

Immigration after Brexit

*Challenges for economic
stakeholders*

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About British Future:

British Future is an independent, non-partisan thinktank engaging people's hopes and fears about integration and opportunity, migration and identity, so that we share a confident and welcoming Britain, inclusive and fair to all.

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I. Introduction

Britain's vote to leave the European Union is the most significant development in British immigration politics for several generations. It creates the potential for a 'reset' moment in which immigration policy is in flux, and likely to be significantly reshaped. So the stakes are high – for the Government and for trust in our political system; for business and the needs of our economy; and for those who come to Britain and the society they join.

The referendum result reflected a public vote of no confidence in how British governments have handled immigration over the last 15 years. That loss of public confidence is not hard to understand or explain. The 1997-2010 Labour governments did not anticipate the pace or scale of immigration that would result from the expansion of the European Union after 2004 – and so they did too little to prepare, plan or respond to what proved to be the largest single wave of immigration in British history. The Conservative-led government came to office pledging to slash net migration significantly, from the hundreds of thousands to the tens of thousands. But the pledge simply generated headlines, every three months for 26 consecutive quarters, about the target being spectacularly missed. When public trust is fragile, governments are unlikely to restore it if they are seen to have made promises that they cannot keep.

Immigration was not the sole factor in the EU referendum, nor sufficient to secure a Leave majority on its own. Leave voters did, however, place immigration second, behind sovereignty, as the reason for their vote. Many Remain voters, though they mostly saw economics as their top priority, also shared concerns about the handling of free movement and immigration.

Prime Minister Theresa May, in her Lancaster House speech setting out the broad detail of her negotiating strategy for Brexit, doubled-down on that promise by vowing to prioritise immigration control in any deal she strikes with Europe – and closing the door on continued membership of the single market, to the dismay of many business voices. Yet while control over immigration will be one of the red lines of her negotiating strategy with the EU, she has also said that she wants to get the best possible deal for the economy, which means maximising access to European markets.

The new post-referendum context will be a challenging one for those who seek to defend the economic and social benefits of immigration for Britain: new approaches will be needed if advocates are to be successful, in the face of increased political and media pressure for a more restrictive approach. Dusting-off and rehashing the advocacy approaches that had limited success in the last parliament will almost certainly bring diminishing returns in this one: the referendum offered an object lesson in the limits of an argument about what is good for business and the economy, if advocates do not secure people's trust that what is good for business is good for the public too.

British Future's post-referendum research demonstrates that the public has more nuanced views on immigration than much of our polarised

public debate suggests. The public is frustrated by past failures yet their view of future policy choices remains balanced and moderate. There is certainly a desire to see more control over the scale and pace of unskilled immigration from the European Union, yet the public's desire for reductions is selective, with no support for an indiscriminate crackdown. 84% of people want the right of EU nationals already living here to be guaranteed. While two-thirds favour reductions in unskilled immigration, that falls to under a fifth for skilled migration and student migration. There is a much lower appetite too for reductions for specific skilled and unskilled roles: only a quarter would reduce the numbers coming to work in care homes, though there is public scepticism about the balance of migrant and British workers in some sectors.

The public sees the new post-Brexit settlement as an opportunity to strike the right balance. Broad majorities are open to arguments about how both to manage the pressures and secure the gains of high immigration. The noisily irreconcilable part of the public is fairly small and arguments should be targeted at the sceptical-but-engageable majority.

The debate about policy change cannot be ducked. But economic advocates of the gains of managed migration need not succumb to a counsel of despair: they will need, however, to be willing to accept the challenge of securing political and public consent for the migration that Britain's economy and society needs.

Economic actors have not been as effective as they need to be in that debate. While they may mouth the words 'we accept the result of the referendum and the changes it will bring,' that can sound rather hollow when the speakers appear, particularly to more sceptical audiences, to have not moved on from their position in the referendum campaign itself. Messaging from economic actors on immigration can therefore come across as demands for more immigration in general, or special pleading for more immigration in their own sector.

The challenge for business voices is to reach those audiences, among both decision-makers and the public, who are sceptical about the economic and other benefits of immigration. That will require them to engage seriously with the concerns that people have. They will also need to form new alliances for constructive and workable answers that could rebuild confidence and trust in the contribution that managed migration can make.

There is a growing awareness among policy-makers too that they need to listen more to what the public thinks about immigration and move away from a top-down, 'we know best' approach. The new Home Affairs Committee inquiry into immigration, billed by Committee Chair Yvette Cooper as 'a different kind of Inquiry,' will host public meetings in a dozen towns and cities across the country, supplemented by a 'National Conversation on immigration'¹ with the public (of which British Future is a co-organiser) in another 60 locations.

