

## **EEA Workers in the UK Labour Market**

Submission by Prospect to the Migration Advisory Committee

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## Introduction

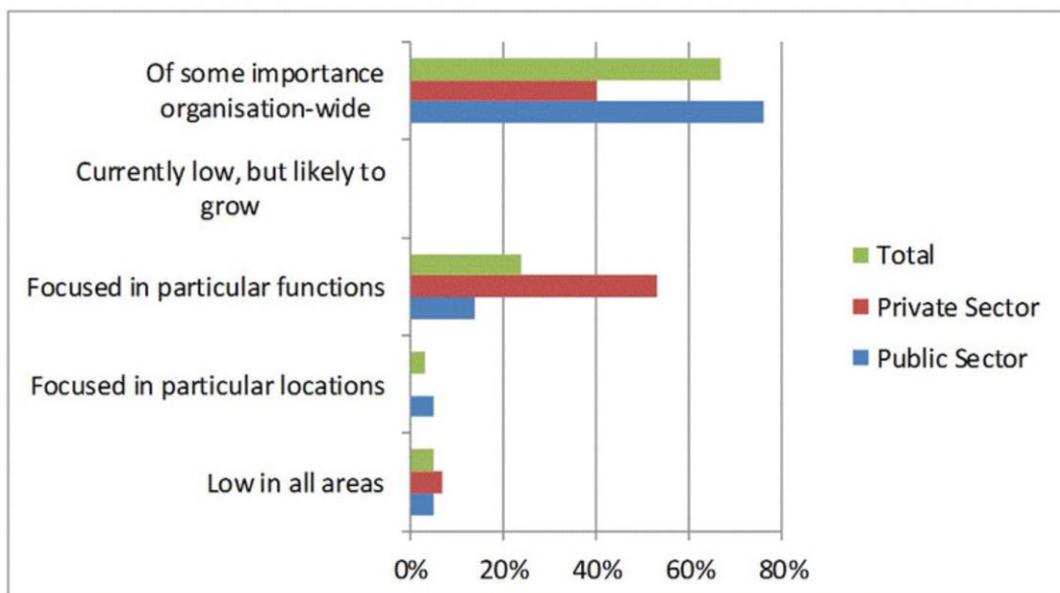
1. Prospect is a politically independent trade union representing 141,000 skilled members across all major sectors of the economy. Of particular relevance to this consultation we represent 50,000 science, technology and engineering (STEM) professionals; 42,000 in the broadcasting, entertainment, communications and digital sectors; and 3,000 in heritage, including the UK's national museums and galleries. Many of these members operate in an international labour and/or product market and make a crucial contribution to the success of the organisations they work for and in turn to the UK as a whole.

2. This submission addresses the questions posed by the Migration Advisory Committee (MAC) that are of direct relevance to the workers that Prospect represents. We conclude that neither an approach to EEA migration based on shortage occupations nor one based on extension of qualifying salary thresholds will provide a satisfactory way forward. The UK's future migration regime must not just be about erecting barriers to free movement but about ensuring continued access to the skills needed for economic success and the public good. In sectors like those our members work in, these judgements are most appropriately made by employers through their established HR practices. To enable the UK to continue to attract high calibre job seekers migration processes will need to be as smooth and streamlined as possible. This will become even more important post-Brexit and should provide for reciprocal arrangements for UK nationals seeking employment elsewhere in the EEA.

### **Please provide evidence on the characteristics of EEA migrants in your particular sector/local area/region. How do these differ from UK workers and from non-EEA workers?**

3. In April 2016, Prospect conducted a survey of our STEM membership areas. We received responses from 45 organisations; 60% from public bodies and 40% from the private sector. More than seven in ten (71%) reported that their organisation employs migrant workers from within the EU in STEM roles – more than 80% of public sector respondents and 48% from the private sector.

### **EU migrant workforce in UK STEM**



4. Three-quarters (76%) of public sector respondents reported that migrant workers are important across their organisation and undertake a wide range of roles including:

- developing, testing and maintaining software and systems
- engineering, including design, aeronautical, diagnostic, systems and specialist engineering
- science roles including research, forecasting, radiological protection, biology, agriculture, ecology and plasma physics.

5. Subsequent feedback from Prospect membership areas confirms that EEA workers have analogous qualifications and skills to the UK colleagues they work with and that they are generally appointed following open competition. In STEM, EEA nationals also bring with them direct knowledge of scientific focus and practice in other countries, thus enabling the collaboration required to deliver high quality international science effectively.

