

# PRE-EMPLOYMENT SCREENING

## A GOOD PRACTICE GUIDE

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# Introduction

## The aim of this guidance

This document provides detailed information of good practice in pre-employment screening, an important element of any personnel security regime. It includes a range of advice and guidance from government and other organisations as a 'one-stop' reference handbook focusing on:

- verifying identity
- verifying the right to work in the United Kingdom (UK)
- confirming employment history and qualifications
- verifying criminal records

This guidance is intended to support those within organisations which form part of the UK national infrastructure (NI), such as Human Resources (HR) and Security departments, who have responsibility for pre-employment screening. It may also be of value to the wider business community, and we would encourage these organisations to use this guidance as they see fit.

Whilst this guidance aims to be as comprehensive as possible, it is not exhaustive. CPNI recommends that organisations seek professional advice, especially on employment law, when implementing or amending their personnel security measures.

This guidance should be read in conjunction with other CPNI publications, in particular:

- *Good Practice Guide on Pre-Employment Screening – Document Verification*
- *How to obtain an Overseas Criminal Record Check*
- *Media Screening – Use of the Internet in Employment Decisions: a good practice guide*
- *Personnel Security Risk Assessment: a guide*
- *Ongoing Personnel Security: a good practice guide*
- *Personnel Security in Offshore Centres*
- *Personnel Security and Contractors: a good practice guide for employers*

These can be downloaded from [www.cpni.gov.uk](http://www.cpni.gov.uk).

## Pre-employment screening

Pre-employment screening seeks to verify the credentials of job applicants and to check that they meet preconditions of employment (e.g. that they are legally permitted to take up an offer of employment). When conducting checks, it should be established whether the applicant has concealed important information or otherwise misrepresented themselves. To this extent, pre-employment screening may be considered a test of character.

The ways in which pre-employment screening is performed vary greatly between organisations. In every case, the aim of pre-employment screening is to obtain information about prospective or existing staff (if promoted and/or changing jobs in the organisation), and use that information to identify individuals who may present security concerns.

Pre-employment screening is the foundation of good personnel security. It allows you to confirm the identity and credentials of those you are granting access to your sites and information, and reduces the likelihood of an insider harming your business.

An insider is someone (a permanent, temporary or contract worker) who exploits, or has the intention to exploit, their legitimate access to an organisation's assets for unauthorised purposes.

### British Standard 7858

BS7858 sets out recommendations for the security screening of individuals to be employed in an environment where the security and/or safety of people, services, personal data or property is a requirement of the employing organisation's operations or where such screening is in the public or corporate interest. The Standard is used widely in the private sector by organisations in their pre-employment screening processes, and by third party screening companies undertaking pre-employment screening checks for organisations.

BS7858:2012 (version 4) comprises:

- proof of identity and address (wherever possible, supporting documentation should be photographic);
- details of education and employment;
- criminal records check;
- financial check; and
- checking of a character reference.

The Standard sets the minimum screening period at five years, with no unverified gaps greater than 31 days. It states that full screening should be completed no later than 12 weeks after employment has commenced (for checks totalling five years), or 16 weeks (where the checks are for longer than 5 years). (N.B. CPNI recommends that pre-employment screening is completed before employment has commenced or, depending on outstanding checks, as soon as possible after – see the chapter on [decision making](#)).

Details on obtaining BS7858:2012 can be found at [www.bsigroup.com/en-GB/](http://www.bsigroup.com/en-GB/).

## The HMG Baseline Personnel Security Standard

The Baseline Personnel Security Standard (BPSS – generally referred to as the ‘Baseline Standard’) aims to provide, by application of a common ‘standard’, an appropriate level of assurance as to the trustworthiness, integrity and reliability of prospective civil servants, members of the armed forces, temporary staff and government contractors generally. It also forms the basis for any subsequent National Security Vetting<sup>1</sup> (NSV) requirement.

Version 4 of the Baseline Standard was implemented by the Cabinet Office in April 2014. It comprises verification of:

- identity;
- nationality and immigration status (including entitlement to undertake the work in question);
- employment history (minimum past three years); and
- unspent criminal convictions.

Additionally, applicants are required to give a reasonable account of any significant periods (six months or more in the past three years) of time spent abroad.

This guidance closely reflects the Baseline Standard and describes the same types of checks. However, the Baseline Standard contains some advice and supporting mechanisms which are specific to the government sector and are not, therefore, included in this guidance.

Further information on the Baseline Standard can be found at <https://www.gov.uk/government/publications/security-policy-framework>.

## Legislation

Pre-employment screening practices and procedures must be compatible with all relevant legislation. The following legislation must be considered to ensure that pre-employment screening procedures do not interfere with the individual’s right to privacy, disclose any information which organisations may find in an inappropriate way or without due cause, or use information in a discriminatory way:

### **Data Protection Act 1998 (DPA)**

The DPA concerns the processing of personal information of individuals. Information on individuals kept by an employer or a third party contractor or screener will fall within the DPA and its Code of Practice (published by the Information Commissioner’s Office). The DPA strikes a balance between the employer’s requirements and the individual’s rights. Checks should be carried out on a non-discriminatory basis and privacy rights must be respected.

The DPA stipulates that personal data must be: fairly and lawfully processed; used only for the intended purpose; is adequate, relevant and not excessive; is accurate and up to date; is not kept

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<sup>1</sup> NSV seeks to determine an individual’s suitability to hold posts with long-term, frequent and uncontrolled access to government-classified material, or for posts involving access to individuals, establishments or information assessed to be at risk from or of value to terrorism or espionage.

longer than is necessary; is processed in line with the rights of the individual; is held securely; and is not transferred to other countries without adequate protection.

An individual's refusal to undergo an essential check may lead to refusal of employment, and the individual must be made aware of this. This differs from making a check a condition of employment where it may not actually be necessary. Under Subject Access, an individual is entitled to view their personal data. The individual can object to the processing of information which is likely to cause damage or distress, decisions being taken by automated means, and have inaccurate personal data rectified, erased or destroyed.

Further information on the DPA and its code of practice can be found at [www.ico.gov.uk](http://www.ico.gov.uk).

### **Employment Rights Act 1996**

Concerns written contracts, flexible working and fair dismissal.

### **Equality Act 2010**

This Act contains the core of anti-discrimination law. It consolidated the Equal Pay Act 1970, Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995 (except for some Northern Ireland provisions), and Employment Equality Regulations for Religion or Belief (2003), Sexual Orientation (2003) and Age (2006).

### **Human Rights Act 1998 (HRA)**

Article 8 ensures that everyone has the right to respect for their privacy and family life, their home and correspondence. An individual has the right to live their life with such personal privacy that is reasonable in a democratic society, whilst taking into account the rights and freedoms of others. Interference with an individual's right to privacy under Section 8 must be in accordance with the law, have a legitimate purpose, and be proportionate in what it seeks to achieve.

### **Immigration, Asylum and Nationality Act 2006**

Amended by the Immigration Act 2014. Concerns the nationality and right to work in the UK. This is covered in the chapter [prevention of illegal working](#).

### **Rehabilitation of Offenders Act (1974) and the Rehabilitation of Offenders (Northern Ireland) Order 1974**

Amended by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012. Concerns the requirement to disclose spent and unspent convictions as part of a criminal record check. This and other legislation is covered in the chapter [criminal record checks](#).

## Pre-employment screening policy

Pre-employment screening should form an integral part of your policies, practices and procedures for recruiting employees. Robust pre-employment screening policies will ensure that processes are consistent, fair and efficient, maintain an organisation's reputation, and reduce the risk of business disruption or financial losses. This chapter highlights some of the issues to consider when planning a pre-employment screening programme.

A *Personnel Security Risk Assessment* will help you identify the different types of risks that different roles present, consider how these risks might affect the level of screening, and decide on the levels of screening that are appropriate for different posts.

### Pre-employment screening levels

One of the most important aspects of a pre-employment screening strategy is deciding what pre-employment checks to perform for each post. Some employers perform the same checks for all new applicants, regardless of the post. However, this can add unnecessary delays to the recruitment process. You may prefer to vary the screening process according to the risks that the post presents.

#### Minimum level of checks

As a minimum, employers should:

- verify identity;
- confirm residency and the right to work in the UK; and
- ensure that applicants complete a self-declaration criminal record form (see [Appendix 7](#)).

Employers must be satisfied about an applicant's identity (because of the risks of identity fraud), and that the applicant has a right to work in the UK. Failure to do so can lead to subsequent civil and criminal liabilities.

#### Medium level of checks

At the medium level, the following should be undertaken/verified:

- verify identity;
- confirm right to work in UK;
- ensure that applicants complete a self-declaration criminal record form;
- Basic criminal record disclosure (see chapter on [criminal record checks](#));
- most recent academic qualifications (see chapter on [qualifications and employment checks](#));
- relevant professional qualifications;
- most recent employer reference, including dates of employment (at least three years, preferably five years); and
- media checks (see chapter on [media searches](#)).

## High level of checks

At the highest level, the following should be undertaken/verified:

- verify identity;
- confirm right to work in the UK;
- ensure that applicants complete a self-declaration criminal record form;
- Basic, Standard or Enhanced criminal record disclosure if relevant to the job;
- all academic qualifications;
- relevant professional qualifications;
- employment references to cover at least three years (preferably five to ten years);
- basic confirmation with employers of dates of employment, posts held and reasons for leaving, and line manager references (if possible);
- media checks; and
- financial enquiries (see chapter on [financial checks](#)).

## Who should be involved in the process?

The size and structure of your business and the level and nature of the post is likely to determine which areas of your business will have a stake in ensuring that pre-employment screening is effective. The most active participants in the process are likely to include:

- **Human Resources (HR)** – In many organisations, HR departments will take the lead on the selection and recruitment of employees. They will normally be responsible for conducting or commissioning verification checks. It is vital, therefore, that HR personnel have a sound understanding of pre-employment screening.
- **Security personnel** – In a significant number of organisations, the security department is responsible for pre-employment screening. Even where this is not the case, the security department will be responsible for dealing with security concerns that emerge from the pre-employment screening checks, as well as decisions about the levels of checks that may be required for different posts.
- **Business owners and managers** – The involvement and support of business owners and managers are crucial to implementing robust pre-employment screening. They will usually play a greater role in recruitment in smaller organisations, including leading the interview process.
- **Legal personnel** – Legal personnel play a critical role in the development of pre-employment screening processes. They should be consulted in the production of all documents, forms and processes used for screening purposes.
- **Other relevant departments** – These may include regulatory bodies, staff representation and unions, procurement and auditors.

## Ownership of the pre-employment screening process

The departments involved in the pre-employment screening process may have competing interests. Due to the pressures of recruiting staff and regardless of the professionalism involved, screening procedures may not always be followed correctly and/or relevant information may not be shared with all appropriate parties.



