



THE GOVERNMENT RESPONSE TO THE FIFTH
REPORT FROM THE SCOTTISH AFFAIRS
COMMITTEE SESSION 2010-12 HC 912

The Student Immigration System in Scotland

**Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty**

October 2011

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THE STUDENT IMMIGRATION SYSTEM IN SCOTLAND

Introduction

1. We are grateful to the Committee for its report on student visas HC 912 published on 26 July. We would like to take this opportunity to reiterate our willingness to engage with the higher education sector, the Committee and others in Scotland on this matter.
2. As was made clear in the statement made by the Home Secretary on 22 March, international students not only make a vital contribution to the UK economy but they also help make our education system one of the best in the world. However, it had become very apparent that the old student visa regime was failing to control student immigration adequately, with real evidence of poor quality colleges and abuse of the student route.
3. The announcement on 22 March followed an extensive public consultation to which over 30,000 people responded. The final package of reforms focuses on eliminating abuse within the system whilst supporting a high-quality, high-value international student sector. This is a radical set of reforms, bringing change to almost all aspects of the system, including educational oversight requirements, standards of English required, permission to work, dependent sponsorship and post-study work. We have published a detailed description of these reforms in a Statement of Intent.¹
4. We want to ensure students come for a limited period and to study not to work. These measures form an important part of the Government's comprehensive action across all immigration routes to achieve our goals for better migration, properly controlled. This includes the new permanent limit on non-EU economic migrants which came into force on 6 April and recent consultations on breaking the automatic link between work and settlement and the family route, ensuring that family migration is fair for both applicants and local communities.

Responses to the recommendations in the report.

Comment 1: International students provide important financial support to both the university sector and to the wider economy of Scotland. They also contribute culturally to the universities and communities where they study, and can act as ambassadors for Scotland on return to their home country. They make an overwhelmingly positive contribution to Scottish society. (Paragraph 11)

<http://ukba.homeoffice.gov.uk/sitecontent/documents/news/sop4.pdf>

Government Response

The Government agrees that genuine students make a valuable contribution to Scotland and in turn benefit from the excellent education Scotland can offer. However, international comparisons with key competitor markets have been examined throughout the reform process. We are confident that our system remains competitive when set against key alternative markets, and in some ways our offer remains more generous, for example in regard to maintenance requirements for student dependents.

Comment 2: Highly Trusted Sponsor status is of great value to the reputation of any education provider that wants to attract international students. However, without effective systems in place, abuse may go undetected, and the university or college will find their reputation at risk. Education providers who wish to attract international students will have to spend some time and money on a system to monitor attendance and anticipate those students who may be in danger of leaving the course. (Paragraph 18)

Government Response

We agree with the Committee's view that Highly Trusted Sponsor status requires careful monitoring (paragraph 18). Since March the Home Office and the UK Border Agency have also taken forward the establishment of a stricter regime for the educational oversight and licensing of Tier 4 sponsors, as announced in March. On 13 June we announced that educational oversight of private sector providers would largely be carried out by the Quality Assurance Agency and the Independent Schools Inspectorate. Further details about that process were announced on 28 July. Both QAA and ISI have consulted corporate partners in the education sector on their proposed standards and processes, which are now finalised. The deadline for applications for inspection by them was 9 September.

The 28 July announcement also confirmed that the Bridge Schools Inspectorate would inspect faith-based private colleges in England and Wales, and that the School Inspection Service would inspect Steiner and Montessori colleges in England and Wales with providers required to apply by a deadline of 7 October. It also confirmed that Education Scotland would inspect privately funded providers in Scotland, with providers required to apply by 11 November. We will confirm the arrangements for educational oversight Northern Ireland on the UK Border Agency website shortly.

Also in July the UK Border Agency published proposals to amend the criteria for Highly Trusted Sponsor status, which all Tier 4 sponsors must in future meet. The Agency published revised guidance on 4 September, taking account of comments received. This is available on the UK Border Agency website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/guidancefrom31mar09/sponsor-guidance-t4-050911.pdf?view=Binary>.

Sponsors who did not already hold Highly Trusted Sponsor status who were licensed for 12 months or more had to apply by 9 October.

