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Evidence to the UK Migration Advisory Committee

1. Introduction

Permits Foundation is a corporate initiative that supports international mobility by promoting open work authorisation for expatriate spouses and partners worldwide. This issue is a concern to international companies and organisations which, in view of the increasing number of dual careers, experience separate work permit barriers for partners as a significant hurdle to employee mobility, diversity and equal opportunity. It is an issue that affects men and women of all nationalities, including British families abroad, in both the private and public sectors.

More than 40 international companies and organisations support Permits Foundation, which is independent and not-for-profit. <http://www.permitsfoundation.com/sponsors.htm>

For many companies, both home-grown and international, the UK is a major hub for knowledge transfer and global business expansion. To get full benefit from this, it is essential that Government maintain an attractive climate for international investment and the highly skilled, mobile employees and their families who come to live here temporarily.

We are pleased to respond to your call for evidence, particularly on Tier 2 and dependants under the Points Based System, based on our independent research and feedback from our sponsor companies and others who expressed an interest in our report.

2. Comments on Tier 2 questions

Is there an economic case for restricting Tier 2 to shortage occupations only?

No. On the contrary, there is evidence from employers and service providers that restricting this route would have a strong negative impact on the UK labour market and wider economy.

International employers are unanimously opposed to restricting intra-company transfers (ICTs) to shortage occupations. ICTs are an essential part of global mobility policies designed to support international business, trade and investment. International companies utilise these highly qualified staff, for example:

- to transfer knowledge, skills and technology
- to develop management potential (staff who are going to lead an international company need international experience)
- to balance peaks and troughs in manpower when responding to fixed-term projects
- to support corporate governance and create the “corporate glue” that helps to bond corporate culture.

In most international companies, the percentage of intra-company transfers is small, typically around 1-2 per cent of total employees. Sectoral and company variations exist, for example, where there are

skills shortages, where there is a global or regional hub, and where top international talent and diversity is a critical success factor.

Companies also differ in the proportion of foreign staff from inside and outside the EU, depending on the nature of the business and location of markets. Typically, there is an exchange of international talent and many UK-based companies employ at least as many British staff abroad as expatriates in the UK.

Is there evidence of displacement of local staff or undercutting of salaries of local workers?

No. Intra-company transferees are generally highly educated, with commensurate skills and experience of overseas markets. As a result, they are complementary to local employees and there is no evidence of displacement.

There is a natural tendency to self-regulation of numbers since the cost of employing expatriate employees can be high, often up to three times the cost of equivalent local staff. These additional costs stem from foreign assignment premia and/or benefits such as housing, schooling and home leave, which compensate the cost of expatriation. Particularly during recession, there is a self-imposed discipline to have a clear business case for employing ICTs.

At the same time, the requirement to gross up benefits for tax means that the remuneration packages of ICTs make a very positive fiscal contribution to the UK Exchequer. Taking account of high marginal tax rates, the total contribution per ICT is at least three times that of an equivalent local employee.

We have seen no evidence whatsoever of undercutting of UK salaries.

Potential negative effects of restricting Tier 2 to shortage occupations

The list of shortage occupations is a useful tool to respond quickly to problem areas and seek longer term solutions. However, we strongly are of the opinion that the other sub-categories of Tier 2, and particularly intra-company transfers, should not be restricted to shortage occupations.

If the intra-company transfer scheme would be restricted to shortage occupations, we believe there would be a number of negative effects:

- If employers cannot transfer the staff they need, business performance will suffer.
- Loss of the higher income tax revenue, as mentioned above.
- The combination of a restrictive policy on work permits and recently introduced higher marginal tax rates may lead some companies to question the value of running certain operations in the UK. This could have significant knock-on effects on jobs both in the sectors concerned and a wide range of services that support the international community.
- A more restrictive migration policy may lead other countries to follow suit, which would affect companies' ability to employ British staff overseas, leading to their early repatriation and damaging business. This would have a completely counter-productive effect on the UK employment market.

The way forward - stability and compliance

Most employers feel the current PBS scheme is working well. They are strongly opposed to any further tightening of the demand-based Tier 2, whether via stricter requirements on prospective earnings or qualifications, or via a stricter points calibration. Employers are also opposed to any lengthening of advertising requirements.

