

Migration Advisory Committee call for evidence on the economic and social impacts of the UK's exit from the European Union.

Submission by Weightmans LLP

Tim Lang

Partner

DDI: 0121 200 8111

tim.lang@weightmans.com

Louise Singh

Professional Support Lawyer

DDI: 0151 242 6520

louise.singh@weightmans.com



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Introduction and Methodology

Weightmans is a UK top 50 law firm which acts for a diverse range of employers across the public and private sectors. We are currently working with clients in all sectors to anticipate and mitigate the impact of the UK's exit from the European Union, especially in respect of strategic workforce planning.

The firm canvassed opinion on the questions under consideration in this call for evidence from our clients, by sending out a brief written summary of the evidence sought and a short questionnaire. The questionnaire was targeted towards senior HR role holders in our client base. We received responses to our survey from employers in a variety of sectors including hospitality and leisure (33%), manufacturing (22%), retail (11%) and transport and logistics (11%). The answers expressed below reflect the views of the clients who responded to our survey as well as those of Weightmans LLP as a firm.

We did not ask our clients to comment on every aspect of the call for evidence, but rather focussed on the 'on the ground' difficulties currently faced by businesses trying to ensure that their organisations remain resilient throughout the forthcoming period of change.

In summary, the possible reduction in the availability of EEA migrants is a pressing issue for many of our clients. One of the biggest challenges is trying to anticipate the level of any skills shortages without knowing, even broadly, what the applicable immigration rules will be going forward. However, the scale of this challenge differs for organisations depending on location and sector. Our clients are concerned about the possible cost and complexity of any future revised immigration regime and the administrative burden this might impose.

Responses

The perceived impact of Brexit

78% of the clients who responded to our survey told us that they had already made at least some assessment of the impact of a possible reduction in the availability of EEA migrants as part of the workforce. 22% were yet to do so.

Over half of the respondents to our survey (56%) perceived that a reduction in EEA migration would have 'a big impact' on their organisation or sector. However, by contrast, the remaining 44% felt that this this reduction would have 'little impact'. This seems to suggest that concern about a possible drop-off in available migrant labour is sector-specific.

The responses we have received highlight that a large manpower gap/skills shortage is anticipated in the hospitality and leisure industry. For example, one client from this sector told us that over 50% of their national employees hail from the EEA.

Our manufacturing clients also tell us that factory workers and engineers would be in short supply if immigration from the EEA is tightened.

Response to our survey from the retail sector was comparatively low. However, the limited feedback received suggests that this sector feels more resilient, and is more confident of meeting its staffing requirements from the domestic labour pool post-Brexit, than either the hospitality or manufacturing sectors.

Regional Disparities

Over half the respondent's to our survey (56%) anticipated that a reduction in EEA migration would have a greater impact in some geographical areas of the UK than others. 22% did not anticipate that such a disparity would arise and 22% were not sure.

The responses we received suggest that the impact will be greatest in London. Indeed, one client told us that 80% of their London-based manpower comes from the EEA and that they would be 'very negatively affected' by a tightening in the immigration rules.

However, our understanding is that impact will be by no means confined to the South-East. Regional impact will differ from business to business depending on structure and geographical profile. For example, one transport and logistics client told us that they have a significant number of EEA workers based at a key Distribution Centre in the North-West (comprising 25% of the workforce). The same organisation reports that, at their North-West based Head Office, approximately 10% of the workforce are EEA employees.

Skills levels and workforce profile

All of the respondents to our survey told us that members of their EEA workforce are predominantly full-time (as opposed to part-time, seasonal, agency workers, internal transfers or self-employed). However, one client told us that, when agency workers are used, the workers provided through this channel are predominantly from the EEA.

We asked clients to think about the level of skill and the types of roles performed by their EEA staff currently working in the UK. The responses we received indicate that our clients variously employ EEA workers at all levels in their organisations.

22% of respondents to our survey told us that they would characterise their EEA workforce as predominantly 'low-skilled', 11% chose 'moderately skilled' and a further 11% 'highly skilled'. However, a clear majority of 56% told us that EEA workers are employed within their workforces at 'a mixture of skills levels'. For example, one transport and logistics client told us that while EEA workers were very important to its general distribution workforce, it also employs significant numbers of EEA staff in various degree level roles including buying, marketing, HR, finance and many multi-lingual roles in customer service and credit control.

However, concern about the future seems to be highest where EEA workers are currently engaged in low or moderately skilled roles, as there is a perception that these roles will be harder to fill if the flow of migrant workers from the EEA is restricted.

Recruitment and Selection

None of the employers that responded to our survey used different methods of recruitment to employ EEA migrants than to employ UK and other non-EEA workers.

A clear majority of respondents (68%) told us that the same methods of recruitment were used to employ EEA migrants whatever the skill-level or role-type of the position to be filled. 22% told us that different methods were used according to skill-level or role-type and the remaining 11% were not sure.

On manufacturing client told us that their workforce of factory operators (comprised of 80% EEA workers) are usually recruited as agency employees and after 12 months become permanent. EEA staff in 'professional roles' within the same organisation are recruited internally or through agencies (some of which have overseas offices).

