Summary

Universities UK, which represents university vice-chancellors, is concerned about provisions in the Immigration Bill which:

- remove appeal rights for students and staff applying for further leave to remain
- introduce a surcharge for access to NHS services
- require private landlords to check the immigration status of their tenants
- increase the scope for government to raise fees for visas and immigration services

Context

1. According to government figures\(^1\), international students in higher education contributed £10.2 billion to the UK economy in 2011–12 alone. The UK is the second most popular destination for international students. However, new figures show that the total number of international (non-EU) students in UK universities fell for the first time on record by 0.9% in 2012-13.

2. As well as students, staff from non-EU countries make a vital contribution toward teaching and research in UK universities. In 2011–12, 11% of all academic staff in UK universities were non-EU. The figure is significantly higher in some strategically important subject areas such as engineering and technology (19%).

3. Universities UK is concerned that measures in the Immigration Bill will further damage the UK’s ability to attract international students and staff.

Clause 11: Appeals

4. Clause 11 restricts appeal rights to cases involving a human rights, asylum or humanitarian protection claim. International students lost their right of appeal for Initial Entry Clearance by means of the Immigration, Asylum and Nationality Act 2006 but these new provisions will

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\(^1\) BIS (2013) *Global Growth and Prosperity*
remove remaining rights to appeal against refusal of leave to remain. Applicants will instead be able to request an administrative review in certain circumstances.

5. In 2012–13 there were 98,800 visa decisions for Tier 4 extensions. Of these just under 12,400 were refused (around 13%). The loss of appeal rights will also impact academics and researchers.

Concerns

- Poor quality of initial decision making means that nearly 50% of appeals are successful.

- We agree that there should be an opportunity for the Home Office to review decisions prior to appeals, but not that administrative review should be the only means of challenging a decision. Removing appeal rights may simply increase the number of cases that go to Judicial Review.

- Restricting appeal rights will make it harder to challenge visa refusal decisions, particularly those that are not the result of a straightforward caseworker error. The grounds on which administrative review will be available are not clear.

- There is concern that the Home Office will have a vested interest in not overturning the decisions made by its own officials – and that staff are more likely to endorse decisions made by their colleagues than independent judges would be.

- We understand that in some cases the official who made the initial decision is also responsible for the review. This should not happen.

- The introduction of credibility interviews in Initial Entry Clearance (where appeal rights were removed in 2006) creates a new element of subjectivity in these cases, so there is an argument that, in addition to retaining appeal rights in Leave to Remain applications, appeals should be reinstated for Initial Entry Clearance cases where a credibility interview has been part of the process.

6. **We support the amendment, tabled by Yvette Cooper and others, to leave out clause 11.**

7. The government should retain appeal rights for Tier 4 Leave to Remain and PhD level jobs, but use the new right to administrative review as a means of reducing the number of cases that go to appeal.
8. The minister should clarify the circumstances in which applicants can seek administrative review and provide assurances that reviews will be undertaken by staff in a different visa post or office.

Clause 15: Residential tenancies

9. The bill will introduce a new requirement for landlords to check a prospective tenant’s immigration status prior to renting accommodation to them.

Concerns

- While we acknowledge that some student accommodation will be exempt we are deeply concerned that these measures will discourage landlords from letting accommodation to international students and staff (or those who appear to be from outside the UK), particularly at peak times when they are under pressure to make decisions quickly.

- The measures may leave international students and staff unable to secure accommodation before their arrival in the UK. Given that many international students are young and living away from home for the first time, this could cause considerable anxiety, and could add to the perception that the UK is unwelcoming.

- The lack of certainty provided by a residential tenancy may also prove a significant barrier to non-EU staff looking to move to the UK to work in our universities. This uncertainty could be a particular disincentive to those with children.

- Exemptions for ‘halls of residence’ are welcome, but we are not clear that they will cover the wide variety of arrangements between universities and privately owned student accommodation.

