

# THE UK'S FUTURE IMMIGRATION SYSTEM AND ACCESS TO TALENT



## About TheCityUK

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TheCityUK is the industry-led body representing UK-based financial and related professional services. In the UK, across Europe and globally, we promote policies that drive competitiveness, support job creation and ensure long-term economic growth. The industry contributes nearly 11% of the UK's total economic output and employs 2.3m people, with two thirds of these jobs outside London. It is the largest tax payer, the biggest exporting industry and generates a trade surplus greater than all other net exporting industries combined.

## About EY

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When the financial services industry works well, it creates growth, prosperity and peace of mind for hundreds of millions of people. No other industry touches so many lives or shapes so many futures.

At EY Financial Services, we share a single focus — to build a better financial services industry, not just for now, but for the future.

We train and nurture our inclusive teams to develop minds that can transform, shape and innovate financial services. Our professionals come together from different backgrounds and walks of life to apply their skills and insights to ask better questions. It's these better questions that lead to better answers, benefiting our clients, their clients and the wider community. Our minds are made to build a better financial services industry. It's how we play our part in building a better working world.

TheCityUK wishes to thank Margaret Burton, Tim Whittaker, Vicky Cregan, Joshua Whelan and the team at EY for their work on this project and all those who gave their time to discuss the content of this report during its preparation.

# THE UK'S FUTURE IMMIGRATION SYSTEM AND ACCESS TO TALENT

## HOW FINANCIAL & RELATED PROFESSIONAL SERVICES USE NON-UK LABOUR\*



\*INCLUDING EU AND THE REST OF THE WORLD

## OVER 1 IN 4 EMPLOYEES IN BANKING & FINANCE IN LONDON ARE NON-UK CITIZENS\*



- **16.9%** - EU
- **11.4%** - REST OF THE WORLD

\*BASED ON ONS DATA, APRIL 2016-MARCH 2017



**37%**

OF OUR INDUSTRY FACE DIFFICULTIES ENGAGING NON-EEA STAFF TO WORK OUTSIDE OF LONDON & THE SOUTH EAST

## MOST FREQUENTLY USED IMMIGRATION ROUTES FOR FINANCIAL & RELATED PROFESSIONAL SERVICES



## FINANCIAL & RELATED PROFESSIONAL SERVICES HEAD OFFICE LOCATION



UK = **54%**    EEA = **25%**  
 REST OF WORLD = **21%**

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# FOREWORD

Britain's historic success has been built on openness: a willingness to seek out and embrace new ideas, to drive innovation and to harness creativity. All of this would have been much harder without the UK's attractiveness to those with entrepreneurial spirit, with new thinking and with a passion for progress. For centuries we have brought to these shores the brightest, the smartest, the hardest working. If the UK is to succeed in the 21st century, its ability to attract new generations of such individuals will be one of the dynamos that powers our prosperity.

The UK is the world's leading international financial centre and the industry is a major employer. Currently, 2.3m people – one in every 14 jobs – work in the financial and related professional services industry right across the country. It is also the UK's biggest taxpayer, contributing £14 out of every £100 of UK tax revenue raised.

The UK's success in financial and related professional services is underpinned by a number of things. One of its greatest competitive advantages is its unequalled pool of talent and expertise. People from all corners of the world come here to work in what is arguably the most dynamic global market. They learn alongside some of the most renowned industry practitioners and contribute their own insights and knowledge. Of course, immigration is not just a one way street and UK citizens benefit from the ability to live, work and travel in other countries just as much.

While the industry relies on this highly skilled, multinational and multilingual workforce which brings such diversity of experience, it also depends on others. From the entrepreneur to the person who maintains the buildings, we need a variety of skills and backgrounds to ensure the smooth daily running of these businesses. If the UK is to retain its status as the leading international financial centre into the future, through Brexit and beyond, it must have continued access to all of this talent: home-grown, from across the EU and the rest of the world.

Migration is often seen as one of the most controversial policy areas, yet evidence shows that talent is a key concern for businesses right across the country. And of course, migration is also an important consideration in sustaining high levels of economic growth across the UK. When the UK leaves the EU, it simply won't be good enough for the current immigration regime for non-European nationals to be applied to European nationals. It must be reformed to enable the UK to retain its competitiveness. Nor will it be acceptable for us to neglect the development of skills within the UK population.

This report proposes a new streamlined immigration system that can be implemented immediately and would then be supplemented by bilateral agreements with other jurisdictions, including the EU, as and when these are agreed. TheCityUK has made it clear that continued mutual access to talent is a key industry priority for the ongoing UK/EU negotiations. This research, prepared in collaboration with EY, makes a series of recommendations for what this renewed approach should look like. Its production has been made possible through the time and insight of practitioners from across the industry and beyond. In total, over 100 financial and related professional services firms have been involved with the production of this report.

I would like to thank everyone who has been involved in this project for their support. Special thanks are due to the team at EY for their work and contribution to this important debate.

## Miles Celic

Chief Executive Officer, TheCityUK



# INTRODUCTION

It has been a pleasure to work with TheCityUK and its members on this project – work which has highlighted the interest and enthusiasm felt by the financial and related professional services industry with regards to skills and future immigration policy after the UK leaves the EU.

Although the report focuses on recommendations prompted by the results of interviews and surveys with TheCityUK's members, these are recommendations which we believe have broad appeal. They are relevant to a variety of sectors, and skills levels – encompassing policies relating to students, regional immigration and those who wish to settle here – and how our immigration policy might interact with the education and training of British citizens. It is time for immigration to be part of a positive discussion regarding opportunities to reduce long standing skills shortages in the UK.

Some of the themes in the report have been mooted before - other ideas are new. They share however a dual objective - to attract and retain the talent the UK will need immediately after a transitional period and to create a future immigration system which is able to adapt to suit the needs of business and the UK economy without being unpredictable. We have also considered the practicalities of implementation – where the current points-based system can be leveraged to best advantage – or where new processes or further research may need to be set in motion.

Brexit has been the catalyst for our conversations. Our changing relationship with the EU offers, alongside its challenges, the chance to reconsider how we can welcome talent from all countries to the UK – both EU and non-EU. Business is eager to engage in that conversation and help guide policy. We look forward, now the conversation has started, to continuing discussions and collaboration with government.

## **Margaret Burton**

Partner, Global Immigration, EY



# EXECUTIVE SUMMARY

This report assesses the financial and related professional services industry's use of skills and talent from outside the UK, examines how this could be impacted by the UK's departure from the EU, and formulates key recommendations that will enable the industry to continue accessing this talent and achieve the goals set out in TheCityUK's 2017 report 'A vision for a transformed, world-leading industry'.<sup>1</sup>

This research sets out a roadmap for change to ensure the continued competitiveness of the UK-based financial and related professional services ecosystem and enhance the industry's ability to service customers and clients into the future. While further work to develop and train domestic talent is a key priority for the industry, this research focuses on the important role and contribution of the UK's international workforce.

This report proposes a new approach to global immigration through reform of the existing regime to make it fit for the future. Crucially, this system is able to be complemented by bilateral agreements with other jurisdictions which may implement beneficial immigration routes. Continued mutual access to talent by virtue of these agreements is an important priority for the industry. Its importance for the ongoing UK/EU negotiations is discussed in other pieces of TheCityUK and wider industry research. It is though a separate endeavor that is not covered by this piece of work.

The report's findings and recommendations are based on engagement with TheCityUK's members via committee engagement, bilateral qualitative interviews with 38 member organisations, and quantitative surveys completed by 28 members. The organisations that contributed to this work represent the breadth of financial and related professional services, including banks, insurers, asset managers, market infrastructure providers, legal services firms and consultancies. Respondents to the survey have a combined headcount of over 200,000 UK staff and range in size from less than 50 employees to over 50,000 employees in the UK, and are based throughout the country. In total, over 100 organisations contributed to this report.

## Key Findings

- The UK's international reputation, and in particular its status as an international financial centre, is a significant factor in attracting the best global talent. This status is expected to continue post-Brexit, but should not be taken for granted in an increasingly competitive global labour market. There is a clear risk that the UK may find it increasingly difficult to attract the talent it needs.
- Employers in this industry look for the best person for the job, based on skills, experience, qualifications etc, and generally pay little attention to nationality.
- Employers do not welcome future restrictions on European citizens'<sup>2</sup> ability to work in the UK and British citizens' ability to work in the EU, and would welcome future trade agreements, with the EU as well as with other countries, which offer streamlined immigration routes to employees. In designing an enhanced immigration system for a global workforce that would sit beneath and alongside any bilateral trade agreements<sup>3</sup>, employers believe that this system should, in principle, treat all nationalities equally.

<sup>1</sup> TheCityUK and PwC, 'A vision for a transformed, world-leading industry', (6 July 2017), available at: <https://www.thecityuk.com/assets/2017/Reports-PDF/A-vision-for-a-transformed-world-leading-industry.pdf>

<sup>2</sup> EU/EEA/European nationals/citizens: the terms 'European' and 'EEA' are used to denote all countries in the European Economic Area (the European Union member states plus Iceland, Liechtenstein and Norway) and Switzerland. The term 'EU' is used specifically to exclude nationals of Iceland, Liechtenstein, Norway and Switzerland, primarily in relation to the draft withdrawal agreement between the UK and EU. For the purposes of this report 'EU' excludes those that hold UK citizenship.

<sup>3</sup> Future trade agreements between the UK and other countries or trade blocs may implement new, reciprocal immigration systems, similar to existing obligations under the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS). This is a key industry priority for the ongoing negotiations between the UK and the EU. Any reciprocal and beneficial visa categories implemented via trade agreements with other jurisdictions would sit above and alongside the proposals outlined in this document.

- Employers understand the current immigration system for non-European citizens but are concerned at the prospect of it being applied wholesale to European citizens without modification. This principle is especially relevant when considering the annual limit on migration (the 'cap') and employers urged extreme caution when designing policy based on predictions of how Brexit might affect levels of EU migration.
- There is concern that existing skills shortages will be exacerbated following the end of freedom of movement. The existing immigration system for non-European citizens is not considered dynamic enough to meet the needs of employers seeking highly skilled expertise that is either in severe shortage in the UK, e.g. digital skills, or which can rarely be found in the UK, such as overseas markets and regulatory experience.
- Employers would welcome an immigration system that is supportive of career growth and considers the skillset and potential of candidates, rather than purely the skill level and salary of the role they are coming to fill.

While this research has been undertaken specifically in relation to the financial and related professional services industry, these recommendations will also be relevant to employers of skilled and highly skilled workers in all industries and for organisations of all sizes. In addition, while there is a clear and significant association between our industry and London, regional and national financial and related professional services centres are very important within the UK industry. Recommendations have therefore been made which will benefit all regions and nations of the UK. This is especially important as two thirds of the industry's jobs and over half its export activity are outside London.

Similarly, it is important to recognise the significant contribution that overseas workers make to the UK's economy, filling roles at all skill levels. While employers were able to provide high levels of detail on how skilled and highly skilled workers help them meet their business objectives, we often heard that those in lower skilled roles were just as crucial to the overall ecosystem that supports the industry's success.<sup>4</sup>

### Key themes from our research – a new approach to managed migration

- An enhanced immigration system for a global workforce.
- Attracting the best global talent throughout their career.
- Streamlining immigration systems and increasing flexibility for employers.
- Meeting the needs of the UK economy and its residents.
- Supporting the financial and related professional services industry and wider economy's need for digital skills.

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## Our recommendations

### Recommendation 1 - a new flexible short-term immigration category

The introduction of a flexible short-term immigration category to enable international staff to transfer to their employer's UK office for up to six months without needing to apply for a visa before travel where they are a non-visa national. This will enable international employers to utilise their highly agile, flexible 'global' workforce to fill short-term needs in the UK, including internal facing project work, short-term cover and receiving on the job training, often at extremely short notice.

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<sup>4</sup> For further information on the lower skilled aspects of migration, refer to The All Party Parliamentary Group on Migration, 'Brexit: beyond the highly skilled – the needs of other economic stakeholders', (September 2017), available at: [http://appmigration.org.uk/wp-content/uploads/2017/09/APPG-on-Migration-Brexit\\_Beyond-the-highly-skilled-report-Sept-2017.pdf](http://appmigration.org.uk/wp-content/uploads/2017/09/APPG-on-Migration-Brexit_Beyond-the-highly-skilled-report-Sept-2017.pdf)

### Recommendation 2 - an independent Skills Advisory Board

The creation of an independent Skills Advisory Board, accountable directly to Parliament. The Home Office would retain responsibility for setting high level immigration policy objectives with the Skills Advisory Board operating within this framework. It would have responsibility for issues, such as how to utilise skilled, employer sponsored migration to fill skills shortages in the UK, and best benefit the economy and the existing resident population. It would be formed by representatives from the education system, industry, immigration practitioners, the Migration Advisory Committee (MAC) and the Home Office, as well as a cross-party panel of MPs. The MAC would continue to conduct statistical analysis to advise on the above. A key responsibility of the Skills Advisory Board will be to perform a full and thorough review of the annual limit on migration, i.e. the Tier 2 General visas 'cap'<sup>5</sup> currently set at 20,700 annually.

### Recommendation 3 - a new perspective on skills

Recognising the potential and adaptability of overseas talent by allowing employers to sponsor visas for medium skilled roles that do not currently qualify for sponsorship where the applicant possess additional 'top-up' characteristics. These include digital skills, multilingualism or a degree in a Science, Technology, Engineering or Mathematics (STEM) subject. This will offer employers a greater level of flexibility when staffing a wider range of roles throughout their organisations and recognises the potential that new graduates – who will often start their career in a medium, rather than a highly skilled, role – can bring to the UK.

### Recommendation 4 - an appropriate and dynamic Shortage Occupation List

The introduction of a new 'dynamic' Shortage Occupation List to provide employers with a straightforward mechanism by which they can self-report acute skills shortages with the support of industry bodies who can endorse a role as being in shortage. Rapid identification of skills shortages, such as digital security experts, will support employers in attracting this talent from outside the UK by streamlining, expediting and prioritising the visa application process.

### Recommendation 5 – welcoming and retaining overseas students

A STEM Post-Study Work Visa to enable graduates in STEM subjects to work in the UK for up to two years after graduation. Holders of this visa would not require sponsorship from an employer but would be expected to work in a STEM field for at least twelve months during the two year validity of the visa. This will act as a significant draw to the UK for international students and will help retain those with highly valuable STEM skills in the UK on graduation.

### Recommendation 6 – a specialist branch of Tier 2 for specialist overseas experts

Exemption from the requirement to conduct a Resident Labour Market Test where a role requires specialist overseas expertise including experience in overseas regulatory systems or financial markets. Employers will no longer need to complete mandatory advertising just to demonstrate what is already objectively clear – this type of experience is extremely rare in the UK, if present at all.

<sup>5</sup> The 'cap' we refer to in this research is different to the catch-all net migration target (set at 'the tens of thousands'). This net migration target was not studied as part of this research. TheCityUK has expressed its very strong reservations about this target in the past. More info on the 'cap' can be found on page 54 in 'the annual limit' pullout box.

### Recommendation 7 – avoiding regional bias

In addition to the full review of the annual limit (the 'cap') (the Tier 2 General visas 'cap' currently set at 20,700 annually) recommended above, we also suggest an immediate change to the mechanism by which the 'cap' operates to avoid regional bias by compensating for lower average salaries outside of London and the South East. This change will bring an end to the anomalies experienced over the last six months whereby an application to sponsor a visa for a role in London is prioritised over an identical role in other regions, merely because of regional pay differences. Compliance could be monitored via the existing Tier 2 sponsor duties and Home Office audit regime.

### Recommendation 8 – extending the validity of Indefinite Leave to Remain

Increasing flexibility for permanent residents by extending the period during which Indefinite Leave to Remain (ILR) status can be retained while outside the UK, from two to five years. ILR holders who are unable to obtain British citizenship will have increased flexibility to go on temporary assignments overseas for more than two years without losing their status in the UK.

### Recommendation 9 – a streamlined immigration system: controlling and reducing the administrative burden on employers and applicants

The adoption and maintenance of a consistent approach to controlling and reducing administration associated with the UK's immigration systems. While recent developments in digitising visa application processes have been well received, there is clearly more to do, not just in relation to application forms, but in improving the experience for applicants and employers.

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## Next steps

The MAC is set to report back to the government in autumn 2018 on the research project they have been undertaking on European Economic Area (EEA) workers in the UK labour market. It is hoped that our report will inform the MAC's work as well as other initiatives on the UK's future immigration system.

Political agreement on the arrangements for EU citizens arriving in the UK up until 31 December 2020 means that a new immigration system for EU citizens would likely come into force from the start of 2021. Employers would ask for at least 12 months' notice of these significant changes to the immigration system for EU citizens, marking the end of 2019 as the date by which policy should be agreed and communicated to stakeholders, including employers. To the extent our recommendations also apply to the existing immigration system for non-EU citizens, we envisage it would be appropriate to make these modifications significantly earlier, perhaps in April 2019.

