

REVIEW OF STUDENT VISA ROUTES 2010

SUBMISSION FROM ENGLISH UK

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“For an increasing proportion of the world’s population the opportunity to work or study in another country, perhaps intending to stay for only a limited period, is an attractive option.”

“Of course we are the ideal country for others to learn English.”

Damian Green MP, Minister for Immigration, 6 September 2010

EXECUTIVE SUMMARY

International students make a vital contribution to the UK economy and its educational culture. Their contribution hugely outweighs any marginal increase in demand for services they give rise to.

The UK's reputation for quality makes it a leader in an increasingly competitive global market.

Since early 2009, the student visa system has been drastically tightened, and information on visa compliance has improved very substantially. Measures already taken are having a cumulative impact in reducing abuse of the student visa routes.

International students, though numerically significant in terms of visas, are not the largest source of settlement in the UK, which is a more serious problem than net migration. The Coalition target ought to be revised in terms of reducing settlement. The key element of net migration to restrict is the eligibility to move into a permanent migrant category.

Net migration correlates directly to the performance of the UK economy relative to the rest of the world. Our growth rate is likely to be lower than that of major parts of the rest of the world over the lifetime of the current Parliament, so it is to be expected that net migration to the UK will fall without any other action.

Additional action aimed at reducing net migration should therefore be limited, and should be carefully targeted to avoid damage to international student recruitment.

English language students are relatively short-stay, but the longer-stay ones (who do contribute to net migration) are the ones the UK needs to keep, because they form the pipeline into universities, which are increasingly reliant on the higher fees paid by international students.

Given that the three aims of the current review are being outlined as reducing net migration, deterring abuse, and simplifying the system, our recommendations and commentary are largely grouped under those three headings.

Summary of Recommendations

Reducing net migration and settlement

- Revise the target in terms of permanent settlement, as distinct from net migration, which should be made effectively temporary.
- Make transfer from temporary to permanent migrant routes much more difficult, including from the student route.
- Consider setting higher skills/qualifications and English language requirements for skilled workers, and possibly a minimum pay limit (eg £40,000 a year).
- Consider greatly restricting the Family route and setting very high requirements on it.
- Classify all post-study work as 'not leading to settlement', but maintain the current post-study work entitlement for international competition reasons.
- Consider either prohibiting work on shorter courses, or allowing unpaid work (internships) only.
- Consider either removing the right to bring dependants from students coming on shorter courses (except perhaps for sponsored students), or removing the right of dependants to work.

Limiting abuse

- Move to a risk-based approach on a country-by-country basis by mid-2011, with the lowest risk countries moved to visa waiver status.
- Charge a new single accrediting body for private sector colleges with reducing the number of such colleges on the RoS by at least 20% by 2014 by withdrawing accreditation from the poorest-quality and/or least compliant.
- Require students to pay over fees in advance, in full for courses up to 6 months and two-thirds of the first year fees for courses of more than 6 months.
- Require colleges to pay into a bonding scheme for fees or to take out insurance to repay fees in case of closure.
- Consider restricting students on lower-level courses on a country risk basis and/or by action against colleges which appear to be complicit in abuse of lower-level courses.

Simplification and restoring UK competitiveness

- Continue to allow people already in the UK legitimately on business or tourist visitor visas to take a short course of study or professional training, but only at centres on the RoS.

- Allow only two applications for extension of leave to remain as an entitlement of the General Student visa.
- Allow one application for leave to remain under the General Student category for those already in the UK on the Student Visitor visa.
- Extend the maximum term of the Student Visitor visa to 11 months.
- Relax the B1 level requirement for English language courses.
- Review separately the issue of HTS status.
- Adopt a generally-accepted definition of 'pre-sessional courses', along the lines indicated in the Notes below.
- After the current review, leave the system unchanged for at least a year.
- After that, introduce any changes to the visa system on one of two set dates each year (say 1 April and 1 November).

INTRODUCTION

Over a million non-British students attend courses of education and training in the UK every year. In any one year, there are some 600,000 (EU and non-EU) students on English language and university pre-sessional type courses, around 300,000 (non-EU) in universities and other higher education institutions, at least another 300,000 (non-EU) in the 900 accredited independent tertiary sector colleges, some 60,000 (EU and non-EU) in state further education colleges, and around 25,000 (non-EU) in independent (mainly boarding) schools. Many of them need entry clearance either under the Points-Based System (PBS) General Student or Child Student routes, or as Student Visitors under the Visitor route for courses up to 6 months.

These international students bring many benefits to the UK. First, they typically spend around £25,000 (on an annualised basis) on course fees, other study costs, living costs including accommodation and food, travel and social/leisure spending. The total spend is well over £10 billion.

