



# The post-Brexit immigration system

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Immigration Policy: MW 471

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1. Section A deals with salary thresholds. Section B considers the use of the Australian, as well as other types of, points-based system (PBS). This paper makes four main points:

a) ***The general salary threshold of £30,000 for skilled work visas is justified and should be retained.*** Salary thresholds have previously been endorsed by the Migration Advisory Committee (MAC) and OECD as, respectively, a fair measure of an employee's economic value and as a suitable proxy for skills. In the context of our immigration system, salary thresholds:

- i. curb the large fiscal cost of immigration
- ii. place upward pressure on wages
- iii. curtail undercutting of UK jobs
- iv. act as a control on numbers (in line with the views of most Brits).

Exceptions to the main threshold should be largely phased out; additional variations should not be introduced. See *Annex A* for our findings on the number of jobs that would be potentially affected if the previous White Paper proposals are implemented and the salary threshold is lowered. See *Annex B* for arguments for keeping the general £30,000 salary threshold in place.

b) ***Immigration reforms should strongly encourage employers and government to boost the skills of UK people, while improving wages, conditions and productivity growth.*** Ensuring effective control of skilled immigration and lessening employers' propensity to turn overseas for labour, will help to tackle undercutting / displacement of UK applicants. It will also aid in the necessity of respecting the majority public view that skilled migration levels should *not* increase (YouGov, Ipsos), and that overall levels of immigration (particularly non-EU immigration) should *decrease*. Improvements should incorporate key components of the Australian (and other) immigration system(s), including:

- a. An overall cap on skilled work permits, set by Ministers, to ensure a transparent, responsive and democratic control on immigration.
- b. Applicants to the PBS should be qualified in an occupation that is listed on a designated skills list (as in Australia) and have a job offer that meets a minimum salary threshold. Entry should only be allowed when it genuinely benefits the UK; not only when it satisfies narrow employer

interest.

- c. labour market testing should be retained (as in Australia, Canada, Austria and New Zealand) to protect UK recruits and to prevent a race to the bottom.

c) **Government should take measures to ensure that, going forward, the majority of permanent migration derives in future from the skilled work route.** Currently the family stream is the largest non-EU route leading to permanent residency in the UK.<sup>1</sup> However, immigration into skilled and well-remunerated employment is more likely to boost the economy. As in Australia (and other countries), it should account for most migration leading to permanent settlement.

d) **The system should be as streamlined and user-friendly as possible.** As well as simplifying the immigration rules in line with eventual recommendations by the Law Commission<sup>2</sup>, post-Brexit immigration reforms should significantly reduce the time and cost required to complete visa applications.

## SECTION A

2. The MAC is considering the impact that salary thresholds will have on a range of areas. We deal with each of these, as per below:

- a. Annual net migration (par. 5)
- b. The resident workforce (par.10)
- c. Migrant workers and the supply of labour (par. 19)
- d. Public finances (par. 21)
- e. The effect on the economy (par. 29)
- f. Potential regional variation in salary thresholds (par. 30)
- g. Potential exceptions to salary thresholds including for jobs on the Shortage Occupation List (par. 33)
- h. How to deal with jobs of high public value but not high wages (par. 38)
- i. What allowance to make for benefits and allowances and equity should be taken into account (par. 39)
- j. What allowance, if any, to make for part-time workers (par. 40).

## General

3. At the outset we note that the present system for admission to the UK for work from outside the EEA is a form of PBS, setting a minimum number of points for the grant of an employer Certificate of Sponsorship under the main Tier 2 (General) stream and further using the points allocated to determine who should be granted a certificate in the event of applications exceeding the monthly allocation under the annual cap on issue of certificates.

4. Points are awarded for salary under this system and various differing salary thresholds are in place, depending on occupation, level of qualification, age and experience of the applicant. Some occupations have been excluded from the cap.

# Specifics

## A) Annual net migration

5. Clearly, the ending of free movement of workers after the UK leaves the EU would, all other things being equal, likely see a reduction in annual long-term international migration as presently measured. Many EEA workers in the UK are in jobs which do not meet the present 'Tier 2' conditions for qualification level, salary, or both. If future inflows were constrained by such conditions, then they would likely diminish even if there were no actual cap on entry for work for EEA nationals.

6. However, all things will not be equal as against this must be set the assumptions that the occupational qualification may well be reduced to RQF3 and the present cap abolished (as the government White Paper suggested), and treatment thus levelled as between EEA and non-EEA nationals.

7. Key components of change in entry for work by long term international migrants will thus likely be:

- The cessation of previous inflows of EEA nationals to job below RQF3 or to higher-ranked jobs not meeting the salary threshold(s).
- The increase in inflows of non-EEA nationals to jobs at RQF6 (or RQF4 where presently allowed) resulting from the removal of the cap.
- The increase in inflows of non-EEA nationals resulting from the significant increase in the number of jobs open to them if the qualification level were reduced from RQF3.
- Consequential changes in the number of dependants accompanying entrants for work.

8. In our paper, '[Estimate of post-Brexit migration levels under the White Paper proposals](#)', (25 April 2019), we estimated that the overall effect of the White Paper proposals plus a reduction in the salary threshold could mean no material reduction in the official measure of annual net migration at all, and may very well lead to an increase.<sup>3</sup>

9. The White Paper additionally proposed the possibility of various new routes for temporary admission for work based on eleven-month work visas, presumably restricted to EU citizens. In practice it appears that these would allow entry to many if not all of those who would otherwise be excluded by new restrictions based on qualification level and/or salary. While they might not be reported in official annual long-term net migration statistics they would add to the stock of population in the UK at any particular time and, as such, increase demand for housing, for some public services as well as adding to congestion. Such potential impacts should not be overlooked by an exclusive focus on the published annual net migration figure.

## B) The resident workforce

10. A small number of people from other, better-off EU14 countries are in high-paid and high-skilled work in the UK. A middling number of people from less well-off EU14 countries are in well-paid work at high to mid-skill levels. A large number of people from the much poorer countries joining the EU in 2004 and 2007 are in lower-paid or low-paid work. The theoretical effects that immigration has on the resident workforce might seem simple but the UK experience is that in practice they are uncertain. The MAC [reported](#) in January 2012 that between 1995 and 2010 employment of working age migrants rose by approximately 2.1 million

and the associated displacement of British born workers was around 160,000 of the additional 2.1 million jobs held by migrants, or about 1 in 13.<sup>4</sup> There is also considerable anecdotal evidence of job displacement in key sectors such as construction, transport, hospitality and retail.

