



National Audit Office

**REPORT BY THE  
COMPTROLLER AND  
AUDITOR GENERAL**

**HC 1827  
SESSION 2010–2012**

**27 MARCH 2012**

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**Home Office: UK Border Agency**

# Immigration: The Points Based System – Student Route

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National Audit Office

**Home Office: UK Border Agency**

# Immigration: The Points Based System – Student Route

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Amyas Morse  
Comptroller and  
Auditor General

National Audit Office

21 March 2012

The UK Border Agency implemented Tier 4 of the Points Based System for immigration on 31 March 2009 for students and their dependants from outside the European Economic Area. In March 2011, the Government introduced revised policy objectives and strengthened criteria over who can come to the UK to study, what they can study, with whom and for how long.

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This report can be found on the National Audit Office website at [www.nao.org.uk/points-based-immigration-2012](http://www.nao.org.uk/points-based-immigration-2012)

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## Key facts

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**3 years**

since introducing the student route (Tier 4) of the Points Based System

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**290,000**

student and dependant visas issued each year, on average

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**110,000**

student and dependant visa extensions issued each year, on average

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<b>2,125</b>	schools and colleges were licensed by the UK Border Agency to sponsor students on 31 January 2012
<b>Not known</b>	how many students have left the UK after their leave to remain has expired
<b>62,000</b>	notifications were sent by sponsors to tell the Agency that students were not attending college between February 2010 and October 2011
<b>141</b>	sponsor licences were revoked for failing to carry out sponsor duties adequately
<b>2,700</b>	students and student overstayers removed since 1 April 2009
<b>£19 million</b>	of net cost from processing student visa applications and extensions
<b>40,000–50,000</b>	individuals estimated to have entered through Tier 4 in its first year of operation to work rather than study

# Summary

**1** In February 2008, the Government began to phase in a Points Based System for immigration, with a number of tiers for different types of temporary migrant. The objectives were:

- to better identify and attract migrants with the most to contribute to the UK;
- to create a more efficient, transparent and objective application process; and
- to improve compliance and reduce scope for abuse.

The UK Border Agency (an executive agency of the Home Office) implemented Tier 4 of the Points Based System on 31 March 2009 for students and their dependants from outside the European Economic Area (EEA).

**2** This report is concerned primarily with the Agency's actions to strengthen controls over student migration through Tier 4. It follows our report on Tiers 1, 2 and 5, the work routes, published in March 2011. We examine how well the design and implementation of the system worked to prevent people misusing Tier 4 to enter the UK for work (Part One of the report); the Agency's actions to ensure Tier 4 migrants comply with their visa conditions (Part Two) and the cost-effectiveness and potential impact of the redesigned Tier 4 implemented in 2011 (Part Three). Our previous report assessed the efficiency of the Agency's processes for handling work-related visa applications and its customer service. Our methodology is set out in Appendix One.

**3** Education is increasingly a competitive global market. Between 1999 and 2011, government policy was to increase the number of foreign students studying in the UK by some 200,000. The Home Office's aim in introducing Tier 4 was a more efficient and transparent system resulting in fewer appeals.

**4** Before the Points Based System, non-EEA students needed a place to study at one of the 15,000 colleges registered with the then Department for Innovation, Universities and Skills (DIUS) in order to obtain a student visa, but there was no limit to the number of students whom a college could enrol and students were free to move college and course as they wished without notifying the Agency. The Agency's entry clearance officers judged visa applicants' intentions against supporting documents, background checks and, in a small minority of cases, interview responses. In 2008-09, student visa refusals averaged 32 per cent but reached more than 60 per cent in a number of countries and applicants appealed 40 per cent of refusal decisions, winning 27 per cent of appeals.

5 Under Tier 4, in comparison, each student must be sponsored by educational institutions licensed by the Agency and cannot change college without applying to the Agency. Sponsors are responsible for judging students' intentions to study. In February 2010, the Agency implemented a mandatory system for unique electronic sponsorship documents (confirmations of acceptance for studies) through which sponsors must report non-attendance, academic progress and student contact details. The Agency can also control the number of confirmations of acceptance available to a college, in line with its compliance. The role of the Agency's entry clearance officers is to establish applicants' credentials against a clear set of documentary requirements and to validate their documents.

6 Since implementation, the Agency has encountered abuse of Tier 4 and has tightened the route's requirements. In March 2011, the Government introduced revised policy objectives and strengthened criteria over who can come to the UK to study, what they can study, with whom and for how long. Students applying from July 2011 became subject to tighter criteria, while colleges have until April 2012 to demonstrate a good compliance record and until December 2012 to prove they offer a good standard of education.

7 Since the implementation of Tier 4, the Agency has granted an average 292,000 visas, and 110,000 visa extensions, to students and their dependants annually, with a net cost of £19 million from £244 million in fees against £263 million in processing costs.

## Key findings

### Designing and implementing Tier 4

8 **The Agency implemented Tier 4 before the key controls were in place.** The Agency withdrew entry clearance officers' powers to test applicants' intentions before it had controls fully in place over sponsors and the documentation required to support an application. For example, the Agency had visited only 30 per cent of colleges on the sponsor register when Tier 4 commenced although most will have been visited by their accrediting body. The Agency did not implement its Sponsor Management System, so that sponsors could assign a unique confirmation of acceptance for studies to prospective students, until February 2010. The Agency granted one-third more student visas in the first year of Tier 4 than the previous year.

9 **We estimate between 40,000 and 50,000 individuals might have entered through Tier 4 in its first year of operation to work rather than study.** This estimate is based on college enrolment rates and changes in patterns of applications and refusals but it is not possible to know with certainty. Between March 2009 and February 2010, the Agency detected thousands of forged college visa letters at some application centres. The Agency did not check that those who entered through suspect routes were attending college.



## How the Agency dealt with the initial problems

**10 The Agency has taken little action to prevent and detect students overstaying or working in breach of their visa conditions.** The Agency regards students as low priority compared to illegal immigrants and failed asylum seekers, and has no measures or targets for combatting overstaying and students working illegally. The different parts of the Agency which would need to work together on the issue have concentrated on their own priorities and targets. The Agency has removed 2,700 students since 1 April 2009. It has been slow to withdraw students' leave to remain in the UK, where it has cause to do so. This has meant that enforcement teams have, in many cases, been unable to arrest students found working and not attending college.

**11 The Agency currently does little to ensure that people whose visa extension requests it refuses leave the UK.** Only one of its six regions routinely follows up all refusal cases to check they leave as required, encouraging 3,500 people to leave voluntarily since November 2007. The Agency has recently contracted with a commercial partner to pilot approaches to deterring overstaying in London and the South East region, where two-thirds of refused migrants reside.

**12 The Agency is not as efficient and effective in tracing people as it could be.** We employed a specialist contractor to try to locate through electronic methods 812 people the Agency could not find using its usual sources and techniques. At a cost of £3,000 and taking one week, our contractor found addresses for a quarter of the Tier 4 cases supplied. Tracing people who may be here illegally is a first step; the Agency is in the process of checking how many of these individuals are to be found at their new location and whether they may be removed legally, but the Agency is not yet sure that the approach is contributing significant new intelligence.

**13 The Agency did not have a fully documented compliance strategy for migrants and sponsors until December 2011.** The new strategy is a practical and necessary start to improve the Agency's control over migrants and sponsors, although it does not include the means to measure outcomes. It is unlikely to be fully rolled out before 2014, however, as some actions depend on the Agency's progress in delivering its e-Borders and Immigration Case Work programmes.

**14 In response to the increase in numbers over summer 2009, the Agency took quick and positive action to strengthen Tier 4 over the rest of that year.** The Agency identified issues and acted by stopping accepting applications from some parts of the world, reviewing Tier 4 policy and suspending the licences of some colleges.

## Cost-effectiveness and potential impact of the redesigned Tier 4

**15 The new rules are likely to reduce abuse, although it is difficult to predict the effectiveness of future prevention measures.** The focus of the policy redesign is to bear down on those types of colleges, courses and students that the Agency's evidence indicates are more prone to abuse than others. We found that most sponsors are working to meet the new requirements as many otherwise face closure.

**16 The Agency does not have the information to assess the cost or effectiveness of the measures it has introduced.** The Agency estimates that it spends some £300 million on enforcement and compliance but does not know what proportion of this relates to Tier 4 and has underestimated the cost to sponsors. We estimate that implementing the latest rule changes could cost colleges £40 million annually.

**17 The way the Agency designed and implemented the new measures does not comply with the principles of better regulation.** It did not model how all the additional requirements might interact or impact on different educational sectors or whether the criteria discriminated effectively between high-, medium-, and low-risk colleges and students. In addition, the Agency could be more transparent in relation to its enforcement approach.

## Conclusion on value for money

**18** The previous student visa system did not provide the objective and transparently effective system of control the Agency sought; however, the Agency implemented Tier 4 of the Points Based System with predictable flaws, which it could have avoided if it had introduced key controls at the same time. Subsequently, the Agency has taken insufficient action to remedy the consequences of these control failures and has not dealt efficiently and effectively with overstayers and students working in breach of the rules. It has taken steps to improve its entry controls but lacks measures of success for its control over the student route and does not know the cost of its own or sponsors' compliance activity. On the available evidence, the implementation and management of the Points Based System for students currently does not provide value for money.

