Temporary and Circular Migration: Empirical Evidence, Current Policy Practice and Future Options in EU Member States

Johanna L. Wiese & Katharine Thorpe
Contents

Glossary 2

Executive summary 3

Introduction 8

1 The UK’s approach to temporary and circular migration - national vision, policy and programmes 13
  1.1 Evolvement of UK migration policy 13
  1.2 Temporary migration within the Points-Based System - breaking the link between temporary migration and settlement 14
  1.3 Strictly temporary migration within the Points-Based System – Tier 5 17
  1.4 Mixed success – temporary migration outside the Points-Based System 19
  1.5 Third country cooperation and international development 20

2 National legislation, condition, criteria and enforcement 26
  2.1 UK’s legal framework for temporary and circular migration 26
  2.2 Entry and exit provisions 26
  2.3 Access to settlement – hindering and facilitating circular migration 27
  2.4 Citizenship provisions 30
  2.5 Cross-government cooperation – social benefit portability and return 31

3 Statistical evidence for temporary and circular migration 34

Conclusion 41

References 43
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>APS</td>
<td>Annual Population Survey</td>
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<tr>
<td>BIS</td>
<td>Department for Business, Innovation and Skills</td>
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<tr>
<td>CSFP</td>
<td>Commonwealth Scholarship and Fellowship Plan</td>
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<tr>
<td>DfID</td>
<td>Department for International Development</td>
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<tr>
<td>DH</td>
<td>Department of Health</td>
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<tr>
<td>DWP</td>
<td>Department for Work and Pensions</td>
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<tr>
<td>EEA</td>
<td>European Economic Area</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FCO</td>
<td>Foreign and Commonwealth Office</td>
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<tr>
<td>GATS</td>
<td>General Agreement on Trade and Services</td>
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<tr>
<td>HMRC</td>
<td>HM Revenue and Customs</td>
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<td>HO</td>
<td>Home Office</td>
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<tr>
<td>ICT</td>
<td>Intra-Company Transfer</td>
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<tr>
<td>IDI</td>
<td>Immigration Directorate Instructions</td>
</tr>
<tr>
<td>ILE</td>
<td>Indefinite Leave to Enter</td>
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<td>ILR</td>
<td>Indefinite Leave to Remain</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>IPS</td>
<td>International Passenger Survey</td>
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<tr>
<td>LLE</td>
<td>Limited Leave to Enter</td>
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<tr>
<td>LTE</td>
<td>Leave to Enter</td>
</tr>
<tr>
<td>MAC</td>
<td>Migration Advisory Committee</td>
</tr>
<tr>
<td>MTI</td>
<td>Medical Training Initiative</td>
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<tr>
<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
</tr>
<tr>
<td>ONS</td>
<td>Office for National Statistics</td>
</tr>
<tr>
<td>PBS</td>
<td>Points-Based System</td>
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<tr>
<td>QUESTS–MIDA</td>
<td>Qualified Expatriate Somali Technical Support – Migration for Development in Africa</td>
</tr>
<tr>
<td>RLMT</td>
<td>Resident Labour Market Test</td>
</tr>
<tr>
<td>SAWS</td>
<td>Seasonal Agricultural Workers Scheme</td>
</tr>
<tr>
<td>SBS</td>
<td>Sectors-Based Scheme</td>
</tr>
<tr>
<td>SSA</td>
<td>Social Security Agreements</td>
</tr>
<tr>
<td>TCN</td>
<td>Third Country National</td>
</tr>
<tr>
<td>VCDR</td>
<td>Vienna Convention on Diplomatic Relations</td>
</tr>
</tbody>
</table>
Executive summary

Aim, scope and context

This report, *Temporary and Circular Migration: Empirical Evidence, Current Policy Practice and Future Options in EU Member States*, was produced by the UK National Contact Point (NCP) for the European Migration Network (EMN). The content of this report, along with those of the other 26 Member States, will be integrated into a synthesis report for the EMN, to be published in 2011.

The aim of the study is to contribute to a better understanding of the characteristics of temporary labour migration and circular/repetitive migration patterns of Third Country Nationals (TCNs) in the UK, as well as the movement of members from diasporas currently residing in the UK.

Specifically the report aims to review and analyse

- existing definitions and conceptualisations of temporary and circular migration, as well as criteria and conditions applied to entry and residence, and possibilities for the portability of social benefits;

- policy preferences, convictions and conceptualisations of political actors, the research community and other stakeholders;

- existing statistical data and empirical evidence for temporary and circular migration, and to examine possible approaches for measuring/estimating whether, and if so to what extent, migration has become increasingly temporary or circular in nature.

The report is primarily intended for National Ministers, National and European Union (EU) Policy Officers and other decision makers concerned with migration patterns and the management and control of migratory flows. Moreover, it serves to inform labour market parties (employers, recruiters, trade unions) and civil society organisations, as well as the research community and members of the public with an interest in migration patterns and migration management.

Methodology

This report is based on extensive desk research as well as consultations with several academics, policy and operational colleagues from the UK Border Agency and colleagues from other relevant government departments: the Department for International Development (DfID); the Department for Work and Pensions (DWP); the Department of Health (DH); and the International Organization for Migration (IOM). Statistical data were provided by the Migration Statistics Unit in the Home Office.

The initial findings of the study were presented in a workshop on *Temporary and Circular Migration* at the 15th International Metropolis Conference in The Hague in October 2010.
**Definitions**

Temporary and circular forms of migration are difficult to identify, thus creating a challenge for policy-makers.

This report adopted a broader definition of temporary migration than currently applied by UK Immigration Rules. This was done to maximise the value of the report for policy-makers and account for recent policy changes toward emphasising the temporary nature of previously permanent migration routes under the new Government.

Throughout this report temporary migration is therefore used to describe the status of TCNs who enter the UK for the purpose of work or study, or as a spouse, and whose return is enforced by UK Immigration Rules. This can take place as a one-off phenomenon or happen several times, but always ends with a return to the country of origin within a timeframe determined by UK policy preferences.¹

Circular migration does not exist as an explicit migration category in UK Immigration Rules as a result of its tendency to overlap with ‘temporary’ and ‘permanent’ migration. This report uses the term circular migration as an analytical tool to investigate the study’s aim to provide evidence on how UK Immigration Rules facilitate or hinder repeated ‘spontaneous’ rather than managed cross-border movement of TCNs wanting to settle in the UK and those already settled.

Finally, to reflect changes in UK immigration policy that are beginning to emerge due to the change of government in the UK in May 2010, the policy chapters of the report focus predominantly on the time period February 2008 (from the introduction of the Points-Based System) to December 2010.

**The UK’s approach to temporary and circular migration – national vision, policy and programmes**

- UK Immigration Rules limit the term ‘temporary’ to TCNs entering the UK under Tier 5 of the Points-Based System (PBS) and through the Seasonal Agricultural Workers Scheme (SAWS) and the Sectors-Based Scheme (SBS). Particular importance is therefore attached to these categories.

- However, strict criteria regarding who is granted the right to settle upon entry means that most individuals entering the UK for the purpose of work or study could be considered as temporary migrants. This is further complicated by the fact that limited leave to remain can often be renewed or turned into permanent residency.

- The main challenge for the study lies in exploring existing definitions, preferences and convictions of policy-makers towards temporary and circular migration.

¹ This has elsewhere been referred to as ‘cyclical’ to emphasise the end point of the circle, which is always a third country.
Policy in the field of temporary and circular migration affects TCNs as well as UK citizens from the diaspora. Thus it goes beyond the remit of the UK Border Agency and also partly falls under the responsibility of other government departments, notably DfID, FCO, DH and DWP.

Under current rules the majority of individuals can apply for settlement after spending a period of time in the UK, but the new Government has announced its intention to review these rules in order to break the link between temporary migration and the right to settlement in the UK.

The student route (Tier 4) is under review following the Home Secretary’s announcements that student migration to the UK should not be seen as a route towards staying in the UK permanently.

The UK’s experience with strictly temporary migration schemes for the low-skilled sector has been mixed. Until 2008, the UK operated two temporary migration schemes for the low-skilled sector for non-European Economic Area (EEA) citizens. The SAWS was regarded as a success due to its ability to fill temporary shortages in the UK agricultural sector with a negligible rate of overstayers. However, the SBS, which broadened the use of temporary labour for non-seasonal sectors, suffered from applicants overstaying their visas. Both schemes are now only open to Bulgarian and Romanian nationals.

The UK supports in principle the EU’s Global Approach to Migration and is a signatory to the EU Mobility Partnership Agreement with Georgia. It considers other such initiatives on a case-by-case basis.

There is currently no national policy that links temporary and circular migration to international development efforts. Cross-government discussions in this field are relatively recent, decentralised and mostly take place on an ad hoc basis. Successful products of such ad hoc collaboration are the Medical Training Initiative (MTI) and the Commonwealth Scholarship and Fellowship Plan (CSFP), which are operated under the Tier 5 Government-Authorised Exchange subcategory.

The MTI resulted from a collaboration of DH and the UK Border Agency, and accommodates overseas post-graduate medical specialists to undertake a fixed period of training and experience in the UK for up to two years. Its popularity is based on its potential to achieve a ‘triple win’ through promoting the UK education sector abroad, enhancing participants’ skills and allowing countries of origin to capitalise on these skills upon participants’ return.

The CSFP provides an opportunity for citizens of other Commonwealth countries to come to the UK for a fixed period of time and enhance their knowledge in a particular field. The UK is the biggest contributor to the scheme, which is co-funded by the FCO and DfID. In 2009, the remit of the CSFP as a means to develop countries of origin was
further enhanced through the creation of a separate fund for scholars from low- and middle-income countries.

UK immigration policy focuses on TCNs arriving in the UK. Therefore, there is no centralised scheme that promotes temporary return to countries of origin among diaspora communities in the UK. Policy in this area falls under the remit of DfID and takes the form of support for individual diaspora organisations through grants from its Voluntary Services Overseas Fund. Such temporary ‘return’ migration is also at the heart of the United Nation Development Programme (UNDP)-created and IOM-implemented Qualified Expatriate Somali Technical Support – Migration for Development in Africa (QUESTS-MIDA) project. QUESTS-MIDA encourages the temporary return of qualified professionals from the Somali diaspora for specific job openings in Somalia.

National legislation, condition, criteria and enforcement

- The legislative context for temporary and circular migration is comprehensive and based on the Immigration Rules made under the Immigration Act 1971, as well as its subsequent amendments. However, immigration policy and practice, which allow temporary and circular migration, are also governed by a large body of secondary legislation in the form of statutory instruments, as well as EU Regulations and Directives.

- Whilst the new Government emphasises the importance of temporary migration, alongside some further restrictions on rights to permanently settle, some of the brightest and best migrants may still have a right to settle permanently in the UK. For these migrants, acquiring settlement in the form of Indefinite Leave to Remain (ILR) has been thought by some researchers to potentially help facilitate circular migration as those with more security, or who have the prospect of secure residency status, may be more likely to circulate as options for return are not reduced. ILR would allow individuals to remain outside the UK for a period of up to two years without posing any risk to their right to residency. This sense of security and increased possibility for circulation might be further strengthened for individuals who have acquired British nationality and can therefore remain outside the UK indefinitely.

- Similarly, restrictions on the length of time applicants for settlement can be absent from UK territory without jeopardising their application for settlement may also be considered to deter circular migration, as applicants may be concerned about leaving the UK and feel they risk future options for settlement if they must choose between settlement and temporary migration.

