

**CALL FOR EVIDENCE BY THE
MIGRATION ADVISORY COMMITTEE ON
THE LEVEL OF THE 2012/13 ANNUAL
LIMIT ON TIER 2 AND ASSOCIATED
POLICIES**

October 2011



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1. Introduction

- 1.1 The Coalition for Government paper, published on 20 May 2010, commits the Government to an annual limit on the number of economic migrants admitted into the UK from outside the EU to live and work. The paper states *“We will introduce an annual limit on the number of non-EU economic migrants admitted into the UK to live and work. We will consider jointly the mechanism for implementing the limit”*.
- 1.2 Following public consultations by the Government and the Migration Advisory Committee (MAC) plus a report by us (Migration Advisory Committee, 2010), the Government announced in February 2011 the changes that it would be making to the Points Based System (PBS) to give effect to the commitment in the Coalition for Government paper.
- 1.3 Specifically, in relation to the implementation of the limit, the Government announced that the Tier 1 (General) route under the PBS would be closed and replaced with a new exceptional talent route. The number of visas issued to come to the UK under this route is limited to 1,000 for 2011/12. The Tier 2 (General) route of the PBS for skilled workers with an offer of a job in the UK is limited to 20,700 places in 2011/12. The Tier 2 (General) limit does not apply to migrants who are applying from within the UK, or those with an offer of a job paying £150,000 or more.
- 1.4 On 19 October 2011, the Minister for Immigration wrote to us asking that we advise the Government on the policy package for Tier 2 for 2012/13, including the level of the limit and whether further changes are needed to Tier 2 in light of the impact of the current limit and associated policies. The Government’s commission said:
- *The Government will deliver an improved migration system that commands public confidence and serves our economic interests. It will be more efficient and less open to abuse and will reduce the number of non-EU migrants. The Government is developing policies to meet this objective. As a result of these policies the Government anticipates that net migration will be in the tens of thousands in future. In this context, at what level should the limit on Tier 2 (General) be set for 2012, taking account of the economic, labour market, social and public service impacts of the limit; and of the uptake of Tier 2 (General) and intra-company transferee visas in 2011/12?*
 - *Is the £40,000 minimum salary threshold for intra-company transfers seeking to stay for 12 months or longer an appropriate proxy test to ensure that migrants meet the General Agreement on Trade in Services (GATS) definition of senior Managers and Specialists? The MAC is asked to provide economic rather than legal advice when considering the compatibility of the definition. Should the £40,000 be a national rate or allow for regional*

variations in pay? Current policy allows the £40,000 threshold to be met through a combination of salary and allowances. Does the inclusion of non-salary remuneration undermine the use of the £40,000 threshold as a proxy test of skill level?

- *In order to allow the Government to identify an appropriate skill level for Tier 2 can the MAC confirm the list of occupations in Table B1 of its February 2011 report on the list of skilled occupations in Tier 2, i.e. those occupations skilled to National Qualification Framework level 4 and above (NQF4+) but not to National Qualification Framework level 6 and above (NQF6+), undertake a review of the non-NQF6+ job titles currently on the shortage list and estimate the impact on numbers of migrants in Tier 2 if the skills bar were raised to NQF6+?*
- *Currently jobs paid more than £150,000 are exempt from the Resident Labour Market Test (RLMT) requirement in recognition of the fact that, at that level, there will be little threat of disturbance to the resident labour market and such jobs are likely to be more global in character. If that threshold were lowered to a range of £70,000-£100,000, what would be the impact on demand for Tier 2 visas, the resident labour force and employers?*

1.5 In order to help us answer the Government's questions, we have devised a set of sub-questions and these, together with relevant background information, are set out in this document. Section 2 outlines our call for evidence on the questions the Government has asked. Section 3 provides data on the relevant trends in immigration and information on the policy context. Section 4 sets out the questions we would like to receive evidence on and discusses the basis for each. Section 5 sets out how to submit responses and summarises our questions. Annex A provides lists of occupations we previously calculated to be skilled to NQF4+ and NQF6+.

