

consonant

# Immigration Policy Proposals

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# consonant

## About Consonant

Consonant has a vision of a British society that is inclusive and free of prejudice; that celebrates the diversity of its population; and that supports the rights of all people to enjoy freedom from persecution, danger and oppression. For over thirty years we have worked to remove the barriers that prevent migrants, refugees and asylum seekers from participating fully in society. We have helped tens of thousands of people secure protection in the UK, regularise their immigration status, learn English, and find work. Asylum Aid, our programme supporting refugees, asylum seekers, and stateless people provides free legal advice to the most vulnerable and excluded asylum seekers, and lobbies and campaigns for a fair asylum system that upholds respect for their dignity and human rights.

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# 1. Introduction

This paper has been developed by Consonant with the aim to provide a basis for discussion on the future of immigration policy in the UK. It attempts to reconcile a number of seemingly contradictory objectives: ensuring the conditions are in place for migrants and the communities they settle in to thrive, rebuilding public trust in the effective functioning of the immigration system and ensuring that the overall benefits of migration, including the economic benefits are maintained.

This requires a system which acknowledges the vital role that migrants play for dynamic and resilient societies and the needs of migrant workers across the whole economy. It also needs to recognize the existing public attitudes towards a more restrictive immigration system, as well as the shifts and nuances of these attitudes. At the same time, it also needs to be based on fair and transparent procedures based on the rule of law and withstand judicial scrutiny.

The proposals outlined here are based on the assumption that currently and for the near-term there is no public or political support for bold changes to the immigration system to become more open but there is a forming consensus around the need to **make the system fairer**. The proposals in this paper aim for that and could be broadly supported across the political and social spectrum.

Taking the above into account, we propose the development of a **Comprehensive National Migration Strategy** which will aim to restore effectiveness, trust and fairness in the immigration system. This strategy combines two core policy areas:

- ❖ The **Immigration policy** proposals presented here include: the introduction of service-user experience in the development of immigration systems that will ensure the system is more responsive; a new visa system has been developed to respond to the need for a flexible, whole -economy approach for migrant workers; the establishment of a Responsible Employer scheme to guarantee local and migrant workers are not put in unfair competition; sharing the administrative responsibility among different government departments and measures related to the rule of law and enforcement.
- ❖ A well-resourced and forward-looking **Integration policy** along the lines proposed by Consonant's Migrants Perspectives on Integration<sup>1</sup> report. Taking

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<sup>1</sup> *Migrants' Perspectives on Integration*, Integrated Communities Strategy Submission of evidence, Consonant, June 2018: <https://www.consonant.org.uk/campaigns/integration-policy>

into account migrants views and perspectives and serving the core purpose of making immigration work for everyone.

The policy around asylum seekers, refugees, stateless and people with other humanitarian protection grounds will be dealt with in a separate paper as it has a different focus and scope than the current immigration policy proposals.

## 2. Current policy and context

Immigration throughout history has been an issue that has brought great optimism and great divisions. It has once again come to dominate the national attention in the UK, as well as across Europe and internationally. It is important to recognize that along with the economic transformations happening in the UK and globally which have led to the increase of migration to the UK there have been underlying social changes which have not been adequately addressed.

In the twenty years between 1991 and 2011 the share of the UK population born overseas nearly doubled from 7.3% to 13.4%.<sup>2</sup> This meant that certain areas of the country experienced large flows of immigration in a short space of time without being equipped to accommodate the inevitable changes in public services and cultural life. It has also meant that some areas have seen more migration and have adapted to the changes and diversity better than other areas, which remain removed from meeting and interacting with migrants making it difficult to build personal connections and relationships.

Another objective change which is often unrecognized is the effect of austerity, involving cuts across all public services since 2011. Analysis of funding shows that investment in integration, traditionally quite low, have significantly worsened in the past 10 years. These reductions have taken place against the backdrop of wider austerity, which has affected the availability and provision of public services as a whole, but also disproportionately affected services that migrants rely on for integration support.<sup>3</sup>

At the same time, the actual impact that migrants have on the receiving society and economy has been overwhelmingly positive. This has been addressed comprehensively by the Migration Advisory Committee (MAC) which published its report on the EEA migration in the UK in September 2018.<sup>4</sup> The MAC was commissioned by the Home Secretary to assess the impact of EEA migrants on the economy of the UK. The report is

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<sup>2</sup> *Building the Future: Immigration and Integration in the Next Decade*, RAMP, September 2018: <https://www.ramproject.org/assets/ramp-building-the-future-v1.pdf>

<sup>3</sup> The Integration Compact, IPPR, August 2018: <https://www.ippr.org/research/publications/the-integration-compact>

<sup>4</sup> *EEA Migration in the UK: Final report*, Migration Advisory Committee, September 2018 (p.24-33): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741926/Final\\_EEA\\_report.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741926/Final_EEA_report.PDF)

an exhaustive review of the existing research evidence on the impact of migration on the labour market, productivity, innovation, training, investment, consumer and house prices, tax, healthcare, social care, education and social housing. It also looks at the wider social and community impacts. Importantly it recognizes that the impacts of immigration should not be seen in isolation from other government policies, a point quite often lost in the increasingly divisive debate on the issue.

Some of the main findings of the MAC include:

- EEA migrants pay more in taxes than they receive in benefits. In 2016/17, EEA migrants as a whole are estimated to have paid £4.7bn more in taxes than they received in welfare payments and public services<sup>5</sup>
- Per person, migrants from the EU contribute £2,300 more in tax each year in net terms than the average adult. Over their lifetimes, they pay £78,000 more in tax than they take out in public services and benefits - while the average UK citizen's net lifetime contribution is zero<sup>6</sup>
- EEA migrants make a higher contribution than non-EEA migrants. This is attributed to the fact that non-EEA migrants are coming to the UK not through the work route and they have much lower employment rates. It can also be attributed to the opportunities awarded to migrants who come through the freedom of movement route vs those who come through other routes
- EEA migrants had *\*No\** or *\*little\** impact on the overall **employment** prospects of UK-born workers. This overall impact may vary across different skill groups with more positive effect for high-skilled and some negative effects for low-skilled, however these findings are subject to uncertainty
- In terms of the impact on **wages** it found migration is *\*not\** a major determinant of the wages of UK-born workers, with any variation having a generally small impact
- Findings show an overall positive impact on **productivity and innovation**, clearer with regard to highly-skilled migrants<sup>7</sup>
- Despite the wide spread belief that migrants are more **dependent on benefits** than the UK-born, the MAC does not find evidence for this because the DWP does not produce statistics on this
- There has been a lowering in the prices of **personal services** due to particularly migration from the New Member States and non-EEA

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<sup>5</sup> *The fiscal impact of immigration on the UK*, Oxford Economics for MAC, June 2018, p.73:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741274/20180917\\_Fiscal\\_impact\\_migrants\\_final\\_report\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741274/20180917_Fiscal_impact_migrants_final_report_.pdf)

<sup>6</sup> *The fiscal impact of immigration on the UK*, Oxford Economics for MAC, June 2018, p.73:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741274/20180917\\_Fiscal\\_impact\\_migrants\\_final\\_report\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741274/20180917_Fiscal_impact_migrants_final_report_.pdf)

<sup>7</sup> More on the impact of migration on productivity, NIESR, November 2003:

<https://www.niesr.ac.uk/sites/default/files/publications/Migration%20productivity%20final.pdf>

- EU migrants have eased the tax burden on other tax payers to the equivalent of 5p on income tax rates<sup>8</sup>
- There is clear evidence that EEA migrants contribute much more to the **health service** and the provision of social care in financial resources and through work than they consume in services
- Migration has led to some increase in **house prices**, but this needs to be seen in relation to other government policies, particularly more restrictive planning policies where there has not been an increase of available housing corresponding to the demand. On **social housing** there is a rising fraction of new tenants from new Member States, albeit migrants remain a small fraction of the overall numbers. The lack of building of new social housing creates competition between natives and migrants
- There is no evidence that migration has had a negative effect on the availability or the **educational** attainment of UK born children. It found that on average, migrant children outperform native English-speaking children
- EEA migrants pay more than enough in revenue to fund the public services they consume. However, there is a lack of a system for adequate allocation of these resources on a local level
- There is no evidence that migrants lead to an increase in **crime**.

## 2.1 Migrants are a vital part of dynamic and resilient societies

Migrants enrich the communities and society in a myriad of different ways. They are a vital part of the communities they have made their home through sharing their culture and enriching the social and political life. They also bring fresh perspective, new ideas and networks which inject dynamism, innovation and creativity. The **diversity** that immigrants bring is a source of inspiration for culture, art, entertainment, food, music, etc. It also makes society more resilient and able to adapt to changes, which is essential for the increasingly fast-paced and volatile world of the future.

In order to provide a local environment where diversity can succeed, other partners at the local level have a vital part to play as well – local authorities, schools, youth clubs, sports clubs, community centers need to also be involved, as well as migrants and the host population. As the MAC points out, there is a need to develop systems to adequately allocate public revenue from migrants to the local level.

The MAC report provides some insight into the effects of migration on communities across the UK. In doing so it goes also beyond its initial mandate to assess only the

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<sup>8</sup> The Independent, EU migrant workers contribute £2,300 more per year to UK than average British citizen, study reveals, 18 September, 2018: [https://www.independent.co.uk/news/uk/politics/eu-workers-uk-tax-treasury-brex-it-migrants-british-citizens-a8542506.html?amp&\\_twitter\\_impression=true](https://www.independent.co.uk/news/uk/politics/eu-workers-uk-tax-treasury-brex-it-migrants-british-citizens-a8542506.html?amp&_twitter_impression=true)

economic impact. The report confirms that the community impacts of migration are typically harder to quantify and assess than the economic and fiscal impacts due to their more subjective nature. Overall it finds there is no evidence that people are less satisfied with their neighborhoods than in the past despite the changes in a lot of communities brought about by immigration. In fact, the fraction of people that say they like their neighborhood is higher now than 25 years ago.<sup>9</sup> “Northern Ireland has become more culturally diverse and vibrant over the past 20 years and migrants arriving here have helped to transform society.”<sup>10</sup>

Migrants also have a very important role to play in the economic growth and specifically the transformation towards a higher-productivity and innovative economy that will ensure and maintain the UK’s leading position globally.

