Home Office

Illegal working operations

Version 2.0

Access, Compliance, Removals and Enforcement General Instructions

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About this guidance

This guidance provides information for Immigration Enforcement officers (“you”) on how to conduct an illegal working operation. It does not replace the legislation, civil penalty regulations, or code of practice, and should be read together with relevant sections and articles mentioned within.

Contacts

If you have read the relevant legislation, this guide and the Employer’s guide to right to work checks and still require more help with an illegal working operation, you must ask your line manager for assistance in the first instance.

If the question cannot be answered at line manager level, you may email (as appropriate):

- Civil Penalty Compliance Team (CPCT) communication and correspondence
- Right to Work Policy Team
- Criminal and Financial Investigations
- Enforcement Policy
- The Work Casework Risk Team

You can signpost employers who have general enquiries about illegal working and right to work checks to the Home Office Employer Enquiry helpline on **0300 790 6268.**

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can contact the Guidance Rules and Forms Team.

The full list of documents and tools that support employers are:

- Employer’s guide to right to work checks
- Right to Work Checklist
- Code of practice on preventing illegal working: Right to Work Scheme for employers
- Avoiding discrimination while preventing illegal working: code of practice
- Illegal working civil penalties: an employer's guide
- an online interactive tool Checking a job applicant's right to work
- an online interactive tool Employer Checking Service

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **26 October 2026**

Changes from the last version of this guidance

- updated guidance to reflect changes introduced by Section 48 of the Border Security, Asylum and Immigration Act 2025, including the extension of the Right to Work Scheme (“the Scheme”) and associated civil penalty liability from 1 October 2026 to a wider range of working arrangements - this includes individuals engaged under a worker’s contract, individual sub-contractors, and certain online matching services
- updated definitions throughout the guidance, including the definitions of ‘illegal worker’, ‘working illegally’, and organisations or persons who may be liable for a civil penalty under the Scheme, to align with current legislation and policy
- updated references to the latest Employer’s guide to right to work checks and Code of Practice on preventing illegal working
- updated criminal offence and civil penalty references to reflect current legislation, including the offence of knowingly employing, or having reasonable cause to believe, that an individual is disqualified from working
- updated sponsorship guidance to reflect current sponsor compliance processes and referral arrangements
- removed superseded material, including guidance on Croatian national employment restrictions, and consolidated related material on evidence gathering, criminal action, statutory excuses, and supporting employers.
- reviewed and updated contact details, cross-references and links to related guidance, legislation, and operational products
- general updates to terminology, formatting and drafting to improve consistency with current Home Office guidance standards, including replacing references to ’employees’ with ’workers’, where appropriate

Related content
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Legislation

You must be familiar with the following legislation when conducting illegal working operations:

- Sections 14A to 25 – Immigration, Asylum and Nationality Act 2006
- The Immigration (Restrictions on Employment) Order 2007
- Section 24B - Immigration Act 1971

The legislation listed above provides the core legal framework for the prevention of illegal working in the UK, including right to work checks, the working arrangements within scope of the Scheme, and the civil and criminal sanctions that may apply.

Legislation	What it covers
Sections 14A to 25 of the Immigration, Asylum and Nationality Act 2006.	The Right to Work Scheme, including civil penalty liability under the Scheme and the criminal offence relating to employing an individual who is disqualified from working by reason of their immigration status.
The Immigration (Restrictions on Employment) Order 2007.	The requirements relating to right to work checks and establishing a statutory excuse against civil penalty liability.
Section 24B of the Immigration Act 1971.	The criminal offence of illegal working.

When the Right to Work Scheme applies

The Scheme has applied to employment (under a contract of service or apprenticeship) commencing on or after **29 February 2008**.

From **1 October 2026**, the scheme also applies to a wider range of working arrangements, including where an organisation either:

- engages an individual under a worker's contract
- engages an individual sub-contractor
- operates an online matching service that provides details of individual service providers to potential clients or customers

In some circumstances, civil penalty liability may also extend beyond the employer who has the direct contractual relationship with the worker. Further guidance on extended liability is provided below.

The changes introduced from 1 October 2026 are not retrospective. This means they do not create liability under new provisions in relation to working arrangements entered into before that date.

