



Home Office

# A Points-Based System: Making Migration Work for Britain



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# A Points-Based System: Making Migration Work for Britain

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

March 2006

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# Foreword

Charles Clarke



Achieving greater public confidence in the immigration system remains one of my top priorities as Home Secretary. It was this aim that was the driving force behind the five year strategy for asylum and immigration<sup>1</sup> published a year ago. Since the launch of the strategy we have made significant progress on achieving that aim. The number of failed asylum seekers being removed continues to increase and the number of asylum applicants continues to fall. A phased roll-out of the e-Borders programme and fingerprinting of visa applicants is underway. However, we still have a long way to go. That is why I am so pleased to be able to launch the publication of my policy for a points-based system which is the most significant change to managed migration in the last 40 years. The new points-based system will enable us to set out more clearly who we allow to come into the country and on what basis they are allowed in.

The UK needs a world class migration system to attract the brightest and the best from across the world, while at the same time being more robust against abuse. We welcome people who come to this country to work and to study but we need to ensure that they come here legitimately. That is why I am so pleased today to be able to publish this points-based system for the UK. It will revolutionise the way in which migration into this country works. By simplifying the current complex system in this way we can ensure that only those who legitimately apply and have the necessary skills can come to this country.

I am pleased with the level of engagement there has been with the development of the policy on the new points-based system since we published the consultation document last July. We can only develop a managed migration system that works in partnership with those who actually use the system at the moment, and so I welcome the constructive and often creative input from those who have contributed formally and informally to the consultation.

I believe that this new points-based system will allow employers and those in educational institutions to take ownership of migration to this country. They, rather than just the Home Office alone, will be able to vet who comes into the UK according to the skills and talents of individuals they feel they need to enhance their sector.

Migration is of enormous benefit to a country, when it is managed properly. I believe this new points-based system will allow us both to manage migration and secure our borders against those who want to abuse them.

A handwritten signature in black ink, appearing to read 'Ch Clarke', with a long, sweeping underline that extends across the width of the signature.

**CHARLES CLARKE**

<sup>1</sup> Controlling Our Borders: Making Migration Work for Britain, Five Year Strategy for Asylum and Immigration.

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# Executive Summary

## Introduction

1. This document sets out the Government's proposals for a new points-based approach to managing the flow of migrants coming to the UK to work or study. It forms part of the five year strategy for asylum and immigration published in February 2005: "*Controlling Our Borders: Making Migration Work for Britain, Five Year Strategy for Asylum and Immigration*".
2. These proposals have been subject to extensive consultation following the publication in July 2005 of the consultation document "*Selective Admission: Making Migration Work for Britain*." The proposals have been informed and enhanced by the contributions made to that consultation. A summary of the consultation responses is attached as an annex to this document. A summary of the responses for each sector is available on the Home Office website at [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk).

## Benefits

3. The key outcomes of the new system will be:
  - Better identifying and attracting of migrants who have most to contribute to the UK;
  - A more efficient, transparent and objective application process;
  - Improved compliance and reduced scope for abuse.

These will help deliver high-level benefits for the UK including increased economic competitiveness and cultural exchange.

4. Applicants will find the system simpler to understand and the rules for entry clearer and more consistently applied. It will be quicker and simpler for employers and educational institutions to bring in the migrants they need, and there will be more certainty about whether prospective migrants will be able to come to the UK. The public will better be able to understand who we are allowing into the UK and why, and have confidence that the system is not being abused. It will also be more straightforward for entry clearance officers and caseworkers to administer.

## Managing migration

5. All the main political parties, employers' organisations, trades unions and educational institutions agree that migration is vital for our economy. Migration makes a substantial contribution to economic growth, helps fill gaps in the labour market, including key public services such as health and education, and increases investment, innovation and entrepreneurship in the UK. Culturally, we are enriched by people with diverse backgrounds from other countries.
6. With an expanded European Union there is an accessible and mobile workforce already contributing to our growing economy, closing many gaps experienced by employers. In a changing environment where our European commitments provide many opportunities for the UK to benefit from this new source of labour, it is right that we look again at migration to the UK as a whole. Our starting point is that employers should look first to recruit from the UK and the expanded EU before recruiting migrants from outside the EU.
7. Migration needs to be properly managed. It is understandable that people migrate to seek a better life for themselves and their families. But this can leave settled populations, including many in the UK, concerned about the impact on jobs, public services and their way of life. The system should therefore be focused primarily on bringing in migrants who are highly skilled or to do key jobs that cannot be filled from the domestic labour force or from the EU. It should also help facilitate the entry of international students who rightly see the UK as a world leader in the provision of higher and further education, and in the teaching of English.
8. It should also be robust against abuse. Only those of benefit to the UK should be admitted and once here they must comply with the conditions of their leave. Those who benefit from migration, employers and educational institutions, should work with Government to ensure this is the case. Strong action should be taken against those who seek to abuse the system.

## A points-based system:

### *Five Tiers*

9. Underpinning the new system will be a five Tier framework. This will help people understand how the system works and direct applicants to the category that is most appropriate for them.

- Tier 1: Highly skilled individuals to contribute to growth and productivity
- Tier 2: Skilled workers with a job offer to fill gaps in UK labour force
- Tier 3: Limited numbers of low skilled workers needed to fill specific temporary labour shortages
- Tier 4: Students
- Tier 5: Youth mobility and temporary workers: people allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives

### *Points and structured decision-making*

10. For each Tier, applicants will need sufficient points to obtain entry clearance or leave to remain in the UK. Points will be scored for attributes which predict a migrant's success in the labour market, and/or control factors, relating to whether someone is likely to comply with the conditions of their leave.

11. Points will be awarded according to objective and transparent criteria in order to produce a structured and defensible decision-making process. Prospective migrants will, prior to making their application, be able to assess themselves against these criteria, reducing the number of speculative and erroneous applications.

### *Sponsorship*

12. All applicants in Tiers 2-5 will need to provide a certificate of sponsorship from an approved sponsor when making their application. The certificate of sponsorship will act as an assurance that the migrant is able to do a particular job or course of study and intends to do so. The sponsor's rating, an expression of their track record or policies in sponsoring migrants, will determine whether applicants receive more or fewer points for their certificate.

13. In order to sponsor migrants, employers and educational institutions will need to make an application to the Home Office, satisfy the requirements for the particular Tier in which they wish to sponsor migrants, and accept certain responsibilities to help with immigration control.

### *Financial securities*

14. In due course, financial securities will be required of those whose personal circumstances or route of migration suggests that they present a high risk of breaching the immigration rules.

## Next steps

15. The new system will be introduced in a phased manner Tier by Tier. We will be testing the processes that underpin the proposals before any firm implementation dates are announced. We will be carrying out impact assessments of the proposals before they are implemented.

16. We are always keen to hear the views of our customers and stakeholders and encourage your participation in helping us with the next stages of development. If you have any comments on the new system please let us have them. We will be running events and workshops over the coming months to answer your questions and to discuss the timing of implementation. For further information please contact us on 0114 207 4074 or visit our website at [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk). You can also email us at: [pointsbased.comments@ind.homeoffice.gsi.gov.uk](mailto:pointsbased.comments@ind.homeoffice.gsi.gov.uk).

Summary of routes	
I am currently	In the new system you could apply under
Thinking about applying under the Highly Skilled Migrant Programme	<b>Tier 1</b>
A work permit holder in a shortage occupation	<b>Tier 2</b>
A work permit holder in a non-shortage occupation	<b>Tier 2</b> but you will need to demonstrate the necessary skill and salary levels for this Tier
Wanting to come to the UK temporarily to do low-skilled work	<b>Tier 3</b> but you will have to be from a country which has effective returns arrangements with the UK and find a placement with an approved operator
A student looking to come to the UK to study	<b>Tier 4</b>
Wanting to come to the UK for a working holiday	<b>Tier 5</b> Youth mobility
A musician coming to play a concert or series of concerts	<b>Tier 5</b> Temporary worker





# Introduction

## Background

In February 2005, the Government published “Controlling Our Borders: Making Migration Work for Britain, Five Year Strategy for Asylum and Immigration”. This followed a top to bottom review of managed migration routes, with the aim of making them easier to navigate for customers and employers, and more robust against abuse. The document mapped out proposed changes, including a new points-based system for managed migration. In July 2005 the Government initiated a consultation on the new points-based system, and published a consultation document entitled “Selective Admission: Making Migration Work for Britain”. After speaking to over 1200 people representing a range of sectors across the UK as well as overseas, and receiving a large number of written submissions, the consultation closed in November 2005. This is the Government’s response to that consultation, and sets out the next steps in developing a points-based system for managed migration to the UK.

## Benefits of migration: a new debate

*“The benefits of migration pay for its costs. The UK’s thoughtful migration policy and flexible, efficient work permit process are significant competitive advantages for its businesses and economy. By allowing the UK to draw from the global talent pool, migration has contributed significantly to London’s success as a top global financial centre, as well as making it one of the most dynamic, culturally diverse, stimulating cities in which to live and work.”*

Goldman Sachs International<sup>2</sup>

2. The consultation document set out in some detail the benefits which migration brings to the UK. In summary, migrant workers on average have higher skills and command higher salaries than British-born workers<sup>3</sup>. They contribute disproportionately to the economy (figures for 2001 show that migrants in the UK generate 10% of GDP while forming 8% of those in employment<sup>4</sup>). As well as economic benefits, migration brings cultural and social benefits, contributing to the diversity of modern British society.

3. The five year strategy was a continuation of the Government’s aim to have a more mature debate on migration. It mapped out clearly the balance that the Government wants to achieve between allowing migration where it benefits the UK and preventing it where it does not, and the importance of those institutions which benefit from migration sharing responsibility with the Government for the migrants they sponsor. Responses to the consultation exercise, and discussions with stakeholders throughout the consultation period, have demonstrated that the benefits of migration are felt throughout the UK. There are also concerns about the impact of migration on the UK, for example on UK workers who have difficulty in finding employment, and these are addressed in more detail in the relevant sections in this document. But the overriding message from stakeholders has been that a properly managed migration system, in which the public can have confidence, is a good and indeed necessary thing for the UK’s continued economic growth. The Government’s aim is summed up in the Prime Minister’s foreword to the five year strategy: “The challenge for the Government is to maintain public confidence in the system by agreeing immigration where it is in the country’s interests and preventing it where it is not.” This is the aim that the new points-based system for managed migration seeks to deliver.

<sup>2</sup> This and all other attributed quotes in the document are taken from responses to the consultation document, unless otherwise attributed.

<sup>3</sup> Labour Force Survey, average for four quarters 2004

<sup>4</sup> HMT Parliamentary Question May 2002 based on Labour Force Survey figures

## Scope of the points-based system

4. The points-based system will be designed to set the criteria under which nationals of countries outside the EU (European Union) and EEA (European Economic Area) will apply to come to or remain in the UK to work, train or study. Those who wish to come to the UK to join family members through routes such as marriage will not be covered by the points-based system. Existing UK Ancestry and ECAA (European Community Association Agreements) will be outside the points-based system, as will Business Visitors and a small number of very specific routes involving international agreements such as those under contract to NATO. All other existing routes to work, train, or study will be replaced by the new points-based system.

## International relations

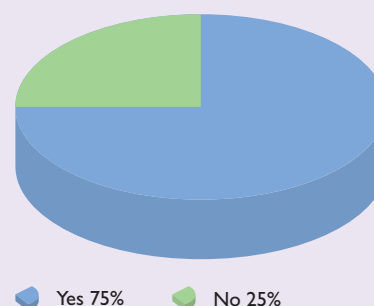
5. As was made clear in the Five Year Strategy, in a spirit of partnership we have put immigration at the centre of our relations with all major countries from which failed asylum seekers and illegal migrants come. We leave partners in no doubt that accepting return of their nationals is a duty and failure to do so has implications for our wider relationship. In some cases, migration schemes will not be available to countries without effective returns arrangements with the UK. Our policies are out in more detail in the sections on Tiers 3 and 5: youth mobility.

## The current system

6. The Immigration Rules are the statement of practice as laid before Parliament to regulate the entry and stay of people subject to immigration control in the UK. They cover visits, study, work, family reunion, asylum procedure, and removal and deportation. The Rules were last consolidated in 1994 and have undergone nearly 50 separate changes since then. There are currently more than 80 different routes by which a non-EEA national can come to the UK for work, study or training. Most of these are provided for by the Rules but some are concessions outside the Rules or other concessionary arrangements (e.g. the DTI International Secondment Scheme or the International Fire-fighters Fellowship).

7. As a result, this is not a system that is always easily understood by those who seek to use it or by the public. Furthermore, it is not a straightforward one to administer. There is scope for inconsistency and incorrect decisions. Entry Clearance Officers abroad, Immigration Officers at ports and Home Office caseworkers are often required to assess applicants' intentions, which is necessarily a subjective process. The lack of clarity and objectivity in the system fosters unfounded applications (both intentional and unintentional) and creates burdens for potential applicants, employers and educational institutions. The system can be inefficient: for example the two-stage process for a migrant to obtain a work permit, where the employer can be granted a work permit but the prospective migrant can subsequently be turned down for entry clearance or leave to remain in two completely separate decisions based on different criteria. In summary, the complex set of routes, combined with subjective and bureaucratic decision-making processes, is inefficient for the Home Office and users of the system.

### Selective Admission consultation document question 3: Is the current system too complex and bureaucratic?



8. Responses from employers to the consultation exercise show that they generally find the work permits system to be well run and frequently have good relationships with staff in Work Permits (UK) which they appreciate. But however well run the system might be, the design and processes are often found to be bureaucratic. This is not something that can be overcome by efficient and effective processing of cases. As shown above, in response to the consultation exercise, 75% of the respondents to question 3 of the consultation exercise agreed that the current system is too complex and bureaucratic. From a Home Office report of research conducted by the Institute for Employment Studies on Employers' use of migrant labour,<sup>5</sup> it is apparent that the design of the work permits scheme is found to be inefficient by employers. Employers said that the process is time-consuming, bureaucratic, cumbersome and difficult to understand. In addition, employers commented that there is no guarantee of success, so that time and effort spent applying for a work permit where the applicant is then turned down for a visa is frustrating. Even where applications were successful the procedure was still deemed to be lengthy and inefficient; this goes to the underlying scheme design.

