

GUEST WORKERS

SETTLEMENT, TEMPORARY ECONOMIC MIGRATION
AND A CRITIQUE OF THE GOVERNMENT'S PLANS

REPORT

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IDEAS to
CHANGE OPINIONS

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EXECUTIVE SUMMARY

Temporary migration has an important place in the UK, for students and youth mobility schemes and also for migrant workers who fill transient skills shortages, as well as smaller, more specialised categories.

Shifting the balance from permanent towards temporary migration, and further tightening the criteria for settlement, are legitimate policy objectives. Careful adjustments, building on some of the changes made by the previous government, could deliver these objectives without major negative effects.

In a consultation paper published in June 2011, however, the government proposed a more radical policy shift, essentially ruling out settlement for economic migrants from outside the EU, other than a few limited exceptions, notably the very wealthy.

If successful, the proposals would reduce the number of non-EU economic migrants settling each year from current levels around 40,000 to around 1,000. The proposals are unlikely to work; they are also misguided. For those who care only about reducing net migration, trying to keep settlement to a minimum makes sense. But for anyone who cares about Britain's ability to continue to attract the 'brightest and best', about the impact on the economy as we try to grow our way out of recession, and about the effects on integration within our society, these proposals raise real concerns.

Settlement is a complex and difficult policy area, demanding close attention to the detail of direct and indirect effects of policy changes and the practicality of compliance or enforcement – as well as questions of fairness and community cohesion. The government's proposals show insufficient evidence of having considered these questions, or of heeding the lessons from similar policies in other countries past and present (as described in sections 2 and 3 below). It is significant that no other major country is moving in this direction. Indeed, countries whose skilled migration policies are widely praised, such as Canada or New Zealand, are taking precisely the opposite approach: they may be fairly selective about who is allowed to enter, but they assume that those who do enter will settle, and have integration policies designed to make that work. Australia too has recently started to reverse its restrictions on longer stays by foreign students, encouraging them to stay on to work and potentially settle.

As it stands, the UK's proposed approach is impractical, likely to be damaging in economic and social terms, and – unusually for a 'tough' immigration policy – may even prove unpopular.

Questions the government must answer

Before going ahead with these proposals, the government needs to answer four questions which it has so far failed to address adequately:

1. Will the policy achieve its stated aims – will economic migrants actually leave after five years? Past experience of similar schemes suggests otherwise.
2. Will the policy have perverse effects – will it deprive Britain of some of our most economically valuable migrants, or discourage them from coming here in the first place?
3. Will it damage integration and cohesion – by reducing migrants' incentive to improve their English and build relationships with local communities, or by reducing the incentive of local communities to engage with them?
4. Will it help deal with public concern about immigration? Tough immigration policies are generally popular, but a majority of people support settlement for migrants who work hard and 'play by the rules'.

Further details on these questions are set out in section 3 below, alongside options for mitigating the negative effects of the government's proposals, and alternative proposals for delivering some of the same objectives, based on analysis of similar schemes around the world.

Recommendations

If the government goes ahead with its proposals, at a minimum it should:

- Apply them to migrants who enter the UK from April 2012, not April 2011 as proposed.
- Urgently commission work on likely compliance, and options for incentives and enforcement, based on the experience of similar schemes around the world. In particular, it should consider an incentive payment, funded by an employer levy or national insurance contributions, to incentivise compliance with return and minimise the need for enforcement.
- Take full account of the advice of the Migration Advisory Committee on how many non-EU economic migrants should be allowed to settle and on what criteria, and consult further with employers about a more flexible, less restrictive approach, including a points-based approach rather than numerical limits.
- Include in the forthcoming integration strategy specific proposals aimed at economic migrants, to offset the negative effects of a temporary migration policy.
- Commission research on public support for a temporary migration policy, compared with support for a policy of tightening the qualifying criteria while giving all economic migrants the opportunity to earn the right to stay.

A progressive alternative

Progressives should not automatically oppose any tightening of settlement policy. As stated above, adjusting the balance between permanent and temporary migration and tightening the criteria for settlement are legitimate policy objectives. Progressives need to respect democratic support for 'tougher' immigration policy. They also need to consider the trade-offs involved: temporary or 'circular' migration can represent a better balance between the rights of individual migrants and the interests of developing countries.

There is evidence that migration is becoming increasingly temporary anyway, for reasons unrelated to government policy, as barriers to mobility continue to fall. A progressive alternative would reinforce this trend – and better reflect public preferences – while avoiding the disadvantages of a compulsory temporary migration scheme, through:

- an incentive payment claimable by migrants on return (to encourage voluntary return, rather than incentivising compliance with forced return)
- support and incentives for returning migrants to take up opportunities in their home country
- using a points-based approach to settlement, rather than numerical limits – making it harder to qualify while keeping the opportunity open to all.

Further detail on this alternative progressive approach is set out in section 4 below.

1. BACKGROUND

Conservative ministers have repeatedly stated their aim of reducing net migration – immigration minus emigration – from current levels around 200,000 to ‘tens of thousands’ by the end of this parliament.¹ Delivering this aim will be challenging, particularly in light of two trends: falling emigration by British citizens and rising net migration from the eastern EU. Both these trends make the net migration target harder to achieve, and both are also beyond the government’s direct control.²

This is likely to motivate the government to bear down even more heavily on those elements of immigration which they do at least theoretically control. They have already imposed a ‘cap’ or quota on non-EU skilled migrants³ and announced policy changes which will reduce the numbers of non-EU students,⁴ and are consulting on reforms to family migration.⁵

As well as these proposals affecting **entry**, the government has proposed restrictions on the ability of economic migrants to **settle**, in a consultation paper published in June 2011.⁶ The restrictions would have the effect of making virtually all non-EU economic migration temporary, reducing the numbers of economic migrants who settle from around 40,000 in 2009 to around 1,000 in future years.⁷ These proposals are the focus of this report.

Definitions: Settlement and citizenship

Settlement is the *right to reside and work in the UK without restriction*. Foreign nationals can apply to settle after residing here for a certain period – for economic migrants, usually five years. Settled migrants enjoy most of the same rights and access to services and benefits as citizens (including the right to sponsor immigration applications).

Citizenship must be applied for separately, and brings a number of additional rights and benefits including the *permanent* right to reside and work in the UK without restriction (someone who is settled, but not a citizen, and leaves the UK for more than two years, may need to apply for permission to return; a naturalised citizen does not). Citizenship also brings the right to vote in a general election, and a British passport.

Making economic immigration temporary rather than permanent appears to be a point of principle for Conservatives. Prime minister David Cameron put it very simply in a speech on immigration in April 2011:⁸

‘It cannot be right that people coming to fill short-term skills gaps can stay long-term.’

1 There has been some confusion as to whether this aim formally constitutes government policy: it was the subject of a public spat between Conservative and Liberal Democrat ministers during the local election campaign earlier this year (see <http://www.bbc.co.uk/news/uk-politics-13072509>). But the Home Office remains committed to it and has David Cameron’s personal backing, reaffirmed in a recent speech (Cameron 2011).

2 Emigration of British citizens has started to rise again in recent quarters, but remains considerably lower than it was for most of the last decade. For a recent IPPR briefing on immigration statistics and trends see Mulley 2011. On the most recent quarterly figures see Cavanagh 2011a.

3 For an IPPR briefing on this subject see Mulley 2010.

4 For an IPPR briefing on this subject see Mulley and Sachrajda 2011.

5 See UKBA 2011a

6 See UKBA 2011b

7 For the details of this estimate, see section 2.

8 Full text of this speech is available at <http://www.bbc.co.uk/news/uk-politics-13083781>.

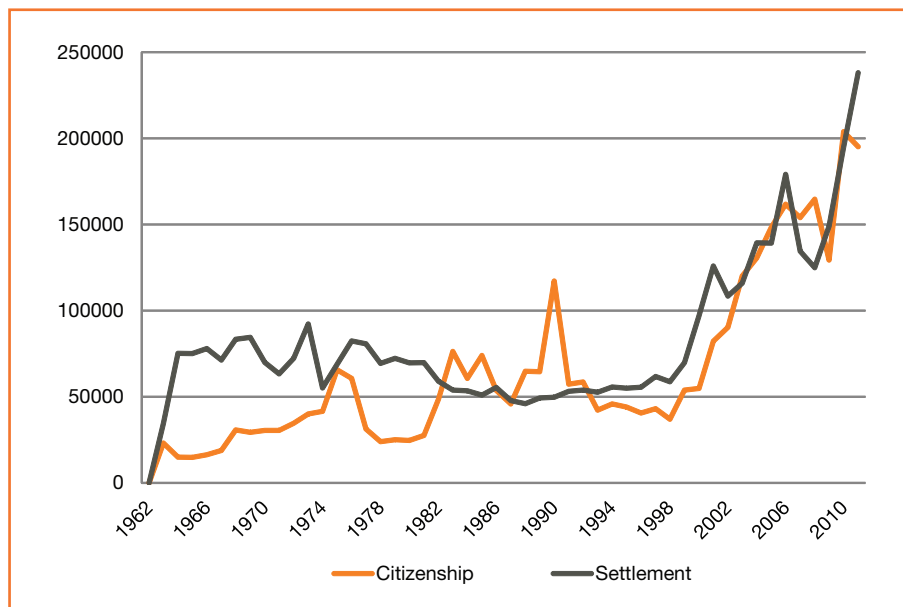
However, as well as the point of principle, the contribution which these proposals would make to reducing net migration is clearly a significant motivation for ministers. If successful, the proposals will reduce net migration by increasing emigration when migrants come to the end of their permission to stay.

