



University of  
St Andrews

## Right to work checks

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<b>Purpose</b>	Provides information and guidance on how to conduct a right to work check and prevent illegal working and to ensure the University is compliant with immigration rules.

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1.5	Extension of temporary adjusted RTW checks during the Coronavirus (COVID-19) pandemic	Published	Cameron Little HR	31/07/2021

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## 1. Statement

- 1.1 The University is legally required under the provisions of the Immigration, Asylum and Nationality Act 2006 to verify, prior to the commencement of employment, that any individual undertaking work for the University, regardless of duration and contractual status, is eligible to work in the UK. A right to work check is a Home Office requirement to establish that each individual working at the University has the right to work in the UK before they start their employment.
- 1.2 Failure to adhere to this requirement may lead to the University losing its sponsorship licence to employ migrant workers and a civil penalty of up to £20,000 per illegal worker can be imposed.
- 1.3 If the University conducts a right to work check, as set out in this guide, then we will retain a statutory excuse against liability for a civil penalty in the event that we have employed someone, who is prevented from carrying out the work in question, by reason of their immigration status. This means that if the Home Office find that the University has employed someone who does not have the right to do the work in question, but we have correctly conducted right to work checks as required, there will be no civil penalty for that illegal worker.

## 2. Scope

- 2.1 The requirement to verify an individual's right to work applies to all employees regardless of nationality and immigration status.
- 2.2 It is essential that a Right to Work (RTW) check is completed **before** an individual commences work. A check made after work has commenced will not provide a statutory excuse (as detailed in 1.3) against sanction from the Home Office if the individual is later found to have been working illegally.

## 3. How to conduct a RTW check?

- 3.1 By following the process outlined below, the risks of employing a person without the legal right to work in the UK are minimised.
- 3.2 There are two types of RTW checks:
  - [a manual \(in-person\) document-based check](#)
  - [an online check](#)

*Conducting either a manual (in-person) document-based check or the online check, as set out in this guidance, will provide the University with a statutory excuse as per paragraph 1.3.*

- 3.3 It will not be possible to conduct an online RTW check in all circumstances, as not all individuals will have an immigration status that can be checked online. In circumstances in which an online check is not possible, then a manual (in-person) check must be conducted.
- 3.4 The University cannot mandate how an individual proves their right to work i.e. we cannot state we will only use the online service, rather we must recognise that the verification route will vary depending on individual circumstance.

3.5 Temporary adjusted RTW checks during the Coronavirus (COVID-19) pandemic are detailed in [section 6](#).

#### 4. Conducting a manual (in-person) document-based RTW check

4.1 There are three steps to conducting a manual (in-person) document-based RTW check. You **must** complete all three steps, before employment commences, to ensure the RTW is valid.

##### 4.1.2 Step 1: Obtain

- You must obtain the original document from either List A or List B of acceptable documents ([Appendix 1](#)).

##### 4.1.3 Step 2: Check

- You must check that the documents are genuine and that the person presenting them is the employee, the rightful holder and allowed to do the type of work you are offering. You must check that:
  - Photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation.
  - Expiry dates for permission to live and work in the UK have not passed.
  - Any immigration stamps, endorsements or work restrictions that permit the person to conduct the type of work being undertaken at the University.
  - The documents are genuine, have not been tampered with and belong to the holder.
  - The reasons for any different names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll). Supporting documents should also be photocopied and retained.
  - For **students** who have limited permission to work during term-times, they must also provide details of their academic terms and vacation times covering the duration of their period of study in the UK for which they will be employed. Please see section 8 for employing students.

##### 4.1.4 Step 3: Copy & Retain

- You must make a **clear copy of each document**, in a format which cannot later be altered (such as PDF) and retain the copy securely either electronically or in hardcopy.
- You must copy and retain the following:
  1. Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question.
  2. All other documents: the document in full, including both sides of a Biometric Residence Permit, Application Registration Card and a Residence Card (biometric format).
- You must also make a note of the date on which you conducted the check and must include the following statement on each document for which a copy has been taken:

***I certify that this is a true likeness.***

***Documents verified by: [name]***

***The date on which this right to work check was made: [insert date]***

## **5. Conducting an online right to work check**

5.1 An online right to work check will provide you with a statutory excuse against a civil penalty in the event of illegal working involving the subject of the check.

