK.

'Permission to Stay' also known as 'Leave to Remain'. Immigration documents and guidance may refer to either term: both are acceptable. This means that an individual has permission from the Home Office to be in the UK.

'Person' means a company, organisation, business, or other entity, and does not refer to an individual worker unless expressly stated.

'Positive Verification Notice (PVN)' is a positive confirmation of an individual's right to work from the ECS. This will provide the employer with a statutory excuse for 6 months from the date specified in the Notice.

'Pre-settled status (PSS)' means limited leave to enter or remain issued under the EU Settlement Scheme. Pre-settled status is initially given for five years and will be extended unless the person no longer meets the requirements for it.

'Reasonably apparent', in relation to a false document, means that an employer conducting a right to work check, who is not trained in the identification of such documents, could reasonably be expected to identify that the document is false when undertaking a careful but brief inspection, without the use of specialist or technological aids.

This includes circumstances where it is reasonably apparent that the photograph or image of an individual on a document, or on an online right to work check, does not correspond to the worker to whom the right to work check relates.

'Right to work' means allowed to be employed by virtue of qualifying immigration status.

'Right to work checks' refer to prescribed manual document checks, prescribed Home Office online right to work checks and prescribed use of a RtW DVSP for these checks.

'Right to work digital verification service provider (RtW DVSP)' is a service provider that enables people to digitally prove who they are, information about themselves or their eligibility to do something. RtW DVSPs are registered and can be used by employers to conduct digital right to work checks on holders of relevant DVSP documents and facial recognition checks according to the Right to Work Office of Digital Identity and Attributes Trust Framework and Supplementary Code.

'Service provider' in relation to an online matching service means a person providing, or seeking to provide, work or services for remuneration.

'Settlement' also known as **'**Indefinite Leave to Remain' means how an individual settles in the UK. This gives an individual the right to live, work and study in the UK for as long as they like and apply for benefits if they are eligible. This is sometimes referred to as 'settled status'.

'Statutory excuse' refers to:

(a) an employer's defence against liability for payment of a civil penalty, which is established where the employer carries out prescribed right to work checks before the worker commences employment, and where applicable, retains that excuse by carrying out required follow-up checks for workers with a time-limited right to work (as shown by an expiry date), and

(b) a person's defence against extended liability for payment of a civil penalty, which is established where that person has complied with prescribed requirements in relation to the relevant contractual arrangements.

'Substitution' refers to where a worker is permitted to substitute their work or services to another individual. This includes through a clause or provision in a contract that allows a worker to be replaced by another individual to perform the same work or services.

'Supplementary code' means the supplementary code for digital right to work checks. The supplementary code is a set of rules for RtW DVSPs to follow in addition to the UK digital trust framework to obtain certification and entry onto the DVSP register in respect of the right to work check service(s) it offers. Supplementary codes are published by the Office for Digital Identities and Attributes ('OfDIA'), part of the Department for Science, Innovation and Technology ('DSIT').

'UK digital verification services trust Framework' (DVS Trust Framework) is a set of rules for providers of RtW DVSPs to follow.

'Valid application' means individuals who comply with the validation requirement of an application process, including enrolment of biometrics, if required, and the provision of evidence of nationality and identity.

'Worker' or **'individual'** means an individual who is engaged to carry out work or provide services under a contract of employment (employee), a worker's contract, as an individual sub-contractor, or through an online matching service, as defined for the purposes of the Right to Work Scheme.

In the context of this guidance, the definition of worker is broader than the definition in s.230(3)(b) of the Employment Rights Act 1996.

'Worker's contract' means a contract (other than a contract of service or apprenticeship) under which:

(a) an individual undertakes to perform work or services personally for another person (whether or not that person is specified in the contract), and

(b) the person is neither a client nor customer of any profession or business undertaking carried on by the individual.

Previous versions of this guidance

The previous version of this guidance was published on 26 June 2025. Older versions of the guidance can be found in the UK Government Web Archive.

About this version

This version of the guidance updates that of 26 June 2025 and will come into force on 1 October 2026. It sets out the steps employers can take to establish a statutory excuse against liability for payment of a civil penalty in the event of illegal working.

This guidance has been issued alongside the Code of practice on preventing illegal working: Right to Work Scheme for employers and the Code of practice for employers: avoiding unlawful discrimination while preventing illegal working.

Who is this guidance relevant for?

This guidance applies to employers who employ individuals to carry out work in the UK:

- under a contract of employment (a contract of service or apprenticeship).

Example 1: Contract of employment

An individual is employed as a receptionist at a hotel company to work set shifts. They are a permanent member of staff paid through the hotel company's payroll and provide services directly to the hotel's guests.

The hotel company is the receptionist's direct employer. As such, the hotel is responsible for the right to work check and may be liable for payment of a civil penalty if the individual is found to be working illegally.

- under a worker’s contract.

Example 2: Worker’s contract

An individual is registered with an employment business which supplies temporary workers to bars and restaurants during busy periods. The individual is engaged by the employment business on a contract for services and accepts short-term hospitality assignments when offered.

The employment business is the individual’s employer for the purposes of the Right to Work Scheme and is therefore responsible for the right to work check. The employment business may be liable for payment of a civil penalty if the individual is found to be working illegally while undertaking that work.

- as an individual sub-contractor.

Example 3: Individual sub-contractor

An individual signs up to work through a delivery platform. The individual logs into an app when they want to work, accepts delivery requests and gets paid for each delivery they complete.

The delivery platform is the individual’s employer for the purposes of the Right to Work Scheme. As such, the delivery platform is responsible for the right to work check and may be liable for payment of a civil penalty if the individual is found to be working illegally.

- an online matching service providing the details of an individual who is a service provider to potential clients or customers.

Example 4: Online matching service

A homeowner would like someone to clean their house and uses an online matching service to find a cleaner. The online matching service matches a cleaner to the customer, and the cleaner personally carries out the cleaning services at the customer’s home.

The online matching service is the cleaner’s employer for the purposes of the Right to Work Scheme. As such, the online matching service is responsible for the right to work check and may be liable for payment of a civil penalty if the individual is found to be working illegally.

This guidance is intended for use by those responsible for recruitment and employment within a business, including Human Resources staff and others with delegated responsibility for these processes.

This guidance also applies in circumstances where a person may be treated as the employer of an individual providing work or services, where this arises through extended liability. This includes:

- where a person is contracted to provide work or services to a third party and enters into a contract with another employer providing the worker(s) carrying out the work to fulfil that contract (see Example 7).

- where an online matching service matches a service provider with a client or customer, and the service provider enters into a contract with the client or customer (see Example 8), and

- where an individual is employed under a contract which permits substitution and work is carried out by another individual in their place (see Example 9).

When engaging a worker under a contract of employment, an employer is only liable for payment of a civil penalty under section 15 of the IANA 2006 where the employment commenced **on or after 29 February 2008**. As a result, this guidance only applies to employment that commenced on or after that date.

In relation to employment under a worker's contract, as an individual sub-contractor or in the case of an online matching service providing the details of a service provider to clients or customers, a civil penalty may only be imposed where the employment commenced **on or after 1 October 2026**. This applies both to civil penalty liability arising directly under section 15 of the IANA 2006 and to civil penalty liability arising under the extended liability provisions in section 15A of the IANA 2006.

Sponsor licence holders must, as part of their sponsor duties, check and retain evidence of a worker's immigration status for any worker they sponsor. This applies irrespective of whether the arrangement falls within scope of the Right to Work Scheme.

Where the sponsor is employing the worker in a manner covered by this guidance, they should ensure that right to work checks are carried out in accordance with the prescribed requirements to establish a statutory excuse. For more information, refer to Employment of Specific Categories of Worker.

Right to work checks carried out for other purposes, such as part of an application for an operating licence or other regulatory approval, do not establish a statutory excuse under the Right to Work Scheme.

The employer (and not the members of their staff carrying out the checks) is liable for the civil penalty. Where an employer uses a RtW DVSP, the employer (and not the RtW DVSP) remains responsible for ensuring that the check is carried out in accordance with the prescribed requirements. Where those requirements have not been met, the employer will not establish a statutory excuse and may be liable for a civil penalty if the worker is found to be working without the required permission. Employers must therefore ensure that any checks carried out using a RtW DVSP comply with Home Office requirements.

When this guidance does not apply

This guidance will not generally apply to individuals who are operating an independent business either in their own name or through their own company and who contract directly with clients or customers for the provision of goods or services.

For example, this may include individuals trading in their own name or through their own company where the arrangement is for the purchase of a service rather than the employment of an individual to carry out work or services, such as providing services directly to members of the public or under typical business to business contracts for the supply of services.

Whether an arrangement falls within scope will depend on the particular facts of the case. The label applied to an arrangement, including whether an individual is described as 'self-employed', will not be determinative. Consideration should instead be given to the nature of the arrangement, including how the work is arranged, supplied and performed in practice.

The purpose of this assessment is to establish whether, in practice, work or services are being provided or arranged for an employer through the types of arrangements to which these provisions apply.

Individuals obtaining work through an intermediary, online matching service, platform, or similar arrangement where the individual is not operating an independent business in their own right still fall within scope (see Example 3).

Example scenarios of working arrangements not in scope

Example 5: Self-employed contractor

A member of the public has organised for a plumber to repair a leaking tap in their home. The plumber is self-employed, advertises their services directly to the public through a range of channels and obtains work from multiple customers.

A right to work check is not required. The plumber is operating an independent business and is not employed within the scope of the Right to Work Scheme.

Example 6: Personal service company

A graphic designer has been engaged by a client company to work on a specific project through the designer's own personal service company. The personal service company contracts with the client company and invoices them under the personal service company name.

A right to work check is not required by the client company. The client company is contracting directly with the personal service company in a business-to-business services arrangement rather than employing the individual within the scope of the Right to Work Scheme.

Summary of changes in this version

This guidance was published in draft on **16 July 2026**.

The most significant updates contained in this guidance relate to:

- incorporation of other working arrangements brought into scope of the Right to Work Scheme under section 48 of the BSAI 2025 and the prescribed requirements applicable to employers. These changes amend the IANA 2006.
- updates to the lists of acceptable documents to reflect that an official document providing an individual's name and National Insurance number may include a digital version issued by or on behalf of a government agency.
- updated terminology to reflect all working arrangements in scope of the Right to Work Scheme and reference to the updated term 'Right to work digital verification service provider' (RtW DVSP).
- updates to the requirements for where a RtW DVSP is used, including to mandate the use of right to work registered providers when using a DVSP to conduct digital right to work checks.
- provide clarity to the section titled Supplementary Employment and reflect changes to eligible occupations on the Skilled Worker route.
- removal of the section titled 'Service providers from Switzerland' in relation to EEA citizens due to the closure of this route on 31 December 2025.
- consolidation of the EEA Citizens section.
- removal of 'Annex C: Using digital verification services'; updating the information and condensing it into the types of right to work checks section.
- removal of 'Annex D: Employment of Ukrainian nationals' due to right to work checks being applicable as prescribed to all nationalities.

How to avoid discrimination

Employers are strongly recommended to refer to the Code of practice for employers: avoiding unlawful discrimination while preventing illegal working which provides practical guidance on how to avoid unlawful discrimination when employing individuals.

It is unlawful to discriminate against individuals on grounds of protected characteristics, including race, when carrying out right to work checks. Those experiencing unlawful discrimination may bring a complaint before the courts or before an Employment Tribunal. If the complaint is upheld, the Tribunal will normally order the payment of compensation, for which there is no upper limit.
Employers should:

- be consistent in how they conduct right to work checks on all workers, including British citizens, regardless of nationality or perceived immigration status.
- ensure job selections are made on the basis of suitability for the post.
- ensure that no prospective job applicants are discouraged or excluded, either directly or indirectly, because of known or perceived protected characteristics.

Employers should not:

- discriminate when conducting right to work checks.
- make assumptions about an individual's right to work in the UK or their immigration status on the basis of their race, nationality, ethnic or national origins, accent, surname or length of time they have been resident in the UK.
- only conduct right to work checks on those who they consider are more likely to be migrants.

Otherwise, the employer may be acting in a discriminatory manner, and it could be used as evidence against them in proceedings under the Equality Act 2010 or the Race Relations (Northern Ireland) Order 1997, as amended.

Anyone who believes that they have been discriminated against, either directly or indirectly, by an employer, a prospective employer or an employment agency, because of their race or a protected characteristic, may bring a complaint before an Employment Tribunal, or an Industrial Tribunal in Northern Ireland. If the claim is upheld, the Tribunal will normally order the employer to pay compensation, for which there is no upper limit.

