

# **Post Study Work Steering Group**

## **Report of Final Recommendations**

**March 2016**

## **Ten recommendations for a new post study work visa in Scotland:**

1. A flexible post study work route would benefit Scotland. A pragmatic solution can be found through partnership working between the UK Government, the Scottish Government and Scottish stakeholders.
2. People who have completed an HNC, HND, degree or post-graduate qualification at a Scottish institution should be eligible for a post study work visa.
3. During the course of the post study work visa people should transition onto a job at the same level as their qualification. However, the visa should also provide flexibility to take up other job opportunities in the transitional phase.
4. Post study work visas should last at least two years.
5. People on post study work visas should have some savings to tide them over in a crisis. But they should be able to spend these savings when they need to without losing their visa.
6. A recognised qualification following education at a Further or Higher Education Institution should suffice without additional sponsorship.
7. Time spent in Scotland on a post study work visa should count towards being able to stay permanently in Scotland after five years.
8. Partners and older children of people on post study work visas should be able to work in Scotland, if they want to, as per current immigration guidelines.
9. People on post study work visas will already have excellent English language skills to have completed their qualification; no additional English language requirement would be needed.
10. A new post study work visa should be formally evaluated. It should then be changed if the evaluation finds ways to improve it.

## About post study work visas

Post study work visas provide a dedicated immigration route for international graduates to stay in Scotland or the UK to work, after their studies have finished. The UK Tier 1 (Post-study Work) visa was abolished by the UK Government in April 2012. Prior to this, Scotland pioneered the “Fresh Talent: Working in Scotland Scheme” visa which enabled students from Scottish education institutions to remain in Scotland for two years to work. This scheme ran from 2005 to 2008, when it was subsumed into the UK-wide Tier 1 (Post-study Work) visa.

## About previous work conducted on post study work visas

The Scottish Government and many Scottish stakeholders opposed the abolition of the post study work visa and have supported its return.

Post study work visas were specifically considered by the Smith Commission, which received a number of representations on this issue. The Smith Commission was established after the Scottish independence referendum to “...*convene cross-party talks and facilitate an inclusive engagement process...to produce... recommendations for further devolution of powers to the Scottish Parliament.*” The Commission reported in November 2014 and concluded in relation to post study work that, “*the Scottish and UK Governments should work together to...explore the possibility of introducing formal schemes to allow international higher education students graduating from Scottish further and higher education institutions to remain in Scotland and contribute to economic activity for a defined period of time.*”<sup>1</sup>

Also in 2014, Scottish Ministers established the Post Study Work Working Group. The Group was tasked with providing a view from the business and tertiary sectors on the impact of the removal of the post study work scheme in Scotland and how such a scheme could operate if reintroduced. The Group published its final report in March 2015<sup>2</sup>, concluding that there was clear support across business and education for the reintroduction of a post study work route, that the current post study work offer was insufficient, and that the announcement of the closure of the post study work visa was followed by a substantial decline in numbers of international students at Scottish universities and colleges.

A number of other parliamentary inquiries and reports have considered concerns with the abolition of the post study work visa. These have included the UK All-Party Parliamentary Group on Migration’s inquiry into post study work opportunities in the UK, who published their report in February 2015<sup>3</sup>. The inquiry’s report recommended that a new immigration route should be established to allow non-EEA students to remain in the UK for at least 12 months after graduation to secure skilled employment. Also at a UK level, the House of Commons Scottish Affairs Committee conducted an inquiry into the case for programmes allowing international students to stay in Scotland to work after their studies. Its final report was published in February

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<sup>1</sup> [https://www.smith-commission.scot/wp-content/uploads/2014/11/The\\_Smith\\_Commission\\_Report-1.pdf](https://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf)

<sup>2</sup> <http://news.scotland.gov.uk/imagelibrary/downloadmedia.ashx?MediaDetailsID=3513&Sizeld=-1>

