# UNIVERSITY OF BIRMINGHAM

# CODE OF PRACTICE ON STUDENT IMMIGRATION

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## 1. Scope

1.1 This Code of Practice applies to international non-European Economic Area (non-EEA) Registered Students, students on Leave of Absence and students with Thesis Awaited status who require immigration permissions to study in the UK (referred to in this Code of Practice as 'students').

1.2 Student attendance requirements and reasonable diligence processes are dealt with under the Code of Practice on Student Attendance and Reasonable Diligence.

## 2. Responsibilities and Duties

2.1 The University is a Tier 4 sponsor under Tier 4 of the Points Based Immigration System. Appendix 1 outlines the University's responsibilities and duties in respect of being a sponsor for students who hold a Tier 4 visa and for students who hold other types of visa. The University will at all times act to ensure compliance with the law and its duties and responsibilities as a Tier 4 sponsor.

2.2 Students are responsible for ensuring that they comply with the requirements set out in University of Birmingham Regulation 5 in respect of immigration permissions' requirements. The University may withdraw its sponsorship of a student and/or withdraw a student from their programme and/or the University where it is determined that the student has failed to comply with those requirements.

## 3. Right to Study Check

3.1 The University is required to ensure that all students have the right to study and that they hold the appropriate visa or immigration permissions. All non-EEA students who require immigration permissions in order to study must attend a "Right to Study" check before beginning their programme of study. Students who do not attend a Right to Study check, who do not hold or cannot provide conclusive proof that they hold current valid immigration permissions will not be permitted to begin or continue their programme of study. Where appropriate, the University may proceed to consider withdrawal of a student's immigration sponsorship and/or registration on a programme of study or with the University.

## 4. Procedure

4.1 Where the University is considering taking action in relation to a student under the provisions of Regulation 5.2.2 the following procedure will apply.

4.2. The student will be notified in writing that there is reasonable suspicion that the student:

4.2.1 has not attended a Right to Study check, or does not hold or cannot evidence that they hold current valid immigration permissions permitting them to enter the UK and is appropriate for their programme and mode of study;

4.2.2 has failed to comply with or provide evidence of compliance with one or more of the conditions or requirements of their immigration permissions;

4.2.3 has failed or is failing to comply with conditions imposed under this Code of Practice

and the student will be invited to submit written representations normally within 10 working days, except that:

(a) in cases when the Home Office has advised the University that the student does not have the right to study and that the University must not allow the student to begin or to continue studying; or
(b) in exceptional circumstances

the University may reduce the time limit for providing written representation; if so, the student will be notified why this was necessary.

4.3 On receipt of the student's representations or, if the student has not provided representations within the specified time limit, whichever is the sooner, the Director of Academic Services will decide the matter as set out below:

4.3.1 Where the University is the Tier 4 sponsor of the student, the Director of Academic Services will decide whether:

(a) the University should continue to sponsor the student; or
(b) the University's continued sponsorship of the student is subject to the student's compliance with specific conditions; or
(c) the University should withdraw its sponsorship of the student.

If the Director of Academic Services has decided withdrawal of the University's sponsorship in accordance with paragraph 4.3.1(c) above, the Director of Academic Services will then decide whether:

(d) the student's Registration should continue;
(e) the student's Registration should continue subject to the student's compliance with specific conditions; or
(f) the student should be withdrawn from the programme and/or the University; or
(g) the student should be withdrawn from the University.

4.3.2 Where the University is not the Tier 4 sponsor of the student, the Director of Academic Services will decide whether:

(a) the student's Registration should continue;
(b) the student's Registration should continue subject to the student's compliance with specific conditions; or
(c) the student should be withdrawn immediately from the programme;
(d) the student should be withdrawn from the University.

4.4 The Director of Academic Services may request further information before making a decision or may defer making a decision.

4.5 The student will be notified in writing of the Director of Academic Services' decision normally within 3 University working days. If the student is under the age of 18 the Director of Academic Services may also inform the student's parent(s) or guardian(s) of the outcome.

4.6 The Director of Academic Services will notify the Head of the student's Principal Academic Unit of the decision. Where the Director of Academic Services decides that the University should withdraw its sponsorship of the student, the University will inform the Home Office of the decision.

## 5. Review

5.1 The student may request that the decision of the Director of Academic Services be reviewed by the Pro-Vice-Chancellor (Education) or his/her nominee under either or both of the following grounds:

5.1.1 That relevant new evidence has come to light which was not available for good reason at the time of the Director of Academic Services' consideration;
5.1.2 That a material procedural irregularity occurred in the application of this Code of Practice.

5.2 The request for review should be made in writing and addressed to The Academic Policy and Standards Team, Registry, to be received not later than 10 working days from the date of the letter notifying the student of the Director Academic Services' decision.

