

# VISA AND WORK RIGHTS POLICY 2024

The Vice-President (Operations) as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 9 April 2024

Last amended: 16 April 2024 (administrative amendments)

Signature:

Position: Vice-President (Operations)

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### 1 Name of policy

This is the Visa and Work Rights Policy 2024

### 2 Commencement

This policy commences on 9 April 2024.

### 3 Policy is binding

Except where expressly stated, this policy binds the University, staff, and affiliates, including international visitors.

## 4 Overview

- (1) This policy supports the University's strategic priorities of:
  - (a) attracting and developing outstanding staff;
  - (b) fostering excellence and innovation in research and teaching; and
  - (c) building a culture based on the University's values of diversity and inclusion, and openness and engagement.

**Note:** See the [2032 Strategy](#).

- (2) This policy provides an overview of:
  - (a) the visas available to employ international candidates and invite international visitors to the University; and
  - (b) the University's responsibilities in complying with immigration legislation.

## 5 Application

- (1) This policy applies to:
  - (a) staff and affiliates, including international visitors; and
  - (b) all activities conducted by and on behalf of the University.
- (2) If there is any inconsistency between this policy and Commonwealth legislation, then Commonwealth legislation applies.

## 6 Definitions

**affiliate** has the meaning provided in the [Staff and Affiliates Code of Conduct](#), which at the date of this policy is:

means a person appointed or engaged by the University to perform duties or functions on its behalf, including but not limited to:

- an honorary title holder engaged under the [Honorary Titles Policy](#);
- a consultant or contractor to the University; and
- an office holder in a University entity, a member of any University committee, board or foundation.

An affiliate is not an employee of the University.

**delegate** has the meaning given in the [University of Sydney \(Delegations of Authority\) Rule](#), which at the date of this policy is:

the position upon the holder of which the delegation is conferred.

**DHA** the Commonwealth Department of Home Affairs.

**faculty** as appropriate, a faculty or a University school.

<b>Human Resources</b>	the University's Human Resources professional services unit.  <b>Note:</b> Contact <a href="mailto:hr.servicecentre@sydney.edu.au">hr.servicecentre@sydney.edu.au</a>
<b>international candidate</b>	a person who is not an Australian citizen or permanent resident who will be or has been offered employment with the University.
<b>international staff member</b>	a person who is not an Australian citizen or permanent resident, who is employed by the University.
<b>international visitor</b>	a person who is not an Australian citizen or permanent resident, who: <ul style="list-style-type: none"> <li>• has been invited to observe or participate in research or training at the University;</li> <li>• may be an affiliate of the University; and</li> <li>• may either be in or outside Australia; but</li> <li>• is not an employee of the University.</li> </ul>
<b>lead researcher</b>	has the same meaning as given in the <a href="#">Research Code of Conduct</a> , which at the date of this policy is: <p>means the person responsible for the intellectual, administrative and ethical aspects of a research project.</p>
<b>nomination</b>	the visa nomination application that the University submits to the DHA that provides details of the activities to be carried out by an international candidate, staff member or international visitor.
<b>non-citizen</b>	has the meaning given in section 5 of the <a href="#">Migration Act 1958 (Cth)</a> , which at the date of this policy is: <p>means a person who is not an Australian citizen.</p>
<b>notifiable event</b>	an event requiring notification by the University under the <a href="#">sponsorship obligations</a> in the <a href="#">Migration Regulations 1994</a> .  <b>Note:</b> See Division 2.19 of the <a href="#">Migration Regulations 1994</a> .
<b>organisational unit</b>	has the meaning given in the <a href="#">Recruitment and Appointment Policy</a> , which at the date of this policy is: <p>means a University work unit:</p> <ul style="list-style-type: none"> <li>• with a specific purpose or function;</li> <li>• that has a director or head of the function; and</li> <li>• a separate budget.</li> </ul> <p>An organisational unit may include team structures, but the teams are not themselves organisational units.</p>
<b>procedures</b>	the <a href="#">Visa and Work Rights Procedures</a>
<b>primary visa holder</b>	a visa holder who is sponsored by the University and who is not the dependant of another visa holder.

