

International Recruitment of Social Care Staff

Summary

This topic provides guidance on the laws, processes and procedures involved in the recruitment and selection of staff from outside the UK with reference to the changes brought about by the UK's leaving the EU on 1 January 2021 and the addition of health and care workers to the shortage occupation list in February 2022.

It is linked to other staff recruitments topics particularly:

- [Recruitment and Selection Procedures in Social Care](#)
- [Selecting and Appointing Staff](#)
- [Finding and Keeping Staff.](#)

The UK's departure from the EU, the Covid-19 pandemic and the Government's tough immigration laws have all impacted on social care workforce development. It is now widely recognised that the social care sector is experiencing an acute shortage of care workers and registered nurses both currently and in relation to future demand, which is increasing.

It is also evident that the Government's aim to make good staff shortages resulting from Brexit by periodic recruitment campaigns is not reducing the shortfall and additional methods of recruitment are needed. The addition of social care workers to the shortage occupation list to make possible the recruitment of more staff from other countries was such a step.

Currently, about one-fifth of the adult social care workforce originate from outside the UK, including from European countries, the British Commonwealth and beyond. Although the great majority of care workers are of British nationality, it is clear that people recruited from other countries are making and will continue to make a substantial contribution to the care and wellbeing of the people who use care services.

Most non-British employees work in direct care roles in care homes and domiciliary care services or as nurses. All applicants for any post in a care service must show that they are "fit and proper persons" to be employed. People from outside the UK must meet the same requirements and many must meet immigration requirements that have become increasingly tougher and tighter as a result of recent legislation.

Employers' Duties

Employers should ensure that:

- their international recruitment of staff is carefully planned in line with their staffing needs and local employment situation
- if they recruit from abroad, checks on each individual's right to work in the UK are routinely made
- they see the original of any document produced by a job applicant as evidence of their right to work in the UK
- copies of all documentation relevant to the individual's right to work in the UK are retained on file during their employment and for two years afterwards
- they treat all job applicants in exactly the same way at every stage of the recruitment process, irrespective of nationality
- they have a sponsorship licence for all applicable tiers of employment required for non-UK recruits
- they comply with their record-keeping and reporting duties as a licensed sponsor of non-UK.

Employees' Duties

Employees should ensure that:

- they facilitate appropriate checks being made about their right to work in the UK
- they provide, when asked, the prospective employer with the appropriate documentation relevant to their right to work in the UK
- they produce, on arrival in the UK, a valid national passport and visa for entry

In Practice

CQC Fundamental Standards Compliance

Health and social care organisations in England must comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 to maintain their registration with the Care Quality Commission (CQC).

With regard to employing staff, Regulation 19: Fit and Proper Persons Employed applies. The intention of this regulation is to ensure that providers only employ staff who will provide safe, compassionate and competent care. The regulation must be met for all staff employed, irrespective of the country from which they are recruited and the routes by which they have come to be employed by the care service.

To meet the requirements of the regulation, providers must operate robust recruitment procedures, including undertaking any relevant checks; must have a procedure for ongoing monitoring of staff to ensure they remain able to meet requirements; and should have in place appropriate arrangements to deal with staff that are no longer fit to carry out the duties required of them.

Specific clauses include the following.

- Persons employed for the purposes of carrying on a regulated activity must:
 - be of good character
 - have the qualifications, competence, skills and experience necessary for the work to be performed by them
 - be able, by reason of their health, after reasonable adjustments are made, to properly perform tasks that are intrinsic to the work for which they are employed.
- Recruitment procedures must be established and operated effectively.
- Information specified in schedule 3 of the regulations must be available in relation to each such person employed, as well as other information as is required.
- Persons employed must be registered with the relevant professional body where such registration is required.

The regulation is supported by a wide range of prompts which describe good practice.

