EXECUTIVE SUMMARY AND SCOPE OF THE CONSULTATION

The purpose of this consultation exercise is to seek early input on the way forward for a new single points-based system for managed migration, i.e. routes to work, train or study in the UK. It does not cover asylum or refugees. The consultation process will be managed in accordance with the Government's six consultation criteria, set out below.[1]

Structure

The document is structured as follows: Section 1 introduces the consultation document and explains the reasons for changing the existing system. In Section 2, the context for managed migration in the UK is set out and considered in relation to migration to other developed countries, showing that the UK has fewer migrants than many equivalent countries, and that migrants are often better qualified and more valuable to the economy than the UK-born labour force. Section 3 summarises some of the impacts of migration, including benefits and costs. In Section 4, the current system for managed migration is set out, and there is a brief summary of the review of managed migration instigated by the Prime Minister in April 2004. Section 4 demonstrates the complexity of the current system. Section 5 sets out some proposed objectives and tests for a new system, so that the new system, rather than developing in the way the current one has, would be designed to maximise the benefits of migration for the UK. Section 6 sets out the details of the proposals for the new five tier system, and includes case studies to help explain how future migrants would be affected.

Content
The paper includes:

- A high level introduction to the proposed reforms to the managed migration system: the rationale for change; the proposed new five tier framework; the Skills Advisory Body; the proposed introduction of sponsorship requirements, and financial bonds in some cases; restricted routes to permanent residence and new mechanisms for enhanced control.

It describes:

- Recent trends and international comparisons: the UK is in line with other countries in terms of immigration flows and at the lower end of comparable countries in terms of the numbers of foreign born here.

It sets out:

- The benefits to the UK of migration, which need to be maximised by the managed migration system: economic benefits of workers, students, and tourists, the particular needs of Scotland and international development benefits. The associated costs and impacts, which need to be addressed by it are also covered: pressure on public services, international development, costs of running the system; and public confidence.

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[1] The six consultation criteria are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation practice, including carrying out a Regulatory Impact Assessment if appropriate.

- What the current system looks like now: complex and bureaucratic; and findings from the 2004-05 managed migration review: the need for simplification and reform.

- Proposed objectives for the managed migration system: economic and internal competitiveness, control, students, responsibility; and the proposed tests it should satisfy: to be operable, robust, objective, flexible, cost-effective, transparent, usable, and compatible with EU and international legislation.

- Proposals for reform of the system including: bringing all routes for work, training and study into a single five tiered points-based system, streamlining the process; options for attributes to be awarded points; gauging and meeting labour market demand for migrant workers; how sponsors can help and possible uses for bonds; systematic decision-taking and risk assessment; and countering illegal working. The new system will be funded from within existing departmental budgets.

Because of the importance of these proposals to the United Kingdom, and the wide range of interested stakeholders, the Government is allowing an extended period of consultation. The extended 16 week consultation period will enable us to operate a proactive approach to consultation. As well as drawing attention to the consultation by sending the document to key stakeholders, we have randomly selected customers of the existing system and will be mailing copies of the consultation document to them. We are issuing leaflets with relevant application forms in the first month of the consultation period. In addition to this we will run regional consultation forums to engage more personally with key stakeholders.

An important consultation forum for employers will take place on 5-6 September 2005 at the Work Permits (UK) Annual Event in London. Consultation workshops will form a key feature of this event. Additional workshops will take place at various locations within the UK in the Autumn.

CONTENTS

SECTION 6: PROPOSALS FOR A NEW FIVE TIER SYSTEM

1. INTRODUCTION

1.1   Introducing a new managed migration system is a key part of the Government's five-year strategy to make migration work for Britain. A new single points-based scheme should set out the criteria for people from outside the European Union (EU) and European Economic Area (EEA) States to come to Britain or to stay here to work, train or study.

1.2   In his foreword to *Controlling our borders: making migration work for Britain*, the Government's five year strategy for asylum and immigration, on 7 February 2005, the Home Secretary said that his top priority was public confidence in the immigration system. "Migration is vital for our economy. Moreover it is our moral duty to protect those genuinely fleeing death or persecution". The five year strategy is the next stage of the Government's comprehensive reform of the immigration and asylum process. Over the next five years new technology, rigorous checks and robust use of the necessary powers will strengthen the UK's border control and in-country enforcement.

1.3   In this context we propose to reform the managed migration system. The purpose of the reforms is to admit people selectively in order to maximise the economic benefit of migration to the UK. All the main political parties, employers' organisations, trade unions and educational institutions agree that migration is vital for our economy.   Migration makes a substantial contribution to economic growth, helps fill gaps in the labour market, including key public services such as health and education, and increases investment, innovation and entrepreneurship in the UK. We cannot fill our many job vacancies from the domestic labour market alone. Many of these are in key sectors like health and education. However, migration can have an adverse impact on public services and community life if it is not properly managed. The system should therefore be focused primarily on bringing migrants to do key jobs that cannot be filled from the domestic labour force. It should focus on the skilled workers we

need most, like doctors, engineers, finance experts, nurses and teachers, and be supported by measures to limit the impact of migration on public services and the public purse, and to manage its impact on communities. The managed migration system needs also to be sensitive to the impact on poor countries, where skills are in short supply.

1.4   An important test for the redesign is that it should simplify the system. The current arrangements are complex and have developed over time. The system needs to be simplified so that the general public can understand clearly the basis on which migrants are admitted and why; so that employers and applicants find it swift, un-bureaucratic and good value for money; and decision-makers find it straightforward to administer. The key tests for the system are that it should be operable, robust, objective, flexible, cost effective, transparent, usable and compatible with EU and international legislation. We want employers and educational institutions to be provided with a high quality service.

1.5   In order to keep the system robust against abuse, a key principle is that all those who benefit from migration (not just the Government, but also employers, educational institutions and the migrants themselves) must play a part in helping to ensure that the system is not abused. This should be underpinned by measures to ensure that we only admit those who meet our criteria, that people stick to the terms of their leave to enter while they are here and leave when they are supposed to. The Home Secretary will continue to have and to exercise robust powers to exclude or to remove from the UK any people who threaten the public good including national security.

1.6   The proposed framework for the system is that five tiers will provide for all entry to the UK to work, train or study. The tiers will be 1, investors and highly skilled; 2, skilled worker with a job offer, or fitting a specific overseas requirement; 3 specific low skill schemes as necessary; 4,

students; and 5, visiting workers, people on selected development schemes and youth mobility/cultural exchange. Our aspiration is that there should be a "one stop" interface on the web and some printed guidance, where any potential traveller to the UK, including to visit or to marry can answer straightforward questions about their purpose and circumstances in order to be routed to the correct part of the system, to test that they are qualified. This self-assessment would be followed up by formal application and validation by an Entry Clearance Officer overseas or a Managed Migration caseworker in the UK. We aim to make it easier for employers to access the skills and experience they need and for the education sector to attract international students.

1.7   We suggest that migrants below Tier 1 should have the support of a sponsor, and in some high risk cases for temporary purposes could be asked to deposit a financial bond against departure.

1.8   The system will need to be very flexible to respond to the changing needs of the UK labour market. Over time, some skills will cease to be in short supply and new shortage areas will emerge. We propose an expert Skills Advisory Body to help to ensure that the system continues to meet our needs, and we are consulting on other options for gauging or responding to demand, including the existing Resident Labour Market Test. These ideas are set out in more detail in section 6.

1.9   To reduce bureaucracy, we propose that we should replace the current two stage application scheme (immigration issues assessed by visa issuing posts abroad, employment qualifications assessed by the Managed Migration Directorate in the UK) with a single, robust pre-entry or in-country check. The criteria should be objective and verifiable. Once the criteria are objective and verifiable, it should no longer be necessary to retain a right of appeal against refusal. We propose to extend our independent monitoring function to help to safeguard consistency and quality of decisions, and propose developing a system of administrative review. People will, of course, be entitled to reapply if they can subsequently meet the criteria.

