

## **HSMP Forum's submission to National Audit Office**

"HSMP Forum" is a not-for-profit organisation. HSMP Forum took its name from the UK's Highly Skilled Migrant Programme which was introduced in 2002. It was formed after the 2006 decision by Government to apply new qualifying criteria for existing Highly Skilled Migrants. "HSMP Forum" has been lobbying the legislature, executive and judiciary by challenging unfair policies, to allow existing legal Skilled Migrants to settle in the 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.

### **The design of the System:**

What are the common factors that make applicants more likely to apply to the UK rather than to another country?

*Migrants apply to UK compared to other countries because of their first or second language being English. Migrants among other things prefer UK because of its cultural diversity, tolerance towards foreigners, better earning potential and possibility of settlement if they play by rules and fulfil the requirements they came under.*

Are there any perverse incentives in the system which makes it advantageous for employers to hire someone from overseas compared to an equivalent settled worker?

*We do not think there is any such incentive. In-fact we have found that companies have been discriminating against migrants because of their 'limited leave to remain' visa status when filling in vacancies when compared to EU nationals or those with permanent residency<sup>1</sup>. Again UKBA has failed to play an active role in ensuring that migrants who are allowed to enter and work in the UK are treated equally and to stop employers from indulging in such practices. Employers are reluctant to promote and hire migrants with limited leave to remain due to the uncertainty regarding their visa extension which makes it more difficult for migrants to get senior level jobs and leads to discrimination of foreign nationals at work place. This also leaves a sort of dissatisfaction among migrants of not having a satisfactory career progression in the UK.*

*We have also come across various complaints from migrants on age discrimination in Britain. Those coming on tier 1 mostly happen to be senior level professionals who were well established in their home countries but found themselves to be victims of age discrimination in the UK. Although, age discrimination is experienced by British workers as well but we believe it is worse when it comes to migrants.*

### **Quality of service UKBA provides to applicants:**

Are there any significant failings in the customer service provided by UKBA?

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<sup>1</sup> <http://www.personneltoday.com/articles/2007/04/27/40348/doubts-cast-on-highly-skilled-migrant-programme-as-abbey-bank-rejects-worker-for-being-on-the.html>

*Even where appeals have been won and a decision has been passed by an immigration judge still it can take 8 weeks<sup>2</sup>. There is a long waiting time as much as 4 weeks for acknowledgment alone and 6 months and more for a decision<sup>3</sup> for a naturalisation application. We were also informed by migrants about several mistakes made by case workers in applying the immigration policy. We acknowledge when such issues were brought to the attention of the senior officials there have been prompt action but we believe there is still some training need to ensure such mistakes do not occur to avoid inconvenience and discontent for the migrant concerned.*

*We also find UKBA's reluctance in seeking further documents before issuing a refusal to be unacceptable. In cases where documents are not sufficient, additional documents are required or further clarification sought by the UKBA, the migrant must be allowed to present them, if required, within certain reasonable time deadline.*

*We have come across refusals which show that UKBA's approach towards tier 2 migrants' sponsorship / extension applications is discriminatory and is encouraging discrimination and exploitation at work places. In one such case we have found that UKBA refused further extension to a tier 2 application just because the employer informed that the migrant was promoted in the firm and was given a pay rise therefore UKBA considered it to be a new role and that the employer should have advertised the position first. This creates fear among the migrants on tier 2 and employers that a promotion or pay rise can lead to refusal of further extension. The UKBA directly or indirectly is discriminating tier 2 migrants and so will the employer.*

What are the most common problems faced by applicants in achieving a successful and timely outcome?

*One of the common problems is an inability to book the same day appointment for visa extension and ILR. Although theoretically immigrants can book same day appointment by phone in reality that is almost impossible and at times even lawyers fail to book these appointments for their client's application. This forces migrants to send their applications by mail and wait for months or to end up paying significant amount of money to lawyers who manage to get the appointment and sell it at a much higher / commissioned rate which unfortunately seems to be considered as a legal practice as per UKBA. We feel in-fact lawyers should not be allowed to keep such quotas to make a profit of UKBA's incompetence and further make it more difficult for migrants who cannot afford or would not like to take a representative's services.*

#### **Level of fees:**

Are the fees charged by UKBA reasonable?

*No. The UKBA is charging exorbitant fees amounting to extortion and exploitation and should be stopped. The fees charged for issuing entry clearance, visa extension, settlement and naturalisation have been increased up to 100% since April 2007. This has caused severe hardship for a large number of migrants and their families. We believe the*

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<sup>2</sup> <http://www.ukvisas.gov.uk/en/howtoapply/infos/inf19appeals>

<sup>3</sup> <http://www.ukba.homeoffice.gov.uk/britishcitizenship/applying/processingapplication/> and <http://www.ukba.homeoffice.gov.uk/britishcitizenship/applying/waitingtimes/>

*application fees should only cover the administrative costs for considering an application. Charging immigrants for the application is fair but when the government earns profit from the application fees even to pay for its other services, then this amounts to a form of extra taxation.*

*It makes the UK Border Agency seems like a profit making entity with monopoly services. Besides, the level of service it provides does not match that of a customer oriented company. The level of service is poor with major delays in application consideration, waiting times over the phone and offers zero value for money.*

*We believe it is high time that an independent body is assigned to decide on what fees UKBA should charge and whether it is fair and reasonable as per the applicant's point of view.*

Do fee levels attract or deter particular types of applicant?

*We accept that applicants when applying to work and stay in the UK would consider long term perspectives and not just the application fees. But the fee levels on its own do not attract applicants and can deter them because of the present uncertainties in the immigration system such as regular increase in the points threshold, the government's interim cap and the proposed permanent immigration cap which creates an unpredictable scenario for migrants.*

*The fee charged should show principles of being fair and just and not just regard migrants as mere cash cows. Migrants are and would be contributing to the UK economy by way of providing necessary skillsets and by paying the taxes.*

#### **Impact of the limits:**

What do you see as the likely consequences for applicants of the proposed limit on numbers?

*We believe it is and will cause a great uncertainty and unpredictability and would disrupt migrants and their families planned lives. It also sends a wrong signal that UK is not an immigrant friendly country anymore therefore would deter potential migrants from coming to Britain. It also causes certain fear among migrant community and those intending to come here that they are no more welcomed in the UK.*

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