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**Attracting the best talent in the context of migration policy changes:  
the case of the UK**

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## **Abstract**

Employment projections and skills strategies emphasise the importance of (highly)-skilled labour for competitiveness. A strategic focus on ‘attracting the best talent’ globally may conflict with policies to ‘grow local talent’. This issue is considered in the UK context of a shift from a liberal immigration regime to a demand-led system characterised by increasing restriction, through adjustments to a points-based system to manage labour migration from outside the European Economic Area (EEA). The specific focus is on an annual limit on non-EEA labour migrants introduced in 2011 and tightening of eligibility criteria for entry of (highly)-skilled migrants, amid business’ concerns that this might stifle economic growth. Drawing on twenty employer case studies and literature on skills and migration policy, the article investigates the costs and implications for business in adhering and seeking to adapt to migration policy changes. Such changes pose administrative burdens on employers and limit business flexibility but associated monetary costs to businesses are difficult to quantify. Adaptation strategies and the impact of migration rule changes vary: some firms experience limited impact, some adjust their recruitment behaviour and some feel their underlying business rationale is threatened. Developing local talent is a partial long-term solution.

## **Key words**

Employer Migration Policy Skills Talent

## Introduction

Immigration of highly skilled individuals has been recognised “almost unequivocally ... as necessary to create a perpetual cycle of growth” (Millar and Salt 2007: 41). International organisations, such as the Organisation for Economic Co-operation and Development (OECD), highlight the importance of highly skilled individuals, and their movement, for economic competitiveness globally and nationally (OECD 2001, 2008, 2014a; Boucher and Cerna 2014). Likewise studies on national and sub-national economic development, medium-term employment projections (Wilson et al. 2014) and skills strategies emphasise the importance of (highly) skilled labour in fostering economic growth (OECD 2012). Hence, in many countries and local economies there is a strategic focus on ‘attracting the best talent’ to address skills shortages (OECD 2008; Nijenhuis and Leung 2014; Föbker et al. 2014; Bailey and Mulder 2017; Grigoleit-Richter 2017).

While most countries in the Global North seek immigration of some of the highly skilled<sup>i</sup> and specific categories of skilled labour<sup>ii</sup>, their degree of openness to such migrants varies (McLaughlin and Salt, 2002), as does the direction of change in policy. Findlay and Cranston (2015) note that modern nation states find themselves challenged to continually re-design international migration policies and to categorise migrants according to their desirability (from an economic perspective). Based on the position in 2007, Cerna (2014a) constructed an index on high-skilled migration policy openness and found that out of twenty countries with different migration histories and experiences, Sweden and Austria ranked as the most restrictive countries, and the Netherlands, Ireland and the UK as the most open countries. However, drawing on more detailed analysis of four countries (France, Germany, Sweden and the UK), Cerna (2014b) identified important trends in high-skilled migration policy, with a more restrictive country (Sweden) moving in the direction of liberalisation, and a more open country (the UK) moving in the direction of more restriction (Migration Advisory Committee, 2015). It is also worthy of note here that relative to the other European countries mentioned above the UK has a relatively open labour market (in terms of lack of regulation and ease of access to new arrivals). Together with the status of English as a global language (as discussed in Föbker and Imani [2017]), this has helped foster the UK’s reputation as a relatively attractive destination for international migrants (of all skills levels) and their partners (as highlighted in Kōu et al. [2017]) to enter the labour market and integrate into

society by comparison with various alternative destinations (as Föbker and Imani's [2017] comparison of the experience of partners in the UK and Germany illustrates).

Alongside the policy emphasis on 'attracting the best talent' through fostering international mobility of high-skilled and skilled workers, national and local skills strategies also place an important emphasis on 'growing local talent' (i.e. ensuring that national and local economies develop and utilise the skills of the indigenous population) (OECD, 2014b; Green, 2012). The migration economics literature tends to view migrants as complementary to indigenous workers (so raising their productivity) when the skill mix between migrant and indigenous workers is different. This is generally the case for (highly) skilled workers, who tend, on average to have higher skill levels than indigenous workers. There are concerns though that in some instances where migrant workers are used as substitutes for indigenous workers the latter group will be negatively impacted by migration (Migration Advisory Committee, 2015). Especially in a context of higher unemployment and austerity following the 2008/9 global financial and economic crisis the question arises of a possible conflict between attracting the best talent through international migration and encouraging the development and utilisation of local talent, and the implications for employers.

This article considers this question in the context of UK, where there has been a shift from a liberal regime of relatively unrestricted access to a system characterised by increasing restriction for international migrants from outside the European Economic Area (EEA). The specific focus is on an annual limit on non-EEA economic migrants introduced in 2011 and tightening of eligibility criteria for entry of (highly) skilled migrants, in the face of concerns from businesses that this might stifle economic growth. The UK Government's response has been that businesses should seek to fill vacancies from the resident labour force and invest in the development of 'local talent' before looking for skills from outside the UK. Drawing on 20 employer case studies and the broader literature on economic, skills and migration policy – especially from an employer perspective, the article investigates the costs to, and implications for, business in adhering and adapting to migration policy changes. It highlights the rationale for recruitment of (highly) skilled non-EEA migrants and the possibilities for substituting UK/EEA workers, and considers the implications of a more restrictive migration policy for the attractiveness of the UK to the 'best talent' and for the changing location of business activities. As such, the article makes a contribution to the literature on skilled international migration from a destination country perspective. It focuses on institutional and

economic issues, rather than concentrating on the integration of specific groups of highly skilled migrants per se at national and local levels and how this might be eased, so a rather different destination country perspective to that provided by Grigoleit-Richter (2017). It fills a specific gap in the literature on business costs involved in adhering to, and explores how employers seek to cope with, changes culminating in a more restrictive institutional and restrictive migration policy framework, while maintaining competitiveness. It also contributes to the literature on economic development and skills strategies by considering the extent to which local skills can be developed to substitute for immigration of skilled labour. These issues have risen up the political and public policy agenda in the UK in the light of Brexit<sup>iii</sup> and are of wider international relevance given increases in populist sentiment elsewhere in the Global North.

