

# Employer's guide to Right to Work checks

## What's the digital Right to Work Scheme?

On 6th April 2022, the UK Government updated Right to Work guidance and launched a digital Right to Work Scheme to further facilitate online Right to Work (RtW) checks. The Digital Scheme allows employers to remotely verify the identity of people with applicable documents using an Identity Service Provider (IDSP). As a certified IDSP and leading provider of RtW services in the UK, we've compiled questions from our customers and prospective customers navigating the complexities of Right to Work checks and put together this FAQ document. We hope you find it useful!

## Why are Right to Work checks so important?

All employers in the UK, regardless of the size of business or sector they operate in, must ensure that every employee has a Right to Work check to confirm that they can work in the UK. This means running a Right to Work check – seeing and checking relevant identity documents – or carrying out a digital Right to Work check, for those people who are eligible.

It is an offence to employ someone who you knew or had 'reasonable cause to believe' did not have the Right to Work in the UK including, for example, if you had any reason to believe that their identity documents were incorrect or fraudulent. If you don't complete the required checks, you could face significant civil penalties and a range of sanctions, including the closure of your business or even a criminal conviction. From February 2024, fines for illegal workers will triple from £15,000 to £45,000 for the first offence and from £20,000 to £60,000 for repeat offences.

However, correctly carrying out the checks required gives you a Statutory Excuse against liability which means you can avoid a civil penalty if you've (unknowingly) employed an illegal worker.

## The latest guidance

The Government publishes a full guide to Right to Work checks for employers on their website. We'd recommend checking regularly for the latest updates or sign up for email alerts when things change.

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

We also let our customers know when RtW guidance changes and update our software to meet the latest requirements.

# A history of Right to Work guidance

In January 2022, the Home Office published guidance for employers regarding the use of digital identity verification when making Right to Work checks. The update included 2 key dates – 6th April and 1st October.

## From 6th April 2022

The Home Office introduced a digital Right to Work check Scheme allowing employers to use Identification Document Validation Technology (IDVT). This Digital Scheme covers holders of in-date biometric UK and Irish passports and passport cards which can be verified by an Identity Service Provider (IDSP). The Home Office recommends that employers choose to work with a certified IDSP.

Biometric Residence Permits (BRPs) and Biometric Residence Cards (BRCs) were removed from the list of eligible Right to Work documents. Holders of these cards now have to demonstrate their eligibility using a share code instead (more information below).

## From 1st October 2022

Temporary Covid-adjusted checks were introduced in March 2020 to allow for Right to Work checks using copy documents and video calls. These adjustments ended on 1st October 2022.

Today, employers can decide whether to introduce digital checks for eligible applicants (the Digital Scheme remains optional for UK/Irish in-date passport holders), to return to Right to Work checks using physical documents or to combine the two checking methods. The choice depends on the demographic of your applicants and your internal recruitment processes.



