

A Manifesto Club Report

# STUDENTS UNDER WATCH

## VISA CHECKS AND THE RISE OF SURVEILLANCE IN UK UNIVERSITIES

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**The Manifesto Club** campaigns against the hyperregulation of everyday life. We support free movement across borders, free expression and free association. We challenge booze bans, photo bans, vetting and speech codes – all new ways in which the state regulates everyday life on the streets, in workplaces and in our private lives.

We launched our Visiting Artists and Academics campaign in February 2009, when we heard how the points-based



visa system was hampering the work of universities and arts groups. Our petition against the system has over 10,000 signatures, and we documented case studies in reports including 'UK Arts and Culture: Cancelled, by Order of the Home Office' [[www.manifestoclub.com/visitingartists](http://www.manifestoclub.com/visitingartists)], 'Fortress Academy' [[www.manifestoclub.com/fortressacademy](http://www.manifestoclub.com/fortressacademy)] and 'Deported' [[www.manifestoclub.com/deporteddossier](http://www.manifestoclub.com/deporteddossier)].

As a club, we depend financially on contributions from our members. To join this growing network of free thinkers and campaigners, and to help make our campaigns for civic freedoms happen, see: [www.manifestoclub.com/join](http://www.manifestoclub.com/join)

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## Executive Summary

**1. The points-based immigration system (PBIS) was introduced across UK universities on 31 March 2009, and imposed a series of burdensome requirements for non-EU students and academics coming to study or teach in the UK. These requirements included:**

- A demand that non-EU students prove maintenance funds (up to £7200 for a one year masters in London);
- Provision of biometric details, for which international students must travel to a biometric centre either in their own or another country in their region. These details are used for issuing an ID card once in the UK;
- A licensing system for all educational institutions that wish to accept international students, leading to the vetting of educational institutions by the UK Border Agency (UKBA) and Home Office;
- Monitoring duties imposed on all higher education institutions, including monitoring foreign student and staff attendance and reporting any 'suspicious behaviour' to the UKBA.

**2. Despite promises to cut unnecessary red tape, in March 2011 the coalition government tightened**

**control over international students and academics coming to the UK. New measures include:**

- Any education institution teaching foreign students must apply for official 'highly trusted sponsor' status from the UK Border Agency (UKBA) by 2012;
- International students studying for less than 12 months are banned from bringing their partners or children into the country;
- The Home Office has restricted how many 'Certificates of Sponsorship' each university can offer to top international academics and researchers, cutting them by an average of 15%. The cap interferes with academic freedom, and universities' ability to choose staff according to their academic and research priorities; instead, they must work within UKBA 'quotas'.

**3. The everyday surveillance of university staff has become commonplace. To avoid breaching equality legislation, universities are forced to extend unnecessary monitoring duties across the board, deepening a culture of suspicion and mistrust:**

- The following institutions use biometric swipe card systems to keep tabs on their staff and students: Bedfordshire University, Derby University, Plymouth University, The School of Computing at Northumbria University, and Scott's College in London;

- External examiners are increasingly being expected to submit their passports, to prove their right to work in the UK. We have found these checks operating in universities including Birmingham, Brighton, Lancaster, Oxford, Sunderland and the University of Wales at Lampeter.
- Universities are reporting large numbers of international students to the UKBA – over-complying with monitoring requirements because they are fearful of losing their licence to teach foreign students. A Manifesto Club FOI request found that the UKBA is receiving around 1500 reports per month from educational institutions.

**4. These heavy-handed rules have undermined collaborations between UK academics and international colleagues. Many top international academics are now refusing to visit the UK, after bad experiences with visa procedures and rules.**

Cases cited in this report include several visiting academics who were deported from UK airports because they did not have the requisite paperwork – even though they were not being paid for their guest lecture or performance.

**5. Opposition to the PBIS is gathering pace in UK universities:**

- At one university, the University College Union successfully opposed plans to have international students report weekly with identity documents;
- The campaign group, Students Not Suspects, convinced Goldsmiths University to dramatically cut down its list of foreign students to report to the Border Agency, from 200 to 20;
- A growing number of academic staff are refusing to show passports for external examinations or other forms of academic exchange.

**6. This report argues that these measures are unnecessary and having only negative results – eroding relationships of trust between staff and students, and isolating UK universities from essential international collaborations.**

These rules undermine universities' traditional autonomy from direct state control, and drag academics into playing the role of border police.

This report calls for the review of the points-based visa system and immigration cap – and for these to be replaced with a more measured and humane system, which recognises the value of international collaboration and respects academic autonomy from direct state control.

## Facts & Figures

### International Staff 2008–09\*

**11.4%**  
of academic staff

**19,306**  
in total

Non-EU nationals are:

**7.5%**  
of professional  
level staff

**14.1%**  
of senior researchers/  
lecturers

**26.3%**  
of lecturers

**40.3%**  
of researchers

\* [www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx](http://www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx)

### International Students 2009–10\*

**251,310**  
in total

**£2.3**  
billion  
Off-campus spending  
approx

**14%**  
of the student  
population

**8%**  
of the sector's income  
from their fees

\* [www.ukcisa.org.uk/about/statistics\\_he.php](http://www.ukcisa.org.uk/about/statistics_he.php) and an October 2009 UUK presentation document

## Preface

The imposition of the points-based immigration system on the education sector in March 2009 has had a damaging effect on university life. As the Manifesto Club's *Fortress Academy*<sup>1</sup> report demonstrated, the system introduced by New Labour ingratiated a tick box mentality within previously open-minded institutions. Complex and lengthy procedures, unnecessary bureaucracy and official distrust have undermined the civic ideal that historically lies at the heart of university life.<sup>2</sup>

The petty monitoring of foreign students and professors has not gone away with the change in government. In fact, a generalised culture of surveillance and mistrust has now become established across campuses. As our report shows, humiliating form-filling, passport checks and restrictions on movement are now regularly imposed on domestic scholars and staff too – ironically in the name of equality. Rather than cutting away burdensome red tape, over-cautious immigration caps introduced by the coalition government consolidate these trends further.