If expert advice and support on discrimination is needed, please call the Equality Advisory Support Service (EASS) on **0808 800 0082**.
In Northern Ireland the advisory service is provided by the Equality Commission for Northern Ireland. The telephone helpline number is **028 90 500600**.

2. Application to employers in direct contractual relationships with workers

Types of right to work checks

All prospective workers should be asked to demonstrate their right to work but employers cannot mandate the method for how an individual does this. To ensure that employers do not discriminate against anyone, they should provide reasonable opportunity to enable an individual to prove their right to work.

In order to establish a statutory excuse, employers must do **one** of the following checks **before** the worker commences employment:

1. a manual document-based right to work check.
2. a Home Office online right to work check.
3. a right to work check using a Right to Work digital verification service provider (RtW DVSP).

The type of check the employer conducts will depend upon the individual's nationality, what kind of permission they have to work in the UK and, where appropriate, the individual's preference.

The Home Office began issuing eVisas in 2018, with a wider rollout in 2024 as part of the transition to a fully digital immigration system. This means individuals who have been issued with an eVisa will only be able to evidence their right to work using the Home Office online service.

In some circumstances a worker may be unable to demonstrate their right to work as detailed above. Employers can use the Employer Checking Service where an individual has an outstanding application, administrative review or appeal and their digital profile is not yet enabled to evidence this, or if their immigration status requires verification by the Home Office such as an individual who has immigration permission issued in a Crown Dependency (the Bailiwick of Jersey, the Bailiwick of Guernsey, and the Isle of Man).

1. Conducting a manual document-based right to work check

Employers can conduct right to work checks using an individual's original documents.

There are three steps to conducting a manual document-based right to work check (including for follow-up checks). Employers need to complete all steps **before** employment commences in order to establish a statutory excuse.

1. Obtain

Employers must obtain original documents from either List A or B of Annex A of the acceptable documents for demonstrating a right to work. Where official evidence of an individual's name and permanent National Insurance number issued by or on behalf of a government agency is presented, a digital version of this document may be accepted, provided it is used in combination with the appropriate document from the acceptable document lists.

2. Check

When in physical possession of the original documents, employers must:

- check the validity of the documents to ensure they are genuine, have not been tampered with and that the individual presenting them is the rightful holder.

  This includes where an employer is presented with official evidence of a worker's name and National Insurance number (NINo) in a digital format as part of the right to work check. This may be accepted in the form of a screenshot of the document on the individual's personal device, an email receipt or other electronic submission. In these circumstances, the most secure and reliable way for employers to check this document is through a RtW DVSP as they have the technology and systems to verify the authenticity of the information provided.

  However, employers are able to conduct a check of this document themselves, such as where they are confident that the information belongs to the individual and have familiarised themselves with the format of the digital version of the document. For example, by checking that it appears genuine and originates from a reliable source such as an official government digital service or account. Employers must not request the individual's password to obtain the information from their personal device.

  Further information is available about checking the validity of documents.

- check photographs and dates of birth are consistent across documents and with the individual's appearance to detect impersonation and imposters.

  If choosing to use facial recognition technology to conduct this element of the check digitally, this must be carried out by a registered RtW DVSP. Where facial recognition technology is used, the RtW DVSP will provide a comparison verifying the facial image from the document and the match to the individual. The employer must provide the worker reasonable opportunity to verify their identity, if the technology is unable to verify the images.

- ensure expiry dates for permission to be in the UK have not passed.

- check any work restrictions to determine the individual is permitted to do the work in question. Employers should refer to requirements for students who have limited permission to work during term-times.

  If the individual is subject to restrictions such as the type of work or job role that can be undertaken or limits on the number of hours they can work, employers must ensure that the employment offered is in line with those restrictions.

- not rely on the inspection of the document via a live video link or by checking a screenshot or scanned copy of the document unless it is official evidence of an individual's name and NINo in a digital format.

- check the reasons for any differences in names across documents can be explained through supplementary evidence, for example a marriage certificate, divorce decree absolute or deed poll. Employers may choose to retain copies of these documents in order to evidence that they have satisfied themselves of the checking requirements.

Employers should report if an individual provides a false document, or a genuine document that does not belong to them. See the Support section of this guidance for more information.

3. Copy

Employers must:

- make a clear copy of each document, including any comparison provided by a RtW DVSP alongside a copy of the document checked where facial recognition technology has been used, in a format which cannot be manually altered. This can be electronically, in HTML or as a PDF for example, or in hardcopy.

  For **passports** the copy should include any page with the document expiry date, the holder's nationality, date of birth, signature, immigration permission, expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question (the front cover no longer has to be copied).

4. Record and retain

Employers must:

- retain a secure record of the date on which the check was conducted by either making a dated declaration on the copy or by holding a separate record. When dating copy documents, the date should be written as follows: '**The date on which this right to work check was made: [insert date]**' or a manual or digital record may be made at the time the check is conducted and documents are copied which includes this information. Simply writing a date on the copy document will not be sufficient as it does not, in itself, confirm that this is the actual date when the check was undertaken.

- ensure all copies of documents are kept securely for the duration of the worker's employment and for two years afterwards. The file must then be securely destroyed.

- where facial recognition technology is used, employers must retain a secure copy of this comparison alongside a copy of the document.

Employers should produce these document copies quickly in the event they are requested to demonstrate that they have performed a right to work check and retain their statutory excuse.

To confirm manual document-based right to work checks have been conducted as prescribed to establish a statutory excuse, employers can use the Right to Work Checklist and the online interactive tool Check if someone can work in the UK.

Checking the validity of documents

When checking the validity of documents, employers should ensure that they do this in the presence of the holder. This can be a physical presence in person or via a live video link. In both cases the employer must be in physical possession of the original documents. For example, an individual may choose to send their documents to the employer by post to enable them to conduct the check with them via live video link. Employers may not rely on the inspection of the document via a live video link or by checking a screenshot or scanned copy of the document unless it is official evidence of an individual's name and NINo in a digital format.

With the exception of prescribed checks carried out by a RtW DVSP, the employer is responsible for checking the document. This responsibility may be delegated to individuals or members of staff acting on behalf of the employer, including workers, agency workers, or others working under the employer's control, direction and who are accountable to the employer. However, the employer will remain liable for the civil penalty in the event the individual is found to be working illegally, and the check has not been carried out as prescribed.

Whilst an employer may use a third party to provide support in terms of the technical aspects of the check, information gathering or specialised equipment to prevent the employment of illegal workers, the responsibility for performing the check (in order to obtain a statutory excuse from a civil penalty) will remain with them as the employer. If an employer is given a false document, they will only be liable for a civil penalty if it is reasonably apparent that it is false.

An employer will **not** obtain a statutory excuse if:

- it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine.

- they know that the individual is not permitted to undertake the work in question.

- they know that the documents are false or do not rightfully belong to the holder.

For information on recognising fraudulent identity documents, available training and reporting false documents or genuine documents that do not belong to the individual presenting them, please refer to the Support section of this guidance.

National Insurance Numbers (NINo) – immigration applications

Some individuals are automatically issued a National Insurance Number (NINo) as part of their immigration application. This currently applies to most migrants and dependants who have been granted permission in any skilled worker category or as a refugee, including those granted settled status through a protection route. In such cases, the NINo will appear on their eVisa profile. In these cases, there is no need for the individual or the employer to make a separate application to the Department for Work and Pensions to obtain one.

Impersonation and imposters

For all right to work checks, employers must be satisfied that the individual whose right to work is being checked is the same individual who will be carrying out the work. The check therefore requires employers to take reasonable and proportionate steps, at the time the check is conducted, to verify the worker's identity and to ensure that the individual who is the subject of the check is the individual to whom it relates.

The purpose of this requirement is to prevent impersonation and imposters. Employers who fail to carry out the check as prescribed in this guidance and the associated code of practice will not establish a statutory excuse against liability for payment of a civil penalty if the individual is later found to be working illegally.

In practice, employers may wish to maintain proportionate measures and controls that are appropriate to their operating model to manage the risk of impersonation, imposters, or other fraudulent activity. Such measures could range from retaining a photograph of the individual who was the subject of the check for comparison at a later stage to the use of facial recognition technology via a RtW DVSP and may also help reduce wider business, operational and reputational risks.

Where an employer has carried out a prescribed right to work check and subsequently becomes the victim of fraud, impersonation or deliberate deception despite having appropriate mitigations and controls in place, this would be taken into account by the Home Office when considering the circumstances of the case. Each case is assessed on its individual merits.

2. Conducting a Home Office online right to work check

Where an individual has an eVisa, employers must use the Home Office online right to work checking service to establish a statutory excuse by accessing the individual's right to work information using a share code. This service provides real-time information directly from Home Office systems.

Where it is not possible to conduct a Home Office online right to work check, employers may only carry out a right to work check using another prescribed method where the individual is able to demonstrate their right to work using that method.

Where the online service cannot be accessed due to a technical issue, for example which results in the production of an incorrect share code, online right to work check result or an individual is temporarily unable to generate a share code, employers are able to use the Employer Checking Service to obtain verification of the individual's right to work, where applicable.

Employers may use technology to support them with the required steps to carry out an online check. However, it remains the employer who is responsible for conducting the check in the prescribed manner to establish a statutory excuse. The Home Office does not currently provide support to or endorse the use of technology for the purposes of carrying out online checks.

Should the employer be found to be employing individuals without their identity and eligibility to work being verified as prescribed in this guidance and the associated code of practice, the employer will not have a statutory excuse in the event the individual is found to be working illegally and therefore will be liable for payment of a civil penalty.

How does an individual generate a share code?

Individuals using the Home Office online service must select one of the three reasons for sharing their immigration status. For prospective or existing workers, they must choose 'Prove your right to work to an employer: get a share code'. The individual can then generate a 9-character long share code which will begin with the letter **'W'**, that can be passed on to an employer which, when entered alongside the individual's date of birth, enables the employer to access the required information.

Employers will not be able to accept or use share codes which begin with the letter **'R'** or **'S'** as these are designed for other services.

Share codes are valid for **90 calendar days** from the point of issue. They can be used as many times as needed within that time but can only be used for the purpose they were originally selected for. If a share code has expired, or the individual has used a code generated by another service, the employer must ask them to resend a new right to work share code.

How to conduct a Home Office online right to work check

Step 1: Use the Home Office online service

The individual may provide the share code to the employer directly, or they may choose to send it to them via the online service in which case the employer will receive an email from right.to.work.service@notifications.service.gov.uk.

Example message employers will receive:

GOV.UK

You can now view [redacted] right to work details

They have used the 'Prove your right to work' service on GOV.UK to email you a share code.

To view their right to work details, go to the 'View a job applicant's right to work details' service on GOV.UK and enter their:

- date of birth XX XX XXXX
- share code **W**XX XXX XXX

This share code will expire on Thursday, 24 September 2026.

Please do not reply to this email, as the inbox is not monitored.

To check the individual's right to work details, the employer will need to:

- access the service Check a job applicant's right to work: use their share code - GOV.UK (www.gov.uk).
- enter the 'share code' provided.
- enter the individual's date of birth.
- ensure that the correct employer or business name is recorded in full when conducting the check using the online service. Accurate recording helps support the integrity of the check and reduces the risk of the employer's statutory excuse being called into question.

When conducting online right to work checks, it is not sufficient to simply view the details provided to the individual on the migrant-facing service or via printed copies of the service output for example.

Step 2: Check

When conducting a Home Office online right to work check, including follow-up checks, employers must:

- ensure that the photograph on the online right to work check is of the individual who is the subject of the check (i.e. the information provided by the check relates to the individual and they are not an imposter). This can be done in person, by video call or where they choose to use facial recognition technology to conduct this element of the check digitally. If choosing to use facial recognition technology to conduct this element of the check digitally, this must be carried out by a registered RtW DVSP. Where facial recognition technology is used, the RtW DVSP will provide a comparison verifying the facial image from the document and the match to the individual.

  If the name provided by the individual does not match the name recorded on their eVisa profile (as shown in the online check output) or the image of the individual on their digital profile is showing incorrectly or is of poor quality, employers should advise the individual to update their Home Office account or update the image on their account. Further information and support is available within the Support section of this guidance.

- only employ the worker (or continue to employ an existing worker if they are conducting a follow-up check) if the online check confirms they have the right to work and are not subject to a condition preventing them from doing the work in question.

  Employment offered must be in line with any restrictions. Individuals working in breach of these conditions will be doing so illegally.

