

Statement on the UK's future immigration system for higher education and research

February 2019

1. Our overriding objective in making this statement is to maximise and maintain the diversity, excellence and competitiveness of UK higher education and research for the benefit of the UK as a whole, and for individual students, researchers and staff. The Government's own commissioned research has highlighted that "there are growing indications that the UK is losing ground in the research leadership stakes and may not be able to sustain its position as a world-leading research nation in the long-term."¹ In addition, since 2011, countries such as Australia, Canada and the USA have seen high growth in international demand for study, while the total number of enrolled international students in the UK has stayed flat.² At such a time, the UK needs an immigration system that actively helps to maintain and develop the UK's higher education and research strengths. The current system does not.
2. We welcome the proposal in the Government's Immigration White Paper to remove the Tier 2 visa cap and the resident labour market test. We welcome the commitment to review the administrative burdens on employer sponsors; to engage on the salary threshold to be set; to review the Immigration Skills Charge and Immigration Health Surcharge; to discuss the arrangements for short-term business visits; and to review the costs of visas and associated fees. We have, however, a number of reservations with the proposals for the higher education and research community, which we set out below.
3. *EEA Nationals*: The Immigration and Social Security Co-ordination (EU Withdrawal) Bill would remove the acquired rights of EEA citizens to enjoy free movement and come to the UK, as they do now, for higher education and research purposes. The Immigration White Paper proposes a new system that would place EEA citizens in the same pool as potential migrants from the rest of the world (irrespective of whatever historical connections there may be with their countries of origin). This would begin once the UK reaches the end of the proposed transition period if something resembling the relevant clauses in the draft Withdrawal Agreement comes to be implemented. We would regret the extension of current non-EEA immigration hurdles to nationals from EEA countries given the very important contributions that international students and researchers make to high-quality UK-based humanities and social sciences. This is vital in the humanities and the social sciences when taking into account that six out of the top 10 disciplines with the highest proportions of non-UK EU staff, and six out of the top seven disciplines with the highest proportion of non-UK EU undergraduates are in the humanities and social sciences.³ **We believe that EEA/EFTA nationals should not be included in the current points-based system for immigration, nor have to pay the Immigration Skills Charge and Immigration Health Surcharge.** In the interests of ensuring that the UK maintains its world-leading status in the humanities and the social sciences, we see no reason to reduce the vital opportunities that are currently available to students, staff, researchers and institutions from the rest of the EEA/EFTA. A reduction would simply erode the competitiveness and attractiveness of UK higher education and research to UK and EEA/EFTA nationals to all of our detriments. An improved future immigration system should not be contingent on a replacement for the existing close and entwined relationship with our other European colleagues and counterparts.

¹ A report prepared by Elsevier for the UK's Department for Business, Energy & Industrial Strategy (BEIS), *International Comparative Performance of the UK Research Base 2016*, October 2017, p.15

² Russell Group, *Russell Group evidence to the Migration Advisory Committee on international students*, January 2018, <https://www.russellgroup.ac.uk/media/5679/rg-evidence-to-mac-commission-on-international-students-jan-2018.pdf>

³ The British Academy, *Brexit means...? The British Academy's Priorities for the Humanities And Social Sciences in the Current Negotiations*, November 2017, p. 17-24, <https://www.thebritishacademy.ac.uk/publications/europe-brexit-means>

4. *Single System of Future Immigration:* The Immigration White Paper commits to a new immigration system after the UK withdraws from the EU. This will be a single system with flexibility “where there are objective grounds to differentiate” such as “in the context of a trade agreement”.⁴ It is essential for the humanities and social sciences that the UK remains fully associated to EU Framework Programmes for Research & Innovation. We note that both of the major western European nations that are currently not EU Member States but do associate fully – Norway and Switzerland – provide for freedom of movement as defined by EU law.⁵ It is our expectation that to maintain our complete engagement with European research, we will need to ensure that we can provide a similar level of opportunity. **As the Government is aiming to associate to future Framework Programmes, we fully expect that this provides the grounds for differentiation within the proposed single but flexible system.**

