

Understanding the perspective of potential sponsors on the Points-Based System sponsorship arrangements

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This report presents findings from focus group research into attitudes of potential sponsors in Tier 2 (employers of skilled migrant workers) and Tier 4 (education providers) towards the proposed Points-Based System (PBS) sponsorship rules.

- There was qualified support for the proposed arrangements. Most participants felt there was a strong incentive for compliance within the ratings system, as many organisations relied on recruiting migrant workers and foreign students.
- Employers responded more positively to the proposals than education providers, citing advantages such as increased control and a more streamlined process. Employers had concerns over the additional administrative resources required.
- Education providers, particularly Higher Education Institutions (HEIs), considered the new system to be more appropriate to recruitment of workers than students particularly the term 'sponsorship', which might be misinterpreted as 'financial sponsorship'. HEIs were also concerned that students might mistake the A- and B-rating system as reflecting academic quality.
- Both employers and education providers were concerned about sponsorship fee levels. HEIs felt that additional sponsorship fees might deter international students from coming to the UK.
- Participants thought that tougher measures for those deliberately abusing the system were important, although allowances should be made for genuine errors. There were concerns that sponsors could be penalised over circumstances beyond their control.
- Participants responded positively to the proposed role of the Border and Immigration Agency (BIA) Account Manager as a 'single point of contact'. It was particularly important that the new system should be responsive to the needs of different sectors.
- Focus groups asked urgently for details of immigration-related responsibilities of sponsors, information required during monitoring visits, fee levels for registration and Certificates of Sponsorship, the transition period and the timescales for implementation.

Home Office Research Reports

Generally consist of three sections:

- Key implications, which highlight the main messages for decision makers from the research;
- an Executive summary, giving a brief but comprehensive description of the research findings; and
- the main report.

More detailed background and technical information may be included in appendices at the end of the report.

Please note that some reports may only contain the Key implications and an Executive summary.

Keywords

Account Managers
Migrant sponsors
Migrant workers
Overseas students
Points-Based System
Sponsorship
Sponsor compliance
Sponsor ratings
Sponsor responsibilities

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Aims and objectives

This report describes qualitative research into the perspective of potential sponsors of migrant workers and overseas students on the sponsorship rules for the new Points-Based System (PBS). The research was commissioned by Immigration Research and Statistics (IRS) at the Border and Immigration Agency (BIA) and carried out by the Institute for Employment Studies (IES). The aim of the research was to support the initial development of sponsorship arrangements for the PBS by identifying issues that may arise in implementing the sponsorship arrangements. It also aimed to prepare the way for a wider future consultation. More specifically, this research was designed to meet the following objectives.

- To seek the views and attitudes of potential sponsors for PBS Tiers 2 (employers of skilled migrant workers) and 4 (education providers) on how to take forward the proposed sponsorship arrangements with regard to sponsor ratings, responsibilities and compliance.
- To explore, in particular, participants' views on what might encourage potential sponsors to comply with the proposed arrangements.
- To identify the key issues that may arise in implementing the sponsorship arrangements and any areas that may be of concern to a particular Tier and/or sector.

Research approach

This was a qualitative research project and took the form of five focus groups of potential Tier 2 and Tier 4 sponsors. IRS had responsibility for the overall design and management of the research and worked in collaboration with IES to complete the research. The project was governed by a need to deliver findings by a target date and should not, therefore, be seen as providing definitive conclusions. IRS contacted and recruited the focus group participants, arranged suitable venues in London and Newcastle,

and prepared the topic guide in conjunction with IES and policy colleagues at BIA. IES facilitated the focus groups, collected and analysed the data, and prepared the research report.

A total of 50 potential sponsors from Tiers 2 and 4 attended, having been recruited via BIA's Stakeholder Engagement and Communications Team, Universities UK, the Association of Colleges (AoC) and other educational contacts. Given the tight time frame, it was not possible to recruit a representative sample from across all the Tiers, and further research would be required to determine any specific concerns from other Tiers.

Focus group discussions addressed the key areas of sponsor ratings and responsibilities, compliance with sponsorship arrangements, incentives and sanctions, support required from BIA through Account Managers, non-compliance, civil penalties, and perceived risks and abuses of the system. A small group exercise was also included to give participants an opportunity to raise any queries or issues of concern for particular organisations or sectors. The focus groups were preceded by a presentation from BIA Managed Migration Policy staff and regional Senior Account and Compliance Managers. They outlined the proposed changes to the sponsorship rules and provided an opportunity for participants to ask questions of clarification.

Research conclusions

Sponsor ratings

- Overall, there was qualified support for the proposed sponsorship rating system, with a more positive response from employers than education providers. Anticipated advantages of the system included: a quicker and more streamlined application process; more consistency; increased responsiveness to different sectoral needs; and increased control for employers.

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- Concerns about the ratings system focused on the possibility of increased costs and bureaucracy; confusions arising from recruitment within more than one Tier; and a perception that the system might disadvantage smaller organisations.
- Higher Education Institutions, in particular, voiced concerns that the ratings system could be misleading for prospective students, who might think gradings related to academic quality. The term 'sponsor' could also have misleading financial connotations (proposed alternatives were 'certificate of education provision', 'eligibility', or 'authorisation'). Some education providers felt that to avoid this confusion, sponsors should be 'accredited' or 'non-accredited'. While some participants saw an A-rating as a marketing opportunity, some education providers objected to published ratings to avoid sending the wrong message.

Sponsor responsibilities

- Many participants reported that they already checked the credentials of potential migrants, and undertook other immigration-related responsibilities, but were concerned about having the necessary resources to undertake the more rigorous checks that would be required under the proposed new system. They also felt it would be difficult to give a more informed view on the impact of the new requirements until there were more precise details available. Both employers and education providers envisaged an increased role for Entry Clearance Officers (ECOs) in checking credentials overseas at the application stage.
- Some participants felt they currently received little Home Office feedback following reports sent in about non-arrivals and non-attendance. They hoped there would be more in future.
- It was generally felt that there should be little difference in the responsibilities of A- and B-rated sponsors, other than a 'lighter touch' approach for A-rated sponsors with regard to monitoring and compliance visits. B-rated organisations would already be on notice to improve, and so should expect more regular monitoring.

Compliance and monitoring procedures

- On the whole, participants responded positively to the proposals regarding compliance and felt it was common sense to work in partnership with BIA around this issue. Proposed monitoring procedures were considered by the majority of participants to be reasonable. However, it was felt that they should be tailored to different organisational needs and a 'one-size-fits-all' approach to compliance should be avoided.
- Education providers were specifically concerned that if compliance procedures made it difficult for overseas students to change courses, either through dissatisfaction or planned progression, it might take away their 'consumer choice' and make UK providers less competitive. Participants from the English Language Teaching (ELT)

sector were additionally concerned that English language schools might be discouraged from regular reporting of non-attenders and absconders, for fear of being downgraded to B-status as a result.

- Participants considered that routine monitoring could be on a six-monthly or annual basis. There was a positive response to proposed random checks as organisations should be expected to 'keep their houses in order'. However, there was a need for further clarification about what the checks would entail and what level of detail would be required from sponsors.
- Participants agreed that a distinction should be made in the monitoring procedures for established and trusted organisations on the one hand and new, unknown organisations on the other. New sponsors would need to 'earn trust' and should be subject to more intensive monitoring initially. However, a clear distinction should be maintained between 'new' and 'poorly performing' organisations.

Incentives and sanctions

- There was a clear understanding across the focus groups that compliance with sponsorship arrangements was the only way to ensure that they could continue to recruit migrant workers and overseas students. The majority of participants anticipated that their organisations would be A-rated and agreed that their reliance on being able to recruit migrant workers and overseas students would provide the strongest incentive for maintaining their A-rated status. The threat of being downgraded to B-status was a significant deterrent and sponsors felt it could be potentially disastrous as it could discourage migrant applications to their organisation. However, they generally felt that they would need more detailed information and guidance from BIA about what they would need to do to avoid being downgraded.
- Discussion of specific incentives that could be built into the system mostly centred around differential treatment of A- and B-rated sponsors and a system that focused on rewarding companies with good track records, for example through reduced fees or 'fast-tracking' of recruitment and visa application processes.
- Although many participants believed the threat of being downgraded to B-status would be a sufficient deterrent, others favoured additional sanctions for B-rated sponsors, including financial penalties and higher fees. It was felt there should be a sliding scale for any fines, depending on the size and resources of the organisation.