With local multiplier effects (the consequential spending by colleges and their staff of the fees from these students) their contribution to the economy of the UK's major student cities can be very significant. Income from international student fees allows colleges, particularly universities, to keep open departments and courses which would otherwise be unviable, so maintaining choice for home students. Students are also often visited during their course by friends, parents and other relatives, who would not otherwise have come to the UK.

Second, the benefits are not exclusively financial. International students enrich the educational and social experience of UK students and enable them to gain greater cross-cultural understanding, which is a valuable personal skill in an increasingly globalised economy.

And longer-term, there is an affinity benefit in that international students retain some loyalty for the UK which helps in our trade and public diplomacy, since people who have studied here tend to become leaders in business and public life in their own countries. President Gul of Turkey, visiting the UK recently, remembered with affection his days learning English in London.

It should be noted that international students have little or no access to UK public funds or services, and what services they do use (eg transport) they pay for. Their economic contribution hugely outweighs any increase in demand they give rise to.

International education is a growing 21st century business, driven by students' perceptions that for the careers of the future, it is vital to have studied (and preferably worked) in another country, and to have gained a command of English. As the Immigration Minister put it in his speech on 6 September 2010, 'for an increasing proportion of the world's population the opportunity to work or study in another country, perhaps intending to stay for only a limited period, is an attractive option'.

But driven also by the 'war for talent' in the demand of developed economies for both quality and quantity in intellectual skills, international education is also highly competitive. The UK's key asset, its traditional reputation for quality in education, gives us a distinctive position in the

market and underpins what is a premium price product. Student choice, however, is not entirely based on the 'value for money' equation: many other factors come into play, from perceptions of a country's 'political' stance, safety and general welcome, to practical issues such as the difficulty, cost and risk of obtaining a student visa. It is notable that in its new 'Investing in Global Relationships' strategy, Ireland makes great play with fast-tracking student visa applications.*

While entirely supporting the need for an immigration system that deters or detects those whose motives for coming to the UK are less than honest and genuine, we are aware that 'talking tough' on immigration, in the days of rolling global media, can turn into the perception that 'the UK is open for business, but not for foreigners', as an un-named FCO official is reported to have said recently. Students do have other options, and there is a need to encourage the genuine as well as deter those who are not. Otherwise, we risk damaging what is one of the UK's top five export earning sectors, at a time when the UK economy needs export-led growth.

PROGRESS IN TIGHTENING THE SYSTEM AND DETERRING ABUSE

It is important at the outset to recap on what has been achieved since early 2009 in tightening the student visa system.

First, the introduction of the Register of Sponsors (RoS) based on accreditation by an approved body has halved the number of institutions which can bring in students who need entry clearance, from the more than 4,000 which were on the DIUS Register of Education & Training Providers to some 2,000 now. Any college which was definitely bogus would have great difficulty in meeting the twin demands of professional inspection and compliance visits from UKBA staff.

Second, centres on the RoS are limited as to their annual enrolment total by their allocation of Confirmations of Acceptance for Studies (CASes), which are based on assessment of their physical capacity to accommodate and teach students. Previously, there was no checking of whether a college was bringing in more people than could possibly have studied at it. And, given that not all CASes issued will result in a student arriving at the college, the actual figure for students entering the UK will be lower than the combined total CAS allocation.

Third, colleges on the RoS are responsible for monitoring and reporting on their students' attendance and progress, which was not previously required.

Fourth, UKBA now through the Sponsor Management System (SMS) and eBorders has almost complete information on students at every step of their journey from issue of a CAS to visa application to arrival in the UK, through progress on the course, to leaving the UK. This simply did not exist before. Combined with much better information in visa posts about levels of applications and rates of refusal, and from eBorders on those who do not leave the UK at the end of their visa term, which can all be related to colleges which have issued CASes and recruited the students, UKBA is able to get 'early warning' of any untoward trends and to take prompt action against specific institutions.

Fifth, the whole system has become much more 'high stakes' for colleges. Before 2009, prosecutions of college principals for facilitating illegal immigration happened at most a couple of times a year, with expensive enforcement and legal action being taken only against the most flagrant abusers of the system. Now, a college which is less than efficient in its student record-keeping can be subject to penalties imposed by civil servants (such as removal from the RoS or down-grading to B sponsor status) which quickly impact on its business. A college which cannot recruit new students will have major cash flow problems and be facing bankruptcy within about 10 weeks. Not surprisingly, colleges have become extremely vigilant about all aspects of their compliance with the system, and many have employed or redeployed a member of staff solely to manage this.

Sixth, there are controls on students which also did not exist prior to 2009. All now have to give biometric identity details, which are cross-checked with records of visa non-compliance and attempts at fraud. They have to demonstrate competence in English. And the proof of funds requirements, though not perhaps perfect, are considerably more stringent in terms of the amounts required.