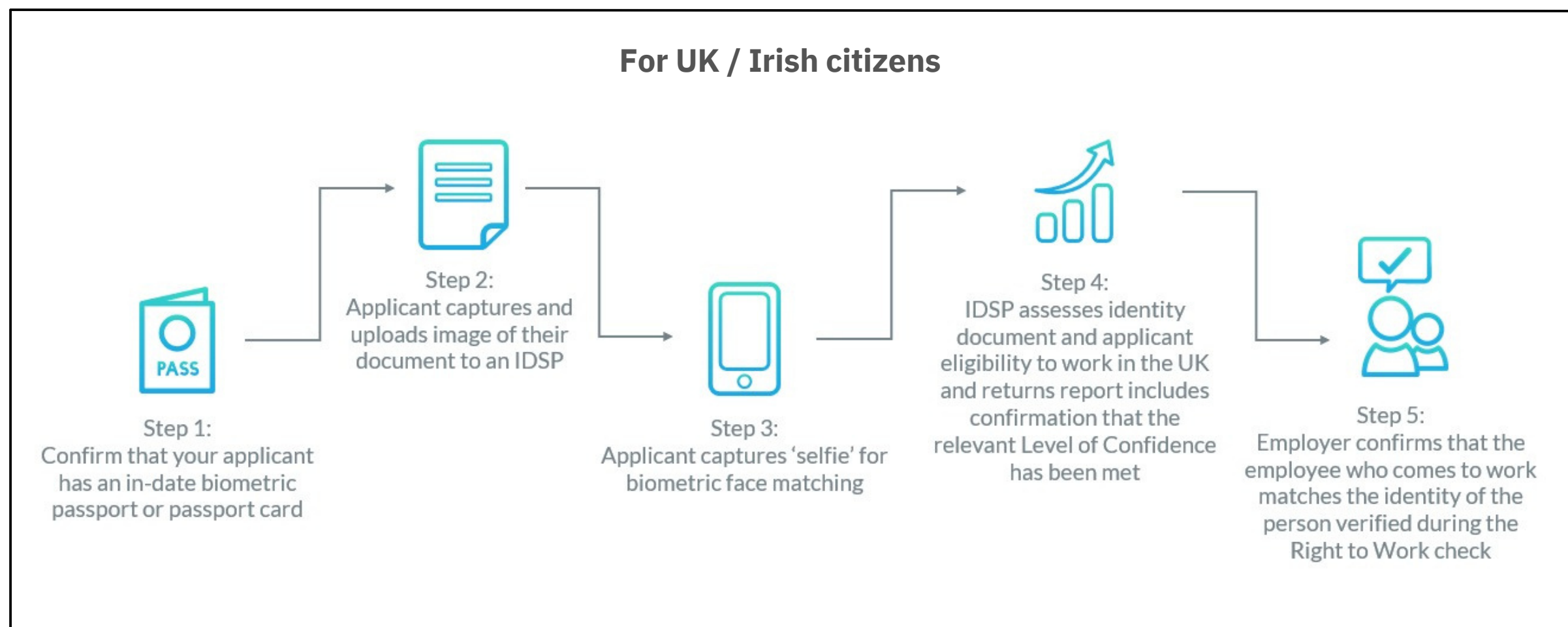
# All about digital checks

A digital check allows applicants with applicable proof of identity to verify their identity and prove their Right to Work remotely, instead of presenting physical documents to you as an employer.

## UK & Irish citizens

Under the Digital Scheme, an employer can carry out a Right to Work check on holders of UK & Irish in-date biometric passports using IDVT from an IDSP. The IDSP will share a report for your records, confirming the authenticity of the document and whether it gives eligibility to work in the UK.

The report which you receive from your chosen IDSP should confirm the authenticity of an identity document and show the relevant Medium Level of Confidence (MLoC) or High Level of Confidence (HLoC) standard.



## Non-UK/Irish citizens with an eVisa

Anyone with a UK Visas and Immigration (UKVI) account – including those who applied to the EU Settlement scheme - can now access their immigration status online through an eVisa. To check an eVisa, an employer must use a share code provided by an applicant (more information on share codes below).



## Confirming the identity of your applicant

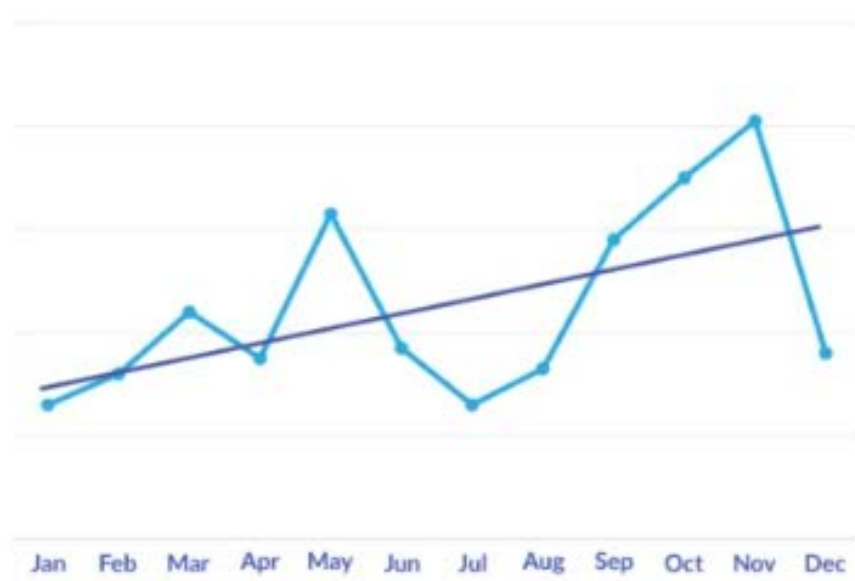
If you're carrying out a digital check, you won't see an applicant's original document or the person who is uploading it. So, it's important to ensure that you check that the employee matches the applicant to avoid 'imposter fraud', i.e., an applicant using a legitimate proof of Right to Work which doesn't belong to them.

