

## **Selective Admission: Making Migration Work for Britain – Universities UK response**

1. This response on behalf of Universities UK, the representative body for universities in the UK, draws on responses submitted by our members and the work of the Joint Education Taskforce and associated activities.
2. Universities UK has 126 members from across the UK. The President of Universities UK is Professor Drummond Bone, Vice-Chancellor of the University of Liverpool, and the Chief Executive is Diana Warwick.
3. Universities UK has taken an active role in discussions on immigration issues over the last two years including participation in the Joint Education Taskforce and its associated workstreams.
4. These issues are important to universities as major recruiters of international students and as major employers of international staff. Universities UK supports the aims expressed by the Home Office in the Joint Education Taskforce statement released on 1 November 2005 of facilitating entry by genuine applicants for entry to the UK while maintaining robust controls to deter those who would wish to abuse migration routes.

### **International students**

5. The latest available figures from the Higher Education Statistics Agency indicate that there were 210,510 international students in higher education institutions in the UK in 2003/04. International students are vital to the success of the UK higher education system and make a significant contribution to wider UK society. They:
  - contribute 8% of HE budgets – or £1.5 billion in 2003/04;
  - enhance the quality of the experience our home-grown students enjoy;
  - contribute to local economies - in 2003/04 international students were estimated to have spent £1.54 billion off –campus;
  - go on to be political leaders, captains of industry and opinion formers around the world – the links they retain with the UK are helpful to the UK in diplomatic and trade terms;
  - form an important part of the worldwide research community which engages with UK universities, vastly to our benefit; and
  - thirty-eight per cent of all post-graduate research students are international, with particularly high concentrations in science, engineering and technology subjects.
6. International students assist in the delivery of a variety of UK Government agendas. As part of the Foreign and Commonwealth Office agenda international students enhance our opportunities to make the UK the partner of choice for overseas governments and businesses, share democratic values and ethical behaviours. The Department of Trade and Industry agenda to increase opportunities for UK businesses overseas is greatly assisted by the presence of significant numbers of UK graduates in many key markets.
7. In April 2004 the findings of a study on the value of education and training exports of the UK economy commissioned by the British Council, UK Trade and Investment and DfES from Professor Geraint Johnes from Lancaster University was published. The findings based on 2001-02 figures revealed that the value of education and training exports to the UK economy was £10.3 billion. This is a major export industry – worth more than food and drink, tobacco, insurance, ships and aircraft. Within these findings the scale of exports generated by the higher education sector in 2001/02 were significant demonstrating the scale and achievements of the activities of the UK higher education sector around the world.

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| Higher education tuition fees                        | £1.257 billion        |
| Higher education: other spending (non-tuition fees): | £1.863 billion        |
| Trans-national higher education                      | £99.1million          |
| Other higher education                               | £796.4 million        |
| <b>Total higher education</b>                        | <b>£4.016 billion</b> |

### International staff

8. On the staff side Higher Education Statistics Agency figures indicate that 17% of academics in UK HEIs were non-UK nationals with significant numbers from China, India and Russia. In parallel to the position for international students many international academics are in subject areas of critical importance to the UK – according to a report published by the Higher Education Policy Institute in October 2005 on ‘Migration of Academic Staff to and from the UK’ thirty-seven per cent of academic immigrants to the UK in 2002/03 were in biological, mathematical and physical sciences. Higher education is an international enterprise with the exchange of ideas and mobility of people across national boundaries essential to its continued success. Research collaborators for academics in UK HEIs may be in Shanghai, Chennai or Cape Town.

### Recent difficulties

9. The immigration system for international students and to a certain extent for international employees has experienced significant changes over the last two years. Many of these changes have been introduced without adequate consultation or discussion and without any useful communications strategy for overseas or for UK-based audiences. This has caused considerable turbulence for prospective students, for current students, for colleagues in institutions, for institutions and also for the wider perception of the UK overseas.
10. Indication of difficulties include:
  - the UK’s market share of international students has fallen fastest among OECD countries from 16.2% in 1998 to 13.5% in 2003;
  - the latest UCAS figures indicate a decline of 22.5% in acceptances by students from China, a decline of 18.6% in acceptances by students from Singapore and a decline of 7.9% in acceptances by students from Malaysia;
  - a Universities UK survey of international student enrolments last year revealed around 40% of respondents had either experienced a decline or no increase in international student enrolments, visa difficulties in China were cited as the key reason for this decline, Universities UK is running a similar survey this year;
  - a Universities UK snapshot survey of international student applications/acceptances and enrolments in 2005 indicated that of forty-six institutions thirty-six reported enrolments in 2005 to be lower than in 2004; and
  - accompanying this decline in enrolments are significant financial losses for institutions.
11. Competition for international students is increasingly fierce. Traditional competitors such as the USA, Australia, Canada and New Zealand are investing significant resources in attracting international students. These countries are also simplifying and modernising their immigration systems to facilitate student mobility including increasing use of online applications around the world. Other competitors are emerging to attract international students with many other European countries offering degrees in English and promoting their systems to international students. New competitors such as Singapore and Malaysia are recognising the value of international students to their higher education systems and drawing on their geographical advantages to attract these students.

12. Within this context it is vital that the UK's immigration system facilitates the mobility of international students and international academics to the UK to ensure the UK can maintain and build on its success in providing high quality education to many international students and that our system can benefit from the talents of international academics.

### **Working together**

13. The last few months have seen a welcome change in attitude and approach by the Home Office through the Joint Education Taskforce and associated work. We remain in a learning phase as the Home Office begins to understand the variety and complexity of international education and the UK's considerable success in this area of activity. The education sector is also beginning to benefit from a greater understanding of the direction in which the Home Office is seeking to move.
14. This consultation has provided an opportunity for important dialogue through the Joint Education Taskforce and its associated workstreams but also through consultation events including a well-attended event for the higher education sector on 13 October organised by Universities UK, SCOP and UKCOSA.
15. The higher education sector has invested considerable staff resources in the recent discussions and we recognise the similar investment made by the Home Office. It is vital that the views expressed by the higher education sector in their responses to the consultation are considered and that, where relevant, appropriate amendments are made or further discussion sought. Policies implemented by the Home Office should support policies of other Government Departments such as the DfES-led Prime Minister's Initiative to promote UK education internationally and the policies of the devolved administrations.
16. The response below focuses on the implications of the proposals on international students but it also covers some of the employment proposals as these are also of critical importance to higher education institutions.

### **Further consultation**

17. Following this consultation there needs to be more detailed consultations on the proposed procedures for relevant aspects of the new system with the education sector.

## **General comments**

Several aspects of the proposals are welcomed by the higher education sector. Any moves to simplify the system and process for prospective applicants seeking to work or study in the UK are helpful. The current system with its plethora of migration routes lacks customer focus, is unwieldy to operate, confusing to navigate and lacking in transparency.

The moves towards more objective criteria for assessing applicants for work and study is welcome as the current system with its mix of objective and subjective assessment is administratively problematic and often provokes resentment among applicants who are denied visas. Two prospective students from similar backgrounds seeking to enter the same programmes with proven financial support can find that one of them is granted a visa and the other is refused.

Universities UK welcomes the moves to try to ensure that prospective international students receive a valuable educational and wider experience during their time in the UK through efforts to ensure that only genuine education providers can recruit international students. However, there needs to be significant changes to the current DfES Register of education and training providers to recognise the different quality assurance systems in operation across different types of institutions.

The proposals to clarify entitlements for employers are welcome and in particular, clarification of employment rights for international students.

However, it is difficult to determine what some of the proposals may mean as so little information is available on critical aspects of the proposals. Some changes, such as the introduction of bonds and sponsorship certificates, and the proposal to do away with the right of appeal will give a strong impression to many potential migrants that it is too difficult to come to the UK. These changes do not present a welcoming image of the UK to encourage those who could benefit the country economically, educationally and culturally. International students can choose where to study and ill-judged immigration changes could render the UK less attractive and compound current difficulties in international recruitment.

The changes and the unwelcoming message they are likely to send around the world are at odds with other aspects of Government policy such as the Prime Minister's Initiative to promote UK education internationally and initiative developed by the devolved administrations. If the detailed work on the proposals and their implementation is not carried out in partnership with the education sector the competitiveness of the UK in the international student and international academic recruitment market could be seriously weakened.

Although the consultation states that the overall objective of the points system is to increase numbers coming to study in the UK, it is not clear how this will objective will be achieved.