6. The cultural sector, another important membership area for Prospect, has to some extent developed an international workforce, with individuals often crossing borders on the basis of their creative or technical expertise. The transfer of skills between workers from different nations is ubiquitous. Media and entertainment is heavily dependent on non-UK workers, both from the EEA and non-EEA areas. EEA workers in the sector both mirror and complement the skills of UK counterparts, with many of them working in roles that are qualified below NQF level 6, the minimum threshold for non-EEA migrant workers under the points-based system.

**To what extent are EEA migrants seasonal; part-time; agency workers; temporary; short-term assignments; intra-company transfers; self-employed? What information do you have on their skill levels? To what extent do these differ from UK workers and non-EEA workers?**

7. In reality, the UK's very successful STEM infrastructure depends both on high-level and niche skills and experience that are not academically awarded or accredited. Like UK nationals in STEM, EEA workers tend to be employed on open-ended or fixed-term contracts usually of 2-3 years duration. Fixed-term contracts may be used to deliver specific projects where funding is only guaranteed for a specific period. In research areas for example, people may be called upon to participate in a six month academic sabbatical or a conference lasting for one or two weeks. Such initiatives can happen at short notice and on tight public sector budgets so that a lengthy, complex or expensive visa process could put up significant barriers to this kind of collaboration in future.

8. EEA workers in media and entertainment in the UK have working relationships in all of the categories specified. The pattern of employment does not differ significantly from UK workers, insofar as the industry has a mix of permanent, temporary, part-time, agency, and self-employed engagements. However, inter-company transfers are almost non-existent, whether EEA or non-EEA, except in areas where specialised IT companies operate. In broadcasting and entertainment, work cycles could range from one day to nine months, for example with a touring show or filming on location. Unless the UK has a system that is sufficiently flexible to accommodate a range of needs and working patterns, there can be little doubt that valuable economic activity will relocate outside the UK.

**Have you made any assessment of the impact of a possible reduction in the availability of EEA migrants as part of your workforce? What impact would a reduction in EEA migration have on your sector/local area/region? How will your business/sector/areas/region cope? How would the impacts be different if**

## **reductions in migration took place among non-EEA migrants? Have you made any contingency plans?**

9. A high proportion of respondents to Prospect's survey talked about relying on migrant workers for business-critical functions as well as the risks that their non-availability poses to sustainable high quality science. When they were asked about the consequences if their organisation was no longer able to employ migrant workers, respondents said:

- Key projects would be unsupported and the ability to sustain excellence would be rapidly reduced;
- Reputation and ranking of skills in comparison with international competitors and collaborators would lose ground; and
- The UK's status as a world player in environmental research would very quickly be lost because in the words of one respondent: "Nobody can do serious science without an international workforce".

10. More recent enquiries confirm concerns about the likely impact. For example at least one government research council has identified the impact of any changes to migration patterns as a significant risk to business plans. Further it is recognised that even if there is no change in migration policy, non-UK nationals may decide that the UK is no longer an attractive place to live and apply for jobs elsewhere, taking their specialist skills with them.

11. There are also concerns about UK-based scientists, regardless of nationality, no longer being included in international collaborations. Although the Government has agreed to fund current EU-funded projects post-Brexit, many of these are projects that have a long development phase and UK-based organisations that were previously seen as providing 'a safe pair of hands' are already experiencing limitations to their potential future role. International collaboration in these spheres is crucial if the UK is to maintain its reputation and influence and depends on the continued free movement of people.

12. Anecdotal assessment of any reduction in EEA labour for the media and entertainment sector is that some activities would be severely undermined. Activities, such as high-end computer graphics for film and TV, comprise a significant proportion of workers from the EEA. A reduction in non-EEA migrant labour would have the same effect, and it is likely that other countries with more open migration policies would begin to build capacity in competition with the UK in cutting-edge areas.

13. The archaeology sector employs a significant number of archaeologists from elsewhere in the EU, and this number is expected to grow in the light of increasing demand driven by infrastructure and housing projects nationally. A survey by the Federation of Archaeological Managers and employers found that 67% of respondents currently employ non-UK EU staff and 85% reported that continuing access to this group is important to their organisation. Planning law requires archeologically investigations to be carried out before relevant development can begin. This means that development-led archaeology is part of the supply chain for delivering housing and other infrastructure projects and is subject to many of the skills gap and shortage issues faced by the housebuilding sector.

**Please provide evidence on the methods of recruitment used to employ EEA migrants. Do these methods differ from those used to employ UK and non-EEA workers? What impact does this have on UK workers? Have these methods changed following the Brexit referendum?**

14. Among Prospect's membership areas EEA migrants are appointed by open competition in the same way as UK nationals. Appointments are based on the skills and qualifications of the candidates. The only difference in approach relates to academic research areas. UK doctoral researchers are eligible for their fees and a stipend to be paid by their research council whereas EEA migrants would only have their fees paid. Media and entertainment and appointments are often short-term, and are more likely to be via informal means rather than traditional advertising and structured selection.

