



## SPONSORSHIP POLICY FOR INTERNATIONAL STUDENTS

### 1. Purpose

This document is intended for all international applicants and students who require a visa to study at the university, and for all staff in the university who support them. The UK Home Office's 'Tier 4 of the Points Based System: Guidance for Sponsors'<sup>1</sup> document makes it clear that the university is required to act as the student's sponsor during their studies. The Home Office describe sponsorship as a privilege and not a right. Sponsors benefit directly from migration and, to continue as a sponsor, are expected to fulfil certain duties in order to ensure that immigration control is maintained. Providers like universities must be able to show that they can fulfil, and are fulfilling, these sponsor duties in order to gain and retain a Tier 4 licence.

This policy sets out the responsibilities of all relevant applicants, students and staff of the University of Brighton to comply with:

1. The UK Home Office requirements for sponsoring students to gain entry clearance or leave to remain under Tier 4 of the Points Based Immigration System study in the UK;
2. The UKVI requirements for entry clearance for the purposes of short term study
3. The UKVI requirements for the Doctorate Extension Scheme; and
4. The UKVI requirements for sponsoring students under the Tier 1 Graduate Entrepreneur scheme of the Points Based Immigration System.

### 2. Definitions

UKVI	UK Visas and Immigration department within the UK Government Home Office.
TIER 4	The visa category in the Points Based Immigration System under which UK educational institutions can sponsor students to come and study in the UK, if the institution holds the relevant sponsor licence.
SHORT TERM STUDY VISA	The immigration route for the purposes of short-term study (accepted by the university onto a course of study for 6 months or less, or for 11 months if studying an English as a foreign language course of more than 6 months) or short period of research (as part of a degree course at an institution outside of the UK) for persons aged 18 or over.
TIER 1 GRADUATE ENTREPRENEUR	The immigration route for recent graduates who had been endorsed by the university as having a genuine and credible business idea to establish a business in the UK.
TIER 4 (DES)	Doctorate Extension Scheme whereby those following a course leading to the award of a PhD can apply to stay in the UK for 12 months after the course has ended.
CAS	Confirmation of Acceptance for Studies issued by the university sponsor and required for a Tier 4 student visa application. The CAS is a virtual document with a unique reference number and includes details of the course.

<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/673779/Tier\\_4\\_Sponsor\\_Guidance\\_-\\_Doc\\_2\\_-\\_Sponsorship\\_Duties\\_2018-01.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/673779/Tier_4_Sponsor_Guidance_-_Doc_2_-_Sponsorship_Duties_2018-01.pdf)

### 3. Scope

This policy applies to all international students and applicants who require a visa to study at the University of Brighton. This includes students on a work placement which is a formal part of their course. The policy also applies to all university staff who support students, and as such are responsible for ensuring compliance with the terms of the university's sponsor licence.

Students and applicants are expected to comply with this policy and cooperate with university staff in order to meet the requirements, including provision of information and evidence as required. This Policy relates to the sponsorship of international students only. Please see the [Admissions Policy](#) and the '[Tier 4 Sponsored Students – Engagement with Academic Studies](#)' policy for details about evidence required and monitoring of engagement with and attendance of academic studies.

### 4. Applicants to the university

#### 4.1 CAS for Tier 4 sponsorship – applicants

This section applies to applicants who require a CAS to study at the university. A CAS will only be issued to applicants who meet all the points below:

- i. have been made an unconditional offer to study full-time on an academic course of studies at the University of Brighton. (The University of Brighton CAS Questionnaire will be made available in the applicant portal to applicants holding an unconditional offer);
- ii. have submitted the completed University of Brighton CAS Questionnaire and supplied all supporting documents as stated on the form. This can be submitted up to 4 months before the official course start date, but should be submitted at least 4 weeks before the official course start date;
- iii. meet the Home Office requirements for English Language ability<sup>2</sup>;
- iv. have not, or will not, exceed the maximum time allowed for degree level study set out in the Home Office Immigration Rules<sup>3</sup>;
- v. where required, the university is able to demonstrate to the Home Office that academic progression has been made. Please see Annex A for the university's guidelines on academic progress;
- vi. have not previously been issued with two University of Brighton CAS numbers for a Tier 4 visa application which have been used in a visa or leave to remain application which has been refused;
- vii. will be studying on a course that is more than 6 months in duration (please see 4.3 below for more information about short term study),

