

NUS report on Tier 4 sponsorship revocations since 24 June 2014

Foreword

On 24th June 2014 Immigration Minister James Brokenshire created the Sponsorship Working Group as part of the announcement that the Home Office would take action against the licences of fifty-seven private colleges and three universities. The original mandate of the Working Group (see appendix i) was to support the students affected by the decisions made by Home Office staff in relation to the Tier 4 sponsorship licences of their educational institutions. Seven months later, the Sponsorship Working Group has held what is considered to be its last meeting. NUS has been a member of the Working Group throughout the process, seeking to represent the students facing the effects of the decisions made by the Home Office.

We feel compelled to write this report because of the grave and irreversible consequences we have seen and fear we will continue to see for the students attending universities and private colleges against which action has been taken by the Home Office. Through no fault of their own, these students have faced significant financial loss, as well as, in many cases the loss of years of hard work for a qualification they may now not receive. Some of these students have been in direct contact with us so we are well placed to convey their circumstances and concerns, as well as our understanding of the extent to which the Sponsorship Working Group will be successful in mitigating the negative impact on them. We also hope to encourage the members of the Sponsorship Working Group to take any remaining actions available to them to mitigate these effects on the student and the UK's higher education sector generally. Without urgent and effective action the impact on the sector will be apparent for many years to come.

In Unity,
Toni Pearce

(NUS National President)

&

Shreya Paudel

(NUS International Students' Officer)

The English Language Testing Fraud

This crisis originated in February 2014, following a Panorama investigation into fraud in connection with an English Language test operated by Educational Testing Service (ETS), one of the handful of companies licenced by the Home Office to conduct so called 'Secure English Language Tests' for the purpose of certain visa applications. ETS' test is the 'Test of English for International Communication' or TOEIC. The Panorama programme revealed fraud in TOEIC tests in UK test centres, whereby invigilators read out multiple choice answers, proxy test takers sat spoken tests and fake bank statements were provided for use as evidence of sufficient funds (one of the visa application requirements).

The Home Office responded by commissioning ETS to identify the fraudsters. In the space of between six weeks and about two months, ETS ran tests on an unknown number (in the many thousands) of voice clips taken from the spoken element of the TOEIC test. ETS then provided lists to the Home Office, naming 29,000 individuals whose TOEIC tests were "invalid" and a further 19,000 whose TOEIC tests were "questionable". The 19,000 individuals in the latter group stand accused for reason of "administrative irregularity" including the mere fact that they sat their TOEIC test at a centre where others' tests had been invalidated.

Thereafter, on 24th June 2014, the Home Office instigated action against Tier 4 sponsors. On day one, action was taken against 57 private colleges and three universities. This included suspension and revocation of their Tier 4 sponsorship licence and reducing the Confirmation of Acceptance of Studies (CAS) allocations to zero, although five institutions simply agreed to surrender their Tier 4 licence. The sponsoring institutions were targeted for reason of them being "a threat to immigration control" as they had taught students whom the Home Office considered to be fraudulent, on the basis of the list provided by ETS. Surrender and revocation of a licence meant that the institution could not teach *any* Tier 4 students, therefore the institutions' other Tier 4 students were also subject to the consequences of this action.

To be clear, NUS does not condone any fraud and agrees that Home Office action was necessary. However, as is explained below, NUS has serious concerns about the extent of the action taken and the lack of support offered to students caught up in the crisis who face very real hardship as a result.

The Affected Students

NUS believes that so far over 12,000 students have been directly affected by the revocations of colleges since 24th June 2014. Home Office members of the Sponsorship Working Group have confirmed that just over 5,000 students who received letters curtailing their Tier 4 leave have been offered the support of the Sponsorship Working Group. NUS is aware, however, that a significant number of students who are affected by Tier 4 sponsor revocations have been excluded from the assistance of the Working Group. These include the students whose sponsorship has been withdrawn by their institutions (at the request of the Home Office and often against the judgment of the institution), as well as some students with recent and open visa applications to attend the revoked institutions. A further group of students; those attending institutions whose Tier 4 sponsor licences were revoked after the June 24th announcement (i.e. their institution was not one of the original 60 institutions to be revoked), will also not be supported through the Sponsorship Working Group.

Students in this group whose College or University has had their Tier 4 sponsorship licence revoked should receive a letter "curtailing" their Tier 4 leave. The letter will outline that these students will have 60 days to find a new place to study or leave the UK as their current sponsor is no longer eligible to sponsor them. Until this letter is received

students have no change to their current leave. Once this letter is received it begins an immigration "clock" which requires the student to take immediate action to find a new sponsor and obtain a new Confirmation of Acceptance of Studies (CAS). Students without a new CAS and a new visa application at the end of 60 days must leave the UK as they no longer have the Tier 4 leave they obtained under their original sponsor.

NUS has communicated directly with many students at the institutions included in the 24th June announcement. NUS held meetings with students at three institutions, spoke by phone to students at eighteen institutions, and communicated via social media to a range of students impacted through networking groups the students had established themselves. In addition, over 80 students contacted us via our helpline.

NUS also hosted a webform on our www.nus.org.uk website which had 191 responses and asked a number of questions as well as provided open comment options.