BIA support issues

- There was a high degree of consensus across the focus groups that the Account Manager role would be a welcome development. In particular, easily accessible Account Managers could provide a 'single point of contact' for sponsors and help build better links with the BIA.

- It was also considered important that Account Managers have sector-specific knowledge and expertise, although participants recognised this might be available only at Senior Account Manager level. There were concerns that Account Managers might be ‘too thin on the ground’, impacting on the consistency and quality of support services across the country.
- Suggestions for other support included: more support from, and closer liaison with, ECOs in checking migrants’ credentials and documentation; web-based and online materials; on-site training in operating the new system; and awareness-raising for ‘hard-to-reach’ organisations.

Non-compliance and abuse of the system

- The proposed distinction between ‘unwittingly’ and ‘knowingly’ employing illegal workers was considered important by potential sponsors. Whereas there should be tough measures in place for those who deliberately abused the system, allowances should also be made for genuine errors.
- Some participants commented on their perception that the new measures were shifting more responsibility to sponsors but in areas where they had little control, e.g. by expecting education providers to ‘police’ how many hours overseas students were working. There were concerns that sponsors could be penalised over circumstances they saw as beyond their control, e.g. if a migrant were to abscond or misinform the sponsor.

Additional issues

- A number of additional issues relating to the proposed sponsorship arrangements were raised during the focus groups, particularly by education providers who, on the whole, had more concerns about the new proposals than employers. These issues included:
 - a need for more detailed information on key issues such as proposed fee levels and timing of implementation, particularly within an academic context;
 - the potential impact of the proposed changes on the international overseas student market, particularly if there were significant fee increases for students;
 - a request that education providers should not be required to register more than once if they come under both Tier 2 and Tier 4;
 - concerns about the comparability of salaries in the international context and possible disadvantage faced by migrant workers from poorer countries; and
 - the particular situation of charitable organisations and the financial implications of having to pay for Certificates of Sponsorship for volunteers recruited from overseas.

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Context

Research aims and objectives

Immigration Research and Statistics (IRS) at the Border and Immigration Agency (BIA) commissioned the Institute for Employment Studies (IES) to conduct qualitative research into the perspective of potential sponsors of migrant workers and overseas students on the sponsorship rules for the new Points-Based System (PBS). This report presents key findings and conclusions from the study, as well as outlining the research methodology.

The main aim of the research was to support the initial development of sponsorship arrangements in the PBS. It does this by identifying issues that may arise in implementing the system. It also aims to prepare the way for a wider future consultation.

More specifically the research was designed to meet the following objectives.

- To seek the views and attitudes of potential sponsors for PBS Tier 2 and Tier 4 on how to take forward the proposed sponsorship arrangements with regard to sponsor ratings, responsibilities and compliance.
- To explore, in particular, participants' views on what might encourage potential sponsors to comply with the proposed arrangements.
- To identify the key issues that may arise in implementing the sponsorship arrangements and any areas that may be of concern to a particular Tier and/or sector.

Background

As part of the PBS, institutions and employers bringing migrants to the UK will act as sponsors, holding a more formal role in the system than previously. All applicants in Tiers 2-5 will need

a sponsor. Tier 2 is for skilled workers with a job offer; Tier 3, low-skilled workers; Tier 4, students; and Tier 5 will include temporary workers and youth mobility. Sponsors will provide the applicant with a Certificate of Sponsorship. This certificate will provide assurance from the sponsor that the applicant is required for a particular job or has been accepted for a course of study, and should be regarded as trustworthy from an immigration perspective (i.e. likely to comply with immigration rules).

In order to become a sponsor and issue certificates to applicants, an employer or educational institution will need to submit an application and be approved by the Home Office. The organisation or institution will need to satisfy the requirements and undergo checks for the particular Tier they are applying for, and to accept the various immigration control responsibilities. There will be separate criteria for employment and educational institutions. Approval checks for Tier 2 sponsors might include evidence that the employer has a trading presence in the UK and is registered with the appropriate authorities. The organisation or institution will have to submit appropriate documentation to demonstrate this. Educational institutions will have to prove that they are a *bona fide* institution, accredited by the appropriate body.

Approach

This was a qualitative research project using primarily a focus group methodology. IRS held responsibility for the overall design and management of the research. IRS and IES worked in collaboration to complete the research. The project was governed by a need to deliver findings by a target date and should not, therefore, be seen as providing definitive conclusions.

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The research sample

IRS contacted and recruited suitable participants for the five focus groups, which took place in two locations – London and Newcastle. The names of prospective sponsors were drawn from the stakeholder contact list held by BIA’s Stakeholder Engagement and Communications Team in Sheffield. This is a list of all individuals who have applied for work permits for non-EU workers. Names were drawn randomly to represent, as far as possible, a range of sectors and geographical locations around the UK. Organisations based in the north of England and Scotland were targeted for the Newcastle events and more southerly organisations were targeted for the London events. The sample was also obtained via contacts from Universities UK, the Association of Colleges (AoC) and some cold-calling of English language schools. It was agreed to focus on Tiers 2 and 4 for the sample because of the limited time available to conduct this research and the likelihood that the majority of sponsors will fall in these Tiers.

As far as possible, IRS attempted to target individuals who had less involvement in recent sponsorship events, although some had attended previous events held by BIA and UKvisas, particularly amongst the education sector. These focus groups did, however, differ in nature and purpose to earlier events, providing an alternative forum of response. However, another important consideration was the availability of individuals to attend on the days and times specified. A cross-section of sponsors from Tiers 2 and 4 was obtained, but the findings are not necessarily representative of all such sponsors, particularly since there is over-representation of the Higher Education Institutions (HEIs). The findings are also not necessarily representative of either future A- and B-rated sponsors, since the policy to officially define A- and B-ratings is not yet fully formed. However, the majority of participants involved felt it likely that they would be A-rated sponsors. The findings are clearly even less representative of Tiers 3 and 5, although some participants would be expected to employ individuals across more than one Tier. Further research amongst sponsors of migrants from Tiers 3 and 5 would be required in order to determine any additional Tier-specific concerns, although some were raised within this research.

A total of 50 participants from both Tiers (2 and 4) attended the five focus group sessions. The breakdown of the different sectors represented is presented in Tables 2.1 and 2.2.

Table 2.1: Tier 4 – Education providers

Education sector	Number
Higher education institutions	18
Further education colleges	3
English language schools	7
<i>Total</i>	28

Table 2.2: Tier 2 – Employers of skilled migrant workers entering the UK with a job offer

Employment sector	Number
Health – public and private	4
Hospitality and catering	2
Construction and land services	4
Manufacturing	1
Administration and business	1
Retail and related services	3
Computer services and IT	4
Telecommunications	1
Education (Human Resources staff)	1
Entertainment	1
<i>Total</i>	22

Invitations

Invitations were sent out to all individuals initially identified through the stakeholder contact list and education provider contacts. Joining instructions and confirmation of a placement in the focus groups were sent on a first-come-first-served basis. IRS over sampled, aiming for a final total of approximately eight individuals per group, as this was the number agreed with IES as the optimum focus group size. Experience from previous stakeholder events indicated that dropouts were to be expected. However, in the event, the average size of the focus groups was ten, with some additional participants turning up who had not been expected. This tended to reflect the high level of interest in the subject, particularly among education providers. On the whole, education participants were far easier to recruit than employers, who were still being recruited up to the last minute. Joining instructions comprised the briefing, a pro forma asking for background information about the organisation, and details of the event. Invitees were given five days to respond.

IRS spent two days prior to the first event chasing up non-responders and trying to fill spaces in the other groups by cold calling other organisations from the stakeholder contact list, as well as approaching personal contacts in the sectors. Eventually, all five groups were filled. There were two groups each of employers and education providers, with one mixed group of employers and education participants.

Various reasons were given for non-attendance: too short notice; prior engagements; unable to spare staff for the day; relevant members of staff were on leave; sponsorship was regarded as not relevant to them; and previous attendance at other events. Some wanted further confirmation of policy before attending another event.

Venues

Venues in Newcastle and London were organised by BIA’s Stakeholder Engagement and Communications Team, who

arranged for a selection of central, easily accessible conference room locations with appropriate facilities.

Topic guide

IES, IRS and Managed Migration Policy colleagues from BIA worked collaboratively on preparing a topic guide for the focus group sessions, which covered the key areas of sponsor ratings, sponsor responsibilities, compliance with sponsorship arrangements, incentives and sanctions, support required from BIA through Account Managers, non-compliance and civil penalties, perceived risks, and abuse of the system. These targeted previously under-examined areas of interest for BIA officials charged with developing the sponsorship rules.