- The UK facilitates long-term return/circular migration to some countries of origin by enabling residents access to their pensions. This takes place on the basis of bilateral Social Security Agreements (SSAs), which are negotiated and implemented by DWP. The UK has signed several of these agreements with varying degrees of comprehensiveness.
**Statistical evidence for temporary and circular migration**

- Efforts to ‘quantify’ temporary and circular migration with appropriate statistical indicators are challenging. In advance of the full implementation of an e-Border, the UK does not have a direct measure that can track individuals into, and out of the country. Instead, a variety of data sources are available to indirectly measure certain aspects of temporary and circular migration, but do not provide the whole picture.

- The differences in the type of data available, the way migrants are defined and changes in movement rights and policies within the UK all create separate challenges to the measurement of temporary and circular migration.

**Best practices/lessons learned**

- A lack of clear definitions and associated immigration categories creates challenges in assessing patterns of temporary and circular migration.

- The current UK Government debate on migration leaves scope for future policy developments on temporary and circular migration without impacting on the level of permanent settlement.

- While there is no national policy for circular migration, there are examples of successful ad hoc collaborations between the UK and countries in the Global South. They focus on a ‘bottom-up’ approach and evidence potential benefits of a ‘triple win’ (e.g. MTI and CSFP). The relationship between temporary and circular migration and development in countries of origin in general remains under explored and depends on a variety of factors.

- Current rules governing individuals’ ability to enter/exit the UK freely throughout their leave and the time they are allowed to be absent without jeopardising rights to settlement may both help and hinder migrants’ ability to demonstrate temporary or circular behaviour.

- The role of social benefit portability as an incentive for migration from the UK to countries of origin remains under explored.

- Statistical evidence for temporary and circular migration is likely to improve if the UK implements an electronic system to monitor departures and arrivals.
Introduction

Purpose and methodology

This report was produced by the UK National Contact Point (NCP) for the European Migration Network as a contribution to the EMN study on *Temporary and Circular Migration: Empirical Evidence, Current Policy Practice and Future Options in EU Member States*.

The aim of the EMN study is to improve the knowledge base on temporary and circular and migration, and gain a better understanding of the characteristics of temporary migration and circular/repetitive migration patterns in individual EU Member States.

Specifically, the study aims to:

- explore definitions and conceptualisations of temporary and circular migration in the UK;
- analyse the criteria and conditions applied to temporary and circular migrants in the UK, specifically entry and exit conditions and the rules for settlement;
- assess the UK Government’s vision of temporary and circular migration through analysing policy preferences, convictions and conceptualisations of political actors;
- explore how temporary and circular migration in the UK is affected by other policy areas, and in particular its relevance for UK development policy and concerns over brain drain in countries of origin;
- review and analyse statistical data relating to temporary and circular migration in the UK, and examine possible approaches for measuring/estimating the extent of temporary and circular migration.

Methodology

This report is based on desk research as well as consultations with several academics, policy and operational colleagues in the UK Border Agency and other colleagues from relevant government departments, the International Organization for Migration (IOM) and external academics. Statistical data were provided by the Migration Statistics Unit in the Home Office. A literature search was conducted and relevant websites, such as the UK Border Agency home page, were consulted. A complete list of sources used can be found in the References section of this report.

A summary of the findings from this study were shared and discussed in a workshop on *Temporary and Circular Migration* at the 15th International Metropolis Conference in The Hague, Netherlands, in October 2010.
The report’s definition of temporary migration is partly drawn from UK Immigration Rules, particularly Tier 5 of the PBS, which is designed to facilitate short-term temporary migrants. However, to reflect the current review of UK Immigration Rules following the May 2010 elections it will look at all forms of migration for work or study that do not lead to settlement. Circular migration does not exist as an explicit migration category in UK Immigration Rules due to its tendency to overlap with ‘temporary’ and some aspects of ‘permanent’ migration. This report will therefore use ‘circular’ as an analytical tool to examine how UK immigration policy facilitates or hinders spontaneous cross-border mobility of those wishing to settle in the UK and those who have already done so.

Finally, to ensure the ongoing relevance of the report Chapter I focuses primarily on UK migration policy since the introduction of the PBS in February 2008 to December 2010.

Definitions

Policy-makers and researchers globally are paying increasing attention to patterns of temporary and circular migration, rather than treating migration as synonymous with settlement. The potential for governments to shape migration flows in order to meet their policy objectives has been of particular interest to policy-makers.\(^2\) A strategy to explore the practical workings of circular migration to the mutual benefit of sending countries, destination countries and migrants themselves was launched during the first Global Forum for Migration and Development (GFMD) in Brussels in 2007 (Pastore, 2008).

In industrialised economies, temporary and circular migration tends to be viewed as a means of meeting employer demands for labour.\(^3\) Meanwhile, policy-makers in developing and newly-industrialised countries are enthusiastic about forms of migration that temporarily alleviate pressures in their labour markets and result in the transfer of knowledge following the return of migrant workers. The possibility of mobilising the vast sums of money remitted by international migrants in order to strengthen the economies of sending countries is also shaping the growing interest in temporary and circular migration.\(^4\)

However, against this enthusiasm defining temporary and circular migration can be challenging in practice. Circular migration can refer to the movement of a person from their country of origin to another country, with an eventual return, perhaps repeatedly. This may occur over the course of a lifetime in the case of migrant workers, who might spend their entire working life in their host country but decide to return to their country of origin for retirement.\(^5\) Moreover, it can also encompass onward migration to a third country.\(^6\)

\(^2\) This can be observed at the European level in the Stockholm Programme (European Council, 2009) and at the international level through the Global Forum on Migration and Development. For more information on the forum see [http://www.gfmd.org/](http://www.gfmd.org/)

\(^3\) This issue is explored in more depth in a 2010 EMN-wide study Satisfying Labour Demand through Migration. The country reports for the study can be accessed at: [http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=D94D0EFE1F9EA37995EA01A158848237?entryTitle=01_Satisfying%20LABOUR%20DEMAND%20through%20migration](http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=D94D0EFE1F9EA37995EA01A158848237?entryTitle=01_Satisfying%20LABOUR%20DEMAND%20through%20migration)

\(^4\) The link between migration and development, and particularly the potential impacts of remittances, were the main drivers behind the creation of the GFMD.

\(^5\) Such ‘return’ migration after long periods of time are excluded in the narrower definition of circular migration.

\(^6\) For more information and a discussion on defining migration see Finch \textit{et al.} (2009).
Academic typologies
Temporary migration, is generally characterised by enforcement rather than incentives, and is based on a fixed timeframe set by state policy. It can take place repeatedly in the shape of frequent short periods of employment or study in another country followed by an eventual return to the country of origin.\(^7\) However, there is reason to expand the definition to include the vast majority of migration flows as temporary although they are not explicitly referred to as such in policy language (see Chapter I).

The term circular migration was coined by geographers in the 1970s, who had studied populations in Southeast Asia and observed that repeated mobility formed part of individuals’ normal adaptation strategies (Bedford, 1973, 1981; Hugo, 1982; May and Skeldon, 1977). Circular migration can thus be seen as being determined by social and economic conditions as well as by changing policies.\(^8\) Economic globalisation in the 21st century and the emergence of faster travel links rendered such mobility patterns more visible (Castles and Miller, 2003; Vertovec, 2007a). Moreover, technological innovations that allow for real-time contact between migrants and their friends and family strengthen links between migrants and their homelands.

European Union definitions
The EMN Glossary (2010) restricts temporary migration to individuals who move back and forth within a short space of time.\(^9\) The definition for circular migration is more complex. The European Commission makes reference to two types: first, the migration of members of diasporas\(^10\) settled in the EU, who engage in an activity (business, professional, voluntary or other) in their country of origin while retaining their main residence in one of the Member States. This definition is also used in the 2008 World Migration Report (IOM, 2008: 303). Second, the migration of persons residing in a third country and who come to the EU temporarily for work, study, training or a combination of these, on the condition that, at the end of the period for which they were granted entry, they must re-establish their main residence and their main activity in their country of origin (all: European Union, 2007).

Categories in UK immigration policy
The overlap between definitions and the discrepancies with terminology used in the UK make it necessary to clarify the scope of this study.

UK Immigration Rules restrict the use of ‘temporary migration’ to immigration categories that do not grant a route to settlement, and which require individuals to leave at the end of their stay. The two designated temporary routes are Tier 5 and the temporary migration schemes for low-skilled labour exterior to the PBS (see Chapter 1, Section 1.2). However, in practice, the majority of individuals entering the UK are initially only granted temporary permission to stay as settlement upon entry is

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\(^7\) This type of migration is sometimes referred to as ‘cyclical’.

\(^8\) This was supported by evidence from immigrants in the UK (Finch et al., 2009).


\(^10\) There is no single accepted definition of the term ‘diaspora’, neither is there a legal recognition. For practical purposes this report uses diaspora for expatriate groups. In contrast to ‘migrants’, it thus applies also to expatriate populations abroad and generations born abroad to foreign parents who are, or may be, citizens of their countries of residence. For more information see IOM (2010b).
only approved under exceptional circumstances (see Chapter 2). This fluidity highlights the difficulty of treating temporary movements separately from other types of migration in the UK. Circular migration is relatively new to UK immigration policy discourse and due to overlaps with other types of migration does not constitute a separate category within UK Immigration Rules.

In order to avoid any conceptual pitfalls and maximise the practical value of this study ‘temporary migration’ will be defined more generally as migration of Third Country Nationals (TCNs) coming to the UK to work or study and then return home within a timeframe determined by UK policy preferences. This can take place as a one-off phenomenon or happen several times but always ends with a return to the country of origin.

The term ‘circular’ will meanwhile be used as an analytical tool to examine how UK Immigration Rules facilitate or hinder spontaneous back-and-forth mobility of those applying for settlement in the UK and those who are already settled.

Finally, the analysis of ‘return’ used throughout this study excludes ‘voluntary’ returns of failed asylum seekers or refugees under the European Return Fund and similar initiatives.

**Structure of report**

In November 2010 the new Government announced its intention for reforms aimed at breaking the link between temporary entry routes and permanent settlement. The report will therefore take a wider look at the UK immigration system. Besides examining examples of strictly temporary routes – both current and historical, it will also consider routes that under current rules still include provisions that allow for permanent settlement.

Chapter I discusses overall government policy towards temporary and permanent migration and the potential implications of recent policy changes. Following a review of the UK’s PBS and how it facilitates temporary labour migration and entry to study in the UK for non-European Economic Area (EEA) nationals, it will explore the relationship between migration and development policy in the UK. Temporary and circular migration will be examined on the basis of three case studies: the Medical Training Initiative (MTI), the Commonwealth Scholarship and Fellowship Plan (CSFP) and the Qualified Expatriate Somali Technical Support – Migration for Development in Africa (QUESTS–MIDA) programme (Chapter 1, Section 1.5).

Chapter 2 explores legal provisions in the UK’s Immigration Rules that can facilitate or hinder circular migration. It focuses on conditions for entry and exit as well as settlement and limitations on

11 Despite acknowledging that certain visitor visa categories might in some instances overlap with visa categories in the PBS, for reasons of scope and questionable contribution to the report the overview excludes visitor visas.
12 This has elsewhere been referred to as ‘cyclical’ to emphasise the end point of the circle, which is always a third country.
the time period individuals can spend outside UK territory without forfeiting their right to residency. Finally, it takes a look outside migration policy at the portability of social security benefits, which can act as an incentive for migrants to return to their country of origin.

Chapter 3 provides an overview of the data sources currently available within the UK to assess this phenomenon.

