

ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Audit, Risk and Scrutiny Committee
<b>DATE</b>	08 May 2025
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Internal Audit Report AC2516 – Right to Work
<b>REPORT NUMBER</b>	IA/AC2516
<b>DIRECTOR</b>	N/A
<b>REPORT AUTHOR</b>	Jamie Dale
<b>TERMS OF REFERENCE</b>	2.2

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**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to present the planned Internal Audit report on Right to Work.

**2. RECOMMENDATION**

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

**3. CURRENT SITUATION**

- 3.1 Internal Audit has completed the attached report which relates to an audit of Right to Work.

**4. FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising from the recommendations of this report.

**5. LEGAL IMPLICATIONS**

- 5.1 There are no direct legal implications arising from the recommendations of this report.

**6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

**7. RISK**

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- 7.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are detailed in the resultant Internal Audit reports. Recommendations, consistent with the Council's Risk Appetite Statement, are made to address the identified risks and Internal Audit follows up progress with implementing those that are agreed with management. Those not implemented by their agreed due date are detailed in the attached appendices.

## **8. OUTCOMES**

- 8.1 There are no direct impacts, as a result of this report, in relation to the Council Delivery Plan, or the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place.
- 8.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

## **9. IMPACT ASSESSMENTS**

<b>Assessment</b>	<b>Outcome</b>
<b>Impact Assessment</b>	An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics.
<b>Privacy Impact Assessment</b>	Not required

## **10. BACKGROUND PAPERS**

- 10.1 There are no relevant background papers related directly to this report.

## **11. APPENDICES**

- 11.1 Internal Audit report AC2516 – Right to Work

## **12. REPORT AUTHOR CONTACT DETAILS**

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## Internal Audit

### Assurance Review of Right to Work in the UK

**Status:** Final

**Date:** 15 April 2025

**Risk Level:** Corporate

**Report No:** AC2516

**Assurance Year:** 2024/25

Net Risk Rating	Description	Assurance Assessment
Moderate	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	Reasonable

Report Tracking	Planned Date	Actual Date
Scope issued	20-Dec-2024	19-Dec-2024
Scope agreed	10-Jan-2025	19-Dec-2024
Fieldwork commenced	20-Jan-2025	20-Jan-2025
Fieldwork completed	07-Feb-2025	17-Feb-2025
Draft report issued	28-Feb-2025	04-Mar-2025
Process owner response	21-Mar-2025	28-Mar-2025
Director response	28-Mar-2025	15-Apr-2025
Final report issued	04-Apr-2025	15-Apr-2025
AR&S Committee	08-May-2025	

Distribution	
Document type	Assurance Report
Director	Andy MacDonald, Executive Director – Corporate Services
Process Owner	Lesley Strachan, Service Lead – People
Stakeholder	Isla Newcombe, Chief Officer – People & Citizen Services
	Julie Esson, Operational Lead – HR Service Centre
	Vikki Cuthbert, Interim Chief Officer – Governance*
	Jonathan Belford, Chief Officer - Finance*
*Final only	External Audit*
Lead auditor	Sarah Poppe, Auditor

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# 1 Introduction

## 1.1 Area subject to review

Employers have a duty to prevent illegal working. The law on preventing illegal working is set out in the Immigration, Asylum and Nationality Act 2006 (Sections 15-25) and the Immigration Act 1971 (Sections 24 and 24B).

Employers are legally obligated to prevent illegal employment. Non-compliance with these regulations can result in a civil penalty of £45,000 per illegal worker for a first breach and then £60,000 for each illegal worker for repeat breaches. Additionally, if an employer knowingly employs, or has reasonable cause to believe they have employed, an illegal worker, they may face criminal charges which can lead up to five years in prison or an unlimited fine.

An employer can avoid liability for civil penalties and prosecution by conducting the required document checks on prospective employees to verify their Right to Work in the UK. These checks provide a statutory excuse, which protects employers from civil penalties if an employee is later found to be working illegally, if the employer took reasonable steps to confirm their Right to Work before employment began. For employees with limited permission to remain in the UK, these checks must be repeated periodically to maintain the statutory excuse.

When a manager is hiring a new potential employee, it is the manager's responsibility to confirm if they have the Right to Work in the UK, whether it be permanent, fixed term, relief, casual, full-time or part-time this requirement applies to all candidates. It is the manager's responsibility to obtain, check, and copy the documents that are required, these are detailed within the 'Employing Foreign Nationals – Guidance for Managers' procedure.

