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COMPTROLLER AND  
AUDITOR GENERAL**

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**Home Office: UK Border Agency**

# Immigration: The Points Based System – Student Route

## 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.