To comply with the UK/Irish digital check Scheme, it's essential to add biometric facial matching – so that the IDSP can match a selfie image to the image of your applicant used in the identity verification. As part of a compliant digital check, the employer themselves must then also confirm that the employee who turns up to work matches the identity of the person who has been verified during the Right to Work check. You must confirm this by seeing the person in a face-to-face meeting or over a video call when they start work for you.

Likewise, when checking an eVisa, make sure you carefully inspect the image of your applicant on the report to ensure it matches your employee

[In our 2023 trends blog](#), we highlighted the need for employers to be vigilant, not only for fraudulent documents, but also for genuine identity documents being used by imposters. We have seen the 'imposter' trend accelerate with fraudsters using two different routes.

2023 Monthly Sharecode Imposters



### Share code imposters

These applicants are using genuine share codes to produce real Right to Work evidence via the Home Office online service, however, when we analyse their selfie image against that returned on the Home Office report, the two images do not match.

This may be perceived as an 'easy' route for fraudsters as a genuine share code can be easily and widely distributed and applicants may believe that your organisation won't compare the photograph.



The second route is applicants presenting identity documents which are genuine, but which don't belong to them. Passports made up over 70% of the genuine documents presented by imposters in 2023. 'Borrowing' a passport is clearly a much easier and cheaper route for a would-be fraudster than obtaining a good-quality fraudulent one.

### Please Note

It is not sufficient to view the information provided to the employee when they view their own profile on the Home Office online right to work checking service. **You will not have a Statutory Excuse** if you accept documents such as a screenshot image from a candidate's online EU Settled Status (EUSS) account, a printout of an employee's Right to Work status from the EUSS scheme or a Home Office confirmation letter, stating they have been granted pre-settled or settled status.



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### What do we do if our candidate doesn't have an in-date UK/Irish biometric passport or eVisa?

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You can use the RtW Digital Scheme for holders of in-date UK & Irish biometric passports. eVisa holders can be checked through the online Home Office service or by using an IDSP with an interface to the service. For other documents from List A or List B, such as out of date passports or birth certificates and NI numbers, as of the 1st October, you will need to see the original.

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### Is TrustID a certified Identity Service Provider (IDSP)?

A.

TrustID became a certified IDSP in June 2022. To become certified, an IDSP must demonstrate their compliance against the trust framework rules, alongside any requirements specific to the particular Schemes, e.g. the RtW or DBS Scheme. At TrustID, we have the technology to deliver on the confidence levels specified in the RtW Scheme - Medium Level of Confidence (MLoC) – and the DBS Scheme – MLoC and High Level of Confidence (HLoC).

It is currently not mandatory for an IDSP to be certified to the digital RtW Scheme to perform digital Right to Work checks. However, the Home Office does recommend using a certified IDSP who can provide assurance that they meet relevant scheme guidance and the standards set out in the trust framework. For DBS checks, employers **must use** a certified IDSP.

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### Can we combine a RtW and DBS digital check?

A.

The UK Government announcement confirms that IDVT can be used for both RtW and DBS checks. So, for eligible applicants, employers will be able to combine RtW and DBS checks and eliminate the need for applicants to supply physical documents multiple times.

Both Basic DBS and RtW checks will require a Medium Level of Confidence (MLoC) check. Standard and Enhanced DBS checks require a High Level of Confidence (HLoC). For the digital DBS Scheme, you **must** work with a certified IDSP.

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## What are the benefits of using Identity Document Validation Technology (IDVT)?

Using IDVT can have many benefits to your organisation and can support your business whether you are recruiting remotely or checking original documents.

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A digital identity check is quick and convenient for both your recruitment team and for your employees. It allows your applicants to upload images of their documents remotely, instead of presenting physical documents and can help to accelerate the recruitment and on-boarding process by providing a consistent and quick check.

IDVT offers a secure and robust way of assessing whether the physical identity documents which you are seeing as eligibility of Right to Work are genuine. Technology removes the risk of human error in terms of identifying fraudulent documents or inaccuracies and means that your team don't need to be document or Right to Work experts.

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## Where can I find out more?

For the latest Right to Work guidance, please visit the Home Office website.

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If you'd like to find out more about our Right to Work service, you can read [additional information on our website](#). Or get in touch with our expert team: [enquiries@trustid.co.uk](mailto:enquiries@trustid.co.uk) | 0118 466 0822