- not employ an individual on the basis of the check if it is reasonably apparent from the photograph that the worker is not the individual to whom the right to work check relates. The employer may face a civil penalty in the event of illegal working or risk being found guilty of a criminal offence.

Example output showing an individual with a continuous right to work in the UK:

GOV.UK

View a job applicant's right to work

Beta This is a new service – your feedback will help us to improve it.

Right to work

FirstName LastName

They have the right to work in the UK.

Conditions

They can work in any job. There is no limit on how long they can stay in the UK.

Rotate ↻

If you employ this person

To avoid a penalty, you must:

- check this looks like the person you meet face to face or by video call
- keep a secure copy of this online check (either electronically or in hard copy), for the duration of the employment and for 2 years after

You don't need to do the check again.

Read the employers' code of practice to find out more about right to work checks.

> You cannot accept a job applicant's biometric residence card, biometric residence permit, or Frontier Worker permit as proof of their right to work. Ask them for a share code instead.

Details of check

Company name	Date of check	Reference number
checker	25 June 2026	WX-12345-YZ

Example output showing an individual with a time-limited right to work in the UK with restrictions:

GOV.UK

View a job applicant's right to work

Beta This is a new service – your feedback will help us to improve it.

Right to work

Rotate ↻

FirstName LastName

They have the right to work in the UK from 5 February 2020. They have the right to work in the UK until 5 February 2099, subject to the conditions and restrictions below.

Conditions

While their visa is valid

They can work:

- up to 20 hours a week during term time
- full-time during periods outside of term time

> They must share proof of their term dates with you.

Work placement

They can also work on a placement which is part of the course their student visa is based on. The work placement must be:

- a compulsory part of their course
- assessed as part of their course

Restrictions

They cannot:

- work as a professional sportsperson or sports coach
- work as an entertainer
- work in a position which would fill a permanent full-time vacancy
- run a business or be self-employed - unless they have applied for a Start-up visa

If you employ this person

To avoid a penalty, you must:

- check this looks like the person you meet face to face or by video call
- keep a secure copy of this online check (either electronically or in hard copy), for the duration of the employment and for 2 years after
- get and keep details of their academic term and vacation times

You must do this check again when their permission to be in the UK expires on 5 February 2099.

Read the employers' code of practice to find out more about right to work checks.

> You cannot accept a job applicant's biometric residence card, biometric residence permit, or Frontier Worker permit as proof of their right to work. Ask them for a share code instead.

Details of check

Company name	Date of check	Reference number
checker	25 June 2026	WX-12345-YZ

Example output showing an individual with a time-limited right to work in the UK with no restrictions:

GOV·UK

View a job applicant's right to work

Beta This is a new service – your feedback will help us to improve it.

Right to work

FirstName LastName

They have the right to work in the UK from 5 February 2020. They have the right to work in the UK until 5 February 2099.

Conditions

They can work in any job.

Rotate ↻

If you employ this person

To avoid a penalty, you must:

- check this looks like the person you meet face to face or by video call
- keep a secure copy of this online check (either electronically or in hard copy), for the duration of the employment and for 2 years after

You must do this check again when their permission to be in the UK expires on 5 February 2099.

Read the employers' code of practice to find out more about right to work checks.

> You cannot accept a job applicant's biometric residence card, biometric residence permit, or Frontier Worker permit as proof of their right to work. Ask them for a share code instead.

Details of check

Company name	Date of check	Reference number
checker	25 June 2026	WX-12345-YZ

Step 3: Retain evidence of the online check

Securely store (electronically or in hardcopy) a PDF or HMTL copy of the 'profile' page confirming the individual's right to work. This will include the photograph and date on which the check was conducted. The copy should be retained for the duration of employment and for two years afterwards. The file/hard copy must then be securely destroyed.

Employers should also be able to produce these document copies quickly in the event that they are requested to show them to demonstrate that they have performed a right to work check and to retain their statutory excuse.

Employers must repeat this process in respect of any follow-up check.

Where facial recognition technology is used, employers must retain a secure copy of the comparison provided to verify the facial image from the document and the match to the individual, alongside a copy of the document checked.

3. Conducting a right to work check using a RtW DVSP

Employers are able to use digital verification services to complete the digital identity verification element of right to work checks. Digital identity verification, in this context, is the process of obtaining evidence of the prospective worker's identity, checking that it is valid and belongs to the person who is claiming it, where this verification takes place through digital means.

Whilst it is not mandatory to conduct right to work checks digitally in this way, if an employer chooses to do so, it is mandatory that the DVSP is registered on the Office for Digital Identities Attributes (OfDIA) register, and that they are able to provide right to work checks[1].

A RtW DVSP is registered by OfDIA to confirm that the checks that they conduct follow the prescribed requirements for the Scheme. The RtW VSP will provide written confirmation within the output from the check, that they are able to complete right to work checks in accordance with the requirements. There may be different supplementary codes to which they are assessed and transitional provisions of these codes will mean that the previous version of the code effectively still applies to the RtW DVSP and certificates issued under the old code remain valid.

[1] Data (Use and Access) Act 2025.

What checks are RtW DVSPs permitted to do?

A RtW DVSP is able to carry out digital right to work checks on holders of valid British or Irish passports (or Irish passport cards) (up to 6 months past the expiry date[2])[3], verify acceptable documents from List A and List B of Annex A when and where they are available from the issuing authority in a digital format, and provide facial recognition technology to enable an employer to confirm that a worker is the same individual the right to work check was conducted on and is not an imposter. Services available by RtW DVSPs will vary across the registered providers. The employer's chosen RtW DVSP will be able to advise which services and technology they can provide to support secure identity verification.

When an expired British or Irish passport (or Irish Passport card) is presented to the RtW DVSP, they will use passive authentication technology to access and verify the validity of the chip contained within the document. The RtW DVSP may choose not to offer services to verify these expired documents, and they will not be able to complete this check if the chip has been damaged or corrupted.

Employers must not treat those who do not hold a valid passport (or passport card) (up to 6 months past the expiry date[2])[3], or do not wish to prove their identity using a RtW DVSP, less favourably. Where an individual does not wish for the right to work check to be carried out digitally, employers should provide another way for them to prove their right to work by carrying out a manual document-based right to work check instead.

An employer will have a continuous statutory excuse if both they and the RtW DVSP conduct the right to work check as prescribed by the Home Office. The employer must obtain evidence of the check from the RtW DVSP per 'Step 2: Obtain'.

How to conduct a right to work check using a RtW DVSP

The employer needs to complete the following steps before employment commences in order to establish a statutory excuse.

Step 1: Locate

The employer should choose a RtW DVSP permitted to conduct right to work checks from the Office for Digital Identities Attributes (OfDIA) register.

Step 2: Obtain

The employer should receive a document from the RtW DVSP detailing the output of the check.

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[2] Where the document is an expired document, it must be verified through passive authentication.

[3] A clipped passport is a cancelled document (identified by the corners of certain pages in the passport being cut/removed) and therefore is not acceptable proof of right to work.

Step 3: Check

The employer must satisfy themselves that the photograph and biographic details (for example date of birth) provided by the RtW DVSP are of the individual who is the subject of the check (i.e. the information provided by the check relates to the individual and they are not an imposter). This can be done in person, by video call or using facial recognition technology provided by the RtW DVSP.

If choosing to use facial recognition technology to conduct this element of the check digitally, this must be carried out by a registered RtW DVSP. Where facial recognition technology is used, the RtW DVSP will provide a comparison verifying the facial image from the document and the match to the individual. Employers must retain a secure copy of this comparison alongside a copy of the document checked

Step 4: Retain

For each check, the employer must obtain the following information to obtain a statutory excuse and for audit and investigation purposes and they must retain a clear copy of the output of the check for the duration of the employment and for two years afterwards. It should then be securely destroyed.

Information to be obtained by employer:

Data Field	Note
Forename	
Middle names (s)	Only required if the user has a middle name(s).
Present surname(s)	
Date of birth	
Image of the relevant RtW DVSP document	This must be an image of the full biometric page of the passport or, in the case of an Irish passport card, an image of the front of the document in full. The holder's name, date of birth and nationality must be clearly visible in the image, as must their photo and the date of expiry of the document.
Photograph / image	An image of the prospective user. Employers must verify that the image matches the passport or passport card, and the user.
Confirmation of RtW DVSP registration	The response must be ‘Y’, and some RtW DVSP may also choose to provide their registration details or Trustmark.

Confirmation RtW DVSP is conducting checks per the supplementary code for digital right to work checks	The response must be 'Y'.
Date of identity check	
Evidence checked by	The name of the RtW DVSP, as it appears on their certificate.
Identity verified	The response must be 'Y' if the identity was verified and 'N' if it was not verified.

Employers are encouraged to provide appropriate training and guidance to their staff, for example, on what information they must obtain from the RtW DVSP to confirm verification of identity, what the information can be used for, and the additional steps they must take to establish eligibility to work.

Facial recognition checks through a RtW DVSP

Employers may use digital facial recognition technology to help confirm a worker's identity as part of right to work checks by comparing the image on their document with an image taken by the RtW DVSP. This may make it quicker and easier to complete identity checks, particularly where workers are onboarded remotely.

Employers are not mandated to use this technology. Employers may carry out checks to confirm the individual's identity in person.

If an employer chooses to use facial recognition technology, they must use a RtW DVSP as they are able to provide secure and reliable systems to complete the check. If the worker is unable to complete the digital facial recognition check, the employer should provide alternative ways for them to prove their identity as part of the right to work check to avoid discrimination.

The RtW DVSP will provide the employer with the following information which should be combined with the relevant record of the right to work check. The employer must retain a clear copy of this for the duration of the employment and for two years afterwards. It should then be securely destroyed.

Information provided by the RtW DVSP to the employer

Data Field	Note
Image of document containing the facial image	This must be either a relevant RtW DVSP document, the image of the share code output, or a document containing a facial image from the acceptable documents lists A or B of Annex A.
Worker's facial image	The facial image of the worker taken by the RtW DVSP.
Confirmation of RtW DVSP registration	The response must be 'Y', and some RtW DVSP may also choose to provide their registration details or Trustmark.

Confirmation RtW DVSP is conducting checks per the Supplementary Code for right to work checks	The response must be 'Y'.
Date of check	
Evidence checked by	Name of the RtW DVSP as it appears on the register.
Confirmation of facial images	The response must be 'Y' if the identity was verified and 'N' if it was not verified. This must be confirmation that the facial image within the document and that of the worker match.

Holder services

A holder service provider creates a user-facing device, service, software or app that allows a user to collect, store, view, manage or share identity and/or attribute information and reuse it in multiple scenarios over time. For example, a digital wallet or personal data store.

In sectors where work is delivered through a chain of contracts and extended liability may arise, persons in that chain will need to be confident that the correct right to work checks have been carried out. In these circumstances, they may choose to use identity schemes, such as digital wallets, to support their processes. For example, these services can help to verify and share identity information in a consistent way across the chain, reducing the risk that checks are applied to one individual, but the work is undertaken by another. These services do not replace the requirement to carry out a right to work check but can help employers to put in place systems and processes that give greater assurance about the identity of the individual undertaking the work.

The Home Office recommend that a registered DVSP is used to provide a holder service to ensure that the systems are trusted and compliant with security and data protection practices.

When to contact the Home Office Employer Checking Service (ECS) to verify right to work

In certain circumstances, an employer will need to contact the ECS to verify an individual's right to work and establish a statutory excuse. These are when:

1. they are presented with a document (non-digital Certificate of Application or an acknowledgement letter or email) confirming receipt of an application to EUSS on or before 30 June 2021.

2. they are presented with a non-digital Certificate of Application confirming receipt of an application to the EUSS on or after 1 July 2021.

3. they are presented with an Application Registration Card stating that the holder is permitted to undertake the work in question. If the card contains an expiry

date, this date must not have expired. Where the individual made an application for permission to work **before 24 March 2026** which has been granted, they will be entitled to work in a job on the Immigration Salary List. Where the individual made an application for permission to work **on or after 24 March 2026** which has been granted, they will be entitled to work in a job on the Skilled Worker Occupation List at RQF level 6 and above only.

4. they are satisfied that they have not been provided with any acceptable documents by a non-British or non-Irish citizen and are unable to carry out a check using the online service, for example due to a technical issue with the individual's eVisa or digital immigration status.

5. they are satisfied that they have not been provided with any acceptable documents and the individual is unable to generate a share code because they have an outstanding application with the Home Office which was made before their previous permission to stay expired and, as a result, the individual is unable to provide evidence of their right to work.

6. they are satisfied that they have not been provided with any acceptable documents because the individual falls within a cohort for whom verification of the right to work must be obtained from the ECS, such as an individual who has immigration permission issued in a Crown Dependency.