## **Key concerns**

### **Objectivity of criteria**

- The proposals suggest that the criteria used to make visa decisions will move from the current wide range of criteria, some of which are subjective and therefore need to be possible to appeal, to a system where points are allocated on objective criteria which removes the need for an appeals process but may possibly be supported by an administrative review of decisions (page 3). Further information is needed on what objective criteria will be used to allocate points to prospective students and what the scope of an administrative review process would be if prospective students were refused visas. Can the tests for international students be entirely objective? Much greater clarity is needed on the content of these tests.
- There are some concerns about the role of subjective and objective criteria. On page 28, paragraph 6.22 suggests that for Tier 4 (students) 'In order to improve the consistency of decision making, all of the attributes for which points will be allocated

will, as far as possible, be measured objectively.’ This use of ‘as far as possible’ is rather ominous and raises the possibility that some subjective elements may remain in the criteria by which prospective students are measured and indeed a feature of many student visa refusals currently is that they are based on subjective judgements about academic ability, intention to study or intention to leave the UK. If subjective criteria remain part of the process for prospective students then an appeals process, and not merely an internal administrative review process, must also remain.

### **Position of university employees within system**

- The distinction between highly skilled (Tier 1) and skilled (Tier 2) is unclear (page 17, paragraph 6.2) and it would be useful have further discussions with the Home Office around how the full range of academic and other staff from overseas may fit within the new system.

### **Sponsorship**

- The proposal for sponsorship arrangements for those below Tier 1 raises a number of issues (page 27, paragraph 6.28) for institutions as employers and as recruiters of international students.
  - The terminology of ‘sponsorship’ in education may be problematic as sponsors are often associated with financial support whereas this proposal is a form of ‘visa guarantee’.
  - The idea of a ‘certificate of sponsorship’ (page 24, paragraph 6.23) seems to add another unnecessary layer of bureaucracy. A number of institutions are supportive of an alternative, less bureaucratic solution involving institution-specific visas.
  - From recent discussions with the Home Office officials it appears that what is meant by a ‘certificate of sponsorship’ is designed to ensure an institution has gone through a process of checking a student before issuing an offer and/or acceptance. All HEIs follow robust procedures around admissions procedures for international students and there are a number of checking systems already in place in HEIs.
  - It may be possible to devise an enhanced acceptance or confirmation letter to assure the Home Office/UK Visas that HEIs have followed their own appropriate procedures and this letter combined with institution-specific visas would remove the need for an additional ‘certificate of sponsorship’ document.
  - However, there needs to be further discussions between HEIs and the Home Office to highlight the nature and extent of good practice in international admissions. It must be recognised that HEIs can assess academic suitability but cannot assess the financial position of applicants or other requirements of the immigration system.
  - Whether a ‘certificate of sponsorship’ system, an enhanced acceptance letter system or an institutional visa system is adopted there needs to be careful consideration of the development of a simple and efficient mechanism to allow students to change their course or institution at no or very little cost.
- Some of the requirements of sponsorship suggested by the proposal also raise concerns, as they appear to suggest that sponsors should take a greater role in assessing the suitability of applicants. HEIs do and can continue to assess the academic suitability of prospective applicants but it is the responsibility of the immigration authorities to assess other aspects including the financial position of prospective students bearing in mind different cultural situations. There are also issues around the link between the provision of information on applicants and/or students and reducing bureaucracy for ‘compliant’ sponsors (page 2,7 paragraph 6.28). Institutions may fear being assigned to a ‘higher-risk’ category requiring more regulation rather than a reduction in bureaucracy as it is unclear how the Home Office

will view and appraise the institutional provision of information on applicants and students. In discussions with the Home Office it appeared that institutions could be assigned to different risk categories depending on how many 'no-shows' or 'non-attenders' were reported which may rather limit the incentive to provide information.

## **Reporting**

- It has been clear over the last year that government wishes to introduce a more comprehensive and reliable way of tracking students with entry clearance to find out where they enrol and whether they continue to attend on a regular basis. Universities UK has been working with the Home Office on reporting issues for over a year and a pilot study involving a small number of institutions is underway. The Home Office has agreed to a more targeted approach rather than making blanket requests for information but further discussions will be taking place with the Home Office over the next few months, as many issues around reporting remain unresolved.

## **Entitlement to work and be accompanied by dependents**

- The proposal to grant certain entitlements to migrants in particular tiers and not to migrants in other tiers (page 17, paragraph 6.28) could potentially be problematic for students if they face further restrictions on working or cannot be joined in the UK by their families. It is important to allow international students to work for the UK's competitive advantage in the international student recruitment market and also for the benefits gained by international students through broadening their experience of the UK and further developing their English language skills. It is also important to allow international students to be accompanied by their dependants.

## **Financial bonds**

- The proposals to ask for financial bonds from certain categories of applicants and/or from certain countries (page 28, paragraph 6.30) could pose significant issues for prospective international students that could deter genuine students as well as using unfortunate terminology. Bonds do not appear to be a useful approach to tackling potential abuse. If the Home Office decides to use bonds it will be important for the Home Office to clarify how the categories and countries to which bonds are applied will be determined. It will also be important to clarify the position of those students who may be in a high-risk category either due to their student status or due to their nationality but who are in very limited financial circumstances and are perhaps receiving scholarships or other financial support. It will also be important to consider whether bonds will be an effective mechanism for tackling abuse or a deterrent to genuine students. Bonds would also introduce considerable risks to institutions seeking to recruit from particular countries as the introduction of bonds in countries could seriously undermine interest in studying in the UK.

## Questions

### General

#### **1 Do you agree that the benefits of migration outweigh the costs?**

Respondents from the higher education sector agreed with this statement.

#### **2 Can a managed migration system be used to deliver the UK the workers it needs?**

Respondents from the higher education sector generally agreed with this statement but suggested that the statement perhaps could be amended to reflect the importance of international students to the UK and that the UK also needs international students. The success of a managed migration system depends on skills criteria developed that accurately reflect the needs of employers and are sufficiently flexible.

#### **3 Is the current system too complex and bureaucratic?**

Respondents from the higher education sector agreed that the current system is too complex and bureaucratic. Respondents highlighted inconsistencies within current immigration practices commenting that the complexity and bureaucracy of the system varies according to the immigration category involved.

#### **4 Should users of the system or the taxpayer or both bear the costs of the migration system?**

Respondents from the higher education sector commented that users of the system and the taxpayer should both bear the costs of the migration system.

#### **Please provide additional comments in the space provided.**

There should be a shared responsibility for underwriting the costs associated with a new migration system. There needs to be an equitable distribution between users and taxpayers, bearing in mind that migration costs might act as an unacceptable barrier to migrants who have the capacity to add value to the UK economy and culture (e.g. students). Benefits accrue to both the migrant and to society at large from migration, and both migrants and taxpayers should bear the costs of the migration system. As indicated in the introduction to this response international students and international activities more widely make a significant contribution to the UK economy.

However, it should be recognised that recent increases in entry clearance and leave to remain charges for international students were not introduced with adequate notice or appropriate communication strategies. These increased charges did create and are creating problems for prospective international students and institutions. Making additional charges to students will simply exacerbate this situation and could act as a deterrent to some categories including students. Therefore, by saving the taxpayer individually minuscule amounts, it could affect the billions of pounds and consequent job creation that students bring into the economy at large. Charges should not be set at a level that presents a barrier to the individuals that the UK is trying to attract.

The proposed system is designed to secure the long-term viability of the UK economy, workforce and social sustainability rather than to benefit any individual, sector or organisation. Any charges should recognise the benefits or future contributions expected from individuals i.e. filling skills gaps, contributing to the development of the UK knowledge base, representing a direct injection of capital (e.g. students or visiting academics).

The level of costs involved must reflect the level of service that is provided. Although changes to the current system in the form of the Batch Scheme have improved the process, some of the other schemes (Science and Engineering Graduates Scheme, Highly Skilled Migrant Programme, MBA programme) have not been so successful, while Fresh Talent has been of

benefit only to Scotland. The Batch Scheme has been successful because institutions have invested significant resources in operating the scheme for their students and the Home Office has also worked hard to develop expertise in this particular area.

There is still much that needs to be done to ensure a fair and transparent system that is easy to implement. Whatever changes are made, information needs to be available to all those who use the system (employers, education providers, employees and students) in a clear and understandable format.

As a final point it appears that questions 1 to 4 relate to 'workers' only but these general questions should also relate to Tier 4 as students are also of vital importance to the UK.

### **5 Do you think we should introduce these changes in a phased manner?**

Respondents from the higher education sector provided a variety of views in response to this question. Most respondents indicated that they would favour a phased implementation of the proposed changes but some indicated that it might be preferable to introduce the new system at one point.

#### **If so, which bits do you think should be implemented first?**

The main interest of the higher education sector lies in the implementation of an effective system for issuing international student visas. Whatever timescale is decided on for the implementation of the new system it is vital to ensure that changes are appropriately timed for students to enable them to receive accurate and advance information about the visa process before they seek to apply for a visa.

Communications about the new system need to be well managed and a properly co-ordinated public relations campaign is vital to ensure that the UK is seen to be welcoming genuine international students rather than seeking new ways to keep them out, which is the current perception. Time is needed to allow organisations and entry clearance officers to understand, assimilate and change procedures. There must be discussion between the Home Office and institutions to ensure that information is provided at an appropriate time in the recruitment process.

