



SUPPORTING AND
EMPOWERING
REFUGEES



Equality and
Human Rights
Commission

GUIDANCE

Employing refugees

2020

Equality and Human Rights Commission
and the Refugee Council

The documents required as evidence
of entitlement to work in the UK

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Introduction

This guide explains the documents that refugees and asylum seekers can use to demonstrate their entitlement to work in the UK.

Refugees do not usually have a national passport but instead are issued with separate Home Office documents.

The Refugee Council works directly with refugees and supports them to rebuild their lives. The Equality and Human Rights Commission promotes, safeguards and enforces the law that protects our rights to fairness, dignity and respect. This guide is within the remit of both bodies.

This guide covers:

- What refugees bring to the workplace
- The documents which demonstrate that a refugee is entitled to work in the UK
- The documents which demonstrate that an asylum seeker is entitled to work in the UK
- The process for applying for further leave to remain
- Who to contact for further information

About this guidance

This guide outlines the documents that you will need to check prior to employing a refugee or asylum seeker. These documents are recommended by the Home Office in their Guidance and Codes of Practice.

- [‘An employer’s guide to right to work checks’](#) outlines the requirements that apply to all employees who started working for you on or after 28 January 2019, or for whom a repeat check is required.
- For employees recruited on or after 16 May 2014 and where the person had permission to work for the duration of their employment before 28 January 2019, you should refer to the [previous comprehensive guidance published in June 2018](#).
- For employees recruited on or after 29 February 2008 and where the person had permission to work for the duration of their employment before 16 May 2014, you should refer to the [previous comprehensive guidance published in October 2013](#).

Until 1 April 2013 UK Borders Agency (UKBA) was the Home Office agency responsible for asylum and permission to stay in the UK. UKBA has now been split into two separate units within the Home Office: UK Visa and Immigration and UK Immigration and Enforcement. These organisational changes do not affect the validity of any reference to UKBA in documents, forms or immigration rules.

The Home Office recommends that you check the documents of all prospective employees. Employers can be fined for employing workers who do not have the right to work in the UK; up to £20,000 per illegal worker with higher penalties for second or subsequent breaches, including imprisonment. In order to establish a legal defence, an employer should carry out pre-employment checks to verify an employee's right to work in the UK. You should refer to the [Home Office Right to Work Checklist](#) to find out about the steps to take while making these checks.

Full [employer guidance for right to work checks](#) can be found at gov.uk.

Who is a refugee?

Refugee status is granted to a person who has had a positive decision on their claim for asylum under the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention) and has been granted leave to remain in the UK. Refugees are forced to flee their countries because of a fear of persecution, often as a result of direct state action.

In the past, refugee status meant the individual was granted indefinite leave to remain in the UK. However, from 30 August 2005, refugees have been granted 5 years leave to remain.

Individuals who do not meet the Refugee Convention's criteria for refugee status may qualify either for Humanitarian Protection (granted for 5 years) or Discretionary Leave (granted for up to 30 months, other than in exceptional circumstances). People who have been granted Humanitarian Protection or Discretionary Leave are not technically refugees, but they do have permission to live and work in the UK. This guide uses the term 'refugee' as shorthand to include all those who have been granted permission to live and work here either by obtaining Refugee Status, Humanitarian Protection or Discretionary Leave.

Who is an asylum seeker?

An asylum seeker is a person who has applied for recognition as a refugee under the Refugee Convention and is awaiting a decision on their asylum

claim. The right to seek asylum from persecution is a fundamental human right that everyone is entitled to.

The rights of refugees in the workplace

Refugees have the same protection against discrimination in the workplace as everyone else in the UK. They are covered by the Equality Act 2010 and the Human Rights Act 1998. This means they cannot be discriminated against on the grounds of sex, pregnancy and maternity, gender reassignment, race (including colour, nationality or ethnic or national origin), religion or belief, disability, sexual orientation, age and marriage or civil partnership. However, refugees can experience particular problems because there is confusion about their rights and entitlements.

It is important to ensure that all recruitment decisions are made on the basis of suitability for the post. You should not make assumptions about a person's right to work or immigration status on the basis of their colour, nationality, ethnic or national origins, accent or the length of time they have been resident in the UK.

Refugees are not subject to the points-based system where migrants are required to meet particular skill and experience levels and employers are given sponsorship duties. They are able to work in the UK without any restrictions. Those with limited leave to remain in the UK can apply for further leave. During this time, while an application for further leave is being considered, a refugee continues to have the same rights to employment and training as before. This will be covered in more detail under 'Applying for further leave'.

What refugees can bring to the workplace

Refugees have a range of valuable skills and experience, resources that can be of great benefit in the workplace. The majority of refugees were working before they arrived in the UK, and have backgrounds in a wide variety of roles, from skilled trades to managers and senior officials. Research shows that refugees are highly motivated to find employment in the UK and to make a positive contribution at work.