We strongly support compliance by all. If abuse is suspected or found, it should be tackled by stricter control of existing regulations and sanctions against those who are not fully compliant.

With respect to Tier 1, we note that some companies have questioned the recent restriction to Master's degrees.

3. The economic contribution made by dependants of Points Based System immigrants and their role in the labour market

Since the early 1990's, several international surveys of HR managers (by ORC, ECA, PwC, GMAC and others) have shown that concern about partner employment is one of the main reasons why employees turn down an international assignment. Accompanying partners face many challenges managing their career during foreign assignments. One of the major challenges and uncertainties in a number of countries is whether they will be granted work authorisation.

The UK's regulations, which allow dependants to work freely during the assignment, have long been regarded as a model of best international practice. The UK Border Agency and its predecessors have been pleased to showcase this in international discussions. See, for example, http://permitsfoundation.com/docs/permits_roundtable_summary.pdf. Section 4 below gives additional international comparisons. We consider it of paramount importance to the UK's attractiveness as a business centre and destination for top talent to maintain this status quo. It would also be damaging to British companies overseas if other countries were to falter in progress towards this best practice, if the UK were to reverse its position on this point.

What evidence is there of the current labour market contribution of dependants?

In the second half of 2008, Permits Foundation conducted a global survey, sponsored by Industrial Relations Counsellors Inc., to gather detailed evidence directly from spouses and partners. 3300 spouses and partners took part. They represented 122 nationalities in 117 host countries, accompanying employees working in more than two hundred companies and international organisations.

Around 90% of spouses and partners in the survey were employed or self employed before expatriation. This fell to 35% during expatriation, whereas more than 80% said they would like to work.

A report of the global survey is at: http://permitsfoundation.com/docs/permits_survey_summary.pdf

Within the global survey of 3300 spouses and partners, there were 250 in UK host country. We attach an appendix with an extract of their responses. At the same time, we want to stress that the global results have equal implications for the UK. 86% of spouses were accompanying an ICT in the host country. Many of them could expect to have a UK posting at a future date.

The UK responses were broadly in line with the global survey, although the percentage of accompanying spouses working in the UK was higher - 46% (37.5% employed plus 8.6% self-employed) compared with 35% in the global survey. We think this is due to the open work permission for dependants. However, considering the percentage of spouses who would like to work (85% of UK respondents and 84% globally), it is clear there is still a large gap between aspirations and the ability to get a job.

Granting dependants a work permit does not guarantee them a job. They still have to compete in the employment market. Unlike ICTs who transfer straight to a job in their own company, the partners face many challenges, for example, understanding the local job market, applying and interviewing in a different culture and possibly foreign language. They need to be highly motivated as well as skilled. If they succeed, they are best person for the job and that will add most to the UK economy.

In addition to statistical data, our global survey captured thousands of open comments from partners. We have included those from the UK in our appendix, as primary evidence of the importance of the issue.

Generally, about 80% of intra-company transferees are accompanied. According to the survey, about 85% of accompanied spouses would like to work in the UK. i.e. about 68% of the total. Similarly,

45% of 80% in our UK survey actually got a job, equivalent to 36% of the number of intra-company transferees.

These modest percentages, taken together with the high educational levels and language skills described below, provide evidence that spouses are complementary to the local employment market. Rather than displacing local staff, they represent an under-utilised talent pool.

How do the economic and labour market impacts of dependants differ from the PBS immigrants they are accompanying?

The vast majority (81%) of spouses and partners in our survey were women. They were highly educated, with diverse professional backgrounds and nationalities. According to our UK data, the educational qualifications of dependant spouses were higher than the national average. 86.4% held a bachelor's degree or higher; 46% held a masters' degree and 6% a Doctorate or PhD. They were also proficient in foreign languages, with 34% speaking two languages, 29% speaking three languages and 16% speaking four or more languages. A wide range of professional backgrounds was represented, including a number of technical, health and educational professions represented in the shortage skills list.

