

PROCEDURE FOR THE WITHDRAWAL OF UNIVERSITY TIER 4 VISA SPONSORSHIP

Owned by:	Senate
Maintained by:	Compliance and Sponsorship
Last updated:	January 2019
Approved on:	20 February 2019 (Senate)
Effective from:	February 2019
Review date:	February 2020
Current version:	3.0
Location of master document:	https://intra.brunel.ac.uk/s/QSO/Team/Quality Overall/Senate Regulations/Current/2018-9/02-Clean word copies/Immigration Compliance Procedure 2019_02_20

Contents

Procedure for the Withdrawal of University Tier 4 Visa Sponsorship	3
Breach of Tier 4 Students' Engagement Responsibilities	4
Breach of all other Tier 4 Responsibilities	4
Immigration Sponsorship Review Panel	5
Appeals	5
Office of the Independent Adjudicator	6
Appendix A – Brunel University London Engagement: Tier 4 Student Policy	7
1. Purpose	7
2. Expectation	7
3. Student Engagement Monitoring	8
4. Engagement on courses delivered at the Language Centre and London Brunel International College (LBIC) and Visiting Research	8
5. University Engagement	8
6. Student Absence and Non-Engagement	9

Procedure for the Withdrawal of University Tier 4 Visa Sponsorship

1. All students must have permission to live and study in the UK throughout the duration of their studies with the University, and action may be taken under this procedure if they fail to retain such permission.
2. Students who are sponsored by the University under Tier 4 of the Points Based System must be aware of and ensure adherence to the requirements of their visa and other immigration-related obligations (including those that may result in a breach of the University's own sponsor obligations), more information about which can be accessed at <http://www.brunel.ac.uk/international/visas-and-immigration/yourresponsibilities-as-a-tier-4-student>. In this policy, unless otherwise indicated, references to 'students' refer to students holding Tier 4 visas sponsored by the University.
3. This procedure should be read in conjunction with [Senate Regulation 15 – Immigration Compliance](#).
4. Where a student fails to adhere to the requirements of their Tier 4 visa, or where their actions or inactions impact upon the University's ability to adhere to its own obligations to the Home Office, then action may be taken against the student under this procedure including (as appropriate) to determine whether the student's registration and their student contract should be terminated and whether their immigration sponsorship should be withdrawn. The procedure to be followed will depend on the nature of the suspected breach. Normally suspected breaches will be dealt with under this procedure although the University is not precluded in appropriate cases from treating the alleged breach as misconduct under Senate Regulation 6 and/or professional suitability concern under Senate Regulation 14.
5. In the operation of this procedure the University will remain mindful of its legal obligations, including its duty of care and its obligations under the Equality Act 2010 where appropriate to make reasonable adjustments.
6. Where reference is made under this procedure to the Registrar, such references are to be read as including references to the equivalent officer, or to the Registrar's nominee. Where reference is made under this Regulation to Secretary to the Immigration Sponsorship Review Panel, such references are to be read as including any member of staff delegated by the Registrar, or by the equivalent officer or nominee, to perform the duties of the Secretary to the or Immigration Sponsorship Review Panel as set out in this procedure.
7. In all cases considered under this procedure, the balance of probabilities is the test that is applied in determining if a concern is sustained.
8. The University may commence or proceed with any action or process under this procedure in the absence of the student and/or if the student does not engage with the action or process. In exceptional circumstances and where there is good cause to do so, the University may for a maximum of 10 working days place the consideration of a case in suspense at any stage. Where consideration of a case is placed in suspense, the University may refuse admission to any programme of study or the provision of any other service or facility to the student concerned, until consideration of the outstanding case is concluded.

