

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)
6 May 2024 (administrative amendments)

Signature:

Position: Vice-President (Operations)

CONTENTS

1	Name of policy	1
2	Commencement.....	1
3	Policy is binding	1
4	Overview	2
5	Application	2
6	Definitions	2
7	General principles.....	4
8	Visa types and eligibility.....	5
9	Nomination and visa costs	7
10	Compliance	7
11	Roles and responsibilities	8
12	Rescissions and replacements	10
	Notes	10
	Amendment history.....	11

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: <ul style="list-style-type: none">• 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.

Human Resources	<p>the University's Human Resources professional services unit.</p> <p>Note: Contact hr.servicecentre@sydney.edu.au</p>
international candidate	a person who is not an Australian citizen or permanent resident who will be or has been offered employment with the University.
international staff member	a person who is not an Australian citizen or permanent resident, who is employed by the University.
international visitor	<p>a person who is not an Australian citizen or permanent resident, who:</p> <ul style="list-style-type: none"> • has been invited to observe or participate in research or training at the University; • may be an affiliate of the University; and • may either be in or outside Australia; but • is not an employee of the University.
lead researcher	<p>has the same meaning as given in the Research Code of Conduct, which at the date of this policy is:</p> <p style="padding-left: 40px;">means the person responsible for the intellectual, administrative and ethical aspects of a research project.</p>
nomination	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.
non-citizen	<p>has the meaning given in section 5 of the Migration Act 1958 (Cth), which at the date of this policy is:</p> <p style="padding-left: 40px;">means a person who is not an Australian citizen.</p>
notifiable event	<p>an event requiring notification by the University under the sponsorship obligations in the Migration Regulations 1994.</p> <p>Note: See Division 2.19 of the Migration Regulations 1994.</p>
organisational unit	<p>has the meaning given in the Recruitment and Appointment Policy, which at the date of this policy is:</p> <p style="padding-left: 40px;">means a University work unit:</p> <ul style="list-style-type: none"> • with a specific purpose or function; • that has a director or head of the function; and • a separate budget. <p>An organisational unit may include team structures, but the teams are not themselves organisational units.</p>
procedures	the Visa and Work Rights Procedures
primary visa holder	a visa holder who is sponsored by the University and who is not the dependant of another visa holder.

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

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

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)

6 May 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](#)

AMENDMENT HISTORY

Provision	Amendment	Commencing
9(1) table	Table revised to assist with accessibility	16 April 2024
9(1)(1) table	Table revised to remove the merged cell to assist with accessibility	6 May 2024