

Immigration White Paper – a response from the Creative Industries Council

The creative industries sector is a British success story, growing at more than twice the rate of the economy as a whole, generating over £100bn per annum and representing over 5% of the UK economy.¹ Creative businesses are responsible for more than 10%, or £27 billion, of the UK's annual service exports and directly employ some 2 million people. Non-UK EU national workers account for 6% of the overall creative workforce,² with industry survey data showing higher proportions in sub-sectors such as architecture (20%³), visual effects (33%) and video games (20 - 30%⁴) and performing arts (25-33%)⁵.

The sector invests substantially in developing its UK workforce, working in partnership with government through the Creative Industries Sector Deal to ensure creative careers are attractive and accessible to individuals from all backgrounds, including developing new training opportunities such as apprenticeships. However, to stay competitive creative businesses must also continue to attract the brightest and best international talent, fill urgent skills gaps and benefit from the technical and language skills, and cultural understanding of a global workforce.

The Creative Industries Council (CIC) recognises the government's desire to reform the immigration system set out in the White Paper on Immigration published in December 2018.⁶ It welcomes the commitment that Britain will stay open for business and not close its doors.⁷ This is crucial for the sector's future productivity as the immigration system is extended to EU workers post-Brexit.

This paper highlights the key policies within the White Paper that will benefit the Creative Sector and sets out some key areas where further changes is needed to support ongoing success and growth. It focuses on areas that are relevant to the whole or a large part of the sector to complement existing and subsequent contributions from CIC members. While some of the issues highlighted are shared across the economy, others, such as support for the freelance workforce, are more specific to creative businesses but just as critical to their future impact.

Characteristics of creative sector businesses that affect talent needs and interaction with the immigration system

Talent driven – 10% of the UK's creative workforce is international.⁸ The UK's status as a global creative hub is sustained by its ability to attract, develop and retain the best talent from around the world, and to compete internationally for people with critical and highly specialist skills.

Innovative and entrepreneurial – creative businesses are at the forefront of innovation and a key driver of the entrepreneurial sector, for example through pioneering uses of AI and virtual/augmented reality.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774511/DCMS_Sectors_Economic_Estimates_2016_Trade_final.pdf

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/726136/DCMS_Sectors_Economic_Estimates_2017_Employment_FINAL.pdf

³ <http://www.arb.org.uk/brexit/brexit-statistics/>

⁴ Creative Industries Federation – Creative Industries and Immigration – Key Stats

⁵ One Dance UK. Movement beyond borders. 2018

⁶ <https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system>

⁷ <https://www.gov.uk/government/speeches/home-secretary-future-border-and-immigration-system>

⁸ DCMS Sectors Economic Estimates: Employment (2019) <https://www.gov.uk/government/statistics/dcms-sectors-economic-estimates-2017-employment>

Project-based— a huge amount of work in the creative industries is project-based, with talent brought in on a time-limited basis to shoot a film, work on a single designer collection or perform in a play. In some sub-sectors, such as opera and ballet, international talent needs can be last-minute and very urgent (e.g. to cover illness or injury).

Sizeable freelance workforce

Given the high degree of project work, a large permanent workforce is not economically viable for many creative sub sectors and businesses. 34% of the sector workforce are freelancers⁹ but in some sub-sectors, the figure is much higher. For example, according to Creative Skillset's 2015 employment survey of the UK's creative industries, 89% of all workers in the film production sector are freelancers¹⁰. The CIC Skills and Migration Survey suggests that as many as one in ten creative businesses employ freelancers who are non-UK national.¹¹

Hubs but regional spread – while there are concentrations in London and regional hubs, creative businesses are part of town, city and rural economies across the UK and are sensitive to local talent and skills market-factors. There are some 47 recognised creative industry clusters around the UK¹² and GVA grew by 47% in the North East and Scotland between 2010 and 2016.¹³

High skill, lower wage particularly in early career— a large proportion of the early career creative sector talent pool is highly skilled but relatively lower paid.