Rates of return migration fluctuate based on other factors, in particular economic factors – for example, if the UK experiences a prolonged downturn, all other things being equal this will tend to reduce immigration and increase emigration. But the government’s proposals are clearly aimed at changing rates of return migration across the economic cycle, and this paper analyses them in that context.

The consultation document does not argue with any great conviction that the work most economic migrants are doing is essentially temporary. The government does hope that, over time, employers and skills providers will adapt to persistent skills shortages by training resident workers rather than relying on migrants, but experience suggests this adaptation is unlikely to be fast or universal. The consultation document asserts that these proposals on settlement will ‘discourage over-reliance on foreign workers’ (UKBA 2011b: 18), but the more likely result is a shift to a constantly churning population of temporary working migrants – because although the need is permanent, the government is choosing for that need to be satisfied by people who stay only temporarily.

Trends in grants of settlement and citizenship

Figure 1
Settlement and citizenship



Source: Older citizenship figures from Home Office 2010a; older settlement figures from Home Office 2006; recent figures from Home Office 2011a

Grants of settlement and citizenship have increased sharply since 1997, along with the proportion of these grants going to working migrants:⁹

- In 2010, there were 241,000 grants of **settlement**, up 24 per cent from 2009.
- Settlement grants averaged around 75,000 in the 1960s and 1970s, and around 50,000 in the 1980s and early 1990s.

⁹ Figures rounded to the nearest 1,000 and taken from Home Office 2011a, for 2010 unless stated.

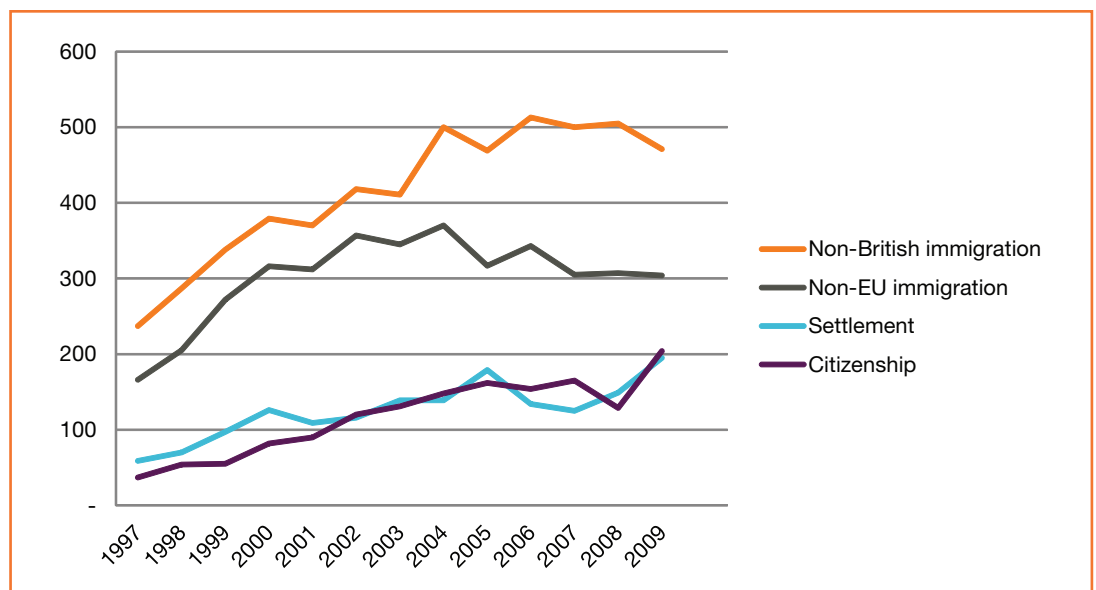
- In 2010, 35 per cent of settlements were granted to working migrants and dependents (double the proportion in 1997); 27 per cent were granted on the basis of family, and 2 per cent directly on the basis of asylum (but, it should be noted, 35 per cent were granted for ‘other discretionary reasons’, including around 50,000 linked to older asylum cases).
- In 2010, there were 195,000 grants of **citizenship**, down 4 per cent from 2009.
- Citizenship grants averaged just over 20,000 in the 1960s, 38,000 in the 1970s, 63,000 in the 1980s and 48,000 in the 1990s (excluding the hundreds of thousands granted from Hong Kong in the 1990s).
- The most common countries of origin are India (19 per cent of settlement grants, 13 per cent of citizenship grants) and Pakistan (12 per cent and 10 per cent respectively).

This data is more robust than some other data on migration, being based on actual grants, rather than surveys or estimates. However, grants of settlement and citizenship are also more sensitive than levels of immigration to rule changes and, indeed, to management issues. For example, the spike in citizenship grants in 1989 (see figure 1) is explained by the opening of a second office in Liverpool, encouraging more claims from those living in the north and enabling more to be processed. Similarly, the dip in both settlement and citizenship grants in 2006 and 2007 is explained by the increase in the qualifying period from four to five years in 2006.

Finally, it is worth noting that this data may only imperfectly capture what most people understand by migrants ‘settling’ or ‘staying permanently’, since it does not include migrants from the EU who choose to stay long-term, who have no requirement or reason to apply for settlement. (Although some do choose to apply for citizenship, often after a much longer stay.)

With immigration levels stabilising after 2004, why have grants of settlement and citizenship continued to rise?

Figure 2
Settlement, citizenship
and immigration ('000s)



Source: Settlement figures from UKBA 2011b; immigration figures from Office of National Statistics, LTIM survey

Since 2004, the trend in non-British immigration has been stable, and in non-EU immigration slightly falling (see figure 2). Nevertheless, grants of settlement and citizenship have continued to rise. There are a number of reasons for this:

- Settlement and citizenship trends naturally ‘lag’ immigration trends, given the gap between migrants arriving in the UK and later qualifying for settlement and citizenship. The rise in settlement and citizenship after 2007 reflects the rise in immigration between 1997 and 2004.
- There is a different kind of ‘lag’ in the asylum system: during the international surge in asylum claims between 1998 and 2002, existing systems were unable to cope and so a backlog of hundreds of thousands of claims built up in the UK, as in other countries. New asylum claims have fallen dramatically (2005–09 levels had dropped by two-thirds from the 2002 peak) but around 160,000 of the backlog cases have been granted settlement since 2006, including 50,000 in 2010 alone.¹⁰
- It is possible that, as the immigration regime in the UK has become progressively tighter, some migrants who have resided here legally for years but not bothered to apply for settlement or citizenship may be choosing to do so before it becomes more restricted (the so-called ‘closing down sale’ phenomenon).

The previous government’s approach

The UK has operated long-running temporary migration schemes, which continued under the Labour government, including the seasonal agricultural workers scheme and working holidaymakers scheme. A further scheme, the sector-based scheme, was added in 2003.¹¹

However, although these temporary schemes were continued, the Labour government held the view that economic migrants who stayed for anything more than a few years should not merely be allowed to settle and naturalise but should in fact be encouraged to do so. This policy stance was based on two beliefs, informed by experience in Britain and elsewhere: that enforced return of working migrants who stayed for more than a few years was unfair, impracticable, and costly, and that it is better for cohesion to encourage long-staying migrants to act and feel like full members of society, and to be seen as such by others.

At the same time, a number of changes were brought in to make the process of qualifying for settlement and/or citizenship more demanding:

- 2004–05: Compulsory citizenship ceremonies were introduced (in which an oath or affirmation of allegiance, and pledge of loyalty, must be made before a local registrar), along with a ‘Life in the UK’ test designed to test both basic knowledge of life in the UK and basic competence in English.¹²
- 2005: Successful asylum claimants were no longer granted settlement, but instead were granted temporary leave for five years, after which they could apply for settlement (the justification cited was that many grants of asylum are made on the basis of conditions in the country of origin, which may change over time).
- 2006: The qualifying residence period for settlement for economic migrants was extended from four to five years.

10 This ‘backlog clearance exercise’ hit the news in June 2011: see Cavanagh 2011b for discussion of some of the international and historical context.

11 See note 35 below.

12 These changes were legislated for in the Nationality, Immigration and Asylum Act 2002, and then implemented in 2004–05.

- 2008: A more stringent interpretation of the existing ‘good character’ requirement for settlement was introduced.
- 2008–09: A new approach of ‘earned citizenship’ was announced and legislated for – but was not fully implemented by the time of the 2010 election.¹³ It was intended to mark a clear break with the previous perception that the right to settle followed automatically after a certain number of years in the country. Under the approach then proposed, at the point when migrants would previously have applied for settlement, they would instead have to apply for a new category of ‘probationary citizenship’. At the end of this period, which would last between one and five years, they would have to demonstrate proficiency in English, continuous employment, and that they had obeyed the law,¹⁴ in order then to acquire settlement or citizenship. Access to a range of non-contributory benefits¹⁵ would also be deferred during this period.

The more stringent interpretation of the ‘good character’ requirement effectively made it difficult for anyone who has an unspent criminal conviction to attain settlement or citizenship. It has accounted for an increasing number of rejected applications – around 10 per cent before the change, rising to 28 per cent (around 3,000 refusals) in 2009. By contrast, failure to demonstrate language proficiency or knowledge of life in the UK accounted for only 3 per cent of rejections (though these criteria may have dissuaded or delayed some applications). The largest category of refusals, accounting for 37 per cent, was failure to satisfy residence requirements.