A gradual introduction of some of the proposals would be helpful although it is difficult to see how some of the proposed changes could be stepped. It may be worth considering pilot schemes with certain employers/institutions/sector to highlight any implementation problems. The higher education sector has recent experience of a number of immigration changes introduced badly and with changes of the magnitude proposed in the consultation it may be wise to test systems before they are introduced across all categories or throughout the world.

If the right of appeal is to be removed, then it should be phased out under review, rather than removed in one step. The removal of the right of appeal is in itself a cause for concern. Notwithstanding the greater transparency that the new system will bring, not all initial entry clearance decisions will be correct, and rights of appeal against decisions that might be unfair is something that we all take as a right. It is not clear why those individuals looking to migrate to the UK for various reasons should have this right denied to them.

Some respondents felt due to the overall negative impact of recent changes, including the raising of visa charges, on international student recruitment tier 4 should be introduced later in the process. Others considered that tier 4 could be implemented first as immigration officials will be dealing with broadly the same type of provider. As there are more generic similarities and fewer variables between educational establishments than between employers it may be easier to measure the success of implementation.

However, it should be recognised that the student sector is a significant part of the immigration system and it may not be appropriate for such a large sector to pioneer the new system. The 2004/05 entry clearance statistics indicate there were 276,479 applications for

entry clearance as a student compared to 87,028 applications for entry clearance as a work permit holder.

For the tier 4 proposals, the introduction of a 'certificate of sponsorship' approach, if the comments provided under questions 21, 27 and 28 are accepted, was suggested as a useful first stage of implementation; indeed if this is successfully implemented it might obviate the need for some of the other more complex and bureaucratic proposals.

Some respondents considered that the new tests of eligibility should be published and applied at Entry Clearance posts first of all. The points system and institutional/employer reporting on no-shows or non-attendance should be implemented to assess risks and where and how frequently abuses of the system occur before proposals such as 'certificates of sponsorship' or 'bonds' are considered.

From an employer perspective there was interest in removing the current and confusing two-stage system of work permits and entry clearance as soon as possible.

Some respondents indicated that the question was unclear as to whether the changes could be phased in tier by tier or through elements within each tier.

## **6 Could the proposals to develop a new points-based system affect some groups of migrants more than others?**

Respondents from the higher education sector generally indicated that the proposals could affect some groups of migrants more than others.

### **If yes, which groups and why?**

Respondents indicated that the new system could have a potential negative effect on student recruitment, which would be very unfortunate in a situation where the UK economy and UK higher education depends so heavily on this market, if the system is not designed appropriately, tested sufficiently and places an unreasonable cost burden on applicants through increased initial entry clearance or increased further leave to remain charges.

A number of respondents indicated that it was difficult to comment on high level proposals without further details of the scheme being available including the criteria to be used for the points are finalised.

Some respondents questioned whether it is appropriate for international students to be placed within a points-based system. Students are neither migrants nor asylum seekers and, while this may then be seen as an exploitable route to come to the UK, there must be alternative ways to control this without requiring students to submit to a wider range of controls which are inappropriate for people who are here for a specific purpose and temporarily.

Some respondents considered that the new system could improve the application experiences overseas for international students, as it should hopefully largely remove the subjective nature of decision-making in their cases. However, much hinges on the development of appropriate criteria for the allocation of points.

There will be difficulties in certain groups in defining objective criteria for awarding points, most notably students, as it is unclear how the system could be entirely objective. If the criteria were further complicated for those categorised as coming from 'high-risk' countries or in 'high-risk' categories if a system of bonds is introduced, it will be even more difficult than in the past to provide clear, transparent advice to applicants and some groups such as students or those from particular countries will be affected more than others because of their national, cultural or financial background.

In addition, there needs to be clear guidelines as to how points would be awarded for dependants who do not seem to fall into any of the five tiers. Failure to allow dependants to

enter the UK is likely to affect the choices of students (particularly postgraduate) when they are considering in which country to pursue their studies.

Some of the indicators outlined in the proposal suggest that the prior financial position of the applicant will be taken into account. This unfairly discriminates against the academic community, which is a relatively low-waged sector. It is also unfairly discriminates against those from less advantaged economies or backgrounds. In the academic environment previous salary is not a reliable indicator of the contribution an individual can make while in the UK, or for some students and academics the contribution which they will make to the global economy or to their country when they return home to utilise the knowledge they have gained. Age is also not a useful criterion for many academics as experience; research outputs and publications are more relevant in this sector and are often linked to more senior and perhaps older staff.

There may be an adverse impact upon employers who take a long-term strategic view by recruiting 'emerging talent' in shortage areas to fill long-term gaps in the labour market. Recruits may not have the level of current qualifications and experience that a points system would score highly, but they would have potential which is not scored. Their qualifications and experience would be developed once in the UK and they would become valued additions to the workforce. There needs to be provision in proposals for the development of talented migrants.

### **Objectives and tests**

#### **7 Do you agree that the objectives of the managed migration system should be focused primarily on economic benefit to the UK?**

Respondents from the higher education sector generally disagreed with the statement and indicated that there were a range of objectives other than economic that should shape the managed migration system. This question may be appropriately phrased for employers but it is not an appropriate question for education institutions

#### **Please provide additional comments in the space provided.**

There is a range of social, cultural, diplomatic and educational benefits to be derived from migration as well as economic benefits, not all of which can be measured in financial terms or defined narrowly or exclusively. These other benefits are as important as the economic ones for the UK and should not be underestimated or undervalued. It is important that the UK shows that we value more than the financial benefits migrants can bring to the UK and that we continue to make the UK a desirable place for migrants. As well as their benefit to the UK there may also be global benefits to be gained from those who work or study in the UK and then take their knowledge/experiences back to their own country. There are benefits for the UK's citizens if the UK is positioned as an outwards-looking society, well informed about the world beyond our borders.

International students and international academics from around the world are key groups of people who bring a wide range of benefits to the UK through their decision to study or work here. International students bring academic and cultural diversity to our higher education system which is not immediately apparent as an economic benefit but which is important to the spirit of academic enquiry and also give UK students exposure to other cultures which is beneficial in the context of a global economy.

The UK is internationally recognised as a centre of excellence for higher education and research. It is important to the UK economy to retain this reputation. International students and academics add to the viability of endeavours that the UK might struggle to sustain from domestic demand alone, for example – the recruitment of international students enables many programmes of study – subjects of critical importance to the UK's economic and intellectual performance – to be financially viable.

A key element of this is the UK's contribution to the development of the academic and industrial bases of other economies through education. International scholars in the UK have helped develop the UK's own academic base but many have taken what they have learned here home, helping to develop economies around the world and building strong, long term links for the UK. While these individuals may generate long term and sometimes indirect benefits to the UK economy these are hard to predict or quantify at their time of entry to the UK. The UK contribution to global education should not be undervalued or inhibited by immigration controls.

The UK also needs to be sensitive to accusations of 'brain drain' from developing countries. If the UK appears to suggest that we are only interested in highly skilled people it is rather unfortunate. It will be at very least necessary to make it clear that we do not wish to 'cream off' people from other countries. Other countries may perceive the slogan attached to these proposals that migration to the UK is 'a privilege not a right' as inappropriate.

### **8 If managed migration were intended to meet non-economic objectives what would they be, and how would you measure them?**

As indicated in the response to question 7 there is a wide range of cultural, diplomatic and educational benefits to be derived from migration but they may not always be easily measurable.

There is a range of intellectual and academic benefits to be gained from migration. Managed migration by students and academics enriches the academic community and enhance the diversity of the learning environment. Their contribution to the research base and academic output of the UK is very important and could be measured in crude terms by international student numbers and numbers of non-EU academic staff in HEIs.

The UK seeks academics to come and work permanently or for short periods of time in the UK to share the benefits of their research with fellow academics and students. This contributes to the quality of our own research and teaching output and therefore knowledge transfer and graduate employability, but it is impossible to quantify in economic terms. This is likely to result in a greater engagement by learners and should, in the long term, be of indirect economic benefit to the UK.

The facilitation of international collaborative research involving researchers in different countries is vital to the competitiveness of the UK higher education sector and wider UK society. There are thousands of research projects involving UK and international researchers that are sustained by the mobility of people around the world. The importance of this movement means that there should be minimal criteria and bureaucracy for international academics seeking to work in the UK.

In terms of global development, identifying developing economies that the UK wishes to support and encouraging the temporary migration of students to study or academics to collaborate from these areas offers some opportunity for measurement. These social and moral responsibilities to assist developing countries can be built and sustained through educational opportunities.

There are political and diplomatic benefits to migration. International students who have a positive experience of the UK may continue to strengthen links between the UK and their own or other countries. Those who have enjoyed their experiences in the UK will act as ambassadors on return to their own country.