The procedure states what documents are required and this is broken down into two lists, one for those who have a permanent Right to Work in the UK and another for those who have a temporary Right to Work in the UK. Those with a temporary Right to Work in the UK will require to be reviewed at least a month before the date of expiry.

## 1.2 Rationale for the review

The objective of this review is to ensure adequate arrangements are in place to ensure staff have the Right to Work in the UK. It is crucial that the Council conduct proper Right to Work in the UK checks, as failing to do so could lead to reputational damage, financial penalty and potential prosecution should the Council recruit an illegal worker.

This area has not undergone a dedicated audit previously, but it was reviewed as part of the Volunteer Arrangements and Corporate Recruitment audits. Both audits provided some assurance that appropriate checks were in place to verify the Right to Work in the UK for employees and volunteers. However, they did not specifically address the process for conducting repeat checks for individuals with temporary Right to Work status, nor did they thoroughly examine the procedures in place, or how the checks required are monitored and reported.

## 1.3 How to use this report

This report has several sections and is designed for different stakeholders. The executive summary (section 2) is designed for senior staff and is cross referenced to the more detailed narrative in later sections (3 onwards) of the report should the reader require it. Section 3 contains the detailed narrative for risks and issues we identified in our work.

## 2 Executive Summary

### 2.1 Overall opinion

The full chart of net risk and assurance assessment definitions can be found in Appendix 1 – Assurance Scope and Terms. We have assessed the net risk (risk arising after controls and risk mitigation actions have been applied) as:

Net Risk Rating	Description	Assurance Assessment
<b>Moderate</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	<b>Reasonable</b>

The organisational risk level at which this risk assessment applies is:

Risk Level	Definition
<b>Corporate</b>	This issue / risk level impacts the Council as a whole. Mitigating actions should be taken at the Senior Leadership level.

### 2.2 Assurance assessment

The level of net risk is assessed as **Moderate**, with the control framework deemed to provide **Reasonable** assurance over the arrangements in place to ensure staff have the Right to Work in the UK. This assurance assessment is driven by the controls in place centrally over the process.

However, where controls are in place, the review identified areas of weakness where enhancements are required to be made to improve the framework of control and compliance with Right to work in the UK requirements, specifically at the operational level and on the part of individual recruiting managers:

- **Written Procedures** – The Council's 'Employing Foreign Nationals Guidance' has not undergone a comprehensive review for some time. Consequently, the list of approved documents for Right to Work checks does not align with current Home Office Guidance. Additionally, the guidance does not address the checks required for internal candidates. While this does not pose a compliance risk due to HR conducting their own checks when they receive recruitment files, internal recruitment is common within the Council. Therefore, incorporating guidance on this process could be beneficial. The procedures relating to sponsored employees need strengthening. It was evident during testing that sponsored employees lacked clarity regarding their responsibilities in the sponsorship process and Right to Work checks. Additionally, the payment process for sponsored employees presented a potential fraud risk, highlighting the need for clearer procedures and oversight.
- **Verifying Original Documents** – Home Office Guidance requires that original documents be reviewed in the presence of the holder, clear copies made, and the date of the check recorded either by adding a dated declaration to the copy or securely maintaining this information in a separate record. The Council's 'Employing foreign Nationals Guidance' reinforces these requirements. However, testing identified weaknesses in compliance. In the majority of cases reviewed (11 of 20: 55%), copies of documents had not been verified, the verification date was missing, or there was no record of the original having been seen. Recruitment and interview paperwork also provided limited assurance that required checks were always taking place.
- **Incomplete Documentation** – Whilst in the majority of cases reviewed (17 of 20 cases: 85%) there was a record of relevant documentation having been obtained (see above regarding confirmation of documentation being checked), in three cases (15%) there were insufficient records to confirm that the correct Right to Work checks had been satisfactorily completed in advance of employment commencing. Assurance over their Right to Work has since been established for these three employees, however employing someone without having checked the appropriate documentation to provide a statutory excuse presents a severe risk to the Council. Failure to maintain complete and accurate personnel files that can be easily provided

on request may result in the Council being unable to confirm an individual's Right to Work in the UK, potentially leading to civil penalties and, in severe cases, criminal charges.

- **Repeat Checks** – Review of a further 20 cases requiring a repeat Right to Work check confirmed that with limited exceptions records are generally being maintained and updated accurately, and appropriate actions taken. There may be benefits to be obtained through revisions to scheduling and monitoring of follow-up action, and potential for automation.

