

# OUR PEOPLE PRACTICES/

## Employment of Tier 4 Student Workers:

### Policy & Procedure

---



---

<b>Created:</b>	January 2018
<b>Version:</b>	<b>1.0</b>
<b>Owner:</b>	Human Resources / Employee Relations & Business Partnering - Immigration team
<b>Author:</b>	Emma Milton – HR Immigration Adviser
<b>Approved by:</b>	<b>EG:</b>
<b>Go Live Date:</b>	

---

#### Contents:

1. Introduction
2. Aims and objectives
3. Scope
4. Definitions
5. Responsibilities
6. Principles
7. Procedure
8. Action
9. Review
10. Associated practices

## **1. Introduction**

- 1.1 This policy and procedure sets out the requirements for the employment of individuals who hold a Tier 4 (General) visa, to ensure the University complies with UK Visas & Immigration (UKVI) regulations and employment legislation.
- 1.2 The main purpose of the Tier 4 visa route is for individuals to come to the UK to study. Where work is permitted, the intention is that this should be to supplement income whilst studying or as part of a work placement provided it is an integral and assessed part of the course.
- 1.3 Where work is permitted, UKVI set limits on working hours dependent on when an application for permission to enter or remain in the UK was made, the type of course of study and the type of sponsor delivering the course.
- 1.4 A Tier 4 visa may permit the holder to work a maximum of 10 or 20 hours (dependent on level and hours of study) in any one week during term time. A working week is defined by UKVI as 7 days beginning with a Monday.
- 1.5 A Tier 4 visa allows the holder to work full-time during official vacation periods. Term and vacation dates differ depending on the level of study and institution.
- 1.6 UKVI limits on working hours include paid and unpaid work.

## **2. Aims and objectives**

- 2.1 The aims of this policy and procedure are:
  - 2.1.1 To ensure compliance with UKVI legislation on the employment of Tier 4 student workers, whilst ensuring that individuals are neither privileged nor subject to less favourable treatment on the grounds of any strand of the Equality Act (2008). However, where any conflict exists between this policy and procedure and another University policy, this policy and procedure takes precedence.
  - 2.1.2 To ensure compliance with the Immigration Act 2016 and prevention of illegal working.
  - 2.1.3 To ensure University staff understand the process and responsibilities associated with the employment of Tier 4 Student Workers.
  - 2.1.4 To support Tier 4 Employing Managers understand their role and responsibilities when employing Tier 4 Student Workers.
  - 2.1.5 To provide documentary evidence of the right to work in the UK.

## **3. Scope**

- 3.1 This policy and procedure applies specifically to the engagement of Tier 4 Student Workers on a UK employment contract.
- 3.2 This policy and procedure applies to all staff based at the University responsible for allocating and authorising work to Tier 4 Student Workers.
- 3.3 This policy and procedure does not apply to individuals who hold a Tier 4 (Doctorate Extension Scheme) visa, which does not place restrictions on the number of working hours permitted each week.

- 3.4 This policy and procedure does not apply to individuals who hold a Tier 4 dependants visa, which does not place restrictions on the number of working hours permitted each week.
- 3.5 This policy and procedure does not apply to individuals who hold a Tier 4 visa who are studying on a part time basis and therefore may not be permitted to work.
- 3.6 Volunteering is not included in this policy and procedure. Volunteering is distinct from voluntary and must not be a substitute for an employee undertaking unpaid work. Volunteers usually help a charity or voluntary or public sector organisation.

## 4. Definitions

- 4.1 Terms used in this policy and procedure:
- Tier 4 Student Worker – an individual employed by the University of Kent who holds a current Tier 4 (General) visa.
  - Tier 4 Employing Manager - University staff member designated to manage the Tier 4 Student Workers contract(s), allocated hours and authorisation of the timesheet claim form.
  - Working week – 7 days beginning with Monday.
  - Unpaid work – employment for which would normally be paid. May be paid in kind.

## 5. Responsibilities

The Executive Group are accountable for ensuring the University complied with all relevant UKVI legislation.

- 5.1 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
- 5.2 ensuring this policy reflects UK immigration rules, has regard to best practice, and initiating a review of it as and when appropriate; Human Resources (HR) are responsible for:
- ensuring the Student & Immigration Compliance team are notified of all Tier 4 Student Workers who are employed at the University, and when this employment ceases;
  - checking, approving and monitoring all conditional offer of employment forms for Tier 4 Student Workers, to ensure they comply with the requirements, as set out in Section 5;
  - issuing all contracts for Tier 4 Student Workers;
  - recording and monitoring Tier 4 Student Worker claim forms and hours worked;
  - maintaining a list of all Tier 4 Employing Managers in the University, ensuring they are made aware of their responsibilities and provide required training;
  - investigating any potential breaches (procedural, contractual and/or visa breaches) or irregularities, and taking action as deemed necessary.