It is advisable for one department to be responsible and accountable for pre-employment screening, and for a senior member of staff within that department to lead the process. They should work with all relevant parts of the organisation to ensure that protocols such as information sharing are agreed and adhered to, and that the whole organisation understands the importance of pre-employment screening.

Other duties for the lead department may include training the teams involved in the screening process, and ensuring that screening procedures are appropriately designed to fit within the overall business plan.

## Application form

This is a standardised form where the applicant can provide all relevant information and confirm (by signature) that the information is correct. It should provide the majority, if not all of the information required for pre-employment screening. The following is a list of likely information requirements, which are discussed in this guidance:

- **Full name** – including previous names or other names used.
- **Date of birth** – asking for age-related information on an application form may be seen as discriminatory under the Equality Act 2010. You should consider removing this from the main application form and include it in a diversity monitoring form to be retained by HR.
- **Current address** – do you also require previous addresses? If so, how far back do you go? This may be determined by the search requirements of certain checks e.g. County Court Judgments (CCJ), directorships, regulatory and/or NSV requirements.
- **Employment history**
- **Education history** – including full course details and contact details for the establishment.
- **Criminal history** – You should define the exact data you require i.e. convictions or conditional discharges. For most jobs only unspent convictions can be requested.
- **Clear statement that pre-employment screening will take place** – failure to provide accurate information may result in the application not being taken forward. This is important from a legal perspective, but can also have significant deterrent value.
- **Consent by the applicant to undergo pre-employment screening**
- **Permission to contact the current employer**
- **Additional information** – as required for specific cases.

You may need to customise the application form depending on the post. For example, you may not require full education history for semi-skilled staff, but you may require additional information for senior posts. Applicants should be clear what information is required, and employers should not request information which is irrelevant to the post.

## Interviews

As well as providing an opportunity to discuss the applicant's suitability for employment, an interview will play an integral part of the pre-employment screening process because:

- it encourages the applicant to be honest;

- it allows the employer to find out missing information which is relevant to the pre-employment process and to probe applicants about their responses or for additional information; and
- it provides a good opportunity to add to the overall assessment of the applicant's reliability and integrity.

## **Use of third parties**

If you use an external screening company or recruitment agency, it is important to be clear how their services fit into your processes and standards. You should be clear whether the third party is conducting part or all of the checks for each applicant. Where you are asking a third party to make judgements, you should ensure that these follow agreed decision making guidelines. You should reserve the right to audit your third party's procedures.

It is important to remember that you own and need to manage effectively the risk of granting the contractor access to your sites and assets, not the contractor organisation or agency. It is your responsibility for making any final decision which will impact on your business.

## **Decision making**

Most of the pre-employment screening checks do not require interpretation, the information provided is either true or false. However, for checks where judgement is involved, it is advisable to agree some decision making guidelines. For example, if you conduct a credit worthiness check, you should decide the criteria for an unacceptable credit report.

Your pre-employment screening strategy should set out how you deal with the results of all checks, particularly potentially adverse information. This is explored in more detail in the chapter on [decision making](#).

## **Post-employment screening**

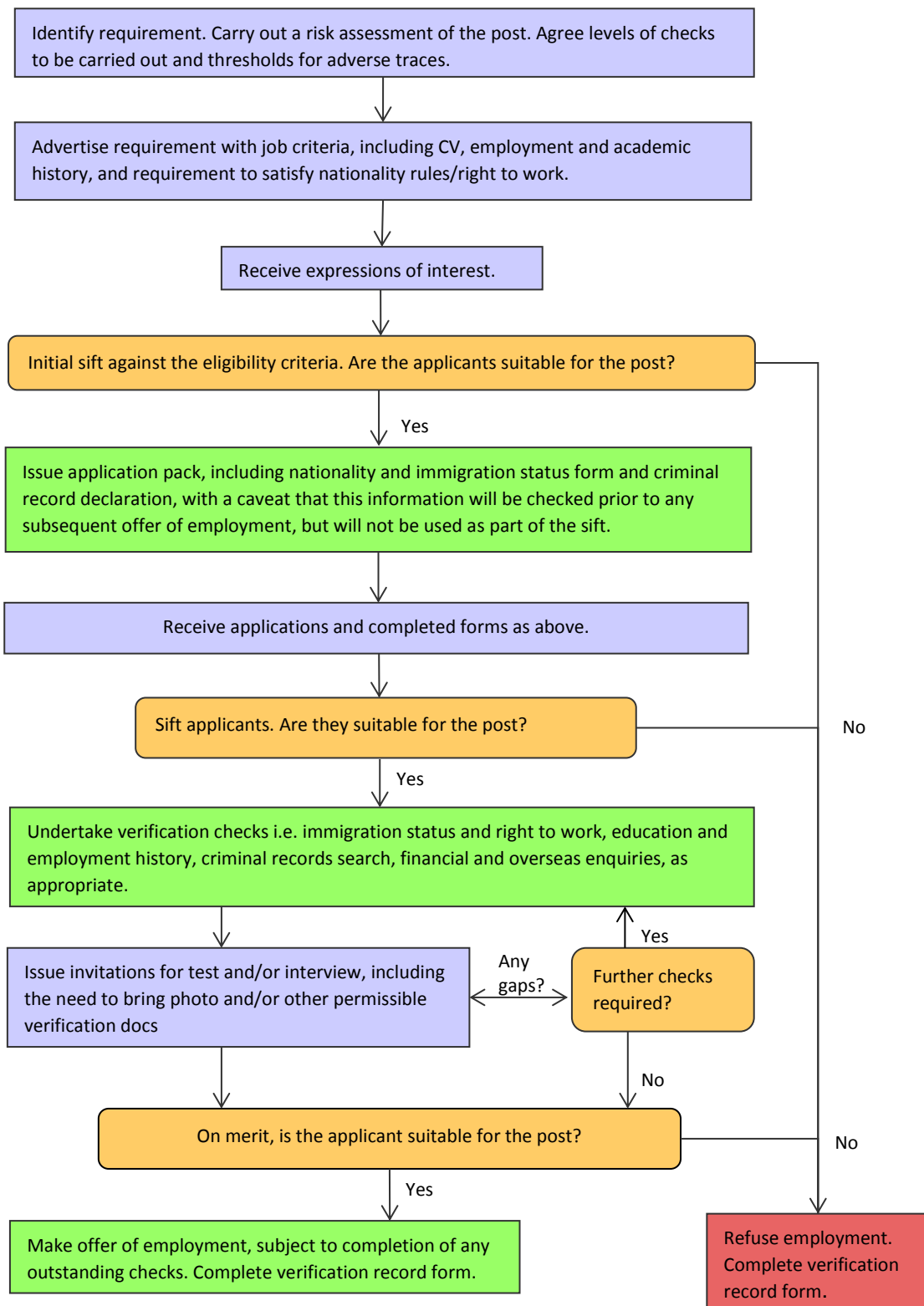
There may be instances where further screening is required once an individual has joined an organisation. These could include transfer to a post with additional responsibilities (e.g. financial or HR), promotion, commencement of a new contract, or regulatory or NSV requirements. The checks may be similar to those outlined above, but may not require as much detail as the initial screening checks.

Post-employment screening checks must be reasonable, proportionate, and meet an organisation's business requirements. They should not be used as part of an ongoing investigation or disciplinary procedure.

## **Structuring the pre-employment screening process**

It is helpful to produce a timetable for scheduling pre-employment screening within the overall recruitment process (see below). Ideally, pre-employment screening should take place once sifts to identify suitable candidates have taken place. You may also find it useful to maintain a verification record detailing what checks have been undertaken and confirming the results of these checks. An example of a verification record is provided at [Appendix 1](#).

## Example of a pre-employment timetable



# Identity

Of all the pre-employment screening checks, identity verification is the most fundamental. It should be the first check that is performed, and you should not undertake any further parts of the screening process until you are satisfied that an applicant's identity is satisfactorily proven.

## What is identity?

There are three elements to a person's identity:

- **Biometric identity:** the attributes that are biologically determined and unique to an individual i.e. facial structure, fingerprints, retina, voice, DNA profile.
- **Attributed identity:** the components of a person's identity that are given at birth, including name, place or birth and parents' names.
- **Biographical identity:** an individual's personal history including, but not limited to, registration of birth, addresses, education and qualifications, employment history, or registration of marriage or civil partnership.

## Identity fraud

There are four main reasons why individuals use false identities:

- **To avoid detection** – e.g. illegal immigrants, terrorists, wanted criminals, disqualified drivers and those with a poor credit history.
- **For dishonest financial gain** – this can include falsifying educational qualifications to obtain employment, credit fraud or welfare benefits fraud.
- **To avoid financial liability** – this can include failing to pay debts or taxes.
- **To illegally obtain genuine documents** – such as passports through the use of false 'breeder documents' (i.e. those documents required to obtain passports, such as birth certificates, which can have few or no security features).

It is therefore important to have a comprehensive document verification process, focusing on establishing the authenticity of every document an applicant produces.

## How to verify identity

The objectives of verifying identity are to relate your applicant to the information they have given about themselves by determining that the identity is genuine and relates to a real person, and establishing that the individual owns and is rightfully using that identity.

The most common methods for verifying identity are:

- requesting original documents – a 'paper-based' approach, and
- checking the applicant's personal details against external databases – an 'electronic' approach.

## The paper-based approach

By examining documents presented by an applicant, you are aiming to corroborate their full name (forenames and last name), signature, date of birth, and full permanent address. You should require applicants to provide:

1. An official document containing their photograph, such as a passport or driving licence. This will provide you with an opportunity to compare the photograph with the individual presenting the document (in order to prevent instances of imposters, or 'look-a-likes').
2. A document providing their current address (see below).

The ideal document:

- is issued by a trustworthy and reliable source;
- is difficult to forge;
- is dated and current;
- contains the owner's name, photograph and signature; and
- requires evidence of identity before being issued.

There is no definitive list of identifying documents, and not all documents are of equal value. However, ideal documents include passports, driving licences and national identity cards. Where a signature has not previously been provided, the applicant should be asked to provide it at a later date (e.g. at interview) for checking against relevant documentation.

Wherever possible, original documents should be used for identification purposes. You should not accept any copies, unless they have been certified by a solicitor. If documents issued via the internet have been presented to you (e.g. utility bills or a bank/building society statement), these can be used in conjunction with other independently-issued documents to verify address.