In adopting an employer perspective, the article connects with employer-oriented migration research, and so provides a counterpoint to familial and social network perspectives of other articles in this special issue. As noted by Scott (2013), until recently the employer perspective has largely been missing from migration research and labour geography, even though employers play a crucial role in shaping demand for immigration. He calls for this oversight to be addressed, given the importance of demand-based explanations for contemporary migration. He has set out a research agenda on migration and the employer perspective, but has been guided largely by issues emerging from study the low-skilled food sector. Some aspects of the research themes he identifies are relevant here – notably the insights that employers can give into sectoral and geographical specificities and, to a lesser extent, the use of intermediaries to support recruitment of different migration channels (albeit in the case of highly skilled labour the intermediaries' role may be to offer legal/other specialist advice, rather than to supply labour on a day-to-day or week-by-week basis). To some extent the research presented in this article speaks to work on migration and the 'good worker', in that it addresses how employers have used migrants to reproduce 'good workers' (providing the skills that they need) and illuminates the viability of solutions other than immigration. Other themes highlighted by Scott (2013) – relating to labour standards and upward mobility of workers – are of greater relevance to low-skilled sectors than the cases considered here, but the importance of regulations in shaping employer behaviour is a central consideration. Hence, this article adds to the employer-oriented migration agenda from a (highly-)skilled perspective.

Following this introduction, the paper is divided into five sections. The first section considers the UK policy context, with specific emphasis on the Points Based System (PBS) used to determine eligibility of international migrants from outside the EEA to work in the UK. Secondly, the methodology adopted for employer case studies is outlined. The third and fourth sections present findings from the employer case studies. The third section focuses on employer frustrations at growing immigration policy bureaucracy and the associated costs that they incur. The fourth section investigates employers' initial and short-term responses to immigration rule changes, especially in relation to recruitment and training, in the context of the rationale for traditionally recruiting skilled labour from outside the EEA, together with possible longer-term adaptations. Conclusions are presented in the fifth section.

## **Context**

The UK has a long history of immigration. Net migration to the UK rose from 44,000 in 1991 to 336,000 for the year ending June 2015. International Passenger Survey data show that in that year 279,000 migrants came to the UK for work-related reasons out of a total of 580,000 migrants. Migrants from the European Union (EU), have accounted for most of the increase in work-related immigration since 2007. In the year ending June 2015 work-related migrants from outside the EU accounted for 67,000 out of 279,000 work-related immigrants (Migration Advisory Committee 2015). However, although such labour migrants from outside the UK account for a minority of the total, they make a significant contribution to productivity and output in the UK by addressing skill shortages, and thus are worthy of attention.

The immigration regime in the UK is a hybrid one: it has supply-led elements (i.e. in which migrants gain access to the labour market, as opposed to a specific job, based on criteria set by government) but is predominantly demand-led (i.e. employers select migrant workers to fill specific vacancies). Historically a demand-led Work Permit system managed flows of third-country workers (Salt et al. 2011). Work permits were issued to employers on behalf of nominated foreign workers who were permitted to take up employment in the UK to fill shortages in the labour market (i.e. to meet labour market needs) for a temporary period. In practice, for a sizeable minority the temporary work route of entry converted into a long-term stay (Achato et al. 2010). This demand-led scheme was supplemented subsequently by supply-led schemes.

In 2008 a hybrid PBS was introduced to manage inflows of third country economic and student migrants from outside the EEA; (with the principle of free movement applying to EEA migrants). The PBS simplified and consolidated previously separate migration routes into five tiers (Table 1). Under the PBS migrants must pass a points assessment before they can get permission to enter or remain in the UK. Each of the PBS's five tiers has different points requirements: the number of points the migrant needs and the way the points are awarded depends on the tier. Points are awarded to reflect the migrant's qualifications, skills and experience, English language ability and age; and, in the case of Tier 2 (the UK's main work-related immigration route for non-EEA migrants), the level of labour market need in the UK. A particular subset of skilled and highly-skilled migration is of specific interest here and Table 2 provides details of Tiers 1 and 2 of the PBS in September 2012 (immediately prior to the commencement of the primary case study research with employers undertaken in late 2012 which is reported in subsequent sections).

< Table 1 >

< Table 2 >

The PBS is the key tool in making managed migration policy work for the UK (Home Office, 2006). The number of points in the PBS can be adjusted to labour market conditions and to broader strategic migration objectives (Salt et al. 2011). An independent Migration Advisory Committee (MAC), comprising economists and migration experts, undertakes dialogue with employers, employers' organisations and other stakeholders, to assess when and where immigration from outside the EEA might sensibly fill shortages of skilled labour in the UK economy (as discussed below), and makes recommendations to the UK government accordingly.