**OR**

will be studying on a course that is less than 6 months in duration but:

- are coming to study a pre-session English course and will then progress to a main academic course of studies with the University of Brighton within a month of the pre-session course ending;
  - are coming to undertake a course with a work placement;
  - are already in the UK with a Tier 4 or Student visa and there is insufficient time to return home to apply for a Student Visitor visa;
- viii. have paid the International tuition fee deposit (where required), **or provided evidence of official sponsorship from your Government or international scholarship agency.** Information on what the Home Office consider to be suitable evidence of Official Sponsorship is set out in the Immigration Rules;

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<sup>2</sup> <https://www.gov.uk/tier-4-general-visa/knowledge-of-english>

<sup>3</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-6a-the-points-based-system>

- ix. the official start date for the course has not yet passed;
- x. If applying from country of residence:
  - the official start date of the course has not passed, and
  - there are at least 15 working days before the latest start date for the course (NB not all courses have a latest start date later than the official start date), and
  - the Home Office’s processing times indicate that Entry Clearance can be issued before the latest date of enrolment<sup>4</sup>.

**OR**

if applying from within the UK:

- there are at least 5 working days before the official start date for the course, and
- the official start date for the course is no more than 28 days after your current visa expires, and
- you have valid leave to remain as a Tier 4 student or in a visa category that permits switching into Tier 4.

In some less straightforward circumstances applications will be reviewed by the CAS Panel to reach a decision and applicants must provide the university with any additional evidence requested. See section 8 below.

#### **4.2 Withdrawal of the CAS**

The University of Brighton reserves the right to withdraw a CAS, prior to a visa being issued, in the following circumstances:

- i. the offer for a place on the course is withdrawn;
- ii. the university is in receipt of evidence that fraudulent documents have been submitted with the application.

See Annex B for guidance for students whose entry clearance or leave to remain application is refused.

#### **4.3 Short term study visa**

This section applies to applicants who require a short term study visa to come to the UK for 6 months or less, or for 11 months in order to study an English as a foreign language course. In order to apply for a short term study visa you will need to obtain a Short Term Study Visa Letter, issued by the [Academic Services Student Visa Compliance team](#) at the university, to confirm you have been offered a place. Applicants can apply for a short term study visa to:

- i. study a short course at the university of 6 months duration or less;
- ii. study an English as a foreign language course for up to 11 months duration;
- iii. are enrolled on a course at an overseas higher education institution and part of your course (less than 6 months) takes place at the University of Brighton;
- iv. are enrolled on a course at an overseas higher education institution and you are undertaking a short period of research at the University of Brighton as part of that course. Please note the course at the home institution must be equivalent to a UK degree.

Individuals *must not* enter the UK on a Standard Visitor Visa if the reason for their visit is to undertake study or a short period of research as part of a degree course they are registered for abroad.

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<sup>4</sup> <https://www.gov.uk/visa-processing-times>

Students on a Short Term Study visas are not permitted to do any kind of work, work placement or work experience whilst in the UK, and not permitted to apply to switch to any other immigration category whilst in the UK. Eligibility details are available on the Home Office website.<sup>5</sup>

#### **4.5 Compliance with Tier 4 student visa conditions and university requirements**

Students sponsored by the university under Tier 4 of the Points Based System are required to comply with the conditions of their visa. The conditions are set out in the Home Office Tier 4 Policy Guidance<sup>6</sup>

These include:

- i. working only as conditions of stay allow. This is usually up to 20 hours per week during term-time, and full time during official university vacation periods for those studying bachelors degree level courses or above, and up to 10 hours per week during term-time, and full time during official university vacation periods for those studying courses below degree level. Conditions will be stated on the visa;
- ii. not work as a doctor or dentist in training or sportsperson (including coaches);
- iii. only study as conditions of stay allow;
- iv. not claim any state benefits (public funds);
- v. register with the Police as required under the Immigration Rules.

