

**WORK IMMIGRATION AND THE LABOUR MARKET**  
**Incorporating the role of the Migration Advisory Committee**

**David Metcalf**  
**Chair, Migration Advisory Committee**  
**and**  
**London School of Economics**  
**June 2016**

This is an abridged version of a longer report. All MAC reports are available at <https://www.gov.uk/government/organisations/migration-advisory-committee>. I acknowledge, with gratitude, the input of the MAC secretariat in preparing this paper. I am writing in a personal capacity, albeit as Chair of the MAC. This report does not necessarily represent the views or analytical position of other MAC members, the MAC secretariat or the Home Office.

## **1. Introduction**

Fifty years ago net migration was negative and remained so for another 20 years. Since the mid-1980s net migration has been positive and, by historical standards, very high in the last decade. In 2015 immigration (630,000) was double emigration (297,000) and the net figure reached 333,000. So it is not surprising that migration attracts public and political interest.

Migration statistics are set out in section 2. The policy context is described in section 3. Essentially the government can only directly control non-EU migration. Demand-led non-EU work migration is analysed in section 4. Greater selectivity is the abiding theme. Supply-side non-EU migration is the subject of section 5. Scepticism concerning benefits to UK residents of the investor and entrepreneur routes is expressed. The impact of migrants in low skilled work is examined in section 6. Brief conclusions are set out in section 7.

The Migration Advisory Committee (MAC) was established in 2007. It provides independent, economics-based advice to government on migration issues. The commissions come from the government. The MAC makes recommendations but the government decides whether to accept them or not. Thus the MAC model is analogous to the Low Pay Commission, which recommended the national minimum wage between 1997 and 2015, rather than the completely independent Bank of England concerning monetary policy. The MAC has been involved in virtually every significant labour market migration policy decision 2008-16.

## **2. Background statistics**

Immigration is a key concern of the UK population. Recent evidence from the Migration Observatory showed that the majority of the public view immigration as too high. For the last two decades immigration has been the number one or number two issue raised in opinion polls.

ONS projects the UK population to increase by 8.9 million between 2014 and 2037, 6.0 million (two thirds) of which is expected to be attributable to migration. The 6.0 million figures comprises 4.5 million via direct in-migration and 1.5 million from births to these migrants.

The proportion of the UK working age population that were born abroad doubled between 1997 (8%) and 2015 (16%). The 8 million working age people born abroad comprise 3.3 million from the EEA and 4.6 million from non-EEA, but over half this latter group are now UK citizens [slide 1].

Gross and net migrant flows over the last half century are set out in [slide 2]. These flows are estimates of individuals who change their country of residence for one year or more. Before 1990 the inflow of migrants was always below 300,000. Since then it has doubled. The outflow has also risen, but much more modestly. The upshot is that net migration which was mostly negative 1964-82, has since then climbed to 333,000 in 2015.

The 333,000 net migration figure for 2015 comprises very similar numbers from outside the EU (188,000) and inside the EU (184,000). The major change over the

last decade is the growth in the relative fraction of EU net migrants. British people consistently have a net outflow [slide 3].

The composition and absolute numbers of non-EU migrants has altered markedly over the last four decades [slide 4]. In the early 1990s the most common reason for non-EU migration to the UK was family reunification. Since 1997 work-related migration has consistently been larger than family-related migration. But the most striking component is study. Between 2000 and 2010 migrants entering for formal study trebled. Student numbers have fallen back a little since then and in 2015 totalled 112,000. By contrast, work inflows dominate EU migration.

### 3. Context

#### a. 3x3 matrix

There are three main reasons for immigration : family, study and work. Similarly there are three demographic groups : British, EU, non-EU. Thus there is a 3x3 matrix with 9 cells. Each cell has an inflow and an outflow. Any British government only has direct control of 3 out of these 18 flows – non-EU inflows for family, work and study.

#### b. Role of the Migration Advisory Committee (MAC)

In the mid-noughties when the then Labour government realised it was not controlling immigration consistent with the wishes of the public it made two important institutional changes. First, it introduced a points-based system (PBS) for managing non-EU work migration. Second, it established the MAC to provide independent, evidence-based advice on migration issues.

Since 2008 the MAC has produced thirty reports. It has been central to virtually all major non-EU work inflow policy decisions. The only exceptions to this concern the closure of the Tier 1/post study work route and the decision not to limit the number of intra-company transfers in 2011 (see below).

The MAC is a quango which has worked harmoniously with Labour, Coalition and Conservative governments since 2008.

#### c. Non EU migration 2007-16 : greater selectivity

Over the last decade non-EU migration has become much more selective. This holds for each of the three routes – work, study, family.

Under the **work** route the skill level was raised in 2011 and 2013 to reduce numbers and raise quality. But this ratcheting up of the required skill level was given greater impetus by the MAC Report (2012) on the impact of immigration. In this report the MAC established the key role played by skilled migrants in raising productivity, enhancing employment and fiscal contribution [slide 5].

Concerning **families** the MAC was asked: “What should the minimum income threshold be for sponsoring a spouse to ensure the sponsor can support the spouse without them becoming a burden on the state?” The MAC suggested

a range between £18,600, the income at which income-related benefit is fully withdrawn assuming a rent of £100 a week, and £25,700 a fiscally neutral mean family income. The government opted for the lower £18,600 figure. This excluded almost half of potential sponsors [slide 6].

The MAC has never been asked to analyse the **study** route. Again, it has become tighter : more stringent sponsorship regulations; tougher English language requirements; restrictions on dependants; more stringent regulations concerning work rights; abolishing (for most students) the post study work route; and impact assessments that now emphasise the gains for UK residents, not simply output.

#### **4. Non-EU work migration, demand-led**

##### **a. Introduction**

Tier 2 is an employer-led route for work related migration from outside the EU. An applicant under Tier 2 must have a Certificate of Sponsorship (CoS) from a licensed sponsor. It is therefore similar to the previous work permit system which operated from 1920.

Tier 2 has become much more selective since its introduction in 2008. Skill requirements have been ratcheted up and minimum pay thresholds raised. Selectivity is discussed in section b.

There are three main routes. The shortage occupation list (SOL) route plus the resident labour market test route (RLMT) comprise Tier 2 (General) which currently has an annual limit of 20,700. Tier 2 (General) migrants are given three years leave to enter followed by a two-year extension. Once they have lived in the UK continuously for five years, they can apply for permanent residence. Intra-company transfers (ICT) are not quantity-limited but have higher minimum pay thresholds. The routes are analysed in section c.