<sup>1</sup> <http://www.manifestoclub.com/files/FortressAcademy.pdf>

<sup>2</sup> <http://www.bbc.co.uk/programmes/b00txhp0>

The approach articulated by policy-makers reflects a deeper tendency for the state – regardless of the particular government in charge – to be used as a tool for managing the more spontaneous, free-flowing relationships that flourish between people in everyday life, often at the margins of market transaction. This is particularly detrimental to universities, which are built on relationships of intellectual collaboration between self-directed and responsible adults, a collaboration that runs naturally across borders.

The Manifesto Club reiterates its demand to scrap the points-based system and the new immigration cap. We stand for a society more at ease with relationships of genuine international exchange, and believe there is no role for suspicious monitoring and checks within academic life. We call on scholars and students to join our growing supporters in rejecting such political interference in their institutions.

# 1 The Points-Based Visa System: Spreading Fear and Suspicion

In 2008/2009, a total of 251,310 international students came to study in the UK. They represented 14% of the student population and 8% of the sector's income, with a total off-campus spending of £2.3 billion according to Universities UK (UUK).<sup>1</sup> The cultural and intellectual vibrancy brought to universities and the wider society by foreign scholars is considerable, and should be valued. However, immigration policy continues to conceive of international guests to Britain in narrow-minded terms: as risks to be managed, potential threats or destructive forces to be curbed.

Thus, in November 2008, the Labour government introduced the points-based immigration system (PBIS). Policy-makers claimed the new system would simplify existing migration routes and end the discretionary power border agents had abused over the years.<sup>2</sup> Establishing stricter financial, qualification and personal criteria, the system was in fact principally designed to reduce immigration levels across the board. The points-based system also imposed a 'sponsorship' system on both public and private bodies wishing to welcome non-EEA nationals for work or study.

Through the points-based system, universities became closely tied to the UK Border Agency (UKBA) through the 'sponsorship scheme'. This scheme is now compulsory, and requires that all institutions be designated 'highly trusted sponsors'. This special status affords educational institutions the 'right' to welcome international students and offer certain courses in exchange for fulfilling a series of duties. These include sharing information on those students, monitoring them, dedicating a minimum of one staff member to running the monitoring system and co-operating with the UKBA. As the UKBA's website unequivocally states:

<sup>1</sup> [www.ukcisa.org.uk/about/statistics\\_he.php](http://www.ukcisa.org.uk/about/statistics_he.php) and an October 2009 UUK presentation document [www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx](http://www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx)

<sup>2</sup> [www.guardian.co.uk/politics/2008/feb/29/immigrationpolicy.immigration](http://www.guardian.co.uk/politics/2008/feb/29/immigrationpolicy.immigration)

**As a sponsor, you must meet certain duties to make sure immigration controls remain effective. The aims of these duties are to:**

- prevent abuse of assessment procedures;**
- capture any patterns of migrant behaviour early which cause concern;**
- address possible weaknesses in your processes which cause those patterns; and**
- monitor compliance with immigration rules.<sup>3</sup>**

These guidelines are vague. At a meeting in London, representatives of further and higher education institutions told the Border Agency that they failed to see the benefits for them. One of them pointed out: 'despite the "trusted sponsor" status, the system is actually a sign of distrust from the Agency. We don't see the benefits of it. We haven't received any clarification on our queries, but we have to go through additional hoops.' Fearing their licence might be withdrawn, some institutions have become overzealous in their compliance to the guidelines. This has further disseminated a culture of controls and distrust, encouraged by the vagueness of the UKBA's guidelines. Indeed, just what is a pattern of migrant behaviour that causes concern?

According to Universities UK,<sup>4</sup> the United Kingdom is the major European provider of higher education to international students (229,640 in 2009). Overseas students make up 13% of the full-time student population in the UK, and 36% of postgraduate research students. Around 10% of academic staff are international. So monitoring all these foreign nationals is no small affair.

Our case study reveals the disingenuous and contradictory attitude shown towards foreign students by policy-makers: they are wanted for their high fees but distrusted as immigrants. Consistent with a growing climate of suspicion, non-EU nationals tend to be depicted as either threats to the job market or else as bogus applicants. Politicians have often claimed the 'international student route' has become the loophole through which

<sup>3</sup> [www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/)

<sup>4</sup> [www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx](http://www.universitiesuk.ac.uk/Newsroom/Media-Releases/Pages/Non-EUimmigrationCap.aspx)

## CASE STUDY

A PhD student in Law, Politics and Justice at Keele University

Before beginning study, she had to fill in a 40-page form. At the end of each question was the warning: 'If you don't answer this question, your application will not be processed and you will not get a visa'. She paid the requisite £357 fee. She then paid £20 for a postal order, being advised this is best to avoid administrative errors.

For her, the process was taxing: 'one is made to believe that it is a huge reward in itself to get a visa, but as a brown person you don't really deserve it. Even if you are paying nearly £18,000 to your university for three years of education'. She was also obliged to submit her biometric details at a place 'where you see posters saying "your identity, our security"'. Having satisfied the UKBA by scoring enough points, she was granted a visa.

After enrolling on the PhD course, she settled into her

new life. A few months in, along with all international students at her university, she received an email demanding that she re-enrol. The email stated three times that she must do this; failure to attend the re-enrolment would mean being reported to the UKBA. This is clearly not required by the Agency, and for her this was unsettling: 'we are, once again, unwelcome in this country we call our temporary home and treated as suspects, not students'.

