



Intra-Company Transfers

October 2021



MIGRATION ADVISORY COMMITTEE

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Executive Summary

Background to the commission

On 28 September 2020 the Home Secretary commissioned¹ the Migration Advisory Committee (MAC) “...to undertake a study of the *Intra-Company Transfer (ICT) immigration route ...”*

The MAC was “...asked to have regard to the commitments that the UK has taken in respect of intra-company transferees in the Mode 4 provisions of free trade agreements, and the need to ensure that those commitments are fully implemented under our domestic rules.”

In addition the MAC was also asked to help the Home Office in the design of “...its mobility offer to enable overseas businesses to send teams of workers to establish a branch/subsidiary (currently we can only admit a single worker for this purpose) or to undertake a secondment in relation to a high-value contract for goods or services.” and to provide “...advice on where we should set any criteria on the eligibility of workers (e.g. skill and salary thresholds) and the sending organisations (e.g. size of company, value of investment or contract, potential job creation etc.).”

The MAC was asked to report by October 2021.

The ICT immigration route

The UK is a member of the World Trade Organisation’s (WTO) General Agreement on Trade in Services (GATS): Chapter 1 has more details. As part of the GATS, the UK allows entry, and temporary stay, of people for business purposes. This includes Intra Company Transfers (ICT), an immigration route which enables international businesses to deploy key employees, where they are senior managers or specialists, to their UK branch or head office. Deployment is permitted on a temporary basis when there is a specific business need to do so. The ICT route is open to established employees who have worked for their overseas branch for at least 12 months (with some exceptions).

The UK has committed to not apply an economic needs test, such as the Resident Labour Market Test (RLMT), to the ICT route and it would be in breach of its international obligations if it were to introduce one, or to place a limit on the length of stay of ICTs below 3 years (GATS), or below commitments made in specific Free Trade Agreements (FTAs). In addition to the GATS, the UK has also made commitments on Graduate ICTs in some of its FTAs and will need to uphold these.

¹[The Home Secretary's commissioning letter to the chair of the Migration Advisory Committee, on the ICT immigration route \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

Although the ICT route was designed for intra-corporate mobility of key personnel, in practice there is some overlap between the ICT route and the main Skilled Worker (SW) route, and in certain circumstances employers with overseas offices may consider both as ways of filling vacancies in the UK.

Some of the key advantages that the ICT route offered in comparison to the old Tier 2 (General) (T2(G)) route that existed before December 2020 are no longer present under the SW route which began in December 2020 and included EU nationals from January 2021. The main remaining advantages of using the ICT route are:

- The lack of English language test requirement;
- The inclusion of some allowances, particularly housing costs, when assessing whether a worker meets the salary threshold;
- The multiple-entry aspect of the visa allows more flexibility for time spent in the UK over the duration of the visa; and
- The requirement for workers to only meet the salary threshold for the route when working in the UK (rather than throughout the validity period of the visa).

The costs of a visa under the SW route and ICT are commensurate. Whilst not applying the Immigration Skills Charge (ISC) to the ICT route was previously considered by the MAC, it was ultimately decided that ICT workers could displace UK workers and as such the ISC should apply, with the exception of the Graduate Trainee route. As part of the EU-UK Trade and Cooperation Agreement (the UK's free trade agreement with the EU), the UK has committed to exempt EU ICT workers from the ISC from no later than 1 January 2023.

Given the current relatively limited advantages of the ICT route over and above the SW route we would, therefore, expect to see displacement from the ICT route into the SW route, which has both lower skills and salary requirements than ICTs.

Evidence gathering and research to support this ICT review

As with other commissions, we carried out a programme of stakeholder engagement and launched a **Call for Evidence (CfE)** to inform our response. In addition, we commissioned qualitative research to provide further information on how the ICT route works for both employers and employees who use the route (further details are in Chapter 2) and undertook data analysis using a range of sources.

The CfE asked employers, representative organisations, government departments and others structured questions about the ICT route. This was done using online questionnaires, where the primary focus was on obtaining deeper information through using open questions; the full questions are listed in the Annex document.

The CfE was launched on 23 March 2021 and was open (including a 1-week extension) for a total period of 13 weeks, closing on 22 June 2021. We received a smaller number of responses to this consultation than to some others, owing to the relatively niche nature of the ICT route (a small number of large users of the route), and the continuing disruption to businesses caused by the ongoing COVID-19 pandemic. In the 13 weeks the CfE was open 68 respondents submitted answers to the questionnaires, and 11 organisations submitted further evidence: either as part of their CfE response, or directly to the MAC secretariat.

In addition, we engaged directly with a wide range of **stakeholders** from throughout the United Kingdom, at a series of virtual events. These events included engagement with employers who use the immigration system (including the 4 largest users of the ICT route by numbers of Certificates of Sponsorship (CoS) used), embassies and consulates (to learn from international experience) and Devolved Administrations and their key stakeholders. We are grateful to everyone who participated in these events, who hosted events for us, and who completed the CfE.

We also commissioned **qualitative research** with users of the ICT route. This was carried out by an independent research contractor, Revealing Reality, on behalf of the MAC. Interviews were carried out with 15 employees and 15 employers who had used the ICT route. Fieldwork took place between 25 June and 10 September 2021. The full report will be published separately by the MAC shortly, and we have used the findings² from this work to help inform our decision making.

We also undertook analysis of **relevant datasets** to examine a range of issues such as numbers and types of migrants using ICTs and salary distributions. These have been a combination of Home Office administrative data, such as the CoS data, and large-scale national surveys primarily collected by the Office for National Statistics (ONS), such as the Annual Survey of Hours and Earnings (ASHE). These findings, coupled with relevant economic literature, and the other sources detailed above, have enabled us to set out a series of recommendations.

As part of the analytical work we undertook (quantitative analysis of available CoS data, and qualitative analysis of CfE responses and written submissions), we looked at whether there were any differences by any of the protected characteristics as defined by the Equality Act 2010³. It was not possible to collect data on all protected characteristics, and we have recommended that the Home Office collects further data as part of visa applications.

Key findings and recommendations for ICTs

There are 2 distinct uses of the ICT route, which we will refer to as the conventional route and contractor route. The conventional route allows employees to work for the sponsor organisation within the UK, whilst the contractor route allows employees to carry out work for a third-party organisation whilst still being employed by the sponsor.

The contractor route is the larger of these (63% of ICT visas in 2019). Although it is not a distinct route for the Information Technology (IT) sector, the route is dominated by IT firms, with the sector making up 81% of overall ICT contractor usage in 2019.

Indian nationals account for 97% of ICT contractor visas (Chapter 3 has more details), this is much larger than their equivalent share for the conventional route (35%).

² Employer and employee use of intra-company transfers: a qualitative study (Revealing Reality, forthcoming)

³ The Equality Act 2010 [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk) sets out nine protected characteristics: age; disability; gender reassignment; marriage/civil partnership; pregnancy/maternity; race; religion/belief; sex; and sexual orientation.

Use of the contractor route is dominated by a relatively small number of large sponsors, with the top 4 firms accounting for 53% of contractor visas, and the top 10 for 78%, compared to the conventional route where the equivalent figure is just 20% for the top 10 firms.

The ICT route is skewed towards males, who make up a much larger percentage of overall ICT usage for both contractor (84%) and conventional (68%) routes, in comparison to the T2 (G) route (56%).

The MAC's analysis, as set out in detail in Chapter 3, does not suggest ICT migrants are having an adverse impact on wages or employment amongst domestic workers, even in those occupations where use of ICTs is more prominent.

Given the relatively high salary thresholds for ICT migrants, combined with their average age and family structure, we expect most will be net contributors to the public finances. However, there will be some exceptions to this; for example, those with large families.

Chapter 4 of the report sets out in detail the consideration of the **skills threshold**, which we have recommended remains at Regulated Qualifications Framework (RQF) level 6+ (broadly equivalent to first degree level) and **salary thresholds**, which we think should reflect the current median annual gross wage of occupations which are RQF6+ (currently £43,200), with the going rate thresholds continuing to be set as now (25th percentile of occupation specific earnings). We consider that the historic inertia that the Home Office have displayed towards nominal salary thresholds, which no longer reflect prevailing labour market conditions when left in place for several years, is concerning and have, therefore, recommended that all thresholds for the ICT and other work routes are updated annually.

We have also recommended that the **graduate trainee thresholds** are aligned with the SW route. Whilst the graduate trainee ICT is only a small route it is required under GATS. However, as the graduate trainee element is aimed at new entrants to the labour market, rather than senior managers or specialists, firms could easily use the SW route as an alternative.

As outlined in Chapter 1, those meeting the **high earners threshold**, of £73,900, have slightly different rules to those meeting the general threshold. ICT migrants that earn above this amount do not have to have worked for their employer overseas for any length of time before obtaining a visa. Furthermore, ICT migrants that earn above this threshold can stay for 9 years out of a 10-year visa. For simplicity, and to avoid unnecessary changes, we recommend that the high earner threshold remains at £73,900, but that it should be updated annually in line with all other thresholds.

One of the key differences between the ICT and SW routes is treatment of **allowances**. Currently, allowances that are paid to ICT workers can be included when assessing whether a worker meets the salary threshold. There is limited data on allowances and there appears to be no mechanism to ensure that the values stated are paid in practice. Several stakeholders told us they value the flexibility to pay allowances and without this they may make less use of ICT, though others were less positive for various reasons, including administrative complexity. When allowances are paid as additional guaranteed salary, and the migrant is free to spend it as they please, we see no cause for concern. However, we have more concern when employers provide the migrants with physical accommodation on the condition that the migrant pays a certain amount for it. We do not have sufficient data to understand the extent to which this happens, but there is a potential risk of

migrants paying above market rent for accommodation that they cannot choose, or employers overstating the value of accommodation. Also, some of these allowances for housing are tax-exempt depending on the specific arrangements between individual firms and HMRC. We have asked for more transparency on this as this is important in estimating the economic impacts of this route, which is discussed later in the report. We suggest the Home Office considers increasing both the collection and monitoring of data, (particularly accommodation allowances and reported salaries) to check **compliance** with the current rules. We believe there may be some non-compliance (both deliberate and accidental due to ambiguity around the core rules) and some abuse of the route.

Unlike SW migrants, ICT migrants do not need to meet an **English Language Requirement**, the main benefit of which appears to be a saving in time and administrative effort. We do not recommend any changes to the current policy: the exemption provides employers with flexibility, reduces time and admin for employers and employees, and is consistent with the ICT route being primarily used for temporary stays.

Switching to another migration route has only been allowed since January 2021, with ICT users now allowed to switch in-country to the SW route. Therefore, whilst the ICT route currently remains a short-term proposition with no direct route to settlement, it has an indirect route to settlement through switching. Not all stakeholders are supportive of this change, with employers raising concerns that an employee could enter the UK and immediately switch to a different sponsor on a SW visa, which could disadvantage the original sponsor and lead to issues of job retention and delays in fulfilling client contracts. Historically the MAC have supported allowing workers to switch, as for the employee this provides greater mobility, bargaining power, and hence more competitive labour markets. It is our view that the immigration system should not create artificial incentives for workers, but this must be balanced against providing certainty for businesses who may have incurred significant cost in moving the migrant to the UK. On balance, we recommend no changes to the current rules on switching.

As the ICT route is intended for temporary workers it does not offer a path (without switching) to permanent **settlement** in the UK and time accrued under it does not currently count towards permanent settlement. In practice, it is difficult to distinguish whether a migrant staying in the UK for 5 years, potentially bringing dependants, including children who attend school etc., is ‘temporary’. Migrants may not know their settlement intentions when they first arrive, or these may change over time, but migrants working in the UK on an ICT visa make meaningful contributions to the UK economy through taxes, skills and services from the day they arrive. We think it is only right that they should be afforded the same access to long-term settlement as those on the SW route. Such a change should also reduce the incentive for migrants to quickly switch into the SW route and therefore help to tackle some of the issues employers raised in the CfE about the costs and disruption of migrants switching. We therefore recommend that the ICT route should be a route to settlement, without the need to switch to other routes to obtain settlement. Time spent on the ICT visa should also count towards settlement if the worker does switch into another route.

Key findings and recommendations for other business mobility issues

Further to the main ICT commission, the MAC were asked to consider other business mobility issues namely: subsidiaries and secondments. Because of frequent stakeholder feedback we have also examined how short-term assignments under ICTs, or another route, could be better facilitated.

The commission raised the issue of **subsidiaries** and what the rules should be for employers sending teams to establish a branch or subsidiary in the UK. Existing rules (the Representative of an Overseas Business Route (RoBR) restrict the route to a single representative per sending business (Chapter 5 has more details). We found it difficult to get data on the current route as Home Office do not appear to collect much information on it; as usual, we would prefer that better data was routinely collected. Most stakeholders responding to the CfE did not express a view on this matter, but amongst those who did the general feeling was the current arrangements are too restrictive and teams should be allowed to come to the UK, as setting up a new branch or subsidiary requires different skills and knowledge and having a team in the UK would allow individuals to draw on each other's expertise and make the process of setting up a branch easier and quicker, particularly when dealing with complex legal and regulatory requirements.

The relative lack of information on subsidiaries has made it hard to suggest detailed criteria for future arrangements, though we have found that just over three-quarters of subsidiaries established in the UK since 2018 have one, or fewer, employees. Therefore, we suggest that the default option for this visa remains a single individual and that most of the current set of rules of the RoBR should remain. However, we do not think it is sensible to allow this visa to be for the current 3 years with a possible 2-year extension. The aim of the route is to allow for the legal establishment of a business in the UK and we expect this should not generally take longer than 1 year; therefore, we suggest any individual subsidiary visa should be limited to a 2-year period, with subsequent entry to the UK using alternative routes for visas (and allowing in-country switching to such routes).

For overseas firms that wish to send a team of workers to establish a subsidiary, we suggest an alternative approach. We recommend that a new Team Subsidiary route be trialled over a 2-year period and that data be collected to allow for subsequent evaluation of the impacts of the route and refinement of the criteria. Chapter 5 sets out some suggested criteria for the trial.

We also considered the issue of **secondments**. The UK's visit policy allows a client of a UK export company to be seconded to the UK company in order to oversee the requirements for goods and services that are being provided under contract by the UK company or its subsidiary company, provided the 2 companies are not part of the same group. In addition, employees may exceptionally make multiple visits to cover the duration of the contract. The policy does not permit a worker for the overseas business to reside in the UK for a continuous period exceeding 6 months, nor does it allow for dependants.

Any workers who have undertaken such a secondment outside of the remit of visit policy have, in the past, required Leave Outside the Rules (LOTR), which is only used on an exceptional, infrequent, and completely discretionary basis. We start from the basic principle that if an immigration route to the UK exists, it should be a publicised, defined route for all eligible businesses to use.

Stakeholder input on the issue of secondments was limited, with some responses to the CfE suggesting a lack of awareness of the current route. We are generally supportive of the creation of a route through which staff of an unconnected overseas business could enter the UK as part of a large contract with a UK firm, to be upskilled in the use of the product being produced by that UK firm, given the benefits to the UK economy. However, we consider that due to the relatively exceptional nature of these requests, it would be sensible for a model to be created where each case can be considered on its individual merit, from a minimum baseline. Chapter 5 gives details of the parameters of the route we recommend the Home Office create for these contracts.

The final issue we considered is that of **short-term assignments**. This issue was frequently raised during stakeholder engagement, so we felt it was appropriate to consider it alongside other business mobility issues. Stakeholders concerns were about the lack of an agile, time-limited, route that would allow a migrant to come to the UK to carry out specialist technical work which only requires a few days or weeks to complete, therefore making the ICT route too burdensome and slow, whilst such work is also not currently allowed under visit policy. In a lot of these examples, stakeholders are reliant on teams of workers who operate in the larger EU market (where it is viable), but the removal of free movement has made this particularly challenging, especially when time sensitive repairs are needed. It is worth noting that not all examples of issues raised were for migrants who would meet the skill and/or salary threshold of the ICT route, and it is therefore clear that this is a much wider issue than specifically for ICTs, but given the nature of this report we have focussed on short-term workers who meet the skill and salary requirements of an ICT visa.

Chapter 5 considers the pros and cons of 2 potential solutions to this issue, whether through a relaxation of the visit policy rules, or through the creation of a bespoke short-term ICT route. Upon careful consideration, we recommend that initially the Home Office explore how the visit rules could be adapted to facilitate time-limited, essential work travel to the UK and secondly consider the creation of a new short-term ICT route, should this be required, to fill the gap identified by stakeholders. This would match the salary threshold and skill level of the current ICT route, to avoid the perverse incentives of the previous short-term ICT route. Whilst this solution would work for some of the stakeholders who raised this issue, we are mindful that whether a short-term ICT route will be necessary will depend on decisions around the expansion of work allowed under the visit visa policy.

Chapter 1: Policy Context

Introduction

This chapter sets out the provisions which currently govern the Intra-Company Transfer (ICT) route. This includes:

- Eligibility for the current route;
- The use of allowances as part of the salary threshold calculation;
- How the route may be used in the future;
- Whether there is likely be any displacement into the Skilled Worker route (SW route);
- International comparisons; and
- How UK employers use the ICT route within the EU.

The policy intention for the ICT route is to enable international businesses to deploy key employees to their UK branches or head office, on a temporary basis, when there is a specific business need to do so. It underpins the UK's international trade commitments on the intra-corporate mobility of specialist workers, senior executives, and graduate trainees.

The current ICT route

The route allows multinational companies to transfer key personnel from their overseas branches to the UK for temporary periods. It is open to established employees who have worked for their overseas branch for at least 12 months. Graduate Trainees have a reduced required period of work of 3 months, and high earners with a salary over £73,900 are exempt from this requirement.

Although the ICT route was designed for intra-corporate mobility of key personnel, in practice there is some overlap between the ICT route and the main SW route, and in certain circumstances employers with overseas offices may consider both as ways to fill vacancies in the UK. Prior to December 2020, the main SW route was T2(G) and the ICT route had several advantages over that route:

- T2(G) was subject to an annual cap which restricted the ability of businesses to hire workers from overseas. Businesses that had overseas offices could avoid this cap by hiring internally and using the ICT route which had no cap;
- ICT had no Resident Labour Market Test (RLMT) so workers could be brought in without the need to attempt recruitment of domestic workers first;
- ICT had no English language test requirement; and
- ICT permitted the payment of some allowances to be considered as part of the applicant's salary for the purposes of meeting the salary threshold.

It is notable that prior to the removal of doctors and nurses from the T2(G) cap in 2018, these two professions accounted for 40% of visas issued under the cap, significantly reducing the number of T2(G) visas available for other occupations.

Given the reduction to the salary and skills thresholds, the suspension of the cap and the removal of the RLMT requirement from the SW route (the successor to T2[G]) we would expect to see some displacement away from ICTs under the new system.

The main remaining advantages of the ICT route over the SW route are therefore:

- The lack of English language test requirement;
- The inclusion of some allowances when assessing whether a worker meets the salary threshold;
- The multiple-entry aspect of the visa allows more flexibility for time spent in the UK over the duration of the visa; and
- The requirement for workers to only meet the salary threshold for the route when working in the UK (rather than throughout the validity period of the visa).

Table 1 in the Annex document shows a detailed side by side comparison between the ICT route, T2(G), which ended in December 2020, and the SW route, which began in December 2020 and included EU nationals from January 2021.

The ICT route was also renamed in December 2020 where it was split into two Intra-Company routes: Intra-Company Transfer and Intra-Company Graduate Trainee.

Intra-Company Transfer (ICT)

This visa is for use by employees of overseas businesses who are sent to work in a linked part of that business in the UK. Eligible workers must have worked for their employer overseas for at least 12 months and can stay in the UK for a cumulative total of 5 years in any 6-year period. Workers must be undertaking an eligible job (defined as a job in an occupation at a skill level of at least RQF6+) and be paid the higher of either the going-rate for that job (defined as the 25th percentile of the annual full-time wage of the relevant occupation) or £41,500. Workers who are paid at least £73,900 are considered to be ‘high earners’ and can stay in the UK for a cumulative total of 9 years in any 10-year period, as well as being exempt from the requirement to have worked for their employer overseas for at least 12 months.

In addition to the job the employee is sponsored to do, they are able to do a second job (up to 20 hours a week) at the same level in the same occupation, or a different occupation if that occupation is on the Shortage Occupation List (SOL).

The high earners threshold was substantially reduced from £120,000 to £73,900 in December 2020. As outlined in Chapter 4, those meeting the high earners threshold have slightly different rules to those meeting the general salary threshold: exemption from the requirement to have worked for the employer overseas for a period (compared to other ICT employees on the main route, who must have worked for their employer for a year, or 3 months if on the graduate route), and a maximum stay of 9 years in 10 (rather than 5 years in 6 for other ICT employees on the main route, and 1 year for graduate trainees).

Intra-Company Graduate Trainee

This visa is used as part of a graduate training programme for a managerial or specialist role⁴. The role must be part of a structured graduate training programme, with clearly defined progression towards the managerial or specialist role within the sponsor organisation. Graduate trainees can stay in the UK for a maximum of 1 year and this must be consistent with the structure of the training programme they are on.

The trainee must have worked outside the UK for the sponsor group for a continuous period of at least 3 months immediately before the date of their application. Sponsors have a limit of 20 trainees they can transfer per financial year.

Contractors

Workers on the ICT routes are permitted to work for third parties where the UK employer has a service contract with another UK business. In such cases, the sponsor must be whoever has full responsibility for the duties and outcomes of the job and the service must be deliverable within a defined period and cannot be routine or ongoing. Under no circumstances can the service amount to supply of staff to the third-party, as would be the case for an employment or temping agency.

Our 2015 report [Review of Tier 2](#) identified that this use of the route was widespread, and that use of migrants to service third-party contracts (mainly in the IT sector) gave a substantial cost advantage over domestic firms. The MAC considered that this would disadvantage firms in the UK who do not have access to this source of labour and also stated a concern that this would not help with the stock of IT skills within the UK - where there is access to highly skilled labour abroad there is little incentive to develop the UK workforce. The analysis indicated that there is a far greater potential for displacement and undercutting of UK workers with the use of the contractor route than in the conventional use of the ICT route.

We suggested that action should be taken to ensure that it is only used by those highly specialised migrants that partners in industry claim to need. We therefore recommended⁵ that a new route be created alongside the conventional ICT route which was designed specifically for third-party contracting, and that a higher threshold be applied to this. Subsequently, however, rather than creating a separate route for third-party contracting, the Home Office instead closed the short-term ICT route and raised the salary for all workers (whether on a third-party contract or not) to £41,500.

Allowances

Allowances that are paid to ICT workers can be included when assessing whether a worker meets the salary threshold, provided they are guaranteed for the duration of the applicant's assignment. This could, for example, include mobility premium, cost of living premia, or London weighting. A particularly important

⁴ [Appendix for Skilled Occupations](#)

⁵ The MAC's 2015 report [Review of Tier 2](#) it was recommended as follows: "We recommend that use of the Tier 2 (Intra-company Transfer) route for third-party contracting be moved into a separate route and a higher salary threshold (£41,500) be applied".

allowance that can be counted towards the salary threshold is accommodation (up to 30% of the total salary package for applicants in the ICT category, or 40% of the total salary package for applicants in the ICT Graduate Trainee category). One-off bonuses cannot be included and cannot be pro-rated.

The salary stated on the CoS must be the total including gross basic pay and all permitted allowances. The CoS must also provide a separate total of all allowances and an explanation of what they are for.

The permitted tax exemptions on expenses and allowances are the same for resident workers, SW migrants, and ICT migrants. However, ICT workers are more likely to be eligible for tax-free accommodation allowance due to the temporary nature of the work many of them do. The only allowances that count towards the salary threshold and are eligible for tax exemptions are accommodation allowances. HMRC's general rule is that an employee who attends a temporary workplace for a period of up to 24 months can obtain relief for accommodation allowance.

Firms that use ICTs extensively have pre-existing agreements with HMRC that define which allowances are tax-exempt, but these may vary by firm. As we do not have access to these agreements, we are not able to analyse the scale of tax exemptions from the use of allowances. Home Office Management Information is also limited and not all employers that pay allowances provide a disaggregated figure in applications.

Immigration Skills Charge (ISC)

Whilst not applying the ISC to the ICT route was previously considered by the MAC, it was ultimately decided that ICT workers could displace UK workers and as such the ISC should apply, with the exception of the Graduate Trainee route. As part of the EU-UK Trade and Cooperation Agreement (the UK's free trade agreement with the EU), the UK has committed to exempt EU ICT workers from the ISC from no later than 01 January 2023.

Future use of the ICT route

With the introduction of the SW route, which is uncapped and does not include an RLMT requirement, there is the potential to see displacement from the ICT route. The costs of a visa under the SW route and ICT are commensurate, though there is a reduction for SW roles on the SOL. The ICT visa costs between £610 and £1,408 per person depending on the length of stay (Graduate Trainee is £482), plus an additional charge for the Immigration Healthcare Surcharge of £624 per year. Both ICT and SW applicants also need to show they can support themselves in the UK during the first month of their stay and must therefore have £1,270 in funds available to them, unless their employer guarantees to cover these costs (which most ICT employers do).

The current ICT route does not lead to settlement, although switching into the SW route is now permitted. Stakeholders raised two main concerns about this; some felt that the ability to immediately switch was unwelcome, for reasons including business continuity and cost of bringing a worker to the UK; others raised concerns that it was unfair that time spent on the ICT route could not be counted towards settlement after switching.

Some stakeholders have stated that in the short-term they are either considering or already using the SW route in place of ICT, but there was a lack of confidence that the suspension of the cap on the SW route would

remain in the long term. There were also certain roles that some stakeholders still felt worked better under the ICT route, which was seen as more agile. Therefore, stakeholders were strongly in support of retaining an ICT route to work alongside the SW route.

Stakeholders also advised that for staff in the UK on short-term postings, or those that required multiple entry visas due to their type of business, the ICT route with its lack of an English test requirement is a better fit. However, there was a consistent theme in stakeholder engagement that businesses would like to see an even more agile route for ICT short-term workers, with a time limit of 3-6 months. Many stakeholders who expressed a view in either stakeholder meetings or the CfE felt that allowances are an integral part of the ICT route and a necessary element for those workers. Views on both allowances and the lack of an English language test requirement are discussed in further detail in the Chapter 4 on Technical Rules.

International obligations (GATS)

The UK is a member of the World Trade Organisation's (WTO) General Agreement on Trade in Services (GATS), which is an Annex to the Agreement Establishing the WTO (or the WTO Agreement). The GATS was created to extend to the service sectors the system for merchandise trade set out in the General Agreement on Tariffs and Trade, but with some differences to reflect the different nature of services trade. The GATS was created at the Uruguay Round, and entered into force in January 1995.

The GATS defines services trade by four modes of supply: Cross Border supply (Mode 1), consumption of a service abroad (Mode 2), supplying a service through commercial presence (Mode 3) and providing services through the presence of a natural person (an individual) (Mode 4). There is no single 'Mode 4 visa', instead, in order to support Mode 4, the UK has pledged to allow the entry into and temporary stay of natural persons for business purposes in various categories in the UK's GATS schedule of commitments. These include Intra-Company Transferees where: they are senior managers or specialists; are transferred to the UK by a company established in the territory of another WTO member; and are transferred here in the context of the provision of a service through a commercial presence (of the same group) in the UK.

Under the GATS the UK has committed to allow this without applying an economic needs test, such as the RLMT. The UK would be in breach of its international obligations were it to either introduce an economic needs test or place a limit on the length of stay of ICTs below 3 years (GATS) or below what it has committed to in specific Free Trade Agreements (FTAs). In addition to the GATS, the UK has also made commitments on Graduate ICTs in some of its FTAs and will need to uphold these international commitments as well.

International usage

We have used stakeholder feedback to review a small set of other countries' approaches to intra-company transfers. We have spoken to officials from the United States, South Korea, South Africa, and Germany regarding their respective equivalents of the ICT route.

United States

The US uses its L-1 visa for intra-company migration. On the whole, stakeholders did not consider the US system to be easy to use and felt that due to the interview process there was uncertainty in the process.

The L-1 visa has the following characteristics:

- There are no caps on the L-1 visa route.
- The L-1 route has no minimum salary requirements but must meet the federal minimum wage requirements. The wage may also be paid in the home country.
- Foreign nationals using an L-1 must be coming to work in the US as a manager, executive or specialised knowledge employee. To be recognised as a manager, the US would expect the applicant to be managing people who manage others, rather than being a direct manager.
- ‘Specialised knowledge’ is not a defined term within the route, so is open to interpretation, which has led to litigation.
- The L-1 Visa Reform Act 2004 prohibits the outsourcing of L-1B employees to unrelated third parties. The petitioning company (sponsor) must have a qualifying legal relationship with an overseas entity who wants to send workers to the US e.g. Honda Japan can incorporate Honda US which would be a subsidiary.
- Newly establishing companies, who are establishing in the US- L-1 ‘New Office’ petitions, can be granted a maximum of 1 year to open a new office. There is no limit on the number of people that can be brought in under this route but there is a high level of scrutiny depending on the circumstances of the company etc.
- To qualify as newly establishing company, the applicant must demonstrate at time of application that they have acquired sufficient physical premises in the US, that they have the financial ability to commence doing business and that they will support the beneficiary in a managerial or executive position within 1 year.

South Korea

South Korea uses its D-7 (Intracompany Transfer Visa) to allow entry of managerial or executive-level employees with specialized knowledge and skills that are not readily available in South Korea's domestic labour market.

On the whole, stakeholders highlighted South Korea as a good system, especially highlighting the flexibility and the option to extend for a longer period in-country.

The D-7 visa has the following characteristics:

- There are no caps on the D-7 visa route;
- The D-7 route has no minimum salary requirement but must meet salary requirements associated with industry standards, the position and applicant’s experience. There is no requirement for the wage to be paid in the home country; they can be paid either by the overseas sending company or the sponsoring entity; and
- Foreign nationals using the D-7 route must be coming to work in South Korea as a manager, executive or specialised knowledge employee. These are defined as follows:

- Executive: Executive is defined as someone who primarily directs the management of the organization; exercises wide latitude in decision making; and receives only general supervision or direction from the board of directors or shareholders of the organization (an executive does not directly perform tasks related to the actual provision of the service of the organization);
- Senior Manager: Senior Manager is defined as someone who is in charge of establishing and implementing goals and policies of the company or the department; has the authority to plan, direct and supervise; has the authority to recruit and dismiss or recommend recruiting, dismissing; and exercises supervisory and control function over other supervisory, managerial professional service suppliers, and employees who directly engages in supply of service) or exercises discretionary powers over their daily tasks; and
- Specialist: Specialist is defined as someone who possesses proprietary experience and knowledge at an advanced level of expertise essential to the research, design, techniques, or management of the organization's service.

South Africa

South Africa uses the Intra-Company Transfer (ICT) work visa for highly skilled foreign nationals who will transfer to a South African branch or subsidiary of their current employer.

Stakeholders highlighted South Africa as a good system, especially highlighting the short-term route for intra-company transfers.

The ICT work visa has the following characteristics:

- There are no caps on the route;
- The route has no minimum salary requirement;
- The migrant can be on local terms and conditions including payment of salary, but they must not be directly paid or employed by the South African sponsoring entity;
- South Africa's ICT work visa route is focused on upskilling the workforce in South Africa and these skills must not already be present in the South African branch; and
- The migrant may be required to be employed in a specific occupation, referred to as 'mission specific'.

