

Implications of Tier 4 UK Immigration Rules for Foreign Students

ELIZABETH ACHINEWHU-NWORGU
Birkbeck University of London, United Kingdom

QUEEN CHIOMA NWORGU
London Metropolitan University, United Kingdom

ABSTRACT Changes introduced in 2010 to the Tier 4 immigration rules that apply to non-EU students wishing to study in the UK have led to a reduction in the overall number of non-EU students gaining entry to the UK. This paper outlines the reasons for these changes to the UK's immigration rules and explores the experiences of one group of non-EU students in relation to the new rules. Quantitative and qualitative research methods were used to capture the perceptions of 40 students from Nigeria on the impact of the 2010 UK Border Agency rules and policy on their experiences as non-EU students and on their career development. We suggest areas for reviewing the current policy that would improve the experiences of non-EU students, to enable them to maximise the undoubted opportunities of coming to the UK to study and acquire the British education that will enhance their job opportunities all over the world.

Keywords: Immigration, law, rules and regulations, non-EU students, career development

Context

The UK's points-based immigration system and Tier 4

In early 2008 the UK introduced the first phase of its new points-based immigration system. This is broken into five tiers: highly skilled migrants who come under the Exceptional Talent visa, entrepreneurs, investors, Tier 4 students and a few other categories of people (Immigration Matters, 2012). Students coming to the UK under a Tier 4 student visa require a university or other UK educational institution on the register of sponsors to sponsor them.

They also need to score enough points to be accepted as an international student in the UK (UKCISA, 2015). Tier 4 seeks to ensure that only those students who genuinely wish to take up study in the UK can come to the UK and only those educational institutions that are genuine and bona fide providers can continue to recruit non-EU students. Since the end of March 2009, non-EU students applying to come to the UK have been assessed under the new points-based system. Students must provide evidence of sufficient funds to pass a maintenance test, as well as any qualification certificates or other documents used to obtain an offer from the educational institutions. Educational institutions that sponsor non-EU students are required to comply with record-keeping duties, such as keeping copies of passports and up-to-date student contact details. Educational institutions are also required to ensure that students comply with the terms of their visa. Separately, all potential non-EU students must be provided with a confirmation of acceptance for study letter (University of Edinburgh, 2014). Since the introduction of Tier 4 there has been a decline in the numbers of non-EU students coming to study in the UK (The Migration Observatory, 2014; Universities UK, 2014).

The 2010 changes to UKBA student visa rules

In early 2010, the UK temporarily suspended student visa applications from non-EU students due to an apparent failure of the system which saw many visas being granted to individuals who did not meet the requirements of the UKBA rules and regulations. As a result, applicants for student visas now have to be able to demonstrate a higher level of proficiency in the English language than previously (HM Government, 2015). Previously there was no time limit for study at or above degree level for non-EU students coming to study in the UK. Going forward foreign students will only be allowed to study in the UK for three years at undergraduate level or five years at post-graduate levels (Smith, 2011; Gherson, ND).

UKBA announced that all current Tier 4 Sponsors, if they are not already subject to inspection or review by one of the designated educational oversight bodies, must apply to the appropriate body by the relevant deadline as detailed in the current sponsor guidance. These inspections and reviews were to take place throughout 2012, with the results of each inspection or review published on the website of the appropriate educational oversight body.

There is also a requirement that non-EU students who come to study in UK colleges and universities must be able to demonstrate the ability to cope financially whilst on the course, which has meant that more non-EU students are finding it difficult to study in the UK. The intention behind this rule under Tier 4 is to ensure recruitment of genuine international students only. These legitimate students are those who will bring economic benefits back to their home countries as their future skilled workforce, and who in turn are

granted the best provisions the UK government has to give. This alteration of the Tier 4 immigration policy has obvious implications for the international students, effectively making it more expensive to study in the UK, and therefore preventing more genuine students from non-EU countries coming to study in UK institutions.

A further tightening of the restrictions on non-EU students was announced in early 2014 by Immigration Minister Damian Green, in relation to how long non-EU students can work in the UK after completing their degree programme. Previously students could remain for 2 years after their studies had finished under the Tier 1 PSW (Post-study work) route. But from 6 April 2014, a more 'selective' system was introduced restricting the right to stay to international graduates who qualify under new rules. Only those who 'graduate from a university', and have a skilled job offer with a minimum salary of £20,000 (or more in some cases) from a reputable employer accredited by the UK Border Agency, will be allowed to continue living and working in the UK.