In addition, students at the university under Tier 4 of the Points Based System are required to comply with the following university requirements:

- vi. university policies set out in the Student Contract<sup>7</sup>;
- vii. [‘Tier 4 Sponsored Students – Engagement with Academic Studies’ policy](#);
- viii. update the university with any changes to contact details via studentcentral or by visiting a Student Information Desk, including term-time address and contact telephone number;
- ix. make their visa / BRP, passports and any other associated documentation available for formal enrolment, and at any other time upon request from the university;
- x. provide original copies of all prior qualifications used to gain entry on to the course upon request;
- xi. obtain a Disclosure Barring Service certificate required for certain professional courses, prior to the start of the course
- xii. provide the university with a valid Academic Technology Approval Scheme (ATAS) clearance certificate required for specific courses as described in the Home Office guidance<sup>8</sup>;
- xiii. provide the university with a letter of parental consent (if under 18 at the start of the course).

#### **4.6 Compliance with Short term Study Visa conditions**

Students on a Short term Study visa are:

- i. not permitted to do any kind of work, work placement or work experience whilst in the UK. If the course includes a work placement they must apply under Tier 4 of the Points Based System (see section 5.1);
- ii. not permitted to apply to switch to any other immigration category whilst in the UK;

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<sup>5</sup> <https://www.gov.uk/study-visit-visa/eligibility>

<sup>6</sup> <https://www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student>

<sup>7</sup> <https://www.brighton.ac.uk/current-students/my-studies/student-policies-and-regulations/index.aspx>

<sup>8</sup> <https://www.gov.uk/guidance/academic-technology-approval-scheme>

- iii. not permitted to extend the visa whilst in the UK;
  - iv. not permitted to bring family as dependents to the UK;
  - v. must leave the UK on or before the date that the immigration permission ends.
- Full details are available on the Home Office website<sup>9</sup>.

## 5. Enrolled students

### 5.1 CAS for Tier 4 sponsorship – enrolled students

This section applies to students enrolled at the university who require a CAS in order to apply for Entry Clearance or Leave to Remain in the UK to complete their studies under Tier 4 of the Points Based System. A CAS will only be issued to enrolled students who meet all the points below.

- i. enrolled on a full-time academic course of studies at the University of Brighton
- ii. will not be applying for a Tier 4 visa where the main purpose of their visit is to attend a graduation ceremony;
- iii. have submitted a completed University of Brighton Student Immigration Sponsorship (CAS) form and CAS Questionnaire, and all supporting documents as stated on the forms 4 weeks before the current visa expires;
- iv. meet the Home Office requirements for English Language ability<sup>10</sup>;
- v. have not, or will not, exceed the maximum time allowed for degree level study set out in the Home Office Immigration Rules<sup>11</sup>;
- vi. where required the university is able to demonstrate that you have made academic progress. Please see Annex A for the university's guidelines on academic progress;
- vii. have not previously been issued with two CAS numbers by the University of Brighton which have been used in a visa or leave to remain application which has been refused;
- viii. are not waiting to hear the outcome of an academic appeal (unless required to continue to engage in studies pending the outcome of the appeal).
- ix. there will be no break in studies for a period more than 60 days outside of formal university vacation periods. This includes research taking place outside of the UK as part of a research degree or a work placement outside of the UK. If required to return for a short period following an absence of more than 60 days, a Short term Study Visa letter may be issued instead depending on the circumstances. Please see 4.3 for more information about short term study;
- x. engagement with studies is deemed to be satisfactory under the '[Tier 4 Sponsored Students – Engagement with Academic Studies](#)' policy;
- xi. you have not overstayed your current leave, unless you are able to make a successful application for Leave to Remain as set out in Annex B.