Germany

Germany uses the EU Intracompany Transferee (ICT) Permit, locally called the ICT Card, which is in place across most of the EU.

This route is suitable for intracompany transfers of highly skilled managers, specialists, or trainees. The EU ICT Permit enables mobility within the EU, within the company group. ICT Permit holders from another EU country can work at a group entity in Germany for under 90 days after filing a notification, or for longer after filing a Mobile ICT Card application. ICT Card holders from Germany can similarly work at group entities in other EU countries after filing a notification or mobile permit application.

The EU Intracompany Transferee (ICT) Permit, locally called the ICT Card has the following characteristics:

- There are no caps on the ICT card route;
- The ICT card route is a residence title and so is not a visa;
- The route is time limited so the migrant would be initially granted entry for 3 years and settlement is not automatic, however if the migrant meets the resident requirements than they may qualify for settlement; and
- ICT card route is not often used - in 2020, 3000 ICT visas were granted. The German immigration system has a much larger number of routes for migrants to enter than the UK which may partly explain different levels of use.

Summary

We have undertaken a review of the ICT routes in a small sample of other countries and set out the details of these routes. None of the countries we looked at have a language requirement to enable use of the ICT (or equivalent) route. It appears that most countries view the ICT route as a way of getting highly skilled and knowledgeable overseas employees to share their skills and experience with local workers. To achieve this aim, there is a requirement in most countries to illustrate these skills as part of the visa route.

During stakeholder meetings and in responses to the Call for Evidence and stakeholder submissions, some stakeholders also mentioned various practices relating to ICT policy in other countries, chiefly those they thought particularly helpful or unhelpful. These points, where made, are discussed during the relevant thematic chapters.

Chapter 2: Primary research and engagement

Introduction

This chapter details the primary research and engagement with stakeholders that was carried out to support this commission. Although findings from the primary research and stakeholder engagement are found elsewhere throughout this report, within the relevant chapters, this chapter also details who responded to the Call for Evidence (CfE) questionnaires and participated in the stakeholder engagement events that took place.

Primary research and stakeholder engagement carried out to support this commission

As with other commissions, we carried out a programme of stakeholder engagement and launched a CfE to inform our response. In addition, we commissioned qualitative research to provide further information on how the ICT route works for both employers and employees who use the route.

The **stakeholder engagement** consisted of:

- Four meetings with stakeholders that were convened on our behalf by Professional services companies working with employers who use the immigration system;
- Two meetings with stakeholders convened on our behalf by the Scottish Government and NI Executive;
- Four meetings with embassies and consulates (Germany, USA, South Korea, and South Africa); and
- Four meetings with the top four users of the ICT route (in terms of number of Certificates of Sponsorship (CoS) issued).

In addition, several respondents who submitted both CfE and stakeholder submissions conducted their own stakeholder consultations, the results of which are reported *passim* along with the responses themselves.

There were two parts to the **primary research** carried out to support this commission:

- An online CfE, comprising two questionnaires and an invitation to submit further evidence either as an addendum to the questionnaire response, or separately to the MAC inbox; and
- A programme of qualitative research interviews, which was carried out on our behalf by an external research contractor, Revealing Reality.

Findings from the stakeholder meetings, CfE questionnaire responses and additional evidence submitted, and from the qualitative research, have been analysed and written up throughout the report to support and illustrate the relevant sections. We also present quotes (generally anonymised to protect participant confidentiality) and an anonymised case study from these sources. The remainder of this chapter provides more detail on the characteristics of those who responded to the CfE, and of those who participated in the qualitative research that was commissioned.

We have analysed the outputs of the CfE and qualitative research for any specific impacts or potential impacts on the nine protected characteristics under the Equality Act (2010). There were very few of these, but we have indicated where they were raised by participants.

The Call for Evidence

The CfE for this commission comprised 2 questionnaires. One was aimed at employers that had questions relating to the organisation's direct experiences of using the ICT route. The other was primarily aimed at those representing the views of other organisations: representative organisations (such as trade and membership bodies), Professional services companies (such as law firms) dealing with immigration on behalf of others, and individuals, see the Annex document. Respondents were initially directed to a landing questionnaire which forwarded them to the most appropriate of these questionnaires for their circumstances. As part of the online CfE, individuals and organisations were also able to submit other evidence directly to the MAC – either as an attachment to a completed questionnaire, or by email.

The CfE questionnaires were initially open for 12 weeks, from March 23rd to June 15th, and the questionnaire deadline was extended by 1 week, closing on June 22nd. Sixty-eight responses were received across both questionnaires, and in addition to this, a further 11 respondents provided other evidence, either by emailing documents, or by attaching documents to their CfE response.

The main CfE questionnaires asked respondents about 3 key themes:

- Usage of ICT: including the main, contractor, and graduate routes;
- Views on ICT and the various rules around the route, including: skills and salary thresholds for all routes; length of experience in current role; the ability to work for third-party clients; the inclusion of allowances as part of the salary package; length of stay; English language requirement; and experiences of using the representative overseas business route to set up subsidiaries; and
- Future use and views on ICT policy: including the effects of the Skilled Worker (SW) route on future ICT usage, views on potential changes to rules around subsidiaries and secondments, and any changes that should be made to ICTs in the future.

As expected, given the comparatively niche nature of the subject matter compared to other subjects such as the Shortage Occupation List (SOL) on which the MAC consults, and the continuing disruption to businesses caused by the ongoing COVID-19 pandemic, we received a smaller number (68) of responses to the ICT CfE than to previous commissions carried out by the MAC⁶. As well as causing disruption to businesses, the COVID-19 pandemic may also have reduced engagement with the route: a number of organisations reported lower ICT usage in the last year during the period of national restrictions (ICT usage is discussed further in Chapter 3 on economic impacts), and it is possible that because of this, some organisations felt disinclined to participate.

⁶ As a comparison, the online CfE questionnaire for the MAC's last commission before the COVID-19 pandemic [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](#) received 353 responses

However, the decision to extend the CfE questionnaire deadline for a further week did result in a small increase in the number of responses from both representative organisations and employers.

Given that we expected to receive a smaller number of responses to the ICT CfE at the outset, we chose to use the questionnaires as a framework for asking deeper open questions. Because of the small numbers of responses received, and the self-selecting nature of the sample, the CfE does not constitute a formal statistical survey, and we have therefore avoided the use of percentages. Due to the large number of unrestricted free-text questions, the CfE responses contain lots of rich qualitative information. We have used evidence from the CfE, written submissions and the stakeholder engagement meetings we held to inform our assessment.

In this chapter, we give a brief overview of the responses to the CfE. We report the characteristics of the respondents for both questionnaires (including size, sector, and location for employers and representative organisations) and how their organisations use ICTs. Views on various aspects of ICT rules and policy, and on future use and policy, are reported in conjunction with other analysis throughout the report.

Who responded to the Call for Evidence?

A total of 68 responses were received across the two questionnaires: 28 respondents submitted replies to the employer questionnaire, and 40 respondents submitted their replies to the representative organisations' questionnaire. Across both questionnaires, a further 172 responses were started but not submitted.

When analysing the CfE responses, it is always necessary to acknowledge that those who respond do so from a specific perspective, whether as an employer using the ICT or similar routes, as a representative organisation representing other users or potential users, as a Professional services company working with employers who use the immigration system, a think tank or charity, or an individual. We are grateful for the contribution of all those who have participated and for the time they have taken to respond.

Respondent characteristics – employers

- Looking at the sample of 28 responses to the employer questionnaire, information and technology (8) was the most represented industry, followed by professional, scientific and technical activities (7): this is not surprising given we know these sectors are heavy users of the route.
- 20 respondents reported that they represented large businesses (250 or more employees), this is as we would expect as users of the ICT visa route are often large businesses. Although responses came from all over the UK, London (8) was the region named by the most respondents. Nine organisations were based UK-wide. No organisations were based in Wales and Northern Ireland, whilst 3 were based in Scotland.
- 21 respondents reported that their organisation was based at more than one site (within and outside of the UK). Four respondents answered that they were based at multiple sites within the UK, whilst 3 reported that they were based at a single site within the UK.
- 21 respondents said they had one or more sites based in other European Economic Area (EEA) countries, 19 reported that they were based in non-EEA countries and 11 reported that they had sites in the Republic of Ireland (respondents were able to pick more than one option).

Respondent characteristics – representative organisations

- Of the 40 individuals who responded to this questionnaire, 14 respondents answered as a representative or membership organisation, with a further 7 responding as an immigration lawyer or similar immigration representative or advisor. 4 respondents selected “other” – including a think tank, global mobility consultant and a charity. 15 respondents provided evidence to the questionnaire as an individual in a personal capacity: this is a higher number of these responses than we had anticipated, and they are therefore discussed separately later in the chapter.
- 6 respondents represented between 500 and 4,999 organisations, whilst 3 represented more than 5000. Most of those representing other organisations said that they did so UK-wide.
- The most represented industry was manufacturing (8)⁷, followed by professional, scientific, technical (6) and information technology (4). Again, this is unsurprising, as manufacturing is also well represented in ICT usage compared to most other sectors.
- 13 respondents represented organisations that employed between 50 and 249 employees, 13 organisations that employed between 250 and 499, and 14 organisations that employed more than 500.

Perhaps unsurprisingly, almost all (25 out of 28) of the employers responding to the CfE questionnaire had used the ICT route within the last 5 years, and 13 respondents from representative organisations reported that the organisations they represented had used the ICT route within the past 5 years. Table 2.1 summarises the numbers who responded to the questionnaire and said that they/those they represented had used each ICT type.

⁷ This was a multi-code question; respondents had the option of selecting more than one sector.

Table 2.1: Usage of ICT visas in the last 5 years as reported by CfE respondents

| Type of ICTs used in the last five years | Employer responses | Representative organisation responses |
|--|--------------------|---------------------------------------|
| ICT route (including Tier 2 (ICT) in the long-term staff subcategory) – paid between £41,500 and £73,899, conventional | 24 | 11 |
| ICT route (including Tier 2 (ICT) in the long-term staff subcategory) – paid between £41,500 and £73,899, contract | 6 | 5 |
| ICT route (including Tier 2 (ICT) in the long-term staff subcategory) – paid £73,900 or over, conventional | 19 | 10 |
| ICT route (including Tier 2 (ICT) in the long-term staff subcategory) contract | 5 | 4 |
| Graduate trainee route (including Tier 2 (Intra-company Transfer) in the graduate trainee subcategory) | 5 | 3 |
| Tier 2 (Intra-company Transfer) in the short-term staff subcategory – paid between £24,800 and £41,499, conventional | 11 | 5 |
| Tier 2 (Intra-company Transfer) in the short-term staff subcategory – paid between £24,800 and £41,499, contract | 5 | 4 |

Base: All employers and representative organisations were asked this question. Individuals responding in a personal capacity and Professional services companies working with employers who use the immigration system were not asked this question. Employer responses refer to their own organisation's usage of the different ICT routes and Representative organisation responses refer to the ICT usage of the organisations they represent. This was a multi-code question; respondents had the option of choosing more than one ICT visa type.

When asked how many ICTs their organisation had used in total last year, employer responses ranged from 0 to 1,674. Some respondents reported that they had used lower numbers of ICTs than usual due to the effects of the COVID-19 pandemic. For example, 1 information technology company reported using 240 ICTs in 2018, 189 in 2019, and 42 in 2020, illustrating the effect of the pandemic on their usage of the route. This was substantiated by similar evidence from representative organisations relating to the usage of those they represented.

Employers and representative organisations gave several reasons for their organisation's usage of the ICT route (or the reasons that those they represented did so). These included:

- Fill skills shortages for short-term assignments – these employers said that the ICT route was the right visa choice for short-term projects and assignments. The ICT route enables them to send employees with the necessary skills to where they are needed most within the organisation;
- No English language requirement – employers said they viewed the fact that the ICT visa route does not have an English language requirement as an important advantage as they are able to avoid additional costs and delays in deployment of staff;
- Provide international experience to employees – respondents felt that international experience was important for employees as it contributes towards their career development. This helps to develop and

- promote talent within the organisation as those coming from overseas can share their knowledge and skills with their colleagues in the UK, and vice versa;
- Straightforward and efficient system – employers told us that they felt the ICT route was easy to use compared to other visa routes. An ICT visa is quicker to procure than other alternatives and allows for staff to be deployed responsively when a need arises;
 - The ICT route does not require a Resident Labour Market Test (RLMT) – this means that employers do not have to prove that they have advertised for a job within the UK to fill a vacancy. The RLMT was previously applicable to T2(G) and may be a reason why some employers preferred the ICT visa over the T2(G) visa route. The RLMT does not apply to the SW route; and
 - Knowledge transfers, where this is required between different areas of a business on a short-term assignment or project basis. This might include sending a specialist to the UK to share their knowledge and expertise with other members of the team. One respondent referred to such people as “*culture carriers*”, i.e. people that have worked for the organisation for years who act as ambassadors to increase the performance of other sites.

“We use ICT visas to bring colleagues from other branches and entities [...] to fill short term and long term assignment needs due to skill shortages in business functions like Technology and Finance, as well as bringing in colleagues to help with times of high volume, i.e. holiday period, maternity cover, etc. We endeavour to fill these roles with local colleagues; however, these niche skills are not always plentiful in the UK market and we need to recruit from our global network to fill these shortages”.

CfE, Employer, Wholesale and retail trade

Roles for which the ICT route was used

Employers and representative organisations reported that they supported a variety of different roles under the ICT route within their organisation or the organisations they represented. The roles described were at several different levels, from graduate trainee, to business partner, and executive vice president.

- In the IT sector roles included software designer and engineer, system analyst, software development engineer, cloud and data management, cyber security, project management, and service delivery.
- Other senior and specialist roles reported were senior scientist; architect; technical director; finance director; compliance consultant; marketing manager; HR service lead; operations leader; and general manager.
- Respondents reported that they or the organisations they represented had used ICT visas for roles throughout the different areas of their organisations, including management, communications, HR, finance, facilities management, logistics, and sales. As expected, most roles reported were management roles or technical and specialist roles.

Reasons for not using the ICT route

Two employers told us that they had not used the ICT route within the last 5 years because of the uncertainty caused by the UK’s exit from the European Union (EU) and because there had been no requirement for it.

- Respondents on the representative organisation questionnaire gave a variety of reasons for the organisations they represented not currently using the ICT route. These included: the administrative burdens of the route; the responsibility of sponsorship; that the ICT route does not lead to settlement; some organisations not having sites outside of the UK; COVID-19 travel restrictions; high salary threshold for ICT routes; ability to meet needs through free movement from EU (which has now ended); or that the application process was complicated.

Individual responses received from the representative organisation questionnaire

As part of the representative organisation questionnaire we invited responses from individuals who wanted to give evidence in a personal capacity. We did this to attract participation either from those who had first-hand experience of using the ICT route themselves, or from other individuals who wanted to share their views on ICTs. Interestingly, almost a quarter of the responses to the representative questionnaire came from individuals completing the questionnaire in a personal capacity. Data captured from the online questionnaire allowed us to see which countries individuals were responding from. Of the 15 individual responses we received, 6 were completed by respondents in India, with the remainder being completed by respondents in the UK. The information we have does not allow us to be certain about whether these respondents were (or had been) on the ICT route, however, as outlined below, from the information given it appeared that at least some were. A further email submission was also received from an individual who also said they were in the UK on an ICT visa.

Some of the themes raised in the responses from those completing the questionnaire from India included an alleged “*corruption*” of Indian IT companies, and the apparent exploitation of “*loopholes*” in the UK immigration system (it is worth mentioning here that there had been recent coverage of this in the Indian press)⁸. Five of the respondents in India had strong views regarding the UK being “*taken advantage of*”, with some remarking that priority for work should be given to British citizens. Within these responses, concerns were also raised about whether ICT applicants from India were properly qualified, with respondents criticising the academic rigour of certain computing degrees. Chapter 4 discusses these issues in greater depth.

When asked about whether allowances should be included in the salary thresholds for ICTs, 1 respondent answered “*no*”, commenting that the accommodation provided for employees on the ICT route was, in their opinion, “*unhygienic and overcrowded*”. The issue of accommodation is discussed further in Chapter 4.

Although we also cannot be sure of the exact situation of the other 9 individuals (all of whom responded from the UK), it appears that at least some of these were people currently in the UK on the ICT route, as to a large extent these responses were about the rules on settlement (this was also the content of the email response we received from an individual who said they were currently in the UK on an ICT) including the impact on

⁸ ‘Cloudgen pleads guilty to H-1B fraud’, *The Economic Times India* <<https://economictimes.indiatimes.com>> [Accessed 01 July 2021]; ‘Three Indian American Consultants from South India are Arrested in Latest Case of H1B Visa Fraud’, *Indian Eagle* <<https://www.indianeagle.com>> [accessed 01 July 2021]; ‘H-1B visa: New US law is bad news for Indian tech workers’, *BBC News* <<https://www.bbc.co.uk/news>> [accessed 01 July 2021].

families of not having settled status (an issue that Chapter 4 discusses in greater depth). The others filled in the questionnaire in order to convey various perspectives, for example:

- A respondent from the UK shared their view that the ICT salary threshold was too low. In their opinion, the salary thresholds should be calculated by considering the salary paid to employees in the same company who are carrying out similar work. This person raised concerns over UK based workers being paid more than ICT employees; and
- Another individual respondent from the UK who completed the questionnaire in an individual capacity appeared to be knowledgeable on the usage of the ICT route, and the relative merits of the ICT route over the SW route, although it was not clear in what capacity (whether professional or personal) this knowledge had been obtained. They stated that the ICT route is “*very streamlined*” to use once the CoS is received, suggesting that they have had first-hand experience of using the ICT application system. It is unclear whether they were speaking from an employer or employee perspective, as they referred to “*employees*”, “*clients*”, and “*service providers*”. This respondent felt strongly that there should be a path from the ICT visa to settlement.

Further details on the content of responses from those responding to the CfE in a personal capacity are given alongside information from other respondents, individuals and employers interviewed as part of the qualitative research, and from stakeholder submissions and engagement, throughout the remainder of this report.

Qualitative research

Qualitative research provides additional understanding and depth of insight into a subject and allows links to be made between themes and sub themes. Although it cannot provide a measure of the extent to which an issue applies, it can indicate depth of feeling and illustrate the diversity of experience. In this commission, the qualitative research also enabled us to gain insight directly from individuals who were using the route, in a confidential and anonymised way. The qualitative research interviews were carried out by Revealing Reality, an independent research contractor, on behalf of the MAC. Interviews were carried out with 15 employees and 15 employers who had used the ICT route. After a full Data Protection Impact Assessment process, research respondents were recruited through:

- UK Visas and Immigration (UKVI) Customer Satisfaction Survey respondents who had agreed that the Home Office could contact them to carry out further research; and
- User contact details from the Home Office’s Certificate of Sponsorship records (both employees and employers).

The interviews took place over Microsoft Teams or telephone and were between 45 minutes to 1 hour in duration. Fieldwork took place between 25 June and 10 September 2021. The interviews followed a semi-structured discussion guide (see the Annex document), which was jointly developed by Revealing Reality and the MAC. We have referred to research findings where relevant in this report; however, we will also be publishing a full report from Revealing Reality separately. Table 2.2 shows the sample criteria and characteristics of interviewees. We aimed to interview respondents with a spread of characteristics, reflecting

the prevailing characteristics of the route but also capturing some of the diversity within the sample of ICT users.

Table 2.2: Sampling characteristics of research interviews carried out by Revealing Reality

| Sampling criteria | Employers (15 respondents) | Employees (15 respondents) |
|-----------------------|---|--|
| Type of ICT visa | 5x contractor 10x conventional | 5 x contractor 10 x conventional |
| 'Grade' of ICT visa | 1x focus specifically on graduate trainee 14x used ICT visa for specialist and managers | A mixture of: senior managers; specialists; and graduate trainees |
| Sector | 8x IT workers 7x non-IT workers (often finance, travel or energy industries) | 10 x IT sector 5 x non-IT role (often finance or travel sectors) |
| Number of employees | 2 x under 1000 employees 1 x 1001-5000 employees 0 x 5001 – 20,000 employees 5 x 20,001-50,000 employees 1 x 50,001 - 100,000 employees 6 x 100,000+ employees | N/A |
| Organisation location | 5 x offices across UK 1 x England-wide 7 x London based 2 x outside of London | N/A |
| Nationality | N/A | 8 x Indian workers 7 x non-Indian workers (from 6 different countries) |
| Gender | N/A | 8 x men 7 x women |
| Age | N/A | 2 x 20-30 8 x 31-40 5 x 41-50 |
| Dependants | N/A | 8 x brought dependants 7 x no dependants |

Source: Revealing Reality

Note: Indian and IT workers were listed separately in the sample criteria because they represent the largest users of the ICT route.

Chapter 3: Economic impacts chapter

Introduction

This chapter examines the economic impact of Intra-Company Transfer (ICT) migrants on the UK economy focusing on:

- Labour market impact;
- Productivity;
- Trade and investment;
- Impact on UK firms;
- Fiscal impacts; and
- Regional impacts

Within each, we will examine the conventional and third-party contracting use of the route.

Background

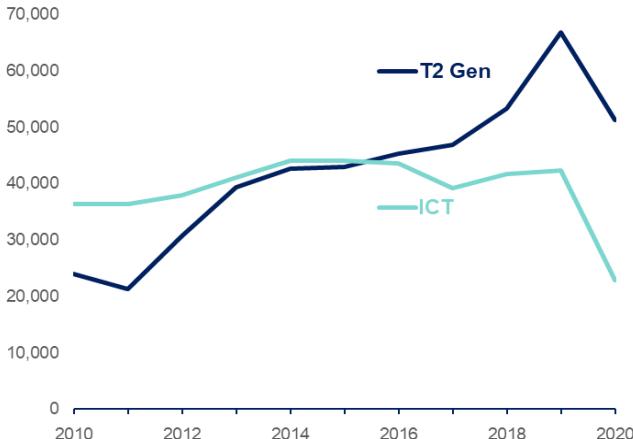
The ICT route is intended to provide a temporary route for sponsors to transfer senior managers and specialists from overseas where a UK presence is required. Employees must be established workers of multinational companies who are being transferred by their overseas company to do a skilled role for a linked entity in the UK. The route can help to introduce new skills and innovation into the UK if ICT migrants complement the UK labour force, bringing in expertise and knowledge that can be transferred to UK workers. In this chapter we also explore the impact of ICT migrants on the domestic population.

Within the ICT route two distinct uses have emerged, which we will refer to as the conventional route and contractor route throughout this chapter. The conventional route allows employees to work for the sponsor organisation within the UK, whilst the contractor route allows employees to carry out work for a third-party organisation whilst still being employed by the sponsor. We will examine the contractor route in greater detail as it operates quite differently. Stakeholders provided examples of ways in which the route has been used which we examine later in this chapter.

Current use of the route

Figure 3.1 shows the number of visa applications for the ICT route compared to Tier 2 General (T2(G)). T2(G) has been replaced by the new Skilled Worker (SW) route as part of the new Points Based System (PBS). Use of both ICT and T2(G) have steadily grown over time, and T2(G) overtook the ICT route in terms of the number of applications in 2016. T2(G) accounted for 61% of total T2 visas issued in 2019.

Figure 3.1: Total visa applications for T2(G) and ICT route, 2010-2020



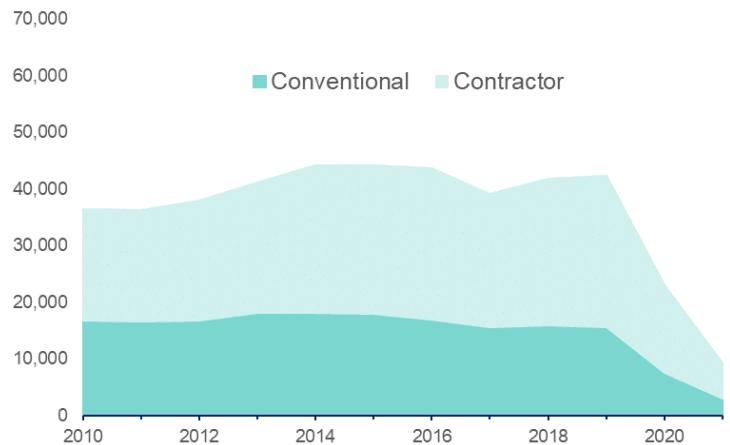
Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2010 – 31 Dec 2020

Note: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application.

ICT includes all categories including contractor and conventional and long-term and short-term migrants

Figure 3.2: Total ICT visa applications by usage, 2010-2021



Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2010 - 30 Jun 2021

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

*2021 is not full year data and is only up to 30 Jun 2021

Figure 3.2 shows the split between contractor and conventional ICT usage over time. The contracting route makes up the larger percentage of ICT visas⁹ (63% in 2019). As the contractor route is used fundamentally differently to the conventional route, there are implications for policy which we will examine later in this chapter.

Although not a distinct route for the Information Technology (IT) sector, the route is dominated by IT firms, with the sector making up 81% of overall ICT contractor usage in 2019. Indian nationals account for 97% of ICT contractor visas (Table 3.3). This is much larger than their equivalent share for the conventional (35%) and T2(G) route (24%).

⁹ The term visa used in place of CoS for simplicity. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application.

Table 3.3: Nationality of ICT migrants, 2019

| Nationality | Contractor | Nationality | Conventional | Nationality | T2 (G) |
|-------------|------------|------------------------------------|--------------|-------------|--------|
| India | 96% | India | 32% | India | 27% |
| US | 1% | US | 22% | Philippines | 10% |
| | | Japan | 11% | China | 7% |
| | | China | 6% | US | 7% |
| | | Australia | 4% | Nigeria | 6% |
| | | Canada | 3% | Australia | 4% |
| | | South Africa | 3% | Pakistan | 4% |
| | | Brazil | 1% | Egypt | 3% |
| | | South Korea (Republic of Korea) | 1% | Canada | 3% |
| | | Russian Federation | 1% | Malaysia | 3% |

Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019

Notes: Only countries with 1% or more have been reported.

Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

Table 3.4 shows the top 10 firms using the route split by contractor and conventional use of the route. The top 4 firms sponsored 34% of all ICT visas in 2019. The contractor route is dominated by a relatively small number of large users, with the top 4 firms accounting for 53% of contractor visas. The top 10 users for the contractor route account for 78% of overall visas in comparison to the conventional route where the equivalent figure is just 20%.

Table 3.4**Top 10 firms using the ICT contractor route, 2019**

| Organisation | Contractor count | Share of total |
|-----------------------------|------------------|----------------|
| Tata Consultancy Services | 6,200 | 23% |
| Cognizant Worldwide Limited | 3,000 | 11% |
| Wipro Limited | 2,500 | 9% |
| Infosys Limited | 2,500 | 9% |
| Tech Mahindra Limited | 1,300 | 5% |
| Capgemini UK PLC | 1,300 | 5% |
| Accenture (UK) Limited | 1,200 | 5% |
| IBM UK Ltd | 1,000 | 4% |
| HCL GREAT BRITAIN LIMITED | 1,000 | 4% |
| Syntel Europe Limited | 500 | 2% |
| 2019 Total | 26,700 | |

Top 10 firms using the ICT conventional route, 2019

| Organisation | Conventional count | Share of total |
|-----------------------------------|--------------------|----------------|
| PricewaterhouseCoopers LLP | 500 | 4% |
| Ernst & Young | 400 | 3% |
| KPMG LLP | 400 | 3% |
| Deloitte LLP | 400 | 2% |
| Huawei Technologies (UK) Co., Ltd | 300 | 2% |
| Sopra Steria Limited | 200 | 2% |
| Shell International Ltd | 200 | 2% |
| HSBC Holdings plc | 200 | 1% |
| BP plc | 200 | 1% |
| Cyient Europe Limited | 200 | 1% |
| 2019 Total | 15,500 | |

Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019

Notes: Excludes graduates. Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application. MAC analysis of HO MI may not match other statistics due to filtering.

Table 3.5 shows that males make up a much larger percentage of overall ICT usage for both contractor and conventional usage in comparison to the T2(G) route where there is a more balanced representation. The ICT gender split is similar to that of the IT sector, which is to be expected given that the IT sector is a large user of the ICT route.

Table 3.5: Gender split, by usage

| | ICT Contractor | ICT Conventional | T2 (G) | IT Sector |
|--------|----------------|------------------|--------|-----------|
| Male | 84% | 70% | 51% | 76% |
| Female | 16% | 30% | 49% | 24% |

Source: Home Office Management Information, ONS

Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019, Annual Population Survey 2019

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

We looked at whether it was possible to assess whether the ICT route had a differential impact according to protected characteristics¹⁰. From the above analysis, it is clear the ICT route is dominated by males, with a

¹⁰ Protected characteristics under the Equality Act 2010 are: age, disability, gender reassignment, marriage or civil partnership, pregnancy/maternity, race, religion/belief, sex, and sexual orientation.

heavy preponderance of Indian nationals. In 2019, the average median salary for females on the ICT route was £50,000, and for males was £47,000. Further analysis shows the median salary of females on the ICT route was higher than males in ages groups below 45, as seen in Table 3.6 below. After this age group, males receive a higher median salary than females. Further work would be required to understand what is driving the wages paid to males and females.

We do not have access to the data that would be necessary to assess whether the ICT route has a different impact on people with certain protected characteristics. **We therefore recommend that the Home Office collects further data on protected characteristics from visa applicants in order to provide a more complete picture on applicants, as at present it is only possible to look at nationality, citizenship, age and sex. This should be done on a voluntary basis and the data should not be shared with decision makers.**

The Home Office should consider best practice in the collection of such personal data. Given the sensitive nature of this data, it should be made clear to migrants applying for a visa that it is entirely voluntary for them to provide this data and to ensure that it does not impact the application outcome. It should not be available to the decision maker or the individual's employer. However, collection of this data across all visa routes and analysis at an aggregate level will be useful to form an assessment of whether there is likely to be direct or indirect discrimination across a wider range of protected characteristics.

Table 3.6: 2019 median salaries of ICT migrants, by age group and gender

| Age Group | Female | Male |
|-----------|----------|----------|
| 26-30 | £44,100 | £42,000 |
| 31-35 | £48,000 | £45,000 |
| 36-40 | £57,200 | £50,000 |
| 41-45 | £80,700 | £63,700 |
| 46-50 | £109,700 | £110,600 |
| 51-55 | £127,300 | £154,800 |
| 56-60 | £119,800 | £156,000 |
| 61-65 | £134,200 | £154,800 |

Source: Home Office Management Information
Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019

Notes: Rounded to nearest hundred. Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application.

Labour market impact

In its EEA report¹¹ (2018) the MAC concluded that based on existing evidence there was little evidence of substantial impacts of EEA migration on aggregate wages. There is some evidence that jobs which require less

¹¹ [Final_EEA_report.PDF \(publishing.service.gov.uk\)](https://www.gov.uk/government/publications/final-eu-report)

training time face a negative impact, while jobs which require a longer period of training benefit from migration. However, the magnitude of the impacts is generally small. The MAC also concluded that the majority of academic studies found little or no impact of immigration on the employment or unemployment outcomes of UK-born workers. For example, Dustmann, Fabbri and Preston (2005)¹² found no statistically significant impact on employment or unemployment overall (using data covering the period 1983-2000). Other more recent literature such as Lemos (2013)¹³ and Becker and Fetzer (2018)¹⁴ support this.

