

Editorial:  
Managing Immigration  
vs Managing Opinions  
*Page 2*

Latest news:  
Exploit illegal migrant  
labour at your peril  
*Page 4*

Focus:  
The business  
visitor category  
*Page 8*

**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
AUTUMN 2013

*Are the  
coalition's  
immigration  
policies  
working?*



## MANAGING IMMIGRATION

Alongside the economy, immigration reform still ranks as one of the central political themes within the United Kingdom. UKIP and Conservative supporters still cry out for tougher measures to be introduced and, despite net immigration falling from 242,000 in 2011 to 153,000 in 2012, most ordinary people are not convinced that the politicians have the matter under their control.

A recent YouGov's survey for the Sunday Times provided a clear insight into the perceptions held by voters. As could be expected, sizeable majorities indicated that the UK's immigration rules should be tightened – 69% in the case of immigrants from the rest of the European Union, 73% for people from outside the EU. What was more surprising was the fact that despite the recent sizeable drop in immigration, 59% of those polled thought that it had increased, while a further 17% thought it continued at

around the same level. Only 15% of those canvassed believed that UK immigration levels had indeed fallen.

### UNENVIABLE TASK

This poll clearly indicates that despite ministers continuing to preach that the coalition's policies are working, this view is yet to be shared by the voters. The Rt Hon Theresa May MP, her management team and legions of advisors, have their work cut out if they are to win the hearts and minds of the general public whilst producing an effective and credible immigration agenda. The question is ... are they going about it the right way?

Their latest scheme of sending out vans adorned with billboards that read 'In the UK illegally? Go home or face arrest' to circle around the London boroughs of Hounslow, Barking and Dagenham, Ealing,

*“UKIP and Conservative supporters still cry out for tougher measures to be introduced”*

## MANAGING OPINIONS

Barnet, Brent, and Redbridge smacks of desperation. The £10,000 pilot is meant to tackle illegal immigration whilst, at the same time, provide a very public demonstration of the coalition's commitment towards tackling immigration.

Even though a Home Office spokesperson tried in vain to defend the scheme by stating, “This pilot is about targeting people who are here illegally and giving them the opportunity to leave the country voluntarily and with dignity, rather than be arrested, detained and removed”, numerous party activists and MPs across the political spectrum have unceremoniously condemned it.

Although this tactless and ham-fisted idea is rightly attracting the wrong kind of publicity for the coalition, they should be applauded for getting some decisions right. In this edition of Insight, we have highlighted details of new initiatives put forward in

recent weeks. These include a new helpdesk service for business customers, the piloting of a new passport return service and the possible toughening of civil penalties for those businesses employing illegal migrants.

Whilst these measures may never be big vote winners, they are essential components of a modern and proactive immigration programme. The present government would be wise to continue to assess all areas of its existing operation and to make the necessary modifications needed to meet its immigration objectives and improve service standards. Superficial knee-jerk actions such as this latest advertising campaign aimed at racially mixed areas are ultimately doomed to fail.



## EXPLOIT ILLEGAL MIGRANT LABOUR AT YOUR PERIL



The coalition government has unveiled plans to take tougher action against those rogue employers who exploit illegal labour. Forming part of an immigration bill being introduced later this year, the proposals include:

- a plan to increase the employer-based penalty to £20,000 per illegal worker found;
- an aim to ensure that the country's immigration policy is built into the benefits system, health system, housing system and the provision of services across government; and;
- a simplification and strengthening of the current civil penalty scheme to prevent illegal working.

*“a plan to increase the employer-based penalty to £20,000 per illegal worker found”*

Immigration Minister Mark Harper said: ‘This government is committed to taking action to effectively tackle illegal working. Illegal working encourages illegal immigration, it undercuts legitimate businesses by illegal cost-cutting activity, and is often associated with exploitative behaviour like tax evasion and harmful working conditions.

We will not allow the growth of a shadow economy for illegal migrants, so we are proposing to get tougher on employers who exploit illegal labour.’

### BUSINESS HELPDESK PILOT SCHEME LAUNCHED

A new UKBA helpdesk service for business customers was launched on Monday 1 July 2013.

