

Home Affairs Committee's Inquiry - Managing Migration: the Points-Based System

- 1. Possible impacts of the points-based system on specific labour markets or sectors;**
 - a The medical industry already suffers from an acute shortage of nurses, GPs and junior doctors. Projections forecast shortages of as much as 14,000 nurses in the UK. ¹ Changes made to the immigration system in the last few years have made it harder to recruit immigrant medical staff. The new PBS does not adequately provision for doctors who are already registered to the stringent requirements of the General Medical Council (GMC), but whose degrees are deemed not to be equivalent to a UK Bachelor's degree. ²
 - b In the I.T and Finance sectors there is a great reliance on qualified junior or entry-level personnel, for whom qualification under the PBS is still prohibitive due to lower levels of remuneration.
 - c In the emergent sectors, such as Information Technology, Security and Environmental Conservation fields the typical career-path of a high-worth individual means promotion and changing employers much more frequently than a five year visa would allow by default. Government immigration policy simply cannot adopt quickly enough to meet the specific needs of emergent sectors, whereas the PBS dictates that even a change of job or salary must be reported to Home Office.
 - d The high-tech industry suffers shortages of trained personnel to fulfil labour shortage. Increasing the difficulty of attracting key resources, like the new PBS does, severely limits innovation in these areas. E.g. Games Industry. ³
 - e For all sectors across the board, the new PBS system effectively stifles entrepreneurial spirit in severely limiting innovators who would seek to contribute wealth to the UK. As an example, Bill Gates (Microsoft) would not have qualified to enter and work in the UK under the new PBS as he did not have a degree nor yet the high capital demanded by the innovator's scheme.
 - f The PBS ignores varied income levels at different geographical locations. Migrants might not consider working in certain geographical locations which would not offer them pay packages as lucrative as cities like London. This can have a significant impact for businesses located outside London or other major cities, wherein candidates would not prefer to work at those destinations. Also there can be many instances wherein migrants with certain skill sets will not find the industry sector available in London but in other geographical areas where pay scales are quite lesser e.g. those from forestry or agricultural background. ⁴
- 2. Possible impacts of the points-based system on small business, especially in terms of sponsorship arrangements**

2.1 To obtain the requisite license for sponsorship of migrant workers impose an unrealistic strain on smaller, entrepreneurial businesses.

- a The fees for obtaining the license can prevent business owners to hire key personnel cost-effectively whilst maintaining competitive advantage.
- b The administrative overhead and delays that may be expected during the bureaucratic process to secure a sponsorship license mean that in fast-moving sectors it becomes difficult to move resources to the UK with the required speed to meet urgent resource shortages.
- c The complexity of the new PBS mean that companies who seek to be sponsors would effectively need to hire HR personnel with specific immigration-law knowledge to manage and administrate immigrants in the workforce. This adds significant overhead to smaller businesses who seek to be compliant with legislation. The risk of misunderstanding any aspect of the PBS in terms of duties as a sponsor would effectively bankrupt smaller business, yet demands significant financial investment in fees, legal advice and employing HR staff with the requisite expertise.
- d With even changes such as a change in telephone number requiring communication with Home Office, prospective employers will be under even more pressure to appoint special extra personnel to deal with Home Office interactions. For example, per PBS guidance, if an employee is absent from work for more than 10 days, which with sickness or compassionate leave is not uncommon, a prospective employer would have to file a report with Home Office and potentially affect their sponsorship A-rating.
- e Enterprise Resource Planning can be severely affected by unavailability of migrant resources due to unforeseen complications in the licensing process.
- f Small companies will be discriminated against in being prevented having open access to the immigrant labour market, whereas larger employers will have the resources to maintain the PBS mandated relationship with Home Office. Home Office will thus effectively hand competitive advantage to larger organizations.
- g To acquire a sponsorship, the very strict rules disallowing prospective sponsors at Home Office's discretion for "any offence including dishonesty or deception" renders the sponsor or "any relevant person", provide too wide a basis to discriminate against firms and individuals. According to the Guidance documentation, even when such "dishonesty or deception" was wholly committed by an employee who was subsequently dismissed, only a

prohibitive B-Rating would be granted in exceptional circumstances (See the Sponsor Licensing Guide <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/sponsorlicensingguide.pdf?view=Binary>)

2.2 Even large employers are unwilling to employ immigrant labour, with no British work-force replacement, in a climate where there has been rapid and complete changes in immigration law over the last few years. Employers are concerned that their workforce might be rendered illegal in the current climate of continued, unpredictable and frequently retrospective change to law, thereby rendering the investment in recruiting that workforce null and void.

