

RIGHT TO WORK CHECKS FOR CASUAL WORKERS

The University, as a licenced Sponsor under the points-based immigration system, is able, subject to specific criteria to sponsor workers. As a sponsor it is essential that the University complies with a number of duties to retain its sponsor status. Should the University fail to comply with the sponsorship duties, the University could incur a £10,000 fine per worker and the sponsor licence could be revoked. This would prevent the University from employing or engaging individuals from overseas who require sponsorship, which in turn would be extremely detrimental.

Under the 2006 Immigration, Nationality and Asylum Act the University has a duty to prevent illegal working by carrying out document checks to confirm that an individual has the right to work in the UK. All employees, casual workers (including session teachers and visiting speakers) and Tier 5 sponsored migrants must have their right to work checked **before they start work at the University**. In addition, those with time-limited right to work in the UK (those who hold a list B document) must have a repeat check before their visa is due to expire.

For substantive staff appointments the checks will normally be conducted by Human Resources. Some University departments have been authorised to issue casual engagement letters to workers and complete right to work checks, in accordance with agreed template letters and procedures. Dispensation is normally granted due to the volume of casual engagements required in any one unit. All other casual engagement letters must be produced by Human Resources upon receipt of a fully completed and authorised CRF3. The completed CRF3 must be submitted to Human Resources at least 10 working days prior to the individuals intended start date. In circumstances where, due to business pressures, an individual is required to start in post within 10 days, the responsible person should contact Human Resources to discuss. In such circumstances the responsible person may be able to conduct the right to work check, as described below and prior to the individual undertaking any work.

It is the line managers/ appointing persons responsibility to ensure that a right to work check has been completed before any work is undertaken.

How to Complete a Right to Work Check

The Home Offices right to work check process should be followed in full. The Keele University right to work checklist template is attached.

The following must be noted:

1. A right to work check must be completed **for each period of engagement, even where the break between periods is only one day**. In addition, annual or repeat checks must be conducted as detailed below.
2. A right to work check must be completed **before** any work is completed. Retrospective right to work checks do not provide the University with a 'statutory excuse' against sanction from the Home Office and are therefore not permitted.
3. The University's 'Right to Work checklist' should be used to ensure that all Home Office requirements are met when conducting right to work checks.
4. The additional requirements for Tier 4 student visa holders must be met (see below) and the student must complete the 'Tier 4 Student Visa holder responsibilities letter' and provide evidence of their terms dates before each new engagement.
5. If an individual has a time limit on their right to work, repeat checks must be carried out prior to the visa expiry.

Additional Requirements for Tier 4 Student Visa Holders

If you engage a Tier 4 Student Visa Holder to undertake work, there are conditions on their ability to work. It will be clearly stated on their visa, the number of hours that they are permitted to work. In summary these are usually as follows:

- If studying at Degree Level or above they will be permitted to work for only 20 hours per week and full time during University vacations
- If studying below Degree Level (including Foundation Year) they are permitted to work for only 10 hours per week during term time and full time during University vacations
- If a postgraduate student and writing up a dissertation during University vacations dates the period will be classed as term time and the maximum number of working hours (20 hours or 10 hours) will apply including any preparation

Graduate Teaching Assistantships are offered 180 hours work per year. These hours must not exceed the 20 hours per week during term time and full time during University vacations.

Please be aware that the number of hours that the individual is permitted to work cannot be averaged out, and all hours worked, regardless of employer, job, type of contract or paid/unpaid are combined together for the weekly limit. For sessional teaching and Graduate Teaching Assistant appointments you should note that the number of weekly working hours also includes any time spent on preparation, marking and other teaching related activity.

When offering work to a Tier 4 worker, you should check that they are not working for other departments of the University or other employers which could result in them breaching the terms of their visa.

Reference to University vacations refers to the University published term dates for the University at which the student studies. The vacation dates for Keele University can be found at <http://www.keele.ac.uk/keydates/>.

Any breach of these rules could result in implications, as set out above, for the University and to the review of the students Confirmation of Studies Certificate.

To ensure that Tier 4 student visa holders understand the conditions on their ability to work, at the time of carrying out the documentation check, two copies of the 'Tier 4 Student Visa Holders Responsibilities letter' must be issued and explained. The student should be asked to sign and return one copy to you and retain the other copy for their own records.

Biometric Residence Permits (BRP's)

Between March and July 2015 the Home Office has introduced BRP's for those applying for permission to stay in the UK for more than six months. The migrant will be issued with a 30 day vignette (in their passport) to enable them to enter the UK but they must then collect their BRP within 10 days.

When conducting a right to work check, a copy of the BRP must be taken, as well as the 30 day vignette showing the entry stamp.

Exceptions – Those who do not require right to work checks

Right to work checks are not required for:

- Individuals providing a service for which they invoice the University under a contract for services and for which they are self-employed according to HMRC rules.
- Individuals invited to carry out occasional tasks for which they are unpaid but for which expenses may be reimbursed e.g. committee members, external representatives on recruitment panels.
- Agency workers (right to work is checked by the agency).

