



ILPA evidence for the Home Affairs Committee Immigration Policy: Principles for Building Consensus Inquiry

The Immigration Law Practitioners' Association (ILPA) is a registered charity and a professional membership association. The majority of members are barristers, solicitors and advocates practising in all areas of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Founded in 1984, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on advisory and consultative groups convened by Government departments, public bodies and non-governmental organisations.

For further information please get in touch with Claire Laizans, Parliamentary and Information Officer, claire.laizans@ilpa.org.uk 0207 251 8383

BACKGROUND

This evidence addresses the two key questions the Committee is examining at this stage of the inquiry. The first concerns the approaches the Government might adopt to build consensus on how to deal with the future of immigration to the UK. The second part of the inquiry looks at key principles an immigration policy would need to satisfy to achieve such consensus. ILPA has written extensively on these two questions over many years. The evidence below draws upon ILPA's body of work, and we encourage the Committee to consider our evidence in light of this wealth of experience. To this end, this briefing builds upon evidence submitted to an earlier phase of this inquiry in January 2017. We would be happy to provide further evidence and assistance to the Committee as the inquiry develops.

In presenting this briefing, ILPA would particularly like to acknowledge the contribution of ILPA member Katherine Dennis of Charles Russell Speechlys LLP.

We agree with the points raised by the Joint Council for the Welfare of Immigrants (JCWI) and fully support their submission *How to Build a Post-Brexit Immigration Policy: JCWI's 5 Principles*.

KEY RECOMMENDATIONS

- I. **The future of immigration policy must not be discussed in the abstract or oversimplified** – discourse should accurately reflect the varied and nuanced reasons for immigration, and not reinforce assumption or prejudice by focusing on a particular group, nationality or reason for moving to another country.
- II. **Immigration policy must be evidence based** – reliance on data and analysis will move discussion away from assumptions and unsubstantiated opinions.
- III. **The language around immigration must focus on the needs and aspirations of the country (its communities and residents) and the benefits immigration brings, rather than the immigration ‘problem’** – posing immigration as a problem and ignoring the benefits rendered, combined with a commitment to arbitrary cuts and a failure to respond to regional and sector based needs, will undermine the achievement of consensus.
- IV. **Consultation, openness, and education must guide the Government’s approach to building consensus on immigration** – these actions will avoid members of society feeling ‘left behind’ or unheard in the immigration debate, and education will ensure that participants in the discussion are well informed.
- V. **Fairness, transparency and flexibility are the key principles an immigration policy will need in order to achieve consensus.**

ANALYSIS

Question 1: Approaches might the Government adopt to build consensus on how future immigration to the UK should be dealt with

Immigration can be an emotive issue for many people and, particularly when discussed in the **abstract**, it tends to bring out responses which are often based on assumption or prejudice. One particular example or story (whether positive or, as appears to be more

often the case, negative) can sometimes act as a ‘hook’ for an individual’s opinion on a matter, especially in an area in which they have limited personal knowledge or experience. The focus on a particular anecdote is unhelpful as it can lead to the media and politicians playing on or pandering to uninformed opinion or prejudice. That is not a sound basis for building consensus on any political policy.

Moreover, ‘Immigration’ as a concept is as varied and nuanced as the hundreds of thousands of individual people who enter and leave the UK every year. It cannot be accurately categorised by reference to only one group of people, a few particular nationalities, or one reason for moving to another country.

Immigration is also intertwined with many other areas of policy; preserving family unity, the economy, healthcare, education, among others. It cannot therefore be considered in an **oversimplified** vacuum, and the impact of immigration policy on other areas must be taken into account to foster a dialogue conducive to consensus.

In ILPA’s view, the foundation of any immigration policy, and resultant discussion of that policy, should be **evidence-based**. Collecting and analysing data on migration helps to move the debate away from assumption and unsubstantiated opinion towards a more accurate picture of its impact on the country, the country’s needs and aspirations, as well as the benefits and costs of immigration in different areas. A responsible government should make important policy decisions based on evidence. An evidence-based policy also allows the government to defend it with reference to information and objective data, which is much more difficult to argue with than a particular opinion.

Immigration policy, and the dialogue surrounding it, should be framed in terms of the country’s **needs and aspirations**. A commitment to arbitrarily cutting the number of ‘immigrants’ into the UK is too simplistic an approach, and does not make any allowance for the benefits migration can bring. Moreover, such a policy does not recognise that there are areas in which the UK which actually need or would benefit from migrants. Ultimately, the approach that focuses on ‘cutting’ poses immigration as a **problem** which must be addressed and can ultimately be ‘dealt with’.

