

**Right to Work in the UK Policy and Procedure**

HR4.15 Employment Policies

June 2024

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1. Introduction
   1. Having the ‘right to work’ means being allowed to be employed by virtue of qualifying immigration status [Resource 1]. As an employer, MHA have a responsibility to prevent illegal working in the UK (policy) which is done by conducting right to work checks before employing somebody (procedure).
2. Scope and Purpose
   1. This policy is relevant for all MHA and MHA subsidiary company colleagues working under a contract of employment and applicants with an offer of employment, regardless of nationality and immigration status to ensure that all MHA colleagues have the legal right to work in the UK and that all right to work checks are conducted correctly in accordance with UK employment law.
   2. Individual line managers are responsible for ensuring that this policy is adhered to within their own area. Any queries on the application or interpretation of this policy and/or process must be discussed with the Recruitment and On-boarding team prior to any action being taken.
3. Definitions

| Term | Definition |
| --- | --- |
| **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 to benefits and services. This document is issued when a valid application made to the EU Settlement Scheme. |
| **EEA or Swiss citizen** | * Means citizens of EEA countries or Switzerland. |
| **eVisa** | * Refers to a digital visa provided by the Home Office as evidence of a person’s immigration status (permission to enter or stay in the UK). |
| **Immigration permission** | * Also known as ‘leave’ - should be read as ‘Permission to Enter / Leave to Enter or Permission to Stay / Leave to Remain. |
| **Negative Verification Notice (NVN)** | * Is a negative confirmation that a person does not have the right to work from the Employer Checking Service. |
| **Non-EEA citizens** | * Means the citizens of countries outside the EEA. |
| **Online right to work check** | * Means the response generated by the Home Office online right to work checking service in relation to a person |
| **Permission to Enter also known as Leave to Enter** | * Immigration documents and guidance may refer to either term, both are appropriate. This means that a person 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 a person has permission from the Home Office to be in the UK. |
| **Positive Verification Notice (PVN)** | * Is a positive confirmation of a person’s right to work from the Employer Checking Service. |
| **Pre-settled status** | * Means a person has applied for settled status to the UK. Individuals with pre-settled status can stay in the UK for five years from the date they received pre-settled status. |
| **Right to Work**  **(RTW) in the**  **UK** | * Refers to the legal entitlement for individuals to work in the UK. It also involves having the necessary immigration status or citizenship to be employed, employers are required to verify this before hiring someone. |
| **Settled status** | * Means the person has lived in the UK for a continuous five-year period under pre-settled status conditions and has not left the UK for more than five years in a row since then. A person with settled status can stay in the UK as long as they like. |
| **Sponsorship** | * Refers to the process where an employer obtains permission from the UK Government to employ a non-UK or non-European Economic Area (EEA) national. This involves the employer becoming a licensed sponsor and the employee obtaining a visa to work legally in the UK. |

1. Statement of Intent
   1. This policy follows UK employment law on preventing illegal working which is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act), section 24B of the Immigration Act 1971, and Schedule 6 of the Immigration Act 2016 [Resources].
   2. All MHA applicants with an offer of employment will provide evidence of their right to work in the UK to be checked before employment commences.
   3. MHA may re-check any current colleagues right to work status at any point during their employment to verify that the individual is not disqualified from carrying out work by reason of their immigration status.
   4. In the case that an applicant does not have the right to work in the UK, their offer of employment will be withdrawn. If an colleague is found not have the right to work in the UK, they will be suspended immediately pending further investigation. If there is no verified evidence that the colleague has the right to work in the UK, their employment will be terminated (See Discipline Policy).
   5. Should illegal working be identified during right to work checks, evidence must be retained that a right to work was conducted although recruitment/employment did not continue.
   6. All right to work checks will be completed following the relevant right to work procedure set out in this policy.
   7. All documents used to provide evidence of Right to Work must be current (not expired) and original (unless specified that a copy, electronic, or screenshot is acceptable).
   8. If an applicant is considering sponsorship, please contact the Recruitment and On-boarding Team and refer to Sponsorship process and FAQs.
   9. MHA’s right to work procedures now ask for the **evidence of a colleagues right to work in the UK to be uploaded to MHApeople rather than stored in the physical personal files**. By having the evidence physically uploaded, the system can automatically remind managers when a colleagues right to work is about to expire with notice periods of 90 and 30 days, allowing enough time for the colleague to provide new evidence of their right to work in the UK.
   10. Any evidence supplied as part of Right to Work checks, DBS checks, and other employment eligibility checks are not to be recorded in the personal file (refer to employment eligibly policy for more information). Unrelated evidence (e.g. bills and bank statements, must not be filed).
2. Right to Work Checks
   1. Right to work checks can be completed by either:
   2. Conducting a manual document-based right to work check