Documents that you might consider requesting include:

- current signed full passport, national identity card and/or other valid documentation relating to immigration status and permission to work
- current UK photocard driving licence
- current UK paper counterpart driving licence<sup>2</sup>
- current Biometric Residence Permit
- full birth certificate
- adoption certificate
- marriage or civil partnership certificate
- divorce, dissolution or annulment papers
- gender recognition certificate
- current evidence of entitlement to Department for Work and Pensions (DWP) benefits
- recent Her Majesty's Revenue and Customs (HMRC) tax notification
- building industry sub-contractor's certificate issued by HMRC

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<sup>2</sup> The UK paper counterpart driving licence will be abolished from January 2015 for those also in possession of a UK photocard driving licence. The paper counterpart will still be valid after this date for those who do **not** possess a UK photocard driving licence. See [www.gov.uk/government/organisations/driver-and-vehicle-licensing-agency](http://www.gov.uk/government/organisations/driver-and-vehicle-licensing-agency).

- current firearms certificate
- police registration document
- HM Armed Forces identity card
- proof of residence from a financial institution
- recent utility bill or certificate from a utility company confirming the arrangement to pay for the services at a fixed address on pre-payment terms
- local authority tax bill (valid for current year – issued within the last 12 months)
- recent mortgage statement from a recognised lender (issued within the last 12 months)
- bank, building society or credit union statement/passbook with current address\*
- confirmation from an Electoral Register search that a person of that name lives at the address provided\*
- current local council rent card or tenancy agreement\*
- record of an official home visit\*
- court order\*



\* If these documents are submitted, the date should be within the last six months – unless there is good reason for it not to be – and should contain the name and address of the applicant.

### **What to do if the applicant cannot provide photographic documentation**

You should ask the applicant to provide additional documents from the above list and a passport-sized photograph of himself/herself. This should be endorsed on the back with the signature of a 'person of standing' in the individual's community such as a magistrate, medical practitioner, officer of the armed forces, teacher, lecturer, lawyer, bank manager or civil servant, who has known the applicant for at least three years. The photograph should be accompanied by a signed statement from that person, indicating the period of time that the applicant has been known to them.

You should check the statement to ensure that the signature matches the one on the back of the photograph, and that it contains a legible name, address and telephone number. You must then contact the signatory to confirm that they did, in fact, write the statement.

### **Verifying addresses**

The purpose of this check is to confirm that the address exists and relates to a real property, and to establish that the applicant permanently resides or previously resided at that address. As a prospective employer you should judge whether you need to ask for more than the applicant's current address. This will depend on the post.

To verify an address, you can:

- ask the applicant to provide documentation to confirm residence at the address they have given (see the above list); and/or
- carry out an electronic identity database search (see below). This will check previous addresses against databases such as the Electoral Register.

## Gaps in residence details

If you require applicants to provide addresses that cover a lengthy period of time (e.g. five years or more), they may have gaps that they are not able to account for, such as foreign residence or travel, or custodial prison sentences.

To confirm an applicant's activities during gaps, you can do the following:

- Identify thresholds for undertaking checks. For example, if the period is less than three months, you may decide that it is neither necessary nor proportionate to confirm activities during that time.
- Ask the applicant to provide relevant documentation to cover the period in question.
- Check that the applicant's passport contains stamps for the countries they claim to have visited. If the stamps are absent (e.g. European countries), request other documentation to confirm their stay in those countries.
- If the applicant was living abroad, ask them to provide confirmation of the address. If they were working abroad, you should also verify their employment.
- If you use a commercial sector screening company to verify identity, they may be able to carry out gap analysis. Make sure you know what their capabilities are before accepting their tender (see the chapter on [commercial sector screening services](#)).

## The advantages of a paper-based approach

The paper-based approach allows original documentation to be closely examined, particularly in the presence of the applicant. If necessary, this can include the use of an ultra-violet (UV) light source and magnifying glasses to increase the prospect of identifying any basic forgeries. *Good Practice Guide on Pre-Employment Screening – Document Verification* provides detailed guidance on this process.

## The disadvantages of a paper-based approach

Some documents can be easily forged or bought. Advances in electronic equipment and software have resulted in an increase in high quality forged and counterfeit documents.

Document verification can be time-consuming, particularly for less experienced staff who may not be aware of the range of security features found in passports, identity cards, driving licences etc. Often only experts will be able to identify sophisticated forgeries.

## The electronic approach to identity verification

Rather than relying on a physical assessment of documentation, the electronic approach seeks instead to verify identity by checking and cross referencing information from databases such as criminal records or credit reference agencies.

By searching for records associated with the name, date of birth and addresses provided by an applicant, it is possible to build a picture of the applicant's past and current life. A long history of varied transactions and events indicates that the identity is more likely to be genuine. A history that lacks detail and/or depth may indicate that the identity is false.

Database checks alone are not sufficient to confirm that the applicant is the rightful owner of that identity - they simply confirm that the identity exists. You must test the applicant's knowledge of the information you have obtained from the electronic check to confirm that the applicant owns and is rightfully using the identity.



### **The advantages of the electronic approach**

The electronic approach is based on testing biographical rather than attributed identity, assessing an applicant's footprint in the UK. Creating a long-term and in-depth identity is a big challenge for fraudsters. Minimal training is required to use the software, and results can be received in real time, or with short turnaround periods.

### **The disadvantages of the electronic approach**

The electronic approach loses its value if the applicant is not tested on the data produced by the search. The results simply demonstrate that the identity exists. It does not provide an opportunity to make a face-to-face assessment of the applicant.

Young candidates or those who have recently arrived in the UK are unlikely to have built up a 'footprint' in the UK. They may be ineligible to vote and so do not appear on the Electoral Roll, or they may not have a bank account, credit cards or a mortgage, and so will not have developed an in-depth credit history.

The databases and data sources used for identity verification may contain inaccurate or out of date information. Human and system error can result in duplicate records being created or data input errors. Some duplicates may be raised as a result of deliberate fraud.

Some databases may hold records in excess of the expected population. These may include records for people who are deceased or who no longer reside in the UK.

### **Issues to consider when procuring an electronic identity service**

- What are the data sources? How accurate is the data? How often is data updated?
- Are there data protection issues concerning the databases and/or the applicant's data?
- When the applicant's data is entered into a system, will there be a footprint? For example, would someone be able to discover that the applicant is connected to your organisation? This may be relevant if you are considering employing high profile individuals in sensitive posts where discretion is important.

### **A combined approach**

Both the paper-based and electronic approaches have key strengths. You should therefore adopt a combined approach, at least for some posts. This will allow you to verify the applicant's original documentation and benefit from the comprehensiveness of the electronic approach.



## Prevention of illegal working: verification of nationality and immigration status

The legislation governing 'right to work' in the UK is the Immigration, Asylum and Nationality Act 2006, amended by the Immigration Act 2014. Employers may be liable for a civil penalty or criminal conviction for employing a person aged 16 or over who is subject to immigration control unless:

- that person has been authorised to be in the United Kingdom by the Government, and is permitted to take the job in question; or
- the person comes into a category where employment is permitted<sup>3</sup>.

The legislation provides employers with a **statutory excuse** (an 'excuse') if they check and record certain documents belonging to applicants. These checks must be carried out **before** an applicant is employed in order to obtain the statutory excuse. However, the excuse will not be available if the employer knowingly employs an illegal migrant worker.

An employer who is negligent or not sufficiently diligent at establishing a 'right to work' as part of their recruitment and employment practices may receive a civil penalty of up to £20,000 per illegal worker. Fines are calculated on a case-by-case basis, set out in the civil penalty scheme code of practice<sup>4</sup>.

An employer who knowingly employs an illegal worker can face a maximum of two years imprisonment, and/or an unlimited fine.

Employers have an ongoing responsibility to carry out checks on employees with time-limited immigration status (limited leave to enter or remain in the UK) to maintain their statutory excuse. There are two categories of statutory excuse:

1. **Continuous statutory excuse** – where a person has no restrictions on their right to work in the UK. Employers are not required to conduct further checks on the person for the duration of their employment in the organisation.
2. **Time-limited statutory excuse** – where a person does have restrictions on their right to work in the UK. This excuse is sub-divided in to two groups:
  - **Group 1** – follow-up checks must be carried out when the person's permission to work expires.
  - **Group 2** – follow-up checks must be carried out every six months from the date specified in a Positive Verification Notice. This notice confirms that a person is allowed to carry out the type of work in question. They will have in their possession appropriate Home Office authorisation e.g. a Certificate of Application or an Application Registration Card. Employers must contact the Home Office Employer Checking Service to obtain a Positive Verification Notice.

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<sup>3</sup> <https://www.gov.uk/government/publications/immigration-rules-appendix-k>

<sup>4</sup> <https://www.gov.uk/government/collections/employers-illegal-working-penalties>

## Confirming right to work

Document checks should be carried out on all prospective employees. In order to establish a statutory excuse, you should follow the steps below before the applicant is employed. In addition, you may wish to use the form at [Appendix 3](#) that asks applicants to confirm their employment and immigration status.

### Step one

Obtain original documents from either List A or List B, depending on the statutory excuse (see below).

### Step two

Check that the documents are genuine, that the person presenting them is the prospective employee and the rightful holder of the document(s), and is allowed to do the work you are offering. You must check:

- photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation;
- expiry dates for permission to be in the UK have not passed;
- any work restrictions to confirm that they are allowed to do the type of work on offer;
- the documents are genuine, have not been tampered with, and belong to the holder (see CPNI's *Good Practice Guide on Pre-Employment Screening – Document Verification*); and
- the reasons for any different names or spelling of names across documents e.g. marriage certificate, divorce decree or deed poll. Supporting documents should also be photocopied, and a copy retained.

The checking of documents must be undertaken in the presence of the applicant.

If you are presented with a false document, you will only be liable for a civil penalty if it is reasonably apparent that it is false. This means that a person who is untrained in the identification of false documents, when examining the document carefully, but briefly, and without the use of technological aids (e.g. a magnifier or ultraviolet lamp) could reasonably be expected to realise that the document in question is not genuine.

Equally, where a person presents a document and it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine, you may be liable to prosecution for knowingly employing an illegal worker.

### Step three

Copy each document presented to you in a format which cannot later be altered, and retain the copy securely – electronically (e.g. Write Once Read Many – WORM) or in hardcopy. You must retain a record of the date on which you made the check.

You must copy and retain:

- **Passports** - any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, 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. There is no requirement to copy the front cover of the passport.
- **All other documents** - the document in full, e.g. both sides of a Biometric Residence Permit.

You must retain all copies securely for the duration of the individual's employment, and for not less than two years after the employment has come to an end.

Some of the documents you might copy might include personal information – this information must remain confidential. Any copies of personal information should be made only for the purpose of establishing an excuse under Section 15 of the Act.

If you have carried out these checks and established that the applicant is not permitted to work for you, you must refuse employment.