A second challenge is to move beyond the articulation of critiques and warnings about the dangers of an excessively restrictive approach.

Instead, economic actors will need to come up with constructive

solutions that set out how the needs of business and the economy can be politically viable and can secure public consent too.

This paper offers advice for economic advocates on how to develop a more confident voice which moves away from preaching to the converted about the frustrations of the current political and policy debate, and begins to reach new audiences, both elite and public. These audiences are not already onside and need to be engaged with a constructive argument to defend the economic gains of managed migration during this important period of policy change – but our research finds that they are engageable with the right approach.

Steve Ballinger, British Future

2. Key policy choices after Brexit

There will not be one post-referendum immigration debate but several. The reshaping of immigration policy beyond Brexit looks likely to have three distinct phases.

The first nine months after the June 23rd vote have often had the feeling of a ‘phoney war’ period. With the UK government waiting until March 2017 to prepare to formally notify the European Union of its decision to depart, EU governments adopted the position of ‘no negotiation without notification’. Key political debates have been framed and shaped, but the negotiating vacuum explains why many political voices struggled to move on from re-fighting the referendum by proxy, exacerbated by political polarisation over the court cases on the process for triggering Article 50. The scale of the Commons vote for Article 50 (by 489 votes to 114) may well prove cathartic, and help to shift the debate from the merits of the referendum choice, and the process for implementing it, to the content of what Brexit will mean.

The triggering of Article 50 starts the clock ticking on a 24-month countdown. Britain will cease to be a member of the European Union, with an exit deal or without one, unless there is unanimity on extending the timetable. How much change there will be on European migration, and where this fits within a broader post-Brexit relationship, will naturally be the central focus of Britain’s domestic immigration debate from Spring 2017 to 2019, though the government has signalled that a phased transition has not been ruled out.

But the future of UK immigration policy is broader than the question of EU migration. Immediately after the referendum, the government actively sought to float ideas and to consult on potential changes to curtail non-EU migration, partly to communicate a sense of activity while unable to yet make substantial progress on the Brexit process. At other times, the new emphasis on non-EU trade deals has included signalling a willingness to discuss liberalising skilled migration, in particular with the US and Australia and, more tentatively, with India. While these initial debates illuminate some future cross-pressures, it is only as the contours of a potential post-Brexit framework with the EU become clearer that policy will start to crystalise.

It would be difficult, before then, to form a coherent view of the overall mix of EU and non-EU migration, including how that impacts not just on the economic migration mix but also family migration and refugee policy. The Government and other political parties will want to set out their overall approach, including what overall immigration targets they might commit to, in the run-up to the General Election, currently scheduled for 2020. But it would be difficult to make sensible future commitments on potential immigration levels much earlier, without clarity about the new immigration policy framework.

i. EU nationals in the UK

Employers in the private and public sector have been vocal advocates of the need for an early guarantee to EU and EEA nationals currently in the UK that they will be able to stay after Brexit. This pressure has seen the Government commit to making an early resolution of this issue its first priority on triggering Article 50, while refusing to make a unilateral guarantee prior to securing reciprocal commitments from EU governments regarding UK nationals.

Once a guarantee is secured, the focus will shift to the sheer scale of the administrative task of securing the status of 3 million people. Current processes for permanent residence require systemic reform to be fit for purpose. A British Future Inquiry report has made several concrete reform proposals².

It would not only be the Home Office which faces enormous new administrative pressures. Employers could find themselves needing to supply information not just to all current European employees, or even those employed over the last five years; they could also, potentially, face requests for documentation stretching back four decades to 1973, as EU nationals seek to verify their residence and employment history to meet Home Office requirements. Business should make a proactive offer to disseminate useful government advice on the process for securing status, as they have a strong interest in alleviating the anxiety many employees have felt. They should also press the Government to implement new systems which make proper use of its own HMRC and DWP databases to verify status, cutting out a wholly unnecessary paper chase across every workplace.

It will matter to business that the proper functioning of the broader immigration system is protected from the considerable administrative pressures of the EU regularisation process. In this new context, the Government's aspiration for borders and immigration – which currently have a net cost to the Exchequer of £504 million per annum, or £28 a year per head – to become fully self-financing through visa fees and fines by 2019-2020 is unrealistic and should be postponed. The Government should task the Migration Advisory Committee with calculating how much revenue and capital spending is needed for the Home Office to fulfil its immigration control function efficiently and fairly, given the additional short-term pressures from the post-Brexit transition and any resource implications of a new post-Brexit policy regime.

ii. After free movement: a new phase of the reform debate

The debate about free movement, the economy and EU membership before and during the 2016 referendum campaign has continued to shape many post-referendum arguments about the future relationship between Britain and the 27 members of the European Union.

