

A GUIDE TO RIGHT TO RENT CHECKS IN 2024



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RIGHT TO RENT LEGISLATION

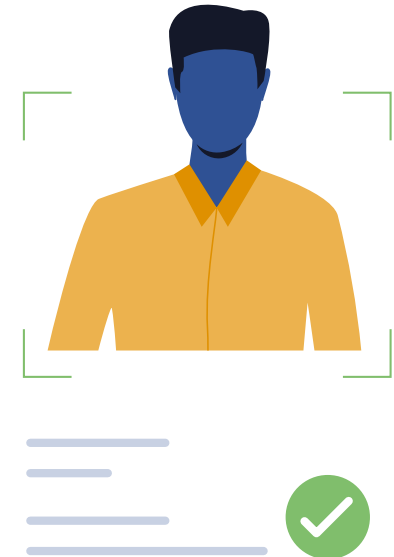
According to the Immigration Act 2014, Landlords or Letting Agents in England must carry out proper due diligence to confirm that their tenants have the legal Right to Rent in the UK.

The responsibility for carrying out Right to Rent checks falls primarily on landlords. This legal obligation requires landlords to verify the immigration status of all adult tenants to ensure they have the right to rent property in the country. However, landlords can delegate this responsibility to letting agents through a written agreement. If such an agreement is in place, the letting agent will conduct the checks on behalf of the landlord.

Nonetheless, if the letting agent fails to carry out these checks properly, the ultimate legal responsibility still lies with the landlord, who could face penalties for non-compliance.

It is important for Landlords and Letting Agents to familiarise themselves with the specific requirements and procedures for conducting Right to Rent checks, as these may vary depending on factors such as the type of tenancy, the immigration status of the individual, and any recent updates to immigration legislation. The UK Government provides detailed guidance and resources to support landlords and letting agents in fulfilling their obligations and what is required to establish a statutory excuse.

All Landlords and Letting Agents are required by the Home Office to keep evidence of Right to Rent checks they carry out, as well as checking the document(s) provided are genuine and the applicant is its rightful holder.





RIGHT TO RENT LEGISLATION

May 2014: The Immigration Act 2014 receives Royal Assent. The Act includes provisions for the Right to Rent scheme, which requires landlords to check the immigration status of prospective tenants.

December 2014: Right to Rent pilot scheme starts in Birmingham, Walsall, Sandwell, Dudley, and Wolverhampton. Landlords in these areas are required to check the immigration status of new tenants to ensure they have the right to live in the UK.

February 2016: The Right to Rent scheme is implemented across England. Landlords are now required by law to check the immigration status of all prospective adult tenants before allowing them to occupy a property.

October 2022: The temporary COVID-19 adjustments to Right to Rent cease to apply. Landlords must either check the tenant's original documents, use a IDSP, or use the Home Office online Right to Rent service.

March 2020: Due to the COVID-19 pandemic, the Home Office introduces temporary changes to Right to Rent checks, allowing them to be carried out via video calls and enabling tenants to submit scanned documents instead of originals.

Feb 2024: Civil penalties for failure to correctly identify a tenant's legal Right to Rent in the UK is tripled to a maximum of £20,000

June 2024: The Government announces changes to the scheme to make it simpler for tenants with pre-settled status to rent in the UK.

PENALTIES FOR LETTING TO A DISQUALIFIED PERSON

Non-compliance with the Right to Rent scheme and failing to adhere to Home Office guidance when conducting checks can lead to significant penalties for Landlords and Letting Agents

Under the Immigration Act 2014, Landlords or Letting Agents can face civil penalties of up to **£20,000 per illegal worker** for each instance of non-compliance. The Immigration Act 2016, added that in serious cases, landlords or letting agents may also face criminal charges, including **imprisonment and unlimited fines**, for knowingly letting to someone disqualified from renting a property. From 13 February 2024, fines increased from £80 per lodger to £5,000, and £1,000 per occupier to £10,000. Repeat breaches will face fines of £10,000 per lodger and £20,000 per occupier.

	Amount for a first time penalty	Amounts for further penalties
Lodgers in a private household	£5,000	£10,000
Tenants in rented accommodation	£10,000	£20,000

In addition to any financial penalties, landlord and letting agents should also consider the reputational damage that may come from hiring renting to disqualified individuals as well as the moral/ethical dilemma.