An esteemed member of the academic community, she teaches, gives lectures and at night works as a resident tutor looking after student welfare. 'But for the UKBA, and now the university registry, my singular identity is "International" - not the explorer who brings the flavour of her culture, but an outsider who intrudes on legality and security. I am wanted for my exorbitant fees but not wanted at the same time.'\*

\* Email to Valérie Hartwich on 10th December 2010

foreigners come to work illegally, as if the situation were out of control.<sup>5</sup> But this situation is overstated: last year the UK Border Agency reported catching only 60 'bogus students'.<sup>6</sup> Moreover, the number of students taking up the 'post-study work scheme' (38,000 in 2009)<sup>7</sup> doesn't warrant the protectionist stance adopted recently by the coalition government.

The truth of the matter is that to implement its electoral pledge, the current coalition government was forced to outperform Labour. They have had to go beyond the risk reduction exercise that the points-based system represented, to a 'zero risk' exercise with the proposed cap. To achieve a zero risk level everyone must be treated as a threat: ... only hyper-caution can bring about the desired result. This means that legitimate international students become reconceived as potential abusers or burdens to the system by policy-makers, and their numbers must be capped.

This mentality is particularly damaging to academia, where students are traditionally seen as serious and responsible adults to be trusted by their institutions. The fact that universities themselves have capitulated in monitoring their students has already chipped away at this relationship of trust. It has turned international students into people to be watched and possibly reported to the authorities, which transforms the dynamic between staff and students. Pastoral duties of monitoring student attendance and progress became over-ridden by surveillance. With the proposed cap, it is sensible to assume the UKBA will expect universities to carry out even more monitoring duties, making the situation worse.

Rather than feeling valued and welcomed, international students are aware of the shift in attitude over the past three years. They are angered by the drive to attract them for their fees without a corresponding effort to give them the best experience possible in return. They are still treated differently. But not for the better. Whilst ID cards for EU and UK citizens have been scrapped, they remain compulsory for visa nationals, setting them

5 [www.guardian.co.uk/uk/2011/feb/01/crackdown-student-visas-unpleasant-abuses](http://www.guardian.co.uk/uk/2011/feb/01/crackdown-student-visas-unpleasant-abuses)

6 [www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/jan/69bogus-student-sham?utm\\_source=feedburner&utm\\_medium=email&utm\\_campaign=Feed%3A+ukborderagency+%28UK+Border+Agency+latest+news%29&utm\\_content=Yahoo!+Mail](http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/jan/69bogus-student-sham?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+ukborderagency+%28UK+Border+Agency+latest+news%29&utm_content=Yahoo!+Mail)

7 <http://www.ft.com/cms/s/2/cecb4a6e-27bc-11e0-a327-00144feab49a.html#axzz1CbpuXs9K>



aside from the rest of the population. Whilst policy seems on the surface to move in one direction, the reality in universities moves in quite the opposite direction.

## 2 Students Under Watch: A Shared Responsibility

In fact, responsibility for the quiet rolling out of surveillance on campuses lies equally with the border agency and universities themselves. Its legacy has been to shift the basis of the relationship between the university and its international students from one of trust and support to one of suspicion. Tutors and administrative staff are no longer people students can turn to when in difficulty. Instead, they become potential agents of monitoring, possibly responsible for deportations. According to UKBA guidance, they must report students if they miss 10 'expected interactions' (such as lectures, tutorials or other appointments).

Tina Gharavi, Professor of English, Film and Digital Media at Newcastle University, has told us she considers it inappropriate to monitor students on the basis of their nationality. It is 'not the business of an academic or an education establishment to undertake the work of immigration control'. Moreover, there are many reasons why a student might not attend class: 'I would be very uncomfortable about a situation whereby the Home Office was asking me to effectively "patrol" the borders'. In a letter to her institution head, she questioned the change in how universities engage with organisations such as the Home Office: 'universities have long been a refugee for academics, students who have fled conflict areas of the world. We do not report on those who arrive at our doorstep, but we teach them and provide them with opportunities'.<sup>8</sup> Her sentiments are echoed by many other lecturers and academics.

Indeed, universities are reporting large numbers of international students to the UKBA. The Agency asks sponsors to email any suspicions about students to the address, [MigrantReporting@UKBA.gsi.gov.uk](mailto:MigrantReporting@UKBA.gsi.gov.uk); each notification can include information about several students. A Manifesto

<sup>8</sup> Email exchange from September 2010

Club FOI request found that between March 2009 and August 2010, the UKBA received 27,121 notifications from education providers.<sup>9</sup> For this period, around 1,500 notifications per month were submitted.

Reporting has continued at a similar rate, with 8,168 notifications received between 1 September 2010 and 23 March 2011.<sup>10</sup> It is difficult to imagine that so many international students are absconding every month. It therefore seems that universities are acting nervously, in part because of the vagueness of their duties. Let us remember that this nervousness might lead to the deportation of individuals and an implied ten year ban from the UK.

The UKBA has not provided any coherent system for implementing monitoring duties. So each institution has been left to devise its own processes and procedures. A range of systems has resulted, from the light touch to the more constrictive. It is interesting to note that several institutions have chosen solutions based on ID cards, which require little staff participation. We were able to establish that Bedfordshire University, the School of computing at Northumbria University, Scott's college in London, Derby University, and Plymouth University currently use automated biometric swipe card systems. The use of such systems prevents, or at least limits, conflicts with staff, since they can be largely bypassed.

The measures imposed on staff and students by universities should be seen as exaggerated in relation to the Agency's actual demands. They are due – in part – to ambiguities about the proper role of universities created by the sponsorship system. However, they also point towards a tendency for the management of many higher education institutions to implement petty controls on staff and students.