7. they consider that they have not been provided with any acceptable documents, but the individual presents other information indicating they are a long-term resident of the UK who arrived in the UK before 1988.

In the above circumstances, an employer must request verification of right to work from the ECS and have been issued with a **Positive Verification Notice (PVN)** confirming that the named individual is allowed to carry out the type of work in question; enabling them to hire or extend the individual's contract for 6 months from the date specified in the PVN. This is a different process to the online checking service described in Conducting a Home Office online right to work check.

Employers should not contact the ECS where employment commenced before 29 February 2008 and has been continuous with that employer ever since. Employers will receive a **Negative Verification Notice (NVN)** in these circumstances because this employment is out of scope of the civil penalty scheme. This notice would not require the employer to take action and would not indicate that the individual does not have the requisite permission to work.

The ECS aims to provide a response within **five working days** of receiving a valid request. It is the employer's responsibility to inform the individual they intend to employ, or continue employing, that they are carrying out this check on them.

Employers may use the Employer Checking Service to determine if they need to request a verification check from the ECS. To conduct the check, they should use the online tool within the link.

Application Registration Card (ARC), asylum seekers and refugees

The ARC is used by asylum claimants to demonstrate they have made an asylum claim. Since 2017, ARCs include extra security features, a biometric facial image and an expiry date. Whilst the earlier version of the ARC is no longer being issued, the cards already in circulation will continue to be acceptable until they expire.

Asylum seekers in the UK whose claim has been outstanding for twelve months or more, through no fault of their own, are eligible to apply for permission to work. Those granted permission are restricted to occupations at RQF level 6 or above on the Skilled Worker Route. Any application for permission to work made before 8 April 2026 will be decided in accordance with the Immigration Rules in force from 7 April 2026.

Where an ARC states that the holder is permitted to work, any work restrictions must be observed. Where the individual made an application for permission to work before 24 March 2026 which has been granted, they are restricted to working in jobs on the Immigration Salary List. Where the individual made an application for permission to work on or after 24 March 2026 which has been granted, they are restricted to working in jobs on the Skilled Worker Occupation List at RQF level 6 and above only.

Employers may accept a new biometric style or an old-style ARC, provided they verify the right to work and any work restrictions by obtaining a Positive Verification Notice (PVN) issued by the ECS. This excuse will expire six months from the date of the PVN, when a follow-up check must be undertaken if the statutory excuse is to be retained.

The follow-up check must be carried out before the six-month statutory excuse expires. Any permission to work granted will come to an end if their claim is refused and any appeal rights are exhausted. Provided the employer has obtained a PVN from the ECS, they will continue to have a statutory excuse for the duration stated in the PVN unless they become aware that the worker is working illegally within that six-month period, and they continue to employ them in spite of that knowledge.

Anyone who is granted permission to stay in the UK as a refugee, or who is granted humanitarian protection has unrestricted access to the labour market. A refugee may demonstrate their right to work through the Home Office online service or Immigration Status Document requiring a manual check (an older form of document issued to refugees and certain other categories of migrant).

Biometric Residence Permits (BRPs)

BRPs provided evidence of the holder’s immigration status in the UK however, they ceased to be issued by the Home Office on 31 October 2024 as part of the move towards an immigration system which is more digital and streamlined. As part of this development, physical documents have been replaced with a digital immigration status (eVisa).

A manual check of an original, expired BRP is not acceptable proof of right to work in the UK. In this circumstance, employers will only establish a statutory excuse if they carry out an online right to work check as prescribed.

Outstanding applications, Appeals and Administrative Reviews

If an employer requests verification from the ECS because the worker or potential worker has an outstanding application with the Home Office or an appeal or administrative review against a Home Office decision, the employer must obtain confirmation from their worker or potential worker of when the application, appeal or administrative review was made to the Home Office.

Administrative reviews have replaced some rights of appeal where the applicant believes the Home Office decision to refuse their application is incorrect. For decisions made in the UK, the review application must be made within **14 calendar days** from notification of the decision. Any previous permission to work continues during the period that an administrative review can be made and, if made, will continue until the administrative review has been determined (decided or withdrawn). This will normally be within **28 calendar days**.

Where an application for an administrative review is brought after the period for making an application has expired, the Home Office may decide to accept the application as valid. If so, any permission to work will continue from the date that the administrative review is accepted. This will be confirmed by a PVN from the ECS. The individual will not be permitted to work between the date that their previous permission to work expired and the date the administrative review was deemed valid.

Further detail on administrative reviews can be found on GOV.UK.

In-time applications (3C leave)

Where an in-time application to extend or vary leave is made and the application is not decided before the individual's existing permission expires, section 3C of the Immigration Act 1971 extends their existing leave.

An application for further immigration permission to stay in the UK must be made before existing permission expires for it to be deemed 'in-time'. Upon doing this, any existing rights (including a right to work) will continue until that in-time application (and any appeal or administrative review) has been determined. Where section 3C is triggered, it will extend leave while any appeal or administrative review they are entitled to is pending.

The Home Office online service supports a range of individuals, who have outstanding, in-time applications for permission to stay in the UK. Where an individual advises an employer that they have an outstanding, in-time application, and they are an eVisa holder, the employer should conduct an online right to work check.

In such circumstances, the online service will provide confirmation of the individual's right to work and will provide the employer with a statutory excuse for a period of six months. This is the standard duration when right to work checks are conducted on individuals who have an outstanding, in- time immigration application. Upon any subsequent application to renew the right to work, the employer must conduct a follow-up check.

In circumstances where the individual is unable to provide an employer with a share code, yet they have an outstanding, in-time application, they should contact the ECS for verification of this.

Windrush generation individuals

Safeguards are in place to ensure that those who have lived lawfully in the UK since before 1988 are not denied access to work.

In some circumstances, individuals of the Windrush generation (those who arrived in the UK before 1973) and those non-UK citizens who arrived in the UK between 1973 and 1988, may not be able to provide documentation from the lists of acceptable documents to demonstrate their entitlement to work in the UK.

In these circumstances, employers should inform the ECS who will notify the Windrush Help Team who will contact the individual to confirm their circumstances and arrange for their status to be resolved. The team can offer support and guidance about the Windrush Scheme and advise individuals on how to apply. It can also help vulnerable people or those who need additional support. If a prospective or existing worker has been affected, they can contact the team via the above link or by calling **0800 678 1925**.

Right to work checks for EEA citizens

Following the UK's exit from the EU, the Immigration and Social Security Coordination (EU Withdrawal) Act 2020 ended free movement law in the UK on 31 December 2020 at 23:00 (11pm) GMT. There followed a grace period of six-months during which relevant aspects of free movement law were saved to allow eligible EEA citizens and their family members resident in the UK by 31 December 2020 to apply to the EUSS. This period ended on 30 June 2021.

There is no requirement for a retrospective check to be undertaken on EEA citizens who entered into employment before 1 July 2021 with that employer. Employers will maintain a continuous statutory excuse if the initial checks were undertaken in line with the guidance that applied at the time the check was made.

Where retrospective checks are conducted, employers must do so in a non-discriminatory manner and in accordance with the Code of practice for employers: avoiding unlawful discrimination while preventing illegal working.

Irish citizens

Irish citizens have unrestricted access to work in the UK. Eligible Irish citizens may choose to apply to the EU Settlement Scheme (see below for information on how to check the right to work of an EU Settlement Scheme status holder) and they can also apply for a frontier worker permit. This is a digital permit enabling them to prove their right to work using the Home Office online right to work service.

EEA citizens granted status under the EU Settlement Scheme (EUSS)

Most EEA citizens establish their right to work through the Home Office online service. For holders of pre-settled or settled status under the EUSS, a check is required only before employment begins; no repeat checks are required. Where the initial check was conducted as prescribed and the employer is not knowingly employing an individual without the right to work, no civil penalty action will apply.

Frontier Workers

Frontier workers are EEA citizens who live outside the UK but have a right to enter and work in the UK under the relevant citizens' rights agreements. Where a frontier worker holds a digital frontier worker permit, employers should check their right to work using the Home Office online service in the usual way.

Where a frontier worker cannot provide a share code, or presents non-digital evidence, employers must request a right to work check from the Employer Checking Service (ECS) in order to establish a statutory excuse.

Guidance on what is considered sufficient evidence for retaining frontier worker status can be found in the frontier worker permit case working guidance here: Frontier Worker Permit Scheme Guidance.

Pending applications submitted to the EUSS

EEA citizens, and their family members, who have made a valid application to the EUSS have temporary protection of rights under the Withdrawal Agreement, the EEA EFTA Separation Agreement or the Swiss Citizens' Rights Agreement, which gives them a right to work until their application is finally determined. This includes pending the outcome of any administrative review or appeal against a decision to refuse status. Employers should not treat those with an outstanding, valid application less favourably.

Certificate of Application (CoA)

A CoA is digital evidence that an individual has made a valid application to the EUSS and should be used by the worker to generate a share code to evidence their right to work until their application (and any appeal or administrative review) is finally determined. In these circumstances, there will be no need for the employer to contact the ECS.

EUSS status granted and pending applications in a Crown Dependency

The Crown Dependencies (the Bailiwick of Jersey, the Bailiwick of Guernsey, and the Isle of Man) each operate their own equivalents of the EUSS for those eligible to apply. The UK and the Crown Dependencies recognise status granted under each other's schemes. Where an individual is granted settled status, pre-settled status, or has a pending EUSS application by a Crown Dependency they will be issued with a letter or email notification confirming their status or application under each other's schemes.

In these circumstances, employers must request a right to work check from the ECS in order to establish a statutory excuse. Employers must retain:

- a copy of the Crown dependency letter or email; and

- the response received from the ECS.

Where these steps are followed, a statutory excuse against liability for a civil penalty will be established.

EEA citizens with Indefinite Leave to Enter or Remain

EEA citizens with Indefinite Leave to Enter or Remain (ILE/R) are not required to make an application to the EUSS but can do so if they wish and are required to prove their right to work in the same way as other individuals who do not hold digital status.

In these circumstances, employers must carry out a manual right to work check in accordance with guidance using documentation from the acceptable documents list. Where a prescribed check is completed correctly and evidence is retained, the employer will establish a statutory excuse.

Where an EEA citizen believes they hold ILE/R but cannot provide documentary evidence, employers should encourage them to follow the following routes, as appropriate:

- Apply to the Windrush Scheme to get proof of their ILE/R status.

- Consider whether they are eligible to apply to the EU Settlement Scheme, where there are reasonable grounds for the delay in making their application.

- Apply for 'No time limit' document, where applicable.

If they are from Malta or Cyprus, they may also be able to apply for British citizenship through the Windrush Scheme. Applications for either scheme is free of charge.

Family members of EEA citizens with EUSS status

Where they were resident in the UK before 11pm GMT on 31 December 2020, non-EEA family members of EEA citizens are required to make an application to the EUSS to continue living in the UK after 30 June 2021 but can apply after if they have reasonable grounds for their delay in doing so.

Eligible family members (EEA and non-EEA) of EEA citizens with EUSS status (or persons of Northern Ireland, Irish citizens, those exempt from immigration control) can apply for an EUSS family permit from outside the UK, or directly to the EUSS, as a joining family member. EUSS family permits are valid for six months.

Family members of those EEA citizens should provide a share code and their date of birth which will enable employers to check their Home Office immigration status via the online service, 'Check a job applicant's right to work: use their share code - GOV.UK (www.gov.uk)' available on GOV.UK. For more information, please see EU Settlement Scheme Family Permit guidance on GOV.UK.

Family members who wish to stay in the UK beyond the validity of their EUSS family permit should generally apply to the EUSS within 3 months of arriving in the UK, or before the expiry of their permit, whichever is later. During that period, they can work in the UK.

Where a joining family member makes a valid application to the EUSS, they will receive a CoA issued by the Home Office. They will be able to use their CoA for the purpose of a right to work check, please see the section above which gives more details regarding CoAs.

3. Application to non-direct contractual arrangements: Extended liability

What this section explains

Where illegal working is identified, the Home Office will first seek to identify the employer who has the direct contractual relationship with the worker. That employer is responsible for carrying out a prescribed right to work check on the worker to establish a statutory excuse.

However, in certain contractual arrangements, liability for payment of a civil penalty for illegal working may extend beyond the employer who has the direct contractual relationship with the worker under section 15A of the IANA 2006.

This section explains:

- when extended liability may apply.
- how to identify when a contractual arrangement may be in scope.
- who is responsible for carrying out right to work checks.
- how a person who is not in a direct contractual relationship with a worker can establish a statutory excuse where extended liability applies.

