



PricewaterhouseCoopers' response to the UKBA Consultation
on how an annual limit on non-EU economic migration to the
UK should work in practice

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Dear Jeremy

PricewaterhouseCoopers' response to the UKBA Consultation on how an annual limit on non-EU economic migration to the UK should work in practice

We are pleased to submit PricewaterhouseCoopers' response to the UKBA's Consultation.

As you are aware we have taken a leading role during the Consultation period in reaching out to the wider business community and have assisted a number of clients and sector based organisations with their individual Consultation responses. This response is submitted on behalf of PricewaterhouseCoopers but also reflects some of the broader themes we have seen from the wider activities we have been involved in. We highly value the positive relationship we have built with you and your colleagues at the UKBA and look forward to engaging with you further on this key issue.

Yours sincerely



Julia Onslow-Cole

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Background

- 1 The Coalition's Programme for Government published on the 20 May 2010 confirmed the Government's intention to introduce an annual limit on the number of non-EU economic migrants admitted into the UK to live and work. The stated aim is to reduce levels of net migration back to the levels of the 1990s – tens of thousands not hundreds of thousands over the lifetime of the current Parliament.
- 2 Figures released in August 2010 show an increase in net migration from 163,000 in 2008 to 196,000 in 2009. The Migration Advisory Committee ("MAC") state that, as current reporting schedules mean that Long-Term International Migration data available at the end of the current Parliament in May 2015 will refer to the calendar year 2013, this may have consequences on the Government's objectives i.e. the programme of reduction of net migration might have to be accelerated.
- 3 The Government has stated that they "recognise the importance to the UK economy of attracting the brightest and best from around the world who can make a real difference to the country's economic growth". However the Government has expressed concern that "unlimited migration places unacceptable pressure on public services, school places and the provision of housing, all of which cause problems for certain local communities" and that the Government should be taking action to up-skill British workers to get them into jobs and sectors which have been too reliant on migrant labour.
- 4 On the 28 June 2010 the Home Secretary announced to Parliament that the Government intended to introduce an annual immigration limit in April 2011 and at the same time announced interim measures to take effect from the 19 July 2010, including interim limits on Tier 1 (General) and Tier 2 (General).
- 5 The MAC has been asked to advise the Government at what level the first annual limit should be set taking into account the Government's overall policy objective and the balance between economic, social and public service impacts of migration.
- 6 The UK Border Agency ("UKBA") Consultation is seeking views on how the limit should work in practice. The UKBA have stated that the operation of limits should be fair, practical and efficient (both for users and administrators) and selective "so that those who have the most to offer are attracted and welcomed to the UK".

Introduction

PricewaterhouseCoopers (“PwC”) is structured as a network of member firms, connected through membership in our global network. PwC’s member firms operate locally in countries around the world, but, by working together, member firms also comprise a vigorous global network. This structure provides PwC firms with a flexibility to operate simultaneously as the most local and the most global of businesses. As a direct result, we are able to provide industry focussed assurance, tax and advisory services for a broad range of clients: from large, publicly listed multinationals to small, private, domestic companies and almost everything in between.

PwC globally operates from over 750 offices in a 150 countries with a complement of more than 146,000 partners and staff. A full list of PwC’s operating addresses can be found on our website www.pwcglobal.com.

Last year, total staff at PwC LLP in the UK rose by almost 10% to more than 16,500 people, including 60 new partners. The firm plans to recruit another 800 in the next year, not including partners, and will take on about 1200 graduate trainees.

In common with the wider business community, PwC has concerns that a hard quota on Tier 1 (General) and Tier 2 will have substantial adverse effects on long term economic growth. In particular, a limit could irrevocably damage the UK’s current reputation as a key international business hub as global companies look to relocate from an increasingly hostile business environment. Many sectors, in particular the banking sector, see this measure as a “last straw” and are currently making impact assessments with a view to moving parts of their business offshore. A hard cap will particularly hit the graduate training programmes of many large organisations, including PwC.

The arguments against the imposition of a cap are well rehearsed but the latest figures on net migration highlight the difficulty of establishing a policy around a statistic which cannot be comprehensively controlled. The increase in net migration over the past 10 years can largely be contributed to the influx of migrants from Eastern Europe, as a result of Government policy at that time to admit these nationals as they joined the European Union. In addition, during this period many British citizens left the UK to take advantage of favourable exchange rates and property markets overseas.

The latest figures show a drop of 60% in the number of Britons emigrating.

Whilst emigrating British citizens and Eastern Europeans cannot form part of any cap, the current Government is seeking to decrease net migration by squeezing Economic migration of non-EU nationals when, in fact, the new figures reveal the number of visas issued to Tier 1 (General) workers dropped by 18% and Tier 2 workers by 9%.

We believe that, in the main, the PBS has worked well in regulating migration and the imposition of interim limits has demonstrated the real difficulty business will have with a permanent cap. The interim quotas were based on a reduction of 15% of applications from a period in which most businesses were not recruiting. As the economy is recovering many businesses, including PwC, are seeing a significant increase in their recruitment needs with many jobs for resident workers being dependent on bringing in suitably qualified overseas nationals. Employers such as PwC are unable to plan their businesses with any certainty because of the situation regarding the limits.

This problem is particularly acute for graduates. Graduate recruitment starts in October and yet business has no certainty whether they will be able to make offers to the overseas graduates they need. Like other major corporations in the UK, PwC is also currently acquiring other businesses and this too is causing uncertainty from an immigration perspective. We understand that more than 600

applications have been made for exceptional allocations of Tier 2 (General) certificates. This situation is likely to worsen considerably with the imposition of the full limit in April. In addition there are Employment Law ramifications caused by the imposition of limits which has added another layer of complexity for business.