<sup>9</sup> [www.whatdotheyknow.com/request/48311/response/123032/attach/html/3/16283.pdf.html](http://www.whatdotheyknow.com/request/48311/response/123032/attach/html/3/16283.pdf.html)

<sup>10</sup> [www.whatdotheyknow.com/request/66207/response/164146/attach/3/FOI%2018185.pdf](http://www.whatdotheyknow.com/request/66207/response/164146/attach/3/FOI%2018185.pdf)

### 3 Academics Under Watch: Vagueness and Nervousness

In a worrying development, the imposition of the points-based system on universities has gradually led to the monitoring of established staff as well as students. For example, non-EU staff members are now appraised in the form of right-to-work or passport checks. Based on reports by visiting academics, we know that the following universities carry out checks to ascertain individuals' right to work in the UK: Birmingham, Brighton, Lancaster, Nottingham, Oxford, Sunderland and the University of Wales at Lampeter.

Work checks introduce another layer of bureaucracy on staff, who are increasingly prevented from teaching and researching by mounting form-filling obligations.

There are also issues with the checks imposed by the UKBA's restrictions on international students' working hours. Many seminars, workshops and some teaching duties are conducted by postgraduate students, who are given the opportunity to supplement their PhD funding and become an integral part of the academic community. This kind of work is rarely undertaken along set weekly hours, but undergoes peaks at given points of the academic year. The problem for international postgraduate students is then that they are subjected to a weekly 20 hours limit by the Home Office and UKBA. This means many institutions prefer to choose UK or EEA students to avoid breaking the law.

Another bureaucratic burden following from the migration policies was denounced in a letter to the Guardian at the end of last year by 31 academics, who sarcastically commented on the passports checks that are spreading throughout academia:

## CASE STUDY

Adrian Sutton, Head of the Condensed Theory Matter Group, Imperial College London

Imperial College was awarded 82 certificates of sponsorship under Tier 2 in July 2010. By October, only 50 were left. After they ran out, the university was forced to wait until April 2011 before recruiting post-doctoral researchers from outside the EEA.

For Professor Sutton, 'Post-doctoral researchers are the principal means by which scientific research is done at universities all over the world. It is absolutely essential that the

best post-doctoral researchers are employed from wherever they may be found. Universities have always disregarded where people come from because they recognise that to be the best you have to recruit the best people.'\*

This shows the lack of appreciation by the UKBA of how higher education works. Monthly quotas are impractical for universities whose hiring needs tend to be seasonal. Unless the government wants to see a drop in research quality, applying the cap is not a sound idea.

\* Email to Valérie Hartwich, October 2010

**We have been delighted to hear from the coalition of its determination to root out unnecessary bureaucracy in public services and bring down costs. We were rather surprised recently, therefore, in our capacity as external examiners for a UK university, to be told that the Border Agency requires us to show our passports and birth certificates (and, for those of us who are women, our marriage certificates) to the university to prove that we are not working illegally.<sup>11</sup>**

Along with permanent staff, visiting academics and external examiners are also subject to identity controls, including UK and EEA citizens. For

<sup>11</sup> [www.guardian.co.uk/uk/2010/dec/17/dodgy-doctorates-border-agency-universities](http://www.guardian.co.uk/uk/2010/dec/17/dodgy-doctorates-border-agency-universities)

example, in her long experience as an external examiner for the University of Lancaster, one professor declared that 2010 was the first year she had to show her passport to prove her identity. As in the case of monitoring students, this is nominally to avoid breaching equality laws.

Another external examiner and signatory of the Guardian's open letter, Dr Whitebread, shared his experience with us. He had received an email from a university informing him and all external examiners that on their next visit they would need to provide their passports, birth certificates and marriage certificates for married women;

**This led to a range of reactions, from some thinking it was a scam to gain access to private information, some thinking it was a joke and all of us, when we finally discovered this was a requirement laid down on universities by the UK Border Agency, thinking it was outrageous and a stupid waste of public funds.<sup>12</sup>**

Because external examiners are always senior members of the academic community and already known to colleagues, officially checking they are legally entitled to work in the UK is both unnecessary and insulting. As Dr Whitebread wryly notes: '...and this from a government who tell us that their mission is to reduce unnecessary red tape!'

For similar reasons, both foreign and domestic visiting academics have become increasingly subjected to passport checks. UCU have 'noted with concern' that 'passport checks on academics and external examiners (be they visiting academics or otherwise) are being carried out in many universities across the country'.<sup>13</sup> Brighton UCU decided to inform visiting academics that they cannot be paid, as this is the only way to avoid practising this form of control.<sup>14</sup> But most external examiners and visiting lecturers carry out their work for symbolic fees, when paid at all. They are infuriated by the checks. They see them as a sign of a lack of trust and recognition, and several have considered stopping their activities altogether.

<sup>12</sup> Email to Valérie Hartwich February 2011

<sup>13</sup> Email to Valérie Hartwich 13th January 2011

<sup>14</sup> Email to Valérie Hartwich in June 2010

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CASE STUDY  
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Professor Tony Cheetham,  
Department of Material Science  
and Metallurgy and Cambridge  
University and Professor CNR  
Rao, Chairman of the Science  
Advisory Board to the Indian  
Prime Minister

For many years, Professors  
Cheetham and Rao had collabo-  
rated through the Royal Academy  
of Science. Professor Cheetham  
recalls: 'I had planned to  
have Professor Rao come for one  
month per year to Cambridge as  
a visiting academic. His pay  
and travel expenses would be  
taken care of by the university,  
as it had been agreed upon in  
the package on hiring me. This  
meant that he would be put on  
the pay roll, and thus would  
have to fill a Tier 5 form.'  
On seeing the length and com-

plexity of the form, however,  
Professor Rao declined the  
invitation. He wasn't used to  
being treated with such con-  
tempt by the authorities. It  
struck him as nonsensical that  
long-standing collaborations  
be problematised by bureauc-  
racy. For Professor Cheetham,  
'[Rao] has enough ties world-  
wide and projects to be able  
to afford declining this one.  
It is a great loss for Cam-  
bridge and the UK in general'.  
At Cambridge, a proposed visit  
from another Indian professor  
was cancelled: 'we are shoot-  
ing ourselves in the foot, by  
letting these policies enter  
into effect'.\*

\* Interview with Valérie Hartwich,  
November 2010

This cannot be seen as a victory against bogus migrants, but rather as a loss for academia.

