

UK Migration Policy Post-Brexit

The central objective of our new migration policy should be to ensure control over the movement of people. Using a combination of work permits and a cap, the UK should look to control access to work and rights to settlement. Free movement for EU citizens for other purposes such as tourism and short term business visits should be preserved but access to UK benefits should be curtailed.

Introduction

The recent referendum vote gave HMG a clear mandate to leave the European Union. Once we have left, what was also clear from the vote was that HMG will need to put in place controls on immigration for EU citizens as well as non EU citizens. This paper explores a way in which we can reduce migration pressures on jobs and wages whilst at the same time reducing the pace of population growth to sustainable levels.

1) Existing Freedom of movement

a) Origins of Freedom of movement in the EU

It was in 1951 that the Treaty of Paris established the European Coal and Steel Community and, at the same time, created a right to free movement for workers within these industries. This was built on in subsequent treaties and widened to include the right to reside and the rights of family members.

b) EU definition of freedom of movement:

Freedom of movement and residence for persons in the EU is now at the heart of the EU and one of the four freedoms that go into European Union Citizenship. It is worth recording that the gradual movement to this was given a huge boost by the Maastricht treaty in the 1990s which expanded it from being an economic right for 'workers' into a political right for all EU Citizens. Further European Court of Justice Rulings has extended such definitions.

c) Freedom of movement - EU Workers:

At present, the right to free movement covers part-time and full-time work. This is an area that has caused concern amongst the public, as the definition of part time work has allowed many to claim in work benefits. For example if someone claims to be self-employed in the UK, they don't have to satisfy the conditions of the Habitual Residency Test. Furthermore, there's no minimum period of time in which they must have been self-employed. Although they now have

to prove that, for three months before making a claim, their average profits from work are at least at the level as employees pay national insurance contributions, even if they don't meet that threshold, they can still be defined as self-employed.

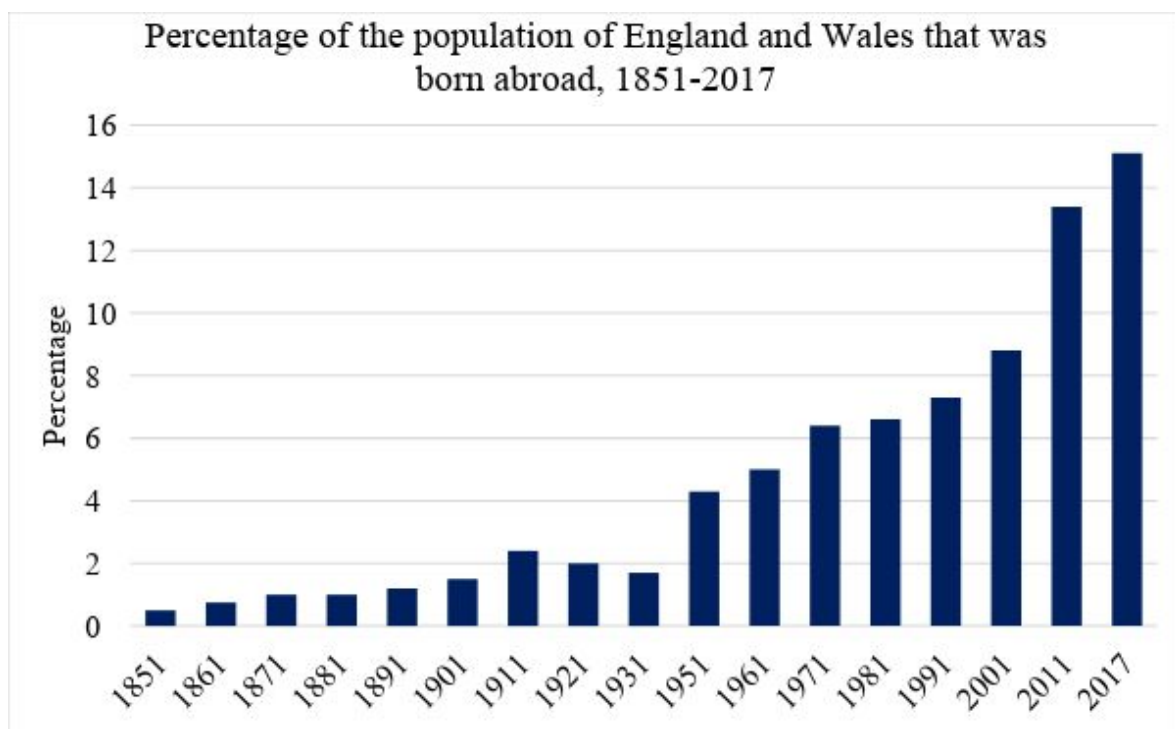
It is also true that the rights of the EU citizen to seek and take work anywhere in the EU have also run into the right of Nation States to set their own welfare policies. Britain's 'Habitual Residency Test' has been under constant pressure from the ECJ, where it is seen as contravening the EU citizen's right to equal treatment.