11. However, it has been argued that such substitution only occurred at particular points in the economic cycle and so cannot be said to be generally true (this despite the fact that the government [said](#) in September 2013 that such displacement occurs '*both during periods of economic growth and downturn*<sup>5</sup>). If so then the converse must also apply: that even if it was generally true that there was little risk of substitution, it is by no means always the case. The subsequent MAC [report](#) on migrants in low-skilled work (July 2014) made clear that there was a degree of employer preference for migrant workers in lower-paid jobs because they were ready-trained and willing to work for lower pay than their qualifications and experience ostensibly were worth.<sup>6</sup>

12. The implication is that the risk of substitution is higher at lower wage levels, and again this points to the need for a realistically high salary threshold such as to prevent older and more experienced immigrant workers squeezing younger members of the resident workforce both from employment opportunities and training opportunities. A higher salary threshold reduces the risk of competition on the basis of over-qualification or additional experience of immigrant candidates as the qualification and experience required by higher-paid jobs increases.

13. Our May 2018 paper (['The likely scale of underemployment in the UK'](#)) also notes that research based merely on observations of changing employment or unemployment of UK workers with migrant shares in the workforce overlooks the potential impact of immigration on general workforce participation.<sup>7</sup> Again, the under-employed are more likely to be in lower-skilled and lower-paid occupations and thus more likely to be affected by lower salary thresholds.

14. There is little evidence of complementarity in the UK labour market such that increasing migrant numbers at lower wage levels leads to any material increase in better opportunities for the resident workforce, whether directly, for example, by increasing the number of supervisory positions or indirectly, for example, by releasing inactive potential workers by taking over domestic responsibilities in the home.

15. The fact that positive effects of this kind have been observed in other countries with very different labour market structures from the UK is not relevant. If there were to have been any such impacts in the UK, they would have been clearly observable after a decade and a half of unconstrained free movement from the much poorer accession countries. *Thus arguments for a low salary threshold on the basis of complementarity are weak.*

16. There is little evidence that the productivity of the existing workforce and thus their earnings potential is enhanced by immigration. The MAC has suggested previously that the research they commissioned specifically for the UK had given implausibly large results even though the MAC felt that there was no obvious methodological flaw to the studies and noted that it was '*often hard to distinguish the share of migrants from a simple trend at industry or regional level so that other trends are ascribed to migrants or the estimates become very imprecise*'. We have consistently noted that those who claim that immigration is generally, let alone significantly, enhancing of productivity fail to explain why unprecedented increases in the migrant share in the UK workforce have been accompanied by unprecedented reductions in productivity growth.

17. As our own May 2019 paper ([‘Immigration and productivity in the UK’](#)) states, whilst we believe that some academic work does point to migrants in the highest-skilled jobs having had a positive impact on productivity, it is by no means clear that migrants in lower-skilled jobs have had any positive impact at all.<sup>8</sup>

18. It should be noted that perhaps the most persuasive results of immigration improving productivity (Ottaviano et al.) were based primarily on observations of the impact of immigration into highly-skilled work in professional occupations at high salaries. There seems no proper evidential base for lowering the existing salary threshold in the expectation that it will be enhancing of whole-economy, sectoral or regional productivity.

### C) Migrant workers and the supply of labour

19. As stated above, a salary threshold applied to all immigrants seeking to work in the UK but with no cap on numbers would likely alter the composition of inflows of migrant workers significantly, by reducing opportunities for EU migrants and increasing them for non-EU migrants.

20. Migration to the UK by workers from the EU since 2004 has in every year far exceeded any levels before then. Recent reductions from some countries have been made up for by new supplies of labour from Romania and Bulgaria since final restrictions on free movement were lifted in 2014. Since then the number of Romanians and Bulgarians working in the UK has grown so rapidly as to now be over 400,000 and equivalent to around 4% of the 11 million total working population in those countries. **Based on the UK’s previous experience, there is clear potential for a massive increase in labour supply by opening the doors to nationals of non-EU countries whose working populations total billions.** In the absence of any policy to cap numbers, very careful consideration must be given to the likely impact of any reduction in, or indeed the possible scrapping of, the salary threshold.

### D) Public finances

21. All the evidence is that, overall, over time and in all recent years, immigrants in the UK are **not** net contributors to the public finances. Some researchers have attempted to suggest that because the fiscal cost of immigrants is slightly less than the UK’s per capita fiscal deficit this should be seen as a positive fiscal contribution (see for example the Oxford Economics paper commissioned by the MAC for its Final Report on EEA migration in 2018).

22. This is misleading and is not a sound basis for immigration policy which at bottom has the purpose of determining whether individuals should be admitted to work and live in the UK. To the extent that the impact on public finances is a criterion, then clearly the absolute impact is what is relevant. To the extent that the relative impact might be of interest, it must be noted that Oxford Economics assessed the ‘*average UK adult*’ as receiving a per capita share of UK state pension expenditure. Thus comparing a UK-born worker in a low-waged job on a production line with a Polish-born worker alongside her in the same job, the UK-born worker is saddled with a fiscal expenditure on her of over £2,000 per year in state pension. To say that her relative fiscal contribution is for this reason lower than her Polish-born colleague is quite wrong when no such money is spent on the UK-born worker by government.

23. One of the ways in which our own research on the fiscal impact of immigration (see for example our May 2016 paper [‘The Fiscal Effects of Immigration to the UK 2014/15’](#)) extended the previous work by Dustmann and Frattini was to estimate the contributions of the working-age population specifically.<sup>9</sup> Our

results were that the UK-born were in fiscal surplus notwithstanding the overall fiscal deficit and in contrast that the working-age immigrant population was not. It seems likely that had Oxford Economics reported results for working-age populations they would have reached the same conclusion.

24. *That the immigrant population is a fiscal cost overall despite being much younger on average and thus not presently burdened by government expenditures on pensions and elderly to the same degree as the UK-born population results primarily from lower earnings among some immigrant groupings and lower employment rates among others.* Some have both lower earnings and lower employment rates. Our detailed research on the economic characteristics of immigrants in the UK demonstrated this clearly (see our paper: '[Economic characteristics of migrants in the UK in 2014](#)')<sup>10</sup>, and similar findings have been made by others since (e.g. by Migration Observatory).

25. Our estimates of fiscal contribution, based at the time necessarily on survey data, have largely been confirmed by administrative data since published by HMRC and DWP on direct taxes received and certain benefits paid to migrant groupings in the UK. Where comparison is possible, our estimates are much closer to these data than Oxford Economics, suggesting that our assumptions and methodology are preferable to theirs. In particular, their estimation of direct taxes paid by immigrants from A10 accession countries in 2016/17 is very different from the actual receipts reported by HMRC whereas our estimation for 2014/15 is very close to actual receipts. This is highly relevant to any consideration of salary threshold levels.