There have been six broad positions in the economic, political and public debate about EU free movement and what happens next,

particularly focused around the question of a migration/markets trade-off.

- (1) That free movement is a good thing in itself, for either its economic or cultural benefits.
- (2) That free movement is a price worth paying for full single market access for the UK.
- (3) That priority should be given to securing full and unimpeded market access, while seeking to identify potential controls on and reforms to free movement within that constraint.
- (4) That there should be a balanced approach, seeking more significant changes to free movement, while seeking to maximise market access too.
- (5) That immigration control is a ‘red line’ priority post-Brexit – and that the UK should seek as full a trade partnership as is compatible with that constraint, accepting that this means giving up on full single market membership.
- (6) A ‘clean break’ position which does not see preferential market access as necessary, desirable or negotiable – and so which does not propose to negotiate on future European immigration with the EU at all.

Those who backed EU membership in the referendum have tended to shift from a mixture of positions (1) and (2), which was essentially the core thrust of the defeated Remain campaign, to versions of (3) – advocating the fuller use of existing controls within free movement, or proposing to retain free movement conditional on a prior job offer. Such approaches will struggle to be politically viable and may well appear, to the public, to be relatively superficial tweaks which fall short of expectations, given the broad sense that the EU referendum is a ‘reset’ moment for immigration policy.

Theresa May’s Lancaster House speech, reflected in the Government’s White Paper, has moved the debate on in significant ways. It confirmed the logic of her earlier insistence that “we have not left the European Union to give up on control of our borders”, by ruling out full single market membership, while seeking a comprehensive deal on tariff-free trade. That may well require a balance to be struck between market access and migration reform, but it appears clear that priority will be given to the latter.

The limits of the ‘trade-off’ argument

The Lancaster House speech will also shift the focus of the UK immigration debate, which has remained excessively dominated by the referendum campaign framing of the issue as a ‘markets or migration’ trade-off. The problem is that this explicitly defines immigration as a second-order issue, to be sacrificed for a greater economic good, which is essentially to repeat the argument which was defeated, albeit narrowly, on June 23rd 2016. Attempts to make this forced choice the central post-referendum choice, where immigration

control is explicitly demoted behind post-Brexit single market membership, proved no more successful.

It would certainly be possible to make a more successful public argument for a balanced approach. But political and economic advocates may not realise that the dominance of the ‘trade-off’ argument means that they too often fail to be perceived as making a substantive argument, about the right domestic immigration policy choices for the UK, on their merits. This risks being a fatal error.

The central post-referendum challenge for advocates of the economic gains of migration is how to secure the migration that would meet the needs of the economy and public services in ways that can secure political and public consent. The trade-off issue may indeed be real. But it will not be possible – given the public and political salience of immigration policy – to advocate a negotiating strategy which does not start from the question of the right immigration policy for Britain – and how this can balance both the pressures and gains of immigration, and manage these better, as well as the question as to how these policy preferences can best be pursued in the context of future negotiations to come.

There is no shortage of commentators who would claim that this entails an impossible attempt to square two circles, both at home and abroad: that there is no domestic approach which could deliver on the public desire for greater control without significant economic damage; and that there is no future post-Brexit approach to European migration which is both politically viable in the UK and negotiable with the EU. If this widely-shared gloomy prognosis is true, efforts to build a new political consensus on a managed migration framework at home, or to secure a mutually beneficial future UK-EU relationship will both end in failure.

There is, however, an approach which could meet the desire for greater control in ways that reflect broad public preferences, while rebuilding confidence and consent in the positive contribution of migration to the UK economy. Such an approach, set out in detail in the British Future report *Britain's offer to Europe*³, would also give the UK a constructive proposal to make for a post-Brexit immigration offer to the EU as well.

Crucially, a balanced approach need not involve choosing to sacrifice the priority of those on one side of the referendum debate (migration control) for the priority of those who voted the other way (market access). Rather, it would deliver on the public desire for control over the pace and scale of low-skilled and semi-skilled EU migration and, on that basis, secure consent for a preferential system for EEA nationals – maintaining a form of reciprocal free movement for jobs above a particular skills or salary threshold. There would be caps and quotas on low-skilled and semi-skilled migration, which take various forms: it would be possible to offer preferential EEA access to such quotas, though the rationale for doing this would be that it formed part of a broader trade deal. Such an approach would chime with British public opinion and have a fair shot at securing political consensus too.

