**Equality Analysis of the New Points Based Immigration System – Skilled Worker and Temporary Worker Route**

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| **Screening** | **Please provide explanatory comments** | |
| 1. What activity is being analysed? | The UK left the EU on 31 January 2020 and entered a transitional period **until 31 December 2020.** During this time the UK continues to comply with EU legislation and free movement rules. At the end of the transition period free movement between EEA countries and the UK will come to an end and EEA nationals (excluding Irish nationals) and non-EEA nationals will need to apply under the **new Points Based System (PBS)** to enter the UK for the purposes of work with effect from 1 January 2021.  The new PBS introduces the Skilled Worker Route which will replace Tier 2 and the Temporary Worker Route which will replace Tier 5. Sponsorship under the new immigration system will be available from 1 December 2020 to allow new entrants time to apply and commence work in January 2021. Tier 2 and 5 will close with effect from 30 November 2020.  EU, EEA and Swiss nationals (and their non-EEA family members) resident in the UK by 31 December 2020 can apply for settled or pre-settled status under the EU Settlement Scheme (EUSS) until 30 June 2021. | |
| 1. Who likely to be affected by the activity? | EEA (excluding Irish) and non-EEA nationals who require sponsorship to work at BU. This does not include individuals who already have or are eligible to obtain permission to work via another route e.g. the EU Settlement Scheme. | |
| 1. Who led the analysis? | HR & OD | |
| 1. Who contributed to the analysis? | HR & OD | |
| 1. What information has been used to inform the analysis? | Staff equality data as at December 2020.  Gender pay gap analysis  Bournemouth University Equal Pay Review  The Government’s [Equality impact assessment of the points-based immigration system](https://www.gov.uk/government/publications/equality-impact-assessment-of-the-points-based-immigration-system)  [Workers and Temporary Workers Sponsor Guidance](https://www.gov.uk/government/publications/sponsor-a-tier-2-or-5-worker-guidance-for-employers)  [Statement of Changes to the Immigration rules HC813, 22 October 2020](https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-813-22-october-2020) | |
| **Analysis** | **Please provide explanatory comments** | |
| 1. **How does the activity promote good relations/equality/inclusion in relation to:** | The new Skilled Worker and Temporary Worker route will apply equally to both EEA and non-EEA nationals, whereas the current PBS immigration system only applies to non-EEA nationals. The government intends for all nationalities to be treated equally under the new PBS.  In comparison with the current Tier 2 route, there is an expansion of the skills threshold (from RQF level 6 to RQF level 3) and the general salary threshold has been reduced (from £30,000 to £25,600) under the Skilled Worker route. The inclusion of ‘tradeable’ points also allows the salary threshold to be reduced further based on the individual’s skills for example, holding a relevant PhD. The Skilled Worker route therefore provides opportunity for non-EEA nationals to be sponsored in a broader range of positions in comparison to the current Tier 2 system.  The government have confirmed the new PBS will be designed in such a way as to be practically accessible to all EEA and non-EEA nationals. This includes meeting the Government Digital Service’s Accessibility Standards and telephone/ face-to-face support to complete online forms. | |
| 6.1 Age | See accessibility under section 6 above. | |
| 6.2 Disability | See accessibility under section 6 above. | |
| 6.3 Gender Reassignment | None | |
| 6.4 Marriage and civil partnership[[1]](#footnote-1) | None | |
| 6.5 Pregnancy and maternity (including paternity) | None | |
| 6.6 Race (colour, ethnic or national background) | None | |
| 6.7 Religion or belief (including non-belief) | None | |
| 6.8 Sex (Female/Male) | None | |
| 6.9 Sexual orientation | None | |
| 1. **Does the activity have an actual or potential adverse impact in relation to?** | EEA citizens are currently able to come to the UK to work under EU Free Movement rules, this will no longer be the case under the new PBS. Therefore, EEA citizens who may want to come to the UK in the future are likely to feel the biggest impact from the requirements of the future immigration system due to the end of free movement.  BU currently employs 169 established and fixed-term EEA nationals (9.4 % of the overall established workforce).  On average 16 new EEA nationals have been appointed every year over the last 5 years. 27% (46) of current EEA nationals have been employed or been resident overseas before working for BU, suggesting 5 EEA nationals may enter from outside the UK next year and require sponsorship under the new PBS. Those who were resident in the UK prior to 31 December 2020 will be able to apply under the EU Settlement Scheme. Over time the number of EEA nationals requiring sponsorship is likely to increase due to the end of free movement on 31 December 2020. | |