It is clear from all this that first, the system is far more rigorous than it was before 2009 (when admittedly it was incredibly lax, and we and others campaigned for it to be changed), and it is now possible for focused, targeted and proportionate action to be taken where there are any signs of abuse, whether that is in particular countries, at particular centres, or related to particular types of course.

Our conclusion is that the cumulative impact of these measures is achieving a major reduction in visa abuse, and that further measures should be restricted to those areas where the system as it now exists is proven to need some refinement to make it even more effective in reducing abuse.

RESTRICTING NET MIGRATION AND SETTLEMENT

The motive for the current review of student visa routes is the Coalition commitment to reduce net migration to the UK, over the lifetime of the present Parliament, from the hundreds to the tens of thousands.

A speech by Immigration Minister Damian Green MP on 6 September 2010 set out some of the background to this. His argument was that of the 186,000 students granted visas in 2004, around a fifth (say 37,000) were still here after 5 years. Students issued visas between July 2009 and June 2010 total 288,000, so if 20% of those are still here in 2015, the figure will be around 57,000.

The Minister observed that the next largest group, some 106,000 in 2004, came through the 'skilled work leading to settlement' route, and expressed some doubts about whether the level of skills demanded was high enough.

The third largest group (95,000) was migrants coming for 'work not leading to settlement', of which around 10% were still in the UK 5 years later, mostly having transferred into permanent migrant routes.

The fourth largest group (over 63,000) was migrants entering the UK on family visas. Nearly two-thirds of them were still here 5 years later, and most had been granted permanent right to remain, often as a result of marriage to a British citizen.

There are in fact two separate issues here: net migration and settlement.

Net migration is simply the residual figure between those of non-British birth entering the UK , and those who leave the UK (both British citizens and other nationalities), for more than a year in each case. It does not equate to settlement, in terms of gaining permanent right to reside in the UK and/or British citizenship.

Through the 1970s and early 1980s, net migration was negative (more people left the UK than came here). It has been positive since the mid 1990s. At the same time, the numbers granted settlement and citizenship have been rising.

Settlement

Our view is that settlement is a much more important issue to tackle than net migration, and that the Coalition target ought to have been expressed in terms of reducing permanent settlement in the UK.

If net migration becomes by definition temporary, then the major aspect of net migration to restrict is the ability to move from temporary migrant status into a permanent migrant route leading to settlement.

The Home Office report '*The Migrant Journey*' (published in September 2010) shows that:

- Of those coming to the UK in 2004 under the Family route, as a relative of a British citizen, 63% were still in the UK after 5 years, and 55% of them had gained settlement rights
- Of those coming on the work leading to citizenship route, 40% were still here after 5 years, and almost 75% of them had gained the right to settle
- Of those coming under the student route, only 21% remained in the UK after 5 years, and only 3% gained the right to settle.

The report concludes: 'the largest proportion of those granted settlement in 2009 had entered the UK via the work (leading to citizenship) route and the family route'.

The following chart sets out these numbers for ease of reference.

2004	Visas granted	% remaining > 5 years	No. remaining > 5 years	% gained settlement rights	No. gained settlement rights
Family visas	63,400	63%	39,942	55%	34,870
Work (leading to citizenship)	105,880	40%	42,352	29%	30,705
work (not leading to citizenship)	94,540	11%	10,399	3%	2,836
Study	185,600	21%	38,976	3%	5,568
Total	449,420		131,669		73,979

In fact, of the 164,530 people who gained the right to settle in the UK in 2009, only 22,070 (13.4%) first came here as students, and most moved into another visa category (such as highly-skilled work) before gaining settlement rights. It is arguable that these UK-educated highly-skilled workers are people who will make an above-average contribution to the UK's economic future and their permanent residence here is in fact desirable in the overall national interest.

If the objective is to reduce the number of settlement applications, we would suggest consideration at the outset of actions such as:

- Making transfer from temporary to permanent migrant routes much more difficult, perhaps by requiring a return home to apply for the new status
- Setting higher skills/qualifications and English language requirements for skilled workers, and possibly setting a minimum pay limit (eg £40,000 a year)
- Greatly restricting the family visa route and placing very high requirements on this (there being good social reasons for doing this, including promoting social integration through intermarriage in the UK community and protecting women from forced marriages).

There is a case for making it more difficult to switch into a route which leads to settlement, or to have sufficient extensions of leave to remain that settlement rights are gained after 10 years' continuous residence in the UK.

If the right to post-study work is retained for graduates, then the work should be classified as 'not leading to settlement'. On balance, we believe that the right to post-study work should be retained purely because it is a key part of the attractiveness of the offer from competitor countries.