**Productivity** is important because when it is increased this is directly linked to increase in living standards and government has the resources to improve public services or cut taxes. Productivity is one of the main issues of the UK economy, which continues to experience a slump in productivity growth since the financial crisis. This decline is also much more pronounced than in other comparable European economies (Italy, France and Germany).

A sobering report by OECD found in 2016 that England had one of the largest proportions of low-skilled young workers among advanced economies and found that young English workers were no more skilled than older employees, suggesting a high likelihood that weak productivity will be difficult to remedy on its own, in the coming years.<sup>11</sup> At the same time, the evidence of the MAC report found that in all existing research the evidence shows that immigration raises productivity<sup>12</sup> indicating that immigration has a key role to play in solving the UK’s productivity puzzle.

The evidence with regard to **innovation** is even more revealing about the important role of migrants. Innovation is one of the most important drivers of productivity growth. Recruiting high-skilled migrants helps fill skills gaps, boost innovation and allows companies to remain globally competitive. Migrants not only directly contribute to the level of innovation, they also enable local workers to become more innovative by adding new and complementary skills and ideas.

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<sup>9</sup> EEA *Migration in the UK: Final report*, Migration Advisory Committee, September 2018, p.99: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741926/Final\\_EEA\\_report.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741926/Final_EEA_report.PDF)

<sup>10</sup> Northern Ireland Council for Voluntary Action response to MAC Call for evidence, p. 100: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741926/Final\\_EEA\\_report.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741926/Final_EEA_report.PDF)

<sup>11</sup> Financial Times, *Britain’s productivity crisis in eight charts*: <https://www.ft.com/content/6ada0002-9a57-11e8-9702-5946bae86e6d>

<sup>12</sup> EEA *Migration in the UK: Final report*, Migration Advisory Committee, September 2018, p.50: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741926/Final\\_EEA\\_report.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741926/Final_EEA_report.PDF)



**Entrepreneurship** among migrants is also an important and often neglected effect. Many migrants start their own businesses. In most regions of the world first-generation migrants are more active in business start-ups than non-migrants. Start-ups founded by both first and second-generation migrants are on average more growth-oriented than those of non-migrants across all economic development levels, and this is especially true in the UK.

There are over 450,000 migrant entrepreneurs in the UK who have founded 14% or one in seven of all UK companies.<sup>13</sup>

And these entrepreneurs are a significant contributor to UK employment. Among those SMEs that file employee numbers in the £1m-£200m bracket, migrant entrepreneur-founded companies employ 1.16 million people. Representing 14% of all employment in this segment of the economy.<sup>14</sup>

## 2.2 Public opinion on immigration is nuanced and improving

Media coverage has been an important factor in forming and influencing people's attitudes on immigration. For example, coverage tripled during the 10-week EU Referendum campaign, rising faster than any other political issue and appearing on 99 front pages, compared with 82 about the economy. Most of these front pages were dominated by "overwhelmingly negative" reports about the consequences of migration to the UK.<sup>15</sup> A study into newspaper coverage found that the 'migration as a benefit' angle is rarely reported while migrant voices, by and large, are absent.<sup>16</sup>

A long-term **media strategy** is essential in overcoming prejudice and changing attitudes to immigration and needs to be taken very seriously in a future policy on immigration.

Since the Referendum the space to reclaim the debate on immigration is opening up. There have been indications that attitudes towards immigration may have been shifting for a while. The Windrush scandal has exposed that attitudes towards immigration have been becoming more positive since May 2016. A survey conducted by Ipsos MORI online in May 2018 found that the switch from a negative balance of opinion to a positive one started in the middle of 2015 before the referendum in 2016 – but has gained pace since.

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<sup>13</sup> Centre for Entrepreneurs 2014 - <http://centreforentrepreneurs.org/wp-content/uploads/2015/11/MigrantEntrepreneursWEB.pdf>

<sup>14</sup> *Under-represented Entrepreneurs*, Enterprise Research Centre, 2018: <https://www.enterpriseresearch.ac.uk/wp-content/uploads/2018/07/Under-represented-entrepreneurs-Final.pdf>

<sup>15</sup> Moore and Ramsay, *UK media coverage of the 2016 EU Referendum campaign*, Centre for the Study of Media, Communication and Power, May 2017: <https://www.kcl.ac.uk/sspp/policy-institute/CMCP/UK-media-coverage-of-the-2016-EU-Referendum-campaign.pdf>

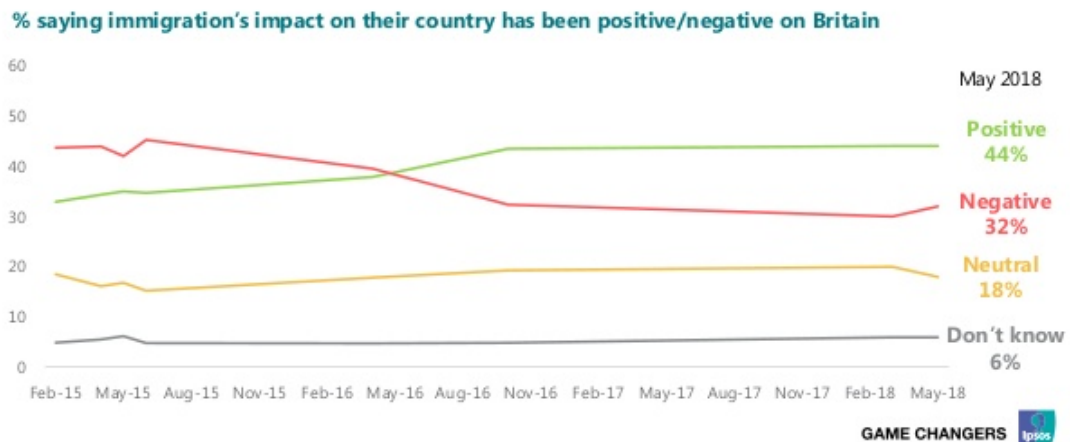
<sup>16</sup> Crawley et al. (2016) *Victims and Villains: Migrant voices in the British media* [http://www.coventry.ac.uk/Global/05%20Research%20section%20assets/Research/URC%20-%20Trust,%20Peace%20and%20Social%20Relations/Victims%20and%20Villains\\_Digital.pdf](http://www.coventry.ac.uk/Global/05%20Research%20section%20assets/Research/URC%20-%20Trust,%20Peace%20and%20Social%20Relations/Victims%20and%20Villains_Digital.pdf)

Among those who have become more positive, there are roughly two equal reasons for this- either people feel more positive about the contribution immigrants make or they are reassured that with Brexit, there is, and will be, a reduction in immigration.

**Figure 1**

**People’s views on immigration since Brexit vote remain stable**

On a scale of 0 to 10, has migration had a positive or negative impact on Britain? (0 is “very negative”, 10 is “very positive”): 0-4= Negative; 5=Neutral; 6-10=Positive



Base: 1,067 GB adults aged 18-75 conducted online 11-14 May 2018; 1,060 GB adults aged 18-75 conducted online 9-13 March 2018; c2,000 GB adults aged 18+ conducted online February 2015-October 2016

Source: Ipsos MORI, *Attitudes towards Immigration after Windrush, May 2018*

The British Social Attitudes Survey published in June 2018 provides further insight into these shifts. New data shows that since 2015 the percentage of Britons who think immigration has had a positive effect on the country’s economy has increased by 14% (an increase from 34% in 2015 to 47% in 2017). The share of those who think it has had a negative effect has declined to 17% (the lowest since 2011). The same positive trend is visible regarding views on the effect on cultural life where just 23% say immigration has “undermined” Britain’s cultural life, while 44 per cent say it has “enriched” Britain, an increase of 12% since 2015.<sup>17</sup>

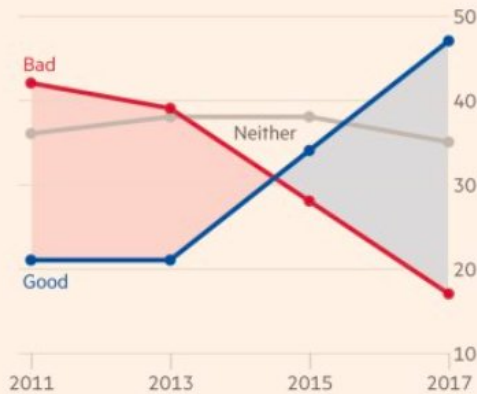
<sup>17</sup> British Attitudes Survey, National Centre for Social Research, June 2018: [http://www.bsa.natcen.ac.uk/media/39250/bsa35\\_europe.pdf](http://www.bsa.natcen.ac.uk/media/39250/bsa35_europe.pdf)

**Figure 2**

**The impact of migrants is now seen as a positive**

Perceived impact of migrants who come to Britain from other countries (%)

On Britain's economy



On Britain's cultural life



Source: British Social Attitudes survey  
© FT

Source: Financial Time using British Social Attitude Survey, June 2018

Furthermore, when looking into the types of immigration people would like the picture also changes. **Only one fifth of people want to cut immigration of skilled workers. More people would prefer the numbers of migrant doctors, engineers and scientists to increase.** And while two-thirds of people would like fewer low-skilled workers in future, that is not the case across the board: only one in four would cut the number coming to work in care homes, for example.<sup>18</sup>

Despite this shift however, it is worth noting that more than half of the British public (56%) still want overall numbers of migrants reduced.<sup>19</sup> It is important also to distinguish the different concerns people say they have around immigration. These fall broadly in two categories, economic and cultural concerns. Economic concerns include the impact on wages and jobs, as well as public services. There are also people who are apprehensive about immigration because of cultural concerns – migrants not speaking English, difference in cultural norms, too fast pace of change in communities. These need to be unpacked carefully and addressed in the framework of a bold integration strategy.

