**UCL** Immigration and Right to Work



**UCL HUMAN RESOURCES**

# A Manager’s Guide to Acceptable Right to Work Documents

**1.** Right to Work (RTW) Document Checks

1.1 It is a Home Office and statutory requirement that employers, including UCL, undertake RTW checks to prevent illegal working. Within UCL, it is the department's responsibility to check and copy RTW documents for any staff they intend to pay through the UCL payroll (unless the check is completed by Unitemps).

1.2 This document explains the checks you must carry out to find out if a person has both the RTW in the UK and the right to carry out the type of work you are offering. This is a straightforward 3 step process that forms part of UCL’s recruitment and employment practices. Please note the additional documentation requirements for [students](https://www.gov.uk/government/publications/right-to-work-checks-employers-guide).

1.3 The detailed government guidance [Right to work checks: an employer's guide](https://www.gov.uk/government/publications/right-to-work-checks-employers-guide) contains the lists of acceptable documents. Examples of what the documents should look like can be found in the withdrawn publication ‘[Acceptable right to work documents: an employer's guide](http://www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide)’.

**2.** When right-to-work should be checked2.1 RTW must be checked before a worker or employee does any work for UCL. If the RTW is time-limited, it must be rechecked before it expires, to allow the person to continue working.

2.2 If candidates will be attending UCL for an interview, it is normal practice to check the RTW documents for all candidates in-person at interview. This prevents delays, as RTW should be checked before the employment contract request is submitted. **If checks are being conducted remotely under the temporary COVID-19 measures, a separate online meeting should be arranged to check the RTW for the appointed candidate.**

2.3 If a conditional employment contract is requested, subject to obtaining a suitable visa, the RTW documents must be checked before the first day of work in the UK.

**3.** How to conduct an in-person Right to Work check

 **Step 1:** Ask to see the applicant’s original [right-to-work documents](https://www.gov.uk/legal-right-work-uk). If they give you permission, and share code, you may use the [government’s online right to work checking service](https://www.gov.uk/view-right-to-work).

 **Step 2:** Check that the documents are genuine and that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work being offered. The list of suitable documents is available from the [Right to Work Checklist](https://www.gov.uk/government/publications/right-to-work-checklist). See the ‘Validity of Documents’ section below which covers checks you should undertake.

 **Step 3:** Make a clearcopy of the document and write next to it **‘I confirm I have seen the original document on [DATE]’** and sign the first page of each copied document. If they are a European Economic Area (EEA) national, or EEA dependent – see section 5 below to identify the additional information you need to record.

**4.** How to conduct a remote Right to Work check during Covid-19 temporary measures

4.1 Effective 30th March 2020, the UK Visas and Immigration (UKVI) introduced temporary measures due to Coronavirus (COVID-19), making it easier for employers to carry out Right to Work (RTW) Checks where they will not meet the applicant in person.

 **Step 1**: Ask the worker to submit a scanned copy or a photo of their original documents via email or using a mobile app.

 **Step 2**: Arrange a video call with the worker.

* + Ask them to hold up the original documents to the camera and check them against the digital copy of the documents.
	+ Check that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work being offered.
	+ If the worker has a current Biometric Residence Permit or Biometric Residence Card or status under the EU Settlement Scheme you can use the [online right to work checking service](https://www.gov.uk/view-right-to-work) during the video call. You may only access the online checking service to perform the check if the applicant [gives you permission.](https://www.gov.uk/prove-right-to-work)

 **Step 3**: On the copy of the document write or type “adjusted check undertaken on [insert date] due to COVID-19” or save a copy of the profile page from the [government’s online right-to-work check](https://www.gov.uk/view-right-to-work). **If they are a European Economic Area (EEA) national, or EEA dependent – see section 5 below to identify the additional information you need to record.**

 **Step 4*:*** As soon as you meet the employee in person or when UKVI have informed us that the temporary arrangements must cease you must undertake a follow up RTW check **in person**. On the copy of the document write or type: “the individual’s employment commenced on [insert date]. The prescribed right to work check was undertaken on [insert date] due to COVID-19.”

