**Start-Up Visa Guidance and Process**

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**1. Introduction**

This Guidance applies to University of Birmingham students and graduates who are:

1. Non-EEA nationals; and
2. Current students in the final year of their study; or
3. Graduates of up to five years;
4. Current Tier 4 (Doctorate Extension Scheme) Visa holders.

In order to be able to sponsor students/graduates under a Start-up visa, the University is required to comply with UK Immigration Rules and Points Based System Sponsor Duties.

The scheme is for early-stage, high potential graduate entrepreneurs who are aiming to start a business in the UK for the first time.

At its discretion, the University will endorse applicants who successfully pass its Start-up Visa application process.

The University is permitted to ‘endorse’ graduates it believes meet the criteria for making a visa application under the ‘Start-up’ category. UKVI will consider the application and, if a visa is granted, the graduate will be permitted to stay for two years in the UK, during which they are expected to spend the majority of their time developing their businesses; however, their visa permits them to take on other work outside of their businesses, to support themselves.

Should they wish to continue the business beyond the two year period, they may be able to apply to switch onto an Innovator Visa or possibly another relevant visa route. In all such cases they will be expected to take independent legal advice. New Start-up visa applicants who move into this category having already held the Tier 1 (Graduate Entrepreneur) visa will be granted permission of up to two years, less the time already spent under that route.

The Start-up scheme is limited to thirty graduates per year and is managed in collaboration between Careers Network and the International Student Team (IST).

This Guidance is specific to the University of Birmingham and does not include the full requirements of the Immigration Rules. The University is entitled to revise its Guidance or processes, relating to compliance with its Start-up sponsor duties, at any time and will usually do so where it is institutionally necessary or where there are UKVI changes.

This Guidance should be read alongside:

* Start-up and Innovator visas:
* [Guidance for endorsing bodies](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789470/2019.03_Endorsing_body_guidance.pdf)
* [Guidance for applicants](https://www.gov.uk/start-up-visa)
* Tier 4 of the Points Based System: Guidance for Sponsors - [Document 2](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770439/Tier_4_Sponsor_Guidance_-_Doc_2_-_Sponsorship_Duties_2019-01_FINAL.pdf) - Self-employment and engaging in business activity

**2. Restrictions, Eligibility and Requirements**

Candidates will be selected on the basis of evidence of an innovative, viable and scalable business proposition, and demonstration of the personal potential to succeed as an entrepreneur. The University will review the applicant’s business proposal and decide if it meets University and UKVI criteria. The University may select up to thirty (30) graduates per year to endorse and will provide them with an endorsement letter which will mean that the graduate can apply to UKVI for a Start-up visa. The endorsement letter will include information about the applicant and their business and will confirm that the University is satisfied the applicant will spend the majority of their working time in the UK on developing their business idea.

The endorsement letter must be dated within three months of the acceptance of the endorsement from the University.

2.1 Restrictions

Any business that the University endorses should meet the criteria of being innovative, viable and scalable as per Start-up and Innovator visa endorsing bodies’ guidance.

The University reserves the right to reject businesses which it believes will not meet the Start-up criteria.

The Academic Registrar reserves the right to refuse to make an endorsement if there is any potential risk to the University as a Tier 4 Sponsor. This could include, but is not restricted to, for example, a poor immigration or academic history or having been subject to a serious or repeat disciplinary matter or breach of their stay in the UK.

2.2 Eligibility

The candidate must be:

* A current University of Birmingham student in their final year of study; or
* A current Tier 4 (Doctorate Extension Scheme) visa holder; or
* Former students who have graduated from the University of Birmingham within fiveyears;
* The candidate should be an early-stage entrepreneur and must not have previously established a business in the UK or had 2 years’ Tier 1 (Graduate Entrepreneur) visa (unless they are in their 1st year of Tier 1 GE).