<b>school</b>	a school within a faculty.
<b>secondary visa</b>	<p>a visa for:</p> <ul style="list-style-type: none"> <li>• a spouse or de facto partner and dependent children of the primary applicant or visa holder;</li> <li>• dependent children of the primary applicant's spouse or de facto partner; and</li> <li>• other dependent relatives of the primary applicant and their spouse, allowed under that visa.</li> </ul>
<b>skilled occupation list</b>	<p>the list of occupations available for a skilled visa sponsorship as determined by the <a href="#">relevant legislative instrument</a>.</p> <p><b>Note:</b> See the <a href="#">skilled occupation list on the DHA's website</a> for more information.</p>
<b>sponsor</b>	the University when it nominates an international candidate, international visitor, or staff member as an applicant for a visa to work or visit the University.
<b>supervisor</b>	<ul style="list-style-type: none"> <li>• for a student or trainee from outside Australia: the person with the responsibilities set out in clause 15 of the <a href="#">Higher Degree by Research Supervision Policy</a>;</li> <li>• for an international visitor attending the University to collaborate: the University staff member who invited and will collaborate with them at the University;</li> <li>• for a staff member from outside Australia: the person nominated by the University to manage them.</li> </ul>
<b>work rights</b>	rights to perform certain activities and receive remuneration for them, as allowed or restricted by the applicable visa subclass and conditions.
<b>visa grant notice</b>	<p>the notice issued by DHA that:</p> <ul style="list-style-type: none"> <li>• informs the applicant that their visa has been granted; and</li> <li>• outlines the visa conditions.</li> </ul>

## 7 General principles

- (1) Staff and affiliates (including international visitors) with foreign citizenship or non-Australian permanent residents must demonstrate to the University that they are eligible to obtain or hold an appropriate Australian visa.

**Note:** See the [DHA website](#) for the definition of permanent resident.

- (2) The University supports obtaining of visas for international candidates or visitors:
  - (a) to attract and develop outstanding researchers and staff;
  - (b) for scholarly exchange; and
  - (c) to facilitate cross-cultural competence.

- (3) The University is not obliged to sponsor current staff, international candidates or international visitors for permanent residency or any other form of visa.
- (4) The University supports the visa type that:
  - (a) most closely matches the purpose of travel to Australia; and
  - (b) is the most appropriate permit to enter Australia.
- (5) The University may temporarily employ non-citizens or host international visitors who hold an appropriate visa to work, train, perform, visit, or participate in activities at the University.
- (6) Visas are issued by the DHA in accordance with migration law.

**Note:** Relevant legislation includes, but is not limited to the [Migration Act 1958](#) (Cth) and [Migration Regulations 1994](#) (Cth).
- (7) The Vice-Chancellor or Vice-President (Operations), in consultation with the Chief Human Resources Officer, may in exceptional circumstances approve a request which does not meet the requirements of this policy. Approval must not conflict with migration law.

## 8 Visa types

- (1) An international candidate's or international visitor's visa type is determined by the purpose of their travel to Australia. This may be to:
  - (a) commence employment;
  - (b) undertake training;
  - (c) give lectures;
  - (d) undertake highly specialised and non-ongoing work; or
  - (e) undertake research activities.
- (2) International candidates or international visitors may be sponsored only if they meet the eligibility criteria set out by the DHA and the provisions of this policy.
- (3) International visitors may be hosted on non-sponsored visas to perform activities such as attending conferences or collaborating with University staff.

**Note:** Refer to the [Visa and Work Rights Procedures](#) for more information about these visa types.

## 9 Eligibility for a University sponsored visa

(1) The University may use the following sponsored visa types:

Sponsored Visa type	Eligibility
<b>(1) Temporary Skill Shortage visa (subclass 482)</b>	<b>(a) Academic positions</b> <ul style="list-style-type: none"> <li>(i) full-time academic positions where the position cannot be recruited locally; and</li> <li>(ii) part-time academic positions in very limited circumstances as outlined in subclause 8(2) of the <a href="#">procedures</a>.</li> </ul>
	<b>(b) Professional staff positions</b> All of the following criteria for the position must be met: <ul style="list-style-type: none"> <li>(i) is full-time;</li> <li>(ii) is on the <a href="#">DHA's Skilled Occupation List</a>;</li> <li>(iii) is specialised;</li> <li>(iv) is classified as HEO Level 8 or higher;</li> <li>(v) requires unique skills and experience not readily available in the local labour market or meets the requirements for exceptional circumstances outlined in <b>subclause 8(7)</b> of the <a href="#">procedures</a>; and</li> <li>(vi) a competitive selection process has been completed.</li> </ul>
<b>(2) Employer Nomination Scheme permanent residence visa (subclass 186)</b>	<b>(a) International candidates</b> <ul style="list-style-type: none"> <li>(i) as part of a competitive recruitment or employee attraction strategy; or</li> <li>(ii) for staff members who have completed three years of full-time employment in their nominated position at the University within the previous four years.</li> </ul>
<b>(3) Temporary activity visa (subclass 408)</b>	<b>(a) International affiliates and visitors</b> <ul style="list-style-type: none"> <li>(i) where the appointment will not adversely affect or displace an Australian student, staff member, affiliate or visitor.</li> </ul>
<b>(4) Training visa (subclass 407)</b>	<b>(a) International affiliates and visitors</b> <ul style="list-style-type: none"> <li>(i) where the appointment will not adversely affect or displace an Australian student, staff member, affiliate or visitor.</li> </ul>

