

Summary: Intervention & Options

Department /Agency: UK Border Agency	Title: Impact Assessment of Tier 5 of the Points Based System for Immigration	
Stage: Final	Version: 1.11	Date: 2 nd May 2008
Related Publications:		

Available to view or download at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

Contact for enquiries:

Telephone:

What is the problem under consideration? Why is government intervention necessary?

To control migration to profit the UK. Migration brings significant benefits to the UK; in 2006 migrants contributed around £6 billion to output growth¹ with international students contributing a further £8.5 billion². The PBS will ensure that we only attract those that we need.

What are the policy objectives and the intended effects?

The implementation of Tier 5 will ensure that the UK continues to receive the cultural, social, religious and international development benefits of particular types of temporary workers and youth mobility while reducing risks of abuse of the immigration system.

What policy options have been considered? Please justify any preferred option.

2 options are considered:

Option 1: Do nothing - continue to accommodate temporary migrant workers through the existing migration systems

Option 2: Implement Tier 5

Option 2 is preferred as it fully addresses the policy objectives and maximises the economic benefit of migration to the UK

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The policy is to be continuously monitored as part of review of progress towards meeting PSA 3: "to ensure controlled, fair migration that protects the public and contributes to economic growth."

¹ The Economic and Fiscal Impact of Immigration, A Cross-Departmental Submission to the House of Lords Select Committee on Economic Affairs, October 2007.

² Global Value: The value of UK education and training exports to the UK economy: an update: Pamela Lenton, Dr of Economics, University of Sheffield, August 2007, commissioned by the British Council. This figure comprises HE tuition, HE other spending, Trans-national HE, Other HE, FE tuition, FE other spending, Other FE, ELT tuition and other, Independent primary and secondary

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description: Implement Tier 5 of the Points Based System for Immigration

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Additional training and IT required to implement Tier 5. Output loss due to loss of those working holidaymakers no longer qualifying for the youth mobility scheme and requirement for all temporary workers to obtain entry clearance.
	One-off (Transition)	Yrs	
	£ 1.6 million	10	
	Average Annual Cost (excluding one-off)		
	£ 51 million	Total Cost (PV) £ 439 million	
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Increased output from widened entitlement to work for dependants and increase in work entitlement from 1 year to 2 years for youth mobility.
	One-off	Yrs	
	£ 0	10	
	Average Annual Benefit (excluding one-off)		
	£ 112 million	Total Benefit (PV) £ 952 million	
Other key non-monetised benefits by 'main affected groups' More effective realisation of non-economic benefits due to streamlined, more efficient process. Improved public confidence in system with clearer objectives and robust entry clearance and returns policy .			

Key Assumptions/Sensitivities/Risks The NPV calculations are based on historical data which do not necessarily reflect future flows. A +/- 10% range on volumes is used to account for this uncertainty.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 374m to 652m	NET BENEFIT (NPV Best estimate) £ 513 million
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What is the geographic coverage of the policy/option?	Worldwide			
On what date will the policy be implemented?	To be announced			
Which organisation(s) will enforce the policy?	BIA			
What is the total annual cost of enforcement for these organisations?	£ 0			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ 0	Net Impact	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Background and Methodology

This assessment addresses the implementation of Tier 5 of the Points Based System which caters for temporary workers and youth mobility. This route will replace existing arrangements covered within work permits and other smaller scale migration schemes.

A full description of the Tier 5 framework can be found in the Tier 5 Statement of Intent which can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

For this assessment, we examine 2 options:

- Option 1: Continue to accommodate temporary migrants within existing arrangements
- Option 2: Implement Tier 5 of the Points Based System

Note that this assessment only considers the impact of new Tier 5 rules and does not consider the impacts of changes due to sponsorship. A separate Impact assessment for sponsorship for the PBS can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

Rationale

As with the routes Tier 5 will be replacing, Tier 5 is intended to achieve largely non-economic objectives. By allowing certain types of temporary worker, this helps to satisfy cultural, charitable, religious and international development objectives. In addition, the youth mobility scheme will promote the cultural benefits of exchange.

