

Analysis of the Points Based System

Settlement rights of migrants in
Tier 1 and Tier 2

Migration Advisory Committee

November 2011



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Chairman's foreword



In the year to the 2011 Q2 some 208,000 individuals were granted settlement rights in the UK. Settlement through Tier 1 and Tier 2 of the Points Based System and predecessor routes

(including dependants) accounted for 29 per cent of this total. The rising number of grants of settlement in the years to 2010 echoes earlier entry decisions. Given that the 2011 Q2 figure is nearly four times higher than the equivalent figure in 1997 it is not surprising that the Government now wishes to demonstrate that settlement decisions are under control.

Work-related immigration from outside the EU halved between 2004 and 2010. Since then there have been major changes to the regulations governing work immigration leading to possible settlement. These include: closing Tier 1 except for the entrepreneur, investor and exceptional talent routes; raising the skill and pay thresholds for Tier 2 to National Qualifications Framework level 4 and above and £20,000 per year respectively; ratcheting up the English language requirement; abolishing settlement rights for those entering via the intra-company transfer route; and, from April 2011, setting a limit of 20,700 for those entering under the Tier 2 Resident Labour Market Test and shortage occupation routes.

These major changes mean that work-related immigration from outside the EU leading to settlement is now unambiguously under control. It follows that many fewer individuals will be eligible for work-related settlement in the future. Therefore one option concerning settlement decisions is for the Government to do nothing. This is the preferred option of companies, universities and other institutions that gave evidence to the MAC investigation. We estimate that between 10,000 and 38,000 Tier 1 and Tier 2 main applicants and dependants per year would, under the do nothing option, be granted settlement in each 12 month period from 2016 onwards (the first year any new settlement rules will have a direct effect). The middle of this range is well under a half of the present number of settlement grants through Tier 1, Tier 2 and their predecessor routes (approximately 60,000 in the year to 2011 Q2).

But the Government is likely to wish to go further. The question we were commissioned to answer (see Chapter 1) implies that the right to settlement will become more selective. We have used economic theory and evidence, and the stated desire of those who gave evidence for simplicity and symmetry with entry regulations, to present a second option. To ensure greater differentiation in the selection decision, we suggest implementing a minimum annual pay threshold. This could reasonably be between £31,000 and £49,000 per year.

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We recognise there may need to be a limited number of exceptions such that settlement is granted even though the annual pay is below the chosen threshold. These might include some public sector jobs and roles in the technology sector which will contribute to future economic growth. But we caution against trying to design a system to accommodate exceptions. It would be far better to set a substantive pay threshold and make any exceptions transparent and decided by Ministers.

It should be emphasised that one considerable advantage of more selective settlement is that the migration outflow rises, permitting higher Tier 1 and Tier 2 annual inflow limits in the long-term than would otherwise be the case. We discussed this point in detail in our November 2010 report on limits on immigration.

The MAC members are again grateful to our excellent secretariat for organising our engagement with partners and the collation of thorough analytical empirical evidence against a very tight timetable. Our secretariat provides exemplary public service in challenging times.



Professor David Metcalf CBE

The Migration Advisory Committee and secretariat

Chair



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Summary

Introduction

1. In June 2011, the Government launched a public consultation on settlement of Points Based System (PBS) migrants and other issues. The Government's proposals included: restricting the number of Tier 1 exceptional talent route migrants granted settlement; considering whether certain categories of Tier 2 migrants should retain an automatic route to settlement; and applying robust selection criteria to, and possibly a limit on, the total number of such migrants allowed to proceed towards settlement.

2. Alongside the consultation the Government asked us: "What would be the economic effects of restricting or removing settlement rights in Tiers 1 and 2 and/or restricting leave to a maximum of 5 years? If settlement were to be restricted:

- *which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement?*
- *would there be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent?"*

3. We published a call for evidence and invited corporate partners to submit

material. We received 109 written responses and met 189 corporate partners.

UK and international policy context

4. Currently, some Tier 1 and Tier 2 migrants and their dependants, who have lived lawfully in the UK for a certain length of time may settle here, if certain requirements are met. Once a person has obtained settlement, he or she is entitled to live in the UK permanently, without immigration restrictions, to travel freely into and out of the UK and to access state benefits on the same basis as a British citizen. A person present and settled in the UK may also sponsor an immigration application.

5. The routes in scope for this commission were the Tier 1 exceptional talent route and the Tier 2 Resident Labour Market Test (RLMT), shortage occupation, ministers of religion and sportsperson routes. Presently all of these routes offer paths to settlement after a minimum of five years residence in the UK.

6. In the year to 5 April 2012, up to a maximum total of 20,700 skilled workers can come to the UK under the RLMT and shortage occupation routes to do jobs with a salary below £150,000. There is also a limit of 1,000 endorsements between 9 August 2011 and 5 April 2012 under the exceptional talent route. Whilst limits are applied to the numbers entering the UK under certain routes, there is no limit on the numbers who may extend their stay.

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7. In order to currently qualify for settlement, Tier 2 migrants need to show that they meet minimum pay level requirements and continue to be required for employment. The sponsor of a RLMT or shortage occupation route migrant must also certify that the applicant is still required for the employment in question and is paid at or above the appropriate rate for the job as set out by the UK Border Agency. Exceptional talent route migrants must be economically active in their expert field, and be in employment or self-employment, or both.

8. Looking at migration systems in different countries there is an inverse relationship between temporary visas and the skill level of the migrants targeted. The availability of permanent visas increases as skill levels increase. Even among migration programmes targeting highly-skilled migrants, most receive temporary visas, rather than permanent status, upon arrival.

9. Approximate equivalents to the UK's exceptional talent route usually, but not always, lead to settlement in the countries we examined. Equivalents to the UK's RLMT and shortage occupation routes do sometimes, but not always, lead to settlement.

Data context

10. The number of settlement grants in the UK increased over time from 59,000 in 1997 to a high of 241,000 in 2010. In the year to 2011 Q2 the corresponding number was 208,000. Of those grants in the year to 2011 Q2, grants to main applicants and dependants through Tier 1, Tier 2 and predecessor routes accounted for 29 per cent. Adding grants under the other employment categories raises this figure to 33 per cent. These figures compare to 27 per cent for family formation and reunion settlement grants, 5 per cent for asylum-related settlement grants (including both main applicants and dependants) and 34

per cent for other reasons (including both main applicants and dependants), including grants offered on a discretionary basis.

11. Over coming years, there is reason to believe that settlement grants to Tier 1 and Tier 2 main applicants and dependants will fall below recent levels even without any changes to settlement policy. This is due to a combination of: the effects of the annual limit on entry and other recent measures to tighten entry criteria; the closure in recent years of some routes and the reclassification of others as strictly temporary routes; recent changes to the rules around settlement; and, more speculatively, the possibility that future migrants will have a lower propensity to settle permanently in the future than those who entered in recent years.

12. We estimate that the annual number of settlement grants to Tier 1 and Tier 2 main applicants and dependants from 6 April 2016 will be between 10,000 and 38,000 per year. This is in comparison to approximately 60,000 such grants over the most recent 12 month period. This is a fairly crude calculation and it needs to be treated with some caution. Nevertheless it is clear that annual settlement grants to Tier 1 and Tier 2 main applicants and dependants from 2016 onwards are likely be substantially below the numbers that have settled in recent years through equivalent routes even without further changes to settlement rules.

Analysis

13. For simplicity, we focus our analysis primarily on the impacts of *restricting leave for some migrants to a maximum of five years* and on the criteria that could be used to identify those migrants who would be permitted to remain longer. In terms of economic considerations this is largely analogous, but not precisely equivalent, to the question which of those migrants who

remain beyond five years can and do obtain settlement.

14. Policy options in relation to leave to remain in the UK beyond five years for Tier 1 and Tier 2 migrants include a 'do nothing' option which would involve keeping policy on leave to remain beyond five years as at present. This is worthy of consideration for three reasons: there are fewer Tier 1 and Tier 2 migrants than in the past; many of those migrants will not wish to remain in the UK for beyond five years; and the skill composition of those who do remain should be higher than in previous years.

15. On the other hand, the 'do nothing' option does not allow the Government to select and control which Tier 1 and Tier 2 migrants remain in the UK for over five years. The Government may want to demonstrate full control of this issue. Furthermore, over the long term, and all other things being equal, lower settlement of migrants through Tier 1 and Tier 2 will reduce net migration. Therefore, for a given target for net migration, it would be possible to set a higher annual limit on entry than if no restrictions on leave beyond five years were in place.

16. Additional options are to apply economic criteria at whatever point the decision regarding leave of beyond five years is made, or to apply economic criteria alongside an annual limit on such leave. It is on the presumption that one or the other options will be pursued that we consider criteria and economic impacts.

17. Key themes we used to assess criteria were their basis in economic theory and evidence, simplicity and symmetry. On the latter of these themes, some employers argued that the rules governing which migrants can remain in the UK should be effectively identical to those which govern entry. Others argued that, even if relatively stringent benchmarks were used to determine who stayed in the UK, the

underlying criteria should be the same. For instance, pay could be a criterion at both points, with a higher minimum pay threshold at the point of remaining in the UK than at entry.

Criteria

18. There is a strong economic case for selecting skilled migrants and for admitting the low skilled only in exceptional cases for selected occupations or industries. Skilled migrants are more likely to complement the skills and capital of existing residents. Their net fiscal impacts are also more likely to be positive. Potential spillover benefits are also more likely to arise from skilled migration.

19. In terms of criteria, **pay** is a good indicator of skill. In a competitive labour market a rational employer would not pay an employee more than the value of their productive output. Equally, an employee would not accept less. Assuming that skills are associated with productivity, the latter will therefore also be associated with pay. The labour market should also provide, on average, a compensatory wage differential as a return on the investment in education and training. Pay is also already used as a selection mechanism under the RLMT and shortage occupation routes. Amongst our partners there was substantial support for using pay as a criterion, albeit also concern that doing so should not fully rule out migrants on lower salaries such as in the public sector or in cultural or research roles.

20. There was a strong feeling that any criteria such as pay should not act to disadvantage areas outside of London and the South East. However, we are not convinced that there is an economic case for regionally differentiated pay criteria to determine which Tier 1 and Tier 2 migrants remain in the UK for beyond five years.

21. Some countries currently use **age** as a criterion. All other things being equal, younger migrants have more working years

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available to them and so may contribute more to the economy in the future. However, age would not be suitable for use as a sole economic criterion, so its use may detract from the simplicity of the policy.

22. To the extent that **qualifications** confer relevant knowledge, competence or proficiency and are required for a particular job, they are likely to be a good indicator of skill and a potentially valid criterion. Nevertheless, in many cases the benefits of holding qualifications will be captured in pay.

23. We considered whether there would be merit in making allowance for specific **sectors or occupations**, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent. In an efficient labour market such allowance would lead to a sub-optimal allocation of resources. Conversely, the argument for making such allowance is that the labour market is not always fully efficient. Arriving at the 'right' list would be a complex and contentious exercise. On balance, we do not recommend sectors or occupations as a primary criterion.

24. **Designated competent bodies** could help to decide which migrants should extend their leave beyond five years on the basis that they should know who the leading practitioners in their field are, or be able to advise on how they might be identified. However, we were told that the employer is best placed to advise on whether a migrant is continuing to demonstrate those exceptional skills that led to them qualifying for entry to the UK. There was concern that designated competent bodies could tend to make blanket rulings that did not account for individual circumstances.

25. We conclude that pay should be the primary criterion for deciding which **Tier 2 RLMT and shortage occupation route**

migrants remain in the UK for over five years. This would include those migrants earning over £150,000 a year at entry who are exempt from the RLMT and the annual limit. There is no single right way of setting the minimum pay threshold, but a level between £31,000 and £49,000, up-rated over time to account for price or pay inflation according to a pre-determined formula, would be economically defensible.

26. Using pay as a metric provides no basis for identifying exceptional occupations or sectors where there may be a case for granting lower paid migrants leave to remain beyond five years. Therefore, we do not suggest specific sectors or occupations to be subject to a lower pay threshold or similar arrangements. Nevertheless we recognise that, for practical and sometimes economic reasons, the Government may wish to put some exceptions in place. This would be preferable to attempting to design the wider system in a way that implicitly accommodates special exceptions.

27. Our commission did not require us to set out criteria for the **exceptional talent route** but, for completeness' sake, we briefly considered it. Given the limited and highly selective nature of this route, we believe that migrants coming through it should be allowed to remain in the UK beyond five years. The initial entry arrangements for the route need to be rigorously applied and kept under close review.

28. The number of migrants using the **sportsperson route** is small, and many of them will be high earners making a large individual contribution to the public finances. We believe there is no case for making such migrants exempt from any new arrangements, but nor is there a case for limiting all such leave to a maximum of five years. A pay threshold should be applied, identical to that under the RLMT and shortage occupation routes.

29. Unsurprisingly the evidence received in relation to the **ministers of religion route** tended to focus on the pastoral benefits of filling vacant posts, rather than the economics of doing so. We conclude that the arguments for and against migrants under this route remaining in the UK beyond five years do not have a substantive economic component and make no recommendation in relation to this route.

Economic impacts

30. Employers we met were generally, albeit to differing extents, hostile to many of the Government's proposals. There was a good deal of general concern expressed over the potential impact of restricting or removing settlement rights and, particularly, the implication that migrants would be required to leave the UK after five years. It was felt that a negative signal could be sent about the UK's position as being seen as 'open for business'. Many respondents said that uncertainty about prospects for future settlement in the UK would deter top talent from coming at all, with repercussions for the UK's international competitiveness.

31. Many of our partners expressed the view that the migration system was too complex to understand and to use and that this had been exacerbated by the rapid pace of policy change in recent years. Some said that the impact of the introduction of annual limits should be fully evaluated before further changes were made.

32. A number of sectors were particularly well represented in the evidence we received. Representatives of the Higher Education sector expressed concern about their ability to continue to attract the world's top academics. The health sector argued that failure to retain highly skilled staff would have a serious impact on delivery of services. The technology sector said that there is a global

talent pool for highly skilled staff and there is international competition for this talent.

33. We estimated the possible impact on migrant flows of applying a simple across-the-board pay criterion to leave to stay beyond five years under the RLMT and shortage occupation routes, using UK Border Agency Management Information on Certificates of Sponsorship used since April 2011 (with the caveat that these Certificates are not used at the same point as when the settlement decision is made). Under a £31,000 threshold, 20 per cent of migrants would have been excluded. Nurses and chefs are the most numerous occupations in this group. Under a £49,000 threshold, 59 per cent would have been excluded, with the effect more evenly distributed among occupations. However, it is likely that, to some extent, migrants prevented from staying beyond five years will be replaced by new migrants. Therefore, the impact on the UK migrant stock of applying a pay criterion will probably be lower than these estimates suggest.

34. Restricting or removing the rights of such migrants to remain in the UK beyond five years may have a negative impact on GDP and, to a lesser extent, GDP per head. In the short term the economic impacts of removing rights to remain in the UK beyond five years for Tier 1 and Tier 2 migrants would be relatively small, but in the longer term they would be larger due to an accumulation of static economic effects, and possibly dynamic effects on factors such as trade and investment.

35. In the latter case, many employers believe 'dynamic effects' to be highly significant, although actual estimation of the magnitudes is subject to very high margins of uncertainty. Furthermore, to some extent, shorter average migrant durations in the UK should be counteracted by increased churn of Tier 1 or Tier 2 or other migrants. The economy will also adjust in

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response to a net reduction in the supply of migrants: for instance, employers will have stronger incentives to train UK workers. Additionally, use of economic criteria can ensure that those migrants who make the biggest contribution to the UK economy can still stay.

36. It is also clear that some Tier 1 and Tier 2 migrants who currently stay in the UK beyond five years help to alleviate skill shortages in key public service areas such as health and education. The extent to which curtailment of, or restrictions on, such leave will affect the provision of those services in the long-term will be contingent on the level of appropriate and successful training within the resident population.

Conclusions and recommendations

37. Preventing all Tier 1 and Tier 2 migrants from remaining in the UK beyond five years would have notable economic consequences in the long term and we do not recommend this. Restricting but not removing rights of Tier 1 and Tier 2 migrants to remain beyond five years will have less significant economic impacts.

38. It is critically important that policy on skills and migration is used to mitigate any adverse impacts that would otherwise occur in relation to applying economic criteria to deciding which migrants stay in the UK beyond five years, particularly in relation to those sectors or occupations most affected. Because the introduction of criteria will not have direct effect until 2016, there is some time for employers and policymakers to plan ahead.

39. We make the following recommendations:

- A simple pay level threshold is used as the primary selection criteria for deciding which Tier 2 Resident Labour Market Test (RLMT) and shortage occupation route migrants

can settle permanently in the UK or remain beyond five years.

- Tier 1 exceptional talent migrants will proceed to settlement after five years, subject to the initial entry arrangements for the route being rigorous and kept under close review.
- Migrants using the sportsperson route should be subject to the same pay criterion as migrants under the Tier 2 RLMT and shortage occupation routes in order to extend their stay beyond five years.
- The minimum pay threshold for remaining in the UK for beyond five years for migrants in the Tier 2 shortage occupation, RLMT, and sportsperson routes should be set at the time of entry to Tier 2. Following entry it should only be adjusted for price inflation or changes in average pay according to a set formula.
- Exceptions to the above arrangements are limited in their scope and the economic or other reasons for them are explicitly articulated by the Government.
- Policy and employer action on skills and migration is used to mitigate the adverse impacts that might otherwise occur in relation to applying economic criteria to deciding which migrants stay in the UK beyond five years, particularly in relation to those sectors or occupations most affected.

Chapter 1 Introduction

1.1 The Migration Advisory Committee

1.1 The Migration Advisory Committee (MAC) is a non-departmental public body comprised of economists and migration experts that provides transparent, independent and evidence-based advice to the Government on migration issues. The questions we address are determined by the Government.

1.2 Previously we have provided advice on the design of Tiers 1 and 2 of the Points Based System (PBS) for managed migration, the transitional labour market access for citizens of new European Union (EU) accession states and the first annual limits on Tiers 1 and 2 of the PBS (Migration Advisory Committee, 2010a). In 2011 we have advised on occupations and job titles skilled to National Qualifications Framework level 4 and above for Tier 2 of the PBS (Migration Advisory Committee, 2011a and 2011b) and recommended a new shortage occupation list, also for Tier 2 (Migration Advisory Committee, 2011c).

1.2 Scope of this report

1.3 The commissioning letter from the Government asked that we consider the following question: *“What would be the economic effects of restricting*

or removing settlement rights in Tiers 1 and 2 and/or restricting leave to a maximum of 5 years? If settlement were to be restricted:

- *which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement?*
- *would there be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent?”*

1.4 The Government asked that we report back by September 2011. As discussed in Chapter 2, the routes in scope for this commission were the Tier 1 exceptional talent route and the Tier 2 Resident Labour Market Test (RLMT), shortage occupation, ministers of religion and sports person routes.

1.5 For simplicity we focus our analysis primarily on the impacts of restricting leave for some migrants to a maximum of five years and on the criteria that could be used to identify those who would be permitted to remain longer. In terms of economic considerations this is broadly analogous, but not precisely

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equivalent, to the question of which of those migrants who remain beyond five years can and do obtain settlement.

1.3 The Government consultation

1.6 On 9 June 2011, the Government launched a public consultation on employment-related settlement, Tier 5 and overseas domestic workers (Home Office, 2011a). The consultation ended on 9 September 2011. Proposals made in the consultation document included the following, with an indication that changes would be applied to those migrants entering the PBS from 6 April 2011:

- Categorise all visas as either 'temporary' or 'permanent'. Permanent visas will be those which allow migrants to apply for settlement (Indefinite Leave to Remain) in the UK.
- Consider capping the maximum period of Tier 1 temporary leave at five years and restricting the number of exceptional talent migrants granted settlement.
- Define Tier 2 as temporary and thereby end the assumption that settlement will be available for those who enter on this route.
- Consider whether certain categories of Tier 2 migrant (for example, ministers of religion, elite sportspeople, those earning over £150,000 and those in occupations of specific economic or social value to the UK) should retain an automatic route to settlement.
- Create a new category into which, after three years in the

UK, the most exceptional Tier 2 migrants can switch and go on to apply for settlement.

- Apply robust selection criteria to those Tier 2 migrants who wish to switch and possibly a limit on the total number of migrants allowed to switch.
- Allow those Tier 2 migrants who do not switch into a settlement route to stay for a maximum of five years with the expectation that they and any dependants will leave at the end of their leave.

1.7 Currently, a migrant worker is only able to apply for settlement after he or she has spent a continuous period of five years in the UK, and a settlement decision is only taken by the UK Border Agency at this point. The Government believes that there may be advantages in indicating sooner which migrants should be eligible to apply to settle in the UK. The Government consultation, therefore, set out two options for when a decision should be made about who is eligible for settlement.

1.8 The first option is to admit all Tier 2 migrants for three years initially, and then take a decision at the three-year point about whether they may switch into a route which can lead to settlement. Those admitted to the settlement route would need to complete another two years in the UK as temporary residents before being able to apply for settlement. Depending on the test that was applied at the three-year stage, those who failed to meet the requirements to progress onto the settlement route would still be eligible for a grant of two years further temporary leave only, after

which time they would be expected to leave the UK. The second grant of temporary leave would enable them to plan for their departure from the UK.

- 1.9 The second option is to have a scheme which both identifies those who can enter with a route to settlement at the outset and also allows for a limited number of temporary migrants to switch into a permanent route at the three- year stage. While more complicated than the other option, this offers more flexibility for migrants and employers, as well as certainty for those migrants identified at the outset as being eligible for settlement.

1.4 The Migration Advisory Committee's call for evidence

- 1.10 On 21 June 2011 we published a call for evidence document (Migration Advisory Committee, 2011d) seeking views and evidence in relation to a number of supplementary questions we identified pertaining to the Government's commission to the Committee on settlement. We invited corporate partners to submit material in response to this call for evidence by 31 August 2011. In this report 'corporate partners', or just 'partners', refers to all parties with an interest in our work or its outcomes, so private and public sector employers, trade unions, representative bodies and private individuals are included within this term. A list of those with whom we engaged is at Annex A to this report.
- 1.11 We published our call for evidence on our website and invited responses. We also wrote to several hundred corporate partners who

have previously engaged with us. We received 109 written responses to our call for evidence.

- 1.12 We organised two open events for corporate partners in London on 12 and 19 August and attended a large number of additional events, some arranged or hosted by the Home Office, as part of the Government's consultation, or our other partners. We met with as many partners with a particular interest in this commission as possible, including representatives from the health, social care, engineering, legal, banking and financial sectors. We also met Government departments, and partners in Northern Ireland, Wales and Scotland. We attended and presented at events and meetings in London, Belfast, Birmingham, Cardiff and Glasgow. Overall, we met 189 corporate partners at meetings and events.
- 1.13 The ministers of religion and sportsperson routes are routes that we had not been required to cover in our previous reviews meaning we had to develop additional contacts. We examined available data to identify more information about the sponsors of applicants under these routes in order to help us to do this. We also sought the advice of the Department for Communities and Local Government and the Department for Culture, Media and Sport as the lead departments for the areas of religion and sport respectively. We also contacted the main overseeing bodies for these areas.
- 1.14 The Government asked us what the economic effects would be of restricting or removing settlement rights in Tiers 1 and 2 and/or restricting leave to a maximum of

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five years. As discussed in Migration Advisory Committee (2010a) potentially relevant economic impacts of migration include those on: economic growth and Gross Domestic Product (GDP) per capita; the labour market; and the Government's finances (also known as the net fiscal impact).

1.15 We started from the view that the economic impact of restricted rights to residence and settlement will not be simply equivalent to the foregone output of the individual migrants affected. Subject to the annual limits on Tiers 1 and 2, employers will be able to employ new migrants even if existing migrant employees cannot remain indefinitely in the UK. Other issues we considered included: whether restrictions on length of stay are likely to deter highly skilled migrants from coming to work in the UK in the first place; whether the propensity of migrant workers to enhance the productivity of, or substitute for, UK workers changes with length of stay; the role of migrants in providing essential public services; and how the net fiscal contribution of migrants and their dependants changes over time as they age and establish families.

1.16 We therefore invited evidence in relation to the questions below about the effects of restricting or removing settlement rights and/or restricting leave to a maximum of five years under the RLMT, shortage occupation, exceptional talent, ministers of religion and sportsperson routes. We sought views on impacts on individual firms and sectors as well as those at the whole-economy level.

Q1. What would be the effects on the growth of specific firms,

sectors and occupations, and on UK GDP and GDP per capita? This would include impacts on productivity, trade, investment and on attraction of highly skilled migrants to the UK.

Q2. What would be the effects on employment opportunities and pay of current permanent UK residents in the labour market as a whole and at the firm, sectoral and occupational level?

Q3. What would be the effects, over time, on consumption and provision of public services and benefits and tax payments?

Q4. To the extent that negative effects are anticipated, how will employers adapt? Will they replace migrants who have to exit the UK with other migrants, accelerate efforts to upskill and retrain the resident workforce, or adjust in other ways?

1.17 In addition the Government asked us whether, if settlement were to be restricted, which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement. It also asked whether there would be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent. We invited evidence in relation to the question below.

Q5. If economic criteria were used under Tier 2, what criteria should be used to identify settlement candidates?

- Salary, or a combination of salary and age;
- Academic qualifications;
- Professional/vocational qualifications;
- Pre-determined sectoral or occupational groups;
- Working in a recognised shortage occupation at the time of the settlement decision;
- Criteria set by competent professional bodies;
- Other (please specify); and/or
- No opinion.

1.18 The above question was equivalent to question 12 in the Government’s consultation paper. Partners were free to submit the same response to both the Government consultation and to our call for evidence. In relation to some specific lines of enquiry that we wished to pursue, partners were particularly invited to provide further evidence on any or all of the questions below.

Q6. Should the pay or income criteria for settlement of Tier 2 migrants differ from the time of entry? To what extent should candidates for settlement show evidence of economic progression during their time in the UK?

Q7. Should age be considered alongside pay, on the basis that, on average, younger migrants have more years of economic activity ahead of them than older migrants?

Q8. Is the long-term economic value of professional and vocational qualifications always reflected in levels of pay? If not, why not?

Q9. Does attraction and retention of top global talent in certain sectors or occupations make a particularly valuable long-term or strategic economic contribution or a crucial contribution to key public services? If yes, will the list of such sectors and occupations change over time?

Q10. Should competent professional bodies have a role in deciding which Tier 2 migrants can settle permanently in the UK, and what form might that role take?

Q11. For those Tier 2 routes for which access to settlement is determined on the basis of objective criteria, should the criteria used differ between routes (RLMT, shortage occupation, ministers of religion, sportsperson)? If yes, why and how?

1.5 Structure of this report

1.19 Chapter 2 summarises the current UK policy on settlement of Tier 1 and Tier 2 migrants and their dependants. It also presents relevant policies on economic migration and settlement for skilled economic migrants in other countries.

1.20 Chapter 3 provides background statistics on net migration, visas and granted settlement data. It then focuses on analysing available data on Tiers 1 and 2 main applicants and dependants, and data on

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settlement grants. It also describes the main findings from in-house analysis carried out to identify demographic and labour market characteristics of those migrants within scope of this report using sample management information (MI) data from the PBS.

