



**A POINTS-BASED SYSTEM:
MAKING MIGRATION WORK FOR BRITAIN**

PARTIAL REGULATORY IMPACT ASSESSMENT

7 MARCH 2006

PURPOSE AND INTENDED EFFECT OF MEASURE/POLICY

1. The proposal is designed to establish a new points-based approach to managing the flow of migrants coming into the UK.
2. 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

BACKGROUND/CONSULTATION

Rationale for government intervention

3. The Immigration Rules are the statement of practice as laid before Parliament to regulate the entry to 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).
4. As a result, this is not a system which is 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 IND caseworkers are 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.

5. 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.
6. The system currently takes account of labour market need through an employer-led system incorporating a resident labour market test and the work of the Sector Skills Panels of Work Permits UK. The test however can be bureaucratic and lacking in transparency whilst the Sector Panels do not have complete coverage of the economy. We want to improve these mechanisms to ensure we maximise the benefits of economic migration for the UK.
7. Public confidence in the immigration system is an issue as concern has grown that entry routes for workers and for students are subject to abuse, e.g. forged documentation and facilitating illegal entry both for students and workers.
8. Without change, employers and applicants would have to continue to navigate an immigration system which is complex and difficult to understand and be unable to benefit from a simpler and more transparent IT-based process.
9. In summary, the complex set of routes, combined with subjective and bureaucratic decision-making processes, is inefficient for IND and users of the system. In turn, this reduces the confidence which the public has in our immigration system.

Consultation

Within Government

10. Alongside the public consultation process described below, the Home Office has worked very closely with policy officials across Government. This has ensured that the proposals for the new policy take into account all of the relevant interests and knowledge on migration and how it feeds into wider economic and social objectives.

Public Consultation

11. 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, the consultation closed in November 2005.
12. The process of active consultation began with the annual 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.

13. We are particularly grateful to members 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.
14. 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.
15. 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. Trips were also made to 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.
16. Staff in IND and UKvisas who will be affected by 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 2 workshops attended by the Immigration Minister, Tony McNulty, in Croydon and Sheffield. Staff were also given opportunities to submit their comments in writing, and all comments and feedback have been included in the overall analysis published as an annex to this document.
17. 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.
18. A summary of the responses by sector is available on the Home Office website at www.ind.homeoffice.gov.uk.
19. Approximately 75% of respondents to the consultation answered 'yes' to the question "Is the current system too complex and bureaucratic"? It is this which the proposed changes to the system are trying to address.

Detail of the Current System

20. The proposals for the points-based system cover the following broad categories of migrants:

- Those coming to work (either as a highly skilled migrant, a work permit holder, on a specific low-skilled route or as a temporary worker who would currently come under a variety of schemes)
- Those coming to study or train
- Those coming principally for non-economic reasons (e.g. for reasons of cultural exchange)

21. In terms of numbers the largest single categories at present are:

Table 1: Migrants by Category 2004

Category	Number given leave to enter the UK 2004
Students	294,000
Work Permits	82,600

Source: Control of Immigration Statistics, 2004 (National Statistics)

22. As outlined above, however, there are in total over 80 separate routes by which migrants can enter the UK for work, study or training.

Work permits and Highly Skilled Migrant Programme

23. The work permits scheme is the longest standing employment scheme. 82,600 people (plus dependants) were admitted to the UK under the work permit scheme in 2004.¹ All work permit applications from abroad require entry clearance, but it is also possible to apply from within the UK and, in 2004, approximately 28,000 work permits were issued for people already in the UK (and a further 48,000 changes or extensions to existing work permits).

24. It is evident from the summaries of the different types of permit issued that even within the work permit system there are a number of different routes, some of which have been developed for a very specific purpose (e.g. the General Agreement on Trade in Services (GATS)).

25. A number of different work permits are available:

- Business and Commercial Work Permit to allow employers in the UK to recruit people from outside the EEA to fill a vacancy that might otherwise be filled by a resident worker.
- Training and Work Experience Scheme to enable people from outside the EEA to undertake work-based training for a professional or specialist qualification, or a period of work experience.
- Sports and Entertainments arrangements which allow employers in the UK to employ established sportspeople, entertainers, cultural artists and some technical/support people from outside the EEA.
- Student Internship arrangements which allow students from outside the EEA studying first or higher degree courses overseas to undertake an internship with an employer in this country.
- General Agreement on Trade in Services (GATS) which allows employees of companies based outside the EU to work in the UK on a service contract awarded to their employer by a UK-based organisation.

¹ Source: Control of Immigration Statistics United Kingdom 2004, National Statistics

This is an exceptional arrangement to meet rules made under the General Agreement on Trade in Services.

26. Work permits can be issued for up to five years and those admitted in this category may qualify for settlement after 4 years. Criteria for the issue of a work permit include a skills requirement and a requirement that the employer has made a genuine attempt to fill the vacancy from the resident workforce. There are distinct provisions within the work permit arrangements for sportspersons and entertainers, intra-corporate transfers and those coming for training and work experience. Work permit holders seeking admission for more than 6 months require entry clearance. It is also possible to apply from within the UK for an extension of a work permit or approval of a change of employment. There are restrictions on switching from other categories of stay into work permit employment.

Current System – Burden on Employers

27. The main part of the current work permit system (business and commercial) is divided broadly into two categories:

- **No Resident Labour Test** - principally intra-company transfers and shortage occupations (such occupations are designated as shortage by Work Permits (UK) drawing on the advice the Work Permits (UK) Sector Panels) as well as a number of smaller sub-categories (board level posts, sponsored researchers and the inward investment category). This is known under the current system as Tier 1.
- **Resident Labour Test** - these are ones which need to demonstrate that they have tested the resident labour market by advertising the job in question in an appropriate medium. This is known under the current system as Tier 2

(Note – this ‘Tier’ terminology does not equate to the proposed new Tier structure within the new points based system).

28. For an employer to bring in a migrant (from outside the EEA) under the work permit system they need to complete form (WP1). This requires²:
- Details of the firm making the application;
 - Details of the individual for whom the work permit is required;
 - Details of the post and the conditions of employment, including hours, salary and allowances and that they are intending to pay the worker a salary which is at least equal to those normally given to a ‘resident worker’ doing similar work;
 - Details of the skills and qualifications required for the post;
 - Evidence of the individual’s academic or professional qualifications to show that they meet the skills criteria (including references from past employers which must be on headed notepaper, give start and finish dates, details of the work); and a translation of both where necessary;
 - Where the resident labour market is required to have been tested, the evidence required includes:

² See Applying for Business and Commercial Work Permit: Guidance for Employers and Form WP1 (Work Permit Application for Business and Commercial or Training or Work Experience)

- i. Details of the recruitment methods and reasons why a suitably qualified or experienced 'resident worker' was not employed
 - ii. The original advertisement (or for an email application a scanned copy) which must include details of the post (including job description), the location of the job, the qualifications and experience needed, an indication of the salary or salary range, the closing date and employer's details;
 - iii. If a head-hunter was used, details of the terms on which the head-hunter was employed, the methods used and evidence of this;
 - iv. If Jobcentre Plus advertising was used a copy of the Jobcentre Plus letter confirming details of the advertisement must be provided;
 - v. If Internet (or another method) of advertising is used an explanation of why this is considered the most appropriate method must be provided as well as evidence that the job was advertised for at least one week
- For such applications, details of all the responses to the application including: the total number of people who applied, the number short-listed for interview and, for each 'resident worker' who applied, reasons why they have not been employed.
 - For non-resident labour market test applications the employer will also have to confirm the relevant details – for example Intra-Company Transfer applications are required to supply evidence of the links between the domestic and overseas companies and of the individual's specific essential company knowledge and experience.
29. For extensions to a work permit employers need to complete Form (WP1X) setting out the reasons why such an extension is necessary.
30. Where employers need to inform Work Permits (UK) about a technical change to the work permit, they are required to provide a copy of the migrant's leave to remain stamp along with their reference number and details of the change in question.
31. The individual for whom the work permit is issued will subsequently need to obtain entry clearance at the post abroad. When a decision-maker assesses a case, they assess whether they think the applicant actually intends to do in the UK what he says he wants to do, and whether he intends to leave the UK at the end of his period of leave. This is assessed under the Immigration Rules as 'intention to leave' and 'intention' and 'ability' to carry out the course of study or work for which the person has applied.

Current System – Costs to Employers

32. As described in the section above, each work permit application requires a considerable amount of information and evidence to be provided by the employer in question. It is partly for this reason that a high number of firms find it necessary to employ outside expertise to assist in making applications. In 2005 40% of all permit applications were made by representatives on behalf of employers. This constitutes a non-trivial external cost to business in terms of setting up the arrangement, providing the relevant details and the fees paid to the representative.

33. The Administrative Burdens Measurement Exercise has identified the following administrative burden to firms from the process of applying for a work permit.
34. In October 2004 the Prime Minister asked the Better Regulation Task Force to look at the Dutch Standard Cost Model. The Task Force reported their findings in their report: 'Regulation: Less is More' in March 2005.

They recommended that, to strengthen the structure for managing the total regulatory burden, the government should:

- adopt the Standard Cost Model (first used by the Dutch) and use it to provide a systematic measurement of the Administrative Burden in the UK by May 2006;
- by May 2006 (or earlier if the results of the measurement are available) set a target for reducing the Administrative Burden

The Government accepted the recommendation as part of the 2005 Budget response. The measurement exercise outcome will be a baseline cost of the administrative burden that is placed on UK businesses, charities and voluntary organisations by regulation.