**19** The Agency introduced new controls in 2011 that are likely to reduce the number of problem students and educational institutions. It will not be possible to determine the future value for money of the Points Based System for students, unless the Agency establishes ways to measure its success in tackling abuse, including dealing with overstaying, and to establish the full cost of its Tier 4-related activities.

## Recommendations

**20** Our previous report on those applying to work using the Points Based System, made recommendations on performance measurement, management information, customer service, handling applications, overstayers, sponsor visits and the role of the compliance officer. Those recommendations are also relevant to the student route. This report presents more detail on what the Department and Agency should do to deliver better performance in Tier 4 specifically.

- a** **The Agency has been slow to take action on students who do not comply with their visa conditions.** On dealing with migrant non-compliance and overstaying, the Agency should:
- pursue vigorously plans to extend and reinforce action to ensure that migrants with no right to remain in the UK are identified and required to leave;
  - create a centre of excellence in trace-and-locate techniques for local intelligence teams to draw on;
  - build on working relationships with other government bodies and use existing data-sharing protocols to their fullest; and
  - consider how to establish a performance framework with clear measures that reflect current priorities and incentivise staff.
- b** **Since introducing Tier 4, the Agency has made numerous changes affecting sponsors, often at short notice.** The Agency should develop a regulatory approach more in tune with best practice. It should:
- as the Tier 4 system matures, explore the scope to work more collaboratively with sponsor representative bodies to help develop compliance standards that are as practical as possible for sponsors to implement;
  - give some provisional verbal feedback to colleges after compliance visits where possible and written feedback within a reasonable time; and
  - review how far its work reflects the Regulators' Compliance Code for compliance and enforcement.

**c The Agency has done much to improve the integrity of the Tier 4 system. Nevertheless, it could improve the value for money by:**

- re-evaluating the criteria for Highly Trusted Sponsor status against data submitted by sponsors and considering whether additional factors could be used to measure risk to immigration control and therefore focus compliance activity better;
- testing the new risk model on a range of sponsors to refine the model and assess the reliability of data returns from sponsors; and
- considering introducing a fit and proper test for owners and operators of private colleges to hold a Tier 4 sponsor licence.

**d The Points Based System, and Tier 4 particularly, lacks transparency.**

The Department should:

- establish measures and targets for its compliance work to show its cost-effectiveness;
- evaluate the true cost to colleges of recent changes and the cost-effectiveness of the new requirements; and
- consider introducing formal cost-effective means for sponsors to challenge a decision not to award Highly Trusted Sponsor status.

# Part One

## Designing and implementing Tier 4

### Background

**1.1** The UK Border Agency (the Agency) is an executive agency of the Home Office (the Department). Its role is to contribute to the Home Office's strategic objective of securing the UK border and controlling migration. The Agency introduced Tier 4 of the Points Based System in March 2009, to manage the migration of people coming from outside the European Economic Area (EEA) to study in the UK.

**1.2** Under the previous system, entry clearance officers judged visa applicants' intentions and ability to study against evidence such as supporting documents, biometric or biographic background checks and, in a small minority of cases, interview responses. Student visa refusals averaged 32 per cent but varied significantly by overseas post, from more than 60 per cent in Bangladesh, Pakistan and West Africa to less than 15 per cent in South East Asia, the Gulf States and the Russian Federation. Applicants appealed 40 per cent of refusal decisions and won 27 per cent of appeals.

**1.3** Applicants also needed a place at a college registered with the then Department for Innovation, Universities and Skills (DIUS) but there was no limit to the number of students a college could enrol and students were free to move college and course as they wished without notifying the Agency. Around 4,000 of the 15,000 colleges on the register regularly offered courses to foreign students. The Home Affairs Select Committee<sup>1</sup> reported in July 2009 "that insufficient quality assurance procedures" by DIUS had "allowed bogus colleges to bring foreign nationals into the UK on fraudulent student visas" between 2005 and 2009 but there are no estimates available of the number of fraudulent visas issued.

**1.4** In the first two full financial years of Tier 4, the Agency granted an average 292,000 visas, and 110,000 visa extensions, to students and their dependants annually, with a net cost of £19 million (**Figure 1** overleaf).

**1.5** This part of the report examines how well the Agency designed and implemented Tier 4 to prevent people using the route to enter the UK to work and not study.

<sup>1</sup> HC Select Committee on Home Affairs, *Bogus colleges*, 11th report of Session 2008-09, HC 595, July 2009.

**Figure 1**

UK Border Agency income and direct expenditure on Tier 4

Application type	2009-10		2010-11		Total surplus/ (loss)
	Income (£m)	Cost (£m)	Income (£m)	Cost (£m)	
Overseas visa	66	108	79	72	(35)
Extension in UK	42	39	56	40	18
Sponsor licence	0.4	1.3	0.8	1.7	(2)
<b>Total</b>	<b>108</b>	<b>148</b>	<b>136</b>	<b>115</b>	<b>(19)</b>

**NOTES**

1 Figures may not total due to rounding.

2 Costs include apportioned overheads.

*Source: National Audit Office analysis of UK Border Agency data***How Tier 4 works**

**1.6** The key objectives for Tier 4 of the Points Based System were to make efficiency savings through a streamlined visa application process, reduce appeals through a more objective system and reduce abuse through greater control over students and colleges. This coincided with the Agency reorganising visa posts overseas distributing applications to fewer centres and setting tough daily targets for decision-making.

**1.7** Although the Points Based System was modelled on the Australian system, where applicants gain points for different attributes and those with the most points are selected, Tier 4 is not selective; all must meet mandatory conditions of entry.

**1.8** Unlike the previous system, under Tier 4:

- each student must be sponsored by an educational or training institution licensed by the Agency and cannot change institution without applying to the Agency;
- only 'accredited' colleges are allowed on the sponsor register, a move which initially reduced the number of colleges bringing in non-EEA students by 60 per cent;
- sponsors assign a unique confirmation of acceptance for studies to each student and maintain records on the Agency's Sponsor Management System;
- the Agency can control the number of confirmations of acceptance thereby limiting the number of students a college can sponsor; and
- sponsoring colleges have monitoring and reporting responsibilities for their Tier 4 students which include attendance, academic progress and contact details. If they fail to meet their responsibilities, the Agency may remove the college's sponsor licence.

## Implementing the system

**1.9** The Agency launched Tier 4 on 31 March 2009. **Figure 2** describes the main changes since. As we reported previously, delays and reductions in scope affected delivery of the business-critical Sponsor Management System and the Agency had not visited most Points Based System sponsors before launch<sup>2</sup> although, in the case of Tier 4, it visited all sponsors by July 2009. Combined with a strain on resources at overseas posts,<sup>3</sup> this left gaps in controls, which front-line staff predicted but could do little to close.

**Figure 2**  
Main Tier 4 conditions timeline

Timeline	Key Tier 4 conditions
March 2009	Documentary proof of acceptance for study at a Tier 4 sponsor (visa letter), educational qualifications and maintenance funds required. Agency officials no longer allowed to assess applicants' intentions on application.
October 2009	Sponsor Management System live, allowing sponsors to assign a unique electronic confirmation of acceptance to each student. Visa letters still accepted.
February 2010	Secure confirmation of acceptance for studies mandated.
March 2010	Restrictions applied to migrants at further education and English language colleges including basic level of English required and secure testing; maximum working hours halved; dependants not allowed to work.
April 2010	Highly Trusted Sponsor status introduced for those who could prove an excellent record of compliance; with benefits such as a single point of contact within the UK Border Agency, and the ability to offer courses with work placements.
August 2010	Further education students required to prove their English language ability under secure test conditions.
March 2011	Statement of intent of new measures announced.
April 2011	Non-Highly Trusted Sponsors and those not inspected by statutory inspectors not allowed to recruit more students than in the previous 12 months.
July 2011	Raised minimum English language requirement to intermediate, for degree level and above. Students at private colleges not allowed to work. Only certain postgraduate students allowed to bring dependants.
April 2012	All sponsors must meet new Highly Trusted Sponsor criteria.
December 2012	All sponsors must have achieved a satisfactory inspection of their educational provision by the designated statutory authority.

Source: National Audit Office

<sup>2</sup> Comptroller and Auditor General, *Home Office: UK Border Agency, Immigration: the Points Based System – Work Routes*, Session 2010-11, HC 819, National Audit Office, March 2011, pp 6 and 33.

<sup>3</sup> Chief Inspector's reports on Abuja, Chennai, Abu Dhabi and Islamabad, Guangzhou.

**1.10** Initially, the documentary evidence the Agency required from applicants changed little. The Agency's aim was that colleges, rather than Agency staff, should test applicants' intentions to study. This was not well founded, however, as the Agency had not tested whether colleges could do this and many colleges were not confident they could assess overseas applicants properly without interviewing them. Agency staff complained that they were being forced to award visas to people they would have refused under the previous system and vice versa.