Set up to primarily offer a single point of contact for queries about becoming a sponsor or hiring people from outside the EEA, the scheme is available to all sponsors, businesses and Tier 1 investors seeking

policy guidance or answers to queries about their own or employee applications.

The business helpdesk has been set up in response to customer feedback and will offer a single point of contact for queries about becoming a sponsor or hiring people from outside the EEA. Their aim is to respond to status update enquiries within two working days and more complex policy or guidance queries within five working days.

*Business Helpdesk: T. 0300 123 4699  
E. [BusinessHelpdesk@homeoffice.gsi.gov.uk](mailto:BusinessHelpdesk@homeoffice.gsi.gov.uk)*

### NEW PASSPORT RETURN SERVICE FOR SOME TIER 2 APPLICANTS

Launched in response to feedback from UK businesses, the Home Office has introduced a new pilot scheme to enable Tier 2 Intra company transfer (ICT) applicants in the UK to retrieve their passports prior to a decision being made on their application.

The service allows Tier 2 (ICT) applicants to have their passport returned

within 7 to 10 days of their application being received by the Home Office and thereby be allowed to continue to travel (current leave permitting) during the on-going application process.

If the pilot proves successful, additional routes will be considered for this service.

*“Tier 2 (ICT) applicants to have their passport returned within 7 to 10 days”*



## CROATIA – A NEW MEMBER OF THE EUROPEAN UNION

Croatian nationals are now able to move and live freely in any member state of the EU and they do not need permission under our immigration rules to reside legally in the UK.

Croatian nationals have a right of residence in any EU member state for the first three months of residence on an unrestricted basis and can remain legally resident in that state as long as they wish, providing they are exercising a treaty right as a student, a self-employed person, or as a self-sufficient person (i.e. not economically active). Croatian nationals wanting to work in the UK will still be required to obtain work authorisation (permission to work) before starting any employment, unless they are exempt from this requirement.

## HOME OFFICE CHALLENGES FAMILY MIGRANT JUDGEMENT

The Home Office has filed its appeal against the High Court's recent judgment (MM & Ors v Secretary of State for the Home Department) of the minimum income threshold for spouses/partners and children applying via the family route, a judgment which was deemed ‘unjustified and disproportionate’.

The judgment affects a substantial number of non-EEA national spouses/partners and children applying to settle in the UK with someone who is already resident here.

Until the case is finally determined by the Courts, the Home Office will put on hold decisions in those cases where an applicant does not meet the minimum income threshold and there is no other reason to refuse it.

Since the minimum earnings requirement was introduced, it has resulted in many British people being kept apart from their family members. However, as it is intent on reducing net migration the Home Office seems reluctant to concede ground by way of lowering the minimum income threshold level.



## SSW ON A MISSION

Since the company's inception in 2001, Smith Stone Walters has stood by its own personal Mission Statement. It depicts the character of our company and guides us on how we behave as a team and how we work with our clients:

*Our mission is to provide our clients with outstanding UK immigration services.*

*Through a commitment to client satisfaction we build relationships that last and ensure our clients' UK immigration aims are fully met.*

We hope you agree that this sums up SSW... perfectly.



## SMITH STONE WALTERS LOVES LONDON

Charles Dickens, Jr. once wrote that Cheapside EC2 was 'the greatest thoroughfare in the City of London.' Since establishing our new London office there, we tend to agree.

We would like to thank the considerable number of clients that have sent us fantastic messages of support. You are all more than welcome to visit us at our new home.

## WHAT OUR CLIENTS SAY ABOUT US



*Tomoko (SSW UK) was top-notch. Fantastic service and responsiveness.*  
*D.H., Investment Bank*

*Heartfelt thanks to the entire team for expediting this process.*  
*B.M., Global Mobile Advertising Leader*

*Ka-ming (SSW UK), you were brilliant! Many thanks.*  
*B.G., Information Technology firm*

*Had a fantastic experience. I was constantly updated and everything was very prompt and helpful.*  
*K.C., Investment Bank*

*Excellent service by SSW. Exceeded my expectations at every level from the start of the process till the end.*  
*M.K., UK based chartered accountants*

*My Visa case was handled with great professionalism and also the consultant managed to create a great rapport with me and solved all my queries. I thank SSW for the kind help. They have been prompt in replies and accurate in their work.*  
*R.R., Investment Bank*

*For Japanese like myself, Nodoka san's support (E-mail in Japanese, Telephone) is very helpful. Thank you very much.*  
*N.S., Japanese multinational conglomerate*

## SIM – A CASE MANAGEMENT SYSTEM THAT DELIVERS



Since its introduction earlier this year, our Smarter Immigration Manager (SIM) case management system has delivered significant firm-wide productivity and client service benefits.