2. Call for evidence process

- 2.1 In order to assist with our consideration of the questions asked by the Government, we are consulting with as wide a range of corporate partners as possible in the time available, in addition to issuing this call for evidence. We use the term 'corporate partners', or just 'partners', to refer to all parties with an interest in our work or its outcomes, so private and public sector employers, trade unions, representative bodies and private individuals are all included within this term.
- 2.2 We have placed a copy of this call for evidence on our website at <http://www.bia.homeoffice.gov.uk/mac>, and emailed it directly to all partners who have engaged with us previously. All partners are encouraged to circulate this document further to any interested party.
- 2.3 We are looking to arrange public events at which partners can come and give evidence about the issues raised in this document and we welcome the opportunity to meet with partners where we can. Please contact the MAC secretariat using the details in Section 5 if you would like to meet with us or offer to host an event at which we could engage with a number of partners.
- 2.4 The Government has asked that we offer our advice by the end of January 2012. In order to have sufficient time to properly consider the evidence, therefore, we ask that all responses be received by **Wednesday 21 December 2011**.

3. Data and policy context

- 3.1 The Points Based System (PBS) for migration to the UK from outside the European Economic Area (EEA) was introduced in 2008 by the previous Government. It consists of five tiers:
- Tier 1: investors, entrepreneurs, exceptionally talented migrants and the post-study work route for migrants who have recently graduated from UK universities.
 - Tier 2: skilled workers with a job offer in the UK.
 - Tier 3: low-skilled workers needed to fill specific temporary labour shortages. Tier 3 has never been opened.
 - Tier 4: students.
 - Tier 5: youth mobility and temporary workers. This route is for those allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.
- 3.2 As set out in the Government's commission to us, Tier 2 is the focus of our call for evidence. The Tier 2 (General) route 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. In this document when we refer to the RLMT and shortage occupation routes of Tier 2 we are referring to the above.
- 3.3 Tier 2 also contains three other routes: the intra-company transfer, ministers of religion and sportspeople routes. The ministers of religion and sportspeople routes are not subject to the limit on migration and are not included in this call for evidence. Intra-company transfers are not presently subject to the limit on migration but are included in this call for evidence and are considered in more detail later in this section.
- 3.4 Below we first provide some general data context in relation to the PBS. Then, in a discussion of policy context, we highlight some specific aspects of Tier 2 that are relevant to our call for evidence.