5.2 You can do an online check by using the [online service](#), entitled 'View a job applicant's right to work details'.

5.3 Currently, the online service supports checks in respect of those who hold:

- a biometric residence permit;
- a biometric residence card;
- status issued under the EU Settlement Scheme (these individuals are only able to demonstrate their right to work using their EU passport or ID card until 30 June 2021);
- status issued under the points-based immigration system;
- British National Overseas (BNO) visa; or
- Frontier workers permit.

5.4 There are three steps to conducting an online RTW check. You **must** complete all three steps, before employment commences, to ensure the RTW is valid.

### **5.4.1 Step 1: Use the Home Office online service**

- The service works on the basis of the individual first viewing their own Home Office right to work record. They may then share this information with you if they wish, by providing you with a 'share code', which, when entered along with the individual's date of birth and institution name, enables you to access the information.
- The individual may provide the share code to you directly, or they may choose to send this to you via the service. If they choose to send it to you via the service, you will receive an email from [right.to.work.service@notifications.service.gov.uk](mailto:right.to.work.service@notifications.service.gov.uk).
- [Appendix 2](#) explains how a person can retrieve their share code.
- **To check the person's right to work details, you will need to:**
  - access the service 'View a job applicant's right to work details' via GOV.UK - <https://www.gov.uk/view-right-to-work>
  - enter the 'share code' provided to you by the individual, and
  - enter their date of birth
  - enter the institution name (University of St Andrews)
- It is not sufficient to simply view the details provided to the individual on the migrant part of the service and doing so will not provide you with a statutory excuse or comply with RTW rules.

#### 5.4.2 Step 2: Check

- In the presence of the individual (in person or via live video link), you must check that the photograph on the online right to work check, is of the individual presenting themselves for work (i.e. the information provided by the check relates to the individual and they are not an imposter).
- You must only employ the person if the online check confirms they have the right to work and are not subject to a condition preventing them from doing the work in question.
- Check to see if there is an expiry date, in which case, this is their visa expiry date and therefore to continue working beyond this date an updated RTW must be completed.
- If the online right to work check does not confirm that the individual has the right to work in the UK and do the work in question, you must not employ them in any capacity.

#### 5.4.3 Step 3: Retain evidence of the online check

- You must retain evidence of the online right to work check. For online checks, this should be the 'profile' page confirming the individual's right to work.
- This is the page that includes the individual's photo, the organisation name, reference and date of check is pre-populated for audit purposes
- You will have the option of printing the profile or saving it as a PDF file which should be provided as part of their RTW check to Human Resources.
- [Appendix 3](#) illustrated the images from the online service.

### 6. Temporary adjusted RTW checks during the Coronavirus (COVID-19) pandemic

6.1 To support social distancing measures during the global pandemic, temporary changes have been made to the way in which employers carried out right to work checks between 30 March 2020 and 5 April 2022 (inclusive).

6.2 Employers will maintain a defence against a civil penalty if the check you have undertaken during this period was done in the prescribed manner or as set out in the COVID-19 adjusted checks guidance.

#### 6.3 COVID-19 Adjusted Guidance:

6.3.1 If you are carrying out a temporary adjusted check due to remote working as a result of the Coronavirus (COVID-19) pandemic, then you must:

- ask the person to submit a scanned copy or a photo of their original documents via email
- arrange a video call with the employee
- ask them to hold up the original documents to the camera
- check them against the digital copy of the documents already provided
- you must also make a note of the date on which you conducted the check and must include the following statement on each document for which a copy has been taken:

***I certify that this is a true likeness.***

***Documents verified by: [name]***

***Adjusted check undertaken on [insert date] due to COVID-19”***

- There is no requirement to take a screen shot of the video call, but you must conduct the video call to check the person providing the right to work documents to you is the individual you are offering work to and they have the right to work in the UK.

6.4 If the employee has a current Biometric Residence Permit or Biometric Residence Card or has been granted status under the EU Settlement Scheme or the points based immigration system, you can use the Home Office online service while doing a video call as per [section 5](#). **The employee must give you permission to view their details.**

## **6.5 End of COVID-19 Adjusted Checks**

6.5.1 The COVID-19 adjusted checks details in 6.3 will end on 5 April 2022. From 6 April 2022, all RTW check must be carried out either face to face with physical document checks or using the Home Office online service as set out in sections 3 to 5.