We believe that the transitional arrangements put in place until April 2012, whereby sponsors not meeting the new requirements are subject to an interim limit on the number of students they can sponsor, are an appropriate measure during the transitional phase.

Comment 3: The five year visa limit appears to be based on adding two years to a standard English three year degree. Logic would suggest that if the visa limit is based on ‘the length of a standard degree plus two years’ and a standard degree in Scotland is four years, then there is a strong argument for a visa limit of six years for international students studying on a conventional four year degree in Scotland. (Paragraph 21) We understand that the Minister is wary of creating a potential loophole which may be exploited by a few. We believe that, if monitored properly, a six year visa limit for international students studying in Scotland, or on longer courses in England and Wales, should be permitted in exceptional circumstances. (Paragraph 22)

Government Response

The five year maximum period a student will be able to spend in the UK studying at degree level is one of the new measures we plan to introduce from April 2012. Certain exceptions for courses will be made where as a matter of professional qualification, the required total period of study is longer than five years. However, we would be happy to give further consideration to the position in Scotland you have outlined, where integrated degree courses may be five years long, and/or postgraduate qualifications short of PhDs may be up to two years or longer.

Comment 4: While attracting international students may not be the answer to the long term demographic and skill needs of Scotland, we do believe they can, in the short term, help ensure that business and industry has access to skills in those sectors of most value to Scotland. (Paragraph 27)

We do not think that initiatives such as Fresh Talent are targeted enough to meet the specialist skill needs of many global industries. If the opportunity to gain work experience is as valuable as the universities suggest, we believe they should do more to integrate the relevant work experience into the course. If industry wants to ensure certain skills are available, then it should be more closely involved with both higher and further education sectors. (Paragraph 28)

Government Response

This Government believes that Britain can benefit from migration but not uncontrolled migration. Britain remains open for business and we will continue to attract and retain the brightest and the best people who can make a real

difference to our economic growth, but unlimited migration places unacceptable pressure on public services.

Comment 5: It is clear that the Post Study Work route provided an attractive incentive for students to study in Scotland. It filled a particular need in Scotland, to enable graduates to gain experience with Scottish employers at the same time as Scottish employers benefitted from their knowledge and skills. However, we recognise that some of those who took part in the Fresh Talent scheme took jobs that did not require a degree. (Paragraph 33)

Removing the Post Study Work route should reduce the number of International students who do stay on in Scotland and take jobs that do not require a degree. However, we are concerned that this might be at the expense of international students who would seek graduate level jobs, because they will have been deterred from applying to study in Scotland. (Paragraph 34)

Government Response

The Government notes the Committee's concerns about the closure of the Post Study Work route and the belief that this may deter international students from studying in Scotland (paragraphs 33 and 34). However a route which gives international graduates unlimited access to the labour market is hard to justify at a time when almost one in ten UK graduates is currently unemployed.

So, as you will be aware, the Post Study Work route will be closed from April 2012. We will accept no further applications, but we hope that the Committee will be reassured that this will not affect those who have already obtained a Post Study Work visa.

At the same time, it is important that the UK can retain the best international graduates who make a valuable contribution to our economy. We will facilitate graduates from a UK university with a recognised degree, PGCE, or PGDE switching into Tier 2 (before their visa expires) by exempting them from both the Resident Labour Market Test and the Tier 2 limit. This means that all talented graduates with the skills to get a graduate job have the opportunity to stay on and work in the UK after graduation. We will also develop a route for graduate students to stay in the UK as entrepreneurs.

Comment 6: We are concerned that the Government are using a salary to define a graduate level job, and seek further clarification in relation to the definition of "graduate level employment". We recommend that the Government consider a lower starting salary for those wishing to transfer from Tier 4 to Tier 2 in those circumstances where it can be demonstrated that the starting salary for the relevant profession is below or above £20,000. (Paragraph 37)

Government Response

This threshold is essential to prevent employers from recruiting migrants into skilled occupations, but paying them less than the going rate. If you make it easier for employers to bring people in below existing wage rates and you are specifically advantaged if you are a foreign graduate, then the people who will suffer, the people who will not get those introductory jobs, will be the resident workers.