Since the introduction of the PBS, adjustments have been made to entry criteria on several different occasions and quantitative restrictions have been placed on entry - both with the stated aim of reducing levels of non-EEA labour immigration. The particular migration policy changes which are the focus of attention in this article are: first, an annual limit of 20,700 on the number of Certificates of Sponsorship (CoS) issued to out-of-country main applicants (i.e. non-EEA economic migrants from outside the UK) entering the UK under



Tier 2 (General) introduced in 2011, and second, the closing of Tier 1 (General) at the end of 2010. This latter change meant that all (highly) skilled workers effectively come under Tier 2 (General). The first change represents a numerical limit on a demand-led route, while the second change denotes closure of a particular supply-led route. To put the 20,700 annual limit in perspective, in 2009 together under Tier 1 (General) and Tier 2 (General), approximately 28,000 employment-based visas were issued in 2009.

These specific changes were not the only migration policy changes that employers had to deal with; other changes in the direction of a more restrictive migration policy included changing and reducing the number of occupations classified as ‘shortage occupations’ (discussed further below), raising required skills and pay levels and enhanced English language requirements to enhance selectivity of migrants. Other elements of Tier 1 and Tier 2 remained unrestricted; for instance at the time of writing there is no annual limit on the number of CoSs that can be issued under the Intra-Company Transfer (ICT) route that allows multinational companies to transfer key personnel from their overseas branches to the UK for temporary periods rather than to fill permanent UK vacancies. Nor are there restrictions on the highest earners, or on applications by migrants who are applying from within the UK.

To make sense of the findings reported in subsequent sections, it is necessary to understand how PBS Tier 2 (General) works in practice. Tier 2 (General) is designed to fill gaps in the labour force which cannot be filled by a settled worker. The MAC makes recommendations for occupations and job titles to be included on the Shortage Occupation List (SOL), taking into consideration first, whether such occupations and job titles are sufficiently ‘skilled’ to be included on the list; secondly, whether there is a ‘shortage’ of labour; and thirdly, whether it is ‘sensible’ for immigrant labour from outside the EEA to fill the skill shortage (Migration Advisory Committee 2013). To employ a skilled migrant worker under Tier 2 (General) to an occupation not on the SOL, the employer has to apply a resident labour market test (RLMT) in order to ascertain whether a UK or other EEA worker is available before a third country national is employed. The RLMT involves advertising vacancies (in accordance with Government prescribed methods) to settled workers for 28 days before a skilled migrant worker can be recruited under Tier 2 (General).

To qualify to work in the UK under Tier 2 (General) a migrant must have a job offer from an employer who is a licensed sponsor, a valid Certificate of Sponsorship (COS) and pass a

points-based assessment. The onus is on the employer to check that the job in question meets the requirements on skill level and the rate of pay (detailed on a UK government website). Assuming these conditions are met, the employer then issues a COS to the migrant in order that they can apply for permission to enter the UK if they are overseas (or permission to stay if they are already in the UK). These actions are performed via the Sponsorship Management System (SMS).

Hence employers have responsibility for selection of migrant workers and for ensuring compliance with migration and employment law. For Tier 2 (General) employers must obtain a sponsor licence, check the job in question meets qualification and pay levels, issue a certificate of sponsorship, if not on SOL apply the RLMT, and check that the migrant is legally entitled to do job; thus emphasising the importance of state regulations in shaping employer behaviour and migration streams of skilled migrants from outside the EEA.

## **Methodology**

The primary research drawn on in the following sections involved in-depth interviews with 20 case study employers. The sample of employers for the study comprised those in the private sector and research foundations who have historically recruited non-EEA migrants through Tier 2 and so who were impacted by the specific change in rules outlined in the previous section relating to non-EEA migrants working in the UK. This was due to either having their CoS allowance cut significantly in relative terms and/or because of having a significantly high CoS allowance which was likely to be impacted by future reductions/changes. As such these employers' business strategies prior to the rule changes displayed a (varying) degree of reliance on non-EEA migrant recruits. Hence the migration rule changes meant that additional costs would be incurred (given the expense involved in recruitment from outside the EEA) and/or recruitment practices would need to be revisited. It would be expected that changes in recruitment behaviour would be easiest for those employers hiring non-EEA migrants from outside the UK, but who do not consider such migrant workers to be crucial to their businesses and/or who could most easily switch to non-restricted routes within the PBS. However, in the light of previous changes in the direction of greater restrictions, this latter group of employers would be expected to be diminishing in size anyway. Furthermore, policy interest is greatest in those firms who continue to be reliant

on non-EEA migrant workers to fill skill shortages, and on how to ensure that there is investment in skills development amongst the indigenous workforce.

The case study employers were drawn from administrative data on around 6 thousand firms (ranging from micro to large firms) that were licensed and fully active on the Tier 2 sponsor register in the period 2009 to 2011. The case study firms were selected from three sectors of particular importance for the competitiveness of the UK economy: finance and business services, manufacturing and engineering, and science; plus some examples of firms in other sectors (for purposes of comparison). Table 3 details the size and sector of the case study firms, and of occupations of specific interest to them with regard to migration policy changes.

< Table 3 >

Employers agreeing to participate were interviewed face-to-face using a semi-structured interview schedule. Interviewees were senior human resources (HR) staff (or those responsible for recruitment) and other staff as considered necessary by the organisation because of the impact of migration policy changes on their roles. Employers were also asked to provide a range of cost estimates (using a specially-designed spreadsheet) of costs (and savings) incurred (e.g. in familiarisation with migration policy changes and sourcing additional specialist advice, in recruitment and training costs, in utilising existing staff differently and/or using external contractors, in lost output, etc.).

