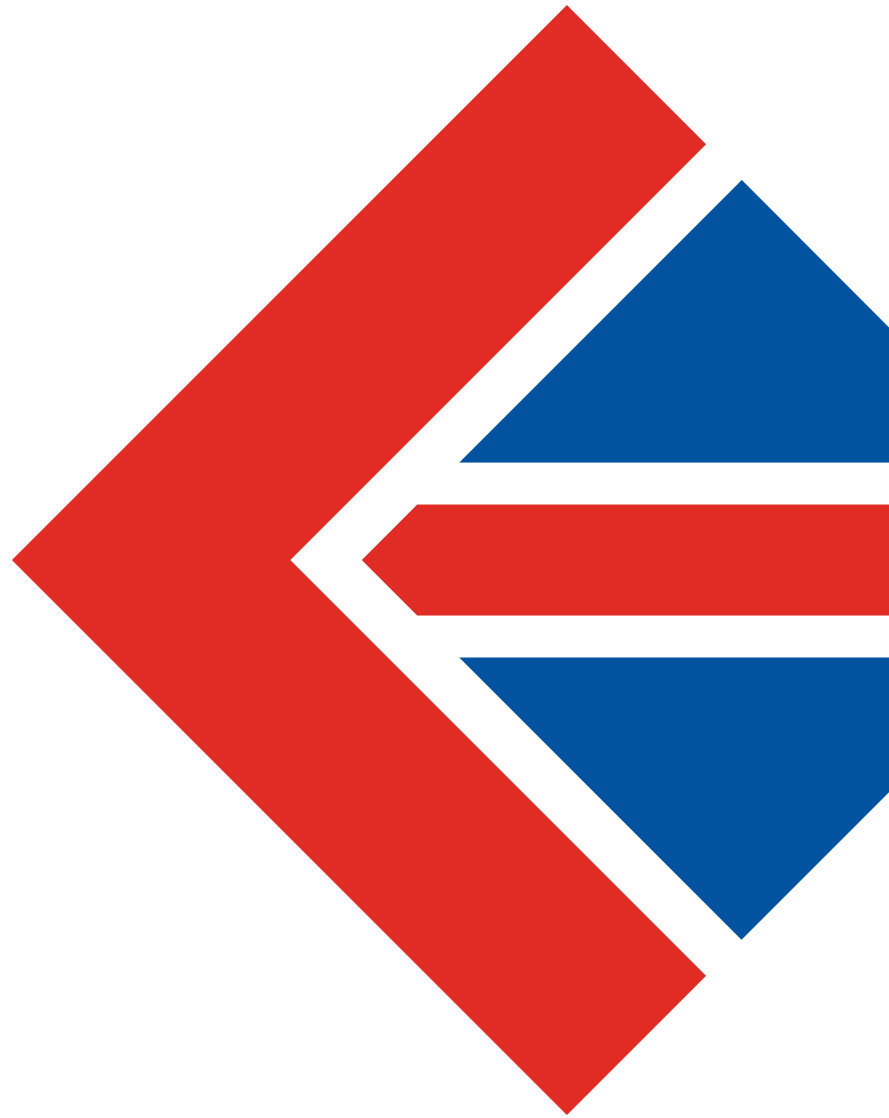


THE STUDENT IMMIGRATION SYSTEM -
A CONSULTATION
RESPONSE FROM ENGLISH UK





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English UK

English UK is an association of nearly 450 English language centres in universities, further education colleges, and independent schools and private colleges, some of which are educational trusts.

Over 400,000 students a year learn English at English UK member centres. The UK is the global leader in the learning of English by study abroad. The sector is worth approximately £1.5 billion a year in foreign earnings to the UK economy.

All member centres are accredited under the Accreditation UK scheme, which is managed by the British Council in partnership with English UK. Accreditation UK is approved by the UK Border Agency for the purposes of the Register of Sponsors for Tier 4.

English UK is a UK registered charity with the object of advancing the education of international students in the English language. It is also a company limited by guarantee and its Board of 12 trustees is elected from and by the member centres.

English UK has been a member of the UKBA Joint Education Taskforce since its inception in 2005, and has supported efforts to reform the visa system for international students and to root out bogus colleges, both on educational and immigration control grounds.

