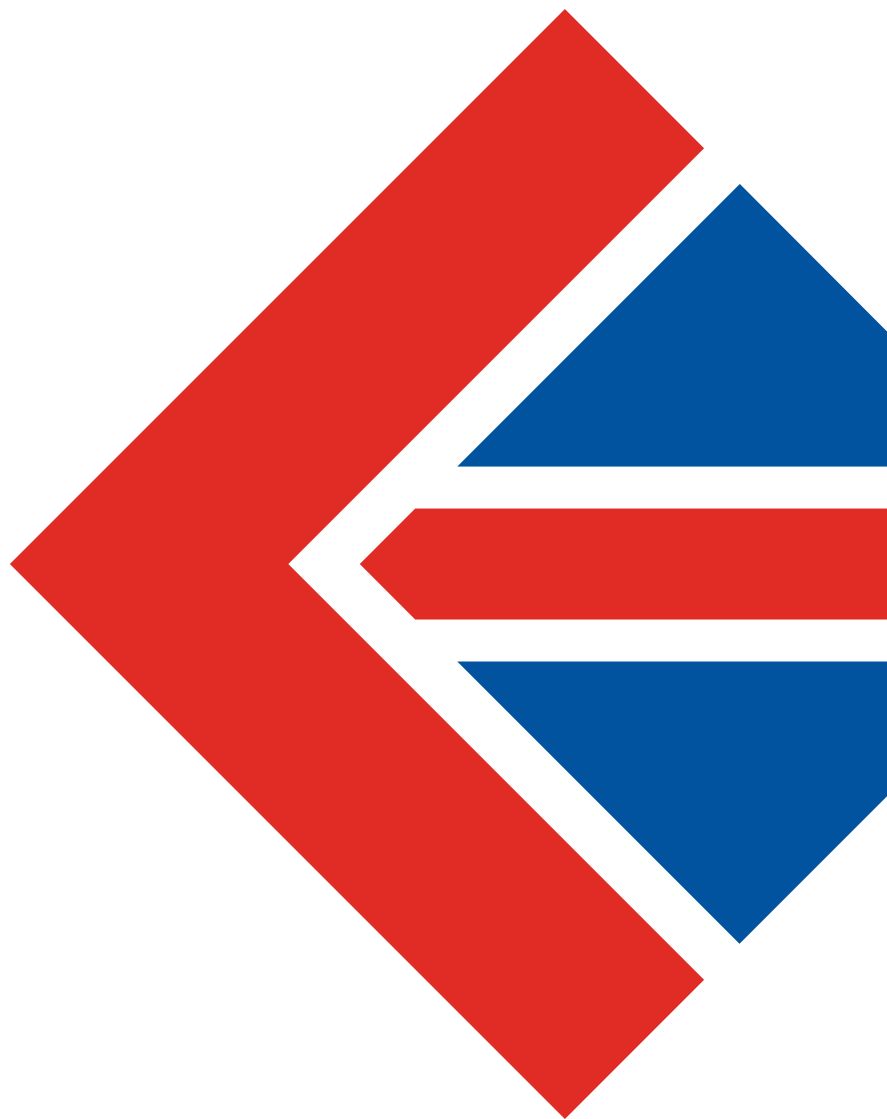


# STUDENTS AND THE NEW POINTS-BASED ENTRY CLEARANCE SYSTEM

**English UK guidance for agents**  
**September 2008**



# **STUDENTS AND THE NEW POINTS-BASED ENTRY CLEARANCE SYSTEM**

## **ENGLISH UK GUIDANCE FOR AGENTS**

### **Introduction**

The intention behind the new points based visa system is to base visa decisions on objective rather than subjective criteria. If it works as intended, it will simplify and streamline the UK visa system, and give students more certainty of getting a visa. The system is broadly similar to that used in Australia.

On Wednesday 30 July 2008, the UK Government published the technical document or 'Statement of Intent' (Sol) explaining how Tier 4 (covering visa-national students wishing to come to the UK) of the new points-based system (PBS) will operate from spring 2009.

A further detailed implementation plan will be published in October this year. The Register of Sponsors is now open, and accredited English language centres are applying to be on it.

English UK has produced this interpretation of how the new system will work in respect to students wishing to come to the UK for English language courses. NB that this interpretation draws on other documents and briefings not included in the Sol, and that some issues remain to be resolved over the next 6 months before the system comes into operation. Not all questions can be definitively answered at present, and the foreword to the Sol warns that even where the Sol says something, this could still change!

