

Extended Workforce - Frequently Asked Questions (FAQs)

Part 1 – Overview

What is the Extended Workforce?

The Extended Workforce is the group of individuals historically referred to as 'Atypical' workers or Non-Staff Payments (NSP) payees. The Extended Workforce comprises workers, self-employed individuals, volunteers and other payees, i.e. those who are not engaged on either a permanent or fixed term employee contract.

The University engages individuals in the extended workforce to:

- Deliver non-permanent or intermittent services, as and when required
- Prevent the disruption of permanent services by covering short term staff absences
- Provide additional support to meet fluctuating demands.

Why are we changing how we engage, manage and report on these individuals?

To ensure the University meets its legal and ethical responsibilities, particularly with regards to engaging members of its workforce on the most appropriate contract and proper employment status, whilst improving the processes involved in the recruitment, engagement and payment of these individuals.

What is changing?

- A new Extended Workforce Policy is being introduced which outlines the institution's position in relation to engaging, managing and paying individuals who form part of the extended workforce. The policy will reflect best practice and provide managers with clear guidance on the use of extended workforce in the University whilst setting out the associated governance and support mechanisms.
- A new online system is being introduced, for use by managers and those in the extended workforce, to support the recruitment, engagement and management of hours worked by individuals, reducing many of the existing manual and time-consuming processes whilst providing features to improve the experience for both the workforce and managers.
- Training and support is available to those responsible for engaging individuals to ensure that recruitment, engagement and payments are in line with the University's policies and procedures.
- An online management toolkit will be available to provide resources and guidance augmented by support from the HR Business Partnering team.

Part 2 - Employment Status

What is the difference between an employee, a worker and someone who is self-employed?

There are three principal categories of employment status which are generally defined as follows:

- An employee is defined under the Employment Rights Order 1996 as ‘an individual who has entered into or works (worked) under a contract of employment’, otherwise known as a contract OF service. Within the University they are usually identified as having an employment contract, which is either a permanent or a fixed-term contract. They are also required to work agreed hours and they are usually paid a salary but can also receive an hourly rate.
- A worker is defined as an ‘individual who has entered into or works under: (a) a contract of employment, or (b) any other contract, whether express or implied and whether oral or in writing’. Within the University, a true ‘worker’ should be engaged under a worker contract (which is a variation of a contract OF service) and paid an hourly rate for the role(s) they undertake. Importantly, unlike employees there should be no obligation for them to be offered work on an ongoing basis or for them to accept work offered to them.
- A self-employed individual or an ‘independent contractor’ is engaged via a contract FOR service. Within the University, they are subject to procurement processes and are paid as a supplier. They are paid a fee and they are responsible for their own tax and national insurance. There should be no obligation for them to be offered work on an ongoing basis or for them to accept work offered to them, and they have the power to substitute themselves for anyone else they see fit.

It is important to note that labels do not determine employment status as ultimately this will depend on the day-to-day engagement of the individual, which includes any implied terms through custom and practice. An individual could be labelled a ‘worker’ but the engagement may be closer to that of an employee in which case this may create issues for both the individual and the University.

How do I determine employment status for a role?

Employment status should be determined by using the resources contained within the Extended Workforce Manager’s Toolkit. The toolkit contains a number of useful documents to help ensure that an individual is correctly categorised.

If you are still unsure what employment status is appropriate for a role you should contact the [Extended Workforce Team](#).

How often should I review relationship?

You should review the relationship on an on-going basis. If you consider the relationship is changing you should review your requirements against the [Employment Status Flowchart](#) in the Extended Workforce Manager’s Toolkit.

If you believe that the employment status of an individual is not accurate and you are unsure how to proceed then please contact the [Extended Workforce Team](#).

Is it possible for two individuals to have different employment status but be engaged to undertake the same work?

This is possible, as employment status is defined not only by the work being carried out, but also by the relationship between the individual and the University. Please use the Extended Workforce Toolkit to determine the most appropriate employment status arrangement for each individual engagement.

Is there guidance on the employment rights for each employment status?

Yes, there are resources available in the Extended Workforce Manager's Toolkit, but if you are still unsure and need further guidance please consult the [Extended Workforce Team](#).

Is there a supporting toolkit/resource pack?

You can find the Extended Workforce Manager's Toolkit here or contact the [Extended Workforce Team](#) for further guidance.

What are the implications if an individual is engaged incorrectly?

The University is committed to ensuring a legal and ethical relationship with everyone in the Extended Workforce. Where the relationship between an individual and the University is mishandled this could result in serious reputational damage or an industrial tribunal claim against the University.

To avoid confusion and disputes about employment status, and associated rights, it is crucial that you follow the guidance and seek advice if you are unsure. If there is any doubt you should contact the [Extended Workforce Team](#).