- 1.21 Chapter 4 discusses the analytical framework we used and evidence in relation to criteria from our partners, our own analysis and the academic literature. The implications for migrants under specific relevant Tier 1 and Tier 2 routes are considered. Evidence on the economic impacts of restricting settlement or the right to remain in the UK beyond five years is also discussed. Chapter 5 summarises our recommendations to the Government, and provides a brief update on our other work and research.

1.6 Thank you

- 1.22 We are grateful to all our partners who responded to our call for evidence and to those who engaged with us at meetings and events. We are particularly grateful to those partners who organised or hosted events on our behalf.

Chapter 2

Policy context and comparison with other countries

2.1 Introduction

2.1 This chapter summarises the current policies which determine how Points Based System (PBS) Tier 1 and Tier 2 migrants and their dependants may remain beyond five years and achieve settlement in the UK. It also discusses relevant policies that apply to skilled economic migrants seeking to settle in other countries.

2.2 Current UK policy on settlement for Tier 1 and Tier 2 migrants and their dependants

2.2 Under the PBS some Tier 1 and Tier 2 migrants, and their dependants, who have lived lawfully in the UK for a certain length of time may apply to settle here, provided certain requirements are met. In this report we refer to this as the right to 'settlement' but it is also known as 'indefinite leave to remain' (ILR) or 'permanent residence'.

2.3 Once a person has obtained settlement, he or she is entitled to live in the UK permanently, without immigration restrictions, to travel freely into and out of the UK and to access state benefits, including access to the National Health Service, on the same basis as a British citizen. A person present and settled in the UK may sponsor an

immigration application. For example, they may apply to be joined by a spouse, their children or elderly dependent relatives. A child born in the UK to a settled parent will be a British citizen.

2.4 Settlement is not the same as citizenship. It does not entitle a person to a British passport, or to vote in general elections. However, a person in the UK without time restrictions attached to their stay may apply for naturalisation as a British citizen, provided they meet the other criteria for naturalisation including meeting minimum periods of residence in the UK. Normally applicants have to be free of time restrictions for 12 months prior to making an application but in some cases, such as applications on the grounds of being married to a British citizen, they may apply as soon as they are free of time restrictions.

2.3 Economic routes to settlement in scope for this review

2.5 This report focuses on the following routes which allow for work-related migration by non-European Economic Area (EEA) nationals to the UK:

- The Tier 2 (General) Resident Labour Market Test (RLMT)

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route enables employers to bring an employee from overseas to fill a vacancy in the UK if it has not proved possible to employ a worker from the resident labour market. The job needs to be skilled to National Qualifications Framework level 4 or above (NQF4+). Jobs paid £150,000 or more are exempt from the requirement to test the resident labour market.

- The **Tier 2 (General) shortage occupation route** enables migrants to come to the UK to work in certain occupations and job titles on the UK Border Agency shortage occupation list. Occupations need to be skilled to NQF4+ and be experiencing a shortage of labour that can sensibly be filled from outside the EEA. The lists are reviewed periodically.
- The **Tier 2 ministers of religion route** is for ministers of religion undertaking preaching and pastoral work, missionaries or members of religious orders taking up employment or a post or role within their faith community in the UK.
- The **Tier 2 sportsperson route** is for elite sportspersons and coaches whose employment will make a significant contribution to the development of their sport at the highest level.
- The **Tier 1 exceptional talent route** is for migrants who are internationally recognised as

world leaders or potential world leaders in science or the arts. A designated competent body must endorse entry through this route. This route went live on 9 August 2011. More information is contained in Box 2.1.

2.6 Tier 2 (General) is referred to in UK Border Agency documents and guidance as a single route. It has always been our protocol to refer to the RLMT and shortage occupation list as providing bases for two separate routes. We maintain that approach in this report.

2.7 This report is not concerned with the following routes:

- The Tier 2 intra-company transfer route, which enables employers to send skilled employees to work in the UK offices of their company. Since April 2010 this is no longer a route to settlement.
- The Tier 1 investors route for high net worth individuals making a substantial financial investment in the UK who can qualify for settlement after a two, three or five year period (depending on the extent of the investment).
- The Tier 1 entrepreneurs route for migrants who wish to establish, join or take over one or more businesses in the UK, who can apply for settlement after a three or five year period (depending upon the size of income or number of jobs they have generated).

Box 2.1: Tier 1 exceptional talent route

Tier 1 (exceptional talent) is for people who are internationally recognised as world leaders or potential world-leading talent in the fields of science and the arts. Every initial application under this route must be endorsed by a 'designated competent body'. A designated competent body is an organisation that can judge whether an applicant is internationally recognised in his or her field as a world-leading talent, or has demonstrated exceptional promise and is likely to become a world-leading talent. There are four such bodies: the Royal Society, the Arts Council, the British Academy and the Royal Academy of Engineering.

The criteria for endorsement by the Arts Council are that applicants must be established as a world-class artist and/or an internationally recognised expert in their field within the arts (encompassing dance, music, theatre, visual arts and literature), museums, galleries, film or television, animation, post-production and visual effects industry. They must be able to demonstrate that they are professionally engaged in producing work of outstanding quality which has been published (other than exclusively in newspapers or magazines), performed, presented, distributed or exhibited internationally.

The criteria for endorsement by the Royal Society, the British Academy and the Royal Academy of Engineering as a world leader are that applicants are active researchers in a relevant field, typically within a university, research institute or within industry. They must have a PhD or equivalent research experience and provide a letter of personal recommendation from an eminent person resident in the UK who is familiar with their work and their contribution to their field, and is qualified to assess their claim to be a world leader in their field. They must be a member of their national academy or a foreign member of academies of other countries (in particular any of the UK national academies); or have been awarded a prestigious, internationally-recognised prize; or provide a written recommendation from a senior member of a reputable UK organisation concerned with research in their field.

In addition, the Royal Society, the British Academy and the Royal Academy of Engineering will endorse as potential world leaders in their fields some applicants who are at an early stage in their career. They need to be active researchers in a relevant field, typically within a university, research institute or within industry. They also need to have been awarded, hold, or have held in the previous five years, a prestigious UK-based research fellowship, or an international fellowship, judged by the competent bodies to be of equivalent standing. They must have a PhD or equivalent research experience and provide a letter of personal recommendation from an eminent person resident in the UK who is familiar with their work and their contribution to their field, and is qualified to assess their claim that they have the potential to be a world leader in their field.

There is a limit of 1,000 endorsements between 9 August 2011 and 5 April 2012 and these have been assigned to the designated competent bodies in two phases: 500 are available from 9 August to 30 November, and the second batch of 500 will be available from 1 December to 5 April 2012. The total are divided between the designated competent bodies as follows:

Designated competent body	Total endorsements	Until 30 November 2011	From 1 December 2011 to 5 April 2012
Royal Society	300	150	150
Arts Council	300	150	150
British Academy	200	100	100
Royal Academy of Engineering	200	100	100

The Tier 1 and Tier 2 limits

2.8 From 6 April 2011 to 5 April 2012, a maximum of 20,700 skilled workers can come to the UK under the RLMT and shortage occupation routes to fill

jobs paying a salary below £150,000. As explained in Box 2.1 there is also a limit of 1,000 endorsements between 9 August 2011 and 5 April 2012 under the Tier 1 exceptional talent route. These

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limits were set following our report on limits on migration (Migration Advisory Committee, 2010a). The Government has indicated that it intends to commission us in due course to advise on limits for the year to April 2013.

2.9 The issue of a limit on the numbers of migrants who can enter or stay in the UK to work is distinct from the issue of how many, and who exactly, may be able to remain in the UK beyond five years or settle permanently. Whilst there is a limit applied to the numbers entering the UK under certain Tier 1 and Tier 2 routes, there is presently no limit on

the numbers who may extend their stay.

2.10 In Table 2.1 we set out how the current policy of limits in 2011/12 on certain categories of migration under Tier 1 and Tier 2 applies to the routes in scope for this report. Migrants under the ministers of religion and sportsperson routes and those in the RLMT and shortage occupation routes earning at least £150,000 annually are exempt from the annual limit on Tier 2 migration for 2011/12. In-country switchers to Tier 1 and Tier 2 are not subject to the limit. Dependents are also not included in the limit.

Table 2.1: Routes in scope for this review covered by limits on Tier 1 and Tier 2 for 2011/12

Route	Limit in 2011/12	Coverage of limit (1)
Tier 2 (General) - Resident Labour Market Test	20,700 for Tier 2 (General) routes combined	Out-of-country migrants earning less than £150,000 per year
Tier 2 (General) - shortage occupation		
Tier 1 (exceptional talent)	1,000	Out-of-country migrants

Notes: (1) The limit applies to the number of entry clearance visas issued in the year commencing 6 April 2011

2.4 Acquiring and retaining settlement

2.11 To qualify for settlement, Tier 1 and Tier 2 migrants will generally need to show they:

- have spent a continuous period of five years lawfully in the UK;
- can demonstrate knowledge of the English language and life in the UK;
- are free of unspent criminal convictions;
- continue to meet at least the minimum income threshold which applied when they last

extended their permission to stay in the UK;

- continue to be required for employment (Tier 2) or remain economically active (Tier 1); and,
- must not fall for refusal under the general grounds for refusal.

2.12 Specifically, for applications for settlement the sponsor of a RLMT or shortage occupation route migrant who issued the Certificate of Sponsorship that led to the applicant's last grant of leave to remain in the UK must also certify in writing that (i) he or she still requires the applicant for the employment in question, and (ii) that the applicant is paid at or above the appropriate rate

- for the job as set out in the relevant UK Border Agency code of practice for sponsored skilled workers.
- 2.13 There are no requirements additional to those set out above for persons in the UK under the sportsperson or ministers of religion routes applying for settlement.
- 2.14 To qualify for settlement through the Tier 1 exceptional talent route, the applicant must be economically active in his or her expert field, and be in employment, or self-employment, or both.
- 2.15 For the routes discussed in this section, adult dependants are eligible to apply for settlement at the same time as the principal migrant, as long as they have lived with him or her in the UK for a minimum of two years. Children are usually eligible to apply for settlement at the same time as their parents.
- 2.16 Settlement rights may be lost if a person lives outside the UK for more than two years, but otherwise settlement rights are generally only removed if a fraudulent application is uncovered, or as a result of a criminal conviction that results in a deportation order coming into force.
- 2.17 The Immigration Rules also make provision for a person to be granted settlement on the grounds of long residence in the UK, irrespective of their category of temporary leave. The rules on long residence recognise the ties a person may form with the UK over a lengthy period of residence here. They allow settlement to be granted after a period of 10 years' continuous lawful residence or 14 years' continuous residence of any legality, subject to the applicant meeting knowledge of language and life in the UK requirements. Possession of the required period of residence in the UK does not automatically entitle the applicant to a grant of leave, but only to be considered for a grant. However, the general rule is that a person who satisfies the continuous residence and knowledge of life requirements should normally be granted settlement, unless to do so would be against the public interest.
- 2.18 The European Union (EU) Council Directive 2003/109/EC of 25 November 2003 requires that EU Member States grant permanent European resident status to non-EEA nationals who have resided legally and continuously within the territory of the Member State for five years. However, the UK has opted out of this directive, as have Denmark and Ireland.
- 2.19 The Free Movement Directive (FMOP) 2004/38/EC, which has been implemented in UK law by the Immigration (European Economic Area) Regulations 2006, provides that European Union citizens who have resided legally for a continuous period of five years in the host Member State shall have the right of permanent residence there. Permanent residence can be lost if the individual was outside the UK for more than two years or for public policy, public health or public security reasons.
- 2.20 In this report most of our analysis and discussion relates to the possibility that in the future all, some, or no Tier 1 or Tier 2 migrants under relevant routes may extend their leave in the UK beyond five years. On the whole, it is not necessary for us to distinguish between whether staying beyond

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five years is achieved by obtaining settlement or further extending leave to remain. Where this distinction is relevant we make that clear.

2.5 Comparison with other countries

2.21 Our task requires that we identify and consider potential economic criteria that could be used to determine which RLMT and shortage occupation route migrants should be allowed to remain in the UK beyond five years or obtain settlement. In order to assist with that process, we examined the settlement policies of a number of other countries. We carried out a literature search of published information. We also wrote to the UK Mission of each country and asked that they set out the key components of their policy and practices in relation to settlement and we held discussions with some officials from these Missions, such as from Canada and Australia. We focused on the equivalent routes, or the closest comparable routes, to the following UK routes:

- Tier 1 exceptional talent route;
- Tier 2 (General) RLMT route; and,
- Tier 2 (General) shortage occupation route.

2.22 The material presented in this section should be regarded as indicative rather than definitive, for several reasons. First, obtaining detailed information on how systems operate in other countries is not always straightforward. Second, there was not perfect read-across between routes in other countries and those in the UK, meaning we

needed to apply pragmatic judgement regarding what constitutes a broadly 'equivalent' route. In addition, the precise design and application of some migration systems does not fit neatly into our own framework for analysing them. This is particularly the case below when we attempt to present information on entry and settlement criteria in summary tables at the end of this section. The content of such tables often, by necessity, represents a simplification of how immigration policy and rules operate in practice.

2.23 Those routes in other countries that potentially lead to settlement fall into one of two categories where:

- those where the migrant effectively qualifies for settlement by entering under an eligible route (regardless of whether settlement rights are actually granted at the time of entry or later on); and
- those where the migrant does not immediately qualify for settlement for entering the route, but which nevertheless offer a potential route to settlement.

2.24 We set out to consider both types of route but did not limit our examination solely to criteria in relation to applications made for settlement. We also looked at criteria that governed applications for initial entry to each country. This was because for numerous routes which lead to settlement in many countries, including the UK at present, the criteria for entry are often more exacting than those for settlement and so play a larger role in determining who may go on to achieve settled status. The criteria

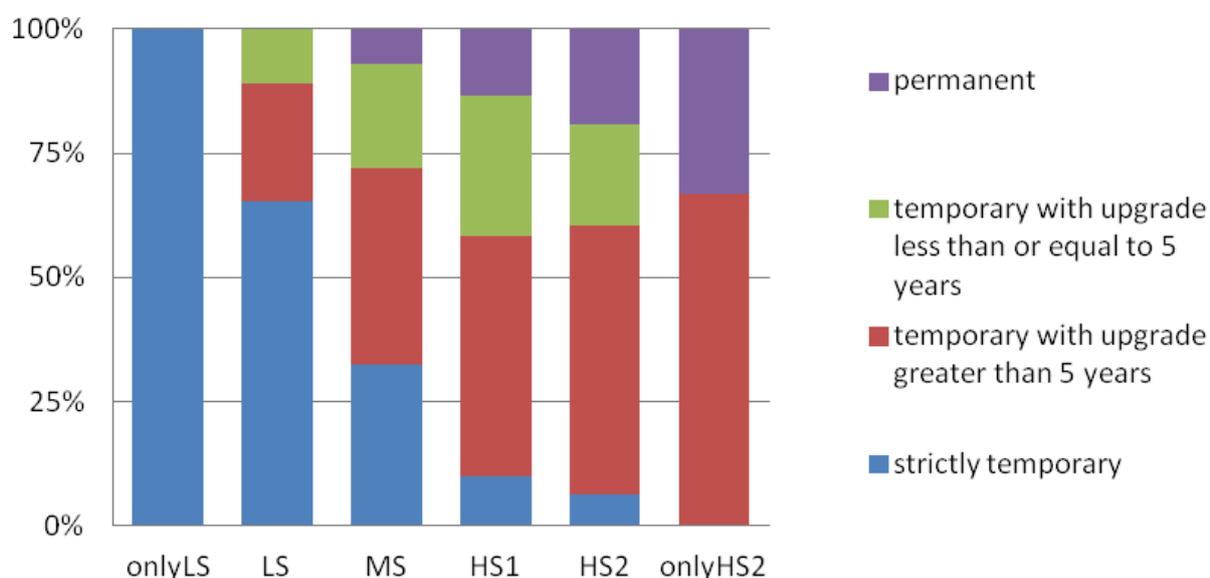
discussed therefore generally apply at the point of entry, although in some cases there is a requirement that the criteria (such as minimum pay) continue to be met following entry. Issues relating specifically to settlement policy in other countries are discussed at the end of this section.

- 2.25 The countries we examined were: Australia; Canada; France; Germany; New Zealand; Singapore; Switzerland; and the USA. These countries were chosen because they were deemed likely to face similar migration issues, or have similar migration systems, to the UK or we had other reasons to believe that their examination may yield useful insights.

Relevant routes in other countries

- 2.26 Ruhs (2011) notes in an analysis of 46 countries that almost all migration programmes in Europe and Asia are temporary migration programmes, i.e. they do not grant permanent residence upon admission. The study found that there is an inverse relationship between temporary visas and the skill level of the migrants targeted. Visas for low-skilled migrants are all temporary, but the availability of permanent visas increases as skill levels increase.
- 2.27 As shown in Figure 2.1, Ruhs (2011) found that even among migration programmes targeting highly-skilled migrants with second or third-level degrees, two-thirds receive temporary visas, rather than permanent status, upon arrival.

Figure 2.1: Temporary and permanent labour immigration programmes in 46 countries by targeted skills, 2009



Note: Analysis comprised of 46 countries, including 34 high-income countries (including all OECD countries except Iceland and Luxembourg), nine upper middle-income countries and three lower middle-income countries. Only LS: programmes that target only low-skilled workers.

LS: programmes that target low-skilled workers and possibly others.

MS: programmes that target medium-skilled workers and possibly others.

HS1: programmes that target high-skilled workers and possibly others.

HS2: programmes that target very high-skilled workers and possibly others.

Only HS2: programmes that target very high-skilled workers only.

Source: Centre on Migration, Policy and Society; Working Paper No. 88 (University of Oxford, 2011).

Routes equivalent, or comparable, to Tier 1 exceptional talent

2.28 Many countries operate highly-skilled labour immigration programmes aimed at attracting ‘the brightest and the best.’ In the countries we examined, approximate equivalents to the UK’s **exceptional talent route** usually, but not always, lead to settlement, either on arrival or after some time spent in the host country. Such routes provide a path to settlement in Australia, New Zealand and in some cases in the United States and Canada.

2.29 The other countries generally do not limit this type of route, but an

exception is the United States, which applies an annual quota of 40,000 visas to the E11 (extraordinary ability in science, education, business or athletics), E12 (outstanding professors or researchers) and E13 (one of several categories for intra-company transferees) routes.

2.30 Criteria for the granting of a visa under the equivalents to the Tier 1 exceptional talent route include: being nominated by an individual or an organisation from the country to which the migrant is applying; salary; receipt of prizes or awards; and qualifications (or skills and work

experience as a proxy for qualifications). In New Zealand there is a maximum age limit of 55 years.

- 2.31 Many countries grant visas to those who are outstanding in a profession, the arts, sport, research or academia. In addition, some countries also have routes that reflect their own priorities or needs. For instance, the Canadian route for self-employed people includes those likely to make a significant contribution to the country, such as persons buying a farm. The USA includes a visa category for those who have contributed greatly to the motion picture or television industry.

Routes equivalent or comparable to Tier 2 Resident Labour Market Test

- 2.32 Most, but not all, of the other countries whose policies we examined generally have an approximate equivalent to the UK's **RLMT route**. Visas for such routes do not usually lead to settlement as they are normally used to plug temporary gaps in the labour market. However, employees may apply for permanent visas in Australia through the Labour Agreement programme discussed below.
- 2.33 Whether or not a cap on numbers entering under such routes is applied varies. In Australia, an employer may apply for a Labour Agreement if it has an ongoing requirement to recruit overseas skilled workers over a number of years and has not been able to recruit from the local labour market. Any Labour Agreement will stipulate a maximum number of migrants eligible to enter Australia during the term of the Agreement. The US has a cap of approximately 40,000 per year for its EB-2 visa (professionals

with an advanced degree or persons of exceptional ability) plus a cap of approximately 40,000 per year for its EB-3 visa (for skilled workers, professionals, and 'other' workers performing work requiring experience of less than two years). The American H-1B visa for migrants working in a speciality occupation (based on qualification requirement or equivalence of the occupation) has a cap of 65,000 per year, although there are exceptions to this.

- 2.34 Visas are usually only issued where it can be shown that the required skills cannot be found within the resident labour market. Australian organisations applying for a Labour Agreement must produce evidence that they have tried to recruit from the local labour market. Canadian employers must show that they cannot find suitable employees from the Canadian labour market and that migrant workers would not have a negative impact: the employer is required to obtain a labour market opinion from a Government agency. In Germany, checks are carried out to clarify whether there may be a German employee, an EU employee, the spouse of a German or EU citizen or a recognised refugee available to do the job. In New Zealand, a labour market test is usually conducted to ascertain whether there may be suitable workers available from the local labour market. Certain categories of the US equivalent visas also require that there are no suitably qualified workers amongst resident workers before migrant workers are allowed to enter the country.

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Routes equivalent or comparable to Tier 2 shortage occupation

- 2.35 The countries whose policies we looked at generally have equivalents to the UK's **shortage occupation list route**. The relevant Australian visa is designed to meet labour shortages quickly, and the rate at which visas are granted closely tracks Australian labour market vacancy indices. This would seem to indicate that it is highly responsive to changing labour market conditions.
- 2.36 In the countries we looked at this type of route does not always lead to settlement. However, in Australia, the Sponsored Temporary Business (Long-Stay) visa is valid from one day up to four years, and the migrant may transfer into a permanent migration pathway after two years' continuous employment. The New Zealand Long Term Skill Shortage List Work Category visa is a route to settlement. Certain categories of the American visa are also permanent visas.
- 2.37 There is some variation in whether or not other countries set a cap on their equivalent to this route. Australia and New Zealand have no cap. The Canadian Federal Skilled Worker scheme has a cap of 10,000 applications per year, with no more than 500 for any one of the 29 occupations currently identified as being in shortage.
- 2.38 Australia, Canada and New Zealand all have a list of occupations identified as being in shortage and a migrant seeking entry through this route must be applying to work in one of these occupations. 'Group I' of the American Schedule A visa is for physical therapists and professional nurses. The German

route is mainly for highly-skilled scientists, researchers and research assistants, plus specialists and executive staff with exceptional work experience.

- 2.39 Other criteria commonly used by these countries include suitable qualifications or experience in the job. The age requirement, where there is one, varies from under 53 years in New Zealand to 18 to 49 years in Canada (two points are deducted for each year outside this range).

Paths to settlement

- 2.40 Here we consider issues relating specifically to criteria applied for settlement. Skilled migrants seeking to work and permanently reside in New Zealand usually apply under the Skilled Migrant category, which is a points-based system. The applicant is required to meet a certain level of English (at least 6.5 in the IELTS General or Academic module). Principal applicants are assessed to determine whether they would be able to settle in New Zealand and contribute to the country. Points are awarded for an offer of skilled employment or current skilled employment in New Zealand, or if they have undertaken full-time study in New Zealand resulting in a Doctorate or Master's degree, or a qualification in an area of identified future growth or relevant to a shortage occupation. If an applicant meets the relevant criteria, they are granted a two-year resident visa. After this initial visa expires, the applicant will need to apply for a 'permanent resident' visa, which can be granted either indefinitely or for a specific period. However, if the authorities think the applicant has potential but they would like to see

how they settle, they are initially granted a 'job search' visa. This visa can be used to help obtain an offer of skilled employment in New Zealand for up to nine months. If skilled employment is obtained in this time, it is considered that the applicant has demonstrated an ability to contribute and settle, and a resident visa application is then approved, as described above.

2.41 In Germany, highly-skilled workers can be issued with indefinite leave to remain immediately if they can support themselves financially and are expected to be able to integrate themselves into German society. Otherwise, migrants have a right to permanent residence if:

- they have had a residence permit for five years and can secure their cost of living;
- they have paid a contribution to the federal pension scheme for a minimum of sixty months;
- they are not a threat to national security;

- they have sufficient accommodation for themselves and their family;
- they speak German to a sufficient standard; and,
- they have basic knowledge about life in Germany.

2.42 As a general rule, economic migrants in Switzerland would obtain settlement after ten years' regular and uninterrupted residence in the country. Once a migrant has been issued with a permanent resident visa in Canada, they remain a permanent resident, provided they reside in Canada for two years in every five. Similarly, certain Australian visas, such as some Labour Agreements (which are comparable to the UK's RLMT route), confer permanent residence as soon as they are granted.

Tables 2.2 to 2.4 summarise by route the criteria applied in each of the countries that we looked at, and whether such criteria are applied on entry or at the point of a settlement application. As explained above, the content of these tables should be regarded as indicative rather than definitive.

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Table 2.2: Entry or settlement criteria used under international routes leading to settlement comparable to the UK's Tier 1 exceptional talent route

	Pay	Age	Qualifications	Professional bodies	Designated jobs / occupations
AUSTRALIA: Distinguished Talent visa		√ E	√ E	√ E. Must be nominated by a person / organisation with a national reputation in Australia in the relevant field of expertise.	√ E. Must have internationally recognised record of exceptional achievement in a profession, a sport, the arts or academia and research.
CANADA: Exceptional Talent route		√ E. No maximum or minimum age, but selection points reduced outside 21 – 49 age range.	√ E. Must demonstrate that applicant can be self-supporting.		√ E
NEW ZEALAND: Talent (Arts, Culture and Sports) work category		√ E	√ E. Must have international reputation and record of excellence in their field.	√ E. Must be supported by a NZ organisation of national repute.	√ E
USA: E11 (Extraordinary ability petitions: science, arts, education, business, athletics)			√ E. Sustained national/international acclaim and recognised achievements in their field.	√ E. Membership of associations in the field for which classification sought that require outstanding achievements of its members as judged by recognised national or international experts.	√ E. Must work in field of expertise.
USA: E12 (Outstanding researchers and professors)			√ E. Must be recognised internationally and have relevant experience.	√ E. Membership of associations which require outstanding achievements of their members.	√ E. Applicant must teach or research.

Note: E: before / on entry. S: when granted settlement.
Source: relevant national authorities.

Table 2.3: Entry or settlement criteria used under international routes leading to settlement comparable to the UK's Tier 2 (General) Resident Labour Market Test route

	Pay	Age	Qualifications	Professional bodies	Designated jobs / occupations
AUSTRALIA: Labour Agreements	√ E		√ E		

Note: E: before / on entry.
Source: relevant national authorities.

Table 2.4: Entry or settlement criteria used under international routes leading to settlement comparable to the UK's Tier 2 (General) shortage occupation route

	Pay	Age	Qualifications	Professional bodies	Designated jobs / occupations
AUSTRALIA: Sponsored Temporary Business (Long-Stay) visa	√ E		√ E		√ E
CANADA: Federal Skilled Worker	Not considered unless an applicant wishes to gain additional selection points by arranging an offer of employment, which must be approved by the Ministry of Human Resources and Skills Development.	√ E	√ E	√ PS. Professional designation is required for some professions only, and this is AFTER the settlement visa has been granted.	√ E
NEW ZEALAND: Long Term Skill Shortage List work category	√ S	√ E	√ E		√ E
USA: Schedule A Group I (Registered nurses / physical therapists)			√ E		√ E
USA: Schedule A Group II (exceptional ability in science or arts)			√ E. Documentary evidence of widespread acclaim and international recognition by recognised experts. Evidence of exceptional ability.	√ E. Membership of international associations requiring outstanding achievement.	√ E

Note: E: before / on entry.

PS: post settlement.

S: when granted settlement.

Source: relevant national authorities.