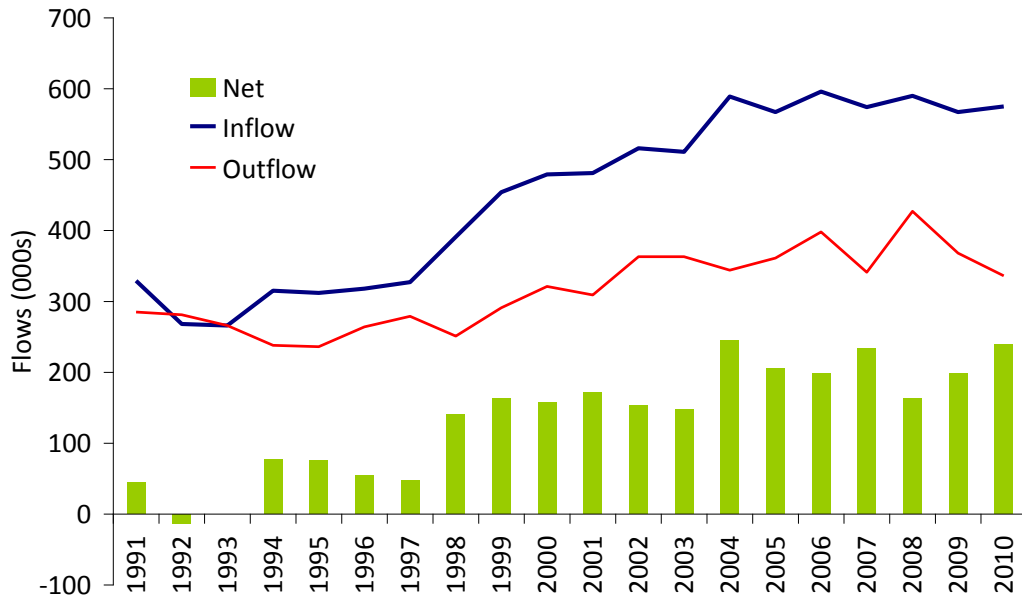
Data context

- 3.5 Since the end of the recession of the early 1990s, inflows of long-term migrants (defined as those intending to change their place of residence for one year or more) have exceeded outflows, resulting in positive net migration to the UK, shown in Figure 3.1.
- 3.6 The provisional Long Term International Migration (LTIM) estimate for 2010 indicates that net migration was 239,000, an increase from 198,000 in 2009. In 2010, 575,000 long-term migrants came to the UK and 336,000 left, compared to 567,000 arrivals and 368,000 departures in 2009. These figures include British, European Union (EU) and non-EU nationals.

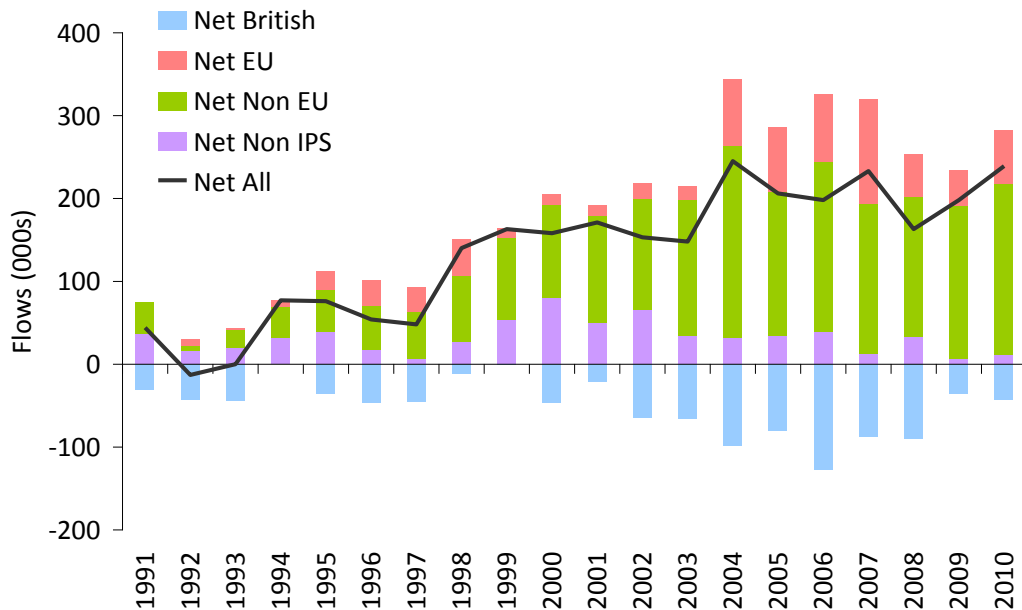
- 3.7 Figure 3.1 also shows the breakdown of the provisional LTIM net migration estimates for 2010 into their constituent components, namely net migration of British, EU and non-EU nationals (the International Passenger Survey (IPS) component) and the adjustments made to account for flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers (the non-IPS component).
- 3.8 The increase in net migration between 1997 and 2004 was largely due to an increase in non-EU net migration. EU net migration to the UK increased between 2004 and 2007 following the expansion of the EU in 2004. Net emigration of British nationals increased between 2000 and 2006, partially offsetting the rise in net immigration of foreign migrants. Nevertheless, net emigration of British nationals has since reduced considerably, contributing to a rise in total net immigration over this period.
- 3.9 The International Passenger Survey components of the Long Term International Migration estimate can be broken down further to examine the 'reason for migration', as shown in Figure 3.2. The most common reason for immigration of non-EU nationals in 2010 was for formal study, accounting for 178,000 of long-term non-EU immigrants (provisional estimate). This figure has increased from 163,000 in 2009. Non-EU students represented 59 per cent of the total non-EU inflow in 2010.
- 3.10 The inflow of non-EU immigrants entering to 'accompany or join', which includes those entering on family visas and dependants, remained stable at 54,000 between 2009 and 2010, while the outflow decreased from 9,000 to 8,000 over the same period. Therefore, net non-EU migration in this category increased from 45,000 in 2009 to 46,000 in 2010. Non-EU migrants in this category accounted for 18 per cent of the total non-EU inflow in 2010.
- 3.11 Long-term immigration of non-EU nationals for work related reasons, either with a definite job or looking for work, was 53,000 in 2010 (provisional estimate). Work therefore accounted for 18 per cent of the non-EU inflow in 2010. By comparison, 67,000 non-EU long-term migrants left the UK in 2010 for work reasons (provisional estimate). However, it is important to recognise that this does not mean that net migration of non-EU work-related immigrants to the UK was negative. This is because the reason a migrant leaves the UK is likely to differ from the reason why he or she first came to the UK. For example, students will come to the UK for the reason of formal study, but once they graduate may leave the UK for work-related reasons and be counted in the work-related outflow.