Case study: How the UK's Tier 4 immigration rules were seen by students from Nigeria

This small scale research study explored the experiences of one group of non-EU students in relation to the UK's Tier 4 immigration rules. It used both quantitative and qualitative research methods to capture the perceptions of students surrounding the rules and policy of the UK Border Agency and its impact on their career development, focussing on Nigerian students studying in the UK as a case study group. The research involved telephone interviews with 40 Nigerian students on 10 RSSB and 20 RSSDA scholarship and 10 private students studying in the UK. The majority of the respondents (20) were on engineering programmes or on degrees relating to work in the oil and gas industry (16), with a further 4 students studying for computing degrees.

It was universally recognised among the 40 respondents that gaining a degree from a respected UK higher education institution would significantly enhance their future employment opportunities. As one respondent commented:

I was motivated by my teacher to study in the UK. My university lecturer studied in the UK and I have always admired the way he spoke and the values he attached to the UK education system. He was a role model to all the students and taught us very well. I decided to do my Master's degree in the UK to gain a sound education that I believe will surely enhance my job opportunities in the world at large.
(S10)

However, this same student went on to caution that the path to gaining a degree in the UK is possibly harder now than it once was for non-EU students:

It is not easy. I am not sure that it was the same when my lecturer studied here. As a sponsored student without a job to support the money we get from the sponsor, it puts you off coming to study here. When you run out money, landlords will be on your neck, and there's nobody to cry to. Employers are not willing to employ you because of the Home Office restrictions and rules and penalty policy for employers. Yes, it's good to study here but be ready to face the hardship as a non-EU student. (S10)

In most cases the respondents were sympathetic to the reasons behind the UK's points-based immigration system, but they felt that the many requirements now placed on students under Tier 4 were excessive. Several described the process of gaining admission to the UK as being "stressful" or "difficult". The following assessment was typical of the views on the ease of satisfying the Tier 4 rules and gaining admission to take up their hard-earned place to study at a UK university:

It was not easy. The TOEFL English test you have to take as a student with WASCE, despite the fact that my first language was English, is a hindrance to some students aspiring to study in the UK. The fact that we are classified as non-EU students means we still have to take the English test. Coupled with the evidence that you must have sufficient funds in the account and it has to be there for 48 days has made the process too stressful to apply to study in the UK institutions. I was almost sleeping in the Board's office submitting one document or another. I sustained the stress because I came on a Scholarship. Even when we arrived at the airport, we were still scrutinised and bombarded with questions. However, I am proud of coming here to study and really like the discipline of this country. The UKBA Tier 4 system is too rigorous for students and needs to be made easier to encourage more non-EU students to study in the UK. However, I still respect the law which prohibits illegal immigrants to crowd the country. (S18)

Even with the financial support provided by their sponsor, many of the students nonetheless found it a challenge to make ends meet once they arrived in the UK and started their studies. They also had to deal with additional paperwork associated with meeting UK Border Agency requirements. The following student said that overall they enjoyed studying in the UK, but that there were additional stress linked to being a non-EU student:

For me, the three difficulties faced since studying here are: stress of not getting a part time work to help my studies, the demands of the

institutions as they are meant to comply with the UKBA rules and regulations which affect us, stress of rushing to submit one assignment or another in a short period to avoid exceeding your time limit in the UK. (S24)

The difficulties of gaining entry to the UK in the first place, allied to the additional pressures that these students experienced once on their courses, contributed to a feeling – expressed by the majority of the respondents – that non-EU students are not currently treated fairly by the Tier 4 immigration rules. Whilst all understood the rationale behind the rules, many pointed to what they saw as the unfair differences between how EU and non-EU students are treated. In the words of one respondent:

Obviously, there are good and bad aspects to the system. In fairness to the system, it does achieve its aim, which is a cap on the inflow of illegal immigrants into UK. It helps to control the population and is good for the welfare system. However, it seems unfair as it is mainly geared to non-EU immigrants who actually bring in wealth to the UK economy. Immigration control should include all countries. It should exclude those who have nothing to offer to the economy. Students should not be classified as immigrants as they have limited time to go back after their studies. Young people should be allowed easy access to education in the UK so that they can go back to their countries and be good citizens. (S27)

The best way in which to summarise the overall experiences of studying in the UK of the respondents in this study is to say that it was mixed. Whilst the respondents were generally very happy with the quality of the education they experienced in UK higher education institutions, they were dissatisfied with the hurdles and complications they encountered because of their status as non-EU students. A particular challenge for many was in surviving financially. As the following example makes clear, it can be extremely difficult for non-EU students to work part-time to supplement their sponsor's contribution to the costs of living and studying in the UK:

Studying in the UK as a non-EU student can make you feel good when the going is fine but also sad when you cannot cope. Being my first time in the UK to study, my expectations were too high. The immigration rules and regulations I was confronted with were almost off-putting. I thought I could immediately get a part time job on arrival to support the money from my sponsor. I had to wait more than three months to get my national insurance number required by employers for me to work. When I finally got my NI, I applied for more than 20 jobs, but none of the employers were willing to employ me as a student. Some told me they wanted full time staff, but I knew it was

not the case but rather the worries about breaching the immigration rules on a student visa. (S33)

The operation of the Tier 4 rules, and the time restrictions on how long a student can remain in the UK, can also cause complications where a student's academic progress has not gone to plan:

My experience ranges from positive to negative. I came to study here in 2009 and was put on a foundation programme with my O-Level result which did not qualify me for direct entry into a university. I came on a Scholarship scheme and my award was linked to a specific course. I am not a science student but I took the offer and came over. The foundation course was tough due to Mathematics which I had to do to be enrolled in the Uni for Mechanical Engineering. I struggled on my programme for five years and exceeded my time limit. I had a module more to catch up. I was asked to go home to re-apply for completion. I just arrived and am now completing the course. You can see my negative experience. On the positive, I was allowed to come back to complete the course but it took me longer than I envisaged due to going back home and coming back again. People need to understand that there are slow learners and this law cannot apply to them if people like me are to achieve a British degree. (S30)

In spite of all of the various challenges, the respondents felt that their ability to study in the UK had positively enhanced their career prospects. However, they were also very aware that they were the "lucky ones" and that there were many others from their country who could also have benefitted from a UK university education but were missing out because they had not satisfied all of the Tier 4 requirements.

Conclusions

This small scale study with 40 Nigerian students reveals that Tier 4 has had a major impact on the experiences of this group of non-EU students. The process of satisfying the many entry requirements linked to Tier 4, in order to take up their place to study in the first place, proved to have been a significant challenge for many of the respondents. Even once they arrived in the UK and commenced their course of study, their status as non-EU students put them at a significant disadvantage compared to home and EU students. Not only did they have to deal with additional paperwork from the UK Border Agency, but they found it difficult or even impossible to secure part-time work in order to adequately support themselves. For some students, the restrictions on how long they could remain in the UK as a student caused prob-

lems if for some reason it was not possible for them to finish their programme of study within the intended timeframe. Despite their overall positive experiences of studying in UK higher education institutions, these students reported considerable additional stress and anxiety that stemmed directly from the hurdles and restrictions presented to them by the Tier 4 policy and rules. As such, their experience was more challenging than that of their peers from home and EU countries—something which they experienced as “unfair”.

Not surprisingly, based on the above experiences, the respondents in this study had a number of suggestions for improving access to UK higher education for non-EU students. Some argued that this was only fair, given that many non-EU students would be using their skills in “helping to boost the British economy” (S3). Others felt that the unfairness of the Tier 4 system was in “singling out non-EU students” for different treatment compared to their EU counterparts (S18). A key area that many wanted to see improved was to make it easier for non-EU students to gain part-time work once they are in the UK. Some even went so far as to suggest that Tier 4 should be removed altogether and that there should be a return to the previous system for student visas.

It is a worrying conclusion from this research that non-EU students experienced ongoing difficulties linked to the Tier 4 requirements even after gaining entry to the UK. They have additional bureaucracy to deal with, they find it much harder to gain part-time employment and to financially support themselves, and there is little or no flexibility if they do not complete their course within the usual allotted time frame. All of this puts an additional stress and strain on these students, who already have to cope with many other pressures by virtue of studying so far away from their home country. We recommend that the UK higher education authorities look seriously at these issues and work with the UK Border Agency to make the Tier 4 requirements less onerous in order to ensure that non-EU students have the same opportunities to succeed as students from other countries. This should include a review of whether the current support provided by universities to non-EU students—who after all are paying a premium for their education—does enough to help these students with UKBA requirements so that this is not to the detriment of their education and experiences in UK universities.

Correspondence

Elizabeth Achinewhu-Nworgu
Focus Learning Support
2 Hurlock Street, Highbury,
London N5 1EB, United Kingdom
Email: focuslearningsupport@googlemail.com

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