As noted by Scott (2013) there is an important methodological issue facing researchers concerning how to assess employers' responses to questions about migration as it relates to business strategies and workplace practices. From his research focusing on low-skilled sectors, he notes that responses tend to revolve around the rhetoric of the 'good migrant worker' and/or issues concerning a lack of supply of appropriate local labour, with employers tending to be concerned about accessing the best quality workers at the lowest cost, rather than reporting on how immigrant labour may be used consciously to intensify workplace regimes (with concomitant implications for pay and conditions). Given the primary focus in this article on skill shortages (as opposed to broader labour shortages and vacancies that are hard-to-fill for reasons other than skills), the 'hidden' agenda surrounding intensification of workplace regimes and downward pressures on pay is less apparent. However, it is important to be cognisant of interviews providing an opportunity for employers to highlight the

burdensome nature of rule changes and/or greater restrictions in the migration regime, as opposed to any shortcomings in their internal workforce development systems and resistance to change.

Twenty case study employers (20) is a relatively small number; hence the results should be regarded as an indicative rather than a representative and definitive account of how employers responded to the changes in the rules governing the recruitment of employees from outside the EEA. Nevertheless, it is argued that the case study evidence is valuable in providing contextualised insights into firm decision-making and practice in response to a particular facet of a more restrictive migration policy.

### **Employer frustrations regarding growing immigration bureaucracy and associated costs**

In striving for enhanced competitiveness and improved productivity, the UK Government is eager to reduce burdens on businesses. Yet the specific migration rule changes that are the focus of attention here were frustrating for employers and they considered that they added to, rather than reduced, their business burden. These frustrations may be divided into three broad categories: first, the erosion of flexibility in recruitment; secondly, an additional administrative burden and associated financial costs; and thirdly, business implications of delays and/or costs that they attributed to migration rule changes. Each category is considered in turn below.

#### ***Reduced flexibility in recruitment***

Nineteen of the twenty case study employers felt that the rule changes eroded their flexibility to address skill needs (see Table 4). Employees from outside the EEA comprised a substantial percentage of the workforce and of recent recruits (over the last year) in some companies (e.g. at least 80 per cent in cases ME7, ME6 and OT1), while in some large case study firms non-EEA workers comprised a relatively small share of their overall employment (and recent recruitment) though numerically the numbers employed are relatively large (e.g. FB3 and FB5) (see Table 3).

< Table 4 >

The overwhelming majority of case study employers were aware of rule changes relating to an annual limit and had planned ahead of its introduction. In general, the reaction of employers to rule changes ranged from them finding changes annoying to their being business critical. In the former instance where employers felt they could accommodate the changes without their recruitment practices being unduly affected, they still faced an additional administrative burden (as discussed below). The latter instance applied to a small number of cases where the employer felt that they would be denied access to the skills essential to their business model.

### ***The administrative burden and associated financial costs***

15 of the 20 case study employers indicated that the migration rule changes increased the administrative burden associated with recruiting non-EEA staff (see Table 4). If the costs associated with rule changes could be quantified, then employers could present a case to Government about the cost of the additional burden that new regulations placed upon them. However, most case study employers found it difficult to quantify migration rule changes monetarily – either in headline terms or for specific itemized costs. Employers tended not to think in a compartmentalised fashion of separable quantifiable elements of ‘hours spent’ on specific elements of migration policy. Rather the costs associated with migration policy changes were ‘wrapped up’ in other costs of dealing with wider migration policy or merged with changes in the economic environment and organisation-specific issues. Some of the larger organisations (e.g. FB5: Finance Company and SC2: R&D Establishment) had dedicated staff members (two and five, respectively) for dealing with immigration policy, and it was difficult to isolate the amount of time they spent on dealing with the specific migration policy changes. Where external advice services (specialist recruitment services and/or legal advice) were bought in it was easier to isolate costs. Only a minority of case study employers provided specific examples of increased costs – e.g. FB4: Business Services Company reported that costs had increased by £1,600 per recruitment.

The costs of immigration policy changes were also evident in terms of increased anxiety and intensification of work for HR staff (which is difficult to quantify in monetary terms) about whether they were in compliance with the regulations. The relatively frequent changes to migration policy meant that they had to “constantly” refer to official guidance (which was

often far from clear in their view) in order to ensure that existing (and new) practices complied with the new regulations, and to update colleagues and make any necessary changes accordingly. Interviewees reported that the burden of costs had been passed to the employer and the rule changes posed an additional burden for them:

There have been so many changes – when do you give employers a break? You have gone from responsibility sitting with the UKBA [UK Border Agency] to responsibility being delegated to the organisation ... there will come a point where companies say ‘enough’ (ME8: Engineering/Energy Company)

### ***Business implications***

Amongst case study firms there were eight examples of the immediate impacts of immigration rule changes resulting in one or more of delays in conducting business due to a longer recruitment process, lost business, and difficulties maintaining quality standards. (Longer-term impacts of rule changes mentioned by a minority of case study employers including relocation of certain functions or of entire businesses, and outsourcing, are considered in the next section.)