<sup>3</sup> [http://www.appgmigration.org.uk/sites/default/files/APPG\\_PSW\\_Inquiry\\_Report-FINAL.pdf](http://www.appgmigration.org.uk/sites/default/files/APPG_PSW_Inquiry_Report-FINAL.pdf)

2016<sup>4</sup> and found that current immigration rules are too restrictive and are preventing businesses from finding skilled workers. In the Scottish Parliament, the Devolution (Further Powers) Committee held an inquiry into the Smith Report recommendation about post study work. Its inquiry also reported in February 2016<sup>5</sup> and recommended the reintroduction a post study work scheme in Scotland.

### **About the case for post study work visas in Scotland**

There is consensus in Scotland that a dedicated post study work immigration route is required. This is for economic, demographic and social reasons. Talented and well educated graduates from overseas can be vital in meeting skill shortages in our businesses and wider economy. Without being able to fill these shortages, Scotland's future growth will be damaged. A key part of economic growth is population growth, and most of Scotland's population growth is from migration. Graduates educated at Scottish education institutions are ideally suited for remaining in Scotland after their studies end. New Scots from around the world bring significant benefits to Scotland, not just by assisting with economic and demographic growth, but also by making our society and communities more diverse and culturally richer.

### **About these recommendations**

These recommendations were agreed by all members of the Post Study Work Steering Group. The recommendations were informed by the work of the Post Study Work Working Group and a stakeholder workshop held in November 2015. The Group recognises that there are a range of options for taking these recommendations forward and have avoided being too prescriptive where this is not necessary. For example, the Group have not proposed the use of any specific tier of the current UK immigration system.

### **About the Post Study Work Steering Group**

The purpose of the Group is:

- To build on the *Post Study Work Working Group: Report to Scottish Ministers* and formulate more detailed proposals for how a post study work route should operate in Scotland.
- To produce a set of final conclusions reflecting the views of the Group that can be presented to the UK Government for consideration.

Membership of the group is:

- Humza Yousaf MSP, Scottish Government Minister for Europe and International Development (Chair of Group)
- Liz Smith MSP (Conservative)
- Liam McArthur MSP (Liberal Democrat)
- Claire Baker MSP (Labour)
- John Finnie MSP (on behalf of the Green Party)

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<sup>4</sup> <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmscotaf/593/593.pdf>

<sup>5</sup> [http://www.scottish.parliament.uk/S4\\_ScotlandBillCommittee/Reports/DFPS042016R02.pdf](http://www.scottish.parliament.uk/S4_ScotlandBillCommittee/Reports/DFPS042016R02.pdf)

- Institute of Directors (IoD)
- Scottish Council for Development and Industry (SCDI)
- Colleges Scotland
- National Union of Students (NUS Scotland)
- Scottish Universities International Group (SUIG)
- Universities Scotland
- UK Council for International Student Affairs (UKCISA)
- Scottish Trades Union Congress (STUC)
- Scottish Chambers of Commerce

The following organisations also receive copies of meeting papers and have the opportunity to contribute to group discussions through officials:

- ScotlandIS
- OPITO
- Scottish Development International (SDI)
- Skills Development Scotland (SDS)
- Scottish Enterprise
- University of Edinburgh
- Federation of Small Businesses
- CBI Scotland

## **1. A flexible post study work route would benefit Scotland. A pragmatic solution can be found through partnership working between the UK Government, the Scottish Government and Scottish stakeholders.**

There is consensus in Scotland, amongst business, education and every political party represented in Holyrood that we need a return of a post study work route to allow talented students to remain and contribute to the Scottish economy. A post study work route would be of direct benefit to Scotland and would indirectly benefit the whole of the UK. The Post Study Work Steering Group endorses the evidence base previously established by the Post Study Work Working Group<sup>6</sup>.

