

How to conduct a right to work check from 1 October 2022

The University, like all UK employers, need to carry out a right to work check on all staff before they commence work, or during their employment if their immigration status is extended or changes. We must do this to have a statutory excuse against liability for a civil penalty, in the event we are found to have employed someone who is, by reason of their immigration status, prevented from carrying out the work in question.

Right to work checks for recruitment processed by the Resourcing Team (i.e centralised recruitment) will be undertaken by the Resourcing Team, if not carried out by the department at interview.

For any recruitment managed locally (i.e non-centralised recruitment) checks are completed by the department.

If you have any queries regarding right to work, please contact righttowork@essex.ac.uk.

It is essential that right to work checks are completed at least the day before an individual starts work. If a check is made after the start date, we will not have a statutory excuse.

By following the process outlined below, the risks of employing a person without the legal right to work in the UK are minimised.

There are two methods for checking RTW depending on the status of the individual you are checking. Employer Checking Service checks must only be carried out by People & Culture.

Option 1: Online right to work check

This option **must** be used if the individual is proving their right to work via one of the following:

- Biometric Residence Permit (BRP)
- Biometric Residence Cards (BRC)
- EU Settled Status
- EU Pre-settled status

Since 6 April 2022 the only way to evidence right to work for biometric card holders and workers granted EU settled or pre-settled status is via the online checking service (<https://www.gov.uk/view-right-to-work>). Manual checks on physical biometric cards ceased being permissible on 6 April 2022.

Option 2: Physical document check

This option is **only** available to non-biometric card holders (such as British and Irish citizens)

Individuals who do not hold a biometric card or EU settled status, and therefore cannot evidence their right to work via an online right to work check, can provide their evidence either in person.

If the individual cannot evidence their right to work with one of the methods outline above, please email righttowork@essex.ac.uk as soon as possible.

The process

Full guidance on conducting right to work checks is provided by the [Home Office](#). See below for an abridged guide for Online and manual checks.

Option 1: Online right to work check:

The applicant:

- Completes the online [Prove your right to work](#) form
- Views their own Home Office Record in relation to their right to work and receives a 'share code'. (They may provide this code directly, or via the online service in which case an email would come from right.to.work.service@notifications.service.gov.uk)
- Provides the department or Resourcing Team (as appropriate) with the 'share code' to use which is valid for 90 days (if this expires the above 2 steps need to be repeated). The share code must start with a 'W'
- Emails scanned copies of their BRP/BRC/EU Settlement letter to the department or Resourcing Team (if available). If they do not have a BRP, individual should confirm visa type
- Emails a copy of their passport to the department or Resourcing Team (as appropriate)
- Additionally, if they have a Tier4 or Student visa, they need to provide a signed copy of the [Tier4/Student declaration form](#) and confirmation of their term dates in one of the following ways:
 - **UG students with standard term-dates:** Students should take a screen shot of the published term dates on [Academic year key dates | University of Essex](#). The screen shot should include the page URL, date and time. (It is best to zoom in on the page to get the dates all on one page). Student's name and the academic year should be added at the bottom before you PDF. The student should provide an email confirming that these are their term-dates.
 - **PhD students:** Should provide their Certificate of Registration.
 - **All other students:** Should request an term-date letter from askthehub@essex.ac.uk

Department or Resourcing Team:

- Accesses the employer part of the service: [View a job applicant's right to work details](#) using the individuals 'share code' and date of birth
- Checks the record to confirm right to work, that photo is of the same person and noting any working restrictions
- There is a requirement to ensure that the person providing the documents is the person in the documents. In the presence of the individual (in person or via live video link), you must check that the photograph on the online right to work check, is of the individual presenting themselves for work
- Check to see if there is an expiry date, in which case, this is their visa expiry date and therefore to continue working beyond this date an updated RTW check must be completed
- Check to see if there are any conditions relating to the visa that has been granted (e.g., limit to the number or hours or type of work that can be undertaken)

- If the online right to work check does not confirm that the individual has the right to work in the UK and do the work in question, you must not employ them in any capacity. If you are in any doubt, please contact resourcing@essex.ac.uk staffing@essex.ac.uk or righttowork@essex.ac.uk as appropriate
- **If completed by department** - attach the PDF of the online check, the scanned BRP/BRC copies and the passport copy (Plus Tier4/Student additional documentation) to the appointment form (you do not need to carry out a check on/verify the passport or BRP copy but do ensure that photographs and information is consistent). The PDF must be signed and dated by the person carrying out the check (**use the wording:** '*The date on which this right to work check was made: [insert date] by [name] [electronic or 'wet' signature]*' and appropriate tick boxes completed (with a tick, either using the 'Fill & Sign' function on the PDF or in ink)

The full [Home Office guide](#) contains example images of PDF results.

Please note: Some individuals will not be issued with a physical visa/BRP, so will not be able to provide a copy. Please ask the individual to confirm what type of visa they have been granted to ensure that it is recorded correctly on the HR system, and that any visa conditions that are not listed on the online check can still be adhered to.

Departments should add a note to the online check stating that the individual was not issued with a physical visa and what the visa type is.

Option 2: Physical document check the

applicant (UK or Irish nationals only):

- Presents their original documents in person on campus

Department or Resourcing Team:

- Department or Resourcing Team meets with the individual in person and checks and copies the documentation
- The copy should be made using the right to work pro-forma from the [Staff Directory](#). The copy must be of the photo page plus page opposite and all four corners must be visible in the copy. Complete the top boxes on the form and sign with either a 'wet' or electronic signature (do not use italic font or add any further wording to the sheet)
- Department – Attach right to work check to the OnBase appointment form
- People & Culture will complete the set up on iTrent if documentation is correct/valid

Further support

- [Staff Directory – Right to Work checks article](#)
- [Home Office Employer's right to work checks](#)
- Email righttowork@essex.ac.uk