



Important Communiqué

Call to end misguided and inappropriate government policy against UK's hospitality and foodservice industry

This is a message calling on the government, and in particular the Migration Advisory Committee (MAC) for urgent amendment of inappropriate skills criteria that is blocking recruitment of skilled specialist Chefs from outside EU.

The government claims specialist non EU Chefs are welcome and includes them in the official 'Shortage Occupation' (SO) list. However this is grossly disingenuous as the qualifying criteria is wholly unrealistic and unworkable for virtually the entire hospitality and foodservice industry.

The criteria classes a high skill based restaurant as a low skill 'fast food outlet' if it provides a take away facility. Practically every restaurant facilitates collection and delivery for home dining. The trend for ordering restaurant food to dine at home has exploded in the advent of ordering apps and gig economy delivery systems, and is becoming a standard service offered even by high fine dining establishments. However the government maintains the SO skill criteria is only met if an individual restaurant, with an individual menu serves an individually cooked to order dish for regular table dining. However if this restaurant serves the same expertly prepared complex dish for collection or delivery it falls below the skills threshold and is therefore ineligible to recruit a professional non EU Chef if cannot find a suitable resident Chef.

The government also disqualifies other catering activities involving high culinary skills such as banqueting and event catering and all other forms of complex volume dining or food production. The government terms these as 'bulk food' and 'standard fare' in spite of requiring a higher degree of skill and dexterity than cooking a single made to order serving.

The minimum salary threshold for non EU Chefs is also a massive inhibiting factor. Other than in high end restaurants in Central London £29,570 is wholly unworkable for almost every other region in UK. The average salary* for the most in demand position of Chef De Partie / Specialist Chef is between £23,000 and £25,000 (the figure for Central London is £25,000). A Head Chef post ranges between £25,000 and £28,000 outside Central London. (*salary figures obtained from Caterer.com as at October 2017)

The restrictions to accessing non EU Chefs are wholly fallacious and unrealistic, and are thwarting the sustainability let alone potential growth of UK's hospitality industry. These restrictions were immigration policy recommendations by the Migration Advisory Committee (MAC) and duly implemented by the government upon entering parliament in 2010. The MAC is a government

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sponsored economic and social migration policy advisor to the Home Office. They are made up of labour market experts and economists.

The SO criterion was an alternative to the resident labour market test which enabled recruitment without this process. Most non EU recruitment continued due to pre rule change Chefs still being available in the market. However by 2016 Chefs entering before April 2011 gained settlement and in most cases no longer in the visible labour market. In spite of labour market transitions and commercial expansion, skill shortages intensified but MAC maintained these restrictions seemingly to force greater engagement with what was perceived as vast pool of flexible workers within UK and EU labour markets. The skills equation within the SO criteria is outmoded seems to be have been retained as a blunt immigration control instrument.

There is now an urgent need for MAC to address highly contentious and wholly unrealistic restrictions. This is needlessly damaging a colossal multi billion pound foodservice economy in the name of misguided net migration controls. It is causing chaos and crisis to specialist skill based establishments whose plight is now compounded by pre Brexit mood among low to mid skilled EU workers who are returning to their home countries.

The government repeatedly cites 'undercutting of wages' as cause for immigration control. The reality in much of the affected industry sectors is employers are being forced to reign back on growth and development as they are unfairly disadvantaged. Lawfully operating businesses simply cannot compete with a parallel unregulated jobs market which pays high tax free 'cash in hand' wages to a 'black' labour market supplemented or subsidised by state income. Highly prohibitive policy against non EU skilled workers is inadvertently sustaining the black economy, and placing an ever increasing illicit burden on the welfare state, whilst depriving the treasury of additional PAYE and VAT revenue. The government is inadvertently aiding the 'undercutting' of lawful employers by subsidising unlawful employers and cushioning unregulated employment.

The call among those of us who are playing a part in driving UK's hospitality and foodservice economy is for realistic parameters for engagement of non EU skilled labour, given the pre Brexit drain of EU labour. The complex engine with in every hospitality establishment is the experienced skilled Chef whose skill craft has taken years to develop and hone.

There is a serious misunderstanding and misconception of skill need and deployment. Please see following extract of immigration rules governing the recruitment of non EU Chefs.

