

Suspected bogus colleges spark stricter rules for overseas students

April 2010

Government figures in December 2009 showed that suspected bogus colleges are being discovered at a rate of almost two a month.

The student visa route under Tier 4 of the points based system which was launched in March 2009 introduced a requirement for educational establishments to be formally licensed and approved by the UK Border Agency (UKBA) in order to sponsor students from outside the European Economic Area or Switzerland. Since Tier 4 has come into force, approximately 2,000 institutions were refused sponsorship powers in 2009.

There are still difficulties with Tier 4, many of which have hit the headlines in recent months. The Home Secretary Alan Johnson recently said:

“We want foreign students to come here to study, not to work illegally, and ... we have set out necessary steps which will maintain the robustness of the system we introduced last year.”

This is reflected in steps taken by the UKBA who have announced stricter measures for overseas students partly due to a surge of suspected bogus applications. These new measures came into effect on 3 March 2010 and include:

- Successful applicants for English language courses and those who are studying any other course below degree level, to speak English to a level just below a GCSE in a foreign language, rather than the former beginner level.
- Students studying below a foundation degree or first degree level will be allowed to only work ten hours a week during term time, instead of 20 hours.
- Students who are on courses which last less than six months will not be allowed to bring dependants to the UK.
- Dependants of those who are studying a course lower than foundation or undergraduate degree level will not be allowed to work and they will face removal from the UK if found to be working.

In addition, visas for foreign students studying A-Level courses and equivalent will be restricted to ‘highly trusted sponsors’. This category of highly trusted sponsors is in force from 6 April 2010 and publicly funded colleges and universities will automatically be granted the highly trusted status. However, privately funded institutions will need to apply to the UKBA to become highly trusted.

There has also been much media coverage of Muslim extremists and their presence and influence at various British Universities and the seeming increase in radicalisation. A number of those involved in terror attacks have attended UK Universities including the individual who attempted to bomb a plane over Detroit on Christmas Day.

As a result, Universities UK has established a working group, chaired by the UCL Provost, Professor Malcolm Grant, to look at how universities can best protect academic freedom whilst taking appropriate action to prevent violent extremism.

Existing guidance:

The Universities UK “Promoting good campus relations: dealing with hate crimes and intolerance” from 2005 still contains some useful material and guidance: <http://www.universitiesuk.ac.uk/Publications/Documents/promotinggoodrelations.pdf>

The Equality Challenge Unit (ECU) produced an update to the guidance in 2007: <http://www.ecu.ac.uk/inclusive-practice/promoting-good-campus-relations-imperative>

For further details on this article please contact **Chetal Patel** on 01473 406364 or chetal-patel@birketts.co.uk

The content of these articles are for general information only. As always, specific professional advice should be taken on each individual matter.

Focus on Birketts' Corporate Immigration team

The UK immigration system has recently undergone a substantial overhaul which has had considerable implications for all employers. Onerous obligations relating to the management of migrant workers which were previously on the Government have now shifted to employers.

Our Corporate Immigration team offers an in-depth understanding of the law and works closely with individual and corporate clients to advise and assist with all aspects of immigration law. This includes advising clients in the UK such as those in the health sector, educational establishments and FSTE 100 companies as well as individuals on applications under the new points based system including:

- Tier 1 - highly skilled workers; investors; entrepreneurs and post study workers;
- Tier 2 (formerly known as work permits) - general, intra-company transfers, sportspersons, religious workers;
- Tier 4 - students;
- Tier 5 - youth mobility and temporary workers.

Our team also advises corporate clients on a day to day basis on compliance with immigration rules when employing migrant workers.

Examples of the team's work include:

- Advising health sector clients on the immigration status of their employees, obligations to ensure compliance with legislation to prevent illegal working and assisting with non-compliance issues and penalties.
- Advising educational establishments on their obligations under the Tier 4 register of sponsors.
- Acting for various Plcs (including companies within the IT, telecommunications and transport sectors) on immigration law issues and successfully applying for Tier 1 highly skilled migrant status and entry clearance for key employees (e.g. business visitor visas).
- Advising companies on the recruitment of nationals from the new accession countries within the EEA (the A2 and A8 countries).
- Advising foreign companies on opening offices in the UK.



*For further details on how our Corporate Immigration team can help you, please contact **Sally Azarmi** on 01473 299130 (sally-azarmi@birketts.co.uk) or **Chetal Patel** on 01473 406364 (chetal-patel@birketts.co.uk).*

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