### **Summary**

From early 2009, to enrol students who want a full General Student visa for the UK, education institutions must be:

- accredited by an accrediting body approved by the UK Border Agency (UKBA) after a review by Ofsted (Accreditation UK is approved)
- on the UKBA Register of Sponsors (only education institutions accredited by an approved accrediting body are eligible to apply to be on the Register).

Institutions on the Register of Sponsors (RoS) will be able to use the Sponsor Management System (SMS) to issue to prospective students and entry clearance officers (ECOs) an electronically-generated unique identification number called a 'confirmation of acceptance for studies' (CAS).

Having a CAS is essential for students who want the full General Student visa. Applicants without a CAS will have visas refused.

Visas granted will be specified as for attendance at the institution which issued the CAS. Students who leave the education institution to which their visa is tied without an agreed transfer will be held to have broken the terms and conditions of their visa and may be sent home.

In addition to the CAS, students will gain points based on their financial ability to pay for the course and their living costs while in the UK. The current subjective tests which ECOs must use to decide whether to issue a visa (ability to follow and complete the course, intent to return etc) will be removed for full General Student visas issued under the PBS.

Education institutions will have to report on the non-arrival (no-shows) or discontinuance/absconding of any students for whom they have issued a CAS via the SMS.

The costs of the system to education institutions will be:

- £400 for 4 years on the RoS
- £10 per CAS issued.

There will also be a Student Visitor Visa (SVV - basically a form of the tourist visa) which will be outside the PBS. However students will be issued the SVV only if they are enrolled at an accredited institution, and they will have to satisfy ECOs on the current tests of intent to study, ability to follow the course, and intent to return home afterwards.

All visas will eventually also be accompanied by the issue of an identity card which will include the biometric data which students give when applying for a visa and a record of their entitlements.

EU nationals are able to travel, study and work in the UK as they please (apart from some work restrictions on Bulgarians and Romanians) and they are not covered either by the PBS or the SVV. They may attend whatever education institution they choose, but because they do not need 'cover' from a bogus institution to work, since they can work legally anyway, it is assumed that they will be genuine students who have no incentive to go to a bogus institution.

## **The Register of Sponsors**

All English UK members are accredited by Accreditation UK, so are eligible to be on the Register of Sponsors (RoS).

Only education institutions on the RoS will be able to use the SMS to issue a CAS, and without a CAS, students applying for a full General Student visa will be refused.

It is possible however that some short course operations (for example, summer schools) will not need to be on the RoS because all their students will enter the UK as Child Visitors or Student Visitors. Accreditation by an approved body will still be required since attendance at an accredited institution will be a condition of the grant of a visa in whatever category. It is possible that the new Register (which will be publicly available online) will in time be regarded as a form of UK Government-backed 'quality list' which agents and others will check, so it may be in an organisation's interests to be on the Register for this reason alone.

Accreditation confers eligibility to apply to be on the RoS, but entry is NOT automatic. The UKBA will consider additional factors which may not be known to accrediting bodies, such as whether an owner or director of an education centre has a criminal record especially relating to immigration offences. It is also being stated that the UKBA account management team will visit all RoS applicants, particularly to check whether the centre has rigorous systems of student record keeping.

Compliance with the Immigration Rules by sponsor organisations will be policed by the UKBA account managers. Non-compliance will be dealt with in one of two ways:

- the organisation may be downgraded to a B rating
- if the non-compliance is serious, the licence may be withdrawn forthwith.

The B rating means that an organisation has a short time (3 months) to become compliant: it is a temporary period of grace while an organisation puts its house in order. It will however appear as B rated on the RoS (which will be on a public website). The UKBA account manager will demand a detailed action plan with timelines to achieve compliance.

## **The Sponsor Management System**

Organisations on the RoS will be able to use the Sponsor Management System (SMS) for a number of purposes.

The prime one is to issue to prospective students a unique identification number called a 'confirmation of acceptance for studies' (in the employment sector this is

termed a 'certificate of sponsorship'). The CAS will count for 30 of the points required to get a full student visa (the other 10 are for proof of adequate funds to follow the intended course and pay for living expenses in the UK). The finance required will be calculated on the cost of the course plus a standard tariff for living expenses (£800 a month in London).

At the point where the centre is ready to issue a CAS to the student, it will need information about the student including:

- full name
- date and place of birth
- home address
- nationality
- passport number.

Applicants will not at that stage need a definite address in the UK where they will be living.

The centre will also have to give basic information about the agency for those students referred by agents, including:

- name of agency
- name of contact at the agency who is dealing with the student
- contact details – address, phone number, e-mail.