This gradual tightening of the qualifying criteria for settlement and citizenship was (and remains) broadly in line with public opinion,¹⁶ and also with the Labour government’s long-standing principle that migrants’ rights must be balanced by clear responsibilities towards their host country.

Despite this gradual tightening, the intention remained to encourage long-staying economic migrants to settle. In other words, the objective behind the policy was to ensure that those settling satisfied the new requirements, not to use the new requirements to reduce numbers.

The question of numbers was raised for the first time under Labour in the consultation paper ‘Earning the right to stay’, in July 2009 (UKBA 2009). This consultation set out plans to extend the points-based approach – in place since 2008 governing permission to enter – to cover permission to settle as well. The consultation identified ‘managing population growth’ as one of the objectives of this new framework. This came as part of a wider shift, with the Labour government finally acknowledging that it could no longer avoid taking a position on the question of overall immigration numbers, which was increasingly central to the political debate (Cavanagh 2010). However, even at this point, the stated

13 See Home Office 2008, UKBA 2009 and the Borders, Citizenship and Immigration Act 2009 (<http://www.legislation.gov.uk/ukpga/2009/11/contents>)

14 Under the approach proposed in ‘Earning the right to stay’, those convicted of a crime attracting a custodial sentence which falls below the deportation threshold (of two years) would ‘normally be refused any application for probationary citizenship, permanent residence or citizenship’, while those who committed minor crimes and are given noncustodial offences would ‘normally be unable to obtain citizenship until their convictions are spent’ (UKBA 2009).

15 Including housing benefit, income support, disability living allowance, homelessness assistance and child benefit – but not tax credits.

16 The 2010 Transatlantic Trends survey asked people to name the most important precondition for foreign nationals obtaining citizenship. British respondents indicated that being able to speak English (34%), respecting national political institutions and laws (32%), and sharing national cultural values (17%) were more important than length of time in the country (see Transatlantic Trends 2010).

objective was to prevent numbers from rising in an uncontrolled way, rather than to try to reduce them.

The regime for the 'Life in the UK' test continued to encourage applicants to retake repeatedly until they passed. Central government funding continued to be provided for ESOL teaching (English for speakers of other languages) to support migrants in satisfying the English requirement. It is reasonable to infer that if the points-based approach to settlement and citizenship had been implemented as envisaged, while it would have further 'raised the bar' for settlement, it would still have offered the majority of economic migrants the opportunity to qualify.

2. A NEW APPROACH: TEMPORARY MIGRATION

The present government's approach

In November 2010, the new government announced it was scrapping the 'earned citizenship' framework set out by its predecessor.

However, in April 2011, a number of changes were made to the settlement rules for economic migrants,¹⁷ which largely built on or adapted the approach of the previous government:

- **Tightening the English test:** With a few exemptions,¹⁸ all economic migrants and dependents now need to pass the Life in the UK test in order to settle. (Previously, some categories were able to qualify by proving they had attended an ESOL-with-citizenship course, and spouses or partners of working migrants did not have to pass).
- **Tightening the rules on economic contribution:** Whereas the previous government had proposed a test of 'continuous employment' as part of the earned citizenship framework, the new government decided instead to take the income test which applies at entry and reimpose it when applying for settlement.
- **Tightening the criminality threshold:** The new government formalised the more stringent interpretation of the 'good character' requirement, along the same lines as its predecessor proposed in the earned citizenship framework, requiring migrants to be clear of unspent convictions when they apply for settlement.¹⁹

Then, in June 2011, the consultation (UKBA 2011b) was published outlining further proposals on settlement for working migrants – the focus of this report. In contrast to the changes made in April, these proposals mark a radical break from the previous government's approach. Together with other changes preventing student migrants from switching into work (and thereby into a route to settlement), the overall effect would be to make all economic migrants essentially temporary, bar a few exceptional cases: in particular, the most wealthy. At the end of their visa – one, two, three or, at most, five years – over 90 per cent of working migrants would be expected to return home.

This runs counter to the direction which most similar countries are adopting (also directly counter to European Council Directive 2003/109/EC, which sets out a common standard of allowing settlement for foreign nationals after five years' residence – but does not apply to the UK, nor Ireland nor Denmark.²⁰)

Currently, economic migrants from outside the EU come to the UK through the points-based system introduced by the previous government in 2008, which is divided into five tiers. The absolute and relative numbers coming to the UK through each of these tiers, and estimates of their tendency to settle, are set out below. The figures focus on those who settled in 2009, to exploit research carried out by the Migration Advisory Committee and a Home Office research study which, for the first time, tracked migrants through

17 See <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/news/wms-tier1-2.pdf>

18 Including people under 18 and over 65 years of age, victims of domestic violence, a bereaved partner of a British citizen, and some categories of refugee or humanitarian protection (see <http://www.ukba.homeoffice.gov.uk/settlement/knowledge-language-life/>).

19 Details on lengths of time it takes for different sentences to be spent can be found here: <http://www.yourrights.org.uk/yourrights/privacy/spent-convictions-and-the-rehabilitation-of-offenders/how-a-conviction-becomes-spent.html>. The lack of exemptions to this requirement has led to criticism from migrant groups. For example, around 700 or so individuals, mostly women, are granted indefinite leave to remain every year when they separate from partners because of domestic violence. If they have unspent criminal convictions, they would no longer qualify (see Grove-White 2011).

20 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:NOT>

the system from entry to settlement.²¹ The 2009 figures can be taken as representative, since although the total number settling in 2010 rose from 195,000 to 241,000, this increase was due to clearing the backlog of older asylum cases (see above) – numbers for economic migrants and their dependents were similar in both years, at around 80,000.

- **Tier 1:** highly skilled, not tied to a specific employer or job: around **19,000** in 2009, roughly **4 per cent** of non-British immigration
- **Tier 2:** skilled workers, tied to a specific employer or job: around **36,000** in 2009, roughly **8 per cent** of non-British immigration
 - **A significant minority of Tier 1 and Tier 2 settle:** By 2009, **29 per cent** of migrants admitted under the 2004 equivalents of Tiers 1 and 2 had been granted settlement. A further 11 per cent still had temporary permission to remain, some of whom will go on to settle. The total number who had settled from the 2004 cohort was around 30,000, as well as just over 35,000 dependents.²² However, the numbers coming through these routes is falling: from the 2009 entry cohort, assuming the same 29 per cent proportion applies, 26,000 would settle after five years; from next year's cohort, with Tier 1 closing and Tier 2 static or slightly reducing, the number would be closer to **20,000** (again, plus dependents).
- **Tier 3:** low-skill workers: remains closed
- **Tier 4:** students: over **200,000** in 2009, over **40 per cent** of non-British immigration
 - **A small minority of Tier 4 settle:** By 2009, roughly **3 per cent** of student migrants admitted in 2004 had been granted settlement – around 6,000, plus dependents. There is no direct route to settlement for students: they have to switch into another category – either work, or as a spouse or partner of a resident – but until recent changes it was relatively easy for university-level students to switch into work. On top of the 3 per cent who had settled after five years, 20 per cent still had temporary permission to remain, half of those in categories that allow for settlement, some of whom will go on to settle.
- **Tier 5:** temporary workers and youth mobility: around **30,000** in 2009, **6 per cent** of non-British immigration
 - **A small minority of Tier 5 settle:** By 2009, **3 per cent** of those admitted in 2004 under predecessor routes had been granted settlement – around 1,000, plus dependents. There is no direct route to settlement for these migrants: they have to switch into other work routes or become a spouse or partner of a resident. While only 3 per cent had settled, around 11 per cent still had temporary permission to remain, some of whom will go on to settle.
- **Domestic workers in private or diplomatic households:**²³ around **10,000** in 2009, **2 per cent** of non-British immigration
 - A small minority of domestic workers settle: around **1,000** by 2009.²⁴

21 Figures on entry under the various routes in 2009 are taken from MAC 2010; figures on where migrants are after five years are taken from Home Office 2010b.

22 Of all settlement grants to dependents, 2009 figures show that 58% were to spouses or partners, 36% to children and less than 1% to parents/grandparents.

23 This category does not fit neatly into the points-based system: domestic workers in diplomatic households fall under Tier 5 temporary workers, those in private households are outside the tiers structure altogether. For present purposes it makes sense to group them together.

24 This is an estimate – around 650 settle from private households; figures are not collected for diplomatic households.

The total numbers who were admitted under the predecessors of these routes in 2004 and who had been granted settlement five years later was **around 40,000**, plus a slightly higher number of dependents. As previously noted, without any major policy changes on settlement, this number would be likely to shrink due to the closing of Tier 1 and the ‘capping’ of Tier 2 to around 30,000, plus a slightly higher number of dependents.