NUS conducted a further survey of students which received 288 responses between November 2014 and January 2015.

In 2012 NUS was involved in litigation regarding the London Metropolitan University Tier 4 sponsor licence revocation. NUS intervened in this case to protect the interests of students in the revocation process. This was the first time NUS was involved in litigation. The outcome provided firm and well evidenced principles which we have applied to our involvement in the Sponsorship Working Group in 2014/15 and our actions outside of this group.

While the extent of the present crisis has meant we are not able to intervene in this way, we feel these principles should be brought forward into the work of the Sponsorship Working Group.

Background

The Immigration Minister's statement in Parliament regarding the Home Office's decision to take action¹ against 57 private colleges and three universities, included the formation of a "Working Group" whose mandate it was to support affected students, enable effective communication with students and do so with an interest in protecting the reputation of the UK education sector. The Working Group was chaired by Peter Millington, an Assistant Director at the Home Office. He was supported by a number of Home Office staff. Other individuals on the Working Group represented:

1. Association of Colleges (AoC)
2. Department for Business Innovation and Skills (BIS)
3. British Council (BC)
4. English UK
5. Guild HE
6. Higher Education Funding Council for England (HEFCE)
7. Higher Education Funding Council for Wales (HEFCW)
8. Million+
9. National Union of Students (NUS)
10. Russell Group
11. Scottish Funding Council
12. Study UK
13. UCAS
14. UK Council for International Student Affairs (UKCISA)
15. Universities UK (UUK)
16. University Alliance
17. Welsh Assembly Government

¹ <https://www.gov.uk/government/speeches/statement-on-abuse-of-student-visas--2>

We accepted the invitation to participate in the Working Group with the aim of representing the interests of and assisting all students impacted, regardless of their direct membership with NUS. NUS' objective in dealing with the crisis was to achieve as much support as possible for the affected students, in line with the precedent set in 2012 by the "taskforce" set up to support London Metropolitan University (LMU) students.

NUS has worked collaboratively with other members of the Working Group and we will continue to do so. This is not to say, however, that NUS has confidence in the Working Group. NUS remains seriously concerned that the Working Group has not and will not adequately achieve its aims of effectively supporting affected students.

Formation of the Sponsorship Working Group

The Working Group held its first meeting on 7th July 2014 and then met bi-weekly on 17th July, 1st August, 19th August and 11th September. From that point several meetings were cancelled by the Home Office and meetings reduced in frequency. The Working Group met again on 17th October, 27th November, by teleconference on 16th December 2014 and then it held what the Home Office indicated would be the final meeting on 22nd January 2015. NUS notes of the meetings can be found in Appendix ii.

On the 17th July NUS and other sector members called for Mr Millington to step down in favour of Chair independent of the Home Office. It was strongly felt by Working Group members that a Chair held by the Home Office was untenable, particularly given Mr Millington's role in compliance and in taking action against accused students. This call was renewed when the Chair of the Working Group failed to implement actions agreed by the Working Group, including writing to the Immigration Minister and the Minister for Business, Innovation and Skills Minister – actions declined on the basis that they would have been 'inappropriate' for a civil servant to undertake such an action.

NUS requested that the Chair be replaced with someone who could take action on behalf of the Working Group, free from the restraints of the civil servant role.

NUS renewed the request for the Chair to step aside following the revelation that Peter Millington was the key witness against students whose TOEIC tests had been reported by ETS to be invalid or "questionable" and also against institutions who faced action against them for the fact of having taught students who had been accused of fraud. In NUS' view his conflicting role contributed to his refusals of requests of NUS and other members to extend support to the "questionable" group of students.

NUS also sought agreement to extend the support of the Working Group to students accused of fraud who subsequently achieved a court decision in their favour, i.e. where the allegations were held not to be proven. This request was also refused.

NUS remains concerned that Mr Millington's role as the main witness against both students and institutions directly conflicts with his role as Chair to support students impacted by the revocation of their institutions as is the mandate of the Working Group.

To date the main support the Working Group has undertaken for students has been the creation of a Course Information web-tool which students were given access to in a letter which accompanied their curtailment letter. The Working Group has agreed a number of actions aimed to support students including supporting the existing UKCISA and NUS student advice lines, the creation of a Home Office helpline, delaying curtailment letters for some students to better fit course start dates, and providing a "immigration check" process for sponsors who are participating in the Course Information Web-tool and wish to check the status of students who are considered part of the cohort supported by the Working Group.

The Course Information Web-tool

A sub-Working Group was formed in August 2014 to focus on a process to support students in finding an alternative sponsor, and to agree a process for communication with students. Chaired by another Home Office civil servant, the sub-group met bi-weekly between meetings of the main group, by teleconference. In late August 2014, over 7 weeks after the first action had been taken against institutions, the sub-group agreed a strategy for providing a "clearing house" web-tool for students whom the Home Office had identified as "genuine" and would be included in those students who the sponsorship Working Group would support. The Higher Education Funding Council for England (HEFCE) led this work and produced a digital web-tool as well as inviting interest from alternative Tier 4 sponsors who would be interested in providing opportunities for the affected students to transfer to a new course.