35. These costs are still draft costs and are liable to change. However, they give an indication of the kind of administrative costs facing firms now as they go through the process of applying for the various different kinds of work permit (including extensions and technical changes).

Table 2: Work Permits – Administrative Burden³

Type of Application	Number (excl. public sector)	Unit Cost (£)	Total Admin Burden (£)
Work Permit (T1)	36,116	383.96	13.87m
Work Permit (T2)	44,142	687.99	30.37m
Work Permit (extension)	21,363	359.46	7.68m
Work Permit (Sports & Ents)	3,768	155.17	0.58m
Work Permit (changes)	17,471	70.20	1.23m
Sector Based Scheme	17,051	180.18	3.07m

Source: ABME Project. Nb T1 and T2 refer to the current Tiers within Business and Commercial Work Permits – T1 applications do not need to undergo a resident labour market test, T2 applications do. Numbers relate to 2004.

36. The fee for initial and extension applications is £153, indicating that the fee costs on top of the administrative costs set out above were approximately £15.55m in 2004.

³ The Standard Cost Model methodology represents a pragmatic approach to the measurement of administrative costs and has been adapted for use in the UK in order to provide estimates that are consistent across policy areas. In particular results at the regulation level or below are based on limited numbers of observations. Therefore results from this exercise should be seen as indicative rather than statistically representative. Particular care should be taken in using and interpreting detailed level results.

Current System – Costs of 2 stage process

37. A key concern with the current system which has been regularly raised by employers throughout the consultation process is the existence of a 2-stage process whereby the employment and immigration decisions are considered separately. Where an employer is granted a work permit by Work Permits (UK) they then pass this permit on to the individual migrant who has to obtain leave to enter the UK (usually at a UKvisas post abroad). This can take time and in a number of cases this leave to enter the UK is refused by entry clearance officers. This refusal can be for a number of immigration control reasons and include in this case an entry clearance officer not being satisfied that the individual concerned intends to leave the UK when their period of leave comes to an end or that they are sufficiently qualified to do the job they have a work permit for. For the year 2004/05 over 14% of visa applications from work permit holders were refused at the visa issuing post abroad (this includes applicants holding Sector Based Scheme (SBS) permits).

Table 3: Visa applications from work permit holders 2004/05

Region	Received	Issued	Refused	Refusal %
Australia & South Pacific	2260	2239	8	0.4
Central Europe and Former SU	15985	15231	624	3.9
Equatorial Africa	1742	1227	455	26.1
Far East	4532	4379	898	19.8
Latin America	1359	1335	15	1.1
Middle East	2132	2080	46	2.2
Near East and Northern Africa	1266	1222	36	2.8
North America	8508	8373	49	0.6
South Asia	31359	22309	8848	28.2
South East Asia	7144	6341	771	10.8
Southern Africa	6079	5905	245	4.0
Southern Europe	926	859	28	3.0
West Indies and Atlantic	1511	1272	201	13.3
Western Europe	2225	2153	39	1.8
TOTALS	87028	74925	12263	14.1

Source: UKvisas Global Statistics 2004-05

38. Where an individual is refused entry clearance, the result is that firms would have to go through the entire recruitment and work permit application process once more in order to bring in a migrant to fill the job in question. Given that the fee for an initial work application is £153 this suggests that the entry clearances refused to potential migrants already granted work permits could have cost business in the region of £1.88m in 2004/05 in fees alone. On top of this the firms would have incurred the administrative costs set out in table 2 above. We do not know the precise breakdown between work permit categories, but assuming that these refusals were distributed in the same

proportions as the applications for new permits in table 2, this would indicate a further £5.81m in administrative costs.⁴

Current System - Costs to firms of resident labour market test

39. In 2005 approximately 44% (sum 83,991) of all work permit applications (including SBS) would have gone through a resident labour test.⁵ Whilst this does not necessarily impose an additional burden on firms over and above their normal business practice, it could be considered as such – especially where applications are initially rejected on grounds of insufficient or inappropriate advertising.

Current System - Costs to Firms of Rejected Applications

40. Under the current system approximately 12% (22121) of total work applications were refused by WP(UK) in 2005.⁶ They will have been refused for a variety of reasons, of which the main ones relate to the skill level of the job or the individual, the advertising which was undertaken, the salary level or the genuineness of the job. All of these applications will have incurred the fee of £153 - suggesting a cost to business of these failed applications of over £5m in fees alone on top of the additional administrative costs. Whilst these may have been correct decisions it suggests that there is a lack of clarity about what is required for a successful application. The discretion which currently exists and the lack of objectivity in the requirements make such incorrect applications more likely.

Highly Skilled Migrant Programme (HSMP)

41. This scheme has been in operation since 2002 and is designed to bring in the highest skilled migrants via a points system. It is based on a number of attributes (previous experience, qualifications, previous earnings, age, significant achievement and partner's achievement) although some of these are rather subjective creating a lack of clarity for migrants as well as difficulties for caseworkers in assessing cases. In total 56% of the 38,728 HSMP decisions taken in 2005 were refused – each one of these costs the migrant an application fee of £315 (a total of nearly £7m in fees alone).⁷ The high percentage of failed applications indicates that the current criteria may be resulting in a high number of fraudulent or speculative applications.

Students

42. Under the current system educational establishments issue acceptance letters to students from overseas but cannot be sure that they will come to the UK and study at their institution. Similarly, Entry Clearance Officers spend time refusing student applications on largely subjective grounds (e.g. they question whether the individual really intends to return home or whether they

⁴ Calculated by taking the proportions of new applications (work permits (Tier 1 and Tier 2), work permits (sports and entertainment) and sector based scheme applications) from table 2 and applying to the 12263 refusals for 2004/05 in table 3. This can only be an estimate but gives an indication of the possible administrative costs of refusals.

⁵ Source: Work Permits(UK) Management Information

⁶ Source: Work Permits (UK) based on cleared applications (excl. reviews). 161154 approvals, 22121 refusals

⁷ Source: Work Permits(UK) Management Information

really need to study a particular course in the UK if a similar course is available in their own country). They also have to check individual applications against the DfES Register of Education Providers (REP) to verify that the chosen educational establishment is on the list.

43. Where refusals are made and are appealed IND then spend a considerable amount of time and resources contesting appeals.
44. Within the UK, compliance activity is taken against bogus, non-accredited institutions on an intelligence-led basis. The estimated cost of this in 2005 was £96,500 (43 institutions @ approx £2200 per investigation).⁸
45. There are just over 14,200 educational establishments on the DfES REP, of which some 8,500 were active in bringing in overseas students in 2005.

Current System - Costs to Educational Establishments

Administration costs

46. Costs incurred will obviously vary between institutions depending on the thoroughness of their student recruitment practices and the numbers of international students they recruit. Costs will generally be incurred by institutions sending offer letters and in some cases, final acceptance letters. Places may also be reserved with no guarantee students will actually enrol as current student visas do not require them to attend a specific institution. Additional costs may also be incurred on follow-up letters and enquiries in relation to those who fail to enrol or drop out. Time can also be spent by staff in resolving complex immigration queries in relation to their students (with no designated IND staff to call on, queries may be difficult to resolve as the same information may need to be given repeatedly to different IND officials). Accommodation may also be reserved and costs may be therefore incurred for students who fail to enrol.

Income effects

47. The education sector also currently suffers **loss of income** due to the poor quality of some institutions that are on the current DFES Register of Education Providers. Where there are providers who care more about their student fees than about giving their students a good quality education, this can damage the reputation of the UK education sector as a whole – especially important given the global market within which the UK competing.
48. The importance of this is illustrated by the fact that the current income generated to the UK as a whole from international students through their fees and additional spending is estimated at over **£5bn**.⁹ Of course there are also additional benefits in terms of their contribution to the research base and the links which are created with individuals who may well be among their country's future leaders when they return overseas.

Current System - Costs to Students

⁸ This figure is based on an estimate of 20 Executive Officer days per action against a bogus college

⁹ Source: The Global Value of Education and Training Exports to the UK Economy, Geraint Johnes April 2004, British Council

49. There are a number of costs which students incur when making applications under the current migration system, principally in making:
- a. An Entry Clearance Application
 - b. Leave to Remain (Extension) Applications
50. These costs are further affected, however, by the fact that a significant minority of applications are refused.
51. The costs of applications in terms of fees paid to UKvisas or the Home Office are set out below:

Table 4: Fee Costs from Student Applications

Type	Number	% refused	Cost	Total Cost	Period
EC applications – total	276,479		£85	£23.5m	2004/05
EC refusals	92,720	33.5%	£85	£7.88m	2004/05
LTR applications – total	162,997		£250	£40.75m	2005
LTR refusals	11,256	6.9%	£250	£2.81m	2005

52. A number of refused cases are appealed – in 2003 approximately 11% of refusals went to appeal of which just over a quarter were successful.
53. The remaining refusals may therefore be correct decisions but this indicates that the complexity of the system makes it difficult for students to assess whether their application is likely to succeed and encourages incorrect applications (whether these are in genuine error or an attempt to mislead an entry clearance officer).
54. The complexity of the current system also means that students are likely to incur immigration advice costs which will be even more significant where they have to take their cases to appeal.
55. Furthermore, this complexity makes it very difficult for a student to assess whether his/her application is likely to succeed before making it and costs are therefore incurred regardless of outcome.