1.10   Migrant workers should be offered the opportunity to apply for permanent residence only where it is in the UK interest to do so. It will therefore be open only to Tier 1 and 2 migrant workers and their dependants, where they have satisfied a residence requirement and tests of English language and knowledge of life in the UK.

1.11   Over the next five years there should be a fully integrated immigration control to ensure we only admit those who meet the requirements, as set out in the Immigration Rules, that they abide by the terms of their permission to enter while here, and that they leave when they are supposed to. This will involve tighter checks when applying for visas, including better identity management through biometrics; checks before boarding aircraft for the UK; having a biometric residence permit, without which it will not be possible to work or access services; civil fines for employers who negligently take on illegal workers; follow-up checks and an electronic embarkation check so that we know when someone has not left the UK. The Government will be responsible for managing the system, but is consulting on the way in which employers, educational institutions and others can help.

1.12   We want to build a system that will be more responsive to economic need, simpler and more robust against abuse. These reforms are not intended specifically either to increase or decrease the numbers of skilled workers coming to the UK, but to ensure that the system is effectively targeted. The Government is committed to wide consultation with those who will be affected by such changes, and will undertake comprehensive evidence-based impact assessment, to ensure the reforms are developed and implemented in a way that best meets the needs of the British public, employers, employees, employee organisations such as trade unions, educational institutions and migrants.

OVERVIEW OF MAJOR CHANGES

From …	To…
• A large number of schemes that have evolved to meet particular needs as they have arisen	• A coherent and flexible 5-tiered system that is explicitly designed to deliver on the U.K.'s economic and control objectives
• A two-stage process, where immigration issues are assessed by visa issuing posts abroad and employment qualifications are assessed by Managed Migration Directorate in the UK	• A single interface and application process for all applicants
• Decisions based on a wide range of entry criteria, some of which are subjective, and therefore have recourse to appeal	• Decisions made using an expanded points system and other objective criteria, possibly supported by administrative review
• Limited mechanisms for addressing abuse of the current system	• Greater control through sponsors, operators and bonds
• An understanding of skills shortages for some sectors	• A comprehensive analysis of shortages by sector, provided by a new Skills Advisory Body
• Limited data on applicants and the performance of existing schemes	• Accurate and timely management information, enabling greater responsiveness to changing requirements

2.   MANAGED MIGRATION IN THE UK

2.1   There are broadly three classes of migrants in the managed migration system:

- Short term, temporary categories – visitors, business visitors, students

- Employment categories – work permit holders, and a range of permit free categories including, for example, sole representatives.

- Family categories – for marriage, or to join parents or children

This consultation exercise focuses on the first two categories. Further announcements will be made later in the year about ensuring that the system is effective in managing marriage, dependants and permanent residence arrangements. This consultation does not deal with the entry requirements for tourists, but it is intended that tourists, like all other visitors and those coming for family reunion, should be able to use the same web-based interface.

Trends in migration over the last ten years

2.2   The last 10 years has seen a gradual increase in arrivals of non-EEA nationals from the major categories of managed migration. Since 1993, average growth year on year has been 2.2% for visitors, 4.2% for students and 10.1% for work permit holders, many of whom are in the public sector. In 2003 the picture changed slightly with a decline in the numbers of visitors and students and a levelling off in the growth in the number of work permits.

International comparisons

2.3   The OECD Annual Report 2004 confirmed the recent trend in migration across the world towards stabilisation. Flows of asylum seekers are greatly diminished. Migration is most common among the highly skilled and for work purposes.

2.4   The United Kingdom was ninth in the world in terms of inflows per 1000 inhabitants in 2002, behind countries like New Zealand, Spain, Ireland, Austria and Germany. The United Kingdom had 8.3% foreign born population in the last census year, 2001. This was low compared to other OECD countries such as Australia, 23%; New Zealand 19.5%, Canada 19.3%, Germany 12.5%, USA 12.3% and France 10%.

THE UK HAS A RELATIVELY LOW PROPORTION OF POPULATION THAT IS FOREIGN - BORN

Proportion of population that is foreign born
%
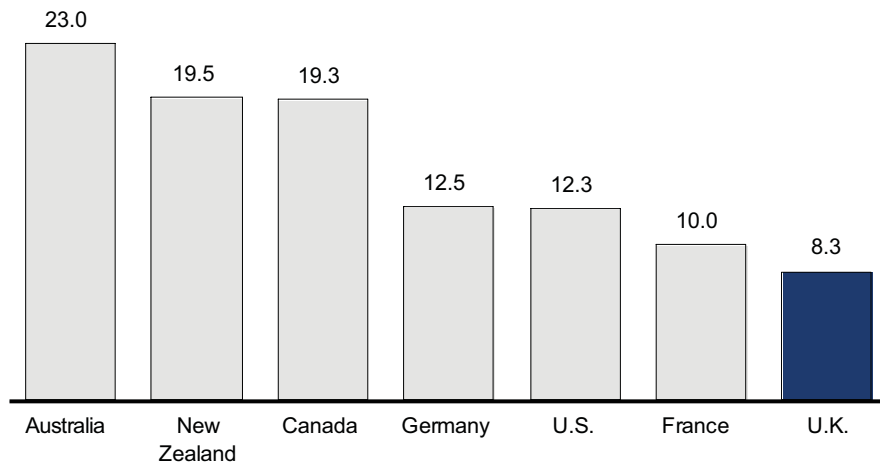
Source: 'Counting Immigrants and Expatriates in OECD Countries: A New Perspective', Dumont and Lema ître , 2003, OECD, Directorate for Employment Labour and Social Affairs

3. BENEFITS, COSTS AND IMPACTS OF MIGRATION

Economic benefits

3.1   Migration can have a number of benefits: economic, social, cultural, humanitarian and international relations. The UK has benefited from migration to create a culturally rich and diverse community. Migration can also have a number of associated costs or adverse impacts. The challenge for the managed migration system, and for all who use it, is to help to ensure that the potential benefits can be realised without compromising on control or security, and that potential costs and impacts can be avoided or reduced.

3.2   By far the most important benefits are economic. Migration has always been a source of labour and skills in Britain and has contributed to some of the Government's core economic objectives around growth, productivity and stability. Treasury estimates are that forecast migration accounts for nearly 10% of their trend projected growth in the UK[2]. International students and tourists boost the UK's exports by spending money on goods and services in the UK.

Employment

3.3   Migrant workers improve productivity, particularly if they bring skills which are in short supply. Migrants are more likely to have higher qualifications: 21% have a degree compared to 17% of the UK-born population[3]. It should also be noted that this figure is for the overall stock of migrants coming through all routes – those coming through the employment-related managed migration routes will, by definition, have higher qualifications. Migrant workers also on average have higher wages (13% more than the UK-born) indicating that they are on average more productive[4]. Figures for 2001 showed that migrants generated 10% of GDP despite accounting for just 8% of the working age population[5]. Highly skilled, high-earning migrants are key to the continuing development of the UK as a high value economy and will contribute through their own output and related "spillover" effects, that is, by transferring their knowledge and skills to UK workers. Similarly the ability to hire workers from abroad is important in making the UK an attractive business environment for firms setting up and remaining in the UK.

