



# **STUDENTS UNDER THE POINTS BASED SYSTEM - (TIER 4)**

## STATEMENT OF INTENT



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## FOREWORD BY LIAM BYRNE MP

Minister of State for Borders and Immigration (Home Office) and Minister of State with Responsibility for Revenue Protection at the Border (HM Treasury)



This year we began the biggest shake up of our immigration system for 45 years, and amongst our most important objectives are steps to selectively control migration. Key to this is the introduction of a points system like Australia's, so that those migrants we need from abroad can come to work and study in Britain.

The Highly Skilled Migrant tier of this new system has already started. We have published statements of intent for the Skilled Migrant and Temporary Worker tiers which will start later this year. This statement explains how the Student Tier (Tier 4) under our points system will work. It reflects our current thinking which could change before the route is activated in the first part of 2009 or at any point afterwards.

Students form a very significant proportion of the number of migrants that come to the UK every year. 309,000 non-EEA students entered the UK in 2006. The Government is committed to encouraging people from overseas to study and train in Britain because:

- International students directly contribute £2.5 billion to the UK economy in tuition fees alone and one estimate puts the value of international students at nearly £8.5 billion.<sup>1</sup> They also contribute to the development of UK institutions' international contacts and their reputation as centres of excellence;

- They bring cultural benefits and enrich the institutions they attend by contributing new ideas, attitudes and experiences;
- They return home with an enhanced appreciation of British life, ideas and values, culture and institutions, and a good command of the English language;
- As they rise to positions of influence in their professions, their experience is likely to predispose them to look to Britain for ideas, technology, trade and investment;
- Support for the education and training of students from developing countries is an integral part of HM Government's overseas development policy.

Our immigration system makes an important contribution to the Prime Minister's Initiative (PMI) to build long-term and sustainable relations between the UK and overseas countries through education and training.

So we want good students. But we want to shut down bogus colleges operating 'courses' which are really a means to low skilled employment.

The changes we propose, especially the tough new Sponsor Licences, will help us reduce any risk of abuse. We propose five key changes:

### Every student needs a licensed sponsor

- The new system is underpinned by the principle of sponsorship;

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<sup>1</sup> Global Value: The value of UK education and training exports to the UK economy: an update: Pamela Lenton, Dr of Economics, University of Sheffield, August 2007, commissioned by the British Council

- Those that benefit from migration will be expected to take greater responsibility for the migrants they bring to this country;
- For the education sector, this means we will expect education providers to take more responsibility for their recruitment decisions and to keep track of their students once in the UK;
- Education providers who do not meet our requirements will not be permitted to recruit international students from outside the European Economic Area (EEA).

#### **New UK Border Agency (UKBA) Licences to replace the existing Register of Education Providers**

- The new UKBA Licences will be tougher. All education providers that want to recruit international students will need a Licence from UKBA;
- To get a Licence, providers will need to prove that they are genuine institutions which are audited, inspected or accredited for education provision. This will prevent the current range of less scrupulous operators and criminal networks from obtaining Licences.

#### **More checks to make sure students actually study once they have arrived**

- All education providers will need to report to UKBA quickly if students are not attending their courses;
- Visa students will have to inform the UKBA which institution they will attend and will only be able to change institution if they alert the UKBA first.

#### **Stricter rules to protect the UK's labour market**

- All courses will need to lead to an approved qualification that is at least National Qualifications Framework (NQF) Level 3 (A2 of the European Common Framework of Reference for Language for English language);

- Courses that involve a work-placement will need to contain at least 50% tuition and no more than 50% of the course length can be taken up by a work-placement.

#### **A clearer and more transparent visa application process**

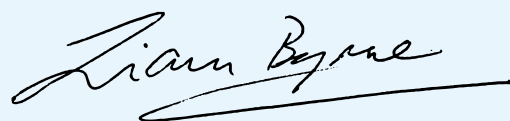
- Students will be awarded points if they meet our objective points tests demonstrating they have a place on a course and sufficient funds to maintain themselves.
- One of the key benefits of the new system is that a student will be able to work out whether they have sufficient points before they make a visa application.

We will check and record the fingerprints of any applicants applying for a student visa. All students allowed to come here will need to obtain a biometric identity card, so we know exactly who they are and what they are entitled to do.

The new student route has been developed in consultation with the education sector. I am grateful to the sector for its invaluable advice. This approach has helped us create a more secure immigration route.

Comprehensive guidance will be available before this tier is implemented and Regulatory and Equality Impact Assessments for the Student Tier are being published alongside this statement of intent.

We will be consulting with key stakeholders on the implementation of these important changes. We will publish an implementation plan in October.



## HOW THE NEW SYSTEM WILL WORK

1. The new student route will let UK education providers recruit students from outside the European Economic Area (EEA) to study in the UK. There are five key changes to the current system:

### STEP ONE: NEW LICENCES FOR EDUCATION PROVIDERS

2. All education providers will need a UK Border Agency (UKBA) Licence if they want to teach students from outside the EEA. This licensing process will replace the current Department for Innovation Universities and Skills (DIUS) Register of Education and Training Providers. There will be no automatic transfer due to the new criteria.
3. To get a Licence, all education providers will need to show they are inspected or audited or hold valid accreditation with one of the UKBA approved accreditation bodies. Full details of our accreditation requirements were announced in July 2007. **Annex A** provides more details.

