



Home Office

# **Points Based System – Tier 1 (Exceptional Talent)**

## **Code of Practice for Designated Competent Body**

V5.0 January 2019

# Introduction

The Exceptional Talent category under Tier 1 of the Points Based System is a niche category for exceptionally talented people in the fields of natural sciences, medical sciences, engineering, social sciences and humanities, the arts (including film and television, fashion and architecture) and digital technology who wish to pursue their career with the option to eventually settle in the UK. It is for those who are internationally recognised as leaders in their particular field, as well as for those individuals who have demonstrated exceptional promise and are likely to become leaders in their particular area.

The UK Government wishes to encourage such individuals to choose the UK for their future work and, unlike Tier 2 migrants, they will not be restricted to working for a sponsoring employer. To emphasise the fact that the route is intended for the use of only exceptional individuals it is limited to 2,000 places per year of operation (from April to April).

To qualify under the Exceptional Talent category, the individual will need to be endorsed by the relevant designated Competent Body (which is designated by the Home Office for the purposes of Tier 1 (Exceptional Talent) applications).

## Competent Bodies

The Competent Bodies have agreed to advise the Home Office on the merits of applications under Tier 1 (Exceptional Talent) by helping to identify outstanding scholars, scientists, engineers, artists, film industry, fashion designers, architects and tech industry individuals wishing to enter the UK under this route. They have been invited by the Home Office to fulfil this role by virtue of their national role and standing.

## The responsibilities of the Home Office and the Competent Bodies

The Competent Bodies are responsible for assessing whether an individual who makes an application under the Exceptional Talent category is internationally recognised as a leader in his/her particular field, or has demonstrated the potential to become a leader in their particular field. This assessment will be carried out by the Competent Bodies without involvement from the Home Office. The Competent Bodies will use their expertise in their respective areas of responsibility to formulate and publish the criteria they will apply in considering whether a particular applicant is “exceptionally talented” or demonstrates “exceptional promise”. The Competent Body will confirm to the Home Office whether each applicant meets the criteria it has set for “exceptional talent” or “exceptional promise”. Their positive confirmation to the Home Office is known as the endorsement.

The Home Office is responsible for the decision to issue entry clearance or leave under the Exceptional Talent category. This cannot be issued without the endorsement of a Competent Body. However, there are other criteria that an applicant must also meet in order for entry clearance or leave to be granted.

The application under the Exceptional Talent category is therefore dependent on the decision of the relevant Competent Body either to grant or refuse an endorsement, but a decision to grant an endorsement is not of itself decisive as to whether a visa will be issued.

As is set out in more detail later in this Code of Practice, the Competent Bodies will also ensure that the processes for deciding whether to issue an endorsement meet the criteria set out in this Code of Practice.

## Processing of applications

The process of applying is split into two stages with two separate application forms. Stage 1 is the Competent Body consideration and stage 2 is the Home Office consideration. Both application forms are submitted directly to the Home Office for processing. The appropriate information on the applicant will then be forwarded to the relevant Competent Body which will undertake its role of assessing whether the applicant meets the criteria the Competent Body has set for “exceptional talent” or “exceptional promise”. The relevant Competent Body will then confirm to the Home Office whether it endorses the application. When the Competent Body gives its endorsement, the Home Office will then advise the applicant of the decision. Once the stage 2 application is submitted the Home Office will consider the case and decide whether to issue entry clearance or leave. If the decision is to refuse the application, the Home Office will inform the applicant of the reasons for that refusal, including confirming that the refusal is because the relevant Competent Body did not grant the applicant an endorsement, if that is the case.

## Contacting us

If you have any queries about this code of practice, please contact us at [economicmigrationpolicy@homeoffice.gov.uk](mailto:economicmigrationpolicy@homeoffice.gov.uk)

The designated bodies listed in this document cover all the areas encompassed by the Exceptional Talent category. If there are any other bodies that believe they may need separate recognition, they should first consider whether their interests could be adequately reflected by one of the existing bodies and liaise with them **before** approaching the Home Office to discuss their case for their own separate recognition.