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[2]   HM Treasury Pre-Budget Report 2004, Annex A: The Economy
[3]   Labour Force Survey, average for four quarters 2004
[4]   Labour Force Survey, average for four quarters 2004
[5]   HMT PQ May 2002 based on Labour Force Survey figures

RELATIVE TO THE U.K. POPULATION, MORE MIGRANTS HOLD HIGHER EDUCATION QUALIFICATIONS

Proportion of population category for which
this is the highest achieved qualification, 2003
%

☐ UK-born
■ Foreign-born*

Higher education qualifications

	Degree level and above	Other higher education	NVQ level 3, A-level and equivalent	NVQ level 2-3, GSCE and equivalent	Other qualification	No qualification/ don't know
UK-born	17%	9%	25%	25%	10%	14%
Foreign-born*	21%	7%	13%	9%	33%	18%
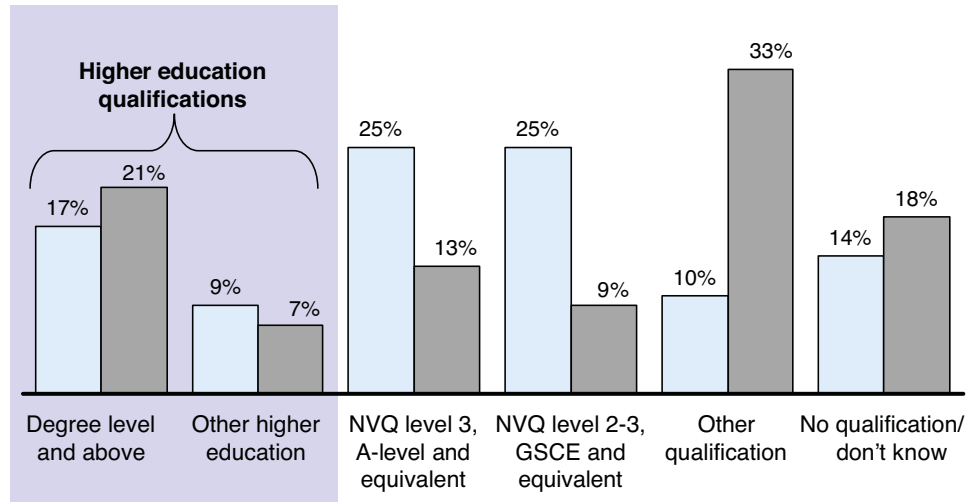
THE DISTRIBUTION OF FOREIGN WORKERS IN THE U.K. IS CONCENTRATED ON SERVICE INDUSTRIES

Distribution of foreign workers by sector
Average 2001 -02

■ Non-service** industries
☐ Service industries

	U.K.	Australia	France	Germany	U.S.A.
Total foreign* labour force 000s	1,229	2,367	1,617	3,616	20,014
Non-service industries	21%	30%	41%	44%	31%
Other Service Industries	34%	28%	26%	21%	21%
Household Workers	1%	3%	7%	1%	2%
Education	8%	6%	3%	3%	6%
Hotels and restaurants	11%	6%	7%	11%	10%
Wholesale and retail	12%	17%	7%	13%	20%
Health and community	14%	10%	11%	7%	11%
			5%		
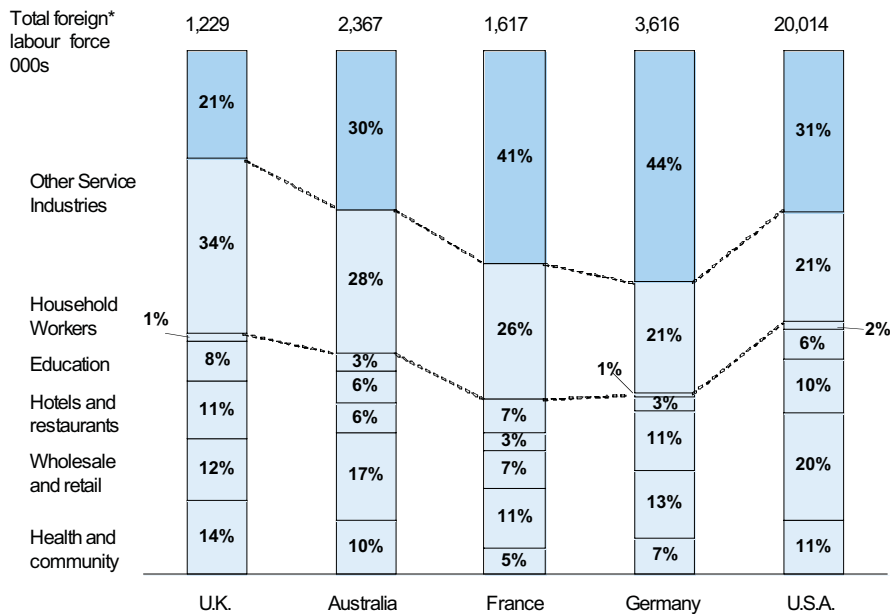
* Foreign born for US and Australia
** Includes mining, manufacturing and energy, agriculture and fishing, admin and ETO, construction
Source: OECD 'Trends in International Migration' 2003, Table 2.3

3.4   Migrants fill important jobs. Rather than competing with the resident population for jobs they expand sectors and create opportunities. Most of the evidence from the UK, US and Europe suggests that migration has little or no impact on employment and wage rates of the resident workforce, negative or positive[6]. Migration contributes to public service delivery. For example around 40% of work permits are currently issued in the health sector, while over 9% of the public sector workforce overall is made up of migrants[7]. This demand is likely to continue. But here and elsewhere migration's contribution should be seen as complementary to other policy initiatives. This is especially important where the perceived benefit is filling labour market shortages, and more so for low skilled workers. The Government's Skills Strategy[8] is designed to develop skills in the resident workforce and in the long term can be expected to reduce the number of low skilled workers, and encourage businesses to move themselves up the skills/value chain. Migration must be managed in a way which is consistent with this.

> *"The aim of this national Skills Strategy is to ensure that employers have the right skills to support the success of their businesses, and individuals have the skills they need to be both employable and personally fulfilled".*

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[6]   See eg C.Dustmann et al "The Local Labour Market Effects of Immigration in the UK" Home Office On-line report 06/03 (2003). For summaries see N.Gaston & D.Nelson "The Employment and Wage Effects of Immigration: Trade and Labour Economics Perspectives", Research Paper 2001/28. Globalisation and Labour Markets Programme, University of Nottingham (2001); G.Borjas "The Economic Analysis of Immigration" in Handbook of Labour Economics Vol 3A, Chapter 28 (eds. O.Ashenfelter & D.Card) (1999). A recent exception to these findings is G.Borjas "The Labour Demand Curve is Downward Sloping: Re-examining the Impact of Immigration on the Labour Market", Quarterly Journal of Economics, pp. 1335-1374 (2003).

[7]   Labour Force Survey, average 2003-2004.

[8]   "Skills: Getting on in business, getting on at work". March 2005 (Cm 6488-1) Applies to England and Wales only.

Case Study: Finance Sector and the City of London

The City of London is a global financial centre. Its success depends upon attracting international financial institutions to locate in London and to recruit employees with the relevant skills and expertise. The economic benefits of London's success are huge. Financial centres in other cities such as Edinburgh, Leeds and Bristol are also a major source of high-value added jobs in the UK. These financial centres also support skilled jobs in ancillary professions such as law, accounting and consultancy.

ONS data for 2002 show that finance and business services is the largest single economic sector. The sector makes a significant contribution to net exports. Substantial portions of the global markets in equities, foreign exchange, Eurobonds and others are traded by institutions in the City. There are 287 foreign banks in the City of London alone[9]. In addition to a skilled domestic labour force, a flow of skilled migrants is needed to support continued growth in this sector. Migrants entering the UK labour force tend to be well represented in the financial and business services sector. In the finance sector in central London, 28% of employees educated to degree level or higher are migrants.[10]

Students

3.5   In 2001-02, international students in UK further and higher institutions, English language training providers and independent schools contributed an estimated £5 billion, in tuition fees and other spending, making it a significant contributor to the UK economy[11]. International students from outside the EEA help to ensure the availability of a wider range of courses and education provision for UK students. The UK's education and training sector, including both public and private providers, makes a major direct contribution to the UK trade development, capacity and export earnings, and to the UK's position as a leading location for overseas enterprise. The UK is second only to the USA as a global leader in the international provision of education.

3.6   International students also help with addressing skill shortages after their studies. In particular those studying in areas such as science and engineering or for MBAs can result in much sought after skills remaining in the UK and contributing to our economy.