<sup>5</sup> Dench, S. et al (2006) *Employers' use of migrant labour – summary report* Home Office On Line Report **OLR 03/06**, London: Home Office.

9. Because the system has developed over time in a piecemeal fashion, it is hard to know whether overall it is delivering the migrants that the UK wants and needs. Because it is complex and difficult to use, it does not reflect the UK's competitive position in the global economy as a destination for the brightest and best migrants. Provisions around dependants or the maximum length of leave often differ substantially across similar categories. All this means that the system is not doing as well as it could in identifying and attracting the migrants who are of most benefit to the UK.

10. There are also categories which addressed the UK's needs for migrants when they were set up, but are no longer widely used or needed. For example, there is a specific route which enables certain doctors and dentists to come to the UK to train, even where they do not have a training post for the full duration of their study (postgraduate doctors and dentists). Due to the increasing number of graduates from UK medical schools, and the reform of the training structure, the UK no longer needs to train so many overseas nationals in these professions. We will therefore no longer provide a specific route for overseas-qualified doctors and dentists to train in the UK. If there are relevant posts available, and no resident doctors or dentists to take them up, fully trained overseas doctors and dentists will still be able to apply to come to the UK to fill these vacancies.

11. Currently, the relationship between some migrants and their employer or educational institution means that organisations need not take any responsibility for ensuring that migrants will comply with their conditions of stay. As things stand, a student can gain entry clearance on the basis of an offer letter from a university or college, but, providing that he or she is actually studying in the UK, there is no requirement that the student should actually attend the institution on the basis of whose offer the entry clearance was granted. The current system is not clear about the responsibilities of those who seek to bring migrants to the UK, which limits the effectiveness of the existing compliance management regime.

# The benefits of change

12. The previous section on the current system identifies three main problems: not effectively identifying and attracting the migrants of most benefit to the UK; complex, subjective and bureaucratic processes; and scope for improvement in compliance management and reducing abuse. This section sets out how a new managed migration system could deal with these problems and so deliver greater benefits for the UK.

*“There are clear potential benefits to simplifying the system, which will help employers to identify which migrants are permitted to work in the UK and match them to the type of person needed for their specific vacancy.”*

British Chambers of Commerce

## What benefits are we trying to deliver?

13. We think that there are some high-level benefits that should be delivered by any effective managed migration strategy. These are:

### Economic and international competitiveness

- Identifying, attracting and retaining those who will increase the skills and knowledge-base of the UK;
- Identifying and attracting those who will invest capital or in their education in the UK;
- Enabling employers to fill short-term gaps in the labour market;
- Contributing to the UK economy.

### Cultural and social

- Identifying and attracting migrants who will enrich UK society by their presence and act as ambassadors for the UK on their return home;
- Contributing to the success of the UK education sector;
- Contributing to the continuing viability of UK research activities.

### Control

- Preventing those who do not meet criteria from getting here, and ensuring people leave when they are no longer entitled to be here.

### Political and international development

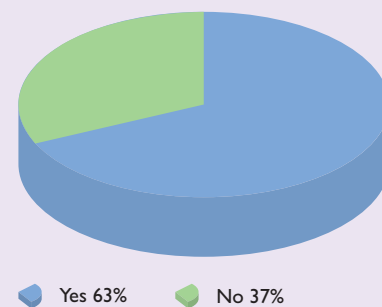
- Increasing the skills base of the home nation on return and minimising any negative impacts on the home nation as a result of skills losses;
- Contributing to the economic development of some home nations through remittances.

### Reputation

- Improving public confidence in the system;
- Improved customer service;
- Improved international standing.

These objectives were endorsed by the responses from the consultation exercise.

**Selective Admission consultation document question 7: Do you agree that the objectives of the managed migration system should be focused primarily on economic benefit to the UK?**



14. Question 7 of the consultation document is set out above together with its response. 63% of respondents agreed that managed migration should focus on economic benefits to the UK.

15. Question 8 of the consultation document asked: *If managed migration were intended to meet non-economic benefits what should they be and how would you measure them?* Comments in response to this question identified that the system should consider diversity, integration into society, culture, and movement of people. A range of non-economic objectives were suggested, the most common being cultural, intellectual, joining of families, social integration, and enhanced reputation of the UK.

16. Family reunification routes are not within the scope of the points-based system which is about work and study. But with the exception of joining of families, these objectives are all explicitly met by the high-level benefits set out above. A properly managed migration system, in which the public can have confidence and which delivers migrants who are seen to make a significant contribution to the UK, will contribute to a positive view of migration and thus to social integration.

### Who will benefit from the new system?

17. Migration has benefits for society and for individuals, and the new points-based system will make it easier to realise those benefits. The new system will enable a prospective migrant to self-assess online before he makes an application, thus helping him to identify the Tier which is most appropriate for him and saving him the cost and time of a wasted application should he not have sufficient points. This will also make life easier for educational institutions and companies wishing to employ migrants, since they will have more certainty that the migrants they select will be able to enter the UK.

18. For an employer wishing to employ a migrant worker, the system will be simpler and less bureaucratic. At present, the employer applies to Work Permits (UK) for a work permit, and if this is approved the prospective migrant then has to make an application for entry clearance overseas, which might be refused. If this happens, the employer has to start the process again by recruiting a different migrant worker and applying for a new work permit. Under the new system, the employer can issue a certificate of sponsorship to the migrant worker they have chosen, and the migrant can then make an application for entry clearance overseas. If the employer is a highly rated sponsor, then it is more likely that the chosen migrant's application will be successful. The employer could further increase the certainty

by discussing the self-assessment tests with the prospective migrant before issuing the certificate of sponsorship, to be sure that the migrant was likely to pass them.

19. An educational institution wishing to give a place to an overseas student will find the new system provides far more certainty. Under the existing system, a student can apply for a visa on the basis of an offer letter from a given institution, but can then choose to study at a different institution. This means that institutions cannot in advance of enrolment plan for exactly how many international students they are likely to have. Under the new system, a student's leave to be in the UK will be tied to a specific institution.

### Benefits of the sponsorship relationship

20. Institutions and employers bringing migrants to the UK will now be designated as sponsors. Sponsors will be at the heart of the new system and will have a formal role in the process. Trustworthy sponsors will find the system easier and less bureaucratic. They will also benefit from a close and customer-focused relationship with the Home Office.

21. The new system will make it easier for prospective migrants to see whether they are likely to qualify to come to the UK before they spend time and money on making an application. The migrant will also benefit from a close relationship with his prospective sponsor. At a minimum level, the sponsor will need to be sure that the prospective migrant is able and intends to carry out the job or course of study for which he is being sponsored. But there is potential for the sponsorship relationship to be much stronger than that.

22. The sponsor could discuss the applicant's self-assessment responses with the applicant before issuing a certificate of sponsorship and possibly help to overcome any potential difficulties: for example, an employer under Tier 2 might want to offer an advance of salary to cover any potential problems with available funds. This would provide additional certainty for the sponsor that the migrant would pass the points requirements, and would help the migrant to be sure that he passed the threshold before making an application. Similarly, employers and educational institutions might choose to pay the migrant's application fee in the first instance, claiming it back over time from salary or adding it to overall fees for a course.

23. This could be a radical new approach to migration and sponsorship, encouraging sponsors to work more closely with migrants to ensure properly prepared applications, as well as a stronger relationship with the Home Office over immigration matters.

## Tests for design of the new system

24. In the consultation document, *Selective Admission*, we set out eight proposed tests for the design of the new system. The wording used in the consultation document is used below for reference. Consultation question 9 asked: *How would you rank the proposed tests in order of priority?*

The response was as follows:

### 1. Objectivity

- That attributes of applicants and needs of the UK are defined in a factual way (minimising subjectivity, inconsistency, and error); and the ability to evaluate similar applicants so that those with the same attributes receive the same entitlements.

### 2. Transparency

- The ability for the Government, potential migrants, and other stakeholders to understand how each step of the process works, and for migrants to self-select.

### 3. Operability

- The ability for Government employees to use the system as it is specified, with little room for human error.

### 4. Usability

- The ability for different types of customers, employers and migrants to use the system.

### 5. Flexibility

- The ability to respond to a changing labour market, in terms of both supply of and demand for migrants; and the ability for the process to be modified due to the particular characteristics (e.g. risk factors) of particular applicants.

### 6. Robustness

- The ability to detect and minimise abuse of the system.

### 7. Cost effectiveness

- The ability to process applicants at a reasonable cost (i.e. which the applicants will be prepared to pay) whilst still maintaining quality of assessment.

### 8. Compatibility

- With EU and other legislative requirements: the ability to meet legal and any convention requirements, and to be robust enough to withstand challenge.

25. The section on the current system and the need for change sets out the three main problems with the current system: not effectively targeting the migrants of most benefit to the UK; complex, subjective and bureaucratic processes; and scope for improvement in compliance management and reducing abuse. A new system which addressed these problems would deliver the following outcomes:

- Better identifying and attracting of migrants who have most to contribute to the UK
  - Meeting the test of flexibility (5)
- A more efficient, transparent and objective application process
  - Meeting the tests of objectivity (1), transparency (2), usability (4), operability (3) and cost effectiveness (7)
- Improved compliance and reduced scope for abuse
  - Meeting the test of robustness (6).

The new system for managed migration will be designed to meet the test of compatibility by being consistent with international legislation. As well as delivering flexibility for the UK labour market, the scheme will be flexible enough to take account of global migration trends and the overall impact of migration on developing countries.



26. In summary, the new points-based system for managed migration will deliver these benefits and meet these tests for design by making changes to the existing system:

From:	To:	Tests met:	Benefits delivered:
A large number of schemes that have evolved to meet particular needs as they have arisen.	A coherent and flexible 5 Tier system that is explicitly designed to deliver on the UK's economic and control objectives.	<ul style="list-style-type: none"> <li>• Transparency</li> <li>• Usability</li> <li>• Flexibility</li> </ul>	<ul style="list-style-type: none"> <li>• Economic and international competitiveness</li> <li>• Cultural and social</li> <li>• Political and international development</li> <li>• Control</li> </ul>
A two-stage process, where immigration issues are assessed by visa issuing posts abroad and employment qualifications are assessed by Home Office in the UK.	A single interface and application process for all applicants.	<ul style="list-style-type: none"> <li>• Transparency</li> <li>• Operability</li> <li>• Usability</li> <li>• Cost effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• Reputation</li> <li>• Economic and international competitiveness</li> </ul>
Decision based on a wide range of entry criteria, some of which are subjective, and therefore have recourse to appeal.	Decisions made using an expanded points-based system and other objective criteria where possible, thus providing more consistency, and supported by administrative review where appropriate.	<ul style="list-style-type: none"> <li>• Objectivity</li> <li>• Transparency</li> <li>• Operability</li> <li>• Usability</li> </ul>	<ul style="list-style-type: none"> <li>• Control</li> </ul>
Limited mechanisms for addressing abuse of current system.	Greater control through sponsors, operators and financial securities.	<ul style="list-style-type: none"> <li>• Robustness</li> </ul>	<ul style="list-style-type: none"> <li>• Control</li> </ul>
An understanding of skills shortages for some sectors.	A comprehensive analysis of shortages by sector, provided by a new Skills Advisory Body.	<ul style="list-style-type: none"> <li>• Flexibility</li> <li>• Objectivity</li> </ul>	<ul style="list-style-type: none"> <li>• Economic and international competitiveness</li> </ul>

## The consultation exercise

27. The consultation exercise ran from the publication of the consultation document: *Selective Admission: Making Migration Work for Britain* on 19 July until 7 November 2005. This was a total of 16 weeks, longer than the usual consultation period of 12 weeks. The Government chose to do this in response to a request by the Joint Education Taskforce who said that otherwise too great a portion of the consultation would take place during the summer holidays.
28. The process of active consultation began with a Work Permits (UK) event in London on the 5th and 6th September, where the Immigration Minister Tony McNulty gave the keynote speech, and officials from the Home Office and UKvisas were available to discuss the proposals in the consultation document and to take questions. Throughout October, we ran a number of sector-based consultation events in London and the regions, enabling Home Office and UKvisas officials responsible for the development of the new policy to meet over 1200 stakeholders face to face to discuss the proposals.
29. We are particularly grateful to the representative bodies of the Joint Education Taskforce that facilitated a number of events on behalf of their members: Universities UK, the Association of Colleges, English UK, and the National Union of Students, and to the other stakeholder organisations who facilitated events during the consultation period.
30. The Institute for Public Policy Research (IPPR), sponsored by the Home Office, ran two expert seminars in London and Edinburgh to discuss the economic impacts of migration and the potential effects of the new proposals with specific focus on skills as well as regional migration. These gathered together a significant amount of academic and stakeholder expertise, as well as Home Office representatives, for two intensive half-day sessions. Workshop sessions were also held with the Illegal Working Stakeholder Group which comprises key stakeholders from relevant UK commercial sectors, representatives of employers, unions, migrant workers and minority communities, and officials from Government departments.
31. Steps were also taken to ensure that our international partners are aware of our proposals and were able to contribute. A briefing event was held at Lancaster House for London representatives of foreign governments, to inform them of the Government's plans and give them an opportunity to comment. Seminars were also given in Delhi and Beijing, since India and China are two of the major sources of economic migration to the UK. In addition we have explored how a number of other countries operate their migration systems and we are grateful for the co-operation and assistance we have received from our international partners.
32. Staff in the Home Office and UKvisas who will implement the changes to the immigration system were also actively consulted. A series of events was run in the UK and overseas, providing face to face briefings on the proposed changes and seeking comments from staff, including two workshops attended by the Immigration Minister, Tony McNulty, in Croydon and Sheffield. Staff were also given opportunities to submit their comments in writing; their comments and feedback have been included in the overall analysis published as an annex to this document.
33. In addition to this and other face to face contact, we have also considered the external written responses to the consultation exercise. The consultation document was sent to 2400 people and 517 responses have been received in total. A number of these were from large, umbrella organisations which represent a number of different groups. For example ILPA (Immigration Law Practitioners' Association) is a professional association with some 1200 members, while the TUC response was drawn up in consultation with its 67 affiliated unions who between them have 6.4 million members.
34. A summary of the consultation responses is the Annex. A summary of the responses by sector is available on the Home Office website at [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk).