Recommendations have been made to address the identified risks including review of procedures, supporting documentation and templates to ensure they are fully aligned with Home Office and internal requirements, and development of more robust mechanisms to provide assurance over compliance. Whilst we recognise this as an area with many stakeholders across the Council, specifically recruiting managers within services, the Central Team sets the procedural requirements and provides oversight and second line control. As such, recommendations have been targeted towards People and Citizen Services, whilst recognising they will need to engage across the business to implement enhancements.

## 2.3 Severe or major issues / risks

Issues and risks identified are categorised according to their impact on the Council. The following are summaries of higher rated issues / risks that have been identified as part of this review:

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
1.2	<p><b>Verifying Original Documents</b> – Home Office Guidance states that original documents must be reviewed in the presence of the holder, clear copies should be made, and the date of the check must be recorded. A review of 20 pre-employment check cases indicated a lack of compliance. In 11 of 20 cases (55%), one or more documents had not been recorded as verified. Where verification had been completed, confirmation was not provided that the original documentation had been seen, and in three cases (15%), the verification was conducted without a recorded date.</p> <p>Interview Return Slip documentation was not always comprehensively completed and does not fully cover Home Office requirements to record the dates specific documents were reviewed and verified. Recruitment checklists were also not always comprehensively completed to indicate whether visas and other checks were required and had taken place.</p> <p>Robust pre-employment checks are essential to secure a statutory excuse that appropriate steps were taken to confirm employees' Right to Work in the UK. The design of controls in this instance impacts their effectiveness, in addition to the compliance issues identified. Employee's Right to Work in the UK needs to be established, to ensure the Council is not at risk of breaching the legislation.</p>	Y	Major	9

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
1.3	<p><b>Incomplete Documentation</b> – Whilst in the majority of cases reviewed (17 cases: 85%) there was a record of relevant documentation having been obtained (see 1.2 above regarding confirmation of documentation being checked), in three cases (15%) there were insufficient records to confirm that the correct Right to Work checks had been satisfactorily completed.</p> <p>In each of these three cases, although a Right to Work in the UK has subsequently been established, there is no evidence to demonstrate that this was recorded and had been checked and documented, prior to them commencing employment.</p> <p>Employing someone without appropriate documentation to provide a statutory excuse presents a severe risk to the Council.</p> <p>Complete recording of documentation and checks are essential to secure a statutory excuse that appropriate steps were taken to confirm employees' Right to Work in the UK, to ensure the Council is not at risk of breaching the legislation.</p>	Y	Major	11

## 2.4 Management response

*The Service has welcomed the input of Internal Audit in this area, agrees with the findings, and has collaborated to identify improvement actions. While recognising that all individuals have the right to work in the UK, it is essential to improve compliance with processes and procedures.*

*The audit findings have highlighted several areas where we need to enhance our processes related to the Right to Work in the UK. Specifically, there is a need to update and finalise our 'Employing Foreign Nationals Guidance' and communicate this to recruiting managers and our team within People Services. This will ensure that recruiting managers comply with the UK Home Office requirements by recording that they have seen the necessary documentation from preferred candidates to evidence their right to work in the UK.*

*Additionally, the audit has identified the need to review and automate some of our internal recording processes to reduce omissions within checklists due to human error. We are working with colleagues in Digital & Technology to develop and implement a new case management system called Dynamics 365 for HR, which will replace our current HR system, coreHR. The functionality within this system can enable us to build in automated compliance controls and generate automated reminders and performance data for employees and managers. The aim is to have this system in place by the end of 2025.*