This general trend represents the quiet generalisation of surveillance, often in petty ways. However, because of the monitoring obligation imposed on sponsor institutions, little choice is left to academia but to comply with the requirements, at least on the surface.

This means the watchful eye of the state, more precisely the Home Office, penetrates spaces from which it had so far been kept at bay. A long tradition of protecting the relative independence and autonomy of universities in Britain is being undone by the requirements of immigration policy. This is being effected, however, not by planting bobbies or CCTV cameras, but by delegating ill-defined monitoring duties to staff within those institutions. These staff are ill prepared to carry out these duties, and never signed up for it.

A further issue of concern is the tendency to opt for automated surveil-  
lance or monitoring systems, such as swipe cards. The human judgement  
and involvement in the process becomes both disembodied and invisible,  
lowering further the risk of resistance from staff or students. It is in part the  
way that monitoring and supervisory procedures are disguised as 'good  
practice' or 'standard procedure' that so irks students and staff.

## 4 Arbitrary Decision-Making by Border Officials

The extension of official checks to academic staff deepens a growing culture of distrust within academia, which in turn harms international collaboration amongst colleagues. It also presents evidence that the UK Border Agency and its partners are failing to apply a coherent visa policy. Back in February 2010, the Manifesto Club reported the case of a young academic offered a lectureship in Britain. His passport was lost by the UK Border Agency, forcing him to resort to an £800 'premium service'. The affair was only solved because he paid another £1,400 to a private immigration agent who ensured the application was processed in time.

The main reason for incorrect rejections appears to be inconsistencies in the treatment of applications. The independent chief inspector of the UK Border Agency noted this problem following a study conducted in 2010.<sup>15</sup> He declared that the Agency should adopt a more coherent approach worldwide. When facing minor omission or documentation mistakes, processing agents should contact the applicant or sponsor instead of automatically rejecting the application.

However, Agency staff have little choice but to apply the guidelines they are given. Criteria and requirements are inflexible. Both are based on the standards of a wealthy, well-functioning Western welfare state democracy. Such inflexibility creates problems for a scheme dealing with individuals from all parts of the world, with diverse bureaucratic cultures.

These issues mean applications continue to be wrongly rejected. Yet applicants often have little choice but to reapply, and repay the application fee, because the appeal procedure is very lengthy. In the case of international academics, the prospect of needing to repay high fees might be enough of a deterrent. A Professor in the History of Art at UCL confirmed

<sup>15</sup> <http://icinspector.independent.gov.uk/news/>

that many of his African colleagues would no longer be attending events and research programmes in the UK because they were finding the visa application process too onerous, uncertain and lengthy. He said: 'I feel our world is shrinking. Without them, our research culture will be significantly impoverished.'<sup>16</sup>

Indeed, a series of unnerving cases of deported international academics shows that border agents are exercising unjustified authority at airports, often basing their decisions on ignorance or mere suspicions.

A visiting musicology professor from Miami was invited to hold seminars for a month at Leeds College of Music in 2009, but was deported by the UK Border Agency on arrival in the country. This person was unpaid, and was caught because they were truthful about the purpose of their stay in the UK. An Associate Professor at the Leeds College of Music said:

**This sorry incident has put a stop to a planned exchange of expertise in popular-jazz-classical vocal research and pedagogy and has made us wary in planning the Leeds International Jazz Conference, for example. As you will be experiencing, there is no appeal or explanation of the decisions made by the UKBA and their agents who, while knowing little of the nature of our work, determine vicariously whether or not it continues.<sup>17</sup>**

This is disastrous for international collaboration, which relies on good will despite low budgets. The consequence is a growing uncertainty over the ability to put together high-quality conferences and an impoverishment of British intellectual life.

Border agents repeatedly deny visiting academics entry into the UK because they are suspicious about the real reasons for their stay. When academics honestly declare that they are coming to participate in conferences, agents hear 'I am coming to work'. Individuals do come because their expertise is required. But most do not make money from attending those events: they are simply compensated for their expenses.

<sup>16</sup> Email to Valerie Hartwich, 13th September 2010

<sup>17</sup> Email to Valérie Hartwich, 16th November 2010

In the case of the musicology professor denied entry to the UK at Heathrow last year, a Leeds academic speculated that deportation was partly the result of immigration agents' ignorance of the academic world: 'immigration at Terminal 3 appeared to have no idea what a lecture recital was, what musicology was, or what musical illustrations to a paper were.'<sup>18</sup> On reaching the United States, the academic sought advice with the Chicago British Consulate, who said they could not help because she did not need a visa for this trip.

In a similar case, a Canadian musicology professor was invited to participate in a music summer school in Liverpool. He was deported from Heathrow airport back to Montreal after declaring he was coming to give a few classes, but had been unable to produce the required certificate of sponsorship. He was only being covered for expenses, plus a honorarium.<sup>19</sup>

Whilst immigration policy concerns paid work, these cases and many others show that Border Agents are adopting a much wider definition of 'work', covering creative activity of all kinds.

This is illustrated by the case of young US artist Adam Feldmeth who was travelling for leisure to UK, had accepted to do a day's tutorials at Goldsmiths whilst in London. When passing through UK border control at Heathrow and answering questions on the purpose of his visit, he mentioned the tutorials. As he could not provide the adequate visa, he was searched, locked in a cell overnight and deported back to Los Angeles the next day.<sup>20</sup>

The UK Border Agency's move into regulating unpaid exchanges is a significant shift. It represents a move from regulating the job market into also regulating voluntary and informal relationships. It also means regulating a sector where the conventional definition of work cannot be easily applied.