Figure 3.1: Flows of long-term migrants to and from the UK and net long-term migration by citizenship, 1991 to 2010

Inflows, outflows and balance of long-term migrants to and from the UK, 1991 to 2010



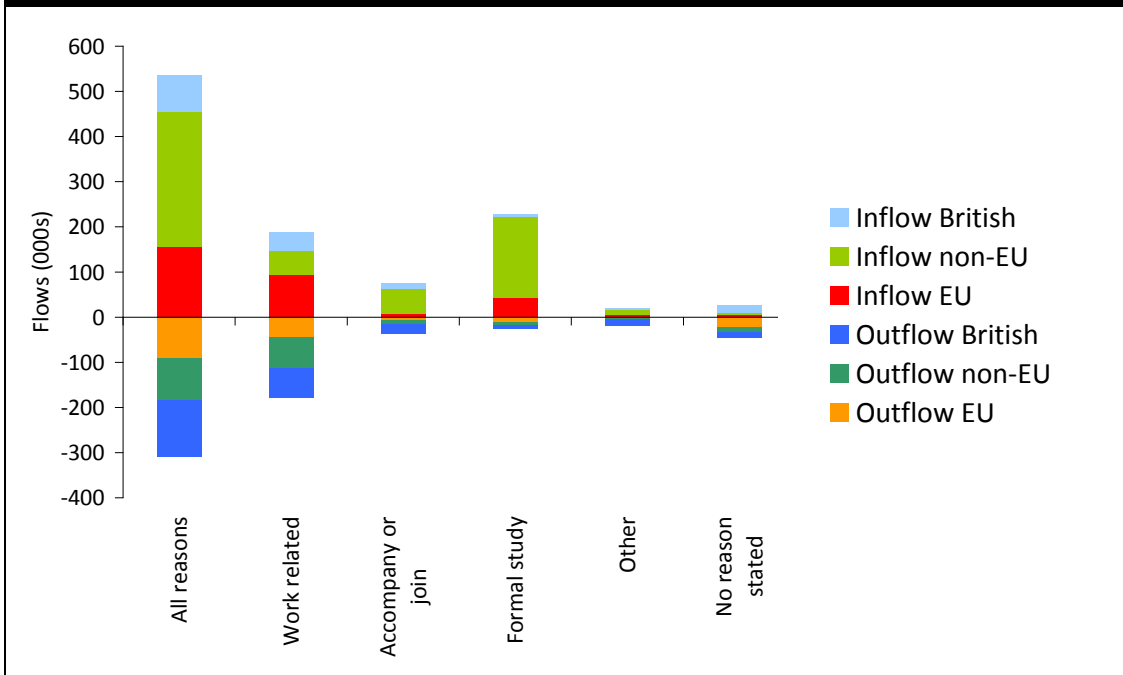
Net long-term migration by citizenship, 1991 to 2010



