

IMSPo6oBL: Right to Work in the UK

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Document History			
Version number	Edited by	Date reviewed	Summary of changes
1.0		April 2019	Version 1
1.1	HR	November 2020	Brexit implications included
1.2	HR	April 2023	Added online checking method
1.3	TK	May 2025	Changes to Civil Penalties, Updated guide to Right to Work checks, update to pre-settled status, update code of practice

1. PURPOSE

Employing overseas workers in the UK can provide several benefits to a company including providing knowledge and skills to an organisation's workforce, however it is essential when recruiting to ensure the necessary checks are followed to evidence there is a valid right to work in the UK.

It is unlawful to employ someone who does not have the right to reside and right to work in the UK, or who is in breach of any conditions of their right to stay in the UK. As an employer, Mears Group ("Mears"), understands the importance of ensuring its workforce has the appropriate right to work. Failure to do so can result in serious civil and criminal penalties, including fines, as of 13 February 2024 these fines have increased to £45,000 per illegal worker for a first breach and £60,000 for repeat breaches, an unlimited corporate fine and up to 5 years imprisonment for the employer.

The aim of this policy is to facilitate Mears' objective of preventing illegal working. Mears takes its corporate and social responsibility seriously in the prevention of illegal working. Mears therefore will:

- Ensure that it carries out appropriate right to work checks for all prospective employees before their employment starts.

- Conduct the relevant follow-up checks on employees who have a time-limited permission to live and work in the UK, require a document to evidence their right, or an application pending.
- Keep records of all the checks carried out.
- Not employ anyone it knows or has reasonable cause to believe is an illegal worker.

This policy takes into account our obligations under the Asylum and Immigration Act 1996, the Immigration, Asylum and Nationality Act 2006, (IANA2006) and code of practice February 2008, the Immigration Act 2014 and Immigration Act 2016, the European Union (Withdrawal Agreement) Act 2020 and the European Settlement Scheme.

2. SCOPE

This policy and procedure applies to Mears Group Plc and its subsidiary companies' ("Mears Group") employees and external candidates who apply for a position with Mears Group or any of its subsidiary companies, including apprentices, casual workers, students, and volunteers (referred to generically as "employees").

In addition, those responsible for hiring agency or contract workers on behalf of Mears must ensure that the requirement for such individuals to be made aware of their responsibilities under this policy forms part of any contractual agreement.

Everyone responsible for ensuring the legal status of our workforce should have regard to, and refer to where necessary, Government codes of practice and guidance as per appendix one.

3. DEFINITIONS

Hiring Manager – refers to any employee involved in the recruitment process and decision to appoint a candidate as successful to fill a current vacancy within Mears.

Settled status – is given under the EU Settlement Scheme to an EU / EEA / Swiss citizen who has lived continuously in the UK for 5 years, allowing the holder to remain in the UK indefinitely and to undertake any employment.

Pre settled status – is given under the EU Settlement Scheme to those who do not yet have 5 years' continuous residence and is now automatically extended if they remain eligible. Pre-settled status also provides the right to work in the UK.

Migrant worker – refers to a person who moves to the UK to pursue work.

4. RESPONSIBILITIES

Hiring Manager / Line Manager

- The application of this policy, ensuring they understand their role in applying right to work checks.
- Assessing and checking documentation provided by a candidate or employee, in line with Government guidelines, to the best of their knowledge.
- Requesting assistance at the earliest opportunity, where required, to assess an individual's right to work.
- Not to agree to employment commencing for any employee where right to work documentation checks have clearly not been satisfied.
- Updating a candidate or employee on any issues with right to work documentation in a timely manner.
- Conducting checks on employees with a time-limited right to work, in advance of expiry, to ensure employment remains legally compliant.
- Conducting checks on employees with restrictions on the number of hours, or types of work, to ensure that they remain compliant at all times.

Employees

- Supply original valid right to work documentation when requested in a timely manner.
- Update their manager on their right to work status application where there is a time-limited right to work, or any other restrictions in place.
- Understand requirements in line with company policy and legislation.
- Apply for relevant right to work documentation in a timely manner to ensure continued compliance with their legal obligations.
- Provide any necessary information and fully cooperate with any authorised representative of Mears when completing a right to work check in a timely manner.