It is the ECJ that has over a period of time eroded the nation state's ability to define who may and may not receive financial support from the taxpayer. Since the existence of EU citizenship, the ECJ has extended access to social benefits for EU citizens residing in another Member State, for example, in the cases C-184/99 Grzelczyk, C-224/98 D'Hoop, rulings ensured the further extension of EU competence in financial assistance. Other examples are C-138/02 Collins and C-22/08 Vatsouras, where the ECJ ruled that EU citizens had the right of equal access to a financial benefit aimed at facilitating access to the labour market and saying that such a benefit was not to be classed as 'social assistance,' (which would have allowed the state in question to limit the access to their citizens.)

Furthermore it is quite erroneous, as is sometimes done, to claim that the growing cost of EU citizens' benefit claims from the UK is because the UK doesn't have the same contributory based systems of social assistance as other countries do. This isn't correct. Most other countries have a mix of social assistance and social security payments, for example in Germany where the Federal systems are often different from the systems in the Bundeslander.

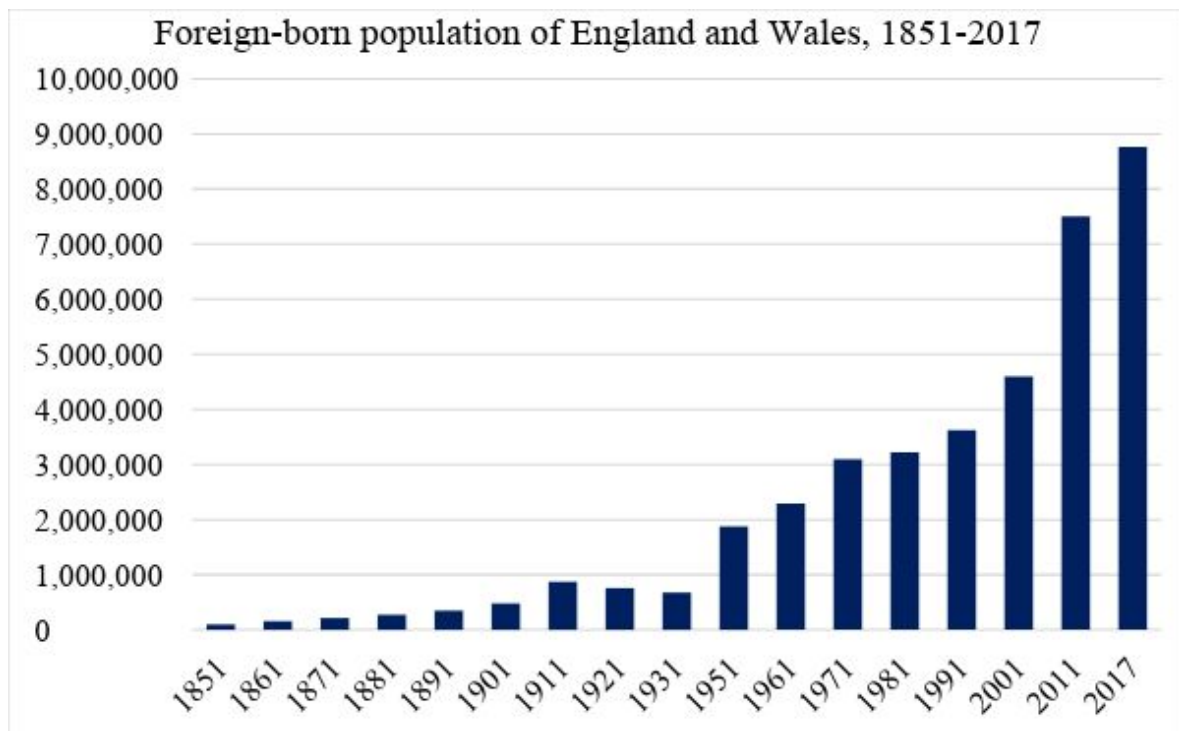
2) Background to migration control

The United Kingdom has always had a strong desire to help people fleeing persecution and tyranny from all over the world, as well as bringing in many who have wished to settle here. Over the centuries Britain has experienced many relatively small episodes of immigration. For nearly a thousand years migration was on a very small scale compared to the size of the population. In the decades between the Second World War and the late 1990s, whilst immigration grew steadily, it did so at a relatively modest rate before declining in the late 1960s and becoming fairly stable between 1971 and 1981. The increase in the level of migration since the late 1990s was unprecedented in UK history, dwarfing the scale of anything that came before. (See also Annexe C)



This bar chart shows the percentage of the population of England and Wales that was 'foreign born' at every census between 1851 and

2011. (There was no census conducted in 1941, this was due to the Second World War.) [Source: Migration Watch]



The total number of foreign born people; 1851-2017.