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Extract from Appendix K of immigration rules (as at 7th April 2016)

SOC Code 5434 –

Skilled chef where the pay is at least £29,570 per year after deductions for accommodation, meals etc; and the job requires five or more years relevant experience in a role of at least equivalent status to the one they are entering; and the job is not in either a fast food outlet, a standard fare outlet, or an establishment which provides a take-away service; A fast food outlet is one where food is prepared in bulk for speed of service, rather than to individual order. A standard fare outlet is one where the menu is designed centrally for outlets in a chain / franchise, rather than by a chef or chefs in the individual restaurant. Standard fare outlets also include those where dishes and / or cooking sauces are bought in ready-made, rather than prepared from fresh / raw ingredients.

These rules appear unrelated but the term 'prepared in bulk' is being applied to large scale event catering and buffets. High end restaurants that provide take away services are deemed as fast food outlets. The rules are an unprecedented and a highly damaging barrier affecting almost the entire hospitality industry. We say this because non EU Chef's work visa applications are being refused and many sponsors have felt 'criminalised' by sponsor licence revocations. There are thought to be approximately **500** (possibly double this number) **chefs currently facing deportation** as a result, some of these being cases we have personally dealt with. The Home Office interpretation of Chef visa rules are causing confusion, chaos and hardship to those affected. It would seem the UK government has disabled access to Chefs from non EU countries simply to meet net migration targets; however this is now an outdated cause.

Access to non EU Chefs only requires a few modifications to present rules, specifically removal of the following restrictions;

Rule 1. – No take away or delivery - This is wholly unrealistic and impractical as virtually EVERY quality / high end establishment facilitates home dining

Rule 2. - No 'Bulk food' production – This is seriously impacting the event catering industry, quality restaurants with buffet facilities, and producers of specialist cultural food products

Rule 3. - Unrealistic minimum salary threshold - £29,570 is fine for London weighting but is not viable for the vast majority of businesses for rest of UK. A realistic min figure for Chefs of primary need i.e. Chef De Partie / Specialist Chef should be between £20,000 to £23,000. Sous Chef / Head Chef - £23,000 to £25,000 to £28,000 depending on location and employer

There is an undeniable shortage of skilled specialist Chefs within the resident and EU labour market, and thereby unavoidable need for non EU Chefs fill immediate vacancies, and to enable training and cultivation of home grown Chefs.

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Whilst dedicated culinary or 'curry colleges' have a supporting role they are not capable of producing adequately skilled Chefs to address immediate skill needs, A lack of experienced culinary craft Chefs means there's no one in these 'colleges' to train anyone , not to mention the lack of interested trainees. In any case culinary training is a prolonged process needing long term retention of students which itself can be a challenge. A skilled Chef only becomes a skilled Chef through a number of years of practical work experience. Goldstar Chefs are developing a 'national curry apprenticeship' programme and will provide training frameworks for generating home grown Chefs through on site skill development and experience. However this requires expert Chefs trainers.

As a recruiter and training facilitator we aim is to attract and train as many people as possible from the resident labour market to fill majority of nationwide vacancies but this will require the aid of experienced imported Chefs to urgently address immediate skill needs in the interim and to cultivate a new generation of home grown Chef'. We advocate non EU sourcing to be on temporary non settlement basis only.

Global cuisine makes up one the largest sections of UK's booming £multi-billion hospitality industry. However the sustainability and growth of an estimated 20,000 speciality restaurants and catering organisations is being stifled by obstinate and misplaced government policy. This policy purposely distorts the skills equation to meet net migration targets.

The SO criteria is flawed, injurious and is outmoded in today's UK booming foodservice economy. Practically every town and city in UK is affected; the hospitality industry in general is impeded from growth and expansion directly as a shortage of skilled Chefs. The profession is not viewed with reverence by the indigenous labour culture in spite of attractive rewards and prospects.

Hospitality and foodservice is a major part of UK's economy but the indigenous labour market is by and large irreverent, this is evident by huge amount of Europeans who make up the majority of the workforce. The current pre Brexit mood is now driving away these Europeans which further rationalises the need for skill based migration from outside EU.