A CAS will be issued for use outside of the UK if the Immigration Rules prohibit a student from making a successful visa application from within the UK.

The following applies to enrolled students applying for entry clearance from their country of residence:

- xii. obtained permission from their Course Leader to take an authorised leave of absence from the course to obtain new Tier 4 (General) immigration permission;

<sup>9</sup> <https://www.gov.uk/study-visit-visa/overview>

<sup>10</sup> <https://www.gov.uk/tier-4-general-visa/knowledge-of-english>

<sup>11</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-6a-the-points-based-system>

- xiii. the Home Office's processing times indicate that Entry Clearance can be issued within the authorised leave of absence you have been granted<sup>12</sup>;
- xiv. have provide proof that that they have returned to their country of residence. This can be demonstrated by submitting a scanned copy of the re-entry visa stamp or scanned copies of flight tickets.

In some circumstances you may be required to provide the university with evidence that you meet the Tier 4 maintenance requirements as set out in the Immigration Rules.

## 5.2 Withdrawal of the CAS

The University of Brighton reserves the right to withdraw a CAS, prior to a visa being issued, in the following circumstances:

- i. the student is withdrawn from the course;
- ii. The university is in receipt of evidence that fraudulent documents have been submitted with the student's application;
- iii. Engagement with studies is deemed unsatisfactory under the Student Contract and the '[Tier 4 Sponsored Students – Engagement with Academic Studies](#)' policy.

See Annex B for guidance for students whose entry clearance or leave to remain application is refused.

## 5.3 Short term study visa for enrolled students

This section applies to enrolled students whose Tier 4 visa is due to expire and who may require a short term study visa to come back to the UK for 6 months or less. In order to apply for a short term study visa you will need to obtain a Short Term Study Visa Letter issued by the Academic Services Student Visa Compliance team at the university to confirm that you are a current student with us. As an enrolled student you can apply for a short term study visa to:

- i. undertake re-sits or complete the remainder of a course
- ii. undertake a viva if studying for a research degree at the University of Brighton

Students *must not* enter the UK on a *Standard Visitor Visa* if the main reason for the visit is to undertake study.

Eligibility details for short term study are available on the Home Office website<sup>13</sup>.

## 5.4 Compliance with Tier 4 student visa conditions and university requirements

Students at the university under Tier 4 of the Points Based System are required to comply with the conditions of their visa. The conditions are set out in the Home Office Tier 4 Policy Guidance<sup>14</sup>

These include:

- xiv. working only as conditions of stay allow. This is usually up to 20 hours per week during term-time, and full time during official university vacation periods for those studying bachelors degree level courses or above, and up to 10 hours per week

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<sup>12</sup> <https://www.gov.uk/visa-processing-times>

<sup>13</sup> <https://www.gov.uk/study-visit-visa/eligibility>

<sup>14</sup> <https://www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student>

- during term-time, and full time during official university vacation periods for those studying courses below degree level. Conditions will be stated on the visa;
- xv. not work as a doctor or dentist in training or sportsperson (including coaches);
- xvi. only study as conditions of stay allow;
- xvii. not claim any state benefits (public funds);
- xviii. register with the Police as required under the Immigration Rules.

In addition, students at the university under Tier 4 of the Points Based System are required to comply with the following university requirements:

- xix. university policies set out in the Student Contract<sup>15</sup>;
- xx. [‘Tier 4 Sponsored Students – Engagement with Academic Studies’ policy](#);
- xxi. update the university with any changes to contact details via studentcentral or by visiting a Student Information Desk, including term-time address and contact telephone number;
- xxii. make their visa / BRP, passports and any other associated documentation available for formal enrolment, and at any other time upon request from the university;
- xxiii. provide original copies of all prior qualifications used to gain entry on to the course upon request;
- xxiv. obtain a Disclosure Barring Service certificate required for certain professional courses, prior to the start of the course
- xxv. provide the university with a valid Academic Technology Approval Scheme (ATAS) clearance certificate required for specific courses as described in the Home Office guidance<sup>16</sup>;
- xxvi. provide the university with a letter of parental consent (if under 18).

