

June 2023.

Marking Boycott and Graduate Route Applications Q&A – version 2

A marking boycott is currently taking place across some UK Universities. Concerns have been raised that this could result in some international students being unable to apply for the Graduate route following the usual process, as it requires them to have confirmation that their studies have been successfully completed. This will not be possible if students do not have their results before their Student visa expires.

To help mitigate these concerns whilst the marking boycott continues, the following will apply where a student's permission is about to expire:

1. UKVI will consider exercising discretion and will hold Graduate route applications made before the applicant's results have been received, provided that the results are received within 8 weeks of the application being made.
2. Students who do not know when they will receive their results due to the boycott will be able to apply to extend their permission whilst they wait for their results. They will be exceptionally exempt from meeting the academic progression requirements. Sponsors should include a note on the Confirmation of Acceptance for Studies (CAS) that the extension is due to the marking boycott.

This a discretionary arrangement, and not a concessionary policy, and is being communicated in a way that is proportionate to the nature and type of the issue covered. We encourage the sector, including sponsors, to drive the dissemination of this flexibility, as the circumstances are the result of a dispute between institutions and their employees.

Q&A

When can a Graduate route application be made?

- To be eligible for the Graduate route, an applicant must have successfully completed an eligible course of study in the UK, and the student sponsor must have notified the Home Office, by the date of application, that the applicant has successfully completed the course of study.
- The applicant must be in the UK with valid Student permission (or where a Student permission subsists under s3C) in order to apply under the Graduate route. Applications for the Graduate route cannot be made from overseas.

What is s3C?

- This is a continuation of permission which provides coverage to an individual with limited permission who has made an application to extend or vary their permission before their current permission expires.

What happens if an application for the Graduate route is made but the results are not received within 8 weeks?

- Any application made in this scenario is done so at the student's risk, and if the successful completion of the course has not been reported to UKVI within 8 weeks of the application being made, the application may be refused.

What happens if the Graduate route application is refused?

- Where an application for the Graduate route is refused on the grounds of successful completion not being notified within 8 weeks and the applicant no longer holds valid Student permission (including permission extended under s3C), they will be required to leave the UK or regularise in an alternative route appropriate to their circumstances.
- If they leave the UK, they will not be able to apply for the Graduate route from overseas, or if they re-enter as a Visitor (or anything other than a Student).
- If the applicant's Graduate route application is refused, and the applicant no longer benefits from any protection under s3C, and they do not leave the UK or regularise in another category, the applicant will become an overstayer and will have breached their permission conditions.

Whose responsibility is it to ensure UKVI is notified of students' successful course completion?

- It is the sponsor's responsibility to ensure that the successful completion notification is provided, and it is a matter between the sponsor and the student where a Graduate route application is refused on the basis of successful completion not being notified within 8 weeks.
- Where results are not expected to be available within a few weeks of the student's permission expiring, and a student needs more time to be able to demonstrate they have completed the course of study, they can apply to extend their Student permission.

Does a student have to meet all the usual requirements for extending their permission in the UK whilst waiting for their results due to the marking boycott?

- If it is necessary for a student to apply to extend their permission whilst waiting for their results due to the marking boycott, they will be exceptionally exempt from meeting academic progression requirements. All other requirements of the Student route, including having a new CAS, will still need to be met.
- Sponsors should include a note on the CAS that the extension is due to the marking boycott.
- If a sponsor does not wish to continue sponsoring a student for an extension, then the usual rules and procedures apply.

Can a student who has left the UK by the expiry of their Student permission return to make their Graduate route application?

- A sponsor may wish to issue a new CAS to allow a student who has left the UK by the expiry of the student's permission to return to the UK to undertake a resit or repeat modules under the Student route. This should follow the normal rules and procedures, and must comply with the Sponsorship duties and policies on assigning CAS.
- A sponsor cannot issue a new CAS to support an overseas application for the Student route where the course has already been completed.

Who will pay for the student's application to extend their permission where this is necessitated by an exam marking boycott?