## **6.6 Retrospective checks**

6.6.1 You do not need carry out retrospective checks on those who had a COVID-19 adjusted check between 30 March 2020 and 5 April 2022 (inclusive). The University will maintain a statutory defence against a civil penalty if a check undertaken during this period of completed in the prescribed manner or as set out in the COVID-19 adjusted checks guidance.

## **7. Authorised documentation for RTW Checks**

- 7.1 Only the documents listed by the UKVI ([Appendix 1](#)) are permitted to be used by an individual undertaking work for the University to demonstrate their right to work in the UK. If an individual does not have any of the prescribed documentation or proof of their right to work in the UK, then they must not commence any work for the University.
- 7.2 From 1 July 2021, EEA citizens and their family members require immigration status in the UK. They can no longer rely on an EEA passport or national identity card, which only confirms their nationality, to prove their right to work. They will be required to provide evidence of lawful immigration status in the UK, in the same way as other foreign nationals.
- 7.3 The [Home Office Right to Work checklist](#), explains the types of documents that are acceptable for checking an employee’s right to work and how long the check is valid for. This can be used to ensure compliant RTW checks are conducted.
- 7.4 **Home Office Employer Checking Service:** If there is a requirement for verification by the Home Office Employer Checking Service please use the information at <https://www.gov.uk/employee-immigration-employment-status> of contact the [HR Immigration Team](#) for advice.

## **8. Students**

8.1 Not all students are entitled to work while they are in the UK. Where a student does have a limited right to work, the working hours that they may undertake will depend on **when** they



applied for permission to come to or stay in the UK, **the type of course** they are studying and the **type of educational provider** with whom they are studying.

- 8.2 Certain categories of employment are however, not permitted including being self-employed or engage in business activities; working as an entertainer or as a professional sportsperson, including a sports coach; or fulfilling a full-time permanent vacancy other than a Student Union Sabbatical Officer.
- 8.3 A migrant student who is permitted to work will have a clear endorsement in their passport or on their Biometric Residence Permit which states they are permitted to work and the number of hours of work permitted during the term time.
- 8.4 Further details on the number of hours students can work can be found at the [UKCISA website](#). If you are in doubt, please contact [HR Immigration Team](#) for advice.
- 8.5 **If you are employing a student**, you must adhere to the restricted term-time hours as noted on their visa. You must seek evidence to confirm the student's term and vacation dates as outlined below:
- A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study; or
  - A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
  - A letter addressed to you as the employer from the education institution confirming term time dates for the student's course.
- 8.6 **Student visitors are not permitted to work** or conduct any business activities at the University either in the term time or the vacation or to do a work placement.

## 9. Exemptions

- 9.1 The requirement to verify an individual's right to work does not apply to the following categories of people:
- Anyone who is registered self-employed under HMRC rules.
  - Any agency staff working at the University through an agreement with an employment agency. The right to work check will be completed by the Agency.

## 10. Overseas employees

- 10.1 Several individuals will undertake work overseas on throughout their employment with the University. There are a host of practical issues that require consideration prior agreeing to working overseas including:
- the type of work being undertaken
  - where the work will be based
  - the employee's normal country of residence
  - the length of any such engagement
- 10.2 Each individual must have the right to work in the country that they are conducting work in. Overseas working can have immigration, employment law, tax and social security implications (for both the individual and the University). Please ensure all overseas



working is discussed and approved with the HR Overseas Team before any work is undertaken (overseas@st-andrews.ac.uk).

## 11. Queries

- 11.1 If you have any questions, or require further information, please contact Human Resources on extension 2497 or email [hirmigration@st-andrews.ac.uk](mailto:hirmigration@st-andrews.ac.uk).

