



# Right to Work Checks from 1 October 2022

## Briefing Note

### **Background**

The Home Office have confirmed (22/09/22) changes to 'Right to Work' (RTW) practices effective from 1<sup>st</sup> October 2022.

From 1<sup>st</sup> October, Covid-19 adjusted RTW checks will no longer be permissible and the prescribed ways to check a RTW will be:

1. a manual right to work check - in the **physical presence** of the 'right to work documentation' and either in-person/video call.
2. a Home Office online right to work check for those with a Home Office Digital Profile and either in-person/video call.

The type of check an employer is required to conduct depends on the immigration status of the applicant.

### **Key Points**

#### **1. UK/Irish Passport Holders**

- a. In-person manual checks will be reinstated from 1<sup>st</sup> October when [Covid-19 adjusted right to work checks](#) cease on 30<sup>th</sup> September. Checks can take place in-person or via video call provided the University are in the 'physical presence' of the right to work documentation. Where individuals choose the latter option, it is important that both the applicant and University send documentation via a recorded delivery postal service.
- b. Covid-19 adjusted right to work checks have been in place since March 2020 for all those without a digital Home Office status (predominantly UK/Irish passport holders).
- c. Retrospective checks for those who have had [covid-19 adjusted checks](#) will not be necessary, for those with continued service, provided they were undertaken in line with the government code of practice and guidance.

Please note, the University continue to explore options surrounding the use of IDSP in exceptional circumstances. IDSP are certified 'identification document validation technology service providers' who carry out digital identity checks in respect of individuals who are not in scope to use the Home Office online services, on behalf of the employer. However, this service will not be available in the first instance due to continued uncertainties in government guidance in this area, particularly surrounding the knowledge that this activity will not provide the University with a 'statutory excuse'



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### 2. Home Office Online Check – Digital Status (All EEA/Swiss, BRP, FWP and BRC Holders)

- a. From 6 April 2022 it has been mandatory for individuals with a digital Home Office status 'share code' to evidence their Right to work using the Government's [online tool](#) and this remains unchanged.
- b. For those with physical Biometric Residence Permit Cards, Biometric Residence Cards, status under the EU Settlement Scheme, Frontier Worker Permit or an eVisa, these cards are no longer permissible even where the cards continue to be valid by date. RTW will be required via the [online tool](#).
- c. RTW checks can take place in the presence of the employee either in-person or by video call to check, copy and retain documentation utilising the Share Code and whilst viewing the 'employers screen'.
- d. Where individuals are yet to receive their BRP and digital status they are permitted to commence work/engagement in-person based on their passport vignette, with a follow up required upon receipt of the digital status ahead of the vignette expiry date.
- e. Retrospective RTW checks on those who used a BRP, BRC or FWP to prove their RTW **before** 6 April 2022 will **not** be required except in circumstances whereby there has been a break in service.

As a reminder, all employers in the UK have a responsibility to prevent illegal working, and as a Home Office licensed and trusted sponsor it is particularly important that we role model best practice, with any areas of non-compliance being subject to a Home Office £20,000 civil penalty. Right to Work checks are therefore essential for all candidates before employment/engagement commences to ensure an individual is not disqualified from carrying out the work in question by reason of their immigration status.

#### **Further Guidance/References**

- [Entitlement to work in the UK page](#)
- [Casual Workers – Human Resources \(lincoln.ac.uk\)](#)
- [Employers Right to Work Checklist \(List A and List B\)](#)
- Home Office 'right to work' YouTube [video](#)
- [right to work checks: an employer's guide](#)
- Online interactive tool '[Check if someone can work in the UK](#)', which will take you through the process by asking you a series of questions.