

HOW TO...CHECK 'RIGHT TO WORK' IN THE UK

The law

Under the *Immigration, Asylum and Nationality Act 2006*, it is a criminal offence to employ someone you know, or have reason to know, is an illegal worker. You can face an unlimited fine, and up to five years in prison if you do this.

You can also receive a civil fine of up to £20,000 if you're found to be employing an illegal worker and have not carried out the correct checks

You are therefore required to check for the right to work in the UK. You are also required to ensure your employees have the continued right to be employed.

Statutory Excuse

If you have employed someone who does not have the right to work, but you can show you have correctly completed the right to work check, you will not receive a civil penalty for that illegal worker.

Valid evidence of Right to Work in the UK

The Home Office list the documents you may accept from a person to demonstrate their right to work in the UK. There are two lists (List A and List B).

Click here for the [Home Office Guide](#)

Manager's Checklist:

1. **Treat all potential and existing employees the same to avoid discrimination**
 - ✓ Don't just check people who you think are migrants
2. **State the need for the right to work in the UK on your recruitment materials**
 - ✓ Include the need to have the right to work in the UK on your job adverts
 - ✓ Ask about right to work in the UK on your application form
3. **Obtain the employee's original identity documents**
 - ✓ Ask applicants to bring their documents to the interview
4. **Check the documents are valid with the person present**
 - ✓ Take a good look at the documentation to ensure it is genuine and in date
 - ✓ Feel the documents. Fakes can sometimes feel different to originals
 - ✓ Make sure the person is the potential employee or employee *and* the legal holder of the documentation
 - ✓ Check they can do the type of work you are offering
 - ✓ Check photos and dates of birth are the same across documents
 - ✓ Check the likeness of the photo and the person to ensure validity
 - ✓ Ensure any dates for permission to be in the UK have not expired
5. **Copy and retain the documents securely**
 - ✓ Retain all relevant documents in line with the GDPR requirements
6. **Keep a record of the checks you complete, include**
 - ✓ The date the check was completed and by who
 - ✓ The document checked
 - ✓ The document reference number and expiry date
 - ✓ Relevant comments (EG: the reasons for difference names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll).

I hope you found this guide useful. Contact me at karen@KDHRolutions.com if you would like more information.