

Submissions by a Client in the IT sector

The MAC Secretariat  
Migration Advisory Committee  
3rd Floor  
Seacole Building  
2 Marsham Street  
London  
SW1P 4DF

mac@homeoffice.gsi.gov.uk

23<sup>rd</sup> September 2015

Dear Sir or Madam

**Re: Tier 2 – Call for evidence**

It is because the UK is an open economy that it is successful, and because it is successful that there are areas where the demand by employers for skills exceeds the supply of skills locally.

If skilled migration has to be cut, it will damage the economy to at least some extent. That damage can be minimised by focusing on simple, non-bureaucratic, measures that harness the price mechanism, in particular, increasing the minimum pay required (possibly from the 10<sup>th</sup> to the 25<sup>th</sup> percentile for new entrants, and from the 25<sup>th</sup> to the 50<sup>th</sup> percentile for experienced workers), and imposing a tax (such as the suggested fee to fund apprenticeships).

The Resident Labour Market Test is generally very effective. One way to make the test even stronger would be to require at least 7 days of the advertising to have occurred within the 90 days prior to assigning a CoS. At the moment an advertisement could have last been aired >150 days before the hiring. Such cases are probably very rare, but requiring a role to have been publicised within the last 90 days would not be damaging and could help increase public confidence. Also, it would be reasonable remove, or to limit to vast organisations such as the NHS, the ability to rely on advertising on an employer's own website.

The new narrow salary bands for RCoS allocation prioritisation are welcome. I believe that the monthly allocation process now is effective at prioritising those migrants of greatest benefit to the UK

Restricting Tier 2 (General) by trying to define ‘skills shortages’ by committee, rather than by testing the market for an individual role is unlikely to be practical as shortages are usually found in much smaller niches than the broad areas covered by each SOC code. Each niche may be defined by a matrix of skills, not only the functional (eg Business analysis, coding, testing, etc) but also technologies (eg force.com, Big Data, etc) and industry sector (Finance, Oil/Gas, Telecoms, Retail etc). The smallest possible niche is a single role. Consider that in the IT sector alone, a matrix of 8 functional areas X 40 Primary technology skills X 10 industry sectors would involve 3,200 possible permutations. There are too many to monitor, the sample size in each sub-niche is too small, and new niches are created when software companies launch new technology.

If you are not prioritising by salary, and the Tier 2 (general) route becomes focussed on an expanded shortage list, it is important that there is a ‘pressure release valve’ other than the £153,500pa very high earner exemption, for high level specialist staff. One option would be to preserve the RLMT route for roles paying in the 50<sup>th</sup> or 75<sup>th</sup> percentile of NQF 6+ earnings (far better to relate to NQF 6+ than to make the threshold role-specific).

If the Shortage List is to be increased significantly, it will move from ‘roles where there are a shortage’ to ’Areas where a particular role is likely to be in Shortage’, so it could be sensible to require roles to be advertised as well as being on the Shortage List. Advertising, especially if required for only 7-14 days, would not disadvantage employers.

We need to hire highly specialist experts from abroad as the UK market will inevitably be under-supplied in skills for areas of rapid growth. The UK is fortunate in that it is an attractive destination, and UK employers pay among the highest salaries in the world, so we are able to fill shortages by attracting internationally mobile staff with the skills needed: staff who are often able to choose from job offers in many different countries.

When considering ‘who gains’ from importing skills, consider the ban that the NHS has on running recruitment campaigns in some developing countries. The ban is because the UK gains at the expense of the ‘home’ country losing valuable skills. It is right that we should not deprive Africa of doctors, but when it comes to IT skills from India, the UK can benefit with a clear conscience, and it is a real benefit to the UK to be able to tap into these overseas resources.

An expanded shortage occupation list would have to cover niches within all the IT roles (SOC 2133-37), among Accountants (2421), and senior Financial Analysts (3534). But the shortages are not across the board, and in many cases it is not practical to avoid niche shortages by a ‘predict and train’ approach. Aside from the case of startups needing ready-made expertise, the nature of technology adoption is such that established/Larger companies usually have a legacy system and ‘in house’ skill set. If they then realise that they need a new system, because it will meet their needs / deliver a competitive edge, they want that system asap, they don’t have in house expertise in the technology, so they need fresh talent. Unless that talent is lying idle (rare in the fast-growing technologies that can bring competitive advantage to a business) it will only be found by attracting staff away from another company.

The concept of a ‘sunset’ on shortage classification is flawed, because if something is genuinely in shortage, the fact must be recognised.

We do not use the Tier 2 (Intra-Company Transfer) category. We do not want to see artificial limits on ICT hires (such as headcount %, or outsourcing-related restrictions), but we do ask for a level playing field so that the big multinationals using ICTs have the same costs and restrictions faced by local UK companies, this would mean

- Ending the Immigration Health Surcharge exemption
- Stop treating tax-free allowances as part of the SOC minimum salary
- Only waive the advertising criteria for ICT roles that actually require skills that can only be acquired by working for the company abroad.
- Very importantly: let local companies ‘Head Hunt’ ICT staff (using a Tier 2 (general) Restricted CoS for an in-country switch, such as applies for Tier 4 dependents), this will force the multinationals to pay the right salary for the niche concerned rather than just meeting the xth percentile for the broad SOC salary area.
- Making ICT staff subject to UK National Insurance (unless there was a treaty, such as with the USA, under which ‘home country’ social security is paid)

A skills levy (or other tax) could be justified, but should apply to all businesses recruiting from outside the EEA. This minimises the complexity of execution, and maximises revenue for any given level of levy. Sponsors that also offer apprenticeships can be among those receiving the subsidy going to those apprenticeships. If the level of the skills levy is based on the duration of a CoS (eg £x per year of the CoS) then the ‘unused’ period should be refunded on the sponsored employee leaving the country early or being head-hunted by another employer

Yours faithfully

James Wallace-Dunlop  
07879 480 755  
[James.Dunlop@jdunlop.com](mailto:James.Dunlop@jdunlop.com)