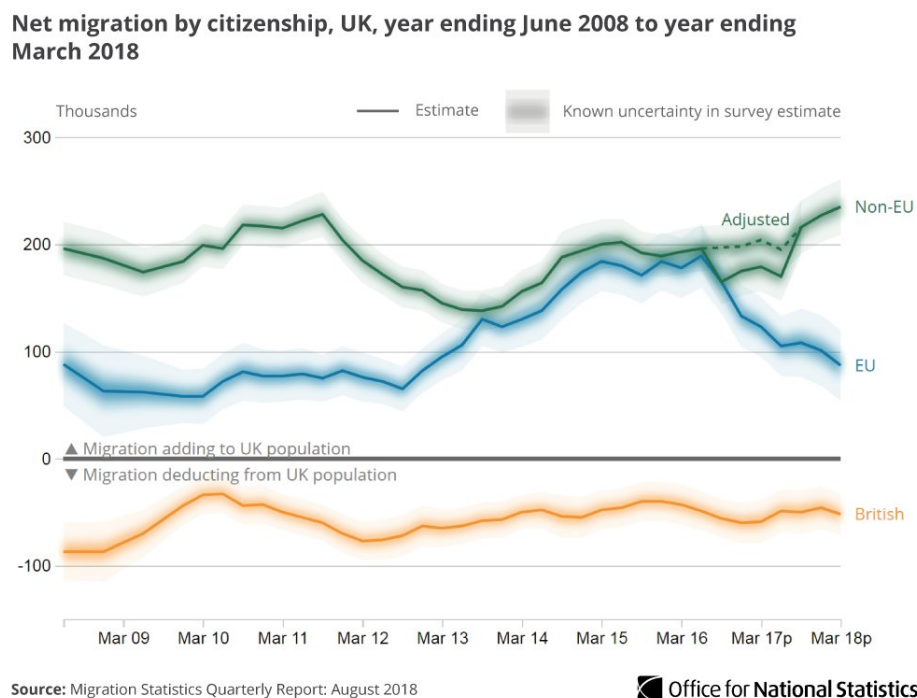
<sup>18</sup> *Britain's Immigration Offer to Europe*, British Future, October 2016: <http://www.britishfuture.org/wp-content/uploads/2016/10/Britains-immigration-offer-to-Europe.pdf>

<sup>19</sup> *Attitudes towards Immigration after Windrush*, Ipsos MORI, May 2018: <https://www.ipsos.com/ipsos-mori/en-uk/attitudes-towards-immigration-after-windrush>

The data coming in from Germany shows that integration works even in the most difficult of circumstances.<sup>20</sup> This can inspire work on integration and Consonant published its proposals for an integration strategy earlier this year.<sup>21</sup>

There is an important change happening not only in attitudes of the British public but among migrants as well. The latest Migration Statistics Quarterly report released by the ONS in August 2018 shows EU net migration was at its lowest level since 2012.<sup>22</sup> This is due both to a decrease in the number of EU citizens coming to the UK for work since 2016, as well as an increase in the number of people leaving. It is plausible that the overall decline in the number of EU migrants in the UK is behind at least some of the shift in attitudes as worries about the impact of low immigration grow, especially among employers.

**Figure 3**



Source: ONS, *Migration Statistics Quarterly*, August 2018

It is yet to be seen if these figures point to a longer trend or they are a quarterly occurrence due to other factors. They do raise two important issues however: to continue

<sup>20</sup> <https://www.reuters.com/article/us-germany-employment-refugees/more-refugees-find-jobs-in-germany-integration-going-pretty-well-idUSKCN1L60Y9>

<sup>21</sup> *Migrants' Perspectives on Integration*, Integrated Communities Strategy Submission of evidence, Consonant, June 2018: <https://www.consonant.org.uk/campaigns/integration-policy>

<sup>22</sup> Migration Statistics Quarterly Report, August 2018: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/august2018>

with its rhetoric of wanting to “attract the brightest and best” to the UK, the government needs to continue to pull in EU and non-EU migrants – and make sure those already in the country stay. With the current political climate and uncertainty already driving some EU nationals to leave, the government will have to work hard to continue to make the UK an attractive destination. Second if people do leave in substantial numbers (a likely scenario in a No-Deal Brexit), the UK economy will be faced with a serious challenge of adapting to low numbers of migrants and the transformation this will bring for the overall economy and for specific sectors.

### 2.3 Current immigration policy

While immigration remains an area of significant importance among the public, at the same time there is deep mistrust in the government’s ability to manage it well. The Ipsos MORI survey in May 2018 showed that only one in ten people say they are satisfied with the way the current government is dealing with immigration and three in five are dissatisfied. While satisfaction levels remain stable, levels of dissatisfaction appear to have increased since March of this year - up to 60%.<sup>23</sup>

The majority of the public want a system that is based on the rule of law and is reliable and accountable. This means that the law applies equally to all and is clear and certain<sup>24</sup>. Ensuring the existing rules are clear and demonstrating compliance helps increase public trust in the immigration system. However, the current policy framework on immigration does not allow for this as it is not based on relevant indicators – the net migration target and a set of policies that have failed on their own terms – the hostile environment.

The **net migration target’s** aim is to reduce the difference between those who come and those who leave the UK to the “tens of thousands”. This number is purely arbitrary and has never been based on any evidence.<sup>25</sup> It was included in the 2010 Conservative party manifesto and reducing net migration to below 100,000 has remained official government policy since then. Aside from unfounded it has also never been even remotely enforceable. As we have seen from the latest ONS data, net migration is at its lowest since 2013 at 270 000, which is still nearly 3 times bigger than the target, and there are already serious worries about the ability to find the needed workforce.

The target has only ever been a smokescreen in the face of the British public and has

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<sup>23</sup> *Attitudes towards Immigration after Windrush*, Ipsos MORI, May 2018:

<https://www.ipsos.com/ipsos-mori/en-uk/attitudes-towards-immigration-after-windrush>

<sup>24</sup> *Building the Future: Immigration and Integration in the Next Decade*, RAMP, September 2018, p. 21:

<https://www.rampproject.org/assets/ramp-building-the-future-v1.pdf>

<sup>25</sup> Net migration is measured on the basis of data collected through the International Passengers Survey (IPS) which includes the number of people coming in and the number of people leaving the UK for the purpose of long-term (12 months) migration. The figure also includes not only migrants but British, other Commonwealth and foreign nationals, which means that the coming and goings of British citizens can influence the target without the government having any control over that part of the equation.

also not served any purpose but to fuel a divisive debate about numbers rather than focusing on the actual dynamics of migration and its social and economic effects. Dropping the net migration target as policy will allow policy to move away from abstract numbers and re-focus on the actual needs of society and the economy, on how to promote integration and how best to ensure that host communities and migrants alike thrive and the economy benefits. Dropping an evidence-less and arbitrary target will allow also for new and objective indicators of immigration stocks and flows to be put in place as well as mechanisms to monitor and evaluate the policies and adjust them in real time. This will help rebuild public trust in the immigration system.

The **hostile environment** policy was introduced in the 2010 Conservative party manifesto and developed with the 2014 and 2016 Immigration Acts. In effect it brought immigration controls inside the country and outsourced it to public and private actors such as landlords, NHS staff, charities, banks, MPs, driving instructors, etc. who were tasked with the responsibility of carrying out ID and immigration status checks. The objective was to identify those who are irregular migrants and take measures to deport them. At the time of the introduction, immigration welfare campaigners warned that the Home Office's record meant it could not be trusted to implement this new system without errors. People with every right to be in Britain were likely to be hit by mistakes in the imposition of the checks by actors who are not trained for this purpose, such as public sector workers or commercial employees.

Through a controversial agreement between NHS Digital and the Home Office **doctors** were expected to provide information about the immigration status of their patient and non-medical information such as date of birth and address. The Memorandum of Understanding was suspended with immediate effect in the wake of the Windrush scandal, in May 2018. Following the suspension, NHS Digital has announced that it is cancelling the existing MoU and any new agreement will be based on a materially different and will require a new legal basis.<sup>26</sup>

Following from the changes to the Immigration Act new legislation was brought in requiring **banks and building societies** to check 70 million current accounts each quarter. The provisions came into effect in October 2017 and began in January 2018. Status checks have been required by anyone opening a new bank or building society account under the Immigration Act 2014, but no measure had previously required checks on the scale of every current account in Britain. Banks were required to check the identity of every current account holder against a Home Office supplied database. In the wake of the Windrush scandal the Home Office decided to temporarily reduce the scope of the checks being carried out on bank accounts and review existing safeguards.<sup>27</sup> The

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<sup>26</sup> Digital Health, NHS Digital confirms end of patient data sharing with Home Office, 14 November 2018: <https://www.digitalhealth.net/2018/11/nhs-digital-patient-data-sharing-home-office-end/>

<sup>27</sup> The Guardian, *Home Office suspends immigration checks on UK bank accounts*, 17 May 2018: <https://www.theguardian.com/uk-news/2018/may/17/home-office-suspends-immigration-checks-on-uk-bank-accounts>

temporary suspension was for three months ending in October 2018 and there is no update on how the government is planning to proceed.