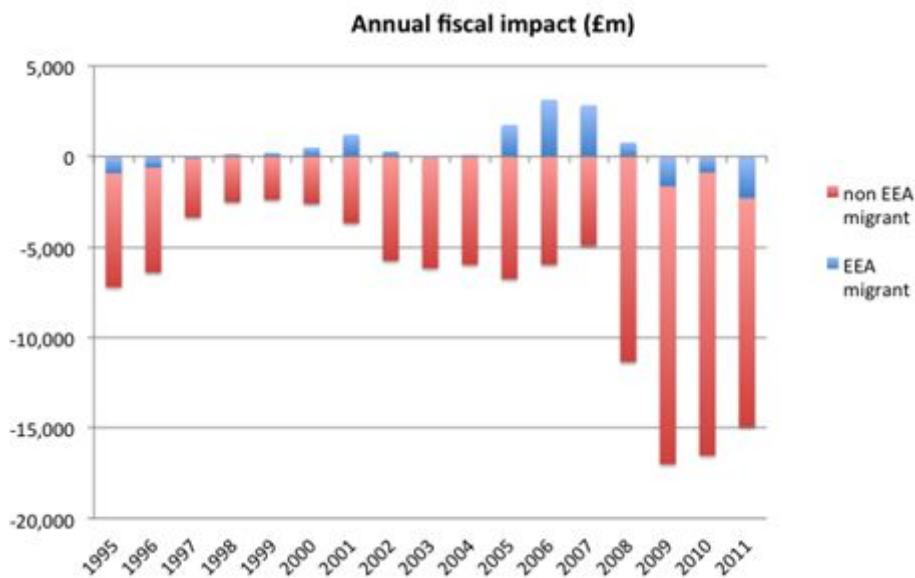
[Source: Migration Watch]

- There has always been immigration to the UK but its scale since 1998 has been unprecedented in the country's history.
- Jewish refugees fleeing Russia, Eastern Europe and Germany arrived in Britain during the 19th and 20th centuries. Around 200,000 arrived over a 50 year period.
- 50,000 French Huguenots arrived in Britain over a 40-50 year period, approximately 10,000 a year.

- Yet in the 13 years between 1997 and 2010 net foreign migration totaled 3.6 million.
- Today, long-term estimated net migration in the year ending March 2018 stands at 271,000.¹

The objective of this new migration policy is to get this into balance, so that the UK can continue to be able to attract those needed to work but at a sustainable rate that can be absorbed whilst adding value to the economy.

The overall balance and net cost of migration is dealt with comprehensively in Migration Watch’s paper 347.



Data from Christian Dustmann and Tommaso Frattini, ‘The Fiscal Effects of Immigration to the UK’, 2014.

¹ Source: Migration Watch.

3) Post Brexit control of migration:

a) Key Objectives

The following should be the key objectives for the Government when looking to take back control of migration from the EU.

- I. EU nationals wishing to come to the UK for work should be brought within the present UK work permit system. The level of the cap on work permits should be a matter for Government to decide, however the government could look to be more flexible for high skilled workers, particularly where there is a national shortage. Meanwhile Intra Company Transfers (ICTs) would be unrestricted unless they became open to abuse.

- II. The Government should ensure that the eventual system is as flexible as possible for those areas of high added value but low

volume employees. Examples of those would be academics, scientists and people in financial services. In these categories it should be possible to arrange processes by which a very light touch system operated with much fewer restrictions. (It is worth recording that the UK is different from some other nations in that much of its applied research work, relevant to industrial use, is carried out by Universities and thus those engaged in this high value work would need to be treated in the same flexible manner.)

- III. Free movement for EU tourists, students and the self-sufficient (e.g.: many pensioners) should continue in both directions as they are not competing for work, and have little impact on the permanent population. There should be no restrictions on genuine marriage, (although robust checks should be in place), this could entail the same income requirements as those in place for non EU spouses after the implementation phase.

- IV. The large number of EU citizens who have previously lived or worked in the UK at some time but have since left must be subject to these new requirements if they wish to return to the UK to work.

- V. People should be expected to have a work permit tied to secure employment to go to before entering the country.

- VI. People allowed into the UK for work should have no access to income related, family or housing benefits for a set period; this paper proposes five years, although an alternative could be to require a four year record of NI contributions. There is significant evidence that too many migrant workers take jobs where their income alone would not be able to sustain them in the UK. This is particularly the case with those classified as self-employed. This in turn has led to abuse and criminality with many preyed upon by criminal gangs, using their identities to claim money from welfare payments. (Annex B (3)(4))

- VII. If the Government introduces a cap system, then the EU might reciprocate but their Blue Card scheme is a feasible alternative for British citizens wishing to work in the EU, with a prospective salary range of £17,000-£47,000 per year in the five EU states with the most resident British citizens (2014 figures)

b) Supporting mechanisms

The new system will need to be flexible and should allow HMG from time to time to exempt some occupations from any restrictions whilst tightening up on other occupations, thus allowing them to cater for both changing circumstances and the economic cycle. The Migration Advisory Committee's Shortage Occupation List could be used for this purpose. For example, high added-value migrants whom are low in number such as, for example scientists and software engineers, might be exempted but a range of lower skilled work would be restricted by both the cap and the permit system.

Where the issue of a permit is being considered, the DWP regional Job Centre should be involved to check whether there is actually a shortage of UK labour in that category and location before issuing permits to business. It should be possible to leverage information gathered from the implementation of Universal Job Match and the new (UC) Work Coach Programme, plus in-work conditionality to provide new and much better data-driven insights into the potential supply of labour already available.