Five case study employers cited specifically the delay introduced into the recruitment process as a consequence of migration policy regulations. Generally respondents found it difficult to distinguish between the impacts of different aspects of migration policy and so it was not always clear to them whether the rule changes which had been introduced in relation to the introduction of an annual limit on immigration had resulted in further delays to the recruitment process. Several respondents noted delays involved in complying with the RLMT. Employers registered their vacancies with the public employment service (Jobcentre Plus) (considered by several interviewees as an “irrelevance”), and with another recruitment agency, for the required period of time, but were aware from the outset that this would not yield applicants satisfying their needs:

We have to follow the rules and regulations of the UK Border Agency. We advertise on Jobcentre Plus and then you have to use another recruiter they recommend. We place these adverts for four weeks and then if we don't have any successful applicants

we can start looking at the people from [outside the EEA]. (OT4: Educational Establishment)

While these procedures could be considered administratively burdensome, importantly from a business perspective there were further costs to the business as a result. Employers reported that in their experience it could take between four and six months to recruit a non-EEA worker. Where employers were able to anticipate vacancies they could begin the recruitment process earlier than they would otherwise do so. But several of the respondents were engaged in project or contract work, and so it was not possible for them to anticipate precisely all of their recruitment needs in advance. First they needed to secure a contract or project and then they could commence the recruitment process. Often the organisation awarding the contract wanted employers to commence the project immediately it was awarded; the requirement for skills was on a 'just-in-time' basis. Delays in recruitment on project-based work were felt particularly keenly by smaller employers – e.g. ME7: Engineering Services reported that in the interim it was necessary for existing employees to work overtime. This type of issue was also mentioned by SC2: R&D Establishment, when delays in sourcing appropriately skilled recruits would result in projects not being delivered to timetable.

SC2 had been able to speed up the recruitment service by paying for an expedited service from the relevant government agency; a cost which it considered justified given the number of potential non-EEA recruits and problems posed by delays. ME6: Engineering (a company which was heavily reliant on non-EEA migrant workers – a position which in part reflected the country of origin of the owner) estimated that in the last year it had lost £180,000 of business due to not being able to recruit people from outside the EEA and being understaffed as a result. This employer made overtime payments to current staff instead of spending on salaries for skilled non-EEA migrants and had spent an additional £10,000 on subcontracting work within the UK.

The case study employers found it difficult to point to business having been lost as a consequence of changes in the rules, although three of the twenty did so explicitly. Likewise three case study employers pointed to a reduction in the quality of the service they provided and the productivity of their workforce (see Table 4). In the example of OT1: Hospitality Company (which reported both lost business and a reduction in service quality) the desire and

former practice had been to recruit chefs and restaurant managers from outside the EEA. In the case of migration rule changes a subsequent shift to recruiting EEA workers was thought to have resulted in the recruitment of people whose skills were of a lower quality than the ones who could have been recruited from outside the EEA. Similarly in the case of skilled trades workers at ME4: Aerospace Engineering recruitment from the EEA (rather than from outside the EEA) was considered to have resulted in workers being taken on who were not as skilled and whose productivity was lower.

### **Employers' initial and possible longer-term adaptations in response to migration rule changes**

#### ***Rationale for recruiting non-EEA migrant workers via PBS Tier 1 (General) and Tier 2 (General)***

Before reflecting on and assessing employers' adaptations to migration rule changes it is relevant to consider their rationale for recruitment of non-EEA migrants in the first instance. There were three main reasons provided for recruiting non-EEA workers: first, to provide expertise where sought after skills were in short supply worldwide (as in the case of the technology sector in Germany, which is the context for the article by Grigoleit-Richter [2017]) and/or where specific extra-UK country expertise was required; secondly, where a specific mix of hybrid skills (e.g. a specific skill in short supply combined with more general skills) was needed; and thirdly, because of insufficient skills (in terms of quantity and/or quality) in the UK or EEA. Examples of each of these three reasons are provided below.

FB1: Finance Company, which provided advice on financial matters to countries across the world, with a staff of 120 employees drawn from 30 countries, exemplifies employment of 'experts'. As a global company, that needed to be perceived as such, it required people expert in the financial regulations in particular countries. Coming from those particular countries was considered an essential component of their expertise:

No amount of training will ever make somebody from John O'Groats or wherever representative of [financiers] in Brazil, Russia or Kathmandu. We need people because it is where they come from not just because of a certain level of skill. We need both. ... For us it is mission critical because if we couldn't bring people in then



it would fundamentally affect the way we were perceived as an organisation. If we were only able to staff the place with people from Europe or worse just the UK, we would be seen to be not a global body but just European. That would have fundamentally flawed the nature of our work. (FB1: Finance Company)<sup>iv</sup>

ME2: foreign owned multinational Engineering / IT Company exemplifies the need for 'hybrid skills'. Skilled telecommunications engineers (general skills) combined with specific foreign language proficiency (specialist skills in short supply) were required to facilitate communication between UK sites and the parent company's sites in its country of origin (outside the EEA).

OT2: Hospitality Company illustrates the case of 'insufficient skills': the employer wanted chefs to provide high quality Indian cuisine, and while it was possible to find chefs in the UK/EEA and train them to become competent in this specialism they tended not to be of a comparable quality to those who could be recruited from India:

Indian chefs have a three year degree in cooking and five to ten years' experience before they even come here to work as a sous chef. Although there have been some success stories with UK staff training up many never get to the level we require. Also many UK [hospitality] graduates move into fine dining. Whilst there is a small level of creativity we ask them to cook what we tell them to cook. (OT2: Hospitality Company)

### *Employers' initial responses to migration rule changes*

The research sought to ascertain whether and how firms had made changes to recruitment as a result of migration policy changes. Three initial responses by employers to adapt to migration rule changes are considered here: first, lobbying Government about unintended consequences of the changes; secondly, amending recruitment policies; and thirdly, continuing with existing practices (while ensuring compliance with rule changes). These are considered in turn, with particular attention focused on changing recruitment policies.