2.3 UKVI Requirements

In order to be granted a Start-up visa the applicant must be proposing a new business idea that meets the following requirements:

* Innovation: The applicant must have a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage;
* Viability: The applicant must have, or is actively developing, the necessary skills, knowledge, and experience and market awareness to successfully run the business.
* Scalability: There is evidence of structured planning and of potential for job creation and growth into national markets.

2.3.1 Maintenance

There is no specific requirement for funds to be invested into the business but it would be unusual for a business that will be viable and scalable not to need any investment.

UKVI visa criteria requires the applicant to demonstrate that they have held at least £945 for a consecutive period of at least 90 days.

Where dependants are applying, the applicant must also demonstrate that the maintenance requirement for them is met.

2.3.2 Switching visas in the UK

Generally, an application to enter this category will need to be made from outside the UK. However, if an applicant already has valid leave to remain in any of the following categories, they can apply from inside the UK:

* Tier 1 (Graduate Entrepreneur) who completed first year of endorsement
* Tier 2
* Tier 4 (General) (providing the applicant meets specific criteria).

2.3.3 Transitional arrangement – Tier 1 Graduate entrepreneurs

Applicants who currently hold the Tier 1 (Graduate Entrepreneur) visa and wish to extend after the 12 month period will need to be endorsed for their second year in the Start-up category.

The University of Birmingham does not need to confirm that the candidate’s business idea meets the criteria above in the case of a second year application being submitted. Instead, the endorsement must confirm that the candidate has made satisfactory progress with their business and continues to have a genuine and credible business venture (as required under the previous category).

2.3.4 Applicant’s responsibilities

Applicant must continue to adhere to their conditions of their current visa until their Start-up visa is granted. This means that applicant cannot be self-employed or engage in business activity.

When the Start-up visa is granted the visa holder is responsible for ensuring that they abide by the conditions of their visa and also the conditions stated by the University of Birmingham and provide any such necessary evidence to this effect.

Failure to adhere to visa conditions will result in a report to the Home Office and the visa holder could face the Home Office sanctions including having their visa curtailed (cancelled) and having to return to their country of origin.

2.3.5 General Grounds for Refusal (Visa)

The visa application must not fall for refusal under the [General Grounds of Refusal](https://www.gov.uk/government/collections/general-grounds-for-refusal-modernised-guidance) set out in the Immigration Rules. This means that if the applicant has, for example, convictions, previously breached UK immigration rules, etc. we expect that their application can be refused. Therefore, when they make their initial application to the University, an applicant is required to advise the University if they have any previous UK visa refusals.

**3. Sponsorship Duties for the Start–up**

The following must be adhered to and will be monitored by the IST Training and Compliance Team.

3.1 The University has specific responsibilities as follows:

* The Selection panel will ensure that the graduate applying has a genuine, credible and innovative business idea that meets UKVI criteria;
* Careers Network will confirm that it is reasonably satisfied the applicant will spend the majority of their working time in the UK on developing their business idea;
* Careers Network will provide specified information to the Home Office in the endorsement letter about:
	+ the applicant and their business;
	+ confirm that the applicant has not previously established a business in the UK, unless their last grant of leave was under Tier 1 (Graduate Entrepreneur);
* Careers Network will email a copy of the endorsement letter to the Home Office once an endorsement letter has been issued;
* Careers Network will keep evidence of the endorsement selection process;
* Careers Network will maintain contact with the Endorsee and assess their progress at agreed intervals, initially at month two, four and six and every quarter then after;
* Careers Network will monitor and record endorsee’s engagement on a regular basis and inform the IST who will inform the Home Office if:
	+ it is not satisfied with endorsee’s progress;
	+ it suspects that the endorsee is working in breach of their visa conditions;
	+ the Endorsee does not stay in contact or does not attend their progress reviews without authorisation;
	+ There is evidence that the Endorsee is no longer in the UK or no longer under the Start-up Visa.