For example, the prompt for 19(1)(a) states that providers should make every effort to ensure that all available information is sought to confirm that the individual being recruited is of good character and has:

- not been convicted of an offence in any country which would be considered an offence in the UK, if the offence relates to the conduct required in carrying on a regulated activity
- not been removed or struck off a professional register
- no information about them that would suggest they have been responsible for, privy to, contributed to or facilitated any serious misconduct or mismanagement in the course of carrying on a regulated activity.

Schedule 3 states that information required in respect of persons employed or appointed for the purposes of a regulated activity should include:

- proof of identity — including a recent photograph
- a suitable criminal record certificate
- satisfactory evidence of conduct in previous employment

- verification of the reason why employment ended where previously employed in a position which involved work with children or vulnerable adults
- evidence of relevant or necessary qualifications
- a full employment history
- satisfactory information about any relevant physical or mental health conditions.

CQC key-question test

The CQC uses a five key-question test to assess compliance. Key question judgments are currently made with reference to the Quality Statements. The relevant Quality Statements to take into account when considering recruiting staff from other countries are:

Safe 6: Safe and Effective Staffing

We make sure there are enough qualified, skilled and experienced people, who receive effective support, supervision and development. They work together effectively to provide safe care that meets people's individual needs.

Caring 5: Workforce wellbeing and enablement

We care about and promote the wellbeing of our staff, and we support and enable them to always deliver person centred care.

Well-Led 4: Workforce equality, diversity and inclusion

We value diversity in our workforce. We work towards an inclusive and fair culture by improving equality and equity for people who work for us.

Modern slavery, a particular concern in international recruitment, is considered under Caring 5.

These statements together with the regulations apply to staff, irrespective of their backgrounds, so care providers can expect their recruitment procedures for employing people outside the UK to be scrutinised in the same ways as for their UK employees.

Wales Standards Requirements

Immigration laws apply to all UK countries. In Wales "fitness requirements", which are similar to those for England, are made under the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (see Regulation 35: Fitness of Staff).

Scotland Standards Requirements

In Scotland care providers must follow procedures in line with section 4 of the national health and social care standards, *My Support, My Life*, "4: I have confidence in the organisation providing my care and support."

Employment of Non-British Workers in Social Care

The latest Skills for Care workforce study for England (2023) shows the following.

- People of British nationality, including people from Black, Asian and Minority Ethnic (BAME) backgrounds account for 81% of the adult social care workforce; 26% are from BAME backgrounds.
- The remaining 19% of the workforce have been recruited from other countries with 6% from EU countries and the rest from outside the EU (13%).
- Between March 2022 and March 2023, an estimated 70,000 people started direct care providing roles in the independent sector having arrived in the UK during that period.
- The majority of non-UK workers are employed in direct care roles, though in care homes, some will also be employed in ancillary jobs. It would seem that only a relatively small number will be found in more senior and management posts.
- The national average is slightly deceptive in that there are wide variations across the country in the employment of non-UK nationals with the highest proportion in the South East (26%) and the lowest in the North East (7%).
- London has a very different profile from the rest of the country with 41% of the workforce coming from outside the UK, with the great majority of these coming from *outside* the EU (about 30%).
- The Philippines have become an important recruitment source supplying within a short time 6% of overseas recruits. Other countries include Zimbabwe (5%), Ghana (4%) and Nepal (2%).
- There is still significant representation from four EU countries in the top ten with Romania at 8%, Poland 7%, Portugal 3% and Italy 2%.
- Most non-EU nationals come from British Commonwealth countries including Nigeria (15%), India (14%), Zimbabwe (5%) and Ghana (4%). Outside of this most of the rest come from the Philippines (6%), which along with Malaysia and Sri Lanka, is on the Government's "green list" for international staff recruitment purposes.

It should not be assumed that people who are employed from outside the UK will be recent arrivals to the country. About one-third have been here since before 1995. Although another third have arrived since 2007, the numbers have been reducing in the last five years as a result of stricter immigration controls.