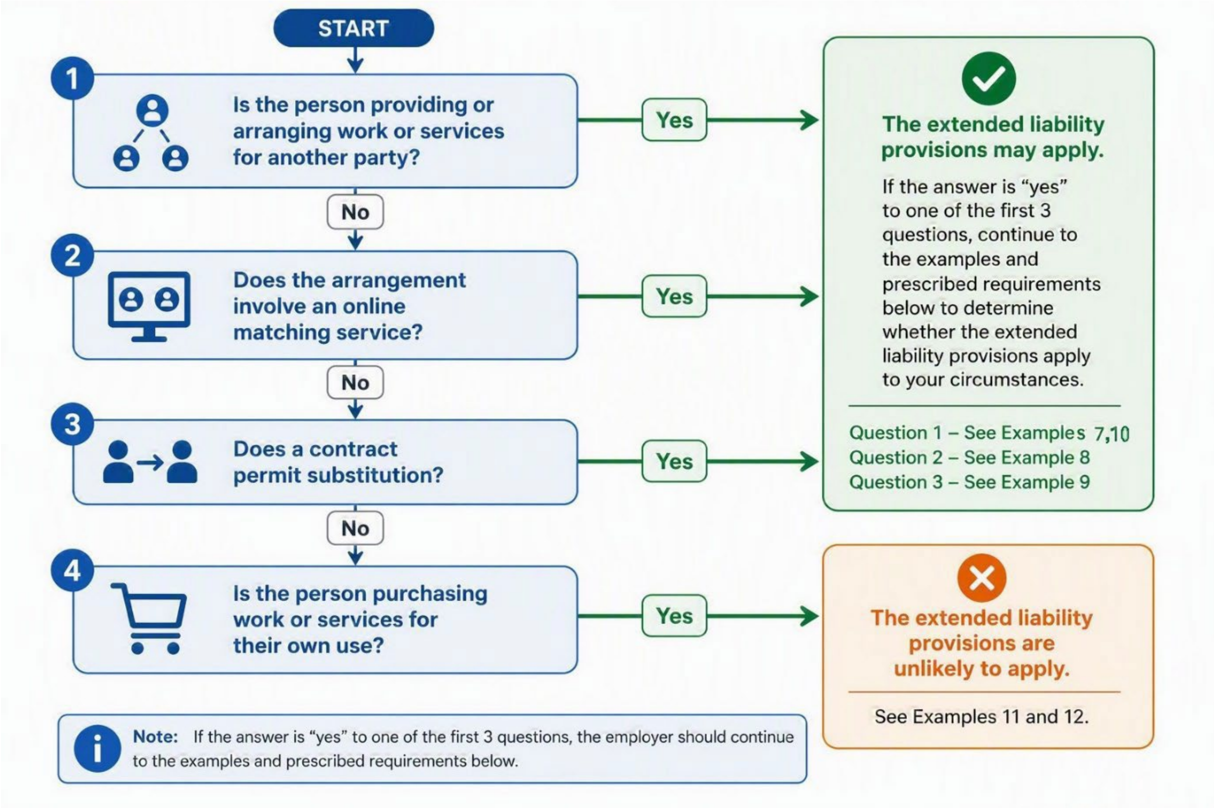
When extended liability may apply

Extended liability applies where:

- a person is under a contract to provide work or services to a third party and enters into a contract with another employer who employs worker(s) to carry out all or part of the work or services required to fulfil that contract.
- an online matching service matches a service provider with a client or customer to provide work or services, and the service provider enters into a contract with the client or customer.
- an employer employs an individual to provide work or services, and the contract permits that individual to substitute their work or services to be carried out by another individual in their place.

It does not apply to every business that purchases work or services from another business nor does it apply to a client, customer or end-user who is purchasing work or services for their own internal operations.

How to assess whether an arrangement may be in scope



The examples below are intended to illustrate how the extended liability provisions may apply in common contractual arrangements. They are not exhaustive and similar arrangements may produce different outcomes where the underlying facts differ.

Whether the extended liability provisions apply in a particular case will depend on the specific contractual arrangements and how those arrangements operate in practice. Employers and businesses will wish to continue to consider their recruitment and on-boarding processes as they relate to specific operating models and are able to obtain their own independent legal or HR advice where necessary.

Examples of contractual arrangements that may be in scope

Example 7: Construction

A property developer wins a contract to build new homes. The developer engages other businesses through a chain of contracts to provide workers required to complete elements of the project, including laying foundations and bricklaying.

The property developer is contractually responsible for delivering work to a third party and relies upon a chain of contracts to provide workers and services required to fulfil the contract.

The contractual arrangements are within scope of the extended liability provisions. For the purposes of the Right to Work Scheme, the property developer may be treated as the employer of any individuals who personally carry out work or services through the relevant contractual chain and may be liable for payment of a civil penalty if an individual is found to be working illegally. To establish a statutory excuse, the developer must comply with the prescribed requirements in relation to the contractual arrangements.

Example 8: Online matching service

A homeowner needs electrical work carried out at their property and uses and online matching service to find an electrician. The online matching service provides details of an electrical services business and the homeowner enters into a contract directly with that business. The electrical services business sends one of its workers to carry out the work at the property.

The online matching service has matched the homeowner with a service provider, in this case, the electrical services business. A contract for the work has been entered into between the homeowner and the service provider.

The contractual arrangements are within scope of the extended liability provisions. For the purposes of the Right to Work Scheme, the online matching service may be treated as the employer of any individual carrying out the work for the service provider and may be liable for payment of a civil penalty if that worker is found to be working illegally. To establish a statutory excuse, the online matching service must comply with the prescribed requirements in relation to the contractual arrangements.

Example 9: Food delivery

An individual signs up to work through a food delivery platform. The platform describes the individual as an independent contractor (self-employed) and pays them for each delivery they complete but it does not employ them in the traditional sense. The individual can log into the app when they choose and is permitted to substitute the work or services. On occasions where the individual cannot complete deliveries, they routinely ask a friend to carry it out instead, intending to pass on part of the payment.

The agreement between the food delivery platform and the individual allows them to substitute their work or services to other individuals.

The contractual arrangements are within scope of the extended liability provisions. For the purposes of the Right to Work Scheme, the food delivery platform may be treated as the employer of the individual personally carrying out the work or services, including any substitute who undertakes deliveries on behalf of the individual registered to use the platform. The platform may therefore be liable for payment of a civil penalty if that individual is found to be working illegally. To establish a statutory excuse, the platform must company with the prescribed requirements in relation to the contractual arrangements.

Example 10: Warehousing and distribution

A logistics company is contracted by a retailer to provide warehousing services and the distribution of goods for the retailer's own operations. The logistics company outsources the work or services to a third-party company to manage operations at the warehouses and engage workers to carry out the work.

Unlike in Example 12, the logistics company is contractually responsible to deliver work or services to the retailer and has outsourced the delivery of the work or services to a third-party company.

The contractual arrangements are within scope of the extended liability provisions. For the purposes of the Right to Work Scheme, the logistics company may be treated as the employer of any individual who personally carries out the work or services through the contractual chain and may be liable for payment of a civil penalty if an individual is found to be working illegally. To establish a statutory excuse, the logistics company must comply with the prescribed requirements in relation to the contractual arrangements.

The retailer is purchasing warehousing and distribution services for its own operations and is not responsible for providing those services onwards to another third-party.

The extended liability provisions do not apply to the retailer in this example. See Example 11.

In these situations, where the extended liability provisions apply, the Home Office may consider the contractual arrangements through which the work or services are being provided to identify the person responsible for complying with the Right to Work Scheme and determine liability for payment of a civil penalty.

The Home Office will ordinarily seek to identify the person responsible for the relevant contractual arrangements and determine whether that person has established a statutory excuse, rather than treating every party in a contractual chain as liable.

Examples of contractual arrangements not in scope

Example 11: Purchasing a service for own use

A retailer enters into a contract with a facilities management company to provide cleaning services at its supermarket premises across a geographical region of the UK. The facilities management company employs the cleaners who carry out the work.

The facilities management company is contracted to deliver a defined cleaning service to the retailer and employs the cleaners who carry out the work.

The retailer is purchasing cleaning services for its own business operations and is not responsible for providing those services onwards to a third party as part of a contractual chain.

Although the facilities management company is delivering a service rather than simply supplying labour, the contractual arrangement does not involve the retailer providing or arranging work or services onwards as part of another contractual arrangement.

The extended liability provisions therefore do not apply to the retailer.

Responsibility for the prevention of illegal working and liability for payment of a civil penalty in the event of illegal working, remains with the facilities management company as the employer of the cleaners.

Example 12: Purchasing labour indirectly

A manufacturing company experiences increased demand and obtains temporary production workers from an employment business to support production at its factory. The workers undertake roles within the manufacturing company's day-to-day operations and are integrated into its workforce for the duration of the assignment.

The manufacturing company is obtaining workers for use within its own business operations and is not responsible for providing the work or services onwards to a third party as part of a contractual chain.

The role of the employment business is limited to the supply of workers rather than being under a contract to provide work or services.

The extended liability provisions therefore do not apply to the manufacturing company or the employment business.

Responsibility for the prevention of illegal working and liability for payment of a civil penalty in the event of illegal working, remains with the employment business as the employer of the workers whilst they are on this assignment.

Example 13: Supply of goods

A food producer enters into a contract with a retailer to supply sandwiches to be sold in their shops. The food producer uses an employment business to provide temporary workers to work in their factories which produce the sandwiches.

The food producer is supplying finished goods to the retailer and is not under a contract to provide or arrange work or services for the retailer.

Although the food producer obtains workers from an employment business to support its operations, those workers are engaged in the production of goods as part of the food producer's own business operations.

The role of the employment business is limited to the supply of workers rather than being under a contract to provide work or services.

The extended liability provisions therefore do not apply to the food producer or the employment business.

Responsibility for the prevention of illegal working and liability for payment of a civil penalty in the event of illegal working, remains with the employment business as the employer of the workers whilst they are on this assignment.

Example 14: Food ordering platform

A food ordering and delivery platform provides technology and ordering services to a fast-food takeaway, enabling customers to place orders online through the platform's app. The takeaway uses its own delivery staff to prepare and deliver customer orders.

The platform is providing technology and ordering services and is not engaging the delivery workers who carry out the deliveries.

The extended liability provisions therefore do not apply to the platform.

Responsibility for the prevention of illegal working and liability for payment of a civil penalty in the event of illegal working, remains with the fast-food takeaway as the employer of the delivery staff.

Extended liability and responsibility for checks

The employer who has the direct contractual relationship with the worker remains responsible for carrying out a right to work check and establishing a statutory excuse.

The extended liability provisions do not automatically transfer that responsibility to another person in the contractual chain, nor do they make that person liable for another employer's failure to carry out a right to work check.

Where the extended liability provisions apply, a person or an online matching service seeking to establish a statutory excuse against liability for payment of a civil penalty must comply with the prescribed requirements set out in this section. This applies regardless of whether the employer in the direct contractual relationship with the worker can be identified.

However, where the employer in the direct contractual relationship with the worker cannot be identified, the Home Office may consider the contractual arrangements through which the work or services are being provided when determining liability under the extended liability provisions.

