



## Students and the Points Based System

### Summary

1 For some time the government has been trumpeting its "tough and flexible" Points Based System (PBS) as a solution to Britain's immigration problems. On examination, it turns out that nearly three quarters of applications under the PBS are from foreign students and that the new system is neither tough nor flexible. On the contrary, it has led to a serious weakening of immigration controls by virtually eliminating the role of Immigration Officers in the admission of students and placing the initiative with some 2,000 educational institutions in Britain who, of course, have a strong financial interest in attracting students. Student visas have long been a serious loophole in immigration control; the PBS makes a bad situation considerably worse.

### Scale

2 The PBS covers those coming to Britain for work or study. Non EEA student admissions have more than doubled in the past 7 years to 350,000 in 2008/09. This figure includes students coming for less than six months who are now known as student visitors. In calendar 2008 they were shown separately for the first time as 144,000 while longer term students amounted to 227,000 [1], giving a total of 371,000. By comparison the number of work permits granted in 2008/09 was 134,000 [2]. So 73.5%, or nearly three quarters, of the PBS is accounted for by students.

3 Non EEA students also account for a huge number of applications for extension (EU students do not need permission to enter or remain). For example, between 2004 and 2007 they averaged about 140,000 per year [3]; only about 5% were refused. There is anecdotal evidence that some of these extensions are simply for the purpose of remaining in Britain. It is also the case that time spent on a legitimate student visa counts towards the five years required to apply for settlement. [4].

### A weak system

4 Under the previous system, applicants applied in person at a Consulate where their cases were reviewed by locally employed staff and approved by an Immigration Officer or an FCO Officer based at the Consulate. In all but clear cut cases there would be a full interview with a UK based officer. This Officer had to be persuaded that the applicant was a genuine student who intended to return to his home country at the end of his course.

5 That system has been effectively removed. The new system is as follows:

- Applicants apply to one of 2,000 educational institutions in the UK which the UK Government have licensed to issue letters of acceptance for student visas (technically termed "Confirmation of Acceptance for Studies").

- Once the applicant has a letter of acceptance from the UK educational institution, he or she will submit an application to a commercial firm in his or her country of residence which has been contracted by the British government to accept applications.
- The applicants are required to provide a photograph and fingerprints. They also fill in a 41 page form to which they attach various documents.
- The whole bundle is then sent to the Consulate for approval. Provided that the documents appear to be in order, the student visa will be approved.
- Once issued, a visa is now "leave to enter" the UK; no further permission is required.

6 The weaknesses of this system are:

- The 2,000 sponsoring educational institutions in the UK obviously have a vested commercial interest in granting acceptances for study. There is no way they can thoroughly check an applicant's educational qualifications or the motives behind his or her application. Educational administrators in Britain, rather than British officials in the country concerned, are now expected to have the necessary background knowledge to detect and deter fraudulent applications.
- Only 62 staff vet applications to become licensed as a sponsoring institution for the PBS *as a whole* [5]. In other words, 62 officials are expected to vet the 2,000 educational institutions and 13,500 employers who wish to be part of the PBS system [6]. Therefore the quality of vetting educational institutions is distinctly doubtful.
- The documents to prove qualifications requested for a student visa can often be purchased. The requirement for funds amounts to a sufficient bank balance over the previous month. This can easily be arranged; a recent Sunday Times investigation revealed a widespread scam in India [7].
- The formal interview with a UK Immigration Officer now barely exists. Worse, when an application is checked by a UK Immigration Officer, the application can only be challenged if the Officer has reason to believe that one of the documents is forged or there is an obvious discrepancy.
- The task of the Immigration Officer at a UK port of entry is primarily to stamp the date of arrival so as to record when the period of leave to enter begins. There is no requirement for the Officers to ask questions – indeed the onus is on them not to do so lest the queues get even longer. In effect, a forged visa or passport, or an obvious discrepancy, is the only way a visa holder will be questioned in any detail. Even then, the pressure of numbers at airports militates against challenging a student on arrival since it takes several hours work to prepare the documentation required to place someone in immigration detention.

7 Sponsoring organisations will have an obligation to report students who do not turn up or who miss ten "expected contacts". However, if this is to be effective, the Home Office will have to be able to do something about missing students. There is an obvious difficulty in finding them. Beyond that, their capability to remove immigration offenders (other than failed asylum seekers and prisoners on release) is only about 1,000 a month. A 5% rate of absconding by students would, of itself, swamp the removal system.

#### **Proof of the current weaknesses**

8 The Donal MacIntyre programme on BBC Radio 5 Live has revealed the chaotic situation that has arisen, both in the sub-continent and at UK ports of entry.

