

ANNEX

Report for the Children's Commissioner on the minimum income threshold

1. Migration Statistics

Appendix F to the report contains some inaccurate or incomplete use of the published Migration Statistics.

The report notes that 'the numbers of spousal migrants has been falling since 2006 and this is likely to have been accelerated by the implementation in 2010 of a pre-entry language test'. In fact, there was a larger fall in 2009 compared with 2008 and an increase in 2014 compared with 2013.

The commentary on Figure 1 (number of partner entry clearance visas issued) does not mention the impact on the refusal rate of the hold, pending the Court of Appeal judgment in MM & Others, on applications falling to be refused between 5 July 2013 and 28 July 2014 solely on the basis of not meeting the minimum income threshold requirement.

In respect of Table 4 (entry clearance visas issued to partners – regions (2010 Q1-2014 Q4)), analysis over a longer time would, as discussed below, enable a better assessment to be made in light of pre-existing trends. The quarterly data show a higher level of grants for applicants from Asia at the end of the period used by the report than at the start.

In relation to Tables 1-4, all 2014 entry clearance data were revised slightly in the April-June 2015 Immigration Statistics release.

2. Impact Assessment

The report makes some inaccurate statements about the Impact Assessment (IA) published on 13 June 2012.

The IA presents a balanced picture of the net savings to the public purse based on the guidelines of the independent Migration Advisory Committee (MAC). These suggest that 'the non-resident tax contribution should in principle be offset against expected non-resident consumption of state benefits and public services in the Net Present Value calculation' (MAC (2012): Analysis of the Impacts of Migration, paragraph 6.12). This approach was followed in the IA.

The welfare savings estimated in the IA give a range to reflect different family types. The savings are based on the premise that the sponsor remains in the UK, while their partner (and any children) remain abroad. In the absence of alternative evidence, the estimated savings took the midpoint between a scenario whereby the sponsor is joined in the UK by their partner and a scenario whereby the sponsor is joined in the UK by their partner and, when settled here, there are children in the family unit (regardless of when these children were born).

These scenarios do not allow: (a) (in a low scenario) for the fact that in some cases the sponsor may currently reside in the UK with children, which would lead to a higher cost in the low scenario; or (b) (in a high scenario) for the fact that in some

cases a sponsor currently residing in the UK with or without children may relocate abroad, which would result in a greater saving in the high scenario. We do not have the information on to assess which of these scenarios is more likely.

3. Estimated number of children affected

Appendix C to the report estimates that 15,000 children have been affected by the minimum income threshold in the period of three years from July 2012.

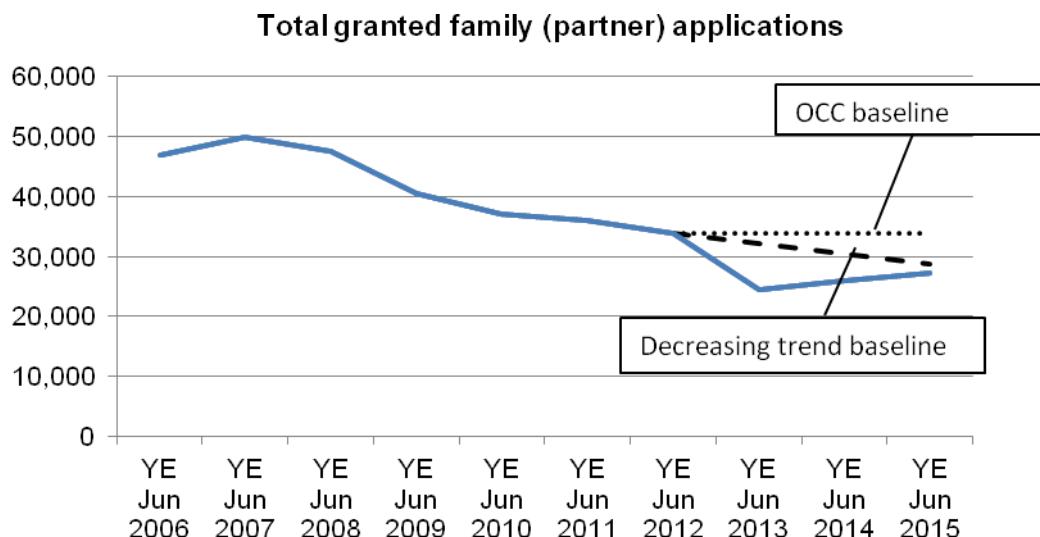
The baseline used for this estimate is an average volume of partner visas granted in the years ending December 2010 and December 2011. This has the effect of overestimating the change in partner visas granted as a result of the minimum income threshold and conflating the effect of the minimum income threshold with that of policy changes prior to July 2012. Any analysis should seek as far as possible to isolate the impact of the minimum income threshold, so a more relevant baseline would be the period of 12 months prior to its implementation, i.e. the year ending June 2012.

The report also uses estimates of entry clearance visas granted based on 2013-14 data rather than actual volumes, and estimates the change in partner visas granted using an annual average based on the years ending December 2013 and December 2014, assuming this to be representative of the period since the policy's implementation. This leads to an estimated reduction in entry clearance visas of 10,910 per year, or 32,730 over the three-year period, when compared to an average for the years ending December 2010 and December 2011.