<sup>18</sup> *ibid*

<sup>19</sup> *ibid*

<sup>20</sup> Deported, Manifesto Club, March 2010: <http://www.manifestoclub.com/files/Deportedreport.pdf>

## 5 The Cap on International Students and Staff

In December 2010, the coalition government announced that it couldn't meet its target for capping immigration unless it also imposed stricter restrictions on international students. On March 22<sup>nd</sup>, home secretary Theresa May announced changes to the student visa route.<sup>21</sup> Much tougher than expected, the changes are disproportionately affecting private education institutions and their students. However, those at universities and publicly funded institutions will feel the brunt just as badly. The pettiness of the new measures is particularly striking.

For example, the new changes prevent dependents of international students from coming to the UK if the student attends a course below postgraduate level (Masters/NQF 7) of less than 12 months or non-government-sponsored. This means discriminating against mature students with families.

Financial requirements will now include signing a declaration to ensure that funds will be available during the student's stay in the UK. A list of proscribed banking institutions will be developed, and documents from these will lead to automatic rejection. This is a proposition for 'weeding out' supposedly 'problematic' people, that unfairly moves against students from less stable countries and poorer backgrounds.

Finally, all educational providers wishing to welcome international students will have to become 'highly trusted sponsors' and be accredited by the relevant bodies. In effect, this means that the links between the UKBA and educational providers have been tightened, giving the Agency greater access to the facilities, activities and data of those education institutions.

<sup>21</sup> [www.ukba.homeoffice.gov.uk/sitecontent/documents/news/summary-student-policy.pdf](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/news/summary-student-policy.pdf)



Professor Adrian Sutton at Imperial College explained his concern about the cap on international students by using the example of one of his students, a Chinese postgraduate. At the time of his admission to the college he was 26, having started a PhD in China that he had to abandon because of the death of his supervisor: 'during the three years he worked on his PhD in China he published 20 peer-reviewed papers in leading Western journals and seven articles in conference proceedings'. At Imperial College, he was given a scholarship enabling him to start his PhD studies afresh:

**In his first year at Imperial he has already published four more papers in prominent journals and has submitted another four for publication. The quality and quantity of his research output is absolutely outstanding, and far exceeds any UK student I have encountered in 30 years as an academic at Oxford and Imperial.** <sup>22</sup>

This student is obviously outstanding, and brings much knowledge, understanding and prestige to a British university. Yet under the new immigration cap, he would be considered a problem, a burden and a need for excessive bureaucracy – if he were able to come to the UK at all.

A new cap has also now been introduced on the two routes – Tier 1 and Tier 2 – used to hire international staff. In April 2011, this cap became permanent. On top of the impediments put on the thousands of international visitors who annually come to the UK to participate in lectures, conferences, exchange and research programmes, it will make the recruitment of international staff even more difficult. The academic community has subsequently expressed concern about its ability to continue recruiting the best individuals from around the world.

Few professors or researchers are likely to qualify for the general Tier 1 (highly skilled workers) route because salaries in academia are modest. In response to this the Home Office introduced at the beginning of August an 'exceptional talent' route for researchers, scientists and artists with a monthly limit of 1,000 individuals. After consultation with academic and cultural actors the Home Office and UKBA designated the following insti-

<sup>22</sup> Email to Valérie Hartwich October 12th 2010

tutions as accredited to judge the potential of applicants: British Academy, Royal Society and the Royal Academy of Engineering. Those established and prestigious institutions may be the heavyweights in their field, but are they best suited to be talent scouts?

As for the skilled migrants route – Tier 2 – the government has set an annual limit at 20,700 for 2011/2012. To implement the cap, the Home Office has cut the number of Certificates of Sponsorship (CoS) each sponsor may give. Though most universities have only seen a decrease of 15%, this can be problematic if it means foregoing the specialist in the field you most need to hire in, or having to choose between maintaining a professor and hiring a new one. There are a series of exemptions to the cap, including: dependents of skilled migrants with a job offer, those with salaries over £150,000, sportspersons, ministers of religion and inter-company transfers. The 'exceptional talent' visa route was a concession, but will it be enough? And why are sportspersons more important than academics?

As a consequence of the cap, Universities UK is worried that the UK will become less attractive for international students<sup>23</sup>. This will cause problems for the recruitment of the very best academics and researchers, who under the current conditions will find it incredibly hard to satisfy requirements, and bring their family over. Financial requirements are unrealistic, especially for young academics or researchers, who more often than not cannot come up with the required funds. This is stressed by one of the major unions within academia:

**The proposed restriction of Tier 2 to shortage occupations would be problematic for universities as academics are not currently a shortage occupation and a number of academics would not qualify for Tier 1 due to insufficient previous earnings and availability of funds.**<sup>24</sup>

A document from the human resources department of Imperial College stated the impact of the cap on the college's recruitment of international

<sup>23</sup> Phone conversations with Valérie Hartwich over the Autumn of 2010

<sup>24</sup> Interview with Valérie Hartwich, February 2011

staff for the 2010/2011 academic year: 'the UKBA has confirmed that the College's allocation for the period of the interim limit between 19 July 2010 – 31 March 2011 will be reduced by 15% to 82 Certificates of Sponsorship (CoS)'.<sup>25</sup> This is a problem because non-EU individuals represent 25% of all temporary post-doctoral researchers.

International academics also have an important presence amongst permanent staff, though a drop has been witnessed since the introduction of the points-based system: 'for academic (permanent academic staff), between 2006-7 and 2008-09, the fraction of non-EU permanent academic staff hired remained fairly constant at around 17–19%. In 2009–10 this fraction dropped to 12.5%. This reduction coincides with the introduction of tighter border restrictions'.<sup>26</sup> The college expects that the cap on Tier 2 will lead to a drop in the recruitment of post-doctoral researchers for the year 2011/2012.

