

It is essential that a right to work check is completed before an individual commences work. Undertaking checks after work has commenced will not provide the University with a statutory excuse against sanction from the Home Office if the individual is later found to be illegally working.

The following is designed to help determine whether a right to work check is required in certain scenarios. Links to useful guidance have been provided at the end of this document.

Employees

For the purposes of right to work checks, employees are those who are appointed to a permanent, fixed term or indefinite post. Casual workers are not included in this section). For the purposes of right to work checks, casual workers are those engaged in our part time hourly paid pool, those submitting claims for work undertaken and those who are employed via an agency.

Checks must be carried out on **all** potential employees, regardless of their nationality, race or ethnicity and must be undertaken before employment/work commences. If an individual’s right to work is time-limited, a further follow-up check would be needed before their existing right to work comes to an end.

Scenario	Right to work check required?	Check to be undertaken by	Follow up checks to be undertaken by
New employees	Yes in all cases.	HR (Recruitment & Selection Team)	HR (Operations Team)
Re-hiring a previous employee	<p>Yes if there is a break in service, between employment periods, of more than 7 calendar days. A new right to work check must be undertaken before the new employment begins.</p> <p>No if there is a break in service, between employment periods, of 7 calendar days or less. In this case, returning employees can ‘re-use’ their previous right to work check <i>where it remains valid</i> (see definitions section – Point 1).</p> <p>If the right to work check is not valid, a new right to work check must be undertaken before the new employment begins.</p>	HR (Recruitment & Selection Team)	HR (Operations Team)

Casual worker moving to employee status	<p>Yes if their casual record has ended (P45 issued).</p> <p>No if their casual record has not ended. If the new role will be on a full time basis, they will no longer be permitted to undertake work in the casual pool.</p>	HR (Recruitment & Selection Team)	HR (Operations Team)
Current employee taking on a second job (not as a casual worker)	<p>No providing we have an existing right to work check on file which permits employment in the new role.</p> <p>Otherwise, a new right to work check must be undertaken before commencing the second job.</p>	<p>HR (Recruitment & Selection Team) if appointed through an external recruitment round.</p> <p>HR (Operations Team) if appointed via monitoring as a Request to Appoint</p>	HR (Operations Team)
Employee transfers (moving School/Service without a change to job role – see definitions section- Point 2)	<p>No providing we have an existing right to work check on file which permits employment in the new role.</p> <p>Otherwise, a right to work check is required before commencing the new role.</p>	HR (Operations Team)	HR (Operations Team)
Employee transfers (moving School/Service with a change to job role – see definitions section- Point 2)	<p>Yes if the employee is a Skilled Worker/Tier 2 visa holder transferring to a new role in a different Shortage Occupation Code as a new visa will be required.</p> <p>No in all other cases providing we have an existing right to work check on file which permits employment in the new role.</p> <p>Otherwise, a right to work check is required before commencing the new role.</p>	HR (Operations Team)	HR (Operations Team)
TUPE Transfers to the University	<p>Yes in all cases. Ideally the checks should be done before individuals are transferred, however, there is a 60-day grace period from the date of transfer to carry out fresh right to work checks on the TUPE acquired employees.</p> <p>There is no grace period for any subsequent follow-up checks.</p>	HR (Operations Team)	HR (Operations Team)
Working entirely overseas	<p>No as long as they do not plan to visit the UK during their employment with us.</p> <p>Yes if they need to visit the UK during their employment with us. A work visa must be obtained before doing so (where applicable) and a right to work check undertaken on their first day in the UK.</p>	HR (Operations Team)	HR (Operations Team)
Employee obtains a new time-limited visa	Yes in all cases.	HR (Operations Team)	HR (Operations Team)

Employee obtains a settlement/indefinite leave to remain visa	Yes in all cases.	HR (Operations Team)	HR (Operations Team)
Employee obtains Naturalisation as a British Citizen	Yes in all cases.	HR (Operations Team)	HR (Operations Team)

Casual Workers

For the purposes of right to work checks, casual workers are those engaged in our part time hourly paid pool, those submitting claims for work undertaken and those who are employed via an agency.

Scenario	Right to work check required?	Check to be undertaken by	Follow up checks to be undertaken by
<p>Pool Employee:</p> <ul style="list-style-type: none"> ▪ Student Employees ▪ Student Invigilators 	<p>Yes if they are a new entrant to the pool</p> <p>Yes if they are a current member of the pool and their visa is ending. A follow up check is required based on their new visa.</p> <p>Yes if they have left and are re-joining the pool.</p> <p>No if the student is a current member of the pool and their existing right to work is not expiring.</p> <p>No if they are a current member of the pool and a schedule has been raised for a different grade of student employment work. Their existing right to work check will stand, unless it is expiring in which case a new visa and right to work check is required.</p> <p>No if they are a current (non-casual) employee. Their existing right to work check will stand, unless it is expiring and a new visa is required.</p> <p>Please note: Care must be taken to not exceed student working hours rules, especially where individuals hold a Student visa.</p> <p>Rules on student working can be found on our website and within our Student Pool Pack.</p>	School/Service engaging the individual	HR (Recruitment & Selection Team)