### STEP TWO: TIGHTER RULES ON WHO CAN COME

4. We will only allow adult students from overseas to study in the UK where they can demonstrate a proven track record in studying before they come here. This is in the UK's best interests and will guard against the risk of bogus students who may target genuine education providers to enrol on low level courses.
5. We will require all such students to be enrolled on a course at Level 3 or above on the National Qualifications Framework (NQF) or its equivalent or a course at Level A2 of the European Common Framework of Reference for Language if they are seeking to learn English.
6. Overseas nationals who wish to study lower level courses or to begin learning English may still do so, but they will need to qualify under the student visitor route where they will need to be able to satisfy our intentions tests.

### STEP THREE: SPONSORSHIP

7. Before a student is eligible to apply to come to the UK to study under the Student Tier, they will require an immigration sponsor. The sponsor will be the education provider in the UK that has accepted them on a course of study. Sponsoring education providers will issue would-be students with a Confirmation of Acceptance for Studies<sup>2</sup> (CAS). Sponsorship plays two main roles in the application process:
  - It provides an assurance that the education provider is confident that the student is capable of doing the particular course of study; and
  - It involves a pledge from the sponsoring education provider that it will accept responsibility for the student whilst he is in the UK. Would-be students will not even be able to apply for a visa without a CAS.
8. A CAS is not a guarantee of a visa. It simply acts as a guarantee from a licensed education provider that they wish to bring a student to the UK, and that to the best of their knowledge the student will meet the rules for the Student Tier and will comply with their conditions of stay.

### STEP FOUR: UKBA CHECKS ON APPLICATIONS

9. UKBA will make the final decision on who is permitted to come here. When the student applies for their entry clearance or visa under the new system, they will need a valid CAS from a licensed sponsor and UKBA will rigorously check all the documentation provided, including:
  - Evidence of sufficient funds to pass a maintenance test; and

<sup>2</sup> CAS is the accepted terminology for what will be known as a Certificate of Sponsorship (CoS) in the other parts of the points system and has been agreed in acknowledgement of the possible confusion use of the term "sponsorship" may cause in the sector.

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- The education documents used to obtain the CAS from the sponsor, e.g. qualification certificates.

10. Entry Clearance Officers (ECO) in our posts overseas will concentrate on funds checks, detecting any fake or forged documents and the appropriate immigration checks to make sure the person does not have an adverse immigration history. We will expect education providers to check education certificates but we do not expect them to be forgery experts. We will do that job for them.

#### **STEP FIVE: ACTIVE CHECKS IN THE UK**

11. Once students have come to the UK there will be on-going checks to ensure that they are complying with the terms of their visa.
12. Under the new system, a student's visa will be 'locked' to the Sponsor that issued them with the CAS used for their visa application.
13. We will expect education providers, as the immigration sponsors of their students, to report where the student fails to enrol or stops attending. This reporting will be part of an education provider's sponsor duties and will be mandatory. Failure to comply with these duties means that an education provider will risk losing their Licence and will no longer be able to recruit international students.
14. As a new system, we need to see how our sponsorship duties work in practice. Students will be granted leave for the length of the course up to a maximum of 4 years. We will expect students to seek an extension with UKBA where necessary. This policy will be reviewed after a year. We will also reserve the right to impose further restrictions on the admission of international students in the future should these prove necessary, including potentially restricting access to nationals of high risk countries.

## HOW LICENSING WILL WORK

15. In recent years, bogus education providers have emerged to facilitate the entry of bogus students who have no intention of studying and who disappear to work illegally. Sponsor Licensing will be used by UKBA to make sure that prospective sponsors are able and committed to taking responsibility for the migrants they bring to the UK. There will be two rankings of Sponsors' Licences:
  - **A Rated Licence:** issued where the sponsor fully meets all of UKBA's licensing requirements;
  - **B Rated Licence:** issued where the holder meets most of UKBA's licensing requirements but has some degree of weakness. This ranking is viewed as a temporary ranking that is intended to allow eligible sponsors to continue to sponsor migrants for visas whilst addressing their weaknesses. An action plan and timetable will be put in place when this ranking is awarded. It is expected that the sponsor will progress to an A rating if they complete this. If they fail to complete the action plan on time they will have their Licence revoked.
16. Sponsors' Licence rankings and the names of sponsors who have had their Licences revoked will be published on the UKBA website. If an educational provider fails in their application for a Sponsor's Licence or has their Licence revoked they will not be able to recruit any more international students following the introduction of the Student Tier. In addition, they will not be able to support any applications for any further extensions of stay for existing students already in the UK after that date.
17. Full details about our sponsorship requirements can be found at:
 

[www.ukba.homeoffice.gov.uk/employers/points/](http://www.ukba.homeoffice.gov.uk/employers/points/)
18. In addition to these general sponsor licensing requirements, Student Tier sponsors will be expected to meet the specific criteria relating to accreditation/inspection and the types of courses they may offer described in this document.
19. To keep their Licence, a student sponsors will need to:
  - Keep a copy of all their non-EEA students' passports showing evidence of their entitlement to study;
  - Keep each student's contact details and update them as necessary;
  - Report to UKBA any students who fail to enrol on their course;
  - Report to UKBA any unauthorised student absences as detailed below;
  - Report to UKBA any students who discontinue their studies (including any deferrals of study);
  - Report to UKBA any significant changes in students' circumstances, (e.g. if the duration of a course of study shortens);
  - Maintain any appropriate accreditation;
  - Offer courses to international students which comply with UKBA conditions;
  - Comply with applicable PBS rules and the law; and
  - Co-operate with UKBA.
20. To clarify our reporting requirements on students who fail to attend, we will expect education providers to notify UKBA of the details of any student who:

### STUDENT-SPECIFIC RECORD KEEPING AND REPORTING REQUIREMENTS



- Fails to enrol with them by no later than 10 working days after the end of their prescribed enrolment period;
- Misses 10 expected contacts. For students in schools, Further Education (FE) and English Language Colleges this will normally be where the student has missed 2 weeks of a course. In the Higher Education (HE) sector, where daily registers are not kept we will accept this reporting where the student has missed 10 expected interactions (e.g. Tutorials, submission of coursework etc);
- Stops attending either because they have withdrawn them from the course or because the student has said they are leaving, within 10 working days of this being confirmed;
- Defers their studies after their arrival in the UK. In such cases the student's permission to be in the UK will cease to be valid as they will no longer be actively studying. The sponsor will need to notify UKBA of the deferral and advise the student to leave the UK. When the student is ready to resume their studies they will need to make a fresh visa application.

## MANAGING POTENTIAL ABUSE

- Should significant numbers of students drop out or fail to enrol with a particular education provider, this will raise concerns about the sponsor's recruitment processes and their overall suitability as a Licence holder.
- In these circumstances UKBA will investigate. If it transpires that it was due to poor administration, or deception on the part of the students, we will consider downgrading the Licence to B rated and will put in place an action plan to mitigate further abuse. If it appears that the Sponsor has been complicit in this abuse, we will suspend their Licence immediately with a view to revoking it should the investigation provide satisfactory evidence to indicate this.
- We will work with the education sector to produce some best practice guidance on recruiting international students ahead of the launch of the Student Tier.
- Education providers can now start applying for Sponsors' Licences. More information on making an application can be found at:  
  
[www.ukba.homeoffice.gov.uk/employers/points/](http://www.ukba.homeoffice.gov.uk/employers/points/)
- We have set most fees in relation to students and their sponsors at below full cost-recovery levels in order to help maintain the UK's global competitiveness in this market.

## COSTS OF THE NEW SYSTEM

Sponsor's Licence Application Fee	
Sponsor's Licence for Tier 4 (only)	£400
Sponsor's Licence for Tiers 2 & 4 - Small Business/Charity	£400
Sponsor's Licence for Tiers 2 & 4 - Medium/Large Business	£1000
Sponsor's Licence for Tiers 4 & 5	£400
Sponsor's Licence for Tiers 2,4 & 5 - Small Business/Charity	£400
Sponsor's Licence for Tiers 2,4 & 5 - Medium/Large Business	£1000

Confirmation of Acceptance for Studies (CAS)	£10
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Visa Fees	
Student Visa Application	£99
Dependant of Student Visa Application	£99

Visa Extension Fees (In Country)	
Postal Applications	£295
Premium Applications (24 Hour Turnaround)	£500

## THE NEW STUDENT ROUTE

26. The new student route will dramatically simplify the immigration system for genuine students and education providers. We will replace 10 routes to the UK with just one tier. Students who would have come to the UK under the following routes will be able to apply for one of two new student visas:

- Students
- Sandwich Students
- Writing Up A Thesis
- Re-sit Of Examinations
- Bar Students
- Music Students
- Pupillage
- Welbeck College
- Association Of American Study Abroad Programmes
- Pestalozzi Children's Trust

27. The Student Tier will have two new visas:

- **General Student:** for all those wishing to come to the UK for their post -16 education; and
- **Child Student:** for children between the ages of 4 and 16 to come here to be educated at our independent schools.

28. The prospective student and student visitor routes will remain outside the points system and its sponsorship requirements. (Details of these routes are provided at paragraphs 77-80). Parent carers of children under the age of 12 attending independent schools will also continue to be provided for outside the points system. (Further details of this route are provided at paragraph 62).

### GENERAL STUDENTS

#### Points Test

29. The 'General Student' category will encompass all post 16 education outside of independent fee paying schools and will apply to the vast majority of overseas nationals seeking to enter the UK as a student.
30. To gain a 'General Student' visa, applicants will have to score points against two sets of objective criteria with an overall pass mark of 40 points:

Points under Tier 4: General Student – Pass Mark 40	
Confirmation of Acceptance for Studies	30
Maintenance and Funds Test – General Students	10

#### Maintenance and Funds Test

31. Students applying for a 'General Student' visa must be able to support themselves and any dependants as they do not qualify for state benefits. We recognise that it is not reasonable for a person on a 3 or 4 year course to have all their funds in place before they come to the UK so we will accept the following as evidence of sufficient funds:

- For students on courses of less than 12 months, we will expect them to show that they hold sufficient funds to cover the full costs of their course fees plus £800<sup>3</sup> per month for each month of the course up to a maximum of 12 months.
- For students on courses which are more than 12 months, we will expect them to show they have sufficient funds to pay the first year of fees only plus £9,600 to cover their first year in the UK.

<sup>3</sup> Figure derived from the British Council's monthly living in the UK minimum requirement of £800 plus 2/3 per dependant (rounded to £535).

32. Students wishing to bring their dependants with them will need to show that they have a further £535<sup>3</sup> per month for each dependant that they bring with them for up to a maximum of 12 months.

### Full Time Study

33. Students will only qualify for a 'General Student' visa where they are studying full-time in the UK. In order to be accepted as a full-time student, they will either need to be enrolled on:

- a full time UK degree level course or above in a publicly funded Higher Education Institution(HEI); or
- an overseas HE course which is recognised as being equivalent to a UK HE qualification at an overseas HEI; or
- on course of study involving a minimum of 15 hours per week organised daytime study; or
- a course of study which includes a work-placement element which is no more than 50% of the full course length and is at a minimum of level 3 on the NQF or its equivalent (or at the equivalent of a UK degree level or above if an overseas qualification).