Notes: Long-term migrants are defined in the International Passenger Survey (IPS) as those individuals who intend to change their place of residence for a year or more. This definition includes all nationalities, including British nationals. This figure shows published figures for the calendar years 1991 to 2009 and provisional estimates for 2010. EU includes EU15, A8, Bulgaria, Romania, Malta and Cyprus. 2010 Long Term International Migration (LTIM) figures are provisional – the non-IPS components (flows to and from the Irish Republic, asylum seekers, and migrant and visitor switchers) are based on provisional LTIM figures minus provisional IPS figures.

Source: Home Office, 2011

Figure 3.2: Net long-term migrants by reason for migration and by nationality, 2010

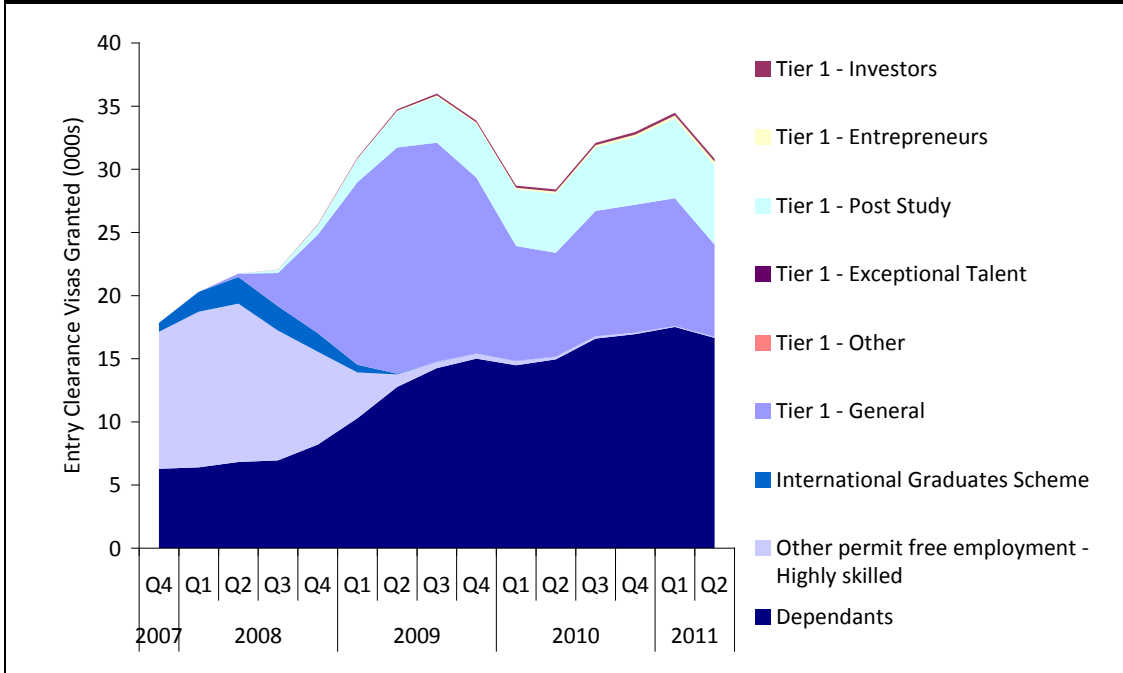


Notes: The figures describe the inflows and outflows of long-term migrants intending to change their place of residence for a year or more. Figures provided are in thousands and are provisional.
Source: Home Office, 2011

