

REPORT

STRIKING THE RIGHT DEAL

UK-EU MIGRATION AND THE
BREXIT NEGOTIATIONS



Marley Morris

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SUMMARY

60-SECOND SUMMARY

The government should seek a new agreement on UK-EU migration as part of the forthcoming Brexit negotiations. This agreement should find a compromise between the UK and the EU by granting the UK greater control over EU migration while retaining elements of the current migration rules. This should operate through an agreement to continue free movement for certain categories of people – for instance, certain occupations or sectors – and not others. If this is not negotiable, then the UK should instead seek to negotiate an agreement to implement temporary controls on free movement during periods of high migration pressures.

A UK-EU agreement on migration would be in the national interest. First, it would significantly help support the government's aims to secure an ambitious free trade agreement with the EU. Second, our research suggests that the impacts of stringent restrictions on the UK labour market could be substantial; a UK-EU agreement on migration could thereby ameliorate any negative post-Brexit effects on the labour market. Third, our analysis of public opinion suggests there is political scope for a deal on migration with the EU. A deal of the type we suggest could therefore help the EU negotiations, benefit the UK labour market, as well as secure public consent.

KEY POINTS

The negotiations

- The UK government is seeking an ambitious free trade agreement with the EU, which will cover extensive integration in trade in both goods and services. The government is aiming to secure the same trade benefits the UK currently has by virtue of its EU membership. Most trade deals with the EU with this degree of scope include a provision on migration. Therefore, in order to secure this agreement, it is in the UK's interest to negotiate an agreement on UK-EU movement of people.
- There are six main options for a UK-EU agreement on migration:
 - **Option 1: temporary controls on free movement:** The government would temporarily introduce limits on free movement for particular sectors or regions during periods of high EU inflows.
 - **Option 2: free movement for those with a job offer:** Free movement would continue as before for workers, students, family members and the self-sufficient, but jobseekers would no longer have the right to reside in the UK unless they already have a job offer.
 - **Option 3: free movement for certain flows:** Free movement between the UK and the EU would continue for particular workers – for instance, certain professions and workers in particular sectors – as well as non-active groups.

- **Option 4: points-based system:** EU nationals seeking the right to work in the UK would need to meet the requirements of a points-based system. Points could be allocated on the basis of criteria such as highest qualification level, age and language ability.
- **Option 5: ‘preferential’ system for EU nationals:** EU nationals coming to the UK to work would face a more relaxed version of the rules non-EU nationals currently face.
- **Option 6: controls on EU labour migration; free movement for others:** The UK would be at liberty to set its own rules for EU workers and the self-employed – in practice most likely applying the same system that currently operates for non-EU nationals – but would agree to facilitate continued free movement, as far as is feasible, for students, family members, and the self-sufficient.
- For each of these options, the government should negotiate scope for a **regional dimension** to future EU migration policy, to allow regions to adapt their own immigration policies to meet local economic need.

The labour market

- EU nationals are largely concentrated in lower-skilled occupations. While on average EU nationals make up 7 per cent of the UK workforce, in the two lowest occupational groups – machine operatives and elementary staff – just under 15 per cent of workers are EU nationals.
- Certain sectors – notably hotels and restaurants and manufacturing – rely heavily on lower-skilled EU labour (10 per cent and 7 per cent of their workforce respectively are lower-skilled EU nationals). Particular subsectors such as food manufacturing (28 per cent) and domestic personnel (19 per cent) have even greater proportions of lower-skilled EU nationals in their workforce.
- The impacts of Brexit on the labour market vary radically depending on the type of system introduced. If the current visa rules for non-EU workers were also applied to EU workers, then the vast majority of recent EU workers would be ineligible. On the other hand, if free movement for people with key jobs in the economy and for highly skilled workers were admitted, the impacts would be considerably less dramatic.
- Applying the non-EU rules to EU workers would have a particularly significant impact on the hotels and restaurants sector (where 16 per cent of the entire workforce are ineligible EU nationals), the manufacturing sector (10 per cent), and the agriculture sector (9 per cent). The occupational groups most affected would be machine operatives and elementary staff.
- Many employers would face serious difficulties adapting to restrictions on lower-skilled EU nationals. The significant turnover in the workforce means that relying on EU nationals currently in the UK – who are expected to have their rights protected – will not be sufficient to fill the new vacancies. The pool of UK workers to recruit from domestically is small – the current UK unemployment rate is 4.7 per cent, at its joint lowest point since 1975, and the economic inactivity rate is at a near record low of 21.6 per cent.

- Moreover, employers already find many lower-skilled vacancies hard to fill. A total of 43 per cent of machine operative vacancies (where EU nationals are particularly concentrated) are hard to fill, far higher than the average of 33 per cent. More than half of hard-to-fill vacancies in machine operative roles are reported as causing loss of business to competitors or increased operating costs. This impact is larger than for any other occupational group.
- While some employers may be able to invest in new technologies to replace labour, a number of sectors reliant on EU nationals – such as domestic personnel, warehousing and support for transport, and services to buildings and landscape – are not yet well-placed to benefit from technological developments. In other sectors, such as meat processing, the costs of investment in technology are prohibitively high for many businesses.
- Therefore, in order to prevent many employers reliant on EU labour from shrinking their operations or moving them abroad, the government will need to adopt a carefully managed approach to a new migration policy for EU nationals, with a transition period for employers to adapt to the new labour market conditions.

Public opinion

- Concern about freedom of movement was a key (though by no means the sole) driver in the vote to leave the EU.
- However the UK public are more pragmatic on immigration than is often assumed. Only a small minority (11 per cent) expect full control over EU immigration post-Brexit and, excluding the ‘don’t knows’, a majority accept that there is a trade-off between restricting freedom of movement and accessing the single market. There is therefore more political scope for a compromise on UK-EU migration as part of the Brexit negotiations than many have thought possible.
- Even among those who want immigration to fall, there is no majority demand for a complete cut-off in EU inflows. A dramatic reduction in immigration would therefore not just be harmful to the negotiations and to the UK’s labour market; it would also not properly reflect the public’s priorities.
- Attitudes to EU immigration vary considerably by region and local area. Building regional flexibility into the immigration system for EU (and non-EU) nationals could therefore effectively reflect the divergent attitudes to EU immigration across the country.

A new agreement

- The most promising options for a future UK-EU agreement on migration are either a system that allows **free movement for certain flows** or a system that **implements temporary controls on free movement**.
- These proposals are the most promising for three reasons:
 - they have the greatest likelihood of being negotiable with the EU in return for an advantageous deal on trade in goods and services, because they continue to respect the underlying principle of free movement in some form

- they would have limited negative labour market impacts, because for the most part they would allow for flexible labour mobility in key sectors
- they would help to address a number of the concerns the public has about the current system (such as the pressures of high levels of EU immigration on public services and infrastructure).

A system that allows free movement for certain flows is our preferred option, because this would guarantee greater labour market stability and would be more likely to secure public support; but if this fails to be agreed with the EU the government should seek a deal on temporary controls on free movement, given it is the most negotiable option.

Either option could also include a **regional component** to allow for the different political priorities and labour market needs of regions across the country.

- These two options therefore represent a sensible basis for an agreement on UK-EU migration in the negotiations, as a means of securing the government's wider ambitions of a comprehensive free trade agreement with the EU post-Brexit, supporting the UK's labour market, and addressing public concerns about free movement.

1. INTRODUCTION

The government is set to embark on one of the most contentious and complex series of negotiations in modern times. In March, prime minister Theresa May officially invoked Article 50, thereby initiating discussions with the EU to agree the terms of UK withdrawal. Over the coming two years, the UK government aims to complete the challenging task of securing both a ‘withdrawal agreement’ with the EU and a new treaty setting out the terms of a future post-Brexit partnership – spanning everything from trade in goods and services, rules and regulations for consumer protection, employment rights and environmental standards to justice, security and foreign affairs.

Migration is expected to be front and centre of these negotiations. The public vote on 23 June 2016 was, among many other things, a vote of no confidence in the status quo on immigration. The government has said it wants to end the free movement of people and regain control over immigration policy. At the same time, the EU27 have urged that the EU’s four freedoms – of goods, services, capital and people – are indivisible and that the benefits of single market membership will not be available to the UK if it seeks to curtail free movement. As the negotiations proceed, the scene is set for a testing clash of priorities and expectations.

The first issue to address as part of the ‘divorce negotiations’ will be how to protect the rights of the approximately 3.5 million EU citizens currently residing in the UK and the approximately 1 million UK citizens currently residing in other EU countries. While the principle of protecting rights is likely to be broadly accepted by both sides of the negotiations, the technical details of how to disentangle cross-border legislation and implement protections effectively will prove complex. IPPR has discussed how best to protect the rights of these groups in previous reports (Murray 2016, 2017).

The second and more challenging point of negotiation will be the arrangements for future UK-EU migration flows after the UK leaves the EU. The government appears to face a critical trade-off: exert full control over EU migration policy and reap the economic consequences of barriers to trade in goods and services, or cede control to the EU for the sake of a favourable deal and sacrifice political capital in the UK.

In this report, we will make the case for a new UK-EU agreement on migration as part of the Brexit negotiations that finds a compromise between these two extremes. Such a compromise could help to secure an ambitious free trade agreement between the UK and the EU, ameliorate the negative labour market impacts of Brexit, and satisfy the concerns of the public.

Of course, there are a range of scenarios for a potential compromise on migration. We will therefore consider the alternative options for an agreement on UK-EU migration post-Brexit, assessing them across a series of criteria,¹ and will be guided by our progressive priorities for a new settlement. Our three core tests for a new progressive settlement for UK-EU migration, which we will address accordingly in the following chapters, are as follows:

- **The negotiations:** How likely is it that the new settlement on migration will secure a favourable deal with the EU on the UK's other negotiating objectives – such as trade in goods, access in services, and reciprocal rights for UK nationals wanting to live and work in the EU in the future?
- **The economy:** How will the new settlement affect the UK economy – particularly those sectors currently reliant on EU nationals for their workforces?
- **The public:** How effectively will the new settlement address the concerns and meet the priorities of the UK public?

In this report, we assess the government's options against each of these three tests, and, on that basis, propose a negotiating strategy for the government as the discussions begin.

¹ We draw on our earlier report *Beyond free movement: Six possible futures for the UK's EU migration policy* (Morris 2016b).

2. NEGOTIATING A NEW DEAL

2.1 AN AMBITIOUS DEAL

The prime minister's stated intention for the negotiations, as announced at her Lancaster House speech and in the government's White Paper, is to seek an ambitious and wide-ranging free trade agreement (FTA) with the EU post-Brexit, which would facilitate a close trading relationship in services as well as goods (DexEU 2017). Government ministers have stated that they are aiming for a deal with the exact same benefits on trade that the UK currently has as an EU member (HC Deb 2017). In order to secure these benefits, this deal must be more ambitious than most other EU agreements with third countries, such as the recent Comprehensive Economic and Trade Agreement between Canada and the EU.²

The issue of immigration is one of the government's foremost considerations in negotiating a new ambitious trade deal with the EU. Here the government faces a critical choice: should it seek to negotiate on migration with the EU, in order to find a suitable compromise that grants a favourable deal on other aspects of UK-EU relations, or should it unilaterally develop its own immigration policy and remove this subject from the negotiations altogether? The former means that migration would be a central component of the future UK-EU treaty and that any UK legislation would fall within this framework; the latter means that the future UK-EU partnership would, for the most part, have to exclude migration from the discussions.

2.2 REASONS FOR SECURING A COMPROMISE ON MIGRATION

In this report, we argue that the government should seek a UK-EU agreement on migration as part of the final deal. There are three main reasons for favouring a compromise on immigration policy. First, it is clear from an analysis of the previous trade relationships between the EU and other third countries (see table 2.1) that the latter option – whereby the UK government does not try to include future UK-EU migration as part of the Brexit negotiations – would entail a less than ambitious final deal. Virtually all previous agreements between the EU and major third countries fall into one of two categories. Either they involve a major and comprehensive component on immigration or labour mobility – in which case they constitute an ambitious and close trading relationship on both goods and services – or they involve a much smaller component (or no component at all) – in which case the agreement is comparatively distant and limited in scope. Opting to exclude immigration from the Brexit negotiations would therefore

2 See Brexit secretary David Davis' comments at the House of Commons Select Committee on exiting the EU (2017)

significantly increase the likelihood of a limited and disadvantageous trade deal (see table 2.1).³

Second, trade in services cannot easily be extricated from the free movement of people, because it often requires the mobility of professionals to provide services in other countries, even if only temporarily. Indeed, a number of pieces of legislation within the EU *acquis* are designed to facilitate labour mobility as a means of encouraging trade in services – from the 1977 and 1998 Lawyers Directives, which enable the free movement of lawyers within the EU, to the 2005 Professional Qualifications Directive, which (in broad terms) obliges EU member states to recognise qualifications held by professionals from elsewhere in the EU. Indeed, securing provisions on labour mobility is becoming a more common element of other, more limited FTAs (though these would still not be sufficient for the type of ambitious agreement the UK is seeking – see table 2.1). Therefore, given the scale of the government’s ambitions for a trade deal, market access for services will by its nature benefit from a substantial UK-EU agreement on labour mobility.

Third, if the government wants to secure – to as great a degree as possible – the rights of UK citizens to reside and work in other EU countries, then it must negotiate on migration with the EU. This is because any deal on migration is likely to be reciprocal in scope, and so will affect UK nationals looking to move to the EU as well as EU nationals looking to move to the UK in the future. If no deal is reached on UK-EU migration as part of the overall negotiations, then each member state of the EU will be expected to treat UK nationals as citizens of third countries. In such a scenario, each member state’s policy towards UK nationals might well differ, as in general the EU largely treats immigration policy for third countries as a national competence.⁴ This means that, even if the UK unilaterally implements an open policy for EU citizens, this by no means guarantees that other EU member states will do the same. For the interests of the UK’s own citizens, it is therefore beneficial for the UK to strike an agreement with the EU on UK-EU migration.