5.3 The Pro-Vice-Chancellor (Education) will receive such further information as is necessary. The decision of the Pro-Vice-Chancellor (Education) will be communicated to the student in writing normally within 10 working days of receipt of the request for review.

5.4 The decision of the Pro-Vice-Chancellor (Education) is final. There will be no further right to review or appeal within the University.

## 6. Future Sponsorship and Registration

The University reserves the right to decide at its sole discretion whether to provide a Confirmation of Acceptance for Studies (CAS), act as immigration sponsor or admit to any programme any student or former student whose sponsorship or Registration has been withdrawn under this Code of Practice. In considering whether to act as a sponsor or make an offer of admission the University may take into account the previous conduct of the student or former student.

Appendix

## Immigration Obligations

The University holds a licence as a Tier 4 Sponsor under the Home Office Points Based System for Immigration and has a number of recording and reporting duties to meet in order to retain the licence.

1. Sponsor Obligations

1.1 Record Keeping

The University has a duty to keep a copy of the student's:

(a) Current passport details (including biometric page), leave stamps/immigration documents including period of leave to remain in the UK. This must show the individual's entitlement to study with a licensed sponsor in the UK;
(b) UK Biometric Residence Permit (if applicable);
(c) Record of absence/attendance details;
(d) Contact details
(e) Academic Technology Approval Scheme (ATAS) approval certificate, where appropriate evidence used by the University as part of the process to make an offer of a place to study

1.2 Reporting - the University must report

The University must report on all Tier 4 students that it has sponsored even if they are:

(a) on a course (including a pre-sessional course) at a partner institution or a branch named on their CAS; or
(b) doing a work placement that is part of their course.

The University must retain information in its own records about any appeal which a student makes against refusal of leave decisions. If a student's appeal is successful and leave is granted, the University must report to the Home Office if their start date is delayed and provide a new enrolment date.

Reporting categories:

(a) Student withdraws from the course before travel to the UK;
(b) Students' start date is delayed before they enter the UK but after they have been granted entry clearance;
(c) Student does not enrol within the enrolment period;
(d) Student misses 10 consecutive expected contact points;
(e) Student defers their studies after they have arrived in the UK and is no longer actively studying (this will include students who take a leave of absence and students who transfer to external status);
(f) The University is withdrawing a student from their course
(g) If the University stops sponsoring a student because they:

- Move to a different immigration category with a different sponsor;
- Move to an immigration category that does not need a sponsor; or
- Complete the course sooner than expected.

(h) Significant change in a student's circumstances, e.g.

- A change in where they study or do their work placement;
- A change of course; or
- Anything suggesting they are breaking conditions of their permission to stay in the UK.

(i) If the University is endorsing a Tier 1 (Graduate Entrepreneur) and they miss a three month expected contact point without University permission.

If the University re-establishes contact with a student and wants to resume sponsorship the University must tell the Home Office if:

(a) the student's permission to stay in the UK has expired; or
(b) the student's leave was cancelled/curtailed while they were not studying with the University.

In both circumstances, the student will have to apply for new permission to stay before they can start studying again.

2. Reporting for Doctorate Extension Scheme (DES) students

If the University sponsors a student under Tier 4 (General) DES, it will continue to report as normal until the student has successfully complete their course.

The University must report:

(a) when their PhD is completed;
(b) if the student finishes their course without successfully completing;
(c) if the student misses a scheduled contact;
(d) if the student is permanently leaving the UK;
(e) if the University believes the student is breaching conditions of their leave after the completion of their course;
(f) if it stops sponsoring a DES student

The University must withdraw sponsorship if:

(a) the student finishes their course without successfully completing their PhD, or is awarded a lower qualification;
(b) the University reports that the student has missed a scheduled contact;
(c) the student notifies us they are permanently leaving the UK; or
(d) the University is aware that the migrant is breaching conditions of their leave.

3. Additional Duties

In addition to its duties as a Tier 4 sponsor, the University is expected to contribute to supporting immigration matters. In particular, the University must take reasonable steps to ensure that every non-EEA student at the University has immigration permission to be in the UK that are valid and permit study. Failure to do this may lead to the revocation of the University's Tier 4 Sponsor licence.

4. Immigration Permissions

The University is obliged to check that its non-EEA students have the right to undertake a period or course of study in the UK.

There are two groups under which study is normally permitted:

(a) Non-student immigration categories under:

- Asylum/Humanitarian Protection
- Tier 1
- Tier 2 (worker)
- Dependants of primary visa holders and EEA family/spousal
- General/Business (restricted under paragraph 43A)

(b) Student permissions under:

- Tier 4 (General)
- Tier 5 (Government Approved Exchange)
- Student Visitor Visa