

# Common Assessment Regulations: Tier 4 requirements

## 1. Introduction

- 1.1 The Tier 4 (General) Student rules for granting leave to study in the UK and the accompanying Sponsor Guidance are issued by UK Visas & Immigration (UKVI). Under these rules, NTU is licensed to sponsor Tier 4 students and must obey the obligations that flow from that status.
- 1.2 The Tier 4 (General) Student rules include an important 60-day rule that is provided as appendix A.
- 1.3 This CAR Supplement is concerned with the implications of these rules for the University's Common Assessment Regulations (CAR).
- 1.4 While the Tier 4 rules do not necessitate changes to the letter of the CAR, the CAR's inherent flexibility means that several clauses do require careful application to ensure that NTU and its Tier 4 sponsored students do not breach legal requirements.

### Explanatory note

- This supplement does not attempt to explain the detailed provisions of UKVI Tier 4 rules or provide guidance on their wider application to such matters as admissions, funding or student support. Section 4 sets out the key University contacts on all Tier 4 aspects and provides a link to source documents.
- 1.5 The applications that follow seek to satisfy the key obligation of the Tier 4 rules: universities must monitor the attendance of all its sponsored students.

## 2. A student's right to retrieve a failure

- 2.1 Normally an NTU student has a right following initial failure of a module to be reassessed on one further occasion to achieve a pass.
- 2.2 The maximum number of attempts normally allowed for an NTU student to pass a module will be two: first attempt and referral or retake. At non-final award levels, a Board of Examiners may authorise a third attempt.

#### *TIER 4 Commentary*

*The UKVI Sponsor Guidance for Tier 4 sponsors states: "In exceptional circumstances we will allow students to re-sit examinations or repeat any part of their course more than twice for individual examinations or modules but we may ask you to justify this."*

*It is important to note that UKVI do not clarify what they consider to be "exceptional circumstances." This means that a Tier 4 student is allowed a maximum of three attempts where they have an accepted Notification of Extenuating Circumstances (NEC) or the board has used their judgement. If a University continues to sponsor a student beyond these limits, it may have its licence downgraded or withdrawn.*

*It follows that the letter of the CAR must be followed: a discretionary third attempt at any assessment must be the **final** attempt for all Tier 4 students.*

- Boards are reminded that the CAR allow a board to exercise academic discretion and apply compensation at first, referral and retake or third attempt.
- Appendix B sets out the decision codes that will generate a further attempt under UKVI Tier 4 rules.
- A Late Submission Pass counts as a single attempt not two attempts, as does a time extension provided it does not exceed the 60-day rule.
- A deferral will lead to two attempts irrespective of the 60-day rule. A deferral or break in studies beyond 60 days across a student's studies will mean that the student is no longer studying and needs to return home. If the student must defer their studies, they will need to make a fresh visa application when they wish to return.
- Some courses are regulated by a Professional, Statutory and Regulatory Body (PSRB) which may not allow a student to undertake a second or third attempt: clearly those courses should continue to operate under those regulations and are not affected by this Tier 4 guidance.

### **3. NECs: a student's right to be reassessed as if for the first time ("first sit")**

- 3.1 If it is established that extenuating circumstances have impaired performance in an assessed task, an NTU student has the right to be reassessed as if for the first time in any or all of the modules or elements of assessment, as specified by the board.

#### *TIER 4 Commentary*

*The UKVI Sponsor Guidance for Tier 4 sponsors does state that they will now accept exceptional circumstances but they have not specified what they consider exceptional circumstances to be. An exceptional circumstance would be where a student is deemed to have used up an attempt even where that student is subsequently awarded a "first sit" under the University's NEC process. It follows that in the consideration of a Tier 4 student, any failure to attend or submit for a module assessment or failure in that*

*assessment will always count as one of the three permitted attempts irrespective of any substantiated extenuating circumstances.*

- Boards are reminded that the CAR allow a board to exercise academic discretion and apply compensation at first, referral and retake or third attempt.
- It is accepted that the continuing use of the CAR term 'first sit' may lead to some confusion: there is a risk that a Tier 4 student may not fully understand that the 'first sit' recorded on their Student Record will be their second or indeed third and final attempt under Tier 4 rules. **Boards must therefore communicate to each Tier 4 student granted a "first sit" that this decision constitutes a further attempt under Tier 4 rules:** especially if that "first sit" constitutes a student's final permitted attempt under those rules.
- A Tier 4 student's "first sit" attempts should be recorded by the board as they are not currently shown on the Banner spreadsheet.

