

Guidance On Importance of obtaining evidence that potential employees are legally permitted to work in the UK.

IMPORTANT
Document Checks to be made on every new employee

Section 8 of the Asylum and Immigration Act 1996 requires all employers in the UK to make basic document checks on **every person** they intend to employ.

As of 1st May 2004, the Government will introduce changes to the types of document which will need to be checked to avoid employing people who are not legally permitted to work in the UK

IT IS IMPORTANT THAT : Steps 1-3 be followed for **every new employee** who you may be considering employing from 1st May onwards.

By following these steps you will be ensuring that as an Authority our recruitment practices comply with the new requirements for establishing a defence, and will not be prosecuted for employing a person illegally. At present, the current penalty for employing illegal workers is £5,000.

Step 1

You should ask potential employees to provide:

- **One** of the **original** documents included in **List 1**
- or**
- **Two** of the original documents in the combinations given in **List 2**
- Potential employees do not have to produce documents from both **List 1** and **List 2**.

Step 2

Carry out the following **reasonable** steps when checking documents.

- Check any photographs to ensure that you are satisfied they are consistent with the appearance of your potential employee.
- Check that dates of birth are consistent with the appearance of your potential employee.
- Check expiry dates have not passed
- Check for any UK Government stamps or endorsements
- If potential employee gives you two documents from **List 2** which have different names, request further documents to explain reason.

Step 3

Make a photocopy of the following parts of all documents:

- Front cover and all pages which give personal details especially page with photographs and signature.
- Any page containing UK Government stamps or endorsements.

It is important that you keep a record of every document you have copied.

List 1

Documents which Provide Defence if Produced Alone

Any one of the documents included below in List 1 will provide you with the defence if you check and copy them.

- A passport showing that the holder is a British Citizen, or has a right of abode in the United Kingdom.
- A document showing that the holder is a national of a European Economic Area country (listed on pages 13-14) or Switzerland. This must be a national passport or national identity card.
- A residence permit issued by the United Kingdom to a national from a European Economic Area country or Switzerland.
- A passport or other document issued by the Home Office which has an endorsement stating that the holder has a current right of residence in the United Kingdom as the family member of a national from a European Economic Area country or Switzerland.
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the United Kingdom, or has no time limit on their stay.
- A passport or other travel document endorsed to show that the holder can stay in the United Kingdom; and that this endorsement allows the holder to do the type of work you are offering if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment.

Once you have checked one of these documents from your potential employee, there is no need to ask for any further documents from **List 2**.

List 2

Documents which Provide the Defence if Produced in Combination

List 2 covers the combinations of documents which will provide you with the defence. Once you have done this, you do not need to ask for any further documents contained in **List 1**.

You **will not** have the defence if you see one document from the first combination and one from the second combination.

First Combination

- a) A document giving the persons permanent National Insurance Number and name This could be a P45, P60, National Insurance card, or a letter from a Government agency.

Along with checking and copying a document giving the persons National Insurance Number, you must also check and copy only one of the following documents listed in sections B-H:

- b) A full birth certificate issued in the United Kingdom, which includes the names of the holders parents; **OR**
- c) A birth certificate issued in the Channel Islands, the Isle of Man or Ireland; **OR**
- d) A certificate of registration or naturalisation stating that the holder is a British Citizen; **OR**
- e) A letter issued by the Home Office which indicates that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; **OR**
- f) An Immigration Status Document issued by the Home Office with an endorsement indicating that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; **OR**
- g) A letter issued by the Home Office which indicates that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering; **OR**
- h) An Immigration Status Document issued by the Home Office with an endorsement indicated that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering.

Second Combination

- a) A work permit or other approval to take employment that has been issued by Works Permit UK.

Along with a document issued by Works Permits UK, you should also see, check and copy one of the following documents listed B-C:

- b) A passport or other travel document endorsed to show that the holder is able to stay in the United Kingdom and can take the work permit employment in question; **OR**
- c) A letter issued by the Home Office confirming that the person named in it is able to stay in the United Kingdom and can take the work permit employment in question.

All of the documents contained in both List 1 and List 2 do not have the precise wording contained in the law. If you would like to obtain a full legal description of the changes, this will be available in the booklet the Home Office will be producing alongside this guidance.

Documents that will no longer provide you with part of your defence

There may be some documents that you routinely check at present to establish the defence which will be removed entirely from both **List 1** and **List 2** when the changes come into force. You should no longer check for the following documents from 1st May 2004.

- A Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the United Kingdom. If you are presented with these documents then you should advise the applicant to call the Home Office on 0151 237 6375 for information about how they can apply for an Application Registration Card;
- A letter issued by the Home Office stating the holder is a British Citizen;
- A passport describing the holder as a British Dependant Territories Citizen which states that the holder has a connection with Gibraltar;
- A short birth certificate issued in the United Kingdom which does not have details of the holder's parents.
- A card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

The following documents **have never been acceptable** as proof of a persons right to work in the United Kingdom, and should not form part of your checks under Section 8:

- A temporary National Insurance Number beginning with TN, or any number which ends with the letters from E to Z inclusive;
- A driving licence issued by the Driver and Vehicle Licensing Agency;
- A bill issued by a financial institution or a utility company.

RECRUITMENT & SELECTION APPOINTMENT PROCEDURES CHECKLIST

The following guidelines are stated as a reminder to all Officers with responsibility for making recruitment appointments:

References

No candidate should be advised, either verbally or in writing, that they have been successful until at least 2 satisfactory written references have been received – at least one of which must be from their most recent or current employer. It is not acceptable to verbally offer ‘subject to references’ as this may potentially betray the confidentiality of a subsequent reference.

Pre-Employment Health Screening

Clearance from the Council’s Occupational Health Service, must be obtained before any formal confirmation of appointment is made.

Starting Salaries

All appointments should normally be made at the minimum of the grade. Any appointment above the minimum of the grade must be with the prior approval of the Head of Human Resources and must be based on justifiable grounds.

If a decision to appoint above the minimum is based on the applicant stating a higher salary on their application form – please ensure this information is verified by their current employer i.e. via the reference.

Professional Qualifications

Where a professional qualification is a requirement of the post – please ensure the successful applicant does actually possess the appropriate qualification and obtain copy certificates where necessary.