The right to switch into the family route to settlement for people in the UK on a General Student visa should be subject to the more stringent tests suggested early on in this paper.

Net migration

On the issue of net migration, we have a number of observations and suggestions.

First, it is obvious from the chart* of net migration since the 1970s that there is a very direct and simple correlation between the relative states of the UK and the global economy and the desire of people to come and live and work here.

In the 1970s, when the UK economy was in turmoil, net migration was negative (more people left the UK than came here for more than a year). That continued into the early years of the Thatcher administration, which were characterized by public spending reductions and confrontations with over-powerful unions. From the mid-1980s (the so-called Lawson boom) through to the mid-1990s, net migration was broadly in balance, perhaps (post Big Bang in the City when financial services firms moved to London *en masse*) slightly positive. From roughly 1995 until 2007, net migration was strongly positive, peaking at around 200,000 a year (though it is notable that emigration in 2006-8 looks to be at its highest level ever, over 400,000 a year).

This correlation is important because even on the most optimistic projections, almost all commentary on the future of the global economy sees the UK and most of the developed West (especially those countries like Greece, Iceland, Ireland, Portugal and Spain which have the highest national debts as a proportion of GDP) performing relatively poorly for the next 5-10 years because of the fiscal burden of servicing and paying down that debt, whereas developing nations (China, India, most of South America, Turkey, most of the Middle East, some of the former Soviet states) will continue to have rapidly growing economies. The implication is that people will not have such a strong desire to come to the UK and more of those already here, whether British citizens or not, will move abroad. It is a fair bet that even without any action by the UK Government, net migration will fall along with the UK's relative economic attractiveness.

The IPPR thinktank has in fact argued that this is already happening. In an article on the eGovMonitor website on 6 June 2010, Sarah Mulley of IPPR noted that 'net immigration to the UK in the year to September 2009 was 11 per cent lower than in the year to September 2008'. She went on to conclude: 'The economic crisis, the natural cycles of migration flows and the tougher policies of the last government have already turned the tide – and at this rate we will see net immigration fall below 100,000 without the cap on immigration.'

This is not to urge a strategy of masterly inactivity: governments like to be seen doing things, and it is acknowledged that for political reasons it is difficult for the Government to be seen to espouse the foregoing thesis. But it should be recognized that in doing things, the Government is likely to be working with the trend of events, and need perhaps not take such radical action as would be needed if the fulfilment of the Coalition commitment depended solely on the actions and operations of the state. The argument is for limited, selective and precisely targeted action which addresses any remaining areas of abuse as directly as possible.

Second, the key word to focus on is 'net'. The students referred to by the Minister in his speech as being still here after 5 years were in fact almost entirely here legitimately, having extended their leave to remain in the UK for further courses or having moved into other routes (primarily post-study work). However as outlined above, students were the group ultimately contributing least to settlement, so they are not in that sense a long-term problem.

In any year, the outflow of students completing their courses and leaving the UK will (or should generally) closely equate to the inflow of students coming here to begin their courses. Hence the main issue is not with those staying more than a year, but with the excess (if there is one) of the inflow over the outflow, and the scale of that and the reasons for it. We believe that this

needs more quantification and explanation than has so far been done before any radical measures are taken.

Third, the logical possibilities for reducing net migration by students are limited to:

- reducing inflows of students who stay for more than a year
- trying to ensure that students who might have stayed for just over a year in fact stay for just under a year
- increasing outflows of students who have been in the UK for more than a year
- increasing outflows of British students taking a year (and a few days) abroad.

The first of these is problematic, though one of our later suggestions (on accreditation) could possibly play towards it. In a situation where the future growth of our higher education system is more likely to be funded by student fees, research commissions and commercial spin-offs than by state funding, any reduction in international students would limit the ability of UK universities to maintain both quality and the range of courses and the number of places on offer. If the outflows and inflows of students had to be brought into exact balance, then growth would be impossible, since the outflow always lags the inflow by at least a year, and new recruitment could never exceed the limit set by the previous inflow.

The second probably has limited mileage, but might just work in the context of some taught Masters degrees.

The third is generally beyond the power of education institutions to effect. Again, one of our later proposals may play towards this, but ensuring that students actually leave the UK at the end of their course or visa term is for education institutions more about the initial selection of students, and to some extent an element of moral suasion, than about escorting them to the departure gate at Heathrow.

The fourth is a long-term objective, but while it is desirable in the context of equipping UK students with the experience and ability to work internationally and the opportunity to improve their language skills, government policies over the last 10 years in other areas militate against it as a means of solving the net migration equation (eg the reduction in support for modern foreign languages in secondary education in the UK, and the impact of student fees which will increase the pressure to graduate as soon as possible, without a year abroad, and start earning).