**OR**

* 1. Conducting a Home Office online right to work check
  2. The following table shows which right to work check, identification, verification, and guidance is required for different types of Citizenships. Right to Work Check Types:

| **Citizenship** | **Required Right to Work Check** | **Identification** | **Check** | **How-To Complete (Procedure)** | **Access** | **Record Keeping** |
| --- | --- | --- | --- | --- | --- | --- |
| **UK Citizenship** | Manual Document Check | British/Irish passport or Irish passport card.  If you do not have a passport /card, an official document stating the national insurance number of the individual (e.g., P45) **AND** either UK/Irish birth or adoption certificate, a certificate of registration or naturalisation as a British citizen. | In person | [Page 3 - 4](#_CONDUCTING_A_MANUAL) | Not Applicable | Mhapeople |
| **EU** | Online Document Check (Share code) | Passport **AND** Share Code | In person | [Page 5 -6](#_CONDUCTING_AN_ONLINE) | <https://www.gov.uk/view-right-to-work> | Mhapeople |
| **Non-EU** | Online Document Check (Share code) | Current Visa, **AND** Passport, **AND** Share Code | In person | [Page 5 - 6](#_CONDUCTING_AN_ONLINE) | <https://www.gov.uk/view-right-to-work> | Mhapeople |

1. International Recruitment
   1. This section must be read in conjunction with the International Recruitment Policy and Procedure.
   2. Sponsored workers can take up supplementary employment in any role that is eligible for the Skilled Worker route.
   3. In addition to the RTW check we must now ask the worker to provide a letter or other evidence from their current Sponsor confirming:
   * They are still working for their sponsor
   * The job description and occupation code of their sponsored employment
   * Their normal/contracted working hours
   * Any other supplementary employment with another employer to ensure they will not be doing more than 20 hours a week in total of supplementary employment.
   1. Any MHA sponsored colleague may ask you to provide such a letter to another employer should they work elsewhere for any additional supplementary employment.
   2. **International Students**
      1. International students are likely to have **working** conditions stated on their RTW check: *They can work:*
   * Up to 20 hours a week (Monday to Sunday) during term time
   * Full time during the holidays (this includes before they start their course and after they have completed their course and until their permission as a student ends)
     1. Students must share proof of their term dates as part of the right to work check. The dates should be provided by the sponsoring education provider.
     2. International Students are not permitted to fill a permanent full-time vacancy unless they apply to switch to the Skilled Worker visa with MHA (they have valid applications in with the Home Office). They must provide a letter from their sponsored organisation stating their course completion date. This can be applied for up to three months prior to the course completion date.
     3. Please contact the relevant Recruitment Partner with any queries.
2. Standard Operating Procedures
   1. **Conducting a Manual Document Based Right to Work Check** 
      1. There are three steps to conducting a manual document-based right to work check, all three steps must be completed before employment commences.
      2. **Step One: Obtain**
   * You must obtain original documents from either list A or B (G1, G2) of the acceptable documents listed in Appendix 1.
   * **List A** [Appendix 1] contains the range of documents you may accept for a person who has a continuous right to work in the UK (including British and Irish citizens).
   * **List B (G1, G2)** [Appendix 1] contains a range of documents you may accept for a person who has a temporary right to work in the UK.
     1. **Step Two: Check**
   * Once you have completed Step One and obtained original copies of the acceptable documents from list A or B [Appendix 1], you must check that they are genuine and that the person presenting them is the applicant or colleague, and the rightful holder of the documents.
   * These following checks must be done in the presence of the document holder in person, and you must be in physical possession of the original documents:

* Photographs and dates of birth are consistent across documents and with the person’s appearance to detect impersonation.
* Expiry dates for permission to be in the UK have not passed.
* Any work restrictions to determine if they are allowed to do the type of work on offer.
* (For students who have limited permission to work during term-times, you 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 documents are genuine, have not been tampered with and belong to the holder.
* The reasons for any difference in names across documents can be explained by providing evidence (for example, original marriage certificate, divorce decree absolute, deed poll). These supporting documents must also be photocopied, and a copy retained.
  + 1. **Step Three: Copy**
  + Once you have completed Step One and Step Two, you must:
* Make a clear copy of each document (The full document or passport page, including both sides of an Immigration Status Document, and an Application Registration Card).
* Sign and date each copy of the document to evidence that it has been checked [Step Two].
* Retain a record of the date on which you made the check on *MHApeople*.
* Retain a record of key numbers (e.g. passport number) and the expiry date of the document (if applicable), also on *MHApeople*.
* **Upload evidence to MHApeople (e.g. share code letter from UKVI).**
  + For temporary documents or documents with an expiry date such as a working visa with a time limit of **9 months or less**, please contact the Recruitment and On-boarding Team before proceeding.
  + All copies of documents are to be kept securely on MHApeople for the duration of the worker’s employment and for two years afterwards before being securely destroyed (See Information Governance Policy).
  1. **Conducting an Online Home Office Right to Work Check**
     1. The **Home Office online right to work checking service** is a certified online version of manual right to work checks. Individuals using the service must select that they are using the service the prove their right to work in the UK, this generates a 9-character share code which can be entered alongside their date of birth to access details of their immigration status and right to work [See Frequently Asked Questions for more information].
     2. The system is accessible on the ‘View a job applicant’s right to work details’ page on GOV.UK. No other online portal relating to immigration status may be used instead for right to work checking purposes: <https://www.gov.uk/view-right-to-work>
     3. There are three steps to conducting a Home Office right to work check, all three steps must be completed before employment commences.
     4. **Step One: Using the Home Office Online System**
  + The individual may provide the share code to you directly, or they may choose to send this to you via the service. If they choose to send it to you via the service, you will receive an email from [right.to.work.service@notifications.service.gov.uk](mailto:right.to.work.service@notifications.service.gov.uk)
  + To check the person’s right to work details, you will need to:
* Access the service ‘View a job applicant’s right to work details’ via GOV.UK
* Enter the ‘share code’ provided to you by the individual.
* Enter their date of birth.
  1. **Step Two: Check**
     1. Once you have completed Step One, you must check that the photograph on the online right to work check is the applicant/colleague.
     2. The individual can only be employed/ continue to be employed if a follow-up check is being conducted, 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.
     3. If the online right to work check does not confirm that the individual has the right to work in the UK, the offer of employment should be withdrawn/ or their employment should be terminated if they are already employed.
     4. **Step Three: Retain Evidence of the Online Check**
  + Once you have completed step One and Two, you must retain evidence of the online right to work check. The only acceptable evidence of an individual’s right to work from the online checking service is a PDF or HTML download/print of the ‘profile’ page with their right to work, photograph, and the date of which the check was conducted.
  + **Upload evidence to MHApeople (e.g. share code letter from UKVI).**
  + All copies of documents should be kept securely for the duration of the worker’s employment on MHApeople, and for two years afterwards before being securely destroyed (See Information Governance Policy).
  + Frequently Asked Questions (Online Home Office Right to Work Checking Service).
  1. **Share Codes**
  + Only share codes beginning with the letter ‘W’ indicating that the code has been generated to evidence right to work can be accepted. All other share codes beginning with ‘R’ or ‘S’ cannot be accepted. In this case, the code has expired, you must ask the applicant/colleague to resend a new right to work share code which is valid for 90 days.

Where the online checking service can only be used - Biometric Residence Card (BRC), Biometric Residence Permit (BRP) and Frontier Worker Permit (FWP) holders are also only able to evidence their right to work using the Home Office online service. **This means you cannot accept or check a physical BRC, BRP or FWP as a standalone document as evidence of an individual’s right to work.**

* + Individuals with an eVisa can only use the online service to prove their right to work.
  + Where the online checking service can’t be used - It will not be possible to conduct a Home Office online right to work check in all circumstances, as not all individuals will have an immigration status that can be checked online. The online right to work checking service sets out what information you will need to complete an online check. In circumstances in which an online check is not possible, you should conduct the manual check.