A key theoretical framework to assess the impact of migrants is whether a migrant is a complement or substitute for domestic residents. Labour market opportunities of residents will be improved by migrants who are complementary, for example if they raise productivity. On the other hand, if migrants are substitutes, they may be used in place of resident workers, reducing the demand for resident labour. We analyse salary distributions to explore this impact.

Salary threshold analysis

The minimum salary threshold for the ICT route is currently set at £41,500 or the going rate (based on 25th percentile of earnings for the occupation), whichever is higher. This is higher than the Skilled Worker minimum salary threshold of £25,600 (or 25th percentile) and is intended to proxy for senior managers and specialists and to reflect the higher skill (RQF6+) of the ICT visa route. The rationale and review of the salary threshold is explored in Chapter 4.

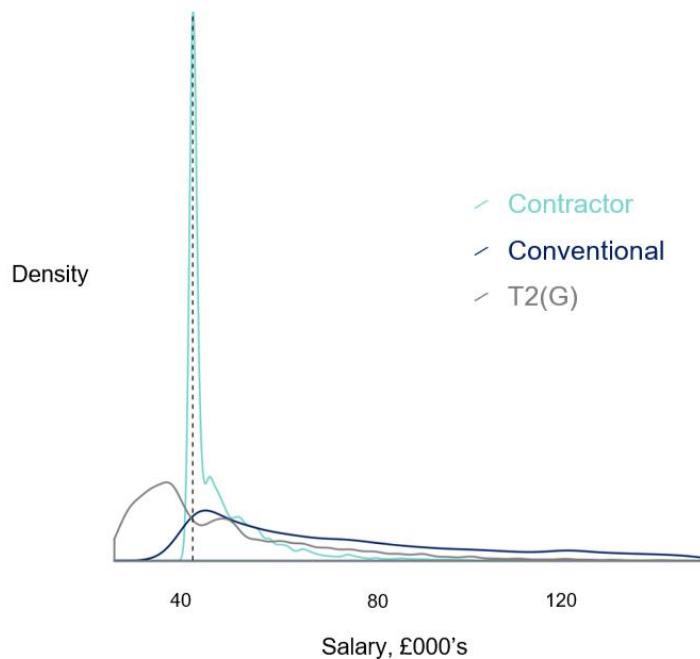
In 2019 ICTs on the conventional route had a much higher median salary of £70,000, compared to £42,600 for contractors. Figure 3.7 shows the salary distribution for the contractor route, conventional route and T2(G). A large share of migrants on the contractor route are clustered around the £41,500 salary threshold. This is in contrast to the conventional route which is much more evenly distributed above the £41,500 salary threshold.

¹² Dustmann, C., Fabbri, F. and Preston, I. (2005). The Impact of Immigration on the British Labour Market. *The Economic Journal*, 115(507), pp.F324-F341.

¹³ Lemos, S. (2013). Labour Market Effects of Eastern European Migration in Wales. *The Manchester School*, 82(5), pp.524-548.

¹⁴ O. Becker, S. and Fetzer, T. (2018). Has Eastern European Migration Impacted British Workers?. *The Warwick Economics Research Paper Series (TWERPS)*, (1165).

Figure 3.7: Salary distributions of the ICT routes compared to T2(G), 2019



Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2019 - 31 Dec 2019

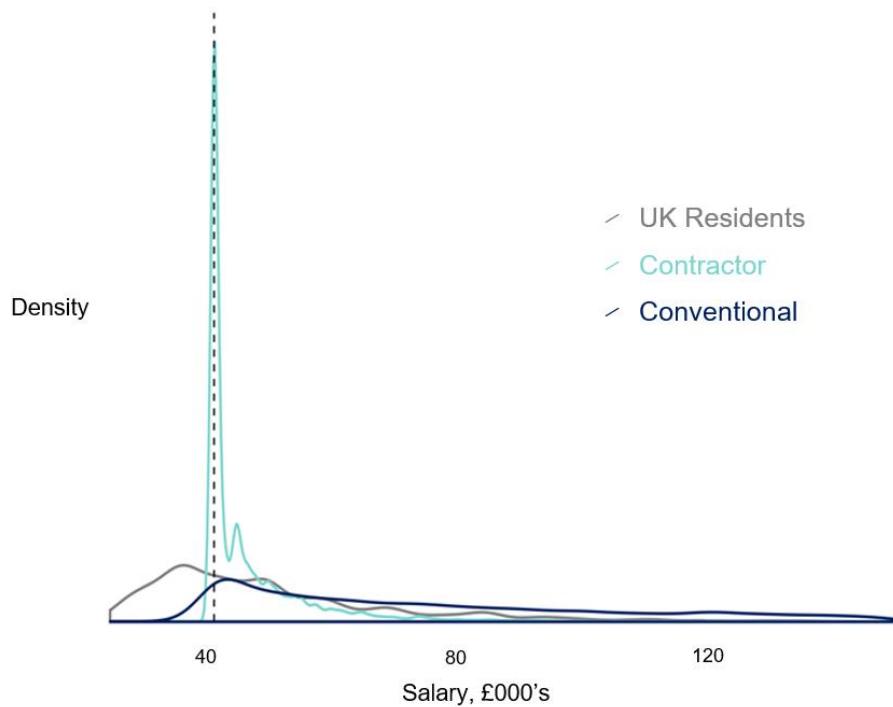
Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application.

2019 Frequency Distribution data. We also ran a scenario for 2014 which displays a similar trend. Across all SOCs.

Filtered between £25,000-£150,000 to account for outliers

Figure 3.8 shows the salary distributions (including allowances) of conventional and contractor ICT users compared to UK residents (using ASHE data). To ensure comparability between UK residents and ICTs, we have weighted the ASHE data to have the same age, gender, and occupation profile as ICT migrants (including both contractor and conventional). The chart again shows clustering around £41,500 for contractors, with around 45% of salaries being paid around the threshold (based on bands). The conventional route also displays a spike around the threshold but with a much smaller percentage. In comparison the ASHE distribution does not display the peak, indicating that the salary threshold is influencing salaries paid to ICT migrants.

Figure 3.8: Salary distributions of the ICT routes compared to UK residents, 2019



Source: Home Office Management Information, ONS

Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019, Annual Survey of Hours and Earnings (ASHE) 2019

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

ASHE sample of UK residents reweighted to have the same age, sex and occupation mix as the CoS 2019 dataset

Filtered between £25,000-£150,000

We would expect there to be potentially larger impacts on resident workers where ICT migrants make up a larger share of employment in a given occupation. We identified four occupations where the number of ICT visa applications (valid at any point in 2019) is relatively large compared to total employment in that occupation in 2019 (Table 3.9 below). All these occupations are in the IT sector. These are: SOC 2135, 2134, 2139 and 2136. These are also the top 4 ICT occupations by volume of migrants. The number of ICT visa applications (valid at any point in 2019) in the IT business analysts, architects and system designers occupation (2135) was 18% of total employment in this occupation in 2019.

Table 3.9: ICT applications as a percentage of total employment by occupation, 2019

| Job Title | Contractor share | Conventional share | Total ICT share of occupation |
|---|------------------|--------------------|-------------------------------|
| 2135 IT business analysts, architects and systems designers | 16% | 2% | 18% |
| 2134 IT project and programme managers | 11% | 2% | 13% |
| 2139 Information technology and telecommunications professionals not elsewhere classified | 5% | 1% | 5% |
| 2136 Programmers and software development professionals | 4% | 1% | 5% |
| 2423 Management consultants and business analysts | 1% | 2% | 3% |
| 2126 Design and development engineers | 1% | 1% | 3% |
| 1115 Chief executives and senior officials | 0% | 2% | 2% |
| 2133 IT specialist managers | 1% | 0.4% | 2% |

Source: Home Office Management Information, ONS

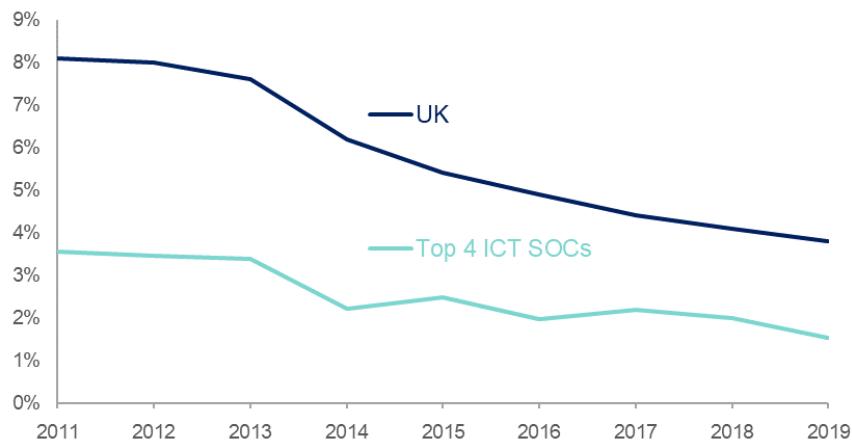
Certificate of Sponsorship (CoS) Data 01 Jan 2019 - 31 Dec 2019, Annual Population Survey 2019

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application
This calculation is the number of ICT applications to work in the UK at any point during 2019 divided by the total number of jobs in these occupations in 2019. This does not show the proportion of ICT migrants by occupation

Figure 3.10 below shows the unemployment rate¹⁵ for these top 4 SOCs (as per Table 3.9 above) during the last decade. Since 2012 the unemployment rate for the top 4 ICT occupations has seen an overall decreasing trend, falling quickly over the first few years before seeing the trend flatten out for the remaining years. The unemployment rate in these top 4 occupations is consistently lower than the overall unemployment rate.

¹⁵ Unemployed defined as those unemployed aged 16+, who's last job was in one of these SOCs. Unemployment rate = unemployed/(unemployed + employed)

Figure 3.10: Unemployment rate for the top 4 ICT occupations vs the UK unemployment rate



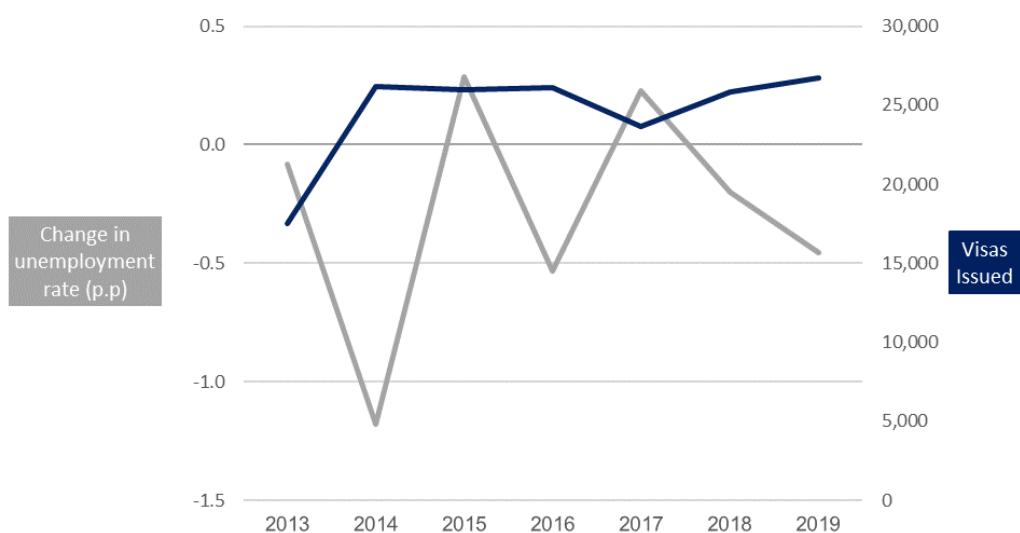
Source: [ONS](#)

Annual Population Survey 2011-2019

Notes: Top 4 SOC by volume of ICT visas are SOC 2134, 2135, 2136, 2139

Figure 3.11 below shows the change in the unemployment rate in the top 4 ICT occupations versus the number of ICT visas issued in those occupations. There is no obvious correlation to be seen here – certainly there is no strong indication that changes in the unemployment rate for resident workers in these occupations are being driven by inflows of ICT migrants.

Figure 3.11: Change in unemployment rate, and number of visa applicants, for the top 4 ICT occupations



Source: Home Office Management Information, ONS

Certificate of Sponsorship (CoS) data 01 Jan 2013 - 31 Dec 2019 & Annual Population Survey 2013 – 2019

Note: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

Change measured in percentage points (p.p.)

Figure 3.12 below shows the percentage change in mean salary in the top 4 ICT occupations versus the number of ICT visas issued in those occupations. There is no obvious correlation between the number of visas issued and the change in mean salary of these occupations.

Figure 3.12: Percentage change in weighted mean salary, and number of visa applicants, for the top 4 ICT occupations



Source: Home Office Management Information, ONS

Certificate of Sponsorship (CoS) data 01 Jan 2013 - 31 Dec 2020, Annual Population Survey 2013-2020

Note: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

In its [Review of the Shortage Occupation List \(2020\)](#) the MAC identified shortage in the occupations 2135, 2136 and cyber security specialists (within SOC 2139) and recommended that they be added to the UK SOL which was accepted by the Home Office. It would be surprising that such shortages existed if there are large numbers of resident workers who are being displaced from these occupations as a result of the ICT visa.

Table 3.13 shows the percentile distribution for the top 4 IT SOCs which again suggests that the threshold has a large impact on wages paid. For these occupations, the £41,500 binding salary threshold equates to around the 40th percentile of the UK resident wage distribution which suggests that firms are unlikely to be undercutting UK workers.

Table 3.13: Percentile wage distribution for the top 4 ICT occupations, 2019

| Salary | 20 th | 40 th | 60 th | 80 th |
|---------------------|------------------|------------------|------------------|------------------|
| ICT migrants | £41,500 | £41,500 | £45,000 | £51,900 |
| UK resident workers | £33,600 | £40,900 | £50,000 | £67,000 |

Source: HO Management Information, ASHE

Notes: ICT Migrant Salaries and ASHE (to be checked) restricted from £25,000-£150,000 to account for outliers, UK resident workers include workers of all nationalities.

Rounded to nearest hundred

The ICT route allows companies to bring migrants into the UK, but some elements of the project could still be completed abroad. This could allow the company to reduce the overall costs of project delivery by paying lower salaries for those working on the project abroad in countries where average salaries may be lower. Given advances in digital communications, in the absence of the ICT route, it is likely that more work could be carried out completely abroad. This issue is further explored in the impact on UK firm's section.

Productivity

The ICT route allows a flow of highly skilled people into the UK which can help to transmit new ideas, skills, and technology. An OECD report (2008)¹⁶ concluded that a mobile workforce aids in production and dissemination of codified knowledge but also tacit knowledge. Tacit knowledge is knowledge that cannot be transmitted through documentation but more effectively transferred when individuals are in close physical proximity.

In its EEA report (2018)¹⁷ the MAC concluded that immigration has a positive impact on productivity but that the results are subject to significant uncertainty. Whilst the evidence on overall migration is not entirely conclusive, the evidence suggests that high-skilled migrants have a more positive impact.

Peri (2012)¹⁸ in a US study, finds no evidence that immigrants crowded out employment and that immigration has a strong positive association with Total Factor Productivity (TFP). If a migrant is highly specialised in a certain area, it could allow existing workers to specialise in other areas. This can drive productivity increases across the firm.

Stakeholders told us that the ICT route was beneficial due to the skills transfer to domestic workers. This was especially helpful to upskill staff where there was a skills shortage amongst UK workers in areas such as machine learning and artificial intelligence. ICTs should therefore also increase wages for other high-skilled workers by increasing their productivity.

The ICT route allows UK businesses to purchase IT products and services at lower prices, which could be an advantage for some UK firms who make use of these services. Although it is likely that this route has a net positive contribution to productivity, the contractor route could be disadvantaging UK IT firms who may otherwise have benefitted from the business. In the longer term this may also reduce the incentives to acquire skills in the IT sector. We further explore this issue in the Impact on UK Firms section.

Trade and investment

The academic literature suggests a positive relationship between immigration and trade and investment. Ottaviano et al. (2015)¹⁹ found that immigration was associated with increases in exports to origin countries.

¹⁶ [The Global Competition for Talent: Mobility of the Highly Skilled \(oecd.org\)](http://www.oecd.org/greentech/The-Global-Competition-for-Talent-Mobility-of-the-Highly-Skilled.aspx)

¹⁷ [Final EEA report.PDF \(publishing.service.gov.uk\)](http://www.eea.europa.eu/documents/final_eea_report.pdf)

¹⁸ Peri, G. (2012). The Effect Of Immigration On Productivity: Evidence From U.S. States. *Review of Economics and Statistics*, MIT Press, vol. 94(1)

¹⁹ Ottaviano, G Peri, G Wright, G. (2015). Immigration, Trade and Productivity in Services: Evidence from UK Firms. CEP Discussion Paper No. 1353.

Gould (1994)²⁰ argued that immigrants foster bilateral trade flows between home and host countries. Bilateral migration triggers bilateral trade through a number of channels (Egger, von Ehrlich, Nelson 2012)²¹. Channels include lowering transaction costs for trade (imports and exports), direct trade stimulation (immigrants stimulating imports) and international connections allowing UK business to access foreign markets. In order to support Mode 4 of the General Agreement of Trade in Services (GATS), the UK has pledged to allow the entry into and temporary stay of natural persons for business purposes in various categories in the UK's GATS schedule of commitments. These include intra-company transferees (ICTs). This suggests that the ICT route may be beneficial for trade and investment by allowing entry of high skilled migrants.

Impact on UK firms

The ICT route provides an efficient way for international firms in the UK to bring in migrant workers from branches of the firm elsewhere in the world. Interestingly, stakeholders highlighted that one of the big advantages of the ICT route over the SW route is the absence of the English language requirement. The main reason that the absence of an English language requirement was appreciated was because of the time and effort (including costs and admin burden) saved in the requirement to evidence an employee's level of English, although it was also reported that this was helpful where the individual did not speak English. This is discussed further in Chapter 4.

The ability to bring workers in quickly has significant benefits for the users of the route. Stakeholders said this route was beneficial because it enabled employers:

- To deploy individuals with business-critical skills and experience for temporary roles where they were unable to fill those roles from the local UK workforce;
- To transfer skills/knowledge across sites on a short-term assignment or project basis; and
- Maintain good communication across sites.

This in turn has wider benefits to the UK. Many ICT migrants are in the professional service and consulting professions. These migrants provide firms in the UK with expertise that can improve their productivity. Furthermore, experienced workers from abroad transfer knowledge and skills to UK resident workers: for example, one stakeholder within the manufacturing sector said the ICT route was essential in seconding employees from Japan for maintaining good communications with the parent group, but also for providing technical product knowledge for both local customers and employees at the UK site.

International IT firms make significant use of the ICT route to bring in IT professionals from foreign branches. In 2019, 56% of ICT visas assigned were for IT professionals on third-party contracts. This additional supply of IT workers is much needed in an industry where there is both a domestic and global shortage of skilled professionals. By facilitating the rapid immigration of IT professionals, the ICT route enables firms in the UK to access low-cost IT services and become more productive as a result. Stakeholders said rapid changes in the

²⁰ Gould, D.M. (1994) Immigrant links to the home country: Empirical implications for U.S. bilateral trade flows Rev. Econ. Stat. 76 (2)

²¹ Egger, P Von Ehrlich, M Nelson, D. (2012). Migration and Trade

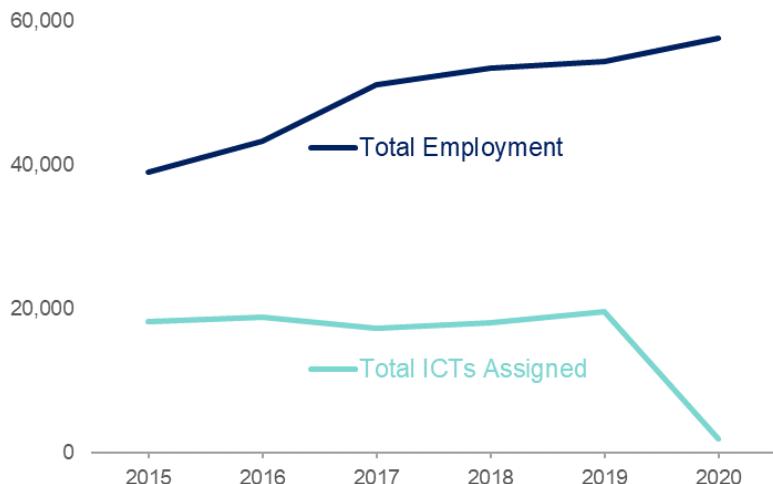
technology sector meant that they were constantly having to upskill their staff in new technologies and is partly a reason why a shortage of skills exists within the sector.

Below, we assess how the top users of ICTs in the IT sector use the route, and analyse how the route might affect employer competitiveness, service prices and incentives to train UK workers in the IT sector.

Trends in the use of the ICT route

ICT migrants make up a large share of the UK workforce among the top users of ICTs in the IT sector. Figure 3.14 below shows the total number of ICT visas assigned²² by the top users in the IT sector against the total employment in those firms between 2015 and 2020. There was a 50% increase in the total number of employees between 2015 and 2020, whilst the number of ICT visas assigned remained stable until 2020, when only 1,950 ICTs were assigned. The faster growth rate of total employment suggests that ICT migrants are not replacing domestic workers. Note that this assumes that the increase in total employment is also an increase in domestic skilled worker employment, rather than migrants being employed under the SW route. Furthermore, the low unemployment rates in these IT professions mean that it is unlikely that ICT migrants are being employed over UK residents who were willing and available to do the work.

Figure 3.14: Total employment and total ICT visa applicants by the top 10 employers of ICTs in the IT sector



Source: Home Office Management Information, ONS (IDBR data)
Certificate of Sponsorship (CoS) data 01 Jan 2015 - 31 Dec 2020

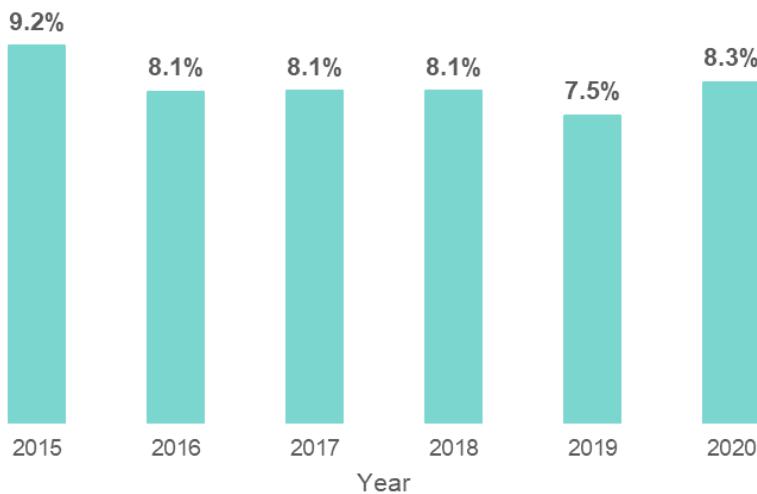
Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

²² 97% of these ICTs are on third-party contracts.

Competitiveness

The top users of ICTs in the IT sector have a primary SIC code of 62020 (computer consultancy activities), 62090 (other IT and computer service activities) or 62012 (business and domestic software development). Figure 3.15 below shows the combined share of turnover²³ of the top users of ICTs in SICs 62020, 62090 and 62012 from 2015-2020.

Figure 3.15: Turnover share over time of the top 10 ICT users in the UK in SICs 62020, 62090 and 62012



Source: IDBR

Note: Financial turnover, not turnover of staff

The turnover share for these top users in the IT sector decreased from 9% in 2015 to 8% in 2020, despite a small increase in use of the ICT route during the same time period. The top employers of ICTs have the biggest market share in SIC 62090 – around 18% in 2019, whilst this share is lower in 62020 and 62012. Overall, the low and flat turnover share among the top users suggests that the ICT route does not give these firms a substantial competitive advantage over other firms in the sector.

Service prices of the firms

There is evidence that some ICT sponsors use the route to facilitate outsourcing. Some stakeholders explained that they used the ICT route to familiarise their employees with a client in the UK. The ICT migrant would then return to their home country and continue to work for that client. This process enables users of the route to improve their outsourcing service from abroad. This in turn provides a better service to UK firms that use these services.

²³ Defined as the total turnover of these firms, divided by the total turnover of all firms in these sectors.

The ease of using the ICT route, and its use in facilitating outsourcing potentially gives international IT firms an advantage over domestic IT firms. However, this is only if they are competing in the same markets. It may be the case that smaller, domestic IT firms provide bespoke, specialised services, whereas the big IT firms provide mass technology transformation. In this case, the services offered by the top users of ICTs may even be complementary. Even if the route does give a competitive advantage to international users of the route, it is likely that the most inefficient domestic firms will be outcompeted, raising average productivity in the sector.

Incentives to train the resident labour force

Perhaps of more concern is that the routine availability of labour from abroad may disincentivise firms from training and hiring UK workers. This is of special consideration as most of the workers are in the technology sector – a high growth sector where the continued upskilling of the domestic workforce is needed to maintain international competitiveness. DCMS in their 2016 digital skills report²⁴ concluded that “*the relative ranking of the UK, in terms of investment in IT and utilisation compared to other major countries, is slipping.*”

The [Kalifa Review of UK Fintech](#) argues that targeted interventions are required to address the Fintech skills gap, including retraining and upskilling adults, enhancing access to global talent and growing the pipeline of domestic talent.

We used the 2019 APS to analyse whether the training prospects of workers in the top 4 ICT occupations (all in the IT sector) are different to the training prospects in other RQF6+ jobs. We found that 12.6% of workers in the top 4 ICT occupations had undergone some training in the last four weeks. This compares to 17.7% across all other RQF6+ occupations. However, the figure for all other occupations is skewed by the healthcare profession where 30.1% of individuals had undergone training in the last 4 weeks (and there are many more workers in this industry). 13.8% of RQF6 workers in the professional services industry – one that is more comparable to these IT jobs – had undergone training in the last 4 weeks. This is not very different from the figure in the top 4 ICT jobs. This analysis therefore finds no evidence that the ICT route is significantly affecting the training prospects of resident workers.

Fiscal impacts

For its 2018 report on EEA migration, the MAC commissioned Oxford Economics to undertake analysis to understand the fiscal impacts²⁵ of migrants. Oxford Economics estimated that across the whole migrant population (that included various household compositions and visa types) the net fiscal contribution becomes positive when the household’s income is between £30,000 and £40,000 per annum for 2016/17.²⁶ Most ICT migrants are therefore likely to have an overall net positive fiscal contribution due to the minimum salary threshold of £41,500.

²⁴ [DCMSDigitalSkillsReportJan2016.pdf \(publishing.service.gov.uk\)](#)

²⁵ The difference between tax and public spending for UK government

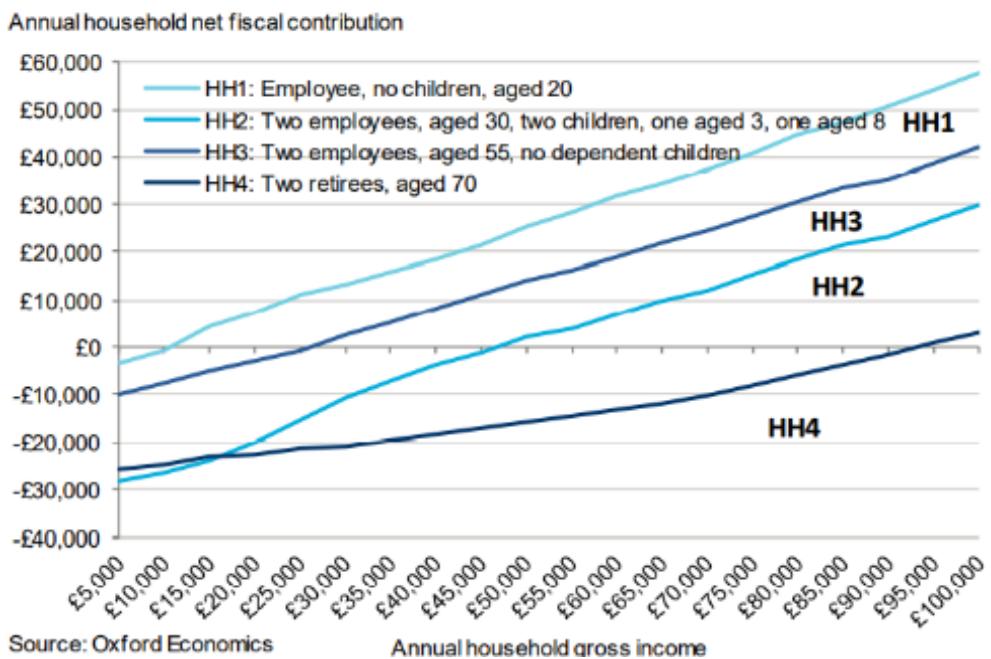
²⁶ [Oxford Economics- The Fiscal Impact of Immigration on the UK](#)

According to the entry clearance visa dataset²⁷, on average each ICT worker brings in 0.95 dependants compared to 0.71 on the SW route. It is considered unlikely that this is as a result of the design of the ICT route and instead likely due to the different age and skill composition of the ICT route compared to the SW route. ICT dependants can work in the UK although there are no data on whether they do so in practice.

The Office for Budgetary Responsibility (OBR) identified three main stages of an individual's fiscal lifecycle²⁸. First, between birth and leaving full-time education, an individual typically poses a net fiscal cost. Second, throughout their working-age period, they will typically make a net fiscal contribution. Finally, in retirement, that individual will typically consume more public services and pay little tax, resulting in a net fiscal cost.

ICT applicants fall into the second stage of the fiscal lifecycle which further supports the argument that they make a net fiscal contribution. The scale of impact may differ by migrant family based on the number of, age and working status of dependants, but is likely to be positive due to the salary threshold. As switching to the SW route is permitted, ICT migrants and their dependants may also stay in the UK longer term leading to settlement.

Figure 3.16: Annual net fiscal contributions by household



Source: [Oxford Economics](#)

Notes: Chart taken directly from Oxford Economics Report

Figure 3.16 above shows how the composition of different migrant households affects their net fiscal contribution. The breakeven annual income can range from £10,000 up to £30,000 depending on their age and

²⁷ [Managed migration datasets - GOV.UK \(www.gov.uk\)](#)

²⁸ Office of Budget Responsibility, Fiscal Sustainability Report, July 2013

household size, for a household with only migrant adults. The fiscal implications of raising children mean the household needs to earn around £45,000 to contribute positively to public finances.

The Oxford Economics 2018 report broke down both the revenue and expenditure components of public finances that migrants contribute to. Indirect taxes made up the largest proportion of the revenue components. Migrants may have less disposable income than their domestic counterparts as they may send remittances out of the UK to family abroad. Hence, they may spend less on products and services in the UK, resulting in lower VAT or duty payments. For this reason, the amount of indirect taxes they pay may be less than their domestic counterparts.