Breach of Tier 4 Students' Engagement Responsibilities

9. Students must comply with the engagement obligations set out in 'Brunel University London Engagement: Tier 4 Student Policy'. Suspected breaches of this policy will be dealt with under the procedures set out in Appendix A.
10. Where a student is found to be in breach of this policy in accordance with the procedures set out in Appendix A, a referral for non-engagement may be made by the appropriate Dean of College¹ to the Secretary to the Immigration Sponsorship Review Panel (see paragraph 11 below).

Breach of all other Tier 4 Responsibilities

11. Alleged breaches of a student's Tier 4 responsibilities, other than for non-engagement, or actions or inactions impacting upon the University's ability to adhere to its own obligations to the Home Office, should be brought to the attention of the Compliance and Sponsorship Manager in the first instance, who will refer this to the Registrar.
12. The Registrar may appoint one or more members of staff to undertake an investigation on their behalf.
13. At the start of the investigation the member of staff carrying out the investigation should write to the student concerned to advise the student of their name, the nature of the concern and/or suspected breach and the purpose of the investigation. It may also be appropriate for the investigating member of staff to notify the student's Academic Department.
14. In all cases the investigation should be carried out without undue delay.
15. During the course of the investigation, written and/or oral information may be gathered from the student concerned, other students of the University and other parties either internal or external to the University.
16. The investigating member of staff may invite the student to a meeting as part of the investigation. If this is the case the student shall be informed in advance regarding the nature and purpose of the meeting. The student may be accompanied at the meeting by a representative and/or by a friend. Only a current student or member of staff of the University, or an advice worker from the Union of Brunel Students, or a relevant individual in the case of reasonable adjustments being made for a disabled student shall normally be permitted to be a representative or friend of a student. Neither the student nor the University shall normally be represented by a legal practitioner at meetings or hearings held in accordance with this procedure. The member/s of staff conducting the investigation shall maintain a written record of any meetings with the student.
17. In the course of the investigation the student shall normally be provided with a full written account of the concern, including any supporting information, and should be invited to provide a written response.
18. Once the investigation is completed the Registrar may:
 - a) Dismiss the case
 - b) Refer the concern for further investigation under this Regulation or any other Ordinance, Regulation, policy or procedure, code of practice or rule of the University

¹ Or an appropriate delegated authority as outlined in the 'Tier 4 Student Engagement Policy'

- c) Require the student to demonstrate future adherence with the requirements of their immigration status and/or their support of the University's sponsorship responsibilities
- d) Refer the matter to the Secretary to the Immigration Sponsorship Review Panel

Immigration Sponsorship Review Panel

19. For the purposes of considering individual matters, a Panel shall consist of at least three members, one of whom shall chair the Panel and one of whom shall normally be a student member (who shall not chair the Panel).

20. When a referral is made to the Secretary to the Immigration Sponsorship Review Panel, the Secretary will refer the case to a Panel for consideration and determination at the earliest practicable opportunity. The Secretary also cannot chair the Panel.

21. All written information to be used in reaching a decision shall be made available to the student before the Panel meeting. The student shall have the opportunity to provide a further statement or evidence to explain/justify alleged non-engagement or breach of visa conditions, if they wish to be considered by the Panel.

22. Having completed its consideration of the matter, and taking into account any statements or evidence received from the student, the Panel may decide one of the following:

- a) That the case be dismissed
- b) That the student's Tier 4 sponsorship should be removed, which will typically lead to automatic de-registration from the University (unless it is possible for the student to complete the programme remotely or with a different immigration status outside of Tier 4)
- c) That a compliance plan should be put in place setting out conditions for the student's continued sponsorship.

23. The student will be notified of the decision of the Panel in writing with reasons normally within 2 working days of the Panel's consideration of the matter.

