

## **BUILA's written feedback to the policy proposal on Basic Compliance Assessment (BCA) adjustments and the wider compliance process**

### **1. Introduction**

1.1 BUILA supports the Government's aim of strengthening sponsor compliance and protecting the integrity of the Student Route. We recognise that clear guidance regarding sponsor compliance is beneficial for all universities. When considering the proposed BCA adjustments, there will be consequences and reputational risk that undermine the UK international education sector if implemented as is.

BUILA therefore propose targeted and considered refinements that maintain high standards while ensuring fairness, operational deliverability, and sector confidence.

### **2. Executive Summary**

BUILA supports the Government's goal to strengthen sponsor compliance and protect the Student route but raises concerns that the proposed Basic Compliance Assessment (BCA) adjustments may cause reputational harm and operational challenges for universities if implemented without refinement. They propose targeted adjustments to maintain high standards while ensuring fairness and sector confidence.

- **Harsh penalties risk reputational harm:** The proposal may penalize sponsors excessively for factors beyond their control, potentially damaging both individual universities and the UK's international education sector without improving compliance.
- **Short consultation period concerns:** The consultation on this complex policy has been brief, and further engagement with a diverse group of providers is recommended to protect the UK's educational brand and effectively discourage abuse.
- **Need for impact analysis:** Sharing a sector-wide impact analysis, including the effects of the proposed five-year "final warning" status and financial implications for "amber" category institutions, would aid understanding and fairness.
- **Timing and retrospective application issues:** Clarity is needed on how new metrics will be applied retrospectively; sponsors should be assessed based on standards at the time of sponsorship to avoid legal challenges and ensure fairness. BCA assessments should be aligned to recruitment cycles to allow sufficient time for improvements.
- **Concerns with RAG ratings and publication:** The current RAG rating system is seen as too blunt, lacking nuance between controllable and external factors. The publication of ratings, especially "amber" and "red," poses reputational risks and should include mechanisms for sponsors to challenge ratings before publication.
- **Action plans and final warning status:** The proposed five-year "final warning" following a red rating could severely impact institutions financially and reputationally. BUILA suggests lifting this status upon full implementation of action plans to reflect improvements and avoid prolonged penalties.
- **Data and system improvements needed:** Real-time visa refusal data and consistent information sharing from UKVI are crucial for universities to manage

compliance effectively and respond promptly to risks. Current system limitations pose challenges for timely decision-making.

- **Metric refinements recommended:** Non-enrolment rates should exclude non-travelled students and deferrals to avoid unfair penalties, and visa refusal metrics should only count decisions on “used” CAS, excluding withdrawn applications.
- **Concerns over suspension of privileges:** Granting UKVI power to suspend privileges linked to BCA ratings is complex and may unfairly impact student accessibility, running counter to the Government’s goal of attracting high-quality international students.

BUILA are keen to collaborate closely with the Home Office to refine and implement these proposals, aiming to ensure effective risk management, encourage appropriate behaviours, and maintain the UK’s higher education reputation and competitiveness.

### 3. Key areas

- 2.1. After feedback from our members, there are particular areas in the policy proposal which:
  - a. Penalise sponsors too harshly for factors outside their control, risking reputational harm (university and sector) without improving compliance.
  - b. Undermine the UK’s competitiveness in international education.
  - c. Do not necessarily encourage the behaviours that the Government is seeking.
- 2.2. Whilst the Immigration White Paper was published in May, there has been a very short consultation period for the details alongside the measures being proposed. It is a complex and nuanced area, and the policy’s implications are far-reaching. Further consultation with a select group consisting of large and small providers would be beneficial to ensure the measures meet the needs of all university types protecting “brand UK” whilst discouraging abuse within the system.
- 2.3. Sharing a sector wide impact analysis with stakeholders such as BUILA to support this consultation would be beneficial. The analysis to include:
  - a. The institutional and national impact of a 5-year “final warning status”.
  - b. The number of universities that would fall into an “amber” category based on current performance. So far, we have heard of the 21 who would be “red”.
  - c. The financial impact of those “amber” institutions having CAS numbers frozen, to ensure there is no disproportionate regional impact.
- 2.4. Our membership has expressed reasonable concerns, associated with:
  - a. Issues around the timing of policy implementation and assessment points.
  - b. The components of the RAG ratings, and their publication
  - c. The action plans and the 5-year “final warning” status.
  - d. Steps which can be taken to encourage stronger implementation

### 3. Timing and implementation

- 3.1. Clarity around retrospective application of new metrics is needed. The commitment to look at this on a “case-by-case” basis is welcomed, but our members would be reassured with more detail to this commitment. There are concerns about UKVI’s capacity to handle retrospective issues on a case-by-case basis whilst maintaining parity of approach across all sponsors.
- 3.2. We are concerned that without this mitigation, this aspect of the policy proposal may be open to legal challenge, creating an uncertain policy environment for sponsors.

