**Preventing Illegal Working**

**Business Process Flow Charts and Guidance**

**Index**

You only need to use the sections of this guidance that relate to your circumstances. These have been colour coded for your convenience as per the table below. Each section contains a flow chart and step by step guidance.

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**General Principles**

This guidance sets out the process to be followed and proformas to be used when conducting right to work checks on workers/employees. Please note:

* You only need to use the sections of this guidance that relate to your circumstances. These have been colour coded for your convenience as per the Index. Each section contains a flow chart and step by step guidance.
* Everyone who engages in work (paid or unpaid) for the University must present documents which demonstrate their right to work prior to engaging in work.
* The Right to Work Checklist will guide you through completing the check. Supporting documents and proformas are included in the guidance to ensure the correct information is communicated to the relevant people.
* All documents presented by the worker/employee must be copied, stamped and signed when presented by the worker/employee. Stamps are available from People and Culture.
* Copies of documents must be retained for 2 years after the work end date.
* Two reference documents are available for your information should you require them.
* Visas: Permissions and Restrictions – this provides a summary of the different visa types and explains when work can and cannot be undertaken.
* Extract from the Home Office’s Guidance: Home Office: ‘An employer’s guide to right to work checks’ 12 July 2016:
* All employees who conduct right to work checks must be appropriately trained before carrying out this task.
* Designated Officers will receive periodic refresher training.
* If you have any questions or concerns regarding the process, proformas or the documents presented by a worker/employee to confirm their right to work please contact your HR Business Partner.

**Actions to be taken by Commissioners/Line Managers or School/Department Managers: Flow Chart**

**Actions to be taken by Commissioners/Line Managers or School/Department Manager: Step by Step Guidance**

Commissioners/Line Managers or School/Department Managers should ensure that checks are conducted on:

* Workers engaged on a Contract for Services
* Workers paid through Non Staff Payroll
* Any other worker who engages in work for or on behalf of their area of responsibility

A worker is someone who conducts work but is not engaged under a contract of employment.

 Process

1 Begin by recruiting the Worker – you will need to consider the nature of the work, duration and payment methods to determine whether the work will be completed by a worker, a student or an employee.

* If the worker is to be engaged on a contract for service or paid by NSP you should follow your School/Directorate’s recruitment procedures. Once the offer is made forward the **Proforma for Commissioning Work** to the Designated Person who will conduct the right to work check and confirm any work restrictions.
* Students who will be paid to complete temporary, casual, term-time work, or a one year placement can be recruited by OnCampus Jobs. OnCampus Jobs will complete the right to work check and confirm any work restrictions.
* Work to be completed by someone who is engaged on an employment contract will be recruited by Resourcing. People and Culture will conduct the right to work check and confirm any work restrictions.

2 Tier 4 students will present a **Tier 4 Student Weekly Work Log (OCJ03)** for completion. You must ensure any hours you commission do not result in the student’s cumulative hours exceeding their maximum hours permitted per week (see Weekly Work Log for details).

3 Work can commence when all of the offer conditions are met. You must ensure that workers work within any work restrictions.

4 A **Tier 4 Student Timesheet (OCJ04)** should be completed for all hours worked and forwarded to OnCampus Jobs by the monthly cut-off date on the timesheet. Payment for all other workers should be processed as set out in the offer.

**Actions to be taken by Designated Officers, or those with delegated responsibility who have been appropriately trained to conduct checks: Flow Chart**

Tier 4 students referred to OnCampus Jobs for check

**Actions to be taken by Designated Officers, or those with delegated responsibility who have been appropriately trained to conduct checks: Step by Step Guidance**

Designated Persons are School/Department Managers. The right to work check can be delegated to a suitably trained person. A maximum of two people may conduct checks per School/Faculty Office/Department

Process

1 You will receive a completed **Proforma for Commissioning Work** from the member of staff who is commissioning the work. Using the contact details provided, write to the worker to request the right to work check. You must use the wording from the **Proforma for** **Requesting Right to Work Documents**.

2 You must meet with the worker to conduct their right to work check in person. The worker must present original documents. The worker should complete the **Contact Details Proforma** and you should complete the **Right to Work Checklist**. Guidance on the documents provided is contained within the Extract from Home Office Guidance. There are five potential outcomes:

Outcome 1 The documents provided are from List A and demonstrate a continuing right to work therefore, no further checks are required.

Outcome 2 The documents provided are from List B Group 1 and indicate that permission to work extends beyond duration of work therefore, no further checks are required, unless work is extended. You must advise the Commissioner to monitor work end dates and confirm any extensions to ensure worker’s continued right to work is checked.

Outcome 3 The documents provided are from List B Group 1 and do not cover the full period of work. You must track when the visa permission ends. Three months prior to the visa end date you should contact your HR Business Partner who will request the relevant follow-up check. The following documents should be forwarded to the HR Business Partner: the original **Proforma for Commissioning Work**, the completed **Contact Details Proforma**, copies of the **documents** provided by worker prior to work commencing and the completed **right to work checklist** from the original check.

