

Short-sighted, undemocratic, and not evidence-based: the new points-based system's hostile approach towards Europeans

*The proposed post-Brexit immigration system will likely produce an inefficient and unstable economy, facilitate worker exploitation, push some migrants into undocumented status, and lead to a decline in the UK's standing as a global player and a defender of human rights. In this blog, **Dr Dagmar Myslinska** (Goldsmiths) presents a summary of key findings from her recent policy brief '[EU Immigrants in the UK: Their Future under the Points-Based System](#)'.*

Now before the House of Lords, [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Bill](#) ends EU nationals' freedom of movement while providing little clarity about new immigration policies or certainty to the immigrant community. Instead, the Bill gives the Home Office the responsibility to flesh out policies to apply after the Brexit transition period ends in December. As [first detailed in February](#) and further explained by the Home Office in July, the [new points-based immigration system](#) ('PBS') will apply to all immigrants, including EU citizens who lack settled or pre-settled status.

Under the proposed PBS, almost all immigrants will be required to have a job offer from an 'approved employer', at an 'appropriate skill level' ([Regulated Qualifications Framework level 3](#), such as A-level), and will have to satisfy English-language test. Furthermore, they will need to accumulate additional points by fulfilling non-mandatory criteria, such as earning at least £25,600, having a PhD relevant to the employment offer, or a job offer in a shortage occupation (to be devised, taking into account [recent recommendations by the Migration Advisory Committee](#)). A fast-track entry system will be implemented for some healthcare professionals, although most care workers will not be covered by it. There will be no numerical cap on 'skilled' workers, innovators, or exceptional talent. None of such workers will qualify for public funds, although they will be able to bring dependants here. All except certain healthcare workers will also be required to pay the [health surcharge fees](#). Furthermore, a temporary capped route for seasonal agricultural workers is being considered, and the Youth Mobility Scheme might be expanded. Visitors will be able to enter the UK for up to six months.



Points-based system

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Despite the Conservative Party's ongoing promises to reduce immigration, the new framework imposes no numerical cap and no resident labour-market test (under which employers have to show that there is no suitably qualified British candidate for the role) on 'skilled' labour. Moreover, sponsoring migrants will become easier for employers than it has been. Of course, given the fact that the [British economy is likely to suffer](#) more severely from the COVID-19 crisis than any other economy in the developed world, it is uncertain how likely the UK will be able to attract skilled workers. What is clear, however, is that immigrants will now be especially likely to displace British workers from 'high-skill' and high-paid jobs, likely prompting a backlash against immigration.

Furthermore, due to minimum income thresholds, the new PBS framework will likely produce labour shortages in several sectors, including those recognised as essential during the COVID-19 crisis (i.e., [social care, farming, and food processing](#)). Many of such 'low-skilled' positions are unappealing to British workers due to low pay, demanding work, and poor career prospects. Moreover, despite being low-paid, many such jobs require skills for which few domestic workers have been trained. The impact on some businesses, especially small and medium-sized ones (that do not have the resources to appeal to non-EU workers or to comply with sponsorship requirements), will be catastrophic. The anticipated labour shortages are likely to increase consumer costs or even prompt some British businesses to outsource their operations abroad or be forced to close, especially given the fallout from the COVID-19 crisis.

What also appears to have escaped the government's attention is that the new system might increase worker exploitation. Restricting lawful migration tends to [increase worker vulnerability](#). Furthermore, the referendum had already caused legal uncertainties and a resultant [increase in EU workers' exploitation](#). Under the new system, employers who had invested in sponsoring workers are incentivised to exert pressure on such workers to remain in their employment or may seek to recover sponsorship costs. Also, if an employer fails to correctly comply with the onerous sponsorship requirements, sponsored workers risk becoming 'irregular', further increasing their vulnerability.

Intended to end free movement, the new framework will indeed substantially reduce EU immigration. Both [historically](#) and [recently](#), non-EU immigration has been higher than EU mobility, and the proposed framework will exacerbate these trends. The EU referendum has already changed the mobility patterns of EU citizens to the UK, with EU net migration having [fallen substantially](#), especially due to a net loss of those from Central and Eastern Europe (CEE).