**1.11** The Agency had identified that implementing Tier 4 without the Sponsor Management System was risky and, over summer 2009, the Agency realised that the new system was not working as intended. There were surges in the numbers of applications to study English language and some lower-level courses in private institutions from particular countries. For example, applications from the Fujian province of China rose by 400 per cent and the rate of refusal of Fujianese applications fell from 80 per cent before the Agency implemented Tier 4, to 13 per cent (see paragraph 1.13). The majority had enrolled with English language schools.

**1.12** In response to the increase in numbers, the Agency strengthened Tier 4 quickly in 2009-10:

- In September 2009, the Agency stopped accepting Tier 4 applications from South China. It lifted this ban in November 2009 except for English language students, owing to difficulties in setting up secure English language testing.
- In October 2009, the Agency implemented its system of confirmation of acceptance for studies, which became mandatory in February 2010. Previously colleges gave their students 'visa letters' to prove they had a college place but entry clearance officers did not have time to verify these.
- In late 2009, the Agency started reviewing Tier 4 policy, announcing tighter rules from March 2010.
- In January 2010, the Agency suspended the licences of 80 colleges it suspected of poor recruitment practice; 15 were eventually removed from the register.
- In February 2010, the Agency stopped accepting new Tier 4 applications from North India, Nepal and Bangladesh due to a surge in numbers, while it reviewed existing applications. The ban was lifted fully in August 2010.
- Over the year, the Agency changed rules and guidance to combat fraud on four occasions, the most significant being clarifying what visa letters needed to contain (twice) and how the Agency would judge sponsors' performance of their sponsorship duties.



## Assessing the level of abuse of Tier 4 in 2009-10

**1.13** It is difficult to establish the level of abuse of the student visa system at any given time:

- **Entry controls.** It is not possible to predict accurately whether an individual will abide by his or her conditions of entry. Scrutinising documents, interviews by entry clearance officers and appeals are all different forms of credibility testing.
- **Activity monitoring.** Neither the Agency nor sponsors can monitor hundreds of thousands of students every day to make sure they are studying and not working. Also, because students are allowed to work part-time, the Agency's enforcement teams often cannot determine whether they are working legally or not.
- **Exit controls.** The Agency does not know, either on an individual or group basis, whether non-EEA students return to their home country. The e-Borders system, which can match entry and exit data on individuals, does not cover rail and sea routes or flights via other EU countries yet. The International Passenger Survey<sup>4</sup> provides a partial picture of student emigration. However, it does not capture students who are in work when they leave, which includes some 80,000 former students who switched into work through the post-study work route. This inhibits severely the Agency's ability to assess quickly the success of its control measures.

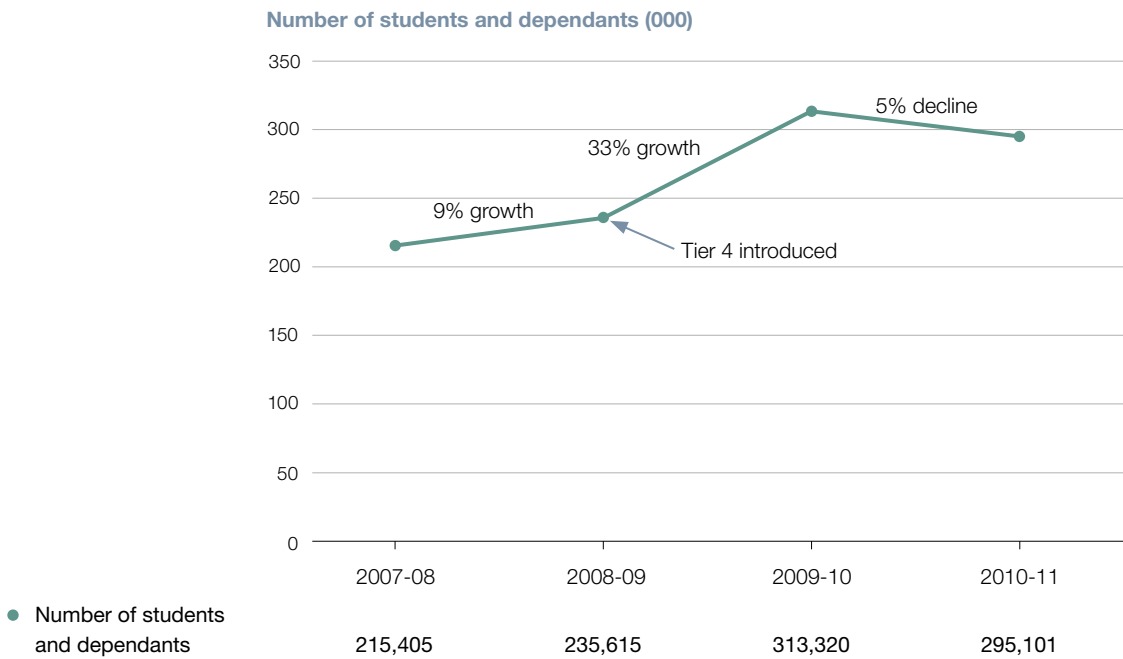
**1.14** The Agency granted one-third more student visas in the first year of Tier 4, an increase not explained fully by external economic changes, such as increased prosperity in some countries and movements in exchange rates. **Figure 3** overleaf shows the percentage change in student and dependant visas issued each year since 2007-08. We estimate, from the different indicators below, that the Agency issued some 40,000 to 50,000 Tier 4 visas in 2009-10 over what it might have issued had it delayed implementation until controls were fully in place:

- Removing entry clearance officers' powers to assess applicants' intentions led to a fall in the student visa refusal rate from 32 per cent in 2008-09 to 24 per cent in 2009-10. If the rate had remained at 32 per cent, 46,000 additional applicants would have had their visa application refused.
- The surges in applications in North India, Bangladesh and South China contributed some 50,000 students over the expected rate.
- In March 2010, the Agency estimated, based on random sampling of sponsor reports of students who failed to enrol or discontinued their studies, that there could be 40,000 non-compliant students in the UK.

<sup>4</sup> The International Passenger Survey, managed by the Office for National Statistics, interviews more than 250,000 people each year at ports to collect data on migration, travel spending and tourism. From 2012 it will include a question to those leaving the UK about their visa type on entry.