HR

- Provide advice and guidance on this policy and its application.
- Complete audit checks on right to work documentation on receipt.
- Ensure right to work documentation provided by the Hiring Manager or Line Manager is compliant and provide advice where appropriate.
- Maintain accurate records on Workday for reporting requirements.

5. **POLICY**

Everyone responsible for ensuring the legal status of our workforce should have regard to, and refer to where necessary, Government codes of practice and guidance as per appendix one and make every effort to ensure that they appropriately check evidence presented to them is valid in line with legal requirements, which are supported by this policy.

WHO IS AN ILLEGAL WORKER?

The Home Office identifies an “illegal worker” as:

“A person who has not been granted leave to enter or remain in the UK, or whose leave to enter or remain in the UK either:

- is invalid
- has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise)
- is subject to a condition preventing them from accepting the employment

Other than in the illegal working offence in section 24B of the Immigration Act 1971, the worker must be an employee and at least 16 years of age.”

PENALTIES FOR NON-COMPLIANCE

In the event Mears fails to comply with our obligations we may be liable for a large civil penalty and be guilty of a criminal offence:

- A civil penalty may be imposed if we employ someone without the right to undertake the work for which they are employed. This penalty has increased to £45,000 per illegal worker for a first breach and £60,000 for repeat breaches.
- A criminal offence will be committed if an employer knew or had "reasonable cause to believe" that the employee did not have the appropriate immigration status and could result in an unlimited fine and up to a 5 year prison sentence for the employer.

Searches by the Home Office

The Home Office has the right to enter businesses without notice to search for documents and seize and retain any evidence it needs.

The Home Office will send an Immigration Officer to conduct the search. An Immigration Officer has the right to request documents evidencing each employee's right to undertake the work for which they are employed, this includes those stored electronically. In addition, the Immigration Officer may question the individuals employed to find out what work they have been doing and whether it is within the scope of their immigration permission. They may also question any other persons at the premises about the status of that individual(s) and the right to work checks completed.

ELIGIBILITY TO WORK IN THE UK

In order to determine if a person is allowed to work in the UK, and if there are restrictions on the type of work they are able to carry out, in line with the Home Office guidance, a right to work check in Mears can be done via either:

- Checking online, if we are given a share code
- Checking original documents

Checking Online

Should the employee have a shared code the employee's right to work can be checked online by visiting the following address <https://www.gov.co.uk/view-right-to-work> and entering the employee's code and postcode. The result can then be used to evidence right to work in the UK.

Checking original documents

The Governments recommended three-steps right to work check includes the following:

- **Obtain** the employee's original documents as prescribed in the Home Office guidance.
- **Check** (in the presence of the prospective employee) that the documents relate to the individual and are original, unaltered and valid.
- **Copy** and keep the copy documents securely and record the date of the check and date for follow-up checks.

To ensure that we have undertaken each of the three steps correctly the Home Office recommends that we use:

- The Home Office practical template checklist. The right to work checklist explains the types of documents that are acceptable for checking an employee's right to work, how long the check is valid for and when follow-up checks are required.
- The Home Office online interactive tool to check if someone can work in the UK. This can be done at <https://www.gov.uk/legal-right-work-uk>.

Where the business can demonstrate it has complied with the above (and therefore its legal requirements) it will be able to defend itself from any compliance breaches and sanctions in relation to anyone that is found to be illegally working. This is known as having a **statutory excuse**.

Below we set out the specific right to work checks that all managers need to complete and all the records that need to be retained in order to provide that the checks were conducted in full and correctly.

THE THREE STEP PROCESS

A manager must carry out Right to Work checks for **all** prospective employees **before** their employment begins.

STEP 1 – Obtain Original Documents

The Hiring Manager must request, and the individual must provide, certain prescribed **original** documents to establish their eligibility to undertake the work potentially on offer.

The types of documents that are required depend on whether the person has an unrestricted right to live and work in the UK; or is subject to immigration control.

No restrictions on their right to live and work in the UK	e.g. the prospective employee is a British citizen, EU / EEA / Swiss national has been granted with pre-settled status or settled status with effect of 1 July 2021.
Restrictions on their right to live and work in the UK	e.g. where the employee's permission to live and work in the UK is time-limited, or where their status is pending the successful outcome of an immigration application or issue of a document that proves they have the appropriate right to work.

