

## **Policy on Student Immigration Compliance**

Effective from 1.09.19

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### **1. Purpose**

The purpose of this policy is to ensure that Newcastle University, INTO Newcastle and Newcastle University London remain compliant with all aspects of the UKVI Tier 4 Guidance for Sponsors. In doing so, it aims to enable the recruitment and retention of International students with minimal risk to the University's standing with the Home Office and any potential reputational damage.

### **2. What is covered by the policy?**

The key areas covered in the policy are:

- The sponsorship of Tier 4 students
- Short Term Study students
- Students with non-student immigration permission
- Academic Technology Approval Scheme
- Right to Study checks and record management
- Data Protection
- Complaints

### **3. Who does the policy apply to?**

The general principles of the policy apply to all students who require immigration permission to enter/remain in the UK. Enhanced requirements apply to those students to whom Newcastle University has offered sponsorship under Tier 4. Adherence to the policy will ensure staff are compliant with the Home Office sponsor guidance.

### **4. Roles and responsibilities**

The Authorising Officer for Tier 4 has responsibility for ensuring that the University is compliant with Home Office student immigration policies. The policy will be updated, as required, by the Visa Support Manager and presented for consideration at Visa and Immigration Policy Committee. Teams involved in the admission, registration and monitoring of students subject to immigration permission, will implement the policy's provision.

### **5. Policy**

The guiding principles and specific duties for Tier 4 sponsors are detailed in '[Tier 4 of the Points Based System; Guidance for Sponsors](#)' documents 1-4. The Home Office revise these documents on a regular basis to reflect changes to immigration rules and procedures for University sponsors.

Along with specific duties pertaining to the sponsorship of Tier 4 students, the guidance confers over-arching responsibilities to Tier 4 sponsors, which include:

- taking responsibility for all its Tier 4 students while it is sponsoring them, including by doing all it can to ensure that prospective students are genuine students who can comply with the Immigration Rules, and that students enrol, comply with their conditions of leave, and see their course through to completion;
- complying with all aspects of the Immigration Rules and sponsor guidance, and support immigration control, including by taking steps to ensure that every student at their institution has permission from the Home Office to study in the UK throughout the whole period of their study;

- co-operating with the Home Office by allowing its staff immediate access to any of its sites on request (whether or not visits are prearranged) and complying with requests for information, including in connection with the prevention or detection of crime, the administration of illegal working civil penalties and/or the apprehension or prosecution of immigration offenders

## 5.1 Tier 4 Sponsorship

### i. Admission

International students who meet the conditions for their programme may require immigration permission to study at Newcastle University for the duration of the programme. Where a student does not have appropriate immigration permission to study, Newcastle University Admissions staff may issue a Confirmation of Acceptance for Studies (CAS) in support of Tier 4 sponsorship.

Sponsorship under Tier 4 for applicants are subject to verifiable evidence of financial sponsorship or payment of a deposit, as well as evidence of English language ability which meets the criteria laid out in the University's [English Language Policy](#).

In cases where students have a history of previous study in the UK, consent to carry out an immigration history check may be requested before Tier 4 sponsorship is confirmed.

A CAS may be issued to an applicant where:

- the applicant has fully met the conditions for their programme, and;
- the applicant is seeking to study a programme which is deemed to represent 'academic progression' from any previous programme studied under Tier 4, and;
- the applicant's programme would remain wholly within Tier 4 time limits for study (unless any published exceptions apply), and;
- the applicant has provided a complete application record, including all relevant immigration documents and study history.

A CAS may not be issued to an applicant where:

- the applicant already has appropriate immigration permission to remain in the UK for the duration of the programme;
- the applicant has an application for immigration permission to remain in the UK pending during the Admissions process;
- the applicant has an Administrative Review or Appeal against an immigration application decision pending during the Admissions process;
- the applicant is known to have been in breach of their current leave to remain conditions;
- the applicant has been refused a Tier 4 visa on points unless the applicant is able to provide documentary evidence that they would be in a position to make a further Tier 4 application successfully;
- the applicant has been refused on general grounds, such as credibility, under any Tier 4 sponsorship, unless the grounds for refusal have been addressed through the appropriate Home Office review process;
- the applicant has been given notice that they might be subject to an entry clearance ban;
- the applicant has already been issued with 3 CAS in support of a Tier 4 application for the same programme;
- the applicant has completed a programme at the same level on more than one occasion.