Table 5: Visa applications from students 2004/05

Region	Received	Issued	Refused	Refusal %
Australia & South Pacific	816	742	39	4.8
Central Europe and Former SU	20457	14986	5624	27.5
Equatorial Africa	38601	15508	23534	61.0
Far East	56051	44933	10901	19.4
Latin America	7768	6227	1371	17.6
Middle East	19021	16987	1747	9.2
Near East and Northern Africa	9108	7117	1834	20.1
North America	11888	11453	220	1.9
South Asia	72093	30257	42030	58.3
South East Asia	24746	22249	2007	8.1
Southern Africa	4431	2860	1614	36.4
Southern Europe	6651	5278	827	12.4
West Indies and Atlantic	1464	980	495	33.8
Western Europe	3384	2832	477	14.1
TOTALS	276479	182409	92720	33.5

Source: UKvisas Global Statistics 2004-05

56. On top of the costs described above, there are additional costs to Government. For student extensions, the rate charged is lower than other extension charges to help encourage student exports but the difference is made up by a DFES subsidy (£100 per application making a total of £16.3m in 2005).

PROPOSALS FOR CHANGE

57. Within this RIA we consider 2 possible options:

- Maintain status quo (Do Minimum)
- The Points Based System

Option 1 – Do Minimum
<p>Description</p> <ul style="list-style-type: none"> • Continue to manage migration using current staffing levels, processes and technology • Retain existing mixture of routes to the UK (whether within the Immigration Rules, as published concessions or unpublished concessionary arrangements) • Maintain 2-stage process for applicants (at post and in-country)
<p>Key Concerns</p> <ul style="list-style-type: none"> • Fails to address the any of existing concerns with system described above • Firms and other organisations face cost burdens due to 2-stage process and a complex system (both fees and the time and cost of administrative activity) • Continued scope for inconsistency and incorrect decisions • Complexity and lack of transparency of system reduces public confidence in its effectiveness • System does not necessarily deliver migrants of most economic benefit to UK • Compliance activities difficult to target effectively – increasing scope for abuse
<p>Key Benefits</p> <ul style="list-style-type: none"> • No additional expenditure beyond current plans • No major policy change/business change programme i.e. no transaction costs

Option 2 – Points-Based System
<p>Description</p> <ul style="list-style-type: none"> • 5 tier system • Self assessment • Single interface and decision process • Objective criteria for decision-making • Sponsorship arrangements
<p>Key Concerns</p> <ul style="list-style-type: none"> • Requires potentially significant changes to the current procedures • Initial capital investment required
<p>Key Benefits</p> <ul style="list-style-type: none"> • More efficient and swifter decision-making process • Improved consistency and quality of decision • Fewer erroneous and/or speculative applications • Better targeting of those migrants most likely to make an economic contribution • Reduced risk of non-compliance • Improved customer service • More effective use of resources e.g. better targeted compliance activity • Improved admission and management of international students • Greater certainty for sponsors that migrants will arrive • Better informed policy making

The Proposed New Points-Based System

58. As set out in the section on ‘rationale for government intervention’ there is a clear need to simplify and rationalise the current immigration system and the complexity and inefficiency which has developed within it. This complexity is reflected in the number of different routes, subjective criteria for entry and the inconsistency and inaccuracy in decisions which result. This proposal therefore represents an attempt to address this significant issue.

Five Tiers

59. Central to the simplification of the system is a reduction from the over 80 different routes which currently exist to a clear and rationalised system around a 5 tier framework – making it easier for those using the system (e.g. firms, colleges, the individual migrants themselves) as well as the Home Office in operating the system. It 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

60. 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, which relate to whether someone is likely to comply with the conditions of their leave.
61. 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.
62. It is proposed that self-assessment will form the first step of the application process for all applicants. This will be online wherever possible in order to further simplify the process for applicants and reduce the time taken to complete an application. Only if the applicant scores the required number of points will an application to a UKvisas post overseas or to a caseworker in the UK be possible. 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.

Sponsorship

63. 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 (i.e. the procedures they have in place for fulfilling their requirements) will then determine whether applicants receive more or fewer points for their certificate.
64. In order to sponsor migrants, employers and educational institutions will need to make an initial application to IND, satisfy the requirements for the particular Tier in which they wish to sponsor migrants, and accept certain responsibilities in relation to helping with the immigration control (principally with regard to co-operating with IND's monitoring of the sponsor and the migrants).

Procedures

65. For a firm wishing to bring in a migrant worker under the PBS the likely procedures are broadly set out in the diagram in Annex B (and would be essentially the same for an educational establishment). The first step will be to register as a sponsor. The sponsor will then issue a certificate of sponsorship which acts to provide an assurance that the individual meets the criteria for work or the course of study. 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.

Financial securities

66. 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.

67. 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.

Key objectives

68. The key underlying objectives of the proposed new system are that:

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. 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.

Next steps

69. 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 further impact assessments of the proposals before they are implemented.

ANALYSIS OF COSTS AND BENEFITS OF PBS

70. As further work continues on the development of the new system, in consultation with the relevant stakeholders, we will be able to provide more detail about the precise costs and benefits of the new system accruing to firms, migrants, educational establishments or other bodies. This also includes how the simplified system will make the immigration process more efficient from a government perspective.

71. In the course of this work we will look further at the impact on specific sectors of importance within the immigration sector (for example, the education sector

and the industries/sectors which are the most frequent users of the work permit system).

72. The costs of administering the new scheme will 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. Further, that the fees should “not be disproportionate for the migrants or employers who benefit from migration”.
73. As we develop the structure and services supporting the new system, the costs of each of the component parts of the system will be understood, and an appropriate set of fees and charges will be available.
74. We propose to consult on the possible charging options in the Autumn.

Overall Costs and Benefits

75. Pending further work on the detailed implementation plan and the proposed fee structures, further workshops and consultation with customers and stakeholders, and the Administrative Burdens Measurement Exercise we are not yet in a position to provide precise quantification of the costs and benefits of the points-based system.
76. However, as set out below, the points-based system and the simplification of the system it provides is explicitly designed to reduce a number of the costs of the current system (see section on current processes above) and make a more transparent and straightforward system for genuine sponsors who want to bring overseas students to their colleges or employ migrant workers.

In addition to the fee costs that this could save in terms of e.g. reducing the possibility of a work permit holder then being refused entry clearance on subjective grounds, there can be expected to be a significant reduction in the administrative burden facing users of the migration system.

Impact on Business and Sectors Affected: Tier 2

77. The table below shows the industries which are the heaviest users of the work permit system and who are most likely to be affected by any changes to the employment related migration routes.

Table 6: Applications for Work Permits (2005) ¹⁰

INDUSTRY BREAKDOWN	Applications (2005)	%
Total	157,951	100
Health & Medical	47,353	30.0
Computer Services	23,303	14.8
Hospitality & Catering	18,329	11.6
Admin, Bus. and Management	17,323	11.0
Education & Cultural Activities	11,623	7.4
Financial Services	9,135	5.8
Entertainment & Leisure	5,768	3.7
Manufacturing	4,973	3.1
Construction and Land Services	3,470	2.2
Retail & Related	3,091	2.0

Source: Work Permits (UK), MI

78. The health sector is the most significant in terms of numbers – this covers several types of occupations, principally doctors, those in nursing and the care sector. In 2004 approximately 30% of work permit applications were estimated to have been made by small businesses and 30% by the public sector.¹¹

Processes under the Points-Based System

79. Firms wishing to employ a migrant under the PBS will largely do this under the provisions of Tier 2.

80. Under the PBS a firm will have to go through the following processes:

- Registering as an approved sponsor

This will entail making an application and undergoing some initial tests, for example that they have a trading presence in the UK – broadly similar to those which are undertaken when a firm applies for a work permit now, though with more requirement for verifiable evidence. This additional emphasis on sponsors demonstrating their credentials at an earlier stage is so that they can face less of an administrative burden at a later stage. The over-riding intention of this procedure is that any requirements should be proportionate and should keep the principle of an overall reduction in administrative burdens in mind.

This will also reduce the amount of information that firms will be required to provide since they will not have to duplicate information which they would currently have to produce every time they apply for a work permit.

Sponsors will be rated A or B according to their track record and policies. Sponsors who conform with all their responsibilities and whose migrants are found to comply with their immigration conditions, can expect to be rated A. A-rated sponsors can therefore expect that applications from the

¹⁰ Total number includes all types of work permit (work permits, first permissions, changes of employment and extensions). It does not include applications under the Sector Based Scheme

¹¹ See Regulatory Impact Assessment on 'Proposals to review the fee for the consideration of Work Permit/Sectors Based Scheme Applications in the United Kingdom' Home Office, 2004.

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.

- Issuing a certificate of sponsorship and testing the resident labour market

A migrant will need a valid certificate of sponsorship from an approved sponsor in order to enter the UK. By issuing a certificate of sponsorship the firm confirms to the Home Office that e.g. the individual is appropriately qualified to do the job in question. This is the kind of decision which is better left to the employers themselves than the Home Office.

In order to meet the criteria for a valid certificate of sponsorship, the job should be in an occupation identified as in shortage by the Skills Advisory Body or have passed a resident labour market test (by advertising the job through the Jobcentre Plus network). It should also be at a minimum skills level and pay a salary which is appropriate to the level of job in the UK.