Appeals

24. A student can appeal a decision of the Panel to terminate their registration to the Vice-Provost (Education), in writing, within 5 working days of notification of the decision only on one or more of the following grounds:

- a) There has been procedural irregularity
- b) There is new evidence material to the case which the student can demonstrate was for good reason not previously available to the Panel
- c) The decision is unreasonable and/or the termination of the student's registration is disproportionate

25. If the Vice-Provost (Education) considers there is good cause to do so, he/she will review the appeal and complete it normally within 5 working days. The Vice-Provost (Education) may either reject the appeal, or make an alternate decision that was available to the Panel in paragraph 22 above. The student will be notified of the decision with reasons normally within 2 working days of the completion of the review.

26. The decision of the Vice-Provost (Education) is final. There is no further right of appeal.

27. Where the Vice-Provost (Education) rejects the appeal (or where a student does not appeal) the University will, within 10 working days of the decision of the Immigration Sponsorship Review Panel to terminate the student's registration, withdraw the student's Tier 4 sponsorship at which point the student must leave the University and comply with the exit requirements of their visa (unless the student is allowed to complete the course remotely or under another immigration status)

Office of the Independent Adjudicator

28. Decisions taken under this procedure may be eligible for review by the Office of the Independent Adjudicator for Higher Education (OIA), which is an independent body set up to review student complaints. More information about the OIA can be accessed at <http://www.oiahe.org.uk/>. The OIA can be contacted at 0118 959 9813 or enquires@oiahe.org.uk. Where applicable, students will be provided with a Completion of Procedures Letter and information about how to apply to the OIA for a review of a decision taken under this procedure.

Appendix A – Brunel University London Engagement: Tier 4 Student Policy

1. Purpose

- 1.1. Academic engagement is vital for the successful completion of a student's studies. It is also a key element of Brunel's mission of being part of a community that is inspired to work, think and learn together to meet the challenges of the future. Additionally, in the case of students on Tier 4 visas, compulsory engagement is monitored as part of Brunel University's Tier 4 sponsorship obligations. The University is required to notify UK Visas & Immigration (UKVI) of students who are deemed to not be engaging on their programme of study.
- 1.2. This policy provides guidance and information on the expectations of Brunel University London in relation to engagement for all Tier 4 students.

2. Expectation

- 2.1. Students are expected to attend all academic activities for the course on which they are enrolled (i.e. teaching, course work, tutor/supervisor meetings, exams) and to devote appropriate time to their studies outside of these.
- 2.2. It is expected that students on Tier 4 visas will contact their Department if they expect to miss any scheduled activity and account for any absence.
- 2.3. When students have a period of study with no taught classes, for example when writing a dissertation/thesis or undertaking a placement, they are required to remain in regular contact with their tutor/supervisor and attend any scheduled workshops or other meetings arranged by Brunel University London.
- 2.4. Tier 4 students are required to notify Brunel University London of their intentions to leave the country (for more than 10 days), including during any writing up periods.
- 2.5. Students who plan to work on/complete their dissertation in the UK will be required to have regular meetings with their supervisor. Failure to do so may result in the University having no option other than to withdraw the student and notify the UKVI, possibly leading to the visa being curtailed.
- 2.6. Students who plan to leave the country and return home to work on/complete their dissertation are required to inform their College Department of the date they will be leaving. Please note, the University may be required to withdraw Tier 4 Sponsorship and the visa may be curtailed (cancelled).
- 2.7. Postgraduate Research students who have submitted their thesis are expected to stay engaged with their supervisor by preparing for their viva. Once the student has attended their viva and has received the panel's recommendations, engagement will resume as outlined in paragraph 3.4.
- 2.8. Postgraduate Research students may be permitted to leave the UK and return to their home country to undertake data collection with the permission of their Supervisor/Academic Department. The student must remain engaged with their programme while abroad as outlined in section 3 below.
- 2.9. Brunel University's preferred method of contacting students, including with regards to engagement, is by email. Students are expected to check their Brunel email account regularly. Failure to check email will not be accepted as mitigation should disciplinary proceedings arise as a result of non-engagement.