First considering lobbying, several interviewees reported having responded to consultation exercises with the MAC regarding possible migration rule changes. Where employers

lobbied for what they considered to be their exceptional position to be recognized in the new regulations once they had been enacted this tended to be because their business model was dependent upon being able to recruit from outside the EEA (as in the case of FB1, where recruitment was from a pool of global experts with specific detailed knowledge of financial standards). Following discussion with the relevant government agency it became apparent that it would be possible to recruit the staff it needed via PBS Tier 5. Likewise SC2: R&D establishment was able to come to an agreement with the relevant government agency about how it could more expeditiously bring to the UK specialist scientists who were neither available in the UK nor on the SOL.<sup>v</sup>

Secondly, regarding changes to recruitment policies, one strategy was to invest more and/or improve training within the company to improve UK skills supply. Seven of the case study employers provided specific examples of such a strategy. Amongst the types of strategies adopted were providing initial vocational education and training to new recruits (e.g. apprenticeships or graduate traineeships) and/or developing relationships with the higher education sector in order to improve the supply of graduates (especially graduates with engineering or IT skills). However, employers reported limitations on the degree to which such training could provide a short-term (or even a medium-term) solution to their skills needs following migration rule changes. For example, an aerospace engineering company (ME4) that had traditionally recruited skilled craft workers from Asia had an apprenticeship programme, but felt it would not be practical or cost efficient to expand it further: *“We take on eight apprentices a year ... eight across four years so having thirty-two trainees in your business is enough to cope with.”* Graduates of relevant foundation degrees were considered to need two years further training to attain skills levels of the Asian workers who had been recruited. In another example, ME1: Engineering Company had undertaken more training with existing staff in an attempt to provide the engineering skills required, but this was seen as providing only a partial solution to the long-term structural problem in the UK of a shortage of engineering skills: *“there are not enough [employees suitable for training] ... at exit interviews they have referenced that they were lacking that deep expertise [required to do the role] and they need that coaching and mentoring.”* This suggests that the foundation for the development of the specialist skills needed by the company was lacking.

More generally there was a sense in which companies could not develop local human resources fast enough: *“[Currently] we do not have the source and feed in the UK”* (ME8:

Engineering / Energy Company). One solution, mentioned explicitly by five of the case study companies (see Table 4) was to switch recruitment from non-EEA countries to EEA countries beyond the UK, in order to circumvent numerical limits imposed by numerical rule changes. One employer (OT3: Hospitality Company) reported implementing such a strategy, but also incurring additional training costs in doing so to compensate for the poorer quality of the EEA recruits compared with the non-EEA recruits.

An alternative strategy was to alter the way in which highly skilled and skilled non-EEA migrant labour was deployed in the face of rule changes. ME3: Engineering / Telecommunications company reported using non-EEA staff with technical experience to upskill the EEA (including UK) staff. This solution was favoured over use of subcontractors; (with the latter being seen as expensive and only for use in a “*crisis management*” fashion as a last resort).

Thirdly, some case study employers followed an adaptation strategy of continuing to recruit non-EEA workers, while exercising special care to ensure that their practices met the criteria set out in the rule changes. A good example of this strategy is provided by FB4: Business Services Company. The employer was “*very aware*” of the rule changes prior to their implementation because of attendance at seminars, receipt of information through trade associations and engagement of specialist immigration lawyers. The changes to the migration rules meant that the company had become “*more cautious when we hire*”; the internal business case rationale for recruitment had been tightened: “*The changes really taught us to look at our strategy and how we focused on immigration.*” The company had kept COSs increasingly for “*more junior staff*”. In some instances greater use was made of the ICT route also (six of the twenty case study companies reported such a strategy), so taking advantage of there being no numerical restrictions applied to ICTs):

If we know the employee is not going to make the UK their permanent residence then we go for the ICT route to get them in quicker. We have a process in place with our immigration lawyers to drill down and find out what the best route of recruitment would be. (FB4: Business Services Company)

So through adopting a more cautious and careful approach to recruitment and through some switching of recruitment from Tier 2: General to Tier 2: ICTs, the company had continued to

recruit from outside the EEA. The option of switching to ICTs, however, is not open to some smaller employers, while some case study employers for whom this route was available reported a reluctance to make more use of it citing the desire (in the case of a multinational company) to retain experience and skills in its local offices outside of the EEA and save on the costs of staff relocation.

Similarly, ME3: Engineering / Telecommunications reported that following the migration rule changes and the closure of the Tier 1: General route it was a case of “*keep[ing] our Tier 2s for roles where we are genuinely going to have to sponsor someone*”. Likewise various other interviewees mentioned that following the financial crisis recruitment criteria had become more exacting; firms wanted to ensure that before any recruit was a perfect fit with the business. This illustrates the importance of context in which recruitment decisions are made. It meant more exacting recruitment criteria being applied to both recruits from within and beyond the EEA.

### ***Employers’ longer-term responses to migration rule changes***

A minority of case study employers (four out of twenty) reported potential longer-term impacts of not being able to recruit the employees they needed because of migration rule changes. These may be subdivided into three categories.

The first – relocation of a business - is the most radical. At the time of the introduction of an annual limit there was concern expressed by business that an annual limit would have an adverse effect on economic growth and competitiveness – especially in the wake of economic recovery from the recession of 2008/9, and that some businesses might choose to locate jobs overseas.<sup>vi</sup> Relocation was mentioned by one organisation which faced problems following the rule changes in recruiting the staff it considered central to business viability; (it was taking advice from Government agencies to try and resolve the matter).