The introduction of Tier 5 of the Points Based System is intended to clarify the rules governing the employment of non-EU temporary migrants by sponsors. The system is intended to be more streamlined and the new rules to have more clarity. We expect this to improve the efficiency of delivery and ensure that Tier 5 can achieve its objectives more effectively.

Options

Option 1: Retain current arrangements

Description:

Continue to cater for Tier 5 using current staffing levels, processes and technology

Option 2: Implement Tier 5 of the PBS

Description:

- Combine the current routes and concessions into Tier 5 incorporating the sub categories Creative and Sports People, Visiting Religious Workers, Charity Workers from Overseas, Government Authorised Exchange, International Agreements and youth mobility.

- Implement new IT system

Key Benefits

- Increased output resulting from dependants entitlement to work
- More effective realisation of non-economic objectives due to increased transparency
- Improved public confidence in a system that has clearer aims and objectives
- Creation of much richer data source to aid future monitoring of impacts of Tier 5
- Increased output resulting from expanding of work entitlement for youth mobility
- Improved control of immigration for youth mobility route because of requirement of returns policy from source countries
- Increased fairness and public perception as UK migrants also benefit in equal numbers from cultural exchange with source countries

Key Costs

- Set-up Costs e.g. new IT additional training
- Loss of output from requirement for entertainers to obtain Entry Clearance before entering the UK and those no longer qualifying for the youth mobility scheme.

Impact of Option 2

We do not anticipate the implementation of Tier 5 to have any significant impact on the volumes of temporary workers.

However, there is likely to be an impact on the numbers of migrants using the youth mobility scheme due to the abolition of some specific routes and the exclusion of visa nationals from the scheme.

The estimated volume impact that these changes would have had on historical data are given in the table below:

Migrants with up to 1 year leave entitlement

Tier 5 (Newcomers by existing categories)	Historical data (2006/7)	Range of expected newcomers under Tier 5 (historical data + assumptions)		
Temporary workers newcomers		Central	-10%	+10%
Creative and sporting	33,400	33,400	30,100	36,700
Charity workers	1,700	1,700	1,500	1,900
Religious workers	1,600	1,600	1,400	1,800
Government authorised exchange	700	700	640	770
International agreement	500	500	450	550
Total T5 TW primary newcomers	37,900	37,900	34,100	41,700
Dependants	17,700	17,700	15,900	19,500
Total T5 TW newcomers (primary plus dependants)	55,600	55,600	50,000	61,200
Youth Mobility newcomers				
Working Holiday Makers	43,700	37,700	33,900	41,500
Au pairs (non-EEA)	1,000	0	0	0
BUNAC	4,000	4,000	3,600	4,400

Japan YES Scheme	400	400	360	440
MP's Research Assistants	50	0	0	0
GAP	800	0	0	0
Total T5 YM applicants	50,000	42,100	37,900	46,300
Total T5 with <1 years leave	52,800	52,800	47,500	58,100
Total T5 with 1 to 2 years leave	52,800	44,900	40,500	49,400
Total T5	105,600	97,700	87,900	107,400

Note that all the figures above are compiled from unpublished management information and as such should be considered provisional and subject to change.

Monetised Impacts

The main areas we have monetised that will impact UK output are:

Work entitlement of Youth Mobility Scheme

Currently, though entitled to remain in the UK for 2 years, working holiday makers are only able to work for a maximum 1 year. We believe there is a case for allowing these migrants the entitlement to work for the length of their stay should they so wish in order to maximise the contribution to Britain's economy and the tax paid to the Government. To calculate this impact, we assume that 50% of Youth Mobility migrants work full-time at the minimum wage of £5.52 per hour for a year of their stay in the UK currently.

Loss of Youth mobility migrants from visa national countries and specific schemes to be abolished

The tightening of the youth mobility scheme criteria will reduce the number of migrants from visa national countries. While this measure will improve our border security and reduce illegal working it will also result in some loss to the output of the UK economy. We calculate this using the same assumptions as those outlined above.