**Figure 3**

Number of visas issued to students and their families since 2007-08

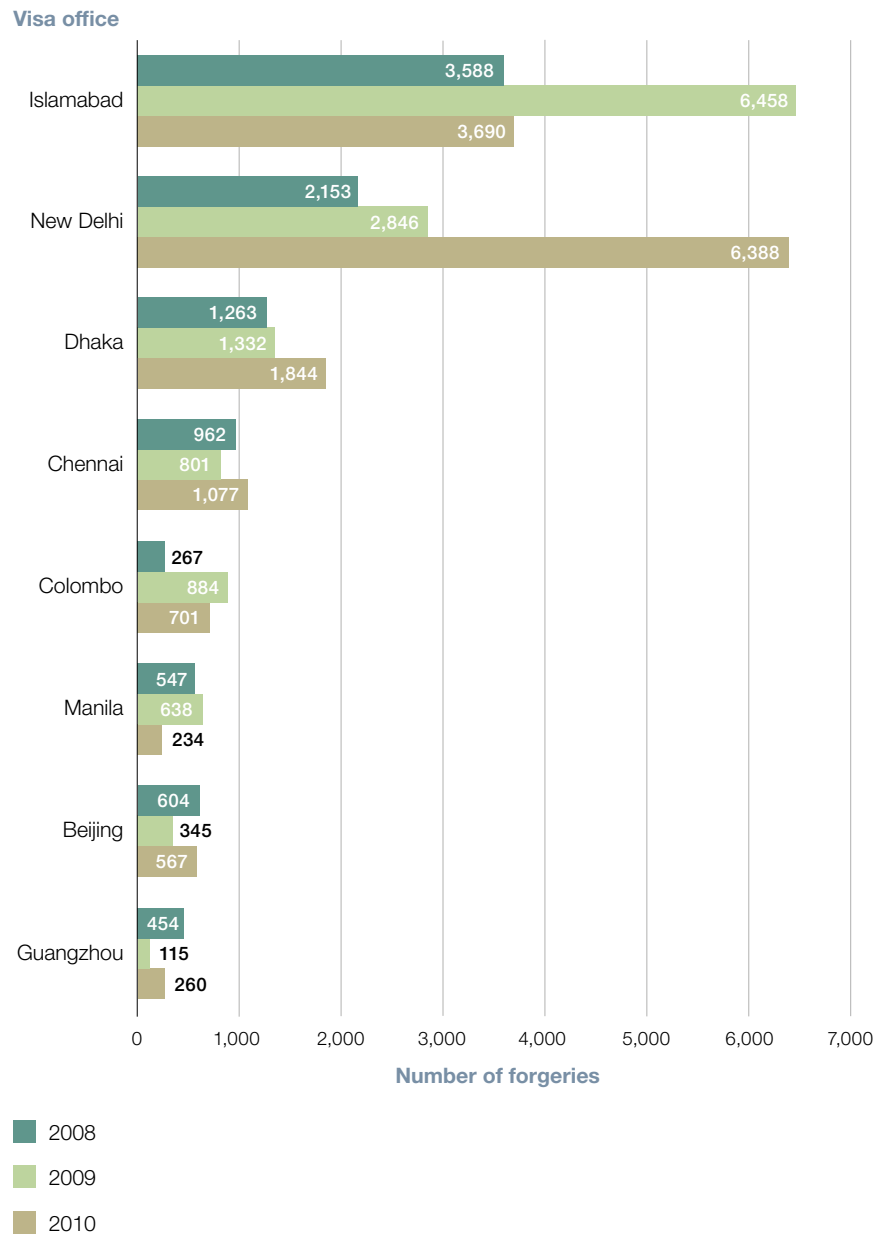


Source: National Audit Office analysis of UK Border Agency data

**1.15** Detected forgeries give a partial picture of the level of abuse. In 2010, the Agency detected forged documents in 2.5 per cent of Tier 4 visa applications, accounting for 41 per cent of all forgeries detected overseas. Most forgeries were supporting evidence, such as college visa letters, bank statements and educational certificates. Before 2010, the Agency did not collect data on the number of forgeries detected by type of visa, so we cannot compare Tier 4 forgeries with earlier years. We found, however, some significant swings in forgeries detected at particular overseas posts in 2009 and 2010 (**Figure 4**), which are likely to be associated with Tier 4. For example, the Agency detected more than 6,000 forgeries at New Delhi in 2010, a 124 per cent rise on 2009; 70 per cent were discovered through the Agency’s extra scrutiny of Tier 4 applications at that post (see paragraph 1.11). The Agency considers that the Points Based System allows it to detect more forgeries, as it requires applicants to submit educational certificates as an extra control to combat abuse.

**Figure 4**

Changes in number of forgeries detected by main visa offices through which students apply



Source: National Audit Office analysis of UK Border Agency data

## Part Two

### Strengthening migrant and sponsor compliance

**2.1** This part of the report assesses, in the context of the Agency's other priorities and the legal position:

- the effectiveness of the Agency's action, since March 2009, to identify and remove student overstayers and those working in breach of their conditions;
- the Agency's actions to enhance sponsor compliance; and
- the potential for improving control arising from planned improvements in strategy and IT capability.

### Tackling overstaying and illegal working

#### Creating a 'hostile environment'

**2.2** The Home Office strategy is to make it difficult for migrants without permission to be in the UK to live and work, to encourage those who are here to leave and to discourage illegal immigration. For example, in 2010-11 the Agency served 1,900 civil penalty notices on firms for employing people not entitled to work in the UK. Other strands of the strategy involve making it harder for overstayers and other illegal migrants to get benefits, a driving licence or to access the NHS and financial services. The Agency has piloted data-sharing approaches with HM Revenue & Customs, the Department for Work and Pensions, local authority housing departments and CIFAS (a national fraud database set up by the private sector). The Agency is also taking part in the National Fraud Initiative by sharing details of a limited set of people, including illegal immigrants and foreign national prisoners, against whom it is taking enforcement action to remove from the UK. Overall, however, the Home Office is not able to demonstrate how effective this approach is proving.

## Estimating the scale of the problem

**2.3** It is difficult to estimate how many of the people who entered the UK on a student visa since the Agency introduced the Points Based System are predominantly working. We found that in the 20 months between February 2010 and October 2011, sponsors notified the Agency on 62,000 occasions of students potentially in breach of their visa conditions, of which 23,000 notifications were about failure to enrol (**Figure 5**). The Agency is unable to tell us how many emailed notifications it received between April 2009 and January 2010 before its Sponsor Management System captured the data, but we estimate that if sent at the same rate as later notifications, it would have been some 30,000.

**2.4** Similarly, the Agency does not know how many overstayers are in the UK but it estimated, in 2007, that between 2.5 and 7.5 per cent of migrants across all visa types will overstay. Most overstayers come to the UK on visitor visas but students are the second largest group. As we reported previously<sup>5</sup> the Agency's management information showed, in March 2011, that it had made 181,000 refusal decisions in the UK since December 2008 where the applicant was potentially removable, that is, they had no further right of appeal. Of these, 17 per cent (31,000) were Tier 4 cases. The latest position, following quality assurance and matching against e-Borders exit data, shows 159,000 people, of all visa types, who could be subject to removal action.

### Figure 5

Sponsor notifications by type from 22 February 2010 to 31 October 2011

Notification type	Number of notifications
<b>Notifications which could indicate a breach of conditions</b>	
Student has failed to enrol on course within enrolment period	23,000
Sponsor has stopped sponsoring the student	19,000
Student has discontinued their studies	11,000
Student has missed 10 expected contacts without permission	8,000
Student may have breached the conditions of their leave	1,000
<b>Subtotal</b>	<b>62,000</b>
<b>Other notifications</b>	
Significant change in student's circumstances	40,000
<b>Total</b>	<b>102,000</b>

#### NOTE

1 Corrected to remove duplicate and superseded notifications.

Source: National Audit Office analysis of UK Border Agency data

5 Comptroller and Auditor General, *Home Office: UK Border Agency, Immigration: the Points Based System – Work Routes*, Session 2010-11, HC 819, National Audit Office, March 2011.

## Identifying and preventing breaches and overstaying

**2.5** The Agency does not have measures or targets which relate to preventing migrants overstaying and students working illegally. As a result teams making visa decisions overseas, casework and sponsor management teams in Sheffield, and local intelligence and enforcement teams each focus on their own priorities and targets. For example, the Agency took no action to check that students who gained their visas before it suspended applications in South China, North India, Nepal and Bangladesh (paragraph 1.12) were attending college, mainly because it estimated enforcing their removal would cost £440 million.

**2.6** The Agency relies on its enforcement teams to identify individuals during illegal working operations but these teams cannot remove students found working unless the Agency has first withdrawn their permission to stay in the UK (called ‘curtailing leave to remain’). The Agency has been slow to put resources to this task due to other priorities. It did not start routinely examining whether to curtail the leave of students in response to sponsor notifications until March 2011 and, in response to sponsors closing or losing their licence, until December 2011. By March 2012, it had curtailed the leave to remain of some 8,500 students, of which 5,600 related to sponsor notifications and some 2,000 related to sponsors giving up or losing their licences. In December 2011, we examined a sample of 204 notifications received from sponsors likely to indicate a breach of conditions. We found the Agency had considered curtailment in 55 per cent of cases and curtailed leave in 12 per cent, taking 213 days on average.

**2.7** The Agency’s enforcement action concentrates on removing failed asylum seekers and other priority groups, as well as tackling other issues such as preventing sham marriages. The Agency’s other priorities, and its failure to curtail student leave, mean that the Agency has removed only 2,700 students since 1 April 2009. **Figure 6** sets out the number of students removed by removal type.

**Figure 6**  
Students removed by year

Removal type	2009-10	2010-11	2011-12 to 31 December	Total
Enforced	32	116	155	<b>303</b>
Assisted voluntary returns	37	143	80	<b>260</b>
Voluntary departure (e.g. where the Agency holds the passport)	460	1,116	561	<b>2,137</b>
<b>Total</b>	<b>529</b>	<b>1,375</b>	<b>796</b>	<b>2,700</b>

**NOTE**

1 Excludes students identified leaving the UK through data matching, which amounted to 5,541 over the three years.

Source: UK Border Agency

## Encouraging overstayers to leave

**2.8** Our previous report found that the Agency took consistent action to try to prevent refused migrants in the UK from overstaying in only one of its six regions. This is still the case for Tier 4 refusals. Since 1 April 2009, some 60,000 students and their dependants in the UK have had their applications to extend their leave to remain or switch into Tier 4 refused (**Figure 7**), of which the Agency calculates there is no legal impediment to removing 25,000. The Agency will usually have up-to-date contact details for these students and may hold their passport, which makes removal easier. The North East, Yorkshire and the Humber region, which accounts for 5 per cent of Tier 4 refusals, takes all refusal files for the region and contacts applicants by phone and letter to remind them to leave. Its results have shown that contact management is a successful way to conclude cases. Between November 2007 and December 2011, the region attempted to contact almost 10,000 refusal cases across all entry routes, with the result that some 3,500 individuals have left and 4,700 remain in the UK legitimately. Where people have moved, the team attempts to locate them using data from public sector sources; predominantly DVLA, HM Revenue & Customs, Department for Work and Pensions and the NHS. If people do not respond it requests the local enforcement team to visit but this depends on whether the request fits with local priorities.

### Figure 7

Applications made in the UK to switch to or extend leave in Tier 4 refused up to 31 December 2011

Region	Refusals	
	Total	Percentage of Tier 4 refusals
London and the South East	40,857	68
Midlands and East of England	8,324	14
North West	3,864	6
North East, Yorkshire and the Humber	2,862	5
Wales and the South West	2,141	4
Scotland and Northern Ireland	1,606	3
Unknown	56	0.1
<b>Grand total</b>	<b>59,710</b>	<b>100</b>

#### NOTE

1 Figures may not total due to rounding.

Source: UK Border Agency

**2.9** In other cases, the Agency provides a report to regions listing refusals and sends the files to storage. Local enforcement teams take cases out of storage as and when they have time but the Agency cannot provide data on how many refusal cases it has attempted to contact. The Agency has recently dispersed its refusal case files to its regions and we have been unable to ascertain how many and where they are. The case files include an unknown number of passports belonging to foreign nationals with no right to remain in the UK. In January 2012, the Agency contracted with a commercial partner to pilot the contact management approach in London and the South East, where most refused applicants live (Figure 7), to ascertain the cost and effectiveness of rolling this approach out to other areas.