Response to questions 1-29

Tier 1 Options

Question 1

Do you agree that operating a pool for highly skilled migrants on the basis described above will be the fairest and most effective approach? Please select one answer only.

Yes

No

Don't know

Question 2

If you answered yes or no to the previous question, please give your reason(s) in the box below.

PwC do not support the imposition of a hard limit on non-EU migration to the UK.

In relation to Tier 1 (General), we believe that the many problems inherent in the pooling and First Come First Served (FCFS) systems mean that the most effective way to control migration and ensure the "brightest and the best" migrants still apply to come to work in the UK is through an annual adjustment of the points requirement for Tier 1 (General).

Problems with the Pool System

Tier 1 (General) is used by highly skilled migrants who wish to become employed or self-employed in the UK. In the current economic climate we would maintain that few highly skilled migrants would come to the UK without a job offer or specific time critical plan for self-employment. Many employers, including PwC, assist applicants with Tier 1 (General) applications on the basis of a specific offer of employment to fulfil a senior role in their organisation.

The biggest potential problem with the pooling system is the uncertainty surrounding applications for both employers and individuals. There would inevitably be instances of employers offering jobs to potential applicants who may or may not be able to come to the UK within six months of entering the pool. Individuals themselves may have to wait six months to know whether or not they are successful. The uncertainty is likely to mean some of the "brightest and the best" potential applicants are put off applying to the UK. By definition, highly skilled migrants have a number of options in relation to where they can go to work internationally due to their ability. They are likely to look elsewhere if it is made more difficult to apply to come to work in the UK particularly at a time where other global economic powers like Germany are doing more to attract the most talented non-EU workers. The objective, predictable Points Based System (PBS) was designed to deal with this sort of uncertainty.

Although it is recognised that the pooling system is effective in New Zealand, there are a number of problems with this comparison. Most importantly, the New Zealand pool leads directly to settlement and has no maintenance requirements. Consequently, the uncertainty inherent in the pool system in New Zealand is balanced by the fact that successful applicants are granted permanent permission to reside in New Zealand. If the UK Government does not intend to immediately grant settlement to those who successfully apply to enter the UK under Tier 1 (General), we are of the view that the uncertainty created by a pool system will dissuade individuals from applying to come to the UK under this category.

Alternative Solution

Since the aim of the UK Government is to ensure that those applying to enter the UK under Tier 1 (General) are the "brightest and the best" whilst ensuring that migration is kept under control, one solution would be to review the points requirements for Tier 1 (General) each year. If more than the target number of non-EU nationals entered the UK in the preceding year, the points could be increased so as to reduce the number entering the following year. In addition, if the UK Government thought that this category was being underutilised and wanted to encourage more individuals to enter the UK under this route, it could reduce the points scoring criteria. This would ensure that, when individuals were applying to enter the UK under Tier 1 (General), they would know whether or not they satisfied the criteria and they would also know when their application was likely to be considered. Over time, the points criteria should reach a level where the numbers of individuals entering the UK under Tier 1 (General) should mean that only the "brightest and the best" are entering the UK under that category and the UK Government achieves its goals of controlling non-EU migration. This solution would also mean that the UK Government would continue to use a system which both migrants and employers are already familiar with.

We understand that there may be concerns that this may not be as robust a system for controlling net migration as the pooling system. However, since the UK Government keeps accurate figures for the number of non-EU nationals that successfully enter the UK under Tier 1 (General) it should be straightforward to set the points scoring criteria at a level which achieves the UK Government's aims. Furthermore, the advantages of removing the uncertainty which would be generated by the pool system would outweigh any minor inaccuracy when the points level is first set.

In addition, we are of the view that our alternative would fulfil the objective of having a fair system that is easy to manage for the applicant and administrator and would select those that had the most to offer the UK.

Tier 2 Options

Question 3

Do you agree that operating a first come first served system for skilled migrants available to individual sponsor employers will be the fairest and most effective approach? Please select one answer only.

- Yes
- No
- Don't know

Question 4

If you answered yes or no to the previous question, please give your reason(s) in the box below.

As stated previously, PwC do not support the imposition of a hard limit on non-EU migration to the UK.

If a limit is introduced, PwC strongly disagree that a FCFS system for skilled migration under Tier 2 would be the fairest and most effective approach. In our view such a system is inherently unfair and would fail to meet the objective of selecting those who offered most to the UK and could have serious implications on the long term future of the UK economy.

We do not support a system whereby all companies are competing for the same allocation.

We believe that large multinational companies should receive beneficial treatment under any proposed system of limits provided they:

- contribute significantly to the UK economy;
- send many employees on assignment outside the UK and therefore make little impact on net migration; and
- ensure their non-EU employees do not place a burden on public services.

Moreover companies need to be able to operate their business and, in particular, their manpower planning with some certainty. This is a fundamental requirement of business. A FCFS would not provide any certainty.

The disadvantages of a full FCFS system

The problems with a full FCFS system have been repeatedly relayed to us by businesses who have stated they have experienced issues with the comparable US H1B system. The main issue is that once the quota is filled, companies often have to operate in "closed periods" where they are unable to fill positions causing numerous problems for businesses looking to recruit.