# Part 1 – Role of the Competent Body

## General principles

1. Under the Exceptional Talent category of Tier 1, it is the responsibility of the designated Competent Body to:
  1. agree, publish, maintain and implement the requirements under which they will endorse initial exceptional talent applications.
  2. consider all individual requests for their endorsement forwarded to them by the Home Office and notify the Home Office of their decision.
  3. provide the Home Office with reasons for any decisions not to give their endorsement to an applicant to allow the Home Office to provide this information when subsequently refusing the application.
  4. decide at least 80% of cases within 25 working days and 100% of cases within eight weeks.
2. The Home Office has worked with the academic arts, humanities, engineering and science, and digital technology sectors and the following bodies have currently been designated as Competent Bodies for the purposes of the Tier 1 Exceptional Talent route:
  1. Arts Council England - For arts, culture, film, fashion, architecture and television applications
  2. The British Academy - For humanities and social science applications
  3. The Royal Society - For natural sciences and medical science research applications
  4. The Royal Academy of Engineering - For engineering applications
  5. Tech Nation – For digital technology applications
3. The Home Office will not designate or will withdraw its designation from any Competent Body which has a sponsor licence under any of the other Tiers of the Points Based System which is revoked.
4. The system of endorsement requires the designated Competent Body to actively participate in ensuring the Tier 1 (Exceptional Talent) category is not abused. All designated Competent Bodies involved have agreed to fulfil certain duties as set out in this document.
5. In fulfilling its duties the designated Competent Body will adhere to the following principles:

Accountability – The designated Competent Body will be accountable to the Home Office for its actions and decisions undertaken in the process of carrying out its duties as a designated Competent Body. It will ensure that it carries out its role in a responsible manner by following the published and agreed criteria for assessment as described in Part 4 – *The Competent Body's role in the process of setting endorsement requirements and the issuing of endorsements*.

Openness – The designated Competent Body will be open and transparent in its role. It will:

- a. be clear in its actions and decisions and be prepared to account for them.

- b. ensure the processes it has in place for endorsing applications are clear and not open to abuse by those administering them.
- c. ensure that its administration systems are rigorous, subject to regular maintenance and developed if necessary.
- d. ensure that documentary evidence is kept to support any changes to its endorsement requirements and decisions on individual applications and make them available to Home Office officials on request. (See sections on record keeping and retention of information.)
- e. make best endeavours to ensure there are no conflicts of interest involved in the making of decisions. If a conflict of interest arises, the designated Competent Body will provide a solution to ensure impartiality.

# Part 2 – The designated Competent Body’s relationship with others

## Relationship with other organisations in their particular field of expertise

6. The designated Competent Body may represent the interests of a number of other organisations with similar expertise in its particular field and have assumed the lead role for the Home Office’s purposes in relation to the Exceptional Talent category. It will continue to consult and reach a consensus with those other interested parties when setting and publishing its Tier 1 (Exceptional Talent) endorsement requirements or making any changes to them.
7. If the designated Competent Body is approached by another body in its field with a proposal for changing the endorsement requirements, it is the responsibility of the designated Competent Body to discuss this with all interested parties and for the proposal to be given full consideration.
8. If more than one Competent Body needs to be designated for a particular field of expertise then the relevant bodies will consult with each other to ensure their Tier 1 (Exceptional Talent) endorsement requirements are compatible. This should be completed before consulting with the Home Office.

## Relationship with the Home Office

9. The Competent Body will decide its own Tier 1 (Exceptional Talent) endorsement criteria to be used for issuing endorsements in its field of expertise and for any subsequent changes. Before publication on the Home Office’s website, it will provide the Home Office with a copy of its criteria for comment and the Home Office reserves the right to request changes be made where appropriate.
10. Each Competent Body will provide the Home Office with the details of and contact details for their named signatory/ies for issuing endorsements in order that the Home Office may conduct such verification checks in relation to any endorsements they have issued as are considered necessary.
11. The designated Competent Body will keep a record of decisions made. It will also keep a record of any meetings held with other bodies in setting or changing its endorsement requirements or about individual applications. These records will be made available to the Home Office on request.
12. Each Competent Body agrees to comply with the terms of the indemnity provided by the Home Office in the event that their decisions are challenged legally. Full details of the indemnity are provided at Annex B.

## Complying with this code

13. If the Home Office considers that a designated Competent Body is failing to comply with any of its duties as set out in this Code, the Home Office will meet with the designated Competent Body to discuss any issues and agree an action plan to address them. If the designated Competent Body does not adhere to the action plan or the Home Office still has

specific concerns, the Home Office will withdraw its designation from the Competent Body and seek to find a new alternative body. If a Competent Body decides to withdraw from the scheme, it will be free to do so on giving due notice.

