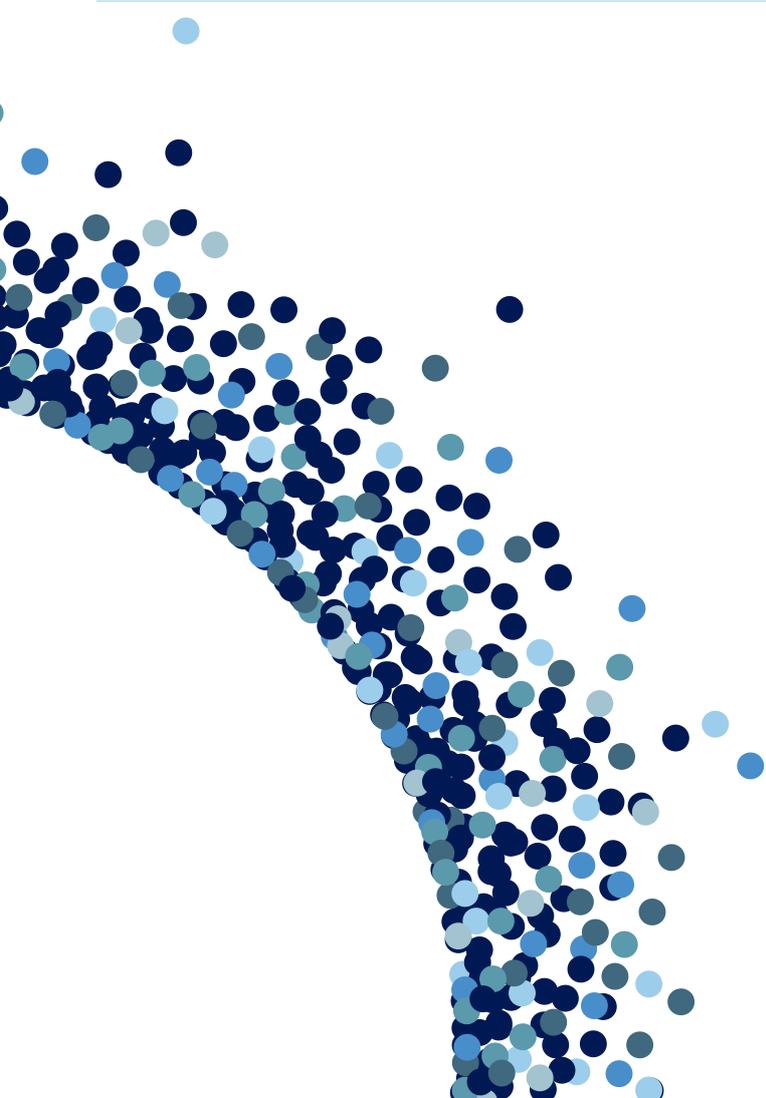




COMMENTARY

Unsettling? Challenges with Using Changes in Settlement Policy to Reduce Net Migration



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The government is soon expected to begin a public consultation process looking at settlement policy, which defines who can or cannot be granted “indefinite leave to remain” – the right to stay permanently in the UK.

It is a key element in the government’s ongoing review and reform of immigration policy because net migration is dependent on the balance between inflows of migrants (immigration) and outflows (emigration). So, reducing net migration to the “tens of thousands” by the end of the current parliament – a key Conservative election promise – is likely to be dependent not only on reducing the number of migrants entering the UK, but also on boosting the number of people who leave.

The Prime Minister has explicitly stated that he wants to break the link between temporary immigration and settlement (David Cameron, 14 April 2011). Under current rules, non-EEA nationals living in the UK on a temporary visa (such as migrants entering and working in the UK under Tiers 1 and 2 of the points based system) acquire the right to permanent residence (“settlement”) after 5 years of residence in the UK.

Looking at the numbers, it is not surprising that the government is taking settlement seriously. Settlement grants increased more than four-fold since the mid 1990s from 58,725 in 1997 to 237,890 in 2010.

>> Read the Migration Observatory briefing on [“Settlement in the UK”](#)

The vast majority of settlement grants to non-EEA migrants over the past decade have been to migrants who entered the UK as family members of British citizens or settled migrants, or as dependents of temporary migrants (between 64 per cent and 71 per cent every year in the 2000s – except 2005 and 2010 because of policy changes to the asylum system).

In line with the increase in non-EEA labour immigration, the last decade has also seen a growing proportion of labour migrants among those granted settlement, increasing from 7 per cent (8,870) of grants in 2000 to 16 per cent (37,470) in 2010. (These figures do not include labour migrants’ dependent family members.)

