

A UCU Report

Points Based Immigration Seminar

UCU is strongly opposed to the legislation which, we believe, discriminates against non-EEA nationals and damages the relationship of trust between staff and students. We also believe that it may be used to impose changes to staff contracts.

The new Points Based System (PBS) went live November 2008. Based on the Australian Points Based System, it was introduced by the Government to regulate immigration to the UK. Non-EEA (European Economic Area) nationals will need to secure a number of points in order to be granted permission to work and or study in the UK. For students, the legislation's two main aims are to a) reduce the number of illegal students and educational establishments and b) to keep a tight rein on who can enter the country and when.

On Tuesday April 28, UCU held a seminar to discuss how colleges and universities intend to introduce systems and procedures in line with Government legislation.

Chaired by Paul Cottrell, UCU's National Head of Policy, the seminar was attended by members, officials and staff of the union. Following formalities, the purpose of the seminar was outlined and those present were invited to share their concerns and experiences where colleges and universities had already begun to introduce procedures to comply with the legislation, as well as describing the effect on individuals and the wider academic community. The meeting was also asked to think of innovative ways in which the union can best take the campaign forward, respond to the Home Office and raise awareness of the wider membership.

The chair welcomed Catherine Marston from Universities UK, who would be addressing the seminar to give an update on discussions between UUK and the Home Office.

Chris Nicholas, UCU Equality Support Official

Chris Nicholas, UCU Equality Support Official, outlined the union's opposition to the PBS stating that a number of motions had already been passed by branches as well as being submitted for discussion at the union's Annual Congress in May which would include a fringe meeting to be held on the topic.

He also reported that UCU had put forward a motion at this year's annual TUC Black Workers' Conference on the topic.

The meeting was given an update of the work currently underway that includes:

- Updated information of the PBS and how it is intended to work
- Motions passed by branches
- Model letters covering a) how colleges / universities intend to implement systems b) whether an impact assessment has been conducted in accordance with specific duties under the Race Relations (Amendment) Act and c) the impact on the contract of employment.

All information is currently available via the UCU website.

An example of how one branch fought against the implementation of the PBS was given.

Management of the College of North East London had tried to introduce new monitoring procedures without any consultation.

The initial findings of UCU's on-line survey of member experiences of the PBS showed that:

- 70% of members reported that their college or university had not relayed any information about the PBS to staff or students
- 88% reported that there was no involvement with management on the implementing of systems and or procedures
- 26% reported that they were asked to provide details of their status
- 10.8% had to provide biometric details
- 27% of members reported that they were required to monitor student attendance
- 27% of respondents stated that the PBS had an impact on their workload

Members also reported that they had seen an increase in workloads and responsibilities. A more detailed analysis of the survey will be pulled together and posted on the website. A further example was given:

A university which was proposing to introduce a swipe card to monitor student attendance. Attendances were filtered between EU and non-EEA nationals with non-EEA nationals being reported to the UK Border Agency (UKBA) for any missed attendances over a six week period. In order to meet data protection requirements, all

Catherine Marston, Universities UK

Catherine Marston reported that the organisation had been working with the Home Office for a period of six years to aim to get the PBS ready for universities and colleges. The education sector, universities in particular, will be the highest users of the new system.

The meeting heard that there are five routes or tiers in which a non-EEA national can enter the country:

- Tier 1 – Highly skilled individuals
- Tier 2 – Skilled workers with a job offer
- Tier 3 – Limited numbers of low skilled workers
- Tier 4 – Students
- Tier 5 – Youth mobility and temporary workers

Further information on the Tiers and how the Government plan to implement the system can be obtained from the UK Borders Agency website at

<http://www.ukba.homeoffice.gov.uk>

Tiers 2 and 5 have been in operation since November 2008. UUK had agreed with the UKBA that available jobs had to be advertised through relevant agencies and from March 2009, this included Job Centre Plus.

Catherine explained that Tier 2 had replaced work permits. There were specific rules covering academic visitors entering the country. Non-EEA nationals would use this route or enter via the temporary worker route.

The following areas, about which there is cause for concern, were reported on:

Information Technology

IT systems were not in place for Tier 2, and there had been no testing of Tiers 2 or 5; it was also reported there had been delays for Tier 4.

It was further anticipated that the IT system will go on-line in 2010 which is when all monitoring is expected to begin although at the present time, it is not compulsory for end users.

The database that will be used will belong to the UKBA via a secure server.

Record keeping and reporting

UUK are in the process of trying to find out how monitoring will be undertaken for higher education students including their interactions with staff. In terms of record keeping and reporting, the UKBA will assess the performance of colleges and universities.

It is however very unclear as to how the UKBA will undertake this, especially as a college or university can have their licence to teach or employ foreign nationals revoked, which will have longer term and far reaching consequences especially in terms of income from student fees.

It was felt by UUK that monitoring students attending further education institutions would be far easier than those attending higher educational institutions as the reporting mechanisms in place differed due to the nature of courses.