In 2015 the effective flow via Tier 2 was 151,000 [slide 7]. Thus the Tier 2 (General) cap covers only one seventh of the effective flow. Uncapped dependants and ICTs yield much larger numbers than the capped component.

##### **b. Selectivity : skill, pay thresholds, limits and immigration skill charge**

###### Skill level

On its introduction in 2008 Tier 2 was a Points Based System (PBS) with points awarded on the basis of qualifications and pay, plus mandatory maintenance and English language requirements. The MAC recalibrated the points in 2009.

The system quickly evolved into a criteria-based system via minimum skill and pay thresholds. The initial skill level was set at NQF 3 (2 'A' levels). This was raised to NQF4 (Foundation degree) in 2011 and then NQF6 (Degree level) in 2013 [slide 8].

Skill thresholds are determined by the government and the MAC advises on which occupations and jobs pass the threshold. The MAC uses 5 skill indicators. The 3 top-down indicators are:

- median occupation pay
- qualifications
- ONS classification

An occupation must pass 2 out of 3 top-down indicators to count as skilled to the requisite level.

The two bottom-up indicators are:

- innate ability
- amount of on-the-job training required

As the skill level was raised the fraction of UK workers employed in occupations defined as skilled fell from a half in 2008 to one third in 2013.

#### Minimum pay thresholds

When introduced in 2008 the minimum pay threshold was set at £20,000. The MAC recommended this figure – the 30th percentile of the pay distribution for skilled workers – to prevent undercutting. The threshold was indexed and stood at £20,800 in 2015.

But the required skill level had become more stringent so the minimum pay threshold was too low. In 2016 the MAC recommended a new threshold of £30,000, the 25<sup>th</sup> percentile of the pay distribution among individuals skilled to NQF6+. The hike in the threshold, from £20,800 to £30,000 was substantial so the MAC recommended phasing and some temporary exemptions. All these recommendations were accepted.

Each of the 96 4-digit SOL occupations skilled to NQF6+ has its own minimum pay threshold. These thresholds are normally the 25<sup>th</sup> percentile of the pay distribution of workers in the given occupation. When the occupation threshold exceeds the overall minimum threshold (now £30,000) the occupation threshold prevails.

Intra-company transfers have their own thresholds. Initially the minimum for ICTs was identical to that for Tier 2 (General). In 2011 it was decided to impose a quota of 20,700 on Tier 2 (General), but ICTs were not capped. Rather, the intention was to limit them by price. The short term (under one year) ICT minimum was raised to £24,000 and long term ICTs (over one year) to £40,000.

In 2016 the MAC expressed concern that firms using ICTs for third party contracting – the bulk of ICTs – were undertaking very little investment in British human capital and were – in contravention of regulations – often

undertaking routine work. Therefore a minimum pay threshold appropriate for senior managers and specialist workers, £41,500, was recommended.

Stakeholders often plea for the minimum pay threshold to be set by region. The normal rationale for such requests is that, while the threshold can be met by London-based firms, it is inappropriate (i.e. too high) for other regions. London is indeed the highest paying UK region. But the requests are entirely spurious. By definition the 25<sup>th</sup> percentile of a given distribution will be drawn from a low-pay, not high-pay, region. Therefore the MAC has always rejected regional minima.

Selectivity is also pursued via the **limit** on Tier 2 (General) available annual CoS [slide 9] and the **Immigration Skills Charge**, a levy-grant system which will reward organizations raising UK resident human capital and penalise free riders [slide 10].

#### c. Routes

Details of Tier 2 routes are set out in slides 11-14. Tier 2 (General) consists of the Shortage Occupation List (SOL) route and the Resident Labour Market Test (RLMT) route. The annual inflow cap of 20,700 on Tier 2(General) represent just 3% of the total LTIM annual inflow.

The operation of the **SOL** is shown in slides 11 and 12. Migrants filling jobs on the SOL have priority over those coming via the RLMT. It should be noted that recently only some 2000 main migrants per year entered via the SOL.

In 2013 the MAC was asked to advise on automatic sunseting – removal of an occupation of job from the SOL after a specified period of time. The MAC advised against automatic sunseting for the reasons set out in slide 13. This recommendation was reconfirmed in 2015.

A case study of a SOL investigation – nurses – is detailed in slides 14 and 15. This is of particular interest because the shortage was almost entirely the result of (in)action by the Department of Health (DH). DH simply assumed that immigration provides them with a “Get Out Of Jail, Free” card.

The bulk of the Tier 2 (General) inflow enter under the **RLMT** route. The operation of this route is set out in slides 16 and 17.

**Intra-company transfers** dominate the Tier 2 main migrant inflow. As shown in slide 18 conventional ICTs yield great benefit to UK plc. They leverage inward investment and jobs. By contrast, the benefits from third-party contracting ICTs are less clear cut. They lower the clients IT costs. But the ready supply of (mainly Indian) IT workers means that the consultant company has less incentive to invest in UK human capital. Further, in contravention of regulations, many of these IT workers are doing routine work instead of the specialist or senior manager tasks required. The MAC therefore recommended in 2016 a minimum pay threshold of £41,500, appropriate for specialist and senior managers.

In 2009 the MAC was asked to consider the work rights of **dependants** of Tier 2 main applicants. The MAC concluded that there was not sufficient evidence to demonstrate that increased restrictions on the work rights of dependants would lead to improved outcomes for residents workers or the UK economy. This was reconfirmed in 2015. Thus dependants retain their automatic work rights.

Net migration is influenced by the outflow rate as well as inflow rate. If numbers granted **settlement** fall, outflow rises and net migration falls. The MAC examined the minimum pay level required for settlement in 2011. The £35,000 threshold came into operation in 2016 [slide 19].

## 5. Non-EU work migration: Tier 1, supply side

When introduced in 2008, Tier 1 was a supply-driven route to permit highly skilled non-EEA workers to come to or to remain in the UK for a job or to search for job. There were two main parts:

- Tier 1 (General) based on points awarded for previous pay, age and qualifications
- Post-study work (PSW) permitting a job search for up to two years

These two routes were abolished in 2012, partly because many Tier 1 workers were not in skilled jobs. They were replaced by the exceptional talent route – for people internationally recognized as world leaders in science or arts. There is a quota of 1,000 places for individuals endorsed by Royal Society, Arts Council England, British Academy, Royal Academy of Engineering and Tech City UK.

