James Brokenshire MP
The House of Commons
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22nd May 2015

Dear Mr Brokenshire

## Re: Tier 2 (General) quota implementation

I appreciate that the Tier 2 quota is probably not negotiable, but the Restricted Certificates of Sponsorship (RCoS) allocation is made difficult by the use of very wide bands once salaries exceed £32,000pa.  The fact that the lower bands go up in tranches of £1,000pa & 1 point, suggest that this is where the 'sorting' was expected to occur, rather than in the 5 point bands at £32-46k and £46-75k.  As the 'cut off point' is higher than envisaged, could we possibly break the upper bands into single point steps.  This would not increase migration but would allow the scheme to operate as originally designed.

In June 2015 there were 394 certificates that were not allocated as only 1,215 requests scored 50 points, and there were more than 494 (I understand many more) that scored 45 points.  Many unsuccessful requests from June 2015 will be resubmitted in July 2015, and, if still unsuccessful, in subsequent months.  Requests scoring 45 points are highly likely to be resubmitted, with the potentially absurd result that months routinely see unallocated certificates combined with requests that are unsuccessful  only because the same 45 points are awarded to roles paying £32,000 and roles paying £45,000.

There has been talk of limiting Tier 2 to 'Shortage Occupations'.  The IT sector began lobbying to have IT skills acknowledged as being in shortage in 1997, I worked closely with Tony Lewis at the CSSA (now part of TechUK).  We succeeded after 3 years, seeing words we had written included in Gordon Brown's 2000 budget announcement that IT jobs would go on the shortage list.  The .com tech bubble burst shortly thereafter, but IT skills were not taken off the shortage list until 2004  (just as technology was recovering again…).  The  'Shortage Occupation' list necessarily lags the economic reality, it also rewards organised lobbying over grassroots small businesses.  Limiting Tier 2 to officially recognised  'Shortage Occupations' posits a faith that future execution will be vastly superior to that managed in the past.  I ask you to be sceptical regarding such a "This time its different' justification

Another complication in listing 'shortage occupations' is that shortages are often in sub niches within a single sector / code.  This is especially true in IT, where there may be no shortage of generic 'Systems Analysts' but there are shortages in 'hot' areas such as 'Big Data', 'The cloud', Business Intelligence, and digital marketing.  In finance, shortages are often in fast-growing new areas and products.  While it may be easy to

distinguish between an automotive engineer and an aviation engineer, in IT and finance it can be much more difficult.  What proportion of a Systems Analysis job would need to involve 'Big Data' in order to qualify if 'Big Data' were put on the Shortage List?  If credit default derivate trading is a niche 'Shortage occupation' in finance, would a credit default Swap trader's visa limit his trading activity so that he could not trade interest rate Swaps?  What about hedging a derivative position by trading in the underlying securities?  If a credit default Swap trader can trade underlying securities to hedge a derivative position, would they be prevented from making the same trade in underlying securities if it was not to hedge a derivative position?

Even assuming that the Shortage Occupation List could be made vastly more responsive, and could handle sub-niches within sectors, greater (or, still worse, exclusive) focus on the list would necessarily favour established/big businesses and organised sectors over what may be the stars of tomorrow.  In 2002 'social media'  was not a defined sector, far less an organised one.  Linked-in launched in 2002, Facebook in 2004, and Twitter in 2006.  The UK needs a business environment that works for the as yet un-thought-of stars of tomorrow: companies and whole sectors that are not now vocal, do not lobby, do not respond to MAC consultations.   The strength of the Resident Labour Market Test is that it addresses each vacancy individually.

Some are suggesting that than the salary focus in allocating the quota discriminates against non-London firms, and lower paid sectors (charity, creative, etc).  Tempting as it may be to carve out sub-quotas, I again ask you to be sceptical.  If someone working in the Manchester office of PWC is allowed in on a salary lower than required in London, will they then be prevented from relocating within the UK to PWC London?  Will there be limits on the proportion of their time they they could spend in meetings or on projects at a PWC (or a PWC client) office in London?    If a project manager working for a charity is allowed in on a salary that would not 'pass' for a commercial organisation, will they be prevented from being 'head hunted' by an employer outside the sector?  Further, the existence of such sub-divisions and distinctions would serve to divert resources to lobbyists and lawyers.

In addition to narrower 'single point bands' of salary for RCoS allocation, could you consider 'releasing back' an RCoS into the quota when a sponsored migrant leaves the employer & the UK before their visa expiry (many of the unsuccessful June 2015 RCoS requests were for city graduate training programmes where the lower quartile stragglers may be 'let go')

Salary is crude, but is probably the least bad way to allocate a limited number of RCoS, as almost everything else drives resources into gaming the system.

If business is going to face additional costs to import skills, then using an auction to set the price of an RCoS would probably be more transparent, and less distorting, than 'rationing by queue' or by the ability to employ lawyers able to show how a vacancy 'ticks the required boxes'.  Any 'Auction proceeds' could join the planned Tier 2 visa levy hypothecated to the funding of UK apprenticeships.  But, if multinational companies using the Tier 2 ICT route avoid the costs & quotas faced by purely UK businesses, this will increase the competitive edge of Indian multinational IT firms that already benefit

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from unlimited intra-company-transfer CoS and from being able to pay Tier 2 ICT staff below-market salaries (as, for roles under £155,300 pa, competing UK employers are banned from head hunting the ICT staff they import. The SOC code minimum salaries prevent gross underpayment, but the SOC code minimum is set at the 25th percentile, not the market average, let alone the London average (I appreciate that this may change following the review announced on 10th June 2015, but even changing to the 50th percentile is no substitute for having a labour market in which an individual employee's pay is determined by competition between employers)).

This letter's main objective has been to suggest ways that the system can now work best within the existing constraint of the Tier 2 quota, as it is a manifesto commitment fixed for 2015-20. However, when you come to write your next manifesto, please consider a different approach to skilled migration. The UK's growing economy, and in particular its world-leading London financial, technology, and professional service sectors, require an open labour market. Restricting Tier 2 Skilled migrants plays a minimal role in cutting net migration, but involves significant costs to business, and losses to the UK economy and exchequer. Many consider that immigration is one of those areas where politics must trump economics, but public attitudes to skilled migration are generally favourable. At page 77 the Ipsos-mori report https://www.ipsos-mori.com/DownloadPublication/1634_sri-perceptions-and-reality-immigration-report-2013.pdf details that for skilled migrants 60% supported 'Increased or kept the same' Vs 31% choosing 'reduced'. Further, it was interesting to read about the August 2010 scenario analysis[1] by James Frayne (now Policy Exchange Director), in which the alternative to the 'optimistic' scenario of '*Immigration cap reduces problems and hostility*' was that "*Govt can't limit immigration other than best educated, BNP and UKIP profit from mix of immigration / crime / EU*".

I hope that this contribution to the discussion has been helpful, and am,

yours sincerely


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CC
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[1] https://dominiccummings.files.wordpress.com/2014/07/2010-wargame-future-grid.pdf.

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