The social benefits to the UK could include increased cultural understanding, cross fertilisation between cultural traditions, sharing of world views and tradition to inspire academic enquiry. Measurement of these objectives requires considerable investment and should be considered as a UK and worldwide endeavour. Much of the evidence would be qualitative and would require tracking over time to establish its worth.

**9 How would you rank the proposed test for the system in order of priority? Please number them below from 1 to 8.**

Transparency, objectivity and usability appear to be the more important features that the higher education sector wishes to see in the new immigration system.

**10 What can we do to make the system robust against abuse, whilst still benefiting from migrants working and studying in the UK?**

There is a need to set objective and clear criteria to be met by applicants with evidence to support their applications. All staff involved must be thoroughly trained in the processes as well as having a thorough understanding of the issues involved within the UK and locally. The UK education system is complex with many different types of institutions and programmes but those involved in assessing student applications should have an understanding of the UK education structure, including differences within the UK such as the four-year undergraduate degree structure in Scotland. They need an understanding of the flexible nature of degree programmes that means that students may graduate in courses different to those to which they were originally admitted. Many institutions have long-established links and partnerships with institutions around the world that provide routes for student and academic mobility and these need to be recognised by the immigration system.

Clear information must also be available to those employers and institutions operating the system or who may be expected to give advice and guidance in relation to migration issues. This system needs to be applied consistently and if there is no appeal process then transparent and objective reasons for refusal must be provided together with a review process that is independent of the decision-maker and their manager.

Another critical aspect is the necessity for adequate and well-managed resources to monitor individuals once they have entered the UK both for statistical purposes and to counter abuse, with well-publicised action against those who abuse the system. Any effective control system needs to be applied consistently and rigorously. Most information needed to improve the system is already gathered; but the systems do not currently allow it to be analysed e.g. electronic record of entry to the UK but no record of exit; no analysis of which groups on which types of visas are greater or lesser risks.

There needs to be improved information gathering and tracking systems within the Home Office and UK Visas to ensure closer liaison between the Home Office and UK Visas and within the Home Office and UK Visas. This needs to be coupled with reporting from both the Home Office (to highlight when and why visas are not to be issued) and from institutions (to highlight when the relationship between institution and student or employee is terminated). It will be important to consider the findings from the pilot project on reporting before seeking to develop further proposals in this area.

Existing frameworks for control could be used more effectively, the DfES register could be made more effective in relation to poor quality colleges if it indicated the nature of quality assurance regimes that institutions were subject to. The Home Office also needs to demonstrate that it has the resources to be able to act on the information provided by institutions and that it has acted on information otherwise institutions will understandably feel that the financial costs involved in their co-operation are wasted.

This approach to enhancing information systems and information sharing will only work if there are detailed consultations on the proposed procedures, as a next step to this broader consultation on the principles.

It should be recognised that it is not possible to design a system that completely eliminates the risk of abuse but it is possible to monitor the effectiveness of appropriate systems and if necessary take relevant action.

## Tiers 1 and 2

### **11 Which of the following attributes do you think are most important for Tiers 1 and 2?**

Skills/qualifications, work experience, English language proficiency and job offer are the more important attributes that the higher education sector wishes to see in the new immigration system. Age and previous salary are not considered to be important attributes for the new immigration system by the higher education sector. Time is often needed to develop and academic career and academic salaries are generally low in comparison with other sectors.

#### **Are there any others? Please give reasons for your choices.**

The academic job market is international. Specialist knowledge for institutions is extremely important, institutions want to recruit researchers/academics who are recognised in their chosen field and who can share their international perspective with students. Academic salaries are low, especially in developing countries and given the global diversity of economies, employment opportunities and circumstances it is difficult to see how a previous salary can be viewed as an independent indicator of an individual's abilities or potential contribution. The previous salary criterion is not an adequate reflection of potential value to a UK education sector employer. On the age criterion it does not follow that young researchers have the most to offer, often the reverse, and it seems likely that this criterion runs counter to EU and proposed UK employment legislation on age.

Individuals meeting the criteria of these tiers should be in the UK to make a firm, expected contribution. Given the criteria outlined, the primary attributes in such cases should be some combination of job offer – confirming a demand and the skills or qualifications themselves that set the individual apart. On a secondary level their skills should in some circumstances be supported by work or academic experience. They should have language proficiency to be able to transfer and utilise their skills and attributes.

Some respondents highlighted that the differentiation between tiers 1 and 2 appears to be weak and suggested that these tiers should be combined into one for simplification.

It will be important to ensure that there are appropriate opportunities for qualified international graduates to work in the UK, if they wish, for a period after graduation.

### **12 Would the proposed outline design for Tiers 1 and 2 exclude any migrants who enter the UK under current Work Permit and Highly Skilled Migrant Programme arrangements? Should these people be allowed to work under the new system? If yes, please state why you think they should be allowed to work under the new system and how this relates to the objectives set out in Section 5.**

Respondents from the higher education sector generally considered that the proposed outline design for tiers 1 and 2 would exclude some migrants who enter the UK under current Work Permit and Highly Skilled Migrant Programme arrangements.

#### **Please provide additional comments in the space provided**

The distinction between tiers one and two is not entirely clear and it is not obvious how academics and other staff from overseas fit these. Institutions are concerned that specialist academic staff and others who are a necessary resource for higher education labour markets may not be recognised as being needed for the broader labour force market. Consideration should be given to such needs.

It appears that post-doctoral researchers, who are currently employed with work permits or as visiting academics, would now be categorised as Tier 5. There needs to be a facility for Tier 5 post-doctoral researchers to be able to move to Tiers 1 or 2. The consultation document refers to post-doctoral researchers being given consideration under Tier 5 where they 'contribute significantly to science and innovation'. Employment and admission approval

should not be restricted to 'science' but must be open to all academic areas, as universities require post-doctoral researchers in other fields.

There should be support for migrants in other tiers to transfer to an appropriate tier if the circumstances were right. In consideration of this care is required to ensure that any changes do not have a negative impact by default or omission on key groups of short-term migrants. One example is those participating in short-term (up to a year) academic exchanges.

Academic visitors who do not qualify for an academic visitor visas because their stay is for over 12 months currently obtain entry via the Sponsored Researcher Work Permit Scheme. If these individuals do not qualify under tiers 1, 2 or 5 (as the visit could not be classed as short term) and cannot visit the UK this would negatively affect knowledge exchange activities and would not enhance the UK's international competitiveness. The mobility of such individuals is essential for the free exchange of knowledge, ideas and research networks that are vital components of any higher education system and should be protected.

### **13 Do you agree with the proposal for the Skills Advisory Body set out in section 6?**

Respondents from the higher education sector generally considered that the proposal for the Skills Advisory Body was appropriate with important qualifications outlined below.

#### **Please provide additional comments in the space provided**

The Skills Advisory Body will need to ensure that it has the most up to date information, is flexible in its approach and makes decisions in a clear and transparent manner. The information must be easily accessible at all times. It is essential that realistic salary levels are set and used in compiling skills shortages lists.

It is unclear whether the specialised skills/occupations that institutions seek would be mentioned in lists provided by a Skills Advisory Body but it will be important to seek input from the higher education sector on areas of shortages. An element of flexibility will be required to allow for innovation within the education sector. Further consultation with HE sector organisations such as Universities UK and the Universities and Colleges Employers Association (UCEA) would be welcome.

The Skills Advisory Body's list could be used as a tool for fast tracking applications from shortage sectors but the Home Office should still consider applications from non-shortage applications. Higher education institutions need the best candidates for positions and it is not an impossible scenario to receive an application from a migrant worker that is far stronger than any other application received although it may be possible to appoint a weaker EEA applicant.

There are important factors that any such body will need to take into account in terms of the longevity of skills gaps in the UK and the reasons for them. The reasons for skills gaps vary and there are risks in using migrant workers to overcome them that should be managed. The following are examples.

- In terms of longevity there is a need to consider those currently in the UK education system who within a few years can fill skills gaps. The situation publicised earlier this year concerning unemployment problems facing UK medicine and health related graduates is an excellent example of where this can go wrong.
- There would be many dangers involved in addressing skills gaps in apparently underpaid professions with migrants prepared to work for less, there is a need to protect against such occurrences.
- Skills gaps can show significant regional variation. Regional variations in skills gaps must also be taken into account.

It was suggested that the Resident Labour Market Test should be included in a points-based system for Tier 2 as set out in paragraph 6.12 of the consultation paper.

Institutions are not in favour of auctioning work permits.

**14 Should employers be able to access migrant labour for non-shortage occupations (i.e. those not identified by the Skills Advisory Body) and what would be the most effective mechanism for doing so?**

Respondents from the higher education sector agreed that employers should be able to access migrant labour for non-shortage occupations and further information is provided below. The most effective mechanism is international recruitment, as is the current position.

**Please provide additional comments in the space provided.**

This is essential for the education sector as innovation is required to fulfil niche markets. There must be flexibility in the system to accommodate the very specialist needs of HEIs. If UK research is to be world-class then UK HEIs must be able to appoint the best applicants in their respective disciplines, whether or not less able but appointable UK/EU candidates are available.

