



# CORONAVIRUS (COVID-19) BRIEFING: ADVICE FOR TIER 4 SPONSORS AND STUDENTS

From 1 June 2020 UK Visa and Citizenship Application Centres (UKVCAS) and Service and Support Centres (SSCs) as well as all overseas Visa Application Centres (VACs) have begun phased re-opening with limited services. Priority is being given to those whose biometric appointments were cancelled in March, when the closures occurred.

On 29 May 2020, the Home Office updated its [guidance for Tier 2, 4 and 5 sponsors](#) whose employees and/or students have been affected by the coronavirus outbreak. It also updates its [Tier 4 specific sponsor guidance](#) on 1 June 2020. This briefing covers the guidance issued to Tier 4 sponsors. The guidance issued to Tier 2 and 5 sponsors is covered in a separate [briefing](#).

## GUIDANCE FOR TIER 4 SPONSORS

The Home Office has provided guidance to the following scenarios:

### Educational oversight

The Home Office recognises that statutory inspections may be affected and potentially delayed by restrictions on physical inspections during the COVID-19 pandemic.

Unless there already are serious concerns about a sponsor, a pragmatic approach will be taken to allow inspection bodies to utilise alternative inspection methods (eg desk-based assessments and virtual meetings) to carry out inspections. The inspecting body will determine the alternative arrangements.

The Home Office will also be flexible where there have been unavoidable delays in inspection because of the COVID-19 pandemic. In such circumstances, Tier 4 sponsors' CAS allocations **will not** be reduced to zero nor will they be made Legacy Sponsors, provided that delayed interim reviews or full inspections are conducted as soon as possible. Sponsors must keep a record of any communications from their EO body about cancelled, delayed or desk-based inspections.

### Student absence

Enforcement action **will not** be taken against sponsors who continue to sponsor students despite absences due to coronavirus (which can include illness, their need to isolate or an inability to travel due to travel restrictions).

Sponsors will not be required to report these absences but should keep their own record as to the circumstances that resulted in the absence.



The general rules are suspended in these circumstances and sponsors will not be required to withdraw sponsorship if (due to the pandemic) a student is unable to attend for more than 60 days but intends to resume their studies.

### **Sponsoring students who are distance learning**

Tier 4 sponsors can continue to sponsor existing Tier 4 students who are continuing their studies through distance learning, whether they are in the UK or another country. The same applies to new students.

Tier 4 sponsors do not need to sponsor new students who remain overseas and who have not yet been issued CAS. These students may start their course (or commence a new course) by distance learning.

Sponsors do not need to report to the Home Office non-attendance for those students who have moved to distance learning (and/or blended learning) but they should continue to monitor course attendance (eg through online contact points such as logging into online learning portals and attendance on virtual lectures/tutorials and online work submission), where possible. These concessions also apply to work placements which are disrupted due to Covid-19.

These arrangements will apply until 31 July 2020, when they will be reviewed.

Students accessing courses below degree level via distance learning are not required to meet the 15 hours study per week to be considered full-time, if the sponsor is unable to provide sufficient tuition during this period. Sponsors should make efforts to provide the stipulated number of hours of teaching where possible.

If a student has permanently withdrawn from their studies or deferred their studies for reasons (regardless of whether it is COVID-19 related or not), this must be reported. Sponsors must keep a record where the reason for withdrawal is COVID-19 related.

### **Viewing original documents**

Where it is no longer practical or safe for a student to submit the [required documents](#) in person, or where sponsor sites are closed due to COVID-19 social distancing measures, it is acceptable for a digital copy such as a photograph to be provided and kept on file.

### **English language requirements and pre-sessional courses**

English language testing centres are beginning a phased reopening and some centres are booking test dates (depending on the country in which the test centre is located). Where students are required to take tests overseas but the test centre in the country they are applying from is closed, sponsors which are higher education providers with a track record of compliance will be able to self-assess students as having a B1 level of English, where progression on to the main course is dependent upon passing the pre-sessional course. This must be noted on the CAS being assigned in the 'sponsor note' section.

Sponsors that are higher education providers but have not yet gained a track record of compliance due to pending registration with the Office for Students may also self-assess English language.

Higher education providers that were not eligible to register with the Office for Students and have a track record of compliance may also self-assess English language.