5. The desire for a single system does not necessarily lead, however, to the proposals in the White Paper, which aligns EEA nationals to the immigration rules currently operating for non-EEA citizens. Those are already subject to significant criticism, especially in relation to non-EEA citizens coming to work as scholars and researchers, because they provide unnecessary obstacles to the recruitment of talented individuals. The White Paper is based on the idea that people should already have an offer of employment when they come to the UK. Under the current system this is difficult due to the hurdles – especially financial - put in place, however, **if the following hurdles and burdens were removed it would make international recruitment significantly more feasible and beneficial for higher education and research:**
 - The burden which is particularly high for sponsors is the Immigration Skills Charge introduced in 2017, which at present stands at £1,000 per employee. The current exemptions, such as to PhD-level roles, are important to maintain and expand.
 - The cost for applicants is considerable. The basic application fee for someone coming for more than three years is £1,220 (with the same charge for each dependant).
 - The UK recognises only certain (mainly UK) degrees as demonstrating linguistic ability, so, under the current proposals, most migrant workers would have to take a language test. There are few recognised secure test centres (currently only one each in Belgium, France, Germany and the Netherlands). The test fee is nearly £200. There is a need for a much more flexible system of recognition of language competence for those who regularly work in English, but do not have the formal qualifications that are currently recognised.
 - The UK requires non-EEA applicants to pay an Immigration Health Surcharge, the fee for which rose on 8 January 2019 to £400 per year. A family of four coming for five years would have to pay £8,000 at the moment of their application. If people are coming as workers, they will pay National Insurance contributions which are normally deemed sufficient to cover the healthcare costs of UK employees and their dependants. There seems no reason to create a major disincentive to valuable workers by imposing this charge, when they will be making a contribution to the NHS through their National Insurance contributions.
 - The current cost for a non-EEA worker plus spouse and two children applying to come to work in the UK for five years is thus about £13,000. The employer is paying a further £1,200. This is a very significant disincentive to employees choosing to come to the UK. **Application fees should be reduced to the cost of administration and the immigration skills charge and the healthcare surcharge should be abolished in the case of migrant workers and their dependants.**

⁴ HM Government, *The UK's future skills-based immigration system*, December 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766672/The-UKs-future-skills-based-immigration-system-accessible-version.pdf

⁵ The British Academy, *Association with European Union Framework Programmes for Research & Innovation: Challenges and Opportunities*, December 2018, <https://www.thebritishacademy.ac.uk/publications/europe-futures-association-european-union-framework-research-innovation>

- The right to bring a family is also currently not automatic for non-EEA workers, who are subject to further financial requirements. If workers are valuable because of their contribution to the UK, as judged by their sponsoring employer, then the right of family re-union should be automatic both for EEA and non-EEA migrant workers.
6. **If the White Paper's proposal to apply existing non-EEA rules to EEA citizens came into force, it would lead to a significant increase in costs and administrative burden for applicants, employers and sponsors.** Such additional costs and burdens would prove unmanageable for the humanities and social sciences, and would become a disincentive for the attraction of students, staff and researchers to the UK. UCEA (the University and College Employers Association) has modelled the estimated headline costs of the proposal, which include an additional £32.5 million in fees alone if all costs for EU nationals were met by universities in the first year of a Tier 2 system. This equates to an average £2,953 per academic member of staff and £3,317 per professional services employee. After five years, the annual cost of maintaining Tier 2 visas for 28,885 staff would be £86.4 million based on the EEA population that has commenced contracts in the UK within the last five years.⁶
 7. *Salary Threshold:* Salary is a poor proxy for skills in higher education and research. It is also a poor proxy when taking into account regional variations in salaries and for ensuring early career researchers begin and develop their careers here in the UK. **In particular, we view the current salary threshold as unhelpful for employing some research assistants on grants, data technicians and language teaching assistants.** 42% of all staff in universities earn less than £32,958 (the salary banding used by HESA). 38% of academic staff earning below this threshold are from outside the UK. For staff allocated to specific disciplines (as opposed to central university functions such as administration or estates), 25% of staff in arts, humanities and social sciences earn less than £32,958. Staff in roles such as laboratory technicians and language assistants may be classed as 'academic' or 'non-academic', depending on contract type and individual institutional practice. Analysis by UCEA estimates that the median basic pay of a language assistant in higher education is £26,000 with an upper quartile of £31,000.⁷ A supply of language assistants is crucial to the quality of higher education provision in modern foreign languages. Such speakers inevitably come largely from outside the UK. Language assistants are frequently employed on fractional or term time only contracts due to the volume of teaching required, which makes it more likely that their salary will fall below the £30,000 threshold. It should also be noted that 'technicians' are not only employed in STEMM areas; they are also vital in subjects such as archaeology and linguistics, as well as across the creative and performing arts. **The uniform requirement should be no more than a certification by the employer that, taking into account the number of dependants an applicant brings, the salary to be paid is sufficient not to require the employee to seek supplementary income from public funds.**
 8. *Immigration Rules:* The future immigration system should reduce the complexity and length of the current Immigration Rules. They are foreboding for applicants and employers. The future system must significantly simplify the process for obtaining a visa, and must ensure that decision-making on immigration and asylum is reliable. The Law Society has reported that almost 50% of UK immigration and asylum appeals are currently upheld.⁸ This indicates a high level of error in the current system, leading to considerable fear in our community