The web-tool was completed by HEFCE in October 2014 however was not released to students until 17th November 2014, 21 weeks after the commencement of actions, on 24th June 2014. As of 24th June, one institution had surrendered its licence and as a result its students were not permitted to attend classes at their institutions. Between 24th June and 15th September, 24 of the 57 private colleges had their licences revoked, and four further had surrendered their licences. Students at the majority of these institutions waited over two months for any assistance in finding a new course from the Working Group. This delay also resulted in most of the students who have contacted NUS, missing their desired September and October 2014 start dates for new courses.

The challenges posed by the delay of the "clearing house" were further reinforced when potential new sponsors were asked to indicate the start dates of the courses they were offering to these students. Of the 20,955 places offered, almost 50% were available only for a September or October start date, which meant students cannot not access these courses until September/October 2015. This has left severe shortages of places for students who sought to avoid serious disruption of their studies and achieve an earlier start date for their courses specific fields of study.

Key Principles

NUS accepted the invitation to join the Working Group with clearly stated intention of supporting students. As has been the case in previous task forces (London Metropolitan University, Barking and Dagenham College), NUS worked with students to establish what support the affected students would require to mitigate the adverse effects of the loss of their sponsor's Tier 4 licence the revocation. Through the work of the previous two taskforces and hearing in the High Court, NUS considered that a number of key principles for the protection and support of affected students had been established.

The Working Group continually requested adherence to these principles, however, the Government has failed to act adequately upon the majority of these.

Clear and Effective Communications to Students

NUS was disappointed in the Immigration Minister's decision to announce the actions against institutions in Parliament without first effectively communicating the actions and their consequences directly to the affected students.

Shortly following the announcement, the Home Office established a "fact sheet"² which outlined the actions taken and the institutions involved. This fact sheet could be downloaded to be viewed in in a pdf viewer only. Later updates would include more information on how the action would affect students as well as the mandate and

² Fact sheets were updated as necessary and posted at this site:
[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/392442/Factsheet - Revised - 06 01 15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/392442/Factsheet_-_Revised_-_06_01_15.pdf)

membership of the Working Group. It also included the Home Office student helpline number, set up to assist students in ascertaining the status of their sponsor (i.e. whether they still had a Tier 4 licence) and their own immigration status. The Home Office was clear that this helpline would not provide immigration advice or study advice. Further, that the Home Office may take action against students on the basis of any information they provided via the helpline which the Home Office staff felt presented an immigration risk.

NUS requested that the Home Office contact students directly on behalf of the Working Group to ensure that they were aware of the fact sheet, and importantly, the status of their institution. NUS wished to ensure students' understood that information was available from the Home Office helpline, that free and confidential immigration advice was available through UKCISA, and that student advice was available through NUS. The Home Office included this information in their only communication directly to students: letters sent to select students in November/December 2014 and January 2015, which focused on how to use the course information web-tool developed by HEFCE, and which were accompanied by a letter curtailing their leave.

Unlike the LMU taskforce, the Working Group did not publish any regular updates for students, nor did it issue any press releases to ensure there was public knowledge of what assistance would be available. Students expressed concern to NUS that they were unsure of what was happening to their institutions and that they could not get clear information on what actions they should take to ensure they could continue their courses.

NUS representatives met with students at three of the original 60 institutions and following those meetings brought concerns to the Working Group that students felt unclear on what was happening and were not aware of the communication channels the Working Group had undertaken to use. NUS representatives to the Working Group urged a more direct or public approach be used to ensure students became aware of both the status of their institution and that some assistance would be forthcoming. The Home Office declined to act on this concern.

NUS attempted to communicate key information from the Working Group directly to students. Using social media and contacts from within the institutions affected, most commonly student representatives, NUS was able to communicate with some students but did not have access to all students contact details. Generally, our communications highlighted the advice, support and guidance available to students but the extent to which we were able to communicate information about the Working Group was severely limited, due to a consistent opaqueness from the Working Group regarding the confidentiality or not, of specific information.

Via our webform we asked students if they were aware as to whether their institution had been suspended or revoked. Ninety per cent of the 191 students who responded confirmed they were aware of the action taken against their institution. However only 22% of students felt they had enough information to understand how the action against their institution affected them. As it was gathered, we brought this information to the Working Group but the Working Group declined to provide further communication solutions for students.

Students contacting NUS reported attending immigration solicitors or agents to obtain further information and assistance on their situation. This often resulted in unnecessary costs and unhelpful advice. For example, before the Working Group had launched its web-tool, over 20 students attending one immigration advisor were advised to request their curtailment letters. This meant they were subsequently excluded from accessing the course information web-tool as their leave had been curtailed before the process began.

In light of reports of this confusion NUS requested that a letter, which had been agreed by the Working Group in September 2014, and which included information on the course information web-tool and on additional advice on immigration from UKCISA and student issues from NUS, be sent to students as soon as possible. NUS understood that there was consensus from the Working Group on this point. However, the Home Office cited resource constraints prohibited multiple mailings to individual students and as such the course information web-tool and curtailment letters (in paper or electronic form) would be sent together. This meant students were not informed of the assistance available to them until they received their curtailment letters. For most students this was between 8 and 21 weeks after the action against their institution.