In all cases sponsors must ensure that the student has the required English language ability and must keep records of how the assessment was undertaken.

The concession is only available until the date the test centres reopen in the country from which the student will be applying. If the test centre in the country has reopened before the date on which the CAS is being assigned, the student must take and pass an English language test, if required to do so under the normal Tier 4 policy and the Immigration Rules.

If the centre in the country of application reopens after a CAS has been assigned under this concession, but before the CAS has been used in an application, the student must take an English language test and the CAS be updated accordingly. The only exception to this is where the test centre opened less than 7 calendar days before the application was submitted.

### **Where a Confirmation of Acceptance for Studies (CAS) has been assigned and the student has not yet applied for a visa**

In many cases sponsorship will have been extended but the prospective student has been unable to obtain a visa to come to the UK because of the closure of the overseas Visa Application Centres.

In these instances, the guidance confirms that the Home Office may still accept a CAS that has become invalid (eg it has expired before the application could be submitted or the start date for the course is now later than stated on the CAS for the original course) because the student was unable to travel as a result of coronavirus. Decisions to accept invalid CAS will be discretionary but will be considered pragmatically on a case-by-case basis.

Where the CAS is not marked as 'used' or 'expired' and is showing as 'assigned', sponsors must update the new course start date (if known) by way of a sponsor note. The information on the CAS will then be considered as normal when the case is decided.

### **Sponsoring a new student who is already in the UK and who is waiting for their tier 4 visa application to be decided**

While the COVID-19 pandemic is ongoing, Tier 4 Sponsors may allow students already in the UK to start their studies before their visa application has been decided if:

- They hold a Tier 4 sponsor licence (and they are not a Legacy Sponsor)
- They have assigned the student a CAS
- the student submitted their application before their current visa expired and provided evidence of this
- the course they start is the same as the one listed on their CAS
- the student has a valid [Academic Technology Approval Scheme](#) (ATAS) certificate if required (please note that the ATAS scheme was closed to new applications between 6 April and 31 May 2020. The approval scheme has now reopened and therefore the previous concessions have now been deleted from the policy guidance).

Please note that reporting responsibilities will start from the date that the CAS is issued, not from the date that the application is granted.

If the student's application is eventually rejected as invalid or refused sponsors must terminate the sponsorship and teaching of that student.



## Child students

Any sponsor currently sponsoring a student under 18 has a continuing duty of care to that child student, even if they have stopped studying, while the children remains under its sponsorship and is in the UK. There are no concessions.

## CORONAVIRUS (COVID-19) BRIEFING: ADVICE FOR TIER 4 STUDENTS

### Distance learning

As stated above, temporary concessions are in place to enable Tier 4 students to continue their Tier 4 course online.

New international students who wish to begin distance learning overseas do not need sponsorship, but if sponsorship has already being obtained, it does not need to be withdrawn.

### Blended learning

Sponsors can also sponsor new students who will start studying in blended learning in the 2020/2021 academic year provided the intention is to transition to face-to-face learning as soon as circumstances allow.

### Those with 30 day entry permits which have expired or are about to expire

The government has introduced a concession for those who have been issued 30-day entry permits to travel to the UK but who have been unable to do so because of COVID19.

For those visa holders whose permit has expired, or is about to expire, they can now request a replacement visa free of charge until the end of this year.

To make a request, they will need to contact the [Coronavirus Immigration Help Centre](#), providing their:

- name
- nationality
- date of birth
- GWF reference number

The subject line of the email will need to be 'REPLACEMENT 30 DAY VISA'.

The UKVI will contacted those who email when VACs reopen to arrange for a replacement visa to be endorsed in the visa holder's passport.

Visa holders will not be penalised for being unable collect their BRP while coronavirus measures are in place.

This process will be in place until the **end of 2020**.

### Extending a Tier 4 Visa

Students whose visas expire between 24 January 2020 and 31 July 2020, who would otherwise be unable to extend in country, will be able to exceptionally apply for further leave from within the UK (this includes students at non Higher Education Providers with a track record of compliance).



To be granted further leave to complete an existing course, or to begin a new course, students will still need to meet all other requirements of Tier 4, including academic progression (with some exceptions, see below) and maintenance requirements.