When ECOs receive visa applications, they will be able to use the SMS to check that a CAS has been issued. They will then check the students' evidence of funds, and if this is satisfactory and if there is no known adverse factor (such as having overstayed their visa term on a previous visit, or having a criminal record in the UK or one of the other countries with which the UK has reciprocal data-sharing), then the visa will be issued. ECOs will concentrate on ensuring that the proof of funds documents are genuine.

The CAS will be valid for 6 months from the date of issue by the sponsor. If a visa application is not made in that time, the CAS will lapse, but the sponsor may issue another (for another £10).

Prospective students will be able to complete a self-assessment form online to save making an abortive visa application.

The users will also be able to use the SMS to:

- report on student attendance or non-attendance (no-shows and those who absent themselves from their course without authorisation for 10 consecutive classes, tutorials or other prescribed forms of interaction as part of the course)

- enter student details such as course of study, passport number, address in the UK, etc
- track visa applications
- update their organisation's details
- change users
- request additional CAS allocation
- withdraw a CAS from a student
- apply to renew their entry on the RoS
- review their activity through the SMS
- withdraw from the RoS.

In addition to record-keeping through the SMS, education centres will have to keep:

- copies of students' passport pages covering personal identity and their UK visa
- a copy of their biometric identity cards when these are issued
- contact details for the student in the UK (address, phone and mobile numbers)
- attendance records.

### **The types of visa**

There will be five main types of visa relating to students, two of which are part of the PBS and three of which are not, with different conditions and entitlements. The following is a brief guide.

The two types of visa which will be under the PBS are:

- the General Student Visa
- Child Student.

The three types of visa which will NOT be under the PBS are:

- Student Visitor Visa
- Child Visitor
- Prospective Student.

The General Student Visa will cost £99 and have a full range of entitlements:

- to switch to another visa category (such as a Tier 1 highly-skilled migrant and work in the UK)
- to work part-time (maximum 20 hours a week during the course, and full-time in vacations)
- to extend their stay by applying while in the UK

- to bring in dependants (such as partner or children) who may themselves work if the student has a visa for 12 months or more.

To apply for General Student Visas, students must:

- be 16 or over
- be enrolled at an accredited institution which is on the RoS and have a CAS from that institution
- be enrolled on a course either at degree level or with a minimum of 15 hours a week of organised daytime study (note NOT including breaks other than the odd 5 minutes class changeover time)
- and, if the course involves work placement, the study element of the course must be no less than 50% of the total and the course and work placement must both be at National Qualifications Framework level 3 (A level equivalent)
- and, if English language students, the course must be at Common European Framework of Reference level A2 (total beginners at A1 must come through the Student Visitor route).

The General Student Visa will be granted for the full duration of the course (current maximum 4 years, to allow for degree courses in Scotland) plus some time to finalise affairs. Those on a General Student Visa studying below degree level will be able to spend a maximum of 3 years following such courses, instead of two as now. It appears this will be a multiple entry visa (though this may be if the duration is 6 months or more – the duration can be shorter than this.)

The Child Student Visa is for those between 4 and 16 attending independent schools on a full-time basis. They will be able to apply to continue their studies in the UK after age 16 with a General Student Visa, under the terms and conditions above.

The Student Visitor Visa will cost £65 and will have no entitlements (no right to work at all, nor to switch, extend or bring in dependants). It will have a maximum duration of 6 months and is intended for those who simply wish to come to the UK to take a short course, with some general tourism, and then return home. Anyone who is intending to take a beginner's course in English language (CEFR level A1) should apply for this visa. (If they then want to pursue their studies in the UK, having attained level A2 of the CEFR as a minimum (and complied with the terms of their SV visa), they will have to return home and apply for the General Student visa from their home country.) Applicants for the SVV will be assessed as now, particularly on their reasons for wishing to take the course, their finances, and their intent to return home at the end of it. It appears the minimum age will be 18 rather than 16 and this will be single-entry to the UK. For the SVV and the Child Visitor visa applicants, letters of acceptance/enrolment will be required as now.

The Child Visitor Visa is for those who wish to come to the UK for holiday or a short course, or the typical summer school combination of the two. It will have no entitlements. The applicants will have to show as now that a responsible person is travelling with them or arrangements have been made to meet them and that an organisation in the UK with appropriate safeguards and child protection measures is taking responsibility for them during their stay.