**2.10** We examined whether the Agency uses the most efficient and effective methods for locating people. We commissioned a specialist company to trace, using commercial databases and software, those individuals which the North East, Yorkshire and the Humber team had looked for without success. The Agency provided the names, dates of birth and last known addresses for 812 individuals it could not locate. At a cost of £3,000 and within one week our expert found addresses for 147 (18 per cent) including 24 per cent of the student sample (Figure 8). A quarter of those traced had moved to a different region indicating the importance of joined-up action across regions. The Agency is in the process of checking how many of these individuals are to be found at their new location and whether they may be removed legally, but is not yet sure that the approach is contributing significant new intelligence.

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### Figure 8

Results from electronic tracing exercise

Migrant type	Number traced	Number in population	Percentage traced
Tier 4	39	165	24
Other	108	647	17
<b>Total</b>	<b>147</b>	<b>812</b>	<b>18</b>

#### NOTE

1 Other includes Tiers 1, 2 and 5 of the Points Based System, Human Rights claims and those outside the rules.

Source: National Audit Office

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## Improving sponsor compliance and reducing abuse

**2.11** The Points Based System is designed around the role of sponsors. To be effective, the Agency must:

- grant licences to educational institutions that sponsor only genuine students who comply with their visa conditions; and
- monitor sponsors effectively through compliance visits, management information and intelligence.

### Sponsor licensing

**2.12** On 31 January 2012 there were 2,125 licensed sponsors. The Agency carries out a series of checks on colleges before awarding a sponsor licence. Since July 2009, it has visited colleges and universities before granting a sponsor licence. It also examines:

- the background of the authorising officer (the college official accountable for the licence) against immigration records, the Police National Computer and the insolvency register;
- the college's accreditation;
- planning consent; and
- the Agency's past dealings with the college.

**2.13** There are weaknesses in the Agency's procedures. The authorising officer does not have to be the owner of the college or provide any form of identification. Sponsor licences last for four years and there is no requirement to reapply if the sponsor changes ownership, although sponsors should report the change to the Agency. Some Agency investigations have uncovered individuals suspected of immigration offences acting behind the scenes as beneficial owner or operator of colleges. More recently, individuals have bought colleges with an existing allocation of confirmations of acceptance for study.

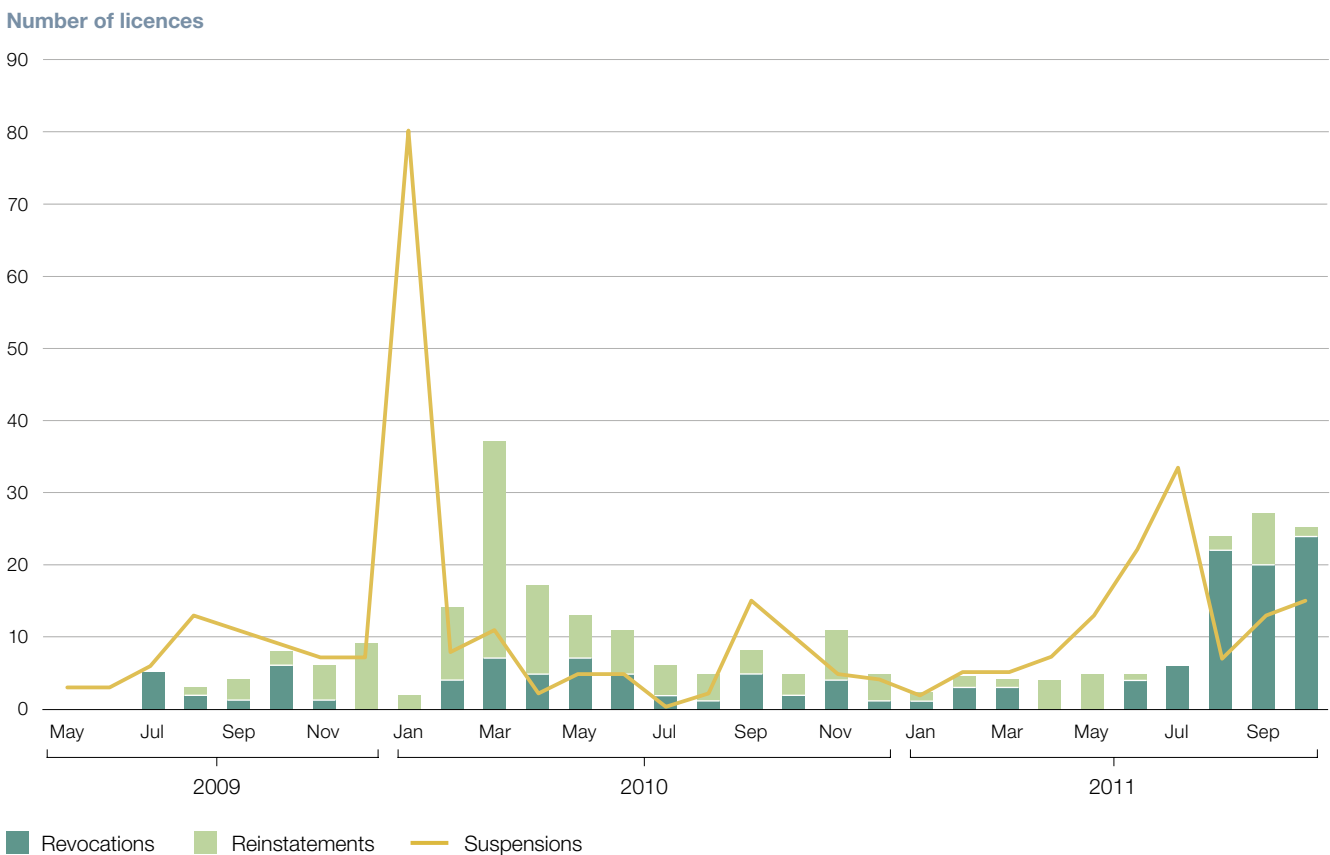
**2.14** On 1 April 2009, when sponsors became responsible for determining whether students are genuine, the Agency had visited only 443 (30 per cent) of the 1,472 Tier 4 sponsors, although most will have been visited by their accrediting body. Between April and July 2009, in response to a commitment by the then Home Secretary, the Agency visited the remaining 1,053 Tier 4 sponsors. Through this intensive effort, it suspended 25 colleges from the sponsor register, an estimated 15 of which had their licence revoked. At that time, the Agency's compliance officers, based in local immigration teams, had no training or experience in inspecting educational institutions.

### Sponsor management

**2.15** The Agency is not making full use of its intelligence to target visits effectively. Staff in local immigration teams told us that they do not tend to share information with the central sponsor intelligence unit. Also, forwarding of intelligence acquired by immigration officers at the border is patchy. The Agency uses local intelligence to target post-licence visits at sponsors it believes are high risk and around 40 per cent of visits are unannounced.

**2.16** Where a sponsor is not meeting its sponsorship requirements, the Agency can suspend the sponsor licence pending revocation or reinstatement. **Figure 9** shows the numbers of Tier 4 licences suspended, revoked and reinstated by month. The Agency suspended 80 sponsor licences in January 2010, in response to intelligence and compliance visits but reinstated 65 after further representations by sponsors and further visits. In May and June 2011 the Agency investigated colleges associated with a surge in applications before implementing new English language conditions. The visits led to an increase in suspensions and subsequent revocations.

**Figure 9**  
Sponsor licences suspended, revoked and reinstated by month



Source: National Audit Office analysis of UK Border Agency data

## Plans to improve compliance and sponsorship

### Inspections and management information

**2.17** Our previous report found failings in the inspection regime of Tiers 2 and 5 sponsors. Since then the Agency has made significant changes including:

- annual National Compliance Officer conferences;
- a new guidance and visit report format;
- central tasking of some visits;
- compliance officers to wear uniform; and
- regional targets for visits and new training package to be developed, from January 2012.

**2.18** We found previously that the Agency did not have a central database showing the numbers and outcomes of visits to work-route sponsors. This is also the case for Tier 4 sponsors. The Agency can tell when it has visited Tier 4 sponsors, using a range of separate databases, but cannot show that all have been visited or provide other information on the outcome of visits. The Agency aims, by April 2012, to be able to monitor visits centrally following an upgrade of its sponsor management system.

**2.19** The Agency has been rolling out a new casework system, the Immigration Case Work programme since 2009. When completed, this will put UK and overseas application processing work on the same platform for the first time and provide opportunities to manage information better and track migrants more efficiently. The Agency intends, for example, that the system will allow it to contact students automatically when their leave expires to remind them to leave or apply for an extension.