We note that the majority of English language students stay a short time: from our statistics the average course length for junior students (15% of the total) is less than 3 weeks, and for adult students (over 18, 85% of the total) it is just under 8 weeks. Only a very small percentage of English language students stay for more than a year on English language courses.

Far more important are the students taking English language pre-sessional courses and International Foundation Year (IFY) programmes. They spend less than a full year on those courses, but almost all of them progress on to degree-level courses.

These progression routes are very important for the sector. Universities UK earlier this year estimated that of the international students in UK higher education, 46% were already here on English language (including pre-sessional and foundation year) courses. In turn, the attractiveness of progression on to a UK degree course is a major marketing plus point for the pre-sessional and foundation courses.

Visa entitlements

UKBA appear to be concerned about two forms of General Student visa entitlement, for different reasons.

The first is the entitlement to work part-time while studying. This proceeds from the suspicion that students who wish to work are disguised economic migrants, rather than genuine students. As noted above, the experience of working in another country is valued by students as a CV attribute, even if they do not actually need the income to help support themselves. Some do need that income, and particular countries (such as Colombia, and much of the rest of South America) subscribe to the North American expectation of 'working your way through college'. Students learning English appreciate some experience of the work environment because it supplements their classroom practice of the language with practice of English in live situations.

However, most students on shorter courses do not intend to work, and we do not think there would be significant effects from a decision either to prohibit work on shorter courses (certainly shorter than 6 months, possibly 11 months), or to allow unpaid work only (internships). The principle here is that paid work is vulnerable to the objection that the job could be filled by an otherwise unemployed British person, whereas an internship is clearly being done only for the experience of the work environment and is unlikely to be at the expense of British workers.

The second is the right to bring dependants (and the consequential right of those dependants to work). Again, with a possible concession for government-sponsored students, who are more likely to wish to bring their spouse or family, we do not foresee significant effects from a decision either to remove the entitlement to bring dependants for students on courses of less than a year, or to remove the rights of dependants to work.

LIMITING ABUSE

We note at the outset that there seems to be a presumption that the recent increase (2008-9) in student visa applications and issuance is an indicator of increasing abuse. There are other possible interpretations, the main one being that the decline of the £ against many other currencies has made the UK much more affordable as a study destination, with a consequent increase in demand. To give only one example, based on exchange rate alone, the cost of studying in the UK as a Brazilian more than halved between 2003 and 2010; if one factors in the increase in prosperity in Brazil over that time, the effective price reduction is around two-thirds.

Increasing outflow and country risk-based approaches

We are told that from one African country, there are more students who are non-compliant with their UK visa conditions than there are students who are compliant. Clearly both education institutions and UKBA have a responsibility to restrict student recruitment from such countries and/or to increase the burden of proof on visa applicants. We favour a country risk profile approach where very low risk countries (eg Japan) have low requirements for UK entry clearance, or are given visa-waiver status, and countries with very high risk have very high requirements.

Recent research suggests that the most significant factors in illegal immigration are nation-specific: low GDP per capita and political instability, leading to a desire to leave the country. These factors, and the 'national track record' in terms of visa compliance, are reasonably easily assessed. It is an area where blanket policies on eg level of English competence are not appropriate or effective, and in fact the level of English competence in some countries which are relatively high risk because of other factors (eg India) can be much better than in some countries which are relatively low risk (eg South Korea).

Since we understand that UKBA has already developed country risk profiles, and these are apparently the subject of discussion between a number of western government agencies which have similar approaches, we favour moving as soon as the evidence base will allow (which we have been led to believe may be by the end of this year) to a country risk profile approach and reducing the burden of proof for low-risk countries (and extending the visa-waiver scheme where appropriate) and increasing it, with possibly other restrictions noted later, for high-risk countries.

Accreditation

We have been critical of the decision by Ofsted and UKBA to approve a range of accrediting bodies with the consequence of varying processes and standards, and we believe that this is an area where competition drives down standards, as with money in Gresham's Law.

There should be a single national (UK-wide) accrediting body for private sector education institutions wishing to become Tier 4 sponsors. However, there is a case for this not being Ofsted. First, Ofsted has other priorities, and is challenged to fulfil its current remit. Second, the high cost base of Ofsted and scale of charges when it was doing direct inspections meant that inspection by Ofsted would simply be unaffordable for smaller centres and relatively new operations.

The education sector should be challenged to create a single accrediting body working closely with QAA and Ofsted, but at no cost to the public purse, and with a scale of fees comparable to those of Accreditation UK currently, graduated by size of centre to be inspected. The body should be independent, but should work closely with UKBA to co-ordinate inspections, with the accrediting body focusing on academic standards and matters affecting teaching and learning (including pastoral care), and UKBA focusing on student records and visa compliance.