The Prospective Student Visa is for students who wish to visit institutions before making their final choice of where to study. It will have a maximum duration of 6 months and no right to work in that time. Prospective Students will be expected in that time to enrol at an accredited institution and apply as above for a General Student Visa.

### **Other issues**

In addition to the revocation of the RoS licence for any organisation found guilty of serious non-compliance, those responsible (the AO and L1 user especially) may face criminal prosecution and severe penalties under immigration law if they are found to have knowingly abetted illegal immigration.

Students can ask for the CAS to be cancelled because they wish to transfer to a course at another institution, but if they do so they risk having their leave to remain in the UK cancelled unless the other institution issues a CAS for them.

It appears that students who come to do an English or foundation course, with a conditional offer of a university place on successful completion, will at first be given a visa only for the English/foundation course, and will then need to apply for an extension. If however the subsequent course offer is unconditional, it appears that students can apply for a visa for the combined length of the two courses (though if this exceeds 4 years, they will still need to apply to extend).

ELT organisations on the campuses of higher education institutions or FE colleges will need accreditation separately unless they are only providing English language courses for students already registered with the HEI or FE college.

### **Implications for centres, students and agents and their relationships**

By basing the system largely around enrolment of students at an accredited institution, the UK Government is transferring a significant amount of trust and responsibility to centres to recruit genuine students who will not abuse their visa conditions. By issuing a CAS, a centre is in effect vouching for a student as being genuine.

In turn, centres will rely on agents to help ensure that they recruit only genuine students. If it becomes clear that a particular agent is sending a number of bogus students to a centre, that centre will have no option but to stop working

with that agent, because the agent is putting the centre's sponsor licence at risk. A centre which is removed from the RoS is likely to go out of business, or lose a lot of business, if it cannot recruit students who need visas.

Centres and agents will need to agree what checks they make on students to try to ensure that they genuinely intend to study.

Centres and agents will also need to ensure that students understand and comply with the new rules. Centres will have to:

- keep student details (copies of the personal identity and UK visa pages from their passports, copies of their biometric identity cards, and accurate records of their address in the UK)
- keep up-to-date attendance records and notify UKBA if a student's attendance falls below an acceptable level.

These will be legal requirements and if a centre does not comply with them its sponsor licence will be at risk, so centres and agents will have to tell students that the centre and the students have no choice in the matter.

### **Further information**

English UK will provide updated advice to agents after the more detailed implementation plan is published in October. We have already run sessions for agents with UKBA in Colombia, Brazil, Russia, Korea and Taiwan, and are planning further such sessions over the next 8 months.

There are several areas which are not yet clear, and if they are not mentioned in this document, it is because we do not have firm information as yet and do not wish to speculate further.

### **Glossary**

CAS	Confirmation of Acceptance for Studies – a unique identification number generated electronically through the SMS, required for all visa applications under the PBS – charge will be £10 per CAS
ECO	Entry Clearance Officers – UKBA staff based in British Embassies etc round the world who decide on visa applications
OISC	Office of the Immigration Services Commissioner – a public body set up to regulate immigration advice; originally intended to crack down on dodgy immigration lawyers, but a consequence is that any person giving individual students advice on visa issues is required to be registered with OISC

PBS	Points Based System – a system of basing visa decisions on objective rather than subjective criteria, with each criterion counting for a number of points towards a target total
RoS	Register of Sponsors – a public list of all those organisations approved by the UKBA as ‘sponsors’ of employees or students for their visa applications; education institutions must be accredited by a UKBA-approved accrediting body such as Accreditation UK
SMS	Sponsor Management System – a secure IT system with access by sponsors to issue CASs and update student records, and access by ECOs as part of the visa processing
SoI	Statement of Intent – the technical document(s) which set out how the Government intends the PBS to operate
SLU	Sponsor Licensing Unit, the UKBA team based in Sheffield responsible for scrutiny of applications to be on the RoS
SVV	Student Visitor Visa – a form of tourist visa (maximum six months) intended for students who want to take a short course with no other entitlements – outside the PBS and subject to the present tests of intention
Tier 4	The part of the PBS that covers students
UKBA	An executive agency of the Home Office incorporating much of Immigration and Nationality Division, the former UK Visas, and some customs functions of HMRC – the key body responsible for all matters affecting migrants to the UK whether short-term or permanent



**Registered Office** 219 St John Street London EC1V 4LY

**t** +44 20 7608 7960 | **e** [info@englishuk.com](mailto:info@englishuk.com)  
**f** +44 20 7608 7961 | **w** [www.englishuk.com](http://www.englishuk.com)

© English UK 2008