## 5.5 Compliance with Short term Study Visa conditions

Students on a Short term Study visa are:

- vi. not permitted to do any kind of work, work placement or work experience whilst in the UK. If the course includes a work placement they must apply under Tier 4 of the Points Based System (see section 5.1);
- vii. not permitted to apply to switch to any other immigration category whilst in the UK;
- viii. not permitted to extend the visa whilst in the UK;
- ix. not permitted to bring family as dependents to the UK;
- x. must leave the UK on or before the date that the immigration permission ends.

Full details are available on the Home Office website<sup>17</sup>.

## 6. Doctorate Extension Scheme (Tier 4 (DES))

Students following a course leading to the award of PhD at the university may be eligible to apply for the Doctoral Extension Scheme to stay in the UK for 12 months after the course has ended. The scheme is intended for those who wish to gain experience in their chosen field and has fewer work restrictions than the usual Tier 4 (General) route. The scheme is not available to those who have achieved a research-based masters degree (MPhil or MRes).

Students must be issued with a CAS to make a Tier 4 (General) application under the DES scheme. More details are in the UKVI Tier 4 Policy Guidance<sup>18</sup>.

<sup>15</sup> <https://www.brighton.ac.uk/current-students/my-studies/student-policies-and-regulations/index.aspx>

<sup>16</sup> <https://www.gov.uk/guidance/academic-technology-approval-scheme>

<sup>17</sup> <https://www.gov.uk/study-visit-visa/overview>

<sup>18</sup> <https://www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student>

## 6.1 CAS for Doctorate Extension Scheme

A DES CAS will only be issued to PhD students who are able to meet all the points below:

- i. will be in the UK when you make your visa application;
- ii. have not yet completed your PhD studies at the University of Brighton and have less than 60 days before your expected conferral date. Applications are not permitted after PhD studies have been completed;
- iii. have current leave as a Tier 4 (General) student with sponsorship from the University of Brighton;
- iv. have submitted your completed University of Brighton DES Immigration Sponsorship (CAS) form to the university and all supporting documents as stated on the form,
- v. meet the Home Office requirements for English Language ability<sup>19</sup>;
- vi. have not previously been issued with two CAS numbers by the university for this Tier 4 visa application which have been used in a visa or leave to remain application which has been refused;
- vii. are not waiting to hear the outcome of an academic appeal (unless you are required to continue to engage in your studies pending the outcome of the appeal).
- viii. engagement with studies is deemed to be satisfactory under the [‘Tier 4 Sponsored Students – Engagement with Academic Studies’](#) policy;
- ix. have not overstayed your current visa or Leave to Remain i.e. your current visa or Leave to Remain has not expired.

## 6.2 Compliance with visa conditions and university requirements under the Tier 4 (DES) scheme

Those in the UK under the Tier 4 (DES) scheme of the Points Based Immigration system are required to comply with the conditions of their visa. The conditions are set out in the Home Office Tier 4 Policy Guidance<sup>20</sup>

These include:

- i. work only as conditions of stay allow;
- ii. not work as a doctor or dentist in training or sports person (including coaches);
- iii. only study as conditions of stay allow;
- iv. not claim any state benefits (public funds);
- v. register with the Police as required under the Immigration Rules.