The evidence used in this report is accurate as of December 2010. However, as a result of ongoing policy reviews, some changes might occur between the date of writing and publication.
1 The UK’s approach to temporary and circular migration - national vision, policy and programmes

1.1 Evolvement of UK migration policy

In the years following World War II, the UK’s migration system primarily dealt with migration flows from the Commonwealth. Although these were initially encouraged as part of a strategy to fill post-war labour shortages, lasting transformations of the labour market and a shift in public opinion led to more restrictive policies.

This trend was reversed in the early 21st century when economic globalisation combined with a period of strong economic growth in the UK gave rise to a policy of ‘selective openness’ (Somerville, Sriskandarajah and Latorre, 2009). A new ‘employer-led’ model facilitated recruitment from around the globe as long as applicants possessed skills lacking in the domestic labour market. At the heart of the new scheme was a work permit system within which employers and education providers had to apply for a government-sponsored licence that allowed them to fill jobs in a particular geographic location. In 2002, this policy was complemented with a Highly-Skilled Migration Programme, designed to attract talented workers from abroad to the UK (Agunias, 2007).

However, frequent complaints by employers, applicants and immigration authorities about the large number of immigration routes, the lack of clarity and transparency, and consequent potential for fraud, meant that a new system was introduced in 2008.14

The Points-Based System and the global financial crisis

The practical workings of the PBS15 were devised by a Migration Advisory Committee (MAC),16 while the day-to-day management of the system is the responsibility of the UK Border Agency. The PBS aimed to make migration policy more coherent, simplified, flexible and evidence-based.

However, the economic downturn in 2008 and a rise in unemployment across the UK led to public concern over the numbers of migrants entering the UK and the long-term effects of immigration on public services. Immigration featured prominently throughout the UK’s 2010 General Election, which is further illustrated by the new Government’s subsequent pledge to reduce the number of migrants from ‘hundreds of thousands to tens of thousands’.17

14 For more information on employers’ concerns see: http://rds.homeoffice.gov.uk/rds/pdfs06/rdsolr0406.pdf
15 This will be discussed in more detail in Section 1.2.
16 The MAC is an independent public body that offers non-binding advice. It consists of a chair and four other independent economists who have been appointed under rules relating to public appointments laid down by the Office of the Commissioner for Public Appointments. Both the Commission for Employment and Skills and the UK Border Agency also have a representation on the committee. The committee is supported by a secretariat made up of economists, policy and administrative staff within the UKBA. For more information see http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/aboutthemac/
17 This was emphasised in a speech made by the Home Secretary, Theresa May, in the House of Commons, 28 June, 2010 (House of Commons, 2010).
While there continues to be an understanding that the ‘right kind of migration’ benefits the UK’s long-term economic growth, the Government is keen to combine attracting the ‘brightest and the best’ with efforts to reduce overall net migration.  

1.2 Temporary migration within the Points-Based System - breaking the link between temporary migration and settlement

Migration under the PBS is organised on the basis of five tiers, which take into account migrants’ educational qualifications, personal characteristics, salary and skill-level required for a job. Individuals can apply under the tier that best matches their particular situation (see Table 1.1). Tier 5, which is likely to be reviewed by the Government in 2011, is strictly for temporary workers who are required to leave the UK at the end of their stay. Under the current system, Tier 1 and Tier 2 entrants can apply for permanent stay and at the moment, Tier 4 entrants can do so by switching into these Tiers following their studies (although this may change). An overview of the main characteristics of each Tier and links with temporary stay are in Table 1.1, followed by detailed summaries of the Tiers that are currently open (see Sections 1.2 and 1.3).

Table 1.1 Overview of the UK’s Points-Based System

<table>
<thead>
<tr>
<th>Tier</th>
<th>Purpose</th>
<th>Status</th>
<th>Sponsor required?</th>
<th>Pathway to settlement?</th>
<th>Subject to future limits?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Highly-skilled</td>
<td>Under review</td>
<td>No</td>
<td>Yes</td>
<td>Partially</td>
</tr>
<tr>
<td>2</td>
<td>Skilled</td>
<td>Under review</td>
<td>Yes</td>
<td>Yes</td>
<td>Partially</td>
</tr>
<tr>
<td>3</td>
<td>Unskilled</td>
<td>Not operational</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>4</td>
<td>Students</td>
<td>Under review</td>
<td>Yes (certificate of sponsorship from educational provider)</td>
<td>Indirect route to settlement but under review</td>
<td>No but consultations about a range of controls</td>
</tr>
<tr>
<td>5</td>
<td>Temporary</td>
<td>Under review</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

All individuals entering the UK under the PBS are initially granted temporary Leave to Enter (LTE). The rights to subsequently apply for settlement and permanent stay depend on the migration category – and are increasingly being restricted (see Chapter 2).

The 2010 Home Office Business Plan, which outlines the Government’s priorities in the field of migration, re-affirms pledges made earlier this year under the Coalition Agreement. It commits the Government to:

- control net migration to sustainable levels, in the tens of thousands a year;
- limit non-EU economic migrants, and introduce new measures to reduce inflow;
- minimise abuse of all migration routes, e.g. the student route; and
- process asylum applications more quickly than to date, and end the detention of children for immigration purposes.

19 For the latest information please see: http://www.ukba.homeoffice.gov.uk/
21 The Coalition Agreement provides the framework for the Conservative–Liberal Democratic Coalition.
These proposals and restrictions to settlement for Tier 2 and Tier 4 migrants indicate that temporary migration will become increasingly important in UK migration policy.22

**Tier 1: highly-skilled migration**

Until the implementation of the permanent limit in April 2011, Tier 1 encompasses highly-skilled workers:23 entrepreneurs (for those investing in the UK by setting up, taking over or being actively involved in UK businesses); investors (for high net-worth individuals who would make a substantial financial investment in the UK); and post-study workers (for Third Country Nationals [TCNs] graduating from a UK university so they may stay in the UK without a sponsor for two years).24 Individuals’ LTE under these three categories is valid for three years but can be extended in-country.

In November 2010, the Government announced the closure of Tier 1 General. This followed a public consultation and the publication of Home Office research, which found that 30 per cent of all Tier 1 migrants did not work in highly-skilled or skilled jobs (UK Border Agency International Group 2010; Home Office, 2009). The consultation outcomes also revealed employers’ preference for Tier 2 migrants that would fill existing shortages.25

In a recent speech the Home Secretary announced that under new rules the Tier 1 General subcategory will be replaced with a route for exceptionally skilled individuals (academics, researchers and sports people). This route will not be dependent on a job offer but subject to the annual limit (1,000 visas per year). The entrepreneurs and investor category will be excluded from the limit to ensure that net migration can be reduced without damaging the economy.26

A consultation on the future of the post-study worker subcategory was launched in December 2010, which proposed the closure of this route and consequently to options for settlement for international graduates, all of which will be discussed further in Chapter 2.

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23 Applicants looking to enter the UK under the Tier 1 General subcategory are currently required to score 75 points for their attributes (age, qualifications, previous earnings, and experience in the UK), 10 points for English language, and 10 points for available maintenance (funds).
24 The post-study worker category was initially created to enable the UK to retain the most able graduates. Upon expiry of this special visa, post-study workers can switch into the regular PBS categories. The post-study work category grew out of the Scottish Executive’s *Fresh Talent Initiative*, which made explicit reference to migration as a means to solve the demographic challenge facing Scotland (low fertility and an ageing, declining population) and skills shortages in the Scottish economy (Cavanagh and Eirich, 2008).
25 Outcomes from the UK Border Agency’s consultation can be found here: [http://www.ukba.homeoffice.gov.uk/policyandlaw/consultations/closed/](http://www.ukba.homeoffice.gov.uk/policyandlaw/consultations/closed/)
26 Home Secretary Theresa May, Immigration Speech 5 November, 2010 (Home Office, 2010b).
Tier 2: skilled migration – the permanent shift to temporary migration

Tier 2 was designed to fill shortages in skilled occupations in the UK economy. A job can only be offered under this route if it is on the shortage occupation list or the employer can meet a Resident Labour Market Test (RLMT). Until April 2011, Tier 2 will continue to consist of the following subcategories: skilled (general); Intra-Company Transfers (ICTs); ministers of religion; and sports people. The entry provisions as well as rules for settlement differ between the subcategories.

Basic English language skills, a job offer and a valid certificate of sponsorship from their employer are the core requirements. The involvement of employers as sponsors and the regular reviews of the shortage occupation list allow for migration flows that closely match the needs of the UK economy at a particular point in time.

Individuals entering the UK under the ICT subcategory are employed by an overseas company and are seconded to a UK company, which is related to the overseas employer.

Since July 2010 recruitment is subject to an interim limit. However, until the introduction of the permanent limit in April 2011, individuals entering the UK under the ICT route could continue to apply as either established staff, graduate trainee or skills transfer, and were not required to show English language skills. Individuals were required to earn an annual minimum salary of £24,000.

The permanent limit will restrict the annual number of Tier 2 visas to 20,700. Other changes include strict requirements in terms of university degree level, minimum salary, minimum skills level and knowledge of the English language. Tier 2 is expected to absorb many former Tier 1 migrants following the closure of Tier 1 General.

The ICT subcategory will be exempt from the limit in efforts to maintain the global competitiveness of the UK economy. However, in the future those wanting to stay in the UK for 12 months or longer will have to show earnings above £40,000 a year. Individuals whose annual earnings are between £24,000 and £40,000 will be able to enter for up to a year. A provision that requires entrants to have spent a set time outside the UK before being allowed to re-enter will further emphasise the temporary dimension of this route.

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27 The shortage occupation list comprises skilled occupations that can sensibly be filled by enabling employers to recruit migrants from outside the European Economic Area (EEA). Tier 2 applicants whose skills match those of the shortage occupation list are awarded a high number of points and are thus granted preferential access. Every six months the Migration Advisory Committee (MAC) undertakes a partial review of this list. For skills not listed as in short supply, employers are required to carry out an RLMT to ensure that skills cannot be sourced locally.

28 Policy changes were announced in November 2010 but will not be implemented until April 2011.

29 For more details on the provisions for each route see: http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/ict/

30 Proposals for how to fill these quotas brought forward during the consultation included a ‘first-come-first-serve’ system, in which applications would be considered in order of receipt and would succeed if they met the baseline criteria for qualification under the Tier until the limit was reached. The last proposal is based on auctions during which employers can place their bids for certificates of sponsorship, with the latter being offered to the highest bidder (UKBA, 2010a).

31 Those coming to the UK for 12 months or less and graduate trainees are exempt from this requirement.

32 This was done to prevent repeated extensions for the purpose of circumventing government restrictions.
**Tier 4: student migration**

Individuals entering the UK as students for a period exceeding six months (regardless of the course type or level of study) are registered under Tier 4. As such, they are expected to attend courses full-time.33 The global reputation of the UK’s higher education institutions in research and teaching, and the dominance of the English language in world affairs make the UK a popular destination for international students. Between 2007 and 2009 there was a 36 per cent increase in visas issued to TCNs applying for study in the UK (see Figure 3.1). International students are welcomed by the UK Government and the education sector, and their tuition fees contribute to the annual revenue of UK universities and colleges. Furthermore, students are seen as contributing indirectly through acting as cultural ambassadors for the UK and the UK Government through its partner institutions, which actively promotes UK universities abroad.35

However, this enthusiasm has recently been dampened by concerns about the abuse of the student route and that students are not coming to the UK just for the purposes of study. Evidence from a 2010 government study that showed that 21 per cent of all students entering the UK in 2004 remained in the UK immigration system five years later (Achato, Eaton and Jones, 2010). Furthermore, research showed an increase in the number of those entering the UK for studies below degree level, thus shedding doubt on the premise that the UK is attracting the ‘brightest and the best’.36

As discussed within the rules for Tier 1 international graduates from degree-level courses can apply for a post-study work visa. However, the consultation on students and consideration of removing the post-study route shows a shift toward emphasising migration for education as a temporary route and not a route to employment or to permanent stay in the UK.