The policy background

The Coalition Agreement stated that the Government would set an 'annual limit on the number of non-EU economic migrants admitted into the UK to live and work'. It further stated that the Government 'will introduce new measures to minimise abuse of the immigration system, for example via student routes'. We note that the document does not propose a limit on the number of international students, nor does it suggest that the number of international students should be reduced (except implicitly as a consequence of minimising abuse). We support the objectives set out in the Coalition Agreement.

The current proposals, however, are set in the context of 'reducing net migration'. The policy objective of reducing net migration (those who enter the UK and remain here for more than a year, less those who exit the UK and remain abroad for more than a year) is in itself not particularly meaningful. It does not in fact matter if students enter the UK and remain here legitimately for more than a year on a course. What matters is whether they leave when they have completed the course, or whether they switch into a route leading to settlement. In other words the ultimate and proper policy objectives are ensuring compliance with visa conditions, and reducing permanent migration, settlement and citizenship. The present proposals do not offer a particularly effective way of meeting these objectives.

There does not appear to be any modeling of what impact the different proposals would have, either separately or cumulatively. Nor does there appear to be any set timescale. Reducing net migration is taken as a sufficient objective in itself, yet there is no indication of by how much it should or will be reduced by these proposals, nor by when. This does not give confidence that the impact of the proposals has been fully considered and that their possible outcomes are known with any certainty. Our view is that if there are measures which should be taken for immigration control reasons, such as ensuring compliance, then those measures should be taken, and any reduction in net migration as a consequence is incidental, but that it is a mistake to set a reduction in net migration as the primary objective.

Preliminary observations

First, the current consultation does not take adequately into account the progress which has been made in tightening up the student visa system over the last three years in particular. There were over 4,000 colleges on the DIUS Register of Education and Training Providers. There are now fewer than 2,000 on the Register of Sponsors. Colleges are limited as to their Confirmation of Acceptance of Studies annual allocation, and without a CAS a student cannot get a visa. The electronic Sponsor Management System gives UKBA a wholly new dimension of control and security. The SMS and CAS together have removed one whole area of visa fraud through forged enrolment letters. Students now have to give biometrics as part of their visa application, which cuts down on impersonation and other forms of identity fraud. Other control measures in the last year have been the Highly Trusted Sponsor scheme, and the limiting of lower level courses to HTS colleges, and the introduction of secure English language tests for non-degree students. In essence we can see no good reason for most of the other restrictions now proposed. It would be preferable to let the 2010 changes work through the system and to evaluate their impact before embarking on a further round of changes.

Second, the proposals take the form largely of blanket restrictions and are something of a blunt instrument. If there are still areas of abuse, then it is surely possible to target those specifically: for example, if a college is not fulfilling adequately its duties as a sponsor, or its recruitment practices are leading to high rates of student drop-out and absconding, then UKBA should use the powers it has to degrade that institution to a B rating and/or remove it from the Register of Sponsors. This would be a far better approach than in effect penalizing all satisfactory Sponsors for the poor performance of a relative few. Equally, blanket requirements on students (such as the proposal in **Question 8** that students wanting a visa for a new course should return home to apply) are likely to be highly discouraging and act as a considerable disincentive to come to study in the UK in the first place. In our view UKBA needs to consider much more specific, targeted and graduated action.

Third, we note that the consultation is silent on a number of points, such as the current language level exemption for government-sponsored students. It is not clear whether silence implies continuation or abolition of current arrangements under (eg) the blanket requirement for a secure English language test at B2 level.. We assume that the consultation covers proposals for change, and where the consultation is silent, no change is proposed, but would welcome assurance on this point.

Fourth, we do not accept much of the argument laid out in the consultation paper to contextualize the proposals. For example, the statistics comparing compliance of students in universities with those in private colleges are misleading because the private college figures are based on those under investigation, presumably precisely because of student non-compliance. The sample is therefore biased. We note that the whole argument is in any case undermined by the Home Office report of September 2010, *The Migrant Journey*, which concluded that 'It seems plausible that the vast majority of migrants granted non-visit visas in 2004 have left the UK'. Lest our response become overlong we have not performed a detailed analysis and refutation here, but we have this to hand and may submit it separately.