### Strategy

**2.20** The Agency produced its first fully documented temporary migration strategy in December 2011, including sub-strategies on compliance and sponsorship. The strategy aims to lay the foundations for improving compliance and sponsorship, but does not include the means to measure outcomes. On compliance, the Agency is determined to take action where there are known breaches and to increase compliance. On sponsorship, it wants to do more to promote economic growth and reduce the number of sponsors and successful court challenges. A recent initiative under the strategy is an operation to contact and remove some 250 student overstayers by April 2012.

**2.21 Figure 10** and **Figure 11** set out how the strategy aims to deliver against these goals. Some objectives do not yet have target dates because they depend on other policy developments and delivering new IT systems successfully.

## Figure 10

How the Agency will deliver its compliance sub-strategy for migrants and sponsors

Delivery area	Objective	Date
Communications	The new casework IT system to automatically inform migrants of their leave date three times.	Unspecified
	Develop communications plan to promote compliance.	End 2011
	Communicate with sponsors every six months to tell them about activities.	Unspecified
Reporting	Improve sponsor notification fields to be able to act on all notifications.	April 2012
	Produce risk profiles and build new casework IT business rules around risk.	Unspecified
	Develop more open and transparent working between intelligence and operational teams.	End 2011
Sponsorship	Enhanced educational oversight.	December 2012
Disruption or environment	Improve IT to record bans effectively.	Unspecified
	Automatic curtailment of leave to remain after sponsor notifications and improved processes for curtailing leave when sponsor licence revoked.	Unspecified
	Give employers online method to check the right to work of potential employees.	February 2012
	The Driver and Vehicle Licensing Agency requires minimum six months' leave to issue a driver's licence. Work to revoke a driver's licence when migrant not lawfully in UK.	Unspecified
	Consider requirement for mandatory health insurance.	Unspecified
Enforcement	Extend approach of contacting in-country refused applicants through piloting the use of a commercial partner in London and the South East region.	January 2012
	Overstayers working group.	December 2011
	Improve IT to show reasons for removal and route of entry.	End 2012
	Continue roll-out of e-Borders.	Unspecified

### NOTE

1 Items specific to non-students omitted.

Source: UK Border Agency

**Figure 11**

## How the Agency will deliver its sponsorship sub-strategy

<b>Delivery mechanism</b>	<b>Objective</b>	<b>Date</b>
Policy changes	Reduce the number of Tier 4 sponsors by 20 per cent.	April 2013
	Enhance the Highly Trusted Sponsor status by considering additional criteria.	July 2012
Improving sponsor management	Minimum productivity objectives, full job description, guidance, risk assessment and codes of conduct for compliance officers.	April 2012
	Target compliance activity, drawing on third party auditors where appropriate.	July 2012
	All compliance officers to complete 16 visits a month.	April 2012
	Review effectiveness and further develop centralised tasking strategy.	March 2012
Customer service enhancements	Produce a visit strategy document.	December 2011
	Review stakeholder engagement events for participation and outcome.	December 2011
	Achieve customer service excellence.	April 2012
Reviewing fee levels and costs	Accurate and more up-to-date information provided to customer service teams.	April 2012
	All staff to wear full uniform for visits.	April 2012
	Develop sponsorship charging strategy to recover all costs.	April 2012
Promoting growth agenda	Sponsorship renewals fee to cover compliance activity.	April 2012
	Launch business, investment and growth team.	January 2012

**NOTE**

1 Objectives focused solely on non-Tier 4 sponsors omitted.

Source: UK Border Agency

# Part Three

## Creating a cost-effective and well-regulated student migration system

**3.1** This part of the report assesses the extent to which the Home Office's implementation of migration policy is likely to lead to a system that is effective for taxpayers and low cost for educational businesses. It does not include an assessment of wider economic costs and benefits, which has been the subject of a recent report from the Migration Advisory Committee.<sup>6</sup>

**3.2** Under the Points Based System, the direct beneficiaries of student immigration, educational institutions, became responsible for recruiting students who would comply with their visa conditions. The Agency became responsible for regulating educational institutions with regards to their non-EEA students.

**3.3** Current government policy aims to reduce overall annual net migration to 'tens of thousands' by the end of the parliament. It also aims to reduce regulation and improve the way it is enforced. The Home Office reviewed the student route in late 2010 and concluded that the rules needed strengthening because of evidence that a significant proportion of students come to the UK intending to stay permanently. The objectives of the revised policy are to:

- reduce the areas of the student route that are prone to abuse;
- reduce net migration;
- improve selectivity of students to the UK, to make sure they are the brightest and the best and make the highest economic contribution;
- restore public confidence in the immigration system; and
- ensure that the system is robust and practical to enforce (**Figure 12**).

<sup>6</sup> Migration Advisory Committee, *Analysis of the impacts of Migration*, January 2012.

**Figure 12**

Changes in conditions affecting Tier 4 sponsors and students introduced in 2011

<b>Sponsor condition</b>	<b>2010</b>	<b>2011</b>
Highly Trusted Sponsor status	Optional	Mandatory from April 2012
Educational oversight	Accreditation by UK Border Agency-approved body	Inspection by statutory body
Work-to-study ratio	Work placement up to half of course length	Except universities, work placement up to a third of course length from April 2012
<b>Student condition</b>		
English language	Further education students must prove English language ability appropriate to their course level	English language requirements extended to higher education. All students must meet higher (B2) level from 21 April 2011
	From 12 August 2010, secure English language testing at intermediate (B1) level for further education students required	Eleven-month student visitor visa introduced for English language study outside Tier 4
Academic progression	No requirement	Sponsor to verify academic progression for migrant to extend Tier 4 leave to remain
Length of stay	Below degree level	Three years
	Degree level and above	No limit
Permission to work	Foundation degree level students allowed paid work up to 20 hours a week during term; ten hours a week for students on lower-level courses	Students at private further education and English language colleges not allowed to work during term
Nationality	No difference in treatment	Lower forms of evidence required for applicants from some countries

Source: National Audit Office

### Likely effectiveness of new controls

**3.4** We consulted sponsors about their readiness to implement the new controls, the Agency's support for this and to gather views on the impact of the new rules on educational institutions. The views expressed are those of the 618 colleges which responded (26 per cent) and should not be assumed to represent all sponsors.

**3.5** Most sponsors are adapting to the new regime and applying for educational oversight and Highly Trusted Sponsor status where they do not already have these. Only a small percentage of respondents said they would be unlikely to meet the new requirements. We judge it likely, therefore, that the new rules will reduce abuse because colleges have greater motivation to recruit students who attend class and complete exams.

**3.6** It is, however, inherently difficult to assess the effectiveness of prevention measures. The Agency uses quantitative information, such as the number of forgeries detected and qualitative intelligence from its overseas, border and enforcement networks to get a picture of problem areas. Once the e-Borders and Immigration Case Work programmes are rolled out fully it will be in a better position to assess the effectiveness of its control systems.

### Minimising the burden on educational institutions

**3.7** We assessed how well the Agency's implementation of the new measures to control international students matches up against the Regulators' Compliance Code. The statutory code expects regulators to perform their duties in a business-friendly way, by planning regulation and inspections so they cause the least disruption to the economy. **Figure 13** sets out the Agency's new measures against the principles of the code and these are explored further in the sections below.

#### Using risk assessment fully

**3.8** The focus of the policy redesign is to bear down on those types of colleges, courses and students that are more prone to abuse. In developing the new controls, the Agency brought together and analysed the information it had available. It had not, however, collected enough information to discriminate between high-, medium-, and low-risk colleges and students. For example, the Agency had not analysed the information supplied by colleges, through the Sponsor Management System, about individual students or analysed reports from compliance officers. It had therefore to make broad assumptions about the risk posed by different sectors of the education system. Based on non-representative data, it concluded that 26 per cent of students at privately funded further education colleges were 'potentially non-compliant'.



**Figure 13**

## How the Agency's programme to tighten Tier 4 measures against the Regulators' Compliance Code

Principle	NAO assessment of Home Office performance	Reasoning and evidence
Using risk assessment fully	Not compliant	The Agency cannot demonstrate that the new controls are wholly risk-based. It did not collect data that would allow it to distinguish adequately between high-, medium-, and low-risk colleges.
Providing clear information and advice	Partially compliant	A third of respondents to our consultation said the Agency did not provide the support they needed to implement the new rules.
Inspecting in accordance with risk	Not known	The Agency has not yet constructed a valid risk assessment system to guide its inspections (see paragraph 2.15).
Minimising data requirements and record keeping	Partially compliant	The Agency has not been clear about what data it expects sponsors to maintain.
Proportionate and effective compliance and enforcement action	Not compliant	The Agency has found it difficult to maintain a predictable compliance response due to policy changes.
Increased accountability for actions	Not compliant	The Agency lacks a transparent and timely complaints process for sponsors.
Supporting economic progress	Not compliant	As yet, the new measures do not support economic progress. It is not only poor-quality colleges that are being adversely affected.

**NOTE**

- 1 A statutory code of practice for regulators, but not applying to central government departments and agencies, under the Legislative and Regulatory Reform Act 2006.