Documents demonstrating entitlement to work in the UK for refugees

The Home Office issues a Biometric Residence Permit to refugees when they are granted leave to remain in the UK. Previously, an Immigration Status Document was issued. These documents provide evidence of entitlement to work in the UK and are described in this section.

You may need to check additional documents for employees. This might involve taking a copy of official documents issued by a Government Agency, such as HM Revenue and Customs or the Department for Work and Pensions, or a document from a previous employer that shows the person's permanent NI number and their name. Examples of documents include a P45, P60 or National Insurance Card. Repeat checks are required on the entitlement to work for employees with limited leave to remain in the UK.

The Home Office's guidance has two lists, A and B.

List A

These documents show that the holder is not subject to immigration control or has no restrictions on their stay in the UK. The documents will state that the holder has Indefinite Leave to Enter or Remain in the UK. If a prospective or existing employee produces a List A document, they can work for you for an indefinite period.

List B

These documents show that the holder has been granted leave to enter or remain in the UK for a limited period of time and is allowed to do the work in question. The document will state the date on which the holder's leave expires.

List B is split into Group 1 and Group 2 documents.

- A Group 1 document is valid until the expiry date of the leave to remain.
- A Group 2 document is valid for a 6 month period.

In either case a follow-up check will be required at the end of the period for which the document is valid.

Refugees with List B documents are entitled to apply for further leave before their current leave expires. A refugee's entitlements to employment and training continue during this period of waiting for a decision on their application. However, applications for further leave will require a refugee to send their original documents to the Home Office. See 'Applying for further leave' below for further details on the steps you need to follow in this situation.

Biometric Residence Permit

A Biometric Residence Permit (BRP) is issued to a person granted leave to remain in the UK. It will show the date the permit expires, and the immigration entitlements, such as permission to work. The permit is a plastic card of similar size to a credit card and has a biometric chip. The permit is machine readable.

The Home Office is introducing a system whereby they print National Insurance numbers on the back of BRPs. As this process is currently being phased in, it will apply to some refugees but not yet all. In the case that a BRP has a National Insurance number printed on it, the refugee or the employer does not need to make a separate application to the Department for Work and Pensions to obtain one.

You can check a prospective employee's right to work online using the [Home Office's right to work tool](#); you will need their BRP for this.

List A

To fall within List A, a BRP must state that the holder has indefinite leave to remain or has no time limit on their stay in the UK.

List B

List B Group 1

The BRP will state that the holder has limited leave to remain in the UK and has permission to work.

Follow-up checks are needed when the leave expires. Some people granted leave and with BRPs will have restricted rights to work (if they have been granted visas) but refugees and those with other protection-based leave should not.

Example of Biometric Residence Permit



Immigration Status Document

An Immigration Status Document (ISD) used to be given to an applicant following the grant of leave where no passport was held or where it would not have been appropriate to endorse a national passport. The ISD provides details of the applicant, length of leave in the UK and may indicate their status (Refugee, Humanitarian Protection or Discretionary Leave).

List A

To fall within list A, the prospective employee's ISD must state that the holder has:

- indefinite leave to remain, or
- no time limit on their stay in the UK.

Employers must also check an official document issued by a Government agency, such as HM Revenue and Customs or Department for Work and Pensions, or a previous employer which gives the person's permanent National Insurance number and their name. Examples of documents which should be used in combination with ISD include a P45, P60 or National Insurance number card.

List B

List B Group 1

A current ISD containing a photograph that states the holder has limited leave to remain in the UK with permission to work.

Employers must also check official document issued by a Government agency, such as HMRC or Department for Work and Pensions, or a

Documents demonstrating entitlement to work in the UK for asylum seekers

Asylum seekers are issued with an Application Registration Card (ARC). This document confirms the cardholder's identity and that they have been admitted into the asylum determination procedure. This document also states whether the person is permitted to work or not. Asylum seekers who are permitted to work are limited to occupations in the Shortage Occupation List. The ARC only falls into List B Group 2. It is not a List A document because an asylum seeker does not have permission to work in the UK indefinitely.

Application Registration Card

Asylum seekers who are allowed to work in the UK will have 'employment permitted' or 'work allowed' stated on their Application Registration Card (ARC).

List B

List B Group 2

The ARC will state 'employment permitted' or 'work allowed'.

Employers must use the [Home Office's Employer Checking Service \(ESC\)](#) to confirm that the card holder still has permission to work. The Home Office will issue a Positive Verification Notice if the person has permission to work. A follow-up check of the same kind must be carried out after 6 months.

It is the employer's responsibility to inform the prospective employee that they may undertake a check on them with Home Office through the ECS.