Whether it is negotiable with the EU is harder to gauge; but the proposal does offer significantly more access to the UK labour market for EU nationals than would be the case if there was no UK-EU deal at all. In that event, the UK would logically adopt similar rules for EU and non-EU nationals, with an economic and political debate about how far to loosen the current non-EU framework in this context. That would be likely to focus particularly on the scale and source of low- and semi-skilled migration, whether from within the EEA or beyond it. Crucially, while this preferential approach does continue to acknowledge a migration/markets trade-off, and so retains an interest in putting a negotiable offer to the EU on the table, what the UK proposes in those negotiations also has strong prospects of being defensible at home as the right choice for post-Brexit Britain.

iii. Non-EU skills and student migration

The Government has continued to be highly active across a range of immigration debates, perhaps partly because there will be no major changes to European migration for some time. It plans to consult on the potential to restrict student migration, by institution and course, for example by giving the most prestigious universities more freedom to recruit but restricting this for others. This is proving politically contentious, not only because of high public support for student migration, but because MPs representing the towns and cities that are cut out would challenge any proposal as not fulfilling the post-referendum commitment to seek to spread the gains of growth and global exchange more broadly.

A proposal to ask companies to report the proportion of foreign workers appears to have been withdrawn, after heavy criticism. However, the debate about how to balance the development of home-grown skills with the needs of business to bring in new skills from overseas is one of the crucial areas where economic advocates need to rethink how they are engaging with decision-makers and the public.

Once the contours of the Brexit settlement are becoming clear, the issue of the balances between EU and non-EU migration, and what that means for the overall policy framework, will come back into focus, towards the end of the parliament and in the run-up to the next general election. At that point, the question of the overall policy framework for immigration – including whether and how the net migration is replaced – will be back on the agenda. It would be politically difficult to credibly repeat a failed target for a third consecutive parliament – but critics of the target would need to have identified an alternative framework which is politically viable.

Using the Brexit reset moment to embark on a Comprehensive Immigration Review, with considerable public involvement, could prove an effective exit strategy from the broken framework in a way that understands the need to secure public consent for a new approach. The approach of the Home Affairs Committee, in seeking to hold its new immigration Inquiry differently by holding hearings across the nations and regions, with significant public engagement, including through a ‘National Conversation on Immigration’, is a useful step in

this direction. It also illustrates how politicians will have a clear focus on the political challenges of securing consent, and how economic advocates will struggle to be influential without constructive answers to this challenge.

Jill Rutter, British Future

3. Challenges for economic advocates

The referendum vote is likely to lead to the most significant period of change in British immigration policy for a generation. This will present a difficult challenge for economic advocates for the benefits of immigration, who have struggled to persuade either government policy-makers, or the general public, of the merits of their case over the last decade. The pressure will now become greater, with the majority vote to leave the EU increasing the political and media pressure for more restrictive approaches. Continuing with previous approaches to advocacy will certainly bring diminishing returns – so what would a more effective approach to both elite-facing and public advocacy need to do?

i. Understand the lessons from the referendum

The referendum campaign offered a powerful demonstration of why many of the ways in which economic advocates try to win the argument don't work when trying to connect with audiences who are not already onside. Extensive research, from British Future and others, has shown that the search for a 'killer fact' that can 'myth-bust' negative perceptions is an ineffective and sometimes actively counter-productive approach. For those who are anxious or struggling economically, hearing from business leaders that 'immigration is good for the economy' may often trigger the thought, 'it's obviously working out better for you than it is for me'.

ii. Shift the framing of advocacy – to engage with both pressures and gains, and offer constructive solutions, not just critiques

Research shows that there are more effective ways to defend the gains of immigration. Starting from the premise that people are wrong to worry about immigration, and might be persuaded by statistical evidence that there are net gains, does not offer people the conversation that they want about how we manage immigration successfully. Instead, by offering them a lecture which appears to contradict their lived experience, it leads to mutual misunderstanding and a dialogue of the deaf. An argument which acknowledges the reality, that high immigration can bring both pressures to our society and gains to our economy, starts a different type of conversation: about how we could manage the pressures more successfully and fairly, in ways that would enable us to secure and keep the gains of immigration too.

iii. Accept that change is coming – and engage with it

Brexit will be a moment of change. That clearly offers both risks and opportunities. Economic advocates will have identified areas where it will be important to limit the damage from some potential changes – but will not be persuasive in efforts to mitigate and avoid these risks if they are heard to be saying 'we understand that the public voted to Leave – and our response will try to ensure that as little as possible changes as a result'. This risks exacerbating the reputational damage of

the referendum campaign, allowing economic advocates to be caricatured as an out-of-touch elite who still don't get it.