To allow employers the opportunity to plan properly for these changes and mitigate the worst of the uncertainty that has already arisen from the vote to leave the EU, we would recommend that the government agrees a general policy direction by spring 2019, leaving a further nine months to develop specific processes and policies for publication by the end of 2019.

Finally, employers are supportive of the political agreement between the UK and EU on the rights of citizens resident prior to the UK's departure from the EU, and during a transition period ending in December 2020. Reassuring existing residents as to their ongoing status is a key area of concern for organisations. While the government's commitment to a straightforward, digital registration system is welcome, there is a clear consensus that legal certainty as to these rights is an absolute priority.

# BACKGROUND AND APPROACH

## An industry founded on skills and talent

Britain's future international success as a centre for financial and related professional organisations will be built on the quality of the people attracted to the industry and to the UK as a focal point of financial and related professional services excellence. The pool of global talent and expertise currently assembled in the UK creates a competitive advantage and in turn attracts others who choose to work here. UK-based financial and related professional services generated a trade surplus of around £80.5bn in 2016. This represented 4.1% of GDP.<sup>6</sup> To retain its status as the leading financial and related professional centre, the UK must continue to attract and to have access to the best talent. This needs to be inclusive of home-grown talent, but also talent from across the EU and from the rest of the world.

"We are clear that as we leave the EU, free movement of people will come to an end and we will control the number of people who come to live in our country."<sup>7</sup>

Prime Minister Theresa May

The government's stated policy that freedom of movement will end prompts the question: 'will we still be able to access and attract the best global talent and utilise cross-border travel to support our business objectives?' While the departure of the UK from the EU clearly has the potential to bring significant change to the financial and related professional services industry, the purpose of this report is to examine this question in more detail and provide recommendations for how government can support UK businesses to accomplish their aims.

In an era of increasing global mobility, a clear strategy is required for ensuring that appropriate skills can be developed, attracted to, and retained in the UK. A strategy for success must consider the sources of skills that contribute to the UK's status as a international financial and related professional services hub, and should comprise:

1. Policies which offer opportunities for developing the skills of the resident workforce, particularly where there are acknowledged skills shortages.
2. Legal certainty to provide reassurance regarding the status of EU citizens and their families currently working in the UK.
3. Recognition and remedy of the uncertainty caused by the process of leaving the EU and the risks this poses to the UK's ability to attract the best global talent in an international labour market.
4. A UK immigration policy that is able to maintain and, where possible, broaden the pool of international talent that the industry can access.

## Report's aims

This report examines the skills, challenges and opportunities facing the UK-based financial and related professional services industry post-Brexit and recommends immigration policies to ensure this industry can continue to thrive in a post-Brexit world.

The report's recommendations have been designed to be suitable for implementation as soon as possible, in respect of the current immigration system for non-EU citizens. These changes can then be applied, where appropriate, to the introduction of controls on migration from Europe, expected to commence in January 2021.

<sup>6</sup> The Office for National Statistics, 'UK Balance of Payments – The Pink Book Time Series Dataset', (31 October 2017), available at: <https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/datasets/pinkbook>

<sup>7</sup> Theresa May, 'Mansion House Speech', (2 March 2018), available at: <https://www.gov.uk/government/speeches/pm-speech-on-our-future-economic-partnership-with-the-european-union>

Specifically, this report:

- Assesses financial and related professional services employers' use of international talent.
- Considers the challenges that the end of freedom of movement might pose.
- Examines the current immigration system for non-EEA nationals and whether it is suitable for expansion to include EEA and Swiss nationals.
- Makes recommendations on how the UK's immigration system can be adapted to support the business objectives of the financial and related professional services industry and the wider economy.

Publication of this report comes ahead of the MAC's comprehensive examination of these issues, due to be published this autumn.

### The scope of this report

Clearly the departure of the UK from the EU will have significant impacts on many aspects of the economy and society as a whole. As a result, any attempt to assess these impacts and comment on them must necessarily reach a compromise between breadth and depth. With this in mind, the scope of this report is as follows:

- **Migration from the EEA/Switzerland:** this report assesses current and future use of skills and talent from Europe, and makes recommendations on the immigration regime that should apply to EEA/Swiss citizens moving to the UK after the proposed transition period, i.e. from January 2021. Much research has been undertaken, and recommendations made, in relation to the rights of EU citizens arriving in the UK prior to the end of the transition period. A political agreement has been reached between the UK and EU on these aspects of the UK's withdrawal from the EU. There is a clear consensus among employers that legal certainty on these aspects of Brexit is an absolute priority.
- **Migration from outside of Europe:** this analysis also assesses current and future use of skills and talent from outside of Europe, and makes recommendations on how the existing immigration regime should be adapted to better support the needs of UK employers in accessing these skills.
- **Reciprocity:** this paper comments on the degree to which the UK can implement – and currently implements – reciprocal immigration routes via trade agreements. Although it is crucial to recognise the importance of British citizens' ability to work in other countries and the benefits this brings to the UK, making specific recommendations for such reciprocal arrangements is beyond the scope of this report.
- **The distinction between work at different skill levels:** while the contribution of lower skilled workers from the UK and abroad has been key to the success of the industry, this report focuses on the aspects of the UK's immigration system that are most relevant to types of skills and talent most often and directly utilised by employers in our industry – that is to say the rules for skilled and highly skilled workers. That being said, there are clearly key areas of the financial and related professional services industry that employ large numbers of workers in roles that currently fall below the Home Office's definition of 'highly skilled'.<sup>8</sup> The importance of an immigration system that enables employers to fill these roles where appropriate will also be discussed.

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<sup>8</sup> RQF level 6 – includes corporate managers and professional roles

- **Geographical coverage:** TheCityUK represents UK-based financial and related professional services organisations. Although London is clearly an important hub for the industry, it is important to recognise that a future immigration system has to benefit the country as a whole and be sensitive to the needs of UK nations and regions overall. The industry employs 2.3m people right across the industry, with two thirds outside of London.

To frame this report within an appropriate context, we have made the following assumptions:

- Freedom of movement for non-EEA workers as it currently stands will end on 31 December 2020, and from this date new controls on the ability of EEA/Swiss nationals to live and work in the UK will be introduced. This assumption is subject to the implementation of a 21 month transition period agreed in principle between the UK and EU. At the time of publication, there remains a degree of legal uncertainty as to this agreement. Should the UK depart the EU without agreement on a transition period, it must be assumed that freedom of movement will end on 29 March 2019, with immigration controls on EU citizens being implemented immediately after.
- A truly international financial and related professional services centre will always benefit from, and at least in parts require, access to international talent.
- The UK's immigration system should be designed to preserve the UK's reputation as a country that welcomes innovation, entrepreneurial spirit and skilled labour.
- Future trade agreements between the UK and other countries or trade blocs may implement new, reciprocal immigration systems, similar to existing obligations under the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS). The Prime Minister has confirmed an intention to advocate for a mobility framework that would enable UK businesses to provide services to EU-based clients in person and vice versa.<sup>9</sup> Any reciprocal and beneficial visa categories implemented via trade agreements would sit above and alongside the proposals outlined in this document.

## Report methodology

This report and its recommendations are informed by the following:

- Reference to the substantial body of prior work on the impacts and direction of Brexit, and the development of immigration policy. This includes reports from the Home Office and other areas of government, the Office for National Statistics (ONS), the MAC and various think tanks and other non-governmental organisations.
- Examination of relevant aspects of immigration systems in operation worldwide, with attention paid to global financial centres.
- Detailed interviews with 38 TheCityUK's members. Interviewees provided technical and personal perspectives on the place of international talent and culture within their organisations.
- A quantitative survey conducted with 28 member organisations who between them employ over 200,000 people in the UK.
- Engagement with several of TheCityUK's committees including:
  - TheCityUK Board of Directors
  - Senior Brexit Steering Committee
  - International Trade & Investment Group
  - EU Strategy Group
  - Legal Services Group.

<sup>9</sup> Theresa May, 'Mansion House Speech', (2 March 2018), available at: <https://www.gov.uk/government/speeches/pm-speech-on-our-future-economic-partnership-with-the-european-union>

# HOW THE UK'S IMMIGRATION SYSTEM CURRENTLY WORKS

Migration into the UK can be divided into two main groups – migration by citizens of the EEA and Switzerland under the concept of freedom of movement, and migration by citizens of other countries. The UK measures net migration by subtracting the number of residents leaving the UK for a year or more from the number of overseas residents moving to the UK for a year or more.<sup>10</sup> These figures originate from The International Passenger Survey (IPS). The IPS surveys approximately 700,000 - 800,000 passengers per year, 4,000-5,000 of which are identified as long-term international migrants.

“The coverage of the IPS is not comprehensive. The IPS excludes migration over the land border between the UK (Northern Ireland) and Ireland due to the existence of the Common Travel Area between the two countries. It also excludes most asylum seekers and their dependants.

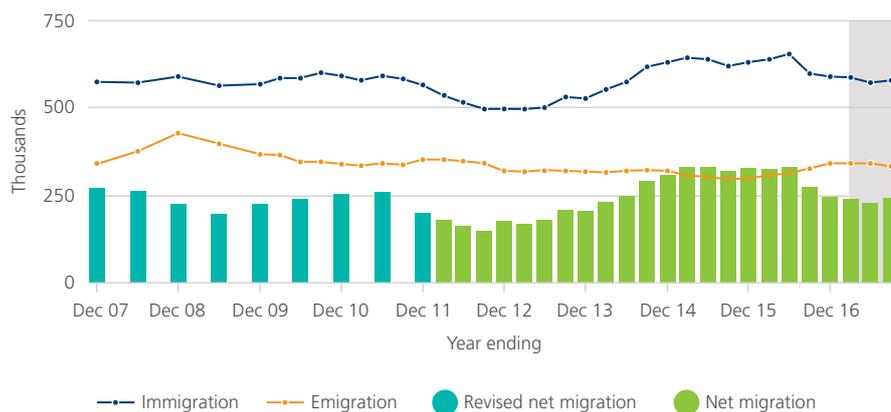
Migration estimates are based on respondents’ initial intentions, which may not accord with what they do in practice, e.g. in terms of duration of stay.

As the number of migrants in the sample is relatively small, estimates for subsets of the sample are subject to substantial uncertainty. For example, sampling errors are too large to measure with a reasonable degree of accuracy the number of migrants to a single region of the UK, or from a single country of origin (aside from the four-five largest national groups) or from a single age group.”

The Migration Observatory at the University of Oxford

**Figure 1:** UK long-term international migration 2007-2017 (year ending September 2017)

Source: Long-term international migration, Office for National Statistics



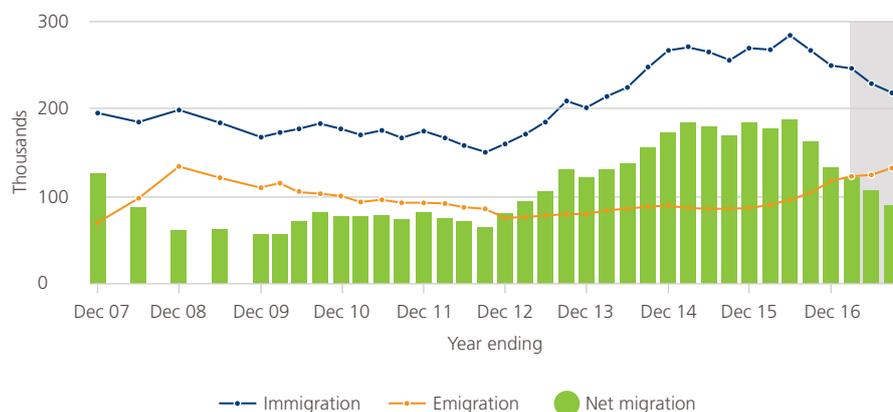
<sup>10</sup> Office for National Statistics (ONS) migration statistics use the UN recommended definition of a long-term international migrant: “A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence.”

## Migration to the UK by citizens of the EEA and Switzerland

EEA and Swiss nationals are able to move to the UK and live and work here indefinitely under one of the four fundamental freedoms of the EU – freedom of movement. EEA and Swiss nationals do not need to apply for a visa before travelling to the UK and working here, nor are they obliged to apply for registration documentation while in the UK. This is in contrast with many other EU Member States that do require registration, usually within three months of arrival.

**Figure 2:** EU long-term international migration 2007-2017 (year ending September 2017)

Source: Long-term international migration, Office for National Statistics

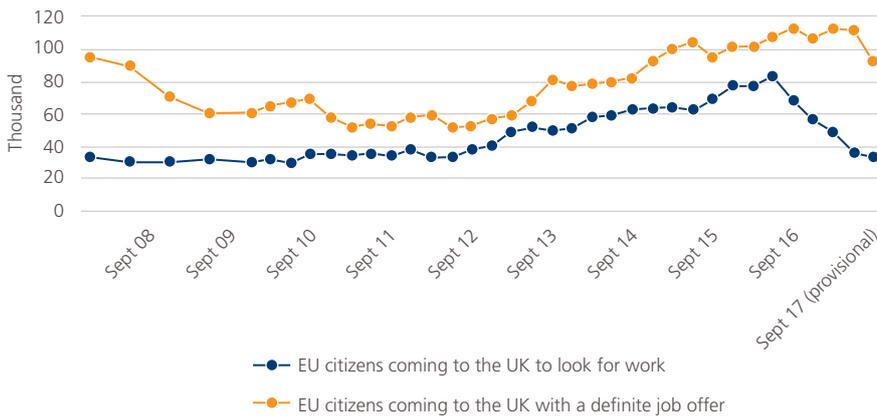


It is important to note in this context that the ONS does not publish statistics for European migration by citizens of Switzerland, Iceland, Lichtenstein and Norway (the latter three countries being part of the EEA but not the EU).

The ONS figures demonstrate a significant decrease in the number of EU citizens moving to the UK and a significant increase in the number of EU citizens leaving the UK since the EU referendum in the summer of 2016.

**Figure 3:** EU citizens moving to the UK to look for work or with a definite job offer

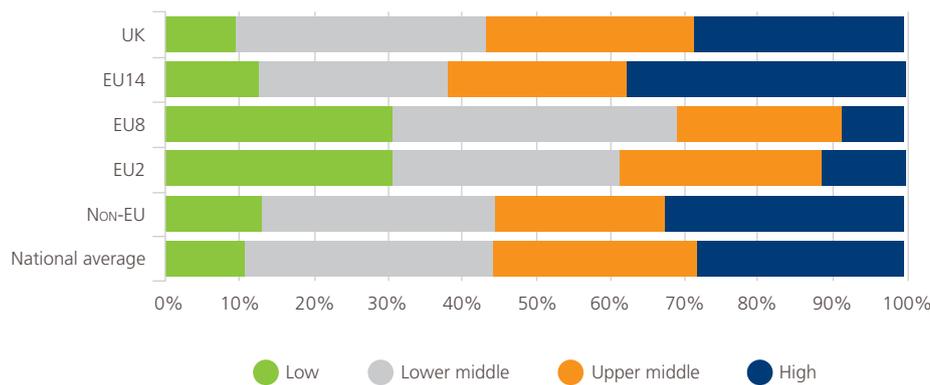
Source: International Passenger Survey, Office for National Statistics (data for March 2017 to September 2017 are provisional estimates)



Over the last ten years, the number of EU citizens moving to the UK already in possession of a definite job offer has always been at least 20% higher than the number of EU citizens arriving to look for work.

**Figure 4:** Distribution of workers in each nationality group by skill level in the UK workforce<sup>11</sup>

Source: Annual Population Survey, Office for National Statistics



<sup>11</sup> In this figure, EU14 refers to Austria, Belgium, Denmark, Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden; EU8 refers to Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia; EU 2 refers to Bulgaria and Romania.

While we do not yet have legal certainty, the UK has reached political agreement with the EU on the rights of EU citizens<sup>12</sup> who are resident in the UK by 31 December 2020. Key aspects of this agreement include:

- Those covered by the agreement will be permitted to continue living and working in the UK indefinitely, qualifying for settled status after five years.
- Those covered by the agreement will be able to bring direct family members to the UK after 31 December 2020 where the relationship existed prior to this date. Children born after this date are also protected.
- EU citizens resident in the UK will be required to register their status (where before this was optional), although the UK government has confirmed that this will be straightforward, 'document-light' and cost no more than a British passport (around £75).

The agreement, if and when enacted in primary legislation in the UK, will not require EU residents to leave the UK, and therefore will not in itself lead to a reduction in the available EU workforce in the UK. That being said, there has been a significant increase in the number of EU citizens leaving the UK since the EU referendum in 2016. In addition, any restriction, post-Brexit on the ability of European citizens to work freely in the UK will likely impact the size of the available European workforce in the UK.