# Issues / Risks, Recommendations, and Management Response

## 2.5 Issues / Risks, recommendations, and management response

Ref	Description	Risk Rating	Moderate
1.1	<p><b>Written Procedures</b> – The Council's 'Employing Foreign Nationals Guidance' provides a foundation for conducting Right to Work checks. However, this guidance is not fully up to date: The current published version is dated August 2018, although updates have been made to processes since then in accordance with required changes from the Home Office. The Service have indicated it is currently under review and some elements require updating to align with current Home Office requirements, including e.g. key requirements, and changes to the lists of acceptable documentation for demonstrating applicants' Right to Work in the UK. If the requirements do not align, there is a greater risk of non-compliance which could lead to fines or prosecution. There were three updated versions of the Home Office Employer's guide in 2024 alone, underlining the need for regular review.</p> <p>As part of our review of a sample of 40 cases (20 recruitment and 20 repeat checks), scenarios were identified which are not fully covered by the internal guidance:</p> <ul style="list-style-type: none"> <li>• Internal candidates being hired do not always require further review of documentation. Guidance does not cover this, or the circumstances in which it does/does not apply. This could present a risk in cases where documentation is required but it may be assumed it is not.</li> <li>• Correspondence indicated processes, roles and responsibilities regarding Sponsorship are not well defined or understood by affected employees and line managers. In the cases reviewed this had an impact on the efficiency of responding, and the resulting outcome. Improved awareness of the process could support better planning and signposting for employees.</li> <li>• Home Office guidance includes a recommendation (but not a requirement) to use their 'Right to Work Checklist'. This includes additional checks, including e.g. confirmation that photographs and documents are consistent, and have not been evidently tampered with, which are not well covered in the Council's guidance.</li> </ul> <p>Where there is approval to sponsor an individual, there is a cost associated with this for the service/Council, and the Talent Team process the certificate of Sponsorship using the Home Office Sponsorship online system. The cost of sponsorship is £1,000 immigration skills charge (unless an exemption applies) for each year of sponsorship and £239 certification/admin charge made to the UK Visas and Immigration. The payment requires to be made using a credit card via the online Home Office Sponsorship system. The Talent Team, within People Services, does not have a corporate credit card to allow them to make payments so are required to access a corporate credit card via the Finance Transaction Teams process. The written procedure specifies that they must contact a member of the Finance Transactions Team, by raising a purchase order request which details name of the individual being sponsored and the required sponsorship. When the Talent team reach the payment stage in the process, a member of the Finance Transactions Team joins the call who then use screen sharing to enter the payment details and authorise the transaction. This process poses a potential fraud risk, as sharing a screen while entering payment details could expose corporate credit card information to unauthorised users. There may also be a potential risk in respect of the Transactions Team viewing personal data recorded on the form, though the service has advised only limited details are visible and retained on file as required to support the financial transaction.</p>		
<b>IA Recommended Mitigating Actions</b>			



Ref	Description	Risk Rating	Moderate
	<p>a) People Services should review the procedures and supporting documentation to ensure they are fully aligned with Home Office requirements. Updated requirements should be reflected fully and promptly.</p> <p>b) As part of the review, People Services should consider including further detail on requirements for internal candidates, and processes, roles and responsibilities regarding Sponsorship.</p> <p>c) People Services should review the process for making sponsorship payments with Finance to ensure potential risks to financial and personal data are addressed.</p>		
	<b>Management Actions to Address Issues/Risks</b>		
	<p>a) <i>It is acknowledged that the 'Employing Foreign Nationals' guidance is out of date: it is in the process of being reviewed and updated. The Talent Team will continue to attend immigration seminars or briefings from the Home Office if there are any changes made to the system and then make any necessary updates to the guidance and ensure this is communicated to recruiting managers and the HR Service Centre Team to ensure compliance</i></p> <p>b) <i>We only sponsor in exceptional circumstances, for hard to fill roles that meet the eligibility criteria and when we are contacted either by an employee or potential candidate, we provide the required information to them that they need to know and the steps they would need to take. Where a manager contacts us about sponsorship, we have guidance setting out the information and approvals required. We cover sponsorship in the Recruitment and Selection training and if there are any changes in process or requirements the training is updated. We are currently developing guidance to be shared with employees/managers at the outset of sponsorship to enhance awareness of responsibilities.</i></p> <p>c) <i>The process for access to the Corporate credit card sits with the Finance Transactions Team, so we will link with the team to investigate an alternative solution to making payment for sponsorship applications.</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Service Lead - People	September 2025

Ref	Description	Risk Rating	Major
1.2	<p><b>Verifying Original Documents</b> – Home Office Guidance states that original documents must be reviewed in the presence of the holder to confirm their validity. Clear copies should be made, and the date of check must be recorded. This can be done by adding a dated declaration on the document or maintaining a separate record securely. The guidance states:</p> <p><i>"Simply writing a date on the copy document does not, in itself, confirm that this is the actual date when the check was undertaken".</i></p> <p>The Council's own procedure, 'Employing Foreign Nationals Guidance', reinforces these requirements, specifying that copies must be taken, the date of the check recorded, and confirmation provided that original documents were seen. The guidance suggests using the statement: <i>"Certified as a true likeness, original seen by [your name] on [date]"</i>.</p> <p>A review of 20 pre-employment check cases, selected at random from across various Clusters, revealed significant non-compliance across the board. In 11 of 20 cases (55%) one or more documents had not been recorded as verified:</p> <ul style="list-style-type: none"> <li>In 10 cases (50%), copies of the candidate's photo ID were not verified and dated.</li> </ul>		

