

Right to work evidence - scenarios

4.1 EEA nationals

4.1.1 The UK has left the European Union (EU) and the EU Withdrawal Act 2020 ended free movement law in the UK on 31 December 2020. There followed a grace period of six-months (until 30 June 2021) during which relevant aspects of free movement law were saved to allow eligible EEA citizens and their family members resident in the UK by 31 December 2020 to apply to the EU Settlement Scheme.

4.1.2 Since 1 July 2021, EEA nationals and their family members have required immigration status in the UK, in the same way as other foreign nationals. They can no longer rely on an EEA passport or national identity card to prove their right to work. EEA nationals must demonstrate their right to work either with the pre-settled or settled status under the EU Settlement Scheme (EUSS) or with a visa under the points-based immigration system.

4.1.3 Most EEA nationals resident in the UK will have made an application to the EUSS and will have been provided with digital evidence of their UK immigration status. They will evidence their right to work by sharing their immigration status digitally, using the Home Office online right to work checking service. This service allows employers to check an individual's right to work status online instead of requiring them to present documentary evidence.

4.1.4 As of September 2023, the Home Office will automatically extend EEA pre-settled status holders' immigration status by two years before the current grant of pre-settled status expires, to ensure individuals do not lose any rights and entitlements where a further application to the EUSS has not been made. The extension will be applied automatically to a individual's digital status by the Home Office one to two months before the expiry date of their pre-settled status. This will be reflected in their digital profile when proving their right to work using the Home Office online service.

4.1.5 Employers are still required to conduct a right to work check and retain a result of this check for their records for those individuals who hold pre-settled status. As EUSS pre-settled status will be extended shortly

before the original expiry date, any follow-up check on an individual who held pre-settled status should be made in the last month of their original period of leave to ensure that the extension is reflected on their status.

4.1.6 There will be other EEA nationals who hold another form of leave to remain in the UK, by way of a physical document, for example an endorsement in a passport, visa or vignette. Those are included in the Home Office acceptable right to work document lists.

4.1.7 Irish nationals continue to have the right to work in the UK under Common Travel Area arrangements and as such they can continue to use a passport or passport card to prove their rights in the UK. They did not have to apply for status under the EU Settlement Scheme, but may have chosen to do so, meaning they can also use their settled or pre-settled status to prove their right to work.

4.1.8 Employers should refer to Home Office guidance on employing EEA citizens in the UK for more information.

4.1.9 EEA nationals can be directed to Home Office guidance on viewing and proving their immigration status for support with the process.

4.2 Non-EEA nationals

4.2.1 Non-EEA nationals can use an immigration status document listed in the Home Office acceptable right to work documents to prove their right to work.

4.2.2 Those who hold a biometric residence permit, biometric residence card or status under the points-based immigration system can also prove their right to work using the Home Office online checking service. If an individual uses the online service, this will generate a share code so that employers can check their right to work status online instead of requiring them to present documentary evidence.

4.3 Asylum seekers (permission to work and volunteer)

4.3.1 An asylum seeker is an individual who has made an application for asylum, but whose application is yet to be decided upon. Asylum seekers generally do not have the right to work in paid employment in the UK. For the very small number who do, it will state employment permitted or allowed to work on their application registration card (ARC).

4.3.2 Employers must seek a positive verification notice from the Home Office to confirm the individual's status and right to work in the UK before they can be allowed to start paid employment. This can be done by going to the online [employer checking service portal](#). It is employers' responsibility to inform prospective or current employees when they are carrying out a check with the service.

4.3.3 The Home Office has a policy to support asylum seekers volunteering for charities or public sector organisations. Therefore, asylum seekers are able to undertake voluntary roles whilst their claim is considered without being granted permission to work. More details about this can be found on the [gov.uk website](#).

4.3.4 Further information about employing asylum seekers can be found in the Home Office guidance for employers on [preventing illegal working in the UK](#).

4.4 Refugees

4.4.1 A refugee is an individual who has had a positive decision on their claim for asylum under the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention). Individuals who do not meet the Refugee Convention's criteria for refugee status may qualify either for humanitarian protection (granted for five years), or discretionary leave to remain (granted for up to three years).

4.4.2 Refugees have rights under the Geneva Convention to be treated no less favourably than citizens of the host nation. This means that they can work and are able to move and reside freely in the UK. They are also eligible for mainstream benefits and services, including access to education and NHS treatment, in the same way as UK citizens.

4.4.3 Refugees with humanitarian protection or discretionary leave to remain are entitled to apply for further leave before their right to remain expires. A refugee's entitlement to employment and training continues during this period of waiting for a decision on their application.

4.4.4 They are not a part of the points-based immigration system. If granted leave to remain in the UK, a refugee will be issued with a Biometric Residence Permit and/or Home Office Immigration Status Document (ISD) which will indicate their refugee status. Employers may ask the individual to present this and accept this as evidence of their identity. Employers should ask the individual for a share code to evidence their right to work using the [Home Office online service](#). For more detailed information on acceptable documentation for different groups, see the Home Office guidance for employers on [preventing illegal working in the UK](#).

4.5 International students

4.5.1 International students are often able to work part time (20 hours per week) when studying in the UK, and full time during their holidays and any period between completing their studies and their permission to be in the UK expiring. Some international students have no right to work at all.

4.5.2 Before employing a student with limited right to work during term time, you must obtain evidence of their academic term and vacation dates that cover the duration of their studies in the UK for which they will be employed by you. You should request this evidence from the student.

4.5.3 This evidence should originate from the education institution that is sponsoring the student. You may obtain the dates for the entire duration of the course or, if this is not possible, you may obtain and copy them

annually providing the information you hold is current at the time of the student's employment.

4.5.4 Acceptable evidence includes one of the following:

- A printout from the student's education institution's website, or other material published by the institution setting out its timetable for the student's course of study. You should check the website to confirm the link is genuine.
- A copy of a letter or email addressed to the student from their education institution, confirming term-time dates for the student's course.
- A letter addressed to you as the employer from the education institution, confirming term-time dates for the student's course.

4.5.6 In exceptional circumstances, for example where the student is following a course timetable that differs from the one published, you may need to obtain bespoke evidence from the sponsor. It is important to remember that you require this evidence to establish and retain a statutory excuse against liability for a civil penalty.

4.6 Staff acquired under transfer of undertakings protection of employment

4.6.1 Employers who acquire staff because of a transfer of undertaking protection of employment (TUPE) transfer cannot rely on another employer's right to work checks. The new employer has a grace period of 60 days to undertake the appropriate document checks following the date of transfer.

4.6.2 This grace period applies only at the point of transfer and does not apply to any subsequent follow-up checks that might be required.