Review of Tier 2

Balancing migrant selectivity, investment in skills and impacts on UK productivity and competitiveness

Migration Advisory Committee

December 2015

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The issue

Leaving aside asylum, there are 3 immigration routes – study, work and family – and 3 citizenship groups: Britons, EU and non-EU. This 3 x 3 matrix has 9 cells, each with an inflow and an outflow. The government only has direct control of 3 of the 18 flows, namely non-EU study, work and family inflows.

Non-EU family migration is controlled via the required income thresholds for the new family unit. The student inflow is influenced by, for example, work rights, dependants' rights and English language requirements. This report is about the third flow fully under the control of the government - non-EU work. Annual non-EU work inflows are relatively modest in comparison to overall migrant inflows.

This inflow is a curious mixture of capped and uncapped routes. Tier 2 (General), consisting of the shortage occupation list (SOL) and resident labour market test (RLMT) routes, is presently capped at 20,700 p.a. Other entry routes to Tier 2 are not capped: intra-company transfers (ICTs); students switching from Tier 4 to Tier 2; those earning over £155,300 p.a.; and the ministers of religion and sportspeople routes. There is also no cap on the number of dependants, whether working or not.

Numbers entering the UK via Tier 2 are much larger than is commonly realised. In 2014, counting both in-country extensions and switchers and out-of-country immigration and including both the main applicant and dependants, the effective inflow was 151,000. Thus the capped component of Tier 2 (20,700) is only 14% of the total inflow. It is plausible that, at the margin, some potential migrants being excluded by the cap are more valuable to UK plc than some allowed in under the uncapped routes.

Our commission requires the MAC to advise on "significantly reducing the level of economic migration from outside the EU", taking into account the impact on the economy, including productivity and competitiveness. This is what economists term a "constrained maximization problem." We suggest mechanisms to cut

numbers while simultaneously keeping productivity and competitiveness to the fore.

The MAC was asked to consider five issues:

- how to prioritise Tier 2 and make it more selective
- a skills levy, now called an immigration skills charge (ISC)
- tightening of the intra-company transfer route
- automatic sunsetting, such that an occupation or job is removed from the SOL after a fixed period
- automatic work rights for dependants

These will be briefly considered in turn.

Prioritising Tier 2

Our commission suggested that the SOL might be expanded to include: specialist jobs (for example, in the digi-tech sector); high value jobs (for example a Mandarin-speaking investment banker) and key public sector jobs (for example, theatre nurses). The day after any such list were to be published the MAC, Home Office, BIS, Treasury would be inundated with complaints from representatives of those not included (say, contaminated land engineers).

There are just under 4,000 job titles comprising the 96 4-digit graduate level occupations. It is impossible, and foolhardy, to try to provide a defined list of, say, 1,000 jobs where migrants are welcome while excluding the remaining 3,000 job titles. Instead, assuming the government wishes to cut numbers, we suggest it be done by price.

At present the minimum earning threshold for a Tier 2 migrant is £20,800. But this figure originates from a time when the skill level for entry under Tier 2 was NQF3 (equivalent to a job requiring 2 'A' levels). Now the skill level required for entry is degree level (NQF6+). We consider it reasonable to raise the overall minimum threshold for experienced hires in line with this – i.e. at the 25th percentile of the salary distribution for all NQF6+ occupations - mirroring the occupation specific thresholds. This means the minimum pay threshold rises to £30,000. Some specific occupations will have minimum pay thresholds substantially above the overall minimum. Similarly for new entrants we recommend an overall minimum threshold at the 10th percentile of the distribution, an increase to £23,000.

In-country switchers are not presently included in the cap. There is no rationale for this exclusion. The MAC recommend increasing the cap and including such switchers within it. We leave it to the Government to determine by how much the cap should be raised if this recommendation is accepted.

The typical pay of migrants in some occupations – for example healthcare and teaching – is below the new proposed minimum benchmarks. We suggest that the new minima be phased-in for such occupations.

Immigration Skills Charge (ISC)

The MAC strongly support the Prime Minister's focus on boosting the human capital of UK residents (speech 21/5/15) via a skills levy on firms that use migrant labour. There are three reasons for this. First, the ISC – like the proposed hike in minimum pay thresholds - raises the cost of immigrant labour and therefore contributes to the stated intention to reduce numbers. Second, migrants impose costs ("externalities") on, for example, transport, health and education. An ISC would help offset such costs. Third, and most important, many firms employing migrants – particularly those employing Indian information technology workers on third party contracts – make rather modest efforts to upskill UK workers. The revenue from the ISC can be used to help rectify this lack of investment in UK human capital.

The level of the ISC and the use of such funds are matters for HM Treasury. But, the MAC does have a view. We suggest an upfront charge of £1,000 per year of the visa applied for. Thus the ISC for a 3-year visa would cost £3,000 and a 5-year visa £5,000. We calculate that presently this would raise over £200 million a year. We endorse the Prime Minister's view, echoed by the CBI, that this revenue should be used to support firms which boost the human capital of UK residents.

Intra-company transfers (ICTs)

Intra-company transfers (ICTs) result in an employee of a multinational company being transferred from a workplace outside the UK to a workplace in the UK. The conventional example is a Japanese auto engineer moving from a car plant in Japan to the UK, perhaps to manage the installation of an assembly line. In recent years though, this conventional channel has been increasingly dominated by companies using ICTs for third-party contracting. Indian information technology workers comprise over 90 per cent of such migrants. Under this channel the multinational typically sends the Indian IT worker from India to work on a project at a customer's ("third-party") site, although sometimes the project for the customer is done at the multinational's own site.

ICT numbers, not capped, have risen very rapidly in recent years. In the 5 years to 2014 out-of-country main applicants under the route increased by 15,000 to 37,000, almost double the Tier 2 (General) limit.

The conventional channel brings great benefit to UK plc: a few transferees leverage extra inward investment and growth in jobs. One only has to look at the successful auto sector to see this.

The net benefit of the third-party contracting channel is less clear cut. Certainly, the client – the third-party – gets lower IT costs, which benefits many firms which comprise UK plc. On the other hand, the ready supply of migrant labour sometimes reduces the incentives of firms using this business model to invest in the human capital of UK workers. Indeed British IT workers, and their representatives, attest to displacement. Further, the Department of Business,

Innovation and Skills states[1] that: “computer science graduates have higher rates of post-degree unemployment than other subjects”.

We make a number of recommendations to further strengthen the contribution of the ICT route to UK plc. I set these out in three tranches: all ICT migrants; conventional ICT channel; third-party contracting channel.

Concerning all ICTs

- all ICTs should be required to pay both the Immigration Health Surcharge and the Immigration Skills Charge (except Skills Transfer and Graduate trainees), ensuring consistency with migrant workers under Tier 2 (General).

- the required prior experience with the employer should be raised from one year to two years. This will help ensure that the transferee is steeped in the culture of the company. We also recommend that sponsors be required to enter a more detailed description of the role on the Certificate of Sponsorship application form to ensure that the role is sufficiently specialist.

- the Home Office and HMRC will wish to jointly examine whether or not the present system of allowances and initial non-payment of national insurance contributions confers a playing field tilted against British workers.

Conventional Channel

- the Home Office may wish to review the current limit of 5 places per firm on the graduate trainee route with a view to raising this number.

- the Home Office may wish to review the absolute 5-year cut-off for ICTs. Some conventional channel migrants contribute strongly to the success of their company in years 4 and 5 and there is a case – in just a few companies – for some flexibility in the duration of the visa.

Third-party Contracting

- this channel should become a separate route under Tier 2.

- we suggest raising the cost of these third-party contractor workers over and above the recommended increase in the minimum pay threshold and the proposed ISC. We recommend the pay threshold be set at £41,500, the effective benchmark for senior managers and specialists.

[1] Department for Business Innovation and Skills (2015), Terms of Reference for *The Shadbolt Review of Computer Science Degree Accreditation and Graduate Employability*.

- alternative mechanisms to cut numbers would be a cap based on the percentage of each organisation's skilled (to NQF 6+) workforce that are Tier 2 migrants and/or a higher ISC for third-party contracting migrants.
- the Home Office will wish to consider applying an RLMT to this channel: many people view it as more like Tier 2 (General) than the conventional ICT channel.
- the firms operating this business model are adamant there is a big gap between labour demand for such IT workers and the available supply. Why? Is it inadequate training in our education system and by the firms themselves? Why don't wages adjust to bring forth a supply response? We recommend a thorough investigation into this labour market, with a view to boosting the supply of UK workers thereby cutting migrant numbers.

Sunsetting

When the MAC examined the case for and against automatic sunsetting of jobs on the SOL in 2013 we concluded such mechanical removal of job titles from the SOL would be inappropriate. This continues to be our view. An efficient sunsetting mechanism already exists – the MAC reviews of the SOL. Since 2008 the MAC has removed a similar number of job titles to the number that it has added. Any automatic sunsetting may lead to severe job shortages in key areas, for example maths teachers and electricity linesworkers, with adverse impacts on productivity and competitiveness. It should, however, be noted that in future reviews of the SOL, the MAC will expect very strong evidence when a job title or occupation has already been on the SOL for a number of years.

Work Rights of Dependants

In 2014 dependants accounted for 64,000 of the total 151,000 non-EEA migrants using this route—but only 35,000 were adults. It is a bit odd that dependants of Tier 2 migrants have unrestricted access to the labour market whereas the main applicant does not, but the MAC does not recommend altering the status quo. There is no evidence that those dependants displace UK residents in the labour market. And restricting dependants' work rights will tend to reduce their net contribution to the public finances. Further, OECD research shows that employment is the best driver of integration. Tier 2 (General) migrants are on a path to settlement and it may not be sensible to place barriers to their integration into wider society.

Conclusion

Skilled workers make important contributions to boosting productivity and the public finances. It is therefore readily apparent that there is potential tension between the twin government objectives of cutting the number of non-EU work migrants while simultaneously growing GDP per capita. We believe that the recommendations in this report strike the right balance between these twin objectives. In particular, raising the cost of employing skilled migrants via higher

pay thresholds and the ISC should lead to greater investment in the human capital of UK residents and somewhat lower use of migrant labour.

There is also a second tension in policy objectives. Constraints on public expenditure mean that it has not been, and will not be in the near future, straightforward to raise pay in sectors such as healthcare and education. We suggest that the introduction of the higher minimum pay thresholds in such sectors be phased. But if migrant inflows are to be cut, the pay question will soon need to be addressed.

It is not possible to be definitive concerning the reduction in numbers associated with the proposals in this report. That depends on how employers respond: will they raise pay to the new higher thresholds for Tier 2 (General) - £30,000 – and third-party contracting ICT workers, £41,500? Will they happily pay the proposed ISC, particularly as an up-front cost? Might EU workers substitute for a reduced inflow from outside the EU?

But we can indicate the numbers affected. The proposed higher pay thresholds would have excluded 5,600 (17 per cent) of Tier 2 (General), in the year to August 2015 and 12,000 (47 per cent) of all short-term ICTs. When including dependants, the new higher salary thresholds would affect 27,600 (18 per cent) of all applications within Tier 2. If our suggested ISC is accepted, the numbers affected would be above 18 per cent.

Professor Sir David Metcalf CBE

The Migration Advisory Committee and Secretariat

The Migration Advisory Committee (MAC) is a non-statutory, non-time limited, non-departmental public body (NDPB) which was established in 2007 and is funded by the Home Office. The MAC is comprised of economists and migration experts who are publicly appointed in line with guidance published by the Office of the Commissioner for Public Appointments; along with ex-officio representatives of the UK Commission for Employment and Skills and the Home Office.

Chair

Professor Sir David Metcalf CBE from August 2007

Members

Professor Alan Manning from March 2015

Dr Jennifer Smith from November 2012

Professor Jonathan Wadsworth from December 2007

Professor Jackline Wahba from November 2012

UK Commission for Employment and Skills representative

Lesley Giles

Home Office representative

John Thompson

The secretariat

Cordella Dawson; Ciaran Devlin; Stephen Earl; Emily Fowler; Paul Garner; Tim Harrison; Christopher Haynes; Bethan Hunt; Baljit Khinder; Anna Lacey; Jessica Latchford; Caroline O'Loughlin; Christine Stone; Josephine Thomas.

Chapter 1 Introduction

1.1 About the MAC

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 The MAC has previously been asked to provide advice on a wide range of immigration issues such as the design of the Points Based System (PBS) for managed migration including annual limits, low-skilled migration into the UK and the Tier 1(Investor) and Tier 1 (Entrepreneur) routes.

1.2 What we were asked to do

1.3 The Home Secretary wrote to the Chairman of the MAC commissioning advice on a number of potential changes to Tier 2 of the PBS to address concerns about the rising number of migrants in that route and reliance on them to fill shortages.

1.4 The Government commission on the wider review of Tier 2 was as follows:

"The MAC is asked to advise on changes to Tier 2 to address concerns about the rising number of migrants in that route and reliance on them to fill shortages. This should include advice on the following:

(i) restricting Tier 2 (General) recruitment, compared with the current rules, to genuine skills shortages and highly specialist experts only. The MAC should consider how Tier 2 (General) and the shortage occupation list should be reformed to achieve this objective but with flexibility to include high value roles, key public service workers and those which require specialist skills. The MAC should advise on selection criteria such as, but not limited to, salaries, points for particular attributes, economic need and skills level, and whether such an approach should also operate in respect of intra-company transfers, and the position of those switching from Tier 4;

(ii) how to limit the length of time occupations can be classed as having shortages: what would be an appropriate maximum duration and should there be exceptions?

(iii) applying a skills levy to businesses recruiting from outside the EEA, the proceeds from which would fund apprenticeships in the UK. This should consider which businesses the levy should apply to and the impact of different levels of levy, balancing the need to maximise the incentive for employers to recruit and train UK workers with the ability of businesses to access the skilled migrants they need;

(iv) the impact, on Tier 2 numbers, the economy and the public finances, of restricting the automatic right of the dependants of Tier 2 visa holders to work on their Tier 2 dependant visa;

(v) the scope to tighten the Tier 2 intra-company transfer (ICT) provisions and the impact this would have on business and the economy. The MAC is asked to review any aspects of the rules and operation of the ICT route, including its usage by companies to service business process outsourcing contracts with third parties. In addition, the MAC is asked to consider the case for applying the immigration health surcharge to ICTs."

1.5 The Government asked that the MAC report on the wider review of Tier 2 by mid-December 2015.

1.6 Within this review of Tier 2 the Government had also requested early advice on Tier 2 salary thresholds. The MAC reported to Government in July 2015 and the full report is available at: https://www.gov.uk/government/publications/review-of-tier-2-analysis-of-salary-thresholds.

1.7 In this chapter, we begin by outlining our understanding of the Government's commission and highlight the policy tensions and risks inherent in seeking to achieve a reduction in skilled migration. We then set out those parts of the Tier 2 route that fall into scope within this commission, followed by the approach we have adopted and the partner engagement and evidence gathering we have undertaken.

1.3 Understanding the Government's commission

1.8 The commissioning letter from the Home Secretary followed a speech on immigration made by the Prime Minister on 21 May 2015, which stated:

"...we will reform our immigration and labour market rules – reducing the demand for skilled [migrant] workers, and cracking down on those who exploit low-skilled workers. That starts with training our own people.

For too long we've had a shortage of workers in certain roles. Engineers, nurses, teachers, chefs – we haven't had enough Brits trained in these areas and companies have had to fill the gaps with people from overseas.

[...] As we improve the training of British workers, we should – over time – be able to lower the number of skilled workers we have to bring in from elsewhere. So as we embark on this massive skills drive, we will ask the

Migration Advisory Committee to advise on significantly reducing the level of economic migration from outside the EU.

We should be getting to a place where we only bring in workers from outside Europe where we have genuine skills shortages or require highly-specialist experts. Some professions are on the Shortage Occupation List year after year and nothing is being done about it. That's not good enough. So we will seek to limit the length of time professions can be classed as having shortages."

1.9 This speech set out, among other things, the Prime Minister's intent that the UK labour market should be less reliant on skilled migrants. The Prime Minister also chairs a Ministerial Immigration Taskforce bringing together departments to co-ordinate action aimed at reducing immigration.

1.10 While the overall aim is to reduce immigration, the Government made clear in the commission that reductions in skilled migration should be balanced against their impacts on the UK economy:

" The UK economy benefits from highly skilled workers and we want to keep migration routes open for the brightest and best workers who will help Britain succeed."

1.11 In fulfilling this commission we have, therefore, taken account throughout of the wider impacts of policy options, particularly the impact on UK productivity and growth.

1.12 The commission presented a considerable challenge – a comprehensive review of the disparate elements of Tier 2 together with the difficult task of identifying the most economically sensible approach to reducing skilled immigration. The scale and breadth of the commission has made this a challenging task. This introduction sets out how we went about tackling the issues and will help guide the reader through the rest of the report. We begin by looking at the scale of non-EEA skilled migration inflows before discussing the inherent policy tensions and risks associated with the proposals contained in our commission. We then set out our approach to tackling these issues.

The scale of non-EU skilled migration

1.13 Seen in the overall context of the Government's ambition to reduce annual net migration to the tens of thousands (from the current level of 336,000), it is helpful first of all to understand the relative importance of skilled immigration from outside of the EEA/EU.[2]

[2] Because of data limitations we use EU and EEA interchangeably. For instance, while the Home Office visa statistics are presented as non-EEA, the ONS' International Migration Statistics are presented in terms of an EU/non-EU split.

1.14 As Box 1.1 highlights, immigration for work reasons accounts for less than half of all immigration in the year to June 2015 and of this only a quarter (some 67,000) comes from outside the EU. By contrast, currently some 162,000 EU migrants come to the UK to work each year, though this includes a significant proportion coming to do lower skilled jobs.

Box 1.1: Non-EU work immigration in context

Similar to most other OECD countries, work accounts for a minority of all long-term immigration flows to the UK each year: 279,000 migrants came for work-related reasons out of total immigration of 580,000 based on the ONS International Passenger Survey data for the year to end June 2015. Moreover, only around a quarter of this (67,000) was from outside the European Union.

	Total	Non-EU	EU	British
Total immigration (IPS)	580,000	253,000	242,000	84,000
Immigration for work reasons (IPS)	*279,000*	***67,000***	*162,000*	*50,000*
Emigration (of those who originally immigrated for work) IPS	*85,000*	***25,000***	*46,000*	*14,000*
Implied net migration (for work)	*194,000*	***42,000***	*116,000*	*36,000*

In the same period ONS estimates that 25,000 non-EU migrants emigrated from the UK after originally coming here for work reasons. Therefore net immigration for non-EU citizens for work routes only is currently estimated to be around 42,000, up from 30,000 a year earlier.

Net immigration (using ONS' wider LTIM measure) is currently 336,000. Although not directly comparable to the official measure of net immigration to the UK*, it is clear that reductions in non-EU work migration can only make a relatively small contribution to cutting overall net migration and certainly cannot, on its own, help achieve the ambition of net migration in the tens of thousands.

	Total	Non-EU	EU	British
Total immigration (LTIM)	636,000	**286,000**	265,000	85,000
Total emigration (LTIM)	300,000	**85,000**	85,000	130,000
Net migration (LTIM)	336,000	**201,000**	180,000	-45,000

*NB: Long-Term International Migration (LTIM) estimates are mainly based on data from the International Passenger Survey (IPS), with adjustments made for asylum seekers, non-asylum enforced removals, visitor and migrant switchers and flows to and from Northern Ireland.

Source: ONS, Migration Statistics Quarterly Report, November 2015

1.15 Reductions in non-EU work migration can therefore only make a marginal contribution to cutting overall net migration: for instance, if non-EU work net migration was zero, overall net migration would still exceed a quarter of a million. But it is also the case that the UK economy continues to attract work migrants from the EU and non-EU alike, with long-term inflows for work having risen by around 20 per cent over the past year. Viewed in net migration terms the numbers are therefore growing rather than declining.

Policy tensions

1.16 Seeking to reduce skilled immigration will involve some significant policy tensions. Labour migration "sits at the nexus of a number of different objectives; short-term labour needs, long-term demographic and labour force development, wider economic development, investment and trade policy, sector-specific policy, innovation and productivity, and development co-operation – to name but a few." (OECD, 2014b). One objective may suggest measures which conflict with another objective, therefore an assessment of the trade-offs is required in order to ensure coherence across policy domains.

1.17 In order to offer the Government the most effective advice we can, we have strived to clearly understand both the scope of the commission and the nature and extent of the ensuing policy tensions. We set out below some of these policy tensions: maximising the economic and labour market contribution of skilled migrants; limiting skilled migration; the differential impacts by sector; as well as the trade-off between importing skilled labour and investing domestically in the upskilling of the UK labour market. We will now explore these in detail.

(i) Economic and labour market contribution of skilled migrants

1.18 In the migration economics literature, migrants are viewed as complementary to (i.e. raising the productivity of) native workers, on average, whenever migrants differ in skill mix from the average native. They may also be substitutes to some specific groups of native workers whose labour market prospects are worsened by migration. The migrants coming to the UK under Tier 2 of the PBS are generally much more skilled than the average UK worker. Therefore, the expectation is that such skilled migrants will raise the productivity of UK workers.

1.19 Research (see Chapter 9) indicates that skilled migration also brings further benefits both to the labour market and the wider economy. We discuss these in greater detail later in this report, but they are summarised here as follows:

- In the labour market, skilled migrants help fill skills shortages and ease skills bottlenecks to help business growth and they are associated with wage growth for skilled UK workers. Overall, the evidence suggests that the labour market impacts of Tier 2 migrants are modestly positive.

- Across the wider economy, skilled migrants are generally understood to boost gross domestic product (GDP) (as do lower skilled migrants, but more so), to be net fiscal contributors and to increase export opportunities.

1.20 On this basis, seeking to reduce the inflow of skilled migrants might be seen as running counter to aims to grow the UK economy. However, we have shown in previous reports that the yardstick to measure whether the

levels of skilled migration to the UK are beneficial or not ought to be whether this has increased *GDP per head* for UK residents (growth in aggregate GDP alone is not enough). Furthermore, positive economic impacts may be offset to some extent by the broader social, public service and housing impacts of a growing population.

1.21 It is a non-trivial task to design a skilled migration route that maximises the net economic impacts of the migrants admitted under the route. The inherent complexity does not lend itself to simple solutions.

1.22 Equally, the impacts of skilled migrants are unlikely to be homogeneous. That is, some skilled migrants may have more positive impacts than others. In reviewing Tier 2 we have aimed to differentiate between the different routes of Tier 2 to identify which add most value. As the commission highlights, the emphasis should be on those occupations and skills where the need of the UK labour market is greatest. This is a policy tension that we are acutely aware of and discuss further in this report. It is more widely recognised that it is difficult to get the balance right between attracting the right sort of skilled migrants and avoiding any adverse labour market impacts (OECD, 2014b):

(ii) Limiting skilled migration

1.23 The UK is not alone among industrialised countries in seeking to limit work-related immigration, not least to address public opinion (OECD 2014b). Most other OECD countries operate some degree of restriction on skilled migrants, often with a focus on ensuring that employers have adequately explored the domestic labour market.

1.24 Tier 2 of the PBS is the UK's main work-related immigration route. Although significant changes have been made to the operation of the route in recent years, the MAC has not reviewed the route as a whole since 2009 (Migration Advisory Committee, 2009b). This commission is an opportunity to examine how the route is being used, and to assess whether the desired outcomes are being achieved.

(iii) Differential impacts by sector

1.25 Policy tensions exist, too, in terms of which employers and which sectors are recruiting skilled migrants. A significant minority of Tier 2 migrants are employed by the public sector, mainly in healthcare and education. To a certain extent, this is driven by the prevailing wages in those sectors and the fact that public sector wage increases have been muted since 2010 in order to help meet financial targets. Over much of this period, overall wage growth in the UK labour market has been slow. But in recent months, wage growth in the private sector has picked up speed and - should current trends continue (the OBR forecasts average annual earnings growth

ranging from 3.4-3.9 per cent between 2016 and 2020[3]) - there is likely to be an appreciable gap emerging between private and public salaries in the coming years. This would make public sector jobs less attractive and make recruitment and retention more difficult. In such a case, as the Government is the main employer, there would be a clear inconsistency between this policy and the aim to reduce skilled migration into these sectors.

(iv) (Dis)incentives to upskill

1.26 There is also a trade-off between importing skilled labour and investing domestically in education and skills, as the OECD (2014b) again notes:

"While labour migration is primarily about labour supply, the reverse is not true. The domestic population – and its education and training pathways – is and will remain the main source of labour in all OECD countries. The goal of delivering labour supply guides policy choice in immigration for employment, but it is also linked to the level of investment in local education, training and upskilling. Drawing on international immigrant labour may lessen opportunities for local training and its value, and affect the goals of upskilling and coaxing local youth into certain industries."

1.27 The economics literature on human capital highlights the difference between firm-specific training (which cannot be readily transferred to other firms) and general training (which is easier to transfer). This can impact on the interest and willingness of employers to invest in training, if they believe such trained workers may sooner or later be poached by competitors.

1.28 Furthermore, there is a risk that employers who can access a vast, global supply of skilled workers – potentially at more competitive wage rates – are even less incentivised to invest in more training themselves.

Risks

1.29 The previous section discusses some of the policy trade-offs to be negotiated in pursuing a policy objective to reduce immigration. This section looks at whether there are also a number of risks involved in pursuing this policy objective.

1.30 The first potential risk is that, depending on what instrument is used to restrict demand, employers may continue to employ migrants to the same degree as before. For instance, faced with higher minimum salary thresholds, employers may determine that the migrant is still worth recruiting, particularly if their skills are deemed to be in shortage. The Government will, therefore, have increased the cost to employers with consequent effects in terms of cost pass-through to end-users without achieving its policy objective to reduce immigration.

[3] See Table 3.6, Economic and Fiscal Outlook Office for Budget Responsibility, November 2015

1.31 The second risk is that the desired expansion of skills development among the domestic workforce does not occur. Although the introduction of an immigration skills charge may go some way to promote domestic upskilling, this is unlikely, of itself, to meet the overall objective set out in the Prime Minister's speech.

1.32 The third risk is that some employers may choose to move their operations overseas if there are quantity or price restrictions placed on the migrants they might otherwise wish to hire. In such a case, this represents a permanent loss to UK plc as a whole.

1.33 Fourth, restricting the ability of employers to hire skilled labour from outside of the European Economic Area (EEA) may result in direct substitution towards skilled migrants sourced from EEA countries instead. Labour market statistics show that most of the recent growth in skilled migrant employment in the UK has in fact been from the EEA. If this completely offsets the reduction in non-EEA migration, the impact on net migration would be nil.

1.4 Scope of commission

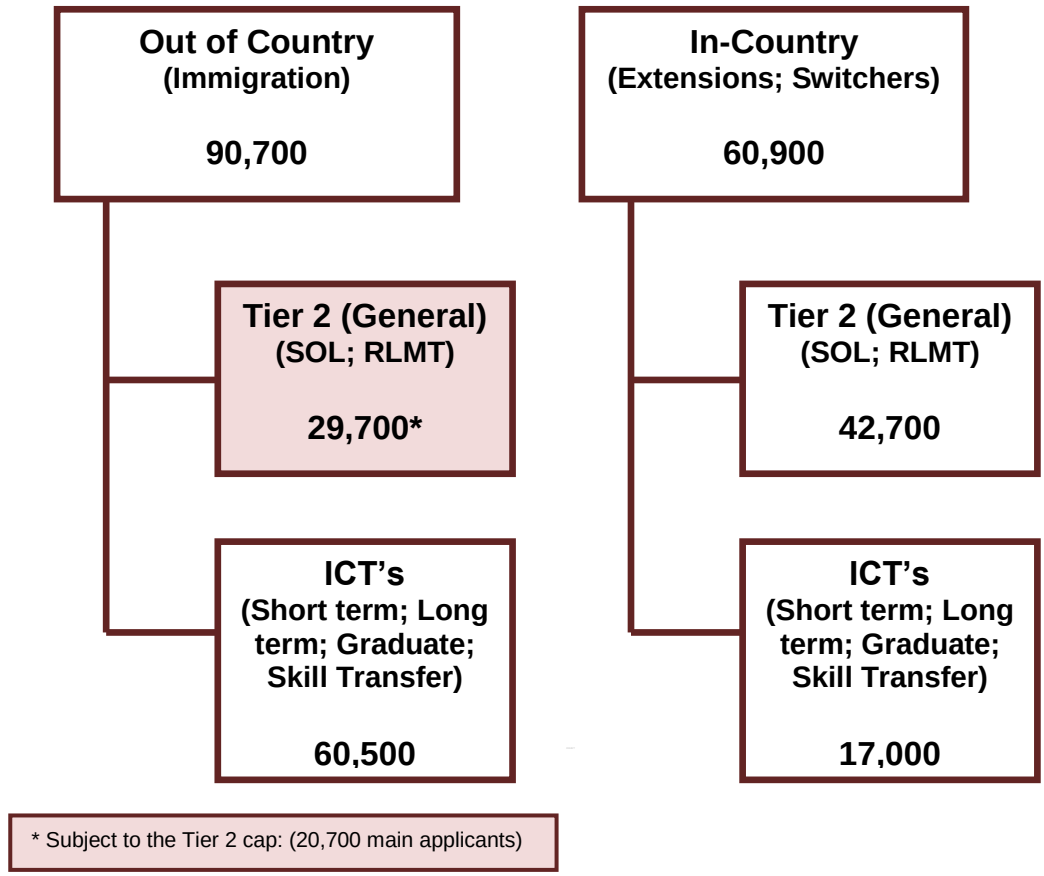
1.34 The commission covers skilled non-EEA migrants coming to the UK to take up employment. Within this broad group there a number of important sub-categories. Tier 2 covers temporary migrants and those coming on a path to settle permanently in the UK. It also covers experienced migrants and new entrants to their profession. Many Tier 2 migrants come to the UK as intra-company transferees; others come to take up a new job with an employer in the UK. The scope of our commission also includes any accompanying dependants of working age.

1.35 Sometimes the focus on Tier 2 is placed disproportionately on aspects of the route that, in volume terms, are actually relatively small. For instance, only a few thousand (1,500 out-of-country applications in the twelve months to August 2015, plus 1,700 in-country applications) non-EEA migrants enter the UK each year to work in jobs and occupations on the shortage occupation list (SOL). The overall volume of main applicants and dependents granted entry visas or in-country extensions of stay under Tier 2 is currently around 150,000 a year. SOL work inflows are therefore a tiny proportion of the total.

1.36 Even the annual limit under Tier 2 (General) – 20,700 main applicants granted entry visas each year – only accounts for a small proportion of the overall volume of users of the Tier 2 route in any given year. SOL forms part of the Tier 2 (General) limit, along with the resident labour market test (RLMT) route. There is also a sizeable component of Tier 2 (General) arising from in-country switching into Tier 2, which is uncapped. The Tier 2 (Intra-company Transfer) route is also not subject to a limit. At 36,600 in 2014 the volume of intra-company transfer inflows is almost twice that of Tier 2 (General). Moreover, across all of these entry routes, not only is there no limit on the volume of dependants that can accompany principal

migrants, but neither do the dependants experience any of the restrictions on accessing the UK labour market that apply to the principal migrants.

Figure 1.1 Tier 2 Landscape: Main applicant and dependant volumes; 2014



Notes: Both the Ministers of Religion and Sportsperson route categories have been excluded from the detailed breakdown, but included in the overall total. As a result, the total may be greater than the sum of its parts.
Source: Home Office Immigration Statistics (2014)

1.37 Although the focus for this commission is on reducing immigration, helping to achieve the Government's broader ambition of reducing net migration can be accomplished by increasing emigration of those with visas who are already in the UK and who can apply to switch employer within Tier 2 (General) or switch from another route, such as the Tier 4 route for students. Denying or restricting access to the Tier 2 route for such migrants could result in them having to leave the UK. There is presently no limit on the numbers who can seek to switch into Tier 2 in this way and this is a sizeable potential cohort (including dependants) of around 61,000. Therefore, we look at both in-country as well as out-of-country visa applications and volumes of dependants as well as principal migrants.

1.38 The Tier 2 (Intra-company Transfer) route is for temporary migration and does not lead to settlement in the UK. The short-term intra-company transfer route has a maximum length of stay of 12 months. Most short-term intra-company transferees do not, in theory, count as permanent migrants under the UN definition used to measure net migration. Further, partners

argue that because all Tier 2 (Intra-company Transfer) migrants have to leave the UK eventually, they should not be recorded as permanent migrants. However, even if all intra-company transferees do not stay permanently into the UK, changes in volumes under the route contribute to net migration in the short term and an increase in steady state usage under the route adds permanently to the stock of migrants in the UK.

1.39 We have not considered the (very small) Tier 2 routes in relation to sportspersons and ministers of religion under this commission.

1.40 Finally, in terms of the immigration skills charge, we recognise that issues related to the actual level of the charge as well as to how the funds are spent are matters for the Government. The charge is in fact a tax and matters relating to taxation are the preserve of HM Treasury and not something that we would normally address. However, this commission has called on us to consider the impact of this tax on immigration, employers and the wider economy, and in order to model this effect we suggest various levels of the charge for illustrative purposes.

1.5 Our approach

1.41 Presently, employers can recruit non-EEA migrants to fill their skilled vacancies (degree level occupations and jobs). Other than the SOL, Tier 2 has no mechanism to target particular skills, as long as minimum salary thresholds are paid. The current immigration rules are perhaps not as efficient as they might be at identifying and attracting those skilled migrants of greatest benefit to the UK, rather than the ones that each employer wants.

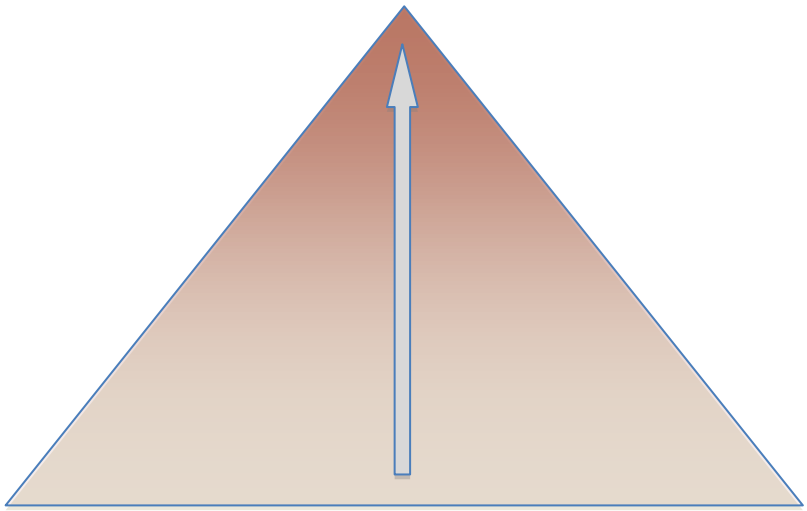
1.42 Hence our commission asks that we provide advice on restricting Tier 2 (General) recruitment, compared with the current rules, to genuine skills shortages and highly specialist experts only. Currently across the Tier 2 routes, non-EU migrant volumes for some occupations exceed 1,000 a year and in some cases amount to more than 5,000. Furthermore inflows of this magnitude have been apparent for some years now. At the very least this suggests that those skills shortages in the UK labour market that are more widespread are not being effectively tackled.

1.43 We, therefore, saw part of our task in this report as looking for a better way to prioritise and target the skills that migrants bring to the UK, while simultaneously reducing the overall volumes of non-EU migrants coming into the UK labour market. In broad terms, if skilled migrant inflows are to be reduced, Tier 2 should gravitate towards the more selective recruitment of the, arguably, higher value highly specialist experts and away from the numerically larger recruitment of workers whose skills may, in time, be replicated in the UK labour market (Depicted in Box 1.2 below).

1.44 We are also mindful of the potential costs of seeking to reduce skilled migration. In this report, we take account of the productivity, competitiveness and wider economic effects of the proposals we consider and of our recommendations.

Box 1.2: Prioritisation within Tier 2

Genuine skills shortages and highly specialist experts



All NQF6+ occupations

Source: Migration Advisory Committee 2015

1.45 Until earlier this year prioritisation under the Tier 2 route had not been a concern. The one area subject to an annual numerical limit – Tier 2 (General) – had operated below this limit since its introduction in 2011. But when the limit was reached in June 2015, the issue of prioritisation came into sharp focus. Not only did many employers experience delays, uncertainty and frustration in trying to get the non-EU skilled labour they sought, but a light was shone on the mechanism for determining which migrant job applications were accepted and which were refused.

1.46 Between June and October 2015 the monthly allocation of work entry visas under Tier 2 (General) was largely determined by a hybrid system of points and salary levels. Essentially after extra points were awarded for an occupation being on SOL or being classed as PhD level, visa applications were ranked in descending order by salary. As such, lower paying occupations generally lost out, even if some of those occupations may be deemed as being more valuable (but for whatever reason not better paid) than others that were accepted. Furthermore, employers applying under other uncapped routes within Tier 2 could continue to recruit, again arguably sometimes for lower value jobs to UK plc at the margin.

1.47 So, achieving improved prioritisation and finding the right instruments to do so are not straightforward. The MAC has always eschewed manpower planning and aims to avoid 'picking winners': as far as possible the aim should be to find ways to facilitate the operation of the labour market, subject sometimes to wider policy constraints. This, then, is the approach we follow in this report.

1.6 Call for evidence

1.48 As well as carrying out a large amount of quantitative analysis using available datasets from the likes of the ONS, Home Office's management information and other sources, we are always keen to supplement this with more qualitative evidence from our partners.

1.49 We therefore issued a public call for evidence to collect the views and opinions of interested partners. The call for evidence was launched on 2 July 2015 and closed on 25 September 2015.

1.50 **Some 251 written submissions** of evidence were received from organisations and individuals. A list of those who supplied evidence, and who have not requested anonymity, is provided in **Annex A** to this report. Responses were received from a variety of sectors, including research and education (56 responses), engineering, construction and architects (44 responses), health and social care (32 responses), IT and digital (24 responses) and law firms (20 responses).

1.51 Meetings were held with representatives from **over 200** organisations. Many of these meetings were in a forum style which allowed us to meet a number of partners simultaneously. The majority of these meetings were held at partner sites in London, though we did also organise partner events in Bristol, Edinburgh, Belfast, Exeter and the West Midlands.

1.7 Structure of the report

1.52 The report is structured as follows:

- Chapters 2 and 3 set out respectively the relevant policy and data context to Tier 2 (Annex A summarises the conclusions of previous MAC reports that have looked at aspects of the Tier 2 route).
- Chapter 4 updates and expands the preliminary analysis we presented in our July 2015 report on the impact of increasing the minimum salary thresholds.
- Chapter 5 considers the impact of an immigration skills charge and how this may interact with changes to minimum salary thresholds.
- Chapter 6 addresses the intra-company transfer route and highlights the growth of the so-called third party outsourcing model versus the intended usage as facilitating the transfer of senior managers across multinational companies.
- Chapter 7 looks at other areas of potential reform to the Tier 2 (General) route. This includes the proposal that eligibility for Tier 2 (General) be restricted only to occupations on an expanded shortage occupation list. We also examine the issue of 'sunsetting' whereby jobs would be removed from the shortage occupation list after a fixed period of time.

- Chapter 8 examines the proposal to restrict access to the UK labour market for the dependants of Tier 2 migrants.

- In Chapter 9 we summarise the existing evidence in relation to the economic contribution of skilled migrants. We then discuss the potential economic impacts of reforming Tier 2 along the lines of the recommendations set out in the earlier chapters.

- Finally, Chapter 10 concludes by summarising the key points of the report and restating our recommendations. In doing so, we also set out the volume of Tier 2 visas that may be affected as a result of our recommendations**. Because of some of the risks highlighted above we do not estimate the impact on skilled migration itself.**

1.8 Thank you

1.53 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.

Chapter 2: Policy context

2.1 Introduction

2.1 This chapter presents an overview of the UK Points Based System (PBS) for immigration. First, it provides the policy background and context for the PBS and then takes a detailed look at the main elements of Tier 2.

2.2 Overview of the Points Based System and Tier 2

2.2 The PBS was introduced in 2008 and consists of five tiers as set out in Table 2.1. Since April 2011, the PBS has been reformed to control volumes, to tighten against abuse and to improve selectivity. An annual limit has been introduced for Tier 2 (General); time limits have been applied to intra-company transfers; Tier 1 routes which allowed migrants to come to the UK to look for work have been closed; and there has been a shift away from points-based criteria towards increased emphasis on the overall credibility of applications.

Table 2.1: The five tiers of the Points Based System (PBS)

Name of tier	Immigrant groups covered by tier
Tier 1	Investors, entrepreneurs, graduate entrepreneurs and exceptionally talented migrants.
Tier 2	Skilled workers with a job offer in the UK.
Tier 3	Low-skilled workers needed to fill specific temporary labour shortages. Tier 3 has never been opened.
Tier 4	Students.
Tier 5	Youth mobility and temporary workers. This route is for those allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.

Source: Migration Advisory Committee, 2015

2.3 Tier 2 of the Points Based System is the primary route for economic migration to the UK. Broadly, the route is for skilled workers from outside the European Economic Area (EEA) who have an offer of employment in the UK in an occupation classed as skilled to NQF6 or above.

2.4 There are four routes within Tier 2: Tier 2 (General), Tier 2 (Intra-company Transfer), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). We are not looking at the minister of religion or sportsperson routes in this report, therefore they are not described in detail in this chapter.

2.3 Overview of Tier 2 (General) and Tier 2 (Intra-company Transfer)

Tier 2 (General)

2.5 Tier 2 (General) applies to two categories of skilled workers: those coming to fill jobs that have been advertised under the **Resident Labour Market Test** (RLMT), and those coming to take up jobs on the Government's **Shortage Occupation List** (SOL).

2.6 Migrants must be sponsored (i.e. have a **Certificate of Sponsorship** (CoS) from a licensed sponsor) and the work they do in the UK must relate to the work of the sponsor organisation. There is an annual limit of 20,700 on the number of CoS that will be issued under the Tier 2 (General) route. The limit applies primarily to out-of-country applicants. CoS issued under this limit are known as restricted CoS (RCoS). Unrestricted CoS assigned to migrants in-country do not need to be applied for individually and are therefore not scrutinised by the Home Office before they are assigned. Sponsors are given a limit to the number of CoS they can issue but the CoS details are not checked until a full migrant application is submitted.

2.7 There are a number of requirements that all Tier 2 (General) main applicants must meet. These include demonstrating a minimum level of English language competency as well as access to savings to prove they can support themselves in the UK. The full list of requirements is set out on the GOV.UK website. Additionally, main applicants and their dependants must pay the immigration healthcare surcharge of £200 per year.

Resident Labour Market Test

2.8 The RLMT route enables an employer to bring in a worker from outside the EEA if there is no suitably qualified worker within the UK or the EEA available to fill the specific skilled vacancy. Employers are required to advertise the relevant vacancy through Universal Jobmatch and at least one other medium for 28 calendar days. For new graduate posts, employers fulfil the RLMT requirements by visiting at least three UK universities and advertising on a listed graduate recruitment website and at least one other medium. Jobs paying more than £72,500 and specified PhD-level occupations do not have to be advertised through Universal Jobmatch, whilst jobs paying more than £155,300 are exempt from the RLMT.

2.9 Employers can also apply to bring in workers from outside of the EEA without going through the RLMT if the vacancy to be filled is for a job title on the Tier 2 shortage occupation list.

Shortage Occupation List

2.10 This list details the occupations and job titles presently held to be experiencing a labour shortage that would be sensibly filled using non-EEA labour either across the UK as a whole or in Scotland only. For an occupation or job title to be recommended for inclusion on the shortage occupation list it must be:

- **Skilled** to the required skill level for Tier 2 (currently NQF6+, which is broadly equivalent to degree level, with some exceptions);
- Experiencing a national **shortage** of labour; and
- Demonstrably **sensible** to fill these shortages using labour from outside the EEA.

2.11 The MAC is periodically asked to review the list to make recommendations for occupations to be added to or removed from the list. Most recently we carried out a partial review in February 2015.

Salary Thresholds

2.12 Since April 2015, all Tier 2 (General) migrants must earn an annual salary of at least £20,800. The figure of £20,800 was set following our recommendation in MAC (2009), when the skill requirement was NQF3. The salary threshold increases each year in line with wage inflation. There are also occupation-specific minimum thresholds and where these are greater than £20,800; they provide the minimum salary requirement for that occupation.

2.13 For most occupations, the pay thresholds for experienced workers are set at the 25th percentile of the pay distribution for full-time employees in that occupation. These are calculated using the Annual Survey of Hours and Earnings (ASHE), a survey of employers conducted by the Office for National Statistics. These thresholds apply to all in-country and out-of-country applicants under Tier 2 (General), with the exception of new entrants.

2.14 Lower pay thresholds for new entrant employees are set at the 10th percentile of the pay distribution for full-time employees in that occupation. The new entrant thresholds apply to:

- Graduates switching into Tier 2 (General) under the post-study provisions;
- Graduate recruits where the organisation used a university “milkround” to satisfy the RLMT;
- Graduates sponsored in the Intra-Company Transfer Graduate Trainee route; and

- Any workers making an initial application who are aged 25 or under on the date they apply.

2.15 Once a new entrant applies to extend their Tier 2 visa beyond three years and one month, they are no longer classified as a new entrant, and are required to meet pay thresholds at the 25th percentile of the pay distribution for full-time employees in their occupation.

2.16 In July 2015 the MAC provided early advice to Ministers on the issue of salary thresholds as part of the current commission to review Tier 2 (Migration Advisory Committee, 2015). The report set out our preference for using occupation-specific salary thresholds. However, we did not make specific recommendations on the level of the minimum salary thresholds.

2.17 Tier 2 (General) migrants can come to the UK for a maximum of five years and one month or the time given on their CoS plus one month, whichever is shorter. They can apply to extend this visa for up to another five years, as long as their total stay is not more than six years. At the end of their time in the UK, they must leave the country or switch into another immigration category unless they have successfully applied for settlement in the UK.

2.18 In 2011, following the recommendations in Migration Advisory Committee (2011), the government set in place a minimum pay threshold of £35,000 for settlement in the UK under Tier 2. This threshold will come into effect on 6 April 2016 and will apply to those admitted from April 2011 who are seeking to settle in the UK after five years' residence as a Tier 2 worker.

2.19 In addition, the MAC recommended that any adverse impacts of applying economic criteria to settlement decisions should be mitigated for some specific occupations. The MAC publicly stated that public sector jobs, such as nurses, were among those it had in mind in recommending mitigation. The government chose not to accept this recommendation but did provide for migrants to be exempt from the £35,000 income threshold if their job title had been on the shortage occupation list at any time during the period for which they held a Tier 2 visa**.**

Tier 2 Intra-company Transfers

2.20 The Tier 2 (Intra-company Transfer) route allows multinational companies to transfer key personnel from their overseas branches to the UK for temporary periods, rather than to fill permanent UK vacancies. Long-term transferees are able to come to the UK for a period of up to five years and short-term transferees can come for up to 12 months. There is a '*cooling off*' period of 12 months at the end of the migrant's stay during which the migrant cannot reapply for a visa to return to the UK. Very high earners (£155,300 and above) can remain in the UK for up to nine years and are exempt from the cooling off period.

2.21 There are four categories of user of the intra-company transfer route:

- **Long-term staff** – These are transferring into the UK for more than 12 months into a role that cannot be filled by a UK worker. These migrants need to have worked for their employer overseas for at least 12 months

- **Short-term staff** – These are transferring into the UK for up to and including 12 months into a role that cannot be filled by a UK worker. Migrants need to have worked for their employer overseas for at least 12 months.

- **Graduate Trainee** – These are transferring into graduate trainee programmes for specialist roles. Migrants need to be a recent graduate with at least three months' experience with the employer overseas.

- **Skills Transfer** – These are transferring into the UK to gain skills and knowledge needed to perform their role overseas, or to pass on their skills to UK colleagues. Migrants do not need to have been with their employer overseas for a set period of time.

2.22 Migrants using the Tier 2 (Intra-company Transfer) route are presently exempt from paying the immigration healthcare surcharge. Migrants using this route also need to show that they are being paid the appropriate salary. For long-term and short-term intra-company transferees there is an overall minimum threshold, but the occupational specific minimum thresholds described in paragraphs 2.13 and 2.14 above also apply. The minimum required salary is whichever is the greater of the two. The appropriate salaries for each type of Tier 2 (Intra-company Transfer) visa are as follows:

- Long-term Staff - a minimum of £41,500 or the appropriate rate for the role (whichever is higher);

- Short-term Staff, Graduate Trainee or Skills Transfer - a minimum of £24,800 or the appropriate rate (whichever is higher); and,

- Staff already in the UK on a Tier 2 (Intra-Company Transfer) visa or work permit issued before 6 April 2011 - at least the appropriate rate.

2.4 Dependants

2.23 Tier 2 main applicants are entitled to bring dependants into the UK. Main applicants must show their dependants can be supported while they're in the UK and each dependant must have sufficient funds available to them whether they apply with the main applicant or separately. This requirement can be met by, for example, having the relevant amount in savings which must have been held for at least three months prior to the date of application.

2.24 Eligible dependants include children under the age of 18, spouses, civil partners, same sex partners, and unmarried partners. Dependants granted

leave to enter or remain in the UK can take on any employment, although there is a prohibition on undertaking employment as a doctor in training.

2.25 Like main applicants, dependants are not entitled to access public funds. Where dependants have paid National Insurance contributions they will qualify for contributory benefits.

2.5 Limit on Tier 2

2.26 There is an annual limit of 20,700 restricted certificate of sponsorships (RCoS) available to sponsors under Tier 2 (General) and these are divided into 12 non-equal monthly allocations: 2,550 RCoS are available in the first month, and 1,650 in each following month. Each allocation is reduced by the number of unrestricted certificate of sponsorships (CoS) assigned to Croatian nationals in the previous month, and the monthly total is increased in line with any RCoS which have been unallocated, returned or reclaimed during the previous months. RCoS must be assigned to a migrant within three months from when they are allocated to the sponsor by the Home Office.

2.27 The Tier 2 (General) limit applies to the following (for which a 'restricted' CoS is needed):

- for new hires earning **under £155,300** per year and coming to work in the UK **from overseas**;
- for the dependant of a migrant who was last granted leave under Tier 4 and that dependant is already in the UK and wishes to switch into Tier 2 (General) and will be paid less than £155,300:
- for Croatian nationals.

2.28 The following are **exempt from the limit** and can apply for an unrestricted CoS:

- High earners – where the annual salary for the job is £155,300 or more;
- All applications by migrants who are applying from within the UK, including those extending their stay in Tier 2, changing employer, or switching immigration category (apart from those dependants set out in para 2.27 above).
- All users of the Tier 2 (Intra-company Transfer) route.

2.29 If the monthly limit is reached, the allocation of RCoS is currently based on points scored and prioritised based against a set of criteria, including salary. When the monthly allocation is oversubscribed, the RCoS are first allocated to those occupations on the shortage occupation list and PhD level positions. The remaining applications are then ordered by salary, with

the places allocated starting from the highest paid. The present point allocation is set out in Table 2.2 below.

Table 2.2: Allocation of points after monthly RCoS allocation is reached

Type of job	Points	Salary	Points
Shortage occupation	130	£100,000 - £155,300	60
		£75,000 - £100,000	55
PhD-level occupation code and job passes Resident Labour Market Test or an exception applies	75	£70,000 - £75,000	50
		£65,000 - £70,000	45
		£60,000 - £65,000	40
		£55,000 - £60,000	35
		£50,000 - £55,000	30
Job passes Resident Labour Market Test or an exception applies	20	£45,000 - £50,000	25
		£44,000 - £45,000	24
		£43,000 - £44,000	23
		£42,000 - £43,000	22
		£41,000 - £42,000	21
		£40,000 - £41,000	20
		£39,000 - £40,000	19
		£38,000 - £39,000	18
		£37,000 - £38,000	17
		£36,000 - £37,000	16
		£35,000 - £36,000	15
		£34,000 - £35,000	14
		£33,000 - £34,000	13
		£32,000 - £33,000	12
		£31,000 - £32,000	11
		£30,000 - £31,000	10
		£29,000 - £30,000	9
		£28,000 - £29,000	8
		£27,000 - £28,000	7
		£26,000 - £27,000	6
		£25,000 - £26,000	5
		£24,000 - £25,000	4
		£23,000 - £24,000	3
		£22,000 - £23,000	2
		£20,800 - £22,000	1

Notes: The top of each salary band has been rounded up. The bands do not overlap.
Source: Home Office Tier 2 Sponsor Guidance, Home Office 2015

2.30 Applications must score points from both columns, but can only score points for one entry in the first column. The score for the salary paid for the job is then added to this. For example, a job that is on the shortage occupation list with a salary of £24,800 will score 130 points plus a further 4 points for salary, to make 134 points in total. The application must score a minimum of 21 points to be valid. The effective salary thresholds for places within the limit in June, July, August, September and October 2015 were £46,000, £32,000, £24,000, £27,000 and £22,000 respectively.

2.6 Previous MAC work on Tier 2

2.31 In Annex B, we set out the main findings and recommendations from previous reports the MAC has published in relation to Tier 2.

2.32 In Chapter 3 we provide the data context to our review of Tier 2, including an analysis of recent trends within the UK economy and labour market and the use of Tier 2.

Chapter 3: Data context

3.1 Introduction

3.1 This chapter interrogates a number of relevant data sources in order to provide context for our review of Tier 2. As we are focusing on the route for skilled migrants coming to work in the UK we use data relating to the UK economy and labour market, vacancy data and general migration trends followed by specific visa data within the Tier 2 routes.

3.2 The chapter considers:

- The UK's recent economic performance and prospects compared to competitor economies.
- Recent trends in the UK labour market, including employment, vacancies and wage growth.
- Overall migration trends into and out of the UK, specifically considering work related routes.
- The use of Tier 2 within the broader Points Based visa system.
- The evolution of high skilled employment by nationality.

3.2 The UK Economy and Labour Market

Economy

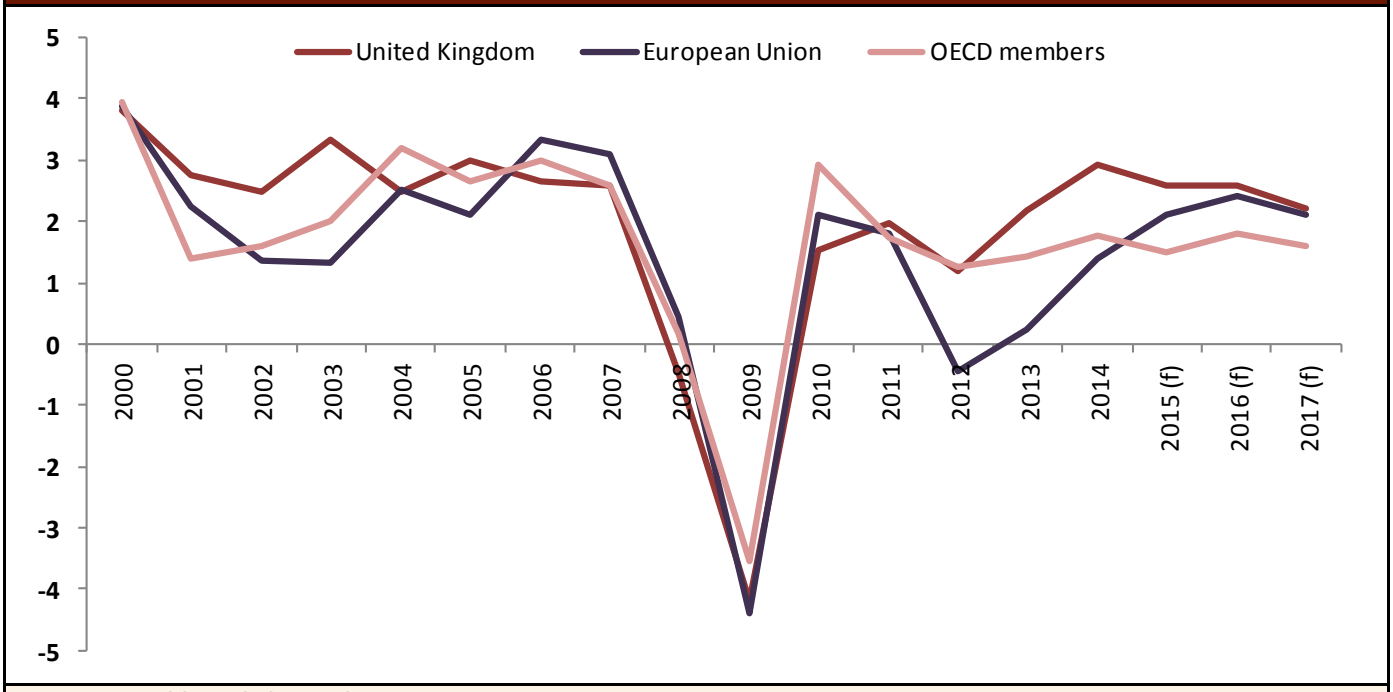
3.3 2015 Q2 marks the tenth successive quarter of growth in the UK economy, representing the longest sustained run of quarterly growth since the 2008 downturn (Office for National Statistics, 2015a). This has returned the UK economy to its pre-downturn trend rate of growth in annual terms though it has not caught up to its pre-downturn trajectory.

3.4 Figure 3.1 presents data from the World Bank (World Bank 2015a) comparing the annual percentage GDP growth rate for the UK, the European Union (EU) and the Organisation for Economic Co-operation and Development (OECD) countries over the last fifteen years alongside their forecasts to 2017. All the areas experienced a similar decline in GDP

at the time of the 2008/09 recession, as well as a similar return to growth in the two years that followed. Since 2012, the UK has grown faster than the EU average, though other countries such as Germany and Poland have performed similarly. The World Bank forecasts convergence of economic growth across the EU over the period 2015 to 2017.

3.5 In 2014 the UK also experienced a faster GDP growth per capita than both the EU and the OECD: 2.3 per cent compared to 1.0 and 1.1 per cent respectively (World Bank 2015b). Considering that prior to 2013 the UK had been underperforming both groups, this resurgence highlights the current relative strength of the UK economy.

Figure 3.1: Annual percentage change in GDP for the UK, European Union and OECD, 2000-2017



Source: World Bank (2015a)

Labour Market

3.6 In contrast to GDP, UK employment held up well during and following the 2008 downturn. Unemployment initially rose by less than expected given the magnitude of the fall in output (Gregg and Wadsworth, 2010). More recently, employment has grown strongly and unemployment fallen sharply.

3.7 There were 31.3 million people in work in the UK in the three months to October 2015, 505,000 more than a year earlier (Office for National Statistics, 2015b). Of this, 28.1 million were UK nationals. Whilst this growth in employment partly reflects a growth in the working age population reflected in the immigration figures below, the proportion of working age people in work was 73.9 per cent which is the highest since comparable records began in 1971.

3.8 Over the last year, unemployment has fallen by 244,000 to reach 1.71 million over the last year to October 2015. The unemployment rate is down to 5.2 per cent compared with the peak of 8.5 per cent in November 2011. The claimant count figure has also fallen to 796,000 over the same period. The Office for Budget Responsibility do not expect unemployment to fall significantly further and to remain around 5 per cent.

3.9 Skilled migrants form an important part of employment growth. Table 3.1 shows employment by nationality across all occupations skilled to at least National Qualifications Framework Level 6 (NQF6+). Since 2012, total skilled employment has risen by around 740,000. 630,000 of this rise was due to increased employment of UK nationals, and 90,000 was due to the increased employment of EU nationals. Employment of non-EU nationals in skilled work rose by 20,000 over this same period, but this comprises a fall of almost 40,000 between 2012 and 2013 since which time skilled non-EU employment has grown by 60,000.

Table 3.1: Total employment of individuals in the UK aged 16-64 by country of birth in NQF6+ occupations, 2012-2015

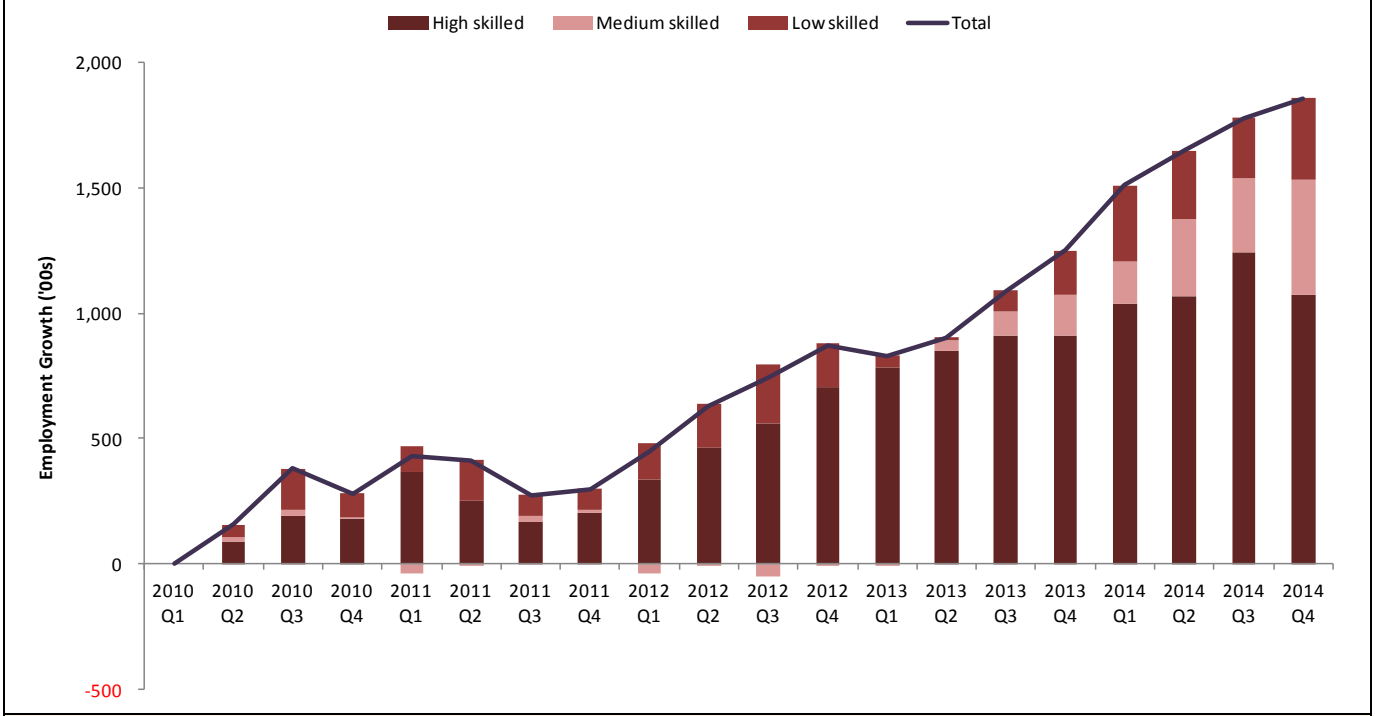
	2012	2013			2014			2015		
Region	**Total**	**Total**	**Change 2012-2013**		**Total**	**Change 2013-2014**		**Total**	**Change 2014-2015**	
EU	371,668	392,327	20,659	*(6%)*	407,632	15,305	*(4%)*	459,919	52,287	*(13%)*
Non-EU	897,715	860,876	-36,839	*(-4%)*	921,899	61,023	*(7%)*	919,575	-2,324	*(-0%)*
UK	6,647,972	6,942,410	294,438	*(4%)*	7,031,150	88,740	*(1%)*	7,281,401	250,251	*(4%)*
All	**7,917,355**	**8,195,613**	**278,258**	***(4%)***	**8,360,681**	**165,068**	***(2%)***	**8,660,895**	**300,214**	***(4%)***

Notes: For individuals working in occupations skilled to NFQ6+, aged between 16 and 64 for whom a SOC code. Changes in EU and non-EU employment are not statistically significant and may be zero within the margin of error. and nationality could be allocated.
Source: Labour Force Survey, Q3 2012 -2015

3.10 Across the period from 2010 to 2014, growth in employment has been driven predominantly by growth of over 1 million in highly skilled occupations. However, since June 2013, the proportion of growth in employment has increased in medium- and low-skilled occupations.