Registered Nurse Recruitment

A significant number of registered nurses in care homes have been recruited from outside the UK (currently about 41%). This is to a large extent because of a shortage of registered nurses in care homes with nursing, which the Care Quality Commission "state of care" reports consistently highlight.

Since 2021 the rules have been the same for EU and non EU nurse recruits. Nurses can immigrate to the UK providing that they have a job offer from a licensed sponsor, meet the salary criteria, speak English to the required standards and meet NMC registration requirements, which requires them to take a test.

Who Can Work in the UK?

Social care workers

Care providers can employ care and other staff from other countries in a number of ways by:

- recruiting them directly through advertising and promotional schemes
- being part of a consortium or partnership of providers to provide the recruitment service
- using the services of a recruitment agency to procure their services
- employing them as agency workers.

A highly recommended practical source of information, which has been issued in the wake of the placing of social care workers on the shortage occupation list is the *Overseas Recruitment Bite-size Guide for Social Care Providers in England* produced by the Local Government Association in partnership with the Association of Directors of Adult Social Services (ADASS) and the Care Association alliance (South East). There is also a link to this guidance from the [Skills for Care website](#), which also has useful information in its International Recruitment menu.

All international recruitment practices must follow the government's *Code of Practice for the International Recruitment of Health and Social Care Personnel in England* (updated August 2022). This includes lists of the red, amber and green rated countries for international recruitment. Services must be aware of the restrictions to active recruitment which apply to the countries they are recruiting in.

The LGA guidance asks care providers to answer the following questions before considering recruiting directly from other countries.

Employers' responsibilities

- Do you have real, funded permanent vacancies for roles that pay a minimum £20,960 or £10.75 per hour (based on 39-hour week)?
- Do you have the right capacity to support the sponsorship licensing process and to meet the support needs of anyone recruited from a different country?
- Is overseas recruitment part of your long term workforce plan because becoming a sponsor is a serious commitment, the process takes time and can be time consuming?
- Can you fully exercise your duty of care for the people you recruit (in terms of making them feel welcome, supporting them to find accommodation and friends)?

To meet the legal requirements you will then need to:

- obtain a sponsorship license through UK Visas and Immigration (UKVI) proving your eligibility in doing so, including that of the jobs that you are seeking to fill in this way
- follow the application process set out by UKVI including providing all the required supporting documents
- decide who should be and appoint someone to act as sponsorship manager, who will then be the single point of contact with the UKVI. (This could be someone from the care organisation or from outside such as a solicitor)
- decide how you will manage the sponsorship license once granted, which will include monitoring its terms and conditions.

Social care workers responsibilities

Each worker appointed will need to obtain a certificate of sponsorship, the granting of which is based on a points-based system. The system is made up of mandatory and tradeable points. Every applicant must score 70 points — 50 of which are made up from the following.

- A job offer in an eligible occupation and from an approved sponsor.
- Job skill level at RQF level 3 or above.
- English language skills.

The further 20 points can be acquired if the role is on the shortage occupation list.

Care workers/home care assistants would not normally meet the RQF level 3 requirement, but were added to the shortage occupation list because of the care staffing crisis.

Care workers have become the only occupational group below RQF level 3 to be eligible for the points-based system provided that they can meet the following conditions.

- Have an eligible job offer from an approved sponsor.
- Meet English language requirements.
- Be paid at least £20,960 (£10.75/39 hour week).

Clearly, the significant rise in minimum wage from April will impact these figures. Also in the spring, the threshold at which workers are able to have their families join them here will rise to £38,700.

Registered nurses and other registered professionals

Registered nurses along with social workers and occupational therapists have been on the Government's shortage occupation list since November 2015. Therefore care providers can continue to recruit nurses from abroad under certain conditions. There is no longer any

right of free movement from EU countries so nurses being recruited from these places will have to fulfil the same conditions as people from non-EU countries.