From our work in addressing these issues I suggest the following five areas for focus and redress;

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Area 1 – The rules and the effects

- ❖ Under the official shortage occupation criteria a specialist Chef is deemed to have the necessary skill level only if he or she produces a single portion complex dish
- ❖ MAC has ruled collection and delivery, banqueting or event catering involving complex cuisine as standard fare, bulk food or 'fast food' and thereby not having high level culinary expertise or complex skills input.
- ❖ Collection and delivery is an integral part of a restaurant's business, and a sub industry in itself. However Home Office claim take away services are NOT historically associated with high quality restaurants, even though this vital function has always been a mainstay in just about every quality restaurant in the land
- ❖ There are but a handful of restaurants in UK, mainly in Mayfair and Knightsbridge, that currently meet SO criteria. Till now these have remained dine in only, however even they have succumbed to demand for dining at home driven by ordering apps and gig economy delivery systems. The government's 'take away clause' is therefore outmoded and grossly inappropriate for today's restaurant industry
- ❖ Restaurants that provide buffet dining, banqueting or other catering services are deemed to have insufficient skill needs as this is crudely referred to as 'bulk food'
- ❖ High end event caterers and / or restaurants that provide large scale dining are also ranked as low skilled (bulk food), in spite of processes deploying higher skill and dexterity than in a single made to order dish
- ❖ Specialist business such as 'Asian sweet centres' in high concentration Asian populous parts of UK that mass produce highly complex intricate cultural fare in are in crisis due to being denigrated as low skill 'bulk food'
- ❖ UK's entire global cuisine economy is being penalised and prevented from growth and expansion
- ❖ A Brexit led hospitality industry is simply unsustainable, let alone grow, without immediate skill ready professional chefs



- ❖ Appendix K of immigration rules (as on 7th April 2016) governing SOC code 5434 is unfit for purpose, it is inherently ambiguous, confusing and misapplied in many instances (see extract below)
- ❖ The Shortage Occupation rules are in fact being **UNLAWFULLY** applied, this is because it states "*.....made to order complex dish prepared from scratch using fresh raw ingredients....*" It also cites that a menu should be designed by the Chef or Chefs in the individual restaurant. These are processes are carried in EVERY disqualified case!
- ❖ For detailed information see www.goldstarchefs.co.uk and www.goldstarchefs.co.uk/campaigns/

Area 2 - The damage

- ❖ There has been misapplication and inconsistencies in Home Office decision making.
- ❖ Restaurants are being stripped of their sponsor licences and thereby robbed of their Chefs
- ❖ There are estimated to be between 500 and 1000 (non EU) skilled Chefs facing deportation due to decision inconsistency and retrospective penalisation
- ❖ Adverse shortage occupation criteria is 'criminalising' essential Chef recruitment
- ❖ Employers are forced pay to excessive tax free wages to mostly resident Chefs exploiting skill shortages, who will not engage in fully declared taxable employment
- ❖ The shortage of Chefs has spawned a transient 'cash in hand' employee culture unwilling to engage in formal gross salaried employment due to unbridled access to state income.
- ❖ From our experience both as a recruiter and business immigration practitioner the majority of newly settled workers pursue state income immediately upon gaining indefinite leave to remain (immigration officers actually inform settlers of benefits entitlement). They will suddenly resign without notice from employer who has pledged continuity of employment at the salary level that enabled settlement approval. They then take up lucrative full 'cash in hand' employment disguised as low paid part time work so as to manipulate eligibility for a plethora of welfare benefits

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- ❖ A gross taxable salary of approx. £70,000 would be necessary to replace a typical state income + cash in hand package.
- ❖ Much of settlement granted to former Tier 2 migrants associated with the catering sector in question has led to a monumental burden on the public purse and caused dramatic displacement of skilled labour from lawful employers to an unregulated 'black' employment market.
- ❖ It is entirely wrong and unjust for lawfully operating businesses to be unfairly disadvantaged by (tax payer subsidised) unregulated employment inadvertently cushioned by prohibitive government policy against non EU recruitment
- ❖ The industry is also suffering a serious authenticity and skills erosion, and thereby plummeting food quality due to a lack of ability and professionalism
- ❖ Many establishments restaurants are fearful of decline in health & safety and food safety standards. Poor literacy, non-adherence to quality practices among resident Chefs is a risk factor
- ❖ The blockade and retrospective removal of fully salaried non EU Chefs denies treasury of taxes. It also prevents businesses from proper functionality, growth and development which denies the treasury of millions in additional VAT income
- ❖ Counter productive government policy is also inadvertently re introducing undocumented workers as many employers are duped into believing they are recruiting 'legal' workers by dubious paperwork and thereby exposed to prosecution
- ❖ Vicious circle of chronically overstretched and under resourced businesses wandering into risk based employment due to counter productive migration policy