<p>Pool Employee:</p> <ul style="list-style-type: none"> ▪ Part Time Lecturers ▪ Sports Centre Workers ▪ Student Support Workers ▪ Demonstrators 	<p>Yes if they are a new entrant to the pool</p> <p>Yes if they are a current member of the pool and their visa is ending. A follow up check is required based on their new visa.</p> <p>Yes if they have not worked for a period of 3 months as they will have a break in service and a new right to work check would be required, along with a reinstatement pack.</p> <p>No if they are a current member of the pool and their existing right to work is not expiring.</p> <p>No if they are a current member of the pool and a schedule has been raised for a different grade of work. Their existing right to work check will stand, unless it is expiring in which case a new visa and right to work check is required.</p>	<p>School/Service engaging the individual</p>	<p>HR (Recruitment & Selection Team)</p>
<p>Current employee taking on a second job as a casual worker</p>	<p>No providing we have an existing right to work check on file which permits employment in the new role.</p> <p>Otherwise, a new right to work check must be undertaken before commencing the second job.</p> <p>Please note: <i>Those who are already employed on a 37 hours per week basis (as a non-casual employee) are not permitted to undertake work in the pool.</i></p>	<p>School/Service engaging the individual</p>	<p>HR (Operations Team)</p>
<p>External Examiners – new engagement</p>	<p>Yes in all cases.</p> <p>Please note: <i>External Examiners appointments should cover the whole duration of the student’s course, until their award is conferred. This should be made clear to them when issuing any paperwork confirming work as an External Examiner.</i></p>	<p>School/Service engaging the individual</p>	<p>School/Service engaging the individual</p>

<p>External Examiners – re-engaging a previous examiner</p>	<p>Yes if there is a break of more than 7 calendar days between the previous engagement ending and the new one starting. A new right to work check must be undertaken before the new employment begins.</p> <p>No if there is a break in service, of 7 calendar days or less, between the previous engagement ending and the new one starting. In this case, returning examiners can ‘re-use’ their previous right to work check <i>where it remains valid</i> (see definitions section – Point 1).</p> <p>If the right to work check is not valid, a new right to work check must be undertaken before the new engagement begins.</p> <p>Please note: <i>External Examiners appointments should cover the whole duration of the student’s course, until their award is conferred. This should be made clear to them when issuing any paperwork confirming work as an External Examiner.</i></p>	<p>School/Service engaging the individual</p>	<p>School/Service engaging the individual</p>
<p>External Examiners – taking on additional students during their current engagement period</p>	<p>No if they are a current External Examiner taking on another student to assess/ examine.</p> <p>Please note: <i>If the new student’s course end date is later than the original student’s course end date, the Examiner’s engagement period should be extended to match the latest course end date.</i></p>	<p>School/Service engaging the individual</p>	<p>School/Service engaging the individual</p>
<p>Consultants</p>	<p>Yes in all cases.</p> <p>Please note: <i>Although self-employed individuals are not subject to a right to work (unless on a sponsored visa – see definitions section Point 3) we are not able to determine whether someone can be paid as self-employed until a claim is received. As a result, all individuals in this category will require a right to work check before commencing any work.</i></p>	<p>School/Service engaging the individual</p>	<p>School/Service engaging the individual</p>
<p>Invigilators – not applicable to those working as a student invigilator via the pool.</p>	<p>Yes in all cases.</p> <p>Please note: <i>Although self-employed individuals are not subject to a right to work (unless on a sponsored visa – see definitions section Point 3) we are not able to determine whether someone can be paid as self-employed until a claim is received. As a result, all individuals in this category will require a right to work check before commencing any work.</i></p>	<p>School/Service engaging the individual</p>	<p>School/Service engaging the individual</p>
<p>Agency Workers</p>	<p>No where we are paying an agency and not the worker directly. In these circumstances the agency is responsible for checking a person’s right to work.</p>	<p>Agency</p>	<p>Agency</p>

Agency worker moving to employee status	Yes in all cases and before employment starts with the University as their employer.	HR (Recruitment & Selection Team)	HR (Operations Team)
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Visitors and Honorary Appointments

