

Provided By **Crendon Insurance Brokers Ltd**

Employer Checks and References for Job Applicants

Employers may need to run certain background checks on job applicants. For example, employers must always make sure that individuals are eligible to work in the United Kingdom before extending an employment offer.

This Employment Law summary provides an overview of some common background checks employers may consider when evaluating a job applicant's candidacy—namely, right to work, criminal record and health checks. Whenever employers collect information from job applicants, employers must follow [data protection rules](#).

RIGHT TO WORK IN THE UNITED KINGDOM

Employers have an obligation to make sure new employees are allowed to work in the United Kingdom. Employers that evade, ignore or violate this requirement may be ordered to pay a fine of up to **£20,000**.

To check a candidate's eligibility to work in the United Kingdom, an employer must:

1. See the applicant's original work eligibility documents;
2. Verify that the documents are valid (in the applicant's presence); and
3. Keep a record of the verified documents by making a copy and recording the date when eligibility to work in the United Kingdom was verified.

If an applicant cannot show his or her documents, employers must ask the [Home Office](#) to check on the applicant's immigration employment status if:

- There are reasonable grounds to believe that the applicant cannot show his or her documents because of an outstanding appeal, administrative review or application with the Home Office;
- The applicant has an Application Registration Card; or
- The applicant has a Certificate of Application that is less than **six months** old.

Application Registration Cards and Certificates of Application must state that the work the employer is offering is permitted. Many of these documents don't allow the person to work. The Home Office will issue a Positive Verification Notice upon receiving an enquiry.

Checking the documents

To properly check a document, an employer must verify that the document is genuine, that it is unaltered and that it belongs to the person presenting the document. The United Kingdom's Home Office has published guidance documents that employers may use to determine how to conduct [document checks](#) and what types of documents are acceptable for [proof of eligibility](#) to work in the United Kingdom.

In general, checking a document includes verifying that the applicant's:

- Right to work dates haven't expired;
- Photos are the same across all documents and that they look like the applicant;
- Date of birth is the same across all documents; and
- Work permit allows the applicant to do the type of work the employer is offering (including any limit on the number of hours the applicant may work).

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If the applicant is a student, the employer should also look for evidence of the student's study and vacation times. If two documents provide different names for the applicant, the employer should request supporting documents showing why the names are different (eg, marriage certificate or divorce decree).

[Additional checks](#) may be required for applicants who have a limited right to work in the United Kingdom.

Copying Documents

When copying a document, employers must:

- Make a copy that cannot be altered, such as a photocopy; and
- Record the date when the document check was made.

Generally, employers must make a copy of the entire document. However, when copying passports, employers may copy any page as long as the copy shows the applicant's details (nationality, date of birth and photograph) as well as the document's expiry date. For biometric residence permits and residence cards (biometric format) employers must copy both sides of the card.

Document copies must be retained throughout an applicant's employment period and for at least **two years** after separation of employment.

CRIMINAL RECORD CHECKS

Criminal record checks in the United Kingdom are called Disclosure and Barring Service (DBS) checks. Special rules may apply for DBS checks in [Scotland](#) and [Northern Ireland](#).

Employers can run DBS checks only for certain employment and volunteer positions, such as roles that involve working with children or in the health care industry. Employers cannot run DBS checks for applicants under 16 years of age.

Employers must inform applicants about the type of check they will request. The DBS offers three types of DBS checks:

- **The standard check** (£26): This checks for spent and unspent convictions, cautions, reprimands and final warnings.
- **The enhanced check** (£44): This includes the same as the standard check plus any additional information held by local police that's reasonably considered relevant to the role being applied for.
- **The enhanced with list checks** (£44): This is like the enhanced check, but includes a check of the DBS [barred lists](#).

An employer can only ask for a barred list check for [specific roles](#). It's a criminal offence to ask for a check for any other roles.

Requesting a DBS check

Only employers and licensing bodies can request a DBS check. Job applicants cannot request a DBS check, even for themselves. However, individuals may request a '[basic disclosure](#).' The DBS has published a [guide](#) employers can use to determine whether a particular position allows or requires a DBS check on an applicant.



To obtain a DBS check, the employer must first provide a [DBS check application](#) to the job applicant. The applicant must then return the completed form to the employer who provided it. After receiving the completed form, the employer must submit it to the DBS or to an umbrella body (a registered body that gives access to DBS checks). After conducting the check, the DBS or the umbrella body

'An employer can request a DBS check only if the job or role is eligible for one. Employers must inform applicants why they're being checked and where they can get independent advice.'

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sends a certificate to the applicant. The employer must ask the applicant to see the certificate. If the applicant has subscribed to the [DBS update service](#), the employer can check the applicant's certificate online.

The time it takes to process a DBS request depends on the level of the check, the accuracy of the information provided for the check and who needs to be involved to complete the check.

Volunteers

Checks for [eligible volunteers](#) are free of charge. This includes anyone who spends time helping people and is:

- Not being paid (apart from for travel and other approved out-of-pocket expenses); and
- Not only looking after a close relative.

HEALTH CHECKS

Employers can only ask successful candidates for a health check before hiring someone if the check is:

- Allowed by law (such as eye tests for commercial vehicle drivers); and
- Required for the position (for example, insurers may need health checks on cycle couriers).

Employers should include information about any checks in their offer letter, and get written consent before asking for a report from a candidate's doctor. Candidates can demand to see the report, and ask for it to be changed or withheld from the employer.

Employers must make sure checks do not [discriminate](#) or discourage people from applying for specific jobs. Discrimination may include targeting only certain age groups. An employer that discriminates against a candidate because of a disability that does not stop him or her from doing the job can be prosecuted.