



# Solutions

Monthly Newsletter

January 2024



## What's Hot!

From 22 January 2024 the penalties for employing illegal workers triple to £60,000 per illegal worker. It has never been more important to have robust right to work processes in place.

The Home Office expects high standards, requiring managers, individuals, and recruitment professionals to possess the necessary skills and information for efficient operations and risk minimisation, encompassing financial, commercial, and reputational aspects. It is crucial to update your teams' understanding of the right-to-work regulations and ensure compliance in your internal processes.

In the United Kingdom, employers are required to conduct Right to Work checks to ensure that their employees have the legal right to work in the country. These checks are mandatory, and failure to comply can result in severe penalties, including fines and imprisonment. Here are the key requirements for Right to Work checks in the UK:

### Verification of Identity

Employers must verify the identity of the prospective employee by obtaining original, acceptable documents such as a passport, national ID card, or biometric residence permit.

## Checking the Validity of Documents

Employers must ensure that the presented documents are genuine, unaltered, and belong to the individual in question.

Checking the expiry dates on documents is crucial to ensure ongoing eligibility to work.

## Establishing the Right to Work

Different types of documents may be provided to establish the right to work, depending on the individual's immigration status. This could include a visa, residence permit, or proof of settled or pre-settled status under the EU Settlement Scheme.

## Categorising Workers

Employers need to determine whether their employees have the right to work in the UK and categorise them accordingly, such as British citizens, European Union (EU) nationals, or non-EU nationals with valid work visas.

## Recording and Retaining Documentation

Employers are required to make a clear copy or record of the documents provided by the employee.

This information should be retained throughout the individual's employment and for a specified period after their employment ends.

## Re-Checking for Employees with Time-Limited Permissions

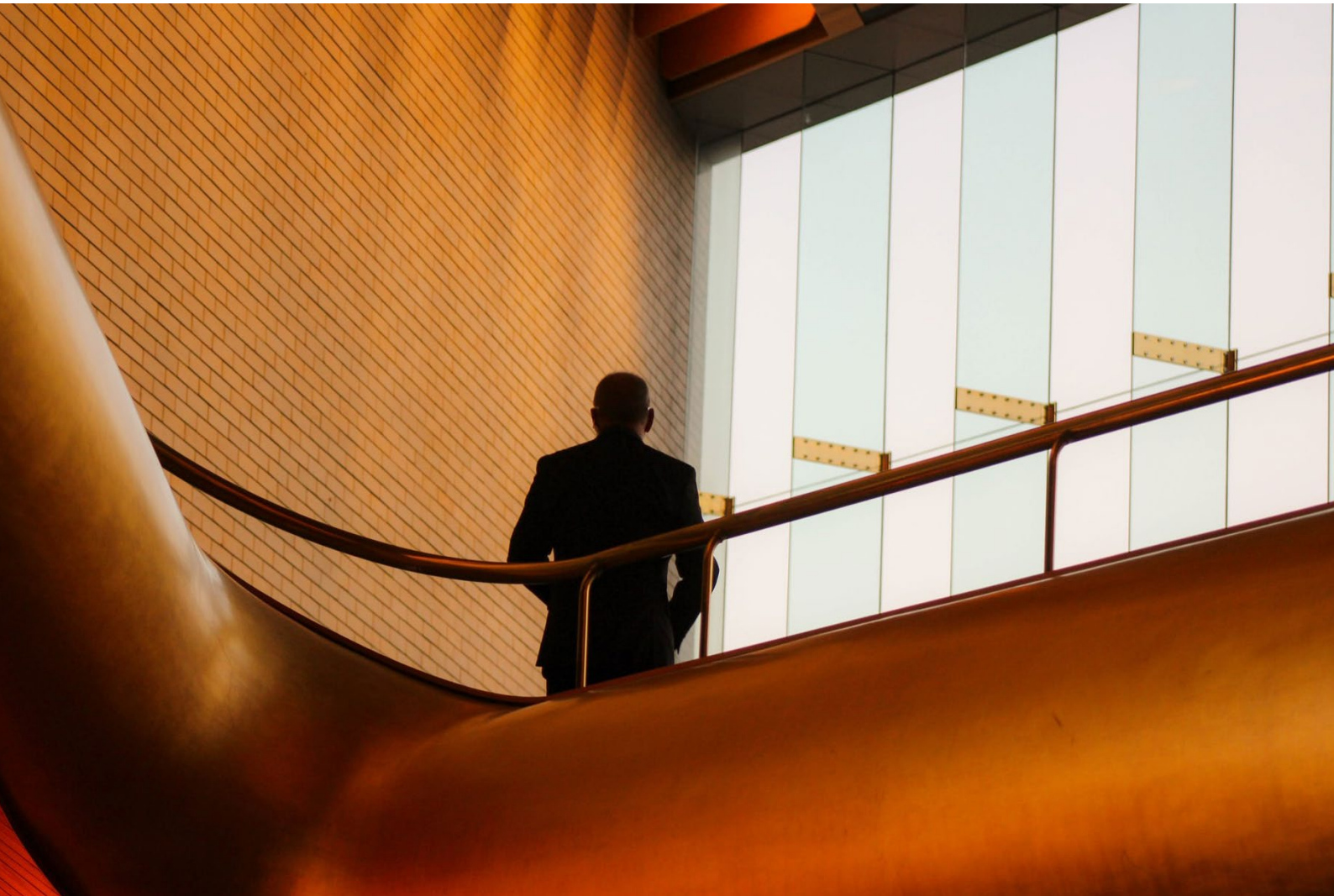
For employees with time-limited permissions to work in the UK, employers must conduct follow-up checks before the expiry of their current permission.

