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**Home Office: UK Border Agency**

# Immigration: the Points Based System – Work Routes

# Summary

## Background

1 The Home Office designed the Points Based System for immigration to meet the UK's needs for migrant workers through a simplified, more transparent scheme than the previous 39 different types of work visa. In 2008, the newly-created UK Border Agency (the Agency) became responsible for implementing the Points Based System (the System). The Home Office's objectives for the System were to:

- better identify and attract migrants (from outside the European Economic Area) who have most to contribute to the UK;
- provide a more efficient, transparent and objective application process; and
- improve compliance and reduce the scope for abuse.

The System has three main routes for people to enter the UK to work (Tiers 1, 2 and 5) depending on their skills and qualifications, whether they have a job offer and whether the work is temporary (see **Figure 1**). This report excludes student migrants (Tier 4), which we intend to examine in the future, and Tier 3 for low skilled workers, which was not implemented.

**Figure 1**  
Points Based System: Design of work-related routes

Tier	Description	Conditions of entry	Assessment criteria for points score (2008)
1	Highly skilled individuals to contribute to growth and productivity	Two years to find a job and extend or transfer to Tier 2	Bachelors degree or equivalent, age, previous earnings, English language, proof of maintenance funds
2	Skilled workers with a job offer to fill gaps in UK labour force	Job offer from employer with a UK Border Agency sponsor licence, renewable after 3 years	Qualifications to at least NVQ Level 3, salary threshold for job title, English language, proof of maintenance funds
5	Youth mobility and temporary workers: people allowed in to work for a limited period to satisfy primarily non-economic objectives	Sponsoring employer or body, renewable in limited circumstances after 12 months	Maintenance funds and, for youth mobility, age and nationality

Source: National Audit Office

**2** In addition to establishing points scores against the assessment criteria shown in Figure 1 and a points threshold for each Tier, other key features of the System are:

- a number of subdivisions (sub-tiers) within the main tiers and transitional arrangements for existing migrant workers to extend their stay;
- the operation of a ‘shortage occupation list’, drawn up by the independent Migration Advisory Committee, to allow fast-tracking of skilled migrants into the UK to meet a national shortage;
- a system of sponsorship, for Tiers 2 and 5, under which employers have to fulfil specific monitoring and reporting responsibilities in relation to their migrant employees; and
- the allocation of certificates to sponsors, which they provide to their new employee in order to gain entry to the UK.

In 2005, the Home Office (the Department) set up a £35 million programme to develop supporting IT systems, caseworking processes, rules, guidance and forms for the System. Between February 2008, when a phased implementation of the System began, and December 2010, the Agency handled 445,000 migrant applications, 53 per cent of which were made in the UK and 47 per cent overseas. In 2009-10, total work route-related fee income was £119 million, fee income from UK migrant and sponsor applications was £83 million and associated administrative expenditure was £58 million. Overseas work route-related expenditure is not separately identifiable.

**3** In 2010, the new Government brought in a change of policy to manage the number of immigrants to the UK. The Agency introduced interim limits for Tiers 1 and 2 and started a process of public consultation on how a fixed limit on numbers should work. It also asked the Migration Advisory Committee to advise on how many and what type of skilled migrant workers the UK needs. In November 2010, the Agency announced significant changes to the way the tiers will operate from April 2011.

**4** This report looks at both the current performance of the System against its objectives and its adaptability to meet the changes required of it. We consider:

- the design and functioning of the System to meet the UK’s changing needs for non-European Economic Area migrant workers (Part One of the report);
- the efficiency and value for money for migrants, employers and the taxpayer of its processes and procedures (Part Two); and
- the Agency’s control over work-based immigration routes to protect resident workers and prevent abuse (Part Three).

To address these issues we analysed Agency management information, survey data and documents relating to the development of the System. We also analysed 510 cases drawn from the Agency's database of applications made in the UK, observed six compliance visits to sponsors, and surveyed all 19,775 Tier 2 employers on the Agency's sponsor list, 938 of whom responded. The survey was designed to provide the views of a wide range of businesses of different size, sector and experience of bringing in migrant workers and has provided a valuable, although not fully representative, perspective on the System.

## Findings

On the design and implementation of the Points Based System to meet the UK's changing needs

**5 The Department designed the System well for the most part, given the challenges it faced and has adapted the system since its implementation in a number of ways.** Particular challenges included a lack of robust information on skills shortages within occupational sectors and the need for the System to be capable of absorbing migrants already working in the UK. The post-study route, however, is unlikely to have met its original objective of selecting only the most able international students to work in the UK.