26. There is a consensus that EU14 immigrants in the UK make a net fiscal contribution but non-EEA immigrants do not. The position of A10 immigrants is, in contrast, contested. OE estimated that A10 immigrants made a small net fiscal contribution overall, although it is notable that this relies on a per-capita attribution to them of business rates and corporate taxation. We have consistently argued that this is inappropriate. However, more significantly, it is possible to establish by comparison with the HMRC statistics, published in August 2019, that OE attributed the payment of very much higher amounts of direct taxes to A10 immigrants than occurred in reality.

27. Replacing OE's estimate of these sums with what was actually paid would see A10 immigrants having made a negative fiscal contribution several times larger than the positive contribution estimated. This is not of course because of any inherent '*deficiency*' of any kind in workers from A10 member states, but because of the uncontested fact that they are concentrated in lower-skilled and lower-paid jobs. The lesson is that it appears to be easy to overestimate the fiscal contribution made by such workers using survey-based methods. If estimated positive contributions appear consistent with modelled results but are not consistent with actual results then the implication is that neither the estimations nor the model are correct or at least that they are not useful indicators to potential actual outcomes.

28. The body of research clearly implies that the long-run fiscal outcome of uncontrolled inflows to work is negative. Intuitively, this is to be expected if employers have easy access to a large pool of potential workers in countries with large wage differentials from the UK, enabling an attractive offer to labour from abroad at effective wage levels below what the employer would ordinarily have to offer to attract workers already in the UK. As the MAC have previously and correctly pointed out, any job can be filled from among the resident population if the right price is offered. If, absent the availability of foreign workers, higher wages had to be paid to existing residents then this would increase the fiscal take. Conversely the ability to fill jobs without raising wages will tend to decrease the fiscal take.

## E) The effects on the economy

29. Moving from the specifics noted above to more general economic matters, there continues to be an absence of any compelling evidence that more relatively unconstrained immigration is enhancing of GDP per capita, Real Disposable Household Income, the employment rate of the UK-born, wages or any other relevant economic indicator.

## Variations and special schemes

### F) Potential regional variation in salary thresholds

30. The Call for Evidence canvasses the possibility of a range of variations and special schemes. These may be quickly disposed.

31. We see no justification in principle for regional variation if this amounts to the lowering of a national salary threshold or any lower threshold for new entrants. These are simply distortive of a properly functioning labour market. Where regional differences in salary exist, this should encourage employers creating new jobs to locate them in lower-wage areas, with the effect that over time wages tend to converge. One reason that this does not appear to have happened despite a tightening labour market is because of the availability of migrant workers to work for low wages in higher-paying areas. There may be a rational argument for a higher threshold for high-paying areas such as London and the South East, but *a lower salary threshold for immigration for work to a region because wages there are already low gives a free pass to employers not to respond to increasing competition for the resident workforce*. For similar reasons, there seems no justification in principle for any lower threshold for 'new entrants' as this would also distort the market by giving a class of immigrant workers a competitive edge for no reason other than their relative inexperience and to no benefit for UK residents.

32. While acknowledging that there are *'very big regional pay inequalities that probably have been allowed to fester for too long'*, MAC chairman Prof. Alan Manning told the House of Commons Public Bill Committee in early 2019 that regional variation could lead to low pay being *'institutionalised'* in some parts of the country. We agree and would want this to occur.

### G) Potential exceptions to salary thresholds including jobs that are on the Shortage Occupation List (SOL)

33. We believe that potential exceptions to salary thresholds for jobs that are on the Shortage Occupation List (SOL) are only appropriate if there are clear temporary shortages that employers could not reasonably have anticipated and such exceptions are clearly time-limited to ensure that employers (or where relevant government) invest as necessary in training and development to alleviate the shortage.

34. There is a clear risk that employers will continue to use recruitment from overseas as a *'get out of jail free card'* in order to defer investment in training and salary increases. The extent to which the SOL enables employers to continue to behave in such a fashion - rather than using the addition of a role as breathing space in order to remedy shortcomings in the training, wages and conditions offered - is an important concern.

35. The MAC's orientation has historically been that it is not keen on adding jobs to the SOL. One salient example is nurses, who represented 22% of used Restricted Certificates of Sponsorship in 2018. In 2016, the MAC noted that *'the current shortage of nurses is mostly down to factors which could, and should, have been anticipated by the health, care and independent sectors'*. Because of this the MAC only *'reluctantly'* added nurses to the list. At the time, Department of Health evidence to the MAC suggested it would be *'another three years before there are enough UK-born nurses to meet demand'*. In the mean time, the MAC made recommendations for action to take in the forthcoming decade to remedy the endemic roots of the shortage: *'Over the next decade, the shortage of nurses can be addressed by more training places, reduced attrition (wastage) among trainees, greater efforts at return to practice, more innovative use of pay flexibility and attention to working conditions'*. Over three years later, it is highly doubtful whether there has been progress in training *'enough UK-born nurses to meet demand'*. Yet, as if to let the sector off the hook, in 2018 nurses were removed from the cap on work permits. Additionally, some experts argued that the nursing profession was crippled by the abolition of bursaries for the training of nurses and midwives as of September 2017. From that date, nursing students, like other graduate students, were required to pay annual fees of £9,000, increasing with inflation.

36. Unfortunately, these failures have allowed NHS employers to get away with employing migrant workers on the cheap (the MAC has noted that migrant nurses on Tier 2 General earn around 20% less than other nurses, controlling for characteristics) while failing to address the bottleneck problems that are either stopping or discouraging domestic applicants from entering, and remaining in, the workforce. The MAC has previously said that there is no reason why the supply of nurses cannot be sourced domestically. ***It is unclear why it issued no criticism of the government's decision to remove them from the cap.***

37. In this context, the expansion of the SOL (from about 1% of total employment to around 9%) following MAC recommendations in May 2019, was hugely concerning because it appeared to be a move towards pre-emptively neutralising the still-existent cap on work permits of 20,700 per year. As the MAC has acknowledged, *'in practice ... jobs on the SOL cannot be turned down when the cap binds'*. The decision was taken in the midst of Brexit uncertainty at a time when employers were struggling to recruit as easily as they had done. However, it was a mistake to make this recommendation at a time when key components of the post-Brexit system (such as the salary threshold) were still to be determined.