- Reporting requirements

This will entail, for example, informing the Home Office if the migrant does not appear for work, has a prolonged absence or is leaving their employment. They will also be expected to inform the Home Office of any changes in their circumstances (e.g. subject to a merger or takeover). There is already an expectation that such information will be passed on to the Home Office so this should not act as an onerous burden on employers.

Benefits to Firms

81. There are clear benefits which can be expected to firms from this process. In the first instance the certificate of sponsorship process thus codifies a lot of the existing requirements into a simpler process which need take place a minimum of times and will not need every piece of information to be revisited for each individual application.
82. Migrants (and the employers wishing to employ them) should have a much clearer idea in advance whether they will meet the attribute requirements and thus qualify for entry. As such this can be expected to reduce the number of failed applications (as noted above, failed applications cost firms over £5m in fees alone) as well as the administrative costs set out in table 2 above.
83. Furthermore, the removal of the 2-stage employment and immigration process will lead to considerable savings for firms who might have work permits granted but find that the individual is refused entry clearance. As set out in paragraph 37 above, this cost is currently nearly £2m for fees alone with the administrative costs on top.
84. The resident labour market test under the new system will be clearer and less bureaucratic than under the existing system. Employers will have a clear and cheap route they must use (the cost of Jobcentre Plus vacancy filling services are currently free) and this will remove any of the uncertainty which currently

exists about whether the job has been advertised in an appropriate medium and so on. In 2005 around 15% of work permit refusals (over nearly 2% of all applications) are refused on account of insufficient advertising.

Impact on Migrants - processes

85. Migrants under Tier 2 will be able to self-assess on-line under the PBS thus giving them a clear idea of whether they have the required attributes in order to succeed in their application. They will have a much clearer idea about what documents they will have to produce and as a result there should be a reduced need for interviews under the new system thus saving them the time and expense which these can cause. As noted above, in 2004/05 over 14% of applicants with a work permit (including SBS) were refused entry clearance. In visa fees alone this would have cost £1.04m (12263 refusals @ £85 per visa). Self-assessment and structured decision-making, whereby the decision-making procedure is made more transparent can be expected to reduce the number of patently unsuccessful applications as well as making the procedures more straightforward for IND and UKvisas. Migrants will not waste time and money making applications which have no chance of success.

Impact on Migrants coming to the UK – numbers and types

86. Tiers 1 and 2 of the PBS has been designed to ensure that the system enables firms to bring in the kind of skilled migrants that they and the wider economy need to contribute to economic growth and productivity and fill labour shortages which cannot easily be met by the UK and EU labour force. These higher skilled migrants are also likely to be the migrants who make the most significant fiscal contribution.

87. In Tier 2 there is a graded structure comprising skill levels and salary to ensure that it brings in migrants who are skilled. Where the migrant cannot demonstrate that they have a reasonable level of skills we will expect the salary they are being offered by the employer to provide the additional evidence that they can be considered to be skilled.

88. The Skills Advisory Body (SAB) is relevant here – its role will be to identify shortages in skills and labour on a sectoral basis. For Tier 2, the SAB would produce the list of occupations which qualify as shortage and therefore are not subject to the resident labour market test. This would be in the form of an annual Shortage Occupation List with half yearly updates. An applicant for a job on the Shortage Occupation List would not need to receive points for skills or salary to qualify, although these occupations would still need to be subject to the minimum skills levels for Tier 2.

89. For migrants who cannot provide verifiable evidence that they are highly skilled and for whom the salary on offer is low, for example it is below the median salary in the UK for workers qualified at NVQ level 3 (the minimum requirement for Tier 2) we would expect their job offer to be an occupation defined as being in shortage by the Skills Advisory Body. Where an occupation is in shortage, the relevant evidence indicates that there is a need for employers to bring in lower paid workers.

90. We cannot accurately predict the exact impact of the new system on the numbers and types of people who might currently come to the UK as a work permit holder without pre-empting the detailed work of the Skills Advisory Body. It is likely therefore that, of the types of migrants who employers currently bring in under the work permit system, the only ones who would **not** qualify under the new system are those who:

Cannot demonstrate that they have verifiable NVQ3 or above qualifications

and

Are being paid a low salary (for example a salary below the average for workers in the UK at the required minimum skills level)

and

The detailed labour market evidence (of both a quantitative and qualitative nature) obtained by the Skills Advisory Body does not indicate that this is an occupation in shortage in the UK.

Any migrants who do not qualify in these circumstances (or who do not meet the English language requirement for Tier 2) are unlikely to meet the wider economic objectives of Tiers 1 and 2 of bringing in higher skilled migrants to the UK.

Impact on Sectors: Low-skilled migration routes (Tier 3)

91. For lower skilled migrants (i.e. below NVQ level 3), while the Government intends to phase out existing low-skilled migration schemes, the Seasonal Agricultural Workers Scheme and the Sector Based Schemes (SAWS and SBS), the consultation process has highlighted some 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 of migrants currently coming to the UK from the new accession states suggest that in most cases there should be adequate low-skilled labour 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.

92. In the case of the agricultural sector, the SAWS operators have traditionally recruited from countries which have subsequently acceded to the European Union or are likely to do so in the future. In 2003, nationals of countries that have subsequently acceded to the European Union accounted for 60% of the 20,430 workers admitted under the scheme in that year. Nationals of Bulgaria and Romania accounted for a further 12%.

93. 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 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.

94. Furthermore, it seems likely that the WRS under-records levels of A8 labour participation in the sector. The National Farmers Union and Association of Labour Providers have both suggested that there is a high degree of under-registration in this sector because the high level of the application fee discourages registration. An alternative explanation is that the WRS only requires registration where a worker has been in employment with a particular employer for 1 month. Research has found that 48% of temporary workers employed in the agricultural sector, irrespective of nationality, remain in employment with a particular employer for 1 month or less.
95. The existing Seasonal Agricultural Workers Scheme also has an element of cultural exchange which can provide benefits to the participants alongside the supply of labour to firms. It is intended that under the points-based system there will be provision for a successor youth mobility scheme under Tier 5.

Impact on Groups and Sectors: Educational Establishments

96. There will be some additional obligations facing an educational establishment under the new system. However, as set out below, there are a number of benefits to the establishments which suggest that even these additional obligations will be outweighed. Furthermore, from the perspective of the overall immigration system, the key point is that these requirements assist IND in understanding where abuses of the system are occurring and to assist in tackling illegal migration and illegal working. Such information is vital to maintaining the overall integrity of the system and public confidence in it.

Processes for Educational Establishments

97. There are two key obligations which educational establishments will have under the new system:

- Registering as a sponsor and accreditation

To register as a sponsor the institution will need to be accredited to demonstrate that they are a bona fide educational institution accredited by a recognised body. The majority of institutions are already accredited so the additional costs of accreditation will only affect a small proportion of colleges (who wish to be sponsors under the PBS).

Average accreditation costs are in the region of £1000-2000 per annum. We estimate that around 1100 of the colleges will be faced with this additional cost if they wish to be sponsors under the PBS.

The genuine education sector is generally supportive of accreditation, as reputable providers are undercut by poorly taught courses at low quality institutions that often have little regard for immigration control. The majority of providers are conscientious and focused on quality provision, as seen by the large numbers who have already sought some form of accreditation.

- Reporting (non-enrolment and non-attendance)

Making reporting of students who fail to enrol or subsequently drop out of their course a requirement of all education sponsors may initially appear to be adding a significant burden on those institutions.

98. Some testing of this element of the new proposals has already taken place through a six month long Joint Notifications pilot project involving 38 educational establishments of which 27 reported on non-attendance and non-enrolment. This was undertaken in conjunction with the sector bodies Universities UK, Association of Colleges, English UK and the Association of Higher Education Providers. The project was completed in February of this year and concluded that some financial costs were incurred.
99. These costs were for a 6 month period and are not insignificant but most participants in the project were also able to highlight the benefits they had received from this reporting activity.
100. The table below summarises staff required and provides a broad indication of costs incurred during the pilot, and an estimation of the potential requirement under future reporting (the majority of institutions lying at or below the middle of each cost range).

Table 7: Costs incurred during Joint Notifications Pilot Project

	During the pilot	
	Staff	Total Cost/ £
Educational Establishments (General Comments)	Up to 5 staff required, however the majority used 1-2	Varies by sector – see below
<i>Members of UUK</i>	25 – 45 hours non-enrolment Minimal time for discontinuation	600 – 1500
<i>Members of AoC</i>	Up to 20 hours, but mainly minimal/part of working week. Equal amounts for each reporting mechanism	0 - 250 0 - 400
<i>Members of English UK</i>	Up to 4 hours for non-enrolment and 8 for discontinuation	0 – 50 0 - 200
<i>Members of AIHEP</i>	Only 1 return for AIHEP; 10 hours	Minimal
<i>Others</i>	Up to 15 hours for non-enrolment and up to 20 for discontinuation	0 – 300 0 - 400

Source: Joint Notifications Pilot Project

101. Even those that felt the additional work involved had not produced useful information for their institution were able to point to its usefulness in other ways. Various respondents noted that there was further work to be done on harmonising data recording, storage and presentation and improving the quality of the data, or noted the improvement that some form of system to track students through their immigration lifecycle might have. Some general

benefits of reporting noted by the participating members of each sector body and those with no affiliation are displayed below.