### Approved Qualifications

34. We believe it is reasonable to expect students coming here to study as adults to have achieved some qualifications before coming to the UK. In this way a student will have demonstrated both the aptitude and the intention to learn and complete a further course of study.
35. 'General Student' visa applicants will therefore only be able to apply to study for courses at a minimum level of National Qualifications Framework (NQF) level 3 or equivalent or above. English language students will be expected to have already started to learn English. The minimum level of course acceptable for this

type of student will be at Common European Framework of Reference for Languages level A2 (beginner level courses may still be studied under the student visitor route, see paragraphs 77-79).

36. Education providers will also need to ensure that their courses lead to a qualification which meets the following definition:
37. An approved qualification for UKBA purposes will be one which is:
- validated by Royal Charter; or
  - awarded by a recognised body on the recognised bodies list operated by DIUS (see link - <http://www.dfes.gov.uk/recognisedukdegrees/index.cfm?fuseaction=institutes.list>); or
  - recognised by one or more recognised bodies via a formal articulation agreement with the awarding body; or
  - approved at level 3 or above in the National Qualifications Framework operated by the Qualifications & Curriculum Authority; or
  - approved at an equivalent level in the Scottish Credit & Qualifications Framework; or
  - approved at an equivalent level by the Qualifications, Curriculum and Assessment Authority for Wales; or
  - approved at an equivalent level by the Council for Curriculum, Examinations and Assessment (CCEA) in Northern Ireland; or
  - an overseas qualification, on which UK NARIC<sup>4</sup> is able to advise on its validity, with a level equivalent to level 3 or above on the National Qualifications Framework.

<sup>4</sup> UK NARIC - the National Agency responsible for providing information and expert opinion on vocational, academic and professional skills and qualifications from over 180 countries worldwide.

38. In exceptional cases, and without prejudice to the above Frameworks, UKBA will also accept qualifications outside this definition where they have been assessed to offer an educational experience at NQF Level 3 or above by the Agency's own approved accreditation bodies. Education providers offering such programmes will nonetheless need to obtain independent validation for their programmes within the following 12 months in order to move to a position where all international students can be guaranteed to be studying for a formally recognised qualification.
39. Education providers offering courses to international students below NQF Level 3 will have their Sponsor's Licence revoked.
44. We want to continue to encourage such exchanges under the points system. Such students will be permitted to undertake internships in the UK as 'General Students' provided they are studying a full time course overseas that is recognised as being at UK degree level by NARIC; they study, as part of the overseas qualification, with a UKBA Licensed Sponsor for a minimum of 50% of the total time they spend in the UK and they work, as part of the overseas qualification, with an employer in the UK for a maximum of 50% of the total time they spend in the UK. Some study in the UK will be required for such students to prevent this route being exploited as one for pure employment.

## **Courses with Work Placements**

### **Work Placements**

40. Due to the risk of abuse of current sandwich courses, with courses being offered which involve very little study and extensive periods in work, stricter requirements will be placed on such courses under the points system to ensure the student route is not used for disguised employment.
41. Students in the General Student sub-category will be allowed to undertake work placements as part of their course. However, the work place component of the course must be no more than 50% of the total course.
42. There will be no separate sub-category for such students as it is recognised that some students only choose to do such courses after their arrival in the UK and most of the controls we will apply to these courses will apply to the education provider rather than the individual student.
45. Education providers will remain responsible for their students while they undertake work placements and they must continue to comply with all their sponsor's duties.
46. Education providers offering courses with work-placements to international students which do not meet the above criteria will have their Licence revoked.

### **Entitlement to Work**

### **Internships**

43. We also recognise that significant numbers of overseas students who are enrolled on degree courses overseas currently come to the UK to undertake part of their course plus an internship. Such students benefit from this experience and
47. We recognise that students can gain further valuable experience from their time in the UK if they are permitted to engage in temporary work outside their course of study. Such an entitlement is currently provided to students and, in support of the Prime Minister's Initiative, will continue to be permitted to those with 'General Student' visas.
48. The student's visa will show that they have permission to work whilst in the UK and, as now, they will be permitted to work part-time during term time and full time during vacations. (Students will not have to seek approval from UKBA before they commence such employment).

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## **Length of Leave**

49. 'General Student' visas will be granted for the full duration of the course up to a maximum of 4 years. Students on courses longer than 4 years will need to seek an extension from UKBA in order to complete their course. We will keep the performance of sponsoring education providers under review during the first year of operation of the new system and if it is shown to be working well, with sponsors complying with our reporting requirements, then the maximum length of leave granted to students in one go may be extended.
50. 'General Student' visa holders on courses of less than 4 years will continue to be granted an appropriate additional period for them to finalise their affairs and leave the UK or make a further application to extend their stay as a student or switch into another category.

## **Extensions of Stay**

51. Students on courses that are longer than 4 years will need to seek an extension from the UKBA in order to complete their courses. All students will also be permitted to extend their stay in the UK to undertake further courses of study providing they hold a new valid CAS and have sufficient maintenance funds.
52. Caseworkers will not be permitted to make subjective decisions on progress under the new points system as the same points tests will apply to extension applications.
53. We will only permit 'General Students' studying below degree level to spend a maximum of 3 years studying such courses in the UK. This is in order to prevent the situation where a student might continue to 'spin out' their stay by switching sponsor and enrolling on successive courses at lower levels.