Tiers 1 and 2

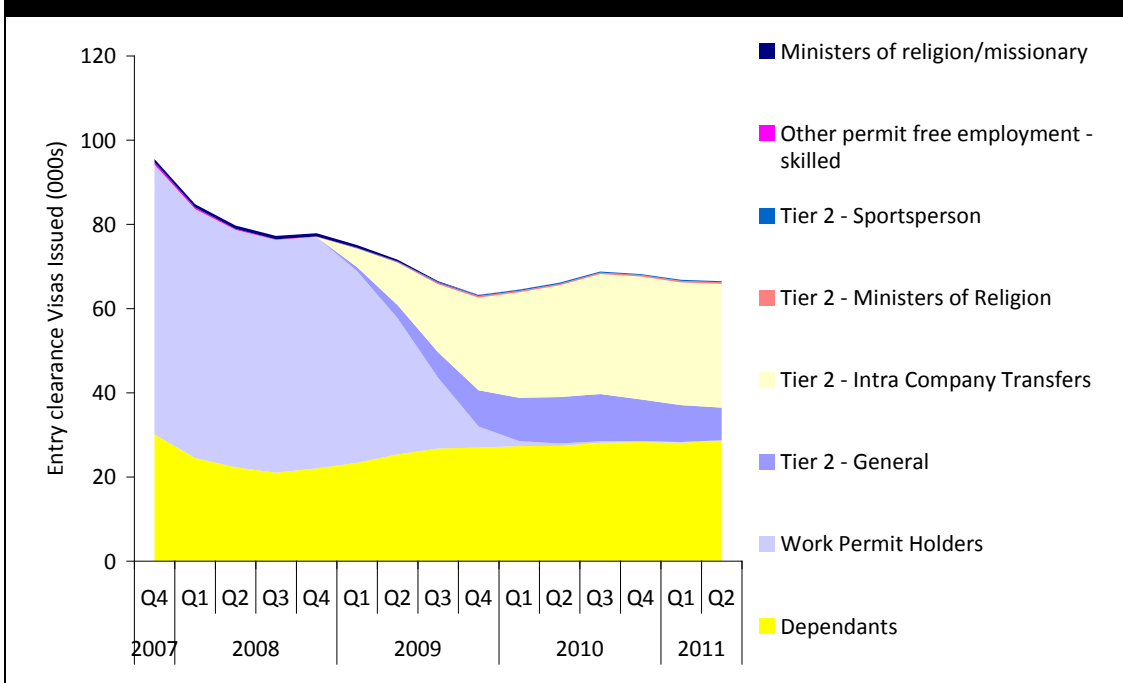
- 3.12 Turning to visa data, which are not directly comparable with LTIM and IPS data, Figure 3.3 shows that around 14,000 entry clearance (out-of-country) visas were granted to Tier 1 main applicants in the year to 2011 Q2. Of these, 52 per cent were to Tier 1 (General) main applicants and 44 per cent were to Tier 1 Post-Study Work Route main applicants. The Tier 1 (General) route was closed from December 2010 and the Post-Study Work Route will be closed from April 2012.
- 3.13 Figure 3.4 shows that around 38,000 entry clearance visas were granted to Tier 2 main applicants in the year to 2011 Q2. Of these, around 78 per cent were granted to intra-company transfer main applicants and 20 per cent were granted to Tier 2 (General) main applicants.