9 The number of visas issued to students in Mumbai, New Delhi and Dhaka in the peak period

June to August 2009 was roughly treble that of the previous year. A video film on the internet showed the queue of new students stretching several hundred yards. Informed sources have suggested that many of the students were on low level courses but were attracted by the fact that students are allowed to work 20 hours per week during term time and full-time in the vacations. In reality, however, it is extremely difficult for Immigration Officers to prove that a student has been working for more than 20 hours a week so student status is an open door to as many hours work as can be squeezed in along with the minimum attendance at college. One result of the recent influx (and, of course, the recession) is that such work is now more difficult to obtain. Thus a further episode of the same programme, found a number of destitute newly arrived students in a Sikh temple [8].

10 At UK ports of entry the system is also flawed. An immigration officer told the Donal MacIntyre programme that UK staff were overwhelmed by the volume of student arrivals. He said:

“Student season has extended now to virtually the whole year. We are looking at upwards of 500 to 1,000 stuck in the hall, queues stretching for hundreds of yards down the terminal. On occasions we've had to shut the hall as we couldn't cope. That has led to planes being backed up... to not allow them to proceed into Heathrow until we could clear what we've got.”

He said he and his colleagues are almost powerless to challenge those whom they suspect are not legitimate.

“If someone presents a case like that to a chief immigration officer, they take a look at the size and the number of people in the hall, and they turn around and say, “Look, because of the pressure of work, they've got a visa, get them into the country”. It would take two officers off the desk for hours just to present a case to send them to a detention centre.”

“We have an awful lot of students who have been refused five, six, even up to nine visas to come here to this country, whether it be for working holidays or student applications, and they're now coming here.”

Another officer wrote:

“I can no longer feel proud of my role, given that I am forced on a daily basis to allow entry to passengers who clearly hold no ability or intention to follow any course of study in the United Kingdom” [9].

11 An investigation by **The Times** has also revealed the weaknesses of the vetting system for colleges in the UK. Eight terrorism suspects arrested earlier this year in Manchester and Liverpool were admitted to one college that had only three classrooms and three teachers for its 1,797 students. Most were Pakistanis and hundreds came from a militant region of the country that is the power base of al-Qaeda and the Pakistani Taleban. Another college, also in Manchester, claimed to have 150 students but secretly enrolled 1,178 and offered places to a further 1,575 foreigners, more than 900 of them Pakistanis [10].

12 A subsequent investigation into bogus colleges was held by the House of Commons Home Affairs Select Committee [11]. Its Chairman, Keith Vaz MP, said “Bogus colleges may have allowed tens of thousands of foreign nationals to enter the country illegally. The Government has been aware of their existence for ten years and done nothing to stop them. This is totally unacceptable and frankly, quite unbelievable.” The Committee found that in the past, advance n

notice of inspections had been given to college owners in up to 85 per cent of cases [12].

13 More recently we have heard of illiterates applying for courses in engineering and of fathers using UK student visas to negotiate reduced dowries when marrying off their daughters. There have even been advertisements in the Indian press reading "Female in possession of UK student visa requires husband".

#### **An inflexible, bureaucratic system**

14 In reality, the system has no flexibility at all. An applicant requires 40 points. 30 points are given automatically for the acceptance letter from the educational institute. Another 10 points are granted for having sufficient funds to cover course fees and monthly living costs for up to one year. There is no barrier here that can be raised or lowered.

15 The Policy Guidance for students runs to 67 pages. The application form is 41 pages, the help notes are another 16 pages and the Q&A for students adds 27 more. That comes to 151 pages and yet another 68 pages if a dependant is involved. Added to that mountain of bureaucracy is the fact that applications peak in the third quarter of the year to a level four times that in other quarters. The scope for confusion is self-evident.

#### **Conclusion**

16 In total, nearly 1½ million student visas have been issued in the last 8 years but, as with other migrants, there have been no checks on departure. It is, at the very least, possible that student visas have been a major loophole in the visa system. On present form, the PBS makes a bad situation worse.

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## NOTES

1. Control of immigration Statistics UK Table 1.2
2. Entrance Clearance Statistics 2008-09. Summary of global visa demand.
3. Control of Immigration; Statistical Summary 1999-2007, Table 4.2
4. Hansard 23 February 2009; Column 139W
5. Hansard 5 Nov 09 Col 1138W
6. Hansard 2 Dec 09 Col 753 W
7. <http://www.timesonline.co.uk/tol/news/uk/article6962846.ece>
8. <http://news.bbc.co.uk/1/hi/uk/8368709.stm>
9. <http://news.bbc.co.uk/1/hi/uk/8332314.stm>
10. <http://www.timesonline.co.uk/tol/news/uk/crime/article6346204.ece>
11. <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/595/595.pdf>
12. <http://www.timesonline.co.uk/tol/news/uk/article6721157.ece>