1.3 Strictly temporary migration within the Points-Based System – Tier 5

**Tier 5: Temporary workers and the Youth Mobility Scheme**

As at December 2010 Tier 5 is the only migration route specifically designed for ‘temporary’ migration. Moreover, those entering the UK under Tier 5 cannot ‘switch’ into other Tiers in-country. Tier 5 was designed to provide a route to cover primarily non-economic migration routes, and to honour a variety of international agreements of which the UK is signatory.37 There are currently no plans to extend the use of Tier 5 for temporary labour recruitment to fill shortages.

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33 Those coming for less than six months are able to use either the Tier 4 category, or the student visitor category.
34 For more up-to-date information on students see [http://www.ukba.homeoffice.gov.uk/studyingintheuk/](http://www.ukba.homeoffice.gov.uk/studyingintheuk/)
35 The Prime Minister’s Initiative for Higher Education (PMI2) dates from 2006 and aims to secure the UK’s position as a leader in international education and sustain growth in education delivered in the UK and overseas. It is jointly implemented by the Department for Business, Innovation and Skills (BIS) and the British Council. For more information see: [http://www.britishcouncil.org/eumd-pmi2-management.htm](http://www.britishcouncil.org/eumd-pmi2-management.htm)
36 The authors of the report found that there are indications that Tier 4 is regarded as an avenue to enter the UK for the purpose of employment without facing the restrictions imposed by the other Tiers. This premise forms the basis for the Government’s Student Immigration System – A Consultation, which was launched in December 2010. For more information see: [http://ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/students/student-consultation.pdf?view=Binary](http://ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/students/student-consultation.pdf?view=Binary)
37 The most important agreement is the General Agreement on Trade in Services (GATS). Other relevant agreements refer to employees of overseas governments and international organisations and private servants in diplomatic households.
The Tier 5 temporary worker category comprises the following subcategories, the first three of which will be discussed in detail:38

- Government-authorised Exchange;
- International Agreement;
- Creative and sporting;
- Charity workers;
- Religious workers.

(a) Government-Authorised Exchange
The Government-Authorised Exchange subcategory is aimed at sharing knowledge, experience and best practice. Within this category, potential employers do not act as sponsors, rather certificates of sponsorship are issued by an overarching body that runs and administers a scheme. This can also be the government of the country of origin. The Government-Authorised Exchange subcategory is of particular relevance for the discussion around migration and development in the UK as it hosts the Medical Training Initiative (MTI, see Section 1.5).

(b) International Agreement
The International Agreement subcategory was designed to honour the UK’s commitments under the General Agreement on Trades in Services (GATS), and other similar trade agreements, as well as the Vienna Convention on Diplomatic Relations (VCDR) 1961. It covers employees of overseas governments; employees of international organisations; private servants in diplomatic households; and migrants who are working in the UK under GATS or other international agreements. The eligibility requirements, application process, rules on extension, dependants and supplementary working are all broadly similar across subcategories.

Individuals entering the UK under the International Agreement subcategory have the right to work in the UK for a period of up to 24 months or less as specified in their visa. Whether individuals are issued with a multiple-entry visa or a single-entry visa depends on the nature of the work. Those whose job requires frequent cross-border travel can be granted a ‘multiple entry certificate of sponsorship’ by their sponsor. As a general rule, those granted permission to stay for six months or less forfeit their permission to stay when they leave the UK. The sponsorship role would be fulfilled by means appropriate to the specific agreement.

(c) Creative and sporting
The Tier 5 creative and sporting subcategory was designed for artists and sports persons that come to the UK for up to 12 months. This category is unique within the PBS in so far that it grants individuals’ entry to the UK without prior entry clearance for up to three months. The only prerequisite is a valid certificate of sponsorship and evidence that they meet the maintenance requirement.

38 The Youth Mobility Scheme is not designed as a work route.
**Youth Mobility Scheme**

The Youth Mobility Scheme under Tier 5 is limited to young people from a list of Organization for Economic and Cooperation Development (OECD) countries.\(^{39}\) Although individuals entering the UK under this scheme usually spend part of their time working in the UK, the purpose of scheme is to broaden young people’s horizons rather than representing an avenue to fill labour shortages. Participants are allowed to remain in the UK for up to two years. To ensure return and avoid overstayers, governments in countries of origin are required to act as sponsors and there are no provisions for entrants to bring their spouse or dependants.

While individuals under Tier 5 routes must return home at the end of their stay they are not prevented from applying from outside to return to the UK under another route.

1.4 Mixed success – temporary migration outside the Points-Based System

Although the majority of individuals coming to the UK for the purpose of employment enter through the PBS there are other avenues for short-term migration in the low-skilled sector for nationals of the new EU-accession states. The schemes were introduced prior to the launch of the PBS originally for non-EU nationals and continue to be in place as a consequence of the ongoing suspension of Tier 3.\(^{40}\) However, since EU enlargement in 2004 a progressive phasing out of non-EU participation in these schemes has been undertaken.\(^{41}\) Participation in the Seasonal Agricultural Workers Scheme (SAWS) and the Sectors-Based Scheme (SBS) is currently limited to Bulgarian and Romanian nationals. While these schemes can no longer be regarded as temporary migration routes in the strictest sense, they provide a good historic example of temporary schemes in their original formats as routes for non-European Economic Area (EEA) nationals. They also show that under certain conditions participants in these schemes wish to stay in the UK upon expiration of their visa. Discussion of SAWS and SBS for non-EEA nationals and the lessons learned from these are outlined below.

**Seasonal Agricultural Workers Scheme**

The SAWS was introduced during the 1940s to aid the British agricultural industry by allowing foreign students to take temporary employment in the industry on a seasonal basis. However, the scheme eventually became a preferred way for employers to recruit workers from outside the EEA to undertake short-term agricultural work, and helped to ensure the agricultural sector’s global competitiveness. Although the scheme is currently restricted to Bulgarian and Romanian workers it continues to function on the basis of the same mechanism: access is granted on the basis of a fixed annual quota for the number of workers that can be hired. The quota for 2010

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\(^{39}\) The scheme is currently open to nationals from Australia, Canada, Japan, Monaco and New Zealand. Their national government will be their sponsor. British overseas citizens, British overseas territories citizens and British nationals (overseas) can also apply under the scheme, and do not need a sponsor.

\(^{40}\) For detailed information on the numbers of seasonal workers, as well as a nationality breakdown, please refer to Table 3.1.

\(^{41}\) In 2006 it was concluded that labour demand in the sector could be met through entries from the EU accession states (Home Office 2006, pp 29–32).
and 2011 calendar years was 21,250 Bulgarian and Romanian workers (UKBA, undated a). Furthermore, due to the seasonal nature of the work participants are recruited for a maximum period of six months.

The SAWS was regarded positively by employers, who saw it as a valuable tool for filling seasonal labour shortages in the agricultural sector that could not be filled by British workers, and involved a negligible number of overstayers. The success of the scheme, even before its closure to TCNs, might have been due to the seasonal nature of jobs, which reduced the incentive for individuals to overstay as did the emphasis on the recruitment of overseas students who would return to their studies after working in the UK. Furthermore, compliance with the rules ensured preferential access for those applying the following year.

Sector-Based Scheme

In 2002, following the positive experience with the SAWS, the SBS was set up to alleviate similar recruitment difficulties in the UK’s hospitality and food-processing sectors. The SBS was also seen as complementing other policy initiatives that aimed at reducing the attractiveness of illegal working in the above-mentioned sectors (Home Office, 2005b). Employers wishing to use the scheme had to demonstrate that they had made genuine attempts to recruit labour from within the EEA. The SBS was designed as a non-seasonal programme that would allow TCNs to work in the UK in a specified job for a period of up to 12 months. Upon departure individuals were allowed to return on another SBS permit after two months. However, experience with the SBS was less positive than SAWS as some employers were prepared to circumvent the rules to maintain permanent access to a cheap and flexible workforce.42 Furthermore, the comparatively high rate of non-compliance in the SBS for TCNs, particularly in the ‘ethnic cuisine’ segment of the hospitality sector, was perceived as having resulted from the intention of some individuals to remain in the UK.43 These problems, coupled with the accession of Bulgaria and Romania to the EU, resulted in the closure of the schemes for TCNs.

1.5 Third country cooperation and international development

The creation of a cross-government migration working group in the UK, which brought together partners from different government departments, can be seen as a sign of a growing recognition that migration policy is affected by a variety of different policy areas and vice versa.

42 Academic research of the ‘old-style’ temporary migration programmes has shown that permanent job availability impacts on individuals’ decision to return to their country of origin. For more information see Ruhs (2005).
43 A Home Office review in 2005 identified high refusal rates in respect of applications for the hospitality sector. The review also revealed a high rate of abuse of Immigration Rules in certain sub-sectors. A disproportionately high number of abuses were recorded in the ethnic cuisine sector, which was primarily used by Indian restaurants and accounted for 43 per cent of all applications in the first 12 months of the scheme. Recorded problems were concern about the genuineness of advertisements placed for resident labour. Abuse was also detected at the entry clearance stage, with false documentation, SBS permits and national identity documents being used to gain entry into the UK. In addition, Work Permits (UK) received a number of reports suggesting there was a significant level of immigration abuse by third party agencies. A total of nine third party agencies allegedly undertook some fraudulent activity, ranging from applying without an employer’s knowledge to refusing to release permits to employers (Home Office, 2005b).
This is particularly true for the relationship between migration and international development policy. UK migration and development policy have paid attention to concerns over brain drain caused by the large exodus of highly-skilled individuals from the Global South to the Global North. One example of this was the UK’s push during its EU Presidency for more initiatives aimed at tackling root causes of migration through the creation of livelihood opportunities, and alleviating poverty in countries and regions of origin, the opening of markets and promotion of economic growth, good governance and the protection of human rights (European Council, 2006).

In another initiative the Stockholm Programme, adopted in December 2009, called on EU Member States to find ‘ways to further explore the concept of circular migration both within and outside specific programmes’ (European Council, 2009). Proponents of these initiatives view circular migration as the product of well-coordinated policy that involves greater collaboration of governments in sending and receiving states, and serves the interests of the states involved as well as the migrants themselves, thus creating a ‘win-win-win’ scenario (Global Commission on International Migration, 2005).

The UK does not currently have a national policy that promotes temporary and circular migration for the purpose of development in countries of origin. To date the focus has largely been on ad hoc initiatives, which facilitate the flow of migrant remittances and prevent brain drain through banning recruitment in particular sectors (Department for International Development, 2010a). The most prominent initiative was the 2002 introduction of ethical recruitment guidelines for the UK health sector, preventing employers from recruiting health professionals from source countries that experience a large-scale exodus of health professionals (Department of Health, 2002).

The UK supports initiatives in line with the EU’s Global Approach to Migration and is a signatory to the EU Mobility Partnership Agreement with Georgia. The specific level of participation in such initiatives is assessed on a case-by-case basis in accordance with the UK’s migration and development priorities.