Settlement Scheme Workers

Under the Government's "Settlement Scheme", all workers with an EU nationality that worked pre-Brexit in the adult social care sector in England are allowed to continue to work in the UK, provided that they applied to remain.

Registered nurses and the Sponsored Management System

Care providers seeking to recruit registered nurses internationally by their obtaining a Health and Care Visa might wish to act as sponsors for qualified people from countries for whom specific permission is required for them to work legally in the UK. They do this by applying for a certificate of sponsorship for their appointees.

To work as a registered nurse in the UK, the post holder must have NMC registration in line with Home Office requirements. For further information see the [NMC website](#).

The NHS Employers website provides the clearest detailed guidance on the employment of foreign nurses in health and social care. Key points are:

- applicants from overseas must not be discriminated against and their applications should be considered in relation to any others. An application should only be rejected because it does not meet the job requirements
- applicants' identities should only be shown after a provisional offer has been made, when right to work checks will be needed along with other pre-employment checks
- although nurses are on the shortage occupation list, prospective employers should still show that they have little alternative but to recruit nurses internationally
- care providers should show that their advertising for posts over a 28-day period has not resulted in any suitable candidate being available from the resident labour market before being able to obtain a certificate of sponsorship
- care providers thinking of employing non-UK nursing staff should note that the Government levies an annual immigration skills charge (ISC), which will be payable upfront when the employer assigns the certificate of sponsorship to the individual. The cost depends on the size of your organisation and how long the worker will be working for you.

For further information, go to the [NHS Employers website](#) and follow the links (or use the search facility) to a variety of relevant documents, particularly Right to Work Checks.

General Issues Concerning International Recruitment

UK citizens

People who are born and resident in the UK or who are naturalised citizens, have British passports and National Insurance (NI) numbers, etc have an automatic right to seek employment anywhere in the UK. Prospective social care employers will, of course, need to obtain information from “home-grown” applicants in line with schedules 3 and 4 of the current regulations. (See CQC Fundamental Standards Compliance above.)

Home Office guidance (updated 2022) indicates that disclosure of:

- a British passport, even one that has expired (or European passport) with photo consistent with current appearance
- a *full* Birth Certificate
- a document such as a pay slip, P45 or P60 with a person’s *NI number*

will be sufficient to prove the individual’s right to work.

Applicants who are non-British by birth but who have become naturalised British citizens should present their certificate of registration or naturalisation as a British citizen together with their *NI number* and/or passport (the possession of which might depend on the date of naturalisation).

Applicants who originate from the Channel Islands, Isle of Man and Republic of Ireland — known as the Common Travel Area should present a full birth or adoption certificate and document with their NI number and/or passport as proof of their right to work.

See the Home Office’s [Employer’s Guide to Right to Work Checks](#) (updated 2022).

Right of abode

An applicant, who originates from a former British colony or current Commonwealth country, could have a British passport that shows they have the right of abode in the UK, which also then gives them a right to work. Alternatively, the applicant could have a passport from their country of origin that endorses their right of abode in the UK and therefore their right to work.

People in this position can apply or will be issued with a Biometric Residence Permit, which will verify their right of abode and corresponding right to work.

See the Home Office’s [Employer’s Guide to Right to Work Checks](#) (updated 2022).

Employment of students

International students who are studying at UK institutions are permitted to take spare term time and vacation work as long as they do not work more than 10 hours a week during term time (unless a placement is part of their course). They may carry out paid work during their vacations, which could include carrying out care work.

The UK Visa Sponsorship Management System

Citizens of countries outside the UK who do not have a right of abode (as summarised above) will usually need to obtain a visa and/or work permit before finding employment in the UK.

Under the Sponsorship Management System, which meshes in with the new points-based immigration system, a UK employer can apply for a licence to sponsor the employment of non-British people coming into the country to work.

The scheme works by identifying occupations and professions in a number of tiers (1–5). To qualify for sponsorship, applicants must score a number of points in terms of qualifications, prospective earnings and standard of English.