Newcastle University may also decline to issue a CAS where circumstances suggest that to do so would be contrary to Home Office sponsor guidance.

### ii. Registered students

In most cases, students will have immigration permission which allows them to complete their programme. In limited circumstances, students may require further leave to remain to complete their programmes or,

where agreed, to transfer to new programmes. Where an academic need to remain in the UK is confirmed, and a student can demonstrate that they can meet Tier 4 requirements, the Visa Support Team may issue a CAS to support a Tier 4 application.

A CAS may be issued to a student who:

- a. has academic approval for extending their programme;
- b. is making satisfactory academic progress on their programme of study;
- c. is demonstrating progression in accordance with published Home Office guidance;
- d. is not more than two years behind their original completion date for the programme;
- e. can provide valid documentary evidence of English language ability at the appropriate CEFR level for the programme in accordance with the University's English language policy, where applicable;
- f. has no outstanding financial duties to the University, whether for tuition or accommodation fees
- g. has paid a deposit against future tuition fees, if fees are appropriate for the visa extension period
- h. has obtained ATAS clearance where appropriate
- i. **is not in breach of the rules of their current student visa**
- j. has not exceeded the number of years studying at degree level in the UK on a student visa, as outlined in the Home Office's Tier 4 Policy Guidance
- k. has thus far maintained appropriate immigration permission for study in the UK
- l. **has not overstayed their most recent visa**, unless the University is provided with documentary evidence that the student has left the UK and is not likely to be subject to bans on future entry clearance.
- m. is not liable for their visa application being refused by the Home Office due to other factors
- n. **the student record is complete, including relevant application documents and passport details.**

The University may decline to issue a CAS or withdraw sponsorship, in the following circumstances:

- Reasonable suspicion that a student is in breach of their visa or deliberately failing to follow advice about their visa position etc;
- The student's main purpose for being in the UK is other than full-time study, or a reasonable suspicion that this is the case (Tier 4 General/ Short-Term Student);
- The student is/has been engaging in terrorism, or a reasonable suspicion that this is the case;
- The student is/has been engaging in criminal activity, or a reasonable suspicion that this is the case;
- In the opinion of the University, the student's circumstances may compromise or pose a risk to University's Sponsor Licence.

### iii. Programme end dates for Tier 4 Sponsorship

#### Taught programmes

The eligible period of Tier 4 Sponsorship for taught programmes is defined as running from the formal programme commencement date until the latest date that the student is expected to attend teaching and/or attend examinations/submit assessment. For taught programmes, students cannot be Tier 4 sponsored after this date even if they are awaiting results.

#### Research programmes

The eligible period of Tier 4 for research programmes is defined as running from the formal programme commencement date until the end of the maximum period of candidature (as detailed in University Regulations).

The University may, with confirmation of an academic need, continue to sponsor research students to remain in the UK until full completion of the programme. Students who remain under Tier 4 sponsorship should continue to observe the conditions of their Tier 4 visa and all obligations in regards to attendance, Right to Study checks and record management.

In the case of postgraduate research students awaiting confirmation of an oral examination or the formal written outcome of the examination, the end date may not always be known by their visa expiry date. In

these circumstances, assuming students meet all other requirements, a CAS for a period of 3 months from the visa expiry date will be issued.

In some instances where a student needs 6 months or less to return to the UK for the purposes of re-sitting an examination, re-taking a module or taking an oral exam, the University may decline to issue a CAS. Instead a supporting letter would be issued which would enable a student to apply to study in the UK with a Short Term Study visa.