## Keeping Up-to-Date with Immigration Rules

Employers should stay informed about changes in immigration rules and adjust their procedures accordingly to maintain compliance.

It's important for you to follow these guidelines diligently to avoid legal consequences and ensure a workforce that is legally entitled to work in the UK. The specific details of the Right to Work checks may evolve over time, so it's advisable for you to regularly check for updates from the Home Office or seek legal advice to stay compliant with current regulations.

**HR Solutions can support you with auditing how compliant your business is for Right to Work checks, completing Right to Work checks and advising you on Immigration matters for individuals requiring visas to work in the UK.**



## Carers Leave Regulations

In the **September 2023** edition of our Newsletter, we highlighted the expected changes to the Carer's Leave Act 2023 due to come in to force on 6 April 2024. The amendment to the regulations set out a statutory scheme under which eligible employees can apply for up to one week of unpaid carer's leave, in any 12-month period. Key features include;

- The right is granted from the first day of employment.
- It is applicable to employees caring for a dependant with long-term care needs or those desiring time off to provide or arrange care for their dependant.
- Requests can be for consecutive or non-consecutive half-days or full days.
- Employees are required to provide written notice of their intention to take carer's leave, confirming their entitlement and giving notice at least twice the length of the requested leave, or three days if longer.
- Employers can defer a request if it would unduly disrupt business operations. In such cases, employers must provide notice before the scheduled leave, explain the necessity of the postponement, and allow the leave to be taken within one month of the initially requested start date. Rescheduling should be a collaborative decision with the employee.
- Employees are safeguarded against detriment or dismissal due to taking or expressing an intention to take carer's leave, or if the employer believes they are likely to do so.

It is advisable for existing policies and procedures to be updated in readiness for the change in the Regulation and to highlight the change to your existing employees.

**HR Solutions can review any existing policy you have in place or update your Employee Handbook to incorporate this and other regulation changes due to come in to force on 6 April 2024.**