## Architecture of the new system

35. Central to the design of the new system is a new five Tier framework covering the main routes through which people coming to work, study or train will enter the UK; a points-based approach to determining which migrants will be successful with their applications; and a greater role for sponsors in ensuring that the system is not being abused. In due course, a system of financial securities will be introduced in areas where there is evidence of the highest risk. Each of the Tiers will have its own clear rationale, criteria for entry, set of entitlements, and rules on switching. The new system will complement other programmes being developed by the Home Office and UKvisas such as e-Borders and the greater use of biometrics.

36. The new five Tier framework will help people understand how the system works and direct applicants to the category that is most appropriate for them:

- Tier 1: Highly skilled individuals to contribute to growth and productivity
- Tier 2: Skilled workers with a job offer to fill gaps in UK labour force
- Tier 3: Limited numbers of low skilled workers needed to fill specific temporary labour shortages
- Tier 4: Students
- Tier 5: Youth mobility and temporary workers: people allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives

37. In order to be granted entry clearance or extend or vary their leave to remain in the UK, migrants will need to meet the specific criteria for each Tier as set out in the revised Immigration Rules. Tiers 1 and 2 are essentially about attracting individuals who will contribute to UK growth and output, developing the UK skilled workforce and filling shortages in the labour market. These individuals will have a route to settlement. Those entering the country under Tiers 3-5 are however entering under temporary categories where the expectation is that people will return home at the end of their stay in the UK. As such, they should not be able to apply for settlement, and apart from students in Tier 4, some of whom we will want to attract into the UK workforce, will also not be permitted to switch into other Tiers.

38. All those who wish to enter under the points-based system will require prior entry clearance. This is in line with our general policy to export our borders. A simple, robust pre-entry check is fundamental to improving public confidence in the system by preventing those who do not meet the criteria from entering the UK in the first place.

39. Visitors will sit outside the points-based system. This will enable us to make a clear distinction between those coming to the UK for work or study or to train, and those coming for a visit. The maximum length of visitor leave will remain at six months. Visitors will not be able to switch in-country into any of the points-based system Tiers, unless they have clearance as prospective students and doctors and dentists taking the Professional and Linguistic Assessment Board (PLAB) Test or to take the International Qualifying Examination (IQE). Nor will people in any of the Tiers be able to extend their stay at the end of their leave by switching into the visitor category.

### Using points for structured decision-making

**Structured decision-making, based on points, will be more transparent and streamlined, delivering greater efficiency in decision-making and more certainty for applicants about the outcome of their application. The new system needs to balance objectivity against the need to be robust against abuse.**

*“The moves towards more objective criteria for assessing applicants for work and study are 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

40. Benefits will accrue from the new points-based system not just because of who it allows in, but also because of how those people are selected. Particularly important in this context are the principles that the new system should be clear and user-friendly, and based on objective and transparent criteria. These are the principles behind using a points-based system for structured decision-making.

*“Employers should also be able to expect that the new system makes reliable and explicable decisions that are based on publicly available criteria and open to scrutiny. We believe that the use of objective criteria, a web portal and a customer account management approach could help achieve this.”*

CBI

### The application process

41. It is proposed that self-assessment will form the first step of the application process for all applicants. This will be online wherever possible. Only if the applicant scores the required number of points will an application to a post overseas or to a caseworker in the UK be made. The completed self-assessment will form the basis of the application, and the applicant will have to provide independently verifiable documentation to support his application. ‘Independently verifiable documentation’ means documentation that can be checked with an independent third party such as, for example, a bank, in the case of bank statements, or a university, in the case of a degree certificate.

### Awarding points

42. Points will be awarded for attributes (which predict a migrant’s success in the labour market) and control factors (which relate to whether someone is likely to comply with the conditions of their leave). Some attributes and factors will be requirements (i.e. the person will be refused if they cannot demonstrate those attributes and factors) and others will be positive indicators, where points can be gained but the person will not be refused just because they receive no points in that category.

43. Points will be awarded differently according to Tier. For Tiers 1 and 2, points will be awarded for attributes which measure the applicant’s potential value to the UK labour market. For Tiers 2 to 5, points will be awarded for a valid certificate of sponsorship, without which it will not be possible to make an application. For all Tiers, there will be control factors for which points will be awarded such as availability of funds and previous compliance with immigration conditions.

44. In addition, there will be certain general grounds for refusal, such as being subject to an existing deportation order, which will continue to apply under the new system. There will also be stricter penalties for attempted use of forged or fraudulent documents.

45. The proposed control factors for which points will be awarded are: certificate of sponsorship (except for Tier 1), funds, previous compliance with immigration conditions, and for some categories, English language ability. The certificate of sponsorship and funds will be requirements, while the other two will be factors for which points will be awarded but which are not necessary for a positive decision (except for Tiers 1 and 2 where English language is a requirement). Applicants would score more points (A) or fewer points (B) for each of these factors. It will of course remain our intention to refuse people whose presence in the UK would not be conducive to the public good.

46. For Tiers 1 and 2, the applicant would need to pass both the attributes test and the control test, but for the other Tiers the control test would be the only requirement. This places a significant emphasis on the validity of the certificate of sponsorship, as discussed in the section on sponsorship and compliance. This will also mean that there will be a single decision for Tiers 1 and 2, rather than the current two stage process for the Highly Skilled Migrant Programme (HSMP) and work permits, where an application has to be made to Work Permits (UK) and then a further application under different criteria for entry clearance to a post overseas, or a caseworker in the UK.

**Examples:**

In Tier 1 the applicant would have to pass the attributes test (which is described in more detail in the section in Tier 1) and the control test, which is described here. The table below shows that English language and funds are requirements, where failure to achieve them is an automatic failure, while previous compliance with immigration conditions is something for which points can be awarded but where failure to achieve points in this category does not automatically lead to failure of the application overall.

In the tables below, 'X' indicates a possible outcome. '†' indicates an outcome which is not possible, i.e. it is not possible to receive an automatic fail in the second example for failure to achieve points for English language.

	<b>A (more points) or</b>	<b>B (fewer points) or</b>	<b>Automatic fail</b>
English language	X	X	X
Funds	X	X	X
Previous compliance with immigration conditions	X	X	†

Another example is Tier 4, where a valid certificate of sponsorship is also a requirement, but English language is not:

	<b>A (more points) or</b>	<b>B (fewer points) or</b>	<b>Automatic fail</b>
Certificate of sponsorship	X	X	X
Funds	X	X	X
Previous compliance with immigration conditions	X	X	†
English language	X	X	†

### **The advantages of points: Structured decision-making**

47. Using points as the basis of decisions allows us to introduce a more structured decision-making process than is currently in place. The applicant will have claimed points for certain factors, and needs to provide evidence to support the points claimed. The decision-maker then works through the points claimed and evidence provided for each set of points in a structured fashion. This contrasts with the current system, where decision-makers receive an application form and a package of supporting documents which do not necessarily bear any relation to what is said in the application form. The decision-maker has to go through all these documents to decide whether the requirements of the Immigration Rules are met. While considerable effort is made to achieve consistency of decision-making, it must be the case that providing a better structure for taking decisions will make it easier to achieve consistency.

### **The advantages of points: Trade-offs between points**

48. Another advantage of points is that they provide a structure within which to weigh up the different characteristics of an individual applicant to reach a risk-based decision. This concept is explored in more detail in the sections on the attributes for Tiers 1 and 2, but it applies across the Tiers. For example, the rating of a sponsor will affect the number of points awarded for a certificate of sponsorship: a certificate from an A-rated sponsor will attract more points than a certificate from a B-rated sponsor. This allows decision-makers and applicants to weigh up risks against each other. An applicant who can demonstrate other characteristics which make him low risk (such as history of previous compliance with immigration conditions) will be able to use these points to make up for the lower points associated with a B-rated sponsor, whereas a higher risk applicant might need to find an A-rated sponsor in order to be granted leave to enter or remain in the UK.

49. This is a good outcome for two reasons. Firstly, it means that where we have full confidence in a sponsor, and rate them A, we allow them more latitude in the applicants they

can sponsor than those sponsors in whom we have less confidence. Secondly, it will encourage applicants to seek out A-rated sponsors, which in turn will encourage sponsors to comply with sponsorship requirements in order to become A-rated.

### Interpreting the points criteria

50. In order for the applicant to self-assess accurately, and for the factors used in making a decision to be transparent, the applicant and decision maker must be using the same interpretations of what the different factors (i.e. the attributes and the control tests) mean. To achieve this, we intend to write descriptors for each of the criteria. Descriptors will determine what would be required to score an A or a B against each of the factors. Applicants and decision-makers will score the application against the same descriptor. This means that the descriptor needs to be clear and transparent while providing a framework to allow decision-makers to exercise judgement in the individual case.

51. Drafting these descriptors is a difficult challenge and will take time to get right. The process has been started by bringing together expertise from decision-makers in the UK and from posts overseas. As the descriptors are drafted, the new points-based system for decision-making, complete with descriptors, will be tested against live cases both in the UK and overseas, as recommended by some respondents to the consultation document. This will allow us to see how decisions would be taken on individual cases under the new system compared to the old system, so that we can see what effect the new system would have, and can refine it to avoid undesired outcomes. This testing will continue as the factors and descriptors are refined and is essential to ensure that the new system is robust against abuse and delivers the results that we want.

*“We would advocate that any changes to the immigration rules be pilot-tested. We suggest a pilot that looks at all applications going through the current system and being decided under the Immigration Rules. Thus while cases would continue to be decided under the existing system, it would be possible to make shadow decisions applying the new system to see how the new proposals worked.”*

ILPA Immigration Law Practitioners’ Association (ILPA)

### Administrative review

*“In our view it is imperative that the removal of appeal rights is not implemented until (i) the new points-based scheme has been tried and tested; (ii) the extended independent monitoring function is operational and (iii) a system of administrative review has been developed as contemplated in the consultation paper.”*

Bar Council, Law Reform Committee

52. In the Five Year Strategy we said that we would legislate to abolish appeals for work and study routes for those refused entry clearance overseas and those refused entry at a UK port or airport. In the consultation document, *Selective Admission*, we said that ‘We propose to extend our independent monitoring function to help to safeguard consistency and quality of decisions, and propose developing a system of administrative review.’ This followed on from the Five Year Strategy in which we said ‘We will extend the current independent entry clearance monitoring process to guard against any risk of unreasonable decisions.’ (paragraph 33).

53. As set out in the section on points and structured decision-making, the new points-based system should mean that immigration decisions made under this system are more objective and transparent. A number of initiatives are underway to improve the quality and consistency of decision-making generally. However, we know that it is always possible for mistakes to be made, which is why under the new system we are proposing that where the right of appeal has been removed and an applicant believes a factual error has been made in the consideration of his application by an Entry Clearance Officer, as demonstrated by the reason(s) set out for his refusal, he can request a review of that application by a senior officer.

54. As well as this, we are strengthening the role of the Independent Monitor by making it a full time post with a remit to report on a six-monthly rather than annual basis. This will enable UKvisas to respond more quickly to any lapses in quality that might be identified in the reports. The Independent Monitor will also have time to make operational visits to a cross-section of posts for up to 3 months per year compared, in the past, to only 10 days per year on familiarisation visits.

## Sponsorship

**Instrumental to the new system is sponsorship: that those who most directly benefit from migration – employers and educational institutions – should play a part in ensuring that the system is not being abused.**

**All applicants in Tiers 2-5 will need to provide a certificate of sponsorship from an approved sponsor when making their application. The sponsor's rating, an expression of their track record in sponsoring migrants, will then determine whether applicants receive more or less points.**

**In order to sponsor migrants, employers and educational institutions will need to make an application to the Home Office, satisfy the requirements for the particular Tier in which they wish to sponsor migrants and accept various responsibilities in relation to helping with the immigration control.**

55. Under the current system employers already have some responsibilities for informing the Home Office if a migrant worker leaves their job. Educational institutions need to be on the Department for Education and Skills register of education providers and we are in the process of piloting the reporting of non-enrolment and discontinuation of studies. We however want to build on these arrangements to give sponsors a more formal role in the points-based system.

56. The overwhelming majority of respondents (82%) thought that employers, educational institutions and other sponsors should have a responsibility to contribute to the maintenance of the control. This was however balanced by statements that the ultimate responsibility for policing the system lay with Government and that the proposals around sponsorship might put a disproportionately heavy burden on small employers.

*“Sponsors need to have responsibility for who they bring into the country and thus should ensure they leave at the correct time. Of course it is difficult to oversee this 100% of the time, so there needs to be some understanding in this respect.”*

Helterskelter Agency Ltd.

*“Users of the system do have a responsibility to help the Government maintain the system's integrity – but the Government are the police of the system and should remain so.”*

CBI

*“Any new regulations must be easy to comply with and employers must be supported in implementing them, especially SMEs, who have far fewer resources than larger firms.”*

The British Chambers of Commerce

### The policy

57. The policy intent underpinning sponsorship is that those who benefit from migration – not just the Government, but also employers and educational institutions – should play a part in ensuring the system is not being abused. By working together it will be possible to achieve a system that delivers the migrants the UK needs, but which also keeps out those that it does not. A properly managed migration system for the UK is a responsibility shared by Government and society as a whole.

### Certificates of sponsorship

58. For each application in Tiers 2-5, a valid certificate of sponsorship will act as an assurance from the sponsor that the applicant has the ability to do a particular job or course of study, and should be regarded as trustworthy from an immigration perspective, i.e. is likely to comply with the conditions of their leave. This will replace the subjective tests under the current immigration rules which necessitate a judgement about whether a course is suitable for a particular applicant, something that is best left to the educational institution, or whether an applicant is able to do a particular job, which an employer is better placed to judge.