Tier 1 also covers:

- Investors, high net worth individuals who invest in UK [slides 20 and 21]
- Entrepreneurs

The purpose of these routes, and what UK residents gain from them, is unclear. There is no limit to potential inflows under these routes.

## 6. Migrants in low skilled work

Low skilled work accounts for 13 million jobs, two million of which (16%) are held by migrants. The MAC published a major report on migrants in low skilled worked in 2014 [slides 22 and 23].

The main benefits go to labour-intensive employers who often cannot get an adequate supply of UK-born labour. Migrants also gain via the higher UK income compared with that in their home country.

Costs, often focussed in particular locations and sectors, include:

- rapidly changing populations with possible implications for cohesion and integration;

- congestion – extra pressure on housing, education, health and transport services;
- a small negative impact on wages of low paid workers;
- serious exploitation of some migrants – it is difficult to estimate true numbers – because of inadequate enforcement of minimum labour standards.

Low skilled migrants have a neutral impact on UK-born employment rates, fiscal contribution, GDP per head and productivity.

## 7. Conclusions

Immigration (630,000) is presently over double emigration (297,000). And half of the immigration inflow – 308,000 – is work-related, a record figure. Analysis of this work-related migration since 2008 by the MAC suggests three main conclusions: migration flows are heavily influenced by other policies; skilled migrants yield positive benefits; and enforcement of minimum standards is vital to ensure our flexible labour market boosts the welfare of British residents.

First, immigration does not occur in a vacuum. Numbers are heavily influenced by other public and employer policies. Consider two examples. In the private sector employers have invested too little in the STEM and IT skills of UK residents. Hence the constant pleas for such jobs to be given priority in immigration. It is to be hoped that higher migrant pay thresholds and the immigration skills charge will encourage much greater investment in British workers' human capital.

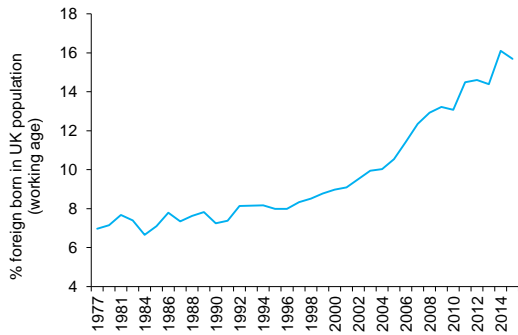
In the public sector there is a potential trade-off between spending levels and immigration. Constraints on public spending often generate greater immigration. Examples include nurses, paramedics, care sector and science and maths teachers.

Next, as compared with less skilled workers, skilled migrants are much more likely to be complementary to British labour and capital. They contribute, net, to productivity, the public finances and the employment prospects of local labour.

Finally, low skilled migration benefits labour intensive UK employers and most such migrants. But there is also evidence of downward pressure on the pay of low skilled workers and – in the worst examples – serious exploitation of migrant, and possibly UK, labour. Therefore it is crucial that minimum labour standards are enforced. Alas, evidence suggests that in pursuing our flexible labour market – which has mostly served us well – such enforcement is inadequate. Incomplete supervision holds for the national minimum wage, labour gangs (particularly in horticulture) and employment agencies for migrants. It is to be hoped that the new Director of Labour Market Enforcement – established by the 2016 Immigration Act – enhances fuller compliance via both its regulation effort and stronger penalties.



## Stock The proportion of the UK working-age population that were not born in the UK, 1977 – 2015



Nationality grouping and country of birth of working age population YE Sep 2015 (000s and %)					
Country of Birth		Nationality grouping			Total
		UK	EEA	non-EEA	
Country of Birth	UK	41,140 84%	21 *	16 *	41,177 84%
	EEA	335 *	2,962 6%	18 0%	3,316 7%
	Non-EEA	2,489 5%	258 *	1,877 4%	4,624 9%
<b>Total</b>		<b>43,964 90%</b>	<b>3,241 7%</b>	<b>1,911 4%</b>	<b>49,116 100%</b>

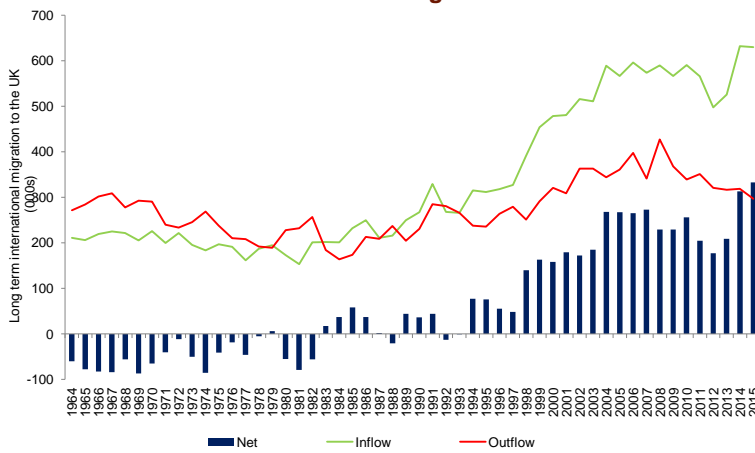
Note: Rate describes the proportion of working-age immigrants in the working-age population. The data are the average of the four quarters in each calendar year. Working age is defined as 16-64 for men and 16-59 for women.

Source: Labour Force Survey, 1977 Q1 to 2015 Q3

There is no single definition of migrant in the data. Migrants might be defined by their country of birth, by their nationality, or by their movement into a new country to stay temporarily (sometimes for as little as a year) or to settle for the long-term. The normal definition of migrant status is by the individual's country of birth. This definition includes some individuals born abroad who were UK nationals or who have subsequently gained UK citizenship. 16 per cent of working age population of UK in 2015 were born outside the UK. In 1997, it was 8 per cent. Three fifths of non-UK born working age population were born outside the EEA. The employment rate for UK born workers in 2015 Q4 was 75 per cent. The corresponding rate for EU born is 79 per cent and non-EU born is 67 per cent.

