

# Prevention of Illegal Working Policy

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## Policy Statement

As an employer of choice, we continue our mission of providing the opportunities to establish a diverse culture and workforce. This is often supported by establishing an open dialogue with overseas talent. However, as an employer, we have a responsibility to prevent illegal working in the UK. Additionally, to help prevent illegal working, all employers are required to conduct prescribed right to work checks on each new employee that they hire, regardless of a persons nationality or ethnic origin.

Kiwa works in alignment to The Immigration, Asylum and Nationality Act 2006, which places the requirement for all employers to conduct basic document checks on every person that they intend to employ. By completing the document checks, we remain compliant against our legal obligations.

Consistent and comprehensive document checks are essential to the operational safety of our business. It is important to remember that document checks in relation to Right to Work are conducted on all employees within the business, regardless of their race, ethnicity, or nationality.

The Home Office Guidance for the prevention of illegal working, sets out the main parameters included in this policy and can be found on the home Office website at the following location:

**[Code of practice on preventing illegal working, in force from 13 February 2024](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115242/code-of-practice-on-preventing-illegal-working.pdf)**  
**[\(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115242/code-of-practice-on-preventing-illegal-working.pdf)**

## Principles

### Who does this policy apply to?

This policy applies to all Kiwa UK Group employees, external visitors (excluding day visitors), contractors, agency workers and prospective employees, irrespective of race, ethnicity, or nationality.

## **Delegation**

It is the responsibility of the Hiring Manager or Line Manager to complete a satisfactory Right to Work check for new or prospective employees during the recruitment process, or before the first day of employment.

For external visitors, contractors, or external vendors of any kind, it is the duty of the person to whom the contract is aligned with, for example, the Business Unit Leader or Line Manager.

The Kiwa UK HR Operations team are permitted to support with conducting satisfactory Right to Work checks when required and remain responsible for ensuring Hiring Managers and Line Managers are aware of the parameters which constitute to each Right to Work Check in-line with the Home Office guidance for the prevention of illegal working.

## **Why is it important?**

It is unlawful to employ anyone who does not have the right to work in the UK. As a business, if we are found to have employed an illegal worker, we could be subject to a fine of up to £20,000 per illegal worker.

Furthermore, it is also a criminal offence to knowingly employ an illegal worker and if found guilty of this offence we may face an unlimited fine and the individuals responsible for not completing a satisfactory check, could face up to five years imprisonment.

To remain a diverse employer, we are permitted to uphold our standing with the Home Office in more general terms, i.e. ensuring we continue to retain our licence as a sponsor of employees under Tier 2 of the UK's Points Based System. If we are found to be employing an individual illegally, there is a risk of putting the company into reputational disrepute.

Given the severity and importance of these requirements, all Kiwa UK employees are expected to adhere to this policy. A failure to comply, will be treated as a disciplinary offence which, depending on the circumstances, could be considered an act of gross misconduct and potentially lead to dismissal in your role.

## **Timelines of checks**

### **When must a Right to Work check be completed?**

For prospective employees, the right to work checks should be conducted at the interview stage of the recruitment process. If, for any reason, this is not possible, the necessary documents must be presented and **verified prior to the first day** of employment.

Only original documents are valid, and the individual must be present at the point of check (either in person or via a live video link. However the option of a video verification is only available if the Employer is in receipt of the original documents). If the relevant documents have not been checked and verified, the individual will not be permitted to commence their employment with us.

As per the Kiwa UK Offer Letter and Contract of Employment, all offers of employment are contingent on the basis of a successful and valid Right to Work check. The offer of employment may be withdrawn if an employee is unable to adequately prove they have a Right to Work in the UK.

Applicants will not be entered onto the relevant HR System or Payroll System without evidence of their Right to Work in the UK.

### **Who has responsibility for carrying out the initial checks?**

Line Managers or Hiring Managers have the primary responsibility of carrying out the necessary checks, supported by the Kiwa UK HR Operations team.

### **How to complete a check**

There are three legally compliant ways to establish a Right to Work:

- A manual check – see **Manual Checks** below
- An online check – see **Home Office online Right to Work check** below
- Via a third party – see **Third Party Checks** below

### **Manual checks**

The process of conducting a legally compliant Right to Work check can be organised into the following 3 steps:

#### **Step 1:**

Employer obliged to ask for, and accept, only original documents, consisting of either:

- One of the single documents, or two of the documents in the specified combination given, from List A (attached to this Guide as Appendix A); or
- One of the single documents, or two of the documents in the specified combination given, from List B (attached to this Guide as Appendix A)

#### **Step 2:**

Once you have the physical document in hand, you must take reasonable steps to satisfy yourself that the person presenting the documents is the rightful holder and is allowed to undertake the work that we are offering, by:

