

# Tier 4 of the Points Based System – Policy Guidance

This guidance is for educational providers who want to join the Sponsor Register under Tier 4 and existing Tier 4 sponsors who want to apply for, or renew their Highly Trusted Sponsor status

**This guidance is to be used by all prospective and existing Tier 4 sponsors from 13 December 2012**

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## Who should read this guidance?

1. This guidance is for education providers who want to apply, on or after 13 December 2012, for a sponsor licence under Tier 4 of the points-based system. It also applies to education providers who have already been granted a sponsor licence under Tier 4 who are making an application for Highly Trusted Sponsor (HTS) status on or after 13 December 2012 and those education providers that have been granted HTS status. It outlines what we expect from licence holders, the processes they must follow when sponsoring students and how they must comply with all of the duties and responsibilities as a licensed sponsor.
2. This guidance is about sponsoring students who want to study full-time in the UK under Tier 4 of the points-based system. It is for education providers who:
  - a. want to apply for or renew a sponsor licence or HTS status under Tier 4;
  - b. already have a sponsor licence under Tier 4; or
  - c. have HTS status.
3. It includes new policy and explains:
  - a. how to apply for a sponsor licence;
  - b. what we expect from licence holders;
  - c. the processes you must follow when sponsoring a student; and
  - d. the duties and responsibilities you must comply with as a licensed sponsor.
4. If you also want to apply for a licence to sponsor workers under Tier 2 and/or Tier 5 you must read the separate guidance for those employment routes. It explains the specific requirements and extra duties for those routes.
5. This guidance refers to documents that are available on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>.
6. When we refer to:
  - 'we' or 'us' in this guidance, we mean the UK Border Agency.
  - 'you' or 'your', we mean the sponsor or prospective sponsor organisation.
  - 'a relevant person' we mean any owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running.
  - 'HTS status' we mean Highly Trusted Sponsor status.
  - 'CAS' we mean a Confirmation of Acceptance for Studies.
  - 'SMS' we mean the Sponsorship Management System.

## Changes to the Tier 4 sponsorship guidance

7. This version of the guidance sets out a series of changes which will affect you if you have a sponsor licence.
8. It sets out changes that affect you if you do not meet the requirements for educational oversight or you do not meet the standards we have set for HTS status. The previous versions of the sponsor guidance also set out these changes. These are:

- a. educational oversight – you must have a satisfactory, full inspection, audit or review by one of the bodies listed in this section of the guidance. If you do not, you must have applied by the appropriate deadline. See section called ‘educational oversight’.
- b. HTS status – You must apply or have already applied for HTS status by the appropriate deadline. See section called ‘applying for HTS status.’

These changes are to make sure that Tier 4 sponsor licences are held by education providers who can meet the standards we have set for highly trusted sponsors only. The changes will allow the majority of existing Tier 4 sponsors to carry on sponsoring students.

9. Some sponsors may not be able, or may not want, to meet the new requirements that we have already announced, and which are described in detail in this guidance. We have also set out what will happen if this applies to you.

10. We have included detailed information about changes that will affect you from 13 December 2012. These include:

- a. the requirements and process for maintaining your educational oversight. Please see section called ‘Maintaining your educational oversight’.
- b. information about the renewal of your sponsor licence. Please see section called ‘Renewing your licence’.
- c. the new interim limit on CAS from 1 January 2013. Please see section called ‘Our interim limit on CAS’.
- d. a definition of a pre-session course. Please see section called ‘Pre-session courses.’
- e. changes to the reporting duties section in line with the SMS reporting structure introduced on 6 April 2012. Please see section called ‘Your responsibilities as a sponsor’.
- f. additions to the exemptions to the five year limit at degree level and above. Please see section called ‘How long can the student stay in the UK’.
- g. further clarification of branch and partnership arrangements. Please see sections called ‘Branches’ and ‘Partner Institutions’.
- h. information about interviewing students and how this affects you. Please see section called ‘How we consider an application for HTS’ and ‘Your responsibilities as a sponsor’.

11. It is important that you read the sections referred to in paragraphs 8 and 10 because some have specific deadlines which you must meet or have already met if you fall into certain categories. If you miss these deadlines you will not be able to sponsor any new students and in some cases your licence will be revoked.

12. If you are currently a B-rated sponsor and subject to an action plan under the guidance in place before 5 September 2011 it is important that you read the section called ‘Transitional arrangements for sponsor ratings’. This sets out the different circumstances which will lead to you being able to stay on the sponsor register or not.

## Complaints

13. If you are unhappy about any aspect of our service you can use our complaints procedure. More information about this is on our website at: <http://www.ukba.homeoffice.gov.uk/aboutus/contact/makingacomplaint/>.

## Brief overview of Tier 4 and sponsorship

14. This section briefly tells you about the process of sponsoring students to come to the UK under Tier 4 of the points-based system. We explain them in detail later in this guidance. See the following sections:
- becoming a sponsor - to find out if you can become a sponsor, and for details of sponsor licences and how to apply for one.
  - sponsoring students – for details of how to sponsor students once you have a sponsor licence.
  - your responsibilities as a sponsor – for details of what you must do as a sponsor, the consequences if you do something wrong, and what to do if your circumstances change.

## What is Tier 4 and who is it for?

15. Tier 4 of the points-based system is the primary immigration route available to students who want to study full-time in the UK. They must be sponsored by an education provider that has a sponsor licence. Education providers can apply for a licence in two categories:
- Tier 4 (General) student. This is for anyone who comes to the UK for their post-16 education.
  - Tier 4 (Child) student. This is for children between the ages of 4 and 17 (inclusive) who come to the UK for their education. Children aged between 4 and 15 (inclusive) may only be educated at independent, fee-paying schools.
  - if the student is over the age of 16 and under the age of 18, then they can apply under either the Tier 4 (General) or the Tier 4 (Child) category.
16. The Student Visitor and Child Visitor routes are available for students to come to the UK for short periods of study. You can find out more about the visitor routes on our website: <http://www.ukba.homeoffice.gov.uk/visas-immigration/visiting/>.
17. State schools, including those with sixth forms, cannot admit students who come to the UK under Tier 4. If we receive an application for a Tier 4 sponsor licence from a state school, we will reject it and refund the fee.

## What is sponsorship?

18. Before someone can apply to come to, or stay in the UK to study under Tier 4 of the points-based system, they must have a sponsor. The sponsor is an education provider that offers courses of study within the UK and has a licence to sponsor students so they can take those courses. Sponsorship:
- provides evidence that the student will study for an approved qualification; and
  - places duties on the sponsor that it must abide by.
19. A Tier 4 sponsor is an education provider that offers courses of study to full-time students. There are four exceptions:
- The UK Foundation Programme Office is the sponsor for all students on the two-year foundation programme for postgraduate doctors; or
  - The Yorkshire and Humber Strategic Health Authority is the sponsor for all students on

the two-year foundation programme for postgraduate dentists; or

- c. If the student's programme of study forms part of an overseas degree course and the prospective sponsor in the UK is linked by common ownership or control to the overseas university. In these cases we will ask for proof of those links before we can consider granting a sponsor licence; or
- d. Where an educational trust or other similar organisation controls one or more education provider under common ownership or control and where the trust names the education provider(s) on their licence as a branch.

20. Sponsorship is based on two basic principles. They are that:

- a. those who benefit most directly from migration (employers, education providers or other bodies that bring in migrants) help to prevent the system being abused; and
- b. those applying to come to the UK to work or study are eligible to do so and a reputable employer or education provider genuinely wishes to take them on.

## The Tier 4 sponsor licence

21. We expect all Tier 4 sponsors to be education providers who can meet the standards we have set for highly trusted sponsors. When you successfully apply for a Tier 4 sponsor licence, we will give you an A-rating. This is a transitional rating for 12 months. You must apply for HTS status no later than 12 months from the date that you were granted your licence.

22. We will revoke your licence if you:

- a. cannot meet the standards we have set for HTS status after you have had your licence for 12 months; or
- b. do not apply for HTS status when you have had your licence for 12 months; or
- c. already have HTS and you do not apply to renew it before it expires; or
- d. your application to renew your HTS status is refused.

23. See the section called 'Eligibility requirements for HTS status' for more details.

24. Once you have a sponsor licence under Tier 4 you will be able to assign CAS to students wishing to come to the UK to study. We will decide how many CAS you can assign.

## Duties as a sponsor

25. As a licensed sponsor you must comply with certain duties, including a duty to inform us if:

- a. students do not arrive for their course either following a refusal of entry clearance or leave to remain, or where leave is granted but the student fails to enrol;
- b. students are absent without permission for a significant period which means you will no longer sponsor them; or
- c. they leave their course earlier than expected; or
- d. you ask them to leave the course.

26. You must keep proper records of the students you sponsor, including contact details and a copy of their biometric residence permit (BRP) (previously known as the identity card for foreign nationals (ICFN)), and give them to us when we ask for them.

27. You have a duty to act honestly in any dealings you have with us. For example, you must not make false statements and you must ensure you disclose all essential information when you apply for a sponsor licence or assign a CAS.
28. We will monitor your behaviour and compliance with your duties once you are licensed. In particular, we will:
- a. set a limit on the number of CAS you can assign under Tier 4 and review your performance after you have assigned a certain number;
  - b. make visits, pre-arranged or not, to check compliance; and issue civil penalties if we find evidence that you have breached the illegal working regulations.
29. If we consider that you have not been complying with your duties, have been dishonest in your dealings with us or you are a threat to immigration control in some other way, we will take action against you. This action may be to:
- a. revoke or suspend your licence; or
  - b. reduce the number of CAS you can assign.
30. If we decide to take action against you, we will usually give you an opportunity to explain your case to us. The 'Penalties' section of 'Your responsibilities as a sponsor' has details of the process we will follow.

## **Abuse of sponsorship**

31. We treat any allegation of abuse of the sponsorship arrangements in the strictest confidence. Anyone with information about abuse of the sponsorship arrangements can contact us by emailing: [SponsorshipPBSenquiries@ukba.gsi.gov.uk](mailto:SponsorshipPBSenquiries@ukba.gsi.gov.uk).

## **HTS status**

32. HTS status is designed to ensure that all education providers are taking their obligations on immigration compliance seriously. It recognises sponsors who show a good history of compliance with their sponsor duties and whose students meet the standards of compliance with the terms of their visa or permission to stay in the UK (known as 'leave to remain').
33. When you have had a sponsor licence for 12 months, you must be able to successfully apply for HTS status. If you do not meet the HTS requirements we will revoke your licence. See 'Eligibility requirements for HTS' for full details of the HTS criteria.
34. HTS status was automatically given to A-rated independent schools in April 2011 for one year. Since 6 April 2012, we no longer automatically give HTS to independent schools. Please see the section called 'Eligibility requirements for HTS status' for full details.

## Sponsoring students – the Confirmation of Acceptance for Studies (CAS)

35. A CAS is your way of confirming, as a licensed sponsor, that:
- you wish to sponsor an overseas student to study in the UK; and
  - to the best of your knowledge, that student meets the requirements of the rules for a valid CAS and will be able to make a successful application for leave to come to or stay in the UK.
36. For students, a CAS is an essential part of qualifying for a visa (if they are outside the UK) or permission to extend their stay while in the UK but it does not guarantee they will qualify. They must meet other requirements set out in the immigration rules. They must score enough points for other criteria (for example maintenance), and we are likely to refuse them if there is anything in their personal or immigration history which suggests that their presence in the UK is not desirable. We will make the final decision about who is allowed to come to or stay in the UK.
37. A CAS is a virtual document, similar to a database record. You complete a process that produces a unique CAS reference number, which you give to the student. The student must give us that number when they apply to us for a visa or an extension of stay.
38. A CAS is valid for six months from the date it was assigned. If the student does not use it within this period to apply for a visa or extension of stay under Tier 4 it will automatically become invalid.

## Sponsorship fees

39. This section explains the costs involved in becoming a sponsor and sponsoring students under Tier 4 of the points-based system.

## Licence application fees

40. There are fees for the initial application for a sponsor licence, to renew an existing sponsor licence and when applying for HTS status. There may also be a fee to extend your existing licence by adding other Tiers. In addition to the licensing fee, you must pay another fee for each CAS you assign. Full payment guidance is on our website at <http://www.ukba.homeoffice.gov.uk/aboutus/fees/>.

**Since 1 October 2011 we do not accept cheque payments for sponsor licence applications (including renewals and adding another tier to your licence). We only accept on-line payments for these types of applications.**

**However we do continue to accept cheque payments for HTS applications and HTS renewals.**

## Fee for assigning a CAS

41. You must pay a fee of £13 for every CAS that you assign. Since 1 October 2011 we no longer accept cheque payments for CAS. We will only accept on-line payments for these transactions.

42. Even if a student does not use the CAS in an application to us, you will pay the fee for assigning it. To ensure that you do not waste a CAS, you should check that the student is likely to apply and pass the points-based assessment. The Tier 4 Policy Guidance for students will help you and you can find it on our website using this link <http://www.bia.homeoffice.gov.uk/studyingintheuk/adult-students/>.

## Becoming a sponsor

43. This section explains:

- a. the requirements you must meet to become a Tier 4 sponsor;
- b. how to apply for a sponsor licence or HTS status;
- c. the temporary arrangements we have made if you were granted your licence based on an application you made before we changed our policy on 21 April 2011;
- d. what the sponsor ratings mean; and
- e. what the sponsor management system is.

44. The guidance refers to Appendices A, B, C and D. They are separate documents because they contain detailed information. You can find them on our website using this link [www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/)

45. If you have any questions about the application process, please phone us on 0300 123 4699 or email SponsorshipPBSenquiries@ukba.gsi.gov.uk.

## Can you be a sponsor?

46. You must meet both the eligibility and the suitability requirements to become a sponsor.

## Eligibility requirements for a Tier 4 sponsor licence

47. If you are applying for a sponsor licence you must meet the requirements and send us the documents we ask for in Appendix A. We may ask for further documents that are not listed in Appendix A.

48. We will use these documents to check that you are genuine and that you have an operating or trading presence in the UK. If you do not, we will refuse your application or revoke your licence.

49. From the date you are first granted a sponsor licence, you can spend 12 months as an A-rated sponsor. After that you must be able to make a successful application for HTS status. You must apply for HTS status no later than 12 months after being granted your licence.

50. State schools, including those with sixth forms, cannot admit students under Tier 4. We will reject any application from a state school and refund the fee.

## Educational oversight

51. When you apply for a sponsor licence, you must show that as an education provider you:

- a. have a current and satisfactory full inspection, audit or review with an appropriate body;  
or

- b. for overseas providers, you offer short-term 'study abroad' programmes in your own premises in the UK.

52. If you are subject to the system of public reviews because:

- a. you are publicly funded; or
- b. you have awarding powers for UK degrees; or
- c. there is a statutory requirement for inspection

you must have a current and satisfactory full inspection, review or audit from one of the appropriate bodies listed below:

- a. Quality Assurance Agency for Higher Education;
- b. Ofsted;
- c. Education Scotland;
- d. Estyn;
- e. Education and Training Inspectorate;
- f. Independent Schools Inspectorate;
- g. Bridge Schools Inspectorate; or
- h. School Inspection Service.

We call this educational oversight.

53. If you are a private provider in the higher education sector and not subject to the system of public reviews, you must have a current and satisfactory full inspection, audit or review from the Quality Assurance Agency for Higher Education (QAA).

54. If you are a private further education provider or English language college, you must have a current and satisfactory full inspection, audit or review from one of the following appropriate bodies:

- a. Ofsted;
- b. Education Scotland;
- c. Estyn;
- d. Education and Training Inspectorate;
- e. Independent Schools Inspectorate;
- f. Bridge Schools Inspectorate; or
- g. School Inspection Service.

55. The Independent Schools Inspectorate offer inspections of privately funded further education colleges in England and Wales, Education Scotland offer inspections of privately funded further education colleges in Scotland and Education and Training Inspectorate offer inspections of privately funded further education colleges in Northern Ireland. In England and Wales Bridge Schools Inspectorate offer inspections of faith based private colleges and School Inspection Service offer inspections of Steiner and Montessori colleges.

56. If you are a private provider and you run courses that attract public funding, you must still have a current and satisfactory full inspection, audit or review from one of the above bodies

that cover the private further education sector. This is because a full inspection may not have been carried out where only part of your business is to deliver publicly funded courses.

57. Publicly funded colleges are:

- a. Those listed by the Association of Colleges on their website on the basis that they are Further Education Colleges, Further Education Corporations (FECs) or Sixth Form College Corporations (SFCs). In:
  - i. England, these were those formed under s18 and 19 of the Further and Higher Education Act 1992 and are therefore exempt charities, or they are Special Designated Colleges which are registered charities in their own right. New Colleges may only be formed with the permission of the Secretary of State.
  - ii. Scotland, these were formed under the Further and Higher Education (Scotland) Act 1992 and are exempt charities and listed in Schedule 2 of that Act (2005).
  - iii. Wales, these were formed under the Further and Higher Education Act 1992 and are exempt charities.
  - iv. Northern Ireland, the colleges were incorporated under the Further Education (NI) order 1998 and are exempt charities.

58. If you are a new, private independent school, you will not have a report from one of the inspectorates for independent schools. Instead, you must send evidence that you have been formally registered by the relevant authority:

- a. England – your school number, issued by the Department for Education (DfE).
- b. Scotland – your Scottish Executive Education Department (SEED) code.
- c. Northern Ireland – confirmation of registration letter from the Department of Education Northern Ireland (DENI), School Governance Team.
- d. Wales - confirmation of registration letter from the Welsh Assembly Government (WAG), School Governance Team, which will include your unique school reference number.

59. If you are not appropriately audited or inspected as described in this section and do not have a current and satisfactory full inspection, audit or review from one of the appropriate bodies, we will refuse your application for a sponsor licence.

## **Higher education institutions that are based overseas**

60. If you are an overseas higher education institution, offering short-term study abroad programmes in your own premises in the UK, you are exempt from the educational oversight requirements. Your students must:

- a. enrol in their home country;
- b. study in the UK for no more than 50 per cent of the total length of their course; and
- c. return home to finish their degree course (which must be equivalent to a UK degree).

61. You must provide evidence of all of the following to show us that you are a genuine institution.

62. You have overseas accreditation which can be confirmed by UK NARIC as offering degree programmes resulting in qualifications which are equivalent to UK degree-level or above.

63. You only teach part of your programmes in the UK. For example, your students enrol on full-time degree programmes at your overseas university and study only part of their overall degree programme in the UK before returning overseas to finish their studies.
64. If you run your study abroad programme in your own premises in the UK, you have full legal control of those premises, including holding the appropriate planning permission or local planning authority consent to operate your type or class of business, and you own or have a lease agreement for those premises.
65. If you rent or use classroom space in the UK that is provided by a third party for your study abroad programme it must be within an institution which also has a Tier 4 sponsor licence and you must provide evidence:
- a. of the facilities you are renting or using; and
  - b. that you have full legal control of the offices you use.
66. If the third party's own sponsor licence is revoked you must make arrangements to find classroom space with another Tier 4 sponsor within six months of that licence being revoked.
67. The exemption from our requirements on educational oversight does not apply if your study abroad programme is delivered by a third party, for example a UK higher education institution. Where that is the case, the UK institution must be inspected, audited or reviewed by the appropriate body as detailed in this section of the guidance.
68. If you are an overseas institution and you offer full, recognised degree programmes to students enrolled in the UK for the full duration of their course, the QAA will provide educational oversight.
69. Accredited US institutions listed on the US Department of Education website that offer US degree courses are able to apply to the QAA. This also applies to associate members (or third party providers) of the Association of American Study Abroad Programmes UK (AASAP/UK). Overseas providers that offer complete degrees from other countries should contact QAA first. It will take advice on whether the provider is recognised and confirm whether it is able to review their education provision. Where QAA cannot review their education provision, the educational oversight requirement will not be met.

## **Transitional arrangements for educational oversight**

70. If you already have a sponsor licence and it was granted on the basis that you have been accredited by one of the following bodies:
- a. Accreditation UK;
  - b. The Accreditation Service for British Language Schools (ABLS);
  - c. The Accreditation Service for International Colleges (ASIC);
  - d. The British Accreditation Council (BAC);
  - e. The Church of England Inspectorate – Ministry Division;

This is no longer sufficient to meet the eligibility requirements for Tier 4 sponsors. You must have applied for a full inspection, audit or review from the appropriate body listed in the 'Educational oversight' section of this guidance.

71. If you have partial or interim accreditation from one of these previously approved bodies it is up to you to decide whether you want to continue to pursue full accreditation with them. If your

licence is B-rated under the guidance in place before 5 September 2011 on the basis that you have partial or interim accreditation from one of these bodies, you must read the section called 'Transitional arrangements for B-rated sponsors who are subject to an action plan'.

72. Regardless of whether you pursue full accreditation with one of the bodies listed in paragraph 70, you must still have applied for a full inspection, audit or review from an appropriate body by the date given otherwise you will be a legacy sponsor.

73. Previous announcements were made informing you who you should apply to and when.

74. Table (i) sets out the inspection ratings or grades that meet our requirements to have a full satisfactory inspection, audit or review.

<b>Name of education oversight body</b>	<b>Inspection /review outcomes for privately funded providers</b>		
	<b>outcomes indicating satisfactory inspection/ review for Tier 4 purposes</b>	<b>outcomes indicating follow-up inspection/review is required for Tier 4 purposes</b>	<b>outcomes indicating inspection/review failure for Tier 4 purposes</b>
Quality Assurance Agency	Confidence judgements in management of academic standards and the quality of learning opportunities and a conclusion of reliance can be placed on the accuracy and completeness of public information.	Limited confidence judgement in either management of academic standards or the quality of learning opportunities or reliance cannot be placed on the accuracy and completeness of all public information.	No confidence judgement in either the management of academic standards or the quality of learning opportunities.
Independent Schools Inspectorate	Meets expectations/ exceeds expectations.	Needs improvement.	Unsatisfactory.
Bridge Schools Inspectorate	Fully meets all the BSI standards.	Meets nearly all of the BSI standards, but there are shortfalls in respect of some of the standards that need to be remedied.	Fails to meet enough of the BSI standards.
School Inspection Service	Meets.	Almost meets, with partial re-inspection required.	Does not meet.
Education Scotland	Effective.	Partially effective.	Not effective.
Education and Training Inspectorate	Satisfactory/good.	Inadequate.	Unsatisfactory.

75. We will take the following action based on the outcomes of inspections set out above:

- a. If you achieve a satisfactory inspection or review for Tier 4 purposes and you have also obtained HTS status, you will no longer be subject to the interim limit.
  - b. If you do not receive a satisfactory outcome for Tier 4 purposes on your first application, but the report indicates that follow-up action is required, then you will remain subject to the interim limit and further action will be required from you as specified in the report. It will be for the educational oversight body to confirm whether you have met the standard within a specified timescale.
  - c. If you fail the inspection or review for Tier 4 purposes, at the initial stage or following further action, then you will become a legacy sponsor, and therefore you will be unable to sponsor new international students.
76. If you have not applied to the appropriate body by the given deadline you will become or have already become a 'legacy sponsor'. The section called 'Legacy sponsors' explains what this means.