Asylum has fallen to 1 per cent of grants (3,165, excluding dependent family members) in 2010 from a peak more than ten times higher in 2005, but this decline has been temporarily offset by the enormous increase in the number of people falling into the “other discretionary” category, which in 2005 represented only 4 per cent of total settlement grants (6,400 people, including dependent family members), but in 2010 represented 35 per cent (82,710) of settlement grants. This growth comes from a government program to clear a backlog of asylum cases, begun in 2006 and scheduled to be completed this year.

So, what are the main options and challenges for reforming settlement policy, and what can we say about the likely impacts on net migration?

There are two basic options for the government, which are not mutually exclusive. These are:

- Introduce a “hard end” to temporary visas: This would make immigration, or certain immigration routes, strictly temporary, meaning that there is no chance of settlement when the work permit expires – potentially allowing reapplications from abroad.
- Introduce “selective transfer to permanent residence”: Again, this would make the requirement to leave the default, but allow some people to settle if they meet certain criteria that go beyond the current requirement of five years of residence.

Both types of policies face significant challenges. Introducing a “hard end” to temporary visas raises difficulties in ensuring that people return home after their work permit expires. Two contrasting examples of these schemes in the UK are:

- The Seasonal Agricultural Workers Scheme (SAWS) – which is currently restricted to Romanians and Bulgarians but used to target non-EEA nationals – had a high return rate, but primarily because it was a strictly seasonal programme that required non-EEA migrants to be students in their home countries.
- The Sector-Based Scheme (SBS) for bringing low-skilled non-EEA migrants to work in hospitality and food processing for one year was introduced in 2003 but was closed to non-EEA nationals in 2006 partly because of concerns of overstaying and other types of abuse.

Achieving high rates of return under temporary migration programmes is not impossible but it does require careful consideration of the incentives that migrants and their employers have to comply with the rules. The failures of past temporary migration programmes is the subject of much academic and policy literature, but there are few examples of best practices.

>> Read Martin Ruhs’ [paper on temporary migration programmes](#)

The second option, introducing criteria that select some migrants on temporary visas for settlement, also has significant challenges attached, primarily, how do you best identify the criteria for selection? This question will presumably be explored in the public consultation, but one option would be a points-based system for regulating the transfer from temporary to permanent residence, considering economic and social criteria.

Another consideration in changing settlement policy is its impact on integration and social cohesion. There can be tensions between making immigration more temporary and certain integration objectives – if migrants know that their stays are strictly limited, it may impact on their behavior in and beyond the labour market by, for example, reducing their incentives to build long-term relationships and bonds with local communities or to improve their English language skills.

>> Read the Migration Observatory policy primers on [“Citizenship”](#) and [“Integration”](#)

Also, simply in terms of numbers, when changes to Britain’s settlement policy begin to increase outflows they will create pressure to increase inflows, as, for example, businesses that lose non-EEA workers because their work permits have expired may want to bring in a new worker.

So, will changes to settlement policy – whatever form they may take – make a significant contribution to the government’s objective of reducing overall net migration to the “tens of thousands” by the end of this parliament?

The answer critically depends on whether changes will affect only newcomers or also apply to current non-EEA migrants residing on temporary visas in the UK. Applying policy changes to migrants already in the UK is likely to lead to legal challenges, as demonstrated by the Labour government’s efforts to introduce retrospective changes to the settlement route offered under the Highly Skilled Migrant Programme (HSMP). These changes, which would have made it more difficult for HSMP migrants to settle, were overturned by the High Court in 2009.

All of this puts the government in a challenging position. If the policy changes only affect newcomers their effects on outflows and, by extension, net migration will only be felt in five years’ time – after the end of this parliament. This means that achieving the government’s objective before the end of this parliament will have to rely primarily on impacts from other policy changes.



The Migration Observatory

Based at the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford, the Migration Observatory provides independent, authoritative, evidence-based analysis of data on migration and migrants in the UK, to inform media, public and policy debates, and to generate high quality research on international migration and public policy issues. The Observatory's analysis involves experts from a wide range of disciplines and departments at the University of Oxford.



COMPAS

The Migration Observatory is based at the ESRC Centre on Migration, Policy and Society (COMPAS) at the University of Oxford. The mission of COMPAS is to conduct high quality research in order to develop theory and knowledge, inform policy-making and public debate, and engage users of research within the field of migration.

www.compas.ox.ac.uk

Press contact

Rob McNeil

Senior Media Analyst

robert.mcneil@compas.ox.ac.uk

+ 44 (0)1865 274568

+ 44 (0)7500 970081