In addition to this downward trend, the proposed changes would restrict the opportunity of non-EU economic migrants to settle as follows:

- **Tier 1:** As noted, this route has been closed, leaving only very limited routes for wealthy investors and entrepreneurs (around 500 people) and a new category of ‘exceptional talent’ in science and the arts (around 1,000). These smaller replacement routes will still allow for settlement. Indeed, they will offer an accelerated route: migrants depositing £10 million in a British bank account will be allowed to settle after two years, and migrants investing £5 million after three years, rather than the usual five.
- **Tier 2:** The new proposals classify all new Tier 2 applicants as temporary migrants (from April 2011). There will be no route to settlement, other than a few exceptions: the wealthy (those earning over £150,000) plus elite sportspeople (around 250) and ministers of religion (around 370). Intra-company transfers,²⁵ which accounted for 22,000 out of 36,000 entrants via Tier 2 in 2009, have been excluded from the ‘cap’ but are covered by these proposed restrictions on settlement. A new category will be created into which ‘exceptional’ Tier 2 migrants will be able to switch after three years, in which they would be allowed to apply for settlement – but with very strict criteria, and, very probably, a limit on numbers.²⁶ All others would have to leave after a maximum of five years.
- **Tier 4:** The post-study work category for university-level students is being closed (though those who started their course before the change will still be able to qualify). Non-EU students will only be able to stay on by switching into the replacements for Tier 1 (very unlikely) or into Tier 2 (which no longer allows for settlement in most cases), or as a spouse or partner of a citizen or settled resident.
- **Tier 5:** Temporary workers will be restricted to a stay of 12 months maximum, with no possibility of settlement; youth mobility is unchanged at a maximum of two years.
- **Domestic workers:** These routes will either be abolished, or restricted to 12 months or shorter with no possibility of settlement.²⁷

If successful, the overall effect of these policies would be to reduce the number of non-EU economic migrants settling each year, from current levels of around 40,000 (plus a roughly equal number of dependents) to around 1,000 (plus dependents).²⁸

25 This category is designed for multinational employers who wish to bring in existing employees from outside the EU. There is a minimum salary of £24,000. Those earning over £24,000 and under £40,000 can stay for a maximum of one year; those earning over £40,000 can stay for up to five years, similar to other Tier 2 migrants.

26 The consultation asks for views on a numerical limit, a points-based test, and a random lottery, but the language clearly favours the numerical limit (UKBA 2011b: 19).

27 The option of abolishing the domestic workers route has led to claims that this will result in domestic workers being brought in illegally, with greater risk of exploitation (see McTaggart 2011).

28 The estimate of 1,000 (plus dependents) settling is based on the entry figures of 500 investors and entrepreneurs, and 1,000 in the new ‘exceptional talent’ category, plus an estimate of 500 for the ‘exceptional’ Tier 2 workers switching after three years, together with the assumption that a similar proportion will settle as currently do so through Tier 1 and Tier 2. The government has not given any guidance for how many Tier 2 workers will be allowed to switch into settlement, other than to imply that it will be very small and ‘exceptional’. In order for this estimate to be wrong – for the total number settling across all these categories to exceed 1,000 – this exceptional Tier 2 route would have to permit more than 2,000 ‘switches’, which does not seem likely based on the government’s statements to date.

Equally importantly, these proposals would reduce the number of economic migrants who have the opportunity to settle – in the previous government’s terminology, the chance to ‘earn the right to stay’ – from the current situation, where this applies to most economic migrants, to the low thousands, with the vast majority having no realistic opportunity to qualify.

There are a wide range of other recent changes and proposals in related areas. For example, in a speech in October 2011 the prime minister announced that the Life in the UK test would be updated, including a greater emphasis on British history and culture (Cameron 2011). Many categories of migrants will be prevented from bringing dependents, including students coming for less than 12 months or to study below masters level, Tier 5 temporary workers and domestic workers. The separate consultation on family migration (UKBA 2011a) covers these changes in more depth, and also proposes extending the qualifying residence period for settlement for those coming to the UK as spouses or partners or other dependent relatives from two years to five, to bring it in line with other routes.²⁹ It also proposes applying this universally, including to those married for a significant period before arriving in the UK. While the latter proposals would delay the right to settlement (like the extension of the qualifying period from four to five years for economic migrants in 2006), they would not fundamentally restrict that right.

The focus of this briefing paper is on the fundamental policy shift, of attempting to **make virtually all non-EU economic migration temporary**.

The central case to consider is that of a migrant worker who is asked to leave after living and working in Britain continuously for five years, holding a skilled job and doing everything that is expected of them, in terms of the ‘responsibilities as well as rights’ of being a migrant: learning the language, paying taxes, supporting themselves, and keeping out of trouble. (If they had not been doing these things, they would not be able to settle under the current policy anyway). How much are these workers likely to be earning? The median entry salary for Tier 2 is around £25,000 (excluding intra-company transfers – who are subject to a higher salary threshold, but for whom denying settlement is less unreasonable, given the rationale for this subcategory, particularly those limited to 12 months). In some sectors, including health professionals, science and technology, and managers, the median entry salary is around £40,000 (MAC 2010).³⁰ These salaries are likely to rise for a migrant worker who stays for five years. Such migrants are likely to be making a significant net fiscal contribution, as well as their contribution at work. But unless they are earning £150,000 (a very small percentage) or qualify for the small number of ‘exceptional’ places, these are the migrant workers who under this new policy will be asked to leave, regardless of the roots they have put down, the contribution they have made and could make in the future – and, from their employer’s point of view, regardless of whether there is anyone resident here ready to replace them.

Other examples of temporary migration policies

The most famous – or infamous – examples of large-scale temporary economic migration policies were in the United States and Germany in the decades following the second world war. The US ‘Bracero’ programme, focused on Mexican migrants, ran from the 1940s to the early 1960s; the German ‘Gastarbeiter’ or ‘guest worker’ policy, focused on Turkish

29 This consultation also includes a number of proposals for identifying and tackling sham marriages and forced marriage.

30 The mean entry salary for the whole of Tier 2 is £58,000, but this suffers from the usual distortions, plus the inclusion of intra-company transfers, who tend to have higher salaries but of whom many are not relevant to a discussion of settlement policy. The median entry salaries for the resident labour market element of Tier 2 is £29,000, and for the shortage occupation element £23,000 (all figures from MAC 2010).

migrants, ran from the late 1950s to the early 1970s. The general assessment of these policies is that they were not a success. They were controversial from the point of view of fairness, and integration and community cohesion; and they were ineffective in their stated aim, with large numbers of supposedly temporary migrants staying permanently. In Germany, the Gastarbeiter policy led to the popular slogan 'there is nothing more permanent than temporary workers', as millions of Turkish 'guest workers' and their relatives ended up settling.³¹

There are also a number of current or recent examples:

- the Canadian temporary foreign worker programme (TFWP), originally for seasonal and domestic workers, which was expanded to cover skilled workers in 2003 and low-skilled workers in 2006³²
- the German 'green card' programme for IT workers, which ran from 2000 to 2005³³
- the United States H2A visa for agricultural workers and H1B visa for skilled workers³⁴
- three British examples, all of which have continued under the present government: the long-running working holidaymakers scheme (now renamed 'youth mobility' and included in Tier 5); the long-running seasonal agricultural workers scheme (SAWS), and the more recent sector-based scheme (SBS) (eligibility for the latter two is limited to Bulgarian and Romanian nationals only)³⁵
- a number of schemes in other countries, in particular in the Middle East and far east (such as Singapore), which maintain large guest worker populations but whose legal and cultural differences make them less obvious comparators for the UK.³⁶

There are important differences between these schemes. The first is the length of stay. Some of the schemes are explicitly seasonal: for example the Canadian TFWP scheme before 2003 (the great majority of which was seasonal agricultural workers) and the British SAWS scheme. In these schemes, migrants return home at the end of each summer, and then expect to be able to come back for the following season. Such short-term, seasonal schemes are clearly very different from longer-term schemes in which a migrant worker lives in the country continuously for several years and then is required to go home, with no expectation of return. The new UK proposals for working migrants are at the long-term,

31 On the case of Turkish guest workers in Germany, see Castles 1985; on the case of Mexican guest workers in the US see Martin and Teitelbaum 2001.

32 Numbers coming to Canada on the TFWP scheme increased from an average of around 100,000 in the 1980s and 1990s to an average of 180,000 after 2006 (see Citizenship and Immigration Canada, Facts and figures, <http://www.cic.gc.ca/english/resources/statistics/menu-fact.asp>).

33 The name is potentially misleading, since it was a temporary scheme, in contrast to the well-known American green card scheme, which does allow for permanent residence. Around 5,000 per year came on their German scheme. See a summary at <http://focus-migration.hwwi.de/index.php?id=1198&L=1>.

34 This scheme limits workers to three years' residence, renewable for a further three. See a useful summary at http://en.wikipedia.org/wiki/H-1B_visa.

35 SAWS has existed for many decades. It allows people to come and work for up to six months in agriculture, primarily fruit and vegetable picking. The annual quota increased from around 10,000 in the 1990s to over 20,000 in 2003; it was then reduced to around 15,000, on the basis that many of the workers on the scheme came from the eastern European nations which joined the EU in 2004 and so could now come to the UK freely. After Bulgaria and Romania joined the EU in 2007, but the UK placed temporary restrictions on their access to the UK labour market, SAWS was restricted (from 2008) to nationals of those two countries only. From 2009, the quota was increased to just over 20,000, and it remains in the same form and at the same level today. SBS was introduced in 2003 for temporary, low-skilled non-EU migrants working in food processing and hospitality, with an annual quota of 20,000, and for a maximum of 12 months. It was due to be closed in 2006, partly because of concerns about overstaying and other types of abuse, but instead, along the same lines as SAWS, the quota was reduced to 3,500 and eligibility was restricted to Bulgarian and Romanian nationals only. It remains in that form today.

36 For useful recent detail see Cerna 2010.

continuous end of this spectrum. Others, like the working holidaymaker or youth mobility schemes, lie somewhere between these extremes – the UK version currently has a two-year maximum stay – but may be more comparable to student migration than to typical economic migration schemes.