## H) How to deal with jobs of high public value but not high wages

38. Jobs of high public value but not high wages should attract higher wages.

## I) What allowance to make for benefits and allowances and equity should be taken into account?

39. Counting non-cash benefits and allowances and equity towards salary thresholds provide very simple means of avoidance and they should not be taken into account for that reason. Distortions have been identified in this area in the current intra-company transfer (ICT) route. Although the route underwent changes in April 2017, ICTs can still receive an accommodation allowance as part of their salary. This is a maximum of 30% of salary for long-term ICTs and 40% for graduate trainees. In addition, business expenses for travel, accommodation and subsistence are exempt from income tax for the first 24 months of a posting. Giving evidence to the MAC, some partners suggested that the stated value of these allowances might exceed their actual value. Such distortions should be remedied.

## J) What allowance, if any, should be made for part-time workers?

40. In principle, it seems highly undesirable to make a pro-rata allowance for part time workers. Even at the current threshold of £30,000, employing two part-time workers to share a single job at that salary level significantly reduces any fiscal contribution as with the individual personal allowance for income tax of £12,500, only £5,000 of their joint income will be liable to income tax rather than £17,500 if the job were filled by a single worker. Similarly both employee and employer National Insurance contributions would be reduced. Yet both part-timers would be present in the UK and thus double the demand (compared with a single full-time immigrant worker) for accommodation and public services and double the contribution to congestion.

## SECTION B - Evidence from points-based systems around the world

### Introduction - What should a post-Brexit points-based system look like?

41. Key priorities for the post-Brexit system are *a)* that it is **controlled** while *bearing down* on immigration levels and *b)* that it is **fair** to UK jobseekers and workers. It should also *c)* reflect the genuine **contributions** of migrants themselves. The crucial context is that an estimated 30 million people (or three in five UK adults) are keen to see cuts in net migration levels.<sup>11</sup> Only a minority of the public supports increases even in highly-skilled immigration. Public concern is reinforced by evidence that immigration can and has displaced UK workers (as shown by the MAC in 2012, and stated by the Home Office in 2013 – par.10 above) and that immigration has put some downward pressure on the wages of the lowest-paid workers (as noted both by the Bank of England in 2015, Resolution Foundation in 2016 and by the MAC in 2018).

42. There has been a global trend towards adopting 'hybrid' visa systems that combine the most successful elements of different immigration models. Throughout this section we keep in mind the MAC's question in its call for evidence: '*What best practice can be learned from international comparators, including the Australian immigration system, to strengthen the UK labour market?*' Accordingly, we look at not just the Australian model, but also to points-based systems that are currently operating in New Zealand, Canada and Austria. Under these schemes, candidates effectively need to be awarded between 50 and 160 points (depending on the country) in order to be realistically granted a work permit.

43. The Australian PBS – in place since 1979 - has a number of limitations. It has been used to *increase* immigration (29% of the population of Australia were born abroad in 2018, compared to the UK's 14%). Such an aim would not be appropriate for the UK, which is much more crowded (over 200 people per square kilometre compared with three in Australia). Rapid UK population growth (four-fifths driven by immigration – directly or indirectly) is, in turn, exacerbating congestion, pressure on services and demand for accommodation at a time of housing shortage. Separately, it is notable that immigrants to Australia are still less likely than natives to be economically active and Australia has significantly reduced the amount of points-based visas that it intends to issue. The UK also has its own lessons with the PBS, having implemented various such elements from 2008 but closed a number of them from 2010. It is vital that the government takes these lessons into account (Annex C below).

44. The UK's highly-skilled work route (currently Tier 2) ensures that employers can recruit global talent, with prioritisation where there is deemed to be a genuine shortage of local recruits. As the government noted in its December 2018 White Paper: *'In 2016 Deloitte completed a Global Immigration Study which ranked the UK third in the world in terms of speed of processing times for visas for skilled workers.* However, as the system is widened to incorporate EU migrants after freedom of movement ends in the wake of Brexit, there is scope for a number of improvements to be made.

45. We make the following points:

i) An Australian-style cap on work visas is essential for ensuring real control going forward. Without this, employers would be free to engage without constraint on a global bonanza of hiring cheaper labour, from a huge potential pool of jobseekers from much larger and much poorer countries (at the expense of UK workers) without restraint. Numbers could spiral out of control.

ii) Points-based calculations can be added along with other components:

- a. a job offer earning no less than £30,000 per year should be a pre-requisite.
- b. Overseas recruitment should be limited to those qualified for roles that are on a designated skills list, as in Australia.
- c. Language skills should be prioritised or should be a pre-requisite (as in Canada and New Zealand).
- d. Applicants should be able to gain and trade additional points on the following criteria: *a) UK or global work experience b) qualifications c) partner's skills / experience / language ability.*

iii) Labour market testing should be retained, in line with global best practice

iv) Skilled work migration should account for *most* permanent immigration in future

v) Regional schemes in various countries have had limited success. It would be best not to deploy them in the UK.

## I) An Australian-style cap is essential for ensuring the control that voters expect

46. In the absence of a cap on work permits going forward, the government would be in complete dereliction of its responsibility to keep numbers within any kind of politically or publicly acceptable range. Recruitment would be opened up to a massive pool of cheaper labour from around the world. Employers' preference for less expensive migrant labour would gift them with an opportunity to recruit from abroad to their heart's content. In our view this would harm the UK labour market by encouraging employers to overlook UK talent, and to continue failing to invest in upskilling, in better wages and conditions and greater productivity growth. Without any cap on numbers, the UK would be marked out from other developed countries in the world – all of which exercise some form of restraint on what would otherwise, effectively, be free movement into skilled work from around the world.

47. In line with global best practice, the Australian system includes a range of caps, including an annual cap on permanent immigration which covers skilled workers. This permanent migration cap is a planning ceiling set through the Government's budget process. It is based upon visas issued so does not represent net migration. It includes people applying from within Australia (visa switchers) and from outside Australia.

About half of skilled work visas are issued to clients who applied 'in-country'. It is roughly divided into two-thirds skilled work visas and one-third family visas. The government stresses that it should be seen as a ceiling and not as a target. Prior to 2012, it was set just below 170,000 but between 2012 and 2019 the cap was set at the higher level of 190,000. In March 2019, it was [announced](#) that the cap level would be 160,000 until 2022-23.