You must consider the potential nature of the working arrangement to guide your questioning and gather evidence about how it operates and when it commenced. The Civil Penalty Compliance Team (CPCT) will consider the evidence and determine the type of working arrangement and the provisions that apply.

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References

‘Illegal worker’ refers to an individual who is disqualified from carrying out the work in question by reason of their immigration status. This includes an individual who has not been granted leave to enter or remain in the UK, or whose leave to enter or remain in the UK, either:

- is invalid
- has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise
- is subject to a condition preventing them from accepting the employment, such as not being permitted to work, restrictions on the type of work that can be conducted or limits on the number of hours that can be worked

For the purposes of the Scheme and civil penalty liability, the individual must be aged 16 or over.

A civil penalty is the sanction applied to employers in most routine cases involving illegal workers. An employer will not have a statutory excuse against liability for a civil penalty if they know, or have reasonable cause to believe, that they are employing an individual who is disqualified from working by reason of their immigration status. In these circumstances, the employer may also commit a criminal offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (IANA 2006). Where appropriate, prosecution may be considered.

‘Breach’ or **‘breaches’** of the Right to Work Scheme occurs where a person employs or engages an illegal worker in circumstances in which they are liable for a civil penalty under section 15 of the IANA 2006.

A breach of the scheme should not be confused with an individual working in breach of the conditions of their immigration permission, for example by carrying out work they are not permitted to do or working more hours than permitted. A failure to comply with conditions of permission may require consideration of cancellation action in respect of the individual’s immigration permission. Separate guidance applies to cancellation action. See Cancellation and Curtailment of permission.

‘Employer’ means a person who employs an individual either:

- under a contract of employment (a contract of service or apprenticeship)
- under a worker’s contract
- as an individual sub-contractor
- when operating as an online matching service providing the details of an individual who is a service provider to potential clients or customers

In the context of this guidance, the definition of ‘employer’ is in relation to the Right to Work Scheme only.

References to ‘employment’ or ‘employ’ include the types of working arrangements described and references to a ‘contract’ include a contract that is express or implied, and whether oral or in writing.

Where specified elsewhere in this guidance, references to an employer may include any other person who is liable for a civil penalty under the relevant legislation.

‘Individual sub-contractor’ means an individual who has entered into a contract with a person to provide work or services, in circumstances where that other person has entered into a contract with a third party to provide, or arrange for the provision of, the work or services but the individual has not.

‘Online matching service’ means a person who, in the course of a business:

- keeps a register of service providers for the purpose of matching them with potential clients or customers
- provides an online service by which potential clients or customers can submit enquiries for the purpose of being matched with suitable service providers
- charges a fee or commission in return for making such matches

All 3 elements must be met for a business to fall within the definition of an online matching service for the purposes of the scheme.

See ‘Additional questions for online matching services’ for guidance on gathering information about this working arrangement.

‘Person’ means a company, organisation, business, or other entity, and does not refer to an individual worker unless expressly stated.

‘Right to work’ means allowed to be employed by virtue of qualifying immigration status.

‘Right to work checks’ refer to prescribed manual document checks, prescribed Home Office online right to work checks and prescribed use of a Right to Work Digital Verification Service Provider for these checks.

‘Statutory excuse’ refers to both:

- an employer’s defence against liability for payment of a civil penalty, which is established where the employer carries out prescribed right to work checks before the worker commences employment, and where applicable, retains that excuse by carrying out required follow-up checks for workers with a time-limited right to work (as shown by an expiry date)
- a person’s defence against extended liability for payment of a civil penalty, which is established where that person has complied with prescribed requirements in relation to the relevant contractual arrangements

‘Substitution’ refers to where a worker is permitted to substitute their work or services to another individual. This includes through a clause or provision in a

contract that allows a worker to be replaced by another individual to perform the same work or services.

'Worker' or **'individual'** means an individual who is engaged to carry out work or provide services under a contract of employment (employee), a worker's contract, as an individual sub-contractor, or through an online matching service, as defined for the purposes of the Right to Work Scheme.

In the context of this guidance, the definition of worker is broader than the definition in s.230(3)(b) of the Employment Rights Act 1996.

'Worker's contract' means a contract (other than a contract of service or apprenticeship) under which both:

- an individual undertakes to perform work or services personally for another person (whether or not that person is specified in the contract)
- the person is neither a client nor customer of any profession or business undertaking carried on by the individual

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Actions during an illegal working operation

This section explains how to interview employers and workers during an illegal working operation and how to record the information obtained, including through interviews and witness statements.