1

## Historic gross and net flows



Since the mid-1990s, inflows of long-term migrants have exceeded outflows, resulting in positive net migration to the UK.

**Inflows** of long-term migrants in 2015 were **630,000**.

**Outflows** in the same period were **297,000**.

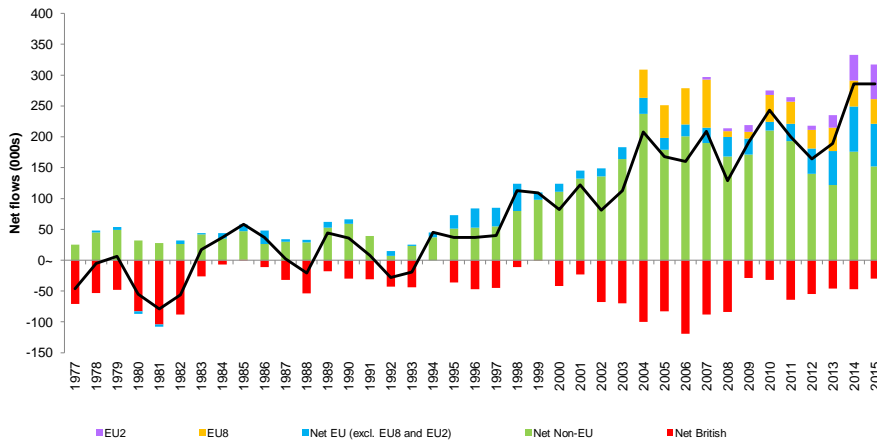
**Net Migration** over the same period was **333,000**

Notes: Estimates from 1964 to 1990 are based on International Passenger Survey estimates of individuals who change their country of residence for a period of one year or more. Long Term International Migration (LTIM) estimates for 1991 to 2015 are based on the International Passenger Survey with adjustments made for flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers.

Source: Migration Statistics Quarterly Report, Office for National Statistics (UK), May 2016

2

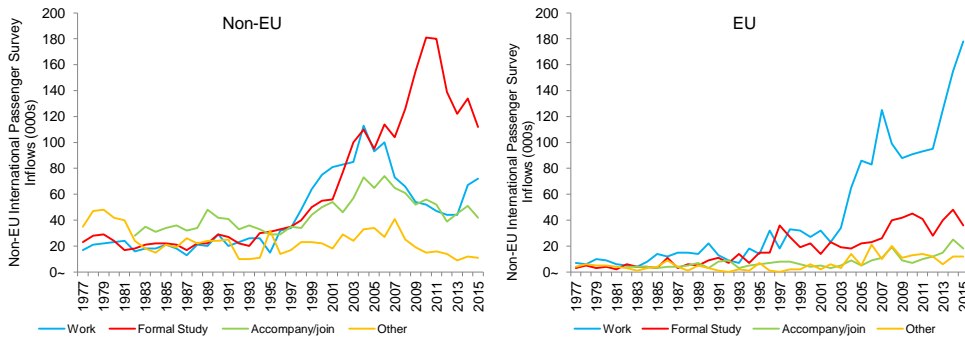
### Breakdown of annual net flows



\* The Non-International Passenger Survey component includes the adjustments made for the LTIM figures (i.e. flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers).  
Source: Office for National Statistics (UK), 2016

3

### EU and Non-EU inflows by main reason for migration, 1977 to 2015



In the early 1990s the most common reason for non-EU migration to the UK was family reunification but since 1997 work-related migration has been consistently larger than family-related migration  
Between 2000 and 2010 the number of non-EU migrants entering for formal study trebled to 180,000

In contrast, EU migration was relatively low up until the early 2000's with work migration and formal study interchangeably the two main reasons. However, since 2002, migration for work related reasons has drastically increased in comparison to other reasons, increasing by over five times between 2002 and 2015

This highlights the main difference between EU and Non-EU migration, namely that EU migrants tend to come to the UK to work whilst the majority of non-EU migrants come to study

Source: Estimates from the International Passenger Survey 2015, Office for National Statistics (UK)

4

## Impacts of migration

**Whose economic welfare should be taken into account when considering the impacts of migration?**  
 When a new motorway is being evaluated, the impact assessment is relatively straightforward because the UK population is assumed constant.  
 By contrast, changes in migration policy alter the size of the population.  
 Before 2012, government impact assessments did not consider this issue. They simply calculated gross domestic product (GDP) lost or gained because of less or more immigration. Such an approach was not sustainable as it led to the conclusion that more immigration is automatically good because it raises GDP.

**GDP per head?**  
 One solution often proposed is to consider GDP per head of the population. But this is not appropriate. For example, Tier 2 migrants raise GDP per head because they have higher relative pay and higher levels of employment than UK workers. Essentially GDP per head is given a boost via a batting average effect. But it is the Migrants themselves rather than the residents that are the main beneficiaries.

**Government response**  
 The Government accepted the MAC's recommendations. In particular the focus in any impact assessment is now welfare of resident population, not GDP. Attempts to incorporate dynamic, fiscal, congestion, displacement and distribution impacts recognise the real difficulties in monetising such effects when conducting impact assessments.

**Welfare of resident population**  
 Therefore, the MAC suggested that the economic welfare of the resident population should be the focus of any impact assessment. It is for the government to define the resident population. The following factors determine the economic impact of work migration on the resident population (+ or - indicate whether this is a mostly positive or mostly negative impact):

- **Dynamic impact (+)**, elusive to define, let alone measure, for example:
  - specialisation;
  - knowledge transfer and innovation;
  - FDI and trade;
  - productivity; and
  - British employment.
- **Public finances (+)**, the approach taken prior to the MAC's consideration is automatically pro-immigration. Public spending is fixed for over the review period; however tax revenue varies - more immigration improves the public finances. Even putting this to one side, Tier 2 and Tier 4 are probably, on average, net contributors to the public finances.
- **Congestion**, widely defined (-), for example: access to, and quality of, public services e.g. GPs, schools, transport; and impact on rents and house prices.
- Some impacts are very difficult to monetise e.g. **cohesion and integration**.
- **Displacement** of British workers (-)
- **Distribution** of impacts, this is a neglected topic, but is fundamental to any impact evaluation, for example:
  - gains/losses to capital (firms) relative to labour (workers); and --
  - gains/losses along the pay distribution.
- **Skilled migrants** score more highly on the above criteria than less skilled migrants
  - positive dynamic effects
  - stronger net fiscal contribution

## Selectivity

**Family income**  
 The MAC was asked: "*What should the minimum income threshold be for sponsoring a spouse to ensure sponsor can support the spouse without then becoming a burden on the state?*"

The MAC suggested a range between:

- £18,600 (income at which income-related benefit is fully withdrawn assuming a rent of £100 a week); and
- £25,700 (a fiscally neutral mean family income).

