

Briefing



Migration Advisory Committee report on EEA migration

November 2018

Executive summary

1. The Migration Advisory Committee (MAC) is an independent body of labour market economists and analysts that advise the government on migration policy.
2. The TUC has engaged closely with the MAC and facilitated union engagement since its inception in 2007.
3. In July 2017, the Home Secretary commissioned the MAC to research EEA migrants in the labour market. In September the MAC published its final report. The report echoed a number of points that were raised by the TUC and unions in evidence submitted to their inquiry, including that:
 - There is no evidence migration has caused real wages to fall
 - EEA migrants pay significantly more in taxes than they receive in benefits
 - Undercutting is fuelled by lack of regulation and low collective bargaining coverage
4. The report recommendations endorsed several TUC policies on migration, in particular calling for:
 - The cap for non-EU skilled workers (Tier 2 in the government Points Based System) to be abolished
 - Pay to be increased in the care sector to address labour shortages
 - The government to look into mechanisms to increase pay in the agriculture sector to address labour shortages
 - No regional variations in the immigration policy
3. However the TUC has concerns about other elements of the report, notably the fact it:
 - Doesn't engage with the context of Brexit negotiations
 - Advocates a more restrictive migration policy that prioritises 'high skill' migration that could increase risk of workers in 'low skill' jobs becoming undocumented and exploited
 - Fails to recommend measures to prevent exploitation of migrant workers
 - Calls for salary thresholds for all migrants in Tier 2. This would make it more difficult to fill roles that are currently facing shortages
 - Calls for retention of the Immigration Skills Charge. While we believe there should be more employer investment in skills, having a special levy on recruitment of migrants risks increasing the general stigma around migration.
4. The TUC will continue to engage with the MAC and government to address concerns about the report and press for a migration policy that promotes equal treatment and rights for all workers, combined with significantly increased investment in skills training and public services.

Background

1. In July 2017, the Home Secretary commissioned the MAC to research EEA migrants in the labour market.
2. The TUC submitted written evidence to the consultation in October 2017.¹
3. The TUC organised a session for unions to give oral evidence to Steve Earl, head of policy at the MAC, at Congress House in March.
4. In September the MAC published its final report.² The report makes a number of direct quotations from the TUC's evidence to support their analysis such as:

"For too long, bad employers have been able to use migrants, as well as UK workers on precarious contracts, to drive down pay and conditions in certain sectors. Free movement in the single market only functions properly when there is a level playing field in the labour market."

[...]

"Significant numbers of EEA migrants are employed in the sectors that make the most use of zero hours contracts, namely accommodation/food and health and social care. Those on zero hours contracts often miss out on key employment rights, including family friendly rights, redundancy pay and sick pay as they are classified in law as 'workers' rather than 'employees'. Workers on zero hours contracts are also likely to be lower paid: the median hourly rate for zero hours workers is £7.25 whereas it is £11.23 for permanent workers."

[...]

"The TUC is concerned that employers and government have cut funding for skills and are using migration too often as a substitute for long-term investment in training."

5. The report also draws on TUC and other unions' commentary stating: 'the TUC, Usdaw and UNISON said that gaps in the law on employment rights, combined with weak enforcement of employment rules and low collective bargaining coverage, had meant significant numbers of workers were at risk of exploitation and that UK workers employed on insecure contracts were also at risk. Prospect told us that offshoring of work to non-EEA nationals in IT and telecoms had had some impact both at entry level and in reducing opportunities for progression.'

² <https://www.gov.uk/government/publications/migration-advisory-committee-mac-report-eea-migration>

Points that support TUC's position on migration³

6. Evidence to support a progressive narrative on migration

The TUC believes the UK needs a migration system based on decent treatment and fair pay for all workers. The TUC is opposed to the scapegoating of migrants for social and labour market problems caused by bad employers and austerity.

It is welcome that the MAC report highlights that there is little reliable data about the impact of migration on wages. It indicates that the fall in real wages post-2008 is due mainly to the impact of the financial crisis rather than the increase of migration from A8 countries. The report also states EEA migrants pay £4.7 billion more in taxes than they receive in benefits.

7. No cap on skilled non-EU workers (Tier 2)

8. It is welcome that the MAC report calls for an abolition of the annual limit the government has imposed since 2012 on the number of non-EU skilled workers that can enter the country via the Tier 2 visa route of the Points Based System. The TUC has been calling for the abolition of the cap as it has increased shortages in occupations such as nursing and teaching. Furthermore, by suggesting migration is a problem that should be limited across the board through arbitrary caps, the policy has fuelled xenophobic sentiments that scapegoat migrants for social and economic problems. Limiting the number of workers able to enter the country to take up skilled jobs will not address concerns about migration. The TUC has made clear these concerns can only be addressed by government and employers working with unions to ensure all workers are on stable contracts with decent pay, and providing skills workers need to progress.⁴

9. Calls to address low pay in care and agriculture

In the TUC's evidence to the MAC inquiry, we highlighted a need to address low pay and precarious conditions in sectors such as agriculture, care, distribution and hospitality. The TUC, therefore, welcomes the focus of the MAC report on the need to address low pay to address labour shortages, in particular calling for an increase in wages in the social care sector.