3.2 The Endorsee must:

* Be capable of genuinely undertaking the work/business activity referred to in their application;
* not intend to work in breach of immigration law and must work in accordance with the work outlined in their business plan;
* confirm that any money they claim is available to them is genuinely available as they have described;
* intend to use money for the purposes described in their application;
* must attend a credibility interview if required to do so by UKVI;
* give written consent to allow the University to monitor their progress in establishing their business;
* share information relating to their business with the Home Office.

**4. The University Process**

(a) Applications must be made online using the below form:

<https://uobasops.formstack.com/forms/startup_visa_application_form>

(b) Candidates will be selected for interview on the evidence of:

- a clearly defined business plan; and

- a statement that evidences how the business will meet the following criteria

 outlined by the Home Office:

* Innovation
* Viability
* Scalability
1. Application must be made with in University deadlines which are normally:
* Mid-April

Students will be notified in May and interviewing will usually occur in early June,

* Mid- November

Students will be sent notification in December and interviewing will usually occur after the Christmas period in early January.

Further details can be found on our website and will also include interview dates: <https://intranet.birmingham.ac.uk/as/employability/b-enterprising/international/startupvisa.aspx>

4.1 Stage 1 - Visa requirements

 The first stage in the process is to establish if the student holds the correct immigration status and has adhered to the conditions of their visa(s) in the UK to be allowed to apply for a Start-Up visa. The IST will check that the student met the conditions of their immigration stay with regards to their studies at the University and reserves the right to contact the Home Office for further immigration checks and clarification.

1. The applicants will be required to bring their current passport and their current visa (thin includes sticker in their passport and Biometric Residence Permit) to the International Student Team (IST).
2. The IST will advise Careers if the current immigration documents:
* meet criteria; or
* do not meet criteria for making an application.
1. Applicants who require additional advice and guidance will be referred to seek advice from an independent immigration adviser.

4.2 Stage 2 - Application Selection Process

If the IST confirms that the applicant holds a relevant valid visa that meets criteria, the applicant will:

1. Submit an application to Careers Network. This must be submitted electronically for short-listing by the relevant application deadline (details can be found at <https://intranet.birmingham.ac.uk/as/employability/b-enterprising/programmes/international.aspx> ). Application must be supported by the letter from the college confirming the award or that the award is pending or the original graduation certificate. The certificate confirming the award must be provided prior to the endorsement being issued. In case of award not being confirmed or award being a lower qualification than originally intended, the Careers reserves the right to refuse or withdraw an endorsement.

The application will be considered confidentially by a panel of two people who will be either members of staff in the Careers Network team, or their appointees.

Applications will either be short-listed for further consideration by an appointed panel for progression to an interview, or returned with feedback explaining why they have not been short-listed. The applicants need at least 50% in all relevant sections of application form in order to be considered for an interview.

Short-listed applicants will be formally invited to attend a panel interview.

4.3 Selection criteria

The selection criteria will be applied equally to each application and the panel must achieve consensus on all of the following:

1. Business proposal against the following 3 key criteria:
* Innovation – the applicant must have a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage.
	+ They will be expected to give examples of their business’ unique offering as opposed to merely competing with similar traders;
	+ They should be able to provide examples that their product is not already in the market. If it is, they must justify the purpose of their product or service;
	+ Ideally they need to show that their idea is contributing something new to the UK /global business market;
* Viability – the applicant must be actively developing the necessary skills, knowledge, and experience and market awareness to successfully run the business.
* They must provide evidence of their primary market research;
* They should be able to demonstrate that they have realistic, sustainable product goals;
* Their business plan should also include their long term goals for the business.
* Scalability – the applicant must provide evidence of structured planning and of potential for job creation and growth into national markets.
	+ They should be able to explain how they intend the business to gain sufficient traction;
	+ They should be able to demonstrate the potential for business growth.
1. Applicant Potential:
* The applicant could develop the idea into a business;
* The applicant demonstrates evidence of personal qualities to succeed.

4.4 Stage 3 - Panel Interviews, marking and progression

The Interview Panel will consist of a minimum of three assessors who are current experts from the University of Birmingham Colleges, including at least one member of the Careers Network team.