Rather than framed in terms of ‘cuts’ and ‘targets’, ILPA believes that the language around immigration must be focused on the needs of the country and the need and **benefits of immigration**. For example, international students contribute hugely to the UK’s reputation as a world-class education provider, which in turn contributes both to academic excellence and the UK’s standing as a centre for research and learning. Both these things contribute to the country’s economy (not least because international

students pay significant tuition fees) and the affluence of the towns and cities around these institutions. Furthermore, under the current immigration system those studying in the UK under Tier 4 (the main student visa category) are not on a path to indefinite leave to remain and their ability to work is restricted. We would therefore suggest that international students are a good example of immigration that has the ability to serve the country's needs and aspirations effectively, without great cost.

Similarly, there is great concern at the moment over the shortage of nurses in the UK. Although nurses are currently on the Tier 2 Shortage Occupation List, shortages appear to be increasing as a result of Brexit and the current climate around the immigration debate.

'Over the last 12 months the number of UK graduates leaving the profession has increased by nine percent....'

The number of nurses and midwives from Europe leaving the register has also increased by 67 percent, while the number joining the register from the EU has dropped dramatically by 89 percent.'

- Nursing and Midwifery Council, November 2017¹

Although the government has promised to facilitate more training places for nurses in the UK, it is likely to be some years before the effects of this are felt. In the meantime, the media is full of stories about chronic staff shortages in hospitals and falling standards of patient care as a result. Discouraging skilled migrants and making them feel unwelcome, in spite of the very obvious needs of the country is shortsighted. ILPA believes that a change in the framing of immigration policy from 'problem' to 'benefit' and 'need' would have a positive impact on this situation.

To this end, ILPA contends that **consultation** and **openness** are key to building consensus around immigration policy, as is **education**. A feeling of being 'left behind' or unheard, coupled with a lack of understanding of the hugely variable circumstances encompassed by the term 'immigration' can give rise to anti-migrant feeling. This was illustrated very clearly during the Brexit referendum, and since.

¹ Nursing and Midwifery Council, *Increasing number of nurses and midwives leaving profession 'highlights major challenges faced by health and care sectors'*, 2 November 2017
<https://www.nmc.org.uk/news/news-and-updates/increasing-number-nurses-midwives-leaving-profession-major-challenges/>

In order to achieve consensus, the government needs to make it very clear that it is seeking the views of all sections of UK society, and in all regions of the country and that those views will feed into policy-making decisions. This needs to be more than lip-service. In order to build consensus, more diverse sections of society need to feel that they are stakeholders and that their views have been properly considered. The focus should be on what will benefit the country on both a wider, global level and at a local level, in individual towns and cities; both 'top-down' and 'bottom-up'. Such benefits will be economic but also social. For example a generous approach to family reunion rules allow more British citizens to live in the UK with their loved one from overseas.

The Brexit referendum campaigns and political events have revealed divisions within the country, which had perhaps remained hidden before. Bringing together such diverse and perhaps conflicting views is not an easy task but it will be difficult to build consensus around any new policy unless the government shows very clearly that it is listening to all – not just those who shout the loudest or have the most controversial messages. At the same time, immigration policy needs to be grounded in reality and based on evidence, not assumption and impression.

Question 2: Key principles an immigration policy need in order to achieve consensus

ILPA suggests that the first principle an immigration policy needs in order to achieve consensus is **fairness**. An approach is required that takes account of the benefits of migration for the UK (i.e. benefits to the UK economy, society, and culture through the contribution of migrants), and also factors in and off-sets certain local costs (while migrants are net contributors in fiscal terms, in particular areas there may be a growth in population that leads to temporary pressure on services such as health or housing while Government catches up and allocates resources to match changing requirements). The contributions that migrants make to the UK should be recognised and rewarded. That does not entail special treatment over and above settled persons or British citizens. Migrants should not be penalised or unfairly targeted. A successful policy would on balance bring greater benefits to the country than costs. This would be supported by, and based on, evidence, as outlined above.

The second principle is **transparency**. As described above, all sections of society and all regions of the UK should be invited and encouraged to give their views, and must feel that those views have been heard. Following this, the resulting policy needs to be clearly set out, and should be accompanied by evidence as to why the policy looks like it does,

so it is clear that views have been taken into account and, where difficult decisions have had to have been made, the reasons why those decisions were taken. The actual implementation of the policy then also needs to happen in a transparent and open way and there must be ongoing accountability of both the government and those with decision-making power within the new system.

The third principle required to achieve consensus is **flexibility**. The modern world is fast-moving and globalisation is increasing, whether politically popular or not. The needs and aspirations of the country will continue to change and shift over time and any immigration policy needs to take account of that. There must be mechanisms to make changes when evidence suggest these are necessary or desirable and those mechanisms should adhere to the principles of both fairness and transparency set out above.

Adrian Berry
Chair
Immigration Law Practitioners Association
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