3.11 In the years between January 2010 and June 2013, a significant majority (94 per cent) of the UK's net employment growth had been due to higher skilled jobs. In contrast, by December 2014, less than 60 per cent of the total net increase in employment across the whole period could now be accounted for among high skilled occupations (Figure 3.2).

Figure 3.2: Cumulative UK employment growth for high, medium and low skilled occupations, 2010-2014.



Notes: Cumulative increases in employment since 2010 Q1. Skill level relates to SOC2010 occupational breakdown. Low skill includes elementary occupations, plant machine operatives, sales and customer services whilst High skill includes managers, professional and associate professional and technical occupations. Medium skill is calculated as total employment less employment in high and low-skilled occupations.
Source: Bank of England (2015a)

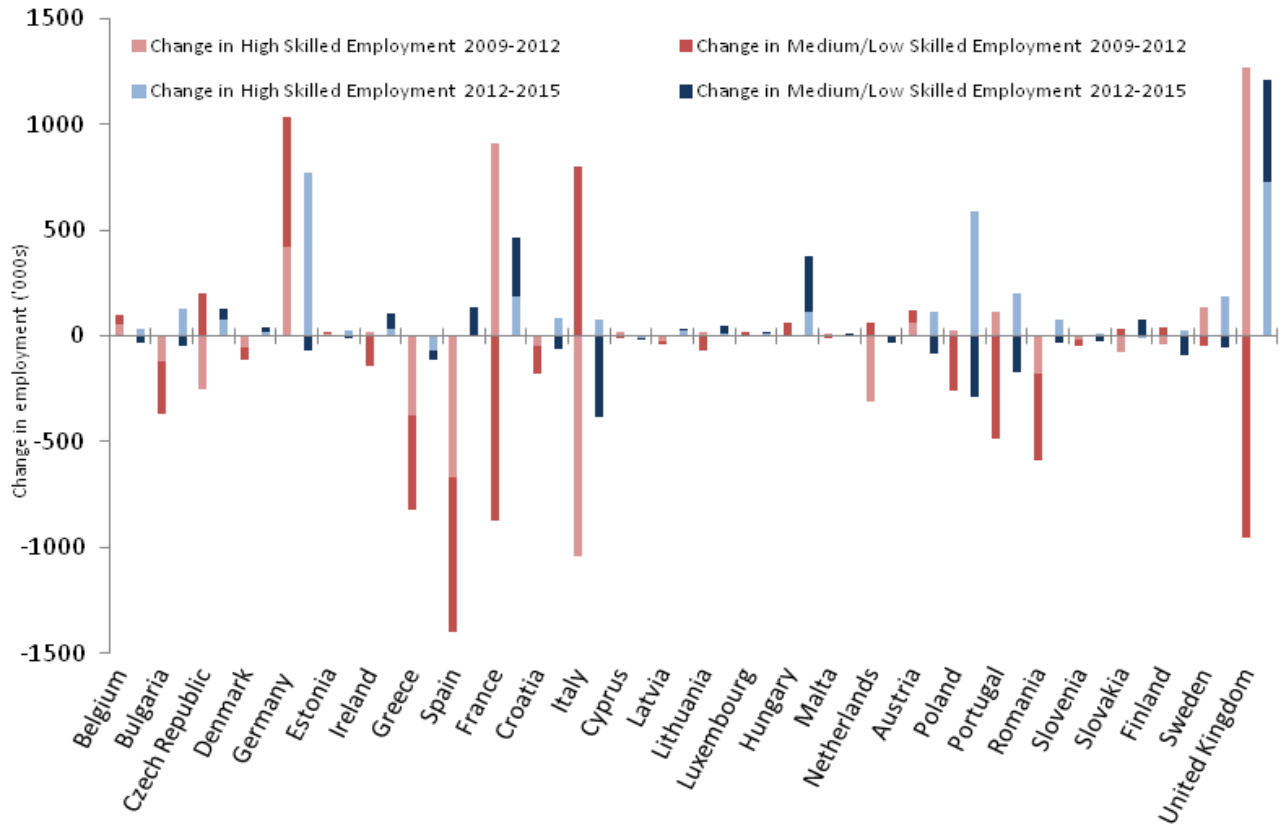
3.12 We used Eurostat data (Eurostat 2015) to compare the UK experience with the growth, or otherwise, of skilled employment across the EU. Comparatively, of all the EU countries, the UK had the largest absolute increase in skilled employment between 2009 and 2012 and the second largest increase, behind Germany, between 2012 and 2015 (Figure 3.3). Conversely, the UK had the largest reduction in medium to low skilled employment from 2009 to 2012.

3.13 In comparison, a number of European economies, including Spain and Italy, experienced a significant reduction in high skilled employment from 2009 to 2012 and tended not to have experienced significant growth from 2012 to 2015.

3.14 Whilst the scale of this change can partly be accounted for by the size of the population of the likes of the UK and Germany, the strength of their respective economies and labour markets have acted as a pull factor for skilled migration in a way that those of other comparably sized countries have not.

3.15 This trend of the UK experiencing a higher increase in skilled employment than other EU countries may prove to be an important factor in our consideration of migrant flows in the next section and in the wider consideration of ways to restrict Tier 2 in the rest of this report.

Figure 3.3: Change in 'high', 'medium to low' skilled employment for EU countries, 2009-2015, (000s)

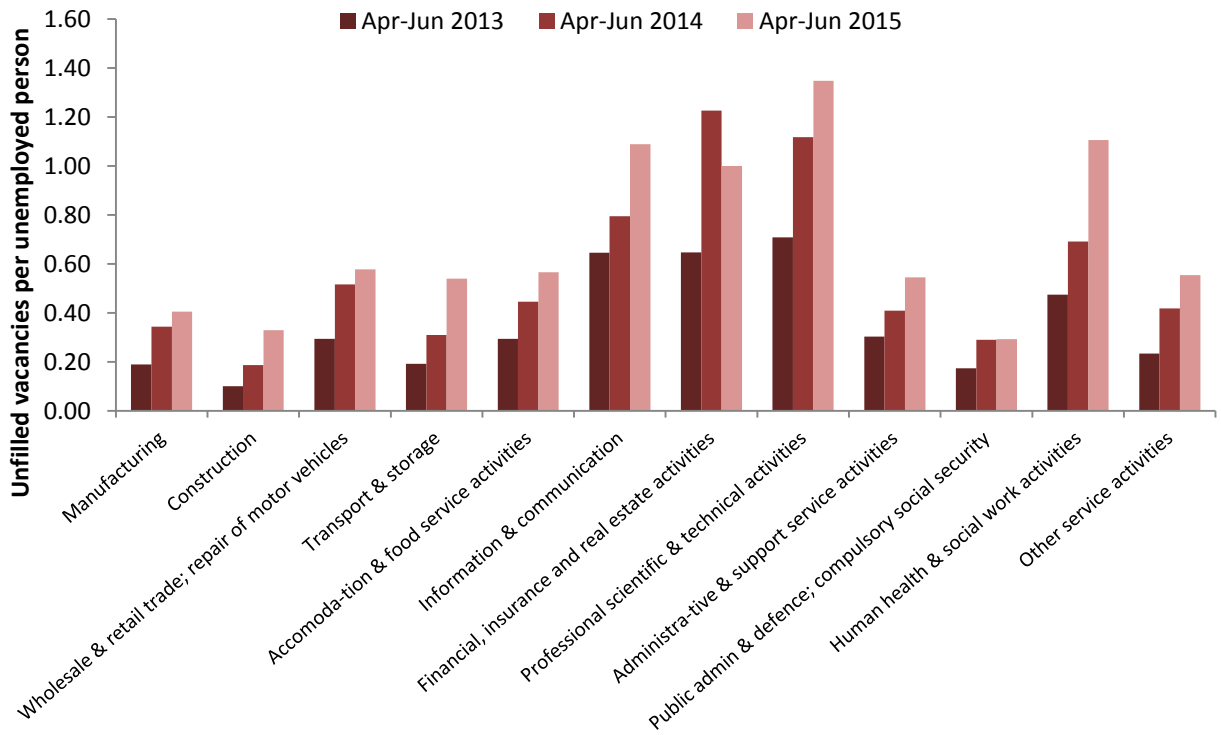


Notes: For the purposes of this chart, high skilled relates to ISCO08 skill levels 1, 2 and 3. Medium to low skilled relates to ISCO08 skill levels 4 to 9.
Source: Eurostat (2015)

3.16 As employment is rising, there is also increasing evidence that the UK labour market is tightening. The rising number of vacancies relative to unemployment (the V/U ratio) suggests that it is becoming more difficult to fill vacancies.

3.17 Figure 3.4 shows that the V/U ratio increased for all but one 1-digit Standard Industrial Classification (SIC) 2007 industry between 2013 and 2015 but that the rate of change varied considerably. This suggests that labour market slack is unevenly distributed across the sectors. Financial, insurance and real estate activities experienced the only decrease in V/U ratio, indicating a potential move away from shortage in these industries.

Figure 3.4: Unfilled vacancies per unemployed person by broad sector in the UK, 2013-2015

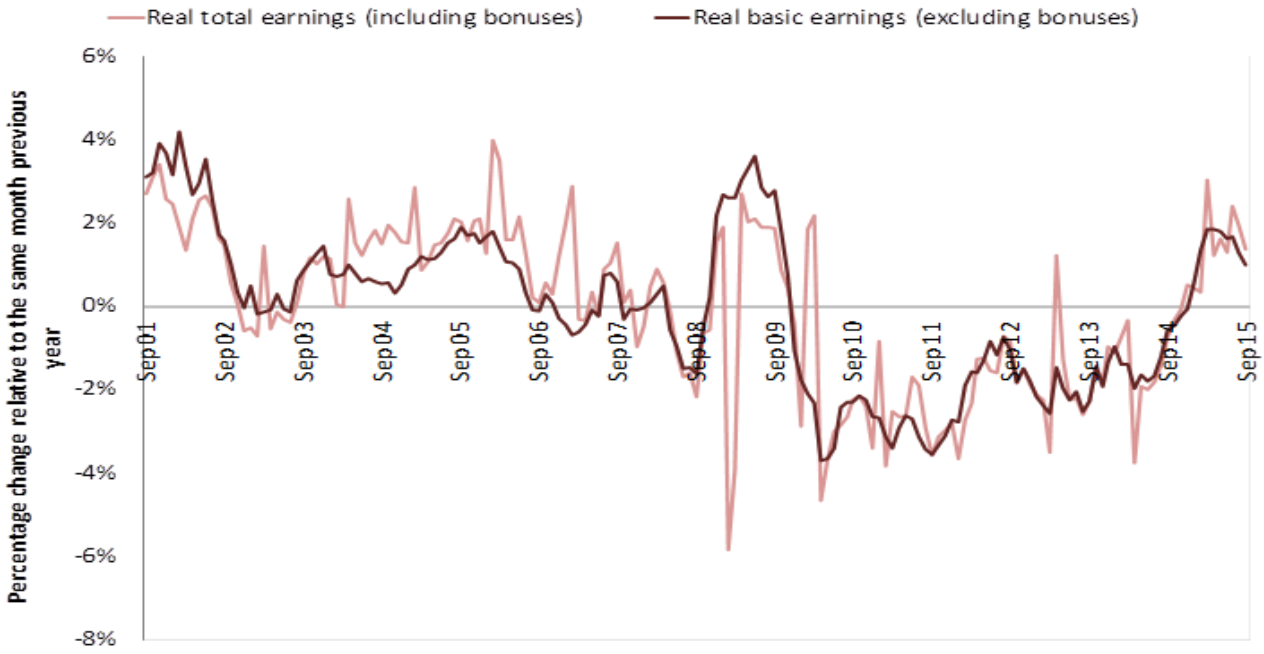


Notes: The vacancy data is not seasonally adjusted. This unadjusted series is, however, the best available estimate of a seasonally adjusted series. The V/U ratio has been calculated by dividing the number of vacancies in an industry by the level of unemployment in that industry. Total vacancies are estimated from the monthly Vacancy Survey, which asks employers how many vacancies they have in total for which they are actively seeking recruits from outside their organisation. These figures are then sorted by industry of last job as percentage of economically active by industry (Standard Industrial Classification SIC 2007). Industries omitted from this analysis include, but are not limited to, agriculture, forestry and fishing.
Source: Office for National Statistics (2015c)

3.18 Although the UK's recent labour market performance in terms of employment has been strong, average earnings growth has been modest and, until recently, below the rate of inflation. This partly reflects the lack of productivity growth since 2008. However, average weekly earnings growth has increased in recent months with real basic earnings rising by 2.1 per cent in the three months to October 2015 and real total earnings rising by 2.4 per cent over the same period (Figure 3.5).

3.19 In its August 2015 Inflation Report (Bank of England, 2015b), the Bank of England noted that the impact of factors that have previously weighed on wage growth, such as an influx of young and lower skilled migrants, could have started to wane and that wage growth is expected to continue in the near term.

Figure 3.5: Year-on-year growth in real total (including bonuses) and regular (excluding bonuses) earnings in the UK, 2001–2015



Source: Office for National Statistics (2015d)

3.3 Migration stocks and flows

Overall migration trends

3.20 Net migration in the UK has risen from 44,000 in 1991 to 336,000 for the year ending June 2015 – an 82,000 increase from the previous year (Figure 3.6). This total is the highest on record and was fuelled by a significant increase in immigration accompanied by stagnation in the emigration of UK nationals (Office for National Statistics, 2015e).

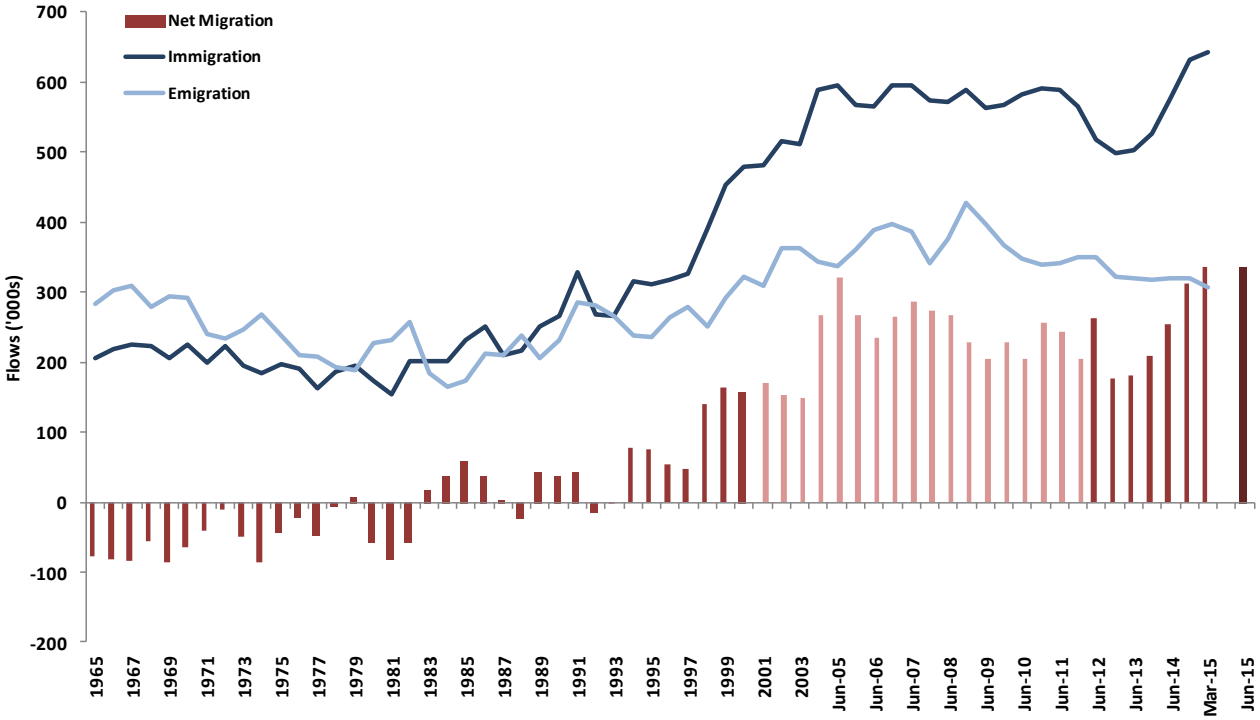
3.21 Net migration of EU migrants to the UK was modest[4] until the expansion of the EU in 2004, rising to 127,000 in the year ending December 2007. Although it fell sharply to less than 60,000 with the onset of the financial crisis in 2008, by early 2015 had exceeded 180,000. Non-EU net migration, despite having fallen between 2011 and 2013, rose to 201,000 in the year ending June 2015 and still accounts for a greater share of net migration.

3.22 Emigration of UK nationals doubled from around 50,000 in the late 1990s to around 100,000 in 2006-2007. It has since declined again to 45,000 in the year ending June 2015. Prior to 2012, emigration of UK nationals effectively cancelled out immigration from the EU, making net migration effectively a measure of immigration from outside of the EU. However, the

[4] Except for the period 1995-1998 (when it was between 18,000 and 33,000), net EU immigration to the UK was 15,000 or less each year between 1991 and 2003.

decline in UK emigration combined with the rise in EU immigration has meant that non-EU and EU net migration are now both individually greater than the net outflow of UK nationals.

Figure 3.6: Flows of long-term migrants to and from the UK, 1991 – 2015



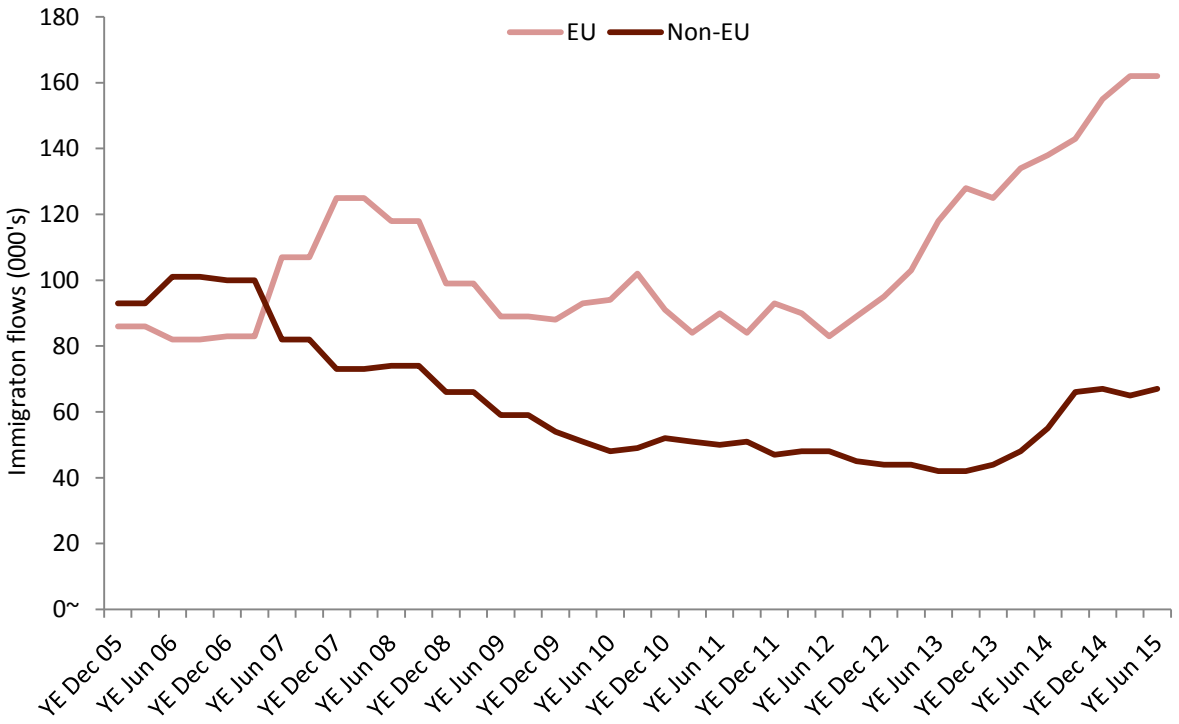
Notes: The ONS have released revised headline net migration figures for 2001 to 2011 in light of the results of the 2011 Census. However, none of the sub-components of the net migration statistics were revised (e.g. emigration/immigration, breakdowns by region or by reason for migration). As a result, over this period, in the charts above, the sub-components may not sum to the total net migration measure presented on the charts. 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. EU includes EU15, EU8, EU2, Malta, Cyprus and, from 2013, Croatia.
Source: Office for National Statistics (2015e)

3.23 EU nationals have accounted for most of the increase in work-related immigration since 2007. Immigrants coming to the UK for work related reasons in the year to June 2015, including those coming with a job and those coming to look for a job, included 162,000 EU nationals. The number of non-EU nationals coming to the UK for work-related reasons in that same period was 67,000. The number of non-EU nationals using this route had been declining steadily since 2007, though did pick up again in early 2014.

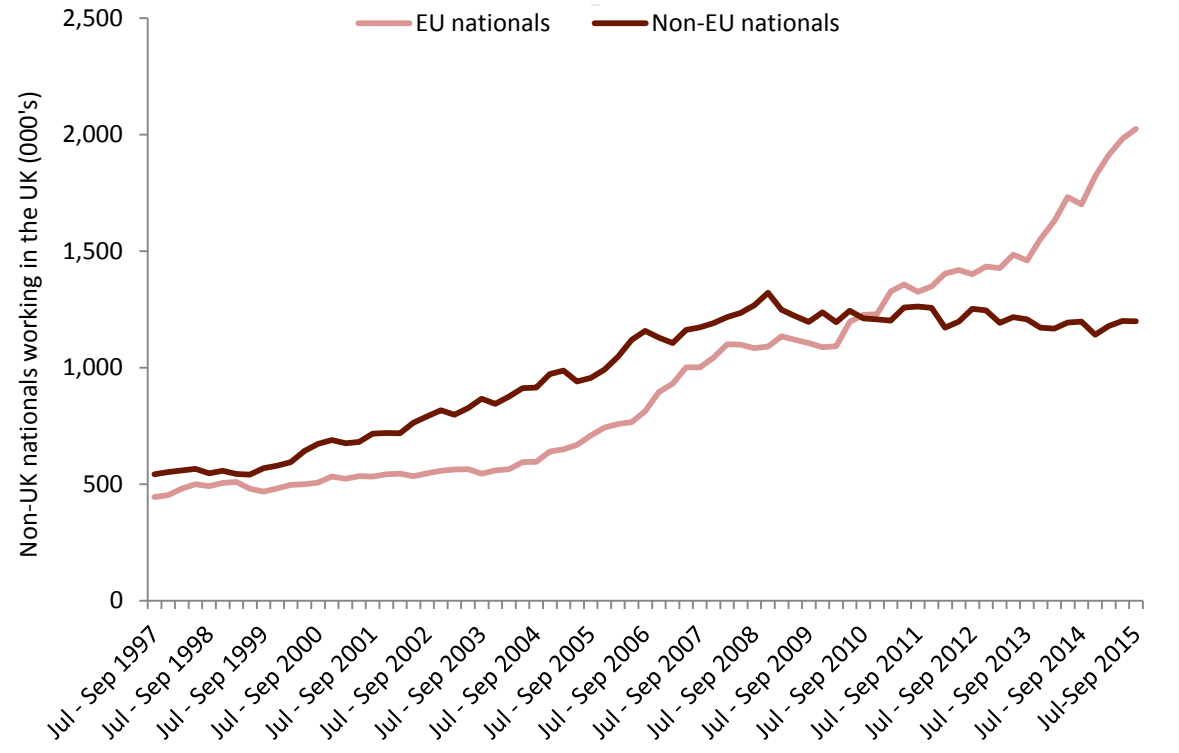
3.24 The increased numbers of EU nationals coming to the UK to work has meant that for first time, in 2010, the stock of EU nationals working in the UK was greater than that of non-EU nationals (Figure 3.7). In September 2015, there was an all time high of 2.03 million EU nationals working in the UK. In comparison, 1.2 million non-EU nationals were working in the UK, 100,000 less than the peak in 2008.

Figure 3.7: Immigration stocks and flows to the UK from EU and non-EU nationals, 1997-2015

Immigration of EU and non-EU nationals for "work related reasons", 2005 – 2015



Stock of non-UK nationals working in the UK, 1997 - 2015

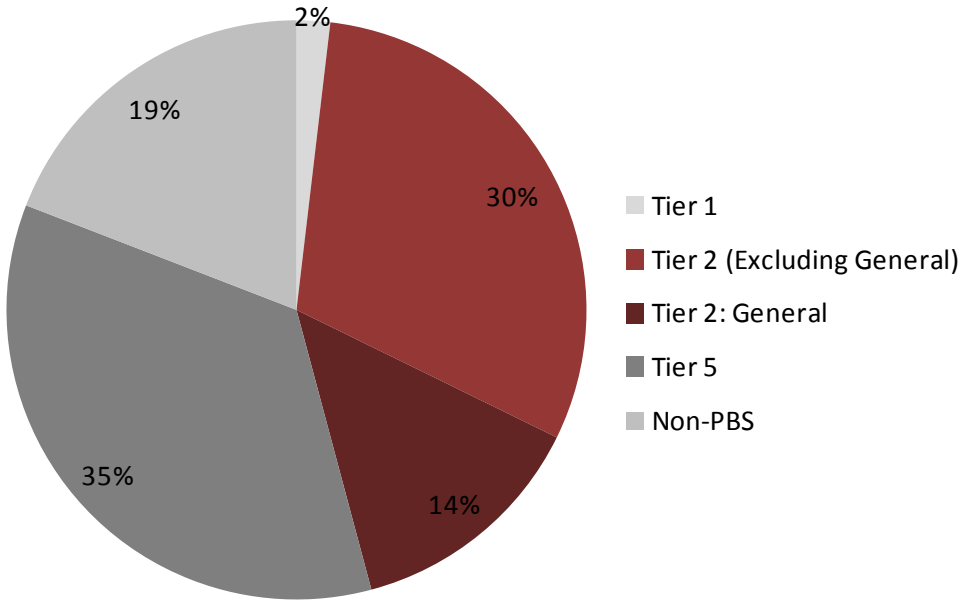


Source: Office for National Statistics (2015b) and Office for National Statistics (2015e)

Visas for non-EEA nationals

3.25 The Tier 2 route as a whole represents just under half of all entry clearance visas granted for work purposes in the year ending June 2015 (Figure 3.8). The capped Tier 2 (General) route represents a smaller subset, approximately 14 per cent of the total.

Figure 3.8: Entry clearance visa breakdown for main applicant "work" visas for the year ending June 2015.



Source: Home Office Immigration Statistics (2015)

3.26 In 2014, there were 52,478 Tier 2 entry clearance visas issued to main applicants, accounting for 18 per cent of all entry clearance visas issued, including dependants but excluding visitors and transit (Table 3.2). In addition, 35,266 in-country extensions were issued to Tier 2 main applicants in 2014, of which 22,590 were an extension of the original visa category.

3.27 Of the 52,478 entry clearance visas issued to main applicants under Tier 2 in 2014, 15,255 were through Tier 2 (General) (approximately 14,200 of which were through the RLMT and 1,400 through the shortage occupation route[5]) and 36,635 through the Tier 2 (Intra-Company Transfer) route. Of the 35,266 in-country extensions, 26,700 were through Tier 2 (General) and 8,045 through the Tier 2 (Intra-Company Transfer) route.

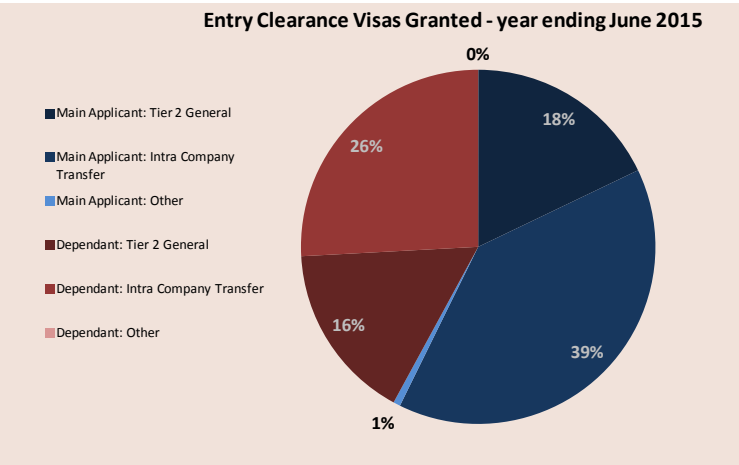
3.28 The number of entry clearance and extension visas granted remained relatively stable between 2009 and 2012, rising from 36,287 to 39,171 for

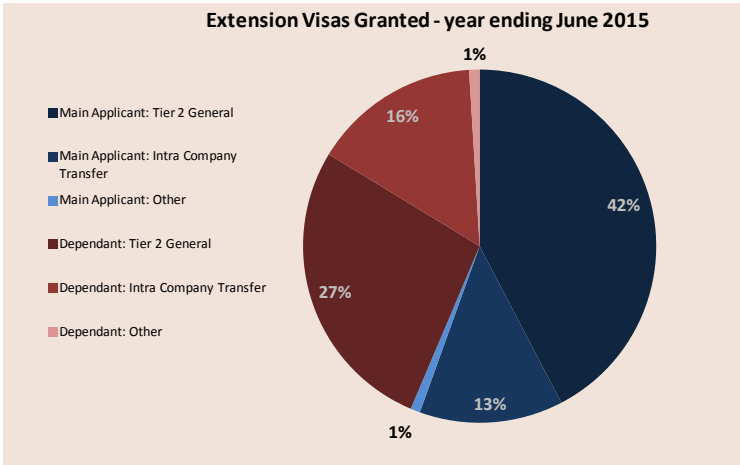
[5] The breakdown of Tier 2 General entry clearance into RLMT and SOL routes uses the Certificates of Sponsorship from Management Information data over the same period. Therefore the figures may not sum to the totals provided through Home Office Immigration Statistics visa data.

main applicants and 27,851 to 29,524 for dependants. Since 2012, however, there has been a significant increase in both entry clearance and extension visas. For main applicants, entry clearance visas under Tier 2 increased by 34 per cent from 2012 to 2014 while extensions rose by over 19 per cent over the same period.

Table 3.2: Entry clearance visas issued and granted extensions of stay for Tier 2, 2009 to 2014

	2009	2010	2011	2012	2013	2014
Entry clearance visas						
Main applicants	36,287	39,922	38,088	39,171	45,636	52,478
Tier 2: General	8,556	9,914	7,764	9,420	11,779	15,255
Intra company transfers	22,029	29,170	29,708	29,255	33,240	36,635
Other	5,661	835	614	496	617	588
Dependants	26,982	28,268	28,344	28,933	34,346	38,247
Granted extensions of stay						
Main applicants	27,851	21,269	18,205	29,524	37,656	35,266
Tier 2: General (Same visa category)	12,900	14,306	11,295 (4,059)	20,185 (10,116)	28,377 (14,553)	26,700 (14,757)
Intra company transfers (Same visa category)	6,624	6,149	6,377 (5,347)	8,656 (8,178)	8,546 (8,203)	8,045 (7,833)
Other	7,898	789	531	681	733	521
Dependants	23,007	16,194	13,525	20,668	25,499	25,668
Total	**114,127**	**105,653**	**98,162**	**118,296**	**143,137**	**151,659**



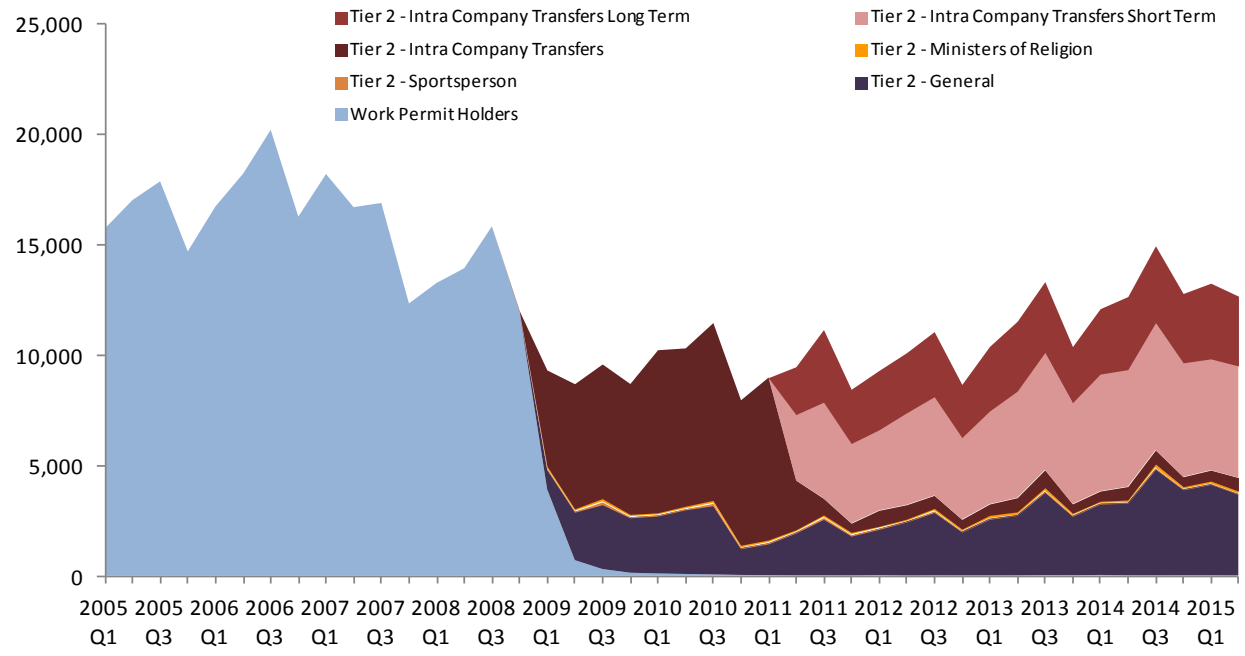


Notes: "Other" includes Ministers of Religion, Sportspersons and a few legacy applications under the Work Permit scheme.
Source: Home Office Immigration Statistics, (2015).

3.29 The Tier 2 (General) route experienced the most significant recent increase, from 9,420 entry clearance visas in 2012 to 15,255 in 2014, an increase of 62 per cent. Extensions of stay granted to main applicants under Tier 2 increased by 19 per cent in the same period, again driven by an increase within the Tier 2 (General) route.

3.30 Tier 2 entry clearance dependant visas followed a broadly similar trend, rising moderately from 2009 to 2012, then significantly increasing by 32 per cent from 2012 to 2014, peaking at 38,247 in 2014.

Figure 3.10: Entry Clearance visas issued to Tier 2 and work permit main applicants by route, January 2005 – June 2015



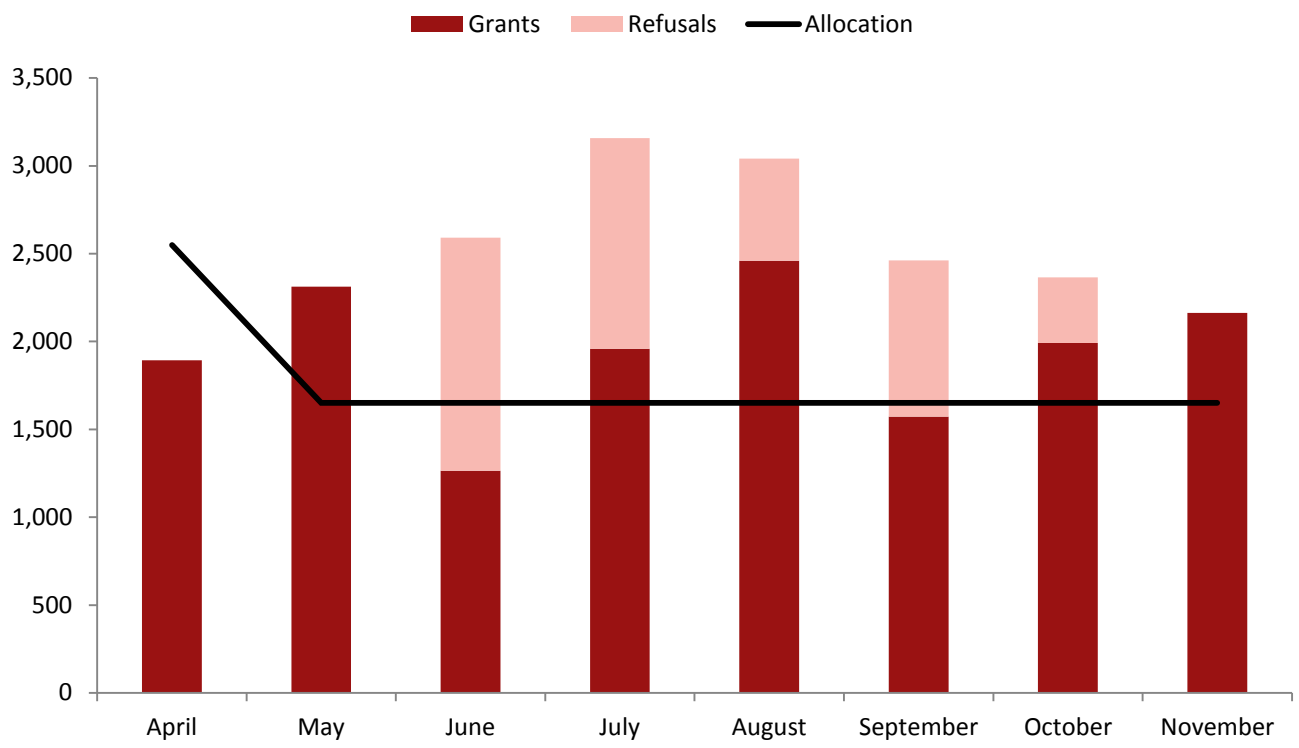
Source: Home Office Immigration Statistics (2015)

3.31 Allocations of Tier 2 (General) out-of-country Certificates of Sponsorship (CoS) are restricted to 20,700 per year. These Restricted Certificates of Sponsorship (RCoS) are allocated monthly: 2,550 in April and 1,650 for every other month in the year. This monthly limit was reached for the first time in May 2015. However, unused RCoS that were carried over from April meant that the limit did not in fact bite until June 2015.

3.32 In June and July, the demand for RCoS resulted in applications requiring 50 and 45 points respectively to qualify for an RCoS. For occupations not on the Shortage Occupation List, the salary offered needed to be at least £46,000 in June and £32,000 in July. Due to these high salary requirements, over 1,100 applications were refused in each of these two months.

3.33 In the four months from July to November 2015, the number of applications and, as a result, the salary requirement and number of refusals has fallen substantially. In October, applications were successful at just 22 points, equivalent to a salary of £22,000, and just 374 applications were refused. In November, all valid applications were once again granted for the first time since May.

Figure 3.11: Restricted Certificates of Sponsorship granted and refused April-November 2015.



Notes: CoS are allocated on a monthly basis with a limit per month of 1,650 (excluding April). When this limit is not reached, the number of granted applications for subsequent months can be higher than this limit as CoS are carried over from the previous month.
Source: Home Office Management Information (2015)

3.4 Management Information breakdown

Tier 2 (General)

3.34 Table 3.3 shows that the total number of CoS applications, both in and out-of-country , under the RLMT have risen steadily, from 19,687 in 2010 to 37,889 in 2015, almost doubling in five years. In comparison, the total number of CoS applications, including in-country applications, under the SOL has fallen by almost a third over time from 8,958 in 2010 to 3,250 in 2015. In 2015, the SOL made up only 8 per cent of all Tier 2 (General) applications.

3.35 What this table also highlights is that the volume of in-country CoS used exceed those for out-of-country for both sub-routes and across all years. As only the out-of-country Tier 2 (General) applications are subject to a limit, this means the majority of the CoS used are unrestricted. We explore the components of these in-country CoS in more detail in Chapter 7.

Table 3.3: Tier 2 (General) Certificates of Sponsorship Used by route, year ending August 2010-2015

		2010	2011	2012	2013	2014	2015
RLMT	In-country	11,247	8,221	14,667	24,536	25,603	23,098
	Out-of-country	8,440	5,188	8,008	9,274	12,428	14,791
	Total	19,687	13,409	22,677	33,810	38,031	37,889
	%	*69*	*73*	*87*	*89*	*92*	*92*
SOL	In-country	5,109	2,935	2,008	2,540	2,006	1,729
	Out-of-country	3,849	2,131	1,506	1,521	1,397	1,521
	Total	8,958	5,066	3,514	4,061	3,403	3,250
	%	*31*	*27*	*13*	*11*	*8*	*8*
	Total	**28,645**	**18,475**	**26,191**	**37,871**	**41,434**	**41,139**

Notes: The fall in the number of CoS issued in 2011 is likely to do with restrictions to the Tier 2 (General) route coming into effect in this year, for example the introduction of a limit.
Source: Home Office Management Information, Total CoS used, year ending August 2015

3.36 In Table 3.4 below we show the main occupations using the Tier 2 (General) route. Together these ten occupations represent over 50 per cent of the overall use of the Tier 2 (General) route. The largest SOC code used for the year ending August 2015 was 2211 'Medical practitioners', closely followed by 2119 'Natural and social science professionals'.

Table 3.4: Top 10 SOC Codes used within the Tier 2 (General) route, year ending August 2015

SOC Code	In-country	Out-of-country	Total
2211 'Medical practitioners'	2,301	1,301	3,602
2119 'Natural and social science professionals not elsewhere classified'	2,225	1,368	3,593
2136 'Programmers and software development professionals'	1,416	1,445	2,861
2231 'Nurses'	1,464	1,140	2,604
2423 'Management consultants and business analysts'	1,436	1,108	2,544
3545 'Sales accounts and business development managers'	1,432	679	2,111
3534 'Finance and investment analysts and advisers'	1,009	765	1,774
2135 'IT business analysts and software development professionals	873	774	1,647
2421 'Chartered and certified accountants'	681	730	1,411
2311 'Higher education teaching professionals'	867	440	1,307
Total (top 10)	13,704	9,750	23,454
Overall total	**24,827**	**16,312**	**41,139**

Source: Home Office Management Information, Total CoS Used, year ending August 2015

3.37 Table 3.5 then lists the main sponsoring employers. Between them the ten biggest users account for around 10 per cent of all flows under Tier 2 (General). This contrasts with the Tier 2 (Intra-Company Transfer) route, where the top 10 organisations represent almost half of the route (Table 3.8).

Table 3.5: Top 10 organisations using the Tier 2 (General) route, year ending August 2015

Organisation name	In-Country	Out-of-Country	Total
Ernst & Young	232	443	675
Health Education England	536	27	563
University of Oxford	270	199	469
Deloitte LLP	214	212	426
JPMorganChase & Co.	201	224	425
The University of Cambridge	215	196	411
Accenture (UK) Limited	194	164	358
HSBC Holdings plc	126	200	326
London North West Healthcare NHS Trust	120	196	316
PricewaterhouseCoopers LLP	202	111	313
Total (top 10)	**2,310**	**1,972**	**4,282**
Overall Total	**24,827**	**16,312**	**41,139**

Source: Home Office Management Information, Total CoS used, year ending August 2015

3.38 Table 3.6 sets out the salary distribution for Tier 2 (General), split by RLMT and SOL routes. As explained in Chapter 2, there will be a lower bound due to the requirement for minimum flat and occupational-specific salary thresholds. The median salary for out-of-country applications under the RLMT is £43,000, compared to £37,500 for the SOL. In-country applications have a lower median salary, which may be explained by the large number of students switching from Tier 4 to Tier 2.

3.39 The salary distribution is lower for both the SOL route and for in-country applications in general. As the limit for out-of-country RCoS has been reached since May 2015, the prioritisation of applications based predominantly on wages may have pushed up average wages for this route. However, as applications under SOL have priority regardless of salary, this uplift would not be expected.

3.40 Despite this, we would still expect the salaries paid to occupations on the SOL to be higher due to the shortage that must by definition exist. It is noteworthy that this is not the case. In addition, despite similar age profiles, the salaries paid to in-country applicants under SOL are substantially lower than their out-of-country counterparts.

Table 3.6: Salary distribution for Tier 2 (General) route (including allowances) for both In- and Out-of-Country applications, year ending August 2015 (£)

Percentile	RLMT		SOL	
	In-Country	Out-of-Country	In-Country	Out-of-Country
10th	21,100	27,500	26,000	27,000
20th	23,000	30,400	29,600	29,800
25th	25,000	32,000	30,000	30,200
30th	26,800	33,200	30,000	31,800
40th	30,000	37,300	32,100	34,300
50th	32,300	43,000	35,000	37,500
60th	36,000	50,000	39,800	42,000
70th	42,000	60,000	45,400	49,000
75th	45,500	65,700	49,500	53,500
80th	51,800	75,000	55,000	60,000
90th	73,000	110,500	68,800	74,200

Notes: Out-of-country may have been pushed upwards due to limit being reached in June, July and August which pushed up the effective minimum salary requirement needed to obtain a CoS.
Source: Home Office Management Information, Total CoS used, year ending August 2015

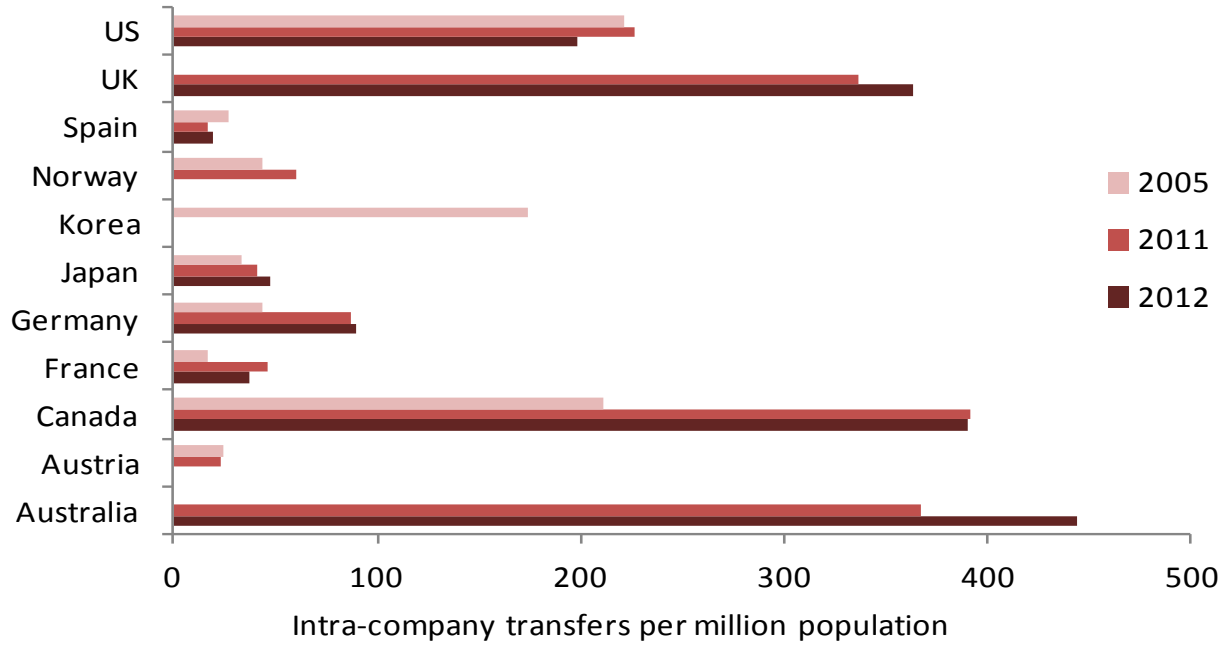
Tier 2 (Intra-company Transfer)

3.41 Amongst those (OECD) countries for which data are available, the UK has the third largest intake of intra-company transfers per million of the total population, behind Australia and Canada. Figure 3.12 shows that for other EU countries, including France and Germany, the annual inflow of intra-company transfers per capita is much lower compared to the UK.

3.42 These comparative OECD data only go as far as 2012, but updating the UK figures using the latest Home Office visa data shows a marked expansion of intra-company transfers; from 360 per million population in 2012 to 560 in the year ending August 2015.

3.43 Intra-company transfers now dominate the Tier 2 route as a whole. In 2014, just under 70 per cent of entry clearance (out-of-country) visas under Tier 2 were through the Tier 2 (Intra-company Transfer) route.

Figure 3.12: Intra-company transfers per million population, selected countries, 2005-2012



Source: MAC analysis of the data presented in the International Migration Outlook, Organisation for Economic Co-operation and Development (2014b)

3.44 Table 3.7 shows that around half of all applications under the Tier 2 (Intra-Company Transfer) route are short-term, with 45 per cent using the long-term route and only five per cent using the skills transfer route (though for out-of-country CoS the short-term route accounts for around two-thirds of the total).The graduate trainee route is limited to five graduates per organisation, which may in part explain the low usage of this route (121 CoS in 2015). Since 2012, the graduate trainee and skills transfer routes have seen a small drop in total numbers, whilst the short-term and long-term have both seen a significant increase, rising by 54 per cent and 32 per cent respectively.

3.45 Short-term intra-company transfers are for less than 12 months duration and, as such, should not count towards the net migration figures as determined by the Office for National Statistics (the current definition of an immigrant is that they are coming for 12 months or more). However, due to the nature of the survey design, migrants interviewed may state that their visit is for 12 months and they may therefore be counted in the figures. This means that they may, incorrectly, be contributing to the net migration figures each year.

3.46 Intra-company transferees have no route to settlement in the UK (apart from those earning more than £155,300). In a steady state, if there are a constant number of intra-company transferees coming to the UK, there is no impact on net migration as such intra-company transferees have to leave the UK at the end of their visa. However, in recent years there has been a significant increase in the use of this route. This increases the total

stock of migrants in the UK and contributes to net migration as long as there is a sustained rise in numbers.

3.47 Ideally, we would want to know the stock of Tier 2 (Intra-Company Transfer) migrants within the UK. However, we do not currently have the exit checks data available to determine who has left the UK. Sponsors have very little incentive to apply for anything shorter than the maximum length of visa therefore the data on visa lengths is not helpful when trying to estimate the average length of stay. We would therefore have to base any estimates of the stock of intra-company transfers on assumptions.

Table 3.7: Tier 2 (Intra-Company Transfer) CoS Used by route, year ending August 2009-2015

		2010	2011	2012	2013	2014	2015
Graduate	In-country			5	4	5	5
	Out-of-country			114	129	123	116
	Total	**-**	**-**	***119***	***133***	***128***	***121***
Skills Transfer	In-country	-	-	23	39	30	31
	Out-of-country	-	-	2,061	2,185	2,003	2,002
	Total	**-**	**-**	***2,084***	***2,224***	***2,033***	***2,033***
Short Term	In-country	-	-	488	585	799	993
	Out-of-country	-	-	13,704	17,747	20,689	20,912
	Total	**-**	**-**	***14,192***	***18,332***	***21,488***	***21,905***
Long Term	In-country	-	-	5,698	8,319	7,251	6,880
	Out-of-country	-	-	9,282	11,451	11,895	12,906
	Total	**-**	**-**	***14,980***	***19,770***	***19,146***	***19,786***
Total	In-country	6,353	6,484	7,614	8,951	8,106	7,913
	Out-of-country	28,815	29,745	29,359	31,525	34,714	35,936
	Total	**35,168**	**36,229**	**36,973**	**40,478**	**42,820**	**43,849**

Notes: Before August 2011 all Tier 2 (Intra-Company Transfers) were combined into one general category therefore cannot be broken down into routes.
Source: Total CoS used, Home Office Management Information, year ending August 2009 to year ending August 2015.

3.48 There are currently just over 7,000 sponsors under the Tier 2 (Intra-company Transfer) route, with over 800 licences granted in 2014. The licensed and fully active sponsors are fairly evenly distributed across organisation size bandings. However, the majority of applications are made by a handful of sponsors. Table 3.8 shows the top 10 organisations based on CoS assigned and who between them accounted for 50 per cent of the entire route.

3.49 A breakdown of occupations within the intra-company transfer routes is presented in Figure 3.13. 68 per cent of all out-of-country applications in the year ending August 2015 were for IT occupations. This occupational

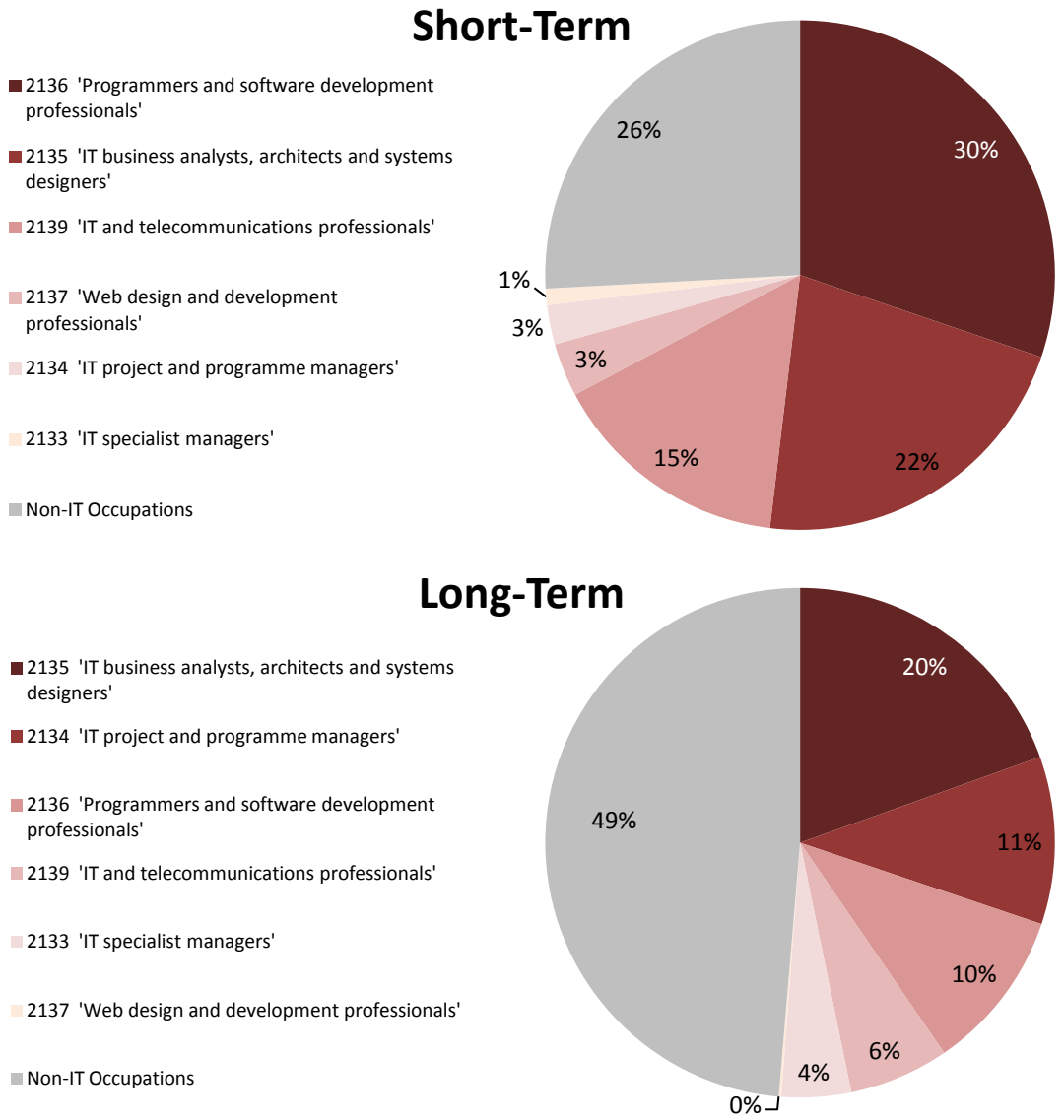
concentration is even starker under the short-term intra-company transfer route where the proportion increases to 74 per cent.

Table 3.8: Top 10 biggest users of Tier 2 (Intra-Company Transfer) Certificates of Sponsorship (out-of-country), Year ending August 2015

Organisation Name	Skills transfer	Short-term	Long-term	Total
Tata Consultancy Services	6	5,014	455	5,475
	0%	*92%*	*8%*	*100%*
Cognizant Technology Solutions UK Ltd	213	1,343	978	2,534
	8%	*53%*	*39%*	*100%*
Accenture (UK) Ltd	1	1,449	410	1,860
	0%	*78%*	*22%*	*100%*
Infosys Ltd	-	1,548	637	2,185
	0%	*71%*	*29%*	*100%*
Wipro Technologies	175	1,027	471	1,673
	10%	*61%*	*28%*	*100%*
IBM UK Ltd	38	611	432	1,081
	4%	*57%*	*40%*	*100%*
HCL Great Britain Ltd	2	714	342	1,058
	0%	*67%*	*32%*	*100%*
Tech Mahindra Ltd	40	689	385	1,114
	4%	*62%*	*35%*	*100%*
Capgemini plc	40	265	126	431
	9%	*61%*	*29%*	*100%*
HSBC Holdings plc	32	351	23	406
	8%	*86%*	*6%*	*100%*
Total (top 10)	***547***	***13,011***	***4,259***	***17,817***
	3%	***73%***	***24%***	***100%***
Total (overall)	***2,002***	***20,912***	***12,906***	***35,936***
	11%	***58%***	***36%***	***100%***

Source: CoS used, Out-of-country, September 2014- August 2015, Home Office Management Information

Figure 3.13: Breakdown of occupations within the Tier 2 (Intra-Company Transfer) route, Year ending August 2015



Notes: The six occupations explicitly depicted are all IT occupations and do not necessarily represent the top 6 occupations under either route. "Short Term" includes the short-term ICT route as well as the Skills Transfer and Graduate Trainee routes. CoS used year ending August 2015, Source: Home Office Management Information

3.50 In the year ending August 2015, 72 per cent of all applications within the Tier 2 (Intra-company Transfer) route were for Indian nationals, of which 86 per cent were working within the IT sector.

3.51 Finally, the majority of applications under the Tier 2 (Intra-company Transfer) route were made in London and the South East. However, some applications may be made at the employer's head office, for example in London, but the migrant may be posted to other parts of the UK.

Table 3.9: Top 10 nationalities using Tier 2 (Intra-company Transfer) route, both in- and out-of-country, based on used Certificates of Sponsorship

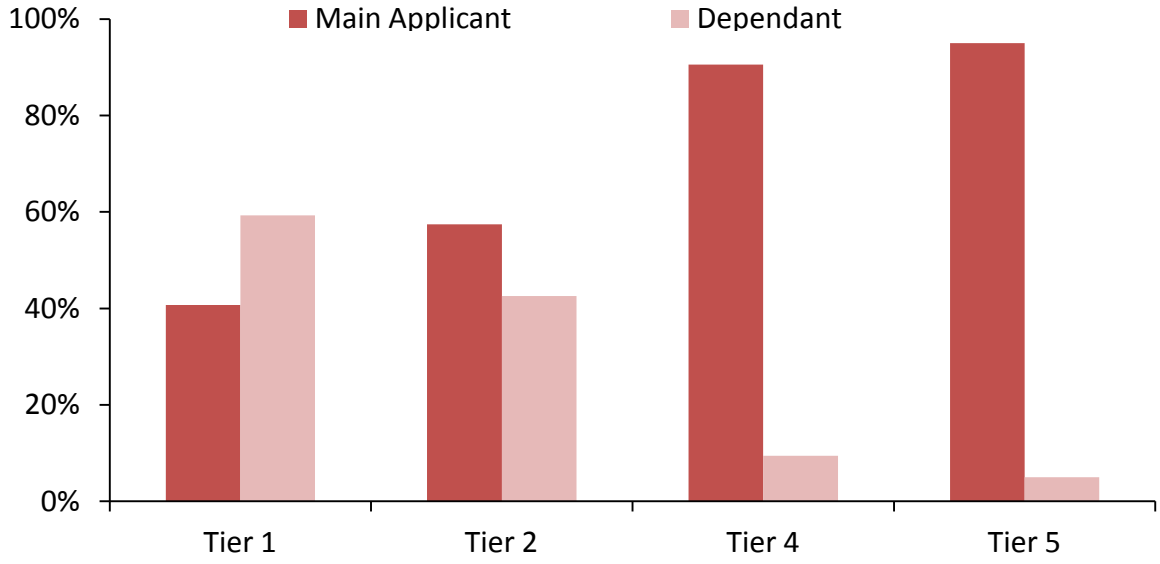
	Graduate	Skills transfer	Short term	Long term	Total	
India	14	1,342	18,399	10,924	**30,680**	**72%**
United States of America	21	216	1,336	2,913	**4,486**	**10%**
Japan	5	26	221	1,836	**2,088**	**4%**
China	22	49	281	619	**971**	**2%**
Australia	6	32	161	554	**753**	**2%**
Canada	1	28	179	307	**515**	**1%**
South Africa	6	37	108	215	**367**	**1%**
Russia	2	10	112	225	**349**	**1%**
South Korea	1	25	29	240	**295**	**1%**
Philippines	0	17	171	94	**282**	**1%**
Total (top 10)	**78**	**1,782**	**20,997**	**17,927**	**40,786**	**93%**
Total (overall)	**121**	**2,033**	**21,905**	**19,786**	**43,849**	

Source: CoS used, year ending August 2015. Source: Home Office Management Information

Dependants

3.52 65,000 dependants of main applicants entered the UK through the Tier 2 route in the year ending August 2015. This represents a larger volume than through Tiers 1, 4 and 5 combined. Figure 3.14 depicts how the proportion of these dependants to their main applicants is just over 40 per cent in Tier 2. In comparison, in Tier 1 the proportion is 59 per cent and in Tier 4 it is only 9 per cent.

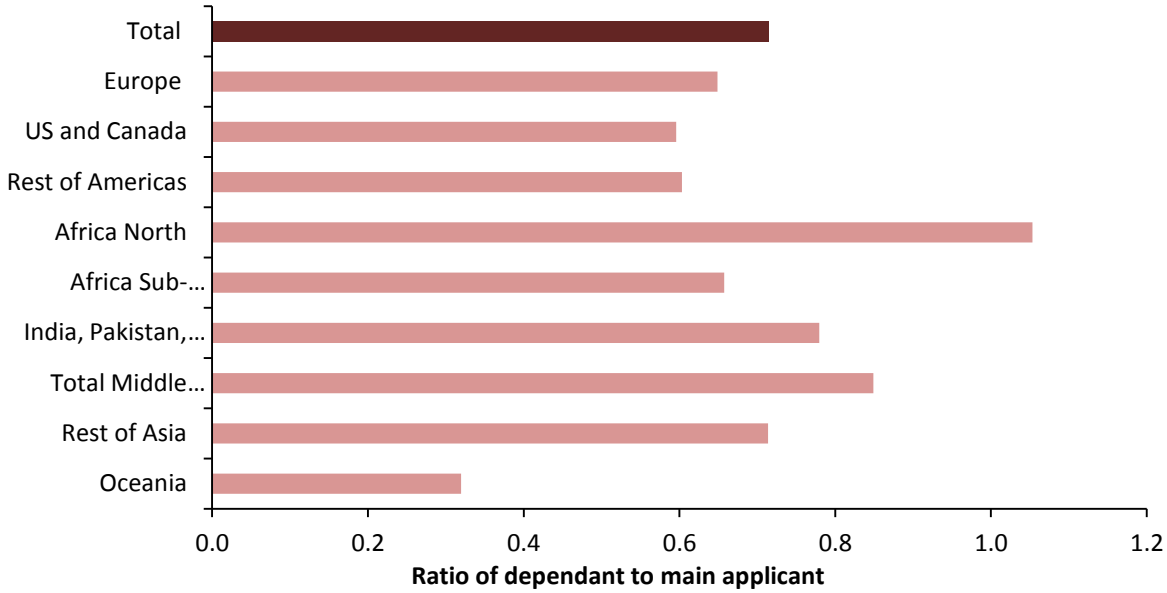
Figure 3.14: Proportion of dependant to main applicant entry clearance and extension visas granted under Tiers 1, 2, 4 and 5, Year ending September 2015.