No Educational Disadvantage

In our survey of students November 2014 and January 2015:

- 68% had not tried to find a new place to study at the time of completing the survey
- 7% had found a new place to study in the UK
- 0 had found a new place to study outside of the UK
- 17% had been refused by another institution due to their college's revocation
- 8% had tried to find a new place to study and had yet to be successful for other reasons.
- 13% of students were studying a course specific to their institution.

NUS is strongly of the view that students should not be disadvantaged in their education by actions of Home Office on Tier 4 sponsors. This includes: prolonged disruption to their education, the inability to complete their course, the inability to have course credit applied to already completed academic work, and an inequality of treatment regarding academic progression when compared to home students in the UK.

To support this principle NUS brought several concerns to the Working Group related directly to the position of those students, who were near to completing their course or a specific term of academic work at the time action was taken against their institution. The vast majority of the students currently affected would only be accepted at an alternative institution on condition that they repeat a year (or more) as most will not have been assessed before the end of teaching. This additional year or years of study will need to be paid for, which will impede the ability of many students to transfer, thereby preventing them from completing their studies.

This issue arose in the LMU High Court case, in which NUS intervened on behalf of the students. In that case the judge recognised the disproportionate impact of the revocation upon LMU's students. The Home Office subsequently entered into an agreement (negotiated by NUS and approved by the judge) which permitted students to be 'taught out', i.e. continue to the end of their course or until the end of the academic year, whichever was sooner. Students who met the grounds of a normal application for study were, exceptionally, granted leave outside the rules (with the same permission as regards to work and dependents as if such leave had been granted to a Tier 4 student under the rules). This applied both to students who were already studying at LMU with existing Tier 4 leave, and to students who had been granted leave to begin their studies but who had not been permitted to commence their studies for reason of the revocation.

No such concession has been granted for students affected since 24th June 2014. NUS proposed similar 'teaching out' arrangements where an institution was willing and able to do so. Despite being a clear means of minimising the very serious detriment faced by affected students, NUS understands that this arrangement has not been agreed by the Home Office in any case, although a small number of institutions were assigned 'zero CAS' (see immediately below), which has a similar effect. NUS spoke to the Directors of three private colleges who lost their licences and all confirmed that this option was not part of discussions with the Home Office. Yet each confirmed that they would have taken

up this arrangement had it been offered. Home Office staff at the Working Group refused to confirm whether they were considering this arrangement in any case.

NUS also queried why two Universities who were named in the 24th June statement were assigned 'zero CAS' status, instead of suspension which could lead to revocation. The Home Office could only confirm that this was the most appropriate action in those two cases but could not clarify why this was not used in relation to the other (private) institutions. NUS stated that this action protected existing students while preventing the institution from recruiting which removed any existing or perceived threat to immigration control. NUS continues to support 'zero CAS' as an alternative to revocation as it protects the educational and financial interests of existing international students while allowing the Home Office to address any potential immigration concerns that they identify.

NUS is of the view that students should have the freedom to choose institutions which suit their educational needs. To this aim NUS fully supported the clearing house which was established by HEFCE and was made available to students after 17th November 2014. However, aside from very real financial barrier in transferring to alternative institutions for the vast majority of students, transfer has been made increasingly impractical by Home Office action or inaction. For example, many students whose institutions were revoked on 24th June 2014 left the UK, unclear what their options were and without the financial means to just wait and see what assistance, if any would be offered.

Further, many of those who did attempt to transfer were unsuccessful as their applications were viewed as too risky by some institutions. NUS and institutional membership organisations such as Universities UK, Study UK, Million+ and UKCISA brought evidence to the Working Group demonstrating that many alternative institutions were refusing to accept any students from revoked institutions; some had taken this position independently due to the perceived risk to their own Tier 4 licence, and others had been directed by the Home Office not to do so, for the same reason. Many students reported to NUS that upon making enquiries with alternative institutions prior to the course information web-tool they were told that the institution would not accept students from revoked institutions.

Since the original 60 revocations on 24th June 2014 a further 33 institutions have lost their Tier 4 licences. Many of these were listed in the Home Office's "fact sheet" which was updated frequently from July 2014. However, Mr Millington has refused to extend the support of the Working Group beyond the affected students of the original 60. This unjustified decision has left a great number of students without any support.

NUS objected to this decision for obvious reasons; post 24th June students face the same disadvantages as those who would be included. NUS urged the Home Office to reconsider their decision. The Home Office has refused this request and the students of these additional institutions remain unassisted to find a new educational establishment.

No financial disadvantage

NUS believes that no international student facing the revocation of its sponsors Tier 4 licence should be financially disadvantaged from having to change sponsors.

In the LMU case, BIS announced a financial scheme two weeks after the revocation, whereby affected students could apply to a specific hardship fund for three key areas of funding:

1. Where there were specific costs associated with relocating to a new institution (paid from the BIS fund to the student).
2. Where the tuition fees at the alternative institution were higher (paid by HEFCE to the new institution).

3. The visa costs for a new visa which is standard Home Office practice for any student moving to a new sponsor after revocation (paid in direct transfer by BIS to UKBA, as it then was).