59. Employers and educational institutions will therefore need to assure themselves (and the Home Office by extension) that this is indeed the case. For many this will not be problematic. After all, a relationship with the applicant should already have been established through the process of offering a job or place on a course of study either directly or through an intermediary (such as an agent). However for others, this may involve developing new processes and areas of expertise. We will therefore work with sponsors to facilitate the development of best practice.



60. If an application is granted on the basis of a valid certificate of sponsorship, leave to enter or remain in the UK will be then granted in line with length of contract or course, up to a specified maximum. Migrants will only have valid leave if they remain in continued employment or study with their sponsor. Should a migrant wish to change sponsor, they will need to make a fresh application.

### Approved sponsors

61. Because of the weight given to the assurances made by sponsors in the entry clearance or leave to remain process, it will be important to ensure that all sponsors are competent and acting in good faith. It will therefore be necessary for all organisations that wish to sponsor migrants to be approved by the Home Office in order to issue certificates of sponsorship. Prospective sponsors will therefore need to make an application showing that they meet the set requirements and undergo some checks before they are approved.

62. So for Tier 2 we will among other things check that the employer has a trading presence in the UK and is registered with the appropriate authorities. The requirements will be similar to what is already in place for the work permits schemes, but with a greater emphasis on the provision of verifiable documentation. Or for Tier 4, a prospective sponsor will need to demonstrate that they are a *bona fide* educational institution accredited by a recognised body.

### Responsibilities of sponsors

63. As well as taking on greater responsibility for checking the credentials of migrants they wish to bring to the UK, sponsors will be required to cooperate with the Home Office's monitoring.

64. Sponsors will be required to inform us if a sponsored migrant fails to turn up for their first day of work, or does not enrol on their course. Similarly they will be expected to report any prolonged absence from work or discontinuation of studies, or if their contract is being terminated, the migrant is leaving their employment, or is changing educational institution. Sponsors will also need to notify us if their circumstances alter, for example if they are subject to a merger or takeover.

### Rating sponsors

65. One of the criticisms we have heard of the current system is that it fails to recognise the track record of organisations in bringing in migrants to the UK and does not reward good practice. Businesses can therefore be put at a disadvantage if they carry out more checks on prospective employees or students than their competitors.

66. In order to address this, we will rate sponsors A or B according to their track record and policies. This will in turn give migrants they wish to sponsor more or fewer points when making their applications to us. Sponsors who conform with all their responsibilities and whose migrants are found regularly to comply with their immigration conditions, can expect to be rated A. Sponsors who have a less good track record or could do more to improve their procedures, will be rated B. Sponsors will therefore have an incentive to ensure they are doing their best to help maintain the integrity of the control. New sponsors will be risk-assessed on a case-by-case basis before being allocated an initial rating.

67. Failing sponsors, or those in relation to whom we have evidence of large-scale non-compliance or fraud, will be removed from the list of approved sponsors and may be prosecuted. Prior to removal, sponsors will be notified of our intentions and given the opportunity to make representations, though all applications will be suspended in the interim.

68. A-rated sponsors can therefore expect that applications from the migrants they sponsor will generally be successful and plan accordingly. They can also expect a light touch from us once they are established as a trustworthy sponsor. Instead we will focus our resources on ensuring that new sponsors are properly vetted, improving the performance of sponsors who could be doing better, and taking strong action against those who seek to abuse the system.

## Financial securities

**The system will in due course include a system of financial securities, to be required of those whose personal circumstances or route of migration suggests that they present a high risk of breaching the immigration rules.**

69. Respondents to the consultation were generally not in favour of the introduction of bonds or financial securities. The primary concern was that financial securities might be used in a discriminatory manner against nationals from developing countries, many of whom would not be able to afford to pay a financial security.

*“The NUS is very concerned by the proposal of bonds for international students. Poorer students will be priced out of the system, as will students on scholarships. A black market of bonds might emerge. Bonds will also disproportionately affect students from developing countries, as these are the most likely to be considered ‘high risk.’ It seems unfair that poorer students should be discriminated against, in favour of richer, developed countries students.”*

National Union of Students (NUS)

70. Financial securities were also criticised on the grounds that they would act to set the price for entry into the UK. If people were prepared to pay large sums of money to enter the UK illegally, then such people would not hesitate at forfeiting a financial security if it enabled them to enter the country legally.

71. We have listened to these concerns. To guard against discrimination, financial securities will only be included in the new system where there is objective management information that demonstrates that a particular route or migrants within a route are disproportionately likely to breach their immigration conditions. Financial securities will not be used in isolation – migrants will still need the necessary points and have a valid sponsor, as well as depositing the financial security. It cannot therefore be said that people will be buying their way into the UK.

72. This will involve developing a management information system on numbers of breaches of the new immigration rules, in particular by overstaying, by all nationalities which can then be cross-referenced to initial purpose of entry and initial leave to remain generating information on those migration patterns that represent a high risk. Applicants who match these high-risk patterns will in future be required to deposit a financial security before the entry clearance is granted. This will only be returnable when the relevant person leaves the UK. It will be forfeit in cases of overstaying or in other specified instances when the rules are breached.

## Tier 1 – Highly-skilled migrants

**Tier 1 is designed to bring into the UK those migrants with the very highest skills. They do not need a job offer and will have unrestricted access to the labour market. A migrant who enters under Tier 1 will not need a sponsor under the new system.**

73. Tier 1 will replace the current Highly Skilled Migrant Programme (HSMP), which already takes a points-based approach to assessing which migrants should be allowed to enter the UK. It will select migrants with top-level skills who will be able to find employment or self-employment and increase the productivity and growth of the UK economy.

74. The majority of migrants coming to the UK to work are likely to enter under Tier 2. Like the current work permit system, migrants with a specific job offer from an employer in the UK could enter under this Tier if they meet the criteria as set out in the section on Tier 2. It is possible that those with a job offer may also meet the criteria for Tier 1. In this case they would, if they wanted to, be able to enter under Tier 1 and take up the offer of employment with the additional flexibility of being able to change employer without a further application under the points-based system. Tier 1 is not about identifying specific skills required by individual employers, which is provided for in Tier 2 of the new system.

## Consultation responses

75. In the consultation document *Selective Admission* we asked in question 11: *Which attributes do you think are most important for Tiers 1 and 2? Are there any others? Of the attributes offered (age, English language, job offer, previous salary, work experience and skills), skills were identified as the most important, followed by English language. Age and previous salary were considered to be the least important, although opinion was more divided on this than on the most important attributes.*

76. In question 12 we asked: *Would the proposed outline design for Tiers 1 and 2 exclude any migrants who enter the UK under the current Work Permit or HSMP arrangements? As many respondents said, this was a difficult question to answer and the answer might change according to the way in which the points-based system developed. Of the 240 respondents who answered this question, just over half (58%) thought that it would. However, the examples given were almost all of people who would, under the proposals in this document, fit under other Tiers (e.g. those coming on youth mobility schemes) or indeed those who will continue to qualify under the points schemes outlined here for Tiers 1 and 2.*

## Proposals

77. Over the past few months we have carried out analysis of the existing HSMP route, and have used this and research from other countries to establish the attributes which best predict success in the labour market. This research includes analysing those migrants who entered under HSMP and were successful at the stage at which they applied for further leave (i.e. after 12 months) and comparing their salaries at this stage with the attributes they demonstrated on entry into the UK. Officials, including Government economists, have used all this research to produce a proposed points model for Tier 1, using a small number of objective attributes (qualifications and previous earnings, with bonus points for being aged under 32 and for having UK qualifications or earnings, and an English language requirement).

78. This reflects the view of consultation respondents that skills and English language are important. Age and previous salary, which were considered as less important by respondents, are however also included. Previous salary is included because our analysis of the existing Highly Skilled Migrant Programme indicates that this is the most

effective predictor of success in the UK labour market. Previous salary will be measured relative to rates in the country in which it was earned, and not UK rates: we would not expect an IT specialist to be earning in Nigeria what we would expect him to earn in Japan or the USA.

79. Age is included as a bonus attribute because it gives employers the ability to employ younger migrants that have demonstrated potential as well as older migrants with established careers, thus helping to deliver the flexibility that consultation respondents have said they want. Younger people are likely to be earning less than older people, and so the points system is designed to take account of this. This is entirely realistic and helps to ensure that those with high potential have access to the UK labour market. Other countries with points-based systems such as Australia and Canada also take age into account in their decision-making.

*“Linear ranking of attributes, in particular age and previous salary, is insufficiently flexible to accommodate the varying range of attributes that make a candidate an attractive hire.”*

Goldman Sachs International

80. The proposal outlined here is not a linear ranking of attributes but a sophisticated system of weightings and trade-offs. It would allow different combinations of attributes to result in entry to the UK: for example, a person with just a Bachelor’s degree and high previous earnings, or someone with a UK PhD and relatively low previous earnings would equally earn enough points to apply. This means that the scheme is flexible enough to enable different types of desirable people to enter and contribute to the UK, thus responding to the concerns of consultation respondents that an objective, structured system would not be flexible enough for their needs. However, the system is still objective and straightforward to use, since it is clear how many points will be awarded for a given attribute, and how these attributes can be combined together to gain enough points to make an application.

## Current points model for Tier 1

81. The next table shows the latest version of the points model for Tier 1. This is subject to testing and revision and is not necessarily the final version that will be used, but is published here in response to requests from consultation respondents for more detail on how the new system might work in practice.

The pass-mark for the table is 75. Points can be scored in each of the 4 columns.

Qualifications	Previous Earnings <sup>6</sup> (000)	Age	Others
Bachelors: 30 points or Masters: 35 points or PhD: 50 points	£16–18: 5 points £18–20: 10 points £20–23: 15 points £23–26: 20 points £26–29: 25 points £29–32: 30 points £32–35: 35 points £35–40: 40 points £40+ : 45 points	27 or under: 20 points 28 or 29: 10 points 30 or 31: 5 points	Where Previous Earnings or Qualifications have been gained in the UK: 5 bonus points (max 5 in this category)

<sup>6</sup> Figures here are UK equivalent: the actual earnings will be weighted to take account of the country in which they were earned as they are at the moment for the Highly Skilled Migrant Programme.

82. This means that many different combinations of attributes will enable somebody to enter Tier 1. For example:

- A 27-year-old PhD graduate, who studied outside the UK, needs to show previous earnings of at least £16,000 per annum to qualify.
  - 20 points for age + 50 points for qualifications + 5 points for a previous salary of £16,000 gives the applicant a total of 75 points
- A 29-year-old Masters graduate, who studied in the UK, needs to show previous earnings of at least £26,000 per annum to qualify
  - 10 points for age + 35 points for qualifications + 5 bonus points for a UK degree + 25 points for a previous salary of £26,000 gives the applicant a total of 75 points
- A 34-year-old with a Bachelors degree who has been employed in the UK under Tier 2 can switch into Tier 1 by showing earnings in the UK of at least £35,000 per annum.
  - 30 points for qualifications + 40 points for previous earnings of £35,000 + 5 bonus points for previous earnings being in the UK gives a total of 75 points

- A 40-year-old with a Bachelors degree, obtained outside the UK, needs to show previous earnings of at least £40,000 per annum to qualify.
  - 30 points for qualifications + 45 points for a previous salary of £40,000 gives a total of 75 points

#### Impact of this points-based system

*“We need to be able to recruit young graduates who have aptitude rather than experience, intellectual capital rather than personal investments i.e., potential rather than a proven track record.”*

Morgan Stanley International Limited

83. Companies are keen to be able to recruit migrants on the basis of their potential as well as their experience. This new system means that a person who is highly qualified, especially if those qualifications are earned in the UK, will not need to be able to demonstrate as high a level of previous earnings in order to have free access to the labour market.

84. We are modelling the effects of our proposals to understand their impact on the current HSMP pattern of intake, and as we further develop the points and attributes will carry out live testing on current cases to strengthen this understanding. Inevitably if the points scoring system is changed then some

migrants who would not qualify under HSMP will qualify under the new system, and vice versa. The new Tier 1 system is objective and transparent and it will be easy for prospective migrants to see whether they will qualify.

85. It is not necessarily the case that the combinations of attributes needed in the UK will always be the same. The Tier 1 points system meets the test for the new system of being flexible, since the points can be adjusted in response to a changing UK labour market. For example, the minimum salary required to enter with just a bachelors degree could be changed, or the number of points awarded for a particular type of degree could be re-assessed. This flexibility ensures that the design of Tier 1 will meet not just current UK economic needs, but also those of the future.

### Other categories under Tier 1

86. In addition to the points system outlined above, current entry routes for persons intending to establish themselves in business, innovators or who those have substantial funds to invest in the UK will be subsumed into a Tier 1: Enterprise category.

87. The similar Tier 1- Post Study category will offer a transitional route for skilled overseas students who have chosen to study at UK institutions. They will be eligible to apply to work in the UK for 12 months after completion of their studies. This will give them the opportunity to find suitable employment here and to build up experience of the UK labour market before making an application for

mainstream Tier 1 or Tier 2. This category will subsume the current Science and Engineering Graduates Scheme (SEGS) the Fresh Talent: Working in Scotland Scheme (following an evaluation of how it is working in practice) and the provisions announced in the Pre-Budget Report for all postgraduates, plus undergraduates in shortage sectors, to work in the UK for 12 months upon completion of their studies. It will also include an amended version of the current MBA provision. This new category means that for example a Masters graduate from a UK university with little or no previous work experience can qualify for Tier 1: Post Study and can spend a year in the UK at the end of which she can apply to remain in the UK under mainstream Tier 1 or Tier 2 if she has sufficient points.