Furthermore, there is concern that some companies may look to abuse the system by making a large number of speculative applications on the basis that at least a proportion of them will be approved. Consequently, they will be applying for a larger allocation than they actually require. This will mean that companies that only apply for the allocation that they actually require would be at a disadvantage. During the consultation period we became aware that some companies assign Certificates of Sponsorship (CoSs) to put them in a position of "readiness". We believe that this is bad practice and endorses our view that companies would make similar speculative applications under any system of limits.

A large proportion of our clients have indicated they would consider moving operations overseas if an inflexible quota on non-EU migrants makes their position here untenable. This will have a major impact on the economy which is in a critical stage of growth following the recession. In particular, the investment banking sector, which is facing increasing regulation across a number of areas, have indicated that, in their view, the UK is an increasingly hostile environment to do business in and a cap on skilled migration affecting their ability to operate effectively on a global scale is likely to be seen as the "final straw". We are aware that many businesses are carrying out impact assessments with a view to moving parts of their business to more accommodating countries like Germany and Switzerland.

Companies have placed great emphasis on the ease with which they could move operations abroad and a quota could irrevocably damage the UK's reputation as an international business hub. Even if the UK went ahead with a cap and then removed it after realising the severity of the effects, we believe it will have already caused irreparable damage to our reputation as "open for business" and destroy our relationship with the largest global companies currently driving our economy.

Individual Employer Quotas

We would propose that to accommodate these principles the UKBA operate a per-company approach. This would involve the UKBA issuing each company with its own individual limit on an annual basis. This would give businesses the highest level of certainty as to how many non-EU workers they would be able to sponsor over a 12 month period and would enable them to plan accordingly. We would also propose that those companies which are highly compliant, make a significant contribution to UK growth and whose non-EU workers are not a burden on public services should receive a more generous allocation under any proposed limits.

Highly Trusted Sponsor Status

Whichever system is implemented, any cap must seek to balance the needs of global businesses to employ the non-EU migrants they require with a company's responsibility to ensure that migrants have minimal impact on public services. In addition, companies should be doing all they can to up-skill the resident workforce. PwC, like many of our clients, have substantial corporate social responsibility programmes which are focussed on up-skilling the resident labour force to enable them to take jobs in the wider job market. Similarly the cap must serve to assist and protect those who contribute most to the economy if the effect of the cap on economic growth is to be minimised. Accordingly, we would support the idea of a Highly Trusted Sponsor (HTS) scheme where firms which meet the relevant criteria are given an increased allocation under any system of limits on non-EU migration.

We suggest that whether a sponsor is awarded HTS status should be based on five criteria:

- 1 The sponsor should be required to demonstrate that it has a high level of compliance with UK immigration law and its duties and responsibilities under the PBS and have robust systems in place to ensure that it remains compliant.
- 2 The sponsor should have a substantial UK headcount. The scheme should recognise that those companies that contribute the most to the UK economy should have the most flexibility in bringing non-EU migrants to the UK.
- 3 Companies' internal net migration figures should be taken into account. Thus where a firm is sending a large number of workers abroad, they should be able to bring in more non-EU migrants to work within the UK. Companies have expressed concern that this is currently not taken into account.
- 4 The Consultation paper emphasises the "burden" non-EU migrants place on public services and that UK companies should do more to reduce this. PwC provides private healthcare and housing to its international assignees, and pays for the school fees for the children of senior level international assignees, which therefore minimises the impact that its international assignees have on public services. We believe this should be taken into account when awarding HTS status. In addition, international transferees are normally high earners and therefore contribute significantly to the UK economy through the taxes that they pay.
- 5 The amount that firms devote to up-skilling, retraining and apprenticeship schemes.

Sponsors that achieve HTS status should be given a more generous allocation under any implemented limit and should have flexibility to request additional allocations when required by business need.

Proposed Exceptions

Notwithstanding our view that there should be no cap on non-EU migration, we propose that any migrant coming to the UK under Tier 2 (General) or Tier 2 (ICT) for less than 12 months should be prioritised and therefore exempt from a periodic cap for two reasons. First, any migrant coming to the UK for under 12 months has little impact on public services. Secondly, on a practical level, any migrant coming to the UK for under 12 months does not count towards the long-term migration figures so a cap here would not help achieve the Government's aim of bringing down net migration to the "tens of thousands".

We would also go further and suggest that if any limit was introduced then ICTs coming to the UK for up to 24 months should be exempt from any limit. PwC's ICTs are normally assigned to the UK for two years and return to their home location at the end of their assignment. Since the roles that ICTs undertake in the UK are temporary by nature, as they are not permanent vacancies which could be filled by a resident worker and the Tier 2 (Intra-Company Transfer) category is not a route to

settlement, they do not ultimately contribute to net migration and therefore should not be subject to a limit.

We also believe that senior business employees should be prioritised and therefore exempt from any periodic cap (but may be included in the overall cap). Speaking to our clients, the best way to define "senior employees" is by salary. Any Tier 2 migrant with a salary of £70,000 should be prioritised so that even if the cap has been met, they are able to enter the UK. This means the "best and the brightest" are still ensured entry to the UK and seeing as the high-end salary workers are generally the biggest contributors to the economy, this approach seeks to minimise the impact on economic growth.

PwC consider that extensions and switching between routes by migrants within the UK should also not be included within the cap.

All major corporations in the UK, including PwC, must have some degree of certainty that migrants that are working with them will have the ability to remain in the UK beyond an initial period. In addition, without this certainty and the ability to offer a role for more than a limited period, PwC is less likely to be able to attract top international talent to London.