Source: National Audit Office

**3.9** The Agency reviewed its criteria for Highly Trusted Sponsor status in spring 2011 and established new, more flexible criteria that it considers most sponsors should be able to meet (**Figure 14** overleaf). It did not have the data to model how well the criteria might work in practice. It does not know how realistic its assessment is nor whether these criteria will allow it to trust sponsors, particularly as sponsors report their own performance on course completion and attendance to the Agency. Neither has the Agency modelled how all the additional requirements it has introduced will interact with each other to impact on student numbers within the context of each type of educational provider.

**3.10** The Agency cannot demonstrate that the new controls are wholly risk-based. For example, the Agency's research showed that universities have a low rate of non-attendance compared with other types of colleges. Nevertheless, the Agency imposed new English language test requirements on universities at short notice. Universities had to sift through offers already made to identify which students needed to take the new test.

**Figure 14**  
Criteria to become a Highly Trusted Sponsor

<b>Automatic qualification</b>	<b>2010</b>	<b>2011</b>
	Subject to statutory educational inspection and publicly funded	Already Highly Trusted, independent school

<b>Mandatory requirements (unless qualified automatically)</b>	<b>2010</b>	<b>2011</b>
Minimum qualifying period	6 months A-rated	12 months
No civil penalties	3 years or more	3 years or more
Refusal rate	Practices to minimise	< 20 per cent
Enrolment rate	> 98 per cent	> 90 per cent
Course completion rate	> 97 per cent	> 85 per cent
Academic progression	Monitoring requirement only	100 per cent progression

<b>2011 additional criteria</b>	<b>Refusal rate (%)</b>	<b>Points deducted</b>
If a sponsor passes the mandatory requirements, they are assessed against a points table to determine their general level of compliance. A sponsor starts with 100 points and the pass mark is 70 points or above.	< 5	0
	5–10	5
	10–15	10
	15–20	20

	<b>Enrolment Rate (%)</b>	<b>Points deducted</b>
	> 98	0
	96–98	5
	93–96	10
	90–93	15

	<b>Course completion rate (%)</b>	<b>Points deducted</b>
	> 98	0
	95–98	5
	90–95	10
	85–90	15

Source: National Audit Office

**3.11** On the positive side, in July 2011 the Agency revised its approach to assessing risks in Tier 4 applications by introducing ‘differentiation agreements’ for low-risk students. Nationals from 14 countries, including Canada and the United States of America, applying to study at an institution with Highly Trusted Sponsor status no longer have to provide evidence of their qualifications or financial resources when applying under Tier 4. However, they do need to have this documentation available if requested or their visa application can be rejected.

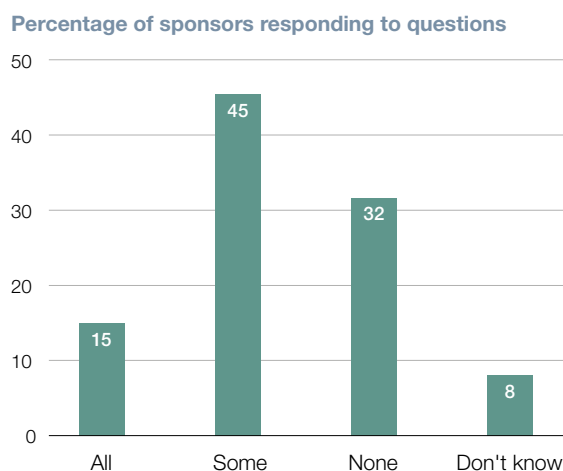
### Providing clear information and advice

**3.12** The Agency set a challenging timetable to implement the new rules to improve control quickly. Inevitably, the speed of change and the complexity of the task meant that there was limited time to consult with external stakeholders. The Agency did not work through all the detail of how the new rules would impinge on educational bodies as early as stakeholders would have liked.

**3.13** **Figure 15** shows that the majority of respondents to our consultation said the Agency provided some or all of the support they needed to implement the new rules; a third, however, said the Agency provided none of the support they needed. Two-thirds provided us with instances where they thought the Agency could have provided better support. The main issues were unclear guidance, lack of or slow response to queries and lack of industry knowledge. Private colleges and English language schools were most likely to say they had received none of the support they needed. Independent schools were most likely to say they had received all of the support they needed.

**Figure 15**  
Responding sponsors' view of the Agency's support

“Is your institution getting all, some or none of the support it needs to implement the changes?”



**NOTE**

1 Percentages relate to the 612 sponsors who responded to this question.

Source: National Audit Office sponsor consultation

**3.14** Many sponsors cited phoning Agency helplines to find that staff could not answer their particular query. Other issues were:

- errors made by entry clearance officers who did not understand the new rules;
- timing and frequency of policy changes;
- inefficiency and lack of user-friendliness of the Sponsor Management System; and
- uncertainty about how the Agency would interpret certain sponsor conditions, such as the standard of attendance monitoring colleges would be expected to implement.

**3.15** Other elements of controls were introduced without enough consideration for partner organisations. The Department announced, for example, in March 2011 that all private colleges and English language schools would need to be inspected and receive a satisfactory judgement on their educational standards by the end of 2012. The Department, however, did not consult some of the UK's inspection bodies before the announcement. Inspectorates in Wales, Scotland and Northern Ireland needed legislative approval to take on the work because they have no powers to charge fees. Estyn, the Wales Inspectorate, declined the role. The Scottish Parliament is currently considering a Bill to give Education Scotland the powers it needs and in Northern Ireland, the Education and Training Inspectorate is waiting for ministerial approval. As yet, sponsors do not know exactly how much the educational oversight regime will cost over time and whether there is parity of standards across the different inspectorates.

### Minimising data requirements and record keeping

**3.16** The Agency has not been clear about what data it expects sponsors to maintain. For example, the Agency's guidance says sponsors should record students' attendance and absence, either electronically or on paper. Sponsors and compliance officers must decide how to interpret this, creating the potential for inconsistent application of standards. Sponsors are also unclear on how to evidence the new academic progression requirements.

**3.17** The numerous revisions to Tier 4 have, in general, increased the complexity of the system for Agency staff, students and sponsors. Guidance to staff on processing student visa applications is now 100 pages long, guidance to applicants is 80 pages and guidance to sponsors is 75 pages, plus appendices. By contrast, the guidance to applicants for a 6-, or 11-month student visitor visa is eight pages.

### Proportionate and effective compliance and enforcement action

**3.18** The Agency has found it difficult to maintain a predictable compliance response due to policy changes. Its current stance is less flexible than previously. For example, it capped the number of students that sponsors not already subject to statutory educational oversight could recruit. It did not make exceptions to this rule, for example for newly established colleges, Highly Trusted Sponsors or those whose courses are university-validated.

**3.19** A further impact of the Agency's inflexibility over confirmations of acceptance is on students whose colleges have closed in recent months. Many are unable to find another college to continue their studies as the 70,000 available places are mostly for higher level courses than those the students were taking. The Agency is aware of more than 5,000 students in this position.

### Increased accountability for actions

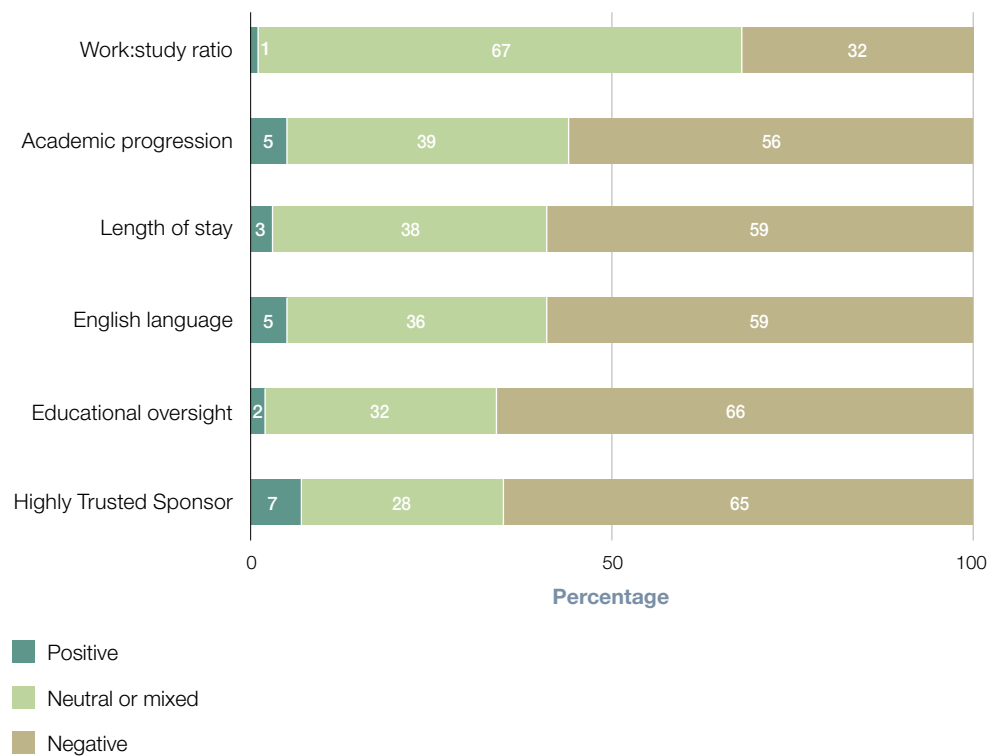
**3.20** The Agency states that its intention is to reduce student numbers through reducing abuse. However, it is not only potentially poor-quality colleges that are being adversely affected by the new rules. Colleges that the Agency would regard as low risk and high quality, such as a theological college, music conservatoire and a flight training school, told us that the new rules are harming their businesses.