## **Maintaining your educational oversight**

77. All sponsors are required to maintain their educational oversight throughout the duration of their sponsor licence. Any sponsor who ceases to hold educational oversight will become a legacy sponsor. Please see section called 'Legacy Sponsors'.
78. If you are a publicly funded provider you must continue to meet the requirements set out in paras 51-52 in order to maintain educational oversight. Sponsors who are privately funded will undergo a recurring four-year full assessment cycle.
79. For example, if you applied to the educational oversight body by the September 2011 deadline (or later for Scotland and Northern Ireland) you will receive an initial full assessment by the end of 2012, beginning your four-year cycle. You will next be required to undergo a full assessment in 2016 and every fourth year thereafter (unless there is a material change in circumstances - see below).
80. In addition to full assessments every four years, you will undergo risk based interim health checks. Health checks will be a light-touch, shortened version of a full assessment with the format devised by each of the individual educational oversight bodies. They are designed to ensure educational standards and quality are being maintained throughout the four-year cycle, without imposing the burden of a full assessment.
81. If you are a privately funded college which was assessed in 2012, you will be required to undergo an initial health check in 2013 to ensure that standards remain on track. Further health checks will take place annually but may be made on a two-year cycle if your educational oversight body judges that you meet the highest educational standards. This means that in this first four-year cycle, if you are deemed to be performing to the highest educational standards in 2013 you will not undergo a further health check until 2015.
82. If you are a privately funded sponsor and you no longer meet acceptable standards you will fail the health check and you will be required to have a full assessment. In the meantime, your CAS allocation will be set to zero and you will be unable to sponsor any new international students but you can continue to sponsor students who are already studying with you.
83. If any existing students need to extend their leave in order to complete their current course, you can apply for a CAS to assign to them using the Sponsorship Management System.
84. Your CAS allocation will only be reinstated once you have passed a subsequent full assessment within a six month period. This will also re-start your four-year assessment cycle.

85. If you fail the full assessment, or choose not to undergo a further full assessment, you will become a legacy sponsor. Please see section called 'Legacy Sponsors'.
86. You must report any material change of circumstances to your educational oversight body. What is considered a material change of circumstances is determined by your educational oversight body. When you report a material change of circumstance you may be required to undergo an early full assessment, part way through your normal four-year cycle. If you pass the full assessment, this will then restart your four year assessment cycle. Again, if you fail the full assessment you will become a legacy sponsor.
87. The educational oversight bodies reserve the right to require a full assessment and/or health check at any time if they consider it necessary.

## **Legacy sponsors**

88. There are some circumstances described in this guidance which may result in you becoming a legacy sponsor. Legacy sponsors are those who:
- a. did not try to meet the requirements for educational oversight by the appropriate deadline; or
  - b. did try to meet the requirements for educational oversight by the appropriate deadline but failed; or
  - c. fail to pass a full assessment with the appropriate educational oversight body at any time.
  - d. meet the mandatory requirements for HTS status but score a 'near miss' on the core measurable requirements and when they re-apply, score a second near miss.
89. If you become a legacy sponsor your CAS allocation will be set to zero. You will not be allowed to sponsor any new students but you can continue to sponsor students who are already studying with you until either they finish their course or until your sponsor licence expires, whichever happens first.
90. If any of your existing students need to extend their leave so that they can complete their course with you, you will be able to apply to us for a CAS to assign to them.
91. If you become a legacy sponsor and you have assigned a CAS which has not yet been used to support an application for leave to enter the UK, the student you have assigned it to will still be able to apply for leave. We will also process any application for leave to enter the UK, supported by a CAS that you have assigned, which has been made but not yet been decided at the point you become a legacy sponsor. In both cases, if the student's application is successful they will be allowed to travel to the UK and to study with you.
92. If you have a sponsor licence that covers multiple Tiers and not just Tier 4, the legacy status will only apply to the Tier 4 part of your licence.
93. As a legacy sponsor you must continue to comply with your sponsor duties. If you do not continue to comply with your sponsor duties, we will take action against you which may result in your licence being revoked.
94. As a legacy sponsor you must still apply for HTS status by the given deadlines. If you do not meet the mandatory requirements for HTS status or you do not apply on time, your licence will be revoked. See the section called 'Applying for HTS status' for full details.

## Suitability for a sponsor licence

95. We will use the suitability requirements to decide whether to:
- grant or refuse your application for a Tier 4 sponsor licence;
  - grant or refuse your application for HTS status; or
  - revoke your licence.
96. To decide your suitability we will assess whether you have:
- systems that enable you to meet your sponsor duties; and
  - complied with immigration rules in the past (for example for any migrants you employ now or have employed in the past).
97. We also check whether any relevant person (owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running) has:
- an unspent criminal conviction, particularly for any offence listed in Appendix B (we do not consider any convictions that are spent under the Rehabilitation of Offenders Act 1974);
  - received a civil penalty for immigration offences; or
  - previously come to our notice for potential investigation.
98. We will visit you before making a decision on your application and may also visit you after we grant your licence.

## Scoring system

99. We will score you on each area of suitability as follows:
- met - meets all of the criteria
  - not met - does not meet one or more of the criteria.
100. If you are applying for a new sponsor licence we will grant it and give you an A-rating if you meet all of the criteria in all areas and there are no other reasons for us to refuse your application.
101. We will refuse your application if you score 'not met' in any area.
102. If we visit you after you have been granted a licence, we will score you again against the suitability criteria as well as making any other checks we need to carry out. If you score 'not met' on any of the suitability areas we will take action against you.

## When we will refuse a sponsor licence application

103. We will refuse your application in any of the circumstances below. When mentioned, a relevant person is an owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running.
- You, or a relevant person submit any false documents with your application. If this happens, and we believe a criminal offence has been committed, we may press charges.
  - You do not meet the requirements of Tier 4 or the category you are applying for.

- c. You, or a relevant person are legally prohibited from becoming a company director (unless this is because you are an undischarged bankrupt, although the authorising officer, and any Sponsorship Management System (SMS) User cannot be an undischarged bankrupt).
- d. You, or a relevant person have previously held a sponsor licence under any tier and we revoked that licence in the six months before your current application.
- e. We find information that suggests you do not have the processes in place which you need to comply with your sponsorship duties.
- f. We ask, or have ever asked you or a relevant person to send us evidence so we can decide if you:
  - i. can comply with sponsorship duties; or
  - ii. have previously complied with sponsorship duties; or
  - iii. complied with previous work permit arrangements; and
  - iv. you do not or did not send it to us within the relevant timescales.
- g. You or a relevant person have ever been dishonest in any previous dealings with us (or the former Immigration and Nationality Directorate or Border and Immigration Agency). Dishonesty includes (but is not restricted to):
  - i. applying for work permits or CAS when you do not have or are not in the process of establishing, an operating or trading presence in the UK;
  - ii. making false statements in any application to us, including an application for a work permit; and
  - iii. assigning a CAS to a student who you knew did not intend or was not able to follow the course of study for which the CAS was assigned.

## Offences and civil penalties

104. We will refuse your application as explained below if you or a relevant person have, within the previous 12 months, been issued with a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 for employing one or more illegal workers and you are still liable once your objection and appeal rights have been exhausted.

- a. If the fine for at least one of those workers was set at the maximum amount of £10,000, or if the fine was for a repeat offence and set below the maximum amount we will refuse your application if:
  - i. you paid the fine within the given time limit and applied within six months of the date the fine became payable; or
  - ii. you paid the fine after the given time limit and applied within 12 months of the date the fine became payable.
- b. If the fine was for a first offence and set below the maximum amount, we will refuse your application if you paid the fine after the given time limit and applied within six months of the date the fine became payable.

105. We will refuse your application if you, or a relevant person, have not paid an outstanding illegal working civil penalty issued since the penalties were introduced in February 2008 and you are still liable once your objection and appeal rights have been exhausted.

106. We will also refuse your application if you or a relevant person have been issued with a

civil penalty for one of the other offences in Appendix C and have not paid it.

107. We will refuse your application if you, or a relevant person have been convicted of one of the offences below, unless the conviction is spent under the Rehabilitation of Offenders Act 1974.

Any offence under the:

- a. Immigration Act 1971;
- b. Immigration Act 1988;
- c. Asylum and Immigration Appeals Act 1993;
- d. Immigration and Asylum Act 1999;
- e. Nationality, Immigration and Asylum Act 2002;
- f. Immigration, Asylum and Nationality Act 2006;
- g. UK Borders Act 2007;
- h. Trafficking for exploitation;
- i. Any other unspent conviction, especially those which;
  - i. in our opinion, indicate that you pose a risk to immigration control, for example, offences involving dishonesty or deception, including any of the offences listed in Appendix B.
  - ii. in our opinion cast doubt upon your suitability, or the suitability of a relevant person to teach or be in contact with students, for example sex offences.

## **When we will consider refusing a sponsor licence application**

108. We may refuse your application in any of the circumstances below. When mentioned, a relevant person is an owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running.

- a. You or a relevant person have a previous record of not complying or poor compliance with the duties of sponsorship, or with the work permit arrangements.
- b. You or a relevant person have had a sponsor licence revoked by us. You will have to show that you have put right any issues which led to us revoking it before we will consider granting you a new licence.
- c. The Office of the Immigration Services Commissioner (OISC) has removed your authorisation to provide immigration advice, or authorisation of any organisation that you or a relevant person have been involved with in a similar role.

109. The action we take will depend on:

- a. the seriousness of the past conduct (including conduct that led to revocation of a licence, removal from the register of education or training providers, or removal of OISC authorisation);
- b. how long it is since the conduct took place and any mitigating circumstances; and the seriousness of the issues which led us to revoke your previous licence, and what you have done to improve the situation.

## Applying for a sponsor licence

110. You apply for a sponsor licence online, and then send us your supporting documents. Before you apply, you need to make some decisions and arrangements, which we explain below.

### Choose how many licences to apply for

#### Branches

111. If you have a number of branches you can register in a number of ways. These include:

- a. applying for a single licence that includes your 'head office and all branches' in the UK (for example, a UK-wide language school might choose to register all of its branches in England, Scotland, Wales and Northern Ireland in a single licence);
- b. each branch applying for a separate licence; or
- c. grouping a number of branches in a single licence (for example, a UK-wide language school might choose to register all its branches in London in a single licence).

112. We may ask for evidence that your head office and/or the group of branches you list in your application are linked by common ownership or control.

113. You can show common ownership or control if:

- a. one entity controls the composition of the other entity's board; or
- b. one entity is in a position to cast, or control the casting of, more than half the maximum number of votes that might be cast at a general meeting of the other entity; or
- c. one entity holds more than half the issued share capital of the other entity (excluding any part of that issued share capital that carries no right to participate in a distribution of either profits or capital beyond a specified amount); or
- d. both entities have a common parent entity that itself or through other entities meets one of the requirements of the first three bullet points above in relation to both entities that are the subject of the intra-company transfer; or
- e. one entity is related to the other entity as both entities are party to a joint venture agreement which has created a new, separate legal entity; or
- f. one entity is related to the other entity in that one entity is party to a joint venture agreement and the other entity is the entity formed by that joint venture agreement.

114. If you are an existing sponsor, you may request to add a branch to your sponsor licence. In order to do this, you must be able to demonstrate common ownership or control as outlined above.

115. You must notify your approved educational oversight body that you have added a branch to your sponsor licence. Your approved educational oversight body will take any action necessary which may include a full assessment. Please see the section called 'maintaining your educational oversight' which tells you what happens if you fail a full assessment.

116. Any CAS that you assign on behalf of your branch, will be considered as part of your HTS status assessment.

117. If you have a branch, or a number of branches, who also have their own individual licences and we revoke their licence, we will not automatically remove or downgrade your licence but

we will investigate you and other branches associated with your/their licence.

118. If you are licensed as a 'head office and all UK branches' (for example an English language school with branches across the UK) and we revoke your licence this will apply to all of your branches. If we revoke your licence, none of your branches will be able to sponsor students. If you have existing students when we revoke your licence, we will limit the permission those students have to be in the UK, because they will no longer be studying with a licensed sponsor.
119. If you are a large education provider with a number of campuses, for example a university, they will automatically be included in your licence. If you want to, you can apply for separate licences for your different campuses, but you do not have to.
120. If any of your branches later apply for an individual licence, we will take into account any evidence of previous abuse or non-compliance, and the reasons for it, when we consider the application.
121. If you are a branch applying for an individual licence, you will be regarded as a new sponsor for our purposes. This means that you must make the licence application and pay the appropriate fee, and you must meet all the requirements to obtain a Tier 4 sponsor licence as set out in this guidance. We may want to do an on site visit before we grant you a licence. If we grant you a sponsor licence, you will be A-rated for a 12 month period, after which you must apply for HTS status. Please see section called 'Applying for HTS status'.

## **Partner institutions**

122. We are aware that the word partnership can have different meanings for different people and sectors. For Tier 4 purposes partnerships do not require common ownership or control (as a branch would) and we will only accept partnerships that meet one of the criteria outlined in this section.
123. You can name another education provider as a 'partner' institution on your licence where the partner institution will only provide pre-sessional courses on your behalf to students who will undertake their main course of study with you once they have completed their pre-sessional course. Please see the section called 'Pre-sessional courses' for further information about partner institutions and pre-sessional courses, including our definition of a pre-sessional course.
124. You can also name another education provider as a 'partner' institution where there is a contractual partnership agreement between you and another educational provider and you will work in partnership to deliver education to students. In order to name another education provider as a partner under these circumstances you and your 'partner' institution must hold your own separate sponsor licence and you both must have a full satisfactory inspection, audit or review with one of the appropriate bodies and both must hold HTS status.
125. You may only assign a CAS for a student to study at a partner institution if it is named as a partner on your sponsor licence.
126. Any CAS that you assign on behalf of a partner institution, will be considered as part of your HTS assessment.
127. If you have named a 'partner institution' on your licence and we revoke that institution's own licence, we will consider all of the circumstances and may consider taking action against your licence.

## Trusts

128. If you are an educational trust or other similar organisation with a number of education providers under your control, you can apply for a Tier 4 sponsor licence as a 'head office and all UK branches' or make a separate application for each education provider.
129. You must provide evidence that your trust and the group of branches you list in your application are linked by common ownership or control.

## Franchises

130. If you are an organisation, sole trader or partnership with a number of franchises under your control, you can apply for a Tier 4 sponsor licence as a 'head office and all UK branches' or make a separate application for each franchise.
131. You must make a separate application for each franchise if they are separate businesses, not under your control as the parent organisation.

## Allocate key personnel

132. When you apply for a sponsor licence, you must nominate members of your staff as 'key personnel'. Key personnel will have important responsibilities including access to the sponsorship management system (SMS).
133. All of the key personnel must be permanently based in the UK. If you have contracted your HR function out to a third party organisation, some of the roles can be allocated to employees within that third party organisation. If you become insolvent, the roles can be filled by an appointed insolvency professional. A person who is not a settled worker can fill any of the key personnel roles, but there are some limitations in respect of level 1 users which are explained in the section called 'Level 1 user'.
134. For the purposes of these guidance notes a 'settled worker' is a person who:
- a. is a national of the UK;
  - b. is a national of Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Republic of Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland who is exercising an EC Treaty Right in the UK; (Please note that although not requiring sponsorship, workers from Bulgaria and Romania must have work authorisation in order to work lawfully, unless exempt. Employers commit an offence by employing Bulgarian or Romanian nationals who have failed to comply with the work authorisation requirements);
  - c. is a British overseas territories citizen, except those from Sovereign Base Areas in Cyprus. (Those included are Anguilla, Bermuda, British Antarctic Territory, British Virgin Islands, British Indian Ocean Islands, Cayman Islands, Falkland Islands and dependencies, Gibraltar, Montserrat, Pitcairn Islands, St. Helena and Dependencies and Turks and Caicos Islands);
  - d. is a Commonwealth citizens who was allowed to enter or to remain in the UK on the basis that a grandparent was born here;
  - e. has settled status in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

135. The roles are:

- a. authorising officer;
- b. key contact;
- c. level 1 user of the sponsorship management system; and
- d. level 2 user of the sponsorship management system.

136. You can find details of each role, its responsibilities and its requirements later in this section.

137. You must name your authorising officer, key contact and level 1 user on the application form. These roles can all be filled by the same person, or by a combination of different people, but you can:

- a. only have one authorising officer and one key contact;
- b. add more level 1 users once you have a sponsor licence; and
- c. only appoint level 2 users once you have your licence.

138. If you want a representative to assign CAS, you must add their relevant employees to the SMS as level 1 or level 2 users. It is your responsibility to make sure they meet the requirements to be a level 1 or 2 user. Please see the section called 'Using a representative to apply for a sponsor licence. This section details who can be a representative and how you can appoint one to your licence.

139. You are responsible for anything done by anyone you set up as a user of the sponsorship management system (SMS), including representatives. We treat anything a representative does on your behalf as if you had done it yourself so you should only employ representatives who are reputable, honest and competent. You should check the identity of any representative you employ and make sure they meet their responsibilities. If you do not comply with your responsibilities, we will take action against you.

## **Contact details for key personnel**

140. You must give us the contact details of your key personnel when you:

- a. apply for a licence; and
- b. change or add key personnel after you have a licence.

141. The contact address for all key personnel must be your main address or the address of any branch or head office you include in your licence. If you appoint a representative as key contact or level 1 user, their address must be the same as the representative's main business address. If you appoint a level 2 user employed by a third party organisation engaged by you to deliver all or part of your HR function, their address must be the main business address of that organisation.

142. When you give us an email address for a person, only that named person must be able to access emails we send to that address.

## Checks we make on key personnel

143. We will check your authorising officer, key contact and level 1 user against our records, and the Police National Computer or its equivalent in Northern Ireland. We may also check your owner(s), director(s) and anyone involved in your day-to-day running. We call these people 'relevant persons' in this guidance.

144. We will make checks:

- a. while we consider your application for a sponsor licence;
- b. at any time while you have a sponsor licence; and
- c. if new people take up key personnel roles while you have a sponsor licence.

145. If any of these people have unspent criminal convictions or we have issued them with a civil penalty in the past 12 months, we may:

- a. refuse your application for a sponsor licence;
- b. if you already have a licence, refuse to accept a person you later nominate for a key personnel role; or
- c. revoke your licence.

## Authorising officer

146. You must:

- a. always have an authorising officer while you have a sponsor licence;
- b. ensure they always meet the requirements below; and
- c. tell us if you want to change your authorising officer.

If you do not, we will take action against you.

147. You are fully responsible for the authorising officer's actions, so you should only give this position to a responsible and competent person within your organisation.

148. The authorising officer decides how many of your staff will have access to the sponsorship management system (SMS) and the level of permission they will have.

149. The authorising officer does not have automatic access to the SMS. If they need access they must be set up as a level 1 or level 2 user of it.

150. They will be responsible for the activities of all users of the SMS, who must comply with our requirements for using the system.

151. They must be a paid staff member or office holder within your organisation. They must not be:

- a. a representative;
- b. a contractor or consultant who is contracted for a specific project;
- c. a temporary staff member supplied by an agency; or
- d. an undischarged bankrupt.

152. A person who holds an office under one of the following types of appointment, is likely to be an 'office holder':

- a. a statutory appointment (such as registered company directors or secretaries, board members of statutory bodies, judges or tribunal members, or crown appointments, for example, the police);
- b. an appointment under the internal constitution of an organisation (such as club treasurers or trade union secretaries);
- c. an appointment under a trust deed (such as trustees); or
- d. an ecclesiastical appointment (such as members of the clergy).

153. An office holder is not an employee or a worker. But holding an office does not prevent someone from becoming a worker or an employee. They can be an office holder and an employee if their working arrangements are a contractual relationship and satisfy the test for employee status. You can find more information on the Direct Gov website: [http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/Workeremployeesandselfemployment/DG\\_183505](http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/Workeremployeesandselfemployment/DG_183505).

## Key contact

154. The key contact can be the authorising officer or another person in your organisation.

155. The key contact will be your main point of contact with us. We will contact them if we have any queries about your application, the documents you sent or the fee. A key contact must be a paid staff member or office holder within your organisation. They can also be a UK-based representative.

156. They must not be:

- a. a contractor;
- b. a consultant who is contracted for a specific project;
- c. an employee of a third party organisation you have engaged to deliver all or part of your HR function; or
- d. a temporary staff member supplied by an agency.

157. The key contact does not have automatic access to the SMS. If they need access to the system they must be set up as a level 1 or level 2 user of it.

## Level 1 user

158. The level 1 user can be the authorising officer or another person in your organisation.

159. The level 1 user must carry out your day-to-day sponsorship activities by using the sponsorship management system (SMS). They can:

- a. request more level 1 users and add level 2 users to the SMS or remove them;
- b. assign CAS to students;
- c. request an increase in the number of CAS you can assign (your limit);
- d. tell us about minor changes to your details;
- e. notify us of change of circumstances on the SMS;
- f. report student activity to us (for example, inform us if a student goes missing or does not attend their course);

- g. withdraw CAS;
- h. inform us of changes to study or work placement addresses;
- i. use the bulk data transfer feature (which we explain later on);
- j. change user details.

160. When you first apply for a sponsor licence, you can only nominate one level 1 user. Once you have a licence you can use the SMS to nominate more level 1 users. We will check new level 1 users before we give them access to the SMS.

161. You can decide how many level 1 users you need. The authorising officer is responsible for them, so we recommend that you do not have more level 1 users than you really need. You should make sure that you have at least enough to be able to cover periods of leave or sickness.

162. The level 1 user must be:

- a. a paid staff member or office holder within your organisation; or
- b. an employee of a third party organisation engaged by you to deliver all or part of your HR function; or
- c. a UK-based representative.

163. They must not be:

- a. a contractor;
- b. a consultant who is contracted for a specific project;
- c. a temporary staff member supplied to you by an employment agency; or
- d. an undischarged bankrupt.

164. You must always have at least one level 1 user in place. This is because it is impossible for you to meet all of your sponsor duties without one. If we find at any time that you do not have any level 1 users in place, we will take action against you.

165. You must always have a minimum of one level 1 user who is a settled worker. The only exception to this rule is if you are a diplomatic mission or international organisation licensed under Tier 5 (International Agreement).

166. If you have a level 1 user who is not a settled worker, they must not assign a CAS to themselves or assign a CAS to a close relative or partner. For the purposes of this guidance, a close relative or partner is a:

- a. husband;
- b. wife;
- c. civil partner;
- d. unmarried partner;
- e. same sex partner;
- f. mother;
- g. father;
- h. son or step-son;

- i. daughter or step-daughter;
- j. brother or half-brother;
- k. sister or half-sister.

## **Level 2 user**

167. Level 2 users have fewer permissions than level 1 users. A level 2 user may:

- a. assign CAS to students; and
- b. report student activity to us (for example, inform us if a student goes missing, or does not attend their course).

168. You can decide how many level 2 users you need. The authorising officer is responsible for them, so we recommend that you do not have more level 2 users than you really need.

169. The level 2 user must be:

- a. a paid staff member or office holder within your organisation; or
- b. an employee of a third party organisation engaged by you to deliver all or part of your HR function; or
- c. a temporary staff member supplied to you by an employment agency; or
- d. a UK-based representative.

170. They must not be:

- a. a contractor;
- b. a consultant who is contracted for a specific project; or
- c. an undischarged bankrupt.

## **Estimate the number of students you will want to sponsor**

171. When you apply for a sponsor licence, you must give us an estimate of the number of CAS you expect to assign in your first year in each category of Tier 4 that you are applying for. The number must include existing students who will apply for extensions of their permission to stay and any new students you wish to sponsor. You will need to justify your request.

172. On 21 April 2011 we changed the policy and requirements for education providers to obtain a sponsor licence. We also imposed a limit on the number of CAS certain sponsors can assign. We explain this in the section called 'Our interim limit on CAS'.