Table 8: Reported Benefits from Reporting

Benefits of reporting noted by respondents in each sector body	UUK	AOC	ENGLISH UK	AIHEP	OTHER
better relationships with agents, Ukvisas, IND and understanding of one anothers' procedures	X	X	X	X	X
institutions will feel empowered- they will have a way to make students want to attend regularly and will play an active part in the immigration system			X	X	X
students will be more likely to:					
tell institutions of changes in plan - this could help with planning accommodation and class sizes	X				
think twice before withdrawing from a course		X			
attend classes regularly if they know their failure to do so is reported		X	X		X
reduction in fraud (deters bogus students)		X	X		X
reduction in administration:					
monthly reporting rather than ad-hoc		X			
acceptance letters not wasted on those that do not enrol		X			
formalisation of existing procedures makes them a routine part of running an institution		X			X
more rapid visa decisions	X				
increase in revenue:					X
better attendance					X
savings from not having to contact students to get them to attend classes					X
can be used in marketing to promote a reputable organisation and perhaps increased pass rates		X			

Source: Joint Notifications Pilot Project

102. Participants were then asked whether, given the additional work involved, they felt that reporting non-enrolment and discontinuation of study produces useful information.

103. Opinion was split here with just over half responding with a definite yes. The reasons that were given are summarised below:

Table 9: Did reporting non-enrolment and discontinuation of study provide useful information?

Yes (59%)	No (15%) or Other (26%)
<p>It is an essential part of maintaining attendance records</p> <p>Discontinuation is routinely checked</p> <p>Good to know that IND are keeping records</p> <p>Non-enrolment helps with:</p> <ul style="list-style-type: none"> • planning • monitoring agents • identifying rogue agents/students. 	<p>Unable to say as data sample incomplete; does not allow trends to be seen</p> <p>Information is not to the benefit of colleges but to IND.</p> <p>Provides no additional information but will be useful if:</p> <ul style="list-style-type: none"> • ECOs are more confident in granting • it is made compulsory (will be of benefit to the industry as a whole) • it helps deter bogus students and helps with attendance “

It can be seen therefore whilst reporting may at first be considered to be an additional burden on institutions this requirement would not be adding to what many institutions are already doing as good practice.

It should also be noted that this project was run without the benefit of supporting IT systems which, when provided under the PBS, would also further reduce costs.

Additional Benefits to Educational Establishments

104. The following benefits can also be identified as likely to accrue to educational establishments under the new system:

Improved customer service- a designated account manager to help advise on recruitment best practice and assist with queries making problems easier to resolve.

Reduction in failed applications for good sponsors- an institution's track record in bringing in students who comply with their conditions will help ensure the applications their students make for visas receive a light touch.

More certainty on student numbers as students tied to individual institutions- under the PBS, educational establishments will issue certificates of sponsorship confirming that the applicant has the ability to do a course of study and is likely to comply with the conditions of his leave. This certificate ties the migrant to the individual establishment and will provide major benefits to institutions as it will assist them in planning for courses, accommodation etc.

Impacts on Individual Students

105. Students will be able to assess on-line before they make an application which will provide more certainty of outcome to them. Over the period 2004/05 nearly £8m was spent by students on unsuccessful applications (see table 4 above).

Impacts on Groups and Sectors: Other organisations/migrants (Tier 5 - Youth mobility and Temporary Workers)

106. People coming to the UK under this tier principally 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.
107. Tier 5 will rationalise a number of existing routes into five sub-categories of temporary worker. There will be discrete sub-categories for covering the following purposes of entry – ‘Creative and Sporting’; ‘Voluntary’; ‘Religious Workers’; ‘Exchanges’ and ‘International Agreements’.
108. The purpose of this part of Tier 5 is to enable people to come to work in the UK for a limited period of time, who 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 accommodate international agreements or commitments.
109. Under this Tier, we will be consolidating various existing routes of entry wherever possible into one of the generic sub-categories. This will make the new system simpler for users, by comparison. We are also streamlining routes, wherever possible, in order to remove criteria which is not susceptible to objective assessment and which currently can be burdensome – in terms of having to produce supporting evidence – for those wishing to bring people to the UK.
110. For example, the present criteria for what are currently known as permit-free festivals require various criteria to be met to be accepted on to the ‘permit-free’ list. We will be significantly reducing these criteria for entry for this purpose, under a reformed category specifically for overseas creative and sporting persons.
111. Many of the temporary workers who would be admitted within Tier 5 – such as some entertainers coming to the UK for short tours or persons coming under exchange programmes – currently need a work permit. The costs involved for such applicants would be removed under the points-based system.
112. The detail of the processes for group applications remain to be fully worked out, but we anticipate that it would be possible for a single certificate of sponsorship to be issued in respect of all the members of a group applying for entry to the UK. We would therefore expect no negative impact in respect of sponsored applications for visiting groups.
113. This benefit could be said to be counterbalanced, to some degree, by the entry clearance requirement. For example, there is an additional burden for live music groups and those coming for permit-free festivals as a significant number are non-visa nationals. As many seek entry for less than six months, the majority do not currently require entry clearance.
114. However, it is a key part of the UK’s broader strategy on immigration to expand our immigration controls where that is possible. While the new requirement for non-visa nationals to obtain entry clearance could be argued

as a burden, conversely it allows individuals to confirm that they satisfy the requirements for entry into the UK before entering into the expense and inconvenience of travelling to the UK. This is done in a more controlled environment and allows problems to be ironed out which is not always easy at a port; and it also relieves the pressure at our busy ports. As an entry clearance will normally act as leave to enter the UK on arrival, the need for an immigration officer to make detailed checks at the port is removed. This will ease the congestion at the ports and so reduce the delays for arriving passengers.

115. This has already worked successfully with the introduction of an entry clearance requirement for all third country nationals coming to the UK for more than six months (introduced between November 2003-November 2005). Most straightforward entry clearances are issued within 24 hours, so the extra burden or delay this potential burden poses is small.

116. The cost of in-country extensions will be minimised under Tier 5 of the points-based system, as sponsors will be able to apply for entry for up to the maximum period permitted. At present, each category of entry to the UK generally attracts a set amount of initial leave to enter which can then only be extended when the applicant is in the UK. In most cases, the charge for an application for an extension of stay in the UK is £335 for applications made by post and £500 for applications made in person at one of the Public Enquiry Offices. The new system will offer greater flexibility in the amount of initial leave granted to the applicant, up to the maximum, thereby reducing the need to apply for extensions of stay once in the UK

SMALL FIRM IMPACT TEST

117. Table 6 above shows the industries which are the main users of the work permits system – the principal users being:

- Health and medical
- Computer services
- Hospitality and catering
- Administration, Business and Management
- Education and Cultural Activities

118. Although firm data on the number of small businesses using work permits is not available, the consultation on Work Permit charging in 2003/04 estimated that approximately 30% of applications are made by small businesses.¹²

119. Small businesses were consulted during the course of the consultation process carried out by the Home Office between July and November 2005 both individually and collectively (for example through the Federation of Small Business). Nearly 100 formal responses were received from small enterprises (10-249 employees) or micro companies (0-9 employees) – comprising 24% of the total number of responses received by the Home Office.

¹² See Regulatory Impact Assessment on 'Proposals to review the fee for the consideration of Work Permit/Sectors Based Scheme Applications in the United Kingdom' Home Office, 2004.

120. As set out above, further consultation will take place over certain specific aspects of the PBS which are of key interest to small businesses such as fees and charging.
121. Small businesses are likely to be affected by the proposals for the PBS in two main ways – as employers wanting to employ migrants and as colleges offering places to overseas students.
122. Our initial assessment is that there will not be a significant impact on small businesses under the PBS. Under the new system firms small and large will have a simpler and more transparent system by which they will be able to bring in migrant workers through the provisions of Tier 2.
123. The first step under the PBS will be to register as a sponsor. New firms currently employing migrants as work permit holders are required to prove that they are a UK-based employer with a presence in the UK. They are required to prove this with relevant documents. Under the new system similar information will be required, with a greater emphasis on the provision of verifiable information.
124. Whilst this registration process could potentially constitute relatively more of a fixed cost to small businesses it is not expected that it will impose a significant additional burden compared to their current responsibilities. In further developing the proposals for sponsor registration, the Home Office will carefully consider the impacts of this aspect on smaller business.
125. Once a firm is registered as a sponsor and achieves an A-rating they can expect a light touch approach from the Home Office this further reducing the regulatory burden. In these cases the subsequent burden on small firms in employing migrant workers can be expected to be lower than under the current system.
126. In order to achieve such an A-rating, firms will be expected to conform with their responsibilities of co-operating with IND and informing IND where, for example, a worker does not report for work or has a prolonged absence.
127. This should be a simple process for firms. However, the Home Office will ensure, as the detailed implementation plans are developed, that the sponsor requirements do not have an undue burden on small businesses (for example in terms of reporting requirements/IT capabilities etc). In so far as the sponsor requirements entail small employers or educational establishments having to develop any new processes and areas of expertise, the Home Office will work with such sponsors to facilitate the development of best practice.
128. We will continue to consult with our customers and stakeholders throughout the process to make sure that the new system works in the best interests of all those who will use it. We will be running events and workshops over the coming months
129. For lower skilled workers, the phasing out of the SAWS and SBS schemes may particularly affect smaller businesses – it is likely that a significant number of the 785 farmers registered with the SAWS operators are small businesses and likewise with SBS. This will not create an additional regulatory burden for such firms since employing workers through other

sources (e.g. the enlarged EU) will in fact constitute less of an administrative burden. In terms of accessing labour, as noted above, the agricultural, food processing and hospitality sectors are amongst the key sectors where A8 workers are employed.