## 12. Version Control

<b>Version number</b>	<b>Purpose / changes</b>	<b>Document status</b>	<b>Author of changes, role and school / unit</b>	<b>Date</b>
1.0	Migration of document to the Governance Zone.	Published	Cameron Little HR	26/06/2019
1.1	Changes to Appendix A	Published	Cameron Little HR	18/02/2020
1.2	Inclusion of Right to Work Verification Template (Appendix B)	Published	Cameron Little HR	18/02/2020
1.3	Change to review date only	Published	Cameron Little HR	27/01/2021
1.4	Legislative changes which came into force at the end of the Brexit transition period.	Published	Cameron Little HR	01/07/2021
1.5	Extension of temporary adjusted RTW checks during the Coronavirus (COVID-19) pandemic	Published	Cameron Little HR	31/07/2021

## Appendix 1: Lists of acceptable documents for manual (in-person) right to work checks

(from 1 July 2021)

### List A

#### Acceptable documents to establish a continuous statutory excuse

1. A passport (current or expired) showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or passport card (current or expired) showing that the holder is a national of the Republic of Ireland.
3. A current document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom indefinitely.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
5. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK.
6. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
8. A birth or adoption certificate issued in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

## List B

### Group 1 – documents where a time-limited statutory excuse lasts until the expiry date of leave

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom for a time limited period and to do the type of work in question.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
5. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has made an application for leave to enter or remain under Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008, on or before 30 June 2021.
6. A frontier worker permit issued under regulation 8 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.
7. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

## List B

### Group 2 – documents where a time-limited statutory excuse lasts for six months

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey showing that the holder has made an application for leave to enter or remain under Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.

3. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
4. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

## Appendix 2: Obtaining a share code

This section provides guidance on how a person can obtain their share code to provide to the University in order that an online right to work check can be conducted

To log into your immigration profile at <https://www.gov.uk/view-prove-immigration-status>, you will need to:

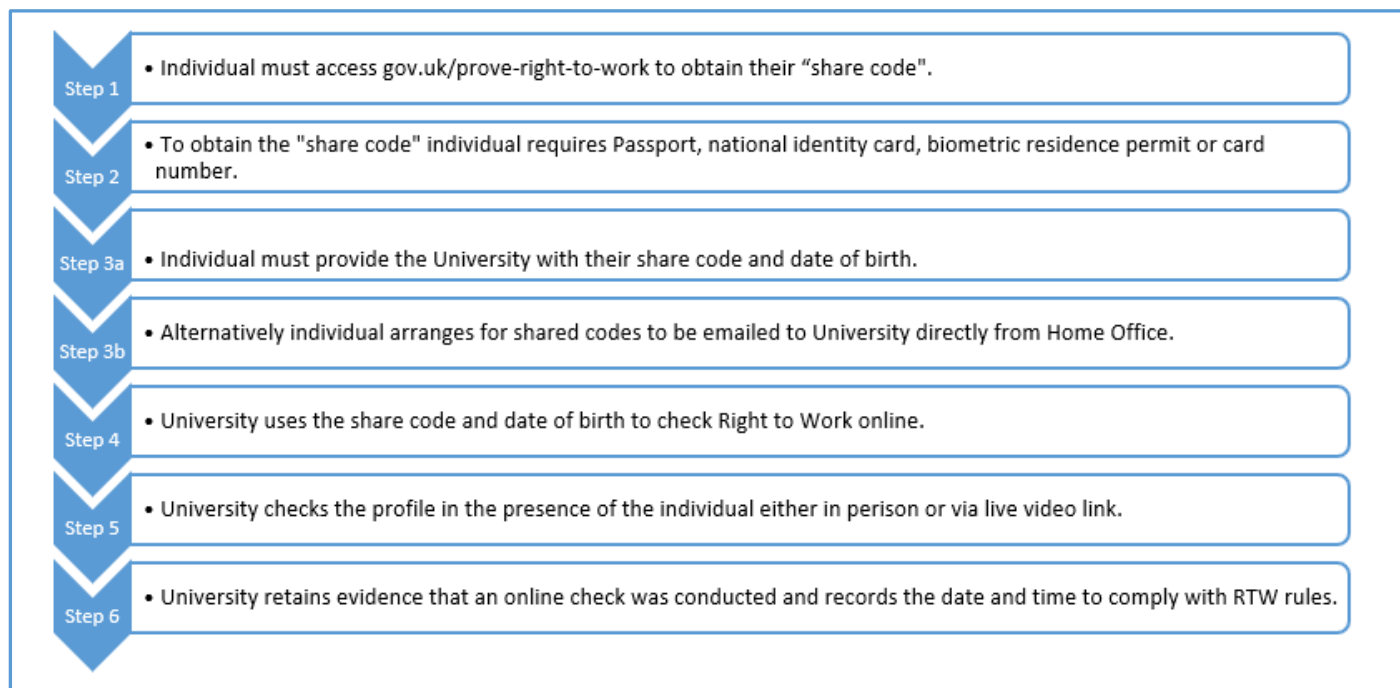
1. chose the identity document you used in your application, for example:
  - Biometric residence card (BRC)
  - National identity card
  - Passport
2. enter your passport/ID card/ BRC number
3. enter your date of birth
4. confirmation