Ref	Description	Risk Rating	Major
	<ul style="list-style-type: none"> <li>• Of the 10 cases (50%) where photo ID verification was completed, all were confirmed as a true likeness. However, none verified that the original had been seen, and in three cases (15%), the verification was conducted without a recorded date. In one case the verification had been typed rather than signed.</li> <li>• In two cases (10%), birth certificates were provided, but the copies were neither verified nor dated to confirm that the original had been seen.</li> <li>• In one case (5%), a photograph of the candidate's HMRC document (P45) was provided but there was no confirmation that the original had been seen.</li> </ul> <p>Two different versions of an Interview Return Slip are in circulation. This covers the outcome of interviews, review of documentation, and approval by line management. Each includes one of the following statements:</p> <p><i>"I confirm that all documents copied at interview are included in this pack. Formal verification has also been obtained for Right to Work ID checks".</i></p> <p><i>"I certify that all original documents stated above were seen at interview and have been certified as correct, accurate and are a true likeness to the preferred candidate named above".</i></p> <p>Neither statement satisfies fully the requirement set out in the Home Office guidance, as although there is space to sign and date the Slip, they do not include the date on which the checks took place. They also omit details of which documents were checked and certified. A tick-list is provided to indicate ID was obtained and attached. Documents are then attached and included within the PDF employee file, however in cases where these documents have not been independently signed and dated, there is no clear audit trail to demonstrate that these are the same documents seen and copied at interview.</p> <p>Completion of the Interview Return Slip also varied, further weakening compliance assurance:</p> <ul style="list-style-type: none"> <li>• In seven cases (35%), the Interview Return Slip did not confirm whether a Right to Work check had been conducted, and ID copies were not verified and dated.</li> <li>• One file (5%) included an unsigned and undated slip.</li> <li>• Another file (5%) did not contain an Interview Return Slip.</li> </ul> <p>People &amp; Citizen Services completes a Recruitment Checklist which is also saved in the employee personnel file, and should document completion of key tasks, including Right to Work checks. While Recruitment Checklists are being completed for each candidate, 14 cases (65%) had an incomplete Right to Work section:</p> <ul style="list-style-type: none"> <li>• In 12 cases (55%), no option was selected to indicate whether the candidate required a visa.</li> <li>• In two cases (10%), question marks were present without initials or dates to confirm the check had been completed.</li> </ul> <p>Robust pre-employment checks are essential to secure a statutory excuse that appropriate steps were taken to confirm employees' Right to Work in the UK. The design of controls in this instance impacts on their effectiveness, in addition to the compliance issues identified. If an employee's Right to Work in the UK has not been correctly established, the Council may breach employment law, potentially leading to civil penalties or, in more severe cases, criminal charges.</p> <p><b>IA Recommended Mitigating Actions</b></p> <p>People &amp; Citizen Services should review and update interview documentation templates to ensure recruiting managers can clearly record the specific documents obtained to demonstrate a Right to Work in the UK, and the dates on which they were reviewed and confirmed.</p>		

Ref	Description	Risk Rating	Major
	Mechanisms should be developed, implemented and consistently applied to ensure key checks are being completed and evidenced.		
	<b>Management Actions to Address Issues/Risks</b>		
	<p>Agreed.</p> <p><i>All individuals had the Right to Work, although documentation was not always held centrally. One check identified that, although one case had their UK sponsorship confirmed by the Home Office, a final short code should have been used to confirm the right to work before commencing employment.</i></p> <p><i>We will issue communications to recruiting managers to highlight and emphasise the importance of adhering to the guidance, will emphasise this specifically in recruitment and selection training and include it within all documentation to managers as part of the recruitment process.</i></p> <p><i>In terms of future developments, as part of our development and implementation of Dynamics 365 for HR, we may be able to automate elements of this process to remove human error.</i></p> <p><i>We are currently working with COSLA to introduce Digital identity document validation technology (IDVT) software into TalentLink (our candidate management system) whereby preferred candidates with a UK passport can provide evidence of their Right to Work in the UK electronically. Once again reducing the risk of human error.</i></p> <p><i>It is also accepted that we need to review our recruitment checklist and to ensure that our team within People Services do not progress preferred candidates until all requirements of the Right to Work check is fully and accurately completed.</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Service Lead - People	January 2026