**5.** Validity of documents

5.1 You must check that:

* photographs and dates of birth are consistent across documents and with the person’s appearance in order to detect impersonation;
* expiry dates for permission to be in the UK have not passed;
* any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed);
* the documents are genuine, have not been tampered with and belong to the holder; and
* the reasons for any difference in names across documents can be explained by providing evidence (e.g. original marriage certificate, divorce decree absolute, deed poll). These supporting documents must also be photocopied and a copy retained.

5.2 If the list of acceptable documents says that the document must be current, you should check that it has not expired.

5.3 If you have to rely solely on an allowable expired passport or travel document to show you that a person has the right to remain and work in the UK, then you must take particular care when examining photographs and comparing these with the current appearance of the person presenting them. Also, you should note the date of birth on the expired document and satisfy yourself that this is consistent with the current appearance of the holder.

**6.** Which documents you must retain

6.1 You must copy and retain copies of:

* Passports: any page with the document expiry date, the holder’s nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question (the front cover no longer has to be copied).
* All other documents: the document in full, including both sides of a Biometric Residence Permit, Application Registration Card and a Residence Card (biometric format).
* For online checks (using the government service) download and store securely a PDF of the ‘profile’ page confirming the individual’s right to work.

**7.** European Economic Area (EEA) nationals starting work between 1 January and 30 June 2021

7.1 Between 1st January 2021 and 30th June 2021, when a recruiting manager undertakes a right to work check with an EEA national, the EEA national will need to produce a currentpassport or national identity card, as before. The recruiting manager will also need to add one of the following relevant statements to the right to work check:

* The candidate has pre-settled status
* The candidate has settled status
* The candidate was resident in the UK on or before 31 December 2020 and understands that they will need to apply for settled/ pre-settled status before 30th June 2021, if they wish to continue working in the UK without a Visa.
* The candidate has another type of  visa or permit (a copy of which has been made) meaning that they have the right to work in the UK
* The candidate moved to the UK on or after 1 January 2021, is not eligible for settled status and needs to be sponsored under the Points Based System.

The recruiting manager does not need to require evidence of their status:  the candidate’s verbal confirmation of their status will be enough.

7.2 Citizens of Jersey, Guernsey, Isle of Man and Ireland continue to have the right to work and move freely in and out of the UK and evidence of their status e.g. their passport is required.

**8.** Verifying Right to Work in the UK – Employer Checking Service

8.1 There are certain circumstances when UKVI require additional confirmation that a person has the right to work in the UK. Please contact HR Services who will undertake the additional checks via the Employer Checking Service if the employee or applicant has:

1. Provided a Certificate of Application which is less than 6 months old and which indicates that work is permitted; or
2. An Application Registration Card stating that the holder is permitted to undertake the work in question. If the card contains an expiry date, this date must not have expired. Any work will be restricted to employment in a shortage occupation; or
3. An outstanding application which was made before their previous permission expired or has an appeal or administrative review pending; or
4. Presented information indicating they are a long-term resident of the UK who arrived in the UK before 1988 but cannot provide acceptable documents
	1. A person in the above categories may only commence work once UCL has received a Positive Verification Notice from the Employer Checking Service.

 **9.** If the job applicant or existing worker cannot show their documents

9.1 Managers must instruct HR Services to contact the [Home Office Employer Checking Service](https://www.gov.uk/employee-immigration-employment-status). If the person has a right to work, the Employer Checking Service will send a ‘Positive Verification Notice’. This provides UCL with a statutory excuse for 6 months from the date in the notice.

**10.** The implementation of the ‘COVID-19’ RTW status on MyHR

10.1 RTW checks undertaken remotely during COVID-19 should be recorded on MyHR Departmental Transactions as follows:



***‘Pending Coronavirus Temporary measures (Reverification required)’***

10.2 At this stage, there are no further actions required from departments to perform a follow up check unless the employee starts working on campus or the line manager meets the employee in person.