## **Applications for a sponsor licence made since 21 April 2011**

173. If you apply, or have applied for a licence on or after 21 April 2011 and we approve your application, we will consider your estimate of the CAS you require and the reason for this request. We will then allocate you CAS up to a maximum of 50 per cent of your total student body. We will calculate this using information from your latest inspection report and information provided by our Compliance Officers after they have conducted a visit to your premises. The allocation may be:

- a. the number of CAS you asked for;
- b. a lower number if you are a start-up organisation, have any history of not complying with

immigration rules, or you do not justify the number you asked for.

174. When we set your CAS allocation, we will take into account all the circumstances, including your estimated requirements. This includes:

- a. your previous record in dealing with us (including your previous dealings with the work permits arrangements);
- b. the type and size of your organisation;
- c. your total student capacity;
- d. any capacity restriction written into your D1 planning permission; and
- e. how long you have been operating.

175. You may ask us to increase your CAS allocation if you reach your existing allocation within the 12 month period after you have been granted your licence. You can do this using the sponsorship management system (SMS). We will use the principles outlined in the paragraph above to decide what new CAS allocation to give you. We will not increase your CAS allocation for the 12 month period if you have already been allocated CAS equal to 50 per cent of your total student body.

176. We may reduce your CAS allocation, including reducing it to zero, if your circumstances change, for example you downsize, do not comply with your sponsor duties and/or we believe you are a threat to immigration control.

177. We will monitor your performance and may set a review point when we will reconsider the number of CAS we allow you to assign. We may do that review earlier than the review point set if we think it is necessary.

178. We will allocate the agreed number of CAS to your SMS account. You will have 12 months from the date your licence started to assign them. After that time, any unassigned CAS will expire and be removed from the SMS. You cannot carry over any unassigned CAS to the next year.

179. You must apply for HTS status no later than 12 months from the date your licence started. You can apply up to one month in advance of this date.

180. If the 12 month period ends and you have applied for, but not yet received, a decision on your HTS application then we will grant you an allocation equal to any CAS that you have not used during this 12 month period. You must ensure that you apply to renew your CAS allocation if you want to be able to assign these unused CAS while your HTS application is being considered.

181. If you do not have any CAS remaining, or you assign all of your remaining CAS while your HTS application is being considered, then you can apply to us for a CAS to be able to extend the leave of an existing student who needs to complete their course with you. Even if you have assigned all your existing CAS during the 12 month period you must ensure that you apply to renew your CAS allocation when requested or you will not be able to request CAS to extend the stay of existing students.

182. Once we have made a decision on your HTS application, any unassigned CAS from your current allocation will no longer be valid. The outcome of your HTS application will determine your licence status and CAS allocation from this time onwards. Please see section called 'Applying for HTS status'.

## **If you are an existing sponsor who applied for your licence before 21 April 2011**

183. On 21 April 2011 we made some changes to the sponsor licence requirements. On that date we:

- a. changed the requirements for educational oversight – please see the section called ‘Educational oversight’;
- b. introduced a requirement for all Tier 4 sponsors to become highly trusted sponsors – please see the section called ‘Applying for HTS status’; and
- c. introduced an interim limit on the number of CAS that certain existing sponsors can assign.

184. If you have a licence that was granted under the guidance that was in place before 21 April 2011 and you did not have HTS status or did not meet the new educational oversight requirements, or both, you were allowed to stay on the Tier 4 sponsor register but we limited the number of CAS you could assign. This guidance sets out what action you must take to keep your sponsor licence. You must have:

- a. applied for educational oversight by the appropriate deadline; and
- b. have already achieved HTS status; or
- c. have applied for HTS status by the appropriate deadline or by the time you have been licensed for 12 months, and are awaiting an outcome of that application.

## **Our interim limit on CAS**

185. In April 2011 we introduced an interim limit on the number of CAS certain sponsors could assign. We continued this limit from 6 April 2012 to 31 December 2012; we call this the former interim limit. In previous versions of the guidance, we set out how we calculated the former interim limit.

186. From 1 January 2013 we will extend the interim limit for those who are still subject to the former interim limit on 31 December 2012 and have applied for but not yet achieved both educational oversight and HTS status. We call this the new interim limit.

187. If you lose your HTS status or educational oversight after 1 January 2013, please see sections called ‘If we refuse your application for HTS status’ and ‘Legacy Sponsors’. If you score a near miss or fail a health check, please see sections called ‘If your HTS application scores a near miss’ and ‘Maintaining your educational oversight’.

188. There is no overall limit on the number of CAS that sponsors can assign under the interim limit.

189. The following sponsors are all exempt from the interim limit:

- a. any sponsor who is highly trusted and has a full institutional inspection, review or audit by one of the currently accepted bodies listed under ‘Educational oversight’;
- b. the Foundation Programme Office;
- c. the Yorkshire and Humber Strategic Health Authority;
- d. any sponsor who applied for their sponsor licence on or after 21 April 2011 and had educational oversight from one of the currently accepted bodies and has yet to receive a first decision on its application for HTS status; and
- e. any sponsor who is an overseas higher education institution, offering short-term study

abroad programmes in their own premises in the UK, and has HTS status. Please see section called 'Higher education institutions based overseas'.

190. If you are affected by the interim limit:

- a. any CAS assigned from the former interim limit is valid for the student to use in an application, provided you assigned it in line with the immigration rules and guidance that applied when you assigned it;
- b. any CAS that you did not assign from your former interim limit cannot be used after 1 January 2013 .
- c. you must use your current allocation for both new students and existing students, whether they apply overseas or in the UK; and
- d. you should consider whether you should keep a number of your limited CAS for students who need more time to complete a course they have already started.

### **If you become subject to the former interim limit between 13 December 2012 and 31 December 2012**

191. The former interim limit runs from 6 April 2012 to 31 December 2012. You may become subject to the former interim limit between 13 December 2012 and 31 December 2012. If you do, we will calculate your interim limit depending on whether you were licensed for all or part of the previous interim limit period. The calculations were outlined in previous versions of the guidance and are attached as annex B.

192. We will then reduce this by the number of CAS you assigned after 6 April 2012 regardless of the outcome of the student's application. We will then divide this by the appropriate factor so that your CAS limit is proportionate to the remaining period of the former interim limit.

193. For example, your CAS allocation under the entire former interim limit is calculated as 56 CAS. You become subject to the former interim limit from 15 December 2012.

194. You assigned 20 CAS since 6 April 2012. We subtract this from the 56 CAS which results in 36 CAS. We then divide this by nine as there is less than one month of the former interim limit remaining.

195. Your interim limit from 15 December 2012 to 31 December 2012 will be four CAS.

### **Calculating the new interim limit for 2013**

196. This section of guidance sets out how the new interim limit for the period of 1 January 2013 to 30 June 2013 will be calculated. The former interim limit ran for a maximum of nine months between 6 April 2012 and 31 December 2012. Sponsors will be limited under the new arrangements for a maximum period of six months between 1 January 2013 and 30 June 2013. As a result, your new interim limit will be equivalent to two thirds of the number of CAS that you would have been allocated for the former interim limit.

197. If the calculation is not a whole number then your CAS allocation will be rounded up to the nearest whole number.

198. If the calculation is zero then your CAS allocation under the new interim limit will be zero and you are not able to assign CAS to new or existing students during the new interim limit.

199. You are not able to request any more CAS during the period of the interim limit, even if you use your entire interim limit or are given an interim limit of zero.

### **If you were licensed continuously for the entire period of the former interim limit and were limited for that entire period**

200. Your new interim limit from 1 January 2013 to 30 June 2013 is equivalent to two thirds of the total number of CAS you were allocated under the former interim limit between 6 April 2012 and 31 December 2012. This gives the total number of CAS that you would have been allocated for a six month period.

201. For example, you were granted your sponsor licence on 5 January 2011.

202. Your former interim limit was 90.

203. Your new interim limit from 1 January 2013 will be 60 CAS.

### **If you obtained your sponsor licence during the period of the former interim limit and were subject to the former interim limit from the date you were licensed**

204. In this case your new interim limit is based on the total number of CAS you were allocated for the period that you were licensed between 6 April 2012 and 31 December 2012 multiplied or divided by the appropriate number to give the total number of CAS that you would have been allocated for a six month period.

205. For example, you were granted your sponsor licence on 1 October 2012. Between 1 October 2012 and 31 December 2012 you were allocated 20 CAS under the interim limit for the three month period.

206. Your new interim limit from 1 January 2013 to 30 June 2013 will be 40 CAS.

### **If you were licensed for the entire former interim limit period but were only subject to the former interim limit for part of that period**

207. In this case your new interim limit was based on the total number of CAS you were allocated for the period that you were limited between 6 April 2012 and 31 December 2012 multiplied or divided by the appropriate number to give the total number of CAS that you would have been allocated for a six month period.

208. For example, you were granted your sponsor licence on 10 February 2011. You became subject to the limit from 1 November 2012 until 31 December 2012. You were allocated 15 CAS under the former interim limit for the two month period until 31 December 2012.

209. Your new interim limit from 1 January 2013 to 30 June 2013 will be 45 CAS.

### **If you stop being subject to the interim limit before 30 June 2013**

210. If you achieve a full satisfactory inspection, audit or review by one of the currently approved bodies and HTS status during the period of the interim limit, you will no longer be subject to it. You must notify us using the change of circumstances option on your sponsor management system account. Where appropriate, you must also email a copy of your inspection report to [SCOC@ukba.gsi.gov.uk](mailto:SCOC@ukba.gsi.gov.uk) or post it to:

Sponsor Licensing Unit  
UK Border Agency  
Vulcan House - 4th Floor Steel  
North East, Yorkshire and Humber Region  
PO Box 3468  
Sheffield  
S3 8WA

211. You will remain subject to the interim limit until the date we write to you to confirm that you are exempt.

## Supporting documents

212. When you apply for a Tier 4 sponsor licence you must send us specified documents to show that you are eligible. We list these documents in Appendix A, which is separate to this guidance. We may ask for other documents at any time.

213. When you complete and submit your online application for a sponsor licence, the system takes you to a submission sheet page. You must print this and complete it.

214. Then you must send all of the following, together, within 14 calendar days for your application to be valid. If you do not, we will reject your application and refund your fee.

- a. All pages of the original submission sheet (not certified copies), signed and dated in the designated space by the authorising officer.
- b. All of the documents listed on the submission sheet as mandatory documents (either originals or certified copies).
- c. The correct fee (unless you have already paid online). Since 1 October 2011 we no longer accept cheque payments for sponsor applications. We only accept on-line payments for these transactions.

215. If you do not send documents specified in Appendix A (excluding those that are mandatory) that are not mandatory, or we need any other documents, we will write to you, either by letter or email (please note that this applies to all references within this guidance where we say that we will write to you), giving you seven calendar days to send us those documents. If we do not receive them within that time we will refuse your application and will not refund your fee.

216. If you want to be licensed under any other tiers and/or categories of the points-based system, you must meet all of the requirements for those tiers and categories and send us the required documents.

217. If you are including any 'branches' or 'partner' institutions in your application for a sponsor licence you must submit all the relevant evidence for each individual branch or partner institution. Examples of which are:

- a. if you are a private college or an educational trust with branches across the UK which you want to include on your licence you must send evidence showing that each branch has undergone a full institutional inspection, or has been audited or reviewed by an approved body - see the section called 'Educational oversight'; or
- b. if you are including 'partner' institutions on your licence, for the purpose of them delivering pre-sessional courses on your behalf, you must provide their name and address; or
- c. if you are including 'partner' institutions on your licence with whom you have a contractual partnership agreement with (see the section called 'Partner institutions') you must provide the original copy, or a certified copy, of the signed agreement.

218. You must send the original documents or certified copies. A certified copy is one that includes a signed statement, either by the issuing authority or by a practicing solicitor or notary. The certifier must confirm that it is an accurate copy of the original document. Each certified document must clearly detail the certifier's name, signature and the organisation they represent. If we cannot check a certifier's details we will reject the document. Sometimes, when a document has more than one page, the certifier does not want to certify every page. We will accept the document if the pages are all attached together (such as stapling) and the top page is certified as described. The certification must also state clearly how many pages have been certified.
219. We know you often receive original documents by email as a PDF attachment. You must have printouts of PDF files certified and the person who certifies the document must have seen the original email containing the PDF file.
220. If you provide documents that are not in English or Welsh you must also send us a certified translation. You must provide the translator's credentials, along with their official confirmation that the translation is accurate.
221. If you provide certified copies of documents and/or certified translations we may ask for the original documents.
222. We will make more checks if we doubt that you can meet the requirements for the category in which you have applied. We may ask for more documents.
223. We will return all your documents by recorded delivery to the address on your application. If you want us to return the documents by special delivery, you must enclose a prepaid special delivery envelope.

## **How to apply**

224. If you use deception to obtain a licence you may be committing a criminal offence.
225. We treat all sponsorship applications as confidential. We will not pass on information you send with your application to anyone except other government departments, agencies, local authorities and the appropriate educational oversight bodies, and only when it is necessary to enable them to carry out their functions. However, we will publish sponsors' ratings on our website.
226. To join the sponsor register you must meet all of the requirements below. You must:
- a. complete the appropriate online sponsor application;
  - b. pay the correct fee;
  - c. provide proof that you are based in the UK;
  - d. be able to provide original or certified copies of the documents listed in Appendix A, unless we say otherwise, to establish that you are genuine and operating or trading lawfully in the UK, and with the appropriate planning permission or local planning authority consent to operate the type or class of business at your trading address;
  - e. meet the suitability requirements;
  - f. show there are no reasons to believe that you are a threat to immigration control; and
  - g. agree to comply with the duties of sponsorship.
227. If you do not pay the correct fee, we will reject your application and return it with your fee.

## **Process of applying**

228. You can only apply online. The process for applying is:

- a. Register online with your name and email address at <https://www.points.homeoffice.gov.uk/gui-sponsor-jsf/SponsorHome.faces>.
- b. Complete your application online, print off your submission sheet and send it to us with your fee and supporting documents. Since 1 October 2011 we no longer accepted cheque payments for sponsor applications. We will only accept on-line payments for these transactions.
- c. We process your sponsor application, making any checks that are necessary.
- d. We notify you of our decision.
- e. If we give you a sponsor licence, your organisation name and rating are published on our register of sponsors.

229. The online sponsor application asks you to indicate which tiers, categories, or sub-categories you wish to be licensed under. You can select as many as you will need.

230. If your licence is granted, these will be the only tiers under which you will be able to sponsor people.

231. If you gather all the necessary information before starting, the application should take about 30 minutes to complete. If you want to keep a copy of it for your records, you must write down what you have put in the application as you complete it because we cannot provide copies of sponsor licence applications.

## **Using a representative to apply for a sponsor licence**

232. You must make the application. A representative may help you complete your application, but they may not submit it for you. If they do, we will refuse your application and will not refund your fee.

233. A representative can be one of two things.

- a. They can be a person who is qualified to provide immigration advice or services in accordance with section 84 of the Immigration and Asylum Act 1999 because they:
  - i. are regulated by the Office of the Immigration Services Commissioner (OISC);
  - ii. are exempt by ministerial order from the requirement to be regulated; or
  - iii. otherwise comply with section 84.
- b. They can be a regulated member of a designated professional body, or working under the supervision of such a person. The bodies listed in the 1999 act are the:
  - i. Law Society;
  - ii. Law Society of Scotland;
  - iii. Law Society of Northern Ireland;
  - iv. Institute of Legal Executives;
  - v. General Council of the Bar;
  - vi. General Council of the Bar of Northern Ireland; and

vii. Faculty of Advocates.

234. To act on your behalf a representative must be:

- a. in one of the above categories; and
- b. based in the UK.

235. If they act on your behalf without being 'qualified' under the Immigration and Asylum Act 1999, they may be committing a criminal offence.

236. A representative that complies with Section 84 by exemption by ministerial order must comply with the OISC code of standards.

237. If you do not know your representative's status you should contact the OISC, which has a list of organisations and advisers it has authorised.

By post:

The Office of the Immigration Services Commissioner (OISC)  
5th Floor  
Counting House  
53 Tooley Street  
London  
SE1 2QN

By phone: 0845 000 0046 (calls charged at local rate)

By fax: 020 7211 1553

By email: [info@oisc.gov.uk](mailto:info@oisc.gov.uk)

Website: <http://oisc.homeoffice.gov.uk/>

238. If you wish to use the services of a representative after you have a sponsor licence, you must formally appoint one using the sponsor change of circumstances form on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/sponsors/sponsorcircumstancesform>.

239. Since 1 October 2011 you can make a request to formally appoint a representative using your SMS account. We published SMS user guides on our website in September 2011 to tell you how to use the new features that we introduced.

240. We will not deal with your representative unless you have formally appointed them.

## **How we consider and check your application**

241. Our checks may include an on-site visit, particularly if we know very little about your organisation or have any doubt about whether or not it is genuine. The visit may be announced or unannounced.

242. Our compliance officers are trained to refer cases for civil penalties or prosecutions if they find evidence of wrongdoing or criminal activity. If you use deception to obtain a licence you may be committing a criminal offence. The compliance officer will consider information about abuse of the sponsorship arrangements and investigate and, if appropriate, inform the police and/or any relevant authority.

## **Application for Tier 4 sponsor licence**

243. When we consider your licence application, we ask three main questions:

- a. Are you a genuine organisation operating lawfully in the UK and complying with all appropriate local planning authority regulations? To prove this, you must provide the documents in Appendix A.
- b. Are you dependable and reliable? We look at your history and background, the key personnel you name on the application and any people involved in your day-to-day running. We view any history of dishonest conduct or immigration crime seriously and may refuse your application because of it.
- c. Are you capable of carrying out your duties as a sponsor? We look at your processes and how you monitor student attendance to ensure you will be able to fulfil your sponsor duties. We may do this by visiting you either before your licence is granted, or afterwards. If we have significant doubts after visiting you we may refuse your application. If you are an existing sponsor and doubts arise, we may revoke your licence.

## Checks we make

244. We will check your documents and other aspects of your application, especially if we have reasonable doubts about them. We may check that documents are correct and genuine by contacting:

- a. other government departments (in the UK and overseas);
- b. banks;
- c. universities; and
- d. professional bodies.

245. We aim to make checks as quickly as possible, but allow up to 15 working days for answers to our enquiries. We use a standard format to record the results of enquiries, to ensure we record feedback consistently.

246. There are three possible outcomes of these checks.

- a. Document confirmed as genuine. We will consider your application as normal.
- b. Document confirmed as false. We will refuse your application, whether or not the document is essential to your application.
- c. Check inconclusive. If we cannot verify that a document is either genuine or false we will not use the document as evidence to support your application. We may instead ask for more supporting documents.

## What happens after we make a decision on your application

247. We will write to you to tell you:

- a. whether we have granted or refused your application for a sponsor licence; and
- b. the reasons for the decision if we have refused it.

## If we approve your application

248. We will write to you to tell you:

- a. we have granted you a sponsor licence;
- b. the maximum number of CAS you will be allowed to assign.

## **Sponsor licence number**

249. We will send you a sponsor licence number. You must quote it in all communications with us.

## **If we refuse your application**

250. You have no right of appeal if we refuse your application. You may reapply at any time but you must ensure that the reasons we refused you no longer apply. If you cannot do this, we are likely to refuse your application again. We may visit you if you have previously been refused a licence to ensure that you can meet your duties as a sponsor.
251. If we refused your application because you have previously been issued with a civil penalty, you should only reapply either 6 or 12 months after the date the fine became payable, depending on the circumstances (See 'When we will refuse a sponsor licence application').
252. If we refused your application because you previously held a sponsor licence and we revoked it less than six months ago, you should not reapply until six months have passed.
253. If you reapply you must pay the appropriate fee and produce all of the required documents. However, if we refused your application by mistake, you must still complete a new application but you will not have to send any supporting documents or pay a fee.

## **Adding more tiers and categories to your licence**

254. Once we have granted your sponsor licence, you can add more tiers, categories and sub-categories to it. For example, if you have registered for Tier 4 (General), but then you want to bring employees to the UK to work under Tier 2 (General), you can apply to extend your licence.
255. To do this, you must go through the application process again, quoting your sponsor licence number where asked, and select the tiers, categories and sub-categories you wish to add. You must send in any extra mandatory documents we require along with any extra fee.
256. If you apply to add an extra tier to your existing licence, all the details you give on your further application must be the same as those we already have for you, particularly for your authorising officer and key contact. A sponsor licence can only have one authorising officer and one key contact. If you want different people to be the authorising officer and key contact for the tier you want to add, you cannot amend your existing licence. You must apply for another licence and pay the appropriate fee.
257. If the level 1 user you name on the application is different to the ones on your existing licence you must say on the application whether you intend to replace an existing level 1 user or add a new one. If you do not give this information, we will contact you to ask. If you do not reply within seven calendar days we will reject your application.

## **Renewing your licence**

258. A sponsor licence lasts for four years, after which it will expire. The only exception to this is

if we revoke it or you surrender it before it expires.

259. If you have been granted a licence and subsequently applied for an additional tier, category or sub-category, the expiry date of the original licence will apply to all additional tiers, categories or sub-categories which you have added.

260. If you do not apply to renew your licence and it expires at the end of this four year period, you will no longer be a licensed sponsor from the date your licence expires. This means that:

- a. you cannot assign any more CAS to sponsor new students in the future; and
- b. you cannot continue to sponsor any of your current students and we will curtail their leave to 60 days, during which time they are allowed to find a new sponsor. If they do not make a further application by the end of their curtailment period they must leave the UK or face enforced removal; and
- c. your details will be removed from the online public register of licensed sponsors.

261. If you have any sponsored students studying with you, you must apply to renew your licence before it expires if you want them to be able to continue studying with you, even if you do not plan to sponsor any new students in the future.

262. If you are a legacy sponsor, you are not eligible to renew your Tier 4 sponsor licence. You should not apply to renew your licence but if you do, we will reject your application and refund the fee. Any existing students, that you have previously been allowed to continue to sponsor as a legacy sponsor, can no longer study with you from the date your licence expires. Their leave will be curtailed to 60 days if they have more than 60 days permission to stay remaining.

## How to renew your licence

263. You must apply to renew your licence using your Sponsorship Management System (SMS) account. The SMS will only allow you to make a renewal application from three months before the expiry date of your licence.

264. We will write to you four months before the expiry date of your licence to tell you that you will soon need to apply to renew it.

265. We will write to you again three months before the expiry date of your licence to remind you and to let you know that you can now make an application using your SMS account.

266. We will write again to remind you that your licence is due for renewal:

- a. two months before it is due to expire; and
- b. one month before it is due to expire; and a final reminder will be sent
- c. two weeks before it is due to expire.

267. There is a fee for renewing your licence. The fee will be the same as it would be if you were applying for a new licence now. Details of all our fees are available on our website at <http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/costs/costofallicence/>. This website explains that there are different fees for small and large companies. Understanding this distinction is important because if you pay less than the required fee for the size and structure of your organisation, your application to renew your licence will be rejected and the payment will be refunded. If you pay more than the required fee, we will accept your application and we will refund the difference between the amount you have paid and the amount you should have paid.