Chapter 3 Data context

3.1 Introduction

3.1 This chapter provides the data context to this report. First, it provides an overview of the sources of migration data and sets out the most recent data available on international migration. Second, it discusses recent changes to the rules for Tiers 1 and 2 and examines data for visas issued under these routes. It then discusses volumes of settlement grants in the past and how these volumes may change in the future. Finally, it discusses the likely characteristics of Tier 2 Resident Labour Market Test (RLMT) and shortage occupation route main applicants applying for visas from 6 April 2011.

3.2 Definitions and overview of migration data sources

3.2 The United Nations (UN) define a long-term international migrant as “A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence.” This is the definition adopted by the Office for National Statistics.

3.3 Broadly, there are two types of data sources on migrant stocks and flows: survey-based and

administrative. **Survey-based sources**, such as the International Passenger Survey (IPS), Labour Force Survey (LFS) and Annual Population Survey (APS), provide a number of the official national statistics relating to migration. The UN’s definition of migrants is used in the IPS, whereas country of birth or nationality are generally used to identify migrants in the LFS and APS. They all allow analysis of migration by UK, EU and non-EU nationals. However, they do not separately identify migrants in Tier 1 or Tier 2 of the Points Based System (PBS).

3.4 **Administrative data**, such as the Immigration Statistics, National Insurance Number allocations and UK Border Agency management information (MI) are derived from systems and databases used by public bodies to administer controls and services. Most administrative data sources define migrants by immigration status or nationality. The Immigration Statistics and UK Border Agency MI allow Tiers 1 and 2 migrants to be identified, but are limited to measuring only migrant inflows, not outflows. In the remainder of this chapter we refer to people migrating into the UK as ‘inflows’, and those emigrating as ‘outflows’. Further details of each data source are provided in Box 3.1.

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Box 3.1: Data Sources on migration to and from the UK

International Passenger Survey (IPS) is a quarterly survey of passengers arriving in, and departing from, the UK. Migrants can be identified according to their country of birth, nationality, intended purpose of visit, and length of stay. Approximately one in every 500 passengers travelling through UK ports is surveyed, but the migrant sample (i.e. those intending to change their usual place of residence for a year or more) is only a fraction of this. In 2008 3,216 immigrants and 1,901 emigrants were surveyed. The small sample size means that the confidence intervals around IPS estimates are significant.

Long-Term International Migration (LTIM) is defined as those persons intending to change their place of residence for a year or more, which matches the UN definition of a migrant. The figures for LTIM are based on the results from the IPS with certain adjustments made to account for flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers. Results are available quarterly.

Labour Force Survey (LFS) is a quarterly survey of around 60,000 households. The LFS provides estimates of the stock of foreign-born individuals in the UK and their labour market status. Immigrants can be identified according to their country of birth, nationality and length of stay in the UK, but not by their immigration status. Results are available quarterly.

Annual Population Survey (APS) is an annual household survey based largely on the LFS. The APS includes additional regional samples that make it more appropriate for regional and local analysis, as well as more accurate population estimates. Results are available quarterly.

Immigration Statistics (previously published as Control of Immigration Statistics) include the number of entry clearance visas granted by category to non-EEA nationals, the number of extensions of leave to remain in the UK, grants of settlement and citizenship and estimates of passengers admitted to the UK. It is now possible to distinguish between those granted leave under different tiers of the PBS and between main applicants and their dependants. Entry clearance visas can be used to proxy inflows of migrants, although not all individuals who are issued visas will actually come to the UK.

Management Information (MI) data for the PBS and the predecessor arrangements are collected by the UK Border Agency but not routinely published. Some of these data have been made available to the MAC to support the analysis for this report. It is important to note that these data are neither National Statistics nor quality-assured to National Statistics standards, and are, therefore, presented for research purposes only. These data allow further examination of applications granted through Tiers 1 and 2, including details of Certificates of Sponsorship issued to employers to sponsor applicants through Tier 2.

National Insurance Number allocations (NINo) describe the volume of citizens of different nationalities gaining a National Insurance number, which is required for legal employment, to pay tax and to claim some welfare benefits. These data may be used as a proxy for inflows of some types of immigrants to the UK, both from within and outside the EEA. Figures are published quarterly by the Department for Work and Pensions.

3.5 The PBS regulates economic migration from outside the European Economic Area (EEA). The EEA countries include the 27 member states of the European Union and additionally Iceland, Lichtenstein and Norway. Switzerland is also treated as part of the EEA for the purposes of the PBS. Published data from the IPS are generally only available for EU and non-EU nationals rather than for EEA and non-EEA nationals. Since migrant flows from Iceland, Lichtenstein and Norway are relatively small compared to overall flows from non-EEA

countries, we use IPS non-EU national migration data as a proxy for flows of non-EEA nationals.

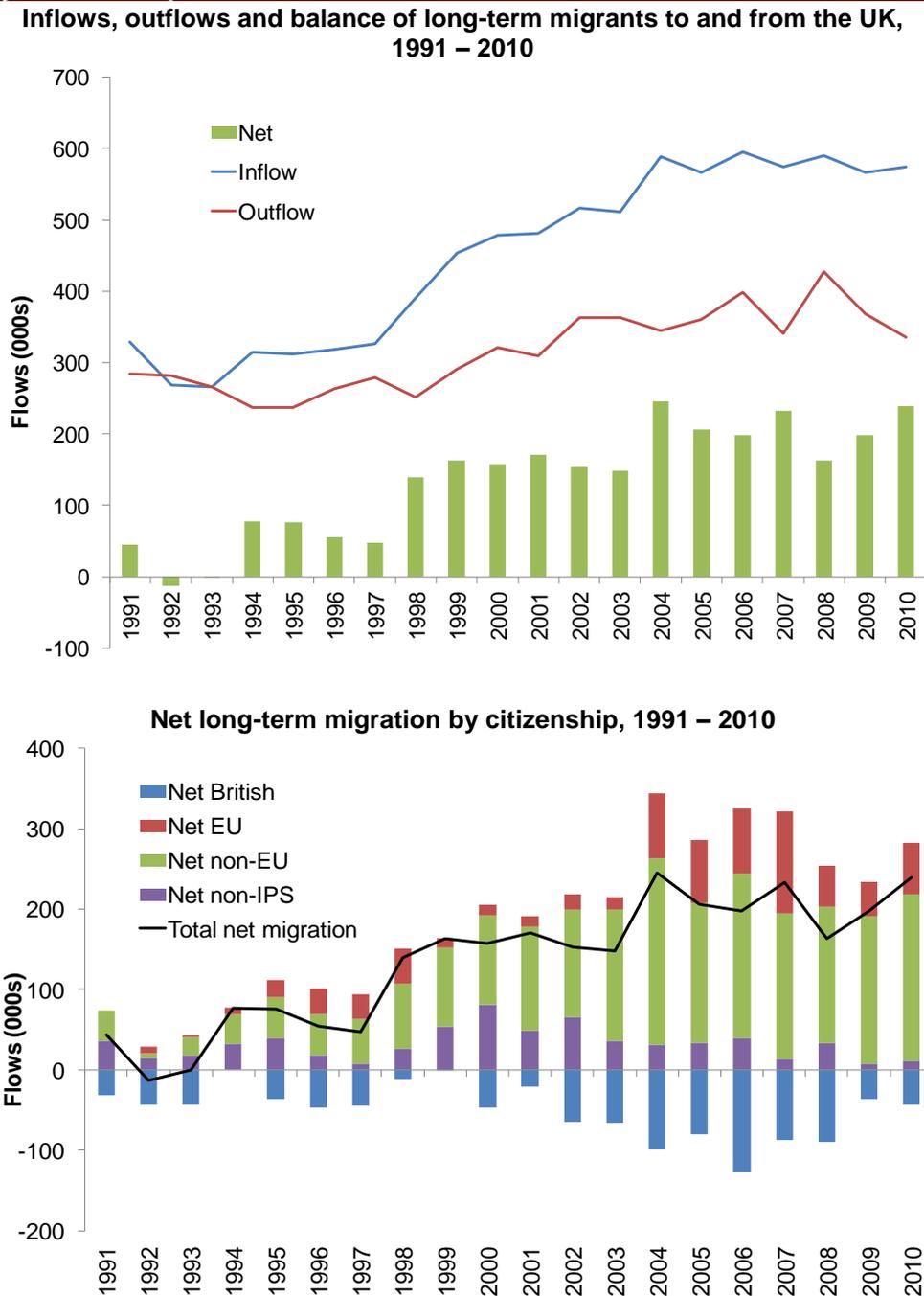
3.3 Net migration and flows

3.6 Since the end of the recession of the early 1990s, inflows of long-term migrants (defined as those intending to change their place of residence for one year or more) have exceeded outflows, resulting in positive net migration to the UK, shown in Figure 3.1.

- 3.7 The provisional LTIM estimate for 2010 indicates that net migration was 239,000, an increase from 198,000 in 2009. In 2010, 575,000 long-term migrants came to the UK and 336,000 left, compared to 567,000 arrivals and 368,000 departures in 2009. These figures include British, EU and non-EU nationals.
- 3.8 Figure 3.1 also shows the breakdown of the provisional LTIM net migration estimates for 2010 into their constituent components, namely net migration of British, EU and non-EU nationals (the IPS component) and the adjustments made to account for flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers (the non-IPS component).
- 3.9 The increase in net migration between 1997 and 2004 was largely due to an increase in non-EU net migration. EU net migration to the UK increased between 2004 and 2007 following the expansion of the EU in 2004. Net emigration of British nationals increased between 2000 and 2006, partially offsetting the rise in net immigration of foreign migrants. Nevertheless, net emigration of British nationals has since reduced considerably, contributing to a rise in total net immigration over this period.

Settlement rights of migrants in Tier 1 and Tier 2

Figure 3.1: Flows of long-term migrants to and from the UK and net long-term migration by citizenship, 1991 to 2010



Notes: Long-term migrants are defined in the International Passenger Survey as those individuals who intend to change their place of residence for a year or more. This definition includes all nationalities, including British nationals. This figure presents published data for the calendar years 1991 to 2010. LTIM figures for 2010 are provisional. EU includes EU15, A8, Bulgaria, Romania, Malta and Cyprus. Non-IPS components are based on provisional LTIM figures minus provisional IPS figures.

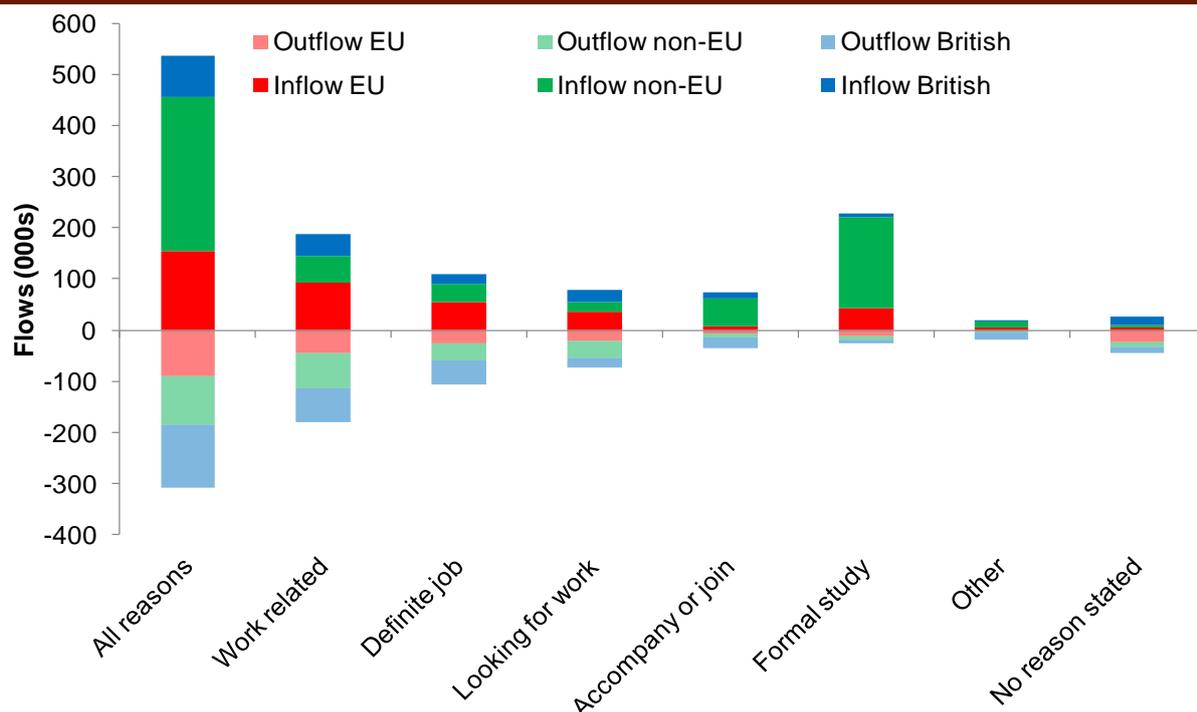
Source: Office for National Statistics (2011a) and Office for National Statistics (2011b)

3.12 The IPS components of the LTIM estimate can be broken down further to examine the 'reason for migration', shown in Figure 3.2. The most common reason for immigration of non-EU nationals in 2010 was for formal study, accounting for 178,000 of long-term non-EU immigrants (provisional estimate). This is a rise from 2009, when 163,000 long-term non-EU immigrants came to the UK for study reasons.

3.13 Long-term immigration of non-EU nationals for work-related reasons, either with a definite job or looking for work, was 53,000 in 2010

(provisional estimate). By comparison, 67,000 non-EU national long-term migrants left the UK in 2010 for work reasons (provisional estimate). However, it is important to recognise that this does not mean that net migration of non-EU work-related immigrants to the UK was negative. This is because the reason a migrant leaves the UK will, in some cases, differ from the reason why he or she first came to the UK. For example, students will come to the UK for the reason of formal study, but may leave the UK for work-related reasons once they have graduated, and be counted in the work-related outflow.

Figure 3.2: Inflows and outflows of long-term migrants by reason for migration and by nationality, 2010



Notes: The figures describe the inflows and outflows of long-term migrants intending to change their place of residence for a year or more. Figures provided are in thousands and are provisional.

Source: Office for National Statistics (2011b)

Settlement rights of migrants in Tier 1 and Tier 2

3.4 Context to analysis of Tier 1 and Tier 2 data

3.14 It is our understanding that any changes to settlement policy made as a result of this report will affect only main applicants who enter the PBS from 6 April 2011 and their associated dependants. On that date the rules for being granted a visa under Tiers 1 and 2 were altered. These changes were introduced in Chapter 2. Further detail and the implications are discussed below.

3.15 The Tier 1 (General) route has been replaced by the Tier 1 exceptional talent route, subject to an annual limit of 1,000 places. No data relating to the Tier 1 exceptional talent route are currently available as this route has only been operational since 9 August 2011.

3.16 From 6 April 2011, a limit on the number of restricted Certificates of Sponsorship granted to RLMT and shortage occupation route main applicants of 20,700 per year was introduced. Allocations are granted on a monthly basis, with 4,200 allocations in the first month and 1,500 allocations in subsequent months. Any unused, returned or reclaimed restricted Certificates of Sponsorship are rolled over to the next month. After the allocation on 11 August 2011, 46 per cent of the total available restricted Certificates of Sponsorship were allocated and 6,223 were rolled over to be included in the allocation for September 2011.

3.17 In addition to the introduction of annual limits, a number of further

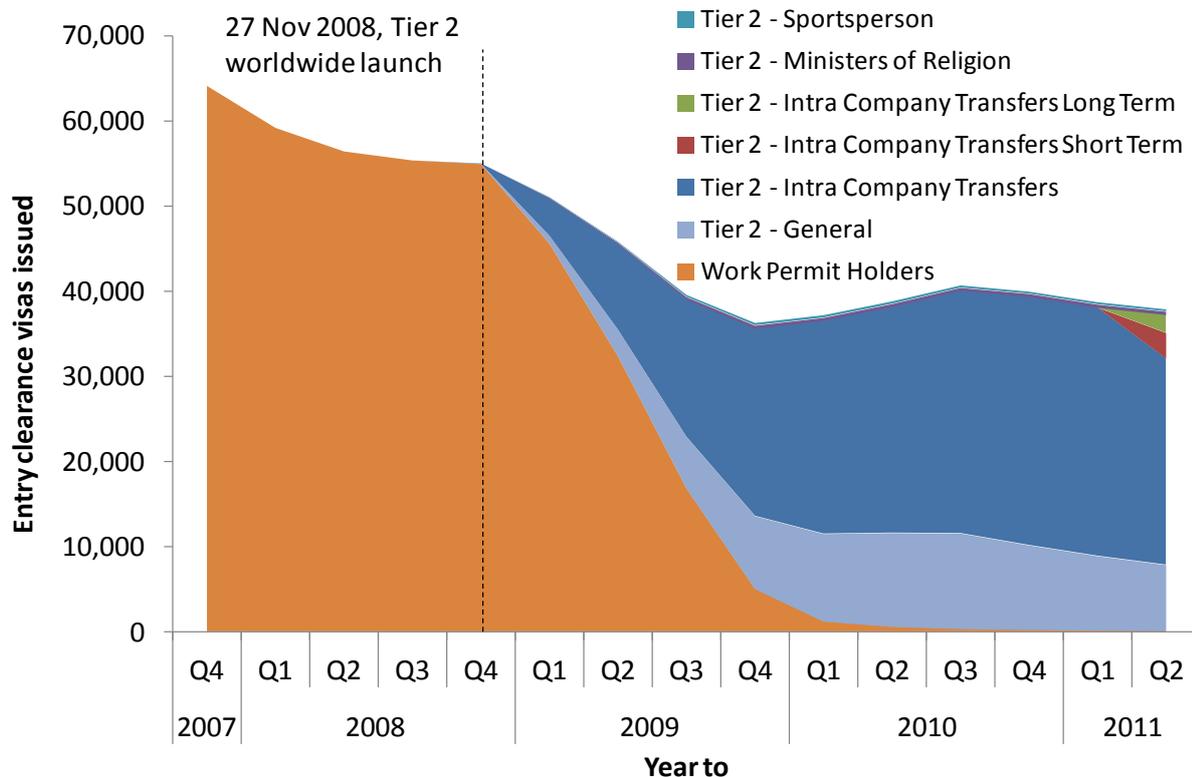
changes to the Tier 2 shortage occupation and RLMT routes were introduced. Firstly, the skill level for eligible occupations was increased to National Qualification Framework level 4 and above (NQF4+). Second, the English language requirement was raised from basic to intermediate English at B1 of the Common European Framework of Reference for Languages. Third, the points requirements were changed, including the introduction of a minimum salary threshold of £20,000 per year.

3.18 Changes were also introduced for the Tier 2 intra-company transfer route on 6 April 2011. Nevertheless, the intra-company transfer route is not a route to settlement and is therefore less relevant for the purposes of this report.

3.19 Figure 3.3 shows the number of visas issued to main applicants via Tier 2 and its predecessor route (work permits) on a rolling four-quarterly basis since 2007 Q4. The data show that the total number of Tier 2 visas and work permits issued reached a recent peak in the year to 2010 Q3 and have fallen steadily since.

3.20 Intra-company transfers comprise the majority of Tier 2 visas that have been issued since the launch of Tier 2 on 27 November 2008. The large majority of the remaining Tier 2 visas have been issued to Tier 2 (General) main applicants, with the residual issued to migrants applying for the sportsperson and ministers of religion routes.

Figure 3.3: Entry clearance visas issued to Tier 2 and work permit main applicants, rolling 4-quarter data, 2007 Q4 to 2011 Q2



Notes: Tier 2 was launched on 27 November 2008. The work permit system was the predecessor to Tier 2. Operational procedures before and after the introduction of the Points Based System (PBS) were different, which may potentially distort any 'before-and-after' comparisons. In particular, previously main applicants would have had to apply first under the Highly Skilled Migrant Programme or for a work permit and then for a visa, whereas in the PBS these processes take place at the same time. Since 6 April 2011, intra-company transfers have been classified as either long term or short term.

Source: Home Office (2011b)

3.21 Table 3.1 presents the latest numbers of visa and further leave to remain grants to main applicants and dependants through Tier 2 and the ratio of grants to dependants and main applicants. These ratios do not account for the fact that many

dependants may be following previous cohorts of main applicants. For example, a dependant may have been granted a visa in 2010 because of their relationship to a main applicant who was granted a visa in 2008.

Settlement rights of migrants in Tier 1 and Tier 2

Table 3.1: Entry clearance visa grants and further leave to remain grants by Tier 2 route, main applicants and dependants, 2010 Q3 to 2011 Q2

Route	Main applicants (A)	Dependants (B)	(B)/(A)
Entry clearance visas grants (out-of-country)			
Tier 2 Intra-company transfers (long term)	2,153	2,191	1.02
Tier 2 Intra-company transfers (short term)	2,993	825	0.28
Tier 2 Intra-company transfers (closed from 6 April 2011)	24,244	23,210	0.71
Tier 2 (General)	7,746		
Tier 2 Ministers of religion	378		
Tier 2 Sports person	228		
Total Tier 2	37,742	26,226	0.69
Further leave to remain grants (in-country)			
Tier 2 Intra-company transfers	6,231	5,452	0.87
Tier 2 (General)	11,495	7,135	0.62
Tier 2 Ministers of religion	503	519	1.03
Tier 2 Sports person	110	96	0.87
Total Tier 2	18,339	13,202	0.72

Notes: From 6 April 2011, intra-company transfers have been classified as either short term or long term. No extensions of either long-term or short-term intra-company transfers have yet been granted. Tier 2 (General) includes the Resident Labour Market Test and shortage occupation routes. Dependants are likely to lag main applicants: for example, a dependant may have been granted a visa in 2010 because of their relationship to a main applicant who was granted a visa in 2008.

Source: Migration Advisory Committee analysis of Home Office (2011b)

3.5 Volumes of settlement grants to Tier 1 and 2 main applicants

3.22 This section presents data for Tier 1, Tier 2 and predecessor route main applicants and dependants that have been granted settlement. Further, given the scope of this report, it also discusses how to estimate the annual numbers of Tiers 1 and 2 main applicants and dependants that may be granted settlement in the long term, after 6 April 2016.

Historical Tier 1, Tier 2 and predecessor route settlement grants

3.23 Figure 3.4 shows the number of settlement grants by category for each calendar year from 1997 to 2010. The number of grants

generally increased over this period, from a low of 58,725 in 1997 to a high of 241,192 in 2010. In 2006 the period of employment required to qualify for settlement was increased from four to five years. This delayed a cohort of applicants and so reduced the number of settlement grants in that year compared to 2005. It may also have contributed to the high number of settlement applicants in 2005 compared to 2004 as a result of a 'closing down sale'.

3.24 Statistics on settlement grants are published on a quarterly basis going back to 2007 Q4. Settlement grants to Tiers 1 and 2 main applicants were 9,252 in the year to 2011 Q2, while 11,061 dependants of Tiers 1

and 2 main applicants were also granted settlement. In addition, there were 17,314 settlement grants to work permit main applicants and 22,372 grants to dependants of work permit main applicants over the same period. These numbers total to 59,999. Some migrants in Tier 1 and Tier 2 predecessor routes who were granted settlement over this period are included in the other employment categories of the published statistics. In the other employment categories it is not possible to distinguish between migrants in routes that are predecessors to Tiers 1 and 2 from those that are not. Therefore, our total estimate of the number of Tier 1 and Tier 2 and predecessor routes main applicants and dependants that were granted settlement in the year to 2011 Q2 is approximately 60,000. Figure 3.5 shows that this number has fallen from a peak in the year to 2010 Q3.

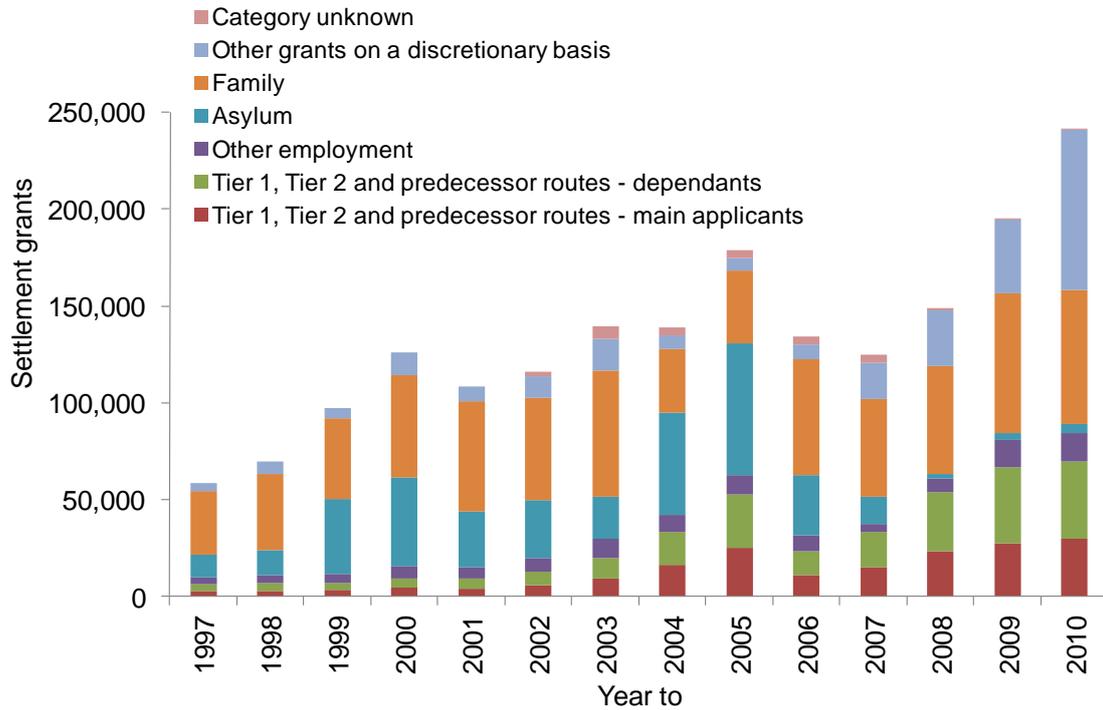
3.25 Since Tiers 1 and 2 were only opened in 2008, none of the main applicants that were granted visas through these routes have worked in the UK for the five years required to become eligible for settlement. Individuals granted settlement under Tiers 1 or 2 must therefore have entered the UK via a different route, have switched into either Tiers 1 or 2 and then have been granted settlement. Settlement grants to

Tiers 1 and 2 main applicants and dependants may therefore rise over time as the main applicants that were granted visas through these routes become eligible for settlement. Inversely, one would expect settlement grants to work permit main applicants and dependants to fall over time, since the work permit route was closed on 27 November 2008 to all nationalities except Romanians and Bulgarians.

3.26 Of the 207,824 settlement grants in the year to 2011 Q2, grants to main applicants and dependants through Tier 1, Tier 2 and predecessor routes accounted for 29 per cent. Adding grants under the other employment categories raises this figure to 33 per cent. These figures compare to 27 per cent for family formation and reunion settlement grants, 5 per cent for asylum-related settlement grants (including both main applicants and dependants) and 34 per cent for settlement grants for other reasons (including both main applicants and dependants). Grants for other reasons include main applicants granted indefinite leave outside the immigration rules under measures aimed at clearing the backlog of outstanding unresolved cases, grants to main applicants where the category was unknown and grants to their corresponding dependants.