SIM allows our staff to:

- be green by creating an electronic equivalent of the paper (or physical) file;
- access all matter-related information and communications in a central location from a single interface;

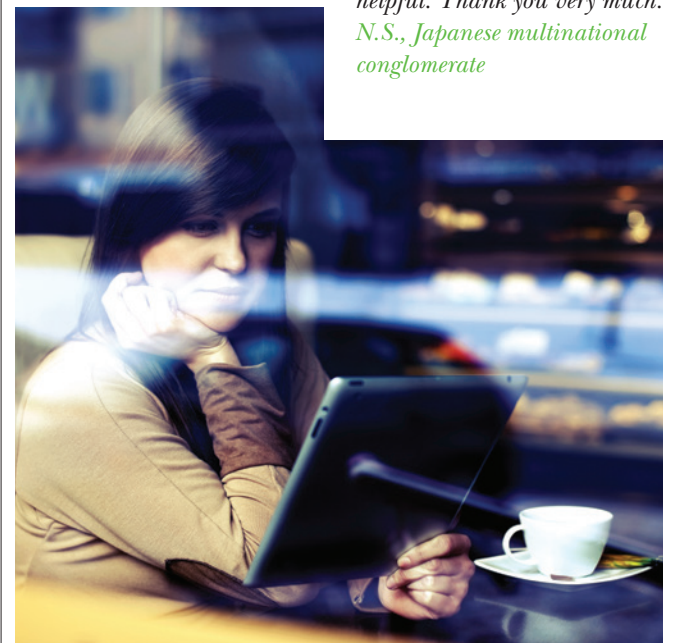
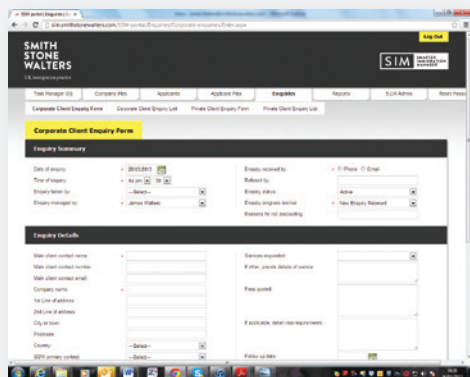
- know at a glance which matters colleagues are involved in and the current status of those matters; and

- continue to provide outstanding client service by providing more timely and substantive communications.

### CLIENTS BENEFIT TOO

SIM allows your business to run your UK immigration casework more effectively. Through our secure web interface, HR Managers and the UK bound assignees now have 24/7 access to detailed information about their case(s) including documents held and the latest case notes. Furthermore, initiating new case matters or running management reports on caseloads has never been simpler.

*For a SIM demo, please contact your Smith Stone Walters advisor today.*





*To give clients clear and concise information every quarter we focus on a key issue of immigration law. Our focus for this quarter falls upon...*

## BUSINESS VISITORS

*The business visitor category is for people who work abroad but intend to visit the UK for a short time to do business on their own or their employer's behalf.*

### *What are the key eligibility requirements?*

The applicant must be genuinely seeking entry as a business visitor for a period not exceeding six months (or 12 months for an academic visitor) and intend leave the UK at the end of the period of the visit.

The business visitor will be required to maintain and accommodate themselves (and any dependants) without recourse to public funds whilst in the UK and be able to meet the cost of the return or onward journey.