A 'one-time' six-digit access code will be sent to your phone or email address, depending on what you have specified. This code is valid for a limited time. Once you enter it, you will be logged into your online profile and be able to view your Visa, Pre-Settled or Settled Status.

Once you have logged into your online profile, you can also navigate to "Prove your status" and receive a 'share code' which can be provided to the University along with your date of birth in order that an online right to work check can be taken.

Your shared code is 9 digits long and is valid for 30 days, after this time a new code will need to be obtained.

## Online right to work check process



## Appendix 3: Proof of right work obtained from GOV.UK

The screenshot shows the GOV.UK interface for viewing a job applicant's right to work. The page title is "View a job applicant's right to work". A beta notice at the top states: "BETA This is a new service - your feedback will help us to improve it." The main section is titled "Right to work" and features the name "Erika Mustermann". Below the name, it states "They can work in the UK." and "They can work in any job. There is no limit on how long they can stay in the UK." A photo of the individual is shown with a "Rotate" button. Below the photo, there is a section titled "If you employ this person" with instructions on how to avoid a penalty, including checking the person's appearance and keeping a secure copy of the check. A table titled "Details of check" provides the following information:

Company name	Date of check	Reference number
Acme Ltd	8 January 2018	WE-NDH5D0-63

At the bottom, there are links for "Print page", "Download PDF", and "Finish and leave service". A footer link says "Need help using this service? Get help".

This image is from the online service and shows the individual has a continuous right to work.

The screenshot shows the GOV.UK interface for viewing a job applicant's right to work. The page title is "View a job applicant's right to work". A beta notice at the top states: "BETA This is a new service - your feedback will help us to improve it." The main section is titled "Right to work" and features the name "Erika Mustermann". Below the name, it states "They have permission to work in the UK from 28 March 2021. They can work in the UK until 28 April 2023." and "They can work in any job." A photo of the individual is shown with a "Rotate" button. Below the photo, there is a section titled "If you employ this person" with instructions on how to avoid a penalty, including checking the person's appearance, keeping a secure copy of the check, and re-checking when the permission expires. A table titled "Details of check" provides the following information:

Company name	Date of check	Reference number
Acme Ltd	8 January 2018	WE-6RX7MJJG-12

At the bottom, there are links for "Print page", "Download PDF", and "Finish and leave service". A footer link says "Need help using this service? Get help".

This image is from the online service and shows the individual has a time-limited right to work and confirms the date that their right to work expires on 28 April 2023.

PDF version of online check which is sufficient for RTW check and should be provided with contractual documents to Human Resources.



## ERIKA MUSTERMANN

They can work in the UK.

### Details

They can work in any job. There is no limit on how long they can stay in the UK.

### Legal basis of status

This leave is issued in accordance with the EU exit separation agreements.

For EU citizens, and the family members of EU citizens or of UK citizens, this is the Withdrawal Agreement. For EEA European Free Trade Association (EFTA) citizens, and the family members of EEA EFTA citizens, this is the EEA EFTA Separation Agreement. For Swiss citizens, and the family members of Swiss citizens, this is the Swiss Citizens' Rights Agreement.

### If you employ this person

To avoid a [penalty](#), you must:

- check this looks like the person you meet face to face
- keep a secure copy of this online check (either electronically or in hard copy), for the duration of the employment and for 2 years after

You don't need to do the check again.

Read the [employers' code of practice](#) to find out more about right to work checks.

### Details of check

#### Company name

University of St Andrews

#### Date of check

10 June 2021

#### Reference number

WE-EGN9RX2-KG