Another aspect of the policy involved the requirement of **landlords** to check tenants' rights to live in the UK by requiring them to show passports and visas. They could be fined up to £3,000 per tenant or sentenced to prison for up to five years for a repeat offence if they let property to people who have no legal right to stay. Research among landlords found that this policy has left British citizens without passports, as well as migrants and people of a migrant background at a disadvantage in the private rental market.<sup>28</sup>

Of 108 landlords who responded to a survey, half (51%) said right to rent would make them less likely to consider letting to non-EU passport holders. And 42% stated that they were less likely to rent to someone without a British passport as a result of the scheme. A High Court judge recently agreed to allow a judicial review of the right to rent and this will take the form of a full hearing before the High Court in December 2018. "The decision has been welcomed by landlords, who have been put in a situation to act as untrained border police. This has created difficulties for many legitimate tenants as landlords are forced to play safe and only rent to those with a UK passport."<sup>29</sup>

MPs have also been asked to report on their constituents who have sought support with their immigration status. Following Parliamentary question, official figures revealed that 723 people have been reported by MPs to immigration enforcement through an immigration hotline since the government's "hostile environment" policy was introduced in 2012.<sup>30</sup>

The policy disproportionately affects vulnerable groups, such as victims of trafficking, refused asylum-seekers, homeless people, the elderly and those with mental health problems. Recent research into the effects of the hostile environment found that the policy had unintended and often "perverse" side effects, as undocumented migrants became increasingly vulnerable to exploitation by employers. Rules requiring employers to conduct passport checks are "pushing undocumented migrant workers into the hands of criminals trading false documents". While data-sharing with the Home Office has led to many being afraid of going to see a doctor or look for help from their MP.

It is widely agreed that the hostile environment policy has become synonymous with the government's attitude towards immigration and migrants as a whole. It also led to the biggest immigration scandal in the country. Windrush showed that in the context of

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<sup>28</sup> The Independent, *Landlords' immigration checks 'fuelling discrimination'*, 13 February 2017: <https://www.independent.co.uk/news/uk/home-news/right-to-rent-immigration-checks-discrimination-a7576716.html>

<sup>29</sup> David Smith, policy director of the Residential Landlords Association, 9 August 2018: <https://www.lettingagenttoday.co.uk/breaking-news/2018/8/right-to-rent-date-set-for-full-high-court-challenge>

<sup>30</sup> MPs not border guards, Global Justice Now and Migrants Organise campaign: <https://act.globaljustice.org.uk/mps-not-border-guards>

measures aimed at limiting illegal immigration, individuals are wrongly identified as illegal immigrants and having access to services and work denied –raising doubts over the reliability of the checks. The government’s hostile environment has cost people their jobs, made people homeless and caused significant mental distress. An unspecified number of people with the legal right to remain in the UK have been unlawfully detained and deported. In addition, to causing suffering to individuals affected and their families it has also eroded trust in mainstream institutions and public services at a time when such trust is needed.

In addition to the discrimination that the hostile environment policy has led to, it has also failed on its own terms. A recent report<sup>31</sup> finds no evidence the measures put in place through the hostile environment policy have led to the reduction in the number of illegal migrants in the UK. Almost all irregular immigrants interviewed for the report were not deterred by tightened immigration controls or the hostile environment approach, with one saying, “being illegal in the UK is still better than being legal in my own country”.

The gaps in evidence have also been highlighted by the Independent Chief Inspector of Borders and Immigration, whose October 2016 evaluation of measures to restrict access to bank accounts and driving licences argued that: *“justification for extending the ‘hostile environment’ measures is based on the conviction that they are ‘right’ in principle, and enjoy broad public support, rather than on any evidence that the measures already introduced are working or needed to be strengthened, since no targets were set for the original measures and little had been done to evaluate them.”*<sup>32</sup>

Aside from being ineffective in its stated aim to reduce illegal immigration, causing damage and suffering, the hostile environment policy (which has become a compliant environment post-Windrush) is also damaging to the image of the UK globally. This affects the UK’s ability to be a competitor in the global race for talent. In an increasingly competitive global environment for talent, the hostile environment policy does not serve Britain’s interests in attracting the immigrants it wants and needs.

## 2.4 Irregular migration

When discussing the rule of law in the context of immigration the issue of **irregular migration** inevitably comes up. Broadly speaking this category concerns people who have no leave to remain in the UK. There are only two formal studies that estimate the

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<sup>31</sup> “Does Immigration Enforcement Matter (Dlem)?: Irregular Immigrants and Control Policies in the UK”, COMPAS, Oxford University, October 2018: <https://www.compas.ox.ac.uk/wp-content/uploads/DIEM-Irregular-Immigrants-and-Control-Policies-in-the-UK.pdf>

<sup>32</sup> *Hostile environment driving licences and bank accounts*, ICIBI, Jan-Jul 2016: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/567652/ICIBI-hostile-environment-driving-licences-and-bank-accounts-January-to-July-2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/567652/ICIBI-hostile-environment-driving-licences-and-bank-accounts-January-to-July-2016.pdf)



number of irregular migrants in the UK, which is between 310,000 and 570,000 in 2001.<sup>33</sup> An updated estimate for the end of 2007 suggested a population of irregular migrants and their UK-born children of between 417,000 to 863,000.<sup>34</sup>

The issue of irregular/ undocumented migration is a complex one. It is important to note that immigration like any other social process can never be fully controlled. In addition, irregular migrants are not a homogenous group and do not fit easily into one category. Irregularity is part of the migration process and quite often it is the result of perfectly legal reasons such as switching between visa categories, changes in the residence status, inability to obtain and provide paperwork and passports for a variety of legitimate reasons. This reflects the reality of mixed migration flows, moving between different jurisdictions with different legal requirements, as well as changes in the immigration system in receiving countries which at different times may loosen or tighten immigration controls.

Also, not all people without leave to remain in the UK will have had access to justice and the chance to regularize their status in the UK. The cuts in legal aid meant that they were not able to receive legal advice. People may also, through no fault of their own be victims of fraud or scam by solicitors who have failed to submit their documents in time or in full. They may also be victims of human trafficking and domestic slavery or have other humanitarian grounds for protection.

Of concern is the situation of refused asylum seekers, many of whom, through no fault of their own, cannot be returned to their country of origin. They are unable to stay and live safely and humanely in the UK but they are also unable to return home, leaving them in a state of limbo and vulnerable to exploitation.<sup>35</sup>

Attempts to reduce irregular migration often have unintended side effects as mentioned as a result of the hostile environment. Irregular immigrants have developed strategies to survive, leading to a growing number of undocumented and unsupported individuals living on the margins of society. They are more vulnerable to exploitation, are less likely to seek the help of police when victims of crime, or doctors when ill. They also resort to the use of false documents, which are more common than 20 years ago, implying that tighter controls not only push undocumented people further underground but also

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<sup>33</sup> Woodbridge, Jo, *Sizing the unauthorised (illegal) migrant population in the United Kingdom in 2001*, Home Office Online Report 29/05: [Sizing the unauthorised \(illegal\) migrant population in the United ...](https://www.ons.gov.uk/file?uri=/aboutus/.../illegalimmigrantsintheuk/migrantpop...uk...)  
<https://www.ons.gov.uk/file?uri=/aboutus/.../illegalimmigrantsintheuk/migrantpop...uk...>

<sup>34</sup> Gordon et al, *Economic impact on the London and UK economy of an earned regularisation of irregular migrants to the UK*, LSE, April 2009:  
[https://www.london.gov.uk/sites/default/files/gla\\_migrate\\_files\\_destination/irregular-migrants-report.pdf](https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/irregular-migrants-report.pdf)

<sup>35</sup> Submission to the Windrush Lessons Learned Review, Asylum Matters, 19 October 2018:  
<https://asylumatters.org/wp-content/uploads/sites/117/2018/11/Asylum-Matters-Submission-to-the-Windrush-Lessons-Learned-Review.docx.pdf>

provoke more criminal responses.<sup>36</sup>

Brexit presents another challenge with regard to irregular migration concerning people who fail to register. The Home Office has promised that the application process would be “short, simple and user friendly” with a default position of accepting rather than rejecting applications.<sup>37</sup> However, there are mounting concerns around the settled status scheme related to a range of reasons why people may not be able to register: not knowing or unaware that they/ their children need to register or belonging to a vulnerable migrant group (such as Roma) or individuals who are old, isolated, or lacking language or technical skills.<sup>38</sup> These people who have every right to be in the UK pre-Brexit may find themselves in a situation of being irregular migrants if they do not register.

There are also concerns about the increase in irregular entry into the country as well. The last months of 2018 have seen an increase in the number of people trying to cross the English Channel from France. Over 100 people have reached the UK shores in Kent and Devon, they include mostly men but also at least one toddler.<sup>39</sup> Most are of Iranian origin and reports say they have attempted the crossing in increasingly bad weather conditions due to fear that Brexit will make entry into the UK more difficult. Other reports say this is part of a new route for Iranian migrants coming through Serbia.

Research on public attitudes has also found that people are able to make pragmatic decisions using moral and economic arguments. While most people feel that immigration rules are important and should be applied uniformly and fairly to everyone, they also generally support flexibility and compassion as principles too. At a focus group discussion in Bedford, the participants were presented with a complex case study and argued that the family should not be separated, and both mother and daughter should be given the right to remain legally in the UK and offered routes to citizenship. “Not everything is black and white. Sometimes, situations happen and everybody in this room has got a different story to tell about something or other. So, I think it says there the government, but it should probably be someone with a bit of a heart, who can see what’s going on, and see it for what it is... I should imagine that there’s quite a lot of people like that in this country.”<sup>40</sup>

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<sup>36</sup> “Does Immigration Enforcement Matter (Dlem)?: Irregular Immigrants and Control Policies in the UK”, COMPAS, Oxford University, October 2018: <https://www.compas.ox.ac.uk/wp-content/uploads/DIEM-Irregular-Immigrants-and-Control-Policies-in-the-UK.pdf>

<sup>37</sup> The Guardian, *UK unveils post-Brexit EU citizen settlement scheme*, 21 June 2018: <https://www.theguardian.com/politics/2018/jun/21/uk-unveils-post-brexit-eu-citizen-settlement-scheme>

<sup>38</sup> The Conversation, *Fears mount as Roma prepare to apply for post-Brexit settled status in the UK*, 22 August 2018: <http://theconversation.com/fear-mounts-as-roma-prepare-to-apply-for-post-brexit-settled-status-in-the-uk-100710>

<sup>39</sup> The Independent, *Six suspected refugees rescued from small boat off Kent coast*, 11 December 2018: <https://www.independent.co.uk/news/uk/home-news/migrants-boat-kent-coast-dover-strait-english-channel-calais-border-force-rescue-a8677161.html>

<sup>40</sup> *National Conversations*, Bedford, British Future/ Hope not hate, April 2018: <http://nationalconversation.uk/bedford-illegal-immigration-windrush-and-public-compassion/>

On this basis humane and pragmatic solutions need to be sought with regard to irregular migration based on informed and evidence-led policy options.