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Questioning the worker and employer

Questioning the worker and, where present, the employer, person in charge or another person with knowledge of the working arrangement can help you gather the information needed about the arrangement.

You may ask questions relating to a breach of the scheme as part of exploratory questioning or an administrative interview with an individual as part of an examination regarding a breach of Immigration law. See: Enforcement interviews.

Where possible, you should ask relevant questions of both the worker and the employer or person in charge. You should adapt your questions according to who you are speaking to, what they are reasonably able to answer and the circumstances of the case.

Where there are reasonable grounds to suspect that an individual has committed a criminal immigration offence, and arrest and prosecution are being considered, you must caution the individual in accordance with the Police and Criminal Evidence Act 1984 (PACE). See Arrest and restraint for the appropriate caution to use for the area of the UK in which you are operating.

Answers given under caution may also be used as evidence in civil penalty action. Any decision to pursue prosecution must be taken on advice from the appropriate Criminal and Financial Investigations (CFI) team.

See also:

- Criminal action
- Dealing with potential criminality
- Record keeping during enforcement visits
- Immigration Enforcement powers

Questions about the working arrangement

The suggested areas of questioning below are intended to help you gather relevant information about the working arrangement. They are neither an exhaustive list nor a legal test for determining the type of working arrangement. You should adapt your enquiries to the circumstances encountered.

Your questioning should seek information about the:

- nature of the arrangement
- operation of the arrangement
- expectations of the arrangement

Nature of the arrangement

Establish what the worker's role is, how and when the working arrangement began and who was involved in agreeing or arranging it.

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Operation of the arrangement

Establish how the working arrangement operates in practice, including who controls the work, when and how it is carried out and what flexibility there is in the practical operation of the role.

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Expectations of the arrangement

Establish what is expected of the worker and employer, including in relation to the offer and undertaking of work and remuneration.

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Additional questions for individual sub-contractors

Where the individual may be working as an individual sub-contractor, you should ask additional questions to understand how the arrangement operates and gather any supporting evidence.

An individual sub-contractor arrangement may arise where a person or business has agreed to provide work or services and engages another individual to carry out that work. This can include arrangements involving substitution, where a worker is permitted to arrange for another individual to carry out the work in their place.

An individual may describe themselves as self-employed. You do not need to determine their employment status. Your questioning should focus on establishing the facts of the working arrangement.

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Where relevant, you should record and secure documentary, photographic or digital evidence relating to the arrangement where you have the lawful power to do so.

Additional questions for online matching services

Where an individual may be providing services to a client or customer after being matched through an online service, you should ask additional questions to establish how the arrangement operates.

For the purposes of the scheme, an online matching service must meet the definition set out in the References section. The points below are intended to assist your enquiries and are not additional elements of that definition.

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Additional evidence

Information obtained through questioning should be considered alongside any other relevant evidence identified during the operation.

Observations

Your observations may help to establish how the working arrangement operates in practice and corroborate or clarify information provided by the worker, employer, or person in charge.

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Documentary, photographic, and digital evidence

Documents, photographs, and digital material may also provide evidence about the working arrangement. You must ensure that you have the appropriate lawful authority to obtain or record such evidence. See: Search and seizure.

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Extended liability

In certain contractual arrangements, civil penalty liability may **extend beyond** the employer who has the **direct** contractual relationship with the worker. This is known as extended liability. Extended liability may apply where either:

- a person is contracted to provide work or services to a third party and contracts with another employer who employs workers to carry out all or part of the work or services required to fulfil that contract
- an online matching service matches a service provider with a client or customer to provide work or services, and the service provider enters into a contract with the client or customer

- an employer employs an individual to provide work or services, and the contract permits that individual to substitute their work or services to be carried out by another individual in their place

The starting point is to identify the employer who has the direct contractual relationship with the worker. That employer remains responsible for carrying out the prescribed right to work check and establishing a statutory excuse. Extended liability does not automatically transfer that responsibility to another person in the contractual arrangement.

Where the direct employer cannot be identified, liability may, in the relevant circumstances described, extend to another organisation in the contractual arrangements.