### Migration to the UK by citizens of other countries (non-EEA nationals)

The UK introduced an Australian-style points-based system in 2008<sup>13</sup>, bringing together a large number of immigration routes into a smaller number of schemes, with a focus on ease of use and objective decision making. The points-based system is made up of five tiers:

- **Tier 1** – highly skilled workers
- **Tier 2** – skilled sponsored workers
- **Tier 3** – low skilled workers (never opened)
- **Tier 4** – students
- **Tier 5** – temporary workers.

#### Tier 1 – highly skilled

From its introduction, the Tier 1 category focused on highly skilled migrants via the following visa categories: Tier 1 (General), Tier 1 (Post-Study Work), Tier 1 (Entrepreneur) and Tier 1 (Investor).

The Tier 1 (General) and Tier 1 (Post-Study Work) routes both offered unrestricted access to the workforce, with no skills or salary thresholds applied to employment. The Tier 1 (Post-Study Work) route was extremely popular, offering international students the opportunity to access the UK employment market for two years following the completion of their studies in the UK. The route was intended as an opportunity to retain talent trained by UK universities.

The Tier 1 (General) route was designed to attract highly skilled migrants. Migrants scored points for attributes such as previous earnings, qualifications and notably age, with younger migrants scoring more points.

<sup>12</sup> The agreement does not automatically extend to nationals of Switzerland, Iceland, Lichtenstein and Norway (the latter three countries being part of the EEA but not the EU), although it is anticipated that the agreement will be replicated with each of these countries in due course.

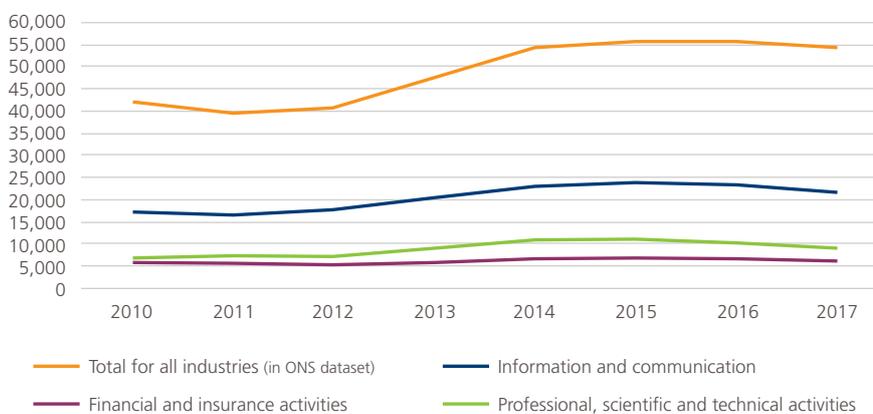
<sup>13</sup> UK Border Agency press release, 'New points system goes live', (29 February 2008), available at: <http://webarchive.nationalarchives.gov.uk/20090418013236/http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2008/newpointslive>

A UK Border Agency study<sup>14</sup> on the types of work performed by visa holders in the Tier 1 (General) and Tier 1 (Post-Study Work) categories reached the conclusion that too many were in fact performing low-skilled work. As a result, these routes were closed in 2011 and 2012 respectively.

## Tier 2 – skilled sponsored workers

**Figure 5:** Applicants for Tier 2 visas by industry type

Source: Immigration statistics, Office for National Statistics



With the closure of the Tier 1 (General) and Tier 1 (Post-Study Work) visa routes, Tier 2 is now the only viable long-term option for most non-EEA nationals wishing to work in the UK. In order to apply it is necessary to be sponsored by a UK employer holding a Tier 2 Sponsor Licence. As of January 2018 there are over 29,000 UK employers who hold a Sponsor Licence.<sup>15</sup>

Tier 2 is currently limited to roles skilled to the Regulated Qualifications Framework (RQF) level 6 or above (e.g. managers and professionals). Historically, employers have had the ability to sponsor visas for roles skilled at RQF level 3 (e.g. administrative roles, customer service roles and skilled trades) and RQF level 4 (e.g. non-corporate managers, creative and technician roles). RQF level 3 roles were removed for new applications in 2011, and RQF level 4 roles in 2012.

The Tier 2 (Intra Company Transfer (ICT)) sub-category allows multinational employers to move employees from their overseas offices into the UK for a fixed term period. The maximum duration an individual may spend in this category is tied to the salary to be paid (for those salaries up to £119,999 the maximum is five years, for those of £120,000 and higher the maximum is nine years). Importantly those entering the UK in this route after 5 April 2011 cannot normally qualify for ILR. Until April 2017 the Tier 2 (ICT) route was comprised of 4 sub categories: Tier 2 (ICT Short-Term) for moves up to 12 months; Tier 2 (ICT Long-Term) for moves of up to five (or nine years); Tier 2 (ICT Skills Transfer) for moves of up to six months with the sole purpose of imparting or sharing skills and/or knowledge and Tier 2 (ICT Graduate Trainee) to accommodate those on international graduate rotation programmes. The ICT category was restricted in April 2017 by the

<sup>14</sup> UK Border Agency, 'Points-based system Tier 1: an operational assessment', (October 2010), available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/115913/occ91.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115913/occ91.pdf)

<sup>15</sup> Office for National Statistics, 'Immigration Statistics', (22 February 2018), available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683358/sponsorship-oct-dec-2017-tables.ods](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/683358/sponsorship-oct-dec-2017-tables.ods)

closure of both the Tier 2 (ICT Short-term) and Tier 2 (ICT Skills Transfer) routes. As the minimum salary threshold for the Tier 2 (ICT Long-Term) route is £41,500 per annum, the closure of the short-term routes has reduced the options open to international businesses when considering assignments to address skills gaps/shortages.

As the ICT route is not suitable for permanent transfers, the only remaining route under the Tier 2 arrangements is Tier 2 (General) sub-category. Unless an exemption applies (for example the role is on the Shortage Occupation List or the salary is at least £159,600 per annum) it is necessary to run a Resident Labour Market Test before an employer may proceed to sponsor an individual in this category to demonstrate that there are no suitable candidates from within the 'settled' workforce (British citizens, those with ILR or EEA/Swiss nationals).

Sponsoring employers are allocated a specified number of Certificates of Sponsorship per year to accommodate ICT moves and in-country extensions based upon the prior years' usage or business need. For those seeking to employ a non-EEA national from outside of the UK under the Tier 2 (General) route, a sponsor must make a request for a Restricted Certificate of Sponsorship. The Home Office allocates up to 20,700 Restricted Certificates of Sponsorship per year, which is the annual limit.

### The annual limit (the 'cap')

Since April 2011, there has been an annual limit of 20,700 Tier 2 General visas per year, primarily used by employers to sponsor visas for new hires from outside of the UK. ICTs and in-country extensions are excluded from this limit. Visas within this limit are allocated by the Home Office to employers each month, and where that month's allocation is exceeded, applications are prioritised by a number of factors, including:

- whether the role is on the Shortage Occupation List
- whether the role is skilled to PhD level
- the salary (in absolute terms) of the role.

Where an application is refused because other applications have been prioritised, the employer can reapply the following month, but can have no confidence that their application will be granted, as reapplications are granted equal weight to new applications.

Individuals entering the UK in the Tier 2 (General) category may remain in this visa category for a maximum of six years and can generally qualify for ILR upon the completion of five years, continuous residence subject to meeting the eligibility requirements.

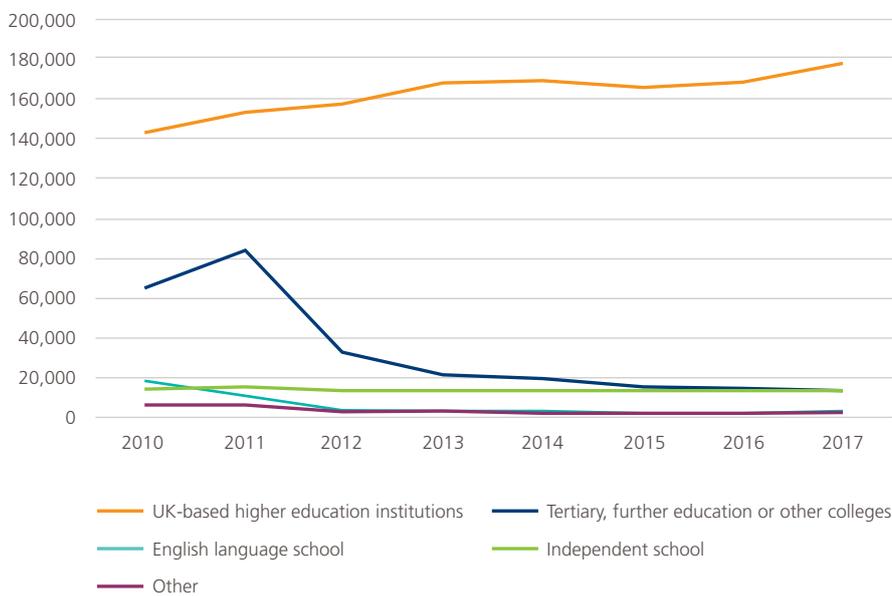
Unless an exemption applies Tier 2 visa holders are subject to a 'cooling off period' upon completion of their assignment. This precludes individuals from applying for another Tier 2 visa for a 12 month period from the end of their previous visa or where this can be evidenced appropriately, their date of departure from the UK. This limitation prevents individuals undertaking 'back to back' assignments.

### Tier 4 – students

Tier 4 is primarily used by non-EEA nationals studying for degree level qualifications in the UK. In 2017, over 177,000 non-EEA nationals were granted Tier 4 visas to study at higher education institutions in the UK.

**Figure 6:** Applicants for visas for study, by education sector

Source: Immigration statistics, Office for National Statistics



A Tier 4 visa holder studying for a degree level qualification is able to work in the UK as follows:

- part-time, up to 20 hours a week during term time
- full-time in a temporary position during vacations and after they have completed their course
- during a placement year, where this is a defined part of the degree course.

After completion of their studies, Tier 4 visa holders who wish to continue working in the UK must generally find an employer to sponsor a Tier 2 visa application within three months or otherwise leave the UK. Tier 4 visa holders switching onto a Tier 2 visa from within the UK benefit from certain exemptions, streamlining the process:

- no requirement to complete a Resident Labour Market Test
- exemption from the annual limit
- lower salary thresholds.

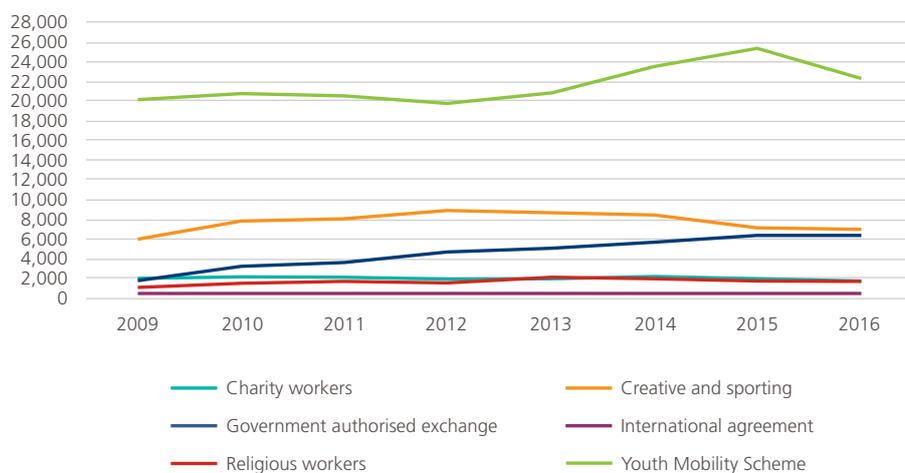
## Tier 5 – temporary workers

Tier 5 of the points-based system collects together various immigration categories with the commonality that they are all designed to be temporary routes that do not lead to ILR in the UK. These include:

- charity workers
- creative and sporting
- government authorised exchange
- international agreement
- religious worker
- Youth Mobility Scheme.

**Figure 7:** Number of entry clearance visas granted by the Tier 5 sub-category

Source: Immigration statistics, Office for National Statistics



The Youth Mobility Scheme allows citizens of certain countries<sup>16</sup> aged between 18 and 30 to apply for a two year visa enabling them to work in the UK. The visa cannot be extended, and many holders who wish to stay in the UK long-term will attempt to find an employer who will sponsor a Tier 2 visa.

The government authorised exchange scheme enables non-EEA nationals to partake in work experience and training schemes of up to two years.<sup>17</sup> Schemes must be established by overarching bodies which can include employers themselves although participants must be additional to normal staffing requirements – they cannot be used to fill roles.

<sup>16</sup> Australia, Canada, Japan, Monaco, New Zealand, Hong Kong, South Korea, Taiwan, or where the applicant is a British overseas citizens, British overseas territories citizen or British national (overseas) – categories of British nationality that do not automatically grant the right of residence in the UK

<sup>17</sup> A list of these schemes can be found here:  
<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-n-authorised-exchange-schemes>

The international agreement scheme enables non-EEA nationals to apply for a visa to enter the UK under the terms of various trade agreements, either as an overseas employee of a contractual service supplier, or as an independent professional. The scheme supports the delivery of services under the following international trade agreements:

- The WTO's GATS, including the 'least developed countries' waiver
- EU-CARIFORUM Economic Partnership Agreement
- EU-Chile Free Trade Agreement
- EU-Andean Free Trade Agreement
- EU-Ukraine Association Agreement
- EU-Georgia and EU-Moldova Association Agreements
- EU-Canada Comprehensive Economic and Trade Agreement (CETA).

It is only possible to apply for a visa in this category where the applicant is sponsored by a UK-based organisation – generally the business to which services are to be supplied. This sponsorship necessitates an application for a separate Sponsor Licence under this Tier – as of January 2018, only 139<sup>18</sup> organisations hold a Tier 5 International Agreement Sponsor Licence. In the eight year period to December 2016, only 3,612 visas were issued in this category.

### **Non points-based system visas – flexible, but open only to the few**

The UK currently offers preferential treatment to certain Commonwealth nationals, namely those who can show evidence of an ancestral link to the UK. In such cases the individual must be a Commonwealth national and provide evidence that they have a parent or grandparent born in the UK. Successful applicants are issued a five year visa and unrestricted access to the UK workforce for the duration of the same. Once they have completed five years in the UK, subject to meeting the eligibility requirements it is possible to file an application for ILR in the UK.

Those individuals with familial links to the UK, for example those with British spouses/partners, are able to take employment in the UK for the duration of their leave (with the exception of those entering the UK as a fiancé/fiancée). However, as has been well publicised, the qualifying criteria associated with this type of visa application are particularly rigorous.

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<sup>18</sup> Office for National Statistics, 'Immigration Statistics', (22 February 2018), available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683358/sponsorship-oct-dec-2017-tables.ods](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/683358/sponsorship-oct-dec-2017-tables.ods)

# OUR FINDINGS

The following section outlines the results from our research. For further detail on how this was undertaken see the methodology section on page eight.

“Global means global – we can design a system that attracts talent from everywhere, which goes beyond the historical, geographical importance of the EU.”

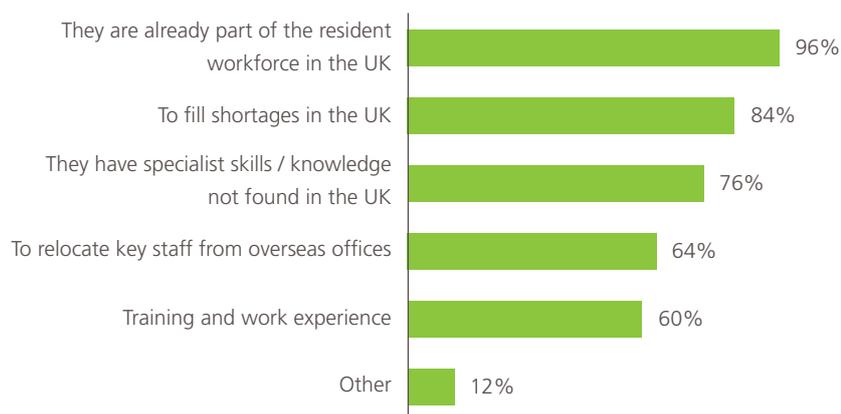
TheCityUK member (market infrastructure)

## Current use of international labour

**Figure 8:** How financial and related professional services use non-UK labour\*

Source: TheCityUK and EY research based on 25 responses (including EU and the rest of the world)

\*This is inclusive of both EU and rest of world employees

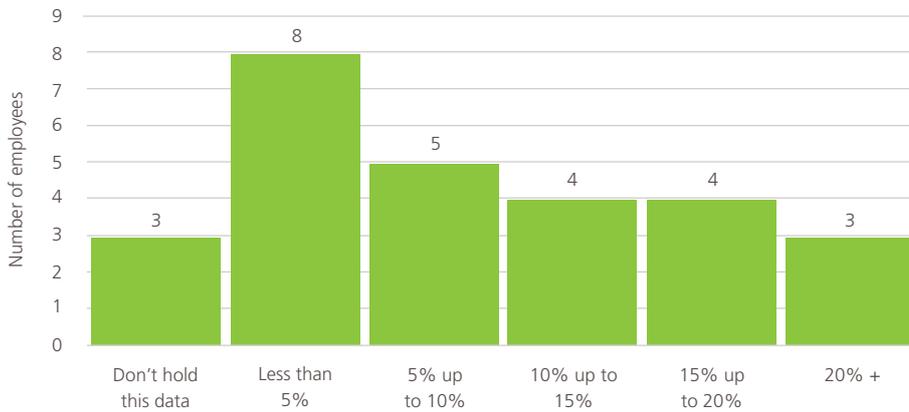


Our research found that 96% of respondents confirmed they make use of international workers where they are already part of the resident workforce in the UK. This indicates that employers consider international talent to form an integral part of the local workforce rather than a distinct and separate group.