### List A – acceptable documents to establish a continuous statutory excuse

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen, or a citizen of the UK and colonies having a right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area (EEA) country or Switzerland.
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of an EEA country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of an EEA country or Switzerland.
5. A current Biometric Residence Permit issued by the Home Office to the holder indicating that the person named is entitled to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. 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 to their stay in the UK.
7. 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 (NI) number and their name issued by a Government agency or a previous employer.
8. A full birth or adoption certificate issued in the UK including the name(s) of at least one of the holder's parents or adoptive parents, or 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 NI number and their name issued by a Government agency or a previous employer.
9. A certification of registration of naturalisation as a British citizen, **together with** an official document giving the person's permanent NI number and their name issued by a Government agency or a previous employer.

## List B, Group 1 – documents where a time-limited excuse lasts until the expiry date of leave

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 current Biometric Residence Permit issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current Residence Card (including an Accession Residence Card Derivative Residence Card) issued by the Home Office to a non EEA national who is a family member of a national of an EEA country or Switzerland or who has a derivative right of residence (see [Appendix 4](#)).
4. 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 NI number and their name issued by a Government agency or a previous employer.

## List B, Group 2 – documents where a time-limited statutory excuse lasts for six months

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (EEA) Regulations 2006, to a family member of a national of an EEA country or Switzerland stating that the holder is permitted to take employment which is less than six months old together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. 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.
3. 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.

UK passports are subject to Crown copyright protection. Copies of UK passports can only be made in certain circumstances, such as establishing and recording an individual's right to work. This allows employers to keep the record of the document, but prohibits the passing of this information to third parties.<sup>5</sup>

### Further guidance

The UK Visas and Immigration website provides advice and guidance on preventing illegal working, including employer's guides to right to work checks and acceptable right to work documents, frequently asked questions, and right to work and statutory excuse checklists.<sup>6</sup>

[Appendix 4](#) provides guidance on the rules which govern the employment of nationals from the EEA. [Appendix 5](#) provides guidance on the Points Based System for employing migrant workers.

<sup>5</sup> [www.nationalarchives.gov.uk/documents/information-management/reproduction-british-passport.pdf](http://www.nationalarchives.gov.uk/documents/information-management/reproduction-british-passport.pdf)

<sup>6</sup> [www.gov.uk/government/collections/employers-illegal-working-penalties](http://www.gov.uk/government/collections/employers-illegal-working-penalties)

## Qualification and employment checks

Confirmation of an applicant's qualifications and employment history will help employers to build up a picture of the applicant's reliability and integrity. These checks can also help identify those applicants attempting to conceal adverse information such as a dismissal from previous employment. This chapter provides guidance for employers who carry out their own pre-employment screening. Qualification and employment checks carried out by a third party supplier are discussed in the chapter [commercial sector screening companies](#).

### Qualification checks

A qualification check verifies information provided by the applicant on their application form or Curriculum Vitae (CV) for educational or professional qualifications. It should confirm:

- the establishment attended;
- course dates;
- title of the course (if the applicant has included details of courses studied it is advisable to check them); and
- grades awarded.

For each post you should consider whether it is proportionate to confirm the applicant's qualifications.

You may wish to confirm professional qualifications and membership of any professional bodies, regardless of the time that has passed. For example, an engineer or accountant who qualified 20 years ago should not automatically be exempt from having their qualifications verified.

You should always request original copies of any certificates and compare the information provided on them with what is included on the application form. For example:

- Do the names match? The applicant should provide an application if not.
- Does the date(s) on the certificate match the date(s) on the application form?
- Is there any difference in the title of the course studied or the grades awarded?

Many certificates will be printed on good quality paper which may be embossed, include an intricate crest with motto, and a watermark. If you have any doubts about a certificate (including any spelling or grammatical errors), you should discuss your concerns with the education establishment or professional body in question.

You should contact the establishment directly to request confirmation of the applicant's attendance, course details and grades awarded. You may be required to provide a copy of the applicant's signed consent form and may need to allow several weeks for a response.

If resource constraints make this approach impossible, you should at least aim to:

- compare the details on the certificate with those on the application form; and
- independently confirm the existence of the establishment, for example through an internet search, including contact details, logos or crests, and mottos.

## **Degree and accreditation mills**

Degree mills (also known as diploma mills), are mostly online entities which offer substandard or bogus degrees in exchange for payment, with little or no work involved.

Accreditation mills are bogus accreditation agencies which are not recognised by the authorities responsible for governing education provision in their country of operation. They offer accreditation for a fee, and will carry out little or no investigation into the quality of education provided by the institution they claim to accredit. Over 330 accreditation mills exist in the UK<sup>7</sup>.

Obtaining degrees through degree and accreditation mills devalues legitimate education by flooding the market with sub-standard degrees. Applicants who provide certificates from these mills as proof of education may in many cases be unqualified for the post they are applying for, and may obtain a pecuniary advantage for a post they are not entitled to hold. This may cause severe business, financial and reputational damage to organisations should this information come to light. It is important that employers check the accreditation and authorisation to award degrees of the institution granting the accreditation.

## **UK National Recognition Centre (UK NARIC)**

UK NARIC is the UK's national agency responsible for providing information and advice on vocational, academic and professional qualifications worldwide. It assists overseas applicants to understand how their qualifications relate to those in the UK. It enables employers to process applications from individuals with international qualifications efficiently and effectively.

Further information can be found at [www.ecctis.co.uk/naric](http://www.ecctis.co.uk/naric).

## **Employment checks**

The verification process should confirm:

- the dates of employment;
- position(s) held;
- duties;
- salary;
- reason for leaving; and
- any employment gaps.

The applicant's current employer should not normally be contacted without prior permission from the applicant.

It is advisable to verify a minimum of three years of previous employment (at least five years for full screening). Ideally, you should check a period which covers at least two positions with separate employers (although this may not always be possible).

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<sup>7</sup> Diploma and Accreditation Mills: New Trends in Credential Abuse (Verifile, March 2011)

## **Employer references**

You may wish to consider obtaining personal references from the applicant's previous or current line managers. These can provide a useful level of assurance about an applicant's integrity and track record. However, many employers only permit references to be provided by the HR department.

Employers may be cautious to comment upon their former employee's character, not least because of the risks of litigation from actionable statements. References tend therefore to focus on giving brief details of the employee's dates of employment and job title. However, references should:

- be true, accurate and fair in substance;
- offer facts, not opinions; and
- not conceal facts which are relevant to the new role. Where a reference refers to negative matters, such as disciplinary proceedings, they should be accurate and factual.

Employers tend to avoid giving references at all if there is a risk that they may give rise to a dispute.

You should confirm the existence of the employer (e.g. that it appears in relevant business directories), and contact them to confirm that they have provided the reference, and discuss its contents. A record of any conversation should be made. Telephone numbers supplied by the applicant should not be wholly relied upon.

## **Standardised reference form**

Standard employee reference forms identify relevant information, and minimise the effort required by those providing the references to prompt a timely response. See [Appendix 2](#) for an example of a standard reference template.

## **Pre-prepared references**

The applicant may provide pre-prepared references. You should take reasonable steps to ensure they are genuine (see above), particularly if they appear less than genuine (e.g. provided on poor quality paper or containing basic spelling or grammatical errors).

## **Overseas references**

Every effort should be made to obtain references from overseas employers.

In many European countries, an employer will issue a written reference to employees when they leave an organisation. This is an official document and is recognised as the reference in countries where this is issued.

Also in many European countries, every worker will possess a government-issued labour book. This will contain information on an employee's entire employment history, including changes in roles, leaving an employer, and joining a new one. Employers in these countries may not issue a

separate reference. You should therefore ask the applicant to produce their labour book in these cases.

### **Self-employment references**

For periods of self-employment, evidence should be obtained to confirm that the applicant's business was properly conducted and was terminated successfully. This could include information from HMRC and/or Companies House, bankers, accountants, solicitors or client references.

### **Other types of reference**

If an employer's reference is not available, a second personal reference should be obtained from a referee of some standing in the applicant's community (e.g. a doctor, lawyer or MP). However, if no personal references can be obtained, references should be obtained from personal acquaintances not related to or involved in any financial agreement with the applicant.

If the applicant has been in full time education, a reference should be obtained from the relevant academic institution.

Your checks may return information which contradicts the details provided by the applicant. You should proceed in a sensitive manner – there may be a reasonable explanation for apparent inconsistencies. You should also address any concerns you may have with the applicant, for example at an interview.

When you have established the facts, you should consider them within the context of all the screening results to support a balanced and reasonable decision.



## Criminal record checks

For some, if not all posts, you may have identified criteria for deciding whether prior criminality precludes an applicant from taking up those posts (e.g. fraud convictions for financial posts, or driving offences for positions where driving is involved). In these circumstances, you will wish to seek information on the applicant's criminal record.

### Requirements to disclose spent and unspent convictions

The Rehabilitation of Offenders Act (ROA) 1974 (amended by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012) and the Rehabilitation of Offenders (Northern Ireland) Order 1978 establish that a criminal conviction becomes spent if an offender remains free of further convictions for a specified period. The length of the rehabilitation period depends on the sentence given, not the offence committed (see [Appendix 6](#)). Custodial sentences of more than four years never become spent.

A conviction is described as unspent if the rehabilitation period associated with it has not yet lapsed.

Under the ROA a person is not normally required to disclose spent convictions when applying for a job (but see below). Having spent convictions, or failing to disclose them, are not normally grounds for exclusion from employment. If an applicant discloses information about spent convictions without being legally obliged to, the employer cannot act upon that knowledge. The following clauses from the ROA should be noted:

- **Section 4(2) (b)** – An applicant cannot be subjected to any liability or otherwise prejudiced for failing to acknowledge or disclose a spent conviction.
- **Section 4(3) (b)** – Failure to disclose the details or existence of spent convictions is not a lawful ground for dismissing or excluding any person from employment.

However, the ROA does state that it is reasonable for employers to ask applicants for details of any unspent criminal convictions.

### Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Rehabilitation of Offenders (Exception) Order (Northern Ireland) 1979

These orders identify the types of position and employment that are exempt from the protection offered by the ROA 1974 and the Rehabilitation of Offenders (Northern Ireland) Order 1978, even where the conviction is spent. The employer is entitled to a full history of spent and unspent convictions as part of the pre-employment screening process. The types of position to which the exemptions apply include:

- professions such as medical practitioners, barristers, accountants and other financial service positions, vets and opticians;
- those employed to uphold the law e.g. judges, police officers and prison officers;
- certain regulated occupations including directors of insurance companies, taxi drivers, firearms dealers and those in charge of certain types of nursing homes;

- those whose work is concerned with the provision of care services to vulnerable adults and/or the provision of health services, and those who work with children; and
- those whose work could put national security at risk such as air traffic controllers and certain employees of the Crown.