Figure 3.3: 4-quarter rolling data for Tier 1 entry clearance visas granted to main applicants and dependants, Q4 2007 to Q2 2011



Source: Immigration Statistics, 2011

Figure 3.4: 4-quarter rolling data for Tier 2 entry clearance visas granted to main applicants and dependants, Q4 2007 to Q2 2011



Source: Immigration Statistics, 2011

Table 3.1: Monthly allocations and grant of Tier 2 restricted Certificates of Sponsorship (CoS), April to September 2011

	Initial monthly CoS allocation	CoS available for allocation	CoS granted
April 2011	4200	4,200	1,019
May 2011	1500	4,666	781
June 2011	1500	5,397	845
July 2011	1500	6,064	859
August 2011	1500	6,760	819
Total Granted	-	-	4,323

Notes: The first monthly allocation took place on 11 April 2011. The latest monthly allocation took place on 11 October 2011, but the number of restricted Certificates of Sponsorship granted has not yet been published. In some months Certificates of Sponsorship available for allocation may differ from the number carried over plus the initial allocation because of allocations in exceptional circumstances, returned allocations and because some restricted certificates of sponsorship are reclaimed if they have not been used within 3 months.
Source: UK Border Agency, 2011

- 3.14 From the 6th April 2011, a limit on the number of restricted Certificates of Sponsorship granted to RLMT and shortage occupation route main applicants of 20,700 per annum was introduced. Allocations are granted on a monthly basis, with 4,200 allocations in the first month and 1,500 allocations in subsequent months. Table 3.1 shows that by the end of August 2011, only 4,323 of a potential 10,200 restricted CoS made available had been allocated. We believe that it is reasonable to expect that similar levels of take-up persisted in the months immediately following this.
- 3.15 Table 3.2 shows that 1,945 entry clearance visas were granted to Tier 2 (General) main applicants in 2011 Q2. From April 2011 the intra-company transfer route was divided into a short-term route, allowing migrants to reside in the UK for up to a year, and a long-term route, allowing migrants to reside in the UK for up to 3 years with the possibility of obtaining additional leave to remain for a further 2 years. In 2011 Q2, as shown in Table 3.2, there were 2,153 visas granted to Tier 2 long-term intra-company transfer main applicants and 2,993 visas granted to Tier 2 short-term intra-company transfer main applicants. A further 2,242 entry clearance visas were issued to main applicants in the legacy Tier 2 intra-company transfer route. This figure includes applications made prior to April 2011, but issued following the introduction of the new rules.
- 3.16 In total, 7,527 entry clearance visas were granted to Tier 2 dependants in 2011 Q2 as shown in Table 3.2.

Table 3.2: Number of entry clearance visas and in-country leave to remain grants by Tiers 1 and 2 main applicants and dependants, Q2 2011

	Entry clearance (out-of-country) visas		Leave to remain grants (in-country)	
	Main Applicant	Dependant	Main Applicant	Dependant
Tier 1				
Tier 1 - General	42	2,700	7,911	4,166
Tier 1 - Investors	71	115	25	25
Tier 1 - Entrepreneurs	101	105	70	61
Tier 1 - Post Study	1,172	746	5,745	937
Other permit free employment - Highly skilled	16	10	41	-
Tier 2				
Tier 2 - General	1,945	4,099	2,301	1,458
Tier 2 - Intra Company Transfers	2,242		1,373	1,343
Tier 2 - Ministers of Religion	81		102	120
Tier 2 - Sportsperson	37		33	26
Ministers of religion/missionary	2		-	-
Other permit free employment - skilled	-		2	-
Tier 2 - Intra Company Transfers Short Term	2,993	825		
Tier 2 - Intra Company Transfers Long Term	2,153	2,191		
Work Permit Holders	8	412	1	119
Notes: In-country grants are grants of leave to remain in the UK, including extensions and those switching visa categories. Source: Home Office, Immigration Statistics (2011)				

Policy context

- 3.17 In this section we highlight some specific aspects of Tier 2 that are relevant to the questions the Government has asked us, and to our own call for evidence questions in Section 4 of this document

Skill level of occupations

- 3.18 A successful Tier 2 applicant must be coming to fill a job at a skill level equivalent to National Qualification Framework level 4 and above (NQF4+)¹ and be paid at least the 'appropriate rate' that would be paid to a skilled resident worker doing similar work². The Government terms these NQF4+ occupations 'graduate-level' occupations.
- 3.19 In Migration Advisory Committee (2011a) we drew up a list of 4-digit Standard Occupational Classification (SOC) 2000 occupations considered to be skilled to NQF4+. We did this by assessing all 4-digit SOC occupations against three top-down indicators of skill: SOC skill

¹ The National Qualification Framework (NQF) has been replaced with the Qualifications and Credit Framework (QCF). However, in order to ensure consistency with the terminology used in previous MAC reports, this document continues to refer to the NQF.