Source: Home Office Immigration Statistics (2015).

3.53 Figure 3.15 sets out how the ratio of dependants to Tier 2 main applicants varies according to their nationality. On average there are seven dependants for every ten main applicants. In general, fewer dependants are recorded per main applicant from areas such as the US and Canada, and the ratio is particularly low for skilled migrants coming from Australia and New Zealand. The North Africa region represents the highest such ratio with over one dependant visa granted per main applicant.

Figure 3.15: Ratio of Tier 2 dependant to main applicant entry clearance visas granted by nationality, Year ending August 2015.



Note: Figures show the number of Tier 2 main applicants relative to the number of dependants out-of-country "India, Pakistan,.." refers to India, Pakistan, Bangladesh and Sri Lanka, "Africa Sub-" refers to Sub-Saharan Africa.
Source: Home Office Immigration Statistics (2015).

3.5 Conclusions

3.54 The relative strength of both the UK economy and labour market underpins the current trend of increasing net migration. However, in recent years, the broad increases in skilled employment have been driven predominantly by those born in the EU and not those who would have been eligible for Tier 2. As a result, any changes to non-EU skilled work flows may be limited in their impact in the overall context of net migration.

3.55 In 2014, Tier 2 accounted for an inflow of 52,478 main applicants, representing just under half of all work visas issued that year. Of this, approximately one-third were granted the restricted Tier 2 (General) visas and two-thirds the unrestricted Tier 2 (Intra-company Transfer) visas. Including inflows of their dependants and extensions of stay for existing main applicants and dependants, this figure rises to 151,659 over the same period.

3.56 The number of Tier 2 visas granted has been steadily increasing since 2011, when it was below 100,000 per year. For the first time in May 2015, the limit on Tier 2 (General) CoS was reached, raising the effective minimum salary required for entry to above £46,000 in June 2015. Whilst demand has eased slightly in recent months, the limit may be expected to bind again in 2016.

Chapter 4: Salary thresholds

4.1 Introduction

4.1 We were asked to provide advice on *"the economic rationale for and the impact on net migration of setting new salary thresholds to ensure that Tier 2 migrants are not undercutting the resident labour force".*

4.2 Our commission also asked that we conduct an initial review of salary thresholds. We published our findings in *Analysis of Salary Thresholds* in July 2015. We recommended in that report that the Government should wait until we completed our wider review of Tier 2 before making any changes to salary thresholds. This would allow us to consider the interplay between the thresholds and the other measures that we have been commissioned to look into, in particular, the Immigration Skills Charge (see Chapter 5). The conclusions from our earlier report are set out in Box 4.1.

Box 4.1 Conclusions from the MAC July 2015 report 'Analysis of Salary Thresholds'

- The overall minimum salary thresholds need to be updated to reflect the current skill requirement of NQF6 and above. If the same principles used to set the £20,800 threshold were applied to the current skill requirement, this would imply a substantial rise in the salary threshold to somewhere in the region of £31,000 (30th percentile) to £39,000 (the median).
- The long-term intra-company transfer threshold of £41,500 still seems appropriate and in line with the definition used within the General Agreement on Trade in Services (GATS) requirement.
- The report assessed the impact of increasing occupation-specific thresholds for experienced workers from the 25th percentile to the 50th or 75th. An occupation-specific threshold set at the 50th percentile (median) would affect 40 per cent of applications across Tier 2, whereas an occupation-specific threshold set at the 75th percentile would affect 60 per cent.
- The report also assessed the impact of increasing occupation-specific thresholds for new entrants from the 10th percentile to the 25th or 50th percentile. An occupation-specific threshold set at the 25th percentile would affect 40 per cent of new entrant applications across Tier 2, whereas an occupation-specific threshold set at the 50th percentile (median) would affect 62 per cent.
- We acknowledged the need to update the overall minimum threshold in line with the skill requirement of NQF6 and above. However, we suggested that any further increases in salary thresholds should be based on the *nth* percentile for each occupation. This method takes into account the different distributions of pay within each occupation, and does not prevent certain occupations from being able to recruit.
- We urged caution in making any changes to salary thresholds before the wider review of Tier 2 had been carried out. We emphasised that the salary thresholds should not be considered in isolation as they interact with the other proposals within the commission, particularly the Immigration Skills Charge.

4.3 This chapter firstly considers the arguments for and against using price (pay) as a proxy for economic value in the context of skilled migration. We then go on to consider the key issues surrounding salary thresholds, which are laid out in Box 4.2.

Box 4.2 Salary Thresholds - Key issues

- To what extent can salary thresholds be used as a tool to reduce migration?
- To what extent can salary thresholds be used to prevent undercutting?
- What will be the impact of raising salary thresholds?
- Should there be any exemptions to raised salary thresholds?
- Should allowances be taken account of in setting salary thresholds?
- Are there regional pay variations that need to be considered when setting salary thresholds?
- What alternative data sources exist for determining salary thresholds?

4.4 For the most part, this chapter considers salary thresholds in isolation. In the next chapter we discuss the Immigration Skills Charge and its interaction with the minimum salary thresholds.

4.5 Our commission asked that we suggest ways of restricting migration and determine which migrants should be restricted. There are two main ways to go about restricting skilled migration. One is to restrict the range of jobs which are eligible for Tier 2. The other is to raise the cost of hiring a migrant, either through higher salary thresholds or a levy on migrant recruitment. In Chapter 7 we explore in full the arguments for and against restricting Tier 2 to an expanded Shortage Occupation List which would cover specialist jobs, high value jobs, and key public sector jobs. There, we conclude that since there are approximately 4,000 job titles eligible for Tier 2, it would be a near impossible task to provide a definitive list of occupations where migrants would be most valuable to the UK economy. Producing such a list would be an extremely bureaucratic exercise and it would become almost instantly out of date. Instead, if the government wishes to restrict numbers, we suggest it be done by raising the price of migrant workers. One mechanism which can be used to raise the price is via minimum salary thresholds.

4.2 Using price to measure value

4.6 We believe that pay is the most transparent and objective measure of an employee's economic value. For the most part, the salaries paid to Tier 2 migrants will reflect the value of the worker to the employer, and, indirectly, the value of that worker to the UK economy. In a properly functioning labour market, there should be no incentive for an employer to pay or a worker to accept a wage that is not reflective of their value.

4.7 Ensuring that employers have to pay more for the migrant workers they recruit is a simple way of encouraging employers to become more selective about who they recruit and focus on those that are more valuable.

4.8 The OECD International Migration Outlook (2014) concluded that "salary thresholds are a good proxy for skills but cannot be the only admission

criteria". They recognise the value of salaries in identifying a job's skill level, however they suggest that there is rationale to have a lower threshold for younger workers. They also note that some monitoring is required to make sure employers are paying the required rate.

4.9 Whilst the OECD recommends that salary should not be the only criterion for skilled migration routes, such an approach has been advocated prominently by some distinguished commentators – for example Becker (2011). However in Becker's model, the price refers to the cost of the visa. Becker's view is that setting the price of the visa sufficiently high would attract only economically active migrants whose earnings are high enough to justify paying the large visa fee. He also states that this approach would be a more economically efficient way of controlling migration than quotas or restricted lists.

4.10 Salary is just one component of a wider package that employers might offer to prospective employees. Other pecuniary and non-pecuniary benefits may be offered to attract and retain staff which may not be captured by an examination only of salary.

4.11 During our call for evidence several partners argued that using salary as a measure of value was a 'blunt tool'. They suggested a number of examples where pay may not reflect the full economic value for specific occupations (e.g. nurses, teachers, researchers). Salaries paid to workers in these occupations may not reflect their economic value if the benefit of their output to society as a whole is greater than their value to their employer. For example, the health sector said that salary alone fails to take into account the wider economic impact resulting directly from an employee's contribution in that sector. It argued that the activity of a healthcare professional helps to ensure good health and that this impact is not limited to the individual but also to relatives, friends, carers, and employers.

4.12 Equally if workers derive a positive utility from providing a public service they may be willing to accept a lower wage than is accurately reflective of their value. Partners in the education sector also told us that although pay is sometimes a good indication of value, in isolation it is not a good proxy for skill and specialisation. They said that other intrinsic rewards such as contribution to society should also be considered.

4.13 If wages are too low to attract enough workers, then society does not benefit fully from the positive externalities arising from these occupations.This market failure could be addressed by offering higher wages to resident workers, rather than increased recruitment of Tier 2 migrants.

" … the RCN recommends that the visa allocation diversify away from focussing excessively on salary levels towards a broader range of considerations in terms of what constitutes highly skilled and valuable to the UK, including the contribution of the profession to public good/health and the economy (particularly keeping the population healthy and active) ..."

The Royal College of Nursing response to MAC call for evidence

4.14 There are other cases where salaries may not reflect skill or potential – for example the wages paid to a newly qualified graduate may not be a good indicator of the potential of that individual and the value they could contribute over their career. Partners pointed out the importance of graduates to the UK economy. If their value is judged on the basis of salary then compared to experienced workers they might be perceived as less valuable. However, graduates on reputable graduate schemes are likely to have high earnings potential. If they choose to stay in the UK for a long period of time, they are likely to have a positive fiscal impact.

4.15 One organisation suggested that even if non-EEA graduates choose not to stay in the UK permanently, the experience they gain working on a UK graduate scheme could lead to beneficial business relations in the future.

4.16 Employees working at start-ups may also accept a significantly lower salary than is merited by their contribution, partly in anticipation of significantly higher rewards further down the line if the start-up is successful.

4.17 Salary is also used as a prioritisation tool during periods where the limit on Tier 2 (General) is reached. As discussed in Chapter 2, in the monthly allocation of restricted certificates of sponsorship (RCoS), occupations on the shortage occupation list and PhD level roles get priority. The remaining places are allocated on the basis of salary which means that lower paid occupations, with correspondingly lower salary thresholds, are most likely to miss out on RCoS under the limit. To date, the occupations most heavily impacted by the limit have been public sector occupations such as nurses, as well as younger people in graduate positions.

4.18 The prioritisation mechanism is only utilised when the limit is reached. If the limit is expected to bind regularly, there is a rationale to raise the salary thresholds rather than continuously reject applications each month. This would provide greater certainty to employers.

4.19 We recognise the shortfalls of using wages to assess the value of a job role. However, we would suggest that salary is the single most objective tool available and if the government's aim is to reduce numbers then it should be done by price. That said, we acknowledge the need for possible exemptions in certain cases. These are discussed in section 4.6 below.

4.3 Using salary thresholds as a tool to reduce net migration

4.20 Increasing the cost of migration through raising the salary thresholds is expected to reduce demand, and would appear to be the most straightforward way of restricting immigration. In our July 2015 report on salary thresholds (MAC, 2015), we concluded that an increase in occupation-specific thresholds based on percentiles was, in general, a preferable way of increasing the cost to employers rather than raising the overall minimum threshold across *all* occupations. Occupation-specific thresholds, unlike overall minimum thresholds, take into account the different distributions of pay within each occupation and do not prevent certain occupations from being able to recruit.

4.21 However, we recognised in our previous report (Migration Advisory Committee, 2015) that the current minimum threshold of £20,800 was set in 2009[6]. At that time, the skill requirement for Tier 2 occupations was National Qualifications Framework level 3 and above (NQF3+) and the threshold was loosely based on the 30th percentile for NQF3+ occupations. The present skill requirement for Tier 2 occupations is NQF6+. Assuming that salary is a good proxy for skill level, it is clear that the minimum salary threshold has not kept pace with the increase in minimum skill requirements. We concluded that there is a very strong case to increase this minimum threshold to reflect the increase in skill and consider below by how much the threshold should rise.

4.22 Tables 4.1 and 4.2 show the salary distributions of UK employees based on the Annual Survey of Hours and Earnings (ASHE), and the Labour Force Survey (LFS).

Table 4.1: Salary distribution of employees in occupations skilled to NQF6+ (£)

Percentile	10th	20th	25th	30th	40th	50th	60th	70th	75th
	23,000	28,000	30,000	32,000	35,000	39,000	43,000	49,000	53,000

Source: MAC Analysis of Annual Survey of Hours and Earnings, 2014. Occupations skilled to NQF6+ are set out in Annex B of the MAC (2015) report.

Table 4.2: Salary distribution of individuals skilled to NQF6+ working within occupations skilled to NQF6+ (£)

Percentile	10th	20th	25th	30th	40th	50th	60th	70th	75th
	23,000	27,000	30,000	31,000	35,000	39,000	43,000	49,000	51,000

Source: MAC Analysis of Annual Survey of Hours and Earnings, 2014. Occupations skilled to NQF6+ are set out in Annex B of the MAC (2015) report. Individuals skilled to NQF6 included those who had higher and first degrees and NVQs at level 5 but not foundation and other degrees or HNC/HND/BTECs.

[6] This was originally set at £20,000 and has been uprated in line with earnings/inflation.

4.23 In MAC (2015), we suggested that the updated overall minimum salary threshold should be somewhere in the region of £31,000 – £39,000. The impacts of such an increase are shown in Table 4.3.

4.24 £39,000 is the median salary for employees in NQF6+ occupations for 2014 according to both the ASHE and the LFS. Just under two thirds of Tier 2 applications during the year ending March 2015 offered a salary of £39,000 or more (43 per cent of applications across Tier 2 (General) and 51 per cent of short-term intra-company transfers would be affected by an increase to £39,000). Long-term intra-company transfers would not be affected as this route is already subject to a higher minimum threshold of £41,500.

4.25 Using the previous approach of setting a minimum threshold around the 30th percentile would result in a minimum salary threshold of £31,000 for NQF6+ occupations. In the year to March 2015, 27 per cent of Tier 2 (General) applications offered less than this salary, as did 16 per cent of short-term intra-company transfers.

4.26 However, since we published the July 2015 report, we have engaged further with partners and carried out additional analysis. Considering the proposed addition of the Immigration Skills Charge (see Chapter 5), **we recommend that the 25th percentile (£30,000) would be a sensible level at which to set the overall minimum salary threshold**. This also puts the overall minimum threshold in line with the occupation-specific thresholds for experienced workers which are also set at the 25th percentile.

4.27 A minimum salary threshold of £30,000 would presently affect 14 per cent of applications across Tier 2. This includes 7,805 (28 per cent) of applicants through the Tier 2 (General) (see Figure 4.3).

Table 4.3: Experienced hire (age >25) applications falling under minimum salary thresholds, year to March 2015				
Threshold (percentile)	**£30,000 (25th)**	**£31,000 (30th)**	**£39,000 (50th)**	**Total applications**
Tier 2 (General) route				
Total number of applications	7,085	8,725	13,959	25,328
In-country	*4,932*	*5,777*	*8,108*	*22,145*
Out-of-country	*2,153*	*2,948*	*5,851*	*13,699*
Proportion on lower salary %	28%	27%	43%	
Short term Intra-company transfer route				
Total number of applications	2,131	3,251	10,067	19,884
In-country	*28*	*41*	*151*	*858*
Out-of-country	*2,103*	*3,210*	*9,916*	*19,026*
Proportion on lower salary %	11%	16%	51%	
Long term Intra-company transfer route				
Total number of applications	0	0	0	18,992
In-country	*0*	*0*	*0*	*6,603*
Out-of-country	*0*	*0*	*0*	*12,389*
Proportion on lower salary %	0%	0%	0%	
Grand total	**9,216**	**11,976**	**24,026**	**64,204**
In-Country	4,960	5,818	8,259	29,606
Out-of-country	4,256	6,158	15,767	45,114
Total %	**14%**	**19%**	**37%**	

Source: Home Office Management Information, year ending March 2015. Analysis based on applicants aged over 25 only. Some applications included in the figures here may actually qualify for the new entrant route, and will therefore not be affected by the £30,000 threshold.
Analysis excludes Tier 2 (General) applications classified as extension visas as we assume that they would not be affected by the new thresholds.

4.28 We stress that this analysis only reports, for each scenario, the number of cases, based on 2014 application volumes, where salaries were lower than the proposed threshold. All these salaries meet the current minimum threshold of £20,800. We do not know how many employers would pay the higher salary if the minimum threshold were raised, and we do not make any assumptions about this. But clearly, the extent to which employers raise their offer in response to higher salary requirements will determine the reduction in Tier 2 volumes.

4.29 The occupations and organisations that would be most affected by a threshold of £30,000, based on data from the year ending March 2015, are listed below in Tables 4.4 and 4.5. In terms of overall volumes and

percentage affected, SOC 2231 'Nurses' are the most affected by the £30,000 threshold.

Table 4.4: Top 10 occupations under Tier 2 (General) with the highest *volume* of applications affected by £30,000 threshold

SOC code	Annual number of applications affected	Proportion of applications affected
2231 Nurses	746	80%
2119 Natural and social science professionals n.e.c.	360	27%
2136 Programme developers and software development professionals	119	11%
2139 Information technology and telecommunications professionals	113	36%
2314 Secondary education teaching professionals	91	48%
2137 Web design and development professionals	61	48%
2126 Design and development engineers	59	23%
2315 Primary education teaching professionals	48	55%
2423 Management consultants and business analysts	48	6%
2431 Architects	44	46%

Source: MAC analysis of Home Office Management Information. Figures calculated using data year ending March 2015. Analysis based on applicants aged over 25 only, as a proxy for experienced hires. Only out-of-country applications are used in this analysis to avoid confusing in-country extensions with new applicants.

Table 4.5: Top 10 occupations under Tier 2 (General) with the highest *proportion* of applications affected by £30,000 threshold

SOC code	Number of applications affected	Proportion of applications affected
2231 Nurses	746	80%
2472 Public relations professionals	41	65%
5434 Chefs	35	59%
2315 Primary education teaching professionals	48	55%
2137 Web design and development professionals	61	48%
2314 Secondary education teaching professionals	91	48%
2442 Social workers	28	47%
2431 Architects	44	46%
2112Biologial scientists and biochemists	39	37%
2139 Information technology and telecommunications professionals	113	36%

Source: MAC analysis of Home Office Management Information. Figures calculated using data year ending March 2015. Analysis based on applicants aged over 25 only, as a proxy for experienced hires. Only out-of-country applications are used in this analysis to avoid confusing in-country extensions with new applicants. Occupations were only included if over 25 applications would be affected by the £30,000 threshold.

4.4 Employer behavioural response to an increase in salary thresholds

4.30 In MAC (2015), we showed that in many occupations the salaries for Tier 2 migrants were clustered around the minimum salary threshold. This suggests that the thresholds do have an impact on the salaries offered to migrants and gives reason to believe that raising salary thresholds will influence employer behaviour.

4.31 In order to assess potential employer response to higher salary thresholds, we looked at the impact of changes to the occupational minimum salary thresholds set out in the Codes of Practice published by the Home Office. In the 2014 Codes of Practice, occupational minimum salary thresholds were erroneously based on the 25th percentile of all *part-time and full-time* employees in the UK, whereas in 2015 the occupational minimum thresholds reverted to the standard calculation based on the salaries of *full-time* employees only.

4.32 This scenario presents the opportunity to examine in practice how employers respond to changes in the Tier 2 salary thresholds. Effectively, this change in price can be considered to be independent of other factors,

and therefore will be able to give some idea of employer reactions to increased costs. The scale of the changes varied considerably across occupations. Many occupations experienced increases of between £2,000 and £4,000.

4.33 We found that overall the correlation between changes in the salary thresholds and the demand is close to zero (no more than ±0.1 across Tier 2 (General) and the intra-company transfer routes), suggesting a relatively inelastic demand for Tier 2 migrants at this scale of price change. This relationship is displayed in Figure 4.1 below, with each dot representing the percentage change in demand for CoS in an occupation plotted against the percentage change in the minimum threshold for that occupation.

Figure 4.1: 2014-15 change in demand for CoS following a change in the minimum salary thresholds, by occupation

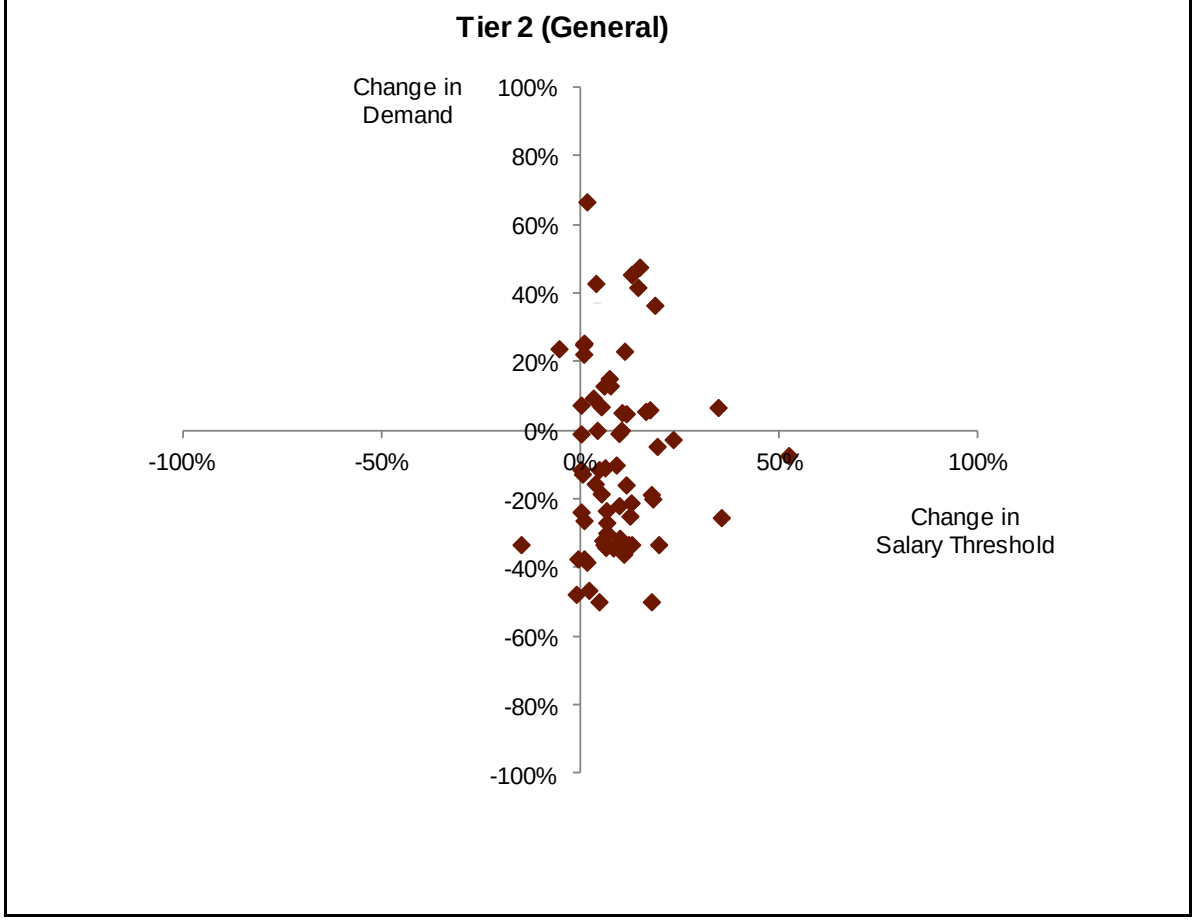
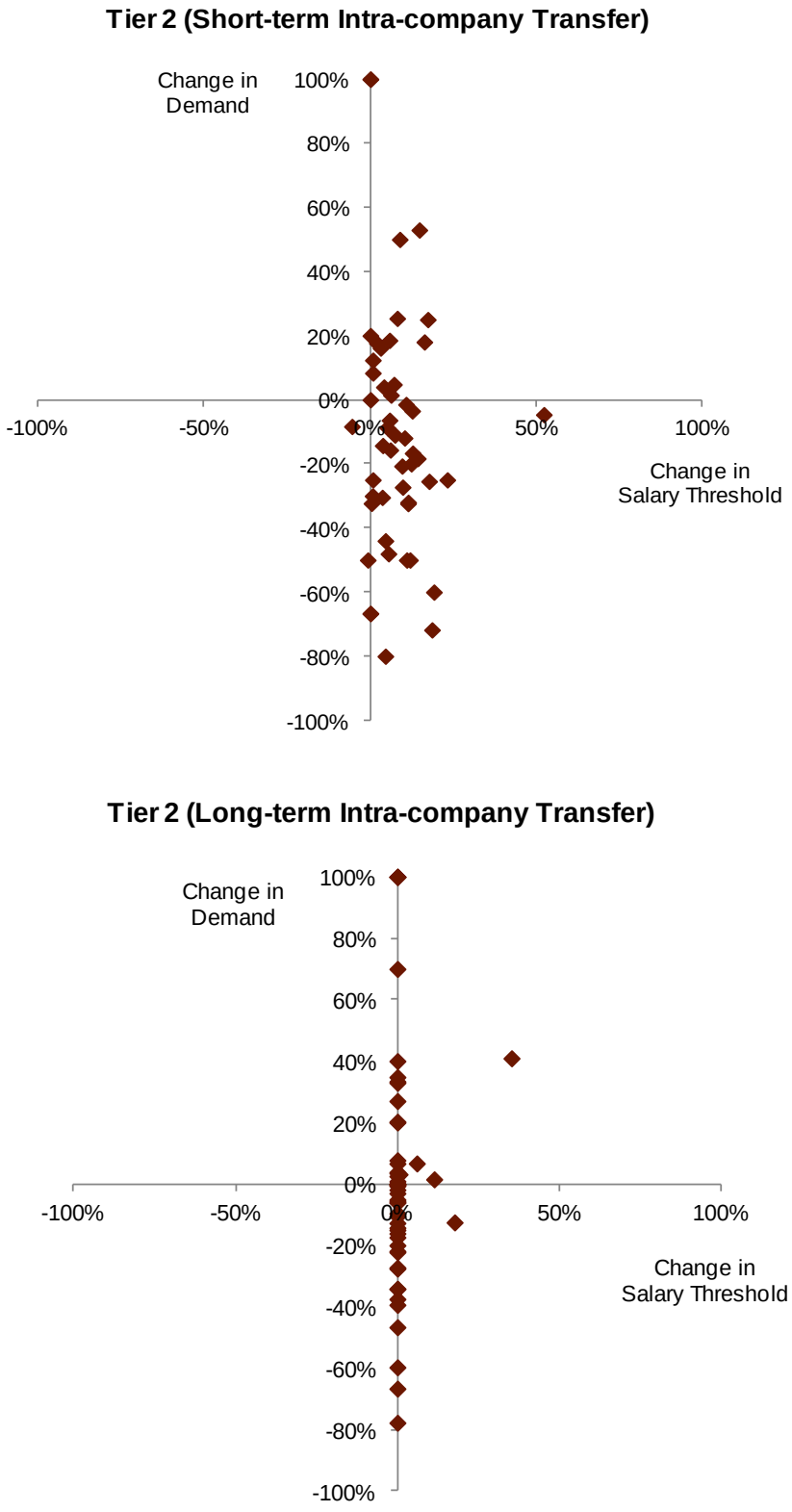


Figure 4.1: 2014-15 change in demand for CoS following a change in the minimum salary thresholds, by occupation



Notes: MAC analysis using the changes in the Codes of Practice occupational salary thresholds between 2014 and 2015, and the number of CoS demanded from the Home Office Management Information, based on year ending March 2014.

4.34 In 2013-14 many occupations experienced a similar decrease in salary thresholds following the change from basing the Codes of Practice on full-time workers, to full-time and part-time workers. We were therefore able to undertake similar analysis for the change in volumes between 2013 and 2014, where many of the thresholds were lowered. We also found no significant correlation between the demand for CoS and the change in salary thresholds when this change was negative.

4.35 By looking at *actual* change in demand in response to an increase in salary thresholds, we gain some insight into how employers may respond to changes in the minimum salary thresholds that are of similar order to the £2,000 to £4,000 increases used in our examples. However, it should not be assumed that the same response will occur if the change in the thresholds is more significant. For example, under Tier 2 (General), for occupations with increases in salary thresholds of £4,000 to £5,000 we still saw the demand for CoS increase by between 10 to 50 percent. However, for occupations with the greatest absolute increase in their occupation-specific salary thresholds (£7,000 to £14,000), we saw a small decrease in applications of between 3 and 14 per cent.

4.36 Results are also consistent with the existence of factors driving the demand for Tier 2 migrants which are not directly related to cost, for example, the relative speed of the UK's economic recovery. However, it is notable that there was no drop-off in the demand for migrants following an increase in the salary threshold.

4.37 This lack of demand response to the natural experiment of migrant salary change indicates inelastic demand. This suggests that the current Tier 2 salary thresholds lie below the level employers are willing to pay those migrants, and possibly even below the prevailing wages in the domestic labour market. We would expect that if the Tier 2 salary thresholds are set at a level above or in line with domestic wages, then an increase would result in a large shift from migrant to domestic labour. As this is not the case, this suggests that the new threshold is still below the prevailing market wage.

4.38 It is therefore possible that a small increase in salary thresholds will have only a limited impact on demand for Tier 2 migrants, particularly if there is room for businesses to increase the wages paid to Tier 2 migrants above their current levels.

4.5 Using salary thresholds to prevent undercutting

4.39 Another rationale for setting minimum salary thresholds, and particularly for setting separate thresholds for different occupations, is to prevent undercutting of UK-based workers by migrants. Migrants should be paid at least the comparable rate to UK workers in order to ensure that they are not used by employers as a cheaper source of labour. If Tier 2 migrants were cheaper than comparable UK workers, they could displace UK workers and create an ongoing dependence on further migrants to keep

costs down. It would also reduce incentives for employers to invest in upskilling and training of the UK work force.

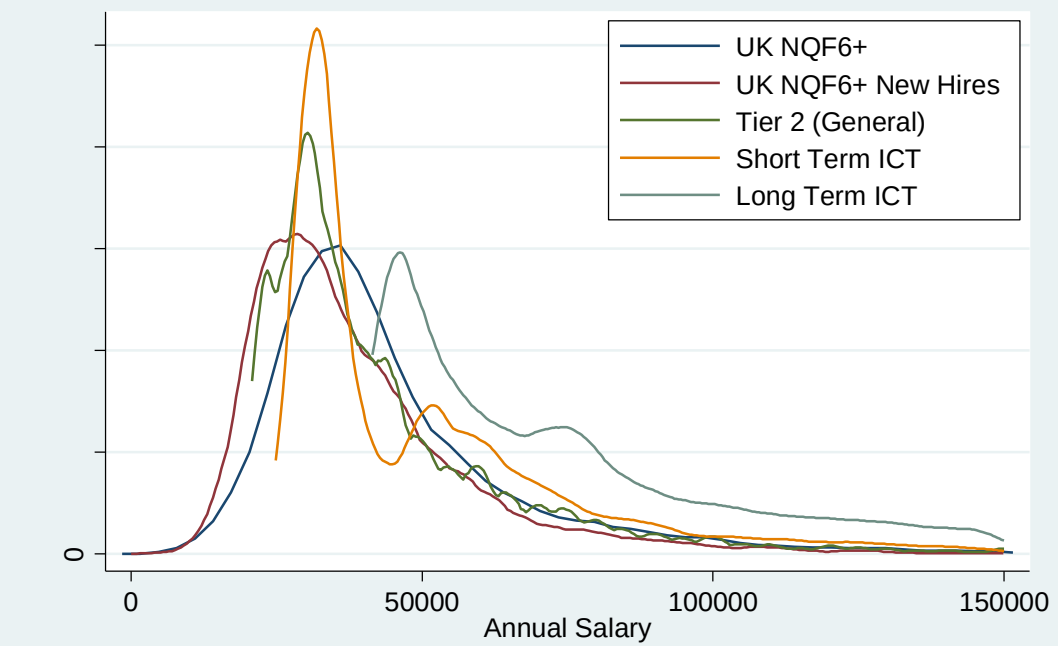
4.40 In our MAC (2015) report, we looked at whether there is evidence to suggest that Tier 2 migrants are undercutting the resident workforce. We compared the salary distributions of newly arrived Tier 2 migrants with the whole of the UK resident labour force. Our analysis showed little evidence of undercutting. In this section we revisit this issue and present some further analysis around undercutting.

4.41 Figure 4.2 presents the distribution of Tier 2 migrant salaries compared to highly skilled resident workers. The figure shows that for long-term intra-company transfers, there are more employees at the higher end of the pay distribution.

4.42 This is perhaps unsurprising as this route allows multinational businesses to transfer key company personnel to the UK from overseas branches. Evidence received from partners suggests that very experienced and high-salaried members of staff are often transferred to the UK to help establish new branches or teams.

4.43 In MAC (2015), we considered the argument that it might not be appropriate to compare wages paid to Tier 2 migrants against the skilled UK workforce as a whole. Rather, the most relevant comparison may be with salaries paid to new hires over the past year because these are the individuals who have competed directly in recruitment against Tier 2 migrants who have arrived in the past year. Figure 4.2 suggests that the pay distribution for Tier 2 (General) migrants is similar to the distribution of highly skilled UK new hires, with the wage distribution for the overall UK workforce (which includes both new and former hires) slightly to the right of the Tier 2 (General) and short-term intra-company transfer level.

Figure 4.2: Salary distributions for Tier 2 migrants compared to all highly skilled UK workers



Notes: MAC analysis using ASHE and Home Office Management Information data, covering a one year period, ending March 2015. UK NQF6+ is based on ASHE data for indiviuals in occupations skilled to NQF6+. UK NQF6+ new hires is based on ASHE data for individuals skilled to NQF6+ who have been in their current role for less than 12 months.

4.44 Whilst Figure 4.2 shows a similar wage distribution for Tier 2 (General) migrants at their time of entry to the UK compared to the overall UK population, there is no data to show (and neither is there any requirement) that their wage goes up over time. There is, however, a minimum threshold to reach in order to qualify for settlement. Partners pointed out that Tier 2 migrants might have less bargaining power than resident workers as their visa ties them to their current employer. If migrants' pay does not rise over time in a similar way to the pay of a UK worker, then this could be evidence of undercutting.

Table 4.6: Pay premia for Tier 2 migrants				
SOC	**Occupation**	**Tier 2 (General)**	**Short term ICT**	**Long term ICT**
1115	Chief executives and senior officials	-	-	£31,000*
1132	Marketing and sales directors	£3,000	-	£26,000*
2119	Natural and social science professionals n.e.c.	-£1,000	-	-
2121	Civil engineers	£20,000*	£35,000*	£53,000*
2123	Electrical engineers	£4,000	-	-
2126	Design and development engineers	£2,000	£10,000*	£28,000*
2133	IT specialist managers	£6,000*	£22,000*	£16,000*
2135	IT business analysts, architects and systems designers	£6,000*	£5,000*	£13,000*
2136	Programmers and software development professionals	£5,000*	£5,000*	£16,000*
2137	Web design and development professionals	£700	£4,000*	-
2139	Information technology and telecommunications professionals	-£1,000	£5,000*	£16,000*
2211	Medical practitioners	-£6,000*	-	-
2217	Medical radiographers	£200	-	-
2231	Nurses	-£6,000*	-	-
2311	Higher education teaching professionals	£2,000	£2,000*	£32,000*
2314	Secondary education teaching professionals	-£2,000*	-	-
2421	Chartered and certified accountants	£3,000*	£38,000*	£25,000*
2423	Management consultants and business analysts	£12,000*	£28,000*	£29,000*
2442	Social workers	£300	-	-
3416	Arts officers, producers and directors	£5,000	-	-
3534	Finance and investment analysts and advisors	£18,000*	£38,000*	£35,000*
3545	Sales accounts and business development managers	-£6,000*	£19,000*	£29,000*
Overall		£3,000	£10,000	£24,000

Notes: MAC analysis using ASHE 2014 and Home Office Management Information. Analysis uses ordinary least squares regressions with robust standard errors. * indicates the result is significant at the 5% level. Some results have been suppressed (-) due to insufficient sample sizes. An age variable has been included as a proxy for experience. A dummy variable for London has also been included. Any Tier 2 nurses (SOC 2231) earning less than £20,800 have been removed from the dataset to avoid the inclusion of pre-registration nurses who may be offered a lower salary for an initial period. See Annex C for a fuller description of the analysis.

4.45 In order to more closely examine the pay differential between Tier 2 migrants and the UK labour force we carried out some regression analysis, using ASHE data and Home Office management information. The results are laid out in Table 4.6. In this analysis, described in full at Annex C, we estimated the average difference in pay for migrants compared with UK workers of the same age and working in the same occupation, distinguishing between workers in London and other regions of the UK. The results tell us the average differential between Tier 2 workers and resident workers in each occupation. For example, a premium of £3,000 for a particular occupation indicates that on average, a Tier 2 migrant in that occupation earns £3,000 more than an resident worker. The results are presented separately for Tier 2 (General), short-term intra-company transfers and long-term intra-company transfers.

4.46 Partners told us that Tier 2 migrants are recruited because they have desirable levels of qualifications and experience. We should expect to see these desirable qualities reflected in the salaries paid to migrants. If migrants have specialist skills that are in short supply in the UK, this should appear in the data as a wage premium paid to these migrants.

4.47 Across the majority of occupations, the data is consistent with there being a migrant wage premium – migrants being paid significantly more than those UK workers with similar characteristics. We found that, *on average*, Tier 2 (General) migrants earn an extra £3,000 per annum compared to UK workers with similar characteristics. This differential rises to £10,000, on average, for short-term intra-company transferees and £22,000 for long-term intra-company transferees.

4.48 Note that Tier 2 migrants are concentrated in London, where wages are typically higher than elsewhere in the UK. We controlled for those working in the London area (who may be on a higher salary) to reduce the possibility of a London effect driving our results.

4.49 There are some occupations where Tier 2 (General) migrants are paid less than equivalent UK workers. These are predominantly public sector occupations, chiefly nurses, medical practitioners and secondary teaching professionals. Our analysis suggested that, on average, Tier 2 (General) nurses and medical practitioners are paid around £6,000 less than the average salary for UK workers of similar age in those professions. For example, in the case of nurses this appears to be because non-EEA nurses are often recruited at the base point of the relevant pay band[7]. This is irrespective of age and, by assumption, experience. (We look at this issue in greater depth in our commission *Partial review of the Shortage Occupation List: nurses*, which is due to report to Government in mid-February 2016).

[7] Most non-EEA nurses are recruited at point 16 within Band 5 of the Agenda for Change payscale.

4.50 We also found that Tier 2 (General) sales accounts and business development managers are being paid approximately £6,000 less than the average for the equivalent UK workforce, which could be an indication of undercutting.

4.51 The evidence presented here suggests that in these selected occupations comparable non-EEA nurses are being paid less., It also suggests that employers are able to address a skill shortage by recruiting less expensive labour from abroad instead of increasing wages to attract UK workers.

4.52 There are some occupations for which the ASHE data might not be the most accurate measure of salary. For example, there are a number of occupations in the IT sector for which the occupation minimum threshold is based on alternative data to ASHE, because the ASHE is considered to understate pay in those occupations. One possible reason for this is the high proportion of self-employed contractors working in those occupations, who may command a wage premium but are not included in ASHE.

4.53 Therefore, in those selected IT occupations, the migrant premium we have estimated might be overstated. In particular, salary thresholds for SOC code 2139 are based on higher values taken from a survey by Incomes Data Services (IDS), so we would expect there to be a large migrant premium when compared to the ASHE data for UK workers. However, our analysis shows that Tier 2 (General) migrants in this occupation do not receive a premium over resident workers. Taking into account that ASHE may understate native wages in this occupation, it is possible that in fact, Tier 2 (General) migrants in SOC 2139 could be receiving, on average, a lower salary than is paid to comparable UK workers.

4.54 Our analysis did not reveal undercutting in any occupations under either of the intra-company transfer routes. However, this does not necessarily mean that there is no undercutting under these routes. Chapter 6 discusses the issues around third party contracting and use of allowances that may allow for non-EEA migrants to be paid less in the intra-company transfer route.

4.55 This analysis is consistent with that in MAC (2015) in which we concluded, based on preliminary analysis, that there is little widespread undercutting, and that in general migrant workers get paid more than the average going wage for their occupation. Our extended analysis shows that the main exception to this is in the predominantly public sector occupations, where we have estimated Tier 2 (General) migrant wages are significantly lower than for the equivalent UK resident workforce.

4.56 The analysis we have used in this section to look at whether salary thresholds help to prevent undercutting controls for age differences between migrant and UK workers, which is a rough proxy for the differences in labour market experience. There are other important differences between migrant and UK workers, such as qualifications and skill level, which we were unable to control for in our regression analysis

due to data limitations. Therefore, the conclusions drawn from this analysis are tentative.

Upward pressure on wages

4.57 Rising wages should incentivise an increase in the resident labour supply for that occupation in the longer term. If Tier 2 recruitment is not associated with some upward pressure on wages, there is a risk that reliance on migrant labour becomes a permanent, rather than temporary, feature of the UK labour market.

4.58 If an employer is unable to find someone from the UK or EU labour force to fill a vacancy at the prevailing wage, Tier 2 allows them to access the broader international labour market and bring in a worker from outside of the European Economic Area (EEA) at the prevailing wage. If they could not recruit from outside the EEA, employers would be forced to increase the wage offered until they were able to attract a UK or EU worker to fill the vacancy. Because employers have recourse to an alternative course of action, namely recruiting from outside of the EEA, there is a restraint that would otherwise not arise on wage growth. Salary thresholds can help overcome this issue by enforcing a price floor and pushing wages upwards.

4.59 Furthermore, upward pressure on wages may lead employers to upskill the existing UK labour force in order to raise productivity to a level commensurate with the higher wage level. Currently, employers have an alternative source of relatively low-cost and pre-trained labour via the Tier 2 migration routes. We recognise that the application of the Tier 2 limit has restricted employers' access to Tier 2 workers in some circumstances but contend that the arguments we have outlined here still hold.

4.6 Impacts of raising salary thresholds

4.60 This section considers whether raising salary thresholds will have a wider, knock-on impact. The immediate impact of raising thresholds will be felt by employers. The cost of recruiting a migrant worker will increase and employers will have to decide whether to meet that higher price, and if so, whether to absorb the cost, pass it on to their customers, or trim expenditure in other areas. They could also decide to leave the position vacant, to substitute for another role, to upskill existing staff, to no longer carry on that line of business, or to off-shore some or all of their operations. All of these are wider economic consequences.

4.61 Business groups, including London First, the CBI and the Institute of Directors (IoD) said that these wider consequences would all be negative and argued against the proposal for any significant increases in salary thresholds. The CBI stated that it does not believe that raising the thresholds will improve labour market outcomes for UK workers.

"CBI members do not believe significantly raising the main salary threshold will improve the labour market outcomes of the UK workforce – it would in fact damage them. Businesses accept that the Resident Labour Market Test (RLMT) alongside minimum salary thresholds, set at the right level, ensure that migrants cannot be hired to undercut the pay of other workers. Increasing the threshold from the 25th percentile to, for example, the median or the 75th percentile would result in businesses increasing the wages of migrants to secure the skills they need, move teams offshore to access the talent they need at the price the market dictates, or they turn down growth opportunities. None of these outcomes would boost growth or long-term prosperity for all. "

CBI response to MAC call for evidence

"Raising the minimum salary levels that migrants must be paid is perhaps the most alarming of the current proposals. The minimum salary threshold is a de facto tax on recruiting overseas expertise.....Many of these companies are in sectors of the economy, such as IT, engineering, and science, which will form the backbone of the future global economy. They are, therefore, the companies most likely to create jobs and provide high-value added growth for the UK. Inhibiting their potential to recruit by increasing the required salary levels will reduce the competitiveness of UK businesses and would consequently be very detrimental to the UK's long-term economic interests. ...this proposal runs counter to the UK governments own efforts to tackle the productivity challenge. The proposal risks inflicting enormous damage on our economy and should be dropped."

Institute of Directors response to MAC call for evidence

4.62 A number of partners said that they could not justify paying a higher wage to a Tier 2 migrant than they would to a UK worker doing the same job. They would also come under pressure to increase salaries across the board to keep up with the increased thresholds.

"This could lead to damage in employee relations, morale and stability, deterioration of working relationships between migrant and resident employee groups, increased negative union activity, a dip in production rates, uncertain affordability of higher salary rates and increased attrition of our highly valued resident employees."

Rolls-Royce response to MAC call for evidence

4.63 Of course, this is part of the point of increasing the thresholds – that there should be upward pressure on wages for the UK work force. Higher wages will, in the long-run, help address the skill shortage that leads to the

recruitment of the migrant worker. Should an employer choose not to pay the higher wages then they will have to think about whether to invest in skills and training in order to address the shortage that way.

4.64 Partners argued that raising the salary of each employee in an occupation would inflate salaries to above the prevailing wage rate. This could make the UK less competitive and encourage multinational companies to offshore operations back to their home country, resulting, in turn, in job losses for UK resident workers. But against this is the evidence presented in section 4.5 above showing that in some (predominantly public sector) occupations employers are recruiting Tier 2 migrants at below the wage an equivalent native worker would receive, on average.

4.65 The Department of Health said that raising the salary threshold would automatically remove the ability of employers in the NHS and the social care sector to recruit from overseas without offering a salary above that of anyone recruited from the UK (or EEA).

> *"If employers in the NHS and social care sector were forced to increase the rates of pay for the overseas labour force this would mean that resident workers would stand to lose out which would create an additional set of problems and might ultimately undermine any government attempts to cap public sector pay rates long term."*
>
> Department of Health response to MAC call for evidence

4.7 Exemptions

Public sector

4.66 In section 4.3, we found that raising the overall minimum threshold to £30,000 would exclude 80 per cent of CoS applications of nursing applications, 48 per cent of secondary education teaching professionals, and 55 per cent of primary education teaching professionals. We have also highlighted above that it is the public sector which has suffered heavily from the recent binding of the limit. This is due to a combination of centralised pay restraint decisions and some parts of the public sector's heavy reliance on migrant workers. The public sector is less flexible at responding to wage pressures than other employers.

4.67 Our analysis above also shows that the worst cases of undercutting under Tier 2 (General) are in precisely those occupations that are predominantly public sector – nurses, medical practitioners and secondary school teachers.

4.68 Moreover, we have emphasised above that the minimum salary thresholds should provide modest upward pressure on wages, and should not be seen as merely preventing undercutting of UK workers. The public sector labour market is a controlled market, where the government oversees

workforce planning and salaries are determined by nationally agreed pay scales. Where there are shortages in public sector occupations and where there is a reliance on Tier 2 migrants to fill these shortages, then there is an economic argument to increase salaries. In this sense, the public sector is comprised of employers just like any other sector and the same standards should be applied.

4.69 Given the sheer size of the public sector and the inflexible nature of the pay structure, we would recommend special considerations in implementing changes to salary thresholds in these cases. **However, we do not recommend a permanent exemption and the public sector should be expected to meet a higher salary threshold in reasonable time**. The increase to £30,000 should therefore be phased for predominantly public sector occupations. We set out in Annex D further analysis of the impact on the public sector for the key occupations affected.

New entrants/graduates

4.70 In 2014, 6,439 Tier 2 (General) migrants aged 25 and under. Approximately a third of these were Tier 4 switchers (see Chapter 7 for a fuller discussion). The median salary for Tier 2 (General) migrants aged 25 and under was £28,000. Based on 2014 volumes, if a salary threshold of £30,000 had been in place for this group, the main employers affected would have been PwC, EY, Kings College Hospital, and KPMG.

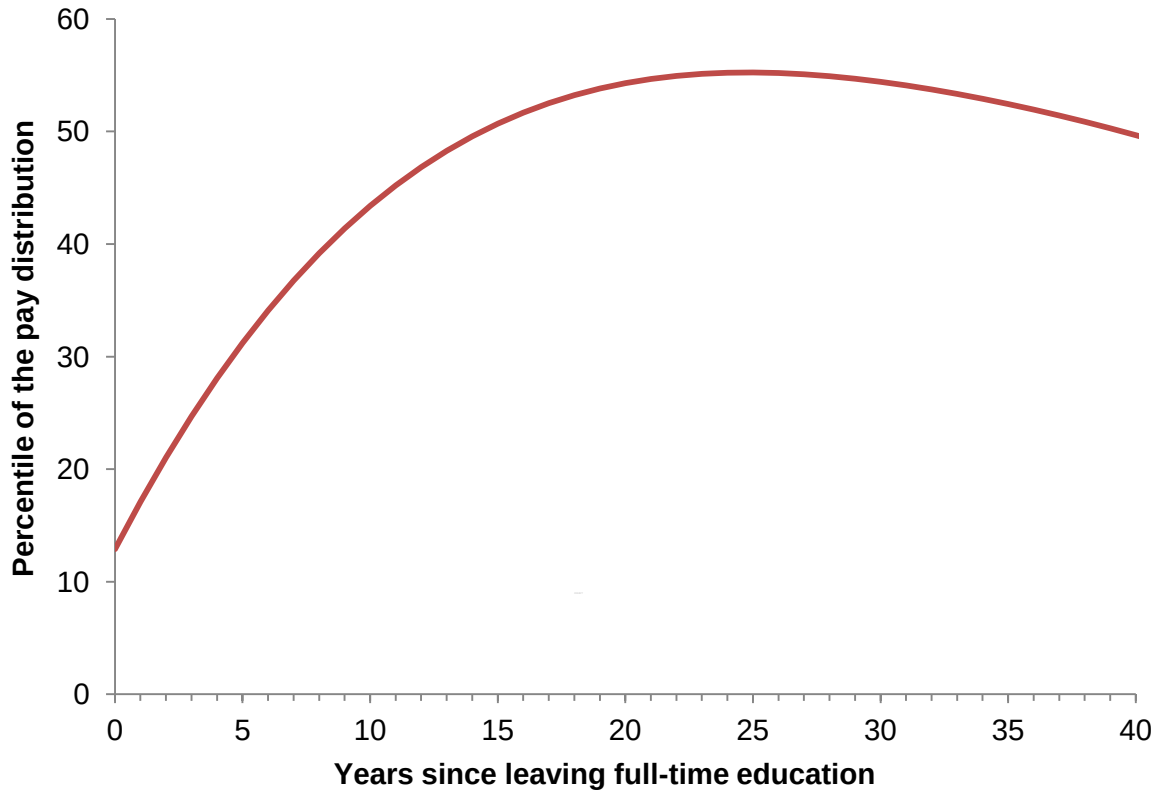
4.71 Graduates under Tier 2 make a valuable contribution to the UK economy. This is not just in terms of the current skills and knowledge they have to offer, but also considering the length of the career ahead of them and their potential contribution in the future. If they have studied at a UK university then their qualifications make them a good fit for the UK labour market. They may also be able to bring extra international experience and/or language skills to the job.

4.72 Furthermore, the opportunity for international graduates to enter employment after their studies makes the UK a more desirable destination to study, and increases the competitiveness of our higher education exports.

4.73 We looked at the position of new entrants on the wage distribution to determine whether there is a rationale to introduce a separate minimum salary threshold for these applicants, replicating analysis from our 2012 report *Analysis of the Points Based System*. We used ASHE 2014 data to determine the distribution of pay in the UK for those in occupations skilled to NQF6+. We then used the Annual Population Survey (APS) 2014 to get data on highly skilled new entrants and their salaries. From these two sources, we have been able to map the salaries of new entrants in the APS 2014 data set to a percentile in the overall pay distribution according to ASHE.

4.74 Our results (displayed in Figure 4.3) suggest that on average, new entrants skilled to NQF6+ enter the labour market at the 13th percentile, typically reaching the 25th percentile after three years. Given new entrants begin much lower in the salary distribution, there is a rationale for a lower threshold for new entrants.

Figure 4.3: Estimated relationship between pay percentile and years since leaving full-time education for full-time employees in occupations skilled at NQF6+



Source: MAC analysis using ASHE 2014 and APS 2014.

4.75 We have recommended that the salary threshold for experienced workers be set at the 25th percentile for those skilled to NQF6+ working in NQF6+ occupations, in line with the occupation-specific thresholds which are also set at the 25th percentile. Similarly, **we recommend that there should be a separate overall minimum threshold for new entrants set at the 10th percentile for those working in NQF6+ occupations, which is £23,000.** This lower threshold should apply to new entrants under the Tier 2 (General) and Intra-company Transfer (Graduate Trainee) routes. Home Office Management Information data shows that, in the year to March 2015, around 16 per cent of Tier 2 (General) new entrant applications were below this higher salary threshold.

Table 4.7: New entrant (age<26) applications falling under minimum salary thresholds, year to March 2015		
Threshold (percentile)	**£23,000 (10th)**	**Total number of applications**
Tier 2 (General) route		
Number of applications affected	978	**6,244**
In-country	*768*	*3,802*
Out-of-country	*210*	*2,442*
Proportion on lower salary	17%	

Source: Home Office Management Information, year ending March 2015.
Notes: Analysis based on applicants aged 18 to 25. Some applications affected by the £23,000 threshold may not be included in these results as applicants can still qualify for the new entrant route over the age of 25 if; they are graduates switching into Tier 2 (General) under the post-study provisions; or are graduate recruits where the organisation used a university "milkround" to satisfy the RLMT. Analysis excludes Tier 2 (General) applications classified as extension visas as we assume that they would not be affected by the new thresholds.

4.76 Though we recommend that the lower threshold should be applied to all new entrants under the Tier 2 (General) route and the Intra-company Transfer (Graduate Trainee) routes, we would suggest that this route is closely monitored to ensure that the route is being used effectively for highly valuable new entrants and graduates. The Home Office could choose to restrict the application of the lower threshold further. For example, by applying it only to new entrants on graduate schemes using a university "milkround" to satisfy the Resident Labour Market Test (RLMT), by placing a limit on the numbers that can be defined as new entrants or, by prioritising occupations where there skills are in most need.

4.77 We previously explained that when the Tier 2 limit is binding, RCoS are allocated to the highest salaried jobs. We recommend that there are provisions in place to ensure that *graduates* (new entrants recruited to graduate schemes) are not disadvantaged in the event of reaching the limit. This is discussed further in Chapter 7.

Start-ups

4.78 It is possible that higher salary thresholds could be damaging to growth in the tech sector, for example, if start-ups are unable to access the talent they need. Partners told us that often highly skilled specialists take jobs at start-ups for lower salaries, in exchange for an equity share in the business. As the business develops, this equity share could become highly valuable, but it is not taken into consideration with respect to meeting the salary thresholds.

4.79 However, these concerns may have eased to some extent following the recent changes to the Tier 1 (Exceptional Talent) route for the digital technology sector which is administered by Tech City UK. The recent changes should expand the range of options available to start-ups in the digital technology sector who need to recruit from outside the EEA.

4.80 The Government may wish to consider the special case for start-ups as they are likely to be disproportionately affected by the higher salary thresholds.

Creative sector

4.81 Additional codes of practice have been agreed with the creative sector (which consists of five SOC codes[8]). Creative occupations do not have to comply with the NQF6+ requirement but must be skilled at NQF4+. Since the methodology for raising the overall minimum salary threshold to £30,000 is based on occupations skilled to NQF6+, there is a rationale to exempt the creative occupations from the increased threshold. In addition, the numbers coming in within these occupations have remained in the low hundreds over the last five years, therefore having negligible impact on the overall inflow within Tier 2.

4.82 We recommend that the Government considers the special case of the creative sector if and when it amends the current salary thresholds.

Research sector

4.83 Partners in the research sector said that increasing salary thresholds would prevent them from recruiting talented researchers from overseas, such as post doctorates and PhD students, who contribute significantly to the UK's reputation as a world leader in research and development. However, we do not consider £30,000 to be too high a salary to pay someone in a highly skilled research position.

4.84 Many post-doctorate level applicants for research positions will qualify as new entrants and should therefore be subject to lower salary requirements, at least for the first three years of their visa. Therefore, we do not see a reason to design special exemptions for the research sector.

4.8 Allowances

4.85 We were asked to advise on whether allowances should continue to be counted towards meeting the salary threshold, and the consequences of excluding them. There is a concern that non-pecuniary allowances provided to the migrant and the different tax treatment of allowances could facilitate undercutting of native workers whilst, on the face of it, the salaries paid are equivalent.

4.86 This issue is discussed in more detail in Chapter 6, as it is mostly relevant to the Intra-company transfer route.

[8] Creative occupations are SOC codes 3411 artists, 3412 authors and writers, 3413 actors and entertainers, 3414 dancers and choreographers, and 3422 product, clothing and related designers.

4.9 Considering regional pay variations

4.87 We have been asked to include an assessment of the regional impacts of any increase in salary thresholds. The MAC has previously considered the impacts of regional variations in pay. Most recently we covered this during our 2012 review of the Codes of Practice (MAC, 2012c) where we concluded:

"We examined the issue of regional variation of pay thresholds and in particular the fact that pay rates are often higher in London than elsewhere in the UK. We do not suggest different thresholds for different regions of the UK. This would increase the potential complexity of the codes of practice. Further, by setting a national minimum pay thresholds by occupation at the 25th percentile this mechanism effectively allows for higher rates of pay in London being concentrated at the upper end of the earnings distribution."

4.88 Furthermore, in our 2011 report *Settlement rights of migrants: Tiers 1 and 2* (MAC, 2011c), we concluded that there was not an economic case for regionally differentiated pay criteria to determine which Tier 1 and 2 migrants remain in the UK beyond five years. We said that pay in London may be higher because within a given occupation the average London job may be more skilled than the equivalent job elsewhere in the UK; there may be a relative scarcity of labour in London for some occupations; and there are agglomeration effects in London that may positively impact the productivity of firms and individuals.

4.89 In Table 4.8 we present analysis from ASHE 2014 showing how average (mean) wages vary across regions of the UK in comparison to the UK overall. The analysis controls for age but not occupational composition. The results show that the key disparity in pay is between London and the rest of the UK. Following London, the South East and the East Midlands have the highest average wage, whilst Wales and Northern Ireland have the lowest.

Table 4.8. Regional differences in the mean wage for NQF6+ occupations	
	Difference from mean UK wage
London	+£7,400
South East	-£1,700
East	-£3,500
Scotland	-£4,900
West Midlands	-£5,600
North West	-£5,700
East Midlands	-£5,900
South West	-£6,400
Yorkshire and the Humber	-£6,600
North East	-£7,400
Northern Ireland	-£7,700
Wales	-£8,000
Notes: MAC analysis of ASHE 2014 data. Age is used as a proxy for experience.	

4.90 There may be issues of undercutting in London if employers are bringing migrants in at the current occupation-specific thresholds based on the 25th percentile nationally, which may correspond to a much lower point on the distribution in the London labour market. It is difficult to assess this possibility due to uncertainty in the data regarding the location of Tier 2 migrants – they may be registered with a headquarters in London, but based elsewhere. However the analysis we did showed that this is unlikely to be the case in the majority of occupations.

4.91 To examine this issue, we extended further our analysis described in Table 4.3, adding an interaction variable which allowed us to see the difference in the migrant premium for those based inside and outside the London and the South East regions. We found that on average, across all NQF6+ occupations, the migrant premium in London and the South East was significantly lower than elsewhere in the UK, yet wage levels were still higher compared to resident workers.

4.92 We found that in the IT sector (SOC codes 2133, 2135, 2139) there is no migrant premium in London and the South East when compared with the ASHE data for the resident labour force. This is worth monitoring, given concerns described above (para 4.52) that the ASHE data may understate wages in the IT sector.

4.93 Despite these potential issues, **we once again recommend that there should not be different salary thresholds for different regions**. We acknowledge that wages paid in London are significantly higher than in other areas of the country. However, those working in London will generally be drawn from higher up in the wage distribution. The 25th percentile, which is our recommended benchmark for salary thresholds, is

more representative of a typical worker from regions at the lower end of the distribution. It does not represent a typical worker in London.

4.10 Alternative data sources for salary

4.94 ASHE is the dataset used to set most of the occupational minimum salary thresholds for Tier 2. The ASHE data, produced by the Office for National Statistics allows for reliable, detailed analysis of employee wages at the occupational level. However, in MAC (2015) we acknowledged several sources of alternative pay data that were suggested by stakeholders. These included sector-specific salary benchmark surveys, and making better use of existing data sources and vacancy data.

4.95 We gave particular consideration to the IT sector. In 2012, when we previously looked at this issue, many partners expressed concern that basing the threshold on the 25th percentile in ASHE would be too low for this sector as it had the potential to allow employers to bring in Tier 2 migrants at a lower cost than UK workers. Currently, the threshold of three IT occupations (SOC codes 1136, 2133 and 2134) are based on Incomes Data Services (IDS) as the differential between the IDS and ASHE was considered particularly large.

4.96 One possible reason for this is that many IT workers are self-employed contractors and are not included in the ASHE data. IT Jobs Watch compares the hourly rate of self employed IT (contract) workers with those working as employees, and some of the results suggest that there is a pay premium for self employed workers.[9] It is likely that the percentiles drawn from the ASHE data are not wholly representative of the salary distribution of resident IT workers in the UK.

4.97 As of the end of the financial year 2014-2015, the IDS has been discontinued. Partners still express concern that the salary thresholds allow for undercutting in the IT sector, suggesting that a movement back to ASHE would not be the best option.

4.98 There are some other occupations for which ASHE data is not used to set the thresholds. These occupations use nationally agreed pay scales on which the minimum thresholds can be directly based without recourse to ASHE, and include teaching and medical professionals, as well as scientists, barristers and architects.

4.99 We believe that, aside from the occupations mentioned above, ASHE is the most wide-reaching, accurate set of data available and should continue to be used for this purpose. For the occupations that use the IDS, future Codes of Practice should, for now, either continue to uplift the existing salary thresholds in line with average earnings growth, or ideally a survey

[9] http://www.itjobswatch.co.uk

of wages in the relevant IT occupations would be commissioned to update the IDS figures.

4.100 More generally, there is some potential to use big data analytics and web scraped vacancy data as alternative sources of data on occupational salaries as well as vacancy rates and durations. The MAC intends to further explore these sources with a view to incorporating these, if appropriate, into its methodology in the future.

4.11 Conclusions

4.101 The Government asked us to consider the economic rationale for - and the impact on net migration of - setting new minimum salary thresholds, with a focus on ensuring that Tier 2 migrants are not undercutting the resident labour market. In our previous report we laid out the impacts of such policy, and suggested that there may be a rationale to raise the overall minimum salary threshold of £20,800 which is based on a skill level of NQF3+.

4.102 In this chapter we have set out several rationales for raising salary thresholds:

- *To increase quality of applicants under Tier 2* – pay is the most transparent and objective criterion available to measure an individual's economic value. Existing literature and stakeholder evidence agreed that wages can be a good proxy for skill but should not be the only criteria. Partners suggested that there were occupations where exemptions should be considered, e.g. nursing and the care sector where salary may not reflect their wider societal value, creative occupations such as dancers, actors, entertainers, who are employed under Tier 2 because of their talent, and the research sector where it is important to attract global talent in order to maintain competitiveness.

- *A tool to reduce net migration* – increasing the cost associated with recruiting a Tier 2 migrant may encourage employers to use the domestic labour force, and invest in upskilling the current labour force. Raising the threshold to £30,000 for experienced hires would potentially impact up to 14 per cent of applications across Tier 2, based on 2014-15 usage. However, the actual impact of an increase in salary thresholds on employer behaviour is uncertain. Analysis of changes in demand for CoS in response to changes in salary thresholds suggests that demand is reasonably inelastic at low levels of change. However, the suggested increase from £20,800 to £30,000 may be more likely to reduce demand.

- *To prevent undercutting and provide upward pressure on wages* – in our interim advice on this issue we concluded that there was no instance of widespread undercutting (Migration Advisory Committee, 2015). Exploring the data further, we have found that there is evidence of undercutting in some predominantly public sector occupations – namely, nurses, medical practitioners and secondary school teaching

professionals. Higher salary thresholds will help to prevent undercutting in these occupations. Furthermore, salary thresholds should be high enough to put upward pressure on wages, and ensure that employers cannot use migration to keep resident wages down.