Some enhancement of the National Insurance number system could be required to distinguish between those granted to immigrants for work and for other purposes. This would possibly allow a time limit to be set on their validity, meaning that they would lapse on expiry of the work permit and guard against 'disappearance'.

c) Possible variations

It would also be possible to introduce a Seasonal Agricultural Workers Scheme (SAWS) for EU citizens provided that it was for truly seasonal work in defined sectors and was limited to six months. (Such a scheme was run successfully for many years. It was brought to an end when the UK borders were opened to unskilled workers from Eastern Europe). However, there would need to be some adjustments to the system such as are identified in Annexe A (2), using the New Zealand experience as a guide.

There should be no legal or treaty objections to arrangements of the kind outlined above as the UK would no longer be subject to the Lisbon treaty.

d) Implementation Period

A transition period until the end of 2020 will have an effect on the Government's aim to reduce net migration. As immigration statistics run six months late, by the time of the next election in early May 2022, the UK will only have net migration figures until the year ending September 2021 – probably incorporating only five to nine months of any new post-Brexit immigration regime.

The delay in an immigration white paper and draft Bill are very worrying. For the government is now negotiating our exit

from the EU without a clear idea of what the policy should be post our departure. This leaves the UK government vulnerable to EU demands on Freedom of Movement.

There would have to be a significant reduction in non-EU migration by the time of the next General Election – given that it increased over the past year by 56,000, this is difficult in the time left to deliver.

According to a Deltapoll which was commissioned by Channel Four News (and [published](#) in June 2018), nearly three-quarters support a significant reduction in immigration. Some 64% want a reduction in low-skilled migration from the EU and a majority want both a reduction in family migration and much more done to tackle illegal immigration. It is also worth noting that the public still support the reduction of net migration to tens of thousands.

e) Other EU Nations

The larger member states such as Germany, France and Italy and the rich Benelux and Scandinavian countries do not particularly benefit from mass access to the UK labour market. To the extent that it is in their interests for their own highly skilled nationals to work in Britain, they would be accommodated under the expanded work permit scheme.

It has been estimated by Migration Watch UK that this set of proposals would reduce migration by at least 100,000 per year from the record level of EU net migration which was seen in 2015 and 2016.

It is important at this point to point out that many outside the UK see the UK as having become addicted to cheap labour. A recent paper by the Centre for Social Justice, 'The Great British Breakthrough', shows how far too many British companies have opted for cheap labour rather than train existing workers. This has also led to a failure to invest in automation and technology. Perhaps the most damning figure is that in the UK just 15% of those who start working life on entry level jobs will ever rise above entry level for the rest of their working lives. The restricting of cheap labour is a wakeup call for British companies to invest to compete. (Source CSJ's paper, The Great British Breakthrough)

The Chequers White Paper

The Chequers White paper does not fulfil the proposals set down for a controlled migration policy. The first criticism is that after two years since the referendum, the issue of migration has not been settled. The few sections dealing with the eventual structure of the post Brexit system are very vague and lacking in any clear structure. What detail there is in the document is enough to give cause for serious concern.

On Paragraph 89, the paper makes it clear that the UK government would be prepared to agree to social security coordination and

further on it refers to ensuring such future workers' pay social security contributions in one state at a time. This means that someone in a country with much lower welfare benefits could make much lower contributions in their home country whilst then coming to the UK and claiming much larger work and family benefits as is the case now. This has been one of the problems in the present system which has cost the UK taxpayers considerable sums of money. It has also led to some companies paying very low salaries knowing recent arrivals can claim full benefits. **The inescapable conclusion** from this section is that the government is ready to make major concessions on EU migrants' access to benefits in an effort to seek a deal, which would make a mockery of their statement that they were ending freedom of movement. (See annexe B)

Migration Advisory Committee Report, (MAC) –observations and concerns

The Migration Advisory Committee said in its September report on EEA migration: 'With free movement there can be no guarantee that migration is in the interests of UK residents'. The MAC's proposal that there should be future restrictions on immigration by workers going into lower-skilled roles is welcome.

In reviewing this report, there is little doubt that the incomes of EEA migrant workers are more skewed than for taxpayers as a whole e.g. for all taxpayers, median taxpayer income is 70% of the mean, for EEA taxpayers it is 60% of the mean. Most income tax comes from a relatively small number of EU14 nationals, generally high skilled), with a long tail of A10 nationals, (predominantly doing low skilled work), who pay very little.

Indeed, the MAC report that of the net fiscal contribution of £4.7bn attributed to EEA migrants, only £300 million came from Eastern Europeans. And this is after attributing business taxes on a per capita basis, so comparing all the taxes actually paid by individuals (both direct and indirect taxes) with the cost of public services from which they benefit, this means Eastern Europeans will have been in fiscal deficit.

On benefits, the report says, "We have been unable to access the data necessary to use actual benefit payments to assess whether migrants are more or less likely to be in receipt of benefits or tax credits". This seems odd when there is reputable published research finding that Eastern Europeans are indeed more likely to claim in-work benefits (from EUROFOUND).