44 Although the authors note the sometimes questionable analytical value of the term ‘Global South’ it is used for the purpose of this study to refer to non-OECD countries.
45 There is no single official definition of remittances. According to the International Monetary Fund (IMF), which provides the most widely used standard for the presentation of international statistics, remittances are international transfers of funds sent by migrant workers from the country where they are working to people (typically family members) in the country from which they came. For more information see International Monetary Fund (1993).
46 The Department of Health (DH) worked with the Department for International Development (DFID) to produce a definitive list of developing countries from which the UK health sector should not actively recruit. This list is based on the OECD/Development Assistance Committee list of aid recipients. The rationale for the list is based upon the economic status of the countries and their relative position with regards to numbers of health personnel. Countries come on and off the list depending on DFID in-country expertise, independent review from partners such as the World Health Organization (WHO), and requests from individual countries. Many of the basic provisions are included in the Commonwealth Code of Practice for international recruitment of health workers that governs recruitment from other Commonwealth countries. For a copy please see: http://www.latitudes-group.com/Documents/Commonwealth_Code_of_Practice.pdf
47 The UK is a signatory to agreement but does not currently participate in any initiatives under the agreement.
On-the-job training for health professionals: the Medical Training Initiative

In 2006, the UK set up a separate visa category, which currently operates under the Tier 5 Government-Authorised Exchange category. The so-called Medical Training Initiative (MTI) accommodates overseas post-graduate medical specialists to undertake a fixed period of training and experience in the UK for up to two years, normally within the National Health Service (NHS), (NHS Employers, 2010). Since April 2010 the Academy of Medical Royal Colleges acts as a sponsor. Rather than being centrally regulated these types of movements are managed through partnerships between the UK’s medical Royal Colleges. Overseas institutions with links to royal colleges can put forward suitable candidates. Those short-listed will be interviewed in their home country by overseas and UK doctors to assess communication and knowledge skills (Trewby, 2010).

The scheme is seen as a low-risk route with the potential of significant commercial and developmental benefits. Participants improve patient care by filling shortages (see Case Study 1). Ongoing discussions focus on how the MTI can be altered to further maximise its positive impact on overall national development in countries of origin as well as the health sector in the UK. Proposals have ranged from diversification of the scheme to make it more accessible for applicants from particular regions\(^{48}\) to increasing the duration of the scheme to enable participants to capitalise better on training, acclimatise and integrate into the NHS, as well as to obtain qualifications,\(^{49}\) extending the number of places available to students and promoting it more widely among employers in the UK.\(^{50}\)

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Case Study 1 ‘Brain gain’ under the Medical Training Initiative

The MTI has enhanced the UK’s international reputation for high quality medical training. Furthermore, by increasing the skill set of participants the scheme has helped to improve healthcare in origin countries. Candidates can enhance their qualifications by taking Royal College examinations (fellowships), and/or to receive a certificate from the Royal College or Postgraduate Dean attesting to the type and quality of training completed.

Participants in the MTI are expected to return to their home country and apply the skills and knowledge developed during their time in the UK. This ensures that the continued exchange of medical expertise and experience can continue. A steady stream of international medical graduates have participated in the scheme, the majority funded by their home country.

*Source: DH (2010); Academy of Medical Royal Colleges (2010)*

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\(^{48}\) A 2010 report remarked that the number of health professionals from Sub-Saharan Africa was substantially lower than average. For more information see: [http://www.vso.org.uk/Images/Brain%20Gain%20Report_FINAL%20lores1_tcm79-28845.pdf](http://www.vso.org.uk/Images/Brain%20Gain%20Report_FINAL%20lores1_tcm79-28845.pdf)

\(^{49}\) Private communication with officials from Department of Health, January 12, 2011.

\(^{50}\) The most recent proposals were made in relation to a call for written evidence by the House of Commons International Development Committee, following the 2010 Millennium Development Goals Review Summit. For more information see: [http://www.publications.parliament.uk/pa/cm201011/cmselect/cmintdev/534/534vw22.htm](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmintdev/534/534vw22.htm)
Case Study 2 Effects of the Commonwealth Scholarship and Fellowship Plan on the Caribbean region

A 2009 evaluation on the regional impact of the CSFP scholarships in the Caribbean showed the popularity of the scholarships and the ways that they positively contributed to regional development.

Awards given to citizens of Caribbean countries increased from an average of 17 per year in the 1960s to an average of 27 per year in the 2000s (34 in 2009). There is participation across the different countries of the Caribbean, and good take-up of new schemes. It was also found that award holders studied subjects of particular relevance to regional issues.

The majority of alumni are working in their home countries. Of 240 Caribbean alumni for whom there are up-to-date employment details, 75 per cent are working in their home countries, with a further 12 per cent working within the wider Caribbean region.

Most of them are active in professional and managerial roles in higher education and other sectors relevant to the needs of the Caribbean. More than one-half of the respondents reported having influenced government thinking in one or more of the priority areas, while 77 per cent reported involvement in projects and 47 per cent reported having a wider socio-economic impact.

Case study examples for success include: micro-financing to encourage entrepreneurship across the Caribbean; the development of GPS navigation in Jamaica; training the first gastroenterologist in Guyana; education on climate change in Trinidad and Tobago; modernisation of banana growing in St Lucia; and the development of aquaculture in Jamaica.


51 For more information about the CSFP Endowment Fund see: http://www.csfp-online.org/fund.html
Diasporas for development

Diaspora involvement is another way to promote development in countries of origin. In the UK this takes the form of a bottom-up approach rather than central government policy. In 2008, the UK’s Department for International Development (DFID) assigned £3 billion over three years to its Voluntary Services Overseas programme, which helps diaspora organisations plan their own volunteering programmes in an attempt to increase awareness of, and support for, global poverty reduction for the volunteers and the communities they belong to (DFID, 2010b). Furthermore, although funding priorities have changed, DFID remains supportive of the diaspora initiatives managed by the UK Office of the International Organization for Migration (IOM). Following strategic direction from the United Nations Development Programme (UNDP), IOM UK, together with its counterparts in countries of origin, is implementing a variety of small-scale projects, the most popular in terms of requests for participation being the Qualified Expatriate Somali Technical Support – Migration for Development in Africa (QUESTS-MIDA) programme.

Evidence suggests that the existing IOM programme is popular among diaspora communities in the UK and recruitment events are held on a regular basis. However, its success has been offset by budget constraints, as well as deteriorating conditions in countries of origin, which prevent the IOM from ensuring the safety of participants.  

Case study 3   Development through diaspora engagement - IOM QUESTS-MIDA Programme

Migration for Development in Africa (MIDA) is a global capacity-building approach placing African expatriate professionals in public and private institutions to work in key development sectors in countries of origin. Since its introduction it has shifted away from focusing on permanent return toward encouraging qualified professionals to return to countries of origin on a short-term, circular or virtual basis, with the aim of attracting some of the highly qualified expatriates for whom a prolonged or permanent return was not a practical option. MIDA engages with governments in countries of origin to identify long-term development needs and engages with diaspora organisations and businesses and advertises job opportunities.

IOM acts as the operational arm of the project and implements and facilitates the processes for recruitment, deployment and repatriation to country of residence as well as monitoring the successful implementation of the assignment.

Although the UK-based MIDA project is limited to the Somali diaspora, IOM-UK recently launched the consultation phase for a similar project with the Kenyan diaspora. Further initiatives exist to encourage the return of qualified health professionals to Zimbabwe for a period of four to six weeks


52 This was mentioned in a private conversation with officials from the IOM London Office in September 2010.
The above-mentioned programmes show that migration can contribute to ‘brain gain’ by providing avenues for individuals to acquire training and skills that would be inaccessible in their countries of origin. Under the right circumstances these skills can improve the lives of family members in the home country as well as their own lives upon return.
2 National legislation, condition, criteria and enforcement

2.1 UK’s legal framework for temporary and circular migration

Migration in the UK is governed by a complex network of laws and practices. The current legal framework governing temporary and circular forms of migration are the Immigration Rules made under the Immigration Act 1971, as well as its subsequent amendments. However, immigration policy and practice around temporary and circular migration are also governed by a large body of secondary legislation in the form of statutory instruments, as well as EU Regulations and Directives. Furthermore, there are various procedural rules and practice directions for the Special Immigration Appeals Commission and the Asylum and Immigration Tribunal. A large amount of case law has also come into being, both from the tribunal and from the courts.

However, there are two aspects of UK legislation that are of particular interest when exploring the legal environment for temporary and circular migration. First, the ability of individuals to enter and exit the UK freely throughout their leave. Second, the time period that individuals can be absent from UK territory without jeopardising their right to return.

2.2 Entry and exit provisions

Primary applicants under Points-Based System rules

UK primary legislation did not undergo any fundamental changes as a result of the introduction of the PBS and the mobility of PBS entrants is linked to the provisions for their particular Tier. Individuals who are granted Leave to Enter (LTE) the UK for the purpose of work or study under Tiers 1, 2 and 4 of the PBS currently enjoy unlimited cross-border mobility within the duration of their leave as long as the latter is granted for a period exceeding six months. While on the surface this suggests there is an environment supportive of circular migration, whereby individuals can come and go by choice provided they meet the entry requirements on each occasion, extended leave of absence is unlikely to conform to the requirement for full-time employment. Furthermore, individuals with the eligibility and intention to settle in the UK face additional restrictions on absences from UK territory, which may hinder the potential for circular migration (see below). They are thus exempted from the requirement to hold a [multiple-entry] visa and can travel freely between the UK and their country of origin or another country. The rules for Tier 5 entrants are

53 The Asylum and Immigration Tribunal is a one-tier appeal system, presided over by at least one Immigration Judge.
54 Recent amendments to Immigration Rules served primarily to eliminate the confusion over settlement provisions for different statuses. However, further changes are likely to occur as a result of ongoing reforms.
55 Leave to Enter is explained in Immigration Rules Part I, Section 7, which stipulate that a person who is neither a British citizen nor a Commonwealth citizen with the right of abode, nor a person who is entitled to enter or remain in the UK by virtue of the provisions of the 2006 European Economic Area (EEA) Regulations, requires Leave to Enter the UK. For further information see: http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part1/
56 Paragraph 20A, Article 13 of the Immigration (Leave to Enter and Remain) Order 2000. The rules specify that leave will not lapse where it was given for a period exceeding six months or where it was conferred by means of an entry clearance other than a visit visa. For more information see: http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part1/
determined by the nature of their work, the time the individual is required to stay in the UK and whether the job requires travel outside UK territory (Immigration Rules, 2010).

**Seasonal Agricultural Workers Scheme and Sector-Based Scheme entrants**

The provisions for spontaneous circulation are less clear-cut for third country nationals (TCNs) who used to be able to come to the UK for temporary employment outside the PBS. Prior to the restriction of the scheme individuals arriving in the UK under the Seasonal Agricultural Workers Scheme (SAWS) and the Sectors-Based Scheme (SBS) were respectively granted up to 6 months or up to 12 months leave to remain on entry without provisions for settlement. Furthermore, re-entry into the UK during their leave was often at the discretion of the Immigration Officer, who could refuse re-entry, thus indirectly discouraging frequent cross-border movements.

Such provisions became superfluous with the closure of the SBS/SAWS route to non-EU nationals. Bulgarian and Romanian nationals participating in these schemes are entitled to unrestricted access to the UK labour market if they complete 12 months’ continuous authorised employment in the UK and are issued with the appropriate work authorisation documents.57

### 2.3 Access to settlement – hindering and facilitating circular migration

Sometimes dubbed the ‘paradox of permanency’, the right to settlement is regarded by some researchers as the most important prerequisite for spontaneous circulation (Newland, 2009). Experiences from Australia, Canada and Spain suggest that secure residency (or options for residency) in a country of destination can encourage circular migration as migrants will not feel they will lose out on possibilities to return to countries of destination. However, settlement upon entry is only granted under exceptional circumstances58 and the vast majority of individuals will have to earn their right to settlement over time by being present on UK territory. It is possible this could make them more reluctant to leave, for fear of losing their rights within the UK. Under the current rules most Tier 1 migrants continue to benefit from a smooth route towards settlement after completing the required number of years. Those working under the post-study work visa can count this time toward permanent residency. If individuals then decide to remain in the UK to work under Tier 1 or Tier 2, they can apply for permanent residency and possibly British citizenship after five years. In 2011, the Government plans to launch a consultation to consider work routes leading to settlement and Tier 5 (see Chapter 1, Section 1.2).

