

CaSE Opinion Forum on Immigration Policy

16th April 2014

Over forty CaSE members and collaborators met with the Home Office in January 2014 at the offices of Fragomen, the world's leading immigration law firm, to discuss on-the-ground experiences of UK immigration policy and its impact on the ability of these organisations to do their work. You can read a PDF copy of this summary [here](#).

The meeting is one of a series of CaSE Opinion Forums over the coming year, to develop policy work and manifesto recommendations in the run-up to the 2015 General Election and subsequent Spending Review.

Summary

Topics covered included:

- Government policy and the current state of the UK immigration system
- What's working well
- What's not working well
- Academic visas and visitor routes
- Administration and logistics
- Messaging and perception
- How the UK compares with other countries
- The tier 1 'exceptional talent' route

Heading the discussion:

Dr Sarah Main, Director of the Campaign for Science and Engineering (CaSE)
John Thompson, Head of Migration Policy at the Home Office
Caron Pope, Partner at Fragomen Law Firm
Ian Robinson, Manager at Fragomen Law Firm

In attendance: over 40 CaSE member organisations and key partners

Government policy and the current state of the UK immigration system

The Home Office set out the Government's priorities on immigration, which are as follows:

1. Reduce net migration, as set out in the Coalition Agreement. There is increasing pressure on this policy priority, as recent figures show net migration is rising (Source: Office for National Statistics).
2. Economic growth that benefits the UK.
3. Remove abuse from the system
4. Remove back-log from the system.

Fragomen summarised their analysis of the performance of the UK immigration system, which they found performs favourably overall when compared to its international competitors. The UK system, with its largely salary-based criteria, is considered fairer and more objective than those systems currently in use by Germany and France.

The UK immigration system is quicker than most competitors, and can usually issue a work visa in less than 15 days. Singapore remains the exemplar, thanks to its light touch regulation, and can issue a work visa in less than five days.

However there are still major concerns over the current UK immigration system. Complications in the immigration system mean the UK risks losing out to its international competitors - a similar situation which the United States faced several years ago.

The Government has made a number of concessions to the science and engineering sector since May 2010. These are in large part thanks to the work of CaSE and others in highlighting potential risks to the sector from the government's immigration reforms. These concessions include:

- Scientists and engineers are now given priority through the Tier 2 visa system in the case of the immigration cap being reached, ahead of virtually every other job in the UK labour market.
- Scientists and engineers are now exempt from the £35k earnings threshold, which prevents workers in other sectors from seeking permanent residency in the UK.
- The Tier 4 Doctorate Extension Scheme (DES) has been created as a replacement for the Post-Study Work Visa and provides PhD students with an additional 12 months to look for and start work in the UK.
- Scientists have now been removed from the Resident Labour Market Test (RLMT), meaning that exceptional scientists from outside the EU can be employed ahead of a UK-resident and without having to advertise in Jobs Centre Plus, as the RLMT requires for other job types.
- There is now increased flexibility towards academic visitors and named-researchers.

What's working well

CaSE members and collaborator organisations recognised a number of positives:

- Significant improvement in post-doctorate recruitment, in particular due to the timescale extension from 6 to 12 months for applying for a Tier 2 certificate of sponsorship
- Exemptions for named researchers on grants working well
- Indefinite leave to remain for PhD-qualified individuals is providing valuable reassurance for applicants and funders who make long-term commitments to research projects
- Operational improvements in the application process including the biometric card system, the service of the visa centre in Croydon, and the premium visa application service (although it is expensive)

What's not working well

Attendees noted a number of areas which were not working so well for them. These are listed below and more detail is provided on some areas in subsequent sections.

- Application process: frequent changes to guidelines, surrender of passport for up to two months, lack of help in use of website, automated telephone system with no feedback, large administrative burden on smaller institutions
- Academic exchange: concern about losing key specialists to other countries e.g. USA, barriers to academic exchange and collaboration, conference attendance, complexity of academic visitor routes, concern over 'impression of suspicion' from UK visa process that may be off-putting to eminent and wanted visitors

Academic visas and visitor routes

The academic visitor visa routes were found to be complex. A number of institutions reported administrative and logistical problems with arranging conference visits by foreign academics. The process was deemed to take too long, up to three months. There was broad agreement that invited speakers are required to provide a disproportionate amount of evidence to prove that they will return to their country of origin. Concern was expressed that the visa application process often did not recognise the standing of eminent academics and afford them due respect, and that this may send negative signals to the international science community.

Change of visa types was cited as another concern because foreign academics are required to return to their country of origin for several months while their visa type is changed, which incurs loss of research time and can incur personal costs of over £2000.