**11.** What if someone does not have the Right to Work?

11.1 If someone does not have the right to work they cannot commence employment. If they are being sponsored by UCL for a visa they will need to wait for the visa, and a right to work check then needs to be undertaken before commencing employment.

**12.** Follow-up checks and Expiry of Right to Work

12.1 For List A documents a follow-up check is not required. For List B – Group 1 a follow-up check is required at the point of the expiry date on the right to work documentation. For List B, Group 2 documents e.g. a Certificate of Application or an Application Registration Card combined with a Positive Verification Notice (valid for 6 months), a follow-up check must be completed shortly before the Positive Verification Notice expires.

12.2 Prior to expiry of an individual’s right to work, HR Services will contact the Departmental Administrator to request up-to-date RTW evidence. Evidence (e.g. a copy of the application) must be emailed to HR Services confirming one of the following:

* A request to extend the Certificate of Sponsorship has been submitted; or
* They have submitted an application for extension of a visa that will allow them to continue paid work; or
* They have submitted an application for permanent leave to remain; or
* They have been granted permanent leave to remain.

HR Services will verify this from the Home Office Employer Checking Service.

12.3 When permanent leave to remain is granted, a certified copy must be submitted to HR Services.

12.4 If none of the above are confirmed on or before the expiry date of the right to work, the employee’s employment will be terminated with immediate effect as it is a criminal offence to employ people without the right to work.

13. Checking Right to Work for as and when worker Payments

13.1 Departments must check and copy right to work documentation for individuals who are invited to undertake a short-term one-off duty before they undertake any work. You are required to submit the copied documentation to HR via Department Transactions. Old paper copies must be securely stored in the department for 24 months after the worker’s engagement, for audit purposes. Unitemps will conduct right to work checks for all the staff that they process.

**14.** Checking Right to Work for Student Visas

14.1 Overseas students on a student visa studying at below degree level, will be permitted to work up to 10 hours per week during term time and full time during the college vacation.

14.2 Overseas students studying at degree level or above, will be permitted to work up to 20 hours per week during term time and full time during the university vacation.

14.3 Overseas students studying at postgraduate level do not have a university vacation and therefore cannot work over 20 hours per week at any point throughout the year.

 A ‘week’ is defined in Immigration Rules as “a period of seven days beginning with a Monday”.

14.4 It is the department’s responsibility to ensure that students are not allocated more hours than they are permitted to work. Departments should keep an [up-to-date record](https://www.ucl.ac.uk/human-resources/sites/human-resources/files/tier-4-timesheet.xls) of all allocated hours and should check with the student that they have not undertaken any additional work elsewhere during the relevant period to ensure the maximum hours are not exceeded.

14.5 Please note that for overseas students on a student visa there is a requirement to obtain and retain academic term and vacation dates alongside the other document checks which must be obtained and retained annually. Please state in writing which establishment the student is studying at when submitting the right to work documentation to aid the annual checking process. A template for use is available [here](https://www.ucl.ac.uk/human-resources/sites/human-resources/files/immigration-2016-notifying-ucl-of-student-term-dates.pdf).

14.6 Some student visas read 'limited leave to remain. No work without permission of the secretary of state.' This visa is acceptable and does not require permission to work up to 20 hours during term time and full time in holidays as long as we know they are students.

## 15. False Documents

15.1 If someone gives you a false document or a genuine document that does not belong to them, you should report the individual to HR Services who will contact UK Visas and Immigration (UKVI).

**16** How to process / retain / dispose of copies of RTW documents.

16.1 Please securely destroy copies of identification documents that you hold for unsuccessful candidates. You must also delete any identification documents for the appointed candidate once it has been submitted to HR Services via Department Transactions.

16.2 If you hold any copies of documents via email, ensure that you delete them and empty your deleted items folder. Any identification documents sent by email should be password protected and the password emailed separately. Please see the [UCL Secure Data Disposal Guidelines](https://www.ucl.ac.uk/informationsecurity/) for advice on how to securely destroy data.