## How the application process works

268. The licence renewal function in your SMS account can only be accessed by a Level 1 user. The Authorising Officer and the Level 1 user should discuss your licence renewal before a Level 1 user submits it. When the Level 1 user submits the application, they will be confirming that they are doing so with the consent of the Authorising Officer.
269. The application is simple and will only take around five minutes to complete. At the end of the process the Level 1 user will be prompted to make an online payment to cover the licence renewal fee and to print off a summary sheet to keep for your own information. You do not need to send us any documents at this stage.
270. If you pay less than the required amount or you fail to send any documents that we have requested at this stage, your application will be rejected and the payment refunded to you. If your application is rejected you can reapply again at any time before your licence expires.
271. If your application is accepted, we will temporarily extend the expiry date of your licence to allow us time to conduct any checks that we decide are necessary before granting your application.
272. The checks we make once we have temporarily extended your licence could include asking you to send us some documents. For example we may want to see again, any documents listed in Appendix A for anyone applying for to renew their sponsor licence. We may also ask for other documents that are not listed in Appendix A. If we write to you to ask for any documents, you must send them to us within seven calendar days.
273. If you do not send the documents within this time, we will take action against you. We may:
- a. reduce your CAS allocation; or
  - b. suspend your sponsor licence pending further investigation; and/or
  - c. revoke your licence. (Please see the section called 'Revoking your licence' for more information on when we will, or may revoke your licence).
274. We may want to visit you in connection with your application to renew your licence. If we do, and as a result we find that we have concerns about you as a licensed sponsor, for example if you have failed to meet any or all of your sponsor duties, we will either:
- a. reduce your CAS allocation; or
  - b. suspend your sponsor licence pending further investigation; and/or
  - c. revoke your licence. (Please see the section called 'Revoking your licence' for more information on when we will, or may revoke your licence).
275. If you are B-rated at the time you apply, you will remain subject to your sponsorship action plan and we will not make a final decision on your application until the period covered by your action plan has passed. For example, if your licence is due to expire on 21 December 2012, but you are subject to an action plan until 31 January 2013, we will not make a final decision on your application before 31 January 2013.
276. If your licence is suspended but is due to expire, you must still apply to renew it. If you do not apply to renew it and the result of the suspension does not lead to your licence being revoked, we will not be able to reinstate your licence if it has expired.

277. If we have granted you access to a dormant sponsor licence because you have been involved in a merger, takeover or other restructuring exercise, you do not need to do anything in respect of that dormant licence expiring. You can continue to access it until your last sponsored student's leave under that licence has expired.

## **Timing your licence renewal application**

278. We strongly recommend that you make your application to renew your licence at the earliest opportunity. If you apply in good time, it is likely that you will have the chance to apply again if your application is rejected. If your licence has expired by the time we make a decision to reject your application, you will not be able to make another application to renew your licence.

279. If you delay making your renewal application and it is then rejected, you will be risking the possibility that your licence expiry date will have already passed and you will be unable to make another application.

## **Declining to renew your licence**

280. You may choose to decline to renew your licence because you no longer sponsor any students and you do not intend to sponsor any in the future.

281. The renewal function in your SMS account includes an option to 'decline' to renew your licence. If you choose to decline and work through this process to its completion, you will not be able to change your mind afterwards and your licence will simply expire on its due date. Nothing can be done to change or reverse that situation.

282. We strongly advise that you think carefully about whether you want to decline to renew your licence and that this is discussed between the Authorising Officer and the Level 1 user who will complete this process using your SMS account. (When the Level 1 user declines to renew, they will be confirming that they are doing so with the consent of the Authorising Officer).

283. If you do decline to renew your licence, either deliberately or in error, your licence will expire. Please see paragraph 260 for details of what this means for you.

## **Sponsor rating**

284. Your licence can have two possible ratings: A-rating, and HTS status.

285. When we first grant your licence you will be given an A-rating. This is a transitional rating that will last for 12 months from the date we grant your licence.

286. To meet the criteria for HTS status, you must first establish a good record of performance with us and that is why you will be A-rated for 12 months. The period that you are A-rated will give you the chance to establish yourself as a Tier 4 sponsor and prove that you can meet all of your sponsor duties. You must apply for HTS status no later than 12 months from the date that you became A-rated and you must meet all of the criteria we have set out for highly trusted sponsors. You can apply up to one month in advance.

287. Your rating will appear on the published register of licensed sponsors.

288. As an A-rated sponsor you are not allowed to do certain things that highly trusted sponsors can do. This is because it is a transitional rating for new sponsors who have not had enough time to build up an established record of compliance with their sponsor duties.

a. You cannot offer:

- i. courses at Qualifications and Credit Framework (QCF) or National Qualifications Framework (NQF) level 3 (and equivalent) if you are a Tier 4 (General) sponsor (if you are an A-rated Tier 4 (Child) sponsor you can offer courses to Tier 4 (Child) students at this level); and
- ii. courses below degree level that include work placements.

b. you cannot allow a student to re-sit an examination more than twice.

c. a student cannot start studying with you if you have assigned a CAS but we have not yet decided their application to stay in the UK.

289. If you have a sponsor licence that was granted before 5 September 2011, you should read the following section called 'transitional arrangements for sponsor ratings' because it tells you what you must do if you have not already achieved HTS status and also tells you what will happen if you have been B-rated under the guidance in place before 5 September 2011.

## **Transitional arrangements for sponsor ratings**

### **HTS status**

290. If you had your licence for 12 months on or before 9 October 2011, you must have applied for HTS on or before that date.

291. If you already have HTS status and it is due for renewal, you must apply to renew it before it expires. You can apply up to one month in advance. If you do not apply in time to renew your HTS status, your licence will be revoked.

292. If you submitted an application for HTS status prior to 5 September 2011 and it was refused you must have reapplied no later than six months after the date we wrote to you to tell you that your application had been refused. If you did not apply in time, your licence was revoked/will be revoked.

293. If you have not had your licence for 12 months on 9 October 2011, you must apply for HTS status as soon as you have had your licence for 12 months. (You can apply up to one month in advance but we will not decide your application until you have had your licence for 12 months.) If you do not apply in time, your licence will be revoked.

294. The HTS requirements are set out in detail in the section called 'Eligibility requirements for HTS status'.

### **Transitional arrangements for B-rated sponsors who are subject to an action plan**

295. Under the guidance in place before 5 September 2011, it was possible for some sponsors to be B-rated. This was either because we had concerns about their ability to meet all of their sponsor duties or because they had interim accreditation from one of the previously approved accreditation bodies. The previously approved accreditation bodies were:

- a. Accreditation UK;
- b. The Accreditation Service for British language Schools (ABLS);
- c. The Accreditation Service for International Colleges (ASIC);
- d. The British Accreditation Council (BAC);

e. The Church of England Inspectorate – Ministry Division.

296. If you are B-rated and your action plan is due for a review, we will carry out that review based on the guidance that was in place when you were given your action plan.
297. If you have not met all of the conditions of your action plan by the review date set, your licence will be revoked. If you have met all of the conditions your licence will be re-rated to an A-rating.
298. Under the current requirements, if you had your licence for 12 months on or before 9 October 2011, you must have applied for HTS status on or before that date. If you had not had your licence for 12 months on the 9 October 2011, then you must apply, or have applied, for HTS as soon as you have had your licence for 12 months.
299. One of the mandatory requirements for HTS is that you must have been A-rated for the six-month period immediately before you apply. If you are currently B-rated then you may not be able to meet this requirement.
300. If you are or were B-rated and able to achieve an A-rating, and maintain that rating for six months before the date you need to apply for HTS status, then you will be able to meet this requirement. For example if your licence was granted on an application made on 10 May 2011 with a B-rating and your action plan was reviewed on 10 September 2011 and you were given an A-rating, you will be eligible to apply for HTS status on 9 May 2012 – one year after your licence was granted.
301. If the only reason you are currently B-rated is because you have partial or interim accreditation from one of the previously approved accreditation bodies, and your action plan required you to achieve full accreditation with this body, then you may still wish to pursue that full accreditation.
302. However, regardless of whether you choose to pursue full accreditation with the previously approved accreditation body, you must apply, or you have applied, for educational oversight from the appropriate body listed in the 'educational oversight' section of this guidance if you want to continue to sponsor new students. If you apply, or you have applied, for educational oversight from the appropriate body by the specified deadline, and we have no other concerns about you, then we will up-rate your sponsor licence to an A-rating.
303. We will calculate how many CAS you will be allowed to assign for a period of six months. You must then apply for HTS status no later than six months from the date that you became an A-rated sponsor and you can apply up to one month in advance. If you have not applied for HTS after you have been A-rated for six months then we will revoke your licence.
304. If you are currently B-rated for a number of reasons, including partial or interim accreditation with one of the previously approved accreditation bodies, then you must meet all of the other conditions of your action plan by the review date set. If you meet all of the other conditions of your action plan, and have applied for educational oversight with the appropriate body by the specified deadline, and we have no other concerns about you then we will up-rate your sponsor licence to an A-rating.
305. If you are currently B-rated and not able to achieve an A-rating and maintain that rating for six months before you need to apply for HTS then the following arrangements will apply, depending upon:
- a. whether you were given a B-rating at the point your licence was granted, and if so, when you obtained your licence; or
  - b. whether your licence was downgraded to a B-rating after a period of being A-rated.

306. If you applied for your licence between 1 March and 20 April 2011 and it was granted with a B-rating then you must apply for HTS status no later than 12 months from the date that you were granted your licence for 12 months. You can apply up to one month in advance of this date. We will review your action plan on the target date. If, after this review, we give you an A-rating then we will give you a limited number of CAS so that you can go on to sponsor new students. If you do not apply for HTS status when you have been licensed for 12 months then we will revoke your sponsor licence.

307. If:

- a. you applied for a sponsor licence before 1 March 2011 and it was granted with a B-rating and you are still B-rated; or
- b. your sponsor licence has been downgraded to a B-rating and you are still B-rated,

We will review your action plan on the target date. If, after this review, we give you an A-rating, we will then calculate how many CAS you will be allowed to assign for a period of six months. You must then apply for HTS status after six months as an A-rated sponsor. If you do not apply for HTS after six months then we will revoke your licence.

308. Since 21 April 2011 B-rated sponsors are unable to assign CAS to new students. If you are a B-rated sponsor under the guidance in place before 5 September 2011, you are only able to assign CAS to existing students to finish a course that they have already started with you under their current leave, and who are eligible to apply to extend their current leave.

### **Transitional arrangements for sponsors who have recently been re-rated from B-rating to A-rating**

309. If you are A-rated when you need to apply for HTS status but have been B-rated at some point in the last six months then you will not be able to meet the mandatory requirement to have been A-rated for the six-month period immediately before you apply. In these circumstances we will allow you to delay your application for HTS until you have been A-rated for six months. You must make your application for HTS no later than six months from the date that you became A-rated. You can apply up to one month in advance. If you do not apply for HTS when you have been A-rated for six months then we will revoke your sponsor licence.

### **Applying for HTS status**

310. You must apply for HTS status if;

- a. you have had your licence for 12 months. (You must apply no later than 12 months from the date that you were granted your licence. You can apply up to one month in advance but we will not decide your application until you have had your licence for 12 months.);
- b. you already have HTS status but it is about to expire. (You can apply up to one month in advance);
- c. you have had your licence for more than 12 months but have never had to apply for HTS status before. (See the section called 'Transitional arrangements for sponsor ratings.);
- d. you applied for HTS status before 5 September 2011 and your application was refused. (See the section called 'Transitional arrangements for sponsor ratings.);
- e. you are an independent school who was previously automatically given HTS status until April 2012. Your HTS status was due to expire on 21 April 2012, however we agreed to give you an extended deadline to submit your HTS renewal application. You must have submitted your HTS renewal application by 30 April 2012.

- f. you have been an A-rated sponsor for six months where you were previously a B-rated sponsor.

## How to apply

311. You must first ensure you meet the requirements. See the next section called 'Eligibility requirements for HTS status'.
312. Then you should complete the application form 'Application for HTS status under Tier 4 of the points-based system' which is on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/sponsors/hts-form.pdf>.
313. Send the form, with the correct fee, to:
- UK Border Agency  
Highly Trusted Sponsors  
PO Box 589  
Durham  
DH99 1AB
314. Your current registered authorising officer must sign the application form. If you do not complete it in full we will return it to the key contact named on your application. We will give you seven calendar days to return the application fully completed. If you do not, it will automatically fail to meet the requirements and we will refuse it. We will not refund your fee.

## Eligibility requirements for HTS status

315. You must meet all of the requirements set out in this section. If you do not meet all of the requirements you will, in some circumstances be allowed to apply again. In some circumstances your licence will be revoked.
316. In April 2011, we automatically gave HTS status to independent schools until April 2012. From April 2012, we ceased to automatically give HTS status to independent schools. All independent schools must make an application to renew their HTS status and pay the associated fee for this application as outlined in this guidance.
317. We will assess independent schools against the 'stage one: mandatory requirements' only.
318. To be considered an independent school for these purposes, we require you to have a minimum of 51 per cent of your students aged 17 and under and you must be registered as an independent school with the Department for Education or its equivalents in Scotland, Wales and Northern Ireland.
319. We reserve the right to assess any independent school against the full HTS criteria, including the 'stage two: core measurable requirements' should we consider it necessary.

## How we consider an application for HTS

320. There are two stages in considering your application.
- i. stage one: mandatory requirements**
321. At the first stage we assess you against the mandatory requirements in table (ii). We base our assessment only on students sponsored under Tier 4 and whose application to come to, or stay in the UK was supported by a CAS assigned by you. This includes any CAS you have assigned on behalf of a branch or partner institution named on your licence.



**Table (ii)**

Minimum qualifying period	<p>You must have held a Tier 4 sponsor licence for 12 consecutive months.</p> <p>Unless you are applying to renew your HTS status, your licence must have been A-rated for the six months immediately before you apply.</p>
No civil penalties	<p>During the three-year period immediately before you apply, you must not have become liable to pay a civil penalty which still stood once your objection and appeal rights were exhausted.</p>
Refusal rate	<p>Your refusal rate must be less than 20 per cent.</p> <p>This means that of all the CAS you have assigned which students have used to support an application for a visa or permission to stay, the total number of applications we refused must be less than 20 per cent. We will assess this using CAS data from the SMS for the 12 month period immediately before you apply. We will take into account all CAS that students have used and applications we refused during this 12 month period.</p> <p>From 30 July 2012, a student applying from outside of the UK may be asked to undertake an interview. If we are not satisfied that the applicant is a genuine student, under paragraph 245 ZV(K) of the immigration rules, we will refuse their application. As a transitional arrangement, when calculating your HTS refusal rate, we will not include students who have been refused entry on the basis that we could not be satisfied that they are a genuine student. We will continue to include all other refusals.</p> <p>We will review this arrangement after one year.</p>
Enrolment rate	<p>Your enrolment rate must be at least 90 per cent.</p> <p>This means that of all the CAS you have assigned to students who have been granted a visa or permission to stay, at least 90 per cent must have enrolled on their course within the enrolment period.</p> <p>We will assess this using CAS data from the SMS for the 12 month period immediately before you apply. We will take into account all the CAS students have used in a successful application where the student has enrolled on their course within the past 12 months.</p>

<p>Course completion rate (If none of your students were due to complete their course in the past 12 months then we will not assess you against this requirement.)</p>	<p>Your course completion rate must be at least 85 per cent.</p> <p>This means that at least 85 per cent of students sponsored under Tier 4 who enrol with you, must complete their course.</p> <p>We will assess this using all CAS data available from the SMS. To determine your course completion rate we will calculate the number of students whose course was due to end in the past 12 months and who dropped out of their course before the end date. It does not matter when they started their course. We will then calculate the percentage of drop-outs compared with all students who were due to complete their course and subtract this from 100 per cent.</p> <p>When calculating your course completion rate we <u>will not</u> include students who:</p> <ul style="list-style-type: none"> <li>• Switched institution; or</li> <li>• Switched to another immigration category; or</li> <li>• Left the course and left the UK.</li> </ul>
<p>Declaration of academic progression</p>	<p>Your declaration of academic progression rate must be 100 per cent.</p> <p>This means that you have, where required, confirmed the student's academic progression on all CAS you assigned during the past 12 months.</p>

322. If you do not meet one or more of these requirements, we will refuse your HTS application and your licence will be revoked. This is because you will have failed to meet the minimum standards for sponsors who have been licensed for 12 months or longer. This also applies to independent schools.

**ii. stage two: core measurable requirements**

323. If you do meet all of the mandatory requirements, we will look more closely at your refusal rate, enrolment rate and course completion rate. We call these the ‘core measurable requirements’. We will score how you measure up to these requirements and your final score determines the outcome of your application. You will start with a score of 100 and we will deduct points as shown in table (iii).

324. If you are an independent school, we will only assess you against these core measurable requirements if we think it is necessary.

**Table (iii)**

Refusal rate percentage	Less than 5 per cent	0 points deducted
	5.0 – 9.99 per cent	5 points deducted
	10 – 14.99 per cent	10 points deducted
	15 – 19.99 per cent	20 points deducted
Enrolment rate percentage	More than 98 per cent	0 points deducted
	96 – 98 per cent	5 points deducted
	93 – 95.99 per cent	10 points deducted
	90 – 92.99 per cent	15 points deducted
Course completion rate percentage	More than 98 per cent	0 points deducted
	95 – 98 per cent	5 points deducted
	90 – 94.99 per cent	10 points deducted
	85 – 89.99 per cent	15 points deducted

325. If you score 70 points or more, we will grant your application.

326. If you score less than 70 points we call this a ‘near miss’. See the section called ‘If my application scores a near miss’ for more information on near misses.

**When we will refuse an application for HTS status**

327. We will refuse your application for HTS status in any of the circumstances below.

- a. You do not meet one or more of the mandatory requirements.
- b. You do not send us the evidence we request within the given time limit and/or send incomplete information.
- c. We revoke your Tier 4 licence for other reasons before we have been able to decide your application.

328. We will also refuse your HTS application for any of the reasons set out in the section called 'When we will refuse a sponsor licence application'.

## **If we refuse your application for HTS status**

329. If we refuse your application for HTS status we will revoke your licence. This is because you will have failed to meet the minimum standards we have set out for sponsors who have held their licence for 12 months or more.

330. You have no right of appeal if we refuse your HTS application.

## **If your HTS application scores a near miss**

331. If your application for HTS status scores less than 70 points, we call this a 'near miss'. If you score a near miss, we will allow you to stay on the sponsor register as an A-rated sponsor.

332. If your application is a 'near miss' we will write to tell you:

- a. that you have scored a near miss (including how many points you scored); and
- b. how many CAS you can assign; and
- c. when you need to reapply for HTS (which will be six months from the date that you scored a 'near miss'); and
- d. where appropriate, update your details on the Tier 4 register of sponsors to show your A-rating.

333. When you apply again after previously scoring a near miss, you must complete a new application form and pay the relevant fee and you must score 70 points or more. If you do score 70 points or more you will be awarded HTS status. If your application is refused, your licence will be revoked. If your application scores a near miss again, you will become a legacy sponsor. The section called 'Legacy sponsors' gives more detail on what this means.

## **If we approve your application for HTS status**

334. We will:

- a. write to tell you that we have approved you as a highly trusted sponsor;
- b. update your details on the Tier 4 register of sponsors to show your HTS status; and

335. Since 1 October 2011 we also update your rating on your SMS account.

## **Renewing your HTS status**

336. HTS status is valid for 12 months from the date on which we gave you the status. You must renew it every year by completing a new application and paying the appropriate fee. You must renew it before it expires. We will remind you when your status is due to expire, but it is your responsibility to renew it. You can apply up to one month in advance and we will consider your renewal against the full requirements that apply at that time.

337. If you already had HTS status and applied to renew it before 5 September 2011 we will decide it against the guidance in place before that date.

338. If your HTS status expires and you do not apply to renew it in time your licence will be revoked.

339. If we approve your HTS renewal application your HTS status will continue for 12 months

from the date that your previous HTS status expired. For example your previous HTS status expires on 17 December 2012, our decision to approve your HTS renewal application is made on 6 February 2013, your new HTS status expiry date will be 16 December 2013.

340. If your HTS renewal application scores a miss please refer to the section called 'If your HTS application scores a near miss'.

341. If your HTS renewal application is refused please refer to the section called 'If we refuse your application for HTS'.

## **The sponsorship management system**

342. Once you have a sponsor licence, you will have access to the online sponsorship management system (SMS). It allows you to:

- a. carry out your day-to-day sponsor activities;
- b. tell us about changes to your organisation, such as a change of address or key personnel;
- c. assign CAS; and
- d. meet your duties to report on your sponsored students.

343. It is on our website at: <http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/sms/>.

344. On 1 October 2011 we introduced changes to the SMS that will make it easier for you to notify us of changes to your circumstances. We published SMS user guides on our website in September 2011 to tell you how to use the new features that we introduced.

## **SMS users**

345. We call a person who has access to the SMS a user. There are two different levels of access - level 1 user and level 2 user. The level determines the type of access the user has to the system, and what they can do on it.

346. To maintain security we will:

- a. send the user name for the level 1 user to the authorising officer by email unless, the level 1 user is also the authorising officer and in which case we will send it by post; and
- b. send the password directly to the level 1 user by email.

347. SMS users must never tell anyone else their password. If they do, we will take action against you, this may include suspending or revoking your licence.

348. You are fully responsible for the actions of anyone who assigns CAS on your behalf. If you break any of our rules on assigning CAS we will take action against you. If we find that you employed an illegal worker because you have negligent recruitment practices, we may issue you with a civil penalty. If we find that you have knowingly employed an illegal worker we will refer the case for prosecution.

349. You must have at least one SMS user while you are a licensed sponsor. If we find you have no users, you cannot meet your sponsor duties and we will take action against you.

## Sponsoring students

350. This section explains:

- a. the types of student you can sponsor;
- b. what courses they may take;
- c. the conditions we place on their stay in the UK; and
- d. how to issue and amend CAS.

## How to sponsor students

351. All students who wish to come to the UK under Tier 4 of the points-based system must obtain a visa before they travel. Students who are already in the UK under Tier 4 can apply for an extension of their permission to stay. We call this 'further leave to remain'.

352. They cannot apply for a visa or extension of their permission to stay without a CAS. When you give a student an unconditional offer of a place on a course, you will issue the CAS using the sponsorship management system. For details of the sponsorship management system, see 'Becoming a sponsor'.

353. The CAS will not guarantee that we will grant a student a visa or permission to stay longer in the UK. Before you assign a CAS, you should ensure that the student will meet the requirements for a visa or permission to extend their stay. You can find details of these on our website at [http:// www.ukba.homeoffice.gov.uk/visas-immigration/studying/](http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/).

354. A student cannot apply to us under Tier 4 more than three months before their course starts.

## Should you sponsor the student under Tier 4 (general) or Tier 4 (child)?

355. Tier 4 (Child) is for children between the ages of 4 and 17 (inclusive) who come to the UK for their education. Tier 4 (General) is for anyone who comes to the UK for their post-16 education.

356. Students aged 16 or 17 who are studying a course at Qualifications and Credit Framework (QCF) or National Qualifications Framework (NQF) level 3 or above (for example A-levels) can apply for a visa under either Tier 4 (Child), or Tier 4 (General). Students aged 16 or 17 who wish to take QCF or NQF level 2 courses (for example GCSEs) may only apply as child students.

357. Students aged 16 or 17 who wish to study English as a foreign language can only apply under Tier 4 (General) unless they are taking a pre-sessional language course before their main course of study.

358. You must not offer English language courses to students aged 15 or under using Tier 4 (Child). They should apply to come to the UK as a 'child visitor'.

## Requirements for Tier 4 (general) students

### What courses may a Tier 4 (general) student take?

#### Level of course

359. You can only assign a CAS to Tier 4 (General) students for courses at a minimum level of:

- a. Qualifications and Credit Framework (QCF) or National Qualifications Framework (NQF) level 3 or above in England, Wales and Northern Ireland (or the equivalent in Scotland).
- b. Level B2 of the Common European Framework of Reference for Languages (CEFR) for English language students. However, students who currently have permission to stay in the UK, and applied for that before 5 October 2009, are exempt from this requirement. They are allowed to start a new English language course at a minimum of CEFR level A2. But if their current permission to stay expires before their new course starts, they cannot extend it to complete an English language course that is below CEFR level B2.