Income Tax

Average income tax for ICTs will be higher than their domestic worker and SW route counterparts due to the higher average salaries of the route. In 2019, the average ICT salary was £65,400 in comparison to the £51,800 for the SW route. However, ICTs may not be in the country for the duration of their whole contract, and they will not pay income tax or use public services when they are not residing in the UK. In some scenarios it is possible they will pay less income tax compared to the SW route. ICT workers are more likely to be eligible for tax free allowances due to the temporary nature of the work they do. Allowances may include accommodation, travel, and subsistence. A maximum of 30% (40% for the graduate trainee route) of the salary package can be used as accommodation allowance. The implications of allowances are further explored in Chapter 4.

National Insurance Contributions (NICs)

HMRC provides a National Insurance Contribution exemption for 52 weeks for posted workers from particular countries who are employed for a time in the UK in pursuance of an employment that is mainly outside the UK. This period can also restart if a migrant leaves and re-enters the UK, dependent on the circumstances. ICT migration is classified as temporary, providing ICT migrants the NIC exemption advantage in comparison to SW route migrants who may not meet the relevant conditions to benefit from the exemption. Applications from select countries (including most EU countries²⁹) can apply for continued home social security coverage due to the Trade and Cooperation Agreement and the various Reciprocal Agreements (Double Contributions Conventions) in place. The NICs exemption provides an advantage for both the employee and employer.

Allowances

The permitted tax exemptions on expenses and allowances are the same for resident workers, SW migrants, and ICT migrants. However, ICT workers are more likely to be eligible for tax-free accommodation allowance due to the temporary nature of the work they do. The only allowances that count towards the salary threshold and are eligible for tax exemptions are accommodation allowances. HMRC's general rule is that an employee

²⁹ [New employee coming to work from abroad - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/new-employee-coming-to-work-from-abroad)

who attends a temporary workplace for a period of up to 24 months can obtain relief for accommodation allowance.

Firms that use ICTs extensively have pre-existing agreements with HMRC that define which allowances are tax-exempt, but these may vary by firm. As we do not have access to these agreements, we are not able to analyse the scale of tax exemptions from the use of allowances. The Home Office Management Information is also limited and not all employers that pay allowances provide a disaggregated figure in applications.

Fiscal expenditure

Analysis by Oxford Economics found that social protection (excl. pensions) and health were large components of fiscal expenditure for migrants³⁰. As there is no requirement for the ICT migrant to spend the duration of their contract in the UK, they may utilise public services less compared to resident workers or SW migrants. ICT workers will also have to pay the Immigration Health Surcharge (unless applying from outside the UK for less than six months). According to OBR estimates, those aged 15-45 are the lowest cost to the health care system with it rising slowly from 45 to 65 where there is a large increase.³¹ We would expect, with an average age of 34, ICT migrants to fall disproportionately into the lower band. As the ICT is a temporary route, migrants are unlikely to still be in the UK when their health costs begin to rise, unless they switch to a route that allows settlement.

Most ICTs will positively contribute to public finances due to the high salary threshold despite the National Insurance exemption that is in place. This assumes that they are likely to be in the second stage of the fiscal lifecycle and hence have lower demand for public services. However, there will be some outliers to this. Some ICT workers will migrate to the UK with their whole family for a temporary amount of time. If their family includes children, then there is a higher chance that they will be a net fiscal cost due to additional education costs. Overall, we expect the ICT route to have a positive fiscal impact given the age of ICT workers and relatively higher salary threshold.

Regional impacts

Figure 3.17 shows that the majority of ICTs are in London which accounts for 42% of total visas in 2019. However, these data are based on where the business makes its application and so the migrant may be working elsewhere.

Given the lack of location data it is not possible to identify regional variation of the impact of the ICT route. However, some stakeholders told us that they thought the salary thresholds (conventional or graduate route) should be lowered or considered in line with variations in salaries across regions. In our 2020 report on the Points-Based System and Salary Thresholds³², the MAC concluded that regional salary differences were not

³⁰ [Oxford Economics](#); analysis found that ‘social protection (excluding pensions)’ and ‘health’ were largest components of fiscal expenditure for migrants

³¹ [Fiscal sustainability report - January 2017 - Office for Budget Responsibility \(obr.uk\)](#) Chart 3.7

³² [Migration Advisory Committee \(MAC\) report: points-based system and salary thresholds - GOV.UK \(www.gov.uk\)](#)

substantive enough to justify the added complication to the system. This is likely to be even more so for ICT visas, which are generally paying a much higher salary than under the general work route.

Figure 3.17: 2019 ICT destinations based on address of employer



Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Jan 2019 – 31 Dec 2019

Notes: Based on Address in HO Management Information which may not be where the migrant is based

Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

Conclusion

The impacts of COVID-19 have been far reaching and likely to influence long term work patterns which in turn could impact on migration. A CAGE report³³ (2021) says that in the post pandemic period we are “likely to see an ‘80:20’ or possibly ‘70:30’ split between non-remote and remote work”. They also state that the data indicates that “the frontier of what kind of work can be done remotely has been pushed out in administrative and sales occupations.”

³³ <https://warwick.ac.uk/fac/soc/economics/research/centres/cage/manage/publications/bn32.2021.pdf>

Stakeholders provided evidence on the implications of COVID-19 and trends in remote working. Whilst some employers stated that greater use of IT and collaboration software will make it easier for more remote working in future, others argued that post pandemic, the benefits that come from close proximity would result in a return to some level of face-to-face working. We will be interested to see how the post pandemic work models develop and the impact that this has on visa applications and where and how work is carried out.

Based on existing and more up-to-date evidence, our view is that on balance the route delivers benefits to the UK economy. We identified positive productivity, trade, fiscal and UK firm impacts. We do not think that there is substantive evidence to support suggestions that the route is significantly undercutting or displacing UK resident workers. Rather, we think the evidence suggests that the route is providing valuable additional labour supply to occupations that are in shortage – both domestically and globally.

In the next chapter we make recommendations on the rules for the route, informed by the evidence presented in this chapter.

Chapter 4: Technical rules

Introduction

In this chapter, and within each section, we explain the current policy rules and provide recommendations (where appropriate) for the Home Office on the rules for the Intra-Company Transfer (ICT) route. Our advice is based on our analysis of the quantitative and qualitative evidence. This chapter examines the rules associated with the ICT route covering:

- Salary and skills thresholds;
- Graduate trainee threshold;
- High earner threshold;
- Immigration skills charge;
- Allowances;
- Length of time employed overseas before eligible for ICT;
- English language requirement;
- Switching and settlement; and
- Technical rules compliance.

Salary and skills thresholds

This section reviews the skills and salary thresholds for ICTs. We review the background for the skills threshold of the route, as well as the stakeholder evidence related to it. We also review the rationale for salary thresholds and their compatibility with the ICT route. We then review the current salary threshold and analyse whether it is fit for purpose or needs to be altered.

A requirement of the General Agreement on Trade in Services (GATS) is that countries must allow for the temporary presence of intra-company transferees who are senior managers and specialists – the ICT route in the UK is specifically designed to fulfil this obligation. As illustrated in Chapter 1, some countries operationalise this requirement by setting general definitions of what constitutes a senior manager or specialist which must then be interpreted by immigration officials on a case-by-case basis. The advantage of this approach is that it tries to closely match the eligible jobs to the GATS commitment. The disadvantage is that it introduces significant uncertainty into the process and requires immigration officials to make potentially very difficult decisions on what constitutes a senior manager or specialist in occupations that they have no particular knowledge about.

The UK, on the advice of the MAC, has historically taken an alternative approach. The eligibility for the ICT route has been based on a combination of skills and salary thresholds that seek to approximate senior managers and specialists. The current skill level threshold for the route is set at Regulated Qualifications

Framework (RQF) level 6 or above (broadly equivalent to graduate level occupations).³⁴ To apply for the ICT route, an individual must have a job offer for an eligible occupation that meets this skill requirement.³⁵ As well as having a job offer for an eligible occupation, anyone applying for an ICT visa must earn at least the £41,500 general salary threshold amount or the going rate (the 25th percentile of annual earnings for the occupation), whichever is higher.

The advantage of this approach is that it is simple to implement and requires no individual judgment from immigration officials, thereby increasing certainty for businesses. However, it is undoubtedly broader in scope than the requirements under GATS. We continue to believe that the approach followed by the UK is the preferred option. Furthermore, given the ability of firms using the ICT route to alternatively use the Skilled Worker (SW) route for the same workers, there seems limited benefit in making eligibility for the ICT route more complex, as this would just generate a transfer of applications from one route to another.

Skills threshold background

In April 2011, the minimum skills threshold for the Tier 2 General (T2(G)) and the ICT immigration routes were both increased from RQF3 (broadly equivalent to A-levels and equivalents in the Devolved Nations) to RQF4 (training requirements equivalent broadly to Certificate of Higher Education/CertHE, Higher Apprenticeship or Higher National Certificate³⁶). In June 2012, they were increased again to RQF6. The government made these changes because, at the time, they felt that the UK had a sufficient source of migrants above RQF3 because of freedom of movement within the European Economic Area (EEA) as the UK was a member of the European Union.

In the 2018 report EEA migration in the UK³⁷, the MAC noted that this threshold would need to be reconsidered if the UK no longer had access to the free movement of labour within the EEA as there could be possible shortages in occupations below RQF6. The MAC recommended that in this case, the T2(G) route should be opened to all jobs at RQF3+.

From 01 January 2021, following the UK's withdrawal from the European Union and access to the EEA, the T2(G) route was replaced with the SW route as the Government introduced a new points-based immigration system. The skills threshold for the SW route was set at RQF3+, as we had previously recommended. The threshold for the ICT route however remained at RQF6.

Skills threshold – stakeholder evidence

Our Call for Evidence (CfE) and stakeholder events encompassed a range of views regarding the ICT skills threshold. The general view amongst those responding was that the current skills threshold was set

³⁴ [Qualifications: what the different levels mean | nidirect](#)

³⁵ [Intra-company visas: eligible occupations - GOV.UK \(www.gov.uk\)](#)

³⁶ [What qualification levels mean: England, Wales and Northern Ireland - GOV.UK \(www.gov.uk\)](#)

³⁷ [Migration Advisory Committee \(MAC\) report: EEA migration - GOV.UK \(www.gov.uk\)](#)

appropriately although some views were also expressed that the skills threshold should be lowered to align it with the SW route and widen the pool of skilled workers who were able to make use of the route.

Those who thought the skills threshold was “*about right*” generally said this because their organisation recruited highly skilled staff and therefore were not experiencing problems relating to the threshold, and there was also some acknowledgment that the restrictions on the route had a role in ensuring organisations did not bring in people to work in roles that could have been filled by resident workers within the UK. The point was made that the SW route provided an alternative for those needing to bring in staff at lower skill levels.

- Some businesses and representative organisations said that the ICT route is primarily used for upper management and leadership roles, and that most employees working at these levels easily meet the required skills threshold.
- A similar view was expressed in relation to specialist and technical roles, such as those advertised by IT companies (other examples included architects and senior scientists), which require a minimum level of education (degree) to match the complexity of the work, so the ICT skills threshold does not impact on the organisation’s ability to recruit these people.
- Some organisations also expressed the view that it was right to have a threshold that was set at a high level, in order to ensure that the “*best and the brightest*” employees are recruited to work on the ICT route, and that organisations maintain a talent pool of high quality. The view was also put forward that it was right not to bring in lower skilled or lower qualified individuals from abroad when they can be hired locally in the UK – although other organisations thought that the level could be adjusted downwards without impacting on this, as discussed below.

“We bring employees to the UK as assignees and typically we would invest in this programme for those with that level of qualification.”

CfE, Employer, Manufacturing

“We believe the skill level for the ICT is about right. The skilled worker route skill level has been dropped to RQF 3 or above, and this accommodates employers with being able to sponsor medium to high skilled workers.”

CfE, Professional services company

Those who thought the skills threshold was “*too high*” or “*much too high*” often said this because some specialist technical roles (for example, in the automotive, aerospace, or energy fields, including some leadership and management roles) do not meet the ICT skills threshold but were said to be essential for short-term projects. An example occupation was engine assembly fitters, which comes under SOC code 5223. In their opinion, the skills offered by employees doing such work are hard to find and vital, even if not at RQF6+ level - particular gaps were identified at skilled trade and technician level. This was particularly raised in relation to companies working across Europe. These employers would like the ability to bring such employees into the UK to carry out essential work: the view was therefore expressed that the skill threshold for the ICT route should be aligned with that of the SW route (RQF3+), as still representing a high skills threshold but not

excluding a proportion of the skilled workforce. This was also a view expressed by some of those in the meetings we held with stakeholders.

"The salary threshold and skills level also [don't] lend themselves to transfer project or launch support for car build/launch phases of a vehicle. Where our business may experience unplanned launch issues, we would like to transfer vehicle launch support or a project support team on a short-term basis e.g. up to 12 weeks from within our production network of German plants. For example, it would be useful to transfer skilled mechanical or electrical rectifiers from our German plants to work with UK colleagues fixing issues in the build process for a short period of time."

CfE, Employer, Manufacturing

A few individual respondents on the representative organisation questionnaire felt that the ICT skills threshold was "too low" or "much too low" and said that a higher bar, e.g. postgraduate qualifications, should be set.

Recommendations

The ICT route is primarily designed to allow for senior managers and specialists to work temporarily in the UK, to meet the UK's GATS commitments. If the skills threshold was extended beyond RQF6+ down to RQF3+, then it would cover far too many jobs outside of that definition. If an employer does want to employ such workers in the UK, then the SW route is available to them, although that route is intended and designed to facilitate long term immigration and not temporary visits.

Recommendation: The skills threshold for the Intra-Company Transfer route should remain at RQF6+.

Salary threshold background

The salary threshold was originally set at £40,000 in 2011 and was updated annually based on earnings data for resident workers until 2015, when it reached the current level of £41,500, but the methodology behind the original figure is unclear.³⁸

The MAC last reviewed the salary threshold for ICT visas in 2015, in the report Review of Tier 2³⁹ and concluded that there was no evidence that a lower salary threshold would be a suitable proxy for senior managers or specialists, for whom the ICT route is intended. Therefore, the MAC did not recommend changing the threshold at that time. Since 2015, the threshold has not been subject to an annual update.

Salary thresholds support the UK's aim to have a high skilled, high productivity economy. Real wage growth in the UK was typically higher before the 2008 financial crisis - the average annual growth rate between 2001 to 2008 was 2.3% year-on-year.⁴⁰ Since the crisis annual average wage growth has been much lower - on average

³⁸ [Immigration Rules: statement of changes - GOV.UK \(www.gov.uk\)](#)

³⁹ [Migration Advisory Committee \(MAC\) review: Tier 2 migration - GOV.UK \(www.gov.uk\)](#)

⁴⁰ [Earnings and working hours - Office for National Statistics \(ons.gov.uk\)](#) Real average annual wage growth rate is based on average yearly growth rate between January 2001 to January 2008.

0.3% year-on-year between 2010 and 2020.⁴¹ A minimum salary threshold ensures that migrant workers are participating in higher-paid occupations within the workforce, which can help support a higher level of productivity and competitiveness in the economy as we outlined in Chapter 3.

Higher annual incomes are generally associated with a higher net fiscal contribution in the economy. The MAC previously considered the fiscal consequences of migration in the 2018 report EEA migration in the UK: Final report⁴². Analysis in this report confirmed this, showing the positive relationship between annual household income and annual household net fiscal contribution. The analysis showed a ‘break-even’ point where migrant workers earn enough to have a positive net fiscal contribution. This was around £30,000 for EEA migrants and £38,000 for non-EEA migrants at the time of the report, depending on age and family structure of dependants. Therefore, minimum salary thresholds can ensure that migrant workers entering the UK labour market are not a burden on UK public finances and have a net positive fiscal impact – although salary thresholds that are too high would lead to a lower contribution to public finances if significant numbers of net fiscal contributors are excluded.

There is some evidence from the qualitative research interviews indicating that some of those interviewed said they were being paid less than their UK counterparts, which (if correct) could indicate undercutting; there is also evidence indicating that the contrary also happens, with some participants saying their company applied banding arrangements to make sure employees were paid the appropriate national rate. Our analysis in Chapter 3 found that salaries paid to migrants tend to cluster around existing salary thresholds; however, overall, we concluded that there was little evidence of undercutting or displacement of resident workers given the current salary thresholds. Some employers in the CfE referred to “*artificially inflating*” salaries to meet the threshold or topping them up with allowances (this is discussed later).

Differentiating from the Skilled Worker route

Both the SW route and the ICT route have similar requirements: applicants for both routes must either be paid the minimum salary threshold, or the going rate (based on the 25th percentile of annual earnings data for the occupation), whichever is higher. However, the 2 routes serve different purposes, as the ICT route is aimed at senior managers and specialists: this is something that was widely recognised by those responding to our CfE, and comparative views on the 2 routes (and on switching between the 2) are discussed later in this chapter. As a result, there is a clear rationale to determine the salary threshold differently.

The skill threshold for the SW route is currently set at RQF3+ whereas the ICT route has a skill threshold of RQF6+ and we have recommended that this difference is retained. The occupation specific salary threshold for the SW route is the 25th percentile of earnings data within the relevant occupation and the minimum salary threshold is lower than the ICT route at £25,600 as it is based on all RQF3+ occupations.

⁴¹Earnings and working hours - Office for National Statistics ([ons.gov.uk](https://www.ons.gov.uk)) Real average annual wage growth rate is based on average yearly growth rate between January 2010 to January 2020.

⁴² [Migration Advisory Committee \(MAC\) report: EEA migration - GOV.UK \(\[www.gov.uk\]\(https://www.gov.uk\)\)](https://www.gov.uk/government/publications/eea-migration-in-the-uk)

Salary thresholds – stakeholder evidence

The opinions expressed on salary thresholds for the different ICT routes by respondents from both the CfE and stakeholder events varied. There was generally a divide between those that felt the thresholds were set appropriately, and those that thought they were set too high, although a small number also thought they were too low.

When asked about their views on the salary threshold for the main ICT route, CfE respondents to both the employer and representative organisation questionnaires tended to say they thought it was “*about right*” or “*too high/much too high*”, with comparatively fewer respondents answering that the threshold was “*too little*”. To some extent this is unsurprising as employers will always tend to want to retain the greatest possible flexibility in setting salaries. Representative organisation respondents working for Professional services companies dealing with immigration on behalf of others generally stated that the threshold was “*too high*”.

Among those who said the salary threshold was “*about right*”, reasons for the answer included:

- The use of allowances such as accommodation in order to help meet the salary threshold. Some of these respondents stated the salary threshold could only be met with the use of these allowances, and that if they were removed, the threshold would be too high, especially for more junior employees. It was also noted that this helped offset the disparity between the salary threshold for the SW route and the ICT route;
- A perception that as the ICT route is based on roles skilled at RQF6+, this is therefore a reasonable salary threshold for senior and highly trained employees (in line with the original purpose of using the salary threshold as a proxy for senior employees). If the skills threshold were dropped to match that of the SW route, a lower salary threshold should be applied;
- A way of ensuring employee welfare: the high salary threshold ensures that the employee’s lifestyle in the UK is not compromised, and they can cover their living expenses; and
- Some respondents also made the point that the option to manage salaries below the threshold through the SW route also existed, and that their organisations would use this to bring people below the ICT salary threshold into the UK if they needed to do so.

“We feel that the salary range for the Intra Company category is about right from our organisation’s perspective. Firstly, the skill levels we expect and require are at a high level; this is to ensure our clients’ requirements are met and we meet the project demands. We take this minimum requirement into consideration but more than often pay our employees more [than] the minimum; secondly our employees’ lifestyle is not compromised, and they are paid adequately enough to take care of their living expenses. At the same time the salaries are reviewed, and market research is carried out to ensure we are in line with or above the salary levels within the industry and resident labour market in the UK”.

CfE, Employer, Information and Communication

Those who said the main salary threshold was “*too high*” or “*much too high*” said this was because:

- They have to inflate salaries artificially to meet the threshold, making overseas talent too expensive and therefore impacting on company and client project margins. This was also said to distort salary banding

- within organisations, creating the potential for equal pay issues among colleagues who are already in the UK and forcing the company to limit who they brought to the UK;
- The average salary being lower than the ICT salary threshold of £41,500: an example of this given by one respondent was architects, where the average salary for architects that have been registered in the UK for less than 5 years is currently £34,000, and £40,000 for those who have been registered for more than 5 years (who might be considered to fit into the senior/specialist staff category);
 - The salary threshold not fitting all countries equally: some respondents said that although the threshold was appropriate for high average salary countries (such as the USA or Singapore) it was less appropriate for countries with lower average salaries (such as Poland or India);
 - The salary threshold being applied across the UK as a whole: this was a view expressed by both the Scottish Government and the Northern Ireland Executive, and among employers who referred to the higher salaries paid in London and the South East: respondents indicated that regional salary thresholds would help to address this to enable employers outside London to access workers through the route. The Scottish Government suggested that the ICT route might offer an opportunity to pilot regional salary thresholds. In their comment on salary thresholds, the Scottish Government referred back to its comments on our 2019 commission on the Points-Based System, where it indicated its view that high salary thresholds had a disproportionate effect on women, young people, part-time workers and those working in rural and remote communities;
 - The disparity between the SW route and ICTs, given the fact that the basic salary threshold for the SW route has been reduced to £25,600 (or the going rate) whereas for ICTs there has been no similar reduction – though it should be noted the skill threshold for the SW route has been reduced, whereas the skill threshold for the ICT route has not changed. Several respondents said they would like the basic salary threshold for ICTs to be lowered to the same amount as for skilled worker applications in order to bring more occupations into scope and avoid companies choosing to use the SW route to pay a lower salary; and
 - The interaction with other fees and charges, for example the cost of maintaining a Sponsor Licence and paying the Immigration Skills Charge. Although this was not a view that was raised widely, it was said that having to meet the high ICT salary thresholds on top of these existing costs makes the route less palatable.

"Our members have told us that the salary threshold is too high and does not reflect the production sector's average salaries. Production companies often recruit internationally as there is a shortage of certain skills and staff in the UK. The salary threshold is much too high for those roles and the route would only be for more senior production staff".

CfE, Representative organisation, Arts, Entertainment and Recreation

Other suggestions

- A further suggestion, arising from the Scottish Government's engagement with stakeholders, was to use a multiplier of the National Minimum Wage (NMW) as a threshold, uprating this automatically as changes to NMW came into effect, or the Real Living Wage if further assurances on undercutting were needed;
- Implementing a single-category salary requirement to simplify and streamline the route and reduce administrative burden, as happens in other countries, was also suggested; and

"We would also welcome the implementation of one category level minimum salary requirement, which would serve as the only minimum salary requirement for applications in the main Intra Company Transfer route. This would reduce the administrative pressure on employers to check 'going rates' on a per application basis. We do not have any comparable experience of referring to 2 separate minimum salary requirements in any other European country where we make applications for ICT or equivalent permits. Immigration authorities in Ireland do make use of the Standard Occupational Classification System (SOC 2010) framework, although this is solely to determine if an occupation is 'highly skilled' and eligible for a work permit in the Critical Skills Employment Permit category. The minimum salary for an Intra Company Transfer Employment Permit in Ireland is currently 40,000 EUR and does not vary by occupation or 'going rate' for the role."

CfE, Employer, Information and Communication

- Using a wider range of data on which to base 'going rate' calculations.

"We believe – and support – that minimum salary levels should be reviewed periodically, in order to assure pay parity and no 'undercutting' of local workers by overseas migrants. [Company] brings associates into the UK for value not cost. We do though recommend that a 'basket' of surveys be used for this purpose, rather than relying solely on the Annual Survey of Hours and Earnings (ASHE), as there are particular characteristics to the IT industry which ASHE arguably is not able to fully reflect. Other data sources to use should include Xpert HR."

CfE, Representative organisation, Information and Communication

Analysis

We believe that the ICT route should be distinct from the SW route and, as set out in the GATS obligations, be aimed at senior managers and specialists, with an appropriate salary threshold to match this level. To set a general salary threshold where it serves as an appropriate proxy for senior managers and specialists, we could try to identify occupations which are senior managers and specialists using the data available. The Annual Survey of Hours and Earnings (ASHE)⁴³ is the most comprehensive data source for information relating to earnings in the UK and is undertaken by the Office for National Statistics (ONS) on an annual basis.

For these reasons we have decided to use ASHE as the source for earnings data, in line with our previous analysis and recommendations on the SW route. It is the largest annual salary survey conducted in the UK and provides reliable data which can be used for setting salary thresholds. The ASHE dataset uses the Standard Occupational Classification (SOC) of classifying occupations. We then choose how to define which SOC codes are senior managers and specialists.

⁴³ [Annual Survey of Hours and Earnings \(ASHE\) - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

In the 2012 report *Limits on Migration*⁴⁴ the MAC set out 9 groups of SOC classifications which could potentially be used to identify senior managers and specialists. That analysis is repeated here, using the most recent ASHE earnings data. The options were based on the previous SOC classifications (SOC 2000) and have been updated for the new SOC 2010 classifications. Table 4.1 below lists the occupations used for this analysis.

Table 4.1: Occupations used for analysis

| Options | Description |
|---------|---|
| 1 | SOC Major Group 1 |
| 2 | SOC Major Group 1 & 2 |
| 3 | SOC Major Group 1, 2 & 3 |
| 4 | SOC skill level = 4 |
| 5 | SOC skill level = 3 & 4 |
| 6 | Occupations which are RQF6+ |
| 7 | Occupations which are RQF4+ |
| 8 | 4-digit SOC contains the words "senior" or "director" |
| 9 | 4-digit SOC contains the words "manager" |

SOC 2010 includes nine major groups of occupations and the ONS assigns each occupation a skill level. Table 4.2 below describes the major groups 1-3 used for the options above. The skill levels assigned to occupations within the SOC are designated by the amount of time it would take an individual to become fully competent at the tasks associated with their occupation. Skill level 3 relates to occupations which require a body of knowledge and usually a period of post-compulsory education, but not a degree level education. Skill level 4 relates to 'professional' occupations which will usually require a degree or equivalent period of work experience.

⁴⁴ [Limits on migration for Tier 2 \(general\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Table 4.2: Description of SOC major groups 1-3

| Major Group | General nature of qualifications, training, and experience for occupations in the major group |
|---|---|
| 1: Managers, directors, and senior officials | A significant amount of knowledge and experience of the production processes and service requirements associated with the efficient functioning of organisations and businesses. |
| 2: Professional occupations | A degree or equivalent qualification, with some occupations requiring postgraduate qualifications and/or a formal period of experience-related training. |
| 3: Associate professional and technical occupations | An associated high-level vocational qualification, often involving a substantial period of full-time training or further study. Some additional task-related training is usually provided through a formal period of induction. |

Source: ONS

In previous reviews of the ICT salary threshold in the 2012 report Limits on Migration⁴⁵ and the 2015 report Review of Tier 2⁴⁶, the MAC used National Qualification Framework (NQF) levels for Option 6 and 7. In this report we have updated these to use the Regulated Qualifications Framework (RQF) instead, which has replaced NQF. RQF levels are based on general and vocational qualifications required by the occupation. Table 4.3 describes RQF levels included in the options used.

Table 4.3: Requirements for RQF levels 4-6

| RQF Level | Qualifications |
|-------------|---|
| RQF Level 4 | Certificate of higher education (CertHE) Higher apprenticeship Higher national certificate (HNC) |
| RQF Level 5 | Diploma of higher education (DipHE) Foundation degree Higher national diploma (HND) |
| RQF Level 6 | Degree apprenticeship Degree with honours - for example Bachelor of Arts (BA) Hons, Bachelor of Science (BSc) Hons Graduate certificate Graduate diploma |

Source: www.gov.uk

⁴⁵ [Limits on migration for Tier 2 \(general\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/publications/limits-on-migration-for-tier-2-general)

⁴⁶ [Migration Advisory Committee \(MAC\) review: Tier 2 migration - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/publications/migration-advisory-committee-mac-review-tier-2-migration)

The MAC assigns RQF skill levels to occupations using a methodology first developed for the 2008 Shortage Occupation List report⁴⁷, and used most recently in the 2020 Review of the Shortage Occupation List report.⁴⁸ The methodology evaluates occupations against 3 skilled indicators:

- The skill level defined in the occupational classification hierarchy;
- Formal academic and vocational qualifications; and
- Earnings

If an occupation meets at least 2 out of the 3 indicators, then it is determined to be skilled to that level or higher. The methodology therefore assigns each occupation to one of two groups, either at or above a given RQF skill level, or below the given RQF skill level.

To review the salary threshold, we used the ASHE dataset to find the median and 25th percentile of annual gross salary for each of the 9 options identified in Table 4.4. For comparison, we also included an additional option (Option 10) which contains the occupations eligible for the SW route.

Table 4.4: Summary of median and 25th percentile salaries for each option

| Options | Description | Annual Gross Pay 25 th Percentile (£) | Median Annual Gross Pay (£) |
|---------|---|---|--------------------------------|
| 1 | 1-digit SOC = 1 | 31,400 | 45,300 |
| 2 | 1-digit SOC = 1 & 2 | 31,700 | 41,500 |
| 3 | 1-digit SOC = 1, 2 & 3 | 29,300 | 39,000 |
| 4 | SOC skill level = 4 | 32,200 | 42,000 |
| 5 | SOC skill level = 3 & 4 | 28,000 | 37,400 |
| 6 | Occupations which are RQF6+ | 33,200 | 43,200 |
| 7 | Occupations which are RQF4+ | 31,200 | 41,000 |
| 8 | 4-digit SOC contains the words "senior" or "director" | 32,600 | 48,000 |
| 9 | 4-digit SOC contains the words "manager" | 29,200 | 41,200 |
| 10 | Skilled Worker route (RQF3+ for comparison) | 26,300 | 36,000 |

Source: ASHE 2020

The results show that the occupations in Option 8 (4-digit SOC contains the words 'senior' or 'director') had the highest median annual gross pay at £48,000, whereas Option 5 (SOC skill level = 3 & 4) had the lowest at £37,400. As expected, occupations eligible for the SW route had a lower median annual gross pay to the options chosen as a proxy for senior managers and specialists in the Intra-Company Transfer route.

⁴⁷ Recommended shortage occupation lists for the UK and Scotland, Sep 2008 - GOV.UK (www.gov.uk)

⁴⁸ Review of the shortage occupation list: 2020 - GOV.UK (www.gov.uk)

For comparison, we have also calculated what the current ICT salary threshold would have been if it had been consistently updated annually. The last time the threshold received an uplift was in 2015, so we compared the median annual gross pay for RQF6+ occupations in 2015 and 2020 using the ASHE data. This was £39,600 in 2015 and £43,200 in 2020 – showing a nominal increase of 9.2% over the period. When we uplift that earnings growth to the salary threshold of £41,500 in 2015, we get £45,300. This highlights why it is so important to consistently update salary thresholds based on the most recent earnings data, otherwise the salary threshold is effectively being lowering in real terms over time.

Recommendations

Whilst the methodology of how the original ICT salary threshold was chosen is unclear, we believe the salary threshold for the ICT route should be used in combination with the skills threshold to approximate for senior managers and specialists. For this reason, we focus on median earnings rather than the 25th percentile as we would expect more senior and specialised workers to be paid further up the wage distribution within an occupation than new entrants.

On balance, considering the various options we have presented, their median annual gross salary, and what the salary threshold would have been if it had been updated annually from 2015, we believe the most reasonable option would be Option 6: Occupations which are RQF6+. It is likely that a senior manager or specialist will hold the qualifications and/or experience needed for an occupation within this grouping, therefore we recommend using this option in order to determine the salary threshold. This option also most directly relates to the skills threshold that we have recommended.