## 2.5 Migrants as part of the UK workforce on all skill levels

The UK economy is operating almost at full employment with unemployment rate (the number of unemployed people as a proportion of all employed and unemployed people) at 4% in September 2018 (it has been lower only in the 70s).<sup>41</sup> This means that it is unlikely that any current or future demand for workers will be met locally and the need for migrant workers will remain. This however also does not mean that there should not be more targeted efforts to reform sectors and address issues such as zero hour contracts, high staff churn, flexible employment conditions, etc. Migrant workers should not be used to prop-up unreformed and exploitative industries or companies. Training and developing the qualifications and job prospects of local workers, should also be an essential part of an industrial development strategy to increase productivity. The recognition that migrants quite often work in jobs which are below their qualifications, resulting in productivity losses is also important.

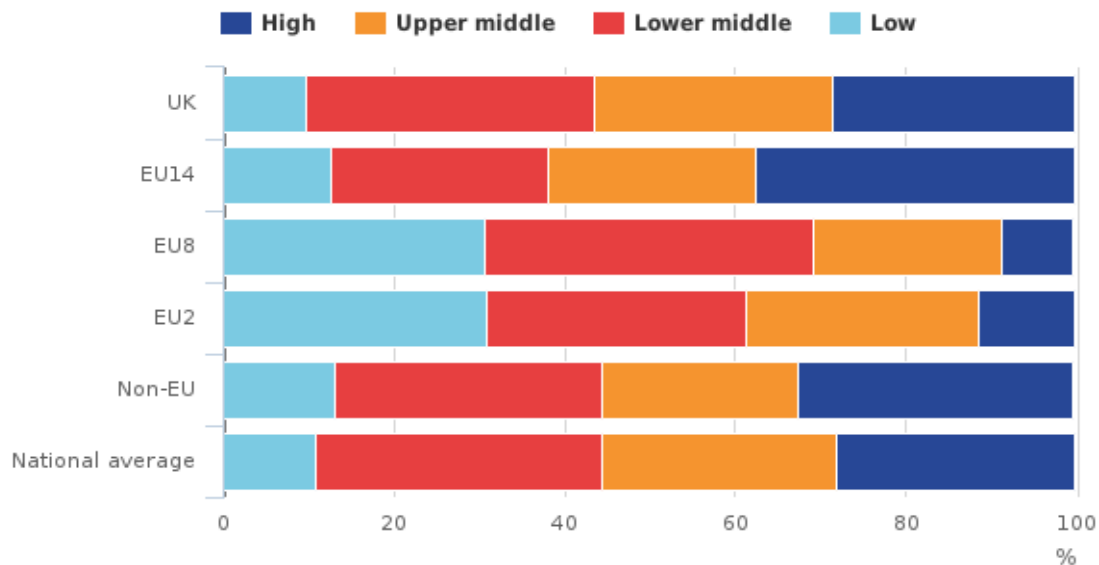
ONS data on migrant workers in the UK labour market indicates in the chart below that most migrants, like most UK nationals, work in jobs whose skill level is described as "upper middle" or "lower middle". Figure 4 shows that almost 2 in 5 EU14 nationals (estimated 37%) were employed in high-skill jobs; this compares with almost 1 in 10 (estimated 8%) EU8 nationals. The chart also shows that an estimated 69% of EU8 nationals and 61% of EU2 nationals were employed in low- or lower-middle skilled jobs.<sup>42</sup>

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<sup>41</sup>UK labour market: September 2018, Office for National Statistics:  
<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/september2018>

<sup>42</sup> *International immigration and the labour market, UK: 2016 (latest release)*, Office for National Statistics:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/migrationandthelabourmarketuk/2016>

**Figure 4. Skill levels in the UK labour market**



Source: Office for National Statistics, 2016

EU 14 countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden

EU 8 countries: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

EU 2 countries: Bulgaria and Romania

Non-EU countries: all countries outside of the European Union

Migrant workers in the UK labour market fulfill essential roles across all occupational levels and sectors across the whole economy. The existing Shortage Occupation List<sup>43</sup> currently used to hire non-EU migrants is a very poor reflection of the jobs needed in the economy including jobs such as ballet dancers and joiners. Instead, the same occupational qualifications list as the one for national workers should be used – the Standard Occupational Classification (SOC). The SOC 2010 is the current standard occupational classification for the UK. Within the context of the classification, jobs are classified in terms of their skill level and skill content. It is used for career information to labour market entrants, job matching by employment agencies and the development of government labour market policies.<sup>44</sup>

The graph below (Figure 5) shows migrants' involvement by occupation showing on average around 10% of the workforce coming from abroad. It shows migrants are involved in all occupations from Senior managers and official roles to Elementary

<sup>43</sup> Immigration Rules Appendix K: Shortage Occupation List, 15 November 2018:

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-k-shortage-occupation-list>

<sup>44</sup> Standard Occupational Classification, ONS, 2010:

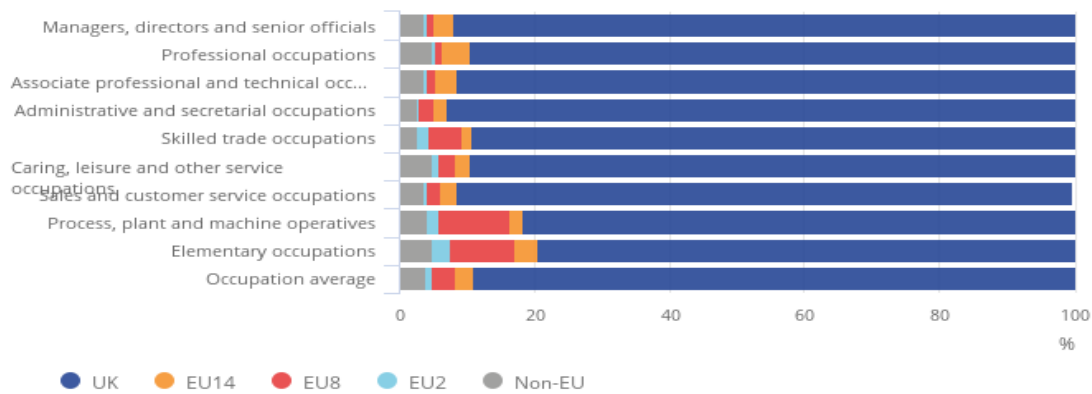
<https://www.ons.gov.uk/methodology/classificationsandstandards/standardoccupationalclassifications/soc2010>

occupations. The highest concentration is in the Elementary occupation section where the work is done by nearly 20% migrant workers. Other occupations such as Professional occupations, Skilled trade occupations, Caring, leisure and other service occupations include about 15% migrants.<sup>45</sup>

**Figure 5.**

Figure 5: Distribution of workers in each occupation by nationality group

UK, 2016



Source: Annual Population Survey, Office for National Statistics

Source, Office for National Statistics, 2016

EU 14 countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden

EU 8 countries: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

EU 2 countries: Bulgaria and Romania

Non-EU countries: all countries outside of the European Union

A better understanding of the actual jobs in the low wage sector is important to develop an appreciation of the skills and experience required even for jobs considered low-skilled. The jobs in the *Elementary occupation* list, which are also paid at Minimum or Living wage include the following: farm and forestry workers, postal workers and couriers, cleaners and domestic workers, security guards, hospital porters, kitchen, waiters and bar staff. At the next level, the *Process, plant and machine operatives* jobs include roles such as bus and coach drivers, train and tram drivers, air operatives,

<sup>45</sup> *International immigration and the labour market, UK: 2016 (latest release)*, Office for National Statistics: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/migrationandthelabourmarketuk/2016>

scaffolders and construction operatives, sewing machinists, food, drink and tobacco processing.

The economic argument for ensuring migration is not significantly reduced has been repeatedly made, most recently by the representative business group, the CBI.<sup>46</sup> In its report *Open and Controlled*<sup>47</sup> the CBI puts forward evidence gathered by consulting businesses of all sizes, in every sector and all parts of the UK. They also carried out consultations with the UK's leading trade associations to understand the labour and skill requirements of different sectors, representing over 124 000 UK firms. Based on their findings the CBI concludes, that immigration is valuable to all sectors of the UK economy and delivers significant economic benefit. The CBI study suggests that EU workers currently make up between 4% and 30% of the total workforce in different sectors.

They also conclude that most business sectors require a combination of skill levels and are inter-linked through supply chains, so **a whole economy approach is required**. The report concludes that the needs are much more complex than only ensuring that the UK can attract the "brightest and best". "In just about every part of the economy a range of skills are required. Take housebuilding, which requires architects for the initial design, laborers to dig the foundations and electricians to help finish the job. Or the food and drink sector, where the variety comes through the supply chain starting with agriculture through to logistics and culminating in retail".<sup>48</sup>

Employers are getting increasingly worried about the new immigration system and whether it will ensure access to the numbers and types of workers they need. Labour shortages may appear in a tighter immigration environment post-Brexit, as such shortages have already been reported in key sectors such as agriculture and the NHS.<sup>49</sup>

Exploitation is a concern across the low-wage workforce and not just for migrant workers, although migrants are generally assumed to be at higher risk due to factors such as language barriers, less local knowledge and immigration status. Addressing the risk of exploitation in any future low-skilled work route is likely to be extremely difficult. In a recent publication Migration Observatory has provided evidence that the "employer tie" in work permit schemes can lead to exploitation as migrants become dependent on their employer for their stay in the country. This may also lead to lower wages for some workers.<sup>50</sup>

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<sup>46</sup> The Confederation of British Industry is a UK business organisation, which in total speaks for 190,000 businesses, made up of around 1,500 direct and 188,500 indirect members

<sup>47</sup> *Open and Controlled: a New Approach to Immigration after Brexit*, CBI, August 2018: [http://www.cbi.org.uk/index.cfm/\\_api/render/file/?method=inline&fileID=4232B592-ACCC-40DB-9338BA0A97198435](http://www.cbi.org.uk/index.cfm/_api/render/file/?method=inline&fileID=4232B592-ACCC-40DB-9338BA0A97198435)

<sup>48</sup> *Open and Controlled: a New Approach to Immigration after Brexit*, CBI, August 2018: [http://www.cbi.org.uk/index.cfm/\\_api/render/file/?method=inline&fileID=4232B592-ACCC-40DB-9338BA0A97198435](http://www.cbi.org.uk/index.cfm/_api/render/file/?method=inline&fileID=4232B592-ACCC-40DB-9338BA0A97198435)

<sup>49</sup> *The Integration Compact*, IPPR, August 2018: <https://www.ippr.org/research/publications/the-integration-compact>

<sup>50</sup> *Exploiting the Opportunity? Low-Skilled Work Migration After Brexit*, Migration Observatory, August 2018

## 3. Policy proposals

### 3.1 Engaging service users of the immigration system

Service user involvement in the design of systems is increasingly important and is being used across the public sector. This includes the NHS, organisations working with homeless people and with people with mental health issues. Service user involvement is an approach to designing and implementing services building on the customer service model, where users are seen as customers and institutions as providers of services. For such an approach to be implemented across the immigration system will require a shift in policy, on the technical level, but more importantly, a shift in culture.