Information and guidance

The meeting heard that there was a lot of confusion surrounding the different interpretations in the guidance given from the UKBA to educational institutions which has not helped in the implementation of the system. In particular, the Home Office had not relayed any information to overseas governments and students about the PBS until mid-March.

Universities UK will also seek information on how the system is working thus far.

Agencies such as the Higher Education Statistical Agency (HESA) and the Universities and Colleges Admissions System (UCAS) were being consulted on making the database more user friendly. In particular, UUK were looking to resolve issues surrounding the confidentiality of the data.

Communication

The communication systems between educational institutions and the Home Office were unclear. It was reported that exchange of information would be through a secure server but no further information was available.

Accreditation

UUK have concerns over the accreditation system, despite a new accreditation body being in place to check the status of institutions.

Student recruitment and behaviour

The meeting also heard that the UKBA will take an interest in how students are being recruited by educational institutions. Catherine emphasised that UUK had fought strongly against the UKBA in advising institutions on how or what type of student to recruit.

In conclusion, Catherine stated that the UKBA were in the process of extending centres where bio-metric details can be read.

For workers, the arrangements for existing staff (non-EEA nationals) have come to an end which means that individuals must apply under the new PBS of which HR advisors should be able to give further advice.

Market requirements (where non-EEA workers can only apply for jobs that are listed by the UKBA) would not apply to existing non-EEA nationals.

Students' and their families' lives have been devastated due to the conflicting pieces of information and advice; in one case a group of students had their applications refused due to the background used in their photographs.

The Australian system mainly applies for workers; it does not apply to students.

Incidentally, the government in Australia does not go into the same detail as the UKBA.

Shared experiences

The Chair posed three questions for the seminar to consider and report on.

These were:

1. Any initiatives by higher / further education institutions to implement the PBS
2. Whether branches or local associations are engaged in discussions
3. What is happening at ground level

It was reported that branches are concerned that the legislation will have a significant impact on the numbers of non-EEA students attending higher education institutions.

It was strongly felt that these students will choose not to attend UK institutions due to the constraints (i.e. additional financial requirements) placed on them coming to the UK by the Home Office. Furthermore, a decrease in student numbers will undoubtedly have an effect on programmes, funding, international reputation and jobs.

It was also felt that the PBS and any implementation processes by the employer were as an attack on liberties.

Concerns were raised around the legality of members' non-compliance with their employers to meet the requirements of the Home Office. Whilst it was recognised that 'the law is the law', the unions legal advice was that members had to comply. However, it was felt that there could be ways in which members could show their dissent.

The way forward – campaigning and strategy

The meeting agreed to progress the campaign by raising the profile at the forthcoming Annual Congress through motions and at the planned fringe meeting.

It was also agreed that there should be a further seminar/conference event post Congress, where resolutions passed can be used as the spring-board for launching guidance and campaigning initiatives.

Furthermore, all those present would receive a copy of the report and will act as a sounding board / steering group for ongoing work. The report will also be available for download from the UCU website.

Please see Appendix A for a list of practical ideas and initiatives.

The Chair thanked those present and gave special thanks to Catherine Marston for her insight into the new system.

Attendance List

Yvonne Aburrow	University of Bath
Jennifer Bajorek	University of London, Goldsmiths College
Geoff Brown	UCU Regional Support Official
Paul Cottrell	UCU National Head of Policy
Andrew Currie	UCU Regional Support Official
Sam Dumbuya	University of London, Birkbeck College
William Edmonson	Birmingham University
Des Freedman	University of London, Goldsmiths College
Joe Gluza	Cambridge University
Marion Hersh	Glasgow University
Catherine Marston	Universities UK
Jacqui Mitchell	University of East London
Chris Nicholas	UCU Equality Support Official
Mark Oley	UCU Regional Official
Francis Pritchard	Durham University
Sharon Russell	UCU Equality Officer
Rebecca Stewart	UCU Regional Support Official
Martin Sundram	UCU Policy Officer
Sean Wallis	University College London
Dorothy Wright	London School of Hygiene

Appendix A

Campaigning and strategy

The following is a summary of practical ideas and initiatives to move the campaign forward.

- Any campaign should focus on getting the law scrapped
- The campaign must be public and clear: any campaign should be high profile and should focus on the principled opposition to the measures
- Develop links with partners from inside the trade union movement (Unison, NUS, TUC etc) and outside (Liberty, Refugee Council, No2ID etc)
- Formulate an academic rebuttal to the new legislation
- Highlight the unintended consequences
- Ensure delivery of the message that PBS is not appropriate for academic institutions
- Highlight the issue of accreditation
- Human rights and data concerns (re appropriate collection and adequate storage of information)
- Develop a non-compliance / passive resistance response
- Make the point the legislation is unethical and discriminatory
- Highlight the potential damage to staff / student relations
- Develop high profile days of action such as demos using passports or an 'email where you are day.'
- Every branch should publicise the guidance and acquire assurances from management regarding a) equality impact assessments and b) workload considerations
- Deliver seminars around the country via regional structures