Recommendation: The salary threshold for the Intra-Company Transfer route should be set at the median annual gross wage of occupations which are RQF6+ using data from the Annual Survey of Hours and Earnings (ASHE). This is currently £43,200.

It is also important to have an occupation-specific threshold to ensure that we are not increasing the risk of more junior and non-specialised workers accessing the ICT route simply because the occupation is high paying and to prevent undercutting of the resident workforce. Therefore, we recommend maintaining the occupation-specific thresholds.

Recommendation: The ‘going rate’ for each occupation should remain at the 25th percentile, updated annually, and the applicant must continue to meet the higher of the two thresholds.

In addition to considering the level of the threshold, we also considered how to update the threshold going forward. As the MAC recommended in the 2020 report A Points-Based System and Salary Thresholds for Immigration⁴⁹, all the salary thresholds for SW route should be updated annually.

For reasons discussed in this chapter, the salary threshold for the ICT route is set at a higher level than the SW route. To account for annual wage growth in the UK, and to maintain the difference in the salary threshold between the two routes, we believe that all the thresholds for the ICT route should also be updated annually.

⁴⁹ Migration Advisory Committee (MAC) report: points-based system and salary thresholds - GOV.UK (www.gov.uk)

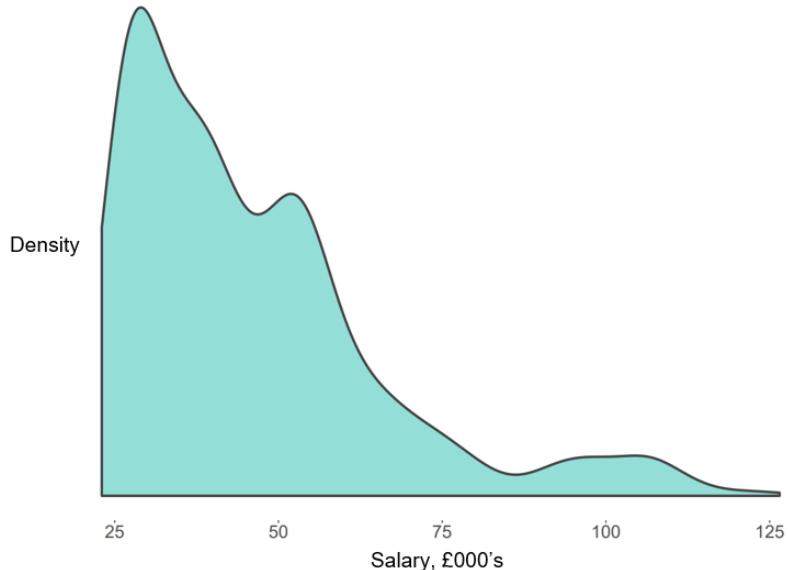
This is in line with our previous recommendation to update all the salary threshold for the SW route annually. If salary thresholds are not uprated, the threshold is effectively reduced in real terms, due to wage growth. The only sensible exception to updating would be if the data for a particular year was abnormal, for example because of survey problems.

Recommendation: All the salary thresholds for the Intra-Company Transfer route should be updated annually.

Graduate Trainee threshold

The Intra-Company Graduate Trainee visa is designed for graduates to come to the UK as part of a structured graduate training programme, with clearly defined progression towards a managerial or specialist role within the sponsoring organisation. Applicants must have worked outside the UK for the sponsor group for a continuous period of at least 3 months before they apply, and the current salary threshold is £23,000. Graduate trainees can stay in the UK for a maximum of 1 year and this must be consistent with the structure of the training programme they are on. Currently, a formal graduate training scheme is required. In 2019, 291 people used the Graduate Trainee visa compared to over 33,000 people using the regular ICT route. It is a small route but is required under the UK's GATS commitments. Figure 4.5 below shows the distribution of wages amongst those on the ICT Graduate Trainee route between April 2017 and March 2020.

Figure 4.5: Density plot of ICT Graduate Trainee salaries, Apr 2017 - Mar 2020



Source: Home Office Management Information

Certificate of Sponsorship (CoS) data 01 Apr 2017 - 31 Mar 2020

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application.

Date range widened to increase sample size

Filtered between £23,000-£150,000

This visa is aimed at new entrants to the labour market, rather than senior managers and specialists like the main ICT route. Therefore, we believe the salary thresholds should be lower to reflect that. Since graduates

that apply to use this visa could instead use the SW route where the requirements are more lenient, we believe it is appropriate to keep the salary threshold the same across the SW route and Graduate Trainee ICT route.

As expected, given that only a handful of respondents said they, or those they represented, had used the route those responding to the CfE questionnaire had little to say about the graduate ICT salary threshold, with many stating that they had “*no opinion*” on the level (the higher of £23,500, or 70% of the ‘going rate’ for an experienced employee). Among those who did express an opinion on the threshold, the tendency was to state that it was “*about right*”, although some expressed concern about whether the threshold might be too high for new graduates or those being paid a trainee salary.

While the salary was thought to be appropriate for graduates, the point was made that companies may also wish to bring in those with qualifications below RQF6 routes on a short-term basis (for example, as an apprentice or as part of a future talent programme).

“The salary threshold is feasible for graduates but doesn’t lend itself for apprentices or other future talent programmes where our business seeks to develop talent and would like to offer employees an international experience on a short term placement e.g. 3 to 4 months as part of their overall development”.

CfE, Employer, Manufacturing

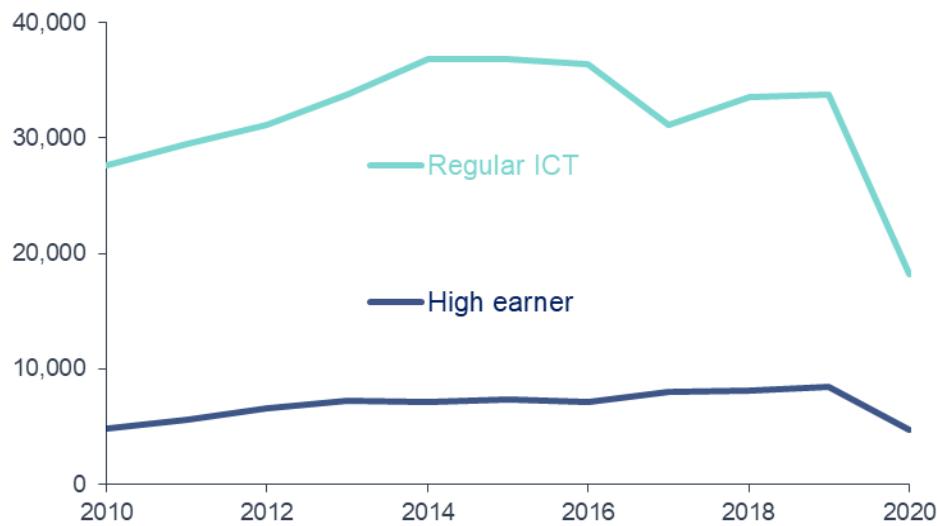
Recommendation: The salary threshold for the Intra-Company Graduate Trainee visa should be set at the same level as a graduate entrant in the SW route. This is the higher of either £20,480 or the ‘going rate’ for the occupation with a 30% discount applied.

High earner threshold

The current high earner threshold is £73,900. As outlined in Chapter 1, those meeting the high earners threshold have slightly different rules to those meeting the general threshold only: ICT migrants that earn above this amount do not have to have worked for their employer overseas for any length of time before obtaining a visa. Furthermore, ICT migrants that earn above this threshold can stay for 9 years out of a 10-year visa.

High earners make up a significant share of ICTs. 20% of ICTs assigned in 2019 were high earners (8,400 migrants) – see Figure 4.6 below. It is important to note however that being paid above £73,900 and so being defined as a high earner does not imply that such workers have less than 12 months prior work history with the employer nor that they wish to stay for up to 9 years. Many will simply be well paid senior managers and specialists. The Home Office data does not show whether an individual stayed for over 5 years, so we cannot analyse whether ‘high earners’ are staying longer than regular ICTs, nor whether such workers had less than 12 months prior employment. It is not possible therefore to identify how important the high earner rules are in practice. Some stakeholders found the lack of tenure requirement for high earners to be useful, whilst some stakeholders pointed out that nine years is a long time for a migrant (and their dependants) to become established in the UK, without becoming eligible for settlement.

**Figure 4.6: Number of high earner (>£73,900) and regular ICT visas,
2010 - 2020**



Source: Home Office Management Information, IDBR

Certificate of Sponsorship (CoS) data 01 Jan 2010 - 31 Dec 2020

Notes: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

The high earner threshold was £155,300 until April 2017. No recommendations were made on this in the MAC's 2015 Tier 2 Report. In April 2017, the high earner thresholds were split and reduced. The salary threshold for being able to stay up to 9 years was reduced to £120,000. The salary threshold for not having to meet the 12-month prior overseas employment was reduced to £73,900. In December 2020, the high earner salary thresholds were unified at £73,900.

If we uprated the £73,900 high earner threshold from 2017 in line with median earnings growth in RQF6+ jobs (from £40,900 in 2017 to £43,200 in 2020), this would give a salary of £78,100. This is at the 88th percentile of 2020 RQF6+ jobs.

Extent of use and views on purpose

Most of those responding to the CfE (over half of employers and representative organisations separately) said that they had used or represented businesses who had used the ICT visa for individuals earning £73,900 a year or more to work for the company directly, and to a lesser extent to employ these individuals to work for the company on contracts.

During the stakeholder meetings, stakeholders who said they had used the route expressed uncertainty about exactly what the purpose of the high earner route was. Stakeholders said the route was used because employees coming into the UK happened to be on a high salary, and that usually those coming in did not remain in the UK for the entire length of time allowed (9 years). This implies that the benefits offered by the high earner threshold may not be (in at least some cases) an important factor influencing usage of the route; however, when discussing the length of stay permitted on the ICT route, other respondents expressed the

strong view that offering the maximum security and stability is important in attracting global talent to the UK (as outlined further below in the section on settlement and switching).

Views on length of stay

A small number of respondents explicitly referred to the high earners route when expressing their views on the length of stay permissible on the ICT route. This is longer for high earners, who are permitted to stay for 9 years in 10, rather than 5 years in 6 as for others on the main ICT route or one year on the graduate ICT route. The comments made in relation to the length of stay for high earners were:

- The length of permitted stay works well as it is an appropriate length of time for senior management positions considering business needs and the time scale of the work they are expected to perform;
- It is excessive if the only reason for using the ICT route was to bring employees to the UK to gain experience; and
- Unclear about the reasons for having time limits on ICT visas (whether 5 years or 9) given that the visa does not lead to settlement⁵⁰.

Views on level of threshold

Although not explicitly asked in the CfE, some respondents commented on the level at which the salary threshold for high earners was set and expressed the view that it was at too high a level for this category. They said this was because:

- The threshold is higher than some SOC codes for senior roles.
- The salary is higher than would be expected for some employees who come from comparatively lower-wage countries, and who are therefore unlikely to have received an equivalent pay in their home country.

"The question does not address whether the £73,900 threshold is set correctly. We would say it is too high. If CEO roles in the occupation code 1115 is £67,300, it does not make sense why the threshold should be even higher than that."

CfE, Professional services company

Usage of the high earner threshold as an entry threshold

It also appeared from a few responses to the CfE that some employers were paying higher salaries in order to move workers to the UK on short notice to avoid meeting the requirement to have worked for the business overseas for 12 months. These employers therefore appear to consider the £73,900 figure to be in the nature of a salary threshold to be able to move the employee quickly.

⁵⁰ Those with a legal stay of 10 years or more in the UK are able under current legislation to apply for settlement.

"Our ability to meet existing and new client requirements require timely hiring and immediate movement to the UK on ICT on short notice. Paying £73,900 increases our cost per migrant to be landed on an urgent basis, hence the requirement of 12 months continuous employment with overseas company should be reconsidered and reduced to 3 -6 months / removed, which would enable us to plan, hire and deploy."

CfE, Employer, Information and Communication

Views on the high earner threshold in the Devolved Administrations

The view that the salary threshold for the high earners' category is too high was shared by the Northern Ireland Executive, although the submission also indicated that this was not felt to be causing any problems to employers. Although (as mentioned in the section on skill and salary thresholds) the Scottish Government suggested that the ICT salary threshold was too high in general, it did not comment specifically on the threshold relating to high earners.

"Neither the skills threshold of RQF6 nor the current salary thresholds of £41,500 and £73,900 (for those employed for less than 12 months) present any difficulties in the scenarios where employers would consider using the ICT. However, there is an argument that, due to the lower private sector salaries in Northern Ireland compared to the UK (i.e. NI a mean of £25,978 vs a UK mean of £32,922 as per the Annual Survey of Hours and Earnings) a lower threshold should be considered for Northern Ireland."

Written submission from Department for Economy, Northern Ireland Executive

There is no particular logic to the high earner threshold of £73,900. It is simply set at a higher level than the general ICT threshold to reflect the advantages that are given to these applicants. We have received no substantive evidence that suggests the threshold is causing major concern for users. Therefore, for simplicity and to avoid unnecessary changes as the system appears to be currently working well, **we recommend that the high earner threshold remains at £73,900. The threshold should be updated annually, using the growth rate of annual wages in all RQF6+ occupations, in line with all other thresholds.**

We recommend that we maintain the provision that high earners do not require a minimum of 12 months overseas employment with their current employer.

We recommend that we maintain the provision that allows high earners to stay a total of 9 years out of a 10-year period

Immigration Skills Charge

Currently, the Immigration Skills Charge (ISC) applies to the ICT route except for the Graduate Trainee route. The MAC proposed the introduction of the Immigration Skills Charge (ISC) in the 2015 report Review of Tier 2, and in the 2018 report EEA migration in the UK recommended extending the ISC to cover EEA citizens under a post-Brexit work immigration route (now the SW route). However, it should be noted that at the time of the 2015 report, there was an overarching government policy objective to reduce migration to the UK, including skilled migration, which the MAC had been asked to suggest ways of achieving. If the government had not had this objective, it is unclear whether the MAC would have recommended the introduction of the ISC. It was

recommended as a way to achieve a reduction in skilled migration (while noting that skilled migration is, in itself, economically beneficial), that was less economically damaging than some alternatives.

The Trade and Cooperation Agreement between the EU and the UK sets out that for ICTs, the ISC cannot apply for EU nationals from 1 January 2023⁵¹. Therefore, a decision will need to be made by then about whether the same should apply to non-EU nationals on the ICT route. Despite the EU-UK Trade and Cooperation Agreement, we believe that by not applying the ISC to all nationalities, the UK could incentivise employers to favour certain nationalities over others. However, this is less likely to be a substantive issue in the ICT route as employers do not have as much choice of nationality as the employees must already work in their overseas branch.

Perhaps unsurprisingly, those citing the ISC, whether responding to the CfE, or by other means favoured the removal, reduction, or part suspension of the ISC. Stakeholders said the ISC was costly in addition to meeting the salary threshold requirement for an ICT visa and other costs such as the cost of applying for a licence. Some suggested that overall costs associated with getting an ICT visa made the ICT route less appealing, or prohibitive in comparison to the SW Visa which no longer asks the employer to carry out the RLMT and allows employers to sponsor workers on lower salary thresholds.

"The cost of an international company doing business in the UK already includes needing to apply for and maintain a sponsor licence and effectively paying a £1,000 per year of the visa tax in the form of the Immigration Skills Charge. Having to meet the high ICT salary thresholds on top makes it even less palatable."

CfE, Professional services company

The Scottish Government said it welcomed the upcoming changes in the ISC, that means it may no longer be levied on employers who transfer workers from EU countries as a result of EU-UK negotiations, and which they said meant that large businesses could potentially save £5,000 per employee they sponsor via the ICT visa. This was said in the context of arguing for a review and expansion to the business visitor route to meet the short-term needs of businesses (as discussed further in the chapter on secondments and short-term working).

A few individuals responding in a personal capacity, said they considered the ISC to be unreasonable or unfair to businesses when the ICT visa:

- is used merely as a mechanism for transferring workers to the UK to share their skills/experience with staff;
- is used to temporarily fill posts that cannot be filled locally;
- is a temporary work visa and therefore there may be less of a potential to displace local workers since workers are expected to return to their home countries.

⁵¹ [EU-UK Trade and Cooperation Agreement 24.12.2020.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/24.12.2020.pdf)

"For example, the skills charge should not apply to ICT route since businesses should not be punished for bringing in staff to train UK workforce or to be trained as part of company knowledge sharing. Skills charge was introduced to discourage employers from hiring from overseas so that UK settled workers would be given the jobs or trained instead, but the roles filled by ICT would not be ones that can be simply filled by a local hire. There are benefits to bring other skills to the UK so Home Office should exempt ICT from this charge to encourage them to use this category, rather than the skilled worker category that could lead to settlement, so that residence workforce could be trained and in-time take over the skilled roles filled by ICT assignees."

CfE, Individual responding in a personal capacity

Changes to the ISC were also suggested by a few respondents when offering ideas for improving the ICT route, such as a return of the previous ICT short-term category:

"We would strongly support the return of the ICT Short Term category so an application fee of up to 12 months can be paid. We would suggest that the Immigration Skills Charge be made not applicable to this route (and even to the wider Intra-Company Route in general) since the Home Office has long since acknowledged that the ICT route does not displace settled workers. This would ensure that the ICT route became an attractive option again to UK businesses. We also strongly support the return of the Skills Transfer category."

CfE, Representative organisation, multiple sectors

Stakeholders in the stakeholder engagement meetings carried out by the MAC raised concerns about the new rule (from January 2021) which allows ICT visa holders to switch into the SW visa, and their ability to reclaim the ISC fee (which is paid upfront) when employees switch to a different employer. This suggests that sponsors may not be clear about the ability to reclaim the ISC fee, that the administrative burden of reclaiming the fee may be too high, or that they feared workers would leave within the first year of sponsorship, in which case a refund of the ISC would not be payable. However, we consider that this could adequately be addressed by individual organisations through pay and contractual arrangements.

Some stakeholders suggested that an exemption to the ISC for 2 years could be granted, to be agreed on a reciprocal basis as part of individual bilateral trade agreements between the UK and other countries.

"That the UK introduce a bespoke ICT route for nationals of trade partners, to be made available where reciprocated by the trade partner. There would be two key differentiators from the current Tier 2 (Intra-Company Transfer) scheme that would deliver significant benefit to the UK industry: 1. The applicant would be required to be a current employee of an overseas branch of the UK sponsor, but would not need to have worked for them for any specific length of time (this was one of the flexibilities available under the Tier 2 ICT Skills Transfer visa). 2. The route would offer a two-year exemption from the Immigration Skills Charge (ISC), saving employers up to £2,000 per person sponsored under this route. Alternatively, a reduced rate could apply. Either the category could be limited to two years, or where an assignee extends their assignment beyond two years or localises, the ISC should be payable from that point onwards."

Written submission, Professional services company

If the ISC requirement was completely removed from the ICT route, and the SW route continued to have an ISC, this would incentivise the use of the ICT route over the SW route. However, it is only firms with a foreign presence that have access to the ICT route. In practice, it is likely that the ICT is far more accessible to larger firms and so it would be those who benefit from the removal of the fee. Removing the ISC on the ICT route would alter the relative attractiveness of the route compared to the SW route and the government will need to consider these incentives in their policy decision.

On balance, we recommend that the Immigration Skills Charge continue to be levied on the ICT route, where trade agreements do not preclude this. Trade negotiations are a matter for Government, and they may wish to consider whether the removal of the ISC should form part of such negotiations with non-EU partners. The Government may also wish to consider asking the MAC to conduct a more complete review of the ISC (and potentially other costs associated with visa applications) across all visa routes.

Allowances

Currently, allowances that are paid to ICT workers can be included when assessing whether a worker meets the salary threshold. These allowances must be guaranteed for the duration of the applicant's assignment (such as London weighting or accommodation allowance). Table 4.7 below provides a breakdown of payments that can and cannot count towards the salary threshold. Allowances do not count towards the salary threshold on the SW route. Allowances that are for accommodation should only include an amount up to 30% of the total salary package for applicants in the Intra-Company Transfer category, or 40% of the total salary package for applicants in the Intra-Company Graduate Trainee category. Although accommodation allowance must be given as additional salary, employers may, after paying the employee, provide physical accommodation for which they can charge the employee. As part of the application process employers are required to provide a breakdown of the value of allowances. At present limited businesses report the breakdown and there appears to be no mechanism to ensure that the values stated are paid in practice.

Table 4.7: Payments that can count towards the salary threshold

| Allowed | Not Allowed |
|---|---|
| <p>Guaranteed basic gross pay (before income tax and including employee pension and national insurance contributions).</p> <p>Allowances which are guaranteed to be paid for the duration of the worker's employment in the UK (such as London weighting) or are paid as a mobility premium or to cover the additional cost of living in the UK. Where allowances are solely for the purpose of accommodation, they will only be taken into account up to a value of either:</p> <ul style="list-style-type: none"> • 30% of the total salary package, where the applicant is applying on the Intra-Company Transfer route; or • 40% of the total salary package, where the applicant is applying on the Intra-Company Graduate Trainee route | <p>Flexible working where the nature of the job means that hours fluctuate and pay</p> <p>Payments or allowances that cannot be guaranteed</p> <p>Additional pay such as shift, overtime or bonus pay, whether or not it is guaranteed</p> <p>Employer pension and national insurance contributions</p> <p>Any allowances, other than those identified as 'permitted allowances' in the left column</p> <p>In-kind benefits, such as equity shares, health insurance, school, or university fees</p> <p>Company cars or food</p> <p>One-off payments, such as 'golden hellos'</p> <p>Any payments relating to immigration costs, such as the fee or Immigration Health Charge</p> <p>Payments to cover business expenses, including (but not limited to) travel to and from the applicant's country of residence, equipment, clothing, travel, or subsistence</p> |

Source: [Sponsor an Intra-Company worker \(publishing.service.gov.uk\)](https://www.gov.uk/government/publications/sponsor-an-intra-company-worker) (ICW5.10 – ICW5.12)

Use of allowances – Stakeholder evidence

Stakeholders preferred the ICT route over other immigration routes in part because of the rules on allowances that allow particular allowances (such as cost of living allowances) to count towards salary level. They said that these features made the ICT route more suited to the nature of temporary assignments than other work routes in the immigration system (although the comparative advantages of the new SW route were also noted). This was underlined by the Scottish Government among others. In particular, some stakeholders said that they used allowances to enable temporary increases in the workers' effective pay without having to change their base, home-country salary. This was considered to be important because it meant that pay could be adjusted back to the home-country level more easily when the person finished their assignment in the UK; and because in some jurisdictions it enabled them to avoid significantly impacting home-country pension and other arrangements. When asked what they would do in the absence of allowances, participants in the stakeholder meetings and respondents to the CfE suggested variously that they would use the ICT route in a much more limited and restricted way, including moving everyone onto a SW visa; limiting the talent pool to

only allow the movement of senior and highly-paid staff; or find their business at risk (as they either had to pay salaries that were too high, face the consequences of increasing salaries temporarily only to have to lower them again, or effectively be prevented from moving staff around).

There was widespread agreement amongst employers and representative organisations that allowances should count towards the salary threshold for ICTs although some companies said that it would make no difference to them. When we asked respondents to the CfE questionnaires how far they agreed or disagreed that various elements should count towards the ICT salary threshold, agreement was widespread that accommodation should count towards the threshold but there were more mixed views for the other allowances listed (flexible working, additional pay, employer pension/NI contributions, in-kind benefits, one-off payments, immigration expenses and business expenses), and a tendency among employers to disagree that immigration or business expenses should count towards the threshold. Representative organisations were comparatively more neutral on whether these allowances should count.

The level of the accommodation allowance as presently set was generally said to be “*about right*” to “*too low*” (30% of salary for the main route and 40% for the graduate route): in the follow-up commentary common themes were that this did not reflect the actual cost of accommodation, or did not reflect the cost of accommodation equally across the UK; however, the point was also made that 30% is an appropriate amount of salary for someone to spend on accommodation.

“In the IT sector, many of our sponsored workers come from India on assignment. The norm is a "home-based build-up" this means taking their home base salary and building it up with various allowances, Cost of Living, Mobility Premium, Housing etc, and paying a guaranteed net salary. The base salary can be as low as GBP7k, so it has to be artificially inflated to reach GBP29k. Housing is a significant portion of the cost of moving to the UK and rents regularly exceed 1k or more and considering council tax as well, increases this to significantly more than the permitted £12,450. It would be easier to manage, and make the continued use of ICTs more palatable, if there were no proportions applied to this allowance. It would also make for easier administration for sponsors as we are often paying more in housing (for example to account for families) but it cannot be considered, even though it's a guaranteed payment.”

CfE, Employer, Information and Communication

One respondent summed up what they thought the system of allowances rules should aim for (and their view that the current system met this aim):

“We believe that the current system and thresholds for inclusion of certain allowances in the salary package offers sufficient protection to the employee in relation to cost of living, whilst at the same time, supporting best practice within the norms of corporate mobility.”

CfE, Employer, Information and Communication

Some respondents were less positive on the use of allowances to meet the salary threshold and made the following points.

- The payment of allowances was a way of helping companies avoid what would otherwise be their obligation to provide suitable accommodation and other help for employees who do not have experience of the UK housing market.
- As a way of ensuring that the actual cash amount paid to the employee was as high as possible, in order to ensure that they were able to meet basic living standards – the point was made that widening the scope or amount of allowances reckonable as part of salary could be open to abuse;
- Including allowances could leave the company open to further liabilities in having to reckon them for pension contributions.
- Tracking and managing allowances, even if the company chose not to count them as part of salary, could potentially be a heavy administrative burden for employers if they were still required to evidence these.
- For some of the allowances listed (e.g. shares) those who would typically be expected to be eligible would be senior enough to meet the threshold without counting these as part of salary.
- In contrast, Migration Watch UK recommended that there should not be an ability to include allowances as part of an employee's salary because this allowed multinational corporations to hire staff at a lower rate than a UK worker. A representative organisation agreed that undercutting through the misuse of allowances was a risk and said that any such allowances used should be fixed and visible through the payroll to ensure compliance.
- The Northern Ireland Executive reported that stakeholders broadly agreed that including allowances as part of an individual's salary was not required as a condition for which businesses would consider using the ICT route, although they also did not indicate that this should be disallowed.

When allowances are paid as additional guaranteed salary – and the migrant is free to spend it as they please – we see no cause for concern. There are possible concerns when employers provide the migrants with physical accommodation on the condition that the migrant pays a certain amount for it. We do not have sufficient data to understand the extent to which this happens but there is a potential risk of migrants paying above market rent for accommodation that they cannot choose or employers overstating the value of accommodation. The employer may also put multiple employees in the same accommodation and claim it as an allowance several times, and there was at least one case among the participants in the qualitative research where it appeared that this was happening. Many stakeholders recognised the importance of accommodation allowance – particularly when the migrant was on a short-term contract. The Home Office does not currently collect accurate data on how allowances are used within the ICT route which limits our ability to analyse how accommodation allowances are used.

ICT workers are more likely to be eligible for tax-free accommodation, travel, and subsistence allowances⁵² due to the temporary nature of the work they do. HMRC's general rule is that an employee who attends a temporary workplace for a period of up to 24 months can obtain relief for expense allowance. The same rule applies to SW migrants and resident workers that are attending a temporary workplace, but they may be less likely to do so.

⁵² Note that T&S allowances do not count towards the salary threshold.

There is a requirement for sponsors to provide the Home Office with an allowances breakdown. However, our analysis has shown instances where ICT employers use allowances, but do not provide a breakdown on their CoS. It is more likely that allowances play a greater role in meeting the salary threshold for contractor users rather than for conventional users because contractor users on average are offering compensation packages closer to the minimum threshold, although we did also hear from employers of contractors who said that they did not use allowances at all. The lack of data on the volume and breakdown of allowances makes it difficult to assess the impact of possible recommendations.

We recommend that the Home Office take steps to enforce the requirement for sponsors to provide a complete breakdown of allowances that are paid. Due to lack of data on accommodation allowances we were not able to provide an analysis of allowances in Chapter 3. Collection of these data would allow us to carry out further analysis on the usage and economic impact of allowances in future.

We also note that the system allows scope for employers to exploit the ability to count allowances towards part of the salary, whether by overstating the amount accommodation is worth or claiming multiple times for the same accommodation if migrants share it. We do not suggest that any of those responding to the consultation were engaged in this and the available data do not permit us to make any assessment of the extent to which this is a problem. However, we note that the potential for this to happen remains.

We therefore recommend that alongside the breakdown outlined above, and any existing work being undertaken by Immigration Enforcement, the Home Office considers what further monitoring of the breakdown of allowances is proportionate. Further data sharing with HMRC (in addition to that already taking place) may also be useful to monitor compliance.

Length of time employed overseas before eligibility for ICT

In the 2015 report, we recommended extending the qualifying period with the company overseas for ICTs from 12 months to 2 years for the main route. This was because at the time, we had concerns that 12 months may not be sufficient to ensure that the individual has specific knowledge and/or experience required for the post. This recommendation was not adopted by the Home Office as they considered extending the requirement for more than 12 months would be a breach of the UK's GATS commitment on ICTs. The Home Office have confirmed that this remains their interpretation of the GATS commitment and so we have not considered any extension of the requirement beyond 12 months for this report.

Evidence from the CfE indicated that for the main route, most people said that they thought that the 12-month experience qualification was either "*about right*" or "*a little too long/much too long*", with a reasonably even split between these 2 categories. Those who thought the period was too long mostly gave 2 reasons: that employers needed to operationalise staff quickly to serve client needs, or that the period spent in the UK was itself intended to form part of the training and upskilling period for the employee. Three to 6 months (i.e. after the employee had passed initial probation) was suggested as an alternative.

"We would also like to see the length of service requirements reduced or removed to enable quick mobilisation without the need to wait until the individual has been with us for 12 months".

CfE, Employer, Professional, scientific and technical activities

On the graduate route, most people said that they thought the 3-month experience qualification was “*about right*”, with several pointing out that new graduate entrants need time to be inducted and pass their probation period and that it was consequently unlikely they would be sent overseas before 3 months had elapsed in any case. However, one organisation indicated that this might be different where the graduate programmes themselves are located globally:

“Our globally located organisation has graduate programmes running in several different countries as well as in the UK, and it would be beneficial to be able to bring non UK graduates into the UK at any time from day 1 for immersive induction training and development, including ‘hands on’ training and development and some productive work, where appropriate, rather than being restricted if they arrive in the UK in the first 3 months of their employment, to only classroom style training, meetings or ‘hands off’ work shadowing permitted as a business visitor.”

CfE, Employer, Professional, scientific and technical activities

Overall, we have seen no convincing evidence that the 12 months employment rule is causing substantial difficulty. For firms that do wish to bring workers to the UK without such experience, they can either use the high earner ICT exemption or employ the worker through the SW route which has no restriction on prior experience.

We recommend maintaining the minimum overseas employment requirements at their current levels: 3 months for the graduate route and 12 months for the main route.

English language requirement

ICT migrants do not need to meet an English language requirement (ELR). This is in comparison to the SW route where migrants must either take an English language test or demonstrate fluency in other ways such as being a national of a majority English speaking country.