**6 The Agency delivered a functioning Points Based System to meet a tight deadline but poor programme management in the initial stages impaired key aspects.** Inadequate governance and a poor IT procurement process led to delays, reductions in scope and additional cost; for example, the Agency had to pay its supplier, Fujitsu, £4 million for work carried out in 2007 developing applications which were not used. To save money, the Agency stripped out planned functionality from the sponsor management IT system, hampering its ability to manage sponsors well. A lack of preparation time also led to many changes to rules and guidance, creating confusion for Agency staff and applicants.

**7 Tier 1 ('Highly Skilled') has met, in part, its objective of attracting highly skilled applicants into the UK.** We estimate around 60 per cent of Tier 1 migrants in the UK, excluding those who stayed on after studying, are working in skilled or highly skilled professions, although the evidence is not robust.

**8 Tier 2 ('Skilled migrants with a job offer') has largely met employers' needs for skilled workers although a third of employers responding to our survey wanted to recruit more skilled foreign workers than they were able to.** Most Tier 2 migrants, however, have not taken up positions in acute or high priority national shortage although this does not mean that they are not of economic value to the UK as, for example, they may be helping to meet local skills shortages. Our sampling showed that new migrants to Tier 2 were paid more on average than those switching from previous schemes which may indicate that the System is operating to select more highly valued applicants.

On the efficiency and value for money offered to stakeholders of the System

**9 The Agency's handling of migrant applications made in the UK is inefficient, mainly because of poor legacy IT.** Currently, migrant application caseworkers in the UK have to access many different databases adding, on average, an extra 20 per cent to the time taken to decide an application. A new casework IT programme is planned to improve the handling of migrant applications both in the UK and at overseas posts. The Agency's new sponsor licensing software is also not fully efficient or fully accessible to staff outside Sheffield (where the sponsor licensing unit is based), but there are no definite plans for an upgrade.

**10 Since launching the System, the Agency has steadily improved the speed with which it decides migrant applications; its speed of processing of sponsor licence applications, however, has been very variable.** Since June 2009, the Agency has decided some 90 per cent of migrant applications in four weeks or less but performance on deciding sponsor licence applications in four weeks or less has varied between 30 and 90 per cent.

**11 Both migrant applicants and sponsors are content with current fee levels but sponsors, in particular, are dissatisfied with the Agency's customer service.** Three quarters of sponsors responding to our survey said that the fees provided good value for money in relation to the benefit they get from being able to bring in migrant workers. The Agency, however, has consistently failed to meet sponsor expectations for speed of processing applications. One in four sponsors responding to our survey would be prepared to pay more for better customer service and, according to an Agency survey, almost half would pay more for a single point of contact at the Agency.

**12 The Agency provides some useful guidance but migrants often struggle to get the information and assistance they need, leading to additional delay and, potentially, cost to applicants who get it wrong.** Many applicants are unclear what supporting documentation they have to provide and around half of applicants telephone the Agency's helplines although they often struggle to get through. In 2009-10, the Agency rejected some 8,500 migrant applications made in the UK because the application was not correctly made.

**13 The Agency has not evaluated the success of its policy of 'evidential flexibility', introduced to reduce the number of rejected and failed applications, nor applied it consistently.** From August 2009, caseworkers have been able to give applicants three days to provide additional information but the Agency cannot say how many times it has applied the policy or what the results were. Before February 2011 it was not being applied in some locations overseas.

On the Agency's control over work routes to protect resident workers and prevent abuse

**14 The Agency's ability to assess and manage the risk of non-compliance with immigration requirements is hampered by poor information systems. The Agency lacks the means to demonstrate that the System is providing improved compliance and adequate control over work-related immigration.** The Agency has teams in place providing the necessary elements of control: intelligence, risk profiling, document verification and sponsor assurance, but has no means of assessing whether it is applying sufficient resource to control issues overall. In addition, its information systems do not allow it to search for and extract information relating to control issues, such as reasons for refusing applications.

**15 The Agency has not evaluated the risks associated with some inherent features of the System which could be exploited by employers and migrants.** For example:

- **The Agency has not evaluated the effectiveness of the Resident Labour Market Test, the key test to show that jobs need to be filled by skilled workers from overseas.** The Agency cannot verify, at the point the migrant applies for a visa, that employers have carried out the test meaningfully, yet operation of the test creates cost and delay to the responsible employer.
- **The Agency has not assessed the overall risk that relying on supporting documentation poses to proper control, given that half of all staff reported that they find it difficult to check that supporting documentation is valid.** Under the System, because it is transparent and objective, staff have no discretion to refuse an application which meets the rules unless they can disprove the validity of documentation supporting the application.