48. Table 1 below shows the cap level and outcome for each year.

Table 1: Australia's permanent migration cap and outcome

Year	Level of the cap	Permanent migration outcome	% of cap filled	Skilled work	Family	Special eligibility
2009/10	<b>168700</b>	168623	99%	107868	60254	501
2010/11	<b>168700</b>	168685	99%	113725	54543	417
2011/12	<b>185000</b>	184998	99%	125755	58604	639
2012/13	<b>190000</b>	190000	100%	128973	60185	842
2013/14	<b>190000</b>	190000	100%	128550	61112	338
2014/15	<b>190000</b>	189097	99%	127774	61085	238
2015/16	<b>190000</b>	189770	99%	128550	57400	308
2016/17	<b>190000</b>	183608	97%	123567	56220	421
2017/18	<b>190000</b>	162417	85%	111099	47732	236

49. It is notable that the Australian government also uses other caps within the scope of skilled work migration. For instance, a significant category of the points-based work route is the Skilled Independent Visa (sub-class 189). The Australian government has capped this element at 18,600 in 2019, a significant drop from the 39,100 places granted in 2017/18. Canada also uses a form of cap – for instance, those applying for a federal skilled worker visa without a job offer are capped at 25,500, plus 1,000 each for a number of professional and technical professions – as does Austria.<sup>12</sup>

50. Business anxiety about the current Tier 2 cap of 20,700 restricted certificates of sponsorship per year has arisen based on very short periods when the cap came into effect. Indeed, it was only reached on two separate and short periods: once in 2015 for two months, and again in December 2017 until July 2018. In such circumstances, the system operated just as it was designed to do – by prioritising those jobs on the shortage occupation list which were deemed to be in the most need.

51. The new system must deliver control of immigration and restore public confidence in the government's oversight of the border. To this end, a vast majority of the public (six in ten according to the average of a range of respected polls) expect immigration controls to bear down on numbers and a cap remains an essential tool in ensuring that. A cap, combined with salary and qualification thresholds, is also essential to ensure that employers play their part in the maximising the potential of the UK workforce and rewards to UK workers by:

- planning ahead
- investing in training and development
- competing for labour on wages and terms and conditions
- deciding on the location of new jobs in the UK based on where labour is available or encouraging mobility within the UK

52. It would of course be open to the government to review the level of the cap as circumstances allow. However, its presence is and would be an essential and visible reminder to the public that there is democratic control of immigration that is not dependent only on the wishes of business to seek overseas labour at a lower cost. As in Australia, consideration could, in due course, be given to expanding it to cover family migration.

## II) Points-based calculations can be introduced to Tier 2 (General)

53. This sub-section attempts to answer the following questions contained in the MAC's call for evidence:

- *Can additional flexibility be added to the operation of salary thresholds through the awarding of "points" to prospective migrants for the attributes that they possess?*
- *Should points in one area should be "tradeable" to make up for a lack of points in another?*
- *Which migrant characteristics should be prioritised within the immigration system in order to produce the most beneficial outcomes for the UK?*

A) Before those interested in applying are invited to make a formal application, they should have an offer of employment in a job earning no less than £30,000 per year

54. It is a common feature of points-based systems that some applicants planning to migrate for employment are often able to meet visa requirements without having a job offer lined up in advance.<sup>13</sup>

55. However, some systems (such as the Austrian PBS system's *Red-White-Red* – or RWR - card) require applicants to have a job prior to being considered. As the Home Secretary has indicated, the starting point should be a skilled job offer (following character, health and criminality checks). Applicants for the Austrian RWR card (the 'Other Key Workers' scheme) must have been offered a job with a salary not below a particular level (£33,500 per year for those over 30 and £27,900 for those 30 and under). Australia is also increasingly turning to more employer-sponsored recruitment as there is evidence that some employers have been underwhelmed by the qualifications and foreign work experience of new arrivals. Between 2002/03 and 2014/15, the number of Australian visas granted on the basis of job offers rose from just under 10,000 to more than 48,000. Changes have also been made to the Canadian system so that any skilled applicant with a job offer scores higher than any applicant without. This may be due to the fact that it was found that *'highly educated migrant workers selected without a job offer during the 2000s were less likely to find skilled work [in Canada] after arrival compared to those selected by employers'*.<sup>14</sup>

56. Retaining this pre-requisite would help to avoid the problems of large numbers of people going into unskilled and low-paid work that led to the closure of the Tier 1 (General) visa in 2010<sup>15</sup> (see ANNEX C below). It is also crucial to guard against abuse.

## B) As in Australia, those applying for visas should be qualified in an occupation on a designated skills list

57. Applicants should only be able to apply for visas if the job for which they are qualified is on the UK's Shortage Occupation List.

58. There are ample precedents in international best practice for such a measure. For example, under the Australian system, applicants to the *Skilled Independent Visa (sub-class 189)* and for a *Temporary Graduate Visa (subclass 485)* are required to show, prior to being officially invited to apply, that the occupation in which they are qualified is listed on a designated [skilled occupation list](#). Candidates must also undergo a *Skills Assessment* by a recognised body before being invited to apply.

59. Similarly, under the Canadian points-based system, all job offers and experience put forward as the basis for being awarded points must be related to occupations that are on a list of designated skills. This is a component that the UK should adopt as a prerequisite going forward.

60. Including this provision in a new Tier 2 (General) route would ensure that the UK prioritises the admission of those whose skills the UK really needs and which are most important to the UK economy. Additionally, it would preserve in the hands of government an essential tool of democratic control over designating, following advice from the Migration Advisory Committee, which jobs would actually benefit from bringing people in from abroad.

## C) Language ability should be prioritised within the points calculations (as in Canada)

61. A government Green Paper, published in 2018, made clear that knowledge of English is essential for successful integration, as did the Casey Report of December 2016. As in Canada, the greatest number of points should be awarded for language ability. In Canada, candidates must score a total of 67 points or higher in order to be granted entry under the Federal Skilled Worker Programme. Within this, those with a top level of language ability in either English or French can be awarded a maximum of 28 points. The points awarded for language ability in other systems vary, from 15 in Austria (for knowledge of German) to 20 in Australia. In New Zealand, knowledge of English is a pre-requisite that is required before the applicant can move forward in the *Skilled Migrant Category*. This should also be an option for the UK.

## d) Applicants would then be able to gain additional points on other criteria

62. *'Both Canada and Australia give points for having work or education experience in the country, with the idea that such a background will make them more employable and able to contribute economically'*, according to the Migration Policy Institute.<sup>16</sup> The system should take into consideration the following criteria:

- i. *UK or global work experience*
- ii. *Educational qualifications*
- iii. *Partner's (a) work experience (b) qualifications (c) language ability.*

63. A maximum number of points would be available under each heading with a pass mark for the total. It should also be recognised that the threshold for admission will be higher in periods when a larger number of people apply.