A better approach would be to accept the challenge of the referendum – that there is a need to regain public confidence in how immigration is managed in Britain - and to offer responses that chime with the public's desire to seize this new opportunity. Employers who rely on mostly skilled migration can show that there is broad public understanding of the benefits of Britain remaining open to global talent, but need to advocate for a smarter immigration framework, so that migration which is both productive and popular does not get caught up in a crude 'one size fits all' approach. Employers of low-skilled migrants will face steeper challenges in securing political and public consent for the migration that is good for their business – and need to identify the key concerns that would need to be addressed in order to secure broader support, such as proactive strategies to address local impacts of migration.

iv. Think strategically – and try not to get stuck refigting old battles

The net migration target has been the focus of most immigration advocacy across the last parliament – and those in favour and against it will continue to spar whenever the quarterly figures are released. This is difficult for the Government, given the spectacular failure to hit the target, but it also distances economic advocates from where the public are, by suggesting that the main business position on immigration is that there isn't nearly enough of it.

Yet it makes next to no sense – in 2017 or in 2018 and for anybody, whether in government, business or civic society - to offer any informed, strategic long-term view about what the right level of immigration would be for Britain in 2020-25, during the next parliament. Almost none of the information on which such a judgement should be based is yet available during this kaleidoscope-shifting moment. Nobody in government, politics or business has a crystal ball that could reveal the content of the Brexit deal, the condition of the British and European economies, the relative value of the pound, and the impact on these or other factors on both inflows and outflows. There are plausible scenarios in which net migration might continue to rise, or fall sharply.

One cause of the failure of the net migration target from 2010-16 was to pick a number first and then scramble for a policy agenda that might try to reach it. A reset moment like Brexit offers an opportunity to do things the right way around – and to discuss the trade-offs, economic gains and social pressures of immigration, before setting policies and targets to reflect this. Britain has never taken, on migration, the type of strategic approach that is used for public spending and national defence. Broad coalitions to advocate for a Comprehensive Immigration Review would provide an opportunity for political and economic stakeholders to create the framework in which a more strategic approach could be taken to managing the pressures and gains of immigration, and the changes that could secure greater public confidence in the migration that the UK is going to need.

v. Reframe the skills debate

On the crucial debate about skills and training, economic advocates need to think seriously about both the content and communication of the approach that can reframe this issue. The Achilles' Heel of economic advocates in public migration debates is their failure to find an effective way to avoid debates, about developing British skills and the gains of migration, becoming framed as a zero-sum option. When employers publicly criticise the quality or work ethic of British school-leavers, in contrast to hard-working migrant workers, they risk considerably exacerbating public concern – that neither employers nor government are taking sufficient responsibility to fix the skills issue.

But labour migration is not just about bringing in highly-skilled workers, innovators and entrepreneurs that the economy needs. Over the last 15 years labour migration, particularly from the EU, has filled vacancies. The farming and food processing sectors have seen many recent changes which include the lengthening of the vegetable growing season, greater production of processed and pre-prepared food and 'just-in-time' production⁴. All of these innovations have increased the demand for labour, largely in sparsely-populated regions of the UK. Record low levels of unemployment, improved educational performance among UK school-leavers and the raising of the school-leaving age have also squeezed the supply of domestic labour.

The immigration debate is also about the supply of low-skilled labour to sectors such as food, farming, hospitality and retail. This requires economic advocates to talk about immigration differently. Arguments about the benefits of highly-skilled migrants have little salience in towns and cities such as Torquay and Peterborough, where migrants are predominantly working in low-skilled jobs. As already argued, economic advocates for migration need to acknowledge the pressures brought about by migration, as well as the gains, and offer constructive solutions to problems, not just critiques. Economic advocates for low skilled migration need to acknowledge the impact of migration on housing supply, for example, and be involved in solutions to accommodate low-skilled migrant workers. Businesses that use large amounts of low-skilled migrant labour need to engage in discussions about the use of the Controlling Migration Fund, the successor to the Migration Impacts Fund, that helps communities deal with the impacts of rapid international migration. This engagement has to take place locally, too: in the local media, in council meetings and in other forums.

So economic advocates need to grasp this nettle, finding effective ways to talk about the migration we need, at home and abroad, in ways that make sense to political and public audiences. Doing that effectively will require research into the views of the audiences that advocates need to persuade – and the arguments that both fail and resonate with them. The opportunity is to engage with government to develop a coherent skills strategy that sees the development of British skills, and the skills that we need to fill the gaps, as part of a coherent agenda which can get out of a losing zero-sum debate, where the case for bringing skills in is set disastrously against the case for developing skills here.

Sunder Katwala, British Future

4. The voice of business in the post-referendum immigration debate

British Future has set a great exam question. How can business present constructive solutions to immigration that meet the needs of business and the economy while being politically viable and securing public consent? To my mind any solutions need to be framed in two parts.