3 Arguably, the exception to this rule is the Association Agreement between the EU and Ukraine (and similarly Georgia and Moldova), which does not include a substantial component on migration but does potentially open up market access to Ukraine in key service sectors. However, the main reason that migration is not a key component of this deal is simply that, as a relatively poor country, introducing liberal migration rules between Ukraine and the EU would have been highly contentious for EU member states (Emerson 2016). This is of course not the case for the UK, where the reverse is the case: public concerns about EU migration are substantially higher than public concerns in the EU about inward UK migration. Therefore, it is unlikely that an agreement similar to Ukraine’s could be agreed with the EU without a deal on migration.

4 There is an EU-wide ‘Blue Card’ scheme (excluding Denmark and Ireland) for highly skilled non-EU nationals, which has recently been relaunched, but so far it has not been widely used by EU member states (Waldron and Ali 2016).

TABLE 2.1

Comparison of selected EU agreements with third countries and their migration components

| Third Country | Agreement(s) | Extent of trade agreement | Provision on migration/labour mobility |
|---------------|--|---|--|
| Norway | European Economic Area (EEA) Agreement | Full membership of single market | Free movement of people. The 2004 Citizenship Directive, which provides for comprehensive free movement rights for EU citizens (not just workers), is incorporated into the EEA Agreement. The concept of EU citizenship is excluded from the EEA Agreement, but in practice free movement applies in the same way as in EU member states. Article 112 of the EEA Agreement allows for 'safeguard measures' on free movement in the case of serious and persistent economic, societal, or environmental difficulties, though Norway has never applied this to the free movement of people. (Liechtenstein, another EEA country outside the EU, operates a quota system, although Liechtenstein is a special case given its geographical position and population size) (Jay 2012). |
| Switzerland | EU-Switzerland Bilateral Agreements | Agreements on free movement in goods, but only partial access for services (agreement on non-life insurance, but no passporting rights for financial services) | Free movement of people. The EU/Swiss Agreement on the Free Movement of Persons (AFMP) broadly reflects the framework for EU free movement, including rights of residence for workers (the employed and self-employed), jobseekers, students and the self-sufficient. There are, however, some small differences: notably, EU citizens working in Switzerland for more than three months have to register for a residence permit (for further details see Jay 2012). A similar safeguard clause is included as with the EEA Agreement, though has never been used. In a referendum in 2014, Swiss voters voted for quantitative limits on immigration. This contravened the AFMP and threatened to undermine the other EU-Switzerland bilateral agreements. After two years of controversy, the EU and Switzerland came to a compromise, whereby free movement would continue but Swiss-based jobseekers be given priority for job openings. |
| Canada | EU-Canada Comprehensive Economic and Trade Agreement | Agreement to reduce tariffs on industrial and agricultural goods and technical barriers to trade, though restrictions remain (differences in food safety regulations, for example). Begins to open up markets in certain service sectors such as mining, energy-related services, environmental services, and certain professional services. Falls far short of full access to the single market in services (for instance, no passporting rights for financial services and other regulatory barriers). | Provisions allowing the temporary entry and stay of persons for business purposes (such as key personnel, contractual services suppliers, independent professionals and short-term business visitors). Senior intra-company transfers are granted the right to stay for up to three years (with a possible 18 month extension). Also includes a provision for partial mutual recognition of qualifications. Does not pertain to permanent migration. |
| Ukraine* | EU-Ukraine Association Agreement | Agreement to develop closer economic integration through a Deep and Comprehensive Free Trade Area (DCFTA), reducing tariffs on goods and gradually harmonising EU and Ukrainian laws, standards and regulations across a range of key trade-related sectors. Falls short of full access to single market in services, though more expansive than other trade agreements outside the single market. | No concrete commitments currently. In due course, the promise of a gradual introduction of a visa-free travel regime for Ukrainian citizens, as well as the potential for greater provisions for labour mobility. |
| South Korea | EU-South Korea Free Trade Agreement | Agreement to gradually eliminate tariffs on industrial and agricultural goods and address non-tariff barriers (particularly in the automotive, pharmaceutical, medical devices and electronics sectors), though barriers remain (such as labelling and product standards). Begins to open up markets in particular service sectors, including telecommunications, environmental, transport, construction, financial, postal and express delivery, and professional services. Falls far short of full access to single market in services (for example, no passporting rights for financial services and other regulatory barriers). | No commitments. |

Sources: Agreement on the European Economic Area (1994), Agreement on the Free Movement of Persons (2002), Comprehensive and Economic Trade Agreement (2014), EU-Ukraine Association Agreement (2014), EU-South Korea Free Trade Agreement (2010), Emerson (2016)

*Note: See footnote 3.

2.3 WHAT COULD A COMPROMISE LOOK LIKE?

The arguments above highlight the clear benefits of including a chapter on UK-EU migration within the Brexit negotiations, but what should this chapter contain? The evidence from past trade deals – and the unambiguous exhortations from EU leaders that the four freedoms are intertwined (Tusk 2016) – suggests that the best trade deal for the UK is only possible if the free movement of people continues. However, public concerns about free movement were a clear driver of the referendum result (see chapter 4). This has led the government to state its intention to pull out of the single market to able to place controls on EU migration (as well as to meet its other objectives).

Nevertheless, while the government needs to heed public concerns on free movement and this requires a change from the status quo, there could still be scope for a mutually beneficial deal on future UK-EU migration policy. As table 2.1 illustrates, there is a vast gap between the free movement rules upheld by Norway and Switzerland and the far more limited labour mobility provisions agreed by countries such as Canada. The key question for the negotiations is whether there is space in between either of these extremes for a suitable compromise between the UK and the EU. This would be an unprecedented type of agreement between the EU and a third country on migration and labour mobility, but, given that current circumstances are already unique, it seems to be the UK's clearest route to a politically tenable, favourable trade deal.

What are the current free movement rules?

The current free movement rules grant a 'right to reside' for EU nationals who are either workers (including the employed and the self-employed), former workers, jobseekers, students, 'self-sufficient' people (such as retirees), or family members of those who have a right to reside. EU nationals who have had a continuous right to reside for five years or more are automatically granted permanent residence. Broadly speaking, the right to reside grants full residency and work rights, equal treatment to non-EU nationals, and access to public services and welfare benefits.

The right to free movement for EU citizens is subject to certain conditions. Restrictions on free movement can be introduced on the grounds of public security, public health or public policy. Furthermore, in certain circumstances, unemployed or economically inactive EU nationals can be refused access to particular 'social assistance' benefits.

2.4 SIX ALTERNATIVES FOR A COMPROMISE

We have identified six options for the UK to seek a compromise with the EU27 on UK-EU migration. These six options do not constitute an exhaustive or comprehensive list (and nor are they mutually exclusive), but they do highlight some of the main viable possibilities the government could pursue within the negotiations, which fall somewhere between the two extremes of full free movement and full controls on EU migration.

They could also be amended and expanded – for instance in order to impose rules on access to welfare benefits and public services, a key area of concern for the public (see chapter 4). We consider each in turn, focusing on how they might be implemented and how much they could be negotiable as part of an ambitious trade agreement between the UK and the EU.

Option 1: temporary controls on free movement

What does it mean?

The government would temporarily introduce limits on free movement for particular sectors or regions during periods of high EU inflows.

How could it work in practice?

As part of the negotiations, the UK and the EU could agree to retain free movement (in both directions) but include a provision for imposing ‘safeguard measures’ to restrict flows for a temporary period in the case of excessive pressures.

The agreement would have to specify the precise conditions under which the safeguard measures could be used, perhaps drawing on the ‘alert and safeguard’ mechanism for in-work benefits agreed by former prime minister David Cameron as part of the pre-referendum settlement between the UK and the EU (European Council 2016). This agreement stipulated that in-work benefit restrictions could be imposed in response to sustained inflows of an ‘exceptional magnitude’ and on a scale affecting ‘essential aspects of [a member state’s] social security system’, which would lead to ‘difficulties which are serious and liable to persist’ in the labour market, or place ‘excessive pressure’ on the functioning of public services. A similar formulation – relating to both the scale of inflows and resultant pressures – could be used as part of the UK-EU Brexit agreement on migration. It would also need to identify a maximum time period for when the safeguard measures could apply – eg the seven years agreed by Cameron in the pre-referendum deal.

Finally, the agreement could specify that either party would be able to invoke safeguard measures unilaterally, but that the other party would nevertheless have a right to legally challenge any use of such measures. In these circumstances, the decision on whether the use of the safeguard measures complies with the UK-EU agreement on migration would need to go to an independent arbitration panel, made up of delegations from the UK and the EU.

The system could then be implemented through the UK labour market. EU nationals working in the UK during periods with no temporary controls would register with the Home Office and acquire a registration certificate to evidence their presence but could otherwise continue to benefit from free movement as they do now. Once the temporary measures were in place, newly arriving EU nationals would face additional restrictions if they wanted to work in affected sectors. In order to get a registration certificate to work during this time, they would need to fulfil a set of pre-agreed criteria (relating to the income level of the job they apply for, for example) and they and their employer would need to evidence this to the Home Office. Those in the UK before the temporary measures were introduced would be unaffected and could evidence this through their registration

certificate. The temporary measures would not need to be a crude bar or cap on EU nationals working in the UK; they could be targeted at certain sectors and could impose eligibility criteria based on factors such as income, occupation level and occupation type (for example, whether or not they are working in shortage occupations).

There could also be a regional dimension to temporary controls on free movement. For instance, there could be a stipulation in the agreement that allows controls to be introduced in certain regions or nations of the UK (and in certain regions or member states of the EU) if there were sustained high inflows and consequent pressures on the labour market and public services in these areas. Regional controls could then be temporarily implemented through the labour market: when registering to work, EU nationals and their employers would have to confirm their place of work with the Home Office to ensure they were complying with any applicable regional controls.⁵

This option is likely to be a complex system to install, both at the supranational level – where a new arbitration process would probably need to be introduced – and at the domestic level – where a new system of registration for EU nationals would need to be set up. The system could also be subject to abuse by workers who enter the UK after temporary measures are introduced and forge registration documentation to suggest they were here previously.

But, while the implementation process would be complex compared to the status quo of free movement, it is not obviously much more difficult to manage than alternative policy options, which will also need systems for registration and could also be open to abuse by irregular migrants. Similarly, at the supranational level, it is likely that other aspects of the EU negotiations on trade in goods and services will also require forging difficult compromises and will include the need for arbitration mechanisms between the UK and the EU. Moreover, temporary labour market controls were previously introduced for Romanian and Bulgarian nationals as a transitional step towards free movement, so there is a precedent already set for the Home Office in managing such a system. At this stage, this should therefore be considered a feasible option for consideration as part of the Brexit negotiations.

Is it negotiable?

This option provides for temporary restrictions on UK-EU migration. As argued above, this implies it is a temporary derogation of free movement and so is more likely to be considered acceptable by EU27 leaders. There is also a precedent in the ‘safeguard measures’ specified within the European Economic Area (EEA) Agreement (see table 2.1). An arbitration mechanism would introduce a degree of transparency over how the UK (or the EU) could implement the temporary measures and would, in cases where a decision was challenged, compel either party to evidence its decision. Finally, temporary controls would for the most part allow for a continued system of flexible labour mobility between the UK and the EU, except in certain periods. For these reasons, it is perhaps the most

⁵ For further details on how a regional system could work, see IPPR’s written submission to the House of Lords Economic Affairs Committee inquiry on Brexit and the labour market (IPPR 2017). Further work will be published by IPPR on regional migration later this year.

plausible option for securing a compromise between the UK and the EU27 as part of the Brexit negotiations.

Option 2: free movement for those with a job offer

What does it mean?

Free movement would continue as before for workers, students, family members and the self-sufficient, but jobseekers would no longer have the right to reside in the UK unless they already have a job offer.

How could it work in practice?

The UK and the EU would agree as part of the migration chapter of the UK-EU partnership to retain free movement of people, with the exception of EU citizens moving to the UK to look for work without a job offer (and vice versa).⁶ EU jobseekers would then lose their right to reside in the UK.

Implementing this system would require a combination of border checks and internal immigration enforcement. At the border, visa-free travel would be maintained but EU nationals could be asked about their intentions – and refused entry if they are identified as seeking to reside in the UK for the purposes of jobseeking.⁷ EU nationals planning to move to the UK to work, join family, study or live self-sufficiently would be required to apply for a permit pre-arrival. Those moving for work would need to show evidence of a job offer to get a permit (and employers could be asked to provide confirmation). EU nationals without a permit would be ineligible to rent, open a bank account, or access welfare benefits in the UK, and those residing in the UK (that is, those not in the UK as temporary visitors) would be subject to removal. Employers could also be asked to check whether EU job applicants are illegally residing in the UK without a permit.

This system would be highly cumbersome to implement. It would be difficult for immigration officials to stop EU nationals from entering the UK as visitors and then illegally residing long-term in the UK to look for work. Employers would find it hard to verify whether EU applicants have a legal right to be in the UK, because it would be challenging to distinguish between EU jobseekers illegally residing long-term in the UK and short-term visitors. Indeed, there would be little to prevent an EU national from entering the UK as a visitor, searching and applying for jobs, returning home, and then if successful coming back to the UK with the right to reside as a worker. The system would also struggle to deal with the category of self-employment, which could become a much-abused route if self-employed EU nationals are automatically granted a right to reside in the UK. For these reasons, in practice it is unlikely that this option would differ substantively from the status quo of free movement.

Is it negotiable?

This option would signal a relatively small shift away from the current system of free movement, so it is more likely than many of the other options to secure a potential compromise. But it would be wrong to see this as a straightforward compromise with the EU. There is no other third country that enjoys an equivalent deal on migration with the EU (perhaps the closest is

⁶ Former workers who lose their job would still have a right to reside (at least for a certain period).