The second difference is the strictness of the requirement to return. The high-skill element of the Canadian TFWP was always ‘temporary’ in name only: it was relatively easy to switch into permanent settlement. By contrast, the low-skill version was intended from the outset to be a strictly temporary scheme. The German green card programme was also intended to be strictly temporary, with a limit of five years. The American H1B scheme is not quite as strict: it is possible to switch into the permanent green card programme, but that programme is so heavily over-subscribed that H1B is effectively temporary, with a lottery for a few permanent places. In this respect, the new UK proposals are towards the stricter end of the spectrum, close to the H1B scheme, with a small number of ‘exceptional’ places and otherwise a strict requirement to return.

3. FOUR KEY QUESTIONS FOR THE GOVERNMENT

An examination of the proposals, and of past experiences here and overseas, identifies four questions which the government has so far failed to address adequately and which it must answer before going ahead.

1. Will the policy achieve its stated aim?

As noted above, the most famous historical examples of large-scale temporary economic migration policies, in the United States and Germany, were generally thought to be ineffective in their stated aim, with large numbers of so-called temporary migrants ending up staying permanently. By the 1990s, the German government admitted that this temporary migration programme had in effect turned Germany into a ‘country of permanent immigration’ (Castles 1985).

Advocates of temporary migration argue that even discredited examples, like the German case, were not totally ineffective: although millions ended up staying, the majority did in fact return home. However, this is not really an argument in favour of temporary migration schemes, since under a system which allows for settlement – or even encourages it, like the recent British system – it is also true that a majority of migrants return home. Under the British system, as was noted in the previous section, 29 per cent of working migrants had settled after five years and 11 per cent still had temporary status, suggesting that a majority had returned home.³⁷ It is far from clear how many more returned home under the German policy *than would have done anyway*.

Advocates of temporary migration also argue that it is possible to learn the lessons of earlier examples, both the historical experiences of the US and Germany, and the more recent schemes outlined above.³⁸ However, there is no evidence that the government’s current proposals have been based on explicit attempts to learn from any of these examples. None of them is discussed in the consultation document or in related materials.

Moreover, when external experts cite successful examples to defend the practicality of temporary migration schemes, they tend to cite a specific subset of these schemes: those which are short-term or seasonal, and flexible rather than strictly temporary. The new UK proposals are towards the opposite end of the spectrum in both respects.

Successful examples include youth mobility schemes, traditionally based on reciprocal arrangements with a restricted list of countries³⁹ and, in particular, explicitly seasonal schemes such as the pre-2003 form of the Canadian TFWP scheme and the British SAWS scheme. In these schemes, migrants return home at the end of each summer in the expectation that they will be able to come back to work again the following season.⁴⁰ This is clearly very different from requiring a worker who has been living in a country continuously for several years to leave, with no expectation of being able to return. The outcomes of other schemes which offer closer parallels to what is now being proposed in the UK – the historical German and US schemes, the low-skill element of the Canadian TFWP scheme after 2006, and to an extent the American H1B programme – are far less encouraging.

The problems with the historical German and American schemes have been widely discussed (Castles 1985, Martin and Teitelbaum 2001). Similar problems are reflected

³⁷ A number may also have overstayed, but this is unlikely to push the proportion remaining in the UK over 50%.

³⁸ See for example Ruhs 2006

³⁹ In the case of the UK scheme, with Australia, New Zealand, Canada, Japan and Monaco.

⁴⁰ The American H2A visa for agricultural workers should in theory be similar but has been seen as less successful, due to bureaucratic inflexibility (see Gaouette 2008).

in the way the low-skill element of the Canadian TFWP scheme has evolved: initially, low-skill temporary work permits were limited to 12 months; then this was extended to 24 months, with the possibility of further extension, but with a requirement that workers go back to their countries of origin for 4 months before extending; then in 2009 that requirement was abandoned, with so-called ‘temporary’ workers being allowed to renew repeatedly in-country. The German ‘green card’ programme followed a similar pattern: after five years – the point when enforcing return for the first cohort of temporary workers on the scheme would have started to become a practical rather than theoretical issue – it was replaced by a scheme which allowed for settlement – so this too cannot really be cited as a successful example.⁴¹ This recurring pattern conforms to the historical American and German experiences, as the reality of enforcing return (both in terms of the practicality of enforcement and of employer and community resistance) led to continuous postponement. The current American H1B visa, which as noted offers a ‘lottery ticket’ to settlement via the green card scheme but requires the majority to leave at the end of their visa, is generally assumed to have generated hundreds of thousands of overstayers. Even the UK’s SBS, which had a relatively short initial limit of 12 months, suffered from problems with overstaying and other kinds of abuse, and was due to be closed before it was decided to restrict eligibility to Bulgarian and Romanian nationals only as part of the transitional arrangements for those countries’ accession to the EU.

These examples show that it is very difficult to maintain the integrity of a temporary migration programme and to achieve acceptably high rates of return – higher than would have occurred anyway, and high enough to justify the other disadvantages of such a scheme. At the very least, this demands careful consideration of the incentives for migrants and their employers to comply with the rules, and realistic (and properly funded) options for enhanced incentives or enforcement.⁴²

The proposed policy will add tens of thousands of people per year to the already-problematic category of migrants who entered the UK legally but no longer have the right to remain and are ‘expected to return’. It can be argued that these new additions, being skilled workers or professionals, are more likely to comply with the expectation to return than others in the category; on the other hand, the longer a migrant has stayed in the country, the more incentive there is to overstay. The experience of similar programmes at other times and in other countries certainly suggests it would be unrealistic to assume high rates of compliance. Some may choose to fight the policy in the courts; others will simply overstay. Even if they can be identified and found, forcible removal is undesirable and expensive, costing up to £10,000 or more per person.⁴³

The difficulty and cost of enforcement is not necessarily a knockdown argument against a new policy: it is possible to argue that a policy can achieve acceptable rates of compliance even where enforcement is uneconomic (for example, the UK’s TV licence regime). But in the case of immigration policy, introducing a new policy which has low compliance and limited enforcement has particular disadvantages, in terms of further undermining fragile trust in the immigration system.

41 See note 33 above.

42 An OECD report into temporary migration (Dayton-Johnson et al 2009) concluded that successful schemes exhibited ‘flexible working arrangements, close supervision of recruitment, clear admissions criteria, and protection of fundamental rights’, but the report is not really aimed at *compulsory* temporary schemes, for which the biggest problem is compliance and enforcement.

43 The UK National Audit Office estimated the cost of forced return of failed asylum-seekers at £11,000 per head, including substantial detention costs incurred while subjects await deportation (see Blinder 2011a).

One obvious way to mitigate the risk is to focus on incentivising return. Incentivised return schemes have proved effective: they are usually both more practical and less expensive than enforcement. The existing incentivised return scheme in the UK, which has generated the return of around 5,000 migrants with no right to remain each year, costs somewhere between £1,000 and £2,000 per head, or only 10–20 per cent of enforcement costs (Blinder 2011a).

If designed-in from the start, financial incentives to return at the end of a work visa, in the form of an incentive payment claimable on return to the home country, could be funded either through a levy on migrants themselves – effectively a form of forced saving, released to them on return to their home country – or through a levy on their employers, or through diverting a share of national insurance contributions (NICs).

A levy on migrants themselves would need to be administered and guaranteed by the government, in order to be sufficiently trusted. A levy on employers would face the familiar challenge of ensuring that employers did not simply pass on the cost to the migrants themselves. The value would need to build up each month (that is, a certain amount would be levied for each month in employment) to avoid creating an incentive for employers to lay off migrants just before the point of payment, or a perverse incentive for the migrant to stay for the full five years simply in order to qualify for the payment. In the current UK consultation, it is proposed that the costs of settlement, for those who will be allowed to settle, could be levied on employers, so there is no principled reason not to take the same approach to the costs of incentivised return for the rest. A levy on employers would also have the added benefit of reinforcing employers' incentive to look for suitable resident workers before hiring a migrant worker.

The alternative would be for a proportion of NICs (both employer and employee) to be diverted into such a payment.⁴⁴ Unlike the other two funding options, this would reduce the fiscal benefit of migration to the taxpayer, but even a sizeable contribution from NICs of over £1,000 per year would incentivise return while still leaving the average migrant worker as a positive net fiscal contributor. This approach would not work for migrants of some nationalities, in particular the United States, who can obtain an exemption from NICs by demonstrating they are paying into contributory schemes in their home country;⁴⁵ however, that decision suggests they are intending to return anyway. (Some experts have advocated applying this to all migrants, transferring all their NICs to contributory schemes in their home country.⁴⁶ However, as well as further reducing the fiscal benefit to the UK, this depends on such schemes being universally available, and although it would have an incentive effect, that would probably be less than if receiving the equivalent sum as a direct payment.)

Even if these particular suggestions are not followed, these issues of compliance, incentives, enforcement, costs and practicalities clearly need serious consideration, and it is unfortunate that they are entirely absent from the consultation document and related government announcements. The consultation document simply states that migrants who have been living here continuously for five years will be 'expected' to leave, with no discussion of compliance, incentives or enforcement, or estimates of what proportion of

44 'Mechanisms to transfer pension or social security contributions to an account in the home country to be collected by the migrant only on return will encourage circular movement' (Dayton-Johnson et al 2009).

45 United States citizens can do this for up to seven years; for most nationalities it is limited to one year.

46 See Ruhs 2005

so-called ‘temporary’ migrants the government believes will actually leave at the point they are supposed to.