4.103 The MAC recommends that the overall minimum salary threshold should be raised to reflect the change in skill requirement to NQF6+. The threshold should be based on the salary distribution for all employees working within occupations skilled to NQF6+. For experienced workers, it should be set at the 25th percentile (£30,000) and for new entrants it should be set at the 10th percentile (£23,000). This would apply to both Tier 2 (General) and short-term Intra-company transfers (except in the case of third-party contracting – see Chapter 6).

4.104 Over and above this, the occupation specific thresholds should remain at the 10th percentile for new entrants and the 25th percentile for experienced workers.

4.105 We do not recommend regional variation in the salary thresholds as the 25th percentile remains a modest threshold, and better reflects prevailing wages in lower paying regions than in higher paying regions.

4.106 The MAC recognises that the public sector may require time to move up to the new salary thresholds but would not recommend a permanent exemption from higher thresholds. The MAC recommends that the thresholds for the public sector should gradually increase over time to reach the £30,000 threshold.

4.107 Neither should there be exemptions for the research sector – many applicants would be classed as new entrants and therefore subject to lower salary thresholds. For experienced workers, £30,000 is not an unreasonable threshold to meet.

Chapter 5 Immigration Skills Charge

5.1 Introduction

5.1 The Government's commission has asked that we advise on:

'applying a skills levy to businesses recruiting from outside the EEA, the proceeds from which would fund apprenticeships in the UK. This should consider which businesses the levy should apply to and the impact of different levels of levy, balancing the need to maximise the incentive for employers to recruit and train UK workers with the ability of businesses to access the skilled migrants they need.' This levy has now been renamed the Immigration Skills Charge (ISC).

5.2 The Government has already signalled its intent to introduce the ISC. The Immigration Bill currently being considered in the Houses of Parliament includes an enabling power for the ISC. The specific employers who will be liable for the ISC and the amount charged will likely be determined by the Government following the publication of this report.

5.3 It should be noted that the ISC is a different proposal to the wider apprenticeships levy on which the Government has recently consulted.[10] The apprenticeships levy will be applied to large employers across the UK. The funding raised will be used to finance apprenticeships in both large and small businesses, and is intended to reverse the decline in investment in skills and training. The apprenticeship levy is not related in any way to whether employers are hiring workers from overseas.

5.4 In contrast, we understand the proposed ISC will be applied only to employers hiring Tier 2 migrants, and although the commission suggests funding may be channelled back into apprenticeships, there has been no further indication as to how the funding will be used. Moreover, we recognise that responsibility on both the level of the ISC and the destination of the funds generated are a matter for HM Treasury.

5.5 In this chapter we explore the rationale for an ISC, how such a charge might be implemented, including (for illustrative purposes) the potential level, scope and frequency of the charge, and we consider how the charge might impact upon employer behaviour. However, as stated above,

[10] https://www.gov.uk/government/consultations/apprenticeships-levy-employer-owned-apprenticeships-training

although the Government commission asked that we consider the charge and its impact, it did not ask that we consider or advise how the Government should use the funds raised by the charge. For the purposes of this report, we assume that the funds raised will be reinvested into the general provision of skills.

Box 5.1: Immigration Skills Charge - Key Issues

- What is the rationale for the Immigration Skills Charge?
- How would it interact with minimum salary thresholds?
- Are similar policies used in other countries?
- How should it operate?
- What would be the impacts on employers?
- Should certain occupations/individuals/sectors be exempt?

5.6 As we pointed out in MAC (2015), there is some overlap between the rationale for raising salaries and the case for an ISC: both raise the cost to the employer of hiring skilled migrant workers. In this chapter, we explore whether the incentives provided to employers by an ISC differ from the incentives provided by raising the salary threshold.

5.2 Rationale

5.7 Similar to raising salary thresholds, the key rationale of the ISC is to raise the cost of employing Tier 2 migrants and encourage employers to invest in the resident labour force, rather than recruiting from overseas. This chapter discusses further the rationale for the ISC which would not arise from increasing salary thresholds, specifically the funding raised for the exchequer.

5.8 The Government has indicated that the objective of the ISC is to address current skill shortages in the UK labour market by investing funding into higher skills development, which may in the long-term help to reduce employer demand for skilled non-EEA workers. There is also a shorter term behavioural rationale: to the extent that employers face a viable trade-off between recruiting a skilled migrant or investing in UK skills, raising the cost of the former may, at the margin, encourage more employers to choose the latter. In this sense, the ISC can act as a tax intended to dissuade businesses from the use of migrant labour.

5.9 If there are market failures, this can cause an under-supply of training and contribute to the emergence of skill shortages. For example, there may be a lack of incentive for firms to pay for long-term training if they are able to recruit a readily trained worker from a different firm. Conversely, firms may be reluctant to upskill their own workers if there is a risk they will move to a competitor. Furthermore, under-supply of training may arise from a lack of

information about the gains from training. Often, the overestimation of costs and underestimation of benefits will cause the employer to invest sub-optimally in training (UK Commission for Employment and Skills (UKCES), 2012).

5.10 The under-supply of training may be a factor contributing to the skill shortages that lead employers to turn to Tier 2 migrants to fill vacancies. Employing skilled migrants can, in the short-term, be a less expensive way of accessing skilled workers than investing in long-term upskilling, particularly in areas of immediate skill shortage. As such, there is a rationale for an ISC to be applied to Tier 2 both to incentivise employer investment in skills where this is a viable alternative and to raise funds to re-invest into skills provision.

5.11 There are a number of skills levies in operation at the sectoral level in the UK, described in Table 5.1. In the construction industry, two levy-grant systems are in place to combat skill gaps which appear quickly during cyclical upswings. The Skills Investment Fund was created to make the British film industry more competitive (UKCES, 2012). Box 5.1 goes on to describe the proposals under the new apprenticeship levy.

Table 5.1 Current levy-grant systems operating in the UK			
	Construction Industry Training Board (CITB)	**Engineering Construction Training Board (EICTB)**	**Film Skills Investment Fund**
Status	Non-departmental public body with statutory powers	Non-departmental public body with statutory powers	Voluntary – all films based or shot in the UK are asked to contribute
Scope	Construction industry	Engineering construction	Film production
Rate	0.5 per cent of direct labour payments 1.5 per cent of contractor payments	1.5 per cent of labour payments for site workers 0.18 per cent of labour payments for offsite workers	0.5 per cent of film budget with a cap of £39,500
Exemptions	Businesses with labour payments under £80,000	Businesses with on site labour payments under £275,000 and £1million for others	N/A
Levy payers	25,150	239	70 productions
Grant claimers	19,058	-	102 grants
Levy income	£167m	£23.6m	£0.6m
Expenditure	£113m on training grants £30m on direct payments on behalf of employers for training	£21.8m	£4.7m (inc. turnover from other sources)
Apprentices in training	20,200	2,500	36

Source: UKCES (2012)

Box 5.2 Operation of the apprenticeship levy

- The apprenticeship levy will come into effect in April 2017. It will be payable by employers in the UK at 0.5% of payroll.
- All employers will receive an allowance of £15,000 to offset against payment of the levy. This effectively means that the levy will only be payable on payroll in excess of £3 million per year.
- The levy will be payable through Pay As You Earn (PAYE) and will be payable alongside income tax and National Insurance.
- The levy will apply to employers across all sectors.
- Payroll will be calculated based on total employee earnings; it will not include other payments such as benefits in kind. It will apply to total employee earnings in respect of all employees.

Source: Department for Business Innovation and Skills (2015) Government response to the Apprenticeship levy consultation.

5.12 With regards to the ISC, the Government has indicated that the funds raised might also be channelled into apprenticeship funding.

5.13 There is a further potential rationale for an ISC beyond influencing employer behaviour and funding skills provision. The ISC may also help to resolve some of the problems of skill shortage in the UK by tackling market failures such as free riding, and act as compensation for any congestion effects caused by Tier 2 migration. When a business recruits a migrant, that recruitment may impose externalities (spillover costs and benefits) on the UK resident population that would not exist if the employer recruited a UK resident. On the one hand, highly skilled migrants can generate positive benefits in terms of innovation and productivity, as well as generating positive fiscal impacts and potentially helping to raise native employment and wages. On the other hand, there are some costs associated with migration: it adds to the population or changes the demographics of a given area, for instance. Tier 2 migrants and their dependants contribute to congestion and draw on public services, the provision of which may only adapt slowly to migrant inflows.

5.14 However, reliably measuring such externalities is difficult. A contribution to the exchequer associated with Tier 2 migration may help to improve public confidence that Tier 2 migrants make a net positive contribution to the UK economy.

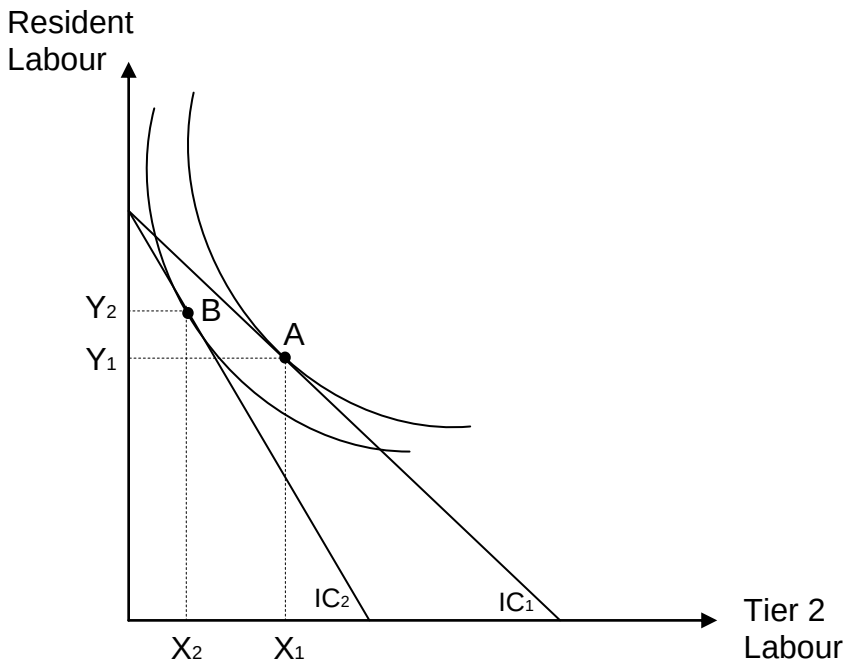
5.3 Interaction between the ISC and salary thresholds

5.15 In the previous chapter, we outlined our recommendation that the overall minimum salary threshold be raised to £30,000 which is the 25th percentile for all employees working in jobs skilled to NQF6+. We are satisfied that this minimum, together with the individual occupation specific minimum thresholds at the 25th percentile, is sufficient to ensure that there is no undercutting.

5.16 In the MAC (2015) report *An Analysis of Salary Thresholds* we discussed the interaction between the ISC and salary thresholds and concluded that it was not possible to fully assess the impact of salary thresholds without considering the ISC. An increase in the salary thresholds and the implementation of the ISC have similar effects on the propensity of employers to hire migrants. They both raise the cost of employing non-EEA migrants and create disincentives for those employers who rely on migrant labour to fill skill shortages in the UK. This may result in reduced employer demand for Tier 2 migrants.

5.17 The ISC acts as a marginal tax on the employment of new Tier 2 labour. The tax is applied to each additional Tier 2 hire that is added to the employer's current labour force. This makes migrant labour more expensive relative to resident hires. The decision process employers face following the ISC is displayed in Figure 5.1.

Figure 5.1. Demand for *new* Tier 2 labour following an increase in price



The initial isocost curve, labelled IC_1, shows the different combinations of resident and Tier 2 labour available to an employer for a given cost outlay. Based on these prices, the employer maximises their output at point A, where their isoquant meets the isocost curve. The increased cost of Tier 2 labour pivots the cost curve inwards to IC_2 and causes a substitution effect, whereby employers substitute away from the more costly source of labour. The employer also faces an income effect and can not afford to remain on the initial cost line due to the increase in price if they hire migrant labour but not if they hire resident labour. The final equilibrium is at point B.

5.23 The increase in the price of Tier 2 labour means that the employer hires more resident workers than previously, and fewer Tier 2 workers.

5.24 It is worth nothing that the above scenario assumes that resident labour and Tier 2 labour are *not* perfect substitutes. If this were the case, then the increase in the price of Tier 2 workers would cause an employer to hire solely resident workers from that point onwards.

5.25 The wider effects of the ISC and salary thresholds are slightly different. A higher minimum salary threshold affects only those employers who would otherwise have paid a wage below the higher salary threshold, and it achieves a wider benefit of putting upwards pressure on wages in the UK labour market. However, the ISC could apply to *all* employers who recruit under Tier 2, including those unaffected by increases in the minimum salary thresholds. However, the ISC has no direct impact on wages.

5.26 A further difference between the ISC and the salary thresholds is that the Government could raise significant revenue from the ISC, assuming that a significant charge is applied to a large number of employers and that such employers continue to bring in workers under Tier 2. This is in contrast to an increase in salary thresholds where the higher employer costs are transferred to the migrant.

5.27 Figures 5.2 (a) and 5.2 (b) illustrate these different effects, showing that with an ISC it is HM Treasury that benefits, whereas with higher pay thresholds it is the migrant who benefits.

Figure 5.2: Impact of (a) an increase in the salary threshold; (b) the application of the immigration skills charge on demand for migrants

(a) Impact of an increase in the salary threshold on demand for migrants

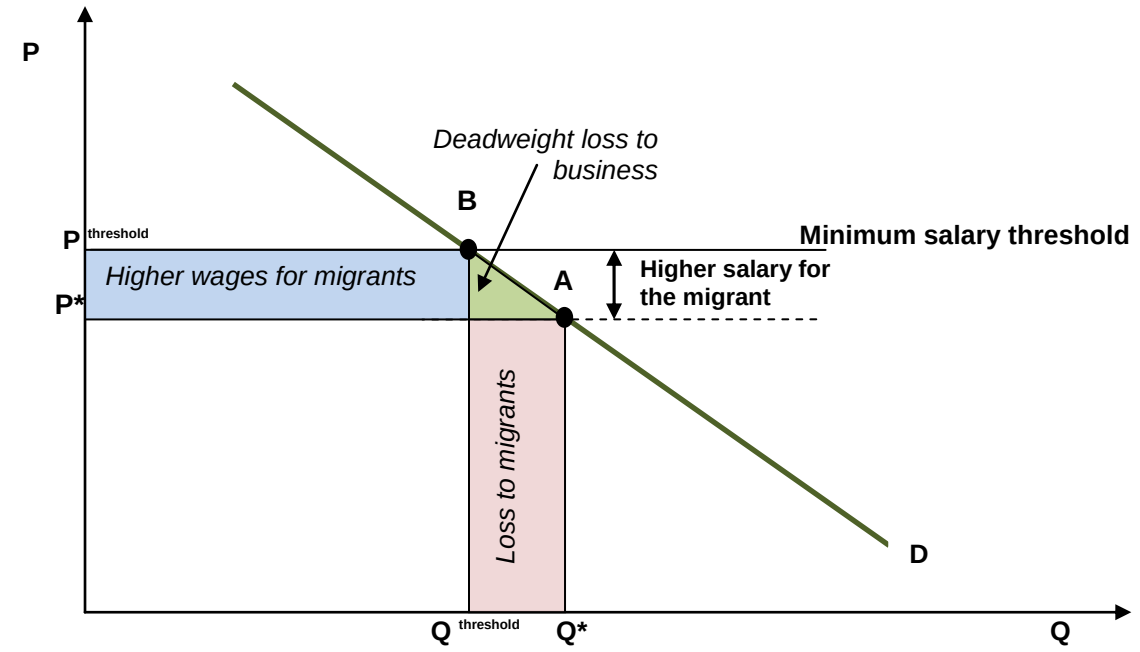
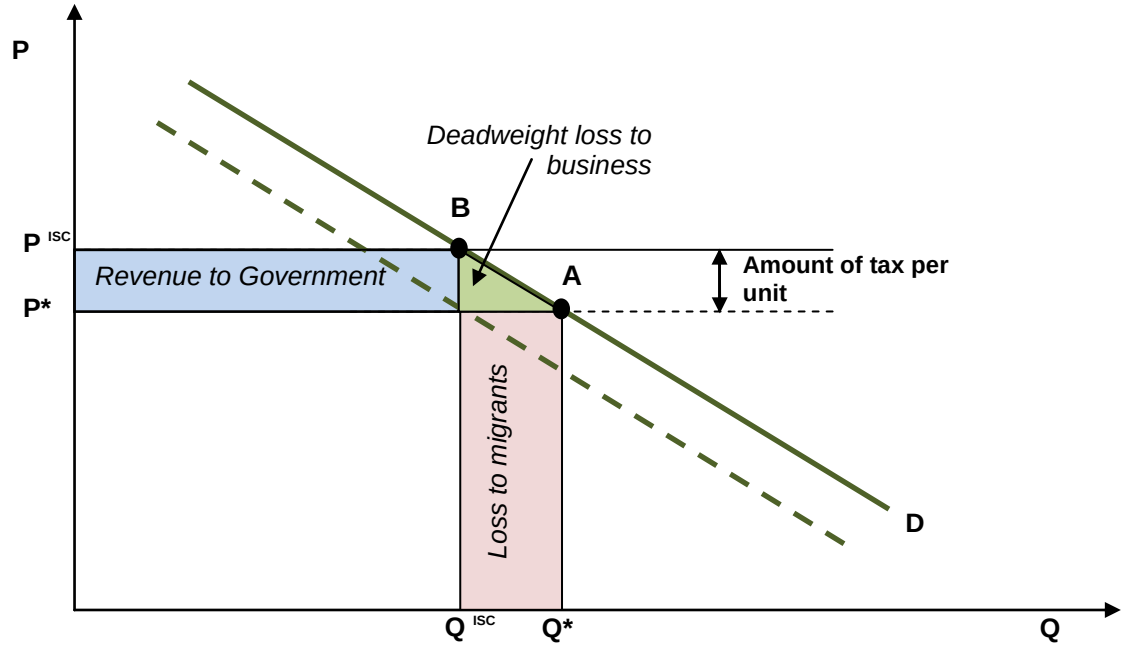


Figure 5.2: Impact of (a) an increase in the salary threshold; (b) the application of the immigration skills charge on demand for migrants

(b) Impact of an ISC on the demand for migrants



Q represents quantity and *P* is price. In graph (a), the increase in price is caused by raising the salary threshold. In graph (b) it is caused by adding an ISC to the cost of recruiting a Tier 2 migrant. As shown by the demand curve *D,* an increase in price from *P** causes a reduction in demand. The green triangle shows the deadweight loss to business. In graph (a) the blue rectangle shows the increase in the wages paid to migrants, whereas in graph (b) it represents the amount of revenue accruing to the exchequer. In both scenarios, there is a reduction in the number of migrants recruited.

5.28 Again, if it were the case that migrants and natives were perfect substitutes then employers would be able to swap Tier 2 labour for resident labour at a minimal loss of output. The closer the two types of labour are to substitutes, the more likely it is that an employer will switch from migrants to residents, and the lower the deadweight loss to business.

5.4 International Comparisons

5.29 We also looked at other countries who have introduced something similar to an immigration skills charge, specifically Canada, Malaysia and Singapore. Few other countries operate comparable schemes.

5.30 The Canadian government has indicated that it intends to impose a C$100 privilege fee on employers applying for Labour Market Impact Assessments. The funds raised will be used to offset the cost of investments in skills and job training.

5.31 Malaysia applies an annual foreign worker levy to firms that employ low-skilled migrant workers in the manufacturing, construction, plantation,

agricultural, services and domestic help sectors. Only nationals from named countries are allowed to work in the specified sectors and the rate of the levy varies according to the migrant's country of origin.

5.32 In order to regulate the number of foreign workers in Singapore, and to encourage employers to hire local workers, the number of S Pass and Work Permit holders that a company is allowed to hire is limited by quota (or Dependency Ratio Ceiling) and is subject to a levy. The levy rates vary from sector to sector and are tiered so that employers who hire close to the maximum quota will pay a higher levy. In general, the more foreign workers the company hires, the higher the levy.

5.33 The Canadian example is perhaps the most similar in principle to the proposed ISC with the intention of using funding to invest in skills. However, the proposed charge (equivalent to around £50) is very low scale and not necessarily comparable with the proposals for the ISC. In the case of Malaysia and Singapore, the intent is to regulate the number of low skilled foreign workers, whereas the focus of the ISC is on skilled migration. In summary, we conclude that there is little direct relevant international experience to draw on in assessing the arguments for an ISC in the UK.

5.5 Implementation of the Immigration Skills Charge

5.34 Before describing the potential impacts of an ISC, we set out our assessment of how an ISC would be best implemented. The key issues we have considered are whether the ISC should be:

- a flat fee or proportional to salary;
- linked to the length of the visa; and
- if so, whether it should be an one-off upfront fee or paid annually.

5.35 Where partners engaged with how an ISC should operate there was an overriding preference for as simple system as possible. Most partners favoured a one off, upfront charge.

"The criterion here should be one of simplicity. A one-off payment would seem to be preferable."

Institution of Chemical Engineers response to MAC call for evidence

"If HEIs were required to pay a skills levy, preference would be for a one-off payment as this would be less work to administer – but with a chance of a pro-rata refund if the individual leaves earlier than planned."

UCEA response to MAC call for evidence

> *"Of those NASSCOM members surveyed, the majority preferred a one-time skills levy at the point of recruitment."*
>
> NASSCOM response to MAC call for evidence

5.36 Conversely, some partners (such as the Immigration Law Practitioners' Association) said that from a budgeting point of view, employers will find it easier to make a smaller payment each year than a large lump sum.

5.37 There was a desire to have flexibility built into the system (while recognising that flexibility and simplicity may not always coincide). It was suggested to us that the system should be variable to reflect the different salaries on offer to migrants and the fact that not all migrants stayed in the UK for the full duration of their visa.

> *"A fixed levy amount (rather than percentage of salary) would be regressive, disadvantaging employers recruiting relatively lower paid skilled employees compared with those on higher salaries."*
>
> Department of Health response to MAC call for evidence

> *"Should a payment be made then it should be proportionate to the duration of a migrant's time on the UK, but paid on an annual basis. This way should circumstance change and say a migrant return home earlier than originally planned then the Company is not excessively penalised."*
>
> Balfour Beatty Power Transmission & Distribution response to MAC call for evidence

Flat charge or proportional to salary

5.38 Some partners were in favour of the ISC being proportionate to salary in order not to disadvantage lower paid occupations. However, we propose that those employers hiring more highly paid (and by inference more highly skilled) migrants should be penalised less in proportion to the salary paid, and would therefore **recommend a *flat fee***. The implication of this is that those employers bringing in more highly skilled migrants are charged proportionally less on the grounds that the benefits to the UK of these migrants are greater, on average, than for less highly paid migrants.

Charges linked to visa length

5.39 We would suggest that the fee should be linked to the duration of the visa to avoid incentivising employers to apply unnecessarily for a longer visa

than required. We would also suggest that the fee is payable in the same way at extension stage.

Up-front fee or paid annually

5.40 Despite partners' concerns that it would be difficult for some employers to pay the whole cost of the ISC upfront rather than annually, **we think that the full amount should be payable when the employer applies for the CoS**. There are issues of tax incidence to consider when applying the ISC. If the employer can pass all or most of the cost onto the migrant, or onto customer prices or resident wages then the ISC is less likely to influence employer behaviour. We think it is important that the employer bears the cost of the ISC in order to maximise its effect on recruitment behaviour.

Level of Charge

5.41 The MAC have not been asked to suggest a level for the ISC. However, considering our earlier recommendation to raise the minimum salary threshold to £30,000, we would advise that an ISC of £1,000 per year, on top of the revised salary threshold, is large enough to raise a reasonable amount of revenue and have an impact on employer behaviour.

Box 5.3: Examples of Immigration Skills Charge set at *£1000* per year of intended stay

Tier 2 (General)

Five year visa would cost the employer *£5,000*

Short-term Intra-company Transfer

One year visa would cost the employer *£1,000*

Six month visa would cost the employer *£500*

Long-term Intra-company Transfer

Three year visa would cost the employer *£3,000*

Extensions

Extensions would cost the employer an extra £1,000 per year

5.42 In the remainder of this chapter we assess the potential impacts of an ISC if implemented along the lines described above.

5.6 Partner evidence

5.43 There was a great deal of interest in the ISC from our partners when we engaged with them on the Tier 2 commission. This section sets out the main points that were made to us by employers, representative bodies and other interested parties. We also received a lot of evidence relating to exemptions from the ISC and this material is considered in section 5.8 below.

5.44 Overall, the evidence from partners on the ISC was broadly against the introduction of such a charge. Business groups including the Recruitment and Employment Confederation, the Institute of Directors, the Confederation of British Industry and London First said that they were not in favour of an ISC citing, amongst other reasons, the fact that skills shortages are short term whilst skills investment is long term.

5.45 Partners were mostly concerned with the likely size of any charge. Some said that an increase in the cost of recruiting migrants would price them out of doing so, while others said that they would absorb any additional cost because it was essential that the identified workers were brought in to the company. Partners were keen to point out that they saw the ISC as a tax rather than a charge or a levy. There was not a lot of enthusiasm or support for an ISC, even amongst employers that ran strong apprenticeship or other training schemes and who could potentially benefit from the additional funding stream that an ISC would provide.

5.46 In general, in the evidence we received from partners there were mixed views as to whether it was the government or employers who had greater responsibility for the creation of a skilled workforce. Employers were not always clear about the role they had to play in this area. In their 2014 report *Growth through people* (UKCES, 2014), UKCES called for employers and government to bear a joint responsibility for skills provision and suggested there is room for better understanding of how employers and government should collaborate to improve in this area.

5.47 The Recruitment and Employment Confederation (REC) told us that it regards the ISC as a tax on migrant recruitment. They said that businesses rely on education providers to train future entrants to the labour market, and that this training needs to be adequately funded by government. In addition, REC said that an ISC will reduce Tier 2 recruitment and result in businesses being unable to fill vacancies, reducing economic growth. Similar points were echoed by the Institute of Directors.

"Penalising employers who, because skills shortages are rife, need to look to the global talent pool to find the employees they need, is not the answer to gaining more home-grown talent. It should also be recognised that efforts to reduce migration in this manner will not only affect those businesses and organisations that rely on skilled migration, they will affect the general population who rely on those businesses and organisations to provide vital services. The government should instead focus its efforts on boosting our education system, not burdening businesses. Improving the skills of British workers is the right goal for business and the government but it won't happen overnight. It takes time to train school-leavers and graduates in the skills for which the UK economy is currently experiencing a shortage....cutting off the supply of global talent is short-sighted and will fail to get British people into jobs."

Institute of Directors response to MAC call for evidence

5.48 It was argued that an ISC could have a particularly detrimental impact on small and medium-sized enterprises (SMEs) and COADEC (The Coalition for a Digital Economy) raised concerns that an ISC would have a disproportionate impact on start-ups. Both start-ups and SMEs can rely on particular skills and experience that may not be widely available within the UK or the EU and may lack the resources of larger employers to meet the increased cost of an ISC.

"Where it will have an impact is on SMEs. Small firms are less able to compete on cost as larger firms. Therefore, if the cost of recruiting from outside of Europe increases, an SME may decide to not recruit at all. They would instead leave the position vacant. This directly prohibits further growth in their company."

EEF, the manufacturing organisation response to MAC call for evidence

5.49 A number of partners highlighted the existing costs of bringing a Tier 2 migrant into the UK. Fragomen said that to recruit a Tier 2 migrant along with four dependants on a three year visa would cost over £6,000 for the RCoS, visa fees and immigration health surcharge. Partners were concerned that an increase in the costs would serve to penalise employers without any guarantee that it would have a significant impact on net migration.

5.50 Partners told us that the introduction of an ISC will not affect the way in which employers recruit. Deloitte said that the notion that cost is necessarily the deciding factor for UK business when recruiting is wrong. They argued that UK businesses are looking for the best and the brightest and that therefore an ISC would not affect the way the businesses recruit.

"The levy will not impact the way that companies recruit as they require the skills they require. In the long term, however, the levy coupled with the apprenticeship levy and increasing assignment costs would result in parts of businesses moving overseas, if mounting costs become prohibitive and companies risk damaging their brands by providing substandard products or services."

PwC Legal response to MAC call for evidence

"A skills levy would not affect the way that we recruit staff as, being in a shortage occupation, we have no choice but to engage non EEA migrants. This cost would be passed on to our clients and in turn to consumers and businesses in the UK which, if unsustainable, would cause our business model to fail."

Advantage NRG response to MAC call for evidence

5.51 Many partners were able to give evidence indicating high levels of training commitments already in place and argued that there is no need for an additional ISC. They urge that current training contributions by employers be taken into account and that such employers be exempt from the ISC.

"We have consistently recruited and trained apprentices over a period of many years. At the present time, we have 31 apprentices in training. We generally recruit 6-8 new apprentices each year, and for the size of the UK operation, we have one of the largest intakes of apprentices in the North East Region. Taking into account the nature of the support we require from Japan, and the work we already do to recruit and train UK apprentices, it would seem inappropriate for us to be required to pay a levy."

Komatsu UK Ltd response to MAC call for evidence

"… these companies are already investing addressing the UK's long-standing skills issues and an additional skills levy is not necessary to provide any incentive for employers to recruit and train UK workers: The UK's Aerospace, Defence, Security and Space sectors are already at the forefront of supporting Government in this objective."

ADS response to MAC call for evidence

5.52 We received evidence from one company giving examples of two ways in which they already contribute to upskilling the domestic workforce through summer internships and a 'return to work' programme.

5.53 We were told that within the pharmaceutical sector some companies employ a considerable amount of apprentices and placement students, compared to the amount of Tier 2 employees in the organisation. The sector also emphasised that a number of companies also invest heavily in training the local UK workforce with school leaver and graduate schemes and they would not suggest an ISC as the key mechanism to solve the skills shortage in the UK.

> *"GSK invests significantly in apprenticeships in the UK. In the last five years alone, our apprenticeship numbers have increased from 10 apprenticeships per annum in 2010 to over 70 apprentices per annum in 2015. GSK currently has 250 apprenticeships. Our manufacturing function makes particularly significant use of apprenticeships and often these are in regions in the North or outside of the South East. Apprenticeships require considerable financial investment but also investment from existing employees who mentor and train these young individuals. While we continue to increase our use of apprenticeships, we need to understand that some skill sets need to be filled immediately and will require very specialist skills beyond a full apprenticeship programmes"*
>
> GSK response to MAC call for evidence

5.54 Other issues for partners were that the Tier 2 (General) route was used by them to bring in workers skilled to a minimum NQF level 6+. They suggested that the ISC would be used to train workers at a much lower level of skill and there was no like-for-like substitutability between those being trained and the experienced migrants being recruited. While this may change over time, partners were sceptical about the extent of the impact the funding part of the ISC might have on employers' demand for skilled migrants.

5.55 The legal sector, for instance, raised concerns about whether the funds raised from an ISC would be used to pay for apprentice programmes related to their sector. Macfarlanes told us that apprenticeships would not address the skills gaps which are currently being filled by migrant workers sponsored under Tier 2 as they will not provide like-for-like replacements for skilled migrant workers. They said that it is likely to take UK apprentice workers several years to acquire skills on a par with skilled migrant workers, resulting in an appreciable skills gap for UK businesses for many years to come.

5.56 However, there was some support from the IT sector, particularly those employers who are large users of the intra-company transfer routes. NASSCOM, a global trade body representing many of the large users of the intra-company transfer routes stated that their members would be keen to work with the Government on the design of an ISC in order to develop the provision of IT skills within the UK.

"60 per cent of NASSCOM members surveyed stated that although a skills levy would present an additional cost burden, they would consider the merits and scope of a levy. Some members also welcomed the opportunity to work with the Government on the design of the levy, noting that their organisations have considerable experience developing IT skills in markets around the world and would be delighted to work with Government to improve skills here in the UK."

NASSCOM response to MAC call for evidence

5.7 Impacts of an ISC

5.57 This section explores the potential impact of an ISC on the exchequer, employers and the wider economy. To inform this we explore three illustrative annual charges of £500, £1,000 and £2,000 per main Tier 2 applicant per year of stay. The government has not given any indication of what it thinks the amount should be. In addition to taking account of the views of partners, we have also looked at the potential wider impacts of an ISC. In order to do this, we have made assumptions about the level of the ISC. We begin with the impact on the exchequer.

Impact on the exchequer

5.58 As discussed earlier, one of the key differences between the ISC and salary thresholds is that an increase in salary thresholds directly benefits the migrant whereas the ISC delivers funds to the exchequer.

5.59 Table 5.2 displays approximate estimates of the revenue the ISC could generate. These calculations are based on the number of CoS granted in the year ending March 2015, multiplied by the typical length of a visa across the three main Tier 2 routes. We estimate that, based on recent visa volumes for main applicants only, between £125m and £501m each year could be raised, depending on the level at which the ISC is set. An ISC of £1000 per year could potentially raise £250 million per year (based on current Tier 2 volumes and assuming no change in employer behaviour). The highest proportion of this comes from Tier 2 (General) due to the higher use of the route and the longer visa lengths on this route. This analysis is based on the assumption that there is no change in demand following the introduction of the ISC and is considered independently of changes to salary thresholds that were discussed in the previous chapter.

Table 5.2 Potential annual revenue gains from an ISC based on Tier 2 visas granted year ending March 2015

	Tier 2 General	Short Term ICT	Long Term ICT	Total
Typical visa length (years)	**5**	**1**	**3**	**-**
Number of visas 2014/15 (in and out-of-country)	33,232	24,351	20,060	86,499
ISC of £500 per year of stay	£83m	£12m	£30m	£125m
ISC of £1,000 per year of stay	£166m	£24m	£60m	£250m
ISC of £2,000 per year of stay	£332m	£49m	£120m	£501m

Notes: MAC analysis of Home Office Management Information. Revenue estimates are illustrative and do not account for changes in demand arising from introduction of ISC or other factors.
Both in and out-of-country visas are included. Analysis excludes Tier 2 (General) applications classified as extension visas as we assume that they would not be affected by the new thresholds.
We have assumed that all Intra-company Transfer visas are initial applications.

5.60 Note that the estimates in Table 5.1 are illustrative. Actual volumes may vary due to the range of factors that affect demand for visas, namely the rate of economic expansion and slack in the domestic labour market which influences the demand for skilled migrant workers. Given the aim of the ISC is to provide employers with incentives to upskill the domestic workforce, we are also assuming that the ISC will not be applied to dependants.

5.61 A further key factor is the impact of the ISC itself on demand. The ISC will increase the cost of bringing a migrant worker to the UK in the same way as increases in the cost of a visa. However, we lack sufficient data to estimate the size of the reduction in employer demand.

5.62 There is limited evidence on the price elasticity of demand for skilled work visas in the UK. Analysis carried out by the Home Office (the Immigration and Nationality (Fees) Order 2015[11]) that estimated the elasticity of demand based on changes in visa fees suggests that demand is price inelastic. However, these calculations are typically based on changes in the low hundreds of pounds, whereas the ISC could have an appreciable impact on demand if set at the levels discussed above. If this case, if employer demand for migrants is more elastic, the figures above may over-estimate the revenue that could generated.

[11] http://www.legislation.gov.uk/ukia/2015/63/pdfs/ukia_20150063_en.pdf

Impact on employers

5.63 We described above the evidence we received from employers and other partners about the impact of the ISC. We have also looked to see whether available data indicates likely outcomes for employers.

5.64 In the previous chapter we discussed the likely impacts of raising the cost of employing Tier 2 migrants on employer behaviour. In their evidence, the Chartered Institute of Personnel and Development (CIPD) provided the results of a survey of 1,000 employers. The survey asked employers how they would respond to a skills levy at a range of different levels. If faced with a skills levy of £1,000 (per worker recruited from outside the EEA) 24 per cent of employers said they would absorb the cost, 28 per cent of employers said they would look to recruit more resident workers, 27 per cent of employers said they would look to the EU labour market, and nine per cent of employers said that they would leave vacancies unfilled.

5.65 However, when asked about a skills levy of £5,000, fewer employers (14 per cent) say they would absorb the cost and 15 per cent said that they would leave the position unfilled. In both scenarios, almost a third of employers said that they did not know how the ISC would affect their recruitment behaviour.

5.66 As with salary thresholds, the impact of the ISC on employer demand for Tier 2 migrants is uncertain. It may be advisable to pilot the level of the ISC in its first year, and then re-assess on the basis of its impact.

5.67 The level of the ISC exchequer revenue illustrated in Table 5.2 above is a direct additional cost to employers recruiting Tier 2 migrants. Exploring further the impacts on particular employers, Table 5.3 shows the impact of the ISC on the Tier 2 wage bill for high use Tier 2 sponsors across the three main Tier 2 routes: Tier 2 (General), short-term intra-company transfer and long-term intra-company transfer.

5.68 This analysis gives an insight into the potential additional labour costs arising from the introduction of an ISC at the three different levels. In the Tier 2 (General) route, universities would experience the greatest percentage increase in their annual Tier 2 migrant wage bill – between 2-3 per cent based on an ISC charged at £1,000 per year. If paid upfront on a five year visa, this would translate into a 12-15 per cent increase in the total first year Tier 2 wage bill for these employers, excluding other non-wage labour costs. IT companies would experience the greatest percentage increase in costs on both the long term and short term intra-company transfer routes. The impact is proportionally larger on these employers because the average salaries paid to Tier 2 migrants are lower relative to other high use organisations.

Table 5.3: Estimated percentage increase in annual Tier 2 wage bill (for new hires) for main employers following introduction of an ISC*

Impact on Tier 2 (new hires) wage bill	Min	Median	Max
Tier 2 (General)			
£500	0.4%	0.8%	1.2%
£1,000	0.7%	1.6%	2.5%
£2,000	1.5%	3.2%	4.9%
Short-term intra-company transfers			
£500	0.7%	1.1%	1.6%
£1,000	1.4%	2.2%	3.2%
£2,000	2.8%	4.4%	6.4%
Long-term intra-company transfers			
£500	0.6%	1.0%	1.2%
£1,000	1.2%	2.0%	2.4%
£2,000	2.3%	4.0%	4.8%

Notes: Estimated on the basis of three illustrative scenarios for an ISC: £500, £1,000 and £2,000. The total wage bill is the sum of salaries offered to Tier 2 migrants recruited in the year ending March 2015. The analysis does not look at employers' existing stock of Tier 2 migrants, some of whom will have come to the UK in previous years, but looks at the potential increase in the wage bill prompted by levying the ISC on these migrant workers recruited the year ending March 2015. The percentage increase in wage bill will be higher for organisations paying a lower average salary.
Source: MAC analysis of Home Office Management Information. Calculations based on volumes and salaries of the top 10 users of Tier 2 (General), Long Term and Short Term Intra-company Transfer migrants for year ending March 2015. Min, Median and Max are based on the range in percentage increase of the wage bill for the top 10 users within each route. Analysis assumes that there is a minimum salary threshold of £30,000 in place, and therefore is only based on those migrant employees that earn £30,000 or above.

5.69 Whilst those employers that bring in Tier 2 migrant workers will incur additional costs, other employers will gain from the provision of skills investment arising from the revenue generated.

5.70 However, it is impossible to conclude, ex ante, whether the benefit arising to employers due to any increase in skills investment will outweigh the costs imposed on Tier 2 sponsors. The Government has not yet determined how the ISC revenue will be reinvested. This rules out any assessment of whether the benefits will be widespread or localised within a few sectors, and the extent to which those employers that pay the ISC will also see a funding benefit.

5.71 In theory, the ISC could deliver a net positive return for employers in general. Employers can benefit from positive training spillovers, meaning that as the amount of training being delivered by a number of employers in a sector increases, all employers in that sector can experience the benefit from having access to a more skilled workforce. In general, the level of

training individual firms choose to supply will collectively be lower than the level associated with the greatest gains for the industry. A levy-grant system can help to raise the investment in training to a level that will maximise the positive spillovers (UKCES, 2012).

Wider impacts and risks

5.72 An ISC increases the financial burden faced by employers of Tier 2 migrants. Some of the cost of the ISC may therefore be passed on to clients or the public in higher costs for more expensive products and services. There is a large economic literature on tax incidence, with which the ISC has broad parallels. It may be that the ISC will be borne by the employer but it may also be possible that the costs are transferred to consumers in the form of higher prices, or to workers (both migrants and non-migrants) in the form of lower wages.

5.73 If it is the case that employers can transfer the costs of the ISC, then the intended impact on demand may be relatively minor. Additionally, the higher costs of goods and services may reduce the UK's competitiveness.

5.74 In the case of a levy-grant system, there are risks that should be considered, specifically around ensuring the quality of apprenticeships provided. In response to our call for evidence, J. Dunlop & Co stated that no exemptions should be made to those who invest in training of local staff as there is a risk this may reward ill-judged/misdirected investment e.g. companies may take on apprentices for roles that are not needed.

5.8 Exemptions

5.75 A number of partners were very keen for exemptions to the ISC in particular cases. Partners suggested that those organisations that could demonstrate an existing significant level of investment in training and upskilling be subject to either an exemption or a lower level of charge than those bodies which made no such investment. Similarly, if the ISC is used to pay for apprenticeships then this will favour those employers and those sectors which already have or are best suited to apprenticeship schemes. Partners also felt that there were a number of sectors for whom apprenticeships were not relevant and of no benefit either to the employer or the apprentices.

5.76 More specifically, the higher education sector and the health sector argued consistently that part of the raison d'être of these sectors is to provide training. Because they are centrally-funded to do so, they stated that it makes little sense to place a charge on these sectors to pay for apprenticeships and training as such a charge would just be returned to the public purse. However, we consider that this argument overlooks a key aim of the skills charge, which is to influence employer behaviour. Public sector organisations in health and higher education are employers like any other and should be incentivised to consider the UK labour market first before recruiting from outside of Europe. We therefore do not agree that these sectors should be exempt from the ISC.

5.77 Other partners made cases for certain sectors or occupations to be exempt from the ISC on the basis that the migrants that were recruited had unique or exceptional skills which could not otherwise be found within the UK.

5.78 The Society of London Theatre said that scarce resources in the creative sector (including artists, authors, actors, entertainers, dancers and choreographers) would make it difficult to bring in migrants that were subject to an ISC. The Society said that a shortage of premier dancers could not be addressed simply by training but rather that it is innate talent which marks out the top performers. The imposition of an ISC, no matter what the amount of the charge, would lead to employers in the creative sector reducing expenditure in other areas such as cutting back on the amount of training that they provide or reducing headcount.

5.79 Some partners argued that the Tier 2 (Intra-company Transfer) route should not be subject to the ISC. Staff brought to the UK on intra-company transfers were claimed to be more likely to contribute to the upskilling of UK workers because they facilitate skill transfers to the local labour force. Partners told us that intra-company transfers were used to enable staff to gain international experience rather than to fill shortages (we discuss the Tier 2 (Intra-company Transfer) route in more detail in Chapter 6).

5.80 Partners, including Kingsley Napley, said that many global businesses have in place schemes that enable their junior staff to work in different locations worldwide. This is often a reciprocal arrangement whereby UK employees will temporarily transfer abroad. We were told that this cross-sharing of knowledge and industry expertise is critical to the financial success of UK-based international businesses.

> *"These businesses are by their nature international and movement of staff between offices is key both to the career development of staff members and to the development of the business. It is also often reciprocal with members of the UK workforce spending periods in overseas offices".*
>
> Laura Devine response to call for evidence

5.81 **We therefore recommend that the six month 'Skill Transfer' visa be exempted from any ISC.** The 'Skills Transfer' route is for transfers that allow people to gain skills and knowledge needed to perform their role overseas, or to pass on their skills to UK colleagues.

5.82 Similarly, the 12 month Graduate Trainee visa, whereby overseas graduates can transfer into graduate trainee programmes for specialist roles in the UK and UK graduate trainees can gain experience in offices overseas, also facilitates knowledge sharing. **We recommend that the Graduate Trainee route also be exempt from the ISC.**

5.83 We acknowledge the efforts made by employers to reduce skill shortages through training and apprenticeships and consider that such employers will benefit from the provision of additional funding that the ISC will provide. However, for the sake of simplicity and in order to maximise the incentive for all employers to look to recruit non-migrants, **we recommend that the ISC be applicable to all Tier 2 applications other than in those cases identified above.**

5.9 Conclusions

5.84 We consider that the imposition of an ISC will serve to incentivise employers to reduce their reliance on employing migrant workers and to invest in training and upskilling UK workers. Further, the ISC will provide a source of funding to help with this training and upskilling. We recommend that the ISC is used in addition to raising salary thresholds. As discussed in Chapter 4, an overall minimum threshold prevents undercutting and provides upward pressure on wages. The ISC meanwhile influences demand and raises revenue. The two measures are therefore complementary.

5.85 We consider that, for the sake of simplicity, clarity and in order to maximize its effect, **the ISC be applicable to all employers recruiting migrants across all Tier 2 routes**. The only exemptions to this, we believe, should be for the Tier 2 (Intra-company Transfer) Skill Transfer and Graduate Trainee routes.

5.86 We recommend the ISC takes the form of an **upfront payment added to the cost of a CoS, payable at the time of application for the initial CoS and extension visas. The charge should be calculated based on the length of the CoS**. We recommend a flat fee so as not to penalise employers seeking to recruit highly skilled migrants and to ensure that the impact falls most heavily on employers that are large users of CoS. We have not been asked to recommend an amount at which the ISC should be set. However, we have carried out an illustrative analysis of the revenue raised and the additional labour cost to Tier 2 sponsors with an ISC charged at £500, £1,000 and £2,000 annually. We consider that, on the basis of this analysis, an amount of £1,000 per non-EEA migrant worker per year is large enough both to raise a reasonable amount of revenue and to have an impact on employer behaviour.

Chapter 6 Tier 2 (Intra-company Transfer) route

6.1 Introduction

6.1 The Government asked us to consider:

"the scope to tighten the Tier 2 intra-company transfer (ICT) provisions and the impact this would have on business and the economy. The MAC is asked to review any aspects of the rules and operation of the ICT route, including its usage by companies to service business process outsourcing contracts with third parties. In addition, the MAC is asked to consider the case for applying the immigration health surcharge to ICTs."

6.2 The Tier 2 (Intra-company Transfer) route is for existing employees of multinational employers who are transferred to the UK branch for training purposes or to fill a specific vacancy that cannot be filled by a UK or European Economic Area (EEA) worker, either on a long or short term basis. Just under 70 per cent (36,635 grants) of all Tier 2 entry clearance visas issued in 2014 were for this route. Including dependants of intra-company transferees, this number rises to over 59,000 in 2014.

6.3 The route is for temporary migration and does not lead directly to settlement in the UK. Unlike the Tier 2 (General) route, certificates of sponsorship issued under the Tier 2 (Intra-company Transfer) route are not restricted and there is no limit on the numbers that can come in each year.

6.4 This chapter is split into five main sections:

- An overview of the Tier 2 (Intra-company Transfer) route, setting out how the route operates and the UK's current international obligations in relation to intra-company transfers.
- A consideration of the purpose of the route, how it has been used in the past and its present usage for third-party contracting, including setting out the available data and relevant evidence from our partners.
- A consideration of whether there is any rationale for restricting the 'conventional' use of the route and the scope and likely impact of any restrictions. We then focus on the present usage for third-party contracting and consider the different rationale for restricting this use of the route and the options available to do so.

- An appraisal of the case for applying the immigration health surcharge to intra-company transfers.
- A summary of the chapter and our recommended changes to the route.

Box 6.1: Tier 2 (Intra-company Transfer) route – Key issues

- How is the route currently operating and what are the economic impacts of the route?
- Is it possible to distinguish between conventional use of the route and usage by companies to service business process outsourcing contracts with third parties?
- What is the rationale for restricting either use of the route?
- What are the options for restricting use of the route, and what are the likely economic impacts of doing so?
- Should the immigration health surcharge be applied to intra-company transfers?

6.2 Current rules and operation of the Tier 2 (Intra-company Transfer) route

6.5 The current UK provisions for the Tier 2 (Intra-company Transfer) route cover four category types (see Chapter 2 for further details):

(1) **Short-term:** for established employees staying in the UK for up to and including12 months;

(2) **Long-term**: for established employees who intend to stay in the UK for longer than 12 months, up to and including five years and one month. High earners paid £155,300 or more can stay for up to nine years;

(3) **Graduate trainee**: for recent graduates staying in the UK for up to 12 months; and,

(4) **Skills transfers**: for overseas employees transferred to the UK for up to six months.

6.6 Although the rules require that there must be no UK or EEA worker available to take up the post being taken up by an intra-company transferee, employers do not have to complete a resident labour market test. The Tier 2 limit does not apply to intra-company transfers. There is an annual limit on the graduate trainee route of five places per sponsor organisation.

6.7 There is a cooling off period of 12 months at the end of the intra-company transferee's stay during which time they cannot apply for a visa to return to the UK. Very high earners (those earning in excess of £155,300) are exempt from the cooling off period.

6.8 Intra-company transferees are required to be experienced employees, except for the skills transfer route which is designed to facilitate employers' training their staff. For the short-term and long-term routes, the transferee needs to have worked for the employer for at least 12 months. For the graduate trainee route, the migrant needs to have at least 3 months' experience with their employer overseas.

6.9 Chapter 2 sets out the current salary thresholds for the intra-company transfer route. The thresholds are set to ensure that intra-company transferees are sufficiently skilled and are not undercutting the wages of UK workers.

6.10 As set out in Chapter 1, the Government's overarching aim is to reduce net migration. A number of partners raised their concern that the Tier 2 (Intra-company Transfer) route should be out of scope as the route is for temporary migration and therefore will not impact on the net migration figures. However, it is important to note that the numbers of migrants on this route do contribute to the total stock of migrants in the UK and that a sustained rise in numbers, such as experienced in 2009-2014, will contribute to the net migration figures.

6.11 Beyond the net migration focus, there is a wider rationale for reviewing Tier 2. We shall consider whether migrant labour is being used to complement or substitute native workers. Further, the Tier 2 (Intra-company Transfer) route has not been reviewed for at least five years and since then the use of the route appears to have changed dramatically from what it was intended. There is therefore a strong argument to revisit how the route is working and to assess whether the route is delivering what was originally intended.

6.3 International obligations

6.12 The UK has signed up to commitments on intra-company transfers in a number of trade agreements, including the World Trade Organisation's General Agreement on Trade in Services (GATS). In this section, we provide a high level summary of the UK's current international obligations concerning intra-company transfers.

6.13 The GATS commitment covers:

- Intra-company transfers (specialists and senior personnel) on a three year stay; and,
- Graduate trainees (one year length of stay).

Visa Types and Lengths

6.14 Under GATS, intra-company transfers must be permitted for up to three years and graduate trainee schemes for up to one year.

6.15 Currently, the UK allows long-term intra-company transferees to come to the UK for up to five years, unless they earn over £155,300 in which case they can remain in the UK for up to nine years. The UK also introduced short-term and skills transfer intra-company transfer routes in 2011, neither of which are a requirement of GATS. Therefore, the present UK intra-company transfer route goes further than required by the UK's international obligations.

Definitions of manager and of specialist

6.16 It is a GATS requirement that the UK allow senior manager and specialist employees of multinational companies to enter and work in the UK via its intra-company transfer route.

6.17 There is no definition of what constitutes a manager or a specialist. The current Tier 2 (Intra-company Transfer) long-term route provisions use salary as a proxy measure to identify them. As set out in our initial analysis of Tier 2 salary thresholds (Migration Advisory Committee, 2015), the threshold is set at £41,500 based on analysis using the latest data from the Labour Force Survey (LFS) and the SOC 2010 classifications.

Economic needs tests and numerical ceilings

6.18 The UK would be in breach of its international obligations were it to either introduce an economic needs test or place a limit on the long-term or the Graduate Trainee intra-company transfer routes.

6.19 There is no GATS requirement for the UK to provide a short-term intra-company transfer and skills transfer route. It is our view, therefore, that the UK could restrict these routes without being in breach of its international obligations.

6.4 International comparisons

6.20 We have not undertaken a comprehensive review of intra-company transfer routes worldwide but have looked at some examples from other countries. Of the countries we looked at (Australia, Canada, New Zealand, Singapore and the United States (US)), only the US has a specific intra-company transfer route (the L-1 visa). None of the countries we looked at had a limit on the number of intra-company transferees or required a labour market test.

Other countries' definitions of manager and of specialist

6.21 Australia will not impose its labour market testing requirement for intra-company transfers where the transferee is in an occupation listed on the Department of Immigration and Border Protection website as Executive or Senior Manager. Intra-company transferees who wish to be exempt from the Canadian labour market test must show that they possess a high standard of specialised knowledge and that they have been offered a wage that is consistent with the Canadian prevailing wage.

6.22 Within the US, intra-company transferees must provide evidence of either their executive or managerial capacity (L-1A visa route) or specialised knowledge (L-1B visa route). The US defines executive capacity as an employee's ability to make decisions of wide latitude without much oversight. Managerial capacity is defined as the ability to supervise and control the work of professional employees and to manage the organisation, or a department, subdivision, function, or component of the organisation. Specialist knowledge is defined as either special knowledge of the employer's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organisation's processes and procedures.

6.5 Purpose of the route

6.23 As set out in MAC (2009), we consider that the intra-company transfer route was established to serve three different uses:

i. to fill senior management and specialist positions for a limited period of time;

ii. to transfer knowledge (either to the UK based company or to acquire knowledge to be used later in the country of origin); and

iii. to offer international experience as part of a training programme such as graduate trainee programmes.

6.24 The purpose of the route differs from the Tier 2 (General) route, which is for skilled workers to fill demonstrable vacancies and skill shortages. It therefore follows that the same levers to restrict migration under either route may not be equally applicable, in terms of either intent or outcome. We now look at each of these needs in turn.

Senior managers and specialists

6.25 Multinational firms can bring to the UK senior managers and specialists with specific skills and expertise not readily available within the UK workforce. This could include firm specific knowledge or skills as well as more generic skills and experience. The transferee's skills will complement those of the UK workforce, for example, by bringing cultural knowledge and understanding, languages or specialist skills to the business.

6.26 Partners gave us examples in their evidence of the need for such specialist skills. The Confederation of Indian Industry told us Indian companies operating in the UK need to bring staff from India to act as links to the parent company due to their familiarity with the languages spoken in India, familiarity of culture, knowledge about business climate there, knowledge about Indian regulations and policy, as well as familiarity with the company in India. We were told that these skills cannot be developed through training.

Knowledge transfer

6.27 The intra-company transfer route is used to facilitate knowledge transfer between overseas staff and UK teams, which includes learning business practice in different countries and gaining exposure to the organisation's global operations.

6.28 Partners told us that this route allows overseas employees to share with UK staff their skills, knowledge and experience of working in overseas subsidiaries or head offices. In return, overseas staff can gain skills, knowledge and experience from UK staff which can be used to improve efficiency and encourage growth of the overseas office. We were told that this cross sharing of knowledge and industry expertise is critical to the success of the UK firm and leads to innovation and further upskilling of the workforce.

> *"Jaguar Land Rover transfers employees to the UK so that they can train UK colleagues and build common vision, values and process. Moreover, this develops their expertise and value to the business".*
>
> Jaguar Land Rover response to MAC call for evidence

International experience

6.29 The route is used to give employees more experience of international operations and of working in different countries.

6.30 The route also forms part of reciprocal graduate trainee programmes and global mobility development programmes. PricewaterhouseCoopers told us about a number of development schemes, including the World Experience Programme (WEP) which gives opportunities for PwC employees from developing countries to come to the UK to gain experience, skills and knowledge which they then take to their home country to drive efficiencies and growth in those markets.

6.31 We were told that the opportunity to undertake international assignments and secondments increased the attractiveness of joining multinational firms. It was suggested that the UK's global reputation, and the presence in the UK of so many international head offices gives multinational firms a strong incentive to send their staff to the UK to gain international experience.

6.6 Current uses of the route

Conventional use and third-party contracting use

6.32 If we characterise the three uses set out in para. 6.23 as being part of the **conventional** use of the intra-company transfer route, over time, a fourth use of the route – **third-party contracting**—has evolved.

6.33 The conventional use of the intra-company transfer route often involves bringing a small number of highly skilled specialist staff to the UK to work with the firm's UK workforce of mainly resident workers. These uniquely skilled migrants impart their skills and act as a complement to their UK colleagues (see Koito case study below).

Case study: Koito UK

Koito UK are part of Koito Europe Ltd, a manufacturing firm with their headquarters in Japan and who specialise in car head-lights and rear-lights. The UK branch supplies, for example, Nissan, Renault, Toyota, Honda and Suzuki.

Koito UK currently employs just over 650 full-time employees, with approximately 1.5 per cent of their workforce (9 employees) on Tier 2 (Intra-company Transfer) visas.

Three of the current intra-company transferees are at Director level, responsible for management culture. The remaining six are senior coordinators, working in either product development or manufacturing support.

The intra-company transferees use their specialist expertise, gained from working in the global headquarters in Japan, to provide a strategic overview of the business and the Japanese approach to work.

6.34 However, a different use of the intra-company transfer route has become common. The new business model is one where the sponsor employer uses the transferee to carry out work for a third-party organisation, sometimes on a one-off project but sometimes on a contract for continuing services. The transferee remains an employee of the sponsor firm but may be working on the premises of the third-party firm. This often involves limited input from other employees of the sponsor firm and the intra-company transferees will predominantly have contact with employees of the third-party firm. A sponsor may have large numbers of UK-based migrant workers on intra-company transfers, and relatively small numbers of UK resident workers who may be direct complements to the intra-company transferees. In addition there are concerns – which we address later – that the success of this business model is driven in part by the fact that the use of the intra-company transfer route allows access to workers at a lower cost than the equivalent quality available on the domestic labour market. If this is the case, the transferee could potentially be undercutting the UK workers.

6.35 There are a number of ways in which the conventional use and the third-party contracting use seem to differ. To distinguish between the two we use the fact that, when applying for a certificate of sponsorship (CoS), sponsors must indicate whether the intra-company transfer application is for work on a client contract. For the purpose of our analysis, we assumed that those CoS applications not on client contract fall under the conventional use of the intra-company transfer route. As Table 6.1 shows, 60 per cent of the entire route, and 74 per cent of the short-term route, is for work on client contracts.

Table 6.1: Tier 2 (Intra-company Transfer) CoS assigned by route and whether on client contract, year ending August 2015

	On client contract	Not on client contract	Total	% on client contract
Graduate	7	125	132	5
Skills Transfer	925	1,284	2,209	42
Short Term	17,313	6,239	23,552	74
Long Term	10,037	11,312	21,349	47
Total	**28,282**	**18,960**	**47,242**	**60**

Source: Home Office Management Information, year ending August 2015. Both in-country and out-of-country. The client contract split is for CoS assigned therefore not comparable to CoS used in previous tables.

6.36 The concentration of occupations in conventional and third-party contracting use of the route is very different. Within the conventional use of the route, the top 10 occupations represented only 57 per cent of the route (Table 6.2). In comparison, the third-party contracting use of the route is dominated by the top 10 occupations, representing 97 per cent of this use of the route, of which 93 per cent are in IT occupations (Table 6.3).

Table 6.2: Top 10 SOC codes for conventional use based on CoS assigned, year ending August 2015

Job Type	Conventional	%
2423 Management consultants and business analysts	1,922	**10**
2135 IT business analysts, architects and systems designers	1,365	**7**
2136 Programmers and software development professionals	1,305	**7**
3545 Sales accounts and business development managers	1,278	**7**
3534 Finance and investment analysts and advisers	1,204	**6**
2421 Chartered and certified accountants	924	**5**
1132 Marketing and sales directors	880	**5**
1131 Purchasing managers and directors	732	**4**
1115 Chief executives and senior officials	682	**4**
2424 Business and financial project management profess.	562	**3**
Total (Top 10)	10,854	**57**
Total (Conventional)	18,960	**100**

Source: Home Office Management Information, year ending August 2015. CoS assigned therefore not comparable to CoS used in previous tables. Both in-country and out-of-country.

Table 6.3: Top 10 SOC codes on client contracts based on CoS assigned, year ending August 2015

Job Type	On client contract		%
2136 Programmers and Software Developers	8,620	(87%)	**30**
2135 IT business analysts, architects and systems designers	8,494	(86%)	**30**
2139 Information Technology and telecommunications professionals	4,798	(90%)	**17**
2134 IT project and programme managers	2,536	(84%)	**9**
2133 IT specialist managers	930	(75%)	**3**
2137 Web design and development professionals	849	(95%)	**3**
2423 Management consultants and business analysts	501	(21%)	**2**
2126 Design and development engineers	397	(45%)	**1**
2129 Engineering professionals not elsewhere classified	154	(23%)	**1**
2462 Quality assurance and regulatory professionals	140	(41%)	**0**
Total (Top 10)	27,419	(79%)	**97**
Total (Third-party contracting)	28,282	(60%)	**100**

Source: Home Office Management Information, year ending August 2015. CoS assigned therefore not comparable to CoS used in previous tables. Both in-country and out-of-country. The percentages in brackets refer to what percentage of applications for each SOC code are on client contract.

6.37 The concentration of firms in conventional and third-party use of the route is also very different. For conventional use of the route, the 10 employers making the greatest number of applications represent only 15 per cent of conventional use of the route and 6 per cent of the Tier 2 (Intra-company Transfer) route as a whole (Table 6.4). No sole employer accounts for more than 3 per cent of the total CoS assigned for conventional use. In comparison, the 10 employers making the greatest number of applications within the third-party contracting use of the route represent 79 per cent of the third-party contracting use of the route and 47 per cent of the Tier 2 (Intra-company Transfer) route overall (Table 6.5).

Table 6.4: Top 10 employers for conventional use of Tier 2 (Intra-company Transfer) route based on CoS assigned, year ending August 2015

Organisation Name	Total	%
Organisation A	475	3
Organisation B	382	2
Organisation C	359	2
Organisation D	329	2
Organisation E	276	1
Organisation F	234	1
Organisation G	231	1
Organisation H	211	1
Organisation I	191	1
Organisation J	186	1
Total (Top 10)	**2,874**	**15**
Total (Conventional)	**18,960**	**100**

Source: Home Office Management Information, year ending August 2015, CoS assigned therefore not comparable to CoS used in previous tables. Both in-country and out-of-country. Organisation names have been anonymised.

Table 6.5: Top 10 employers within the third-party contracting use of Tier 2 (Intra-company Transfer) route based on CoS assigned, year ending August 2015

Organisation Name	Total		%
Organisation K	6,439	(99%)	**23**
Organisation L	3,647	(98%)	**13**
Organisation M	2,572	(97%)	**9**
Organisation N	2,545	(97%)	**9**
Organisation O	1,879	(96%)	**7**
Organisation P	1,636	(89%)	**6**
Organisation Q	1,246	(98%)	**4**
Organisation R	1,193	(94%)	**4**
Organisation S	859	(90%)	**3**
Organisation T	313	(98%)	**1**
Total (Top 10)	**22,329**	**(97%)**	**79**
Total (Third-party contracting)	**28,282**	**(60%)**	**100**

Source: Home Office Management Information, year ending August 2015, CoS assigned therefore not comparable to CoS used in previous tables. Both in-country and out-of-country. Organisation names have been anonymised.

6.38 The salaries paid by firms in conventional and third-party use of the route are also very different. The median salary under the conventional use of the route is £59,303 for the short-term route and £70,000 for the long-term route (Table 6.6). In comparison, the median salary for the third-party

contracting use of the route is £33,852 for the short-term and £47,652 for the long-term (Table 6.7). For those on third-party contracts, a high proportion of salaries are at or very close to the minimum salary thresholds suggesting that these thresholds have an important impact on this route.

Table 6.6: Salary distribution for conventional use of Tier 2 (Intra-company Transfer) route for CoS applications, year ending August 2015 (£)

Percentile	Graduate Trainee	Skills Transfers	Short-Term ICTs	Long-Term ICTs
10th	24,931	36,200	33,243	42,828
25th	32,242	45,759	45,600	51,096
50th	39,892	62,360	59,303	70,000
n	*117*	*1,247*	*5,835*	*8,873*

Source: Home Office Management Information, year ending August 2015. Total CoS assigned. The salaries include allowances. Both in-country and out-of-country.