⁷ EU nationals simply visiting the UK for a job interview would of course not face restrictions.

Switzerland under the new agreement – see table 2.1). Moreover, while the original concept of freedom of movement in the Treaty of Rome focussed only on workers, the EU acquis in its current form – given the significant body of case law from the Court of Justice of the European Union (CJEU) on free movement and, most notably, the concept of EU citizenship as originally embodied in the Maastricht Treaty (Marzocchi 2017) – makes the original concept somewhat redundant. Nevertheless, this option would largely retain the principle of free movement and could be interpreted by the EU27 as targeted at preventing abuse of free movement for the purposes of accessing the UK's welfare system, rather than undermining the principle itself. For these reasons, it is still one of the more promising options for finding a middle ground between the UK and the EU.

Option 3: free movement for certain flows

What does it mean?

Free movement between the UK and the EU would continue for particular workers – for instance, certain professions and workers in particular sectors – as well as non-active groups.

How could it work in practice?

The UK-EU agreement could identify a list of groups who would continue to benefit from free movement rules as they do now under the status quo. Anyone not included within these groups would be subject to the normal immigration rules decided by UK or EU27 member state legislation. The list of groups could be decided based on a range of factors, including the economic needs of each party, the cultural benefits of enhanced mobility, and the political priorities of the UK government and the European Commission.

A sensible list would include: highly skilled professionals such as lawyers, finance professionals, and scientists; lower-skilled professionals that the UK currently relies on such as agriculture and food processing workers; health and social care workers; and non-active groups such as students and retirees. A 'principles-based' list could also be agreed that allows for some flexibility within the agreement – for instance, it could specify the subsectors most reliant on EU nationals, which would of course change over time in line with the needs of the labour market.

This option could largely be implemented through labour market controls. The UK government would need to introduce a light-touch system of worker registration for all EU nationals, including those groups for which free movement is maintained. This would be necessary for employers to prove that certain workers are eligible for special treatment under the UK-EU agreement (Migration Observatory 2017). For instance, the system could be based on the Worker Authorisation Scheme used for Romanian and Bulgarian nationals during the period of transitional labour market controls after the A2 accession, or the scheme currently used for Croatian nationals. Under this system, eligible workers would need to apply for and acquire a 'worker authorisation document' from the Home Office to confirm their eligibility before starting work. An application would generally require sponsorship from an employer, but this could be designed to be far less onerous than the current Tier 2 sponsorship system (ibid).

A provision would also be needed for those EU nationals who were originally on the select list of groups but who change profession or sector while in the UK. These EU nationals would presumably have to reapply through the standard UK immigration route, unless they had been a resident in the UK for a certain period and so could apply instead for settlement.

The list of groups for which free movement applies could also be varied according to the preferences of each region and nation of the UK. Under a regional system, EU nationals who wanted to work in a particular region would need to find an employer in the region to sponsor them and apply for a 'worker authorisation document' from the Home Office. The Home Office would then check the worker's details against the region's list, in order to verify whether they were eligible to work under the free movement rules or whether they would instead have to apply through the standard immigration route.

Like the other options we have discussed, this system would be complex to implement, as it would require drawing a significant distinction between certain groups of EU nationals and others within the UK's immigration system. It could also be subject to abuse – most notably in cases where EU nationals may feign a particular occupation or grouping to gain access to the benefits of free movement. Nevertheless, it is a feasible option if a comprehensive management system is in place for both EU nationals subject to UK immigration law, and EU nationals who have a right to reside through free movement rules.

Is it negotiable?

This option would preserve the benefits of free movement for certain groups – albeit with some additional bureaucratic impediments – which might make it an appealing policy for the EU27. But it would effectively end free movement for others and there is little precedent for such a system, which inevitably makes it less likely to be negotiable than the first two options discussed. Nevertheless, there is still a possibility that an agreement that retained free movement for a range of different groups (and not just highly skilled workers) and that was based on the economic evidence of the impacts of free movement might be negotiable as part of an ambitious free trade agreement.

Option 4: points-based system

What does it mean?

EU nationals seeking the right to work in the UK would need to meet the requirements of a points-based system. Points could be allocated on the basis of criteria such as highest qualification level, age and language ability.

How could it work in practice?

The UK-EU agreement could set out the framework for a labour migration policy using a points-based system. This could include a list of the criteria that the UK/EU may use as the basis for such a system, the overall threshold at which UK/EU nationals would become eligible, and the enforcement structures for regulating the policy.

In practice, a points-based system could be enforced through work permits. EU nationals looking for employment (or self-employment) in the UK would have to apply to the Home Office. A work permit would be issued if the EU national was assessed as meeting the points threshold. Points would be awarded based on qualification level (the higher the qualification level, the greater the points awarded), age (more points would be awarded to younger applicants) and language ability (fluent English speakers would be awarded additional points). If the applicant had sufficient points, a work permit would be issued for a certain time period (three or five years, for example), which would not be attached to a particular occupation. EU nationals entering the UK through other routes – such as study or family – would continue to face no restrictions, unless they wanted to work as well. The precise details of the points-based system – including the number of points awarded for each of the criteria and the overall threshold for a successful application – could also vary by region within the UK to take into account local priorities and geographical differences in demand for labour.

Introducing a points-based system would require substantial investment from Home Office resources, given that it would constitute a new system with a new set of procedures for issuing work permits and monitoring compliance. Because of difficulties with past points-based schemes during her time in the Home Office, the prime minister has also shown scepticism about introducing a similar system for EU nationals. In particular, she closed down the Tier 1 (General) route for skilled workers coming to the UK without a job offer largely because it had resulted in substantial numbers of highly qualified migrants working in lower-skilled occupations (Gower 2016). However, as the next chapter will demonstrate, given the labour market requirements of employers in the UK this is not necessarily as problematic as it might appear. Furthermore, other countries – such as Australia, Canada and New Zealand – have successfully introduced points-based routes into their own immigration systems.⁸ Therefore, provided enough resources are given to the Home Office to properly enforce the new policy, a points-based system could be a viable option for a post-Brexit settlement on migration.

Is it negotiable?

It is unlikely that a points-based system could form the basis of an ambitious UK-EU agreement. This is because it would effectively mean the permanent end of free movement for citizens who do not meet the criteria of the points-based system. There is little precedent for the EU agreeing to such a system as part of negotiations on labour mobility with a third country. Nevertheless, the offer of a relatively liberal and flexible points-based system agreed as part of the UK-EU negotiations might complement a more limited free trade agreement; it is in any case more likely to grant the UK favourable access to trade in goods and services than a more restrictive and rigid employer-sponsored system.

⁸ Although this has typically been with the aim of facilitating greater migration, not enforcing greater restrictions.

Option 5: 'preferential' system for EU nationals

What does it mean?

EU nationals coming to the UK to work would face a more relaxed version of the rules non-EU nationals currently face.

How could it work in practice?

A 'preferential' system for EU nationals has been widely discussed in the post-referendum debate. The basic principle is that the UK would offer the EU a more relaxed version of the current system for EU nationals as part of the Brexit negotiations. It is not clear, however, how a preferential system could work as part of the negotiations, if it is decided independently by the UK as a matter of domestic policy. For the offer to have any meaning, it would need to be agreed as part of a UK-EU treaty, rather than simply enacted as UK domestic legislation, since otherwise the EU would have no assurance that the preferential system would continue to operate under future governments. This means that there would need to be some agreed framework between the UK and the EU as part of the negotiations for how a preferential system would operate.

There are two main ways the UK government could liberalise the current work migration system for EU nationals. First, the UK could relax the Tier 2 rules for EU nationals working in the UK. Under the current Tier 2 (General) system for skilled workers, non-EU nationals need to be sponsored by an employer. The job being sponsored must meet a number of criteria: it must be a 'graduate-level' job (NQF level 6 or above) or on the Shortage Occupation List; it must have an income of at least £30,000 for experienced hires or at least £20,800 for graduate or younger hires (with a potentially higher minimum income threshold depending on the occupation); the employer must pay visa fees and an Immigration Skills Charge of £1,000 per year per non-EU migrant sponsored;⁹ and a resident labour market test must be carried out to ensure that no suitable settled worker is available to fill the job (unless the job is on the Shortage Occupation List, in which case it is exempted from the test). There is also an annual cap of 20,700 on the overall number of migrants that can be sponsored under Tier 2 (General) (with certain exemptions). A preferential system for EU nationals could relax any of these requirements – for instance, it could reduce the skills and/or income threshold and waive the Immigration Skills Charge. Requirements could also be relaxed for certain regions or nations of the UK, in order to attract workers to areas with the greatest skills shortages.

Second, alongside consolidating EU nationals into the non-EU Tier 2 system for skilled workers, the UK could introduce a new route (or routes) for EU nationals wanting to come to work in the UK. For instance, the government could open the Tier 3 route for lower-skilled EU nationals, setting annual quotas for the number of EU workers in different sectors (and potentially regions as well). It could also introduce a bespoke route for self-employed EU nationals, which would liberalise the currently strict Tier 1 rules for entrepreneurs and investors.

⁹ The figure is £364 per non-EU migrant sponsored per annum for small or charitable organisations.

The effectiveness of a ‘preferential’ migration system for EU nationals would depend on the details of the new system. But in principle, while creating a ‘two-tier’ migration policy would add a layer of administrative complexity for the Home Office, it should be feasible to implement and enforce.

Is it negotiable?

It is unlikely that a ‘preferential’ system of the type described would be sufficient to secure a trade deal of the scale sought by the government, because a new system would be permanent, would bear little relation to free movement, and would be without any obvious precedent within the context of EU trade agreements. But it may help to facilitate some benefits in trade in goods and services as part of the UK-EU deal. The key question will be how to translate a political statement of good will – that the UK will consolidate EU nationals into the UK migration system but will nevertheless treat them more favourably than their non-EU counterparts – into a concrete and legally binding framework agreed as part of the Brexit deal.

Option 6: controls on EU labour migration; free movement for others

What does it mean?

The UK would be at liberty to set its own rules for EU workers and the self-employed, but would agree to facilitate continued free movement, as far as is feasible, for students, family members and the self-sufficient.

How could it work in practice?

Under this scenario – which has been proposed by the pressure group Migration Watch (Migration Watch 2016) and MEP Steven Woolfe for Leave means Leave (Woolfe 2017) – the UK would not choose to negotiate on labour migration with the EU and would introduce its own policy for EU workers as it sees fit. However, there would still be a UK-EU agreement on migration that secures the rights of EU citizens to study, join family members and retire in the UK (and vice versa).

There would be no restrictions on EU nationals visiting, residing in and settling in the UK; restrictions would only be imposed at the workplace. Those wanting to work in the UK would typically have to apply through the Tier 2 system for skilled workers, as described above. EU nationals who want to be self-employed would have to apply through the Tier 1 system. There would be limited options for EU nationals seeking to engage in lower or middle-skilled work. Labour market pressures could be alleviated through an expansion of the Shortage Occupation List or through seasonal or temporary work schemes (which would presumably not distinguish between UK and EU nationals). EU students would be free to study in the UK, but would have the same work restrictions as non-EU students. EU family members of eligible workers would be free to live and work in the UK as dependents. Self-sufficient people would be free to stay in the UK, but would have to apply through one of the non-EU work routes to work legally.

As with some of the other options discussed, fully consolidating EU nationals within the non-EU work system would be a major resource-intensive exercise for the Home Office. This system would also be open to abuse, given the tight restrictions on lower-skilled work. There is a particular risk of enforcement issues among settled EU nationals who

originally come to the UK without the intention of engaging in economic activity, but who at a later date need to seek employment opportunities. If they are unable to find work at the right skill level, they could face the choice of leaving the UK, engaging in illegal work or falling into destitution. This, combined with desperation among employers for lower-skilled workers, could lead to an increase in irregular migration.

Is it negotiable?

This option implicitly accepts that, for the most part, negotiations on migration between the UK and the EU should not be pursued. This is likely to result in a disadvantageous trade deal. The only areas where negotiations are sought are with respect to the student, family and self-sufficient routes. But it is not clear why, if the UK decided to unilaterally impose its own immigration policy for EU workers, the EU would agree to a deal that secured the free movement rights of UK and EU citizens migrating for study, family or ‘self-sufficient’ purposes. Indeed, given that UK citizens emigrating to other EU countries are disproportionately retirees, a deal that protects their rights but makes no reciprocal offer to EU workers appears inherently unlikely to secure EU approval. This would of course not prevent the UK from unilaterally implementing the policy in full for EU nationals, but it does make it unlikely that, under this option, a reciprocal deal protecting the free movement rights of both EU and UK students, family members and self-sufficient persons would be achievable.



The table below summarises our analysis of the six different proposals discussed according to how feasible they are to implement and negotiate.

TABLE 2.2

Comparison of policy options for a UK-EU agreement on migration: feasibility and negotiability

| Option | How feasible to implement? | How feasible to negotiate? |
|--|--|--|
| Temporary controls on free movement | Feasible but complex as involves dispute settlement mechanism, registration system and implementation of temporary controls | Highest chance of negotiation, given past agreements on temporary suspensions of free movement rules |
| Free movement for those with a job offer | Highly cumbersome as hard to distinguish between temporary visitors and jobseekers, and could be easily circumvented – possibly not feasible | Potential chance of negotiation, as retains free movement for most groups |
| Free movement for certain flows | Feasible but complex as involves registration system and ‘two-tier’ system for different groups of EU nationals | Potential chance of negotiation, as retains free movement for a number of groups |
| Points-based system | Feasible but complex as involves construction of entirely new system for EU nationals, distinct from employer sponsored scheme | Low chance of negotiation, as significant shift from free movement |
| ‘Preferential’ system for EU nationals | Depends on further details, but likely to be feasible | Low chance of negotiation, as significant shift from free movement |
| Controls on EU labour migration, free movement for others | Feasible but still resource-intensive for Home Office as requires consolidating EU nationals into Tier 2 system | Very low chance of negotiation, as heavily restricts lower- and mid-skilled EU migration |

Source: IPPR analysis

Before making a final assessment of the different options for EU migration in the Article 50 negotiations, we will consider two further key considerations for a post-Brexit migration policy. In the next chapter, we look at the migration needs of the UK labour market; in the following chapter, we consider the concerns and priorities of the public.