1. Roles and Responsibilities

| Role | Responsibilities |
| --- | --- |
| **All Colleagues** | * Comply with UK legislation on having the Right to Work in the UK and evidencing this to MHA when requested. * Ensure any changes to their Right to Work in the UK status is communicated to MHA straight away to line management. * Comply with this policy and it’s procedures. |
| **Delegated Colleagues (e.g. Admin Managers)** | * If involved in recruitment checks, ensure that colleagues have compliant evidence of their right to work in the UK and that this is recorded in line with this policy. * Ensure colleagues do not start working for MHA unless they have the correct right to work in the UK. |
| **Home and Scheme Managers** | * Ensure that colleagues have compliant evidence of their right to work in the UK and that this is recorded in line with this policy. * Ensure colleagues do not start working for MHA unless they have the correct right to work in the UK. |
| **Recruiting Managers** | * Ensure that colleagues have compliant evidence of their right to work in the UK and that this is recorded in line with this policy. |
| **Immigration and Compliance Advisor** | * Provide advice and guidance in relation to right to work checks for UK and international applicants/colleagues * Ensure the Right to Work Policy is kept up to date, providing managers with regular updates * Undertake regular audits to ensure homes and schemes are compliant under right to work policy |
| **Recruitment and Onboarding Manager** | * Ensure that the Right to Work Policy is up to date and compliant with UK law |
| **Head of Recruitment and On-boarding** | * Overall responsibility for Right to Work Policy, compliance, and audits. |

1. Training and Monitoring
   1. Compliance is assessed through direct observation, monitoring, and supervision of our colleagues.
   2. MHA’s central support recruitment team will run webinars when required to remind colleagues of this policy, and any changes to right to work legislation, and the processing of right to work evidence.
2. Communication and Dissemination
   1. This policy is disseminated and implemented within all MHA services through MHA’s channels of communication.
   2. Each colleague’s line manager must ensure that all teams are aware of their roles, responsibilities.
   3. This policy will be available to the people we support and their representatives in alternate formats, as required.
   4. Any review of this policy will include consultation with our colleagues, review of support planning, incident reports, quality audits and feedback from other agencies.
   5. Queries and issues relating to this policy should be referred to the Standards and Policy Team [policies@mha.org.uk](mailto:policies@mha.org.uk)
3. EDI Impact Assessments
   1. Equality, Diversity, and Impact Assessment to be confirmed.
   2. To prevent discrimination, every opportunity to enable an individual to prove their right to work should be provided. As well as this, you should ensure a right to work check is conducted for all individuals regardless of citizenship. You should not discriminate when conducting right to work checks, nor should you make assumptions about an individual’s right to work in the UK or their immigration status based on colour, nationality, ethnic or national origins, accent, surname, of length of time they have been a resident in the UK.
   3. The way in which an applicant/colleague chooses to prove their right to work cannot be mandated, whether it be by a manual or online check.
   4. **Windrush Generation Individuals** 
      1. The Government has put in place additional safeguards 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 acceptable document lists to demonstrate their entitlement to work in the UK. In these circumstances, you should contact the Recruitment and On-boarding team.
4. Resources
   1. **MHA policy documents, procedures, and guidance:**
   * Sponsorship process and FAQs [HR4.15a]
   * International Recruitment Policy and Procedure [HR2.2]
   * Recruitment and Selection [HR2.0]
   * Employment Eligibility and Screening Policy [HR4.1]
   * Equality Diversity and Inclusion Policy [HR4.2]
   * Discipline Policy [HR8.2]
   * Information Governance Policy [IG01]
   * DBS & Right to Work ID Evidence Required for All Interviews
   1. **External Resources**
   * Resource 1: Guide to an employer’s guide to right to work checks - The Home Office (April 2022): <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>
   * Resource 2: UK Employment Law on the Right to Work in the UK:
   * Resource 3: Immigration, Asylum and Nationality Act 2006 (the 2006 Act) [Sections 15-25]: <https://www.legislation.gov.uk/ukpga/2006/13/contents>
   * Resource 4: Immigration Act 1971 [Section 24B]: <https://www.legislation.gov.uk/ukpga/1971/77/contents>
   * Resource 5: Immigration Act 2016 [Schedule 6]: <https://www.legislation.gov.uk/ukpga/2016/19/contents/enacted>
   * Resource 6: The colleague provides a Share code from this link - [Prove your right to work to an employer: Using immigration documents - GOV.UK (www.gov.uk)](https://www.gov.uk/prove-right-to-work/using-immigration-documents)
   * Resource 7: [MHA check the Right to Work from this link](https://www.gov.uk/check-job-applicant-right-to-work)
   * Resource 8: [If the colleague cannot show their documents, MHA must ask the Home Office to check an individual’s immigration status](https://www.gov.uk/check-job-applicant-right-to-workstatus)
5. Appendices
   * Appendix 1 - Lists A and B (G1, G2) of acceptable documents for manual right to work checks