Table 6.7: Salary distribution for third-party contracting use of Tier 2 (Intra-company Transfer) route, year ending August 2015 (£)

Percentile	Graduate Trainee	Skills Transfers	Short-Term ICTs	Long-Term ICTs
10th		29,600	28,344	41,000
25th		31,100	31,100	42,000
50th		34,337	33,852	47,652
n	*	*922*	*17,251*	*9,853*

Source: Home Office Management Information, year ending August 2015. Total CoS assigned. The salaries include allowances. *Fewer than 100 observations. Both in-country and out-of-country.

6.39 Looking at the top three IT occupations used within the Tier 2 (Intra-company Transfer) route, it is clearly the case that the salary thresholds have a strong influence over the salaries paid in third-party contracting for IT workers. Figure 6.1 shows the salary distribution for the three most used IT occupations for client contracts (and overall) for individuals aged 25-35 (the most concentrated age band for applications within these occupations). The green line represents the distribution of gross annual pay (including allowances) for third-party contracting short-term intra-company transferees in each occupation. The red line represents the distribution for short-term intra-company transferees within the conventional use of the route in each occupation. The blue line represents the distribution of gross annual pay for full-time, working age employees that were hired in the last year in that occupation in the UK, using ASHE 2014. The vertical red line represents the 25th percentile for each occupation which is the current minimum salary thresholds for experienced workers on the short-term route.

6.40 These figures show that salaries within third-party contracting are clustered around the minimum salary thresholds, whereas for the conventional use of the route the distribution is much further to the right, reflecting higher salaries being paid. This clustering suggests that the

salary thresholds are binding which is not surprising considering that most of the transferees are from countries where the prevailing level of salaries is much lower than in the UK. It should be stressed that this clustering does not, on its own, indicate undercutting but it does suggest that it is crucial to set the salary thresholds at an appropriate level.

6.41 In discussions with partners, we were often told that the intra-company transferees being brought in under the third-party contracting use of the route were highly specialist with approximately 8 years of experience and being paid £60k-£80k. This is not consistent with the management information data for these companies. The Government commission asked for our advice on restricting the Tier 2 (Intra-company Transfer) route to genuine skills shortages and highly specialist experts only. If we accept that salary is a good reflection of how specialist an individual is, then by definition the third-party contracting intra-company transferees are not as specialist as we were told, and may also be of lower value than the conventional intra-company transferees.

Figure 6.1: Salary distribution for top three IT occupations for the UK and short-term Tier 2 (Intra-company Transfer) route

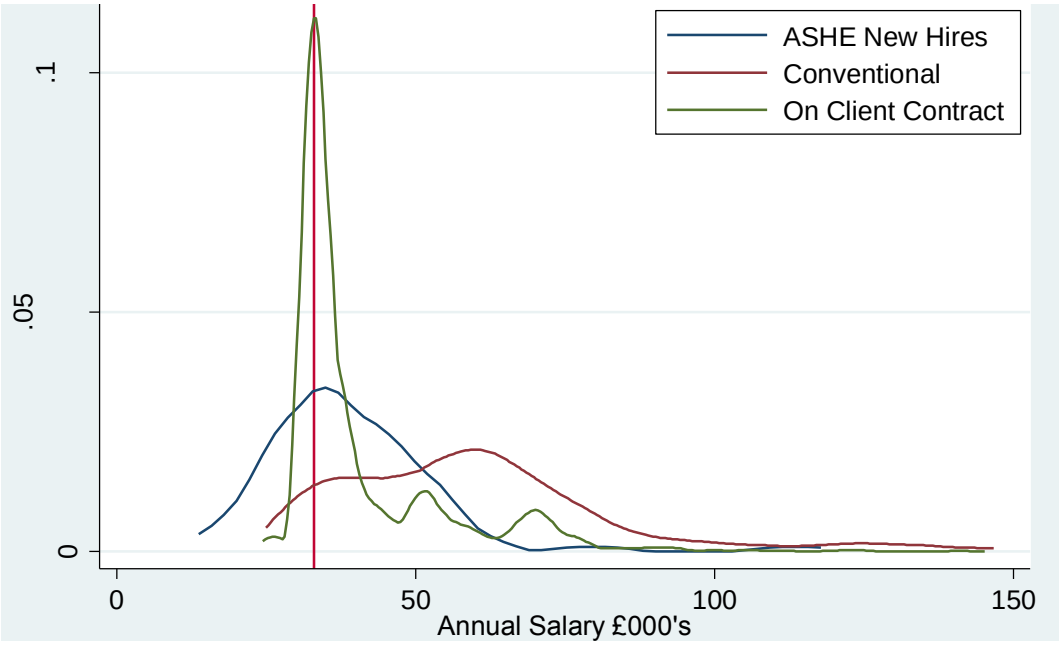
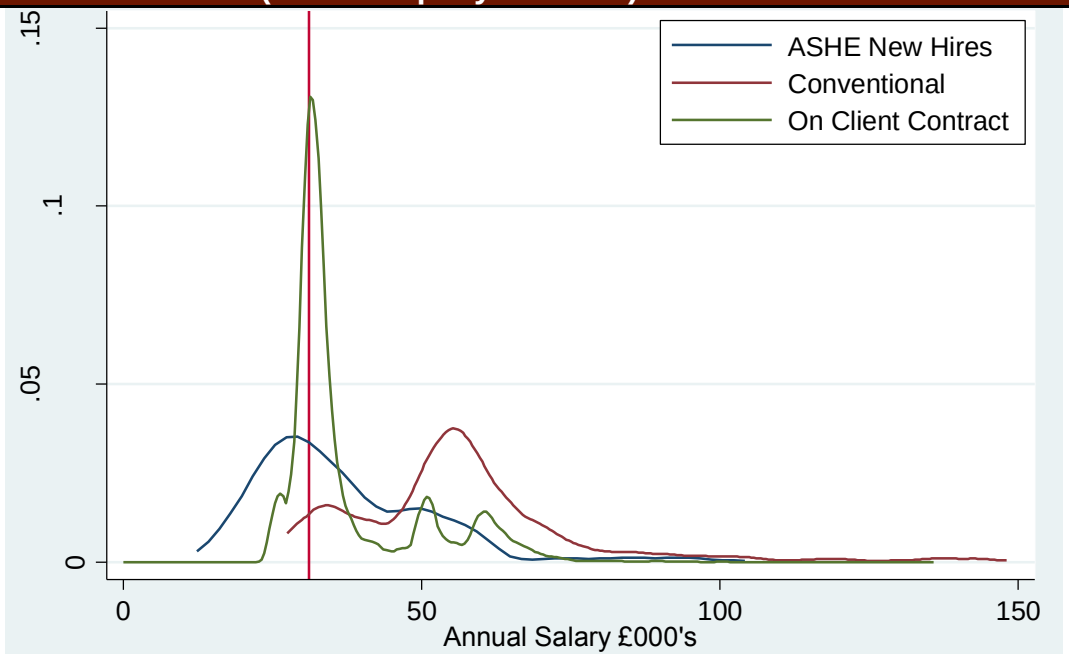
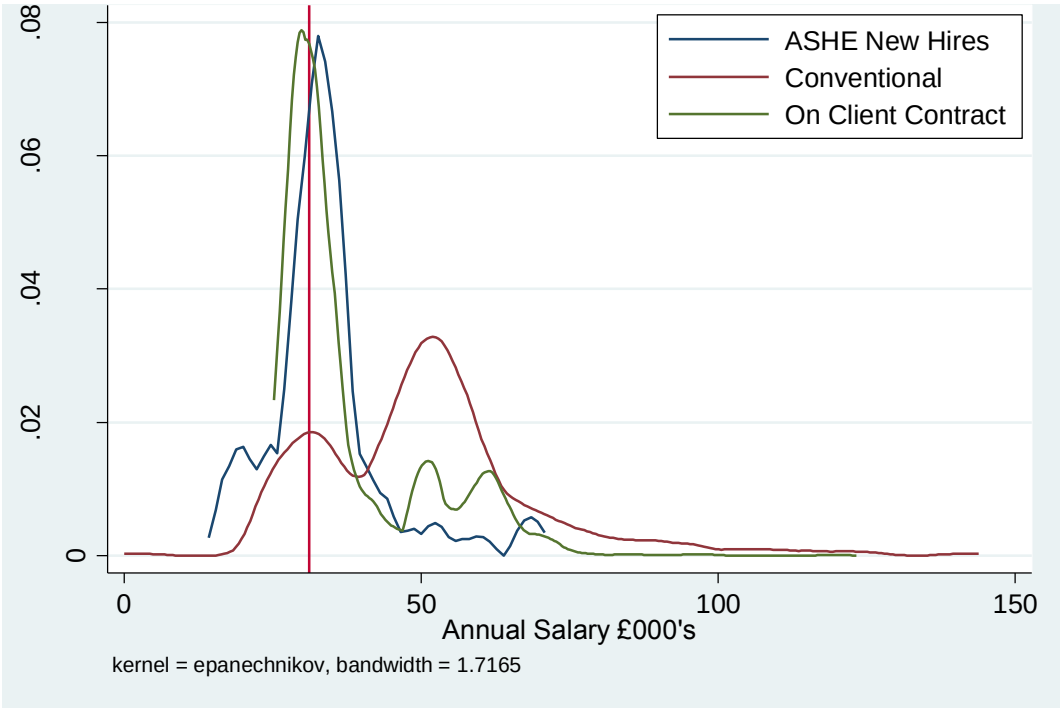


Figure 6.1: Salary distribution for top three IT occupations for the UK and short-term Tier 2 (Intra-company Transfer) route





Source: Home Office Management Information, year ending August 2015 combined with the Annual Survey for Hours and Earnings (ASHE), 2014. The vertical red lines set out the current minimum salary threshold for the short-tern route. Both in-country and out-of-country.

Third-party contracting

6.42 As discussed above, the use of the intra-company transfer route for third-party contracting differs substantially from the conventional use. While the conventional use clearly corresponds to the intended purpose of the route, this is not obviously the case for all third-party contracts. **For this reason**

we pay particular attention in this chapter to third-party contracting in the IT sector as this sector represents 93 per cent of all third-party contracting within the Tier 2 (Intra-company Transfer) route.

6.43 Partners within the IT sector told us that they used the Tier 2 (Intra-company Transfer) route to bring in their own staff who understood and had experience of the firm specific delivery process and systems. We were told that current use of the route allows these firms to have a large pool of trained staff to be drawn upon as and when required. This enables firms to respond quickly to a client's requirements when a new contract for a one-off project is won. Multinational employers are able to take advantage of the fact that labour costs are lower in some countries than they are in the UK and can outsource some of their activities to a country with lower wage costs. Such companies are thus able to bid competitively for third-party contracts.

6.44 Under many contracts, there will be some activities requiring a physical presence in the UK of the skilled worker. The Tier 2 (Intra-company Transfer) route allows firms to bring in employees from outside the EEA to service those parts of the contract that need to be done on, or near, the client's site. For example, Infosys told us that for some projects having part of the team onsite is a regulatory requirement. The third-party model that was expressed to us is for such on-site working to be limited in scope with more extensive work being undertaken outside of the UK. In this way, multinational employers are able to keep the charges for their services as low as possible.

6.45 However, it is also possible for employers to use the intra-company transfer route not for one-off projects but to service long-term, business as usual type projects by regular rotation of intra-company transferees. The cooling off period hampers this somewhat at the individual employee level but there is potential for employers to circumvent this by using different employees for each rotation. It is already against the immigration rules for an intra-company transferee to be used on contract work to undertake an ongoing routine role or to provide an ongoing routine service for a third party who is not the sponsor. However, it is not clear to us whether this has been actively enforced and some activity appears to fall into this category.

"Via ICTs, UK companies benefit from access to skills that are not generally available in the UK. These skills include the latest leading edge technologies which UK companies need in order to compete globally. Currently the UK can call upon ICTs with specialist expertise to come to the UK for short periods of time. They pass on their skills and expertise to UK employees while delivering the latest advances in technology from around the world. In addition to highly specialised skills, there can also be a need for ICT workers for more routine work when short term peak demand for bespoke projects exceeds our ability to resource them from UK employees".

A large technology services company's response to MAC call for evidence

6.46 Within the third-party contracting use of the route, 96 per cent of CoS used are for Indian nationals. Some of the heaviest users of the intra-company transfer route are Indian companies, and the top ten employers using the intra-company transfer route are all largely employing IT workers from India. When we spoke to them, these companies were open and candid about their use of this route. Salaries in India are lower than in the UK giving a cost advantage in those parts of the contracts that can be performed overseas. There have been large investments in training centres in India which produce a large number of IT workers.

6.47 The third-party contracting use of the route is significantly different from the conventional use and our analysis has shown that there are a number of key areas where this difference is apparent. As a result, in examining the impacts of these two uses, we will consider each route in turn.

6.7 Economic impact of the conventional use of the Tier 2 (Intra-company Transfer) route

6.48 This section will consider the economic impacts of the conventional use of the Tier 2 (Intra-company Transfer) route. The economic impacts of third-party contracting will be considered in the following section.

Overall economic impacts

6.49 The Tier 2 (Intra-company Transfer) route helps employers deploy the skills and knowledge of their global workforce where those employers consider those skills will have most effect. The route helps employers maximise productivity, encourage trade and investment and ultimately contribute towards economic growth.

6.50 Taking salary as a good proxy for value, we regard long-term intra-company transferees as more valuable than short-term transferees because the former attract a higher salary (see Tables 6.6 and 6.7 for salary distributions). The long-term route tends to be used for senior managerial and executive roles whereas the short-term route is used predominantly to bring in more junior staff.

Productivity

6.51 The Tier 2 (Intra-company Transfer) route permits a regular flow in and out of the UK of highly skilled people with experience of working in other countries. These flows can help the transmission of new ideas, skills and technologies. The OECD (2008) report concluded that a mobile workforce not only aids in the production and dissemination of codified knowledge, but is also an important means of transmitting tacit knowledge. Tacit knowledge is any knowledge that cannot be codified or transmitted through documentation, academic papers, lectures, conferences or other communication channels. The report found that such knowledge is more effectively transferred among individuals with a common social context and physical proximity.

6.52 Intra-company transfers facilitate specialisation through the experience of working in other branches of the firm, bringing innovative ideas and methods to the UK branch. Such increases in corporate knowledge and specialisation should serve to increase productivity, and any increase in productivity will lead to an increase in output and economic growth in the long-run. The majority of partners argued that tightening the intra-company transfer provisions would seriously affect their ability to transfer employees, skills and expertise with their organisations and could also prevent the development of staff which, they said, is essential in the retention of key talent.

"ICTs introduce skills and innovations that increase productivity and growth, allowing employers to expand and hire resident workers....ICTs should not be understood as substitutes for resident workers. By dint of previous experience with the employer, some ICTs possess knowledge, skills and expertise that cannot be found in the domestic labour market. Moreover resident workers cannot substitute ICTs that arrive for training purposes or exposure to UK business operations as it would defeat the purpose of the short-term transfer."

Council for Global Immigration response to the MAC call for evidence

Trade and investment

6.53 We saw evidence from partners that the intra-company transfer route is used to help establish new businesses in the UK, move into different markets and bring in new projects. The ability to have a globally mobile workforce will contribute to an increase in trade and investment into the UK as businesses are more likely to establish themselves in the UK as well as expand their operations here. Partners told us that any restrictions to this route would be a barrier to economic growth in the long term, creating uncertainty for business in their ability to access the talent they require. A number of business groups, including the CBI and the Institute of Directors, told us that the UK's popularity as a regional or global headquarters means that companies want to locate their graduate schemes here and move people to the UK office for a period of time for purposes of training or wider career progression. If, under a restricted Tier 2, multi-national firms find it more difficult to move their people around, or bring in the skills they need, most of the business groups suggest that foreign direct investment into the UK will be reduced.

"A large part of our global IT infrastructure is based in India, servicing our entire global network and remains an intrinsic part of our business and global strategy. As we are currently headquartered in the UK, we have significant IT infrastructure based in the UK and on a local level this is staffed by a large number of resident workers. Our ICT population working in the IT sector travel to the UK with the main objective to learn the business process, meet the individuals and gain understanding of the standards, rules and ethos. They are not coming to undertake third party contract work and are required to facilitate business travel so they can support the global business whose headquarters happen to be in the UK. Given that technology plays an integral part in our global business, if the ICT route is restricted further this will be a significant factor to consider as part of our long term decisions as to where the business should be headquartered in the future."

A leading financial institution's response to the MAC call for evidence

6.54 A number of partners suggested that the ability to use the Tier 2 (Intra-company Transfer) route has led to significant investment into the UK and enabled UK businesses to expand. For example, the Embassy of Japan emphasised the large stock of investment Japanese companies have in the UK, totalling £40.7 billion. The Embassy raised concerns that any further restrictions to Tier 2 would severely limit Japanese businesses' contribution to the UK economy. The Australian High Commission expressed a similar view.

"Protecting the ability of global companies to move their staff across borders on intra-company transfers (ICTs) is the highest priority for these companies, making them vital to the UK's reputation as a place to invest. Today's businesses operate globally, meaning skills and knowledge transfer across global operations is critical. The use of ICTs has enabled the UK to win substantial investment, and has supported UK businesses to break into new markets – investment and exports are two critical pillars of the future growth of the UK economy. It has also been observed by leaders within the UK operations of foreign owned companies, that being able to bring senior executives to the UK boosts future investment where these executives have a positive experience of the UK operation – a positive, short term experience has helped create a network of UK brand ambassadors around the world."

CBI response to MAC call for evidence

"The relationships and networks that Australians build while working and living here can translate into new business and investment opportunities in both markets, and/or support and enhance existing investments. Avenues for new exports and investment to Australia and beyond could be lost to the UK if Tier 2 is further restricted."

Australian High Commission response to MAC call for evidence

Fiscal impacts

6.55 Expansions in business activity that result from use of the Tier 2 (Intra-company Transfer) route will lead to an increase in revenue from both direct taxes, such as corporation and income tax, and indirect taxes such as VAT.

6.56 As with all Tier 2 migrants, intra-company transferees are not permitted to access public funds such as housing benefit or tax credits. They thus have a positive fiscal impact. However, they are able to use the National Health Service and we consider the implications of this below when we look at whether they should pay the Immigration Health Surcharge.

6.57 Tier 2 intra-company transferees and their employers do not have to pay national insurance during their first year in the UK and any allowances included within the total salary offer are not subject to income tax for the first two years. Further, where intra-company transferees can keep their non-domiciled status, they are exempt from UK taxes entirely.

6.58 We consider that, due to their length of stay in the UK and lower minimum salary thresholds, short-term intra-company transferees are likely to be making a lesser fiscal contribution to the UK compared to long-term transferees.

Labour market impacts

6.59 We have said above that the ability of firms to bring in intra-company transferees to introduce new skills and innovation will lead to an increase in productivity and growth thus allowing employers to expand, leading to further job creation. In addition, any reciprocity built into the Tier 2 (Intra-company Transfer) route will enable UK residents to gain international experience and develop their skill set. The route will not be displacing UK workers if the transferees complement the domestic labour force and possess knowledge, skills and expertise that cannot be found within the UK. Because the numbers of transferees in the conventional use are generally small in relation to the UK workforce we have the view that these migrants are most likely to be complements to resident workers. It is, for example, hard to imagine that we would have as successful a car industry today if Japanese companies had not been able to avail themselves of intra-company transfers.

6.60 In conclusion, conventional intra-company transferees are vital to UK plc. They leverage substantial FDI and extra jobs and boost productivity and the public finances.

6.8 Economic impact of third-party contracting within the Tier 2 (Intra-company Transfer) route

Overall economic impacts

6.61 The evidence indicates that multinational companies with a presence in India have developed a competitive advantage in delivering IT projects in the UK. They have developed a delivery model, whereby significant elements of projects are delivered offshore in India, taking advantage of the fact that Indian salaries are lower than in the UK for equivalent workers. Employers told us that the project-based nature of this work makes it preferable to maximise the use of their permanent staff on such projects rather than either recruiting new permanent staff within the UK to work just on specific projects, or to use the (higher cost) services of a UK-based consultant. Often parts of these projects require a physical presence in the UK and, for this work, there was a clear preference among such employers to use the intra-company transfer route to bring in staff rather than rely on UK-based alternatives.

6.62 However, some of the projects being delivered do not seem to be one-off projects for some very specific purpose but the delivery of routine business services on a relatively long-term basis. In this case it is more pertinent to ask why resident UK labour is not being used for the delivery of the parts of these projects that require a UK presence.

Productivity

6.63 It is important to recognise that the UK economy can benefit from third-party contracting because it enables UK businesses and the UK Government to purchase IT products and services at lower prices. This will make a positive contribution to UK productivity.

6.64 However, there is the possibility that this is at the expense of UK IT firms and workers who would have been employed in the absence of third-party contracting. And because this lowers the return to working in the IT sector for UK resident workers, it may reduce the incentives to acquire these skills to the longer-term disadvantage of the UK.

Trade and investment

6.65 The availability of third-party contracting within the intra-company transfer route reduces the incentive for firms to off-shore either the entirety or a much larger part of their contracted project work. For example, Macfarlanes LLP told us that the use of the route by IT and management consulting companies to deliver projects for clients in the UK can result in projects retaining a significant UK element when they would otherwise be carried out exclusively overseas. It appears to us, however, that the desire to retain a UK element is more likely a preference of the multinational firm and/or a requirement of the contract as, from a UK labour market perspective, there is already a very strong incentive to off-shore as much work as possible.

Fiscal impacts

6.66 As Table 6.1 sets out, 61 per cent of third-party contracting within the Tier 2 (Intra-company Transfer) route is through the short-term route, compared to 33 per cent of the conventional route. As set out above, intra-company transferees do not have to make any national insurance contributions in their first year in the UK and may be exempt from income tax. Therefore, third-party contractors are likely to be making a substantially lower fiscal contribution to the UK than those that make conventional use of the route.

6.67 Any allowances included within the total salary offer are not subject to income tax for the first two years for intra-company transfers. This has the effect of reducing the revenue to HMRC and making it potentially cheaper to employ workers on an intra-company transfer than UK workers. Even if there is no undercutting in salaries – an issue we consider below – the exemption from employer's national insurance contributions means that third party contractors gain a competitive advantage over domestic firms in terms of total labour costs.

6.68 We had neither the expertise nor the time in this review to consider the fiscal impacts in more depth. Taxation is a matter for HM Treasury and HMRC and we suggest that the Government give further consideration on how taxation arrangements contribute to the demand by employers to use the Tier 2 (Intra-company Transfer) route.

Labour market impacts

6.69 Many – though not all – of the heavy users of intra-company transferees for third-party contracting have only a small portion of their UK employment that are UK residents. This means that there are a relatively small number of UK resident workers to whom the intra-company transferees are likely to be direct complements. This stands in marked contrast to the conventional use of the route.

6.70 However, the businesses purchasing these cheaper IT services will have lower costs than they otherwise would and this encourages them to expand thus providing benefits to their workers who are not providing IT services. In this way, third-party contracting acts indirectly to improve the labour market prospects of UK resident workers.

> *"As a result of TCS's significant growth in the UK, our workforce has more than doubled in the last five years, and the number of local workers has risen by 162 per cent since 2011. In that time, TCS has added 2,950 jobs for local workers, a rate of nearly 500 per year."*
>
> Tata Consultancy Services (TCS) response to MAC call for evidence

6.71 Tata Consultancy Services (TCS) told us that there would be a number of potential consequences of restrictions, including 'UK plc' customers being

unable to develop and deploy new capabilities quickly in the market place due to a lack of access to adequate skills. Customers might instead opt for standardised, 'off-the-shelf' packages, reducing the quality of the IT. Or there could be an increase in outsourcing, with customers travelling to other TCS facilities in Europe or elsewhere in the world.

"If government policy makes it impossible for us to bring our own qualified, trained staff into the UK on a temporary basis it is inevitable that, over time, our levels of activity in the UK will lessen. This is not something we seek or wish for, nor something we will initiate, but customer-by-customer, our diminished ability to enhance the design of our solutions by working on-site would pose a serious threat to our future growth in the UK."

Tata Consultancy Services (TCS) response to MAC call for evidence

6.72 However, there is a risk that the UK portion of third-party contracting achieves its efficiencies through lower salaries than would have to be paid for equivalent UK workers who would then be undercut by migrants and harmed by the use of the route. A number of partners felt that the intra-company transfer route, or aspects of the route, was being used to take advantage of cheaper and more flexible labour, and questioned whether this was the purpose of the route.

6.73 In our review of the Tier 2 salary thresholds (Migration Advisory Committee, 2015), our initial analysis did not find much evidence of undercutting generally. However, we now revisit this question when looking at the use of third-party contracting within the Tier 2 (Intra-company Transfer) route.

"The TUC believes that resident workers are being disadvantaged by the use of the Tier 2 ICT route given its widespread use on what is frequently a "body shopping" basis, and often on inferior terms and conditions."

TUC response to MAC call for evidence

6.74 Some partners (usually individuals rather than employers) submitted evidence claiming that undercutting and displacement was taking place. We also received evidence making allegations of abuse of this route specifically in relation to IT occupations. We are aware that the Home Office is looking into these allegations and make no further comment on them here.

6.75 The key question is whether the salaries at which IT workers can be hired via intra-company transfers are lower than those that would be paid to resident workers of equivalent skill and quality. There are a number of pieces of evidence that speak to this question, although they are not always consistent with each other.

6.76 Partners told us that increasing numbers of UK IT workers were becoming self-employed contractors. We were told that this reflected the fact that highly-skilled talent is in relatively short supply and IT workers were choosing to maximise their earning power through self-employment. One employer stated that their contractor count had increased by 197 per cent compared to a 40 per cent increase in full-time employment in the last five years. However, the LFS suggests that the proportion of individuals that are self-employed in the IT sector (12 per cent) is no higher than that for all occupations skilled to NQF6+ (13 per cent). So it is hard to judge whether partners' own evidence on increased numbers of self-employed contractors is representative of the market as a whole.

6.77 But if IT skills are in short supply or UK resident workers are shifting to self-employment because it is better-paid, this may suggest that intra-company transferees are being used because they are cheaper than UK resident workers for the same level of skills and quality. In addition, there are tax breaks available for intra-company transferees that are not available if one employs UK resident workers. This may mean that the salaries published in the Home Office Tier 2 Codes of Practice are too low, an issue to which we return below.

"Sponsors who engage migrants from less developed countries have a market advantage over resident contractors and consultancy service providers who engage resident workers. This is due to:

a) Consultancy type work would normally be paid higher than the going rate for a given occupation; something that is not accounted for in the Tier 2 codes of practice.

b) Reduced expenses because migrants can be more easily relocated and have lower expected standards of living in respect to accommodation. In addition, accommodation is often counted as an allowance for a migrant when it would be an expense for a resident worker.

c) Tax breaks applied to migrants engaged on the basis of a secondment from an overseas linked company.

…These problems may drive down the earning potential of working in the sector, resulting in a reduction in the availability of resident workers as fewer people choose to pursue a career in the sector. This will drive increasing demand for migrant workers from less developed countries that have invested heavily in their IT industries."

Home Office, (2015), Tier 2 (General) Information & Communication Sector Differentiation, Immigration Intelligence Report.

6.78 However, we also received some evidence that the market for UK resident IT workers is not as buoyant as reports of skill shortages would suggest. In

their October 2015 report, the Higher Education Careers Service Unit (HECSU) found, in a survey of over 10,000 graduates, that the unemployment rate of Computer Science graduates six months after graduating was 10.6 per cent, substantially higher than the overall average for all graduates of 6.3 per cent. There has also been a decline in the number of students within Higher Education studying Information and Communication Technology subjects in recent years.

6.79 The relatively high unemployment rate in this occupation could also be an indication of over-supply of certain skills or could indicate that UK computer science graduates do not have the skill set sought by employers. We therefore cannot know whether the higher unemployment rate is a direct result of third-party contracting using the intra-company transfer route. **We recommend that the Government consider carrying out a more in-depth review of the skills shortages within the IT sector and the subsequent impact of immigration in this area.** We are aware that Professor Sir Nigel Shadbolt has been appointed by the Department for Business Innovation and Skills to lead a review of computer science degree accreditation and graduate employability, which should help to address the current evidence gaps in this area.

6.80 The salaries in IT occupations also do not seem to be increasing significantly relative to average earnings or the earnings in graduate-level occupations (IT and telecommunications professionals have experienced a 5 per cent increase in the median salary since 2011, compared to a 6 per cent increase across all occupations skilled to NQF6, (Annual Survey for Hours and Earnings, 2015)). Again, this is not consistent with the view of a labour market with a high level of skill shortages, where firms are turning to the use of client contracts heavily based on the use of intra-company transfer workers because of the rising cost of providing these services domestically.

6.81 We offer one tentative resolution of the conflict between the partner evidence of serious skills shortage within the UK and the other evidence that the labour market for UK IT workers is not booming as one might expect if that was the case. This is that there is huge variation in the quality of workers in this sector even with the same level of paper qualifications and experience. The quality of IT work demanded by employers is not forthcoming in the domestic market at the salary thresholds for these occupations while it can be readily sourced from other lower-wage countries. The use of intra-company transferees is then very attractive to firms seeking high-quality work at a low cost. But this does imply there is undercutting of the domestic labour market in the sense that salaries being paid to intra-company transferees are below what would have to be paid to UK resident workers of equivalent quality. Though it is not a conscious decision of the employers and it is understandable that it is not perceived as undercutting by the employers who are simply doing what works for them. We are concerned that the third-party contracting use of the route does provide employers with the opportunity to substitute UK labour with migrant labour. Furthermore, inflows of IT workers of this

magnitude (in excess of 25,000 per annum) within the Tier 2 (Intra-company Transfer) route have been going on for years, suggesting a more structural skills issue in the UK.

6.82 There is also a danger that the attractiveness of a career in IT is reduced for UK residents. Although partners did tell us that there was an element of reciprocity built into employers' use of the intra-company transfer and they were providing training for UK residents, we did not see direct evidence of this. Indeed, partners told us that India currently has a competitive advantage in training IT workers and in the time it would take to fully upskill the native population, technology would have moved on. We were told that this is unique to the IT sector. We are aware of the announcement that the British Council and Tata Consultancy Services will provide one-year internships for 1,000 UK graduates between 2016 and 2020. But on the basis of the evidence we received, the traffic looks one-way at the moment.

6.83 In conclusion, the economic impacts of the third-party contracting use of the route are much less positive than those of the conventional use of the route. Our recommendations reflect this judgment. We will now assess the rationale for restricting the conventional use of the route, and the options for doing so, before considering the third-party contracting use of the route.

6.9 Rationale for restricting conventional use of the route

6.84 Although intra-company transferees have no direct route to settlement in the UK, they do contribute to the total stock of migrants in the UK and rising numbers will contribute to net migration. There is presently no limit on the numbers of migrants that can come to the UK through the Tier 2 (Intra-company Transfer) route. This is in contrast to Tier 2 (General) route which is subject to such a limit and where, presently, that limit has come into effect and there are not enough restricted certificates of sponsorship (RcoS) for every employer who wants one.

6.85 The evidence strongly shows that the economic impacts of the conventional use of the route are significantly more positive than those of the third-party contracting. We are well-seized of the desirability of skilled employees of multinational employers coming to the UK to transfer their skills and knowledge to UK staff. We have heard and seen the examples and have met with the skilled staff involved, such as the Japanese automotive engineers engaged in supervising and training UK staff at UK car plants established and owned by Japanese companies. The higher salaries being paid within the conventional use of the route are reflective of the high level of expertise these intra-company transferees possess.

Partner evidence

6.86 Although most partners submitted evidence arguing against any restriction on numbers using this route, a number of partners that do not make extensive use of the intra-company transfer route but do make use of the Tier 2 (General) route (for example in the health and research sector)

questioned why, considering the size of the route, there should not also be a limit on intra-company transfers. For example, the Department of Health and the British Medical Association (BMA) told us that a system where one route (Tier 2 (General)) is capped whilst another (intra-company transfers) is not has led to unbalanced visa allocations. The BMA recommended that the favourable allocation of visas for the Tier 2 (Intra-company Transfer) route should be rebalanced in favour of Tier 2 (General).

6.87 Those in favour of restrictions included some partners within the research sector, who told us that there should be similar eligibility criteria for both Tier 2 (General) and intra-company transfers. The TUC told us that the intra-company transfer route should only be used where there are labour market shortages (i.e. it should be subject to a resident labour market test) and that the lowest paid short term intra-company transfers may be undercutting native workers.

6.88 There was also concern expressed over whether any further restrictions on the Tier 2 (Intra-company transfer) route would place additional pressure on Tier 2 (General) as businesses may increase their use of the latter route.

6.89 We consider that there is an excellent prima facie argument for this use of the route to continue on account of the benefit to UK plc. Our analysis of the available data and partner evidence supported this. We therefore do not see any good rationale for significantly restricting the conventional use of the route but will concentrate on the third-party contracting use of the route which currently represents 60 per cent of the Tier 2 (Intra-company Transfer) route.

6.10 Options for restricting the 'conventional' use of the route

6.90 The Government asked that we recommend ways of restricting immigration under the Tier 2 routes. As set out above, the conventional use of the Tier 2 (Intra-company Transfer) route delivers significant economic benefits to the UK. Therefore we do not consider any radical options for restricting this use of the route.

6.91 Chapters 4 and 5 have already set out the rationale and potential impact of higher salary thresholds and the application of an immigration skills charge. We recommended that the minimum salary threshold for short-term intra-company transferees be raised to £30,000 to reflect the current skill requirement of NQF6+. In addition, we recommended that new entrants have a lower threshold of £23,000 to reflect the fact they are at the start of their careers and are therefore much lower on the salary distribution.

6.92 We reviewed the current £41,500 threshold for long-term intra-company transfers in our initial analysis of Tier 2 salary thresholds, published in August 2015. We found that this threshold is still appropriate as a minimum threshold to act as a proxy for senior managers and specialists.

6.93 We recommended that the immigration skills charge apply to all short-term and long-term intra-company transfers but that the skills transfer route and graduate trainee route be exempt as the impact of these routes is to upskill the UK workforce.

6.94 Table 6.1 shows that only 26 per cent (6,239) of the short-term route is for conventional use, with the majority being used for third-party contracting. The provision of the short-term route goes beyond the GATS requirements in that an individual can earn £24,800, compared to the £41,500 salary threshold to reflect the need to allow senior managers and specialists to enter the UK via the intra-company transfer route. Partners told us that they make use of the short-term route to transfer knowledge between employees and to offer international experience to their employees. These uses of the route are already catered for by the graduate trainee route and skills transfer route and there may be a good case for continuing to allow these individuals to come in on a lower salary threshold. However, the Home Office may wish to consider what alternative uses of the short-term route there are, and whether a lower salary threshold is appropriate in these cases.

6.95 In the following section we consider the question of allowances as this applies to all intra-company transferees, the evidence sponsors must provide on the CoS application form, as well as the requirement to have prior experience with the firm. We do not recommend any further options for restricting the conventional use of the route.

Restricting the use of allowances

6.96 Within the Tier 2 (Intra-company Transfer) route, 43 per cent of applications in the year ending August 2015 included allowances. Under the intra-company transfer route, the salary threshold can be met through:

- basic pay (excluding overtime);
- bonuses (provided these are part of a guaranteed salary package); and
- allowances (including daily payments to cover the additional cost of living in the UK but not including expenses to cover travel to and from the home country), provided these allowances are part of the guaranteed salary package.

6.97 Intra-company transferees' business expenses for travel, accommodation and subsistence are exempt from income tax for the first 24 months of their posting. As Box 6.2 sets out in a simplified example, the tax breaks available may lead to an intra-company transferee being less expensive for a business to employ compared to a UK worker despite the transferee receiving a higher overall pay package.

6.98 In addition, some partners questioned whether the stated values of the allowances actually reflect the cash equivalent. For example, migrants

could be offered accommodation that is not worth the value assigned to it within the allowance.

6.99 When considering whether allowances should be included in the salary thresholds, we have also looked at the current provisions in relation to national insurance contributions (NICs) and income tax. All intra-company transferees, and their employers, are exempt from NICs in their first year in the UK. Intra-company transferees that can retain a non-domiciled status are also exempt from UK income tax. Combined with the tax breaks on offer with allowances, there is a high risk that these provisions are enabling employers to benefit from significant cost savings when employing intra-company transferees compared to UK workers.

Box 6.2: A simplified hypothetical example of using tax-free allowances to employ an intra-company transferee versus employing a resident worker

A multinational company with offices in the UK has a vacancy. It can either use a UK worker to fill this post or bring in a foreign employee on an intra-company transfer. There is a pool of appropriately skilled resident workers available to do the job for £34,000 per annum.

Under **Scenario A**, the employer recruits from within the UK on a salary of £34,000 p.a.

- The salary cost to the employer is £34,000, plus £2,600 for employer's national insurance contributions, therefore the total cost to the employer is £36,600.
- The resident employee receives a salary of £26,600 after tax and national insurance contributions.

Under **Scenario B**, the employer agrees to employ an intra-company transferee on £26,000 p.a., with a tax-free allowance of £7,000. The employee is exempt from national insurance contributions as they are in the UK for less than a year.

- The cost to the employer in terms of salary and allowance is £33,000.
- The intra-company transferee receives a salary of £22,900 after tax, plus a tax-free allowance of £7,000: £29,900 in total.

The intra-company transferee agrees to this offer because the after-tax take-home pay plus allowances is higher than in Scenario A.
Both the employer and intra-company transferee are better off under Scenario B, but an immigrant worker is potentially employed in place of a resident one.

Source: Migration Advisory Committee. Tax and national insurance contributions calculated based on HMRC calculators

6.100 As we do not have the necessary expertise to fully explore the implications of this issue, **we recommend, as we did the last time we looked at this issue, that the Home Office and HMRC work together to ensure allowances and the associated tax and NICs provisions are operating in the interests of the UK.**

Previous experience and knowledge of the firm

6.101 An employee with limited experience of the company is more likely than a more experienced employee to be brought in to carry out a job that could be done by a UK worker, whereas the more experienced employee will be brought to the UK in order to apply their company-specific knowledge.

6.102 Under the immigration system that existed before the Points Based System, sponsors had to confirm that sponsored employees had company-specific knowledge and experience that was specifically required for the post on offer and that could not be provided by a UK worker. We do not recommend the reintroduction of the requirement for employers to confirm such company specific knowledge as this would impose an additional burden on employers and we favour objective measures already fulfilled by the requirement to demonstrate that the transferee has been an employee for a specified period of time.

6.103 We previously recommended that the amount of time an employee must work for the business before they can use the intra-company transfer route be extended from six months to 12 months (Migration Advisory Committee, 2009b). Having considered this requirement further in the course of this review, we have concerns that 12 months may not be a sufficient amount of time to ensure that the individual has specific knowledge and/or experience required for the post.

6.104 **We therefore recommend extending the qualifying period with the company overseas for intra-company transfers from 12 months to two years for the short-term and long-term routes. We recommend that the existing requirement of six months for the graduate trainee route be maintained as this route applies to newly recruited staff, and that the skills transfers route continue to have no required prior experience.**

Justification for the need for an intra-company transferee

6.105 When a business applies for a certificate of sponsorship they are not currently required to justify why they require an intra-company transferee, nor are they required to expand on what exactly the intra-company transferee would be doing within the UK. For example, a sponsor could currently state that they need a 'programmer' but no further detail as to what specialist skills this individual has. **We recommend that the sponsor be required to set out why they need to bring the individual into the UK and what exactly they will be doing in the UK,** for example by specifying the actual IT skills sought, such as a particular programming language. This should help to ensure that the Tier 2 (Intra-company Transfer) route is being used as intended and reduce the risk of any displacement of UK workers.

6.11 Rationale for restricting third-party contracting

6.106 The use of the Tier 2 (Intra-company Transfer) route for the purposes of third-party contracting marks a clear divergence from the original intended use of the route. The economic impacts of this use of the route are not as positive as those of the conventional use. Looking at salary alone, those intra-company transferees coming in under a third-party contract are paid significantly less than within the conventional use of the route, suggesting they do not possess such highly specialised skills.

6.107 Focusing specifically on the use of the route within the IT sector, we have not seen evidence that the third-party contracting use of the intra-company transfer route is contributing to the stock of IT skills within the resident UK workforce. Companies with a majority of migrants in their workforce will have limited scope to transfer knowledge and upskill the UK labour market. As highlighted earlier in this report, immigration is not serving to increase the incentive to employers to train and upskill the UK workforce. Ready access to a pool of skilled IT professionals in India is an example of this. We did not see any substantive evidence of long-standing reciprocal arrangements whereby UK staff are given the opportunity to gain skills, training and experience from working in India.

6.108 This use of the route provides cost-efficiency savings to firms using these migrants as well as their customers, making them more competitive. It also risks providing these firms with an advantage over UK IT companies who do not have access to a similar pool of skilled labour outside of the UK. We saw sufficient evidence to suggest that there is at least a potential for this use of the route to undercut UK workers. Ultimately, the Government needs to consider which is their highest priority: maximising competitiveness, or preventing under-cutting and creating sufficient incentives to upskill the native workforce.

6.109 The numbers benefiting from this use of the route are also out of proportion to conventional use of the route. 60 per cent of Tier 2 (Intra-company Transfer) route applications are for applications to work on client contracts – 26,297 applications in the year ending August 2015. There is no limit on the numbers of migrant workers that can use this route. The 2015 total for intra-company transfer applications contrasts with the 20,700 limit on the number of migrant workers that can come to the UK under the Tier 2 (General) route: workers whose skill set has been tested against the UK labour market, either through the resident labour market test or because the job they are coming to do is on the shortage occupation list.

"We would question why such roles [Intra-company Transfers] seem to take up so much of the allocation. We believe it is right to at least question what is happening. If the same companies are moving labour in and out a regular way, to complete tasks which are pretty standard and where demand is predictable we believe it right that this should be challenged as it is stopping other more economically beneficial uses of the Visa's available".

Tech London Advocates response to the MAC call for evidence.

6.110 We consider that if the Government wishes to significantly restrict the numbers of visas issued to skilled migrants, there is a strong rationale for focusing on the numbers of migrant workers making third-party contracting use of the intra-company transfer route. We now look at ways in which this can be done.

6.12 Options for restricting third-party contracting

6.111 In this section we will consider some of the options available to restrict third-party contracting within the Tier 2 (Intra-company Transfer) route, and the subsequent impact of these options. We have not revisited the options considered in section 6.10 unless there is a separate argument for applying them to third-party contracting.

6.112 Our earlier recommendations also apply to third-party contracting within the Tier 2 (Intra-company Transfer) route. These are:

- to require that all intra-company transferees have at least two years prior experience with the firm to reduce any risk of displacement of UK workers;
- that sponsors should be required to state what the specific need of the intra-company transferee, and provide further detail of what the role will involve;
- to invite the Home Office and HMRC to consider whether current tax and NIC exemptions are allowing undercutting;

6.113 **Overall, we recommend that a separate route for third-party contracting be created to reflect the different use, and consequent economic impacts, of this use of the Tier 2 (Intra-company Transfer) route.**

6.114 We have focused on the use of third-party contracting within the IT sector as 93 per cent of third-party contracting within the Tier 2 (Intra-company Transfer) route is for IT occupations. However, we see no reason why other occupations that also make use of the intra-company transfer route for third-party contracting should not also be restricted. Third-party contracting is not what the route was intended for. However, the Government may wish to consider whether there should be any exemptions from the following restrictions to third-party contracting.

Salary Thresholds

6.115 Throughout this report, our preferred method of restricting Tier 2 is by price. Increasing the salary thresholds influences employer behaviour when they are deciding how many migrant workers to recruit and encourages prioritisation of the most highly valued migrants. It also reduces the potential for undercutting the UK labour market.

6.116 The current salaries being paid to intra-company transferees working in the UK on an IT client contract are clustered around the minimum threshold, whereas those coming through conventional use of the route are generally above the thresholds. This suggests that those individuals coming in on an IT client contract are either less experienced, or of lower quality, than those coming in through the conventional use of the route and goes against the direction of travel towards highly specialised experts.

6.117 We consider that there should be an increase in the salary threshold for third-party contracting use of the intra-company transfer route. The current levels do not reflect the salaries that would have to be paid to UK resident workers with the specialist skills that are being deployed by intra-company transferees. In particular, this will exert upward pressure on salaries within the IT sector thus incentivising employers to recruit and upskill UK workers and for UK residents to enter the IT sector.

6.118 There are a number of different occupations that are deployed under third-party contracting use of the intra-company transfer route. Rather than determine specific thresholds for each occupation, which could act to encourage employers to use occupations with the lowest salary, we recommend a flat threshold for third-party contracting use of the route for jobs identified. As set out in MAC (2015), a salary of £41,500 was found to be a suitable proxy for the earnings of senior managers and specialists. **We therefore recommend that employers wishing to bring either short-term or long-term intra-company transferees to the UK to work on a third-party contract be required to pay the transferee a minimum salary of £41,500.** This salary threshold will help to ensure that this use of the route is capturing highly specialised experts, as set out in the Government's commission to us.

6.119 Based on current data, a salary threshold of £41,500 would affect 11,792 (72 per cent) of all out-of-country applications within third-party contracting. Table 6.8 shows that the occupation most affected by a £41,500 threshold, in terms of total numbers, will be SOC 2136 Programmers and Software Development Managers, with 4,795 applications affected, representing 76 per cent of existing applications. Overall, 94 per cent of all applications affected are in the IT sector. Non-IT occupations affected include SOC 2126: Design and development engineers (170 applications affected) and SOC 2423: Management consultants and business analysts (152 applications affected).

Table 6.8 : Impact of CoS of a £41,500 minimum salary threshold on third-party contracting with the short-term intra-company transfer route

	Total affected	% of SOC affected
2136 Programmers and software development managers	4,795	76
2135 IT business analysts, architects and systems designers	3,101	71
2139 Information technology and telecommunications	2,406	74
2137 Web design and development professionals	802	98
2126 Design and development engineers	170	60
2423 Management consultants and business analysts	152	55
2462 Quality assurance and regulatory professionals	97	98
2461 Quality control and planning engineers	75	93
2122 Mechanical engineers	26	54
2123 Electrical engineers	25	86
Total (Top 10)	11,649	
Total affected	**11,792**	
Total (Third-party contracting)	**16,380**	

Source: Home Office Management Information, year ending August 2015. Excludes in-country applications but includes applications on a client contract within the graduate trainee and skills transfer routes. Observations restricted to those earning over £24,500 as this is the minimum salary threshold for the short term route.

6.120 There is a risk that setting a higher salary threshold for third-party contracting use of the intra-company transfer route may drive employers to increase their use of other Tier 2 routes. It could result in increased use of Tier 2 (General) with its associated route to settlement, if under this route there is a lower salary threshold. But any such redirection into this route would have to be tested against the UK labour market through the resident labour market test, unless it can be shown that the occupation in question is on the shortage occupation list. And Tier 2 (General) may be less attractive to employers due to the risk of 'poaching' whereby an employee can switch from one employer to another. However, such a move would increase pressure on the availability of RcoS.

6.121 Setting the same salary threshold for both the short-term and long-term routes may make the long-term route a more attractive option for employers by simply representing better value for money. This will be for employers to judge. It will stop there being pecuniary advantage to having a rotation of short-term intra-company transfers, such decisions instead being taken according to business needs. Having skilled intra-company transferees working in the UK for longer periods could also result in an increase in skills and knowledge transference seen in other areas using the long-term route.

6.122 There is also a risk that any restrictions on this use of the route would lead to more off-shoring which could affect UK employees. We were told that once a business unit moves offshore, it is unlikely to return to the UK. In the short term, this would mean a loss of jobs for resident workers directly employed in these business units. In the longer term, this would impact related supply chains and furthermore, where efficiencies are identified, spark a wider review of what other business units could be sent overseas. However, the incentives to off-shore wherever it is feasible are already strong given the salary differentials between the UK and the countries where most off-shoring is carried out.

Other options

6.123 As set out in Table 6.8, an increase in the minimum salary threshold to £41,500 for third-party contracting is likely to have a significant impact on this use of the route, particularly within the IT sector. The recommendations made earlier in terms of requiring two years of prior experience and providing further details on the CoS application will also affect this use of the route. In the absence of a full review of the IT sector, **we will not make any further recommendations for restricting this use of the route at this stage**. Instead, we will set out alternative options for restricting the route and the Government will wish to follow up on these options at a later stage.

Immigration Skills Charge

6.124 Alongside an increase in the salary threshold, there is also a strong rationale for a higher immigration skills charge to be applied to third-party contractors. The benefit of a higher immigration skills charge is twofold. Firstly, the increased skills charge would affect all of the migrants brought in as third-party contractors not just those at the margin whose salaries have been increased to meet the threshold. Secondly, the charge would raise increased revenue for the Government which can then be spent on the upskilling of the native workforce.

6.125 The Government could apply a higher immigration skills charge to any intra-company transferee working on a third-party contract. For example, an additional £2,000 for each migrant per year. A fixed fee would have the advantage of targeting all third-party contracting, not just those at the margin of the salary threshold, as well as being regressive to reflect the higher value of those on higher salaries.

6.126 Alternatively, a higher skills charge could be set based on the proportion of migrant labour within the workforce of each business. The skills charge could increase depending on how high the proportion of migrant labour is, thus incentivising the business to drive down their reliance on migrants. This option would have the added benefit of targeting the biggest users of third-party contracting as well as incentivising the hiring of a complementary native workforce in these organisations. This not only provides employment opportunities to the native workforce but also allows for a greater level of skill transfer within the organisation.

6.127 There would clearly be some administrative burden for business to show what percentage of their workforce are migrants and some administrative difficulties in checking compliance. In addition, there may be room to avoid the spirit of such regulations, e.g. by a merger with firms with a naturally high proportion of resident workers.

6.128 Should the Government wish to impose a higher immigration skills charge on third-party contracting use of the intra-company transfer route, it may wish to consider doing so in combination with an increase in the salary threshold in order to ensure that there is also upward pressure on wages.

Resident Labour Market Test

6.129 Our analysis of the third-party contracting use of the intra-company transfer route indicates that there is a greater potential for displacement and undercutting of UK workers than through conventional use of the route. Imposing a requirement that sponsors carry out a resident labour market test (RLMT) would enable UK workers to be aware that employers were looking for staff with specific skills and to apply for these posts if suitable. If employers are seeking skills which are not available in the UK, then the RLMT will demonstrate that unavailability. If employers are looking for skills commensurate with the provision of routine and ongoing services, then the RLMT will enable UK workers to apply for these roles.

6.130 In principle, we are supportive of using an RLMT. However, we recognise that there may be difficulties in ensuring that its application here achieves the desired benefits. The skills of migrants coming to the UK under the third-party contracting use of the intra-company transfer route are mostly in the IT field. There is a risk that an RLMT would not be of benefit to UK workers when applied to consultancy-type contract work as such workers are often employed by a rival consultancy or are self-employed and therefore not actively searching for work in the forums where the sponsor would be required to advertise.

6.131 The Government may wish to consider introducing an RLMT requirement for those applicants using the intra-company transfer route for third party contracting, with a view to determining whether this use would deliver benefits to UK workers.

Setting a limit on third-party contracting use of the intra-company transfer route

6.132 Placing a limit on the third-party contracting use of the Tier 2 (Intra-company Transfer) route would halt the growing use of the route and could be used, depending on the limit that was set, to reduce numbers. Partners told us that a limit would impact on the ability of businesses to expand and could subsequently have a knock-on impact on inward investment and economic growth as well as an effect on businesses' decisions to locate in the UK.

6.133 We were told that the introduction of a limit could prompt the relocation of company functions outside of the UK, as employers could be prevented from deploying staff to the UK to service these functions, with associated implications for UK employment.

6.134 Rather than a flat number, a limit could be set on the percentage of Tier 2 migrants within each employer's UK workforce as we are concerned that this proportion is very high currently in some firms. This proposition has the advantage of having a greater, and more targeted, impact on employers that make most use of third-party contracting as well as influencing employer behaviour.

> *"The Government may want to consider a proposal to place a limit on ICTs based on the proportion of a business' domestic workforce. This allows businesses who have made a substantial investment in the UK to retain the flexibility they need and to invest further. In addition, such a proposal would have the benefit of encouraging those companies who not currently invest and employ workers in the UK to start doing so."*
>
> A large technology services company's response to the MAC call for evidence

6.135 It is important to consider the skills mix of the resident and migrant workforce. For example, if the majority of the resident workforce are working in administrative roles, we recommend that this does not count as part of the comparable workforce. Instead, the assessment could be done based only on occupations skilled to NQF6+.

6.136 There are a number of options for how this limit would work. The first option would be to set a reasonably high absolute limit on the number of Tier 2 migrants each firm could bring in, say a maximum of 80 per cent of their total UK workforce. The limit could be brought down over time to incentivise the hiring of skilled native workers in the long term without drastically impacting the business in the short term.

6.137 Alternatively, a reasonably low threshold could be set at, say, 40 to 60 per cent of the UK workforce whereby a tax is imposed on any additional Tier 2 migrants brought in. This could be a flat charge above a minimum threshold, or could be progressive so as to incentivise an increase in the proportion of the workforce that are UK employees. The benefit of this option would be that businesses can still bring in the migrants they require, but at a price. The tax would also raise revenue which could be put towards raising human capital within the UK workforce. The United States had a similar restriction on their H-1B and L-1 visas. Between August 2010 and September 2015, employers who employed 50 or more employees and with more than 50 per cent of their employees with H-1B or L-1A or L-1B non-immigrant status had to pay a fee of $2,000-$2,250 per migrant. If such a limit were to be applied, we would recommend following the US example and use a soft limit with a tax.

6.138 In the short-term, the introduction of a percentage-based limit would have a significant negative impact on businesses' ability to service contracts, to the extent of firms breaching these contracts as they may be unable to meet agreed delivery standards and costs. The Government may wish to consider applying any such limit to new contracts only. Over time, there may be an increase in the price of such contracts which could add to the costs of UK third-party customers. But this would be balanced by an increase in the ability of UK firms to compete for the award of such contracts.

6.13 The Immigration Healthcare Surcharge

6.139 The Immigration Healthcare Surcharge (IHS) is a £200 contribution towards the cost of the NHS levied on migrants using the Tier 2 (General) route. The surcharge applies to all Tier 2 (General) applications for visas that last more than six months, and their dependants. Currently intra-company transfers are exempt from the IHS.

6.140 We do not see a good reason why intra-company transferees should be exempt from this payment. Partners told us the majority of intra-company transferees receive private healthcare paid for by the employer and argued that as such migrants do not make use of the NHS then they should not have to make a contribution. However, it is the case that intra-company transferees have access to the NHS, whether they use it or not, and there may be instances when they do need to make recourse to it; for example, for GP referrals or in an emergency.

6.141 Further, it is the case that contributions to a universal service are not made on the basis of whether one makes use of that service oneself. UK taxpayers contribute to all manner of public services without necessarily expecting to use all of them. UK residents can opt for private healthcare without paying less tax to reflect their lower use of the NHS.

6.142 Partners did suggest to us that intra-company transferees on visas longer than one year should be exempt from the IHS as they pay National Insurance contributions (unlike short-term intra-company transferees who do not). However, Tier 2 (General) migrants have to pay both National Insurance and the IHS and we see no reason to make different provision for intra-company transferees.

6.143 **We recommend that all users of the Tier 2 (Intra-Company Transfer) route pay the Immigration Healthcare Surcharge in line with other users of the Tier 2 route.**

6.14 Regional impacts

6.144 We were asked as part of our commission to consider the regional impacts of our recommendations. We understand this to refer mostly to regional salary differentials and whether increasing the cost of migration might have more impact in some parts of the UK than others. Conversely, some parts of the UK might be able to better absorb the higher costs than others.

Indeed, in some cases (e.g. London) higher thresholds may have zero impact as they are already highly paid.

6.145 In relation to the intra-company transfer route, the majority of applications are made by employer offices in London and the South East. It is the case that many multinational firms that have offices in the UK will have a presence in the London area. However, that is not to conclude that the majority of intra-company transferees therefore work in that part of the country. The Tier 2 application might be processed by the London office, but the employee might then be posted to another part of the UK. Information about where the employee will work is not captured as part of the application. We therefore have no data about the impact of restrictions on the route, in terms of number of migrant workers, on different parts of the UK.

6.146 Partners did raise with us concerns about the impact of changes to the intra-company transfer route in those regions of the UK attempting to attract foreign direct investment and competing with other parts of the UK to do this. For example, the North East Combined Authority told us that any restriction on this route would undermine the efforts to attract investment to the North East and would reverse efforts to close the productivity gap between the rest of the UK and the North East. A number of partners also stressed that any restrictions could be particularly damaging to London's reputation as a global city.

> *"If businesses are trying to expand in the regions, particularly the north of England and Scotland, it would be extremely damaging to the local economies to make it harder for employers to bring in migrants from overseas, particularly when there are skills shortages".*
>
> Kingsley Napley response to MAC call for evidence

6.147 We looked carefully at partner evidence regarding regional impacts of changes to the intra-company transfer route but, in the absence of hard data, are not in a position to say more about what these impacts might be.

6.15 Other partner suggestions

6.148 In their evidence to us, partners made a number of other suggestions as to how the Tier 2 (Intra-company Transfer) route could be changed. They do not address the issues that the Government asked us to consider and so we have not considered them in detail but we include them here for the Government to consider should it wish.

6.149 Some partners suggested that the number of Tier 2 (Intra-company Transfer) Graduate Trainee CoS which a sponsor is able to assign each year be increased from 5 to 20 or even 40 to reflect the fact that employers running graduate schemes typically do so for more than 5 graduates per year. If an Immigration Skills Charge is applied, and graduate trainees are

exempt, there will be even greater need for a higher allocation in order to allow firms to run their graduate schemes. The Home Office may wish to review the use of the Graduate Trainee route following the introduction of any restrictions as this use of the route can benefit UK residents through the reciprocity of the scheme.

6.150 Both the Embassy of Japan and a number of Japanese employers told us that in their view there should be some flexibility in allowing employees who earned below £155,300 to stay in the UK for more than five years. Typically, Japanese employers wished to retain some senior employees in the UK for longer than this but could not justify such a high salary, although the employees were well recompensed. These partners told us that the salary threshold for such employees should be significant but lower than the current level. We suggest that the Home Office look into this issue as there may be a case for allowing exceptions in specific circumstances.

6.16 Conclusions

General recommendations

6.151 We believe that the conventional use of the Tier 2 (Intra-company Transfer) route delivers significant benefits to the UK, including encouraging foreign direct investment and trade. If the Government wishes to restrict numbers, our preferred approach would be to do so by price, by raising minimum salary requirements and applying an immigration skills charge.

6.152 In Chapter 4 we recommended an increase to the overall minimum threshold to £30,000 to apply to Tier 2. This will affect the short-term route, as the current salary threshold is £24,800, but not the long-term route, as it is currently £41,500. We think these thresholds are sufficient to prevent undercutting. If the Government wishes to further restrict the Tier 2 (Intra-Company Transfer) route it may wish to raise thresholds higher than this.

6.153 In addition, Chapter 5 sets out our recommendations to apply an immigration skills charge to all of Tier 2, exempting the skills transfer and graduate trainee routes.

6.154 In order to ensure the Tier 2 (Intra-company Transfer) route is being used to bring in senior managers and specialists and not displacing resident workers, **we recommend extending the qualifying period with the company overseas for intra-company transfers from 12 months to two years for the short-term and long-term routes.** We also recommend that the existing requirement of six months for the graduate trainee route be maintained as these could be newly recruited staff who need to gain experience of working in the UK office.

6.155 In order to ensure that the intra-company transfer route is being used as intended, **we recommend that sponsors be required to enter a more**

detailed description of the role required on the CoS application form to ensure that the role is sufficiently specialist.

6.156 **We recommend that Tier 2 (Intra-company Transfer) migrants be subject to the immigration health surcharge. We also recommend that HMRC and the Home Office work together to consider whether the current tax provisions made available for allowances, and the exemption of national insurance contributions, are working in the interests of the UK.**

Third-party contracting

6.157 The use of the intra-company transfer route to service third party contracts is substantially different from the original intention of the route. The widespread use of migrants to service third-party contracts, predominantly in the IT sector, provides these companies with a substantial cost advantage over domestic firms. Part of this advantage comes from off shoring part of the work to countries (notably India), where labour costs are lower. There is also the suspicion that the UK-based work on these contracts is being paid at salaries below the level UK resident workers of similar skills, experience and quality could command. Although these lower costs are passed onto clients in part, this use of the route disadvantages IT firms within the UK who do not have access to this source of labour and UK workers in the IT sector. Additionally, we are not convinced that the use of third-party contracting is contributing to the stock of IT skills within the UK workforce. While there is ready access to a pool of skilled migrants, there is little incentive to train up the UK workforce.

6.158 Overall, we recommend that the issues specifically within the IT sector require further consideration. **We recommend that the Government commission a more in-depth review of skills shortages within the IT industry.** After which, the Government may wish to revisit the options for restricting third-party contracting, particularly within the IT sector. The additional information gathered from requiring that sponsors enter a more detailed description of the role required on the CoS application form would contribute to the evidence of the wider skills needs in this sector. There will be a need to police the line between conventional and third-party contracting use of the intra-company transfer route that will probably require continued vigilance by those administering the system.

6.159 For now, **we recommend that a new route be created alongside the conventional Tier 2 (Intra-company Transfer) route, designed specifically for third-party contracting.** Whilst we are not against the use of third-party contracting per se, we want to ensure that those migrants who do come under this route are more specialised and higher paid. We recommend an increase in the salary thresholds required for third-party contracting as a way to prioritise applications and prevent any undercutting and displacement within the UK labour market. **We recommend that the salary threshold be set at £41,500, which is an effective proxy for senior managers and specialists.**

6.160 Further options we have considered for restricting this use of the route, but are not necessarily recommended at this stage, include:

a) applying a Resident Labour Market Test to the third-party contracting route. Such a test would ensure that the UK labour market has been sufficiently tested before a firm can make use of the intra-company transfer route.

b) applying a limit on the proportion of Tier 2 migrants in each organisation. Whilst this change would more firmly guarantee a fall in the use of the route, it may be prohibitively damaging to business in the short term. Government may wish to consider such an approach in the future once the effects of a threshold increase have been observed.

6.161 As we have proposed an entirely separate route, our strongest recommendation is for any changes to be kept under active review. There is such a breadth of options available to restrict this route that, in time, it may become clear that further changes may be needed.

Chapter 7 Tier 2 (General) route

7.1 Introduction

7.1 This chapter focuses on the aspects of the Government's commission which relate specifically to the Tier 2 (General) route. We have been asked to consider two issues. The first is a general reform of the eligibility and selection criteria used for Tier 2 (General). The commission from the Government asked us to provide advice on:

"restricting Tier 2 (General) recruitment, compared with the current rules, to genuine skills shortages and highly specialist experts only. The MAC should consider how Tier 2 (General) and the shortage occupation list should be reformed to achieve this objective but with flexibility to include high value roles, key public service workers and those which require specialist skills. The MAC should advise on selection criteria such as, but not limited to, salaries, points for particular attributes, economic need and skills level, and whether such an approach should also operate in respect of intra-company transfers, and the position of those switching from Tier 4"

7.2 The second is the sunsetting of shortage occupations, which the commission described as:

"how to limit the length of time occupations can be classed as having shortages: what would be an appropriate maximum duration and should there be exceptions?"

7.3 We deal with these issues in turn, after briefly presenting how other countries operate their skilled migrant routes. We also report on the other suggestions partners had to improve the overall design of Tier 2.