In cases where the employer is able to provide evidence that it is not able to recruit from home country it may be that the most effective mechanism for accessing entry of migrants from non-shortage occupations from institutions' perspective will be a labour market test as procedures are already in place to meet this criteria. If a points system is developed it will be essential that the award of points is based on information relevant to the business, i.e. salary scales in universities, geographical location, skills required and skills bringing to the role. Salary is not necessarily the best indicator of an individual's likely overall contribution to the UK. There is also the issue of the potential to develop migrant labour that should be considered.

The introduction of 'higher fees' and/or 'auctions' for work permits would place public sector employers, such as HEIs, at a distinct disadvantage. Institutions aim to appoint from the UK wherever possible, however, there is also a requirement to recruit the best candidate for the post. Institutions already employ significant numbers of international staff and the cost of work permit applications is already high. Institutions would not be able to continually pay the market rates for a permit determined at auction and so would lose the ability to employ the necessary talent to compete internationally. Higher fees would penalise HEIs and they are unlikely to be able to compete with private companies in auctions.

**Tier 3**

**15 Which bodies or organisations should be involved in identifying labour shortages involving low or basic levels of skills?**

Employers should be involved in identifying labour shortages together with a variety of other bodies including Chartered Institute of Personnel and Development, Department for Trade and Industry, Trades Union Congress, Confederation of British Industry, Seasonal Agricultural Workers Scheme, Sectors Based Scheme and relevant bodies in Northern Ireland, Scotland and Wales and the National Labour Survey. This could be complemented by specific sector advice.

**16 There will be a number of responsibilities associated with proposed Tier 3 schemes. Which of these should be placed on operators and employers of low skilled migrants?**

**Selecting Migrants Overseas** – this may be best achieved through a relationship involving the operator and employer.

**Providing Induction to the UK** – this may be best achieved through a relationship involving the operator and employer.

**Administering Compulsory Admittances** – this should be the responsibility of the operator.

**Ensuring Migrants are not working illegally** – this may be best achieved through a relationship involving the operator and employer.

**Ensuring Migrants return home at the end of their leave** – this should be the responsibility of the operator.

**17 Should employers seeking to fill particular vacancies with participants on Tier 3 schemes be required to demonstrate that they have attempted to fill that vacancy with a resident worker?**

Respondents from the higher education sector agreed with this question.

**Please provide additional comments in the space provided**

Respondents from the higher education sector provided limited additional comments.

**18 Should there be an English language requirement for Tier 3 workers?**

Respondents from the higher education sector provided a variety of responses to this question.

**Please provide additional comments in the space provided**

While there should normally be an English language requirement at an appropriate level this depends on health and safety requirements, the job and availability of language support or translation services and there may be some circumstances where this should not be required.

**Tier 4**

**19 What are your views about what a points system for students might mean in practice?**

There remains a key question as to whether international students should be part of the points system. Unlike in employment where certain categories may be considered to be of higher priority than others all genuine international students should be eligible to come to the UK if they meet academic requirements and the requirements of the immigration system. International students are not the same as other migrants included in the proposals, they are not primarily economic migrants and they are significant net contributors to the UK economy. If it will be the case that a prospective student is deemed either to meet the requirements of the immigration system or not it is unclear how a points system would be different to the current position.

There is disappointingly little on the possible detail of the points based system within the consultation document. It is difficult to offer a firm view on this issue until there is greater clarity on the criteria and process that migration decisions will be subject to. In particular information on possible entitlements associated with tier 4 would be welcome as well as information on how a points system will ensure equality of opportunity and mobility. There is apparent objectivity in the high level proposals but it remains unclear as to whether this is achievable in reality.

Much depends on the clarity of the scheme and the objectivity with which it is applied. Clarity is vital to ensure that it is not a barrier to entry and that the student has confidence in their application. Objectivity is vital to ensure that students are not disadvantaged by the whim of an individual or nuances of policy. There are specific concerns around levels of objectivity. Decisions are often complex and relevant to the specific circumstances of an individual. In this context it is difficult to envisage a wholly objective system. There are also circumstances under the current system where individuals have been turned down despite fulfilling every objective criteria and test requested. If the move to a points based system places significant extra burdens of proof on institutions or individuals this could become extremely costly.

It is hoped that a points based system would provide greater consistency and transparency and move away from the current situation whereby students accepted by an HEI can be rejected by an Entry Clearance Officer on academic grounds. Decisions remaining within the

remit of Entry Clearance Officers should not include those that are the province of academic institutions e.g. whether an applicant is suitably qualified to follow a course; nor should they act against the UK as a study destination e.g. by saying that a course is available more cheaply in the applicant's own country. The current system suffers from a lack of respect and trust by Entry Clearance Officers in the professional judgement and procedures of institutions.

The intention to study and intention to leave tests must be removed from the remit of the Entry Clearance Officer as the first is the responsibility of the institution through an assessment of 'academic suitability' and the offer of a place and the second is impossible to assess and rendered rather obsolete by schemes to encourage international students to stay in the UK after graduation. Institutions should be the sole arbiter of academic competence for entry to or progression onto their courses. These are issues for each institution to determine individually. Levels of English language should not be a significant criterion for entry, as English language development is an important part of the value added to UK study. Previous success at securing visas is irrelevant as many students would be too young to have experience to contribute to these criteria.

Anything that enables prospective students to understand better and engage in the entry clearance process and improves the quality of entry clearance decisions is to be welcomed and institutions must have the opportunity to comment on the detailed proposals for this aspect of the new system.

A great deal of consideration needs to be given to the criteria for awarding points and there must be agreement from HEIs about the criteria used. If information about the criteria for the award of points, including the number of points for each objective criterion, provides transparent criteria with subjective judgment minimised and appropriate objective criteria developed, if potential students are able to 'test' their points level online prior to application it is possible that the system may be more manageable, systematic, transparent, accurate and speedier than is currently the case. There may be a reduction in applications from applicants that are 'borderline'. It is essential that criteria are realistic and comprehensible for genuine but inexperienced prospective applicants.

If any of the criteria required to accrue points and demonstrate eligibility for migration are subjective in nature then it is only fair to ensure that the system is fully transparent and includes an appropriate appeal mechanism. If the right of appeal is to be removed, the scope of any review process is not known and this is an important area where prospective applicants need more clarity, by institutions and by employers.

Unfortunately the proposals suggested in the consultation still offer scope for subjectivity and while this remains an appeals mechanism must be maintained. Experience of successful appeals has shown too frequently the risks involved when any subjective conclusions are drawn. A points system could offer improvements but would need to be carefully managed, monitored and still supported by an appeals system.

It is difficult to see what objective criteria might be introduced, beyond the meeting of academic admission requirements and having possession of a set sum to pay fees and support oneself. Further consultation and discussion with the education sector is required to develop appropriate points criteria.

It should be recognised that self-assessment online is not that straightforward, and potentially discriminatory against those without easy internet access, unless the reasons why someone can qualify are made transparent. Appropriate guidance is needed to ensure eligible applicants do not disqualify themselves or ineligible applicants pursue applications.

Sponsorship which ties an individual to an institution may lead students to choose other countries which can offer them greater flexibility as well as more welcoming approaches, scholarships, lower costs and so on. Many students who do not show up choose to attend other institutions for legitimate social and financial reasons. They may find a more appropriate course. The people we recruit are not experts in the UK higher education system, the nature of the courses/subjects on offer and the finer points of geographical and socio-economic

features of life in the UK – even if we try to inform them before they come. They need to have the flexibility to make changes to their plans during their stay here.

For the UK experience to remain attractive to prospective students, entitlements such as limited permission to work, and the right to bring dependants should not be removed. We would also like more information about where responsibility lies for assessing each test for an applicant to accumulate points. How much assessment should be performed at institution level and how much in British missions or at the Home Office?

Sample tests, when we begin to discuss the development of the system, would be useful as we are not informed how points will actually be allocated and how the process of allocation points will work. It is vital for users of the system to be able to assess how objective the questions will be in reality, and how straightforward for students to answer. We are concerned that the aim for tests to be objective 'as far as possible' leaves room for subjective decision-making to continue. There is not sufficient transparency here for applicants, institutions or processing staff in order to justify the removal of the right of appeal. If some tests, for example, intention to study or to return, still require personal judgement then the right of appeal must continue. Although the consultation paper states that the overall objective of the points system is to increase numbers coming to study in the UK, it is not clear how this will be done and we are concerned that in practice this system might actually deter genuine students.

There are a number of additional factors that may be considered when developing points criteria. It may be worth considering whether points should also be given if an applicant is seeking to transfer to a UK institution which has a formal articulation/transfer agreement with the local institution where the applicant is studying. Referral by appointed agents, although there remain issues around 'accrediting' or 'approving' agents, may also be worth including in the points system as the agent could be included in the monitoring process.