Tourism

3.7   Tourism is a key driver of economic performance and regeneration at national, regional and local levels. It is the UK's fifth largest industry, directly employing over 1.4 million people, many in areas which would otherwise be economically deprived. It is an important means by which the UK's international image and standing is promoted. The Government and our public sector partners have agreed a clear and stretching joint target with the tourism industry to increase the value of inbound and domestic UK trips from the present £74 billion to £100 billion by 2010. Currently, the international market represents 15% of all UK tourism. The managed migration system should seek to facilitate rather than get in the way of potential international visitors, consistent with a robust control, to contribute to meeting the £100 billion target.

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9   Source: Corporation of London
10   Source: Labour Force Survey
11   "The Global Value of education and training exports to the UK Economy" British Council 2004
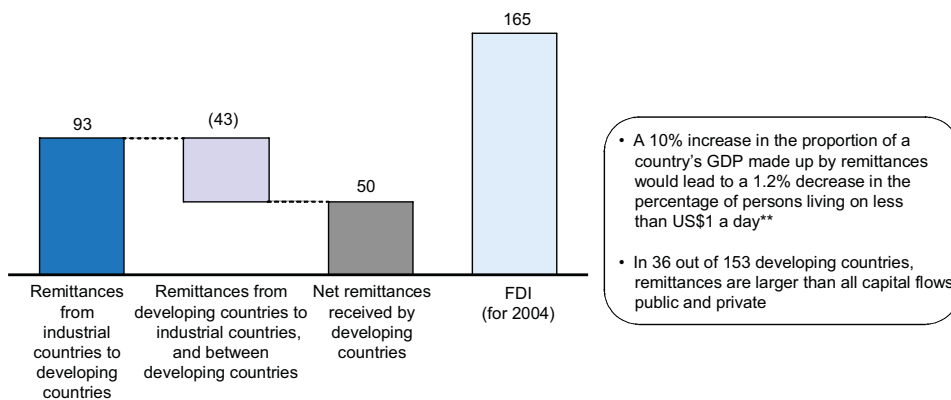
Scotland

3.8   Scotland, for reasons both of economic growth and social development needs to address its predicted population decline and changing demographic profile. Scotland's population is declining with a projected fall below five million in 2017[12].   This decline also means the age structure is changing. There will be fewer people of working age to contribute to the economy, and an increase in the number of older people. This population change will affect the supply and demand for public services and economic development in Scotland.   Scotland therefore wants more managed migration.   In particular Scotland wants to attract skills and talent to ensure the long term sustainability of its economy.   In order to compete well, it wants to increase Scotland's attraction as a place to live and work by recruiting and retaining more students from outside Scotland; and by promoting Scotland as a destination for those taking up approved employment; and by attracting those thinking of relocating from the rest of the UK and the EU; and by encouraging Scots living outside Scotland to return.

Developing countries

3.9   Migration can be beneficial for some developing countries. Migrants send remittances home which may constitute a significant part of their home country's economy. And they develop their skills and knowledge in the receiving country, to take back and use to their home country's benefit – "brain gain".

NET REMITTANCES ARE VITAL FOR DEVELOPING COUNTRIES, SECOND ONLY TO FOREIGN DIRECT INVESTMENT (FDI) AS A SOURCE OF EXTERNAL FINANCE

Remittances* from migrants to home country
2002, $bn

- A 10% increase in the proportion of a country's GDP made up by remittances would lead to a 1.2% decrease in the percentage of persons living on less than US$1 a day**

- In 36 out of 153 developing countries, remittances are larger than all capital flows, public and private

* Official remittances only (estimates suggest unofficial transfers account for a 36% of total flows)
** Based on a study covering 74 low and middle-income countries (Adams and Page 2003)
Source: IOM, World Migration 2005, Chapter 8, Chapter 14

Costs and Impacts

3.10 There may be a number of potential impacts from migration including on housing, public services or congestion. Little work has been done to quantify them. It is likely that the benefits outweigh potential costs, and the impacts are certainly not always one way. While there may be concern about pressure on public services as a result of migration, migrant labour is clearly highly important in helping to deliver public services. From an overall fiscal perspective, recent research by the IPPR has confirmed earlier findings that migrants make a relatively greater contribution to the public finances than non-migrants. Indeed this gap has widened in the last four years. In 2003/04 migrants accounted for 10% of government tax receipts and 9.1% of government expenditure.[13]

Developing Countries

3.11 There is a potentially adverse impact on certain developing countries if their skilled workers migrate. The NHS has an ethical recruitment policy to ensure that vital health workers are not directly recruited from the countries which need them most. Care will be needed also in relation to teachers.

Costs of administering the system

3.12 There are costs associated with running the system and maintaining an effective control. The visa fee covers the running costs of UK visas. Since 2003 the costs of making managed migration decisions in the UK have been covered by the fees for leave to remain and work permits. This ensures that as far as possible the system is self-financing without reliance on the public purse. The fees are not disproportionate for the migrants or employers who benefit from immigration. We are seeking efficiencies in the system.

Public opinion

3.13 Media coverage and some surveys suggest that public opinion is not generally in favour of migration, despite the many benefits it brings to the UK. Public concern is frequently generated by the perception that the system is not being sufficiently managed or controlled. This may damage community cohesion. A transparent system in which migrants are clearly identified as meeting specific needs should help to address these concerns.

Questions for consultation

1. Do you agree that the benefits of migration outweigh its costs?
2. Can a managed migration system be used to deliver the UK the workers it needs?

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13 Paying Their Way: The Fiscal Contributions of Immigrants in the UK, Institute for Public Policy Research, April 2005

4.   THE CURRENT SYSTEM

4.1   The managed migration system has developed in an evolutionary way over time. Immigration Rules, made under section 3(2) of the Immigration Act 1971, 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, appeal rights, and removal and deportation. The Rules were last consolidated in May 1994 (HC 395) and have undergone 41 changes since then.

4.2   There are some 50 different ways to come to the UK to work or study. Of these, the main work permits system and the Highly Skilled Migrant Programme (HSMP) have been praised for their responsiveness, in a report by McLaughlin & Salt (2002), *Migration Policies towards Highly Skilled Foreign Workers*, which undertook a review of highly skilled migration policy across Europe and other key comparator countries, and concluded that "in terms of the range of specific schemes and initiatives to attract the high skilled, the UK had moved faster and further than any other country with the exception of Australia and to a lesser extent, Canada".

Work Permits

4.3   Employers can apply for work permits, for migrant workers overseas or in some circumstances in the UK. The main (Business and Commercial) work permit scheme allows permits to be granted for jobs at NVQ3 skill level or above or Scottish equivalent, if the job is on a designated shortage list, or where the employer has demonstrated that the job offer passes a Resident Labour Market Test. This requires employers to demonstrate that they couldn't recruit a domestic worker and that the job is being offered at a competitive salary. Once a permit is granted the migrant worker has to apply for entry clearance or leave to remain separately, and this may be refused if the worker does not satisfy immigration requirements. There are work permit and permit free categories for training, sports and entertainment, student internships, overseas representatives of companies, Governments or newspapers, and a range of other categories.

Highly Skilled Migrant Programme (HSMP)

4.4   Under the HSMP an individual can obtain a permit to come to the UK without a job offer if they satisfy a points-based test, administered by Work Permits (UK) in Sheffield. They then have to obtain entry clearance from the post overseas. If someone wants to switch into the HSMP in the UK, they also have to make and pay for two applications, one for the permit and one for leave to remain.

SAWS and SBS

4.5   There are also some specific low skill schemes, such as the Sectors Based Scheme and Seasonal Agricultural Workers Scheme.

Students

4.6   The student arrangements are set out in the immigration rules but are also accompanied by some 17 concessionary arrangements.