In addition, students at the university under Tier 4 of the Points Based System are required to comply with the following university requirements:

- vi. [‘Tier 4 Sponsored Students – Engagement with Academic Studies’](#) policy;
- vii. update the university with any changes to contact details via studentcentral or by visiting a Student Information Desk, including term-time address and contact telephone number;
- viii. make their visa / BRP, passports and any other associated documentation at any other time upon request from the university;

## 7. Tier 1 Graduate Entrepreneur (GE)

This section applies those who wish to apply for a Tier 1 (GE) visa. In order to apply for a Tier 1 (GE) visa you must:

- i. be a University of Brighton graduate of at least bachelors degree level;

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<sup>19</sup> <https://www.gov.uk/tier-4-general-visa/knowledge-of-english>

<sup>20</sup> <https://www.gov.uk/government/publications/guidance-on-application-for-uk-visa-as-tier-4-student>

- ii. be endorsed by the university's bepurple entrepreneurship support service as having a genuine and credible business idea and entrepreneurial skills to establish a business in the UK;
- iii. met the bepurple criteria for Tier 1 (GE) endorsement and submitted a Tier 1 (GE) endorsement application form.

You may not be eligible if you have previously been refused Tier 4 sponsorship by the university. The University of Brighton has a limited number of Tier 1 (GE) endorsements each year.

## **8. CAS Panel**

On behalf of the university's Tier 4 licence holder (Registrar and Secretary) the role of the CAS Panel is:

- i. To assess complex applications from applicants and students for Confirmation of Acceptance Studies (CASs) in line with the Immigration Rules, Tier 4 Policy Guidance and Tier 4 Sponsor Guidance.
- ii. To make decisions on such applications on behalf of the Tier 4 licence holder (Registrar and Secretary).
- iii. To ensure the outcomes of the panel are recorded on the corporate student records system, and that students are informed within the given timescale.
- iv. To escalate any student queries to the Registrar and Secretary where appropriate.
- v. To monitor and review changes and amendments to the Immigration Rules, Tier 4 policy and procedures and to make recommendations to the licence holder as appropriate.
- vi. To advise on any matter at the request of the licence holder or Vice-Chancellor.
- vii. To have due regard within its decision making to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations between different people, in accordance with the public sector general duty of the Equality Act (2010).

There is no right of appeal against the decision of a CAS Panel. However, a re-assessment of a CAS application can be requested where there is new supporting evidence to support an application that was previously unavailable.

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## **Annex A – Guidance on Academic Progress for CAS applicants**

In interpreting the Home Office rules, the University of Brighton has developed the guidance below. Please use the Undergraduate and Postgraduate awards framework in Section D of the General Examination and Awards Regulations (GEAR) to ascertain the NQF (FHEQ) level of a course. The qualification aim of the course applied to is the academic course level used on the CAS.

### **Who does it affect?**

#### **Applicants**

If you are applying for Tier 4 (General) leave to remain in the UK, the university is required to include a statement on your CAS confirming that you will be making academic progress from any study previously undertaken in the UK during a period of Tier 4 (General) student or pre-Tier 4 student leave, and the study for which the CAS is assigned, regardless of whether or not a previous course of study was completed.

Sponsors are not required to assess academic progress if a student has never previously been granted Tier 4 (General) or pre-Tier 4 student leave, or are applying for Tier 4 (General) entry clearance from outside of the UK.

If the rules do apply to you, the university will assess your academic progress as part of the CAS assessment procedures. There it is important that you include full details of previous Tier 4 (General) or pre-Tier 4 student leave in the CAS Questionnaire.

#### **Enrolled students**

If you are applying for Tier 4 (General) leave to remain to extend your stay in the UK, the university is required to include a statement on your CAS confirming that are making academic progress, unless the reasons for extending your stay are exempt from the requirement. The exemptions are:

- to complete re-sit examinations or repeat modules, or in order to complete a course in respect of which the student has previously re-sat examinations or repeated modules;
- to complete a PhD or other doctoral qualification;
- to undertake a role as a Students' Union sabbatical officer or to complete the qualification the sabbatical officer was studying before undertaking that role;
- those making a first application to complete an existing course commenced at a Tier 4 sponsor that had its licence revoked;
- to apply for Tier 4 (General) student leave under the doctorate extension scheme;
- to apply for Tier 4 (General) student leave in order to undertake an intercalated bachelor's or master's degree course or PhD if they are studying medicine, veterinary medicine and science or dentistry. The exception also covers those applying for leave to complete their principal course after having completed a period of intercalation.

