

HR & OD POLICIES

human resources and organisational development



Right to Work in the UK Procedure

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1. BACKGROUND

As an employer, Aberdeenshire Council has a responsibility to prevent illegal working in the UK in respect to both paid and unpaid work.

In order to fulfil this responsibility, it is necessary that we undertake document checks to confirm if a person has the right to work in the UK. Acceptable documents must be obtained, checked and copied **before** a start date is confirmed for a new recruit. Where an employee or volunteer has restrictions on their stay in the UK, repeat document checks are required when the individual's permission to be in the UK and do the work in question expires.

Due to the strict legislation and financial penalties for non-compliance, an individual cannot commence work – paid or unpaid - before original documentation is checked, copied and verified

If document checks are not carried out, Aberdeenshire Council may be required to pay a civil penalty of up to £20,000 for each illegal worker. By correctly carrying out document checks, Aberdeenshire Council will have a legal excuse, known as a statutory excuse, against payment of a civil penalty if found to have an individual working for them, that is not entitled to work in the UK.

You should ask any prospective employee or volunteer to present their documents before they start working. You should not make presumptions about a person's right to work in the UK on the basis of their background, appearance, or accent. All services must ensure they are adhering to the following guidelines and the [Recruitment & Selection Procedure](#) or [Volunteer Procedure](#) when undertaking any form of recruitment or volunteer enrolment.

2. RIGHT TO WORK DOCUMENT CHECKS

Aberdeenshire Council has a duty to ensure all individuals working are eligible to work in the UK. This information has not always been collected in the past therefore these checks must be carried out for internal employees as well as for prospective employees who are new to the Council.

Whilst HR, Service Point and Library colleagues will carry out pre-employment document checks in the majority of cases, there are many employees on behalf of Recruiting Managers carrying out document. Furthermore, line managers need to be aware of the requirement to carry out **repeat** document checks if their employees have restrictions on their stay in the UK.

3. UNDERTAKING REPEAT CHECKS

Repeat document checks are required where an employee or volunteer has restrictions on their stay in the UK. The check must be undertaken prior to the date on which the individual's permission to be in the UK and do the work in question expires.

As part of the recruitment process, the vacancy contact will receive a notification of any expiry date attached to the eligibility to work of a new employee. Whilst a reminder of this expiry date will be provided by HR&OD approximately one month ahead of this expiry date, it is best practice that this date is noted by the employee's line manager to ensure the process below is undertaken timeously.

Arranging the Meeting

You will receive notification from the Resourcing Team approximately one month before your employee's permission to work in the UK is due to expire. When you receive this it will be necessary to arrange a meeting with the employee to determine if they have updated eligibility documentation or if they may have an application in process.

Please ensure the employee reviews the relevant privacy notice ahead of the meeting, before they provide information and documentation that will contain personal details. This can be found [here](#).

The Employee Presents new Right to Work Documentation - Check, Copy and Send Documentation

There are 3 basic steps to conducting a manual repeat right to work check. If the individual wishes to evidence their Right to Work via an online check please contact recruitmentadvice@aberdeenshire.gov.uk

1. Obtain

- a. You must **obtain** original acceptable documents
- b. You must ask for and be given original documents from either List A or List B within the [Home Office Right to Work Checklist](#).

2. Check

- a. You must **check** the documents presented to you are genuine; that the person presenting them is the rightful holder; and they are still allowed to do the type of work the role involves.

b. You must check:

- i. Photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation
- ii. Expiry dates for permission to be in the UK have not passed
- iii. Any work restrictions to determine if they are still allowed to do the type of work the role involves (for **students** who have limited permission to work during term time, you **must** also obtain, copy and retain details of their academic term and holiday times covering the duration of their period of study in the UK for which they will be employed).
- iv. The documents are genuine, have not been tampered with and belong to the holder
- v. The reasons for any different names across documents and ensure those supporting documents are also copied and retained e.g. marriage certificate, divorce decree, deed poll. These supporting documents must also be photocopied and a copy retained

4. COPY

- a. You must make a clear **copy** of each document in a format which cannot later be altered, e.g. scan or photocopy. You must also retain a secure record of the date on which you made the check via the document verification form
- b. You must copy and retain copies of
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 - ii. **Passports:** any page with the document expiry date, nationality, date of birth, signature, leave expiry date, biometric details and photograph, and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question. You no longer need to copy the front cover.
 - iii. **All other documents:** must be copied in full, including both sides of a Biometric Residence Permit, (biometric format)
- c. The [Document Verification-Repeat Check Form](#) must be completed, signed, dated and uploaded to [AskHR](#) along with the copied documentation.