EU Settlement Scheme

To secure their right to live and work here, EU nationals already in the UK are required to apply for the EU Settlement Scheme by June 2021. Although no accurate estimates exist of how many EU nationals currently present in the UK are eligible for the Scheme, as of now, more than [3.9 m applications](#) have been made. More than 2 m have been granted settled status. Moreover, 1.5 m have received pre-settled status. Even if a small percentage of EU citizens in the UK fail to register before the deadline, however, this will translate into thousands becoming irregular migrants, including [groups especially vulnerable](#), such as children in the [care system](#) and the [Roma community](#).

Pre-settled status offers few and limited rights. Although it allows EU nationals to continue to live and work here for five years, it requires applying for settled status before pre-settled status expires. It does not constitute 'right to reside' for the purposes of welfare benefits. It will be revoked due to absence from the UK for two consecutive years. And the 'continuous residence' period required to change to settled status cannot be met if more than 6 months are spent overseas in any 12-month period.

Settled status entitles EU nationals to the same rights to live, work, and access healthcare and public funds as UK citizens, but it is less secure than the government had promised. Under proposed policies, after the end of the transition period, even settled EU nationals '[must be considered for deportation](#)' if they are sentenced to at least 1 year of imprisonment for conduct committed after 1 January 2021. More generally, they may be considered for deportation if it is conducive to the public good. Thus, EU migrants will now be swept under the UK's overarching hostile environment policy towards immigration, despite [repeated Government promises](#) that settled EU nationals would have the same rights as British nationals. All such concerns appear especially worrisome given that neither the settled nor pre-settled status includes physical documentation. This has already made it difficult for some EU nationals to [prove their entitlement to enter and access basic rights like housing](#) in the UK.

When it comes to EU nationals arriving after December or those who will not obtain settled or pre-settled status, the new PBS is [predicted to reduce to zero](#) arrivals of workers seeking employment in low-skill occupations (such as process, plant and machine operatives) and in elementary occupations, while inflows of EU workers into caring and leisure services are likely to be cut by 90%, and into skilled trades occupations by approximately 50%. Many sectors designated as filled with 'key workers' during the COVID-19 crisis are likely to be significantly impacted – with an anticipated reduction of almost half in EU medical services workers, 70% of EU social workers, 80% of EU care workers, and more than 90% of EU warehouse and transportation staff. As EU students will no longer be entitled to home-fee status or student loans, their enrolment is [anticipated to fall by 20%](#). Such predictions are based on PBS eligibility criteria alone. These reductions are likely to be even more severe in practice given how unappealing the UK will become.

CEE nationals have been greatly impacted by COVID-induced job losses, especially [high among those precariously employed](#), as [many CEE nationals](#) have been. Despite having been the greatest net [contributors to the British public purse](#) among all immigrant groups (and significantly greater net contributors than native British workers), they are also especially likely to be negatively impacted by the PBS. Since the current PBS framework provides no route for short-term 'low- skill' or low-paid workers, it might divert CEE workers into low-skill jobs via other migrant routes – especially the Youth Mobility Scheme or as family members joining EU immigrants. Perhaps it will even push some into unlawful temporary employment (while on six- month tourist visas). After all, harder borders do not stop people from entering, but instead, push them into undocumented status and into exploitative labour and living arrangements.

Conclusion

In its current incarnation, the system is not as it has been advertised. It does not consider the interests of workers, consumers or businesses. Moreover, it does not appear particularly 'fair' or 'modern', as [the Queen had hoped](#) for in 2019. It is also not conducive to the '[Global Britain](#)' strategy. Although the new PBS will likely reduce labour gaps for 'highly' skilled positions, it will create a new gap for 'low' skilled employment, resulting in an inefficient economy. What is also clear is that the PBS will significantly decrease EU migration, especially of CEE workers – the same workers who have been used as scapegoats by successive Governments for various failures of domestic policies and who had been especially demonised in the xenophobic run-up to the Brexit referendum.

Ultimately, the government should take advantage of the Brexit-prompted policy overhaul as an opportunity to improve the UK's immigration system, and to create an environment for more responsible, transparent, and evidence-based public debates. Priti Patel's and the Conservatives' approach thus far, however, is on track to diminish the UK's role as a global leader and to move further away from the (fading) vision of this country as a defender of human rights.

This article gives the views of the author, and not the position of LSE Brexit, nor of the London School of Economics. Image: CC-BY-SA-4.0 Photographer: Gary Waters, Ikon Images