The prevalent attitude from those responding to the CfE was that the exemption from the English language test requirement was a major benefit of the ICT route. This was chiefly expressed as a saving in time and effort involved in evidencing the employee’s level of English, although some also mentioned that they or their stakeholders used the route in cases where the individual did not speak English.

Respondents said that the exemption saved both cost and administrative burden for organisations relative to the T2(G)/SW routes, meaning that they were able to operationalise employees more quickly in situations where “*speed to ground*” was of the essence: the point was made that the fact the employer was willing to bring the employee to the UK on an ICT visa clearly meant that they deemed the employee’s knowledge of English to be sufficient for the role they would perform.

Concerns were also raised regarding the availability and distance of language testing centres, and a number of employers, representatives and other stakeholders indicated that avoiding the requirement to visit these was a major benefit of the route, something underlined by both the Scottish Government and Northern Ireland Executive among others.

"Stakeholders also advised that the English language requirement under the Skilled Worker route can lead them to choose the ICT route - not because the candidate is unable to meet the requirement but due to the time it can take to obtain a test."

Written submission, Department for the Economy, Northern Ireland Executive

The exemption from the English language test requirement did not appear to favour any particular nationalities, with Japanese workers, EEA nationals and nationals of non-majority English speaking countries such as India and South Africa all cited as benefitting from this. Whilst such employees have often undergone intensive English language training prior to their assignment and develop their language skills further whilst on assignment (something which early findings from employee interviews have also indicated), a formal English language requirement could deter them from taking an overseas position. The Scottish Government also raised the issue that in the post-Brexit context, EEA nationals who now require sponsorship would struggle to meet English language requirements as a large number of European universities are not recognised by NARIC/UK ENIC (the UK National Information Centre for global qualifications and skills) as having courses taught in English.

Stakeholders in the stakeholder meetings held by the MAC, and in written submissions, underlined the importance of retaining the exemption from an English language test requirement on the ICT route. As part of our online CfE questionnaire, we asked what respondents' reaction would be to such a rule being introduced. A small number of both employers and representative organisations were neutral about this – for example, on the grounds that those using the route already had a high level of English – and a small number felt that an English language requirement should be extended to the route or would be beneficial (to guarantee a minimum level of communication, and in one case to present a barrier to employers bringing in employees from outside the UK and encourage reliance on domestic workers). However, most by far of those who responded to the CfE said that the introduction of such a requirement would be detrimental: that it would add burden and complexity to the route without necessarily changing who used it and would therefore deter and decrease usage of the route.

Recommendations

We recommend that the Home Office maintain a policy of requiring no English language requirement for ICT migrants. This exemption appears to be an important advantage of the route, providing employers with flexibility and reducing time and administration requirements for employers and employees.

Stakeholders told us that the ELR test requires additional bureaucracy and is time consuming (even if the migrant can speak English). As the ELR is a requirement of the SW route, we suggest that the Home Office consider any changes that could be made to the administration of the tests to ensure that the SW route operates as efficiently as possible.

Switching and Settlement

Switching

The ICT route is distinct from the SW route, as it is intended to be for short-term assignments only and does not offer a route to settlement. Switching was prohibited under the previous rules; however, it is permitted under the current immigration system (in place since January 2021), allowing migrants to switch in-country from the ICT visa to the SW route. The combination of the introduction of the SW route and the changes to the switching rules on the ICT route represents a major change to the structure of the ICT route, and to its place in the wider immigration system. Now, although the ICT route remains a short-term proposition with no direct route to settlement, the ICT route has an indirect route to settlement given that those on the route have the ability to switch into a visa category that leads to Indefinite Leave to Remain (ILR).

We received a range of evidence from stakeholders representing employers, raising concerns that an employee could enter the UK and on day 1 switch visa which could disadvantage the original sponsor and lead to issues of job retention and delays in fulfilling client contracts.

Historically the MAC has supported allowing workers to switch, as for the employee this provides greater mobility, bargaining power, and hence more competitive labour markets. As a result of the recent changes which allow switching from ICT to the SW route, there are strong incentives for workers on the ICT route to switch. The immigration system should not create artificial incentives for workers and there is a delicate balance to be struck between providing certainty for businesses who may have incurred significant cost in moving the migrant to the UK and the employee who benefits from the flexibility which switching provides. As mentioned in the previous section on the ISC, employers may also choose to reward loyalty and discourage switching through their individual contractual arrangements.

We have not been able to analyse the potential impact of allowing switching from the ICT route. However, we can compare the ICT route's share of total skilled work sponsorship⁵³ over the last 3 years. This may indicate how the introduction of the SW route has affected employer choice between ICT and SW routes. Furthermore, this will contextualise future trends in switching between the ICT and Skilled Worker route. The analysis shows a drop in the ICT route's share of total work sponsorship between 2019 and 2021. For the top 10 users of ICT contractors⁵⁴, ICTs made up 97% of total skilled work sponsorship in 2019 and 2020. This fell to 81% in 2021⁵⁵ after the introduction of the SW route. For the top 10 users of the conventional route, ICTs made up 49% and 33% of total skilled work sponsorship in 2019 and 2020 respectively. This fell to 17% in 2021.

It is not possible to identify whether these changes are a result of the rules changes or whether other factors such as COVID-19 could be impacting usage across routes (for example because the characteristics of people

⁵³ This includes T2(G), ICTs and SW

⁵⁴ Top 10 largest firms in 2019

⁵⁵ 01 Jan 2021- 30 June 2021

who are still moving on the ICT route since its scale declined in 2020 are different from those who used it in the past).

Settlement

In a 2009 report on the points-based system⁵⁶ the MAC recommended against the ICT route being a route to settlement. The justification at the time was that a worker could potentially enter as an ICT migrant, avoiding the RLMT which applied to T2(G) and stay permanently in the occupation, potentially disadvantaging UK workers. However, the RLMT has been removed for the SW route since January 2021. A further justification was that as the route is focused on temporary work it should not lead to permanent residence. However, it is difficult to distinguish whether 5 years is actually ‘temporary’ in practice, especially if migrants bring in children who may be in school, or other active dependants.

The issues of switching and settlement, and related issues such as the length of time that workers should be allowed to stay in the UK on an ICT visa, are very much intertwined. Stakeholder views on what should be allowable under the ICT route were strongly tied to respondents’ views on the desirability or otherwise of settlement and given this the issues are discussed in parallel in this section.

Opinions on the maximum allowable length of stay for ICT, and on settlement

In response to the question in the CfE questionnaires about the rules regarding the permitted length of stay for employees on the main ICT route (currently a maximum of 5 years in 6), the tendency was for employers to think that the rules were “*too strict*” or “*much too strict*”, although there were also those who said that they thought the current rules were “*about right*”. Strength of feeling appeared slightly less among the sample of representative organisations, being split for the most part between those who felt the rules were “*too strict*” and “*about right*”. Concerns about the rule being overly strict were related to the effect that respondents said that this had on business continuity, while there were also concerns about the lack of link to settlement/ILR and the impact that this had on employees’ personal lives, and the consequences they said this had in terms of the effect on attracting senior staff to work in the UK.

“Most individuals, especially top talent aspire [to]... challenging work and stability and security in their personal life. Many professionals, especially in the tech sector do not prefer coming to the UK. This is only due to restrictions on ICT. Even for the business rotation after 5 years or 9 years, is a loss of talent and knowledge. The challenge of the industry is to balance supply and demand through a combination of investing in skill development and attracting and bringing top global talent to drive economic growth. This cannot be achieved without providing certainty and stability to top global talent.”

CfE, Representative organisation, Information and Communication

⁵⁶ Analysis of the points-based system: Tier 2 and dependants - GOV.UK (www.gov.uk)

Some of the individuals who responded to the CfE responded chiefly, and at length, on the issue of the maximum stay and the fact that the route does not lead to settlement. This appeared to be a particular issue among those who had been in the UK for a number of years, whether on the ICT route or on other routes (such as Tier 4). They referred to the difficulty and disruption involved in returning to their home country, and the effects they said this had on their dependants (for example disrupting children's schooling).

Case study – Experiences of an individual currently on the ICT route

One respondent who completed the CfE questionnaire in a personal capacity spoke of their personal experience of being on the ICT visa. They said that they had spent almost five years living and working in the UK on an ICT visa. As they did not answer any of the questions on the questionnaire other than "*Is there anything else that you would like to tell us about ICTs?*", it appears that they did so purely in order to share their views on settlement.

The respondent said they were concerned about the effect that leaving the country could have on their children's education:

"As children did their primary education in UK (5 years of their basic education), they are aligned to UK curriculum, culture and values. Now it is [quite] hard (or not fair) to tell them that we need to go back to a different country and continue their studies there. It will be very difficult for them to settle with school curriculum in a different country".

The respondent stated that one of their children is currently preparing for the 11+ examination and Year 6 SATs, and another is preparing for the Year 2 SATs. They reported that they were experiencing difficulties in switching their visa because of COVID-19, and they were worried about the gap which this could create in their children's education.

The individual concluded their response by requesting that ICT employees (and their dependants) should be eligible to apply for ILR after working and living in the UK for 5 continuous years.

It was apparent that some employees felt their situation as a migrant on the ICT route to be disadvantageous compared to both migrants on the SW route, and to the general UK population, and that they felt the situation with regard to settlement and other factors to be "unfair" and discriminatory.

"Similar like all other UK citizens and other visa holders like Tier 2 general/Skilled worker the ICT employees pays similar tax but they [don't] get benefits such as they do not have access to the public funds, they do not have the right for settlement, etc."

CfE, Individual responding in a personal capacity

"With ICT, an expert employee cannot stay more than 5 years but with Skilled visa there is no such cap on years also additionally he/she can apply for ILR. With ICT, the employee had to go back with all the struggle of making his/her kids getting challenges in education back home. Also family gets disturbed because of this cap on years and no route to ILR with ICT."

CfE, Individual responding in a personal capacity

Among those employers who said they were content with the current length of stay the point was frequently made that the SW route would offer a viable alternative if a longer-term stay was required.

Comparatively very few responses over the whole CfE indicated that they thought the current rules were “*too lenient*” or “*much too lenient*”: interestingly, this was a view more evident among the individuals who had responded, with these responses being from those answering from India. Concerns were also raised over ICT being used as a route into the SW route, and hence to settlement and ILR, rather than as a temporary route and an obligation under GATS.

The Scottish Government also indicated that it did not think the ICT route should directly lead to settlement, given that it is intended to be a temporary route, but indicated that this should be understood in the wider context that switching should be an easy process to facilitate settlement for those who did wish to stay.

Opinions on recent changes to the Skilled Worker and ICT route: potential impacts on usage

The new SW route was welcomed by some employers, who anticipated that it might become their preferred route over ICTs. It was noted that the introduction of the route comes alongside (or close behind, given the restrictions on international movement throughout 2020) a number of other changes, such as allowing switching on the ICT route, removal of the ‘cooling off’ period, the removal of the cap on the number of visas available under the route and removal of the RLMT. Responses therefore considered the whole package of measures, in commenting on their businesses’ likely responses to the changes.

Of those who expressed an opinion about the impact of the changes to the SW route on ICT usage in their organisation or the organisations they represented, the tendency was to believe that they would either decrease usage of the ICT route, or make no difference: most of those who advised other businesses on matters relating to immigration believed that these changes would decrease usage of ICTs.

However, others felt that the ICT route and SW route fulfilled different purposes and that both would continue to be used: the SW route for longer term or permanent working, and the ICT route as a comparatively lower cost and faster alternative for shorter term business use. There were also those who said that they intended to continue using the ICT route but would transfer people as and when their workers’ personal circumstances, or the circumstances of the projects they were working on, meant that a longer stay was required.

“Our utilization of ICT route will continue and Skilled Worker is currently being used only for local hiring for niche skills not available within the organization or for existing resources who are completing the maximum period of stay on an ICT and required to continue for more time due to client contractual obligations.”

CfE, Employer, Information and Communication

“The easements in the Skilled Worker Route should not be seen as justification for any restriction to the ICT Route. Both serve fundamentally different purposes, as set out above. Of concern to business is that the cap on skilled workers has been suspended, not removed in its entirety, and therefore could be reinstated should it be deemed necessary. It is critical to continue to view global mobility distinctly and to continue to offer a separate immigration route that can be accessed swiftly and via a streamlined process, one that is not subject to English language requirements, lengthy processing times and high costs associated with domestic

labour market integration (which is not the intention in global assignments), such as the Immigration Skills Charge."

Written submission, Professional services company

Opinions on recent changes to the Skilled Worker and ICT route: advantages of the Skilled Worker route

Some respondents to the CfE, and participants in the stakeholder meetings, told us that they were now likely to make greater use of the SW route when the job is going to be a permanent one, given that it leads to settlement (or at least does not close this off as a possibility).

"Previously for international assignees we would use the ICT as that was the intention - not to be permanently in the UK. Now we will choose the SWR wherever we can as it offers more flexibility about ILR after 5 years"

CfE, Employer, Professional, scientific and technical activities

This remained the case for some even given the new provisions for switching, because the business would still need to bear the costs of the new visa application to move the employee from the ICT to the SW route.

"If it is anticipated from the outset that an ICT transferee may move from a temporary to permanent role, we might choose to use the Skilled Worker route to save the potential need for a new application and its associated costs, and because the Skilled Worker route counts towards permanent settlement, whereas ICT does not."

CfE, Employer, Professional, scientific and technical activities

The point was also made that the recent changes to the ICT rules, including the ability to switch and the removal of the 'cooling off' period, have lifted some of the 'protections' (as employers termed them, by which they meant rules that previously had the tendency to prevent or discourage movement of staff, although – as previously mentioned in the switching and settlement section of this chapter – this was a by-product of these rules rather than their specific intention) that the route used to provide, and that this had reduced the incentive to use the ICT route over the SW route. These employers therefore had concerns about losing their staff through switching, particularly where their skills were in short supply. This was highlighted by several respondents.

"We would request a review of the recently introduced regulations that allows switching between ICT and Skilled Worker routes, particularly in skill shortage areas such as technology and digital skills, where risks to the employer from attrition are high."

Written submission, Employer, Information and Communication

"When switching was not permitted, this enabled us to retain our workforce and contribute towards business continuity and better planning of services in the UK. Switching possibility from ICT is now leading to

attrition and replacing a resource performing duties with a specific skill on a client contract is adding to cost, delays in hiring (if required) leading to negative business impact”.

CfE, Employer, Information and Communication

Respondents considered that the relaxation of the rules on switching visas made the ICT route a more attractive visa from the perspective of employees, since it allows an indirect route to settlement, and that switching can be done in the UK without having to undertake a cooling off period. Some stakeholders indicated that they thought the changes would help the UK to bring in and retain highly skilled overseas talent, benefitting the UK economy overall. Individuals responding to the CfE commented largely positively on the change, as it would allow people a route into settlement if they switched to the SW route. However, a few who had commented negatively on some companies’ behaviour around the ICT route either believed that companies would not use the SW route in the same way that they had not used T2(G) or did not believe companies should be allowed to switch staff. Migration Watch UK also suggested that the changes to the SW route, in providing a relaxation of the rules, intensified what it already considered to be a problem with the ability to use ICTs for third-party contracting.

Some scepticism was expressed about whether the suspension of the cap on the SW route would remain in the long term, and the point was made that if the SW route became the only route to bring staff to the UK, any future restrictions could have severe impacts on businesses.

The suggestion was made that a minimum time requirement could be made before allowing switching, for example requiring employees to be on the ICT visa for 12 months before they are eligible to switch routes – however, other respondents thought this risk could be offset via contractual means and did not think this should outweigh the benefits of permitting switching, both for the migrants themselves and the wider UK economy. This was supported by the Northern Ireland Executive, which suggested that switching was not a major concern as it was planned carefully by businesses, but also suggested that businesses might benefit from a method to recoup their costs in the event of the individual switching.

Another suggestion made in the stakeholder submissions was to allow employees to count any time already spent in the UK towards settlement, for those switching into the SW route or another route leading to settlement, in order to address the issues of unfairness identified by some employers and employees.

Opinions on recent changes to the Skilled Worker and ICT route: advantages of the ICT route

Other employers considered the changes to the SW route and the ICT route to be a disadvantage. The ability to switch drew most comment, with employers commenting that it made the route less attractive to them as it undermined the investment made by the company and that it could negatively affect business continuity and profits.

Circumstances in which employers and representative organisations said that businesses would still be likely to favour the ICT route included situations where:

- “*Speed to ground*” is essential: the lack of an English language test requirement was said to be a big remaining advantage of the ICT route as the administrative and logistical processes involved can be

burdensome (this is discussed further in Chapter 4). Some respondents said that, overall, the ICT visa was issued more quickly than that for the SW route;

- The lack of English language test was also clearly felt to be an advantage where the employee does not speak English, or not to the standard required by the SW route. In these circumstances, one suggestion was that businesses should be able to bring an employee to the UK and then switch them once English language certificates were obtained;
- Some employers also favoured the ICT route because of the parameters it set out: they wanted the employee to work on short-term projects and then to return them overseas, and they therefore preferred a visa that reflected these expectations as they wanted their employees to return to their original place of work; and
- The ICT route was also said to be advantageous financially, given the ability to use allowances to meet the salary threshold. Allowances are discussed further in Section 5 above.

In terms of why employees would continue using the ICT route rather than the SW route, findings from the qualitative research indicate that some employees may not be aware of the SW route in the first place, or of the option for switching that it represented. It seems likely that some of these would have chosen to come to the UK on the SW route if they had been offered this, although the point was also made that employees are to some extent dependent on the visa options their employers offer. Businesses acknowledged that some employees would make career decisions at least partly because of the possibility of settlement, with one explaining “*Workers are leaving [the] business primarily for stability and settlement and not higher pay offers.*” This view was borne out by the representations we received from individuals, as set out earlier.

Recommendations

We recommend that the ICT route should be a route to settlement, without the need to switch to other routes to obtain settlement. Time spent on the ICT visa should also count towards settlement if the worker does switch into another route. ICT migrants should already have the required points for the SW route, and, whilst they will not have been required to meet the ELR prior to arrival, they will be required to do so to obtain settlement. Whilst we expect that the ICT route will continue to be used primarily for temporary stays and that most ICT visa holders will not settle in the UK, there are various benefits to leaving this option open for those who do stay for five years or more. ICT migrants contribute to the UK from day one of their arrival. Migrants may not know their settlement intentions when they first arrive, or these may change over time. We believe that allowing ICT to be a route to settlement will reduce the incentive for migrants to quickly switch into the SW route. This should help to tackle some of the issues employers raised in the call for evidence about the costs and disruption incurred when migrants switch. Some of the issues can also be dealt with contractually by employers. There may still be incentives for employees to switch to move to a higher paying role or with better terms and conditions, but this is beneficial for the efficient functioning of labour markets. It is also relevant to consider how this change to the rules could impact integration based on the demographic characteristics of those who settle.

We recommend no changes to the current rules for switching, maintaining the provision that switching is permitted from day one. Going forward, we welcome evidence on whether issues of switching to the SW

route remain, but we would expect incentives to switch would be reduced once time on ICT counts towards settlement.

Technical rules compliance

Abuse of the ICT route, as with any immigration route, is known to happen and is picked up within existing Home Office compliance and enforcement actions. Both UK Visas and Immigration and Immigration Enforcement carry abuse of ICTs as a live issue on their immigration threat assessments. Abuse is cited primarily in relation to abuse by sponsors but can also involve collusion by migrants. It can be difficult to identify when abuses are occurring, as many of those carrying it out are large companies that are experienced at using the route and are able to hide it effectively. Immigration Enforcement assesses that it is highly likely that such abuse is occurring regularly but does not have the information to give a sense of how widespread it is. We are also aware that enforcement and compliance activity has been severely restricted over the COVID-19 pandemic, owing to the difficulties of making in-person visits and the fact that many workplaces have primarily been home-working.

Several different types of abuse have been identified:

- Companies recruit for positions that do not comply with the rules. This can include jobs that are not RQF6+, or employing workers on routine IT work, and then describing the positions inaccurately in order to obtain ICT visas. This is likely to be a particular issue for those working as contractors;
- Artificially inflating the value of provided accommodation to meet the salary threshold, or claiming more than once for the same accommodation where this is shared by employees; and
- Migrants are retained after their visa expires, often by companies employing their spouse to fill a (possibly non-genuine) vacancy after which the migrant becomes a dependent spouse and is re-employed in their old position.

The new ability to switch into the SW route may be expected to reduce this abuse to some extent, as more power is vested in the migrant. It is important to note that the guidance is vague on some of these issues: firms may have legitimate difficulty in navigating the SOC codes and jobs titles required to ensure the job meets the skills threshold. Similarly, although the rules specify that there should be a structured graduate training programme leading to a senior or specialist position for graduate trainees entering on this visa, there is no further guidance on the nature of the training programme required (other than the stipulation that employers should be able to provide further details on request). It is also known that some companies exploit migrants through the allowances system, and Immigration Enforcement also suspects that migrants may be being forced to work long hours, effectively reducing their rate of pay.

Given that the definitions of some of the terms relating to ICT visas are loose, the line between compliance and abuse is not always precise. Consequently, it was possible for us to observe a number of different ways in which companies interacted with the ICT system, ranging from clear compliance at one end of the spectrum, through compliance with the letter (but not the spirit) of the rules, to what appeared to constitute abuse of the system and/or exploitation of employees at the other end. This included potential instances of underpayment, undercutting, overstating of allowances, and recruiting for a job that was not adequately skilled. Importantly, we also found cases where there was no evidence that abuses were taking place, but that

the conditions were there for abuse to happen if the company had been inclined to do so. There were of course also many examples (most of those interviewed) where the migrant appeared to have been recruited to fill a genuine vacancy for genuine business reasons, and to be being paid and treated fairly.

In cases where potential abuse was identified, migrants varied in terms of how aware they appeared to be of this. In a few cases, the migrant believed that they were being underpaid in comparison with their UK counterparts but were happy with the situation as it compared well to their salary in their home country. In other cases, we found a lack of knowledge about life in the UK that would have been easy to exploit, for example people living in accommodation provided by their company but without any knowledge of what rents for comparable property in the UK would have been on the open market. This was sometimes the case even for senior staff with a clear level of financial competency.

Resources to monitor compliance are limited but may include site visits (fewer of which have been possible in 2020 given COVID-19 restrictions), interviews with migrants to determine whether the jobs they are doing are skilled to the level claimed, and follow-up from general enforcement action (for example, on overstayers) where it later transpires that migrants entered the UK on the ICT route.

Recommendations

We recommend that the Home Office considers increased monitoring and enforcement of the ICT route to determine whether there is widespread abuse of the rules. Particular focus should be given to accommodation allowances and reported salaries. On allowances in particular, we have already recommended that employers provide a full breakdown of allowances, and that the Home Office should consider assessing whether the amounts claimed seem reasonable. We understand that accommodation allowances must be paid to the employee rather than in kind under the immigration rules. However, information we have received from stakeholders suggests this does not always happen. It also appeared that in some cases employees were overpaying for accommodation and/or in crowded housing, possibly to facilitate the employer claiming multiple allowances. Therefore, Home Office intelligence/enforcement may want to spend more resource investigating that there is not abuse of the accommodation allowance and that employees are being charged a fair price for company accommodation. We recognise however that with a limited budget, the potential benefit of increased spending on monitoring and enforcement of particular immigration routes must be judged against the alternative use of those resources.

Chapter 5: Subsidiaries, secondments, and short-term assignments

Introduction

This chapter will focus on three areas: the issues of subsidiaries and secondments, which were raised as part of the commission; and how short-term assignments under the ICT or another route could be better facilitated, which has been raised consistently through stakeholder engagement.

Subsidiaries

The [commissioning letter](#) for this report asked for recommendations: “*for employers sending teams to establish a branch/subsidiary, what should the rules be for the employer (e.g. size of firm, value of investment or contract, potential for job creation)?*”.

To provide suitable recommendations, this chapter sets out the current situation regarding the establishment of branches/subsidiaries in the UK. It also explores what possible criteria could be set for the sending organisations to ensure that the UK benefits from this migration route.

The current route used to set up a subsidiary within the UK is the Representative of an Overseas Business route (RoBR). This is to be replaced with a new route in keeping with the Home Office’s simplification programme.

The Global Business Mobility route will include the existing provisions for intra-company transferees, subject to this report’s recommendations; the existing arrangements implementing the UK’s trade commitments in respect of contractual service suppliers and independent professionals; any new provision to accommodate import and export-related secondments; and finally (and most importantly for this section), any arrangements for employees of an overseas business assigned to the UK to establish a branch or subsidiary of that business. Existing rules which restrict the route to a single representative per sending business will be relaxed depending on, for example, the size of the investment in the UK.

We will also look at the other options for routes, namely the start-up route and the innovator route.

In this chapter we look at the data to try to understand the economic impact of current subsidiaries established in the UK. The data we have sourced from the ONS only shows us where the parent company of the subsidiary is from, with nothing about the nationality of the employees. This therefore limits our ability to make judgements on the nature of employees establishing subsidiaries, appreciating that all those set up to date could have used either staff moving under European Union (EU) free movement (i.e. no immigration restrictions) or using staff coming from non-EU countries (i.e. under existing immigration rules). Noting this limitation, we have tried to reflect on what criteria future subsidiaries should have to ensure that their impact is positive.

We have also engaged with various countries around the world, namely the United States, South Korea, South Africa, and Germany, to understand what their system permits and the impact that has had on their country. These countries were chosen based on feedback from stakeholder engagement as interesting examples of how others allow subsidiaries to be established in their respective countries. To learn what works well and what areas would be suitable for a UK system, we are able to pick best practice to ensure that any future UK system will enable the establishment of subsidiaries in this country to positively impact on the UK economy.

The current situation

The UK currently has a route that allows migration under the RoBR. The number of RoBR visas granted has increased significantly in recent years: from 370 in 2016 to 934 in 2019. To be eligible for this route, you must be either:

- The sole representative of an overseas business planning to set up either a UK branch or wholly owned subsidiary; or
- An employee of an overseas newspaper, news agency or broadcasting organisation posted on a long-term assignment to the UK.

For both routes, you must:

- have enough money to support yourself without help from public funds⁵⁷; and
- meet the English language requirement⁵⁸.

Sole representative

Being a sole representative means that you must be recruited and employed outside the UK by an active and trading business (whose headquarters and principal place of business are, and will remain, outside the UK).

You must also:

- Have the skills, experience, and knowledge to do the role;
- Hold a senior position within the business (but do not own or control most of it) and have full authority to make decisions on its behalf; and
- Intend to establish the overseas business's first commercial presence in the UK, either as a registered branch or a wholly owned subsidiary.

You may also be eligible if the business has a legal entity in the UK that does not employ staff or do any business. If your employer has been working to establish a UK branch or subsidiary, but it is not yet set up, you can replace a previous sole representative.

⁵⁷ This means that the applicant can, and will, adequately maintain and accommodate themselves, and any dependants in the UK, without access to public funds. (<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-representative-of-an-overseas-business>)

⁵⁸ <https://www.gov.uk/representative-overseas-business/knowledge-of-english>

A RoBR visa can be extended for up to 2 years after the original visa duration of 3 years. There is an option to apply to settle once you have been in the UK for 5 years and you have an ongoing job with the same company.

Your family members⁵⁹ can come with you when you come to the UK on this visa. Your husband, wife or partner cannot come to the UK as your dependant if they own or control most of the overseas business you will be representing.

Summary

A guidance document is provided by the Home Office to understand the route⁶⁰, providing the following summary that the RoBR route is:

- Open to a business of any size;
- Only allows one person to come to the UK;
- Eligible to bring dependants;
- Can only work for the employer business;
- Must hold a ‘senior position’ with the employer, but cannot be the owner or majority shareholder in the business;
- Must intend to establish the overseas business’s first commercial presence in the UK, either as a registered branch or a wholly owned subsidiary;
- Must have knowledge of English; and
- Initial visa for 2 years, can be extended to 5 years, with route to settlement.

Once the business is established in the UK, they can become a sponsor for the SW or ICT route.

Other potential routes

Other potential routes for those wanting to establish a business in the UK include the Start-up visa and the Innovator visa. Below we will briefly describe these and illustrate their suitability for the purpose of setting up a subsidiary.

Start-up visa route

The [start-up visa route](#) has been created to enable migrants to set up an innovative business in the UK. There is a stipulation that the business must be different from anything else on the market.

This differs from the RoBR as the migrant must be endorsed by an authorised body⁶¹. The migrant must be able to show that their business idea is:

- a new idea – you cannot join in a business that is already trading;

⁵⁹ This includes husband, wife, partner, or child under 18

⁶⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942821/reps-overseas-business-v19.0ext.pdf

⁶¹ Either a UK higher education institution or a business organisation with a history of supporting UK entrepreneurs

- innovative – you must have an original business idea which is different from anything else on the market; and
- viable – it has potential for growth.

Based on the criteria above, the requirement that the migrant cannot join in a business that is already trading would suggest that this would not be suitable for setting up a subsidiary.

Innovator visa

The innovator visa route is intended for those that want to set up and run an innovative business in the UK. Like the start-up visa, the business established must be different from anything else on the market. Also, like the start-up visa, the business or business idea must have been endorsed by an approved body. There are other eligibility requirements, including having at least £50,000 in investment funds.

In Table 5.1, we summarise the various key criteria of the routes discussed – the RoBR, start up and innovator visa.

Table 5.1: Comparison of key criteria of RoBR, Start-up and Innovator visa

| Criteria | RoBR | Start-up visa | Innovator visa |
|-------------------------------|--|--|--|
| Length of stay | Up to 2 years, can be extended up to 5 years | Up to 2 years, no extension | 3 years, can be extended up to 5 years |
| Capital required | None | None | Must have at least £50,000 in investment funds |
| English language requirement? | Yes | Yes | Yes |
| Route to residency | Yes, if worked for same employer in whole period | No | Yes |
| Dependants allowed | Yes | Yes | Yes |
| Business size | Any | Any, but needs to be original and different to anything else on the market | Any, but needs to be original and different to anything else on the market |
| Endorsement required | No | Yes | Yes |

Source: various, see footnotes relating to the above descriptions

Call for Evidence/stakeholder evidence

As part of the Call for Evidence (CfE), we asked respondents for their views on the potential for a change of rules under the RoBR to allow more than one person to come to the UK in order to establish a branch, subsidiary or office in the UK.

The opportunity to review, improve and update the RoBR was welcomed by those responding. The current system was suggested to be slow and cumbersome, and not to reflect modern business practices. The view was expressed that a single representative was not sufficient to establish a branch/subsidiary, and that allowing a team to enter the UK for this purpose would make the process easier. Representative organisations in particular expressed the view that the route was ripe for reform in the context of the ending of free movement of EU nationals, and changes would provide recognition of increased economic activity of those looking to establish a business presence in the UK post-Brexit.

Many respondents to the CfE, whether responding via questionnaire or written submission, did not express a view on the matter – they either had no experience of setting up subsidiaries, or the issue was not relevant to them as their business had already established a subsidiary in the UK. However, among those who did express an opinion, it was generally favourable towards expanding eligibility to allow teams to the UK, for reasons which included:

- Setting up a new branch or subsidiary requires different skills and knowledge and having a team in the UK will allow individuals to draw on each other's expertise and make the process of setting up a branch easier and quicker, particularly when dealing with complex legal and regulatory requirements;
- Reforming the route in this way may speed up the process of establishing a subsidiary as individuals who are in proximity to each other can coordinate their actions more closely and quickly; and
- Changes to the rules will make the UK a more attractive and competitive place to do business, benefiting the UK economy and possibly attracting higher inward investment. This view was echoed by stakeholders who spoke to the Scottish Government as part of their engagement on ICTs.