Participants received briefing prior to the focus groups, outlining the sponsorship proposals and information that would form the basis of the discussions. Please see the Appendix for the participant briefing.

Focus groups

A focus group involves encouraging a selected group of participants to share their attitudes, ideas and feelings on a specific research topic. Focus groups are more structured than more general group discussions and are usually led by a skilled facilitator, who ensures that everyone has an opportunity to contribute.

Two hours were allocated for each focus group, to allow for an in-depth exploration of the key issues. Lively discussions took place within each focus group and in one or two cases the sessions overran their allocated time. Two members of the IES research team were present at each session. The role of the primary facilitator was to lead a semi-structured discussion around the key questions outlined in the topic guide. The secondary facilitator acted as an observer and took notes.

As well as general discussion on the key topics, each session was planned to include a small group exercise to give participants an opportunity to identify any particular issues of concern for potential sponsors and to identify and articulate some 'key messages' on the proposals for BIA. These small group sessions appeared to work fairly well, as they provided a change of pace as well as encouraging participation from individuals who had tended to remain quiet within the larger group. In one of the sessions, the small group exercise was abandoned owing to time constraints.

The focus groups were preceded by a presentation from BIA colleagues from Managed Migration Policy and regional Senior Account and Compliance Managers who discussed the sponsorship system. They outlined the proposed changes to the sponsorship rules and provided an opportunity for participants to ask questions of clarification to aid the flow of later discussions. Participants were informed that the policy was not yet complete and they were encouraged to fully debate

the proposals in the focus groups to help shape future policy development. This also provided an opportunity for participants to meet with BIA colleagues involved in sponsorship policy and operations to aid development of future collaborative BIA/ sponsor relationships.

Data collection and analysis

In addition to taking written notes, the sessions were recorded and transcribed in order to capture all possible information. Participants were all informed in advance about this and were assured that everything said in the sessions would remain confidential, and that steps would be taken to ensure that no individual or organisation could be identified in the final published research report. IES and IRS agreed that BIA staff should not be present during the focus groups to ensure that all participants could feel able to speak freely and that no individual's confidentiality would be compromised. BIA staff members, however, were available both before and after the focus group sessions to answer any policy-related questions that might have arisen during discussions.

A coding frame for the research data was developed using the interview schedule, interview notes and transcripts, key research questions, and outcomes from discussions between members of the IES research team. The interview findings were then coded against this framework. The team had originally intended to use the Atlas-ti software programme for the data analysis, but eventually decided against this, partly because of the tight time frame and partly because the relatively small amount of data could be coded and analysed manually.

Results

Sponsor ratings

The first section of the focus group discussions dealt with proposals to assign sponsors to two categories: A- and B-ratings. These ratings are based on a sponsor's track record in sponsoring migrants, policies towards employing migrants, and the extent to which they satisfy the requirements of sponsorship, such as compliance with employment law. Sponsors who meet all requirements and responsibilities, and whose migrants conform to immigration rules, will be rated as A-sponsors. The B-rating is a transitional rating for *bona fide* sponsors who must demonstrate they are putting in improvements to some aspects of their policies or practices, prior to becoming A-rated. Participants were asked about the extent to which they felt that their organisations were able to meet the A-criteria and the circumstances that might lead to them failing to meet these criteria.

Views on proposed rating system

There was qualified support for the proposed new rating system overall, although employers were generally more positive in their responses than education providers.

Most participants had a good understanding of the main differences in principle between the two ratings, with a recognition that the B-rating was a 'notice position' that they would be put on if there were any problems, and that steps would be taken to make them improve and regain the A-rating. Ratings were considered to be a key issue for both employers and education providers, and that being on the B-list would 'spell disaster'. A frequently expressed view was: "Why would anyone want to apply to a B-rated organisation?"

Many employers felt that the proposed system would be an improvement on the current system, in terms of having a clearer understanding of how the application process would be handled. Under the current system, employers do not know in advance whether the application for a work permit will succeed, which can lead to delays if they have to reapply.

"The current system, it has been very very difficult. We make an application then say, oh this is not right, that's not right ... 28 days passes by and then you have to re-apply and pay the fee again and then you get the same problem So that will be an advantage and an improvement on the system, if it works fairly."
(employer)

Under the proposed system, an A-rated sponsor would be able to issue Certificates of Sponsorship in the knowledge that everything would go through. Another advantage identified by some employers would be increased control over the process and being able to recruit the right person for the job.

"Could I say the positive side of it, the onus is on the employer to choose the employee, the best employee from abroad. I think this system allows that ... That choice is there to get the best."
(employer)

In addition, it was hoped that the new system would bring more consistency, as it was felt that the current system can operate in an inconsistent manner, between sectors and regions, and over time, with documentation that was acceptable for one application being rejected in another application. Furthermore, the role of Account Manager was anticipated to increase responsiveness to diverse employer needs, whereas the current system was felt to operate in a very 'black and white' manner, with permits either being granted or not granted but with little reason or explanation.

Some employers felt that the situation could be confusing for sponsors who recruited in more than one Tier, or that an employer's view about what Tier they are operating in might be different to that of the Home Office.

One employer group queried whether the A- and B-rating system was overly lenient and whether the B-rating was necessary. According to this view, an organisation was either fit to be a sponsor or not: employers either complied with

the requirements or would automatically be dropped from the register. However, a more commonly expressed view was that some organisations, either those new to recruiting migrants or small organisations without Human Resources (HR) departments, might get into difficulties through inexperience, and need time and support to achieve the A-rated status.

"I think there may be people that have done things without intent and it's been lack of knowledge and understanding. So I think if they haven't had understanding or made mistakes, because we all make them, that somebody has to be given the opportunity of rectifying that to comply."
(employer)

Education providers tended to voice stronger concerns about the proposed system. HEI representatives from one focus group felt that the ratings system could be misleading for prospective students, who might think that the gradings related to academic quality or student experience, rather than compliance with immigration procedures. They wanted further clarification on how the ratings system would work alongside the existing accreditation system for education providers. Because of the potential for confusion between the two systems, this group of education providers also felt there should be no B-list: "Sponsors should either be accredited or not".

An issue raised by both employers and education providers was that the proposed system was geared more towards large organisations, and that smaller organisations, or those that recruited migrants irregularly or in small numbers, would face disproportionate burdens in terms of cost and administration.

Some participants argued that there might be some sort of cut-off to determine whether sponsors are given an A- or a B-rating initially: either employment size, financial turnover, or number of migrants recruited. However, others argued that this would, again, penalise small organisations and give an unfair advantage to large organisations.

Views on meeting A-rating

Nearly all participants felt that they would maintain the A-rating that they would initially be given. There was a commonly expressed view that there was a natural incentive in the system for sponsors to stay as A-rated, because this would be the only way to ensure that they could continue to recruit migrant workers and overseas students. For some employers and education providers, there was also the advantage of a quicker and more streamlined recruitment and visa application process.

In addition, education providers felt that, if ratings were published, it could affect applicants' choices if they fell to a B-rating, as applicants would be more likely to apply to A-rated institutions. This was viewed by some as providing an opportunity to make use of the A-rating for marketing purposes to attract more applicants. However, a different view emerged from one group of education providers who argued that A- and B-lists should not be published, only information about whether institutions are 'accredited' or 'not accredited', as this would give the wrong message to prospective students, e.g. that a B-rating referred to academic quality.

“If you’re not that good at administrative (procedures) you end up on a B-rating, but you might be brilliant on the education side, your courses might be excellent. But that is going to be a complicated thing for an overseas student or applicant to understand, so the two things are definitely going to get put together in people’s minds.”
(education provider)

Failing to meet A-rated criteria

Participants generally felt that not enough details were given as to what sponsors would need to do to achieve and maintain an A-rating, or what factors might lead sponsors to be down-rated from A- to B-rating.

Some hypothetical situations were discussed among both the employers and the education providers, as to whether they would result in downgrading or not. An example among the education providers was if an institution suddenly had a large number of students who just did not turn up, whether that would be grounds for being downgraded, even though the institution was not flouting the regulations or being fraudulent with their applications. This appeared to be an issue of particular concern to English language schools.

“I think it would be the big fear for all English language schools that I know, because if we make a mistake we will get a black mark ... under this situation we would be penalised for making the wrong call.”
(education provider)

Some employers discussed the risks for sponsors if they were given inappropriate information by applicants, whether that could lead to them being downgraded. An example was given by an employer of large numbers of migrant workers, where a couple of recruits had arrived who turned out to be using passports that did not belong to them. The participant was concerned about whether their company might be penalised for incidents like this which they felt were beyond their control.