### After entry: entitlements and leave

*“Consideration should be given to checking the applicants’ contribution to the UK economy on renewal.”*

CMS Cameron McKenna LLP

88. Tier 1 is a route to settlement and people in this route will be allowed to bring dependants to the UK. The proposal is that the initial grant of leave will be for 2 years. After this period, the points will be re-assessed and the person will have to demonstrate high earnings or a significantly skilled job in order to have their leave extended. We are considering the possibility of allowing the most successful to move directly to settlement after 2 years.

**Case Study:** Asuka and Ichiro are both 28-year-old Japanese graduates who did their bachelors degrees together. Asuka did a PhD in Japan, and then worked in Australia for 2 years earning a salary equivalent to £30,000. She would achieve 90 points under Tier 1 (using the current proposal for points) and would be able to make an application to come to the UK to look for a job.

Ichiro did not undertake further study but worked in Japan for several years, on a salary equivalent to £25,000. He would not achieve enough points to qualify for Tier 1 (60 points for age, previous earnings and his degree under the current proposal). However, he has been offered a job in the UK with a City Investment Firm on £40,000 per annum. The company is an A-rated registered sponsor as they have sponsored a number of Tier 2 applicants and have a good track record. The combination of his job offer from a registered sponsor with a £40,000 annual salary, plus his degree will gain him sufficient points to make an application under Tier 2 (85 points under the current proposal). He will have to work for his sponsoring employer unless he receives permission from the Home Office to change jobs. It will be possible for him to change employment once he is in the UK, but his new employer would need to sponsor him and he would need to show that he continues to meet the Tier 2 criteria by applying to the Home Office.

## Tier 2 – Skilled workers with job offer

**Tier 2 is for those skilled workers who have received a job offer from a UK employer. Their attractiveness to the UK is demonstrated by the fact that a UK employer wants to take them on.**

### Consultation responses

89. There were no separate questions in the consultation document about Tier 2, so comments on Tier 2 are included in the previous section on Tier 1. A question which is particularly relevant to Tier 2 is question 14: *Should employers be able to access migrant labour for non shortage occupations?* 76% of respondents to this question believed that they should be able to, but there were concerns about ensuring that UK and EU workers had an opportunity to fill these posts.

### How will Tier 2 work?

90. Tier 2 is an employer-led system for medium and high skilled migrants: if the applicant does not have a job offer, he cannot enter under Tier 2. A Tier 2 applicant will need to meet certain minimum standards, because Tier 2 is also a route to settlement. Having undertaken analysis of work permit applications and modelled a number of scenarios we have produced a proposal which uses a combination of salary and skill level to ensure that Tier 2 migrants meet our objectives.

91. Applicants will need to have a job offer from an employer who is registered with the Home Office on a list of approved sponsors. In addition, the job will either need to be in an occupation which has been identified as a shortage by the Skills Advisory Body, (see page 27), or if it does not, will need to have passed a test to demonstrate that the applicant is not displacing a worker in the domestic UK and EU labour market; in these circumstances the migrant himself or herself will need to meet additional skills and salary requirements.

92. Employers who wish to bring migrants in under Tier 2 will act as their sponsor and issue certificates of sponsorship which will include the job title and salary. The certificate of sponsorship will act as an assurance from the sponsor (to the best of their ability) that the migrant intends and is able to do the job, that the salary is appropriate to the UK (ie the sponsor is not just trying to obtain cheap labour), that the job is at the NVQ3 skill level or above and that the job has been advertised in the UK.

93. For jobs not identified as shortage, points will be used to ensure that applicants have the appropriate combination of skills and prospective salary. As in Tier 1, a small number of objective attributes will be used: the current proposal is for qualifications, earnings, and job offer (which has passed the Resident Labour Market test where appropriate – see page 27). However, unlike Tier 1, the salary is that relating to the job offer in the UK, and not previous earnings abroad. This takes account of consultation respondents' concerns about previous salary as an attribute, and about the need to be able to recruit young applicants with high aptitude but no track record. There will also be an English language requirement. We expect those in Tier 2 to be able to make a full contribution to the UK economy and to society. Job offers in shortage occupations will receive the minimum number of points to be successful at Tier 2.

### After entry: Entitlements and leave

94. Workers in Tier 2 will be able to change employers within the UK but will be re-assessed against the points test and will have to have a certificate of sponsorship from the new employer. Tier 2 is a route to settlement. As stated in the Five Year Strategy applicants will need a minimum of five years' residence before qualifying for settlement. The initial grant of leave will be linked to the length of the contract up to a maximum period. Tier 2 migrants will be able to bring in dependants and to switch into Tier 1 if they meet the points requirements.

95. In addition to the points-based system outlined above, current entry routes for sportspeople, overseas government employees and Ministers of Religion will be incorporated in Tier 2 where they are coming to fill long-term jobs. The skill and salary attributes will be adjusted to ensure that specialist categories such as Ministers of Religion will qualify. In addition, this will be the main route for those coming via Intra-Corporate Transfer (ICTs) within a company which has offices in the UK and at least one other country.

### Current points model for Tier 2

96. As with Tier 1, the points outlined below are a proposal for illustrative purposes and are subject to revision following further modelling and testing.

The pass-mark for the table is 50. Points can be scored in each of the 3 columns.

Qualifications:		Prospective Earnings (000)		Others	
NVQ3	5 points	£15-18	5 points	Job Offer in shortage occupation	50 points
or Bachelors	10 points	£18-19.5 £19.5-21	10 points 15 points	or Job offer passes Resident Labour Market Test (if applicable)	30 points
or Masters	10 points	£21+	20 points	or ICT – defined by: 6 months previous employment with the firm; minimum NVQ3 level job; salary appropriate to the UK	50 points
or PhD	15 points				

97. This means that, for example:

A prospective Tier 2 applicant in a non-shortage occupation with a Masters level qualification would need to earn a minimum of £18,000 per annum in the UK.

A prospective Tier 2 applicant in a non-shortage occupation with a PhD would need to earn a minimum of £15,000 per annum in the UK.

### Intra-Corporate Transfers (ICTs)

*“The introduction of (a) age-related criteria and other non-relevant factors for securing work permits for temporary immigrants to the UK and/or (b) increased costs, either by way of increased charges or by auctioning of work permits, would have the effect of deterring individuals wishing to emigrate to the UK on a permanent or semi-permanent basis (where criteria above may be appropriate) and companies that need to temporarily transfer staff to the UK to work on specific, temporary projects (where such criteria are not appropriate).”*

NASSCOM

98. The position of ICTs within the points-based system was an issue that attracted significant attention during the course of the consultation process, and it was raised repeatedly at consultation events as well as being raised in formal responses to the consultation exercise. ICTs are a category within the current work permit arrangements

used by firms to transfer overseas employees to work for the same company in the UK. The use of ICTs is restricted by a set of criteria based on the nature of the role and migrant:

- a. The individual must have six months prior employment with the company
- b. The role must be at NVQ 3 level or above and pay a salary appropriate to the UK.
- c. The employer must demonstrate that the role requires company specific skills or experience that could not be found in the UK labour market.

99. The ability to transfer employees makes the UK an attractive location for multinational companies. ICTs are quicker and easier for firms than standard work permits and do not require that the role is advertised. They are also widely used by firms involved in the IT off-shoring sector.

100. Throughout the consultation period, some stakeholders argued that ICTs should be dealt with within Tier 5 of the new system, since the company sponsoring the ICT does not want that person to change to a different job and sponsor once in the UK. However, from the wider UK economic perspective, these are often highly skilled individuals who could contribute to the UK labour market, and therefore it is in the UK’s interests for them to be allowed to move to a different job if they choose and if they meet the points requirements.

101. In the new system, we intend to continue to allow ICTs to enter the UK, under Tier 2 of the points-based system. We will remove the subjective requirement that the worker needs to demonstrate company-specific knowledge

in favour of increased compliance checking of the requirement that the person is paid a salary appropriate to the UK (ie the sponsor is not just trying to obtain cheap labour). This reflects more closely the current needs of multinational employers and will deliver maximum economic benefit for the UK.

### The Resident Labour Market Test

*“The Government’s own Jobcentre Plus web portal seems to be well placed to fulfil this role. A requirement to demonstrate that a vacancy could not be filled via Jobcentre Plus would greatly increase the resident labour force’s confidence in the integrity of the system, whilst placing only a minimal extra overhead on employers.”*

TUC

102. The consultation document, *Selective Admission making migration work for Britain*, described the current Resident Labour Market Test and the possibility of a similar test under the new system. Responses to the consultation exercise, and discussions with stakeholders, have indicated that this is an area of concern, and that while stakeholders believe that employers should be able to recruit migrant workers for non-shortage occupations, they are concerned about the impact on the resident labour market.

103. In response to this, the Government has decided that there should continue to be a method under the new system for ensuring that migrant workers coming into non-shortage occupations are not under-cutting the resident labour market. However, in order to ensure that this is not overly bureaucratic, it will work through the existing Jobcentre Plus channels, and will only apply to jobs below a certain salary, since it is here that there is most concern about migrant labour undercutting the domestic labour market. As recommended by the TUC, employers sponsoring a migrant worker would first be required to demonstrate that they had not been able to fill the job through Jobcentre Plus.

### Auctions

104. In the consultation paper we mentioned the possibility of auctioning places for non-shortage vacancies in Tier 2. The argument was that it might help protect the resident labour market by forcing employers to think about how valuable a migrant worker is to them. This idea was unpopular in consultation, with only a few respondents expressing any support for it.

The main reason given by respondents for not wanting to use auctions was that they would advantage large organisations with big budgets over small businesses who would not be able to pay the same prices.

105. Given the response to the idea of auctions for non-shortage Tier 2 vacancies, we do not propose to proceed with this idea at the moment. We are confident that the proposals set out here for protecting the resident labour market are adequate. However, auctions could still be a useful mechanism for capturing the value to the economy of places for other migrant workers, especially if there is uncertainty as to the need for migration as a response to an apparent skills or labour shortage.

### Skills Advisory Body

**The role of the Skills Advisory Body (SAB) will be to identify shortages in skills and labour on a sector basis. It will draw on the existing Skills for Business Network comprising the Sectors Skills Development Agency (SSDA), Sector Skills Councils for England and Wales, and will draw on the work of Futureskills Scotland.**

#### Response to consultation

106. Question 13 of the consultation document, asked about the Skills Advisory Body (SAB). Most respondents (79%) agreed with the principle of a SAB, as long as:

- it had adequate representation from both sectors and regions;
- it could assess shortages on a regional basis.

Several respondents also suggested that it should have a general advisory or monitoring function, although this was cited as a possible disadvantage by other respondents.

*“We agree with the proposal for a Skills Advisory Body if it is based on the existing Sector Skills Councils and if new and specific arrangements are put in place within the SAB to provide for input from and consultation with stakeholders specifically including relevant trade unions at an operational as well as executive board level.”*

TUC



## Structure of the SAB

107. We have taken on board the comments raised by stakeholders during the consultation period. Rather than creating a new body, the proposal in response to consultation is that the Board of the SSDA should take on the responsibilities of the SAB. Members of the Board are appointed by the Secretary of State for Education and Skills, and include representatives from business, unions and the public sector. The Sector Skills Councils, reporting to the SSDA, provide employers with a forum to express their specific sector needs. We will do further work with the SSDA and individual stakeholders to ensure that mechanisms for input, from business, unions and the public sector, are satisfactory.

## Scope of the SAB

*“The SAB should be capable of recognising labour (not necessarily skills) shortages and should consult with SAWS Operators, Crop Associations, NFU.”*

National Farmers Union (NFU)

108. Following responses to consultation, we have concluded that the Skills Advisory Body should not just deal with Tier 2 but should also provide advice on the need for specific low-skilled routes under Tier 3. It will also produce some labour-market information which the Home Office will use to update the points-based system, for example the skills required for particular occupations.

109. For Tier 2, our intention is that the SAB will produce the list of occupations which qualify as shortage and therefore are not subject to the resident labour market test. This will be in the form of an annual Shortage Occupation List with half-yearly updates. An applicant for a job on the Shortage Occupation List will not need to receive points for skills or salary to qualify, although these occupations will still be subject to the minimum skills levels for Tier 2. For Tier 3, the SAB will identify any short-term, low-skilled shortages which need to be met by a specific Tier 3 scheme. The SAB will also be able to advise on regional shortages as necessary which in the first instance will include publishing a Scotland-wide Shortage Occupation List, recognising that Scotland has particular labour market needs. The needs of other UK regions will be identified by regional representation on the SAB which will ensure that those needs are met.

## Decisions on labour market needs

110. Whilst the Skills Advisory Body will publish the list of shortage occupations, based on robust labour-market information, it will not be a decision-making body. Decisions on the role of migration in addressing skills gaps will be for Government, taking into account the Skills Strategy<sup>7</sup> and an assessment of the skills gaps and overall impact on the development of the countries from which migrants come.

## Regional flexibilities

**It is important that the new system is sufficiently flexible to be able to take account of regional variations in labour market shortages and economic performance. It also needs to complement other policy initiatives which may differ across the UK.**

*“It is vital that a new migration points-based system sufficiently reflects regional requirements and labour demand in order to allow the regions to attract the migrants they need to address particular skills shortages and to reduce the economic disparities between the regions.*

*The primacy of Sector Skills Councils (SSCs) and the Skills for Business Network in articulating employer demand for skills needs to be maintained, and the role of SSCs and the Skills for Business Network in the Skills Advisory Body is welcomed. The recent refocusing of the Sector Skills Agreement process around aggregated regional skills needs presents a potent opportunity to capture regional sectoral needs. The Regional Skills Partnership (RSP) also plays a key role in validating articulated needs, and providing supplementary research.*

*The key RSP partners – One NorthEast, LSC, Jobcentre Plus and Skills for Business Network – therefore present the best option for articulating a regional spatial dimension to migration.”*

One NorthEast

<sup>7</sup> “Skills: Getting on in business, getting on at work.” March 2005 (Cm 6488-1) applies to England and Wales only.

111. In response to consultation we have concluded that the Skills Advisory Body should be able to advise on regional shortages as necessary, including by publishing a Scotland-wide Shortage Occupation List. The Skills Advisory Body will comprise the board of the Sector Skills Development Agency, whose remit covers the four nations of the UK, and will take account of the particular needs of regions and nations across the country.