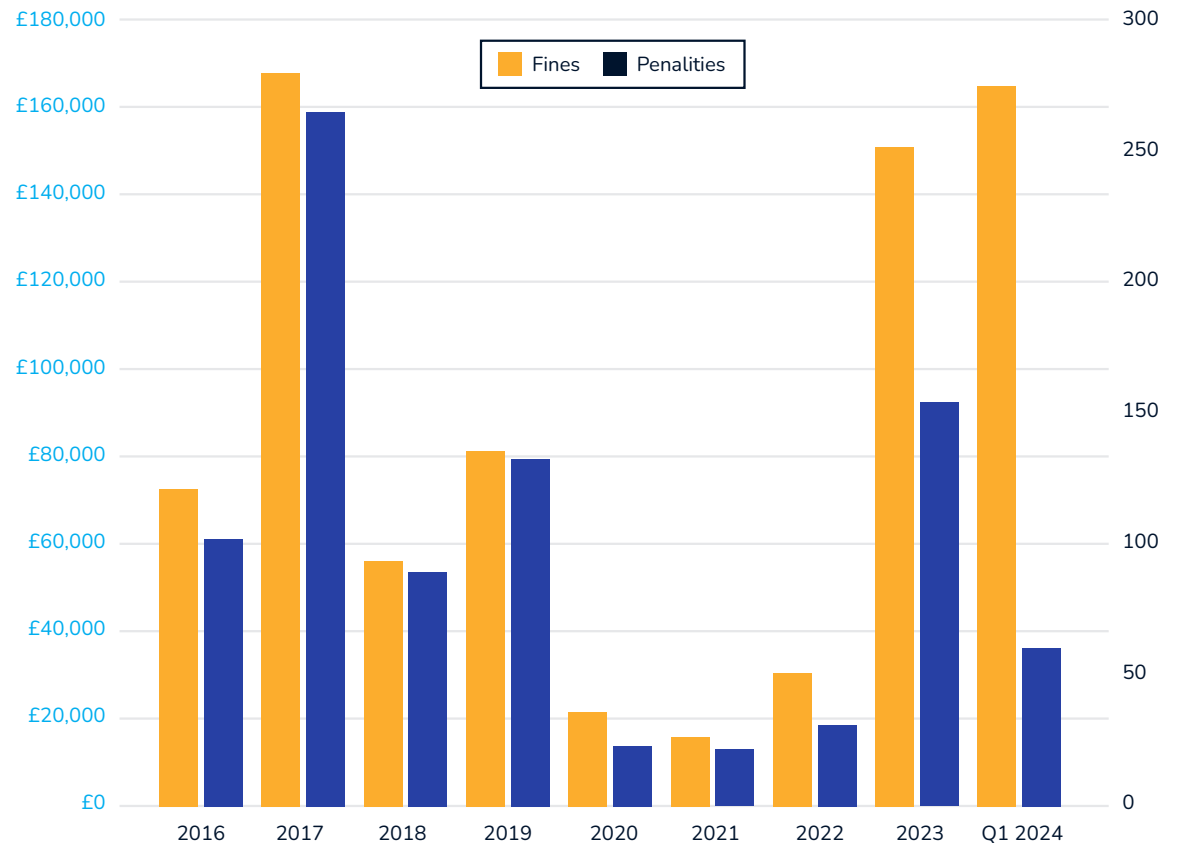
PENALTIES FOR LETTING TO A DISQUALIFIED PERSON

Enforcement Action between 2016-2023

The Government's and Law Enforcement's approach to enforcing has varied over the past decade in both the number of penalties and the amount of fines year to year, with a noticeable peak in 2017. Between 2020-22, the number of fines fell dramatically mainly as a result of the Covid pandemic and resources being best used elsewhere. Enforcement action returned to previous levels in 2023 with 155 penalties issued worth £151,480.

Enforcement Action in 2024 so far

The latest data released by the Home Office shows a startling increase in the value of fines issued thus far. There were 62 fines issued in Q1 totalling £165,680 which is £6,000 more than all fines issued in 2023 and nine times the amount of Q1 2024. The average fine issued so far in 2024 is £2,672 compared with £977 in 2023. The figures show not only have the value of fines have increase in-line with the announced changes but also the number of enforcement actions.