3.

OUR LABOUR MARKET NEEDS

Over the past 15 years, freedom of movement has increasingly become a vital bulwark of the UK's labour market. The accession in 2004 of 10 new countries, mostly from Eastern Europe, followed more recently by the Bulgarian and Romanian accession and the Eurozone crisis, facilitated a sharp and sustained increase in inflows of EU nationals, the majority of whom came to the UK for work. This, combined with the UK's flexible labour market and the high demand for lower-skilled workers from UK employers, has embedded EU migration into the UK labour force, particularly in certain sectors vital to the government's wider industrial strategy.

The government's priority for a new immigration policy is expected to focus on restrictions on EU nationals in lower-skilled work (hereafter generally referred to as 'lower-skilled workers').¹⁰ But without careful management, these restrictions are likely to cause labour shortages in key sectors. The following analysis demonstrates why restrictions on lower-skilled labour will cause serious challenges for employers in a number of key sectors of the UK economy. There is therefore a clear economic case for an agreement on UK-EU migration, as part of the Brexit negotiations, that ameliorates the damaging impacts of a loss of lower-skilled EU workers on the UK labour market.

3.1 THE DATA

We draw our analysis primarily from two sources: the UK Labour Force Survey (LFS), a quarterly survey conducted by the ONS of around 38,000 private households in the UK, and evidence gathered from a number of sector groups (including trade bodies, unions and individual employers).

While most of our quantitative analysis uses the LFS, many of the sector groups we spoke to highlighted their belief that the LFS tends to underestimate the total number of EU nationals in their sectors, because their members' surveys generally provide significantly higher estimates of the EU workforce than the LFS. There are a number of reasons why the LFS might underestimate the EU migrant stock in the UK:

- First, the LFS has a low household sampling rate (41.5 per cent for Great Britain excluding imputed cases for the latest quarter), so there is a risk that it might miss certain 'hard-to-reach' groups, such as irregular migrants, migrants with language barriers and migrants who work long and unsociable hours.
- Second, it excludes individuals living in communal accommodation, such as hostels, meaning certain migrant groups could be missed.

¹⁰ Note this does not refer to the skill levels of EU nationals but the skill requirements of the jobs they are doing.

- Third, it excludes many short-term or seasonal migrants which, according to our sector groups, make up a significant part of the UK’s EU workforce.

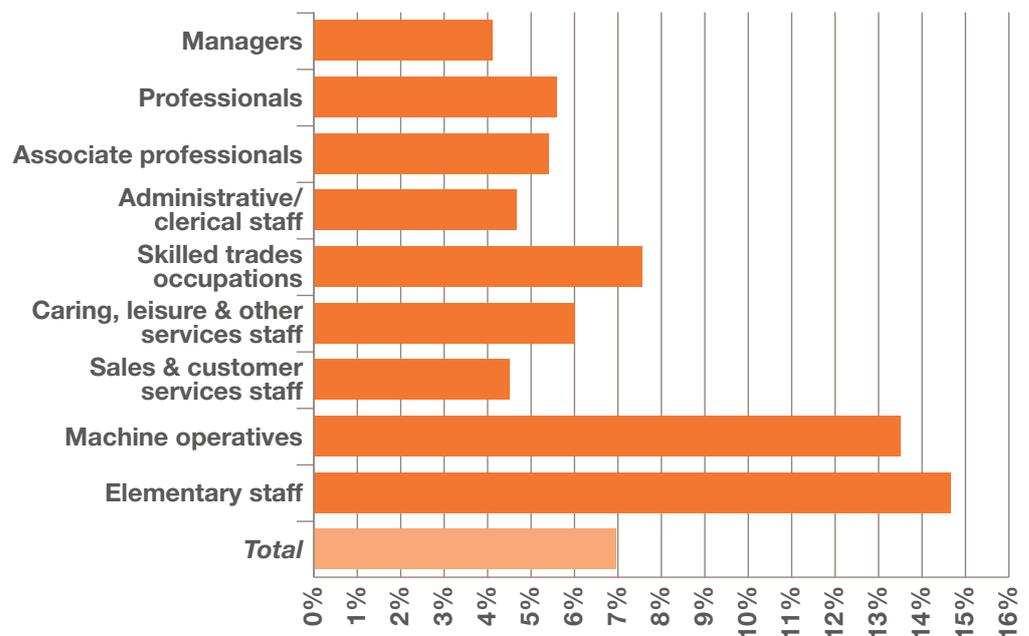
Nevertheless, the LFS is the most robust source of data on EU migrant stocks. The sectoral membership surveys, while useful guides, are likely to be subject to self-selection bias and so may not be fully representative. The reasons for differences between the LFS findings and employer perceptions may be explained by high concentrations of EU nationals within particular subsectors of businesses which are not picked up by the LFS, rather than any fundamental limitation in the survey methodology. For the purposes of this paper, we therefore use the LFS as our main reference dataset, with the caveat that it may be underestimating the true scale of EU migration within the UK workforce.

3.2 EU NATIONALS IN LOWER-SKILLED OCCUPATIONS

According to the LFS, EU nationals in the UK are highly concentrated in lower-skilled work.¹¹ While around 2.1 million – or 7 per cent of the UK workforce – are EU nationals, the shares are far higher for lower-skilled occupations.¹² As figure 3.1 below reveals, nearly 15 per cent of elementary occupations and machine operators (the two lowest skilled occupation groups) are filled by EU nationals, compared to around 5 per cent of managers and professionals (the two highest skilled occupation groups).

FIGURE 3.1

EU nationals are concentrated in lower-skilled work
Share of EU nationals in each occupation group



Source: IPPR analysis of LFS

¹¹ For this analysis, by ‘EU nationals’ we refer to nationals of all countries with EU free movement rights, including EEA non-EU countries (Norway, Iceland and Liechtenstein) and Switzerland.

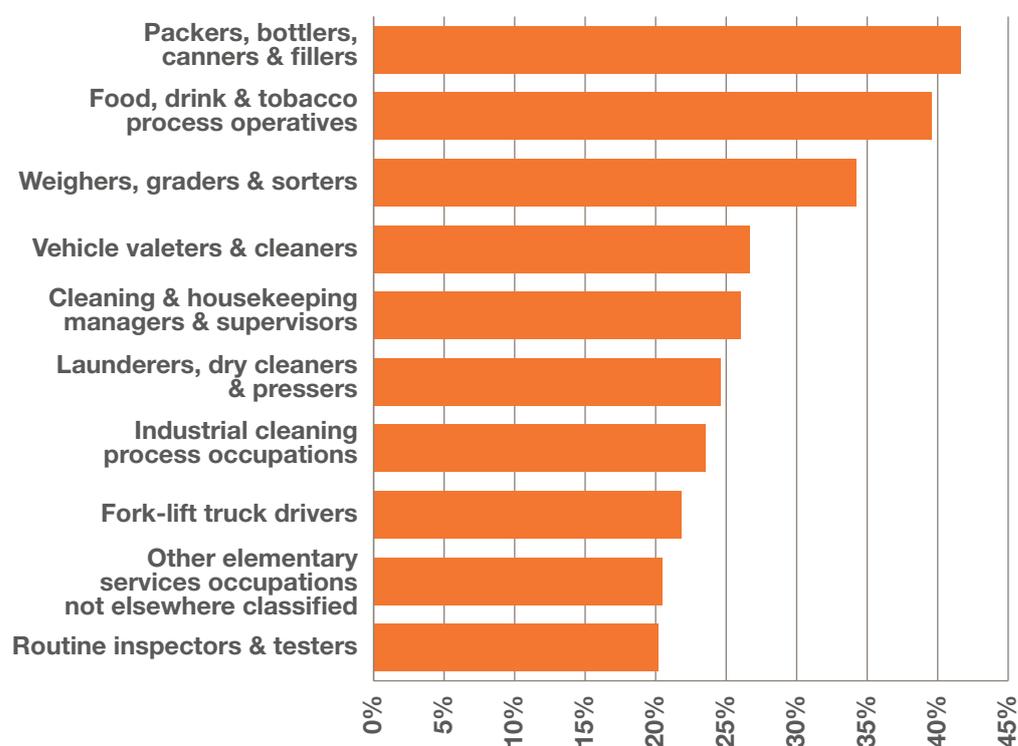
¹² We use nationality rather than country of birth in this analysis, since this is the measure on which future EU migration rules will be based.

A further breakdown of the occupation types most commonly filled by EU nationals reveals this list is dominated by lower-skilled occupations – including packers and bottlers, launderers and dry cleaners, vehicle valeters and cleaners, and fork-lift truck drivers. While some common EU-reliant occupations are customer-facing, many instead play a key role in factories, processing plants or in the supply chain.

FIGURE 3.2

The occupations with the largest share of EU nationals are packers, bottlers, canners and fillers, food, drink and tobacco process operatives, and weighers, graders and sorters

Top 10 occupations by share of EU nationals



Source: IPPR analysis of LFS

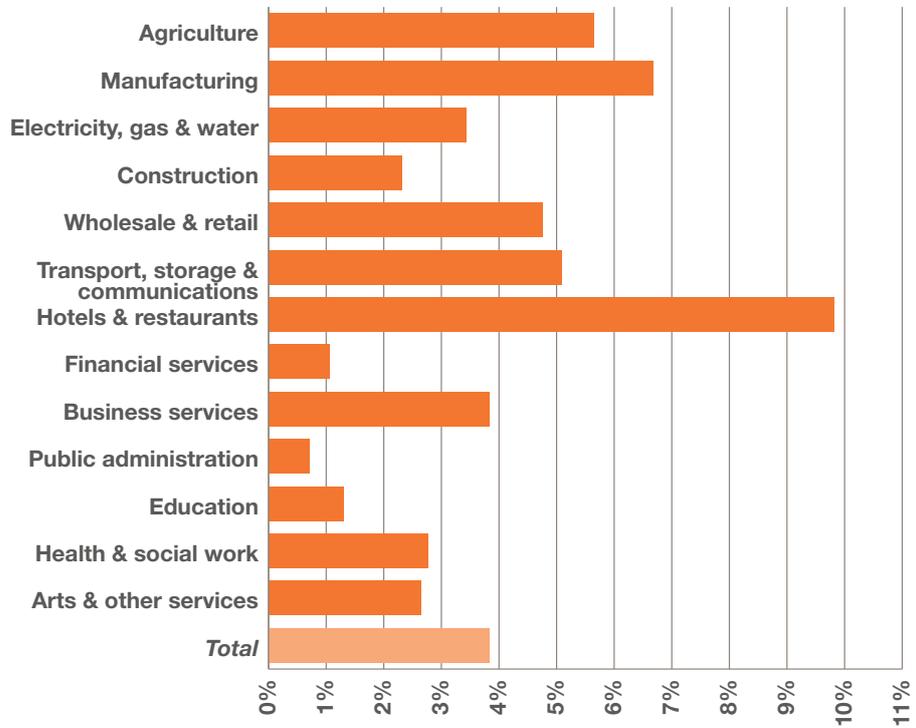
A sectoral analysis highlights that a range of sectors are currently reliant on a substantial share of EU nationals in lower-skilled occupations. The most reliant sectors – that is, the sectors that are potentially most likely to be affected by prospective changes to the migration rules post-Brexit – are hotels and restaurants; manufacturing; agriculture; transport, storage and communications; and wholesale and retail.

Further analysis identifies the specific sub-sectors most reliant on lower-skilled EU labour. Figure 3.4 shows the 10 sub-sectors with the greatest share of EU nationals in lower-skilled work. These range from sectors that are well understood as relying on a large EU workforce – including food manufacturing, accommodation and domestic personnel – to sectors that have been less discussed in the context of EU migration flows – including warehousing and logistics, clothes manufacturing and cleaning.

FIGURE 3.3

Hotels and restaurants, manufacturing and agriculture are particularly reliant on lower-skilled EU nationals

Share of EU nationals in lower-skilled work by sector

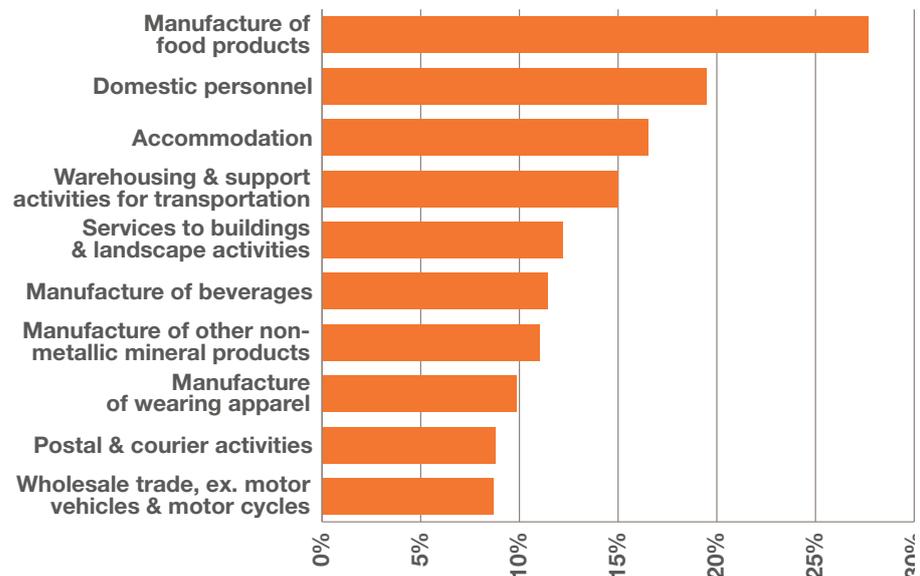


Source: IPPR analysis of LFS

FIGURE 3.4

The sectors with the largest share of EU nationals are food manufacturing, domestic personnel, and accommodation

Top 10 sectors by share of EU nationals in lower-skilled work



Source: IPPR analysis of LFS

3.3 POST-BREXIT SCENARIOS FOR EU MIGRATION

It is clear from the above analysis that EU nationals are disproportionately represented in lower-skilled occupations across a range of key sectors, from food and drink to distribution and logistics. But what might this mean for a future immigration policy for EU nationals? Using the LFS, we have estimated the impact of some of the key options for a post-Brexit immigration policy discussed in chapter 2.¹³ We find that the impacts of new rules vary substantially depending on the system imposed, and that, under some scenarios, restrictions could have a severe effect on access to labour, particularly for lower-skilled occupations.