360. If you are an A-rated sponsor, you cannot offer courses (including pre-sessional courses) at QCF or NQF level 3 (or equivalent) to students, but you can offer English language courses regardless of your sponsor status.

361. If you are a B-rated sponsor and are still subject to an action plan under the guidance in place before 5 September 2011, you cannot enrol any new students. You can only assign a CAS to existing students who needs to extend their leave to finish their course. The number of CAS you need to allow your existing student to extend their leave will have been agreed with you when your action plan was issued.

362. We will take action against you if you assign a CAS for a student to take courses under Tier 4 (General) that are:

- a. below QCF or NQF level 3; or
- b. below level B2 for English language students (except those who currently have permission to stay in the UK, and applied for it before 5 October 2009).

#### Full-time and leads to approved qualification

363. The course must be full-time, which we define as:

- a. a full-time course of study that leads to a UK-recognised qualification at Level 6 or above on the QCF or NQF or equivalents;
- b. an overseas higher education course that:
  - i. the student is studying for in the UK; and
  - ii. leads to a qualification from an overseas higher education institution that is recognised as being equivalent to a UK higher education qualification; or
- c. a course of study below UK degree level that involves a minimum of 15 hours a week of classroom-based, daytime study (08:00 – 18:00, Monday to Friday).

364. The course that you assign a CAS to a student to take must lead to an approved qualification. We define an approved qualification as one that is:

- a. validated by Royal Charter;
- b. awarded by a body that is on the list of recognised bodies produced by the Department for Business, Innovation and Skills (<http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees/recognised-bodies>);

- c. recognised by one or more recognised bodies through a formal articulation agreement with the awarding body;
- d. in England, Wales and Northern Ireland, on the Register of Regulated Qualifications (<http://register.ofqual.gov.uk/>) at QCF or NQF level 3 or above;
- e. in Scotland, accredited at Level 6 or above in the Scottish Credit and Qualifications Framework (SCQF) by the Scottish Qualifications Authority;
- f. an overseas qualification that UK NARIC can assess as valid and equivalent to level 3 or above on the NQF;
- g. covered by a formal legal agreement between a UK-recognised body and another education provider or awarding body. An authorised signatory for institutional agreements within the recognised body must sign this. The agreement must confirm the recognised body's own independent assessment of the level of your or the awarding body's programme compared to the NQF (or its equivalents). It must also state that the recognised body would admit any student who successfully completes your or the awarding body's named course onto a specific or a range of degree-level courses it offers.

365. We do not accept distance learning courses or courses designed specifically to support students taking distance learning courses, as leading to an approved qualification. This is because distance learning courses are specifically designed in a way that does not require the learner to be physically present in a traditional educational setting such as a classroom. Courses offered in the UK that are designed to support students on distance learning courses can be undertaken using the Student visitor route if the conditions of that route are met.

366. Pre-sessional courses must meet the requirements for the level of the course but the course does not have to lead to a recognised qualification.

367. Except when a student is on a work placement, all study that is part of the course must take place on your premises, or at a temporary location you authorise. For example, it is acceptable if a student is on a field trip. We do not accept the location of a student's work placement as a temporary, authorised location. Any study they do there cannot contribute to the 15 hours of classroom study we require for courses below QCF or NQF level 6.

368. This only applies to the student's main course of study. Supplementary studies can be at any level.

## **Place of study**

369. We will accept a course that involves periods of study outside of the UK but the student must meet all the immigration requirements of the country in which they will study. If the student intends to return to the UK to continue or complete their course, it may be practical for you to continue sponsoring them for the period they are outside the UK.

370. This means you must continue to meet all of your reporting duties for the student but it also means their permission to stay in the UK will remain current and they will be allowed to return to the UK without having to apply again. However, we will assess the reports you make on the student, and may not allow them to re-enter the UK after studying abroad if they have failed to meet any requirements.

371. If a student does not plan to return to the UK or you do not want to continue to be responsible for them while they are out of the UK, you can end their sponsorship at the time they travel overseas. If you do this, we will cancel their permission to stay in the UK. If they want to return to the UK later on, they will have to apply for a visa again. They may have to return to their country of normal residence to apply to re-enter the UK under Tier 4.

## Postgraduate doctors and dentists

372. Students may take up a recognised foundation programme as a postgraduate doctor or dentist in the UK under Tier 4 (General).
373. They must have a valid CAS from their sponsor. For postgraduate doctors the only sponsor is the UK Foundation Programme Office. For postgraduate dentists the only sponsor is the Yorkshire and Humber Strategic Health Authority.
374. A student who wishes to take a recognised foundation programme under Tier 4 (General) must also:
- a. have successfully completed a recognised UK degree in medicine or dentistry at:
    - i. an institution with a Tier 4 (General) student sponsor licence; or
    - ii. a UK publicly funded institution of further or higher education; or
    - iii. a genuine UK private education institution which maintains satisfactory records of enrolment and attendance; and
  - b. previously have been granted permission to stay in the UK as a student (under either Tier 4 (General) or the student rules that applied before 31 March 2009), for the final academic year and at least one other academic year of their studies leading to that degree.

## English language ability

375. Our officials may interview a Tier 4 (General) student, either as part of their Tier 4 application overseas, or when they arrive in the UK (for example at the airport). If we interview a Tier 4 (General) student who was assigned a CAS on or after 21 April 2011 and they cannot show at that interview that their English language ability is of the standard required in the immigration rules and this guidance without an interpreter, we will refuse their application or refuse them permission to enter the UK.

## Students studying at degree level and above

376. When you assign a CAS to a student to study at QCF or NQF level 6 (SCQF level 9 in Scotland) and above you must ensure they are competent in English language at a minimum level B2 on the Common European Framework of Reference for Languages (CEFR). It is not acceptable to issue a CAS based on a student's expected results.
377. Depending on whether you are a higher education institution (HEI) or not, you must assess this competence in one of two ways. (See below for our definition of an HEI).
- a. If you are an HEI we will allow you to choose your own way to assess it. (You may not have to do this for 'gifted' students. See 'Gifted university students' below). However, you must ensure they are proficient to level B2 in each of the four components (speaking, listening, reading and writing), unless they are exempt from being proficient in a component because of a disability.
  - b. If you are not a HEI you must make students demonstrate their level B2 English language competence by providing a recent secure English language test (SELT) from one of our approved test providers. They must have achieved at least CEFR level B2 in all four components (unless a test provider exempts them from sitting a component because of a disability). If you have doubts about any documents then you should verify them with the appropriate body. You can read the list of our approved English language tests at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/new-approved-english-tests.pdf>.

378. Our definition of a UK higher education institution (HEI) for Tier 4 is: a recognised body, or a body that receives public funding as a higher education institution from the Department for Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, or the Scottish Funding Council. We also accept:

- a. Richmond, the American International University in London, as an HEI because it is recognised in statute in the Education (Recognised Awards) (Richmond. The American International University in London) Order 2006. You can find more information on our website at <http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/can-you-apply/english-language/>.
- b. The UK Foundation Programme Office, as an HEI for sponsored students undertaking a recognised Foundation Programme for post graduate doctors.

The Yorkshire and Humber Strategic Health Authority, as an HEI for sponsored students undertaking a recognised Foundation Programme for post graduate dentists.

You will find a list of UK HEI's on the following websites:

England:

<http://www.hefce.ac.uk/unicoll/he/>

Scotland:

[http://www.sfc.ac.uk/about\\_the\\_council/council\\_funded\\_institutions/WhoWeFundColleges.aspx](http://www.sfc.ac.uk/about_the_council/council_funded_institutions/WhoWeFundColleges.aspx)

Wales:

[http://www.hefcw.ac.uk/about\\_he\\_in\\_wales/higher\\_education\\_institutions/he\\_institutions.aspx](http://www.hefcw.ac.uk/about_he_in_wales/higher_education_institutions/he_institutions.aspx)

NI:

<http://www.delni.gov.uk/index/further-and-higher-education/higher-education/role-structure-he-division.htm>

Recognised bodies:

<http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees/recognised-bodies>

## **Students studying below degree level**

379. When you assign a CAS to students studying courses at QCF or NQF level 3, 4 or 5 (SCQF level 6, 7 or 8 in Scotland) you must ensure they are competent in English language at a minimum level B1 on the CEFR. It is not acceptable to issue a CAS based on a student's expected results.

380. Whether or not you are an HEI, you must assess your students' English language competence at CEFR level B1 by making them provide a recent secure English language test (SELT) which confirms that they have achieved at least level B1 in all four components (unless a test provider exempts them from sitting a component because of a disability). If you have doubts about any documents then you should verify them with the appropriate body.

381. This requirement also applies to students who are:

- a. undertaking foundation degrees;
- b. taking pre-sessional courses which are below QCF or NQF 6 before a degree course; or

c. studying English as a foreign language under Tier 4 at CEFR level B2 or above.

## Exceptions

382. You do not have to confirm English language competence for:

- a. Tier 4 (Child) students;
- b. students moving from Tier 4 (Child) into Tier 4 (General);
- c. those who have previously completed an academic qualification equivalent to a UK degree which was taught in one of the following countries (which we call 'majority English-speaking' countries):

- i. Antigua and Barbuda;
- ii. Australia;
- iii. The Bahamas;
- iv. Barbados;
- v. Belize;
- vi. Dominica;
- vii. Grenada;
- viii. Guyana;
- ix. Ireland;
- x. Jamaica;
- xi. New Zealand;
- xii. St Kitts and Nevis;
- xiii. St Lucia;
- xiv. St Vincent and the Grenadines;
- xv. Trinidad and Tobago;
- xvi. United Kingdom; or
- xvii. United States of America; or

d. those who are nationals of one of the following countries (which we call 'majority English-speaking' countries):

- i. Antigua and Barbuda;
- ii. Australia;
- iii. The Bahamas;
- iv. Barbados;
- v. Belize;
- vi. Canada;
- vii. Dominica;
- viii. Grenada;

- ix. Guyana;
- x. Jamaica;
- xi. New Zealand;
- xii. St Kitts and Nevis;
- xiii. St Lucia;
- xiv. St Vincent and the Grenadines;
- xv. Trinidad and Tobago; or
- xvi. United States of America.

383. Our website has a list of the approved English language tests for Tier 4, including how long tests are valid for, and the scores a Tier 4 (General) student must achieve to meet CEFR levels B1 and B2 in all four components (reading, writing, speaking and listening). See <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/new-approved-english-tests.pdf>.

384. The immigration rules specify that only academic qualifications are acceptable for point c above. We will only consider a qualification to be an academic qualification if the awarding body consider it to be an academic qualification. Professional or vocational qualifications, regardless of whether or not they are equivalent to a UK Bachelors degree, are not acceptable. If you are unsure whether or not a qualification is acceptable, you should check this with the awarding body.

## **What to put on the CAS**

385. You must state on the CAS at what level you have assessed the student's language ability, and give the name of any formal assessment they have, if appropriate.

386. If you have used an approved English language test to check that a student is competent in English language at a minimum of CEFR level B1 or B2, you put their test result for each component on the CAS and the name of the test provider. You must put this information in the text box 'Evidence used to obtain offer' under the 'Evidence provided' section on the CAS. It is not acceptable to use a student's expected results.

387. However, you do not have to do this if you are an HEI and you have used an approved English language test to assess a student's competence at level B2 (for courses at QCF or NQF 6 (SCQF level 9 in Scotland)) or above. In these cases you must have seen scores that the approved test provider specifies are equivalent to level B2 in each of the four components, but you only need to state on the CAS that the student is proficient to B2 level in each of the four components.

388. You must keep records of the specific method or combination of methods you used to ensure your student's language competence.

389. The student automatically meets the English language requirements if they have successfully completed a course as a Tier 4 (Child) student (or under the student rules that applied before 31 March 2009, if they were given permission to stay in the UK while they were under 18 years old). The course must have lasted for at least six months, and must have ended no more than two years before the date when you assign the CAS. If you have used this to prove their competence in English language, you must state this on the CAS.

## Gifted university students

390. In exceptional circumstances, you may waive the English language requirement for a student if you are a higher education institution, the student is studying at degree level and you consider the student to be gifted. You must only do this if English language proficiency is not integral to that particular course of study and a pre-sessional course would be inappropriate.
391. If you want to waive the English language requirement for a gifted student, your academic registrar, or your institution's equivalent, must approve this. Then you must follow the process below.
392. When you complete the CAS you must confirm in the 'evidence provided' field:
- that you are treating the student as gifted;
  - the reason why you are treating them as gifted; and
  - the name of your academic registrar, or your institution's equivalent, their contact number and email address.
393. You must give the student an original letter signed by your academic registrar, or your institution's equivalent. This must confirm:
- your sponsor name;
  - your sponsor licence number;
  - the student's name;
  - the student's course including the level of study; and
  - that the academic registrar, or your institution's equivalent, considers the student to be gifted and the reason why.
394. If the student is applying from overseas they must have this letter with them when they enter the UK.
395. You must also email us details of each CAS you assign to a gifted student. Please email [T4GiftedStudents@UKBA.gsi.gov.uk](mailto:T4GiftedStudents@UKBA.gsi.gov.uk). Put the CAS reference number in the title of the email and your contact details and sponsor licence number in the main body of the email.
396. If we are concerned about the number of gifted students you have assigned a CAS to, we will contact your academic registrar, or your institution's equivalent.

## Money for the student's support

397. A student coming to the UK under Tier 4 must be able to support themselves for the entire length of their stay in the UK without using public funds (state benefits). This includes course fees and living expenses. We call this 'maintenance'.
398. Full details of the maintenance requirements are in the Tier 4 student guidance on our website at <http://www.ukba.homeoffice.gov.uk/studyingintheuk/adult-students/can-you-apply/money/how-much/>.

## Care arrangements for children under 18

399. You must ensure suitable care arrangements are in place for a child under the age of 18 who will study in the UK. These include arrangements for their:

- a. travel;
- b. reception when they arrive in the UK; and
- c. living arrangements while in the UK.

400. If you fail to do this, we will immediately revoke your licence.

401. A student aged 16 or 17 has the legal right to live independently in the UK, and may make their own accommodation arrangements. However, when a 16- or 17-year-old applies for a visa under Tier 4 (General), they must have their parents' permission to both travel to the UK and to live independently. For more information, see the Tier 4 migrant guidance on our website at <http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/can-you-apply/english-language/>.

## Requirements for Tier 4 (child) students

### What courses may a Tier 4 (child) student take?

402. You can only assign a CAS to child students where their main course of study is:

- a. taught in line with the National Curriculum;
- b. taught in line with the Qualifications and Credit Framework (QCF) or National Qualification Framework (NQF);
- c. accepted as being of equivalent academic status by Ofsted (England), or the appropriate bodies in the devolved regions, including the Education and Training Inspectorate (Northern Ireland), Education Scotland (Scotland) and Estyn (Wales); or
- d. taught in line with the prevailing inspection standards for independent school education.

403. You can also assign a CAS to a Tier 4 (Child) student to undertake a pre-sessional course to prepare them for their main course of study.

404. You must not offer English language courses to students aged 15 or under using Tier 4 (Child).

405. You must assign a CAS for each separate course of study the student will take. A 'course' of study is, for example, the period of study for GCSEs or A-levels. You cannot assign a single CAS that covers both GCSE and A-level studies.

### Money for the student's support

406. A student coming to the UK under Tier 4 must be able to support themselves for the entire length of their stay in the UK without using public funds (state benefits). This includes course fees and living expenses. We call this 'maintenance'.

407. Full details of the maintenance requirements are in the Tier 4 student guidance on our website at <http://www.ukba.homeoffice.gov.uk/studyingintheuk/adult-students/can-you-apply/money/how-much/#>.

### Care arrangements

408. You must ensure suitable care arrangements are in place for a child under the age of 18 who will study in the UK. These include arrangements for their:

- a. travel;

- b. reception when they arrive in the UK; and
  - c. care while in the UK.
409. The maintenance requirements for a student in Tier 4 (Child) depend, in part, on:
- a. their care arrangements; and
  - b. the location of the school at which they will study.
410. All arrangements for a child's care and accommodation in the UK must comply with relevant UK legislation and regulations. You can find information on the regulations for private foster care arrangements and inspection regulations for national minimum standards at:
- a. Accommodation of students under 18 by further education colleges: national minimum standards, inspection regulations: [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4005629](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005629).
  - b. Boarding schools: national minimum standards, inspection regulations: [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4006331](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4006331).
  - c. Residential special schools: national minimum standards, inspection regulations: [http://www.dh.gov.uk/en/PublicationsandStatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4006472](http://www.dh.gov.uk/en/PublicationsandStatistics/Publications/PublicationsPolicyAndGuidance/DH_4006472).
411. If a student in Tier 4 (Child) will be cared for in a private foster care arrangement during their stay in the UK or when a private foster care arrangement starts for a Tier 4 (Child) student who is already in the UK, you must, as soon as you are either aware that they have arrived or aware of the change, give the local authority in whose area the child will live:
- a. the name of the foster carer; and
  - b. the address where the foster carer and the student will live.

## **Pre-sessional courses**

412. Some students may need to do a short pre-sessional (preparatory) course before they start their full-time course of study in the UK. The pre-sessional course must meet the full requirements of the relevant Tier 4 category for the level of the course and it must meet our definition of a pre-sessional course, but the course does not have to lead to a recognised qualification.
413. We define a pre-sessional course as a preparatory course which directly precedes a student's intended main course of study in the UK and enables the student to acquire the ancillary skills or knowledge necessary to adjust to study in the UK. Usually this will be supplementary English language training, or some instruction in the British education system. Courses which are designed to give a student fundamental training in the subject area as a stepping stone to higher study – e.g. a Foundation degree – or courses which form an integral part of the main course of study but which are administered separately will not be considered as pre-sessionals.
414. A Tier 4 (General) student must pass a secure English language test (SELT) showing proficiency at CEFR level B1 or B2 depending on the academic level of the pre-sessional course.
415. As the sponsor for the main course, you may also be providing the pre-sessional course,

but sometimes a 'partner' institution may provide the pre-sessional course. In those cases, you may be the sponsor for both the main course and the pre-sessional course.

416. You must name the pre-sessional provider as a 'partner' institution on your licence, even if it is already a licensed sponsor in its own right.

417. You may also provide a pre-sessional course independently of the prospective sponsor of the main course. In these cases you must be a licensed sponsor under Tier 4 in your own right.

418. There are two circumstances in which you can assign a single CAS to cover both the main course and the pre-sessional course.

a. If you are a higher education institution and:

- i. you have made an unconditional offer to a Tier 4 (General) student for a main course of study, and the student will also take a pre-sessional course, as defined above; and
- ii. the main course of study is at degree level; and
- iii. the pre-sessional course is no more than three months long; and
- iv. the main course will start no later than one month after the date when the pre-sessional course ends.

This applies whether the student takes the pre-sessional course with you or with a partner institution named on your licence.

b. If you are an independent school and:

- i. you have made an unconditional offer to a Tier 4 (Child) student for a main course of study at your independent school and the student will also take a pre-sessional course, as defined above; and
- ii. the total length of the pre-sessional course plus main course of study must not be more than the maximum time for which we will give the applicant permission to stay in the UK. See 'Conditions of sponsored students' stay' for more information about these maximum periods.

419. Where the requirements of 418 (a) above are satisfied and you assign a single CAS to cover both the main course and the pre-sessional course, you must ensure that the student meets the English language requirements for entry to the pre-sessional course, for example B1 or B2 in all four components depending on the level of the pre-sessional course.

420. You must ensure that the student has reached B2 level of English language in all four components before allowing them to proceed to the main course (please see section called 'students studying at degree level and above').

421. Sponsors must report, by exception, using the sponsorship management system, situations where a student has not reached B2 level of English language and is therefore not permitted to continue to the main course.

422. You must not assign a single CAS if:

- a. you are not a higher education institution or an independent school; and/or
- b. the student's main course of study is conditional on them completing or undertaking the pre-sessional course of study; and/or

- c. the pre-session course is more than three months long; and/or
- d. there is more than one month between the end of the pre-session course and the start of the main course.

423. In these cases there must be one CAS for the pre-session course and a second for the main course once the student has completed the pre-session course and the offer for the main course is no longer conditional. The student will have to make two separate applications for permission to come to or stay in the UK – one for the pre-session course and one for the main course.

## **Work placements**

424. The course of study for Tier 4 (General) students (or child students aged 16 or above) may include a work placement if it is an integral and assessed part of the course, but it must not be more than 33 per cent of the total length of the course in the UK.

425. The only exceptions to this 33 per cent rule are:

- a. where the course is at NQF/QCF 6 or SCQF 9 or above and is studied at a higher education institution. In these circumstances the work placement must not be more than 50 per cent of the total length of the course; or
- b. where the course is at NQF/QCF 6 or SCQF 9 and forms part of a study abroad programme. In these circumstances the work placement must not be more than 50 percent of the total length of the course; or
- c. where the student is sponsored under Tier 4 (Child) and is aged 16 or above, in this instance the work placement must not be more than 50 percent of the total length of the course; or
- d. where there is a UK statutory requirement for the course to contain a specific period of work placement which exceeds this limit. The work placement must also be an integral and assessed part of the course.

426. Students who are undertaking a course of study in music or dance at NQF/QCF 6 or SCQF 9 or above, are able to undertake work placements which involve a professional performance, where the performance has been arranged by the sponsoring education provider and is an integral and assessed part of the course.

427. If you are an A-rated sponsor, or a B-rated sponsor that is still subject to an action plan under the guidance in place before 5 September 2011, you cannot offer courses to new Tier 4 (General) students that are below QCF or NQF level 6 and include a work placement.

428. A student who is enrolled on a higher education course at an overseas higher education institution and comes to the UK to do part of their course may also complete a work placement during their time in the UK. You can assign a CAS to cover the period of UK study and the work placement, if:

- a. the student will study with a licensed sponsor for at least 50 per cent of the total time they spend on the course in the UK;
- b. the work the student does will be an integral and assessed part of their overseas qualification; and
- c. the student will work for an employer in the UK for no more than 50 per cent of the total time they spend on the course in the UK.

429. You will be responsible for the student throughout the period of their work placement and must continue to comply with all your sponsor duties during this time.

430. We will take action against you if you offer courses with work placements to students and:

- a. you are an A-rated sponsor, or a B-rated sponsor that is still subject to an action plan under the guidance in place before 5 September 2011, and the course is below QCF or NQF level 6; or
- b. the work placement element is more than 33 per cent of the total length of the course and there is no UK statutory requirement for the course to exceed this limit; or
- c. the work placement element is more than 50 per cent of the total length of the course if the course is at NQF/QCF 6 or SCQF 9 or above and is studied at a higher education institution or the course forms part of a study abroad programme, and there is no UK statutory requirement for the course to exceed this limit; or
- d. the work placement is more than 50 per cent of the total length of the course where the student is sponsored under Tier 4 (Child) and is aged 16 or above, and there is no UK statutory requirement for the placement to exceed this limit.
- e. the study element of the course is not taken in an education institution; or
- f. the work placement is not an integral and assessed part of the course of study for which you have assigned the student a CAS to follow; or
- g. you do not continue to fulfil your sponsor duties to monitor the student while they are on their work placement.

## Academic progression

431. Since 4 July 2011, if you assign a CAS to a Tier 4 (General) student to take a course in the UK after they have finished another course in the UK under Tier 4 (General) or as a Student prior to the introduction of the Points Based System, it must represent academic progression from the previous course. This applies whether the student is applying from overseas or in the UK.