We also expect this to lead to a reduction in applications from visa national countries, the majority of which are currently rejected. This will produce administrative savings for the UK Border Agency

Entitlement for dependants of Tier 5 migrants to work

While coming to the UK principally to accompany their partner, in order to maximise economic contribution there is a case for allowing dependants to work. Under tier 5 temporary worker dependants will therefore be entitled to work in order to maximise their contribution to the UK economy and payment in tax. Under current routes, dependants are only entitled to work if accompanying a Tier 5 migrant with leave of at least 12 months. We expect this change to expand the UK labour force so increasing UK output.

Implementation of entry clearance requirement for non-visa nationals staying for over 3 months

All temporary worker migrants will now be required to obtain clearance to enter the UK with the exception of those non-visa nationals in the creative and sporting sub-category with leave under 3 months.

Only visa nationals and those intending to stay for over 6 months are currently required to obtain entry clearance. Therefore, there will be an additional £99 cost for:

- non-visa nationals in the creative and sporting category staying for 3 to 6 months
- all other temporary worker migrants staying less than 6 months.

Again, while this increased cost could potentially reduce the flow of migrants through this route it will also improve border security and reduce illegal working.

We have calculated the potential cost of the introduction of this change based on historical management information. Currently around 9,000 (+/- 10% range of 8,900 to 9,100) non-visa national sports persons and entertainers intending to stay for 3 to 6 months enter the UK in a year. This group will face a rising cost to enter the UK. Assuming a wage elasticity of supply of 0.5 and applied to the entire income earned over their period in the UK estimated to be around £7,000, we estimate a loss to UK output of around £446 thousand a year as a modest number of temporary workers choose not to enter the UK because of the increase in cost. This equates to an NPV of around -£3.8 million over 10 years³.

However, we have not calculated the cost to the UK of a reduction other temporary workers staying less than 6 months as these are primarily non-economic migrants.

Implementation Costs

Implementation costs are estimated as the cost of IT implementation and of additional case working training.

All Tier 5 cost/benefit assumptions are listed in the table below:

Summary of Tier 5 Costs/Benefits

Area	Assumption	Effect on NPV over 10 years
Work entitlement for youth mobility	By working longer, migrants can increase output. In the absence of substantial evidence, we cautiously assume a 40% increase in time worked. (based on estimated 42,100 working holiday makers a year)	plus £680m (£80m per year)
Loss of holiday makers from countries with visa regimes	Loss in output (6,000 migrants a year)	minus £371m (-£43m per year)
Entitlement for dependants to work	Increase in output from 17,700 dependants 50% of whom are assumed to work full time at the minimum wage for a 4 month period	Plus £270m (£31m a year)
Loss of Gap Year scheme	Loss of 800 migrants per year paid on average £100 per week.	minus £36m (-£4.2m per year)
Loss of Au-pair scheme for non-EEA citizens	Loss of 1,000 non-EEA migrants a year paid on average £60 a week	minus £27m (-£3.1m per year)
Entry clearance requirement for non-visa nationals	Loss of output from 9,000 affected. Assumed -0.5 elasticity applied to £99 decrease in expected £7,000 wage in the	Minus £3.8m (-£0.5m a year)

³ To calculate this: The £99 charge effective reduces the expected £7000 income by 1.4%. This is multiplied by the wage elasticity (1.4% * 0.5) to calculate the percentage fall in volume in response. Under these assumptions, around 63 of the 9,000 migrants affected will choose not to enter the UK as a result of the new requirements. Multiplying this by expected productivity of £7,000 (wage is assumed proxy for productivity) produces a total £446 thousand reduction in output per year.

staying for 3-6 months	UK.	
Admin savings	UK Border Agency will no longer need to process WHM applications for visa nationals (24,900 *1 hour at £11.60 ⁴ per hr). Note that of 24,900 applications, only 6,000 result in the applicant gaining entry clearance for the UK.	plus £2.5m (£0.3m per year)
Implementation costs	IT service contract (set up) £0.9m Training £0.6m Accommodation £0.08m	Minus £1.6m (one off cost)
Total		Plus £513m

Overall we do not expect Tier 5 to have any significant impact on administrative burdens facing business. While there will be particular requirements related to sponsorship, the impact of this on businesses has been estimated in a separate Impact Assessment on Sponsorship.