Within this, it should be possible over 3-4 years to increase standards so that some 200-300 of the approximately 2,000 currently accredited colleges are removed from the Register of Sponsors.

This would have two beneficial effects. First, it would remove those colleges' CAS allocations and might reduce the number of visa-national students by some 20,000, which would be a significant contribution to the Coalition target. Second, by cutting out lower-quality colleges, it would help maintain the UK's reputation for quality, which is its international point of differentiation from the competition.

Proof of funds

Though the proof of funds requirements have been tightened up, as noted above we do not believe that they are as good as they could be. In particular, as we forecast before the requirement to hold funds for 28 days was introduced, there are persistent stories that there are money-lending operations in some countries providing prospective students with the necessary funds for 28 days or more, until a UK visa is issued and the funds become repayable with an extortionate rate of interest. Students then arrive in the UK without any money to maintain themselves or pay fees, and are vulnerable to exploitation to raise the necessary cash.

We believe that it would be preferable to require the student to pay over fees, either to the education institution which has issued the CAS, or possibly to an approved agent in the student's own country. The amount to be paid should be in full for all courses of 6 months or less, and the equivalent of two-thirds of the first year fees for all other courses. This would require the student to put the money beyond his direct control, thus significantly increasing the level of commitment. Students who borrowed money for immediate repayment once a visa was issued would thereby be eliminated from applying, and a key abuse of the present system would be ended.

This policy would require one safeguard. Occasionally private sector centres do go bankrupt for purely business reasons, and it is within living memory that a major fraud (to the tune of £2.5 million) was committed in the case of the Evendine College group, where it is alleged that the directors siphoned off the money paid by students until the company collapsed. A centre carrying significant amounts of fees paid in advance would be a potential target for this kind of fraud.

To protect students, and the UK's reputation, all centres would either have to pay into a bonding scheme (similar to the ABTA or ATOL bonding schemes for travel companies) or carry specialist insurance to meet fees in advance liability in the case of closure. Neither of these would be particularly difficult to institute (Australia already has such a scheme following high-profile college bankruptcies there in the 1990s), and in fact such an approach would be desirable anyway on consumer protection grounds to reassure prospective students that their money was safe. The sector would also have to agree a common approach to refunds in cases where eg a visa was refused or the student became unable to take up the course.

Course type and level

UKBA are concerned that, as has been said to us, there are a large number of students from some countries (eg India) studying for relatively low-level qualifications (eg Certificates from AAT/ABE, broadly at NQF level 3) when it is difficult to see why they need to do this in the UK. This leads obviously to further consideration of raising the minimum level of qualification that can be studied by visa-national students in the UK to NQF/QCF level 4 or even 5.

This was in fact mooted some three years ago, and was strongly opposed by the Association of Colleges and their members (state further education colleges), who provide entirely legitimate vocational training at level 3. In the current public expenditure context, there is even less reason to restrict colleges' ability to earn higher fees from international work than there was three years ago. If continuing to provide level 3 courses is allowed for state sector FE colleges, it cannot (on various legal grounds including restraint of trade) be disallowed for private sector colleges. A blanket raising of the level of study therefore seems both undesirable and unworkable.

There appear to us here to be three main possibilities.

The first is to place restrictions on students on a country risk basis. This could include a raising of the level of study if particular nationalities are found to be the source of significant abuse.

The second is (through accreditation and compliance visits) to take action against the colleges which are recruiting appreciable numbers of such students and where again, abuse can be clearly shown. UKBA has a range of powers to deal with this, from removing HTS status (so colleges cannot bring in students for level 3 courses) to restricting the CAS allocation. It would be better to deal with problems on a case-by-case basis than through a blanket measure.

The third is to restrict visa-national students from coming on level 3 courses unless they have sponsorship from their government or a major employer, either across the board or again on a country risk basis. This could be assessed locally as part of the visa application, but it would be assumed that such students would come as part of an organised group.

SIMPLIFICATION OF THE SYSTEM AND RESTORING UK COMPETITIVENESS

As noted, the cost, difficulty and timescale of getting a visa is a significant practical factor which international students weigh up in considering where to go to study. The coverage of the UK's new system over the past two years has not added to our attractiveness as a destination, and compounds the general impression that the UK is not 'welcoming' which is evidenced in many international surveys.

We believe there are a number of ways in which the visa system can be simplified which will make the UK more attractive as a study-abroad destination and which will not increase its vulnerability to abuse.

