



Home Office

A Consultation on establishing a Migration Advisory Committee





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November 2006

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Foreword

Liam Byrne MP



The Government is committed to attracting people with the skills Britain needs from around the world. People coming from overseas can and do provide a huge boost to British industry and business as well as the public sector. We want the UK to attract the brightest and the best, and to fill skills gaps at other levels. That is why we have announced our intention to introduce a new Points-Based System for managed migration, which we will be phasing in over the next few years.

As well as attracting highly skilled migrants with excellent qualifications and potential, and skilled migrants with a job offer, we need to consider whether there are certain sectors of the economy which have particular labour shortages which can only be filled by migration. But there are highly complex economic and other issues involved and the Government could usefully benefit from independent advice from those with expertise to bring to bear. That is why we announced in July that we would consult on establishing a new Migration Advisory Committee (MAC) to provide independent advice to Government on where migration might sensibly fill skills gaps in the economy.

We want to know what people think about the MAC's remit and activities. Are there existing models out there from which we can learn and what traps should we be wary of? What suggestions or concerns do people have?

We believe that the MAC will have a crucial role to play in helping us to attract the right people to the UK, ensuring the new Points-Based System takes account of the full impact of migration. We are looking for your input because we want as many people as possible to help us to fashion the best possible MAC.

A handwritten signature in black ink that reads "Liam Byrne". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Liam Byrne MP
Minister of State for Nationality,
Citizenship and Immigration, Home Office

How to respond

The aim of this consultation paper is to seek a range of views to inform the development of a new Migration Advisory Committee (MAC) which would advise Government on where in the economy migration can sensibly fill skills gaps. We would look to have the MAC in place by April 2007 and fully operational by April 2008.

We plan to complement this consultation document with various meetings and events to help us to reach employers, trade unions and other interested parties. We will publish details as soon as possible.

The consultation period for responding to this document ends on 31 January 2007. This means that the period is shorter than the standard twelve week period set out in Cabinet Office guidance because, if we were to go ahead with establishing a MAC, we would need to recruit committee members in time to take up post on 1 April.

Partial regulatory impact and race equality impact assessments have been prepared to support this consultation, and can be found on the IND website at www.ind.homeoffice.gov.uk. Full impact assessments will be published to accompany the outcome of the consultation, including any safeguards or mitigating factors we believe are appropriate.

We will publish the results of the consultation within three months of the deadline for responses.

A pro forma is available in electronic format on the Immigration and Nationality Directorate website:

www.ind.homeoffice.gov.uk/lawandpolicy/consultationdocuments/

Responses should be sent electronically to:

MACconsultation@homeoffice.gsi.gov.uk

Alternatively a pro forma for responses is included at the back of this document. Please feel free to provide comments on additional sheets of paper if there is not sufficient space. Responses can be sent by post to:

MAC consultation team
IRSS
14th floor Apollo House
36 Wellesley Road
Croydon
CR9 3RR

You should also contact the address above if you require a copy of this consultation paper in any other format, eg Braille, large font or audio.

Context

1.1 All the main political parties, employers' organisations and trades unions agree that migration is vital for our economy. Migration makes a substantial contribution to economic growth, helps fill gaps in the labour market, including key public services such as health, and increases investment, innovation and entrepreneurship in the UK. Culturally, we are enriched by people with diverse backgrounds from other countries.

1.2 But migration needs to be properly managed. It is understandable that people migrate to seek a better life for themselves and their families. But there are also risks, both for migrants themselves and for settled communities. For example some argue the introduction of relatively large numbers of migrants to a locality within a short space of time may put pressure on local public services.

1.3 The expansion of the European Union has significantly increased the pool of labour available to employers in our growing economy and means we should look again at UK migration as a whole, in particular at the need for migration from outside the EU. We have set out our plans to introduce a new Points-Based System for managed migration in the Command Paper "A Points-Based System: Making Migration Work for Britain" published earlier this year.

1.4 Britain does need to attract highly talented individuals from all over the world, if we are to achieve our future potential. Sometimes there will be jobs in the UK that can't be effectively filled by UK or EU citizens – or particular individuals with the kind of skills that we want to attract to the UK. Ministers have decided to allow only gradual access to the UK labour market for Bulgarians and Romanians from January 2007, although nationals of these two countries will continue to make a contribution to filling specific requirements for skilled and unskilled labour. Our managed migration system for non-EU migration, apart from students and certain temporary workers, therefore should exclusively focus on bringing in migrants who are highly skilled or to do particular jobs that cannot be filled from the domestic labour force or from the EU. This means that decisions on which people with what skills should be able to come to work in the UK from outside the EU are crucially important.

