

3 July 2023

Weekly Blog

By: Philip Pearson-Batt



Right to Work(ing 9 to 5: what a way to make a living!)

Hello all, Philip Pearson-Batt here to brighten your weeks with Precept's latest edition of our weekly blog.

For those who might have missed it (what, do you live under a rock?) somebody (me) was on the radio last week. BBC Radio Derby to be precise. Now, I'm not exactly going to be the next Greg James, but I would be lying if I said I didn't secretly enjoy myself.

One thing that came up during my chat with the host, Ian Skye, was that little old me has a silver medal from the National Taekwondo Championships. There's even a photo to prove it: look!

Let me tell you the full story of how I managed to snag this medal.

When I was younger – much, much younger – I managed to get to my green tag in Taekwondo which is effectively 1 and half steps up from the white belt (the very bottom of the Taekwondo gradings). One fateful summer, my parents drove me over to Doncaster for the National Taekwondo championships. I had a panic attack and was sick in the car park: good start, gets better.

In my solo round, I didn't even come close to getting a medal but next up was my partnered round. My partner, Alex and I stepped onto the mat (I'm not even sure if that's the right terminology) and performed our routine which was... passable at best. But then... the third team didn't turn up... and then the fourth team didn't turn up. So, out of the two teams that competed me and Alex came second. So, I effectively got a fancy participation medal, but nobody needs to know that except for you and me.

As I grew older, my interests divulged, and I dropped Taekwondo. Now my interests lie elsewhere and, if you can believe it, one of my interests is the right to work (from Monday to Friday only, my interests at the weekend are naps and Netflix!)

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It's quite timely that I bring up the right to work because our Prime Minister, Rishi Sunak, recently announced that the National Crime Agency was having its funding doubled to tackle illegal working in the UK.

Shortly after this, the Home Office followed up and said in a press release on 16th June 2023 that it had completed 159 illegal working visits in just one day and that 105 people were arrested. Employer enforcement actions were expected to follow.

It goes without saying, this step up in tackling illegal working goes alongside one of Mr Sunak's often repeated 5 promises. Specifically, it's linked to his promise to "stop the boats".

Figures suggest that there is a growing trend in the Home Office conducting in person visits to carry out enforcement checks on businesses. In 2021 there were 6,260 enforcement visits carried out, in 2022 there were 9,382 and in the first quarter of 2023 there have been 3,228 (compared to 2111 in the first quarter of 2022).

So, what does that mean for you?

Well, it means it has never been more important to make sure you're getting your right to work checks right.

How do I get those checks right?

Let's go back to basics here. All employers in the UK have an obligation to prevent illegal working.

The best (and in fact, only) way to do that is to conduct right to work checks in line with the Home Office's guidance (which can be found here: <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>).

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Conducting a right to work check will create a statutory excuse to civil liability if you are ultimately found to be employing somebody who doesn't have the right to work in the UK. Basically it means you have done all you can and you can't be liable.

Right to work checks should be carried out as part of your recruitment process or pre-employment checks. Make sure you are carrying out the right to work checks on a non-discriminatory basis (i.e. don't just ask prospective employees of a certain race or ethnicity for their right to work documents. Ask everybody).

There are three steps to carrying out a manual right to work check:

1. Obtain the document;
2. Check the document (is it valid, does the picture match the person standing in front of you)
3. Retain a copy of the check (for the duration of employment and for 2 years after they stop working for you)

In certain specific instances you'll need to carry out a right to work check online. This tends to be where somebody has a visa (or, if you're being fancy, a Biometric Residence Permit). They'll be able to give you a right to work share code which you can check using the Government's online tool.

You're also going to have to do follow up checks where you know somebody's right to work is time limited. Make a note of when their right to work expires and make sure you've completed your updated right to work check in good time before that deadline.

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What happens if I get it wrong?

The consequences of getting right to work checks wrong can be huge and are definitely something you're going to want to avoid.

That's because if you're found to have engaged somebody without the right to work in the UK your organisation could face:

- A fine of up to £20,000 per illegal worker;
- Criminal prosecution;
- Sponsor License suspension or revocation
- Inclusion on the Home Office's "name and shame list"
- Damage to your reputation

You could also be affected personally because it can lead to directors being disqualified.

So, probably best to spend a short amount of time doing a fairly simple check right?
Right!

If in doubt, please speak to Precept about it. It'll mean I can get all nerdy and deep dive into the guidance and it'll save you a lot of hassle and bother.