432. You do not need to show academic progression if:

- a. this will be the student's first course of study in the UK; or
- b. you are assigning a CAS for a student to make a first application to complete an existing course. The student may be completing a course with you that they started with another Tier 4 sponsor, for example if the student was studying for a degree and their original sponsor had their licence revoked, then the student wishes to complete their existing course with you; or
- c. you are assigning a CAS to a Tier 4 (Child) Student; or
- d. you are assigning a CAS for a student to resit an examination or repeat a module.

433. To show academic progression the student's new course should normally be above the level of the previous course for which we gave them permission to stay in the UK as a student. For example, if a student's previous course was at QCF or NQF6 (and equivalents) we expect their next course to be at least at level QCF or NQF7.

434. However, academic progression may involve further study at the same level. In these cases, you must confirm that the new course complements the previous course. For example, a student may be moving from a taught masters degree to an MBA or research-based masters degree, or taking a course to develop a deeper specialisation in a particular field.

435. Sometimes the further study may be at a lower level but we expect these cases to be rare. Again, you must justify this on the CAS. We will closely monitor the situation.

436. If the student is taking a further course in the UK you must confirm that this is academic progression in the 'evidence provided' box on the CAS unless the new course is an obvious

step up in academic level. For example the student is moving to a degree level course after finishing an A-level course. When the course is at the same level or a lower level you must justify this as progression. When we visit you, we may also ask you to show why it is academic progression and how you assessed it.

437. If you are required to confirm the student's academic progression on the CAS, and you do not, we will refuse the student's application. We will also take action against you if:
- a. you cannot show how you assessed the progression, or we are concerned about how you assessed it; or
  - b. we find, after you have assigned a CAS stating that there is academic progression, that there is no academic progression.

## Assigning a CAS

438. This section explains:

- a. what to consider before you assign a CAS;
- b. how to assign a CAS;
- c. how to assign a CAS to a student who wants to stay longer in the UK;
- d. how you, or we, can cancel a CAS.

439. We have produced a document to help you complete a CAS. This 'sponsorship management system help document for Tier 4 sponsors' is under 'related documents' on our website at: [www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/).

## What to consider before you assign a CAS

440. If you wrongly assign a CAS, we may take action against you.

441. If you use all of your CAS we may not allocate more to you.

442. You may only assign a CAS under Tier 4 if you are satisfied that a student both intends and is able to follow the course of study concerned.

443. You may only assign a CAS under Tier 4 if the course the student intends to follow leads to an approved qualification.

444. You may only assign a CAS for a Tier 4 (General) student to continue their studies in the UK if the CAS you are assigning is for a course that represents academic progress. See 'Academic progression' in the previous section.

445. You must assess a student's ability to follow a course of study. You must state on the CAS what evidence you have used to make this assessment. For example, you might:

- a. confirm any qualifications the student already has which make them suitable for the course you are offering, such as checking a masters degree if they are going to do a PhD; or
- b. base the assessment on their progress in their existing course or a recently completed course.

446. You must not assign one CAS to cover more than one course (unless in some cases the student is taking a pre-sessional course). You must assign a separate CAS for any stage of the course that leads to a recognised qualification in its own right. For example:

- a. if a series of modules leads to a certificate or a diploma, each of which is a recognised qualification in its own right; or
- b. if a student will do an HND and then a bachelor's degree. You must assign a new CAS before each stage starts.

447. You can only assign one CAS to cover a dual award course where there is a clear cohesive programme and this programme has been signed off by the relevant awarding bodies. You must assess students for admission into both parts of the programme independently and also accept them into both parts of the programme at the same time at point of entry onto the course and assigning the CAS.

448. If an international student is specifically studying towards an Association of Certified Chartered Accountants (ACCA) qualification or an ACCA Foundation Level qualification (formally known as Foundations in Accountancy), you can only assign a CAS and/or deliver this course to them if you are an ACCA approved learning partner – student tuition (ALP-st) at either Gold or Platinum level. For more information about the levels of ACCA approval please see: [http://www2.accaglobal.com/learningproviders/approved\\_learning/](http://www2.accaglobal.com/learningproviders/approved_learning/).

## How to assign a CAS

449. You will use the sponsorship management system (SMS) to assign CAS. The person who assigns the CAS must be a level 1 or 2 user of the SMS. Each time you assign a CAS a unique CAS reference number is generated.

450. You must complete all the relevant details in the SMS, for example the student's personal details, course level and information about fees. Complete the 'evidence provided' section in detail. This includes the following.

- a. State how you assessed the student's English language ability, when this is required.
- b. Explain how you assessed the student's ability to follow the course.
- c. Explain how the course represents academic progression when this is required.
- d. State the course fees and how much the student has paid towards their fees.
- e. Give the required details for gifted university students.

451. You can find more details of what to write on the CAS in the sections on requirements for Tier 4 (General) and Tier 4 (Child) students. We have also produced a document to help you complete a CAS. This 'sponsorship management system help document for Tier 4 sponsors' is under 'related documents' on our website at: <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/>.

452. When you assign a CAS, you must give the unique reference number to the student to use when they apply to us. Give the student the CAS details too, such as information on the qualifications you assessed. This will help them with their application. The CAS is valid for six months from the date you assign it. However, it does not guarantee that we will grant the student's application.

453. A CAS can only be used to support one application, whether or not that application is successful. If the student's application fails and they wish to reapply, you must assign a new CAS to them to send in with their new application. They will not need a new CAS if their original application was rejected or withdrawn.

454. Treat the CAS number as a secure and confidential document. Make sure you send it securely and directly to the student personally because anyone could try to use it to apply for permission to come to or stay in the UK.
455. You are responsible for anyone who assigns CAS on your behalf. If you do not comply with the rules on assigning CAS we will take action against you.

## **Assigning a CAS to a student who wants to extend their stay**

456. If you are considering assigning a CAS to someone who is already in the UK, you should discuss their current immigration status with them. If they are not a Tier 4 student then they may not be allowed to switch from one immigration category to another. We recommend that any application for an extension of leave to remain in the UK is submitted to us before a student's existing leave expires. If you assign a CAS to a student whose leave has already expired, both you and the student should be aware that applications made by those who have overstayed by more than 28 days will fall for refusal, unless there were exceptional circumstances which prevented them from applying earlier. The threshold for what we consider to be exceptional circumstances is very high, as set out in the [Tier 4 guidance](http://www.bia.homeoffice.gov.uk/studyingintheuk/adult-students/) policy guidance. You can access this guidance at the following link <http://www.bia.homeoffice.gov.uk/studyingintheuk/adult-students/>.

457. A Tier 4 student who is in the UK may want to extend their stay to:

- a. complete their existing course with the same sponsor; or
- b. take a different course with the same sponsor.

458. A Tier 4 student may also want to take a course with a new sponsor. They will need to obtain a CAS from the new sponsor and apply for permission to stay. See the section called 'Changing to a different sponsor' for more details on what happens if a student wants to change sponsors.

459. If the student intends to stay with the same sponsor, we treat their application as an extension to their existing permission to stay in the UK. If they want to change to a different sponsor, we treat their application as a completely new one.

## **Continuing course with the same sponsor**

460. If one of your existing students applies to extend their permission to stay in the UK to continue the same course, the course start date on the CAS must be the day after their current permission expires. You should state on the CAS that the student will continue on the same course. Put this in the 'evidence provided' box. You must also explain that their ability to continue the course is based on their progress to date and any other assessments you have made.

461. We will only extend permission to stay to the maximum time allowed under the relevant sub- category, and only if the student meets all of the Tier 4 requirements at the time they apply.

462. You can assign a CAS up to six months before the student's current permission to stay expires.

## **New course with the same sponsor**

463. If a student wants to stay with you but change to another course, they do not need permission from us. You must tell us about the change.
464. If the student's new course is longer than their original one, they can apply to extend their permission to stay immediately or wait until shortly before their existing permission expires.
465. If they are already in the UK, they can only apply for an extension of their permission if their proposed new course will start within 28 days of their current permission expiring. If their existing permission expires more than one month before the new course starts, they must return overseas and apply from there.
466. If the student's new course is shorter than their original one, they must tell us immediately.

## **Changing to a different sponsor**

467. When a student changes to a course with a different sponsor, they must apply again under Tier 4, with a CAS from their new sponsor. There is an exception for students whose current permission to stay was based on an application before 5 October 2009 - see the next section called 'students who applied before 5 October 2009'.
468. They must not start their new course until we have approved their new application unless:
- a. the new sponsor has HTS status; and
  - b. the new sponsor has assigned them a CAS; and
  - c. they applied to us before their existing permission to stay expired.
469. Students moving to an A-rated sponsor must not, under any circumstances start their new course until we have approved their new application.
470. The new sponsor will be responsible for them as soon as we grant the new permission.
471. A student can study only with the sponsor named on their CAS. This includes studies at any partner institution named on the CAS. Students should not apply for permission to start a new course with a new sponsor too early. If they do, they may be unable to complete their existing course because their new permission only allows them to study with their new sponsor.
472. If a student leaves their original sponsor before we approve their new application, they may not be able to return to the course with their original sponsor if we refuse their application.

## **Students who applied before 5 October 2009**

473. If a student wants to take a course with a new sponsor, and their current permission to stay is based on an application made before 5 October 2009, they must get our permission. Tier 4 (General) students can do this using application form T4(PTS), 'Application for permission to switch Tier 4 educational sponsor'.
474. If the student is Tier 4 (Child), their parent or guardian must complete the form.
475. We will give permission for the student to change sponsors if we can confirm that:
- a. the institution they want to move to is licensed by us under the relevant Tier 4 category;
  - b. the new institution wants to be their new sponsor; and

c. the new course meets the requirements in this guidance.

476. We will acknowledge a student's request for permission to change their sponsor and will write to them as soon as possible to either give them permission to start studying with their new sponsor, or to refuse permission.

477. A student who has applied for permission to change their sponsor may start their new course before receiving it, but should be aware that we may refuse to give this permission. We may cancel a student's permission to stay under Tier 4 if they change their academic institution without our permission.

### **Exemptions for students who applied before 5 October 2009**

478. Students who want to change their course and currently have permission to stay based on an application made before 5 October 2009 are exempt from two changes introduced in 2010.

- a. English language courses do not need to be at CEFR level B2. They are permitted to start a new English language course at a minimum of CEFR level A2.
- b. They can start a new course with the same sponsor even if that sponsor does not hold HTS status. But if their current permission expires before their new course starts, they cannot extend their stay to start a new course at QCF or NQF level 3, or below QCF or NQF level 6 which includes a work placement, unless their sponsor holds HTS status (or is deemed to hold it while we consider an application to renew it).

### **Examination re-sits and repeating study**

479. In exceptional circumstances we will allow students to re-sit examinations or repeat any part of their course more than twice for any individual examination or module but we may ask you to justify this.

480. If you are an A-rated sponsor, or a sponsor that is B-rated and still subject to an action plan under the guidance in place before 5 September 2011, your students cannot re-sit examinations or repeat any part of their course more than twice.

481. If the student's permission to stay expires before they finish the re-sit or repeat, they must apply to extend it before their current permission expires. You must decide whether or not to continue sponsoring them, based on your assessment of their ability to pass the course.

482. You may continue to sponsor a student during the re-sit or repeat period if you require their continued participation (in classes or by contact) and are confident you can meet your sponsor duties for them during the re-sit or repeat period.

483. If you do not require their continued participation within 60 days of the next academic period starting (except for recognised vacation periods) you should not continue to sponsor them.

- a. If they have ongoing permission to stay in the UK, you should tell us this and advise them to leave the UK; or
- b. If their permission is due to expire, you must not assign a CAS and they must arrange to leave the UK. You may later assign a CAS which they may use to apply to return to the UK.

### **Writing up (postgraduate students)**

484. You may continue to sponsor a postgraduate student to write up a dissertation or thesis if

you require their continued participation (in classes or by contact) and you are confident you can meet your sponsor duties for them during the period leading up to its final submission, including an oral examination, if required.

485. If you do not require their continued participation for a period (normally 60 days or more) you must be confident you can meet your sponsor duties for them during the writing-up period. If you cannot meet your duties during this period you should tell us this, and advise them to leave the UK. You may later assign a CAS which they may use to apply to return to the UK.

## **Cancelling a CAS**

486. We can cancel a CAS you have assigned under Tier 4 at any time if we find you were not entitled to assign it, for example if it was assigned:

- a. through misrepresentation or fraud; or
- b. for a course that you are not permitted to offer to Tier 4 students.

487. You can withdraw a CAS that you have assigned to a student if they have not yet used it to support an application for a visa or an extension of stay. You must do this using the SMS.

488. If a CAS is cancelled or withdrawn we will not refund your fee.

489. Once a CAS has been cancelled or withdrawn, we will automatically refuse any application supported by that CAS.

490. If the student is already in the UK, we will cancel or reduce (curtail) their permission to stay if we find that the CAS on which we based that permission was improperly assigned. We will:

- a. curtail their permission to 60 calendar days (to give them a chance to find a new sponsor) if they were not actively involved in the CAS being assigned improperly. Their leave will be curtailed to 60 days from the date of our letter informing them that their leave has been curtailed; or
- b. immediately end their leave if they were actively involved.

## **Conditions of sponsored students' stay**

491. A student can study only with the sponsor named on their CAS or visa letter, including at any partner institution named on the CAS or visa letter. The only exception to this is where a student is also undertaking supplementary study, in addition to the studies they are taking with the sponsor named on their current CAS, at another education provider – please see the section called 'Supplementary courses'.

492. Where a student wishes to change to a different sponsor and their leave is based on an application made after 5 October 2009, please refer to the section called 'changing to a different sponsor'.

493. Where a student wishes to change to a different sponsor and their leave is based on an application made before 5 October 2009, please refer to the section called 'students who applied before 5 October 2009'.

## **How long can the student stay in the UK?**

494. We decide how long a student can stay based on the length of their course. We will

calculate the length of the course from the course start and end dates you put on the CAS.

495. If a student receives government or other official financial sponsorship, we will limit their permission to stay in line with any requirements the sponsor specifies.

496. A Tier 4 (General) student is allowed to spend no more than 3 years studying in the UK below NQF/QCF 6 or SCQF 9.

497. A student is allowed to spend no more than 5 years studying in the UK at or above degree level (NQF/QCF 6 or SCQF 9). However, the following are exempt from the 5 year study limit and will not be included when calculating the amount of time the student has spent studying at or above degree level, regardless of when the student studied them:

- a. time spent studying for a Master's degree at a higher education institution, following successful completion of an undergraduate degree where the course duration was 4 or 5 years. For these students the limit will be set at 6 years in total instead of 5.
- b. time spent studying an acceptable Post-Graduate research qualification which is being studied at and awarded by a Recognised Body or an HEI. If by the time the student completes the acceptable Post-Graduate research qualification the time spent studying in the UK at or above degree level exceeds 8 years, then we will not grant any further leave in Tier 4. Please see part 4 of annex 6 of the Tier 4 Policy Guidance for a list of acceptable Post-Graduate research qualifications.
- c. work undertaken in a student union sabbatical officer role. For example, it is acceptable to issue a CAS to a Tier 4 student for a student union sabbatical officer role for one year after the student has spent 5 years studying at degree level or above.
- d. where the student is studying a course at or above degree level in one of the following subject areas:
  - i. Architecture;
  - ii. Medicine;
  - iii. Dentistry;
  - iv. Veterinary Medicine & Science;
  - v. Law (where the applicant has completed a course at degree level in the UK and is progressing to a law conversion course validated by the Joint Academic Stage Board, The Legal Practice Course or the Bar Professional Training Course);

498. We will operate the 5 year limit, and exceptions, in addition to the 3 year limit in Tier 4 (General) below NQF/QCF 6 or SCQF 9 and any time spent in Tier 4 (Child).

499. Full details of how long students may stay are in the Tier 4 student guidance on our website at <http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/how-long/>.

## **Supplementary courses**

500. Tier 4 students are allowed to take extra (supplementary) courses such as evening classes in addition to their main course of study. This supplementary course can be in any subject and does not have to relate to their main course of study.

501. Students do not need our permission to take extra courses and do not have to inform you, but they must continue to meet the conditions of their permission to stay.

502. The supplementary course should not in any way hinder the student's progress on their main course of study.

## **Working (including sabbatical officers)**

503. Tier 4 (General) students and Tier 4 (Child) students aged 16 or over are allowed to work while they are in the UK. The work they do can be in addition to any work placement that is part of their course.

### **Limits on working hours**

504. There are limits on students' working hours that depend on when they applied for permission to come to or stay in the UK, the type of course they study and what type of sponsor you are.

505. If the student used a CAS to apply to us before 4 July 2011 and they are studying:

- a. a foundation degree course or degree courses at QCF or NQF level 6 (and equivalents) or above, they can work 20 hours a week during term time and full-time during vacations;
- b. below QCF or NQF level 6 (and equivalents), (except students on foundation degree courses), they can work 10 hours a week during term time and full-time during vacations.

506. If the student used a CAS to apply to us on or after 4 July 2011 they can work 20 hours a week during term time and full-time during vacations if:

- a. they are studying at degree level (QCF or NQF level 6 (and equivalents)) or above and you are a recognised body or a body that receives public funding as a higher education institution; or
- b. you are an overseas higher education institution and they are on a short-term study-abroad programme in the UK.

507. If the student used a CAS to apply to us on or after 4 July 2011 they can work 10 hours a week during term time and full-time during vacations if they are studying:

- a. at below degree level (QCF or NQF level 6 (and equivalents)) and you are a recognised body or a body that receives public funding as a higher education institution; or
- b. at minimum QCF or NQF level 3 (and equivalents) if you are a highly trusted sponsor (at a minimum QCF or NQF level 4 if you are not a highly trusted sponsor) and you are a publicly funded further education college.

508. For a definition of a publicly funded college, please see the section called 'Educational oversight'.

509. You must ensure students know what their term and vacation dates are, so they can comply with these limits.

### **Work that is not allowed**

510. Students cannot work if they do not fit into any of the categories in the section called 'Limits on working hours'.

511. They cannot be self-employed or employed as:

- a. a doctor in training (except on a recognised foundation programme);
- b. a professional sports person (including a sports coach); or
- c. an entertainer.

512. The only exception to this is where the student is undertaking a course of study in music or dance at NQF/QCF 6 or SCQF 9 or above. They are able to undertake work placements which involve a professional performance, where the performance has been arranged by the sponsoring education provider and is an assessed part of the course.

513. They must not fill a full-time, permanent vacancy (except on a recognised foundation programme or as a students' union sabbatical officer).

## **Students' union sabbatical officers**

514. A students' union sabbatical post is a full-time, salaried, elected, executive union position. A Tier 4 (General) student may be a students' union sabbatical officer for a maximum of two years, either during their course or in the academic year immediately after they graduate. The post must be at the institution that sponsors them or they must be elected to a National Union of Students of the UK position.

515. If the student takes up the sabbatical officer post while they have current permission to stay under Tier 4 (General), you must notify us of this change in their circumstances. If the student's permission was granted on the basis of a visa letter, you can email the change to: [MigrantReporting@UKBA.gsi.gov.uk](mailto:MigrantReporting@UKBA.gsi.gov.uk). If the student's permission was granted on the basis of a CAS, you must report the change using the sponsorship management system.

516. If the student wants to take up a post as a sabbatical officer at the end of their course and their permission to stay has expired, they must apply again with a new CAS from their licensed sponsor that gives details of the post.

517. The term of office for a sabbatical officer is normally one academic year and if the student takes the post after their course is finished we may grant them permission to stay under Tier 4 (General) to cover this period. If the student is re-elected after one year, they must apply again with a new CAS from their licensed sponsor that gives details of the post. They cannot apply again for a third year.

518. A work placement must be no more than 33 per cent of a student's overall course in the UK, or 50 percent if the course is at or above degree level and is studied at a higher education institution or where the course forms part of a study abroad programme. However, this does not include any time they spend as a sabbatical officer. If they have another job as well as sabbatical officer duties, they can work part-time during term-time and full-time during vacations if they do not work full-time for the students' union in the vacations.

## **Your responsibilities as a sponsor**

519. This section explains:

- a. what you must do as a sponsor;
- b. the penalties if you do something wrong; and
- c. what to do if your circumstances change.

## **Sponsorship duties**

520. As a sponsor you have a number of duties that you must meet so that you can keep your licence and achieve or maintain HTS status. You will have to show that you are able to meet them before we will give you a sponsor licence.

521. Some duties apply to all sponsors under the points-based system, others are specific to

sponsors who are licensed under certain tiers or categories. You must meet these duties to ensure that immigration controls remain effective. These duties aim to:

- a. prevent you abusing our process for assessing you;
- b. quickly find and address any patterns of student behaviour that may cause concern;
- c. address weak processes which can cause those patterns; and
- d. monitor your and your students' compliance with immigration rules.

522. Your responsibilities as a sponsor start on the date we issue your licence and end:

- a. if you surrender your licence; or
- b. if we revoke your licence.

523. Your responsibilities for each student you sponsor start when you assign a CAS to them.

524. Your responsibilities for each student you sponsor end when:

- a. you tell us they have prematurely ended their course of study and give us details of their plans to leave the UK or apply for new permission to stay in the UK;
- b. they leave the UK or their permission to stay lapses; or
- c. we give them permission to stay in the UK with a different sponsor or in another immigration category which means you do not need to sponsor them under Tier 4 any more.

525. From 30 July, a Tier 4 student applying from outside the UK may be asked to undertake an interview, either in person, or on the telephone. We will refuse an application if as a result of this interview the UK Border Agency is not satisfied that the applicant is a genuine student, or the applicant cannot speak English to the required standard (judged as set out at paragraph 245 ZV(ca) of the Immigration Rules), or the application is shown to fall for refusal under the General Grounds for Refusal.

526. The introduction of this policy does not in any way change your ongoing responsibilities as a Tier 4 sponsor. We expect you to continue to thoroughly assess each student's intention and ability to undertake their course of study with you before you assign a CAS to them.

527. The points based system is a sponsorship based system and this testing is intended to complement your own assessment as a Tier 4 sponsor; it is not intended to replace it.

528. We will, as we do now, take action against you if we find that you are failing to fulfil any of your sponsorship duties as set out in this guidance.

529. As a transitional arrangement, when calculating your HTS refusal rate, we will not include students who have been refused entry on the basis that we could not be satisfied that they are a genuine student. We will continue to include all other refusals. This arrangement will remain in place until further notice however we will continue to monitor and review the arrangement on an ongoing basis.

## **Complying with the law**

530. To ensure that you are complying with our immigration laws, you must only assign a CAS to a student whom you believe will:

- a. meet the requirements of the Tier 4 category under which you assign the CAS; and

b. comply with the conditions of their permission to stay in the UK.

531. You must also hold the appropriate planning permission or local planning authority consent to operate your type or class of business at your trading address (where this is a local authority requirement).

## Record-keeping duties

532. You must keep all of the documents listed in Appendix D. You can store them as paper copies or electronically. We do not tell you how to store the documents, but you must be able to make them available to us when we ask. If you fail to keep any documents specified in Appendix D and/or fail to provide any documents when we request them, we may take action against you.

533. If you are a Higher Educational Institution and you are endorsing a migrant under Tier 1 (Graduate Entrepreneur), you must keep evidence of the selection process that resulted in that endorsement.

## Reporting duties

534. Unless stated otherwise, you must report the following information to us within 10 working days using the sponsor management system. It tells us about students who do not enrol, do not attend, do not comply with our requirements, change their circumstances, or disappear. We use the information to take enforcement action against them when necessary.