Business visitors include those coming for short visits as any of the following:

- academic visitors
- visiting professors
- teachers accompanying students
- film crews
- representatives of overseas news media
- secondees
- religious workers
- advisers, consultants, trainers or trouble shooters
- those doing one-off training
- those doing one or more 'permitted activities' specified in the business visitor rules

### *What is the Home Office's definition of a secondee?*

To qualify for entry to the UK as a Secondee, the applicant must be seconded from an overseas company to a UK company as a business visitor. The UK company the applicant is seconded to must be providing goods or services to an overseas company on a direct contractual basis, not the other

way around. In this type of case, the applicant would be seconded temporarily as an extra member of staff to assist the UK company to deliver the contract, for example to clarify the company's specifications.

It is worth noting that the two companies must not be part of the same group of companies. If they are part of the same group, the person must apply under Tier 2 (Intra-company transfer) of the points-based system.

### *What is the Home Office's definition of an adviser, consultant, trainer or trouble shooter?*

To qualify for entry to the UK as an adviser, consultant, trainer or trouble shooter, applicants must be employed by an overseas company and be here to support a UK branch of their employer. Furthermore, they must remain employed and paid by the overseas company throughout the visit (which must be a one-off and short-term visit).

They must not work for or on behalf of the UK branch (whether paid or unpaid) or undertake employment in a supernumerary capacity (i.e. to complete an internship or provide short-term temporary cover for the UK branch). Applicants who are required to fill a skilled post in a UK entity related to the overseas company, should apply under Tier 2 (Intra-company transfer) of the points-based system.

*"Business visitors must not receive their pay from a UK source, unless they work for a multinational company"*





## What 'permitted activities' can a business visitor conduct in the UK?

You can come to the UK as a business visitor if you intend to carry out any of the following 'permitted activities' here:

- attending meetings (including interviews that have been arranged before you come to the UK) or conferences;
- arranging deals, or negotiating or signing trade agreements or contracts;
- undertaking fact-finding missions;
- conducting site visits;
- delivering goods and passengers from abroad;
- accompanying a tour group as a tour group courier, provided you are contracted to a firm outside the UK, and you intend to leave with that tour group;
- speaking at a 'one-off' conference which is not run as a commercial concern;
- representing a foreign manufacturer by coming to service or repair its products within their initial period of guarantee;
- representing a foreign machine manufacturer by coming to erect and install machinery too heavy to be delivered in one piece, as part of the contract of purchase and supply;
- acting as a monteur (a worker such as a fitter or serviceperson) for up to six months to erect, dismantle, install, service, repair or advise on the development of foreign-made machinery;
- attending board meetings in the UK as a board-level director, provided you are not employed by a UK company; and
- representing a computer software company by coming to install, debug or enhance its products. You may also come here as a business visitor to be briefed about a UK customer's requirements.

## What payment can business visitors receive?

Business visitors must not receive their pay from a UK source, unless they work for a multinational company which, for administrative reasons, handles payment of worldwide salaries from the UK.

Reasonable expenses to cover the cost of travel and subsistence are allowed.

## How long can a business visitor stay in the UK?

As with general visitors, business visitors' maximum permitted stay is six months. However, lengthy periods spent in the UK as a business visitor may cause an immigration or visa officer to doubt the intentions of those involved.

## What supporting documentation should be presented by a business visitor?

Smith Stone Walters recommends that those seeking entry under the business visitor provisions be able to supply evidence of their existing overseas employment along with an invitation from the UK organisation they are intending to visit. They should also make available evidence of their means to cover the cost of the trip, such as flights and accommodation.

## How can Smith Stone Walters help us?

UK companies should pay close attention to the rules relating to business visitors and ensure any overseas staff seeking to visit their UK office is eligible to do so under the current regulations.

By partnering with Smith Stone Walters, your company will benefit from access to our wealth of UK immigration expertise and be able to take advantage of:

- trustworthy advice in relation to individual employee immigration issues;
- assessment of your organisation's current internal immigration compliance procedures; and
- immigration training sessions. For example, to instruct business managers on the potential pitfalls of exploiting the business visitor regulations to bring migrant labour to the UK.

If these services are of interest to you, please contact Smith Stone Walters today. See overleaf for our contact details...

*"As with general visitors, business visitors' maximum permitted stay is six months"*



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