## Part 3 – Role of the Home Office

14. The Home Office will not arbitrate on any disputes relating to whether the Tier 1 (Exceptional Talent) endorsement requirements set by the designated Competent Body are met in a particular case. The endorsement decision of the designated Competent Body is final.
15. The Home Office, and not the designated Competent Body, will be responsible for the final decision to grant or refuse entry clearance or leave to a migrant whose application has received an endorsement under the Tier 1 (Exceptional Talent) category. This is because applicants also need to demonstrate that they meet the Home Office's own published criteria for the route relating to their previous immigration history and other factors.
16. The Home Office will be responsible for managing the limit on the Tier 1 (Exceptional Talent) category including notifying all relevant parties should the limit be reached before the end of relevant year.
17. The designated Competent Body will raise any queries it has about its duties with the Home Office. The Home Office will provide the designated Competent Body with a contact who will provide support and advice on the Points Based System generally, Tier 1 (Exceptional Talent) processes and the setting and monitoring of the endorsement requirements. The Home Office will not give advice or involve itself in any way in the decisions about or giving of individual endorsements.
18. The Home Office may periodically monitor endorsements issued, including numbers, and may ask for further information about a given endorsement from the designated Competent Body responsible.
19. The Home Office reserves the right to check the activities of the designated Competent Body's role in the endorsement process at any time. The Home Office may close the Tier 1 (Exceptional Talent) route at any time and will make every effort to inform the designated Competent Bodies in advance.
20. The Home Office agrees to provide the designated Competent Bodies with an indemnity as set out at Annex C.
21. The Home Office will advise the designated Competent Bodies of the deadline for the receipt of invoices for their services towards the end of each financial year. It will pay an agreed set annual amount to each Competent Body, which includes the consideration of an agreed number of applications plus an agreed 'cost per additional application' for the consideration of any additional applications above this inclusive amount.
22. Any endorsement review consideration will be paid at 50% of the agreed 'cost per application' rate where the original decision is maintained. No payment will be made where the original decision is overturned.

# Part 4 – The designated Competent Body’s role in the process of setting endorsement requirements and the issuing of endorsements

## Principles

23. The purpose of an endorsement of a Tier 1 (Exceptional Talent) applicant is to confirm to the Home Office that, based on the evidence provided, the person is already internationally recognised in their field of expertise at the highest level or has demonstrated sufficient promise to be likely to become so.
24. Decisions on migrant endorsements will:
  - a. be impartial;
  - b. be consistent;
  - c. be based solely on any published endorsement criteria being applied by the Competent Body to the Exceptional Talent category at the time of the application;
  - d. not give unfair advantage or disadvantage to any one employer or individual;
  - e. not advantage or disadvantage entrants from one country over another.
25. Challenges to endorsement decisions may only be made on grounds of process, through the Home Office’s official route of Endorsement Review – challenges against the substance of a peer review judgement will not be accepted.

## Setting the endorsement requirements

26. The designated Competent Body is responsible for the published Tier 1 (Exceptional Talent) endorsement requirements against which it will consider such requests.
27. All Tier 1 (Exceptional Talent) endorsement requirements will be provided to the Home Office by the designated Competent bodies. This will be done such that the requirements can be made available in an easily accessible and well-publicised place on the Home Office pages of the GOV.UK website, and kept up to date to ensure applicants are clear about the criteria against which endorsements for individuals are assessed.
28. The Tier 1 (Exceptional Talent) endorsement requirements will comply with any immigration regulations, UK legislation and the principles of Points Based System as detailed on the Home Office pages of the GOV.UK website.
29. Given that the category will have an annual limit of places which may be changed each year the designated Competent Body will set its endorsement requirements for the same period, so that they can be reviewed annually in the light of any new limit.
30. Changes to Tier 1 (Exceptional Talent) endorsement requirements will be made to coincide with other scheduled changes to the Immigration Rules, unless required by legislative or other changes outside the control of the designated Competent Body or the Home Office.



## The endorsements

31. Designated Competent Bodies will communicate their Tier 1 (Exceptional Talent) endorsement decisions directly to the Home Office.
32. The endorsement decision will be signed by a named signatory whose details will be provided to the Home Office.
33. The suggested format for a Tier 1 Competent Body endorsement decisions can be found in Annexes A, B and C.
34. Endorsements for Tier 1 (Exceptional Talent) migrants will be required for initial and switching applications only.
35. The designated Competent Body's further endorsement is not required for any extension or settlement application by a Tier 1 (Exceptional Talent) migrant. However, a designated Competent Body will notify the Home Office if it no longer wishes to endorse a particular applicant. Any application for further leave or settlement by the Tier 1 (Exceptional Talent) migrant will be refused where the designated Competent Body has withdrawn its endorsement.
36. Extension and settlement applications will not count towards the limit on the Exceptional Talent category. The Tier 1 (Exceptional Talent) category is limited to 2,000 new migrants for each year from April to April. The Home Office will share the first 1,000 places between the Competent Bodies to ensure 250 places are available for arts applicants, 550 for humanities, social science, natural science, medical research science and engineering applicants and 200 for digital technology applicants. The remaining 1,000 places are unallocated and are available to any designated Competent Bodies once they have used their allocated places. The allocations will be kept under review to allow places to be re-allocated between the Competent Bodies to meet demand if this proves necessary.