If an existing employee does not demonstrate an ongoing right to work in the UK or at least evidence they have a visa application in process before their current visa expires, their employment can be terminated in line with Clause 20 in all new contracts of employment.

5. ACCEPTABLE DOCUMENTS PROVING RIGHT TO WORK

Documents acceptable for demonstrating right to work in the UK are set out in the [Right to Work Checklist](#) on the Home Office Website:

List A – relates to those with a permanent right to work in the UK

List B – relates to those with a temporary right to work in the UK

If a person provides you with acceptable documents from List A there are no restrictions on their right to work in the UK, thus establishing a **continuous statutory excuse against civil penalty** for the duration of employment.

You are **not required** to carry out further checks on this person.

If a person provides you with acceptable documents from List B there are restrictions on their right to work in the UK, thus establishing a **time-limited statutory excuse against civil penalty**.

You **are required** to carry out follow-up checks on this person ahead of the date on which their permission to work expires.

As summarised below:

Document Type	Excuse Type	Frequency of Checks
List A	Continuous	Before employment starts only
List B – Group 1	Time-limited	Before employment starts and again when permission (as set out in the document checked) expires
List B – Group 2	Time-limited	Before employment starts and again after six months (as set out in the Positive Verification Notice).

Government guidance on Right to work in the UK and acceptable documentation is frequently updated and amended.

6. DOCUMENTS, STAMPS & ENDORSEMENTS

Anyone involved in right to work document checks should refer to the Home Office document [Employer right to work checks support guidance](#)

This guide should be used by anyone who has responsibility for conducting right to work checks, whether at the point of recruitment or for existing employees. It includes useful information and visual examples of the various acceptable documents. It also provides links to other useful sources of information about document checking.

Where an individual wishes to evidence their Right to Work using an online check and provides a share code and dob please contact recruitmentadvice@aberdeenshire.gov.uk

Where any document from List B Group 2 is presented and can only be accepted along with a positive verification notice from the Home Office Employer Checking Service, please arrange this through

recruitmentadvice@aberdeenshire.gov.uk – HROD will also be able to provide advice regarding acceptable documents.

7. STUDENTS

A migrant student who is permitted to work in the UK will have this clearly endorsed on their visa, passport or biometric residence permit. This will state the number of hours the student is permitted to work during term time and holiday time.

There is also a requirement to obtain, check and copy details of the student's term time and holiday dates to ensure compliance with work restrictions. Contact recruitmentadvice@aberdeenshire.gov.uk for further guidance

8. EMPLOYMENT OF OTHER CATEGORIES

For information about other immigration categories including the employment of former members of the Armed Forces, refugees and asylum seekers please contact your HROD via AskHR online <http://www.askhr.it/> or phone call on 01467 534400.

9. SPONSORSHIP OF MIGRANTS

Aberdeenshire Council holds a Category 'A' Sponsorship Licence to enable the organisation to employ international staff who do not have an automatic right to work in the UK.

Please contact a member of the Resourcing Team to discuss further before any offer of employment is made.”

For further advice and guidance on any of the above, please contact [a member of HR&OD](#)

Right to Work Procedure

Index of Documents

Procedure

Revision Date	Previous Revision Date	Summary of Changes
08-04-2009		HR Briefing introduced
21-09-2012	08-04-2009	Creation of all documents
17-07-2017	21-09-2012	Overhaul of procedure, rearranged and various updates to legislation.
30-03-2018	17-07-2017	Background paragraph made more concise and strengthened with reference to volunteers. Process of submitting documents to AskHR made clearer.
18-06-2018	30-03-2018	Guidance added for repeat eligibility checks
21-09-2021	18-06-2018	Revised links following changes to Right to Work checks on 1/7/2021