



Professor Brian Bell
Migration Advisory Committee
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BY EMAIL ONLY

1 April 2022

Dear Brian,

RESPONSE TO THE REVIEW OF THE INTRA-COMPANY TRANSFER IMMIGRATION ROUTE

I am very grateful to the Migration Advisory Committee (MAC) for its insightful and detailed report on the Intra-company Transfer (ICT) route and for its advice on related business mobility matters. The Committee carried out this review at a time of ongoing uncertainty in the UK economy and labour market as the global economy recovers from the impacts of the COVID-19 pandemic. I am grateful for your ongoing expertise during this challenging time.

As the Committee will be aware, in March 2021, the Government announced it would launch a new Global Business Mobility (GBM) route. This will consolidate a number of business mobility immigration provisions - including for ICTs - into a single route. Since most of the Committee recommendations relate to our immigration policies for ICTs and other business mobility routes, we will implement the required changes with the launch of the GBM route in Spring 2022.

I have carefully considered the Committee's findings and accepted most of the 25 recommendations made, a summary of which is attached at Appendix A. In principle, I agree with your findings on salary thresholds and business expansion workers but will seek to implement these in a slightly different way from the recommended approach. I will also need longer to consider your findings on short term assignments. The only recommendation I have not accepted is on settlement for ICT workers.

Salary thresholds

Your report recommended standardising our approach to setting salary thresholds by systematically deriving them from the Office for National Statistics' Annual Survey of Hours and Earnings (ASHE) on a regular basis. We think this approach is sensible as it will ensure our policy keeps pace with pay in the domestic labour market and provide transparency for businesses on when and how the salary thresholds will change.

Although your recommendations on salary thresholds relate only to ICTs, in the interest of maintaining a consistent policy, we will adopt the same approach for setting salary thresholds across other work-based immigration routes where appropriate. Due to the potential impact of changing salary requirements across the immigration system, we will take a little more time to consider and implement any changes in response to this recommendation. We have some concerns about the substantial year-on-year variations in parts of the ASHE data and the uncertainty it could cause for some users if we were to update the general salary threshold and going rates on an annual basis. We are therefore considering how frequently updates should be done and options for smoothing out the fluctuations in going rates.

For graduate trainees undertaking assignments in the UK as part of a business's structured training programme, we operate a reduced salary threshold compared to other ICTs. Your report recommended reducing the threshold further to match those applied in the Skilled Worker route on the basis that businesses would be incentivised to use the Skilled Worker route rather than the graduate trainee route. There are however other reasons businesses would favour the graduate trainee route, including the lack of an English language requirement and because it is easier for graduate trainees to change jobs within an organisation than other sponsored workers. Given that graduate trainees must be working in graduate-level jobs, we will instead base their salary threshold on the average earnings of jobs at that level (i.e. RQF level 6 and above), but with a 30% discount to account for these workers being early in their careers. This will result in the salary threshold for graduate trainees being set at £23,100; just £100 more than the current level.

Business expansion workers

Your report recommended making reforms to enable businesses to send a team of up to five workers to the UK to establish a UK branch or subsidiary. While I accept this in principle, there are two parts of the proposal where we will take a slightly different approach.

Firstly, you recommend business expansion workers (with the exception of the senior executive in charge of the expansion) should be subject to the same requirements as those in the Skilled Worker route. After careful consideration, I have decided to set the requirements at the same level as other GBM workers instead (e.g. skill level RQF level 6+ and salary requirement of £42,400). There are a few reasons for this:

- Our research suggests that the types of workers most crucial to an expansion have a level of specialism or seniority consistent with the general GBM requirements, such as finance and HR professionals or technical specialists.
- Businesses expanding to the UK will typically recruit local workers at the outset and we do not want to disincentivise this behaviour.
- While businesses who might want to expand to the UK may in some cases struggle to meet the GBM salary thresholds, we don't think that is a sufficient reason to allow businesses to pay below the appropriate level for the UK.
- Setting the same requirements as other GBM workers will make the new route simple and consistent.

Secondly, the Committee recommended implementing these reforms on a trial basis, with no fixed criteria for overseas businesses who wish to use this route to support their expansion to the UK. We will instead launch this as a substantive part of GBM and keep

the policy under review as part of our evaluation process. Because it is not a trial however, we will set some criteria from the outset, including a 3-year minimum length of time trading overseas prior to expansion. This will enable us to verify that businesses using the route have a genuine intention and capability to make a successful expansion to the UK. Within this framework, we will nevertheless embrace your recommended approach of giving businesses flexibility on how they demonstrate their suitability. Going forward, we will refine the requirements if needed, and I am grateful for your offer to support us in this effort.

Short-term assignments

Your report highlighted the demand from UK businesses for an agile route to allow workers to undertake specialist technical assignments requiring only a few days or weeks to complete. You recommended we consider two specific options for addressing this issue, namely an expansion of the activities permitted on visitor visas, and/or a short-term ICT route usable by sponsors with a history of good compliance that does not require a full visa application.