The normal requirement that students must apply no more 28 days before the commencement of their studies will not apply if:

- the student had to apply before 31 July because their current visa would expire before that date, and
- the start date of the new course named on the CAS is no later than 1 October 2020.

Please note that this concession only applies to those wishing to extend under or switch to Tier 4, it does not apply to those who hold visas in the short-term study category and who wish to extend their visas from within the UK under a different route. They will need to make an application for leave outside the immigration rules or request [a short extension of their stay](#) if they intend to leave the UK and their visa expires before 31 July 2020.

Students who have been unable to complete their course of study before the end of their current visa because of Covid-19 will be able to apply from within the UK for a visa extension to complete it.

Students who need to repeat a year, retake a module, or resit an exam continue to be exempt from demonstrating academic progression (as is normally the case). A further exemption now also applies for students who need more time to complete a course as a result of Covid-19 (eg where a sponsor suspends studies for the duration of any social distancing measures).

Students whose leave expires between 24 January and 31 July and would normally be unable to demonstrate academic progression because their new course at the same level as the previous one, but who cannot travel overseas to make an application due to Covid-19, are also now temporarily be exempted from the academic progression requirement if the sponsor confirms on the CAS that the previous course and the new course in combination support the applicant's genuine career aspirations. This concession will apply to courses with a start date before 01 October.

## Police registration

From 21 March 2020, while social distancing measures are in place, students who are extending their visas in the UK and who would normally be subject to police registration are not required to register with the police. This also applies to any other change of circumstances that are normally required to be reported to the police. Such students must register or notify any change of circumstances with the police once social distancing measures end.

## Working hours

In line with the government objective to support the NHS, students who have the right to work and are employed by an NHS trust in certain professions will not be restricted to 20 hours work per week during term time and may work without limit on the number of hours permitted. The full list of professions that benefit from this concession can be found in the full [Tier 4 Guidance](#).

Students with work rights whose sponsor suspends all study as a result of the Covid-19 outbreak will be considered to be in vacation time and so also will be allowed to work full time during this period.

## Volunteering



Though existing rules continue to apply, Tier 4 students who want to assist the NHS in being an [NHS Volunteer Responder](#) are permitted to do so provided they comply with the 'Stay at Home' rules and only volunteer if they fulfil the relevant conditions as set out on the NHS England Webpage.

### **Time limits on Tier 4 (General) leave**

The Home Office guidance on this is somewhat unclear. On one hand, the guidance states that normal maximum time limits will continue to apply (generally six years with exceptions for higher studies and discounts on time spent in the UK as a Tier 4 (Child) student). However it then goes on to confirm that discretion may be applied in future where any period of leave that would cause someone to exceed the limit will do so as a result of COVID-19. There is some uncertainty about how this will be applied and what evidence would need to be provided for such discretion to be exercised.

### **Short-term study**

Switching into Tier 4 from 'short-term' routes (eg visitor and short term study routes) will be allowed on an exceptional basis until 31 July 2020, at which point the concession will be reviewed. Applicants must still meet the other requirements of the route, such as maintenance and English language.

As with those extending, students applying to switch from short-term study (but notably not those switching from the visitor route) will be able to commence the new course of study from the date of the application rather than the date the decision is made.

### **Permitted study**

Short-term student who are given an exceptional extension of leave in this category as a result of COVID-19 until 31 July 2020 will be permitted to study on a further course other than that which they originally entered the UK to undertake.

### **Graduate route**

The guidance confirms the government's intention to continue with the launch of the new graduate route in summer 2021.

While it is anticipated that generally only those who undertake their studies in the UK would be eligible students who have been required to either continue their current studies or commence a new course by distance or blended learning due to Covid-19 may still qualify. A concession will be in place for students to apply under this new scheme so long as they enter the UK before 6 April 2021 and complete the final semester of their studies in the UK (provided their leave does not expire before the new route launches and they meet all other eligibility criteria).

This policy, as with all Coronavirus (COVID-19) immigration policies and guidance, is evolving and is frequently updated. This document is current as at 22 June 2020. For specific advice and up to date information, please contact a member of the Penningtons Manches Cooper LLP immigration team: [immigration.enquiries@penningtonslaw.com](mailto:immigration.enquiries@penningtonslaw.com).