Recommendation: The government should urgently commission work on compliance (including an estimate of overstayers) and on enforcement and incentive schemes, based on the experience of similar programmes around the world and previous experience of incentivised return schemes in the UK – including looking at the idea of an incentive payment, claimable on return, with various options for funding, to incentivise return and minimise the need for enforcement.

2. Will the policy have perverse effects?

There are two kinds of perverse effect. The first is the direct effect of requiring migrant workers to leave after five years, which would result in the loss, at that point, of some of the most valuable migrant workers. The second is the indirect effect, that a shift to a temporary scheme is likely to discourage valuable migrant workers from coming in the first place.

To illustrate the direct effect, consider again the migrant worker who will be affected by this policy: one who has been living and working here continuously for five years, in a skilled job, and doing all the other things expected of them, and then is told to leave. The relevant questions are: what is the cost to their employer of finding and training a replacement, and what is the opportunity cost, in terms of the lost contribution both to their employer and to the country?

The Confederation of British Industry (CBI) has stated its opposition to the current proposals on this basis: Neil Carberry, CBI director of employment, has said that:

‘Our evidence is that people come for around five years and don’t tend to stay much longer, but they may have work to finish and business timetables don’t necessarily run alongside political ones.’

Quoted in Warrell 2011

The government’s proposals allow for a small number of ‘exceptional’ economic migrants to switch into a category which would allow for settlement, but this switch would happen after three years, rather than being based on economic need or value at the five-year point. The consultation asks for views on how these exceptional migrants should be selected, including via a numerical limit, a points-based test or a random lottery. The language in the consultation confirms that the government clearly favours a numerical limit, which the consultation document argues ‘would provide the highest level of control over numbers’ – which is true by definition – and would mean ‘we could select the very best and brightest’ – which is not obviously true, relative to the alternative of a points-based test (UKBA 2011b: 19). The government has asked the Migration Advisory Committee to advise on how many should be allowed to switch, and on what criteria, including salary levels and evidence of continuing skills shortages (UKBA 2011b: 19–21). The government should take full account of this advice, looking at the economic implications of the proposed policy, separate from the implications for delivering the net migration target. It should also take a more open-minded view of the relative merits of a numerical limit and a points-based approach.

The indirect effect could be even greater: that of putting off high-value migrants from coming to the UK in the first place. As noted in section 2, not all economic migrants intend to settle, or do settle when given the opportunity; but most value the option, and that is likely to be an important factor in their choice of destination country. Ministers have sought to reassure the

public that their decisions across the range of immigration policy will not deter ‘the brightest and the best’ from coming to the UK. They have also pointed to the positive ‘pull factor’ of the new accelerated routes to settlement for wealthy investors and entrepreneurs. This is, however, a very narrow definition of ‘brightest and best’, given the low numbers expected to come through these routes (around 1,500) and the high thresholds on capital (£5 million) and income (£150,000). If the UK closes or tightens the route to settlement for the wider category of skilled economic migrants, we may lose many of this broader category of the ‘brightest and best’, as they favour other countries who continue to offer a less restrictive route to settlement. As John Wotton, president of the Law Society, has put it:

‘People will not relocate across the world if they feel they can only spend a few years in London.’

Quoted in Warrell 2011

The same applies to the decision to stop non-EU students remaining in the UK to work after their studies (other than by switching into Tier 2 tied to a specific job). As outlined above, relatively few students (around 20 per cent) actually stay for five years, and fewer still are granted settlement – but again, many value the option. When combined with other restrictions on student visas, including restrictions on part-time work during study, this is likely to reduce the attractiveness of the UK as a destination. Education providers claim that foreign advisors are already directing potential students to other countries, such as the United States, Canada and Australia (Mulley and Sachrajda 2011). The Australian government has just reversed some of their restrictions on international students, including allowing them to stay on to work⁴⁷ – making the UK approach look increasingly out of line with our competitors.

Recommendation: The government has sought advice from the Migration Advisory Committee on how many non-EU economic migrants should be allowed to settle and on what criteria. The government should take full account of this advice, looking at the economic implications of this proposed policy, separate from the implications for delivering the net migration target. The government should also consult further with employers and employer organisations about a more flexible and less restrictive approach, including a points-based approach rather than a numerical limit, and allowing application after five years as well as three.

3. Will the policy damage integration and cohesion?

The consultation document talks about reducing settlement grants to ‘sustainable’ levels, but does not explain what that level is or what the criteria are. We are left to assume that one criterion is the capacity of society to integrate new permanent residents. But in fact, these proposals are likely to hinder integration of temporary residents, in the period of up to five years during which they can remain. If migrants know that their stay is strictly limited, it may reduce their incentive to improve their English or to build relationships and bonds with local communities. It may also reduce the incentive of local communities to engage with them.⁴⁸

47 See Delany 2011

48 Speaking of the US, Robert Putnam states that: ‘Recent arrivals in any community are less likely to vote, less likely to have supportive networks of friends and neighbors, less likely to belong to civic organisations. People who expect to move in the next five years are 20–25% less likely to attend church, attend meetings, volunteer, or work on community projects than those who expect to stay put.’ (Putnam 2000: 204)

If as seems likely the policy is unsuccessful, in the sense that a significant proportion of supposedly temporary migrants end up staying permanently, we could end up with the worst of both worlds from the point of view of integration: a similarly high number of permanent residents to be absorbed, but with even more ground to make up in terms of integration, having been discouraged from engagement in the early years.

This was exactly the experience of the German ‘guest worker’ policy: it fostered a two-tier society and workforce, with favoured migrants on the first tier, enjoying similar rights to residents, and temporary migrants in the second tier, with restricted rights and access to benefits and services. As already noted, even though millions of Turkish guest workers and their families did end up settling, the policy was generally seen as having caused, or exacerbated, problems with segregated communities, as Turkish migrants were discouraged from integrating and existing communities were discouraged from trying to accommodate them (Castles 1985).

It could be argued that this is less likely to apply to the higher-skilled migrants who are the subject of these UK proposals – or that it is less likely to be problematic, if the migrants in question are not disadvantaged in other ways, in terms of income, housing and so on. However, it will still worsen their ability to integrate. It can also be argued that any policy which establishes a legally subordinate class of foreign workers offends against the principle of a democratic culture whose members see one another as deserving of equal respect.

This may be a particularly bad moment to implement a policy which could hinder integration. Experts are already critical of the ‘lack of coherence’ in UK integration policy, and the lack of clarity over where responsibility lies, between migrants, their employers, local government, central government, NGOs and civil society (Spencer 2011). The present government has acknowledged this, and promised a new strategy. But so far, despite a bold pledge that ‘we will do more than any other government before us to promote integration’ (Home Office 2011b: 2), there has been little that is concrete to back this up. Integration is also likely to be undermined by some of the current spending cuts, including to English-language teaching (ESOL). These cuts are not directly related to the proposals under discussion here, since many working migrants would not have been able to access free or subsidised ESOL anyway. The point is that there is increased risk in changes to settlement policy which actively undermine integration, at the same time as and cumulative with other decisions which could have similar effects.

Recommendation: The forthcoming integration strategy should include specific proposals aimed at economic migrants to offset the negative effects of temporary migration on integration and segregation.

4. Will the policy succeed in addressing public concerns?

The background to all areas of immigration policy is a high level of public concern over the last decade, confirmed by a wide range of opinion polls and survey data.⁴⁹ The government clearly believes these particular proposals have public support, and that this is a significant argument in their favour (UKBA 2011b: 11). However, while it is generally true that the public will support any move which is seen to ‘tighten up’ on immigration, this general trend may not apply in this case, since alongside their general preference for ‘tightening up’, people also express a clear preference for encouraging migrants to integrate.

49 For a useful survey, see Blinder 2011b. For details of IPPR’s more qualitative work on public attitudes, see <http://www.ippr.org/research-projects/44/7125/communicating-migration>.

In 2009, the Transatlantic Trends surveys, which explore public opinion on immigration in North America and Europe (including the UK), included a question on temporary versus permanent work migration. Majorities in all the countries surveyed indicated that ‘legal immigrants who come to [the country] to work’ should be given the opportunity to stay permanently. In the UK, 56 per cent of those surveyed favoured this approach (Transatlantic Trends 2009).⁵⁰

When the Transatlantic Trends survey asked those respondents who were in favour of giving working migrants the opportunity to stay permanently, why they did so, the most popular answer, given by an average of 54 per cent across countries, was that ‘permanent immigrants integrate better into society than temporary immigrants would’. The second most popular answer was that their country would benefit because migrants continue to use their skills there (Transatlantic Trends 2009).

As noted at the start of this report, a policy shift from permanent to temporary immigration contributes to the overarching policy aim of reducing net migration – which is unambiguously popular. However, it is questionable whether the particular way it contributes to reducing net migration would be unambiguously popular: namely, not by reducing immigration but by changing its nature. As noted above, while the consultation document asserts that these proposals will ‘discourage over-reliance on foreign workers’ (UKBA 2011b: 18), the more likely result is a shift to a constantly churning population of temporary working migrants. Such a policy may fail to address public concerns about transient populations and fluid communities, as well as about segregation – in fact it may exacerbate them. The government may have found that rare thing: a ‘tough’ immigration policy which will actually turn out to be unpopular.

Recommendation: The government should commission research into public support for a temporary migration policy, explicitly compared to a policy of tightening the qualifying criteria while giving all economic migrants the opportunity to earn the right to stay.