Appendix 1: Lists A and B (G1, G2) of acceptable documents for manual right to work checks

**List A** of acceptable documents for **manual** right to work checks:

|  | **List A Document** | **List A Requirements** |
| --- | --- | --- |
| 1 | **A passport** | Current or expired showing the holder is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK. |
| 2 | **A passport or passport card** | 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** | Must have been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under the Jersey Immigration Rules, the Immigration (Bailiwick of Guernsey) Rules 2008 or 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. |
| 5 | **A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person 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 person’s permanent National Insurance number and their name issued by a government agency or a previous employer. |
| 6 | **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 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 person’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** – Group 1 of acceptable documents where a time-limited statutory excuse lasts until the expiry date of permission to enter or permission to stay for **manual** right to work checks:

|  |  |  |
| --- | --- | --- |
|  | **List B Document** | **List B Requirements** |
| 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. |
| 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 Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under the Jersey Immigration Rules, the Immigration (Bailiwick of Guernsey) Rules 2008 or 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 person may stay in the UK and is allowed to do the type of work in question**, 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 2** of acceptable documents where a time-limited statutory excuse lasts for six months for **manual** right to work checks

|  | **List B Group 2 Document** | **List B Group 2 Requirements** |
| --- | --- | --- |
| 1 | **A document issued by the Home Office showing that the holder has made an application for leave to enter or remain** | Under the immigration rules (known as the EU Settlement Scheme) on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service. |
| 2 | **A Certificate of Application (digital or non-digital) issued by the Home Office** | Showing that the holder has made an application for leave to enter or remain under the immigration rules (known as the EU Settlement Scheme), on or after 1 July 2021, **together with** a Positive Verification Notice from the Home Office Employer Checking Service. |
| 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 the Jersey Immigration Rules or the Immigration Rules (Bailiwick of Guernsey) Rules 2008, or the Isle of Man Immigration Rules **together with** a Positive Verification Notice from the Home Office Employer Checking Service. |
| 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 Home Office Employer Checking Service. |
| 5 | **A Positive Verification Notice (PVN)** | Issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question. |

1. Version Control

| Version | Version Date | Revision Description / Summary of Changes | Author | Next Review Date |
| --- | --- | --- | --- | --- |
| 4 | September 2022 | * Regular compliance review. * Biometric Residence Card, Biometric Residence Permit (BRC/BRPs) and Frontier Worker Permit (FWPs) can no longer be accepted as evidence of an individual’s right to work, holders of BRC, BRP, and FWPs must now obtain a Share Code from the UK Home Office which MHA will use to verify an individual’s right to work using the Home Office Online Checking Service. * There has also been changes to the list of acceptable documents for right to work checks for all. * Archived Information: Different types of visas were previously detailed in the policy, now archived - please contact the Recruitment and On-boarding Team for guidance if needed. | * Head of Recruitment and On-boarding and Shared Services * Recruitment and Onboarding Manager * Standards and Policy Manager | September 2024 |
| 5 | October 2023 | * Policy amendment * Policy recoded to HR4.15 (was previously coded as an associated policy document rather than core policy). * Clarification around UK Citizenship Signed and Stamped Proof of right to work in the UK and Proof of Identity. | * Head of Recruitment and On-boarding and Shared Services * Recruitment and Onboarding Manager * Standards and Policy Manager | September 2024 |
| 6 | April 2024 | * Regular compliance review. * Inclusion of International Recruitment (nurses, carers, and students) * Right to work evidence must be uploaded to MHApeople and **not kept in a physical personnel file.** * Legislative update as of 4th April 2024.   **Before 4th April 2024**: Those carrying out supplementary employment (i.e. employed elsewhere full time with another care company on a certificate of sponsorship) and working with MHA for 20 hours as a care assistant / senior care assistant or nurse work:   * No more than 20 hours a week * In the same job description/SOC code supplied on their current Certificate of sponsorship * The individual continues to work for their sponsor and the 20 hours takes place outside their full-time contracted hours | * Head of Recruitment and On-boarding and Shared Services * Recruitment and Onboarding Manager * Immigration and Compliance Advisor * Standards and Policy Manager | April 2025 |
| 7 | June 2024 | * Resources list updated | * Standards and Policy Manager | April 2025 |