Employers face a minimum £5,000 fine if they seek to force an applicant to provide their criminal record by making a subject access request under section 56 of the DPA if they are not entitled to ask for this. A full list of occupations eligible for criminal records checks can be found at [www.gov.uk/government/publications/dbs-check-eligible-positions-guidance](http://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance).

## Sources of criminal history information

Organisations may become a registered body with the three organisations that provide criminal convictions information about applicants (see below). Alternatively, employers may contract with an umbrella organisation (see below).

### Disclosure Scotland and Access Northern Ireland (AccessNI)

Disclosure Scotland ([www.disclosurescotland.co.uk/](http://www.disclosurescotland.co.uk/)) and AccessNI ([www.dojni.gov.uk/accessni](http://www.dojni.gov.uk/accessni)) provide Basic, Standard and Enhanced disclosures (see below) to organisations, employers, public bodies, and organisations within the voluntary sector.

### Disclosure and Barring Service (DBS)

The DBS ([www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)) was formed in 2012 following the merger of the Criminal Records Bureau and the Independent Safeguarding Authority. It provides Standard and Enhanced disclosures.

All three organisations have access to the same type of information (e.g. data held on the Police National Computer (PNC) and information held on the lists of excluded persons held by the Department of Health and Department for Education). Ordinarily, registered bodies will utilise the service appropriate to their geographical boundaries (although employers based in England can use Disclosure Scotland for Basic disclosures). The three organisations will regularly share appropriate information from their data sources to ensure that a comprehensive disclosure is issued where an applicant has resided in all jurisdictions.

The cost of obtaining criminal records depends on the level of the disclosure. You should inform applicants who will pay or be expected to pay for the disclosure. In the case of the applicant, you should inform them whether they will be reimbursed.

## Types of disclosure

There are four types of disclosure available to you:

### 1: Criminal record declaration

You may wish to request that applicants complete a criminal record declaration form (see [Appendix 7](#)). This declaration, which the applicant has to sign, asks them to provide information about any unspent criminal convictions. It relies on the honesty of the applicant to provide

complete and accurate information. If they provide a false declaration, there is no way of confirming this unless a Basic disclosure is applied for. For reasons of transparency, the criminal declaration form should make it clear if such a check will be carried out.

## **2: Basic disclosure**

This is the lowest publicly available level of disclosure. It contains details of convictions considered unspent under the ROA, or states that there are no such convictions, at the time the application is made. It will contain details of any unspent convictions held on the Scottish Criminal History System and/or the PNC.

## **3: Standard disclosure**

This is the intermediate level of disclosure. It includes convictions held on criminal records and includes both spent and unspent convictions.

## **4: Enhanced disclosure**

This is the highest level of disclosure. In addition to the details included in the Standard disclosure, the Enhanced disclosure may contain local police information. The police will apply a relevancy test on releasing non-conviction information about an applicant if they believe it to be relevant to the 'workforce' the disclosure related to, rather than a single person or role.

From June 2013, the DBS has only issued disclosure certificates to the applicant, rather than the employer. You should ask for sight of the applicant's disclosure certificate.

In 2013, the DBS introduced the Update Service. This allows applicants to reuse disclosure certificates when applying for similar jobs at the same disclosure level. The applicant pays an annual fee to use this service. The employer can, with the applicant's consent, carry out an instant, free check to ensure that the information on the DBS certificate is current and up to date. Any information on the certificate will be accurate at the time the certificate was issued. You must ask to see the applicant's current disclosure certificate if they subscribe to the Update Service to check the certificate is at the required level for the post, and to check the information on the certificate. For further information, please see [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service).

## **Using the correct terminology**

To ensure that you receive the appropriate response from the applicant's criminal record declaration, it is important that you word the form correctly. Cautions, reprimands and final warnings are not criminal convictions and are not covered by the ROA. If applicants with cautions, reprimands or final warnings are asked if they have any criminal convictions or a criminal record (a less precise term but usually understood to mean convictions), they can answer in the negative. If employers wish to ask if applicants have cautions, reprimands or final warnings, they should ensure they are legally entitled to ask this under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013, which prohibits certain old or minor convictions and cautions from being the subject of disclosure<sup>8</sup>.

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<sup>8</sup> [www.gov.uk/government/publications/dbs-filtering-guidance](http://www.gov.uk/government/publications/dbs-filtering-guidance)

## Registered bodies

A registered body is an organisation registered with one of the criminal record disclosure organisations for the purpose of submitting disclosure applications for eligible positions or employment. There are separate arrangements to become a registered body for DBS, Disclosure Scotland and AccessNI. Please refer to the relevant organisation's website for further information including eligibility criteria and registration fees.

To satisfy conditions of registration with DBS, you must:

- submit more than 100 eligible DBS check applications per year;
- be entitled to ask exempted questions under the ROA i.e. is the applicant applying for a position which is covered by the Exceptions order? and
- comply with the DBS Code of Practice ([www.gov.uk/government/publications/dbs-code-of-practice](http://www.gov.uk/government/publications/dbs-code-of-practice)).

If you process less than 100 DBS checks per year, the DBS recommends you use the services of an umbrella body (see below)

## Umbrella body

An umbrella body is a registered body which provides access to disclosure services for other organisations. They have the same responsibilities and obligations as registered bodies. Many commercial screening companies act as umbrella bodies, for example, but are entitled to charge a fee for this service.

DBS information on registered and umbrella bodies can be found at [www.gov.uk/dbs-check-requests-guidance-for-employers](http://www.gov.uk/dbs-check-requests-guidance-for-employers).

## Assessing criminal records information

Your criteria should allow for the fact that a conviction – spent or unspent – should not necessarily be a bar to employment. Equally, they should indicate, as far as possible, the types of unspent convictions that are likely to be unacceptable for a given post. In complex cases, you will need to make a judgement. In doing this you should consider:

- whether the offence would cast doubt on the applicant's integrity or your reputation;
- whether the offence would affect the applicant's ability to do the job;
- whether the conviction is relevant to a particular post;
- the length of time since the offence occurred;
- the age of the applicant at the time;
- the nature and background of the offence
- seriousness of the offence;
- whether there is a pattern of offences;
- the conduct and character of the applicant since the offence; and
- the explanation offered by the applicant.

## Financial checks

Financial checks are unlikely to be required for every post; they are most likely for sensitive positions, and particularly those handling money/funds. They are not seen as a core aspect of pre-employment screening – they are dealt with more fully in NSV and other specialised screening assessment models. This chapter aims only to provide a brief overview of financial checks.

### Types of checks

A range of information is available on an applicant's financial background, including:

- credit information listed at the applicant's current and previous addresses, including County Court Judgments (CCJs), Voluntary Agreements or bankruptcies;
- a credit history report from a credit reference agency;
- a Companies House<sup>9</sup> search, to confirm whether the applicant holds any current or previous directorships, or appears on the Disqualified Directors Register; or
- searches against the Financial Conduct Authority's Financial Services Register<sup>10</sup>.

A number of companies, including commercial screening services, can search an applicant's details across financial service/credit databases combined with other screening checks (see the chapter on [commercial sector screening companies](#)). Combined with verifying identity, employers are able to discover relevant financial data.

For posts requiring financial checks, you may wish to consider appropriate questions on the application form, for example: *'have you ever been the subject of a County Court Judgment (CCJ) or Voluntary Agreement?'*

### Interpreting results

Interpreting financial data is likely to require a greater degree of judgement than other pre-employment checks. For example, what constitutes an adverse credit history? This could include an unsustainable lifestyle or bad payment history. Consideration should be given to the ability and concerted efforts made to repay debts. Clear guidelines will help to ensure that your judgements are consistent and defensible.

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<sup>9</sup> <https://www.gov.uk/government/organisations/companies-house>

<sup>10</sup> [www.fca.org.uk/register](http://www.fca.org.uk/register)

## Overseas checks

Employers are often faced with undertaking pre-employment checks on overseas applicants and those who have lived and worked outside the UK. It is important to verify their credentials because they may exaggerate employment overseas in the belief that the details will not be checked, or wish to conceal adverse information (e.g. a criminal record).



UK applicants should give a reasonable account of any significant periods spent abroad. This can range from anything over three months, although BS7858:2012 stipulates 31 days or more.

Operating conditions, the quality of record keeping (e.g. electronic or manual records), whether records are stored at a national or regional level, and legal constraints abroad can impede and add time to the screening process. This can result in some employers adopting a 'best you can approach' when checking overseas candidates.

### Managing the risk

There may be occasions when the business need will dictate that applicants are taken on as soon as is practically possible. In such instances an initial identity and right to work check might be carried out, with temporary and managed access to the site allowed. In the meantime, more thorough pre-employment screening checks should be carried out in the country where the applicant has most recently resided. Full employment would be conditional on the satisfactory completion of checks.

However, it might not be possible to employ the applicant where the required checks cannot be carried out or sufficient assurance cannot be obtained by other means. This should not reflect on the honesty or integrity of the applicant, merely that the required background checks in the country of residence prior to arriving in the UK were not possible. Alternatively, you might decide to employ the applicant, applying a range of personnel security measures that reflect the level of risk entailed in allowing access without the required information or assurance being available (see CPNI's *Ongoing Personnel Security: a good practice guide*).

### UK applicants with time spent overseas

You should request documentation accounting for time spent abroad. Examples include:

- proof of itinerary;
- suitable proof of residence for time spent abroad, e.g. document from landlord;
- overseas employee or academic references/certificates, including UK departments and agencies based overseas (e.g. Foreign and Commonwealth Office missions, British Council or Non-Governmental Organisations);
- bank/credit card statements; and
- character references, quoting dates and places of meeting.

Applicants should be informed that, if they provide any of the references above, they will be independently verified. Confirmation of dates can be cross-referenced with passport, work permits, internet searches, and contacting employers/educational establishments.

## **Overseas criminal record checks**

Employers may want to confirm whether an applicant has a history of criminal convictions in another country. The additional time to acquire overseas criminal record checks must be factored into recruitment procedures, and to highlight this requirement early in the process to prevent unnecessary delays.

CPNI's *How to obtain an Overseas Criminal Record Check* provides advice to employers and applicants on obtaining criminal record checks in 63 countries. It provides information on:

- who can apply for a criminal record check (in many countries this is limited to the applicant, but can also include employers or third parties);
- where to apply, both in-country and from the UK;
- the type of certificate issued (e.g. certificate of conviction, certificate of conduct) and language issued in;
- the cost of a check; and
- expected turnaround times.

For instances where a country is not listed in this guidance, you should visit the criminal records checks for overseas applicants page on the GOV.UK website:

[www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants). If the country you are looking for is still not listed, you may wish to contact the country's representative in the United Kingdom ([www.gov.uk/government/publications/foreign-embassies-in-the-uk](http://www.gov.uk/government/publications/foreign-embassies-in-the-uk)).

