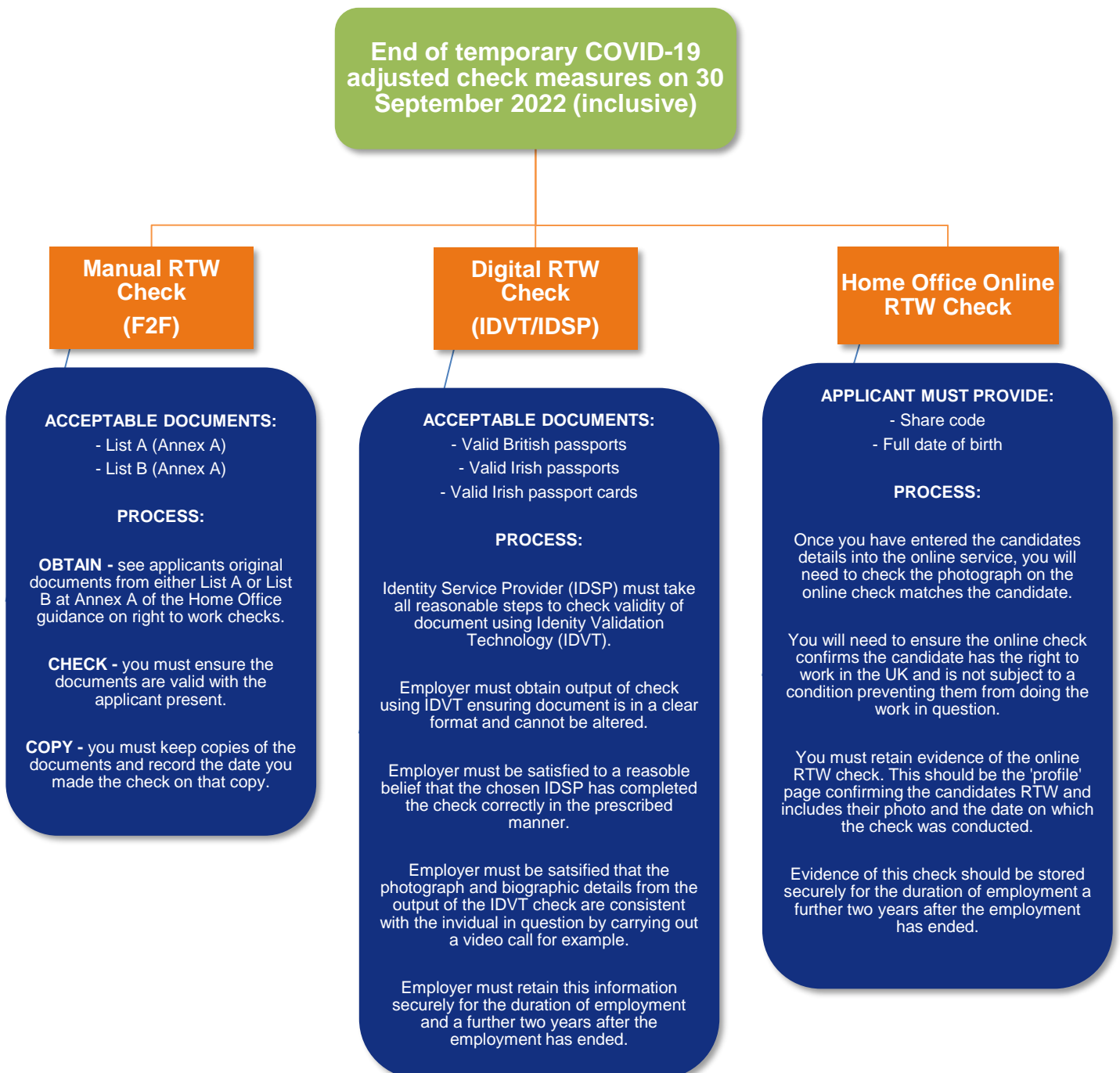


APSCo Update on Legal & Compliance Issues

NEW October 2022

Right to Work Check Process Flowchart – Post October 2022



APSCo Update on Legal & Compliance Issues

Key Considerations

Process

- The temporary COVID-19 adjusted measures which allowed right to work checks to be conducted through video call ended on 30 September 2022 (inclusive). You may no longer use this method of conducting a right to work check after this date in order to obtain a statutory excuse against liability for a civil penalty for engaging with an illegal worker.
- After 30 September 2022, in order to conduct a valid right to work check for a British or Irish citizen, you must either use the digital online service through an identity service provider (IDSP) or conduct a full face to face (F2F) manual right to work check.

Digital Online Right to Work Check Service

- The digital online service for conducting right to work checks was introduced in April 2022. This check is conducted using Identity Validation Technology (IDVT) through an IDSP.
- APSCo and The Home Office recommend using certified IDSP's, a list of which can be found on the government website [here](#).
- It is not mandatory to use a certified IDSP, however do note that it is mandatory to use a certified IDSP for DBS checks.
- IDSPs are unable to provide a valid right to work check for those that do not have in date British or Irish passport, in which case you will need to conduct a F2F manual right to work check.
- When conducting a right to work check through an IDSP, you will still need to verify it is the same individual you are engaging with through either a video call (where you match the IDSP result with the image of the applicant), or in person by day 1 of the individual starting work.

Online Checking Service (OCS)

- The [Online Checking Service](#) is still available for those with in date visas. You should continue to use this service for non-British and non-Irish citizens where you will need the individuals date of birth and share code to complete the check.
- This check will tell you the type of work they are allowed to do and how long they can work in the UK for if there is a time limit.

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Practicalities

- Contact the IDSPs on the list of certified providers to understand:
 - What the process is around conducting a check through the chosen provider and what your role and responsibilities will be around obtaining a valid check; and
 - What costs will be involved with conducting the checks, taking into consideration how many workers you engage with and place, alongside the additional administration it will require from your staff.
- Consider whether it may make commercial sense to use F2F manual right to work checks for candidates that are local to you and use the digital service for candidates that are unable to complete a F2F manual right to work check due to their geographical location for example.

Key Resources

- Home Office employer's guide to right to work checks:
<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide/an-employers-guide-to-right-to-work-checks-6-april-2022-accessible-version>
 - [Annex A](#): Lists of acceptable documents for manual right to work checks
- GOV.UK guidance on digital identity certification for right to work, right to rent and criminal record checks: <https://www.gov.uk/government/publications/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks#list-of-certified-idsp>
- List of certified Identity Service Providers (IDSPs):
<https://www.gov.uk/government/publications/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks#list-of-certified-idsp>
- Home Office online right to work checking service: <https://www.gov.uk/view-right-to-work>

If you have any queries, please contact the legal helpdesk at legalhelpdesk@apsco.org.