A restriction on our ability to extend the immigration permissions for current Tier 1 and Tier 2 holders would also have Employment Law consequences with potential discrimination claims and claims for breach of contract. With regard to our international assignee population, although their assignments on average last approximately 2 years, there are instances where there is a business need to extend their assignments, for example where there is a skills vacuum locally or whether the individual has contributed significantly to the business.

Companies generally request extensions for two reasons. Normally it is because the non-EU migrant is doing exceptional work and the company wishes him to continue this position. This is good for the company and the economy. Sometimes a company requests an extension because it has not been possible to replace that migrant with a resident worker. The removal of the ability to request extensions will leave skill gaps within a firm that were previously covered by invaluable migrant workers.

Graduates

Each year PwC recruits up to 1100 students into the UK firm. Our approach is to recruit the best talent from UK Campus' irrespective of their background, academic discipline or nationality. Across the top 30 universities, 12% of students are from overseas and, given the scale of our recruitment targets, we cannot source the talent we need without drawing proportionately from this group.

Typically we recruit up to 85 international students who require sponsorship and without whom we would likely be forced either to compromise on our talent standards or reduce the number of opportunities made available in the graduate market. The language skills, cultural understanding and diversity these students bring to the firm are increasingly important in fuelling our ability to compete for a global client base. Offering opportunity to international students is also a key plank of our commitment to provide equal opportunities to all students. Reducing our ability to offer open access to our programmes based exclusively on merit would constitute a risk to our brand as the UK's leading graduate employer, particularly given the large proportion of international students in our market.

Accordingly, graduate programmes are of high importance to PwC. London is currently our graduate base which gives individuals specialist training so that in the future they are able to take senior level positions within the company. Their international experience gained from such schemes serves to facilitate this.

Individuals who undertake the programme are trained to be the company's future leaders and, as such, will be expected to travel extensively both inside and outside Europe, although they may initially be taken on in the UK. Consequently, PwC looks to recruit from a wide range of nationalities and backgrounds to ensure that its workforce is diverse enough to meet its global business needs. This means that many graduates undertaking a programme in the UK will not have the appropriate immigration permission to work in the UK and, whereas, normally, the company could simply issue a Tier 2 (General) CoS, it would now have to consider whether to withdraw the offer.

The uncertainty surrounding graduate schemes, where recruitment commences in October each year and, consequently, companies are making offers to graduates without knowing whether they will be able to issue them with CoSs under Tier 2 (General), has meant that there have been several discussions about the relocation of graduate schemes outside the UK in all large organisations including PwC.

Question 5

Do you believe that where a quarterly quota is filled applications that have not yet been considered should be rolled over to the following release? Please select one answer only.

- Yes
- No
- Don't know

Question 6

If you answered yes or no to the previous question, please give your reason(s) in the box below.

As stated above, we are strongly opposed to a FCFS system. We believe that dealing with applications which are not considered under one release highlights another flaw with this system. If all applications are rolled over to the next release, the limit may be reached prior to the actual release of the limit.

Points For Highly-Skilled Migrants

Question 7

Do you think the Government should consider raising the minimum criteria for qualification under Tier 1 of the Points-Based System? Please select one answer only.

- Yes
- No
- Don't know

Question 8

If you answered yes or no to the previous question, please give your reason(s) in the box below.

We believe the minimum criteria for Tier 1 (General) should be raised as an alternative to a cap as it will achieve the same desired effect, but with necessary flexibility for the reasons outlined in Question 2 above. We would caveat, however, that differences in income levels in different countries should be realistically considered. As an emerging-markets focused institution, PwC sometimes needs to recruit individuals from developing economies where remuneration packages are not as high as in the UK. PwC would not want these individuals to be disqualified from applying under Tier 1 (General) simply because of differences in global income levels. We would also suggest that in cases where individuals

have a firm job offer, the UK employer should be allowed to certify their maintenance as is currently the case for Tier 2.

Most blue chip companies' recruitment strategy is based on hiring the most suitable applicant for the role, regardless of nationality or type of visa. Whilst PwC employ individuals who have immigration permission under Tier 1 (General), a reduction in the number of Tier 1 (General) would not theoretically impact us if we were able to sponsor individuals under Tier 2. However, we would point out that a restriction on Tier 1 (General) could reduce the talent pool within the UK market to which we currently have access in the form of highly skilled Tier 1 (General) migrants with sought after skills and experience.

We are also increasingly using the Tier 1 (General) category in order to bring non-EU migrant workers to the UK. With the introduction of the interim limits on Tier 2 (General), where we wish to employ a non-EU national in the UK on a permanent basis, we are now looking to assist them with an application under Tier 1 (General) where they qualify, rather than utilising one of the very limited numbers of CoSs that we have been allocated under Tier 2 (General).

In addition, we are aware that highly skilled non-EU nationals prefer to apply to come to the UK under Tier 1 (General) as it is the immigration category which gives them the most flexibility in relation to the type of work they are able to do in the UK. The fact that they are able to enter the UK under a category which does not tie them to one particular employer, and is a route to settlement, is extremely attractive to highly skilled individuals and is a key factor in them choosing to come to the UK rather than to go to other countries.

Consequently, if severe restrictions are put on the Tier 1 (General) route it would make the UK a less attractive place for individuals to come to work and would severely hamper UK companies' ability to recruit the "brightest and best" to work in the UK, thereby hindering our local and global competitiveness.

Question 9

Do you think the Government should provide for additional points to be scored for the following factors? Please select one answer for each factor.