The £20,000 minimum salary threshold for Tier 2 was set by the previous Government, following a recommendation by the Migration Advisory Committee (MAC) in August 2009. At the time this recommendation was made, the skill threshold for Tier 2 was jobs at NVQ level 3. The MAC's conclusion was that a minimum annual salary equivalent to approximately £10 per hour indicated that an occupation is skilled; £10 per hour is equivalent to slightly over £20,000 per year for a typical working week of 40 hours.

The MAC felt that it is difficult to argue, except in specific circumstances where pay may not be a good indicator of skill, that a job paying less than £20,000 per year is skilled to level 3: it is roughly equivalent to only the 30th percentile of the earnings distribution for full-time workers (Annual Survey of Hours and Earnings (ASHE), April 2008). This becomes an even more compelling argument now that this Government has raised that threshold to jobs at NVQ level 4.

We are working to ensure that students working towards professional qualifications, such as doctors, are able to undertake the necessary practical training in order to complete them.

Comment 7: We recognise that bogus colleges are a problem throughout the UK, and understand the Government's desire to clamp down on such institutions. However, it is not enough for the Government to simply say that its policy is aimed at bogus colleges, when the policy will clearly have consequences for reputable institutions, and has thereby created a high degree of anxiety among the higher education sector in Scotland. The Government and UKBA need to do more: to explain the policy; explain what they are doing to specifically address the issue of accreditation of bogus colleges; reassure bona fide international students and respected educational institutions and make sure that this policy does not have detrimental and unintended consequences for these institutions. (Paragraph 43)

Government Response

We are confident that our reforms will ensure that it is not possible to operate a bogus college. The new requirements we are bringing in will ensure that the only those who are fully compliant with their duties on immigration compliance and offer high quality education are able to be licensed sponsors.

We are in communication both directly with sponsors and through our Joint Education Taskforce. We have regular dialogue with Universities UK, which represents all Universities in the UK including those in Scotland. Our proposals are not intended to prevent high quality institutions from sponsoring genuine students, and include flexibility for Higher Education Institutes (HEI) including flexibility on English language requirements and students' permission to work.

Comment 8: We find the Minister's reply to be unduly complacent in the context of the concerns expressed by the universities. There appear to be well founded concerns that the consultation has affected the reputation of Scotland as a destination for international students. While it may be too soon to demonstrate how the Government's proposals have affected Scottish universities, media coverage has been unfavourable in important markets such as India and China—where the proposals are being interpreted as a sign that the UK does not welcome international students.

(Paragraph 48)

Government Response

The UK's education system is world-renowned, and we remain the second most popular global destination of choice for the many thousands of higher education students who choose to study abroad each year, after the USA. We want to encourage all those genuine students coming here to study at our world class academic institutions. At the same time the Government wants to ensure that all those who enter on a student visa genuinely come here to study. The Government is committed to minimising abuse of the student route by those whose primary motivation is not to study but to work and settle in the UK. We are working closely with Universities Scotland to monitor impact, but it is too early in the scheme to tell. The Government will not target genuine institutions and Britain is still open for business for the brightest and best.

Comment 9: The Government's own analysis has concluded that these policies, and their financial impact on the higher education sector, will have a detrimental impact on the UK economy as a whole. Furthermore, these proposals will have a disproportionate effect in Scotland both because of the disproportionate size of the sector in Scotland, and as they are primarily designed to address a problem which is largely insignificant in Scotland. In doing so, these proposals risk compromising and diminishing not only the high standard of education provided by higher education institutions in Scotland, but also threaten the valuable contribution of the international students, who study at these institutions, to Scottish society. (Paragraph 54)

Government Response

We note that the Committee would like the Government to “*distinguish between those students who are here on a temporary basis and those who seek and secure permanent settlement*”. We cannot agree with this suggestion as under long-standing international (UN) measures, students (and others) who come to the UK for more than a year are counted as migrants. Although not all students remain permanently but significant numbers do. Of those migrants granted settlement in 2009 – 13% (over 23,000) originally came to the UK as a student.

The Government hopes that our willingness to engage with the higher education sector, the Committee and others in Scotland on this matter will reassure the Committee on their concerns about the possibility of a disproportionate effect and an adverse impact on the economy of Scotland.

We will monitor the impact of our changes on the student visa system, and if necessary make further adjustments to eliminate abuse and ensure that Tier 4 provides a robust, secure route for legitimate students to come to the UK to study with genuine education providers.



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