What documents are acceptable?

The documents that are acceptable for proving someone has the right to work in the UK are set out on two lists. These lists are called List A and List B. The Hiring Manager should always refer to these lists to make sure that they are asking for the right documents. Please see the following link for more details on the government website: <https://www.gov.uk/government/publications/right-to-work-checklist>

List A documents refer to individuals who have a permanent right to work in the UK. Where an individual provides an acceptable document from List A, this will provide the employer with a continuous statutory excuse and no further follow-up checks will be necessary.

List B documents refer to individuals who have a temporary right to work or are required to supply further evidence of their right to work in the UK. List B is divided into Group 1 and Group 2 documents:

- Group 1 documents are those where the holder has a temporary permission to live and work in the UK where the statutory excuse will remain valid until the current permission expires.
- Group 2 documents are those where the employer is required to undertake a Home Office verification check and obtain a "positive verification notice" before the employment can commence. For Group 2 documents the statutory excuse is limited to six months only.

Obtaining a positive verification notice

To obtain a positive verification notice a Hiring Manager must contact the Home Office. The Home Office Verification Checking Service is an online tool found at <https://www.gov.uk/legal-right-work-uk/y>

The manager must do this in instances where an individual:

- Has an outstanding application with the Home Office which was submitted before their previous permission expired or has a pending appeal or administrative review pending against a Home Office decision, and you as the manager are satisfied that is the reason why the individual is unable to produce any acceptable documents.
- Has an Application Registration Card as an asylum seeker that states that the individual is permitted to undertake the specific work - this is restricted to shortage occupations only.
- Has a Certificate of Application issued to or for a family member of an EEA or Swiss national that states that the holder is allowed to work which is less than six months old.

What is needed for the check?

Before using the checking service, the Hiring Manager must first obtain the individual's permission to undertake the check. The following information will be needed for the check:

- The individual's full name, date of birth, nationality, job title, weekly hours worked, home address, Home Office reference number or case ID (if they have either).
- The employer's business name, business type and business contact information.

The notice from the Home Office will normally be sent to the employer within five working days of the request.

A negative verification notice

If the Home Office issues a "negative verification notice" we will not have a statutory excuse and will be liable for any applicable civil and criminal penalty as a result of the unlawful employment

Additional List B obligations

If an individual presents documents from List B the line manager must conduct follow up checks to ensure that the individual remains legal to employ. An offer must be based and not supersede the limitations within the right to work documentation e.g. fixed term contract, specified work or maximum hours worked in a week. The relevant check depends on the date they were employed and the documents the Hiring Manager used to verify their right to work initially.

- For those employed from 29 February 2008 to 15 May 2014 we must repeat the steps set out above within 12 months of the employee's start date, and then every 12 months thereafter until the employee is no longer subject to a time limit.
- For those employed after 15 May 2014 on the basis of Group 1 documents we must conduct the check again before the individuals' immigration permission expires.
- For those employed after 15 May 2014 on the basis of Group 2 documents we must conduct the check again in 6 months' time.

Examples of documents that will not be sufficient include:

- A Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) that states that an asylum seeker can work in the UK. If an employer is presented with these documents they should advise the applicant to contact the Home Office for information about how they can apply for an Application Registration Card. For the avoidance of doubt, whilst seeking Asylum, the individuals does not have the right to work in the UK.
- A temporary NI number beginning with TN, or any number which ends with the letters from E to Z inclusive
- A permanent NI number when presented in isolation.
- A driving licence issued by the Driver and Vehicle Licensing Agency.
- A bill issued by a financial institution or a utility company.
- A passport describing the holder as a British Dependant Territories Citizen that states that the holder has a connection with Gibraltar.
- A short (abbreviated) birth certificate issued in the UK that does not have details of at least one of the holder's parents.
- A licence provided by the Security Industry authority.
- A Disclosure and Barring Service (formerly Criminal Records Bureau) check.
- A card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

What if someone refuses to provide documents?

Please speak with HR for advice; this will depend on whether the individual is a candidate for employment or an existing employee. You may also wish to report the individual by calling the Home office Sponsorship and Employers' Helpline on 0300 123 5434.

What if someone is not allowed to work in the UK?