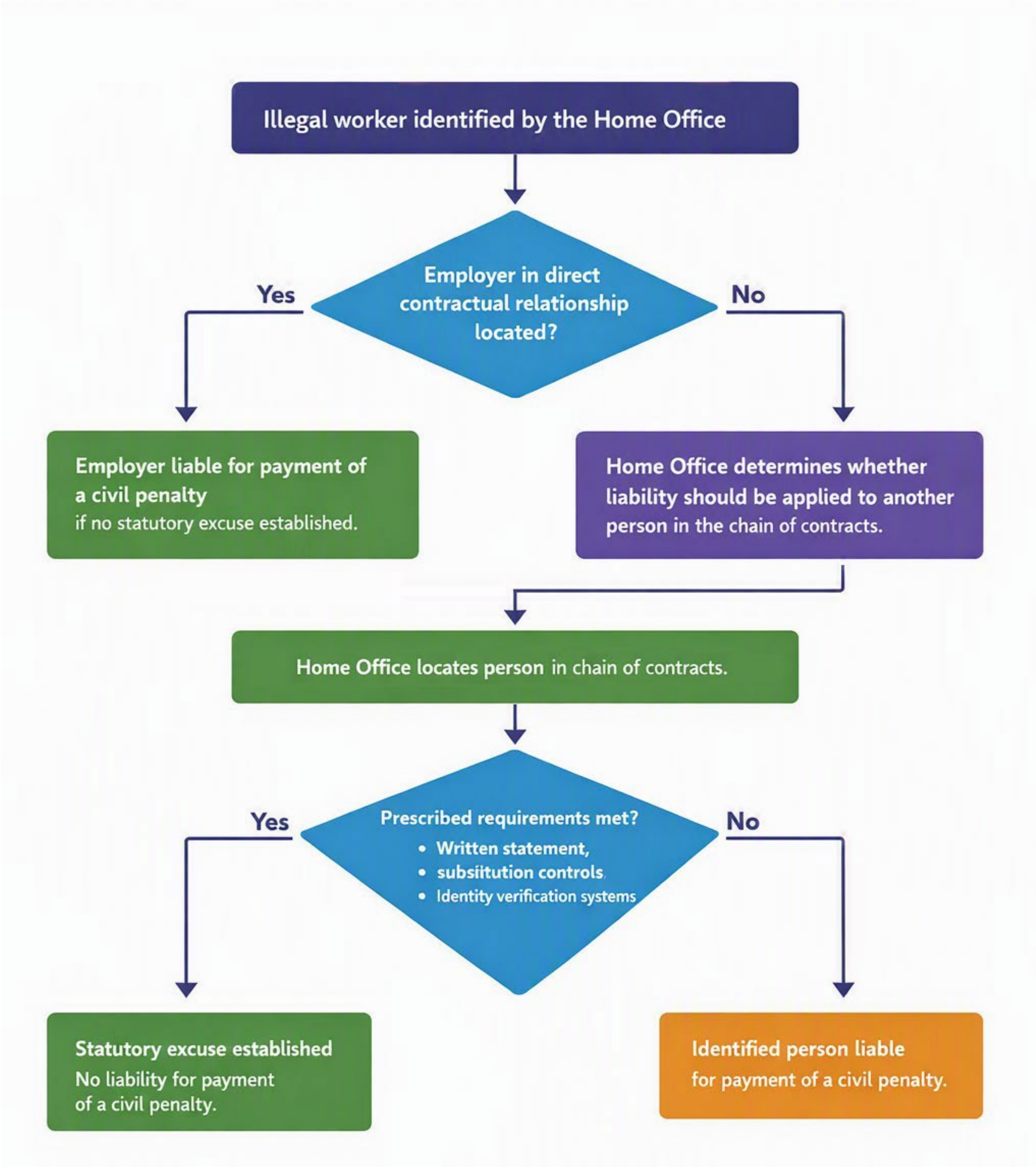
In some cases, it may not be possible to identify the employer in the direct contractual relationship with the worker, or it may not be clear from the information available who is responsible. This may happen where:

- the worker cannot clearly identify who employs them.
- there are multiple intermediaries in a chain of contracts.
- records or contractual arrangements are not readily available.

- substitution or other working arrangements mean that the individual carrying out the work is not clearly linked to a specific employer.

Where the Home Office is unable to identify the employer who has the direct contractual relationship with the worker, and where the prescribed requirements set out in this section have not been met, liability for payment of a civil penalty may extend beyond that direct employer to another person upstream in the chain of contracts through which the work or services are being delivered.

Extended liability in a chain of contracts



Establishing a statutory excuse against extended liability

Where a person is not in a direct contractual relationship with the worker and extended liability applies, they are able to establish a statutory excuse against extended liability for payment of a civil penalty. To do this, the person must be able to demonstrate that they have complied with the prescribed requirements set out below and provide evidence of that compliance if requested.

Factors the Home Office may consider

The structure of the contractual arrangements, the role each person performs, which person is responsible for providing or arranging the work or services, what contractual arrangements were in place, whether those requirements operated effectively in practice, and the evidence available at the time illegal working was identified.

This means that the person should not rely on contractual terms alone. They should be able to show that appropriate arrangements are in place and operating effectively in practice, and that they have taken reasonable and proportionate steps to satisfy themselves that right to work requirements are being met.

How to establish a statutory excuse against extended liability

Any person seeking to establish a statutory excuse against liability for payment of a civil penalty must comply with the prescribed requirements relevant to the contractual arrangements **before** the work commences and be able to provide evidence of that compliance if requested.

1. Contractual terms and conditions (written statement).
2. Substitution controls.
3. Identity verification.

1. Contractual terms and conditions (written statement)

Where a person is under a contract to provide work or services to a third party, and enters into a contract with another employer to provide or arrange for the delivery of the work or services, such as by providing workers to carry out the work, or where an online matching service matches a service provider to clients or customers, and the service provider enters into a contract with that client or customer, the person or the online matching service must have in place a written statement **before** the work or service commences.

That statement must set out the following terms and conditions to be included in the contract with the employer or service provider to:

a) require the employer or the service provider to carry out prescribed right to work checks on any individual employed to perform the relevant work or services.

b) not further subcontract the work or services without the prior written consent of the person or the online matching service and replicate equivalent right to work obligations in any permitted subcontracting arrangements.

c) permit the person or the online matching service to conduct audits of the employer or the service provider's compliance with prescribed right to work checks to establish a statutory excuse.

d) enable the person or the online matching service to take enforcement action against the employer or the service provider where illegal working is identified and a statutory excuse has not been established, and equivalent provisions in respect of the direct contractual relationship between the employer or the service provider and the individual who is carrying out the work or services. These provisions may include (but are not limited to) suspension or termination of the contract, and

e) require the employer or the service provider to co-operate with any Home Office investigation relating to illegal working by providing:

    - information relating to the purpose and make-up of the chain of contracts through which the work or services are being provided; and

    - details of each employer or service provider involved, such as its official name, company type, registered address or principle place of business and company registration number (where applicable), and

    - any other information which the Home Office considers is, or may be, relevant to the investigation.

A person or an online matching service may, as part of meeting these requirements, rely on assurances from an employer or a service provider in the contractual chain that prescribed right to work checks have been carried out, provided that they have taken reasonable steps to satisfy themselves that those assurances are reliable and that the prescribed requirements are being met.

The extended liability provisions are not limited to a single tier of contracting (for example, the first contract in a chain only). Whether extended liability for payment of a civil penalty for illegal working applies will depend upon the specific contractual arrangements, how those arrangements operate in practice and whether the prescribed requirements have been complied with.

Evidence that may be provided

This may include:

- details of contractual arrangements, and copies of agreements, or terms and conditions.
- audit records.
- assurance information received from employers or service providers that right to work checks have been carried out.
- records of compliance reviews, or
- information showing how concerns were identified and acted upon.

The evidence described above is not exhaustive. What evidence is appropriate will also depend upon the nature of the contractual arrangements, the risk of illegal working or non-compliance with right to work checks arising from those arrangements and the size and complexity of the contractual chain.

2. Substitution controls

Where a contractual arrangement between an employer and a worker permits substitution, the employer will only establish a statutory excuse against extended liability for payment of a civil penalty where they have implemented, **before** the work or service commences, processes ensuring that:

a) a prescribed right to work check is carried out on any substitute.

b) responsibility for the check is not delegated to individuals carrying out the work or services, including where the contractual arrangement describes that individual as operating in business on their own account.

c) no individual may carry out work or services as a substitute before their right to work has been verified.

d) contractual provisions are in place between the employer and the worker (which may include but are not limited to suspension or termination of the contract) where the employer or the worker know, or have reasonable cause to believe, that a substitute is working illegally. For example, where the substitute has failed to comply with a request to complete a right to work check.

e) for the duration of employment, the employer ensures that the worker and their registered substitute are the same individuals whose right to work has been checked. This must include by way of identity verification systems described in this section of the guidance and the code of practice.

In the event of illegal working, and where requested by the Home Office, the employer must provide the necessary information to enable the Home Office to determine whether a statutory excuse has been established.

When considering whether a statutory excuse has been established, the Home Office will have regard to whether the employer has implemented and maintained these processes in a reasonable and proportionate manner. This includes where there is evidence that the substitution controls do not reflect how the working arrangements operate in practice.

Evidence that may be provided

This may include:

- details of contractual arrangements, or copies of agreements, or terms and conditions relating to substitution.
- records of right to work checks undertaken on substitutes.
- records demonstrating that substitutions were authorised in accordance with the employer's processes.
- records identifying the individual who carried out work and the period for which the work was undertaken.
- evidence of identity verification measures used to confirm that the individual carrying out the work was the same individual whose right to work had been checked.
- records of any audits or compliance activity undertaken by the employer, and
- evidence that appropriate action was taken where substitution occurred outside agreed processes or where illegal working was identified or suspected.

Where substitution is not permitted but occurs anyway

Extended liability is intended to ensure responsibility for the prevention of illegal working where an employer has a substitution clause in contractual terms and conditions, or in an agreement with a worker that permits them to substitute their work or services to another individual.
Substitution may occur in breach of contractual requirements where the employer has expressly forbidden it or does not allow any form of substitution to take place.

In these circumstances, the Home Office will consider whether a prescribed right to work check has been carried out on the worker that was directly employed. See Impersonation and imposters.

3. Identity verification

A person under a contract to provide work or services, an online matching service or an employer in the case of a substitution clause must have proportionate systems and processes in place to ensure that the individual carrying out the work or services is the same individual on whom a right to work check has been conducted.

Identity verification requirements are intended to provide assurance that the individual carrying out the work is the same individual whose right to work has been checked. The systems and processes should be proportionate to the nature of the work or services being undertaken, the level of risk and the contractual arrangements in place.

Examples may include:

- issuing identity cards or workplace passes.
- facial recognition technology, including use of registered RtW DVSPs.
- biometric or attendance management systems.
- checks against training records, qualifications or licences relating to the role.
- re-verification of identity at set intervals. For example, this may include when a worker starts a period or shift of work or when they have requested, or are allocated, a new piece of work or job role (such as a specific assignment service or task). The Home Office recommends that this occurs at least once in any 24-hour period or shift of work.

The purpose of re-verification is to provide reasonable ongoing assurance that the individual carrying out the work remains the same individual whose right to work has been checked. The frequency of re-verification should be proportionate to the nature of the work and the risk of substitution or impersonation. In some operating models, this may be achieved through controls at the start of each period of activity, when a worker is allocated a specific task or assignment, or through other systems that provide equivalent assurance.

A person, an online matching service or an employer may, as part of meeting these requirements, choose to use existing operational systems and controls, or rely on identity verification systems and processes operated by another party in the chain of contracts or by a third-party provider, including a registered RtW DVSP, provided that they have taken reasonable steps to satisfy themselves that those systems are effective and that the prescribed requirements are being met.

4. When are follow-up checks required?

Employers need to re-check the right to work of those individuals who have time-limited permission to work in the UK if they intend on continuing to employ them after their current permission expires. This check does not have to be the same type of right to work check as the initial check. They must do this on, or before, the date their permission comes to an end. This ensures they are not inadvertently employing anyone who no longer has the right to work and dissuades individuals from considering overstaying their immigration permission.

Employers will have a statutory excuse against liability for a civil penalty provided they carried out the initial check before they started employing the individual, and conducted any required follow-up checks as set out in legislation and published guidance that applied at the time the checks were made.

If the initial check confirmed the worker has settled status in the UK, or status under the EU Settlement Scheme, then there is no requirement to carry out a follow-up check.

If at the time of the follow-up check the worker is unable to provide evidence that they have continued permission to work, this may not necessarily mean that they no longer have permission to work. For example, the worker may benefit from 3C leave while their in-time application is being considered, or there may be a technical issue beyond the worker's control which results in the production of an incorrect share code, online right to work check result or them temporarily being unable to generate a share code.

In these circumstances, if the employer or worker needs help accessing or using the Home Office online immigration status services, they may contact the UKVI Resolution Centre on **0300 790 6268**. Please refer to the Support section of this guidance for more information.

Employers should provide workers with reasonable opportunity to prove that they continue to have a right to work. Employers are able to contact the ECS to confirm the right to work of a worker who is unable to do so online using a share code or via a manual document-based right to work check. Please refer to 'When to contact the Home Office Employer Checking Service to verify right to work'.

Contacting the Home Office

If an employer previously carried out a manual check of a physical document or a check via the online right to work checking service before they employed the individual and, on the date on which the employer's statutory excuse is due to expire, they are reasonably satisfied that their worker:

- has an outstanding application to extend or vary their permission to be in the UK; or

- has an appeal or an administrative review against a decision on that application which is pending; or

- is unable to provide acceptable documentation but presents other information indicating they are a long-term lawful resident of the UK who arrived here before 1988,

then their statutory excuse will continue from the expiry date of their worker's permission for a further period of up to 28 calendar days for the employer to obtain a Positive Verification Notice (PVN) from the ECS or carry out a Home Office online check.