## Record keeping

37. The designated Competent Body will operate a numbering system of Tier 1 (Exceptional Talent) endorsements to track readily those issued. Each endorsement will be assigned a unique reference number in a format specified by the Home Office that will be used by all designated Competent Bodies irrespective of the area they represent. A designated Competent Body will not use a format other than that detailed below.
38. The migrant endorsement will be in the following format:  
  
Competent Body unique reference allocated by the Home Office/year/ sequential migrant endorsement number
39. The designated Competent Body will ensure that all information it stores is kept according to the requirements of General Data Protection Regulations (GDPR). More information on data protection is available at: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>.

## Retention of information

40. Copies of all documents submitted as part of the migrant's application for an endorsement and any information the designated Competent Body used to make its decision will be kept for a minimum of two years from the date of the Competent Body's decision to either endorse or refuse to endorse the applicant.

## Review and amendments to this code of practice

41. This Code will remain in place until reviewed or revised. All parties to the Code agree to work together in good faith and to agree any amendments to the Code that may be necessary in the operation of the Tier 1 (Exceptional Talent) category. No significant changes will be made without consultation or agreement – however the Competent Bodies recognise that the Home Office, in exceptional circumstances and in order to deal with situations that may arise suddenly, may need to take action in relation to the Code at short notice.

# ANNEX A - suggested format of competent body endorsement decision – Arts Council England

## to be provided electronically to the Home Office

Name of Applicant:

Applicant Nationality:

Date of Application:

Date of referral to Competent Body:

Name of Designated Competent Body: Arts Council England

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### TO BE COMPLETED BY AN AUTHORISED OFFICIAL OF DESIGNATED COMPETENT BODY

Name of the authorised official:

Telephone Number:

Email address:

Do you endorse the Tier 1 (Exceptional Talent) application for the above named applicant?

Yes  No

Category: Exceptional Talent  Exceptional Promise

Date of Decision:

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### ENDORSEMENT RECOMMENDED

Endorsement issued for work in the field of: Complete only if endorsed

Future salary (if known): Complete only if endorsed

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### ENDORSEMENT NOT RECOMMENDED

*Please check relevant boxes:*

#### Applicants from the fields of arts and culture.

##### Insufficient evidence of Exceptional Talent/Promise in relevant field

- Media recognition/articles/reviews insufficient/not acceptable
- International/domestic awards/nominations insufficient/not acceptable
- Appearances/exhibitions insufficient/not acceptable

##### Three letters of endorsement unacceptable

- None of the letters are from a UK based organisations
- At least two letters are not from established arts or cultural organisations, institutions or companies
- Letter(s) not written by authorised member of acceptable body
- Insufficient evidence of applicant's achievements or exceptional promise
- Insufficient evidence of benefit
- Other reasons (please detail below)

**Applicants from the fields of film, television, animation, post-production and visual effects.**

**Awards or nominations**

- No win or nomination for Academy Award / BAFTA / Golden Globe / Emmy in the last ten years
- Not received minimum of two nominations for Academy Award / BAFTA / Golden Globe / Emmy in the last fifteen years
- Insufficient details of direct contribution to Academy Award / BAFTA / Golden Globe / Emmy award or nomination
- Insufficient evidence of international distribution sales and recognition
- Not awarded two named industry awards in the last six years
- Not awarded one and nominated for one other named industry awards in the last six years
- Not nominated for three named industry awards in last six years
- Insufficient details of direct contribution to named industry awards or nominations

**Three letters of endorsement unacceptable**

- None of the letters are from UK based organisations
- At least two letters are not from established arts or cultural organisations, institutions or companies
- Letter(s) not written by authorised member of acceptable body
- Insufficient evidence of applicant's achievements or exceptional talent/promise
- Insufficient evidence of benefit
- Other reasons (please detail below)

