

UPS Right to Work Policy

The University Payment System (UPS) is used for paying individuals who have undertaken work for the University and are classed as self-employed (light touch) or are “workers”.

What is the definition of self-employed (light touch) for the purposes of UPS 1?

If an individual is lecturing, teaching or supervising for up to a maximum of **5 sessions a term** and **14 sessions an academic year**, they will be treated as self employed.

A ‘session’ is defined as being when the same subject is being taught to the same group of individuals on the same day.

Under HMRC regulations, those examining higher degrees have no restrictions on the number of sessions they can undertake.

It is not necessary to carry out right to work checks for individuals classified as self-employed.

Please note that students holding a Tier 4 visa cannot be paid through UPS 1

What is the definition of a worker for the purposes of UPS 2?

If an individual is undertaking work in excess of the levels for the self-employed category defined above, they will be treated as workers if they are carrying out short term, irregular work where:

- there is no guarantee that work will be provided in the future;
- the activity they undertake is not critical to core activity;
- there is no obligation on the University to offer them work or for them to accept work which is offered; and
- they either do not work more than 6 hours per week, or they do not work for a period of more than 8 months without a break of 4 or more months (not solely including University vacation periods) if they work over 6 hours a week.

If an individual is classed as a worker they must prove they have the right to work in the UK.

Making payments to students on UPS 3

Students who are being paid a maintenance grant or bursary can be paid through the new payment system using the UPS3 form. These students should not be issued with a workers agreement or any other agreement relating to HR/Payroll. On this basis, **no right to work check is required.**

Right to work in the UK

Full guidance on how to conduct right to work checks for individuals can be found in the Recruitment guidance: <http://www.hr.admin.cam.ac.uk/recruitment/stage-4b-pre-employment-checks/right-work>

The following table outlines the most common visas seen by the University, and whether or not they can, in law, be paid as a worker:

Visa Type	Can they be a worker?
Tier 1 (Exceptional Talent)	Yes
Tier 2 (General)	Yes. Tier 2 (General) allows supplementary employment up to 20 hours per week, in the same profession, outside of contracted working hours. Please contact the Compliance Team for further guidance.
Tier 4	Yes. However , you must follow the further guidance in the Tier 4 working restrictions section below. They cannot be self-employed.
Points-Based Dependent visa	Yes
Tier 5 (GAE)	Yes. Tier 5 allows supplementary employment up to 20 hours per week, in the same profession, outside of contracted working hours. Please contact the Compliance Team for further guidance.
Tier 5 (Youth Mobility Scheme)	Yes
Indefinite Leave to Remain (ILR)	Yes – but only if the ILR visa/stamp is inside a valid passport or the individual holds a separate Biometric Residence Permit (BRP). If an expired passport is presented, please contact the Compliance Team for further guidance.
EEA Family Permit	No. Please contact the Compliance Team for further guidance.
EEA Residence Card	Yes
UK Ancestry Visa	Yes
Visitor (Standard) visa (From 24 April 2015, this visa category replaces the pre-existing academic and business visitor visa categories)	Yes. However, can only be paid 'reasonable expenses'. Such visitors will be classed as 'unpaid'. Please see the Visitor Right to Work policy to confirm in what circumstances a right to work check will be required: http://www.hr.admin.cam.ac.uk/policies-procedures/visitor-right-work-policy
Permitted Paid Engagements	Yes (although may be more appropriate to pay under UPS 1)
Croatian Nationals	Please contact the Compliance Team for guidance.

Tier 4 working restrictions

Please note: Under the Immigration Rules, students who hold a Tier 4 visa are legally prohibited from being self-employed, and therefore under no circumstances should be paid via UPS 1.

When engaging a Tier 4 visa holder to conduct work for which they are paid via UPS, departments/institutions are now required to complete a [Tier 4 Student UPS Right to Work Checklist \(HR35A\)](#). The HR35A acts as a guide for departments/institutions to help determine the maximum number of hours the student is permitted to work.

This new process has been introduced because:

- Employers now have a legal duty to obtain and retain the details of the student's academic term and vacation dates before Tier 4 visa holders undertake any work. The HR35A and accompanying working conditions letter provides a framework for collecting these details.
- Employers are required to ensure that Tier 4 students abide by the work restrictions placed upon them. The restrictions can vary according to the type of study being undertaken, the stage that an individual's studies have reached and whether it is term-time or not. The HR35A helps to ensure that the University has a clear record (and, where required, evidence) of these details and, therefore, the maximum number of hours (if any) that the individual is permitted to undertake.

The HR35A must be completed at the same time that the right to work check is undertaken, and the individual must provide appropriate evidence of their studies, and (for non-University of Cambridge students) copies of their academic term and vacation dates prior to them starting work.

Depending in the status of the student, as confirmed by the evidence they provide, the student must then be issued with the appropriate Tier 4 working restrictions letter with a copy also placed on the local personal file. Electronic versions of these letters can be found on the UPS webpages. They do not require alteration.

Please note – departments/institutions are responsible for ensuring that they:

- Have the required evidence of an individual's course of study, the stage that they have reached in their studies and their term dates.
- Engage Tier 4 visa holders to undertake work only where it complies with the hours that they are legally permitted to undertake.