European labour is an integral part of the domestic workforce

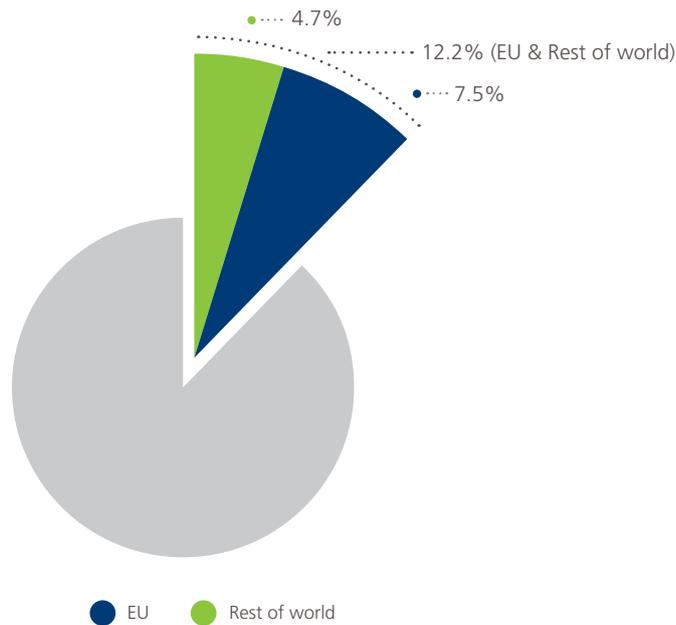
**Figure 9:** Percentage of UK employees that are EEA/Swiss (excluding British and Irish citizens)

Source: TheCityUK and EY research based on 27 responses



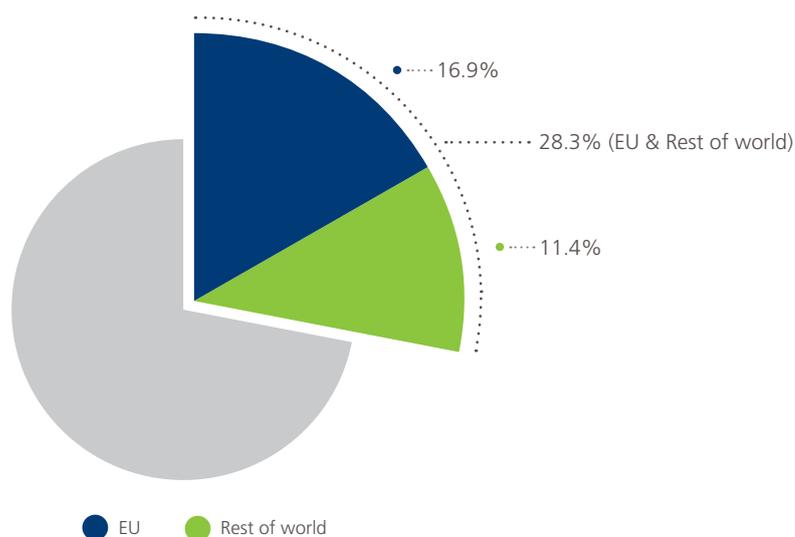
**Figure 10:** Breakdown of banking and finance employment in the UK, April 2016-March 2017

Source: TheCityUK calculations based on Office for National Statistics data



**Figure 11:** Breakdown of banking and finance employment in London of non-UK workers, April 2016-March 2017

Source: TheCityUK calculations based on Office for National Statistics data



In terms of mobility, the costs, processes and timescales for recruiting European citizens have been indistinguishable from recruiting from the domestic workforce. Almost all respondents to our qualitative interviews were keen to point out that there was no distinction in the workforce between UK and European citizens. Some were unaware of the distinction within their employee population numbers. Most, though, had begun to understand the demographics because of uncertainty surrounding Brexit, but were still keen to point out that, before Brexit, there was rarely a need to assess the distinction.

“You will find EU nationals in all of our teams. We don’t see there as being any distinction, and this diversity and the mobility to support it is just a part of our culture. It is essential that this does not change as a result of Brexit.”

Citigroup

Therefore, the EU workforce has become deeply integrated into the domestic workforce by virtue of freedom of movement and is an integral and much valued part of corporate culture.

“We are big believers in the value of diversity – including geographical diversity. We have gone out and recruited at graduate level everywhere in Europe, not just in UK, because that source of talent is critical to build the next level of talent.”

TheCityUK member (investment banking)

## Identifiable use of the international workforce

Our qualitative interviews focused on how the financial and related professional services industry currently utilises international labour.

The majority of respondents at interview saw themselves primarily as global organisations with global workforces and access to international talent. All identified diversity as important to their culture.

“One of our priorities is to create a diverse workforce.”

TheCityUK member (legal services)

“We are an international firm selling an international mindset.”

TheCityUK member (legal services)

Understanding the demographics of the UK working population is crucial to understanding the impact of Brexit. Similarly, the concept of immigration control will inevitably be synonymous with restrictions on global mobility.

“We just want to source the best candidate for the role regardless of nationality.”

Fidelity

The perspective of financial and related professional services organisations is strongly aligned to the government's often cited preference for ‘the brightest and best’. Respondents invariably want the best people, regardless of where they come from. Therefore, from a purely theoretical standpoint, the fewer restrictions to accessing the broadest talent pool, the better. At the same time, the respondents were also conscious of the necessity for some form of immigration control.

Generally, hiring within the industry does not overtly take into account nationality, even when factors such as cost and timescales are important. This perspective stems from a commitment to long-term planning, which respondents felt was something that the government could learn from when designing immigration policies.

“The government needs to be much more forward thinking focusing as much on the next 10-20 years as on what we need right now. They need to show us what collective investment in the system looks like.”

TheCityUK member (retail banking)

## Observations on skills and demographics of the international workforce

“We are global, and need people here in London with knowledge of international markets, people connected with international regulators. It's possible to build that knowledge here, but it would take time.”

Philip Edwards, Lloyd's of London

Where identifiable, respondents were able to point to a particular reliance on international workers in niche areas, such as those having specific FinTech or digital skills. Given the UK's status as a international financial and related professional services hub, it was also

clear that experience in overseas regulatory jurisdictions and financial markets<sup>19</sup> was extremely important. To truly be an expert on the US insurance market, for example, requires someone to have been immersed in that market for some time. Frequently, this means the most qualified candidate is a US citizen.

“We have struggled to fill roles in the analytical and technology specialties from the settled workforce.”

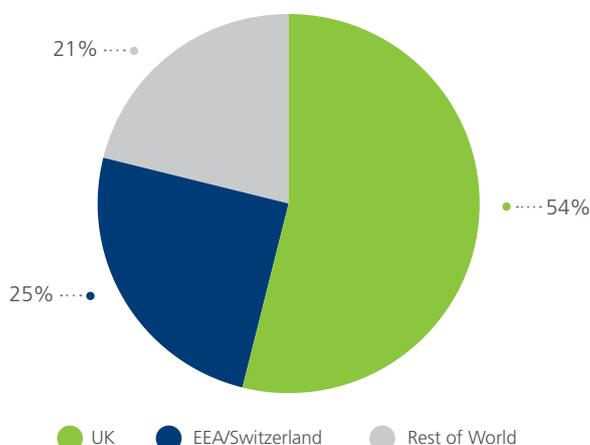
Willis Towers Watson

### What makes the UK attractive to international workers?

The majority of our interviewees suggested that the UK attracts the best global talent simply because of its status as an international financial hub. The majority of our respondents are headquartered in the UK and many interviewees pointed out that “doing your time” in the UK, and in particular London, is an essential part of a successful career in financial services.

**Figure 12:** Breakdown of head office locations

Source: TheCityUK and EY research based on 28 responses



“London is a financial centre. The City has historically been a place where business can be successful and this is a natural draw for people.”

TheCityUK member (market infrastructure)

London’s rich history as a financial and related professional services centre is not to be underestimated, but respondents were keen to highlight that the sustainability of London’s presence on a global stage must continue to be nurtured. However, that said, the suggestion that companies had a binary choice between being based purely in the UK or the EU had little backing. Approximately three quarters of respondents have offices across Europe and were still committed to ensuring that the UK remained a draw for global talent. The research found that 25% of those with presence in the UK had head offices located in Europe, with 21% headquartered elsewhere in the world.

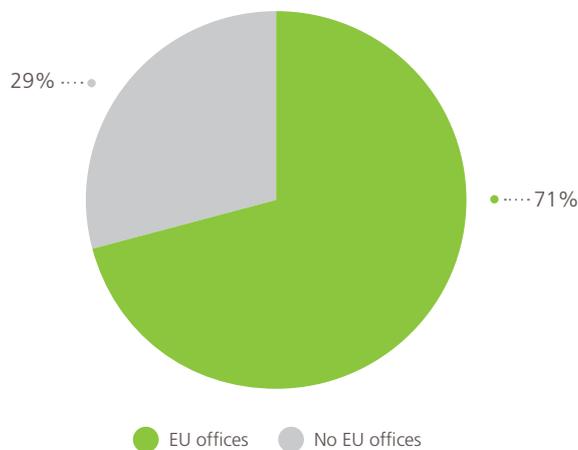
<sup>19</sup> Respondents mentioned relevant locations including the US, Canada, Switzerland, Singapore and Hong Kong

"The market is still here in London due to London's pioneering outlook. If someone has something innovative to insure they will come to the UK."

Philip Edwards, Lloyd's of London

**Figure 13:** Breakdown on whether respondents have offices in the EU

Source: TheCityUK and EY research based on 22 responses



Of course, the draw of the UK goes beyond the employment opportunities of the financial and related professional services industry. Many international employees intend to make the UK their home and a large number of respondents, particularly those where HR professionals were interviewed, were acutely aware of the importance of social and educational considerations when high-value migrants are looking to relocate to the UK. This was often linked directly to concerns with regard to long-term residence (explored further below) and ILR policies.

"A person's long-term intentions are important to their decision to come to the UK, our staff see the UK as a good place to settle long-term."

TheCityUK member (professional services)

Naturally, there are a myriad of other factors which influence the UK's attractiveness to internationally mobile talent. Tax and social security rates, language, cultural diversity, work-life balance and the stability of society and the economy are just a few examples of aspects that should be taken into account when considering this issue.

### Regional variations

While London is of great importance to the financial and related professional services industry, a presence throughout the rest of the UK is also common. Just over half of respondents have offices in the UK outside London, and 39% have offices in Scotland. Over half of respondents who have a UK presence outside London confirmed that there was a significant concentration of EEA/Swiss workers in their London office.

In fact, 37% of respondents confirmed that they face difficulties in engaging non-EEA staff to work in regions of the UK outside of London and the South East. The difficulties most frequently cited by these employers include obtaining Restricted Certificates of Sponsorship under the annual limit (the 'cap') and regional salaries falling below that required by the Immigration Rules.

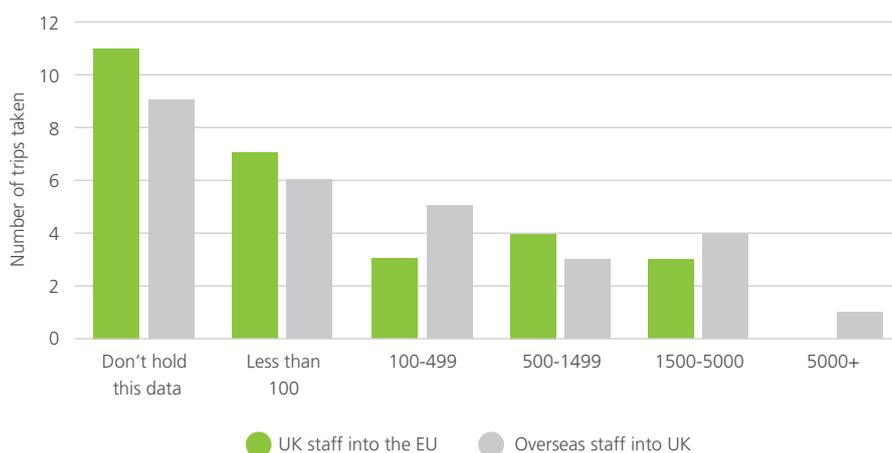
### Business travel

"Frequent business travellers make up a large proportion of our population. The business tracks the number of business travellers in the UK, and their activities."  
 TheCityUK member (asset management)

The importance of UK companies being able to continue operating globally goes beyond long-term moves. Respondents were just as concerned about the need to preserve unencumbered business travel. With 71% of respondents having offices in Europe, the potential for disruption was seen as a significant future threat. There was concern that the cost and administrative burden of such travel could increase after Brexit – and that lack of flexibility in short-term travel could damage business.

**Figure 14:** Number of short-term business trips taken by respondents in the last year

Source: TheCityUK and EY research



"At present, the London office brings in staff from EU to cover roles in the UK when there is a shortfall or when people go on leave."  
 TheCityUK member (legal services)

**Figure 15:** Percentage of respondents who utilise short-term business travel to the UK

Source: TheCityUK and EY research based on 28 responses (activities highlighted in orange cannot currently be performed by non-EEA nationals in the UK as a visitor – they require a visa that allows work).

Meetings	75%
Internal project work	61%
Receiving on the job training	54%
Internal audit	54%
Training UK staff	46%
Groundwork/requirements briefing	36%
Contract negotiations	36%
Short-term cover for a UK role	32%
Delivering services to clients	29%
Other	21%
Production of deliverables	18%

“We are likely to see a more gradual movement of roles overseas, rather than a ‘big bang’ approach.”

Willis Towers Watson

### Preserving a welcoming culture

“There is a danger that the US/Canadian talent pool for example will be dissuaded from coming to the UK because of hostile and misleading press coverage around work permits and prolonged and continued uncertainty around the government’s future plan in this regard.”

Fidelity

Respondents were keen to emphasise their continuing focus on supporting European staff in the UK and ensuring that they were prepared for Brexit. This perspective was coupled with a more general concern that European citizens would be less willing in the future to relocate to the UK.

“The government needs to put more into making the UK an attractive place for international skills.”

TheCityUK member (retail banking)

A more nuanced perspective was raised by some respondents who were conscious that the UK’s welcoming business environment might suffer reputational damage in the wake of Brexit. It was suggested that government policy should protect against this having too great an impact and suggested that active steps be taken regarding new immigration policy to preserve the UK’s reputation as a country that welcomed innovation, entrepreneurial spirit and skilled labour.

## Skill levels

The starting position for most feedback gathered during qualitative interviews was a clear business need to ensure access to a global talent pool where diverse skills could be brought to the UK with minimal restriction. Almost all respondents emphasised that recruiting the best global talent was a priority and that nationality was not a consideration when doing so. In terms of immigration control, feedback received from respondents was in relation to one or more of the following classifications:

- Roles considered skilled enough to be accepted under Tier 2. These roles are primarily those at RQF level 6 and above (e.g. managers and professionals). Respondents were generally confident that many of their roles met the skills threshold and would thus qualify for a Tier 2 visa where that was a requirement. Concerns around these roles were focused not on the viability of obtaining visas should that become a requirement for European citizens, but rather the cost, timeframe and administrative burden in doing so.
- Roles identified as 'Shortage Occupations' are given preferential treatment under the current immigration system. Respondents generally expressed concern that the Shortage Occupation List is not representative of the skills shortages they face in the financial and related professional services industry, and that without being brought up to date, the Shortage Occupation List would be of little use to them should European citizens require visas.
- Roles at a skill level below RQF level 6 that are not considered to be in shortage and would thus not qualify for a visa under the current Tier 2 scheme. Fewer respondents expressed a concern over these roles, but those that did voiced significant concern at the prospect of not being able to employ European citizens in these roles post-Brexit. It is important to note that a role skilled below RQF level 6 is not necessarily 'low skilled', as explained in further detail below.

The MAC has on several occasions, and on instruction from the government, assessed both the skill level of individual jobs and the impact of a skills threshold being set at a particular level.

Should European workers ultimately be required to apply for work permission under the same routes as other international workers, a major point of concern is whether they will meet the skills thresholds for sponsorship. Respondents were asked how their business makes use of roles classified below RQF level 6. The responses were mixed. Many organisations answered that they primarily employ highly skilled workers and had few or no support staff. It was a common response that functions such as facilities and catering were outsourced. Respondents were generally aware that this pool of labour could be severely impacted by Brexit and were concerned about increases in indirect costs should there be a shortage of resident labour to fill roles in future. These workers play key roles in supporting financial and related professional services firms across the country.