The MAC also finds that EEA immigration has reduced employment opportunities for the young and less well-educated, that it has reduced earnings-growth for the lower paid and that it has increased house prices, especially in areas where housebuilding is more restricted. This helps add to the case for a new immigration system which restricts inflows into lower-paid work.

With regard to training, it is of concern that MAC finds in its report (par.14 of Executive Summary) that overall there is no evidence that migration has had a negative impact on the training of the UK-born workforce. However, it then admits that 'there is... evidence to suggest that UK employers have been investing less in training and less than in other countries' (par.2.8).

This is a rather weak part of the report and seems to gloss over the failure of UK companies to invest in training, automation or technology. The government itself has said that '*for intermediate*

skills, the UK is currently ranked 25th, with the proportion of adults qualified at this level expected to decline slightly from 36 to 34 per cent. Stronger performance by other countries will result in the UK's decline to 28th by 2020.' This report is in effect, giving up on the potential of many UK workers to be trained and attracted into job vacancies requiring particular skills.

The result of this is that the MAC makes a recommendation to abolish the Resident Labour Market Test, which is worrying. In fact in the past both the MAC and the IPPR have found that immigration may have displaced some UK workers or made it more difficult for young UK recruits at the lower end of the job market. If this recommendation on the RMLT was accepted, it would end up being a major political blunder. It makes no sense to remove longstanding safeguards for UK jobseekers under pressure from the self-interested business lobby. Surely, the nation's immigration policy must serve the interests of its own citizens first before those of overseas workers and vested interests.

4) Conclusion.

On June 23rd 2016, the UK voted to leave the EU and in so doing, to take back control of their laws, their borders and their money. The system proposed uses these new freedoms.

- It should ensure that UK businesses seeking to employ foreign nationals have shown that UK nationals with the correct skills cannot be found in the UK or even within the reasonable travel to work area.
- It should ensure that in the areas of high added value but low volume, the system remains flexible enough to accommodate the needs of industry and academia.
- It should ensure that Irish nationals continue to be accepted in effect as UK nationals, as they have been since the 1920s.
- It should make clear that EU nationals already resident in the UK, once registered, are welcome to stay and be treated as nationals with regard to work. However, these rights **must be adjudicated by UK courts, not the ECJ.**
- The central purpose of the new system should be ensuring control over the movement of people while retaining largely

unhindered entry for EU visitors (as well as students and the self-sufficient). Those who wish to work should be required to apply for a work permit whilst the government can set a cap at a level to be determined by the government (The EU might reciprocate but their Blue Card scheme is a feasible alternative for British citizens wishing to work in the EU.)

- The automatic right to welfare payments should be ended and a period of NI contributions should be required before such access is granted.

Annexe A

Issues concerning new migration controls

1) Ill thought-through proposals on Regional Immigration Policy

There have been some submissions supporting the use of a regional immigration policy.

However, a regional policy would require substantial restructuring of the immigration system, which would place huge extra pressure on the Home Office at a time of Brexit when the Home Office will have

to check the documents of over three million EU migrants. It would also leave us all in the hands of devolved administrations and local authorities who have had no experience of immigration. There is a real risk that immigration would spiral out-of-control even further. It would also add a huge burden to employers, particularly those who work and trade over different parts of the UK.

Those who call for such a policy often use the example of Canada or Australia but such comparisons are misleading as the UK has a growing population with a much higher population density.

Comparative population Density:

Australia – 3.2 people per square kilometer

Canada – 3.7 people per sq.km

England – 427 people per sq.km

UK – 272 people per sq.km

(Source: Migration Watch – based on 2017 population estimates)

2) Seasonal Agricultural Workers Schemes, (SAWS)

a) New Zealand's Recognised Seasonal Employer Scheme, (RSE)

Summary

- The government has announced that a two-year pilot to support UK farmers by allowing non-EU migrant workers to work on farms, and then return home after six months, will commence from the Spring of 2019. This will mean that 2,500 workers from outside the EU will be able to come to the UK each year, with the aim of alleviating labour shortages during peak production periods.
- In refining the new scheme, the government should look for inspiration from New Zealand's Recognised Seasonal Employer Scheme (RSE), which was established in April 2007. This has been described by a study written for the World Bank as a 'best practice' scheme by international standards. The RSE has eased labour shortages in the horticulture and viticulture sectors while minimising risks of both overstaying and undercutting or displacement of local by immigrant labour. Indeed, 'there is a very strong focus on "New Zealand first" in the labour market. The UK's Seasonal Agricultural Workers Scheme (SAWS), as it existed in the UK until 2014, did not incorporate a Resident Labour Market Test (RLMT) unlike the RSE, nor did it include measures of the type included in the RSE to prevent illegal overstaying.