	Yes	No	Don't know
Higher level English language ability?	x		
Skilled dependants?		x	
UK experience?		x	
Shortage skills?	x		
Health Insurance?	x		

Question 10

Do you think there are any other factors that should be recognised through the points system? If yes, please give details below.

We believe that additional points should be awarded for the following:

- higher level English language ability;
- health insurance;
- shortage skills (which should be periodically review by the Migration Advisory Committee);
- a job offer.

Australia, Canada and New Zealand all award additional points for applicants with a job offer. We believe that additional points should also be scored for jobs in sectors where the required skills are in short supply or sectors which contribute the most to the economy.

If additional points are scored for the criteria outlined above, the required points to qualify under Tier 1 (General) must be raised to reflect the fact that applicants in general will have more points.

Question 11

Do you agree that Tier 1 Investors should be excluded from the annual limit? Please select one answer only.

Yes

No

Don't know

Question 12

If you answered yes or no to the previous question, please give your reason(s) in the box below.

We agree that Tier 1 (Investors) should not be included within the annual limit as it confirms the Government's aim to continue to attract the "brightest and the best" non-EU migrants to the UK. Applicants under this route clearly benefit the UK in terms of increased GDP and employment levels as a result of the significant wealth they bring to the country. Also, the numbers coming to the UK under this route when combined with those coming to the UK under the Tier 1 (Entrepreneurs) category are currently only 300 per annum so any cap on these routes would make a minimal impact on net migration figures.

Question 13

Do you agree that Tier 1 Entrepreneurs should be excluded from the annual limit? Please select one answer only.

Yes

No

Don't know

Question 14

If you answered yes or no to the previous question, please give your reason(s) in the box below.

We agree that Tier 1 (Entrepreneurs) should not be included within the annual limit as it confirms the Government's aim to continue to attract the "brightest and the best" non-EU migrants to the UK. Applicants under this route clearly benefit the UK in terms of increased GDP and employment levels as a result of the significant wealth they bring to the country. Also the numbers coming to the UK under this route when combined with those coming to the UK under the Tier 1 (Investors) category are currently only 300 per annum so any cap on these routes would make a minimal impact on net migration figures.

Question 15

How can the UK make itself more attractive to investors and entrepreneurs who have the most to offer in terms of driving economic growth? Please give your ideas below.

We believe that the UK could be doing more to attract investors and entrepreneurs. There are a number of ways this could be possible principally by making qualification for settlement easier through having less stringent residency requirements. Investors and entrepreneurs are usually cash rich / time poor and by their very nature likely to travel worldwide extensively meaning that meeting the current residency requirements is often an issue.

Intra-Company Transfers

Question 16

Do you agree that the Intra-Company Transfer route should be included within annual limits? Please select one answer only.

- Yes
- No
- Don't know

Question 17

If you answered yes or no to the previous question, please give your reason(s) in the box below.

We do not believe that ICTs should be included within the annual limit due to their importance to businesses. ICTs cultivate invaluable networks of contacts and there are no identifiable substitutes within the local labour market on account of their vast international experience and specialist expertise.

Why the ICT route is of great importance to businesses and the UK economy

ICTs have experience and skills that UK residents typically do not have and therefore a reduction in the number of ICTs allowed into the UK will have a significant and detrimental impact on businesses and the economy. The majority of companies pay ICTs significant salaries and they cost on average three to four times that of a local employee, which reflects their wealth of experience and the lack of an identifiable substitute within the UK.

Many firms use the ICT route to develop their overseas market and increase their exports. They do this by bringing over foreign workers who are trained and can then transfer these skills once they return home. This increases productivity for the company abroad and is instrumental in many businesses' strategies to up-skill overseas staff. Similarly the ability to employ highly qualified non-EU migrants means companies can offer cross-border expertise which is greatly sort after. The imposition of a hard limit here will decrease the potential for inward investment, limit the ability of businesses to expand globally and therefore damage the economy.

ICTs do not take UK resident jobs. In fact they enable a number of jobs to be created for UK residents

It is suggested that a decrease in the number of ICTs will not equal a corresponding rise in UK employment as the reason ICTs are employed in the first place is there is no local substitute available due to ICTs wealth of experience and particular expertise. Far from taking UK resident jobs, a number of companies have explained how ICTs are regularly brought in to front new projects and this has trickle down effects in the form of increased resident employment to perform the contracted job.

A hard cap affecting these senior ICTs is therefore likely to result in increased UK resident unemployment.

If a cap on ICTs is seen as too inflexible, companies will move operations overseas

The UK would be susceptible to companies transferring their operations overseas if the ICT route is included in the cap. The ICTs are generally highly valued for their expertise and brought in to head up new ventures. The removal of these ICTs will have knock on effects on the economy in the form of the resident workers who benefit from their presence. At this point in the economic cycle it is vital that companies are allowed to transfer the people they need. If they cannot, they will simply move to more accommodating countries and the positive economic growth that we are beginning to see will be severely hampered.

The suggested 12 month limit

Notwithstanding our view that there should be no cap on ICTs, PwC believes that ICTs and Tier 2 (Generals) on assignments lasting less than 12 months should be exempt from any limit. This is because they do not contribute to the annual net migration figures and therefore capping them will not assist the Government's aim of reducing net migration to the tens of thousands.

We would also go further and suggest that if any limit was introduced then ICTs coming to the UK for up to 24 months should be exempt from any limit. PwC's ICTs are normally assigned to the UK for two years and return to their home location at the end of their assignment. Since the roles that ICTs undertake in the UK are temporary by nature, as they are not permanent vacancies which could be filled by a resident worker and the Tier 2 (Intra-Company Transfer) category is not a route to settlement, they do not ultimately contribute to net migration and therefore should not be subject to a limit.