Permanent Residence

4.7.   HSMP and work permit holders, and a number of the permit-free categories identified in Annex B, and their spouses or partners and children under 18, can qualify for permanent residence, indefinite leave to remain, if they are still in approved employment when they have been here for four years

Managed Migration Review

4.8   On 27 April 2004 the Prime Minister launched a top to bottom review of managed migration routes, to assess the extent to which they were subject to abuse, or otherwise open to improvement.   He said:

> *"We will neither be Fortress Britain, nor will we be an open house. Where necessary we will tighten the immigration system.   Where there are abuses we will deal with them, so that public support for the controlled migration that benefits Britain will be maintained."*

4.9   The top to bottom review identified and put in hand a number of measures to address issues within the system. This included:

- reform of the marriage laws so that foreign nationals without legal status could not enter into sham marriages in the UK in order to use this as grounds for staying here. These changes have already had a positive impact on this area of abuse;

- changes were made to the rules on students so that people could not come as a visitor, avoiding proper scrutiny before arrival, and then seek to switch to studies below degree level as a means of staying here. Similar restrictions were applied to visitors or non-degree students switching to employment;

- some 1200 unaccredited colleges were checked by the Home Office and nearly a third of these were found not to be providing educational services: (a number were shops or other addresses.) The DfES established a register of educational establishments and any application to study at an establishment not on the register is now refused;

- UK visas set up risk assessment units in a number of posts overseas to improve the identification of forged and fraudulent documents and intelligence-gathering;

- the Commonwealth Working Holidaymaker scheme was amended to make clear that it is a cultural exchange opportunity and not primarily a labour migration route;

- the Sectors Based Scheme (SBS) and the Seasonal Agriculture Workers Scheme (SAWS) had their quotas reduced to take account of EU enlargement in May 2004. Following review of the SBS the hospitality quota was terminated in June 2005, taking account both of the large numbers of Accession country nationals now working in the hospitality sector and evidence that the scheme had been abused.

4.10   The top to bottom analysis highlighted the very large number of schemes available and just how difficult it is for employers, migrants, administrators and the public to work out how the system works and what is needed to qualify to come to the UK.

4.11   It highlighted also the difficulties caused by having two separate sets of consideration for labour migration: a labour market assessment (by Work Permits(UK)) and an immigration check (by UKvisas overseas or WP(UK) caseworkers in the UK). As outlined above, this can mean that a work permit is issued to an employer but the worker is refused entry clearance or leave to remain, sometimes because they actually do not possess the skills and work experience which the employment would require, or are pretending to be someone else. At some posts overseas high levels of fraud and forgery are encountered and addressed by UKvisas.

4.12   Although there is evidence from a variety of sources of the benefits of migration, there is no evidence readily available of the benefits or not of specific schemes within the system. They have not always been designed to meet specific economic objectives and are not measured against them.

4.13   Accordingly, the managed migration review identified the case for designing a new managed migration system for the UK for the 21st century, which was announced in the five year strategy in February 2005.

Questions for Consultation

3. Is the current system too complex and bureaucratic?
4. Should the users of the system or the taxpayer bear the costs of the migration system?
5. Do you think we should introduce changes in a phased manner? If so, which bits do you think should be implemented first?
6. Could the proposals to develop a new points-based system affect some groups of migrants more than others? If yes, which groups and why?

5. PROPOSED OBJECTIVES & TESTS FOR THE NEW SYSTEM

5.1   This is a welcome opportunity to identify the UK's objectives for work and study migration. We are consulting also on the tests the migration system must satisfy. For the first time, we are specifically designing a system to meet the objectives and satisfy the tests.

Objectives

5.2   The objectives for the managed migration system come under the headings of economic and international competitiveness, control, students, responsibility and other.

Economic and international competitiveness

5.3   Proposed economic objectives are: to increase the number of highly productive and highly skilled workers in the UK; to fill short term gaps in the labour market that cannot be achieved through the domestic workforce; to increase levels of investment in the UK; to increase the dynamism, productivity and flexibility of UK workers and businesses; and to increase UK exports by eg students and visitors spending money on UK goods and services.

Control

5.4   There are essential control objectives: to improve public confidence in the system; to prevent those who do not meet criteria from getting here; and to ensure people leave when they are no longer entitled to be here.

Students

5.5   The Government's objectives for the student migration arrangements are: to increase in a sustainable way the number of people coming to the UK whose primary aim is to study; to provide these people with a high quality education; and to ensure the integrity of the immigration control.

Responsibility

5.6   UK migration policy should take due account of the possible impact of skilled migration on developing countries with skill shortages.

Other

5.7   There are also a number of other important cultural, social, political and international outcomes which should accompany a successful managed migration system: migrants who will act as future ambassadors and advocates for the UK and the use of English as a business and teaching language and effective public diplomacy and raising the UK's reputation abroad.

Tests

5.8   The tests which we think the system should satisfy are:

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

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

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

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

- Cost effectiveness:
  The ability to process applicants at a reasonable cost (ie which the applicants will be prepared to pay), whilst still maintaining quality of assessment.

- Transparency:
  The ability for the government, potential migrants and other stakeholders to understand how each step of the process

works, and for migrants to self-select.

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

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

Questions for Consultation

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

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

9. How would you rank the proposed tests for the system in order of priority?

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

6.   PROPOSALS FOR A NEW 5 TIER SYSTEM

6.1   This section sets out some proposals for changes to the managed migration system to make it clearer and more focused on economic objectives; and to satisfy the tests identified above. It explains the proposed five tiers in the new points based system; the ideas we have for process improvement; and some options for making the system work better, such as sponsorship and bonds.

Five tiers

6.2   We propose that there should be five tiers in the managed migration system, to reflect the purposes of different migrants in coming to the UK. The purposes can be defined as follows:

> **Tier 1:** *Highly skilled individuals to contribute to growth and productivity*
>
> **Tier 2:** *Skilled workers with a job offer; and workers to meet specific overseas requirements .*
>
> **Tier 3:** *Limited numbers of workers to fill low skill shortages.*
>
> **Tier 4:** *Students: increasing exports and improving the education sector for the UK.*
>
> **Tier 5:** *Other temporary categories; visiting workers, selected development schemes and youth mobility/cultural exchange.*

6.3   Tiers 1 and 2 would have a route to permanent residence subject to meeting five years residence and other requirements. The others would not, but in some cases, for instance students graduating and finding work in a shortage area, people on the Fresh Talent: Working in Scotland scheme, or post-doctoral researchers, could move quickly into Tiers 1 or 2.

6.4   We would require different attributes and behaviour from migrants according to tier. They would have different entitlements according to tier: for example to work with or without restriction; or to be joined by their immediate family. And the tier of entry or stay would also affect the possible contribution of a sponsor to making the system work.

Outline of the process

6.5   We think it would be helpful for a prospective migrant to be able to make an initial self-assessment, using guidance preferably on the web but also on paper, so that by answering some simple questions such as:

- What is your purpose in coming to the UK?

- How long do you plan to be in the UK?

- What qualifications and work experience do you have?

they could be routed to the relevant set of requirements to establish whether they would qualify to come to the United Kingdom as a visitor, skilled worker or student or not. If the self-assessment was successful under any of the tiers they could then make their formal application, with supporting documentary evidence, to the relevant post overseas or, if in the UK, to Managed Migration Directorate in IND. The caseworker could ensure that the applicant qualified under the relevant tier, and satisfied the necessary risk and security checks, before telling them whether they qualified and what their status in the UK would be.