## **Examination Re-Sits and Repeat of Study**

54. Under the Student Tier, students will be permitted to re-sit examinations or repeat any element of a course on up to two occasions per individual examination or module. If the student's existing visa/leave to remain expires before they have completed the re-sit or repeated the appropriate studies, they will need to apply for an extension of stay as a 'General Student'.
55. In order to obtain this, the sponsor will need to decide, using their knowledge of the student and their assessment of the student's ability to pass the course, if it is appropriate for them to continue to be their sponsor and issue a new CAS.

## **Dependants**

56. Students with 'General Student' visas will, as now, be permitted to bring their dependants. The dependants of those students granted leave for 12 months or more will also have the right to work whilst in the UK.

## **ATAS Certification and Police Registration**

57. Existing requirements under the Immigration Rules for certain groups of students to obtain an Academic Technology Approval Scheme (ATAS) clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office will remain unchanged by the introduction of the Student Tier.
58. The requirement for nationals of certain countries with permission to stay for more than 6 months to register with the police also remains unchanged.

Further details on both sets of requirements can be found at:

[www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

## CHILD STUDENTS

### Points Test

59. The 'Child Student' visa is for children attending independent fee paying schools on a full time basis. To gain a 'Child Student' visa, the student will have to score points against two sets of objective criteria with an overall pass mark of 40 points:

Points under Tier 4: Child Student – Pass Mark 40	
Confirmation of Acceptance for Studies	30
Maintenance and Funds Test – School Children	10

### Maintenance and Funds Test

60. Appropriate arrangements must be made for 'Child Students' attending independent schools. They will not be eligible for state benefits. Because a variety of care arrangements may be made for children studying in the UK, we will assess children's funds according to one of the following scenarios (whichever is most relevant):

#### Residential Independent Schools

- For a child studying and boarding at a residential independent school we will require evidence of sufficient funds to pay school fees for a year plus any additional accommodation fees required by the school. Access to funds will need to be demonstrated through either money in the child's own name or money in accounts held by a parent or legal guardian.

#### Non-Residential Independent School (private foster care arrangement)

- For a child studying at a non-residential independent school in a private foster care arrangement, we will require evidence of sufficient funds to pay school fees for one year plus an undertaking from a UK resident or citizen to provide maintenance

and accommodation for the duration of the course. The undertaking must set out the nature of the relationship with the child and the child's parent(s). In addition, the individual providing maintenance and accommodation will need to be able to demonstrate that they have accommodation and the funds to support a child in addition to their own existing commitments (available income of at least £500 per month will be required).

#### Independent School (Parent accompanying a child under 12)

- We will continue to allow children studying at independent schools under the age of 12 to be accompanied to the UK by a parent who will be responsible for their care. In this case, we will require evidence of funds required to pay school fees for one year plus £1335 per month for each month up to a maximum of 12 months. If more than one child is studying then as well as evidence of ability to pay annual fees for each additional child, evidence of a further £535 per month will need to be shown to be available for each additional child.

#### Length of Leave

61. We propose to grant the following periods of leave to children studying at independent schools to take account of significant stages in their education:



Periods of Leave granted for Children Studying at Independent Fee Paying Schools	
Child of primary school age at an independent fee-paying school.	Leave may be granted for the duration of studies to the end of the academic year in which the child is 11, then to 31 October.
Child aged 11-16 studying pre/ for GCSEs at an independent fee-paying school.	Leave may be granted for the duration of studies to the end of the academic year in which the child is 16, then to 31 October.
Child aged 16 or over studying for A-levels at an independent fee-paying school.	Leave may be granted for the duration of studies to the end of the academic year in which child is 18, then to 31 October.

### Parent Carers Accompanying Children Under 12

62. We will continue to make provision for parent carers of children under the revised visitor routes. Parent carers will be classed as special visitors. They will not be allowed to work whilst in the UK to care for their child and will qualify for a maximum period of leave of 12 months. (It will be possible for parents in this category to apply for further periods of leave of up to 12 months, e.g. for the next school year, from outside the UK up to the point where their child reaches the age of 12).

### Approved Qualifications

63. It is important that those who choose to study in the UK study for qualifications which will allow them to progress. Courses pursued with a 'Child Student' visa must be taught in accordance with the National Curriculum, the National Qualification Framework or be accepted as of equivalent academic status by Ofsted, its devolved equivalents or the Independent Schools Inspectorate.

### Extensions of Stay

64. 'Child Students' will be eligible to apply for extensions to their initial grant of permission to be in the UK. 'Child Student' visa holders will also be able to go on to apply as 'General Students'.

## HOW WOULD-BE STUDENTS WILL APPLY

### APPLICATION PROCESS

65. There will be a single application process, whether in or outside the UK. There will be three ways of making an application under this tier of the points system:
- Entering the UK under the Student Tier (for further details see Annex C);
  - Extending a stay in the UK in the Student Tier; and
  - Switching while in the UK into the Student Tier (for further details see Annex D).
66. Students will be expected to make their final choice of education provider before they make an application for a student visa. They must have a valid CAS and have met all the criteria for their particular student visa.
67. Any student who decides to change education provider after arriving in the UK will need a new CAS from their new education provider. They will need to apply to UKBA for a new visa to include their new education provider.
68. Students who are unable to make their final choice of education provider before they come to the UK may apply for a prospective student visa outside the points system (See paragraph 80 below).
69. We will check and record the fingerprints of any applicants applying for a visa and all students allowed to come here will need to obtain a biometric identity card, so we know exactly who they are and what they are entitled to do.