Large numbers of SMEs - 95% of creative industry firms are micro businesses¹⁴ with no or limited HR support or financial headroom to manage the costs and bureaucracy of interactions with the immigration system.

The Creative Industries Council supports the following measures included in the White Paper:

Abolishing the cap on the number of Tier 2 visas

It is welcome that UK Government has announced that it will remove the cap on the number of Tier 2 visas. This cap has curtailed the sector's capacity to respond to skill gaps, acting as a brake on growth. 63% of creative employers with skills issues have reported challenges in professional occupations, and 32% have reported that this affects jobs in associate professional and technical occupations.¹⁵

Support for the Tier 5 (Creative and Sporting) visa

The Immigration White Paper makes brief reference to the Tier 5 system and a commitment to '*ensure that our future immigration system continues to support the thriving cultural and sporting life of the UK.*' This route was developed through intensive industry collaboration to support the unique working practices in parts of the creative industries such as the performing arts, film and TV, and we support its continuation.

Digitising and streamlining the application process

⁹ <https://www.gov.uk/government/statistics/dcms-sectors-economic-estimates-2017-employment>

¹⁰ <https://www.creativeindustriesfederation.com/sites/default/files/2017-07/Creative%20Freelancers%201.0.pdf>

¹¹ Bakhshi and Spilsbury (2019). Creative Industries Council and Creative Industries Policy and Evidence Centre. The Migrant and Skills Needs of Creative Businesses in the UK: Findings from the January 2018 Creative Industries Council Migration and Skills Survey

¹² https://media.nesta.org.uk/documents/the_geography_of_creativity_in_the_uk.pdf

¹³ <https://www.creativeindustriesfederation.com/sites/default/files/2018-12/Creative%20Industries%20Federation%20-%20Growing%20the%20UK's%20Creative%20Industries.pdf>

¹⁴ DCMS Sectors Economic Estimates: Business Demographics (2019) <https://www.gov.uk/government/statistics/dcms-sectors-economic-estimates-2017-business-demographics>

¹⁵ Bakhshi and Spilsbury (2019). Creative Industries Council and Creative Industries Policy and Evidence Centre. The Migrant and Skills Needs of Creative Businesses in the UK: Findings from the January 2018 Creative Industries Council Migration and Skills Survey

Continuing migration to a digital system of visa processing as well as ensuring costs and wait times are kept to a minimum will ensure that the UK is able to access vital world-class talent as efficiently as possible after the end of freedom of movement.

Ending the Resident Labour Market Test

There is no evidence that the Resident Labour Market Test supports the hiring of domestic talent over international talent. However, it does put significant delays and administrative burdens on businesses looking to recruit.

Recognition of and support for flexibility

The White Paper states that *“The rules will nonetheless be flexible and provide for different treatment for certain migrants, in ways justified on objective grounds such as skill, immigration and security risk, and international or bilateral agreements.”*

To support the Creative Sector to continue its impressive growth, the Creative Industries Council urges the UK Government to make the following commitments:

Revisit the salary threshold

The UK’s creative sector is supportive of the government’s ambition to develop a high-wage, high-skill economy. While the policy logic of the salary threshold is understood, and the small minority of businesses that look to undercut wages through abuse of the immigration system should of course be addressed, the flat £30,000 salary threshold for Tier 2 visas proposed would in fact penalise businesses and entrepreneurs that support growth and innovation. It would also truncate the benefits of welcome reforms to remove the cap on visa numbers and extend the scheme to cover those with RQF 3-5 level education.

There are myriad high skill roles in the creative sector that command a salary below £30,000 but deliver the exciting and productive work the UK is renowned for. Examples from industry survey data include¹⁶:

- A Company Dancer, with at least 2 years’ experience (average salary £21,000)
- A Digital Communications Officer, with three years or more professional experience (£28,000)
- A Producer with extensive experience making and facilitating work with international artists and often a graduate degree (£24-28,000)
- An Animator with 4 years’ experience after graduation (£27,000).

Competition for the global creative sector workforce is intense, with countries offering tax and other incentives to entice businesses and a highly mobile workforce.¹⁷ Addressing the salary threshold is critical for the UK to continue to attract creative companies, and to support those businesses to recruit and retain the skilled talent they need.