130. For those small businesses employing migrants under the existing work permit scheme, they will be able to employ similar migrants in the future as long as they meet the criteria set out in para xx above which demonstrate that they meet the required skills threshold (and, if necessary, are identified as being a shortage occupation by the Skills Advisory Body). We cannot predict the precise outcomes of Tier 2 without pre-empting the work of the Skills Advisory Body, although any such outcomes will not specifically affect small firms.

COMPETITION ASSESSMENT

131. The proposals for the Points Based System could have an effect on any company that is employing (or will employ) non-EU workers.

132. The key industries currently using work permits - covering the private and public sector - and potentially affected are Health, Computer Services, Hospitality and Admin and Business Services.

133. In the sectors employing migrants through the current work permit system (see table 6 above) we do not identify any significant market share issues. when this is examined with reference to the 'competition filter' framework set out by the Office of Fair Trading. Our assessment is outlined in the paragraphs below.

134. In the health sector the vast majority of migrants are employed by the NHS and will not be considered for purposes of a competition assessment. The other main sectors are Computer Services; Hospitality; Administration, Business and Management. The latter is a catch all category that comprises of firms in a wide range of sectors (the largest in terms of migrant employment being the management consulting sector).

135. In none of these sectors do we estimate that any one firm has more than 10% of market share.

136. The sponsorship process is unlikely to affect some firms more than others (apart from the impact of sponsorship highlighted in the Small Firms Impact Test assessment and this will not be substantial).

137. The computer services sector is by its very nature characterized by rapid technological change. However under the current proposals the sector will continue to have access to skilled migrant workers but with a reduced regulatory burden as set out in this RIA.

138. The use of migrant workers by employers is the result of shortages of particular types of labour. Migrant workers tend to be concentrated in sectors rather than specific firms within sectors. This should not create any competition issues as all firms in a particular sector will be affected.

139. As noted above in the Small Firms Impact Test, it is possible that some migrants who cannot demonstrate their skill levels or are not earning above a

minimum salary may currently qualify but not under the new system. This would impact on firms employing such migrants. Again, this will apply to all firms in a sector (and as set out above, even in cases where there is a differential impact on firms, these are sectors which are not characterised by a lack of competition).

140. Given that the express intention of the policy is to reduce the regulatory burden on firms, we do not expect that there will be any effects which could have an impact on competition within a sector.

ANNEX A: TIER 5 CASE STUDY – THE BRITISH COUNCIL

Introduction

The British Council works to build mutually beneficial relationships between people in the UK and other countries, to increase appreciation of the UK's creative ideas and achievements. The British Council currently operates some six International Training and Work Placement programmes in pursuit of this objective. These programmes share the same broad 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. The cost of managing these programmes are met by a number of Government departments and/or the host UK organisation.

The different routes of admission result in a large overhead in cash terms (cost of work permits) and time. Much effort is expended by the British Council in identifying suitable programme participants, and also by both the British Council and IND in managing these routes.

However, under the proposed points-based system, those coming to the UK on all but one of these British Council's schemes would do so under **Tier Five: Temporary Workers**. A summary of each scheme, and how the PBS might benefit them, follows:

International Association for the Exchange of Students for Technical Experience (IAESTE UK)

- IAESTE UK is part of a membership association extending to organisations in 85 countries. IAESTE's aim is to promote understanding and goodwill amongst students of all nations while providing them with technical work experience abroad relevant to their studies in science and engineering.
- The IAESTE programme is based on reciprocal exchange and IAESTE UK receives approximately 200 placement students into the UK each year, with a similar number of UK students being sent abroad on matched placements.
- IAESTE has been a permit free programme since the 1950s. An N5 Landing Document is issued by British Council at no cost.

The proposed PBS could complement the existing IAESTE selection and clearance arrangements, and would be a welcome successor to the current N5 landing document route; provided there are no restrictions imposed on the nationalities of students participating.

BOND (British Overseas Industrial Placement) Scheme

- BOND helps small, medium and larger UK companies to become more competitive in the global marketplace, and establishes opportunities for overseas professionals to have contact with UK businesses at a number of different levels; thereby serving to promote British interests abroad in support of the Prime Minister's initiative of the same.
- BOND is a UK Trade and Investment initiative, founded in 1998.

- Approximately 40-50 participants per annum,
- Placements are typically for a period of 6-12 months.
- BOND utilises the Training and Work Experience Scheme (TWES) work permit scheme at a cost of £153 for each individual permit.

The proposed PBS would serve to streamline the entry process, with the added benefit of being able to offer a 12-months (maximum) entry at one time, saving the additional time and expense of seeking any extensions (currently £153 for work permit extension and £335 for Further Leave to Remain).

Commonwealth Academic Staff Fellowships

- Cover post-doctoral research.
- Are intended for applicants of very high intellectual standing who may be expected to make a significant contribution to their institutions on their return home.
- Approximately 70 Fellowships awarded annually, each of six months' duration.
- Utilises the TWES work permit scheme at a cost of £153 for each individual permit.

Commonwealth Scholarships - Professional Fellowships

- Covers 3 month professional attachments.
- Approximately 60 Fellowships per annum.
- Utilises the TWES work permit scheme at a cost of £153 for each individual permit.

As things currently stand, the proposed PBS would simplify the entry process and demonstrate savings on administrative time on both schemes: as it would no longer be necessary to apply for separate work permit type clearance. Additionally it would enable every Fellow to come into the UK under the same category; and provide the flexibility needed as regards award dates without the need for extension applications.

Language Assistants Programme

- Probably the oldest example (>100 years) of effective educational co-operation between the UK and other countries.
- Approximately 2,700 foreign language assistants come to the UK each year, of which around 175 come from non-EU countries.
- The programme exists to improve the foreign language skills of pupils, students and teachers in the UK.
- A Certificate of Appointment (approved annually by the Home Office) issued by the British Council enables the assistant to apply for a visa to enter the UK.

The PBS could work as long as no restrictions were imposed on the nationalities of the assistants appointed, their level of English, their academic background or prior experience of living in the UK.

Scottish Networks International (SNI)

- The scheme provides both invaluable experiences for students and fresh international expertise for companies seeking to internationalise their work.
- Each year, SNI recruits approximately 100 postgraduates onto its programme.
- Typically, SNI manages to arrange between 20-30 work experience placements every year.
- The placements last up to 2 years, although typically they are for a period of 3-12 months.
- SNI currently uses the Fresh Talent: Working in Scotland scheme to secure work permits for the majority of these postgraduates. This same-day service costs SNI £500.
- Chevening scholars on SNI placements are currently channelled through the TWES work permit scheme at a cost of £153 for each permit and £335 for Further Leave to Remain.

The proposed PBS will permit postgraduates in Tier 4 to fill highly skilled or skilled work placement opportunities in Tiers 1 and 2. With the permission of their sponsors, selected Chevening scholars could also benefit from SNI's work experience opportunities in the 'post-study' category under Tier 1.

Conclusions – British Council

Under the PBS, the various routes of entry available under the British Council's current six schemes will, in the main, fall into one entry route: Tier 5 : Temporary Workers : Exchange. For sponsors like the British Council, the new system is therefore likely to be **simpler** as there will be one main route rather than six