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- ❖ Most business owners and operators are at breaking point due to;
 - Stress and overwork
 - Potential danger to mental and as well as physical health
 - Unable to deliver customer satisfaction and function effectively
 - Family and work life balance in turmoil
 - Unable to grow and develop
 - Unable to partake in training & skills development programmes having no proper skilled Chefs on board to facilitate this
 - Worry and uncertainty about future sustainability of livelihood

- ❖ The Asian restaurant sector is viewed as 'high risk' and is treated with 'hostile environment' policy Counterproductive ill-judged decision making is wreaking havoc!

Areas - 3 Changes needed on both sides

- ❖ The Home Office should HALT its onslaught on legitimate use of Tier 2 sponsorship within the industry. The Home Office must apply realistic, fair and sensible parameters in both the skills measure and salary thresholds

- ❖ The current entry salary level for the elevated Tier 2 skills threshold (NQF level 6 is £20,800), (this applies to many highly skilled professions), the minimum salary level for incumbent Tier 2 at this level is now £30,000, the shortage occupation salary threshold of £29,570 is both unrealistically high and unworkable. The minimum threshold ought to be in the range of £20,000 to £25,000, a higher salary would be paid anyway for London and high cost residential areas. Accommodation allowances should be allowed to be part of package

- ❖ Instead of pursuing licence revocations, the Home Office ought to help industry gain a better understanding and harnessing of rules, rules also need to be realistic and fair

- ❖ There needs to be proactive engagement with industry instead of the deeply aloof culture that treats it with contempt

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- ❖ The sponsorship route should not be viewed as a primary means of fulfilling staff needs, this should be a temporary route for sourcing for upper tier specialist skill needs, and should be conditional to deployment of a training and skills development programme. Goldstar Chefs would facilitate accordingly
- ❖ Importing highly skilled Chefs should be a short term measure to aid long term skill development within resident labour market
- ❖ Only proven skilled professionals should be eligible for entry in UK for specialist skills deployment, and not to be filling jobs posts that can realistically be filled within resident labour market
- ❖ Calibre and quality of international Chefs must be paramount. Goldstar Chefs would provide robust skill vetting and credibility.
- ❖ The Asian restaurant community must distance itself from the notion of importing low skilled workers under high skilled based routes
- ❖ Ethnic cuisine skilling and employment must be open to the wider community and not be kept ethnically exclusive
- ❖ Micro businesses may not meet pre requisites for sponsor licensing and nor find it economically viable to import Chefs. However they should position themselves by adopting required standards of employment & HR practices. This will enable them gain partial access to these Chefs through 'supplementary employment' route in cooperation with a main sponsor without needing to be a sponsor licence holder.
- ❖ See <http://www.goldstarchefs.co.uk/sponsor-licensing/> and read all about sponsor licensing for your industry sector.

Area 4 - The importance of proper representation

- ❖ The shortage occupation rules are seriously crippling the industry, this is a fundamental cause that needs addressing by a government recognised and / or affiliated authority.
- ❖ It is vital for mainstream national business support organisations, chambers of commerce, MP's celebrity Chefs and foodservice media to press the government for urgent removal of punitive restrictions

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Area 5 - The importance of getting it right!

- ❖ The industry must get the message right,
- ❖ In house training to create home grown Chefs must be evident
- ❖ Goldstar Chefs are engaged in aligning with apprenticeship programmes, and devising wider skills development frameworks, both in UK and overseas
- ❖ Interim measures are needed that will bear an immediate positive respite; most effective would be modifications to the shortage occupation criteria
- ❖ There is an URGENT need for removal of unrealistic and outmoded restrictions to take off the pressure
- ❖ Goldstar Chefs seeks to be recognised as a reputable gateway, as well as gatekeeper for access to non EU skilled Chefs
- ❖ Please consult us for further support and assistance

I invite your comments and ask for your help to gain resolve to what is a crisis of common sense and realism!

Yours faithfully,

Hans Raj Ram
CEO