3. Student Engagement Monitoring
 - 3.1. All Tier 4 degree level students will be formally monitored against at least ten pre-defined 'engagement points' each year by their Department.
 - 3.2. Engagement points will be based on course requirements and will consist mainly of coursework submissions, examinations, reassessments, seminar/lab attendance and tutor/supervisor meetings, as determined by Course Leaders.
 - 3.3. Postgraduate Research students will be formally monitored against the initial 4 week review, supervisory meetings (routinely every 6 weeks), and progression meetings.
 - 3.4. If the student is recommended for corrections (6 or 12 months) as the outcome of their viva, they will resume regular supervision meetings every 6 weeks accordingly. Once the student is recommended for award, no further supervisory meeting are required.
 - 3.5. The University is also obliged to ensure contact is maintained with students during all work placements. The University will only recognise work placements for Tier 4 students that are confirmed with the Professional Development Centre (PDC) by the placement deadline. Whilst the student is on placement, PDC will contact the student at 3 engagement points to confirm they are still at their placement. Employers will be made aware that any unauthorised absences of the student from placement, or more than 5 days off work due to illness without a medical certificate, will be considered non-engagement and will be reported to their Brunel University contact.
 - 3.6. Engagement is also monitored throughout a student's enrolment by the use of academic facilities such as the Library and access to the computer network on campus, to help ensure continued student attendance on their course.
4. Engagement on courses delivered at the Language Centre and London Brunel International College (LBIC) and Visiting Research
 - 4.1. Attendance of student's enrolled at the Language Centre or LBIC will be monitored internally by these departments, who have their own attendance policies and monitoring processes that differ from programmes delivered in the University's Colleges. Attendance is typically monitored on a daily basis at most classes and measured by attendance percentages. Students are expected to adhere to these attendance policies at all times and failure to do so may lead to escalation for non-engagement as outlined in section 6.3 below.
 - 4.2. It is expected that all visiting research students on Tier 4 visas will have appropriate formal supervisory arrangements in place at Brunel (even though they may continue to receive other supervisory support from their home institution). The engagement of visiting research students on Tier 4 visas will be formally monitored via their attendance at supervisory meetings routinely every 6 weeks.
5. University Engagement
 - 5.1. In addition to the College Departments monitoring students' engagement on their course, Tier 4 students will have additional engagement points with the University across the academic year. All Tier 4 students will be required to sign a Student Declaration on eVision at the start of each academic year upon registration/re-enrolment. Students will also be required to log on to eVision in December and April to confirm/update their UK contact details.

6. Student Absence and Non-Engagement

- 6.1. Brunel acknowledges that there may be instances of absence due to ill health or other extenuating circumstances. Where evidence is available to support such absences, this will be taken into account when considering adequate engagement. Students experiencing long term difficulties arising from changes in their personal, medical or other relevant circumstances may be advised or required to temporarily withdraw and re-join studies when in a position to do so.
- 6.2. In cases where a missed contact point is the result of a medical appointment, medical evidence should be obtained from the student. The evidence must relate specifically to the time of the illness and must make clear that the student was medically unfit to attend Brunel. It must confirm the date the student is fit to resume their studies. Letters from acupuncturists, herbalists or other alternative practitioners will only be accepted when supported by certification from GMC registered doctors. Medical evidence must bear the hospital or GP's practice stamp and/or be on appropriate letter-headed paper.
- 6.3. Tier 4 students who miss an engagement point, are absent for 2 weeks or more without authorisation or are considered to not be engaged on their course at any time will be contacted by their College/Department. Students will be given the opportunity to provide reasons for non-engagement and will be required to meet with the supervisor/tutor. Students who fail to attend this meeting or do not have a sufficient reason for their non-engagement may be referred to the Immigration Sponsorship Review Panel by the Dean of College (or appropriate authority) in accordance to Senate Regulation 15.
- 6.4. At all stages, students are encouraged to disclose evidence of ill health or other exceptional circumstances, such as family bereavement, to explain periods of absence.