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**Research Committee**

**Subject: UKBA Compliance: Suspension of Studies where Student Visas have expired.**

**Origin: Academic Registry/Student Support Centre**

**Action Required : Approval by Senate, on the recommendation of Research Committee, of amendments to the Code of Practice on Research Degree Programmes in relation to leave of absence, with immediate effect.**

1. **Executive Summary**

UKBA rules on “overstaying” in the UK when visas expire have recently changed. This paper outlines proposals for suspending students’ studies where they have “overstayed” for more than 28 days and the amendments necessary to the Code of Practice on Research Degree Programmes to give effect to this.

1. **Context**

Colleagues in the Academic Registry and Student Support Centre are constantly monitoring the University’s compliance with the UKBA Tier 4 requirements and other immigration rules which provide part of the regulatory framework for allowing international students to study at the University. The University needs to have adequate policies and procedures in place to support this endeavour.

Up until now UKBA has been willing to grant visa extensions in country regardless of the length of overstay.  However the immigration rules are changing such that, from 1 October 2012, individuals who have overstayed their visa for more than 28 days will not be able to extend their visa in the UK, if the overstay is over 90 days neither will they be successful with an out of country entry clearance application for one year. Students that make an application within 28 days of their existing visa will be permitted to remain in the UK whilst their visa application is being processed.

Whilst there is nothing in the Immigration Acts to make the act of studying or allowing studies during a period of overstay unlawful, we understand that UKBA has criticised HEIs with “overstayers” when making decisions about suspending/cancelling/refusing a sponsor licence.  Some universities/colleges take a very cautious line on this issue and would immediately suspend students while others like ourselves have taken the view that if the student is taking steps to resolve a situation which UKBA is aware of and happy to regularise by granting an out of time application that there is no legal basis to prevent continued studies.

1. **Proposal**

This paper recommends to Research Committee that our current processes should be revisited in the light of the new rules (and recent harsh decisions taken against London Metropolitan University by the UKBA) which make it clear that if you overstay for more than 28 days you have to leave the UK to regularise your status and if you overstay by more than 90 days you will be barred from the UK for a year.  Obviously, this needs to be balanced against keeping disruption to studies at a minimum.

Academic Registry already monitors the expiry dates of the visas of continuing students and contacts them three months ahead of the visa expiry date advising them to take steps to extend their visas. However, we do not take any action against students who fail to renew their visas (or at least fail to show us their new visa). The problem is not big - in September 2012 there were only 4 taught and 11 research students who had an expired visa according to our database and who had not presented an updated visa to our offices.

## The following proposal, which is supported by the Student Support Centre, has been approved by Learning and Teaching Committee in respect of taught students and by Research Committee in relation to research students Bottom of Form

Proposal:

* Academic Registry continues to monitor student visa expiry dates for continuing students and contact students where their current visa will not cover their entire period of study.
* Regular emails will be sent to students in this position from 3 months prior to their visa expiring until 28 days after, explaining the need to make an application for a visa extension and provide the Academic Registry with documentary evidence that an application has been made (and the implications of not doing this).
* Contact will also be made with the Schools/departments to encourage the students to take the appropriate action and provide the relevant documentation to the Academic Registry.
* Where a student fails to present an updated visa or documentary evidence that an application has been made within 28 days of their current visa expiring, the Academic Registrar will place the student on leave of absence.
* For **taught** students this will be in accordance with Regulation IX, paragraph 36:

“In exceptional circumstances, the Academic Registrar may place a student on Leave of Absence, without receiving an application from the student, if the student is unable to participate adequately and the Academic Registrar considers Leave of Absence to be in the interests of that student and/or other students and staff of the University. The student will be informed in writing of the decision and the reasons for it.”

* It is felt that this is an appropriate interpretation of Regulation IX as a student cannot “participate adequately” in their studies if they are required to leave the country to regularise their status. The student will then be reported to UKBA 10 working days after being placed on leave of absence as no longer being sponsored by the University (this is normal practice for all leave of absence students studying at the University under Tier 4).

We would also like to extend the above proposal to include students (in September 2012 - 34 taught and 17 research) who continually fail to respond to requests to present a valid visa to the Academic Registry.

In practice, we do not think this procedure would be applied in many cases but we hope that it will a) encourage students to present us with up-to-date paperwork and b) close a potential “loop-hole” in our processes, thereby demonstrating to the UKBA that we take our Tier 4 responsibilities seriously and are willing to adapt internal procedures to meet their requirements.

1. **Research Committee Recommendation**

Research Committee has approved the above proposal for implementation with immediate effect in respect of research students.

 Regulation IX ,which is being applied above , however, is limited in its applicability to students on **taught** programmes. Provisions for research students and suspension of studies are contained in the University’s Code of Practice on Research Degree Programmes

 An amendment to paragraph 6 of the Code of Practice on Research Degree Programmes is required with immediate effect to add

‘In exceptional circumstances, the Academic Registrar may place a student on suspension of studies, without receiving an application from the student, if the student is unable to participate adequately and the Academic Registrar considers suspension of studies to be in the interests of that student and/or other students and staff of the University. The student will be informed in writing of the decision and the reasons for it.’ This amendment would require the approval of Senate.

It is further recommended that the criteria and arrangements for suspension of studies be reviewed through the Graduate School and Research Committee and consideration given to moving them from the Code of Practice on Research Degree Programmes to Regulation 26 to be consistent with the arrangements for taught programmes.