The second potential impact was to move certain non-EEA migrant dependent functions to parts of the EU where recruitment was considered easier. This was most likely an option for multinational organisations. Germany was mentioned as being a country where it was thought to be easier and quicker to recruit migrants from outside the EEA (and where Grigoleit-Richter [2017] highlights that policy has eased the entry of ‘highly skilled

professionals’); ME7: Engineering Services cited an example of three weeks being required to get a visa signed off in Germany, compared with the recruitment process for a non-EEA national in the UK often taking six months. Another employer noted that the reality or a perception of it being easier to recruit non-EEA migrants in another EEA country than in the UK could be detrimental from a UK economic growth and competitiveness perspective:

We are increasingly trying to have one centre for most of Europe. If you look from a ‘UK PLC’ point of view, one of the risks is that if another European jurisdiction are more favourably inclined to allow certain types of immigration it can be a perverse incentive to base those teams in places like Germany. (ME3: Engineering/Telecommunications)

A third potential impact was to outsource certain activities to countries outside the UK. This might be the case particularly for specialist technologies, and might lead to the development of new products being outsourced from the UK.

At the time the employer case study research was undertaken these longer-term impacts had not yet materialised, but they were mooted as possibilities if recruitment problems due to migration rule changes were to adversely affect organisational performance. Neither had the annual limit on non-EEA migrants imposed by the rule changes been reached. However, with an upturn in the UK economy this limit was reached in 2015 (Migration Advisory Committee 2015).

## **Conclusions**

From the employer case studies studies there is some evidence of firms changing their recruitment behaviour in the light of migration policy changes, by recruiting EEA and UK labour and providing training where rule changes meant that it was no longer possible or cost effective to recruit from outside the EEA in line with previous practice. Often, however, developing ‘local talent’ was seen as a partial long-term solution, rather than a ‘quick fix’ to meet current skills requirements. In some instances, the underlying business rationale was affected by rule changes because having a globally-sourced workforce able to provide specialist technical, institutional and cultural expertise was essential for successful operation in specific markets that were central to the business. This reflects the reality of ‘global

businesses' in a 'global marketplace' wanting a 'global workforce', which, for them, means being able to recruit whoever they needed from wherever they were available. The evidence from the employer case studies suggests that they were largely able to do this within the rules of migration policy, but the process of doing so was time consuming and bureaucratic. This is in accordance with expectations from economic theory, given the importance of non-EEA migrant workers to business operations.

Certainly migration rule changes pose limitations on firms' flexibility in sourcing their skills' needs, and tended to compromise the speed at which they could act to meet their skills needs. This was a particular problem where firms were engaged in project or contract work since they needed to be sure that they had a new project or contract before they could advertise a vacancy and recruit skilled staff, yet once the project or contract was awarded then the client expected work to start more or less immediately. This was particularly the case for smaller firms in engineering, so underscoring the need for understanding sectoral and other contextual specificities in employer-oriented migration research.

There are costs to business in both adhering and adapting to changes in migration policy. Yet these costs are difficult to quantify, given the interaction between different elements of migration policies and the frequency of incremental small changes, alongside larger ones. Uncertainty about changes to migration policy might cause some businesses to postpone or alter decisions about recruitment and business development. Hence it can be challenging to separate out costs associated with migration from broader business concerns. The longer-term response to migration rule changes of moving business outside the UK was largely hypothetical at the time the case studies were undertaken; but here the caveats that a relatively short time had elapsed since the annual limit had been enacted and the labour market context of relatively slow economic growth in the wake of recession are pertinent. But it was clear that firms had an awareness of migration policies in other EEA countries, and in the context of global competition for talent migration policies in UK competitor countries matter, (as do the social and cultural factors highlighted in other articles in this special issue).

More generally the migration rule changes and increased time taken to recruit from outside the EEA meant that firms were looking more closely at recruitment policies and generally adopting a more careful and cautious approach than had been the norm hitherto. The employer case studies suggest that ongoing changes to migration policy mean that migration

has moved up the strategic agenda of businesses who have previously recruited outside the EEA so that it is no longer solely in the domain of HR policy. This highlights the importance of migration regulations in shaping employer behaviour as a key element for an employer-oriented migration research agenda alongside the migrant-oriented migration research agenda addressed by other articles in this special issue.

From a local economic development perspective, an ideal skills strategy involves ‘attracting the best talent’ and ‘growing local talent’. Managed migration policy at national level faces the challenge of ‘achieving the balance’ between developing and utilising ‘local talent’ and attracting the ‘best international talent’ in the context of changing economic circumstances, differences in business requirements and in resources available to businesses to address those requirements, as well as sectoral differences. This article suggests that achieving this balance can be difficult without compromising competitiveness given differences in companies’ business models – especially when moving in the direction of a more restrictive migration policy.<sup>vii</sup>

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**Table 1 The five tiers of the PBS**

Tier	Description
1	Investors, entrepreneurs, exceptionally talented people and recent graduates of UK universities
2	Skilled workers with a job offer
3	Low skilled workers
4	Students
5	Temporary workers

Note: Tier 3 has not been implemented.