**Applicants from the fashion design industry**

**Insufficient evidence of Exceptional Talent/Promise in relevant field**

- Media recognition/articles/reviews insufficient/not acceptable
- Evidence of international awards/nominations/direct contribution insufficient/not acceptable
- Evidence of sponsorship through relevant support schemes insufficient/not acceptable
- Evidence of catwalk shows/presentations/exhibitions insufficient /not acceptable
- Evidence of orders insufficient/not acceptable
- Evidence of distribution/sales insufficient/not acceptable
- Evidence of industry recognition insufficient/not acceptable

**Three letters of endorsement unacceptable**

- All three letters are not from established and recognised national or international organisations, institutions or companies
- At least one letter is not from a UK organisation
- Letter(s) not written, signed and dated by authorised member of acceptable body
- Insufficient evidence of applicant's achievements or exceptional talent/promise
- Insufficient evidence of benefit
- Other reasons (please detail below)

**Applicants from the architecture industry**

**Insufficient evidence of Exceptional Talent/Promise in relevant field**

- Media recognition/articles/reviews insufficient/not acceptable

- Evidence of international awards/nominations/direct contribution insufficient/not acceptable
- Evidence of appearances/exhibitions/publications insufficient/not acceptable
- Evidence of industry recognition insufficient/not acceptable

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**Three letters of endorsement unacceptable**

- All three letters are not from established and recognised national or international organisations, institutions or companies
- At least one letter is not from a UK organisation
- Letter(s) not written, signed and dated by authorised member of acceptable body
- Insufficient evidence of applicant's achievements or exceptional talent/promise
- Insufficient evidence of benefit
- Other reasons (please detail below)

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**Further Details (if required):**

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# ANNEX B - suggested format of competent body endorsement decision – science bodies

## to be provided electronically to the Home Office

Name of Applicant:

Applicant Nationality:

Date of Application:

Date of referral to Competent Body:

Name of Designated Competent Body:

URN:

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TO BE COMPLETED BY AN AUTHORISED OFFICIAL OF DESIGNATED COMPETENT BODY

Name of the authorised official:

Telephone Number:

Email address:

Do you endorse the Tier 1 (Exceptional Talent) application for the above named applicant?

Yes  No

Category:

Exceptional Talent  Exceptional Promise

Date of Decision:

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ENDORSEMENT RECOMMENDED

Endorsement issued for work in the field of:

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ENDORSEMENT NOT RECOMMENDED

*Please check relevant boxes:*

### Feedback - mandatory and qualifying eligibility criteria not fulfilled

The applicant has not fulfilled the necessary mandatory and qualifying eligibility criteria to be considered under the Tier 1 (Exceptional Talent) route.

*Details of which area(s) were not fulfilled should be listed using the check boxes below:*

- Are an active researcher in a relevant field, typically within a university, research institute or within industry;
- Have a PHD or equivalent research experience (including industrial research);
- Provided a dated letter of personal recommendation from an eminent person resident in the UK who is familiar with the applicant's work and is qualified to assess the applicants claim to be a leader in their field;
- Meet one or more of the Qualifying Criteria (Exceptional Talent applicants only);
- Are at an early stage in their career (Exceptional Promise applicants only);
- Have been awarded, hold, or have held in the past five years, a prestigious UK-based Research fellowship, or an international Fellowship or advanced research post judged by the competent bodies to be of equivalent standing (Exceptional Promise applicants

only).

### **Feedback – Exceptional Talent**

The reviewers felt that there was insufficient evidence within the application to demonstrate that the applicant could be consider a leader in their field.

The evidence, as presented in the supporting statement(s), did not persuade the reviewers that the applicant should be endorsed for entry through the Tier 1 (Exceptional Talent) route.

The reviewers considered that the applicant’s track record and contributions to the field to date were not strong enough to endorse the candidate for entry through the Tier 1 (Exceptional Talent) route.

The reviewers felt that the application did not demonstrate that the contributions to the UK’s research excellence and to wider society was of sufficient scale to merit endorsement for entry through the Tier 1 (Exceptional Talent) route.

### **Feedback – Exceptional Promise**

The reviewers considered that there was insufficient evidence within the application to suggest that the applicant had the potential to be a future leader in the field.

The evidence, as presented in the supporting statement(s), did not persuade the reviewers that the applicant should be endorsed for entry through the Tier 1 (Exceptional Talent) route.

The reviewers considered that the applicant’s track record and contributions to the field to date, relative to career stage, were not strong enough to endorse the candidate for entry through the Tier 1 (Exceptional Talent) route.

