



VISA BYTES

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The Points Based System under fire yet again

Last week I reported on challenges to the Points Based System under Tier 2. The spotlight is now on Tier 4 licences granted to sponsors to enable them to sponsor students.

The High court has granted permission to 2 colleges to apply for judicial review of the UK Border Agency's decision to revoke their licences. In the meantime the court has restored their licences pending the outcome of the hearing.

The Judge hearing the applications pointed out that the decision to revoke the licences was unlawful as the quality of the decisions were poor. The reasons outlined were inadequate and confused, conclusions based on the evidence were not reasonable and the UKBA had failed to consider the detailed arguments and evidence that had been put forward. The UKBA had refused the applications for reasons that were not even a requirement at the time of the decision.

There has been some concern that the decision making process has been hasty and ill thought out. Many applicants have not pursued cases purely on the basis of the costs involved but it is now becoming apparent that unless they do the UKBA will not improve their processes. The

cost of correcting this will inevitably fall on the public purse and so those responsible for cuts in spending should take very careful note of what the judges have been saying in these cases.

The consequences of the loss of Appeal rights in Entry clearance cases

One of the consequences of the loss of appeal rights is likely to be an increase in judicial review cases. The Administrative Review process appears to rubber stamp the decision to refuse. The process is not transparent, the reasons given do not leave an applicant confident that the decision has been properly considered and therefore it is inevitable that this area will result in further challenges and further costs. The abolition of the appeal system was not designed to let the Home Office off from quality decision making but it certainly appears that the lack of scrutiny is leading to bad and unlawful decisions. Watch this space for the next area of challenge!!

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