Our analysis calculates the percentage of recently arrived EU workers who would be eligible to reside and work in the UK under a future system. We consider the impacts of: the full application of the current Tier 2 rules on EU nationals (option 6); a ‘preferential’ system that relaxes the income and skills threshold (option 5); a points-based system that is based on the skills level of the migrant rather than the skills required for the job they are applying for (option 4); and a system that continues to allow free movement for EU nationals in highly skilled professions, in health and social care work, and in those occupations where there are likely to be high levels of demand (option 3). (For full details of how we have modelled each option see annex 1.)¹⁴

Our analysis below highlights the dramatic impact on the labour market of applying the Tier 2 rules to EU nationals. The occupational profile of EU nationals – combined with the stringent income and skills criteria for the Tier 2 system – means that the vast majority of EU nationals would not be eligible if these rules were introduced. Similarly, a ‘preferential’ system that relaxes the Tier 2 income and skills threshold would not necessarily have a significantly different impact than a straightforward application of Tier 2 to EU nationals, because the bar to entry for non-EU nationals under Tier 2 is already exceptionally high. (Although of course the precise effects of applying a preferential system would depend on where the threshold is set – the lower the income and skills thresholds, the greater the number of eligible EU nationals.)

Under the points-based system, eligibility rates are higher. This is largely down to the high levels of overqualification among EU nationals: many who are not working in graduate-level jobs nonetheless have graduate-level qualifications. This means that, assuming that the skills eligibility requirements for each system are equivalent to one another, a points-based system would likely be more liberal than an employer-sponsored one.

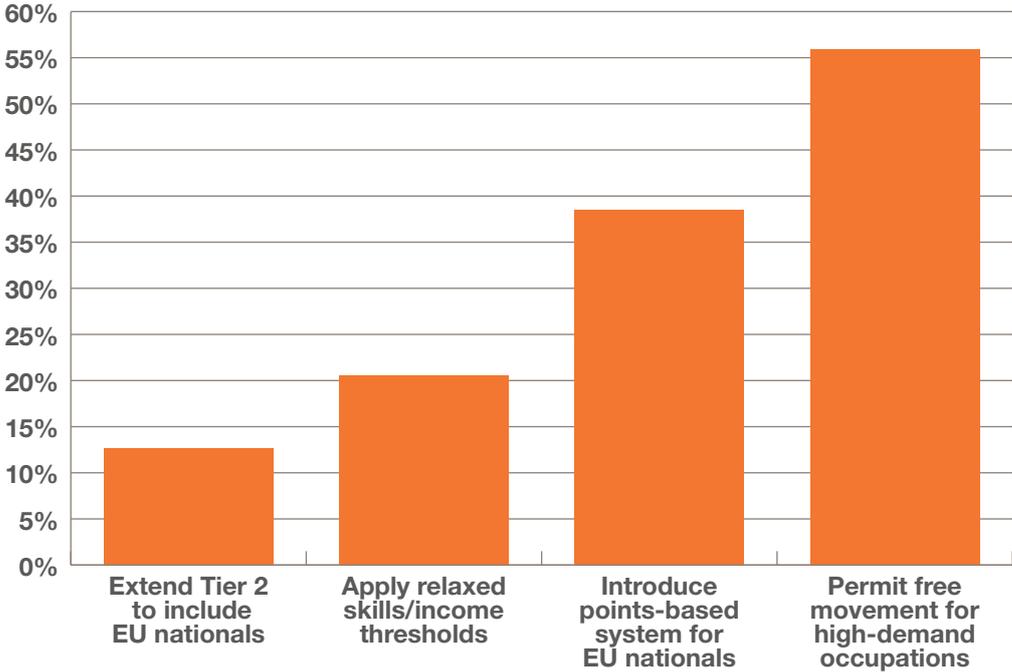
13 Naturally, the LFS provides estimates of migrant stocks rather than flows, and post-Brexit migration policy is expected to affect future flows of EU nationals rather than those already resident in the UK. Therefore, in order to evaluate the potential impact on the turnover of EU migration, we have pooled together the quarterly LFS rounds from 2012 Q3 to 2016 Q2 and selected for analysis only those EU nationals who most recently arrived in the UK within two years of the survey being conducted. This provides the closest possible estimate of impacts of future EU migration policy on migration flows using the available data.

14 We do not model the temporary controls option (option 1) because by its nature it only exerts time-limited restrictions on immigration, so any impacts would simply amount to a temporary version of one of the permanent options already modelled. Similarly, we do not model free movement for those with a job offer (option 2) because our analysis only focuses on EU nationals in employment, and, in any case, it is difficult, using the LFS data, to distinguish between those migrants who arrive for work-related reasons in the UK with a job offer and those who do not.

Finally, the option that allows continued free movement for particular groups has the highest eligibility rates. This is simply because – unlike the other options – this policy grants eligibility for EU workers in occupations where they already fill a disproportionate share of the jobs, including in a number of lower-skilled occupations.¹⁵

FIGURE 3.5

Depending on the migration system, the proportion of recently arriving EU nationals who would be eligible varies considerably
Eligibility for recent EU nationals under alternative migration systems



Source: IPPR analysis of LFS

But these overall figures mask vast sectoral and occupational differences in impacts. Comparing the impact of the most stringent Tier 2 option across different sectors, it is clear that some sectors would be far more affected than others. Figure 3.6, using data on all EU nationals rather than recent flows,¹⁶ highlights the differences between sectors. Notably, sectors such as hotels and restaurants, manufacturing and agriculture would be particularly affected by a future visa system of this sort, while public administration and education would be less affected. Similarly, figure 3.7 illustrates that machine operatives and elementary staff would be the most affected occupational groups under a Tier 2 system.

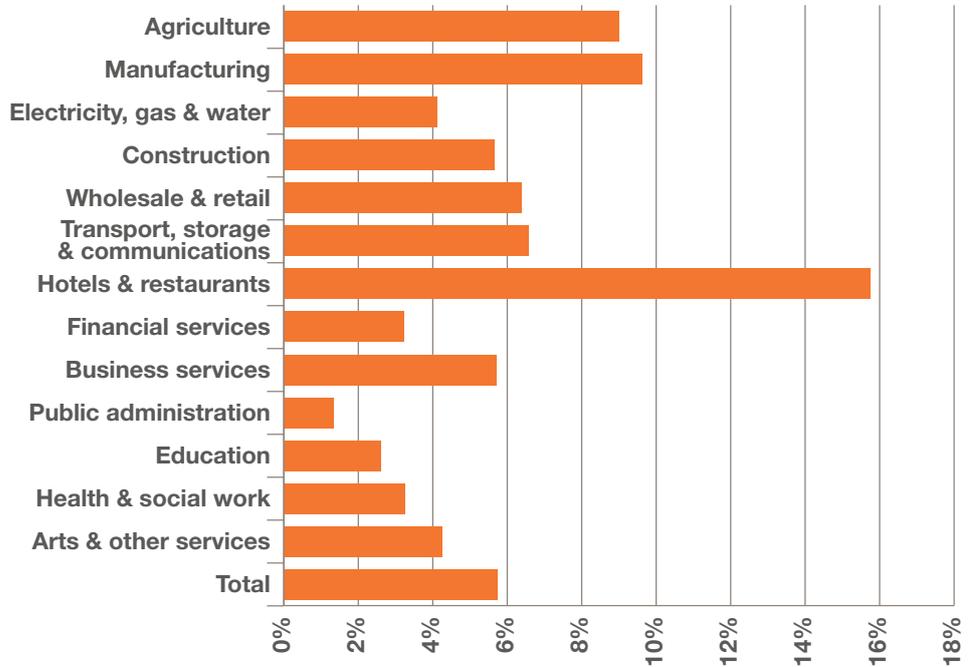
15 Indeed, by definition this system is more liberal than the Tier 2 system, as all EU nationals who are eligible under Tier 2 are also automatically eligible under this system.

16 To ensure a large enough sample size.

FIGURE 3.6

Hotels and restaurants, agriculture and manufacturing would be most affected by the introduction of a Tier 2 system for EU nationals

Share of each sector's workforce that are EU nationals who would be ineligible under Tier 2 system

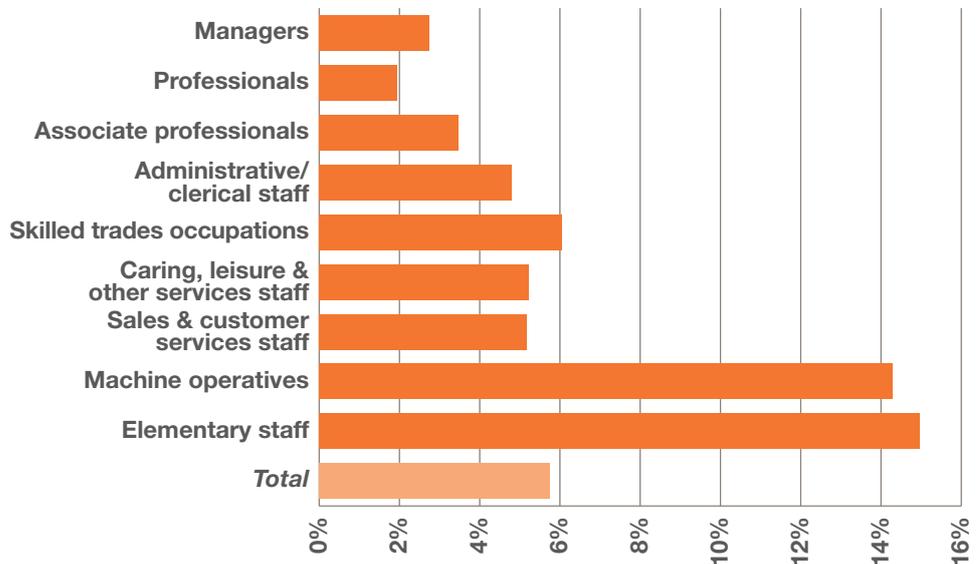


Source: IPPR analysis of LFS

FIGURE 3.7

Elementary staff and machine operative occupations would be most affected by the introduction of a Tier 2 system for EU nationals

Share of each occupational group that are EU nationals who would be ineligible under a Tier 2 system



Source: IPPR analysis of LFS

3.4 THE IMPACTS OF STRINGENT RESTRICTIONS ON LOWER-SKILLED EU LABOUR

If a new immigration policy introduces significant restrictions on lower-skilled workers from the EU, many employers in sectors reliant on EU workers are likely to struggle. This is because, without access to future EU labour for lower-skilled jobs, employers will need to either recruit EU migrants already residing in the UK, recruit more actively from the domestic workforce, or invest in new technologies to reduce the need for labour altogether. As the following analysis shows, none of these potential solutions would be satisfactory to many employers.

Could employers use the current EU workforce already resident in the UK?

Some have argued that concerns about restrictions on EU labour are beside the point, because the 3.5 million EU nationals currently resident in the UK – who are expected to have their rights protected – could fill future vacancies that would otherwise be taken by incoming EU nationals (Migration Watch 2017). This argument is problematic for five main reasons.

- 1. Many EU workers used by employers are temporary or seasonal workers who do not permanently reside in the UK.** It is not clear whether these workers will have their free movement rights protected under the Article 50 agreement.
- 2. Even among permanent EU workers, there is regular turnover. Many EU nationals working in lower-skilled sectors move on to more highly skilled roles within the UK labour market or leave the UK.** There is therefore a continuous need for recruitment for new employees. Notably, in the hotels and restaurants sector – which is likely to be one of the sectors most affected by restrictions on lower-skilled EU labour (see figures 3.3 and 3.6) – firms face particular challenges with staff retention: 14 per cent of employers in hotels and restaurants have difficulties retaining staff, compared to 8 per cent on average (UKCES 2016).
- 3. Since the Brexit vote there is considerable anecdotal evidence from employers that many EU nationals are returning home.** This is supported by evidence from the International Passenger Survey that there has been a rise in emigration of EU nationals from the A8 countries in the year ending September 2016 (ONS 2017).
- 4. The workforce in some sectors is ageing, which will need to be compensated by a large number of new recruits in the coming decade.** For instance, the food and drink sector will require 130,000 new recruits by 2024 due to its ageing workforce (FDF 2016).
- 5. Some sectors have major growth plans which will require new workers in the coming years.** For instance, the hospitality sector is a major source of employment growth and is expected to grow further over the next decade: KPMG have estimated that the labour requirement for employment growth in the hospitality sector will be more than 600,000 new workers by 2029 (KPMG 2017).

For these reasons, it is inconceivable that the current stock of EU nationals in the UK could simply substitute future EU inflows and be sufficient for the workforce needs of the UK economy.

Could employers recruit more actively from people already in the UK?

Others have argued that restrictions on EU migration will simply result in more workers being recruited from the domestic workforce, by encouraging employers to hire the unemployed (or economically inactive) to fill jobs otherwise taken by EU migrants (Goodhart 2017). This is unlikely to resolve employers' challenges for the two main reasons discussed below.