"We don't necessarily see customer service roles as lower skilled - our staff have excellent skills in this area."

TheCityUK member (retail banking)

However, retail banking was one area where any restriction on the ability to hire workers to perform roles skilled below RQF level 6 was a clear concern. Respondents highlighted frontline staff working in branches as being highly valued and vital to customer care.

### Costs

The cost of sponsoring visas for non-EEA nationals has increased by almost a factor of eight within less than 10 years. If the government introduces the increases proposed in its 2017 election manifesto<sup>20</sup>, costs for three year visas for a family of three will rise to over £13,000, nearly double the costs at the time of this report.

Potential cost increases for mobility budgets, if future immigration applications for European workers are to attract similar processing fees as those currently applied to non-European workers, may therefore be significant. Feedback from respondents on cost concerns was divided. Those who put greater emphasis on sourcing the best talent considered that they would generally do so regardless of the cost. However, for respondents whose talent pool was broader, for instance where prospective talent could be found in UK and EU universities, cost concerns were more prominent. There is of course a broader point about the cost of doing business in the UK in the long-term, especially if the UK's immigration system remains as it is, that needs to be considered in this context. This could have a significant impact on overall UK competitiveness.

"The costs and complexity of sponsoring UK employment visas, which have increased significantly in recent years, will continue to be an important consideration after the UK leaves the EU."

Moody's

"When you are making an investment in the right person, cost is not a prohibitive factor."

Invesco

"If the current system was replicated for EEA nationals, cost would be a worry."

Philip Edwards, Lloyd's of London

"Costs are always a concern of course, but that depends on the service you are getting. Speed and flexibility are the priority."

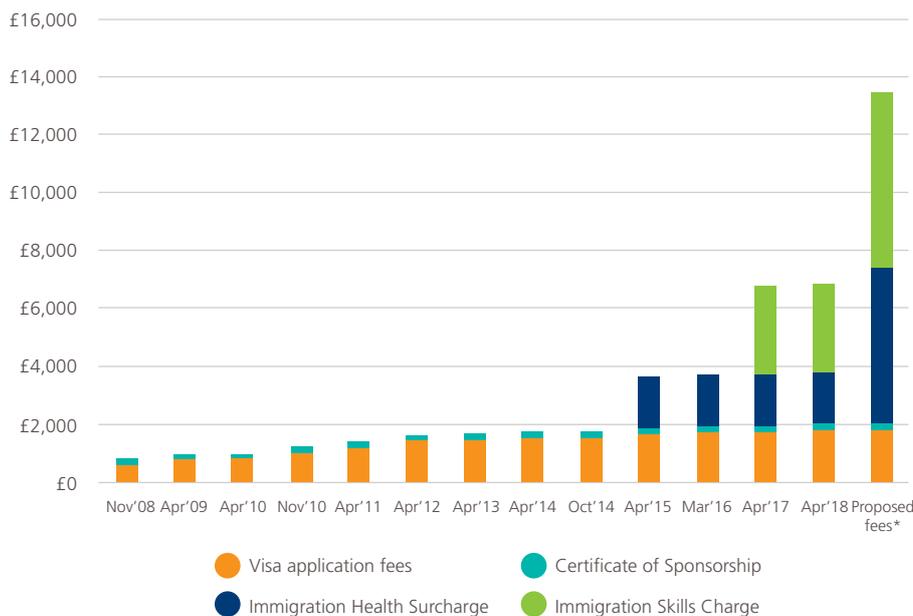
Zurich Insurance

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<sup>20</sup> Conservative Party, 'The Conservative and Unionist Party Manifesto 2017', (18 May 2017), available at: <https://www.conservatives.com/manifesto>

**Figure 16:** Fees associated with a three year Tier 2 (General) visa application submitted outside of the UK, with two accompanying family members

Source: TheCityUK and EY research



\*Proposed fees from the Conservative Party's General Election Manifesto 2017

If the existing immigration system is applied to European citizens when freedom of movement ends, we anticipate that the majority of organisations will need to at least double<sup>21</sup> their use of the Tier 2 visa category. This increase to the number of necessary visa applications, combined with the increases to visa application fees will lead to an increase in the total costs associated with accessing international talent of nearly 300%. Further detail is given below.

**Figure 17:** Potential Tier 2 visa costs for financial and related professional services

Source: EY analysis (these amounts exclude internal administration, priority fees and costs associated with the use of external vendors).

Pre-Brexit: an employer who currently submits Tier 2 applications a year for:	At a total cost of:	Post-Brexit: an employer will likely need to double the number of Tier 2 applications to include EEA workers	Leading to a total cost of:*
10 employees	£95,606	20 employees	£376,012
50 employees	£478,030	100 employees	£1,880,060
250 employees	£2,390,150	500 employees	£9,400,300

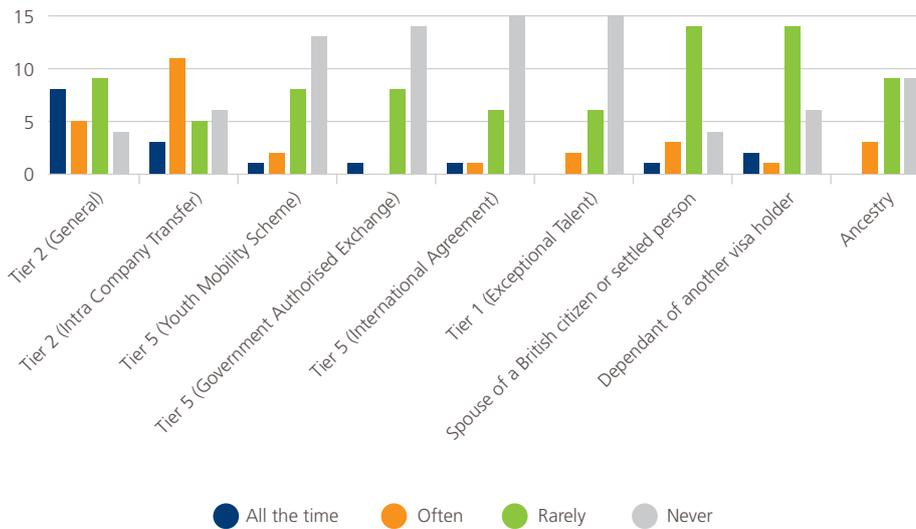
\* If the existing immigration system is applied to EEA citizens post-Brexit, we anticipate that the majority of organisations will need to at least double their use of the Tier 2 visa category. The calculation includes the proposed increases outlined in the Conservative Party's General Election Manifesto 2017. Calculations based on an application for a three year Tier 2 (General) visa with two accompanying family members to be introduced by the end of the parliament, and based on 60% of visa holders needing to extend their visa after three years.

21 On the basis that 83% of respondents who held data on the size of their EEA/Swiss and non-EEA populations have the same or higher number of EEA/Swiss employees than non-EEA employees.

### Specific concerns about the current points-based system

**Figure 18:** Breakdown of respondents, use of immigration categories

Source: TheCityUK and EY research based on 26 respondents



The Tier 2 (General) and Tier 2 (ICT) visa categories are the most frequently used immigration routes among our respondents.

### The annual limit on migration ('the cap')

"We currently find the immigration cap to be a very crude measure. We understand its purpose of course, but it is onerous and the government should consider whether it is really managed in a practical way."

Willis Towers Watson

Since April 2011, there has been an annual limit of 20,700 Tier 2 (General) visas per year. These have primarily been used by employers to sponsor visas for new hires from outside of the UK. ICTs and in-country extensions are excluded from this limit. Visas within this limit are given out to employers each month, and where that month's allocation is exceeded, applications are prioritised by a number of factors, including:

- whether the role is on the Shortage Occupation List
- whether the role is skilled to PhD level
- the salary (in absolute terms) of the role.

Where an application is refused because other applications have been prioritised ahead of it, the employer can reapply the following month, but can have no confidence that their application will be granted, as reapplications are granted equal weight to new submissions.

The two key concerns raised by respondents were as follows:

1. That the annual limit has been met consistently in 2018 and is likely to continue to be met, preventing new hires from outside the UK and Europe from obtaining visas under Tier 2.

“The fact that the cap has been met on Restricted CoS for the past few months has had a significant impact us.”

TheCityUK member (professional services)

2. That there is no indication whether the annual limit will apply to European citizens after Brexit, even if European workers are required to apply for visas under a similar or the same immigration system as non-European citizens.

### Flexibility, agility and administrative burden

“Our staffing model is based on workforce agility, getting the right employees in the right place fast is a priority.”

Oliver Wyman

Speed was frequently cited in interviews as being one of the most important factors of a successful immigration system. While some raised concerns about the speed of the current system not meeting a reasonable standard, the issues tended to be related to specific instances. There was a general understanding that government policy echoed these aspirations and that the Home Office is focusing on digitalisation with a view to improving the speed and complexity of processes. There was broad and positive support for digitalisation and many respondents hoped that this would lead to greater flexibility as well as lifting the daunting administrative burden associated with visa processes from employees at the point of application.

“We would like to see greater flexibility in the system; the administrative hurdles can be overwhelming for applicants.”

Willis Towers Watson

### Resident Labour Market Test

The Resident Labour Market Test requirement is a fundamental part of the means by which the government controls the influx of international labour by protecting the domestic workforce. The policy necessity of a function serving this purpose was widely understood and appreciated, with some respondents expressly caveating that for all the challenges with the system, the theory behind policy was broadly understood.

“Running a Resident Labour Market Test can be an onerous process, and therefore particularly restrictive with time-critical roles.”

Invesco

Nonetheless, there is little doubt that the Resident Labour Market Test is seen as a burden which hampers business critical decisions/requirements to bring migrants to the UK quickly. From an advisory perspective, this affects decisions on whether a firm should resort to Tier 2 (ICT) routes, which do not require a 28 day advertising process, but which

also ensure that the migrant worker can only be considered a temporary member of the UK workforce.

Varying the process was frequently cited as a potential positive process change: by either lowering the threshold of what constitutes a high earner (where no Resident Labour Market Test is required) or expanding the Shortage Occupation List - roles on the list are exempt from the Resident Labour Market Test requirement. Another prominent theme was that the Shortage Occupation List is not seen as relevant for the financial and related professional services industry, despite interviewees experiencing acute skills shortages in certain areas, including digital security.<sup>22</sup>

## Settlement

“Overseas secondments for UK-based employees are part of the way we upskill our staff. A more restrictive system will create challenges.”

TheCityUK member (legal services)

A number of respondents suggested that they would like to see greater flexibility in a globally competitive immigration system. One of the key areas for this was the journey to settlement for globally mobile employees who wanted to make their life in the UK. While the policy behind settlement policy was understood, the lack of flexibility regarding periods of absence overseas was reason to suggest that rules should be relaxed in certain cases. For instance, in the context of trainees or upskilling permanent employees, a number of respondents wanted to be able to offer experience in multiple offices across Europe. Absence restrictions for migrants looking to settle and those who have settled inhibited this option, and the understanding that this might extend to European citizens was a disappointing prospect.

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<sup>22</sup> Data scientists and cyber security specialists are included on the Shortage Occupation List, but only where the sponsor employs no more than 250 staff, amongst other conditions.

## Government's engagement with industry

"Seeing ideas become policy or, equally, reasons given for not taking ideas forward would build confidence and reassurance that businesses are being listened to. There should be a continuous, two-way dialogue between business and government."

Willis Towers Watson

Views from those interviewed on the government's approach to migration were fairly mixed. Negative responses tended to focus on levels of engagement - calls for transparent and two-way dialogue were almost universal. Many respondents were happy to report that their engagement with the Home Office was good, often via immigration service providers, but others expressed that it was something that could always be improved. A key theme throughout was the importance of industry feedback when designing policy.

"The current immigration system is becoming too politicised."

TheCityUK member (industry body)

"The Home Office's communication strategy with business is not working, and it is very difficult to find the relevant information when it is required."

TheCityUK member (professional services)

# A NEW APPROACH TO MANAGED MIGRATION

## An enhanced immigration system for a global workforce

We asked interviewees whether the UK's immigration system should offer preferential treatment to any group of citizens, e.g. citizens of EU Member States or Commonwealth States. The consensus among interviewees was that, subject to trade agreements and the visa routes they might create, there should be a level playing field and that the same rules should apply to all nationalities. That being said, some interviewees, particularly those with higher levels of reliance on EEA staff or a large European presence, added that there should be short to medium term preference towards EEA nationals as a way of smoothly transitioning away from freedom of movement. Under the terms of the draft withdrawal agreement between the UK and EU, the effective continuation of freedom of movement has been secured until 31 December 2020. This provides some comfort to employers who asked for a transition period before the introduction of immigration controls on European workers and avoids a 'cliff edge' scenario. Interviewees also expressed concern at the cost and administrative burden that would come with applying the existing immigration system to EEA/Swiss nationals.

"Being able to hire both EEA and non-EEA nationals is equally important to us. We are concerned, however, that the new system for EEA nationals could potentially slow down the recruitment process post-Brexit. Thus, a more digitised, efficient and user-friendly system will be key."

TheCityUK member (asset management)

In line with the feedback we received during interviews, we have turned our attention to designing an enhanced immigration system that works equally for both European and non-European citizens but improves on the UK's current system. Rather than advocating for a completely new immigration system, created from the ground up, we recommend a number of practical, implementable changes that will lead to a more flexible, streamlined system to support the business objectives of the financial and related professional services industry and the wider economy.

Many respondents were keen to express the importance of trade agreements with the EU and other countries post-Brexit, particularly in relation to trade in services and the movement of people that is necessarily associated with these services. Indeed the Prime Minister has confirmed an intention to advocate for a mobility framework that would enable UK businesses to provide services to EU based clients in person and vice versa.<sup>23</sup> Any reciprocal and beneficial visa categories implemented via trade agreements would sit above and alongside the proposals outlined in this document. Continued mutual access to talent by virtue of these agreements, including with the EU, is an important priority for the industry.

A number of common themes arose from our research. These are summarised below, and in the context of our recommendations:

## Attracting the best global talent throughout their career

See recommendations 2, 5, 6, 9

- Employers simply want the best person for the job, and to have as few restrictions as possible on their ability to hire that person. Nationality is almost always irrelevant to this dynamic, but becomes relevant to the hiring process if the UK immigration system favours certain nationalities.

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<sup>23</sup> Theresa May, 'Mansion House Speech', (2 March 2018), available at: <https://www.gov.uk/government/speeches/pm-speech-on-our-future-economic-partnership-with-the-european-union>

- The UK's immigration system should be designed to preserve the UK's reputation as a country that welcomes innovation, entrepreneurial spirit and skilled labour, at all skill levels.
- The immigration system should trust employers to identify the skills they need and where they are in short supply in the UK, streamline the immigration process.
- International students should be welcomed to the UK and, to the extent that they possess qualifications and skills on graduation that are in demand in the UK, should be encouraged to remain in the UK as part of the workforce.
- The complexity and administration associated with visa applications for the UK are often the first direct interaction an individual will have with the British state. The UK should present a welcome image to applicants via an immigration system that is straightforward, logical and easy to use.

### **Ensuring the immigration system is suitable for the future workforce and the next generation of skills**

See recommendations 2, 3, 4, 5

- Immigration policy should be connected with education policy. There should be clear methodology arising from the identification of skills shortages and taking steps to alleviate such shortages via education and training systems.
- There should be a streamlined system for identifying skills shortages that allows employers to self-report.
- The immigration system should consider the skill set and potential of visa applicants, rather than just the skill level and salary of the role they are coming to fill at the point of application.
- The immigration system needs to be suitable for the different ways in which the current generation approaches work and long-term jobs.
- International students attending UK universities present the country with a talent pool which can benefit British business. The immigration system should support the retention of key skills in the UK, particularly in STEM subjects, by offering graduates a straightforward way to join the UK's workforce.

### **Meeting the needs of the UK economy and its residents**

See recommendations 2, 7, 9

- Immigration associated with skilled sponsored workers filling skills gaps receives a high level of support from the public.<sup>24</sup> It should be examined whether policy development should be placed in the hands of an apolitical independent body.
- The operation of the immigration system should not prioritise the needs of any one UK region or home nation over another, but should be dynamic, taking into account regional variances in pay and skills shortages.
- There should be greater transparency in relation to the funds generated by the UK's immigration system and how these are used, particularly to support education and training.
- The immigration system should avoid dissuading employers from filling skills shortages with overseas talent due to the administration associated with applying for a visa.
- UK-based financial and related professional services firms need to be able to deploy people with the right skills in whatever location. Without the availability of the right technical skills in the right location, coupled with appropriate language skills, consumers

<sup>24</sup> 86% of respondents want the number of highly skilled EU citizens coming to the UK to remain the same or increase. ICM poll for British Future, (September 2017), available at: <http://www.britishfuture.org/wp-content/uploads/2017/09/Time-to-get-it-right-.pdf>

and enterprises will not receive the services they need in order to maximise their own economic opportunities. This is also true for other sectors.