The policy wording for academic visas references 'academic institutions' and 'research companies', which leaves a grey area of independent research organisations, research council-funded institutions and charity-funded institutions, which do not fall into either category. Similarly, academia and industry are interdependent and researchers may often use facilities at institutions in different sectors. Visa application outcomes were found to be unpredictable in these cases and it was felt that this could be remedied with simplified and improved policy guidelines.

From the business point of view there is a similar problem with interpretation of the guidelines for Tier 5 routes; particularly around researchers and research facilities, where there is an inter-dependence of industry to provide a particular piece of work or facilitate that work.

It was noted that the current guidelines will not prevent someone from attending a conference so long as the event is not run as a commercial concern. In the latter case, non-EU visitors need to apply for a Tier 2 visa and the role must be advertised for 28 days.

The Home Office responded that there are always challenges to get the balance right between a system that is fixed so that always it provides predictable outcomes and one that has the flexibility to have common sense responses to individual applications. We think the system is broadly in the right place but are always looking at how to improve it.

Customer service: the Home Office recognised that parts of the current immigration guidelines can be very hard to follow and need to be improved. There is work under way over the next 1-2 years to focus on making it clearer and more accessible.

Online experience: there is a large programme of work underway to make the visa web interface as user friendly as possible

Visitor routes: there are currently 15 visitor routes, many of which are similar. The Home Office have clearance to look to simplify these including to help identify if someone is coming as an academic or business visitor. The Home Office will consult and test with partners and get Ministerial agreement before implementing changes so this is medium term work but important.

Administration and Logistics

CaSE members reported problems organising research exchanges due to information on UK university websites being out of date with Home Office guidelines. Some international researchers arrive in the UK to find their visa doesn't cover them for the work they're intending to do.

The Engineering Doctorate has a 75% work placement. This has led to application rejections under Tier 4 guidelines, which have a requirement that work placements cannot be more than 50%, unless it's a statutory requirement, which it is. Mixed signals from the Home Office and the UK Border Agency means non-EU students are now being discouraged from applying for the Engineering Doctorate.

CaSE members called for improved communication between policy and operational levels in the Home Office. They noted that a greater administrative burden is being put on universities at the same time as funding cuts.

Operational costs and sponsorship is particularly cumbersome for geographically dispersed organisations in the UK. Being able to e-validate passports would be an ideal solution, as would phasing out stamps.

The Home Office responded that some of these issues arise on the part of applicants due to a failure to properly process paper work. Also unfortunately Home Office responses cannot always reveal detailed refusal information so therefore rejection letters can be necessarily bland.

The Home Office agreed that there is room for improved communications, both within the Home Office and informing the university sector of immigration changes. The Home Office needs to work with organisations such as CaSE to disseminate changes to guidelines.

The UK education sector could improve its marketing of immigration information to foreign students so that it is always up to date and so that it actively promotes the benefits of UK student visas. On the issue of the administrative burden, the percentage of administrative costs compared to overall income in the education sector is small. Improved dialogue, through organisations such as CaSE is the best way forward.

The Home Office is seeking to make the sponsorship system work more effectively and would like to consider how to lighten the administrative burden in very low risk situations and increase compliance where there is high risk. The key question is how do we support the sponsorship regime and reduce levels of risk, while making sure there aren't any loopholes. Immigration policy is subject to a lot of legal challenges so the rules have to be drawn up very carefully. The Home Office want to work with the sector on this.

The issue of biometric passports and stamps is driven by the pace of technological change in other countries.

Messaging and perception

There was widespread concern that the business and university sector's efforts to attract overseas students are being hampered by the Government's messaging on reducing net migration.

Specific concerns about negative perceptions abroad included:

- Central Student Agencies are now advising international students to apply to universities elsewhere, as the UK visa system is too complex
- Cancellation of the Post-Study Work Scheme
- Problems over applications for students studying at private HE Institutions
- Delays for processing visas, particularly with the Academic Technology Approval Scheme (ATAS)
- Negative perception of the UK visa system, which is seen as complicated, lengthy, and bureaucratic

Universities are making efforts to draw out positives but it's hard to achieve this when dealing with negative perceptions from abroad. If this is not rectified international students will look to study elsewhere. Universities need to improve their marketing strategy to international students, but this also needs to be improved by Government. Universities shouldn't have to market against a negative perception of the UK visa system. There was a call for the Home Office to provide positive marketing material to help with this effort.

The Home Office responded that there is definitely a joint role for sponsorship bodies, HE Institutions, and the Government in marketing the UK education sector to the world.

