

ILPA information sheet

Information sheets provide general information only, accurate as at the date of the information sheet. Law, policy and practice may change over time.

ILPA members listed in the directory at www.ilpa.org.uk provide legal advice on individual cases. ILPA does not do so.

The ILPA information service is funded by the Joseph Rowntree Charitable Trust.

An archive of information sheets is available at www.ilpa.org.uk/infoservice.html

Steve Symonds ILPA Legal Officer 020-4790 1553 steve.symonds@ilpa.org.uk

Immigration Law Practitioners' Association www.ilpa.org.uk 020-7251 8383 (t) 020-7251 8384 (f)

Students 2

18th June 2010

On 25 May 2010, the Government published its full coalition agreement. This is the agreement between the Conservative and Liberal Democrat parties setting out commitments for their Government. The agreement includes the following commitment:

“We will introduce new measures to minimise abuse of the immigration system, for example via student routes...”

Last year, however, Damian Green MP expressed concern for migrant students. He was concerned that some students are exploited by those who advertise and take money for courses without providing a proper course of study for the student. He said:

“Bogus colleges prey on unsuspecting students, who are predominantly from overseas. Once they have paid their fees for what are bogus qualifications, no recourse is available to them. Many students are scared to contact the authorities for fear of deportation, because they discover that although they may be the innocent victim of a scam, that will make them vulnerable. In the end, they are in a no-win situation. Either they return to their country of origin angry at the treatment they have received in the UK or they stay here illegally.”
(Hansard, HC Borders Citizenship and Immigration Bill Committee, Sixth Session 16 June 2009 : Column 172)

Damian Green is the Immigration Minister in the coalition Government. Before the May 2010 general election, he was the shadow Immigration Minister – the lead spokesperson for the Conservative party on immigration.

This information sheet provides further information about students. In particular, it sets out information about some of the difficulties that migrant students face in the UK. Information about changes made to the Immigration Rules for students in March 2010 is available from the March 2010 “Students” information sheet. Other changes were made in April 2010, when the Government restricted the colleges that could offer certain courses to those it had approved as ‘highly trusted sponsors’. Some information on this is given at:

<http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/highly-trusted/>

Sponsorship and licences

A student who wants to come to the UK to study for more than six months must be sponsored by a college that has a licence from the UK Border Agency. A college must pay for a licence. A licence will permit the college to sponsor students to come to the UK to study on the college’s courses.

Having a licence requires the college to keep certain records and report certain information to the UK Border Agency – e.g. if the student does not turn up for the course. If the UK Border Agency thinks that a college is not fulfilling these or other requirements, the UK Border Agency may withdraw the college's licence. If the UK Border Agency is considering whether to withdraw the college's licence, the UK Border Agency may suspend the licence.

More general information about sponsorship is given in the December 2007 "Points Based System – Sponsorship" information sheet.

What happens if a college's licence is suspended or withdrawn?

A college that does not have a licence cannot sponsor students to come to the UK to study on its courses. If a college has its licence suspended, any student who has already been granted a visa to come to the UK to study at the college (including those already studying at the college) is still permitted to come to the UK and study on the course for which the visa was granted. However, if the college's licence is withdrawn, the student may have serious difficulties.

If a college has its licence withdrawn, a student who has been granted a visa to come to the UK to study at the college will have that visa cancelled unless he or she has already entered the UK. If he or she has entered the UK already, he or she will be given 60 days to find another college to study at. Any new college must have a licence to sponsor migrant students. The student will need to apply for his or her visa to be varied to permit him or her to study at the new college. There are two exceptions to this. If the student has only 6 months left on his or her visa, he or she will be permitted to stay to the end of this period. If the UK Border Agency considers the student is involved in the reasons why the college's licence should be withdrawn, the student's visa may be curtailed (withdrawn) immediately.

What happens if a college is taken over by a different business?

If a college is taken over by a different business, this should not have any affect on a student who has already been granted a visa to study at the college – unless the new business does not itself have a licence to sponsor migrant students. If the new business does not have a licence, it will have 28 days to apply for a licence. If it does not do so, any migrant student studying at the college will have his or her visa cancelled. If the visa is to be cancelled, the student will be given 60 days to find another college to study at. Any new college must have a licence to sponsor migrant students. The student will need to apply for his or her visa to be varied to permit him or her to study at the new college. There are two exceptions to this. If the student has only 6 months left on his or her visa, he or she will be permitted to stay to the end of this period.

General comments

The arrangements described in this information sheet are meant to strengthen the UK Border Agency's control of immigration. However, these arrangements put migrant students in a very vulnerable position. Some of the difficulties students may face are briefly highlighted here. These result from the requirement for sponsorship.

Firstly, a student is vulnerable to any change or failing in course content or fees that a college may introduce – even if these are not strictly permitted by the contract between the student and the college. Secondly, a student is vulnerable to decisions taken by the UK Border Agency to withdraw the licence of a college – even if the reasons for this have nothing to do with any wrongdoing by the student. In these situations, even if a student can find another college, he or she may be unable to pay both the fee for a change to his or her visa and the fees charged by that other college. The student may also find it difficult to recover the fees paid to the original college he or she came to the UK to study at. Damian Green was right to recognise the 'no-win' situation that some students can find themselves in, though no fault of theirs. However, he failed to recognise the full extent of this 'no-win' situation, which may include substantial loss of money for the student.