It is up to the person looking for work to show you that they are allowed to do the work you are offering. If you have carried out these checks and found that a candidate or employee is not allowed to work, then you are entitled to refuse employment to that person.

Please speak to HR about how to deal with this situation and the relevant correspondence that needs to be sent to the individual in the event they fail to produce right to work documentation.

As a Group, Mears have determined that due to the type of work currently carried out, that it is not necessary to sponsor any type of visa, therefore all candidates for roles must seek their own right to work in the UK without the requirement of sponsorship from the Company.

The points based system for migrant workers

The main route for migrant workers is via the government's 5 tier points-based system which has been in place since 2008. The criteria is adjusted regularly therefore checking the latest information is important.

- Tier 1 – Highly-skilled individuals, entrepreneurs and high net-worth individuals (not requiring sponsor)
- Tier 2 – Skilled workers with a job offer
- Tier 3 – Low skilled workers for temporary labour shortages
- Tier 4 – Students
- Tier 5 – Youth mobility and temporary workers. This includes people who are allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives. Restricted to several countries and dominated by Commonwealth countries e.g. Australia, New Zealand, and Japan

Sponsorship by an employer is required for Tiers 2 and 5.

Tier 4 students with visas requires sponsorship by an appropriate registered academic institution.

Employers must be registered with a licence from the Home Office under Tier 2, to issue a Certificate of Sponsorship (CoS) to a named individual, who must then apply for permission to enter the UK.

BREXIT IMPLICATIONS

EU / EEA / Swiss nationals who were already in the UK or arrived before 1 January 2021 can continue to work subject to them providing evidence of having pre-settled status or settled status after until 1 July 2021. All EU citizens who enter the UK for work from 1 January 2021 will need to meet the UK's post –Brexit migration requirements including applying for the necessary visa for work.

From 1 January 2021, EU / EEA / Swiss citizens (except Irish citizens) will be subject to the same migration restrictions as non-EU citizens. Irish citizens will continue to be able to enter and live in the UK as they have previously been entitled to.

STEP 2 – CHECK THE DOCUMENTS

The Hiring / Line Manager must check that the documents relate to the individual and are original, unaltered and valid. This must be done in the presence of the prospective employee.

In order to satisfactorily check the document management must:

- Check that any photographs contained in the documentation are the individual in question.
- Check the names, dates of births, addresses, national insurance numbers given are consistent across documents. If the individual gives two documents that refer to them as having different names, we need to request a further document to explain the reason for this. The further document can include a marriage certificate, a divorce decree, a deed poll document or statutory declaration.
- Check that the expiry dates of any time-limited leave to enter or remain in the UK have not passed.
- Check that the expiry dates of documents (such as a passport) have not passed.
- Check any UK government endorsements (such as stamps, visas) to see if the individual is able to do (or prohibited from undertaking) the type of work offered.
- Check that the documents are to your reasonable belief genuine and have not been tampered with and belong to the holder.
- Check and verify (where necessary) any professional credentials or specific licences the employee holds.

Falsified Copies

While managers are expected to conduct a thorough inspection of original documents, they are not expected to be experts in detecting forgeries. However, you must take reasonable steps to ensure the documents appear to be:

- Genuine,
- Unaltered, and
- Belong to the person presenting them.

You must check the documents in the presence of the individual and, to the best of your knowledge, be confident they are valid.

STEP 3 - COPY AND KEEP

A manager **must** make a **clear copy** of each document in a format which cannot manually be altered.

The Company **must** retain the copy securely: electronically or in hardcopy, which is done via our recruitment process on Workday

The Company **must** also retain a secure record of the date on which you made the check and make a record of when any follow up check is required.

When copying a passport you should make a copy of:

- any page containing personal details;
- any page containing UK government endorsements and their respective expiry dates;
- any page setting out any UK immigration endorsement that allows the individual to do the work in question.

If you make a copy of any other document, you must take a full copy including both sides where necessary.

Once you have made a copy you **must** sign and date the document, confirming that it is an original copy. You may wish to write; “I confirm that this is a true copy of the original seen on [DATE]”.

All copies must be retained for the duration of the individual’s employment and should be held on an individual’s Workday record via the HR Administration team. The record will be kept in line with our Data Retention Policy.