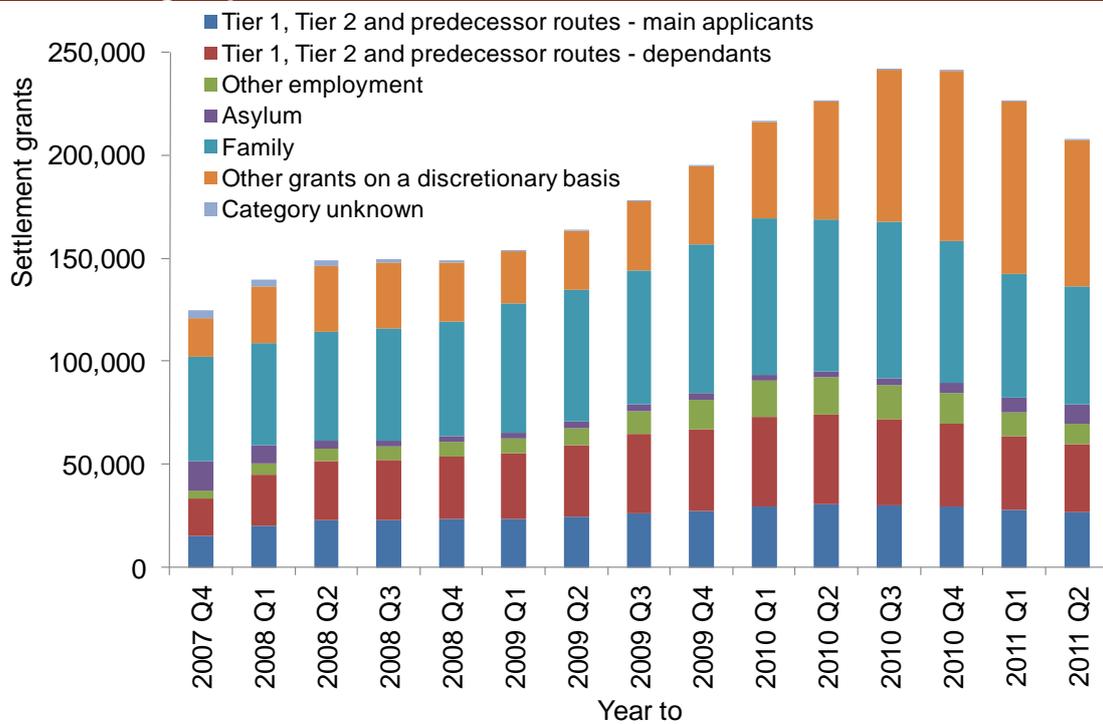
Settlement rights of migrants in Tier 1 and Tier 2

Figure 3.4: Settlement grants by category and by year, main applicants and dependants, 1997-2010



Source: Home Office (2011b)

Figure 3.5: Settlement grants by category and by quarter, main applicants and dependants, rolling 4-quarter data, 2007 Q4 to 2011 Q2



Source: Home Office (2011b)

3.27 Table 3.2 presents settlement grants for Tier 2 main applicants and their dependants by route between July 2010 and June 2011. These data

indicate that approximately 90 per cent of settlement grants to Tier 2 main applicants were to those in the Tier 2 (General) route.

Table 3.2: Settlement grants to Tier 2 main applicants and dependants by route, provisional data, July 2010 to June 2011

Route	Main applicants (A)	Dependants (B)	(B)/(A)
Tier 2 (General)	3,387	4,293	1.27
Intra-company transfer	297	401	1.35
Ministers of religion	114	131	1.15
Sportsperson	10	22	2.20
Total	3,808	4,847	1.27

Note: Grants of settlement that combine qualifying periods of residence in the Tier 2 (General) route and other pre-PBS categories. These data are management information and as such have not been quality assured. They are provisional and subject to change

Source: UK Border Agency management information, July 2010 to June 2011

Estimated volume of migrants entering Tier 1 and Tier 2 from April 2011 that might be granted settlement

3.28 This section considers the likely number of main applicants and dependants entering Tiers 1 and 2 from April 2011 that will be granted settlement without any changes to the current settlement policy being introduced. Given that Tiers 1 and 2 main applicants must have worked in the UK for at least five years before becoming eligible for settlement, these migrants will be eligible to apply for settlement from April 2016. There are a number of reasons to believe that the number of such annual settlement grants to these migrants will be below recent levels. These are discussed in turn below.

3.29 First, as discussed earlier in this chapter, the rules for entry into Tiers 1 and 2 were revised in April 2011 to make these routes more selective. These changes included a limit on the Tier 2 RLMT and shortage occupation routes and Tier 1

exceptional talent route. This is expected to have the effect of reducing the number of main applicants granted visas or leave to remain, therefore reducing future settlement grants from these routes. The fact that the monthly limit is not currently being reached exerts an additional downward influence on possible future grants.

3.30 Second, some of the Tier 1 and Tier 2 routes which were formerly routes to settlement are now either closed to new entrants or no longer allow migrants to qualify for settlement. For instance, main applicants granted visas under the Tier 2 intra-company transfer route from April 2010 are no longer eligible to apply for settlement after five years of residence in the UK. The closure of the Tier 1 post-study work route in April 2012 may also reduce the number of main applicants switching into routes to settlement in Tiers 1 and 2, reducing future settlement grants. In addition, the Tier 1 (General) and work permit routes, which were formerly routes to

Settlement rights of migrants in Tier 1 and Tier 2

settlement, are no longer generally open to new entrants, although some exceptions apply to nationals of Romania and Bulgaria.

3.31 Third, the rules for settling in the UK were changed in April 2011 to make them more selective. This may have the effect of reducing the numbers of main applicants granted settlement. Tier 2 (General) main applicants applying for settlement must now meet the same income criteria that applied when they last extended their permission to stay in the UK. Main applicants applying for settlement from the RLMT, shortage occupation or intra-company transfer routes (for those that entered this route before April 2010) or those with work permits must meet the minimum salary threshold stated in the UK Border Agency code of practice. Main applicants must also be clear of unspent criminal convictions when applying for settlement. In addition, Tiers 1 and 2 main applicants must now have passed the 'Life in the UK' test.

3.32 Fourth, there is evidence that main applicants granted visas after April 2011 might potentially have a lower propensity to settle, on average, than those granted visas before this date. UK Border Agency analysis suggests that Tier 2 (General) main applicants in lower-skilled occupations have a greater propensity to settle than those in higher-skilled occupations. The analysis identifies a sample of 456 main applicants for whom occupation details could be obtained, the vast majority of whom would have been eligible to settle under Tier 2 (General) between January 2011 and June 2011. Of those 456 main applicants, 316 had been granted settlement between

January 2011 and June 2011. Dividing the total sample into those working in occupations judged to be skilled to NQF4+ and those working in occupations skilled to below that level, 65 per cent of main applicants working in NQF4+ occupations in the sample had settled by June 2011. For comparison, 78 per cent of main applicants working in occupations skilled to below NQF4+ in the sample had settled by June 2011. Some of those who had not settled by June 2011 had leave remaining after this date and therefore may apply for settlement after this date. Furthermore, some of those who settled between January 2011 and June 2011 had extant leave to remain in the UK and could therefore have delayed their settlement application.

3.33 Based on the above, given that the skill level for eligible occupations under the Tier 2 RLMT and shortage occupation route increased to NQF4+ on April 2011, it is plausible that main applicants granted visas in these routes after this date will have a lower propensity to settle than those granted visas before this date if current settlement policy is maintained.

3.34 Estimating the precise magnitude of these impacts is a complex matter and requires various assumptions. Below we describe the assumptions we have made to estimate the annual number of main applicants and dependants entering Tier 1 and Tier 2 from April 2011 that might be granted settlement, assuming no change to the rules for entry or settlement. Results are subject to high margins of uncertainty and should be treated with caution. In making these calculations we are concerned with the Tier 1

exceptional talent route and the Tier 2 RLMT, shortage occupation, sportsperson and ministers of religion routes as the other routes in Tier 1 (the post-study work route, which will close in April 2012) and Tier 2 (the intra-company transfer route) are not routes to settlement. As described above, we assume that these migrants will not be eligible to apply for settlement until April 2016.

- 3.35 Given that there are no data for Tier 1 exceptional talent main applicants entering the UK, we assume that the number of main applicants entering the UK into the Tier 1 exceptional talent route will be between 1,000 per year, the annual limit, and zero from April 2011.
- 3.36 The upper bound for the number of Tier 2 RLMT and shortage occupation route main applicants entering the UK is 20,700 per year, the annual limit. As discussed above, so far only 46 per cent of the limit has been used since its

introduction. The lower bound estimate is therefore 9,522 per year (46 per cent of 20,700).

- 3.37 Between 2010 Q3 and 2011 Q2, 606 visas were granted to ministers of religion route and sportsperson route main applicants. Therefore, quite arbitrarily, but on the basis that use of a relatively wide range is necessary to reflect the uncertainty of these calculations, **we assume that the upper and lower bounds for ministers of religion and sportspersons main applicants entering the UK from April 2011 are 50 per cent higher and lower than 606 respectively.**
- 3.38 In addition, **we assume that between 10,792 and 19,286 main applicants who enter the UK through a route not leading to settlement will switch in-country into Tier 2 (General) each year after the post-study work route closes.** The basis for this estimate is presented in full in Box 3.2.

Settlement rights of migrants in Tier 1 and Tier 2

Box 3.2: Estimating the number of migrants switching in-country from a route not leading to settlement into a route leading to settlement in Tiers 1 and 2

Here we estimate the number of migrants that might switch in-country into routes leading to settlement in Tiers 1 and 2 from a route not leading to settlement each year from April 2011. We make a number of assumptions to simplify the calculations:

- We include only in-country grants for main applicants switching into the RLMT and shortage occupation routes.
- We estimate the above based upon the assumption that the post-study work route is closed.
- We estimate only the number of migrants switching into Tier 2 RLMT and shortage occupation routes from Tier 4 and its predecessor route. We exclude migrants switching from other routes not leading to settlement such as the Tier 2 intra company transfer route.

Our approach first involves estimating the proportion of main past applicants in the post-study work route who would in the future qualify for Tier 2 (General). This can then be used to approximate the number of main applicants that will switch from Tier 4 or its predecessor route to Tier 2 (General) when the post-study work route closes.

According to the most recent published figures, there were 33,973 in-country grants to post-study work route main applicants in 2010 (Home Office, 2011b). According to Home Office (2011c), approximately half of post-study work route migrants are employed in the top three 1-digit SOC 2000 groups and we assume that these migrants would meet the criteria to qualify for Tier 2 (General). Consequently, we estimate that 50 per cent of main applicants in the post-study work route would instead have switched from Tier 4 (and its predecessor route) to Tier 2 (General) if the post-study work route had been closed.

We therefore estimate that 16,987 (50 per cent of 33,973) main applicants will switch directly from Tier 4 (and its predecessor route) to Tier 2 (General) as a result of the closure of the post-study work route. It is not necessary to adjust for the closure of the Tier 1 (General) route, since this is implicitly accounted for in the above estimate. Because Tier 4 migrants switching into the post-study work route do not initially need a job offer, while those that switch into Tier 2 (General) do, this estimate probably represents an over-estimate of future switching from Tier 4 to Tier 2, so it forms our upper bound. To reflect the uncertainty around these calculations, we arbitrarily form a lower bound estimate of 50 per cent of this figure.

To these figures we add the number of Tier 4 and (its predecessor route) main applicants recently switching directly into Tier 2 (General). In the year to 2011 Q2, 11,495 main applicants were granted in-country leave under the Tier 2 (General) route (Home Office, 2011b). Of these, around 20 per cent switched from Tier 4 and its predecessor route. Therefore, we estimate that 2,299 main applicants per year switch directly from Tier 4 (and its predecessor route) into Tier 2 (General).

In total, we assume that between 10,792 and 19,286 main applicants will switch in-country from Tier 4 and its predecessor route to Tier 2 (General) each year after the post-study work route closes.

- 3.39 To summarise our calculations so far, **we estimate that the total number of main applicants entering routes to settlement in Tier 1 and Tier 2, either from outside of the UK or from inside the UK from a route not leading to settlement, will be between 20,617 and 41,895 per year from April 2011.**
- 3.40 To estimate the propensity for these migrants to settle, we use data from the Migrant Journey Analysis (UK Border Agency, 2010). This analysis tracks migrants through UK Border Agency administration databases, linking data on visas issued with subsequent grants of leave to remain and settlement. Of the cohort of ‘work (leading to citizenship)’ route migrants that entered the UK in 2004, 29 per cent had settled after five years while 11 per cent still had valid leave to remain and so may have settled at some point in the future. Given that the ‘work (leading to citizenship)’ route most closely corresponds to the Tiers 1 and 2 routes, **we assume that between 29 per cent and 40 per cent of main applicants entering routes to settlement in Tier 1 and Tier 2 from April 2011 will eventually be granted settlement.**
- 3.41 Finally, we must assume the ratio of dependants per main applicants. We use data for both visa and settlement grants, presented in Tables 3.1 and 3.2 respectively, to obtain the lower and higher bounds for the ratio. Therefore, **we estimate that the ratio of dependants to the main applicants entering routes to settlement in Tier 1 and Tier 2 from April 2011 will be between 0.71 and 1.27.**
- 3.42 Based on these assumptions, **we estimate that the number of main applicants and dependants entering Tiers 1 and 2 from April 2011 granted settlement from April 2016 will be between approximately 10,000 and 38,000 per year, assuming no changes to the rules for settlement or entry.** For comparison, as shown above, there were around 60,000 settlement grants to Tier 1, Tier 2 and predecessor route main applicants and dependants in the year to 2011 Q2. Settlement grants to Tiers 1 and 2 main applicants and dependants from April 2016 are therefore estimated to be substantially lower than the numbers of Tier 1, Tier 2 and predecessor route main applicants and dependants currently settling even without further changes to settlement rules.
- ### 3.6 Characteristics of Tier 2 main applicants
- 3.43 Table 3.3 presents sample data for the salaries and occupations of Tier 2 (General) main applicants who have used Certificates of Sponsorship since 6 April 2011 by route. These data have been filtered to exclude most of the individuals who would not meet the new rules introduced on 6 April 2011. These data should give an indication of the characteristics of RLMT and shortage occupation route main applicants granted visas after 6 April 2011, since one would expect most of the main applicants using Certificates of Sponsorship will ultimately be granted visas.
- 3.44 Occupation groups in Table 3.3 are defined using the official Standard Occupational Classification (SOC)

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2000 for the UK. It shows that the median salary was approximately £45,000 per year for the RLMT route and approximately £37,000 per year for the shortage occupation route. By comparison, the median salary for UK full-time employees was approximately £26,000 per year (Office for National Statistics, 2010a), and our own analysis shows that the median salary for full-time employees in NQF4+ occupations was approximately £36,000 per year according to ASHE 2010 micro data. Main applicants applying for visas under the shortage occupation and

RLMT routes therefore have higher prospective salaries, on average, than full-time UK employees working in comparably skilled occupations.

- 3.45 Table 3.4 presents data for the salaries of main applicants who used Certificates of Sponsorship for the ministers of religion and sportsperson routes from 6 April 2011. These data indicate that the median salary for ministers of religion was approximately £10,000 per year and the median salary for the sportsperson route was approximately £52,000 per year.

Table 3.3: Annual salaries plus allowances of a sample of Tier 2 (General) main applicants who used Certificates of Sponsorship by route and by 1-digit SOC 2000 group, 6 April 2011 to 22 July 2011

1-digit SOC 2000	Occupation	£ per year				Sample size
		Percentile			Mean	
		25th	50th	75th		
Resident Labour Market Test route						
1	Managers and Senior Officials	42,000	101,500	215,729	154,214	366
2	Professional occupations	32,751	41,697	57,000	55,982	1035
3	Associate professional and technical occupations	33,000	47,000	65,125	66,985	496
Total		34,000	45,000	70,808	77,812	1897
Shortage occupation route						
2	Professional occupations	32,715	42,006	47,821	46,402	190
3	Associate professional and technical occupations	25,411	25,798	37,913	33,772	98
5	Skilled trades occupations	30,000	34,900	38,570	34,825	46
Total		28,525	36,807	44,558	41,102	334
Resident Labour Market Test and Shortage occupation routes combined						
Total		32,878	44,500	65,000	72,316	2231

Note: Some of the main applicants in this sample may have been allocated Certificates of Sponsorship before 6 April 2011 when the rules for the Tier 2 (General) route changed. Applicants are required to meet the criteria for Tier 2 (General) at the point of being allocated Certificates of Sponsorship. As a consequence, these data may include some individuals who met the pre-6 April 2011 rules for Tier 2 (General) but would not have met the new rules introduced on 6 April 2011. These data have therefore been filtered to exclude individuals that would not have met the Tier 2 (General) rules introduced on 6 April 2011. First, main applicants to the RLMT route have been excluded if their occupations are skilled to less than NQF4 and/or they earn less than £20,000 per year. Second, main applicants to the shortage occupation route have been excluded if their occupations are not on the shortage occupation list as at 6 April 2011 and/or earn less than £20,000 and/or are chefs or cooks earning less than £28,260 per year. Not all the individuals using Certificates of Sponsorship may be granted visas since some may have their visas applications rejected. These data are management information and as such have not been quality assured. They are provisional and subject to change.

Source: Migration Advisory Committee analysis of UK Border Agency Management Information, 6 April 2011 to 2 July 2011

Settlement rights of migrants in Tier 1 and Tier 2

Table 3.4: Annual salaries of Tier 2 ministers of religion and sportsperson main applicants who used Certificates of Sponsorship, April 2011 to September 2011

Route	(£ per year)				Sample size
	Percentile			Mean	
	25th	50th	75th		
Ministers of Religion route	1,480	9,600	20,100	14,043	135
Sportsperson route	20,000	52,000	171,250	347,530	128

Note: Not all the individuals using Certificates of Sponsorship may be granted visas since some may have their visas applications rejected. These data are management information and as such have not been quality assured. They are provisional and subject to change. Data for ministers of religion route from 7 April 2011 to 7 July 2011 and for sportsperson route from 7 April 2011 to 28 September 2011.

Source: Migration Advisory Committee analysis of UK Border Agency management information, April 2011 to September 2011

3.7 Conclusions

3.46 The number of settlement grants in the UK increased over time from approximately 59,000 in 1997 to a high of 241,000 in 2010. In the year to 2011 Q2 the corresponding number was 208,000. Of those grants in the year to 2011 Q2, grants to main applicants and dependants through Tier 1, Tier 2 and predecessor routes accounted for 29 per cent. Adding grants under the other employment categories raises this figure to 33 per cent. These figures compare to 27 per cent for family formation and reunion settlement grants, 5 per cent for asylum-related settlement grants (including both main applicants and dependants) and 34 per cent for other reasons (including both main applicants and dependants), including grants offered on a discretionary basis.

3.47 Over coming years, there is reason to believe that settlement grants to Tier 1 and Tier 2 main applicants and dependants will fall below recent levels even without any changes to settlement policy. This is due to a combination of: the effects of the

annual limit on entry and other recent measures to tighten entry criteria; the closure in recent years of some routes and the reclassification of others as strictly temporary routes; recent changes to the rules relating to settlement; and, more speculatively, the possibility that future migrants will have a lower propensity to settle permanently in the future than those who entered in recent years.

3.48 We estimate that the annual number of settlement grants to Tiers 1 and 2 main applicants and dependants from 6 April 2016 will be between 10,000 and 38,000 per year assuming no change in the rules for settlement or entry. This is in comparison to approximately 60,000 such grants over the most recent 12 month period. Even the upper end of our range represents a surprisingly large reduction and, for that reason in particular, we have set out explicitly how the range was calculated. Nevertheless, it is clear that annual settlement grants to Tiers 1 and 2 main applicants and dependants from 2016 onwards are likely be substantially below the numbers that have settled in recent

years through equivalent routes even without further changes to settlement rules.

- 3.49 Comparing the salaries of Tier 2 (General) main applicants that are applying for visas against the UK population, main applicants applying for visas under the shortage occupation, RLMT and sportsperson routes have higher prospective salaries, on average, than full-time UK employees working in comparably skilled occupations.
- 3.50 In the next chapter we discuss the specific questions given to us in the commission we received from the Government. In answering these questions, we have drawn on the data discussed in this chapter.

Chapter 4 Analysis of policy options

4.1 Introduction

- 4.1 The focus of this chapter is analysis of the criteria that could be used to identify the most economically important Tier 2 migrants for settlement and the economic impacts of potential restrictions to settlement rights. We discuss the main themes emerging from the bottom-up evidence collected in our call for evidence in combination with findings from the academic literature, relevant data, and findings from Chapter 2 and Chapter 3 of this report.
- 4.2 The question posed by the Government refers directly to the possibility that settlement rights could be removed for Tier 1 and Tier 2 migrants. It also states that leave to remain in the UK could be restricted to five years. For simplicity, we focus our analysis primarily on the impacts of restricting leave for some migrants to a maximum of five years and on the criteria that could be used to identify those migrants who would be permitted to remain longer. In terms of economic considerations this is largely analogous, but not precisely equivalent, to the question of which of those migrants who remain beyond five years can and do obtain settlement.

- 4.3 Section 4.2 briefly discusses some options for policy relating to whether Tier 1 and Tier 2 migrants remain in the UK beyond five years. Section 4.3 discusses general themes in the evidence we received. This informs our consideration, in section 4.4, of what framework could be used to assess the suitability of specific economic criteria. In section 4.5 we consider potential specific criteria. Individual Tier 1 and Tier 2 routes are discussed in sections 4.6 and 4.7.

- 4.4 Because the economic effects of restricting long-term leave to remain or settlement in the UK will depend on the criteria used, we consider these in section 4.8. In section 4.9 we set out our recommendations.

4.2 Options for settlement policy

- 4.5 We were not commissioned to advise the Government on whether it should restrict or remove settlement rights for Tier 1 and Tier 2 migrants and, as such, we do not make a recommendation on that issue in this report. Nevertheless, we considered three main policy options:
- **Do nothing:** keep policy on leave to remain beyond five years as at present.
 - **Apply economic criteria for selection:** criteria would be

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applied at whatever point the decision about leave to remain beyond five years is made to determine which migrants can stay and which ones cannot.

- **Apply economic criteria alongside a numerical limit:** criteria would be applied as above. Additionally, the number of migrants obtaining leave to remain beyond five years would be limited to a chosen maximum number in a given month or year.

- 4.6 The above list is not exhaustive. For instance, migrants wishing to remain could be required to satisfy the same minimum criteria as on entry; for example, a Tier 2 General migrant could be required to earn at least £20,000 per year. However, most migrants would meet such criteria, making this similar to the ‘do nothing’ option, so we do not consider it in detail. It is also possible that under the third option, a limit could be set with reference to alternative criteria or none at all, but by focusing on the use of criteria we are consistent with our own previous advice in Migration Advisory Committee (2010a) where we suggested *“that the Government reviews its policy in relation to settlement, and considers whether explicit economic criteria should be applied to decisions regarding whether or not migrants are allowed to settle permanently in the UK”*.
- 4.7 Home Office (2011a) stated that *“We expect that most Tier 2 migrants will return home at the end of their stay.”* It seems reasonable to assume that this is motivated in part by the Government’s desire to reduce the number of Tier 2 migrants who remain in the UK beyond five years and raise the average economic

contribution of those who do stay beyond five years relative to past years. Nevertheless, as explained in Chapter 3, over coming years, there is reason to believe that settlement grants to Tier 1 and Tier 2 main applicants and dependants will fall below recent levels even without any changes to settlement policy.

- 4.8 The ‘do nothing’ option does not provide certainty as to how large any reductions in settlement grants will be because it does not allow the Government to exercise additional, explicit control over which Tier 1 and Tier 2 migrants remain in the UK for over five years. Furthermore, over the long term and all other things being equal, lower settlement of migrants through Tier 1 and Tier 2 will reduce net migration, which is a stated aim of the Government. For any given target level of net migration it would be possible to set a higher annual limit on entry than if no settlement restrictions were in place. Indeed, in their evidence to us, the Department for Business, Innovation and Skills said that they thought that restrictions on settlement are likely to have a larger effect on net migration than restrictions on migration inflows.

- 4.9 For the above reasons, the use of economic criteria merits close examination. The following sections of this chapter focus on identifying potential criteria that could be used to identify which migrants should be given leave to remain in the UK beyond five years.

4.3 Main findings from call for evidence

- 4.10 In order to help us assess the effects of restricting or removing leave to remain beyond five years for Tier 1

and Tier 2 migrants we ran a call for evidence from 21 June to 31 August 2011. This generated 109 responses, almost all of which were very detailed and well considered. We also took evidence in person at meetings and events. We use excerpts from this evidence in the rest of this chapter to illustrate the points that corporate partners made to us. A full list of those who provided evidence, and did not request anonymity, is set out in Annex A.

- 4.11 There were a number of broad themes that emerged from the evidence and these are set out here. The employers we met were generally hostile, albeit to differing extents, to the Government's proposals on settlement of Tier 1 and Tier 2 migrants.

"UK employers wishing to recruit and retain the best international talent on a long-term basis take no comfort from restricting settlement opportunities for Tier 2 employees."

Rolls Royce Plc response to MAC call for evidence

"Restricting leave to 5 years and settlement opportunities would have an adverse effect on being able to hire suitable qualified staff from overseas."

Deloitte LLP response to MAC call for evidence

- 4.12 There was a good deal of general concern expressed over the potential impact of restricting or removing settlement rights, and particularly the implication that migrants would be required to leave the UK after five years.

- 4.13 Although some respondents highlighted to us the fact that they actively supported those of their employees who chose to make applications for settlement, others said that they did not have a view either way about whether their employees should make a settlement application or not. But they did want to be able to retain skilled and experienced staff who were of value to them.

"In some cases CBI members report that settlement applications are not necessarily a statement about staying long-term in the UK but simply provide an essential degree of flexibility for an overrunning project or where a role has changed during the initial visa."

Confederation of British Industry response to MAC call for evidence

- 4.14 Employers and representative organisations were worried about the signal that could be sent about the UK's position as a place in which to invest or expand operations, and that it could lead to the UK not being seen as 'open for business'.

"We have identified two critical points:

- *that the UK's competitive position internationally as a place to invest, set up and grow a business is not damaged, and*
- *that businesses are given the right balance of certainty and flexibility when seeking to employ a highly-skilled migrant."*

Department for Business, Innovation and Skills response to MAC call for evidence

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- 4.15 Many respondents said that uncertainty about highly-skilled migrants' prospects for future settlement in the UK would deter them from coming to the UK, with repercussions for the UK's international competitiveness and its ability to attract and keep top talent.

“World-class academic staff from overseas will be deterred from working in the UK if there is little or no prospect of being able to stay here for more than five years.”

Oxford University response to MAC call for evidence

- 4.16 Many of our partners expressed the view that the migration system was already too complex to understand and use. Many added that this was exacerbated by the rapid pace of change, both under the previous Government and the current one, and that the impacts of recent changes, such as introduction of annual limits on migration, should be fully evaluated before further changes are made.

“One of our main concerns is that the regulatory structure for employing people keeps changing, in terms of labour law, pensions and migration... These constant shifts and changes are deterring employers from recruiting and investing. Continuing uncertainty in migration regulation is compounding the uncertainty in other areas.”

British Chambers of Commerce response to MAC call for evidence

- 4.17 There was an overall plea from employers and representative organisations to have a system for determining settlement criteria that is

as simple and straightforward as possible, but which is flexible and also provides a degree of certainty and predictability regarding the outcomes of applications.