UK Government has recognised in the White Paper that *“in some circumstances – for example where skills are in shortage – there should be some flexibility to allow migration at lower salary levels.”* This proposed flexibility is encouraging and must be applied in the creative sector, with a joint Home Office and Migration Advisory Committee data-led approach to consider where flexibility is most needed. Other policy options should also be given serious consideration, including a reduced threshold, regional variations from a higher

¹⁶ Creative Industries Federation - Response to the MAC Consultation on the Shortage Occupation List

¹⁷ <https://www.o-spi.co.uk/wp-content/uploads/2019/05/Olsberg-SPI-Global-Incentives-Index-May-2019.pdf>

threshold to support employers from outside of London to access skilled talent and working with trade bodies to build visa validation through suitable industry-government-agreed criteria. We welcome the Home Secretary's decision to refer the issue back to the Migration Advisory Committee, reflecting concerns across the economy, including from the creative sector.

Reinstate the two-year post-study work visa

The UK's creative businesses must be able to compete for and benefit from the pool of international talent that emerges through UK universities. To achieve this, the Government should re-instate a post-study work visa of two years, abolished in 2012. A post-graduation grace period of six months does not work for employers, who look to hire throughout the year, or graduates, who are forced into making significant decisions so soon after graduation.¹⁸ It shuts out talented international graduates keen to set up businesses in the UK, reduces the competitiveness of UK creative university courses in the global market, and is problematic for sub-sectors like architecture where students must take two significant work placements during their lengthy period of study.

Introduce a freelance visa

Freelancers make up more than a third of the overall creative sector workforce and a much higher proportion in some sectors such as visual effects. This is fundamental to the flexible and project-based operating models upon which many parts of the industry rely. From music producers to stylists for fashion campaigns, they support the high level of project work and provide essential additional capacity to the large numbers of creative SMEs. The current immigration system works against the freelance workforce by linking visas to a single employer (Tier 5) or restricting visas to those with 'exceptional talent' or 'exceptional promise' (Tier 1), which is not applicable for highly-skilled freelancers outside of this category. The CIC Skills and Migration Survey suggests that as many as one in ten creative businesses employ freelancers who are non-UK nationals. A recent Creative Industries Federation survey found that 70% of their members believed that these positions could not be filled by UK workers and that freelancers had up to 10 contracts in a given year, making a visa based on a single employer's sponsorship unsuitable for them¹⁹.

The government should introduce a Freelance Visa to enable freelancers to undertake multiple contracts in the UK. This would permit multiple entry over a 24-month period, and the right to sell goods or services independently or take on work from several companies without needing sponsorship from each. As with the Tier 1 system, endorsing bodies could assist the Home Office, using pre-agreed criteria. This would also be an opportunity to revisit whether greater flexibility in the criteria for the Tier 1 system is required.

Improve the Shortage Occupation List

It is welcome that the Migration Advisory Committee recently recommended an expansion of the Shortage Occupation List (SOL) to cover additional roles within the creative industries. Inclusion on the SOL provides benefits for both international talent and employers. However, while valuable for some sub-sectors, current methods of data collection for the SOL cannot keep pace with emerging technologies or highly innovative practices in new, burgeoning creative fields. Industry can support work to identify amendments needed, while UK Government should commit to updating the SOL on a more regular basis.

Abolish the Immigration Skills Charge

¹⁹ <https://www.creativeindustriesfederation.com/sites/default/files/2017-07/Creative%20Freelancers%201.0.pdf>

The Immigration Skills Charge (ISC) was established in 2017 with the aim of “*reduc[ing] Britain’s reliance on migrant workers and upskill[ing] British workers*”. But in its current form it merely acts as a tax on business, penalising the UK’s most creative and outward looking businesses from attracting (and successfully competing for) the international skills that are so vital to the sector’s strength and growth. Although UK Government has stated that the ISC supports the Department for Education’s budget, it is unclear what real link exists between the charge and important programmes, led and supported by industry, to boost skills for the domestic workforce. The MAC identified that ‘*we know little about the impact of the Immigration Skills Charge.*’²⁰ In addition, there is a contradiction in the ISC applying for posts on the Shortage Occupation List, where all barriers to recruitment should be removed.