Outcome 4 Documents cannot be provided because the worker has applied for an extension to their visa, or applied for a different visa type. The **Proforma for Commissioning Work**, the worker’s complete **Contact Details Proforma** and the completed **Right to Work Checklist** must be forwarded to the HR Business Partner who will contact the employer checking service to confirm right to work.

Outcome 5 The worker presents documents from List B Group 2. The **Proforma for Commissioning Work** and the worker’s complete **Contact Details Proforma,** copies of the **documents** provided by worker and the completed **Right to Work Checklist** should be forwarded to the HR Business Partner to contact an Employer Checking Service to confirm right to work.

3 You must notify OnCampus Jobs of any student that is on a Tier 4 Visa by completing The **Student Transfer and Disclaimer Form (OCJ02)** and forwarding it to OnCampus Jobs. OnCampus Jobs will: complete the right to work check, check term time working restrictions, and issue the student with Weekly Work Logs.

4 When right to work and any work restrictions are confirmed you must advise the commissioner. You must check and retain evidence of each Tier 4 student’s term time and advise the commissioner.

5 All documentation relating to the right to work check must be stamped, signed and retained for 2 years after work end date. Stamps are available from People and Culture.

 **Actions to be taken by OnCampus Jobs: Flow Chart**

School/Dept/ People and Culture provide details of Tier 4 student

Issue Tier 4 students with work logs

**Actions to be taken by OnCampus Jobs: Step by Step Guidance**

OnCampus Jobs recruit students who will be paid to carry out temporary, or casual work which may be conducted during term time over the summer period or may be a one year placement.

Process

1 A School/Faculty/Directorate will contact OnCampus Jobs to instigate recruitment exercise. OnCampus Jobs will conduct an appropriate recruitment exercise and a successful candidate/s will be identified, or

A Designated Officer or a HR Business Partner will forward details of any Tier 4 student/s who has recruited using the **Student Transfer and Disclaimer Form** **(OCJ02).**

2 A member of staff from OnCampus Jobs will request a meeting with the student to conduct the right to work check in person. The student must present original documents. The student should complete the **‘Contact Details Proforma’** and the member of staff must complete the **‘Right to Work Checklist’**. There are five potential outcomes:

Outcome 1 The documents provided are from List A and demonstrate a continuing right to work therefore, no further checks are required.

Outcome 2 The documents provided are from List B Group 1 and indicate that permission to work extends beyond duration of work therefore, no further checks are required, unless work is extended. OnCampus Jobs must advise the Commissioner to monitor work end dates and confirm any extensions to ensure worker’s continued right to work is checked.

Outcome 3 The documents provided are from List B Group 1 and do not cover the full period of work. OnCampus Jobs must track when the visa permission ends. Three months prior to the visa end date OnCampus Jobs should contact the HR Business Partner who will request the relevant follow-up check. The following documents should be forwarded to the HR Business Partner: the original **Proforma for Commissioning Work**, the completed **Contact Details Proforma**, copies of the **documents** provided by worker prior to work commencing and the completed **Right to Work Checklist** from the original check.

Outcome 4 Documents cannot be provided because the worker has applied for an extension to their visa, or applied for a different visa type. The **Proforma for Commissioning Work**, the worker’s complete **Contact Details Proforma** and the completed **Right to Work Checklist** must be forwarded to the HR Business Partner who will contact the employer checking service to confirm right to work.

Outcome 5 The worker presents documents from List B Group 2. The **Proforma for Commissioning Work** and the worker’s complete **Contact Details Proforma**, copies of the **documents** provided by worker and the completed **Right to Work Checklist** should be forwarded to the HR Business Partner to contact the Employer Checking Service to confirm right to work.

3 OnCampus Jobs will issue students on a Tier 4 visa with their **Tier 4 Student** **Weekly Work Log (OCJ03)** and will check and retain evidence of the student’s term time dates.

4 Right to work and any work restrictions will be confirmed by OnCampus Jobs to the commissioner.

5 All documentation relating to the right to work check must be stamped, signed and retained for 2 years after work end date. Stamps are available from People and Culture.

6 **Tier 4 Student Time sheets (OCJ04)** for student’s on a Tier 4 visa will be reviewed on a monthly basis before the cut-off date on the back of the timesheet before being submitted to payroll.

**Actions to be taken by People and Culture with regards to checking employees and those that are TUPE transferred into the University: Flow Chart**

Tier 4 student details to be sent to OnCampus Jobs

TUPE Transfer – checks required

**Actions to be taken by People and Culture with regards to checking employees and those that are TUPE transferred into the University: Step by Step Guidance**

Process

1 A Recruitment exercise will be completed and a successful candidate identified, or

 A new employee/s will be TUPE transferred into Queen’s University.

2 The candidate will be advised of the requirement for a right to work check and the requirement for continuing right to work by the offer letter and by the **Staff Right to Work Details Proforma.**

3 The **Staff Right to Work Details Proforma** must be returned and the **Right to Work Checklist** completed when the candidate presents their evidence of right to work in person prior to employment commencing. There are five potential outcomes.