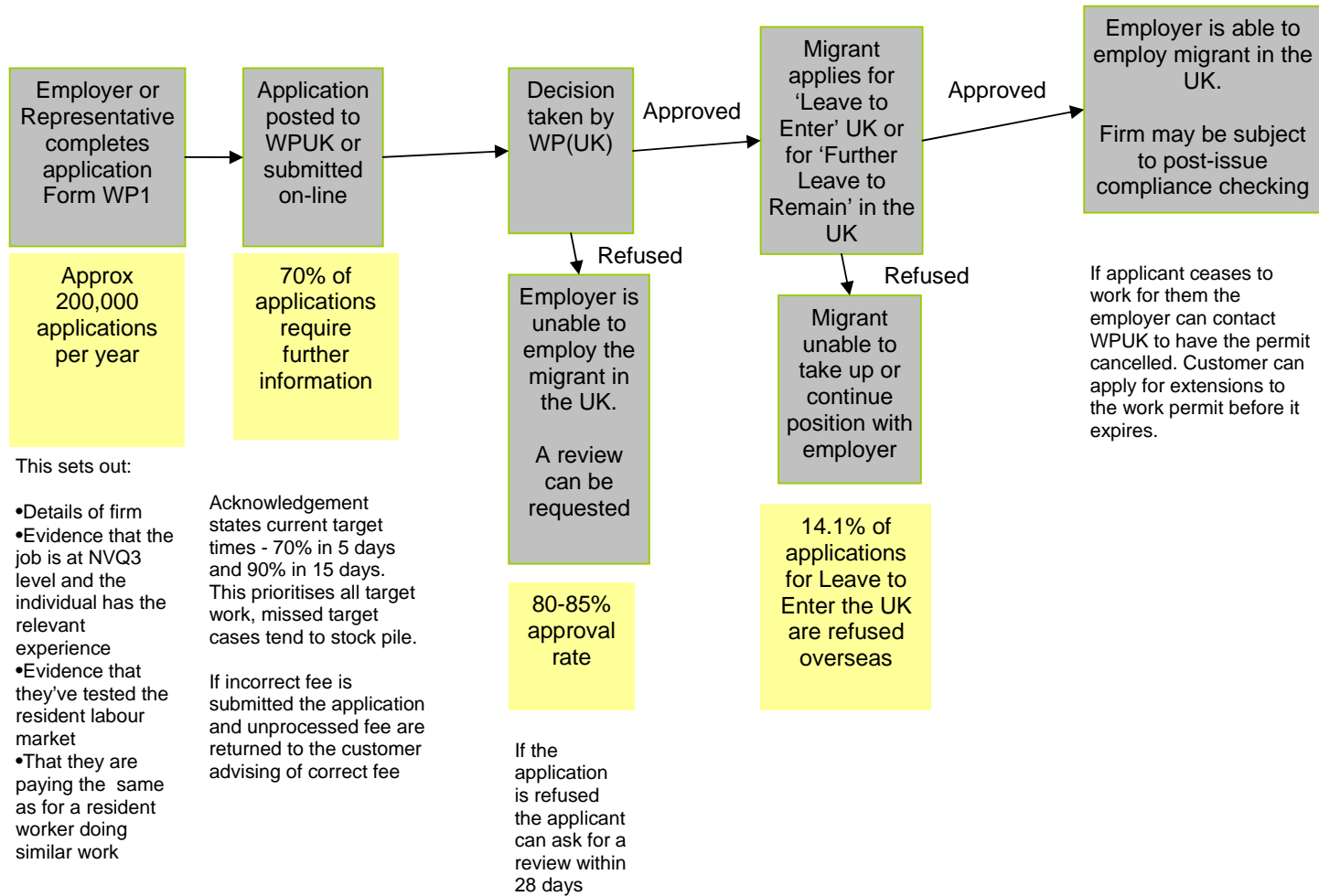
It should also be **cheaper**. Approximately 200 work permits a year are acquired by the British Council, accumulatively, under the six programmes. This equates to fee costs alone of around £30k per annum. In addition, the British Council apply for c25 extensions each year to Leave to Remain (LTR) stamps, either as an extension to the original stay or, in the case of SNI (above), as a matter of course when adopting participants onto the programme. These are at a cost of £335 per LTR stamp and £153 per TWES extension. This equates to around £12.5k in fee costs. As under the PBS leave would be granted for up to 12 months, the British Council would recognise saving of upwards of £5k per annum (no longer having to pay for extensions to original TWES and LTR). This would of course need to be balanced with whatever charges relate to the new system, but the savings are likely to be significant.

The new system will also be more **customer focussed** as we are exploring the possibility of introducing named account managers to act as a single point of contact in IND. The account managers role would be to understand the British Council schemes and manage their relationship. Since the British Council already fulfil many of the requirements we will be asking of sponsors, the British Council is likely to be rated as an 'A' sponsor.

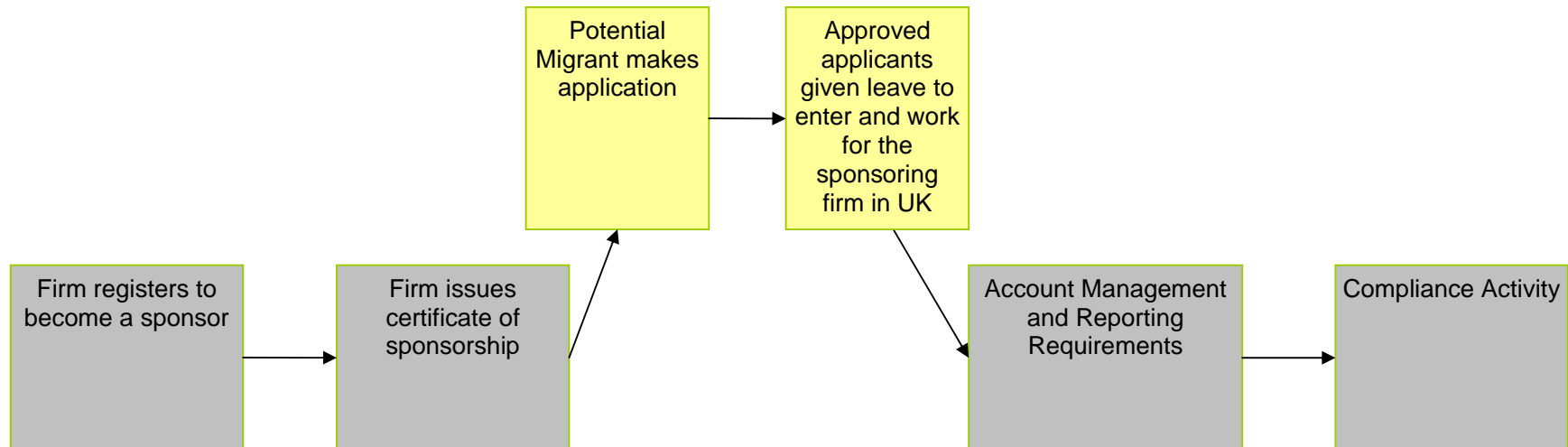
ANNEX B: OUTLINE CUSTOMER JOURNEY

- 1) Outline employer journey through the current Work Permit system
- 2) Proposed outline employer journey through Tier 2 under the Points-Based System

Work Permits: outline employer journey/requirements (current)



Tier 2: outline employer journey/requirements (PBS)



This may require:

- Details of the firm
- Evidence of trading presence
- Evidence of track-record and /or policies that the job and the individual are NVQ3 and above

This acts as:

- an assurance that the individual is qualified to do the job and meets the criteria e.g. on having advertised the job where required
- That the individual is likely to comply with the conditions of their leave

- Sponsor will be required to notify Home Office when migrant leaves their employment or if they do not arrive

- Home Office will assist in ensuring process runs smoothly and improving performance of sponsors who could be doing better

- Home Office acts where abuses of the system identified

- E.g. where large scale non-compliance or fraud, employer may be removed from list of approved sponsors.

ANNEX C: RACE EQUALITY IMPACT ASSESSMENT

POINTS BASED SYSTEM FOR MANAGED MIGRATION: RACE EQUALITY IMPACT ASSESSMENT – INITIAL SCREENING

BACKGROUND

The existing system

The Immigration Rules are the statement of practice as laid before Parliament to regulate the entry to 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.

As a result, this is not a system which is 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 IND caseworkers are 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 Government's plans: a Points-Based System

The Government's Consultation Document of July 2005 set out the intention to rationalise the existing migration system and introduce a Points Based System for migration.

It is intended that 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

The key features of the system will be:

- 5 Tiers

Central to the simplification of the system is a reduction from the over 80 different routes which currently exist to a clear and rationalised system around a 5 tier framework.

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

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, which relate to whether someone is likely to comply with the conditions of their leave.

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.

This part of the process will be backed-up by self-assessment so that prior to applying migrants will be able to see whether or not they are likely to qualify.

- Sponsorship

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.

- Financial Securities

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.

Securities will only be used 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.

- What is not covered in the proposals

The proposals for a points-based system cover migrants wishing to come to the UK to work or study and do not cover other groups such as visitors or the family reunion routes.

Consultation

The Government has undertaken a major public consultation exercise on the Points Based System which ran from July until November 2005.

The process of active consultation began with a Work Permits (UK) event in London on the 5th and 6th September, and 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.

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 – including several with a particular interest in the race equality aspects.

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.

We also held a specific workshop on race equality issues involving representatives from various bodies including the Commission for Racial Equality, Joint Council for Welfare of Immigrants, Office of the Immigration Services Commissioner, Immigration Law Practitioners' Association and Institute for Public Policy Research.

This proved very useful in identifying some of the key race equality issues and a number of the outputs from this workshop have been taken forward as the proposals for the points based system have evolved.

The Home Office will continue to work with the relevant stakeholders to ensure that race equality issues are considered as the details of the points based system are further developed. Where appropriate we will conduct further race equality impact assessments. This is important both from the perspective of ensuring that the over-arching policy framework does not have any adverse race equality impacts, but also with regard to the detailed implementation and operation of the policy.

ASSESSMENT OF RELEVANCE TO AND IMPACT ON RACE EQUALITY

Immigration control is, by its nature, something which impacts differently on different nationalities. People from within the EU have rights to move and work freely in other EU countries. The immigration control described in this document applies only to people from countries outside the EU and the EEA. Introducing a new points-based system for managed migration from outside the EU/EEA could impact on race equality in a number of ways.

The Home Office has considered the race equality aspects during the development of the proposals for the points-based system and, as noted above, has consulted widely, including with the Commission for Racial Equality and other bodies representing migrant groups. We will continue to do work with these relevant groups as we further develop the detailed proposals and the implementation plan in more detail in order to ensure that we take full account of any potential race equality effects and mitigate any adverse impacts.

Expected Impacts of Points Based System

Structured objective decision-making

The main thrust of the proposals is towards greater simplification and transparency for employers wishing to bring in migrants but also for migrants themselves, who will be able to self-assess against the same criteria caseworkers use to decide on their case. Simpler, more transparent and objective rules by which decisions are taken

should benefit all users; they should be helpful from a race equality perspective by helping reduce possible concerns about subjectivity or prejudice in decision-making.