“The only thing that I think might be difficult is actually ... the information you’re being given by the person from overseas is appropriate ... Because I have had one or two situations where someone has come and given us a passport but they’ve not been the person that is on the passport ... I wouldn’t want to be downgraded because of something that was not my fault.”
(employer)

Sponsor responsibilities

The second section of the focus group discussions concerned the responsibilities and obligations that sponsors will have under the new sponsorship system. These include:

- checking the credentials of potential migrants (i.e. to ensure that a job or course is suitable for a particular migrant);
- undertaking certain immigration-related responsibilities (e.g. report failure to attend work/enrol on course on first

day; report prolonged absence from work/discontinuation of study; report termination of contracts or change of employer/educational institution);

- co-operating with BIA monitoring and compliance visits; and
- notifying the Home Office if the employer’s circumstances change.

Meeting the obligations

Most of the discussion explored how sponsors felt about their ability to meet these obligations, and any problems or barriers to meeting them. The general feeling was that the responsibilities and obligations were not too dissimilar to those under the existing system, although some specific points were discussed and queries raised. Each area of responsibility will be discussed in turn.

Checking credentials of potential migrants

Many employers reported that they currently checked credentials, and so would be able to do it under the new system. The question arose as to whether these checks would need to be more stringent under the proposed system.

Employers mentioned that some of the checks were currently carried out by embassy staff in the country of origin, such as checking degree certificates from local universities. Employers would like to see this continue. It would be more difficult to carry out these checks themselves, as they lack the local knowledge that embassy staff have, and it would also be more resource-intensive. One employer stated that it would be helpful to have some of the checks carried out by embassy staff or Entry Clearance Officers, (ECOs) rather than employers, if more onus is being put on employers to get applications right.

“Is it possible to keep those checks with the British immigration at the point they are giving entry clearance which is currently the case? It’s very difficult to understand why this has to come to us.”
(employer)

However, there was also a feeling among employers that checks by embassy staff or ECOs should be limited to establishing whether certificates, references, paperwork, etc. were genuine or from recognised organisations, rather than making a judgement as to whether the applicant would be capable of doing the job. Employers felt that such recruitment decisions should be left to them, because it was their area of expertise, and also because they had to deal with the costly repercussions of recruiting the wrong person. This was considered to be a particular issue in occupations requiring specialised technical skills, such as in the computer services and IT sector.

“The problem you have when it is a consular official trying to decide whether that person can do the job – he doesn’t know what the guy is going to do, especially if it is high-end technical. For us it is a lot better this way.”
(employer)

Some education providers felt that under the new system they would need to check qualifications more thoroughly during the application process, whereas, in many situations currently, they would look at the applicant's original certificates only at the time of enrolling, with photocopies provided with the application. Education providers would not have the resources to contact overseas institutions to check that the applicant had the qualifications they were claiming, not least because of language difficulties. It was felt that the only way this would work would be to push checking of qualifications down to ECOs, and it was hoped that the registration fees would be used to fund ECOs to check qualifications.

Language schools reported that their entry requirements were very different to those of HEIs. The only checks carried out currently were on the validity of passports and the applicant's ability to pay for the course. Some English Language Teaching (ELT) representatives were concerned that they would be required to do more than this under the new system.

"They want to come and learn English, you're running a beginner class, they don't need any qualification. They just need to be able to pay your fee. And that is perfectly valid and it's an economic benefit to the UK. I don't think it (should be) something that becomes too burdensome."

(education provider)

Another issue for education providers, particularly language schools, was that they often used overseas intermediaries or agencies to recruit students. Agencies would conduct checks on the students if the education provider did not have the resources or the local knowledge. However, despite these checks, some applicants were found to be unsuitable when they arrived, for example not having the required level of English, which might lead to them discontinuing their course. Education providers raised concerns that they would be penalised for poor checks conducted by an agency or the departure of a student, even though they had done everything they could.

Undertaking immigration-related responsibilities

As with the previous obligations, employers reported that they already had immigration-related responsibilities under the existing system, and so they should have little difficulty in complying with these under the new system. Large organisations, in particular, should have no trouble as they should have all the necessary administrative systems in place already.

Some employers felt it was difficult to give an informed view on the precise impact as there were not enough details on immigration-related responsibilities. There was a feeling that these responsibilities in the new system went slightly beyond those in the existing regime, and so employers might need to expend more staff time and resources than previously.

"... it just makes you think you have to sit down and make those checks ... they take time, you are dealing with other institutions or other people overseas ... that's my concern ... the man-hours going to be required now to actually complete these successfully, it's going to be ridiculous ... we can't do it with the resources we have got currently."

(employer)

One particular area of concern was that the new system would require continuous checks by employers on their staff to ensure that all migrant workers had got the right visa conditions and leave to remain in the country. For large organisations this might be a heavy administrative burden. Some employers felt that this was currently the employees' responsibility, and so the proposals were pushing this obligation onto the employer.

"The only shock is having to do the continued checks once they have already joined your company. At the moment the obligation is to ensure that when you employ them initially they have the right to work. The obligation to continue to meet immigration requirements is actually on the employee now at the moment, so for us it will mean having to go through 15,000 files to check for what might be a few people."

(employer)

However, others thought companies were currently obliged to make sure their staff members have leave to remain in the UK, therefore clarification of this issue is important for employers.

Participants from the education sector also felt that the details would need to be clarified in advance so that their systems would meet the requirements.

Examples include the following.

- How would 'prolonged absence' be defined: two weeks, a month, or longer?
- What sort of absence should be reported? For example, if someone had a short period in hospital, or an overseas student visited his/her home country for a few weeks, would these absences need to be reported?

Also, attendance requirements at education institutions could vary with level of course (undergraduate or postgraduate) or subject studied, and education providers raised concerns that the reporting requirements might not reflect these differences. The Home Office needs to have a good understanding about different attendance requirements and set the reporting obligations appropriately to the type of study.

Some participants said they hoped that under the new system there would be more of a dialogue with sponsors about what happened when non-arrivals or non-attendances were reported. Both employers and education providers said that they had already reported these things to the Home Office but that they received little feedback about what, if anything, the Home Office was doing with the information.

"We report religiously and it always seems that nothing happens, no response. You get a standard letter, 'thank you for contacting us'. You get no idea that anything has happened. Maybe we should get some feedback from the Account Manager every month ... you could see it as the fact that I have reported this person has actually done some good."

(education provider)

Co-operating with monitoring and compliance visits

Participants felt that it would not be a problem to co-operate with monitoring and compliance visits. Again, this was something that they already had to deal with under the existing system, and if anything, it might be easier and more straightforward to co-operate as employers would build up a more personal relationship with their Account Managers.

Notifying the Home Office of any organisational changes

Participants did not feel it would be an issue to inform the Home Office of any organisational changes, once the types of changes that would need to be notified were clearly laid out.

Differing responsibilities for different sponsor ratings

It was generally felt that there should be little difference in the responsibilities required of A- and B-rated sponsors. All organisations, regardless of rating, would need to check adequately the credentials of applicants, undertake their immigration-related responsibilities, and inform the Home Office of any changes to their circumstances.

The only area in which they felt there might be a difference was regarding monitoring and compliance visits, where it was proposed that A-rated sponsors should have a 'lighter touch' regime than B-rated sponsors. Those on a B-rating would already be on notice to improve how they operated, and so should expect more regular visits and checks from their Account Manager or Compliance Officers. But it was felt that monitoring and compliance should be tailored to the individual organisation, rather than having a 'one-size-fits-all' approach of visits every month or two months for B-rated sponsors.

Some large education providers argued that the 'light touch' approach could extend to the checking of credentials, and that they might not have to check each and every application provided that they were monitoring applications correctly. So, for example, they might check all or most applications from countries that were deemed 'high risk', characterised by a relatively high proportion of incorrect documentation or relatively high dropout rate, but might check a much lower proportion of applications from 'low risk' countries.

Compliance, incentives and sanctions

This next section of the discussion explored the participants' views on the monitoring procedures that the Home Office is planning to put into place to record patterns of behaviour among migrant workers and overseas students. These plans include: the monitoring of institutional practices, where frequent absconding was occurring; and random checks to be carried out by Account Managers, Compliance Officers and Enforcement Officers, which might require unrestricted access to administrative data. Participants were then asked their views on how sponsors might be encouraged to comply with the proposed sponsorship obligations, and the types of incentives and sanctions that might be appropriate.