**We believe a reasonable position is that sponsors should be assessed on performance in accordance with the standards in place at the time the sponsorship took place.**

- 3.3. **BCA timings.** Currently, BCAs are conducted at different points in the year for each sponsor, creating a significant time lag between recruitment activity and its assessment. Under the proposed changes, this delay means that any action plan imposed by UKVI would leave the sponsor insufficient time to influence the next recruitment cycle, increasing the risk of repeated outcomes before improvements can realistically be implemented.
  - a. In effect, a sponsor whose BCA year ends in June will be assessed on a visa refusal rate, which will be mostly contributed to by sponsorship that took place nearly 12 months before, and in the middle of recruitment activity that would already be underway.
  - b. This could result in a scenario whereby a sponsor is put on an action plan in June/July for a visa refusal rate, but has a very limited window of opportunity for that action plan to have effect due to the timing of recruitment and sponsorship activity.
  - c. We are also concerned that this could increase the likelihood of sponsors receiving two detrimental ratings very quickly, without an action plan having had sufficient time to make any impact resulting in the loss of confidence in the action plan concept within the sector and beyond.

**Further consultation is needed to determine more suitable timings for BCA assessments, including the possibility of establishing a defined “BCA window” (e.g., October–February) to ensure timely, predictable assessments and allow action plans to take effect before the next recruitment cycle.**

### 4. RAG ratings and their publication

- 4.1. Our members have concerns about the effectiveness of the RAG system. What is being proposed is a blunt instrument for assessing a complex set of issues, offering limited nuance and failing to support constructive engagement.

- 4.2. The current design does not adequately differentiate between issues within a sponsor's control and those driven by changeable UKVI processes or wider external factors, leading to disproportionate negative impacts.
- 4.2.1. On visa refusal rates, we would like to ensure that the BCA is judging behaviour within the sponsor's control. This has increased in importance since the proposed threshold adjustments. Our membership believes it is essential to:
- a) **Clarify the distinction between adverse and non-adverse refusals and agree where refusals should not count towards a sponsor's refusal rate.**
  - b) **Introduce a mechanism that supports direct interactions between the sponsor and UKVI to discuss visa decisions. The current process of students directly initiating administrative review processes, sometimes without the knowledge of the sponsor does not allow for sponsor reflection. A lack of transparent and consistent decision making criteria may lead to sponsors legally challenging UKVI decisions.**
  - c) **Provide live refusal data so sponsors can take immediate, in-cycle action. Consultation is needed on what UKVI data is collected and how best to share it with sponsors. This is further explored in the final section of this paper.**
- 4.3. Publishing RAG ratings, especially all at once, poses significant reputational risk. It would likely attract major international attention and could further undermine confidence in UK higher education.
- 4.4. Publicising an Amber rating provides no clarity to potential students or stakeholders. We recommend that Amber ratings be used solely as an internal mechanism to support targeted improvement in the relevant metric.
- 4.5. Rapid publication of RAG ratings after a BCA will not allow sponsors sufficient time to challenge their rating, given the significant reputational consequences and may lead to legal challenge. We therefore recommend a minimum four-week cooling-off period to enable sponsors to present mitigating factors for UKVI's consideration, particularly where a rating has changed.
- 4.6. Under the current proposal, a sponsor with two green metrics and one red is automatically classified as red. One alternative approach could be to introduce a weighting mechanism, such as assigning different scores to each metric and determining the overall rating based on a composite score, so that a single isolated red does not override strong performance elsewhere. The sponsor's past BCA performance should also be considered. This would provide a fairer and more accurate reflection of a sponsor's overall BCA position. Another approach could be to remove an overall rating and show all 3 ratings.

- 4.7. Further consultation on how an institution moves on and off a rating, and on how the proposed action plans align with the existing compliance action plans, is required to ensure universities are working towards agreed goals and understand the timelines.