Detail

- New Zealand's RSE Scheme provides places for up to 8,000 Pacific Islanders to work during the agricultural season. Workers can remain for up to seven out of 11 months. Preference is given to workers from countries such as Samoa, the Solomon Islands, Kiribati, Tuvalu and Vanuatu. New Zealand employers must take the following steps:
 - They must register as a Recognised Seasonal Employer before applying to recruit workers (Under SAWS, registration with the Gangmasters' Licensing Authority [GLA] was optional for sole operators (of which there were five out of a total of nine operators servicing more than 500 growers), depending on their recruitment arrangements. However, registration was compulsory for multiple operators (which accounted for four of the nine operators).
 - Employers must be able to provide evidence that they have tried to recruit local workers for the position first and may need to provide evidence of a commitment to training those who are already in New Zealand. They will only be allowed to recruit migrant labour 'if the need for seasonal labour cannot be met by the available New Zealand workforce'. (In contrast, SAWS did not include any Resident Labour Market Testing requirement).
 - Employers are subject to inspection by Labour Inspectors and Compliance Officers to ensure that workers are being paid at least the minimum wage and that their working conditions meet minimum legal standards. (Under SAWS, registered operators were subject to inspection by the GLA or the then-UK Border Agency, including of their pay systems, while farms themselves were subject to

inspection by the operator to ensure compliance with health and safety, welfare, pay, accommodation standards and UK Border Agency requirements).

- Employers must pay half the worker's return air fare between New Zealand and the country of origin. (Employers under SAWS were not required to pay any portion of the worker's return airfare).
- Employers must bear the cost of repatriating workers if they become illegal. (This was not the case under SAWS although, in 2005, fines were introduced for firms caught employing illegal workers).

b) Australia's Seasonal Workers Programme

Australia's Seasonal Worker Program, introduced in July 2012, includes no cap on numbers of seasonal workers. Take-up only reached just over 3,000 in 2014-15. Workers may come to Australia for between 14 week and six months.

Employers must be approved by the government, provide the government with some evidence of labour market testing, organise flights, transport and accommodation for workers, ensure a minimum of 30 hours of labour a week and also see that workers depart upon the expiration of their visa.

There are also safeguards against illegal overstaying under Spain's seasonal agricultural workers scheme. Workers must prove that they have returned to their country of origin by visiting a Spanish

diplomatic mission or consular office within a month of the end of their employment.

3) Conclusion

Concerns about illegal overstaying have dogged some temporary labour schemes in the UK in the past. For instance, In July 2005, the Sector Based Scheme's coverage of the hospitality sector was terminated partially on the back of evidence that the scheme was being used as a means of facilitating illegal entry. It is vital that any reintroduction of SAWS in the UK be tapered and temporary, and also that it ensures British workers are not displaced or undercut by migrant workers. Any reintroduction of SAWS should include an RLMT. Finally, any return of SAWS must be accompanied by robust safeguards against illegal overstaying similar to those in operations in New Zealand, Australia and Spain.

Annexe B

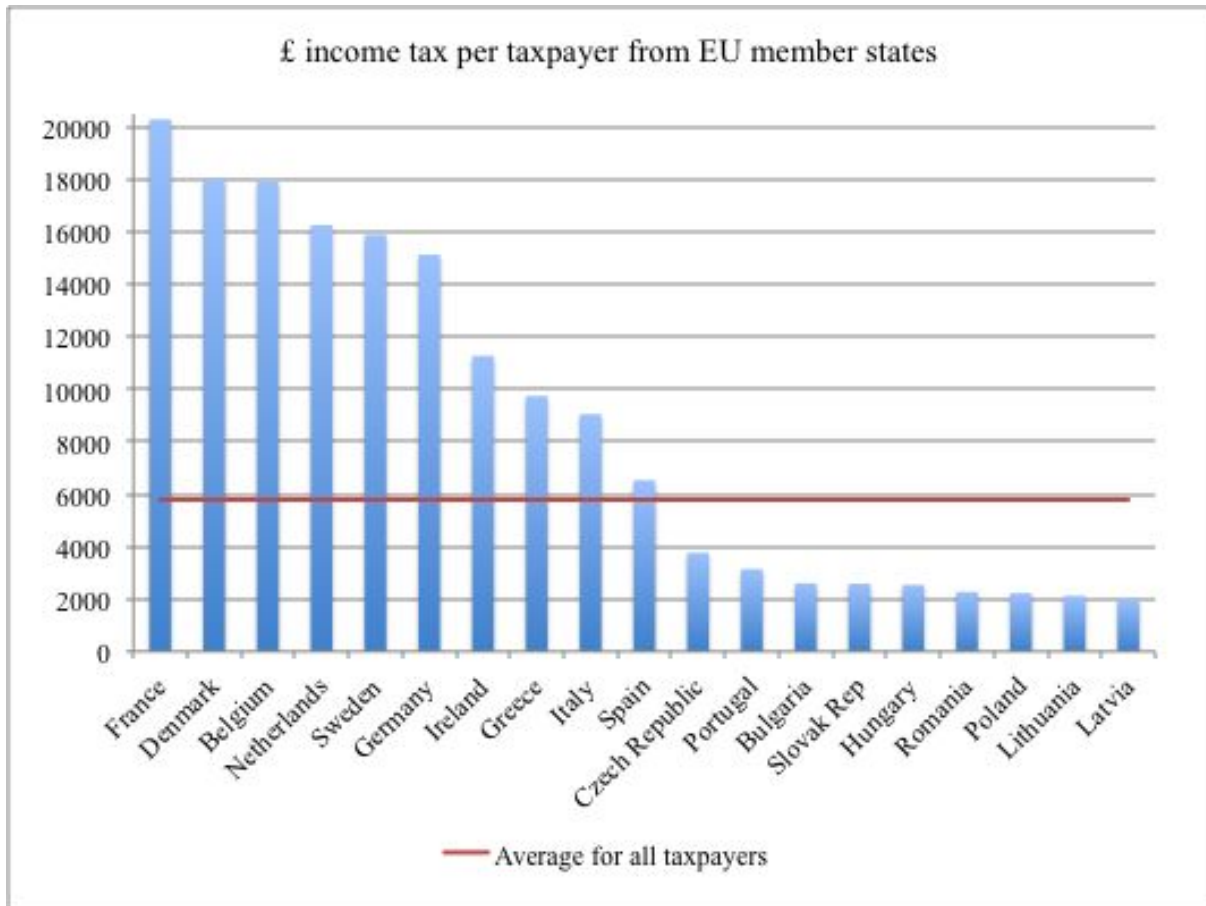
a) Latest Statistics on cost/benefit of migration