64. There is a case for a degree of *flexibility*. For example, if the person qualifies for the requisite number of points in five areas but fails to qualify for a sixth, his or her application would still be able to be considered. Outside of the pre-requisite requirement for a job offer at a particular salary for a person qualified in a designated skill area, points would be tradeable so that an applicant who is deficient in one area would be able to make up for a lack of points in another.

### III) Labour market testing should be retained, in line with global best practice

65. Labour market testing requires a vacancy to be advertised to the resident labour market before a migrant worker can be hired to fill the vacancy. A range of countries use it as a necessary tool to ensure employers do not overlook a country's citizens or permanent residents in searching for potential workers. In the absence of such a provision, there would be no requirement for employers to advertise positions locally before turning to overseas recruitment.

66. The Australian system includes labour market testing as part of its temporary skills shortage visa. The Australian government [says](#) labour market testing helps to ensure that Australian workers are given priority. The Austrian government operates a points-based visa with respect to non-EEA applicants. This includes labour market testing (*Arbeitsmarktprüfung*) for the 'Other Key Workers' segment of its Red-White-Red card, a skilled work visa that is valid for *two years*. The requirement is to ensure prior to hiring from overseas that no equally qualified person registered as a jobseeker at the Public Employment Service can be hired for the job. New Zealand has recently *strengthened* its usage of labour market testing in some respects.<sup>17</sup>

67. The UK's MAC has, in previous years, been '*supportive*' of the Resident Labour Market Test and has even recommended that it be extended to cover nurses at the same time as these roles were added to the SOL. Similarly, businesses have accepted the need for the RLMT. As the Confederation of British Industry wrote in 2015: "*Businesses accept that the RLMT alongside minimum salary thresholds, set at the right level, ensure that migrants cannot be hired to undercut the pay of other workers.*" Such previous support helps illustrate why the MAC's 2018 recommendation for the RLMT to be abolished was so unexpected.

68. Nevertheless, the 2018 Immigration White Paper proposed abolishing the Resident Labour Market Test on the basis of the MAC recommendation. We said at the time, and continue to believe, that removing this important safeguard for UK jobseekers (at a time when about four million UK-born workers are either unemployed or looking for more hours of work)<sup>18</sup> would be a grave mistake.

69. As [argued](#) by the Cavendish Coalition, a UK-wide body of 36 social care and health organisations: "***Immigration is not the primary nor the most sustainable solution to resolving workforce gaps...***" As the Royal College of Physicians has [noted](#): "***The long-term focus needs to be developing the homegrown... workforce.***"<sup>19</sup> Safeguarding the availability of job opportunities for potential UK recruits is firmly in the interests of the UK labour market. There are around 800,000 young people who are not in education, employment or training. Meanwhile, the unemployment rate (the proportion of the economically active population who are unemployed) for 16-24 year olds was 11.8% in June-August 2019, up from 10.9% a year before. Indeed, the UK's youth unemployment rate is nearly twice that of Germany.

70. The suggestion that some businesses now find the RLMT to be cumbersome is not a strong enough point to justify removal. Indeed, if a step such as this prevents businesses from turning immediately to overseas recruitment despite having potential recruits on their doorstep, then it is completely justified.

However, more work needs to be done to ensure that an RLMT actually works in practice. We have seen employers say that they cannot fill jobs locally but this is because they are not offering a competitive wage for the area or have put barriers in the way of local recruitment. For example, by advertising jobs as being full-time and requiring total 24/7 flexibility when such conditions will exclude many potential workers, especially those who are inactive or part-time because of caring responsibilities.

#### IV) Skilled work migration should account for the majority of permanent immigration to the UK

71. Whereas currently the family stream is *the largest non-EU route leading to permanent residency in the UK*, the new system should, after Brexit, aim to significantly increase the share of permanent migration that derives from the skilled work migration route so that it accounts for a majority going forward (as in Canada, Australia, New Zealand and Japan). It is clear from recent MAC evidence on EEA migration that migration into skilled work has greater economic benefits than other types of migration.

72. Such a change would be in line with global best practice. Currently 68% of permanent migration to Australia derives from the employment and skills stream, as does 63% of permanent migration to Canada, 57% of permanent migration to New Zealand and 52% of permanent migration to Japan.

#### V) Regional schemes have had limited success

73. Australian efforts to attract migrants to remote regions have been underwhelming in their success at ensuring migrants stay in the original place of arrival ([Sydney Morning Herald](#), May 2019). For this reason, the current Australian government has changed the previous points-based regional route into one which allows only a temporary stay that is dependent upon remaining in the particular region. New Zealand also has a regional immigration component. However, the former New Zealand immigration minister said: *“In the past when they’ve tried to take regional approaches ... you can’t guarantee people stay..., they go to the regions then they gravitate back to the cities.”* The Canadian experience with regional schemes has had only mixed success.

## ANNEX A: Potential impact on UK jobs of variation in the Tier 2 (General) salary threshold (assuming 2018 White Paper proposals)

Depending on the primary salary threshold for skilled workers that is finally implemented, between **6.2 million** and up to **8.8 million** full-time jobs held by UK-born employees would be exposed to the potential for *new or increased* global competition. This is based on analysis of the number of full-time jobs held by UK-born employees (in each salary band and distinguished by skill level), according to the Labour Force Survey – for a summary, see Figure 1 below.

*The key current criteria for the Tier 2 (General) route are as follows:*

**a)** The primary salary threshold for skilled migrant workers coming under the Tier 2 (General) route is currently set at £30,000 for experienced workers. However, labour market entrants are only required to

earn around £21,000, and there are also exemptions from the main salary threshold for certain public sector workers such as healthcare staff and secondary teachers.

**b)** There is a minimum skills threshold in place, which means that all roles being filled via this route, including those on the Shortage Occupation List, must be skilled to Regular Qualifications Framework Level 6 or above (graduate level or above).

**c)** The number of skilled workers who can come via this route is also constrained by an annual cap of 20,700 work permits issued per year. However, it is important to note that doctors and nurses are excluded from the cap and that some roles, such as those on the shortage occupation list or PhD skilled roles, are given priority under the cap. This means that only around half of all applications by employers between October 2017 and September 2018 were constrained by the annual cap (p.140 of 2018 Immigration White Paper).

We include below three scenarios in considering the potential exposure of UK jobs under different levels of Tier 2 (General) salary threshold – one at the **£30,000** level, one at the **£25,000** level and one at the **£21,000** level.