Applications from students who hold offers from accredited/state-funded institutions that operate robust admissions processes may accrue more points. Students often bring dependants and hope to be able to work to acquire work experience to give them a competitive advantage when seeking employment after graduation. These rights are very important to students and must remain with this tier group. There is a danger that if dependants are not eligible under a points system, then students may well go to other countries where dependants will be admitted.

## **20 Should leave to enter or remain in the UK for students be linked to a specific course at a specific institution?**

Respondents from the higher education sector provided a variety of views in response to this question. Many respondents could see advantages in links between a student and an institution but did not consider that links to a specific course were appropriate or necessary. Institutions and students must retain the flexibility to move onto more appropriate courses if it emerges that an inappropriate choice of subject or level of course was made. This is an academic issue and not an immigration issue.

### **Please provide additional comments in the space provided**

Respondents from the higher education sector indicated that linking students to a specific institution may be appropriate but linking students to particular courses was not appropriate or necessary. Within this system there will need to be sufficient flexibility to run an efficient mechanism to allow students to transfer to another, 'approved', institution if they wish to do so and as is their right. Education institutions and students must make this academic judgement without any involvement by the Home Office.

The system should not be too inflexible. Entry Clearance Officers must understand that an efficient process must be put in place to enable:

- the transfer of students from short to long courses, where they have achieved the necessary progression criteria, e.g. successfully completed a preparatory or bridging course; and
- the transfer of students between institutions, e.g. where upon arrival it becomes apparent that the student has made a poor choice for their needs and is able to secure a place at an alternative approved institution, there should be a mechanism for both institutions to agree a transfer and to assist the students in quickly, efficiently and cost effectively transferring their entry clearance to the new institution.

As highlighted above, it will be vital for there to be simple and quick procedures for students to change courses or institutions without breaking the terms of their current leave and without being penalised financially by having to pay a significant fee for altering their visas. Such procedures should, if possible, fit into existing mechanisms at institutions so that situations do not arise where the institution is expected to report a 'no-show' when the student has actually switched course legitimately. There also needs to be consideration of the particular position of PhD students who may have to change institutions if their supervisor moves institutions. Institutions are concerned about the additional level of resources that this will inevitably need.

Linking the issuing of entry clearance or leave to remain to a specific course at a specific institution may be useful in helping institutions to better predict incoming numbers. As there is no central admissions for postgraduate students offers can be held at a variety of institutions and so this system may require students to make a final choice earlier on in the application process. This could be of benefit to HEIs as it would allow them to be more confident of student numbers pre-arrival.

However, further consideration is needed about the implications of this approach for international students decision-making and the attraction of the UK when compared to other countries.

Some respondents reflected that while the issue of multiple applications and acceptances of offers are something that institutions would want to diminish, this could be achieved outside immigration control and 'sponsorship' arrangements through requiring deposits.

If course and institution details were actually written in an entry clearance sticker or residence permit care should be taken to ensure that British missions and the Home Office use clear and generic terminology that can be easily understood by students and immigration staff at airports.

To make the proposed system work, there will have to be a two-way data exchange between the Home Office/UK Visas and institutions, and there are implications from this both in terms of data protection and also the ease with which institutions, which all run different Management Information Systems, are able to respond.

One way forward would be to agree with education sector representatives the range of individual student data that the Home Office/UK Visas would provide to institutions on each student who the entry clearance process indicates should be taking up a place at that institution. Institutions could then respond to indicate whether a student has registered. As part of the entry clearance process, individuals could be asked to give their consent to this happening, thus addressing any data protection concerns, and the whole process could be agreed with the Data Protection Registrar. For large institutions, as well as for the Home Office/UK Visas, this process would be, however, a lot of work, and much more detailed consideration is needed as to how it might operate in practice.

The findings of the pilot project on reporting should be fully considered before further work is undertaken on this aspect of the proposals.

## **21 Should educational institutions be required to help maintain integrity of the immigration control in order to be able to issue certificates of sponsorship?**

Respondents from the higher education sector provided a variety of responses to this question with some respondents indicating that immigration control is a matter for Government with which institutions may be able to assist rather than a central purpose for institutions.

### **Please provide additional comments in the space provided**

Immigration control is the role of the Home Office. It is reasonable and responsible for institutions to respond to specific proposals to assist, subject to the constraints of the Data Protection and Freedom of Information Acts, and to co-operate by providing some data but via a system that is generated and operated by the IND and not by institutions. Institutions already provide considerable amounts of management information to various Government departments and agencies and the nature and volume of these demands are already under scrutiny by the Higher Education Regulation Review Group.

It is, in general terms, reasonable to expect institutions to adhere to the standards of a system they accept but not that they should be required to act in ways that disadvantage one group of students over another. Institutions have concerns about the impact of some of these proposals on their relationships with students and staff. HEIs are not agencies of government and do not wish to be seen as such. A number of respondents regarded this proposal as an attempt to pass extra administrative work to HEIs that is more properly the work of the Home Office.

It is essential to differentiate the relationships between students and higher education institutions and between employers and employees. HEIs provide an educational service to students, usually in exchange for payment and with no responsibility over applicants. In addition to universities' responsibilities around the provision of education, associated services and academic assessment, they are already willing to support the integrity of the existing migration controls by providing certain information to the Home Office.

There are considerable concerns for institutions around the proposals for 'certificates of sponsorship' and further discussion is required between the Home Office and education institutions to clarify their purpose, format and nomenclature. A particular issue is whether these proposals would limit student choice and flexibility resulting in damage to the attractiveness of the UK.

However, it is important for the Home Office to recognise the limitations of the extent to which institutions can vouch for or guarantee students' actions. It must be recognised that it is very difficult for institutions to second-guess the intentions of prospective students overseas. HEIs should be responsible for ensuring that applicants meet minimum entry requirements such as appropriate qualifications. At the postgraduate level, in particular, students might apply to and accept places at any of the number of institutions, and therefore hold multiple offer letters and acceptance certificates. Prospective students are quite within their rights to do this. HEIs can only assess the academic suitability of prospective students, other elements of applications can only be assessed by Entry Clearance Officers in particular countries.

It is important to try to avoid another layer of bureaucracy with these proposals. The 'certificate of sponsorship' should not be an additional document to the acceptance or confirmation letter already produced by institutions. Rather, the Home Office should work with the sector to develop guidelines for what information is required in these letters for them to comply with the aims behind the 'certificate of sponsorship' proposal. In any future system, the institution could provide something called a 'certificate of acceptance/confirmation for visa purposes', which would be coupled with the 'institutional visa', confirming that:

- the applicant has met all the academic admission requirements for the course including competence in English language and has accepted the offer of a place (i.e. the contract) to study on a specified programme of study for a specified period of

time. The programme of study could consist of a single course (i.e. Bachelor or Masters degree) if the applicant has met the English language requirement or a composite programme of English course followed by the appropriate degree if the applicant needs to further improve their English.

There remain issues around what will happen when more than one 'certificate of acceptance/confirmation' is issued and how institutions and the Home Office can handle this process.

It must be recognised that the term 'sponsorship' is confusing for the education sector as it implies some form of funding. Issuing a certificate of sponsorship would probably be taken by students to mean that they had been awarded a scholarship. A different term needs to be found.

Within the higher education sector it may be worth exploring the current use of deposits by institutions as a mechanism for securing enrolments but this is always a matter for each individual institution to determine according to its recruitment profile.

Proposals for ongoing monitoring of students through regular reporting to the Home Office require more thought and the findings of the pilot project on reporting should be carefully considered by the Home Office and education sector before any further plans are made regarding institutions' responsibilities under the new system. A number of institutions do report on those who formally transfer to another accredited institution and any who stop attending a course but there is a need for a proper framework and guidelines for institutions and Government to adhere to in this area. There also needs to be consideration of issues around academic support and pastoral care for international students. It is hoped that the pilot project can provide the beginnings of these necessary structures. Robust electronic systems will need to be a key part of any activity in this area.

The success of the Student Batch Scheme has shown how valuable it is for institutions to be involved and consulted and this approach must be used to develop sensible processes for information exchange between the Home Office and institutions. It is important to recognise that any system must be designed to minimise additional bureaucracy and costs for institutions and to fit around existing administrative structures and cycles such as reports to the Higher Education Statistics Agency. Institutions can assist through information exchange but cannot be responsible for ensuring students do not breach the terms of their visas or leave the UK on completion of their course. The ultimate responsibility for the immigration system rests with the Home Office.

Institutions should not be penalised for providing 'certificates of sponsorship' to international students who then fail to enrol. Each year UK universities offer applicants from outside the EU significantly more places than are taken up. The reasons for the difference in numbers are many and varied. Some defer for financial or other reasons, some decide to study elsewhere, some accept but decide not to study that year and some arrive without formally accepting the offer made.

