

Selective Admission: Making Migration Work for Britain - response by the Association of Labour Providers on Home Office consultation

4 November 2005

Introduction

In July 2005, the Home Office published a consultation document, *Selective Admission: Making Migration Work for Britain*. The consultation document sets out proposals for implementing the government's strategy outlined in *Controlling Our Borders: Making Migration Work for Britain, the Government's Five Year Strategy for Asylum and Immigration*, published on 7 February 2005. Comments on the consultation document are sought by 7 November 2005.

This paper sets out the response of the Association of the Labour Providers to the consultation document. The ALP was formed by 18 labour providers in January 2004. Its membership has grown rapidly and it now has 132 members. The ALP represents those labour providers that predominantly service the agriculture and fresh produce industry. The majority of the workers they provide are migrant workers, mainly from the Accession States of Eastern and Central Europe. Some labour providers employ workers from outside the EU. ALP members therefore have a very direct interest in the operation of the government's migration policy.

Executive summary

The nature of migration has been changing in the UK and worldwide. There has been a huge increase in migrant working, most of the workers having no wish to settle in the country in which they are temporarily working.

Workers from the Accession States are generally migrants rather than immigrants, and now play a major role in the UK economy. The Accession States Worker Registration Scheme serves no useful purpose and gives the wrong signals to the workers. It should be abolished.

Responsibility for preventing illegal working has been outsourced to employers. This is ineffective because of the prevalence of forged documents, poor targeting by the Immigration Service and the flourishing informal economy.

Some of the proposals for ensuring that workers from outside the EU return home after the period when they are permitted to work in the UK are unrealistic.

The concept of managed migration is not easily compatible with a market economy. A skills advisory body is not needed to advise on areas of labour shortage. The market does this efficiently.

The changing nature of migration

Migration is a politically emotive subject. Three distinct forces tend to be confused –

- People coming to the UK seeking asylum for either genuine or false reasons.
- People coming to the UK planning to make it their home for life.
- People coming to the UK to work, generally with the intention of earning as much as they can to enable them to improve their quality of life when they return to their home country or the quality of life of their families.

The dividing lines between the three categories are blurred. Some people who come to Britain to live may decide to return home. Some who come with the intention of working for a few months may stay for life. Some people accepted as refugees may decide to return home or move to another country. Nevertheless, the broad categorisation is helpful.

Much public opinion seems to lump together all migrants and then accuse them of coming to Britain simply to claim benefits and not working. Facts tend to be irrelevant to many people in such debates.

There seems no general acceptance that large sectors of the economy are heavily dependent on migrant labour and would be unable to continue without workers from outside the UK.

Accession States' workers

On 1 May 2004, ten new countries joined the European Union. The British government was one of only a few that allowed workers from the new Accession States to work without restriction. At the last minute, in response to media pressure, it introduced the Accession States Workers Registration Scheme which required workers from the Accession States (other than Malta and Cyprus) to register, although without restricting their ability to live and work in the Country.

Members of the ALP employ many workers from the Accession States. Research conducted by Precision Prospecting for Defra and the Home Office estimated that labour providers supply between 300,000 and 450,000 workers a year to farm enterprises and off-farm packing and processing plants. About 30% of these (90,000 – 150,000) are from EU countries, almost all from the Accession States.

Accession State workers are migrants not immigrants. The vast majority are young, single people who come to Britain to work, generally retaining strong links with their home country. Data from the Accession States Worker Registration Scheme shows that 42% are under 24 and a further 40% are between 25 and 34. They may well return home several times during the course of the year and a number work in Britain for only part of the year, returning to their home country to work for the remainder of the year. Many send money back to their families in their home country or use part of their earnings to build or buy a house or to start a business in their home country.

Most wish to return home after a period of work, for both cultural and economic reasons. Economically, the money that they earn in Britain will go much further in their home country than it will in Britain. The Precision Prospecting research included interviews with

970 workers from outside the UK. 44% indicated that they expected to stay in the UK for two or more years, 16% for between one and two years and 36% for less than a year.

The Accession States Worker Registration Scheme requires workers to register within one month of beginning work in Britain. The registration fee was initially fixed at £50 but was increased by 40% to £70 with effect from 1 October 2005. Workers are required to fill in a form, which originally was quite complex but is now much simpler, and send it to the Home Office together with their passports. Not surprisingly, the scheme is deeply unpopular, and is treated with suspicion by workers from the Accession States. They are reluctant to part with their passports at a time when they most need them, having just arrived in the Country. They are required to send payment of £70 at a time when they may well not have been able to open a bank account. The amount of money is seen as being excessive, if not extortionate, bearing in mind that those paying it are generally low paid workers earning just the minimum wage. For them, £70 represents between two and three days work.