112. Scotland, for example, is seeking more managed migration to help address the economic and social implications of a declining and ageing population. Their strategy consists of attracting skilled and highly skilled migrants and encouraging them to stay in Scotland in the longer-term, for example through a reduced qualifying period for settlement for some Tier 1 and Tier 2 migrants who can demonstrate they have lived and worked in Scotland for an appropriate period of time.

*“SCDI does not agree that a single list can be developed for the whole of the UK and feels that the particular needs of the Scottish economy, which is suffering from shortages in sectors without a narrow definition of ‘highly skilled’, must be taken into account.”*

Scottish Council for Development  
and Industry

### Tier 3 – Low-skilled migration

**The Five Year Strategy set out that we would phase out low-skilled migration in response to the numbers of workers available from the newly enlarged EU, and that the only low-skilled routes which remained would be quota-based, operator-led, time-limited, subject to review, and only from countries with which the UK has effective returns arrangements. Any new routes will be based on identifications of temporary shortages by the Skills Advisory Body.**

#### Response to consultation

113. A strong response from the Agriculture and Hospitality sectors, especially evident at the sector events, was that low-skilled migration is an essential support for businesses in these sectors in the absence of UK workers prepared to do these jobs. However, other responses were not in favour of low-skilled migration, and

expressed concern that migration in these sectors kept wages low so that jobs in these sectors are not attractive to UK workers.

*“In some cases, for instance, the labour shortages which exist are due to the low levels of pay and conditions on offer.”*

TUC

114. Question 17 of the consultation document, Selective Admission, asked: ‘Should employers seeking to fill particular vacancies with participants on Tier 3 schemes be required to demonstrate they have attempted to fill that vacancy with a non-migrant worker?’ The majority of the respondents to this question (72%) felt that employers should be made to recruit resident labour before recruiting from overseas, and were concerned about migrant labour taking jobs from the domestic labour force. They were also concerned that the availability of cheap migrant labour does not encourage employers to improve pay and working conditions. Conversely, those who answered in the negative to this question said that employers will always first try the domestic market before recruiting internationally because of the higher cost of taking on migrant labour. A CIPD labour market outlook report in November showed that few employers hire migrants mainly due to lower wage costs but that this objective was almost five times more important for employers hiring less skilled (9%) than skilled (2%) migrants<sup>8</sup>.

#### The numerical context

115. In 2004, the Seasonal Agricultural Workers Scheme (SAWS) and Sectors Based Scheme (SBS) together provided approximately 32,000 migrants to the UK. This compares to large numbers of migrants who are free to work in the UK but have not entered to work in a specific job. Since May 2004 around 329,000 workers from the EU accession countries have registered to work in the UK<sup>9</sup>. In addition, migrants from a number of other routes such as working holidaymakers and dependants of workers are free to work in the UK. 294,000 students, who are free to work for 20 hours a week in term-time, and full time in holidays, came to the UK in 2004<sup>10</sup>. These numbers suggest that existing schemes for low-skilled migration provide only a very small proportion of migrants who might be available to carry out low-skilled work.

<sup>8</sup> Chartered Institute of Personnel and Development, *Labour Market Outlook, Autumn 2005*

<sup>9</sup> Accession Monitoring Report, Home Office, February 2006

<sup>10</sup> Control of Immigration: Statistics, United Kingdom, 2004 Cm 6690

116. More detailed figures suggest that agriculture and the sectors covered by the Sectors Based Scheme (hospitality and food processing) have increasingly been able to recruit workers from the EU accession states. Figures for 2005 show that nearly 23,000 nationals from these countries were registered in the agriculture sector and over 38,000 in hospitality and catering. This compares to around 15,000 who came in under SAWS in 2005 and a further 4,000 working in hospitality under the SBS. 28% of those entering under the SAWS in 2005, and 43% of those issued with SBS permits under the current quota, are from Romania and Bulgaria, which are currently negotiating to join the EU.

117. At the same time, the Government has reduced the quotas on the existing low-skilled schemes. The SAWS quota was cut from 25,000 to 16,250 following EU accession in May 2004, and in July 2005 the hospitality quota under the SBS was terminated. The numbers above lead to the conclusion that the agriculture and hospitality sectors are starting to rely on workers from accession states to fill the vacancies in these sectors, in response to these reductions of quotas.

### Terminating existing schemes

118. During the consultation process we ran a parallel review of the existing Seasonal Agricultural Workers Scheme (SAWS). The conclusion of that review is that we will phase out the existing SAWS scheme by the end of 2010. We will therefore extend, in agreement with the SAWS operators, the existing operators' contracts to November 2008 with a further extension as appropriate. This timescale means that the SAWS will not be phased out until after Bulgaria and Romania have acceded to the European Union (on current timescales). We will keep the size of the remaining SAWS quota between now and termination under review in the light of the accession of those countries, and we expect to make substantial cuts in the quota as employers prepare for the scheme to be terminated.

119. The SAWS operators have, in their response to the consultation paper, stressed the benefits that the SAWS has provided to participants in terms of a cultural experience. Under the points-based system, there will be provision for a youth mobility scheme under Tier 5. We envisage that it would be open to the current SAWS operators to be involved in the placement of people arriving under that scheme.

120. We will also phase out the remaining food processing quota under the Sectors Based Scheme by the end of 2006. We will be in further contact with stakeholders in the sector between now and the expiry of the current quote in June 2006.

### The policy

121. While the Government intends to phase out existing low-skilled migration schemes, we have listened throughout the consultation to the arguments for flexibility. This relates to one of the overarching objectives of the new system: to be responsive to the changing needs of the UK labour market. Employers are expected to recruit from within the UK and the EU before looking to migrant labour from outside the EU. The numbers above suggest that in most cases there should be adequate labour, skilled and unskilled, available from within the EU, with more becoming available as more countries join the EU. Only where there is an identified shortage which cannot be met from within the UK or EU will a scheme under Tier 3 be set up.

122. The proposal is that new, quota-based low-skilled schemes should be set up only for countries with which we have effective returns arrangements, and in response to labour market shortages which are clearly temporary. This should provide the flexibility that the labour market needs. All such schemes would be run by an operator, and we are considering options such as compulsory remittances, requiring open return tickets, and biometric capture to ensure that workers return at the end of their stay. Entry would be for a maximum of 12 months with no dependants, and there would be no right to switch into any other route.

123. We agree with respondents to the consultation exercise that there are some low-skilled jobs for which English language should be a requirement (e.g. some jobs in healthcare and hospitality). However, there are also some jobs (e.g. agriculture) for which English may not be necessary. Rather than imposing a blanket requirement which might not be appropriate in all cases, we have decided that an appropriate level of English for the job in question will be set by the employer. It will be for the operator and the employer together to ensure that the selected migrants meet that requirement, overseen by the compliance arrangements for sponsorship.

## Identifying shortages

124. As set out above in the section on the Skills Advisory Body (SAB), this would be the mechanism for identifying shortages for which short-term low-skilled schemes were an appropriate response. The SAB would make recommendations to Government, who would make the final decision on whether migration was an appropriate response to an identified shortage. This responds to concerns raised in consultation that employers should be required to recruit from the domestic labour force first.

## Tier 4 – Students

**Overseas students bring significant benefits to the UK, contributing some £5 billion<sup>11</sup> a year to our economy. They also bring additional benefits in closer international ties and support for university research.**

**The points-based system offers an opportunity to make the student route both simpler and more robust. Integral to the new points-based system is providing more objectivity and transparency to the decision-making process and a greater role for sponsors in vouching for the students they want us to allow into the UK.**

125. Each student, before making an application, will be able to self-assess against a set of published criteria to see whether they will have sufficient points to be granted leave to enter or remain in the UK. Details of the criteria are set out in the section on points and structured decision-making and are currently being tested. They will include a valid certificate of sponsorship from an educational institution at which the student has been offered – and accepted – a place on a course of study. Respondents to the consultation were clear however that the criteria should be as clear and objective as possible and that decision-makers should not be asked to make judgements about educational matters. As with all the Tiers, there will be further opportunities for stakeholders to engage with us as we do more work on the detail of the new system.

*“The current system is not merely complex, but it relies on decisions by entry clearance officers which are often based on subjective criteria and can be idiosyncratic. There is a tendency for ECOs to make educational judgements (such as about the suitability of a course) which they are not qualified to assess.”*

English UK

126. Leave will then be tied to the sponsoring institution and given for the length of the specified course up to a maximum, plus a reasonable period of time to wind up their affairs and attend graduation ceremonies. Fresh in-country applications will need to be made should the student wish to change sponsors or extend the length of their leave, but not when just changing courses at the same institution. This reflects the fact that a majority of respondents (to question 20 of the consultation document) agreed that leave should be tied to a specific institution, something which would help institutions with planning and add robustness to the control, but felt that students should retain the flexibility to change courses without having to make a fresh application.

*“The visa should be linked with an institution/ employer and not with the course at this stage. It is common, even for UK students in consultation with their tutors to change courses after enrolment and this option should also be available to international students.”*

British Council

127. The certificate of sponsorship will act as an assurance from the sponsor (to the best of their ability) that the student intends and is able to follow the relevant course of study. This replaces the current requirement in the immigration rules that the entry clearance officer or caseworker should assess these criteria, even though they may not be best qualified to do so.

<sup>11</sup> “The Global Value of UK Education Exports”, Prof. Geraint Johnes, April 2004.

128. Only educational institutions on the list of approved sponsors will be entitled to issue certificates of sponsorship. In order to be included on the list of approved sponsors, institutions will need to demonstrate that they are *bona fide* learning providers accredited by a recognised body. The Home Office is working with the Department for Education and Skills on what will constitute “accredited” for these purposes, and we will continue to engage with stakeholders as we develop this policy. This will help weed out bogus colleges and students seeking to abuse the student route and ensure that prospective international students will receive greater quality assurance in relation to institutions in the UK.

*“...the policy intention behind educational sponsorship will not work unless it is backed up by a robust register of providers which makes clear a distinction between public sector universities and colleges and accredited private providers and non-accredited purely commercial institutions.”*

Association of Colleges

*“...it should be restricted to those institutions which can demonstrate formal educational quality criteria, and/or are subject to inspection or accreditation...”*

UKCOSA (The Council for International Education)

129. As part of their sponsorship requirements, educational institutions will also be required to report non-enrolment or discontinuation of studies by any student they sponsor. The Home Office, through the Joint Education Taskforce, is currently piloting how this might work in practice with over 30 institutions drawn from across the education sector.

130. 81% respondents to question 21 said that educational institutions should be required to help maintain the integrity of the immigration control. Many however stated that there were limitations on how much could be expected of institutions, particularly English language colleges which did little in the way of checking prospective students and that ultimate responsibility for policing the system fell to the Government.

131. Many in the education sector were also of the view that the terminology around sponsorship used in the consultation document could be confusing for prospective students. Prior to implementation, we will consider an alternative to the phrase “certificate of sponsorship” for this Tier.

*“The terminology of “sponsorship” in education is problematic as sponsors are often associated with financial support”.*

Universities UK

132. Tier 4 will be subdivided into three categories with varying conditions and entitlements to reflect the different types of studies available in the UK, including a study through work category to reflect the growing market for courses which include work experience or specific placements.

133. Except for those under the age of 16, most students will be entitled to bring in their dependants and work part-time.

*“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 UK experience and further developing their English language skills. It is also important to allow international students to be accompanied by their dependants.”*

Universities UK

134. The table below summarises our proposals for each category of study.

Category of study	Entitlements			Conditions
	Dependants	Work	Leave	
General student	Yes*	20h per week and full time in vacation	Duration of study plus a reasonable additional period	Student is studying full time at degree level or above in a publicly funded institution, or engaged in at least 15 hours per week organised daytime study
School	No	As for general student for those over 16, otherwise none	As above	Full time study to 18 at an independent fee-paying school
Study through work	Yes*	As for general student, plus that related to course	As above	Under consideration

\* Dependants may work if the principal is in the UK for more than 12 months

## Tier 5 – Youth Mobility and Temporary Workers

**People coming to the UK under this Tier are principally here to satisfy non-economic objectives. Youth mobility schemes can play an important role in promoting the UK abroad, as nationals return home and encourage further trade and tourism. Allowing for certain types of temporary worker also helps to satisfy cultural, charitable, religious or international objectives. Those coming to the UK under Tier 5 additionally contribute to the economy by working, paying taxes and spending on goods and services.**

### Youth Mobility

135. Youth mobility schemes can bring long-term benefits to the UK. A temporary but positive experience of the UK when young can lead to life-long links which can bring benefits in terms of trade, tourism and international relations. Youth mobility schemes can be used to help support and grow bi-lateral relationships with our international partners. Furthermore, such schemes can lead to greater access to work and travel for our nationals overseas.

136. In 2004, approximately 73,000 people entered the country under a number of schemes that could be loosely grouped together under youth mobility and cultural exchange. These include the Commonwealth Working Holidaymaker (WHM) scheme (by far the largest), BUNAC and the au pair placements scheme.

*“In the au pair programme, we emphasise the cultural exchange aspect and this benefits mutual understanding between countries, and quite often there is some future payback for the UK and the countries involved.”*

British Au Pair Agencies Association

137. The new points-based system offers the opportunity to rationalise these into a single scheme with a clear set of entitlements and control requirements.

138. The advantages of a single generic youth mobility scheme will be that it is:

- Simpler for applicants and the public to understand
- More straightforward to operate and easier to manage immigration risk
- Fairer as each country’s nationals would have to meet the same requirements
- Potentially universal

139. Participating countries will need to agree to the terms of the scheme including the existence of an effective returns arrangement, an acceptance that the foreign government will act as the sponsor, and country limits set according to immigration risk.

140. If the rationale for the scheme is cultural exchange it will make sense, wherever possible, to look for reciprocity and to extend opportunities for British nationals. Reciprocity will not necessarily require “mirror” arrangements (which could result in an undesirable level of complexity) but some broad equivalence of purpose and entitlement.