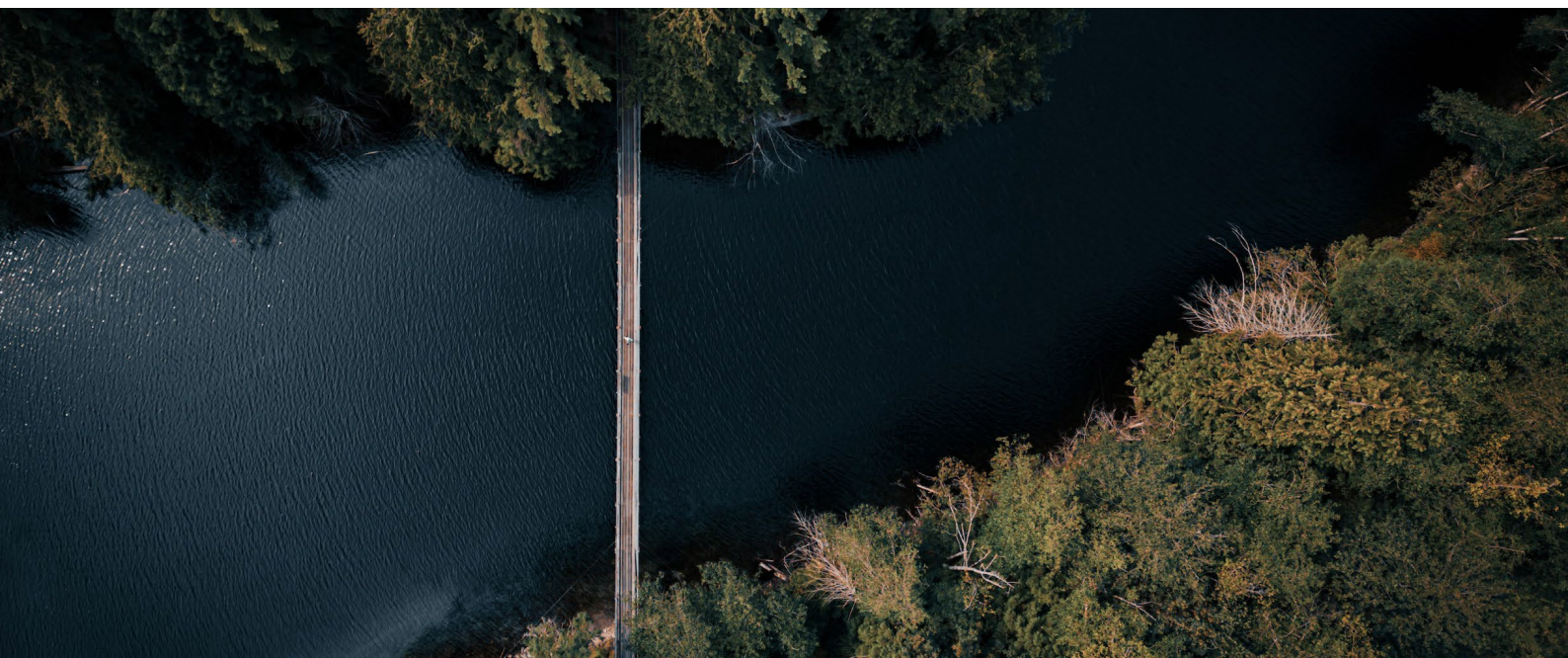
## Flexible Working

In the **August Newsletter 2023** we confirmed that the Employment Relations (Flexible Working) Act 2023, has received Royal Assent, introducing changes to the current Flexible Working Requests process:

1. Employees, who are currently limited to making one request within a 12-month period, will now be allowed to make two requests.
2. The current requirement for employees to outline the anticipated impact of their request on the employer and suggest potential accommodations will no longer apply.
3. Employers, currently obligated to meet with the employee when considering a request, will now directly consult with the employee. If declining the request, the employer must provide reasons and allow the employee an opportunity to present counterarguments based on statutory grounds such as the need for continuity or inability to provide working during requested times.
4. The timeframe for concluding a Flexible Working Request process will be reduced from three months to two.
5. Secondary legislation (The Flexible Working (Amendment) Regulations 2023) will also make Flexible Working Requests a "day one" right.

You should be aware that refusing a request on statutory grounds, without reasonable justification or full exploration of alternative options, may expose you to claims of indirect sex discrimination.

**For assistance, HR Solutions can create a Flexible Working Requests policy, offer guidance on individual requests, and provide relevant template letters for conducting meetings.**



## Please see below some examples of the work that we have completed recently.

 **Milton Keynes**

Advice and documentation for TUPE and Redundancy consultation.

 **London**

Assignment contract

 **London**

Advice to client on background checks for the UK that are equivalent to US background checks.

 **London**

Advice to client on Statutory Sickness Payments and suggested amendments to the contract of employment.

 **Birmingham**

Continued support for a Redundancy consultation that led to a Grievance being raised. Support is ongoing.

 **Peterborough**

Advice for multiple individual disciplinary issues in relation to timekeeping, insubordination and refusal to comply with a reasonable management request, and persistent short-term absence.

 **Various**

Holiday year end process and carry over completed for multiple MHA clients that utilise Breathe HR.



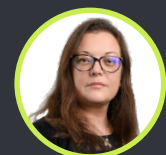
### How we can help?

If you require HR support, please contact us at [HRsolutions@mha.co.uk](mailto:HRsolutions@mha.co.uk) to discuss how we could assist you.

We can provide support on an hourly, fixed-fee or retainer basis so there are a number of options available according to your needs; as you can see from the above examples, we can assist with a large project or a one-off piece of advice.



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**Now, for tomorrow**