#### 4. Referral and retake at non-award levels – where a board allows a student to progress to the next level with trailing modules

- 4.1 A board may use its discretion to allow an NTU student to proceed to the next level with module failures (normally provided the failures do not amount to more than 20 credits). Reassessment in those failed module(s) should either be undertaken by a referral assessment in September or by retaking the whole module in the following year (with or without attendance). If it is done with attendance the student must be studying at least 60 credit points at any point in the academic year.

##### *TIER 4 Commentary*

*There are no particular considerations to be taken into account. While there is a Tier 4 requirement to monitor students who are undertaking retakes in trailing modules without attendance, such students will be attending normally in respect of all other modules and de facto will be monitored.*

*It should be noted that no change in the University's current referral timescales is required to meet the Tier 4 60-day rule as vacation periods do not count in this calculation.*

- Boards are reminded that the CAR allow a board to exercise academic discretion and apply compensation at first, referral and retake or third attempt.

#### 5. Referral and retake at non-award levels – where a board determines that a student cannot directly

## progress to the next level because they have too many existing module fails

- 5.1 An NTU student should not normally be allowed to proceed to the next level carrying a deficit of more than 20 credits. Such a student must undertake re-assessment in the failed module(s) over the course of the following year. Re-assessment would normally take the form of a retake (with or without attendance). If it is done with attendance the student must be studying at least 60 credit points at any point in the academic year.

### *TIER 4 Commentary*

*If a student's re-assessment solely involves retaking the whole module(s) (without attendance) in the following year then the student must return to their home country as NTU will be unable to fulfil its Tier 4 monitoring obligations. NTU is obliged to inform UKVI that it has ceased to sponsor the student, in which case the student's original visa will be curtailed as per UKVI regulations. A board may allow a student to submit coursework from their home country or attend locally invigilated examinations, but if a student is required to attend at NTU for re-assessment they must submit a fresh application for leave to enter the UK. In practice, the student would need to request a new Confirmation of Acceptance for Studies (CAS) statement and submit an application to an appropriate British Embassy or Visa Application Centre for new leave to enter the UK, i.e. a new visa. This would not be a reactivation of their previous visa but an entirely new application meaning the student must again meet the Tier 4 student visa criteria in order for their visa application to progress.*

*If a student's re-assessment requirement involves retaking a whole module(s) (with attendance) in the following year then NTU will be able to fulfil its Tier 4 monitoring obligations as long as the student is studying a minimum of 60 credits or equivalent for postgraduates. However, the student must apply to extend their leave to stay in the UK at an appropriate point because by the end of their overall course they will have exceeded the standard Tier 4 period of leave to stay (i.e. the length of the course, plus four months after the end of the course). Students should be advised to take advice about the visa application process at least two months before their visa is due to expire. Students should be referred to the International Student Support Service, located in Student Support Services (City Campus) who will guide them through the process.*

*A Board of Examiners' decision to require a Tier 4 student to repeat without attendance should be considered extremely carefully because of the UKVI rules. In the interests of ensuring parity of treatment for the cohort as a whole, a board should consider formulating a convention that will also be appropriate for non-Tier 4 students who have similar result profiles. Where a decision is taken that the student does need to repeat without attendance, the enrolment status of the student should be amended accordingly.*

- Boards are reminded that the CAR allow a board to exercise academic discretion and apply compensation at first, referral and retake or third attempt.

## 6. Referral and retake at a final award level

- 6.1 An NTU student may be offered the option of being re-assessed for a final award in the failed modules on one further occasion. Reassessment in those failed

module(s) should either be undertaken by a referral assessment in September or by retaking the whole module(s) in the following year (with or without attendance).

#### *TIER 4 Commentary*

*If a student's re-assessment solely involves retaking the whole module(s) (without attendance) in the following year then the student must return to their home country as NTU will be unable to fulfil its Tier 4 monitoring obligations. NTU is obliged to inform UKVI that it has ceased to sponsor the student, in which case the student's original visa will be curtailed as per UKVI regulations. A board may allow a student to submit coursework from their home country or attend locally invigilated examinations, but if a student is required to attend at NTU for re-assessment they must submit a fresh application for leave to enter the UK. In practice, the student would need to request a new Confirmation of Acceptance for Studies (CAS) statement and submit an application to an appropriate British Embassy or Visa Application Centre for new leave to enter the UK, i.e. a new visa. This would not be a reactivation of their previous visa but an entirely new application, meaning the student must again meet the Tier 4 student visa criteria in order for their visa application to progress.*

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*A Board of Examiners' decision to require a Tier 4 student to repeat without attendance should be considered extremely carefully because of the UKVI rules. In the interests of ensuring parity of treatment for the cohort as a whole, a board should consider formulating a convention that will also be appropriate for non-Tier 4 students who have similar result profiles. Where a decision is taken that the student does need to repeat without attendance, the enrolment status of the student should be amended accordingly.*

- Boards are reminded that the CAR allow a board to exercise academic discretion at a final award level and apply compensation at first or referral/retake attempt.