As a consequence of the impact of immigration policies on recruitment, groups across the education sector have been lobbying the government to slacken these new controls.

<sup>25</sup> HR internal documents provided by contacts at Imperial college

<sup>26</sup> Email to Valérie Hartwich, October 2010

## 6 Encroaching on Academic Freedom

The changes introduced in immigration policy over the past two years have encroached on the freedom and autonomy academia has historically enjoyed. As the testimonies of academics have shown, universities' ability to recruit the best staff possible is curtailed by the recent cap.

Policy should respect the fact that education is an international sector, where research is conducted across borders and cares little for nationalities. Over the past few years there has been a constantly high percentage of international staff at British universities, around 10%. However, with caps on migrants, higher education is effectively being told who it can and can't hire.

Moreover, with the creation of a pool of 1,000 sponsorship certificates for individuals with 'exceptional talent', the government is further strengthening its say in the recruitment process. This special sponsorship pool is designed for artists and researchers. It will serve to bring in individuals who have been internationally recognised as having an exceptional talent through awards like the Nobel Prize or Oscars, or individuals showing promising signs to be awarded such distinctions in the future.

This poses two problems. First, who decides what distinctions or awards define exceptional talent? And second, who selects 'promising individuals', and according to what criteria? As with most things in politics, the ability to define gives power – because it means laying down the rules of the game. Even though the UK Border Agency consulted with stakeholders to solve those two issues, the outcome of previous coalition consultations has shown that most decisions in fact ignore consultation processes. The guidelines as to what recognition makes an exceptional academic or artist are so far relatively vague.



Fundamental research might suffer from this, as might humanities. It might be a much more delicate task than expected to cherry-pick future talents, since they, by definition, tend to innovate entirely novel research. Research is a discrete and slow process, and ground-breaking work isn't always conducted by those one most expects, or in the fields one might suspect. It is therefore legitimate to be sceptical about the arrangements which shall be made to select future talents.

Turning to the impact of the sponsorship system, we identify other threats to academic autonomy. As sponsors, the UK Border Agency stipulates that universities must agree to the following:

**You must co-operate with us as follows:**

- allow our staff access to any of your premises on demand. Visits may be either prearranged or unannounced;**
- stick to any sponsorship action plan set by us;**
- look to minimise the risk of immigration abuse by complying with any good practice guidance that we or any sector body may produce for you in particular tiers or sectors.<sup>27</sup>**

To this list, one must also add access to records of documents of migrants, including contact details, and photocopies of passport and biometric residence permits.

As shown in this report, sponsors must comply with the UK Border Agency's rules in order to retain an international student body. Tightening the sponsorship system last year and restricting the courses institutions can offer, the Agency managed to turn sponsorship into a privilege, rather than a right. Indeed, without it, the crucial revenue and intellectual contribution brought in by international students are out of reach. So the Home Office, through the UK Border Agency, dangles a carrot, whilst also threatening the punishment of sponsorship licence withdrawal.

For a sector competing over international students and staff as a way to compensate for public funding and remain ahead of the globalised edu-

<sup>27</sup> [www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/cooperatingwithus/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/cooperatingwithus/)

cation market, this is a cruel situation to face. It leaves institutions little choice. In agreeing to be part of the sponsorship system, universities are effectively allowing the state interfere in their affairs to an unprecedented extent.

The monitoring of international students by universities implies the monitoring of universities by the UK Border Agency, or any outsourced representative the Agency might choose. More than just monitoring, this puts the UK Border Agency in a position to instruct educational institutions to implement any change deemed necessary.

It also gives it a right to enter academic premises at any time, when, traditionally, universities have been spaces where the state, and more specifically the police, could enter only with the dean's approval. This was because universities were considered to be places where freedom of belief and speech should be exercised without fear of oppression by state authorities. But now, even though access is tied to immigration matters, this obligation to grant access at any time represents the first step to deconstructing this independent space.

A further erosion of academic freedom was introduced with changes to international students' rights. Though work placements ratios have remained unchanged for higher education, which can continue offering courses with up to 50% of the time spent on placement, private colleges offering below degree level courses have faced new restrictions. Private further education institutions will now have to ensure that at least two thirds of students' time is spent in the classroom. This is a serious infringement of the Agency on the autonomy of some educational providers. Indeed, we are talking here about their right to design courses following academic concerns, rather than an immigration agenda. Education institutions define how courses are run based on experience, new pedagogical experiments and student feedback. The Home Office, government or UK Border Agency do not have the competence to determine what ratio is in the interest of students' education.

Finally, though the change is proposed to reduce 'abuse' of student visas by visa nationals, it would not only affect international students, but all

students – since it would be near impossible to devise different courses for home and foreign students.

It is understandable that all employees or students should be subjected to the same rules to ensure equal treatment. But there is a point at which imposing more rules and regulations stops making sense, because it shifts the balance from a state guaranteeing our rights, to a state choking society with obligations, and disguising duties as privileges.

The combination of the points-based immigration system (PBIS) and the immigration cap have the potential to do just that, because they give the state excessive power to interfere in affairs which are not within its remit.

The justification for both the points-based system and the migration cap is the reduction of risk. Non-EU internationals are represented as a risk to the British labour market and society, a drain on scarce resources and a potential source of social disorder. This says less about immigrants than about the defensive mentality within British political life. Rather than taking pro-active measures to improve the attractiveness of British workers and boost the economy, governments instead chose reactive measures limiting the damage. This is the sign of an era when politics has been reduced to an exercise in risk-management.