Creative businesses that employ international talent are already bearing the cost of hiring through a sponsor licence, application process, and a certificate of sponsorship – costs that can run into thousands of pounds. The larger creative businesses are also contributing by paying the Apprenticeship Levy. The ISC, the largest part of the cost of a visa at £1000 per year per worker for large businesses and £364 for small businesses and charities, is yet another financial burden. As the Migration Advisory Committee has acknowledged,²¹ for many businesses, each additional cost and administrative burden acts as a disincentive to hiring skilled international workers. This has an even more significant impact outside of London and the South East and costs will only grow when the immigration system is extended to EU workers. In recommending that the ISC should remain a flat rate for employers, the MAC suggest that in percentage terms it is of lower cost for high skilled roles. We disagree with this approach as it conflates ‘high skilled’ and ‘high salary’, and penalises SMEs, regional businesses and start-ups from drawing on the benefits of international skills and talent.

If the UK Government is committed to ensuring that the whole of the UK can benefit from international skills and talent and the concomitant boost in productivity and innovation, it should abolish the ISC for high-skilled roles. At the very least, the charge should be reformed with, for example, an exemption for roles on the shortage occupation list, and greater transparency on how the money raised is used to upskill the domestic workforce.

Reform temporary movement

The temporary movement of diverse, global talent into the UK is vital to the economic success of the UK’s creative industries. It is key that we maintain and develop reciprocal relationships which enable access to this talent, including the reciprocation of the EU’s plan to allow UK citizens 90 day visa free visitor access. Where visas are needed for temporary movement in the UK, Home Office must ensure that there is greater clarity for creative businesses to use these arrangements effectively, without excessive evidential burdens on applicants. Increasing the duration of Permitted Paid Engagements (PPEs) to 90 days and allowing for multiple engagements with different organisations are also necessary measures to make temporary visa routes viable for the creative sector.

Improve communication

The current immigration system is dense and bureaucratic, as evidenced by the many firms that exist to help applicants to pick through the complicated rules. It is difficult for applicants and employers to track the status of applications, or provide additional supporting information, which is challenging and frustrating, particularly where project deadlines are tight.

²⁰ <https://www.gov.uk/government/publications/migration-advisory-committee-mac-report-eea-migration>

²¹ <https://www.gov.uk/government/publications/migration-advisory-committee-mac-report-eea-migration>

The UK Government's commitment to a more streamlined and digitised approach is welcome and, if implemented, will help creative businesses to attract and recruit the highly-skilled professionals they need. The approach to the pre-settled and settled status schemes, where applicants can apply on Android phones, online or via post and decisions are made within 10 working days, shows what is possible. As the government reforms the immigration system for the future, it should commit to making decisions in weeks, not months, with enough staff at the Home Office with understanding of the specific needs of creative businesses to support this.

Strengthen government coordination

Greater consistency between the development and communication of intra- and cross-department policies on immigration and trade would help make the UK even more attractive to visitors, students, workers and investors. Currently, rhetoric and policies to attract investment and talent conflict with restrictive immigration proposals and in some cases, overtly hostile language. There is also a risk that other trade partners reciprocate with an overly-restrictive regime for UK nationals looking to work abroad.

The Creative Industries Council can support a cross-government approach and would value a higher level of engagement with the Home Office at its meetings. The sector recognises that the UK government has committed to introduce the new system from January 2021. However, considering current uncertainties around the timelines and nature of the UK's exit from the EU, an appropriate transition period for implementing a new immigration system and protecting the status of the current arrangements until the new system is ready is critical.

The UK is a global centre for the creative industries. Our creative output plays a key role in shaping the UK's image abroad and is celebrated across the world. Ensuring that the future immigration system enables the UK to remain a magnet for the best international talent and meet key skills shortages is vital for the sector's continued growth and success.