Fifth, the consultation appears to draw a distinction between study at degree level and study below degree level as being relatively low risk and relatively high risk. No good evidence has been adduced for this presumption and it shows a misconception in that study below degree level is often on a 'pathway' to degree level study.

Sixth, we do not believe that the statistical basis for many of the figures quoted in this area is reliable enough for some of the conclusions reached as a result. There are particular issues over whether the International Passenger Survey records exit purposes accurately, and it is well within the bounds of possibility that student numbers leaving the UK are significantly understated. This compounds our unease at the appropriateness of 'reducing net migration' as a policy objective.

Seventh, the proposals have as one objective to simplify the student visa system. In that, they fail almost completely. To those in institutions who have to operate the system on a day to day basis, they appear calculated to introduce greater complexity. It may be that the whole system has through its piecemeal development grown labyrinthine and Byzantine, and a new and radical approach is needed. Clearly the current proposals are not such an approach.

Eighth and finally, the student visa system has been in almost continuous change for over three years. It has been difficult for institutions to keep up with the changes; most have had to incur extra cost by appointing or redeploying a member of staff simply to deal with the visa system and the demands of being on the Register of Sponsors. The confidence of study abroad agents in the UK system is close to the point of collapse, and they are the major recruiters of international students for most UK institutions, including higher education. And even Entry Clearance Officers struggle with the policy guidance on the system. Our view is that either the system needs to be reformed radically, or after some change based on a few of the current proposals, it needs to be left for 3-5 years unchanged so that its effects can be properly understood. A period of stability is badly needed. Indeed our worst case scenario is another set of proposals in 2012, another in 2013, and another in 2014, if it transpires that what is done in 2011 is judged not to have had a sufficient deterrent effect.

Responses to questions

Questions 1, 2 and 3

On balance, the answer here has to be 'no', largely because Highly Trusted Sponsor status is itself under review, and until that is concluded it is difficult to see how the finished system might work. We therefore reserve our position on this.

In general terms, we have no objection in principle to some form of greater freedom to offer courses for highly compliant sponsors. There are however a number of issues. First, the term 'Highly Trusted' has been widely misunderstood as implying an educational quality judgement, and the Chinese government uses it as a means to decide which colleges to work with. Many educational agents will only work with HTS colleges. Second, it seems peculiar that HTS colleges have to be scrutinized *more than less highly trusted* colleges, and pay more for the privilege. Third, it is not clear what sponsors other than HTS would in due course be able to do: presumably offer degree courses only. This would lead to a rather peculiar situation where some institutions offering degree courses might be *less trusted* than those offering other courses. Fourth, is it perhaps the endgame that T4 would be restricted to HTS? In order to determine a position we need to have greater clarity on what is actually being proposed.

We can therefore say 'Yes' to **Question 3**, in that any new measures would certainly need to be phased in, over probably 24 months at least.

Question 4

Yes.

Question 5

No.

CEFR level B2 is equivalent to an A level in a foreign language. This proposal would have a severe impact since UK universities recruit around half their international students from preparatory courses in the UK, generically termed international foundation year (IFY) programmes (not to be confused with Foundation Degrees). These IFY programmes usually do three things. First, they improve students' command of English, to the level required for university entry (which is around level B2 or IELTS 6.0-6.5). Second, they top up subject knowledge (many other countries do not have the equivalent of our Year 13, the second year of A level) so that all students start a degree course with more or less the same level of UK curriculum knowledge. Third, they teach the skills of independent study, which is needed since many other parts of the world hold to a more didactic style of pedagogy. One English UK member, a group of centres which is a leading provider of IFY programmes, with links to around 20 universities, has given us the estimate that around 75-80% of their current IFY intake have an English level of A2-B1, meaning that these students would not be able to gain T4 visas for IFY courses if the level required was raised to B2. If that was the case across the whole of pre-university courses (pre-sessional English for academic purposes and IFY programmes) then there would be a loss of 35-40% of international students going into universities. At a time when

many universities rely on the higher fee income from international students to maintain course options and whole departments, this would have a serious impact and it is no exaggeration to say that the financial stability of some universities might be threatened.