Outcome 1 The documents provided are from List A and demonstrate a continuing right to work therefore, no further checks are required.

Outcome 2 The documents provided are from List B Group 1 and indicate that permission to work extends beyond duration of work therefore, no further checks are required, unless work is extended. OnCampus Jobs must advise the Commissioner to monitor work end dates and confirm any extensions to ensure worker’s continued right to work is checked.

Outcome 3 The documents provided are from List B Group 1 and do not cover the full period of work. People and Culture must track when the visa permission ends. Three months prior to the visa end date the HR Business Partner will request relevant follow-up checks. See relevant sections of the process set out at Outcome 3 – People and Culture Procedure.

Outcome 4 Documents cannot be provided because the worker has applied for an extension to their visa, or applied for a different visa type. The HR Business Partner will contact the employer checking service to confirm right to work. See relevant sections of the process set out at Outcome 4 and 5 – People and Culture Procedure.

Outcome 5 The worker presents documents from List B Group 2. The HR Business Partner will contact the Employer Checking Service check to confirm right to work. See relevant sections of the process set out at Outcome 4 and 5 – People and Culture Procedure.

4 OnCampus Jobs will be notified of any student that is on a Tier 4 Visa by completing The **Student Transfer and Disclaimer Form (OCJ02)** and forwarding it to OnCampus Jobs.

5 When right to work and any work restrictions are confirmed People and Culture will advise the commissioner. Evidence of each Tier 4 student’s term time will be gathered and retained and the commissioner will be advised.

6 All documentation relating to the right to work check must be stamped, signed and retained for 2 years after work end date. Stamps are available from People and Culture.

**Actions to be taken by People and Culture with regards to follow-up checks and contact the Employer Checking Service for a Positive Verification Notice**

**Outcome 3: Flow Chart**

**Actions to be taken by People and Culture with regards to follow-up checks and contact the Employer Checking Service for a Positive Verification Notice Outcome 3: Step by Step Guidance**

Process

1 Three months prior to the visa end date the Designated Officer or OnCampus Jobs must notify the HR Business Partner who will request the relevant follow-up check. The following documents should be forwarded to the HR Business Partner: the original **Proforma for Commissioning Work**, the completed **Contact Details Proforma**, copies of the **documents** provided by worker prior to work commencing, the completed **right to work checklist** from the original check.

2 The HR Business Partner will request a follow-up check using the **Proforma for** **Requesting a Follow-Up Check.**

3 The worker must provide either evidence of being permitted to work under a different visa type or Home Office receipt for a renewal application

4 If the worker provides a Home Office receipt for a renewal application the HR Business Partner will seek permission to request a Positive Verification Notice (PVN) using the **Employer Checking Service Proforma.** The HR Business Partner will also ask the worker to complete a new **Contact Details Proforma**.

5 The HR Business Partner will request a Positive Verification Notice from the Employer Checking Service

6 The HR Business Partner will confirm right to work and any work restrictions to the Designated Person/OnCampus Jobs and will return the documents provided as well as the documents from the follow-up check including: the original **Proforma for Commissioning Work** the **Contact Details Proformas** (original and updated versions), copies of **documents** provided by worker prior to work commencing, a copy of the **Proforma for** **Requesting a Follow-Up Check**, the **Employer Checking Service Proforma** and the **Positive Notice Verification**.

7 The HR Business Partner will diarises the PVN expiry date if a further check is required prior to work ending.

**Actions to be taken by People and Culture with regards to follow-up checks and contact the Employer Checking Service for a Positive Verification Notice**

**Outcomes 4 and 5: Flow Chart**

**Actions to be taken by People and Culture with regards to follow-up checks and contact the Employer Checking Service for a Positive Verification Notice Outcomes 4 and 5: Step by Step Guidance**

Process

1 The Designated Person/OnCampus Jobs will notify the HR Business Partner of workers who provided documents from List B Group 2 or workers who could not provide any documents as they have an application with the Home Office for a visa extension. The following documents should be forwarded to the HR Business Partner: the original **Proforma for Commissioning Work**, the completed **Contact Details Proforma**, copies of the **documents** provided by worker prior to work commencing, the completed **Right to Work Checklist** from the original check.

2 The HR Business Partner will seek permission to request a Positive Verification Notice (PVN) using the **Employer Checking Service Proforma**.

3 The HR Business Partner will request a Positive Verification Notice from the Employer Checking Service

4 The HR Business Partner will confirm right to work and any work restrictions to the Designated Person/OnCampus Jobs and provide the documents relevant to the check including: the **Proforma for Commissioning Work**, the **Contact Details Proforma**, copies of any **documents** provided by worker from List B Group 2, the initial **right to work check**, the **Employer Checking Service Proforma**, the **Positive Notice Verification**.

5 The HR Business Partner will diarise the PVN expiry date in case a further check is required prior to work ending.

Tier 4 student details to be sent to OnCampus Jobs