NUS President Toni Pierce and NUS International Students' Officer Shreya Paudel have written to the Secretary of State for Business, Innovation and Skills, the Universities Minister and the Immigration Minister on several occasions to ask that they uphold the principle they applied in the case of London Metropolitan University (LMU) students. Sector members of the Working Group asked that they follow the example of the LMU Task Force and write as a group to both BIS and Immigration Ministers to request equal treatment for the students affected by the revocations they were tasked to support. While this action was agreed at the following meeting it was still not completed. In the August 1st meeting the Chair of the Working Group acknowledged he had not sent the letters requested by the group.

Instead he had sent, without the knowledge or preview of other Working Group members, a letter to the BIS representative of the Working Group requesting they consider providing some assistance to students. He did not feel he could write to the Ministers requested due to his role as a civil servant, despite his role as Chair of the Working Group. The BIS member of the Working Group reported to the Working Group meeting on 19th August 2014 that the position of the BIS and the Universities Minister remained that financial assistance is something they may consider but were not actioning at that time. This position remains as of the last meeting of the Working Group on 22nd January 2015.

NUS remains concerned that students will not be able to use the assistance of the course information tool due to the financial constraints the situation has placed on them.

Following the LMU case the Chair of the taskforce agreed that a review into the process must be undertaken and that international students in this situation must be protected. It was agreed by taskforce members, including both the Home Office and BIS, that it would be up to Ministers to decide how to take forward the lessons learned and members must ensure "everything possible was done to ensure this situation never happened again, and the overarching principle must be that international students affected should be protected".³

NUS has proposed a mandatory student protection scheme since the LMU case in an effort to achieve this protection. By 24th June 2014, almost two years after the announcement of LMU's revocation, no action had been taken to establish a scheme which would have assisted these students and the Ministers who were tasked to take forward the lessons learned from the LMU case have refused NUS' requests for financial assistance for the affected students.

NUS presented the concerns of students regarding finance to the 17th July Working Group meeting. NUS also requested that when the Home Office wrote to sponsors to collect information about students who would need assistance, they should ask the sponsors to confirm if they had refund policies, and if students were aware of these. The Home Office included this question in their sponsor information return form. To date, NUS has not been made aware as to how many sponsors responded positively to that question.

Many students responding to our survey and webform reported they had already paid their fees for the coming year and had no funds left to pay additional fees at alternative institutions. This is likely to prevent many affected students from transferring to alternative institutions. In addition, the average fees paid by students per year in their current institutions is below £5,000. The average fees for the sponsors who are accepting students through the course-information tool is £9,575. Many of the affected students commented in our survey and webform that they took loans from banks, friends

³ Task force minutes, [date?]

and family, and sold possessions to give them the opportunity to study in the UK. Many report they will be unable to absorb the additional costs of completing their studies at a new institution.

In our survey we asked students about receiving refunds from their colleges in cases where they are unable to continue due to home office action:

- 0 students have received a refund

Students were asked if they had requested a refund:

- 9% of students have been offered a refund but to date have not received it
- 5% have requested a refund which has been agreed but not yet received
- 31% have requested a refund and have been refused
- 55% had not requested a refund.

Most students report they have lost between £500 and £12,000 to the institution they had studied at, with some reporting higher amounts.

31% of the students we surveyed were unsure if they wanted to transfer to another university or college. When asked why, all indicated that finance was a factor in this decision.

No disadvantage under the immigration rules

NUS is of the view that any student who would at the current time or in the future be disadvantaged by current immigration rules due to sponsor licence suspension, revocation, surrender or reduction in CAS should be granted a concession to these rules. During the existence of the LMU taskforce a number of concessions were granted which NUS considered to be essential to ensuring that international students at LMU were not disadvantaged as a result of the revocation.

NUS brought to the Working Group students' concerns regarding immigration rules, specifically issues concerning the maximum amount of study time permitted at each level, the ability to complete study of less than 12 months at their current revoked sponsor, and concerns regarding the maintenance requirements for a new visa.

These issues, along with concerns from sector members regarding their ability to assure themselves of a student's ability to obtain a visa, were submitted by Home Office staff to senior officials in the Home Office. Mike Wells, Chief Operating Officer of UK Visas and Immigration wrote back to the Working Group on 13 October 2014 that UKV&I were unable to take a flexible approach in relation to the displaced students. Further, Mr. Wells asserted that to grant concessions to these students who were impacted by the revocation process would disadvantage other students who had not been part of the revocation process.

A further letter from sector members of the Working Group which was sent by the Chief Executive of Universities UK on behalf of representatives from NUS, UKCISA, Study UK, the British Council, English UK, the Association of Colleges, Million+ and the University Alliance on 31st October 2014 reaffirmed the necessity of these concessions as their expertise with both students and sponsors suggested strongly that the processes established by HEFCE would not be successful without these concessions. Mike Wells replied to confirm that UKV&I was not willing to grant any concessions to these students under the immigration rules.

Students have expressed concern in both the NUS webform and survey, including that:

- They had been told they cannot be accepted onto a course by an alternative institution where the new course would require study over the maximum number of years permitted under the Immigration Rules for that level of study.

- They themselves have concerns about starting a course they cannot complete without exceeding the maximum amount of study at that level.
- They are concerned that they will be unable to meet either the maintenance requirement/established maintenance requirement (essentially, to demonstrate a specific level of funds available in their bank account) to obtain a new visa which they did not expect to have to obtain until their institutions' licence was revoked.