Ref	Description	Risk Rating	Major
1.3	<p><b>Incomplete Documentation</b> – Whilst in the majority of cases reviewed (17: 85%) there was a record of relevant documentation having been obtained (see 1.2 above regarding confirmation of documentation being checked), in three cases (15%) there were insufficient records to confirm that the correct Right to Work checks had been satisfactorily completed:</p> <ul style="list-style-type: none"> <li>One file (for an internal candidate: Housing) contained a driving license, which is not an approved document, alongside a digital copy of an HMRC document without confirmation that the original had been seen. Following enquiry by Internal Audit, People &amp; Citizen Services was able to source a copy of the employee's passport in a separate archived file from a previous role.</li> <li>Another file (for an external candidate: Education &amp; Lifelong Learning) contained an extract of a birth certificate, but at the time of the check, a full birth certificate was required. Additionally, no government issued document confirming the employee's National Insurance number was on file, meaning that no statutory excuse appeared to be established. Following enquiry by Internal Audit a copy of the employee's passport was later found in an email, but it had not been verified or dated. The Recruitment Checklist indicated Right to Work checks were completed on 8 January 2025, despite the employee starting work on 2 December 2024.</li> <li>In another case (for an external candidate: Education &amp; Lifelong Learning) an employee began working as a teacher on 22 August 2022, but Right to Work checks</li> </ul>		

Ref	Description	Risk Rating	Major
	<p>were not completed until 1 September 2022. The employee contract was created on 2 September 2022 and backdated to 22 August 2022. <i>(NB this was picked up as part of Internal Audit's review of repeat checks undertaken in 2024).</i></p> <p>In each of these three cases, although a Right to Work in the UK has subsequently been established, there is no evidence to demonstrate that this was known and had been checked and documented, prior to them commencing employment. Employing someone without appropriate documentation to provide a statutory excuse presents a severe risk to the Council.</p> <p>These findings highlight the importance of stricter adherence to the Right to Work verification process to ensure compliance and mitigate risk. Failure to maintain complete and accurate personnel files that can be easily provided on request may result in the Council being unable to confirm an employee's Right to Work in the UK, potentially leading to civil penalties and, in severe cases, criminal charges.</p> <p><b>IA Recommended Mitigating Actions</b></p> <ul style="list-style-type: none"> <li>a) Processes should be revised to ensure that employment cannot proceed until documentation demonstrating a Right to Work in the UK has been confirmed, verified and recorded.</li> <li>b) Recognising the limited sampling on the part of Internal Audit, Management should develop their own assurance mechanisms to ensure that with existing personnel files there is sufficient evidence employees have a Right to Work in the UK.</li> </ul> <p><b>Management Actions to Address Issues/Risks</b></p> <ul style="list-style-type: none"> <li>a) <i>Recruitment and Selection Guidance is clear about the process, and roles and responsibilities for recruiting managers and staff within People Services to ensure the correct Right to Work Checks which require to be undertaken for preferred candidates – both internally and externally. The 3 cases identified within the audit sample demonstrate human error either by recruiting managers, or by staff within People Services in checking candidates right to work evidence at preferred candidate stage, in recording that original documentation had been seen, and copies taken or in filing documentation in the correct place, or in recording that the documentation had been received.</i> <p><i>It is accepted that we need to review our recruitment checklist and to ensure that our team within People Services do not progress preferred candidates until all requirements of the Right to Work check is fully and accurately completed.</i></p> <p><i>We will issue communications to recruiting managers to highlight and emphasise the importance of adhering to the guidance, will emphasise this specifically in recruitment and selection training and include it within all documentation to managers as part of the recruitment process.</i></p> <p><i>In terms of future developments, as part of our development and implementation of Dynamics 365 for HR, we may be able to automate elements of this process to remove human error.</i></p> <p><i>We are currently working with COSLA to introduce Identity Verification Technology (IDVT) software into TalentLink (our candidate management system whereby preferred candidates with a UK passport can provide evidence of their Right to Work in the UK electronically. Once again reducing the risk of human error.</i></p> </li> <li>b) <i>Whilst the legal implications are significant if we should employ someone without the relevant documentation, management considers that the overall risk is relatively low. In each of the cases highlighted by Internal Audit we have since been able to source evidence of the employee's right to work in the UK. It is acknowledged this was not held in the correct place at the time, and this has been addressed. To review every</i></li> </ul>		

Ref	Description	Risk Rating	Major
	<i>existing employee file is impractical and would not represent best use of limited resource. With the mitigations discussed above, management accepts the risk of not taking further action to review existing files.</i>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	a) Yes	Service Lead – People	January 2026
	b) No	N/A	N/A