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57 Those individuals admitted under the SAWS are unlikely to be in this position as their employment under the scheme will be valid for up to six months.

58 Exceptions mainly refer to refugees who enter the UK under the Gateway Protection Programme, children under 18, and parents and grandparents of individuals settled in the UK. Paragraphs 281(i)(b) and 282(b) HC 395 provide for immediate Indefinite Leave to Enter (ILE) for a spouse/civil partner who married/formed a civil partnership at least four years ago, since which time they have lived together outside the UK. Paragraphs 295A(i)(b) and 295B(b) are the counterpart for unmarried and same-sex partners. Paragraphs 317–319 provide for a grant of ILE to parents/grandparents over 65 and other dependent relatives (son, daughter, sister, brother, uncle or aunt, and possibly nephews, nieces or in-laws over the age of 18) of a person present and settled in the UK.
Tier 2 entrants are initially granted permission to stay for a maximum of three years plus one month, or the time given on their certificate of sponsorship plus one month, whichever is shorter. If they have the continued sponsorship by their employer, applicants have the possibility to extend their stay for another two years upon expiration of their certificate and can apply for settlement.

Students entering the UK under Tier 4 cannot count their time in the UK towards settlement, but have the potential to switch into the post-study work category. However, this is currently under review as part of a general effort to make Tier 4 more ‘temporary’.

**Absences**

The length of time individuals can legally spend away from a country’s territory without jeopardising their application for settlement and limitations on cross-border movements can play a role when it comes to assessing whether or not the legislative environment in a country facilitates or hinders circular migration. The conditions applicants for settlement in the UK have to fulfil differ depending on whether an individual wants to be considered for Indefinite Leave to Remain (ILR) or British nationality. Thus, absence periods from UK territory are assessed against two separate sets of policies and criteria, depending on the status being applied for.

The vast majority of individuals arriving in the UK under Tiers 1 and 2 are initially granted Limited Leave to Enter (LLE). Those looking to stay in the UK for longer, possibly with the aim of applying for British nationality have to qualify for ILR. Under the current system PBS migrants in Tiers 1 and 2 (except Intra-Company Transfers, see below) are eligible to apply for ILR on completion of five years of limited leave in a PBS route or combination of a legacy employment route and PBS route that leads to settlement. Continuous residency in the UK is a basic criterion, which applicants need to fulfil in order to be granted ILR (see below). Individuals entering the UK under Tiers 4 and 5 cannot count their time in the UK towards ILR.

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59 For those entering the UK as graduate trainees it is 12 months, for skills transfers, 6 months.  
60 Prior to 2006 individuals that had entered the UK under the Highly Skilled Migration Programme were able to apply after four years.  
61 There are limitations to this: in order to be considered individuals have to fulfil a specific set of conditions in accordance with the rules governing their immigration category. Those entering under Tier 1 are able to enter the UK without a formal job offer and are the only ones automatically granted permanent residency after four years continuous living in the UK. Skilled migrants under Tier 2 are permitted to enter the UK only if they hold a formal job offer. Their employer acts as their sponsor. They are initially granted a period of three years and one month, or the time given on their certificate of sponsorship, whichever is shorter. Migrants have the possibility to extend their stay for a further two years but their case will undergo another review. Only when it is determined as beneficial for the UK economy will such an extension be granted. Similar rules govern the remaining Tiers of the PBS. Students are granted a visa for the duration of their course and have the opportunity to apply for a two-year post-study visa, which grants them the right to work in the UK under the same conditions as Tier 1 migrants. Finally, exemption from controls can be revoked. This can be the case when individuals spend more than two years outside the UK, who will have to apply for returning residents entry clearance. Furthermore, individuals who are convicted of a serious criminal offence in the UK could still face a deportation order on the grounds that their presence in the UK is not conducive to the public good. This procedure can also take place if an individual is found to have obtained ILR/ILE by use of marital deception (UKBA 2010c).  
62 Chapter 6A of the Immigration Directorate Instructions (IDI) provides a clarification of ‘continuous’ and specifies the right of caseworkers to interpret the regulations (UKBA, 2010c).  
63 Immigration Rules for Tier 2 changed in April 2010. It is highly unlikely that individual Intra-Company Transfer (ICT) entrants can be granted ILR if they reached the ten-year residence rule. The only exception in Tier 5 are private servants in diplomatic households, who enter the UK under the International Agreement category, and are allowed to apply for ILR after five years of continuous employment (UKBA, 2010c, paragraph 245ZS).
Limited Leave to Enter – duration and restrictions on absences
The requirement for continuous residency does not prevent all types of cross-border movements. Exceptions apply for short-term holidays, short business trips and absences on compelling grounds, as long as any single interruption does not exceed three months and all interruptions do not total more than six months. Furthermore, caseworkers dealing with Tier 2 migrants are allowed to count the period between entry clearance being granted and the date the applicant entered the UK towards the five years, provided the period did not exceed three months.

Indefinite Leave to Remain – restrictions on absences
Whilst the Government emphasises the importance of temporary migration, alongside some further restrictions on rights to permanently settle, some of the brightest and best migrants may still have a right to settle and stay permanently in the UK. Consideration of the ‘paradox of permanency’ as posited by some researchers (Newland, 2009), suggests it may also be possible to facilitate circular migration amongst these more permanent migrants, as acquiring ILR allows individuals to remain outside the UK for a period of up to two years without forfeiting their right to residency.

Provisions for spouses/civil partners
The rules for persons entering the UK as spouses/civil partners/unmarried/same-sex partners of a British national or a settled individual are less straightforward. They require an in-depth interpretation by a caseworker, who will examine whether an individual has met the criteria for ILR using guidance provided by the Immigration Rules.

As a general rule, spouses arriving in the UK with their partner require prior entry clearance and are initially granted LTE for a period not exceeding 27 months. Spouses often have to commit to continuous residence on UK territory during this period. This provision is designed to minimise abuse of the marriage route by ensuring spouses reside in the same place (UKBA, 2010e). On completion of two years in the UK as a spouse they may apply for ILR.

The rules differ for longstanding couples who have lived abroad together for a minimum of four years and are seeking entry to the UK at the same time. In this case Indefinite Leave to Enter (ILE) can be granted if couples gained prior entry clearance for that purpose. Finally, spouses who are already in the UK have the opportunity to switch into the marriage route if they have LLE or ILR for a period of more than six months.

64 Chapter 6A of the IDIs stipulates the use of ‘continuous’ for PBS routes 1 and 2. For more information see: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idichapter6a/
65 Individuals returning after a time period exceeding two years are required to fulfil a list of requirements: they will have to prove that they were not given public funds to pay for the cost of leaving the UK and that they are coming to settle in the UK permanently. Any exceptions are at the discretion of immigration officials and can be made if individuals have strong family connections, or have lived in the UK for most of their lives (UKBA 2010d.
66 This behaviour has also been observed in the case of New Zealand and is seen to be at the heart of New Zealand’s ‘progressive’ settlement policy. For more information see Shorland (2006).
67 This is not required for people who were granted limited leave as fiancé(e).
In practice these measures could discourage cross-border circulation as an individual who has left the UK for a significant period of time without their spouse might be seen to have failed to meet the requirements for residency. At the time of writing the new Government’s reforms have not proposed specific changes regarding rules for dependants.

2.4 Citizenship provisions

Dual nationality

Dual citizenship is regarded by some researchers to encourage back and forward mobility because holding citizenship eliminates concerns over not being allowed to return (Vertovec, 2007b). The British Nationality Act of 1981 upholds the freedom to hold multiple nationalities created by its predecessor in 1948. At the point of introduction, this right served to reward British communities in former Commonwealth countries for their loyalty during World War II. Today granting individuals the freedom to choose their citizenship, but to foster a notion of active citizenship based on responsibilities as well as rights, forms part of the UK’s aim to engage individuals in public life and affairs in the UK while acknowledging the importance migrants may also place on the citizenship of their countries of origin (Home Office, 2002).

Consultations with diaspora organisations revealed that individuals are aware of the benefits of dual nationality, and they perceive their mobility patterns to be hindered by restrictive legislation in third countries (IOM, 2010a).

Absence rules

Whereas rules for settlement application are based on statutory law, the guidelines for citizenship are based on case law and thus subject to a greater degree of interpretation. In accordance with the British Nationality Act 1981 individuals are allowed to be absent from UK territory for periods of up to 450 days during the five-year qualifying period (270 days in a three-year qualifying period for spouses and civil partners of British citizens). Within the final year of the qualifying period a person is expected to have no more than 90 days absence. There is discretion to waive these absences but these need to be justified in order for the person to demonstrate a close and continuing connection with the UK. However, cases are assessed on an individual basis and consideration is given to the nature of work an individual engages in as well as personal reasons.

The March 2010 UK Border Agency/Foreign and Commonwealth Office (FCO) international strategy made reference to the suggestions of a public sector think-tank, which proposed to increase flexibility of rules for settlement and citizenship to enable individuals to spend more time in their

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68 [http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/nationalityinstructions/](http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/nationalityinstructions/) But see s.35 British Nationality Act 1981 and Article 10 of the British Protectorates, Protected States and Protected Persons Order 1982, which provide, respectively, for the automatic loss of the statuses of British subject and British protected person in certain cases.

69 [http://www.inbrief.co.uk/immigration-law/dual-nationality.htm](http://www.inbrief.co.uk/immigration-law/dual-nationality.htm)

70 For more information visit: [http://www.ukba.homeoffice.gov.uk/britishcitizenship/eligibility/naturalisation/absencesfromuk/](http://www.ukba.homeoffice.gov.uk/britishcitizenship/eligibility/naturalisation/absencesfromuk/)
country of origin without forfeiting their right to settlement or citizenship (UKBA/FCO, 2010). However, this particular issue does not form part of the Government’s priorities.

2.5 Cross-government cooperation – social benefit portability and return

An under-explored issue when talking about mechanisms that facilitate or hinder circular mobility is portability of social benefits. Benefit portability refers to the ability to preserve, maintain, and transfer vested social security rights or rights in the process of being vested, independent of nationality and country of residence (Cruz, 2004; Holzman et al., 2005). The UK’s comprehensive portability system grew out of the decision to grant British nationals based in former Commonwealth countries the same rights they would have enjoyed in the UK. Responsibilities around portability in the UK are led by the Department for Work and Pensions (DWP), working closely with HM Revenue and Customs (HMRC) and the Department of Health (DH).