- 4.18 The simplest way to ensure a degree of predictability in the outcomes of applications was, we were told, to have a system which mirrored or replicated the criteria used to determine the initial entry to the UK. Some argued that the rules governing which migrants can remain in the UK should be effectively identical to those which govern entry. Others argued that, even if more stringent benchmarks were used to determine who stayed in the UK than who entered, the underlying criteria should be the same. For instance, pay could be a criterion at both points, with a higher minimum pay threshold being used at the point of remaining in the UK than at entry.

“There is no reason for the settlement rules to be materially different from the rules for entry. If a migrant worker has reached the new high standard required to enter the UK, there is no reason why a materially different standard should apply to settlement. These workers are economically active with highly sought-after skills – exactly the kind of people a migration policy should be encouraging to enter the UK and settle here. If the rules are to be different, a very good case must be made for this differential, with clear accounting for the potentially deleterious effects on businesses.”

British Chambers of Commerce response to MAC call for evidence

- 4.19 A number of sectors were particularly well represented in the

evidence we received and had specific concerns about how changes to the rules on settlement might affect them and their employees. These included the education sector, the health sector and the technology sector. The main points made by each of these sectors are set out below.

Education sector

4.20 Representatives of the Higher Education sector expressed concern about their ability to continue to attract the world's top academics and other experts to come and teach and carry out research in the UK. They said that the UK's international reputation as a centre of excellence for learning was due, at least in part, to its ability to attract top talent.

“To a large extent, Oxford’s success is due to our ability to recruit and retain the best teaching and research staff from all parts of the world. Almost one-third of our academic teaching and research staff and 47 per cent of our research-only staff are from overseas. Our academic staff come from almost 100 different countries and territories: the largest groups of non-EEA academic staff are from the USA, China, Australia, India and Canada. Currently, more than 57 per cent of our academic teaching and research staff from outside the EEA have been working at the University for more than five years: 30 per cent have been working here for more than ten years.”

Oxford University response to MAC call for evidence

4.21 Employers in the Higher Education sector were also concerned about the possible impact on the position

of researchers and the value and investment that high-quality researchers bring with them. They also pointed out that they had no real alternative courses of action open to them. They could not offshore or move their operations and could not recruit to an unlimited extent from within the domestic labour force.

“Given the highly specialist and skilled nature of the job roles that are recruited in academia, it is unlikely that there is a short-term solution to skilling the EU workforce in key areas where talent is not currently immediately accessible. The work is highly skilled and requires individual intellect, drive and commitment over many years to acquire the knowledge, skills and experience to perform these roles where academics are seeking to extend the boundaries of current knowledge, thinking and understanding.”

University of Sheffield response to MAC call for evidence

4.22 In relation to secondary school teachers, the Department for Education told us that they did not have data on the numbers of teachers who are awarded settlement after five years and remain in teaching. However, they told us that teachers from outside the European Economic Area (EEA) have to undertake the Overseas Trained Teacher Programme (OTTP) in order to obtain Qualified Teacher Status (QTS). The OTTP takes up to four years to complete and the Department made an assessment of the number of non-EEA teachers who stay for up to four

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years and are likely to wish to stay for longer.

4.23 If non-EEA teachers had to leave the UK after five years, the Department estimates that, at the high end of the range, the UK could lose between 270 and 1,110 teachers per cohort of the OTTP, depending upon the intake to the programme.

4.24 The Department for Education told us that the main areas where migrant teachers fill key gaps in the education service were teaching mathematics, chemistry and physics in secondary schools (mirroring what they told us in relation to our most recent report on the shortage occupation list (Migration Advisory Committee 2011c)), teaching in specialist schools and in taking up vacant posts in some regions of England.

4.25 If schools are unable to attract or retain migrant teachers we were told that, in the short term, they are likely to have a greater reliance on individuals without teaching qualifications and without specialist knowledge, including supply teachers.

“If migrant teachers are required to leave the country after five years, this will present risks to the quality of teaching and incur further public expenditure on the training and recruitment of new teachers.”

Department for Education response to MAC call for evidence

4.26 The Department for Education also provided us with some information about teacher salaries. When they begin teaching, non-EEA teachers are paid as unqualified teachers on a range from £15,817 to £25,016 in

England and Wales and £19,893 to £29,088 in Inner London. After they have attained QTS they are paid on the main teachers’ pay scale from £21,588 to £31,552 in England and Wales and £27,000 to £36,387 in Inner London. The Department cautioned against using pay as a criterion for determining settlement but did not provide any reasons for this.

4.27 The Department asked that all non-EEA migrant teachers who have been awarded QTS in England retain the right to settlement in the UK after five years.

4.28 From the private education sector, ACS International Schools told us that economic criteria should not be used as a determinate for the right to settle in the UK.

“Using economic criteria gives rise to discriminative decisions and opens up the process to be manipulated. If the worker has been deemed necessary and allowed to enter the UK for work, they should be treated like any UK worker as they pay their taxes and support the economy whilst they are working here.”

ACS International Schools response to MAC call for evidence

Health sector

4.29 Respondents from within the health sector pointed out that many highly-skilled migrants are employed within that sector and that failure to retain these staff would have a serious impact on delivery of services.

“Quite simply many of our public services rely on migrant workers and without them those services could not function. For example, almost 20% of carers in the UK are foreign born. In hospitals and other health services, more than 10% of the workers are migrant workers.”

UNISON response to MAC call for evidence

training alone can last in excess of five years.

“Qualifying as a consultant takes at least 8 years after completion of medical school, meaning producing each consultant will typically take a minimum of 13 years of training.”

Department of Health response to MAC call for evidence

4.30 The health sector expressed particular concerns about the failure to recoup any investment on training medical staff if they have to leave the UK after five years. The main points raised by the Department of Health were that the Government’s proposals do not take account of the training time for highly-skilled sections of the medical workforce; that the European Union (EU) working time directive has an impact on overseas recruitment to ensure compliance with the directive; that posts in remote and rural locations may be unfilled if the proposals go through; and that the UK will be seen as less attractive for post-graduates, leading to a loss of income for medical schools.

4.31 On the training time for new staff, the Department said that non-EEA migrants are likely to spend the first period of their employment in the UK adapting to new ways of working and learning UK-specific skills and are unlikely to be at their most productive until the latter part of a five-year period. In the case of higher skilled medical training places, such as ST4 positions in paediatrics which we have recently recommended for inclusion on the shortage occupation list (Migration Advisory Committee, 2011c), the

4.32 The Department told us that the EU working time directive (Directive 2003/88/EC) meant that rotas for junior doctors had to be altered to ensure compliance with the directive. More junior doctors were required in order to fill these rotas.

4.33 We were told that some clinical training schools rely on the higher fees of non-EEA students to subsidise the fees of UK-based students and to maintain solvency. A significant tightening of settlement rights may adversely affect higher education institutions, the Department said, if the attractiveness of the UK was diminished in the eyes of prospective overseas students.

“The NHS is likely to remain reliant on the flexibility provided by the ability to employ and retain appropriately qualified migrants”.

Department of Health response to MAC call for evidence

4.34 The evidence we received from the Scottish Government Health Directorates and the NHS Scotland mirrored very closely that from the Department of Health, with the same issues being raised around length of training time, the impact of the working time directive and the financial impact on medical schools.

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They also raised the issue of posts in remote and rural Scottish locations being unfilled.

“NHS Scotland Boards cover some of the most remote areas within the UK and have relied heavily on overseas health professionals to fill ‘hard to fill’ posts. Restricting access to this pool of highly qualified staff will have a negative impact on delivery of efficient and effective healthcare services to remote and rural areas of Scotland.”

Scottish Government Health Directorates and NHS Scotland response to MAC call for evidence

- 4.35 Other partners also expressed concerns regarding the training of medical and dental staff who come to the UK for some or all of their training.

“London Deanery would argue that the investment made by these trainees in their education, and the investment made by the NHS in their training, makes a compelling argument for this group not to be restricted from settlement”.

London Deanery and National Association of Medical Personnel Specialists responses to MAC call for evidence

“The impact of restricting leave to remain to five years is that doctors will be unable to complete the training programmes that they were recruited to fill”.

British Medical Association response to MAC call for evidence

- 4.36 In order to address this, the BMA recommends that the Home Office enables specialty trainees to extend

their visas for the length of the training programme, including any academic training they may undertake, as well as, in some cases, for a time after that training is completed.

“Where a need remains the visa limitations should not prevent doctors trained in the UK remaining where there is a shortage speciality or a job that cannot be filled”.

British Medical Association response to MAC call for evidence

- 4.37 It was argued that trained doctors contribute economically to the UK through being higher-rate tax payers and being likely to have dependants achieving higher education.

- 4.38 There was a plea that we take account of factors other than purely economic ones in assessing the contributions that health service professionals make to the UK.

“Their overriding contribution is not through generating economic wealth and enhancing the competitiveness of the UK economy. The BMA is concerned by the Government’s emphasis on economically important migrants as this will be to the detriment of those providing essential services within the NHS. There has to be flexibility in the system to allow settlement where there is a workforce need that cannot be addressed through any other means.”

British Medical Association response to MAC call for evidence

Technology sector

- 4.39 All of the evidence we received from employers and representative

bodies based within the technology sector stated that restricting or removing settlement rights would have a harmful effect on that sector's continued ability to attract the brightest and best. TIGA, the trade association representing the UK games industry, told us that restricting or removing settlement rights would make the UK a less attractive place for talented migrants planning a long-term future with a games company. Development of the sector could suffer and the sector could shrink.

- 4.40 TIGA said that there was both a global talent pool for highly-skilled staff in areas such as research, development and on-line technical support, and that companies were competing internationally for this talent.

"The consequence is cumulative: the more games companies show that they do not have the resources to meet worldwide expectations in relation to games development, the more we will see global publishers choose to award contracts to game developers outside of the UK".

TIGA response to MAC call for evidence

- 4.41 TIGA favoured a system whereby after four years leave to remain in the UK, employers would provide reasonable evidence of an economic need to retain a migrant for a further five years as the relevant test.

"TIGA believes that the MAC/UKBA/Government should consider a mechanism whereby Tier 1 and Tier 2 migrants could get a set number of years of leave to remain and then conduct a review to extend this period."

TIGA response to MAC call for evidence

- 4.42 Other areas of the technology sector also had concerns about the Government's proposals.

"We see no path where restricting or removing settlement rights or restricting leave to a maximum of five years positively impacts the technology sector and occupations, or the UK GDP and GDP per capita."

Microsoft response to MAC call for evidence

- 4.43 Microsoft said that they had significant concerns regarding any restriction or removal of the path to settlement for Tier 2 migrants. They felt that this would virtually eliminate employment-related settlement, leaving employers with no way to retain foreign workers in the UK. This would hamper firms' ability to innovate and operate predictably and with stability.

"The proposed changes, when paired with the many recent changes, will further impede our ability to hire and retain foreign national workers and truly call into question whether Microsoft will continue to be able to operate effectively in the UK."

Microsoft response to MAC call for evidence

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4.44 Microsoft made the point that, in today's economy, jobs follow talent. They gave the example of their research facility in Cambridge which, they told us, attracts the brightest and best from around the world and where the innovation stems directly from the skills and talents of each researcher. A migrant employee will also gain five years organisational experience of Microsoft in his or her time there. Microsoft did not consider it likely that the skills and knowledge and experience of that migrant could be replicated by resident workers, where many emerging technology skills, such as gesture-based interface skills, are not readily available in the local market.

"If key specialist roles must be moved due to immigration, jobs and business will move with the talent".

Microsoft response to MAC call for evidence

4.45 Research in Motion, who are the makers of the BlackBerry smartphone, told us about their research and development centre in Birmingham which relies heavily on non-EEA nationals because they have specific skills and knowledge in Wireless Protocol Development. They explained to us that there is only a small number of software engineers with the relevant skill set presently working in the UK and set out the issues they have experienced in recruiting and relocating staff from within the EEA with the relevant skill set.

"The impact of a reduced pool of qualified candidates to draw from will negatively affect RIM's R&D efforts in the UK. Should it be impossible to properly develop and enhance the skills and talent at the Birmingham R&D Centre through recruitment, as necessary, RIM will have to consider placing more emphasis on R&D facilities in locations outside of the UK."

Research in Motion response to MAC call for evidence

4.46 NASSCOM, the representative body of the India-based IT and IT-enabled services industry, told us that their members were not concerned about rights or routes to settlement. But they are concerned about the issue of certainty for employers.

"International businesses bringing highly qualified staff to the UK temporarily to complete a specific assignment need certainty that the project can be completed efficiently and on time. If projects do not fit within a pre-determined timeframe the resulting disruption causes delays to work, higher costs which must be passed on to UK organisations and increased administrative burden to the UK".

NASSCOM response to MAC call for evidence

4.4 Framework for consideration of economic criteria

4.47 In section 4.5 we assess individual criterion in accordance with three heavily interrelated themes: basis in economic theory and evidence; simplicity; and symmetry. First, we briefly set out here the reasons why those themes were chosen.

- 4.48 In commissioning the MAC to produce this report the Government asked us to consider economic criteria. Therefore a key consideration for us when examining individual criteria has been their **basis in economic theory and evidence**. So we were interested in identifying which measureable migrant characteristics may be associated with economic outcomes, including economic growth and Gross Domestic Product (GDP) per capita; the labour market; and the Government's finances (also known as the net fiscal impact).
- 4.49 In addition, Tier 2 of the PBS is designed to favour skilled immigration through the awarding of points for prospective earnings, in addition to the requirement that all jobs be skilled to at least level 4 of the National Qualifications Framework. This raises the question of whether it is right in economic terms for Tier 2 to favour skilled immigration from outside the European Economic Area (EEA). If so, in assessing potential economic criteria we will look to identify criteria that may indicate skill.
- 4.50 Ruhs (2008) sets out a general economic case in high-income countries for selecting predominantly skilled migrants and for admitting the low-skilled only in exceptional cases for selected occupations or industries. The general preference for skilled migrants is mainly due to three factors:
- Skilled migrants are more likely to complement the skills and capital of existing residents.
 - The net fiscal impacts of migration are more likely to be positive in the case of skilled migrants.
 - Potential long-term growth effects and spillover benefits, if they exist, are more likely to arise from skilled, rather than low-skilled, migration.
- 4.51 Ruhs (2008) also highlights some important caveats. One of these is that the optimal skill mix of migrants is always highly specific to place and time. In addition, the general assessment that skilled migrants make a bigger net fiscal contribution is plausible in theory but may not always hold in practice; for instance, a skilled migrant may not always work in a skilled or highly-paid job. Nevertheless, on balance, we think that the skill level of the worker or their job is likely to be a good predictor of economic contribution.
- 4.52 Two other themes relevant to our choice of framework emerged strongly from our call for evidence, as discussed in section 4.3. One of these was **simplicity**. Employers want a migration system that is easy to understand, straightforward to use, and does not change any more than is strictly necessary over time. This helps to improve employers' economic efficiency by reducing administration costs and ensuring that workers with the appropriate skills are employed in the right jobs at the right time. A simpler system should also be easier for the UK Border Agency to administer.
- 4.53 The second relevant key theme to emerge from our call for evidence was the desire for **symmetry**. This means that if criteria are to be applied at the point of settlement they should, when possible, relate to those used at the point of entry.

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There is an overlap with the previous themes because: symmetry will improve clarity and simplicity for migrants and employers; and we would expect the optimal economic criteria used to determine which economic migrants *remain* in the UK to be similar to those used to determine which should *enter* the UK to work in the first place, assuming the entry criteria have a sound basis in economics.

- 4.54 Application of the symmetry criteria could imply involving designated competent bodies in deciding which migrants under the exceptional talent route remain in the UK beyond five years. It could also mean giving preference to the highest earners among migrants under the Resident Labour Market Test (RLMT) route, researchers and those migrants working in shortage occupations under the annual limit. We do not recommend wholesale application of the symmetry principle in this report, but consider this theme alongside the others discussed above.

4.5 Evidence on economic criteria

Introduction

- 4.55 With relevance to this section, the MAC was specifically asked “*If settlement were to be restricted:*
- *which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement?*
 - *would there be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and*

ensuring that the UK attracts the top global talent?”

- 4.56 Below we discuss potential criteria, including making allowance for specific skills or occupations, one by one. Key conclusions are highlighted in bold text. In sections 4.6 and 4.7 we draw the findings of this section together to form some conclusions for individual routes. Although, in principle, the criteria discussed in this section could be applied to any of the routes we are considering in this review, discussion of the ministers of religion and sportsperson routes is in practice mainly deferred until section 4.7.
- 4.57 Before discussing individual criteria, we note that a potential approach for selecting highly-skilled migrants using economic criteria could be based on McHale and Rogers (2008). In that study, the authors outlined a method for selecting highly-skilled migrants using a purely statistical approach. Their method takes the idea that a points system can be devised based on a human capital-based pay regression for predicting how potential migrants will ‘perform’ in the domestic labour market and a chosen threshold for predicted pay for deciding who to accept and who to reject. They base the regression on a Canadian dataset which combines migrants’ characteristics on arrival, with longitudinal data from tax returns to estimate the effect of characteristics on subsequent pay.
- 4.58 One of the most salient, although unsurprising, findings is that even using a relatively large number of theoretically plausible selection criteria, even the best possible combination of criteria explains only a relatively small amount of the

variation in migrants' lifetime pay. This suggests that migrants' success is partly determined by idiosyncratic or unobserved factors. In addition, the feasibility of applying this approach to the UK context is limited. Until recently, the pay of Tier 2 (and predecessor route) migrants granted settlement was not recorded. In addition, migrants' pay cannot be tracked after they have been granted settlement. Therefore, such a comprehensive analysis is not possible in the UK context. In any case, given the complex and subjective nature of migration, entirely stripping the system of scope for subjective judgement may not be desirable.

4.59 Because of the limitations and issues associated with adopting a purely statistical approach along the lines of McHale and Rogers (2008), in this report we base our recommended approach for selecting those Tier 1 and Tier 2 migrants that are eligible to remain beyond five years on our three themes, discussed above.

Pay

4.60 Theoretically, a rational employer will not pay an employee more than the value of their productive output. Equally, an employee will not accept less, because he or she will be able to secure a higher wage with a different employer. Assuming that skills are associated with productivity, they will therefore also be associated with pay. Additionally, the labour market should provide, on average, a compensatory wage differential as a return on the investment in education and training.

4.61 Pay is also used as a criterion under the Resident Labour Market Test

route of Tier 2 and has been used, and continues to be used, for the purposes of recommending the shortage occupation list that is used as the basis for the shortage occupation route (see, for example, Migration Advisory Committee 2011c).

4.62 One the other hand, there are a number of reasons to believe that the above may not always hold. For example, the labour market is currently arguably not operating 'normally' due to the consequences of the recent recession. In addition, public sector pay rigidities might prevent pay from adjusting as suggested above.

4.63 Despite the above caveats, we began this study from the point of view that pay is a good indicator of skill and, potentially, a valid economic criterion to use to establish which migrants should remain in the UK beyond five years.

4.64 In the responses to our call for evidence there was a good deal of support for using pay as a key element of any objective criteria but also concern that this should not rule out those on lower salaries such as in the public sector or in cultural or research roles.

"If some migrants are allowed to stay on and settle then the criteria should be salary. Salary is the most transparent way of judging someone's economic worth. If a company argues that someone is 'vital' to their operations then their pay should reflect this."

Migration Watch UK response to MAC call for evidence

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“The assessment for settlement should be primarily based on salary and academic qualifications.”

Confederation of British Industry response to MAC call for evidence

“Salaries for research and academic positions are typically lower than other professions that require a similar level of training.”

Wellcome Trust response to MAC call for evidence

“Salary is not a reliable determinant of skills, experience or knowledge, and would not be a good indicator of those academics and researchers who should be eligible to apply for settlement in the UK. Typically, university salaries cannot compete with those offered by other sectors.”

Oxford University response to MAC call for evidence

4.65 The split in terms of what was said about pay did not always reflect a straight public versus private sector divide. A number of private sector organisations felt that any pay based criterion should be flexible to reflect different rates of pay in different circumstances.

4.66 On balance, we believe that if economic criteria are to be put in place to determine which Tier 1 and 2 migrants remain in the UK beyond five years then pay would be a robust criterion for those purposes, particularly for those routes where pay is a primary consideration at the point of entry. The specific implications are discussed in sections 4.6 and 4.7.

4.67 Outside of London, there was a strong feeling that any criteria such

as pay should not act to disadvantage areas outside of London and the South East.

“Wage level is also a poor indicator of economic need as occupations which could be essential to the economy may not necessarily be well paid. Such criteria would simply replicate the former Tier 1 (General) route where those earning enough will qualify regardless of the skills or occupation involved. In addition, there are differences in wage levels across the UK. In most cases people with the same occupation and the same skill level are likely to be paid different amounts in London as compared with other parts of the UK, including Scotland. If wages are to be used to identify settlement candidates, then there should also be a comparison with the cost of living to balance any bias towards London and the South East.”

Scottish Government response to MAC call for evidence

4.68 There was a good deal of regional support for any measures which would serve to reward those migrants who chose to work in the regions, rather than in London, and corresponding concern that a criterion based on pay would adversely affect out-of-London employers.

“We are concerned that the MAC are intending to propose that the salary level should be set at ‘London’ levels. This would mean that those migrant workers who work outside London, where salaries are significantly lower would be at a serious disadvantage should the salary benchmark be set to that of someone in London.”

IEP Management Ltd response to MAC call for evidence

4.69 To the extent that pay differences between regions do not fully reflect differences in skill, the concerns expressed by our partners on this issue have some justification. In Migration Advisory Committee (2010b) we examined potential reasons for regional pay differentiation, specifically in the form of London weighting payments by some employers. The issue is broadly analogous to that of higher average pay in London and the South East. We concluded that an individual employer’s choice to pay London weighting will arise from a combination of some or all of:

- compensating wage differentials, which comprise compensation for higher living costs in London and the disamenity of working in London;
- composition effects where, even within a given occupation, the average London job may be more skilled, or senior, than an equivalent job elsewhere in the UK;
- relative scarcity of labour in London; and
- agglomeration effects, which potentially increase the

productivity of the individual worker and the firm in large cities.

4.70 On the basis of all but the first of the factors presented above, a case can be made that higher pay in some regions or localities reflects a higher economic contribution. As such, we are not wholly convinced that there is an economic case for regionally differentiated pay criteria to determine which Tier 1 and Tier 2 migrants remain in the UK for beyond five years. We would nevertheless be content to examine this issue in more detail if the Government wished us to do so.

Age

4.71 As discussed in Chapter 2, some other countries currently use age as a criterion within their immigration systems. Points for age were also awarded under the Points Based System Tier 1 (General) route. However, that route is closed to new entrants, so the principle of symmetry implies that age should not be a criterion. Furthermore, it is self-evident that age would not be suitable for use as a sole economic criterion, so its use may detract from the simplicity of the policy.

4.72 Nevertheless, there are two potential economic reasons for considering age as a criterion alongside pay:

- Holding other characteristics constant, younger migrants have more working years available to them and thus will potentially be able to contribute more to the economy in the future.
- We may wish to retain migrants we consider to be highly skilled now but also those that have the

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most time to become more highly skilled in the future.

4.73 Along these lines, some respondents pointed out that younger employees were usually paid a lower rate than older employees, so taking account of age could involve an adjustment for this, and also that an age limit could be counter-balanced for older employees by combining it with a salary criteria reflective of the fact that older employees tended to be higher earners.

4.74 Overall, however, there was little support for using age as part of any criteria for settlement with many employers stating that their preference was for more experienced, and hence older, migrant workers.

“With regard to academic teaching and research posts, experience and expertise is much more important than age. Given that it usually takes several years to acquire the qualifications, skills and experience necessary for academic posts, it is expected that appointees to such posts inevitably will be more mature than those in the early stages of their careers in other professions. This is particularly the case for posts at professorial level where appointees would typically be aged over 40. It would be unreasonable to penalise such highly skilled individuals for the years they have spent in gaining the necessary skills and experience.”

Oxford University response to MAC call for evidence

4.75 Amongst the responses we received in relation to a possible age criterion were comments that older migrants

bring more skills and experience, that companies who recruit at mid-career and executive level may be disadvantaged by an age criterion and that it is often the case that younger employees are more transient, moving across the business more often than older employees.

4.76 In conclusion, despite some economic arguments in favour of age as a criterion, in accordance with our themes of symmetry and simplicity alongside the views expressed by our corporate partners we do not recommend age is applied as a criterion.

Qualifications

4.77 We argue above that there is an economic case for policy on selective migration favouring skilled migration. In Migration Advisory Committee (2008) we explained that defining skill in the first place is not a straightforward matter. The National Skills Task Force (2000) reported: *“At the core of the term skill is the idea of competence or proficiency ... Skill is the ability to perform a task to a pre-defined standard of competence ... but also connotes a dimension of increasing ability (i.e. a hierarchy of skill). Skills therefore go hand in hand with knowledge.”* Wilson *et al.* (2003) argue that two broad, practical approaches to defining skill can be identified in the literature: they can be defined by the attributes of the employee or by the characteristics of the jobs that people do.

4.78 Therefore, to the extent that qualifications confer relevant knowledge, competence or proficiency and are required for a particular job they are likely to be a

good indicator of skill and a potentially valid criteria for deciding which Tier 1 and Tier 2 migrants should be able to remain in the UK beyond five years.

- 4.79 Our call for evidence asked whether the long-term economic value of professional and vocational qualifications is always reflected in levels of pay. Not all respondents felt that this was case, pointing out that the factors influencing pay were many and varied, and that possession of a qualification did not necessarily guarantee professional competence. Additionally, some respondents stated that there was often a marked difference between salaries in the private and the public sectors paid to people with the same qualifications. By contrast, other respondents felt that there was a definite link between pay and qualifications. These latter respondents tended to come from sectors such as the health service, higher education and engineering where there is a direct correlation between qualifications and skills for the job that may be less readily apparent in other sectors.

“On average those with Chartered qualifications earn significantly more over the first half of their career at least than those without. In the case of chemical engineers, the difference is as much as £10,000 per year on average over the first three career decades.”

Institution of Chemical Engineers response to MAC call for evidence

- 4.80 The computer games industry was cited to us as an example of an area where merit and demonstrable ability are far more important than qualifications, and where some

qualifications can lag behind the speed of development at the applied end of the profession. Other sectors stressed that factors such as experience and productivity were often more relevant when determining remuneration.

“Researchers, especially undertaking their first scientific research programme after completing their PhD, would see little to zero increase in their salary over a three year period, as this time allows them to focus on one particular piece of research and develop their skills for future progression within the scientific research community.”

Research Councils UK response to MAC call for evidence

- 4.81 To conclude, qualifications do provide a potentially valuable measure of skill and economic contribution. Nevertheless, in many cases and to a significant extent, the benefits of holding qualifications will be captured in individual pay. Therefore, pay is a better criterion. Using both pay and qualifications as criteria works against our themes of simplicity and symmetry. We do not believe that using qualifications as a criterion would be entirely unjustifiable, but neither do we recommend it.

Sectors and occupations

- 4.82 The Government asked us whether there would be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent.

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Immediately below we consider the arguments for and against this being the main criteria used to determine which Tier 1 and Tier 2 migrants settle. The possibility that sectoral and occupational considerations could help to identify exceptions to some other main criteria, such as pay, are considered later in this chapter.