Ref	Description	Risk Rating	Minor
1.4	<p><b>Repeat Checks</b> – Where it is identified that a Right to Work may be time limited, People &amp; Citizen Services reviews relevant documentation and records the results and dates of expiry on a ‘Live Checking’ spreadsheet. Review of 20 cases requiring a repeat Right to Work check has provided assurance that the spreadsheet is being kept up to date, and is being reviewed on a regular basis. Initial correspondence to employees requiring a repeat check is sent one month prior to their expiry date. In practice, within the records reviewed by Internal Audit, this was being provided between 23 and 50 days in advance.</p> <p>However, in two cases (10%), instances were identified where additional checks could have been beneficial:</p> <ul style="list-style-type: none"> <li>• One employee whose contract had ended was not removed from the spreadsheet, resulting in them being contacted unnecessarily about providing evidence of their continued Right to Work.</li> <li>• Another employee’s Biometric Residence Permit (BRP) card expiry date was recorded in the spreadsheet, despite a Home Office check confirming they had indefinite leave to remain in the UK.</li> </ul> <p>While these cases highlight areas for improvement in updating records and verifying employment status before sending correspondence, neither resulted in missed repeat checks nor increased the risk of an employee working without the Right to Work in the UK.</p> <p>Home Office guidance requires Right to Work documentation to be retained for the length of employment, plus two years. However, review of these cases and further documentation indicates data may be held for longer than required.</p> <p>Although initial correspondence is being sent in the appropriate timescale, reminders are not consistently being issued on time. Procedures indicate these should be sent at least two weeks before the expiry date, however in nine cases (45%), they were sent only a week prior.</p> <p>Providing employees with sufficient notice for their repeat check is important as it will ensure they have enough time to apply for a Right to Work extension. This could help avoid potentially unnecessary termination of employment due to delays in confirming extended eligibility to work in the UK. More complex cases, e.g. those involving sponsorship, can take more time to address. As noted at 1.1 above, there is scope to improve guidance for employees and managers in this regard.</p> <p>There is currently no routine monitoring of performance information including repeat Right to Work checks, the number of sponsorship arrangements, and the number of leavers as a result of rights / sponsorship expiry. Periodic review of data could gauge the effectiveness of the process and help inform planning going forward.</p> <p><b>IA Recommended Mitigating Actions</b></p>		

Ref	Description	Risk Rating	Minor
	<p>People &amp; Citizen Services should review scheduling of repeat checks and follow ups to ensure employees and management have sufficient time to act. Consideration should be given to whether automation for this part of the process could further improve accuracy and timeliness, and whether periodic review of associated data would be beneficial to the process.</p>		
	<b>Management Actions to Address Issues/Risks</b>		
	<p><i>Agreed. We are currently in the process of developing and implementing a new case management system called Dynamics 365 for HR which will replace coreHR our current HR system. The functionality within this system may enable us to generate automated reminders to employees and managers, and performance data for periodic review. This is currently being explored as part of our discovery phase. Full implementation is planned for November 2025.</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Service Lead - People Services	January 2026

## 3 Appendix 1 – Assurance Terms and Rating Scales

### 3.1 Overall report level and net risk rating definitions

The following levels and ratings will be used to assess the risk in this report:

Risk Level	Definition
<b>Strategic</b>	This issue / risk level impacts the Council as a whole. Mitigating actions should be taken at the Senior Leadership level.
<b>Directorate</b>	This issue / risk level has implications at the directorate level and the potential to impact across a range of services. They could be mitigated through the redeployment of resources or a change of policy within a given directorate.
<b>Service</b>	This issue / risk level impacts at the Business Plan level (i.e. individual services or departments as a whole). Mitigating actions should be implemented by the responsible Head of Service.
<b>Programme and Project</b>	This issue / risk level impacts the programme or project that has been reviewed. Mitigating actions should be taken at the level of the programme or project concerned.

Net Risk Rating	Description	Assurance Assessment
<b>Minor</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	<b>Substantial</b>
<b>Moderate</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	<b>Reasonable</b>
<b>Major</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	<b>Limited</b>
<b>Severe</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	<b>Minimal</b>

Individual Issue / Risk Rating	Definitions
<b>Minor</b>	Although the element of internal control is satisfactory there is scope for improvement. Addressing this issue is considered desirable and should result in enhanced control or better value for money. Action should be taken within a 12 month period.
<b>Moderate</b>	An element of control is missing or only partial in nature. The existence of the weakness identified has an impact on the audited area's adequacy and effectiveness. Action should be taken within a six month period.
<b>Major</b>	The absence of, or failure to comply with, an appropriate internal control, which could result in, for example, a material financial loss. Action should be taken within three months.
<b>Severe</b>	This is an issue / risk that could significantly affect the achievement of one or many of the Council's objectives or could impact the effectiveness or efficiency of the Council's activities or processes. Action is considered imperative to ensure that the Council is not exposed to severe risks and should be taken immediately.