The Government opted for the lower £18,600 threshold. This excludes 45% of potential sponsors.

**Study route**  
 The MAC has not been directly involved in migration for the purpose of study, but there has been increased selectivity via:

- more stringent sponsorship regulations;
- tighter English language requirements;
- restrictions on dependants;
- more stringent regulations concerning work rights;
- abolishing (for most students) the post-study work route; and
- impact assessments that now emphasise gains for UK residents, not simply output.

## Numbers of migrants coming to UK under Tier 2, 2009 - 2015

Tier 2 (General) and intra-company transfer entry clearance and extension visas for main applicants and dependants, in 2009, 2012 and 2015.				
Category		2009	2012	2015
<b>Out-of-country</b>				
<b>Main applicant</b>	Tier 2 - General (Resident Labour Market Test and Shortage Occupation List)	8,556	9,420	17,375
	Tier 2 - Intra Company Transfers	22,029	2,415	2,183
	Tier 2 - Intra Company Transfers Short Term	-	16,113	21,229
	Tier 2 - Intra Company Transfers Long Term	-	10,727	13,009
	Tier 2 - Remaining sub-routes	637	468	536
	Other (including WPH and permit-free employment)	5,065	28	51
	<i>Total main applicants</i>	36,287	39,171	54,383
<b>Dependant</b>	<i>Total dependants</i>	26,982	28,933	37,679
<b>Total Out-of country</b>		<b>63,269</b>	<b>68,104</b>	<b>92,062</b>
<b>In-country</b>				
<b>Main applicant</b>	Tier 2 - General	12,900	20,185	24,463
	Tier 2 - Intra Company Transfers	6,624	8,656	8,249
	<i>Total main applicants</i>	27,851	29,524	33,213
<b>Dependant</b>	<i>Total dependants</i>	23,007	20,668	26,067
<b>Total In-country</b>		<b>50,858</b>	<b>50,192</b>	<b>59,280</b>
<b>Total</b>		<b>114,127</b>	<b>118,296</b>	<b>151,342</b>

7

## Skill level

This shows how the various thresholds changed and the impacts on occupations and the percentage of UK workers employed in these occupations as determined by the relevant MAC report.

MAC Report	Skill threshold NQF	Pay threshold £ per hour	Qualification threshold	ONS SOC classification	SOC 2000 353 4-digit occupations. No. passing skill threshold	% of UK workers employed in these occupations
2008	3+ 2 'A' Levels	10.00	50% at NQF3+	3 or 4	192	49
2011	4+ Foundation degree	13.40	41% at NQF4+	4	121	39
2013	6+ Degree	14.75	36% at NQF6+	4	89*	32

Note: 2008 data refer to all employees, 2011 and 2013 to full-time employees \*Equivalent to 96 SOC 2010 occupations

As the skill level was raised, the percentage of UK workers as a proportion of total UK workers employed in occupations defined as skilled fell from around half in 2008 to under a third in 2013. Examples of occupations which were previously included as skilled but were excluded when the skill level increased:

2008	General office assistants/clerks, credit controllers, typists and receptionists.
2011	Butchers and meat cutters, care assistants and home carers.
2013	buyers and purchasing officers, IT operations technicians and paramedics.

8

## Limits on Tier 1 and Tier 2

### Context

The MAC was asked to recommend a limit on Tier 1 and Tier 2 migration for 2011-12 to contribute to the Home Office target of reducing net migration to the tens of thousands by 2015. Importantly, the MAC was not asked to comment on the desirability of a limit. It should be noted that non-EU work migration had already halved between 2004 and 2009, partly because of A8 accession.

### MAC Report November, 2010 – Outline of the calculation

Total reduction in LTIM required = 146,000 over 4 years  
= 36,500 per year

Tier 1 and Tier 2 bear their proportionate share (10%) of the required reduction = 3,600 per year

Convert the 3,600 figure into visas for out-of-country main applicants (divide by 0.58).

Reduction in out-of-country visas = 6,300  
Yields **2011-12 limit on out-of-country visas**  
**=43,700**

### Government response

The Government accepted the 43,700 figure but decided to exclude intra-company transfers from the cap. It assumed that intra-company transfers would remain at their 2009 figure of 22,000.

Tier 1 exceptional talent was limited to 1,000 places.

Tier 2 (General), i.e. the SOL and RLMT routes, was limited to 20,700 places.

Rather than a numerical limit, intra-company transfers were limited by price. This limit is operational till 2020.

If, in a given month, the monthly quota is reached, priority is given to those migrants entering under the SOL route, those coming to take-up PhD level jobs and those in receipt of higher pay.

9

## Immigration Skills Charge (ISC)

In May 2015, immediately after the election, the Prime Minister floated the idea of an Immigration Skills Charge. Under such a system the employer would pay a levy for employing a non-EU migrant, the money would go into a fund to be distributed to those firms training resident workers. The Prime Minister asked the MAC to review this idea.

The MAC strongly supported the Prime Minister's initiative. The proposed levy-grant system is similar to the Chancellor's proposed apprenticeship levy of 0.5% of the payroll to be distributed to firms providing apprenticeships.

The case for the ISC is:

- labour costs rise so immigration numbers will fall
- the charge helps offset possible negative externalities on congestion and in health and education
- the fund will boost money available for raising resident human capital.

The MAC recognized that, strictly, tax and spending are Treasury matters. Nevertheless the MAC had a view. MAC suggested a levy of £1000 per migrant per year paid up front. Thus a 3-year CoS would cost £3,000. We calculated this would raise over £200 million per year – for distribution to employers doing training.

The MAC recommendation was accepted. Small firms and charities will pay a lower annual charge of £364.

10

## Shortage route

### Priority

Migrants filling jobs on the SOL have priority over those coming via RLMT route.

### Method

For an occupation or job title to be included on the SOL, it must be:

- skilled to the required level for Tier 2 (currently NQF level 6 or above);
- experiencing a national shortage of labour;
- demonstrably sensible to fill the shortage using labour from outside the EEA.

