

ALTERNATIVES TO LEVEL B1 AS ENTRY CRITERION FOR ENGLISH LANGUAGE COURSES

English UK proposal

Rather than requiring visa-national students wishing to come to the UK on the General Student Visa (GSV) to learn English on courses of more than six months to demonstrate an already high level of competence in the language (CEFR B1 is equivalent to top grade GCSE going on to AS level; B2 is equivalent to A level), we suggest that the best criterion for entry to English language courses for these students is their general level of education, broadly indicated by having completed high school education in their own country (to an equivalent of Year 12 or AS level in England – many other countries do not have an equivalent of our Year 13, A level). General level of education expressed by previous attainment is usually taken to be the best predictor of success in further courses.

This could be flexed on a country by country basis according to the country risk profile which UKBA has already developed. In low risk countries (such as Korea or Kazakhstan) the requirement might be lower, equivalent to year 11 or GCSE. In the northern Indian sub-continent it might be higher, equivalent to a college diploma or BA degree.

Completion of whatever level is set would also have to be relatively recent (eg last five years), or applicants would have to give evidence in addition of more recent study at a higher level and/or of English.

This criterion would effectively exclude almost all the rural lower income groups who are the major concern in respect to disguised economic migration in eg China, because most young people leave school at around age 14 to work in the fields, and so would not meet the criterion of completing high school.

Completion of high school is easy to evidence and to check, and forgeries of certificates would be reasonably easy for UKBA to detect since significant expertise in this has already been established. Setting the level would involve contributions from ECOs, national education bodies, and English UK members with knowledge of education systems in specific countries, but need not take more than 4-5 weeks and could be kept under review.

UKBA proposal

UKBA have suggested that colleges which are Highly Trusted (HTS) might be allowed to bring in students on GSVs at levels below B1.

The problems with this are largely operational, though presumably like the English UK proposal it would require a change to the Immigration Rules.

English language colleges were informed at the inception of HTS that they would not need to obtain this status since they generally do not run courses at NQF level 3 or courses with an element of work experience, which only HTS colleges can do. Consequently a number have not applied for HTS: a survey of members conducted in 3 days last week was answered by 102 centres, about 30% of English UK's private sector membership. Of those 102, 47 had applied for HTS, and of those 47, 24 applications were outstanding. Of the other 23 who have applied, 5 have been rejected (a couple for apparently trivial reasons like being a day late with the data) and 18 have been approved. Of those who have not applied (54), 14 think that they would not need to bother anyway as they have very few GSV students. We understand from an answer to a PQ a couple of weeks ago that of 422 applications, about 160 have been approved and around 40 refused/rejected, so only about half the total have been processed. If another 120 colleges were now to join the queue, it could take some months to complete the process of reviewing their applications, which would not meet the need for urgency: as explained at the meeting with the Minister on 26 July, colleges need certainty ideally by early September on what the entry criteria will be for next year, as that is when the autumn marketing of courses into 2011 kicks off with StudyWorld, the major international education fair in London.

For this option to work, UKBA would need to expedite the processing of applications so that all who applied would be certain of having their application determined by early September. There are indications that this might be possible, and English UK stands ready to assist as far as it can in this.

Other options

Two other options have been canvassed.

The first is to 'trade off' working rights for GSV students on English language courses for access to courses with a language level below B1. There are a number of objections to this.

First, it is not in principle clear why students on English language courses should have no right to work when students on other courses below degree level would retain a right to work for 10 hours a week (and full-time in vacations).

Second, English language students are already disadvantaged in respect to work rights, since courses are generally continuous: there are no vacations (apart from a week at Christmas for most centres) so English language students cannot work full-time in the vacations. Insofar as restriction of work rights has a deterrent effect, this is already to a large extent operating.

Third, a situation in which one student on a GSV is entitled to work for 10 hours a week, and another is not, would be highly confusing for both students and employers, and we have no wish for either our students or any employer to get into trouble because of misunderstandings.

Fourth, the elimination of work rights would have a damaging effect on certain significant markets such as Colombia, where the American concept of 'working your way through college' is prevalent, and would make those students prefer to study English in competitor countries with better work entitlements.

Fifth, the classroom teaching of English is greatly reinforced by practice in using the language in real-life contexts such as workplaces, so students are right to feel that communicating with others in work and other situations will help their learning.

Sixth, it is doubtful whether elimination of work rights would in fact have any effect in limiting such abuse as there might be if the language level were to be dropped, but work rights eliminated. Someone determined to gain entry to the UK by posing as a bona fide student but intending once here to 'disappear' and work illegally is not going to be greatly deterred by being told that they cannot work legally at all.

The second option is to limit the duration of GSVs for courses below degree level to 51 weeks, and for these students to remove the entitlement to extend their visa in the UK without a trip home (or at least without leaving the UK).

This suggestion proceeds from a UKBA perception that allowing students to continuously extend their visa (leave to remain) without a break and leaving the UK enables them to build up a length of residence cumulatively approaching the 10 years required under EU law to gain settlement rights.

In current circumstances it is probably pointless to say that in order to accumulate 10 years of residence, a student would need to progress from an independent school course to a degree course plus post-study work, or from a foundation year to a BA degree to a Master's plus post-study work, and these are surely the 'brightest and best' (and probably wealthy) individuals that the UK economy needs and the Government says it wishes to retain.

If the driver is a wish to deny students the chance to accumulate 10 years residence, then the key break points are actually not at the end of a one (academic) year foundation or pre-session course, but at the end of either secondary education (after perhaps 7 years) or after first degree completion (which with a pre-session course might be around 4 years). Enforcing a 'break' after a maximum of 51 weeks would not deliver the policy objective.

There are a number of other practical objections to this option. Like home students, at the end of their pre-session/foundation year programmes international students may be holding more than one university course offer, and have arrangements to make (from interviews to campus visits to securing accommodation) which require them to be in the UK. Even if they were allowed to lodge a new visa application in the UK before they left, an absence could be at the least highly inconvenient.

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