Gathering information about extended liability

You are not required to determine whether extended liability applies. You should gather sufficient information and evidence to enable CPCT to assess the contractual arrangements and determine liability.

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Where relevant, and where you have lawful authority to obtain it, you should also seek supporting evidence.

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Issuing notices

This section explains when and how to issue a no action notice (NAN-E) or a Notice of Potential Liability (NOPL) where illegal working is identified.

An employer may establish a statutory excuse against liability for a civil penalty by either:

- carrying out the prescribed right to work check before the worker commences employment, and where required, carrying out any follow-up checks for workers with a time-limited right to work (as shown by an expiry date)
- where the extended liability provisions apply, complying with the prescribed requirements relating to the relevant contractual arrangements

Issuing a no action notice (NAN-E)

Considering evidence of a statutory excuse

Where you identify an illegal worker during an operation, you must give the employer or an appropriate person representing the employer or the business an opportunity to provide evidence that a statutory excuse has been established.

You must consider any evidence provided in support of a statutory excuse in accordance with the Code of Practice on preventing illegal working and the published Employer's guide to right to work checks.

The officer in charge (OIC) must decide on the basis of the evidence available during the operation, whether to issue a NAN-E or a Notice of Potential Liability (NOPL). Where there is clear evidence that a statutory excuse has been established, a NAN-E must be issued. Where there is no clear evidence of a statutory excuse, a NOPL must be issued and the case referred to the Civil Penalty Compliance Team (CPCT).

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A NAN-E must be issued at the time of the visit to the employer or a representative of the business in respect of each illegal worker for whom there is clear evidence that a statutory excuse has been established.

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Issuing a Notice of Potential Liability (NOPL)

Where illegal working is identified and there is no clear evidence during the operation that a statutory excuse has been established, you must issue a NOPL to the employer or an appropriate representative of the business.

Potential extended liability

Where potential extended liability is identified during a visit, you must issue a NOPL to each potentially liable employer or person present at the premises. This may require more than 1 NOPL to be issued.

You are not required to determine whether the prescribed contractual requirements have been met or whether the evidence establishes a statutory excuse under the extended liability provisions. You must record and retain all relevant evidence and provide it to CPCT so that it can assess the contractual arrangements and determine liability.

Where another potentially liable person or business is not present, or their commercial or business premises have not been visited, the absence of a NOPL does not prevent the case from being referred to CPCT for consideration.

Any relevant documents provided should be copied and attached to the relevant Home Office record or sent to the CPCT Referrals inbox quoting the enforcement visit reference number.

Completing and issuing the NOPL

The NOPL must include:

- the name and role or job title of the individual to whom it is issued
- the date it is issued
- the relevant enforcement visit reference
- the employer or business name and registered address

- the business type
- VAT and company number, where applicable
- the names of any directors or owners
- the date and address at which the illegal working was encountered
- the names and dates of birth of the relevant illegal workers
- the reason for referral for each worker

You must complete 1 NOPL and as many additional worker supplements (AWS) as required to record all relevant illegal workers.

Where a commercial or business premises is visited, the NOPL **must be issued at the time of the visit**. You must issue the notice even where further enquiries are required. A photograph of the completed NOPL must be uploaded to the relevant Home Office system.

Where a potential breach of the Scheme is identified **away from the employer's commercial or business premises**, for example where a delivery rider is encountered while making a delivery, there is no requirement to subsequently serve a NOPL on the employer by post. Please note that the absence of a NOPL does not prevent referral to CPCT.

Where the commercial or business premises of a potentially liable employer or person are visited, you must issue a NOPL.

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Criminal action

This section explains what you must do when you suspect that a criminal offence has been committed during an illegal working operation.

Suspected criminal offences

If, during exploratory questioning or an administrative interview, you develop reasonable grounds to suspect that a criminal offence may have been committed you must stop questioning about the suspected offence and refer the matter to the appropriate Criminal and Financial Investigations (CFI) team or CFI duty manager as soon as possible.

This may include suspected offences relating to:

- employing an illegal worker
- illegal working
- facilitation
- modern slavery, human trafficking, forced labour, or related offences

You must record the referral and follow any advice provided by CFI to ensure that any subsequent arrest, interview, or seizure of evidence is conducted in accordance with the relevant legislation and guidance.