15. The Chartered Institute for Archaeologists (CiFA) regards all those who have achieved accredited grades of membership of the Institute to be skilled professionals. The majority of accredited members are educated to at least degree level and many roles require years of training or experience. In 2012-13 20% of all archaeologists held a PhD or post-doctoral qualification, 47% had a Masters degree or higher and 95% were qualified to first degree level or higher. However not all entry routes into the profession require degree qualification as there are also vocational training routes that provide highly skilled candidates.

### **To what extent has EEA and non-EEA migration affected the skills and training of UK workers?**

16. Research for the National Institute for Economic and Social Research (NIESR) and the Centre for Vocational Education Research shows that the UK has benefited greatly from the access to the EU's common labour market and has been able to attract a sizeable workforce with intermediate and higher level technical skills from other EU Member States. It also highlights the fact that UK investment in training for technical and associate professional roles is falling, so "growing our own" to fill skills gaps will be a significant challenge.

17. Prospect's skilled and specialist members generally have a long training and development pipeline. A report by Historic England in May 2016 warned that there will not be enough trained archaeologists to do the excavations required to meet expected demand. The opportunity for UK nationals to work with scientists and other professionals from across the world underpins UK pre-eminence in the highest quality and cutting edge science. The UK veterinary sector is now heavily dependent on EEA workers, particular in the public sector so an abrupt imposition of restrictions on migration would have a significant negative effect, at least in the short and medium term.

18. The availability of EEA labour has had some effect on the skills and training of workers in media and entertainment, particularly at the top end. In some cases engagers use migrant labour to circumvent the skills gap in the UK workforce. The gap has arisen because the predominantly freelance workforce in film and TV production has to pay for its own training rather than receiving it from employers. This is evidenced by the Shortage Occupation List, where some roles in the sector have featured for up to 8 years. In our view this should have been long enough for the industry to team up with training providers and other stakeholders to improve the skills of UK-born workers. In reality major employers have cut back their training of entertainment workers, driven in part by a desire for savings but also by the casualisation of the workforce.

19. Offshoring of work to non-EEA nationals in IT and telecoms has had some impact both at entry level and in reducing opportunities for progression. The use of intra company transfers has resulted in some undercutting and consequent exploitation of non-UK workers. This is coupled with an indentured approach which means that in practice these workers are reluctant to exercise their employment rights since complaining is likely to result in job loss and subsequent removal of the right to remain in the UK.

**How involved are universities and training providers in ensuring that the UK workforce has the skills needed to fill key roles/roles in high demand in your sector? Do you have plans to increase this involvement in the future?**

20. Research councils provide doctoral training opportunities in collaboration with universities. In addition specialist training opportunities exist for research council staff to ensure that they have the required skills that meet the needs of funders. Joint doctoral training centres have been established in selected fields. Although Historic England, CiFA and its member organisations are developing vocational training routes into the profession, their view is that employing archaeologists from other countries will need to be one strand of response during the upcoming period.

**How well aware are you of current UK migration policies for non-EEA migrants? If new immigration policies restrict the numbers of low-skilled migrants who can come to work in the UK, which forms of migration into low skilled work should be prioritised? For example the current shortage occupation list applies to high skill occupations; do you think this should be expanded to cover lower skill levels?**

21. As indicated, we do not believe that the current shortage occupations list works well for many of our membership areas. Very careful consideration needs to be given to an appropriate migration regime for the highly skilled workers that Prospect represents and, as a starting point, as to how skill levels are defined for this purpose. For example, it is evident that there is a lack of understanding of the diversity of roles that contribute to the UK's scientific success, and in particular the importance of technical and support staff who often undertake highly specialised but not highly paid roles.

22. Language about enabling the 'brightest and best' to come to the UK exposes a basic lack of understanding of STEM. It is essential for the UK not only to welcome Nobel Prize winners but also their families and members of their research teams. This requires a framework that makes it rewarding for them to work in the UK including active, interesting, outward-looking, and well-supported research groups, with all the technicians, students, and ease of short-term mobility that requires.

23. There is a further problem in that the current Tier 2 list is based on high skilled workers for specified industries. Although this works satisfactorily in some industries, it is important to understand the context in which the work is undertaken. The labour market and associated reward for geophysicists and hydrologists in commercial business, for instance, is very different to that requiring the application of these skills to academic research projects.