Views on proposed monitoring procedures

On the whole, participants responded positively to the proposals regarding compliance and felt that it was common sense to work in partnership with BIA around this issue. Some welcomed the opportunity to demonstrate that they were undertaking proper measures to recruit *bona fide* migrant workers and overseas students. One employer commented that "It sounds like usual good practice". The majority of employers and some education providers considered that the proposed monitoring procedures were reasonable, as long as BIA made it clear what information they would require and the process was not too time-consuming.

However, there was also a view among some education providers that the proposals were more geared towards employers. From their point of view, a partnership approach could be reflected in a more specialised understanding (from Account Managers, Compliance Officers etc.) of how the system of recruitment of overseas students worked and how this was different from employer recruitment practices.

Some specific issues were raised by education providers in relation to compliance, where they would appreciate further clarification. One issue of concern to HEI representatives related to student transfers and this was raised in both of the education provider group sessions. It was pointed out that students frequently change to different courses once they arrive in the UK and this raised the following questions.

- Would there be mechanisms for students to change HEIs without the original HEI getting penalised for the student not enrolling there? Generally, it was felt that BIA would need to clarify the position about multiple applications from a student.
- If a student changed institutions at the last minute, was it the responsibility of the receiving institution to insist they reapply and pay an additional fee?
- Where would the onus of responsibility be if a student enrolled at one institution but with a different institution's name on his/her visa?
- Would the procedures allow for smooth transition/ progression to other courses, either within the same institution or to another one (e.g. progression from an English course at a language school to an HEI, or from undergraduate to postgraduate study)? There could be issues of timing if a transferring student had to make a new application. If it took a long time, the student might be stuck doing the original course.

Some HEI representatives felt that, if the compliance procedures made it difficult for overseas students to transfer (either through dissatisfaction or planned progression) it would be taking away their 'consumer choice', particularly since they pay such high tuition fees.

Another issue raised in one of the focus groups was the role of confidential advice and counselling services which operated in some Further Education (FE) and HEI institutions, and which sometimes gave advice about immigration issues. There might be potential conflicts of interest with compliance if, for example, a student disclosed that he/she had not been attending or was an 'overstayer'.

"Obviously, I understand my institution needs to comply ... but there needs to be some thought and recognition that there are confidential services ... and giving advice to students about what is in their best interests and how that data is used."

(education provider)

There were potential dilemmas also for ELT organisations, who acknowledged that it was fairly common for students to enrol for an English course and then not attend. ELT representatives confirmed that their organisations already reported 'non-attenders' and 'absconders' on a regular basis but were concerned that, under the new system, this might go against them. One participant pointed out the potential problems that might arise if organisations were getting B-rated as a result of reporting absconders.

"If you start getting the track record of people becoming 'Bs' because they have reported their absconders then that is a very bad situation that will encourage schools and colleges up and down the country to keep quiet about their absconders."

(education provider)

What types of checks should be made and how often?

As discussed previously, there was widespread support for the idea that A-rated sponsors could be subject to 'lighter touch' checking in recognition of their compliance with the regulations. Employer groups generally considered that 6–12 monthly checks would be reasonable: *"It wouldn't feel like you were being harassed"*. One participant suggested that routine monitoring should take the form of *"a simple online thing"*, assuming that A-rated sponsors would have proper systems in place.

Generally, participants did not have any problems with the prospect of random checks being carried out by BIA. Organisations should be prepared to expect random checks. As one employer commented: *"You have to keep your house in order all the time"*. One participant, from a large company employing considerable numbers of migrant workers, welcomed the prospect of random checks, which could be used as a 'threat' to internal managers who might otherwise become lax about complying with good practice.

However, there were, again, questions raised across all the groups about issues where they would like further clarification. Here are some examples.

- What would be checked? What level of detail would be required from sponsors?
- Would HEIs be required to produce attendance registers for all their students? This might be a problem for some:

"If they came and asked us for registers it would be a struggle – we don't have them" (education provider).

- Would education providers be expected to keep copies of student passports – and would this contravene the Data Protection Act? Could this be dealt with by ticking a box to confirm that the student's passport had been seen?

One HEI representative was interested to know how the monitoring of student movements could impact on the students themselves, for example, in terms of future immigration applications.

"I'm interested in what's done with the data on students' behalf. How is it going to be recorded and how will it impact on future immigration applications?"

(education provider)

Monitoring procedures for new and B-rated organisations

The groups that discussed this point generally felt that some kind of distinction should be made between more established organisations and new ones setting up once the PBS was in place. Whereas there should be a 'lighter touch' approach for established organisations with a good track record, there should be more rigorous requirements on newer organisations to prove that they were *bona fide*. New businesses would need to 'earn trust' and should be subject to more intensive monitoring initially. One employer group felt that new companies should not be automatically A-rated but should *"need to pass some sort of test first"*. In the case of education providers, it was considered by one participant that the requirement to be accredited with bodies such as Ofsted and the British Council would help in this respect.

According to one employer group, a similar distinction should be made between A- and B-rated organisations. Although there should be the same expectations of compliance for B-rated sponsors, there should be more regular, intensive checks and *"higher levels of proof"* required.

Views on encouraging sponsor compliance

There was a clear understanding across the focus groups that compliance with the sponsorship arrangements was the only way to ensure that they could continue to recruit migrant workers and overseas students. This, for the majority of participants, was the strongest motivating factor. Representatives from HEIs, language schools and many employers pointed out that they relied heavily on overseas recruitment and so would have no choice but to comply.

"We will comply because it's in our interests."

(education provider)

"I don't think any one of us would remain in business if we were removed from this register."

(employer)

Another encouraging factor, raised by both employer and education groups, would be to maintain an ongoing dialogue with BIA and “a good two-way flow of information” about the new system. Some education providers, in particular, felt that a better understanding of how they operated would help considerably in terms of compliance. For example, some HEI representatives argued that their sector would be disadvantaged by not being allowed a sufficient lead-in time to implement the new policy and that the timetable being proposed showed an insufficient understanding of how the admissions process worked.

“We need a couple of years ... because the admissions process is the year before ... I don’t think there is an understanding that you can’t produce something halfway through 2008 and expect people to be ready for 2009.”

(education provider)

Views on incentives for good practice

Discussion of specific incentives that could be built in to the system tended to centre around differential treatment of A- and B-rated sponsors and a system that focused on rewarding companies with good track records, with corresponding penalties for those who were not complying. Both employer focus groups suggested a system of differential fee structures for A- and B-organisations, which offered reduced fees to businesses with recognised good practice. Another incentive could be provided through ‘fast-tracking’ recruitment and visa application processes, which at present can take a long time to come through. A-rated companies could also be rewarded by being given a ‘higher profile’ with potential migrant workers.

One employer representative believed that there was insufficient incentive within the ratings system as it was currently envisaged, as the A-rating could potentially represent a best-practice sponsor, a sponsor who is just meeting the requirements, or a sponsor below the requirements but who had not yet been found out. There was discussion within the group about whether there could be an ‘A star’ rating for those sponsors who demonstrated that they were operating above and beyond the basic requirements for A-rating and who “*have shown they have excelled, they have good records*”.

Some employers felt that this might be more relevant for education providers than for themselves, as they just wanted a system that would allow them to recruit the particular staff that they needed, and were not interested in marketing themselves as a ‘first-rate’ sponsor.

Views on sanctions for non-compliance

Although many participants believed that the threat of being downgraded to B-status would be a sufficient deterrent in itself, others favoured the idea of additional sanctions for B-rated sponsors, including financial penalties and higher fees. It was felt that there should be a sliding scale for fines, depending on the size and resources of the organisation.

However, one participant pointed out that financial penalties imposed on public sector organisations could be problematic, as the cost to public funding would need to be taken into consideration.

Some education providers discussed the sanction implicit in the publication of A- and B-ratings but considered this to be inappropriate for their sector. As discussed previously, they felt it would give out confusing messages to prospective students. One participant could not see the value in making the information about compliance or non-compliance publicly available.

“...I don’t think compliance or non-compliance, or partial compliance is something which should be in the public domain. Yes, if you don’t comply and you’re off the list, that’s a different story, but if you’re being told, ‘right, there are things we need to see improvement with...’, I don’t think that should be in the public domain. That’s not in anybody’s interest except the immigration office...”