**16 A key control over the System is the Agency's ability to rely on its sponsors to police their employees but the Agency does not yet have an adequate grip on how well sponsors are fulfilling their duties:**

- **The Agency rated some 96 per cent of its 22,000 sponsoring employers compliant but is unable to say how many it has visited to confirm this.** It visited only 15 per cent of employers, on a risk basis, before granting them a sponsor licence. It does not know how many it has yet to visit or the proportion of its visits which identify compliance issues.
- **The Agency is not managing its inspection visits to sponsors well.** There is conflict in the Agency between central and local demands on visiting officers and confusion over their role, status and working methods. It is also not clear that they are used most productively.

**17 The Agency has not taken sufficient action to check that migrants leave the UK if they have no right to remain.** For example, it has not routinely followed up UK-based applicants to ensure they leave if it refuses to extend their visa. Since 2009, however, one Agency region has contacted refused applicants and encouraged around 2,000 migrants to leave voluntarily. The Agency told us this approach is now being rolled-out in other regions. The Agency estimates there may be up to 181,000 migrants in the UK of all visa types whose permission to remain has expired since December 2008.

### **Value for money conclusion**

**18** We conclude that the Points Based System is not yet delivering value for money. The System provides an adaptable means of meeting the UK's work-related immigration policy objectives. However, the Agency's systems are not efficient and its customer service does not meet sponsors' expectations. In addition, the Agency lacks basic information on its compliance activities and their effectiveness and, therefore, cannot provide assurance that it is managing the risk of non-compliance by migrants and sponsors with immigration rules effectively.

**19** The Agency has work in hand to improve the efficiency and productivity of its processes. It needs, however, to make improvements to its IT systems, in addition to those already planned, to create much better management information and use it to manage outcomes for its customers and the taxpayer, as well as its own processes. The Agency also needs to give greater priority to ensuring that migrants leave when they should, than it has done up to now.

### **Recommendations**

**20** The System will be subject to radical change in 2011-12 as the Agency implements recent policy changes and new ways of working. This provides the opportunity for the Agency to reconsider its priorities and improve customer service and assurance over control systems. Many of our recommendations can be incorporated into changes already planned. Any additional costs of implementing recommendations could, however, be met through efficiencies or through small increases to fees.

**a** **Currently, the Agency's performance management regime for the System focuses on meeting targets for processing applications and making quality decisions.** The Agency should establish a comprehensive performance management regime for the System including measures relating to customer service, efficiency and sponsor management.

- b There is little Points Based System management information.** The Agency must develop its systems, including the Immigration Case Work programme and Sponsor Management systems so they:

  - provide useful data on key metrics, including the number of inspection visits conducted;
  - deliver the management information required to support an improved performance management framework; and
  - allow the Agency to calculate actual unit costs for Points Based System activities.
- c Some sponsors and applicants have experienced poor customer service.** The Agency should address the customer service issues that customers say matter most: speed of decision-making and availability of consistent accurate advice.
- d Evidential flexibility, to give applicants the opportunity to provide missing information, is not applied consistently and does not give applicants sufficient time to respond.** The Agency should evaluate the cost-effectiveness of this policy and ensure that whatever changes are made, they are applied consistently across the Agency.
- e The Agency lacks the ability to identify easily individuals whose visas have expired and does not routinely follow-up those it refuses, to ensure they leave the UK.** As recommended by the Public Accounts Committee in 2005<sup>1</sup>, the Agency has taken steps towards identifying cases where migrants have overstayed their limit, however further work needs to be done. The Agency should, by October 2011, set targets; establish a national system; and report annually on its performance in tackling overstayers.
- f The Agency visits some sponsoring employers to check that they are complying with immigration rules but its risk basis for these visits is not well-evidenced.** The Agency should establish an evidenced risk-based visiting strategy, including flexibility to take account of local risk factors and visiting officer quality and experience. It should set minimum productivity levels and visit intervals for each risk category of sponsor.

<sup>1</sup> *Returning Failed Asylum Applicants*, Committee of Public Accounts, 34th Report, Session 2005-06.



- g** **The role and professional status of the Agency’s visiting officers is not clear, contributing to inefficiency and poor customer service.** The Agency should clarify the standards it expects from its cadre of visiting officers; their role, for example, in giving advice; and the training they require. It should learn from other regulatory bodies, such as the Environment Agency and the Health and Safety Executive, which have implemented the Hampton principles of effective inspection and enforcement.<sup>2</sup>
- h** **The resident labour market test does not suit the requirements of all sponsors and the Agency is unable to check that the test has been conducted before granting a visa.** The Agency should evaluate its requirement for Jobcentre Plus advertising and make use of more efficient and professional visiting officers to provide better assurance that, in particular, high risk sponsors are conducting the resident labour market test in a way that is suitable for the particular role and sector and ensures that the sponsor has checked that the resident market is unable to provide the required skills.

<sup>2</sup> *Regulatory quality: How regulators are implementing the Hampton vision*, National Audit Office 2008.