The 28 calendar days 'grace period' **does not** apply to checks conducted before employment commences. In such circumstances, the employer should consider delaying employment of the individual until such time they are able to conduct a prescribed check or they receive a six-month PVN from the ECS, otherwise a statutory excuse will not be established.

The grace period will also end early if a Negative Verification Notice (NVN) is received from the ECS. In this case, it will end on the date of notification from the ECS of the NVN.

If, during either the initial 28 calendar days, or the six-month PVN period, the worker provides evidence that their case has been determined with permission to stay granted, the employer can maintain a statutory excuse for the duration of their immigration permission only by conducting a right to work check as prescribed and provided the check confirms they have a right to work in the job for which they are to be employed. A letter from a solicitor indicating a successful case outcome or a copy of a successful court judgment will not provide a statutory excuse by itself.

Employers can reasonably satisfy themselves that an individual has a pending application through, for example, a Home Office acknowledgment letter or a Home Office or appeal tribunal reference number and proof of date of postage in a 'digital' or 'non-digital' format. These documents will not provide the employer with a statutory excuse by themselves. Employers may wish to retain an original or electronic copy of this information to support that they are reasonably satisfied that a pending application has been made. If the worker cannot provide this evidence, this does not necessarily mean that they have not made an application, appeal or applied for an administrative review.

In the event that information, such as from a follow-up check, confirms a worker is working illegally in the employer's workforce, the employer will no longer have a statutory excuse if they continue to employ them in spite of that knowledge. Employers are advised to report the circumstances to the Home Office via the helpline on **0300 790 6268**. They must state that they are reporting illegal working in their workforce and request a Unique Reference Number (URN).

Transfer of undertakings (TUPE transfers)

Employers who acquire staff in cases of Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 transfers, are advised to undertake a fresh right to work check on acquired workers. Employers are not required to have a statutory excuse in respect of employment which commenced before 29 February 2008; where the individual has been in continuous employment prior to that date. This includes where employment has continued as part of a TUPE transfer.

While TUPE regulations provide that right to work checks carried out by the transferor (the outgoing employer) are deemed to have been carried out by the employer who acquired the worker(s) (the incoming employer) and as such, the acquiring employer obtains the benefit of any statutory excuse established by the outgoing employer, if the outgoing employer did not conduct the original checks correctly, the acquiring employer would be liable for a penalty if a worker, who commenced work on or after 29 February 2008, is later found to be working illegally. Also, a check by the acquiring employer may be the only way to determine when any follow-up check should be carried out in respect of workers with time-limited permission to work in the UK.

It is recognised that there may be practical implications for undertaking checks in these circumstances before employment commences, as such, a **60 calendar-day grace period** is provided from the date of the “relevant transfer[4]” of the business during which the acquiring employer should conduct a fresh check. There is no grace period for any subsequent follow-up checks.

The grace period applies in all situations where there is a relevant transfer[4], even if the transferring business is subject to “terminal” insolvency proceedings falling within regulation 8(7) of the 2006 TUPE Regulations, such as cases involving compulsory liquidation[5].

Changes in the employer’s legal constitution

A right to work check does not need to be repeated where the employer is the same entity and is only changing its legal status, for example, a change from a private limited company to a public limited company, a change from a partnership to a limited company, where there has been a limited liability partnership or a TUPE transfer within the same group of companies.

However, where there is any doubt, it is recommended that the employer does conduct a right to work check to prevent risk of liability for a civil penalty in the case the individual(s) in question are found to be working illegally.

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[4] as defined by Regulation 3 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the “**TUPE Regulations**”).

[5] The employment protections set out in Regulations 4 (continuation of employment) and 7 (protection from dismissal) of the TUPE Regulations are dis-applied in Regulation 8(7) cases.

5. What are the sanctions against illegal working?

A ‘whole government approach’ is adopted to address illegal working. Co-ordination across government agencies such as with HMRC and the Fair Work Agency is undertaken through the sharing of intelligence and joint enforcement operations to ensure that illegal working is detected effectively.

If an employer is found to be employing someone illegally and they have not carried out the prescribed checks, they may face sanctions including:

- a civil penalty of up to £60,000 per illegal worker.
- in serious cases, a criminal conviction carrying a prison sentence of up to five years and an unlimited fine.
- closure of the business and a compliance order issued by the court.
- disqualification as a director.
- not being able to sponsor migrants.
- seizure of earnings made as a result of illegal working.
- review and possible revocation of a licence in the alcohol and late-night refreshment sector and the private hire vehicle and taxi sector.

Employers may also appear in the publication of non-compliant employers in Employers: illegal working penalties.

The offence of employing an illegal worker

An employer will commit a criminal offence under section 21 of the IANA 2006, if they know or have reasonable cause to believe that they are employing an illegal worker. Employers may face up to five years’ imprisonment and/or an unlimited fine.

It is illegal to employ someone aged 16 or over who is subject to immigration control and who is not allowed to undertake the work in question by reason of their immigration status. The civil penalty scheme is the sanction applied in most routine cases involving the employment of illegal workers.

If an employer knows that they are employing someone who is not allowed to carry out the work in question, they will not have a statutory excuse, regardless of whether they have conducted right to work checks.

However, in more serious cases, prosecution may be considered where it is deemed the appropriate response to the non-compliance encountered.

Civil penalties

The amount of any civil penalty issued is determined on a case-by-case basis. The Code of practice on preventing illegal working: Right to Work Scheme for employers explains how a penalty is calculated, including mitigating factors which may reduce the penalty amount.

If found liable, an employer will be issued with a Civil Penalty Notice setting out the total penalty amount they are required to pay, and the date by which they must pay it. It will also inform them how they can exercise their right to object the notice, following which they will be able to appeal. The employer must always object against the penalty notice before appealing to the court, except if served with a penalty notice for a higher amount following an objection.

Further information is contained in the 'Employer's guide to administration of the civil penalty scheme' which sets out in more detail the stages of the civil penalty process, how the penalty is calculated, the range of notices an employer may receive and the deadlines by which they need to take action at each stage.

Receipt of a civil penalty could affect an employer's ability to sponsor migrants who come to the UK in the future. Being issued with a civil penalty may also affect their ability to hold a licence in the private hire and taxi licencing sector and in the alcohol and late-night refreshment sector. It may also have an adverse impact on an employer's ability to obtain future credit and act in the capacity of a director in a company. Employers may also appear in the publication of non-compliant employers on GOV.UK.

Where an employer is subject to immigration control and is liable for a civil penalty, this will be recorded on Home Office systems and may be taken into account when the Home Office considers any future immigration applications they make.

The offence of working illegally

The 2016 Act made it an offence to work illegally in the UK. An individual commits this offence if they are subject to immigration control and work when they are disqualified from working by reason of their immigration status. The offence applies when they know, or have reasonable cause to believe, that they are disqualified from working.

As well as including those working illegally under a contract of employment, the offence also applies to work undertaken by those who are self-employed. The offence covers both informal and formal working arrangements.

The offence carries a maximum penalty of six months' imprisonment and/or an unlimited fine in England and Wales and six months' imprisonment and/or a fine of the statutory maximum in Scotland and Northern Ireland. Wages gained from illegal working may be seized as the proceeds of crime and assets may be confiscated.

Closure notices and compliance orders

The 2016 Act (section 38 and schedule 6) introduced illegal working closure notice and compliance order provisions to provide a power to deal with those employers who have continued to flout the UK's laws by using illegal workers where previous civil and/or criminal sanctions have not curbed their non-compliant behaviour. Serious or persistently non-compliant employers may face temporary closure of their business and be placed under special conditions to support compliance, as directed by the Court, which may include inspections by Immigration Officers.

A closure notice prohibits access to the premises and paid or voluntary work on the premises, unless it is authorised in writing by the Home Office. It does not prevent access to the premises by any person who habitually lives there. In addition to the issue of the notice, consideration will also be given to the service of penalties or prosecution for illegal working and other immigration offences.

Whenever an illegal working closure notice has been issued, and which has not been cancelled, the Home Office must make an application by complaint to a Magistrates' Court for a compliance order. The application is sent to the Court and served on the respondent before the hearing and forms the basis of the application to the court for the compliance order.

Preventing illegal working in licensed sectors

The 2016 Act amended existing licensing regimes in high-risk sectors of the economy (private hire vehicles and the taxi sector as well as the alcohol and late-night refreshment sector). When considering applications for licences in these sectors, licensing authorities carry out right to work checks as prescribed in the Licencing authority guide to right to work checks. This is because they are under a duty not to issue licences to individuals who are disqualified from holding them due to their immigration status.

Where the holder of a licence breaches immigration laws or receives a civil penalty, this will be grounds for licensing authorities to review, suspend or revoke a licence. In the case of licences for sale and supply of alcohol and late-night refreshments, the Home Office, as a responsible authority under the Licensing Act 2003, receives a copy of these applications and may make representations to the relevant licensing authority when it is believed that to grant a licence, it will be prejudicial to preventing immigration crime and illegal working in licensed premises.

Immigration Enforcement have the same power of entry as licensing enforcement officers to facilitate joint operations and inspections for immigration offences in England and Wales in relation to the licensable activity. Equivalent provisions in regulations will be considered for Scotland and Northern Ireland.

6. Support

Support for employers carrying out right to work checks

In the first instance, it is recommended employers refer to the following:

- The online interactive tool: ‘Check if someone can work in the UK’
- An employer’s ‘Right to Work Checklist’
- The 'Code of practice on preventing illegal working: Right to Work Scheme for employers'
- The 'Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working'
- Guidance on 'An employer’s guide to the administration of the civil penalty scheme’
- The online interactive tool: 'Employer Checking Service (ECS)'
- ‘Guidance on examining identity documents’ to aid recognition of fraudulent identity documents.
- Compare identity and travel documents against archived images: ‘PRADO Public Register of Authentic travel and Identity Documents Online’ and ‘EdisonTD’.

Employer Enquiry helpline / Resolution Centre

If an employer requires help conducting a right to work check, they should call the Employer Enquiry helpline on **0300 790 6268**.

Reporting illegal working

If illegal working is suspected, for example because it is believed a worker does not have the right to work in the UK, has lost their permission to work, or has presented a false document or a genuine document that does not belong to them, employers should report the individual to the Home Office or call the Employer Enquiry helpline (above) selecting the employer’s option and requesting a **Unique Reference Number (URN)**.

Home Office training

The Home Office provides affordable training to help employers understand their responsibilities under the Right to Work Scheme. This includes a comprehensive online Right to Work course as well as a dedicated online course on Document Fraud awareness.

For further information, please contact the Immigration Sanctions and Compliance External Training Team at:

iscexternaltrainingteam@homeoffice.gov.uk or employers can book direct at:

https://www.eventbrite.com/cc/home-office-webinar-sessions-2650869

(Booking code: **RTWPOL.)**

Support for workers

If any existing or prospective workers require further advice or support with regard to their immigration status, they can access information on 'View and prove your immigration status: get a share code' on GOV.UK. This also provides further information on how to prove immigration status, how to update personal details, and support available to them.

If the worker needs help accessing or using their Home Office online immigration status services, including technical difficulties, they can contact the UKVI Resolution Centre: Telephone: **0300 790 6268**.

Workers can also report an error with their eVisa to the Home Office directly for example where their eVisa details are incorrect such as showing the wrong date of birth or immigration status, or they cannot view their eVisa because of a technical error.

7. Annex A: Lists of acceptable documents for manual right to work checks

Where a right to work check has been conducted using the online right to work checking service, the information is provided in real-time directly from Home Office systems and there is no requirement for employers to check any of the documents listed below.

List A – Acceptable documents to establish a continuous statutory excuse

List A contains the range of documents which may be accepted for checking purposes for an individual who has a continuous right to work in the UK (including British and Irish citizens). If the right to work checks are followed as prescribed, employers will establish a **continuous statutory excuse** for the duration of that individual's employment with them.

List A documents include:

1. a passport[3] (current or expired) showing the holder is a British citizen.

2. a passport or passport card[3] (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 ECS, 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[6].

5. a **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named individual 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 individual's permanent National Insurance number and their name issued by a government agency or a previous employer.

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[6] Definition includes those with a document which shows that the holder is entitled to readmission to the UK (RUK endorsement)' and ILR endorsements from a Crown Dependency.

6. a long or short birth[7] or adoption certificate issued in the UK, **together with** an official document giving the individual'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 individual's permanent National Insurance number and their name issued by a government agency or a previous employer.