50 This may appear on the face of it to be contradicted by a recent Ipsos-MORI survey of October 2011 (Migration Observatory 2011b) which found somewhat stronger opposition to permanent immigration than to temporary immigration. But these findings are more likely to indicate a preference for categories of immigration which are naturally temporary (such as students) than a preference for making migration for work compulsorily temporary. Successive surveys have found both that people tend to prefer temporary to permanent immigration and that people tend to feel that someone who comes to the UK, works hard and plays by the rules should be given the opportunity to settle.

4. A PROGRESSIVE ALTERNATIVE

Progressives should not oppose all tightening of settlement policy

Progressives should not automatically oppose all tightening of settlement policy. Adjusting the balance between permanent and temporary migration, and tightening the criteria for settlement, are legitimate policy objectives. Progressives need to respect democratic support for ‘tougher’ immigration policy. They also need to consider the trade-offs between the rights of individual migrants and the interests of developing countries.

Many progressives are understandably inclined to focus on the rights or interests of migrants. If we consider any migrant who has lived and worked in the country for more than a year or two and is denied permission to stay longer, this can seem unfair. But most people, including many progressives, accept that it is legitimate for countries to decide which kinds of economic migrant they wish to admit, and while migrants do acquire rights and legitimate expectations after they arrive, there is a strong argument for saying that adopting a more restrictive approach to settlement is not inherently unfair, provided individual migrants are given sufficient notice.

In this context, however, the government’s approach in the consultation document, to apply the new policy to those who entered from April 2011 onwards – in effect, retrospectively on the most recent cohort of migrants – is clearly unreasonable. Ministers can point to general statements of intent to restrict settlement prior to that date, but it is unreasonable to expect individual migrants to have realised the significance of those statements and factored them into their decision.

The more difficult question for progressives is whether a more restrictive approach to settlement would be unfair or unreasonable if it was applied to those who enter from April 2012. The previous Labour government had already made clear that it rejected the idea – which was anyhow more perception than reality – that migrants have an automatic right to settle simply in virtue of staying a certain number of years (see section 2 above). Labour’s proposed ‘earned citizenship’ reforms were based on the idea that migrants have responsibilities as well as rights, and that it is reasonable to ask economic migrants to satisfy certain criteria, including learning English, making a continuing economic contribution, and obeying the law. This was a principled argument, but was also supported by the public, and indeed by migrants themselves. Progressives are of course not obliged to follow public opinion, but there is a strong argument for saying that they should respect what seems to be the settled democratic view, that migrants’ rights need to be complemented by responsibilities to the host country – and that this implies reasonably restrictive criteria on settlement.

Some restrictions on settlement actually promote progressive objectives. For example, more stringent English language requirements not only help integration but also promote settled migrants’ access to job opportunities and to the services and benefits they are entitled to.

Progressives must also acknowledge that temporary migration plays a positive role in our economy and society, including students, youth mobility schemes and some categories of workers. Many progressives cite the positive fiscal contribution of migrants as an argument in favour of immigration, and clearly the most unambiguously positive contribution will come from migrants who come to work for a short period and then return home. This was one of the conclusions of the Migration Advisory Committee in its survey of the fiscal impact of migration in November 2010 – although the committee also concluded that Tier 1 and Tier 2 migrants in particular are highly likely to have a positive fiscal impact even if they do settle (MAC 2010: 168).

Benefits of temporary migration to countries of origin

There has recently been a greater interest among progressive thinkers in the benefits of temporary migration to countries of origin. Temporary migration allows people from developing countries to work abroad, earn money and send remittances home, and then later return to their countries of origin, with new experiences, skills and networks – adding to the human and financial capital in their home countries and building stronger economic and cultural links with their previous host country, helping to promote entrepreneurship and trade (Chappell et al 2010). This applies even more to ‘circular’ migration, by which people are allowed to come, return, and then come back again, rather than being restricted to a single period of temporary migration (Vertovec 2007); but it clearly applies to both.

A 2009 OECD study on ‘pro-poor growth’ reported that ‘economic analyses show that an increase in circular migration between developing and developed countries could produce gains of \$150bn per year, which would equally benefit developed and developing countries’ (Dayton-Johnson et al 2009: 149), though it also noted that further research was necessary, and other recent studies have been more sceptical.⁵¹ Temporary or circular migration certainly increases remittances (which are negatively correlated with length of stay (Vertovec 2007)), and remittances contribute more to many developing countries than does aid or foreign investment.⁵²

Temporary or circular migration can also help to change attitudes in developing countries: for example, recent IPPR research found more than 70 per cent of returned migrants saying that because of their experiences abroad they are now more committed to equality between men and women (Chappell et al 2010).

Progressive policies for encouraging temporary migration

Students are of course the most obvious example of temporary or circular migration. In the UK, before the recent changes, non-EU university-level students could stay on to work fairly easily. This option was important to them, but only a small minority actually chose to stay for five years, and a very small minority had settled. The majority returned home or moved to a third country, taking with them their links and networks to and within the UK. Continuing to support universities and other institutions in attracting international students would therefore be an obvious and easy way to realise the progressive benefits of temporary or circular migration, and to realise the more direct benefits to the UK’s education sector and wider economy. A recent report from IPPR (Mulley and Sachrajda 2011) recommended that the government focus on tackling ‘bogus colleges’ and other abuses of student visas – building on progress in recent years – rather than simply trying to reduce the numbers of student migrants (an objective which is short-termist even in the context of the net migration target, given that only a small minority of students stay permanently anyway).

There are many other progressive ways in which governments can encourage temporary or circular migration. An incentive payment, claimable on return, was discussed earlier as a supplement to a compulsory policy, but would be even better suited to a voluntary approach. Other policies can incentivise return in more sophisticated ways. In Germany, the Federal Ministry for Economic Cooperation and Development runs a returning experts

51 ‘Most high-skilled migrants from poorer countries send remittances; but involvement in trade and foreign direct investment is a rare occurrence. There is considerable knowledge flow from both current and return migrants about job and study opportunities abroad, but little net knowledge sharing from current migrants to home country governments or businesses.’ (Gibson and McKenzie 2010: 1)

52 See <http://news.bbc.co.uk/1/hi/business/7047304.stm>

programme, which provides advice, job placements and initial salary subsidies for migrant workers who wish to return home. The programme supports on average around 500 returnees per year, costing around €7 million, or around €14,000 per person.⁵³ Norway has adopted a similar programme on a smaller scale, and Sweden is also looking at the concept (Seip 2011).

In the UK, the previous Labour government floated a similar approach in its final consultation, *Earning the right to stay* (UKBA 2009), aimed at encouraging circular migration in particular. It proposed allowing migrants to return home for longer periods without having to reapply for entry (and risk refusal) as well as allowing migrants to use periods of development-focused activity in their country of origin to count towards their application for citizenship.⁵⁴

Such policies are relatively new, small-scale and high-cost, and have been focused primarily on development – as a result, they have had no noticeable effect on the motivations of economic migrants in general. Direct financial payments have had a similarly narrow focus, in this case on migrants who no longer have the right to remain, as an alternative to forced return. In the American H1B programme, if an employee is laid off then the employer is obliged to pay for their return travel. Given the limited scale and scope of these schemes, it is not surprising that recent IPPR research across a number of countries found that when returned migrants were asked about their motivations for returning, government schemes to support or incentivise return were rarely mentioned as a factor (Chappell et al 2010). However, these policies could easily be extended, at a lower unit cost, to apply to a wider category of economic migrants.

There is a big difference between this progressive approach, which promotes temporary or circular migration through support and incentives, and the current government proposals, which aim to increase temporary migration through compulsion. As set out in section 3, compulsion brings significant disadvantages. It is also arguably unnecessary. There is evidence that migration is becoming increasingly temporary anyway, for reasons unrelated to government policy, as barriers to mobility continue to fall – as outlined in recent IPPR research.⁵⁵

To summarise, a progressive approach would seek to reinforce this trend without making return compulsory, through the following policies:

- **An incentive payment, claimable by migrants on return**
- **Support and incentives for returning migrants to take up opportunities in their home country**

Either or both of these policies could be funded in two ways: through a levy on employers of migrants, or by diverting a share of employer and employee national insurance

53 The programme funds salary subsidies of up to €1,600 per month for up to 24 months, travel and transport of up to €1,000, up to €400 for travel to interview, an internship subsidy of up to €300 for six months, and a subsidy for equipment hire if appropriate – amounting to a total cost for each individual of up to €40,000. In 2009 there were around 2,500 initial enquiries from employers about the scheme, around half of which led to support measures being put in place, with just over 300 returning migrants benefitting from the maximum two-year period of salary subsidy. The scheme experienced some difficulties in 2005–2007, which led to restructuring and a narrower focus on particular sectors and countries (for example, Vietnam was successful, Cameroon less so, the major factor being economic conditions in each case). There was a resulting dip in the number of migrants supported, but that figure is now rising again. For details see http://www.bmz.de/en/what_we_do/approaches/bilateral_development_cooperation/approaches/reintegration/index.html, and (in German) http://www.cimonline.de/documents/Jahresstatistik_2009.pdf.

54 The consultation stated that ‘in effect, [migrants] would press a ‘pause button’ on their status while they were out of the UK, and pick up where they were upon return.’ (UKBA 2009: 30)

55 See Pollard et al 2008, Finch et al 2009 and Chappell et al 2010

contributions (NICs). As outlined in section 3, diverting NICs of around £1,000 per year would have a significant incentive effect while still ensuring that migrants were making a net fiscal contribution.