You cannot apply for Tier 4 (General) leave to remain from within the UK where the Immigration Rules prohibit a student from making a successful visa application from within the UK.

#### **What is academic progress?**

If the university does need to confirm on the CAS that you are making academic progress, you will need to:

- have successfully completed the course for which the Confirmation of Acceptance for Studies relating to the study undertaken during the last period of leave as a Tier 4 (General) Student or pre-Tier 4 student;

OR

- be applying for leave to allow progress from:
  - i. a Bachelors to Masters level course as part of an integrated Masters course, or
  - ii. a Masters to PhD level course as part of an integrated Masters and PhD programme

AND

- the course must be above the NQF (FHEQ) level of the previous course for which the Confirmation of Acceptance of Studies relating to the study undertaken during the last period of leave as a Tier 4 (General) student or as a pre-Tier 4 student was assigned;

UNLESS

- the university can demonstrate following assessment that:
  - i. the course is related to the previous course for which the applicant was granted leave as a Tier 4 (General) student or pre-Tier 4 student (the course is either connected to the previous course, part of the same subject group, or involves deeper specialisation);  
or
  - ii. the previous course and the new course in combination support the applicant's genuine career aspirations.

## **ANNEX B – Guidance for applicants and students whose application for Entry Clearance or Leave to Remain has been refused or returned as invalid**

### **Entry Clearance**

If the Home Office returns your application for Entry Clearance as refused you should contact the [International Student Advisors](#) in Student Services at the University of Brighton immediately. They will advise you on your options under the relevant Immigration Rules<sup>21</sup>. If, after discussion with the International Student Advisors, you may be eligible to make a new Tier 4 (General) application you will need to request a new CAS.

A second CAS can only be issued if all of the criteria set out in the **Sponsorship Policy for International Students** are met. In some circumstances applicants may be required to provide the university with evidence that they meet the Tier 4 maintenance requirements as set out in the Immigration Rules<sup>22</sup>.

### **Leave to remain**

If the Home Office returns your application for Leave to Remain as invalid or refused you should contact the [International Student Advisors](#) in Student Services at the University of Brighton immediately to discuss your options. If, after discussion with the International Student Advisors, you may be eligible to make a new Tier 4 (General) application you will need to request a new CAS.

If your Leave to Remain application is returned as invalid or refused and you have stayed in the UK beyond the expiry date of your current immigration permission, you may become an overstayer. The International Student Advisors will advise if you are an overstayer, and whether you are eligible to make a new application for Leave to Remain and a CAS (see Annex C Policy on Overstayers). If you may be eligible to make a new Tier 4 (General) application you will need to request a new CAS. A second CAS can only be issued if all of the criteria set out in the **Sponsorship Policy for International Students** are met. In some circumstances applicants may be required to provide the university with evidence that they meet the Tier 4 maintenance requirements as set out in the Immigration Rules.

This does not apply to the Doctorate Extension Scheme (Tier 4 (DES)) applicants who must not be overstayers.

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<sup>21</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

<sup>22</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-6a-the-points-based-system>

## **ANNEX C – University of Brighton policy on overstayers**

### **1. Definition of overstayer**

- 1.1 An overstayer is a person who was granted limited leave (permission) to enter or remain in the UK but who stays in the UK beyond the expiry of that leave (without making an application to extend or vary that leave on or before the date it expires).
- 1.2 A period of overstay continues from the day after a person's leave expires to either the date on which they leave the UK, or if they are permitted to apply for leave to remain, the date on which they are granted further leave by the Home Office.
- 1.3 It should be noted that if a person applies to the Home Office to extend or vary their existing leave on or before the date their leave expires (an 'in-time' application), they do not become an overstayer if the Home Office does not make a decision on their application until after their leave expires, which is normally the case<sup>23</sup>.