The tier that is most relevant for care services is Tier 2, covering general skilled occupations, which includes nurses (registered and unregistered).

Care providers must ensure that they follow the rules (strengthened following the implementation of the Immigration Act 2016) very carefully where they are considering employing foreign workers in any capacity.

Further updated information is provided on the [GOV.UK website](#) with particular reference to the *Code of Practice for the International Recruitment of Health and Social Care Personnel in England* (updated August 2022), available on the [GOV.UK website](#).

Checking Rights to Work in the UK

Employers must by law check that anyone they employ has the legal right to work in the UK. They should never assume that someone does have the right to work or make assumptions about their immigration status.

Following the Immigration Act 2016, there are stiffer penalties for any employer who employs anyone illegally, not only fines, but also possible imprisonment.

The relevant laws and consequences for breaking them are set out in:

The Home Office's *Employer's Guide to Right to Work Checks* is available on the [GOV.UK website](#), with additional guidance available on the NHS employers website.

The Government also provides a useful checking tool, which can be found [here](#). Care providers can use this both to check new applicants and to review that they have the correct documentation for current staff, whom they have employed from outside the UK.

How to Conduct Right to Work Checks

Home Office guidance suggests that checking should be a three-step procedure.

Step 1. Obtain the *original* versions of the acceptable documents.

Documents that may be accepted from a person to demonstrate his or her right to work in the UK are set out in two lists published in the Home Office guidance — List A and List B.

- List A contains the range of documents which may be accepted for a person who has a permanent right to work in the UK — completing checks from this list before employment begins establishes what the Home Office describe as a “continuous statutory excuse” for the duration of a person’s employment and no further checks are necessary.
- List B contains a range of documents which may be accepted for a person who has a temporary right to work in the UK — completing checks from this list establishes what the Home Office describe as a “time-limited statutory excuse” and employers will need to conduct a follow-up check as required.

Prospective employees must produce one of the original documents from List A or two of the original documents from the combinations in List B.

Step 2. Check the relevant documents validity *in the presence of the person*.

Employers must make reasonable efforts to check that documents are genuine and that the person presenting them is the prospective employee or employees, the rightful holder and allowed to do the type of work being offered. The checking process will invariably include: identity, references, qualifications and professional registrations.

Home Office guidance states:

“When you are checking the validity of the documents, you must ensure that you do this in the presence of the holder. This may be a physical presence in person or via a live video link. In both cases, you *must* be in the *physical possession of the original document or documents*.” (Our emphases.) The explanation for this is as follows.

“You may not rely on the inspection of the document via a live video link or by checking a faxed or scanned copy of the document. The responsibility for checking the document is yours. While it may be delegated to your members of staff, you will remain liable for the penalty. You may not delegate this responsibility to a third party.”

Employers must check that:

- documents are genuine, original and unchanged, and belong to the person present
- right to work in the UK dates are current
- photos are the same across all documents and look like the applicant
- dates of birth are the same across all documents

- the applicant has permission to do the type of work being offered.

Where two documents give different names, the applicant must show supporting documents explaining why they are different, eg a marriage certificate or divorce decree.

Step 3. Retain evidence.

Home Office guidance is as follows.

Keep a record of every document checked. This may be a hardcopy or a scanned and unalterable copy, such as a JPEG or PDF document.

Keep the copies securely for the duration of the person's employment and for a further two years after they stop working for you. (This is to allow Government checks to be made if necessary.)

Make a record of the date on which the check was carried out. This may be by either making a dated declaration on the document copy, eg "the date on which this right to work check was made: [insert date]", or by holding a separate record, securely.

The evidence should be made easily available so that it can be shown quickly in the event of the employer being required to produce it to show that a right to work check has been correctly carried out and can be used as a "statutory excuse" if the person turns out to be employed illegally for whatever reason.