There are concerns about how compliance with these aspects of the proposals will be interpreted and defined. There are some factors about students that institutions simply cannot vouch for in advance. For example, institutions cannot assess student's intentions post-graduation, nor guarantee their return to their home country, even if threatened with a downgrading of compliance status. Compliance is a rather unhelpful term in this context and the implication of differentiation between 'sponsors' according to the Home Office's perception of their compliance is a potentially unproductive route. It would be better to focus on developing an effective information-sharing partnership between institutions and the Home Office that builds mutual confidence and trust in the professional judgments of the respective organisations.

The cost of notification to the Home Office, if we are engaged in helping to maintain the integrity of the system, requires clarification. Is the intention to automate this process and if so where does the burden of cost lie?

To restrict the entry of students' family members where it can be demonstrated that their entry is legitimate could be considered as culturally insensitive and disproportionate. International students must continue to have the entitlement to bring dependants with them to the UK and these dependants must continue to have the same entitlements as they do under the current system.

## **Tier 5**

### **22 What are the benefits to the UK of these kinds of temporary/exchange workers in Tier 5?**

For the higher education sector such individuals are important contributors providing cultural enrichment for an increasing global world.

Visiting academics as well as visiting/exchange students are important in building links between institutions around the world and reflect the global nature of the academic community. They can provide a short-term injection of skills, new perspectives and academic specialisations, bringing with them the opportunities for knowledge enhancement, increasing cultural awareness and diversity. International collaboration can create or accelerate developments in teaching and research that can benefit all institutions and countries involved. This tier could facilitate opportunities for young researchers to develop their research to an international standard, the main criterion used in the Research Assessment Exercise (RAE). This type of academic mobility is vital for UK HEIs but visiting academics will often fund themselves or be supported by external funders and will not be employees of UK institutions.

It also provides the opportunity for the UK to increase its standing in the global academic sector and to contribute to overseas development. Temporary/exchange workers can bring access to international networks and opportunities to benchmark good practice in an academic and business sense. Any diminution in temporary/exchange activity would significantly disadvantage UK universities against those of other countries.

This tier could accommodate legitimate continuation of leave to remain in the UK by eligible applicants. There are implications for recruitment to HEIs if international graduates can remain in the UK for a certain period under certain circumstances.

Significant numbers of young people wish to experience life in another country without committing themselves to a formal course of study and this tier could provide a route for this type of experience.

Study abroad programmes for international students can last for three, six or nine months. These programmes are essential to institutions' international reputations and profiles. All UK HEIs have links with international institutions that require visiting teaching and research staff to come over to the UK for short periods of time. These activities enhance the international reputation of particular institutions, the studies of those involved as well as providing benefits for the UK as a whole.

### **23 Is it right that the system should provide for them?**

Respondents from the higher education sector agree that the system should provide for these types of temporary/exchange workers.

### **Please provide additional comments in the space provided**

Higher education is a global sector where international collaboration can prove invaluable in terms of pure and applied research and other developments. The type of applicants envisaged under tier 5 can offer significant academic and economic benefits to the UK. The migration system should provide for and encourage visiting academics and staff exchange, making such collaborations as easy as possible. Special consideration should be given to students coming for short study periods who do not fit the standard patterns of study, e.g. a

summer school. The system should be flexible enough to cover all immigration categories and have sufficient flexibility to cope with differing study or work patterns without penalising the student or worker.

There is a need for clarification about what types of workers/exchange programmes are envisaged as coming within the remit of tier 5.

#### **24 Should there be provision for tier 5 workers to switch into tiers 1 or 2?**

Respondents from the higher education sector agreed that there should be provision for tier 5 workers to switch into tiers 1 or 2 and the possibility of movement into tier 4 by these workers should also be considered.

#### **25 Should additional conditions be attached?**

Respondents from the higher education sector generally considered that no additional conditions should be attached to the provision for tier 5 workers to switch into tiers 1 or 2.

#### **Sponsors**

#### **26 Do you think employers, educational institutions and other sponsors have a responsibility in maintaining the integrity of the immigration control?**

Respondents from the higher education sector generally agreed that employers and educational institutions have some responsibility to contribute to the maintenance of the integrity of the immigration control but that further discussions around appropriate responsibilities and contributions are required.

#### **27 What should employers, educational institutions and other sponsors be expected to do to carry out that responsibility?**

As indicated in previous sections the term 'sponsor' is inappropriate for the education sector as it implies financial support. International students will often come with 'sponsor' letters from their employers or home governments that are an undertaking from these bodies to pay the students' tuition fees in the UK. An alternative term needs to be found.

It will be important to fully consider the findings of the pilot project on reporting before further work is undertaken on this area of the proposals. As discussed in previous consultations regarding reporting, steps should be taken to ensure what details are necessary to report, at what stage they should be reported, in what format should they be reported, who should report and what will be done with the information. For the benefit of institution staff, procedures for reporting should be able to be easily integrated into existing administrative systems. Any system introduced should be as close as possible to that currently in force relating to UK students and the Student Loan Company, focusing on the cross-checking of data rather than the supply of comprehensive information.

Institutions should only be expected to share in the responsibility of immigration control if Home Office statistics and information are much more accurate and specific. Institutions cannot be expected to shoulder the burden of tracking students if they are given unreasonable demands. Educational institutions have already invested heavily in the batch processing system which has reduced IND's work considerably, as institutions check applications for LTR extensions carefully before they go to the IND.

Consideration should be given to the development of electronic systems to enable institutions to check the status of visa applications.

It is not reasonable for institutions to shoulder the cost of tracking non-compliance if the IND continues to be unable to inform institutions who has entered or left the country or provide the sector with meaningful statistics on particular areas of non-compliance. Institutions can report on the presence or otherwise of students if they are provided with the details of prospective

students that have been granted entry clearance to attend a particular institution. However, this means that visas must be linked to an institution and the Home Office must hold records of changes of institution.

Institutions cannot be held responsible for students providing false/inadequate documentation e.g. of funds at a visa post in country as this is beyond their capability to police. Entry Clearance Officers will have much more experience of current fraud practices in country than institutions, who often do not have a local presence.

Institutional expertise lies in whether the student has proved on paper their ability to successfully study and complete the course for which they have applied. HEIs need to ensure that applicants meet the minimum entry criteria for their programme of study. They need to satisfy themselves, to the best of their ability, that qualifications are genuine. Institutions should not be expected to assess students' financial situation or verify the validity of financial documents issued overseas. Likewise employers need to ensure that any qualifications indicated are genuine, with references being fully checked.

It does seem to be overly bureaucratic to expect bona fide institutions to provide both offer letters and sponsorship letters as this will create a substantial administrative burden on Admissions staff, many of whom are not trained in immigration regulations. Institutions should not be required to issue an offer letter, proof of acceptance and a certificate of sponsorship, rather, evidence of acceptance of the offer should be sufficient to allow a visa application.

As indicated previously, the relationship between academic institutions and students is very different from that between employers and employees. Institutions have no hold over their students, purely a service provision contract. The difference between these relationships should be clear and reflected in the 'control' aspects of the new immigration system

Early consideration should be given to the development of online management systems for visas including reporting facilities as if the visa issued were recorded for specific institutions who could then notify non-arrival on-line.

## **28 What should be the criteria for being on a list of recognised sponsors?**

Higher education institutions which are eligible for funding from the funding bodies (Higher Education Funding Council for England (HEFCE), Scottish Further and Higher Education Funding Council (SFC), Higher Education Funding Council for Wales (HEFCW) and the Department for Employment and Learning Northern Ireland (DELNI)), a government department or are reviewed by the Quality Assurance Agency for higher education or Quality Assurance Agency Scotland should automatically be on the list of 'recognised sponsors', although the education sectors concerns about the word 'sponsor' should be recognised. As all these institutions are subject to strict quality controls these institutions must qualify for a 'light touch' approach from the start of the new system.

For employers being a registered employer with the Inland Revenue should be an indication as well as appropriate record-keeping and human resources policies.

There is a role for an enhanced DfES register of education and training providers if the register can be upgraded to recognise different quality assurance systems in place for different types of institutions. The current list does not any indication of the type of quality assurance mechanisms that different institutions are subject to. Eligibility to be on the DfES list should be reviewed to be more stringent. It is critical that only bona fide institutions are on the approved list of 'sponsors' and institutions do not understand why the DfES register remains problematic and rather lax in its requirements for inclusion.

It would also be necessary to find a way of establishing the credentials of non-UK educational providers based in the UK, such as American study abroad centres. If this could be linked to external accreditation, this would also serve to enhance the UK's reputation for quality, although there would no doubt be free trade issues to consider if recognition were not given in respect of non-accredited institutions. A robust system of accrediting accreditation bodies

should be established and the Joint Education Taskforce could be a forum for discussions around these issues.

HEIs have developed robust policies and procedures for the recruitment and retention of international students that indicates the appropriateness of a 'light touch' approach for this sector. All education institutions on the list should be able to demonstrate the soundness of their processes around international recruitment and support for international students. In practical terms the provider should have done everything possible to satisfy themselves of the legitimacy of applicants' credentials that are in the competencies of the provider to measure e.g. academic qualifications, ability to undertake academic courses at appropriate levels.