- Ensuring the photographs are consistent with the appearance of the person presenting them. (This means that you will need to see the individual when they present their documents to you – this can be done in person or by live video link, but the employer must be in possession of the original documents. For a video verification an individual can send their documents by secure post to enable the employer to conduct the check with them via video link, but the employer may not rely on the inspection of the document via this link, or by checking a scanned or faxed copy of the document.)
- Checking the consistency of the date of birth on all the documents presented and that it matches with the person's appearance (this again means that you will need to see the individual when they present their documents to you);
- Checking that the expiry dates of any visas have not passed (this means that you will need to carefully examine any visas to check they are still valid); and
- Checking any UK government endorsements (biometric resident permits, stamps, stickers, visas etc) to see if the person is able to do, or to continue to do, the type of work being offered. (This means that if a person has restrictions on the type of work they can do, or the number of hours they can work, you need to be satisfied that their work does not contravene these requirements).
- You should satisfy yourself, as far as possible, that the documents are genuine, have not been tampered with, and belong to the holder. If you have any concerns at this point, contact the Kiwa UK HR Operations team.

If you are given two documents which state different names, you will need to ask the individual for a further document to explain this discrepancy (for example, a marriage certificate, a divorce decree absolute, a deed poll, or a statutory declaration). Again, you will need to see the original of this document.

### **Step 3:**

You must take a copy of the relevant page(s) of the document(s). This copy must be clear and please make sure it is possible to identify any photos/stamps/endorsements etc.

In the case of a passport, or other travel document, you must copy or scan:

- Any page containing the holder's personal details (in particular, details of nationality, date of birth, a photograph, signature, date of expiry or biometric details); and
- Any page containing UK Government endorsements showing that the holder has permission to be in the UK and has the right to carry out the work in question.

All other documents must be copied in full.

The Line Manager checking the document must certify the copy, using the Kiwa UK Right to Work Verification Template, contained in Appendix C, as being a true and accurate copy of the original

document and that the original document has been seen. The Line Manager must also sign, print their name and date the template and then send a copy to [uk.hr@kiwa.com](mailto:uk.hr@kiwa.com) to save on file.

## Accepted documents

### What is considered as an acceptable document?

There are strict rules around which documents will be acceptable to prove that an individual has the Right to Work in the UK.

The Home Office has published detailed guidance regarding the documents that must be checked. They are separated into two types - List A and List B documents.

Please note, List B consists of two distinct groups of documents that have specific time limited requirements placed on them. Only documents included on these lists are acceptable. No other documents will be accepted by the Home Office.

Outside the attached appendices below, please see link on a full guide for employers on preventing illegal working in the UK:

<https://www.gov.uk/government/publications/right-to-work-checkemployers-guide>

### List A Documents

Documents that fall within the List A category show that the holder is not subject to immigration control or has no restrictions on their ability to be in the UK, so they have an ongoing right to work in the UK. These documents only need to be checked once, at the point of recruitment. A copy of List A is included at Appendix A of this Guide.

We have set out below some of the documents which you are most likely to be presented with when you conduct these checks. However, you should speak to the Kiwa UK HR Operations team if you are in any doubt about whether the document which you have seen gives an employee the correct Right to Work.

- UK passport
- Irish passport
- A P45/P60/NI number card AND a birth or adoption certificate issued in the UK, Ireland or Channel Islands
- 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.

### List B Documents

Documents that fall within the List B category (either Group 1 or Group 2) show that the holder has been granted leave to enter or remain in the UK for a limited period of time or that they have restrictions on their Right to Work. These documents need to be checked at specified times in accordance with Appendix B of this Guide.

- Current passports 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.

### **Retaining Copies of Right to Work Documents**

After the List A or B documents have been verified and checked (as per the 3 Steps set out above), the certified template must be sent to the Kiwa UK HR Operations team via [uk.hr@kiwa.com](mailto:uk.hr@kiwa.com), where we can securely save the document on the employee's personnel file, upload to our HR365 people system and to the payroll system. Access to these documents will be via the individual's request to view their personnel file.

Copies must be kept on file for the duration of the person's employment, and for two years after they have left their employment. This is a Home Office requirement to which we must comply.

### **Repeat Checks**

#### **When are the repeat checks necessary?**

Repeat checks are required if the individual has a time limit on their ability to enter or remain in the UK or has restrictions on their Right to Work.

The repeat document checks must take place in accordance with the requirements shown at Appendix B, or, if the Right to Work is dependent on a visa, on expiry of the visa, whichever is sooner. The repeat checks are in addition to the initial checks carried out at the commencement of employment. A requirement for a repeat check will be monitored by HR.