First, the pool of people from which to recruit domestically is relatively small. The current UK unemployment rate is 4.7 per cent, at its joint lowest point since 1975, and the economic inactivity rate is at a near record low of 21.6 per cent.

TABLE 3.1

Certain regions – including East Anglia, London, and the East Midlands – have a high ratio between the number of lower-skilled EU nationals and the number of UK workers able to fill their place

Lower-skilled EU nationals and unemployed/inactive but who would like to work by region

| | Unemployed or inactive and who are seeking work/would like to work* | EU nationals in lower-skilled work | Ratio of lower-skilled EU nationals vs unemployed/inactive |
|--------------------------------|---|------------------------------------|--|
| Tyne & Wear | 80,000 | 6,000 | 0.08 |
| Rest of Northern region | 121,000 | 16,000 | 0.13 |
| South Yorkshire | 112,000 | 14,000 | 0.13 |
| West Yorkshire | 139,000 | 36,000 | 0.26 |
| Rest of Yorkshire & Humberside | 98,000 | 19,000 | 0.19 |
| East Midlands | 252,000 | 102,000 | 0.41 |
| East Anglia | 113,000 | 69,000 | 0.61 |
| Inner London | 274,000 | 120,000 | 0.44 |
| Outer London | 338,000 | 190,000 | 0.56 |
| Rest of South East | 599,000 | 184,000 | 0.31 |
| South West | 288,000 | 76,000 | 0.26 |
| West Midlands (Metropolitan) | 209,000 | 46,000 | 0.22 |
| Rest of West Midlands | 158,000 | 46,000 | 0.29 |
| Greater Manchester | 201,000 | 52,000 | 0.26 |
| Merseyside | 80,000 | 9,000 | 0.12 |
| Rest of North West | 119,000 | 34,000 | 0.28 |
| Wales | 186,000 | 28,000 | 0.15 |
| Strathclyde | 150,000 | 17,000 | 0.11 |
| Rest of Scotland | 174,000 | 59,000 | 0.34 |
| Northern Ireland | 106,000 | 40,000 | 0.38 |

Source: IPPR analysis of LFS

*Note: Only working age people included.

Moreover, there are significant geographical differences in the availability of UK workers. Some parts of the country – particularly rural areas – have a very small pool of unemployed or inactive workers, and the poor quality of much of rural transport infrastructure makes it hard for them to even access many employers. Table 3.1 highlights that, in some regions of the UK – notably East Anglia, London, and the East Midlands – the ratio between the number of EU nationals in lower-skilled work and the total number of those who are unemployed or inactive (and who are

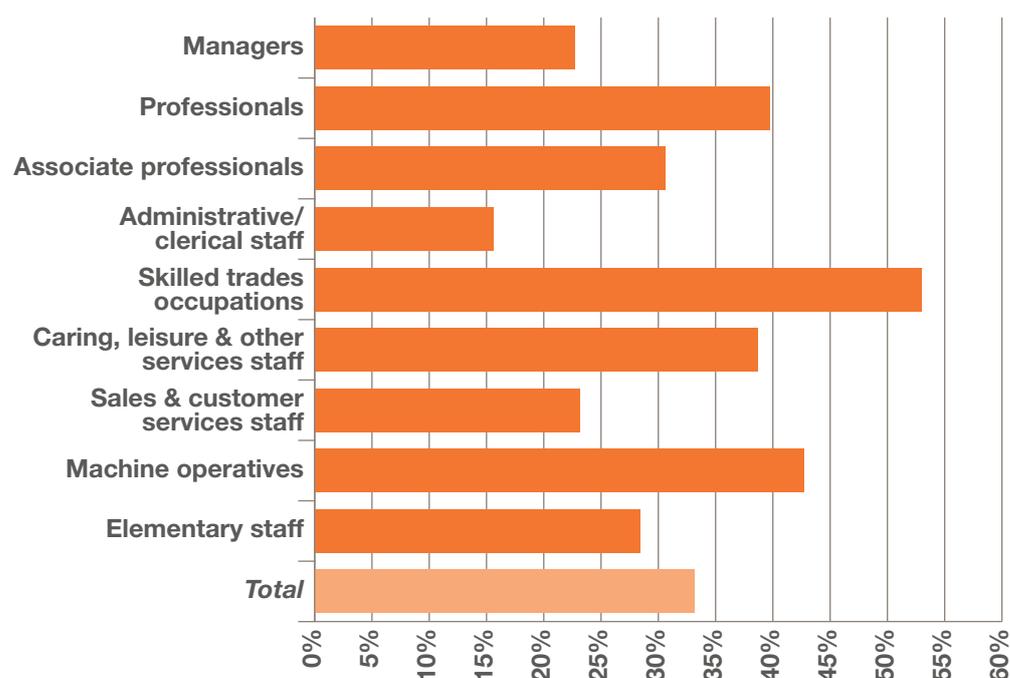
either seeking work or who would like to work) is particularly high.¹⁷ This suggests that these regions could face a particular squeeze if there were restrictions on lower-skilled EU labour, because they would have a relatively small pool of people from which to replace them.¹⁸ Indeed, the varying impacts of restrictions on lower-skilled EU labour highlights the advantages of a differential approach to migration policy for EU nationals.

Second, evidence from the UKCES 2015 Employer Skills Survey suggests that, pre-Brexit, employers already found a significant proportion of lower-skilled roles hard to fill. Figure 3.8 reveals the ‘density’ of hard-to-fill vacancies among different occupational groups – that is, the percentage of vacancies within each occupation group that employers consider hard to fill.

FIGURE 3.8

Of all occupational groups, machine operatives and skilled trade occupations have the highest proportions of vacancies that are hard to fill

Hard-to-fill vacancy density by occupation group



Source: IPPR analysis of UKCES 2015 Employer Skills Survey

The two lowest occupational groups are elementary staff and machine operatives – these are the groups where restrictions on lower-skilled EU nationals are most likely to be felt (see figures 3.1 and 3.7). Of elementary staff vacancies, 28 per cent are hard-to-fill – lower than average but nevertheless a substantial number. However, even more concerning is that 43 per cent of machine operative vacancies are hard to fill – the second hardest-to-fill occupational group.

¹⁷ Those who are inactive but who would not like to work are largely made up of those who are retired, students, long-term sick or disabled, or looking after family.

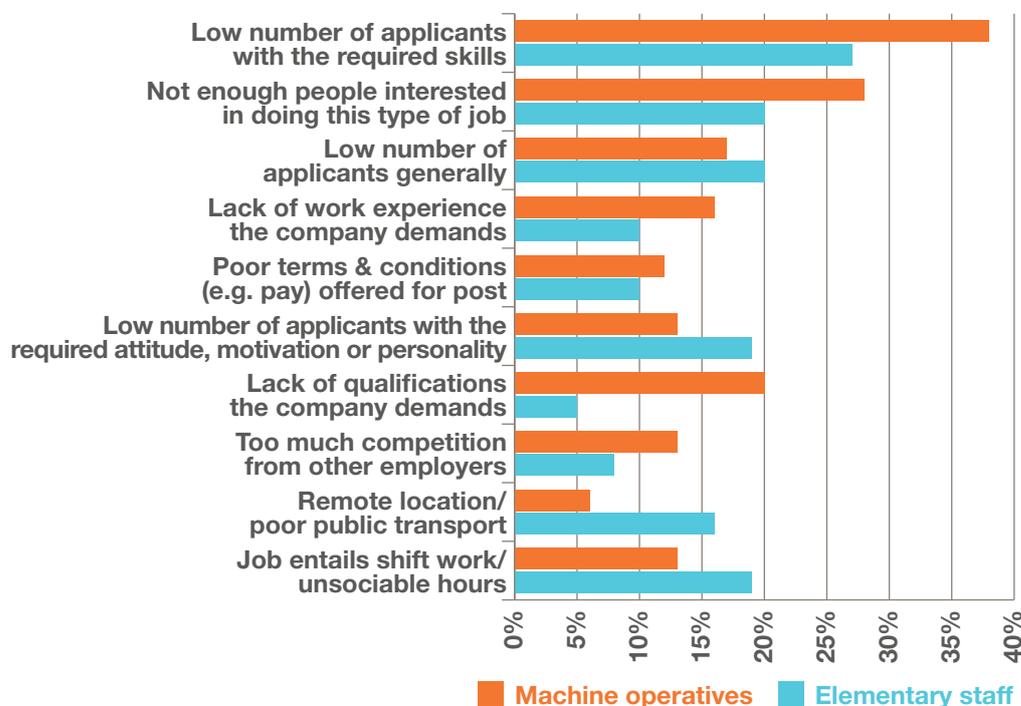
¹⁸ Internal mobility tends to be low among lower-skilled workers (Amior 2015).

A breakdown by sector reveals further potential challenges. Most notably, in the transport, storage and communications sector – one of the sectors most reliant on lower-skilled EU labour (see figure 3.3) – 59 per cent of machine operative vacancies are hard to fill.

Employers cite both skills and non-skills related issues as the main reasons for these recruitment challenges. For machine operatives, employers tend to highlight skills, with 38 per cent of hard-to-fill vacancies in this occupation group due to low numbers of applicants with the required skills. But for elementary occupations, only 27 per cent of hard-to-fill vacancies are cited as due to low numbers of applicants with the required skills. For both occupation groups, a lack of interest in the work is also a significant challenge, with 28 per cent of hard-to-fill machine operative vacancies and 20 per cent of elementary staff vacancies simply due to people not being interested in doing this type of job. For elementary occupations, other key reasons relate to working conditions: 19 per cent of hard-to-fill vacancies are because of shift work or unsociable hours and 16 per cent are due to the work being in a remote location, substantially higher than the figures for machine operatives (13 per cent and 6 per cent respectively).

FIGURE 3.9

The main reasons for hard-to-fill machine operative and elementary staff vacancies vary between both skills and non-skills related issues
Main reasons for hard-to-fill vacancies for machine operatives and elementary staff



Source: IPPR analysis of UKCES 2015 Employer Skills Survey

Employers will therefore face a range of challenges, depending on their sector and the occupational composition of their business, in addressing potential recruitment squeezes post-Brexit. Some sectors (such as

manufacturing) will need to place a particular focus on greater investment in training and skills, other sectors (such as agriculture) will need to place a particular focus on changing their image and reputation to attract new recruits, and others (public administration, for example) will need to place a particular focus on improving pay and working conditions.¹⁹

While if managed carefully each of these measures would be a positive development and could reduce reliance on lower-skilled EU labour over the long-term, the Employer Skills Survey suggests that, if overly obstructive, restrictions on lower-skilled EU labour would be highly damaging for employers and the wider economy. This is simply because the implications of hard-to-fill vacancies are already challenging for employers. When asked about the consequences of hard-to-fill vacancies for their organisations, on average 40 per cent of employers said that this meant losing business to competitors and 40 per cent said it led to increased operating costs. For machine operatives in particular (one of the groups most likely to be affected by future restrictions on EU migration) 54 per cent said hard-to-fill vacancies for these jobs meant losing business to competitors and 53 per cent said they meant increased operative costs – the highest percentages across all occupational groups.

The evidence is therefore clear. There are already a significant proportion of vacancies for lower-skilled jobs that employers find hard to fill. Even now, this has serious implications for the competitiveness of some employers. The effect is particularly acute for machine operative occupations, where EU nationals are disproportionately concentrated. This indicates that a sharp and dramatic restriction in lower-skilled EU migration would be a serious challenge for a number of employers.

Could employers invest in new technologies to reduce reliance on EU labour?

Another potential option for employers is to invest in new technologies and reduce reliance on labour altogether. While this option could be feasible for some sectors, it is unlikely to be a viable option for all. As the Resolution Foundation has highlighted, some sectors, such as agriculture and food and drink, are highly dependent on EU labour and are ripe for technological improvements. But many other sectors – including domestic personnel, warehousing and support for transport, and services to buildings and landscape – are not yet well-placed to benefit (Corlett 2016). Smaller companies are unlikely to have the resources to take advantage of new technological developments. Moreover, even those sectors and companies that do have an option to invest in new technologies will need time to adapt and plan their business models for the post-Brexit landscape. Investment in technology, while an important consideration for employers, is therefore far from a catch-all solution to post-Brexit labour market challenges.

One particularly affected sector is highlighted below, illustrating the challenges facing employers.

¹⁹ The sector examples are drawn from UKCES (2016) – Table 35/1.

Case study: the meat processing sector

The meat processing sector has become highly reliant on EU migrant labour over the past 15 years as the demand for boneless fresh meat has grown. The Labour Force survey suggests that 54 per cent of the workforce are EU nationals, while the British Meat Processors Association (BMPA) estimates that EU nationals make up approximately 63 per cent of the meat processing workforce, with some smaller factories made up of 70–80 per cent of EU workers. Annual workforce turnover is approximately 20 per cent (BMPA 2017).

If access to lower-skilled EU labour were heavily restricted, employers would be faced with a limited set of options. The sector is currently unpopular with UK workers which, combined with low unemployment rates and poor-quality transport infrastructure, would make it difficult for employers to recruit domestically (AHDB 2016). Many EU workers stay in permanent work for over a year, making a seasonal workers scheme an inappropriate solution for employers. Many meat processing jobs are also hard to mechanise, because they require care and the human eye. Even where mechanism is possible, it is highly expensive. Raising wages might be an option, but, given the undesirability of the jobs, it is possible that any increase would have to be very substantial to attract enough prospective workers. It is not clear whether this would be sustainable for businesses without significantly raising food prices.

Given the challenges involved, some international companies might be tempted to move their operations to EU countries such as Ireland, Denmark and the Netherlands to access EU labour more easily. Crucially, government action will be needed to support sectors like this one to adapt to a post-Brexit model.

It is clear that each of the options discussed – relying simply on recruiting EU nationals already resident in the UK, recruiting more from the domestic workforce, and investing in new technologies – will not sufficiently address the challenges facing employers in a number of sectors. For some employers, the natural alternative will be to either consider relocating their operations abroad or simply downsizing their businesses in the UK. Some unsavoury employers may even decide to recruit EU (or non-EU) migrant workers illegally, in order to sustain their operations in the UK. These consequences would of course be damaging to the UK economy.

