

HSMP Forum's submission to Merits Committee

1. This is a submission to the merits committee on the issues concerned in implementation of the Statement of Changes in Immigration Rules HC 59 by limiting the numbers entering on Tier 1 (general) and applying stringent / difficult criteria by increasing the points threshold for existing migrants to qualify under Tier 1 (general).
2. "HSMP Forum" is a not-for-profit organisation. It was formed after the 2006 decision by Government to apply new qualifying criteria for Highly Skilled Migrant Programme (HSMP) for permanent residency (ILR) and for visa extensions of existing Highly Skilled Migrant residents. "HSMP Forum" has been lobbying the legislature, executive and judiciary by challenging unfair policies, to allow existing legal Skilled Migrants to settle in UK. The organisation's aim is to support and assist migrants under the world-renowned British principles of fair play, equality and justice and believes in challenging any unfair policies which undermines migrants' interests.
3. The Government's '*Programme for Government*' announced on 20th May 2010 quoted on an annual limit on the number of non-EU economic migrants "admitted into the UK" to live and work but the statement of changes has increased the points threshold for migrants already admitted and are resident in the UK. Therefore, the statement of changes has gone beyond the announcement made by the Government in May 2010.
4. The policy objective of attracting the brightest and the best people to the UK cannot be met if the government applies arbitrary rules which are likely to sabotage existing skilled and highly skilled migrants in the UK. UK is unlikely to attract the brightest and the best when in fact it tends to reduce the numbers of the same who are already here. Frequent changes and looming uncertainty regarding extension will hurt UK's reputation as an immigration friendly country and the brightest and the best migrants might choose more certain and safe countries which welcome highly skilled immigrants.
5. The government is seeking the migration advisory committee to conduct a consultation but has already implemented an interim cap, this makes the whole process of a fair and open consultation difficult to be achieved. We are not convinced with the Home Secretary's argument of rush of applications as a genuine reason for such an interim cap. It has been an age old trick by past government's to give an excuse for such a measure¹ which was criticised both by parliamentary bodies² and the courts.
6. We do not believe the government's estimate of 0 to 1000 deterred applicants is accurate. As estimated by past practices the deterred applicants can be in high proportion. Although we believe it can be much larger figure than what is estimated by the impact assessment. The current qualifying threshold is relatively high and the amount of previous earnings seems to be given too high importance especially since UK is recovering from an economic crisis. The government needs to act with care and always consider the worst possible scenario to avoid a possible legal scrutiny of its measures on a later date.

¹ R (HSMP Forum Ltd) v Secretary of State for Home Department (2008), application of sudden changes on 7th November 2006 without consultation.

² Joint Committee on Human Rights report on HSMP Changes

HSMP Forum's submission to Merits Committee

7. The equality impact assessment acknowledges stakeholders concerns for not addressing issues concerned with inequalities in migrants applying from their home countries but considered this outside its scope³. The government also failed to take into consideration the equality impact within the UK. The Equality and Human Rights Commission and its predecessor, Commission for Racial Equality findings show that ethnic minorities find it harder to get into employment with higher salaries in the UK, this is an important requisite since the interim cap seeks a higher earning threshold for those under tier 1 thus causing further difficulty. The courts have recognized the issue concerned with employment of ethnic minorities and the findings of the commission.⁴ We believe ethnic minorities will suffer more due to the increase in the salary threshold.
8. The economic recovery might increase the demand for skilled and highly skilled workers. Setting limit based on recession year might be risky for businesses, especially for small ones.
9. The increase in the points threshold will also have an impact for those switching from post study work. Those coming on student visas to study in the accredited UK universities or colleges would not be keen to come to the UK if they are not given opportunity to work in the UK or a provision which can make it possible for them to continue their work and stay in the UK. This can cause serious downfall in the £ 12.5 billion⁵ per year estimated economic contribution of international students to the UK economy and will impact the universities which are heavily relying on overseas students' fees.
10. We believe the changes would be considered harsh and rigid by employers who are unable to fill in positions locally. The very need for employers to hire non European migrants is because they were unable to find a local or European migrant who can fulfil their requirements. The calibre of migrants coming from European Union does not necessarily fulfil a skilled and highly skilled requirement thus the need for migrants from non European countries (or commonwealth countries). For example, NHS can be stuck with vacant posts for doctors, nurses, technicians and consultants⁶; this will cause a significant impact on public health services.
11. We do not agree that the impact will just be concerned with increased costs for the firms although the costs of additional training itself could have a major impact on smaller firms. As explained earlier (e.g. doctors in both public and private sectors) many of these positions we believe cannot be filled by additional training or by familiarisation. The firms will be forced to deliver a lower service quality due to non availability of required manpower thus affecting its competitiveness overall leading to further impact on the

³<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/limits-on-non-eu-migration/ia-migration-interim-limit.pdf?view=Binary>

⁴ Paragraph 62, <http://www.bailii.org/ew/cases/EWHC/Admin/2008/664.html>

⁵ <http://www.britishcouncil.org/home-press-180907-global-value-study.pdf>

⁶ <http://www.personneltoday.com/articles/2010/06/03/55808/immigration-cap-could-lead-to-skills-shortages-in-key.html>

HSMP Forum's submission to Merits Committee

business concerned and also in terms of UK's global competitiveness in delivery of products and services. This can pose serious problems for businesses which heavily rely on skilled manpower for service delivery and could lead to closure of divisions, departments and companies. Some firms which heavily rely on such skill sets although could have been deterred earlier from outsourcing jobs abroad may find the need to do so now. They may find it more economical to outsource jobs in a larger spectrum and thus be encouraged.

12. The government's approach in imposing a cap we believe is more inclined towards managing unskilled workers than skilled migrants. The government does not seem to acknowledge the very need on why the firms required non European migrants to fill in the positions in the first place and therefore is trying to reinvent the wheel.

13. We propose the following changes to this policy;

- 1) Any changes introduced should not affect resident migrants in the UK. We believe it will be unfair to apply any strict measures for further visa extensions to migrants who came under a different set of rules. The conservatives and liberal democrats when in opposition principally opposed such retrospective legislation of the then labour government in 2006.
- 2) We believe any measures if at all should only be taken after proper and independent consultation with stakeholders who will be affected by such a decision.
- 3) Finally, the country is still struggling with the economic crisis and in this scenario such a cap will only make things more difficult for the businesses. These measures should be postponed until and unless UK fully recovers from the economic crisis.

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