



ASSOCIATION  
OF COLLEGES

# Brexit and colleges

**An AoC position paper on the UK's exit from the  
European Union and future policy**

31<sup>st</sup> January 2020

The Association of Colleges (AoC) represents 95% of the 247 colleges in England incorporated under the Further and Higher Education Act 1992.

The UK has been a member of the European Union for 45 years. The decision to leave on 31<sup>st</sup> January 2020 brings many changes including new economic relationships, new questions for the UK government to decide and a new approach to migration. If that was not enough, the fourth industrial revolution, international competition and the longer, healthier lives for many will require changes in how the UK organises education and training. These are big long-term issues which need to be addressed in the 2020s but in the short-term, there are six Brexit-related issues which need to be addressed.

- Prioritising skills to avert shortages when freedom of movement ends
- Education and integration
- Increasing exports via further education
- Erasmus+ and student exchanges
- Regional funds
- VAT, state aid and procurement

## **1. Prioritising skills to avert shortages when freedom of movement ends**

The government's plans for a Points-Based System to manage immigration imply some major changes which will take effect as early as 2021. The Home Office will not publish detailed plans until March 2020 but these will definitely include:

- A single system covering all nationalities (EU and non-EU), alongside a continuation of the Common Travel Area for the UK and Ireland<sup>1</sup>. This will have practical effects such as the phasing out of European ID cards for entry to the UK
- Priority given to those have good education and qualifications, English proficiency and have been law-abiding citizens in their own country with a clear job offer in most cases<sup>2</sup>
- An overhaul of IT systems and sponsorship rules to cope with higher volumes associated with bringing EU migration into the system.

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<sup>1</sup> "We will treat EU and non-EU citizens equally" Conservative Manifesto for the 2019 general election, Page 21

<sup>2</sup> Commitments made in the Conservative Manifesto

These changes will affect many sectors, including education. AoC survey data suggests that colleges employ a total of 7,000 EU nationals (4% of the college workforce). 88% of colleges surveyed report at least one EEA employee and 5% reported more than 20<sup>3</sup>. These figures are in line with Office of National Statistics estimates for education which suggest that 4% are EU nationals.

The changes to migration will take effect at a time when colleges need to expand to support a growing demand for skills. Colleges already have a 3% vacancy rate for teachers (compared to a 1% rate in secondary schools<sup>4</sup>) with specific challenges recruiting staff with engineering, construction, maths and digital/IT specialisms.

These teaching skills shortages could get worse. There will be rising numbers of young people in population in the 2020s and government plans to develop technical education. The college sector reduced its headcount in the 2010s but is likely to expand in the 2020s.

The Points-based system will have consequences in the wider economy. Employers who have become used to recruiting EU nationals into relatively low paid or low skill jobs may find it harder to do so in future. Too many employers are using the levy to certify managers rather than investing in long-term skills development<sup>5</sup>. Meanwhile, at the higher skill levels where migration is encouraged, the new rules will require adaptation. In the current system fewer than 10,000 employers actively engage with Home Office systems to sponsor skilled workers from outside the EU. In the new system this could escalate to more than 100,000 including most colleges.

### ***What needs to happen***

We do not yet know the details of the new points-based system but we know that that the plans represent a major change to the UK job market. Five areas that need to be addressed:

- a. Colleges will need to work with government, employers, unions and others on a step change in domestic education and training to avert skills shortages. This will require higher government, employer and individual investment in the sectors where migration will be restricted but where there is still a demand

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<sup>3</sup> AoC workforce survey, 2019

<sup>4</sup> Comparison of AoC's College Workforce Survey and DfE evidence to School Teacher Pay Review Body

<sup>5</sup> The government introduced a new apprenticeship levy in 2017 and is in the process of replacing all existing programmes with new apprenticeship standards. These changes have been accompanied by an increase in numbers of apprentices in large companies taking higher level standards but a fall in the numbers taking Level 2 skills in small companies in technical areas

for people. Government needs to lead on this in the 2020 Spending review<sup>6</sup> but employers also have a role.