As this topic was not part of my commission, it is not within the scope of our current plans for GBM to address any of the perceived issues now. You acknowledged we would likely need further time to investigate this matter, and with that in mind my officials will coordinate across Government to gather evidence on how the Visitor, GBM and other routes are working for different types of short-term business assignments. Where necessary, we will look at a range of possible options to address any issues we find. I am grateful for the suggestions you have put forward, and I will certainly keep them in mind as I consider this issue further.

Settlement

Your report recommended ICT should be a route to settlement. We agree that ICT workers make an important contribution to the UK, and we wish to make our immigration policy as fair to them as it can be. However, there is a balance to strike in ensuring our business mobility immigration routes can support temporary business activities as well as possible, without compromising the policies we apply to migrant workers seeking access to the UK labour market in general.

The Skilled Worker route is intended to enable businesses to fill vacancies arising from skills shortages in the UK. Offering settlement in that route makes it more attractive to talented workers looking to make the UK their home long-term, and therefore helps businesses to recruit people with the skills they need, whilst at the same time addressing shortages in the UK labour market.


The ICT route on the other hand (and GBM going forward) is for temporary business mobility, not labour market access. Attracting talent is not a consideration, because migrants are existing workers assigned to the UK at the behest of their employer. Allowing ICTs to settle would significantly blur the lines between the two distinct purposes.

Another consideration is that we implement some of our trade commitments on temporary entry through the ICT route. These commitments are negotiated on the basis that workers will only be admitted temporarily, pursuant to a legitimate business need, and will not impact on the resident labour market. It is in this context that the UK considers negotiating flexibilities on matters such as economic needs tests. Granting settlement to ICTs could

incentivise improper use of the ICT route, not as a means of facilitating temporary entry, but in order to bypass the requirements we apply to workers accessing the UK labour market.

Finally, it has only been a little over one year since ICTs were permitted to switch into the Skilled Worker route if a change in their (or their employer's) circumstances means they wish to relocate to the UK on a permanent basis. As the Committee notes in the report, this limited time and the confounding factors of the pandemic mean we do not yet understand the impact of this change. We therefore think more time is needed to observe trends before we consider opening further pathways to settlement. For these reasons, GBM will not be a route to settlement, but we will keep this policy under review.

Thanks to you and the rest of the Committee once again for producing a high-quality and informative report.

With our good wishes


Rt Hon Priti Patel MP

Appendix A: Summary of the Migration Advisory Committee's recommendations and the Government response

No.	MAC Recommendation	Response
1	The Home Office should collect further data, on a voluntary basis and not available to the decision-maker, on protected characteristics in order to provide a more complete picture on visa applicants and enable further assessment of any specific impacts or discrimination against protected characteristics.	Accept
2	The skills threshold for the Intra-Company Transfer route should remain at RQF6+.	Accept (current policy)
3	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 £42,400.	Accept
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.	Accept in principle but consider further the frequency of updates.
5	The salary threshold for the Intra-Company Graduate Trainee visa should be set at £20,480, the same level as a graduate entrant in the SW route and should be updated annually.	Use a different calculation for salary threshold. Consider further the frequency of updates.
6	Graduate trainee applicants should be required to meet either the general threshold or the 'going rate' for the occupation with a 30% discount applied, whichever is higher.	Accept
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.	Accept in principle but consider further the frequency of updates.
8	Maintain the provision that high earners do not require a minimum of 12 months overseas employment with their current employer.	Accept (current policy)
9	Maintain the provision that allows high earners to stay a total of 9 years out of a 10-year period.	Accept (current policy)
10	The Immigration Skills Charge continue to be levied on the ICT route where trade agreements do not preclude this	Accept (current policy)
11	The Home Office take steps to enforce the requirement for sponsors to provide a complete breakdown of allowances that are paid	Accept subject to reforms to the sponsorship system
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.	Accept subject to reforms to the sponsorship system
13	Maintaining the minimum overseas employment requirements at their current levels: 3 months for the graduate route and 12 months for the main route.	Accept (current policy)

No.	MAC Recommendation	Response
14	The Home Office maintain a policy of requiring no English language requirement for ICT migrants.	Accept (current policy)
15	The ICT route should be a route to settlement, without the need to switch to other routes to obtain settlement.	Reject
16	No changes to the current rules for switching, maintaining the provision that switching is permitted from day one.	Accept (current policy)
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.	Accept. Consider policy options to reduce risks.
18	The Home Office should reform the Representative of an Overseas Business route on a trial basis. The foreign company should require some 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.	Accept with modification. We will implement through GBM rather than on a trial basis.
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).	Accept with modification. Length of stay will be 1 year plus 1 extension.
20	At least one member of the team must meet the criteria of the current Representative of an Overseas Business route, whilst other team members must at a minimum meet the criteria of the Skilled Worker route. As this is a trial, we suggest that the number of team members be limited to five.	Accept with modification
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.	Accept with modification
22	<p>A secondment route should be established that has the following initial criteria:</p> <ul style="list-style-type: none"> • 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 • dependents would be eligible 	Accept
23	The MAC do not recommend that a short-term ICT route be reinstated in its previous form.	Accept (current policy)
24	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.	Undertake further work to develop evidence
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.	Undertake further work to develop evidence