The first part is not about immigration, it is about filling vacancies and retaining staff, whether they are British or foreign. Only after telling that story – and it needs to be authentic and convincing – will business have the space they need to talk credibly about immigration to a sceptical public.

This is about workers, not migrant workers

The end of free movement begs two questions for employers: how will we get the people we need? And how will we get the skills we need? Ultimately this is a recruitment problem well before it becomes an immigration problem. Most companies don't actually care about immigration. What they want is to be sure that they will be able to access and retain the labour and skills that they need to succeed. Immigration only becomes a problem at the margins when companies cannot find the people, experience or skills they need locally. We have 31 million people working in the UK; only one-tenth of them are not British⁵.

The businesses I speak to understand that. They are already looking at how they could fill vacancies in the absence of free movement. I've been part of lots of encouraging conversations about accessing harder to reach workers – school leavers, older job seekers, those with disabilities and ex-offenders. They are also looking at how their terms and conditions can be adapted to attract those who need more flexible work patterns.

Automation tends to be the next theme; the end of free movement probably won't mean the rise of the robots but employers are thinking hard about how they can reduce their need for lower skilled workers, consequentially increasing productivity.

Other conversations have centred around plans to upskill residents. This is nothing new – businesses that don't invest in their employees will not succeed – but Brexit has brought those plans in to sharper focus.

The trick will be for business to be upfront and celebrate any initiatives that help British workers. If they work perfectly and no vacancies go unfilled then brilliant, business is sorted. If not, as seems likely, you can start to talk about immigration from a position of strength.

The low hanging fruit

It isn't just about filling vacancies, it is about preventing vacancies in the first place. European people already living in the UK need and deserve a promise that they will be able to stay here after Brexit. This

isn't about immigration, it is about doing the right thing for people who have thrown their lot in with the country.

There is also a clear economic need to make this promise. Businesses need certainty that their workers will be with them from one day to the next. They also need a settled workforce who are not worrying whether they will be able to continue their lives here. Findings by the Chartered Institute of Personnel Development, suggesting that around one in four employers have seen evidence that EU nationals are considering leaving their organisation or the UK in 2017, should surely set alarm bells ringing⁶.

We know that the Government agrees with the principle – they dedicated an entire chapter of the Brexit White Paper to it. But their position, that they will only do so once the EU makes the same promise to British people in Europe, doesn't help anyone.

It is inconceivable that the EU will negotiate a policy that sees British people marched off the continent. The Government knows that and should capitalise on it by offering the guarantee now, or at least make plain exactly what their offer to European people will be. That offer should be generous and give permanent residence to anyone here on the day of separation.

They should make the promise now and put the UK on the front foot. The negotiations won't be pleasant so being able to repeatedly wave our moral credentials at the EU can only ever be a good thing. It never hurts to negotiate from the moral high ground, especially in the full glare of a public who overwhelmingly agree with the policy and a continent of voters who probably concur. ICM research for British Future finds that 84% of the British public supports letting EU migrants stay, including three-quarters (77%) of Leave voters.

Moreover they can box the EU in before the negotiations even start. I can't imagine any of those governments publically seeking less generous treatment for their own people and surely anything said in private will get leaked immediately.

Sensible controls help everyone

Shortly after the referendum there were reports that free movement might remain for skilled workers. That would undoubtedly help business but I am not convinced the public would buy it. Nor am I convinced that a government hell bent on reducing net migration would seriously consider it. Their commitment to control the numbers of EU migrants, in their Brexit White Paper, makes me doubly certain.

British Future suggests, in this report, that business needs to offer more constructive solutions on immigration, not just criticism of the failings of policy. So business needs to accept this and argue up front for sensibly controlled immigration. As a starting point that means:

- A system that can be properly policed to prevent abuse and exploitation;

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- Sanctions for those who abuse the rules;
 - Labour market testing to prevent displacement;
 - Prevailing wage controls to prevent undercutting.

This is not just about reassuring the public or politicians. If the system is neither controlled nor enforced some businesses will seek to exploit it to their advantage. That won't help the businesses who are playing by the rules.

At this stage the detail of those controls is almost incidental, for now the trick is to acknowledge their importance. Ultimately though it does not necessarily mean reinventing the wheel.

The UK's sponsorship system already contains controls to prevent abuse and exploitation. It isn't perfect but the technology is there and businesses broadly understand the principles. The accompanying sanctions already make businesses think twice about abuse.

Non-compliance can lead to fines, criminal convictions or the loss of all sponsored workers.

Labour market tests and wage controls also exist. The need to advertise for four weeks in Job Centre Plus doesn't sit comfortably with the way businesses actually recruit workers but it is a model that can be refined. A minimum salary of £41,500 for a non-EU assignee is arbitrarily high but, again, the use of job specific prevailing wages could be made to work.