Employers should be minded that the categories of criminal convictions differ from country to country, and that the laws governing rehabilitation of offenders also vary significantly. In some instances criminal records are expunged either automatically after a period of time or after a time linked to the length of the original sentence.

## **Conducting your own overseas checks**

You may wish to consider using your own overseas checks. A good starting point would be the relevant country's UK embassy or high commission, which may be in a position to explain how certain processes work, and provide relevant contacts.

You can follow the guidance in the chapter on [qualification and employment checks](#). The internet can also be a useful tool in verifying overseas employers, educational establishments and referees.

CPNI's *Personnel Security in Offshore Centres* looks at personnel security measures in 14 countries commonly used for outsourcing and offshoring. It describes the range of pre-employment screening measures permissible in those countries, as well as ongoing personnel security measures.

Employers should allow additional time when undertaking pre-employment screening from overseas, including breaks and semesters in academic years in regard to qualifications checks, and allowing time for translations for criminal record certificates, references etc.

## **Hiring an external screening service**

Some employers outsource their overseas checks to an external screening company. These companies are explored further in the chapter [commercial sector screening companies](#). They are likely to offer some of the following advantages:

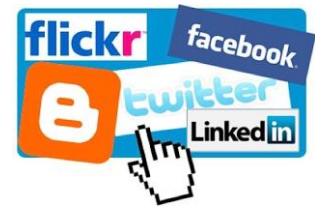
- foreign language capability;
- knowledge of the country including cultural issues and legislation;
- ability to conduct business during unsocial working hours (e.g. with the Far East);
- offices or links with screening companies in specific countries;
- a good understanding of the length of the screening process; and
- a good knowledge of the reliability of country specific information e.g. government records.

You should understand how screening companies undertake their checks, including records and databases they have access to. If they do not have offices in the appropriate countries, how will they work (e.g. a local screening company)?



## Media searches

It is common for employers to consider an applicant's 'online reputation', i.e. the evaluation of an applicant based on their online behaviour and what they and others post about them. CPNI's *Media Screening: use of the internet in employment decisions* provides advice to employers on using the internet to inform their employment decisions. This chapter provides a brief overview of media searches explored in the guide, and their relevance to pre-employment screening.



What applicants do or say on the internet may incur reputational or security risks to the employer. Media searches may therefore be required if the applicant will have access to sensitive material or sites within the organisation, or depending on their duties or responsibilities. Media searches can help verify identity, confirm or resolve concerns about suspicious behaviour, or establish how security aware the applicant is (for example, the information disclosed in the applicant's profile on a social networking site, or the permissions granted for other users to view their profile). Potential conflicts of interest may also be identified.

Media searches must be necessary, proportionate and transparent. If the employer has no justifiable reason for conducting media searches, then they should not be done. Searches must also comply with relevant legislation (e.g. DPA, HRA, and employment law). Only online information which can be publicly accessed should be researched. If results are recorded, they must be stored securely and retained for as long as there is a genuine business requirement.

There are risks inherent with media searches:

- Information on the internet may be inaccurate or unreliable, with little or no prospect of verifying the information.
- The information must relate to the applicant, and not someone of the same name.
- Is their applicant attempting to build themselves up through their online behaviour?
- You should be mindful of third party views or opinions.
- You should be mindful of your own views. Online activity you might consider unacceptable may be second nature to younger internet users (in particular, Generation Y).

Applicants should be informed that all sources of information available to the organisation may be reviewed to assess their suitability for employment. You should include in your screening policies thresholds for what online material or internet usage is deemed to be adverse, and what the impact of adverse information would be on the organisation and its existing employees. Applicants should be given the opportunity to discuss their online activities, for example at interview.

You should decide who carries out media searches (i.e. yourselves, or a third party screening company). You should be clear on your requirements (and your reasons for them), and the value of such searches. You should refrain from reaching a decision on whether to employ based solely on the results of media searches. These must be added to all other information at your disposal to reach a fair and balanced decision.

## Commercial sector screening companies

There has been a steady growth in screening companies. Some focus on only providing pre-employment checks (e.g. verification of identity, employment and qualification checks), while others provide more specialised services, such as drug and alcohol testing or investigations. Larger screening companies can act as umbrella organisations for criminal record checks.

Screening companies often (but not exclusively) use online automated software solutions to perform and manage the screening process. Both the employer and the applicant may be able to log-on to a web-based service to view the progress of checks, and for the applicant to provide consent should further checks be required.

A commercial sector screening company may be able to offer a number of advantages:

- **Reduced costs** – it may be cheaper, faster, more accurate and more cost efficient than in-house employment screening.
- **Fast results** – identity verification checks can provide results in seconds.
- **High degree of flexibility** – it should be able to provide a flexible, high quality service to meet your specific needs.
- **Global reach** – it may be able to offer multi-lingual skills to conduct checks overseas. It can perform checks in any time zone, no matter what time it is in the UK.
- **Cutting edge technologies** – increasing competition and research and development by screening companies can help to keep them at the forefront of advances in pre-employment screening techniques.
- **Compliance** – it can often provide a service which is compliant and compatible with industry standards (e.g. BS7858 and ISO 27001 – the international standard for information security management). However, it should demonstrate how it meets these standards.

### What you should consider about screening companies

- The final decision on recruitment rests with the employer, regardless of the involvement of the third party screening company.
- Can the company really live up to its promotional material? The standard and quality of screening services vary.
- You should ensure that you know a great deal about the company and service being offered before you make your decision. You should ask to speak to some of their existing clients.
- Have they done their research about your organisation?
- What information can the company access?
- Do they offer expertise and experience in the assessment of inconsistent or inaccurate screening results? Do they offer gap analysis?
- How is an applicant's data stored and protected?
- Do you have the right to audit (in detail) how and when they screen?
- What level of screening do their staff undergo?
- A competitive market increases the pressure on screening companies to produce results quickly. How can they ensure that a high quality standard of screening will always be met?

## Secure contracting

A contractor is defined as an individual who is not an employee of an organisation, but who has a direct or indirect contractual relationship to provide services to the hiring company or 'contracting authority'. A contractor may be an individual worker engaged by the contracting authority directly under a contract for services, or engaged to work for the contracting authority through a contracting company or agency. In large projects, a contracting authority may engage a third party company, who will supply their own staff and may in turn recruit further levels of subcontract workers.

Contractors can provide vital skills and expertise that cannot be developed internally for the same cost within the same timescales. However, contractors should undergo the same level of pre-employment screening as permanent employees with the same levels of access.

CPNI's *Personnel Security and Contractors: a good practice guide for employers* provides advice on employing contractors. However, the following should be considered in a pre-employment screening context:

### **Risk assessment**

Contractors should be risk assessed according to the same process as permanent staff. The risk assessment should ensure that the level of pre-employment screening carried out for the contractor(s) reflects the level of access/responsibility associated with the role and that of a permanent employee undertaking a similar role.

### **Accountability**

It is important to ensure that someone in the organisation is accountable for the pre-employment screening of contractors. It may be helpful for this to be the same person who is responsible for the screening of permanent staff.

### **Embedding pre-employment screening in contracts**

Contracts should outline the checks required for each post and detail how these are to be performed. There are three ways in which the checks can be conducted:

#### **1: Contracting authority performs pre-employment screening checks on all contractors**

The contracting authority should write into all contracts that contractors will be subject to pre-employment screening, and that their ability to work will be subject to the successful completion of the checks. This allows the contracting authority to retain control of the screening process, and to ensure that appropriate standards are met and retained.

#### **2: Contracting company/agency performs pre-employment screening**

There should be a requirement that all contracting companies must pre-screen those who will work on the contract. They should be able to demonstrate that the checks have been carried out satisfactorily, and the contracting authority should reserve the right to audit their processes. A

clause stating that the contracting company will be liable for financial penalties if staff have not been adequately screened should also be included. These requirements should cascade from contract to sub-contract.

### **3: Third party pre-employment screening**

The contracting authority should write into contracts a requirement that contractors will be subject to pre-employment screening checks by a third party screening company. It should be able to demonstrate that the checks have been carried out satisfactorily, and the contracting authority should reserve the right to audit their processes.

### **Dealing with adverse information**

Contracting authorities should put in place a process with the contracting company for dealing with adverse information, stating the thresholds for refusal to work for the organisation as part of the contract. This should include the disclosure of criminal record convictions where appropriate. Processes should be in place for the contracting company to refer the decision making process back to you as the contracting authority ahead of any decision to proceed to engage the individual.

### **Confirming the identity of contractors**

Systems should be in place to confirm that the person who arrives for work is the person the contracting company supplied and screened to work for the contracting authority. The contracting authority and company can exchange photographs and names to enable verification on initial employment.

Industry-recognised arrangements such as the Construction Skills Certification Scheme or the Energy Utilities Skills Register cards can also be used as an additional verification check as part of this process, but not as a replacement for pre-employment screening.

### **Managing the risk through supervised access**

If it is not possible to screen contractors to the same standard as permanent staff, the contracting authority should escort them whilst they are on site, or implement additional physical security measures such as zoned/controlled access and distinguishable security passes.

### **Re-engaging contractors**

When a contractor is engaged on more than one occasion in the same organisation, it should not be assumed that their circumstances have remained unchanged between periods of engagement. At the beginning of each period of re-engagement, the contracting authority should ensure that the contractor poses no greater risk than previously. Depending on the time elapsed, this could range from a short series of questions confirming that the contractor's circumstances are no greater than during the initial period of engagement, to a repeat of the entire pre-employment screening process. This requirement should be stipulated in all contracts.

## **Audit**

Where a contracting company or third party is performing pre-employment screening checks, it is important that the contracting authority quality assures this process through audits. When conducting an audit the contracting authority should ensure that:

- the right to audit is specified in the contract;
- reasonable notice should be given to the contracting company prior to any audit;
- the audit policy is consistent with the contracting authority's requirements;
- the contracting company or third party has a named individual responsible for their pre-employment screening policy;
- the contracting company or third party's screening processes conform to the standards set out in the contract;
- the audit process is independent and transparent. Terms of reference should be agreed with the contracting company before commencing the audit to ensure the purpose and scope of the audit is clear; and
- the contracting company complies with relevant legislation (e.g. the DPA, HRA and employment legislation).

## Decision making

Hopefully, the majority of your screening will come back with no adverse traces and you can proceed to employ the applicant. However, what are the considerations when dealing with gaps and adverse information? At what point do you decide not to proceed with the applicant if information is very slow to arrive from overseas? How do you interpret criminal record history or an adverse finance check?

In many organisations, the business manager will often have responsibility for making a final judgment as to whether to progress with the applicant in instances where there are time delays, where information is lacking, or where gaps exist. HR should report to the business manager on the progress on each screening case periodically and as early as possible.