The reviewers felt that the application did not demonstrate that the contributions to the UK’s research excellence and to wider society was of sufficient scale to merit endorsement for entry through the Tier 1 (Exceptional Talent) route.

### **Further Details (if required):**

# ANNEX C - suggested format of competent body endorsement decision – Tech Nation

## to be provided electronically to the Home Office

Name of Applicant:

Applicant Nationality:

Date of Application:

Date of referral to Competent Body:

Name of Designated Competent Body: Tech Nation

URN:

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TO BE COMPLETED BY AN AUTHORISED OFFICIAL OF DESIGNATED COMPETENT BODY

Name of the authorised official:

Telephone Number:

Email address:

Do you endorse the Tier 1 (Exceptional Talent) application for the above named applicant?

Yes

No

Category:

Exceptional Talent

Exceptional Promise

Date of Decision:

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ENDORSEMENT RECOMMENDED

Endorsement issued for work in the field of: Complete only if endorsed

Future salary (if known): Complete only if endorsed

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ENDORSEMENT NOT RECOMMENDED

*Please check relevant boxes:*

**Feedback - mandatory and qualifying eligibility criteria not fulfilled**

The applicant has not fulfilled the necessary mandatory and qualifying eligibility criteria to be considered under the Tier 1 (Exceptional Talent) route.

*Details of which area(s) were not fulfilled should be listed using the check boxes below:*

Mandatory criteria

Have a proven track record of innovation in the digital technology sector as a director, founder of a digital technology sector company or as an employee working in a new digital field or concept

Proof of recognition for work outside your immediate occupation that has contributed to the advancement of the sector.

Meet two or more of the Qualifying Criteria:

Have made significant technical, commercial, or entrepreneurial contributions in the



digital technology sector as either a founder, entrepreneur or employee of a digital technology company;

Have been recognised as a leading talent in the digital technology sector;

Have undergone continuous learning / mastery of new digital skills (commercial or technical) throughout their career

Have demonstrated exceptional ability in the field by making academic contributions through research

### **Feedback – further details**

*Details of decision made should be noted using the check boxes below:*

People who enter through Tier 1 (Exceptional Talent) are expected to have an outstanding track record/career history. The reviewers felt that the applicant's track record was not sufficiently strong to be endorsed under Tier 1 (Exceptional Talent).

The strength of the evidence as presented in the supporting statement(s), persuaded the reviewers that the applicant met the mandatory and qualifying criteria and should therefore be endorsed under Tier 1 (Exceptional Talent).

The reviewers felt the application demonstrated that the applicant's presence in the UK will be of sufficient merit to be endorsed for entry through the Tier 1 (Exceptional Talent) route

The reviewers felt that there was sufficient evidence within the application to demonstrate that the applicant could be considered a leader/potential leader in the field of digital technology

### **Further specific details (if required):**

# ANNEX C – Statement of Indemnity

The Home Office will cover all reasonable legal costs incurred by the Competent Bodies arising out of or associated with a challenge to any recommendation made by the Competent Bodies in connection with a Tier 1 (Exceptional Talent) application. This includes the reasonable legal costs associated with responding to requests and claims associated with threatened or issued legal proceedings as well as reasonable legal costs associated with defending any legal claims. The exception is in the case where Competent Body is found by a competent court to have failed materially to follow the published criteria for assessment and the procedures relating to the determination or evaluation of “exceptional talent” or “exceptional promise”.

In the event that a costs order is made by a competent court in favour of any of the Competent Bodies, that Competent Body will first make reasonable efforts to obtain those costs from the losing party. No liability for reasonable legal costs will accrue to the Home Office in advance of the relevant Competent Body confirming to the Home Office that it has made such reasonable efforts without success. Subject to the foregoing clause, the indemnity offered by the Home Office will prevail at all times save to the extent that the Competent Body has received payment from another party.

The Competent Bodies will retain control over and responsibility for any response that they make to a claim or inquiry. However, they will provide the Home Office with information at the earliest opportunity, namely when first notified of a potential legal challenge, and in any event no later than receipt of any pre-action protocol letter, to enable it, wherever possible, to assist in ensuring that any disputes may be resolved before they reach a court.

The Competent Bodies will provide the Home Office with copies of the policies or procedures that they implement for the purpose of determining “exceptional talent” or “exceptional promise”. In accordance with the Code of Practice, the Home Office reserves the right to request amendments to those documents where they are incompatible with current immigration law. The Home Office’s indemnity will continue to apply irrespective of any criticism of any such policies or procedures.