(education provider)

Support required from BIA and Account Managers

BIA has indicated that there will be support available to sponsors for the recruitment of migrants and for meeting the necessary requirements of A-rated sponsorship. In particular, sponsors will have access to an Account Manager, whose role will be to provide advice and support, and to ensure sponsors understand their responsibilities under the PBS. Participants were asked to consider the types of support sponsors might require in recruiting migrant workers and overseas students, and in meeting the necessary requirements for A-rated sponsorship.

Role of the Account Manager

There was a high degree of consensus across the focus groups that the Account Manager role would be a welcome development, and this was a ‘key strength’ of the proposals identified in all the small group exercises. In particular, it was felt that the Account Manager could provide a ‘single point of contact’ for sponsors, which would help them to develop better links with the BIA.

“I feel very positive about the idea that there is a human being that you can talk through things with, ask questions of, who will be on your side, hopefully. I think that’s very good.”

(employer)

Both employer and education groups emphasised the importance of the accessibility of Account Managers to sponsors, particularly in the first year of the new system. One employer group suggested that there should be more intensive support available during the first year, for example, in terms of extended hours support or providing more officers on the ground over this period. Some participants felt they should be able to request an Account Manager to come and review the arrangements they were putting in place and advise about whether they were meeting BIA requirements.

Discussion also focused on some of the specific areas where potential sponsors might require advice and guidance from Account Managers, which included:

- the regulations relating to the recruitment of migrant workers and overseas student enrolment;

- the recruitment of workers from more than one Tier; and
- complex cases, e.g. where a migrant worker was also enrolled as a student.

Linked to this was the strongly expressed view that Account Managers should have sector-specific knowledge and expertise, and that this would be important in encouraging confidence among sponsors in the support service provided.

“It’s going to be vital that those people offering support have up-to-date knowledge and expertise of the sector they’re offering support to.”

(education provider)

It should be noted that participants also indicated their awareness that this level of expertise was only likely to be available at Senior Account Manager level. However, the frequency with which the point was made about sector-specific expertise seemed to reflect the high level of priority attached to it by both education providers and employers.

Some participants also believed there should be consistency in the quality of the support service offered by Account Managers across the country, and this had implications for the type of training they would receive. Related to the ‘coverage’ provided by Account Managers, concerns were expressed that they might be too ‘thin on the ground’ to offer an effective service, given that only 52 had been recruited to date.

One representative from the ELT sector objected to the term ‘Account Manager’, feeling this had too much of a ‘business orientation’. Although an isolated view, it was illustrative of a wider perception among education providers that the proposed sponsorship system was based on an ‘employer model’ which was less appropriate to the needs of academic institutions.

Other forms of support from BIA

A number of other suggestions came out of the focus group about the various forms of support BIA could provide to sponsors, and these are summarised below.

One important area of support mentioned was the need for closer liaison with ECOs. As more responsibility was going to be given to sponsors to operate correctly, they would need to make sure that the applicants they were recruiting were *bona fide* applicants, with genuine qualifications or experience and the correct documentation. These were seen as major factors that might lead to a downgrading to B-status and, therefore, the area in which sponsors would need support from ECOs or embassy staff, as they would not have the resources themselves to check all applicants to a high standard.

Some participants felt that they would benefit from web-based and online facilities. Examples are stated below.

- There could be web-based materials but they need to be succinct.

- A better flow of information, e.g. in the form of emails or newsletters.
- A very good FAQ page on a website which could answer questions quickly.

The participant who suggested this felt that this kind of easily accessible facility might help to lighten the load of the Account Managers.

“These poor Account Managers have got God knows how many people to work with. You’re not going to get a quick answer to things and it might be that I can go online and find out that’s the answer to my question, and not waste time.”

(education provider)

Other proposals focused on different types of training which could be offered to sponsors.

- Training in how to check migrant worker/overseas student credentials (as discussed above, there were considered to be training needs for ECOs and in-country recruitment officers as well).
- There should be an awareness-raising campaign about the PBS proposals, particularly targeted at smaller and ‘hard-to-reach’ employers.
- Training in how to operate the new system when it goes live (e.g. through on-site training or training seminars and workshops).

“I think it’s going to be vital that whatever systems are put in place... we’re offered the opportunity for significant training to operate those systems, rather than just, ‘as from this date, this will happen’. If it’s going to work we really are going to have the support to do that.”

(education provider)

Other suggestions included the following.

- Increased resources for visa processing centres in the home countries, and referral services to point students in the right direction for getting advice about visas. There was a fear that, otherwise, education providers could be ‘inundated’ with requests about the visa application process, but this should not be their role.
- Liaison with, and recognition of the role of, other agencies that offer advice and guidance on immigration issues, e.g. UKCOSA, the national advisory body for international students and those who work with them.
- There could be more feedback from the BIA about reports that sponsors provide on ‘absconders’. This might help in developing a partnership approach. The current lack of feedback was discouraging.

Non-compliance and abuses of the system

Finally, participants were asked for their views on the impact of proposed penalties for recruiting or employing illegally, and their perceptions of potential loopholes and abuses of the system. These new measures would include:

- a distinction made between employers with less than adequate recruitment practices and more serious cases where employers knowingly and deliberately employed illegal workers; and
- a proposed system of civil penalties for less than diligent employers, but a tough new offence of knowingly employing an illegal migrant worker, which would carry a penalty of up to two years' imprisonment and/or an unlimited fine following conviction of an employer.

It should be noted that, mainly due to time constraints, there was generally less discussion around these particular issues in the focus groups.

Views on impact of civil penalties

The proposed distinction between 'unwittingly' and 'knowingly' employing illegal workers was considered important. There should be tough deterrence measures in place for those who deliberately abused the system. On the other hand, allowances should also be made for genuine errors.

"... there also needs to be recognition that confusions will happen and that people trying to comply will make mistakes. There needs to be ... understanding that this is incredibly complex and you're often asking fairly inexperienced and junior members of staff to understand what a Home Office stamp means."

(education provider)

In terms of illegal working, members of one education provider group (attended by representatives of the HEI, FE and ELT sectors) wondered whether education sponsors were being expected to 'police' the behaviour of overseas students (for example, where a student might be working more than the permitted 20 hours per week with employer compliance). The sponsor might have no knowledge or control over this situation but might be held responsible.

"I don't think people realise the implications of this ... it seems ... they're pushing very much for the institution to be the policeman of how many hours the student is working."

(education provider)

There was general agreement concerning what the education provider could do in this situation. The first thing would be to ensure best practice in providing students with information concerning their entitlements. This would involve student induction processes and materials, outlining entitlements to work and restrictions on hours while they were studying. Secondly, the education provider would ensure the students signed a declaration confirming their 'intention to study' with the institution.

"It's about the intention. If they've ticked a box saying they intend to study and they disappear, it's an issue with that student, not (us) ... they've ticked our box."

(education provider)

Other participants commented on their perception that the new system was shifting more responsibility to the employer but not necessarily giving them more control.

One other point made about penalties for illegal recruitment was that they should be proportionate to the resources of the company.

Perceived risks and abuse of the system

It was considered inevitable that there would be loopholes in the new arrangements, as no system was foolproof, and that there would always be people who would try to beat the system. As one participant commented:

"There's too much money involved for people not to try and abuse it."

(employer)

Another participant agreed with this viewpoint but believed that the responsibility for addressing this should be 'at the front end' of the system, i.e. with the Home Office, rather than shifting responsibility to employers and education providers.

Potential loopholes discussed included the following.

- There might be problems in-country, at the recruitment stage, such as bribery and 'backhanders'. The honesty and integrity of ECOs would be important in tackling these kind of abuses.
- There could also be issues about whether or not the documentation presented by migrant workers/overseas students was genuine.
- Large international companies could be vulnerable in relation to the practices of subcontracted agencies. Would the 'parent' company be held responsible for their bad practices? There might be a lot of pressure on companies in this respect.
- There were considered to be 'obvious loopholes' in the ELT sector, such as bogus organisations setting themselves up as language schools but not actually recruiting students, *"...and those abusing the system will continue to get away with it unless inspected."* (education provider)

Participants were asked how they thought the system could be made more secure and the following suggestions were made.

- The role of Compliance Officers was considered important in this respect – they should *"come down hard on bad practice"* (employer).
- There should be random checks on employers and education institutions.

- There was some discussion about the accreditation of language schools, e.g. whether this would continue to be through British Council accreditation, which will in turn be accredited through Ofsted. Hopefully, this would prove to be a more robust system in addressing abuses.
- One employer felt that it was wrong for all sponsors to be automatically given an A-rating, because they could act unscrupulously and abuse the system by bringing migrant workers in illegally for a while until they get pulled up on it, and then possibly start again with a new company, new name and start doing it all over again.

