



Thank you for joining us!

**This webinar
will start shortly**



HR & Compliance
Center



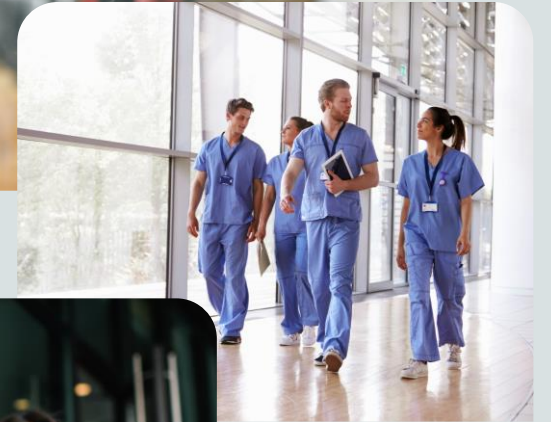
Compensation
Planning

Immigration rules for employers: Recent changes, future challenges

Presented by

Annabel Mace and May Cheung

Squire Patton Boggs



Speakers



Squire Patton Boggs

Annabel Mace, Partner

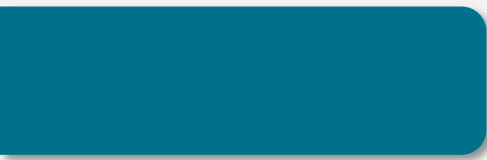
Annabel heads up Squire Patton Boggs' UK business immigration team. She has in-depth expertise in the Home Office's Points Based System. She regularly advises clients on complex matters where there is an immigration/employment overlap.



Squire Patton Boggs

May Cheung, Director

May specialises in UK business immigration law, advising on a broad range of UK immigration visas including: skilled worker and global business mobility routes; UK expansion worker licences for those establishing in the UK; and temporary worker options for short-term work.

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- Right to work compliance – recent changes and pitfalls
 - Skilled worker sponsorship – what are the practical challenges?
 - What's in the pipeline for immigration?

Right to work compliance

POLL QUESTION

What was the total value of illegal working civil penalties issued by the Home Office in the first three months of 2024?

- A. £4.23 million
- B. £6.67 million
- C. £8.79 million

<https://www.gov.uk/government/publications/illegal-working-civil-penalties-anonymous-regional-report>

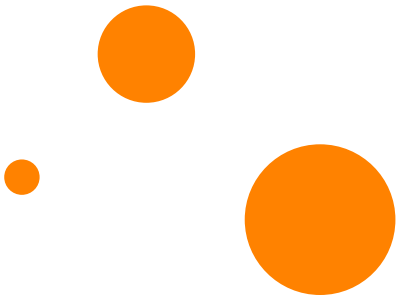
The Government's approach



Home Office's Employer's Guide to Right to Work checks

“The ability to work illegally is a driver of illegal migration. It leaves people vulnerable to exploitation and results in unscrupulous employers undercutting compliant businesses. It can also negatively impact on the wages of lawful workers and is linked to other labour market abuse such as tax evasion, breach of the national minimum wage and exploitative working conditions, including modern slavery in the most serious cases.”

Home Secretary Yvette Cooper's pledge



“We have directed Immigration Enforcement to intensify their operations over the summer, with a focus on employers who are fuelling the trade of criminal gangs by exploiting and facilitating illegal working here in the UK.”

Right to work compliance – why is it important?

- Civil penalties
- Workforce stability
- Reputational risk
- Risk to sponsor licence
- Closure of premises
- Disqualification as a director
- Criminal liability

Right to work compliance – how does your business protect itself?

- Checks must be completed before employment begins
- Follow-up checks must be carried out on those with time-limited permission to stay
- Use the following only in the right circumstances:
 - Manual checks
 - Online right to work checks
 - Identity Document Validation Technology (IDVT) via an Identity Service Provider (IDSP)
 - Home Office's Employer Checking Service

[Employer's guide to right to work checks \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Right to work checklist - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Right to work checks – recent changes