Evidence suggests that pensions can indirectly contribute to development in countries of origin as migrant workers are seen to send larger amounts to their home countries if they have this extra source of income (Koettl, 2006; Avato, Koettl and Sabates-Wheeler, 2009). Furthermore, portability of social security rights across borders can be important to social security institutions out of concerns of actuarial fairness and may act as a disincentive to illegal employment in destination countries. This may help to facilitate integration of TCNs (Forteza, 2008)

*European Economic Area guidelines for portability*

The UK has implemented all required legislation that guarantees full portability of social security benefits within the EU.71 Thus, EU/EEA nationals working in the UK and UK citizens who decide to move to a different Member State have their pension entitlement protected and can access their pensions. These rights are extended to TCNs moving between the UK and another Member State, provided the individual has resided in the UK for a minimum period of time.72

*Portability outside European Economic Area: Social Security Agreements*

Reciprocal social security agreements (SSAs) between the UK and other countries have existed since the 1950s, and there are over 30 reciprocal agreements covering some 38 countries and territories. The majority are within the Council of Europe countries.73 The agreements fall into two categories, reflecting different approaches adopted with countries that have residence-based social security schemes and those with contributory or insurance based systems. They therefore differ in the scope of benefits paid; whether there is full reciprocity; and whether the benefits paid are up-rated (index-

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71 This refers principally to EU Regulations 883/2004 and 1408/71, and associated instruments.
72 No later than after five years according to EU Directive 109/2003 and EU Regulation for TCNs EC 859/2003.
73 The UK has 11 reciprocal social security agreements with the following countries outside the EEA and Switzerland: Barbados; Bermuda; the Channel Islands (Jersey and Guernsey); the Isle of Man; Israel; Jamaica; Mauritius; the Philippines; Turkey; the US and the former Federal People’s Republic of Yugoslavia. The old ‘Yugoslavia’ agreement of 1958 continues to be applied bilaterally, with the consent of each, to the now separate republics – Bosnia-Herzegovina, Croatia, Kosovo, FYROM, Montenegro and Serbia (with Slovenia being covered by the EC Regulations).
linked) or remain frozen at the original rate of payment. For the past 30 years the UK has pursued a policy of not seeking out new agreements with other countries.

UK policy therefore provides for three different degrees of portability. Full portability exists between the UK and EEA countries, Switzerland, and the several non-EEA states with which the UK has concluded comprehensive reciprocal SSAs. If a person decides to live or return to one of these countries that person has access to all their state pensions, bereavement and widow benefits, which are paid there without restrictions. Persons leaving those countries to live elsewhere abroad would be subject to the ‘freezing’ restriction on payment of annual up-ratings. Other contributory benefits can generally be obtained for up to 26 weeks; sometimes longer within the EEA.

Employment-related Industrial Injuries Disablement Benefit is payable world-wide without restriction. Non-contributory benefits can only be paid for periods of temporary absence abroad. The periods of permitted temporary absence vary according to the nature of the benefit abroad except for the Industrial Injuries Disablement Benefit. This is also the case for child benefits, Disability Living Allowance and Attendance Allowance, which require individuals to be on UK soil, and will only be paid for temporary absence abroad; these benefits are, however, often payable abroad within the EU/EEA. Healthcare does not generally form part of the SSA. Only emergency care is available to UK permanent residents in a variety of countries.

‘Frozen’ rate
For some other countries the provisions set out by the SSA are more restrictive. This means that similar provisions apply but the rate is ‘frozen’ from the point the individual decides to leave the UK or become entitled when living abroad and will not be adjusted in accordance with inflation or reforms.

Rest of the world
For countries with which the UK has not concluded any bilateral SSAs UK legislation allows individuals to claim some benefits for each year they contributed to the UK social security system. In this case too, the rate remains ‘fixed’ at the point at which the individual left the UK or when the pension was awarded (HM Revenue and Customs, 2010).

The link between portability, return and development
In the UK the discussion on benefit portability has focused largely on British citizens moving abroad rather than its potential impact on the return of TCNs to their home countries.

74 Barbados, Bermuda, Bosnia-Herzegovina, Canada, Croatia, FYROM, Guernsey, Israel, Jamaica, Japan, Jersey, Republic of Korea, Mauritius, New Zealand, the Philippines, Serbia and Montenegro, Turkey and the US.
75 Some SSAs have healthcare protocols negotiated separately by the DH, which form part of the treaty for the agreement.
76 Armenia, Azerbaijan, Bosnia, Croatia, FYROM, Georgia, Gibraltar, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, New Zealand, Russia, Serbia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, residents of Anguilla, Australia, Barbados, British Virgin Islands, Channel Islands, Falkland Islands, Iceland, Isle of Man, Montserrat, St Helena, Turks and Caicos Islands. On countries other than these – including some countries having concluded a bilateral SSA – UK residents are not covered by the NHS even for temporary visits.
77 These are mainly pension and bereavement benefits.
The particular relationship between benefit portability and international development was picked up by the House of Commons International Development Committee (House of Commons International Development Committee, 2004). Its report drew an explicit link between the portability of social rights to individuals’ inclinations to return to their country of origin. Making benefits available to those residing abroad was seen as an incentive for individuals to return home. However, strict privacy regulations in the UK, which do not allow for disaggregated data collection, hamper an in-depth investigation of the relationship between portability, migration and development. SSAs do not currently distinguish between British nationals and TCNs residing in the UK. Thus, no data are available on the share of TCNs who take advantage of their right to benefit portability, making it challenging to determine whether portability of benefits acts as an incentive to return. Proposals for granting migrants coming to the UK on temporary contracts a proportion of their National Insurance contributions upon their return to the homeland so as to increase fairness and discourage overstayers seem unlikely to be introduced, and no plans exist to extend the number of currently existing agreements.

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78 UK privacy laws do not allow for records on nationality of benefit recipients and does not show which world regions receive the majority share of UK benefits from the UK. Disaggregated figures for pensions show that the majority of pensions are currently paid to individuals in Canada New Zealand and the US.

79 Such a policy would require a change to the conditions for National Insurance pay-out. Under the current regulations individuals are required to contribute to the UK labour market for a minimum of 30 years before being granted access to their National Insurance contributions. Furthermore, while the UK acknowledges the right of British citizens to retire abroad, National Insurance contributions represent a vital source of Government revenue and currently no changes are expected with regard to changing legislation.
3 Statistical evidence for temporary and circular migration

As previously discussed, the terms temporary and circular migration are difficult to define and can be used somewhat interchangeably. For instance, they can both be defined in terms of a person emigrating from their country and then returning, perhaps repeatedly, as well as in terms of their length of stay. In addition to the complexities of defining different types of migration, trends in migration statistics are difficult to interpret for a variety of reasons. For instance, changes in migration flows may reflect operational changes originating within a country or across a group of countries, such as the recent accession of countries to the European Union (EU) and the subsequent changes in their movement rights. Changes in asylum statistics may reflect developments in other countries, for instance political conditions. Economic factors, historical links between nations and access to travel can also influence migration. Such ‘push’ or ‘pull’ factors are likely to fluctuate over time, and can be inter-related, which makes explaining changes in migration an extremely complex process.

Within the UK, international migration is assessed using a variety of different data sources. Administrative data, such as the number of visa applications and the granting of permissions to enter the UK, are collected by the UK Border Agency and can measure the intentions or movement of third country nationals (TCNs). The Office for National Statistics (ONS) estimates migration flows using the International Passenger Survey (IPS) and numbers of migrants residing in the UK from the Annual Population Survey (APS), largely drawing on its Labour Force Survey (LFS). Currently these surveys are the only data sources able to provide broad estimates of movement of all migrants (e.g. EU and non-EU migrants) into and out of the UK, as well as the proportion of foreign nationals living or working within the UK.

However, the use of survey data has some limitations, such as the accuracy of estimates being affected by sample size and subject to margins of error. This means that while the UK is able to identify broad changes in flows and stocks (e.g. British, EU and non-EU nationals) it is less able to identify specific changes within smaller populations, for instance migrants from certain countries. Also there are differences in how migrants are defined, which can be based on their nationality or their initial intention to stay for 12 months or longer.

80 For a further discussion on defining temporary and circular migration please see Introduction.
81 Accession countries that joined the EU in 2004 were: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Bulgaria and Romania joined the EU in 2007.
82 Non-European Economic Area (non-EEA).
83 Long-Term International Migration (LTIM) estimates are the primary source used to measure international migration to and from the UK. These estimates incorporate data from the IPS, as well as additional adjustments. However, these data were not available for this publication and do not enable detailed analysis of migrant characteristics. For more information see: http://www.statistics.gov.uk/statbase/Product.asp?vlnk=15053
85 The 2011 Census (March 2011) will be able to examine migration into and out of the UK, including short-term/temporary migration. Results from this census are likely to start to be available from summer 2012. For more information see: http://www.ons.gov.uk/census/2011-census/2011-census-questionnaire-content/index.html
Yet, while these sources do provide some insight into international migration they were not designed to measure temporary\(^{86}\) and circular migration. Neither are the administrative sources. For instance, data on the number of visas granted to TCNs only give an indication of the intention by an individual and not their actual behaviour. Similarly, data on permissions to enter the UK are only able to count journeys (as a decision is made at the border for every journey) and may therefore count multiple entries of individuals.

**Student migration**

The data that are available have to be used cautiously to draw conclusions. For instance, students are typically considered a ‘temporary’ form of migration whereby it is expected they will leave the UK at the end of their course of study. Figure 1 shows that there has been an increase in the number of permissions granted to TCNs (non-EEA) entering the UK to study between 2004 and 2009, from 307,000 to 489,000. This indicates that 54 per cent of journeys\(^{87}\) made by TCNs into the UK were for study purposes in 2009 compared with 39 per cent in 2004.\(^{88}\)

**Figure 3.1 Permissions to enter the UK granted to non-EEA nationals, by reason, 2004 to 2009\(^{89}\)**

![Permissions to enter the UK granted to non-EEA nationals, by reason, 2004 to 2009](source: Home Office)

Visa data also show an increase in TCNs intending to study within the UK; between 2007 and 2009 there was a 36 per cent increase in visas issued to TCNs\(^{90}\) to study. It may be considered that this category of entering to study reflect an (increasing) intention to migrate temporarily. However, Achato, Eaton and Jones’ (2010) recent cohort study *The Migrant Journey* (discussed below) demonstrates the situation to be more complex, as it showed 21 per cent of the 2004 cohort who

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86 However, short-term estimates (of migrants entering or leaving the UK for less than 12 months) have recently been produced by ONS. For more information see: [http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=15363](http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=15363)

87 This excludes TCNs who enter as visitors, and individual journeys for transit or returning. For more information see Home Office (2010d).

88 In September 2007, the Immigration Rules were amended to provide a new category of student visitors. This category provides for short-term students who wish to study in the UK for six months or less, but do not wish to take part-time employment or seek an extension to their student visitor leave. It can also be used by visitors who want to undertake a short course of study in the UK, which will be completed during their period of leave (Home Office, 2010d).

89 This excludes TCNs who enter as visitors and individual journeys for transit or returning. ‘Other’ includes those given leave to enter on arrival (such as asylum cases) and individuals granted settlement on arrival. See Home Office, (2010d).

90 Main applicants (excludes dependants).
initially entered to study were still in the country five years later (see Table 3.2) indicating this
category of migrant are perhaps not quite as ‘temporary’ as previously considered.

'Temporary' workers and the Points-Based System
Looking more closely at another category of visa data, between 2007 and 2009 there was also
a 20 per cent reduction in the number of TCNs issued a visa for Tier 5 or equivalent temporary
employment (45,125 to 36,320) as well as a 39 per cent reduction in other employment visas,
including highly-skilled and sponsored migrants in Tier 1 and Tier 2 (124,335 to 76,380). However,
interpreting such changes is difficult as they are influenced by the availability of schemes that enable
migration (temporary or otherwise) and as well as changes in the skill levels required for TCNs
entering the UK under the new PBS.