Therefore, as well as determining a new ambitious trade agreement with the EU, the government will need to adopt a carefully managed approach to a new migration policy for EU nationals in order to minimise any negative labour market disturbances. The hospitality sector has estimated that a transition period of at least 10 years will be needed to give employers enough time for the changes in their recruitment models to bed in and to allow for investment in skills and training to filter through into the labour market. Some sectors where there are particular barriers to recruitment are likely to continue to need a long-term route for lower-skilled labour in the UK.

There is therefore both a negotiating rationale and a labour market rationale for agreeing a compromise with the EU on UK-EU migration as part of the Brexit negotiations.



Drawing on the analysis in this chapter, table 3.2 summarises our assessment of the six potential options for a post-Brexit EU migration policy from a labour market perspective. There are substantial differences between each option and, independent of the considerations involved in the Brexit negotiations, there is a strong case for adopting a pragmatic approach to a new EU migration policy that mitigates the negative impacts on the UK labour market.

TABLE 3.2

Comparison of policy options for a UK-EU agreement on migration: labour market impacts

| Option | Labour market impacts | How big the impact? |
|--|--|--|
| Temporary controls on free movement | Depends on precise details of temporary controls. However, impacts are likely to be relatively limited, as employers would continue to be given free access to EU labour during periods when the temporary controls were not in place (potentially with some additional bureaucratic barriers, such as a light-touch registration process). However, effects would be problematic if the ‘safeguard’ mechanism were used bluntly and without giving employers and migrants sufficient time to prepare. | Depends on details of temporary controls |
| Free movement for those with a job offer | Limited impact on access to workers, though would create additional bureaucratic barriers. Might shift employers’ recruitment strategies so that they recruit directly from other EU countries. | Small to moderate |
| Free movement for certain flows | Employers looking for workers to fill occupations on the list of groups with continued free movement rights would not be significantly affected, though there would be additional bureaucratic barriers; other employers would experience more considerable impacts. | Moderate |
| Points-based system | Employers looking for highly-skilled applicants will continue to have relative ease of access to EU workers; employers looking for lower-skilled applicants will be more restricted, though they may try to hire overqualified EU migrants in lower-skilled jobs. | Moderate |
| ‘Preferential’ system for EU nationals | Depends on precise details of temporary controls. Impacts could be substantial if a Tier 2 type system were replicated for EU nationals, even if relaxed in particular areas compared to the current Tier 2 rules. However, opening up Tier 3 would grant employers access to workers for lower-skilled jobs. | Moderate to large |
| Controls on EU labour migration; free movement for others | Employers’ access to labour would be severely reduced and small businesses would face challenges navigating the bureaucratic and costly Tier 2 sponsorship system. | Large |

Source: IPPR analysis

4.

SECURING PUBLIC CONSENT

The final main consideration for a new immigration system for EU nationals post-Brexit is whether the policy can secure broad public consent.

The result of the EU referendum cannot, of course, be explained by one reason alone, and care should be taken not to over-interpret the result. But the evidence of public opinion research ahead of and in the aftermath of the referendum highlights the importance of immigration in the decision to vote to leave (Goodwin and Heath 2016). Large parts of the public had little confidence in the status quo and saw the vote on EU membership as an opportunity to secure change. As the government develops a new settlement on immigration for EU nationals, it therefore needs to consider the public's priorities for the future system.

This chapter explores the public's attitudes to immigration in the lead-up to and the aftermath of the EU referendum, drawing on original analysis of the British Election Study (BES).²⁰ Our analysis highlights that there is considerably more political scope for a UK-EU agreement on migration than is often assumed.

This is for three reasons. First, while significant numbers are concerned about the current levels of EU migration into the UK, only a small minority want to shut off all EU inflows altogether; most of those with concerns tend to favour a more pragmatic option. Second, a majority of the public expects the government to negotiate a compromise on UK-EU migration flows as part of the forthcoming negotiations and a plurality recognise the trade-offs at play. Third, attitudes differ considerably across the country, which suggests that a regionally tailored approach to immigration could be a suitable compromise that satisfies the priorities of different parts of the UK.

4.1 ATTITUDES TO EU FLOWS

Our analysis of the BES confirms that immigration was a significant factor in the decision to leave the EU. A majority of the public wants to see immigration levels fall, and opposition to high levels of immigration is disproportionately high among supporters of Brexit: while only 35 per cent of Remain voters say they want fewer immigrants to come to the UK, 83 per cent of Leave voters say the same.

Public concerns about EU migration range across a number of issues. Our deliberative focus groups with the public during the EU renegotiation and in the run-up to the referendum sheds some light on the priority issues. The sessions involved discussions about EU freedom of movement with members of the public aged 40 and over in Peterborough, Havering and

²⁰ This survey excludes Northern Ireland from its sample.

Glasgow, and therefore should be seen as illustrative of the underlying attitudes fuelling concerns about immigration rather than representative of the entire UK public.²¹ In our focus groups, the following two concerns dominated the discussions:²²

1. Concerns about **contribution**. Many participants in our focus groups said they were comfortable with accepting migrants who contributed to the UK but were concerned about those not paying into the system. In particular, they were opposed to migrants freely accessing the UK's benefit system before making an appropriate contribution.
2. Concerns about **overall pressures on services and infrastructure**. A number of our participants argued that recent high inflows of EU nationals had placed unsustainable pressures on infrastructure (in particular housing) and public services, including schools, hospitals and prisons.

To a lesser degree, the following three types of concerns were also raised by our participants:

3. Concerns about **downward pressures on wages**. Some participants argued that large influxes of low-skilled EU labour had reduced the overall pay of UK workers, because EU workers were on average willing to work for lower wages.
4. Concerns about **public security**. Some participants highlighted their fears that freedom of movement would grant former criminals – particularly those convicted of serious crimes – free and unhindered access to the UK.
5. Concerns about **integration**. Some participants also highlighted worries over the integration of EU nationals into the local community – for instance, concerns over EU migrants lacking an adequate knowledge of English.

Despite the range of concerns discussed, the public's attitudes to EU immigration are more nuanced than is often assumed. A close analysis of public attitudes to EU workers in the BES suggests that many who would like lower levels of labour immigration from the EU do not simply want a complete end to all EU flows. When asked to choose, on a scale from 0 to 10, how many EU workers they would want to come to the UK, a minority of 19 per cent opted for the most restrictive option of 0 (meaning 'many fewer EU workers'), while a larger group of 32 per cent selected a number higher than 0 but lower than 5 – that is, somewhere between the most restrictive option and no change at all. The majority of those who want EU immigration to fall therefore do not favour the most restrictive possible option.

4.2 EXPECTATIONS FOR BREXIT

At the same time, when asked about future immigration rules, our analysis of the BES suggests that a large segment of the public also express a degree of pragmatism in their attitudes about the trade-offs involved in Brexit. When asked post-referendum about the trade-off between the single market and

21 For further details of our focus groups, see Morris 2016a.

22 These focus group findings are also broadly in line with polling from Ipsos MORI on public attitudes to freedom of movement (Ipsos MORI 2015).

immigration, 40 per cent of voters agreed that single market access requires accepting freedom of movement, compared to 31 per cent who disagreed and 29 per cent who weren't sure.

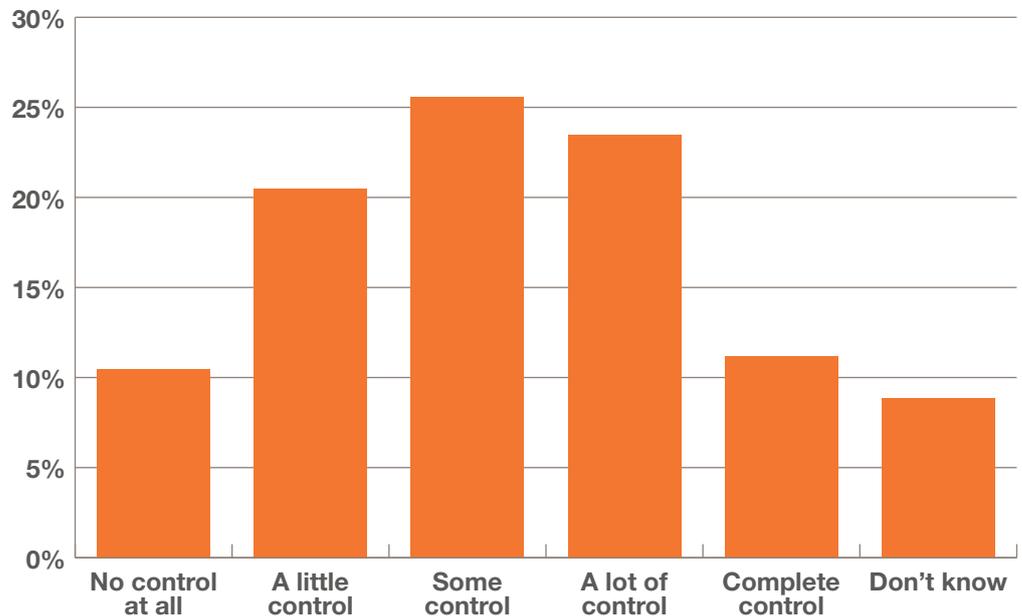
Moreover, the BES indicates that on the crucial question of control of immigration, the public's expectations for future policy are markedly moderate. Only 11 per cent believe that the UK will have full control over immigration policy after the negotiations, while 10 per cent believe that the UK will have no control at all. The majority are located somewhere in the middle: 20 per cent believe the UK will have a little control, 26 per cent that it will have some control, and 23 per cent that it will have a lot of control.

Indeed, even a majority of Leave voters do not expect to have full control over immigration policy post-Brexit; most either think the UK will have some control (26 per cent) or a lot of control (40 per cent), but only 20 per cent think the UK will have total control. This suggests that a deal on UK-EU migration post-Brexit that grants the UK greater control over EU migration while retaining elements of free movement could meet the expectations of a majority of the public.

FIGURE 4.1

Most voters do not expect the UK to have complete control over immigration after Brexit

Expectations of immigration control after the Brexit negotiations



Source: IPPR analysis of BES (2016)

4.3 REGIONAL VARIATIONS

Finally, the public is of course not one amorphous block, and attitudes to EU immigration vary considerably by age, education level and region of the UK. The significant geographical diversity of attitudes across the UK is of particular importance for a new agreement on UK-EU migration. Attitudes to levels of immigration of EU workers across sub-regions

of the UK differ notably. As table 4.1 below illustrates, there is a 20 percentage point gap between the area with the greatest concern about EU immigration levels (Cumbria) and the area with the least concern (Inner London – East). In some areas, majorities do want EU immigration to fall; in others there is no majority for a reduction. There is therefore a political case for a UK-EU agreement with a regional component, which would address the priorities of different regions of the UK.

TABLE 4.1

The levels of concern about EU immigration vary considerably across the UK

Attitudes to EU immigration by subregion (excluding Northern Ireland)

| Subregion | Percentage stating they would like EU immigration reduced |
|--|--|
| Inner London – East | 36% |
| Inner London – West | 40% |
| North Eastern Scotland | 42% |
| Eastern Scotland | 43% |
| Outer London – South | 44% |
| Gloucestershire, Wiltshire and Bristol/Bath area | 44% |
| South Western Scotland | 45% |
| Outer London – West and North West | 46% |
| Northumberland and Tyne and Wear | 46% |
| East Wales | 46% |
| North Yorkshire | 47% |
| Berkshire, Buckinghamshire, and Oxfordshire | 47% |
| Highlands and Islands | 47% |
| Merseyside | 48% |
| Greater Manchester | 49% |
| Great Britain average | 50% |
| Tees Valley and Durham | 50% |
| Dorset and Somerset | 51% |
| Cheshire | 51% |
| Hampshire and Isle of Wight | 51% |
| Bedfordshire and Hertfordshire | 52% |
| Surrey, East and West | 52% |
| South Yorkshire | 52% |
| Kent | 53% |
| East Anglia | 53% |
| Leicestershire, Rutland and Northamptonshire | 53% |
| Herefordshire, Worcestershire and Warwickshire | 53% |
| West Yorkshire | 53% |
| Cornwall and Isles of Scilly | 53% |
| Devon | 54% |
| Lancashire | 54% |
| West Wales and The Valleys | 54% |
| Derbyshire and Nottinghamshire | 54% |
| Essex | 55% |
| East Yorkshire and Northern Lincolnshire | 55% |
| West Midlands | 55% |
| Shropshire and Staffordshire | 55% |
| Lincolnshire | 56% |
| Outer London – East and North East | 57% |
| Cumbria | 57% |

Source: IPPR analysis of BES (2016)

4.4 WHAT DOES THIS MEAN FOR THE NEGOTIATIONS?

Three main conclusions can be drawn from our overview of public attitudes to EU immigration and Brexit for the forthcoming negotiations.

First, it is clear that the UK public are more pragmatic than is often assumed: only a few expect full control over EU immigration post-Brexit and a majority (excluding the ‘don’t knows’) accept that there is a trade-off between restricting freedom of movement and accessing the single market. There is therefore more political scope for a compromise on UK-EU migration as part of the Brexit negotiations than many have thought possible.

Second, even among those who want immigration to fall, there is no majority demand for a complete cut-off in EU inflows. A dramatic reduction in immigration would therefore not just be harmful to the negotiations and to the UK labour market, it would also not properly reflect the public’s priorities.

Third, attitudes to EU immigration vary considerably by region and local area. Building regional flexibility into the immigration system for EU (and non-EU) nationals could therefore effectively reflect the divergent attitudes to EU immigration across the country.