1.5 The Points-Based System will be simpler to understand than the current system and the rules for entry clearer and more consistently applied. It will also make a contribution towards strengthening our borders as we move to pre-travel immigration clearance and make tougher checks abroad so that only those with permission will be accepted in the UK. This will be reinforced by our further investment in enforcing compliance with our immigration rules. We will expand our activity in this area, doubling our investment by 2009/2010.

1.6 We already seek external advice about managing migration to fill skills gaps. Expert sector panels currently advise Home Office officials in Work Permits UK on which occupations should be placed on our shortage occupations list which enables easier access to migrant labour.

1.7 In our Command Paper on a new Points-Based System, published in March 2006, we set out proposals for a new Skills Advisory Body (SAB) which would co-ordinate advice to Government on labour shortages, both skilled and unskilled. This proposal gained strong support in the consultation exercise leading up to publication of the Command Paper.

1.8 Our plans for a MAC build on the proposal for an SAB, but take account of some of the wider impacts that migration can have on the UK. In our IND Review in July, we announced that we would consult on establishing such a Committee, with a membership comprised of independent experts and other key stakeholders, to advise Government on where migration can sensibly fill skills gaps in the economy.

1.9 Government will continue to set the policy framework for migration and will retain responsibility for making the key decisions. But we see real value in having an independent source of advice on which migrants with what skills should be the focus of that policy framework. We envisage that the Migration Advisory Committee would provide that independent source of advice, marshalling a broad range of expertise. It would help us to bring business, trade unions and others into the process of managing migration. Even though Government would retain responsibility for

making decisions, we expect the MAC's advice to have real weight.

1.10 This consultation document sets out more detail on what we would like the MAC to do. We would like to gain the views of stakeholders and other interested parties to inform these proposals. We will listen carefully to people's views, but subject to the responses we receive we would aim to have appointed MAC members by April 2007 and the organisation fully up and running by April 2008.

Proposals and questions

Role of the MAC

2.1 It is a function of Government to set immigration policy. The MAC should therefore not be an executive body, but should be advisory and *non-statutory*.

2.2 The new Points-Based System makes a key distinction between people who are able to come to the UK for skilled employment and those coming for lower-skilled employment. The first group will be allowed to bring with them their dependants, who can themselves take work, and will ultimately be able to settle here if they abide by their conditions of stay. Lower-skilled migrants will be permitted to enter for limited periods of up to one year and will be expected to leave the UK at the end of that period. Where there are particular skill shortages and specific labour market gaps we will consider special measures to enable employers to more easily bring people into the country in both skilled and lower-skilled employment.

2.3 These decisions on how and where to set the threshold between skilled and lower-skilled workers and how to designate shortage sectors, are crucial ones with wide ramifications. We will ask the MAC to assess the net benefit to the UK as a whole of particular categories of migrants, taking into account economic, fiscal and wider impacts.

- Q1 Do we need a new independent body to advise Government on migration?
- Q2 Should the new body (if there is one) be called the Migration Advisory Committee?
- Q3 Do you agree that the MAC should advise us on what package of skills and attributes people should have in order to come to the UK in categories leading to settlement and to bring dependants to the UK?
- Q4 How can the MAC best advise us on when migration is the best way of meeting gaps in skilled employment?
- Q5 How can the MAC best advise us on when migration is the best way of meeting gaps in lower-skilled employment?

- Q6 Should the MAC take into account the economic, fiscal and wider impacts when giving us advice on where migrants might fill gaps?
- Q7 Should the MAC provide advice on regional as well as national skills shortages?

Points-Based System

2.4 Underpinning the new managed migration system will be a five-tier Points-Based framework. This will help people understand how migration to the UK is managed and direct applicants to the category that is most appropriate for them. Visitors who don't wish to work or study in the UK will remain outside of the Points-Based System, but will be covered by the usual visa requirements. The Tiers are set out below:

Tier 1: highly skilled individuals

Tier 2: skilled workers with a specific job offer to fill gaps in the UK labour force

Tier 3: limited numbers of lower-skilled workers needed to fill specific temporary labour shortages

Tier 4: students

Tier 5: people allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives (eg young people on temporary work experience or gap year studies, professional musicians on tour, other performers).

2.5 For each Tier, applicants will need sufficient points to obtain entry clearance or leave to remain in the UK. Points will be scored for attributes which predict a migrant's success, for example in the labour market, and/or control factors, relating to whether someone is likely to comply with the conditions of their leave.

High-skilled migration

2.6 The Points-Based System envisages a clear distinction between the treatment of higher-skilled workers (Tiers 1 and 2), who will be able to bring in dependants and ultimately settle in the UK; and lower-skilled workers (Tier 3), who will be coming in to do jobs

temporarily and without their families, according to the rules of a specific, quota-based and operator-led scheme.