In complex cases, decisions should involve the business areas that have a vested interest. This should include Security, HR and the business manager, as well as a lawyer where complex legal decisions need to be considered. Where criminal records information comes to light, some organisations might choose to give overall decision making to Security and HR, whereas others will let the decision rest with the business managers.

Checks should be considered on a case by case basis, taking into account the full range of information and, in the case of criminal conviction data, the nature and seriousness of the crime. Consideration should be given to the role that the applicant will be undertaking, their integrity, the severity and patterns relating to criminal records data, as well as mitigating circumstances.

It simply might not be possible to recruit the applicant as sufficient assurances might not be gained regarding gaps in information. This should not reflect adversely on the applicant, or cast any doubt on their character. Alternatively, it might be possible to manage the applicant through controlled access and/or supervision until all outstanding checks have been successfully completed.

In all instances, you should record your decision and your reasons for granting or refusing employment. This is important for auditing purposes, and responding to possible challenges by the applicant or employee in future.

# Appendix 1: Example of a verification record

**1. Employee/Applicant details**

Surname: ..... Forenames: .....

Previous names: ..... (if applicable)

Address: .....

.....

..... Telephone Number: .....

Date of birth: ..... Place of birth: .....

Nationality: ..... Former or dual nationality: .....

(with dates if applicable)

**2. Certification of Identity**

Document:	Date of issue:
a. ....	.....
b. ....	.....
c. ....	.....
d. ....	.....

**3. References (if taken)**

a. Referee:.....

Relationship:.....

Address: .....

.....

..... Length of association: .....

b. Referee:.....

Relationship:.....

Address:.....

.....

..... Length of association: .....

c. Referee: .....

Relationship:.....

Address:.....

.....

..... Length of association:.....

4. **Other** information (i.e. verification of employment history (past 3 years); verification of nationality and immigration status; unspent criminal record declaration and independent verification via Disclosure and Barring Service, Disclosure Scotland or AccessNI (where undertaken); academic certificates seen; additional checks carried out; etc.):

I certify that in accordance with company policy:

I have personally examined the documents listed at 2 above and have satisfactorily established the identity of the above named employee/applicant.

I have obtained the references (if taken) and information listed at 3 and 4 above and can confirm that these satisfy the requirements.

Name: .....

Appointment/Post: .....

Signature: ..... Date: .....

**Important: Data Protection Act (1998).** This form contains 'personal' data as defined by the Data Protection Act 1998. It has been supplied to the appropriate HR or Security authority exclusively for the purpose of recruitment. The HR or Security authority must protect the information provided and ensure that it is not passed to anyone who is not authorised to see it.



# Appendix 2: Example of a reference form

- 1. Name of applicant: .....
- 2. Post applied for: .....
- 3. Name of referee: .....
- 4. Position: .....
- 5. Organisation: .....
- 6. In what capacity do you know the applicant? .....
- 7. How long have you known the applicant? .....
- 8. In what capacity is the applicant employed? .....  
.....
- 9. Dates of employment: From: ..... To: .....
- 10. Salary/wage: .....
- 11. Main duties and responsibilities: .....  
.....  
.....
- 12. Please comment on the applicant’s suitability for the post with reference to the job description: .....  
.....  
.....
- 13. Do you have any other relevant comments you wish to make regarding the applicant?  
.....  
.....

The above answers are correct to the best of my knowledge and belief.

Name: .....  
Signature: ..... Date: .....  
Contact address: .....  
.....  
Email: ..... Tel No: .....

**Data Protection Act (1998).** This form contains ‘personal’ data as defined by the Data Protection Act 1998. It has been supplied to the appropriate HR or Security authority exclusively for the purpose of recruitment. The HR or Security authority must protect the information provided and ensure that it is not passed to anyone who is not authorised to see it.

### Appendix 3: Example of a nationality/immigration status form

**Note:** If you are appointed, documentary evidence will be sought to confirm your answers.

Full name: .....

Other name(s) used: .....

..... Male or female: .....

Date of birth: ..... Place of birth: .....

Current/last known address: .....

.....

..... Postcode: .....

Nationality at birth: .....

Present nationality (if different): .....

Please delete as applicable

Have you ever possessed any other nationality or citizenship? YES/NO

If YES, please specify: .....

.....

.....

Are you subject to immigration control? YES/NO

If YES, please specify: .....

.....

.....

Are you lawfully resident in the UK? YES/NO

Are there any restrictions on your continued residence in the UK? YES/NO

If YES, please specify: .....

.....

.....

Are there any restrictions on your continued freedom to take employment in the UK? YES/NO

If YES, please specify: .....

.....

.....

If applicable, please state your Home Office/port reference number here:

.....

**Declaration:** I undertake to notify any material changes in the information I have given above to the HR or Security branch concerned.

Signature: .....

Date: .....

**Important: Data Protection Act (1998).** This form asks you to supply “personal” data as defined by the Data Protection Act 1998. You will be supplying this data to the appropriate HR or Security authority where it will be processed exclusively for the purpose of recruitment. The HR or Security authority will protect the information which you provide and will ensure that it is not passed to anyone who is not authorised to see it.

By signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above. If you have any concerns, about any of the questions or what we will do with the information you provide, please contact the person who issued this form for further information.

For official use only:

Reference:

(Organisation stamp)

# Appendix 4: Right to work – EEA nationals

Many nationals from the EEA and their immediate family members<sup>11</sup> have the right to work in the UK without any restrictions. However, you should not employ any individual solely on the basis that they claim to be an EEA national. You should require any person who claims to be an EEA national to produce an official document showing their nationality (see page 17), this will usually be a national passport or identity card. However, the following documents may also be presented:

- **Registration certificates** – This document is issued by the Home Office, and confirms that the holder is living in the UK in compliance with EEA regulations, either by meeting residence requirements (‘exercising Treaty rights’), or by residing here as a family member of another EEA national who is exercising Treaty rights, or who has permanent residence.
- **Document Certifying Permanent Residence** – This document certifies that an EEA national has a right of permanent residence in the UK. Under EU law, an EEA national can acquire permanent residence after five years’ lawful and continuous residence in the UK.

Members of the EEA with full employment rights are:

Austria*	Belgium*	Bulgaria*	Cyprus*	Czech Republic*
Denmark*	Estonia*	Finland*	France*	Germany*
Greece*	Hungary*	Iceland	Ireland*	Italy*
Latvia*	Liechtenstein	Lithuania*	Luxembourg*	Malta*
The Netherlands*	Norway	Poland*	Portugal*	Romania*
Slovakia*	Slovenia*	Spain*	Sweden*	

(\* - EU member states)

Although the UK is a member of the EEA, in general the information in this section is not relevant to British citizens and their families.

When an applicant presents you with documentation, you must check that it describes the holder as a national or citizen of the relevant EEA country. Some EEA countries may issue identity cards or residence documents to individuals who are only residents in that country but who are not nationals. You should not accept these to meet your statutory excuse under section 15 of the Immigration, Nationality and Asylum Act 2006.

Switzerland is not part of the EEA. However, the same rights to live and work in other EEA states are extended to Swiss nationals and their family members, and the same checks should be conducted as for EEA nationals.

Non-EEA family members of EEA and Swiss nationals may apply for residence documents which demonstrate their entitlement to work in the UK. These documents are included in List A (permanent residence cards) or list B (residence or accession residence cards) of acceptable

<sup>11</sup> Immediate family members refer to a spouse or civil partner, any children or grandchildren of you, a spouse or civil partner who are under 21 years of age and are dependents, and parents and grandparents of you, a spouse or civil partner.

documents to obtain a statutory excuse (see pages 17-18). Under EU legislation, many are also entitled to engage in employment whilst their applications are under consideration, and before residence documents have been issued by the Home Office. The Home Office will provide such applicants with a certificate of application (see List B), which can be verified by the Employer Checking Service (see below). When the application is successful, the family member will be issued with one of the residence cards outlined above.

If you have any doubts about whether any of the above documents presented to you allows the holder to work or relates to the applicant, you should ask that person to produce their national passport. If you still have doubts about whether that person is permitted to work in the UK, having carried out the steps on pages 17-18, you should refuse employment to that person until the work entitlement can be established.

You must use the Home Office's Employer Checking Service (ECS) to confirm whether an individual has the right to work if they can't show you their documents (e.g. they have an outstanding appeal or application with the Home Office), or if they have an Application Registration Card or a Certificate of Application. To request a check you can download and complete an ECS enquiry form ([www.gov.uk/government/publications/employer-checking-service-form-check-employees-right-to-work](http://www.gov.uk/government/publications/employer-checking-service-form-check-employees-right-to-work)) and email it to the Employer Checking Service at [employercheckingservice@homeoffice.gsi.gov.uk](mailto:employercheckingservice@homeoffice.gsi.gov.uk). You can also call the Sponsorship, Employer and Education helpline on 0300 123 4699.

Further information can be found at [www.gov.uk/browse/visas-immigration/eu-eea-commonwealth](http://www.gov.uk/browse/visas-immigration/eu-eea-commonwealth).

The European Union's Public Register of Authentic Identity and Travel Documents Online (PRADO) contains information on European national identity and travel documents. For more information, see <http://prado.consilium.europa.eu/en/homeindex.html>.

## **Croatian nationals**

Croatia joined the EU on 1 July 2013. As EU nationals, Croatians may move and reside freely in any EU member country. However, the UK has applied transitional restrictions on their access to the UK labour market. These are set out in the Accession of Croatia (Immigration and Worker Authorisation) regulations 2013.

A Croatian national will only be able to work in the UK if they hold a valid worker authorisation document, or if they are exempt from work authorisation.

### **Obtaining worker authorisation**

To obtain worker authorisation for Croatian nationals, you must be a licensed sponsor under the relevant tier and category of the Points Based System (see [Appendix 6](#)). A certificate of sponsorship under the correct Tier 2 or Tier 5 category must then be assigned to the Croatian national. They must then use their Certificate of Sponsorship to support their application for a worker authorisation document; this will be a purple registration certificate.

Croatian nationals can apply for a blue registration certificate if they are exempt from worker authorisation. This is dependent on a number of factors, including:

- they have been working legally and continuously in the UK for a period of 12 months ending on or after 30 June 2013;
- on 30 June 2013 they had already been working with permission in the UK and have done so for a continuous period of 12 months ending on that date;
- they meet the relevant requirements of the Exceptional Talent category under Tier 1 of the Points Based System; or
- they have permanent residence in the UK.

Yellow registration certificates are issued to Croatian nationals who are self-employed, self-sufficient, or students. However, restrictions apply to holders of yellow certificates, which may prevent them from working for you.

You must carry out document checks to confirm if a Croatian national is either exempt from work authorisation, or holds a valid worker authorisation document for the work in question. You must check, validate and keep dated copies of original acceptable documents before they start working for you.