A 'worker' has been with the department for a few months and over time the relationship has changed - what should I do?

If you consider the relationship has changed you should review your requirements against the Employment Status Flowchart.

If you believe that the employment status of an individual is not accurate and you are unsure how to proceed please contact the [Extended Workforce Team](#).

Can I still engage self-employed individuals?

Yes, where the conditions described in the Extended Workforce Management Toolkit are met you may engage someone on a self-employed basis however, their conditions of engagement must be managed via University Procurement policy and processes. If you need further guidance please contact the [Extended Workforce Team](#).

What do I do if the individual tells me they are registered as self-employed?

Employment status is determined by the work required to be undertaken for the University and not the opinion, or preference, of the person completing the work. Each engagement

must be assessed according to the reality of the working arrangement, and where employment status is determined as self-employed the individual must be engaged on that basis.

If in doubt, please contact the [Extended Workforce Team](#).

What if the individual refuses to complete the work unless they are paid as self-employed with no deduction of tax and national insurance?

The University is legally obligated to deduct tax and National Insurance (NI) contributions in line with HMRC requirements. The individual has the right to accept or decline the offer of work under the terms specified by the University. Where the individual declines the offer of work you must make alternative arrangements to recruit a replacement on the correct employment status.

Please seek advice from the [Extended Workforce Team](#) if you have any difficulties.

How should I engage Postgraduate Teaching Assistants (PGTAs)?

PGTAs are considered to be student workers and should be treated accordingly. Please refer to the Policy and Guidance on Teaching and Teaching Support and the Extended Workforce policies for further guidance.

A Short-Term Time Worker contract should be issued in this instance.

Will any workers be recruited by People and Culture?

No. People and Culture is responsible for recruiting all permanent and fixed term employees however individual departments/Schools are responsible for engaging individuals to the Extended Workforce using the guidance and support provided by People and Culture. Please refer to the Extended Workforce Management Toolkit for further information.

Where can I access further training?

Training on the engagement of Extended Workforce is provided by the HR Business Partnering team and materials are included in the Extended Workforce Manager's Toolkit. A recording of the training can be accessed [here](#).

Part 3 – Contracts

Can we engage individuals on a semester-only basis?

Yes, just ensure you correctly categorise the individual according to their employment status and the job they are doing, so that they are being engaged appropriately. If they are a worker use the appropriate contract provided on the People and Culture website. If they are self-employed then you must follow Procurement policy and procedures.

I used to engage individuals on a contract for services. Can I continue to use this contract?

No. A contract for service may only be used for self-employed individuals who have gone through a procurement process. This contract should not be used for workers or volunteers. If in doubt you should use the Employment Status Flowchart to determine how the individual should be engaged going forward.

I have contracted individuals on long term casual contracts for periods of up to 4 years. Can I continue to do this?

Legal advice is being sought in relation to this practice and updated information will be provided in due course.

If I need to hire PhD or undergraduate students to demonstrate do they need contracts?

Yes, you should provide them with the appropriate worker contract, and you can speak to the HRBP team for advice on this. Contracts are available on the [People and Culture website](#)

Do I need to issue a contract for students who help out at Open Days or volunteer as Peer Mentors?

If the engagement is a one-off you do not need to issue a contract, but if you anticipate that you may use them on an ad-hoc basis over a prolonged period then please issue a worker contract. The contract is available on the People and Culture website.

Part 4 – Payments

How do I determine a rate of pay for a worker?

Workers will be paid an hourly rate, which will be determined by the role they are undertaking and will be within a band as set out in the Schedule of Hourly Rates. This document is currently being developed and an update will be issued in due course to all hiring managers.

How do I determine the rate for a self-employed individual?

This is determined via a procurement process.

Is everyone in the Extended Workforce entitled to annual leave?

No, only workers are entitled to accrue annual leave. Accrual of annual leave begins on the day they start work and is based on the number of hours worked.

Self-employed individuals are *not* entitled to accrue or be paid for annual leave.

How is annual leave entitlement calculated for workers?

Workers are entitled to 5.6 weeks holiday (28 days) for every 232 days worked (not including holidays), accruing at the rate of one day's paid holiday for every 8.285 days worked.

When a worker works less than full time hours each day, their entitlement will be calculated in hours on the basis of 28/232nds of the hours worked, equivalent to 12.07% of hours worked over a year.

Can a payment be made in lieu of annual leave?

Annual leave must be taken during the holiday year in which it accrues and carrying forward holiday is not permitted unless either agreed in advance by the relevant Manager or where the law allows holiday to be carried forward. The University will only pay in lieu of any accrued but untaken holiday entitlement, for the holiday year in which the assignment ends, on the termination of each assignment, at the hourly rate for that assignment. Further information is provided in the worker contract.