**Note:** Refer to **Part 2** in the [procedures](#) for further information on the eligibility requirements for the sponsored visas.

## 10 Nomination and visa costs

- (1) The faculty, school or organisational unit that nominates an international candidate or international visitor for a University sponsored visa:
  - (a) must cover all applicable nomination and [Skilling Australians Fund \(SAF\)](#) charges; and

**Note:** SAF charges are required under the [Migration \(Skilling Australians Fund\) Charges Act 2018](#) and are paid by an employer at the nomination stage, to sponsor certain visa applications to contribute to the training of Australians.

**Note:** The University's [Immigration and Global Mobility team](#) provides the estimated nomination and visa costs to the relevant faculty, school or organisational unit.

  - (b) must not pass on these costs to the visa applicant or any external parties or receive any benefits for the sponsorship as provided in the [Migration Amendment \(Charging for a Migration Outcome\) Act 2015](#).
- (2) Unless the faculty, school or organisation unit determines otherwise, the visa applicant must meet the visa application fees for:
  - (a) the Permanent Residency (subclass 186);
  - (b) the Temporary Skill Shortage visa (subclass 482)
  - (c) the Temporary Activity visa (subclass 408), or
  - (d) the Training visa (subclass 407).
- (3) If the faculty, school or organisational unit meets a visa application cost, the faculty, school or organisational unit will be responsible for any Fringe Benefit Tax (FBT) liabilities that may be incurred.

## 11 Compliance

- (1) Visitors or staff who do not hold an Australian permanent resident visa or Australian citizenship must obtain or hold an appropriate Australian visa.
- (2) The University will not offer the following unless exceptional circumstances apply:
  - (a) fixed term positions to staff members on temporary work visas beyond their visa expiry date; or
  - (b) continuing positions to staff members on temporary work visas.

**Note:** See exceptional circumstances set out in **subclauses 15(3) and 15(4)** of the [procedures](#). Contact the relevant [HR Partner](#) for further information.
- (3) University supervisors who engage or supervise international candidates, current staff or international visitors must:
  - (a) comply with the relevant immigration legislation;

**Note:** Relevant legislation includes, but is not limited to the Migration Act 1958 (Cth) and Migration Regulations 1994 (Cth).

  - (b) prevent individuals from participating in activities at the University without the appropriate visa and work rights;
  - (c) engage with Human Resources to confirm the appropriate visa; and

- (d) immediately notify Human Resources of any non-compliance by international candidates, current staff or international visitors.
- (4) The faculty, school or organisational unit which invited, engaged or supervised the individual is responsible for any financial penalties incurred because of non-compliance.

**Note:** Refer to **clause 12** for information on the various roles and responsibilities in meeting compliance.

## 12 Roles and responsibilities

- (1) The **relevant delegate** is responsible for:
  - (a) approving the appointment or affiliation of international candidates and international visitors to the University; and
  - (b) directing the lead researcher, supervisor or hiring manager to complete an assessment of the international candidate or international visitor to confirm that they meet the requirements set out in the [procedures](#).
- (2) **Lead researchers, supervisors and hiring managers** is responsible for:
  - (a) understanding the University's obligations for any visa held by a staff member or international visitor and take appropriate steps to maintain compliance with those obligations;
  - (b) notifying Human Resources:
    - (i) if the staff member or international visitor fails to comply with their visa conditions;
    - (ii) if a notifiable event occurs; or
    - (iii) if there are any changes to the activities performed by the staff member or international visitor, including the timeframe to complete those activities.
  - (c) not commencing any appointment of a staff member or international visitor until the appropriate visa grant decision letter has been forwarded to Human Resources;
  - (d) not permitting visa holders to participate in activities that would result in non-compliance with their visa;
  - (e) requiring that visa holders maintain valid work rights; and
  - (f) directing their local faculty, school or organisational unit administrative support staff to:
    - (i) facilitate the submission of a single package of complete, accurate and legally certified visa documents to Human Resources;
    - (ii) assist in finding reasonable residential accommodation if this is included in the sponsorship agreement;
    - (iii) seek Human Resources' advice if in doubt as to whether an event or situation is notifiable to DHA; and