The report also acknowledges that there is a need for action on low pay in the agriculture sector, stating that any seasonal agriculture workers scheme should be dependent on the introduction of a higher 'agricultural minimum wage' to 'ensure upward pressure on wages' and to 'encourage increases in productivity.'

The TUC believes it is crucial for any wage setting machinery to involve unions as well as employers. The TUC's evidence to the MAC outlined that the Agriculture Wages Board, which involved government, employers and unions coming together to agree minimum

³ See 'Action needed to ensure a fair migration policy and support industrial strategy', *TUC submission to MAC inquiry into EEA migrants in the labour market*, pp.13- 15
<https://www.tuc.org.uk/sites/default/files/TUC%20submission%20to%20MAC%20EEA%20consultation%20final%20formatted.pdf>

⁴ TUC (2016), *Managing migration better for Britain*,
<https://www.tuc.org.uk/sites/default/files/ManagingmigrationbetterforBritain.pdf>

standards and pay in the agriculture sector, played an important role regulating wages and conditions in the sector. When the Agriculture Wages Board was abolished in 2011, wages and conditions in agriculture deteriorated significantly. The TUC believes modern wages councils should be reinstated in key sectors of the economy, as well as government and employers supporting the extension of sector-wide collective bargaining, to ensure fair pay and decent conditions.

10. No regional variations for the immigration system

The TUC has expressed concern about an immigration system that links immigration status to one geographical locality as migrant workers would risk losing their legal status and rights if they travelled to another part of the country. The TUC is also concerned that a regional immigration system might link some areas to lower pay requirements that could depress pay across the country.

Issues to address

11. While the report suggests a number of elements that would support a trade union approach to migration that promotes decent conditions for all and enables workers to enter the country to fill skills gaps, the TUC has concerns about the following elements of the report that would undermine a rights-based approach to migration. The TUC has welcomed the MAC's close engagement with unions and looks forward to future dialogue to address these concerns.

12. Context of Brexit negotiations

The report makes the 'assumption that UK immigration policy is not included in an agreement with EU'. However, this will clearly not be the case. The TUC is therefore concerned the report fails to engage with the context in which the UK's future migration policy will be formulated. The TUC believes it is of paramount importance that the UK agrees a deal with the EU that protects jobs and rights - with membership of the single market and customs union currently the best option to achieve this, although we would be open to other options.

13. Risks increasing discrimination against low paid workers

The TUC is concerned that the report's recommendation that the UK should have an immigration system that is more restrictive for 'low skill' migration and extends temporary visa schemes will increase the chances of workers becoming undocumented and subject to exploitation. The report recommends that low skill roles are filled in the future by extending the Tier 5 Youth Mobility Scheme.

Previous experiences of 'tied' visa schemes, such as the Seasonal Agricultural Workers scheme that was run for A2 workers between 2007 - 2011, has shown that restricting the legal means by which migrant workers are employed increases the chance of exploitation and the risk that workers become undocumented. This is due to the fact workers on 'seasonal' temporary visas are likely to lose their immigration status if they leave abusive employers.

As workers without legal status in the UK have no legal right to protections at work, they are even more likely to face exploitation.

14. No recommendations on labour market enforcement

In its 2014 report on *Migrants in low skill work*⁵, the MAC noted a need to strengthen the enforcement of the labour market rules and extend collective bargaining and union representation as a means to prevent undercutting and abuse. It is regrettable, therefore, that in this report the MAC makes no recommendations about the need to strengthen enforcement of the labour market or extend collective bargaining, as this is essential to ensuring that bad employers can't use migrant workers to undercut other groups or exploit migrant workers.

15. Calls for salary thresholds for all migrants in Tier 2

Unions have expressed concern that the salary threshold requirement for non-EU migrants to be paid a minimum of £30,000 - or £20,800 for new entrants – will it harder to recruit workers for roles facing shortages that are subject to public sector pay restraint such as scientific researchers and teachers. The TUC is calling for this threshold to be removed in order to address short term shortages, however, we have made clear that in the medium and long term the government must increase pay for public sector to fill positions facing shortages.

16. Calls for retention of the Immigration Skills Charge

The TUC is opposed to the Immigration Skills Charge as we believe it risks increasing the stigma around migration by appearing to penalise the recruitment of migrants. The TUC believes that there should be increased and strategic funding for skills and training in the round. The TUC has consistently called on government to balance the increased investment in apprenticeships with more funding for FE and adult skills and new policy measures to empower more workers to upskill or retrain. The TUC has called on the government to:

- increase investment in workforce training to the EU average within the next five years
- introduce a right to a mid-life career review and face to face guidance on training
- introduce a new lifelong learning account

17. Calls for government to consider abolition of the Resident Labour Market Test

The TUC supports the Resident Labour Market Test (except for shortage occupations) as it means employers have to demonstrate they genuinely can't recruit from the domestic labour market before employing non-EU migrants. The TUC believes this test is one way to disincentivise employers from recruiting from outside the EU rather than investing in skills training or improving job quality and pay - although clearly it must be combined with requirements for employers and government around skills, decent conditions at work and fair pay.

⁵ https://www.tuc.org.uk/research-analysis/reports/tuc-submission-migration-advisory-committee-review-tier-2-migration#_ftn4