### Documentary evidence to support checks

70. All applicants will need to provide documentary evidence to support their claim for points. For student applicants this means we will require them to show all education certificates and documents used to obtain a CAS as well as financial evidence

to demonstrate they have the points to pass the maintenance test. An application will be refused where fake or forged documents have been used. In these circumstances the applicant will automatically be banned from entering the UK for ten years. Applications will also be refused where we doubt the documentation is genuine and have taken reasonable steps to verify its authenticity but have been unable to do so.

71. UKBA also reserves the right to refuse an application because of a bad immigration history, a criminal record or for any other reasons that it deems as adequate to conclude that it is not in the UK's best interests to issue a visa.

### TRANSITIONAL ARRANGEMENTS

72. All students currently in the UK will have been granted leave to allow them to complete their current course. Those who wish to extend their stay as a student to undertake further studies will need to show that they can comply with all the requirements set for the new Student Tier.

### CHALLENGING UKBA DECISIONS

#### Students

73. Students refused visas from outside of the UK will be able to seek one Administrative Review per application if they feel an error has been made in their case, but they will not have a formal right of appeal. This is in accordance with Section 4 of the Immigration, Asylum and Nationality Act 2006.
74. Students refused further leave to remain in the UK will retain existing appeal rights, although, in accordance with section 19 of the UK Borders Act 2007, they will not generally be able to submit new evidence in their appeals.

#### Education Providers

75. Education providers who are refused a Sponsor's Licence do not have a formal right of



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appeal against the decision. However, they will be given full reasons for the refusal and will be free to reapply at any time, although it is clearly advisable that they address the reasons for refusal before reapplying.

76. Education providers who hold a Sponsor's Licence do not have a formal right of appeal against a decision by UKBA to revoke their Licence. However, where we are minded to revoke a Licence we will write to the sponsor explaining the reasons why. The sponsor will then be allowed 28 days in which to submit objections and supporting evidence which will be considered before a final decision is taken. Clearly in some instances we will have to suspend the Sponsor's Licence whilst this process is followed.

## STUDENT RELATED CATEGORIES OUTSIDE THE NEW SYSTEM

### STUDENT VISITORS

77. The student visitor category will remain outside of the points system as a visitor route. Non-visa nationals<sup>5</sup> using this route can get prior entry clearance but can also seek permission to enter in this category at their port of arrival in the UK.
78. The student visitor route is aimed at those short term students who wish to undertake a short course of up to six months and have no interest in full student visa entitlements (i.e. the ability to work part-time or extend their stay whilst in the UK). **Annex E** provides a flow chart to help adult students and their education providers decide whether this is the most appropriate route for them or not.
79. In order to prevent abuse by those who might simply claim to be studying in order to justify their visit to the UK, we will require student visitors to show that they have been accepted to study with either a publicly funded education provider (except at a state-funded school providing education up to 18) or with a private education provider accredited by a UKBA approved accreditation body or be enrolled on a short term study abroad programme. Education providers specialising in such short course provision and who only recruit student visitors should note that they will not need to hold a Sponsor's Licence in order to be able to continue to recruit student visitors but will need to be able to show they are appropriately accredited.

granted for up to 6 months with no permission to work. It allows the prospective student to come to the UK to visit a number of education providers from whom they have received offers of a place to study and make up their mind in the UK. They can then switch into the Student Tier whilst still in the UK, provided they obtain the appropriate Confirmation of Acceptance for Studies from their chosen sponsor and meet the other requirements of the student route.

### PROSPECTIVE STUDENTS

80. Students who have not yet finalised their study plans may apply for a 'Prospective Student' visa. This route will remain outside the new system. It requires the student to obtain a mandatory entry clearance in this category before coming to the UK. A 'prospective student' visa is

<sup>5</sup> A non-visa national is a national or citizen of any country that is NOT listed in Appendix 1 of the immigration rules.

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## COMMENTS ON THIS DOCUMENT

81. This is not a consultation document. It is aimed at ensuring that those affected by the changes set out in this statement of intent are able to prepare for them in good time. We consulted fully leading up to the publication of the Command paper “A Points Based System: making Migration work for Britain” in March 2006. But if you have any comments on this document, especially on the practical application of any elements of these proposals, you may send them to [tier4@homeoffice.gsi.gov.uk](mailto:tier4@homeoffice.gsi.gov.uk)

Or by post to:

Tier 4 Statement of Intent  
c/o 11th Floor  
Apollo House  
36 Wellesley Road  
Croydon  
CR9 3RR

## ANNEX A

### ACCREDITATION REQUIREMENTS

Accreditation by a UKBA approved accreditation body is required by all private education providers operating outside the system of public inspections and audits before they can be licensed as a sponsor.

The intention is to ensure that all institutions licensed as Sponsors are bona fide providers of education. The effect of demanding independent accreditation will be to assure the UKBA that a provider is genuinely providing education rather than offering low quality courses for the purposes of facilitating applications by bogus students.

**Publicly funded institutions** are already required to submit themselves to the system of public inspections conducted by the Office for Standards in Education (Ofsted) and its devolved equivalents and in the higher education sector, to institutional audits/reviews by the Quality Assurance Agency (QAA). These activities already provide appropriate assurance that a publicly funded institution is a genuine provider of education and so such institutions are not required to undergo any additional accreditation before they make an application for a Sponsor's Licence. In addition, such providers can also be reassured that neither the inspections or audits they undergo, nor the frequency with which they take place, will change.