### **Streamlining immigration systems and increasing flexibility for employers**

See recommendations 1, 4, 6, 8, 9

- Global employers currently rely on friction free short-term business travel between the EU and the UK. With the end of freedom of movement, it is crucial that this flexibility continues, and if possible be extended to non-European citizens.
- Employers should not be required to complete a Resident Labour Market Test where there are recognised skills shortages in the UK or where the role demands specialist overseas expertise that is extremely rare in the UK.
- Those who have settled in the UK should not be artificially forced to remain in the UK if they wish to retain their settled status and cannot apply for British citizenship. The system should be supportive of circular migration, enabling permanent residents to go on assignments overseas and retain their settled status.
- The immigration system should avoid dissuading employers from filling skills shortages with overseas talent due to the administration associated with applying for a visa.

### **Supporting the financial and related professional services industry and wider economy's need for digital skills**

See recommendations 1, 2, 3, 4, 5

- International employers should be able to bring digital experts to the UK from their overseas branches to work on short-term business critical projects at short notice, and without the need to apply for a multi-year work visa.
- Immigration policy must allow for the dynamic identification of acute skills shortages in areas such as digital security and move quickly to support employers in accessing these skills from overseas.
- Digital skills should be recognised as an indicator of adaptability in the modern economy.
- UK graduates who possess digital skills should be offered a streamlined and flexible route into the UK workforce that recognises the international demand for these graduates and seeks to retain them in the UK.

# OUR DETAILED RECOMMENDATIONS

## Recommendation 1 – a new flexible short-term immigration category

“The UK should aim to implement a system allowing temporary work in the UK that is easy and quick to use. Often, we need people to come in on a temporary basis (e.g. for project work), and the current system is not fit for purpose. If the UK wants to remain attractive, the immigration system needs to be more agile and responsive to the demands of modern business.”

Oliver Wyman

We recommend the introduction of a flexible short-term immigration category to enable international staff to transfer to their employer’s UK office for up to six months. Permissible activities should include:

- Taking up a training or work experience role in the UK to support the individual’s career within the global organisation.
- Providing short-term cover for a UK role.
- Supporting internal projects.
- Delivering services to a UK based client.

The scheme should be similar in operation to the current business travel rules, with non-visa nationals (including European citizens after the end of freedom of movement) being able to travel to the UK flexibly and quickly without obtaining a visa prior to travel.

We suggest it would be appropriate to require the UK employer to assign a Certificate of Sponsorship prior to travel, and meet certain Tier 2 criteria, e.g. a minimum salary threshold, to ensure there is sufficient oversight of the sponsored worker and the work they are undertaking. The scheme could further be regulated by controlling the number of Certificates of Sponsorship an organisation can issue under these rules. This number could be set as a certain percentage of the organisation’s headcount, or of the total number of Tier 2 visas issued by the sponsor in the last year, with a guaranteed allocation for smaller employers who are not regular users of the Tier 2 system.

### Rationale

International employers increasingly refer to a ‘global’ workforce and rely on their ability to utilise this highly agile, flexible workforce, often based in overseas branches, to fill short-term needs in the UK, including internal facing project work, short-term cover and serving clients, often at extremely short notice.

“At present, our London office relies on bringing in staff from across the EU to cover roles in the UK either whenever there is a shortfall or simply just when people go on leave. We prefer to do so rather than relying on temps because knowledge of our culture and ways of working is important to us, and it allows our staff to get experience across the board.”

TheCityUK member (legal services)

The purpose of this scheme is therefore to support temporary work placements in the UK – not to fill permanent roles. Under the current methodology for calculating net migration figures, travellers using this scheme would be excluded from these calculations on the basis that they will not be remaining in the UK for a year or more. The UK’s current immigration

regime allows Immigration Officers at airports and other ports of entry to grant Leave to Enter for up to six months without requiring the traveller to hold Entry Clearance.<sup>25</sup> The points-based system already contains provisions, within Tier 5, to allow non-visa nationals to work in the UK for up to six months with the flexibility described above.

It would be relatively straightforward to adopt the principles of the scheme outlined above in advocating for a reciprocal short-term immigration route with other EU Member States and non-EU countries. Most developed economies already have an immigration system that includes the concept of employer sponsored work permits, and the existing Schengen and business visitor rules could be adapted to permit a range of work activities, requiring only a basic certification from the in-country sponsor, similar to the UK's Certificate of Sponsorship.

Non-European citizens entering the UK as visitors are currently permitted to perform business activities including meetings, internal project work and requirements briefing. UK based training is also permitted, but it is expected to last no more than a month and be primarily class-room based.<sup>26</sup>

European citizens clearly face no such limitations on their activities in the UK at present. Short-term, informal, cross-border work within the EU is utilised regularly because it is an effective way to run a global organisation. Conversely, the current immigration rules discourage this type of activity using staff from outside the EU. Employers therefore have to choose between the agility of business visitor travel and the long-term Tier 2 visa, which permits work, but involves significantly more internal administration, delay and cost, even when issued for only six months. An alternative route to the UK is required to encourage agile and flexible movement between corporate offices within the same organisation.

### Canada – Allowing flexible short-term work without a work permit

Canada operates a short-term work permit exemption scheme, enabling qualifying foreign nationals to perform highly skilled work, e.g. management and professional activities, for up to 15 days in a six month period or 30 days in a twelve month period. Travellers who qualify under this scheme are not required to apply for work permit before travelling to Canada.

## Recommendation 2 – an independent Skills Advisory Board

We recommend the creation of an independent body, notionally entitled the Skills Advisory Board. Accountable directly to Parliament, the Skills Advisory Board would be responsible for defining various aspects of immigration policy on how to utilise skilled, employer sponsored migration to fill skills shortages in the UK. The Home Office would retain responsibility for setting high level immigration policy objectives, with the board developing policies within the framework set by the Home Office.

We would recommend that the Skills Advisory Board is formed of representatives from the education system, industry, immigration practitioners, the MAC and the Home Office, as well as a cross-party panel of MPs. The independence of the Skills Advisory Board will help 'de-politicise' policy decisions made by the board. This dynamic, combined with the varied group of stakeholders involved with key decisions will help the credibility of these decisions and policies with employers.

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<sup>25</sup> Home Office, 'Immigration Rules', (February 2016), para 23a, available at: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-1-leave-to-enter-or-stay-in-the-uk>

<sup>26</sup> Home Office, 'Visit Guidance', (11 January 2018), available at: [https://www.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/673351/Visit-guidance-v7.0EXT.PDF](https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/673351/Visit-guidance-v7.0EXT.PDF)

We further recommend that decisions on the following elements of the UK's immigration system would be within the Skills Advisory Board's remit:

- A full and thorough review of all elements of the annual limit on migration (the 'cap' – the Tier 2 General visas 'cap' currently set at 20,700 annually).<sup>27</sup>
- The formation and operation of the Shortage Occupation List – which roles are listed on the SOL and the mechanism for designating roles as being in shortage.
- Skill levels and minimum salaries associated with individual jobs, via the Standard Occupation Classification (SOC) codes.
- The skills threshold, i.e. the minimum skill level a role must meet in order to qualify for sponsorship – currently RQF level 6, but historically RQF level 3 and RQF level 4.
- The appropriateness of the Resident Labour Market Test, its requirements and enforcement.
- Any other factors used to promote or control the level of skilled immigration into the UK, e.g. prioritisation of certain skillsets or qualifications, or targeted promotion of the UK as a destination for the best global talent in an international labour market.
- Connecting immigration policy, particularly in areas of skills shortages, with education policy. This will promote a continuous feedback loop covering the recognition of skills shortages and the development and implementation of education policy to rectify these shortages, including assessment of the lead time involved.

We envisage it will continue to be appropriate for the MAC to conduct statistical analysis to advise on the above, potentially by commission from the Skills Advisory Board.

## Rationale

It has been apparent for some time that the public has a more nuanced view on immigration than a simple net migration figure, published quarterly, can inform.<sup>28</sup> Indeed, many commentators<sup>29</sup> have for some time been suggesting the delineation of various categories of migration, including skilled migration, students, family migration, and resettled refugees, both in terms of monitoring/controlling numbers and in setting appropriate policy. The creation of an independent Skills Advisory Board, responsible for skilled, employer sponsored migration would enable more effective policy making and is likely to encourage a greater level of trust from employers and the public.

"The electorate know that getting skilled people to the UK is good. They do not fear the highly skilled who come to contribute to the economy."

TheCityUK member (market infrastructure)

<sup>27</sup> A full explanation of the 'cap' can be found on page 34

<sup>28</sup> 86% of respondents want the number of highly skilled EU citizens coming to the UK to remain the same or increase. This falls to 36% for low-skilled EU citizens – ICM poll for British Future, (September 2017), available at: <http://www.britishfuture.org/wp-content/uploads/2017/09/Time-to-get-it-right-.pdf>

<sup>29</sup> Including The IPPR Commission on Economic Justice, 'An Immigration Strategy for the UK', (December 2017), available at: [https://www.ippr.org/files/2017-12/1512398373\\_cej-an-immigration-strategy-for-the-uk-december2017.pdf](https://www.ippr.org/files/2017-12/1512398373_cej-an-immigration-strategy-for-the-uk-december2017.pdf)

### MAC migration survey results

The MAC reported (in 2017) that generally people want to see migration numbers reduced: 77% chose either 'reduced a lot' or 'reduced a little'; but at the same time the public is becoming more sensitive to distinguishing certain aspects of immigration which can have a positive effect: two thirds (65%) of people in 2014 note that educational qualifications, work skills and English language skills are all important requirements when selecting migrants – up from half (49%) of people in 2002 ([www.europeansocialsurvey.org](http://www.europeansocialsurvey.org)).

### Australia – not all immigration is the same

The Australian immigration system includes distinct targets for different types of migration, including skilled, family and special eligibility. The size and composition of the Migration Programme is set each year through the Australian government's budget process. It is informed following broad public consultations with stakeholders, including business and community groups from all states and territories. Community views, economic and labour force forecasts, international research, net overseas migration and economic and fiscal modelling are all taken into account when planning the programme. Australia also operates a separate humanitarian immigration programme.

Tier 2 of the current points-based system, which covers skilled, employer sponsored migration, is, at its core, a set of objective rules. These rules relate to minimum salary thresholds, minimum skill thresholds and the Shortage Occupation List, to name a few.

By way of an example, UK employers can only sponsor a non-EEA national to apply for a Tier 2 visa where the role is:

- skilled to RQF level 6 or above, as defined in the SOC codes
- on the Shortage Occupation List
- one of a very limited list of creative roles.

The designated skill level of any particular role is therefore extremely important. If a particular job does not fit into one of the categories listed above, perhaps because it is skilled to RQF level 4, it is simply impossible to sponsor a non-EEA national for a Tier 2 visa to fill that role, regardless of how high the salary is or how reasonable and pressing the employer's need. The MAC was last asked to examine the skill levels of the SOC codes in 2012, and these were determined with reference to three factors:

- Median earnings (of workers in each occupation).
- The percent of workers in each occupation with a Bachelor's degree or equivalent.
- The skill level designation of the role within the ONS' SOC2010 dataset, itself based on research from the decade to 2010.

When considering the UK's rapidly changing economy, particularly in areas related to technology, it is not difficult to imagine significant changes in the factors, e.g. median salaries, that determine the 'skill level' of a particular role, and therefore the viability of filling that role with a sponsored skilled worker from outside the EU. Setting rigid rules every five to 10 years runs a very real risk that these rules will be out of date and inappropriate for a significant period of time.

The MAC acts on commission from the government – it is not within their remit to speculatively re-examine issues such as the one identified above.

This is one example of how immigration policy can rapidly become outdated and fail to reflect the needs of the economy. The Tier 2 immigration system contains many other rules and requirements, the operation of which are considered infrequently, including the Shortage Occupation List, and the Resident Labour Market Test.

Clearly the UK's departure from the EU and the end of freedom of movement has the potential to cause significant changes to the UK's workforce, on both supply and demand sides. Many employers have expressed concern at the prospect of applying the current points-based system to new European citizens coming to the UK post-Brexit. Much of this relates to genuine uncertainty and apprehension that the mechanisms by which Tier 2 operates might not be appropriate for the UK post-Brexit.

Concerns regarding the annual limit on migration (the 'cap' – the Tier 2 General visas 'cap' currently set at 20,700 annually) have been brought into sharp focus over the last six months – for the first time in several years, monthly allocations are being exceeded and employers are left unable to sponsor non-EEA nationals on lower salaries. The MAC published an assessment on the impact of a proposed limit on Tier 2 of the points-based system in November 2010, and suggested that a limit in the range of 29,400 to 32,600 in 2011-2012 would support the government's objectives to significantly reduce the net migration figures. This calculation came with the following caveat:

"Taken literally, the government's objective would imply stricter limits on non-EEA migration if, for instance, Bulgarians and Romanians gaining free access to the UK labour market leads to an increase in net EU migration from those countries. The reverse logic would also apply if net EU migration fell."<sup>30</sup>

The Migration Advisory Committee

It goes without saying that it would not be appropriate to apply this limit to European citizens filling skilled roles in the UK without extensive assessment of the current immigration and economic landscape. Where accurate forecasting of the effect Brexit will have on European citizens moving to the UK proves difficult, extreme caution should be applied when designing policy based on such data.

It is our view that the application of immigration rules to European citizens is a significant undertaking, and one that should be approached with a broad base of support, with a wider range of stakeholders actively involved in the ongoing development of immigration policy throughout the transition period and beyond.

### Recommendation 3 – a new perspective on skills

We recommend a modification of the Immigration Rules to enable employers to sponsor visas for medium skilled roles<sup>31</sup> such as financial technicians, trainers and retail staff that do not currently qualify for sponsorship in the following circumstances:

- Where the applicant possesses additional skills, experience or qualifications that are in high demand in the UK.
- Where the applicant's salary will be significantly higher than the median salary for that occupation, e.g. around the 75th percentile.

<sup>30</sup> Migration Advisory Committee, 'Limits on Migration', (December 2010), available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257257/report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/257257/report.pdf)

<sup>31</sup> E.g. those skilled to RQF level 3 and RQF level 4

These 'top-up' characteristics would be set by the Skills Advisory Board on an annual basis, in consultation with industry, to reflect individual skills that are in high demand. From our findings, these could include:

- digital skills
- a degree in a STEM subject
- multilingualism.

The ability to sponsor visas for medium skilled roles where the applicant has additional in-demand skills<sup>32</sup> or qualifications will offer employers a greater level of flexibility when staffing a wider range of roles throughout their organisations and recognises the potential that new graduates (who will often start their career in a medium, rather than a highly skilled, role) can bring to the UK.

### Canada – A personal approach

Canada's Express Entry system is a case management system designed to attract highly skilled workers by promising to complete their application for permanent residence within six months or less. Applicants are assessed using a system that awards points for age, language skills, experience, and level of education, among other human capital factors.

We envisage that the current requirement to advertise the role to show that there are no suitable settled workers will continue to apply, and in these cases, it will be necessary to show why these 'top-up' characteristics are important to the role. Exemptions from the advertising requirement will continue to exist in the following circumstances:

- ICT
- UK graduates applying for sponsorship
- high earners (currently circa £160k)
- Where the role is on one of the Shortage Occupation Lists described in recommendation 4 on the next page.

### Rationale

Under Tier 2 of the current points-based system – the immigration system in place for non-EEA nationals – a role only qualifies for sponsorship where:

- the role is skilled to RQF level 6 or above (e.g. managers, professionals)
- the role is on the Shortage Occupation List
- the role is one of five creative sector jobs (e.g. actors, authors, dancers and product designers).

Historically, employers have had the ability to sponsor visas for roles skilled at RQF level 3 (e.g. administrative roles, customer service roles and skilled trades) and RQF level 4 (e.g. non-corporate managers, creative and technician roles). RQF level 3 roles were removed for new applications in 2011, and RQF level 4 roles in 2012.

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<sup>32</sup> Specific roles that remain in shortage will be accommodated by the shortage occupation lists described in recommendation 4 below.

A clear rationale for removing employers' ability to sponsor visas for these roles was the availability of settled workers, including EEA and Swiss citizens, to fill such positions. Clearly, Brexit will impact this dynamic. While the current draft of the withdrawal agreement permits existing EEA and Swiss residents (and those arriving during the transition period) to stay indefinitely, the resident workforce of EEA and Swiss citizens available to fill these roles is subject to attrition:

- From EEA and Swiss citizens deciding to leave the UK. Data published since the EU referendum suggests this is increasing.<sup>33</sup>
- From EEA and Swiss citizens progressing in their careers, perhaps to fill higher skilled roles, thereby creating vacancies in previously held positions.