These aren't the only ways to manage immigration and there will be lots we can learn from other countries. To begin with though it does give us a solid base to work from.

Effective administration also matters

I joined the Home Office in 2002 at the height of pressures on the asylum system. In 2003 I took my first policy job when student, sham marriage and worker abuse was uncovered. In 2006 I returned from a brief stint in criminal justice to work on the foreign national criminal crisis. On each occasion the system had been poorly managed and public confidence in immigration fell (either that or I am a monumental jinx).

The point is, it is hard to argue against calls for a well-managed immigration system. Those calls may often begin with a need to prevent abuse but they need not end there. Businesses should be making the case for any new immigration framework to be administered effectively by the Home Office.

For a start it needs to be quicker than the current system. If the Government were to apply the existing rules to EU nationals then recruiting an Italian from Rome would create a two to three month delay before they can start work. If the company is sponsoring for the first time you can add another one to three months on while they apply for an immigration sponsor licence.

It also needs to be cheaper. The UK's immigration service already costs the taxpayer over £500m a year⁷. That figure could rise exponentially if every EU worker needs a visa too. It is true that the Government can recoup some of that money in fees, but by law only 50% of the immigration system can be funded by visa fees. Whatever happens, the new immigration system needs to be affordable.

Again, none of this is rocket science. The Government could reduce the amount of time a skilled job needs to be advertised in Job Centre Plus or remove delays caused by the annual limit on skilled workers (or even better remove the limit). They could save money by removing the visa requirement altogether, instead allowing employers to issue a secure Certificate of Sponsorship that confirms a right to enter and work. Removing the visa would also remove one to three weeks delay.

Becoming licenced to issue a certificate takes time but it doesn't have to work that way. Allowing third parties to sponsor workers would speed things up while simultaneously reducing the burden on the Home Office. They could shift the responsibility for policing the system to a third party, making them responsible for ensuring sponsored workers are compliant. That way the Home Office only has to police the third party, not all of the companies they are working with.

Killer facts will still matter

I fully understand the point British Future makes about using killer facts to win over the public. They didn't go down well before the referendum and they probably won't go down well now, either. But business won't only be speaking to the public, they have entire government departments waiting to argue with or for them and officials need data.

We are told the Government wants to "understand the impacts on the different sectors of the economy and the labour market." It goes on to talk about careful consideration of "the options that are open to us to gain control of the numbers of people coming to the UK from the EU." It adds "equally, we will need to understand the potential impacts of any proposed changes in all the parts of the UK."

All in all it sounds like the battle lines for employers will be drawn by sector and region and penned in by a cap on overall numbers.

The promise of "a phased process of implementation to prepare for the new arrangements" completes the picture. Businesses aren't standing at a cliff edge but they may not be too far off.

Business will need to be able to tell a convincing, evidence-based story about the sectors that could face labour shortages, how large they will be, where they will be in the country and how long they will exist for. They need to have this data, and their killer facts, ready for the inevitable consultation, most likely by the Migration Advisory Committee. Again, that story will need to look beyond migrant labour – it will have to talk to all of the efforts they are making to increase recruitment within the UK.

That story will also need to talk about how long they need these workers to stay for. The Home Office will undoubtedly look at allowing lower-skilled workers to enter for under 12 months at a time, meaning they do not count towards net migration. Every given sector will need to understand whether that can work for them and, if not, why not – the policy seems more suited to farming than care homes, for instance.

My suspicion is that the greatest focus will be placed on lower-skilled migration. The Brexit White Paper was at pains to stress that the brightest and best will still be welcome in the UK. It would be folly though to assume that higher-skilled migrants will get an easy ride. The Home Office will need data to justify the entry of every group of migrants.

The end of free movement won't be the end of the story

Brexit won't necessarily give the Government complete control over immigration. Free trade agreements aren't just about tariffs and moving goods, they are also about moving people.

In January Alexander Downer, the Australian High Commissioner to the UK, told the BBC's Today Programme that a trade agreement could be struck in eight months and would need to provide simpler immigration rules for Australian businesses.

This isn't a new idea. Free trade agreements are long, busy documents covering all manner of arrangements. Typically, though, you will find provisions for the movements of natural persons tucked in near the back.

The World Trade Organisation rules provide the template. They commit every signatory to allow the entry of business visitors, intra-corporate transferees and contractual service suppliers. It is all very dry, all very technical and all very easy for the Government – they are the sort of people we would let in anyway, irrespective of the WTO. That is all fine but Mr Downer's comments suggest it wouldn't be enough for Australia, otherwise why did he comment on it? The inference is, you can have our trade, but you're taking more of our business people too.

