Ruth Seddon HR

Proof of Eligibility to Work in the UK

All employers have an obligation to prevent illegal working and you should carry out a right to work check on all employees before they do any work for you. If they have a temporary right to work you must check them again before their right to work is due to expire.

Getting it wrong can result in a criminal conviction with an unlimited fine and prison sentence of up to 5 years if you knowingly employ an illegal worker or had reason to believe they were not entitled to work. If you unknowingly employ someone not entitled to work, it is a civil offence and can result in a fine (up to £20,000 per worker), but if you have checked the employee's status before they start work, it is a valid defence in court.

Here is a summary of the rules, using the most common situations; more detailed guidance is available at:
https://www.gov.uk/government/publications/right-to-work-checks-employers-guide

In checking documents for British or Irish workers:

1. You can ask for physical documents, if so you should check them in the presence of the employee and take a copy/scan, recording the date of the check
2. Until 30 September 2022, you can still do checks over a video call, by asking the worker for a scanned copy in advance, then ask them to hold the original document up to the camera, recording the date of the check
3. From 1st October 2022, it is anticipated that employers will be able to do digital identity checks using an digital identity validation technology provider, who will conduct checks and supply them to the employer at a cost which is yet to be identified.

For foreign workers:
Foreign workers must now give you a check code; you will need this and the employee's date of birth and you can check their status online at the following address:
https://www.gov.uk/view-right-to-work

You should check the photo on the website is the person in front of you and download a copy of the check, following the instructions (their permit may have an expiry date so you need to recheck later or they may have permanent right to work for example).

Valid Documents for UK and Irish Citizens

Any of the documents listed below will provide the necessary evidence of the right to work in the UK. The document provided must be the original.

- A passport showing that the holder is a British or Irish citizen or has the right of abode in the United Kingdom.
- A passport or other Immigration Status Document endorsed to show that the holder can stay indefinitely in the United Kingdom, has the right of abode in the UK or has no time limit on their stay.
- A birth or adoption certificate issued in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or previous employer.

- A certificate of registration or naturalization 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 previous employer.

Sponsor Licence

If you want to employ a non-UK national after 1st July 2021, you will need a sponsor licence. This does not apply to Irish citizens, anyone with settled (5 years' continuous residence in the UK) or pre-settled status (less then 5 years' continuous residence in the UK) or those with indefinite leave to remain.

This is a points-based immigration system and employees must have a minimum of 70 points to qualify for a right to work.

You should check the government website:
www.gov.uk/uk-visa-sponsorship-employers

You will need to ensure you have some basic HR systems in place to:

- monitor your employees' immigration status
- keep copies of relevant documents for each employee, including passport and right to work information
- track and record employees' attendance
- keep employee contact details up to date
- report to UKVI if there is a problem, for example if your employee stops coming to work

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