The MAC dovetails top-down evidence from national data sources with bottom-up evidence from employers and other partners.

### Shortage indicators

MAC uses 12 top-down indicators of shortage, in the 97 NQF level 6 and above SOC occupations:

- change in real pay (2 indicators);
- economic return to occupation (1 indicator);
- change in median vacancy duration (1 indicator);
- vacancies/claimant count (1 indicator);
- change in claimant count, new hires, employment and median hours worked (4 indicators);
- skill shortage vacancies compared with total vacancies, hard to fill vacancies, employment (3 indicators).

In most instances, shortage occupations must demonstrate shortage in at least half of the indicators.

Among the sources used to analyse skills shortages are the UK Commission Employers Skills Survey and the Labour Force Survey. Since 2012 official DWP vacancy data are no longer published. MAC are presently investigating alternative sources.

### Sensible

Before a job or occupation is included on the SOL, the MAC also considers whether it is sensible to do so. This is determined on a case-by-case basis with reference to four broad and inter-related lines of inquiry:

- What are the alternatives to employing immigrants in response to perceived staff shortages?
- How would bringing in immigrants relate to skills acquisition of the UK workforce?
- How will the employment of immigrants affect investment, innovation and productivity growth?
- How will our decision affect the wider UK labour market and economy?

11

### Numbers

In 2015, SOL applications accounted for 9 per cent of Tier 2 (General).

The top 5 occupations using the SOL, in 2015, accounted for over 50 per cent of the applications:

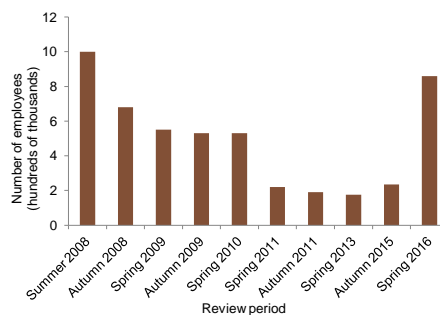
- |  |     |
|--|-----|
| • Medical Practitioners                      | 19% |
| • Design and development engineers           | 12% |
| • Secondary education teaching professionals | 10% |
| • Chefs                                      | 8%  |
| • Civil engineers                            | 6%  |

### Numbers of employees in occupations included on the SOL

The numbers entering via the SOL have declined substantially over time. This reflects:

- the raising of the skill level
- The lack of economic growth in the UK 2008-12
- the rigorous approach adopted by the MAC.

In 2007, before the MAC was established, over 1 million workers (not migrants) were employed in occupations on the SOL. In 2013, under 0.2million were employed in SOL occupations and jobs. The 2016 addition of nurses to the SOL has boosted this figure to 0.8 million.



12

### Examples of jobs on 2015 SOL

- Managing director, programme director, site director within the decommissioning and waste management areas of nuclear industry
- Many engineering jobs in the oil and gas industry
- Some jobs in computer animation for film, TV or video games
- Secondary education teaching professionals in maths, physics, chemistry

### Sunset clause

The MAC was asked to advise on the automatic removal of an occupation or job from the SOL after a specified period (the government suggested two years).

The MAC advised against an automatic sunset clause because:

- the present system works well, over 100 job titles removed 2008 – 2013;
- automatic removal would be disproportionate given the low numbers using the SOL;
- it would take insufficient account of specific needs of occupations and the time required to train domestic workers;
- requiring employers to recruit migrants using the RLMT route would add time, effort and expense to recruitment where there is an acknowledged shortage of skills;
- it would fail to reflect complexity of economic conditions. Shortages arise in different occupations for different reasons, for example:
  - cyclical shortage - occupation will be removed from the SOL automatically when fewer vacancies;
  - structural shortage - it may take a long time to train UK workers;
  - public sector shortage - it may be difficult to increase public sector pay sufficiently to alleviate shortages;
  - global talent shortage - there may be a world-wide shortage of some skills. For example, in the arts, with ramifications for both UK culture and UK plc.

The government accepted MAC recommendation not to introduce a sunset clause. The MAC re-confirmed its opposition to automatic sunsetting in 2015 and, again, its recommendation was accepted by the government.

13

## Case study, Nurses

### Context

In early 2015 the Department of Health (DH) did not request nurses be placed on the SOL. During 2015 DH altered its view. The Home Secretary put nurses on the SOL pending a MAC Review (Report 30)

### Skill

Nurses (standard occupation code 2231) are skilled to NQF 6+ (i.e. graduate level)

### Shortage

#### a. Evidence

- nurses pass 5 of 7 relevant national shortage indicators
- vacancy rate is almost double the safe level recommended by NICE
- spending on agency nurses rising rapidly 2011-2015
- why is there a shortage?

#### b. Demand

Demand rising for 4 reasons. First 3 should have been anticipated by those responsible for workforce planning.

- total population rising and, on average, living longer
- reform to integrate NHS and social care plus emphasis on 7 day working
- Nurses have taken on more responsibilities including some duties previously carried out by doctors
- Trusts sought to increase nurse-to-patient ratios in response to 2013 Francis report into events at Mid-Staffordshire NHS Trust

#### c. Supply

- Supply is influenced by workforce planning, training places and retention efforts. These are matters within the control of DH or individual employers.
- Workforce planning involves aggregating local workforce plans into a national plan. A more co-ordinated and proactive approach would improve NHS efficiency
  - the number of training places fell by one fifth 2010-2013
  - retention worsened 2009-2015

#### d. Pay

If pay is not used the tension in policy objectives between restraining public spending and cutting immigration comes to the fore median pay for nurses is £31,500. This is £75,000 below the median pay for other graduate occupations;

- there was a severe shortage of nurses in late 1990s and early 2000s. The Pay Review Body responded with substantial real pay increases. DH has not requested such action presently
- available pay flexibility – e.g. recruitment and retention premia – are insufficiently used

14

#### Sensible

Over the next decade, the shortage of nurses can be addressed by more training places, reduced attrition among trainees, greater efforts at return to practice, more innovative use of pay flexibility and attention to working conditions. But in the meantime it is sensible to add nurses to the SOL. Employers have stated they will require some 14,000 non-EEA nurses 2016-2020. Thus there is a danger they may crowd out some occupations not on the shortage list. MAC suggested an annual cap around 3000-5000.