Australia won't be the only country thinking this. Indian Prime Minister Narendra Modi has expressed concerns about the UK's visa policy for Indians and Indian businesses. Visas were important enough to China's President Xi Jinping 2015 visit to the UK for him to negotiate and announce concessions for Chinese visitors. Last year John Key, then New Zealand Prime Minister, complained that the imposition of an immigration health surcharge was 'pretty cheap' and 'chipping away at New Zealanders' rights in the UK'. All of these countries benefit from the World Trade Organisation provisions. If they are still complaining you can only assume they want more. The UK's eventual trade agreement with Europe will probably only strengthen their case. We can assume that free movement will end and we can guess that a preferential system for EU nationals will replace it.

The thing is, that preferential system will need to be set out in the trade

agreement. If it isn't a bilateral and written commitment, how will British business and workers get the same favourable access to the EU? Moreover, if it isn't in the free trade agreement it may not be legally sound.

So, let's say that after Brexit the Canadian Government thinks it is too hard for its people to come in and work in the UK while Europeans get an easier road because of a trade agreement. What would the Canadians do? They would insist on similar treatment in their own agreement. Next the Australians, Indians, Chinese and every other strong economy does the same. The upshot? We lose free movement for Europeans, but it becomes easier for workers from other countries to get to the UK.

All of this creates new opportunities for business. The arguments need not end when the dust settles on our new, post-Brexit free trade agreement. If overseas businesses don't like the deal they've been given they can still ask for more. And once signed, it will be an awful lot harder to change the terms of a trade agreement than domestic immigration rules.

In this report British Future describes the referendum decision as a 'rest moment' for immigration policy. There are going to be changes on immigration after Britain leaves the EU. Business can and should be one of the most effective voices arguing for reforms that work for the economy and also work politically, securing the consent of the public. Complaining about what is on offer will only get economic actors so far: setting out the well-evidenced, well-argued case for positive reforms will get them much further, particularly if they look beyond immigration at opportunities for British workers. This paper seeks to start that debate among business voices about what those proposals might be.

Ian Robinson, Fragomen

Endnotes

- 1 For more information about the National Conversation on Immigration, see www.nationalconversation.org.uk
- 2 See *Report of the Inquiry into securing the status of EEA+ nationals in the UK*, British Future, December 2016
- 3 Katwala, S, Rutter, J and Ballinger, S. (2016) *Britain's offer to Europe – How could a new preferential system work?*, British Future.
- 4 Rogaly, B (2006) *The intensification of workplace regimes in British agriculture: the role of migrant workers*, Brighton: University of Sussex Centre for Migration Research.
- 5 UK Labour Market Survey, January 2017 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/jan2017>
- 6 <https://www.cipd.co.uk/about/media/press/100217-eu-labour-supply-shortages>
- 7 Home Office budget main estimates 2015-2016: <https://www.parliament.uk/documents/commons-committees/home-affairs/Work-of-the-home-office/Home-Office-Main-Estimate-15-16.pdf>

About British Future

British Future is an independent, non-partisan thinktank engaging people's hopes and fears about integration and migration, opportunity and identity, so that we share a confident and welcoming Britain, inclusive and fair to all.

Since British Future's founding in 2012, it has developed a unique understanding and expertise on public attitudes to these issues in the UK through in-depth qualitative and quantitative research. The findings have been projected publicly to inform national debate, contributing to discussions on issues such as EU migration, the status of EU nationals in the UK after Brexit, views about international students, refugee protection, migrant integration and Englishness. The organisation did not take a position on which way people should vote in the EU referendum.

Together with the House of Commons Home Affairs Committee and campaigners Hope Not Hate, throughout 2017 British Future is conducting a 'National Conversation on Immigration', hosting 120 meetings in 60 towns and cities in every region and nation of the UK. Citizens' panels will engage members of the public directly, with an online survey and nationwide opinion polling adding further quantitative data on public attitudes to immigration. Stakeholder meetings in each location will engage local organisations and individuals with an interest in immigration such as business leaders, local councillors and community organisations. More information can be found at www.nationalconversation.org.uk

British Future's recent publications include:

- *Britain's immigration offer to Europe*, November 2016.
- *What next after Brexit? Immigration and integration in post-referendum Britain*, August 2016.
- *Disbanding the tribes: what the referendum told us about Britain (and what it didn't)*, July 2016.
- *How (not) to talk about Europe*, January 2016.

About Fragomen

Fragomen is the world's leading single-focus provider of immigration guidance and support. We have more than 40 offices and over 3,300 employees worldwide, allowing us to provide clients with comprehensive immigration services in over 170 countries. We provide the full range of global immigration services, including strategic planning, compliance, government strategies, reporting, and case management and processing. For more information, please visit www.fragomen.com.

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