Non-Monetised Impacts

Because the objectives of Tier 5 are largely non-economic, many of the potential impacts of this scheme are not monetised. In general, we expect Tier 5 to improve the clarity and transparency of the rules for current routes which will help Tier 5 to achieve its cultural, charitable, religious and international development objectives.

The scheme will also significantly tighten border security by requiring more Tier 5 migrants to obtain entry clearance and negotiating strict returns policies with countries participating in the Youth Mobility Scheme. These policies will reduce potential for abuse of the system, thus reducing illegal working and improving public confidence.

EQUALITY IMPACT ASSESSMENT

Summary

The UK immigration system has a very wide pool of potential users who can come from anywhere in the world. The criteria for entry and leave to remain are designed to maximise the benefit to the UK of the particular route of entry, whether for economic or cultural purposes, and are the same for all potential migrants from outside the UK.

This Equality Impact Assessment (EIA) has been conducted on the proposals for the Tier 5: Temporary Workers (TW) and Tier 5: Youth Mobility Scheme (YMS) of the Points Based System (PBS) in order to assess the likely impact of the tier on the diverse groups affected by it.

The potential impacts of the policy have been assessed in relation to all seven equality target areas⁵. Where any potential adverse impacts have been identified, we also outline any necessary mitigating actions. It also describes what we will be doing in the future to monitor the impact of the policy, and describes the consultation process we have undertaken.

The potential impact of Tier 5 as identified by stakeholders is summarised in the table below. Shaded impacts are beyond the scope of the immigration system to address.

	Issue	Potential Impact
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⁴ The median gross hourly pay of administrative and secretarial occupations (ASHE 2007: £8.92 per hour) is used as the hourly wage costs for sponsors to register and apply for certificates. 30% is added on top of the hourly wage for on-costs (e.g. pensions, NI) in line with the Admin Burden Calculator. This gives an hourly wage cost of £11.60.

⁵ Race; religion, belief and non-belief; disability; gender; gender identity; sexual orientation; age.

Race & Belief	TW potential for English language level to be applied	If specified level of English language is required by Government Department supporting an exchange scheme, may favour some nationalities over others
	TW & YMS Maintenance Test	Relative differences in earnings in different countries may favour people of some nationalities over others
	YMS Country and Deemed Sponsorship Criteria	Criteria favour people of some nationalities over others
		Criteria could indirectly favour some religions over others
Disability	TW & YMS Online application system	People with disabilities may be prevented from accessing the system
		People with learning difficulties may have difficulties with the system
Gender	YMS Dependants criterion	Criterion discriminates against those people who culturally have their children at a young age and are therefore excluded from the scheme
Gender Identity	TW & YMS Maintenance Test	Test discriminates against transsexuals who may face severe employment discrimination in their own country making it difficult to earn sufficient money to meet this requirement
Age	YMS Age criterion	Discriminates against people below 18 and over the age of 30

Tier 5: Temporary Workers

Tier 5: TW provides for certain types of temporary worker to come to the UK to help satisfy various cultural, charitable, religious or international objectives. It comprises of five sub-categories:

- Creative and Sporting
For entertainers, creative artists or sportspeople coming for short periods of time to perform, compete or take part in one event or a series of events.
- Charity Workers
For purely voluntary activity involving fieldwork directly related to the purpose of the sponsoring organisation.
- Religious
For religious workers in non pastoral roles.
- Government authorised exchange
For approved schemes aimed at sharing knowledge, experience and best practice.
- International Agreement
For people who the UK is obliged to allow into the country as a result of a variety of international agreements.

The TW part of Tier 5 rationalises a large number of existing routes which are generally longstanding and about which no specific equality impact concerns have been raised previously. All temporary worker migrants will need to obtain an entry clearance in the category under which they are applying and will need to show they have enough points to qualify.

Points will be assessed against two sets of objective criteria and awarded on production of:-

- i. a valid certificate of sponsorship issued by their licensed sponsor; and
- ii. evidence that the migrant has sufficient funds to support him/herself.