On 30 October 2014 NUS wrote to the Home Office on behalf of representatives of the Working Group from Universities UK, UKCISA, Study UK, the British Council, English UK, the Association of Colleges, Million+ and the University Alliance to outline the evidence presented by students through the survey, web form and student meetings. We subsequently met with Home Office policy staff who reiterated, in our view erroneously, their view that requirements of the Immigration Rules would not present a barrier to any student who was impacted as part of this process.

In addition, as reported above, students have been turned away from applying to institutions because they studied at a revoked institution. Working Group members report this is because the institutions feel they cannot assure the risk of providing a CAS to them, which is a required element of the Tier 4 visa. One of the risks identified was English language capability.

Institutions may assess English through both confirmation of an existing Certificate of English Language Test (CELT) at the appropriate level and they therefore rely heavily on the certification from the Home Office regarding appropriate test providers and centres. Institutions are able to check the authenticity of the test through the provider, in this case ETS. However, if ETS itself was unaware of fraudulent activity in one of its test centres (which they were until the request by the Home Office to investigate) it appears to NUS to be unrealistic for institutions to somehow be aware of potential fraudulent activity. After 24th June 2014 institutions became concerned as to how they should seek to identify potential fraudsters, particularly where students had good academic progress in a degree taken entirely in English. However, it was clear that institutions offering CAS to students who, unknown to them, had been identified by the Home Office as fraudsters, might face action. The Working Group was told many institutions considered this too much of a risk to accept *any* students from revoked institutions.

In November 2014 NUS brought to the Working Group concerns from several students regarding their ability to transfer from Tier 4 to Tier 2 status following revocation of their sponsor's Tier 4 licence. Students were concerned that if they choose to not continue studying but instead to take up an offer of employment and transfer to a Tier 2 visa, they would be refused under the Immigration Rules. The Immigration Rules currently require a student to have Tier 4 visa from an institution on the *current* list of sponsors to switch to a Tier 2 licence. If students attended an institution that is now revoked, they would not be permitted this switch. In the LMU case the Home Office agreed to concessions for these students. No such concessions have been granted for students affected since 24th June 2014.

NUS is concerned about the quality and independence of the advice and support being provided to affected students. As mentioned above, some students have reported to NUS that they have sought advice from immigration advisors and solicitors and that they now believe this advice to have adversely affected them. Students need to understand, with confidence, the options available to them and the likely implications of their choices. Even though many affected students do meet the financial eligibility rules for Legal Aid, given the withdrawal of their permission to work, there is now no Legal Aid in immigration matters. Therefore, students seek out affordable immigration advice which is not always of good quality. While UKCISA provides an independent and confidential student advice line, not all students are aware of this line. In our webform 60% of the students who contacted us reported they were concerned about their visa or the visa of

their dependent. Eighty per cent wanted to speak to someone regarding their visa status in this situation.

Conclusions

NUS calls for the Government to take immediate action to ensure that the principles outlined above are fully adhered to, in order to protect international students who have been unfairly disadvantaged by the revocation of their sponsors' Tier 4 licences...

NUS will continue to monitor the situation for students who have now received letters to curtail their leave as well as those who have been unable to access the course-information web-tool as developed by the sponsorship Working Group. For all the reasons indicated above it is unlikely that the course information web-tool alone will address the problems indicated by the students affected by the revocations. It also cannot be predicted how many students will be able to successfully transfer to a new institution when using the tool.

NUS remains concerned that financial and immigration barriers will prohibit many students from continuing the education they had sought to achieve at their UK College or University.

In January 2014 NUS conducted a national survey of international students focusing on their thoughts about the forthcoming Immigration Act. There were over 3,100 responses and many students mentioned feeling a lack of "security" in their ability to continue their education here in the UK. One of the findings of particular concern was that 51% of respondents said that they did not feel the UK government was welcoming to international students. A further 38% would not recommend studying in the UK to a friend or family member.

Many of the responses to the survey referred to the perceived instability in the UK education system, with regular changes to the Immigration Rules and the sponsorship system being identified as sources of concern. International students reported feeling the system did not support them to complete their studies and additional financial burdens such as those proposed in the Act, placed their continued study at risk. It was not surprising when in January 2014 the Higher Education Statistics Agency reported the first ever decline in international student enrolments at UK Universities.

At the current time, the full consequences of the revocation decisions are far from clear. However, it is apparent that the affected students stand to face many and severe difficulties as a result. Like the students from London Metropolitan University, they have had their education in the UK severely disrupted by the decision. Regrettably, the support offered by BIS, the body which is mandated to support them, falls far short of mitigating the harm caused to them, and by extension, to the higher education sector.

Appendix I

Appendix I, the Terms of reference of the Sponsorship Working Group, can be found on www.nusconnect.org.uk

Appendix ii

NUS Notes on Sponsorship Working Group Meeting July 7th, 2014

This was the first meeting of the Sponsorship Working Group and sought to understand the situation which led to the announcement in Parliament on June 24th, 2014 and establish terms of reference for the group.

