

Prevention of Illegal Working Policy

Statement of Policy

As an employer Bisley has a responsibility to contribute to the prevention of working by those who do not possess lawful immigration status by ensuring that all personnel recruited either directly or through recruitment agencies have the right to work in the UK.

Under the **Illegal Working Provisions of the Immigration, Asylum and Nationality Act 2006 (the Act)**, the Secretary of State may serve upon an employer a penalty notice of up to £20,000 where an employee of the company is knowingly to the company found to be:

- Subject to immigration control; and
- Aged over 16; and
- Not permitted to carry out work in question due to lack of leave to remain in the UK or because the leave to enter or remain of the individual is no longer valid, has been revoked or cancelled, or is otherwise subject to condition that prevents the individual from accepting employment.

Non-compliance with legislation as prescribed by the Act carries a maximum five-year prison sentence and/or an unlimited fine.

Completion of required document checks in a manner that is correct and accurate, shall provide Bisley with statutory excuse against payment of civil penalty should an illegal worker be discovered.

Policy Scope

This policy applies to all new employees irrespective of whether the employee is employed directly by Bisley or through an appointed employment agency, is full time or part time employed, in receipt of salary or hourly pay, permanent or temporary.

Procedure

Discrimination

Discrimination against individuals on the grounds of protected characteristics is unlawful when carrying out required right to work checks, these characteristics are inclusive of race.

Bisley will not tolerate discrimination in any form either within our organisation or supply chain, inclusive of the employment agencies that we use.

All reports of discrimination within the company's employment practices whether direct or indirect will be investigated. Where an incident is found to be internal it shall be handled in accordance with Company Disciplinary Procedure. Where discriminatory employment practices are found to have occurred within an appointed employment agency alternative corrective action shall be undertaken.

Right to Work Checks

In order to establish statutory excuse against civil penalty in the event that an employee is found to be working illegally, employees must carry out one of the following prior to commencement of employment:

- A manual right to work check
- A right to work check using Identity Documentation Validation Technology (IDVT) through an Identity Services Provider (IDSP).
- A Home Office online right to work check.

Right to work checks carried out on personnel employed through employment agencies are carried out by these respective agencies prior to introduction to the company in accordance with their own illegal working prevention procedures.

For directly recruited personnel Bisley shall carry out manual document-based right to work. This comprises checking original versions of 'acceptable documents' (See Section 4.0).

Copies of original documents are made and retained in accordance with GDPR.

Validity of document checks must be carried out in the presence of the holder to ensure that:

- They are genuine
- That the person presenting them is the prospective employee.
- That photographs and dates of birth are consistent across documents presented and with the person's appearance.

Additional guidance in carrying out documents is available in the **Home Office Right to Work Checklist**.

Acceptable documents for right to work checks

Documents considered acceptable for establishing statutory excuse when conducting a manual right to work check are separated into two lists, 'List A' and 'List B'.

For personnel with permanent right to work in the UK documents contained within 'List A' may be supplied. For personnel with temporary right to work in the UK documents contained within 'List B' must be supplied.

For personnel with temporary right to work providing 'List B' follow up checks shall be undertaken in order to maintain statutory excuse.

List A Documents

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, which has 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 Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to 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 Documents

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 Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to 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 Documents

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to 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 Appendix EU to 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 Appendix EU(J) to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008, or Appendix EU to 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 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.

Further information

Further information on prevention of illegal working can be found in the UK Government Code of Practice (April 2022), available at:

www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers

Or by telephone by contacting the Home Office directly on **0300 123 4699**.

Signed *R Costin*

Richard Costin
Chief Executive

Date 1st August 2024

BISLEY