**Table 2 PBS Tier 1 and Tier 2, September 2012**

Tier	Description
1	<p>Tier 1 (Exceptional Talent) - people who are recognised or have the potential to be recognised as leaders in the fields of science and the arts</p> <p>Tier 1 (Entrepreneur) - people who want to set up or take over, and be actively involved in running, a business or businesses in the UK</p> <p>Tier 1 (Investor) - people who want make a substantial financial investment in the UK</p> <p>Tier 1 (General) - for highly skilled workers – this category is aimed at migrants who wish to engage in highly skilled employment in the UK; individuals entering the UK in this category are free to seek employment without having a sponsor or to take up self-employment/business opportunities in the UK. <i>Note: This category is closed to applicants outside the UK, and to migrants who are already in the UK in most other immigration categories</i></p> <p>Tier 1 (Graduate entrepreneur)</p> <p>Tier 1 (Post study work) – closed to new applicants</p>
2	<p>Tier 2 (General) - for migrants who have a skilled job offer from a sponsor employer to fill a gap in the workforce that cannot be filled by a settled worker</p> <p>Tier 2 (Intra company transfer [ICT]) enables multinational companies to transfer their employees to a UK branch of the organisation, either on a long-term basis or for frequent short visits</p> <p>Tier 2 (Sportsperson) is for elite sportspeople and coaches</p> <p>Tier 2 (Minister of religion) is for people coming to the UK to work in a job as religious workers within a genuine (bona fide) religious organisation for up to 3 years if there is no suitable settled worker to fill the role</p>

Source: UK Border Agency website.

**Table 3 Details of case study employers**

<i>Case</i>	<i>Organisation</i>	<i>Total number of employees in the UK</i>	<i>% of employees from outside the EEA (rounded)</i>	<i>% of skilled workers recruited in last year from outside EEA</i>	<i>Occupational focus of study</i>	<i>Main route used to recruit non-EEA workers</i>
FB1	Finance Company	120	25	40	Finance experts/brokers	Moved to Tier 5
FB2	Finance Company	35,000	5	Not known	Finance experts/brokers	RLMT
FB3	Finance Company	1,500	5	10	Brokers	Not reported
FB4	Business Services Company	6,000	Not known	Not known	Professionals (various, degree level)	RLMT and SOL
FB5	Finance Company	95,000	1	5	Finance experts/brokers	RLMT
ME1	Engineering Company	360	15	30	Professional engineers	RLMT
ME2	Engineering/IT company	1,000	10	10	Engineers/IT specialists	RLMT
ME3	Engineering/Telecom munications	8,000	10	10	Sales and marketing professionals	RLMT (but also used ICTs)
ME4	Aerospace Engineering	365	10	30	Skilled trades engineers	RLMT
ME5	Engineering	500	5	(1 person)	Engineering professionals	RMLT (but also used ICTs in four cases)
ME6	Engineering	45	90	90	Engineering professionals	RLMT and SOL
ME7	Engineering Services	7	30	100	Professional engineers/scientists	RLMT
ME8	Engineering/Energy Company	15,000	Not known	Not known	Professional engineers	SOL
SC1	R&D establishment	1,100	10	Not known	Professional scientists	RLMT
SC2	R&D establishment	6,000	Not known	Not known	Professional scientists	SOL
OT1	Hospitality Company	300	20	80	Chefs and restaurant managers	RLMT
OT4	Hospitality company	10,000	30	40	Chefs	RLMT and SOL (previously)
OT3	Hospitality company	1,000	10	20	Chefs	SOL, but now salary level too high
OT4	Education Establishment	226	30	30	Specialist teachers	RLMT
OT5	Environmental Services Company	25	50	0	Landscape architects	RLMT

**Table 4 Details of the impact of rule changes on case study employers**

	General	Immediate recruitment/skills impacts				Other immediate impacts					Longer-term impacts					
Case Study	Erosion of flexibility to address skill needs	Switching recruitment to EEA	Training within business for skills		Use of ICTs	Mitigation of impact on existing staff	<b>All immediate impacts</b>	Delays in conducting business	Lost business opportunities	Difficulties maintaining quality standards	Increased administrative burden	<b>All other impacts</b>	Consideration of relocation of business	Consider moving non-EEA migrant intensive functions elsewhere	Possible outsourcing of some activities	<b>All longer-term impacts</b>
FB1	1												1			1
FB2	1				1		1			1	1					
FB3	1				1			1								
FB4	1		1	1	1	1				1	1		1			1
FB5	1															
ME1	1		1	1	1	1				1	1			1		1
ME2	1	1				1				1	1		1			1
ME3	1	1	1	1		1	1	1		1	1					
ME4	1	1	1		1	1	1		1	1	1					
ME5	1		1			1				1	1					
ME6	1	1				1	1			1	1					
ME7	1						1			1	1					
ME8	1									1						
SC1				1		1				1	1					
SC2	1						1			1	1					
OT1	1							1	1	1	1					
OT2	1		1		1	1										
OT3	1	1	1			1										
OT4	1								1	1	1					
OT5	1									1	1					
<b>Total</b>	<b>19</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>4</b>	<b>12</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>15</b>	<b>15</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>4</b>	

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<sup>i</sup> Usually interpreted as formal qualifications at degree level or above.

<sup>ii</sup> Defined here to include formal occupation-/sector-specific qualifications at sub-degree level

<sup>iii</sup> At the time of writing (at the end of 2016) the precise nature of Brexit and implications for free movement of labour between the UK and the rest of the European Union remain unclear.

<sup>iv</sup> This example from City of London firms highlights how the City's competitiveness is founded on its ability to access, and attract workers from, a global talent pool (Beaverstock and Hall, 2012). The ability to attract immigrants from the EEA and beyond is seen as key to the City's top-ranked position as a global financial centre.

<sup>v</sup> The fact that the specialist scientists were not on the SOL does not indicate that the SOL is wrong. Rather it demonstrates the strictness of the SOL criteria, which means that some 'difficult to fill' occupations in the UK are not included.

<sup>vi</sup> See the House of Commons Home Affairs Select Committee report on the 'Immigration Cap' in 2010:

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/361/36107.htm>

(accessed 31 August 2015).

<sup>vii</sup> In the light of Brexit there is increasing academic and policy focus on the implications of more restrictive migration policies in the UK.