- (iv) work with Human Resources and the staff member or international visitor to maintain compliance with sponsorship obligations at all times.

**Note:** The lead researcher or supervisor must be a current staff member of the University. Honorary title holders or other affiliates may not invite or sponsor an international visitor.

(3) **International candidates, staff members, and international visitors** are responsible for:

- (a) applying for an appropriate Australian visa in a timely manner;
- (b) providing the University with the visa grant notice issued by DHA prior to starting activities or employment;
- (c) complying with the conditions of the visa subclass which was granted;
- (d) notifying their supervisor and Human Resources of proposed or actual changes to activities during the period of association with the University;
- (e) notifying Human Resources immediately of any changes to their circumstances that affect the validity of their visa, for example:
  - (i) loss of employment, affiliation or association with the University;
  - (ii) breakdown in relationships between the primary visa holder and the secondary visa holder which may impact their work rights or the University's sponsorship obligation;
  - (iii) expiry of their visa or, if on a secondary visa, expiry of the primary visa holder's visa or employment; or
  - (iv) any other matter that may affect their work rights or legal entitlement to continue living in Australia such as visa cancellation;
- (f) providing updated details to Human Resources on receipt of their new passport or visa decision letter;
- (g) notifying their supervisor and Human Resources if unable to commence the activities at the agreed time or if the activities are completed earlier than expected;
- (h) working with Human Resources to comply with sponsorship obligations; and
- (i) complying with the foreign interference laws of the [National Security Legislation Amendment \(Espionage and Foreign Interference\) Act 2018](#).

**Note:** See the [Foreign Interference article](#) in ServiceNow.

(4) **Human Resources** is responsible for

- (a) providing information and advice to faculties, schools, and organisational units in relation to:
  - (i) visas;
  - (ii) employer sponsorship; and
  - (iii) related compliance matters;
- (b) preparing and lodging employer nomination applications with DHA on behalf of the University;
- (c) liaising with visa applicants to provide information associated with the lodgement of visa applications; and

- (d) working with the faculty, school or organisational unit and the staff member or international visitor to assist them to comply with sponsorship obligations and work rights.

## 13 Rescissions and replacements

This document replaces the following, which is rescinded as from the date of commencement of this document:

- (a) Visa and Work Rights Policy, which commenced on 4 April 2022.

## NOTES

### Visa and Work Rights Policy 2024

Date commenced: 9 April 2024

Date amended: 16 April 2024 (administrative amendments)

Administrator: Chief Human Resources Officer

Review date: 9 April 2029

Rescinded documents: Visa and Work Rights Policy adopted 4 April 2022

Related documents: [\*Migration Act 1958 \(Cth\)\*](#)  
[\*Migration Regulations 1994 \(Cth\)\*](#)  
[\*Migration \(Skilling Australians Fund\) Charges Act 2018 \(Cth\)\*](#)  
[\*Migration Amendment \(Charging for a Migration Outcome\) Act 2015 \(Cth\)\*](#)  
[\*National Security Legislation Amendment \(Espionage and Foreign Interference\) Act 2018 \(Cth\)\*](#)  
[\*The University of Sydney Enterprise Agreement 2023-2026\*](#)  
[\*University of Sydney \(Delegations of Authority\) Rule\*](#)  
[\*Affiliates Policy\*](#)  
[\*Staff and Affiliates Code of Conduct\*](#)  
[\*Honorary Titles Policy\*](#)  
[\*Honorary Titles Procedures\*](#)  
[\*Recruitment and Appointment Policy\*](#)  
[\*Travel Policy\*](#)  
[\*Visa and Work Rights Procedures\*](#)

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## AMENDMENT HISTORY

Provision	Amendment	Commencing
9(1) table	Table revised to assist with accessibility	16 April 2024