We hope that the UK Secretary of State for Scotland and the UK Government will find much in this report with which they can agree. The Steering Group welcomes the UK Secretary of State for Scotland's statement that he will look carefully at suggestions to improve current arrangements for international graduates to stay in Scotland and that discussions on this issue are not closed<sup>7</sup>. We appreciate that the UK Government will wish to ensure that those on post study work visas remain in Scotland. We understand that there are a number of practical measures that could be taken to facilitate this, such as clarifying that the visa is valid for work undertaken in Scotland only on Biometric Residence Permits.

The Steering Group further welcomes the Scottish Minister for Europe and International Development's statement that the Scottish Government is not firmly committed to any one structural model for the provision of a post study work route, and is committed to working with the UK Government and stakeholders to design a scheme that best meets the needs of Scotland, and Scotland's businesses and education institutions.<sup>8</sup>

In order to take forward the recommendation of the Smith Commission report<sup>9</sup>, the Steering Group encourage the UK and Scottish Governments to enter into formal and meaningful discussions on detailed proposals for improving the ability of international graduates to stay in Scotland to work after their formal studies have finished. Steering Group members would be pleased to support and facilitate this dialogue in any way that would be helpful.

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<sup>6</sup> <http://news.scotland.gov.uk/imagelibrary/downloadmedia.ashx?MediaDetailsID=3513&Sizeld=-1>

<sup>7</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/scottish-affairs-committee/poststudy-work-schemes/oral/27144.pdf>

<sup>8</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/scottish-affairs-committee/poststudy-work-schemes/written/26029.pdf>

<sup>9</sup> [https://www.smith-commission.scot/wp-content/uploads/2014/11/The\\_Smith\\_Commission\\_Report-1.pdf](https://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf)

## **2. People who have completed an HNC, HND, degree or post graduate qualification at a Scottish institution should be eligible for a post study work visa.**

There are a range of qualifications that can be undertaken in Scottish education institutions that would equip an international student to become a valuable member of Scotland's workforce. These include HNCs, HNDs, degree level qualifications and post graduate qualifications such as post graduate diplomas or PhDs.

The Steering Group recognises that the UK Home Office must always guard against abuse of our visa and immigration system, and that in the past, some UK colleges have operated fraudulently in order to provide immigration routes for individuals who did not intend to study full-time.

However, Scotland has a robust and reputable college sector providing further and higher education qualifications. We know that Scottish employers greatly value the skills provided by HNC and HND level qualifications, and that in some cases, these qualifications are favoured over degree level study. It should be recognised that HNCs and HNDs in Scotland are different to those in the rest of the UK, as they form an integral part of the Higher Education system.

The Steering Group therefore concludes that it is right that HNC and HND qualifications are included in the list of courses that can qualify an individual for a post study work visa. It is also important to ensure that international students completing HNCs and HNDs are able to move onto a post study work visa without leaving Scotland. Current immigration rules require international students undertaking courses lower than degree level, to leave the country before moving onto a work visa.

As with previous iterations of post study work visas, the Group also endorses the inclusion of degree level and post graduate qualifications as providing the highest level skills and knowledge that our businesses and employers need.

**3. During the course of the post study work visa people should transition onto a job at the same level as their qualification. However, the visa should also provide flexibility to take up other job opportunities, in the transitional phase.**

One criticism of previous post study work visas was that talented and well educated individuals stayed in the UK working in unskilled jobs. It may be asserted that this was a waste of those individuals' abilities and was not the purpose of the post study work visa.

This view can be countered by arguing that many graduates undertake unskilled work when they first leave university, and later find work more appropriate for their education level. In the longer run, well-educated and talented international graduates are exactly the kind of people Scotland would benefit from retaining in the workforce.

The Steering Group recommends that these opposing views are reconciled by designing a new post study work visa that addresses both perspectives. In the initial period of the visa, international graduates would be permitted to work in any kind of job. However, this freedom would be on the understanding that the post study work visa is a transitional visa to provide a gateway into appropriately skilled employment.