The actual volume of partner visas granted is available for the period from July 2012 to September 2015 from the Home Office Migration Statistics quarterly publication: <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2015>

Taking as a baseline the year ending June 2012 and using the actual reduction in volumes of visas issued from July 2012 to June 2015 gives a reduction of 23,816 visas over the three-year period: 8,914 lower than the report's estimate.

However, the report does not take into account the pre-existing downward trend in partner visas issued, thereby further overestimating the number of applicants affected. The report assumes that the overall trend in partner visas granted is stable whereas the published statistics show that from 2006 to 2012 there was a consistent downward trend in partner visas granted. By using a static baseline the report assumes that volumes will diverge from the pre-existing trend and thereby overestimates the reduction in the volume of visas granted, as illustrated in the graph below.



Source: Home Office Migration Statistics, Entry Clearance Visas Vol 3, Table vi_06_q_f: Entry clearance visas granted by category and country of nationality: Family
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476904/entry-visas3-q3-2015-tabs.ods

An alternative approach would be to lower the baseline volume of visas in line with the average reduction over the preceding period for which data are available. For the period year ending June 2006 to year ending June 2012, this is an average annual decrease of 5%. Subtracting the total partner visas granted from an annual baseline that takes into account the pre-existing downward trend would arguably provide a better estimate of the reduction in visas granted that might be attributable to the minimum income threshold, as seen in the table below.

Year ending June	Partner visas granted	Estimated baseline	Difference
2012	33,905	33,905	
2013	24,517	32,120	7,603
2014	26,037	30,428	4,391
2015	27,345	28,826	1,481

Baseline decrease by 5% on previous year based on 2006-2012 average annual percentage decrease. Source: Home Office Migration Statistics, Entry Clearance Visas Vol 3, Table vi_06_q_f: Entry clearance visas granted by category and country of nationality: Family
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476904/entry-visas3-q3-2015-tabs.ods

This gives an estimated total reduction in partner visas granted during the period July 2012 to June 2015 of 13,475, compared with the report's estimate of 32,730.

Using the report's further assumptions as to the number of children affected by a change in the number of partner visas issued – while noting that these are based on

a small, self-selected group of families – and as to the proportion of leave to remain applications affected, gives an estimate of around 6,500 children affected by the minimum income threshold in that three-year period, compared with the report's estimate of around 15,000.

4. Access to welfare benefits

Section 5.5.1 of the report states that the minimum income threshold does not reduce reliance on welfare and notes that the probationary period before a migrant partner can receive non-contributory benefits is five years. However, this probationary period does not prevent burdens on the taxpayer arising once the migrant has qualified for settlement and thereby for full access to welfare benefits.

As a broad illustration of the overall number of people claiming benefits who came to the UK as migrants of non-EEA nationality and the extent of taxpayer burden this represents, statistics published by the Department for Work and Pensions in August 2015 showed that, in February 2015, around 248,000 claimants of working age benefits (around 5% of more than 5.1 million such claimants) are estimated to have been non-EU nationals when they registered for a National Insurance number (i.e. first entered the labour market).

<https://www.gov.uk/government/statistics/nationality-at-point-of-nino-registration-of-dwp-working-age-benefit-recipients-data-to-feb-2015>

It is not possible to break this number down by the immigration route by which these non-EU nationals entered the UK. However, the top 5 non-EU nationalities at National Insurance number registration claiming working age benefits were Pakistani, Somali, Indian, Bangladeshi and Iranian, which is consistent with nationalities which, in significant numbers in recent years, have been granted asylum in the UK (which include Somali, Pakistani and Iranian) or have been granted a partner visa on the family route (which include Pakistani, Indian and Bangladeshi).
<https://www.gov.uk/government/statistics/immigration-statistics-april-to-june-2015>

5. Entry clearance outside the Rules

Section 6.4.4 of the report refers to the scope for entry clearance to be granted outside the Immigration Rules on ECHR Article 8 grounds. Where an application for entry clearance does not meet the requirements of the Rules under Appendix FM and/or Appendix FM-SE, the entry clearance officer must go on to consider whether there may be exceptional circumstances which warrant a grant of entry clearance outside the Rules on Article 8 grounds because refusal would result in unjustifiably harsh consequences for the applicant or their family. The relevant guidance for entry clearance officers, including as to the process for referring such cases to the Referred Casework Unit in the UK for consideration, is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370606/Appendix_FM_Section_10a_5-year_Partner_and_Parent_Routes.pdf

The available management information (which is provisional and may be subject to change) shows the number of entry clearance applications that failed to meet the requirements of the 5-year partner or parent routes under the Immigration Rules but were referred by overseas posts for consideration of whether there were exceptional circumstances for entry clearance outside the Immigration Rules on Article 8 ECHR

grounds. It is not possible to separately identify those cases where the minimum income threshold was not met. This management information shows the following:

2012	(Jan-Dec calendar year)	
	Approved	12
	Refused	3
	Rejected/withdrawn/discontinued/other	2
	Total referrals	17
2013	(Jan-Dec calendar year)	
	Approved	3
	Refused	6
	Rejected/withdrawn/discontinued/other	7
	Total referrals	16
2014	(Jan-Dec calendar year)	
	Approved	11
	Refused	5
	Rejected/withdrawn/discontinued/other	3
	Total referrals	19
2015	(Jan-July part calendar year)	
	Approved	10
	Refused	5
	Rejected/withdrawn/discontinued/other	2
	Total referrals	17