5.3 Tier 4 Employing Managers are responsible for:

- understanding the visa and contractual restrictions associated with their Tier 4 Student Workers as set out in this policy and the relevant pages of the University [website](#);
- ensuring all conditional offers of work to Tier 4 Student Workers (new or extensions) have been approved by HR prior to any work being undertaken;
- overseeing and monitoring the hours offered to Tier 4 Student Workers to ensure the hours of work offered do not exceed the contractual or visa limits;
- implementing and maintaining local systems that ensure that all other staff within the school/department understand that they must not allocate hours to Tier 4 Student Workers without prior approval from the Tier 4 Employing Manager;
- authorising timesheet claim forms for Tier 4 Student Workers and ensuring they are sent to the HR Immigration team by the 5<sup>th</sup> of each month.

5.4 School/Department heads are responsible for:

- ensuring that all individuals recruited have the legal right to work in the UK, and that the necessary documentation checks are undertaken prior to employment;
- reporting any concerns that a member of staff may be breaching their visa conditions to the HR Immigration Adviser for investigation;
- maintaining a list of authorised Tier 4 Employing Managers within their school/department, who are permitted to request contracts of employment for Tier 4 Student Workers, allocate hours of work and authorise timesheet claim forms.

5.5 Tier 4 Student Workers are responsible for:

- ensuring hours worked per week do not exceed either their visa or contractual conditions;
- being aware of term times and restrictions relevant to their level of study (these can be found at Section 7);
- (if studying at another institution) submitting a status letter to the HR Immigration team annually and when requested;
- submitting timesheet claim forms to their Tier 4 Employing Manager promptly;
- updating the HR Immigration team of any changes to personal circumstances or immigration status.

## 6. Principles

6.1 Tier 4 Student Workers and Tier 4 Employing Managers responsible for allocating work to a Tier 4 Student Worker, will be expected to be aware of their responsibilities under this policy and procedure.

6.2 Tier 4 Student Workers employment at the University must comply with the following criteria:

- A maximum of two contracts of employment with the University at any one time. Each contract may only include multiple posts where these are held in one school or department, and with one nominated Tier 4 Employing Manager per contract.
- There will be a maximum amount of hours assigned to each contract, which in total, across both contracts, must not exceed individual's visa conditions.

- A full right to work in the UK check must be carried out prior to commencing employment at the University.
- All contracts of employment for staff holding a Tier 4 student visa will be issued by Human Resources (HR).
- Contracts will be issued in line with the visa expiry date, or work end date if sooner.

### 6.3 **Maximum working hours**

6.3.1 A Tier 4 (General) student visa will have a condition allowing the following working hours during term time:

- degree level students – 20 hours per week
- below degree level students – 10 hours per week
- part time studies – no work permitted

6.3.2 Hours cannot be averaged over more than one week.

6.3.3 Tier 4 Student Workers must not work in excess of the number of hours stated on their visa in any one week. If a Tier 4 Student Worker holds more than one part-time job, the total number of combined hours must not exceed the amount stipulated on their visa. This includes contracts held outside of the University.

6.3.4 It is the responsibility of the Tier 4 Student Worker to ensure hours worked do not breach their visa conditions. The consequences of failing to comply with the conditions of a visa are likely to be very serious, including withdrawal of sponsorship, visa curtailment and deportation. The University has a duty to notify the Home Office of all breaches of Tier 4 visa conditions, and reserves the right to withhold payment to staff members for any hours which are deemed to be in excess of their visa restrictions and therefore worked unlawfully.

6.3.5 Paid and unpaid (voluntary) work is recognised as employment and must not exceed the visa conditions.

### 6.4 **Definition of term time**

6.4.1 The University has defined term dates for all levels of study and these can be found on the University website. Tier 4 Student Workers wishing to work more hours during vacation time must be aware of the periods relating to their programme of study:

- Below degree level students – term time will depend on the course of study
- Undergraduate students – Winter, Spring and Summer vacations. Full time work is permitted in vacations.
- Postgraduate taught masters students – Winter and Spring vacations. Full time work during Winter and Spring vacations is permitted, but must not exceed the weekly contractual hours and visa conditions during the Summer vacation.
- Postgraduate research students – there are no set vacations and students are expected to be engaged with study for the duration of their registration. Only part-time work is permitted.
- Postgraduate research students' holiday – students may take 30 days holiday per year as agreed with their supervisor. Full time work is not permitted during this holiday period.