| 7.1 Age | The Skilled Worker route is only open to those aged 18 and over. BU does not currently employ any individuals under the age of 18 and therefore is likely to have no or very minimal impact.  The salary threshold may disproportionately impact younger non-EEA and EEA nationals, who may earn less. At BU there is an overall correlation between increase in age and increase in seniority of grade. The government’s equality analysis of the new PBS also states that amongst the UK workforce, there is a strong relationship between earnings and age.  To help mitigate this, the general salary threshold is being reduced from £30,000 under Tier 2 to £25,600 and in addition applies a 30% lower threshold for new entrants, to a lower limit of £20,480. A ‘new entrant’ includes anyone under 26 years old or who has had previous ‘Leave to Remain’ as a student. The Government recognises that although setting the salary threshold at the proposed levels may impact on certain age groups, they consider it is justified in order to protect the level of wages earned in the UK and to ensure that migrants are able to support themselves without relying on public funds.  The skills threshold may also impact younger EEA workers who have had opportunity to develop the required skills. However, it may make the route more accessible for non-EEA nationals who have previously been required to work in occupations that are defined as RQF level 6 or above to obtain sponsorship. | |
| 7.2 Disability | Prescribing a minimum salary threshold may have differential impacts on people on the basis of whether they have a disability. The government’s equality analysis highlights that internal Home Office analysis found that median annual pay was consistently higher for non-disabled employees than for disabled employees, meaning that people with a disability may find it disproportionately more difficult to meet the salary threshold. Bournemouth University’s Equal Pay review in 2018 reflects this as employees who have declared a disability earn on average 98% of that earned by those who have not declared a disability (the same as in 2016 but increasing from 95% in 2014).  To help mitigate this, the general salary threshold is being reduced from £30,000 (under Tier 2) to £25,600. The Government maintains that the salary threshold is an important feature of the Immigration Rules both to protect the level of wages earned in the UK as well as ensuring that migrants can support themselves and make a positive net contribution to the UK.  The end of free movement and the introduction of the PBS may disadvantage those with a disability as they are not likely to be eligible to access public funds under the Skilled Worker or Temporary Worker route which they may rely on to support their daily living. The Government believes that this is justified due to the necessity of protecting the public finances from migrants travelling to the UK with the purpose of accessing state benefits.  The digitalisation of the application process may disadvantage some disabled persons with accessibility needs. The government’s equality analysis of the PBS stated that assuming UK residents reflect future applicants’ use of the internet, the ONS survey of ‘Internet users in the UK’, for Q1 2019, found that 18% of disabled adults had never used the internet.  To mitigate this the Government will ensure all online forms are tested and designed to ensure, as much as practicable, accessibility for those with literacy and capability restrictions, meeting the Government Digital Service’s Accessibility Standards and also continue to provide an Assisted Digital Service. | |
| 7.3 Gender Reassignment | None | |
| 7.4 Marriage and civil partnership[[2]](#footnote-2) | As is currently the case under Tier 2, non-EEA citizens, including those who are married or who are in a civil partnership, will be able to apply to come to the UK under the new PBS, as long as they meet the requirements for their chosen route. These rules will also apply to EEA citizens arriving from January 2021 under the new PBS. This represents a change for those who would, if they arrived now, be exercising free movement rights. However, the Government considers this is justified on the basis that it is fair and appropriate to have a single global system that is applied consistently to all nationalities. In addition, EEA national’s resident prior to 31 December 202 are eligible to apply under the EU Settlement Scheme. | |