The system should be tightened so that a GSV can be extended only twice before the person has to leave the UK and apply again from their home country. This would allow someone to come for (say) a pre-sessional or foundation course, a BA degree and a Master's degree, a maximum stay of around 6 years, or a BA degree, a Master's and a PhD, a maximum stay of around 8 years.

However the quid pro quo should be that, if an education institution certifies that a student is making satisfactory progress, and a new Confirmation of Acceptance for Studies (CAS) is issued for the follow-on course, the extension application should be granted on the basis of a review of funds only and within a service level target of 3 weeks for 95% of such applications.

It should also be possible to apply in the UK for a GSV on the basis of being here on a Student Visitor visa, for a single grant of extended leave (ie if you are here doing an English course on a SVV, you could extend for 3 years to do a degree course without returning home).

The validity of the Student Visitor visa should also be extended to 11 months (at which length, there will be no contribution to net migration) so that students from countries with 'difficult' languages have the necessary time to work up from near-beginner to university entrance level (around IELTS 6.5).

These proposals would simultaneously restrict switching into permanent routes while making progression on legitimate courses easier.

B1 revisited

As a result of the previous review, in early 2010 the level of English required for all courses below degree level was raised to level B1 on the Common European Framework of Reference for Languages (CEFR). B1 is a range equivalent broadly to AS level; full A level (A2) is B2.

This is appropriate for courses other than English, where students need to be able to read their textbooks, understand their teachers, write assignments and work with other students in class or on projects.

It is clearly absurd to require such an advanced level of English from those coming here to learn the language. The result has been that students who need UK entry clearance and who have a level of English below B1 have not been able to come to the UK to learn English. The concession from UKBA that students can still come to the UK with A1 (beginner) English on a Student Visitor visa for up to 6 months has had little effect in mitigating this problem. The reason for this is that beginners whose primary language is 'difficult' (a different character set, grammar and syntax, a lexicon unrelated to most Indo-Germanic languages, and possibly tonal) are as challenged by learning English as we are in learning Thai or Common Western Arabic, and (especially if their education in their home country has not been high quality) they struggle to get from beginner to B1 in 6 months.

The impact is that the UK has lost a substantial proportion of long-stay English language students to competitor countries including Canada, the USA and Ireland.

This is perverse. As the Immigration Minister commented in his 6 September 2010 speech, 'we are the ideal country for others to learn English'. Students understand that if they come to the UK to learn English, they will make faster progress than by staying at home: they will have better teaching, more intensive courses, and be using their English on a daily basis to reinforce their learning.

We believe the blanket requirement that students be at B1 before they can apply for a GSV to study English should be relaxed. There are a number of options which could be adopted, and which are not mutually exclusive. Students could apply for a GSV for English language courses if:

- they are non-visa nationals or from a country judged low-risk
- they are enrolled by a Highly Trusted Sponsor
- have a level of general education represented by having completed high school (Year 12 equivalent) in their own country.

Other requirements (to have a CAS and proof of funds) would of course still apply.

As noted above, the maximum term of the Student Visitor visa should be extended to 11 months.

Business and tourist visas

The review will doubtless consider the position of business visitors and tourist visitors and their eligibility to study on a short course while here. The current position is that people intending to study as the primary purpose of their visit should apply for student visas, but if people on business visitor visas or tourist visitor visas decide while in the UK that their primary purpose for visiting would be enhanced by taking a short course of study or professional training, that is acceptable (though it is not listed in the entitlements for either type of visa, and the Immigration Rules indicate that business visitors may only undertake training as part of a formal company arrangement).

We would wish to see this continued, simply because there seem to be no very good arguments against it, and the arguments for outlawing study on other types of visa are subject to a clear *reductio ad absurdum* of such a policy. A business visitor would be told that he could join a golf club, and take instruction from the golf club professional, but could not take a short course in how to do better business presentations in English. A tourist visitor would be told that she could learn to ride a horse and go pony-trekking, but not take a course in English which would enable her to understand the horse-riding instructor. The business visitor would be told that it was his right to spend his money in a London casino or lap-dancing club, but not in a legitimate education centre approved by the UK government. A tourist visitor would be told that she could buy a guided tour of England's major heritage sites with accompanying lectures, but could not study the language of Shakespeare in a classroom. None of this seems logical or defensible, and the present policy does not seem so lacking in logic that it needs to be changed.

The one requirement that could be placed on the eligibility for study, which should be explicitly stated in the conditions for business and tourist visas, is that study should be at a centre on the Register of Sponsors.

Highly Trusted Sponsor status

The future of Highly Trusted Sponsor (HTS) status does not perhaps sit within the purview of the current review. It is unclear what the endgame for the various categories of sponsor is, and there is some confusion about this in the sector and in the market. There is a perception that many of the sponsors who have been awarded HTS because they need that status to run courses at NQF3 or courses with work experience are not in fact the most highly trusted, but are described as 'highly trusted' because they happen to operate in areas which UKBA regard as of highest risk and they can meet the various criteria.