There is also general agreement that "senior" ICTs be exempt from a cap. We have asked a number of clients how best to define senior (experience, job title and salary) and accordingly we believe the best way is through salary. We would therefore suggest an exemption from the cap of any ICT earning £70,000 and above. For ICTs in this category we would also suggest that three months' intra company experience as opposed to 12 months should be sufficient to qualify as an ICT.

ICTs who are net contributors should not be included in any limit as they cannot be described as a burden on public services

The argument that ICTs "draw on the UK's public services" is hard to support. ICTs are generally highly paid and therefore contribute significant revenue for HMRC in the form of taxes. On top of that, companies who reduce their impact on public services even more by paying for private healthcare, housing and schooling should be exempt from any quota or at the very least have an increased allocation to reflect the fact that the non-EU migrants they employ are net contributors rather than a burden on public services.

Companies which have low or negative internal net migration should be acknowledged with a larger, more flexible quota allocation

Companies, including PwC, that have low net migration should be rewarded with more flexible quotas. Many companies give their high potential employees much needed experience in other countries. A number of our clients, including PwC, regard cycles of experience as essential for their economic growth.

The US Experience

It should be noted that what we consider ICTs in the corresponding category in the US (the L1 visa) is uncapped due to the US Government's recognition of the importance of their genuine skills and the expertise transfer to the expansion of their economy.

Case studies

PwC brings migrants to the UK for a number of different reasons. We set out below some recent case studies. We believe that all of these examples highlight the importance of ensuring PwC and other similar organisations remain unaffected by the imposition of limits on ICTs.

The UK firm won the global account for a leading multinational energy and petrochemical organisation. The scale of this account requires its leader to have recognised deep and exceptional industry, network and technical expertise. The firm identified the lead Oil and Gas partner worldwide to be a US national based in Houston. This individual was relocated to the UK and has subsequently successfully developed this account for the benefit of the UK firm and the client.

The firm has several “foreign desks”. Individuals on these desks perform advice and liaison roles. For example, a UK headquartered organisation may seek advice with regard to subsidiaries overseas, or foreign entities may seek advice on investment into the UK. An element of the role also involves networking within the expatriate business community. In a number of cases (for example, the Korean or China desks) the skills required to operate effectively could not easily be replaced by an individual who is not a national of the country whose desk they represent. Key attributes (aside from technical expertise) are language capability and a deep understanding of cultural and business practices.

The firm provides services to one of the leading global automotive organisations. This client specifically requested a change in service delivery that envisaged developing a unified engagement team to work across borders and across service sectors, the dual objectives being to deliver enhanced client service and gain efficiencies. Facilitation of this change in service delivery requires deep knowledge of the client and the automotive and financial services sector. The best candidate for this role was identified as a US national based in Detroit.

Dependants

Question 18

Do you agree that dependants should be included towards the limit? Please select one answer only.

Yes

No

Don't know

Question 19

If you answered yes or no to the previous question, please give your reason(s) in the box below.

We believe any reductions in dependants will have a significant impact on our ability to attract the "brightest and the best" migrants to the UK and therefore they should not be included in any limit. We believe that the vast majority of migrants would not come to the UK if their families were not allowed to join them. Similarly, if they were not allowed to work within the UK then it is highly likely principals would look elsewhere for international positions, thereby diminishing our access to a global talent pool.

Most large employers, like PwC, provide private healthcare insurance and many companies pay private school fees. International assignees receive sufficiently high salaries to support their families without recourse to public funds.

Dependants generally do not replace members of the UK workforce. In our experience, dependants fall into two categories. Either they do not join the workforce and are supported wholly by their

partners, or demographically we have seen they engage in jobs at a similar level to their partners and thus make a significant contribution to the UK economy through taxes.

Research by the Permits Foundation analysing the international assignee population of more than 200 employers demonstrate that most dependants have degrees and the jobs they take in the UK economy compliment rather than replace the UK workforce. Either way, they could not be deemed a burden on public services as they are supported or likely to contribute more than they use.

If dependents were to be included in a limit, and therefore were restricted from coming to the UK, it would have a significant impact on the ability of UK companies, and PwC in particular, to attract the "brightest and the best" migrants to the UK. Having a limit on dependents would mean that, when PwC was considering bringing a non-EU migrant to the UK, the number of dependents that the individual wished to bring with them would be a factor in that decision. PwC is of the view that the number of dependents that an individual wished to bring to the UK should not be a factor and that we should be able to decide who we wish to hire in the UK purely on the basis of the individual's skills and experience.

The Shortage Occupation and Resident Labour Market Test Routes

Question 20

Do you believe that the Shortage Occupation and Resident Labour Market Test routes should be merged in this way (as described in the consultation document)? Please select one answer only.

- Yes
- No
- Don't know

Question 21

What, if any, do you think would be the advantages of merging the Shortage Occupation and Resident Labour Market test routes? Please give details below.

PwC does not consider there to be any advantages to merging the Shortage Occupation and Resident Labour Market test. The idea of merging the two tests ignores their very different purposes. There are certain jobs that by their very nature are unlikely to be completely filled by the resident labour market regardless of up-skilling and re-training which is why it is necessary to have a shortage occupation list in the first place.

However, there are positions which require skills which are normally in short supply but where it is possible, after training, that a resident worker could undertake the role, for example, nurses and care workers. A Resident Labour Market Test would therefore be suitable for these types of position.

