

# Student Visa – Controlling Working Hours Policy

## Introduction

The University recognises the crucial role in providing all students the opportunity to work during their studies, which includes those who are studying on via the Student Route. In doing so, the University must ensure that any student on a Student visa who works does so in compliance with the regulations set out by the Home Office.

The purpose of the Student Visa – Controlling Hours Policy is to ensure that the employment and tracking of Student Visa working is done in a legal, transparent and efficient way.

This policy incorporates all relevant employment legislation and is underpinned by the University's Core Values and commitment to equality and diversity. It does not form part of your contract of employment and may be amended from time to time. This policy supersedes all previous policies, procedures and guidance.

## Definitions

For the purposes of this policy "worker" will be used to describe anyone working subject to a Student Visa who is an employee, worker, associate/hourly paid worker, student placement, PhD Student on a Bursary undertaking work or a volunteer who carries out paid or unpaid work for the University in the United Kingdom.

Please note that International students studying on a visitor visa cannot undertake any work.

## Purpose

The Student Visa of the points based immigration system is the primary route of entry to the UK for EEA and non-EEA students who wish to study full time in the UK. These students must be sponsored by an education provider who holds a Student Visa licence issued by the UK Visas and Immigration Directorate of the Home Office (UKVI).

International students sponsored under a Student Visa are often able to work part-time during their studies in the UK and full-time during their vacations. Some international students have no right to work at all.

Where a student has permission to study under a Student Visa of the Points Based System, their visa conditions may allow them to work for restricted hours during term time (if they are permitted to work).

This policy is concerned with ensuring that all workers undertaking any form of work at the University subject to a Student visa are working in accordance with their visa restrictions and ensure that the University is complying with its legal obligations in this respect.

## Proving a Right to Work

Any individual who works in the UK must have the legal right to do so. If such a right does not exist then the individual is liable to removal of their right to stay in the UK and the University could face civil and criminal charges under the relevant immigration legislation. In addition, the University is a sponsor of both workers and students under the UKVI points based system and therefore is trusted by the UKVI to comply with the terms and conditions of the sponsorship licence and the immigration rules. Failure to undertake illegal working checks correctly may impact this sponsorship.

In order to comply with its legal obligations, the University must establish that both its current and prospective employees in the UK have, and retain, the right to work in the UK. This involves carrying out document checking processes for all new employees and follow up document checks for employees who are subject to immigration control and have limited leave to remain in the UK.

British citizens and those classed as settled workers are not subject to any immigration control:

Individuals from other countries must have permission to work in the UK

## Additional Right to Work documentation for Student Visa students

When presented with documents indicating that the worker is a Student Visa student (when conducting a right to work check) the University is required to obtain and retain evidence of the worker's academic term and vacation dates in addition to checking and retaining a copy of their Student Visa documentation. Students on postgraduate research (PGR) programmes are regarded as having a 52 week term and therefore any working hours should always be restricted to the maximum 20 hours. Students on postgraduate taught (PGT) programmes

are very likely not to be following published term and vacation dates and should provide the specific vacation dates that relate to their course.

The evidence should be requested from the student and originate from the education institution which is sponsoring the student and be retained on file with the student's right to work documents.

The University can obtain the dates for the entire duration of the course, or if this is not possible, obtain and copy them annually providing the information held is current at the time of the student's employment.

UKVI considers acceptable evidence to be one of the following:

- A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study (the website should be checked to confirm the link is genuine). This is likely to be suitable for undergraduate students; or
- A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course. This is likely to be suitable for taught and research postgraduate students; or
- A letter addressed to the University as the employer from the education institution confirming the term time dates for the student's course This is likely to be suitable for taught and research postgraduate students.

### Student Visa students – Working Hours

All International students (including students studying at Universities other than BCU) working for Birmingham City University are required to adhere to the working hours limits relating to their particular visa restrictions. As a general rule students can work to the limits shown on the table 1 below, however some students are not able to work at all and managers should check the student's visa to check the number of hours a student can work.

Student Visa students will not be permitted to work in a full time permanent post. There are two exceptions to this rule:

- Those on a Doctoral Extension Visa who have completed their course of study and;
- Those on a Student Visa, who have completed their course and have a valid application in place for leave to remain within the Skilled Worker route which is yet to be decided by UKVI. They are allowed to work full-time in the role for which the Skilled Worker CoS has been issued.

Table 1

Stage	Work (including any Associate Lecturing/Visiting Lecturers)		
	Term time hours per week (Mon-Sun)	Vacation period hours per week (Mon-Sun)	Between end of course and end of visa (if course completed at expected time)
FE Students (below level 6)	10	Full time	Full time
HE Undergraduate (level 6 and above)	20	Full time	Full time
PG Taught	20	20 (holidays must be confirmed)	Full time
PG Research	20	20	Full time (only from date of final award)
Placements (if there is a CAS that allows a placement)	Full time	Full time	Full time
Students on a Doc Extension visa where the sponsor has formally confirmed that the PHD is completed to the standard required for the award of a PHD	Full time	Full time	Full time

The above includes paid and unpaid work, internships, voluntary work and those undertaking Associate Lecturing (which cannot exceed 6 hours per week if undertaken) and related work contracted as part of a PhD bursary and those "helping out". Students should ensure that they add together all types of work and that when added together the limit on hours is not exceeded.

Full time work placements are permitted if they are an integral and assessed part of a course and, as such, are exempt from the above control. If the placement is not an integral and assessed part of a student's course, the rules in Table 1 will apply.

Students can have multiple jobs but must not work over their weekly hour limit. Students must add all their work hours together and ensure that the total is below the limit as set out above.

