

## ENGAGING CASUAL WORKERS

### GUIDANCE FOR MANAGERS

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#### **1.0 Introduction**

There are occasions when departments need to respond quickly to temporary changes to service demands and, to do so, they may engage casual workers. Casual workers are normally used to meet these demands where the work can be performed on an “as and when” basis, for a maximum period of up to 12 weeks. Their engagement with the College is distinct from employees as they are not required to be available for work, and are free to turn down work if offered.

Where a casual worker’s temporary engagement exceeds a continuous period of 12 weeks (whether this be their initial engagement, upon extension or following previous casual work carried out within another department/division) they should be engaged on the most appropriate contract of employment, based on hours, working pattern and duration of employment. Please contact the HR Staff Hub if you require assistance with identifying the most appropriate type of contract.

#### **1.1 Contractual Options**

The table below sets out the range of contracts individuals may be appointed to within College:

<b>Length of engagement</b>	<b>Type of contract</b>	<b>Payment method</b>
Less than 12 weeks	Agency agreement	Accounts Payable
For a maximum of 12 weeks	Casual letter of understanding	Monthly payroll (via Pay 8B)

To cover a specific absence; <u>and</u> normally for approx. 1 year	Temporary contract	Monthly payroll
(N.B <i>maternity cover contracts may exceed 1 year</i> )		
For a specific purpose, <u>and</u> normally less than 4 years	Fixed-term contract	Monthly payroll
Indefinite period	Open-ended contract	Monthly payroll
Set pattern i.e. term-time only; <u>or</u> specific number of hours	Annualised hours contract	Monthly payroll
Fully retired, <u>and</u> College wishes to retain research collaboration with individual	Senior Research Investigator (SRI) contract	Monthly payroll

Further guidance can be obtained from the [Engaging Agency Workers, Annualised, Fixed Term Workers](#) and [Senior Research Investigator](#) (SRI) guidance.

Temporary engagements in excess of six months **must** be advertised internally. If there is a wish to advertise an administrative and support post which is funded or part funded by general College funds externally, a request to recruit and advertise must be made, as set out on the guidance note available from <http://www.imperial.ac.uk/human-resources/procedures/recruiting-staff/contract/>. While the request is under consideration, the existing agency temporary or casual worker's engagement may be extended. If this does not happen, the engagement must be terminated at six months and no re-engagement or new hire of the temporary/casual worker will be permissible in such circumstances.

If it is probable that the requirement for a temporary worker will extend beyond six months, managers should consider taking early steps for the post to be advertised internally, rather than waiting until the end of the six month period.

## 2.0 Procedure

Before engaging and paying a casual worker the following procedure must be followed:

- (i) Issue a [Letter of understanding](#) or other appropriate contractual documentation (please refer to section 3 below). This documentation should be retained on departmental files for up to six years (the Payroll Office do not require a copy). The letter of understanding should state the [basic hourly pay rate and the holiday pay rate](#), which must be no lower than the College's minimum casual workers' rate of pay, or the bottom point of the substantive post's salary scale where a vacancy is being covered by a casual worker.
- (ii) Request the casual worker completes a Casual Worker Joining Form (Pay8A) (authorised by the relevant line manager). in full a College email account)

(iii) The Casual Worker Joining form must be completed when the worker is initially hired and submitted to the Payroll Office within one week of taking up engagement. On an annual basis thereafter, if the relationship is prolonged, the form must be reviewed to ensure details remain accurate, refreshed and resubmitted.

#### **Right to Work in the UK**

In all instances the Joining form requires supporting documentary evidence of the person's right to work in the UK – see **4.0 Right to work in the UK** and **5.0 Student working hours**. Original signed and dated photocopies of the right to work documents must be retained on departmental files for inspection by the UK Visas & Immigration (UKVI) should they wish to check these. A **scanned copy** should be submitted with the Joining form.

(iv) Submit separate Casual Worker Payment Instruction Forms (Pay8B) on a regular monthly basis, to reach the Payroll office by the [published deadlines](#). The forms should not be stockpiled and submitted at the end of the work. The Payroll office do not accept hard copy forms.

#### **Holiday Pay**

Casual workers are entitled to receive paid annual leave. Section C of the Payment Instruction Form (Pay 8B) makes this clear. To avoid the complexities of calculating accrued entitlement to paid leave, please simply enter the [basic hourly pay rate](#) and the payroll office will automatically add 12.07% to this figure to provide for paid holiday. Alternatively, if submitting payments in another agreed format this must state both the basic hourly pay rate and the holiday pay rate separately.

Payroll Office will accept both the Joining and Payment forms and relevant information either electronically or by hard copy. Instructions on how to [submit payments](#) to the Payroll Office are available to view as an FAQ.

### **2.1 College Pension Scheme Auto-enrolment**

As required by the Government, the Pensions Office will, after a three month postponement period, automatically enrol casual workers meeting the following criteria into a workplace pension scheme, if they are not already in such a scheme:

- the casual worker is aged between 22 years and under State Pension age
- works or usually works in the UK
- will meet the earnings threshold which triggers automatic enrolment in the month

Casual workers have the right to join the College pension scheme if they wish.

### **3.0 Letter of Understanding or other contractual documentation**

Appropriate written contractual documentation must be put in place to protect the College and the worker. A model Letter of Understanding is available for this purpose.