In cases where there are problems over an applicant's immigration status, eg if there is a difficulty or delay in obtaining the necessary documents, a prospective employer can seek help from the Government's Employer Checking Service.

For further information see the Home Office's *Employer's Guide to Right to Work Checks* available on the [GOV.UK website](https://www.gov.uk).

Disclosure and Barring List Checks

Care providers must make sure they make equivalents checks for people recruited from non-UK countries as for their UK employees. The UK criminal records authorities cannot search overseas criminal records and any disclosure will only consider convictions and concerns raised or registered in the UK. So, in addition to requesting the UK disclosures, the practice must obtain disclosure information from:

- an overseas national's home country
- any other countries in which the overseas national has lived and worked.

This is essential to ensure that the new recruit does not pose a safeguarding risk.

Many EU countries operate a system whereby a citizen can obtain a certificate of good conduct or an extract from their criminal record. However, there is no guarantee that this will be of an equal standard to the searches done on UK criminal records.

Further information that can be referred to in individual cases can be found in:

NHS Employers Criminal Records Checks and HM Government's *Guidance on the Application Process for Obtaining Criminal Records Checks Overseas*.

Key Legislation Governing Employment of People from Outside the UK

The law on preventing illegal working is set out in ss.15–25 of the Immigration, Asylum and Nationality Act 2006 and has been strengthened by the Immigration Act 2016.

The Immigration Act 2016 has brought about a number of important changes to the immigration rules, which all employers of non-British workers will need to observe.

1. The immigration skills charge

There is a flat upfront charge paid annually for each Certificate of Sponsorship of £1000 by most employers of non-UK/EEA workers (with some exemptions), which will mean, for example, additional costs to employers of £5000 for any employee working to a five-year visa. The funds raised by the ISC is intended to train UK workers to meet the shortages for which non-UK nationals are being recruited. The charge must be paid by the employer and not defrayed to the employee.

(See *Workers and Temporary Workers Guidance for Sponsors* (updated November 2022), available on the [GOV.UK website](https://gov.uk).)

2. English language requirements

The Act places a duty on all public sector employers (eg NHS and local authorities) to ensure that all “customer facing” employees can communicate to an acceptable standard of English (or Welsh if working in Wales). A draft Code of Practice provides the detail of the standard required.

The requirement will apply to all public sector providers. It is possible that the same standard will be built into care commissioning and applied through contracts and service agreements with independent providers.

The Code of Practice includes guidance to employers on how to assess employees’ fluency in English (or Welsh).

3. Illegal working

The Act makes it harder for people to live and work illegally in the UK. Penalties for knowingly employing an illegal worker, or “having reasonable cause to believe” that someone is an illegal worker have increased. (Hence, the importance of following carefully all stages in the checking process.)

The maximum civil penalty for employing an illegal worker has been raised to £20,000. The illegal worker could be imprisoned for up to six months and face an unlimited fine and their wages paid while working illegally recovered under the Proceeds of Crime Act 2002.

There are powers to close organisations employing illegal workers, but an employer can escape being sanctioned if they can show that they have taken all reasonable steps to

prevent illegal working and have carried out to a satisfactory standard all the required checks.

For further information, refer to the documentation under the Immigration Act 2016 found at www.gov.uk and the Immigration Act 2016 Factsheet at www.nhsemployers.org.uk.

Preventing Discrimination

While employers must ensure they do not employ illegal migrant workers, they must also ensure that they avoid discriminating on racial grounds.

With such an ethnically diverse population in the UK, it is impossible to know whether someone is entitled to live and work in the UK based on the way they look or sound.

If an employer only carries out document checks on people who do not look or sound British, this may constitute unlawful racial discrimination. Therefore, employers should carry out the same checks for all job applicants.

The Home Office publishes a Code of Practice for employers, *Avoiding Unlawful Discrimination while Preventing Illegal Working*. This was updated in March 2022 to apply from 6 April 2022. (See [Publications](#).)