HOW TO CONDUCT RIGHT TO RENT CHECKS

In England all landlords and letting agents are required to check that a tenant or lodger can legally rent the property.

Before the start of a new tenancy, you must check all tenants aged 18 and over, even if:

- they're not named on the tenancy agreement
- there's no tenancy agreement
- the tenancy agreement is not in writing

To establish a statutory excuse landlord / letting agent must do one of the following before entering into a tenancy agreement with a prospective tenant:

1. a manual Right to Rent check
2. a Right to Rent check using Identity Verification Technology (IDVT) via the services of an Identity Service Provider (IDSP)
3. a Home Office online check

Landlords and Letting Agents are able to rely upon a certified Identity Service Provider (IDSP) like Credas to verify an individual's identity for Right to Rent checks. This replaces the Covid-19 adjusted process introduced by the Home Office which ended on 30th September 2022 and which allowed for ID documents to be received via email or video chat.

There are clear guidelines as to what is expected of Landlords and Letting Agents and if followed they can establish a statutory excuse against a civil penalty in the event that they let to someone who does not have the legal Right to Rent in the UK.



HOW TO CONDUCT RIGHT TO RENT CHECKS

Credas is one of only a few companies that are certified for both 'Right to Work' and 'Right to Rent' checks against the Home Office requirements of the UK DIATF.

What about video calls?

Home Office guidance prevents the use of video calls for the verification of ID documents. The previous Home Office Guidance that allowed the use of video calls for this purpose, was brought in as a special exception during the Covid pandemic and was never intended to be made into permanent legislation.

The main reason is that whilst you might be able to confirm the likeness between an individual and their ID document on a video call, no checks being undertaken on the ID document to confirm whether the document is genuine or not.

In-person, it's a lot easier to see if an ID document has been tampered with or is missing any hard-to-replicate security features such as holographs. Over a video call, the quality of the camera and lighting makes it difficult to determine whether a document is genuine.

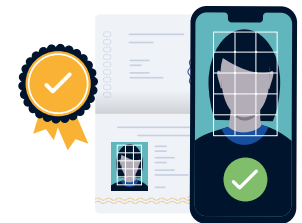
If you still wish to conduct Right to Rent checks remotely, then under the most recent guidance, these should be conducted via a certified IDSP.



You cannot receive ID documents by email



You cannot validate ID documents over video calls



You should use a Certified Identity Service Providers

HOW TO OBTAIN A STATUTORY EXCUSE

Landlords and Letting Agents will obtain a statutory excuse where they can demonstrate that they have complied with all the statutory requirements to conduct Right to Rent checks.

Where they have used an IDSP, the statutory excuse will only be obtained where that IDSP has also complied with the required steps.

For Landlords and Letting Agents to be able to rely upon the IDVT identity check carried out by an IDSP to prove eligibility for the purpose of a RTR check and obtain a statutory excuse, a valid British or Irish passport (including passport cards) must be provided to the IDSP and checked by them using IDVT for the purposes of identity verification.

Where an IDSP is used, Landlords and Letting Agents retain obligations that they must comply with under the RTR Scheme. You must complete the following steps before the tenancy starts to ensure a prescribed check has been undertaken, in order to establish a statutory excuse.

- Use an IDSP to check a prospective tenant's valid British or Irish passport (or Irish passport card) using IDVT.
- Obtain an output of the IDVT identity check from the IDSP containing a copy of the IDVT identity check, and the document checked, in a clear, legible format that cannot be altered.
- Carry out their own due diligence to satisfy themselves to a reasonable belief that their chosen IDSP has completed the check correctly in the prescribed manner. Satisfy



HOW TO OBTAIN A STATUTORY EXCUSE

themselves that the photograph and biographic details (for example, date of birth) on the output from the IDVT identity check are consistent with the individual (i.e. the information provided by the check relates to the individual and they are not an imposter).

