



Right to Work Policy

Purpose:	<ul style="list-style-type: none">• To explain the law on illegal working• To set out the responsibilities which current and prospective colleagues have to provide evidence of their ongoing right to work in the UK
Scope:	This policy applies to: <ul style="list-style-type: none">• All colleagues of the Headlam group of businesses and all subsidiaries• All prospective job applicants
Group or UK Only:	UK only
Issuing Department:	HR Department
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Date of Next Review (if applicable):	March 2027

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Introduction

It is against the law to employ individuals who do not have the right to work in the UK. Therefore, all employers, including Headlam, are legally obliged to carry out checks on their existing and prospective colleagues to ensure they do have the legal right to work in the UK.

Headlam will not employ, or continue to employ, any individual who cannot provide proof that they have the right to work in the UK.

Carrying out Right to Work Checks

All colleagues and prospective colleagues will be asked by their line manager to provide documentation to prove that they have the right to work in the UK. This will usually be in the form of valid identification documents, or documentation which is issued by the Home Office confirming the colleague's right to work status.

Once the necessary documentation is provided, it must be verified by the line manager and permanently stored on the individual's personnel file. In order to correctly verify and store the documentation, line managers must follow guidance from the HR Department which is set out in the manager tool-kit (for manager use only).

Acceptable Documentation

There are a number of different documents, or combinations of documents, which can be used to prove that an individual has the right to work in the UK. The list of acceptable identification can be found in **Appendix 1** of this policy.

Unacceptable Documentation

The business will not accept any documentation or combinations of documentation which are not listed within **Appendix 1**. For absolute clarity, this includes documents such as:

- An unverified letter from an official body such as the Home Office or a solicitor stating that the individual has the right to work in the UK
- A driving licence
- A utility bill
- A marriage certificate
- A travel document issued by any country
- A short birth certificate issued in the UK which does not have details of the individual's parents
- A security/police check issued by the DBS (Disclosure and Barring Service)

Recruitment

All offers of employment are subject to prospective colleagues providing proof that they have the right to work in the UK. Proof must always be gained prior to the prospective colleague starting work with

Headlam or carrying out any duties on behalf of Headlam. No-one will be permitted to start work until such proof has been provided.

If, despite best endeavours, a prospective colleague is not able to provide proof that they have the right to work in the UK, their offer of employment may be withdrawn.

Ongoing Checks

Colleagues who have “indefinite leave to remain” can work in the UK indefinitely. In this instance, Headlam will not need to carry out future ongoing checks regarding the colleague’s right to work in the UK.

Colleagues who have “limited leave to remain” will, at some point, need to leave the UK or make a further application to continue working in the UK. The date which their right to work in the UK expires will be stated on the documentation which they will already have provided to Headlam. In this instance, Headlam will need to perform a further check on the colleague 30 days prior to the expiry of their existing right to work. Future checks should be diarised to ensure they are not missed and carried out in exactly the same way as their original check.

Online Right to Work Service

In the following situations it will be necessary for the Line Manager to carry out an online check to verify a colleague’s right to work in the UK:

1. To check that an EEA national has been granted settled or pre-settled status allowing them to work in the UK
2. To validate a VISA or biometric residence permit

Checking settled or pre-settled status

EEA nationals who lived and worked in the UK for a period of time prior to 30th December 2020 need to have made an application to the Government for Settled or Pre-Settled status. Settled Status allows EEA nationals to remain working here indefinitely, whereas Pre-Settled Status expires after 5 years unless Settled-Status is granted during that time.

Applicants will need to evidence that they have been granted Settled or Pre-Settled status by allowing Headlam to carry out a check using the online Right to Work Service.

Validating a VISA or biometric residence permit

EEA nationals entering the UK for work after 30th December 2020, or nationals from any other country, must have been granted permission from the Home Office, which will be in the form of a VISA or a biometric permit.

Applicants will need to evidence that they have a valid VISA or biometric permit by allowing Headlam to carry out an online check using the Online Right to Work Service.

Using the online Right to Work Service

Applicants must verify their right to work by completing the necessary form online at <https://www.gov.uk/prove-right-to-work>. Upon completion, they will be provided with their unique 'sharer code'. They should provide this code to the Line Manager who will enter into the online Right to Work Service website at <https://www.gov.uk/view-right-to-work>. The Line Manager will receive instant verification of an applicant's right to work status.