1. HMRC released in August 2016 a new publication with statistics on receipts of income tax and NICs and payments of tax credits and child benefit to EEA nationals in the tax year 2013/14, and followed this up with similar publications in August 2017 covering the tax year 2014/15 and August 2018 covering the tax year 2015/16.

Tax receipts from EEA nationals

2. In all years, while taxpayers from Western Europe paid on average

twice the amount of income tax as the average for the whole UK taxpayer population, taxpayers from Eastern Europe paid on average only half the average for the whole UK taxpayer population.



Working-age benefit payments to EEA nationals

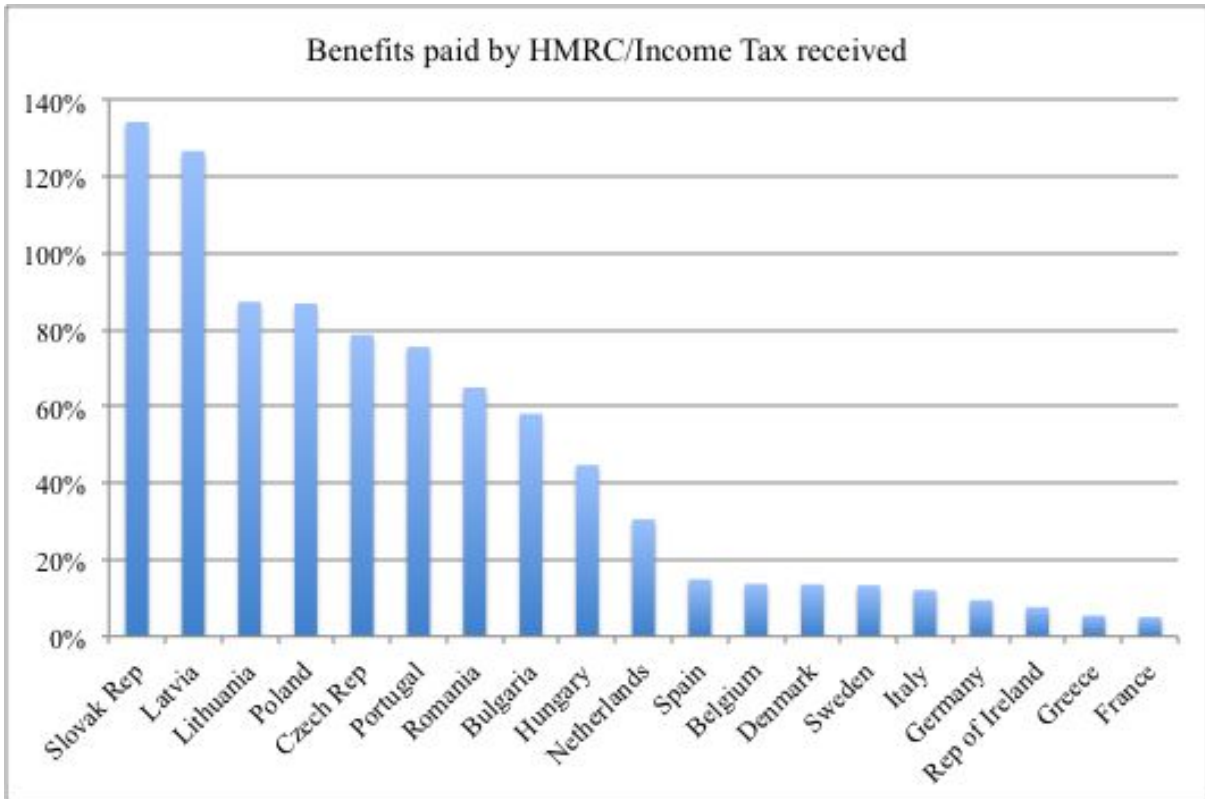
3. The information from HMRC can be combined with data from the DWP released at the same times to give a picture of working-age benefit expenditure on EEA nationals. This amounted to £4.1bn in 2013/14, rising to £4.5bn in 2014/15, and £4.7bn in 2015/16

	Description	Amount (£m)	Department
In work	Tax credits*	1,924	HMRC
	Housing benefit	999	DWP
Out of work	Tax credits*	300	HMRC
	HB, JSA, ESA etc.	613	DWP
n/a	Child Benefit	885	HMRC
Total working age benefits		4,721	

*excluding families with a UK national adult

Overall effect

4. Income tax paid to HMRC by Eastern Europeans exceeds the cash benefits they receive from HMRC by only a small margin. The nationals of some countries receive more than they pay in income tax. If the DWP benefits follow a similar distribution, the majority of income tax and National Insurance paid by Eastern Europeans is recycled back in working-age benefits.