A condition of being granted a permit as a dependant is that they will have no recourse to public funds. And since they already reside with their family, they place no further strain on housing and other infrastructure if they take up employment, by contrast with a new foreign migrant. This creates a potential *win-win*, or at least *win-no lose* situation for the economy. If spouses work, they contribute to the economy and if they don't work, they are no drain.

What impact does policy on dependants have on the decision of principal immigrants to come to the UK to work?

Companies with experience of transferring staff internationally frequently find that it is the benefits that apply to the family as a whole that make or break the assignment.

The large majority of spouses and partners in Permits Foundation global survey said that their own employment was important in the decision to accept the current assignment. This is particularly so among the male spouses, younger age groups, unmarried partners and those with a university degree.

Moreover, almost 60% of respondents said they would be unlikely to relocate in future to a country where it is difficult for a spouse to get a work permit. By contrast, countries that enable spouses and partners to work were attractive destinations for 96% of respondents.

The impact of being employed in the host country on adjustment, well-being and family relationships

Our survey showed a clear link between working in the host country and positive feelings about the assignment. Spouses who were working were more likely to report a positive impact on adjustment, family relationships and health or well-being than spouses who were not working. This may in turn contribute positively to family spending patterns and other economic outcomes.

Is there a case for linking the PBS points awarded to the main applicant positively to the skill levels of dependants?

We do not see any case to link the PBS points awarded to the main applicant in Tier 2 (demand based applications) to the skill level of dependants. There might be a case to do this, however, for applications under Tier 1. Canada has such an arrangement for skilled foreign workers who wish to immigrate permanently. A maximum of 10 points out of 67 may be awarded for adaptability, which includes points for either the employee or the spouse, but not both. <http://www.cic.gc.ca/english/immigrate/skilled/apply-factors.asp>

4. Comparative information on regulations on dependants in other countries

Europe: In addition to the UK, France, the Netherlands, Denmark, Finland and Sweden already allow dependants of highly skilled migrants and/or ICTs to work freely. Under plans for the new European Blue Card, dependants will have this right in at least 24 member states by 2011.

Outside Europe: Australia, New Zealand, Canada, Hong Kong and the USA grant open work authorisation to spouses once the resident formalities have been completed. Other countries are moving in this direction. Countries that have made the changes in recent years have referred specifically to the importance of partner work permits in attracting skilled employees and creating an attractive climate for investment.

An overview of regulations on dependants in other countries is given at:

<http://permitsfoundation.com/docs/Permits%20Country%20Summary%20January%202009.pdf>

5. Conclusions and recommendations

Permits Foundation maintains that employing expatriate staff goes hand in hand with international trade and investment that improves local employment prospects and economic growth longer term.

ICTs and their families are a highly educated and skilled talent pool. They represent constant refreshment and upgrading of human capital in the UK labour market, without placing any long-term burden on government services. Employers are unanimously opposed to any restriction of ICTs to shortage occupations.

Permits Foundation understands the need to review the Points Based System in the light of the current economic downturn. However, based on consultations with a range of companies, we believe that the economic well being of the UK and its citizens will be best served by a broadly stable migration policy that complements the local employment market and encourages businesses to invest and maintain a long-term presence.

If there is evidence of abuse of the system or undercutting of UK salary levels, this should be tackled by stricter enforcement and sanctions against employers who are not fully compliant.

Continuing to grant work authorisation to dependants helps to maintain the UK's attractiveness as a destination for investment and skilled workers. Employers are also unanimous on this point.

We appreciate that the MAC has not been asked to make a formal policy recommendation on dependants. However, we do want to stress that any erosion of work authorisation for dependants would be felt as an affront to personal dignity and equal opportunity in a modern society. It would be doubly distasteful since dependants are not permitted to have recourse to public funds. Since the impact would fall largely on female spouses, it would effectively be a form of sexual discrimination.

Seen in this light, the assertion (in sections 6.7 to 6.10 of the MAC discussion paper) that there is a legal basis for restricting dependants' access to employment is a moot point. We believe that this could be challenged in the courts.

We hope that our submission, and supplementary evidence from our global and UK survey data, is useful to your deliberations. We have no objection to any of our materials being made public.

Yours faithfully,

Kathleen van der Wilk-Carlton,

Board Member, Permits Foundation.