141. The scheme will allow nationals aged 18-30, from participating countries, to come to the UK for up to 24 months, after which time they will have to leave the UK.

142. In order not to undermine the rationale of the scheme, which is principally about people coming here for a holiday and doing incidental work to support themselves and not an avenue for economic migration, participants will, in the main, be restricted to working for a maximum of 12 months out the total of 24 (as with the current Working Holidaymaker scheme). Participants will not be allowed to be self-employed or play professional sports. In addition, those entering under the scheme will not be able to bring dependants and will be unable to switch to any other Tier. These restrictions underline the temporary nature of the route.

143. While 88% of respondents to question 24 of the consultation were of the view that switching should be allowed, dropping this and the other restrictions would act as a pull factor to people who want unrestricted access to our labour market without qualifying on the basis of skills or shortage or having to undergo any Resident Labour Market test. These people would be less likely to want to leave at end of their stay and confidence in the system would be undermined.

144. Each applicant will need to produce a valid certificate of sponsorship issued by their government when making an application. Such a certificate will act as an assurance from the sponsoring government that the applicant has accepted the terms on which they were being allowed into the UK. For a government to give such an assurance we would expect them to do some sifting of potential applicants. At the very least we would expect them to make clear the terms of the scheme and the consequences of non-compliance. We will then monitor the level of overstaying of any country’s nationals and adjust the country’s annual quota or suspend them from the scheme altogether according to the immigration risk presented.

145. Potentially a large number of people might qualify for entry to the UK under the scheme. This is however likely to be reduced by insisting on effective returns arrangements to be in place, country-specific limits, and some reciprocity for British nationals. There may however still be a need to cap the overall numbers of people entering the UK under the scheme in order to manage the potential impact on the business of UK visas and the UK labour market. The overall figure could initially be based roughly on the number of people entering through existing schemes and then adjusted according to changing demand; the level of abuse of the scheme; or the state of the UK economy.

### Temporary Workers

146. Temporary workers are people who come to work in the UK for a limited period of time whom might not qualify under Tier 2, but who we want to allow into the UK for cultural, charitable, religious or international development reasons or to satisfy our obligations under certain international treaties. Many of these reasons were identified by respondents to the consultation who generally were of the view that these migrants brought considerable benefits to the UK.

147. This part of Tier 5 rationalises a large number of existing routes into five sub-categories which will each have their own distinctive attributes and sponsorship arrangements.

**148.** In keeping with the temporary nature of the Tier, the maximum period of leave that could be granted will be 24 months (12 months in some cases) and switching into other Tiers will not be permitted. Dependants will be allowed but will only be entitled to work if the principal is granted more than 12 months leave.

**149.** The limitations on type of work and restrictions on length of stay, dependants, and switching, mean that we do not envisage there being a need for a separate resident labour market test in this part of Tier 5 except where such a test is already part of a multilateral agreement. We will however keep this area under review and if there is a need to do more to protect the resident labour market in any particular sector we will look at mechanisms to deal with the problem including further tightening of the criteria.

**150.** For each of the sub-categories there will be varying requirements in order to qualify as a sponsor and particular responsibilities. In each sub-category the sponsor will be expected to satisfy themselves that the person being sponsored is qualified to do the work in question and, as far as is possible, intends to leave at the end of their stay.

**151. *Creative and Sporting:*** People coming as sportspeople, entertainers or other creative artists for short periods of time. These people bring cultural benefits to the UK. Sponsors could include affiliates or members of commercial organisations or organisations funded by Government, as well as record companies, promoters, tour managers, sports clubs, governing bodies and organisations. They will need to vouch that an entertainer or sportsperson is seeking entry to perform, tour, compete or take part in a specified event or series of events, poses no threat to the domestic labour market, and is not intending to do other work or remain in the UK. The maximum leave for this sub-category will be 12 months.

**152. *Voluntary:*** People coming to work voluntarily for a good cause. It will be a requirement that the sponsor must be a charity or non-charitable benevolent or philanthropic organisation as defined by legislation. Sponsors will need to vouch that the applicant's activity in the UK will be voluntary fieldwork directly related to the purpose of the sponsoring organisation, is not subject to the National Minimum Wage, and does not constitute a permanent position. The maximum leave for this sub-category will be 12 months.

**153. *Religious:*** This will include various religious workers coming to the UK for a short period. Providing a route for these people enables communities in the UK to better follow their faiths. The sponsor will be the faith community, for example a synagogue, mosque, mandir, church or gurdwara. The maximum leave for this sub-category, for religious workers in a non-pastoral role, will be 24 months. Ministers of Religion (who preach to their congregations and perform a pastoral role) will not be included here, but will be expected to qualify under Tier 2.

**154. *Exchange:*** People coming through approved or accredited exchange or development schemes aimed at sharing knowledge, experience and best practice. Such schemes are of cultural benefit to the UK and help meet international development objectives. The sponsor would be the organisation running the accredited scheme and might include the British Council or a Government department. Sponsors would need to vouch that the applicant was qualified to take part in the scheme and would not take employment other than as part of the exchange. The maximum leave for this sub-category will be 12 months.

**155. *International Agreement:*** We are obliged to allow into the country to work a number of people as a result of a variety of international agreements. For example, people coming under contract to provide a service under the General Agreement on Trade in Services (GATS) or servants in diplomatic households under the Vienna Convention on Diplomatic Relations (VCDR) 1961. The sponsor will reflect the nature of the international agreement but would be the client or employer in UK for GATS or the diplomatic mission in the case of servants in diplomatic households. The maximum leave for this sub-category will be 24 months.



### **The British Council: a case study**

The British Council currently operates six accredited schemes which broadly share the same aim of bringing in people from developing countries to carry out specific work placements in the UK in order to develop their skills and take this knowledge back to their country of origin. These schemes are funded by a variety of Government departments and help the UK meet international development objectives. However, at the moment people selected by the British Council under the schemes come into UK under a variety of different immigration routes depending on their exact circumstances, e.g work permits, Training and Work Experience Scheme and two specifically tailored categories in the Rules (Exchange Teachers and Language Assistants and International Association for the Exchange of Students of Technical Experience).

This situation is very complicated, and there is a large overhead in cash terms (cost of work permits) as well as time. Much effort is expended by the Home Office and the British Council in managing these accredited schemes and access to different immigration routes.

Under the points-based system, all those coming to the UK on one of these schemes will do so under Tier Five: Temporary workers (Exchange). The British Council will act as the sponsor, selecting suitable programme participants and ensuring that arrangements are in place for the participant to leave at the end of their stay.

There is likely to be one point of contact – a single person whose job it will be to understand the British Council schemes and manage their relationship. Since they already fulfil many of the requirements we will be asking of sponsors, the British Council is likely to be rated as an “A” sponsor and have their applications fast-tracked.

For sponsors like the British Council, the new system is therefore likely to be simpler (one route instead of many), cheaper (no more work permits) and more customer focussed (the British Council have commented that in recent years they have not had as close a relationship with the Home Office as they did in the past).

The Home Office will then focus energy on compliance management activities related to weaker sponsors to try to improve their practice or, if this proves unsuccessful, remove them from list of approved sponsors.

## Costs of administering the system

156. The costs of running the current UK visas operations, and those costs associated with decisions taken in the UK including leave to remain and work permits are recovered in fees and charges.

157. The costs of administering the new scheme will also be recovered through fees and charges. As set out in the consultation document “*Selective Admission: Making Migration Work for Britain*”, the Government remains committed to a sustainable system, that is as far as possible self-financing without reliance on the public purse, and further, that the fees should not be disproportionate for the migrants or employers who benefit from migration.

158. As we develop the structure and services supporting the new system, the costs of each of the component parts of the system will be established, and an appropriate set of fees and charges will be available.

159. We are however considering a range of new approaches to recovering the costs of the system. For instance, we are exploring the possibility whereby visa and leave to remain fees might be collected by sponsors (in the case of educational institutions perhaps as part of the tuition fee). Not having an upfront charge for applications would serve as a means of attracting the brightest and the best to the UK and deepen the role of the sponsor as an integral part of the system. We propose to consult on this, and other possible charging options, in the Autumn.



## Next steps

161. The points-based system will be phased in by Tier. We will be developing and testing the processes that underpin the proposals in this document before any firm implementation dates are announced. We will also ensure that the compliance infrastructure, including the proper vetting and registration of approved sponsors, is in place prior to the implementation of points-based decision-making.

162. We do not underestimate the significance of the IT requirement that will be needed to support the new system and we will only roll out any part of the system when it has undergone rigorous testing.

163. There will be further opportunities for stakeholders to engage with us as we do more work on the detail of the new system and the timing of any changes, and we will be running events and workshops over the coming months. For further information please contact us on 0114 207 4074 or visit our website at [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk). You can also email us at: [pointsbased.comments@ind.homeoffice.gsi.gov.uk](mailto:pointsbased.comments@ind.homeoffice.gsi.gov.uk).

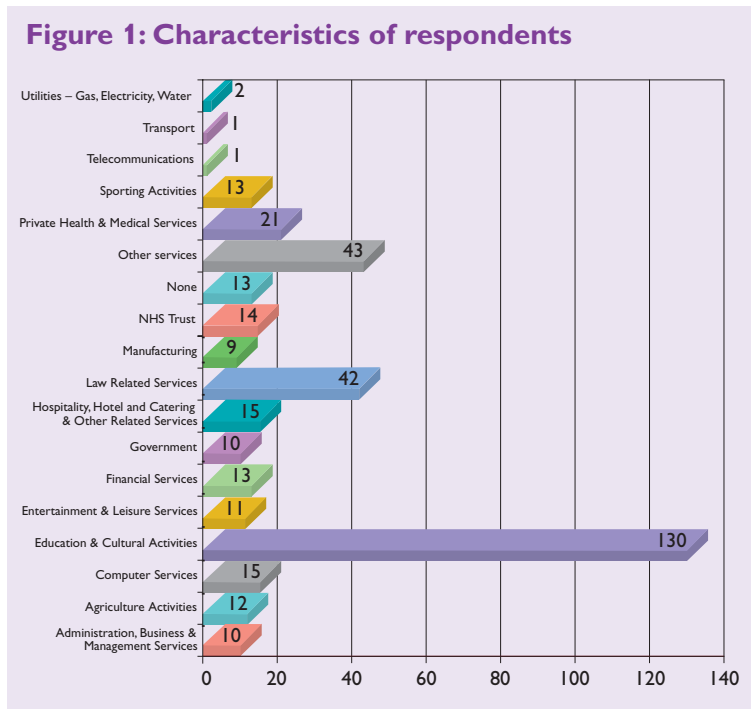


# Analysis of consultation responses

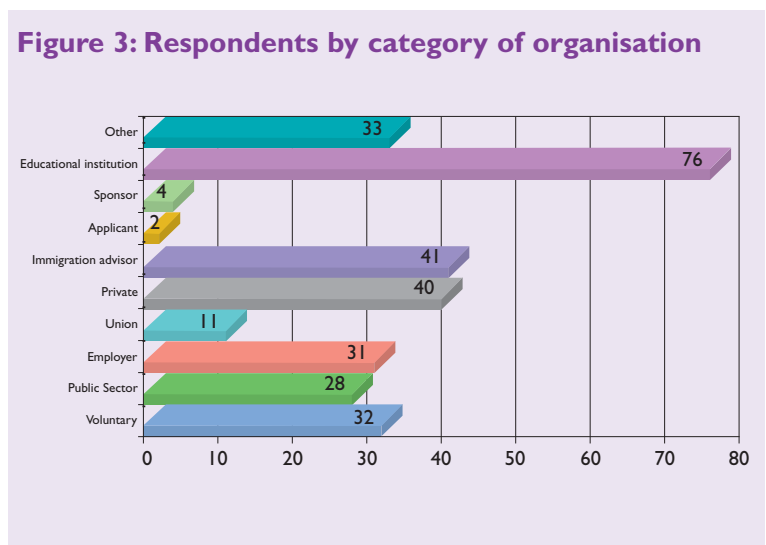
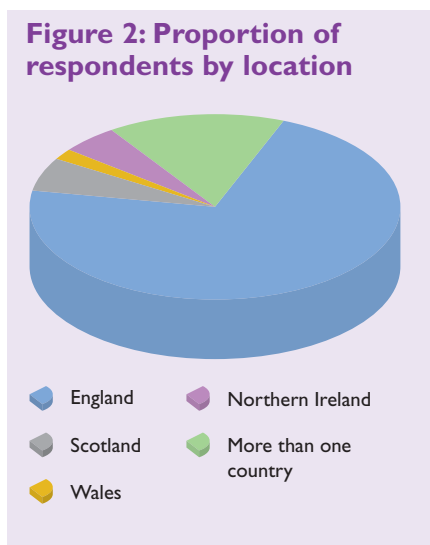
## 1. Overview

517 responses were received, with 375 external to the Immigration and Nationality Directorate of the Home Office and 142 internal. Every effort has been made to make the findings representative across sector.

The external respondents are summarised by sector in the following chart.



Other demographic breakdowns of the responses are shown below:



The analysis that follows is backed by sector specific summaries on [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk)

## 2. General: Questions 1-6

- Q1 Do you agree that the benefits of migration outweigh the costs?
- Q2 Can a managed migration system be used to deliver the UK the workers it needs?
- Q3 Is the current system too complex and bureaucratic?
- Q4 Should the users of the system or the taxpayer, or both bear the costs of the migration system?
- Q5 Do you think we should introduce these changes in a phased manner?
- Q6 Could the proposals to introduce a points-based system affect some groups of migrants more than others?