After a pre-determined period of at least one year, individuals on post study work visas would be expected to be moving into skilled work.

The Group recognise that a post study work visa will work best when it is a transitional visa into skilled employment. In order to further support this aim, it is additionally recommended that those on post study work visas are able to move into Tier 1 or Tier 2 of the UK immigration system either during or after their post study work visa ends. This transition into other visa categories should be possible within the UK and without the visa holder needing to travel back and apply from their country of origin.



#### **4. Post study work visas should last at least two years.**

The length of time that people are able to spend in Scotland on any visa is crucial for both their own integration and the benefits they can provide to Scotland.

The Steering Group recommends that any new post study work visa lasts at least two years. This minimum period takes into account the stability that businesses and employers need from their workforce, and helps to ensure that any training commitments are worthwhile. The two year period will help businesses get their investment back from the resources provided for an individual's career and personal development. All new employees need training to establish their work skills and a two year window is the optimum minimum period for an employer.

This is further evidenced by a survey conducted by the Post Study Work Working Group<sup>10</sup>. The survey collated views from the education and business sectors about post study work. Respondents were asked how long people on post study work visas should be able to remain in Scotland. The most common response was two years.

It is vital that Scottish education institutions are able to compete on a level playing field with education institutions in other English speaking countries. Some other countries provide a post study work route lasting up to four years, so a Scottish route of two years is the minimum that would be required.

It can take graduates at least a year to find appropriately qualified employment. This minimum period of two years will also allow individuals on post study work visas time to establish a home in Scotland, find employment and move into higher skilled work.

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<sup>10</sup> <http://news.scotland.gov.uk/imagelibrary/downloadmedia.ashx?MediaDetailsID=3513&SizeId=-1>

**5. People on post study work visas should have some savings to tide them over in a crisis. But they should be able to spend these savings when they need to without losing their visa.**

The Steering Group recognises the reasons why the Home Office requires individuals to hold defined 'maintenance' amounts in their bank accounts to qualify for certain visas. Should an individual become unemployed or suffer an unforeseen emergency, savings can provide a way of ensuring individuals can return to their country of origin or can tide them over until they find alternative employment. This is especially important for many international migrants who will have no access to welfare benefits or publicly funded support as a condition of their visa.

However, maintenance requirements are essentially no more than a snapshot of someone's bank account at any one time and once these requirements are formally met, it is important that post study work visa holders are permitted to spend the funds in their bank account without being penalised or breaching the terms of their visa. This arrangement will allow the Home Office to protect individuals from becoming destitute when they are in Scotland, whilst also ensuring that individuals can access their savings when the need arises.

## **6. A recognised qualification following education at a Further or Higher Education Institution should suffice without additional sponsorship.**

The Steering Group recognises that the Home Office must put reasonable arrangements in place to ensure that migrants are in Scotland for legitimate reasons. One of the ways they do this is through 'sponsorship', which delegates certain responsibilities to an authorised business or education institution.

Sponsorship requirements may discourage employers from recruiting international graduates, especially if the employer is not already sponsoring a migrant. In practical terms, it may not be possible for an employer to establish itself as a sponsoring institution before an international graduate's student visa expires and they have to return to their country of origin.

For these reasons, the Steering Group recommend that individuals on post study work visas should not require formal sponsorship by a third party. A recognised qualification following education at a Further or Higher Education Institution should suffice without additional sponsorship. For the avoidance of doubt, the scheme should be open to those international students who gain a recognised higher education qualification following education at a Scottish post-16 education body within the meaning of the Further and Higher Education (Scotland) Act 2005.

Post study work visa holders will need to meet the various requirements of the visa, such as maintenance and qualification requirements, but they will then be free to work for any employer. This will also assist them in transitioning into graduate level work under the terms of their visa. Additionally, should a business encounter financial difficulties and be unable to continue employing a post study visa holder, then the person would be free to move to another employer without needing to secure changes to their visa and terms of stay.