## 5. Action plans and the 5-year final warning status

- 5.1. The proposed five-year “final warning” period following a red rating will have a significant and prolonged impact on an institution’s financial viability. We are particularly concerned that “Brand UK” may be harmed if many sponsors fall into this category and remain there even after demonstrable improvement, leading to loss of income and potential closure leading to significant issues for both Home and OS students bringing adverse publicity to the UK Government.
  - 5.1.1. A proportionate approach would be that a “final warning status” is lifted if the action plan has been fully implemented within the specified timeframe. This would reflect a more accurate position of the sponsor’s current status, publicly recognise positive behavioural change and reflect the fact that action plans require time to lead to demonstrable change.
- 5.2. On action plans, we would appreciate further detail on:
  - 5.2.1. **The potential for action plans to be proposed by sponsors, and then agreed by UKVI, as opposed to being imposed by UKVI. This is particularly pertinent if a sponsor has a strong track record of compliance. This would ensure that institutional nuances are clear in the action plan.**
  - 5.2.2. **Confirmation that action plans will have specific, time-bound, and measurable outcomes associated with them with a clear indication of how and when this will be reflected in the sponsors rating.**

## 6. Supporting effective implementation

- 6.1. **Data.** The proposal acknowledges that UKVI will not be in a position from go live date to provide required real time information within the timeframes published to implement the BCA changes. This presents a significant challenge for effective compliance management and potential for legal challenge to UKVI who may be seen to be implementing regulations that affect university compliance and financial viability without due process and factual data. We welcome clarity on planned SMS developments, as improved system functionality will be crucial for informed and timely decision-making.

- a. **Universities need live information on visa refusal data, as decisions are made, with as much narrative around this information as possible to help them understand risks and where appropriate, put additional measures into place.**
  - b. **Universities cannot see visa status after the student has left the university so there is a need for UKVI to provide data that will help sponsors proactively manage this metric.**
  - c. **There needs to be consistency in the approach to the information shared with sponsors about visa refusals. Members report that this varies at the moment between different UKVI staff.**
- 6.2. **Scope.** We recognise that the proposed re-sizing of sponsors in scope from 50 to 100 is an improvement on the “small sponsor status” of 50, but we are concerned that smaller sponsors will continue to be overly impacted. Given the government’s proposals that the international student levy be introduced on students beyond the 220th student, this seems a sensible threshold which should be adopted for these purposes also to provide consistency and alignment to the approach.

## 7. Evidence for metrics

- 7.1. **Non-enrolment rates.** The sector’s recommendation to exclude non-travelled students from the enrolment metric remains essential. Many non-arrival scenarios are outside a university’s control. This metric will be particularly disproportionate for smaller HEIs, where very small numbers can determine whether an institution is rated red.  
**We strongly recommend that non-travelling students be removed from the calculation.**
- 7.2. Consideration needs be given for applicants who do not enrol due to deferring their place. Due to various factors, there are students who are not granted their visa in time to arrive for the September intake and therefore might defer until the January intake, when they do successfully enrol. UKVI policy means these applicants must be given a new CAS and make a new visa application, however for the University they are simply deferring their arrival until the next intake. It is unreasonable that they are counted negatively in the enrolment rate.
- 7.3. **Visa Refusals**
- 7.3.1. To ensure clarity, the metrics should **not** include students until a decision has been made on an application and the decision is about to be sent to the applicant.
  - 7.3.2. If a CAS is withdrawn before a decision is made, then these withdrawn CAS should **not** result in visa refusals or be held against a sponsor. Only decisions arising from “used” CAS should be included in BCA calculations.

## **8. Non-completion Rates**

- 8.1. The current approach to the non-completion metric risks creating unintended consequences, where sponsors may feel pressured to retain academically unsuitable students or fee-debtors longer than they ordinarily would, simply to avoid breaching the threshold. This undermines academic integrity and does not support the Home Office's objective. For consistency and transparency, only new students recruited at the time of the changes to BCA metrics should be counted in those ratings.
- 8.2. Due to the retrospective nature of measuring non completers and the time some of the students will take to complete their journey, which could be 4 years, we request that the discretionary treatment period be extended to 4 years.

## **9. Suspension of privileges**

- 9.1. The proposal to give UKVI the power to suspend privileges linked to the BCA ratings is a hugely complex area and needs much more consideration. It has been recognised legally that UKVI staff are not EL specialists creating a change in process regarding reporting of non-compliant students. Any blanket removal of privileges will disproportionately and unfairly impact accessibility for students as the sponsor will no longer be able to accept their qualification or test due to an unrelated factor. This would run counter to the Government's stated aim of attracting high-quality international students.

## **10. BUILA's Position**

- 10.1. BUILA and its members fully support the Home Office's objective of continuing to evaluate the strength and integrity of the Student Route, ensuring high levels of sponsor compliance. As shown above, there are components of the proposed BCA changes that require further refinement to ensure they are proportionate and operationally deliverable across the whole sector.

We therefore welcome the opportunity to work closely with the Home Office on the detailed design and implementation of these proposals. By engaging collaboratively on the underlying processes, data requirements, and transitional arrangements, we hope to ensure that the final policy is effective in addressing genuine risk, encourages the right behavioural outcomes, and preserves the global reputation and competitiveness of UK higher education

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