

Right to Work requirements in various scenarios

It is essential that a Right to Work (RTW) check is completed before an individual commences work. A check made after work has commenced will not provide a statutory excuse against sanction from the Home Office. This guidance is designed to assist in determining whether a RTW check is required in various common scenarios.

Employees

All employees or Casual Workers require a right to work check before work commences. In some limited circumstances, departments can rely on a previous right to check. Below outlines scenarios where a right to work check should be completed.

Scenario	Right to Work Check required?
Re-hiring a previous employee	Yes in all cases. A break in employment requires a new RTW check.
Casual worker	Yes in all cases. A break in employment requires a new RTW check.
Employee transfers	No for transfer between departments. Transfers from department to department do not require a new RTW check if there has been no break in service.
Secondary appointment	No if an individual is already employed within the University a right to work check will not need to be completed.

Casual workers

Casual workers are workers who are hired on an irregular basis.

Scenario	Right to Work Check required?
Re-hiring a previous casual worker	Yes in all cases. A break in employment requires a new RTW check.
Second jobs within the institution (as casual work)	No if a department/school employee is taking casual work with another department/school and they have verification that right to work check has been taken. If on a time limited visa you must ensure that this role does not breach their VISA conditions.
Volunteers	No if volunteer is only taking part in activities which are not essential to the function of the department/school and a volunteer agreement is in place. Yes if activity is essential (i.e. if a volunteer is doing an activity that if not done by the volunteer, the department would pay someone to do instead). This would be classed as unpaid work and requires a RTW check.
Work Experience	Yes in all cases (except where the individual is under the age of 16). Work Experience is classed as unpaid work.
Agency Workers or Temporary Staffing Service Workers	No, where a department or school is paying an agency and not the worker directly (in these circumstances the agency is responsible for checking RTW).
External Examiners	These groups may be paid as self-employed, existing staff or be paid as casuals depending on the circumstances and the type of examining undertaken. It is important that examiner payments are correctly classified. Examiners paid as casuals / one-off payment must have their RTW checked. Staff who are paid by invoice and class as self-employed do not require a RTW check.
Hourly Paid employees	Yes in all cases. A break in employment requires a new RTW check.

Self-employed

Individuals who are self-employed are paid directly (usually on invoice) and are not paid via payroll.

Scenario	Right to Work Check required?
Self-employed individuals	No. RTW check not required for self-employed individuals. Note that HMRC do not usually consider students as self-employed so all student workers require a RTW check.

Visitors

You are required to conduct an Immigration Status Check on anyone invited into the country as an Academic, Business or visitor. This is similar to a Right to Work check whereby the passport and visa/stamp is checked, copied, signed, dated and retained for the duration of the visit.

Scenario	Immigration Check Required?
Visitors	Yes for visitors who have been issued a letter of invitation required for their application to enter the UK as an Academic, Business or Permitted Paid Engagement visitor. Please destroy the data when the visit is finished. No for visitors who are nationals of the UK or the Republic of Ireland, or who are already in the UK with Pre-Settled or Settled status or a work visa.

Where there is any doubt on whether a Right to Work check is required, please contact Personnel **well in advance** of the individual commencing work to discuss.

Right to Work guidance

Full guidance on Right to Work requirements and how to complete Right to Work checks is available on the website. If you are unsure or have any queries about Right to Work issues please contact Personnel HR@hope.ac.uk as soon as possible.