After an individual's post study work visa expires, they will require to have moved into the general skilled work immigration regime, with usual sponsorship arrangements, as appropriate.

## **7. Time spent in Scotland on a post study work visa should count towards being able to stay permanently in Scotland after five years.**

After individuals have lived lawfully in the UK for a defined period of time, they can apply to the Home Office to 'settle' in the UK. This means that they can stay in the UK indefinitely and without being subject to immigration control, as long as they abide by certain general rules.

There are a number of routes to 'settlement', but for many migrants who come to Scotland to work, they will be eligible to apply for settlement after working here legally for five years. However, not all time spent on different visas can be counted towards settlement after five years. For example, time spent on a student visa does not count towards settlement after five years.

The Steering Group recognises that the post study work visa is a visa for the purpose of work and therefore recommends that time spent on this visa should count towards settlement after five years. It is intended that the post study work visa provide a transitional bridge into skilled employment and the usual routes under Tier 1 and Tier 2. For this reason it is appropriate that individuals on post study work visas are treated with parity to those on other skilled immigration routes.

## **8. Partners and older children of people on post study work visas should be able to work in Scotland, if they want to, as per current immigration guidelines.**

The Steering Group acknowledges that the UK Government is concerned with net migration levels and ensuring that migrants coming to the UK are not displacing employment opportunities for British citizens.

'Dependents' are close family members of a main visa holder who are able to accompany them to the UK. Most dependents of migrants on working visas have a right to work in the UK, but the Steering Group is aware that the UK Government is currently considering curtailing the right to work for dependents of Tier 2 visa holders.

In relation to the post study work visa, the Steering Group recommend that dependents should retain the right to work in Scotland. This is the current situation for dependents of Tier 2 visa holders, as of February 2016, and is in accordance with the most recent Migration Advisory Committee advice<sup>11</sup>. The Steering Group recognises that individuals on post study work visas may provide benefits to Scotland for years to come. To this end, it is essential that they and their families integrate and become a part of our communities. One of the ways this can be progressed is through paid employment. Allowing the dependents of individuals on post study work visas to participate in the workplace will enhance the whole family's integration into Scottish society and provide additional skills and opportunities for businesses and employers.

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<sup>11</sup> <https://www.gov.uk/government/publications/migration-advisory-committee-mac-review-tier-2-migration>

**9. People on post study work visas will already have excellent English language skills to have completed their qualification; no additional English language requirement would be needed.**

Most parts of the UK immigration system require migrants to have a certain level of English language ability before they are granted a visa. Applicants for a post study work visa will already have met the English language requirements for Tier 4. There are a number of requirements under Tier 4, including that the person must have an appropriate level of English in speaking, writing, listening and reading. The requirement is slightly different depending on whether the course of study is degree level or lower. Most students will need to sit a 'Secure English Language Test' to demonstrate their ability. Non-EEA students are exempt from needing to demonstrate this if they are from an English speaking country, already have a degree from an English speaking country or previously studied in the UK as a child.

Taking these existing requirements into account, the Steering Group does not see any need for post study work visa holders to fulfill any further English language requirements, in addition to those already fulfilled in order to come to Scotland to study and pass their qualification.

**10. A new post study work visa should be formally evaluated. It should then be changed if the evaluation finds ways to improve it.**

The Steering Group recognises the importance of ensuring that any flaws in provision are addressed and remaining open to change. For this reason the Group recommends that a new post study work visa is subject to formal and transparent evaluation based on agreed criteria for success, including addressing the needs of Scotland's business and education sectors.

The visa design and parameters should then be changed, if evaluation finds that the scheme can be improved or adapted to meet new criteria or demands. These changes should be subject to discussion and agreement between the UK and Scottish Governments.



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Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78652-051-7 (web only)

Published by The Scottish Government, March 2016

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS66161 (03/16)

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