- b. If the Home Office continues to collect the Immigration Skills Charge<sup>7</sup>, the money should be clearly transferred so that it can support the national effort to improve home-grown skills.
- c. The education and training workforce should be a priority within the points system because, without trainers, there will be no training. An education visa route should be considered.
- d. Some overseas teachers have always started work on short-term visa (for example the current Youth Mobility scheme). Many colleges educate international students alongside home ones. The rules should allow some in-country switching from these shorter-term visas into the education skilled worker route and also in-country renewals of Tier 4 visas for students progressing through the college system.
- e. DfE should also support colleges – and schools – manage the implementation of the new sponsorship obligations and systems.

## **2. Education and integration**

There are already millions of non-UK nationals living in the UK, many of whom have lived here for decades. For more than thirty years, EU nationals have exercised rights under freedom of movement rules to come to the UK to work, study and bring their families. The UK government has made binding legal commitments to maintain the rights of these 3 million EU nationals and has set up an EU Settlement Scheme to ensure they can show they are entitled to them. There are an estimated 40,000 EU national students (around 2% of the total) in colleges in England<sup>8</sup> in addition to 7,000 EU national staff so these guarantees are helpful

There is, though, a continuing need to ensure that all EU and non-EU nationals play a full part in UK society and also that the new immigration arrangements do not result in unnecessary or unhelpful decisions. There are two areas which deserve attention.

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<sup>6</sup> AoC's March 2020 budget submission outlines some suggestions for reforms

<sup>7</sup> The Home Office has collected an Immigration skills charge since April 2017 from employers every time they sponsor a skilled worker under Tier 2. In the first year of operation, the Home Office collected £100 million in income which it passed to the Treasury. There is no sign of this money being used to increase the education or skills budget. Meanwhile

<sup>8</sup> There is no official data on nationality of college students because the data that used to be collected in the Individual Learner Record was unreliable and the requirement was discontinued in 2013. There is also no data on nationality of school pupils.

The first are the arrangements for ensuring as many people as possible can speak English. Fluency in English helps people find work, ensures people can participate in community life and reduces the risk of loneliness, segregation and exploitation. Data from the 2011 Census showed that 844,000 people living in England (1.6% of all residents) did not speak English well or at all<sup>9</sup> with people in this category disproportionately concentrated in certain local authorities<sup>10</sup>.

Despite the evident need, government spending on English for Speakers of Other Languages fell by more than a half in the last decade resulting in long waiting lists for the available classes. There is good case for the Department for Education to reboot this area of education via a new strategy, higher spending and a degree of planning to ensure an increase in the number of courses and to make sure they are both available where they are needed and accessible to those in work.

Access to education is the second area deserving attention. The current rules are little discussed and slightly confusing:

- School admission rules (including admission at 16 to school sixth forms) specifically exclude nationality and residence from consideration with DfE stating that "*children arriving from overseas have the right to attend state funded schools in England*" apart from those whose visas exclude access to education<sup>11</sup>.
- College admission rules (including admission at 16 to college sixth forms) are covered by the fees and awards regulations. Since the 1990s, these rules have treated residence in the EU on an equivalent basis to residence in the UK. EU nationals living and working in the UK have been able to enrol on further education courses or take apprenticeships on the same basis as UK citizens. The key test is three year's ordinary residence in the European Economic Area (EEA).

The UK's departure from the EU in 2020 implies a change to these rules but leaves it uncertain when the change will happen and who will be affected. Department for Education (DfE) ministers promised in May 2019 that EEA nationals who start further and higher education courses up to and including autumn 2020 will continue to

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<sup>9</sup> Data from British Future "Speaking Up, the case for universal fluency in English" 2019

<sup>10</sup> British Future identify thirteen local authority areas where more than 5% of residents do not speak English well. Nine of these areas are London boroughs; the other four are Boston, Luton and Slough

<sup>11</sup> The exclusions from school admission are children from non-European Economic Area (EEA) countries who are (1) short-term visitors, or (2) whose permission to study was given on the basis that they attend an independent fee-paying school.

access public funding (including student loans for teaching and maintenance) on the same basis as UK students until they complete their course<sup>12</sup>.