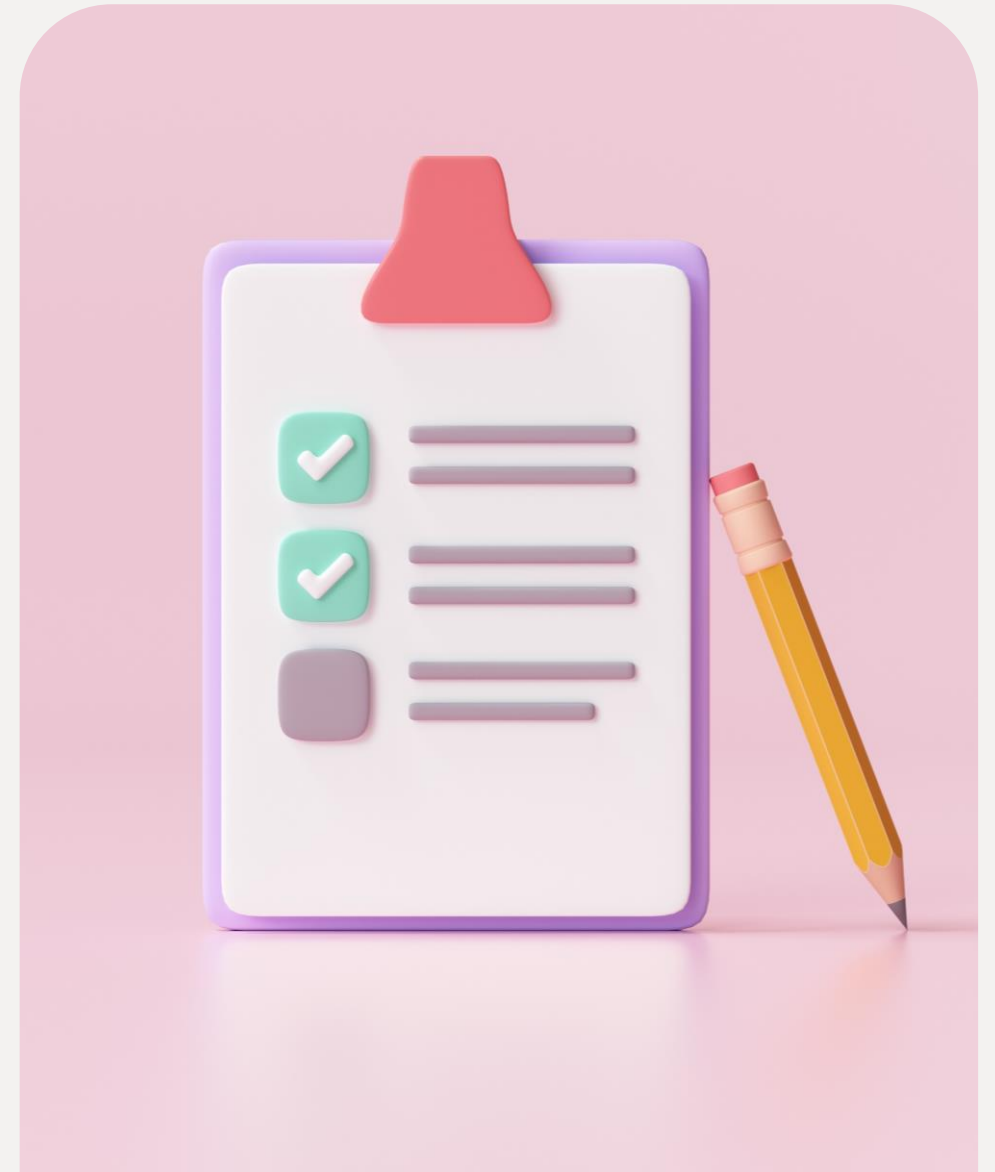
Civil penalty increased from up to £20k to up to £60k per person for offences on or after 13 February 2024

Limitations on using an IDSP

No longer any requirement to carry out follow-up checks on holders of pre-settled status

Employer 28-day grace period for those applying late to the EU Settlement Scheme removed