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 – Acceptable documents where a time-limited statutory excuse lasts until the expiry date of leave to enter or remain

List B contains the range of documents which may be accepted for checking purposes for an individual who has a temporary right to work in the UK. If the right to work checks are followed as prescribed, employers will establish a **time-limited statutory excuse**. Employers will be required to carry out a follow-up right to work check.

List B Group 1 documents include:

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[8].

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 ECS, 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 individual may stay in the UK and is allowed to do the type of work in question, **together with** an official document giving the individual's permanent National Insurance number and their name issued by a government agency or previous employer.

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[7] Definition includes a birth certificate issued by a UK diplomatic mission (British Embassy or British High Commission) and consular birth certificates.

[8] 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.

List B Group 2 – **Acceptable** where a time-limited statutory excuse lasts for **six months**

List B Group 2 documents include:

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 or EUSS) on or before 30 June 2021 **together with** a Positive Verification Notice from the ECS.

2. a Certificate of Application (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 or EUSS), on or after 1 July 2021, **together with** a Positive Verification Notice from the ECS.

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 (Bailiwick of Guernsey) Rules 2008, or Appendix EU to the Isle of Man Immigration Rules **together with** a Positive Verification Notice from the ECS.

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 ECS.

5. a Positive Verification Notice issued by the ECS to the employer or prospective employer, which indicates that the named individual may stay in the UK and is permitted to do the work in question.

8. Annex B: Employment of specific categories of workers

Sponsored work routes

Employers will usually need a sponsor licence to employ someone to work for them from outside the UK. This includes EEA citizens who arrived in the UK after 31 December 2020.

A sponsor licence will not be needed for employment of certain categories of workers, including:

- Irish citizens.
- those with settled or pre-settled status under the EUSS.
- those with settlement in the UK.

For an overview of the requirements for a sponsor licence, see 'UKVI Visa sponsorship for employers on GOV.UK'.

For detailed information on the duties and responsibilities of licenced sponsors, see 'Workers and Temporary Workers: guidance for sponsors' on GOV.UK.

Supplementary Employment

As per the Skilled Worker guidance, a Skilled Worker can undertake supplementary employment if the supplementary employment is in:

- The same profession and at the same professional level as the job for which they are being sponsored.
- An occupation listed in Tables 1, 2 or 3 (RQF 6 occupations) of Appendix Skilled Occupations; or
- A role on the Immigration Salary List.

The above applies where they were first granted permission as a Skilled Worker under the Immigration Rules in place from 22 July 2025.

For individuals first granted permission as a Skilled Worker under the Immigration Rules in place before 22 July 2025, they can also work in an occupation listed in Tables 1a, 2aa or 3a of Appendix Skilled Occupations. This includes individuals who have since been granted further permission under the post-22 July 2025 Immigration Rules, provided they have had continuous permission as a skilled worker under the rules in place before 22 July 2025 (RQF 3-5 occupations).

Workers on the following sponsored routes can only undertake supplementary employment that appears in Appendix Immigration Salary List or is in the same profession and at the same professional level as the job for which the certificate of sponsorship (CoS) was assigned:

- Global Business Mobility: Senior or Specialist Worker (applicants granted under the rules before 11 April 2022 who have had continuous permission in that route only)
- T2 Minister of Religion
- International Sportsperson
- Creative Worker
- Religious Worker
- International Agreement
- Government Authorised Exchanges

Unless an exception applies in the Sponsorship guidance, the supplementary employment will only be permitted if the sponsored worker continues to work for their sponsor.

In any case, where an employer is offering supplementary employment to an eligible sponsored worker, the supplementary employment must not:

- exceed 20 hours per week in total (whether for one or multiple employers)
- take place during the contracted hours for their sponsored employment

In order to obtain a statutory excuse against a civil penalty, employers are required to confirm that the worker has the right to work in the UK and is allowed to carry out the work in question. When carrying out the check, the employer will need to ensure that the supplementary employment meets the above requirements by, for example, asking the worker to provide a letter or other evidence from the sponsor confirming:

- they’re working for their sponsor.
- the job description and occupation code of their sponsored employment (for routes other than Skilled Worker whose supplementary employment is not in the Immigration Salary List).
- their contractual working hours.

Employers will not have a statutory excuse if, during the course of employment, they become aware that a sponsored worker is working in breach and they continue to employ them in spite of that knowledge.

If, at any point during the course of employment, an employer believes that the sponsored worker may have ceased working for their sponsor, or that their contractual hours have changed, they should request further information to confirm whether they are still eligible to carry out the supplementary employment.

If an employer identifies that the sponsored worker is working in breach, they are required to take the appropriate action. This may include contacting the Home Office for support and/or taking steps to terminate employment.

For further information on supplementary employment, see Sponsor a worker: sponsor guidance part 2 - GOV.UK (www.gov.uk) section S8 of Part 2 of the sponsor guidance (sponsor a worker).

Students

Not all international students are entitled to work while they are in the UK, but some are allowed to take limited employment if the conditions of their permission to study permit this.

A student who has been granted permission to be in the UK will have an eVisa. Employers can do a check by using the online service to determine whether the student is permitted to work and what restrictions apply.

Alternatively, they may have an endorsement in their passport which states whether they are permitted to work and the number of hours of work permitted during term time, for example,10 hours or 20 hours a week.

A week is considered in this context to run from Monday to Sunday. If permission to work is not stated in one of these documents, the student is not permitted to work other than work in relation to integral and assessed work placements. Students who have the right to work are permitted to work full-time before their course starts, during vacations or during the period they hold permission for after they have completed their course.

Study term times may end on any day of the week, depending upon the education provider. Therefore, if the educational institution’s term time ends on a Friday, full-time work would be permitted from the next day (in this scenario, a Saturday). Students should confirm with their sponsor what the term end date is and verify this with their employer as part of the right to work checking process when considering working full time hours. This will allow employers to ensure students are not in breach of their visa conditions.

Students are not permitted to fill a permanent full-time vacancy unless they are working as a Student Union Sabbatical Officer or applying to switch into the Skilled Worker or Graduate routes during their study. The Immigration Rules allow students with valid applications for these routes to take up permanent, full-time vacancies either up to three months prior to the course completion date for the Skilled Worker route, or once they have successfully completed their course of study for the Graduate route.

Students are not permitted to work as an entertainer or professional sportsperson. Students are also not permitted to be self-employed unless they have made an in-time application for the Innovator Founder route, supported by an endorsement from an Innovator Founder endorsing body, and that application remains outstanding.

For students who have limited permission to work during term-times, employers must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed.

The dates should be provided by the sponsoring education provider, either directly or indirectly if the student is providing a letter or email which they have received from their sponsoring education provider, setting out the required details.

It is for the employer to determine if the information provided is sufficient, whether received from the sponsoring education provider directly or via the student. For instance, where information showing course dates on the education provider's website differs from that in any letter received, the employer may wish to seek further clarification.

More information about student work entitlements is available in the Student route caseworker guidance and section 6 of the Student sponsorship duties guidance.

Work placements

Work placements are intended to enable the student to gain specific experience of working in the field for which they are studying. Work placements are distinct from any employment that a student may (if permitted) take while they are following a course of study.

Students, including child students aged 16 or over, are allowed to undertake work placements where they are integral to the course and are assessed as part of the course. Where their student sponsor is a Probationary Sponsor, such courses must be at least RQF level 6 or SCQF level 9. Activity as part of a course-related work placement is restricted to no more than one third of the total length of the course undertaken in the UK unless:

- the student is following a course at degree level or above and is sponsored by Higher Education Provider (HEP) with a track record of compliance, or by an overseas HEI to undertake a short-term Study Abroad Programme in the UK, in which case the work placement is restricted to no more than 50 per cent of the total length of the course.

- the student is a child student aged 16 or over, in which case the work placement can form no more than 50 per cent of the total length of the course.

- there is a statutory requirement for the course to include a specific period of work placement which exceeds this limit.

Student sponsors should provide a **letter** addressed to the employer (work placement provider) confirming that the work placement forms an integral and assessed part of the course and does not, by itself or in combination with other periods of work placement, breach the above restrictions.

The letter must also include the terms and conditions of the work placement, including the work that the student will be expected to do, and how and when they will be assessed. Employers are strongly advised to obtain and retain such a letter as evidence of the work placement and that the work placement restrictions have not been breached, as the employer may be liable for a civil penalty if their student worker does not comply with their immigration conditions.

While the student worker is undertaking a work placement as required by their course, this period of placement does not count towards the period of term time employment permitted by their immigration conditions.

Further information on Student visa, including work placements, is available on GOV.UK.

The student route replaced Tier 4 on 5 October 2020. Where a student holds Tier 4 leave, they will be considered to hold the same work rights as someone who holds Student immigration permission.

Impact of a change in circumstances on a student's right to work

The student has made an application to the Home Office to vary their immigration permission – If the student is in the UK and has made a valid in-time immigration application (one made before their existing immigration permission expired), their existing conditions and work entitlements continue until their application is decided. If the application is approved, their immigration permission will be varied, and they will get new conditions of permission to stay. If the application is refused, their existing conditions continue to apply until their immigration permission expires.

The student has stopped studying or their sponsor has lost its licence – If there has been a significant change in the student's circumstances which means they no longer qualify for their grant of Student immigration permission, the Home Office will curtail their permission. Any permission to work will expire on the new date that the student's leave will expire following curtailment. Curtailment can be with immediate effect or take effect 60 calendar days from the date the student was notified that their permission was curtailed.

Volunteering, voluntary work and voluntary fieldwork

A volunteer is not the same as a voluntary worker. Volunteers are those who give their time for free to charitable or public sector organisations willingly without compensation and any contractual obligation or entitlement. Visitors can volunteer for a registered charity for a maximum of 30 calendar days during their visit, but volunteering cannot be the main purpose of their visit and they cannot do voluntary work. Asylum seekers can also volunteer whilst their claim is considered without being granted permission to work, but they can only carry out paid work if they have been granted permission to work under Paragraph 360 or 360C of the Immigration Rules.

An individual is generally understood to be a genuine volunteer (and not a worker) if there is no intention to create legal relations i.e. there is no contractual relationship, they are not obliged to work and are unpaid (except some limited expenses).

Voluntary workers would have a contractual obligation to personally perform work or provide services and carry out specific tasks. The contract does not have to be in writing.

An individual will only be a Voluntary Worker if they work for (or are employed by) a charity; a voluntary organisation, an associated fund-raising body (e.g., a charity shop) or a statutory body (e.g., a school or hospital) in circumstances in which the worker receives:

- no money payments of any description, or no monetary payments except:
    - in respect of expenses actually incurred in the performance of the worker's duties; or
    - reasonably estimated as likely to be or to have been so incurred in the performance of their duties.
- no benefits in kind of any description other than the provision of some or all of the worker's subsistence or of such accommodation as is reasonable in the circumstances of the performance of their duties.

A worker is not a Voluntary Worker and will need permission to work (paid or unpaid) if they work for an organisation other than those listed above, and/or they receive any other kind of monetary payments or benefits in kind.

Some individuals who have been granted immigration permission are permitted to carry out voluntary work. Students, including child students aged 16 and over, can do voluntary work if they are permitted to work, but must not exceed the total number of hours they are permitted to work. For example, if a student is permitted to work 20 hours a week during term-time and has paid work of 15 hours a week, they cannot do more than 5 hours voluntary work. If they are not permitted to work, they cannot do voluntary work.

Charitable organisations looking to employ a voluntary worker for up to twelve months may need to apply for a sponsorship licence under the Charity Worker route in certain circumstances. Under that route, sponsors must ensure the role meets the requirements for voluntary work and that the worker is not paid or otherwise remunerated, including receipt of benefits in kind, except for reasonable expenses as defined in the National Minimum Wage Act 1988.

Charity Workers are only permitted to carry out voluntary fieldwork, as defined by the Immigration Rules. Charity Workers are not permitted to carry out routine back office administrative roles, retail or other sales roles, fund-raising roles, roles involving the maintenance of the sponsor's office and other assets or other work ancillary to the sponsor's charitable purposes.

An individual may be committing a criminal offence by knowingly engaging in voluntary work or voluntary fieldwork without permission (or with reasonable cause to believe they do not have permission). Where a voluntary worker or charity worker is employed, the employer may also be liable for a civil penalty if they knowingly employ that worker without permission (or if they have reasonable cause to believe that the worker does not have permission to carry out the work in question).

If in doubt about whether a specific opportunity constitutes work (paid or unpaid), a Voluntary Worker, voluntary fieldwork or volunteering, employers should seek independent legal advice.