#### **iv. Withdrawal of Tier 4 sponsorship**

The University will withdraw sponsorship for applicants who do not fully register on their programme within required timescales. This includes annual re-registration requirements and circumstances in which re-registration is prevented due to academic progression, to non-payment of tuition fees, failure to make a valid Tier 4 application in time to begin a new programme or other relevant circumstances.

The University will withdraw Tier 4 sponsorship for students:

- who successfully complete their programme of study early;
- whose studies are terminated under the University progress, examination or other regulations who, after the completion of Student Disciplinary Procedures or Support to Study procedures, are unable to continue on their studies at the University or given a period of suspension which is in excess of 1 month;
- who undertake a period of 'outside study' outside of the UK for a period of more than 12 months;
- who leave the UK for a period of outside study after 31st July of any academic year (Postgraduate taught students)

The University will normally withdraw Tier 4 sponsorship of students who:

- do not attend, engage and participate as required for their programme of study;
- do not attend events arranged to confirm their attendance on their programme;
- fail to co-operate with the University in the maintenance of accurate records, such as failing to provide and accurate address and contact details or failing to attend 'Right to Study' checks or provide other immigration evidence, as required;
- have remained in the UK having suspended their studies, or who did not maintain their University registration as an external candidate;
- are discovered to be in breach of the terms of their current visa;
- who interrupt their studies for more than 1 month;
- who, according to Tier 4 rules, may have made an invalid Tier 4 application which is likely to result in refusal of the application;
- a period of study or work or work experience/placement outside the University, if attendance monitoring procedures cannot be maintained.

The University will normally withdraw Tier 4 sponsorship of students whose studies are suspended for any period of time, including suspensions arising from:

- medical or personal circumstances;
- programme transfers;
- plans to repeat study after a period of suspension;
- a requirement to complete assessments as an external candidate;
- as an outcome of the Support to Study procedure..

Students who suspend their studies may be able to resume their studies at a later date.

The University will normally withdraw sponsorship if any other issues emerge that suggest that sponsorship is contrary to the University's duties to the Home Office.

Where Tier 4 sponsorship is withdrawn by the University, the student's studies will also be terminated, in accordance with University General Regulation C.33 & 34.

In accordance with General Regulation H.55, a student whose studies are terminated due to breach of a Tier 4 visa condition may submit an Academic Appeal against the decision.

The University will consider all written requests to return to studies and the issuing of a CAS for a new visa. This will be handled in accordance with the above sections for admission or registered students.

## **5.2 Short Term Study**

Students studying at degree level who have an academic need to enter the UK for 6 months or less will be offered, where appropriate, a letter of support for a Short Term Study visa. A Short Term Study visa support letter will be offered to students who need to enter the UK for:

- Medical Electives;
- Distance learning programmes;
- A period of research (including 'occasional' students);
- Examination re-sits or re-taking a module/s;
- Taking a viva.

Students registering at Newcastle University with a Short Term Study visa will be registered for the required period stated on the letter of support.

Students who need to enter the UK for an English Language programme of less than 12 months will be offered a letter of support to apply for an 11 month Short Term Study visa.

## **5.3 Other immigration permission**

Newcastle University permits registration for International students with a range of immigration permissions, subject to the conditions and restrictions of that immigration permission. Full 'Right to Study' checks are carried out at registration.

The University's over-arching responsibilities as a Tier 4 sponsor applies to students engaging in studies with all forms of applicable immigration permission.

Newcastle University cannot accept any liability for any loss experienced as a result of failure to obtain or maintain appropriate immigration permission for a programme of study.

## **5.4 Academic Technology Approval Scheme (ATAS)**

As a Tier 4 sponsor, Newcastle University is required to ensure that International students registered on programmes which require ATAS clearance obtain and maintain ATAS clearance for the duration of the programme. This requirement applies to students who have immigration permission in most time-limited immigration categories.

It is the student's responsibility to obtain fresh ATAS clearance, as and when required. Failure to do so will result in registration at Newcastle University being suspended until fresh ATAS clearance is obtained.

## **5.5 Right to Study checks and record management**

To be fully registered, all students must provide acceptable proof of identity. For International students this includes a 'Right to Study' check, as determined by presentation of relevant immigration documents at the time of registration.