#### Conclusions

MAC recommended placing nurses on the SOL with considerable reluctance. The shortage is almost entirely down to factors which could and should have been anticipated by DH. There is a presumption that non-EEA skilled migration provides the sector with a "Get Out Of Jail, Free" card.

- workforce planning: till recently took no account of demand for nurses in the care and independent sectors which themselves mainly free ride on the back of the government paying for training;
- training commissions: cut by nearly one fifth 2010-2013, largely driven by financial issues;
- pay: insufficient curiosity across both the health and care sector about the extent to which pay might be responsible for, and might help alleviate, present recruitment difficulties;
- who is in charge? There is a proliferation of bodies overseeing the administration of health and care services. The sector required a single authoritative voice to speak on workforce planning issues.

15

## Resident Labour Market Test route

#### What is the Resident Labour Market Test (RLMT)?

The aim of this route is to ensure that employers have checked that no suitably qualified worker exists within the resident labour market that could fill a vacancy. Before hiring a non-EEA migrant, the job must be advertised in accordance with the code of practice specific to the occupation.

There are 97 4-digit 2010 SOC occupations which are skilled to NQF level 6 or above and therefore eligible under the RLMT.

#### Minimum pay thresholds under the RLMT

- Default minimum salary threshold of £30,000 (2013 Report)
- Jobs paying above £152,100 are exempt from satisfying the RLMT.
- The MAC recommended, in 2012 report, that the minimum pay threshold for experienced workers in most private sector occupations be set at the 25<sup>th</sup> percentile of the pay distribution for that occupation. For new entrants, the corresponding point is the 10<sup>th</sup> percentile. These thresholds prevent migrants undercutting the pay of resident workers.
- Pay thresholds for occupations dominated by public sector employers – mainly health and education – are set using nationally-recognised pay scales.

#### Advertising

- Adverts under the RLMT must include: job title; duties and responsibilities; skills and qualifications required; indication of salary on offer; location; closing date; and must be written in English.
- Adverts must be placed in appropriate media:
  - Jobcentre Plus for most vacancies, plus one of -
    - milk round, new graduates and interns only;
    - national newspaper;
    - professional journal;
    - Website such as company's own site if they are a multinational or an online newspaper site.
- Duration: minimum period of 28 days between initial advertisement and closing date.

16



### Numbers

In 2015 the RLMT accounted for 90% of the Tier 2 (General) applications.

In 2015, the top 5 occupations using the RLMT made up 39% of RLMT CoS issued and included:

- Natural and social science professionals n.e.c.	10%
- Medical practitioners	8%
- Programmers and software development professionals	8%
- Management consultants and business analysts	7%
- Nurses	6%

### Issues

- Limit - given that there is a limit of 20,700 CoS on Tier 2 (General) immigration, why is a RLMT required?
- Use of Jobcentre Plus (JCP) for advertising - the MAC recommended this in 2009 to provide a possible method to certify that the employer had conducted the RLMT. In the event this could not be done. Is JCP an appropriate medium for matching skilled workers and jobs?

17

## Intra-Company Transfers (ICT)

### Types of intra-company transfer (ICT)

- Conventional
  - e.g. Japanese auto engineer employed by (say) Toyota who is sent from Japan to organise the installation of a new assembly line at the Toyota plant in Derby
  - such immigration vital to UK plc. It leverages much inward investment and many jobs
- Third party contracting
  - e.g. IT worker from India sent by consultancy firm to UK, immediately farmed out to a third party e.g. bank, airline, civil service department
  - lowers client IT costs (why else use the consultant?)
  - but consultancy firm has no incentive to train UK residents – it has a ready supply of Indian graduates

### Numbers

- Out of country ICTs have grown rapidly recently, from 22,000 in 2009 to 37,000 in 2015. This growth is almost all attributed to the third party contracting stream

### GATS Rules

Under international law (GATS) the ICT route is designed for specialists and senior managers. Much of the third party contracting work is, by contrast, routine

### Limits and pay threshold

When limits on Tier 2 migrants were introduced in 2011, intra-company transfers were excluded from the limit. Instead, the MAC was asked to recommend higher minimum pay thresholds (i.e. limit by price, not quantity). The MAC recommended:

<u>Duration of stay</u>	<u>Minimum pay threshold £</u>
under 1 year	24,000
over 1 year	40,000

In December 2015, the MAC expressed concern about aspects of third party contracting:

- nature of the work: much of it is non-specialist;
- evidence of undercutting UK residents;
- insufficient effort by consultant employers to invest in British human capital.

MAC recommend all ICTs have a minimum pay threshold of £41,500. This is the appropriate rate for specialists and senior managers. The recommendation was accepted.

18

## Settlement

### Flows

Net migration is influenced by outflow rate as well as inflow rate. If numbers granted settlement fall, outflow rises and net migration falls.

### MAC Report - intra-company transfers

When the MAC analysed Tier 2 in 2009, partners argued that users of the intra-company transfer route were not migrants.

Prior to 2009 users of the intra-company transfer route were eligible for settlement.

The MAC recommended abolishing this eligibility, given views of partners that such persons were not intending to remain in the UK.

Government accepted MAC recommendation.

### MAC Report November, 2011

In 2011, Tier 1 and Tier 2 settlement grants (main applicant plus dependants) = 60,000 (29% of total).

This number reflected inflows some 5/6 years earlier and would have fallen in line with reduced inflows, probably to around 20,000 – 30,000.

MAC was asked to recommend the appropriate pay threshold for the 2011 cohort who wish to apply for settlement from 2016.

MAC suggested a range between £31,000 and £49,000.

Government chose £35,000 (in 2011 prices), the median pay of all full-time workers employed in occupations skilled to NQF4+. This threshold would have excluded around one-third of the 2011 Tier 1 and Tier 2 inflow from achieving settlement on the assumption that their real pay remains at its 2011 level.

The £35,000 requirement came into force in 2016. Any occupation which has been on the shortage list between 2011-16 is not required to meet the threshold. This is important for e.g. nurses, science and maths teachers and those in the creative occupations.

