

## **How to conduct a right to work check from 6 April 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.

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

**It is essential that right to work checks are completed 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 types of RTW check depending on the status of the individual you are checking:

### **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

**From 6 April 2022 the only way to evidence right to work for biometric card holders and workers granted EU settled or pre-settled status will be via the online checking service (<https://www.gov.uk/view-right-to-work>). Manual checks on physical biometric cards are no longer permissible after 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 continue to provide their evidence either in person, or via video call.

## 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](mailto: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 (as appropriate)
- Emails a copy of their passport to the Department or Resourcing Team (as appropriate)

#### **Department or Resourcing Team:**

- Accesses the employer part of the service: [View a job applicant's right to work details](#) using the individual's 'share code' and date of birth
- Checks the record to confirm right to work, 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](mailto:resourcing@essex.ac.uk) or [staffing@essex.ac.uk](mailto:staffing@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 to the appointment form (you do not need to carry out a check on/verify the passport 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 (which a tick, either using the 'Fill & Sign' function on the PDF or in ink)

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

**Please note: Some individuals will not be issued with a physical visa, 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:**

- Emails a scanned copy or a photo of their original documents

### **Department or Resourcing Team:**

- Department or Resourcing Team carry out a Skype/Zoom call ensuring the individual holds up the originals. Check they are the same documents received by email and the person is the person in the documents. This Skype/Zoom call must be done prior to the individual starting work. The name and signature of the person carrying out the check and should be recorded on the copy along with the wording '*adjusted check undertaken on [insert date] due to COVID-19*'
- Department – Attach right to work check to the appointment form
- People & Culture will complete the set up on iTrent if documentation is correct/valid