## **7. Special note on postgraduate provision**

- 7.1 There is no standard model of postgraduate course design; therefore, progression within specific courses – and decisions about individual student progression – will take place in different ways, at different times and according to different nomenclature across NTU's postgraduate portfolio.
- 7.2 While progression to the next level does not apply in a formal sense, at least one board will meet during the period of a course to take referral and retake decisions on whether a student may progress to the next module, to a series of modules, to the next stage, to the next term or however else a course is approved to operate.

- 7.3 Whatever the precise progression terminology and practices used within a postgraduate course, boards should operate within the explanations set out in this Supplement and the imperative of compliance with UKVI requirements.

#### Period of leave to study

- For postgraduate courses of 12 months or more the period of leave to study in the UK is the length of the course plus four months after the end of the course.
- For postgraduate courses of more than 6 months but less than 12 months, the period of leave to study in the UK is the length of the course plus two months after the end of the course.
- For postgraduate courses of less than 6 months the period of leave to study in the UK is the length of the course plus seven days after the end of the course.

## 8. Key contacts

- For general advice on issues relating to Tier 4 students and NTU's procedures for managing its obligations under the legislation please email [REGTier4@ntu.ac.uk](mailto:REGTier4@ntu.ac.uk). Further information is also available on the Tier 4 SharePoint site.
- Tier 4 wording for use on Board of Examiners' letters is located in the Tier 4 Re-sit and Repeat guidance on the [Tier 4 SharePoint](#) site; or by contacting [REGTier4@ntu.ac.uk](mailto:REGTier4@ntu.ac.uk).
- For further advice on applying the CAR for Tier 4 students, please contact CADQ.
- For further advice on Academic Appeals, please contact [REG.AcademicAppeals@ntu.ac.uk](mailto:REG.AcademicAppeals@ntu.ac.uk).
- International students seeking guidance on how the visa regulations affect them personally should be referred to the International Student Support team in Student Support Services by emailing [int.support@ntu.ac.uk](mailto:int.support@ntu.ac.uk).
- The UKVI website <https://www.gov.uk/government/organisations/uk-visas-and-immigration> maintains guidance and updates on the latest regulations for both staff and students.
- Colleagues are reminded that their School should also have useful contacts.

## Appendix A

*The UKVI guidance describes the 60-day rules as follows: “You may continue to sponsor a student during the re-sit or repeat period if you require their continued participation (in classes or by contact) and are confident you can meet your sponsor duties for them during the re-sit or repeat period. **If you do not require their continued participation within 60 days of the next academic period starting (except for recognised vacation periods) you should not continue to sponsor them.** If they have ongoing permission to stay in the UK, you should tell us this and advise them to leave the UK. Alternatively if their permission is due to expire, you must not assign a CAS and they must arrange to leave the UK. You may later assign a CAS which they may use to apply to return to the UK.”*

*Where the student has continuing leave but the University does not require participation during this 60-day re-sit period, NTU are required under our licence obligations to inform UKVI of this and also to advise the student to leave the UK. If the student's leave is due to expire and NTU does not require continuing participation within 60 days of the start date of the next academic period, a new CAS should not be assigned and the student should make arrangements to leave the UK. NTU may then, at a later point, assign a CAS which the student may use to make an application to return to the UK.*

## Appendix B

Module decision codes that will generate a further attempt:	
RR	Referred
RE	Referred by exam
RK	Referred by coursework
RT	Referred by test
RM	Referred – contact Module Leader
RW	Referred by reworking exam
RF	Referred – final attempt
DF	Defer
1S	First sit
1A	First sit in Aug/Sept
1N	First sit next academic year
1O	First sit next opportunity
F?	Fail after referral
FE	Fail element after referral
FA	Fail-repeat without attendance
FN	Fail-no more attempts allowed
FR	Fail – repeat module
FW	Fail – repeat with attendance
FC	Fail-repeat for credit only
FM	Repeat module with attendance
FO	Fail – repeat mod or <b>alternative</b>

<b>Policy owner</b>
CADQ

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