### Quantitative summary

Figure 4: Questions 1 to 3

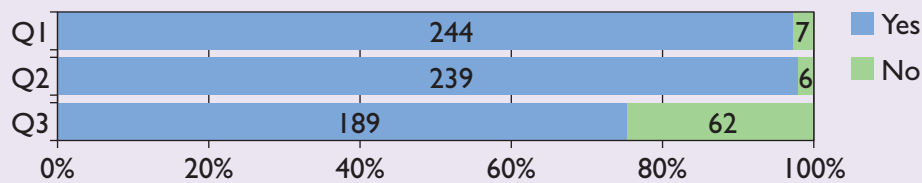


Figure 5: Question 4

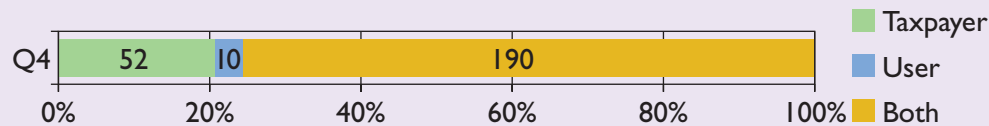
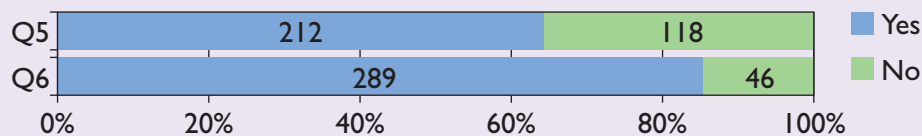


Figure 6: Questions 5 and 6



### Qualitative summary of responses to Q1 to Q6 – key themes

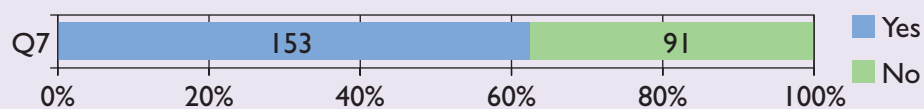
- General agreement that costs should be shared between the users and taxpayers.
- Mixed views on what should be implemented first, although some respondents favoured the use of pilots to avoid problems at full implementation.
- Majority view of a system which is too complex, supported by many proposals as (eg. Merging Tiers 1 and 2 into one unified skilled category as suggested by the Institute for Public Policy Research)
- View that the system was likely to penalise those from less-developed countries as they were likely to score lower on skills, financial and educational backgrounds.

### 3. Objectives and tests: Questions 7-10

- Q7 Do you agree that the objectives of the managed migration system should be focused primarily on economic benefit to the UK?
- Q8 If managed migration were intended to meet non-economic benefits what should they be and how would you measure them?
- Q9 How would you rank the proposed tests in order of priority?
- Q10 What can we do to make the system robust against abuse, whilst still benefiting from migrants working and studying in the UK?

#### Quantitative analysis

Figure 7: Question 7



The proposed tests were ranked in the following order of priority: Objectivity, Transparency, Operability, Usability, Flexibility, Robustness, Cost effectiveness, Compatibility.

#### Qualitative analysis of responses to Q7 to Q10

- Majority agreed that the system should focus on economic benefit.
- Comments tended to come from those that disagreed that the system should focus on economic benefit, instead feeling that the system should consider diversity, integration into society, culture and movement of people.
- A range of non-economic objectives were suggested, the most common being cultural, intellectual, joining of families, social integration, filling jobs that cannot be filled by UK population and enhanced reputation of the UK.
- There were many suggestions for preventing abuse; some stakeholder suggestions were: notification of students and workers not attending, Visas tied to employer/educator, documentation that is harder to forge, increased resources for more removals, better links between Government departments to track/detect abuse, harmonising settlement and citizenship requirements with countries abroad, better checks on sponsors and applicants during their stay.



## 4. Tiers 1 & 2: Questions 11-14

Q11 Which attributes do you think are most important for Tiers 1 and 2? Are there any others?

Q12 Would the proposed outline design for Tiers 1 and 2 exclude any migrants who enter the UK under the current Work Permit (UK) or Highly Skilled Migrant Programme (HSMP) arrangements?

Q13 Do you agree with the proposal for the Skills Advisory Body (SAB)?

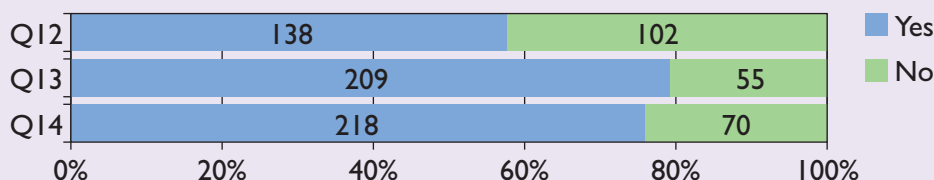
Q14 Should employers be able to access migrant labour for non shortage occupations?

### Quantitative analysis

Figure 8: Question 11

	Age	English Language	Job Offer	Previous Salary	Work Experience	Skills
Least	27%	4%	3%	34%	0%	0%
Less	19%	7%	5%	25%	2%	2%
Neutral	39%	12%	18%	32%	10%	7%
More	13%	52%	36%	8%	47%	27%
Most	2%	26%	38%	1%	40%	64%

Figure 9: Questions 12-14



The attribute considered most important by respondents is skills/qualifications, followed by English language ability.

### Qualitative analysis of responses to Q11 to Q14

- Most respondents agreed with the principle of a SAB with the following caveats: that the SAB should have adequate representation from both sectors and regions, it should assess shortages on a regional basis, and it should look across Tiers – not just at Tiers 1 and 2. A view was expressed that the suitable remit for such a body should extend to a general advisory and/or monitoring function, which would bring many benefits (Institute for Public Policy Research).
- Respondents generally felt that employers should be able to access migrants for non-shortage occupations as the SAB might not react quickly enough to sudden shortages and because resident workers might not apply for the jobs.
- Respondents were split on the issue of migrant labour for non-shortage occupations. For those agreeing, key themes were that employers should be able to get the best person for the job, even if that meant searching internationally; posts should be short-term with no extensions; and that no dependants should be allowed to accompany the migrant. For those disagreeing, the key message was that if the occupation was non-shortage, then it should be possible to fill it from the resident population.

## 5. Tier 3: Questions 15-18

- Q15 Which bodies or organisations should be involved in identifying labour shortages involving low or basic levels of skills?
- Q16 Which responsibilities should be placed on employers or operators of low skilled migrants?
- Q17 Should employers seeking to fill particular vacancies with participants on Tier 3 schemes be required to demonstrate they have attempted to fill that vacancy with a migrant worker?
- Q18 Should there be an English language requirement for Tier 3 workers?

### Qualitative analysis

Figure 10: Question 16

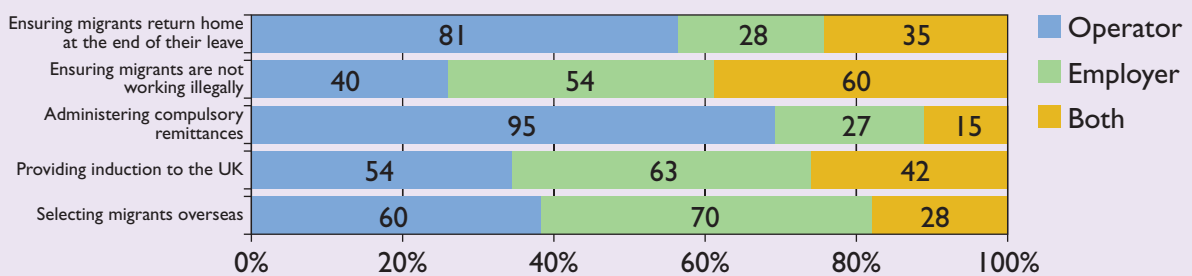
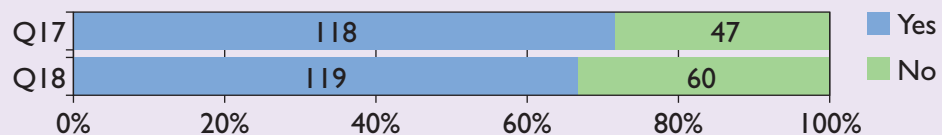


Figure 11: Questions 17-18



### Qualitative analysis of responses to Q15 to Q18

- The following organisations were identified as important in identifying labour shortages: employers, Home Office, operators, Skills Advisory Body, independent organisations, CBI, trade unions, farmers union, job centres, Sector Skills Councils, Regional Development Agencies and relevant Government departments, Federation of Small Business, employment agencies and workforce planners, TUC, NHS Employers and ISCS.
- Although the majority of respondents agreed with employers having to demonstrate that they had tried to recruit resident workers first, most comments came from those who disagreed. Their views were that no employer will recruit internationally unless they have to because of the cost implications and that there should be an element of trust.
- Generally, respondents felt that a working knowledge of English was necessary, particularly in the health sector.

## 6. Tier 4: Questions 19-21

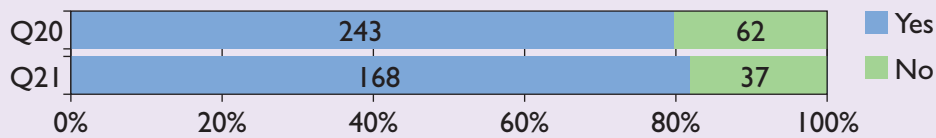
Q19 What are your views about what a points-based system for students might mean in practice?

Q20 Should Leave to Enter or Leave to Return in the UK for students be linked to a specific course at a specific institution?

Q21 Should educational institutions be required to help maintain the integrity of the immigration control in order to be able to issue certificates of sponsorship?

### Quantitative analysis

Figure 12: Questions 20-21



### Qualitative analysis of responses to Q19 to Q21

- In general, respondents agreed with the concept of a points-based system for students. However, there were some concerns raised. Respondents emphatically agreed (80%) with linking the visa to a specific institution, although a number said that students should be able to change course at that institution without having to make a fresh application.
- Respondents indicated that immigration control was a matter for the Government, and that institutions' role was to assist rather than this being a central purpose for them.

### 7. Tier 5: Questions 22-25

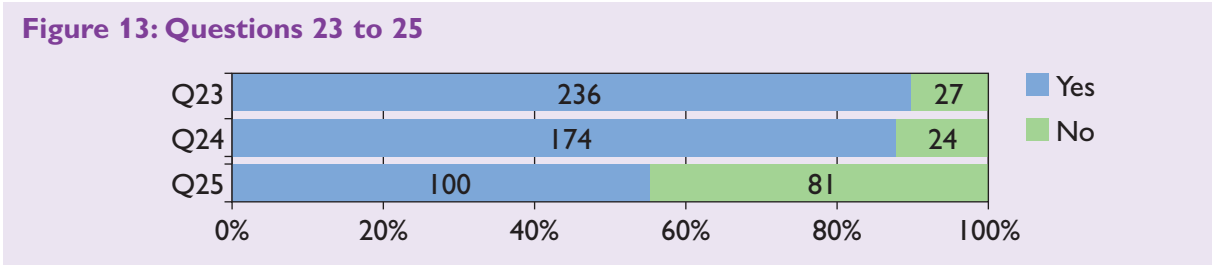
Q22 What are the benefits to the UK of these kinds of temporary/exchange workers in Tier 5?

Q23 Is it right that the system should provide for them?

Q24 Should there be provision for Tier 5 workers to switch into Tiers 1 or 2?

Q25 Should additional conditions be attached?

Quantitative summary



Qualitative analysis of Q22 to Q25

- Respondents identified the following benefits of temporary/exchange workers: short term projects, filling shortages, enhancing the profile and influence of UK companies in migrant workers’ counties of origin, knowledge transfer and expertise in products from other countries, vibrant youth culture, knowledge and abilities to help economic attitude, helps agricultural industry and cultural exchange. Some respondents were less positive, feeling that this was a ‘back-door’ into the country and that there were sufficient unemployed workers already to fill vacancies.
- A further view was that workers from Tier 5 should be able to switch into Tiers 1 and 2 without having to return to their countries of origin first.

## 8. Sponsors and Bonds: Questions 26-31

Q26 Do you think employers, educational institutions and other sponsors have a responsibility to maintain the integrity of the immigration control?

Q27 What should employers, educational institutions and others be expected to do to carry out that responsibility?

Q28 What should be criteria for being on a list of recognised sponsors

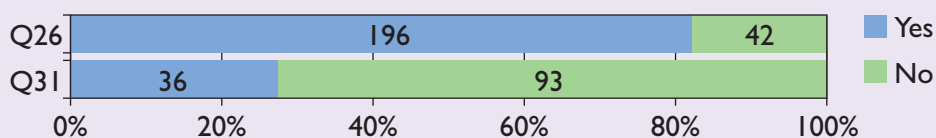
Q29 To what type of cases would it be sensible to apply bonds?

Q30 How should a bond scheme be operated?

Q31 Is contracting out a better option than trying to combine it with existing migration work?

### Quantitative summary

Figure 14: Questions 26 and 31



### Sponsors

#### Qualitative analysis of responses to Q26 to Q31

- Views were expressed that the sponsor should report anyone they suspect to be abusing the system, and carry out proper checks within their own system, making sure their own application procedure runs as it should (Source: Helterskelter Agency). In addition, sponsors should have a clear and specific duty to undertake a Resident Labour Market Test when proposing to engage migrant labour (Source: BECTU).

### Sponsor Criteria

Typical suggestions were:

- Regular checks by immigration service;
- Responsible sponsors to be commended, irresponsible ones exposed, struck off and recorded or fined;
- List of recognised language schools;
- Important that size of company is allowed for so that SMEs are not disadvantaged.

### Bonds

- Only in the hospitality sector were a majority of respondents in favour of bonds. Overall the majority disagreed with the concept, feeling that such a scheme would mean that migrants would be paying to work and therefore would disadvantage migrants from poorer countries.

**Illegal working: Questions 32-33**

Q32 What improvements would help employers understand whether foreign nationals are entitled to work?

Q33 What additional services would help employers in ensuring that they are not employing illegal migrant workers?

*Qualitative analysis of responses to Q32 to Q33*

- Suggestions for additional services for the employers included: checking documentation when taking copy of ID papers under employment legislation, central register, free legal advice for information/clarification, online facility to check if eligible to work, electronic online database that employers can search to confirm migrants right to work, training by the Home Office.



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