The University will normally prevent any International student studying in the UK from registering, or re-registering, until they present their immigration documents (normally a passport and visa) in person and:

- it is confirmed that they have a valid visa to study the programme at the University, or a pending in-time application for leave to remain in the UK or Administrative Review, and;
- these documents have been checked and copied to University records.

Throughout their programme, students are required to provide the University with updated copies of immigration documents if they renew their passport, or they amend their immigration status or renew their immigration permission.

Students are required to present documentary evidence if they are awaiting the outcome of a leave to remain application, an Administrative Review or Appeal against a Home Office decision

Throughout their registration, students are required to maintain an accurate record of their address and contact details with the University at all times. Students under Tier 4 sponsorship are normally required to reside at an address within 50 miles of Newcastle University for the duration of the programme, except during periods of vacation, outside study, work placement or where exceptional circumstances may require an approved absence .

### 5.6 Data management

The University will collect and retain any such information about its applicants and students as it deems necessary for the purposes of complying with its Sponsor duties. The University will retain this information in accordance with the Sponsor Guidance, the Data Protection Act 1998 and the University's Data Protection Policy from time to time in force. The University will share information with The Home Office to the extent that the University believes is required to comply with its Sponsor duties.

### 5.7 Complaints

Where the University declines to issue a CAS, or withdraws sponsorship, for a student, the student can seek a review via the [Students' Complaints Procedure](#) in the normal way.

The University is obliged to comply with its Tier 4 sponsor duties. As such the University cannot accept any liability for any loss (financial or otherwise) experienced directly or indirectly by any applicant or student as a result of any actions or omissions on the part of the University which the University believes are necessary or desirable to comply with the University's sponsor duties.

## 6. Related regulations, statutes and policies

The University Regulations [www.ncl.ac.uk/regulations/docs/](http://www.ncl.ac.uk/regulations/docs/)

## 7. Procedure to implement the policy

As agreed by the Visa and Immigration Policy Committee.

## 8. Monitoring and reporting on compliance

*What monitoring will be undertaken to determine how effectively the policy is implemented and where any results will be reported?*

What will be monitored?	Frequency	Method	Who by	Reported to
Alignment with current UKVI Policy and procedure	Quarterly	UKVI guidance. Updates from UKVI Premium Service	Visa Support Manager	University Visa and Immigration Policy Committee

## 9. Failure to comply

Potential revocation of Tier 4 licence with significant financial and reputational impact for the University.

<b>Document control information</b>		
<b>Does this replace another policy?</b> Yes / previous version.		
<b>Approval</b>		
<b>Approved by:</b>	<b>University Visa &amp; Immigration Policy Committee</b>	<b>Date: 4 November 2019</b>
<b>Effective from:</b>	<b>1 September 2019</b>	
<b>Review due –</b>	<b>every two years or shorter period:</b>	
<b>Responsibilities</b>		
<b>Executive sponsor:</b>		
<b>Policy owner:</b> (This maybe an officer or Committee)	<b>The Head of the Student Progress Service</b>	
<b>Person(s) responsible for compliance:</b>	<b>The Authorising Officer (Tier 4)</b>	
<b>Consultation</b>		
<b>Version</b>	<b>Body consulted</b>	<b>Date</b>
January 2019 Version of the Policy	University Visa & Immigration Policy Committee	13 May 2019
<b>Equality, Diversity and Inclusion Analysis:</b>		
Does the policy have the potential to impact on people in a different way because of their protected characteristics? No, those subject to Tier 4 requirement will all be treated equally		
If yes or unsure please consult the Diversity Team in HR for guidance		
<b>Initial assessment by:</b>		<b>Date:</b>
<b>Key changes made as a result of Equality, Diversity and Inclusion Analysis</b>		
<b>Document location</b> <i>The Student Progress Service</i>		
<a href="https://www.ncl.ac.uk/students/progress/visa/T4SponsorPolicy/index.htm">https://www.ncl.ac.uk/students/progress/visa/T4SponsorPolicy/index.htm</a>		