- UKVI will not be responsible for any application fees or other costs associated with a student needing to make an extension application as a result of the marking boycott.

Can you clarify whether or not a Student can request a further extension if their results are not received within 8 weeks?

- Sponsors should be supporting the student with the most appropriate option based on the length of time the sponsor is expecting the marking boycott to impact for.
- We cannot provide immigration advice, and it is for a customer to determine when to apply and under which route. If a student makes an application under one route and then intends to submit a further application before a decision is made, they run the risk of a decision being made before they vary
- Therefore, the applicant needs to themselves consider which is the best course of action for them. Anyone seeking immigration advice should seek the advice of an OISC registered immigration adviser: <https://www.gov.uk/find-an-immigration-adviser>.

Will refusals attached to a CAS issued under these circumstances carry the right to an administrative review?

- The right to an administrative review can be exercised for refusals under Student and Graduate routes

Is there a rationale behind Graduate route applications being held where results are not received being limited to 8 weeks? Will there be scope to review this if the marking boycott continues?

Will the 8-week discretionary holding period also be exempt from being counted under the time limits rules? It may be the case that it affects students if they decide to do any further study

- This is not an extension of permission, and does not impact on or discount from time limits. We think it is highly unlikely that 8 weeks will be the difference between someone meeting or exceeding time limits.
- 8 weeks is the service standard level for in-country applications. As set out in the communications, if a sponsor expects the marking boycott to mean a student's results are likely to be delayed by more than 8 weeks, the sponsor can consider supporting an application to extend the student permission instead by issuing a new CAS to that effect.

Will UKVI increase the CAS allocation for an institution to take account of this issue?

- Requests for CAS will be handled on an individual basis, taking into account all the circumstances and representations, but we expect sponsors to be able to provide robust justification for any requests for additional CAS

What end date should sponsors put on the CAS where a student does not know when they will get their results?

- It's a matter for the sponsor to determine the impact of the marking boycott on the course timescale. Sponsors should continue to operate under the principles set out in the sponsor guidance around completing CAS accurately and in good faith, and any instances where this flexibility appears to have been abused will be treated as a compliance concern.

Will Students be able to extend their Student permission using 'marking boycott' as the reason (even when they have completed a course). If their course was completed but results have been extended by more than 8 weeks as a result of the marking boycott, will a sponsor be able to issue a new CAS?

- This point is noted and we have taken on board your feedback regarding the wording. On your comment in brackets, "(even when they have completed a course)", although the course provision itself may have been completed, you/the student will not know if resits or repeats are required until they have had their results and are notified.

- This would normally be expected to occur during the wrap up period, but we appreciate the impact of the marking boycott, and this is why we are providing some flexibility around this point for those still in the UK who need to extend their permission under the Student route.
- Students who are intending to move onto further study already have the option of applying from overseas once they have received their results.
- If a Student has already returned overseas and subsequently needs to undertake resits or repeat modules in order to successfully complete the course, they can be sponsored in line with the usual rules and guidance.

Can applications from dependants of Students, (a) also be pending as Graduate route dependants alongside those of students? (b) be extended for the boycott alongside the student?

- Dependant applications made at the same time as the Student / Graduate will be treated in line with the Student / Graduate applicant.

Will this flexibility also be available for students who are due to progress onto further study who wish to utilise the Student route? If so, will such students also be exempted from the academic progression rules? For sponsors who can use the 'highly likely to complete' concession, what assurances will the Home Office give sponsors who accept these letters?

- This discretionary arrangement does not apply to students who wish to progress from one course to another. The sponsor guidance already has provision for letters of formal written confirmation to be provided where the sponsor assesses the student is highly likely to complete their course successfully. There is also the option for students to return to their home country and apply for another student visa out of country.

Can you consider the option of allowing people to get entry clearance for the Graduate route for a limited time after completion of their studies?

- Graduate route applications can only be made from inside the UK. An applicant being inside the UK with valid immigration status as a Student is a core part of the route's design. Therefore, meeting this requirement of applying in the UK is a vital part of demonstrating the Student's eligibility for the route.