However they are funded, the value of the payments or support packages should build up gradually (for example, each month a migrant works) to avoid creating perverse incentives (in particular, if there was a simple cut-off point then employers would have an incentive to lay off migrant workers immediately before that point).

A points-based approach to settlement

A progressive approach would also adopt a points-based approach to settlement. This has been put forward by some experts⁵⁶ – and indeed it does appear in the July 2011 consultation, as one way of filling the small number of places for ‘exceptional’ Tier 2 workers who can qualify for settlement, alongside two other options: a numerical limit and a random ballot. But the language of the document, and ministerial statements and speeches, make clear that the favoured option is a numerical limit or criteria devised to hit a numerical target, leaving the vast majority of economic migrants with no realistic chance of qualifying. A progressive approach would return to the spirit of the proposals set out by the previous government, in which a points-based system was to be used to make it somewhat harder to qualify for settlement (as well as to improve the consistency and clarity of decision-making), while keeping the opportunity to earn the right to settle open to all.

What should be the criteria in such a system? Obvious candidates include proficiency in English, economic contribution and social contribution.

Levels of English-language proficiency are fairly straightforward to accommodate in a points-based system. Economic contribution is also fairly straightforward, though it would be more fairly dealt with under the approach proposed under the previous government, of ‘continuous economic contribution’,⁵⁷ than by simple income or wealth. The new policy reapplies the income requirement that applied at entry at any subsequent point when a migrant applies to extend their stay or to settle – but while it seems reasonable to require an ongoing contribution, the new policy could end up disqualifying someone who has moved into lower-paid but still productive work.

What about social contribution? The approach of the previous government, set out in *Earning the right to stay*, was to encourage and incentivise migrants to demonstrate a social contribution through ‘active citizenship’ or ‘community involvement’. The consultation cited as examples ‘formal volunteering; giving unpaid help as part of groups, clubs or organisations to benefit others or the environment; or civic activism, for example by undertaking specific responsibilities in the community, such as being a school governor or by contributing to the democratic life of the country through trade union activities or canvassing for a political party’ (UKBA 2009: 18). Rather than suggesting that points would be allocated for these activities, the consultation proposed a simple yes/no test of community involvement, which would then bring forward the point at which a migrant could apply for settlement or citizenship by two years. This was partly based on a desire to give as much flexibility as possible to the kinds of activity that might qualify as making a

56 The Migration Observatory, in its briefing paper on settlement in May 2011, suggested that ‘one option would be a points-based system for regulating the transfer from temporary to permanent residence, considering economic and social criteria’ (Migration Observatory 2011a).

57 There was some lack of clarity about the definition of ‘continuous’ in the previous government’s proposals – the recommendation of the Home Affairs select committee, which allowed for a 60-day period looking for a job, seems both sensible and fair (see Home Affairs Committee 2009).

social contribution. Clearly, even with a yes/no test, there would be a need for assessment – it was suggested that local authorities could play this role (ibid: 19). Other countries are pursuing similar approaches: in Denmark migrants can gain 15 points towards the 100 required to qualify for a permanent residence permit by ‘displaying active citizenship’, which can include serving on a board or maintaining active membership of various organisations (charitable work, volunteering etc) for at least 12 months.⁵⁸

The *Earning the right to stay* proposals were controversial, prompting debates about the feasibility and desirability of testing genuine ‘community involvement’,⁵⁹ and there is clearly scope for them to be refined and improved. But the basic principle that economic migrants should be encouraged, and potentially incentivised, to make an occasional social contribution as well as an ongoing economic contribution, remains an attractive one.

Protection of workers’ rights

If the current proposals go ahead, progressives will also be concerned about the impact on worker protection. Temporary migrant workers are inherently more susceptible to exploitation. Those migrant workers who are agency or contract workers, who were previously in a particularly vulnerable position, now have stronger rights, since the Agency Workers Directive came into force on 1 October 2011. But for as long as any worker, including a skilled worker, remains temporary and their immigration status is tied to their job or employer, they lack the crucial alternative of leaving to look for alternative employment.

The combined effect of the government’s existing and proposed policies – first, shifting the balance of economic migrants away from Tier 1 (where immigration status is tied to the individual) towards Tier 2 (where it is tied to the job or employer) and second, shifting the balance away from economic migrants having the opportunity to progress to permanent status towards all having temporary status – represents a significant overall weakening of migrant workers’ position.

The combined effect will also be to hamper integration and reinforce segregation, as noted in section 3. Migrants from the EU, and small categories of wealthy migrants from outside the EU – including footballers, those working in the City, and so on – will continue to have the opportunity to stay permanently, and will enjoy broadly similar rights to residents. But the great majority of economic migrants from outside the EU, other than the wealthy, will have restricted access to benefits and services, and restrictions on bringing family members (possibly even restricted rights to family visits) and can be asked to leave at any stage, and certainly after five years. This picture has some similarities to that of guest worker populations in Singapore and the Gulf States, or the familiar historical examples of the US in the 1960s and Germany in the 1970s (although in those cases, as noted previously, guest workers are or were mainly low-skill, low-income workers).

The example of Singapore and the Gulf states illustrates a potential ‘trade-off between rights and numbers’ which may trouble progressives, as migration experts have noted.⁶⁰ This is the trade-off between larger numbers of temporary migrant workers with weaker

58 See http://www.nyidanmark.dk/en-us/coming_to_dk/permanent-residence-permit/permanent-residence-permit.htm

59 For example, Policy Network argued that citizenship should be used as a ‘tool’ for integration rather than as a ‘reward’ (Jurado 2008) and the Migrant and Refugee Communities Forum argued that the proposals were potentially exploitative, and amounted to ‘compulsory volunteering’ (MCRF 2010); see also Home Affairs Committee 2009.

60 See Ruhs and Martin 2008

rights, and smaller numbers with stronger rights – including the right to settle. Singapore and many Gulf states offer low-skill workers only temporary status and very limited rights, but as a result, arguably offer more migrants the opportunity to work. They certainly have a far higher proportion of migrant workers in their populations than most western countries. Progressives who regard such an approach as morally offensive need to consider whether the result of western countries’ approach – more generous in terms of rights but less generous in terms of numbers – means that more foreigners will remain at home, often facing far worse conditions than they would have faced working temporarily in a western country, even if they had enjoyed only a second-tier status.

However, while this is an interesting general question for progressives, it does not apply to the proposals which are the subject of this report. There is no suggestion from the current UK government that weakening the rights of economic migrants is a necessary requirement to increase the number who have the opportunity to come. So while in some cases there may be a trade-off between rights and numbers, in this particular case there is not: both are being reduced.

5. CONCLUSION

Temporary migration has an important place in the UK, for students and youth mobility schemes and also for migrant workers who fill transient skills shortages, as well as smaller, more specialised categories.

Shifting the balance from permanent towards temporary migration, and further tightening the criteria for settlement, are legitimate policy objectives. Careful adjustments, building on some of the changes made by the previous government, could deliver these objectives without major negative effects.

However, the government is proposing a more radical policy shift, essentially ruling out settlement for economic migrants from outside the EU, other than a few limited exceptions, notably the very wealthy.

If successful, the proposals would reduce the number of non-EU economic migrants settling each year from current levels around 40,000 to around 1,000. The proposals are unlikely to work; they are also misguided. For those who care only about reducing net migration, trying to keep settlement to a minimum makes sense. But for anyone who cares about Britain's ability to continue to attract the 'brightest and best', about the impact on the economy as we try to grow our way out of recession, and about the effects on integration within our society, these proposals raise real concerns.

Settlement is a complex and difficult policy area, demanding close attention to the detail of direct and indirect effects of policy changes, and the practicality of compliance or enforcement – as well as questions of fairness, and community cohesion. The government's proposals show insufficient evidence of having considered these questions, or of heeding the lessons from similar policies in other countries past and present.

As it stands, the UK's proposed approach is impractical, likely to be damaging in economic and social terms, and – unusually for a 'tough' immigration policy – may even prove unpopular. This report has set out the four questions which the government needs to answer before it goes ahead with these proposals:

- 1. Will the policy achieve its stated aims?**
- 2. Will the policy have perverse effects?**
- 3. Will it damage integration and cohesion?**
- 4. Does it really meet the public's concerns about immigration?**

This report has also discussed the questions which the issue of temporary versus permanent migration raises for progressives. They should avoid reflexively opposing any move to tighten settlement rules. Progressives need to respect democratic support for 'tougher' immigration policy. They also need to consider the trade-offs involved: temporary or circular migration can represent a better balance between the rights of individual migrants and the interests of developing countries. This report has set out a progressive alternative, together with mitigating policies which progressives should support if the government goes ahead with its proposals in their current form.

Without clear answers to the four questions set out above, and some evidence of having learnt the lessons of past policies in the UK and other countries, the disturbing impression will remain that this is another case of policy being crudely driven by the top-down target to reduce net migration.

Wider trends beyond the government's control mean that the net migration target is moving further out of reach. The risk is that this may lead the government to bear down harder in those areas it at least theoretically controls. This includes reducing entry for skilled workers and foreign students, and in the present case, trying to make virtually all economic migration temporary. These policies raise a wide range of different problems, but one common factor is that they end up targeting categories of migrant who are economically valuable, which is a particular concern in the present economic context.

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