2.7 People coming in under Tier 1 will be highly-skilled migrants, for example working in the finance and IT sectors, and will not be required to have a job offer. Under Tier 2 migrants will need a job offer from an employer on a new Home Office-approved register of sponsors. Applicants will need to meet the threshold set for Tier 2 by scoring points awarded for qualifications and prospective earnings. Jobs will need to have been advertised to UK (and EU) citizens first, unless they are within certain designated shortage occupations or are Intra-Company Transfers.

2.8 Our proposal is that the MAC will make recommendations to Government on what the Tier 2 shortage occupations should be. Occupations will be added and subsequently withdrawn when the skills shortage is deemed to have ended. We do not seek to prescribe here how the MAC would decide which occupations to recommend for the shortage list. However we would expect it to consult existing sources of expertise on skills and the labour market, including the Skills for Business Network, and consider other sources of evidence from the UK and elsewhere, including the Labour Force Survey and the National Employers Skills Survey. The Committee may also wish to commission additional research when it feels there is a gap in knowledge of the labour market and will have a limited budget to do so.

2.9 The MAC will agree with Government an appropriate methodology for determining designated skills shortage occupations, which will take account of this evidence, and the net benefit to the UK as a whole, including economic, fiscal and wider consequences. These wider impacts might include matters which are difficult or impossible to quantify in financial terms, and the impacts could be both positive and negative. We would like the MAC to work up a possible methodology for making such assessments. So for example the MAC may want to consider:

- Economic impacts, including on output and growth within the sector, and on the Government's wider economic objectives.
- The impact on incentives for employers to take alternative measures such as investing in training or technological improvements, and for UK nationals and other EU residents to acquire the necessary skills, training and experience to work in that sector.

2.10 In addition to advising on Tier 2 shortage occupations, the MAC could bring its independent expertise to bear on the decision as to where to draw the line between Tier 1 (highly skilled employment), Tier 2 (skilled employment) and Tier 3 (lower-skilled employment), by giving advice on the points criteria for and thresholds between Tiers 1 and 2 of the system, for example what the minimum standards of salary or qualifications need to be. While Government would retain responsibility for setting these pass-marks, we will look to the MAC to provide input.

2.11 We envisage that the Government may, from time to time, wish to ask the MAC to consider wider questions around migration under the Points-Based System. This might include the control tests used under Points-Based System, for example, requirements on migrants to speak English and have access to certain levels of funds.

Q8 Should the MAC advise Government in relation to migration for skilled employment as set out in paragraphs 2.6 – 2.11 above?

Lower-skilled migration

2.12 The Home Secretary has recently stated that we intend to restrict the access of Romanian and Bulgarian nationals to the UK labour market. While these restrictions apply there will be no lower-skilled migration from outside the EU. So while any restrictions on the employment of Romanians and Bulgarians apply, the role of the MAC, once established, would be to advise on sectors, duration and quotas for lower-skilled migration for nationals of those two countries only.

Q9 Should the MAC advise Government on migration issues in respect of lower-skilled employment as set out in paragraph 2.12 above?

Regional remit

2.13 In the Command Paper on the Points-Based System, we proposed that the SAB should be able to advise on regional shortages as necessary, including by publishing a Scotland-wide Shortage Occupation List.

2.14 Similarly with the MAC it is crucial that it is able to access and consider data from across the four nations and their regions, to ensure a

consistent approach across the UK. We believe there are particular issues around Scotland, which is seeking more managed migration to help address the economic and social implications of a declining and ageing population. We therefore intend to ask the MAC to produce a Scotland-specific Shortage Occupation List. We will ask the MAC to consider the need for shortage lists in other nations or regions (eg Northern Ireland) though at present we do not see a strong case for these.

Composition

2.15 We said in the IND Review that we would like the MAC to be composed of independent experts and other key stakeholders. We want a body which is representative but can also give detached expert advice. We do not want it to be too large and unwieldy.

2.16 We envisage that the MAC would need, in order to be able to function effectively, regular and informed input from a variety of sources including community leaders, migrant groups, trade unions, specific employment sectors and others. This could be done through regular ongoing consultation and a set of wider stakeholder panels. We also envisage that, where there are gaps in the data it requires to do its job, it might want to commission research, within a limited budget.

2.17 Subject to the responses to the consultation exercise we would have the MAC's members appointed by April 2007.

Q10 What kinds of people should be represented on the MAC?

Q11 Should the MAC be able to commission research, within a limited budget?

Annex A – Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These Consultation Criteria are taken from The Code of Practice on Consultation that can be found on the Cabinet Office website at:

www.cabinetoffice.gov.uk/regulation/consultation

Annex B – Contact for comments and complaints

Consultation Co-ordinator

If you have any complaints or comments specifically about the consultation *process* only, you should contact the Home Office consultation co-ordinator

**Christopher Brain by email at:
christopher.brain2@homeoffice.gsi.gov.uk**

Alternatively, you may wish to write to:

Christopher Brain
Consultation Co-ordinator
Performance and Delivery Unit
Home Office
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