Please note that if, on a repeat check, an individual presents a List A document, then no further checks are necessary for the duration of the person's employment with us. In all cases, the relevant documentation must be presented to the Kiwa UK HR Operations team for retention as above.

#### **How is a repeat check carried out?**

If a repeat check is required, please repeat Steps 1 to 3 of the above Manual Checks section.

In summary, original documentation should be viewed, copied and verified, and the copy should be kept on the individual's personnel file.

#### **Who has responsibility for carrying out the repeat checks?**

The responsibility of a repeat check will remain with the employee's Line Manager. However, Kiwa UK HR Operations team will send a reminder to the Line Manager when this is required.

### **Home Office online Right to Work check**

Biometric Residence Card (BRC), Biometric Residence Permit (BRP) and Frontier Worker Permit (FWP) holders are no longer permitted to be checked via a manual check. Therefore all checks for

BRC, BRP or FWP as proof of Right to Work must be done using the online Right to Work check service.

A Home Office online Right to Work check will provide Kiwa with a statutory excuse against a civil penalty in the event of illegal working involving the subject of the check, provided the check is carried out before the commencement of employment and at the prescribed intervals.

It will not be possible to conduct a Home Office online Right to Work check in all circumstances. In circumstances in which an online check is not possible, you should complete a manual check.

Please see the following steps to conduct an online right to work check:

1. Use the [Home Office online Right to Work checking service](#) on GOV.UK, enter the 'share code' provided to you by the individual. You will also need their date of birth to proceed.
2. Check that the online image confirms that the employee named is allowed to work in the UK and also is allowed to carry out the work in question.
3. Satisfy yourself that the photograph on the online Right to Work check is of the individual presenting themselves for work (i.e. the information provided by the check relates to the individual and they are not an imposter). This can be done in person or by video call.
4. If the employee or prospective employee is a student who has permission to work for a limited number of hours per week during term time whilst studying in the UK, obtain and retain details of the term and vacation dates of the course that the employee is undertaking.
5. Retain evidence of the online Right to Work check. This should be the 'profile' page confirming the individual's Right to Work. Verify by signing and dating a copy of an online check, then send it to HR Operations. This information will be stored securely, (electronically or in hardcopy) for the duration of employment and for two years afterwards. The file must then be securely destroyed. You should also be able to produce these document copies quickly in the event that you are requested to show them to demonstrate that you have performed a Right to Work check and retain a statutory excuse.

We encourage the individual carrying out the online check to include the following (or similar) declaration in line with the check:

'I confirm that I have carried out the Right to Work check above in compliance with the instructions within and I believe a valid statutory excuse is established for this worker.'

The Kiwa HR Operations team will usually conduct the online Right to Work check, as the need for this type of check will be flagged during the pre-employment process, via the iCIMS (our Applicant Tracking System) onboarding process. However, there may be occasions where the HR Operations team might pass this task onto the Line Manager. This will be clearly communicated so the lines of responsibility are clear.

### **Third party checks**

As an alternative to manual checks, there is an online alternative. Checks can be run via a certified digital identity service provider (IDSPs). IDSPs utilise Identification Document Validation Technology (IDVT) to carry out digital identity checks on behalf of British and Irish citizens who hold a valid passport (including Irish passport cards).

Using an IDSP incurs a per-employee cost. As such, our preference is to utilise **Manual checks** as a preference for British and Irish citizens who hold a valid passport (including Irish passport cards). However, if Line Managers are experiencing significant barriers to carrying out manual checks prior to first day of employment, please speak to the HR Operations team for support. We have engaged with a certified IDSP who we can utilise if there is a business need to do so. Kiwa recognises the importance of conducting an accurate and compliant right to work check and will utilise an IDSP if this is our last available route to do so.

If a Line Manager is unsure whether to utilise manual checks or online checks, they can ask the HR Operations team for guidance or utilise this very useful Home Office tool: ['Check if someone can work in the UK'](#).

## **Appendices**

### **Appendix A - Documents which show an ongoing Right to Work**

Please see GOV.UK official guidance here: [Employers' right to work checklist \(accessible\) - GOV.UK \(www.gov.uk\)](#)

### **Appendix B – Documents which show a Right to Work for a limited period of time**

Please see GOV.UK official guidance here: [Employer's guide to right to work checks: 8 February 2024 \(accessible\) - GOV.UK \(www.gov.uk\)](#)



## Appendix C- Example of Right to Work Verification

**Employee Name:**

Line Manager / Verified by:

Place/Scan document in this box

**I certify that this is a true likeness of **EMPLOYEE NAME** against the original document which I have seen in person.**

Signature

Print Name:

Date of Check:

Job