“It is a concern that people who are genuine will follow the line, whereas, there will be other people who will abuse it and cause trouble.”

(employer)

Other issues raised during focus groups

A number of additional issues relating to the proposed sponsorship arrangements were raised by the focus groups. These issues either arose spontaneously during the semi-structured group discussions, or came out of the small group exercises which invited participants to identify strengths and weaknesses of the proposals and key messages for the BIA. The issues are summarised below.

- There was concern, particularly among some in the education sector, that insufficient time would be allowed for implementation of the policy.

“I want to know what the policy is. I want to know what the detail is, so we can start working towards [it] because otherwise, I don’t think we will be able to comply if we’re given three months to do it in...”

(education provider)

- Many participants were anxious to know what the fee levels would be. HEI representatives wanted this information as soon as possible as student fees were being set up now for 2009.

“The message coming loud and clear from this is that there is a huge fear almost, that because there is no clarity, that the time issues, the money issues, the financial implications are worrying a lot of people.”

(education provider)

- Concerns were also expressed about fee levels both for sponsor registration and each Certificate of Sponsorship, and the impact of this financially.
- Participants from one education provider group were apprehensive about an over-reliance on a centralised, technology-based record keeping system: How was it going to be piloted? The requirement that institutions’ databases would feed into a central system could

cause some difficulties, as there would be variations in technology across different institutions.

- Questions were asked about the transition period for implementing the new system. Given the sheer number of organisations that recruit from overseas, would BIA have enough staff to ensure it all went through smoothly?
- Concerns were expressed by some employers about the comparability of salaries in the international context and how this might impact on some professions within the PBS; for example, salaries of migrant workers from poorer countries might fall short of required points (e.g. within Tier 2).
- A particular issue was raised in relation to charitable organisations that recruit volunteers from overseas. Currently, they are not required to pay, but in future they will have to pay to issue certificates, which will have an impact on them financially:

“Under the new scheme we will have to start paying to issue a certificate which would take money from our charitable aims, and for us this will be an issue.”

There were a number of points raised specifically by education providers.

- The majority of education providers expressed a strong objection to the term ‘sponsor’ which has specific connotations within the educational context. They were concerned that foreign nationals would assume that the ‘sponsor’ would pay for their course of study. One participant stated that she wanted to formally request a change of name. Suggested alternatives were ‘certificate of education provision’ and ‘certificate of eligibility’ or ‘authorisation’.
- There was a need to recognise the concerns around the timescales required to implement changes within the academic context:

“The timescales are wrong, certainly for the academic world ... it’s a cycle of at least three to four years so if they’re talking about 2009 ... it’s too late already.”

(education provider)

- It was considered important to see the proposed changes within the wider context of the competitive international market for overseas students, where sponsorship fees might act as a deterrent to students coming to the UK. This point was emphasised both by HEI and ELT representatives:

“I don’t think this is contextualised enough in terms of the income the international students bring into the UK ... without these students we won’t survive.”

(education provider)

- As students often change courses, having to pay each time is likely to put them off. ELT participants were concerned that these extra costs would make UK language schools less competitive in the overseas market:

“Anything that makes it more difficult and is more costly and requires sending more pounds across the world could put people off, which would be damaging to us and make the market here less competitive.”

(education provider)

- A plea was made that education providers should not be required to register more than once if they come under more than one Tier. This will be an important issue for universities and colleges that employ significant numbers of academic staff from overseas.

Conclusions

Sponsor ratings

- Overall, there was qualified support for the proposed sponsorship rating system, with a more positive response from employers than education providers. Employer groups were more inclined to see the advantages of the new system, including: a quicker and more streamlined application process; more consistency; increased responsiveness to different sectoral needs; and increased control for employers over the recruitment process.
- Concerns from both sectors about the ratings system focused on: the possibility of increased costs and bureaucracy; confusions arising from recruitment within more than one Tier; and a perception that the system might disadvantage smaller organisations.
- HEI representatives, in particular, voiced concerns that the ratings system might be misleading for prospective students, who might think gradings related to academic quality rather than compliance with immigration procedures. The term ‘sponsor’ could also have misleading financial connotations (proposed alternatives were ‘certificate of education provision’, ‘eligibility’, or ‘authorisation’). Some education providers felt that to avoid this confusion, sponsors should be ‘accredited’ or ‘non-accredited’ rather than A- or B-rated.
- The majority of participants anticipated that their organisations would be A-rated and agreed that their reliance on being able to recruit migrant workers and overseas students would provide a natural incentive to maintain their A-rated status. However, they generally

felt that they would need more detailed information and guidance from BIA about what they would need to do to avoid being downgraded to a B-rating.

- While some participants saw an A-rating as providing a marketing opportunity, some education providers objected to the proposal to publish ratings, as this might give the wrong message to prospective students.

Sponsor responsibilities

- Many participants reported that they already checked the credentials of potential migrant workers and overseas students, but were concerned about having the necessary resources to undertake the more rigorous checks that would be required under the proposed new system. Both employers and education providers envisaged an increased role for ECOs in checking credentials in-country at the application stage.
- Immigration-related responsibilities were also undertaken by employers and education providers under the existing system and they expressed confidence in being able to continue to do this. However, it would be difficult to give a more informed view on the impact of the new requirements until more precise details are available. For example, education providers raised concerns that reporting requirements relating to attendance might not reflect differences of student attendance at different levels of study.
- Some participants hoped that there would be more feedback to organisations from the Home Office than at present about the outcomes following reports sent in about non-arrivals and non-attendance.
- It was generally felt that there should be little difference in the responsibilities of A- and B-rated sponsors, other than a ‘lighter touch’ approach for A-rated sponsors with regard to monitoring and compliance visits. B-rated organisations would already be on notice to improve, and so should expect more regular monitoring.

Compliance and monitoring procedures

- On the whole, participants responded positively to the proposals regarding compliance and felt it was common sense to work in partnership with BIA around this issue. Proposed monitoring procedures were considered to be reasonable. However, it was felt that they should be tailored to different organisational needs and a ‘one-size-fits-all’ approach to compliance should be avoided.
- Some HEI representatives were concerned that, if compliance procedures made it difficult for overseas students to change courses, either through dissatisfaction or planned progression, it might take away their ‘consumer choice’, particularly since they pay such high tuition fees.

- There were potential dilemmas for ELT organisations, as it was fairly common for students to enrol for an English course and then not attend. Participants from this sector were concerned that English language schools might be discouraged from regular reporting of non-attenders and absconders, for fear of being downgraded to B status as a result.
- Participants considered that routine monitoring could be on a six-monthly or annual basis. There was a positive response to proposed random checks as organisations should be expected to 'keep their houses in order'. However, there was a need for further clarification about what the checks would entail and what level of detail would be required from sponsors.
- Participants agreed that a distinction should be made in the monitoring procedures for established and trusted organisations on the one hand and new, unknown organisations on the other. New sponsors would need to 'earn trust' and should be subject to more intensive monitoring initially. However, it may not be fair to classify 'new' and 'poor-performing' organisations together under B-rating.

Incentives and sanctions

There was a clear understanding across the focus groups that compliance with sponsorship arrangements was the only way to ensure that they could continue to recruit migrant workers and overseas students. This was the strongest motivating factor for the majority of participants. The threat of being downgraded to B-status was a significant deterrent and sponsors felt it could be potentially disastrous as it could discourage migrant applications to their organisation.

Another encouraging factor, raised by both employer and education provider groups, would be to maintain an ongoing dialogue and a two-way flow of information with BIA about the development and implementation of the new system.

Discussion of specific incentives that could be built into the system centred mostly around differential treatment of A- and B-rated sponsors and a system that focused on rewarding companies with good track records, for example, through reduced fees or 'fast-tracking' of recruitment and visa application processes. One proposal was for the creation of an additional 'A-star' rating for sponsors who had demonstrated exceptionally good practice.

Although many participants believed the threat of being downgraded to B-status would be a sufficient deterrent, other favoured additional sanctions for B-rated sponsors included financial penalties and higher fees. It was felt there should be a sliding scale for fines, depending on the size and resources of the organisation.