Panel interviews will normally last between 20 and 40 minutes including time for the applicant to present their business plan and answer questions from the Panel.

Candidate should be ready to answer questions about their business proposal and demonstrate their personal suitability to develop the business.

Outcomes will normally be communicated to the applicant within two weeks after the last interview for that application round has taken place.

The Panel will apply the same criteria from the selection process and their purpose is to clarify and confirm the strength of the business proposition and potential of the applicant. Based on consensus of the panel the following recommendations will be made:

* The applicant and business both have sufficient potential to accept the application; or
* The proposed business requires minor adjustments or further information is required by the panel to be deemed viable and feasible. The panel will agree a timetable for the applicant to submit supplementary information and/or meet with members of the panel. The final decision will be made by chair's action; or
* The applicant is unsuitable to develop the proposed business and the application is rejected; or
* The proposed business is not sufficiently viable or feasible and the application is rejected.

Following their interview, all candidates will be provided with written feedback on their own application. Individual feedback is private and confidential and Careers Network will not share the details of other applicants’ information.

The decision of the panel is final and there is no appeal process.

The University will accept a maximum of two applications from the applicant within a two year period.

**5. Recording, reviewing and reporting of information**

Information recorded about the Endorsee will be stored in the internal University shared drive accessed only by Careers Network and Training and Compliance in accordance with GDPR regulations.

Careers Network will provide a monthly update on Start-up activities at the Point Based System meetings.

Designated meetings will be scheduled between the Careers Network and the endorsee in which the Careers Network representative must be satisfied that the business is progressing according to the milestones, and that any adjustments to the plan are agreed and in line with the overall objectives of the business.

Evidence will vary person-by-person, but may include one or more of the following:

1. business financial records;
2. testimonials from clients;
3. correspondence with clients and suppliers;
4. marketing materials, contracts, invoices, time sheets.

After the first 12 months of the visa, the Careers Network will conduct a review with the endorsee to establish the progress of the business.

If Careers Network identifies that satisfactory progress is not being made and that this might breach the conditions of the visa or activities of the entrepreneur might damage the University's reputation, the Careers Network will:

* Notify IST Training and Compliance Team;
* Request that the endorsee addresses the issues and report back on progress within ten (10) working days from the date of the request;
* If satisfactory progress cannot be demonstrated, or there remains a risk to the University, Careers Network will discuss the matter with the Training and Compliance Team and if approved, will make a report to the Home Office to withdraw immigration sponsorship.

Any action by the endorsee which, were they staff or students of the University, would result in disciplinary proceedings will be reported to the Training and Compliance Team to assess if an immediate report is required to the Academic Registrar. The Academic Registrar will decide the course of action to be taken, including but not limited to immediate suspension/revocation of the participant’s endorsement.

The University applies a maximum two warnings before endorsement is withdrawn – warnings will occur if monthly review reports are not adhered to or if sufficient progress or effort has not been achieved.

**6. Early completion of the scheme**

If the endorsee advises Careers Network that they no longer wish to continue with their business idea but want to close the business and exit the scheme early, they should notify the Careers Network by email.

Careers Network will notify IST within in five (5) working days so as an advisor can meet with the endorsee and outline their immigration situation.

Within ten (10) days of withdrawal from the scheme is confirmed in writing, the Training and Compliance Manager will make a report to the Home Office.

In case of significant change of business, the Start-up visa holder must submit a proposal for approval to the Career Network which explains the changes, the opportunities or their challenges they face that result in a new direction beyond the initial proposal. This must be submitted before any new changes are implemented and the Careers Network will make a decision and advise them accordingly.

**7. Primary and Key points of contact**

7.1 Careers Network

Web: www.intranet.birmingham.ac.uk/benterprising

Email: benterprising@contacts.bham.ac.uk

In person by appointment - venue to be confirmed individually

7.2 International Student Team

Web: https://intranet.birmingham.ac.uk/as/studentservices/international/index.aspx