Proposed attributes and other requirements for each tier

Tier 1

6.6   The most highly skilled individuals, and people with large sums of money to invest, should qualify for entry or leave to remain under Tier 1. The aim is to target the migrants who are most likely to maximise growth and productivity. So points would need to be allocated and weighted according to evidence as to which factors are most closely related to economic success.
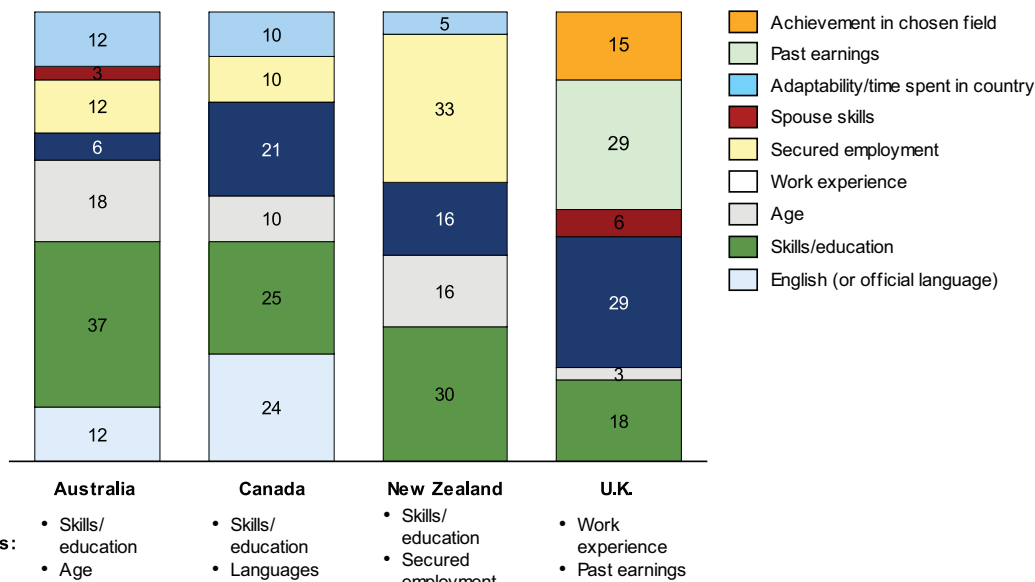
6.7   Evidence from longitudinal studies of migrants in Australia, Canada and New Zealand suggests that

- Age is important. Younger, skilled people are most likely to do well. In Australia the maximum points are for people aged 18-29 and the upper age limit is 44;

- English language ability is a key predictor of success

- Transferability of work experience and skills, including recognition of qualifications and equivalence, is also important.

The weightings applied to points by these countries are shown below, with the UK's current Highly Skilled Migrant Programme (HSMP) for comparison.

THE CURRENT U.K HIGHLY SKILLED MIGRANT PROGRAMME (HSMP) EMPHASISES DIFFERENT ATTRIBUTES FROM THOSE USED IN OTHER COUNTRIES

Other countries' skilled migrant routes and the U.K. HSMP
Percentage weighting* of attributes

	Australia	Canada	New Zealand	U.K.
Top 2 Attributes:	• Skills/education • Age	• Skills/education • Languages	• Skills/education • Secured employment	• Work experience • Past earnings

Legend:
- Achievement in chosen field
- Past earnings
- Adaptability/time spent in country
- Spouse skills
- Secured employment
- Work experience
- Age
- Skills/education
- English (or official language)

* Weightings are calculated as the maximum achievable in each category divided by the total maximum achievable points, excluding bonus points

Source: Country websites: Australian Generally Skilled Migrant Programme, New Zealand Skilled Migrant Programme, Canadian Skilled Worker Programme, U.K. Highly Skilled Migrant Programme

6.8 There is not yet an equivalent evidence base in the UK to support detailed decisions about the relative weight to be allocated to points and the "pass mark" for our new system. We are now gathering data and further evidence from the UK and abroad. The work so far has involved working with samples of data for Work Permit holders and individuals who have entered through the Highly Skilled Migrant Programme (HSMP). The information covers individual characteristics such as their qualifications, experience, earnings, age and profession.

An initial (small) sample of HSMP migrants at the one year stage suggest that they are doing well: a high proportion are doctors and the average salary is over £45.000. We have developed a new modelling tool to test and demonstrate the possible impact of different combinations of points, attributes, weightings and thresholds.

Case studies

Lindsay has been a qualified GP in New Zealand for 5 years. She is 35 and earns over £45,000 a year (UK equivalent) and has a job offer. English is her native language.
Points could be awarded for her skills, qualifications, previous experience and salary and for her job offer.
We think she should gain entry under Tier 1 and have a route to settlement subject to residence requirements and tests of English and knowledge of life in the UK.

Kazuto is a 40 year old Japanese electrical engineer. His previous salary was over £70,000 a year (UK equivalent). He speaks English. He does not have a job offer.
Points could be awarded for skills, qualifications previous experience and salary.
The system would aim to give him entry under Tier 1 and a route to settlement, subject to meeting requirements as above.

Tier 2

6.9 Tier 2 should offer an entry route to skilled individuals with a job offer where there is a labour market demand. There are a number of options for responding to labour market demand within this tier.

Case Studies

Mandy is an American physiotherapist (a shortage occupation). She is 27 and earns around £25,000 per annum. She has a job offer. Her partner is a nurse. She speaks English.
She could be awarded points for having a job offer in a shortage occupation, age, previous salary and experience and for her partner's skills.
She could gain entry under Tier 2, to work for the employer who made her a job offer and have a route to settlement.

Carlos is a 22 year old professional footballer from Mexico. He earns £200,000 (UK equivalent). He has played top division football in Mexico for 3 years and regularly represents his country. He has been offered a contract with an English premiership club.
He would be able to receive points for his skills, his future earnings and for the fact that he has a job offer, and thus qualify under Tier 2 and have a route to settlement.

Identifying shortages

Skills Advisory Body

6.10   One way of identifying shortages would be, at least in part, by a Skills Advisory Body (SAB). The proposed new advisory body would draw on the work of the existing Sector Skills Councils (SSCs), the Sector Skills Development Agency (SSDA) and Future Skills Scotland and would take over the current role of WP(UK) Sector Skills Panels. It would use the information available on the UK labour market and on its skill shortages, to develop a fuller picture of the UK and advise the Government on the state of the labour market, including shortage areas to be included on a UK list of shortage occupations. The key outputs from the SAB would be regular advice on the UK labour market and its skills shortages.   It is expected also that the SAB would advise also on salary levels in occupations and skill levels required for occupations. It would map the existing skills strategies, including Sector Skills Agreements, and advise on their likely impact on the current and future supply of skilled workers.

6.11   This process would identify key gaps in the labour market, and we expect that the Skills Advisory Body would be able to identify the majority of shortage areas and so most applications in Tier 2 would be for shortage sectors identified by the SAB. However, there will always be some employers whose needs are not met by the SAB, especially those in innovative areas. We need to design a system which will allow employers to fill jobs not on the shortage list. As well as the Skills Advisory Body, there are a number of other options which could be used alone or in combination with each other.

Resident labour market test

6.12   One option would be to include the resident labour market test (RLMT), which is part of the current work permit system, in a points-based system for Tier 2. In the current system, this allows an employer to obtain a work permit for a job which has been advertised in the EEA for a period without success. Where employers face

shortages which are not identified by the SAB such a test may be a useful way of allowing firms to fill vacancies, if they have explored domestic options first. It could be incorporated into a points system by only awarding points for a job offer that had passed the RLMT.

Case Study

Fung-Ming, 25, is a software engineer from Singapore. She has applied for a job with Acme Technologies, a UK firm, which they have been advertising in the UK, EU and online for over a month with no success.   Fung-Ming will earn £25,000 per annum and has the equivalent of NVQ level 3 skills in software engineering.

With a resident labour market test, although this is not a shortage occupation, Fung-Ming could qualify for entry under Tier 2 with a route to settlement, subject to satisfying the necessary tests.   She has an offer for a job which the domestic market is unable to fill, and would receive points for the job offerand her skills. She could also be given points for her age and salary.

Awarding points for attributes

6.13   A points system could allow for a migrant with a verified job offer not on the shortage list to reach the points threshold by a combination of salary, skills and/or regional need. Salary in a job offer looks likely to be the best indicator of an individual's probable contribution to the UK economy, subject to further evidence-gathering and analysis. It may also be possible for points to be varied to allow regions, or Scotland for instance, with particular skills shortages to attract the migrants they need.

Higher fees

6.14   Another option would be that a higher fee for a non-shortage migrant worker application might be a good test of the employer's need for migrant labour in place of domestic workers.

Auctions

Auctioning work permits for non-shortage vacancies in Tier 2 could possibly be another way to test the economic value of migrant labour. Employers could bid for permits released on a monthly basis with the highest bids securing permits. The price mechanism would force a decision on employers to train or pay domestic alternatives where this was cheaper and provide real-time information on demand and the price the market would bear. By auctioning permits we could expose and capture the economic value of the work permits.