“Supplementary employment” condition extended and additional checks required



Right to work checks – pitfalls

Checks done late or in the wrong way so no statutory excuse

Manual checks on BRPs not valid from 4 April 2022

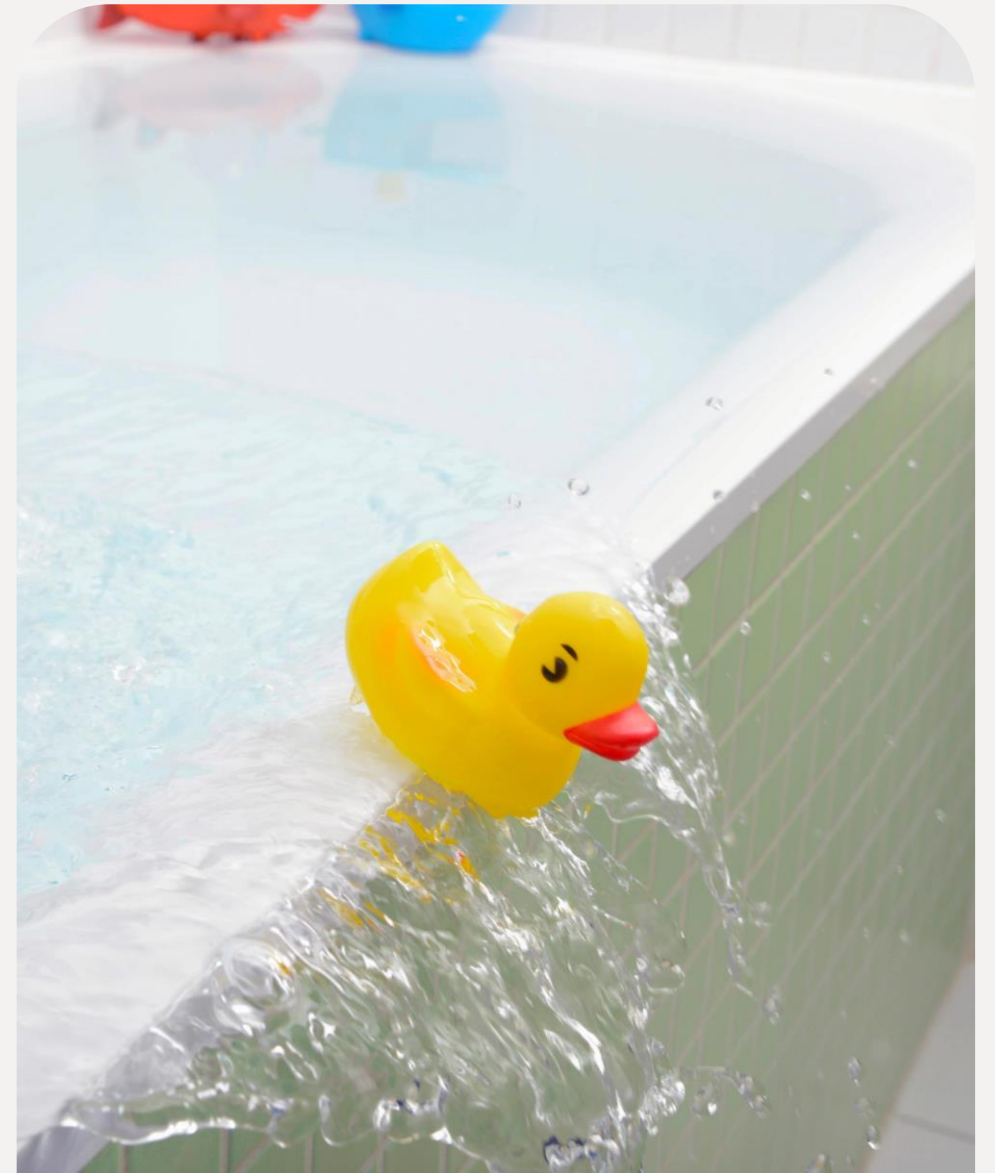
No process for carrying out follow-up checks

Additional checks/restrictions on student visa holders

Asylum seekers with restricted permission to work

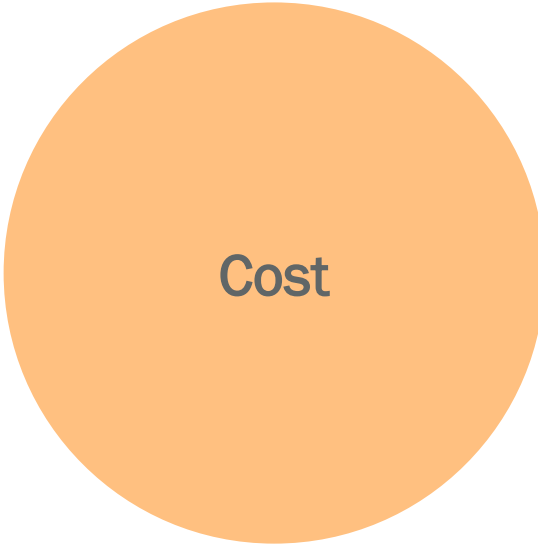
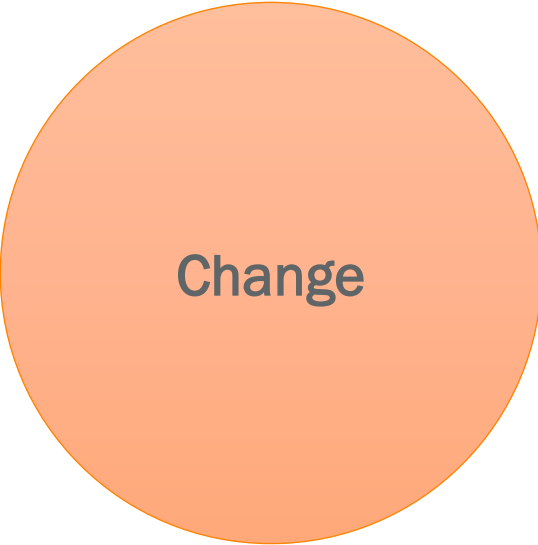
Using the Employer Checking Service at the wrong time

Relying on previous employer checks following a TUPE transfer



Skilled worker sponsorship

Skilled worker sponsorship – practical challenges



POLL QUESTION

Which “C” do you find most challenging?