Box 7.1: Tier 2 (General) – key issues

- Should Tier 2 (General) eligibility be restricted only to a shortage occupation list which is expanded to include highly specialist experts in addition to genuine skills shortages?
- How effective is the resident labour market test (RLMT) route?
- Should in-country switching into Tier 2 remain uncapped and exempt from RLMT?
- Should occupations be removed from the shortage occupation list automatically after a fixed period?

7.2 International comparisons

7.4 Most industrialised countries operate some form of selection, prioritisation or limit on the number of skilled migrants to whom they grant entry to their countries. They draw on a variety of policy tools and levers to do so.

7.5 The OECD have recently published a comprehensive review of the tools available to manage skilled migration routes (OECD, 2014b). Table 7.1 provides a summary of the OECD migration policy toolbox, together with the advantages and disadvantages of each approach. We only show the options relevant to the UK and this report.

Table 7.1 OECD Summary of the migration policy toolbox (selected)

Tool	Advantages	Disadvantages
Labour market test	• Ensure that jobs are offered locally, demonstrate no local supply. • Employers understand job search techniques	• Easy to distort (job description). • Often no standardised testing within country, public employment service may not actually be real location for matching. • Beyond nominal listings, difficult to enforce. • Requires administrative machinery to be effective, which imposes delays and costs.
Salary threshold	• Simple. • Means to proxy skills when no other indicators exist or when recognition is difficult. • Easy to explain to public.	• Subject to fraud, difficult to verify post-entry, pegging to occupation requires good data, can be controversial for public opinion because easy to point to anomalies. • It appears to regulate the market rate.
Shortage list	• Easy to explain to public and labour supply chain, can have short and medium term demand focus, exempts use of individual LMT, can be combined with other tools such as quotas.	• Possibly inappropriate for unskilled occupations. • Complicated to develop. • Difficult to assess experience component. • Subject to interest group lobbying. • Frequency of revision affects responsiveness to demand. • Risk of negative incentives for training local workers.
Numerical limits	• Can be based on planning levels. • Sends public a message of political control. • Allows planning processing capacity. • Clearly signals that access to migrant labour. • is not open-ended, so employers maintain local recruitment • and development.	• Difficult to define means for setting limits. • Potentially inflexible. • Potentially unfair. • Subject to political pressure. • Can lead to backlogs or waiting list.
Employer sponsorship and pre-approval	• Accelerates recruitment process. • Increases and rewards compliance.	• Favours current and larger users of migrant labour. • Processes/costs may discourage some employers, administratively complex. • Requires monitoring and good information.
Points based system	• Ensuring minimum human capital and settlement criteria while meeting current demand and long term employability. • Takes entire family into account. • Hybrid systems adapt to demand and supply orientations. • Linked to limits. • Prompts positive self-selection.	• Post-entry retention not assured. • Requires investment in ongoing evaluation to recalibrate points criteria. • Complex for migrants. • Verification of skills is cumbersome. • If linked to target, threshold varies with demand.
Job search visa	• Retaining a supply side option with limited time duration, helps overcome matching from afar.	• Selection criteria difficult to identify and need to be revised based on experience. • Matching and skills verification can be difficult. • Few qualify, so managing return of unsuccessful migrant job seekers.

Source: OECD International Migration Outlook 2014

Numerical limits

7.6 The OECD argues that numerical limits are an "integral part of many managed migration regimes" (OECD, 2014b), but that the nature of the limit depends on the individual country's policy objectives. For example, the OECD point out that caps and quotas are often used to safeguard local employment and labour market conditions. In some countries, such as the US, caps are enshrined in legislation.

7.7 Most countries establish limits through annual, non-legislative processes, often drawing on "vacancy or shortage indicators and demand from employers". For example, Korea uses a benchmark shortage indicator drawn from a purpose built employer survey which examines employer demand (OECD, 2014b).

Labour market tests

7.8 The OECD point out that protecting the jobs and working conditions of host country workers is a prime concern in almost every country and that the labour market test is one of the main tools for ensuring that labour migration does not impair local workers' prospects or situations.

7.9 In Australia, approved standard business sponsors are required to test the local labour market and provide information with their nomination about their attempts to recruit local workers and how they have determined on the basis of the attempts that there are no Australian citizens, Australian residents or eligible temporary visa holders available to fill the position.

7.10 The Canadian Temporary Foreign Worker Programme requires employers to carry out a Labour Market Impact Assessment and must show the number of Canadians that applied for a job, how many of those were interviewed and why they were not hired.

7.11 In the US, the H-1B visa allows companies to employ foreign workers in a broad range of highly skilled occupations. Before a foreign worker can obtain an H-1B visa, the sponsoring employer must obtain a certification of a Labour Condition Application from the US Department of Labour. This application requires employers to attest that they will pay the employee a wage which is no less than the wage paid to similarly qualified workers or, if greater, the prevailing wage for the position in the geographic area in which migrant will be working. Employers must also attest that they will provide working conditions that will not adversely affect other similarly employed workers.

7.12 Singapore requires all employers to advertise their job vacancies and the advert must: be open to Singaporeans; comply with the Tripartite Guidelines on Fair Employment Practices (which sets out the practices that should be adopted to prevent discrimination in the workplace); and run for at least 14 calendar days before an employer can apply for an Employment Pass.

Shortage occupation lists

7.13 Shortage occupation lists can be used together with labour market tests to protect the domestic workforce from being displaced or replaced by migrant workers. Only occupations that are deemed to be in demand are placed on the lists. The OECD highlight that lists serve different purposes: for example, in France, Germany, and Spain they are confined to jobs requiring specific skills, while in Finland they mainly apply to low-skill jobs. (OECD, 2014b)

7.14 In New Zealand, employers who wish to recruit a temporary worker for an occupation on the Immediate Skill Shortage List (ISSL) do not need to provide evidence of attempting to recruit New Zealanders for the position. This is because the authorities recognise that employers are unable to find enough people with the requisite skills and qualifications in occupations listed on the ISSL in New Zealand.

7.3 Reform of the Tier 2 (General) route

7.15 In this section we consider whether the eligibility for Tier 2 (General) should be restricted in order to create a more targeted route. The commission sets out a proposal that Tier 2 (General) be restricted only to migrants who will work in genuine shortage occupations or who are highly specialised experts. We consider, in turn, a number of options that could be used, either singularly or in combination with other measures, to effect greater prioritisation yet retain some degree of flexibility. These options are:

- restrict the route to highly specialist experts and genuine skills shortages;
- have an expanded shortage occupation list in place of the RLMT;
- reform of the RLMT;
- return to a system allocating points for a migrant's attributes;
- let the limit continue to restrict the route.

7.16 The option for restricting the route using salaries or price has already been considered in Chapters 4 and 5. The issue of whether restrictions to Tier 2 (General) should also be applied to the Tier 2 (Intra-company Transfer) route was discussed in Chapter 6. We, therefore, do not repeat those considerations here.

(i) Restricting the route to highly specialist experts and genuine skills shortages

7.17 We begin by focusing on the definitional issues. The commission asked us to consider how a revised Tier 2 (General) route can capture genuine

skills shortages and highly specialist experts, with the flexibility to include high value roles and key public service workers.

7.18 Implicit within the commission is a desire to identify those migrants that are going to add the most value and to prioritise allocation of RcoS to those migrants. We characterise this as 'picking winners' and the desirability of doing this is questionable. Ostensibly, this could result in choosing innovative IT experts over contaminated land engineers or nurses over ballet dancers. It seems to us, and many of our partners, that this is problematic.

> *"A universal, cross-industry approach to defining hiring needs could inadvertently pick winners and losers and disrupt market dynamics. Restrictive definitions would limit the flexibility of employers to hire the talent they need when they need it."*
>
> CFGI Accounting Consultancy response to MAC call for evidence

7.19 The Government did not set out a precise definition of "highly specialist experts", "high value roles" or "key public workers". We found during our engagement with partners that they, too, were not clear as to what these terms meant.

> *"In our industry we only look to the overseas market if we are unable to find the necessary skills in the UK so would this be considered a genuine skills shortage?"*
>
> Anonymous from the Engineering sector response to MAC call for evidence

7.20 For instance, a number of partners, including J. Dunlop & Co, the Immigration Law Practitioners Association, Deloitte and Laura Devine Solicitors, took issue with the implication that the route is currently being used for anything other than genuine skills shortages and highly specialist experts. J. Dunlop & Co stated that, in their view, use of Tier 2 for less skilled or less specialist roles was eliminated when the bar was raised from NQF4+ to NQF6+.

> *"The suggestion that employers are abusing the UK visa system by using supposed or fictitious skills shortages as an excuse to hire skilled non-UK workers at a lower cost is not based on the existing evidence."*
>
> Institute of Directors response to MAC call for evidence

"The REC does not believe that Tier 2 visas should be restricted any further by adding definitions of 'genuine skills shortages' and 'highly specialised experts'. A huge range of industries have conducted research into the lack [of] available candidates with the necessary skillset and there is absolute consensus across research that the UK is suffering skills shortages in a vast range of sectors."

Recruitment and Employment Confederation (REC) response to MAC call for evidence

7.21 Some partners did provide definitions of what they thought would constitute genuine skills shortages and highly specialist experts within their sector. For example, one partner from the creative industry said that an employer should provide evidence that the worker being sought possesses innate ability of a level or rarity which exceeds those exhibited in a typical NQF6+ level job; and that the role involves specific experience in the application or development of a new or proprietary technology or unique knowledge (e.g. of a project type); and, the role is one which involves a significant level of skills transfer to other employees. Overall, though, these definitions tended to be very industry specific.

7.22 We consider that it is unreasonable to assume that any individual or organisation would be able to choose jobs deemed to be the most important out of almost 4,000 job titles in the 96 SOC 4-digit occupations using Tier 2. Rather than attempt to codify which workers are more desirable than others, we prefer that the system allows firms to decide who is in shortage, and who is necessary to their operations, given the scarce allocation of RcoS. If the demand for Tier 2 labour then increases above the level set by the Government, visa allocations should be decided through the tried and tested method of price. Those employees who are most in shortage or most highly specialised will be the ones which employers are willing to pay for. We therefore do not recommend any redefining of Tier 2 jobs in terms of genuine skill shortages or highly specialist experts.

"Tier 2 (General) is used when there is a business case for bearing the additional costs and risks of recruiting from outside the EU. Employers are in the best position to judge this, not the government."

Greater London Authority response to MAC call for evidence

(ii) Expanded Shortage Occupation List

7.23 Tier 2 (General) presently consists of the resident labour market test (RLMT) and the shortage occupation list (SOL) routes. As shown in Chapter 3, the proportion of RLMT to SOL users has been increasing year on year since 2010. For the year ending August 2015, 37,889 CoS were used under RLMT and 3,250 CoS under SOL; 92 per cent and 8 per cent respectively. The RLMT is, to an extent, self-selecting, in that employers

can use this route to fill any NQF6+ level job where they can demonstrate that no suitable candidate willing to work at the salary offered can be found within the UK or the European Economic Area (EEA). Employers determine the suitability or otherwise of candidates and can use this route to fill what may be a local shortage. By contrast, the shortage occupation list route is only available for jobs which have been identified as being in national shortage.

7.24 However, the Government's commission asks that we give consideration to also including high value roles, key public service workers and those which require specialist skills. Tier 2 (General) would then comprise an expanded SOL including not just national shortages but also these key roles.

7.25 An expanded SOL would build upon the existing framework for the list. We have developed the methodology for identifying shortage occupations which balances information from top-down national data sources with bottom-up evidence from our partners (details of our methodology are given in each of our previous reports on the shortage occupation list). The SOL is, therefore, an objective assessment of shortages persisting across the whole of the UK (and Scotland in the case of the separate Scotland shortage list).

7.26 A simple way to help the Government achieve its objective would be to abolish the self-selective element of this route (the RLMT) and focus on an objective test of whether the required skills are unavailable in the UK and EEA. An expanded SOL may satisfy the UK's skill shortages in the short-term by providing companies with access to skilled labour that does not exist in the required quantity in the UK. This option could, in theory, guarantee that the only Tier 2 (General) migrants entering the UK are those with skills in national shortage and those thought to be particularly valued.

7.27 However, not all skill shortages are the same. In our April 2009 shortage occupation list report we identified four different types of shortage (Migration Advisory Committee, 2009a). Some shortages are cyclical, and may be alleviated by reduced demand in the economy. Construction is an example of a sector which is especially susceptible to cyclical shortages. Other shortages are structural; for example, where there has been insufficient investment in skills. Shortages in some occupations also reflect the fact that there is a global labour market for talent. Finally public sector pay restraint can result in shortages in predominantly public sector occupations. Bearing these types of shortage in mind, we looked to see whether a shortage occupation list route on its own would sufficiently facilitate UK employer access to necessary skills.

7.28 We have consistently maintained that our reviews of shortage occupations are neither comprehensive nor infallible. Shortages can develop rapidly and in unpredictable ways. The SOL is presently reviewed on an ad hoc, infrequent basis. This would not suit, for example, employers experiencing cyclical shortages where an economic upturn leads to heightened demand

for skills. Employers would have to wait for the SOL to be reviewed before they could recruit migrant labour to meet the demand. Nor, partners told us, would it suit businesses where shortages arise quickly; for instance, because a new technology has changed the way people work or after a business is commissioned to deliver a large or specialist project.

7.29 There is also a practical issue, in that the data used for two of the twelve indicators used by the MAC to identify shortage occupations is no longer produced. Since November 2012, the Department for Work and Pensions has not published any updated statistics on vacancies broken down by four-digit SOC. It may not be wise to place increased importance on the SOL until the available data has improved.

> *"An expanded SOL, however, should not be introduced as an alternative to the existing Tier 2 framework. SOLs are inherently rigid and not responsive to real-time market developments."*
>
> Council for Global Immigration (CFGI) response to MAC call for evidence

7.30 Some partners said that, realistically, it would be very difficult to consider all of the jobs that could be brought onto the SOL. Magrath LLP said that, in their view, it would be impossible to produce a SOL that correctly identified all the possible shortage areas that employers encounter. Excluding many job types would, they said, leave employers with a hugely inflexible system that would make it impossible for businesses to recruit key candidates.

7.31 If an expanded SOL was the only route for migrant labour using Tier 2 (General), the reviews of the list would likely become subject to intense lobbying from employers. Although there is objectivity built into the assessment, we do not claim that it is infallible. The current SOL methodology is compromised by the lack of national vacancy data by occupation, for example. It is possible that jobs could be on the SOL while not being in shortage with other actual shortage jobs being excluded.

7.32 Addressing these sorts of anomalies would require that the SOL undergo regular, thorough and frequent reviews. This would have implications for our own resources and would also cause expense and inconvenience to employers.

7.33 The current SOL is only for occupations that are in shortage nationally across the UK, although there is a separate list covering Scotland only. The current combination of RLMT and SOL allows employers to recruit migrants to fill regional shortages, if the labour cannot be sourced domestically. Whilst an expanded SOL may provide more flexibility to incorporate regional shortages onto the list, it is likely that some localised shortages would remain outside an extended SOL. Employers would no longer have the option to recruit skilled migrants into these positions.

7.34 In summary, the **MAC does not recommend restricting eligibility for Tier 2 (General) only to occupations on an expanded shortage occupation list.** Such an approach would be extremely challenging to implement given the difficulty in reliably determining which occupations are most in shortage and/or involve highly specialist experts. The list would need to be reviewed regularly to ensure its accuracy. The frequency by which an expanded shortage occupation list would need to be updated is not comparable to the current SOL, particularly given that the MAC has not been commissioned to do a full review of the SOL in over three years.

(iii) Reform of Resident Labour Market Test (RLMT)

7.35 In considering possible changes to the RLMT, we looked first at whether the route should be retained. We have looked at the RLMT in previous MAC reports and concluded that it should be retained, but that there is scope for enhancing the monitoring of the process.

7.36 Our view has not changed. Overall, we believe that the RLMT performs a useful function: it is a means to verify that suitable candidates cannot be found in the resident labour supply. It also allows authorities to monitor the recruitment practices of firms, thus exposing possible areas of misconduct.

7.37 Additionally, the RLMT route ensures that we do not ask too much of the SOL, given the limitations described above. The RLMT route gives employers the option of recruiting from outside the EEA to fill vacancies that cannot be filled locally without needing to demonstrate that there is a national shortage. Most importantly, it is responsive to employers' needs and a shifting job market in a way that the SOL is not.

> *"Even putting the lump of labour fallacy to one side, the need to test the resident labour market before looking overseas is a sensible and desirable public policy.....however we take the view that this policy framework does not serve the interests of businesses or resident workers at present."*
>
> Fragomen response to MAC call for evidence

7.38 However, the RLMT itself could be adapted to improve its efficiency and efficacy. For instance, employers could be given more of an incentive to conduct an exhaustive search of the UK/EU labour force. It could be made a requirement that the sponsor has an approved advertising strategy when applying to be a Tier 2 sponsor. There may also be scope for a more general review of how the RLMT is carried out that focuses on bringing it into line with modern recruitment practices, identifying opportunities for streamlining.

7.39 The OECD has recently concluded that labour market tests are often very difficult to implement and enforce effectively (OECD, 2014b). We found that our partners also felt that there are issues with using the RLMT. They

said it is expensive and too time consuming, often delaying the recruitment process.

7.40 One issue that partners highlighted with the current RLMT was that a minimum advertising requirement of 28 days was too long. In our view, a search period of less than 28 days would not prove that the resident labour market had been effectively searched. We do not think that four weeks is an unreasonable length of time for a job advert to be placed and do not recommend a change to this requirement.

7.41 Some partners also highlighted that, in their view, the current RLMT does not sufficiently ensure sponsors have fully tested the UK labour market before applying for a CoS under Tier 2. The minimum requirement to advertise only in two sources, one of which is Universal Jobmatch, means that employers who do not intend to effectively search the UK labour market for available candidates may still be able to comply with the RLMT requirements. There may be an argument that complying with the basic RLMT requirements is not evidence of a thorough attempt to identify available candidates within the UK labour market.

"Ironically, the requirement to advertise with Universal Jobmatch actually plays to the advantage of employers who do not wish to carry out an effective search of the resident labour force as they know it is extremely unlikely to produce a suitable candidate. "

Laura Devine Solicitors response to MAC call for evidence

7.42 We recognise that there are some issues with requiring that advertisements be placed with Universal Jobmatch, but it remains the case that this is the UK's public employment service. As such, this low-cost (to the employer) advertising medium can be effectively monitored to check employers are posting genuine job adverts. Additionally, Universal Jobmatch is linked to EURES, the EU-wide recruitment site, which gives EU citizens access to these vacancies.

7.43 There is a requirement on employers to keep evidence that they have complied with the requirements of the RLMT. However, given that recruitment is very subjective by nature, combined with the resources available for enforcement; it means it is currently not possible for UK Visas and Immigration to check that an appropriate RLMT has been carried out each time.

7.44 Recent collaborations between the Home Office and the Department for Work and Pensions (DWP) suggest that more systematic checking of compliance of the RLMT is forthcoming. DWP collect data on the compliance of employers with the RLMT rules, this includes: checking that employers have advertised through Universal Jobmatch, seeing how many applications employers received and how many interviews employers held. We welcome the development of more thorough compliance checks of the

RLMT and, in the long term, it may be feasible to move towards a certification system such that DWP certify compliance with the RLMT prior to a CoS being issued.

7.45 Overall, we believe that the RLMT performs a useful function. It is a means to verify that suitable candidates cannot be found in the resident labour supply. It also allows authorities to monitor the recruitment practices of firms which can expose misconduct. The SOL and the RLMT complement each other. Operating in tandem, they offer flexibility and responsiveness to employers. **We therefore recommend that the current RLMT be retained**. However, there may be some scope to modernise the RLMT to ensure it reflects modern recruitment methods, whilst the Government could also look into improved enforcement in this area. It is of critical importance to the overall functioning of Tier 2 (General) that the RLMT functions effectively and efficiently.

(iv) Return to a system allocating points for a migrant's attributes

7.46 In a previous incarnation of the Points Based System, applications for CoS were allocated points against a set of migrant attributes including age, salary, skills and occupation. Under this system, migrants were able to tradeoff strength in one attribute against weakness in another. Whilst Tier 2 is currently called a points based system, a successful application requires a minimum score for each attribute such that applicants are not able to trade-off between the desired attributes.

7.47 The MAC is not in favour of a return to the previous system or any method of allocating points for particular attributes. The use of points to reward attributes does not address the problem of picking winners (i.e. which attributes should be rewarded and what should be the pecking order). Instead, it merely provides a method for doing so, and one that is not certain to be any more efficient at doing so than salary. The system as presently constituted uses criteria based on the occupation, not the migrant.

(v) Allow the limit to continue to restrict the route

7.48 This is the 'do nothing' option. There is an annual limit on out-of-country visas issued under Tier 2 (General) of 20,700. The Government has said that it will maintain the Tier 2 limit at its current level for the lifetime of this Parliament.

7.49 The demand for visas from employers has exceeded the allocation for each month between June and October 2015. Figure 7.1 shows which occupations have been most affected since the limit began to bind. Those occupations paying relatively lower salaries (often in the public sector) or those on graduate schemes saw their applications turned down. Although RCoS demand was met in November 2015, the full monthly allocation was taken up and it remains likely that there will be excess demand for RCoS in the near term.

Figure 7.1 Occupations most affected by the Tier 2 (General) limit, June-October 2015

Source: Home Office Management Information, June-October 2015

7.50 The Department of Health told us that the health and social care sector is poorly served by the current operation of the limit under Tier 2 (General).

Many health and social care employers seeking to bring workers into the UK under the RLMT have been unsuccessful in recent months because applications for typically lower paid health and social care occupations have been rejected in large numbers.

7.51 The Department of Health stated that salaries in the health and care sector do not properly reflect the full economic and social contribution of the relevant occupations and argued that a more flexible and responsive system, which does not exclude modestly paid but highly skilled occupations providing key public services, is now needed. They suggested that the Government could:

- review the measure of economic contribution by which points are awarded under the Points Based System to fully reflect the importance of these occupations in delivering good levels of patient safety and care;

- ring-fence a proportion of the annual Tier 2 (General) visa allocation for either key public sector skilled occupations or specifically those employed in the publicly funded health and social care sector, to ensure that key public services can continue to be delivered.

7.52 The limit was designed to be an upper limit and not routinely to be the mechanism for allocating RCoS. As demonstrated above, when it is reached, the limit has a disproportionate impact on certain occupations where salaries are generally lower. If the limit is routinely binding, the MAC considers it sensible that the minimum salary thresholds should be raised, which would achieve the same end but provide much more certainty to employers.

7.53 Assuming that the limit on the supply of RCoS does not change, it might be the case that there continues to be an over-subscription by employers. Government will still have to determine how to allocate RCoS in these circumstances. In this case, we favour salary as a simple measure of value. The more valued an employee's skills are, in theory, the higher her or his salary. In a well functioning labour market, highly specialist and highly valuable individuals will be reflected through high wages. Overall, our preference is to let the labour market determine these by revealed preference, i.e. the salaries offered to Tier 2 migrants. **We therefore recommend that prioritisation of RCoS continues largely to be done on the basis of salary, after priority is given first to SOL occupations and then PhD level occupations.**

7.54 This means that when the limit binds, lower paid occupations will be the ones that lose out. Figure 7.1 shows that many of the affected occupations are public sector, although nurses are now prioritised within Tier 2 (General) as they have been added to the SOL (from October 2015). In Chapter 4, we set out our view that the public sector is an employer like any other and should be expected to raise wages in response to a shortage. We also recognised that the public sector may need time to adjust to higher salary thresholds.

7.55 Similarly, the government may wish to consider giving temporary priority under RCoS prioritisation for key public sector occupations in the short-term. However, it is not clear that these scarce RCoS should be allocated to the public sector at the expense of private sector employers attempting to recruit more highly paid migrants. In the long-term, our view is that public sector employers should be expected to raise salaries to reflect the scarcity and value of employee skills for whom RCoS are sought.

7.56 Graduate schemes have been particularly affected by the effectively higher salary thresholds that have arisen as a result of the monthly allocations being oversubscribed. This is due to the lower salaries paid to graduates which do not necessarily reflect their potential earnings growth. Because of this **we recommend that new entrants recruited onto eligible graduate schemes should have their salary boosted by £7,000 in the allocation process.** This represents the difference in the overall minimum salary threshold for a new entrant (10th percentile) and an experienced worker (25th percentile) as set out in our Chapter 4 recommendations. This will help to ensure that the earnings potential of skilled graduates compared to experienced hires is acknowledged in the prioritisation process. The Government may wish to consider the scope for 'eligible graduate schemes', for example the case for junior doctors.

7.4 Switching in-country from other visas into Tier 2 (General)

7.57 Whilst out-of-country applicants are included in the Tier 2 (General) limit, migrants switching in-country into Tier 2 (General) from other routes (such as Tier 4) is not subject to this limit. In fact, as shown in Chapter 3**,** in-country applications under Tier 2 have out numbered out-of-country applications each year since 2010. This begs the question, why are some categories of Tier 2 migrant subject to an annual limit and not others?

7.58 We looked at the case for restricting Tier 2 (Intra-company Transfers) in Chapter 6 of this report. There, we assessed whether these migrants should be subject to similar restrictions to Tier 2 (General) migrants. Here we examine the case for applying a limit to in-country switching into Tier 2 (General).

7.59 On top of the restriction imposed by the limit itself, migrants entering the UK under Tier 2 (General) as out-of-country applicants are subject to additional restrictions and criteria not applied to in-country applicants. For example, none of the other inflows in Tier 2 are required to undergo an RLMT or demonstrate that the occupation is on the SOL. We consider that whilst much emphasis is placed on restricting and controlling out-of-country applicants, the other Tier 2 inflows are not examined so rigorously.

7.60 Table 7.2 shows that in-country applications are made by: existing Tier 2 (General) migrants either changing sponsor or extending their visa, Tier 4 switchers (and Tier 4 dependants) and migrants switching from other visa categories. The majority of in-country applications are made up of existing Tier 2 migrants switching sponsors or extending their current visas. For the year ending August 2015, a significant proportion (23 per cent, almost

5,700 switchers) of in-country applicants were those switching into Tier 2 (General) from a Tier 4 (Student) visa. The remaining 2,815 migrants switch into Tier 2 (General) from a variety of other visas including Tier 1 and Tier 5.

Table 7.2: In-country applications for CoS Tier 2 (General) , split by migrant classification, year ending August 2015

Migrant Classification	Total	%
Tier 2 (Change of Sponsor)	7,046	28
Tier 2 (Extension)	9,109	37
Tier 4 Graduate switching to Tier 2 (General)	5,687	23
Tier 4 Dependant switching to Tier 2 (General)	170	1
Switching from all other visas	2,815	11
Total	**24,827**	**100**

Notes: A full list of routes from which migrants can switch into Tier 2 (General) can be found on the GOV.UK website.
Source: Home Office Management Information, Total CoS used, year ending August 2015

7.61 We do not consider it useful to impose an annual limit on those migrants extending their visa or switching their sponsor. Limits should be enforced at the point of entry into Tier 2, not to those extending a visa within Tier 2.

7.62 Excluding extensions and migrants changing their sponsors within Tier 2 (General), this leaves a sizeable number of in-country applications (8,672 for the year ending August 2015) that do not face an RLMT or a limit when switching into Tier 2 (General). Around two thirds of these (5,687) are international students switching from Tier 4.

7.63 Table 7.3 shows the breakdown of Tier 4 switchers, by main occupation into which they moved. The occupation with the higher number of applications for Tier 4 switchers is SOC: 3545 ‘Sales accounts and business development mangers’, with 640 successful applications in the year ending August 2015. In Chapter 4 our analysis suggested that there may be instances of undercutting in sales accounts and business development managers (see Table 4.6). Further, in their response to our call for evidence, the Home Office told us that facilitators favour building deception around occupations that are loosely defined, such as ‘Business Development Manager’. There is therefore a strong case for heavier monitoring of this use of the route.

7.64 There is a substantial element of Tier 2 (General) usage arising from in-country switching. We consider in turn whether there is an argument to subject in-country switching to an RLMT, and further whether there should be a limit on in-country switching.

Table 7.3: Main occupations for migrants switching from Tier 4 into Tier 2 (General) and the top organisations for these, for the year ending August 2015

Top 5 SOC codes for Tier 4 switchers	Total	Top organisations using each SOC code	Number of Tier 4 switchers	% of total	Top nationality of migrants	Median Salary
3545 'Sales accounts and business development managers'	640	Brian Tai Shen Wang t/a Herbal Inn	25	4	China (23%)	£22,500
		Mandarin Consulting Limited	17	3		
		The Education and Careers Corporation Ltd	12	2		
2119 'Natural and social science professionals not elsewhere classified'	575	University of Oxford	67	12	China (30%)	£30,434
		The University of Cambridge	35	6		
		Imperial College London (HR)	34	6		
2423 'Management consultants and business analysts'	478	Deloitte LLP	34	7	India (19%)	£31,500
		KPMG LLP (Graduate Recruitment)	32	7		
		Accenture (UK) Limited	29	6		
2211' Medical practitioners'	305	Health Education England	196	64	Malaysia (41%)	£30,002
		NHS Education For Scotland	28	9		
		NES Holdings (UK) Limited	8	3		
2136 'Programmers and software development managers'	282	BT Group	18	6	India (34%)	£28,750
		JPMorganChase & Co.	15	5		
		Accenture (UK) Limited	13	5		
Total (top 5)	**2,280**					
Total	**5,712**					

Source: Home Office Management Information, Total CoS used, year ending August 2015

Applying an RLMT to in-country switching

7.65 Subjecting in-country switchers to an RLMT would serve the same purpose as it does for out-of-country applicants. Primarily, an RLMT helps prevent any short-term displacement of the UK workforce. It also helps ensure that UK workers have been given a chance to apply for vacancies. Imposing an RLMT on in-country switchers would treat such migrants the same as out-of-country Tier 2 (General) users by demonstrating that they are filling a role that cannot be filled by a UK or EEA worker.

7.66 This proposal would have little impact on large graduate schemes. University milkround recruitment campaigns are already accepted as fulfilling the RLMT requirements for out-of-country Tier 2 applications. However, it would ensure that smaller employers have tested the UK labour market before recruiting an individual migrant who is already in the UK.

7.67 The Home Office told us that they had concerns about some vacancies filled through Tier 2 not being genuine and that this was often in relation to vacancies filled by Tier 4 switchers. In order for vacancies to be considered genuine the jobholder must perform the specific responsibilities of the role and not perform dissimilar and/or lower-skilled duties. The Home Office said that there was evidence that a number of vacancies filled by Tier 4 switchers involved this performance of dissimilar and lower-skilled duties. Whilst it was made clear that this form of abuse is not widespread within the route, it does tend to exist at the 'tail end'. The use of an RLMT would reduce the scope for abuse of this nature.

7.68 We do not believe there is a case to exempt employers from the requirement to conduct a test of the resident labour market before hiring an in-country switcher. **We therefore recommend that employers must demonstrate they have carried out a RLMT when applying for a CoS for an in-country switcher into Tier 2, unless the job is on the SOL.**

Applying a limit to in-country switching

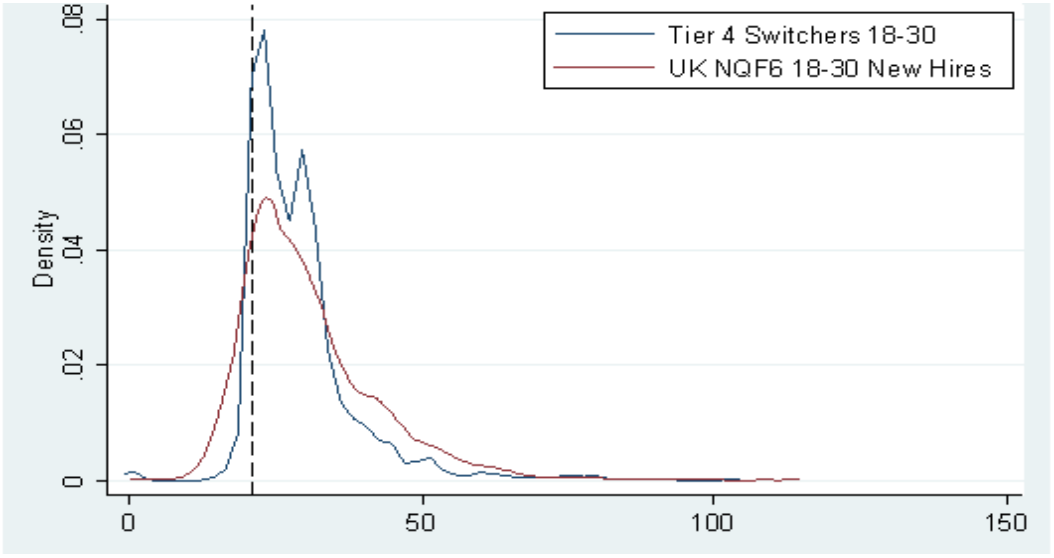
7.69 As discussed above, Tier 4 migrants make up around two thirds of in-country switchers into Tier 2 (General). Switching into Tier 2 is now the primary route for migrants who have graduated from UK institutions to access the UK labour market. There is no limit on the number of migrant graduates who can apply to do this.

7.70 Applying an annual limit to the number of in-country switchers into Tier 2 (General) may have a knock-on impact on the numbers of non-EEA students applying to study in the UK. The ability of non-EEA students to work in the UK after graduation is held by the higher education sector to be an attractive part of the offer to such students who may decide to study elsewhere in the absence of such an offer. Partners from the sector told us that targets for international student exports to increase over the next few years may be less likely to be achieved if a limit on in-country switching into Tier 2 makes the UK a less attractive destination for study.

7.71 We recognise the benefit to the UK of international students. The Department for Business, Innovation and Skills estimated in 2011 that education exports were worth £17.5bn to the UK economy (HM Government, 2013). There have been several studies in the UK which identify the contributions international students make to the local economies around their universities (University of Exeter & Oxford Economics, 2012); some of these have also highlighted the more lasting contributions that can be made if international students successfully transition into the UK labour market (London First & PWC, 2015). Many of the students that switch into Tier 2 provide skills, knowledge and innovation that benefit the UK economy.

7.72 We compared the salary distribution for Tier 4 switchers against that of comparable UK graduates (new hires working in occupations skilled to NQF6+). In a bid to make both groups as comparable as possible, we restricted both to those aged between 18 and 30. The actual data show that the mean age for Tier 4 switchers is 27. The salary distributions are represented in Figure 7.2. The salaries for Tier 4 switchers cluster around £20,800 which is the current minimum salary threshold for Tier 2. Apart from the clustering at the minimum threshold, the distributions are not dissimilar.

Figure 7.2: Pay distribution for Tier 4 switchers aged 18-30 and UK graduate new hires aged 18-30 for the year ending August 2015.



Notes: The dashed line represents the minimum salary threshold for Tier 2 (General), £20,800.
Source: Home Office Management Information, Total CoS used, year ending August 2015. UK wage data from ASHE 2014.

7.73 However, the issue of whether in-country switchers should be included in a limit does not rest on how salaries paid to in-country switchers compare to UK workers. Instead, it rests on whether it is logical to prioritise one group of potential migrants over another. While the Tier 2 (General) limit on out-of-country migrants is binding, applications for RCoS for highly paid occupations are turned down, yet there is no limit on the number of in-

country switchers that can be admitted at any qualifying salary. This creates an asymmetry across Tier 2 which means that the whole route may not be delivering maximum benefit to the UK. The MAC concludes that for as long as there is a limit on out-of-country applicants, it makes sense to apply a limit to in-country switching.

7.74 There is an argument that Tier 4 switchers are particularly valuable entrants to the UK economy. They are relatively young, and, we may assume, already familiar with UK culture and society. They have UK qualifications which can be more highly valued by UK employers than overseas qualifications. These factors mean that such migrants are well placed to compete with out-of-country applicants. Our recommendation that new entrants recruited to graduate schemes under Tier 2 (General) have £7,000 added to their salary when they are considered under the prioritisation process would apply to many Tier 4 switchers. We therefore do not consider that subjecting Tier 4 switchers, along with other in-country switchers, to a limit would cause them particular disadvantage in relation to other Tier 2 applicants.

7.75 **We therefore recommend that as long as there is a limit on out-of-country volumes there should also be a limit on in-country switching**.

7.76 We do not make any recommendations here as to what that limit should be, but it could be benchmarked to match recent volumes. Ideally, it would not be a separate limit but incorporated into an expanded version of the current Tier 2 (General) limit (presently, 20,700). This would ensure that in-country switchers are directly competing with Tier 2 migrants for the same RCoS, rather than having a separate competition amongst themselves. Otherwise there is a risk that the effective salary requirement continues to differ for in-country switching compared to out-of-country applications. This does not achieve the Government's objective of ensuring that the highest value migrants are admitted under Tier 2.

7.77 Having one limit covering both ensures that the restricted number of places are efficiently allocated. Incorporating in-country applicants into an expanded Tier 2 (General) limit will ensure in-country applicants are competing for visas against all other possible Tier 2 (General) migrants.

7.5 Sunsetting

7.78 The government also asked for our advice on: *"how to limit the length of time occupations can be classed as having shortages: what would be an appropriate maximum duration and should there be exceptions?"*

7.79 We have looked previously at the idea of having a sunset clause in relation to jobs and occupations placed on the shortage occupation list whereby such occupations would be deleted from the list after a given period of time (Migration Advisory Committee, 2013). We did not recommend the introduction of a sunset clause and said that MAC reviews of SOL provide the best mechanism for reviewing when to add or remove occupations from the SOL.

7.80 In our 2013 report, we looked back at the jobs and occupations we had recommended for removal from the shortage list since we first made recommendations about the list in 2008. We concluded that our review process had resulted in large numbers of job titles being recommended for removal from the SOL. We were satisfied that the review process remains effective and even-handed – it is not biased either towards the removal or addition of job titles.

7.81 Fixed periods for inclusion on the SOL does have the advantage of simplicity and predictability. Employers will know that they have a window during which they can attempt to fill skill shortages with workers from outside the EEA. The Government could set different time periods for different occupations, perhaps taking advice from the MAC when we recommend an occupation for inclusion on the list. Criteria could be developed to help establish the differing time periods, such as the scale of the skill shortage and the time taken to train sufficient UK-based staff to fill vacancies.

7.82 Having said this we, and most of our partners, consider that skills shortages are more complex than a sunset clause allows for. Skill shortages cannot be fixed by simply imposing a limit on how long employers can use migrants to relieve the shortage.

"This consultation relies upon a false dichotomy if it argues that there would ever come a moment at which the so-called "skills" of the resident labour market would negate the need for orchestras to recruit some positions from abroad"

Association of British Orchestras response to MAC call for evidence

"the argument that an occupation will no longer have a shortage and should be removed from the list just because it has been on the list for a period of time, is misguided. This is not least because the UK skills system infrastructure necessary to underpin such an approach – one that is capable of putting in place an effective local training plan that would eradicate a shortage over the timeframe that the shortage is permitted to remain on the list – is not in place."

London First response to MAC call for evidence

7.83 The alternative to sunsetting is maintaining the status quo. This means that inclusion on the SOL is not for an arbitrary time period but until such a time as the MAC considers the occupation to not be in shortage or it is no longer sensible for it to be included on the list.

7.84 The sensible test that we apply in deciding whether an occupation is in shortage is of key importance here. For an occupation to be added to, or kept on the SOL, partners must be able to provide evidence that steps are being taken to alleviate shortages in the UK labour force. If partners are unable to provide such evidence, or if we consider the evidence to be

unconvincing, then we will not recommend this occupation for inclusion on the shortage list, or, if it is already on the list, we will recommend that it be removed.

7.85 On the whole our partners were against the idea of sunsetting as they valued the fact that their actions to resolve shortages were taken into account in our shortage recommendations. Evidence from the research sector highlighted that a sunset clause applied too soon could worsen a skill shortage in particular areas.

"Removing the option of recruitment from overseas before the skills gap can be filled with home workers could exacerbate the shortage in the short term and make it more difficult for UK firms to focus on training home workers in the long term."

National Academies response to MAC call for evidence

7.86 The Government have strong concerns about occupations remaining on the shortage list for long periods. However, the top 3 job titles by duration on the list are *consultant in old age psychiatry*, *secondary education teachers in the subjects of maths and science (chemistry and physics only)* and *social worker working in children's and family services*. Predominantly these are public sector occupations. As of June 2015, these jobs had been on the SOL for 15 years 11 months, 14 years 6 months and 12 years 10 months respectively. The table in **Annex E** shows the other the job titles that have been on the SOL the longest.

7.87 Some partners have noted that certain parts of the public sector have a virtual monopoly over their labour supply and should therefore find it easier than the private sector to plan their workforce. The public sector should face the same incentive as private sector employers to address skills shortages in its workforce.

7.88 The numbers coming into the UK to work in occupations on the SOL are relatively small (1,521 out-of-country applicants in the year to August 2015). While we understand the Government's desire to ensure that employers are actively seeking to resolve shortages rather than rely on migrant workers, we are concerned that an arbitrary time limit is not the best way of ensuring this. We have not seen any evidence to make us change our view from when we looked at this issue last in 2013. Jobs and occupations do not remain on the SOL indefinitely and an evidence and data based approach with a defined methodology is our preferred way to determine whether there is no longer a need for a job or occupation to remain on the list. We therefore do not recommend introducing an automatic sunset clause for occupations on the SOL.

7.89 We last conducted a full review of the SOL in 2012-2013. One way to ensure that jobs do not stay on the SOL for longer than they are in shortage is to ensure that the list is regularly reviewed. However, whilst in

theory the SOL should be fully reviewed on a regular, perhaps annual basis, it is not clear that such frequent reviews would be desirable in practice. There is a cost involved in reviewing the SOL, and the benefits arising from more regular review may not justify an annual review. In addition, SOL reviews make demands on partners in terms of fresh evidence of new or continued shortages.

7.90 Given that inclusion on the SOL gives only a modest benefit (priority in the allocation of RCoS, exemption from RLMT), combined with the relatively low volumes of visas issued under the SOL route, a more flexible, ad-hoc approach based on partial reviews of SOL may be more appropriate. This would allow the MAC to be commissioned more reactively as and when evidence of a shortage emerges in a particular sector, for example. There is a risk that too frequent reviews of the SOL divert MAC resource away from other pressing issues which may ultimately be of greater policy importance. However, it is a matter for the Government to decide how to commission the MAC with future work.

7.91 What is important in the context of any future SOL commission is the continued availability of the underlying data we use to determine shortage. In particular, we make extensive use of the Employer Skills Survey (ESS), which provides the necessary UK-wide information for a third of our shortage indicators. We noted with concern the announcement in the Chancellor's Autumn Statement (HM Treasury, 2015) that the Government intends to make £360 million of efficiencies and savings from the adult skills budget, to be achieved through savings in supporting budgets. This would include the UK Commission for Employment and Skills, the body responsible for the ESS. The Prime Minister highlighted the importance of skills in his speech of May 2015. The Government will therefore want to ensure there remains a robust, independently run, nationwide survey of skills, providing a constant time series to track and identify emerging skills needs consistently across the UK labour market as a whole over time, as well as those persistent areas still in need of skilled migrants.

7.92 **We therefore do not recommend that a blanket sunsetting clause be applied to the SOL. More regular reviews of the SOL should be an effective mechanism for testing whether occupations are still in shortage. If partners are unable to provide evidence of the steps being taken to alleviate shortages in the UK labour market we will not recommend this occupation for (continued) inclusion on the SOL.**

7.6 Partner views on Tier 2 design

7.93 In our call for evidence we asked partners for their views on how the overall design of Tier 2 could be improved. In this section we present an overview of the responses we received, where these are not addressed elsewhere in this report.

7.94 Overall, partners told us that the current Tier 2 mechanism generally works acceptably and that few, if any, changes should be made. Partners said they were able to hire the migrants they need through the current system

and although it is not perfect it allows them to use the route for its intended purpose. Universities told us they were opposed to any immediate further changes, as constant amendments to rules are unhelpful and destabilising for all employers. They suggested that future changes to the Tier 2 (General) route should take into account the general principles of fairness and the significant existing restrictions inherent in this route.

> *"We need to keep up-skilling the UK population but given the prime importance of having a diverse workforce with a global outlook, we must also continue attracting the best and brightest global labour. Foreign workers bring their skills and ideas to this country, pay taxes here, and in so doing help boost growth – that must be allowed to continue....What is needed is continuing urgent reform to Britain's education system, not barriers to employing the right labour and people with the skills the UK economy needs to succeed."*
>
> Institute of Directors response to MAC call for evidence

7.95 However, we were told by some partners that compared to other countries, the existing design of Tier 2 is too complicated and creates a significant and costly burden on business and a deterrent to growth within the UK. The health sector told us that the overall design of the Tier 2 visa route currently does not enable the healthcare service to bring in the skilled workers required.

> *"The existing Tier 2 mechanisms and frameworks are designed with care but in practice are far too complicated compared to competitor countries. They need to be simplified both in reality and in the way they are perceived and presented."*
>
> The Institution of Chemical Engineers response to MAC call for evidence

7.96 Many partners were of the view that a flexible approach to meeting business needs is required. When considering changes to the Tier 2 route, they said it must be designed to enable businesses to bring the right people, to the right place at the right time. CBI members told us that the route is the most economically valuable form of migration and should be protected. Partners want clear, simple, efficient rules and processes.

7.97 A number of partners suggested that Tier 2 needs to be made more accessible to start-ups and SMEs, as a start-up may not have the robust HR systems and policies in place to apply for (or maintain) a sponsor licence. Start-ups must obtain licences before they have the resources to monitor compliance themselves. Penningtons Manches/TLA raised the point that tech start-ups often rely on investors, accelerators and incubators to assist and advise them on operational functions such as HR and finance so that they can focus on development. This was also picked

up by Universities UK who noted that being a Tier 2 sponsor is already prohibitively expensive, especially for SMEs.

7.98 The London Business School suggested a new route be opened for academics from outside the EEA coming to work at UK HEIs on a short-term basis, but for periods of longer than one month. This gained some support from the University of Oxford which recommended a separate Tier 2 category for research and academics similar to that of sportsperson or ministers of religion routes.

7.99 The arts sector also advocated the creation of a new route for the top class dancers, again akin to the separate route for sportspersons. They told us that there are so many similarities between dancers and sportspersons it is difficult to understand why they are not treated in a similar way under Tier 2. Similarly, the Association of British Orchestras told the MAC it is arguable that orchestral musicians have far more in common with sports persons than any of the other categories of profession with which they are currently banded under Tier 2 (General). In Chapter 4 we highlighted that the Government may wish to look at certain exemptions for the creative and arts sector.

7.100 The MAC welcomes the views received from partners and we have taken these into consideration in assessing the issues and formulating our recommendations. Partners have appealed for simplicity in the design of Tier 2 whilst also calling for more provision for a greater range of circumstances.

7.101 Of course, we agree that the design of Tier 2 should be kept as simple as possible. In reality, however it must be recognised that Tier 2 covers a great range of circumstances. Therefore, in order to work effectively as a skilled migration programme, specific rules and criteria need to be put in place to ensure migrants that bring the most benefit to the UK are admitted. We hope that the recommendations we have proposed should help to achieve this.

7.7 Enforcement

7.102 In their response to our call for evidence, the Home Office told us that Tier 2 (General) has become a more attractive route to migrants seeking to abuse the system after the tightening of rules within Tier 4 and closures of Tier 1 (General) and Tier 1 (Post Study). We were told that the tailoring of details on CoS issued by a Sponsor or a Representative is the most common form of deception within Tier 2 (General). We were told that four main methods have been identified and often a combination will be evident in an abusive application. These are:

a) Role differs on CoS from role actually undertaken (often referred to as a non-Genuine vacancy).

b) CoS sold to migrant with no intention of the migrant working for the Sponsor;

c) Pay and conditions on the CoS do not match those given to the migrant;

d) Migrant does not hold any relevant experience or qualifications.

7.103 We do not go into detail on these issues here. Ultimately, more Home Office and wider government enforcement is required to address these issues.

7.8 Conclusions

7.104 The Government asked us to consider the desirability of restricting Tier 2 (General) to genuine skill shortages and highly specialised experts while allowing flexibility to include high value roles, key public service workers and those which require specialist skills.

7.105 Attempting to precisely define which job titles and occupations meet such criteria would be an extremely challenging exercise. Even if it was possible to come up with such a list, it would become almost immediately out of date. We are wary of attempting to pick winners in this way and consider that the best way to determine which migrants are the most valued is by price, as discussed previously in this report. **We therefore do not recommend limiting Tier 2 (General) recruitment only to job titles on an expanded shortage occupation list.**

7.106 We consider that the RLMT is an important component of Tier 2 and should be retained. It allows employers to recruit non-EEA migrants where they can prove they have tested the UK labour market. However, there is scope for some improvement in the effectiveness and efficiency of how the RLMT is carried out.

7.107 We looked at how the allocations of RCoS are being prioritised now that the Tier 2 limit has been reached. We are content that the current approach is consistent with our advice that salary provides the most objective way of prioritising applications. We consider that graduates should not be disadvantaged in the process for allocating RCoS. Their earnings will typically be towards the bottom of the Tier 2 salary distribution, but their future earnings growth is likely to be greater, on average, than for experienced hires. **We recommend that in the allocation process, £7,000 is added to the salary of new entrants recruited to graduate schemes,** which is the difference between our recommended minimum salary thresholds for new entrants and experienced hires under Tier 2.

7.108 Furthermore, as low paid public sector jobs are more likely to lose out in the event of the limit binding, **the Government may wish to consider giving temporary priority to these occupations in the short term.** In the longer term, wages in these occupations should rise to reflect their scarcity and there should be no permanent exemptions applied to the public sector.

7.109 We also looked at whether in-country switchers should be subject to the same restrictions as out-of-country Tier 2 applicants and concluded that they should. We could see no good reason for either exempting in-country switchers from an RLMT or from an annual limit. **We recommend both requiring an RLMT for in-country switchers from other routes together with including them in an extended limit covering the whole of Tier 2 (General).**

7.110 Finally, we looked again at removing jobs and occupations from the shortage occupation list automatically after a fixed period of time (sunsetting). We are concerned that this is not the best way of ensuring employers engage in upskilling and training. We consider that regular reviews of the SOL using our methodology provide the best mechanism for deciding whether to add, retain or remove occupations from the SOL.

Chapter 8 Tier 2 dependants

8.1 Introduction

8.1 The Government asked that we provide advice on:

"the impact, on Tier 2 numbers, the economy and the public finances, of restricting the automatic right of the dependants of Tier 2 visa holders to work on their Tier 2 dependant visa".

8.2 As we set out in Chapter 2, the dependants of Tier 2 migrants are currently free to seek employment in the UK without restriction on the type of work they can do. In this regard, they have the same right to work as a UK resident.

Box 8.1: Tier 2 dependants - key issues

- Does unrestricted labour market access for dependants have an impact on the employment opportunities and wages of UK residents?
- Does it make sense that the occupations in which Tier 2 main applicants can work are tightly controlled whilst their dependants have free access to the labour market?
- Would restricting work rights for dependants contribute to reduced inflows under Tier 2?

8.3 When exploring whether automatic work rights for dependants should be retained, the main option we compare this against is total restriction. We do however consider other immediate alternatives and discuss the impacts.

8.4 We have previously looked at the economic contribution made by dependants and their role in the labour market (Migration Advisory Committee, 2009b). We concluded there was no reason to consider that greater restrictions on working rights for dependants would lead to improved outcomes, either for UK workers, or the UK economy.

8.5 In reaching this conclusion we highlighted the caveat that only limited data were available on the characteristics of dependants and their economic contribution. For this commission, we have reviewed the available data to see whether there are new sources of evidence to inform an updated

conclusion. In this chapter, we examine whether there are good reasons for restricting dependants' access to the UK labour market and what the outcome of such restrictions might be, before concluding with our recommendations.

8.2 International comparisons

8.6 We have briefly examined the policies in other countries regarding work rights for dependants on Tier 2 equivalent visa schemes. The Permits Foundation, an independent, not-for-profit organisation campaigning to improve regulations governing dependant work rights highlighted that there has been a broad trend towards more generous work rights for dependants across 30 countries.[12]

8.7 Until May 2015, the USA restricted the right to work for dependants of skilled migrants on H1-B visas. However, following a recent change, dependants can apply for a work endorsement when the main visa holder applies for permanent residency. This gives the dependant the right to work irrespective of skill or job occupation level. The US Department of Homeland Security has stated that this change aims to bring US rules for dependants in line with other countries seeking to attract and retain highly skilled workers.

8.8 In Canada, dependants of skilled migrants have the right to work. However unlike in the UK, dependants are required to apply for a work permit and must meet the same rules as the main applicant, including the requirement for their employer to obtain a Labour Market Impact Assessment (Canada's equivalent of the Tier 2 resident labour market test). However, if the main applicant is approved to work in Canada for six months or more, or if the main applicant is in a senior position or is in some form of skilled work, a spouse or common-law partner is able to apply for an open work permit, which is not job-specific and therefore is not subject to the labour market test requirements and does not need a job offer. In addition, child dependants, under the age of 19, need a permit to either work or study in Canada.

8.9 New Zealand offers open work visas to partners of migrants who hold Essential Skills work visas irrespective of the skill level of the main applicant. In contrast, Australia only permits the right to work if the main applicant is on the Temporary Work (skilled) visa and is sponsored by a business.

8.10 The Permits Foundation told us that Germany provides automatic work rights for dependants of highly skilled labour migrants who have applied for permanent residency. These dependants have a direct and unrestricted right to work. Germany's Federal Office for Migration and Refugees

[12] Outside the EU, some of the countries highlighted as becoming more open to the rights for dependants to work are: Argentina, Australia, Canada, India, Japan, Singapore and the USA.

recently published a study examining the integration of immigrating spouses within that country (Federal Office for Migration and Refugees, 2014). The study found that amongst spouses who arrived in Germany from 2005 to 2012, 55 per cent were educated to university level. In addition, the study found that most female dependants cited participation in low skilled, unpaid work such as housework and family work. The survey found that 70 per cent of working dependants were engaged in low skilled occupations.

"The ability for dependants to have a right to work is a key factor in recruiting prospective employees. The unrestricted right to work for a dependant is a factor, which can encourage prospective employees to join. Competitor nations, such as Germany, offer this."

Jaguar Land Rover Ltd response to MAC call for evidence

8.3 Data context

8.11 In this section, we describe the available data and present some analysis on the characteristics of dependants. Additionally, to the extent it is possible, we also describe dependants' interactions with the labour market.

8.12 The Home Office management information (MI) data does not contain information relating to dependants' use of the UK labour market. Therefore we do not know exactly how many dependants work or what sort of work is done by those in employment. For example it would be useful to know whether dependants are working in skilled or unskilled occupations, and how much they are paid. Data of this nature would be extremely valuable in order to inform policy decisions about whether to allow dependants unrestricted access to the UK labour market. But such data are not directly collected.

8.13 However, it is possible to match Home Office MI data with tax data from Her Majesty's Revenue and Customs (HMRC) in order to gain an insight into the employment status and earnings of Tier 2 dependants. Unfortunately, in the time available to produce this report, the Home Office was not able to arrange for the necessary data capture from HMRC. Further work in this area would add real value to the understanding of the impact of dependants.

8.14 First, we present statistics on the numbers and characteristics of Tier 2 dependants, sourced from published Home Office Immigration Statistics and our further analysis of Home Office MI data. Second, we present survey evidence we received from the Permits Foundation. Third, we present the characteristics of dependants and analyse their involvement in the UK labour market using the Labour Force Survey (LFS).

Numbers and characteristics of Tier 2 dependants

8.15 In 2014, a total of 151,631 entry clearance visas and extensions of stay were granted under all Tier 2 routes. A significant share of these, 42 per cent, or 63,902 visas, were for adult and child dependants. Moreover, in recent years the ratio of dependants to main applicants has been reasonably stable. Table 8.1 shows the volume of dependant visas issued in recent years. This volume is increasing in line with broader increases under Tier 2.

Table 8.1: Volumes of Tier 2 Dependants granted visas in- and out-of-country, 2009 to 2014.

	Out-of-country			In-country		
Year	Main applicants	Dependants	Ratio of dependants to main applicant	Main applicants	Dependants	Ratio of dependants to main applicant
2009	36,287	26,982	0.74	27,851	23,007	0.83
2010	39,922	28,268	0.71	21,269	16,194	0.76
2011	38,088	28,344	0.74	18,205	13,525	0.74
2012	39,171	28,933	0.74	29,524	20,668	0.70
2013	45,636	34,346	0.75	37,656	25,499	0.68
2014	52,463	38,234	0.73	35,266	25,668	0.73
2015 Q3	54,174	38,685	0.71	33,376	26,198	0.78

Notes: Tier 2 dependants do not necessarily enter the UK at the same time as the main applicant. Dependants may also apply out-of-country to join a main applicant who applied in-country and vice versa. Data is in calendar years with the exception of figures for 2015Q3 which are year to September 2015.
Source: Home Office Immigration Statistics, November 2015

8.16 Across the Tier 2 routes, 38,685 dependants were granted entry visas alongside a total of 54,174 main applicants in the year to September 2015. The ratio of dependants to main applicants was therefore 0.71. In broad terms, every four main applicants are accompanied by 3 dependants and this ratio has been stable for a number of years. Dependant to main applicant ratios are similar for in-country applicants.

8.17 Dependant to main applicant ratios do vary by Tier 2 route. In the year to September 2015 the dependant to main applicant ratio for Tier 2 (General) was 0.90, while for the long-term intra-company transfer route it was 1.11. For the short-term intra-company transfer route, the ratio was much lower at 0.41. This may have been skewed by the high number of Indian nationals using this route: excluding Indian nationals, the ratio fell to around 0.20, or one dependant for every five main applicants. Annex F provides more detailed of the variation in main-applicant to dependant ratios by nationality across the sub-routes of Tier 2.

Adult dependants

8.18 This commission from the Government specifically concerns dependants of working age. The Immigration Statistics do not distinguish between adult and child dependants but we used the Home Office MI data to

separate out adult dependants (aged 18 and over). Table 8.2 shows that, in the year to September 2015, of the 36,341 Tier 2 dependants applying out-of-country to come to the UK, around 20,000 (55 per cent) were adults. This proportion has been stable in recent years. Table 8.3 shows that amongst in-country applicants, a similar proportion (54 per cent) were adults. Almost 12,000 adults extended their visas in-country as dependants of Tier 2 main applicants.

8.19 Of the out-of-country adult dependants, 8,407 applied as the dependant of a migrant under Tier 2 (General), and 11,673 applied as the dependant of a migrant under the Tier 2 (Intra-company Transfer) route. Table 8.4 shows a further breakdown of out-of-country dependants under the Tier 2 (Intra-company Transfer) route, split between the short-term and long-term routes[13]. In the year to September 2015, there were just under 5,000 applications from adult dependants of short-term intra-company transferees while there were just over 7,000 from dependants of long-term intra-company transferees.

Table 8.2: Out-of-country applications for Certificates of Sponsorship by dependants of Tier 2 main applicants, 2011 to 2015

		Total adult dependants (aged 18 or over)		Total child dependants (under age 18)	
Year	Total	Tier 2 (Intra-company Transfer) dependants	Tier 2 (Gen) dependants	Tier 2 (Intra-company Transfer) dependants	Tier 2 (Gen) dependants
2011	28,703	6,262	9,467	5,352	7,622
2012	30,216	10,231	6,353	8,470	5,162
2013	35,143	11,763	7,592	9,944	5,844
2014	39,376	13,138	8,661	11,016	6,561
2015 Q3	36,342	11,673	8,407	9,818	6,443

Notes: The table does not include data where adults were categorised under the age of 18 and where children were categorised over the age of 18. Intra-company transfer includes long and short term. Data is in calendar years with the exception of figures for 2015Q3 which are year to September 2015.
Source: MAC analysis of Home Office Management Information.

[13] This further breakdown of the ICT routes was not available in the in-country MI.

Table 8.3: In-country applications for Certificates of Sponsorship by dependants of Tier 2 main applicants, 2011 to 2015

Year	Total	Total adult dependants (aged 18 or over)	Total child dependants (under age 18)	Adult dependants as a proportion of total in-country dependants (%)
2011	14,133	7,307	6,826	52
2012	21,030	10,894	10,136	52
2013	23,303	12,333	10,970	53
2014	23,344	12,732	10,612	55
2015 Q3	20,632	11,068	9,564	54

Notes: The table does not include data where adults were categorised under the age of 18 and where children were categorised over the age of 18. Data is in calendar years with the exception of figures for 2015 Q3 which are year to September 2015.
Source: MAC analysis of Home Office Management Information.

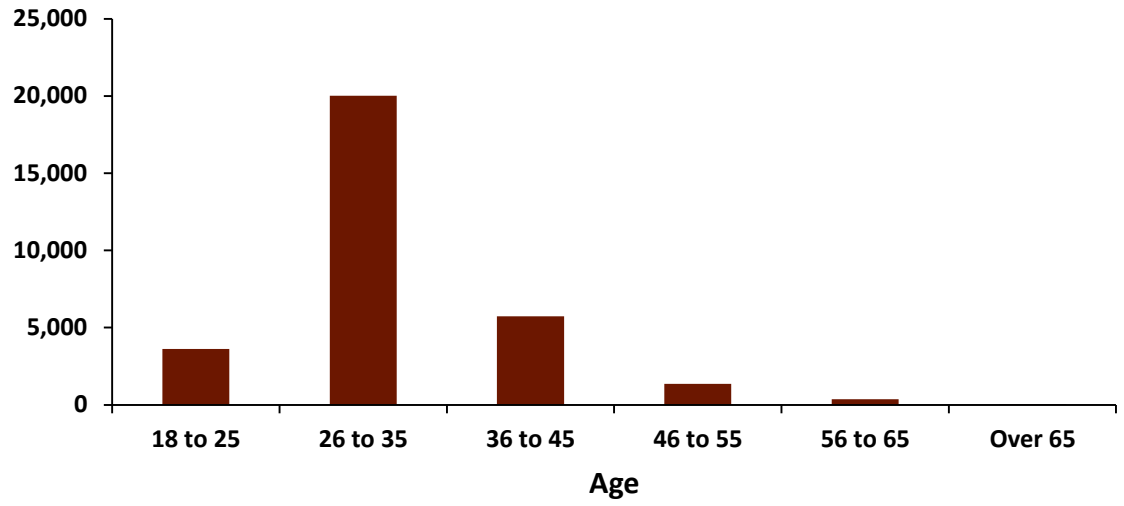
Table 8.4 Out-of-country applications for Certificates of Sponsorship by dependants of Intra-company Transferees, 2011 to 2015

		Total Intra-company Transfer adult dependants (aged 18 or over)		Total Intra-company Transfer child dependants (under age 18)	
Year	Total	Short term ICT	Long term ICT	Short term ICT	Long term ICT
2011	11,614	2,106	4,156	1,217	4,135
2012	18,701	3,727	6,504	2,145	6,325
2013	21,707	4,554	7,209	2,915	7,029
2014	24,154	5,483	7,655	3,475	7,541
2015 Q3	21,491	4,810	6,635	3,183	6,863

Notes: The table does not include data where adults were categorised under the age of 18 and where children were categorised over the age of 18. Data is in calendar years with the exception of figures for 2015 Q3 which are year to September 2015.
Source: MAC analysis of Home Office Management Information.

8.20 Figure 8.1 shows the age distribution of adult dependants making in- and out-of-country Tier 2 applications. This shows that 94 per cent of adult dependants are aged between 18 and 45. This is similar to the age distribution of adult Tier 2 main applicants.

Figure 8.1: Age of adult dependants at point of application, October 2014 – September 2015.



Source: Home Office Management Information (2015).

8.4 Labour market characteristics of Tier 2 dependants

8.21 In this section, we use two data sources to look at the numbers of dependants that are actually working and the work they do.