4.83 The economic argument against doing the above would be that in an efficient labour market it would create an uneven playing field across the labour market and lead to sub-optimal allocation of resources. Conversely, the argument for making allowance for specific sectors or occupations would be that the labour market is not fully efficient and that making special allowance for particular sectors or occupations would improve allocative efficiency rather than detract from it.

4.84 The list of specific sectors and occupations used could be based on:

- the Tier 2 shortage occupation list, at either the point of entry or the time when the decision to allow the migrant to remain beyond five years is made; or
- another objective assessment of which occupations or sectors merit special treatment by reference to efficient and effective provision of key services, strategic economic importance or a particular economic need to attract and retain top global talent.

4.85 With regard to the shortage occupation list, in Migration Advisory Committee (2010c) we set out how labour shortages can manifest

themselves in terms of four broad categories:

- A **cyclical shortage** may occur when demand for skilled labour is less than supply at the prevailing wage at a particular point in the economic cycle. This can occur where wages or the supply of suitably skilled labour cannot keep pace with growth in labour demand due to labour market frictions such as 'sticky wages'. Such shortages will most likely occur during periods of economic growth, and decline or disappear during an economic downturn.
- **Structural shortages** may exist where some kind of failure in the labour market means that occupational or sectoral supply does not match demand for reasons unrelated to the economic cycle. In some cases sufficient numbers of skilled people may not be available to satisfy the labour demand within an occupation at the prevailing wage level. In these circumstances, the domestic supply of and/or demand for labour is inflexible, or even fixed in the short-term. Wage adjustments should, in the long-term, influence the number of domestic workers who obtain the relevant skills. But the market may remain in disequilibrium for some years as this adjustment takes place.
- A third category of shortage is where **constraints on public sector spending** may prevent wages from rising in response to a shortage of labour. Such constraints may mean that in the

event of a mismatch between supply and demand, market forces cannot bring the labour market back into equilibrium. This type of shortage can exist alongside and reinforce structural shortage.

- In cases where there is a **global market for talent**, the ability to increase labour supply in response to labour shortage may be severely limited. This is similar to structural shortage, in the sense that there is a shortage of skilled labour that exists independently of the economic cycle. It differs from structural shortage in that the cause of the shortage is primarily due to a lack of individuals with the required ‘innate’ ability rather than historically low pay or a lack of trained individuals. In some global labour markets the demand for the ‘very best’ may outstrip the supply of the most talented labour. Because of the inherent lack of sufficiently skilled individuals, labour markets may remain in a state of disequilibrium where demand exceeds supply in the long term.

4.86 If an occupation is on the shortage occupation list primarily on the basis of cyclical shortage, we would expect it to be removed from the list within a relatively short period. There is not, therefore, a robust economic case for giving additional credit to all shortage occupations in terms of long-term residence in the UK. A subset of the shortage occupation list would need to be constructed for these purposes.

4.87 It would also seem logical to award any additional credit for an occupation being on the shortage

occupation list at the time when the settlement decision is made rather than being on the list at the point when the migrant first entered the UK. However, this comes at the cost of increased uncertainty on the part of the migrant and the employer concerned.

4.88 According to this concept of strategic importance, a job title or occupation could be awarded additional credit if it satisfies some or all of these criteria.

4.89 We highlighted in our call for evidence (Migration Advisory Committee, 2011d) the question of whether working in a recognised shortage occupation at the time of the settlement decision should be a criterion for settlement applications. Some respondents said that the shortage occupation list changes over time, and so the list might not be the best way for determining who can settle in the UK. One felt that use of the shortage occupation list for such purposes was a bad idea *per se*.

“The shortage occupation route should certainly not be used as a criteria for allowing settlement. This, almost by definition, should be a temporary route while investment takes place in the local workforce. Using the short term occupation list as criteria for settlement will perpetuate UK skills shortages in the occupation through under payment and a lack of investment in local talent.”

Migration Watch UK response to MAC call for evidence

4.90 Of those respondents who said that inclusion on the shortage occupation list was a useful and relevant

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criterion, some felt that the migrant's occupation had to be in shortage at the time of the settlement application, as it was on grounds of shortage that they were being allowed to apply to settle. Another, smaller, group said that the occupation should be in shortage at the time of initial entry to the UK as this would maximise the pull of the UK to those migrants that the UK most wanted at the time it wanted to attract them. The desire for certainty in the outcome of prospective applications was again highlighted by respondents.

"We accept that the list of shortage occupations is fluid and may have changed at the 5 year juncture; however our view is that it is more important to consider the needs of the UK at the time of the initial application. A greater chance of a route to settlement will attract those that we need at that time."

Rolls Royce Plc response to MAC call for evidence

"Chefs are currently a shortage occupation, but might not be when a Head or Sous Chef who had entered the UK in 2011 sought settlement in 2016. Given the possibility of settlement being refused because of a change of status, an individual would inevitably be more hesitant in bringing his or her family to the UK. There is logic in giving settlement status preference to those in shortage occupations, but not if that status can be removed during the five year period".

British Hospitality Association response to MAC call for evidence

4.91 An alternative approach to awarding additional credit to shortage occupations is to identify job titles or occupations that are considered to be of particular importance to the UK economy. Through our external research programme we have recently commissioned a project that seeks to investigate this concept of 'strategic importance' and the criteria that could be used to identify it. A forthcoming report by the National Institute of Economic and Social Research (2011) says that the following criteria could be used to identify strategic importance:

- contributing disproportionately to productivity growth or innovation;
- facilitating the expansion of 'high-growth firms' (typically, those with average growth in the employment rate of at least 20 per cent per year over a three year period);
- underpinning the provision and development of 'enabling technologies' that are central to the prosperity and development of a wide range of sectors and industries (e.g. information and communication technologies); or
- being essential to the continuing existence or expansion of industries in which the UK has a competitive or comparative advantage.

4.92 Our call for evidence asked whether the attraction and retention of top global talent in certain sectors or occupations makes a particularly valuable long-term or strategic economic contribution or a crucial contribution to key public services. If yes, we also asked, would the list of

such sectors and occupations change over time?

- 4.93 There was general agreement amongst respondents that the attraction of top global talent does make a valuable economic contribution as well as a crucial contribution to key public services. It was felt that changing circumstances would dictate that the list of such sectors or occupations would not stay constant over time.
- 4.94 One response said that points should be awarded to Standard Occupational Classification (SOC) codes which reflect the needs and priorities of the UK outside of the shortage list but where there is anticipated growth in medium to long term. Sectoral and industry bodies should identify those SOC codes meeting such criteria and settlement should be ring fenced for employees in these SOC codes or additional points awarded. Other respondents made similar arguments that they would like to see a similar bespoke element built into the system.

“There are some roles which we need to cultivate and plan for the future of UK businesses in those areas where we predict demand and growth.”

Rolls Royce Plc response to MAC call for evidence

- 4.95 Respondents were generally positive about having some sort of system which favoured or exempted certain occupations or sectors, although responses varied as to which occupations or sectors these should be. There was recognition of the desirability of having those occupations that were particularly sought or valued by the UK, aside

from those on the shortage occupation list, receive some sort of favoured status. This could possibly be reflected in those occupations receiving more points under a points based system.

“Rather than emphasising individuals with high salaries, the criteria should aim to target people working in sectors or occupational groups of strategic economic importance to the UK...The Department of Business, Innovation and Skills should take a lead role in identifying the priority economic sectors to be targeted.”

Wellcome Trust response to MAC call for evidence

- 4.96 We note the support for this criterion from some of our partners, but also note the lack of agreement on what the key sectors and occupations are. Developing and maintaining an agreed list of occupations and sectors for the purposes of identifying which migrants should be granted leave beyond five years would be highly challenging in methodological terms. Furthermore, if settlement were to be awarded on the basis of such a list there would be nothing to prevent some migrants from switching occupations or sectors once they had obtained settlement.
- 4.97 We do not recommend that sectors or occupations form the primary basis for deciding which Tier 1 and Tier 2 migrants obtain leave beyond five years. However, if exceptions are required to our preferred criterion, discussed later in this chapter, sectoral or occupational considerations as discussed above could provide a basis for deciding what they should be.

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Designated competent bodies

- 4.98 The basis for involving designated competent bodies, or professional bodies, in deciding on which migrants can extend their leave beyond five years or what criteria should be used to identify such migrants is that they are well positioned to know who the leading practitioners in their field are or to advise on how they might be identified.
- 4.99 With regard to the Tier 1 exceptional talent route, where certain bodies help to decide which migrants should enter, our symmetry theme is also relevant. On the other hand, given not all occupations and sectors will be equally well represented by designated competent bodies, a criterion based on such bodies could not be used in isolation, which would make it not fully consistent with our simplicity principle.
- 4.100 There were different shades of opinion expressed in the evidence we received about any potential role for designated competent bodies. Some respondents felt that there was no such role or that any role might be exercised without sufficient flexibility, whilst others were more supportive of the role such bodies might play.

“We do not believe that outside bodies are in the best position to be able to decide which employees should be retained: the decision to retain any employee (regardless of nationality) is, and should continue to be, made by the University itself.”

Oxford University response to MAC call for evidence

- 4.101 Of those bodies that might be approached about taking on such a role and that responded to the call for evidence, the most frequent comment was concern over the resourcing implications for that body of any additional role.

“We would have significant concerns with regard to the cost associated with the need to ask busy professionals to step aside from their regular work to undertake the assessments and the potential liabilities to which institutions might be exposed as a result of questioned decisions.”

Institution of Chemical Engineers response to MAC call for evidence

- 4.102 We were told that the actual employer is best placed to advise on whether a migrant is continuing to demonstrate those exceptional skills that led to them qualifying for entry to the UK. It was felt that the fact that the migrant was continuing to work for that employer should be sufficient evidence to indicate that was the case.

“Government should trust employers and businesses to select those vital to the commercial viability of their business.”

Deloitte LLP response to MAC call for evidence

- 4.103 There was concern that such bodies could tend to make or operate blanket rulings that did not account for individual circumstances. The Scottish Government felt that there should be a specific Scottish element built in to any designated competent bodies that would impact on employers and migrants in Scotland.

“Any professional body deemed to have a role in deciding settlement in Scotland should be one which is competent to comment on Scotland's economic need. Under the current devolution settlement, economic development is a matter that is devolved, therefore the Scottish Government and Scottish bodies should have a role in determining which skilled migrants are able to permanently settle here.”

Scottish Government response to MAC call for evidence

- 4.104 Given the concerns regarding the capability and willingness of a sufficient number of relevant bodies to take on the role discussed above, we do not recommend either that designated competent bodies are directly involved in assessing specific applications or advising on criteria to be used to decide which Tier 1 and Tier 2 migrants remain in the UK beyond the five year point.

Other criteria

- 4.105 The Royal College of Nursing provided a contribution which considered the criteria used to select candidates for settlement. The College felt that economic progress did not always equate with the value and contribution to society made by professions such as nursing and that contributing to community and society should be viewed in a wider value context than the purely monetary. The College did not feel that the value of professional or vocational qualifications was always reflected in pay within the nursing profession. Nor did they feel that any objective criteria could easily maintain objectivity in the current economic climate and across

different professions including nursing which may experience fluctuating labour market demands across and between geographical locations or by specialism. The College therefore favoured retaining the status quo.

“In the circumstances, maintaining the current settlement criteria would thus appear to represent the most accommodating option”.

Royal College of Nursing response to MAC call for evidence

- 4.106 The Independent Healthcare Advisory Services (IHAS) were not in favour of purely economic criteria being applied to settlement applications from healthcare professionals. They preferred a combination of professional and vocational qualifications linked to pre-determined sectoral or occupational groups meeting criteria set by a designated competent body.

“IHAS would therefore ask that any decision made on their settlement rights is not based purely on set of economic criteria alone (such as salary).”

Independent Healthcare Advisory Services response to MAC call for evidence

- 4.107 Other suggestions we received were whether or not the employer was willing to sponsor an application for settlement should be a criterion and should be heavily weighted, along with relevant work experience in the relevant field both within and outside the UK. We agree that these are relevant issues, and present them here for consideration, but both are already implicitly captured in the current requirement that the migrant

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is in relevant employment or active in their field under the routes we are considering. We assume that those arrangements will be maintained alongside any change to settlement policy, and would support their retention.

4.108 An employer's commitment to the UK such as up-skilling and training programmes was also suggested as a criterion. We strongly support the sentiment expressed, but it is not clear that it could be made operational within the existing policy framework. Nevertheless, we believe this issue merits further consideration over the longer term. We return to the issue of training and up-skilling later on in this chapter.

4.6 Criteria for settlement of Resident Labour Market Test and shortage occupation route migrants

4.109 We now consider the specific implications of our analysis of criteria for the RLMT and shortage occupation routes of Tier 2. As shown in Chapter 3, these are by far the largest routes we are considering in this report in terms of migrant volumes.

Pay as a criterion

4.110 On the basis of the discussion in section 4.5 we conclude that pay should be the primary criterion for deciding which Tier 2 General migrants remain in the UK for over five years. Using pay for these purposes is most consistent with our themes of a basis in economic theory and evidence, simplicity and symmetry.

4.111 In our call for evidence we asked whether the pay or income criteria for settlement of Tier 2 migrants should differ from the time of entry, and to what extent candidates for settlement should show evidence of economic progression during their time in the UK. We considered, and consulted on, two main options for using pay as a criterion, which were:

- using a simple minimum pay threshold which would apply equally to all individual migrants (subject to any specific exceptions identified); or
- requiring evidence of progression in pay between arrival in the UK and the decision to let the migrant stay for the longer term.

4.112 Some employers supported pay progression, either separately from, or in addition to, a pay criterion, as a fair measure of a successful employee. Others felt that adopting pay progression as a criterion would add to the uncertainty and pressure on the migrant worker, and could run the risk that employers would artificially inflate pay to meet the requirements. At the events we held, the latter view generally dominated. Others expressed concerns that there could be limited scope for pay progression between the time of entry and settlement.

“A mandatory requirement to demonstrate, say, material economic progression could place an unfair/unrealistic burden on migrants, particularly in a difficult economic climate where pay freezes become the norm, and inadequately addresses the significance of the activity to the economy per se.”

Employment Lawyers Association response to MAC call for evidence

- 4.113 Some respondents said that any pay threshold, or mechanism for establishing a pay threshold, needed to take account of prevailing wider economic factors.

“In a period of stagnation or recession, it may be that salary levels remain static, or in the case of some businesses, actually reduce while the economic climate is tough. In periods of growth or expansion of certain sectors, it may be expected that salaries would increase year on year though the traditional ‘cost of living’ increases.”

National Grid response to MAC call for evidence

- 4.114 A wide range of respondents said that any criteria based on, or including, pay should take account of variance in the levels and ranges of remuneration for different occupations and sectors.

“It is vital that the system must be weighted to take account of the variations for occupations across all sections of the economy...otherwise key sectors will struggle.”

Confederation of British Industry response to MAC call for evidence

- 4.115 On balance, we believe that our first option of using a single minimum pay threshold is most consistent with our themes of basis in economic theory and evidence, simplicity and symmetry. We recommend doing so. This would apply to all Tier 2 General migrants, including those earning over £150,000 a year who are exempt from the RLMT and the annual limit.

- 4.116 We note the concerns expressed by the CBI and others but the alternative option of basing the pay criterion on pay progression was not popular with the majority of employers we discussed it with. Setting individual thresholds for occupations and sectors would add a substantial degree of complexity to the system and could lead to some relatively well paid migrants being denied leave to remain beyond five years while other lower paid migrants are granted leave. This would risk counteracting the economic principles supporting pay as a criterion altogether.

- 4.117 Our recommendation to use a single minimum pay threshold gives rise to the question of what the threshold should be. There is no unequivocally right answer to this question. To an extent it will hinge on the Government’s broader objectives for migration policy and require the application of judgement, particularly in the context of imperfect information about the economic and other costs and benefits of migration. On the basis of our analysis of international policy we do not believe that any other country has circumvented this issue.

- 4.118 Nevertheless, we consider a range of metrics that the Government could use to make this decision and

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discuss potential pros and cons. In previous reports we have combined analysis of the migration system and the UK labour market with a view of what the Government's objectives for the system may be in order to develop plausible benchmarks or threshold values. We take a similar approach here.

4.119 As Tier 2 is restricted to occupations skilled to National Qualifications Framework level 4 or above (NQF4+), we attempt to isolate individuals in the available data that are skilled to NQF4+ and consider their pay. We can identify individuals qualified to NQF4+ in the Labour Force Survey (LFS) and those in occupations deemed to be skilled to NQF4+ in both the LFS and the Annual Survey of Hours and Earnings (ASHE). Occupations skilled to NQF4+ were defined in Migration Advisory Committee (2011a).

Estimating the pay threshold

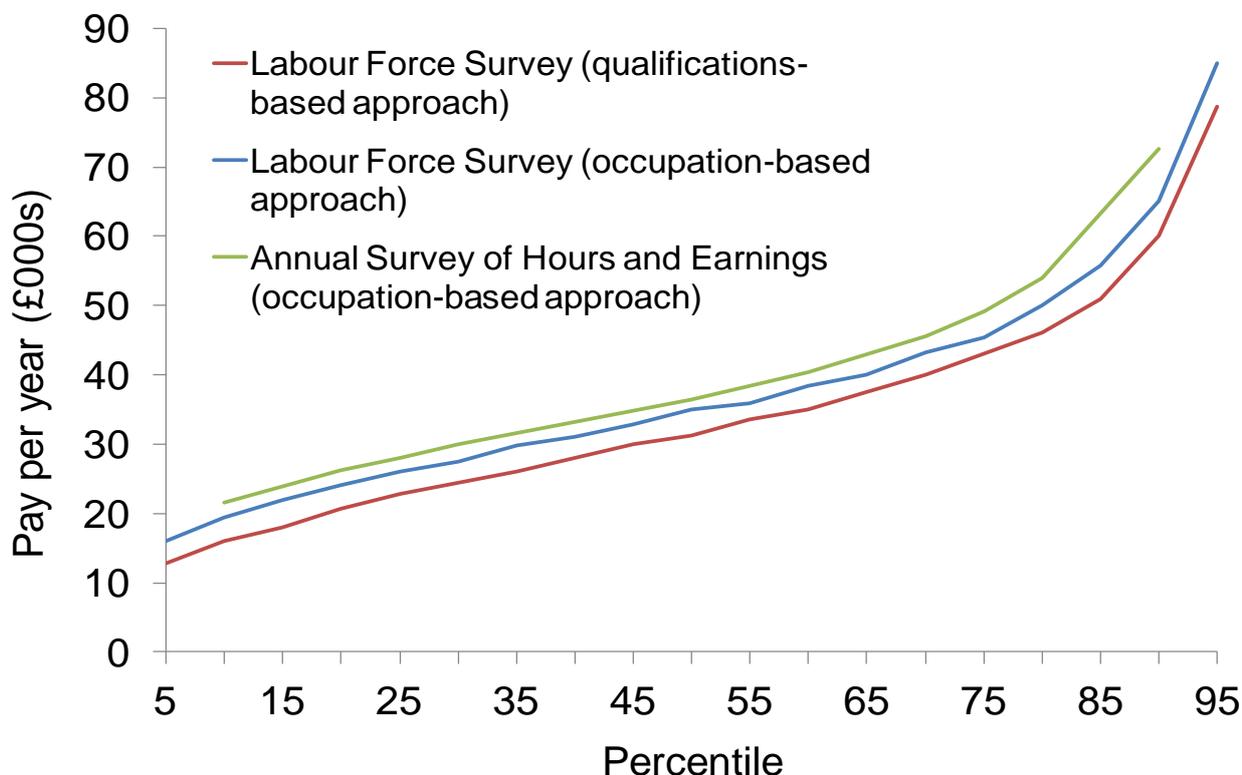
4.120 The Government's consultation document (Home Office 2011a) states that "*[The Government] expect[s] that most Tier 2 migrants will return home at the end of their stay.*" One interpretation of this is that the right to remain beyond five years through Tier 2 should be the exception rather than the rule. Therefore a reasonable working assumption, given that the skill level of Tier 2 is currently set at NQF4+, is that Tier 2 migrants that are eligible to remain in the UK for more than five years should be paid at least as much as the median pay for UK workers that are skilled to NQF4+. The Government may also choose

to benchmark against a higher point on the pay distribution (for example, the 75th percentile) or against the mean.

4.121 Figure 4.1 shows the full distributions generated by the LFS and ASHE under two approaches to identifying those skilled to NQF4+. In the '**qualifications-based**' approach, individuals skilled to NQF4+ are identified as those holding NQF4+ qualifications. In the '**occupation-based**' approach, individuals skilled to NQF4+ are identified as those employed in NQF4+ occupations, as defined in Migration Advisory Committee (2011a).

4.122 The ASHE is an employer based survey covering around 280,000 employee jobs. The LFS is a household survey covering around 60,000 individuals. Previously, the LFS was viewed as a good source of information for those on low incomes because the ASHE (in its former incarnation as the New Earnings Survey) only included earners above the PAYE threshold. In its current form the ASHE has been developed to increase its coverage of low-income earners. As the ASHE does not record qualifications, it is not possible to generate a distribution from ASHE using the 'qualifications-based' approach. Although two different approaches and two different data sources, which are not strictly directly comparable, have been used, the three pay distributions are notably very similar. These distributions, summarised in Table 4.1 along with the mean value in each case, generate a range between £31,000 and £49,000.

Figure 4.1: Pay distribution for those skilled to National Qualifications Framework level 4 and above under our two approaches



Notes: In the 'qualifications-based' approach, individuals skilled to National Qualifications Framework (NQF) level 4 and above (NQF4+) are identified as those holding NQF4+ qualifications. In the 'occupation-based' approach, individuals skilled to NQF4+ are identified as those employed in NQF4+ occupations, as defined in Migration Advisory Committee (2011b). As the Annual Survey of Hours and Earnings (ASHE) does not record qualifications, it is not possible to generate a distribution from ASHE using the 'qualifications-based' approach. Sources: MAC analysis of the Labour Force Survey, 2010 Q3 to 2011 Q2 and O.N.S. Annual Survey of Hours and Earnings, 2010.

Table 4.1: Summary of the pay distribution for those skilled to National Qualifications Framework level 4 and above under our two approaches

Source	LFS	LFS	ASHE
Approach	Qualifications-based	Occupation-based	
Measure	(£ per year)		
Median	31,000	35,000	36,000
75th percentile	43,000	45,000	49,000
Mean	36,000	39,000	46,000

Notes: In the 'qualifications-based' approach, individuals skilled to National Qualifications Framework (NQF) level 4 and above (NQF4+) are identified as those holding NQF4+ qualifications. In the 'occupation-based' approach, individuals skilled to NQF4+ are identified as those employed in NQF4+ occupations, as defined in Migration Advisory Committee (2011b). As the Annual Survey of Hours and Earnings (ASHE) does not record qualifications, it is not possible to generate a distribution from ASHE using the 'qualifications-based' approach. Sources: MAC analysis of the Labour Force Survey, 2010 Q3 to 2011 Q2 and the Annual Survey of Hours and Earnings, 2010.

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4.123 Instead of benchmarking the pay threshold to the UK population, an alternative approach is to benchmark to the pay of Tier 2 General migrants. As discussed in Chapter 3, the median pay of Tier 2 RLMT and shortage occupation route Certificates of Sponsorship used between April to July 2011 was £44,500, the 75th percentile was £65,000 and the mean £72,300. We do not believe that this approach to setting the pay threshold is appropriate, because benchmarking to the median or the 75th percentile in effect sets a limit on the proportion of Tier 2 migrants eligible for settlement (here, 50 per cent and 25 per cent respectively), assuming that the pay threshold and the migrant's pay change proportionately over time. This result is undesirable because it takes account only of the pay of the migrant relative to Tier 2 migrants as a whole, instead of their absolute level of pay. The latter is a more useful measure of economic contribution.

4.124 If the analysis above is used to establish a pay threshold for allowing Tier 2 migrants to remain in the UK beyond five years, the data should first be updated to reflect the most recent data as it is released: ASHE 2011 is due to be released in November 2011 and the LFS is released quarterly.

4.125 Whatever pay threshold is ultimately applied, as discussed earlier in this chapter, the case was well made that migrants and employers need as much certainty as possible at the point of entry to the UK. **We believe the minimum pay threshold for remaining in the UK beyond five years for migrants in the Tier 2 shortage occupation and RLMT**

routes should be set at the time of entry to Tier 2. Following entry, it should only be adjusted for price inflation or changes in average pay, according to a set formula.

Potential exceptions

4.126 The downside to using a single, simple, metric such as pay is that it provides no basis for identifying exceptional occupations where there may be a case for granting lower-paid migrants leave to remain beyond five years. We recognise that for practical, and possibly economic reasons, the Government may wish to put some exceptions in place.

4.127 First, the use of pay as a criterion is not entirely symmetrical with the arrangements for entry under Tier 2. Based on the design of that policy a greater degree of symmetry may be achieved by giving preference to certain shortage occupations. As discussed in section 4.5, the shortage occupation list should not be used in its entirety for this purpose, but a subset of it could defensibly be used if those employers or bodies that wished to argue for such exceptions were able to produce robust and specific evidence to justify it.

4.128 Tier 2 also gives relatively high priority to certain PhD-level researcher occupations. We have not considered in detail the case for giving further dispensation to such occupations, but believe the current arrangements were put in place partly on an understanding that they were important in promoting economic growth. If so, it might plausibly follow that allowing such migrants to stay beyond five years would be economically beneficial

too. We would be happy to look further at this issue, at the request of the Government.

- 4.129 Other areas where cases of special dispensation may be required is the provision of key public services and occupations in the cultural sector (which often rely on public funding). In making these decisions the Government needs to decide on the appropriate trade-off between maintaining vital public services and an active cultural sector, and potentially a sub-optimal allocation of labour. In the long-term, wages should be set in such a way so that public sector and cultural sector occupations are not generally reliant on migrant labour to fill shortages. In the short-term, we recognise that public finances are currently heavily constrained and that training appropriate numbers of staff will take time.
- 4.130 A further potential exception could be small or start-up businesses, which may play an important role in driving economic growth but will often be restricted in their ability to pay high salaries. We do not wish our policy recommendations to exhibit undue bias towards large and established companies. Nevertheless, we recognise that developing an operational response to the above issue may not be straightforward and we have not been able to give the issue detailed consideration in this review.

“However, there are many circumstances not reflected in pay, including entrepreneurs and start-up employees who are working for lower salaries and higher stock and company benefits. The same can be said of others as well, who forego salary or work for lower salaries and higher potential compensation through stock and benefits.”

Microsoft response to MAC call for evidence

- 4.131 Efficient allocation of resources across the labour market implies a level playing field across different sectors and occupations. For the above reasons we do not suggest specific sectors or occupations which should be subject to a lower threshold or similar arrangements.
- 4.132 Nevertheless we recognise the practical constraints faced by the Government, and believe it would be preferable to explicitly identify any exceptions from the general pay threshold, and articulate the case for the exemptions, than to attempt to design the wider system in a way that implicitly accommodates special exceptions. To put this point in everyday language, the tail should not be allowed to wag the dog.

4.7 Criteria for settlement of migrants through other Tier 1 and Tier 2 routes

Exceptional talent route

- 4.133 Strictly speaking our commission did not require us to consider criteria for this route but, for completeness, we briefly do so. The criteria for entry, set out in Box 2.1 in Chapter 2, look to be stringent.

Settlement rights of migrants in Tier 1 and Tier 2

- 4.134 Not all respondents commented on this issue, but where they did several, said that all routes should be treated the same and should not have different criteria. A smaller number of respondents felt that it was possible and desirable to make a distinction.