Employers should refer to the Code and follow it closely. The aim of the Code is to strengthen safeguards against unlawful discrimination when recruiting people and complying with right to work checks.

Modern Slavery

In 2015, a new law was enacted that consolidated the offences that relate to trafficking and slavery into one single Act, the Modern Slavery Act 2015. It sets out the definition of modern slavery as a term that includes any form of human trafficking, slavery, servitude or forced labour. It also places obligations on employers over a certain size, requiring all commercial organisations meeting the following specifications to publish an annual modern slavery statement.

- A body corporate or a partnership, wherever incorporated or formed.
- Carrying on a business, or part of a business, in the UK.
- Supplying goods or services.
- With an annual turnover of £36 million or more.

In November 2023, the CQC published its regulatory policy position on modern slavery and unethical international recruitment, reporting that it made more than four times as many referrals for concerns relating to modern slavery, labour exploitation and international visas in 2022/23 than in 2021/22.

According to recently revealed statistics, the number of modern slavery victims within the care industry in the UK has more than doubled over the last year. In a year-on-year

comparison for the period between January and March, there were 109 potential victims of modern slavery or human trafficking in 2023, which is twice as many in the same period in 2022.

See the template [Modern Slavery and Human Trafficking in Care Services Policy](#).

Modern slavery statements

Within their statement, businesses should include information about their structure, business, supply chains, policies, due diligence processes, assessment and management of the risk of slavery and trafficking. It must also detail the steps it has taken during the preceding financial year to ensure slavery and trafficking are not taking place in its business or supply chain, as well as its effectiveness in preventing slavery or human trafficking in these steps, measured against appropriate performance indicators, and the training available to staff on these measures. If the above steps are not being taken, the statement must state this. The Government recommends that, where this is the case, the business also includes an explanation as to why.

Under guidance provided by the Home Office, it is recommended that the statement:

- is written in simple and accessible language
- is succinct but covers all the relevant points
- provides links to relevant publications, documents or policies
- is written in English as well as other languages relevant to the supply chain.

The guidance points out that the public, media, investors and other interested parties will want to see improvements year on year in the actions included within the annual statement.

Businesses that fall below the threshold that requires mandatory publication of a modern slavery statement may still choose to publish one, and many do. This may be as part of their overall Environmental, Social and Governance (ESG) strategy, where they recognise its importance to corporate responsibility and as a way to demonstrate the organisation's commitment to upholding human rights.

It could also be because the business is involved in bidding for contracts against larger businesses that do have a statement, and the organisation the business wants to deal with is putting in measures to ensure other parties it is working with are committed to preventing slavery and trafficking.

Alternatively, it could be because the business is part of a supply chain for a larger organisation that meets the threshold for mandatory statement publication, and voluntary statement publication is one of the ways the larger organisation meets its own statutory obligations.

Training

All care providers involved in staff recruitment and selection should be given training in all aspects of the employment of people from outside the UK, particularly in the duty to make checks as discussed in the topic sections.

All staff involved in recruitment of new employees should understand the following.

- The need to check all job applicants' entitlement to live and work in the UK.
- The implications of recruiting an illegal migrant worker, including penalties.
- The need to avoid racial discrimination while preventing illegal migrant working.
- The process for applying for work permits or sponsoring applications under the points-based system.
- The organisation's policy on equality and diversity.
- The organisation's policy on overseas workers.