This shift is also required to ensure the lessons of Windrush are learnt. Research has revealed that there was a gap between policymakers' perceptions of how the immigration system worked, and users' actual experience of it.<sup>51</sup> Involving service users, providing for their ability to engage and feedback will help improve the functioning of the immigration system. Ensuring the correct decisions are taken and they are robust and defensible on appeal through the judicial system will result in improved trust in the ability of the Home Office to deal with the tasks at hand.

The Home Office has a history of success in developing systems for customer service such as the restructuring of the passport operations that enabled the service to take care of the previous backlog and reduce the passport fee for the first time in its history. At that time, HM Passport Office (HMPO) was consistently ranked as one of the top performing public sector organisations for customer service.

The settled status process for EU citizens developed by the Home Office was trial-launched to test the system developed for the registration of over 3 million EU citizens post-Brexit. It is reported that effort to understand users' experiences and needs in the settled status process for EU citizens after Brexit led to an application process that looks substantially different from its initial design and the rest of the immigration system.<sup>52</sup>

These lessons can be applied in the process of redesigning other aspects of the immigration system, such as the visa process, the asylum process, the family reunion processes and others. A service user involvement/ customer experience strategy needs to include at least some of the following elements:

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<https://migrationobservatory.ox.ac.uk/resources/reports/exploiting-the-opportunity-low-skilled-work-migration-after-brexit/>

<sup>51</sup> Windrush Lessons Learned Review, the Migration Observatory at the University of Oxford, October 2018: <https://migrationobservatory.ox.ac.uk/resources/commentaries/windrush-lessons-learned-review-evidence-from-the-migration-observatory-at-the-university-of-oxford/>

<sup>52</sup> Ibid.

- a change of focus towards the users of immigration systems as people not cases, treating them with respect and empathy
- a better understanding of the customers and the challenges they are faced with when using the system
- improving communication to increase understanding
- simplifying procedures across the whole system to improve user experience
- carry out test trials with service users before launching systems
- develop systems for feedback by service users
- ensure decision-making staff are informed of the feedback by service users
- develop mechanisms for engagement of service users in the design and evaluation phases to ensure decisions are robust.

The Home Office also has experience with stakeholder engagement in the framework of the National Asylum Stakeholder Forum (NASF). The NASF brings together civil society, NGOs and experts in the asylum process and the Home Office with the common aim of ensuring the asylum process is run in accordance with international standards, requirements and principles. It allows the Home Office and stakeholders from various elements of the asylum process (spontaneous arrivals, resettlement and refugee integration) to work together wherever possible to improve the function and outcomes of the UK asylum system.

A different, appropriate, model for stakeholder engagement could be set up in the context of immigration to address the issues arising and work jointly to improve the systems.

## 3.2 EU citizens' rights

The **transition period** being negotiated with the European Union guarantees EU citizens living and arriving in the UK the same rights and guarantees as before Brexit until the end of the transition period. This means they will maintain the same entitlements to work (subject to any relevant occupational requirements), study and access public services, health services and benefits, according to the same rules as now.<sup>53</sup>

If a deal with the EU is eventually agreed the current proposal regarding EU citizens living in the UK after Brexit is to create a new "**settled status**". [The EU Settlement Scheme: Statement of Intent](#) was published by the UK Government in June 2018 and is included in the Withdrawal Agreement. EU citizens and their family members who have been continuously resident in the UK for five years by 31 December 2020 will be eligible for 'settled status', enabling them to stay indefinitely. EU citizens and their family members who arrive by 31 December 2020 but will not yet have been continuously resident here for five years, will be eligible for 'pre-settled status', enabling them to stay

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<sup>53</sup> BBC News, *The UK and EU agree terms for Brexit transition period*, 19 March 2018: <https://www.bbc.co.uk/news/uk-politics-43456502>



until they have reached the five-year threshold. Measures are required to set up the registration process for vulnerable people.

In connection to the EU Settled Status application process, this has just been published on EU citizens' rights in event of No Deal Brexit. It states that the government intends to use the process of the EU Settlement Scheme, also in the case that the Withdrawal Agreement is not adopted by Parliament. However, in a 'no deal' scenario there would be some necessary changes:

- As there would be no agreed implementation period, this guarantee would only apply to EU citizens who are resident in the UK by 29 March 2019.
- As there would be no agreed implementation period, those EU citizens and their family members resident here by 29 March 2019 would have until 31 December 2020 to apply for a status under the EU Settlement Scheme, but with no six-month 'grace period' beyond this. The new UK immigration system would be implemented from 1 January 2021 as planned.<sup>54</sup>

The UK government should unilaterally grant the 3.8 million EU nationals living in the UK the right to stay<sup>55</sup> and guarantee their existing rights regardless of whether there is a deal or a no-deal. This right should apply to everyone who is in the country on 29 March 2019 when the UK will formally leave the EU and the guarantee for EU citizens' rights will disappear. It would ensure that all EU citizens living in the UK when Brexit happens will be able to maintain their rights and would be able to continue living and working in the UK as before, accessing the services they are entitled to, such as, the NHS, the benefits system, etc. British nationals in the EU should be granted reciprocal rights. This is increasingly important in the case of No Deal Brexit. An offer of citizenship for those who would like to obtain it should be made at a cost not exceeding that of a passport application. This could include a waiver on the language and orientation test, which will reduce the cost.<sup>56</sup>

### 3.3 New visa regime

With the ending of freedom of movement announced by the government, a flexible new system needs to be established, which would put the skills and capabilities of migrants at the centre of work-related migration to the UK. The existing Tier 2 visa system for hiring workers outside of the EEA, as well as the cap that is in place, will not be able to replace the existing freedom of movement scheme so a new model needs to be developed.

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<sup>54</sup> Policy paper on citizens' rights in the event of a no deal Brexit, Department for Exiting the European Union (DexEU), 6 December 2018: <https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brexite>

<sup>55</sup> The Independent, *Brexit: EU migrants 'to receive right to remain' in UK in event of no deal*, 20 August 2018: <https://www.independent.co.uk/news/uk/politics/brexit-latest-eu-migrants-right-remain-uk-no-deal-a8498746.html>

<sup>56</sup> *Building the Future: Immigration and Integration in the Next Decade*, RAMP, September 2018: <https://www.rampproject.org/assets/ramp-building-the-future-v1.pdf>

We are proposing a whole new visa system. This system will guarantee there is clarity and control over who comes in the country. It will also ensure a whole economy approach to the variety of migrants and skills the UK needs to continue growing and to ensure it is competitive on a global scale. The proposed scheme has five categories: Talent visa, Essential services visa, Self-funded and creative professionals visa, Student visa and Spousal visa. Each visa category is described below.

The visa regime will be monitored and reviewed annually to take into account changes in the different categories. Guidance for the qualifications will be provided by the Standard Occupational Classification. Switching between these categories of visas and other regimes of stay should be possible and frictionless.

All visa categories will be open to both EEA and non-EEA nationals on an equal basis (unless the terms of new Trade Agreements foresee granting EU citizens preferential treatment).

### Talent Visa

The Talent Visa will be a simple procedure that would allow the uninterrupted flow of talent to the UK. The visa system will guarantee that the government has control over who comes into the country, but it will be flexible enough to respond to the dynamic needs of the employers.

It will function along the lines of a point-based system. Points will be awarded for the skills, qualifications, education and earning that potential immigrants have and will include:

- English proficiency
- Experience
- Professional qualifications
- Academic qualifications
- Earning potential
- Age

The visa will allow the migrant to come to the UK if they qualify with enough points; this will not be dependent on whether or not they have a job offer and will not be linked to any one employer. If the applicant does not have a job offer the visa allows them to remain in the UK for up to three months.

UK employers who wish to hire outside of the UK and migrants on a talent visa already in the country must first pass a **Resident Market Test (RMT)**, where they have to prove that they cannot hire a suitable person for the role in the UK.<sup>57</sup> This way local workers will not be disadvantaged, and employers will be able to attract the skills they need internationally. It will also ensure that small/ medium size employers are not locked out of a too complex immigration system.

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<sup>57</sup> The Resident Market Test (RMT) requires employers to advertise the job nationally for four weeks and only if no one qualified applies nationally they can look to fill the job with talent from abroad.

Professionals coming under the scheme will be given a visa for five years, after which they will have the opportunity to apply for Indefinite Leave to Remain (ILR) and after six years for citizenship. The visa will allow access to education and healthcare after they start paying taxes. Before that visa holders will need to pay a one-year NHS International Health Surcharge (IHS). The holders of the visa will have no recourse to public funds. They will be able to bring their family members if they are able to support them financially.