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## 4 Appendix 2 – Assurance Review Scoping Document

### 4.1 Area subject to review

Employers have a duty to prevent illegal working. The law on preventing illegal working is set out in the Immigration, Asylum and Nationality Act 2006 (Sections 15-25) and the Immigration Act 1971 (Sections 24 and 24B).

Employers are legally obligated to prevent illegal employment. Non-compliance with these regulations can result in a civil penalty of £45,000 per illegal worker for a first breach and then £60,000 for each illegal worker for repeat breaches. Additionally, if an employer knowingly employs, or has reasonable cause to believe they have employed, an illegal worker, they may face criminal charges which can lead up to five years in prison or an unlimited fine.

An employer can avoid liability for civil penalties and prosecution by conducting the required document checks on prospective employees to verify their Right to Work in the UK. These checks provide a statutory excuse, which protects employers from civil penalties if an employee is later found to be working illegally, if the employer took reasonable steps to confirm their Right to Work before employment began. For employees with limited permission to remain in the UK, these checks must be repeated periodically to maintain the statutory excuse.

When a manager is hiring a new potential employee, it is the manager's responsibility to confirm if they have the Right to Work in the UK, whether it be permanent, fixed term, relief, casual, full-time or part-time this requirement applies to all candidates. It is the manager's responsibility to obtain, check, and copy the documents that are required, these are detailed within the 'Employing Foreign Nationals – Guidance for Managers' procedure.

The procedure states what documents are required and this is broken down into two lists, one for those who have a permanent Right to Work in the UK and another for those who have a temporary Right to Work in the UK. Those with a temporary Right to Work in the UK will require to be reviewed at least a month before the date of expiry.

### 4.2 Rationale for review

The objective of this review is to ensure adequate arrangements are in place to ensure staff have the Right to Work in the UK. It is crucial that the Council conduct proper Right to Work in the UK checks, as failing to do so could lead to reputational damage, financial penalty and potential prosecution should the Council recruit an illegal worker.

This area has not undergone a dedicated audit previously, but it was reviewed as part of the Volunteer Arrangements and Corporate Recruitment audits. Both audits provided some assurance that appropriate checks were in place to verify the Right to Work in the UK for employees and volunteers. However, they did not specifically address the process for conducting repeat checks for individuals with temporary Right to Work status, nor did they thoroughly examine the procedures in place, or how the checks required are monitored and reported.

### 4.3 Scope and risk level of review

This review will offer the following judgements:

- An overall **net risk** rating at the **Corporate** level.
- Individual **net risk** ratings for findings.

#### 4.3.1 Detailed scope areas



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**As a risk-based review this scope is not limited by the specific areas of activity listed below. Where related and other issues / risks are identified in the undertaking of this review these will be reported, as considered appropriate by IA, within the resulting report.**

The specific areas to be covered by this review are:

- Written Procedures
- Pre-Employment Checks
- Repeat Checks
- Monitoring and Reporting

#### **4.4 Methodology**

This review will be undertaken through interviews with key staff involved in the process(es) under review and analysis and review of supporting data, documentation, and paperwork. To support our work, we will review relevant legislation, codes of practice, policies, procedures, guidance

Due to hybrid working practices, this review will primarily be undertaken remotely via electronic meetings and direct access to systems and data, with face to face contact and site visits to premises to obtain and review further records as appropriate.

#### **4.5 IA outputs**

The IA outputs from this review will be:

- A risk-based report with the results of the review, to be shared with the following:
  - Council Key Contacts (see 1.7 below)
  - Audit Committee (final only)
  - External Audit (final only)

#### **4.6 IA staff**

The IA staff assigned to this review are:

- Sarah Poppe (**audit lead**)
- Colin Harvey, Audit Team Manager
- Jamie Dale, Chief Internal Auditor (**oversight only**)

#### **4.7 Council key contacts**

The key contacts for this review across the Council are:

- Andy MacDonald, Executive Director Corporate Services
- Isla Newcombe, Chief Officer, People & Citizen services
- Lesley Strachan, Service Lead – People (**process owner**)

#### **4.8 Delivery plan and milestones**

The key delivery plan and milestones are:

Milestone	Planned date
Scope issued	20-Dec-2024
Scope agreed	10-Jan-2025
Fieldwork commences	20-Jan-2025
Fieldwork completed	7-Feb-2025

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Milestone	Planned date
Draft report issued	28-Feb-2025
Process owner response	21-Mar-2025
Director response	28-Mar-2025
Final report issued	04-Apr-2025