Can I ask individuals to take their leave at particular times during their assignment?

Yes, you can specify this at the start of the engagement, or alternatively, if you need the individual to take annual leave before the end of the leave year you can enforce this as long as you provide double the notice for the leave taken. The latter is only recommended when all other options have been exhausted and the leave must be taken due to legal or obligation or operational need.

For the engagement of professionals who are paid at professional rates, e.g. HSC consultants, is a specific contract template available and what provisions are made for contribution to annual leave, pension, etc.

If the individual is categorised as a worker they will be issued with an appropriate worker contract and will be entitled to accrue annual leave. Details of pension provision are contained in the contract document.

If a worker is assessed as eligible under the criteria within the legislation then they will be automatically enrolled in the appropriate qualifying pension scheme.

Where a Consultant is engaged as a self-employed individual they will not be entitled to accrue annual leave or be enrolled in a pension scheme.

In what circumstances can Amazon vouchers be used?

Amazon vouchers can be used as a means for thanking someone in exceptional circumstances, e.g. at Christmas or at the end of the academic year, however they should not be used as an alternative to payment for work. If you need further advice about this please contact Extended Workforce Team for guidance.

Can someone who is self-employed and owns their own company, be paid via purchase order/invoice or does it depend on the type of work they are doing?

It depends on the role they are doing for the University and whether they are considered to be a true self-employed individual. This should be reviewed using the Employment Status Flowchart. If, after review, they are categorised as self-employed they should be paid via purchase order or invoice, in line with Procurement policy and procedures.

Part 5 – Visas & Immigration

Must immigration checks be done for workers?

Yes. It is the responsibility of the department to ensure all workers are eligible to work in the UK. Prior to starting work the individual should be asked to bring the correct documentation to confirm their eligibility to work in the UK. This should be checked, copied and retained by the department. Once the successful candidate has been selected the information for the remaining candidates should be destroyed via confidential waste.

For further information on the documentation required please contact the International Office.

What are the implications for Tier 4 students (if any)?

There will be no changes to any of the processes for Tier 4 students until the new Extended Workforce system is in place. The system will be rolled out using a phased approach. The implementation team will engage with hiring managers and Tier 4 students to ensure that all parties clearly understand their responsibilities.

Does the process for carrying out right to work checks remain unchanged?

We are looking to implement an automated online, centralised right to work check system. Until these arrangements are in place no changes will be made to the current processes.

Part 6 – System

When will the new system be live?

We will be implementing the system from September 2020 on a cohort by cohort basis and will be in touch with hiring managers about any planned changes ahead of implementation.

Will the new system automatically issue contracts?

Yes, as the individuals are engaged a contract will automatically be issued alongside specific terms and conditions for each assignment.

Glossary of Terms

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| Teaching Assistant | Non-students who are undertaking teaching at the levels set out within the policy (Section C2 of Guidance and Policy on Teaching Support) for training and professional development purposes. |
| PG Teaching Assistant | Registered PhD students who are undertaking teaching at the levels set out within the Teaching Support policy for training and professional development purposes. |
| Demonstrator | Demonstrators who are assisting with the delivery of lectures/labs but are not undertaking teaching. |
| Guest Lecturer | Individuals who deliver non-core curriculum sessions, e.g. talk or session conducted by a subject specialist, which adds value but is not in itself part of the core curriculum, e.g. keynote address. Typically, the Guest Lecturer would have no one to one interaction with students, would not set assignments, and would not undertake any marking. They are not part of the organisation. Also, they are engaged no more than 3 instances in an academic year. |
| Worker | A worker is defined as an 'individual who has entered into or works under: (a) a contract of employment, or (b) any other contract, whether express or implied and whether oral or in writing.' Within the University, a true 'worker' should be engaged under a worker contract (which is a variation of a contract OF service), paid an hourly rate for the role(s) they undertake, and there should be no obligation for them to be offered work on an |

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| | ongoing basis or for them to accept work offered to them. |
| Employee | An individual who has entered into or works under a contract OF employment. Within the University they are usually identified as having an employment contract, which is either permanent or a fixed-term contract. They are also required to work agreed hours and they are usually paid a salary but can also receive an hourly rate. |
| NSP | "Non-Staff Payments" payroll; initiated in 2009 to pay non-staff/atypical workers engaged across the University. |
| Self-Employed/Independent Contractor | Individuals who enter into a contract FOR service. Within the University, they are subject to procurement and are paid as a supplier. They are paid a fee and they are responsible for their own tax and national insurance. There should be no obligation for them to be offered work on an ongoing basis or for them to accept work offered to them, and they have the power to substitute themselves for anyone else they see fit. |