"Stakeholders also have communicated that the new Global Business Mobility visa should expand on the provisions of the Sole Representative category and allow a small team of personnel to move to the UK to establish an office. They would welcome this move as they believe it would make the UK a more competitive place to do business."

Written submission, Scottish Government

- The current requirements allow an overseas business to send one person to the UK to set up a subsidiary. Once a UK entity has been established, the overseas business can sponsor or transfer staff to the UK on a SW or ICT visa. Stakeholders said the process of establishing a UK entity is lengthy because an employer needs to set up a UK bank account and be registered with HMRC before they can get a Sponsor Licence to bring staff from overseas in order to run a subsidiary, which can lead to lost business opportunities.

"This would be much better for businesses considering to establish in the UK but finding the visa technicalities difficult. Limiting set up to one person slows down the process where business opportunities may be lost. To send more than one person currently, business must quickly apply for a licence to sponsor others under a visa to work in the UK. Problem is that to apply for the licence, the company must first have a bank account, be set up with HMRC to show that it is an established company which could take time. The process to set up the company, establish itself and apply for a licence could take months before the second or third person could join the first Sole rep in the UK to build the business"

which is a practical and commercial issue. This route could therefore encourage more businesses to set up in the UK."

CfE, Individual responding in a personal capacity

"The drawback to the Sole Representative route is that companies are limited to just one person transferring to the UK. Stakeholders in the tech sector in particular have stated that this is problematic the ability to only send a single team member does not allow them to react quickly enough to market fluctuations by the time the sponsor licence is obtained and the necessary visa applications submitted in order to mobilise a team onto a client site."

Written submission, Scottish Government

The arguments expressed in favour of amending the RoBR in this way included wanting the maximum flexibility possible. Some respondents also favoured keeping the existing eligibility requirements for sole representatives, arguing that minimum skill/experience and salary levels were necessary for the viability of the new business entity. In particular, the latter stakeholders mentioned above, argued that there should be some flexibility around eligibility criteria compared to the ICT route, to take into account company size/structure and lowering salary thresholds for team members who may be less senior, but who nevertheless would be important to the setting up and smooth running of the new branch. Respondents said that it would be necessary, assuming the roles could not be carried out by a UK national, to facilitate the entry of team members at all the levels necessary to support the new branch or subsidiary, even if these roles would not be eligible for an ICT on their own account.

As well as lowering the salary threshold to take account of the need for staff who were less senior, stakeholders who argued for flexibility also said it was important to appreciate that there are differing levels of pay in other countries where salaries tend to be lower. This was also raised in relation to the main salary threshold, as discussed in Chapter 4.

"If they are coming to set up the branch/subsidiary, then similar requirements to the current sole rep visa could apply, e.g. employed by overseas entity, experience in the role they are coming to carry out, A1 level sufficient for initial communication. The criteria should not be made too restrictive because different company in terms of size and industry, operate in different ways. For example a minimum salary would be difficult to fix especially where some countries are paid lower rates compared to others so requiring a minimum rate would mean businesses from those countries would not be able to set up in the UK."

CfE, Individual responding in a personal capacity

Other suggestions in relation to the RoBR included bringing this route into the ICT framework as part of a broader global mobility proposition and using the existing rules and infrastructure to link it to the existing system for skilled workers. Another suggestion was to have an initial Sponsor Licence which could be upgraded to a standard Sponsor Licence once the legal entity has been established.

"As an alternative, a version of a Sponsor Licence available to an overseas business could be considered. This would allow a business to evidence their overseas presence, outline their plans to establish themselves in the

UK and sponsor the initial team to work in the UK. The same criteria in terms of skills and salary thresholds could be applied as the for sponsored workers, for example referencing the relevant SOC Codes. This initial Sponsor Licence could be subsequently upgraded to a standard Sponsor Licence once the relevant legal entity had been established."

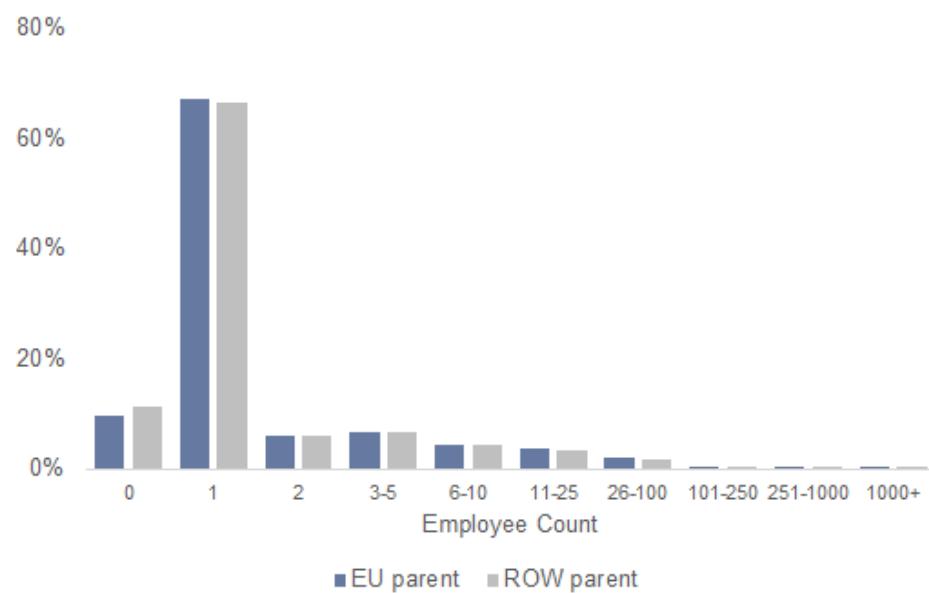
CfE, Professional services company

Data analysis

Before the UK left the EU, firms abroad could send EU workers to the UK to establish a subsidiary, without any visa requirements. Firms looking to establish a subsidiary in the UK with workers from the rest of the world (ROW) had to comply with the rules set out at the start of this chapter. It seems reasonable to assume that EU firms are more likely to employ more EU workers than ROW firms. Therefore, it will have been easier for EU firms to send more than one worker to the UK to establish the subsidiary.

Figure 5.2 shows that most subsidiaries established in the UK have only one employee, regardless of whether the parent company is from the EU or ROW. 77% of subsidiaries established in the UK since 2018 with an EU parent have one employee (or zero). This figure is 78% for subsidiaries with a ROW parent. This share is likely to be even higher if we looked at employee count at the point of being established. These subsidiaries would therefore be able to use the existing RoBR. Furthermore, firms with more than one employee may well be employing UK residents, in which case the subsidiary can be established with more than one employee.

Figure 5.2: Frequency distribution of employee count in foreign subsidiaries in the UK established since 2018, split by parent company region

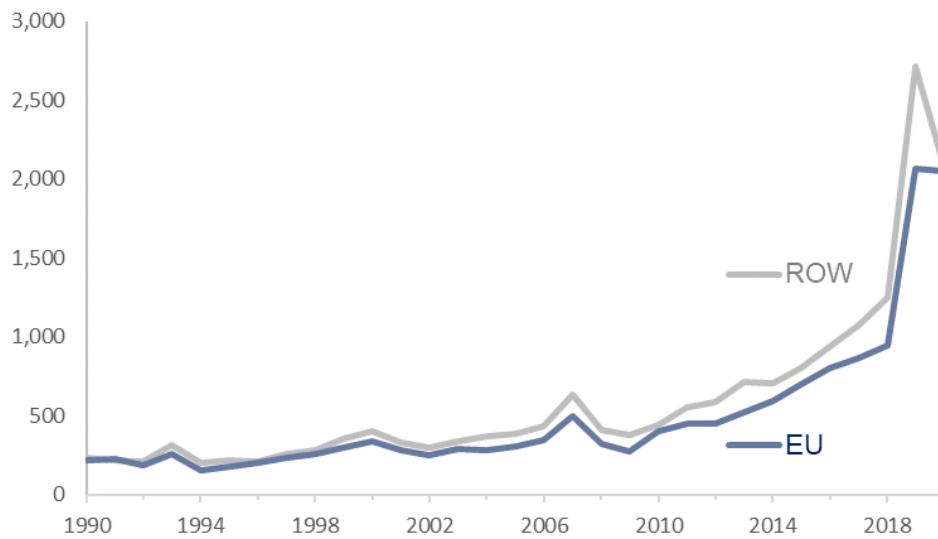


Source: IDBR

It is difficult to analyse whether the existing restrictions disincentivise the establishment of a subsidiary altogether – in which case the number of subsidiaries would be affected. Figure 5.3 shows the number of new subsidiaries established in the UK since 1990, split by EU or ROW immediate parent. There are more ROW

firms than EU firms in the world, so we may have expected more subsidiaries in the UK with ROW parents. However, proximity to the EU may be offsetting this. The trends for the number of new subsidiaries established in the UK are similar for EU and ROW parents. If the current rules were significantly preventing the establishment of subsidiaries, we might have expected slower growth of the number of ROW firms (who were more likely to face immigration restrictions), but there is no obvious evidence of this.

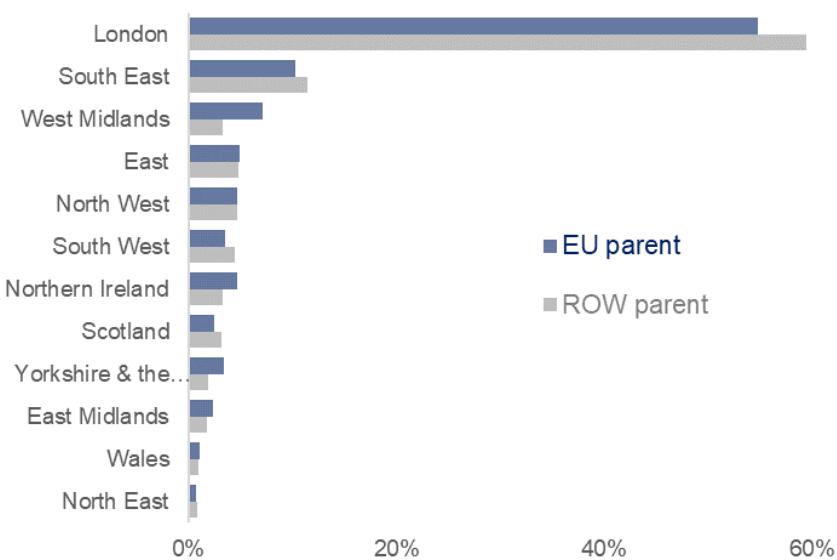
Figure 5.3: Number of new subsidiaries established in the UK over time, split by EU or ROW immediate parent company



Source: IDBR

Figure 5.4 shows the regional distribution of subsidiaries with an EU or ROW parent in the UK. Subsidiaries in the UK are heavily concentrated in London and the South East. There is little difference between the proportion of subsidiaries in each region for subsidiaries with an EU or ROW parent. The only exception is the West Midlands, where 7% of subsidiaries with an EU parent are located and 3% of subsidiaries with a ROW parent are located.

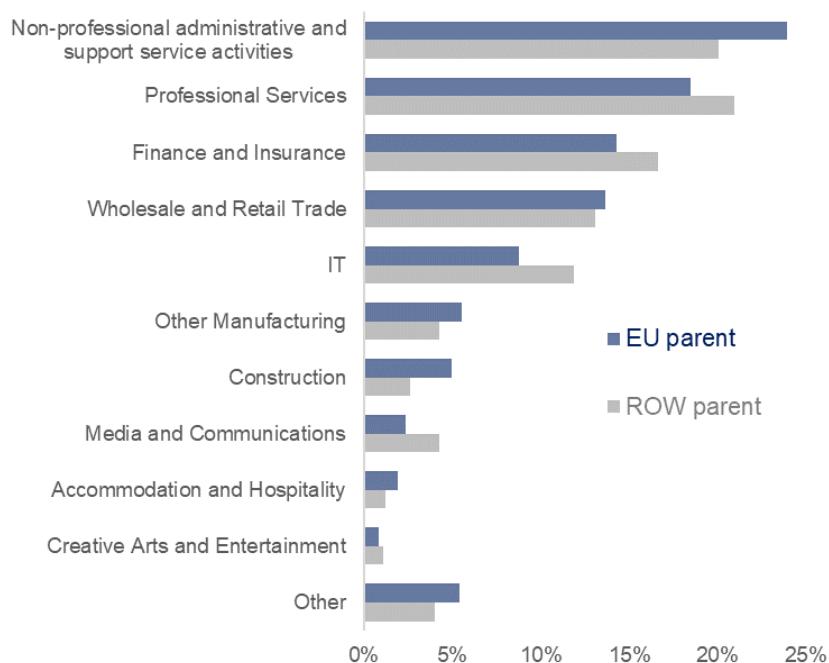
Figure 5.4: Regional distribution of subsidiaries in the UK, split by EU or ROW parent



Source: IDBR

Figure 5.5 shows the regional distribution of subsidiaries in the UK, split by EU or ROW parent. There is little difference between the proportion of subsidiaries in each industry for subsidiaries with an EU or ROW parent. Subsidiaries with an EU parent are more likely to be in the non-professional administrative and support service activities and construction sectors. Subsidiaries with an ROW parent are more likely to be in the professional services, finance and insurance and IT sectors.

Figure 5.5: Frequency distribution of subsidiaries with an EU or ROW parent, by industry sector⁶²



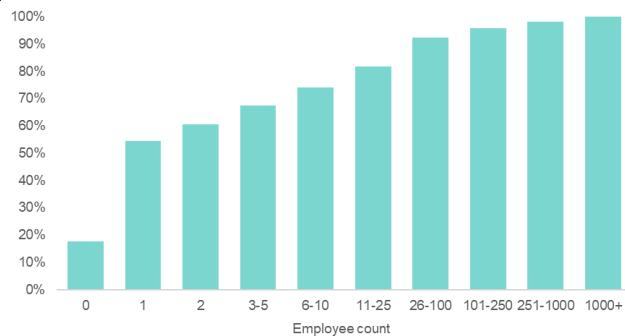
Source: IDBR

Unfortunately, we do not have microdata on overseas firms that have established a subsidiary in the UK. It is therefore difficult to make recommendations on what these firms should look like. However, we can look at UK firms that have an overseas subsidiary⁶³. This gives some idea about how prospective overseas firms might look. This is just an approximation, as the types of firms that originate in the UK and then establish abroad may be different to those that originate overseas but establish in the UK. Nevertheless, it is still useful to examine these data. Figure 5.6 shows the cumulative frequency distribution of employee count in UK firms with a subsidiary abroad. It shows that 82% of UK firms with a subsidiary abroad have 25 employees or less in the UK. Interestingly, 55% of UK firms with an overseas subsidiary have one or zero employees. This suggests that many foreign firms looking to establish a subsidiary in the UK may be very small firms.

⁶² Other includes: Residential and Social Care, Health, Manufacture of Foods and Beverages, Transport, Education, Warehousing, Utilities

⁶³ The UK company has greater than 50% of the share ownership or voting rights in a company registered overseas.

Figure 5.6: Cumulative frequency distribution of employee count in UK firms with a subsidiary abroad



Source: IDBR

Figure 5.7: Cumulative frequency distribution of turnover of UK firms with a subsidiary abroad



Source: IDBR

Figure 5.7 shows the cumulative frequency distribution of turnover of UK firms with a subsidiary abroad. The chart follows a similar pattern to Figure 5.6 (although it is hard to make precise comparisons due to different scales). It shows that 60% of UK firms with a subsidiary abroad have a turnover of £250,000 or less, and 92% of UK firms with a subsidiary abroad have a turnover of £25m or less.

CASE STUDY: Leading Tech Company

A recent success story, and a leading tech company that has grown significantly in the past few years, created a UK subsidiary in 2019.

The process was relatively straightforward. Prior to setting up in the UK, they had bought a company that already had a presence in the UK. Through this channel, the tech company used ICT and business visas to bring over senior executives (about 25 in total) from China to establish the subsidiary.

Those who came over initially were strategic in nature, bringing commercial skills, especially in partnership management. To grow the UK business, they viewed it as important that those present in the market should be able to take advantage of the opportunities locally, whilst members of the team in China provided support on the technical aspects of the platform.

Once established, they started to hire those who were local to the UK market. These key hires led to a process of upscaling and upskilling the UK workforce.

Although they found, and continue to find, issues with the ICT route, they have generally found the UK immigration system very supportive and their concerns are “relatively minor”.

As with any business in this field, they would like to see more use of digitalisation of the process.

International comparisons

United States

Establishing a subsidiary in the US is a relatively straightforward task, according to officials from the US Embassy in the UK. As part of the process, after submitting forms to the relevant State that the company wants to host the subsidiary, all that is needed is to follow the relevant incorporation laws. There is also a route where you can incorporate outside of the US and simply create a ‘branch office’.

Another route involves the L-1 visa⁶⁴. Like the UK RoBR route, the visa is time limited, but can lead to permanent settlement. There are similar criteria surrounding the employee being transferred with them being of a sufficient seniority.

There are two subsets of the visa: the L-1A visa one for those who are senior, and the L-1B for those with specialised knowledge.

Foreign employers seeking to send an employee to the United States as an executive or manager to establish a new office must show:

- They have a physical location for the new office;
- The employee has been employed as an executive or manager for one continuous year in the three years before filing the petition; and
- The new office will support an executive or managerial position within one year of the approval of the petition.

To qualify, you must:

- Generally, have been working for a qualifying organisation abroad for one continuous year within the three years immediately before your admission to the United States;
- Be seeking to enter the United States to provide service in an executive or managerial capacity for a branch of the same employer or one of its qualifying organisations; and
- Be seeking to enter the United States to provide services in a specialised knowledge capacity to a branch of the same employer or one of its qualifying organisations.

There is also a route, the EB-5⁶⁵, that is like the UK Innovator visa, where the individual must invest \$1.8m into a business (or \$900k into a high unemployment area) in the US. As part of this route, the investment must create 10 permanent (FTE) jobs.

⁶⁴ <https://www.uscis.gov/forms/explore-my-options/l-visas-l-1a-and-l-1b-for-temporary-workers>

⁶⁵ <https://travel.state.gov/content/travel/en/us-visas/immigrate/immigrant-investor-visas.html>

There are further visas available, namely the E-1 Treaty Trader visa and E-2 Treaty Investor visa. They are available for people coming from countries with which the United States maintains a treaty of commerce and navigation.⁶⁶ Both visas are available for a maximum number of 5 years.

To be eligible for the E-1 visa, there are certain conditions that you must meet, being:

- You must be involved in international trade;
- You must be from a country that has a trade treaty with the US;
- If you work for a company, at least 50% of it must be owned by people who are citizens of a trade treaty country; and
- You must have a senior position such as a supervisor, manager, or executive.

To qualify for E-2 classification, the treaty investor must:

- Be a national of a country with which the United States maintains a treaty of commerce and navigation;
- Have invested, or be actively in the process of investing, a substantial amount⁶⁷ of capital in a bona fide enterprise in the United States; and
- Be seeking to enter the United States solely to develop and direct the investment enterprise. This is established by showing at least 50% ownership of the enterprise or possession of operational control through a managerial position or other corporate device.

Dependants are able to apply with the E-1 and E-2 visa.

Germany (EU)

There is no specific visa for establishing a subsidiary in Germany, but the closest there is comes under section 21 of the Residence Act. There is nothing to stop a migrant from using this route to establish a subsidiary, with no limiting criteria in terms of investment, job creation etc., within section 21 of the Residence Act.

However, the visa does require that:

- An economic interest or a regional need exists;
- The activity is expected to have positive effects on the economy; and
- The visa holder has sufficient funds⁶⁸ to realise the business concept.

The visa is for an initial three years; however, this is seen as a route to the settlement permit (Niederlassungserlaubnis) which allows an unlimited period of settlement in Germany. Applicants can bring dependants on the visa.

⁶⁶ The applicant must be coming to the United States to engage in substantial trade, including trade in services or technology, in qualifying activities, principally between the United States and the treaty country (E-1); or to develop and direct the operations of an enterprise in which the applicant has invested or is in the process of investing a substantial amount of capital (E-2).

⁶⁷ Substantial in relationship to the total cost of either purchasing an established enterprise or establishing a new one; Sufficient to ensure the treaty investor's financial commitment to the successful operation of the enterprise; Of a magnitude to support the likelihood that the treaty investor will successfully develop and direct the enterprise. The lower the cost of the enterprise, the higher, proportionately, the investment must be to be considered substantial.

⁶⁸ This can be via a business loan

South Korea

The D-8 visa is for individuals who wish to start up small businesses in South Korea. This appears to be a more restrictive visa than those used in other countries.

The current eligibility requirements of the visa include the applicant being able to invest at least KRW 100 million (approximately GBP 60k). The visa is valid for an initial 2 years. Dependents need to make a separate visa application.

South Africa

In South Africa, the business visa is needed for those seeking to own and work in their own business, however where the business is being set up as part of a wider group, i.e. as a branch or subsidiary of an internationally owned business, in this case a business visa would not be required.

In the establishment of a subsidiary into South Africa, there is not a single route. Instead, a ‘blended’ approach may be more appropriate.⁶⁹

Firstly, the initial workforce that enters South Africa would come in on the business visitor route. This would be to start the process of setting up the subsidiary and include activities such as scoping out premises, recruiting some local staff and starting to set up the business.

Once the subsidiary is set up, then there are two potential visas to use.

1. Move to an ICT visa. This visa requires the migrant to show that they are entering South Africa to transfer knowledge/skills to a South African staff member.
2. Use the corporate visa, which relates to investment into South Africa. For this visa, the business needs to show that they will be investing a minimum of 10 million ZAR (approximately GBP 80k). They also need to show that they will have a 60/40 per cent split of employees, with 60% of positions being filled by the local workforce. To get approval for a corporate visa an application needs to be made to 3 departments (Department of Trade, Industry and Competition; Department of Home Affairs; and Department of Labour). These three departments will look at the business plan, revenue, job creation etc and all need to approve before they confirm how many visas can be issued to the business.

The business visa does not permit dependants to enter South Africa. The ICT visa gives entry to South Africa for a maximum of 4 years and therefore does not entitle the visa holder to settlement or South African citizenship.

Conclusions

In this section we have tried to reflect on what the current situation of subsidiaries establishing in the UK have been and what that can suggest about any future criteria of subsidiaries setting up. Unfortunately, and as has been the case in previous MAC reports, our ability to do this has been limited by the lack of detailed data. We are unable to adequately map what impact, for instance, a subsidiary with a turnover of £1 million has as

⁶⁹ As per discussion with Fragomen, South Africa

opposed to one with a turnover of £5 million. This limits our ability to make evidence-based recommendations on criteria for any potential route.

From our international comparisons, there does not appear to be one set of rules used globally that provides a recipe for success. There does appear to be a requirement for capital investment in most countries and perhaps this would be a useful criterion to be considered further. However, without the data that we have mentioned above, setting a realistic figure would be subjective.

The evidence we have suggests that for many overseas businesses the ability to send a single representative to establish a subsidiary will be sufficient. 77% of subsidiaries established in the UK since 2018 have one or fewer employees. We therefore suggest that the default option for this visa remains a single individual, and that most of the current set of rules of the RoBR would remain. However, we do not think it is sensible to allow this visa to be for 3 years with a possible 2-year extension. The aim of the route is to allow for the legal establishment of a business in the UK and filing with the appropriate authorities e.g. HMRC, Home Office. We suggest any individual subsidiary visa should be limited to a 2-year period, with subsequent entry to the UK using alternative routes for visas (and allowing in-country switching to such routes). This is because we would expect the initial stage of developing the subsidiary in the UK to take this period and no longer⁷⁰. Allowing people to stay for more than 2 years raises the concern that the route could be abused as a way for people to obtain UK residence and work authorisation, despite not making progress towards setting up a viable business.

For overseas firms that wish to send a team of workers to establish a subsidiary, we suggest an alternative approach. Given that any recommendation we make within this area will be based on more or less arbitrary criteria, we recommend that a Team Subsidiary (TS) route be trialled over a two-year period and that an extensive set of data be collected over the trial period to allow for subsequent evaluation and refinement of the criteria. The data to be collected over this two-year trial period should include, but not be limited to:

- The turnover of subsidiaries;
- The number of people employed by them (split by those employed locally and those brought in on visas);
- The nature of the business;
- Where the business locates in the UK;
- The size of the parent company; and
- The location of the parent company.

We would suggest the following rules apply to the trial TS route:

1. **We recommend that the foreign company needs to access a form of Sponsor Licence that would evidence their overseas presence etc. and would be used to sponsor the team members coming to the UK to establish the subsidiary.** We expect that only small numbers of applications will be made for the team subsidiary route (given the number applying to RoBR and the employment levels we have

⁷⁰ <http://wdi.worldbank.org/table/5.3> World bank data indicates the period to form a new business. This suggests a year is sufficient time to do that in the UK.

documented in subsidiaries), so we suggest that no hard criteria be applied to overseas sponsor applications during the trial period. However, we also suggest the Home Office monitor closely the number of applications and act quickly to suspend the trial if concerns over abuse arise.

2. **The team subsidiary visa should be limited to a 2-year period, with subsequent entry to the UK using alternative routes for visas (and allowing in-country switching to such routes).** This is because we would expect the initial stage of developing the subsidiary in the UK to take this period and no longer.
3. **We recommend that at least one member of the team must meet the criteria of the current RoBR, whilst other team members must at a minimum meet the criteria of the SW route. As this is a trial, we suggest that the number of team members be limited to five.**
4. **The Home Office, when initiating this trial, should provide baseline criteria/ guidelines to companies wishing to use it, illustrating the basic standards for the route. However, these guidelines should remain flexible during the trial period. The MAC offers to provide support to the Home Office through discussions surrounding such eligibility criteria.**

Secondments

The [commissioning letter](#) for this review asked the MAC to consider the UK's mobility offer, including the ability of an "*overseas business to send teams of workers [...] to undertake a secondment in relation to a high-value contract for goods and services*".

The UK's visit policy allows a client of a UK export company to be seconded to the UK company in order to oversee the requirements for goods and services that are being provided under contract by the UK company or its subsidiary company, provided the two companies are not part of the same group. In addition, employees may exceptionally make multiple visits to cover the duration of the contract. Though there is a lack of data on this issue, we consider that it is likely that the vast majority of UK contracts will be able to use this aspect of visit policy to facilitate employees of the receiving overseas business to visit the UK.

What the visit policy does not permit is a worker for the overseas business residing in the UK for a continuous period in excess of 6 months, nor does it allow for dependants to accompany the worker. Any workers who have undertaken such a secondment outside of the remit of visit policy have, in the past, required Leave Outside the Rules (LOTR). LOTR is granted in cases that are niche and therefore not covered by the main rules, including cases of compelling compassionate grounds. Due to the potential for cases granted in this manner to create a precedent, the decision to grant under LOTR usually requires Ministerial sign-off.

It has proven difficult to obtain data on how often LOTR has been granted in recent years on the grounds of a high-value contract as described above, as the Home Office would need to review every LOTR grant to ascertain the reason. However, the Home Office have told the MAC that they were only readily aware of 3 instances in the previous 5 years where workers have been granted LOTR, and that these related to contracts with initial values ranging from £94 million to £1.3 billion. Though the data are minimal and possibly incomplete, what we have been able to view shows that whilst the number of worker visas issued is slightly higher, there are an exceptional and infrequent number of cases where LOTR was required.

Although used infrequently, LOTR is completely discretionary and there is a lack of public information as to when and how it would be used to facilitate this type of secondment. For this reason, we have concerns that its use for this type of work in the UK is non-transparent and could therefore be inaccessible to some businesses. We start from the basic principle that if an immigration route to the UK exists, it should be a publicised route for all eligible businesses to use.

It is worth noting that the current sponsorship system in the UK shares the burden of ensuring adherence to the Immigration Rules with those who benefit from the immigration system - in the case of the work routes, this is with the employer. The exception to this is the high-value migration routes of the current migration system, previously known as Tier 1 (such as exceptional talent or innovator routes), which do not rely on a sponsorship system due to the high potential/ability of the migrant coming under this route. A number of these routes do now incorporate an endorsement model, where the migrant is endorsed by an appropriate body prior to entry to the UK. However, in the examples described above, it is the contract value that sets these cases apart, rather than any particular skill or potential of the migrant themselves.

International comparisons

Engagement with the international partners confirmed that a secondment of this type, as long as it were under 6 months in length, would be possible under visitor rules in the USA and South Africa. Germany is equally consistent in only permitting some business activities⁷¹. This is similar to the current visit rules in the UK, where migrants are restricted to 6 months maximum stay and no dependants are allowed. None of the countries we spoke to have a route to allow this type of migration linked to high value contracts, although their immigration systems may facilitate this through other, more mainstream work routes.

Stakeholder views

The issue of secondments was not raised during stakeholder engagement events, and although the Scottish Government raised some issues in relation to secondments, the submissions received from government departments and from the NI Executive did not provide any evidence on which we could base recommendations for a new route.

Stakeholders responding to the CfE mostly welcomed the prospect of being able to second overseas workers to the UK for high value contracts. Some expected that the changes would bring economic benefits to the UK through encouraging more business opportunities with UK entities, thereby attracting more investment. Some responses to the CfE did suggest that they were not aware that the secondment route in question was for businesses without a UK presence, as there were UK based businesses referencing their own difficulties of working with the UK visa system to bring in required workers for contracts already agreed:

"Should a route be available for workers to be seconded to the UK, we believe that this would attract more investment into the UK and more businesses would want to do business with UK entities. This would also allow business [to] have contracts completed more quickly as more workers will be available to undertake the work. This route would also cater for employees which are not able to fall within the business visitor route, due to the activities they need to undertake in the UK not failing [falling] with the permitted business activities."

CfE, Professional services company

A few respondents said they were not in favour of allowing a route to enable secondments for high value contracts, because it might restrict opportunities for local labour to flourish or that it may undercut UK companies for high value contracts. While we understand these concerns, the workers who would use this route would remain employees of the contracting firm overseas and would not be competing for UK roles.

Although not discussed widely, some respondents said secondments should not be limited to high value contracts, as some critical projects may not necessarily be high value but are equally important for the

⁷¹ [Professional Activities not classed as Economic Activities - Federal Foreign Office \(diplo.de\)](#)

business or for the UK. Similarly, Scottish Government supported the view that any new mobility offerings should not be restricted to high value contracts, and emphasised the importance of SMEs to the UK economy:

"However, feedback from stakeholders is that any new mobility offerings should not be arbitrarily restricted to overseas businesses coming to the UK to fulfil high value contracts, as this disregards the contribution and growth potential of SMEs to the UK economy."

Written submission, Scottish Government

"Such a route is crucial but should not be limited to 'high value' contracts only as some can be critical but not 'high value' and not limited to GATS trade commitments."