HTS was introduced with no consultation and at great speed, and it does not appear entirely comprehensible to the rest of the world in terms of its results in classifying institutions, some of whom make great play with it in their marketing. It would be helpful to have a more considered dialogue about this as part of a separate review.

Pre-sessional and International Foundation Year courses

Our members continue to refer to us problems over the definition of pre-sessional courses and International Foundation Year programmes (IFY), the confusion among ECOs and others over whether IFY programmes are the same as Foundation degrees (they are not), and the issue of progression to degree courses and whether offers are 'conditional' or 'unconditional'. This is a technical area and we would wish to work with UKBA, Universities UK and Study UK to come up with a mutually agreeable way forward. It should be noted that following discussions with UUK and leading IFY programme providers, we did put forward our preferred definition early this year, but have so far not had a response. (*See Notes at end for the proposed definition.)

The review gives an opportunity to produce some overdue clarification and agreement in this area.

Stability and limiting change

Finally, almost everyone involved (and some of us have been working on this since 2005) agrees that the last 2-3 years in particular have seen enormous changes to the UK visa system, with over the last 18 months almost month-by-month modifications. Centres, agents, students and even ECOs are close to being overwhelmed by the demands of keeping up with the latest shape of the system. We would argue strongly for two things:

- that following the outcome of the current review, the system be left unchanged for at least a year, preferably longer, to bed down and gain understanding and acceptance
- that if changes are then required, they be the subject of thorough consultation with the education sector, and they be introduced in batches only twice a year (say on 1

November and 1 April in each year), instead of being introduced piecemeal throughout the year.

Notes

* Launched on 22 September 2010 by the Taoiseach, the Irish strategy is based on an Education Ireland brand covering English language and higher education and plans to increase the number of international students in higher education in Ireland by 50% and the number of English language students by 25% by 2015. Revenue is planned to grow from 900m to 1.2bn euros over that period. Shared recruitment targets will be developed by the education sector and agreed with visa and immigration authorities. See www.educationireland.ie.

* In a presentation titled 'Limits on Non-EU Economic Migration: A Consultation', by Jo Laker, Immigration Policy, UKBA, setting the scene for the review of PBS Tier 2.

* A 'pre-sessional' course is almost exclusively English language, of the 'English for academic purposes' type, intended to help students whose general English may be reasonably good to acquire skills in the English required to write academic assignments, research papers and dissertations. Duration is usually 3-6 months. A 'foundation year' programme usually has three aims:

- to bring students' English up to around IELTS 6.5, which is the typical level required for entry to a degree programme
- to provide subject teaching to bring students who may not have done Year 13 (A2, the second part of A levels) in their own country up to broadly that standard and give some British curriculum knowledge to make the transition to a degree course easier
- to provide some independent study skills (UK education tends to aim to produce students who can organise and manage their own learning, whereas in many countries education is based on following the teacher's instructions).

Duration is typically 32-36 weeks plus vacations, usually around 40-44 weeks in total.

* The definition of 'pre-sessional' we have proposed is as follows:

A 'pre-sessional' course is *either* an English language course at any level, *or* any other course at NQF level 3 relevant to the intended main course of study, *or* a combination of both of these, which prepares students for academic or professional courses leading to an award at NQF level 5. Pre-sessional courses may last between 12 weeks and 18 months. Foundation year or 'international foundation year' programmes are considered as pre-sessional courses.

A single grant of entry clearance will be made where:

- The same sponsor is delivering the pre-sessional course and the intended main course

- The pre-session course is delivered by a partner institution listed on the sponsor licence of the main course provider
- Both the pre-session and main course providers have either Highly Trusted or Trusted sponsor status.

In other cases where the pre-session and main course providers are different sponsors, students will be given sufficient leave to enter for the pre-session course and in addition to apply for transfer to their chosen main course provider and a visa extension on a fast-track process at reduced cost subject to:

- A positive academic reference from the pre-session provider
- Issuance of a CAS from the main course provider
- Proof of funds for the main course on the normal criteria for extensions.

Contacts and background information

English UK is a UK-registered charity, with the aim of advancing the education of international students in the English language. It has nearly 450 member centres, which are accredited under the Accreditation UK scheme which the British Council and English UK support and run in partnership. More information can be found at www.englishuk.com.

Any matters relating to this paper should be raised with Tony Millns, Chief Executive, or Naadiya Rawat, Policy, Research and Public Affairs Manager at English UK. E-mail addresses are tony@englishuk.com and naadiya@englishuk.com, and the office number is 02076087960.