

Preventing Illegal Working

STEP 1

You must ask all your candidates to show you documents from either list A or list B that prove their entitlement to work in the UK. **The recruiting manager is responsible for ensuring the candidate's legal right to work in the UK. Failure to do this can lead to fine up to £10,000 per worker or unlimited fine and/or prison sentence for knowingly employing an illegal worker. Failure to do this for ALL candidates could be discriminatory.**

If documentation is from List B, HR will carry out new checks after 12 months.

STEP 2

The recruiting manager must be satisfied that their potential employee is the rightful holder of any of the documents they present to you. These documents should also allow them to do the type of work you are offering. It is your responsibility to look carefully at the documents your candidates provide. All the documents they provide must be originals - photocopies, printouts or other copies are not acceptable.

You must carry out the following checks for ensuring the documents are genuine and to retain the statutory excuse:

- **Photographs** - does the candidate look like the photographs on their documents?
- **Dates of birth** - are the dates consistent with the appearance of the candidate?
- **Expiry dates** - if the documents have an expiry date - are they still valid? An indefinite right to remain stamp will be accepted by the UKBA in an expired passport.
- **Stamps and endorsements** - do the passport stamps allow your job applicant to do the type of work you are offering?
- **Appearance**-check appearance of document, has it been tampered with in any way?
- **Biometric details** - Biometric Immigration Document which indicates if stay is permanent or time limited.
- **Names** - is the same name used on all the documents provided? (If the candidate gives you 2 documents, which have different names, you should ask them for further original documents and ask them to explain the reason any discrepancies on the given documents. Further documents could be a marriage certificate, divorce document, deed poll, adoption certificate or statutory declaration.

STEP 3

When the recruiting manager has checked the candidate's documents and you are satisfied that they are genuine, you must save them by photocopying or scanning them for your records on your computer using secure means, the following parts of all documents shown to you:

For passports and travel documents copies of the following should be taken:

- - The front cover and all of the pages, which give the candidate's personal details. In particular, you should copy any page which provides details of nationality, a photograph, date of birth, date of expiry, biometric details and the page which shows his or her signature

and

- Any page containing a UK government stamp or endorsement, which allows your candidate to do the type of work you, are offering.

Any other documents should be copied in their entirety.

Photocopies of documents should be securely stored with the employee's personal file in HR for up to a period of two years. Scans of documents should be securely stored on secure media, such as a CD-R. Storage media should ensure that the information cannot be altered, deleted or overwritten once you have saved it.

Finishing the process

You should now have:

- Obtained documents from your candidate
- Checked and examined the original documents, having carried out reasonable steps to ensure the documents relate to the person
- Saved copies securely for your records and should be kept securely for the duration of the employees employment and for a further two years after their employment has ceased.

Where documents from List B are produced, follow-up checks should be carried out **by HR** at least every 12 months in order for the employee to remain legally employed.

On each occasion that a follow up document check is done, you should repeat the specified steps given above within the given time period and record the date of each subsequent check that has been carried out.

Romania and Bulgaria are known as A2 countries and need additional authorisation from the Home Office to work legally. These workers must produce an Accession Worker Card unless they are exempt and have evidence to prove this on their passport or immigration status document.

If you have followed the steps in this process, then you will have taken appropriate steps to prevent illegal working. If you have carried out these checks and establish that your potential employee is not permitted to work, or is the rightful holder of the document presented, then you are entitled to refuse employment to that person.

Important Note: If you have queries about documents please contact the Immigration Enquiry Bureau on 0845 606 7766 or the Employers Helpline on 0845 010 6677 or check the UK Border Agency website

<http://www.ukba.homeoffice.gov.uk/employers/preventingillegalworking/>