CfE, Professional services company

Conclusions

We are generally supportive of the creation of a route through which staff of an unconnected overseas business could enter the UK as part of a large contract with a UK firm, to be upskilled in the use of the product being produced by that UK firm, given the benefits to the UK economy. Most such secondments are already allowed under the visit policy. For the relatively exceptional few that would not, it would be sensible for a model to be created where each case can be considered on its individual merit, from a minimum baseline. The lack of data we have received on this issue makes it impossible for us to reach evidenced recommendations relating to the parameters of the route. Therefore, whilst we will recommend some basic parameters, it is vital that any route created is evaluated after a reasonable length of time in operation so that an evidence base is developed, and the parameters refined.

We recommend that a secondment route be established that has the following initial criteria:

- 1. The contract value must be in excess of £50 million;**
- 2. The overseas business must have been operating for at least 12 months;**
- 3. Visas should be issued for a maximum of 12 months with the possibility of a single renewal; and**
- 4. Dependants would be eligible.**

It will be important for the Home Office to monitor the use of this route in real time and be ready to suspend the route immediately if there are indications of abuse. Given the data we have, and the flexibility already available in the visit policy, we would expect no more than a handful of applications each year.

Short-term assignments

A number of stakeholders raised concerns about the lack of an agile, time-limited route that would allow a migrant to come to the UK to carry out specialist technical work which only requires a few days or weeks to complete, making the ICT route too burdensome and slow, whilst such work is not allowed under visit policy. In a lot of these examples, stakeholders are reliant on teams of workers who operate in the larger EU market where it is viable, but the removal of free movement has made this particularly challenging, especially when time-sensitive repairs are needed. It is worth noting that not all examples of issues raised concerned migrants who would meet the salary and/or skills threshold of the ICT route, and it is therefore clear that this is a much wider issue than specifically for ICTs. Given the context of this report, we will be focussing on short-term workers who meet the skill and salary requirements of an ICT visa.

Previous short-term ICT route

The previous short-term route is described below. It was neither a more agile nor less burdensome route than the main ICT route at the time and, as such, would not address the concerns raised by stakeholders; nevertheless, we have considered how it worked in practice. The ICT route was launched as part of the Points Based System in 2008 and had the same salary threshold as the rest of Tier 2. In April 2011, as a cap was introduced in T2(G) as part of a political objective of reducing the net migration figures. At the same time, the ICT route was split into short-term and long-term staff subcategories.

The short-term subcategory was for ICT transfers of up to 12 months and retained a salary threshold of £24,800 and an accommodation allowance of up to 40% (rather than 30% for long term staff), whilst the salary threshold increased to £40,000 for the long-term route. The increase to the long-term route was to reflect the use of the route by senior managers and specialists, though again the increase was hoped to have a negative effect on net migration. Short-term ICT workers would not be counted in net migration figures, as migrants have to reside in the UK in excess of 12 months to be considered a long-term migrant. In November 2016, the salary threshold for the short-term route was increased to £30,000 following a MAC recommendation in the [2015 Review of Tier 2](#). As part of that review, the MAC also recommended that third party contractor ICTs should have a £41,500 threshold even in the short-term route. The Home Office took the decision instead to close the short-term ICT route on 5 April 2017, requiring all workers to meet the higher threshold and reinforcing the message that the ICT route was specifically for specialists and senior managers.

It is interesting to note the effect that the closure of the short-term ICT route had on the volume and salaries of ICT migrants in the route. Figure 5.8 shows that after April 2017, ICT salaries increased in line with the higher salary threshold associated with the long-term ICT route. Meanwhile, Figure 5.9 shows that the closure of the short-term ICT route had a negligible effect on the total numbers of users of the route (after a temporary dip in April 2017). This suggests that employers continued to employ a similar number of ICT workers, but on higher salaries. This in turn suggests that the short-term route was being used to pay ICT migrants a salary well below the migrant's value to the employer.

Figure 5.8: Volume of ICT visa applicants by salary group

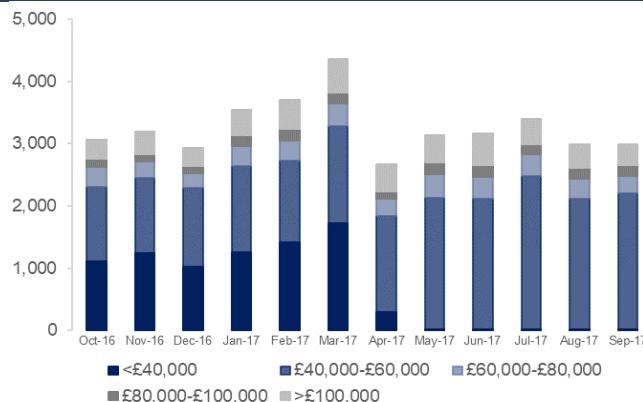
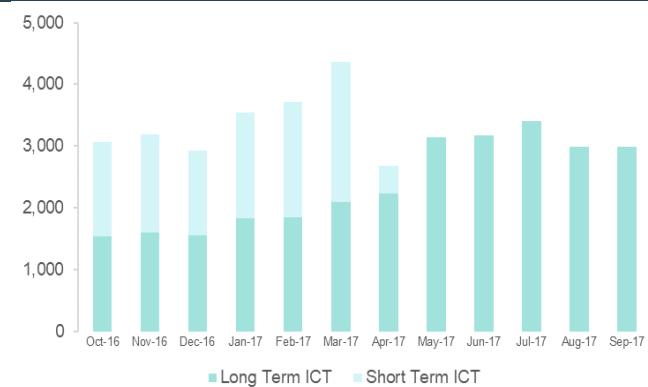


Figure 5.9: Volume of ICT visa applicants by length of visa



Source: Home Office Management Information

Certificate of Sponsorship (CoS) 01 Oct 2016 - 30 Sept 2017

Note: Used CoS. CoS is assigned to a migrant by their sponsoring employer and the migrant can then use the certificate number to make a visa application

Given the significant concerns the MAC has previously raised about the potential for a cheaper migrant workforce to displace UK workers and the lack of any justification for a lower salary threshold for a short-term route, **we do not recommend that a short-term route be reinstated in its previous form.**

Business activities within visit policy

One potential solution to the issue of needing a route for ICT workers that is agile, time-restricted, less costly to the business and issued at very short notice would be an expansion of the current visitor rules. The visit policy restricts the work that someone can do in the UK, prohibiting all of the following:

- taking employment in the UK;
- doing work for an organisation or business in the UK;
- establishing or running a business as a self-employed person;
- doing a work placement or internship;
- direct selling to the public; or
- providing goods and services.

General 'business activities' are allowed, include all of the following:

- attending meetings, conferences, seminars, interviews;
- giving a one-off or short series of talks and speeches provided these are not organised as commercial events and will not make a profit for the organiser;
- negotiating and sign deals and contracts;
- attending trade fairs, for promotional work only, provided the visitor is not directly selling; and
- carrying out site visits and inspections;
- gathering information for their employment overseas; and
- being briefed on the requirements of a UK based customer, provided any work for the customer is done outside of the UK.

However:

- These must not amount to the visitor undertaking employment, filling a role, or providing short-term cover for a role within a UK based organisation, where the visitor is already paid and employed outside of the UK they must remain so; and
- The visitor must not receive payment from a UK source for these activities, except for:
 - Reasonable travel and subsistence expenses;
 - Billing a UK client for their time in the UK, where the applicant's overseas employer is contracted to provide services to a UK company; and
 - Multi-national companies who, for administrative reasons, handle payment of their employees' salaries from the UK.

There are many additional niche activities permitted within the visitor rules, which are listed in the Annex document.

Stakeholders were mixed in their views regarding visit policy. Whilst some agreed that a loosening of the restrictions on permitted activities would be an ideal solution, others felt that the restrictiveness of the route meant they were able to be very clear with staff over permitted activities and expressed concerns about compliance if the rules were to be relaxed. It is worth noting that many of those who were cautious about an expansion to the types of work allowed on a visitor basis were businesses that were familiar with being a sponsor of migrants to the UK. When a compliance visit is made to a sponsor, all migrants working at that business will be reviewed, including those on visitor visas. If it was found that a sponsor was using the visitor visa route incorrectly this could have an impact on their sponsorship of other work routes. It is also worth noting that the business visit policy, by its nature, does not allow the government to impose particularly detailed restrictions on who can perform the work and under what conditions; for example, it would not be possible to impose a salary threshold.

One stakeholder went further to suggest a visa which could be similar to the media representative visa category under the RoBR or the Swiss service agreement, and which could be monitored by the Home Office to track how many individuals come to the UK as it would incur an application fee and health surcharge. It was suggested that this route should be open to businesses who both have and do not have a UK presence.

Another suggestion was made to expand the existing sponsorship routes to allow sponsored employees to work for contracts between overseas entities and UK clients, for businesses with a Sponsor Licence and those that have a UK presence.

How businesses are currently addressing short-term working

Businesses are currently managing the issues around short-term working in a variety of ways, and with varying degrees of satisfaction with the results. For some businesses, the ICT route represents a satisfactory solution to their short-term working needs, whereas others said that the rules of the ICT route and of alternative visas were presenting impediments to their business.

As mentioned above, some of the comments went wider than the ICT route: the Scottish Government and others made the point that EU business mobility is still low and indicated that they felt the issue of short-term

working would become more urgent (given that Freedom of Movement has now ended), as the current COVID-19 travel restrictions start to lift and businesses once again need to move staff on a short-term basis.

- Several companies used the business visitor route for short-term working. However, the list of permissible activities was said to be limited and also to some extent unclear: companies were not always sure about what was allowed and there was some sense that clarification, as well as expansion, would be helpful. For example, one respondent noted that a relatively minor shift in activities, resulting in the activities falling outside the business visitor route, could result in a drastic increase to the cost, timescale and administration associated with compliance with the immigration route.
- The Tier 5 International Agreement Worker visa⁷² was used by several businesses.
- The Frontier Workers Scheme was a route that businesses prefer, which is understandable as it is an unsponsored route with no visa fee. Indeed, Frontier Worker permits were the largest single category of work visas issued to EU citizens in the first six months of the operation of the new immigration system. Although this was suitable for those moving staff from the EU to the UK, there were concerns that this scheme would become less useful over the longer term given it only applies, in most circumstances, to those present in the UK prior to 31 December 2020⁷³. It was noted that some employees currently using this would not meet the ICT skills threshold.

Stakeholders said a route that would allow businesses to source workers from overseas for tasks that were highly specialised, infrequent in nature and were temporary, could help businesses complete contracts more quickly, where it may be difficult to find staff in the UK.

"We have clients who work on highly valuable projects to the UK, but infrequent (e.g. infrastructure, food production and mining) and require very specialised skills (upskilling the resident workforce would take several years and there is not a sufficient market in the UK to train/retain locals - it could not offer full-time/consistent employment in the UK) who would greatly benefit from such a scheme."

CfE, Professional services company

"Businesses would have greater access to the skills they need to deliver on contracts, bringing in revenue for the UK."

CfE, Employer, Information and Communication

Impacts on business

Respondents were clear that the lack of a short-term business option had an impact on their businesses.

- As noted above, respondents mentioned the increased burden associated with complying with the business visitor route. Suspicions were also expressed that some businesses did not comply with the rules

⁷² [T5 \(Temporary worker\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁷³ [Frontier Worker permit - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

of the route and were exploiting it to carry out work that was not allowed, effectively penalising those who were compliant.

- The skills threshold of the ICT route was also cited as a problem for short-term working by employers in manufacturing or engineering fields that require skilled, hands-on work: respondents identified the need for an option that would allow skilled trades and engineers in particular, to carry out practical and technical work including installation, training, launching and testing on a short-term basis. Although businesses said they would prefer to hire local labour for such work, they noted both that overall skills gaps remain at this level, and that such work can be quite specific and specialised to the process or company.

Based on the above, and on other work carried out in the area, businesses therefore expressed the need for a hybrid route that represented a middle ground between the Business Visitor route and the ICT route in order to support short-term business mobility, something which has also been proposed by others including TheCityUK and EY in a recent report⁷⁴. This would however sit outside the scope of this commission, as it goes beyond the remit of the ICT route.

International comparisons

We were given several examples of countries with similar routes allowing short-term working, which those responding felt served their needs well.

South Africa was raised by stakeholders as having good examples of short-term work-permit routes: South Africa has a Section 11.2 short-term travel visa, better known as a business visa, within their visit policy. The business visa is issued for an initial period of 90 days, which can then be extended for a further 90 days in country. The migrant must declare what they intend to do, such as specific project work or to cover a gap for the business and will usually receive a visa in 5-15 days. Stakeholders appreciated the flexibility to complete short-term work needs without the more restrictive definitions of the type of work allowed under UK visit policy and the quick turnaround for the visas.

South Korea was given as an example of a country which also handles this type of work well, giving the option to work for 90 days without a work permit and then the ability to apply for longer in-country.

The US and China were said to be “tricky”, with the US L1 visa said to be overly complex and with unpredictable results from the interview process.

Expanding the current visit visa

Our remit in this report is to review the ICT route and therefore we have considered the issue of a short-term route through that lens. We are mindful that any liberalisation of visitor policy would impact far more than the ICT route and would apply to all visitors to the UK. Non-visa nationals can currently apply for entry as a visitor

⁷⁴ <https://www.thecityuk.com/assets/2020/Reports/cfe0ef1b16/International-trade-agreements-and-UK-immigration-policy-a-practical-blueprint-for-evolution.pdf>

at their entry point to the UK, with no prior notice, with no sponsor, often entering through an e-gate without ever meeting a Border Force official. The restrictions on the route are therefore intended to be specific and restrictive to avoid circumvention of the work routes and issues around enforcement. However, it is clear from the engagement with stakeholders that there is appetite for a responsive short-term route for work in the UK as a result of the ending of free movement. **We therefore recommend that the Home Office explore how the visit rules could be adapted to facilitate time-limited, essential work travel to the UK.**

New short-term ICT route

A new short-term ICT route could be considered to fill the gap identified by stakeholders, which would match the salary threshold and skill level of the current ICT route, to avoid the perverse incentives of the previous route. We are aware that this would not address some of the gaps identified by some stakeholders, who were referencing work that would not meet the levels required. As this route would be explicitly for ICT workers who need to travel to the UK for a short period to complete work, we would suggest a time limit of 3 months for the visa, with no return to the UK for a set period after the end of the visa. Any ICT professional who will be required in the UK for repeated short periods should apply for a longer visa and take advantage of the multiple-entry nature of the standard ICT visa.

The Home Office should explore options for certain sponsors with a track record of compliance to be able to bring employees to the UK at shorter notice than is currently possible under the ICT route, by avoiding the need for a full visa application. We would suggest employers who have the appropriate track record could apply in advance for the right to assign a set, limited number of short-term visas to workers at short notice. We do recognise that there are likely to be technological hurdles to overcome, especially for visa nationals, to have a fully responsive system that would not require a full visa application prior to travel, so this aspect is something that may require more time to implement fully.

Whilst this solution would work for some of the stakeholders who raised this issue, we are mindful that whether a short-term ICT route will be necessary will depend on decisions around the expansion of work allowed under the visit visa policy. **We therefore recommend that the Home Office explore the option of a short-term ICT route as set out above, in conjunction with the consideration of an expansion of visit rules.**

International Example

An international example of visas issued at short notice would be the ‘blanket petitions’ options for L-1 workers in the US. The Blanket Petitions guidance⁷⁵ states:

Certain organizations may establish the required intracompany relationship in advance of filing individual L-1 petitions by filing a blanket petition. Eligibility for blanket L certification may be established if:

- The petitioner and each of the qualifying organizations are engaged in commercial trade or services;
- The petitioner has an office in the United States that has been doing business for one year or more;
- The petitioner has three or more domestic and foreign branches, subsidiaries, and affiliates; and

⁷⁵ [L-1A Intracompany Transferee Executive or Manager | USCIS](#)

- The petitioner along with the other qualifying organizations meet one of the following criteria:
 - Have obtained at least 10 L-1 approvals during the previous 12-month period;
 - Have U.S. subsidiaries or affiliates with combined annual sales of at least \$25 million; or
 - Have a U.S. work force of at least 1,000 employees.

The approval of a blanket L petition does not guarantee that an employee will be granted L-1A classification. It does, however, provide the employer with the flexibility to transfer eligible employees to the United States quickly and with short notice without having to file an individual petition with USCIS.

Where an L-1 visa is required

In most cases, once the blanket petition has been approved, the employer need only complete [Form, I-129S, Non-immigrant Petition Based on Blanket L Petition](#), and send it to the employee along with a copy of the blanket petition Approval Notice and other required evidence, so that the employee may present it to a consular officer in connection with an application for an L-1 visa.

Chapter 6: Recommendations

We have carried out a full review of the Intra-Company Transfer (ICT) Visa and reviewed the following:

- The salary threshold for entry to the ICT route
- Any other elements that should count towards meeting the salary requirement
- Whether different arrangements should apply to the very highly paid
- What the skills threshold for the route should be
- The conditions of the route, in particular those where it differs from the Skilled Worker route

Our main recommendations can be summarised as follows:

Impacts of the route

The ICT route is intended to provide a short-term route for sponsors to transfer high skilled staff from overseas where a UK presence is required. Employees must be established workers of multinational companies who are being transferred by their overseas company to carry out a skilled role for a linked entity in the UK. The route can help to introduce new skills and innovation into the UK, if ICT migrants complement the UK labour force bringing in expertise and knowledge that can be transferred to UK workers. There is currently a lack of data on which to assess impacts on protected characteristics in the visa system.

Recommendations:

1. The Home Office should collect further data on protected characteristics from visa applicants, in order to provide a more complete picture on applicants, as at present it is only possible to look at nationality, citizenship, age and sex. This should be done on a voluntary basis and the data should not be shared with decision makers.

Chapter 3

Skills threshold

In April 2011, the minimum skills threshold for the Tier 2 (General) and the Tier 2 (ICT) immigration routes were both increased from RQF3 to RQF4. In June 2012, they were increased again to RQF6. The government made these changes because, at the time, they felt that the UK had a sufficient source of migrants above RQF3 because of freedom of movement within the European Economic Area (EEA) as the UK was a member of the European Union.

In the MAC's 2018 report EEA migration in the UK, the MAC noted that this threshold would need to be reconsidered if the UK no longer had access to the free movement of labour within the EEA as there could be possible shortages in occupations below RQF6. We recommended that in this case, the Tier 2 (General) route should be opened to all jobs at RQF3+.

From 1 January 2021, after the UK's withdrawal from the European Union and access to the EEA, the Tier 2 (General) route was replaced with the Skilled Worker Route as the Government introduced a new points-

based immigration system. The skills threshold for the new Skilled Worker Route was set at RQF3+, as the MAC had previously recommended. The threshold for the ICT immigration route however remained at RQF6.

Recommendation:

2. The skills threshold for the Intra-Company Transfer route should remain at RQF6+.

Chapter 4

Salary threshold

The current salary threshold for Intra-Company Transfers in the UK is set at £41,500. The skill level threshold for the route is set at Regulated Qualifications Framework (RQF) level 6 or above (broadly equivalent to graduate level occupations). To apply for the ICT route, an individual must have a job offer for an eligible occupation that meets this skill requirement. As well as having a job offer for an eligible occupation, anyone applying for an ICT visa must earn at least the £41,500 salary threshold amount or the ‘going rate’ (the 25th percentile of earnings for their occupation), whichever is higher. If an applicant’s salary is less than £73,900, then they must have worked overseas for the sponsoring employer for more than 12 months.

Recommendations:

3. The salary threshold for the ICT route should be set at the median annual gross wage of occupations which are RQF6+ using data from the Annual Survey of Hours and Earnings (ASHE). This is currently £43,200.
4. The ‘going rate’ for each occupation should remain at the 25th percentile, updated annually, and the applicant must continue to meet the higher of the two thresholds.
5. All the salary thresholds for the Intra-Company Transfer route should be updated annually.

Chapter 4

Intra-Company Graduate Trainee Visa Salary Threshold

The Intra-Company Graduate Trainee visa is designed for graduates to come to the UK as part of a structured graduate training programme, with clearly defined progression towards the managerial or specialist role within the sponsoring organisation. Applicants must have worked outside the UK for the sponsor group for a continuous period of at least 3 months before they apply, and the current salary threshold is £23,000.

Recommendations:

6. The salary threshold for the Intra-Company Graduate Trainee visa should be set at the same level as a graduate entrant in the SW route. This is the higher of either £20,480 or the ‘going rate’ for the occupation with a 30% discount applied.

Chapter 4

High Earner Threshold

The high earner threshold was substantially reduced from £120,000 to £73,900 in December 2020.

As outlined in Chapter 4, those meeting the high earners threshold have slightly different rules to those meeting the general salary threshold only: exemption from the requirement to have worked for the employer overseas for a period, and a maximum stay of 9 years in 10.

The current high-earner threshold is £73,900.

Recommendations:

7. The high earner threshold should remain at £73,900. The threshold should be updated annually, using the growth rate of annual wages in all RQF6+ occupations, in line with all other thresholds.
8. Maintain the provision that high earners do not require a minimum of 12 months overseas employment with their current employer.
9. Maintain the provision that allows high earners to stay a total of 9 years out of a 10-year period.

Chapter 4

Immigration Skills Charge (ISC)

Currently the Immigration Skills Charge (ISC) applies to the ICT route, except for the Graduate Trainee route. The Trade and Cooperation Agreement between the EU and the UK sets out that for ICTs, the Immigration Skills Charge cannot apply for EU nationals from 1 January 2023. Despite the EU-UK Trade and Cooperation Agreement, we believe that by not applying the ISC to all nationalities, the UK could incentivise employers to favour certain nationalities over others. However, this is less likely to be a substantive issue in the ICT route as employers do not have as much choice of nationality as the employees must already work in their overseas branch.

Recommendation:

10. The Immigration Skills Charge continue to be levied on the ICT route, where trade agreements do not preclude this.

Chapter 4

Allowances

Currently, allowances that are paid to ICT workers can be included when assessing whether a worker meets the salary threshold. These allowances must be guaranteed for the duration of the applicant's assignment (such as London weighting or accommodation allowance).

Recommendations:

11. The Home Office take steps to enforce the requirement for sponsors to provide a complete breakdown of allowances that are paid.

12. Alongside the breakdown outlined for allowances paid in chapter 4, and any existing work being undertaken by Immigration Enforcement, we recommend the Home Office considers what further monitoring of the breakdown of allowances is proportionate. Further data sharing with HMRC (in addition to that already taking place) may also be useful to monitor compliance.

Chapter 4

Length of time employed overseas before eligibility for ICT

Currently, the length of time the applicant is required to be employed overseas is 12 months before they are eligible for the ICT route (3 months for the graduate trainee route). Overall, we have seen no convincing evidence that the 12-month employment rule is causing substantial difficulty. For firms that do wish to bring workers to the UK without such experience, they can either use the high earner ICT exemption or employ the worker through the SW Route which has no restriction on prior experience.

Recommendation:

13. Maintaining the minimum overseas employment requirements at their current levels: 3 months for the graduate route and 12 months for the main route.

Chapter 4

English Language Requirement

ICT migrants do not need to meet an English language requirement. This is in comparison to the SW route where migrants must either take an English language test or demonstrate fluency in other ways such as being a national of a majority English speaking country.

Recommendation:

14. Maintaining a policy of requiring no English language requirement for ICT migrants.

Chapter 4

Switching and Settlement

The ICT route is distinct from the SW route, as it is intended to be for short-term assignments only and does not offer a route to settlement. Switching was prohibited under the previous rules; however, it is permitted under the current immigration system (in place since January 2021), allowing migrants to switch in-country from the ICT visa to the SW visa. The combination of the introduction of the SW route and the changes to the switching rules on the ICT route represents a major change to the structure of the ICT route, and to its place in the wider immigration system. Now, although the ICT route remains a short-term proposition with no direct route to settlement, the ICT route has an indirect route to settlement given that those on the route have the ability to switch into a visa category that leads to Indefinite Leave to Remain.

Recommendations:

15. The ICT route should be a route to settlement, without the need to switch to other routes to obtain settlement. Time spent on the ICT visa should also count towards settlement if the worker does switch into another route.
16. No changes to the current rules for switching, maintaining the provision that switching is permitted from day one.

Chapter 4

ICT rules and compliance

Abuse of the ICT route is known to happen and is picked up within existing Home Office compliance and enforcement actions. Both UK Visas and Immigration, and Immigration Enforcement, carry abuse of ICTs as a live issue on their immigration threat assessments. It can be difficult to identify when abuses are occurring, as many of those carrying it out are large companies that are experienced at using the route and are able to hide it effectively. Immigration Enforcement assesses that it is highly likely that such abuse is occurring regularly but does not have the information to give a sense of how widespread it is. We are also aware that enforcement and compliance activity has been severely restricted over the COVID-19 pandemic, owing to the difficulties of making in-person visits and the fact that many workplaces have primarily been home-working.

Recommendation:

17. The Home Office to consider increased monitoring and enforcement of the ICT route to determine whether there is widespread abuse of the rules. Particular focus should be given to accommodation allowances and reported salaries.

Chapter 4

Subsidiaries

The UK currently has a route that allows migration under the Representative of an overseas business route (RoBR). To be eligible for this, you must be either:

- the sole representative of an overseas business planning to set up either a UK branch or wholly owned subsidiary
- an employee of an overseas newspaper, news agency or broadcasting organisation posted on a long-term assignment to the UK

The current requirements allow an overseas business to send one person to the UK to set up a subsidiary. Once a UK entity has been established, the overseas business can sponsor or transfer staff to the UK on a Skilled Worker or ICT visa.

Recommendations:

18. The foreign company needs to access a form of sponsor licence that would evidence their overseas presence etc. and would be used to sponsor the team members coming to the UK to establish the subsidiary.
19. The team subsidiary visa should be limited to a 2-year period, with subsequent entry to the UK using alternative routes for visas (and allowing in-country switching to such routes).
20. At least one member of the team must meet the criteria of the current RoBR, whilst other team members must at a minimum meet the criteria of the SW route. As this is a trial, we suggest that the number of team members be limited to five.
21. The Home Office, when initiating this trial, should provide baseline criteria/guidelines to companies wishing to use it, illustrating the basic standards for the route. However, these guidelines should remain flexible during the trial period. The MAC offer to provide support to the Home Office through discussions surrounding such eligibility criteria.

Chapter 5

Secondments

The UK's visit policy allows a client of a UK export company to be seconded to the UK company in order to oversee the requirements for goods and services that are being provided under contract by the UK company or its subsidiary company, provided the two companies are not part of the same group. In addition, employees may exceptionally make multiple visits to cover the duration of the contract.

What the visit policy does not permit is a worker for the overseas business residing in the UK for a continuous period in excess of 6 months, nor does it allow for dependants to accompany the worker. Any workers who have undertaken such a secondment outside of the remit of visit policy have, in the past, required Leave Outside the Rules (LOTR). We start from the basic principle that if an immigration route to the UK exists, it should be a publicised route for all eligible businesses to use.

Recommendations:

22. A secondment route should be established that has the following initial criteria:
 - the contract value must be in excess of £50 million
 - the overseas business must have been operating for at least 12 months
 - visas should be issued for a maximum of 12 months with the possibility of a single renewal
 - dependants would be eligible

Chapter 5

Short term assignments

Stakeholders raised concerns about the lack of an agile, time limited route that would allow a migrant to come to the UK to carry out specialist technical work which only requires a few days or weeks to complete; making the ICT route burdensome and slow whilst such work is not allowed under visit policy.

Chapter 5 provides a detailed review of the previous short-term route, expanding the current visit visa and a new short-term ICT route.

Recommendation:

23. The MAC do not recommend that a short-term ICT route be reinstated in its previous form.
24. The Home Office should explore how the visit rules could be adapted to facilitate time-limited, essential work travel to the UK.
25. The Home Office should explore the option of a short-term ICT route as set out in Chapter 5, in conjunction with the consideration of an expansion of visit rules.

Chapter 5

Corrections

The following corrections have been made to this report in April 2022

| Location in Document | Error | Reason for Change | Detail of change |
|----------------------|--|---|---|
| Page 6 | Reference's the salary threshold for rjf6+, which has had weighting applied. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | The current median annual gross wage of occupations which are RQF6+ changed from £42,400, to corrected £43,200. |
| Page 58 | Figures in Table 4.4 have been updated to reflect weighting. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | Corrected table placed in document, previous table 4.4 below this table. |
| Page 59 | Worked example of how salary threshold could have been uplifted between 2015 to 2020, weightings have been applied to the figures. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | <p>Previous example stated:</p> <p>'The last time the threshold received an uplift was in 2015, so we compared the median annual gross pay for RQF6+ occupations in 2015 and 2020 using the ASHE data. This was £39,400 in 2015 and £42,400 in 2020 – showing a nominal increase of 7.8% over the period. When we uplift that earnings growth to the salary threshold of £41,500 in 2015, we get £44,700.'</p> <p>Corrected example:</p> <p>'The last time the threshold received an uplift was in 2015, so we compared the median annual gross pay for RQF6+ occupations in 2015 and 2020 using the ASHE data. This was £39,600 in 2015 and £43,200 in 2020 – showing a nominal increase of 9.2% over the period. When we uplift that earnings growth to the salary threshold of £41,500 in 2015, we get £45,300.'</p> |
| Page 59 | Recommendation has been based on figures from table 4.4, which has been updated to include weighting. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | Recommendation of salary threshold previously stated £42,400, corrected version states £43,200. |

| | | | |
|----------|---|---|---|
| Page 62 | Worked example of how higher salary threshold could have been uplifted between 2015 to 2020, weightings have been applied to the figures. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | <p>Previous example stated:</p> <p>'If we uprated the £73,900 high earner threshold from 2017 in line with median earnings growth in RQF6+ jobs (from £40,300 in 2017 to £42,400 in 2020), this would give a salary of £77,800. This is at the 88th percentile of 2020 RQF6+ jobs.'</p> <p>Corrected example:</p> <p>'If we uprated the £73,900 high earner threshold from 2017 in line with median earnings growth in RQF6+ jobs (from £40,900 in 2017 to £43,200 in 2020), this would give a salary of £78,100. This is at the 88th percentile of 2020 RQF6+ jobs.'</p> |
| Page 110 | Highlights recommendation to adjust salary threshold, which has been updated to reflect weighting. | Weightings are provided by the ONS and should be applied to make figures reflective of the UK population. | Recommendation of salary threshold previously stated £42,400, corrected version states £43,200. |

Previous unweighted version of Table 4.4: Summary of median and 25th percentile salaries for each option

| Options | Description | Annual Gross Pay 25 th Percentile (£) | Median Annual Gross Pay (£) |
|---------|---|---|--------------------------------|
| 1 | 1-digit SOC = 1 | 31,700 | 45,200 |
| 2 | 1-digit SOC = 1 & 2 | 31,700 | 41,000 |
| 3 | 1-digit SOC = 1, 2 & 3 | 29,400 | 38,600 |
| 4 | SOC skill level = 4 | 32,100 | 41,400 |
| 5 | SOC skill level = 3 & 4 | 28,000 | 36,900 |
| 6 | Occupations which are RQF6+ | 33,000 | 42,400 |
| 7 | Occupations which are RQF4+ | 31,000 | 40,200 |
| 8 | 4-digit SOC contains the words "senior" or "director" | 32,400 | 47,400 |
| 9 | 4-digit SOC contains the words "manager" | 28,400 | 39,900 |
| 10 | Skilled Worker route (RQF3+ for comparison) | 25,800 | 34,700 |

Source: ASHE 2020