### **2. Consequences of overstaying**

- 2.1 Overstaying is a criminal offence, although it is rare for an overstayer to be prosecuted. However, it is also a breach of the immigration laws and an overstayer is liable for detention and/or removal from the UK.
- 2.2 Overstayers are prohibited from working (an employer commits a criminal offence by hiring them). Recent legislation also prevents overstayers from renting property, driving lawfully, or opening a bank account (and their existing accounts can be closed or frozen by the bank). Studying while overstaying is neither explicitly prohibited nor permitted by law.
- 2.3 Overstaying also has an impact on future applications for leave to enter or remain. If someone overstays for more than 30 days and leaves the UK to make an application to return, any such application will be automatically refused for a period of 12 months. If someone overstays for more than 14 days they cannot apply successfully for further leave to remain in the UK. Even if they only overstay for 14 days or less they can only apply successfully for leave to remain if they have a 'good reason', or after being refused further leave in specific situations (see Exceptions).

### **3. Students' Duties**

- 3.1 The university expects all of its students, whom are subject to immigration control, to have valid leave to enter or remain throughout the duration of their courses and that they are able and willing to provide the original evidence of that leave to the university whenever requested.
- 3.2 The university recognises that there will be times when its students have applied to the Home Office to extend or vary their leave and so will be unable to provide proof of having current leave. However, in such cases we will require the student to provide proof that they have made a valid 'in-time' application, and that they are benefitting from section 3C leave, in the form of the original relevant Home Office documents.
- 3.3 Students who overstay their leave will not be sponsored under Tier 4 and therefore not issued a Confirmation of Acceptance of Studies (CAS), unless they can clearly demonstrate that their circumstances meet one of the three exceptions below.

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<sup>23</sup> This is by virtue of section 3C of the Immigration Act 1971, which protects someone from becoming an overstayer if they make a valid in-time application for further leave and the Home Office does not make a decision on their application until after their leave expires. During the time the Home Office takes to make a decision on their application the person benefits from section 3C leave by continuing on the same conditions as their previous leave permitted. Section 3C leave continues until the Home Office makes a decision to grant further leave to remain, or if the Home Office refuses the application, (in most cases) until any Administrative Review (or appeal) is finally determined.

## 4. Exceptions

4.1 Paragraph E39(1) of the immigration rules<sup>24</sup> allows someone to make an application for leave to remain within 14 days of their leave expiring (i.e. after having overstayed for 14 days or less) but only if the Home Office considers that they have a 'good reason' beyond their control as to why they did not make an 'in-time' application.

The Home Office only considers one of the situations below to be a 'good reason' in these circumstances (Modernised Guidance Application from Overstayers):

- the applicant was admitted to hospital for emergency treatment (evidenced by an official letter verifying the dates of admission and discharge and the nature of the treatment); or
- a close family bereavement; or
- an educational institution was not sufficiently prompt in issuing a Confirmation of Acceptance for Studies.

4.2 Paragraph E39(2) allows someone, who has made an 'in-time' application for leave to remain, which the Home Office refused, to make another application for leave to remain within 14 days of one of the following:

- the refusal of the previous application for leave; or the expiry of any section 3C leave; or
- the expiry of the time-limit for making an in-time request for administrative review; or
- any administrative review requested being concluded, withdrawn, abandoned or lapsed.

4.3 Where the student leaves the UK, after having overstayed for 30 day or less, and intends to apply for fresh leave to enter outside of the UK, but only if this is possible, in terms of the required interruption to studies, with the written consent of the student's Course Leader.

All such cases are to be considered by the university's CAS Panel.

GW. 5 December 17

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<sup>24</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-1-leave-to-enter-or-stay-in-the-uk>