6.15   As part of the consultation process we propose to explore these options in detail and to conduct an impact assessment on each of them. Such an assessment will include consideration of whether economic objectives are being met, as well as taking into account any potential adverse impacts. For example, we need to cover potential impacts on the domestic labour force, and we need to ensure that any options chosen contribute to maintaining a system which is robust against abuse.

Specific Overseas Requirement

6.16   Tier 2 could possibly cater also for some migrant workers who are currently provided for, in specific permit-free routes. These categories would be to fill posts in the United Kingdom which could not be filled by a UK or EEA worker because of specific overseas requirements: such as overseas Government employees, sole representatives, representatives of overseas newspapers, intra-company transfers, and Ministers of Religion; .

Questions for consultation

11.   Which attributes do you think are most important for Tier 1 and for Tier 2?

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

13.   Do you agree with the proposals for the Skills Advisory Body?

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

Tier 3

Accession workers

6.17   Tier 3 should provide for some specific low skill schemes, if needed. As set out in the five year plan, the Government is not convinced that there is a need for low skill migration schemes for non-EEA nationals, following EU enlargement. More than 176,000 accession state (A8) nationals have registered for work in the UK since 1 May 2004. Most are working in the hospitality sector, and also in agriculture.

SAWS and SBS

6.18   There are currently specific schemes for seasonal agricultural workers (SAWS), and a Sectors Based Scheme (SBS) for food processing workers. The SBS quota for hospitality was closed in June 2005   Detailed discussions with the agriculture sector about the future of SAWS will be arranged for the Autumn, as part of this consultation process, and the food processing quota of SBS will be reviewed in June 2006.

Economic benefits

6.19   The economic benefits of low skill, low paid migrant workers are much less clear cut than that of the skilled workers in Tiers 1 and 2, although there may be short-term economic benefit to employers, sectors and customers, for instance in the fruit production, hospitality, and processed food sectors.

6.20   There will need to be a mechanism for identifying the need for low skilled migration in a given sector. A possibility would be to ask the Skills Advisory Body to advise on this. If a case for low skilled migration in a sector is made, employers could co-operate in the operation of a specific temporary, quota-based scheme. Such a scheme would require an accredited operator to recruit migrant workers from a country with effective returns arrangements. The operator could sift and vet applications and make medical and good character checks. They could administer arrangements to encourage migrants to return home, such as compulsory remittances, with part of the wages being paid into a bank account in the migrant's home country and only available on return, or a bonds scheme.

Case Study

A Tier 3 scheme could, for instance, allow low-skilled workers from a particular country to be admitted to work in the food processing sector, provided there were satisfactory guarantees as to their return. The UK Government could enter into an agreement with the International Organization for Migration (IOM), for example, under which the latter would arrange for the selection, placement and supervision of participants. A 25 year old could apply to the IOM to participate on the scheme and the IOM would arrange a placement with a UK employer which had expressed an interest to the IOM in employing participants on the scheme. The entry clearance officer could approve entry because the individual had obtained acceptance onto the IOM's scheme, had an offer of employment in an occupation covered by the scheme, met the age criteria; and the existence of the scheme would be conditional upon guarantees as to returns.

If the same person sought entry on the basis of the same sort of job offer but without being accepted onto the IOM scheme, the application would be likely to be refused because the individual would not accrue sufficient points to qualify under Tiers 1 or 2 and must have a place with an Operator to qualify under Tier 3.

Requirements for entry

6.21 Migrant workers on Tier 3 schemes would be time-limited, and they would not be accompanied by dependants. They could not switch to another category while here, but satisfactory completion of a period of leave under Tier 3, and return home, could be followed by another Tier 3 entry, or entry in another tier.

Questions for Consultation

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

16. There will be a number of responsibilities associated with proposed Tier 3 schemes:

    • Selecting migrants overseas

    • Providing induction to the UK

    • Administering compulsory remittances

    • Ensuring migrants are not working illegally

    • Ensuring migrants return home at the end of their leave.

    Which of these should be placed on operators and which on employers of low skilled migrants?

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

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

Tier 4

6.22   Tier 4 would provide for students. International students make an important contribution to the UK and we want to continue to encourage genuine students to choose the UK as a study destination. Students already have to meet a range of tests such as whether thay have a place at a bona fide educational institution, as below; whether they have sufficient funds to support themselves and whether they are primarily coming to the UK to study. These tests will form the basis of a points system. Subject to the necessary security checks, the total number of points obtained would determine whether someone was granted leave to enter or remain in the UK. In order to improve the consistency of decision making, all of the attributes for which points will be allocated will, as far as possible, be measured objectively. This will help students determine in advance of making an application - and incurring the associated cost - what the outcome is likely to be.

Certificate of sponsorship

6.23   We also think that every student application, overseas or in the UK, should be accompanied by a certificate of sponsorship from a bona fide educational establishment. Institutions of the UK Register of Learning Providers who accepted certain responsibilities in respect of helping to ensure that international students entering the UK are not abusing the route would be able to issue certificates of sponsorship. Certificates of sponsorship would link the issuing of entry clearance or leave to remain to a specific course at a specific sponsoring institution, which is not currently the case. Students will need to have a valid certificate of sponsorship for the entirety of their studies. This will provide us with more information about what types of students are coming into the country and where they are studying. It will also enable institutions to know better in advance what percentage of international students they offer places to, are likely to end up on their courses. The educational institution could also help with the effective management of the system by letting the Home Office know if the student did not show up, and if they weren't attending their course. These reports would be used to gather evidence about patterns of abuse which would form the basis for better risk management. We will consult further with the educational sector through the Joint Education Taskforce, the forum for debate and discussion between the education sector and Immigration and Nationality Directorate, in order to keep any extra administrative burden on institutions to a minimum.

Questions for consultation

19.   What are your views about what a points system for students might mean in practice?
20.   Should leave to enter or remain in the UK for students be linked to a specific course at a specific institution?
21.   Should educational institutions be required to help maintain integrity of the immigration control in order to be able to issue certificates of sponsorship?

Tier 5

6.24   There are a number of specific provisions in the current system for people to work in the UK for a short time or to work as part of a holiday which could be considered for taking forward into the new system as Tier 5: visiting workers, selected development schemes and youth mobility/cultural exchange.

6.25   Some of these are linked to international agreements – the General Agreement on Trade in Services (GATS) and the Vander Elst provision are arrangements allowing non-EEA nationals who are employed by a firm based in the EEA, or with a contract in the EEA, to work in the UK as part of this contract. Others have a clear economic rationale; such as the DTI International secondment scheme, and business visitors.

6.26   The youth mobility/cultural exchange schemes allow young people, from the Commonwealth in particular, to experience life and work in the UK and, where qualified, to move into work in a shortage area, or to study at degree level.

6.27   Under the new system, people with these purposes could be considered under Tier 5. A **visiting worker** would need to provide evidence of the purpose of their stay and of sponsorship. Some cases might need a bond against return. **Youth mobility/ Cultural exchange** would be restricted to young nationals of countries with effective returns arrangements, and the young people would need to be sponsored, by their Government or an international agency, or by a registered agency, or possibly by an individual in the UK. The current array of schemes would be brought together into a generic set of requirements. **Selected development schemes** would provide for some training or work experience prior to more permanent work in a shortage sector, such as post graduate doctors, dentists and trainee general practitioners to take the Professional and Linguistic Assessment Board (PLAB) test and clinical attachments; nurses doing supervised practice; the Science & Engineering Graduates Scheme; and the Fresh Talent: Working in Scotland scheme. Consideration could be given to the use of Tier 5 for international post-doctoral researchers, who contribute significantly to science and innovation.

Case Studies

Steve is a young Commonwealth national who wants to have an extended holiday in the UK (up to two years). He also wants to do some work incidental to his holiday to help him pay for it. Subject to meeting various criteria, such as being aged between 17 and 30 and being a national of a country whose Government has effective returns arrangements with the UK, Steve should be able to enter the UK under the youth mobility/cultural exchange Tier 5 category.