### **A) Impact of removal of the cap and RLMT on 4 million highly-skilled jobs already exposed to global competition via Tier 2 (General)**

The current number of full-time jobs held by UK-born workers that are exposed to global competition via the Tier 2 (General) route is *just over four million* (the green segment of the left-hand most column of Fig. 1 below). Under the White Paper proposals, such jobs would be opened to an **increased** level of global competition. It is likely that the specific proposal to remove the cap of 20,700 of Tier 2 (General) places would have this effect.

However, the removal of the cap must be seen alongside other proposals in the White Paper that would have the effect of significantly reducing administrative requirements placed upon employers, as well as the proposal to abolish the Resident Labour Market Test. The White Paper (on p.16) points to the government's commitment to '*minimise the time it takes to hire a skilled migrant and aim to process the vast majority of work visas within two to three weeks*'. It is likely that these changes would only increase employers' propensity to turn abroad for recruitment, even if the proposals to dilute the skills threshold and lower the salary threshold were not implemented.

### **B) Impact of primary salary threshold being set at £30,000: 6 million jobs opened to new or increased levels of global competition**

The MAC previously recommended retaining the primary Tier 2 salary level at **£30,000** (this is the level of household income at which an average family of EEA migrants starts making a positive contribution to public finances). If the salary threshold was set at such a level, *6.2 million jobs* would be exposed to new or increased **competition** from around the world. As Figure 1 below illustrates, the *6.2 million* figure comprises:

**1(A) 4 million highly-skilled jobs earning £30,000 or more per annum.** *These are already open to UK/EU nationals and to non-EU nationals who meet the criteria (although constrained by the Tier 2 cap), and to certain non-EU nationals who are here on other visas (e.g. spousal visas, refugees, Tier 5 youth mobility, dependants).*

**1(B) 2.2 million medium-skilled jobs earning £30,000 or more per annum.** *These are currently open only to UK / EU nationals and certain non-EU nationals who are here on other visas (e.g. spousal visas, refugees, Tier 5 youth mobility, dependants). Non-EU nationals cannot come to the UK to fill such jobs via the current Tier 2 (General) route.*

### **C) Impact of primary salary threshold being set at £25,000: 7.7 million jobs opened to new or increased levels of global competition**

If the primary salary threshold were set at £25,000, 7.7 million jobs would be exposed to new or increased global **competition**. As Figure 1 below illustrates, this figure comprises 1(A) and (B) above plus:

**2(C) 1.5 million highly and medium-skilled jobs earning between £25,000 and £30,000 per year.** The highly-skilled jobs within this range are currently only open to UK/EU workers, to new labour market entrants from outside the EU (the latter constrained by the Tier 2 cap), to those who fall within the range of exemptions mentioned above and to certain non-EU nationals who are here on other visas (spousal visas, refugees, Tier 5 youth mobility, dependants). The medium-skilled jobs within this range are currently only open to UK/EU workers and to certain non-EU nationals who are here on other visas (spousal visas, Tier 5 youth mobility, refugees, dependants).

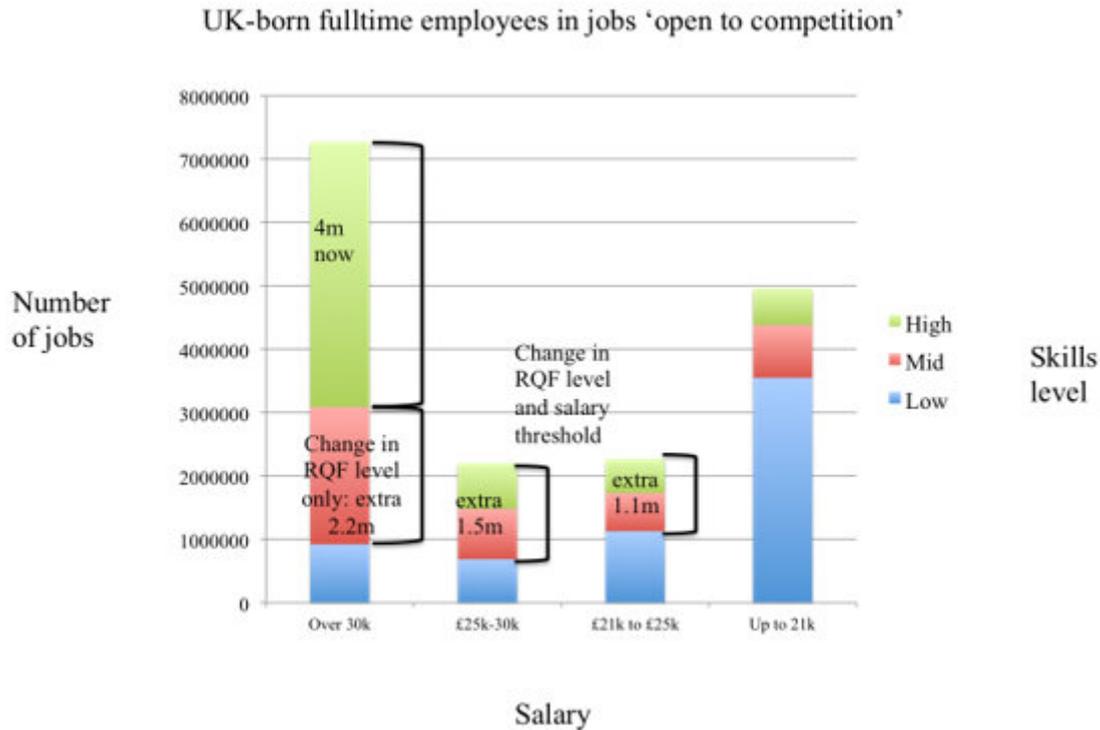
### **D) Impact of primary salary threshold being set at £21,000: 8.8 million jobs opened to new or increased levels of global competition**

If the primary salary threshold were to be set at this level, **8.8 million** full-time jobs held by UK-born workers would be exposed to new or increased **competition** from around the world.

The *8.8 million* figure comprises 1(A) and (B) and 2(C) above (which totals 7.7 million jobs) plus **3(D): an extra 1.1 million highly-skilled and medium-skilled jobs earning between £21,000-£30,000 per year.** Just under half of this cohort of jobs are highly skilled and currently such jobs are only open to UK/EU workers, to certain non-EU nationals who are here on other visas (spousal visas, refugees, Tier 5 youth mobility, dependants) and to new labour market entrants from outside the EU (as well as those subject to the various exemptions mentioned above). Just over half of this cohort are medium skilled jobs which are currently only open to UK / EU nationals and certain non-EU nationals who are here on other visas (spousal visas, Tier 5 youth mobility, refugees, dependants).