Survey evidence from the Permits Foundation

8.22 In response to our call for evidence, the Permits Foundation carried out a survey of their membership with a specific focus on migrant dependants. We are grateful to the Foundation for sharing the results of their survey with us and we present these results here. As the Permits Foundation themselves recognise, it should be noted that the survey may suffer from selection bias and, consequently, may therefore not be fully representative of all Tier 2 dependants. Participation in the survey may have partly been determined by how strongly respondents felt about dependants' access to the labour market. However, the Permits Foundation survey did receive a total of 1,063 responses and, given the paucity of data in this area, we welcome this addition to the evidence base.

8.23 The survey's main findings were that:

- 71 per cent of adult Tier 2 dependants are female;
- 61 per cent of adult Tier 2 dependants are aged between 25 and 34;
- 96 per cent of adult Tier 2 dependants have a Bachelor's degree or higher; and
- 61 per cent of adult Tier 2 dependants are employed.

8.24 The Permits Foundation survey suggests that the vast majority of Tier 2 adult dependants are highly qualified (subject to the caveats discussed

above). In particular, the survey found that amongst those adult dependants who were in employment (61 per cent), only two per cent were not skilled to NQF6. The Permits Foundation stated that 80 per cent (432 respondents) of those employed hold professional or managerial jobs.

8.25 The survey provided some details regarding the employment patterns of Tier 2 dependants. Of those Tier 2 dependants in employment, the majority had full-time, permanent jobs. Nine per cent (49 respondents) were self-employed, 12 per cent (65 respondents) were engaged in part-time work and six per cent (32 respondents) in occasional, temporary or project work.

Labour Force Survey analysis of dependants

8.26 In an attempt to triangulate the evidence from the Permits Foundation, we also analysed data from the Labour Force Survey (LFS) to obtain information about the employment status and skill level of recent non-EEA migrants who came to the UK as the spouse or partner of a non-EEA national. The data is not explicitly categorised by visa route, meaning the sample used could include some dependants whose partners came to the UK through other visa routes; for example, student or family migration. Therefore, this analysis gives a broad indication of labour market outcomes for dependants rather than a specific look at Tier 2 dependants.

8.27 We use a pooled dataset across four quarters (2014 Q3 to 2015 Q2) of LFS data to provide more robust sample sizes for the analysis. In this sample, we found that 81 per cent of dependants are female and 19 per cent are male. This is similar to the ratio identified in the Permits Foundation survey (71 per cent female). However, the LFS data suggests a slightly lower rate of employment amongst dependants, finding that 31 per cent of dependants are in employment, 63 per cent are inactive and five per cent are unemployed.

8.28 Assessing the skill level of dependants is problematic due to the poor quality of information collected in the LFS on educational attainment of non-UK nationals. Migrant qualifications are not always well recorded in the conventional qualification measures used to assess educational attainment. We therefore used the age an individual left full time education as a proxy for their skill. Using this approach, we found that 60 per cent of dependants are highly skilled (aged 21 or above at the time they left full-time education), 24 per cent are medium skilled (left full-time education aged 17–20) and 12 per cent are low skilled.

8.29 In comparison, the Permits Foundation Survey revealed 96 per cent of those surveyed had a Bachelor's degree or higher. As stated in paragraph 8.23, the Permits Foundation evidence may include a degree of upward bias due to the self-selection in the survey sample, while the LFS sample is likely to capture some migrants who did not use the Tier 2 routes. The actual figure is likely somewhere in between the two, i.e. between 60 and 80 per cent, but overall the analysis suggests that the majority of Tier 2 dependants are likely to be highly skilled.

8.30 Although a majority of the dependants in the LFS sample were found to be highly skilled, those in employment were predominantly engaged in low skilled work (66 per cent) with just over a third engaged in high skilled occupations. This is a much lower share than the 85 per cent in high skilled work identified in the Permits Foundation survey.

8.31 The LFS data suggest a closer similarity between the number of dependants working full time (57 per cent) and part time (43 per cent). In addition, 92 per cent of dependants work as an employee, six per cent are self employed and 1.6 per cent are employed as unpaid family workers.

8.32 In summary, the information generated by the Permits Foundation survey and our analysis of the LFS provide some insight into the characteristics of dependants as well as an overview of their labour market outcomes. Both the LFS and Permit Foundation survey support the view that the majority of dependants are female and highly skilled. However, there are some other areas where the findings from each source diverge. Compared with the Permits Foundation survey, the LFS suggests that a lower proportion of dependants are in work and, amongst those, a lower proportion are highly skilled and in highly skilled work. Table 8.5 presents a comparison of the findings from the two sources.

Table 8.5: Summary of findings from the Permits Foundation survey and the Labour Force Survey.

	Labour Force Survey (%)	Permits Foundation Survey (%)
Proportion of dependants that are:		
Female	81	71
In employment	31	61
Highly skilled	60	96
Employed in high skilled occupation	34	85

Notes: In the LFS analysis, high skilled is proxied by age left full-time education whereas in the Permits Foundation survey high skilled is defined as those with graduate level qualifications.
Source: Labour Force Survey and Permits Foundation survey

8.33 Putting this into context, of the total 64,000 Tier 2 dependants in 2014, between 11,000 and 21,000 could be assumed to be adults in employment with a further 1,700 seeking work. This accounts annually for between 0.04 per cent and 0.07 per cent of the total UK workforce. When broken down by skill, of those employed it could be assumed that between 4,000 and 20,000 are working in highly skilled jobs. The numbers involved are therefore relatively small in the context of the whole UK labour market.

8.34 We consider that the available information is not sufficient, on its own, to enable us to draw firm conclusions about how many dependants work and what they do.

8.5 Economic impacts of a restriction on the automatic right to work for Tier 2 dependants

8.35 In this section we briefly discuss the economic impacts of allowing dependants to work. A broader discussion of the economic impacts of migration is contained in Chapter 9.

8.36 By engaging in paid work, working-age dependants add to the output of the UK economy. The labour provided is of value to UK employers, and in some cases may have spillover impacts that benefit UK workers and consumers. Preventing dependants from working would result in the non-utilisation of a relatively young, largely highly skilled, workforce. This would not help to increase UK growth or productivity.

8.37 Restricting dependants' access to the labour market could hamper the opportunity of dependants to make a positive fiscal contribution. As the OECD has noted, being in employment is a primary determinant of whether a migrant makes a positive net fiscal contribution (OECD, 2013). Employed dependants will make income tax and national insurance contributions. Whilst a dependant is on a Tier 2 visa, they cannot access public funds, including working tax credits. This means that even dependants in relatively low paid work may make a positive net fiscal contribution, as they may be paying in only a small amount but are likely to be taking out even less.

> *"Employment is the single most important determinant of migrants' net fiscal balance, particularly in countries with comprehensive social protection systems."*
>
> OECD International Migration Outlook (2013)

8.38 Migrant dependants who engage in high-skilled work may be considered to be complements, on average, to UK workers – their skill level is higher than the average skill level in the UK workforce. If they bring skills that are in short supply they may generate positive spillovers that boost productivity and raise the employment of, and wages paid to, UK workers. However, these impacts may be less marked than for Tier 2 main applicants, who by definition are recruited on the basis that their skills are scarce in the UK. In contrast, dependants who engage in low-skilled work may have skills that are more similar to the existing skills available in the UK workforce. This may mean that they are more substitutable for UK workers.

8.39 In some cases, this could mean greater competition with UK workers, which in theory could lead to displacement or depressed wage growth in the lowest skilled occupations. Whilst empirical studies of the impacts of migration have provided some evidence to support this understanding of migrant workers as complements and substitutes, any impacts identified have generally been small (Dustmann, 2008).

8.40 We have not come across empirical evidence assessing the labour market impacts of migrant dependents per se in the UK. In theory, dependants that are engaged in low-skilled work could have a small negative labour market impact in the short term, although there is only limited empirical evidence to support this. However, if this was the case, this could be offset by the dependants' contribution to increased economic output and the exchequer. Furthermore, given the relatively small volumes involved, any negative labour market impacts will be minor and would be offset by the dependants' contribution to increased economic output.

8.41 If we assume, following the evidence from the Permits Foundation and Labour Force Survey presented above, that a majority of Tier 2 dependants are in highly-skilled occupations then it follows that Tier 2 dependants will, on balance, have a positive labour market and wider economic impact.

8.42 In theory, dependants that are engaged in low-skilled work could have a small negative labour market impact in the short term, although there is only limited empirical evidence to support this. However, if this was the case, this could be offset by the dependants' contribution to increased economic output and fiscal contributions.

8.6 Social impacts of a restriction on the automatic right to work for Tier 2 dependants

8.43 The economics literature we considered and partner evidence we received allude to potential social cohesion and integration impacts of restrictions on the access of Tier 2 dependants to the labour market. By social cohesion, we mean the extent to which members of a community relate to one another, with particular emphasis on the harmonious social relations between UK and foreign nationals. By integration, we mean the extent to which migrants are incorporated into the national and local culture and equally to what extent the indigenous culture evolves to reflect the changing profile of the population.

8.44 There are a number of social impacts that follow from denying dependants access to the labour market. It is well established that access to the labour market can help to facilitate social integration for migrants. The OECD has concluded that, for migrants, being in employment is the best driver of social integration (Rudiger and Spencer, 2003). Restrictions on a dependants' access to the labour market could have significant impacts on their ability to successfully integrate into UK society.

8.45 Evidence we received from a number of partners highlighted concern about this issue. In particular officials from Northern Ireland said that restricted work rights for asylum seekers had presented integration challenges.

"Some having fewer entitlements than others has presented very significant challenges to any efforts to integrate all minority ethnic people fully into our society. An inability to seek and pursue work can cause:

- a lack of involvement and investment with the local community, encouraging isolation and segregation.
- a further dependence upon partners, ordinarily not an issue but a negative factor in cases of domestic instability or abuse.
- an 'enforced idleness' which can rail against their previous or ordinary way of life".

Grainne McKillen, Acting Director, Good Relations & Financial Governance Division, Office of the First Minister and Deputy First Minister (Northern Ireland) response to MAC call for evidence

8.46 A related issue is gender equality. As described above, the majority of adult dependants are female and therefore any negative social or integration impacts will affect women disproportionately.

"Most critically, I believe it is a heavily gendered policy: I suspect that many dependents are women. The expectation that they should follow their husbands' career needs, and then suffer personal and professional losses, is unfair and outdated."

"Not only is this morally incorrect but this is against equality for women. A person will come to a new country where they know no one, and they are not allowed to work so they cannot engage socially and are left with no other choice than sitting at home."

Respondents to Permits Foundation survey

8.47 Other than the Tier 2 (Intra-company Transfer) route, the Tier 2 route leads directly to settlement in the UK. If migrants are to settle in the UK it seems to us to be self-evidently desirable that they do so in a way which minimises their impact on social cohesion and maximises their integration. We consider that restricting dependants' access to the labour market will not assist in this aim.

8.48 In summary, it is important that Tier 2 migrants are able to successfully integrate into society in the UK. This is particularly the case for Tier 2 (General) migrants, who are on a path to settlement, as well as to some degree those on long-term intra-company transfer visas. There is reason to believe that this integration process would be hampered by restricting dependants' access to the labour market until they have settled. Additionally, there are a number of equality concerns around the impact of such a policy.

8.7 Deterrent effect of a restriction on the automatic right to work for Tier 2 dependants

8.49 In this section, we examine whether restricting dependants' labour market access would reduce the supply of migrants under Tier 2. As part of this, we review partner evidence, explore the immediate impact on the main applicant's decision to work in the UK and the potential financial impact.

8.50 Potentially, the principal Tier 2 migrant could decide not to come to the UK if his or her partner or spouse was prevented from working. A significant number of partners who responded to our call for evidence told us that this would be the case.

8.51 Rolls-Royce argued that dual career partnerships are now seen as the norm rather than the exception, and that if the UK went against this it would be seen as a regressive step in terms of equal rights and diversity. In addition, Atkins told us that any such change could force them to substantially increase their pay and benefits offer to the main applicant in order to persuade them to come to the UK. Other partners said that not only would restricting dependant work rights dissuade Tier 2 migrants from coming to the UK, it would also reduce the pool of available talent which would result in lower quality migration under Tier 2.

> *"The majority of our Tier 2 migrants bring their dependants to the UK. Any changes that limit the dependant's ability to find employment in the UK could seriously affect the migrant's decision whether to transfer."*
>
> Nissan Motor Manufacturing (UK) Ltd response to MAC call for evidence

> *"Restricting [a] dependant's right to work would … be a powerful disincentive for skilled scientists and engineers when choosing where they work. This could severely impact on science and engineering employers' ability to recruit the talent that they need and this would have a knock-on negative effects on the economy."*
>
> Campaign for Science and Engineering response to MAC call for evidence

8.52 In addition, Kingsley Napley reported that one of the most common questions their clients face when discussing potential intra-company transfers or new hires into the UK is whether or not the migrant's family will be able to work. A survey carried out by Magrath LLP found that 95 per cent (19 out of 20) respondents reported they would find it more difficult to arrange assignments if dependants were prohibited from working.

8.53 The Permits Foundation survey asked whether restrictions on dependants' right to work would have affected the main applicant's decision to accept their current UK role. 77 per cent of respondents said that they would have

been unlikely to accept their current role if their partner did not have the right to work in the UK. As noted earlier, some caution is needed in interpreting these results. Nevertheless, these findings suggest that the deterrent effect of restricting the right to work for dependants may be significant.

"If my husband was unable to work in the UK, I would not have accepted the job offer from London Business School and we would not have moved from the United States to the UK. My husband had a very good career in the United States. For us to move from the United States to the United Kingdom, it was imperative that he was able to continue with his career. There is no way that he would end his career (by not working) just for me to work. Also, the loss in income would be too great if he stopped working. His salary in the United States was between 2-3 times larger than it is here. So when we moved to the UK, he had a big sacrifice in terms of the loss of income. If he did not have the right to work in the UK, then it would be too costly for our family for me to come and work in the UK."

Individual response to MAC call for evidence

8.54 While there are many reasons why restricting labour market access for dependants might deter main applicants, one particular reason is that restricting a dependant's ability to work will increase the financial burden on migrant households, which will then be reliant on a single source of income. Partner evidence suggested that this financial burden would have the biggest impact on migrants who just meet the salary threshold.

"For Tier 2 main applicants who just meet the salary thresholds the ability for their dependants to work is crucial and is fundamental not only to ease the financial burden of living in the UK but also ensuring they are actually able to acclimate to the UK".

Deloitte response to MAC call for evidence

"Dependants' right to work is essential when considering an option to work in the UK. With the cost of living so high, especially in London where majority of highly skilled choose to work, spouses having an option to pursue a career if needed for any reason is vital"

Respondent to Permits Foundation survey.

8.55 It is clear that restricting dependants' work rights would reduce the potential supply of Tier 2 migrants willing to move to the UK, although we cannot be certain of the size of this impact. However, it is not clear that this would necessarily result in a fall in volumes of main applicants under Tier 2. Restricting work rights will have no impact on employer demand. If the

supply of potential Tier 2 migrants remains sufficient to meet employer demand, there will be little impact on the numbers of main applicants (although there may be a reduction in the number of dependants if the pool of Tier 2 migrants has shifted in composition towards those without dependants). Employers will not necessarily recruit fewer migrants. They may just switch to recruiting migrants without dependants.

8.56 Moreover, the prospective applicants that would now be available to UK employers may no longer be the optimal candidates for the role. That is, by making the UK a less attractive destination for dependants of skilled migrants UK employers would, in some cases, perhaps only be able to employ the second-best alternative because the size of the recruitment pool has been reduced.

8.8 Intermediate options for restricting dependants' access to the labour market

8.57 Preventing migrant dependants from working all together has the benefit of simplicity. However, rather than an outright restriction, there are a number of other methods to restrict access to the labour market for dependants while still allowing dependants to work under certain circumstances.

(i) Restricting dependants to high skilled work only

8.58 The UK chooses which Tier 2 migrants are allowed to come to the UK and such migrants can only undertake high skilled work. The UK does not, to the same extent, choose which dependants of Tier 2 migrants come to the UK. It may appear inconsistent to tightly control the work carried out by main applicants whilst allowing dependants access to the whole labour market.

8.59 If we assume that high skilled work has the most positive impacts on the wider UK economy, then it could be seen as desirable to ensure that dependants engage in similar quality work. Based on the available data, the indications are that a significant proportion of Tier 2 dependants are qualified to work in high skilled occupations, and a reasonable proportion of those in employment appear to do so.

8.60 A similar option would be to restrict dependants' access only to jobs paying a minimum salary threshold, given that salary is generally an indicator of skill.

(ii) Restricting dependants only to occupations in shortage

8.61 Dependants' access to the labour market could be restricted only to occupations that are on the shortage occupation list. By definition, these are occupations where the UK does not have enough existing workers and would demonstrate clearly the benefit to the UK of dependants being in work. This would not be much different to a complete restriction, given the small number of job titles on the shortage occupation list.

(iii) Restricting access only to jobs that have undergone a resident labour market test

8.62 Dependants could be restricted to work only in jobs where the availability of suitable UK workers has been tested through requiring employers to conduct a resident labour market test before hiring a migrant dependant. This option differs from the other options considered here in that it imposes a significant additional burden on employers.

(iv) Restricting access to the UK labour market only for dependants of short-term intra-company transfer migrants

8.63 The dependants of short-term intra-company transfer migrants can only come to the UK for a maximum of 12 months. Denying these dependants access to the labour market will not have some of the negative consequences associated with other measures simply because they are not on the path to settlement.

8.64 In summary, to varying degrees, each intermediate option under-utilises labour that could have otherwise been used productively to increase output and contribute to the UK economy. In addition, the UK exchequer would forego fiscal contributions that would have otherwise been received had dependants been able to access the labour market.

8.65 Furthermore, for those dependants affected, restricting the right to work may lead to greater social integration and cohesion and is thus not socially desirable. Given the information and data available, there is no strong evidence to suggest an alternative option that is more economically and socially desirable than the status-quo. However should the government wish to limit automatic work rights, the least negative impact would be on those accompanying a short term intra-company transfer main applicant.

8.9 Conclusions

8.66 We examined the available data and evidence to see what we could learn about migrant dependants and their interactions with the UK labour market. The data in this area remains limited and therefore only tentative conclusions can be drawn. The information that is available indicates that the majority of dependants of Tier 2 adult dependants are women of working age and that a significant proportion are highly skilled.

8.67 We considered options to restrict labour market access for dependants ranging from a complete restriction to intermediate restrictions such as limiting dependants to highly skilled work only, to jobs on the shortage list, or to jobs paying over a minimum salary threshold. Although there is some logic in subjecting dependants to the same tests and requirements that the UK imposes on principal migrants, we consider that many of these would be burdensome to implement with little by way of guaranteed outcomes.

8.68 Our consideration of the impact of restricting Tier 2 dependants' access to the labour market has two strands. First, we consider whether or not such

a restriction would lead to improved economic and social outcomes for UK residents; and, second, whether such a policy would have a significant impact on volumes of migrants coming to the UK.

8.69 There are a number of benefits associated with allowing dependants of migrants to work in the UK. They add to output and earn money that they can spend in the UK. They make a fiscal contribution and may complement and help upskill UK workers. The more skilled the dependants are, the greater these benefits are likely to be. On the downside, they may at times compete directly for jobs with UK workers.

8.70 The annual inflow of Tier 2 migrant dependants into the UK is relatively small and, therefore, the impact of restricting access to the labour market is also likely to be small. There is little evidence to suggest that restricting Tier 2 dependants' access to the labour market would lead to improved economic outcomes for UK residents. Moreover, allowing a group of people to come to the UK and forcing them to remain economically inactive will not maximise the economic benefits of migration.

8.71 Additionally, we have concerns that restricting access to the labour market would disproportionately affect women and would lead to undesirable consequences in terms of increased social isolation, less cohesion and slower integration. Where migrants and their dependants intend to settle in the UK we consider it important that they be given every opportunity to integrate including through access to work.

8.72 Further, we do not know what the impact on Tier 2 volumes would be if dependants' access to the labour market was fully or partially restricted. Some migrants may be put off coming to the UK, and there may be some reduction in the numbers of dependants, but employers may just recruit Tier 2 migrants for whom dependant work rights are not an issue. This may lead to a reduction in quality of Tier 2 main applicants.

8.73 We conclude that restricting Tier 2 work rights would be an inefficient way of seeking to reduce Tier 2 inflows – it would be better to control Tier 2 through the desired characteristics of the main applicants and through influencing employer behaviour. The other chapters of this report set out ways we think these reductions could be accomplished. A reduction in the number of principal migrants will, of course, also result in a reduction in the number of dependants coming to the UK. Therefore, **we do not recommend imposing any restrictions on dependants' access to the labour market.** However, should the government wish to limit automatic work rights in some way, the least negative impact would be on those accompanying a short term intra-company transfer main applicant.

Chapter 9 Overall impacts

9.1 Introduction

9.1 In the preceding chapters we have explored the Government's specific proposals for restricting Tier 2 migration. For each proposal we considered the rationale and have then assessed, based on the available evidence, whether the proposal represents an effective way for the government to achieve its aim of reducing volumes under Tier 2. We also considered the incentives each provides to encourage employers to address persistent skills shortages.

9.2 In assessing these proposals we have aimed to identify which would be the most efficient way to achieve the aim of reducing non-EEA skilled immigration – in other words, restricting Tier 2 volumes in such a way that those who are expected to make the greatest contribution to the economy can still be recruited by UK employers.

9.3 In this chapter, we examine the potential wider economic impacts arising from substantially restricting Tier 2 migration, with less focus on the specific mechanism used to achieve a reduction. As we highlighted in Chapter 1, achieving the objective of reducing skilled immigration involves some tension with other policy objectives. We explore those issues further in this chapter.

9.4 We begin by briefly summarising the existing evidence around the economic impacts of skilled migrants. We then discuss what the current economic and labour market context implies for the demand for skilled migrants in the near term. We finish with an assessment of the likely economic impacts of substantially restricting Tier 2 migration.

9.2 Economic impacts of skilled migrants – existing evidence

9.5 The following section provides a high level summary of the existing evidence base in relation to the economic impacts of highly skilled migration. This is based on our previous assessments of the impacts of migration, chiefly our 2012 report "*Analysis of the Impacts of Migration*". However, this is a brief summary and should not be interpreted as a definitive statement on the economic impacts of migration.

9.6 Some of the evidence quoted below refers to migrants in general, and is not specific to highly skilled migrants let alone migrants on Tier 2 visas.

Where appropriate we provide an interpretation as to whether the impacts specifically associated with Tier 2 migration are likely to be different than migration in general.

Economic output

9.7 Most directly, skilled migrants add to the output of the economy by engaging in economic activity. However as the MAC has emphasised previously, this addition to output on its own is not a sufficient argument for migration – what matters from a broad policy perspective is whether skilled migrants are likely to add to the output (or GDP) per capita of existing residents (Migration Advisory Committee, 2012a). In the remainder of this section we focus on the impacts of migrants on UK residents. In terms of direct contributions to output, migrants also add to the economy on the demand side by spending money on goods and services in the UK economy.

Filling skills shortages

9.8 The aim of Tier 2 migration is generally to allow employers to recruit migrants to fill the skills gaps that cannot be filled by native workers. Many employers indicated in their evidence submissions that without the ability to recruit migrants, roles would have simply gone unfilled. The MAC recognises that where there are short-term skills shortages, it can be sensible to allow employers to access migrant labour to fill vacancies.

9.9 In some situations, skills bottlenecks in one key area can constrain capacity for business growth even when other areas are not constrained. Therefore, recruiting a migrant into the area of shortage can unlock wider growth in the business. This means that allowing recruitment of migrants where the vacancy cannot be filled from the domestic labour market can lead to businesses being able to expand across the board, creating employment opportunities for UK residents. Access to skilled migration can be a good short-term solution to immediate skill shortages.

9.10 However, if having ready access to skilled Tier 2 migrants leads to firms becoming reliant on these workers to fill gaps in the resident labour supply, this could lead to a more sustained and permanent shortage in the native labour force. Similarly, it could reduce incentives to deepen capital investment to improve productivity.

Productivity

9.11 Tier 2 migrants can raise productivity through two main channels. Firstly, the skill level required of Tier 2 migrants means that they are likely to raise the average productivity of the UK workforce. Secondly, and of more significance, if the skills of migrants complement the skills of UK workers, this should increase the productivity and output of existing UK resident workers. For example if a Tier 2 migrant is highly specialised (and therefore highly productive) in a particular area, existing workers in a firm

may be able to specialise in other areas. This increased specialisation can drive productivity increases across the firm (Peri, 2009).

9.12 In the migration economics literature, migrants are viewed as complementary to (i.e. raise the productivity of) native workers on average whenever the skill mix of migrants differs to the skill mix of natives. However, they may be substitutes to some specific groups of native workers whose labour market prospects are worsened by migration. The workers admitted under Tier 2 are much more skilled than the average native worker so would be expected to raise productivity.

9.13 Highly skilled migrants under Tier 2 are therefore generally considered to be complements in production with native workers – they are recruited on the basis that they are highly specialised or their skills are in short supply. This means that they expand the range of production possibilities for UK firms and are expected to boost wages and employment of skilled UK workers on average.

9.14 Consider the hypothetical example of a migrant surgeon recruited by a hospital because the migrant is a specialist in a particular area where the surgical team is lacking such a specialist. Before, the other surgeons have to cover this area. When the migrant is recruited, the other surgeons are able to focus more on their own specialist areas in which they are more productive. The productivity of the surgical team is thus enhanced by the recruitment of the migrant.

9.15 Migrants can also drive productivity increases by helping to transfer knowledge – for example transferring their skills to UK workers, or more generally spreading knowledge of business practice or experience in another country.

9.16 Innovation is another important source of productivity growth. There is some evidence that Tier 2 migrants can contribute to innovation through the exchange of knowledge, ideas and skills. Research has shown that firms with diverse management, which can arise in part through skilled migration, are more innovative (Nathan, 2013).

9.17 Conversely, and more speculatively, it is possible that in the long term there could be a countervailing negative effect of Tier 2 migration on the productivity of the resident UK workforce. This would be the case if access to Tier 2 migration in the event of a skills shortage reduces incentives to invest in the domestic provision of skills. In Chapter 5 we discussed this issue, and recommended the introduction of an Immigration Skills Charge.

Employment and wage impacts

9.18 There is no fixed number of jobs in an economy. The view that there is a fixed number of jobs is commonly described as the *lump of labour* fallacy. In a simple labour market model, in the short term, an addition to the labour supply is expected to reduce wages, with employers responding to increased profits by investing in increased production capacity, allowing

them to hire more workers (Rowthorn, 2015). In addition, the contribution of migrants to demand is also expected to generate additional employment. Over the longer term, the labour market is expected to adjust so that labour is fully utilised, and there should be no lasting negative employment or wage effects associated with migration.

9.19 The extent of any short-term effects arising from net migration is however an empirical issue that has been the subject of much research in recent decades. In practice, studies of the UK labour market generally find little evidence overall of negative impacts of migration, with some small negative impacts identified for low-skilled workers (Wadsworth, 2015). In our 2012 report, we identified a tentative negative association between increases in migrant share and native employment, particularly in periods of economic downturn. Other research has typically found little effect of migration on native employment (Dustmann et al. (2005); Lemos and Portes (2008)).

9.20 Several studies have found that immigration is associated with wage growth for natives at the top and wage decreases for natives towards the bottom of the distribution (Dustmann et al., 2013; Nickell and Saleheen, 2008). This suggests that immigrants act as complements for highly skilled UK labour and as substitutes for low skilled UK labour. There is also evidence that it is existing immigrants who are the closest substitutes for new immigrants (Mannacorda et al., 2011).

9.21 This evidence suggests that overall, the labour market impacts of highly skilled Tier 2 migrants are likely to be modestly positive. However, in Chapter 4 we concluded tentatively that in some occupations, Tier 2 migrants are being paid less on average than comparable native workers, and therefore may be suppressing wage growth in those occupations. It is also worth noting that, as discussed in Chapter 8, some dependants of Tier 2 migrants engage in low-skilled work which means that some of the effects discussed above in relation to low-skilled migration may be relevant.

Trade

9.22 Skilled migrants are expected to increase export opportunities by providing international connections which may allow UK businesses to access foreign markets. Skilled migrants may provide a combination of language skills, cultural awareness, connections and knowledge of local regulations and business practices which together lower the barriers faced by UK firms in attempting to trade overseas. In a recent study of the services sector using UK firm level data, Ottaviano et al. (2015) found that immigration was associated with increases in exports to origin countries.

Fiscal impacts and public services

9.23 By definition, principal Tier 2 migrants must have a job offer in a role skilled to NQF6+ and earn a salary appropriate to this; as a result, these migrants add directly to public funds through income tax and national

insurance contributions.[14] Additionally, Tier 2 migrants and their dependants are not permitted to access public funds. However, they may draw on some public services such as education and healthcare, although Tier 2 (General) migrants now pay an Immigration Health Surcharge as a contribution towards the cost of the NHS healthcare they receive.

9.24 A recent OECD study on the fiscal impacts of migrants concluded that being in employment was the strongest determinant of whether or not a migrant makes a positive fiscal contribution (OECD, 2013). According to Dustmann and Frattini (2014), recent non-EEA migrants made a net positive fiscal contribution of around £3 billion in total between 2001 and 2011. This particular study reflects all non-EEA migrants (i.e. not just highly skilled migrants).

9.25 It is likely that Tier 2 migrants make a positive contribution to the exchequer on average. It should be noted that if Tier 2 migrants choose to settle permanently in the UK, like other UK residents their net fiscal contribution may reduce over time as they increasingly draw on health and care services.

9.26 Additionally, whilst skilled migrants are expected to make a positive net fiscal contribution, there may still be congestion effects in the demand for the public services that they do draw on. The supply of public services such as healthcare, education and infrastructure may be relatively inelastic, and may not therefore increase quickly enough to keep up with the additional demand arising from migrant inflows. This is an adjustment effect that is not linked to the issue of whether or not the net fiscal contribution of migrants is positive.

Housing

9.27 Whilst we have discussed the impacts of migrants on the public finances, and on public services, skilled migrants may also have impacts on other broad sectors of the economy. One prominent example is in the housing market. By adding to demand for housing, an increase in migration could put upward pressure on house prices and rents. A research report on this issue commissioned by the MAC in 2011 found that *"initially perhaps 70% [of Tier 1 and 2 migrants] live in the private rented sector"* (Whitehead et al., 2011). It is assumed therefore, that Tier 2 migrants, at least initially, contribute to the demand for rental accommodation and are less likely to compete in the buyers' property market. It was also documented that these migrants tend to be concentrated in certain areas of the UK and so the residents in these areas are likely to face the most competition for housing.

[14] However, ICT migrants are exempt from national insurance contributions in the first year of their stay.

9.28 Additionally, the research indicated that competition for housing is stronger among migrants than between migrants and UK residents. Over the longer term, the impact of migrants on the housing market is dependent on the flexibility of the supply response – if housing supply is able to respond then there should not be a permanent effect.

Social impacts

9.29 Above we have presented a summary on the economic impacts of migration. However, there are important social implications of migration which must also be taken into account. Cultural differences, language barriers and variations in social attitudes, can result in friction between natives and migrants and also between migrants from different areas of the world. Rapid community change could reduce social cohesion.

9.30 Evidence from public polling suggests that in recent years immigration has been one of the top issues of public concern. However, in the 2011 British Social Attitudes Survey, when respondents were asked specifically about highly skilled migrants filling specific vacancies, a majority thought it was a good or very good thing for the UK (Duffy and Frere-Smith, 2014).

"Research by Ipsos Mori and British Future shows that the electorate is not concerned by migration by skilled workers, such as engineers or lawyers. The costs of reducing Tier 2 migration – reduction in tax take, business relocating work out of the UK, risk to British jobs and the growth of our economy – are of far greater concern to the public than the issue of these migrants being in the UK in the first place."

London First response to MAC call for evidence

9.3 Economic and labour market context

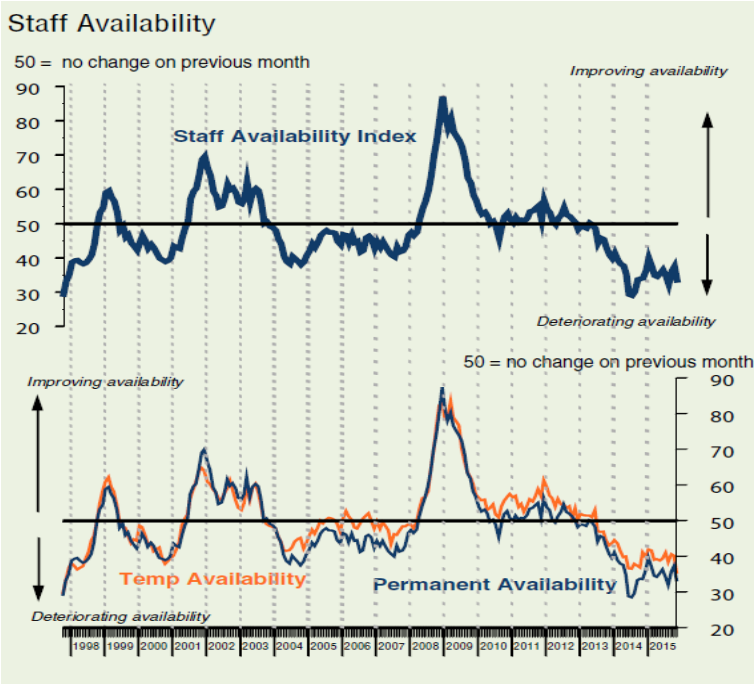
9.31 In the short term, the impacts of restricting access to Tier 2 migrants depend to a certain extent on the prevailing economic and labour market conditions. In this section we briefly discuss what current economic and labour market conditions imply in terms of employer demand for skilled migrants in the near future.

9.32 In Chapter 3 we highlighted that the UK economy has returned to its long-run average growth rate in recent years, growing faster than the average for EU and OECD states. In the labour market, amongst the working age population, employment and participation rates have risen to record levels, and unemployment has fallen to just above the average unemployment rate in the years immediately preceding the 2009/10 recession. Nominal growth of total weekly earnings (including bonuses) has increased, averaging 2.5 per cent over the last twelve months.

9.33 For the last twelve months the ONS has consistently recorded over 700,000 unfilled vacancies, most recently reporting 747,000 vacancies in

the three months to November 2015. This is the highest level of vacancies since comparable records began in 2001. Meanwhile, recruitment surveys such as the Report on Jobs carried out by the Recruitment & Employment Confederation (REC) and KPMG are reporting that recruiters are finding it increasingly difficult to fill vacancies (Figure 9.1).

Figure 9.1: Recruitment & Employment Confederation and KPMG Report on Jobs – Staff availability



Source: REC/KPMG Report on Jobs, December 2015

9.34 Several business bodies also pointed out that as the UK labour market approaches full employment, access to skilled migrants will be crucial to preventing capacity bottlenecks constraining growth in fast developing sectors.

"Barriers to employing the right labour and the best talent are detrimental to the UK economy....the Tier 2 proposals are likely to lead to a far less business-friendly immigration policy at a time when the strength of the UK economy means British businesses are in an unprecedented period of growth and expansion and when the supply of suitable domestic workers is reaching its limit."

Institute of Directors response to MAC call for evidence

"The UK is undeniably suffering from a severity of skills shortages that it has never experienced before and....it is widely believed that productivity is being restrained by a lack of suitable candidates....a substantial majority of businesses (95%) continue to report that they have 'no' or only 'a little' capacity to accommodate any further increase in demand."

Recruitment & Employment Confederation response to MAC call for evidence

9.35 Demand for restricted certificates of sponsorship under Tier 2 similarly indicate that employers have been finding it increasingly difficult to fill vacancies domestically in recent months. The monthly limit on Tier 2 (General) was oversubscribed for five months from June to October 2015, while the full allocation was used in November 2015. The full allocation was not used in December 2015.

9.36 While the available data points towards a tightening in the labour market, the Bank of England has concluded in its November 2015 Inflation Report (Bank of England 2015c) that there remains some labour market slack. Overall, our assessment is that based on current trends, employer demand for skilled migrants is likely to remain reasonably strong in the near future.

Emigration of highly skilled UK nationals

9.37 Another important consideration is the outflow of skilled workers from the UK. Recent OECD research suggests that highly skilled British nationals are amongst the most mobile in the OECD. In 2010/11 there were 3.7 million expatriate UK citizens living in other OECD countries, of which 1.5 million were highly skilled. Overall, 69 per cent of UK citizens living in other OECD countries were found to be in employment. This figure rises to 79 per cent for the highly skilled only (OECD, 2015).

9.38 The UK is the fourth largest source of highly skilled expats to OECD countries, behind India, the Philippines and China. In 2000/01, there were 1.1 million highly skilled UK expatriates living in OECD countries, suggesting that over the ten year period, the net outflow of highly skilled UK nationals to other OECD countries was around 40,000 per year on average.

9.4 Impacts of restricting skilled non-EEA migration

9.39 In this commission, the Government has asked the MAC to review Tier 2 with a view to reducing volumes. However, within that broad aim, the Government has further asked us to balance a number of competing objectives. On the one hand, the Government wants to maintain an open migration route for highly skilled workers who will contribute to the success of the UK economy. On the other, the Government is keen to ensure that

Tier 2 migrants do not undercut native workers, and that employers do not become reliant in the long term on migrant labour to fill vacancies.

9.40 The recommendations we have laid out in the previous chapters aim to balance these objectives. Our recommendation to raise the salary thresholds should help to ensure that Tier 2 migrants are paid at the current prevailing rate for a similar native worker. Our recommendation to introduce an Immigration Skills Charge aims to provide incentives to employers invest appropriately over the long term into the domestic supply of the skills they need, rather than recruiting migrant labour. Finally our recommendations for reform of the intra-company transfer route should ensure that this route operates as intended.

9.41 As a result of these recommendations, there is likely to be an associated reduction in volumes under Tier 2, although it is impossible to estimate the impact with any precision. Going beyond the measures recommended by the MAC – for example by raising occupational salary thresholds to the median or 75th percentile may result, in the long term, in some negative economic impacts, although these are impossible to quantify. This is, however, a decision for Government as it balances its policy objectives.

9.42 In the remainder of this chapter we discuss the economic impacts of restricting Tier 2 migration, distinguishing where appropriate between the MAC's recommendations and the possible impacts of a more substantial restriction to Tier 2 migration.

Impacts on productivity and innovation

9.43 As discussed above, there is good evidence that highly skilled migrants enhance UK productivity, partly due to an average compositional effect, and partly by raising the productivity of UK workers. However, we do not believe that the recommendations we have outlined will have an adverse impact on the productivity of UK workers. In fact, by improving incentives to invest in domestic skills, the impacts may be positive.

9.44 There is reason to believe that a more substantive restriction of Tier 2 migration could have some adverse productivity impacts if employers are unable to recruit highly specialised migrants into key areas of shortage. This is particularly true if those migrants are able to develop capacity and transfer their skills and knowledge to the UK workforce.

9.45 In response to our call for evidence, some partners suggested that it would be the most innovative firms that would be most affected by severe restrictions to Tier 2 migration. They argued that it is innovation which often drives skills shortages - it is in new technologies that skills are most scarce, and that less innovative firms require less specialised labour which is more easily sourced domestically. Deliberately cutting off access to these migrants may constrain UK capability in precisely those sectors that have most potential to grow.

Impacts on competitiveness

9.46 In the evidence we received, many employers and business representatives emphasised their concern that substantially restricting skilled migration would reduce UK competitiveness, in particular, the attractiveness of the UK as a recipient of foreign direct investment and as a location for a global or European headquarters.

9.47 We were told that the UK's popularity as a regional or global headquarters means that multi-national companies want to locate their graduate schemes here and/or move people to the UK office for a period of time for purposes of training or wider career progression. We were also told that the current intra-company transfer arrangements were critical to the decision to invest and locate in the UK. If, under a restricted Tier 2, multi-national firms find it more difficult to move their people around, or bring in the skills they need, partners suggest that foreign direct investment into the UK will be reduced.

> *"The UK and the US are among the most economically integrated countries in the world....With trade and investment comes the necessity to move people, in particular skilled labor. Restrictions on international employee movement impede the ability of multinational organisations to properly manage incumbent talent..... The UK currently enjoys a huge advantage as a premier destination for global business. Tier 2 migrants bring with them the diversity and expertise needed to enable UK-based companies to be truly global."*
>
> British American Business response to MAC call for evidence

9.48 These are valid concerns, and undoubtedly there would be significant impacts for the global position of the UK as a place to do business if Tier 2 migration was severely restricted. However, we believe that our recommendations will not have a significant impact on competitiveness. On the other hand, more extensive restrictions would give weight to this concern.

Displacement into EEA recruitment

9.49 Some researchers have suggested that restricting migration from outside the EEA may be partially offset by increases in migration from within the EEA (Rienzo and Vargas-Silva, 2015). Applied to Tier 2 migration, the suggestion is that if employers are unable to fill vacancies from within the UK, and non-EEA recruitment is no longer an option or has become more expensive, then employers will look to fill the vacancy from within the EEA. This 'balloon effect' is a plausible hypothesis for which there is some tentative evidence. To the extent that this effect exists, it may result in employers recruiting second best candidates from within the EEA with no gain from a net migration perspective.

9.50 Indeed, data we presented in Table 3.1 shows that 80 per cent of growth in migrant employment in NQF6+ occupations since 2012 has been among those born in the EU. While the economic performance of the Eurozone remains muted, the EU may continue to provide a strong inflow of highly skilled workers into the UK.

Trade in skills

9.51 In paragraph 9.37, we presented figures on the number of highly skilled UK expatriates living and working in other OECD countries. This demonstrates that the flow of skills goes in both directions. UK citizens are well educated and have skills that are valued elsewhere – and they regularly move to avail of those opportunities. In fact OECD data suggests UK workers are particularly mobile compared with similar countries (e.g. the United States, Germany and France).

9.52 The UK may specialise in producing some skills which means that these skills are better rewarded abroad, in countries where those skills are more scarce. Equally the UK may be less specialist in producing some other skills. Tier 2 migration helps the UK to offset emigration of highly skilled workers, but also to source either highly specialised skills or more generic skills that are currently undersupplied domestically.

9.53 Additionally, it would be impossible for employers and government to perfectly anticipate future skill requirements, given that technological progress and other market developments mean that there can be rapid changes in demand for particular skills. A well managed highly skilled migration route allows skill gaps to be sensibly filled in the short term.

9.54 Substantial restrictions to Tier 2 which go further than the MAC's recommendations may unduly impair this 'trade' in skills. However, as we have discussed, it is important that the right incentives are in place to ensure there is a long term response so that dependency on migrants to provide skills doesn't arise.

9.5 Conclusions

9.55 In this chapter we have laid out the body of evidence in relation to the impacts of skilled migrants on the UK economy. Much of this evidence highlights the positive impacts that highly skilled migrants can have on productivity, innovation, trade and competitiveness. These add to the welfare of existing UK residents.

9.56 However, this should not be interpreted as an indication that the impacts of skilled migrants are homogeneous. With this in mind, in reviewing Tier 2 we have aimed to differentiate between the impacts of Tier 2 migrants on different routes in a bid to ensure that all aspects of the route work to the benefit of UK residents.

9.57 This has shown that there is a good case for some reform to Tier 2 – raising the overall minimum salary thresholds, introducing an Immigration

Skills Charge and reforming the use of the intra-company transfer route for third party contracting.

9.58 Reforming Tier 2 according to these recommendations should help to ensure that Tier 2 recruitment occurs only where the requisite skills are not available in the UK labour market. The recommendations should also help to ensure that, in the longer term, employers invest in the domestic supply of skilled labour rather than developing a dependency on skilled migrant workers.

9.59 We believe that these are positive reforms – they should improve the functioning of the route and ensure it delivers benefits for UK residents. They will also help the Government to achieve its aim of reducing skilled migration but without significantly affecting high quality use of Tier 2 and its associated economic impacts.

9.60 Whilst further restricting Tier 2 beyond these recommendations would help the Government to achieve its aim of reducing Tier 2 volumes, there is a significant risk that to do so would have detrimental impacts on UK productivity, innovation and competitiveness in the short term and the longer term.

9.61 In short, excessively restricting skilled non-EU migration may not be in the interests of UK residents. We believe that our recommendations represent a broad set of reforms which tread a fine line between these trade-offs. However, it is a matter for the Government to choose how to balance these issues.

Chapter 10 Conclusions and recommendations

10.1 Introduction

10.1 Our commission from the Government tasked us with carrying out a wide-ranging review of Tier 2, with a view to recommending proposals that would substantially restrict inflows under the route. At the same time the Government signalled its intent to improve training of British workers. Specifically, we were asked to provide advice on five issues:

- how to prioritise applications under Tier 2 to ensure maximum benefit for the UK;
- applying a skills levy (immigration skills charge) to businesses employing non-EEA migrants;
- how to tighten the intra-company transfer route;
- whether jobs should be automatically removed from the shortage occupation list;
- restricting dependants' access to the UK labour market.

10.2 In this chapter we summarise the main conclusions and recommendations presented in this report. We set out a summary of our recommendations in Table 10.1 and a high level summary of the proposed policy changes in Table 10.2 before providing an estimate of the number of applications which would be affected by our recommendations. We conclude with an explanation for why it is not possible to estimate directly the reduction in demand for visas that would arise if our recommendations were implemented in full.

10.3 In reviewing Tier 2, we have sought to balance the Government's stated objective to reduce volumes under the route against the desire to ensure the route remains open to the "brightest and best workers who will help Britain succeed" (as set out in our commission from the Government). We interpret this to mean that restrictions in Tier 2 should be balanced against their potential impact on the welfare of existing UK residents, reflected by the impact on productivity, innovation, trade and competitiveness. We have aimed to do this throughout the report.

10.4 In the context of the Government's objective to reduce overall net migration, reductions in non-EU work migration can only make a marginal

contribution. If non-EU work net migration was zero, overall net migration would still exceed a quarter of a million.

10.5 We saw part of our task in this report as looking for a better way to prioritise and target the skills that migrants bring to the UK as well as to address the potential disincentives to upskill the domestic labour market. In broad terms, Tier 2 should gravitate towards the more selective recruitment of the, arguably, higher value, highly specialist experts and away from the numerically larger recruitment of workers whose skills may, in time, be replicated in the UK labour market. Rather than try to hand pick which roles should be defined as highly specialist or in genuine shortage, we suggest any restriction be done by price. Although price is by no means a perfect instrument to restrict migration, it is arguably the best single indicator of the value of skills in an open labour market. In other words, we would expect demand for specialist skills to be reflected in the wage on offer. There will inevitably be certain occupations that will lose out, often where wages are less market driven, such as in the public sector. However, it is our view that policy should be designed to suit the majority, with necessary exceptions added at the margin.

10.6 There are a number of risks involved in pursuing a policy objective to reduce immigration. Depending on what instrument is used to restrict demand, employers may continue to employ migrants to the same degree as before. For instance, faced with higher minimum salary thresholds, employers may determine that the migrant is still worth recruiting, particularly if their skills are deemed to be in shortage. The desired expansion of skills development amongst the domestic workforce may not occur if employers continue to judge that recruiting migrants is still less costly than, or in some other way preferable to, investing in training and upskilling the UK workforce. Additionally, some employers may choose to move their operations overseas if there are quantity or price restrictions placed on the migrants they might otherwise wish to hire. And finally, there may be substitution towards skilled migrants sourced from the European Economic Area (EEA) instead, affecting any reduction in net non-EEA migration.

10.2 Policy and data context

10.7 Tier 2 of the Points Based System is the primary route for economic migration to the UK. Broadly, the route is for skilled workers from outside the European Economic Area (EEA) who have an offer of employment in the UK in an occupation classed as skilled to NQF6 or above and consists of four routes: Tier 2 (General), Tier 2 (Intra-company Transfer), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). However we have not examined the smaller minister of religion and sportsperson routes in this report.

10.8 Tier 2 (General) applies to two categories of skilled workers: those coming to fill jobs that have been advertised under the Resident Labour Market Test (RLMT), and those coming to take up jobs on the Government's Shortage Occupation List (SOL). Since April 2015, all Tier 2 (General)

migrants must earn an annual salary of at least £20,800.There are also occupation-specific minimum thresholds and where these are greater than £20,800 they provide the minimum salary requirement for that occupation. **There is an annual limit of 20,700 on the number of CoS that can be issued to out-of-country main applicants under the Tier 2 (General) route**. However, most in-country switchers into Tier 2 (General) are not covered by this limit and are therefore unrestricted.

10.9 The Tier 2 (Intra-company Transfer) route allows multinational companies to transfer key personnel from their overseas branches to the UK for temporary periods, rather than to fill permanent UK vacancies. **There is no annual limit on the number of CoS that can be issued under the Tier 2 (Intra-company Transfer) route.**

10.10 There are four categories of user of the intra-company transfer route:

- Long-term staff – These are transferring into the UK for up to five years into a role that cannot be filled by a UK worker.
- Short-term staff – These are transferring into the UK for up to and including 12 months into a role that cannot be filled by a UK worker.
- Graduate Trainee – These are transferring into graduate trainee programmes for specialist roles.
- Skills Transfer – These are transferring into the UK to gain skills and knowledge needed to perform their role overseas, or to pass on their skills to UK colleagues.

10.11 As with Tier 2 (General) there is an overall minimum threshold for each sub route (£41,500 for long-term staff and £24,800 for the short-term, graduate and skills transfer routes) alongside occupational specific minimum thresholds.

10.12 Tier 2 migrants are entitled to bring dependants (specifically children under the age of 18, spouses, civil partners, same sex partners, and unmarried partners) into the UK, providing the applicant can support them without claiming benefits. Dependants granted leave to enter or remain in the UK can generally take on any employment but are not entitled to access public funds.

10.13 The relative strength of both the UK economy and labour market underpins the current trend of increasing net migration. However, in recent years, the broad increases in skilled employment have been driven predominantly by those born in the EU and not those who would have been eligible for Tier 2. As a result, any changes to non-EU skilled work flows may be limited in their impact in the overall context of net migration.

10.14 In 2014, Tier 2 accounted for an inflow of 52,478 main applicants, representing just under half of all work visas issued that year. Of this, approximately one-third were granted the restricted Tier 2 (General) visas

and two-thirds the unrestricted Tier 2 (Intra-company Transfer) visas. Including inflows of their dependants and extensions of stay for existing main applicants and dependants, this figure rises to 151,659 over the same period.

10.15 The number of Tier 2 visas granted has been steadily increasing since 2011, when it was below 100,000 per year. For the first time in May 2015, the limit on Tier 2 (General) CoS was reached, raising the effective minimum salary required for entry to above £46,000 in June 2015. Whilst demand has eased slightly in recent months, the limit may be expected to bind again in 2016.

10.3 Salary thresholds

10.16 We were asked to consider the economic rationale for, and the impact on net migration of, setting new minimum salary thresholds, with a focus on ensuring that Tier 2 migrants are not undercutting the resident labour market. In our previous report (Migration Advisory Committee, 2015) we described the potential impacts of a range of higher salary thresholds. We also concluded, tentatively, that there was little evidence of undercutting based on our preliminary analysis of the data.

10.17 In this report we have extended our analysis of how the salaries paid to Tier 2 migrants compare with the resident UK workforce. Comparing Tier 2 migrants to similar natives (controlling for region, age and occupation) we find that overall Tier 2 migrants are generally paid more - substantially more in the case of intra-company transferees. This is encouraging and supports the idea that, in general, Tier 2 migrants bring scarce skills that are rewarded in the labour market.

10.18 However we did find some occupations in which Tier 2 migrants are paid substantially less than similar native workers. These are predominantly public sector occupations. We estimate that on average, Tier 2 doctors and nurses are paid £6,000 less per year than their native peers, while secondary school teachers are paid £2,000 less per year. If any undercutting is taking place under Tier 2, it appears to be largely confined to the public sector (although we revisit this question below for the specific case of third-party contracting within the Tier 2 (Intra-company Transfer) route).

10.19 The MAC believes that if the Government wishes to reduce skilled migration, price should be the main mechanism. Raising the cost of recruiting a Tier 2 migrant should reduce demand. Raising salary thresholds is one way of increasing the price. Additionally, as earnings are the most objective, albeit imperfect, indicator of value, raising salary thresholds should mean that any reduction in Tier 2 volumes starts with those migrants whose value added is least.

10.20 The current overall minimum salary threshold originates from when the skill requirement for Tier 2 was below graduate level. It therefore needs to be updated. The revised threshold should be based on the salary

distribution for all employees working within occupations skilled to NQF6+. **We recommend it be set at the 25th percentile (£30,000). This would apply to both Tier 2 (General) and short-term Tier 2 (Intra-company Transfers). For new entrants within Tier 2 (General), and the graduate trainee route within the Tier 2 (Intra-company Transfer) route, the threshold should be set at the 10th percentile (£23,000).**

10.21 There is a risk that introducing a lower threshold for new entrants in Tier 2 (General) may be targeted by lower quality migrants and less scrupulous employers. Therefore the Home Office may wish to more closely monitor this use of the route. If there is evidence of misuse then the Home Office may wish to consider placing further restrictions on new entrants, for example by placing a limit on the numbers that can be defined as new entrants or by excluding certain occupations where misuse is greatest.

10.22 The occupation specific thresholds should remain at the 10th percentile for new entrants and the 25th percentile for experienced workers within the pay distribution for each occupation.

10.23 If the Government wishes to increase the minimum salary thresholds further beyond our recommendation, we suggest that they should do so by raising the occupational minimum thresholds. In our July report, we set out the volumes of Tier 2 migrants affected by higher occupational minimum thresholds, based on 2014 data (Migration Advisory Committee, 2015).

10.24 We do not recommend regional variation in the salary thresholds as the 10^{th}/25^{th} percentiles remain modest thresholds, and better reflect prevailing wages in lower paying regions than in higher paying regions. Furthermore, the current thresholds do not appear to facilitate undercutting in higher wage areas such as London.

10.25 The MAC recognises that the public sector may require time to transition to the new salary thresholds but does not recommend a permanent exemption from higher thresholds for the public sector, not least in view of the findings concerning undercutting reported above. The MAC recommends that the thresholds for the predominantly public sector occupations should gradually be increased over time to reach the £30,000 threshold.

10.26 The Government may wish to consider whether there should be any further exemptions, for example for certain creative occupations, whose required skill level – and hence pay - is lower.

10.4 Immigration Skills Charge

10.27 Our assessment is that an Immigration Skills Charge will incentivise employers to reduce their reliance on employing migrant workers and to invest in training and upskilling UK workers. Further, it will provide a source of funding to help with this training and upskilling. We recommend that the ISC is used in addition to raising salary thresholds. An overall minimum threshold prevents undercutting and provides upwards pressure

on wages. The ISC influences demand and raises revenue. The two measures are therefore complementary.

10.28 For the sake of simplicity and clarity, and in order to maximize its effect, **we propose that the ISC be applicable to all employers recruiting migrants across all Tier 2 routes. The only exemptions to this, we believe, should be for the Tier 2 (Intra-company Transfer) Skill Transfer and Graduate Trainee routes.**

10.29 We have not been asked to recommend the level at which the ISC should be set. This is a matter for HM Treasury. However, we have carried out an illustrative analysis of the revenue raised and the additional labour cost to Tier 2 sponsors under an ISC charged at £500, £1,000 and £2,000 annually. We consider that, on the basis of this analysis, an amount of £1,000 per year is large enough to raise a reasonable amount of revenue and to have a significant impact on employer behaviour.

10.5 Reform to the Tier 2 (Intra-company Transfer) route

10.30 The 'conventional' use of the Tier 2 (Intra-company Transfer) route, where a small number of highly skilled specialist staff are brought into the UK to impart their skills or gain experience, delivers significant benefits to the UK, encouraging foreign trade and investment. Beyond the application of the ISC and higher salary thresholds to reflect the current skill requirement, we do not make any substantial recommendations for restrictions to the conventional use of the route.

10.31 In order to ensure the Tier 2 (Intra-Company Transfer) route is being used to bring in senior managers and specialists and not displacing resident workers, **we recommend extending the qualifying period with the company overseas for intra-company transfers from 12 months to 2 years for the short-term and long-term routes**. We also recommend that the existing requirement of 6 months for the graduate trainee route be maintained as these could be newly recruited staff who need to gain experience of working in the UK office.

10.32 In order to ensure that the intra-company transfer route is being used as intended, **we recommend that sponsors be required to enter a more detailed description of the role required on the CoS application form to ensure that the role is sufficiently specialist. We recommend too that Tier 2 (Intra-Company Transfer) migrants be subject to the immigration health surcharge. Finally, we also recommend that HMRC and the Home Office work together to consider whether the current tax provisions made available for allowances, and the exemption of national insurance contributions, are working in the interests of the UK.**

10.33 In recent years, a new use of the Tier 2 (Intra-company Transfer) route has arisen. The new business model is one where the sponsor employer uses the transferee to carry out work for a third-party organisation,

sometimes on a one-off project but sometimes on a contract for continuing service.

10.34 The use of the intra-company transfer route to service third-party contracts is substantially different from the original intention of the route. The widespread use of migrants to service third-party contracts, predominantly in the IT sector, provides these companies with a substantial cost advantage over native firms. Part of this advantage comes from offshoring part of the work to other countries, notably India, where labour costs are lower. But there is also the suspicion that the UK-based work on these contracts is being paid at salaries below the level workers of similar skills, experience and quality could command. Although these lower costs are passed onto clients in part, this use of the route disadvantages IT firms within the UK who do not have access to this source of labour and UK workers in the IT sector. Additionally, we are not convinced that the use of third-party contracting is contributing to the stock of IT skills within the UK workforce. While there is ready access to a pool of highly skilled Indian nationals, there is little incentive to develop the UK workforce.

10.35 While we are not against this use of the route, we are, however, keen to ensure that it is used by those highly specialised migrants that partners in the industry claim to need. **We therefore recommend that a new route be created alongside the conventional Tier 2 (Intra-company Transfer) route, designed specifically for third-party contracting. We recommend an increase in the salary thresholds required for third-party contracting as a way to prioritise applications and prevent any undercutting and displacement within the UK labour market. We recommend that the salary threshold be set at £41,500, which is an effective proxy for senior managers and specialists.** The recommendations for the 'conventional' use of the route should also apply to third-party contracting.

10.36 We recommend that the issues specifically within the IT sector require further consideration. **We recommend that the Government commission a more in-depth review of skills shortages within the IT industry.** Following this review, the Government may wish to revisit the options for restricting third-party contracting, particularly within the IT sector. Further options we have considered for restricting this use of the route include applying a Resident Labour Market Test to third-party contracting and applying a limit on the proportion of Tier 2 migrants in each organisation.

10.37 As we have proposed an entirely separate route, **our strongest recommendation is for any changes to be kept under active review**. There is such a breadth of options available to restrict this route that, in time, it may become clear that further restrictions need to be made.

10.6 Reform to the Tier 2 (General) route

10.38 We do not recommend limiting Tier 2 (General) recruitment only to job titles on an expanded shortage occupation list. Instead, we suggest that

the government achieve its aim of reducing skilled migration by the price mechanism – raising the salary thresholds required for Tier 2.

10.39 We believe that the Resident Labour Market Test (RLMT) route is a crucial component of Tier 2 and should be retained. It allows employers to recruit non-EEA migrants where they can prove they have tested the UK labour market. However, there is scope for some improvement in the effectiveness and efficiency of how the RLMT is carried out, to ensure this works as intended.

10.40 We also reviewed the prioritisation method under the annual limit on Tier 2 (General), which currently applies only to out-of-country applicants. We are content that the current approach is consistent with our advice that salary provides the most objective way of prioritising applications.

10.41 However, as low paid public sector jobs are more likely to lose out when the limit is hit, **the Government may wish to consider giving temporary priority to these occupations in the short term**. In the longer term, wages in these occupations should rise to reflect their scarcity and there should be no special treatment applied.

10.42 There is also a rationale to ensure that new entrant Tier 2 migrants are not disadvantaged in the process for allocating restricted certificates of sponsorship. Their earnings will typically be towards the bottom of the Tier 2 salary distribution, but their future earnings growth is likely to be greater, on average, than for experienced hires. **We recommend that in the allocation process, £7,000 is added to the salary of graduates recruited onto a graduate scheme** – this is the difference between our recommended minimum salary threshold for new entrants and experienced hires under Tier 2. The Government may wish to consider the scope for 'eligible graduate schemes', for example the case for junior doctors.

10.43 In-country switchers are not subject to an RLMT and are not included in the annual limit on Tier 2 migration. We believe that there is little rationale for exempting in-country switchers from an RLMT. Additionally, as long as there is a limit on some areas of Tier 2 (General) there should be a limit on all areas – otherwise highly paid out-of-country applicants may be turned down whilst lower paid in-country switchers continue to be admitted. This does not achieve the Government's objective of ensuring that the highest value migrants are admitted under Tier 2. **We recommend both requiring an RLMT for in-country switchers from other routes together with including them in an extended limit covering the whole of Tier 2 (General).**

10.44 Our assessment is that the MAC reviews of the SOL continue to provide the best mechanism for recommending addition and removal of job titles from the list. **We do not recommend an automatic sunset clause to remove job titles from the shortage occupation list. Instead, partners are required to submit more comprehensive evidence on what they are doing to address the skills shortage within the UK labour market**

in order to be retained on the SOL. Indeed, as we have not been commissioned to conduct a full review of the SOL for three years, there should be an even greater focus on the evidence for domestic upskilling.

10.7 Automatic work rights for Tier 2 dependants

10.45 In assessing the issue of automatic work rights for Tier 2 dependants, we focused on two key areas. First, whether or not such a restriction would lead to improved economic and social outcomes for UK residents. Second, whether such a policy would have a significant impact on volumes under Tier 2.

10.46 In theory, there is some potential for negative short-term labour market impacts arising from automatic work rights, for example, if there was a large proportion of dependants in low-skilled work. However, there may be positive impacts on job creation and native wages in the long run, particularly associated with dependants in highly skilled work.

10.47 In fact the evidence, although limited, does suggest that a large proportion of Tier 2 dependants are highly skilled. Overall, the total number of dependant workers is too small to significantly impact the UK labour market.

10.48 Therefore we conclude that restricting the right to work for Tier 2 dependants – whether in highly skilled or low skilled work - would not lead to improved economic outcomes for UK residents. Furthermore, restrictions on the right to work for Tier 2 dependants would likely impede their integration into UK society, potentially leading to undesirable social outcomes.

10.49 Secondly, it is not clear that restricting the right to work for Tier 2 dependants would have any significant impact on the overall volumes of Tier 2 main applicants. The policy would inevitably deter some prospective Tier 2 migrants. However, this deterrence effect would be supply-side only and would not affect employer demand for Tier 2 labour. UK employers could switch to alternative (but second choice) Tier 2 migrants, who either have no dependants or are content that their spouse/partner will be restricted from working in the UK. Although the number of dependants coming under Tier 2 may reduce, it is not clear that this is a desirable outcome.

10.50 We conclude that restricting Tier 2 work rights would be an inefficient way of reducing Tier 2 inflows – it would be better to control Tier 2 through the desired characteristics of the main applicants. Any reduction in volumes of main applicants under Tier 2 can be expected to be associated with a reduction in the number of Tier 2 dependants.

10.51 Therefore **we recommend maintaining the status quo by not restricting the automatic work rights for dependants**.

10.8 Economic impacts of restricting Tier 2 migration

10.52 There is a great deal of evidence which highlights the positive impacts that highly skilled migrants can have on productivity, innovation, trade and competitiveness. These add to the welfare of existing UK residents.

10.53 However, this does not mean that the impacts of skilled migrants are homogeneous, or that there should be no limit to skilled migration. With this in mind, we have aimed to differentiate between the impacts of Tier 2 migrants on different routes in a bid to ensure that all aspects of the route work to the benefit of UK residents.

10.54 This has shown that there is a good case for some reform to Tier 2 – raising the overall minimum salary thresholds, introducing an Immigration Skills Charge and reforming the use of the intra-company transfer route for third party contracting.

10.55 Reforming Tier 2 according to these recommendations should help to ensure that Tier 2 recruitment occurs only where the requisite skills are not available in the UK labour market. The recommendations should also help to ensure that, in the longer term, employers invest in the domestic supply of skilled labour rather than developing a dependency on skilled migrant workers.