Example Application Registration Card



Footnote <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-k-shortage-occupation-list>

Quick reference guide

This is a quick reference guide to the documents and combinations of documents that refugees possess that allow them to work legally in the UK.

Document type	List A For individuals with no restrictions on their stay in the UK	List B For individuals with leave to enter or remain in the UK for a limited period of time
Biometric Residence Permit (BRP)	A current BRP showing that the person has been granted indefinite leave to remain in the UK or has no time limit on their stay.	A current BRP showing that the person has been granted permission to stay in the UK for a period of time and has permission to work. Follow-up checks are required when the leave expires.
Immigration Status Document (ISD)	A current ISD with an endorsement from the Home Office showing that the holder is allowed to stay indefinitely in the UK or has no time limit on their stay and an official document issued by a Government agency or previous employer with a permanent NI number and their name.	A current ISD with a photograph showing that the holder is allowed to stay in the UK for a period of time and is allowed to do the work in question, and an official document issued by a Government agency or previous employer with a permanent NI number and their name. Follow-up checks are required when the leave expires.
Application Registration Card (ARC) with 'employment permitted' or 'allowed to work' status		The original ARC showing permission to work and confirmation from the Employer Checking Service. Follow-up checks are required after 6 months.

Applying for further leave to remain

Refugees granted temporary leave to remain in the UK will need to apply for further leave to remain before their current leave expires. Under Section 3C of the Immigration Act 1971, those making in-time applications for further leave continue to have the same entitlements to work and training as before. Applications for further leave will require a refugee to send their original documents to the Home Office. This may also include people with Discretionary Leave (DL) who are still waiting for a decision on their application for further leave. Discretionary Leave replaced the former grant of status known as Exceptional Leave to Remain (ELR).

If you are recruiting refugees who have made applications for further leave to remain or have an appeal pending against a decision on an application, or have employees in this situation, you should complete the [Employer Checking Service \(ECS\) online](#). You have up to 28 days to contact the ECS to verify that an employee continues to have the right to work while their application for further leave is being determined.

On completion of the checks, the ECS will respond directly to you. If the result of the check is that there is an application outstanding, it will clarify for you that the employee or potential employee has the right to work at the point of recruitment and this entitlement can continue until a conclusive decision has been made. A Positive Verification Notice will be issued and will be valid for a further 6 months. If the response is negative you cannot lawfully employ that person.

This confirmation, along with an official document issued by a Government agency or a previous employer and giving the potential employee's permanent NI number and their name, will be considered an acceptable combination of documents.

If the applicant is recruited following the ECS response, you will still be required to check the relevant original documents at the earliest opportunity.

Conclusion

As the Home Office guidance advises, you should ask all prospective employees to present their documents before they begin working for you, whether they are refugees or not. Focusing only on refugees or foreign nationals could leave you open to claims of race discrimination.

Following the advice in this guide and complying with the [Home Office checklist](#) will help to ensure that you act in accordance with the law and do not employ anyone without permission to work in the UK. Doing so will also ensure that you do not miss out on the chance to employ refugees who are legally entitled to work in the UK, have lots of motivation and a range of skills and experience to offer your organisation.

About the Refugee Council

The [Refugee Council](#) is a human rights charity, independent of government, working to ensure that refugees are given the protection they need, that they are treated with respect and understanding, and that they have the same rights, opportunities and responsibilities as other members of our society.

About the Equality and Human Rights Commission

The [Equality and Human Rights Commission](#) is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations. Established by the Equality Act 2006, we operate independently and use our unique powers to challenge discrimination, promote equality of opportunity and protect human rights.

Contacts

This publication and related equality and human rights resources are available on the [EHRC website](#) and [Refugee Council website](#).

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com and info@refugeecouncil.org.uk. We welcome your feedback.

For information on accessing one of our publications in an alternative format, please contact: correspondence@equalityhumanrights.com.

Keep up to date with the latest news, events and publications by signing up to EHRC's e-newsletter and Refugee Council's email updates.

EASS

For advice, information or guidance on equality, discrimination or human rights issues, please contact the [Equality Advisory and Support Service](#), a free and independent service.

Telephone 0808 800 0082

Textphone 0808 800 0084

Hours 09:00 to 19:00 (Monday to Friday)
10:00 to 14:00 (Saturday)

Post FREEPOST EASS HELPLINE FPN6521

Advice for employers

Home Office Employer Enquiry helpline

Telephone 0300 123 5434

Thompsons Solicitors are a trade union law firm who assisted in the production of this leaflet, and may be contacted for more information.

Telephone 0800 0 224 224

Advice for refugees

Refugee Council

PO Box 68614
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E15 9DQ

Telephone 020 7346 6700

Fax 020 3070 0228

Scottish Refugee Council

6th Floor, Portland House
17 Renfield Street
Glasgow, G2 5AH

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Welsh Refugee Council

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