PARTICULAR CATEGORIES OF EMPLOYEE

Asylum seekers, Refugees and those granted humanitarian protection

Asylum seekers are not automatically granted permission to work in the UK, permission will need to be obtained by the Home Office. Where permission has been granted, an asylum seeker will be issued with an Application Registration Card. There may be restrictions on the type of employment which an asylum seeker can undertake. This can be found on the Shortage Occupation List. <https://www.gov.uk/uk-visa-sponsorship-employers>

Checks will need to be undertaken to ensure work is permitted. This can be done through the Home Office Employer Checking service. This is essential in order to avoid a civil penalty. <https://www.gov.uk/employee-immigration-employment-status>

Where an asylum seeker's application has been successful, they will be granted refugee status. Refugees and those who have been recognised as requiring humanitarian protection will have no restrictions on the type of work they can do in the UK, as long as they continue to hold this qualifying status.

Documents that can be used to verify a refugee's right to work are as follows:

- Biometric Residence Permit (time restrictions apply)
- Documents relating to Immigration Status.

STUDENTS

Managers must check that an individual has been granted Tier 4 student status in order to study in the UK. This will be clearly identifiable in an individual's passport, or Biometric Residence Permit, which will specify that the individual has a right to work.

Managers will need to obtain evidence to prove that they enrolled on an eligible course with a licenced student sponsor. This can be done by either/or:

- A copy of the individual's timetable (check institution website to ensure this is genuine)
- Documentation from the institution which confirms the individual is a student and their term dates.
- A letter which is addressed to the employer from the institution with confirmation of term dates of the individual's course.

Students on a visa may be permitted to take limited employment in the UK, providing their conditions of entry to the UK allow this. There are strict conditions on the type of work students can carry out and the hours they can work while they are studying in the UK. The limits on a student's working hours depend on when they applied for permission to come to, or stay in the UK, the type of course they study and the type of educational provider they are studying with.

If Mears are found employing a student in breach of their work restrictions then we may be liable to payment of a civil penalty.

Those studying here who have entered the UK as ‘student visitors’ are not allowed to work.

More information about the work restrictions on students can be found in the Home office ‘Full guide for employers on preventing illegal working in the UK’ which can be viewed on their website: <https://www.gov.uk/check-job-applicant-right-to-work>

EQUALITY

We should carry out checks on all people before they start working for us regardless of their nationality, race, country of origin or ethnicity. We should not make assumptions about a person’s right to work in the UK on the basis of their background, appearance or accent.

The Home Office have published a code of practice to help organisations comply with the law without discriminating against individuals. This can be found at: [Avoiding discrimination while preventing illegal working: code of practice, 2014 - GOV.UK](#)

In the event that an employee joins the Company via a TUPE or acquisition, steps will be made to ensure that right to work documents are checked within a 60 day period and it will be the responsibility of the line manager to ensure that this is completed as appropriate. Any variations to this would be at the discretion of the Group HR Director.

FURTHER INFORMATION

www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/

Sponsorship and Employers’ Helpline on 0300 123 5434

For advice concerning immigration issues see:

<https://www.gov.uk/government/news/want-to-contact-uk-visas-and-immigration>

6. OTHER RELATED POLICIES & PROCEDURES

- Recruitment and Selection
- Code of Conduct
- Whistleblowing
- Equality Diversity and Inclusion
- Data Protection Act

7. APPENDICES

APPENDIX ONE – GOVERNMENT CODES OF PRACTICE AND GUIDANCE

The Right to Work Checklist	https://www.gov.uk/government/publications/right-to-work-checklist
Online Tool - Check if a document allows someone to work in the UK	https://www.gov.uk/legal-right-work-uk
Checking a job applicant's right to work documents	https://www.gov.uk/check-job-applicant-right-to-work
Acceptable right to work documents: an employer's guide	https://www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide
An employer's guide to right to work checks	Employer's guide to right to work checks: 12 February 2025 - GOV.UK
An Employers Code of Practice	Avoiding discrimination while preventing illegal working: code of practice, 2014 - GOV.UK
Employer Checking Service	https://www.gov.uk/employee-immigration-employment-status
UK visa sponsorship for employers	https://www.gov.uk/uk-visa-sponsorship-employers
For further information and guidance	https://www.gov.uk/government/news/want-to-contact-uk-visas-and-immigration