

HSMP Forum's submission - MAC Consultation

"HSMP Forum" is a not-for-profit organisation and has taken its name from the UK's Highly Skilled Migrant Programme, which was introduced in 2002. It was formed after the 2006 decision by Government to apply new qualifying criteria for existing Highly Skilled Migrants. "HSMP Forum" has been lobbying the legislature, executive and the judiciary by challenging unfair policies to allow existing legal Skilled Migrants to settle in the UK. The organisation's aim is to support and assist migrants under the world-renowned British principles of fair play, equality and justice and believes in challenging any unfair policies, which undermine the migrants' interests. This submission is concerned with the Migration Advisory Committee's consultation on the level of annual limit on economic migration to the UK and focuses on questions 6 and 7 of the consultation.

The Government has agreed and declared that they will adhere to the principles of fairness and predictability. However, some of the suggestions and consultation contradict the same principles of fairness and predictability.

Question 6: The stock of (non-dependant) migrant workers and Tiers 1 and 2 is determined by (i) new migration from outside the UK and (ii) extensions and switching between routes by migrants within the UK. If migration is to be reduced, do you most favour achieving this via cuts in (i) or (ii).

We believe that applying retrospective cap on extensions for existing migrants would be extremely unfair due to the following reasons:

- Tier 1 highly skilled migrants have developed a reasonable expectation that they would be able to extend their leave to remain and apply for ILR in accordance with the Immigration Rules that were in place when they applied for their initial Tier 1/HSMP. Post HSMP JR in 2008, the rules on extension for Tier1 and HSMP migrants were consistent with initial application rules. Therefore, migrants would not expect the government to apply a cap on switching or extensions of visas. We believe it is wrong to set a different target in the middle of their journey towards settlement than what was set when they were admitted to the scheme.
- Immigrants arriving under Tier 1 (previously HSMP) formed 3% of total immigration in 2008. (15,515 Tier 1 migrants comprised total inflow of 590,000 migrants). However their contribution to the economy and the growth is significantly bigger than their size. Many Tier 1 immigrants hold key and senior positions and are engaged in high value-added work. It would be unfair to businesses and irrational to loose workers engaged in high value-added work especially when the country is recovering after recession.
- Migrants have uprooted their families, left successful careers back home and after living in the UK for many years and adapting to its way of life, many migrants' children have adapted to life in the UK and can speak only English. Some skilled migrants need to apply for second extension and face uncertainty despite spending almost five years in the UK and making it their home as per the visa requirement.

Despite their hard efforts and living for a considerable period in the UK, it is unfair that the migrants and their families live in constant fear that they are likely to face deportation due to the new limit and frequent changes in Immigration system.

- Introducing a cap on extensions (including switching categories) for existing migrants would have a negative effect on the reputation of the UK's immigration system and would lead to a significant decrease in Tier 1 applications, which could affect the influx of good talent into the country.
- HSMP forum has received many responses from existing Tier 1 migrants expressing frustration about the possible cap on extensions and frequent changes in the PBS. Some existing Tier 1 migrants were so upset to see question 6 in MAC consultation that they are considering re-migration to countries with immigration-friendly policies, which is capable of offering them the stability and security that the UK government is failing to provide. This can make things difficult for UK since it already faces a tough competition for highly skilled migrants from other countries, which welcome immigration.
- Applying a retrospective cap on talented and bright people would send a negative message to potential foreign investors and entrepreneurs. If Government can apply retrospective changes towards Tier 1 migrants then in the future it is likely to apply irrational retrospective changes towards foreign entrepreneurs as well.
- Applying a retrospective cap on existing migrants would lead to additional appeals in courts and mount significant costs.

***Question 7:** To what extent should reductions in flows through Tiers 1 and 2 be met through reduced migration of dependants? Should dependant numbers be reduced by proportionately more than those of main migrants? To what extent should reductions in flows through Tier 1 and Tier 2 be met through reduced migration of dependants? Should dependant numbers be reduced by proportionately more than those of main migrants?*

- We believe that preventing dependants from joining their spouses would discourage migrants from applying for Tier 1 and Tier 2 visas.
- Applying a cap on dependents of existing migrants would lead to violation of their right to respect for private and family life as per Article 8 ECHR, and therefore possible challenges in courts. Also, many migrants tend to bring in their under-18 children as dependents who do not work and only study in the UK. In such a scenario, applying a random cap on dependants can be irrational and would not be a logical assessment for a limit and the policy objectives concerned.
- We continue to insist any changes should take into consideration and prioritise the following principles:

Legitimacy – Regulations must conform to international and EU obligations with respect to human rights

Non-retrospectivity – Changes should not materially affect the trajectories (towards permanent residence and citizenship) of individuals who have already begun their journey. The conservatives and liberal democrats in opposition principally opposed retrospective legislations applied to skilled migrants under the then labour government

Non-discrimination – changes should not disproportionately affect citizens of some countries more than others

The UK government has always been successful in attracting migrants because of its liberal and fair policies. Migration is a two-way process where migrants can make maximum contribution to the economy in return for a stable future for them and their families in the UK.

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