There is also uncertainty for UK nationals living in EU countries about their rights to education if they return to live and study in the UK.

### ***What needs to happen?***

The end of EU freedom of movement and the start of the points-based system raise several issues for DfE to address:

- a. DfE should confirm that young people under the age of 18 have access to publicly funded education in schools or colleges regardless of their nationality unless their visa conditions preclude this. It is in the national interest for the UK to have well-educated cohorts of young people starting adult life.
- b. Changes to eligibility above 18 will need sufficient notice in higher education to fit with a 12-month recruitment cycle. This implies consultation and decisions in the next few months in order to make changes for the 2021-2 academic year. If DfE plans to change the rules to exclude future residence periods in the EU as qualification for home student status, then it needs to consult on new rules (for example those for returning British nationals) and ensure that any changes are made sufficiently early to ensure fairness and efficiency.
- c. DfE might want to consider a different approach towards further education, adult education or apprenticeships. The government's aim to shift the balance of migration towards higher skills implies a greater effort in the short-term to fill skills gaps. There might be a case for a time-limited extension of the existing rules to help UK companies and public services fill roles by ensuring it is possible for UK residents (whatever their nationality) to retrain and to keep their skills up-to-date.
- d. DfE should also publish a strategy for English for Speakers of Other Languages to ensure that all UK residents, including settled EU nationals, have the language skills necessary for work and full participation in society

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<sup>12</sup> The exclusions from school admission are children from non-European Economic Area (EEA) countries who are (1) short-term visitors, or (2) whose permission to study was given on the basis that they attend an independent fee-paying school.

### **3. Increasing exports via further education**

The UK international education strategy was jointly published by the Department for International Trade (DIT) and DfE in March 2019. The strategy aims to increase the value of UK education exports to £35 billion a year by 2030. There is a particular focus on growing the number of international students in higher education (to 600,000) but also an emphasis on the benefits of international education and cooperation to the UK. UK further education currently contributes just 1.5%<sup>13</sup> of total UK education exports by value, compared to more than 15% from comparable sectors in Canada and Australia. Colleges have a role to play in the strategy but could play a bigger part with modest changes to UK visa rules.

#### ***What needs to happen?***

Colleges have recruited and educated international students for decade and continue to do so, despite recent restrictions. Level 3 courses are the most important level of study<sup>14</sup>. Colleges provide an important pathway to HE, and the reintroduction of part-time working rights and the ability to extend visas in-country for FE students at all colleges would help to deliver the international education target of 600,000 students to UK higher education.

One rule that should be reviewed relates to Education Oversight. More than 80% of colleges offer both further and higher education courses and the Tier 4 rules require them to meet both sets of requirements. Non-compliance on just one of the two obviates the entire Tier 4 licence and means the college cannot recruit any new students. Ofsted doesn't inspect international education in colleges and there have been cases in recent years where they have judged a college's FE provision to require improvement and where this has resulted in the removal of the Tier 4 licence from the higher education provision that is managed by a separate department in the college. Ofsted does not revisit colleges for up to two years and, meanwhile, the provision and capacity is generally lost. The Home Office does not apply this double level of control to other education institutions and should modify the Education Oversight rule to allow Tier 4 recruitment to their HE provision when they drop an Ofsted grade (and vice versa for OfS and FE provision). This would remove a small but unhelpful obstacle to the government's international education strategy and allow colleges to play a more effective role in the delivery of the Government's international education strategy.

Another small change relates to statistics. Action 9 in the international education strategy sets says that the UK Government will provide a clearer picture of exports activity. There is very little data available for publicly-funded colleges because the

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<sup>13</sup> International Education Strategy March 2019

<sup>14</sup> AoC International survey 2018

Home office groups most of the activity that isn't in universities or schools in further education. Better data would be available if Home Office Tier 4 visa statistics separated publicly funded and regulated FE colleges from private colleges. Currently the data is largely combined which makes it harder to understand trends. We would be happy to provide more details on this.