List of Relevant Legislation

- Asylum and Immigration Act 1996
- Care Act 2014
- Equality Act 2010
- European Union (Withdrawal Agreement) Act 2020
- Health and Social Care Act 2008
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- Immigration Act 2016
- Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020
- Immigration, Asylum and Nationality Act 2006
- Race Relations Act 1976
- Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

Further Information

Publications

General

- *An Employer's Guide to Right to Work Checks* (updated April 2022), available on the [GOV.UK website](#)
- *Guidance on the Application Process for Obtaining Criminal Records Checks Overseas* (August 2022), Home Office, available on the [GOV.UK website](#)
- *UK's Points Based Immigration System, Further Details* (August 2020), available on the [GOV.UK website](#)
- *Code of Practice for Employers, Avoiding Unlawful Discrimination While Preventing Illegal Working: 6 April 2022* (March 2022) Home Office, available on the [GOV.UK website](#)
- *English Language Requirement for Public Sector Workers: Code of Practice* (2016), HM Government, available at [GOV.UK](#)
- *Migration Advisory Committee Annual Report 2022*, available on the [GOV.UK website](#) (includes section on adult social care)
- *Workers and Temporary Workers Guidance for Sponsors* (updated November 2022), available on the [GOV.UK website](#)

Care Sector

- *The State of Health and Adult Social Care in England 2022/23*, Care Quality Commission, available on the [CQC website](#)
- *The State of the Adult Social Care Sector and Workforce in England* (October 2020), available on the [Skills for Care website](#)
- *Code of Practice for the International Recruitment of Health and Social Care Personnel in England* (updated August 2022), available on the [GOV.UK website](#)
- *Criminal Records Checks* (2022), NHS Employers, available on the [NHS Employers website](#)
- *Overseas Recruitment Bite-size Guide for Social Care Providers in England* Local Government Association, available on the [LGA website](#)
- *Quick Guide: Code of Practice for International Recruitment* (2022), available on the [NHS Employers website](#)
- *Right to Work Checks* (and related documents), NHS Employers, available on the [NHS Employers website](#)
- *Guidance for Providers on Meeting the Regulations* (March 2015)
- *Moved to Care: The Impact of Migration on the Adult Social Care Workforce* (2015), Independent Age, available at www.independentage.org

Organisations

- **Cavendish Coalition**
- <https://www.nhsemployers.org>
- The Cavendish Coalition is a group of health and social care organisations united in their commitment to provide the best care to communities, patients and residents. The coalition acts as a shared voice which influences and lobbies on post-EU referendum matters. It also provides those leading the negotiations with expertise and knowledge on the issues affecting the health and social care workforce.
- **Disclosure and Barring Service (DBS)**
- <http://www.gov.uk/government/organisations/disclosure-and-barring-service>
- The DBS helps employers to make safer recruitment decisions and prevents unsuitable people from working with vulnerable groups, including children. It was established under the Protection of Freedoms Act 2012 and replaced the Criminal Records Bureau and Independent Safeguarding Authority.
- **Equality and Human Rights Commission (EHRC)**
- <http://www.equalityhumanrights.com>
- The Equality and Human Rights Commission holds responsibility for the legislation covering discrimination under the “protected characteristics” of age, religion or belief and sexual orientation, as well as the enforcement of human rights legislation. EHRC runs the Working Forward campaign to support pregnant women and new parents in the workplace.
- **Health and Care Professions Council (HCPC)**
- <https://www.hcpc-uk.org/>
- The HCPC is the regulator for a range of health and care professions. It keeps a register of health and care professionals who meet its standards for their training, professional skills, behaviour and health. It could deal with cases of misconduct arising from breaches of confidentiality.
- **Home Office**
- <https://www.gov.uk/government/organisations/home-office>
- The Home Office is the government department responsible for internal affairs in England and Wales. It deals with issues such as passports and immigration, drugs and crime policies, and counterterrorism.
- **Nursing and Midwifery Council**
- <http://www.nmc-uk.org>
- The Nursing and Midwifery Council is the registration body for nurses and midwives. Non-British nurses must be registered with the NMC to practice in the UK as a condition of their employment.

- **UK Visas and Immigration**
- <http://www.gov.uk/government/organisations/uk-visas-and-immigration>
- Formed from the UK Borders Agency, the service makes decisions about who has the right to enter, work and stay in the UK.