**Independent schools** must, by law, already be registered with the Department for Children, Schools and Families following a successful inspection by either the Independent Schools Inspectorate or Ofsted and so these institutions are also not required to obtain any additional accreditation.

A limited concession to the accreditation requirement also exists for **overseas Higher Education Institutions** offering only part of their programmes in the UK. Such institutions will need to be solely offering short-term study abroad programmes in their own premises in the UK to students who are enrolled back in their home country and who come to the UK for one or two semesters before returning overseas to complete their degree course. They will qualify to apply for a Sponsor Licence if they can show:

- they hold overseas accreditation from a nationally recognised accreditor;
- they only teach part of their HE programmes in the UK;
- they have full control of the premises they use in the UK; and if
- the UKBA is able to confirm that their programmes are UK degree level equivalents.

In the **private education sector**, many private providers already voluntarily submit themselves to accreditation by one of the UKBA-approved accreditation bodies. These institutions will not be required to undergo any additional checks and they will be able to apply for a Sponsor's Licence provided their accreditation is valid at the time of their application and continues to be renewed. A small number of private higher education providers are also subject to audit/review by the QAA and they too will be eligible to apply for a Sponsor's Licence provided they are in good standing with QAA at the time of their application and remain in good standing.

The accreditation requirement therefore only creates an additional qualifying step for those institutions currently operating outside the system of public inspections and QAA audits/reviews outlined above and who are not currently accredited by one of the UKBA-approved accreditation bodies nor subject to QAA audits/reviews.

#### CHECKLIST FOR INSTITUTIONS:

##### Higher Education Sector:

- **A publicly funded HEI (higher education institution)** - an audit by QAA will be sufficient;
- **A private HEI with UK recognised degree-awarding powers** - an audit by QAA and in good standing with QAA will be sufficient;

- **A private HE education provider working in association with an HE institution with degree awarding powers** - valid accreditation with one of the UKBA approved accreditation bodies will be needed;
- **An overseas HEI solely offering short-term study abroad programmes in their own premises in the UK to students who are enrolled in their home country and who come to the UK for one or two semesters before returning home to complete their degree courses** - such providers can benefit from a concession where they will qualify to apply for registration on the Sponsor Register if they can show:

- they hold overseas accreditation from a nationally recognised accreditor;
- they only teach part of their HE programmes in the UK;
- they have full legal control of the premises they use; and if
- the UKBA is able to confirm that their programmes are UK degree level equivalents.

- **Overseas HEIs delivering entire degree programmes in the UK, with full-time students enrolled solely in the UK** - valid accreditation with one of the UKBA approved accreditation bodies will be needed.
- **A private provider delivering an overseas HE short term study abroad programme as a third party** – valid accreditation from one of UKBA's approved accreditation bodies will be needed.

### Further Education Sector

- **A publicly funded FE education provider inspected by Ofsted or its devolved equivalents** - no additional accreditation required  
- proof of an Ofsted inspection needed;

- **A private FE education provider** - valid accreditation with one of the UKBA approved accreditation bodies will be needed;
- **A private education provider in receipt of public funding and inspected by Ofsted or its devolved equivalents** - no additional accreditation required - proof of an Ofsted inspection needed.

Where an education provider loses its public funding because the programme it is delivering comes to an end, then accreditation by one of the UKBA approved accreditation bodies will be needed for it to continue on the Sponsor Register.

### English Language Sector

- **A private English Language School** - valid accreditation with one of the Ofsted approved accreditation bodies needed;
- **A private English Language School working in a publicly funded HEI** - where such an education provider also recruits its own students direct rather than just providing courses to registered University students then the school will need valid accreditation with one of the UKBA approved accreditation bodies.

### Schools

- **A state school providing education for those up to the age of 18** - schools in the state sector may not recruit fee-paying international students so will not need to be licensed on the new Sponsor Register;
- **An independent fee-paying school for children up to 18 years old** - an inspection by the Independent Schools Inspectorate or Ofsted or its devolved equivalents will be sufficient.

### A Specialist Education Provider

For example: Riding Schools, Bible Colleges, Computer Colleges, Accountancy Training Specialists etc.

- **A private specialist education provider** - valid accreditation with one of the UKBA approved accreditation bodies needed;
- **A specialist education provider in receipt of public funding and inspected by Ofsted or its devolved equivalents** – no additional accreditation required – proof of an Ofsted inspection needed.

Where such a education provider loses its public funding because the programme it is delivering comes to an end, then accreditation by one of the UKBA approved accreditation bodies will be needed for it to continue on the Sponsor Register.

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## **ANNEX B**

### **UKBA APPROVED ACCREDITATION BODIES**

**Accreditation UK** – which offers an accreditation service for English language centres:  
[www.britishcouncil.org/accreditation.htm](http://www.britishcouncil.org/accreditation.htm)

**BAC** – the British Accreditation Council – which offers a more general accreditation service to cover a wide range of education providers:  
[www.the-bac.org](http://www.the-bac.org)

**ASIC** – the Accreditation Service for International Colleges - which also offers a general accreditation service to cover a wide range of education providers:  
[www.asic.org.uk](http://www.asic.org.uk)

**Ofsted**  
[www.ofsted.gov.uk](http://www.ofsted.gov.uk)

## ANNEX C

### STUDENT TIER AT A GLANCE

PRE ENTRY REQUIREMENTS							
Sub Category	CAS Required	Maintenance	General Grounds	Dependants	Switching	Work Entitlement	Leave Permitted
Child Student	✓	✓	✓	✗	✗	✗	See Para 61.
General Student	✓	✓	✓	✓	✓	✓	4 Years Max initially.



