

TIER 4 VISAS – UPDATED INFORMATION FOLLOWING MEETING WITH THE HOME OFFICE

PREPARED FOR SPORT AND RECREATION ALLIANCE MEMBERS

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ISSUED JOINTLY WITH BUCS

SUMMARY

In January 2019 the Home Office released an [updated policy guidance note](#) concerning Tier 4 visas. The Sport and Recreation Alliance, together with BUCS, have since met with the Home Office to discuss the changes and voice the concerns and sentiment held by its members.

This paper contains answers to key questions and clarifies the new detail provided in the policy guidance note.

GENERAL QUESTIONS

What is the rationale behind the change to the definition of ‘professional sportsperson’ and what is the practical impact on visa holders?

The change provides clarification of the previous rules and is designed to assist in identifying where someone may be providing services as a professional sportsperson in breach of their visa conditions. The revised definition does not represent a substantive change to established policy.

The overarching aim of the definition, in conjunction with wider immigration rules, is to prevent professional sportspeople utilising other visa routes where they would not otherwise meet the criteria required to hold a Tier 2 or Tier 5 sporting visa. The latter typically involve meeting certain sporting requirements set by National Governing Bodies (NGBs).

The key test is that to be in breach of a visa restriction, a visa holder must be providing services as a professional. If they are not – for example they play, participate or coach in grassroots/amateur sport – the rule does not apply.

The Home Office defines ‘amateur’ in paragraph 6 of the Immigration Rules as “a person who engages in a sport or creative activity solely for personal enjoyment and who is not seeking to derive a living from the activity. This also includes a person playing or coaching in a charity game.”

In terms of oversight, the Home Office and relevant agencies will assess each case on its merits and enforce the immigration rules in a proportionate manner.

Is the new definition intended to target international students or other types of visa holders?

No. The guidance has been in place since 2011 and was designed to combat professional sportspeople coming in to the UK on inappropriate visa categories. In the vast majority of cases genuine students who come to the UK to study, and whilst they are here play, participate or coach in sport within and for their university, would not fall under the prohibition. The same approach applies to other types of visa holders outside of the Tier 4 student visa – for example individuals here on a general Tier 2 work visa are not prohibited from participating in grassroots/amateur sport.

Each NGB has their own classification and there are 7 indicators which the Home Office apply. These are detailed in paragraph 6 of the immigration rules. Genuine students here to study and play amateur sport while they are here are not the intended subjects of the rules.

Can a briefing note to all regional UKVI advisors, which summarises the outcomes of the meetings be circulated such that advice that is given is consistent?

Clear guidance has been sent out to regional UKVI contacts and will be updated following the recent meetings between the Home Office, the Sport and Recreation Alliance (SRA) and British Universities & Colleges Sport (BUCS). Additionally, the Home Office and BUCS are exploring the potential for a central workshop for university immigration teams and Directors of Sport to come together to identify specific issues and give reassurance on the current guidance. The Home Office also confirmed they will provide reassurance to the sector on this issue at upcoming stakeholder events they present at.

FAQ STYLE QUERIES

Can Tier 4 visa holders compete in BUCS competitions?

Yes. BUCS is an amateur competition and therefore there is no restriction on Tier 4 visa holders competing in BUCS, provided they are playing on a wholly amateur basis.

Can they officiate for their BUCS clubs and in local league competitions?

Yes. Officials are not included under the definition of professional sports person therefore students can officiate in any league.

Can they coach and take on committee roles within their BUCS clubs?

Yes. As BUCS sport is classed as amateur sport they are entitled to undertake these roles, provided they are doing so on a wholly amateur basis.

Can they undertake a coaching placement as a part of their academic course of study?

The vast majority of placements would be permissible under the guidance as long as they would not involve the student filling a vacancy or providing professional services. Tier 4 students would not be permitted to take up a professional coaching role or a role with a professional sports club as part of a work placement.

Can Tier 4 visa holders compete for their university in amateur leagues outside of BUCS?

Yes. If the sport is classed as wholly amateur, and the students are playing on a wholly amateur basis they are permitted to play within that competition framework.

Can Tier 4 visa holders compete in local semi-professional/professional sport as long as they don't exceed the 20-hour element of the guidance?

No, Tier 4 students cannot be employed (which includes both paid and unpaid work) as a professional sports person. In this situation, if they are playing semi/professional sport they would be in breach of the conditions of their leave to study in the UK. If they are classed as a professional by the 7 indicators or by the NGB classification, then they would be treated as a professional sports person.

Does the change apply to all Tier 4 visa holders (and other relevant visa holders) or only those who receive a visa after Jan 2019?

This applies to all Tier 4 visa holders (and other relevant visa holders) as this has been in place for several years. The update in January should be viewed as a clarification to the existing rules.

What is the definition of professional and semi-professional sport?

The 7 indicators which the Home Office produce give a determination of whether someone would be classed as a professional sports person. Each NGB also has individual criteria which classifies their definition of what is professional sport. This accommodates the variation across sports regarding the scale and level of competition.

Is there a differing interpretation of international competition level dependent on the sport and the home nation of the student?

Each sport will be treated on its own merit, however if students, or other relevant visa holders wish to play in BUCS or grassroots/amateur/local competition, the rule would not apply to them, provided they are playing on a wholly amateur basis.

Is the level of club/community sport that a Tier 4 visa holder can participate in determined by the individual National Governing Bodies for sport, as has been to date, or is there now an all level restriction imposed as part of these changes?

This is determined by the definition and then the individual NGB's. The renewed guidelines do not impose an "all level restriction" and there has been no substantive change to policy on this. The key test is whether someone is providing services as a professional sports person.

Can BUCS and the Sport and Recreation Alliance be included in any on-going consultations around student visa issues?

The Home Office have agreed to add BUCS and the Sport and Recreation Alliance to any future consultations of this nature to ensure we can address the potential wider implications of possible changes in the future.

For the avoidance of doubt, this statement is intended to provide an interpretation of Home Office guidance based on conversations held to date. It does not constitute formal Home Office policy and it is not the role of the BUCS to advise on individual visa issues. Any decision on whether an individual is compliant with their visa conditions and related enforcement is for the Home Office and relevant agencies and will be dependent upon the individual circumstances of each case. Where visa holders have specific queries, they should take appropriate advice.

If members have specific queries regarding the above, we would strongly advise you to contact your UKVI regional contact for clarification.