These drawbacks would be accepted if the scheme has a purpose, but it does not. All it does is to count workers. However, the resulting statistics are highly misleading. Even if workers registered as they are supposed to, the figures would be misleading because –

a) There is no record of workers leaving the Country and to this extent the statistics overstate the number of Accession State workers in the Country. This factor increases in importance month by month as the stock of workers rises.

b) Self-employed workers are not required to register.

c) Workers do not need to register until they have worked for a month. The Precision Prospecting research shows that the average length of stay with a labour provider is one month, and indeed there was evidence that workers moved within a month simply to avoid paying the registration fee.

It is also clear that many workers who should register do not. Labour providers report taking on workers who they know have been in the UK for some time but who have never registered. The Precision Prospecting research estimated that 90,000 - 150,000 workers from the Accession States were supplied in a year to agriculture and fresh produce. The statistics from the Scheme for the period from May 2004 to June 2005 show 30,000 workers registered in agriculture and 11,000 in food processing, these figures including permanent employment as well as contract employment. At first sight therefore the number of workers is about three times the number of registrations.

There is a real danger that the scheme also encourages workers to stay in the informal economy rather than be employed in the formal economy and being subject to tax and national insurance.

The Association has already made the case for the abolition of the scheme ***The Accessions States Workers Registration Scheme: the case for abolition***. It has also published a more detailed paper illustrating how misleading and inaccurate the statistics are and asking the Statistics Commission to investigate the scheme also **available on this site**.

Preventing illegal working

At first sight, it seems paradoxical that a dynamic economy in Britain should go to such lengths to stop people coming here to work. This extends to preventing people who are legally in the Country, for example as students or visiting relatives, from working. The reason why people wish to work in Britain is simple. Britain has a dynamic economy and a plentiful supply of jobs that are well paid compared with what is available in their home countries. Working conditions and living conditions generally are also agreeable.

There will always be a strong demand from people outside the UK to come to Britain to work. The vast majority would like to do so lawfully, but many of those who cannot do so lawfully are willing to do so unlawfully.

If people are working illegally then almost by definition they have to be in the informal economy as they fear, probably unjustifiably given the difficulty that the enforcement authorities have in working together, that by registering for tax or national insurance they will be “discovered” and deported. The informal economy is thriving and some may even regard it as an essential part of the economic mechanism. However, it is damaging because it can create significant competitive distortions, making it difficult for law abiding companies to operate effectively. There is also a significant loss of tax revenue.

The government’s strategy for preventing illegal working is to outsource the responsibility to employers. Employers commit an offence if they employ an illegal worker, although they have a defence if they go through certain mechanisms, basically involving checking documents. The policy is inevitably ineffective –

· There are high quality forgeries of identity cards and passports that can be fairly easily purchased. Some of these documents are so good that immigration officers have difficulty

detecting that they are forgeries. It is very difficult for an employer to be able to tell a forgery from a real document. It is understood that it is also possible for people to purchase real passports from some EU member states, which makes detection of those who are not supposed to be here even more difficult.

- If an employer wishes to collude in illegal working then he can easily do so by going through the steps necessary to give him a defence against employing an illegal worker. He may well still be committing an offence by knowingly employing an illegal worker but proof in such cases is difficult if not impossible.

- The experience of labour providers is that enforcement activity is ineffective. For the most part it concentrates on those employers who are in the formal economy and are trying to comply with the law, and can involve detailed examination of records which at times almost seem to be trying to “catch out” employers. Meanwhile, wholesale illegal working can continue and is often simply ignored, particularly if the Home Office is unable to deport the workers concerned.

In its consultation document the government proposes to introduce a “single, robust pre-entry or in-country check” on those intending to work in Britain. It is also proposed that there will be “a biometric residence permit, without which it will not be possible to work or access services”. All this is rather wishful thinking. Certainly, stronger checks can be undertaken to ensure that those who wish to work in the formal economy in Britain are who they say they are. However, the policy will be ineffective as long as the informal economy flourishes. There will not be the same pre-entry checks or immigration checks on people who say they are coming here to be a student or to visit relatives or for a holiday. It is then easy for those people to slip into the informal economy.

The concept of a “biometric residence permit, without which it is will not be possible to work or access services” sounds impressive but the people concerned have no interest in accessing services and the statement that it will not be possible to work is incorrect given the strength of the informal economy. It would be more correct to say that they will not be eligible to pay tax. The flourishing hand car-washing industry is a visible manifestation of this.