**3.21** Colleges' right of appeal is through seeking a Judicial Review against a refusal of their application for Highly Trusted Sponsor status, without which they will not be able to teach non-EEA students. The Agency's complaints system could be improved. While some sponsors reported getting Agency mistakes corrected quite easily, others have pursued an escalating process of phone calls, letters, legal threats, letters via MPs and court action to obtain remedy for Agency errors.

### Supporting economic progress

**3.22** We analysed responses to our sponsor consultation by whether they were positive, negative, neutral or mixed about the impact of the changes (**Figure 16** overleaf). Few saw benefit to themselves in the changes. Only 4 per cent of responses were wholly positive. Potential benefits included improved border control and enhanced reputation, student quality and motivation.

**Figure 16**  
Respondents' views of the impact of changes on their institution



#### NOTES

1 Highly Trusted Sponsor refers to requirement for all sponsors to become Highly Trusted.

2 Based on 617 consultation responses to this question.

Source: National Audit Office sponsor consultation

**3.23** According to our consultation, all education sectors expect to be adversely impacted by at least one of the new controls. **Figure 17** shows which changes respondents are most negative about and which educational sectors expected to be impacted most. The results show that all sectors expect one or more of the changes to impact negatively on their business.

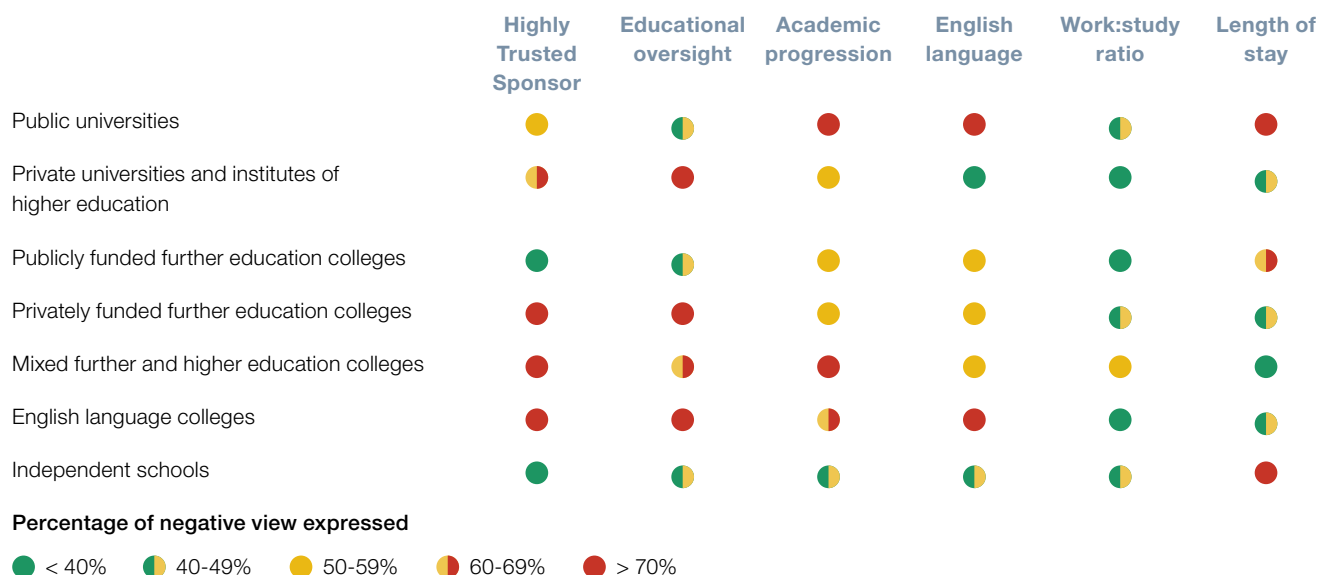
### Cost to educational institutions

**3.24** The Department published its impact assessment on the reform of the student immigration system in June 2011.<sup>7</sup> The assessment reviewed the costs and benefits of the policy, how it affected those subject to the changes, and the wider economic, environmental and social impacts. Where accurate data are not available, departments should employ reasonable assumptions. In this instance, the independent Regulatory Policy Committee gave the impact assessment an amber rating because of uncertainty in estimates of costs and benefits.

<sup>7</sup> Home Office, *Reform of the Points Based Student (PBS) Immigration System*, 1 June 2011.

**Figure 17**

Changes that consulted sponsors are most negative about by educational sector

**NOTES**

1 Highly Trusted Sponsor refers to requirement for all sponsors to become Highly Trusted.

2 Between 9 and 76 qualitative responses represented in each cell.

Source: National Audit Office sponsor consultation

## Administrative burdens

**3.25** Government policy says each new regulatory burden must be matched by a reduction elsewhere, called ‘one-in-one-out’. We examined the key assumptions the Department made about the costs and benefits of the changes to education providers. The Department estimated the net direct cost to education providers (costs less benefits) of changes to Tier 4 was £25.5 million a year. We found the Department underestimated the financial impact on sponsors in the following ways:

- The Department included a one-off cost of £25 per sponsor for familiarising themselves with the new rules. Sponsors told us that the true cost was at least £500 for staff to read the guidance and more if the cost of attending training seminars was taken into account.
- The assessment did not include the cost of applying for educational oversight and meeting the inspectorates’ standards. The application cost for this varies, depending on the size and sector of institution, from around £9,000 to £20,000 in the first year. Implementation costs can add a further £10,000.
- The cost of the additional administrative work arising from new requirements was not included, such as checking English language test results, monitoring performance against Highly Trusted Sponsor standards, evidencing attendance and communicating rules to staff and students.

**3.26** The Department also assumed that colleges that lost their sponsor licence would be able to replace four out of five non-EEA students with domestic and European students. Private colleges and English language schools told us that there is little domestic and European Union market for the courses they offer. We estimate the extra regulation placed on colleges could result in an additional £40 million direct cost to sponsors.

### Loss of income

**3.27** The Department expected that student numbers would fall as colleges came off the list of licensed sponsors for not meeting the new standards. It estimated the following impact of the reforms on the number of Tier 4 applications in 2013-14:

- Mandatory Highly Trusted Sponsor status would reduce applications to study with private sector bodies by 67,000 (70 per cent).
- Raised English language requirements would reduce applications to study at publicly-, and privately-funded further education colleges by a further 5,000.
- Restrictions on work entitlements, educational oversight and raising the minimum study-to-work ratio would not affect the number of applicants.

**3.28** We estimate that if the Department's assumptions proved correct, the profit lost to sponsors who lose their licence would be, conservatively, some £30 million annually.<sup>8</sup> Many organisations representing educational institutions expect the impact to be far greater, largely because of the effect of the loss of work rights on private sector colleges and the closure of the post-study work route on universities. We analysed sponsors' responses to our consultation to estimate the seriousness of the impact sponsors said they are feeling. Twenty-six per cent of respondents said falling competitiveness was an issue for their institution. This varied by sector with just under half of respondents from English language and private further education colleges, and a quarter of higher education institutions, mentioning falling competitiveness (**Figure 18**).

<sup>8</sup> Assumptions include 240 private further education colleges removed from the sponsor register; most English language colleges divert to the student visitor visa route; average annual intake for private colleges is 116 students and profit per student is £1,000 a year.



**Figure 18**

Number of responding sponsors concerned about the competitiveness of their institution

<b>Education sector</b>	<b>Total respondents by sector</b>	<b>Number of respondents concerned about competitiveness (%)</b>
English language colleges	98	47 (48%)
Privately funded further education colleges	59	27 (46%)
Mixed further education or higher education colleges	40	14 (35%)
Private universities and institutes of higher education	100	30 (30%)
Publicly funded further education colleges	52	13 (25%)
Public universities	85	17 (20%)
Independent schools	171	12 (7%)
<b>Total</b>	<b>605</b>	<b>160 (26%)</b>

**NOTE**

1 Excludes 'others'.

Source: National Audit Office sponsor consultation

# Appendix One

## Methodology

Below is an overview of the methods used. A full methodology appendix can be found at [www.nao.org.uk/points-based-immigration-2012](http://www.nao.org.uk/points-based-immigration-2012).

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<b>Method</b>	<b>Purpose</b>
Document review and analysis of management information	To develop our understanding of Tier 4
Interviews with Agency staff	To gather information on how the Agency operates in relation to Tier 4 policy objectives
Sponsor consultation, forum and visits	To ascertain views of sponsors on the new controls and their readiness to implement them
Focus groups of non-EEA students	To gather views of students on the changes to Tier 4
Stakeholder consultation	To assess the readiness of the education oversight bodies and the Agency's approved English language testing contractors to implement the new controls
Migrant tracing exercise	To ascertain whether there are other effective methods the Agency could use
Observed Agency processes including compliance and enforcement visits	To understand the Agency's processes

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