In order to establish a statutory excuse against a penalty, Right to Rent checks must be undertaken within specific time limits:

- a check on a person with an unlimited Right to Rent may be undertaken at any time before the residential agreement is entered into
- a check on a person with a time-limited Right to Rent must be undertaken and recorded no earlier than 28 days before the start date of the tenancy agreement

Finally, Landlords and Letting Agents must keep all evidence of the Right to Rent check for the duration of the tenancy plus one year afterward.

How IDSPs use NFC Technology to check ePassports

NFC (Near Field Communication) technology is used by IDSPs to read the chips embedded in ePassports for secure and efficient identity verification. The NFC device uses cryptographic keys, often derived from data printed on the passport (like the passport number, expiration date, and personal number), to unlock and read the information stored on the chip. This process ensures that only authorized devices can access the sensitive data. The retrieved data is then verified against the physical passport details and the live biometric data such as selfie or video of the person. This helps confirm that the passport is genuine and that the holder's identity matches the information on the chip.

WHAT IS A CERTIFIED IDSP?

A IDSP or Identity Service Provider is a business that offers identity verification through a range of methods including using biometric facial recognition, machine reading and NFC technology.

Over the last few years IDV technology has been widely adopted across multiple industries playing a vital role in combating fraud and money laundering. Due to this widespread adoption and the varying degrees of capabilities between vendors, the UK Government developed a new Digital Identities and Attributes Trust Framework (DIATF) that set out clear standards IDSP should adhere to.

The Trust Framework also introduced a new accreditation programme that allowed IDSPs to be independently assessed against the standard and be awarded certification if successful. All certified IDSPs can be found on the Gov website allowing you to easily choose a suitable supplier. The list states whether an IDSP has been certified against the Right to Rent supplementary scheme.

UK DIATF certified services - <https://www.gov.uk/government/publications/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks/>

WHAT ARE IMPOSTER CHECKS?

When using an IDSP to perform a Right to Rent check there is the requirement to verify that the evidence submitted matches the tenant staying at the property.

This additional check has become known as an imposter check and is an important step to prevent disqualified individuals from staying in the UK.

What does the guidance say?

Satisfy yourself that the photograph and biographic details (for example, date of birth) on the output from the IDSP check are consistent with the individual staying at the property (i.e. the information provided by the check relates to the individual and they are not an imposter). This can be done in person or by video call.

Why do I need to do an imposter check?

Imposter checks are designed to prevent “bait and switch” techniques where a legally qualified individual goes through the Right to Rent process then a different individual stays at the property. Criminal gangs often target landlords or letting agents that manage multiple properties, exploiting the fact that they cannot always be present when the tenant moves in. Imposter checks need to conduct all tenants not just those named on any tenancy agreements.

Do you need to conduct imposter checks for manual verifications?

Imposter checks are required no matter what methodology you use to determine an individual's Right to Rent in the UK.



HOME OFFICE ONLINE REPORTS

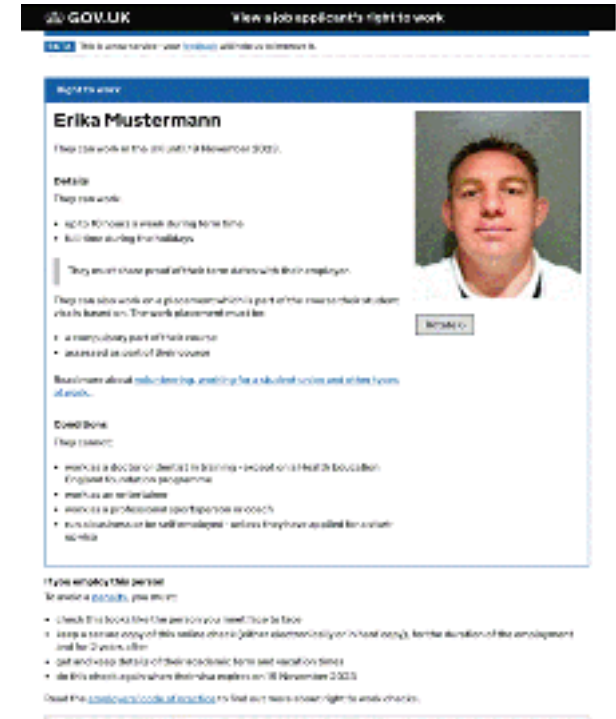
The Home Office online check service allows you to check the legal status of non-British or Irish nationals.