Tier 5: Youth Mobility Scheme

Tier 5: YMS is a cultural exchange scheme designed to create reciprocal youth mobility opportunities for young people from participating countries and the United Kingdom. It will allow young people from participating countries to come and experience life in the UK for up to two years, contributing to the economy by working, paying taxes and spending on goods and services while young UK nationals enjoy similar opportunities in those countries. We will also set maximum numbers permitted to enter under the Scheme in line with the numbers of young UK nationals benefiting from such opportunities overseas.

The requirements for a country to join the scheme are that it:

- accepts the role of sponsor to its participating nationals, and
- meets the scheme criteria related to:
 - a) effective returns arrangements,
 - b) a low immigration risk and
 - c) reciprocal youth mobility opportunities for UK nationals.

The lowest risk countries will be eligible for Deemed Sponsorship (DS) status where the UK has experience of operating successful reciprocal youth mobility provisions and where the country has a risk value low enough to qualify for DS status. The nationals of such countries will be deemed to be sponsored simply by holding a valid passport for the country.

The requirements to be met by individual applicants are that they must:

- be a national of a country participating in the Scheme (or a British Overseas Citizen (BOC); a British Overseas Territories Citizen (BOTC); or a British National (Overseas) (BN(O));
- be sponsored by their national government (unless they are a BOC, BOTC or BN(O));
- be aged between 18 and 30 years of age inclusive;
- satisfy a funds test to ensure that they will not draw on public funds or become destitute during his stay;
- not have any dependant children; and
- not have previously spent time in the United Kingdom on a working holidaymaker entry clearance or a Youth Mobility Scheme entry clearance.

Tier 5: YMS Mobility is not the only route for migrants wishing to visit the UK and do some work. It is designed specifically for young people from those low risk countries which can offer young UK nationals a similar opportunity to visit and work in their country. The eligibility criteria are commensurate with those objectives. Nationals of those countries that cannot meet the requirements for Tier 5: YM may still be able to gain leave in the UK under another category of the Immigration Rules, for example as a visitor, Tier 2: skilled work or Tier 5: TW.

The tests for both TW and YMS will apply equally to all countries and all applicants. The schemes will be monitored and we will take any steps we can to minimise any possible negative effects on the equality areas caused by the scheme. But where such negative effects remain, this will be because there are strong policy reasons for them: namely to ensure that the immigration category fulfils its aim of facilitating legitimate temporary work without compromising our immigration controls.

In keeping with its temporary nature, switching from Tier 5 into other tiers is not permitted and there is no route to settlement. Again, this policy framework applies equally to all.

Race and Belief Equality Impact Assessment

The general duty in section 71 of the Race Relations Act 1976 to promote equality of opportunity between persons of different racial groups does not apply in relation to the carrying out of immigration and nationality functions, on the basis that the operation of immigration control requires decisions to be made which will in many cases adversely affect the opportunities open to people who are subject to it. Those exercising such functions are, however, required to promote good relations between persons of different racial groups.

We consider that the introduction of Tier 5: TW will not make it harder for nationals of certain countries than for those of others to apply and be successful. Some stakeholders have expressed concern, however, that certain parts of the Tier 5: TW framework may impact on race equality duties.

Maintenance: Concern has been expressed that it may be more difficult for some applicants in some countries to be able to demonstrate that they are able to support themselves and therefore gain the necessary points to obtain entry clearance. This concern has been raised specifically in relation to the 'Creative & Sporting' sub- category. It is beyond the scope of this EIA to attempt to mitigate labour market discrimination, and hence access to funds, for whatever reason, in other countries. However, to mitigate any possible negative effect, A-rated sponsors will be able to certify that their migrants will not claim public funds.

Language requirement: There is no general English language requirement in Tier 5: TW because of the temporary nature of the Tier. It is nonetheless open to individual Departments supporting schemes under the Government authorised exchange sub-category to set an English language requirement where considered appropriate. For example, the Department for Innovation, Universities and Skills (DIUS) already support and plan to continue to support the China Graduate Work Experience Programme, which would be one of the schemes under the new "Government authorised exchange" sub-category of Tier 5: TW. This programme enables graduating Chinese students in China to come to the UK for short term work experience. DIUS have themselves set an International English Language Testing System (IELTS) standard for applicants to be considered eligible for the programme on the basis that being able to speak English to a reasonable level will ensure that only those likely to gain the most benefit from this specific programme are able to participate.