If the two tests were to be merged, the Migration Advisory Committee would be required to maintain a comprehensive list of all occupations in the UK and constantly review them to ensure that all those positions which require skills which are in short supply are on the list. Since this would be a huge task, it is unlikely that the Shortage Occupation List would be able to be updated regularly enough to take into account labour market fluctuations. In addition, it would not be able to take into account a situation where a company wanted to set up a new venture in the UK in a unique business area which exists overseas but is not currently in the UK. In order to establish this new venture, the company would necessarily have to bring EU-nationals to the UK in order to operate this business. However, since this is not a business which has previously operated in the UK, it is unlikely that the roles would be on the Shortage Occupation list so the company would not be able to bring the required individuals to the UK.

Question 22

What, if any, do you think would be the disadvantages of merging the Shortage Occupation and Resident Labour Market test routes? Please give details below.

We believe the benefits of keeping the two Tier 2 routes separate outweigh any advantages that merging the two tests would have. We also suggest that the shortage occupation list should be updated more regularly to better reflect market conditions and ensure that more resources are devoted to up-skilling residents for professions currently on the list.

We believe that some of the occupations currently on the shortage list could be removed as UK residents are likely to be able to perform those jobs with sufficient up-skilling. Chefs and care workers are examples of professions where the UK has become too reliant on non-EU migrants. It is likely that with sufficient up-skilling and re-training these jobs could be performed by residents, more so than, for example, intra-company transfers which require unique expertise that cannot be replaced through up-skilling UK residents. In the short-term it is possible that there will be slightly increased costs, but in the long-term these sectors will be tighter, more efficient and this will aid employment levels within the UK.

Question 23

When do you think this change should be implemented? Please select one answer only.

- Immediately (i.e. in less than three months time)
- In three to six months time?
- In six to twelve months time?
- In more than twelve months time?
- Don't know

Question 24

What considerations should be given to advertising requirements?

We would not object to the advertisement on Jobcentre Plus requirement being increased by one week as long as there was an exception for senior positions where advertising on Jobcentre plus is clearly inappropriate.

Sponsor Responsibility

Question 25

Do you believe that the Government should extend sponsor responsibilities in these ways (as described in the consultation document)? Please select one answer only.

- Yes
- No
- Don't know

Question 26

If you answered yes or no to the previous question, please give your reason(s) in the box below.

PwC firmly supports the idea that firms who devote resources to corporate responsibility schemes should be rewarded with substantial flexibility within the allocation of CoSs under any limit which is implemented.

Similarly, we believe companies which spend sufficient amounts on up-skilling and re-training should be allowed more flexibility to attract the non-EU workers which they require. There are some positions for which it will not be possible to up-skill UK residents due to the nature of the job and experience needed for the position. Any limit on non-EU migrants that will affect these particular workers will have substantial adverse implications for the economy as business growth will be stunted because there is no identifiable substitute.

In some professions it may be possible to up-skill UK residents to positions previously filled by non-EU migrants. However, this will take considerable time and expense but provided there is flexibility and the Government bears most of the burden of the cost, it is achievable.

Furthermore, companies, such as PwC, who provide private schooling, housing and health insurance for their employees should be allowed more flexibility in terms of CoS allocations as this greatly alleviates the perceived "burden on public services" that these non-EU migrants have.

English Language Responsibility

Question 27

Do you think that the Government should raise the English language requirement for Tier 2? Please select one answer only.

- Yes
- No
- Don't know

Question 28

If you think that the Government should raise the English language requirement for Tier 2, to what level do you think it should be raised? Please select one answer.

- Basic
- Intermediate
- Advanced
- Don't know

Reducing Demand For Skilled Migrants

Question 29

If a supply of migrant workers is no longer readily available, what action will you take to train and source labour from the domestic market? Please give details below.

Our graduate programmes offer first-rate training opportunities to the most talented UK and international applicants to ensure that graduates acquire the skills that they need to make them highly employable within the UK and indeed the global workforce. In addition, PwC offers various work placements, internships and development programmes.

Nevertheless, even with increased investment in up-skilling and training, PwC would be hard-pressed to recruit individuals with the skills that we require from the resident labour market alone. As an

emerging-markets focused organisation, in some instances, it is impossible to up-skill and train resident workers locally to attain the global knowledge that some of our businesses require (for example, in depth market knowledge and cultural understanding).

Additionally, it will take significant time to up-skill resident workers to be in a position to fulfil roles previously occupied by migrants. The cost of developing local skills should not be imposed purely on UK businesses; the Government must bear the bulk of the burden in the short-term if economic growth is to be maintained. The Government must allow time for the increased up-skilling efforts of UK firms to take effect and any cap must reflect this. Staging the effects of any limit will assist the transition from non-EU workers to UK residents and lessen the potential economic impacts to businesses and the UK economy.

The Government must also recognise that there are some professions where a resident will not be able to replace a non-EU migrant, no matter how much up-skilling they have had, due to the nature of the job and the cultural and linguistic idiosyncrasies associated with it. Often their foreign experience is precisely the key benefit for the multinational company in our global economy. We believe that such professions should be excluded from any cap as they are key to business growth and have no identifiable substitute.

PwC undertakes a rigorous commercial analysis before deciding to bring a Tier 1 or Tier 2 migrant into the UK to perform a particular role. The external international recruitment or intra-company transfer international assignment route is considerably more expensive (typically 2 to 2.5 times) than that of a local hire and the return on that investment must be considered.