## ANNEX D

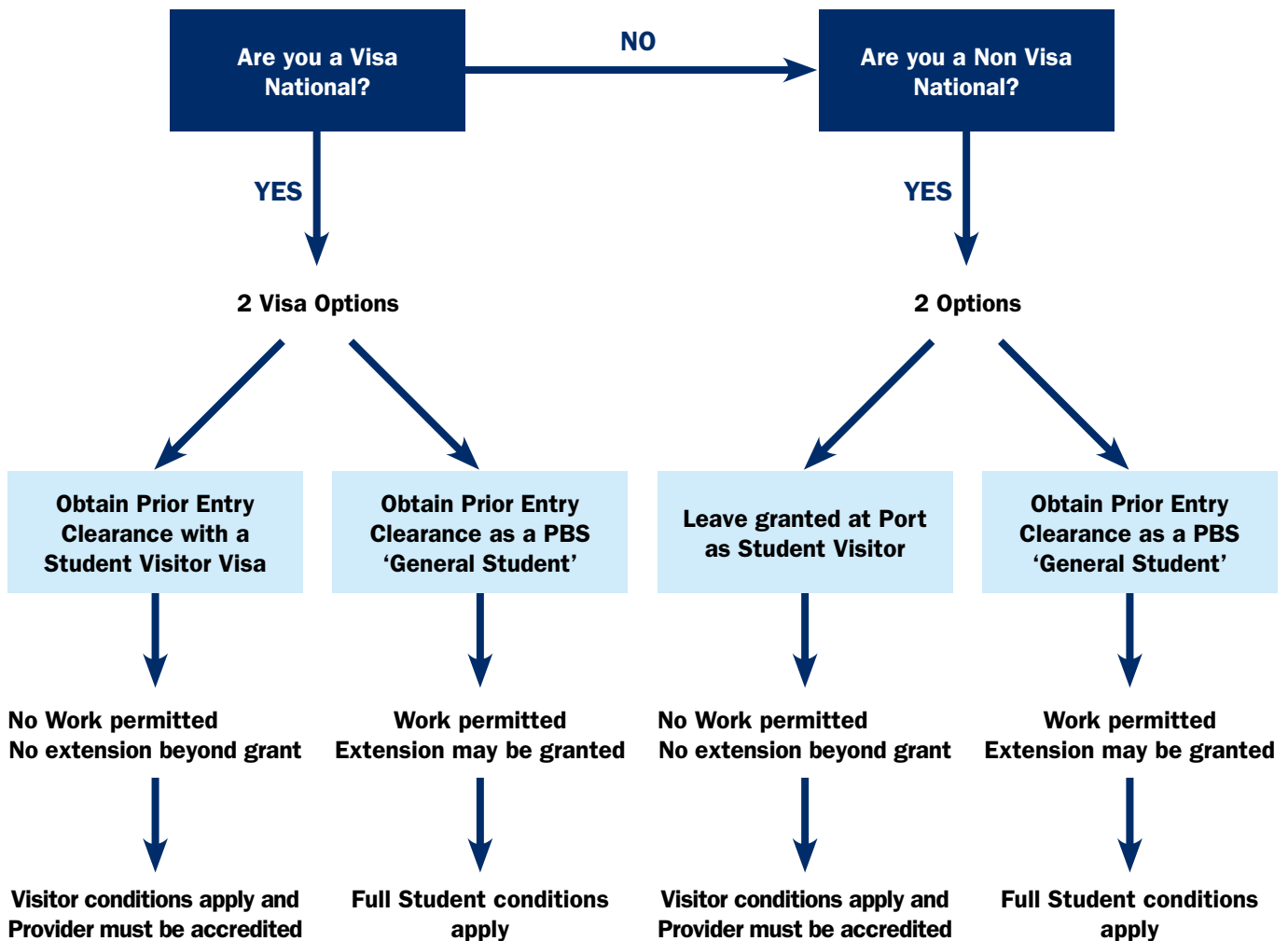
### SWITCHING WHILE IN THE UK – PERMITTED ROUTES INTO AND OUT OF THE STUDENT TIER

Source (Where the Person is Now)	Receiving Category (Where the Person May Go)
Tier 1 – Highly Skilled (Post Study Work Only)	Tier 4 – General Student
Tier 2 – Skilled Workers	Tier 4 – General Student
Tier 2 – Skilled Workers (Intra-Company Transfers)	Tier 4 – General Student
Tier 2 – Skilled Workers (Minister of Religion)	Tier 4 – General Student

Source (Where the Person is Now)	Receiving Category (Where the Person May Go)
Tier 4 – Child Student	Tier 4 – General Student
Tier 4 – General Student	Tier 1 – All Highly Skilled Sub-Categories Tier 2 – Skilled Workers Tier 2 – Skilled Workers (Minister of Religion)

## ANNEX E

### STUDENT ROUTES AVAILABLE FOR SHORT TERM STUDENTS (COURSE OF 6 MONTHS DURATION OR LESS)



#### WHERE DO YOU FIT?

##### IF

you intend to take employment (i.e. part-time term time/full time in vacation periods or will be undertaking a work placement, paid or unpaid, as part of a course of study);

##### OR

you may wish to seek an extension of stay beyond your initial grant of leave,

**YOU MUST OBTAIN A PBS 'GENERAL STUDENT' VISA** at the nearest visa application centre. If not, as a non-visa national you may still qualify for leave to enter as a student visitor without these entitlements or as a visa national you need only apply for a student visitor visa.