The policy for religious workers under Tier 5: TW does not distinguish between faiths, but does accept that religious workers are not necessarily the same as other workers which is why we are catering for the specific requirements of these migrants, by creating a sub-category under Tier 5: TW. We have engaged with stakeholders from different religions and they have not raised any concerns with our proposals for religious workers under Tier 5: TW from an equality perspective. There may, however, be some perceived discrimination as some faiths may only recruit people of a particular gender, age or background, for example, however this is beyond the scope of the UK immigration system and therefore this EIA.

As a single scheme with tests that will be applied equally to all countries and all applicants, the Tier 5: YMS will replace the UK's existing range of youth mobility-type provisions thereby ensuring greater consistency in the treatment of all countries and participants. The YMS will replace the following schemes:

- Au Pair rules
- BUNAC Scheme concession
- Gap Year entrants concession
- Japan: Youth Exchange Scheme

- Research assistants to Members of Parliament concession
- Working Holiday Maker rules

These have grown up over time with no consistent rationale. They favour some countries (eg. Commonwealth countries for the WHS and Japan only for the Youth Exchange Scheme) over others and allow different treatment of the nationals who participate in them (eg. WHS participants are granted 2 years leave in the UK, while the BUNAC scheme with the USA only qualifies participants for 6 months leave at a time). The UK's existing provisions may therefore already be viewed as discriminatory by some groups.

In comparison, the new Youth Mobility Scheme has a clear rationale to promote and encourage balanced opportunities for cultural exchange, whilst ensuring the integrity of our immigration control. It is not an economic route and the criteria for eligibility for the scheme are restrictive to ensure a balance of opportunities is achieved whilst also ensuring that the scheme is not abused by those who would seek to use it to gain entry to the UK to work illegally and overstay etc. Although the criteria for the Youth Mobility Scheme under Tier 5 will mean that nationals of certain countries will not be able to qualify for the scheme, we consider that this is justified as the same criteria will be applied consistently, transparently and fairly to all applicant countries. The YMS criteria do not favour any particular racial or religious group over another. Nationals of countries which cannot qualify for the scheme will not be excluded from potentially entering the UK under other PBS provisions or as visitors

Some stakeholders commented that the YMS involves indirect (and arguably direct) race discrimination, including discrimination on the grounds of nationality. In respect of the Deemed Sponsorship (DS) arrangements, they suggested that to avoid discrimination, all countries might be allowed Deemed Sponsorship (DS), or that UKBA should ensure that any criteria applied in allocating DS status should be based on objective evidence which allowed the profiling of risk. They suggested that there could be a high risk of discrimination if decisions on allocating Deemed Sponsor status are not justified on the basis of evidence, and that discrimination could be exacerbated if the procedure for obtaining a Certificate of Sponsorship are administratively or otherwise difficult, thereby deterring Governments within the criteria for the Youth Mobility Scheme from participating in it. They stated that if the administrative processing of applications for Certificates of Sponsorship is delegated by the Government of a participating country to a designated body, care should be taken to ensure that the administrative function is not so onerous as to result in dramatically higher fees for certain nationalities who do not benefit from Deemed Sponsorship.

The same stakeholders also suggested that the YMS discriminates against visa nationals, as they will not be eligible for the Scheme, and that there is no objective justification for doing so. They state that the risk criterion should be based on an objective assessment of a country's risk profile rather than relying on the list of visa nationals.

However, there are no YMS requirements relating to race, and the YMS criteria and DS eligibility criteria do not favour any particular racial group over another. All countries being assessed to join the YMS and for DS status will be assessed in the same way and against the same criteria on the basis of relevant objective evidence. The nationality requirements, which will be authorised by statutory instrument, are required in order for the Scheme to operate on the basis of participation by individual countries which both meet the YMS criteria and that have decided to join the Scheme. The requirement that countries must not be subject to a mandatory visa regime is a consistent part of the risk criterion for the Scheme as countries will only be subject to a visa regime if their nationals constitute a significant immigration risk for the UK.

