

3. Another employee shows you their Australian passport. The only UK stamp which you can find in their passport is below:

LEAVE TO ENTER FOR SIX MONTHS:
EMPLOYMENT AND RECOURSE TO
PUBLIC FUNDS PROHIBITED



- a. Does this person have the right to work in the UK?

No – they are a visitor.

- b. If not, does this person have the right to be in the UK at all?

No, their stay was limited to 6 months from 20 September 1996. They have overstayed their permission and are in the UK illegally.

- c. If not, what steps should you take?

You should not employ them and should report them to the Employers' helpline (although there is no legal obligation to do so unless you are a sponsor and have sponsor duties, which include updating the UKBA when the employee leaves work).

4. The Finance Director informs you that DEF Response Inc wishes to send one of its employees over to the UK to work as Operations Director for ABC Solutions Limited. What steps would you need to take to ensure that this individual can come to the UK to work?

First you should check the nationality of the individual, to see whether they need permission to work in the UK. Assuming that they are American, they will need permission to work and either (a) they could apply under Tier 1 of the Points Based System (provided that they have a Masters Degree) or (b) ABC Solutions Limited could register as a Sponsor under Tier 2 of the Points Based System. If the employee has at least six months service with the US company, there is no need to undertake the Resident Labour Market Test and advertise the post (although note that this will increase to 1 year's service from Spring 2010). The employer should simply issue a Certificate of Sponsorship via the online system and the employee should apply for a visa from the British Embassy in the USA.

5. A new employee tells you that he is British but he has never had a British passport, so he cannot show you this. He is white and has an English accent.

- a. Should you be satisfied with this or should you ask for further documents?

No. To avoid discrimination and to ensure that you have a defence against employing him illegally if he is not British, you should ask him to provide proof of his right to work in the UK.

- b. If you think you should ask for further documents, what would they be?
His UK birth certificate and evidence of his national insurance number.