As for the five million (mostly low-skilled) jobs which currently earn less than £20,800 per year, these can only currently be filled by UK / EU nationals and certain non-EU nationals who are here on other visas (spousal visas, Tier 5 youth mobility, refugees, dependants). It is not envisaged that skilled non-EU (or EU) nationals will in future be able to fill such jobs via the Tier 2 (General) route. However, such jobs may be in scope of the proposed temporary route for up to a year to 'low risk' nationalities and also in scope of the possible expansion of the youth mobility scheme to encompass the EU27 (mentioned in the White Paper). The bars in Figure 1 below indicate the number of full-time jobs held by UK-born employees in each salary band and the colours distinguish them by skill level.

Figure 1: UK full-time employees by skill level/salary, LFS, Quarter 2, 2018.



## ANNEX B: Arguments for maintaining Tier 2 Salary Threshold at the level of £30,000

Salary thresholds have been previously endorsed by the MAC and OECD respectively as a fair measure of an employee's economic value and as a suitable proxy for skills. In the context of the UK's immigration system they a) curb the fiscal cost of immigration b) place upward pressure on wages c) curtail undercutting of UK workers d) act as an important, albeit indirect, control on numbers – something that is firmly in line with the views of the public. **The general £30,000 salary threshold should be kept in place.** The following points help to outline why:

- **A pay threshold set at this level and applied to workers from the EEA as well as non-EEA countries should curb fiscal costs arising from immigration to low-paid jobs.** As the MAC noted in September 2018, £30,000 is the average level of household income at which taxes exceed benefits for EEA migrants. All other things being equal, a threshold may be set at a level that is likely to ensure a net fiscal contribution. The government have in fact noted that they 'agree with the MAC's view that the salary thresholds [are] making a positive contribution to public finances'.
- **Retaining this threshold would help to place upward pressure on wages** (as the MAC has made clear). The MAC argued, when recommending the £30,000 level in January 2016: 'This is part of the point of increasing the thresholds – that there should be upward pressure on wages for the UK workforce' (p.74). The MAC said in its September 2018 report on EEA migration (p.5) that a salary

threshold set at this level would *'place greater upward pressure on earnings'* in medium-skilled jobs.

- ***This threshold should also help to constrain undercutting of jobs whose wage level is below the threshold.*** The MAC found that migrant nurses were paid less than the average salary for UK nurses of a similar age: *"Migrants should be paid at least the comparable rate to UK workers in order to ensure that they are not used by employers as a cheaper source of labour."*
- ***A better way of tackling skills shortages is to make jobs more attractive, including by raising wages and improving terms and conditions.*** In the MAC's words: *"Individual employers would almost always be able to recruit resident workers if they paid wages sufficiently above the going rate. This applies even if there are skills shortages at the national level – an individual employer should always be able to fill the job if a sufficiently high wage is offered."* 'EEA-workers in the UK labour market: Interim Update' (Par. 25, page 10).
- ***Other European states have similar or higher pay thresholds for skilled workers from outside the EU***– indeed, £30,000 is equivalent to or below thresholds required as part of similar schemes in EU member states e.g. the Republic of Ireland's Critical Skills Permit. the Netherlands' *Kennismigrant* permit; Austria's *Red-White-Red* 'Other Key Workers' permit.
- Given that nearly five million workers are low-paid (Resolution Foundation), ***the CBI should encourage employers to raise wages rather than lobbying for easy access to cheap labour.*** Despite this, the CBI has cited *'wage inflation'* as one of the reasons for its opposition to restrictions on lower-skilled migration (p.11, CBI written evidence to MAC). We agree with MAC chairman Professor Alan Manning who said in early 2019 in evidence to Parliament that *'employers should 'be paying above the going rate for wages.'*
- Indeed, employers have already had three years since the Brexit vote to prepare for the end of free movement. Some businesses are setting a laudable example.
- There are already exemptions to the primary threshold. *"If you look at certificates of sponsorship used in the last fiscal year, including extensions, just under 20% of people had salaries of less than £30,000"* (Migration Observatory). We believe case-by-case exemptions should be closed (and no more added). However, if they are retained, they should allow employers to fill vacancies while the UK retains a salary threshold that puts upward pressure on wages and ensures that immigration makes a fiscal contribution.

## ANNEX C: Previous UK experience of the points-based elements

The UK's previous experience with some points-based elements was not a success. Indeed, they led to a range of unintended consequences, as well as to a spike in student visa applications and major abuse of that route. While this does not mean that the UK cannot learn valuable lessons from the Australian and other systems, the correct lessons should be learned.

### Work immigration

Points-based elements led to 'highly-skilled' work routes being used to fill *unskilled jobs*. As the-then Home Secretary stated in 2010: ***"The old Tier One - supposedly the route for the best and the brightest - has not attracted highly-skilled workers. At least 30% of Tier One migrants work in low-skilled occupations***

*such as stacking shelves, driving taxis or working as security guards and some don't have a job at all.*"<sup>20</sup>

This was based upon Home Office research which found that 29% of 'highly skilled' workers had gone into unskilled work and a further 46% were either unemployed or had provided insufficient details. The chairman of the MAC told a Parliamentary Committee in 2018 that immigration into low-skilled work makes for a '*slightly lower wage and lower productivity economy*'. Enabling this to occur once again could damage government suggestions that immigration reforms are benefiting the UK economy.

## Study immigration

Nor should the government ignore the experience of study visa applications spinning out of control following the introduction of the points-based Tier 4 route in 2009. There was an immediate *rise* in study visas from 213,000 in 2007 to over 300,000 in 2009, but also a period of wholesale *abuse*, from which the route is only just beginning to recover:

The PBS effectively empowered educational institutes to issue certificates of sponsorship without much concern for the capability of applicants and with no responsibility for ensuring that they departed on time. Furthermore, interviews to assess the quality of applicants were almost wholly disposed of. Documentary evidence (easily forgeable) became the primary means by which an applicant's points were calculated.

As a result, there was a large number of bogus applications. A Home Office [pilot study](#) found that in India, Nigeria, the Philippines, Bangladesh and Burma, over half of applicants who were interviewed to assess their credibility would have failed – many on the grounds that the Entry Control Officer was not convinced that they were genuine students. 2010 was the peak of the abuse. In that year several visa sections in the Indian subcontinent had to be closed for six months as a result of concerns over fraudulent applications. A 2012 National Audit Office report found that, between March 2009 and February 2010, 40,000-50,000 individuals may have entered the UK to work rather than study. Since then, the study route has been refined to focus on higher education applications (rather than those sponsored by Further Education / English Language Schools). These have risen significantly. The government also closed nearly 1,000 bogus colleges. It is important that such progress is not undone.

## Notes

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