10. Universities UK supports amendments tabled by Sarah Teather to leave out Clauses 15 to 32.

11. Failing that, we support amendments tabled by Yvette Cooper and others requiring the government to conduct a limited pilot of the proposals to assess their impact.
12. We also support amendments to Schedule 3, tabled by Paul Blomfield, which would exempt applicants for Tier 4 student visas, and student visitor visas for periods longer than six months.

13. We have also argued that, if these measures are introduced, it should be possible for migrants to submit electronic copies of immigration documents to secure binding tenancy agreements prior to arrival in the UK.

14. The exemption for ‘halls of residence’ should be extended to cover accommodation let through a university letting service or where students are ‘nominated’ for occupancy by the university – on a variety of different models – and other arrangements, whether or not the university has a formal relationship with the accommodation provider.

Clause 33: NHS charges

15. While we welcome the government’s proposal to lower the NHS surcharge for international students to £150 per annum, compared to a charge of £200 per annum which will be applied to all other temporary migrants, we have a number of concerns about the proposed introduction of an NHS surcharge.

- International students and staff already make a significant contribution to the UK economy. International students bring in over £10 billion a year, while international academic staff are critical to our position as a world-leading university sector, and pay taxes and National Insurance while they are here.

- Although the charge per annum will initially be set at £150 for students and £200 for other migrants, the charge will have to be paid upfront for the full duration of the visa. This could mean that an academic bringing their spouse and two dependent children for three years would need to pay £2,400 upfront (£200 x 3 years x 4 people), in addition to visa and other fees.

- Although free healthcare is not available to international students in many of our major competitor countries, taken as a whole, requirements for students who wish to study in the UK are, in many cases, more stringent than in competitor countries, particularly in relation to language requirements, academic progression, limits on study time, the ability to bring dependents, and police registration. Combined, these create the impression that it is harder to secure a visa to study in the UK. Introducing a surcharge for access to the NHS will remove one area of relative advantage in the UK offer.
Students may be disproportionately impacted by the new surcharge because they could be subject to the charge for longer than other migrants who have the right to settle after five years (ceasing to pay the surcharge at that point). For example, a student on a three-year undergraduate programme, who stays on to study at postgraduate level or to work may find that they are subject to the charge for as long as 12 years (seven years as a student and five years on a work visa before being eligible for settlement). Time spent as a student does not count towards permanent residence.

These new charges could further contribute to the reputational damage created by recently introduced visa restrictions, and will add significantly to the upfront visa cost, compared to our competitors.

16. **Universities UK supports amendments to Clause 33 tabled by Paul Blomfield MP and Julian Huppert MP which would exempt some international students from the surcharge.**

17. If the government is not willing to exempt international students entirely, they should commit to holding visa fees for university students at a permanently lower level than for other categories of migrant. Staff in PhD level jobs should benefit from the lower rate. Lower charges should also apply to student visitors who stay longer than six months.

18. Government-sponsored students should be exempt from the surcharge (government-to-government programmes are a priority in the government’s international education strategy).

19. There should be a maximum contribution period of five years so that students do not end up paying the contribution for longer than other categories of migrant, who may apply for permanent residency after five years.

**Fees**

20. Clause 59 expands the matters which the secretary of state can take into account when setting fees for visas and immigration services. Existing legislation allows for fees to be set at a level which takes into account both administrative costs, and the benefits which may accrue to the applicant. This will be extended to allow ministers to take into account international comparisons and considerations relating to economic growth or reciprocal arrangements with other countries.
- These provisions will make it easier for the Home Office to charge substantially higher fees as a means of raising revenue. The impact assessment forecasts increased revenue of £459 million over 10 years.

- Fees, charges and living costs already make the UK a relatively expensive destination for study, although our average tuition fee levels are lower than many of our competitors, according to HSBC.

21. Universities UK would welcome clarification of how the secretary of state will use new powers to take into account the contribution towards economic growth made by international students and university staff and reduce the fees charged to them.

22. Government should commit to holding fees for Initial Entry Clearance and Leave to Remain for international university students and staff in PhD level jobs at a level below that of the UK’s major competitors, in order to stimulate growth in a market in which the UK excels.

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