Employing managers must complete the Student Visa Working Hours Request Form before any Student Visa student undertakes any work. If the student is employed as a casual worker the form must be completed for each week the student is expected to work.

This is required in order to ensure that students do not work in excess of their permitted hours. Students who work over the allowed hours are classed as illegal workers and could have their visa curtailed (removed) by UKVI. The University could face civil and criminal sanctions and the individual manager engaging the student over the hours allowed could also be personally liable and subject to a criminal conviction.

If you are on a Student Visa and are a PGR student, the most you can work each week is in line with the conditions set out on your Student Visa OR a maximum of 20 hours per week OR the requirements/conditions of your funding whichever is the lower. In arriving at the lowest number, you must also factor in that any teaching or academic activity that a PGR student undertakes must not exceed 6 hours each week.

Students must also ensure that they do not engage in prohibited types of work. The UKVI states that students cannot:

- Be employed as a Doctor in training;
- Be employed as a professional sportsperson or sports coach;
- Be employed as an entertainer;
- Be self-employed;
- Engage in business activity (including any self-employment); or
- Fill a full time permanent vacancy.

There are some exceptions and further advice should be sought from HR before undertaking any of these types of work activity.

### Vacation Periods

Students and managers must check the specific vacation periods for the student's course before working full-time during vacation periods.

UKVI includes the period after students have completed their course as vacation time. This is only the case if the course was completed on time. If the student completed early or left their course, other rules apply and these should be checked with HR. Students may be able to work full-time during vacation periods, but cannot pursue a career by filling a permanent full time vacancy.

Please note that reading week and welcome week at BCU is considered term-time and BCU students cannot work full-time during reading or welcome week. The same rule is likely to apply to students in reading week or welcome week at other institutions.

Undergraduate students: Can work full-time during published vacation periods at Christmas, Easter and during the summer. Please check individual University term dates to check when students are permitted to work full-time. **Please note that students cannot work full time at the end of their exam period or at the end of their course until the published end of term date has passed.**

Postgraduate Taught students (Masters): Students at BCU and most other institutions can work full-time during the Christmas and Easter vacation periods only but this needs to be confirmed formally in each individual student's case. They cannot usually work beyond the 20-hour-a-week limit during the summer as they are still classed as being in full-time study while working on their dissertation. They can usually work full-time once they have finished all taught components and have submitted all assessed work including the final dissertation. For students who are not studying at BCU confirmation should be sought from the student's institution to establish when the student can work full time.

Postgraduate Research students (PhD): Students at BCU cannot work above 20 hours per week. Students are still restricted to 20-hours-a-week during the writing up period and from the day of the Viva until the final award date. BCU students (and students of many other universities cannot work full time until after they have been awarded).

### Calculate a Working Week

UKVI's definition of 'a week' in terms of working under Tier 4 is "a period of 7 days beginning with a Monday". This means that students must ensure that in any week beginning Monday and ending Sunday that they do not work more than their permitted limit.

Students cannot balance their hours over the course of a month by averaging hours or 'chunking' together hours that were spaced over time. Student Visa student work must be calculated by reference to actual total worked hours on a weekly basis.

The University has a central system of managing student working hours, whereby managers of Student Visa casual staff must submit a weekly form of student working hours.

### Volunteering and Voluntary Work

Students can both volunteer and do voluntary work in the UK. However voluntary work contributes to the working limit on a Student Visa and so any hours undertaken must not exceed the Student Visa limit during term-time, either on its own or combined with other types of paid or unpaid work.

The distinction between volunteering and voluntary work is not clear and students and managers may want to seek additional guidance from HR before undertaking any work of this nature. As a general guide the difference between volunteering and voluntary work is:

1. Voluntary workers:
  - Often have a contract (either written or verbal) with their employer e.g. you must attend at particular times and carry out specific tasks.
  - It is not appropriate to substitute anyone else to do the tasks asked and the student themselves is expected to attend and complete the agreed task;
  - voluntary workers can be paid in some way, either in money or by way of benefit such as free accommodation or meals.
  - Voluntary work counts towards the limit on working hours
2. Volunteers:
  - do not have a contract of employment
  - are not obliged to attend or perform specific tasks
  - must not take the place of an employee
  - must not receive payment (but travel or maintenance expenses are allowed)
  - usually help a charity or voluntary or public sector organisation e.g. a registered charity
  - Volunteering does not count towards the limit on working hours

### Work Placements

Those on a Student Visa are permitted to undertake a work placement provided that is an integral and assessed part of the main course of study. An example of this would be if the course includes an industrial placement year and this was stated on the CAS.

During the work placement students are able to work full-time and can be paid as such. Students can also be employed in addition to their work placement but that employment must remain within the limits allowed. The University is still the Student Visa sponsor with reporting obligations and so it is important that the student and the School stay in contact and that attendance records are maintained.

### Breaching work conditions

There are serious consequences for working beyond the Student Visa restrictions. The University is obligated to report any breach of conditions of stay to UKVI, including if a student works more hours than they are permitted, or are engaged in a type of work that is not allowed.

The University and individual managers can be subject to a fine and criminal prosecution if they allow students to breach their work conditions. The students themselves will also be in breach of their visa conditions and the UKVI could also take action against them directly.

Students should check that the type of work is permitted and keep a record of how many hours they are working per week to ensure that they are keeping to their Student Visa conditions of stay.

Students must stop working immediately if their visa expires or they stop studying, including if they take an interruption (temporary withdrawal) or leave of absence.

#### Review

This Policy will be reviewed by the Human Resources Department every three years, or sooner where new developments in employment legislation necessitate such a review, where factual clarification is required or changes to operational practices take place. Reviews will be carried out in consultation with our trade union, managers and other key stakeholders. The next review will be in September 2021

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