19

## Tier 1 (Investors)

### System 1994-2014

- Provided indefinite leave to remain (ILR) for high net worth individuals and their families
- Migrants who invested £1 million in gilts or in UK registered companies could apply for permanent residence (ILR) after 5 years. An investment of £5 million reduced waiting time to 3 years and £10 million to 2 years. Migrants need not speak English and can bring their families
- Investor numbers increased rapidly 2008-2013. In that 5 year period 1647 out of country applications were granted, with 560 in 2013 alone. Half went to Russian and Chinese nationals

### 2014/15 MAC Reviews. System unsatisfactory:

- Investment is a loan not a gift. Indeed, UK residents pay the migrant interest for investing in gilts
- Base £1 million threshold had remained unchanged for 20 years
- Main gains go to the migrant not to UK residents. Investor gets rule of law, property rights, access to efficient capital markets and an excellent education system for their children. What do UK residents get?

### MAC Recommendations

- Minimum investment threshold (£1 million) be raised to £2 million
- Other investment instruments – venture capital or infrastructure bonds for example – be encouraged instead of gilts
- Limited number of slots to be auctioned, say 100, with a reserve price above (say £2.5 million) the proposed threshold. The Treasury to receive the excess over £2 million to go to a “Good Causes Fund” similar to National Lottery spending. Investors who gain an auction slot to receive accelerated settlement after 2 years

20

#### Auctions are controversial

- Proposals to auction some investor visas – NOT passports or citizenship – proved highly controversial. By and large, economists were supportive and other commentators hostile
- The MACs proposed method – a sealed bid auction – was endorsed by Professor Klemperer, the Oxford University auction theorist, and by The Economist
- Four main objections were advanced against auctions: selling settlement; lack of due diligence; administrative complexity; need for 'certainty':
  - selling settlement: auctioning visas does involve selling settlement. But what is the alternative – giving away settlement. Why is it better to pay a Russian oligarch to come to UK than achieve funding for good causes?
  - due diligence: some commentators assumed the highest bidders would automatically achieve settlement. This is not so. As the MAC report said, there will always be due diligence.
  - administrative complexity: the reverse is so. The bids would be ranked and the highest bids achieve settlement up to the number of slots
  - certainty: wealth managers argued their clients want 'certainty' but no one knows the optimal 'certain' price for a UK investor visa. One possibility would be to set a threshold – say £5 million (£2 million loan, £3 million go good causes) – and adjust it up or down next time depending on the number of applicants

#### Government Response 2015

- Raised minimum threshold to £2 million;
- Requirement that applicant had opened a UK bank account before making an application;
- Removal of the topping –up rule;
- Removal of the provision to source the investment sum as a loan;
- Rejected auction proposals
- Permitted alternative investment to gilts

#### Numbers

- In the 5 year period 2008-13, 1647 out of country applications were granted. Half went to Russian and Chinese nationals. In 2015 that figure fell to 192.

21

## Migration into low-skilled jobs

#### NUMBERS

Low skilled work accounts for 13 million jobs, two million of which (16%) are held by migrants. Those jobs held by migrants are split 60:40 non EEA : EEA. A million migrants in low-skilled jobs have come to the UK in the last decade. Half of them were from Central and Eastern Europe following enlargement. The MAC reported on this issued in 2014.

#### BENEFITS

Benefits owners of capital e.g. important for firms in labour intensive sectors such as food manufacturing, agriculture and restaurants, who often cannot get an adequate supply of UK-born labour.

May complement UK-born skilled workers and some unskilled local workers, enabling them to specialise in more highly paid jobs.

Migrants are more mobile and flexible than UK-born e.g. prepared to change location, live at the workplace and do shift work. This helps grease the wheels of our flexible labour market.

The biggest gains go to the migrants themselves. Their income in the UK is much higher than in their home country and their extended family might benefit from any remittances.

#### COSTS, particularly in some local areas and some sectors

There needs to be greater recognition of, and support for, the local impact of immigration. The non-UK born population of England and Wales grew by 2.9 million between 2001 and 2011. Three quarters of this rise was in just a quarter of local authorities. Although the study showed that, nationally, the economic impact of immigration on GDP per head, productivity and prices is very modest, the economic and social impact on particular local authorities is much stronger. This includes pressure on education and health services and on the housing market and potential problems around cohesion, integration and wellbeing.

Impact on housing market: puts pressure on private rented market; locally problems with houses of multiple occupation; modestly reduces the probability of a native getting social housing – but the main problem here is not more migrants, rather a smaller stock of social housing.

Our flexible labour market has served us well. But vulnerable low skilled workers – natives and migrants – need protection. Less skilled migration has had a small negative impact on the wages of the low paid. There are insufficient resources devoted to key regulatory bodies such as HMRC which enforces the national minimum (now living) wage (NMW) and the Gangmasters Licensing Authority. Similarly, the penalties for breaching the regulations are not severe enough. Consider NMW enforcement: an employer can expect an inspection visit once-in-260 years and a prosecution once in a million years. This hardly incentivises compliance!

22

#### **NEUTRAL OR VERY SMALL IMPACTS**

The employment rate of UK-born working-age population was practically unchanged by the substantial inflow of EU8 migrants after 2004.

The youth labour market is a cause for concern. MAC did not find strong evidence that this is a consequence of the expansion of the EU in 2004. Schools had an incentive to boost the number of A\* - C grade in GCSE exams. This may imply insufficient attention is given to those towards the bottom of the ability range. Many apprenticeships do not stretch the individual sufficiently and have too little employer input.

Over the period 2000-2011, migrants and natives made very similar contributions to our fiscal position, around minus £1000 per person per year. This partly reflects the post 2008 recession. Recent migrants who arrived post 2000 made a positive contribution, but pre-2000 non-EEA migrants made a large negative contribution, reflecting differences in relative age and employment rate.

The impact on GDP per head, productivity and the price of non-tradable services like dry cleaning, hair dressing, and gardening is tiny.

#### **LINKS WITH OTHER POLICIES**

Demand for migrant labour is strongly influenced by institutions and public policies not directly related to immigration. These include, for example, labour market regulation, investment in education and training, and pay levels in some publicly funded low wage jobs. There is a trade-off between immigration levels and greater or lower investment in these areas.

#### **GOVERNMENT RESPONSE, Immigration Act 2016**

- new Director of Labour Market Enforcement to provide strategic leadership and coordination of HMRC (national living wage), Gangmasters Licencing Authority and the Employment Agency Standards Inspectorate
- new offence – aggravated labour law breach – carrying a custodial sentence