If it is the wish of the government to prevent illegal working then it is essential that it deals more effectively with the informal economy. As it is, the more effective the government is in preventing people from working legally in the formal economy, the more it is likely to encourage people working illegally in the informal economy with the adverse consequences that that has.

Paragraph 6.42 of the consultation paper reports on the establishment of a joint workplace enforcement team which will include officials from the Immigration Service, HMRC, DWP and other government agencies. It remains to be seen how this will work in practice. At present, the problem is that the various agencies have different targets which effectively prevent joint working. The joint workplace enforcement team should have its own targets, which should predominantly relate to preventing illegal working rather than catching people who have been working illegally.

Workers from outside the European Union

The consultation document sets out proposed arrangements for “tier three” workers who would be allowed in only for specific low skills schemes. Migrant workers on tier three schemes would be time limited, would not be accompanied by dependents, would not be allowed to switch to another category of employment, and would be required to return home at the end of their period of work. Workers would need a sponsor who would be responsible for ensuring that they return home. Among the devices that are mentioned in this context are administering compulsory remittances and payment of bonds.

These sorts of arrangements would be condemned if they were operated by any private sector institution. The Association is particularly concerned about the concept of “administering compulsory remittances with part of the wages being paid into a bank account in the migrant’s

home country and only available on return”. Where workers are on the minimum wage this would be illegal under British minimum wage legislation, unless there is a specific exemption. It is difficult to see why there should be an exemption which would effectively remove the rationale for the minimum wage, that is that workers should have the minimum amount to live on.

Compulsory remittances into bank accounts in the migrant’s home country are impractical and even where practical would be ineffective –

- There are no banks in some countries, for example Somalia.
- The cost of making a monthly remittance to a bank in France is so prohibitive as to make it not worthwhile. The cost of a similar remittance to a bank in Bangladesh, Nepal or Namibia would probably absorb more than the whole of the amount remitted.
- Arrangements would need to be negotiated with each of the banks concerned whereby the funds were effectively blocked.
- Even if the scheme was implemented, the amount deposited in a bank could easily be used as security for money to come straight back to Britain through the informal remittance network which works so effectively.

Allowing the market mechanism to work

“Managed migration” sounds a wonderful concept that it is almost impossible to argue against. However, in practice, Britain cannot have a managed migration policy –

- There are in the Accession States 70 million people who are entitled to come to Britain at any time. Those of working age have the opportunity to earn much more than they could at home. There are also 320 million people in the other 15 states of the European Union, with similar rights, although for them the economic incentive to come to Britain is much less.
- People currently living in the UK, whether UK nationals or otherwise, can leave Britain at any time which may create shortages which can be met only by workers from overseas.
- There are British and some other citizens living outside the UK who have an entitlement to live in the UK and who could therefore come to Britain at any time.
- There is a thriving informal economy in Britain. Those working in the informal economy have little chance of being caught as the enforcement authorities are at their best in going through formal institutions who have records to inspect rather than organisations operating informally and largely through cash.

The consultation paper discusses the possibility of setting up a skills advisory body which would draw on the work of existing agencies and “would use the information available on the UK labour market and on its skills shortages, to develop a fuller picture of the UK and advise the government on the state of the labour market, including shortage areas to be included on at UK list of shortage occupations”. This smacks of central planning. The market mechanism is far more effective. If there is a shortage of workers then this will be met by a combination of wage rates rising in the sectors in which there is a shortage, workers being imported from abroad or work moving abroad. It does not need an advisory body to second guess what the market is doing.

The consultation process

The consultation document sets out the proposals in a clear and helpful way, although a more honest description of the inherent difficulties of seeking to manage migration in a dynamic open economy that is a member of the European Union would have been helpful. The questions for

consultation may be a helpful attempt to assist the consultation process and no doubt will make it easier to collate responses. However, some of the questions seem pointless (“Could the proposals to develop a new points-based system affect some groups of migrants more than others” hardly lends itself to a “no” answer). The consultation pointedly does not ask some rather obvious questions –

- Will the new system work more effectively than present arrangements?
- Will the new arrangements be successful in stopping illegal working?
- Is enforcement action by the authorities properly targeted?
- Does the fact that other EU countries have less stringent arrangements for issuing passports jeopardise UK policy?
- Do you believe it is possible for employers to detect forged passports and work permits?
- Is there sufficient joined-up thinking between government polices on migration and the informal economy and the targets that HMRC and Immigration Service staff have to work to?

The consultation process would be enhanced through arranging a number of expert seminars to discuss the proposals. There is also a need to secure the views of migrant workers through an appropriate research survey, otherwise they will be left out of the consultation process.