535. You must report on students even if they are undertaking a course (including a pre-session course) at a partner institution or a branch named on their CAS or a work placement which forms part of their course.

536. If you are a Higher Educational Institution and you are endorsing an individual under Tier 1 (Graduate Entrepreneur), you must have contact with them at least once a quarter. If a migrant that you are endorsing misses an expected contact without your permission you must report this by email to [Tier1GradEntAdmin@homeoffice.gsi.gov.uk](mailto:Tier1GradEntAdmin@homeoffice.gsi.gov.uk) within 3 months of the missed contact. You must include in your report:

- a. whether or not you are continuing to endorse that individual; and
- b. if you are continuing to endorse them, why.

537. We have produced a user guide to assist you in submitting accurate reports on student activity using the SMS reporting structure which was introduced on 6 April 2012. This is called 'Using the Sponsorship Management System (SMS) – reporting student activity' and can be found at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>.

## Students who do not enrol

538. You must tell us if a student you have assigned a CAS to does not enrol on their course within the enrolment period. You must report this no later than 10 working days after the enrolment period has ended. You must include any reason the student gives for not enrolling for example if they:

- a. missed their flight;
- b. have decided not to come to the UK;

- c. have delayed their enrolment date;
- d. have decided to take up a course with a different sponsor; or
- e. have had their application for permission to come to, or stay in the UK refused.

## **Student contact stops**

539. These reporting duties are not compulsory if we gave the student permission to come to the UK on the basis of a visa letter. Visa letters were a paper version of what is now the CAS. They were phased out on 22 February 2010 when the sponsorship management system was fully implemented.

540. However, if you wish to report on these students you can do this by emailing [MigrantReporting@UKBA.gsi.gov.uk](mailto:MigrantReporting@UKBA.gsi.gov.uk).

541. All sponsors must continually monitor student attendance and identify when a student has missed 10 consecutive expected contacts.

542. If you are A-rated and a student misses 10 consecutive expected contacts without you reasonably giving them permission, you must tell us within 10 working days of the 10th missed contact that you intend to withdraw sponsorship of the student.

543. If you are a highly trusted sponsor you have two options. You can choose to report individually within 10 days of the 10<sup>th</sup> consecutive missed contact as above, or you can choose to make two checkpoints throughout the year. If you make two checkpoints (re-registrations) during any rolling 12 month period you must report any students who have missed 10 consecutive expected contacts without you reasonably giving them permission leading up to that checkpoint, and you are therefore withdrawing sponsorship of the student. You must report these students within 10 working days of you completing your checkpoint process.

544. Examples of expected interactions include, but are not limited to:

- a. attending any lesson, lecture, tutorial or seminar (as relevant to the level of study);
- b. attending any test, examination or assessment board;
- c. submitting assessed or unassessed coursework;
- d. submitting an interim dissertation, coursework or report;
- e. attending any meeting with a supervisor or personal tutor;
- f. attending any research-method or research-panel meetings, writing-up seminars or doctoral workshops;
- g. attending an oral examination (viva);
- h. registration (matriculation or enrolment);
- i. attending an appointment with a welfare advisor or international student adviser.

545. If you tell us that a student has missed the required expected contacts or interactions, but you then re-establish contact with them and are happy to reinstate them on their course, you must tell us that you wish to resume sponsorship and that you will not be withdrawing your sponsorship of the student. You should do this using the SMS. If the student's permission to stay in the UK has expired or been cancelled by us while they were not studying with you, they will have to apply for new permission to stay before they can start studying again.

546. We no longer ask that you report to us, the exceptional cases where a student has missed 10 consecutive missed contacts but you decide that you will continue to sponsor

them. We expect these cases to be rare and you must retain evidence of your decision as our compliance officers will monitor these exceptions.

547. It is your responsibility to judge whether a student's absence is authorised or unauthorised. For example, if a student will be absent for a prolonged period, perhaps because they are ill or pregnant, you may decide this is authorised. You must judge whether or not they will then be able to pick up their studies straight away without repeating a previous period of study. If they are unable to complete their studies in the original timeframe then the student should defer their studies. See 'You stop sponsoring the student' for details of how to report that.

548. You must tell us if you are a Higher Educational Institution and you are endorsing a migrant under Tier 1 (Graduate Entrepreneur) and the migrant misses an expected contact.

## **You stop sponsoring the student**

549. All sponsors must report on any students who formally withdraw from their studies, or defer their studies.

550. If a sponsored student withdraws from their studies you must tell us within 10 working days of them doing so. This includes where a student withdraws before they have travelled to the UK. Where appropriate, you must include the name and address of any new institution that the student has joined, if you know it.

551. If you stop sponsoring a student for any other reason you must tell us within 10 working days. Examples may include (amongst other things):

- a. the student has moved into a different immigration route with a different sponsor or one which does not require a sponsor;
- b. you have withdrawn the student from the course, for example because they have not met your requirements;
- c. the course that the student was studying has been withdrawn, this includes where the awarding body stops running the course or stops trading;
- d. the course was completed sooner than expected.

552. If a student defers their studies before or after travelling to the UK, you must tell us within 10 working days of them doing so. If the student defers their studies after they arrive in the UK, their permission to stay will no longer be valid as they will not be actively studying. As well as telling us about their deferral you must also advise them to leave the UK. When they are ready to resume their studies they will have to make a new application for a visa.

553. This does not apply to students sponsored by the Foundation Programme Office who defer their studies. Their sponsorship will continue until they leave the foundation programme permanently, or until they switch into another immigration category. For example they may switch into Tier 2 for an out-of-programme experience, which is not part of the foundation programme.

## **Significant Change in Circumstances**

554. You must tell us within 10 working days if there are any significant changes in a sponsored student's circumstances, for example if:

- a. the location they are studying at changes;
- b. the location of their work placement changes;

- c. their start date is delayed and they have not yet entered the UK (it must be agreed between you and the student that they will be still able to complete the course within their granted leave period otherwise you must assign a new CAS and the student must apply to vary their leave to include a later finish date). Please see paragraph about deferrals above;
- d. the student is continuing to study with you, but they have changed their course;
- e. anything that suggests that a sponsored student is breaching the conditions of their permission to stay in the UK.

555. You must tell us within 28 calendar days if there are any significant changes in your circumstances, for example if:

- a. you cease trading.
- b. you become insolvent. You must tell us if you:
  - i. go into administration (including special administration) or administrative receivership (receivership in Scotland); or
  - ii. enter into a Company Voluntary Arrangement or Debt Arrangement Scheme; or
  - iii. go into liquidation or sequestration is awarded, or
  - iv. become bankrupt;

If you go into administration (including special administration) or administrative receivership, you must also tell us who has been appointed as the administrator within 28 days of them being appointed. Please see annex A for full details.

- a. there are substantial changes to the nature of your business; or
- b. you are involved in a merger or you are taken over.

You must tell us about any of the above changes by using the SMS.

556. If you are a private further or higher education institution and you appoint a new principal or change owners, you must give us the name(s) of the new principal and/or owners of the institution within 28 calendar days. You must tell us about any changes in principal and/or owner(s) by using the SMS. If you do not, we will revoke your licence.

## **Other information you must report**

557. You must report:

- a. details of any third party or intermediary, whether in the UK or abroad, that has helped you to recruit international students. You must report these details by emailing SCOC@UKBA.gsi.gov.uk;
- b. to the police any information you may have that suggests that the student may be engaging in terrorism or other criminal activity.

558. You should tell us if any notifications that you have reported through the sponsor management system are incorrect. You should also tell us why they are incorrect.

## **Additional duties (includes cooperating with us)**

559. When a sponsored student is undertaking a work placement as part of their course, the work placement must be an assessed part of the course. You must continue to monitor regularly the time they spend working at the work placement and ensure that unless there is a statutory requirement that states otherwise, it does not exceed:

- a. 33 per cent of the total length of the course;
- b. 50 per cent of the total length of the course where the course is at or above NQF/QCF 6 or SCQF 9 and is studied a higher education institution or where the course forms part of a study abroad programme.
- c. 50 percent where the student is sponsored under Tier 4 (Child) and is aged 16 or above.

560. We will take action against you if we find that a sponsored student is undertaking a work placement which is:

- a. not an assessed part of the course; or
- b. more than 33 per cent of the total length of the course and there is no UK statutory requirement for the course to exceed this limit; or
- c. more than 50 per cent of the total length of the course where the course is at or above NQF/ QCF 6 or SCQF 9 and is studied a higher education institution or where the course forms part of a study abroad programme and there is no UK statutory requirement for the course to exceed this limit; or
- d. more than 50 percent of the total length of the course where the student is sponsored under Tier 4 (Child) and is aged 16 or above, and there is no UK statutory requirement for the course to exceed this limit.

561. You must do all you can to ensure students you sponsor arrive to take up their course and see that course through to completion. We will take action against you if we have evidence that an unacceptable number of students do not arrive or do not complete their course.

562. You must meet the requirements for your inspection or audit and the types of courses you may offer. For example if you sponsor students under Tier 4 (Child) you must have been inspected or audited on the basis that you teach children under the age of 18.

563. To keep your licence, you must:

- a. continue to be audited and/or inspected at a satisfactory and existing level;
- b. offer courses to international students which comply with our conditions;
- c. notify the local authority of any private foster care arrangements for Tier 4 (Child) students, where appropriate (see 'Requirements for Tier 4 (Child) students' for details).

## **Cooperating with us**

564. To allow us to manage the sponsorship system properly, you must:

- a. allow our staff access to any of your premises or any site under your control, on demand (whether visits are prearranged or unannounced);
- b. continue to adhere to any action plan in place if you were B-rated under the guidance in place before 5 September 2011, including any additional duties which form part of the plan;
- c. try to minimise the risk of immigration abuse by complying with any good practice guidance we produce or any sector body may produce with our agreement.

## **Concerns or queries about your duties**

565. Please ask us if you have any questions about your duties as a sponsor. You can email us

at [sponsorshipPBSenquiries@ukba.gsi.gov.uk](mailto:sponsorshipPBSenquiries@ukba.gsi.gov.uk) or you can telephone us on 0300 1234699.

## Compliance checks

566. We will visit you before we decide your sponsor licence application and we will check your current monitoring arrangements. We will make further checks after we have granted your licence. This is to ensure the information you provided on your application form is accurate and that you are able or continuing to do what is required of a licensed sponsor. We will check that:

- a. the information given about you is accurate and complete;
- b. you are able to offer courses of study which meet the current requirements;
- c. you are genuine and are trading or operating lawfully in the UK;
- d. you have the appropriate planning permission or local planning authority consent to operate your type or class of organisation at your trading address;
- e. there are no reasons to believe that you as a prospective or existing sponsor are a threat to immigration control; and
- f. you will be able to comply or are already complying with your sponsor duties.

567. You agree to cooperate with these checks when you submit your online sponsor application.

568. Our compliance officers carry out the checks. Our visit may be announced or unannounced. If we make an unannounced visit it does not mean we have any doubts about you.

569. The compliance officer will gather material to support the information you gave on your sponsor application. This is to confirm that the information you gave was full and accurate, and that you are meeting (or will be able to meet) your duties and responsibilities as a licensed sponsor. They may wish to speak to people involved in recruiting or enrolling students and to sponsored students. They will not discuss the outcome of the assessment during the visit.

570. In certain cases we may make follow-up checks either by telephone or by letter. We will ask for evidence to support any information you gave on your application.

571. The compliance officer, or any third party working on our behalf, will have official UK Border Agency identification. If you doubt that an official is genuine, you should telephone us on 0300 123 4699.

## Compliance checks for highly trusted sponsors

572. As well as your other duties, we may ask you to complete a spreadsheet showing the details of each student you sponsor and their attendance. We may ask you to do this or repeat this at any time to ensure that you still meet the requirements for HTS status.

573. If we ask you to complete a spreadsheet you must send it to us electronically within 21 days and give us all of the information we requested.

## After the check

574. If we have carried out a check before making a decision on your application, we will base our decision on all of the information you gave us and that we gathered during the checks.

575. We will write to you to give you the outcome of the checks. Many checks will reveal no problems.

576. If there are differences between what you told us and what we find during a check and we discover this before we make a decision on your application, we will let you know whether we require more information before we make the decision.

577. If we have already made our decision and then find differences between what you told us on your application and what we find during a check, we will take action against you, we will assess the evidence we have and we will take action against you if we:

- a. find evidence that you, a representative, a relevant person or a person employed by you who appears to act on your behalf have knowingly deceived us; or
- b. cannot verify statements this person has made or documents they gave us.

578. Where we find problems that are linked to a specific individual we may prosecute and refuse future applications involving that individual.

## **Penalties**

579. It is our duty to protect the border and to protect sponsors who are meeting all of the requirements we expect of them. If we believe you have not been complying with your duties, have been dishonest in any dealings with us or are a threat to immigration control, we will take action against you.

580. We may:

- a. revoke your licence;
- b. suspend your licence pending further investigation;
- c. reduce the number of CAS you are allowed to assign.

581. We also reserve the right to suspend your licence while we carry out further checks to find out if any failure on your part is serious enough to potentially lead to us revoking your licence.

## **Suspending a licence because we have concerns about you**

582. We will immediately suspend your licence while we make further enquiries if we have reason to believe that you are breaching your sponsorship duties and/or are a threat to immigration control (for example, assigning CAS to students who do not enrol, or fail to complete their course) to the extent that we may have to revoke your licence.

583. You will not be able to assign any CAS while your licence is suspended. You must continue to comply with all of your sponsorship duties, and any other requirements set out in this guidance, throughout the period of suspension.

584. If your licence is suspended it will be suspended in all the tiers, categories and sub-categories in which you are registered and while it is suspended we will remove your entry from the register of sponsors on our website.

585. If after an investigation, we decide not to revoke your licence we will lift the suspension and reinstate your entry on the register of sponsors on our website.

## **How suspension affects your sponsored students**

586. Students you are sponsoring at the time of the suspension will not be affected, unless they need to apply for an extension of stay and you have not already assigned a CAS to them. Students will be affected if we decide to revoke your licence.
587. You will not be able to assign any CAS while your licence is suspended. This includes not being able to assign a CAS to an existing student whose leave is due to expire.
588. While your licence is suspended, if a student applies for a visa or extension of stay with a valid CAS that you assigned before we suspended your licence, we will not decide their application until we have resolved the reason for suspending you.
589. If you are also an endorsing body under the Tier 1 (Graduate Entrepreneur) scheme and an individual applies for leave with a valid letter of endorsement from you, we will not decide the case until the reason for the suspension has been resolved.
590. We will not consider any applications from students whose CAS shows they will take a course with a partner institution if we have suspended the licence of that partner institution.
591. If a student has already been given a visa on the basis of a CAS you assigned but they have not yet travelled to the UK, we will allow them to enter and start studying with you. We do advise students to check the status of their sponsor's licence before they travel and not to travel to the UK if their sponsor's licence has been suspended.
592. While you are preparing your response to the suspension and we are considering it, we will not tell students to whom you have assigned a CAS about the suspension if they are already in the UK.

### **Process we will follow if we suspend your licence**

593. We start from one of two positions.
- a. If we are satisfied that we have enough evidence to suspend your licence without the need for further investigation, we will write to you giving detailed reasons for suspending your licence.
  - b. If we have evidence that warrants your licence being suspended pending a full investigation, we will write to you giving our initial reasons for the suspension and informing you that an investigation will take place. It may not be possible at that point to say how long the investigation will take, but we will update you on our progress at regular intervals. During this period, you can make any written statements you think are necessary to respond, including sending in evidence. Any statement or evidence you send to us during this period will be taken into account during the investigation. When we have finished our investigation, we will write to you again, giving detailed reasons for suspending your licence.
594. When we write to you giving detailed reasons for suspending your licence, you will then have 28 calendar days from the date of that written notification, to respond to us in writing. We may extend this period at your request if we are satisfied that there are exceptional circumstances. You may make any written statements you think are necessary to respond, including sending in evidence. However, we will not hold an oral hearing.
595. If we identify any further reasons for the suspension of your licence during that 28-day period, we will write to you again, giving you another 28 days to respond in writing to the additional reasons.
596. When we receive a response from you, we will consider it and may request information from any relevant compliance officer, other law enforcement agencies, government departments, agencies, local authorities, the police, foreign governments and/or other body. We will notify you of our decision within 28 calendar days of receiving your response.

597. If we do not receive a response from you within the time allowed, we will proceed with whatever action we believe to be appropriate and will notify you of our decision in writing. Appropriate action may be to reinstate your licence with an A-rating, and/or reduce the number of CAS you are allowed to assign or revoke it.

598. Any action we take as a result of our decision will take effect from the date of the letter we send you to tell you about our decision. We will send this letter by recorded delivery.

## **Reinstating your licence after suspension**

599. If your licence has been suspended from the sponsor register and we do not subsequently revoke it we will reinstate it but may reduce the number of CAS you can assign (including reducing that number to zero) and highlight areas of improvement which will be assessed at the next visit.

## **Revoking your licence**

600. We will revoke your licence immediately for any of the following reasons:

- a. we find, after your licence has been granted, that you gave false information on your sponsor licence application, or in support of your licence application.
- b. you stop trading or operating for any reason including if:
  - i. you sell your business (this includes circumstances where this happens as a result of you becoming insolvent);
  - ii. you go into liquidation, or sequestration is awarded and you cease to trade as a result of that;
  - iii. a court issues a bankruptcy order against you;
  - iv. you cease to have an operating/trading presence in the UK.

Please see Annex A for more information.

- c. You are a legacy sponsor and your last sponsored student finishes their course.
- d. You do not yet have educational oversight and your accreditation with one of the previously approved accrediting bodies is withdrawn. We will not revoke your licence if your accreditation with one of the previously approved accrediting bodies expires.
- e. You do not apply for HTS status by the dates specified as deadlines elsewhere in this guidance.
- f. Your HTS status expires and you do not apply in time to renew it.
- g. If you apply for HTS or HTS renewal after 5 September 2011 and your application is refused.
- h. You also have a Tier 2 and/or Tier 5 licence and you have certified that a migrant under Tier 2 and/or Tier 5 will not claim state benefits, and that migrant then did claim benefits, with your knowledge.
- i. The courses you offer to sponsored students under Tier 4 (General) are below the level allowed according to whether you are an A-rated sponsor or have HTS status, unless the student is exempt because they applied before 5 October 2009. This does not apply to supplementary studies which can be at any level.
- j. Any work placement associated with a course for Tier 4 (General) students, accounts for more than 33 per cent of the total length of the course or more than 50 per cent of the course where the course is at or above NQF/QCF 6 or SCQG 9 and is studied at

a higher education institution or the course forms part of a study abroad programme. This does not apply where there is a UK statutory requirement for the work placement to exceed these limits.

- k. Any work placement associated with a course for Tier 4 (Child) students aged 16 or above, accounts for more than 50 per cent of the total length of the course. This does not apply where there is a UK statutory requirement for the work placement to exceed these limits).
- l. The study element of any course you offer to sponsored students is not taken on your premises or at a partner institution named on your licence and the sponsored student's CAS
- m. You have offered places and assigned CAS for students who are not from the countries we define as 'majority English-speaking countries', without first properly assessing their English language ability. This includes where you have issued a CAS to a student based on their expected results. This also applies to CAS you issued before 21 April 2011 when you were required to assess English language ability for students studying English language courses or courses below degree level (excluding foundation degrees).
- n. You are an A-rated sponsor and you have offered places to Tier 4 (General) students on courses at QCF or NQF level 3 (or equivalent).
- o. You are an A-rated sponsor, or a B-rated sponsor that is still subject to an action plan under the guidance in place before 5 September 2011 and you have assigned a CAS to Tier 4 (General) students for courses below degree level which include a work placement.
- p. You have offered places to Tier 4 (General) students and the main course of study does not lead to an approved qualification for our purposes.
- q. You have assigned a CAS to a Tier 4 (General) student to take a distance learning course or a course designed only to support students taking distance learning courses.
- r. You do not have a level 1 user in place.
- s. You have appointed a level 1 user who is not a settled worker and they assign their own CAS or they assign a CAS to a close member of their family or partner.
- t. You or a relevant person are issued with a civil penalty for employing one or more illegal workers, and the fine for at least one of those workers stood at the maximum £10,000 once your objection and appeal rights have been exhausted.
- u. You or a relevant person are issued with a civil penalty as above for a first offence, where the fine is below the maximum amount, and you have failed to pay the fine in full or set up a payment instalment plan with us, by the 29th day after you are notified of liability which may be after an initial objection or appeal determination.
- v. You or a relevant person, are issued with a civil penalty as above for another offence within the period that your sponsor licence is valid and you are still liable once your objection and appeal rights have been exhausted.
- w. You or a relevant person are paying a civil penalty fine by an agreed payment instalment plan and you breach the conditions of that plan.
- x. you do not hold, or you stop holding, appropriate planning permission or local planning authority consent to operate your type or class of business at your trading address (where this is a local authority requirement).
- y. You or a relevant person are convicted of one of the following offences (unless the conviction is spent under the Rehabilitation of Offenders Act 1974):
  - i. any offence under the Immigration Act 1971;
  - ii. any offence under the Immigration Act 1988;

- iii. any offence under the Asylum and Immigration Appeals Act 1993;
- iv. any offence under the Immigration and Asylum Act 1999;
- v. any offence under the Nationality, Immigration and Asylum Act 2002;
- vi. any offence under the Immigration, Asylum and Nationality Act 2006;
- vii. any offence under the UK Borders Act 2007;
- viii. any offence under the National Minimum Wage Act or related to benefit fraud;

z. Trafficking for exploitation; or

aa. Any other offence which, in our opinion, indicates that you or a relevant person are a risk to immigration control, for example, offences involving dishonesty or deception, including any of the offences listed in Appendix B.

ab. You or a relevant person are dishonest in any dealings with us. This includes, among other things:

- i. making false statements, or failing to disclose any essential information, when applying for a sponsor licence; or
- ii. making false statements, or failing to disclose any essential information, when assigning a CAS.

601. Additionally, if you are a B-rated sponsor and subject to an action plan under the guidance in place before 5 September 2011, we will immediately revoke your licence in the following circumstances:

- a. you have been B-rated and you have not complied with your current action plan within the specified target date for completing it.
- b. you have been B-rated and you have not complied with an action plan for 12 months or more.
- c. you are a private further or higher education institution and you have not reported a change in your ownership or the appointment of a new principal within 28 days of the change.
- d. you have been given or downgraded to a B-rating under the guidance in place before 5 September 2011 and you failed to pay the action plan fee within 14 calendar days.
- e. you have used a CAS to sponsor a new student.
- f. you continue to sponsor a student after they have failed a re-sit twice, or repeated a period of study twice.

602. If we revoke your licence and you are also an endorsing body under the Tier 1 (Graduate Entrepreneur) scheme, we will withdraw you from that scheme and any migrant you are endorsing will have their leave curtailed to 60 days to allow them to seek another route under which they can remain in the UK. If they have been unable to do this after the 60 day period they must leave the UK or face enforced removal.

603. We will write to you to inform you that we have revoked your licence. There is no right of appeal to this decision and you will not be eligible to apply again for a sponsor licence for a minimum of six months from the date we revoked your licence.