It should be noted that if this is intended as a measure to reduce abuse, it is misconceived. A high level of English is not an infallible indicator that a student is genuine, nor is a low level of English an indicator of a student not being genuine. We note (and this applies also to **Question 6**) that some countries where the general level of English is quite good (eg India, Nigeria, Pakistan) are judged by UKBA generally to be high risk, and the current visa refusal rates are very high; whereas in some countries seen as low risk in immigration terms (Korea, Japan) the general level of English attained by students at the end of secondary education is only moderate to poor.

The level of English required should either be set at A2, meaning that students would have a year to go up two levels to achieve university entrance standard, or as an alternative the extended 11-month Student Visitor visa should be given one entitlement, which is to be able to switch in the UK to a T4 visa for the purposes of going on to a degree (or degree equivalent, NQF level 6) course.

Question 6

On balance yes, though in fact we favour decisions on this to be left to the discretion of the institution recruiting the students. This is because some 'majority English speaking countries' do in fact have significant minority language education institutions, which are often patronized by those linguistic groups, so coming from a majority English speaking country is not an absolute guarantee of English language competence in all cases. Nor is 'having recently studied in the UK as children' an absolute proof that those individuals have an adequate command of English to be competent adult students: it would depend for how long and at what level, and how 'recent' is recently. However such assessments should be made by professionals and are educational decisions which are contingent sometimes on what an institution can offer (eg many colleges run English language and study support programmes to help students improve).

Question 7

On balance, no; whether a student should be accepted for another course is an educational judgement which is best made by a college. As stated, the proposal would rule out a student doing a BA degree and then a postgraduate certificate such as a PGCE (technically the same level on the NQF), or doing a MSc Economics then an MBA. There is already in place the sensible and acceptable limit of three years maximum for study at below degree level, and it seems to us this is an adequate safeguard.

Question 8

No.

This would force students to close down their affairs in the UK (bank accounts, accommodation, etc) and then, if re-admitted, have to renew them. The practical implications of this proposal are severe, because where a student progressed in the UK system from say A level through a BSc, MSc and PhD (arguably exactly the kind of student we want) they would have to do this three times.

We understand the thinking behind this proposal to be to limit the number of students who take a course in say accountancy, starting at Certificate level (roughly NQF level 3) and then progress slowly up to a level 6 qualification, which with re-sits could bring them close to acquiring the ten years' residence in the UK which gains them settlement rights. It would be preferable for UKBA to discuss this issue with the relevant awarding bodies like ACCA and AAT, rather than to impose such a blanket restriction on all students.

Question 9

Post Study Work appears to be a significant component of the attractiveness of the UK to international students. For the global careers of tomorrow, living, studying and working in another country are vital CV plus points. It would certainly be unfair to withdraw this entitlement from students already on courses in the UK, and we would urge that no decision on this should be implemented before November 2011.

If the Government is determined to go ahead with some limiting of PSW, then two options are either to limit it to those who complete a Master's degree, or to those who can gain a Tier 2 job, with such jobs not being counted in an employer's Tier 2 CoS limit.

Questions 10 and 11

The context of T4 is that almost all of the students on T4 visas will be in the UK for at least a year. Quite apart from the desirability of earning some money to offset their course fees and living costs, students quite rightly value the experience of working, and the opportunities that work gives them to practise their English language in real-life rather than classroom settings and to gain an insight into UK culture and business practices. Further restrictions on work are unlikely to deter those who already work over their permitted hours, so the proposal is not a solution to the problem set out in paragraph 7.2.

We agree that employers should be helped to understand the rules on work, and assume that it would be possible to specify work entitlement on students' biometric ID cards, so that employers would know for how many hours a student could work.

Question 12

No.

The ratio of work to study is often specified or strongly indicated by the awarding body. Only HTS colleges can offer such courses anyway. Vocational courses would be badly affected by this proposal and many would simply not be viable. We believe that these are decisions for

colleges and awarding bodies and relevant industry/professional bodies, and that arbitrary ratios should not be imposed.

Question 13

On balance, probably no, but this is a difficult call for a number of reasons.