A stakeholder organisation also suggested the funds requirement for the YMS may present proportionately greater demands in relation to some nationalities than others, and that therefore, in order to prevent indirect discrimination on grounds of race or nationality, the UKBA must ensure that this cost is not so high as to prevent certain nationalities applying under the Youth

Mobility Scheme. It is stated that the funds requirement should be achievable by all, and should be dispensed with altogether where a job offer is in place or where it can be demonstrated that the individual's skills are in such short demand that s/he is extremely unlikely to remain without a job offer for any significant period.

However, the funds requirement is considered necessary to ensure that participants are able to support themselves for the early part of their stay. The maintenance test will be applied consistently to all applicants for places on the Scheme. There is no skills or education requirement for the Scheme, and no distinction will be made between applicants, in respect of the funds requirement, on the basis of the type of work they may have arranged to do in the UK.

Concern was expressed by one stakeholder organisation that the YMS will involve indirect discrimination on grounds of religious belief.

However, there are no YMS requirements relating to religion or beliefs, and the YMS criteria are not considered to favour any particular religious group over another. Moreover, the immigration system is not an appropriate or adequate tool to mitigate discrimination in other countries on grounds of religious belief.

Disability Equality Impact Assessment

Stakeholders have suggested that the online application system for both the Tier 5: TW and YMS may have an effect on applicants with disabilities.

On-line application system: Stakeholders generally have been concerned that the on-line application system could place barriers in the way of those who have difficulty using computers or reading text on computer screens. We will mitigate this barrier by building the new IT system to comply with the industry standard W3C "Web Content Accessibility Guidelines 2.0" (<http://www.w3.org/TR/WCAG20/>). Following these guidelines will make content accessible to a wide range of people with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech difficulties, photosensitivity and combinations of these.

Disability data for users of the immigration system is not currently collected. As such, there is a risk that disproportionate impacts are occurring unnoticed. We will take account of any qualitative data provided by stakeholders during the monitoring and review of the impact of Tier 5.

Gender Equality Impact Assessment

The immigration system is not an appropriate or adequate tool to mitigate sex discrimination in other countries.

For Tier 5: TW, stakeholders have not identified any adverse impacts in this area.

For Tier 5: YMS, one stakeholder organisation stated that dependants should be permitted to accompany the main applicant under the YMS, and that barring participation by those with dependant children could discourage women from participating in this scheme, as women are more likely to be the primary carer for a child than men and may not apply if they cannot bring their children with them. In addition, they argued that women who have children in their twenties will be discriminated against (which raises a combination of gender and other factors, as ages at which people have their first children do differ from country to country and faith and cultural considerations can play a role).

However, under the terms of the YMS, both men and women who are parents of dependant children will be ineligible to participate in the Scheme. We recognise that some people will not qualify for the new scheme because it does not permit dependants but our previous schemes also applied restrictions on dependants. The immigration system does not dictate life choices about whether to have children or not. But allowing those with children to enter on the scheme would not be consistent with the scheme's rationale of encouraging youth mobility. If participants were allowed to bring their dependant children then those children could also be a drain on public funds as the need might arise for them to access the NHS, and in some cases they might require and be eligible for state education. Experience of the Working holidaymaker scheme has also shown that there are sometimes difficulties in deciding whether a parent has the right to bring a child with him or her when the other parent is remaining overseas. It has therefore been agreed that such issues are best resolved by not allowing any dependants under the new scheme. It should also be borne in mind that there will be no "main applicant" under the YMS: there is nothing to prevent those who are married or have partners from participating in the Scheme, whether their spouses or partners accompany them or not. However, a spouse or partner cannot enter as a dependant and will need to qualify for entry in their own right.

Gender Identity and Sexual Orientation Equality Impact Assessments

One stakeholder organisation expressed concern about difficulties transsexual people may have in meeting PBS maintenance requirements, owing to severe [employment discrimination they may suffer in many countries](#).

The immigration system is not an appropriate or adequate tool to mitigate gender identity or sexual orientation discrimination in other countries.