| 7.5 Pregnancy and maternity (including paternity) | The salary requirement for the Skilled Worker route could have an impact on those who are pregnant or who are on maternity. While pay reductions during maternity leave are permitted, there is no current allowance for phased return or reduced hours as a reduction in salary may mean the salary threshold is not met.  To help mitigate this, the government has reduced the general salary threshold from £30,000 under Tier 2 to £25,600. The Government maintains that the salary threshold is an important feature of the Immigration Rules both to protect the level of wages earned in the UK as well as ensuring that individuals can support themselves and make a positive net contribution to the UK. | |
| 7.6 Race (colour, ethnic or national background) | The Skilled worker route (as with the current Tier 2 route) will require applicants to meet English language requirements. This will naturally favour nationalities who come from predominantly English language speaking countries. It is the Government’s belief that this difference is justified on the basis that the ability to speak English to a reasonable level is necessary to allow an individual to conduct daily life in the UK, to make a contribution to the labour market and the economy and to encourage social cohesion in the communities that they join.  In terms of salary, the Equal Pay Review in 2018 found staff at Bournemouth University from BME backgrounds earn 104% of that earned by white colleagues (increasing from 103% in 2016). This suggests the salary threshold should not have a differential impact on the basis of race. | |
| 7.7 Religion or belief (including non-belief) | The future system intends to bring EEA citizens and non-EEA citizens under the same UK laws and Immigration Rules. However, where there is different treatment due to nationality this may lead to an impact based on religion/belief. For example, maintaining the Common Travel Area may favour Christians as that is the predominant religion in Ireland. The government maintains this can be justified as proportionate in achieving the aims of protecting the rights of Irish citizens in the UK given the longstanding historical and political context of Ireland and the UK’s unique relationship. | |
| 7.8 Sex (Female/Male) | The minimum salary threshold may have differential impacts on individuals based on their sex. Women may find it disproportionately more difficult to meet the threshold than men. As stated in BU’s 2018-19 Gender pay gap report “The overall percentage base pay gap at Bournemouth University is 14%, (decreasing from 16% in 2016), meaning that on average female staff at BU earn 86% of that earned by their male colleagues. This is the lowest base pay gap recorded since the inception of the equal pay review in the current format in 2014. The reason for this is due to an unequal distribution of men and women across the pay grades”. Therefore, although the pay gap is decreasing there is still a difference.  As the general salary threshold is not pro-rated, it may also disproportionately affect women who are more likely to work part-time. At BU, 77.4% of all part-time employees are women.  To help mitigate this, the government has reduced the general salary threshold from £30,000 under Tier 2 to £25,600. The Government maintains that the salary threshold is an important feature of the Immigration Rules both to protect the level of wages earned in the UK as well as ensuring that migrants can support themselves and make a positive net contribution to the UK. | |
| 7.9 Sexual orientation | None | |
| 1. **Comment on the good practice identified** | | |
| The new PBS is a statutory requirement and will apply to all EEA and non-EEA nationals who require sponsorship to work at BU once free movement ends on 31 December 2020. In comparison with the current Tier 2 system a lowering of the general salary threshold and skill level will expand the type of roles we can sponsor therefore potentially making entry for the purposes of work more accessible for non-EEA nationals. | | |
| 1. **Comment on the actions to mitigate actual or potential adverse impact** | | |
| Please see section 7 above.  Given that this is a statutory requirement it is reasonable for the University to justify and continue, to adopt the policy despite its possible adverse equality impact as outlined in section 7 above. The application of the rules by BU are wholly aligned to the statutory scheme and complies with the Immigration Rules.  The possible adverse impact of the policy has been objectively justified by the UK Government as a proportionate means of achieving legitimate aims and is therefore outside of BU’s control. | | |
| **10. Decision/Feedback/Approval** |  | |
| 10.1 What is the analysis outcome? (See Table 1 to assist here) | Level 1 |
| 10.2 Have you consulted with EDSG? |  | |
| 10.3 When will the analysis be reported to EDSG? |  | |
| 10.4 Which Committee will approve the analysis? |  | |
| 10.5 Date of approval |  | |
| 10.6 When and how will the analysis be reviewed? | December 2020 | |

1. Marriage and civil partnership are protected under the legislation but only for the need to eliminate unlawful discrimination in employment. [↑](#footnote-ref-1)
2. Please see footnote 1. [↑](#footnote-ref-2)