A transport and logistics client told us that 'temp to perm' recruitment is also used to bring EEA employees into their distribution centres. The organisation advised that, in previous years, they have had seasonal shortages and had to recruit directly from Eastern Europe via their temporary agency supplier. This organisation stated that attempts are made to recruit locally from the UK workforce in the first instance. EEA migrants in other roles and at other skill levels within the same

organisation are recruited from a variety of sources including online, through agencies, employee referrals, job fairs and entry level from University.

Bridging the skills gap

The current UK work-related migration system for non-EEA citizens has a clear preference for highly skilled workers (in graduate level occupations and earning relatively high minimum salaries). The current 'shortage occupation list' applies to high-skilled workers only and there is no explicit work-route for lower skilled workers.

The responses we received from our clients indicated strong support for an expansion of the 'shortage occupation list' to cover lower skills levels. 89% of respondents to our survey supported this proposal.

We asked our clients to indicate which types of low-skilled work they thought should be prioritised. The suggestions we received were predominantly low-skilled jobs in the service sector including cleaners, waiters, entry level chefs and receptionists. Our clients in the manufacturing sector highlighted a perceived shortage in manual working roles such as factory operatives.

However, one respondent to our survey made the excellent point that, for lower skilled roles, the skills and attributes required can be fairly fluid and transferable. It may be less easy to match a particular role to a particular person than for a more highly skilled position where particular qualifications, a particular level of attainment or a particular knowledge base is required (such as a doctor or engineer). A migrant hoping to undertake low skilled work in the UK may not necessarily have undertaken a particular type of work or job-role before and may struggle to evidence requisite experience. For example, our manufacturing clients are looking for candidates who can work effectively on a factory production line. However, such individuals may not be 'factory workers' to the exclusion of all other types of work. Designing and implementing a 'shortage occupation list' that caters for low-skilled roles may therefore be challenging.

One respondent felt that 'low skilled' work should be 'ring-fenced' for UK nationals to boost domestic employment rates. However, it should be noted that this view went against the general grain of responses received.

Our clients highlighted that EEA workers are often able to offer additional skills (such as proficiency in a number of languages) which are not strictly required to perform low-skilled work but are highly desirable. The responses we received suggest that there may be case for including low skilled roles that benefit from, but do not necessarily require, a high level of language

proficiency (such as call-centre work or numerous service industry roles) on the ‘shortage occupation list’. One respondent suggested that, if UK workers are to fill the anticipated skills gap post-Brexit, support may be required to boost language skills amongst the domestic workforce.

We asked our clients to further explain to us any perceived benefits of employing EEA workers (as opposed to UK workers) and any barriers they foresee to filling the anticipated skills with UK workers. A number of clients held the view that, amongst the domestic workforce, there is limited interest in the work available in their sector. For example, one client in the hospitality and leisure industry stated that “British workers do not consider hospitality to be a career of choice/vocation”. Similarly, a client in the manufacturing sector identified as a barrier their perception that “availability of labour that [is] willing or able to undertake manufacturing jobs within the [UK born] population seems to be limited. EEA labour ensures that there is a ready supply”.

In the hospitality and leisure industry, an additional perceived barrier to filling roles from the domestic workforce is the relatively low pay available in the sector and the relatively small pay differentials between roles. One client in this sector commented “British workers do not consider minimum/living wage to be lucrative enough. Businesses are unable to sustain inequities arising due to wage compression on account of the NMW/NLW”. This client argued that many businesses are unable to increase pay levels due to other costs impacts such as increased business rates and the apprenticeship levy. Their position was that, if the free-flow of EEA migrants is restricted post-Brexit, minimum salary requirements for potential migrants should be reduced, to facilitate easier recruitment from both within and outside the EU into relatively low-paying sectors of the UK economy.

Anecdotally, respondents to our survey reported that EEA workers are particularly attractive due to high levels of educational attainment, a strong work ethic and good language and communication skills. There was a perception amongst some respondents to our survey that these skills were not mirrored in the available UK workforce.

The future of the immigration system

We asked our clients to let us know, in broad terms, any other points they would like the Government to consider when designing a new post-Brexit work-based immigration system.

There was a general view expressed that any new system must not be too restrictive or difficult for employers to navigate and, to the greatest extent possible, should not add to the costs of employment.

One client expressly asked the Government to consider “a work permit type entry system” to employ low skilled workers from within and outside the EU. However, this was coupled with a plea to reduce work permit costs, which the client described as “extortionate” and a barrier to internal investment and development. There appears to be a prevalent concern that such costs will increase post-Brexit.

Another client advocated a “points system for all levels of skilled and non-skilled work” and expressed support for the retention of measures (such as the resident labour market test) to source labour from within the UK before recruitment from abroad is considered.

In our view, the issue of cost is critical. The current points system can cost many thousands per employee for visa costs plus the cost of the immigration skills charge (which is £1000 per year of the visa payable up front in a lump sum). Those costs would be prohibitive for minimum wage/ low skilled jobs and a lower cost alternative should be considered for such roles.

Any new route for existing EU workers already working in the UK to apply for residence cards to stay must also be easy and affordable. The Government has not yet clarified what it will charge for residence cards post-Brexit.

In our view, and that of the respondents to our survey, clear employer guidance on how any new system should be implemented and how the status of migrant workers should be established, is crucial to ensure the smooth running of a revised immigration regime. The employers who have shared their views with are keen to be well informed and prepared for all eventualities.

Tim Lang
Partner
Weightmans LLP

Louise Singh
Professional Support Lawyer
Weightmans LLP

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