The Home Office compliance team outlined:

- The actions taken against 60 institutions to date.
- There would be further institutions with action taken against them
- There is in excess of 20,000 students involved in the institutions named.
- A student helpline has been established by the Home Office and students can call to obtain individual information of their circumstances.
- New institutions need to undertake their regular checks to accept any student transferring from an affected institution.

The Sponsorship Working Group members noted:

- A large number of students may not be aware of the current situation of their respective existing Tier 4 sponsor, as the institutions are not making students aware or providing the UKV&I helpline number.
- With further action planned, there will need to be assurance that students will not be switching from one institution who has been revoked to another which will be revoked.
- Communication with students need to be timed appropriately given the September/October course start dates
- Some students have accessed loans to pay for their study, however they have no fee protection. This needs to be taken into account if they are studying at an institution that is suspended and revoked.
- Confirmation in relation to the level of courses the affected students are studying would be beneficial to the sector.
- UKV&I to provide a process for working with institutions once a licence has been suspended and/or revoked.
- The group were interested in the QAA review of London campuses and asked that where applicable QAA feed into this working group.
- Sponsorship Working Group to highlight concerns to external stakeholders such as JET and others, where necessary.

The Sponsorship Working Group Agreed

- UKV&I to invite Study UK, English UK, Million+ and University Alliance to the Sponsorship Working Group.
- Update the minutes to be circulated after the meeting.
- Update the 'Terms of Reference', taking into account the groups comments to be circulated after the meeting.
- Next meeting to be held in London with video conferencing facilities.
- UKV&I to provide a report of the number of students affected.

NUS Notes on Sponsorship Working Group Meeting – 17/07/2014

This was the second meeting of the Working Group and the first for many members added at the request of others at the previous meeting.

The Home Office outlined:

- 2 licences had now been revoked and 1 sponsor had surrendered its licence.
- The Home Office confirmed that UKVI are unable to 'waive a fee' under Immigration Legislation. Therefore, students will need to pay a new visa fee if they chose to switch to a new institution. NUS clarified that the intention was not for the Home Office to waive a fee but for BIS and the Home Office to work together to provide financial assistance to reduce this fee to £0.
- The Home Office confirmed that the 5 year limit of study at undergraduate level is to be checked to confirm whether a student switching from one institution to another, following revocation of the sponsors licence, will have repeated years applied to this rule.
- The Home Office confirmed that any student studying for over 6 months would have an "established presence" when applying for a new visa.

The Working Group members noted:

- It was noted that some of the group feel the term 'genuine students' is not suitable. The Home Office discussed the direction of the SWG is to support genuine students and not assist students who have obtained leave in the UK by deception. It was suggested that the term 'affected students' was used. This was to be considered.
- BIS indicated that the Higher Education fund that was available for the LMU revocation is no longer available
- Working Group members stressed a process needs to be agreed early to help and support the students switching institutions.

The Working Group Agreed:

- It was agreed that the Home Office would write to the BIS Minister and ask for confirmation on the funding situation.
- The Home Office confirmed it would provide further advice on 'Zero CAS' as an option for action against sponsors.

NUS Notes on Sponsorship Working Group Meeting – 01/08/2014

The Home Office outlined:

- The Home Office confirmed that there are further revocations on the horizon.
- The Home Office re-iterated that there is no flexibility on the Tier 4 guidance in relation to 'established presence' and students from revoked institutions without 6 months of their current leave completed would not qualify for the reduced maintenance amount.
- They also confirmed that there is no flexibility on the Tier 4 guidance in relation to the '5 year limit'.

The Working Group members noted:

- NUS asked if the Home Office could permit students currently studying to complete their studies at revoked institutions until the completion of their course or 12 months' time, whichever sooner. The Home Office confirmed that UKVI are duty bound by processes and guidelines that stipulate they must respond and take certain action within certain timeframes.
- NUS asked if the process could be not to issue a curtailment letter until a response had been received from the institution and the students regarding their required support.
- It was noted that NUS were concerned about the letter sent to BIS not being shared with the SWG. NUS was also disappointed that the communication was sent to BIS staff and not to the Minister, as agreed at the meeting of 17th July 2014.
- NUS asked if UKVI could postpone issuing curtailment letters to students until all investigations had been completed as students are still worried about students experiencing "repeat revocations" after switching to a new sponsor who was also under investigation. The Home Office confirmed that they were unable to wait until all investigations are complete.
- NUS expressed we were unhappy with the reply to the document they sent to the Working Group containing 15 student concerns. The concerns were for the Working Group to address and not for the Home Office to respond that it was not their area of concern or by re-stating rules which were already identified as a barrier.
- NUS noted that the second NUS document of a further 11 students concerns had not been responded to by the working group. The Home Office requested a copy of the second NUS document containing a further 11 student concerns in order to respond. NUS reminded them that the concerns are for the Working Group, and not just the Home Office as a member of the Working Group, to respond to.
- NUS asked if there could be a letter sent directly to students that is somewhere in between the revocation and curtailment stage to outline the assistance that would be provided. The Home Office said they would consider this.

The Working Group Agreed:

- The Chair agreed to circulate BIS's response to the Home Office's letter.
- The Chair agreed to write a letter to the Immigration Minister asking for immigration concessions which would be circulated to members prior to being sent.
- A sub-group would be set up to specifically action communication to students.