There are always difficulties with an international visa system - these concerns over perception from abroad are shared by colleagues in the US and Australia. But figures from November 2013 show that the UK is still a very attractive place to study and that sponsored visa applications have risen again in key international growth markets (Office for National Statistics).

We need to make sure we get the messaging right. International students are hugely important to the UK, both in terms of reputation and income, and the Government is very keen to attract the brightest and the best students to the UK. This aspiration is fully supported by the Business Secretary and the Home Secretary.

One problem can come from reporting by foreign media. The Home Office needs to work better with the press in presenting a more positive picture of the UK immigration system, including producing facts sheets to keep people informed.

On the issue of messaging, meetings like these are hugely important. The Government needs to get more information out to the science and engineering sector, but also needs to hear back about what the sector actually needs.

How the UK compares with other countries

Fragomen summarised good examples of visa policy around the world:

- The O Visa in the United States – good, sensible and pragmatic visa.
- Singapore - good ease of access for scientists as the salary threshold is very low and the application process is online, meaning visas can be processed in less than five days.
- Visas systems in Central America, particularly Panama and Mexico, are becoming increasingly competitive.

Lessons to be taken away – the UK could move towards the Singapore model by removing some of the barriers to entry, such as lowering the earnings threshold and the requirement for an English Language Certificate.

Business organisations proposed limited short period of time for non same-company employees to remain in the UK for work purposes.

Academic organisations pointed out that our main competitors offer a more generous and flexible post study work period - United States, Canada, France, Germany and Ireland all offer 12 months and beyond. It would be welcome if the Doctorate Extension Scheme in the UK could also cover Masters courses.

The Home Office responded that the policy on post-study work remains under review and they are always happy to study new evidence, although it's unlikely there will be any changes made this year.

The Tier 1 'Exceptional Talent' Route

Fragomen summarised the 'exceptional talent' visa route.

Every initial application must be endorsed by a designated competent body:

- Royal Society
- Arts Council England
- British Academy
- Royal Academy of Engineering

While the route is working well in the arts, the take-up has been less successful among the science and engineering sector. Figures from a few months ago show that of 700 visas made available to the sector - only 38 have been issued. One problem may be that the bar is too high – the word 'exceptional' puts people off. Competent bodies have trouble identifying applicants and, as a result, the route loses credibility.

Representatives of the competent bodies argued that uptake is low not because of rejections, but because of the low number of applicants. Of the applications received, the endorsement rate is high. The criteria do not 'set the bar too high', but there may be a falsely high external perception of the eligibility criteria. The criteria are:

- Applicant must be an active researcher
- Have a PhD or equivalent
- Be a member of their country's national academy or a holder of a recognized prize or award
- Received a letter of recognition from a UK organisation or institution
- Plus an examination of the individual's track record and supporting statements

The competent bodies are in discussions with the Russell Group, Universities UK, and RCUK, over ways to improve uptake of the route. One proposal being considered is to examine how peer review processes already in use for assessing grant applications could be combined with the endorsement for tier 1 exceptional talent and promising talent visa applications into one process, rather than two separate processes as at present.

Representatives of the university sector reported that Tier 2 is being used instead of Tier 1, even at Professorial level. Reasons include familiarity of institutions with the Tier 2 process; retaining control over the process rather than relying on third party approval (by competent bodies); added costs and timescale for the applicant; and retention of the applicant at the host institution (as opposed to freedom for the applicant to work anywhere, given with Tier 1).

Benefits of using the Tier 1 Route include avoiding the Resident Labour Market Test and the applicant being given more freedom to work in the UK. Tier 1 can provide a route for organisations which don't fit into other routes, such as spin-out companies who want to avoid sponsorship, and employers working in the UK but based abroad.

The risk with Tier 1 is that it captures the top 3% rather than the top 10%. Rather than an 'exceptional' talent route perhaps it should be 'excellent' talent route.

The Home Office responded that it wants to work with science and engineering sector to increase the uptake of tier 1 visas over the next few years.

This may be an issue of branding. We need to look at how we make the scheme more attractive. There is an argument that has been put forward that some scientists aren't necessarily going to apply for something labelled 'exceptional' as it's not in their nature.

The Home Office is discussing with the competent bodies whether the criteria need to be changed, and is happy to consider widening the number of competent bodies. For example, recently awarding Tech City UK competent body status

CaSE called for the whole sector to rise to the challenge of promoting and increasing uptake of the tier 1 exceptional talent route.

Closing remarks – the Home Office welcomed the discussion and suggested revisiting the issues in a few months' time.