## 7 Opposition is Gathering Pace

As I showed in my report *Fortress Academy*,<sup>28</sup> the introduction of the PBIS – and particularly monitoring duties – has given rise to opposition within the academic profession. University and College Union (UCU) passed motions in 2009 and 2010 against the system, and several groups up and down the country came out against it. The movement has not abated.

At a Northern university, plans to have international students report weekly with identity documents at administrative offices were scrapped after the local UCU branch successfully opposed the institution's management. Staff argued the plans were discriminatory, and could jeopardise their pastoral duties. Since then, it was rumoured that non-EU students would be subjected to monthly reports. This still exceeds UKBA requirements for highly trusted sponsors. A professor from this university declared:

**Although monitoring is made compulsory by the UKBA, higher management across the country is overzealous in their implementation of the monitoring process, because of previous plans to tighten control over staff and students. The PBIS was the perfect smoke-screen behind which to put in place a more managerial approach to the academic environment.<sup>29</sup>**

At the University of Brighton, according to a UCU contact, by June 2010:

**The PBIS regarding visiting academics is applied only to those being paid, and NOT to expenses (for the time being). This means that we (UCU people, or most of us) specifically tell speakers we**

<sup>28</sup> [www.manifestoclub.com/files/FortressAcademy.pdf](http://www.manifestoclub.com/files/FortressAcademy.pdf)

<sup>29</sup> Interview with Valérie Hartwich October 2010

**invite (from wherever, UK included, of course) that we can't pay them and the reasons for that.<sup>30</sup>**

This shows that resistance is possible, either by exploiting the system's shortcomings or by confronting one's administration.

Student groups across the country have publicly opposed the cap on international students. They object that it would be detrimental to higher education's competitiveness at a time when other English-speaking countries are relaxing their immigration policies. More fundamentally, many oppose the cap because they see it as a discriminatory project, resulting from a narrow-minded and defensive mindset. These young people are British as well as foreign, and they are fully aware of the benefits of a multi-cultural experience and environment.

Indeed, part of the reason those from abroad chose to study here is the cosmopolitanism of the UK's academia. They know that being exposed to points of view forged in different cultures will make them more knowledgeable, more tolerant and a great deal more suited and attractive to other academic posts. Making friends with people different from them with different mentalities will challenge them and open new horizons. They want it to remain this way, because they understand that learning happens not only between a professor and its students, but also amongst students. The more diversity is present in the classroom, the more there is to learn.

Two London-based student groups have launched campaigns against the cap. Based at the LSE,<sup>31</sup> a group largely composed of visa nationals has put together a series of actions, including a photo campaign showing the wealth and reality of the diverse student body at the college.

At Goldsmiths College, the Students Not Suspects<sup>32</sup> group has continued its work, and has recently felt the consequence of the points-based system. Following the monitoring requirements imposed by the PBIS, the

<sup>30</sup> Email to Valérie Hartwich, 18<sup>th</sup> August 2010

<sup>31</sup> [www.lsesu.com/campaigns/dge/](http://www.lsesu.com/campaigns/dge/)

<sup>32</sup> [www.facebook.com/home.php#!/group.php?gid=252057804209](http://www.facebook.com/home.php#!/group.php?gid=252057804209)  
<http://studentsnotsuspects.blogspot.com/>

university introduced a registration process via email. Due to a series of administrative errors and the absence of a number of international visitors on fieldwork/work placements who were unable to access the internet, the administration compiled a list of around 200 individuals to be reported to the UK Border Agency by March. Those risked deportation. Thanks to the dedicated work of the Students Not Suspects group this number was brought down to 20 students.

## 8 Conclusion: Scrap the Points-Based System and Immigration Cap

The points-based system is inefficient and cumbersome. It is an obstacle to pursuing dynamic research within universities. Prevented from recruiting the best individuals by costly and lengthy procedures, uncertain about its ability to host events of an international standing, British higher education is losing its competitive edge and cosmopolitan character.

The pursuit of knowledge naturally transcends national boundaries. The history of humanity is one of the cross-fertilisation of cultures: the so-called Latin alphabet has Greek, Phoenician and Etruscan roots; much of the Ancient Greeks' knowledge was salvaged by the great Arab civilisations around the Mediterranean, only to be rediscovered by European thinkers in the late Middle Ages. Genuine diversity and open-mindedness is important to developing knowledge: it fosters novel ways of understanding. Constricting the international academic world is therefore counter-productive to society's development.

I am further concerned that a culture of monitoring is profoundly changing the relationships between individuals involved in academia, damaging the collaborative environment required for developing ideas and research.

The imposition of specific monitoring and recruitment procedures reflects a worrying tendency for the state to impose its own management logic on sections of society that are governed by different rationales. The state is not best suited to tell universities how to run their courses. The cap on international students is a 'one size fits all' solution aimed at a minority of 'dodgy colleges', but imposed on all institutions ubiquitously.

Finally, the cap allows the coalition government to create a narrative where a category of individuals – visa nationals – is seen as a burden on

the 'finite resources' of the UK. According to this account, the strain that foreigners put on 'our limited resources' takes precedence over any form of contribution they might make. This resonates with the rhetoric of xenophobic groups across the UK and Europe, and consolidates the notion of scarcity as our present day reality. In the context of a recession, where indeed some things are getting scarcer, it further legitimises the politics of austerity and cuts.

When politics fails to be a source of inspiration, debate and reflection, it shrinks into an exercise of risk management. This leads to a need to control individuals and institutions, surrender responsibilities and accountability towards citizens, impose its rationale upon the rest of society and foster a culture of distrust rather than co-operation. The points-based system and the immigration cap are perfect examples of this.

These policies pose greater questions in terms of the kind of society we want to live in. This is why at the Manifesto Club we believe we must oppose both policies as firmly as we can.



A Manifesto Club Report  
Students Under Watch: Visa Checks and  
the Rise of Surveillance in UK Universities

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