Scenario	Right to work check required?	Check to be undertaken by	Follow up checks to be undertaken by
Visiting Lecturers	Yes in all cases.	School inviting the individual to the University	School inviting the individual to the University
Visiting Professors, Research Fellows, Fellows	<p>Yes if the activity is essential to the function of the University (i.e. if not undertaken by the visitor would pay someone to do it instead). This would be classed as unpaid work.</p> <p>No if the activity is not essential to the function of the University.</p> <p><i>Where a check is required, this will be confirmed at the conferment application stage.</i></p>	School requesting the award	HR (Executive Officer)
Emeritus Professors	<p>No as the title commences immediately after employment ends. We can use the existing right to work check we hold on the employment file, <i>where it remains valid</i> (see definitions section – Point 1).</p> <p>If the right to work check is not valid, a new right to work check must be undertaken.</p>	HR (Executive Officer)	HR (Executive Officer)
Honorary Appointments: <ul style="list-style-type: none"> ▪ Doctor of the University ▪ Emeritus/Emerita Vice-Chancellor ▪ Emeritus/Emerita Dean 	No in all cases.	N/A	N/A
Temporary Worker (Government Authorised Exchange) / Tier 5 visa holders	Yes in all cases.	HR (Operations Team)	HR (Operations Team)

Visiting Academics/ Researchers	<p>Yes in all cases.</p> <p>For visitors from overseas you must obtain and keep a copy of the following for the duration of their visit to the University, after which these copies must be securely destroyed:</p> <ul style="list-style-type: none"> ▪ Their visitor visa or immigration stamp they received to enter the UK as a Standard Visitor <i>(if they have not received a stamp or a visitor visa, as some nationals are exempt from that requirement, please take a copy of their boarding pass/flight tickets to evidence their arrival to the UK)</i> ▪ Their ATAS certificate (if applicable). Further information on the ATAS requirement, including excluded nationalities and applicable subject areas, can be found on our website. <p>Please note: <i>Where an ATAS certificate is required it must be obtained by the researcher and checked by the School before the visit can commence.</i></p>	School inviting the individual to the University	School inviting the individual to the University
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Work Experience, Volunteers, Self-Employed and Suppliers

Scenario	Right to work check required?	Check to be undertaken by	Follow up checks to be undertaken by
Work Experience	<p>Yes where the individual is aged 16 years or over as work experience in this instance is classed as unpaid work.</p> <p>No where the individual is under the age of 16.</p>	Schools and Colleges Liaison, MCSR	Schools and Colleges Liaison, MCSR
Volunteers	<p>Yes if the activity is essential to the function of the University (i.e. if not undertaken by the volunteer, the University would pay someone to do it instead). This would be classed as unpaid work.</p> <p>No if the activity is not essential to the function of the University.</p>	School/Service engaging the individual	School/Service engaging the individual
Self-employed	<p>Yes in all cases.</p> <p>Please note: <i>Although self-employed individuals are not subject to a right to work (unless on a sponsored visa – see definitions section Point 3) we are not able to determine whether someone can be paid as self-employed until a claim is received. As a result, all individuals in this category will require a right to work check before commencing any work.</i></p>	School/Service engaging the individual	School/Service engaging the individual

	Please note: <i>Student/Tier 4 Visa holders are prohibited from being self-employed under the terms of their visa.</i>		
Suppliers	No in all cases.	N/A	N/A

Definitions

Point 1

When re-using a previous right to work check, the existing right to work check **will not** be valid in the following circumstances:

- the document they used to evidence their right to work has expired. *This requirement does not apply to British or Irish passport holds as they are permitted to use an expired passport. Clipped passports are not permitted and other documentation must be provided instead.*
- Their existing visa has expired
- Their existing visa is due to expire and they have applied for a new visa
- Since they last evidenced their right to work, they have obtained a different type of visa
- Their employment has changed and their existing right to work does not permit employment in their new role

In the above circumstances, a new right to work check will be required. It must be undertaken after their existing period of employment ends and before the new one starts.

Point 2

Job role in this instance includes changes to:

- Job duties
- Hours and/or weeks
- Salary

If any of the above have changed, we need to ensure that their existing right to work allows them to undertake the role. In some circumstances, for example with sponsored workers, a change to a person's employment could prevent them from being eligible for continuing sponsorship and could result in termination of employment.

Point 3

There are various types of sponsored visas, including:

- Skilled Worker
- Tier 2
- Senior or Specialist Worker visa (Global Mobility)
- Temporary Worker

Where someone is sponsored on one of the above visas, they are subject to specific restrictions. Sponsored workers are issued with a visa for a specific role with a specific employer, therefore, if they are planning to make changes to their employment, it is likely that a new visa will be required. There are some circumstances

where they won't require a new visa and if you are unsure, HR would be able to advise. Sponsored workers are able to undertake supplementary employment in eligible roles either with their sponsor or elsewhere, however, there are restrictions applied to this and further information can be found on [our website](#).

Useful Links

- [Right to Work Checks Guidance Document](#)
- [Right to Work Checks: How To video](#)
- [Right to Work Checks Using the Yoti System: How To video](#)
- [HR's Visa and Immigration Website](#)

Should you have any queries regarding right to work checks, please feel free to contact Michelle Lovett, UKVI Compliance Officer via email m.lovett@hud.ac.uk, Teams or telephone 01484 256622.