In addition, as unemployment in the UK is at its lowest level since 1975<sup>34</sup> the availability of the resident workforce as a whole to fill these roles is reduced.

Applying this same skills threshold to EEA and Swiss nationals arriving post-Brexit<sup>35</sup> without extensive assessment of its impact, is an immediate risk to business following Brexit. Our research has highlighted that retail banks are concerned about the difficulties an RQF level 6 skills threshold could pose, particularly on their ability to staff front-line, customer facing positions in retail branches. Interviewees often explained this concern by adding that their recruitment methods are focused on identifying candidates that have high levels of potential, particularly in the area of digital skills, and in-demand qualities such as being multilingual.

"Our facility based in Shoreham supports our consumer travel business, and is reliant on access to French and Italian Language skills of a sufficient standard to support our French and Italian customers. This includes staffing various roles ranging from medical case managers, doctors, claims handlers, medical assistance coordinators, complaint handlers, team leaders and customer service representatives."

AIG Europe Ltd

#### **Recommendation 4 – an appropriate and Dynamic Shortage Occupation List**

We recommend the introduction of a new 'dynamic' Shortage Occupation List to provide employers with a straightforward mechanism by which they can report acute skills shortages. After an independent assessment of the facts in line with a set of agreed criteria, where appropriate, the role can be added to the Dynamic Shortage Occupation List (DSOL). The key feature of the DSOL will be a more streamlined approach to considering roles for inclusion, based on a clear, concise set of criteria that employers can understand and demonstrate themselves without requiring thorough analysis of national data sets.

We recommend that this streamlined approach to considering applications – to include a role on the Dynamic Shortage Occupation List – be supported by trade and industry bodies. These bodies are ideally placed to comment on skills shortages faced by their members.

33 Office for National Statistics, 'Long-Term International Migration', (22 February 2018), available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/migrationstatisticsquarterlyreportprovisionallongterminternationalmigration/timestimates>

34 UK unemployment is at 4.3% (seasonally adjusted) as of Q4 2017 – the lowest since 1975. Office for National Statistics, 'Labour Market Statistics', (17 April 2018), available at: <https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/unemployment/timeseries/mgsx/lms>

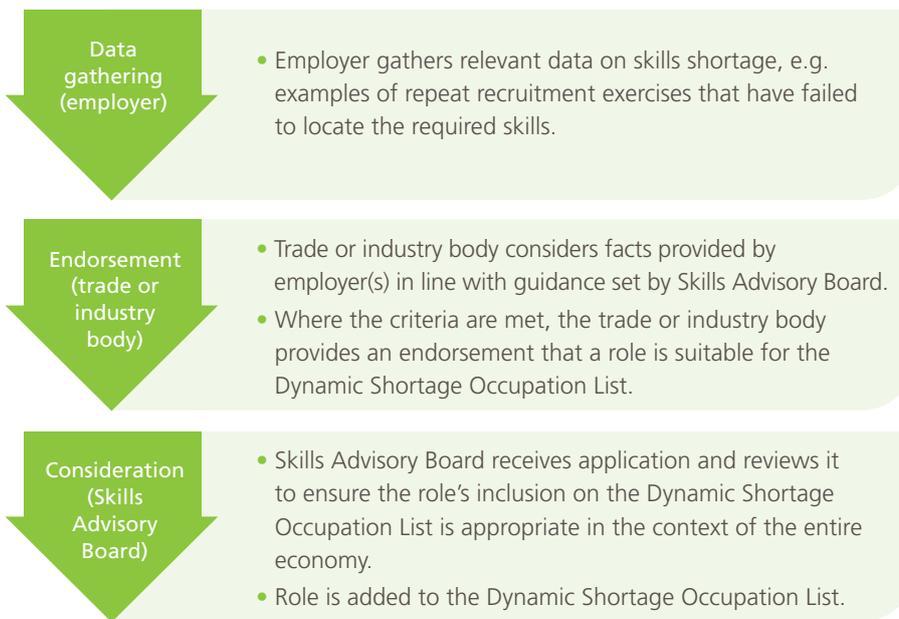
35 E.g. after the agreed transition period, from January 2021.

### Delegated responsibility

As an established part of the current points-based system, the Home Office delegates responsibility for endorsing applications in the following immigration categories:

- **Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting)**, 60 sports governing bodies provide endorsements on whether the applicant is an elite sportsperson.
- **Tier 1 (Exceptional) talent** – five competent bodies (e.g. Arts Council, Tech Nation) provide endorsements on whether the applicant is a world leader, or potential world leader, in their field.

Our preferred approach is detailed below:



We anticipate that the process described above should take one-two months between identifying a skills shortage and it appearing on the Dynamic Shortage Occupation List. It is envisaged that the existing Shortage Occupation List will remain in place, and will focus on long-term shortages, perhaps renamed the Long-term Shortage Occupation List. Thorough economic analysis is still appropriate for this type of shortage and the Migration Advisory Committee has recently updated its methodology for assessing skills shortages.<sup>36</sup>

While a quicker, streamlined approach to recognising skills shortages will benefit employers who use the system, we recognise that in many cases, it will not be appropriate for the role to remain on the Dynamic Shortage Occupation List indefinitely. We propose a system for renewing a role's presence on the Dynamic Shortage Occupation List as follows:

1. Once a role has been on the Dynamic Shortage Occupation List for nine months, the Skills Advisory Board contacts employers who have sponsored migrant workers in that specific role, to ask if the role's inclusion on the Dynamic Shortage Occupation List should be renewed for a further 12 months.

<sup>36</sup> Migration Advisory Committee, 'Assessing labour market shortages', (January 2017), available at: [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/586110/2017\\_01\\_26\\_MAC\\_report\\_Assessing\\_Labour\\_Market\\_Shortages.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/586110/2017_01_26_MAC_report_Assessing_Labour_Market_Shortages.pdf)

2. Employers then have three months to consider the status of the ongoing skills shortage and either request that the role be renewed (providing evidence and a trade or industry body endorsement) or allow it to lapse after 12 months.
3. Where the inclusion is renewed for a further 12 months, the Skills Advisory Board, and/or the MAC (as appropriate) will be asked to consider the role's inclusion on the long-term Shortage Occupation List.

### Rationale

In our second recommendation, we discuss the pressing need for a detailed reassessment of various aspects of Tier 2 of the points-based system, including the Shortage Occupation List, and how it would be appropriate for that reassessment to be performed, or overseen, by an independent Skills Advisory Board.

The significance of a role being placed on the Shortage Occupation List is threefold:

- Employers are not expected to spend a month advertising the role to show that there are no suitably skilled settled workers, i.e. the Resident Labour Market Test.
- Exemption from the otherwise mandatory RQF level 6 skills threshold, i.e. RQF level 3 and RQF level 4 roles that are on the Shortage Occupation List qualify for sponsorship, whereas other roles at these skills levels do not.
- Prioritisation in the allocation of Restricted Certificates of Sponsorship in the annual limit on migration.

As a result, the accuracy and relevance of the Shortage Occupation List is of particular importance to employers. Throughout our research, employers frequently made reference to the Shortage Occupation List not being relevant to the financial and related professional services industry and not being kept up to date.

The current Shortage Occupation List does not include any specific financial services roles. Data scientists and cyber security specialists are included on the list, but only where the sponsor employs no more than 250 staff, amongst other conditions. Qualified actuaries were included on the list until 2013.

"The government needs to do much more work on SOC codes, particularly in the area of finance. They need to be simplified, they need to be relevant and they need to be flexible."

TheCityUK member (retail banking)

In particular, several respondents identified an acute shortage of digital security experts, with the additional comment that demand for these skills, especially within the financial services sector, has increased rapidly over the last few years.

"We are experiencing financial crime and data scientist skills shortages... We are two-three years behind other sectors on the battle ground for digital talent – that is the key skillset for the future."

TheCityUK member (retail banking)

As of publication, the Shortage Occupation List includes roles within 34 specific SOC codes, although the majority of these roles are very specific, e.g. mechanical engineers, only where they work in the Oil & Gas industry. The 'Scotland only' Shortage Occupation List includes a small number of additional medical roles. The MAC was last commissioned to review the entire Shortage Occupation List in 2012/2013 and has completed reviews of several specific roles since then, including teachers, nurses, chefs and graduate occupations in the digital technology sector.

Although the methodologies for assessing skills shortages have been reviewed as recently as 2017<sup>37</sup>, the underlying issue identified above remains. The mechanism for adding new roles to the Shortage Occupation List and reviewing those roles already on the list is not efficient enough, or not used sufficiently frequently, to maintain a Shortage Occupation List that is truly representative of the economy's needs.

### The New Zealand Shortage Occupation List

New Zealand currently operates a Long-Term Skill Shortage List, and an Immediate Skill Shortage List. For a role to be placed on the Long-Term list, there must be a local and international shortage in this occupation, affecting all regions of New Zealand. For a role to be placed on the Short-Term list, there must be an obvious shortage of workers in this occupation throughout, or in certain regions of New Zealand.

There is a defined, accessible route for employers to nominate roles for addition to the skill shortage lists, which includes requirements to demonstrate that the addition has the support of an industry body or professional organisation and that the shortage is significant. A significant skill shortage is one that requires for 50 or more work visas per year. The New Zealand Ministry of Business, Innovation and Employment reviews the Long-Term and Immediate Skill shortage lists each year.

### Recommendation 5 – welcoming and retaining overseas students

We recommend the introduction of a STEM Post-Study Work visa scheme to enable graduates in STEM subjects to work in the UK for up to two years after graduation. Holders of this visa would not require sponsorship from an employer but would be expected to work in a STEM field for at least 12 months during the two year validity of the visa, either as an employee or contractor. Compliance with these requirements would be reviewed when the applicant switches into a different visa category (e.g. Tier 2) after two years – a similar retrospective compliance review system already exists within the Tier 1 (Entrepreneur) and Tier 1 (Investor) visa categories.<sup>38</sup>

The ability to remain in the UK and work here after graduation has long been recognised as a significant draw to international students considering studying in the UK. The impact of the closure of the Tier 1 (Post-Study Work) visa category on international student numbers was considered at length in the years after 2012, including a detailed discussion by the All Party Parliamentary Group on migration in 2015.<sup>39</sup> The exact impact was difficult to discern, in part because an ability to remain in the UK and work here is only one of many pull factors.

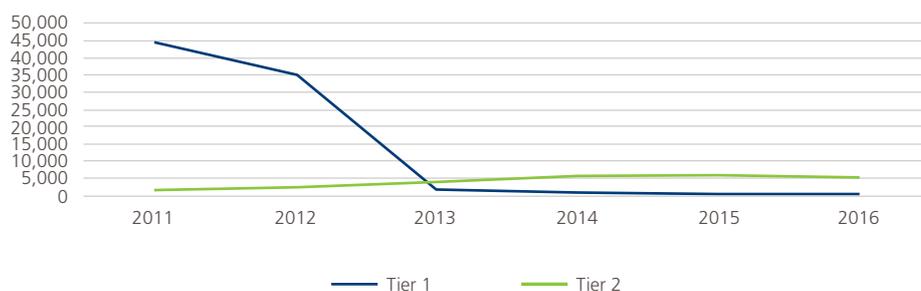
37 Migration Advisory Committee, 'Assessing labour market shortages' (January 2017), available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/586110/2017\\_01\\_26\\_MAC\\_report\\_Assessing\\_Labour\\_Market\\_Shortages.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/586110/2017_01_26_MAC_report_Assessing_Labour_Market_Shortages.pdf)

38 A Post-Study Work scheme for STEM graduates has also been recommended by The IPPR Commission on Economic Justice, 'An Immigration Strategy for the UK', (December 2017), available at: [https://www.ippr.org/files/2017-12/1512398373\\_cej-an-immigration-strategy-for-the-uk-december2017.pdf](https://www.ippr.org/files/2017-12/1512398373_cej-an-immigration-strategy-for-the-uk-december2017.pdf)

39 All-Party Parliamentary Group on migration, 'UK post study work opportunities for international students', (24 February 2015), available at: [https://web.archive.org/web/20150528192345/http://www.appgmigration.org.uk:80/sites/default/files/APPG\\_PSW\\_Inquiry\\_Report-FINAL.pdf](https://web.archive.org/web/20150528192345/http://www.appgmigration.org.uk:80/sites/default/files/APPG_PSW_Inquiry_Report-FINAL.pdf)

**Figure 19:** Students switching to work based visa categories inside the UK

Source: Immigration statistics, Office for National Statistics



We would also recommend further research on the impact that introducing immigration restrictions on European citizens will have on those moving to the UK to study here. Any change to the level of tuition fees payable by EU students will likely have a significant impact on numbers, but the ability to remain in the UK and work here should also be considered as an important attraction of the UK.

## Rationale

Addressing skills shortages is one of the key aims in seeking to attract global talent to the UK. The role of immigration for this purpose must sit alongside ongoing efforts to upskill the UK's domestic workforce to reduce these skills shortages. It is therefore crucial to link immigration policy with the UK's education policy and the frameworks in place to train and develop skills from within.

*"Education and training must be linked to the immigration system. Decisions to disconnect Tier 4 students from employment risk damaging employers' access to talent."*

TheCityUK member (retail banking)

The UK's immigration system has been designed to attract the best global talent, not just to employment in the UK, but also to UK universities. While beyond the scope of this report, it is widely acknowledged that international students (from outside the EU) support the UK higher education sector by virtue of higher tuition fees. It is not yet clear whether European students will be required to pay higher tuition fees from 2021. Regardless, continuing to attract international students to the UK is clearly important for the higher education sector and UK employers who benefit from a pool of high-calibre graduates.

*"UK universities are central to our recruitment and it is important that they stay attractive to EEA students after Brexit."*

Oliver Wyman

While the government's role in preventing abuse of the system was a justification for closing the Tier 1 Post-Study route, the solution need not be a binary one – a scheme open to abuse or no scheme at all. Identifying STEM subjects as an important area for development in both UK universities and UK business presents a good opportunity for implementing a post-study route targeted and monitored to widen the pool of tech and digital skills available to UK employers.

When referring to a global pool of talent, many of the respondents in our interviews specifically mentioned the global talent already available in the UK, originating from UK universities, including over 450,000 international migrants at UK universities, seeking UK qualifications<sup>40</sup>. The UK Council for International Student Affairs reported this year that around 42% of international students in the UK study either business or technology related subjects. In considering how to genuinely attract the best global talent, retaining this 'captive' talent must be a significant objective.

"Digital skills are generally less available in the UK; financial services is moving more and more towards digital and there is a clear need to pay more attention upskilling in this area."

Standard Life Aberdeen

### **Recommendation 6 – a branch of Tier 2 for specialist overseas experts**

We recommend the introduction of a provision within Tier 2 of the points-based system to allow exemption from the Resident Labour Market Test where the UK role requires specialist overseas expertise. Examples of qualifying specialist overseas expertise could include:

- regulatory experience in a specific overseas jurisdiction
- designation as a qualified practitioner in an overseas jurisdiction, e.g. law, accountancy
- experience of a specific overseas financial market.

We would recommend that the Skills Advisory Board develop guidance on what constitutes 'specialist overseas expertise', and that employers are trusted to make an appropriate assessment of whether any given hire complies with this guidance and is thus exempt from requiring a Resident Labour Market Test.

### **Rationale**

As mentioned earlier in this report, before sponsoring a visa under Tier 2 of the existing points-based system an employer may be required to complete a Resident Labour Market Test.<sup>41</sup> This involves advertising a role for 28 days on two websites, one of which should normally be the Jobcentre website, to show that there are no suitable settled workers who meet the requirements of the role.

"Carrying out the Resident Labour Market Test is just another 28 day period of delay from our perspective, the process seems fairly out of date."

TheCityUK member (insurance)

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<sup>40</sup> UK Council for International Student Affairs, 'International student statistics: UK higher education', (3 April 2018), available at: <https://ukcisa.org.uk/Research--Policy/Statistics/International-student-statistics-UK-higher-education>

<sup>41</sup> A Resident Labour Market Test is not required where the role is on the Shortage Occupation List, where the applicant is a high earner, where the application is an Intra-Company Transfer or where a UK graduate is applying for sponsorship.

Throughout our research, it has been mentioned repeatedly that employers in the financial and related professional services industry look to employ people from overseas not just because of internal mobility or skills shortages in the UK, but because they possess skills or experience that is objectively, extremely rare in the UK. Examples include:

- regulatory experience in a specific jurisdiction
- experience of a specific overseas financial market.

The current immigration system does not recognise nor accommodate this dynamic, and instead requires employers to conduct a Resident Labour Market Test to show there are no suitable settled workers who could do the job. Many employers commented that the existing approach was simply not appropriate to this particular category of hire – typically identified as a ‘key individual with specialist overseas skills which simply cannot be gained in the UK’. These hires can prompt further recruitment from the resident labour market because they often increase the employer’s capacity to deliver services, either in terms of volume or scope. Delays in the prompt recruitment of such candidates puts growth at risk. In an internationally competitive labour market, sponsors may risk losing the candidate to an employer in another country with a more expedient immigration system.