## 7. Procedure

### 7.1 Issuing of contracts

- 7.1.1 Tier 4 Employing Managers wishing to employ an individual holding a Tier 4 (General) student visa should complete a Conditional Offer of Employment form, confirming the details of the post(s), maximum (and minimum where applicable) number of hours, and the student's personal information. Verification of right to work in the UK should also be taken at this time and then sent to the HT Immigration team.
- 7.1.2 The HR Immigration team will confirm if the Tier 4 Student Worker already holds a University contract, and if the proposed contract and hours can be approved.
- 7.1.3 Tier 4 Student Workers must not undertake any work until their employment has been authorised by HR, and the contract and terms and conditions have been accepted.
- 7.1.4 Tier 4 student workers who wish to undertake an additional contract when they either already hold two contracts or hold one contract at the maximum hours stated in their visa, must advise HR which contract they either wish to decrease or close, to enable authorisation of the new contract.
- 7.1.5 Any Tier 4 Employing Manager wishing to increase the amount of hours or extend a contract of a Tier 4 student worker should be aware that this will not be agreed by HR if the Tier 4 student worker already holds either a maximum of two contracts or one contract totalling 20 hours per week

### 7.2 Timesheet claim forms

- 7.2.1 Tier 4 Student Workers must complete a Tier 4 Student Worker timesheet claim form for all work undertaken with the University.
- 7.2.2 Timesheet claim forms must be completed in full with exact dates of work. The hours must be verified and signed by the relevant Tier 4 Employing Manager before the being submitted to the HR Immigration team no later than the 5<sup>th</sup> of each month.
- 7.2.3 Original signed timesheet claim forms must be submitted to the HR Immigration team, not photocopies or emailed versions. Batch spreadsheets cannot be accepted for Tier 4 Student Workers; any Tier 4 Student Worker hours must be removed from school/department spreadsheets before being submitted to Payroll, in order to avoid potential overpayment. Completed timesheet claim forms should be sent to the HR Immigration team on either a weekly or monthly basis.
- 7.2.4 To ensure the correct calculation and payment of teaching hours, the code TH must be used for all teaching hours claimed (to which Payroll will then apply the multiplier rate). For all other duties paid at flat rate the code AA (additional activities) should be used.
- 7.2.5 Once timesheet claim forms have been received, hours worked will be reviewed against the contractual limits across all contracts held by the individual, to ensure contractual and visa conditions have not been breached. The timesheet claim forms will then be passed to Payroll for payment. Any forms received after the 5<sup>th</sup> of the month may result in a delay in payment.

**7.2.6 Please note, teaching hours undertaken as an Assistant or Associate Lecturer should be logged on timesheet claim forms as contact hours only. However, in all calculations for maximum contractual hours and visa purposes, a multiplier of 2.5 is applied to the actual teaching hours to reflect the total preparation, contact and marking hours worked.**

## **8. Action taken to address potential breaches**

- 8.1 If it becomes evident to the University during the course of a Tier 4 Student Worker's employment that their visa is no longer valid, the University will (following an investigation into the circumstances) terminate the contract of employment.
- 8.2 Any suspected breach of visa conditions, such as working too many hours, will be brought to the attention of the HR Immigration Adviser for investigation. During the investigation the HR Immigration Adviser will liaise with the employing school/department, meet with the individual to discuss the circumstances, (where applicable) seek advice from the Home Office and request a student engagement report from the Student Immigration Visa Compliance team.
- 8.3 Where an investigation finds a breach has occurred, the findings will be presented to the Assistant Director - Employee Relations & Business Partnering<sup>1</sup> and appropriate action will be agreed.
- 8.4 The Tier 4 Student Worker will be invited to attend a meeting with either the HR Immigration Adviser, Sponsor License Authorising Officer and the Assistant Director - Employee Relations and Business Partnering.
- 8.5 Sanctions that could be imposed in cases where a breach has taken place are: disciplinary action, termination of employment contract, and/or withdrawal of student sponsorship.
- 8.6 Once the student worker and the employing school/department have been notified and the sanction(s) imposed, the breach will be reported to the Home Office.
- 8.7 Any Tier 4 Employing Manager found to have been negligent in the allocation, monitoring or authorisation of hours in any such investigation, may be subject to disciplinary action.

## **9. Review**

- 9.1 This policy and procedure will be reviewed as and when required by changes to relevant legislation or University practice, whichever is sooner.

## **10. Associated practices**

- 10.1 This policy and procedure complies with relevant UK immigration legislation and best practice.
- 10.2 In addition, other relevant University of Kent People Practices & Policies include:
  - University Student Immigration – Terms and Conditions of Tier 4 Sponsorship
  - Ordinance 39 – Conduct

---

<sup>1</sup> Or their nominee