If you do not carry out these checks, or if you employ a Croatian national illegally, you will be subject to a civil penalty of up to £5,000 for each illegal Croatian worker under Section 11 of the 2013 regulations. You will also have your sponsorship licence revoked.

Full information on employing Croatian nationals can be found in the guidance on employing Croatian nationals at [www.gov.uk/government/collections/employers-illegal-working-penalties](http://www.gov.uk/government/collections/employers-illegal-working-penalties).

## Appendix 5: Points-based system

The points-based system (PBS) allows British business to recruit the skills they need from abroad while providing assurances to the British public that only those migrants the economy needs will be able to come to the UK.

The PBS applies to nationals from outside the EEA and Switzerland. It does not include visitors, UK ancestry routes, family reunification, European Community Association Agreements or business visitors.

Under the PBS, migrants must pass a points-based assessment before they are granted permission to enter or remain in the UK. The system comprises five tiers with the number of points required dependent on the tier applied for. Points are awarded on criteria including the applicant's salary, age, ability to speak English and, where appropriate, the level of economic need within the sector the migrant will be working in.

The tiers are broken down as follows:

1. **'High value' individuals who will contribute to growth and productivity.** There are four categories:
  - **Entrepreneurs:** who want to invest in the UK by setting up or taking over, and being actively involved in the running of, one or more businesses. No limits on numbers.
  - **Investors:** who want to invest £1 million or more in the UK. No limits on numbers.
  - **Graduate entrepreneur:** graduates who have been officially endorsed as having genuine and credible business ideas.
  - **Exceptional talent:** endorsed as an internationally recognised leader or emerging leader in science, humanities, engineering, medicine, digital technology or the arts.
2. **Skilled workers with a job offer from a licensed sponsor and a valid certificate of sponsorship and who have passed the points-based assessment.** There are four categories:
  - **General:** for foreign workers who have a skilled job offer to fill a gap in the workforce which cannot be filled by a settled worker. The role must meet job suitability requirements. Under this category, there are annual limits on the number of migrants allowed to work in the UK under a specified salary.
  - **Intra-company transfer:** for multi-national companies who need to transfer employees to the UK, either on a long-term basis or for frequent short visits. Under this category, jobs must be in an occupation on the Graduate Occupation List. The leave to remain granted depends on the salary earned.
  - **Ministers of religion:** for those coming to the UK to work for a religious organisation for up to three years. Separate arrangements exist for those wishing to undertake study (Tier 4) or working full-time as a teacher in a school run by a church or missionary organisation (Tier 2 General).
  - **Sportspersons:** for elite sportspersons and coaches who will be based in the UK.
3. **Unskilled migrants filling temporary labour shortages.** This tier has never been in operation as shortfalls are expected to be filled by migrants from within the EU. This tier is now closed.

#### 4. Students.

#### 5. Skilled workers employed on a temporary basis. There are five categories:

- **Creative and sporting:** for entertainers or artists (up to two years) or sportspersons (up to one year).
- **Charity workers:** where the work is unpaid (up to one year).
- **Religious workers:** for those undertaking preaching, pastoral and non-pastoral work (two years).
- **Government authorised exchange:** for work experience (one year), research projects or training (two years) to enable a short-term exchange of knowledge.
- **International agreements:** for those coming to do a job in the UK which is covered by international law.

Those issued with visas under tiers 1,2 and 4 will be eligible to apply for a visa under another tier once they are in the UK, if they can meet the requirements of that tier. Those who travel to the UK under tiers 1 and 2 (excluding intra-company transfers under Tier 2) may later be eligible to apply for UK permanent residence providing they meet the permanent residence requirements at the time of their application.

## Sponsorship

In order to obtain a licence, a prospective sponsor must apply online with UK Visas and Immigration (UKVI). They should supply the specified documentation by post, and pay a fee (dependent on the tier and the size of the sponsor organisation). Once licensed, the sponsor will be able to issue certificates of sponsorship, also at cost, to migrants proposing to work or study in the UK. Sponsors will also be granted access to UKVI's sponsor management system.

A licence may be refused if there is anything in the sponsor organisation's history, or that of the people managing or controlling it, which suggests that it could be a threat to immigration control or that it would be unable or unwilling to carry out its obligations.

Sponsors are responsible for the actions of any migrants they employ or teach. They must ensure that the system is not abused, maintain their duties of record keeping, reporting and compliance, and that migrants comply with their immigration conditions. If sponsors do not comply with their duties, they can have their licence downgraded or revoked (see below).

## Sponsorship ratings and support for employers

On application, UKVI will investigate the prospective licensee's suitability as a sponsor, including whether the employer has been fined by or reported to UKVI previously, and whether those in a sponsorship management role hold an unspent criminal conviction. UKVI will only award licences to genuine employers which are likely to comply with their duties. The ratings UKVI can award are:

- **A-rating:** where the sponsor has no evidence of abuse, and has all the necessary systems in place to fulfil their duties. Valid for four years.
- **B-rating:** where the correct systems are not in place or adequate to meet the sponsor's duties, or where there is previous evidence of abuse. Valid for four years.



A-rated sponsors who fail to comply with any of their sponsor duties may be downgraded to a B-rating. B-rated sponsors cannot issue new certificates until they have made improvements and have been upgraded back to an A-rating. They can, however, issue certificates to workers already employed who wish to extend.

Organisations must follow an action plan provided by UKVI (at a cost). If all the steps in the action plan have been undertaken and there are no further areas for improvement, the sponsor will be upgraded to an A rating. If improvements are still required, a second B-rating will be awarded and a new action plan agreed with UKVI.

Organisations are only allowed two B-ratings in the four year period of the licence. Organisations will lose their licence if improvements have still not been made after the second action plan. They must wait 12 months before applying for a new licence.

Full information on the PBS and sponsorship can be found at [www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators](http://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators). See also [www.gov.uk/browse/visas-immigration/work-visas](http://www.gov.uk/browse/visas-immigration/work-visas).

## Biometric Residence Permit (BRP)

All migrants from outside the EEA and Switzerland granted permission to stay in the UK for more than six months must apply for a BRP. It is proof of the holder's nationality and their right to stay, work or study in the UK. It can also be used as a form of identification. BRP holders must show it to employers prior to commencement of employment. Employers will be able to accept this, alongside other acceptable documents to confirm the identity and entitlement of applicants to work in the UK.



All applicants aged six and above are required to provide their biometrics. These will be a digital photograph and scans of all ten fingerprints (applicants under six are not required to provide fingerprints). The features of the BRP are uniform across all EU member states.

For further information, please visit [www.gov.uk/biometric-residence-permits](http://www.gov.uk/biometric-residence-permits).

## Appendix 6: Criminal convictions – rehabilitation periods

The legislation governing spent convictions has changed. The ROA 1974 has been amended by the LASPO Act 2012, and changes came into effect in March 2014. For most minor sentences (e.g. cautions, reprimands or fines), rehabilitation periods begin from the date of conviction. However, for convictions resulting in a custodial or community sentence, the rehabilitation period now starts at the end of the entire sentence (as opposed to the point of release from prison). Custodial sentences of more than four years can never become spent.

These changes are retrospective. This means that those convicted before the changes came into force are affected by the changes. The following table outlines rehabilitation periods:

Sentence	Rehabilitation period		Notes
	People aged over 18	People aged under 18	
Prison – more than 30 months and less than 4 years	Sentence + 7 years	Sentence + 3.5 years	From the day on which the sentence (including any licence period) is completed.
Prison – more than 6 months and less than 30 months	Sentence + 4 years	Sentence + 2 years	From the day on which the sentence (including any licence period) is completed.
Prison – less than 6 months	Sentence + 2 years	Sentence + 18 months	From the day on which the sentence (including any licence period) is completed.
Sentence of detention - between 6-30 months	Sentence + 4 years	Sentence + 2 years	Passed under s91 of the Criminal Courts Sentencing Act 2000 or s206 of the Criminal Procedure (Scotland) Act 1975.
Sentence of detention – less than 6 months	Sentence + 2 years	Sentence + 18 months	
Removal from Her Majesty's Service	1 year	6 months	Starting from the date of conviction relating to sentence.
Community order	12 months	6 months	From the end of the order.
Fine	1 year	6 months	From the date of conviction.
Service detention	1 year	6 months	Starting from the date on which the sentence is completed.
Sentence	Rehabilitation period		Notes
Detention and Training Order (over 6 months)	As prison sentences		For those under 18.
Detention and Training Order (less than 6 months)	As prison sentences		For those under 18.
Youth Rehabilitation Order	6 months		From the last day the order has effect.
Caution, warning, reprimand	None		
Conditional caution	Once conditions end		
Absolute discharge	Spent immediately		
Conditional discharge, binding over, care order, supervision order, reception order	End of the order		The day provided for by or under the order as the last day on which the order has effect.
Disqualification	End of disqualification		
Hospital order	End of the order		Under the Mental Health Act 1983. The day provided for by or under the order as the last day on which the order has effect.
Relevant order	End of the order		The day provided for by or under the order as the last day on which the order has effect.
Compensation order	Once paid in full		The date on which the payment is made in full.

# Appendix 7: Example of a criminal record declaration form

**Note:** If you are appointed, a check against the National Collection of Criminal Records may be undertaken and documentary evidence sought to confirm your answers.

Surname: .....

Full Forenames: .....

Date of birth: ..... Place of birth: .....

Full permanent address:.....

..... Postcode: .....

1. Are you currently bound over or do you have any current ‘unspent’ convictions or cautions (including reprimands or warnings) that have been issued by a Court in the UK or in any other country, or is there any action pending against you? You need not declare convictions which are ‘spent’ under the Rehabilitation of Offenders Act (1974).  
YES / NO (delete whichever is not appropriate)  
Details:

2. Have you ever been convicted by a Court Martial or sentenced to detention or dismissal whilst serving in the Armed Forces of the UK or any Commonwealth or foreign country? You need not declare convictions which are “spent” under the Rehabilitation of Offenders Act (1974).  
YES / NO (delete whichever is not appropriate)  
Details:

I declare that the information I have given on this form is true and complete to the best of my knowledge and belief. In addition, I understand that any false information or deliberate omission in the information I have given on this form may disqualify me for employment.

Signature: .....

Date: .....

The information you have given above will be treated in strict confidence

**Important: Data Protection Act (1998).** This form asks you to supply “personal” data as defined by the Data Protection Act 1998. You will be supplying this data to the appropriate HR or Security authority where it may be processed exclusively for the purpose of a check against the National Collection of Criminal Records. The HR or Security authority will protect the information which you provide and will ensure that it is not passed to anyone who is not authorised to see it.  
By signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above. If you have any concerns, about any of the questions or what we will do with the information you provide, please contact the person who issued this form for further information.