2.3 The proposed site visits by Home Office to enforce the PBS will potentially create embarrassment and an aura of illegality to legitimate businesses who happen to have employed immigrants, reflecting negatively upon the perception of that business to customers and associates.

2.4 Given that the system puts employers through a lot of red-tape, recordkeeping, and monitoring, only large firms with HR departments will mostly plan on becoming Tier 2 sponsors.

This means that smaller to mid-size companies will be disadvantaged because they will not be able to choose their candidate from the full pool of skilled applicants. In fact, skilled migrants may henceforth avoid the smaller companies (i.e., they won't apply, they won't go for interviews), as it is unlikely walking in the door they would be able to get any sponsorship whatsoever.

And what if the right candidate (Migrant) did come by and the small business owner/manager is delighted/wanted to hire that applicant right away? It won't be possible - the owner/manager of the business will have to fill out all the forms, pay the exhorbitant fee, and then wait and wait for weeks, perhaps months. Meanwhile the right candidate may have found work elsewhere.

3. Implications of the new system for migrants from commonwealth countries;

- a The points based system creates discrimination in terms of age, race and sex of applicants. Majority of migrants coming from commonwealth countries who happen to be of ethnic origin would be unfairly discriminated when have to

undergo the points test during their visa extension. The commission for racial equality in its critique letter earlier informed BIA that the points based system for extension will penalize ethnic minorities this fact was further acknowledged in our recent judicial review victory against SSHD where in the judgement acknowledged migrants falling short of points due to discrimination e.g. ethnic penalty at the work place. ⁵

- b Female migrants tend to draw lesser salaries compared to male counterparts. If women working in the UK earn on average 12.6% less than men, then it will be that much harder for a women than a man to hit the £35,000 salary point extension threshold. ⁶ This gender earning gap is much more significant among those coming from most of the non EU countries. Hence there would be a gender bias among migrants admitted under the system.
- c The limited leave to remain which is offered to migrants under the PBS constraints migrants from getting employment in permanent jobs, usually under which high income requirements can be fulfilled. Majority of employers and employment agencies prefer candidates who have indefinite leave to remain or EEA nationality as a policy. In-fact even recruitments in Border and Immigration Agency itself don't consider applicants with limited leave to remain.
- d Sponsorship fee would discourage employers from employing non euopean union migrants. Particularly certain skillsets requirement like IT professionals etc.,
- e Racism, nationalism, protectionism. Cases where immigrant pretends to be different nationality then gets job, though more skilled than a brit. Employers wary of employing immigrants, even if they're fully legal, due to all the extra laws.
- f Exploitation by employers. Reduced rights to immigrants in the workplace, hence increased exploitation by employers - forced overtime, lower remuneration.
- g Exploitation by being kicked out after being a student.
- h Limited career growth, can't start own business, move jobs, not fostering innovation.
- i Fees to home office, investment in the country - very high. Effectively discriminates against the poor by only letting in those that can afford - taking money off immigrants.
- j Discriminated against by employers
- k Criminality associated with ID card scheme - law-abiding immigrants presumed to be guilty.
- l Pay more tax with no recourse to public funs, yet still extra cost for all paperwork with Home Office
- m Language for spouses - unfair to kick out hard-working immigrant due to spouse not meeting language requirement
- n Fear for settlement - immigrants cannot commit or invest their futures in britain because they might be kicked out with changes in immigration rules, means they're effectively working as short-term migrant slaves.

Reference:

- 1 <http://www.guardian.co.uk/society/2007/jan/04/health.politics>
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