“Those...who enter under the exceptional talent category should be allowed to settle after 5 years without taking account of pay.”

Deloitte LLP response to MAC call for evidence

- 4.135 On the face of it, it seems possible that the designated competent bodies that approve these migrants for entry could have a role in assessing whether the criteria used at the point of entry are being met as expected. In practice, as discussed earlier in this chapter, this may not be appropriate or necessary.
- 4.136 Given the limited and highly selective nature of this route, we believe that if migrants coming through it are demonstrably fulfilling the potential that led to them using the route in the first place, and therefore meeting its criteria, they should be allowed to remain in the UK beyond five years and be given high priority in terms of settlement status.
- 4.137 Therefore, a practical way forward in relation to exceptional talent route migrants may be for them to progress to settlement after five years, provided that they remain economically active. However, this should be subject to the initial entry arrangements for the route being rigorous and kept under close review.

Sportsperson route

- 4.138 We did not receive a large volume of evidence from businesses that were engaged in employing migrants carrying out sporting activities or from sports' representative bodies. Some of the evidence that we did receive sought to plead for a continuation of the special provisions of the sportsperson route without highlighting what it was about sportspersons that made them such strong candidates for a separate route. Other evidence stressed the significant contribution to the UK economy of the UK being able to participate in competitive sport at the highest levels. We were told that sport currently contributes over £1 billion to the UK's fiscal revenues.

“Although the number of migrants entering the UK as sportspeople via Tier 2 (and Tier 5) are minimal when compared with other sectors, their equivalent economic value is huge.

“A 2010 report commissioned by Sport England into the economic value of sport in this country showed that ‘sport-related economic activity increased from £3,358 million in 1985 to £13,649 million in 2003 and £16,668 million in 2008 (based on current prices). This represents a real increase of 140% over the period 1985 to 2008 (based on constant prices). In the same period (1985 to 2008) the English economy grew by 97% in real terms.

“Deloitte’s 2011 Annual Review of Football Finance presents an even stronger argument for the positive contribution of football to the economy, showing that the Premier League is the highest revenue-generating league in world football, generating around 2.5 billion Euros in 2009/10. The total combined revenues of the 92 top professional Clubs in England and Wales (Premier League and Football League) grew to almost 2.7 billion Euros in the same year. As the report demonstrates, ‘this revenue growth has shown that English football, especially at the top level, has proved resilient to the worst of the economic downturn.

“Furthermore, these 92 Clubs paid a total of £971 million in tax in 2009/10 and it was anticipated that this would have risen to in excess of £1 billion in 2010/11.”

Football Association response to MAC call for evidence

- 4.139 Partners emphasised that the numbers of migrants coming in under the sportsperson route are a very small proportion of the overall total. The international, and often transient, nature of sport was highlighted to us as reason why the numbers are comparatively small.

“It would be a bizarre state of events were clubs, having invested in players for a period of 5 years, forced to release them to competitor clubs in other countries at a time when they are at the peak of their career and have the most to offer.”

Football Association response to MAC call for evidence

- 4.140 Views amongst respondents not actively involved in using the sportsperson route were split, with some saying that this route should be exempt from restrictions on settlement whilst others saw no justification for having any exemptions for this route. At one of our events the point was made that, uniquely in comparison to the other routes covered by our review, the skills or sportsperson tend to decay rather than increase over time. Nevertheless, applying a blunt five-year cut-off may not satisfactorily address this issue.
- 4.141 We note the number of migrants using this route is small, and many of them will be high earners making a large individual contribution to the public finances. We believe there is no case for making such migrants exempt from any new arrangements to restrict leave beyond five years, but nor is there a case for limiting all such leave to a maximum of five years.

Settlement rights of migrants in Tier 1 and Tier 2

4.142 A practical solution to this issue could be to apply a pay threshold to this group identical to that to be applied to migrants under the RLMT and shortage occupation routes. Alternatively, migrants under this route could be permitted to extend their temporary leave beyond five years if it can be demonstrated that they are meeting the requirements under which they initially entered. If they continued to meet those requirements for a further five years they would then, after ten years, obtain settlement as a matter of course, as explained in Chapter 2. It is unlikely that adverse economic consequences would result from this. On the basis of simplicity and consistency, we recommend the former option.

Ministers of religion

4.143 We invited evidence on this route for completeness, but our prior view was that the basis for, or impact of, this route is not substantially economic. We did not, in practice, receive a large amount of evidence. The arguments in favour of exempting this route from restrictions on settlement tended to focus on the pastoral benefits of filling vacant posts, rather than the economics of doing so.

“We profoundly differ from the government’s view that only the economic impact has merits”.

Methodist Church response to MAC call for evidence

4.144 It was stressed to us that many of the criteria we discuss above would not be relevant to many of the migrants using the ministers of religion route.

“Religious migrants are often not paid, are sometimes lacking advanced education and may be older than economic migrants. Objective criteria should be applied to the religious group of which they are part, not to the migrants themselves, as setting fair objective criteria on individual religious migrants is very hard to achieve.”

Church communities UK response to MAC call for evidence

4.145 As with the responses about the sportsperson route, the views of those respondents not using this route varied between tacit support for, and opposition to, exemptions from restrictions on settlement.

“If a priority sectors/occupations approach is used it is difficult to see how this could apply to ministers of religion and sportspeople, unless these were identified as priority occupations. If the Government is seeking to restrict settlement we see no reason why ministers of religion and sportspeople should automatically be prioritised, although we acknowledge the numbers are small.”

Wellcome Trust response to MAC call for evidence

4.146 On the basis of the evidence we received we retain the view that the arguments for and against migrants under this route remaining in the UK beyond five years do not have a substantive economic component. We therefore make no recommendation in relation to this route.

4.8 Economic effects

Introduction

- 4.147 As discussed in section 4.3, and further below, many of our partners expressed serious concerns that restricting or removing rights to stay in the UK beyond five years for migrants under Tiers 1 and 2 could have serious consequences for their activities in the UK, with adverse economic consequences. We consider such issues here.
- 4.148 Issues we considered included: whether restrictions on length of stay are likely to deter highly skilled migrants from coming to work in the UK in the first place; whether the propensity of migrant workers to enhance the productivity of, or substitute for, UK workers changes with length of stay; the role of migrants in providing essential public services; and how the net fiscal contribution of migrants and their dependants changes over time as they age and establish families. These issues are discussed in this section.

Impacts on behaviour and incentives

- 4.149 The prospect of remaining in the UK for the long term or permanently could in principle encourage migrants to improve their language skills or invest time and/or money in developing their careers. The use of criteria to determine which migrants settle may provide an additional incentive to satisfy those criteria. Conversely, the uncertainty that criteria imply could provide a disincentive. Some employers told us that settlement in itself made little difference to the economic contribution that migrants make, and it may be that these two competing

influences are relatively unimportant or approximately cancel each other out.

- 4.150 Dustmann (1997) develops a simple theoretical model which shows that labour market participation behaviour of migrants depends on whether they intend to return to their home country or not; that is, whether they are temporary or permanent migrants. In particular, the way in which temporary and permanent migrants behave is determined by the magnitude of the difference in the expected economic conditions between the home and host country. If the future economic situation facing a temporary migrant who intends to return in their home country is worse than that in the host country, the effect is to increase the propensity of the migrant to participate in the host country's labour market.
- 4.151 To test the model, the author uses data on married female migrants in Germany, in which the migrant is asked whether they intend to stay in the country permanently or intend to return to their home country before retirement age. The study finds that those who intend to remain only temporarily have a significantly higher probability of labour market participation than those who intend to stay permanently. The author suggests that this indicates that migrants who wish to return seem to anticipate a deterioration of their economic situation. The results are not directly transferable to other types of migrant (for example, males) but the author suggests that the direction of the effect is likely to be the same for other types of migrant, although the size of the effect may differ.

Settlement rights of migrants in Tier 1 and Tier 2

4.152 Dustmann (1993) theorises that, since human capital acquired in the migrant's home country is only partially transferable to the host labour market, the migrant will adopt additional human capital specific to the host country after migration. Assuming that earnings depend positively on host country-specific human capital, since the amount that a migrant invests in host country-specific human capital is greater the longer his expected length of stay in that country, the earnings of temporary migrants, all else being equal, will be lower than those of permanent migrants. The author tests the theory empirically, again using German data, and finds some support for the prediction that a migrant's earnings depend positively on their expected length of stay in the host country.

Impacts on the migrant stock and composition

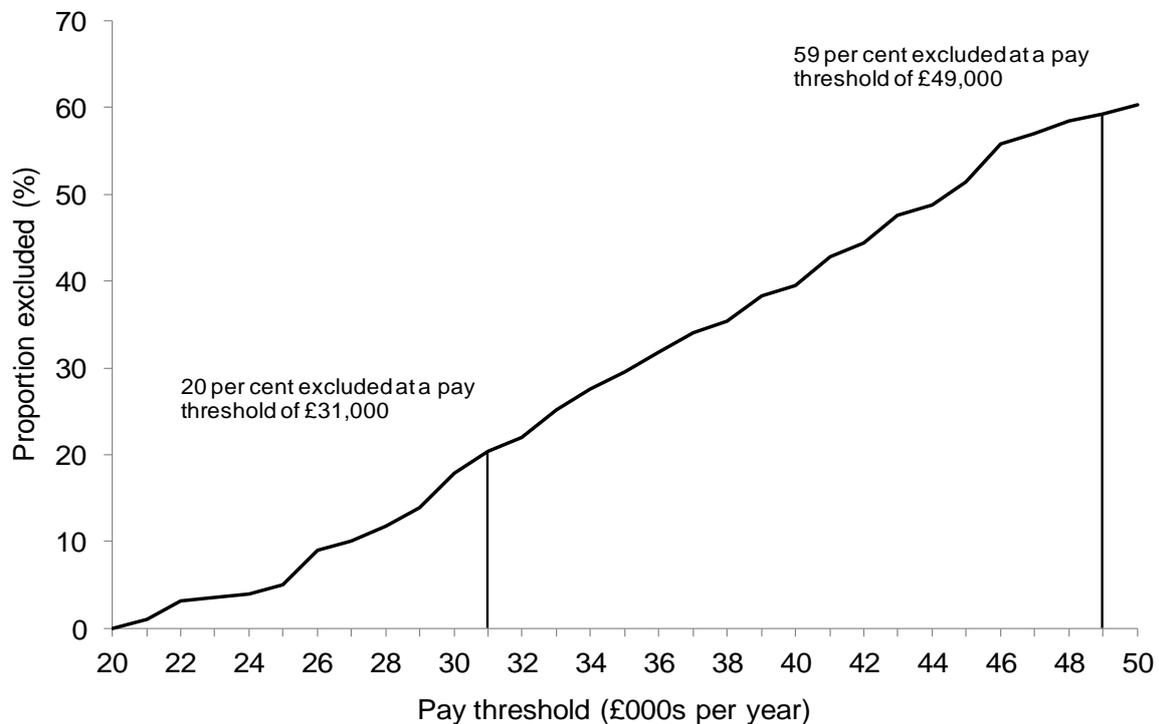
4.153 The discussion above considered the impacts of settlement on migrant incentives in the workplace. Nevertheless, the economic effects of restricting leave to five years will probably be primarily determined by the impacts on the size and composition of the migrant stock rather than such incentive effects. Here we consider those issues. We focus on Tier 2 migrants only because, as discussed in Chapters 2 and 3, the Tier 1 exceptional talent route was only launched recently and as yet no data are available on the volumes or characteristics of migrants entering the UK through this route. Therefore, we calculated the possible impact on the UK migrant stock of applying a pay criterion to leave to stay beyond five

years under the RLMT and shortage occupation routes. To do this, we used the UK Border Agency Management Information data on Certificates of Sponsorship (CoS) used since April 2011 for those two routes, presented in Table 3.3. We then considered the potential economic impacts of that within a simplified static economic framework.

4.154 We assume that neither migrants' pay, nor the level of the pay threshold, changes between the point at which the CoS is used and the pay threshold applied. To estimate the impact of the pay threshold on the number of Tier 2 migrants staying beyond five years, we identify those observations in the data that are at or above threshold and those that are below it. We define those observations that do not meet the threshold as being excluded from remaining in the UK beyond five years.

4.155 Figure 4.2 shows how the proportion of observations that would be excluded from remaining in the UK beyond five years might vary according to the level of the pay threshold. In section 4.6 we calculated a range of potential pay thresholds based on benchmarking to the UK population. The lower bound of this range was £31,000 and the upper bound £49,000. These points are marked in Figure 4.2 along with the associated proportion of observations excluded in each case. Later in this chapter we assess the impacts in terms of occupations and on GDP and GDP per head that might arise from applying a pay threshold at the upper or lower bound of this range.

Figure 4.2: Estimated impact of applying a pay threshold on the proportion of Tier 2 RLMT and shortage occupation route migrants eligible to apply for leave to remain beyond five years



Notes: The graph shows the distribution of earnings including allowances for Certificates of Sponsorship (CoS) used since April 2011. The data are filtered to account for the fact that some CoS used after April 2011 will have been granted before that date, and so will have been subject to the previous Tier 2 General policy. For the RLMT route, the data are filtered by excluding occupations not skilled to NQF4+. For the shortage occupation route, the data are filtered by excluding occupations not on the shortage occupation list as of 6 April 2011, and by excluding chefs earnings less than £28,260. For both the RLMT and shortage occupation routes, all earnings of less than £20,000 are excluded.

Source: UK Border Agency Management Information.

4.156 Table 4.2 shows how the observations excluded from remaining in the UK beyond five years might vary according to the level of the pay threshold in terms of their occupations. Under the £31,000 threshold, 20 per cent of observations are excluded; nurses make up the most numerous occupation in this group, accounting for 21 per cent of the total. The proportion of migrants excluded under the £49,000 threshold is 59 per cent; here, the effect is more evenly distributed among occupations.

4.157 Table 4.2 also shows the proportion of each occupation excluded under each threshold; 87 per cent of nurses (4-digit SOC code 3211) are excluded under the £31,000 threshold. Under the £49,000 threshold this rises to 99 per cent. Some occupations experience a much lower proportion of observations excluded; only 8 per cent of software professionals (SOC code 2132) are excluded under the £31,000 threshold and less than a half of management consultants, actuaries, economists and statisticians (SOC code 2423) are excluded, even under the £49,000 threshold.

Settlement rights of migrants in Tier 1 and Tier 2

Table 4.2: Occupations most affected by the upper and lower bound of our range of potential pay thresholds

4-digit SOC 2000 code	Occupation title	Number of observations	Percentage of total affected accounted for by occupation	Proportion of occupation affected
Pay threshold of £31,000 per year				
3211	Nurses	97	21	87
2321	Scientific researchers	57	13	51
2329	Researchers n.e.c.	55	12	55
2211	Medical practitioners	24	5	10
3543	Marketing associate professionals	17	4	77
5434	Chefs, cooks	16	4	35
2132	Software professionals	15	3	8
Pay threshold of £49,000 per year				
2132	Software professionals	151	11	77
2211	Medical practitioners	138	10	58
3534	Finance and investment analysts/advisers	112	8	39
3211	Nurses	110	8	99
2321	Scientific researchers	97	7	87
2329	Researchers n.e.c.	89	7	89
2423	Management consultants, actuaries, economists and statisticians	77	6	46
2311	Higher education teaching professionals	51	4	62
5434	Chefs, cooks	44	3	96
2314	Secondary education teaching professionals	36	3	82

Notes: The data used are for earnings including allowances for Certificates of Sponsorship (CoS) used since April 2011. The data are filtered to account for the fact that some CoS used after April 2011 will have been granted before that date, and so will have been subject to the previous Tier 2 General policy. For the RLMT route, the data are filtered by excluding occupations not skilled to NQF4+. For the shortage occupation route, the data are filtered by excluding occupations not on the shortage occupation list as of 6 April 2011, and by excluding chefs earnings less than £28,260. For both the Resident Labour Market Test (RLMT) and shortage occupation routes, all earnings of less than £20,000 are excluded. A maximum of 10 occupations according to the number of observations excluded by the pay threshold are listed under each threshold, restricted only to those for which at least 10 observations are excluded.

Source: UK Border Agency Management Information.

4.158 As discussed in Chapter 3, we expect the number of settlement grants to Tier 2 migrants (main applicants and dependants) to be substantially lower for the cohort entering after April 2011, compared

to those that entered before that date, even without any changes to settlement policy being made. In that chapter we estimated that the number of annual settlement grants to Tier 1 exceptional talent and Tier

2 RLMT, shortage occupation, minister of religion and sportsperson route migrants, in the absence of any policy change, might fall to between 10,000 and 38,000 per year. The equivalent range restricted to only Tier 2 RLMT and shortage occupation route migrants under the same set of assumptions as in Chapter 3 is 10,000 to 36,000 per year. This range therefore forms the baseline for assessing the impact that applying a pay threshold might have on the number of Tier 2 RLMT and shortage occupation route migrants excluded from remaining in the UK beyond five years.

- 4.159 Above, we calculated a range of potential pay thresholds based on benchmarking to the UK population. According to Figure 4.2, at the lower bound of this range, £31,000, 20 per cent of observations would be excluded. At the upper bound, £49,000, 59 per cent would be excluded.
- 4.160 Combining the two sets of estimates above, the number of Tier 2 RLMT and shortage occupation route migrants that might have remained in the UK beyond five years, in the absence of any policy change, that would be excluded from doing so as a result of the application of a pay threshold might be as low as 2,000 (20 per cent of 10,000) per year or as high as 21,000 (59 per cent of 36,000) per year after 2016. However, in addition to the issues associated with making such a calculation set out in Chapter 3, it is important to recognise that restrictions on rights to remain in the UK beyond five years will not necessarily reduce the number of Tier 1 and Tier 2 migrants in the UK at any one time, or at least not on a

one-for-one basis. It is likely that, to some extent, shorter average migrant durations in the UK may be counteracted by increased churn of Tier 1 or Tier 2 or other migrants from within the EEA.

Impacts on GDP and GDP per head

- 4.161 All things being equal, migration clearly has a positive impact on GDP through its effect on the size of the workforce. The impact of migration on GDP per head, which is the more relevant metric in many cases, is less clear. We noted in Migration Advisory Committee (2010a) that within a simple static model it is likely that Tier 1 and Tier 2 migrants, on average, will have a positive impact on GDP per head. It follows that restricting or removing the rights of such migrants to remain in the UK beyond five years may therefore have a negative impact on GDP and GDP per head. We provide some numerical estimates below, but **the estimates presented in this section are contingent on a range of assumptions and are broadly indicative only**, for a range of reasons:

- **We do not know at this point what policy the Government will put in place** with regard to the rights of Tier 1 and Tier 2 migrants to remain beyond five years and, therefore, what impact this will have on the numbers who do stay.
- Even if restrictions on rights to remain in the UK after five years reduce the numbers remaining beyond that time, **restrictions will not necessarily reduce the number of Tier 1 and Tier 2 migrants in the UK at any one time**, as described above.

Settlement rights of migrants in Tier 1 and Tier 2

- The **economy will adjust** to some extent in response to a net reduction in the supply of migrants. For example, employers will have stronger incentives to train UK workers and there may be a relative expansion in sectors and occupations that are less reliant on migrant workers, or employers may turn to employing more workers.
- Economic criteria can make migration policy more selective in its design. As such, **the design of policy can help to ensure that those migrants who make the biggest contribution to the UK economy can remain** beyond five years.
- first, the estimated **population** effect, which is attributed directly to the change in the size of the population;
- second, the effect taking into account the difference in the **employment** rates between Tier 2 migrants and the UK population as a whole;
- third, the effect taking into account the difference in **productivity** between Tier 2 migrants and the UK population as a whole; and
- finally, the **combined** effect, bringing together the population, employment and productivity effects.

4.162 Below we provide calculations equivalent to those presented in Migration Advisory Committee (2010a) that estimate the potential impact of restricting the total number of Tier 2 migrants who remain beyond five years. Fuller details of our approach are provided in that report. We have incorporated updated data here where available but have used the same methodology. Again, the focus is on Tier 2 RLMT and shortage occupation route migration because no data are currently available on the characteristics of potential Tier 1 exceptional talent route migrants with which to inform the calculations.

4.163 The calculations estimate the impact on **GDP** and **GDP per head** from a reduction in net Tier 2 RLMT and shortage occupation route migration of 10,000 per year, compared to the baseline case of no change to the outflow. In each case, we present:

4.164 Our calculations are summarised in Table 4.3. On the basis of various assumptions as set out in Migration Advisory Committee (2010a) a reduction in the **population** of 10,000 results, all other things being equal, in GDP being 0.016 per cent lower in the following year. This equates to a -0.016 percentage point change in GDP growth compared to the baseline scenario of no change to Tier 2 net migration.

4.165 In terms of **employment**, because of the nature of Tier 2, we assume that 100 per cent of these migrants will be in employment at the time when permission to stay beyond five years is granted and immediately afterwards. Once we have made an adjustment for the employment rate of adult dependants, the ratio of Tier 2 migrants and their dependants aged 16 and over compared to the UK population aged 16 and over, yields an 'employment effect' of 1.55.

- 4.166 We assume that pay is a reasonable proxy for **productivity**. Data described in Chapter 3 provide a basis for assuming mean pay in the Tier 2 RLMT and shortage occupation routes of £72,000 per year. In the absence of data on the pay of Tier 2 adult dependants, we assume that they are paid half the amount of main applicants, or £36,000 per year. In comparison, gross annual mean pay for all UK employees aged 16 and over from the 2010 ASHE was £26,510. Therefore, the combined 'productivity effect' of Tier 2 main applicants and dependants is 2.3.
- 4.167 Bringing together the population, employment and productivity effects, we estimate that the one-year impact of a reduction in net migration of 10,000 on GDP growth would be -0.058 percentage points. That is, a reduction in net Tier 2 migration of 10,000 results in GDP being 0.058 per cent lower in the following year.
- 4.168 Second, we calculate the impact of a reduction in annual net Tier 2 migration of 10,000 on **GDP per capita growth**, by calculating GDP per head both before and after the reduction in annual net migration, and examining the change. **We estimate that the one-year impact of a reduction in net migration of 10,000 on GDP per capita growth would be -0.041 percentage points.** That is, a reduction in net Tier 2 migration of 10,000 results in GDP per capita being 0.041 per cent lower in the following year.
- 4.169 Table 4.3 also presents the above estimates in monetary terms. According to our estimates, compared to the base year of 2009, after one year total GDP would be £761 million lower and GDP per capita would be £9 lower (both in constant 2006 prices) as a result of a reduction in net Tier 2 migration of 10,000, compared to the baseline scenario of no change in net migration.

Settlement rights of migrants in Tier 1 and Tier 2

Table 4.3: Illustrative estimates of the one-year impact of a reduction in net Tier 2 migration of 10,000 on GDP and GDP per capita

	Mid-point	Variable	Notes and assumptions
A	£1,322,036m	Level GDP year 0	Gross Domestic Product: chained volume measures, year to 2011 Q2, constant 2006 prices
B	0.016%	Population effect	% impact of 10,000 migrants on 16+ population
C	155%	Employment effect	% employment rates of Tier 2 migrants compared to UK-born
D	235%	Productivity effect	% mean earnings of Tier 2 migrants compared to UK-born
E	£1,321,275m	Level GDP year 1	$A - [A \times (B \times C \times D)]$
	-0.058%	Change GDP year 0 to year 1	$(E - A) / A$
	-£761m		$E - A$
F	62,261,967	Level population year 0	Estimated resident mid-year 2010 UK population
G	£21,233	GDP per head year 0	A / F
H	62,251,967	Level population year 1	$F - 10,000$
I	£21,225	GDP per head year 1	E / H
	-0.041%	Change GDP per head years 0 to 1	$(I - G) / G$
	-£9		$I - G$

Sources: Office for National Statistics (2010a, 2010b, 2011c, 2011d). UK Border Agency Management Information.

4.170 As in Migration Advisory Committee (2010a), we assume that one-year impacts are broadly linear with respect to the magnitude of the reduction in population or net migration. That is, the impacts on GDP growth and GDP per capita growth resulting from a reduction in annual net migration of 5,000 are approximately half that of a reduction in annual net migration of 10,000.

4.171 Above, we provided a range of estimates of the impact on the number of Tier 2 migrants who might have remained in the UK beyond five years who would be excluded from doing so as a result of the application of a pay threshold. This range can be translated one-for-one into an impact on net Tier 2 migration, assuming that an increase in outflow without any impact on

inflow has a one-for-one impact on the net flow. The calculations on the economic impacts presented in this section can therefore be adjusted linearly to reflect the range of impacts on net Tier 2 migration discussed above. It is important to note that adjusting the calculations presented in this section in this way would not account for the compositional effect that applying a pay threshold would have.

4.172 To estimate the longer-term impact, we assume that the reduction in net migration is permanent. In the context of Tier 2 settlement, this implies that a net 10,000 Tier 2 migrants leave the UK each year as a result of the application of a pay threshold that would otherwise have stayed in the absence of any policy change. Compared to the baseline scenario of no change to net

migration, the UK population would be 10,000 lower in the first year and 20,000 in the second year, and so on into future years. We assume that the estimated one-year impacts presented above accumulate in an approximately linear way over time, at least over the medium term. This means that after two years the impacts are twice as large, after three years the impacts are three times as large, and so on. In the long term, some of the Tier 2 migrants excluded from remaining in the UK beyond five years as a result of the application of a pay threshold would have left anyway, in the absence of any policy change. Therefore, according to our one-year estimates, compared to the base year of 2009, after five years total GDP would be 0.29 per cent (or £3.8 billion in 2006 prices) lower than in the baseline scenario. GDP per capita would be 0.21 per cent (or £44 in 2006 prices) lower.

4.173 Our assumption of a multiplicative impact over time does not take account of this effect. Nor does it account for potentially increased migrant churn that could result from use of criteria. In addition, we have made a number of assumptions regarding the employment rate and productivity of Tier 2 migrants and their dependants. Altering these assumptions will necessarily alter the final estimates. Neither do the estimates take into account any ‘dynamic’ effects, such as productivity, which would increase the adverse impacts on GDP and GDP per capita of reduced migration. Many of the employers we dealt with believed these types of effect to be highly significant, as discussed elsewhere in this chapter. Finally, the above estimates do not

take into account adjustments such as increased up-skilling of the UK population, which would decrease these adverse impacts. Some of these issues were discussed further in Migration Advisory Committee (2010a).

4.174 Moving on to the bottom-up evidence, many respondents to our call for evidence focussed on the economic impacts of restricting settlement rights on their own sectors. This helped us to build a picture of the overall likely impacts.

“Jeopardising the ability of companies to attract skilled migrants to the UK will jeopardise their ability to grow at home and abroad. This in turn would limit the industry’s ability to contribute towards UK and global security of energy supply and to reduce its future (sizable) contribution to the UK economy.”

Oil and Gas UK response to MAC call for evidence

“By significantly limiting the number of migrants entitled to settle indefinitely in the UK, as proposed by the Government, our continued efforts to develop and build on existing international collaborations will be greatly hindered and this will have a huge impact upon RCUK, both financially in terms of being able to continue with research but also economically in collaborations typically generating continued research or creation of research positions.”

