

# HOW UNIVERSITIES CAN RESIST THE HOSTILE ENVIRONMENT

people & planet



**Universities should be open to all, but they currently function as an extension of the hostile environment which attempts to make life unbearable for those people with insecure or irregular immigration status.**

Universities have to comply with the Home Office's regulations in order to maintain their license to sponsor overseas students, but their fear of losing out on substantial income frequently leads them to do more than is required to comply - at great cost to students, and their educational mission. Without contravening the Home Office's student sponsorship guidance, there are a number of steps universities can take to create a more supportive environment for all.

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## EDUCATION FOR ALL

The Home Office is clear that sponsors must take steps to ensure that all students have valid leave to remain in the UK for the duration of their studies (HO D3 2020, p11 3.12). As a result, universities must ascertain the immigration status of students before enrolling.

However, there is **no requirement for universities to impose differentiated financial and/or academic requirements upon students on the basis of immigration status**. The only exception is the requirement for proof of minimum proficiency in the English Language (HO D3 2020, p12 3.15). There is also no requirement to engage with those students deemed international in a more hostile manner than those designated 'home'. In fact, there is a positive duty to ensure that the opposite is the case as universities are required to 'ensure concerns about conduct and integrity of students are treated consistently with other students' (HO D2 2021, p8 2.3). The guidance is written in such a manner as to prevent universities from being more lenient with international students, while in actuality it is these students who experience increased severity of reprisal.

Thus there are a number of actions universities can take whilst still remaining within the parameters set by the Home Office. While universities must administratively differentiate between those students who are and aren't British citizens, they are able to ensure that academic and financial requirements are equal for all students, regardless of immigration status. Furthermore, to account for the increased financial and pastoral needs accompanying insecure immigration status and to ensure that such an arbitrary characteristic does not hamper access to education, **universities can offer bursaries, subsidies, scholarships and fee amnesties to affected individuals.**

# STOP SURVEILLANCE

The Home Office requires universities to report on all students they are sponsoring (HO D2 2021, p10 2.13; HO D3 2020, p11 3.12), requiring them to collect and disclose 'all relevant information'. The Home Office defines this broadly, including within it 'any change to a student's circumstances', and the university must be able to produce details of such changes on request (HO D2 2021, 2.4-2.12 p9-10). The stated aim of this role is to ensure that all students comply with immigration rules, and thus part of this duty is to report any student who they have reason to believe is in breach of their conditions of permission (HO D2 2021, p28 4.63; HO D3 2020, p11 3.2). As well as needing to report if they are aware that a student is breaching the conditions relating to employment (HO D2 2021, p61 6.13), universities must monitor the academic engagement of students as part of the requirement to take steps to ensure students are genuine students. This duty requires universities to have a robust policy to identify students who have ceased to engage with their studies and to designate when sponsorship should be removed (HO D2 2021, p74 7.26).

However, universities are only obligated to report information when they become aware of it, and are **not required to actively investigate students for whom they have no reason to suspect, nor to seek grounds for suspicion**. The Home Office is keen to stress the role of trust between itself and universities in the functioning of immigration control (HO D3 2020, p10 3.1), but there is no reason given why such trust could not be the basis of the relationship between the university and its students.

Similarly, there is **no requirement for universities to employ faceless, automated data collection technologies** nor to outsource such operations to private companies and risk the security and privacy of students. Furthermore, there is no stipulation that universities must report students to the Home Office before discussing the matter with the student themselves, nor that they must refrain from assisting the student to address the issue. While the university must ensure that students do not breach employment conditions (HO D2 2021, p61 6.13), this policy makes no mention of political organising nor activism. There is therefore no duty to record information on such activity nor to report it to the Home Office. The monitoring of academic engagement is not required during holiday periods, nor during distance or blended learning where technological limitations make it impractical (HO D2 2021, p74-75 7.29). Furthermore, **at any time there is no requirement to tell the Home Office if a student misses a contact with permission from the university** (HO D2 2021, p71 7.10).

Thus, universities have significant scope to support and protect students while remaining compliant with the Home Office. Universities can aim to collect only the minimum information required to remain compliant, and end the outsourcing of these operations. The university can also train staff to prioritise privacy, dignity, and security of students over Home Office compliance. Where an immigration infraction is suspected, **universities can discuss the matter with students before reporting to the Home Office, and can provide administrative and pastoral support to understand and resolve the problem**.

With regard to academic engagement, it is the **responsibility of the university to decide which study elements constitute academic engagement, and what minimum level of engagement is required for each element** (D2 2021, p73 7.25). This allows universities to minimise and clarify the engagement requirements in order to prevent undue stress for students and make it less likely that they will fall below the minimum. It is also **up to universities to decide what to defend as an authorised absence** when a contact point is missed (HO D2 2021, p71 7.10). On a case by case basis, this means the university has room to take a stand in defence of students with insecure immigration status and only record

absences as unauthorised as a last resort when no mitigation is forthcoming. Prior to any such recording and reporting, the university should also prioritise trying to support students, including through additional financial assistance or any such assistance as they may require. Furthermore, the **university can choose to deem absences due to political organising (strike action, protest etc.) as authorised** and therefore protect students' right to freedom of speech and association.

## NO DETENTION NO DEPORTATION

According to the Home Office, universities must earn the 'privilege' of sponsoring students by discharging certain responsibilities. These include acting honestly in dealing with the Home Office, complying with all aspects of immigration rules, and taking responsibility for ensuring all students do the same (HO D2 2021, 2.3 p8). In their role as sponsors, universities must not 'pose a threat to immigration control' (HO D3 2020, 3.2) nor abuse the 'significant trust placed in them' by the Home Office (HO D2 2021, 3.1).

However, while universities must comply with immigration regulations, there is **no stipulation that they must support these policies nor the expansion of border control into the university**. Furthermore, while they must comply with immigration control operations it is not their role to initiate them. Therefore, while they must allow immigration control onto campus, there is no duty to actively invite them onto campus (HO D2 2021, p8 2.3). In fact, inviting border control on to campuses is often in contravention of the universities' own stated aims of fostering a safe learning environment for all.

Therefore there is nothing stopping the university from supporting students in opposition to the hostile environment. There is no sanction against a sponsor for speaking out against the policies it is forced to follow. If such actions are read as a 'threat to immigration control' the university should itself be concerned about the infringements on democratic rights such gagging would represent.

**Universities are therefore free to denounce the hostile environment and use their considerable influence to lobby for changes to immigration and education policy.** For those students who are targeted by the Home Office, the university can and should provide **administrative, legal, financial and pastoral support for the duration of the dispute** and refuse to withdraw sponsorship unless there are exceptional circumstances. The university can **train its staff to prioritise student welfare** subject to the minimum constraints of maintaining Home Office trust, rather than viewing compliance as the aim no matter the cost. Furthermore, where compliance is in conflict with the welfare of students, university staff should be clear that the latter must take precedence.

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## REFERENCES

HO D2 2021 = [Student Sponsor Guidance Document 2: Sponsorship Duties \(Version 06/2021\), Home Office](#)

HO D3 2020 = [Student Sponsor Guidance Document 3: Student Sponsor Compliance \(Version 12/2020\), Home Office](#)