Verification of documentation

Applicants to the new process will need to back their claims by verifiable documentation. This is a very important underlying principle. We recognise, however, that for various reasons providing verifiable documents may be more difficult in some countries than others and will try to take account of this during implementation. The policies should not unintentionally prevent genuine migrants who meet the relevant criteria from coming to the UK, but this is subject to the need to maintain a robust immigration control. Possible unintended consequences of the policy will be taken into account in further developing the procedures for the verification of documents.

Access to information

This also relates to the provision and availability of information about the new system and the Tiers within it. In designing detailed implementation the Government will work to ensure that particular nationalities and/or racial groups do not face a disproportionate lack of information about the new system, for example, through restricted internet access.

Impacts of migration to the UK on developing countries

The Government is concerned to ensure that migration policy and policy on overseas aid and development work in harmony together. **Migration can benefit poor people, poor communities and developing countries.** For individuals and their families, migration can help them to increase their income, learn new skills, improve their social status, build up assets and improve their quality of life. For communities and developing countries, emigration can relieve labour market and political pressures; result in money being sent home (commonly known as remittances); increase trade and financial investment from abroad; and lead to the support from migrant communities (diaspora), such as technology transfer, tourism and charitable activities.

However, **migration also carries some risks** – both to migrants and to those countries sending and receiving them. In consultation with stakeholders, DFID will be putting in place a process by which some key principles can be developed on how potential negative impacts, and especially the so-called ‘brain drain’, can be avoided and the beneficial impacts reinforced. Once finalised, we will be guided by these principles in assessing the detailed design of the Points-Based System and its potential impacts on particular nationalities and racial groups abroad.

Impacts by Tier

- Tier 1

The way that the points structure for Tier 1 has been designed means that most types of migrants (as defined by their qualifications, previous earnings and experience) who currently come to the UK through the HSMP will also be successful in the future under Tier 1. Those who might not qualify are those whose characteristics (i.e. their qualifications, previous experience and earnings) are not correlated with success in the UK labour market – thus undermining the underlying purpose behind a highly-skilled entry route. Those that are not accepted could still

come to the UK under Tier 2 but will require a job offer from a UK employer. In any case, we would not expect there to be any race impact as a result of this. The characteristics which are consistent with labour market success in the UK under the current Highly Skilled Migrant Programme are not particular to any specific nationalities.

It is likely that the subjective criteria (especially regarding previous work experience) which are currently used to determine HSMP cases may encourage speculative applications and this effect seems to be greater for some nationalities than others. In 2005 56% of HSMP decisions taken were refusals (21,710 applications in total). A large percentage of applicants come from three countries – India, Pakistan and Nigeria. The fee for an HSMP application is £315 indicating that these refusals would have cost the applicants around £6.84m in fees alone. Under the new system it is expected that a more objective decision-making process and self-assessment will assist in preventing such speculative applications which do not meet the criteria.

- Tier 2

Under Tier 2 of the new system the objective is to bring into the UK skilled workers where there is an identified labour market need – demonstrated by the fact that the migrant has a job offer from a UK employer (who, where appropriate, has advertised the job in the UK first). Within these broad principles there is no reason to expect any particular race impact – especially as the intention is to make the process simpler for firms to bring in migrants where they meet the requirements of the Tier.

In Tier 2 (as in Tier 1) there will be a minimum language requirement which migrants will have to pass. This will clearly affect nationals of some (non-English speaking) countries more than others. However, English language ability has been demonstrated to be a key indicator of labour market success and in turn their wider ability to integrate into the UK.

We cannot accurately predict the exact impact of the new system on the numbers and types of people who might currently come to the UK as a work permit holder without pre-empting the detailed work of the Skills Advisory Body.

The proposal is to bring in a salary requirement for Tier 2 where migrants are unable to demonstrate that they have the required skill levels.

It is likely therefore that, of the types of migrants who employers currently bring in under the work permit system, the only ones who would **not** qualify under the new system are those who:

Cannot demonstrate that they have verifiable NVQ3 or above qualifications

and

Are being paid a low salary (for example a salary below the average for workers in the UK at the required minimum skills level)

and

The detailed labour market evidence (of both a quantitative and qualitative nature) obtained by the Skills Advisory Body does not indicate that this is an occupation in shortage in the UK.

Any migrants who do not qualify in these circumstances (or who do not meet the English language requirement for Tier 2) are unlikely to meet the wider economic objectives of Tiers 1 and 2 of bringing in higher skilled migrants to the UK. As noted above, we cannot predict the precise outcomes at this stage. However, where any disproportionate impacts can be anticipated as the detailed proposals are further developed the Government will attempt to address these in advance. Similarly, any such impacts identified after the introduction of the scheme will be addressed in the monitoring process which will be undertaken (see below).

One of the particular areas of concern from a race equality aspect has been the way in which religious workers are incorporated into the proposed new system.

The current system contains several categories which enable overseas religious workers to come to the UK to perform religious duties. The requirements include subjective criteria that can be difficult for the faith community and/or migrant to demonstrate and the Entry Clearance Officer or immigration caseworker to assess, such as the test of the migrant's intentions. These categories do not involve a two stage process, so the only application is submitted by the migrant, but supported by letters from the faith community and in many cases evidence of their skills and experience in their role.

Since 2002 we have run two consultation exercises with the faith communities on the immigration provisions for religious workers from abroad, the Home Office response to the second of these being announced by Tony McNulty on 19th December 2005 (see his Written Ministerial Statement 186-187WS of Hansard for that date).

There will continue to be specific provisions for religious workers under the points based system (within Tiers 2 and 5). These will build upon the two consultation exercises with faith communities. The new provisions will balance the needs of faith communities with the twin aims of maintaining community cohesion and maintaining an effective immigration control.

All religious workers under the PBS will be required to meet the pre-entry qualification requirement announced on 19th December 2005. The pre-entry qualification will ensure that only those migrants who are recognised by their religious community as being suitably qualified will be able to enter the UK as religious workers. This is an objective criterion to demonstrate their skills and experience which makes them suitable to come to the UK to fill a religious role.

During the consultation process we have spoken to groups representing chefs working in the ethnic cuisine sector and we recognise that whether they will be accommodated within the points-based system has been highlighted as an issue of concern. Under the provisions of Tier 2 these groups will be able to qualify with a job offer as long as they meet the minimum skills and salary threshold or if they meet the minimum skills requirements and are identified as an occupation in shortage by the Skills Advisory Body. They would still be subject to a minimum language requirement – not having such a requirement could be disadvantaging ethnic minority communities living in the UK.

- Tier 3

Under Tier 3 of the PBS the Government intends to phase out the existing low-skilled labour schemes (the Seasonal Agricultural Workers and Sector Based Schemes). This is principally because it is considered that in most cases the pool of labour from wider EU is likely to be adequate to meet this labour need. The proposals do,

however, retain the possibility of short-term routes for temporary workers where a need is demonstrated.

Concerns were raised during the consultation period that where such low-skilled migration routes were necessary, they would need to be carefully designed in order to mitigate any potentially adverse race equality or race relations impacts – in particular regarding integration of the migrants. It is too early to say what, if any, provisions for low-skilled migration through Tier 3 may be introduced. However, should any such provisions be introduced the Government will work with others in the design on the system to ensure as far as possible, that any race equality and race relations issues are taken into account (this may for example include further work on the provision of information to migrants).

- Tier 4

The proposals for students are intended to make it easier for genuine students to come to the UK. By making the initial entry clearance process more transparent and eliminating some of the subjectivity, those students who have an offer from an educational establishment will save time in the application process (as well as reducing the risk that their application will be turned down in error). These improvements should also discourage applicants who do not meet the criteria from applying.

Currently (2004/05 figures) approximately one third of all student visa applications are refused (with an estimated cost to the applicants of nearly £8m in fees alone). The highest proportions of refusals are from Equatorial and Southern Africa, South Asia and the West Indies suggesting that since wasted applications come disproportionately from certain countries, improvements which can make the process more transparent and reduce speculative applications may have a beneficial race impact.

- Tier 5

The key element of Tier 5 which has a race equality dimension is the youth mobility scheme. There are currently a number of schemes which can be loosely grouped together under youth mobility and cultural exchange – the largest of these is the Commonwealth Working Holidaymaker scheme. Unlike the existing schemes, however, the youth mobility scheme under the PBS will be open to all nationalities – as long as the country concerned agrees a memorandum of understanding with the UK including a returns arrangement, and accepts that it needs to act as sponsor. As long as countries meet these criteria, the scheme is potentially universal and ensures that each country's nationals will have to meet the same criteria. This implies a significant beneficial impact on the race equality of the system as a whole.

We anticipate that the other proposals within Tier 5 will have a neutral race impact but will continue to monitor this as the detail is further worked up.

Financial Securities

The responses to the consultation document were generally not in favour of 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. There were also concerns raised about how exactly any such security might work in practice and the potential impacts on community relations.

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. Management information system will cover breaches of the immigration rules, nationalities and initial reasons for entry. In determining how to interpret this information, as well as the precise mechanisms for the operation of financial securities, the Government will act to ensure that any unequal impacts are mitigated and will further consult relevant stakeholders in doing so. 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.

Monitoring

The Home Office will work with the Commission for Racial Equality and other relevant stakeholders, including the CRE for Scotland, to monitor the effect which the proposed policies, once implemented, have on race equality and race relations. This will be given further consideration as the proposals are further developed.

This monitoring will be combined with work with DfID to examine the specific impacts of the proposed new system on developing countries.