Research Councils UK response to MAC call for evidence

Settlement rights of migrants in Tier 1 and Tier 2

“Certain specialists within Deloitte, such as our US tax specialists, must be recruited from outside the EEA. To be convinced to relocate to the UK, often with spouses, partners and/or children, they will require flexibility to be able to remain in the UK long term if it suits their professional or family requirements. From a commercial viewpoint, our business could not be effectively run without the ability to attract US specialists and for them to remain in the UK beyond the 5 year minimum period proposed.”

Deloitte LLP response to MAC call for evidence

“Rolls Royce is a UK based company but its operations overseas are many and growing. This is the case for many large UK employers. If we are unable to attract/retain the best international talent into the UK we may experience a further shifting of business operations into other territories.”

Rolls Royce Plc response to MAC call for evidence.

4.175 We did receive some evidence that considered the impact on the wider UK economy. A number of respondents felt that the primary aim of any consideration of settlement rights, and indeed of immigration policy in general, should be focussed on delivering growth across the wider economy.

“The UK needs to be an attractive location for investment, which includes access to the highly mobile people required to support key work being done in the UK. All policies must therefore be measured against the impact that they will have on investment in the UK and on the wider economy, to ensure that individual departmental priorities do not conflict with the overall growth agenda.”

Confederation of British Industry response to MAC call for evidence

4.176 Some respondents said that restricting settlement would affect the ability of employers to attract highly-skilled migrants and that this could jeopardise employers' ability to grow at home and abroad.

“Any further restrictions to Tier 2...could adversely impact productivity but also have a negative affect on the ability of the UK to recruit the necessary skills into emerging and leading edge technologies which in turn enable commercial development and facilitate the growth and recognition of the UK as a market leader in many sectors – in turn bringing further investment.”

National Grid response to MAC call for evidence

4.177 The international nature of many businesses was stressed to us along with the need to recruit and retain staff who had expert knowledge of foreign markets.

“Whilst the UK is the headquarters for DB’s investment banking business, it should be noted that approximately 70% of the Bank’s UK revenue is earned from companies and institutions domiciled outside of the United Kingdom. An inability to retain individuals in the UK to perform roles...for the long-term would unquestionably lessen Deutsche Bank’s potential to generate further revenues in the UK from abroad.”

Deutsche Bank response to MAC call for evidence

- 4.178 Some respondents, particularly those in the utilities sector, said that the ability to retain highly-skilled migrants was necessary in order to maintain the security of the UK’s energy supplies.
- 4.179 Our call for evidence asked respondents what they would do if they could no longer secure the services of highly-skilled migrants. A number said that they would increase their capacity to identify and attract suitable candidates from within the EEA. Others said that they would have to stop the relevant activity altogether. Many, however, said that they would look to move some activities outside the UK.
- 4.180 The summer edition of the quarterly Chartered Institute of Personnel and Development (CIPD)/KPMG Labour Market Outlook survey (CIPD 2011) found that the annual cap on immigration will affect over half of employers who responded to the survey who plan to recruit non-EU workers in the next quarter. The survey also asked about the likely response of employers to the annual cap: the results suggest that over a third (34 per cent) are more likely to recruit EU migrant workers, less than a quarter (23 per cent) plan to up-skill existing workers, less than one in five (18 per cent) will take on graduates and 8 per cent expect to offshore jobs abroad.
- 4.181 To summarise, in the short term the economic impacts of removing rights to remain in the UK beyond five years for Tier 1 and Tier 2 migrants would be relatively small, but in the longer term they would be larger due to an accumulation of static economic effects, and possibly dynamic effects on factors such as trade and investment. In the latter case many employers believe these effects to be highly significant, although actual estimation of the magnitudes is subject to very high margins of uncertainty.
- 4.182 It follows that restricting but not removing rights of Tier 1 and Tier 2 migrants to remain beyond five years will have less significant economic impacts. Migration policy that is more selective in its design, by the use of economic criteria, can ensure that those migrants who make the biggest economic contribution are retained.
- 4.183 We also believe that any negative impacts might be mitigated to some extent by increased churn of Tier 1 or Tier 2 or other migrants and would be further offset by successful efforts to increase the skills of UK workers. Crucially, employers will have stronger incentives to train UK workers and there may be a relative expansion in sectors and occupations that are less reliant on migrant workers. Labour market impacts are discussed further below.

Settlement rights of migrants in Tier 1 and Tier 2

Impacts on the labour market

4.184 In Migration Advisory Committee (2010a) we discussed in detail the likely labour market impacts of Tier 1 and Tier 2 migration, drawing on the available literature and data. Those findings are summarised below.

4.185 While empirical evidence has found limited impacts of migration on average wages, there appear to be significant effects across the wage distribution. Tier 1 and Tier 2 migrants are likely to work in skilled and highly-skilled employment. Accordingly, any additional labour supply will be at the higher end of the skills distribution.

4.186 Skilled workers are more likely to be complements to capital. If firms have difficulty filling vacancies then a rise in Tier 1 and Tier 2 migration is likely to have little effect on wages and employment of UK-born workers. The closer substitutes Tier 1 and 2 migrants are to skilled, native-born workers, the more downward pressure on wages and employment there will be. Since the degree of imperfect substitution appears to rise with skill, Tier 1 and Tier 2 migrants are less likely to place downward pressure on wages than other migrants who are competing with low-skilled workers for whom they are closer substitutes.

4.187 Tier 1 and Tier 2 migrants are unlikely to reduce the employment of resident workers in the aggregate. In the long term, empirical evidence suggests that they are likely to increase total employment levels as capital adapts. However, there is a tension between these long-term benefits to the economy, and the short-term negative effects which may create individual losers as the

economy adapts. Any negative impacts are likely to be felt by individuals at the local level in certain parts of the labour market. The positive impacts on wages and employment in the macroeconomy will be at the national level and in aggregate terms, which are more subtle and difficult to identify.

4.188 Overall, the labour market impacts of Tier 1 and Tier 2 migration are likely to be small, and so the impact of reducing migrant numbers is also likely to be small. The MAC is carrying out further research into labour market impacts that will be published at the end of this year.

4.189 Of those respondents to our call for evidence that commented on the likely impact on the UK labour market, almost all said that restrictions on settlement would not help create opportunities for UK workers, pointing out that a key reason employers took on migrants from outside the EEA was a lack of suitably skilled workers within the UK.

“An employer’s inability to retain indefinitely certain foreign workers will in many instances not create more local employment opportunities, because often these foreign workers are filling gaps between skills needed and skills available in the local marketplace.”

Microsoft response to MAC call for evidence

“Bringing in a migrant worker to exchange such knowledge and skills allows RCUK to continue its work and create further employment opportunities for resident workers. To restrict our ability to retain such individuals into the UK for a limited period would be detrimental to our reputation and our ability to continue to produce skilled scientists of the highest quality.”

Research Councils UK response to MAC call for evidence

- 4.190 Some respondents said that if the UK became less appealing as a work location to non-EEA migrants as a result of increased restrictions on settlement, then employers would seek to counter this by offering higher salaries to those highly-skilled migrants they most valued. Employers would offset this by depressing wages for other staff. The economic logic of this, however, is questionable.
- 4.191 Tier 1 and Tier 2 migrants make up a small proportion of total migration, and a smaller proportion still of the UK labour market. This, combined with the comparatively high skill composition of such workers, means restricting or removing the rights of such migrants to remain in the UK beyond five years can be expected to have a relatively small impact on employment opportunities for UK workers in the short to medium term. The extent to which there will be positive impacts in that regard will depend on the success of efforts to raise the skill levels of the UK workforce in relevant sectors and occupations.

Impacts on the consumption and provision of public services

- 4.192 The evidence we received on the role of migrants in supporting key public services was discussed in section 4.3. Evidence received on the use of such services was limited. However, some private sector respondents to our call for evidence stressed the high salaries earned by the type of highly skilled migrant that they were engaged in recruiting.

“Over 94% of [our] Tier 2 migrant employees earn over £37,400, which attracts the higher rate of income tax.”

A leading global financial services firm response to MAC call for evidence

- 4.193 They pointed out that such high earners made a substantial contribution to the funding of public services and were also much less likely to be consumers of such services. Several respondents said that within their sector, employers provided private medical and dental care for migrant employees.
- 4.194 Our report on the limits on migration (Migration Advisory Committee 2010a) looked at Tier 1 and Tier 2 migrants’ consumption of public services across a range of areas including health, education, crime and justice and congestion. We concluded that Tier 1 and Tier 2 migrants are likely to consume relatively low levels of **health services** in the short term, and that consumption will increase in the longer term as the migrants age, in the same way as for the population as a whole. They are likely to consume relatively low levels of **social services** in the short and

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long term, corresponding to the fact that these migrants exhibit high rates of employment and tend to be highly paid. They are likely to consume **education services** corresponding to the number and age of the children they have and many such migrants are close to peak parenting age. In the housing market, Tier 1 and 2 migrants are likely to directly contribute, in the short term, to higher rents and indirectly to higher house prices through the buy-to-let market. In the longer term their impact is likely to shift from rents to house prices.

4.195 The total amount of **crime** committed by Tier 1 and 2 migrants is likely to be small due to the selection mechanism of the PBS which implies that, at least in most cases, such migrants exhibit a high employment rate, are well paid and are highly educated. Tier 1 and 2 migrants, as members of the UK population, will contribute to total **congestion** and are likely to generate more than the average UK-born individual, reflecting the fact that they are more likely to be employed and more likely to work in London. It was not possible to estimate with any degree of confidence the likely impact of Tier 1 and 2 migrants on **social cohesion**. On the one hand, such migrants may have a positive impact as they are often employed in the provision of public services and are likely to have good English language skills. On the other hand, locally concentrated surges in migration may have a negative impact on social cohesion, although the absence of comprehensive data on the location of Tier 1 and 2 migrants makes this difficult to estimate.

4.196 These impacts are likely to vary across regions, mostly as a result of the geographical variation in Tier 1 and 2 flows. In addition, a certain area may experience a greater or lesser impact than another area from the same flow of Tier 1 or 2 migrants. There are also likely to be distributional effects relating to each of these impacts. Some local areas will gain from having migrants provide local services, while others will lose out when large surges or concentrations of migrants move into areas where they have not previously lived, potentially creating social tensions.

4.197 We have commissioned further work on these areas. Final findings were not available for consideration in this report but will be published later this year.

4.198 It is clear and unarguable that, to varying extents, Tier 1 and Tier 2 migrants consume publicly-funded UK public services but, correspondingly, help to fund those services through their tax contributions. It is also clear that some Tier 1 and Tier 2 migrants who currently stay in the UK beyond five years help to alleviate skill shortages in key public service areas such as health and education. The extent to which curtailment of, or restrictions on, such leave will affect the provision of those services in the long term will be contingent on both the level of appropriate and successful training within the resident population and on wages being at a level such that the resident population will want to enter into employment in these areas.

Concluding remarks

4.199 We believe that preventing all Tier 1 and Tier 2 migrants from remaining in the UK beyond five years would have notable adverse economic consequences in the long term and we do not recommend this course of action. On the other hand, restricting, but not removing, rights of Tier 1 and Tier 2 migrants to remain beyond five years will have smaller economic impacts.

4.200 One clear and consistent theme runs through our consideration of economic, labour market and public service impacts. It is critically important that policy and employer action on skills and migration is used to mitigate any adverse impacts that would otherwise occur due to using economic criteria to decide which migrants stay in the UK beyond five years, particularly in relation to those sectors or occupations most affected. The introduction of criteria will not have direct effect until 2016; therefore there is some time for employers and policymakers to plan ahead.

4.9 Recommendations

4.201 Factors discussed early on in this chapter mean that the number of Tier 1 and Tier 2 migrants remaining beyond five years will fall in future years, even in the absence of applying new economic criteria to such decisions. Taking these factors into account the Government may legitimately feel that its policy goals in relation to settlement are already being delivered through existing policies, at least to some extent.

4.202 However, the 'do nothing' option does not allow the Government to exercise additional, explicit control

over which Tiers 1 and 2 migrants remain in the UK for over five years. The Government has indicated that it would like to exercise such explicit control. We therefore make recommendations about how to do this on the basis of economic criteria.

4.203 On the basis of the analysis and arguments set out in this chapter, and on the basis that the Government believes that additional selection criteria are desirable, we make the following recommendations in relation to criteria:

- A simple pay-level threshold is used as the primary selection criterion for deciding which Tier 2 Resident Labour Market Test (RLMT) and shortage occupation route migrants can settle permanently in the UK or remain beyond five years.
- Tier 1 exceptional talent migrants will proceed to settlement after five years, subject to the initial entry arrangements for the route being rigorous and kept under close review.
- Migrants using the sportsperson route should be subject to the same pay criterion as migrants under the Tier 2 RLMT and shortage occupation routes in order to extend their stay beyond five years.
- The minimum pay threshold for remaining in the UK for beyond five years for migrants in the Tier 2 shortage occupation, RLMT, and sportspeople routes should be set at the time of entry to Tier 2. Following entry it should only

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be adjusted for price inflation or changes in average pay according to a set formula.

- Exceptions to the above arrangements are limited in their scope and the economic or other reasons for them are explicitly articulated by the Government.

4.204 We make no recommendation in relation to the ministers of religion route as we do not believe the nature of this route lends itself to economic considerations.

Chapter 5 Recommendations and other work

5.1 Introduction

5.1 The Government asked us the following question: *“What would be the economic effects of restricting or removing settlement rights in Tiers 1 and 2 and/or restricting leave to a maximum of 5 years? If settlement were to be restricted:*

- *which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement?*
- *would there be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent?”*

5.2 Policy options in relation to leave to remain in the UK beyond five years for Tier 1 and Tier 2 migrants include a ‘do nothing’ option which would involve keeping policy on leave to remain beyond five years as at present. This is worthy of consideration for three reasons: there are fewer Tier 1 and Tier 2 migrants than in the past; many of those migrants will not wish to remain in the UK for beyond five years; and the skill composition of

those who do remain should be higher than in previous years.

5.3 On the other hand, the ‘do nothing’ option does not allow the Government to select and control which Tier 1 and Tier 2 migrants remain in the UK for over five years. The Government may want to demonstrate full control of this issue. Furthermore, over the long term and all other things being equal, lower settlement of migrants through Tier 1 and Tier 2 will reduce net migration. Therefore, for a given target for net migration it would be possible to set a higher annual limit on entry than if no restrictions on leave beyond five years were in place.

5.4 Additional options are to apply economic criteria at whatever point the decision regarding leave of beyond five years is made, or to apply economic criteria alongside an annual limit on leave beyond five years. It is on the presumption that one or the other options will be pursued that we consider criteria and economic impacts.

5.5 In terms of criteria, we felt **pay** to be a good indicator of economic contribution. We did not consider **age** to be suitable for use as a sole economic criterion. The benefits of holding **qualifications** will be captured to a significant extent in **pay**. Arriving at the ‘right’ list of

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sectors or occupations would be a complex and contentious exercise, and we do not recommend it as a primary criterion. There are practical concerns associated with **designated competent bodies** identifying candidates for settlement.

- 5.6 If pay is used as the primary criterion, we recognise that, for practical and sometimes economic reasons, the Government may wish to put some exceptions in place. This would be preferable to attempting to design the wider system in a way that implicitly accommodates special exceptions.
- 5.7 We considered the economic effects of restricting or removing rights to remain in the UK beyond five years. In the short term, the economic effects would be relatively small, but in the longer term they would be larger due to an accumulation of static economic effects, and possibly dynamic effects on factors such as trade and investment. In addition, some Tier 1 and Tier 2 migrants who currently stay in the UK beyond five years help to alleviate skill shortages in key public service areas such as health and education. The extent to which curtailment of or restrictions on such leave will affect the provision of those services in the long-term will be contingent on the level of appropriate and successful training within the resident population.

5.2 Recommendations

5.8 We make the following recommendations:

- A simple pay level threshold is used as the primary selection criteria for deciding which Tier 2 Resident Labour Market Test

(RLMT) and shortage occupation route migrants can settle permanently in the UK or remain beyond five years.

- Tier 1 exceptional talent migrants will proceed to settlement after five years, subject to the initial entry arrangements for the route being rigorous and kept under close review.
- Migrants using the sportsperson route should be subject to the same pay criterion as migrants under the Tier 2 RLMT and shortage occupation routes in order to extend their stay beyond five years.
- The minimum pay threshold for remaining in the UK for beyond five years for migrants in the Tier 2 shortage occupation, RLMT, and sportsperson routes should be set at the time of entry to Tier 2. Following entry it should only be adjusted for price inflation or changes in average pay according to a set formula.
- Exceptions to the above arrangements are limited in their scope and the economic or other reasons for them are explicitly articulated by the Government.
- Policy on skills and migration is used to mitigate the adverse impacts that might otherwise occur in relation to applying economic criteria to deciding which migrants stay in the UK beyond five years, particularly in relation to those sectors or occupations most affected.
- We make no recommendation in relation to the ministers of

religion route as we do not believe the nature of this route lends itself to economic considerations.

5.3 Other MAC work and research

Review of A2 restrictions

5.9 The Government asked us: “Is there a serious disturbance, or threat of such a disturbance, to the UK labour market and would maintaining the existing restrictions on Bulgarian and Romanian nationals' access to the labour market assist in addressing any such disturbance or threat” We are due to report to the Government during October 2011.

Family route

5.10 The Government asked us: “What should the minimum income threshold be for sponsoring spouses/partners and dependants in order to ensure that the sponsor can support his/her spouse or civil or other partner and any dependants independently without them becoming a burden on the State?” We are due to report to the Government at the end of October 2011.

Impacts of non-EEA migration

5.11 The Government commissioned us: “To research the labour market, social and public service impacts of non-EEA migration; and to advise on the use of such evidence in cost-benefit analyses of migration policy decisions.” We are due to report to the Government at the end of November 2011.

Research

5.12 Through our external research programme we have commissioned a research project that seeks to identify skills that might be considered strategically important to the UK economy. At the time of submitting this report to the Government the project was at an advanced stage. It will be published on our website during 2011.

5.13 We have also commissioned six research into the impacts of economic migration that will feed into our report to the Government on the labour market, social and public services impact of non-EEA migration. Work is being carried out on our behalf into the impacts of migration on crime, transport and congestion, housing, provision of public services, the consumption of education- and health-related services, and social cohesion and integration. Where possible, these projects will focus on the specific impact of economic migration from outside the EEA. The completed reports will be published on our website later this year.

Annex A Consultation

A1. List of organisations that submitted information

1994 Group	Convention of Scottish Local Authorities
ACS International Schools	Deloitte LLP
Alliance of Sector Skills Councils Scotland	Department for Business, Innovation & Skills
Aquina, Robert	Department for Communities and Local Government
Association of British Orchestras	Department for Education
Association of School and College Leaders	Department for Employment and Learning Northern Ireland
Banff and Buchan College	Department of Health
Bangor University	Deutsche Bank
BP Plc	East Midlands Healthcare Workforce Deanery
British Chambers of Commerce	East of England Strategic Migration Partnership
British Hospitality Association	EDF Energy
British Medical Association	Employment Lawyers Association
British Telecom	Energy Solutions
Careys Manor & SenSpa	Engineering Council
Church Communities UK	Fragomen LLP
College of Emergency Medicine	HSMP Forum
Company Chemist's Association	IEP Management Ltd
Confederation of British Industry	Imperial College London
ConstructionSkills	

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Incorporated Society of Musicians	Pattison, Christopher
Independent Healthcare Advisory Services	Premier Visas Ltd
Institution of Chemical Engineers	Purolite
International Farm Camp	PricewaterhouseCoopers Legal on behalf of 4 separate companies
International HIV-AIDS Alliance	Recruitment and Employment Confederation
International Paint Ltd	Regester Larkin Ltd
Japanese Chamber of Commerce and Industry in the UK	Research Council UK
Kellogg Brown & Root (UK) Ltd	Research in Motion
Kingsley Napley LLP	Rolls-Royce Plc
KPMG LLP	Royal College of General Practitioners
Lasan Restaurant	Royal College of Nursing
London Deanery	Royal College of Paediatrics and Child Health
London School of Economics	Royal College of Veterinary Surgeons
Marshall Aeropeople	Royal Opera House
Microsoft	Royal Pharmaceutical Society
Migration Watch UK	Scottish Chambers of Commerce
Millfield School	Scottish Government
NASSCOM	Shell
National Association of Medical Personnel Specialists	Siemens
National Association of Medical Practitioners	Society of London Theatre and Theatrical Management Association
National Grid	South England Conference of Seventh-Day Adventists
Newcastle University	Sport and Recreation Alliance
NHS Pharmacy Education and Development Committee	The College of Emergency Medicine
Oil and Gas UK	The Football Association

The Law Society	Australian High Commission in London
The Methodist Church	Banco Itau Europa SA
The Royal Society	Bank of Communications (UK) Limited
The Sainsbury Laboratory	BarCap
Thinktank Maths Ltd	Bath and North East Somerset Council
TIGA	BBA
UK Screen Association	Bird & Bird
UNISON	Birmingham City University
Universities UK	Birmingham Royal Ballet Trust
University College London	Birmingham & Solihull Mental Health NHS Trust
University of Birmingham	Black Rock
University of Edinburgh	Blick Rothenberg
University of Oxford	Bloomberg
University of Portsmouth	BNP Paribas
University of Warwick	Bodycote Metallurgical Coatings Ltd
Upadrasta, Kieran	Bridgestone UK Ltd
Wellcome Trust	Bristol and Avon Chinese Women's Group
Wood Mackenzie	British Chambers of Commerce
2 anonymous responses	British Medical Association
A2. List of organisations we met with	Brown Shipley & Co Ltd
ACS International Schools	CAE Datamine International Ltd
Advantage Healthcare Group Ltd	Cancer Research
Allen Overy	Cardiff University
Ashurst	Careys Manor & SenSpa
Association of Foreign Banks	Carillion plc
AT&T	China Construction Bank

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Citi	English Community Care Association
City Link Ltd	Enpure Ltd
City of London Corporation	Eversheds LLP
Confederation of British Industry	Federation of Small Businesses Northern Ireland
COSLA	First Permit
Creative Scotland	Fragomen LLP
Deloitte LLP	Fujitsu
Denso Sales UK Ltd	G4S Care & Justice Services UK Ltd
Department for Business, Innovation & Skills	General Electric
Department for Communities and Local Government	General Medical Council
Department for Culture, Media and Sport	GKN Driveline Birmingham Ltd
Department for Education	Glasgow Caledonian University
Department of Agriculture & Rural Development Northern Ireland	Goldman Sachs
Department of Education Northern Ireland	Google
Department of Health	Greater London Authority
DKLM	Guaranty Trust Bank (UK) Ltd
Dudley and Walsall Health Partnership NHS Trust	GVA Global Ltd
Dudley Primary Care Trust	Hebert Smith LLP
DV Bank	High Commission for Pakistan
DVB Bank	Home Office
Dyson	Industrial Bank of Korea
e2e Linkers Ltd	ING Bank
Ecctis Ltd	Institute of Directors
Energy and Utility Skills UK	Institution of Chemical Engineers
	Japanese Chamber of Commerce
	Jobcentre Plus

JP Morgan plc	Reckitt Benckiser
J Walter Thompson	Registered Nursing Home Association
Keele University	Robert Gordon University
Kelway	Robert Half International Inc
KPMG LLP	Rolls-Royce plc
LEK Consulting	RR Donnelley Ltd
London Chamber of Commerce & Industry	Scotland Office
London Deanery	Scotland's Colleges
London First	Scottish Financial Enterprise
Macquarie Group	Scottish Government
McDonald's Restaurants Ltd	Sheffield Hallam University
Migrants Rights Scotland	Skills for Care and Development
National Australian Bank	Smith Stone Walters
National Express Ltd	Sony
NHS Employers	Spice Ltd
NHS Scotland	SRK Consulting (UK) Ltd
NHS Tayside	State Street
NHS Wales	STRATOS
Nokia	Superdrug
NSN	Taunton and Somerset NHS Foundation Trust
OCBC Bank	TerraQuest Solutions plc
Oracle	The Law Society
Orbit Group Ltd	Toshiba
Peters Bookselling Services	Trades Union Congress
Poundland Ltd	Unilever
PricewaterhouseCoopers LLP	Unison
Prudential	

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Universities Scotland	EDF Energy
University College London	England and Wales Cricket Board
University of Warwick	Enterprise Car Rental
Velindre NHS Trust	Ernst & Young LLP
Welsh Government	e-skills
Work Permit Services	Eurocom Developments Limited
Wright Hassall LLP	Foreign and Commonwealth Office
A3. List of partner forum event attendees (12 and 19 August 2011)	Fragomen LLP
American Embassy	Fujitsu Laboratories of Europe Limited
Association of British Orchestras	Gross & Co
Association of School and College Leaders	HSMP Forum
Baker & Mckenzie LLP	IEP Management Ltd
Birmingham Royal Ballet	Immigration Law Practitioners Association
British Hospitality Association	Incorporated Society of Musicians
Cabinet Office	Independent Healthcare Advisory Services
Canadian High Commission	International Organization for Migration
Cancer Research UK	Jobcentre Plus
Chinese Embassy in the UK	Kingsley Napley Solicitor
CMS Cameron McKenna LLP	London Chamber of Commerce and Industry
Cranfield University	London Deanery
Dearson Winyard International	Methodist Church
Deloitte LLP	Migrants' Rights Network
Department for Business, Innovation and Skills	Millfield School
East Midlands Councils	NASSCOM
East of England Strategic Migration Partnership	Nexen Petroleum UK Limited
	NGK Spark Plugs (UK) Limited

NHS Employers

786 Law Associates

Pharmacy Voice

PricewaterhouseCoopers Legal

RCUK

Recruitment and Employment
Confederation

Research Councils UK Shared Services
Centre Ltd

Research in Motion Limited

Scottish Government

Skills for Care and Development

Skills for Health

Society of London Theatre and Theatrical
Management Association

South African High Commission

South East England Councils

Sport and Recreation Alliance

SummitSkills

Tata Consultancy Services

The Mill

The Sainsbury Laboratory

Unison

Universities and Colleges Employers
Association

Universities UK

University of Leicester

University of London

University of Nottingham

Abbreviations

ACS	American Community Schools
APS	Annual Population Survey
BMA	British Medical Association
ASHE	Annual Survey of Hours and Earnings
CBI	Confederation of British Industry
CIPD	Chartered Institute of Personnel and Development
CoS	Certificates of Sponsorship
DESCO	DE Shaw & Co
EEA	European Economic Area
EU	European Union
FMOP	Free Movement of Person
GDP	Gross Domestic Product
HE	Higher Education
HSMP	High Skilled Migrant Programme
IELTS	International English Language Testing System
IHAS	Independent Healthcare Advisory Services
ILR	Indefinite Leave to Remain
IPS	International Passenger Survey
LFS	Labour Force Survey
LTIM	Long-Term International Migration
MAC	Migration Advisory Committee
MI	Management Information
NAMPS	National Association of Medical Personnel Services
NASSCOM	National association of Software and Services Companies
NHS	National Health Service
NINo	National Insurance Number
NQF	National Qualifications Framework
OECD	Organisation for Economic Co-operation and Development
OTTP	Overseas Trained Teacher Programme
PBS	Points Based System
PhD	Doctor of Philosophy

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QTS	Qualified Teacher Status
RCUK	Research Councils UK
RIM	Research in Motion
RLMT	Resident Labour Market Test
SOC	Standard Occupational Classification
TIGA	The Independent Game Developers' Association
UK	United Kingdom
UKBA	UK Border Agency
UN	United Nations
US	United States
USA	United States of America

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