In addition, only 6% of PwC's UK workforce comprises non-EEA nationals.

As an organisation whose primary resource is its people, the firm invests heavily in training and development. Indeed the opportunity for our people to work abroad is an important element of this. Equally, it is important to recognise that the firm does not bring people in from overseas to drive down costs of service provision. For example, aside from the Tier 1 and Tier 2 qualification criteria, the Global Mobility programme is "host based". The overwhelming majority of international assignees become employees of the UK firm and receive a UK market rate salary in line with peers.

There remain certain roles where it is practically very difficult to train a UK worker up in a reasonable amount of time to perform effectively. Language skills, cultural understanding and knowledge of country specific business practices can rarely be replaced by a UK worker. Restricting the firm's ability to source this expertise from abroad will compromise delivery of client service.

If the firm is not able to bring this expertise and cultural understanding into the UK, it will inevitably impact our clients who may in turn look overseas for such advice. It will also impact the firm in terms of loss of revenue and could potentially lead to a contraction or cessation of a particular service with further implications for associated UK employees.

General Points for Consideration

Tier 5

Around 35,000 people came to the UK under this category in 2009 according to Home Office statistics. This is an obvious area which could be reduced as Tier 5 workers contribute relatively little to the economy in comparison with the economic routes Tier 1 and Tier 2.

Temporary workers

On the whole we believe that the jobs that are likely to be filled through Tier 5 are low skilled jobs that the UK resident workforce could perform with little to no up-skilling and their contribution to economic growth is minimal in comparison with the economic routes under Tier 1 (General) and Tier 2. We believe that this is a more realistic approach to reducing unemployment than by attempting to replace highly specialised and experienced ICTs for example.

Youth Mobility

For the reasons outlined above, we believe that the maximum duration of leave granted to youth workers under Tier 5 could be restricted to 12 months. Furthermore, the principal applicants under this category are Australian and, under the reciprocal scheme whereby UK youth workers may apply to work in Australia, they are only granted a period of 12 months and only 6 months of which can be used to work.

Illegal Immigration

In a recent estimate commissioned by the Mayor of London, it was estimated that there are currently 725,000 illegal immigrants within the UK. This dwarfs the annual net migration figures and is a serious problem through lost tax revenue. We believe more resources should be devoted to policing this area as much of the perceived stigma attached to migrants stems from those here illegally and not the well educated and highly skilled non-EU migrants who contribute to UK economic growth.

Tier 4 – Students

According to Home Office figures, over 360,000 non-EU migrants were granted student visas to come to the UK in the 12 months preceding June this year – an increase of 35% from the previous 12 months. It is important to ensure that this route is used for academic rather than economic purposes. It would also be useful to examine the role of student dependants.

UK Ancestry

According to Home Office statistics nearly 7,000 ancestry visas were issued last year. We believe that this route should be examined.

Business Visitors

We believe the Business Visitor route to the UK is still open to exploitation by a proportion of the current 1.6 million who use it because it is vaguely defined and not subject to the restrictions and requirements of Tier 2, such as employer sponsorship, and UK employment law. This poses the biggest threat to the local market labour force. The insufficiently controlled boundaries of this route mean that a business visitor can spend six months in the UK managing a project at a company with little chance of being discovered in breach of immigration laws. Greater focus on audits and compliance policing is needed to ensure the resident labour is not undercut.

Evidence we have received suggests that this route is used for cheap labour and we recommend this should be better policed.

Compliance Visits for Tier 2 Sponsors

We do not believe that the current audits by the UKBA of Tier 2 Sponsors are robust. In many cases they make a mockery of the work Sponsors have undertaken to ensure compliance. The UKBA should be better trained to conduct audits and distinguish between levels of compliance within organisations.

Post-Study Work

We strongly support the post-study worker category but if this was reduced from two years to 12 months we would expect to see compensating arrangements to permit switching (i.e. from post study work to Tier 2). As stated above, it is essential to preserve this category to ensure that graduate training programmes continue in the UK.

Employment Law Issues

The introduction of a limit on non-EU economic migrants will create further tension between immigration and employment law. For example, if an employer refuses to consider applications for positions from applicants who require sponsorship under Tier 2 (General), he will potentially be open to direct and indirect race discrimination claims.

Employers may now face decisions about whether to extend migrant workers permission to stay and work in the UK or employ a new worker. An employer who decides to dismiss an employee due to the fact that it is unable to issue any more Tier 2 (General) extensions (or has prioritised one employee's extension over another) may face race discrimination, unfair dismissal and breach of contract claims.

The decision not to renew is a potentially fair one but if the procedure to do so is not carried out properly, an employer could be open to legal action. This means employers will have to consult all employees concerned and weigh up criteria such as attendance, years experience and performance – a potentially expensive and time-consuming process. If they fail to do so they could be open to an unfair dismissal claim. Guidance needs to be issued in this area to ensure that immigration law and employment law are compatible.

Summary of recommendations

In conclusion, PwC believes that it is vital that they and organisations like them are able to continue employing global talent from overseas. PwC's global business depends on these migrants to ensure that it remains economically robust. PwC and other organisations like it are not contributing to net migration and their workforce is not a drain in any sense on public resources. PwC takes a responsible attitude towards up-skilling the resident workforce and has won many accolades for its training programmes including graduate programmes. It has exemplary immigration compliance and is likely to qualify immediately for any HTS status. The value to PwC and the wider economy of the overseas migrants goes beyond the immediate net investment and it is important that the indirect effects of this human capital are considered.

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