NUS Notes on Sponsorship Working Group Meeting – 19/08/2014

The Chair confirmed that the 'questionable' cohort of students from the ETS testing fraud will no longer be included in the SWG process or the data that UKVI will provide on student courses. Only the 'clear' cohort will be assisted by the SWG. NUS and other members of the working group disagreed with this judgment on the lack of any evidence against these students.

The Home Office outlined:

- There is no set timescale within the guidance on how long an institution can be assigned 'Zero CAS' status.
- The Home Office responded to NUS' request for a letter between 'revocation' and a student's leave being curtailed by saying there was a daily updated factsheet that students should be signposted to.
- The Home Office provided an update on the timeline of the remaining suspended institutions
- The Home Office confirmed that UKVI's aim is about immigration and controlling borders. If the sector proposes a process to be used for future revocation, this would need to be put forward by the sector and not UKVI.

The Working Group members noted:

- Members had information that at least one institution had decided not to accept any more international students whom are already in the UK and currently studying at a private college. The Home Office that this is not a UKVI requirement and not something they had heard of.
- Members noted that it would be difficult for institutions to be confident they could assess the ability of a student to be awarded a visa given that the Home Office held information from ETS and from other sources which it would not share but would use in deciding on a students' visa. The Home Office confirmed they would consider this situation.
- NUS indicated students are reporting that they are being turned down by new institutions because they come from a revoked or suspended institution. NUS felt that the SWG should be encouraging new sponsors to take on these students.
- NUS suggested that there was a need to check if ETS have told the 'invalid' and 'questionable' students that their test has been withdrawn and they need to obtain a new CELT.
- NUS also suggested that the students requiring the most time to obtain a new CELT to apply for a new CAS are being given the least time to do so as their leave is being curtailed.
- NUS requested clarification of the process students can use to challenge the accusation of obtaining an English Language Test or a Visa by deception.

The Working Group Agreed:

- The Home Office agreed to clarify how many students are in the 'invalid' cohort.
- The Home Office will also clarify what will happen to those students who have obtained a TOEIC certificate by deception, however have not used this as part of any application for leave to remain and therefore not obtained any leave to remain by deception.

NUS Notes on Sponsorship Working Group

Meeting – 11th September 2014

The Home Office outlined:

- They are still looking into clarifying how many students are in the 'invalid' cohort.
- Students wishing to challenge the decision of an 'invalid' ETS certificate will be unable to do so because a Section 10 decision invalidates their leave to remain and there is no right of appeal against this decision.
- The Home Office confirmed that they have not advised any institutions to not accept students from suspended, revoked or private colleges. It is for the receiving institution to assess whether they should accept any student.
- Now 27 revoked and 4 suspended institutions
- The SWG was associated with assisting approximately 24,000 students, this has now reduced to approximately 11,000 following the latest re-instatements.

The Working Group members noted:

- Concerns were raised by the working group regarding problems with the factsheet and the fact that it was difficult to ascertain the changes from one version to the next.
- The new 10% HTS threshold will have an effect on the SWG's ability to help students, given that no concessions are currently in place for sponsors to mitigate against a visa revocation being held against this figure – The Home Office agreed this would be fed back to senior colleagues.
- There is a need for clarity around the courses students are taking to ensure there is an appropriate range of courses available to them if they wish or are required to transfer from an institution.

The Working Group Agreed:

- It was agreed that the Chair will confirm if financial support will be offered to affected students.
- It was agreed that a sub-group would be set up to specifically progress the HEFCE information exchange portal.

NUS Notes Sponsorship Working Group

Meeting – 27th November 2014

The Home Office outlined:

- The Home Office stated they would hold off issuing curtailment letters to students.
- It was confirmed by the Home Office that the figure of 5,558 students the SWG would assist has reduced and will continue to reduce, as some of those affected will have undertaken steps to change their circumstances, for example having already found a new sponsor or departing from the UK.
- It was confirmed that the SWG cohort of students will not receive any priority processing of their applications.

The Working Group members noted:

- NUS again suggested that the Home Office writes a letter to students to clarify what is happening and how it impacts them.
- NUS reports that students are being told they require a curtailment letter to transfer to an alternative institution. NUS is concerned that students are being given incorrect and unhelpful advice by for-profit immigration advisors and solicitors. NUS asks the Home Office to write a letter to students and sponsors to confirm that students do not require a curtailment letter to transfer institutions, as students are reportedly being turned away by new sponsors because they do not have their letters.
- NUS raised that they were disappointed that students will receive their letters at the start of the Christmas break when sponsors may have less availability to discuss course offers, although the CIT will continue to be available throughout Christmas.
- The working group noted some sponsors may not have a sufficient CAS allocation to support students by providing a place on a course. They asked that the CAS allocation requests of institutions on the CIT be given priority and processed quickly.

The Working Group Agreed:

- In the absence of further opportunities to communicate with students the sooner information is shared with the second cohort regarding the course information web-tool, the better as there are no courses available to accommodate the numbers between February 2015 and September 2015, even if this means issuing these students with curtailment letters more quickly than others.
- Home Office would review information being given to students who call the helpline regarding curtailment letters.
- That UKVI will commence the start of the process for cohort 2 on Monday 1st December.
- We will now commence winding down the SWG.