For staff this would be ensuring the applicant has the appropriate skill set.

Continued presence on the list should be dependent on an assessment of compliance with procedures. However, institutions that have followed robust procedures should not be penalised if, despite their best efforts, some international students nevertheless abuse the system. The recruitment of international students is not an exact process and despite rigorous processes and procedures a small number of 'students' will not enrol or students will discontinue their studies for a variety of reasons.

There is no mention as to whether a fee will be required to be included on the list and this requires clarification.

## **Bonds**

**29 To which types of case would it be sensible for bonds to be applied? For example, should a bond be required of applicants defined as 'high risk' according to accepted criteria (number of breaches, returns etc)? What about applicants from categories of entry regarded as 'high risk'?**

The term 'bond' is felt to be problematic due to its unfortunate historical connotations. A number of respondents considered that more detailed information is required in order to answer this question.

Institutions have grave concerns about the introduction of a bonds system as they can see no advantages whatsoever in the system of bonds. It will clearly disadvantage legitimate students who have limited funds and will be seen as a distinct advantage to non-legitimate students. Institutions would value further evidence about how key competitors in the education sector, such as the US and Australia, deal with this issue. There is a risk that a bonds system will simply deter genuine applicants as it appears heavy-handed, inequitable discriminatory. It penalises applicants due to their country or origin. Bonds would bring subjectivity into the system and arouse suspicion of discrimination amongst potential migrants. It is doubtful if a system of bonds would deter those it intends to deter.

Bonds are inappropriate in the case of student visa applicants and are likely to be prohibitive for a number of prospective students especially those from developing countries and those able to study in the UK only because they have been able to secure external funding. It is likely to act as an additional deterrent to prospective students and result in a drop in applications. Overseas governments and NGOs may choose to send students they support to other countries if bonds are introduced.

For students or low paid workers in particular they may have just managed to gather sufficient funds for their tuition fees and living costs. A bond on top of this may be beyond their financial means. Further, there is a chance that a black market will develop in the provision of bond amounts for applicants, which puts applicants and the integrity of the bonds system at risk. It would be more valuable to operate the new points system first, with the introduction of reporting on no-shows or non-attendance and then see where and how frequently abuses of the immigration system still occur. If the new system is robust in verifying genuine applicants, it is arguable whether bonds are necessary on top of this.

Already faced with significant rises in visa charges, the tuition fee and cost of supporting themselves through a university course, the addition of bonds would create too great a barrier for many genuine students, especially those from developing countries, often those also identified as high risk. For their own security many universities already insist upon a significant deposit of tuition fees to confirm intent and it might be that this is a better system than 'bonds'. This already supports the integrity of the current migration system and in this context the imposition of bonds would penalise the disadvantaged even further. A requirement to pay a bond, though refundable, would simply add to costs and be an additional hurdle to participation in UK higher education.

For employment situations a bond may be appropriate for migrants, especially those from high-risk countries identified using defined risk criteria.

If bonds are used in the new system it would be helpful to identify the categories as narrowly as possible rather than have a blanket rule for particular countries or categories. How is a country or individual to be so defined? If they also have very limited financial circumstances there is a danger of excluding genuine students from poor circumstances.

Bonds should only be used where there is proven evidence of those who are successful in getting visas in the student category from a particular country subsequently proving to be likely to breach their terms of the visa. This should also be subdivided into the likelihood by sector e.g. those coming for ELT, FE courses, degrees, school as each will have very varied levels of abuse and to set bonds across the whole sector could be very damaging to UK market share. Until this kind of sophistication of information about risks and areas of abuse is available, bonds should not be introduced. There would also need to be exemptions for students in receipt of scholarships either from the UK or an overseas government.

### **30 How should a bonds scheme be operated?**

With extreme caution.

A number of respondents considered that more detailed information is required in order to answer this question.

Only in the most high risk cases should a bond system be used as otherwise it will be seen as yet another indication that the UK does not want international students. It should not be applied as a blanket measure for a whole country. This would make the UK seem extremely unwelcoming as a destination and implies that the institutions that have been successful in recruiting good students from theoretically high-risk countries do not have any screening measures in place, which of course they do i.e. use of reliable agents to screen applicants, deposit systems and so on.

Any system would need to be centrally managed by the Home Office. There should be no administrative cost to the applicant on top of the payment of the bond. Interest from bond payments should be sufficient to cover Home Office costs. Bonds should only be applied on initial applications, not for extensions as this could make the cost of extending a genuine student visa unmanageable for some people. Many students start on one course then continue on a Master or PhD etc. It could be very problematic to link the extension of leave to remain to the holding of the bond.

There should be an independent review procedure to ensure that bonds are not being applied subjectively at some missions more than others. Between countries, the bonds should also be differential depending on in-country costs and earnings. The consultation document states that the bond will be repaid when the migrant has changed tier or left the UK permanently. It could prove very difficult for students to show satisfactorily that they have gone home if they have not yet found work in their home country. Further discussions on this aspect of the proposals are needed.

### **31 Is contracting out a better option than trying to combine it with existing migration work?**

Respondents indicated that further information is required to fully answer this question.

#### **Please provide additional comments in the space provided**

Whatever the decision around bonds it is imperative that the Home Office resources it properly.

It should be recognised that it is extremely confusing for people to deal with a number of separate departments and independent companies when making their visa applications. Also, it is important for the legitimacy of the system for immigration-related activities to be performed only by trained and recognised Home Office or UK Visas staff.

#### **Countering illegal working**

### **32 What improvements (e.g. different documentation) would help employers understand whether foreign nationals are entitled to work?**

A proactive approach in issuing updated documentation would be helpful. Guidebooks containing examples of visas/documentation to be provided by the employee to prove their eligibility to work in the UK are very useful. Unfortunately they are only ever sent to institutions when specifically requested. Regular news flashes with regards to changes in immigration procedures would be useful, currently it is all a question of luck as to whether employers spot changes on the website. The website in itself is currently extremely complicated as relevant information is difficult to find.

An improved and regularly updated website (including interactive 'assessment') is a priority together with hard copy documentation/publications/guidance; training sessions for employers; advice help lines and better training for those involved in assessing applications and providing guidance

An essential improvement that is urgently required is clarity in passport stamps so that they specify in what capacity is the holder allowed to work and for what length of time. Currently, documentation does not make it clear or easy for potential employers to understand whether an individual is entitled to work and any restrictions on this. Institutions would strongly support changes to provide a clear statement of any restrictions on work. There is support for details to be shown separately from the passport/visa documentation but this would require strict security controls and some verifiable link with a visa.

Institutions know that employers find work entitlements for students difficult to understand from the current visa stamps. It would be a great improvement to state more explicitly and directly what permissions and restrictions are associated with a visa on the sticker or vignette itself. Alternatively, there could be an easily accessible Home Office website that provides a commentary on each category of visa stamp that employers could trust as being consistent and reliable. The current 'Information for employers' section of the website is inadequate.

### **33 What additional services would help employers in ensuring that they are not employing illegal migrant workers?**

Higher education institutions would welcome an improved employer help line that provided consistent advice supported by a dedicated support team. The help line should enable checks to be made on individuals and organisations should be given specific answers to questions. It may be useful to consider services focused on specific areas of the country or types of organisations such as education institutions rather than the current alphabetical system. Teams specifically servicing a particular sector would be more helpful as they would develop expertise and be able to respond to specific queries only facing certain sectors. Developing a system of 'account co-ordinators' for organisations that have many immigration matters to deal with would be a step in the right direction. Institutions have many SR1 applications and

academic visitors but not all advisers in work permits feel confident to advise on issues surrounding this area.

The current system is confusing as immigration matters are totally separate to work permit matters. The different bodies do not seem to have an integrated system and advice given is dependant on who the employer contacts. Employers need to be able to contact one body with regards to immigration matters, they should not be required to analyse the cases they are presented with in order to determine who best to speak to. Concerns were expressed about the limited availability, accessibility and utility of the current help line that appears to regularly curtail calls.

National training events for relevant organisations in the policies and procedures around the new system plus practical training focused on the application process including form completion would be welcomed by HEIs together with a long-term commitment to closer liaison with institutions.

Institutions hope that the new points system, by streamlining the immigration system and if well publicised, would also be more easily understood by employers to prevent confusion about employing migrants. It must be recognised that institutions cannot monitor whether international students are breaching the regulations around working during term. Institutions do not and cannot do this for UK or EU students who are provided with advice around sensible employment hours during term.

### **Information about your organisation**

Universities UK does not generally make applications to IND, (within the last few years Universities UK has made one application to IND for a work permit). Universities UK has around 80 employees based in London, Edinburgh and Cardiff. Universities UK is a charitable organisation working in the education sector.

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