### Essential services visa

As seen in the data on distribution of migrants in occupation groups (Graph 5) the low wage jobs category has the highest reliance on migrant workers (20%). Therefore, we argue that there is a need to create a way for low wage workers to come into the country once freedom of movement ends. The Essential services visa category is for migrants who do not have enough qualifications to obtain the points for the Talent visa but are still needed to fill jobs that employers cannot fill locally. These will generally include jobs in the low wage sectors, which pay a minimum or living wage. Visas will be issued only to applicants who already have a job offer from an employer.

For employers to be able to hire low-skilled workers from abroad they will still need to pass the Resident Market Test to prove they cannot fill the job locally. They will also need to join a **Responsible Employer Scheme**, which will be set up to guarantee that local workers are not disadvantaged by employers offering lower pay and poor working conditions to migrants.

To be granted the visa the applicant will need to have a job offer from an employer on the Responsible Employer scheme. The visa, however will not be tied to that employer and people can switch once they are in the country, to ensure migrant workers do not fall victims of exploitation, as evidence has suggested may be the case if the visa is tied to a single employer.<sup>58</sup>

To facilitate small and medium size employers in particular, who may find it more difficult to hire workers from abroad under the Essential services visa scheme, employers will not have to pay additional fees for hiring workers from abroad.

The visa will be given for one year after which they will have the opportunity to re-apply for another year. After five years, the individual can apply for Indefinite Leave to Remain (ILR) and after six years for citizenship. The visa will allow access to education and healthcare after they start paying taxes. Before that visa holders will need to pay a one-year IHS. The holders of the visa will have no recourse to public funds. They will be able to bring their family members if they are able to support them financially.

### Self-funded professionals visa

Increasingly with the transformation of work and the workplace, people are not bound to one location. This is particularly valid for creative and entrepreneurial people who are

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<sup>58</sup> *Exploiting the Opportunity? Low-Skilled Work Migration After Brexit*, Migration Observatory, August 2018, p.22: <https://migrationobservatory.ox.ac.uk/resources/reports/exploiting-the-opportunity-low-skilled-work-migration-after-brexit/>

also highly mobile. To attract the talent, innovation and potential of such migrants, the self-funded professionals visa will be for self-employed, free-lancing, start-up, creative professionals. These professionals are important for bringing innovation and creativity, talents that will be defining for the future of work.

To qualify for the visa, applicants must accumulate the necessary number of points based on:

- Age
- Earning potential
- Previous income
- Experience
- Savings

They have to be able to prove that they have savings or can earn enough to maintain themselves in the UK without access to public funds. They will have no access to the welfare system on that visa but can access education and healthcare after they start paying taxes. An initial year's IHS will need to be paid in advance.

The system will be specifically designed to include guarantees against employers taking advantage of this category by designating their employees as self-employed. This can include a combination of factors including work hours set by the employer, using the business's equipment and having tax deducted from their pay by their employer could mean an individual should be treated as an employee rather than self-employed.<sup>59</sup>

### Study visa

International students bring talent, skills and innovation to the UK. International students are also an important economic benefit to the UK with the Department for Education estimating their export value at £17.6 billion in 2015. They are also important to the local economies where they study, supporting local employment. International students have a direct beneficial impact by spending money in the UK on tuition fees, living expenses, and by friends and family visiting them.<sup>60</sup>

Competition for international students is increasing, and while the UK is currently the second most popular destination, market share has declined slightly in recent years. Part of the reason for this is that post-study work options are less generous than those offered by other countries.

We have already argued that the net migration target should be scrapped as it is an arbitrary and ineffective way to manage immigration and that includes international students.

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<sup>59</sup> Bogus self-employment costing millions to workers and Government, Citizens Advice, 2015: <https://www.citizensadvice.org.uk/cymraeg/about-us/how-citizens-advice-works/media/press-releases/bogus-self-employment-costing-millions-to-workers-and-government/>

<sup>60</sup> *Impact of international students in the UK*, Migration Advisory Committee, September 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/73908/9/Impact\\_intl\\_students\\_report\\_published\\_v1.1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/73908/9/Impact_intl_students_report_published_v1.1.pdf)

Students from outside the EEA can come to the UK to study, applying for a Study visa or under short-term study provisions. There is a list of institutions licensed by the government to sponsor migrant students under the student visa system, as is currently under Tier 4.<sup>61</sup>

Universities UK has proposed an improved **post-study work system** for international graduates. The proposal is aimed at creating a system which contributes to increased productivity by addressing current and future skills gaps; is comparable to international competitors (the US and Australia); supports the government's £30 billion education export target and enables universities to contribute to the UK's Industrial Strategy; supports regional economic development through the retention of talented graduates in all regions of the UK, as well as small and medium size employers.<sup>62</sup> The visa will be open to graduates of UK Universities for up to five years when they are eligible to apply for Indefinite Leave to Remain.

**Short-term study visas** are currently available for students from outside of the EEA who are taking part in an English language course or a short course at a recognized institution (Tier 4). Short-term study visas are for up to six months, or 11 months for English language courses and short courses. Under this visa the applicant is not allowed any recourse to public funds.

### Spousal visa

It is currently far easier for EU nationals to bring a non-EU spouse or family member to the UK than it is for either Britons or non-EU residents, because currently EU citizens do not have to prove they have sufficient income to support their families. However, anyone, including British nationals, wanting to bring a non-EU spouse into the country must be earning at least £18,600 a year (except persons with Humanitarian Protection, refugees and stateless persons who are entitled to family reunion on a different basis). Those wanting to bring in non-EU children have to prove additional funds equivalent to £3,800 a year for the first child and £2,400 for subsequent children. The spouse is subject to strict English language requirements to be granted a visa.

Recent estimates suggest that this threshold affects around 41% of workers in the UK who earn below the set threshold. This system has caused enormous suffering and is fundamentally unfair. It needs to be reformed to make it easier for British citizens to bring their spouses and children to the UK. This should happen through ending the minimum income threshold requirement.

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<sup>61</sup> Register of licensed sponsors: students, UK Visas and Immigration (UKVI), 11 December 2018:

<https://www.gov.uk/government/publications/register-of-licensed-sponsors-students>

<sup>62</sup> *Impact of international students in the UK*, Migration Advisory Committee, September 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/739089/Impact\\_intl\\_students\\_report\\_published\\_v1.1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739089/Impact_intl_students_report_published_v1.1.pdf)

### 3.4 Responsible Employer Scheme

Hiring migrant workers for low wage jobs is a characteristic feature of the economy in the UK and it is important to guarantee migrant workers' rights and at the same time ensure everyone is treated fairly. It is necessary to recognize that on a local level migration has more complex effects which are not reflected in nation-wide statistics, especially in areas that are experiencing economic decline. Agencies solely recruiting newly arrived workers or those directly from abroad, who are willing to take badly paid and unsafe jobs can create resentment among the local community. There have been instances where employers have attempted to undercut wages or breach the minimum wage legislation by discriminating and creating unfair competition between migrant and UK-born workers and these incidents have fed into the broader anti-immigrant narrative.

It is essential to restore trust and confidence that local workers are not unfairly disadvantaged in the new visa regime for Essential Services. This will be done through maintaining the existing requirement of the Resident Market Test, as well as introducing a new requirement for employers to become part of the Responsible Employer scheme. This will guarantee that employers who want to hire low-wage migrant workers need to demonstrate they comply with the following criteria. Employers must:

- not discriminate between migrant and non-migrant workers: by paying equal wages and ensuring safe and adequate working conditions for all workers regardless of their immigration status
- not have been convicted of discrimination on protected grounds<sup>63</sup> in an employment tribunal, in the last year
- not have been subject to employer sanctions for hiring workers who do not have the right to work in the UK

The Responsible Employer Scheme (RES) will allow employers who fulfil the criteria set above to hire workers from abroad under the Essential services visa. As these services and jobs are spread across the whole economy, improvements in this area will also help reduce discrimination and exploitation across the whole labour market.

In addition, employers who provide integration support to their workers (such as ESOL classes in the workplace, encourage mixed language working shifts, integration advice and signposting, etc.), as well as training and upskilling opportunities (apprenticeship schemes, traineeships or paid internships) would be eligible for additional visa

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<sup>63</sup> As defined in the **2010 Equality Act**, the nine characteristics that are protected: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

advantages, such as visa fast-tracking.<sup>64</sup>

### 3.5 Administrative responsibility and fees

The Home Office has one of the biggest concentrations of powers in the current government and it is not fulfilling them well. Sharing responsibility among different departments will take pressure off the Home Office.<sup>65</sup>

The **Department for Business, Energy and Industrial Strategy (BEIS)** should have the **responsibility** for developing the whole visa scheme making decisions on the visa applications for the Talent, the Essential Services and the Self-funded professionals visa. BEIS will also have oversight responsibilities of the Responsible Employer scheme.

UK Visas and Immigration (UKVI) will continue to issue the visas, but the decision will be with BEIS. The **Department for Education** will take over responsibility for decision making on student visas.

Fees for immigration and nationality applications have risen steadily since 2010 under the “hostile environment” policy, including in the latest round of changes in April 2018. Among the charges are £3,250 for indefinite leave for an adult dependent relative and £1,330 for an adult naturalisation application. At the same time, the actual cost to the Home Office of processing a naturalisation application is £372. The Home Office made profits of up to 800% on some immigration applications from families.<sup>66</sup>

Fees should reflect the cost of the service and there should not be a profit-making element for the Home Office on immigration related fees as a principle. This principle should be applied across the board, including applications for visas, citizenship, ILR, etc. Children, vulnerable people and people unable to pay should be eligible for reduced or no fee to ensure they do not end up in a situation where they cannot obtain their right due to not having enough money to pay for it.