Employer Checking Service

In circumstances where colleagues or prospective colleagues are unable to provide identification because they have sent it to the Home Office as part of their ongoing application to work in the UK, they will need to provide Headlam with their case reference number which would have been issued to them by the Home Office upon receipt of their ongoing application. The Line Manager will use the case reference number to carry out a check on the colleague's right to work in the UK using the employer checking service.

The checking service is located at www.gov.employercheckingservice.com. The Line Manager will need to obtain the colleague's permission before they can carry out this check.

When the Line Manager uses the employer checking service, they will receive an official notice via email within 5 days confirming whether or not the individual has the right to work in the UK. There are three possible scenarios:

1. The notification may state that the individual has indefinite leave to remain. In this instance it can be filed away for safe keeping and the individual can remain in work, or be offered employment, with no further checks needed.
2. The notification may state that the individual has the right to work in the UK, however, the notification is only valid for a short period of time before a further check is needed. The expiry date will be stated on the notification. In this instance, managers must diarise a further check to coincide with the expiry of the notification. The individual can remain in work, or be offered employment, pending the next check.
3. The notification may state that the individual does not have the right to work in the UK. In this instance, an investigation should be carried out, following which Headlam reserve the right to:
 - Take disciplinary action against the individual, up to and including dismissal
 - Withdraw any offer of employment which has been made

In very rare circumstances an existing colleague may be unable to provide their relevant documentation due to them having sent it to the Home Office, **and** they are unable to provide a case reference number because the Home Office is yet to issue it. In this instance, the colleague will have 30 days from the date which their right to work in the UK expired within which to provide you with their case reference. If they are unable to do so, Headlam reserves the right to take disciplinary action against the colleague, up to and including dismissal.

If a prospective colleague is unable to provide their relevant documents due to them having been sent to the Home Office, **and** they are unable to provide a case reference number because the Home Office is yet to issue it, they **must not** start work with Headlam. If they are not able to provide their case reference within 30 days from the date which their right to work in the UK expired, their offer of employment may be withdrawn.

Agency Workers

The responsibility for checking agency workers' right to work in the UK rests with the employment agency.

If a manager is considering transferring the worker's employment from the agency to Headlam, they should carry out their own right to work check prior to the transfer. Managers must carry out their own checks and cannot rely on any checks previously carried out by the agency. If, in the process of carrying out a check, the manager finds that the agency worker does not have the right to work in the UK, they should advise the agency and cease using the agency worker immediately.

If it is discovered that an employment agency or contractor has provided workers to Headlam without the correct eligibility to work in the UK, Headlam will take appropriate action.

When utilising an employment agency to help recruit a colleague, the responsibility to carry out the right to work check rests with the line manager.

Mergers and Acquisitions (TUPE Transfers)

Colleagues who join Headlam as part of a merger or acquisition also need to provide proof of their right to work in the UK. They will have 60 days from the date of the transfer in which to provide the necessary document, and failure to do so will result in disciplinary action being taken against them, up to and including dismissal.

The Penalty for Employing an Illegal Worker

If Headlam is found to be *unintentionally* employing illegal workers because it has:

- Failed to perform the requisite checks, or
- Failed to verify and store the relevant documents properly, or
- Carried out substandard checks (i.e. accepted documentation which is obviously forged or does not belong to the person submitting it)

then a civil penalty fine of up to £20,000 per illegal worker may be issued under the Immigration, Asylum and Nationality Act 2006.

If Headlam is found to be *knowingly* employing illegal workers it could face an unlimited fine, and/or responsible persons could face up to two years imprisonment.

Avoiding Discrimination

Headlam will always seek to offer roles to the best candidate and will never discriminate based on nationality or ethnic origin.

All colleagues and potential colleagues will be treated in the same way and will be required to provide proof of their right to work in the UK, regardless of their ethnic origin.

Non-Compliance

Allowing any individual to start work with Headlam prior to the necessary right to work checks being carried out could be considered gross misconduct. Therefore, any manager who fails to comply with this policy will be subject to disciplinary action, up to and including summary dismissal.

If the business suspects that an individual submits identification which is fraudulent or which they are not the rightful owner of, a full investigation will be carried out. Following the investigation the business may:

- Take disciplinary action against the individual, up to and including dismissal
- Withdraw any offer of employment which has been made to the individual
- Notify the relevant authorities

Sponsorship Licence

Where there is a gap in the UK labour market and in rare circumstances, the Company is able to sponsor eligible migrants seeking to work in the UK from outside the European Economic Area (EEA).

Links to Other Documents/Policies

- Inclusion and Respect at Work Policy
- Disciplinary Toolkit

End of Policy