In terms of temporary work schemes, until 2007 there were a number of schemes that allowed
TCNs to enter and work in the UK on a temporary basis to undertake low-skilled work, such as
the Seasonal Agricultural Workers Scheme (SAWS) and the Sector-Based Scheme (SBS). Table
3.1 shows that the majority of SAWS’ migrants came from eastern Europe; in particular nationals
from the Ukraine, Russia and Romania were the most common, comprising 65 per cent of migrants
entering between 2004 and 2006. However, migration under these schemes are also largely managed
by the UK, as entry is restricted via a quota system, as well as more recently becoming restricted
to Bulgarian and Romanian nationals following their accession to the EU in 2007. In 2009, the
operators of SAWS issued 20,180 work cards to Bulgarian and Romanian nationals; 62 per cent were
issued to Bulgarian nationals.

| Table 3.1  | Passengers recorded as entering the UK as Seasonal Agricultural Workers, and
country of nationality (excluding EEA and Swiss nationals), 2004–2006 |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2004</td>
</tr>
<tr>
<td>Ukraine</td>
<td>4,980</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>1,580</td>
</tr>
<tr>
<td>Russia</td>
<td>1,645</td>
</tr>
<tr>
<td>Belarus</td>
<td>1,695</td>
</tr>
<tr>
<td>Romania</td>
<td>750</td>
</tr>
<tr>
<td>Other</td>
<td>4,385</td>
</tr>
<tr>
<td>Total</td>
<td>15,040</td>
</tr>
</tbody>
</table>

Source: Home Office.

Other ‘temporary’ work schemes available to TCNs have also been closed and/or incorporated into the
PBS. For instance, Tier 3, which can allow unskilled migrants from outside the EU to enter the UK, has
been closed since its inception in 2008. The Working Holiday Maker Scheme has also been reviewed.
This scheme enabled migrants from Commonwealth countries to enter the UK for up to two years
for a holiday while also allowing them to undertake a limited amount of work. In 2004, the number
of migrants entering the UK peaked at just over 62,000 and from 2005 Australians were consistently

91 For a detailed explanation of the UK’s Points-Based System please see Chapter 1.
92 For more information see Home Office (2010e).
93 For more information see Home Office (2010c).
the most frequent nationality to enter the UK under this scheme. Since 2008 this scheme has been incorporated within Tier 5 of the PBS as the Youth Mobility Scheme, and restricted to a smaller range of countries.\textsuperscript{94} In 2009, over 20,000 temporary migrants were granted entry visas under this scheme.\textsuperscript{95}

The new PBS therefore controls the availability of some types of work to TCNs, e.g. by restricting access to low-skilled work and by placing greater emphasis on skilled or professional migrants. This is likely to affect opportunities for skilled and non-skilled TCN migrants to obtain temporary employment in the UK, although the actual impact on temporary or circular migration is difficult to assess.

\textbf{A8 migration – a new form of temporary migration}

Some of these changes in the migration of TCNs (temporary or circular) may also reflect changes in the movement rights of certain former non-EEA countries following European accession in 2004. The IPS shows that the number of A8\textsuperscript{96} nationals entering the UK increased steadily and peaked in 2007 at an estimated 103,000 arrivals;\textsuperscript{97} representing 20 per cent of all immigrants to the UK (compared with 9 per cent in 2004). The Workers Registration Scheme (WRS)\textsuperscript{98} shows that the majority of immigrants from A8 countries were from Poland, peaking in 2007 at 72 per cent compared with 52 per cent in 2009.

\textbf{Figure 3.2 Estimates of long-term international migration of A8 nationals, 2004–2009}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure32.png}
\caption{Estimates of long-term international migration of A8 nationals, 2004–2009}
\end{figure}

Standard errors 2009: immigration 12%; emigration 13%.
Source: The International Passenger Survey (ONS).

94 This scheme is currently open to nationals from Australia, Canada, Japan, New Zealand and Monaco. Their national government will act as their sponsor. British overseas citizens, British overseas territories citizens and British nationals (overseas) can also apply under the scheme, and do not need a sponsor. For more information see: http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/youthmobilityscheme/

95 Main applicants. For more information see Home Office (2010e).

96 A8 countries are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.


98 A8 nationals who take up employment in the UK are required to apply to register that employment under the WRS within one month of commencing work. The requirement to register employment no longer applies if the individual completes 12 months’ continuous registered employment in the UK. The requirement to register does not apply to work in a self-employed capacity. For more information see Home Office (2010d).
However, in the last two years net migration for these A8 nationals has decreased to around 10,000 as similar numbers of A8 migrants entered and left the UK in those years. In 2009, nearly half of all EU27 citizens emigrating were A8 (46%). This suggests that the recent changes in the movement of EU nationals may indicate a new form of temporary or circular migration within the UK, one that is in part driven by voluntary movement in response to economic conditions rather than managed through the Immigration Rules (Figure 3.2).

**Length of time in the UK**

Another change that appears to have occurred is in the length of time migrants report to the IPS as their intended length of stay in the UK. In recent years it has become more common for migrants to state that they intend to stay in the UK for a shorter amount of time (Figure 3.3). For instance, 39 per cent of migrants in 2000 intended to stay for only one to two years, but this figure had risen to 49 per cent in 2009.\(^99\),\(^100\)

However, once again these data cannot be viewed in isolation, as a migrant’s intended length of stay will be influenced by their reason for migrating. For instance, in 2008 the IPS estimates that around two-thirds of migrants who entered the UK to study intended to stay for up to two years, compared with 42 per cent of migrants who entered the UK for work-related reasons.\(^101\) However, intentions may change over time and it is not certain whether increasing intentions to stay for short periods reflect actual behaviour.

![Figure 3.3 The intended length of stay of immigrants to the UK, 2000–2009](https://www.statistics.gov.uk/downloads/theme_population/Migration-Statistics-2008-Annual-Report.pdf)

Source: The International Passenger Survey (ONS).

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100 The WRS also shows that the majority of immigrants from A8 countries who entered the country to work intended to stay for less than one year in 2009 (66%) compared with 2006 (61%). Derived from applicants’ responses to the question on the WRS application form ‘How long do you think you will stay in the UK?’. This question was not asked until March 2005. For more information please see Home Office (2010d).

**Tracking migrants into and out of the UK**

Ultimately, while the UK is able to measure such flows and intentions of migrants, it is unable to assess the actual movement of individuals, as it does not track them into and out of the country. The UK hopes to collect such information electronically in the future using administrative data (via the e-Border system).

Recently, the UK Border Agency published the results of research to measure migrants’ journeys through the immigration system using its existing administrative data. 102 This research seeks to identify the behaviour of migrants who enter the UK by following a cohort of migrants who were granted a non-visit visa (through these administrative databases). The current methodology enabled 78 per cent of migrants who arrived in the UK in 2004 103 to be tracked, and provides a good indication of the degree to which migrants in different categories remain in the UK, change their status, or leave.

<table>
<thead>
<tr>
<th>Route</th>
<th>Migrants in 2004 cohort granted non-visit visas</th>
<th>Proportion of migrants who are not in the UK Immigration system after five years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>63,400</td>
<td>37%</td>
</tr>
<tr>
<td>Work (leading to citizenship)</td>
<td>105,880</td>
<td>60%</td>
</tr>
<tr>
<td>Work (not leading to citizenship)</td>
<td>94,540</td>
<td>89%</td>
</tr>
<tr>
<td>Study</td>
<td>185,600</td>
<td>79%</td>
</tr>
</tbody>
</table>

Notes: Migrants are expected to leave the UK once their visa expires. Therefore in this study the expiry data of a migrant’s last recorded grant of leave indicates the migrant is no longer considered a live case in the UK immigration system.

Source: Achato, Eaton and Jones (2010).

Table 3.2 shows that the highest proportion of migrants (34% of those issued non-visit visas in 2004) entered the UK to study in 2004, and that 79 per cent are thought to have left the UK within the next five years. 104 Furthermore, the majority of migrants who entered to work on a temporary visa or on a visa that could lead to settlement were also no longer in the UK immigration system after five years (89% and 60% respectively). However, migrants who entered under the family route were much more likely to remain in the UK and achieve settlement after five years (63% and 55% respectively). This suggests that, with the exception of migrants who entered for family reasons, the majority of migration into the UK in 2004 was temporary (i.e. migrants appear to have stayed less than five years). Also migrants on temporary work routes (not providing any route to citizenship) were much less likely to remain in the immigration system than those who were on a skilled work route that had an option for citizenship.

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102 For more information see Achato, Eaton and Jones (2010).
103 Migrants granted non-visit visas in 2004.
104 They are no longer in the UK immigration system, as their last recorded grants of leave have expired. It is assumed that most of these cases will have left the UK but some individuals may still remain without valid permission to remain.
Overall, this chapter shows that there have been recent changes in the movement and composition of migrants to and from the UK, which perhaps suggest a more temporary and/or circular movement by migrants (even though the initial motivation for migrating may differ). This is likely to reflect a variety of inter-related factors, as identified at the start of this chapter, such as changes in movement rights and operational changes within the UK, as well as wider global economic developments that have occurred in the last ten years. As a consequence, interpreting such statistics is a complex process, which in part reflects the types of data collected by the UK but also the difficulty in clearly defining temporary or circular migration.
Conclusion

This report provides an overview of the environment for temporary and circular migration in the UK. In the absence of clear definitions and conceptualisations identifying, assessing and quantifying flows of temporary and circular migration can be challenging. This report shows that in the context of UK migration policy, temporary migrants are more likely to be defined by their entry route than by the timeframe they have spent in the UK. The distinction between temporary and permanent migration has, until recently, been confused by restricting the operational definition of temporary to a small number of individuals. Moreover, the majority of migrants experience a shift from temporary to permanent status due to possibilities to switch into settlement routes.

The report introduced various forms of temporary migration taking place in the UK through the PBS, but also outside it. It showed the mixed experience with strictly temporary migration schemes. The UK’s overall experience with such schemes is limited. Nevertheless, evidence from the Seasonal Agricultural Workers Scheme (SAWS) and Sectors-Based Scheme (SBS), as well as the Medical Training Initiative (MTI) and the Commonwealth Scholarship and Fellowship Plan (CSFP) indicate the importance of certain key factors in order to increase the likelihood for success.

First, the nature of employment: workers in seasonal sectors, as was the case in the SAWS, were more likely to leave the UK at the end of their stay than those employed in non-seasonal sectors. Second, the introduction of the sponsorship principle to increase compliance among employers, who can be held accountable. Third, the need to make temporary migration part of a comprehensive approach, which involves third country cooperation. Such an approach has to integrate migration policy with other policy areas, offer assistance to those returning to their home communities and minimise incentives for overstaying. Finally, the needs to stress the gains of return for individuals and their countries of origin.

Temporary migration has not always been a focus in UK migration policy. However, the new Government intends to break the link between temporary migration and settlement, thereby creating a greater distinction between purely temporary routes and those which lead to settlement. Whether the temporary migration will increase in terms of absolute figures will remain to be seen as the UK Government remains committed to limiting net migration.

Similarly, it remains to be seen what long-term consequences these proposals will have on the circular mobility of individuals who are either already settled in the UK or in the process of applying for settlement. As provisions for settlement of individuals become more restrictive, long-term voluntary circularity might decrease. However, with more individuals from the diaspora reaching retirement age, natural circular migration might increase, thus potentially increasing the role of portability of social benefits as an incentive to return to their country of origin.

105 For a more detailed discussion see Chapter 3.
Finally, the report has not looked at family reunification policies more closely. Recent proposals by the UK Government aim to tighten rules for family reunification. It might be useful to examine this more closely in the future.
References


http://www.issa.int/pdf/ kuwait04/2cruz.pdf. accessed August 26, 2010


http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/


UKBA (2010e) ‘Chapter 8, Section 1, Spouses’. In *Immigration Directorate Instructions*, (August 2010). London: UK Border Agency