24. The shortage occupation list does not and cannot provide the long-term security that is often desired. This is particularly relevant, for example, for people working in research functions and on major projects with time horizons of 10 years or more. This approach has evidently failed to incentivise employers and the wider education system to train up indigenous talent for these roles, despite this having been stated as an aim. Instead, many occupations remain on the list year after year whilst others, in niche areas, are unlikely to be included at all. There are also real questions over whether a shortage list can ever be flexible enough to keep pace with constantly and rapidly evolving technology roles. Furthermore the current Tier 2 system is capped at 20,700 entrants per year. Currently fewer than 10,000 visas are awarded annually to non-EEA migrant workers compared with around 150,000 EEA migrants who come to work in the UK. This strongly indicates that the current approach to shortage occupations will not be an adequate model for the future.

25. The media and entertainment sector of Prospect deals regularly with the points-based migration system for non-EEA workers, and we would have concerns about application

of the NQF level 6 qualification threshold because although many EEA workers bring high-end skills to the sector, there are also others who are engaged in lower-skilled work, particularly in areas of the UK where the labour market is tight. A formal skills barrier to EEA migrant labour could inhibit activity in the sector if lower-skilled jobs cannot be filled by UK workers because they can't be found.

26. Prospect understands that consideration is also been given to extending the current Tier 2 salary threshold requirements of at least £30,000 per year for workers from outside the EEA to non-UK EEA nationals. This will pose significant challenges for the many thousands of our members who have devoted their careers in the public interest and consequently found themselves caught by the elongated period of public sector pay restraint where, due to Government policy impeding normal market movements, salaries are a poor proxy for value to the UK. Neither will this approach work in sectors characterised by a multiplicity of SMEs. According to the Labour Force Survey there are around 141,000 EU nationals working in UK science and technology and approaching 146,000 in creative industries. Similarly many skilled archaeologists fall below these salary thresholds.

27. Prospect is currently conducting a survey to determine the significance that a salary threshold of £30,000 or £35,000 would have on our members' eligibility to remain in the UK, but we already have cause for concern. Set out at the end of this submission is a list of professional and "associate professional" occupations ordered by the proportion of employees currently earning under £30,000. This is derived from Office of National Statistics (ONS) earnings statistics. Overall, the ONS data suggests that 30-39% of professionals, and 50-59% of associate professionals, earn less than £30,000. This equates to around 33,000 science, research, engineering and technology professionals and associate professionals who are EU nationals earning less than £30,000.

28. In some key groups like lab technicians, a very high proportion (80%-89%) earn under the threshold. The proportion of chemical or biological scientists is also not insignificant at 30-39%. We also have evidence that the majority of appointments to post-graduate salary bands in a major research council are in a range from just over £22,000 to just under £30,000, with an average salary of just over £24,000. Scientists recruited into these roles are often at an early career stage, and therefore use the opportunity to develop science leadership skills that are required for future organisational and societal needs. It clearly makes no sense to put at risk critical public sector capacity in this way at a time when the UK is seeking to effect new trading relationships and to absorb the significant additional responsibilities that Brexit will bring.

29. CiFA members are rigorously vetted for technical and ethical competence and registered archaeological practices are regularly inspected to assess compliance with CiFA codes of conduct. Despite this, there is an endemic problem of low pay with CiFA accredited members earning as little as £18,000 and even the most experienced members having a minimum recommended salary of £27,100. CiFA reports that it is already very difficult under the current Tier 2 arrangements to employ archaeologists from outside the EEA due to the salary requirements. Similar challenges will undoubtedly apply if the Tier 2 regime is extended to EEA nationals.

30. We are aware that under Appendix 7 of the guidance there are lower salary thresholds for those qualified to PhD level. Evidently this will cover only a minority of those potentially affected. Further it is not clear how 'PhD level' should or would be interpreted. For example academic awards in engineering, technical and veterinary fields are unquestionably high-level, but not PhD equivalent. In practice, this would lead to uncertainty about which qualifications would be considered acceptable and it is already clear from experience since

the EU referendum that uncertainty impacts negatively on the willingness of talented individuals either to consider coming to the UK or to stay here.

## **Conclusion**

31. In our view neither the application of academic qualifications nor salary thresholds would achieve the intended objectives for the types of workers that Prospect represents. We consider that skilled professional job seekers should retain their eligibility to work in the UK. In reality the UK needs to do more than simply making this possible. We need to actively attract such workers and make it as easy as possible for them and their families to settle here. Individuals already working in the UK should receive immediate, unconditional and positive confirmation of their right to remain along with their family members.