First, it is probably discriminatory: for example, Muslim women would effectively be excluded, because culture and to some extent religion demands that if unmarried, they be accompanied by a close male relative, and if married, by their husband.

Second, study abroad for more than 6 months is often a joint family decision and a wife might well expect to travel to support her spouse.

Third, there would probably need to be an exemption here for government-sponsored students. Another option is to have an exemption for postgraduate students.

So, on balance, we can see few advantages of such a policy, and some difficulties. It is however difficult to quantify what the adverse impact would be (ie how many prospective students would not come to the UK if they could not bring family with them).

Question 14

At first sight this looks reasonable, but it is again a difficult issue, mainly because it would probably discriminate against women, because their spouse would be denied the right to work to support them/their family. The probability is that this might deter women from coming to the UK as students unless they were on a government sponsorship or scholarship.

It might be an option to consider limiting the entitlement of dependants to work to postgraduate students, government-sponsored students and those on scholarships such as Chevening.

Questions 15, 16 and 17

On balance, we favour an approach which takes due account of risk on a country basis, but believe there is scope for modification of these proposals to make them more effective.

First, the categorization into 'high' or 'low' risk is too crude. There is probably a category of 'very low' risk country which should be moved to visa waiver status.

Second, there are (or will be when E-borders is fully operational) indicators of risk other than incidence of use of forged documents, for example non-compliance (failing to leave the UK within the term of a visa).

Third, there are other measures which should be considered here which would counter and reduce forms of immigration misrepresentation. For example, applicants may simply borrow the money they need for proof of funds, and repay this (with a large interest payment) when they have obtained a visa. It would be preferable to make applicants place funds beyond their control either by paying a substantial proportion (at least 50%) of their course fees in advance to

the sponsoring college, or placing funds in an escrow account (which could be managed for the purpose by a global bank of the HSBC type at no cost to the UK taxpayer). If the former option (which we prefer because it is already common practice in the sector) were to be adopted, private sector colleges would need some form of insurance (as in Australia) against default or fraud, and this could be a mutual scheme such as already exists for Accreditation UK accredited colleges (run by English UK for the sector).

Fourth, we have no objection in theory to the possibility of taking the sponsor's rating into account in this context, but re-iterate our comments about needing to be clear about the future of HTS and sponsor rating more generally before we can agree in practice.

Question 18

Yes.

We do not think that the present accreditation arrangements are fit for purpose. For example, a significant number of colleges which have had accreditation withdrawn, or have failed a first inspection, with one of the approved accrediting bodies, have subsequently gained or have retained accreditation by another approved accrediting body. There is clearly no consistency of standards, which is hardly surprising since the different accrediting bodies have adopted different criteria and have different teams of inspectors. One accrediting body accredits only 32 centres, only 17 of which are on the Register of Sponsors. It is difficult to see that any purpose is maintained by having a separate accrediting body of this size, which is doing so few inspections a year that maintaining consistency of standards must be extremely difficult. This is an unsatisfactory situation which needs to be addressed.

We can see no good reason for there to be more than one approved accrediting body for independent tertiary colleges and one for English language centres, and indeed there may be a case for these to be unified or at least to carry out combined inspections where independent colleges also deliver English language courses. A consequence of improving the accreditation arrangements and raising standards might well be that those colleges which have had accreditation withdrawn, but have had the fallback of getting accreditation from a different body, finally lose accreditation and their T4 sponsor licence. That in turn would have the effect of improving the UK's reputation for quality, which is our main selling point in the competitive world of international education. If that also led to some reduction incidentally in the numbers of international students coming to the UK, that would be an acceptable consequence as indicated in our argument in the paragraphs on the policy background above.

Question 19

We have tried to answer this in relation to the specific proposals.

Conclusion

The UK student visa system has been changed radically and almost continuously over the past three years. While most of the changes have led to greater control, the pace and unpredictability of change and the prospect of more is not helping make the UK look an attractive and welcoming study abroad destination. We believe that the proposed changes do not have an adequate policy rationale and their impact could potentially be severe. It would be preferable for UKBA to address any remaining areas of abuse in a more graduated and targeted way, which it has the powers to do.



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