⁶ Universities & Colleges Employers Association, *UCEA response to MAC report: Responding to recommendations of most concern to the higher education sector*, <https://www.ucea.ac.uk/en/empres/epl/brexit/employment-implications.cfm>

⁷ Universities & Colleges Employers Association, *UCEA response to MAC report: Responding to recommendations of most concern to the higher education sector*, <https://www.ucea.ac.uk/en/empres/epl/brexit/employment-implications.cfm>

⁸ The Law Society, 'Failures in UK immigration and asylum undermine the rule of law', 12 April 2018, <https://www.lawsociety.org.uk/news/press-releases/failures-in-uk-immigration-and-asylum-undermine-the-rule-of-law/>

that the effect of incorrect decisions will fall on many of our colleagues and potential future research collaboration partners through no fault of their own. In addition, current rules on the indefinite leave to remain (ILR) state that a person cannot spend more than 180 days outside of the UK in any of 365-day period in the five years prior to application. This is often at odds with the work of researchers, particularly fieldwork. **Travel overseas on higher education and/or research business should be exempted from the ILR rules.**

9. *Sponsors*: The future immigration system should change the role and liability of sponsors. The liability placed on sponsors currently is often confusing and complex. This can lead to further mistakes and hostility for applicants and those within the system. This may not be the result of the actions of the Government, but through often over-literal or over-cautious application of immigration rules by officials in institutions whose main expertise is not in immigration law. This is to no one's benefit. **The future immigration system should remove the liability currently placed on sponsors, which in our view should be with the Home Office, and simply require a verification of the legitimacy of the activity being undertaken.** In addition, in our view the burden on sponsors is too great currently and we will engage with the planned review on this accordingly.
10. *Moving Between Jobs*: **The future immigration system should allow for moving between jobs in the UK without any additional charge.** Once you have a job under the current UK immigration system, you have no right to move job, unless your new employer pays for your sponsorship. Your eligibility is thus checked and charged on each new employment, not on entry into the country. Given that there is no such employer as UK Higher Education, it means that each new engagement by a different UK higher education institution constitutes a new employment and thus an additional charge.
11. *Self-Funded Researchers*: Self-funded researchers will have received a research grant from overseas but will have chosen to work in a department here in the UK with that funding. They would not be able to provide a letter of employment to support their visa application, as they are not being employed, but we would wish to see such researchers engaging with UK academics and students. **In these cases, a letter of invitation should suffice to verify the legitimacy of the activity being undertaken.**
12. *Post-Study Work Visa*: Since the UK's previous post-study work visa closed in April 2012, the number of international students moving into work after their studies has decreased by 87%.⁹ The White Paper accepted a recommendation by the Migration Advisory Committee to not introduce a specific post-study work visa but to provide PhD students with a 'built-in' 12-month post-study leave period at the end of their studies. In addition, the White Paper proposes to provide for six months after their degrees for undergraduates and Masters' students to stay in the UK. We concur with many others in the higher education and research community who have found this a disappointing offer that places the UK at a disadvantage compared to our competitors in attracting international students to the UK. In Australia, the Post-Study Work Stream enables international graduates and their families to live, work, travel and study in Australia for between two and four years depending on the highest educational qualification they have obtained. In Canada, the Post-Graduation Work Permit Program allows graduates to stay and work for a period of time that relates to their course. For example, if the course was for three years, graduates can stay and work for three years. In our view, **the UK must ensure that its post-study offer is commensurate to that of countries like Canada and Australia.**

⁹ Russell Group, *Russell Group evidence to the Migration Advisory Committee on international students*, Annex B, January 2018, <https://www.russellgroup.ac.uk/media/5679/rg-evidence-to-mac-commission-on-international-students-jan-2018.pdf>

13. Choosing where to live, study and/or work is a personal choice as well as a professional one. The cost, complexity and perception of the UK's immigration system are important factors that are not currently helping to attract and foster students, researchers and staff. The Government's research has shown that "international research collaboration and international researcher mobility are interrelated and interdependent" with a positive correlation between international research collaboration and citation impact.¹⁰ If the UK wishes to boost its international collaborations and networks in the humanities and social sciences, then our immigration system must stop closing down such opportunities and raising burdens and barriers incommensurate and inappropriate for what is required.

¹⁰ A report by Elsevier for BEIS, [International Comparative Performance of the UK Research Base 2016](#), October 2017, p.14