“The time it can take to on-board a new member of staff who requires sponsorship can cause uncertainty, especially when an Resident Labour Market Test is required.”

TheCityUK member (professional services)

### Recommendation 7 – avoiding regional bias

“The ability to employ the right skills in the right location is a key priority for financial and related professional services firms across the country. As the UK and the EU negotiate the terms of Brexit, it is important to ensure the UK has an immigration system that is flexible and dynamic enough to allow all parts of the UK’s ecosystem to thrive, regardless of whether they are located in Belfast, Cardiff or Leeds.”

Chris Hearld, North Region Chairman and Leeds Office Senior Partner, KPMG and TheCityUK City Chair for Leeds

Further to our second recommendation listed above and the full and thorough review of the annual limit on migration (the ‘cap’ - the Tier 2 General visas ‘cap’ currently set at 20,700 annually), we also recommend an immediate change to the annual limit to address the status quo. The mechanism by which the annual limit is operated should be altered to compensate for lower average salaries outside of London and the South East, and thus reduce hiring anomalies and regional bias.

We suggest the adoption of a set of Regional Earnings Modifiers that can be applied to applications submitted under the annual limit. These uprating figures should be determined on an annual basis, perhaps by the Skills Advisory Board or MAC, by assessing average earnings on a regional basis. Particular weighting should be given to salary data for roles skilled to RQF level 3 or above, i.e. those that could qualify for visas.

### Reliable data on regional earnings

It is recognised that the viability of the system we have proposed is largely dependent on the quality of data on regional pay variations. The Home Office currently utilises the Annual Survey of Hours and Earnings to set minimum salary thresholds for various occupations<sup>42</sup> for immigration purposes.<sup>43</sup> This dataset does include a regional component and may represent a good starting point, highlighting any obvious omissions or anomalies which may necessitate further research.

For example, should a determination be made that on average, relevant roles in Northern Ireland receive salaries 20% lower than the same roles in London, the Regional Earnings Modifier for Northern Ireland would be 1.25. All applications submitted for such a role based in Northern Ireland would be assessed and prioritised as if the salary associated with the role were multiplied by a factor of 1.25.

The recommendation detailed above would be straightforward to implement and compliance could be monitored via the existing Tier 2 sponsor duties and Home Office audit regime. Employers are already required to report changes to primary office location via the Sponsor Management System, and where a visa holder who was approved under the annual limit by virtue of a Regional Earnings Modifier moves location to a different region (e.g. from Northern Ireland to London), the employer would be expected to increase the individual's salary in line with the earnings modifier.

### Rationale

There has been much commentary on the benefits and viability of a regional immigration system.<sup>44</sup> The MAC is currently considering evidence on this issue as part of its ongoing consultation on the economic and social impacts of the UK's exit from the EU and how the UK's immigration system should be aligned with a modern industrial strategy.<sup>45</sup>

We have chosen to focus on one particular aspect of the current immigration system which is creating challenges for regional employers, especially since December 2017 – the annual limit on immigration.

### The annual limit

Since April 2011, there has been an annual limit of 20,700 Tier 2 General visas per year, primarily used by employers to sponsor visas for new hires from outside of the UK. Intra-company transfers and in-country extensions are excluded from this limit. Visas within this limit are given out to employers each month, and where that month's allocation is exceeded, applications are prioritised by a number of factors, including:

- whether the role is on the Shortage Occupation List
- whether the role is skilled to PhD level
- the salary (in absolute terms) of the role.

Where an application is refused because other applications have been prioritised ahead of it, the employer can reapply the following month, but can have no confidence that their application will be granted, as reapplications are granted equal weight to new applications.

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42 Office for National Statistics, 'Annual Survey of Hours and Earnings: 2017', available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2017provisionaland2016revisedresults#main-points>

43 Home Office, 'Appendix J of the Immigration Rules', (February 2016), available at: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-j-codes-of-practice-for-skilled-work>

44 The City of London Corporation/ PwC, 'Regional Visas – A unique immigration solution?', (20 October 2016), available at <https://www.cityoflondon.gov.uk/business/economic-research-and-information/research-publications/Documents/research-2016/regional-visas.pdf>

45 Migration Advisory Committee, 'EEA workers in the UK labour market: interim update', (27 March 2018), available at: <https://www.gov.uk/Government/publications/eea-workers-in-the-uk-labour-market-interim-update>

Since December 2017, monthly allocations have been exceeded and applications for non-shortage occupation, non-PhD roles with salaries below £50,000 have been repeatedly refused. While limiting the number of successful applications under this route is clearly a policy objective of the limit's introduction, what is especially concerning is the anomalies created by the manner in which the limit operates.

By way of an example, an employer wishes to sponsor non-EEA workers to fill two comparable roles in their organisation, having completed Resident Labour Market Tests and found that there are no suitable settled workers:

- a HR director in London, earning £55,000 per annum
- a HR director in Belfast, earning £39,000 per annum

Both salaries are, for the purposes of this example, in line with market rates in each location as well as exceeding the minimum salary thresholds associated with the visa category and SOC<sup>46</sup> codes.

The roles may be identical in terms of requirements and duties, but over the last six months, the employer would have had their application to sponsor the role in London approved, and their application to sponsor the role in Belfast repeatedly refused. The employer has no guarantee that it will ever be approved.

The current mechanism by which the annual limit operates therefore has the unintended consequence of prioritising roles based in London and the South East, which will, on average, command higher salaries. Such prioritisation risks frustrating attempts to invest in job creation in other areas of the UK.

The research found that 30% of respondents to our online survey confirmed that they face difficulties in engaging non-EEA staff to work in regions outside of London and the South East. Of those employers who have faced issues, 60% identified obtaining Restricted Certificates of Sponsorship via the annual limit as a cause.

### **Recommendation 8 – extending the validity of Indefinite Leave to Remain**

We recommend an extension to the period during which Indefinite Leave to Remain status can be retained while outside the UK, from two to five years. This change should apply to all non-European citizens who currently hold ILR and those who obtain ILR status going forwards, including EU citizens not covered under the withdrawal agreement, as discussed below. The implementation of our recommendation would inevitably lead to employees being less concerned about losing their ILR status as a result of overseas assignments for up to five years, increasing the flexibility of employers' workforces, and encouraging 'circular migration'.<sup>47</sup>

<sup>46</sup> Home Office, 'Immigration Rules Appendix J: codes of practice for skilled work', (6 April 2018), available at: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-j-codes-of-practice-for-skilled-work>

<sup>47</sup> For a more detailed explanation of the concept of 'circular migration', useful resources include: <http://www.ilpa.org.uk/data/resources/33112/17.02.24-ILPA-to-APPG-re-Brexit.pdf> and [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/circular-migration/27\\_united\\_kingdom\\_national\\_report\\_circular\\_migration\\_final\\_version\\_15\\_april\\_2011\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/27_united_kingdom_national_report_circular_migration_final_version_15_april_2011_en.pdf)

### Canadian Permanent Residence

Holders of Canadian Permanent Residence can maintain their status by residing in Canada for at least two years within a five-year period. Loss of Permanent Residence status can also be avoided where the holder is travelling with a Canadian spouse or partner, or is the employee of a Canadian company.

As part of the draft withdrawal agreement, negotiators representing the UK and EU have agreed that EU citizens who acquire settled status<sup>48</sup> in the UK post-Brexit may retain this status for up to five years while outside of the UK. On the basis that this policy will apply to approximately 3m EU citizens<sup>49</sup>, it would seem reasonable to extend this principle to non-EU citizens and permit them to retain ILR status during absences of up to five years.

### Rationale

A significant number of non-European citizens apply for ILR<sup>50</sup> in the UK each year.<sup>51</sup> This reflects the findings of our research, which highlighted aspects of long-term residence such as schooling as being key in attracting the best global talent to the UK. Non-European citizens can generally qualify for Indefinite Leave to Remain after five years of working in the UK, and once obtained, holders typically fall into one of two groups:

1. Those who wish to apply for British citizenship as soon as possible, typically after holding ILR for 12 months.
2. Those who cannot apply for British citizenship without renouncing other nationalities. Notable examples of countries which do not permit dual citizenship include India, China, Japan and Singapore.

Those who decide not to renounce their other nationality may retain ILR indefinitely, provided they do not leave the UK for more than two years. Residing outside of the UK for more than two years typically leads to loss of ILR status. The non-European citizen would thus need to apply for a new work visa before returning to the UK, starting another five year journey to achieving ILR status. This inflexibility can discourage non-European citizens from accepting assignments outside the UK with their employer where there is a risk that the assignment will result in the loss of ILR status. This is often particularly relevant for families who have ILR, and who would prefer to be able to return to the UK after a temporary overseas assignment to benefit from the UK's education system. In turn, this limits the flexibility that employers look for from their global workforce, as discussed earlier in this report. This flexibility will be of even greater importance in a post-Brexit outcome in which many firms may have greater distribution of their operations across many international locations.

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48 Previously termed 'Permanent Residence' and equivalent to Indefinite Leave to Remain.

49 Office for National Statistics, 'Population of the UK by country of birth and nationality', (30 November 2017), available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality>

50 Often referred to as Permanent Residence

51 63,941 people were granted permission to stay permanently in the UK in 2017, 5% more than in the previous year. This is low relative to the year ending September 2010 (241,586). Home Office, 'Summary of latest statistics', (21 March 2018), available at: <https://www.gov.uk/Government/publications/immigration-statistics-october-to-december-2017/summary-of-latest-statistics>

## Recommendation 9 – a streamlined immigration system: controlling and reducing the administrative burden on employers and applicants

We recommend that the Home Office adopts and maintains a consistent approach to controlling and reducing the administration associated with the UK's immigration systems. It is important to recognise and welcome the significant improvements introduced by the Home Office over the last few years, and ongoing commitment to digitalisation, as detailed in our rationale below. Going forward, there are several key areas where we believe there is opportunity to reduce levels of administration without opening the system to abuse:

- Closer integration between UK Visas & Immigration and the commercial third parties that deliver various customer-facing functions within the immigration system. Increased levels of training and oversight will ensure that applicants and employers experience higher levels of service, consistency and predictability.
- Greater visibility for applicants, their employers and representatives on the current status of any given application and its projected processing time based on current, case volumes and staffing.
- A more flexible approach to supporting documentation such as bank statements and payslips, that recognises that applicants usually receive this type of documentation electronically rather than in 'original' hard copy.
- Careful consideration of any new guidance or rules introduced for the purpose of avoiding abuse. While it is important that compliance with the Immigration Rules is monitored, with significant penalties for those found to be in breach, it is equally important that compliant use of the immigration system is not frustrated for the vast majority of applicants and employers. The Home Office should perform impact assessments for policy changes.

Any requirement for European citizens to apply for visas from 2021 will result in a significant increase to overall volumes of applications. We anticipate the Home Office will be keen to consider how to streamline processes, so they can achieve greater throughput without needing to recruit large numbers of additional staff. While undertaking this process, it is as important to consider how to make the application process more efficient for employers and applicants.

### Rationale

"We understand that the Home Office is committed to recruiting staff to help with the future technological shift. That is important – getting staff in and trained to manage volumes will be crucial over the course of Brexit."

TheCityUK member (retail banking)

The Home Office has for some time, been engaging directly with businesses and representative organisations on the potential framework for dealing with the large number of registration applications to be submitted by European citizens under the terms of the draft withdrawal agreement with the EU. Concern about the large numbers of European citizens needing to apply and the complexity of the current application was widespread throughout our research.

Details of a new, straightforward and online registration process are being finalised, with roll-out expected by late 2018. These steps towards digitalisation are seen as very positive by

our respondents, but with a caveat that more detail is required – there remains a weariness associated with the administration and complexity of the current immigration process.

“Complex process, administration and unreasonable costs reduce the attractiveness of the UK to global talent.”

TheCityUK member (insurance)

While the focus on digital development is welcome, remedying unwieldy processes at the point of service delivery is only one aspect of a workable, efficient and accessible system. Respondents were keen to mention systemic issues which need to be addressed. Some of these have been discussed in our other recommendations, including policies on skills shortages, occupational codes generally, and the flexibility of the Immigration Rules.

“Beyond technological improvements, there are too many subcategories and criteria within the system. It is very cumbersome. We would like to see greater flexibility for applicants and sponsors.”

Willis Towers Watson

The current Home Office service standards<sup>52</sup> were published in January 2014 – a welcome step in showing a commitment to service delivery. In addition, there has been a significant increase in the availability of premium services, including priority processing, in more visa application centres overseas. However, the practical operation of these services often creates problems for visa applicants and UK businesses:

- When processing times are exceeded, applicants are informed that their application is complex, with no indication of whether items are missing from the application or when it might be processed.
- Staff at third party operated visa application centres outside of the UK sometimes request documentation not required by the Immigration Rules, leading to confusion for the applicant and employer, cancellation of appointments and missed start dates.

These concerns were expressed largely in the context of trust in the government's approach to immigration and underline the need for open and transparent communication of plans, and ongoing two-way dialogue with stakeholders including employers. Reducing the administrative burden of the UK's immigration system beyond simply digitising applications must remain a priority.

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<sup>52</sup> The Home Office publishes a range of service standards relating to the length of time it should take for them to process different application types.

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# CONCLUSION

The end of freedom of movement raises the immediate question of what immigration controls the government will apply to EU and non-EU citizens arriving in the UK to work after Brexit. Future trade agreements may hold the key to shaping the UK's immigration system – but while we wait for such agreements to develop, it is wise to look critically at the policies currently in place and prepare for change.

The UK is at a cross roads. It is possible to change our immigration system for the better to ensure it is flexible to meet the challenges of the future, to encourage talent to come and remain on our shores – and to ensure that immigration policy is not made in isolation but with an eye on wider business needs and training opportunities. A more nuanced discussion on skills is required to assist the transparency of the immigration debate. The willingness of business to join that debate and work with government to shape policy, should not be underestimated.

We have therefore highlighted nine key recommendations in this report which we believe will help realign the UK's immigration strategy to support the financial and related professional services industry and the wider economy, access international skills post-Brexit. We have designed these recommendations to sit alongside an enhanced strategy for developing the skills of the resident workforce while attracting talent to the UK.

We believe that creating a flexible immigration system which can be nimble in the face of change, a fair immigration system that supports the user, and a collaborative immigration system that calls upon the help of those outside government to shape its purpose, will best serve the future aspirations of applicants, businesses and the country.

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# GLOSSARY

**EU/EEA/European nationals/citizens:** the terms 'European' and 'EEA' are used to denote all countries in the EEA (the EU Member States Iceland, Liechtenstein and Norway) and Switzerland. The term 'EU' is used specifically to exclude nationals of plus Iceland, Liechtenstein, Norway and Switzerland, primarily in relation to the draft withdrawal agreement between the UK and EU. For the purposes of this report 'EU' excludes those that hold UK citizenship.

**Freedom of movement:** one of the four fundamental freedoms of the EU, this concept permits EU, EEA and Swiss nationals to live and work freely in the UK with no real restrictions. The government has committed to ending freedom of movement as part of leaving the EU.

**Home Office/UK Visas & Immigration (UKVI)/UK Border Agency (UKBA):** used synonymously to describe the function of the UK government that implements the UK's immigration system.

**Migration Advisory Committee (MAC):** an independent, non-statutory, non-time limited, non-departmental public body that advises the government on migration issues. The MAC is made up of a chair and three other independent economists. Additionally, the Home Office are represented on the committee.

**Non-European/non-EEA nationals/citizens:** used to describe the group of overseas nationals that do not benefit from freedom of movement and are therefore currently subject to the requirement to obtain permission to live and work in the UK.

**Points-based system:** is the means of regulating immigration to the UK from outside the EEA and Switzerland. The scheme was phased in between 2008 and 2010.

**Resident Labour Market Test:** the mechanism by which employers must demonstrate that they are unable to locate a suitable settled worker before being allowed to sponsor a non-European worker. Generally this involves advertising a role for 28 days on two websites, including the DirectGov Universal Jobmatch website.

**Regulated Qualifications Framework (RQF):** in the context of this report, used by the Home Office to denote various skill levels when categorising roles, i.e.

- RQF level 6 – includes corporate managers and professional roles
- RQF level 4 – includes non-corporate managers, creative and technician roles
- RQF level 3 – includes administrative and customer service roles and skilled trades



## TheCityUK Research:

For content enquiries, further information about our work or to comment on our programme/reports, please contact:

Kerstin Mathias, Head of Policy  
[kerstin.mathias@thecityuk.com](mailto:kerstin.mathias@thecityuk.com)  
+44(0)20 3696 100

Laura Dawson, Policy Co-ordinator  
[laura.dawson@thecityuk.com](mailto:laura.dawson@thecityuk.com)  
+44(0)20 3696 100

# TheCityUK

TheCityUK, Salisbury House, Finsbury Circus, London EC2M 5QQ  
[www.thecityuk.com](http://www.thecityuk.com)

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