10.56 We believe that these are positive reforms – they should improve the functioning of the route and ensure it delivers benefits for UK residents. They will also help the Government to achieve its aim of reducing skilled migration but without significantly affecting high quality use of Tier 2 and its associated economic impacts.

10.57 Whilst further restricting Tier 2 beyond these recommendations would help the Government to achieve its aim of reducing Tier 2 volumes, there is a significant risk that to do so would have detrimental impacts on UK productivity, innovation and competitiveness in the short term and the longer term.

10.58 In short, excessively restricting skilled non-EU migration may not be in the interests of UK residents. We believe that our recommendations represent a broad set of reforms which finely balance these issues. However, it is a matter for the Government to choose how to weight its policy objectives.

10.9 Recommendations

10.59 Our main recommendations can be summarised as follows:

- We recommend that the best way for the Government to achieve its aim of restricting volumes under Tier 2 and focusing on more highly skilled migrants is through price;

- We recommend that the cost of Tier 2 recruitment be raised via higher overall minimum salary thresholds and the introduction of an Immigration Skills Charge;

- We recommend that use of the Tier 2 (Intra-company Transfer) route for third-party contracting be moved into a separate route and a higher salary threshold (£41,500) be applied;

- We do not recommend that Tier 2 (General) is restricted only to occupations on an expanded shortage occupation list; and,

- We do not recommend restricting automatic work rights for dependants or an automatic sunsetting of occupations on the shortage occupation list.

10.60 Table 10.1 sets out our detailed recommendations in full.

Table 10.1. Recommendations	
Salary Thresholds	• Raise the overall minimum salary threshold to reflect the change in skill requirement to NQF6+. The threshold should be based on the salary distribution for all employees working within occupations skilled to NQF6+, set at the 25th percentile (£30,000) for both Tier 2 (General) and short-term Tier 2 (Intra-Company transfers). For new entrants within Tier 2 (General) and the Graduate Trainee route within Tier 2 (Intra-company Transfer) route, a lower threshold should be set at the 10th percentile (£23,000). • There is no need for regional variation in the salary thresholds as the 25th percentile is more representative of a worker in a low paying region. • The public sector may require time to move up to the new salary thresholds but should not be offered a permanent exemption from the higher thresholds. The thresholds for the public sector should gradually increase over time to reach the £30,000 threshold. • The Government may wish to consider the special case of start-ups and creative occupations where they are likely to be disproportionately affected by the increase in salary thresholds.
Immigration Skills Charge	• We recognise that it is a matter for HM Treasury to determine both the level of the Immigration Skills Charge and how the revenue is spent. However, it is our view that: o The Immigration Skills Charge should be an upfront cost, payable at the time of the Certificate of Sponsorship (CoS) application. o The charge should be regressive so that those employers hiring more highly paid (and by inference more highly skilled) migrants are penalised less in proportion to the salary paid. An amount of £1,000 per year is large enough to raise a reasonable amount of revenue and to have a significant impact on employer behaviour. o The charge should be applied across all Tier 2 routes – namely (Tier 2 General) and Tier 2 (Intra-company Transfer) routes. The only exemptions would be the 'Graduate Trainee' and 'Skills Transfer' routes within the Tier 2 (Intra-company Transfer) route. o The revenue should be spent to raise human capital (not limited to apprenticeships).

Table 10.1. Recommendations	
Restrictions to Tier 2 (General)	• Tier 2 (General) should not be restricted to a list of genuine skills shortages and highly specialist experts. • Graduates recruited onto a graduate scheme could be given additional points when the 20,700 limit is reached to reflect the potential for future high growth in earnings. For example, by adding £7,000 (the difference between new entrants and experienced workers thresholds) when prioritising. • All in-country switchers should be subject to the Resident Labour Market Test (RLMT) and included in an expanded annual Tier 2 limit. • There should not be a blanket sunsetting clause applied to the shortage occupation list (SOL). Regular reviews of the SOL should be an effective mechanism for testing whether occupations are still in shortage. Industry will be required to submit more comprehensive evidence on what they are doing to resolve the shortage lest in order to be retained on the SOL.
Restrictions to Tier 2 (Intra-Company Transfers)	**All Tier 2 (Intra-company Transfers)** • The required amount of prior experience with the employer should increase from 12 months to two years, except for the graduate trainee route and skills transfers route where the current requirements (6 months' experience) should be maintained. • CoS application forms should include a description for why the intra-company transferee is required, and the specific skills they have. • The Home Office and HMRC should look into the issue of allowances and payment of national insurance contributions as this may be allowing undercutting. • All intra-company transferees should be required to pay the Immigration Healthcare surcharge. **Third-party contracting** • A separate route should be created for third-party contracting. • The salary threshold for short-term third-party contracting should be increased to £41,500 (the currently threshold for all long-term intra-company transfers, and also a proxy for senior managers and specialists). • There should be a thorough review of skills shortages within the IT sector, after which the Government may wish to revisit this issue.
Restrictions to Tier 2 Dependants	• No restrictions should be applied to dependants' right to work.

10.10 Current vs. proposed policy

10.61 Table 10.2 provides a high level summary of the proposed changes to the policy requirements within Tier 2.

Table 10.2: Current vs. proposed policy

	Current salary threshold	Proposed salary threshold	ISC payable	Comments and wider recommendations
Tier 2 (General)			Yes	
Tier 2 (General)- overall minimum thresholds				
- *Experienced workers*	£20,800	£30,000		Public sector may require time to move up to the new salary thresholds but should not be offered a permanent exemption from the higher salary thresholds.
- *New entrants*	£20,800	£23,000		Graduates could be given additional points when the 20,700 limit is reached to reflect the potential for future high growth in earnings. For example, adding £7,000 (the difference between new entrants and experienced workers thresholds) when prioritising.
Tier 2 (General)- occupation rates				
- *Experienced workers*	25th percentile	25th percentile		
- *New entrants*	10th percentile	10th percentile		

Wider recommendations				All in-country switchers should be subject to the Resident Labour Market Test (RLMT) and included in an expanded Tier 2 limit. - Industry will be required to submit evidence on what they are doing to resolve shortages in order to be retained on the SOL. - Retaining occupation rates at current levels will reflect prevailing wages in lower paying regions.
Tier 2 (Intra-company Transfer) route				
Long-term intra-company transferees				
- *Conventional*	£41,500	£41,500	Yes	
- *Third-party contracting*	£41,500	£41,500	Yes	
Short-term intra-company transferees				
- *Graduate trainee*	£24,800	£23,000	No	
- *Skills transfer*	£24,800	£30,000	No	
- *Short-term (conventional)*	£24,800	£30,000	Yes	
- *Third-party contracting*	£24,800	£41,500	Yes	

Wider recommendations				-Intra-company transferees within the long-term and short-term routes need to have worked for their employer overseas for at least two years (currently 12 months); -CoS application forms should include a description for why the intra-company transferee is required, and specific skills they have; -Immigration Healthcare surcharge payable; -The Home Office and HMRC should look into the issue of allowances and payment of national insurance contributions as this may be allowing undercutting.

10.11 Impact of the restrictions

10.62 The Government's core objective is to significantly reduce the level of economic migration from outside the EEA. Table 10.3 and 10.4 set out the number of CoS (based on current annual volumes) that would be **affected** by an increase in the salary thresholds. For the reasons set out below, we cannot say how many of these CoS would still have been used if the higher thresholds had been in place.

10.63 **It is important to note that we focus on the volume of applications/used CoS affected by the changes we are recommending in this report, rather than on estimating the likely reduction in the volume of migrant flows under Tier 2.** This is because:

- the estimates are based on the assumption that the migrant sponsor does not increase their salary offer to meet the new salary thresholds, therefore only show those affected, not the reduction in volume of applications;
- any reduction in demand within Tier 2 could lead to an increase in demand from non-EEA nationals within another route;
- employers may decide to switch to sourcing skilled migrants from within the EU, which in net migration terms would offset any reduction in Tier 2 migration;
- due to data limitations, the estimated impact on Tier 2 (General) is based on CoS used whereas the impact on Tier 2 (Intra-company Transfer) route is for CoS assigned, therefore they are not directly comparable. The estimates for the Tier 2 (Intra-company Transfer) route will be an overestimate as not all CoS assigned are subsequently used;
- the data does not distinguish between graduate trainees, new entrants, and experienced workers. We have used age as a proxy for new entrants however there will be some new entrants who are aged over 25.
- We have not included the additional costs arising from an Immigration Skills Charge, which is to be set by HM Treasury. Were the ISC to be set along the lines of our example in this report then this would mean an additional upfront cost to employers of £5,000 for a migrant entering the UK on a five-year visa. As such, the estimates given below of volumes affected is likely to be a significant under-estimate.

10.64 Table 10.3 shows that 13 per cent (2,111) of out-of-country applications under Tier 2 (General) would be affected by the £23,000 threshold for new entrants and £30,000 threshold for experienced workers within Tier 2 (General). Approximately 22 per cent (3,480) of in-country applications to

switch into Tier 2 would be affected by the higher thresholds. When including their dependants, this equates to 10,623 individuals affected.

10.65 Table 10.4 shows the impact on the intra-company transfer route of the £30,000 threshold applied to the conventional use of the route and the £41,500 threshold applied to third-party contracting. 47 per cent (12,018) of applications for the short-term intra-company transfer routes would be affected by these thresholds, which equates to 16,945 individuals when including their dependants. In total, approximately 27,568 individuals would be affected by the change in thresholds, approximately 18 per cent of all applications within the Tier 2 (General) and Tier 2 (Intra-company Transfer) routes.

10.66 Within Tier 2 (General), both in terms of total volumes and percentage affected, nurses are the most affected by the £30,000 threshold (Tables 4.4 and 4.5 in Chapter 4). Five out of the top 10 occupations most affected in terms of percentage excluded are predominantly in the public sector, including primary and secondary school teachers and social workers. In the short- to medium-term, the public sector could be significantly disadvantaged by the salary thresholds and prioritisation if the annual limit continues to be reached. As reflected in our recommendation for special consideration within the public sector, we do not expect that the public sector will be able to increase the salary offer immediately. However, we do not recommend a permanent exemption and the public sector should be expected to meet a higher salary threshold in reasonable time.

Table 10.3: Impact on CoS for Tier 2 (General) of a change in the minimum salary threshold of £23,000 for new entrants, £30,000 for experienced workers (year ending August 2015)

		Tier 2 (General)			
		In-Country	***%***	**Out-of-country**	***%***
New entrants	**£23,000**	1,339	*21*	165	*7*
Experienced workers	**£30,000**	2,141	*23*	1,946	*14*
*Dependants***		3,132		1,900	
Total affected		6,612		4,011	

Notes: New entrants is defined as those aged 25 and under and/or switching from Tier 4 into Tier 2 (which is different from the definition in Chapter 4). **Dependant to main applicant ratio=0.9 for Tier 2 (Gen). The impact on the in-country applications excludes those classified as extending their visa as we assume that they would not be affected by the new thresholds.
Source: CoS used (not assigned, therefore not directly comparable to figures for Tier 2 (Intra-company Transfer) route), Home Office Management Information, year ending August 2015.

Table 10.4: Impact on CoS for short-term Tier 2 (Intra-company Transfer) route of a change in the minimum salary threshold of £30,000 for conventional and £41,500 for third-party contracting (year ending August 2015)

		Tier 2 (Intra-company Transfer)			
		In-Country	%	Out-of-country	%
Conventional	**£30,000**	-	*0*	226	*3*
Third-party contracting	**£41,500**	-	*0*	11,792	*72*
*Dependants***		-		4,927	
Total affected		-		16,945	

Notes: **Dependant to main applicant ratio=0.41 for Tier 2 (Intra-company Transfer) route. Excludes in-country as we assume all extensions are not affected by the new thresholds. Excludes applicants within the graduate trainee route of the conventional route. Observations earning below the minimum threshold of £24,800 have been excluded.
Source: CoS assigned (not used, therefore not directly comparable to figures for Tier 2 (General)), Home Office Management Information, year ending August 2015.

10.67 Beyond the impact of the increase in the salary thresholds, there will be wide ranging impacts on demand for Tier 2 visas from our other recommendations. These include:

- the introduction of an immigration skills charge (as noted above), which will affect all applications within Tier 2, except for those intra-company transfers on the graduate trainee route and skills transfer route;
- the application of an RLMT and limit on in-country switchers within Tier 2 (General);
- the requirement to have two years of experience within the Tier 2 (Intra-company Transfer) route;
- the application of the Immigration Healthcare Surcharge.

10.12 Conclusions

10.68 We were tasked by the Government to advise on changes that could be made to the route for non-EEA skilled migration into the UK. The concern centres around the rising numbers of skilled migrants coming to the UK and the reliance some employers seem to have on them to fill skills shortages. At the same time the Prime Minister has made clear the Government's renewed focus on training British workers.

10.69 Since 2012, all Tier 2 occupations must be at least degree level. Aside from meeting minimum wage criteria, there is virtually no mechanism in place to target those migrants most needed by the UK economy. A large proportion of the Tier 2 inflow is concentrated in a handful of the 96 degree-level occupations: this is especially so for the IT sector (where

inflows amount to tens of thousands each year) and, to a lesser extent, the healthcare sector. Such cases point more towards a longer-term structural issue in the UK labour market, rather than a need to rely on migration to continually plug these gaps.

10.70 Our focus has therefore been on migrants either being highly specialist experts and/or able to fill genuine skills shortages. Doing so in practice means identifying a prioritization mechanism that is sufficiently objective and which avoids having to arbitrarily 'pick winners'. Our underlying approach throughout this report has been to use price as the best single measure of value of skills. Primarily this relates to raising the minimum income threshold for all experienced Tier 2 migrant workers, which is justifiable given the ratcheting up of Tier 2 migrant skill requirements in recent years. This approach could then be supplemented by means of the immigration skills charge.

10.71 Uppermost in our minds during this commission have been the inherent policy tensions (reducing skilled migration which would otherwise be largely beneficial for economic growth; incentivizing domestic upskilling) and the distributional impacts of our proposals (the public sector, itself a major employer of skilled migrants, would be disproportionately affected).

10.72 In terms of impacts, we have provided initial estimates of those Tier 2 migrants (based on recent volumes) who would be affected by our proposals. Although we stop short of estimating resulting reductions in migration, it is worth remembering that any reductions stemming from this route would only make a modest contribution to cutting overall net migration. We believe we have got the balance right in terms of steering the focus more towards the higher value skilled migrants the UK economy will surely continue to need for the foreseeable future, and to incentivize a shift towards domestic skills development.

Annex A Consultation

A.1 List of organisations that responded to the call for evidence who did not request anonymity

AAYA

Admiral Group Plc

ADS Group

Advantage NRG

AECOM

AGCAS

Airbus UK

All Bureau

Almac

Amplifon Ltd

Arcadis

Argie Bee

Association for Consultancy and Engineering

Association of American Study Abroad Programme

Association of British Orchestras

Association of Graduate Recruiters

AstraZeneca

Atkins Ltd

Australian High Commission

BAE Systems

Balfour Beaty

Belle Media

Berry Appleton and Leiden Ltd

Bloomberg LP

Boots UK

BP International Limited

Brighton and Sussex University Hospital

British American Business

British Fashion Council

British Film Commission

British Hospitality Association

British Medical Association

British Telecommunications plc

Bupa UK

Campaign for Science and Engineering

Camphill Scotland

Cancer Research UK

Capital Mobility Companies Global

Care Forum Wales

Career Interactive

Charles Russell Speechlys LLP

Chartered Accountants Australia New Zealand

Chartered Institute of Library and Information Professionals

Chillipickle

Chime Social Enterprise

Cirrus Logic

City Of Edinburgh Council

Coadec (The Coalition for a Digital Economy)

Confederation of British Industry

Confederation of Indian Industry

Continental Travel Nurse

Convention of Scottish Local Authorities

Council for Global Immigration

Council for Science and Technology

Creative Industry Federation

Creative Skillset

Curtis Schroeder

D. E. Shaw & Co. (London), LLP

Dance UK

Dearson Winyard International

Department of Economy Science and Transport

Department of Health

Dynamic Futures

East Sussex Healthcare NHS Trust

EDF Energy

Edinburgh Business Forum

EEF (The Manufacturers' Organisation)

EIRIS

Elena Ivanova

Eli Lilly and Company

Embassy of Japan

Energy and Utility Skills

Enterprise Rent A Car

Eppix Comm Tech Ltd

Eppix eSolution Ltd

ESCO

Five Star International Ltd

Ford Motor Company Ltd

Foster & Partners

General Electric

Gloucestershire Hospitals NHS Trust

Goddard Veterinary Group

Greater London Authority

Grinnell College

Ground Forum

Guild HE

Harikrishna Pillai

HCL Workforce Solutions

Heriot Watt University

Home Office

Honda of the UK Manufacturing Ltd

Horizon Nuclear Power

IBM

IFRS Foundation

Immigration Law Practitioners Association

Imperial College London

Independent Age

Independent School's Council

Independent Theatre Council

Infosys Ltd

Insight Residential

Insignia Global Partners

Institute of Chemical Engineers

Institute of Directors

Institution of Professional Engineers NZ

International Schools of London

International Seismology Centre

IPSE (The Association of Independent Professionals and the Self Employed)

J. Dunlop & Co.

Japanese Chamber of Commerce

Japanese External Trade Organisation

Johnson Matthey Plc

Kingsley Napley LLP

Kingston Hospital NHS Foundation Trust

Komatsu UK LTD

Konica Minolta

Law Society

Lewisham and Greenwich NHS Trust

London Business School

London Chamber of Commerce and Industry

London First

London School of Economics

Macfarlanes LLP

Magrath LLP Solicitors

Marshall Aeropeople

Medical Research Council

Monitor

Morgan Lewis & Bockius UK LLP

Mott MacDonald

NASSCOM

National Campaign for the Arts

National Grid

National Trainers Federation

Neha Bali

New Zealand High Commission

New Zealand Women

Newcastle Hospitals

Newcastle Upon Tyne Hospitals NHS Foundation Trust

NGK Spark Plugs (UK) Ltd

NHS Employers

NHS Providers

NHS Wales Employers

Nissan Motor

NMI (Electronics Systems Trade Association)

North East Chamber of Commerce

North East Combined Authority

Nuclear Industry Association

NuGeneration Ltd

Officer of the First Minister and Deputy First Minister NI Racial Equality Unit

Oil & Gas UK

Oury Clark Solicitors

Palintest Ltd

Paragon Law

Pennington Manches LLP

Petrofac Facilities Management Ltd

PJ Care specialised neurological care

RCUK (Research Councils UK)

Recruitment and Employment Federation

Rolls-Royce Plc

Royal College of Nursing

Royal College of paediatrics and Child Health

Royal Opera House and the Royal Ballet

Royal Pharmaceutical Society

Royal Surrey Country Hospital NHS Foundation Trust

Russell Group

Saint-Gobain Delegation UK

SAP UK

Schlumberger Oilfield Ltd Plc

Scottish Council of Independent Schools

Scottish Development International

Scottish Social Services Council

Sevcon Ltd

Sheffield University

Shelford Group

Siemens Plc

Society of London Theatre

Squire Patton Boggs (UK) Ltd

SRK Consulting

SunGuard Systems Ltd

Tech UK

Tess McLoughlin

The British Poultry Council

The Children's Trust

The Geological Society

The Law Society of Scotland

The Princess Alexandra NHS Trust

TIGA (Trade Association for UK Games Industry)

Time Plan Education

Toyota Motor Manufacturing

TTM Group

TUC

Ubisoft

UCEA (Universities and Colleges Employers Association)

UK Chamber of Shipping

UK National Academies

UK Theatre Association

UKTI (UK Trade and Industry)

UNISON

UNISON NI

Universities Scotland

Universities UK

Universities UK and Conservatoires UK

University College London Hospitals NHS Trust

University Hospitals Birmingham NHS Foundation Trust

University of Birmingham

University of Cambridge

University of Derby

University of Edinburgh

University of Essex

University of Exeter

University of Oxford

University of Strathclyde

University of Surrey

University of the West of Scotland

University of Warwick

University of Wolverhampton

UUK (Universities UK)

Vets Now

Watson Farley and Williams LLP

Wellcome Trust Sanger Institute

Wright Hassall LLP

Zari Restaurant & Lounge

A.2 Indicative list of organisations we met with/attended our forums

Aberystwyth University

Academy of Medical Science

ACS International Schools

Adobe

ADS Group (Aerospace, Defence and Security Space Sectors)

AECOM

Agusta Westland

Airbus

Amnesty International

Amazon Development Centre

Arcadis UK

Arup (Ove Arup and Partners International Ltd)

Tier 2 Review

Association of American Study abroad Programmes

Association of British Orchestras

Australia High Commission

Barclays

Baker Tulley

Ballymore Group

Bircham Dyson Bell

BP International Limited

British Academy

British American Business

British Banking Association

British Fashion Council

British Film Commission

British Horseracing Authority

British Hospitality Association Scotland

Building Design Partnership

Burohappold

Campaign for Science and Engineering

Canada High Commission

Centrax Ltd

CH2M HILL

Charles River

Charles Russell Speechleys LLP

Chiltern American Women's Club

Cirrus

Coadec (The Coalition for a Digital Economy)

Codebase

Confederation of British Industry

Confederation of Indian Industry

Conservatoires UK

COSLA

Cranfield University

Creative Scotland

Creative Industries federation

Creative Skills

Cyient

Department for Business, Innovation and Skills

Department of Health

Edinburgh Student Arts Festival

EEF

Emigra

Ernst & Young

Ethnic Minority Resource Centre

Eversheds LLP

Expat Academy

Experience India Ltd

Fergusson Snell and Clients

Five Star International

Fragomen

Gangmasters Licensing Authority

General Electric

Genpact

GK Strategy Ltd

GKN Aerospace

GlaxoSmithKline

Goldstar Chefs

Gooch & Housego

GRAMNet (Glasgow Refugee Asylum and Migration Network)

HCL

Heriot Watt University

Hexaware Technologies

Highlands and Islands Enterprise

HM Treasury

HSBC

Human Resource Development (Korea)

IBM

Igate

Infosys

ING Bank NV London Branch

Instinctif

Institute of Directors

Integrated De-icing Services

Intellect Design

International School of Aberdeen

International School of London

ITC Infotech

Japanese Business

Japan High Commission

Johnson Matthey Plc

Kawasaki

KDDI Europe Limited

Keolis UK

Kingsley Napley

KPMG

Laura Devine Solicitors

Law Society

Lexis Nexis

London Chamber of Commerce

London First

London School of Economics

Lyles Sutherland

Macquarie Group

Madras Dosa House sx Ltd

Magrath LLP

Mainetti UK Ltd

Marubeni Europe Plc

Mazars LLP

Medical Research Council

Merrill Lynch

Midas Group Ltd

Mitsubishi Heavy Industries (Europe)

MRC Laboratory of Molecular Biology

NASSCOM

National Skills Academy

National Theatre of Scotland

Natural Environment Research Council

Next Fifteen Communications Group Plc

New Zealand High Embassy

NHS Employers

NHS Grampian

Nothern Ireland Executive

Oil and Gas Sector

Oliver Wyman

Outplay

Pact

Park Lodge Care Home

Permits Foundation

Plessey Semiconductors Ltd

Polaris Global Mobility

PriceWaterhouseCoopers

Research Councils UK

Roli Limited

Royal Bank of Scotland

Royal Opera House

Royal Society

Russell Group

Sainsbury Laboratory

Sapient Ltd

Seagull Leisure Ltd

Scotland IS

Scottish Ballet

Scottish Council of Independent Schools

Scottish Enterprise

Scottish Government

Scottish Life Sciences Association

Scottish Migrant Network

Scottish Social Services Council

Science and Technology Facilities Council

Siemens

Skills Development Scotland

Skyscanner

Smith Stone Walters Ltd

Society of London Theatre

Squire Patton Boggs (UK) LLP

Stephens Scown LLP

Scottish TUC

TASIS England

Tata

TDK Lambda

Tech City

Tech Mahindra Ltd

Tech UK

The Law Society of Scotland

The Royal Society

The Sanger Institute

The Walt Disney Company

TUC

UBS

UK Commission for Employment and Skills

UK Immigration Services

UK Screen Association

UKSBS

UK Trade Investment

UKIE

Universities and Colleges Employers Association

Universities UK

University of Cambridge

University College London

University of East London

University of Edinburgh

University of Leicester

University of Manchester

University of Oxford

University of Sheffield

University of Strathclyde

University of the West Scotland

US Embassy

Wellcome Trust

Wright Hassall LLP

Zensar Technologies Ltd

Zurich Insurance Group

Annex B Previous MAC reports

B.1 Summary of the main findings and recommendations from previous MAC reports

B.1 Table B.1 summarises the main findings and recommendations from previous reports the MAC has published in relation to Tier 2.

Table B.1 Previous MAC Report	Recommendations	Government implemented
Identifying skilled occupations where migration can sensibly help to fill labour shortages (January and February 2008)	• This report set out the initial thoughts on the methodology used to identify skilled occupations and the labour shortages in those occupations, and the steps undertaken to determine which shortage occupations can be sensibly filled by migrants.	N/A
Analysis of the Points-Based System: Tier 2 and dependants (August 2009)	**Salary Thresholds** • The minimum salary should be set at £20,000 per year, roughly equivalent to the 30th percentile of the earnings distributions for all full-time workers. • Raising the minimum threshold for gaining 10 points to £24,000 per annum, and raising the minimum threshold for gaining 15 points to £28,000 per annum. • Certain occupations involved in the delivery of key public services, to be set out by the Government, should be awarded an extra 5 points under the **Resident Labour Market Test (RLMT)** route. This would also apply to individuals	Yes Implemented with changes Implemented with changes

Table B.1 Previous MAC Report	Recommendations	Government implemented
	working in these occupations switching to Tier 2 from the Tier 1 post-study category • **Allowances** used for Points Based System (PBS) points purposes be scaled down when calculating points for earnings under the PBS. • **RLMT –**increase the duration of vacancy advertising to four weeks for all jobs and for the Government to consider introducing some form of RLMT certification regime for at least those employers identified as high risk. • Recommendation 1: that the UK Border Agency (UKBA) considers whether specific professional qualifications should be regarded as equivalent to National Vocational Qualification (NVQ) level 3, or bachelor's or master's degree level, when allocating points under the PBS, where there is good evidence to support such claims. • **The intra-company transfer** route should be kept in place and should not lead to a right to permanent residence. Also, that the qualifying period with the company overseas is extended from six to twelve months. Creation of a separate scheme for graduates only, requiring three months' prior experience with the company, but with a maximum stay in the UK of 12 months. • The Government to consider resource level of enforcement of intra-company transfers is sufficient, and whether the degree of transparency around enforcement of the system could be increased. • UKBA and HMRC to consider the scope for sharing information on what they are being told in relation to the intentions of particular immigrants, and investigate potential abuse of the system on a risk-based basis where there is an indication that abuse of the tax system may be occurring.	No
Review of methodology (March 2010)	• This report didn't make any recommendations to be adopted for any future reviews of the shortage occupation list that the Government may ask the MAC to undertake, but it provided an indication of the issues being actively	N/A

Table B.1 Previous MAC Report	Recommendations	Government implemented
	considered. • We considered the general framework we use for considering whether to recommend occupations for inclusion on, or removal from, the shortage occupation list, utilising our tests for skilled, shortage and sensible each in turn. We reviewed the methodology used to assess occupations against each of these three tests.	
Analysis of the Points Based System: London Weighting (August 2010)	**Salary Thresholds** • London weighting should continue to be regarded as part of earnings in the points calculation in relation to Tiers 1 and 2 of the PBS.	Yes
Limits on Migration- Limits on Tier 1 and Tier 2 for 2011/12 and supporting policies (November 2010)	• A limit on the number of Tier 2 entry clearance visas in the range of 29,400 to 32,600 in 2011/12 (excluding extensions, switchers and dependants). • The Government objective to reduce net migration to the tens of thousands over the lifetime of the Parliament implies a reduction, compared to 2009, of 6,300 or 12,600 visas to be issued in 2011/12. The total required limit for Tier 1 General and Tier 2 combined in 2011/12 is between 37,400 and 43,700. • Exclude Tier 2 visas issued for less than 12 months duration from the limits on the assumption that: such short-term migrants will not be permitted to switch in-country to other work-related routes; or if Tier 2 migrants are permitted to switch in-country to other routes, the in-country visas issued in these cases count towards the (otherwise out-of-country) limits on Tiers 1 and 2 • Amend the points calibration for Tier 2 in order to ensure that only skilled migrants can come to the UK under this tier; • Scale down the **allowances** used for points purposes in relation to the required points for earnings for **intra-company transfers**; apply criteria at the extension stage for **intra-company transfers** that are more stringent than those applied at the point of initial entry;	Having considered our recommendations and responses to its own parallel consultation, the Government introduced an annual limit set at 20,700 - (excluding those earning £150,000 or more, intra-company transfers, in-country applicants and dependants)

Table B.1 Previous MAC Report	Recommendations	Government implemented
	• The Government give consideration to strengthening the **RLMT** route through the introduction of a certification regime and ask the MAC to reconsider the criteria used to identify skilled occupations under the shortage occupation route, and to rigorously review the occupations currently on the shortage occupation list in the context of the limits. • The report also set out other options for reducing net migration which the Government should consider for the longer term. These included: · putting in place arrangements to auction a portion of those visas included within future annual limits; and · reviewing **policy in relation to settlement**, and considering whether explicit economic criteria should be applied to decisions regarding whether or not migrants are allowed to settle permanently in the UK.	
Analysis of the Points Based System- Revised UK shortage occupation list for Tier 2 comprising jobs skilled to NQF level 4 and above (March 2011)	• The MAC estimated that these recommendations would mean that Tier 2 applicants coming into the country via the **shortage occupation route** would only be eligible for approximately 230,000 jobs (less than 1 per cent of the labour market), down from 1 million jobs when the MAC produced its first shortage occupation list in 2008.	N/A
Analysis of the Points Based System- Settlement rights of migrants in Tier 1 and Tier 2 (November 2011)	• The MAC suggested pay as the best metric for determining which **RLMT, shortage occupation and sportsperson route** migrants were allowed to remain beyond five years if a criterion were applied to achieve additional reductions.	
Analysis of the Impacts of Migration	• This report looked at impact assessments and no recommendations were made. In relation to Tier 2 these were impacts on housing healthcare and	N/A

Table B.1 Previous MAC Report	Recommendations	Government implemented
(January 2012)	transport. • Migrants through Tier 2 of the PBS are less likely to use healthcare services in the short-term because they tend for the most part to be in their 20s and 30s. On the other hand, the same group is of child-bearing age, meaning that their **dependants** may have a significant impact on consumption of education services.	
Limits on Migration: Limit on Tier 2 (General) for 2012/13 and associated policies (February 2012)	I. The limit of 20,700 for Tier 2 (General) be maintained at the 2012/13 level. II. The MAC did not think there was reason to believe that either increasing or reducing the £40,000 threshold would provide a better fit with the General Agreement on Trade in Services (GATS) definitions of senior managers and specialists. III. In relation to **Intra-Company Transfers**, the Government may wish to assess individual migrants and the jobs they are entering on a case-by-case basis (according to some set criteria and, potentially, sector- or occupation-specific guidance on minimum earnings levels for senior managers and specialists). IV. Recommended against regional variation in the minimum salary thresholds for the **intra-company transfer** route as this would be difficult to implement in practice. V. Recommended against down-rating **allowances** VI. Recommended against waiving the **RLMT** requirement for certain categories of jobs.	I. Yes II. Yes (i.e. did not change the threshold) III. No IV. Yes (i.e. did not introduce regional variations) V. Yes (i.e. did not down-rate) VI. Yes (i.e. did not waive)
Analysis of the Points Based System- List of occupations skilled at NQF level 6	• In terms of minimum pay thresholds, for experienced employees the options the MAC considered were to either use the median (50th percentile) of the pay distribution by occupation or the lower quartile (25th percentile). As the median measure could disadvantage both regional employees and less experienced	

Table B.1 Previous MAC Report	Recommendations	Government implemented
and above and review of the Tier 2 codes of practice (October 2012)	(but not new entrant) employees, the MAC determined that the 25th percentile would be more appropriate. • The MAC considered the minimum pay rates for new entrants under Tier 2 and it was recommended that this should be set at the 10th percentile of the occupation. This percentile was chosen on the basis that a skilled employee who had just left full-time education typically earned around the 9th percentile of the pay distribution for their occupation. • To determine the maximum number of years since an individual left full-time education before they can no longer be considered a new entrant, it was found that it takes approximately 3.5 years after leaving full-time education to reach the 25th percentile. Therefore the MAC suggested that it seems reasonable that after 3 years a new entrant becomes classified as an experienced worker. • The MAC recommended the following: I. Pay thresholds for experienced employees should normally be set at the 25th percentile of the pay distribution for full-time employees in that occupation. II. Pay thresholds for new entrant employees should be set at the 10th percentile of the pay distribution for full-time employees in that occupation. III. A Tier 2 main applicant who joined a UK-based establishment as a new entrant, when applying for further leave to remain after three years should face the default experienced pay threshold. IV. New entrant employees be defined as, full-time employees who have left full-time education less than 3 years ago; V. All entrants to graduate recruitment schemes be classified as new entrant employees for the purpose of setting pay thresholds; and	I. Yes II. Yes III. Yes IV. Implemented with changes (see section 2.9 of this chapter) V. Implemented with changes (see section 2.9 of this chapter)

Table B.1 Previous MAC Report	Recommendations	Government implemented
	VI. Trainee barristers entering pupillages be classified as new entrant employees for the purpose of setting pay thresholds. VII. The pay thresholds for the occupations set at the 25th or 10th percentile of the Annual Survey of Hours and Earnings (ASHE) distributions are updated according to the annual ASHE data timetable. For non-ASHE pay thresholds, we recommended updating annually according to the national pay inflation of full-time workers from the annual ASHE data. Pay thresholds based on national professional pay scales, such as the NHS Agenda for Change or national teachers‟ pay scales, should be updated in line with their annual increase. VIII. The minimum **pay thresholds** for experienced employees in SOC 1136 information communication and technology directors, SOC 2133 IT specialist managers and SOC 2134 IT project and programme managers should be updated using the latest data from the Incomes Data Services (IDS) database. • That 97 SOC 2010 occupations to be regarded as skilled at NQF6+ • Advertising requirement for the **Resident Labour Market Test (RLMT**) route should include the following: job title; duties and responsibilities; skills and qualifications required; an indication of the salary on offer. If the standard industry practice is to advertise the salary as a “competitive salary” this should continue to be accepted; location; closing date. Also that the advert be written in English (or Welsh for appropriate vacancies in Wales) and the current 28 day duration for occupations required to complete the RLMT be retained. • that the Government release an updated list of SOC 2010 PhD-level occupations as part of any announced changes to the advertising requirements resulting from recommendations. • the structure of the codes of practice be revised to exclude the Standard	VI. Yes VII. Yes VIII. Yes (until 2015 when IDS data became no longer available)

Table B.1 Previous MAC Report	Recommendations	Government implemented
	Industrial Classification (SIC) 2007 top level disaggregation and that the codes of practice be presented in a single list using the SOC 4-digit relevant codes for occupations skilled at NQF6+.	
Full review of the recommended shortage occupation lists for the UK and Scotland, a sunset clause and the creative occupations (February 2013)	• **Sunset -** recommended the Government retain the current approach of regular reviews, ideally on a bi-annual basis. A period of one year would not provide sufficient time for measures to alleviate skill shortages.	No change
Review of Tier 2: Analysis of Salary Thresholds (2015)	No recommendations were made in this report and we advised the Government not to make any changes to salary thresholds before the wider review of Tier 2 had been carried out. This is because salary thresholds should not be considered in isolation as they interact with the other proposals within the commission, particularly the Immigration Skills Charge. There were conclusions made in the report: • The overall minimum salary thresholds need to be updated to reflect the current skill requirement of NQF6 and above. If the same principles used to set the £20,800 threshold were applied to the current skill requirement, this would imply a substantial rise in the salary threshold to somewhere in the region of £31,000 (30th percentile) to £39,000 (the median). • The long-term intra-company transfer threshold of £41,500 still seems appropriate and in line with the definition used within the General Agreement on Trade in Services (GATS) requirement. • An occupation-specific threshold set at the 50th percentile (median) would affect 40 per cent of applications across Tier 2, whereas an occupation-specific threshold set at the 75th percentile would affect 60 per cent.	N/A

Table B.1 Previous MAC Report	Recommendations	Government implemented
	• An occupation-specific threshold set at the 25th percentile would affect 40 per cent of new entrant applications across Tier 2, whereas an occupation-specific threshold set at the 50th percentile (median) would affect 62 per cent. We acknowledged the need to update the overall minimum threshold in line with the skill requirement of NQF6 and above. However, we suggested that any further increases in salary thresholds should be based on the nth percentile for each occupation. This method takes into account the different distributions of pay within each occupation, and does not prevent certain occupations from being able to recruit.	

Source: Migration Advisory Committee (2015)

Annex C Salary thresholds methodology

C.1 Analysis of the pay differential between Tier 2 migrants and the UK labour force.

C.1 We carried out a regression analysis to more closely examine the pay differential between Tier 2 migrants and the UK labour force. We used the Annual Survey of Hours and Earnings (ASHE, 2014) to provide data on wages in the UK labour market, and Home Office management information (MI) for the wages paid to Tier 2 migrants. Both datasets were cut to remove workers paid above £150,000 per annum. This is due to the presence of anomalous high salaries in the MI, some of which may have been entered incorrectly into the database.

C.2 We estimated the following equation using ordinary least squares:

$$salary_i = \alpha + T2G_i + ST\ ICT_i + LT\ ICT_i + age_i + LondonSE_i$$

C.3 Overall, and individually for each occupation, we regressed salary on dummy variables for Tier 2 (General), short term and long term intra-company transfers, and included an age variable to control for labour market experience. We also controlled for employees working in London and the South East to avoid skewing the results.

C.4 Though we controlled for age as a proxy for labour market experience, there were other factors that we could not include in this analysis; namely gender, and specialist skills such as languages.

C.5 We tested the robustness of the results in a number of ways:

- repeating the analysis using ASHE new hires;
- repeating the analysis using log(salary) as the dependent variable;
- carrying out a more refined age analysis – i.e. repeating the analysis for subsets based on the individual age bands, using dummies for each age

C.6 These robustness checks produced similar significant results to those presented in Table 4.6. The majority of coefficients remained the same sign, with a little variation in magnitude.

Nurses

C.7 We carried out more in depth analysis on the wage differential between Tier 2 (General) nurses and the UK nursing workforce. These results are presented in Table C.1.

Table C.1 Further regression analysis on the wage differential between Tier 2 migrant and resident nurses.

	NHS only	Private/care sector only	All nurses	London + South East only	Excluding London + South East	All regions	Wage differential
(1)	X					X	-£6,300
(2)		X				X	-£6,300
(3)			X			X	-£6,400
(4)			X		X		-£6,500
(5)			X	X			-£6,100

Notes: The estimate reported in Table 4.6 is from (3). *Wage restrictions: MI cut at £20,800 to avoid including pre-registration nurses. All coefficients are statistically significant at the 5% level. NHS nurses are those with "NHS" in the organisation name, private/care sector nurses include all nurses not NHS.
Source: ASHE (2014) and Home Office Management Information

C.8 For this analysis, we removed Tier 2 (General) nurses earning below the £20,800 threshold from the dataset. Non-EEA nurses may need to undergo some training to allow them to register as nurses in the UK. The current immigration rules allow non-EEA nurses to be paid below the minimum salary threshold for an initial period while they train to obtain their UK nursing registration. However, comparing the salaries paid to these Tier 2 migrants with registered UK nurses in this initial period would be misleading.

C.9 We also examined whether there was any difference in the wage differential between Tier 2 nurses and resident nurses in the NHS and private/care sectors, or in London and the South East compared to the rest of the UK. As shown in Table C.1, we did not find substantial differences.

Annex D

Impact on the public sector of raising salary threshold to £30,000

D.1 Impact by sector

D.1 As set out in Chapter 4, an increase in the minimum salary threshold to £30,000 will have a significant impact on a number of predominantly public sector occupations. Table D.1 shows the impact on four public sector occupations which are within the top 10 occupations affected by the new threshold. The table shows that 87 per cent (468) of nurses within the NHS, 91 per cent (205) of nurses within nursing homes and 38 per cent (55) within the private sector will be affected by a £30,000 threshold. For secondary education teaching professionals, 93 per cent (68) going to state-funded schools would be affected compared to 34 per cent (23) in private schools.

Table D.1 Impact on public vs. private sector of £30k salary threshold.

	Public sector		Private sector		Nursing homes	
	No. affected	***%***	**No. affected**	***%***	**No. affected**	***%***
2231 Nurses	470	*87*	60	*38*	210	*91*
2314 Secondary Education Teaching Professionals	70	*93*	20	*34*	-	-
2315 Primary and Nursing Teaching Professionals	40	*70*	10	*25*	-	-
2442 Social workers	30	*49*	-	-	-	-

Notes: CoS Used, Home Office Management Information, year ending March 2015. Out-of-country applications only, restricted to those aged 26 and over (a proxy for experienced workers). Numbers rounded to nearest ten and are indicative only due to high risk of misclassification of sector. Typically, nursing homes are privately run but receive government funding. For SOC codes 2314 and 2315, academies have been categorised as public sector. Numbers may not add to totals set out in Chapter 4 due to the exclusion of miscellaneous applications.

Annex E

Length of time on shortage occupation list

E.1 UK Shortage Occupation List

SOC code and description	Job titles	Date added	Time spent on SOL as of June 2015
1123 Production managers and directors in mining and energy	• The following jobs in the decommissioning and waste management areas of the nuclear industry: - managing director - programme director - site director • The following jobs in the electricity transmission and distribution industry: - project manager - site manager	 Nov 2011 Nov 2011 Nov 2011 Dec 2009 Dec 2009	 3 years, 7m 3 years, 7m 3 years. 7m 5 years, 6m 5 years, 6m
2113 Physical Scientists	• the following jobs in the construction-related ground engineering industry: - engineering geologist - hydrogeologist - geophysicist • the following jobs in the oil and gas industry: - geophysicist - geoscientist - geologist - geochemist • technical services manager in the decommissioning and waste areas of the nuclear industry • senior resource geologist and staff geologist in the mining sector	 July 2005 July 2005 July 2005 Nov 2008 Nov 2008 Nov 2008 Nov 2011 Nov 2011 April 2013	 9 years, 11m 9 years, 11m 9 years, 11m 6 years, 7m 6 years, 7m 6 years, 7m 3 years, 7m 3 years, 7m 2 years, 2m

2121 Civil engineers	• the following jobs in the construction-related ground engineering industry: - geotechnical engineer - tunnelling engineer • the following jobs in the oil and gas industry: - petroleum engineer - drilling engineer - completions engineer - fluids engineer - reservoir engineer - offshore and subsea engineer - control and instrument engineer - process safety engineer - wells engineer • senior mining engineer in the mining sector	 July 2005 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2008 Nov 2011 (previously included Nov 2008 – Mar 2010) Nov 2011 (previously included Nov 2008 – Mar 2010)	 9 years, 11m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 6 years, 7m 3 years, 7m 3 years, 7m
2122 Mechanical engineers	• mechanical engineer in the oil and gas industry	April 2013	2 years, 2m
2123 Electrical engineers	• electrical engineer in the oil and gas industry • the following jobs in the electricity transmission and distribution industry: - power system engineer - control engineer - protection engineer • the following jobs in the aerospace industry: - electrical machine design engineer - power electronics engineer	Dec 2009 Dec 2009 Dec 2009 Dec 2009 April 2013 April 2013	5 years, 6m 5 years, 6m 5 years, 6m 5 years, 6m 2 years, 2m 2 years, 2m
2124 Electronics Engineers	• the following jobs in the railway industry: - signalling design manager	 April 2013	 2 years, 2m

2124 Electronics Engineers (contd.)	- signalling design engineer - signalling principles designer - senior signalling design checker - signalling design checker - signalling systems engineer • specialist electronics engineer in the automotive manufacturing and design industry	April 2013 April 2013 April 2013 April 2013 April 2013 April 2013	2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m
2126 Design and development engineers	• design engineer in the electricity transmission and distribution industry • the following jobs in the automotive design and manufacturing industry: - product development engineer - product design engineer • the following jobs in the electronics system industry: - integrated circuit design engineer - integrated circuit test engineer	Dec 2009 April 2013 April 2013 April 2013 April 2013	5 years, 6m 2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m
2127 Production and process engineers	• chemical engineer • manufacturing engineer (process planning) in the aerospace industry • technical services representative in the decommissioning and waste areas of the nuclear industry	Nov 2008 Nov 2011 Nov 2011	6 years, 7m 3 years, 7m 3 years, 7m
2129 Engineering professionals not elsewhere classified	• the following jobs in the electricity transmission and distribution industry: - project engineer - proposals engineer • the following jobs in the aerospace industry: - aerothermal engineer - stress engineer - chief of engineering - advance tool and fixturing engineer	 Dec 2009 Dec 2009 Nov 2011 Nov 2011 Nov 2011 Nov 2011	 5 years, 6m 5 years, 6m 3 years, 7m 3 years, 7m 3 years, 7m 3 years, 7m

2129 Engineering professionals not elsewhere classified (contd.)	• the following jobs in the decommissioning and waste management areas of the civil nuclear industry: - operations manager - decommissioning specialist manager - project/planning engineer - radioactive waste manager - radiological protection advisor • The following jobs in the civil nuclear industry: - nuclear safety case engineer - mechanical design engineer (pressure vehicles) - piping design engineer - mechanical design engineer (stress) - thermofluids/process engineer	Nov 2011 Nov 2011 Nov 2011 Nov 2011 Nov 2011 April 2013 April 2013 April 2013 April 2013 April 2013	3 years, 7m 3 years, 7m 3 years, 7m 3 years, 7m 3 years, 7m 2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m 2 years, 2m
2135 IT Business analysts, architects and systems designers	• systems engineer in visual effects and 2D/3D computer animation for the film, television or video games sectors	June 2009	6 years
2136 Programmers and software development professionals	• the following jobs in visual effects and 2D/3D computer animation for the film, television or video games sectors: - software developer - shader writer - games designer • the following jobs in the electronics system industry: - driver developer - embedded communications engineer	Nov 2011 Nov 2011 April 2013 April 2013 April 2013	3 years, 7m 3 years, 7m 2 years, 2m 2 years, 2m 2 years, 2m
2142 Environmental Professionals	• the following jobs in the construction-related ground engineering industry: - contaminated land specialist - geoenvironmental specialist - landfill engineer	July 2005 Nov 2011 Nov 2011	9 years, 11m 3 years, 7m 3 years, 7m

Annex E: Length of time occupations on Shortage Occupation List

2211 Medical practitioners	• consultant in the following specialities: - clinical radiology - emergency medicine - old age psychiatry • CT3 trainee and ST4 to ST7 trainee in emergency medicine • core trainee in psychiatry • non-consultant, non-training, medical staff post in the following specialities: - emergency medicine (including specialist doctors working in accident and emergency) - old age psychiatry - paediatrics	 April 2015 Nov 2011 July 1999 April 2015 April 2015 June 2009 April 2013 April 2015	 2 months 3 years, 7m 15 years, 11m 2 months 2 months 6 years 2 years, 2m 2 months
2217 Medical Radiographers	• HPC registered diagnostic radiographer • nuclear medicine practitioner • radiotherapy physics practitioner • radiotherapy physics scientist • sonographer	July 2003 June 2009 June 2009 June 2009 Feb 2005	11 years, 11m 6 years 6 years 6 years 10 years, 4m
2219 Health professionals not elsewhere classified	• neurophysiology healthcare scientist • neurophysiology practitioner • nuclear medicine scientist	June 2009 June 2009 June 2009	6 years 6 years 6 years
2229 Therapy professionals not elsewhere classified	• orthotist • prosthetist	April 2015	2 months
2314 Secondary education teaching professionals	• secondary education teachers in the subjects of maths and science (chemistry and physics only)	Dec 2000 (Greater London), Feb 2003 (rest of England), April 2005 (Scotland), Nov 2008 (Wales, NI)	14 years, 6m 12 years, 3m 10 years, 2m 6 years, 7m

2425 Actuaries, economists and statisticians	• bio-informatician • informatician	April 2013	2 years, 2m
2442 Social workers	• social worker working in children's and family services	August 2002	12 years, 10m
2461 Quality control and planning engineers	• the following jobs in the electricity transmission and distribution industry: - planning / development engineer - quality, health, safety and environment (QHSE) engineer	Dec 2009 Dec 2009	5 years, 6m 5 years, 6m
3113 Engineering technicians	• the following jobs in the electricity transmission and distribution industry: - commissioning engineer - substation electrical engineer	Dec 2009 Nov 2011	5 years, 6m 3 years, 7m
3213 Paramedics	• **ALL** jobs in this occupation code	April 2015	2 months
3411 Artist	• Animator in visual effects and 2D/3D computer animation for the film, television or video games sectors	June 2009	6 years
3414 Dancers and choreographers	• skilled classical ballet dancers meeting specified criteria • skilled contemporary dancers meeting specified criteria	Nov 2008 June 2009	6 years, 7m 6 years
3415 Musicians	• skilled orchestral musicians meeting specified criteria	Nov 2008	6 years, 7m
3416 Arts officers, producers and directors	• the following jobs in visual effects and 2D/3D computer animation for the film, television or video games sectors: - 2D supervisor - 3D supervisor - computer graphics supervisor - producer - production manager - technical director - visual effects supervisor	 Nov 2011 Nov 2011 June 2009 June 2009 June 2009 June 2009 June 2009	 3 years, 7m 3 years, 7m 6 years 6 years 6 years 6 years 6 years

3421 Graphic designers	• the following jobs in visual effects and 2D/3D computer animation for the film, television or video games sectors: -compositing artist -matte painter -modeller -rigger -stereo artist -texture artist	 June 2009 June 2009 June 2009 June 2009 Nov 2011 June 2009	 6 years 6 years 6 years 6 years 3 years, 7m 6 years
3541 Buyers and purchasing officers	• manufacturing engineer (purchasing) in the aerospace industry	Nov 2011	3 years, 7m
5215 Welding trades	• high integrity pipe welder where the job requires three or more years' related on-the-job experience	July 2008 (briefly removed Apr – Nov 2011)	6 years, 11m
5235 Aircraft maintenance and related trades	• licensed and military certifying engineer/inspector technician	Dec 2009	5 years, 6m
5249 Line repairers and cable jointers	• overhead linesworker at Linesman Erector 2 (LE2) level and above, where the pay is at least £32,000 per year	Nov 2006	8 years, 7m
5434 Chefs	• skilled chef meeting specified criteria	Nov 2008	6 years, 7m

Source: Migration Advisory Committee (2015)

E.2 Scotland Shortage Occupation List

SOC code and description	Job titles	Date added	Time spent on SOL as of June 2015
2113 Physical scientists	medical physicist	April 2015 (to Scotland SOL)	2 months
	staff working in diagnostics radiology (including magnetic resonance imaging)	April 2013 (to Scotland SOL)	2 years, 2m
2211 Medical practitioners	consultant in clinical oncology	April 2015 (to Scotland SOL)	2 months
	non-consultant, non-training, medical staff post in clinical radiology	April 2015 (to Scotland SOL)	2 months
	CT3 trainee and ST4 to ST7 trainee in clinical radiology	April 2015 (to Scotland SOL)	2 months
	all grades **except** CPT1in psychiatry	April 2013 (non-training posts added to UK SOL), April 2015 (all posts except CT1 added to Scotland SOL)	2 years, 2m 2 months
	all grades in anaesthetics	June 2009 (non-consultant, non-training posts added to UK SOL), April 2013 (ST3-ST6 trainees added to Scotland SOL), April 2015 (all grades included on Scotland SOL)	6 years 2 years, 2m 2 months
	all grades in paediatrics	June 2009 (non-consultant, non-training posts added to UK SOL), Dec 2009 (ST4 trainees added to UK SOL), Nov 2011 (ST3-ST6 trainees and SAS doctors added to Scotland SOL), April 2015 (all grades included on Scotland SOL)	6 years 5 years, 6m 3 years, 7m 2 months

	all grades in obstetrics and gynaecology	June 2009 (non-training posts added to UK SOL), April 2013 (all posts except CT1 added to Scotland SOL)	6 years 2 years, 2m
2231 Nurses	specialist nurse working in neonatal intensive care units	Dec 2009 (to UK SOL), April 2015 (to Scotland SOL)	5 years, 6m 2 months

Source: Home Office 2015

Annex F Tier 2 route users by nationality

F.1 Tier 2 entry clearance visas granted by nationality

Table F.1 Tier 2 Out-of-country entry clearance visas granted to main applicants and dependants by nationality, year ending September 2015

Tier 2 (General)				
Country	**Main Applicant Volume**	**Dependant volume**	**Total volume**	**Dependant Ratio**
India	3,902	5,614	9,516	*1.44*
United States	2,603	2,015	4,618	*0.77*
Australia	1,469	447	1,916	*0.30*
Philippines	880	371	1,251	*0.42*
Canada	878	332	1,210	*0.38*
China	766	621	1,387	*0.81*
Russia	587	475	1,062	*0.81*
South Africa	586	398	984	*0.68*
New Zealand	529	155	684	*0.29*
Pakistan	519	949	1,468	*1.83*
Ukraine	284	251	535	*0.88*
Egypt	273	404	677	*1.48*
Turkey	252	151	403	*0.60*
Malaysia	234	85	319	*0.36*
Brazil	202	140	342	*0.69*
Nigeria	194	302	496	*1.56*
Japan	186	161	347	*0.87*
Korea (South)	168	155	323	*0.92*
Jamaica	148	81	229	*0.55*
Iran	140	114	254	*0.81*
Singapore	135	57	192	*0.42*
Sri Lanka	129	287	416	*2.22*
Zimbabwe	129	106	235	*0.82*
Hong Kong	125	59	184	*0.47*
Israel	102	93	195	*0.91*
Others	1,463	1,441	2,904	*0.98*
Total	**16,883**	**15,264**	**32,147**	***0.90***

Table F.1 Tier 2 Out-of-country entry clearance visas granted to main applicants and dependants by nationality, year ending September 2015				
Short-term Intra-company Transfers				
Country	**Main Applicant Volume**	**Dependant volume**	**Total volume**	**Dependant Ratio**
India	17,983	8,176	26,159	*0.45*
United States	1,337	342	1,679	*0.26*
China	257	28	285	*0.11*
Japan	216	18	234	*0.08*
Canada	161	12	173	*0.07*
Australia	150	20	170	*0.13*
Philippines	150	13	163	*0.09*
South Africa	107	18	125	*0.17*
Russia	96	18	114	*0.19*
Brazil	80	14	94	*0.18*
Turkey	75	6	81	*0.08*
Singapore	69	3	72	*0.04*
Malaysia	57	5	62	*0.09*
Hong Kong	48	3	51	*0.06*
Korea (South)	40	10	50	*0.25*
Egypt	36	7	43	*0.19*
Pakistan	31	12	43	*0.39*
Sri Lanka	29	0	29	*0.00*
Thailand	29	0	29	*0.00*
Mexico	28	2	30	*0.07*
New Zealand	27	1	28	*0.04*
Ukraine	24	6	30	*0.25*
Nigeria	20	0	20	*0.00*
Saudi Arabia	19	10	29	*0.53*
Argentina	17	4	21	*0.24*
Others	260	48	308	*0.24*
Total	**21,346**	**8,776**	**30,122**	***0.41***
Source: Home Office Immigration Statistics (2015)				

Table F.1 Tier 2 Out-of-country entry clearance visas granted to main applicants and dependants by nationality, year ending September 2015				
Long-term Intra-company Transfers				
Country	**Main Applicant Volume**	**Dependant volume**	**Total volume**	**Dependant Ratio**
India	7,159	8,954	16,113	*1.25*
United States	2,029	1,710	3,739	*0.84*
Japan	1,241	1,589	2,830	*1.28*
China	399	347	746	*0.87*
Australia	387	226	613	*0.58*
Canada	208	160	368	*0.77*
Korea (South)	179	302	481	*1.69*
South Africa	152	74	226	*0.49*
Russia	144	88	232	*0.61*
Brazil	100	79	179	*0.79*
Turkey	91	58	149	*0.64*
Malaysia	80	62	142	*0.78*
Singapore	76	57	133	*0.75*
Philippines	68	46	114	*0.68*
Ukraine	54	45	99	*0.83*
New Zealand	51	20	71	*0.39*
Taiwan	43	40	83	*0.93*
Nigeria	42	53	95	*1.26*
Kazakhstan	42	69	111	*1.64*
Pakistan	41	47	88	*1.15*
Egypt	37	64	101	*1.73*
Israel	35	32	67	*0.91*
Mexico	34	43	77	*1.26*
Saudi Arabia	33	90	123	*2.73*
Hong Kong	31	8	39	*0.26*
Others	442	365	807	*0.83*
Total	**13,198**	**14,628**	**27,826**	***1.11***
Source: Home Office Immigration Statistics (2015)				

Table F.2 Tier 2 In-country (extensions and switchers) visas granted by nationality, 2014			
Tier 2 (General)		**ICT (Short-term and Long-term)**	
Country	**Volume**	**Country**	**Volume**
India	8,320	India	4,783
China	2,421	United States	1,082
Pakistan	1,874	Japan	669
United States	1,682	Australia	199
Nigeria	1,117	China	182
Philippines	971	Canada	129
Bangladesh	891	Russia	101
Malaysia	729	Korea (South)	85
Nepal	705	South Africa	83
Sri Lanka	637	Pakistan	60
Australia	624	Philippines	59
Russia	577	Turkey	49
Canada	567	Brazil	48
Iran	388	Malaysia	44
Egypt	321	Singapore	35
South Africa	254	Kazakhstan	34
Korea (South)	251	Egypt	31
Japan	227	New Zealand	27
Thailand	213	Mexico	25
Mauritius	211	Nigeria	22
New Zealand	202	Taiwan	22
Singapore	187	Ukraine	16
Ukraine	182	Libya	15
Sudan	180	Saudi Arabia	14
Turkey	177	Israel	12
Others	2,792	*Others*	219
Total	**26,700**	**Total**	**8,045**
Source: Home Office Immigration Statistics (2015)			

Annex G Impact of a higher salary threshold

G.1 Impact of setting the salary threshold based on the median salary for employees working with occupations skilled to NQF6+

G.1 We recommend that the minimum salary threshold should be based on the salary distribution for all employees working within occupations skilled to NQF6+. We recommend it be set at the 25th percentile (£30,000). This would apply to both Tier 2 (General) and short-term Tier 2 (Intra-company Transfers).

G.2 Table G.1 and G.2 show the impact of setting the salary threshold based on the median salary for employees working within occupations skilled to NQF6+, £39,000. Table G.1 shows that 36 per cent (5,874) of out-of-country applications under Tier 2 (General) would be affected by the £23,000 threshold for new entrants and £39,000 threshold for experienced workers within Tier 2 (General), compared to 13 percent if the threshold for experienced workers is set at £30,000 for experienced workers. Approximately 37 per cent (5,804) of in-country applications to switch into Tier 2 would be affected by the higher thresholds, compared to 22 per cent from a threshold of £30,000 for experienced workers. When including their dependants, this equates to 22,188 individuals affected.

G.3 Table G.2 shows the impact on the short-term intra-company transfer route of the £39,000 threshold applied to the conventional use of the route and the £41,500 threshold applied to third-party contracting. 50 per cent (12,826) of applications for the short-term intra-company transfer route would be affected by these thresholds, which equates to 18,085 individuals when including their dependants. In total, approximately 40,273 individuals would be affected by the change in thresholds, approximately 27 per cent of all applications within the Tier 2 (General) and Tier 2 (Intra-company Transfer) routes.

Table G.1: Impact on CoS for Tier 2 (General) of a change in the minimum salary threshold to £23k for new entrants and £39,000 for experienced workers (year ending August 2015)

		Tier 2 (General)			
		In-Country	%	Out-of-country	%
New entrants	**£23,000**	1,339	*21*	165	*7*
Experienced workers	**£39,000**	4,465	*48*	5,709	*41*
*Dependants***		5,224		5,287	
Total affected		11,028		11,161	

Notes: New entrants is defined as those aged 25 and under and/or switching from Tier 4 into Tier 2 (which is different from the definition in Chapter 4). **Dependant to main applicant ratio=0.9 for Tier 2 (Gen). The impact on the in-country applications excludes those classified as extending their visa as we assume that they would not be affected by the new thresholds.
Source: CoS used (not assigned, therefore not directly comparable to figures for Tier 2 (Intra-company Transfer) route), Home Office Management Information, year ending August 2015.

Table G.2: Impact on CoS for short-term Tier 2 (Intra-company Transfer) route of a change in the minimum salary threshold of £39,000 for conventional and £41,500 for third-party contracting (year ending August 2015)

		Tier 2 (Intra-company Transfer)			
		In-Country	%	Out-of-country	%
Conventional	**£39,000**	-		1,034	*15*
Third-party contracting	**£41,500**	-		11,792	*72*
*Dependants***		-		5,259	
Total affected		-		18,085	

Notes: **Dependant to main applicant ratio=0.41 for Tier 2 (Intra-company Transfer) route. Excludes in-country as we assume all extensions are not affected by the new thresholds. Excludes applicants within the graduate trainee route of the conventional route. Observations earning below the minimum threshold of £24,800 have been excluded.
Source: CoS assigned (not used, therefore not directly comparable to figures for Tier 2 (General)), Home Office Management Information, year ending August 2015.

Abbreviations

ADS	ADS Group Trade Association for UK Aerospace, Defence, Security and Space Industry
ASHE	Annual Survey of Hours and Earnings
BIS	Department for Business, Innovation and Skills
BTEC	Business and Technician Education Council
CBI	Confederation of British Industry
CFGI	Council for Global Immigration
CIPD	Chartered Institute of Personnel and Development
CITB	Construction Industry Training Board
CLS	Continuous Linked Settlement
CoS	Certificate(s) of Sponsorship
DWP	Department for Work and Pensions
EEA	European Economic Area
EEF	Engineer Employers Federation
EICTB	Engineering Construction Training Board
EU	European Union
EURES	European Employment Services
FDI	Foreign direct investment
GATS	General Agreement on Trade in Services
GDP	Gross domestic product
GSK	GlaxoSmithKline

HECSU	Higher Education Careers Service Unit
HEI	Higher Education Institution
HMRC	Her Majesty's Revenue and Customs
HMT	Her Majesty's Treasury
HNC	Higher National Certificate
HND	Higher National Diploma
ICT	Intra-company-transfer
IHS	Immigration Health Surcharge
IoD	Institute of Directors
IPS	International Passenger Survey
ISC	Immigration Skills Charge
ISCO	International Standard Classification of Occupations
ISSL	Immediate Skill Shortage List
IT	Information Technology
LFS	Labour Force Survey
LTIM	Long Term International Migration
MAC	Migration Advisory Committee
MI	Management Information
NASSCOM	National Association of Software and Services Companies
NDPB	Non-departmental public body
NHS	National Health Service
NIC	National Insurance Contributions
NQF	National Qualifications Framework
OECD	Organisation for Economic Co-operation and Development
ONS	Office for National Statistics
PBS	Points Based System
PhD	Doctorate of Philosophy

PwC	Pricewaterhouse Cooper LLP
RCoS	Restricted Certificate(s) of Sponsorship
REC	Recruitment and Employment Confederation
RLMT	Resident Labour Market Teat
SIC	Standard Industry Classification
SME	Small and Medium-sized Enterprise
SOC	Standard Occupational Classification
SOL	Shortage Occupation List
TCS	Tata Consultancy Services
TUC	Trade Union Congress
UCEA	Universities and Colleges Employers Association
UKCES	UK Commission for Employment and Skills
UN	United Nations

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