#### **4. Erasmus+ and student exchanges**

Colleges have participated in exchanges with colleges in continental Europe since the 1950s (often as part of town-twinning partnerships). The EU has provided grants for this to happen on a more structured basis via the Erasmus+ Programme. Erasmus+ funds student and staff mobility which helps broaden horizons, share good practice and develop understanding of different societies. Over 100 UK colleges have participated in the current Erasmus+ programme cycle (2014-2020), with the vocational sector receiving over €77m in funding. The money is used to support short student and staff placements abroad, a model that fits well with the college calendar and the family and work commitments that college students often have.

Our strong vocational education system, population size and our place as the home of the English language mean the UK has welcomed significant numbers of Erasmus+ participants from EU27 countries in return.

The UK's withdrawal agreement with the EU ensured the UK stays in Erasmus+ until December 2020. The accompanying political declaration says that the two sides will negotiate the UK's continuing participation in programmes like Erasmus+ for the period from 2021 onwards.

#### ***What needs to happen?***

The UK is leaving the EU but is still part of Europe. Our success as a country will depend on strong links with our neighbours, a good understanding of other countries and an open attitude. Staying in Erasmus+ should be a negotiating objective because both sides will continue to benefit. Cost, travel time and the delivery of the college curriculum mean that continental Europe should remain the primary destination for college participation in such schemes. AoC research<sup>15</sup> shows that:

- 94% of colleges could not maintain their current student mobility levels with external funding  
100% of students improved their personal confidence following an Erasmus+ placement

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<sup>15</sup> [AoC 2019 Erasmus+ impact report](#)

- 85% of colleges use Erasmus+ to provide student work placements that they cannot otherwise offer

To ensure equality of access and offer social mobility for all students, regardless of background, the UK needs to negotiate continued access to Erasmus+.

## **5. Regional funds**

Colleges have used the European Social Fund (ESF) over the last two decades to help retrain and improve the skills of hundreds of thousands of people.

The amount of ESF funding received by colleges fluctuates widely because of the stop-start nature of government procurement and the complexity of the funding rules. The amount received varies from 1-2% of total college income but is much more significant in some colleges in the more economically disadvantaged parts of the country.

The UK government has made a public commitment that ESF funding will continue until December 2020 regardless of the timing of the UK's exit.

### ***What should happen***

Exit from the EU requires a fresh look at the priorities but should not result in any reduction in spending because this would widen existing social and economic divisions. The new Shared Prosperity Fund should be targeted at areas where economic activity is lower and unemployment is higher. The overall aim should focus on using skills to improve economic performance by helping people into work, by retraining those in sectors affected by automation and economic change and by providing support to businesses to adapt.

## **6. VAT, State aid and procurement**

There are quite a few rules which constrain [ESFA](#), colleges and others in the education system but which were designed to facilitate cross-border trade. UK membership of the EU means that a large body of legislation has been shaped by EU directives including employment, public procurement, consumer protection, competition, energy, intellectual property and social security law. It will take time for the UK government to use its new-found power to make changes but there may be opportunities for a more intelligent approach to regulation in some areas.

The UK introduced Value Added Tax (VAT) on the day that it joined the EU. VAT rules in EU members states are partly controlled by the EU treaties because a slice of VAT revenues is used to calculate contributions to the total budget. The operation of the VAT rules reduces the resources available to FE colleges by about 2% compared to school sixth form students. Government funding levels fix the full-time funding rate for 16 to 18-year-olds at £4,000 until 2019 which is 20-25% less than the figure paid to pre-16, half that available for HE students and insufficient to build a better technical education system. Brexit is an opportunity to extend the public service VAT refund scheme beyond councils, academies and national museums to cover publicly-funded sixth form level education.

### ***What should happen?***

The government should implement state aid controls and public procurement rules in a way that supports a longer-term approach to education and skills. Meanwhile the Treasury should extend the VAT refund scheme to cover 16-to-18 education

Association of Colleges  
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