Based on the analysis in this chapter, table 4.1 below summarises our assessment of the six alternatives for a post-Brexit UK-EU migration policy – from the perspective of public perceptions and attitudes to immigration. In particular, we consider whether each option would address the two core concerns of the public previously highlighted, about contribution and pressures on public services and infrastructure.

TABLE 4.1

Comparison of policy options for a UK-EU agreement on migration: securing majority public support

| Option | How might the public react? | Could it secure majority public support? |
|--|---|--|
| Temporary controls on free movement | This would grant partial control over EU immigration for temporary periods and could help alleviate pressures on public services and infrastructure, but it may not be perceived as comprehensive enough by some parts of the public. If offered as part of an overall trade deal, and if the controls could be extended for a substantial period (eg up to seven years), it could be seen as a suitable compromise. | Possibly |
| Free movement for those with a job offer | Restrictions on access to benefits for EU jobseekers would be met with approval by most of the public, but many are likely to be concerned that this option will not allow greater control over flows of EU migrants and will not directly address pressures on public services and infrastructure. | Unlikely |
| Free movement for certain flows | A system that continues free movement rights for workers perceived as making an important contribution to the UK economy – such as highly skilled professionals, health and social care workers, and those in migrant-dependent industries or occupations – could receive public support, but the level of support would probably depend on the precise categories of EU workers granted free access to the UK labour market. | Possibly |
| Points-based system | A points-based system would be likely to secure support from a large part of the public, given the prominence of the policy during the referendum campaign, and particularly given its focus on the skills and qualifications of prospective migrants (as a proxy for their potential contribution). It might lose support if evidence emerges of abuse of the system. | Probably |
| 'Preferential' system for EU nationals | Depends on the details of the system and how successfully it manages concerns about contribution and pressures on public services and infrastructure, but polling suggests it could be seen as a suitable compromise (ICM 2017). | Probably |
| Controls on EU labour migration, free movement for others | This policy would be likely to receive support among more hard-line immigration sceptics, given that it would prioritise highly skilled migrants and would be likely to address concerns about pressures on public services and infrastructure. But may provoke a backlash among supporters of a more liberal system – particularly if it leads to serious labour market impacts. | Possibly, but could be divisive |

Source: IPPR analysis

5. CONCLUSION

A STRATEGY FOR THE NEGOTIATIONS

The Brexit negotiations pose a challenging dilemma for the government. On the one hand, public concerns demand a change to EU free movement rules. On the other hand, any dramatic changes could have severe labour market impacts and could seriously undermine the government's objective to secure an ambitious post-Brexit trade deal with the EU.

In this report, we have argued for a UK-EU agreement on migration as part of the government's ambitious free trade agreement. The government would be mistaken to unilaterally decide the UK's preferred rules and then seek the best possible trade deal with the EU within these constraints, as this would sacrifice the possibility of a more ambitious deal. The government should instead seek a compromise as part of the negotiations.

What might this compromise look like? In chapter 2, we set out some of the potential alternatives for a 'middle ground' between retaining free movement in its current form and a unilateral policy on immigration. Based on the analysis from the rest of this report, we summarise our assessment of each option against four criteria: the feasibility of successful implementation, the prospects for negotiability with the EU, the labour market impacts of a new policy, and the priorities of the public.

It is of course difficult at this stage to gauge the viability of any of these alternatives, as the precise nature of a compromise will be the subject of discussion for the UK and EU27, and each party in the negotiations will have a different perspective on the final deal. But our analysis, summarised in the table above, suggests that the government should pursue one of two options to secure a compromise on EU immigration in return for favourable trade arrangements. It should agree to a deal on free movement that **maintains free movement for some specified groups but not others**, or agree to a deal that permits **temporary controls on EU migration**.

These proposals have the greatest likelihood of being negotiable with the EU in return for an advantageous deal on trade in goods and services because:

- they continue to respect the underlying principle of free movement in some form
- they are likely to have limited labour market impacts, because for the most part they would allow for flexible labour mobility in key sectors (provided the temporary controls were properly designed)
- they would help to address a number of the concerns the public has about the current system (such as the pressures of high levels of EU immigration on public services and infrastructure).

They therefore represent a sensible basis for an agreement on UK-EU migration in the negotiations, as a means of securing the government’s wider ambitions of a comprehensive free trade agreement with the EU post-Brexit.

TABLE 5.1

Comparison of policy options for a UK-EU agreement on migration: summary

Key: *green = workable, yellow = unclear, orange = problematic*

| Option | How feasible to implement? | How feasible to negotiate? | How big the labour market impact? | Could it secure majority public support? | Overall ranking |
|--|--|--|--|--|-----------------|
| Temporary controls on free movement | Feasible but complex as involves dispute settlement mechanism, registration system and implementation of temporary controls | Highest chance of negotiation, given past agreements on temporary suspensions of free movement rules | Depends on details of temporary controls | Possibly | Green |
| Free movement for those with a job offer | Highly cumbersome as hard to distinguish between temporary visitors and jobseekers, and could easily be circumvented – possibly not feasible | Potential chance of negotiation, as retains free movement for most groups | Small to moderate | Unlikely | Orange |
| Free movement for certain flows | Feasible but complex as involves registration system and ‘two-tier’ system for different groups of EU nationals | Potential chance of negotiation, as retains free movement for a number of groups | Moderate | Possibly | Green |
| Points-based system | Feasible but complex as involves construction of entirely new system for EU nationals, distinct from employer sponsored scheme | Low chance of negotiation, as significant shift from free movement | Moderate | Probably | Yellow |
| ‘Preferential’ system for EU nationals | Depends on further details, but likely to be feasible | Low chance of negotiation, as significant shift from free movement | Moderate to large | Depends | Yellow |
| Controls on EU labour migration, free movement for others | Feasible but still resource-intensive for Home Office as requires consolidating EU nationals into Tier 2 system | Very low chance of negotiation, as heavily restricts lower- and mid-skilled EU migration | Large | Possibly, but could be divisive | Orange |

Source: IPPR analysis

A system that allows **free movement for certain flows** is our preferred option of the two, and this is the system the government should seek to negotiate in the Brexit discussions. This is for two reasons. First, compared to the temporary option, a system that allows for free movement for certain flows would guarantee greater labour market stability and greater certainty for employers and migrant workers alike. Second, this system would be more likely to secure public support, because it delivers permanent rather than temporary controls on EU migration. However, if this fails to be agreed with the EU, the government should instead seek a deal on **temporary**

controls on free movement, given it is the most negotiable option (as highlighted in table 5.1).

Crucially, both of these systems could also incorporate a regional dimension. Temporary controls on EU migration could be designed to vary according to regional demand – for instance by placing tighter temporary restrictions on access to the UK labour market (through higher income thresholds, for example) in areas that have experienced greater migration pressures. On the other hand, a system that allows free movement for certain groups could also vary according to region – for instance by allowing each region to select their own list of occupations and sectors for which free movement will continue. Building regional flexibility into the EU immigration system could help to limit labour market impacts in regions where employers have a particular demand for EU workers in certain sectors. Moreover, as we highlighted in chapter 4, attitudes to EU immigration vary considerably by geography – a regional system could therefore begin to shape immigration policy to meet the priorities of each local area.

Alongside the negotiations, the government should set out a clear plan for helping the labour market to transition towards a future EU migration policy, without causing undue harm to sectors currently dependent on EU workers. Regardless of the considerations involved in agreeing a free trade agreement with the EU, the government must prepare for an extended transition period for employers to adapt to the new immigration framework.

5.1 HOW SHOULD THE COMPROMISE BE SECURED?

How might the UK develop a strategy for reaching a compromise of the type described? First, the government will need to take time to secure the right deal in the national interest. Agreeing a new framework for UK-EU migration could take beyond 2018, as the timeline of the negotiations suggests that discussions about a new trade deal can only begin after sufficient progress has been made on the terms of withdrawal. The government should be clear that any new bill with details of a future immigration policy for EU nationals post-Brexit will be contingent on the development of the negotiations, and that securing the right deal should not be a rushed process. Putting forward a bill with a new immigration policy unilaterally before the negotiations on UK-EU migration are concluded could damage the entire Brexit negotiations.

Second, rather than setting out the UK's demands on immigration and aiming for the most it can achieve on other issues of trade, the government should take a more nuanced approach to the negotiations. The government's White Paper on the negotiations implied that its priority for Brexit was control over immigration, appearing to treat the issue of trade as secondary in importance. (This is because it failed to identify any specific demands on trade – generally choosing to use ambiguous language such as 'maximal access' to trade provisions.) The government should adapt its approach and make explicit its precise priorities on both immigration and trade in goods and services, seeking a balance across these two areas. This strategy will be more likely to secure an ambitious trade agreement with the EU.

Finally, the government should maintain a flexible attitude to its discussions with the EU. There is no doubt that, given the message sent by the public at the EU referendum, a key priority must be to seek some form of change to the status quo on freedom of movement. But the prime minister should also be open to considering any new settlement where there is common ground to be found with the EU. This would help the government to secure its own aims for an ambitious and wide-ranging trade deal. Indeed, a compromise with the EU on UK-EU migration would be beneficial on its own terms, since excessive restrictions on EU migration would be self-defeating, as our analysis of the role of EU nationals in the labour market demonstrates. And our evidence on attitudes to immigration and Brexit indicates that a majority of the public also expect a compromise from the forthcoming UK-EU discussions. There is therefore every interest in the government taking a pragmatic, open-minded approach to the forthcoming negotiations.

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ANNEX 1

METHODOLOGY FOR LABOUR FORCE SURVEY ANALYSIS

For most of our analysis in chapter 3, we have pooled together the four rounds of the Labour Force Survey between 2015 Q3 and 2016 Q2. For our analysis of unemployed and inactive groups by region in table 3.1, we have simply used LFS 2016 Q2.

EU nationals are defined using the ‘NATOX7’ nationality variable. While this measure discounts the small proportion of EU born migrants who have become UK citizens, the vast majority of this group arrived in the UK before 2004 and so are less relevant for understanding future policy changes. Using the country of birth measure would also exclude non-EU born migrants who are EU nationals, who will also be affected by changes to the free movement rules. The analysis has been tested against the country of birth variable and there are few substantive differences in the findings. We include in our definition of EU nationals all citizens of EU countries, as well as citizens of non-EU EEA countries (Norway, Iceland and Liechtenstein) and Switzerland, because they also currently have free movement rights in the UK.

We have used the UKCES Employer Skills Survey categorisation of sectors for our LFS high-level sectoral analysis, to allow for comparison; this excludes SIC codes T and U. Our definition of lower-skilled EU nationals uses the Migration Advisory Committee classification (that is, SOC 4, 6, 7, 8 and 9 major groups) (MAC 2014). For our sectoral and occupational breakdowns, we have excluded findings with weighted estimates of fewer than 5,000 individuals.²³

For our analysis of estimated impacts of post-Brexit migration systems, we have pooled together Wave 1 respondents from 16 rounds of the Labour Force Survey, between 2012 Q3 to 2016 Q2. We include in our sample of ‘recent EU migrants’ those EU nationals who have most recently arrived in the UK in the two years prior to the year of the survey interview. We then tested the eligibility requirements of each proposed EU migration policy against this sample of ‘recent EU migrants’ to estimate the scale of the impact on EU migration flows (including only respondents who are employees). The eligibility requirements for each of the four systems are as follows.

Extend Tier 2 to include EU nationals

Eligible respondents are either employed in any occupation at NQF level 6 or above or on the Shortage Occupation List (or those listed as ‘creative sector occupations’). Eligible respondents must also be earning

²³ The one exception is figure 3.6, where the agriculture and electricity and gas sectors have sample sizes of below 5,000; in this case we have checked the analysis using a larger sample, combining eight rounds of the LFS from 2014 Q3 to 2016 Q2, and the results were found to be consistent.

a gross annual salary above the income threshold for their occupation. (This is pro-rated for a 39 hour week.) This threshold is set by the Home Office's codes of practice for skilled workers (UKVI 2017) – the absolute minimum across all occupations is £30,000 (no pro-rating). A lower threshold is set for new entrants, which we define as including those aged 25 or under, and for certain public sector occupations (including nurses and paramedics).²⁴

Apply relaxed skills/income thresholds

The rules used are the same as for the Tier 2 system; however, in this case eligible respondents are employed in any occupation at NQF level 4 or above, and a minimum income threshold of £20,800 applies to all respondents.

Points-based system

A rudimentary points-based system based on education level and age. Eligible respondents are aged 35 or under and have completed full-time education at age 21 or over.

Permit free movement for high-demand occupations

The rules used are the same as for the Tier 2 system; however, EU nationals working in occupations deemed 'high-priority' are automatically granted eligibility. The 'high-priority' list includes the top 20 occupations with the highest proportions of EU nationals (SOC codes 9134, 8111, 8134, 9236, 6240, 9234, 9132, 8222, 9279, 8133, 8116, 9260, 9233, 5431, 2119, 2431, 5215, 5319, 8129, 9139), key public sector workers (including nurses, medical radiographers, secondary school teachers, paramedics, care workers and home carers, and senior care workers – SOC codes 2217, 2231, 2314, 3213, 6145, 6146) and all occupations within SOC 1 and 2 major groups.

24 This is an approximation of the Tier 2 (General) visa policy, based on the available data from the LFS.

ANNEX 2

METHODOLOGY FOR BRITISH ELECTION STUDY ANALYSIS

For our public opinion analysis in chapter 4, we have used Wave 8 (pre-referendum) and Wave 9 (post-referendum) of the 2014–17 British Election Study Internet Panel. Cross-sectional analysis has been weighted using the ‘core’ weights to cover a more representative sample of respondents in line with the British Election Study guidelines. Otherwise ‘full’ weights have been used. Attitudes to EU migration flows are based on Wave 8 of the panel; all other analysis is based on Wave 9 of the panel. Sub-regional breakdowns use the ‘profile_oslaa’ local authority variable, aggregated according to NUTS2 subregion. Don’t knows are included in the analysis unless otherwise specified.

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