

Review of Tier 2

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

Migration Advisory Committee

Executive Summary

December 2015



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1.1 Introduction

1.1 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.

1.2 In this executive summary we summarise the main conclusions and recommendations presented in the main report. We set out a summary of our recommendations in Table 1 and a high level summary of the proposed policy changes in Table 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.

1.3 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.

1.4 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.

1.5 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.

- 1.6 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.

1.2 Policy and data context

- 1.7 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.
- 1.8 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.

- 1.9 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.**
- 1.10 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.
- 1.11 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.
- 1.12 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.
- 1.13 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.
- 1.14 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.
- 1.15 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.

1.3 Salary thresholds

- 1.16 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.
- 1.17 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.
- 1.18 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).
- 1.19 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.
- 1.20 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).**

- 1.21 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.
- 1.22 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.
- 1.23 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).
- 1.24 We do not recommend regional variation in the salary thresholds as the 10th/25th 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.
- 1.25 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.
- 1.26 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.

1.4 Immigration Skills Charge

- 1.27 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.
- 1.28 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.

- 1.29 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.

1.5 Reform to the Tier 2 (Intra-company Transfer) route

- 1.30 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.
- 1.31 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.
- 1.32 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.**
- 1.33 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.
- 1.34 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.

1.35 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.

1.36 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.

1.37 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.

1.6 Reform to the Tier 2 (General) route

1.38 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.

1.39 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.

- 1.40 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.
- 1.41 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.
- 1.42 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.
- 1.43 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).**
- 1.44 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.

1.7 Automatic work rights for Tier 2 dependants

- 1.45 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.
- 1.46 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.
- 1.47 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.
- 1.48 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.
- 1.49 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.
- 1.50 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.
- 1.51 Therefore **we recommend maintaining the status quo by not restricting the automatic work rights for dependants.**

1.8 Economic impacts of restricting Tier 2 migration

- 1.52 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.

- 1.53 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.
- 1.54 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.
- 1.55 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.
- 1.56 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.
- 1.57 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.
- 1.58 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.

1.9 Recommendations

- 1.59 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 sunseting of occupations on the shortage occupation list.

1.60 Table 1 sets out our detailed recommendations in full.

Table 1. Recommendations

Salary Thresholds	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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:<ul style="list-style-type: none">○ The Immigration Skills Charge should be an upfront cost, payable at the time of the Certificate of Sponsorship (CoS) application.○ 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.○ 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.○ The revenue should be spent to raise human capital (not limited to apprenticeships).

Table 1. Recommendations

Restrictions to Tier 2 (General)	<ul style="list-style-type: none"> • 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 sunset 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)	<p>All Tier 2 (Intra-company Transfers)</p> <ul style="list-style-type: none"> • 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. <p>Third-party contracting</p> <ul style="list-style-type: none"> • 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.

Table 1. Recommendations**Restrictions to Tier 2 Dependents**

- No restrictions should be applied to dependants' right to work.

1.10 Current vs. proposed policy

1.61 Table 2 provides a high level summary of the proposed changes to the policy requirements within Tier 2.

Table 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				
- <i>Experienced workers</i>	£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.
- <i>New entrants</i>	£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				
- <i>Experienced workers</i>	25 th percentile	25 th percentile		

- <i>New entrants</i>	10 th percentile	10 th 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				
- <i>Conventional</i>	£41,500	£41,500	Yes	
- <i>Third-party contracting</i>	£41,500	£41,500	Yes	
Short-term intra-company transferees				
- <i>Graduate trainee</i>	£24,800	£23,000	No	
- <i>Skills transfer</i>	£24,800	£30,000	No	
- <i>Short-term (conventional)</i>	£24,800	£30,000	Yes	
- <i>Third-party contracting</i>	£24,800	£41,500	Yes	

Wider recommendations			<ul style="list-style-type: none">-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.
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1.11 Impact of the restrictions

1.62 The Government's core objective is to significantly reduce the level of economic migration from outside the EEA. Table 3 and 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.

1.63 **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.

1.64 Table 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.

- 1.65 Table 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.
- 1.66 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 of the main report). 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 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
<i>Dependants**</i>		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 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
<i>Dependants**</i>		-		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.

1.67 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.

1.12 Conclusions

1.68 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.

1.69 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.

- 1.70 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.
- 1.71 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).
- 1.72 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.

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