### 3.6 Rule of law and enforcement

As outlined the existing immigration policy is not fit for purpose. The net migration target is not based on any real evidence about the stock and flow of migrants in the country and as a consequence is a poor indicator of the levels of immigration in the country. An evidence-based approach to immigration needs to replace the haphazard

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<sup>64</sup> *Tougher rules for employers to access migrant workers if they fail to invest in UK training*, IPPR, December 2017: <https://www.ippr.org/news-and-media/press-releases/tougher-rules-for-employers-to-access-migrant-workers-if-they-fail-to-invest-in-uk-training>

<sup>65</sup> Institute of Government report pending publication

<sup>66</sup> The Guardian, *Slash 'obscene' Home Office fees, say MPs and campaigners*, 24 June 2018: <https://www.theguardian.com/uk-news/2018/jun/24/reduce-home-office-fees-say-mps-campaigners>

number chasing of the net migration target. Furthermore, the control of immigration needs to return to those who are purposely trained and equipped to do this – immigration and border officials. Resources should be allocated to better train staff instead of outsourcing this work to bank and hospital staff and landlords, as the hostile environment policy has done. This policy has not only failed on its own terms as it has not lead to any reduction in illegal immigration but has a wide range of detrimental effects across society and trust in institutions, including the Home Office, itself.

### Entry and exit border controls

Effective border control does not mean more border guards but requires a better system of managing border controls and overall immigration control. This includes both the entry, as well as the exit of people.

The system of border control ensures checks on arrival of everyone who enters the UK and functions well with illegal entries at a minimum. Most migrants in the UK come legally on a valid passport and visa. The expected increase in demand for border guards post-Brexit needs to be adequately resourced and better training provided.

The introduction of exit checks at the border, which has been announced but delayed, can improve the oversight of who and how many people come into and leave the UK. It will also specifically help with establishing the numbers around how many people are overstaying their visas.

### Detention and return

Following the first report into the Welfare in Detention of Vulnerable persons by Stephen Shaw in 2015, the 2018 report, known as Shaw II was aimed at assessing progress in the implementation.<sup>67</sup> Progress was noted in a decline in the number of people in detention - by 35% for men and 10% for women. The greater focus and resources allocated to healthcare and the involvement of the NHS has led to some improvement. The recommendations of both Shaw I and II need to be fully implemented to ensure there are no vulnerable adults held in detention.

Detention should be a measure of last resort and should be only used in cases when the return is imminent. There should be an end to indefinite detention and a 28-day time limit on immigration detention should be introduced, as a first step towards significantly reducing the UK's reliance on detention.

The Home Office is running a very limited pilot for alternatives to detention in the community with women from Yarlswood. Despite the limited scope of this pilot the results should be used to develop such alternatives on a bigger scale and include victims of torture, people with mental health issues and other vulnerable people.

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<sup>67</sup>Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons, A follow-up report to the Home Office by Stephen Shaw, July 2018:  
[:https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728376/Shaw\\_report\\_2018\\_Final\\_web\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728376/Shaw_report_2018_Final_web_accessible.pdf)



The Home Office should also stop routinely seeking to remove people who have been born/ raised in the UK and have established family ties.

These measures are supported widely with a survey revealing most people - 64% - want a policy that protects those who have a right to be here and are not wrongly deported.<sup>68</sup>

Simplifying the administrative processes will also help reduce irregularities in the system. This will allow those people who can to regularize their status (for example children born in the UK), will improve knowledge of how many people with irregular status there are in the UK<sup>69</sup> and allow adequate policies to be developed to tackle this.

A specific group who quite often end up having no legal status are rejected asylum seekers whose appeal rights have been exhausted but they cannot obtain travel documents for their return, or there is a barrier to their return beyond their control (their country of origin does not accept them). If they are complying with the system, there should be an individual review in these cases and discretionary leave to remain should be granted with a right to work and to access higher education in the UK.<sup>70</sup>

### 3.7 Migrant Local Development Fund

Migrants contribute extensively to the UK economy through the taxes they pay. The MAC report found that the annual net contribution only from EEA migrants is £ 4.7 billion a year. However, this contribution is added to the overall government budget and is not reflected on a local level.<sup>71</sup>

A designated fund based on the annual tax contributions made by migrants – the Migrant Local Development Fund – will direct the funding made available to areas of the

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<sup>68</sup> *Attitudes towards Immigration after Windrush*, Ipsos MORI, May 2018:

<https://www.ipsos.com/ipsos-mori/en-uk/attitudes-towards-immigration-after-windrush>

<sup>69</sup> In June 2005, the Home Office published the outcome of an assessment of whether methods used in other countries to estimate the size of the illegal population could be applied to the UK. The outcome estimated that the total unauthorized migrant population living in the UK in 2001 was 430,000.

A further report has been written by the London School of Economics, which estimates that in 2007 the number of 'irregular' migrants was 533,000:

<https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/illegalimmigrantsintheuk>

<sup>70</sup> Submission to the Windrush Lessons Learned Review, Asylum Matters, 19 October 2018:

<https://asylumatters.org/wp-content/uploads/sites/117/2018/11/Asylum-Matters-Submission-to-the-Windrush-Lessons-Learned-Review.docx.pdf>

<sup>71</sup> The Independent, Labour MPs in leave areas want government 'globalisation fund', 7 December 2018:

<https://www.theguardian.com/politics/2018/dec/07/labour-mps-leave-areas-fund-globalisation-fund-day-of-action>

country that have been badly affected by lack of economic growth and austerity and will help address specific local needs. Local councils will be able to apply for funding made available through the fund for specific local needs, which may be related to improving infrastructure or provision of council services or supporting integration measures that bring migrants and host communities together.

This will also help increase the visibility of migrants' substantial economic contribution and improve the public understanding of the benefits of migration by linking the overall economic contribution to specific local development needs.

## 4. Recommendations

The following recommendations are therefore put forward:

- Develop a Comprehensive National Migration strategy which can restore fairness, trust and effectiveness in the immigration system. The strategy needs to include both immigration and integration policies coming from the perspective of how best to ensure the conditions are in place for both migrants and the communities they settle in to thrive.
- Ensure service users of the immigration system are treated as individual people and not abstract cases and are involved in the design and evaluation of the immigration system. This will ensure users' actual experience of the immigration system is able to feed into the development of policies and systems which then reflect this experience, leading to robust decisions that withstand judicial scrutiny.
- Develop an appropriate model for stakeholder engagement in the area of immigration, similar to the good practice of the National Asylum Stakeholder Forum (NASF) to address issues arising and improve the immigration system.
- Grant EU nationals living in the UK the right to stay and guarantee their existing rights regardless of whether there is a deal or no deal. This right should apply to everyone in the country on 29 March 2019 when the UK will formally leave the EU and the guarantee for EU citizens' rights will disappear.
- Develop a new visa system which puts the skills and capabilities of migrants at the centre of work-related immigration. This will ensure that there is control over who comes into the country. It will also ensure a whole economy approach to the variety and skills of migrants to ensure the UK remains competitive on a global scale.
- Use the guidance set out in the Standard Occupational Classification (SOC) which provides the context for the classification of jobs in terms of their skill level and skill content.
- Introduce a new visa system that will replace the existing freedom of movement for EU nationals and the Tier system in place for non-EU nationals.

- Introduce a Talent visa which covers all skill levels except for low-skilled jobs, based on a point-based system. It will give access to migrants with offer of employment, as well as allow migrants that qualify but have no specific job offer entry for up to three months. Employers wishing to hire migrants on a Talent visa will still need to comply with the Resident Market Test and advertise jobs nationally for four weeks.
- Recognizing the essential role low-wage migrant workers fulfill, establish an Essential services visa for jobs on the Minimum/ Living wage category. Employers will need to comply with the Resident Market Test (RMT), as well as become part of a Responsible Employer scheme (see below).
- Establish a Self-funded professionals visa which recognizes the transformation of work and the workplace, as well as the important role of innovation, creativity and enterprise for raising the productivity of the economy. This visa category is for self-employed, freelancing, start-up and creative professionals who can prove they are self-reliant.
- All visas should be issued to individual migrants and not be tied to an individual employer to reduce the chances of labour exploitation.
- All visa categories have No Recourse to Public Funds and require one-year upfront payment of the International Health Surcharge (IHS). Once the migrant starts paying taxes they will receive access to the health system and the education system.
- The Responsible Employer Scheme for employers who wish to hire workers from abroad to ensure local workers are not disadvantaged by employers offering lower pay and poorer working conditions to migrants.
- Study visas and short-term study visas should continue through licensed educational institutions. An improved post-study visa should be offered to international graduates to ensure the retention of talented graduates in all regions of the country.
- The Spousal visa will no longer require a minimum income threshold, which is fundamentally discriminatory and unfair. Foreign spouses should be awarded the same rights as nationals.
- Recognizing the concentration of powers in the Home Office, share responsibility for decision-making on visas in the new visa system with the Department for Business, Energy and Industrial Strategy (BEIS) and the Department for Education.
- Reform the fees for visas, citizenship, ILR, and others to be based on the cost of the service and abolish the profit-making element as a principle.
- Introduce an evidence-based approach to immigration needs instead of following an arbitrary net migration target.
- Control of immigration needs to return to those who are purposely trained to do this -namely immigration and border officials. Ensure that they are allocated the resources to better train staff instead of outsourcing this work to public and private sector actors who are not equipped to do this.
- Introduce exit border checks which can improve oversight into who and how

many people come into and leave the UK. It will also help establish the number of visa overstayers and introduce better planning into the system.

- Detention should be a measure of last resort and should only be used in cases when return is imminent. Introduce an end to indefinite detention and a 28-day time limit. Explore more actively alternatives to detention in the community.
- Recognize the serious potential for a rise in irregular migration and the complexities of the migration process and develop humane and pragmatic solutions, to avoid a push to more criminal responses, such as the increase in the use of fraudulent documents. These include simplifying administrative processes to reduce irregularities in the system and issuing discretionary leave to remain for individuals who have exhausted their legal proceedings but can still not be returned.
- Establish a designated Migrant Local Development Fund, based on the annual net tax contributions by migrants. Local councils will be able to apply for funding specific local needs, which may be related to improving infrastructure or provision of council services or supporting integration measures that bring migrants and host communities together.