To access the system your candidate must obtain a share code from the system which will allow you access to their report. You will then need to access the Home Office online check system and enter the tenant's share code and date of birth. Once you have completed this step you will then have access to their Home Office online report.

You must check that the person in the report matches the individual and that their details allow them to legally live in the UK. You must also retain evidence of the online Right to Rent check by downloading the profile page as either a PDF or HTML file. The report should be stored securely, either electronically or as a hard copy, for the duration of tenancy plus one year afterward.

Can an IDSP get a home office online report on my behalf?

The Home Office's guidance states that a Landlord or Letting Agent will only establish a statutory excuse against prosecution where they have obtained the Right to Rent Report from the Home Office Online Service using a Share Code provided by the tenant. Where a third party, such as an IDSP, obtains the report on your behalf, you **will not** establish a statutory excuse.



FREQUENTLY ASKED QUESTIONS

Credas has assisted hundreds of Letting Agents compliantly conduct Right to Rent checks. Here are some of the most frequent questions we get asked.

With the remote RTR checks via an IDSP do you have to have a physical copy of their passport also?

No, the candidate would use our app to either scan their physical passport (via NFC) or take a live photo of it. Our technology has been tested and certified against the UK Government's Digital Identity and Attributes Trust Framework to ensure a high level of confidence in us capturing and verifying genuine documents.

If someone only has a British birth certificate and NI number can they email it us to verify?

No – all documents need to be the originals, in your physical possession, unless an IDSP is used to capture a UK passport.

What happens if my tenant submits an expired passport?

Whilst an IDSP like Credas can authenticate an expired passport, the Home Office currently states that expired passports must be reviewed manually by the letting agent or landlord.

What documents are accepted for manual checks?

For Right to Rent checks conducted through a certified Identity Service Provider, only a current British or Irish passport is accepted.

For further guidance on manual Right to Rent checks please refer to official home office guidance which can be found here <https://www.gov.uk/government/publications/landlords-guide-to-right-to-rent-checks/landlords-guide-to-right-to-rent-checks-8-february->

[2024-accessible-version](#). Annex A provides a full list of acceptable documents.

Do Right to Rent checks apply to students?

Yes, Right to Rent checks apply to students staying in privately rented properties.

My tenants have adult children do Right to Rent checks apply to them?

Yes, all tenants aged 18 and over, even if they're not named on the tenancy agreement, or there is no tenancy agreement need to be checked.

My tenant owns property in the UK and only stays at the property during the week to assist with his work commute. Do I need to check their legal status?

Yes, being a UK homeowner isn't regarded as proof their legal right to stay in the UK.

What do I do I think my tenant is trying to use fraudulent docs or impersonate a legally entitled individual.

You should report your concerns to the Home Office by calling the Landlords' Helpline on 0300 790 6268

HOW CREDAS CAN HELP

As a certified Identity Service Provider, Credas can help you remain compliant by offering remote Identity Verification that meets Right to Rent guidelines.

Credas helps clients perform ID checks in real-time using cutting-edge facial recognition and NFC document verification – reducing the complex, time-consuming, resource-intensive, and often, expensive processes. ID checks can be completed through our industry-leading Credas mobile app or via a standard internet browser.

Our online verification process is an excellent choice if you want to make sure you are completing your tenant due diligence quickly and cost-effectively. Start your free trial with Credas today.

Key features of our solution


- ✓ Up to 97.7% accuracy with our facial recognition software
- ✓ NFC documentation verification
- ✓ Remote and in-person ID checks
- ✓ Bank Account Verification
- ✓ Customisable data capture forms
- ✓ Full platform branding from email to app
- ✓ All data stored in the UK by a globally recognised, secure and trusted platform
- ✓ Simple, seamless integration with your existing onboarding processes

BENEFITS OF DIGITAL CHECKS

- ✓ Verify anytime, anywhere - no more meetings
- ✓ One consistent easy to follow process across the business
- ✓ GDPR compliant secure central storage of all documents
- ✓ A fully downloadable audit trail of evidence
- ✓ Reduced staff training and administration time



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