For simple isolated pieces of work (e.g. guest lectures), where payment is made in a single month, a simple exchange of letters or emails will suffice, provided this makes clear what is required of each party and, in particular, the fee and any associated expenses.

In order to ensure that casual workers are given the appropriate contract for the work undertaken, and that the casual worker remains casual and does not unwittingly acquire employment rights, the following principles must be adhered to:

The casual worker:

- Must not be subject to College policies and procedures except the Health & Safety and Equal Opportunities policies.
- Must not receive any College benefits.
- Must not be subject to repercussions should they decline an offer to work e.g. they are not penalised in any way i.e. non-selection another time.
- Is entitled to work for other organisations external to the College.

Line managers should:

- Ensure that casual workers are engaged on a short term only basis e.g. with a limit of 12 weeks maximum to avoid an 'employment relationship' forming. Before engaging a casual worker, please check their length of engagement during the year with the Pay Office.
- Offer work on a rotating basis from as wide a pool of casuals that are known/available and not repeatedly approach the same worker
- Try to avoid clear patterns of work developing i.e. regular days/hours.
- Ensure there is no obligation to offer work to any casual in particular.
- Try to avoid the casual worker being integrated into the department/division i.e. entitlement to College benefits.
- Ensure assignments are short and intermittent.

#### **4.0 Right to work in the UK**

Under the Immigration, Asylum and Nationality Act 2006, it is a criminal offence for an employer to engage individuals whose immigration status prevents them from working in this country. This means that when recruiting a casual worker it is essential that recruiters undertake document checks before the individual commences work in order to ensure that they have the right to work in the UK.

As outlined on the [Demonstrating Your Right to Work](#) web page, in order that the College complies with the law, please ensure that all prospective casual workers

provide an original document or combination of documents from:  List A (documents which confirm a permanent right to work); or

- List B Group 1 (documents where time-limited permission lasts until the expiry date of leave); or
- List B Group 2 (documents where time-limited permission lasts for 6 months); and
- Where the individual is a **student** with time limited permission undertaking work, they must provide the additional documents specified under List B confirming their academic term and vacation dates on an annual basis, using the [Tier 4 student - Confirmation of Term Dates template](#). This requirement is in place in order to ensure that the College has on record details of when the student is able to work part-time or full-time - see **5.0 Student working hours**.
- Where the individual is a **Croatian** national, they must have a work authorisation document unless exempt

This documentary evidence is required even in respect of UK citizens.

Remember you are required to photocopy an original document to ensure compliance with the law.

If your prospective casual worker provides you with a document from List B or is a Croatian national, please contact the HR Staff Hub in order to confirm that the individual has provided satisfactory evidence of eligibility to work in the UK.

For individuals with a temporary right to work a follow up check is required within a specified time period, normally when the individual's existing permission expires.

**received then the individual will not be able to continue working.**

#### **FAILURE TO CARRY OUT CHECKS MAY RESULT IN A CIVIL PENALTY & RECRUITERS ARE PERSONALLY LIABLE.**

Please refer to the [Right To Work In The UK - Guidance For Managers](#) for full details.

### **5.0 Student working hours**

Specific rules apply to student working hours. The College recommends that students work no more than 10-15 hours per week during term time. In addition, some sponsors do not permit students to take up work outside their studies whilst others specify a limit.

Under the terms of their visa, Tier 4 students studying in a Higher Education Institution (HEI), at degree level or above are permitted to work up to a maximum of 20 hours per week during term time and full time (35 hours per week) during vacation periods and the time between the end of their course and the end of their student visa. Students studying below degree level in a Higher Education Institutions are permitted to work up to a maximum of 10 hours per week. Students studying at publicly-funded Further Education Colleges and private providers are not permitted to work.

A working week is defined as a seven day period beginning on a Monday and ending on a Sunday.

College term dates differ for undergraduate, postgraduate taught and postgraduate research students and so recruiting departments must be aware of the specific term dates and visa requirements for each student worker.

**Undergraduate students on a degree course with standard College term and vacation dates** - the 20 hour per week work limit applies during the [standard College term dates](#). Full time work (35 hours per week) is permitted during vacation periods and from the end of their last term at the College until the time their student visa expires.

**Undergraduate students on a degree course with non-standard College term and vacation dates (i.e. MBBS) and Postgraduate taught (masters) students** - the 20 hour per week work limit applies. Full time work (35 hours per week) is permitted during the [official College Christmas and Easter closure times](#) and after the official course end date (normally the last four/six months of their student visa).

**Research (PhD) students** - the 20 hour work limit applies as they are considered to be term-time throughout their programme. PhD students are permitted to work full time (35 hours per week) after they have submitted their final thesis and completed all the academic requirements of their course (i.e. including final corrections).

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 of all allocated hours. It is also good practice to 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. This includes work at the College or for other employers.

Student working hours will be monitored and any breach reported to the UKVI. This is considered a serious immigration offence and failure to comply may result in curtailment of the Tier 4 student's visa and the College's Tier 4, 2 and 5 sponsorship ratings being downgraded or licences withdrawn, fines and, potentially, criminal prosecution.

For queries regarding Tier 4 student working please contact the [International Student Support](#) team or phone +44 (0) 20 7594 8040.

## 6.0 Discrimination

Casual workers are protected against unlawful discrimination. They are entitled to bring equal pay claims.