

Student G:

- Student in the UK since January 2009 on student visa until 7th May 2010.
- Starts course at UEL in February 2010 and makes Tier 4 application.
- Student refused on 5th May 2010 as basis of offer documents not included in application.
- No right of appeal given as:
 - *“Section 82 of the Nationality and Immigration and Asylum Act 2002 does not provide a right of appeal where an applicant still has leave to enter or remain in the United Kingdom and so is entitled to stay here.*
 - *You still have leave to remain where your current conditions continue to apply until 07 May 2010. Please ensure that you understand the conditions of your stay.”*
- Refusal received by student on 08 May 2010.

What we did and result:

- Student advised to seek advice from Specialist Immigration Adviser.
- ISA contacted Student Liaison Team explaining circumstances and requesting discretionary reinstatement of the Right of Appeal.
- Student Liaison Team contacted the Team Leader.
- Student Liaison Team returned:
 - *“The teamleader has come back to say that they are willing to grant a right of appeal, in these **exceptional circumstances**. The student will be getting a revised letter.”*
- Student had to return passport and right of appeal granted.
- Student engaged solicitor for appeal.

[REDACTED]
[REDACTED]
[REDACTED]
LONDON
[REDACTED]

Our Ref [REDACTED]
Case ID [REDACTED]
Date 05 May 2010

Dear Mr [REDACTED]

Application to remain as a Tier 4 (General) Student Migrant

Re: Mr [REDACTED] Algeria [REDACTED]

SECTION A: DECISION AND REASONS

On 16 February 2010 you made a combined application for leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant under the Points Based System (PBS) and for a biometric immigration document. An official has considered your application on behalf of the Secretary of State.

You have claimed 30 points for your visa letter but have failed to provide your Institute of National De Commerce, University of Algiers, Licence en sciences commerciales - 11.66, 2008 qualification certificates as listed on your visa letter, therefore the Secretary of State is not satisfied that you have provided the specified documents as required under Appendix A of the immigration rules. The Secretary of State is therefore not satisfied that you have met the requirements to be awarded 30 points under Appendix A of the immigration rules.

Therefore you do not satisfy the requirements of the immigration rules for this category and it has been decided to refuse your application for leave to remain as a Tier 4 (General) Student Migrant under paragraph 245ZX(c) of the immigration rules.

In making the decision to refuse your application, careful consideration has been given to the following:

On 14 January 2009 you were granted leave to enter the United Kingdom as a student until 07 May 2010.

SECTION B: POINTS CONSIDERED AND AWARDED

Under the immigration rules for Tier 4 (General) Student applicants must, amongst other things:

- score 30 points under Appendix A (Attributes) and provide the specified documents; and
- score 10 points under Appendix C (Maintenance (Funds)) and provide the specified documents.

Detailed below is your score for each of the areas in which points were claimed and the reasons for awarding the respective points.

Points claimed	Points awarded
30	0
<ul style="list-style-type: none"> • Visa letter dated 04 January 2010 from University of East London states that you were assessed on a Institute of National De Commerce, University of Algiers, Licence en sciences commerciales - 11.66, 2008. However, you have failed to provide this document. <p>Therefore, no points awarded for the visa letter.</p>	

Maintenance (Funds)

Points claimed	Points awarded
10	10
<ul style="list-style-type: none"> • Points awarded as claimed 	

SECTION C: RIGHT OF APPEAL

Removal from the United Kingdom

You are not entitled to appeal this decision. Section 82 of the Nationality Immigration and Asylum Act 2002 does not provide a right of appeal where an applicant still has leave to enter or remain in the United Kingdom and so is entitled to stay here.

You still have leave to remain where your current conditions continue to apply until 07 May 2010. Please ensure that you understand the conditions of your stay.

You are not required to leave the United Kingdom as a result of this decision.

SECTION D: HELP AND ADVICE ON RETURNING HOME

You can contact the International Organisation for Migration (IOM), who can assist you in a voluntary return, on free phone 0800 783 2332; or 020 7233 0001; or via their website www.iomlondon.org.

SECTION E: OPTION TO MAKE NEW APPLICATION

Please note that there is no administrative review available for an in-country application under Tier 4 (General) Student of the Points Based System.

If you are not entitled to a statutory right of appeal, but wish us to reconsider this decision on the basis of new or additional information not included in the application that is the subject of this decision, you must submit a fresh application and include full supporting evidence (including required evidence supplied to us with any previous application) and the appropriate fee.

Alternatively, if you wish to apply for leave to remain in another capacity you must do so on the appropriate application form with the appropriate fee. Further information and the relevant application forms can be obtained from our website www.ukba.homeoffice.gov.uk

In all cases an application should be made before your current leave expires.

Further information about the Points Based System can be found on our website at:
www.ukba.homeoffice.gov.uk.

Yours sincerely



Tier 4 Student Team 3
UK Border Agency
on behalf of the Secretary of State

Lynsey Jane Berrecloth

From: Stevenson, Christine [Christine.Stevenson@ukba.gsi.gov.uk]
Sent: 13 May 2010 09:54
To: Lynsey Jane Berrecloth
Subject: FW: [REDACTED] - Algeria - [REDACTED]

Hi Lynsey

The teamleader has come back to say that they are willing to grant a right of appeal, in these **exceptional circumstances**.

The student will be getting a revised letter.

Hope this helps.

Christine Stevenson
Student Liaison Team
North East, Yorkshire and the Humber
UK Border Agency
Vulcan House – Iron
PO Box 3468
Sheffield
S3 8WA
Tel: 0114 207 1887
Fax: 0114 207 5876
Email: christine.stevenson@ukba.gsi.gov.uk
please note my new fax number

From: Stevenson, Christine
Sent: 13 May 2010 09:21
To: Pivoriusas, Anne
Subject: FW: [REDACTED] - Algeria - [REDACTED]

Hi Anne

Is there anything we can do with this one?

Sorry to be a pest.

Christine Stevenson
Student Liaison Team
North East, Yorkshire and the Humber
UK Border Agency
Vulcan House – Iron
PO Box 3468
Sheffield
S3 8WA

30/06/2010

Tel: 0114 207 1887
Fax: 0114 207 5876
Email: christine.stevenson@ukba.gsi.gov.uk
please note my new fax number

From: Lynsey Jane Berrecloth [mailto:L.J.Berrecloth@uel.ac.uk]
Sent: 10 May 2010 13:18
To: Stevenson, Christine
Subject: [REDACTED] - Algeria - [REDACTED]

Hi Christine,

Had an email from the student above who has been refused due to not providing educational documents along with the visa letter. Not unreasonable.

The problem I have is that the refusal letter was dated 5th May, and because the students visa ran out on 7th May they did not give him the right of appeal. Which is a bit mean as he did not even get the refusal in the post until the day after his visa expired, so no chance of a fresh in-time application.

I was wondering if there was anything you could do?

Thanks,

Lynsey

Lynsey Berrecloth
International Students Advisor
International Office

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30/06/2010