Data on the gender identity and sexual orientation of users of the immigration system are not currently collected. As such, there is a risk that disproportionate impacts are occurring unnoticed. For this EIA we have had to rely on qualitative data provided by stakeholders. Stakeholders have expressed serious concerns over data collection in this area⁶. It may be inappropriate to collect quantitative data in this area, due to sensitivities about this issue in a potential migrant's country of origin.

Age equality impact assessment

For the Tier 5: TW category, no impacts have been identified in this equality area as there is no restriction on the age of applicants in this part of the PBS.

For the Tier 5 :YMS, concern was expressed that by limiting the YMS to those aged 18-30, it will involve direct and indirect age discrimination, and it was suggested that the YMS should therefore accommodate participants of all ages (or UKBA should ensure that another part of Tier 5 provides such access). Stakeholders considered that potentially greater benefits in terms of encouraging future trade and tourism would be created by allowing those aged over 30 to participate as they would be generally wealthier than the young and be more likely to have progressed in their careers to a point where they could affect trade with the UK.

However, imposing an upper age limit of 30 is consistent with the rationale for the scheme which is to encourage youth exchange. Current regulations concerning age discrimination are intended to regulate the actions of employers. They do not affect the Government's ability to operate an age-related scheme. The Tier 5: YMS will impose criteria to control the entry of overseas nationals into the UK, but does not act as an employer to overseas nationals. The

⁶*Gender Identity and Employment Monitoring: Best Practice Recommendations* (a:gender, June 2007) and *Gender Identity and Employment Monitoring: A transsexual/transgender/intersex perspective* (a:gender, no date). a:gender is the Civil Service-wide support network for staff who have changed or need to change permanently their perceived gender, or who identify as intersex.

current range of youth mobility schemes have different age requirements and so the new scheme will standardise the age limits which are applied. Points will be awarded for age in order to ensure the scheme meets its objective of being a youth mobility scheme for those aged 18-30 years to spend time working and holidaying in the UK. Those younger than 18 are not regarded as adults for all the purposes of UK law and there would be concerns about under-age participants being vulnerable to exploitation by less reputable employers, and legal and social issues in respect of their welfare and possible need for care. .

Action Plan

This impact assessment has not identified any *significant* areas of perceived disproportionate impact. However, where appropriate, actions to mitigate unforeseen, disproportionate impacts or barriers will be undertaken. As with any new policy, there is a degree of uncertainty as to the actual impact, which will only be resolved by monitoring the impact of the policy as it operates.

The following Action Plan has been approved by Liam Byrne, Minister of State for Borders and Immigration.

- Monitoring and Review arrangements: one of the benefits offered by the PBS is the improved management information that it will provide. This will be used to monitor the policy for its impact on the seven equality target areas above.
- Ongoing stakeholder engagement: for those equality target areas where quantitative data is not available, we will review the policy one year after launch with stakeholder groups to check for any disproportionate impacts.

Stakeholder groups consulted

Draft Statements of Intent for the Tier 5: Temporary Workers and Youth Mobility Scheme of the PBS, were sent to the following stakeholder groups for comment⁷:

All target areas: Equality and Human Rights Commission
ILPA
Joint Council for the Welfare of Immigrants
Terrence Higgins Trust
The Runnymede Trust
Trades Union Congress
Immigration Advisory Service
Local Government Association
Convention of Scottish Local Authorities

Race: Black Information Link

Religion, belief and non-belief: The Inter Faith Network for the UK

Disability: Office for Disability Issues
Employers' Forum on Disability
MIND
Disability Awareness in Action
Disability Rights Commission
RADAR

⁷ Please note that the organisations in listed italics received the draft Statement of Intent on the Tier 5: Youth Mobility Scheme

Gender: Women's National Commission

Gender Identity: a:gender
Scottish Transgender Alliance
Gender Identity Research and Education Society
Press for Change

Sexual Orientation: Stonewall

Age: Age Positive
Employers' Forum on Age

Specific Impact Assessments

After consideration of all other specific impact assessments, we conclude that none are appropriate for the assessment of Tier 5

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	No	No
Rural Proofing	No	No