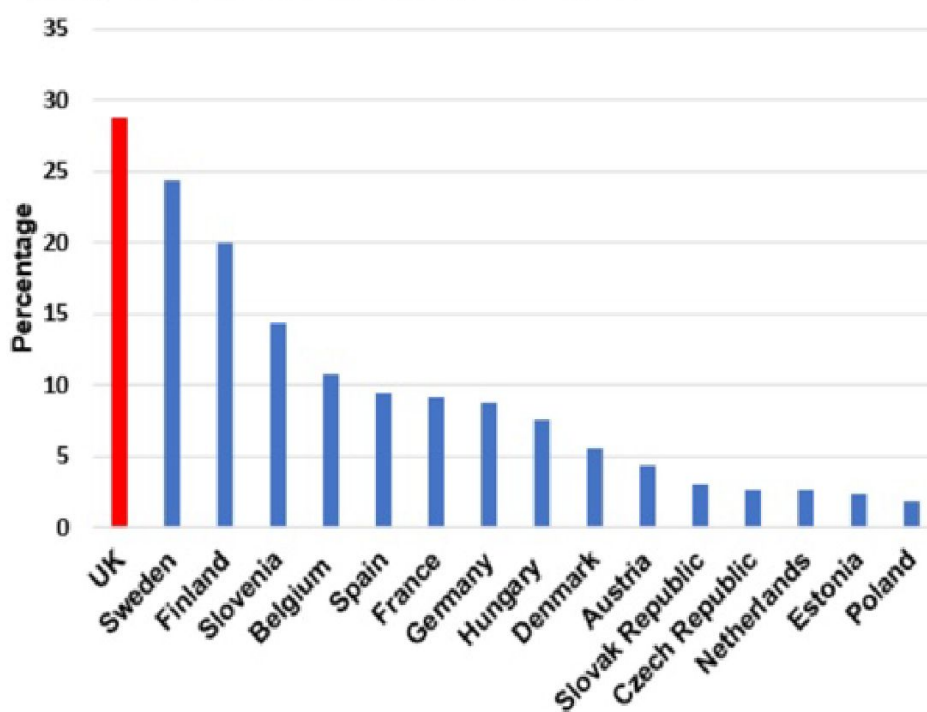


Annexe C

Britain's Failure to train NHS Staff

1. We already have one of the highest proportions of foreign-trained doctors in Europe, (Source: OECD figures, cited by the Health Foundation). We should be training our own medical staff, not taking them from countries that might have much greater needs for them.

Percentage of doctors who were foreign-trained, 2013



2. The solution has to be to reduce this reliance and train our own. As the Royal College of Physicians has noted: ***“The long-term focus needs to be on developing the home grown healthcare workforce”*** and in 2013, the independent Migration

Advisory Committee, (MAC) pointed to *'the absence of a specific training pathway to produce middle-grade doctors'* in the UK. In September 2018, Dr Bod Goddard, president elect of the Royal College of Physician, said that the Government must do more to increase the number of student doctors. There are currently around 7,500 medical students but Dr Goddard said that this needs to be expanded by a further 6,000 doctors (source: Press Association, 23 September 2018).

3. As for nurses, former MAC Chair Sir David Metcalfe said in March 2016: *"There is no good reason why the supply of nurses cannot be sourced domestically. There seems to be an automatic presumption that non-EEA skilled migration provides the health and care sector with a 'Get out of Jail Free' card."* The MAC pointed out in 2016 that the shortage of nurses in England was closely linked to the decision to cut training places by almost a fifth between 2009 and 2013. Indeed, until 2014, over 30,000 UK applicants for nursing courses were turned away annually, according to the Nursing Labour Market Review.

4. How can we justify taking healthcare staff from countries that may need them far more than we do? The World Health Organisation pointed recently to a shortage of millions of healthcare workers worldwide. This shortage was particularly acute in sub-Saharan Africa and South-East Asia. That is why they convened a conference in Kampala in 2008 that called on

richer countries to *'give high priority and adequate funding to train and recruit sufficient health personnel from within their own country'* (Kampala Declaration). In Dublin last year, the Global Forum on Human Resources for Health emphasised the need for developing countries to retain their own healthcare workforces (Dublin Declaration).

5. So why is it that, whenever news about a shortage of healthcare staff is discussed in the media, there are many who immediately demand more immigration? The only long-term solution is to train our own and the work permit system should not be used to undermine this.

[Source: Migration Watch]