Emily is a Canadian national. She has recently qualified as a solicitor in Canada and would like to come temporarily to the UK to engage in a period of workplace training towards UK legal qualifications, so that she can specialise in UK law at home in Canada. She has an offer from a UK legal firm of a paid training placement. She would be able to enter the UK for the purpose of undertaking this training under the youth mobility/cultural exchange Tier 5 category.

Ragesh is an Indian national who studies at Glasgow University. He enjoyed his time in Glasgow and has decided he'd like to stay in Glasgow to pursue his career though he hasn't got a job offer yet. He can show he lived in Glasgow for three years of his course, although he spent his university holidays abroad and also did a year long placement in Paris. He is planning to stay with his aunt (a British citizen) in Glasgow for a couple of months and can show he has sufficient savings to support himself while he looks for a job. He could stay in the UK for up to two years under Tier 5 (Selected Development Schemes) in order to live and work in Scotland and because he has shown a commitment to Scotland by studying there and living there during his studies.

Vicky has graduated from a medical school in South Africa and wants to become a doctor in the UK. Anyone practising medicine in the UK must be registered with the General Medical Council, and they organise a test for overseas doctors to demonstrate their knowledge of English and their medical expertise (the PLAB Test.) The second part of this test must be taken in the UK. Vicky can show that she is eligible to take the second part of the PLAB Test in the UK, and can support herself while she takes the test without seeking employment. She could come here under Tier 5 (Selected Development Schemes) to take the test. If she passes the test, she can train as a doctor under Tier 5 (Selected Development Schemes) or take employment as a doctor under Tiers 1 and 2. If she fails the test, she will be given the opportunity to re-take it, if she has booked a new test date. She can re-take the test twice. If she still does not pass she will have to leave the UK.

Questions for consultation

22.   What are the benefits of these kinds of temporary/exchange workers in Tier 5?
23.   Is it right that the system should provide for them?
24.   Should there be provision for Tier 5 migrants to switch into Tiers 1 or 2?
25.   Should additional conditions be attached?

Sponsorship

6.28   The proposal is that apart from Tier 1 each migrant would need a sponsor. In the current system an employer already has some responsibilities for informing the Home Office if a migrant worker for whom he or she has a work permit leaves their job; and educational institutions are asked to report non-attending students. Low skill schemes are run by operators with responsibilities for some safeguards. It is proposed that these arrangements should be built into the new system, and used to make it more effective. The Government would remain responsible for managing migration. Sponsors could include, for example, a faith community in respect of someone seeking entry as a Minister of Religion. Sponsors could help make the system work by:

- Assessment of prospective migrants and confirming that applicants meet the criteria

- Confirming, with evidence, that the migrant is needed in the UK in the category specified

- Letting the Home Office know when a migrant leaves work, or stops attending their studies.

6.29   It is proposed that a list of recognised sponsors, based on information provided and follow-up checks where necessary would help to reduce bureaucracy for sponsors who were known to be compliant. We want to manage our relationship with sponsors to help them as well as to improve the running of the system.

Questions for consultation

26.   Do you think employers, educational institutions and other sponsors have a responsibility to contribute to the maintenance of control?

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

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

Bonds

6.30   The five year strategy said that where there was evidence of previous abuse and where necessary, we would require migrants from higher risk countries or visa categories to deposit a financial bond, which would be forfeited if they did not leave at the end of their stay.

6.31   There is current legislative provision in the Immigration and Asylum Act 1999 for the acceptance of financial security with respect to a person applying for entry clearance before entry clearance is given, and for further security to be required for an extension of leave[14]. This could be implemented by a change to the Immigration Rules, and built into the redesign of the system.

6.32   A possible reason for requiring a bond would be that the applicant came from a country with a greater than average incidence of recorded breaches of the Immigration Rules; or where there was an established pattern of, for example, students obtaining entry and then non-attending at college and working illegally.

6.33   The level of this bond would have to be such that it could not be written off by the applicant in exchange for entry to the UK. It probably would need to vary from country to country. For the bond to be repaid at the end of their stay it should be for the migrant to demonstrate that he or she had left the UK permanently (or had legitimately moved into another tier in the system). A one-way ticket to a destination in a neighbouring country would not do this. New or resumed employment in one's country of origin would. The Act states that a security may not be forfeited unless the person providing it has been given the opportunity to make representations, and this would need to be built into the system.

6.34   There would be administrative costs to the public purse from taking in the money involved and repaying and forfeiting it. There would be costs in the representations system. We could consider therefore whether bonded applicants should be required to pay an application fee which would include the cost of administering the bond system.

Questions for consultation

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

30.   How should a bond scheme be operated?

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

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14   The provision was designed with family visitors in mind but not implemented, in part because of community concerns.

Systematic decision-making and risk-assessment

6.35   As set out above we want the new system to be operable, robust, objective, flexible, cost effective, transparent, usable and compatible with EU and international law. We want a managed system, in which simple, objective tests of desired attributes and risk factors could be applied speedily, supported by good information about outcomes, recognised sponsors, and bonds where necessary.

6.36   The benefit of the proposals for migrants, employers and educational institutions should be greater certainty and a better understanding of what it takes to make a successful application. The benefits to the Government and to the public would be greater involvement and support of sponsors in managing the system.

6.37   By using clearer and more objective attributes to assess risks when making decisions, IND and UK visas staff should be able to spend less time on assessing intentions and more on checking sponsors and monitoring outcomes. This would be supported by the introduction of electronic departures checking, and more widespread use of biometric data.

6.38   Increased compliance and audit activity should enable IND to gather better, and up to date information about possible abuses and risks. This would be supplemented by information and intelligence from across the world. Through the collection of robust management information it would be possible to take a strategic and tactical overview of how well the system was operating and to adjust points, bonds, sponsorship and other requirements accordingly.

Countering illegal working

6.39   We intend that the proposed new system and its improved stakeholder focus should help to support employers in meeting the new responsibilities which are being proposed under the current Immigration, Asylum and Nationality Bill. These include a new civil penalty regime for employers of illegal migrant workers. Employers who are found to be using illegal workers and have been negligent about carrying out specified document checks would face a penalty of up to £2,000 per illegal worker employed. The system of document checks would be specified in secondary legislation, together with the factors to be taken into account when determining the level of penalty. The Bill also provides for a new criminal offence of knowingly employing illegal migrant workers punishable by up to two years imprisonment following conviction on indictment, or six months following summary conviction. It also provides a power to create a requirement on employers to carry out follow-up checks on some categories of worker periodically after recruitment, in addition to the current pre-recruitment checks.

6.40   It would make it easier for employers if the new managed migration system was very clear about which migrants are permitted to work. An enhanced employer helpline could assist further by providing information about specific migrants in the system and whether they were permitted to work.

6.41 To improve the enforcement of the law against the most persistent employers of illegal migrant workers, the Government is seeking to develop closer joint working between departments responsible for enforcing workplace regulations. Departments are working together to develop a joint workplace enforcement team which will explore the scope for closer co-ordinated working between Government workplace enforcement departments to tackle both the use and exploitation of illegal migrant workers. The team will be intelligence-led, and will share information and co-ordinate operations within existing legal powers against employers and gangmasters who are involved in the deliberate use or supply of illegal migrant workers.

6.42 The team will be located in the West Midlands and will bring together enforcement and intelligence officers from a number of different departments and agencies responsible for enforcing a wide range of workplace regulations (e.g. UK Immigration Service, Gangmaster Licensing Authority, DTI, HMRC, DWP, Health and Safety Executive). It will test the hypothesis that a joint team focused on intelligence sharing and enforcement could have a more significant impact on routinely non-compliant businesses than the existing arrangements. The pilot is due to start in September 2005 and will run for three years.

Questions for consultation

32. What improvements (eg. different documentation) would be useful to help employers understand whether foreign nationals are entitled to work?

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