- A. Change
- B. Cost
- C. Complexity
- D. Compliance

Skilled worker visa salary threshold increases – 4 April 2024

Higher salary thresholds (unless transitional arrangement applies)

- Higher of £38,700 per annum or going rate for the role (as per SOC code) at 50th percentile or £15.88 per hour
- For New Entrants: higher of £30,960 per annum or going rate for the role (as per SOC code) at 50th percentile with 30% discount or £15.88 per hour

Transitional arrangement (for those with a skilled worker visa on rules before 4 April 2024)

- Higher of £29,000 per annum or going rate for the role (as per SOC code) at 25th percentile or £11.90 per hour
- For New Entrants: higher of £23,200 per annum or going rate for the role (as per SOC code) at 25th percentile with 30% discount or £11.90 per hour

Fewer roles on the Immigration Salary List (the “new” Shortage Occupation List)

- Higher of £30,960 per annum or going rate for the role (as per SOC code) at 50th percentile or £15.88 per hour
- Transitional arrangement does not apply for those who change employers or roles

Key sponsor compliance duties following visa approval

Genuineness requirement means collating prescribed recruitment and suitability evidence:

- At the point of sponsorship
- Keeping it on file
- Being able to produce it during a Home Office compliance visit

Are your sponsored employees paid enough?

- Paid overtime or extra hours without additional pay?
- Permitted statutory unpaid leave/reduced salary
- Managing flexible working requests

Key sponsor compliance duties following visa approval

Certain changes to a sponsored employee's role must be reported:

- Vital to have a system in place so changes aren't missed
- Role change may require new visa application
- Risk of illegal working if not addressed

Reporting changes to the sponsor organisation:

- Must have an Authorising Officer in place at all times
- Changes of work location must be reported
- Change in immediate owner triggers the need for a new licence application

POLL QUESTION

Do you have processes in place to monitor reportable changes to your sponsor licence?

- A. Yes, they are robust
- B. Yes, but not sure if they're effective
- C. No
- D. Not sure

Immigration v employment law

- Can we include wording in adverts that candidates must have the right to work?
- Can we refuse to sponsor candidates and employees?
- What if a candidate has the right to work now but will need sponsorship in the future?
- Do we have to increase the employee's salary to meet the minimum salary threshold for sponsorship?
- Terminating employment of sponsored employees

What's in the pipeline?

BRPs expiring on 31 December 2024 – transition to e-visas

What do employers need to do?

- Effective communication with to affected employees on creating a UKVI online account
- New online right to work checks may be required to establish actual permission end date

What do affected employees need to do?

- Set up a UKVI account if they don't have one so they can view and prove their visa status online
- If they already have a UKVI account, ensure passport details are uploaded online
- Ensure contact email and phone numbers are kept up to date

Future changes expected

Graduate visas

- Migration Advisory Committee found no abuse and recommended the Government retain the route
- Watch out for new restrictions on working rights for graduate visa holders, eg work only permitted in skilled roles

Labour Government plans

- Limit on the number of sponsored employees per company?
- Bringing back an annual quota for the whole of UK?
- Return of the resident labour market test?
- Raise skill/salary level or removing roles from the list of eligible skilled workers?

POLL QUESTION

Will a cap on the number of sponsored workers within your company affect your business?

- A. Yes, we are reliant on overseas skilled workers
- B. No, we can recruit from the resident workforce
- C. Not sure

Useful links

- Detailed Home Office guidance: <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>
- Right to work checklist: <https://www.gov.uk/government/publications/right-to-work-checklist>
- Candidate/employee with BRP page online right to work service: <https://www.gov.uk/prove-right-to-work>
- Candidate/employee with online electronic visa/status page online right to work service: <https://www.gov.uk/view-prove-immigration-status>
- Employer page online right to work service: <https://www.gov.uk/view-right-to-work>
- Employer checking service (for pending applications): <https://www.gov.uk/employee-immigration-employment-status>
- Sponsor compliance guidance: <https://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators>
- Appendix D – documents to keep: <https://www.gov.uk/government/publications/keep-records-for-sponsorship-appendix-d>

Any questions?