Where CFI advises that an individual should be arrested, you must caution the individual and explain the reason for their arrest. See: Arrest and restraint.

For further information on questioning and interviews, see: Enforcement interviews.

Civil penalty and criminal action

A potential civil penalty and a suspected criminal offence may arise from the same circumstances.

Where you suspect that an employer may be liable for a civil penalty, but do not suspect that the employer has committed a criminal offence, you may continue to gather the information necessary for evidencing a breach of the scheme.

Where you suspect that an employer has also committed a criminal offence, you must stop questioning about the suspected offence and seek advice from CFI.

A worker may commit the offence of illegal working whether or not civil or criminal action is taken against an employer. Where criminal action against the worker may be appropriate, refer the matter to CFI.

CFI will determine whether criminal action is appropriate in accordance with the relevant guidance and circumstances of the case.

See also:

- Arrest and restraint
- Enforcement interviews
- Dealing with potential criminality
- Identifying people at risk

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Supporting employers

This section explains how to respond where an employer asks you for advice about preventing illegal working or reports suspected illegal working.

You must take care when advising employers and ensure that any advice is consistent with published Home Office guidance. You must not advise an employer on individual employment decisions or provide assurances about whether or not civil penalty or criminal action will be taken in cases involving illegal working.

Cooperation by an employer does not prevent civil penalty or criminal action. Relevant mitigating factors will be considered as part of any subsequent civil penalty or criminal investigation process.

General advice about preventing illegal working

Employers seeking general advice about preventing illegal working or help conducting a right to work check should be directed to the relevant employer support services and GOV.UK guidance:

- The Home Office Employer Enquiry helpline on 0300 790 6268
- Penalties for employing illegal workers which provides access to guidance on preventing illegal working

Reporting suspected illegal working

Where an employer wishes to report suspected illegal working within their workforce, they should be directed to the appropriate employer reporting route as set out in the code of practice and current employer guidance.

An employer who reports suspected illegal working and obtains a Unique Reference Number (URN) before the Home Office identifies the individual may qualify for a reduction in any subsequent civil penalty in respect of that illegal worker. The Civil Penalty Compliance Team (CPCT) will determine whether the relevant mitigating criteria are met.

Requests concerning an individual's right to work

Where an employer requires help with the process of conducting a right to work check, direct them to the current published guidance and employer support services.

You must not advise an employer to dismiss an individual, terminate a working arrangement, or make any other employment decision. Employers remain responsible for carrying out the prescribed checks and deciding what action to take in relation to their workers.

Compliance and educational visits to employers

Advice and instruction visits (‘compliance visits’ or ‘educational visits’) may be undertaken to help employers and other persons within scope of the Right to Work Scheme to understand their responsibilities and how to prevent illegal working.

Where relevant, a compliance or educational visit may cover:

- responsibilities under the Right to Work Scheme
- how to carry out prescribed right to work checks
- the requirements for establishing a statutory excuse, including where the extended liability provisions apply
- relevant GOV.UK guidance and online services
- where to obtain further information and support
- the limits of the advice that Home Office officials can provide

You must not use a compliance or an educational visit to determine liability in advance, advise on individual employment decisions, or give assurances that civil penalty or criminal action will not follow.

Compliance or educational visits must be tasked, authorised and risk assessed in accordance with current operational requirements and carried out by suitably trained officers. They do not provide any additional powers of entry, search, questioning, or seizure.

Consent

Compliance or educational visits must be conducted with the informed consent of the employer or another individual responsible for the business who has authority to give consent. The employer or other responsible person should complete the Consent for compliance visit form before the visit and consent should be confirmed on arrival.

The individual who gave consent may withdraw it at any time. If consent is withdrawn before entry, the visit must not proceed. If it is withdrawn during the visit, officers must leave the premises.

The scope of the visit must remain consistent with that agreed with the individual who gave consent.

For all standard enforcement visits, the employer or another individual responsible for the business is served with a Notice to occupier form on entry.

Suspected illegal working during a compliance or educational visit

If you identify suspected illegal working during a compliance or educational visit, you must record the relevant information and evidence on the relevant Home Office system, or the current approved operational system, and make the appropriate intelligence referral.

Where the circumstances indicate potential criminality, a safeguarding concern, or an immediate operational risk, stop the compliance or educational activity and follow the relevant operational guidance.

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