BIA support issues

- There was a high degree of consensus across the focus groups that the Account Manager role would be a welcome development. In particular, the Account Manager could provide a 'single point of contact' for sponsors and help them build better links with the BIA. Both employers and education providers expressed the view that Account Managers should be accessible to sponsors, particularly in the first year of the new system.
- It was also considered important that Account Managers should have sector-specific knowledge and expertise, although participants recognised that this might only be available at Senior Account Manager levels. Linked to this point, there were concerns that Account Managers might be 'too thin on the ground' and this might have implications for the consistency and quality of support services across the country.
- Suggestions for other forms of support included: more support and closer liaison with ECOs in checking migrants' credentials and documentation; web-based and online materials; on-site training in operating the new system; and awareness-raising for 'hard-to-reach' organisations.

Non-compliance and abuse of the system

- The proposed distinction between 'unwittingly' and 'knowingly' employing illegal workers was considered important by potential sponsors. Whereas there should be tough measures in place for those who deliberately abused the system, allowances should also be made for genuine errors.
- Some participants commented on their perception that the new measures were shifting more responsibility to sponsors but in areas where they had little control, e.g. by expecting education providers to 'police' how many hours overseas students were working. There were concerns that sponsors could be penalised over circumstances they saw as beyond their control, e.g. if a migrant were to abscond or misinform the sponsor.

Additional issues

- A number of additional issues relating to the proposed sponsorship arrangements were raised during the focus groups, particularly by education providers, who, on the whole, had more concerns about the new proposals than employers. These included:

- a need for more detailed information on key issues such as proposed fee levels and timing of implementation (employers and education providers);
- concerns around the timescales required to implement changes within the academic context (education providers);
- the potential impact of the proposed changes on the international overseas student market, particularly if there were significant fee increases for students;
- a request that education providers should not be required to register more than once if they come under both Tiers 2 and 4;
- concerns about the comparability of salaries in the international context and the possible disadvantage faced by migrant workers from poorer countries within the PBS (employers); and
- the particular situation of charitable organisations and the financial implications of having to pay for Certificates of Sponsorship for volunteers recruited from overseas.

the applicant is required for a particular job or course of study and should be regarded as trustworthy from an immigration perspective (i.e. likely to comply with immigration rules).

In order to become a sponsor and issue certificates to applicants, an employer or educational institution will need to submit an application and be approved by the Home Office. The organisation or institution will need to satisfy the requirements and undergo checks for the particular Tier they are applying for, as well as accept the various immigration control responsibilities. There will be separate criteria for employment and educational institutions. Approval checks for Tier 2 sponsors might include evidence that the employer has a trading presence in the UK and is registered with the appropriate authorities. The organisation or institution will have to submit appropriate documentation to demonstrate this. Educational institutions will have to prove that they are a *bona fide* institution, accredited by the appropriate body.

Sponsor ratings

Each sponsor will be rated in accordance with their track record in sponsoring migrants, policies towards employing migrants and the extent to which they satisfy the requirements of sponsorship such as compliance with employment law. Given the importance of the sponsor in allowing migrants to enter or remain in the UK, this will ensure that sponsors are competent and acting in good faith and will also reward good practice.

- Sponsors who meet all requirements and responsibilities and whose migrants conform to immigration rules will be rated as 'A' sponsors. These sponsors can expect that the majority of their migrant applicants will be successful and can plan accordingly. Sponsors will normally start as A-rated.
- Sponsors who require improvements to some aspects of their policies or track record and can demonstrate that they are putting in new measures for improvement (evidenced within a certain time period) will be rated as a 'B' sponsor. The 'B' rating is viewed as a transitional rating for *bona fide* sponsors.
- Those employers who do not meet specified requirements, who fail to improve following a 'B' rating, or for whom there is large-scale evidence of fraud, non-compliance or clear flouting of employment law such as a failure to pay the National Minimum Wage, will be removed from the list of approved sponsors and may face prosecution. These sponsors will be given the opportunity to make representation prior to removal.
- A migrant will not be eligible to gain entry to or further leave to remain in the UK under Tiers 2 – 5 without a Certificate of Sponsorship from a registered sponsor.

Ratings will be public to applicants. Most attention will be focused on improving performance of sponsors, vetting new sponsors and taking action against those who seek to abuse the system. A-rated sponsors, who are already deemed trustworthy, will receive a light touch.

Appendix: Participant Briefing

Sponsorship arrangements for the Points-Based System

As part of the new Points-Based System, institutions and employers bringing migrants to the UK will act as sponsors, holding a more formal role in the system. The sponsorship system is designed to ensure that those who benefit most directly from migration (employers, educational institutions, other sponsoring organisations such as charities, as well as the Government and migrants themselves) play a part in ensuring the system is not abused. Sponsorship will contribute towards achieving a system that attracts the migrants of benefit to the UK and keeps out those of no benefit.

The introduction of sponsorship and its associated responsibilities within the Points-Based System means an end to the work permit system, a greater reliance on sponsor track records and rewarding of good practice, and a closer relationship with the Border and Immigration Agency.

All applicants in Tiers 2-5 will need a sponsor. Tier 2 is for skilled workers with a job offer, Tier 3 for low-skilled workers, Tier 4 for students and Tier 5 will include temporary workers and youth mobility schemes. Sponsors will be approved by the Home Office and will provide the applicant with a Certificate of Sponsorship. This certificate will provide assurance from the sponsor that

Sponsor responsibilities

Employers and educational organisations will have certain responsibilities and obligations under the new sponsorship system.

Sponsors will:

- be required to check the credentials of potential migrants, i.e. ensure that a job or course is suitable for a particular migrant;
- undertake certain immigration-related responsibilities:
 - inform the Home Office if a migrant fails to attend work on their first day or fails to enrol on a course;
 - report prolonged absence from work or discontinuation of study;
 - report termination of contracts or if a migrant is changing employer or educational institution;
- co-operate with BIA monitoring and compliance visits;
- need to notify the Home Office if their personal circumstances change, e.g. they are subject to a merger or a take over; and
- for B-rated sponsors, need to meet additional obligations as part of their improvement plan prior to A-rating.

Compliance

Patterns of migrant behaviour will, however, be monitored; for example, if frequent absconding occurs then the practices of the institution could be monitored. Account managers, compliance and enforcement officers will make random checks on institutions. They will on occasion require unrestricted access to administrative data in order to conduct these checks.

Incentives and sanctions

Compliance with the sponsorship arrangements is the only way to ensure you can continue to recruit migrant workers and ratings will impact on your ability to recruit migrant workers; for example, migrant workers applying to a B-rated sponsor will obtain fewer points than those applying to an A-rated sponsor. Those sponsors not on the sponsor list will not be able to employ migrant workers at all. Ratings will be made publicly available and are given in order to ensure that sponsors are competent and acting in good faith. However, BIA is keen to encourage compliance with the sponsorship obligations and procedures and will also reward good practice.

Support required from BIA and your account manager

BIA is aware that sometimes it can be difficult to verify the documentation produced by migrant workers and requirements for employing them can sometimes be confusing. BIA is keen to help support sponsors in their recruitment of migrant workers and assist them to meet the necessary requirements for A-rated sponsorship.

Disincentives and civil penalties

To protect the country from illegal immigration, the Government has set out plans to stop illegal journeys into the UK and illegal jobs. There are a number of initiatives that the Government has put in place or is consulting on to prevent illegal working. One of them is a proposal to implement new measures contained within the Immigration, Asylum and Nationality Act 2006, which distinguish between employers with less than adequate recruitment practices and the more serious cases where employers knowingly and deliberately employ illegal workers. The following has been proposed:

- a system of civil penalties for less than diligent employers; and
- a tough new offence of knowingly employing an illegal migrant worker, which will carry a penalty of up to two years' imprisonment and/or an unlimited fine following conviction on indictment.

For employers this means some changes, including:

- a continuing responsibility to check a migrant's ongoing entitlement to work in the UK at intervals past the point of recruitment; and
- statutory rights under which employers can object to or appeal against the imposition of a penalty.

Although this might entail greater cost in terms of human resources to employers, it does however mean that an employer who has illegal workers as a result of carelessness would face a financial penalty rather than the ordeal of a criminal proceeding and a criminal record if found guilty. The new 'knowing' offence will enable us to take effective action where there is evidence that an employer is consciously involved in the trade in illegal workers.

Perceived risks and abuse of the system

Most organisations will be pleased we are tightening up on illegal working and migrants who disappear, especially if in the past they have told us about the persistent absence of a migrant and we have seemingly done little about it. However, there will be some who will try and exploit loopholes in the system for their own benefit.

Further information

Further details of the Points-Based System and sponsorship arrangements can be found in the Home Office Command Paper 'A Points-Based System: Making Migration Work for Britain':

<http://www.homeoffice.gov.uk/documents/command-points-based-migration?view=Binary>

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