604. We will consider revoking your licence for the following reasons:

- a. you or a relevant person are convicted of an offence that we consider to be serious, unless the conviction is spent under the Rehabilitation of Offenders Act 1974.
- b. you or a relevant person becomes legally prohibited from acting as a company director.
- c. you or a relevant person becomes an undischarged bankrupt.
- d. you fail to comply with any of your duties.
- e. you fail to keep any of the documents specified in Appendix D of this guidance and/or you fail to provide any documents listed in Appendix D of this guidance, to a compliance officer within the specified time limit.
- f. we find that students that you have sponsored have not complied with the conditions of their permission to stay in the UK.
- g. you, or any organisation that you or a relevant person have been involved with in a similar role, have their authorisation removed by the Office of the Immigration Services Commissioner (OISC). (This applies to people or organisations that provide immigration advice or services).
- h. you assign a CAS stating that the course represents progression but you cannot show how you assessed the progression, or we are concerned about how you assessed it; or
- i. we find, after you have assigned a CAS stating that there is academic progression, that there is no academic progression.
- j. you assign a single CAS to a student for a pre-sessional and main course of study, where the requirements to do so have not been met. Please see section called 'Pre-sessional courses'.
- k. we find that you have assigned a CAS to cover more than one course (unless you meet the requirements to assign a single CAS for a pre-sessional and main course as set out in the section called 'Pre-sessional courses').
- l. you assign a CAS for a pre-sessional course which does not meet our definition of a pre-sessional course. Please see section called 'Pre-sessional courses'.
- m. any of your users of the (SMS) disclose their SMS password to another person.
- n. you have no authorising officer.
- o. you have no level 1 users.
- p. you do not supply, when requested and within the specified time limit, any document we request to support any changes that you have reported to us using the SMS or the sponsor change of circumstances form.
- q. you are an A-rated sponsor and you continue to sponsor a student after they have failed a re-sit twice, or repeated a period of study twice.
- r. you do not have enough control over any overseas agent acting on your behalf. For example we may find evidence:
  - i. of a significant increase in the volume of applications from a particular part of the world with no explanation; and/or
  - ii. that we are refusing significant volumes of student applications from a particular part of the world.
- s. you fail to report a material change of circumstances, as determined by your educational oversight body, to your educational oversight body.

605. We may not always revoke your licence in the circumstances above, but we cannot precisely define the exceptional circumstances in which we will not. However, we may immediately suspend it and may withdraw any CAS that you have assigned but which have

not yet been used to support an application for leave to come to or stay in the UK. We will look for evidence that you were either not responsible for what happened or, if you were, you took prompt and effective action to remedy the situation when it came to light. For example if one of your employees was wholly responsible for what has happened and that person was dismissed when it came to light.

## **How revocation affects your sponsored students**

606. If we believe that students were actively involved (complicit) in the circumstances which led to your licence being revoked, for example if the student agreed that you would arrange a non-existent course for them so they could come to the UK, we will immediately cancel their permission to stay in the UK and they will have to leave the UK or face enforced removal.

607. If we believe that students were not actively involved in the circumstances which led to your licence being revoked, we will curtail their permission to stay in the UK to 60 calendar days to give them a chance to find a new sponsor. The student's leave will be curtailed to 60 days from the date of our letter informing them that their leave has been curtailed. If a student has less than 60 days' permission left, we will not curtail it. When their permission expires, if they have not found a new sponsor they will have to leave the UK or face enforced removal.

608. If you are an endorsing body under the Tier 1 (Graduate Entrepreneur) scheme, the same action as described in the previous paragraph, will be taken in respect of any migrant you are endorsing under that scheme.

609. If before we revoke your licence, a student has made an application for leave to remain or further leave to remain before their previous leave has expired and their application is still under consideration, their CAS will become invalid and their application will be refused if we think the student was involved in the reasons which led to your licence being revoked.

610. If the student was not actively involved in the circumstances which led to your licence being revoked we will delay the refusal of their application to allow them 60 days to regularise their stay or to leave the UK.

611. We will write to the student informing them of the date by which they should provide a new CAS if they intend to do so. If they fail to provide a new CAS within the specified period their application will be considered on the basis of the evidence submitted with their application.

612. We will take action against any student who remains in the UK after their permission to stay here has expired. This may result in them being detained and removed from the country. We may also refuse any applications they make to come to the UK for up to 10 years after their removal.

613. If we revoke your licence, any CAS you have assigned will automatically become invalid. This means we will refuse any application a student makes on the basis of that CAS.

614. If a student has already been given a visa when we revoke your licence, we will cancel it if they have not yet travelled to the UK. If they then travel to the UK, we will refuse them entry.

## **Can you apply again if your licence is revoked?**

615. If we revoke your licence, we will not reinstate it. You will have to wait a minimum of six months from the date we revoked the licence before you can apply to rejoin the sponsor register, unless your licence was revoked in error.

616. If you do apply to rejoin the sponsor register, we will treat the application as a new one. You will have to pay the appropriate fee and produce all the relevant documents for the tier, category, or sub-category you are applying for. If we are satisfied that we revoked your licence by mistake, we will reinstate you to the register of licensed sponsors.

## **Penalties for illegally employing workers**

617. Tier 4 sponsors are also employers so you must make sure that your employees are entitled to work for you if you wish to avoid us taking any action against you. We impose a range of penalties on those who employ people illegally.

618. We take tough action against those who illegally employ people. If we find you are employing workers illegally you will be treated in exactly the same way as any other employer.

619. You can protect yourself against possible action by checking documents to establish a person's right to work in the UK before you recruit a new member of staff. You should also carry out further document checks at least every 12 months when we have put a time limit on an employee's stay in the UK.

620. If we find you are employing workers illegally you may face any of the following penalties.

- a. We may revoke your sponsor licence.
- b. We may issue you with a civil penalty fine for up to £10,000 for each illegal worker.
- c. You may be prosecuted for having in your possession or under your control without reasonable excuse an identity document that is false or improperly obtained or that belongs to someone else. You may go to prison for up to two years and receive an unlimited fine.
- d. You may be prosecuted for knowingly employing an illegal worker. You may go to prison for up to two years and/or receive an unlimited fine.
- e. You may be disbarred as a company director or officer as a result of being convicted of knowingly employing an illegal worker. You may be disqualified from forming or managing a company.
- f. You may be prosecuted for facilitation or trafficking. You may go to prison for up to 14 years and/or receive an unlimited fine.
- g. We may give you a formal written warning for employing an illegal worker, after which we will monitor you closely.

621. If we find that you have employed someone illegally we may inform other bodies such as:

- a. the Gangmasters Licensing Authority (GLA);
- b. the Office of the Immigration Services Commissioner (OISC); or
- c. another government body.

622. More information on the penalties for employing illegal workers is on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking>.

## If your circumstances change

### Changing your sponsor details

623. As part of your duties, you must notify us of any changes to your details, for example if you want to change your key contact or authorising officer, or if you change address. We may ask for more details or clarifications.

624. You must use the sponsorship management system (SMS) 'request change of circumstances' function to:

- a. change your address;
- b. change your name;
- c. change your key contact or their details;
- d. tell us about changes to your structure, such as more branches, sites or partner institutions;
- e. update us on criminal convictions; and
- f. tell us about a change in the status of any registration by a governing body that you are required to hold.

625. There are specific functions on the SMS to:

- a. request an increase in your CAS allocation;
- b. renew your CAS allocation;
- c. request an additional level 1 user; and
- d. amend minor details for your existing users (such as email address, telephone number or immigration status).

626. On 1 October 2011 we introduced specific features to the SMS to enable you to:

- a. replace your authorising officer and/or key contact;
- b. amend the details of your authorising officer and/or key contact;
- c. amend your own details including notifying us of takeovers and mergers; and
- d. notify us of any other changes to your circumstances, for example adding or removing a representative or surrendering your licence.

You can find relevant help guides at the following link - <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/sms-user-manual/>

627. When you submit the changes we will tell you what documents you must send us as evidence of the changes. For some changes, for example replacing your authorising officer or surrendering your licence, you will also have to sign a short declaration.

628. For some changes in circumstances you will have to complete more than one action on the SMS. For example, if you notify us of a change to your organisation address, you may also need to notify us of a change to the working address for your key personnel.

629. We published SMS user guides on our website in September 2011 to tell you how to use the new features when we introduced them.

630. The change of circumstances form is on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/sponsors/sponsorcircumstancesform>.

631. Since 1 October 2011 you can use the change of circumstances form to:

- a. replace the level 1 user when you have no other SMS user to do this on the SMS (for example when the previous level 1 user was the only SMS user and has left your organisation);
- b. replace the key contact or authorising officer when you have no other SMS user to do this on the SMS (for example when the previous key contact or authorising officer was the only SMS user and has left your organisation); or
- c. appoint a representative when you have no other SMS user to do this on the SMS (for example when the previous level 1 user was the only SMS user and has left your organisation).

632. We may ask for (and check) documents to support any change you request through the SMS or the change of circumstances form, and they may not always be documents we have listed in this guidance. Once you have reported the change, we will let you know what (if any) documents we need.

## **Takeovers, mergers and de-mergers**

633. This section explains what you must do if you:

- a. take over an existing sponsor organisation;
- b. as an existing sponsor, you are taken over in full or in part by another organisation and some of your students transfer to that organisation; and
- c. as an existing sponsor, you carry out a demerger and some students transfer to a new organisation.

634. What happens to your sponsor licence will depend on whether you are:

- a. being taken over completely by another organisation;
- b. being taken over in part by another organisation; or
- c. splitting out to form additional, new organisations.

635. You must report a takeover or merger within 28 days by using the SMS. If you do not, we will take action against you. This may lead to us cancelling the permission to stay of any students involved.

636. Your level 1 user must report it. If they are no longer available because you have been completely taken over or merged into another organisation, we will accept the report from the authorising officer at the new sponsor organisation. Once you have reported the change, we will ask for (and check) documents to support the change you are reporting, and they may not always be documents we have listed in this guidance. We may contact your authorising officer for confirmation of the takeover or merger at a later date if we feel it is necessary to do so.

637. On 1 October 2011 we introduced specific features to the SMS to enable you to amend your organisation details including notifying us of takeovers and mergers.

638. When you submit the change we will tell you what documents you must send us to in

support the changes.

639. We published SMS user guides on our website in September 2011 to tell you how to use the new features when we introduced them.

640. A student involved in a merger, de-merger or takeover does not need to apply for new permission to stay and the new sponsor does not have to assign a new CAS.

## **Complete takeovers and mergers**

641. If you are being completely taken over or merged into another organisation and your sponsored students are transferring to a new organisation you must report the following.

- a. Report the change, to us within 28 days, using the SMS. Include details of any students who will transfer to the new organisation.
- b. Report any students who will not transfer to the new sponsor. We will cancel their permission to stay in the UK. If the student received their permission to stay on the basis of a CAS, make the report using the SMS and if it was on the basis of a visa letter, email [MigrantReporting@UKBA.gsi.gov.uk](mailto:MigrantReporting@UKBA.gsi.gov.uk).
- c. Confirm if you need to surrender your sponsor licence by using the SMS or, if you do not have any active level 1 users, by using the change of circumstances form.

642. If you have completely taken over, or merged with, another sponsor organisation and their sponsored students are transferring to you, you must do one of two things.

- a. Make a valid application for a sponsor licence, if you do not already have one, within 28 days of the change. If your application is unsuccessful or you fail to apply, we will cancel the permission to stay of all students who were due to transfer to you; or
- b. if you already have a sponsor licence, report the change, including details of any students for whom you have accepted full sponsorship responsibility.

643. You can use the SMS to apply for an increase in your current allocation of CAS if you already have a sponsor licence and expect to sponsor more students in the future as a result of the takeover or merger.

644. If you ask us, we will give you access to the original sponsor's licence on the SMS, so that you can report activity for the sponsored students who have moved.

## **Partial takeovers and mergers**

645. This section explains what you must do if an organisation takes over part of an existing sponsor organisation, or if part of an existing sponsor organisation splits away to form a new organisation, and at least some sponsored students will transfer to the new organisation.

## **If you are the existing sponsor and no longer need your licence**

646. If you are the existing sponsor, and the change means that you will no longer have any sponsored students, you must report the change to us (including details of all students who will transfer to the new organisation) within 28 days of it taking place, by emailing [MigrantReporting@ukba.gsi.gov.uk](mailto:MigrantReporting@ukba.gsi.gov.uk).

647. You may surrender your licence if you wish. You can do this using the SMS or, if you have

no active level 1 users, by using the sponsor change of circumstances form, but only if you no longer have any sponsored students of your own. If you surrender your licence but then need to sponsor students again in the future, you will need to apply for a new sponsor licence.

648. If you are left with no sponsored students, but are not sure if you will need to sponsor any new students in the future, you may choose to keep your licence. If you do keep your licence, we will reduce your current allocation of CAS to zero.

### **If you are the new organisation and the existing sponsor does not need its licence**

649. You must make a valid application for a sponsor licence, if you do not already have one, within 28 days of the change. If your application is unsuccessful, we will cancel the permission to stay for all students who were due to transfer to you.

650. You can use the SMS to apply for an increase in your current allocation of CAS, if you already have a sponsor licence and the change means that you may need to recruit more students in the future.

651. You must report the change, including details of any students for whom you have accepted full sponsorship responsibility.

652. As the new sponsor you will not be able to report in the usual way on the students who have transferred from the original sponsor organisation because you will not have an SMS record for them. However, you must email [MigrantReporting@ukba.gsi.gov.uk](mailto:MigrantReporting@ukba.gsi.gov.uk) giving:

- a. the original sponsor organisation's name;
- b. the original sponsor organisation's licence number (if known);
- c. the student's details; and
- d. details of the change (for example, if the student has missed 10 expected contacts).

### **If you are the existing sponsor and still need your licence**

653. You must:

- a. report the change (including details of any students who will transfer to the new organisation) to us within 28 days of it taking place by using the SMS.
- b. tell us if you need to amend your current allocation of CAS. For example, if you need fewer than was agreed before the change.
- c. continue to report as usual on any sponsored students who are still enrolled, although you will no longer have any responsibility for reporting on students who have moved to the new organisation.

654. If you do not know whether or not you will sponsor any more students in the future, we will reduce your current allocation of CAS to zero.

### **If you are the new organisation and the existing sponsor still needs its licence**

655. You must make a valid application for a sponsor licence, if you do not already have one, within 28 days of the change. If your application is unsuccessful, we will cancel the permission

to stay for all students who were due to transfer to you.

656. You can use the SMS to apply for an increase in your current allocation of CAS, if you already have a sponsor licence and the change means that you may need to sponsor more students in the future.
657. You must report the change, including details of any students for whom you have accepted full sponsorship responsibility.
658. As the new sponsor you will not be able to report in the usual way on the students that have transferred from the original sponsor organisation, and whose permission to stay has been granted on the basis of a CAS, because you will not have an SMS record for them. However, you must email [MigrantReporting@ukba.gsi.gov.uk](mailto:MigrantReporting@ukba.gsi.gov.uk) giving:
- a. the original sponsor organisation's name;
  - b. the original sponsor organisation's licence number (if known);
  - c. the student's details; and
  - d. details of the change (for example, if the student has missed 10 consecutive expected contacts).

## **Surrendering a licence**

659. If you no longer wish to sponsor students, and have no sponsored students currently studying with you, you may choose to surrender your licence. You should do this using SMS.
660. We will remove you from the register of licensed sponsors, and you may apply for a new licence at any time.
661. You may choose to surrender your licence in all the tiers, categories and sub-categories for which you are licensed at the same time or you may choose to surrender part of your licence in certain tiers, categories or sub-categories. You must clearly indicate on the change of circumstances form which part you are surrendering.
662. You must provide evidence that you are no longer responsible for any students you may have previously sponsored in that tier, category or sub-category. If you still have responsibility for students, we will revoke your licence, cancel the students' permission to stay and may remove them from the UK.
663. On 1 October 2011 we introduced specific features to the SMS to enable you to surrender your licence.
664. When you submit the change we will tell you what documents you must send us to support the changes. When you submit the change you will also have to sign a short declaration.
665. We published SMS user guides on our website in September 2011 to tell you how to use the new features when we introduced them.

## **Annex A What happens if I become insolvent?**

1. If you go into administration (including special administration), or administrative receivership (receivership in Scotland) you must tell the administrator or receiver that you are a licensed sponsor and that this guidance requires you to tell us within 28 days of going into administration or receivership.
2. The insolvency professional appointed as the administrator or receiver must be appointed as your authorising officer (AO). This can be done in one of two ways:
  - a. If they are content for your named Level 1 user to remain in that role, then the Level 1 user can use the request change of circumstances function within your SMS account to replace your existing AO.
  - b. If they do not want your existing Level 1 user to continue to access your SMS account, they must complete a change of circumstances form to appoint themselves as your new Level 1 user. They must write 'In Administration' across the top of the Change of Circumstances form so we can ensure that it is dealt with as quickly as possible. Once we have approved that change, they can then appoint themselves as the new authorising officer using your SMS account.
3. If the administrator or receiver does not want any of your existing SMS users to continue accessing your SMS account, they must complete a change of circumstances form to appoint themselves as a new Level 1 user. They must decide whether your existing SMS users should be replaced, or whether they are content for them to keep their Level 1 or Level 2 SMS access.
4. There are different ways in which you can come out of administration (including special administration), or administrative receivership (receivership in Scotland) and some of these will have an impact on your continuing permission to hold a sponsor licence. The deciding factor will be whether or not you continue to own your business.

### **Company Voluntary Arrangement (CVA) or Debt Arrangement Scheme (DAS)**

5. If you enter into a CVA, you must tell us within 28 days of this being agreed and also tell us if it has resulted in a change of ownership. Where there is a change of ownership, we will treat this in the same way as if you had simply sold your business and we will revoke your sponsor licence. If you are sponsoring anyone at the point where ownership changes and the new owner wishes to continue sponsoring them, the new owner must apply for a sponsor licence within 28 days of the day they took ownership.
6. If the CVA amounts to an agreement with your creditors, but no change in ownership, then you can continue to hold your sponsor licence. You can also remove the administrator from the position of AO and appoint either your original AO or a new one. You must do this using your SMS account.
7. If you enter into a Debt Payment Programme under DAS and there is no change in ownership, you can continue to hold your sponsor licence.

### **Liquidation or Sequestration**

8. If you go into voluntary or compulsory liquidation you must tell us within 28 days of the date

you cease trading. If sequestration has been awarded or if you have signed a Trust Deed and either of these means you cease trading, you must tell us within 28 days of the date you cease to trade. If you or any appointed insolvency professional cannot access your SMS account to report this, either you or your appointed insolvency professional must email us at [sponsorsuspensions@homeoffice.gsi.gov.uk](mailto:sponsorsuspensions@homeoffice.gsi.gov.uk) We will then revoke your sponsor licence.

## **Sole Traders**

9. If you are a sole trader and you enter into an Individual Voluntary Arrangement (IVA) or a Debt Arrangement Scheme (DAS), in connection with your business, you must tell us using your SMS account within 28 days. If your IVA or DAS amounts to an agreement with your creditors where you remain as the sole owner of your business and you can continue to trade, you must also tell us about this. If this happens, you can keep your sponsor licence.
10. If your IVA or DAS results in your business being sold, you must tell us about this within 28 days. We will then revoke your sponsor licence. If you are sponsoring anyone at the point where your business is sold and the new owner wishes to continue sponsoring them, the new owner must apply for a sponsor licence within 28 days of the day they took ownership.
11. If you are a sole trader and a court issues a bankruptcy order against you, or sequestration has been awarded, you must tell us within 28 days of this happening. You will not be able to do this via your SMS account because you will not be permitted to access it. Instead you must email us at [sponsorsuspensions@homeoffice.gsi.gov.uk](mailto:sponsorsuspensions@homeoffice.gsi.gov.uk) to tell us about this and you must tell us the date you ceased trading. We will then revoke your sponsor licence.

## **Annex B - How we calculated the former interim limit for the period of 6 April 2012 to 31 December 2012**

1. If you were subject to the former interim limit we allocated you a number of CAS for the period of 6 April 2012 until the end of December 2012.
2. If this did not result in a whole number then we gave you a CAS allocation rounded up to the nearest whole number. If the result was zero then your CAS allocation under the former interim limit was zero. You were not able to assign a CAS to a new student or existing student during the period of the former interim limit.
3. You were not able to request any more CAS during the period of the former interim limit, even if you had used your entire interim limit or were given an interim limit of zero.
4. There were some sponsors who had a full satisfactory inspection, audit or review by one of the approved bodies and received an allocation of zero for the initial interim limit because they had not issued any CAS during the initial comparative period. If you were one of these sponsors, we gave you a limited number of CAS to use within a six month period as a transitional measure to demonstrate your compliance with the HTS. You must have applied for HTS status before the end of this 6 month period. You were not given any further CAS while your HTS application was being considered. If you did not apply by this time then your sponsor licence will be revoked.

### **If you were licensed continuously for the entire period of the initial interim limit and were limited for that entire period**

5. With the exception of those who were allocated zero CAS under the initial interim limit, we based your former limit for 6 April 2012 onwards on the number of CAS you were allocated for the initial interim limit. Your former interim limit was equivalent to three quarters of the total number of CAS you were allocated under the initial interim limit. This gave the total number of CAS that you would have been allocated for a nine month period.
6. For example, you were granted your sponsor licence on 5 January 2011.
7. Your initial interim limit was 100.
8. Your former interim limit from 6 April 2012 was 75 CASs.

### **If you obtained your sponsor licence during the period of the initial interim limit and were subject to the initial interim limit from the date you were licensed**

9. This includes sponsors who applied for their Tier 4 sponsor licence before the 21 April 2011, but did not obtain their sponsor licence until after this date.
10. In this case your former interim limit was the total number of CAS you were allocated for the period that you were licensed between 21 April 2011 and 5 April 2012 multiplied or divided by the appropriate number to give the total number of CAS that you would have been allocated for a nine month period.
11. For example, you were granted your sponsor licence on 5 October 2011. Between 5 October 2011 and 5 April 2012 you were allocated 60 CAS under the initial interim limit for the

six month period.

12. Your former interim limit from 6 April 2012 was 90 CASs.

### **If you were licensed for the entire initial interim limit period but were only subject to the initial interim limit for part of that period**

13. This includes sponsors who had HTS status on 21 April 2011, but lost this status during the initial interim limit period. It also includes sponsors who were B-rated on 21 April 2011, who were re-rated to an A-rating during the period of the initial interim limit.

14. In this case your former interim limit was the total number of CAS you were allocated for the period that you were limited between 21 April 2011 and 5 April 2012 multiplied or divided by the appropriate number to give the total number of CAS that you would have been allocated for a nine month period.

15. For example, you were granted your sponsor licence on 5 January 2011. You became subject to the limit from 5 December 2011 until 5 April 2012. You were allocated 12 CAS under the initial interim limit for the four month period until 5 April 2012.

16. Your former interim limit from 6 April 2012 was 27 CAS.

### **If you became subject to the interim limit after 6 April 2012**

17. If you became subject to the former interim limit from 6 April 2012, for example, when you applied to renew your HTS status and you scored a near miss, we calculated your interim limit depending on whether you were licensed for all or part of the initial interim limit period. This is explained above.

18. We then reduced this by the number of CAS you assigned after 6 April 2012 regardless of the outcome of the student's visa or leave application. We divided this by the appropriate factor so that your CAS limit was proportionate to the remaining period until the end of the former interim limit.

19. For example, your CAS allocation under the new interim limit was calculated as 50 CAS. You became subject to the interim limit from 30 September 2012. You assigned 20 CAS since 6 April 2012. We subtracted this from the 50 CAS which gave 30 CAS. We then divided this by three as there were three months of the former interim limit remaining.

20. Your former interim limit from 30 September 2012 to December 2012 was 10 CAS.