² Sportspeople and ministers of religion are exempt from this requirement.

level; earnings; and formal qualifications. Threshold values were set for each indicator. To pass as skilled to NQF4+, an occupation had to equal or exceed at least two out of three thresholds.

3.20 An important assumption upon which we based this analysis is that the proportion of working-age, full-time employees in jobs which are skilled to NQF4+ is 38 per cent. This was based on the fact that, according to the Labour Force Survey (LFS), the proportion of working age, full time employees in the UK workforce that hold NQF4+ qualifications was 38 per cent. In Migration Advisory Committee (2011a) we considered the validity of this assumption, but concluded that there was no strong reason to deviate from it.

3.21 Following our analysis in Migration Advisory Committee (2011a), in order to identify occupations that are skilled to NQF4+, the threshold values for the three top-down indicators of skill were set as follows:

- **SOC skill level:** occupation classified at skill level 4 (the highest of the four skill levels) in the SOC 2000 hierarchy.
- **Earnings:** median hourly earnings for full-time employees within an occupation of £13.40 per hour or more.
- **Formal qualifications:** 41 per cent or more of the workforce within an occupation qualified to NQF4+.

3.22 As an illustrative exercise, in Migration Advisory Committee (2011a) we also calculated the thresholds and implications of adopting a stricter definition of 'graduate level' of National Qualifications Framework level 6 or above (NQF6+). A methodology analogous to that used for NQF4+ occupations described above was used. The resulting threshold values for NQF6+ occupations were:

- **SOC skill level:** occupation classified at skill level 4 (the highest of the four skill levels) in the SOC 2000 hierarchy.
- **Earnings:** median hourly earnings for full-time employees within an occupation of £15.98 per hour or more.
- **Formal qualifications:** 38 per cent or more of the workforce within an occupation qualified to NQF6+.

3.23 These thresholds result in 87 occupations being identified as skilled to NQF6+, covering approximately 30 per cent of working-age, full-time employees in the labour market. These occupations are listed in Table A.1 of Annex A. In total, 34 occupations included on the NQF4+ list would be excluded from the NQF6+ list. These occupations are detailed in Table A.2.

Resident Labour Market Test

If an employer can show that there is no suitably qualified worker from within the UK or the EEA available to fill a specific skilled vacancy, they

can use the RLMT route to bring in a worker from outside the EEA. Employers are required to advertise the relevant Employers are required to advertise the relevant vacancy through Jobcentre Plus and at least one other medium stated in the relevant occupational code of practice (for example, in a trade magazine) for at least four weeks, at a level of earnings deemed reasonable by the UK Border Agency for that job. Jobcentre Plus advertising is not required for university milk round recruitment, but employers must visit a minimum of three UK universities, and advertise on a graduate recruitment website and at least one other medium stated in the relevant code of practice.

- 3.24 Jobs attracting a salary of over £150,000 are exempt from the RLMT. The rationale for this exemption is set out in the Government's question to us, namely that it is in recognition of the fact that, at that level of salary, there will be little threat of disturbance to the resident labour market and such jobs are likely to be more global in character.

Shortage occupations

- 3.25 Employers can also apply to bring in workers from the outside of the EEA if the occupation to be filled is on the Government's shortage occupation list. This details the occupations and job titles presently held to be experiencing a labour shortage that would be sensibly filled using non-EEA labour either in the whole of the UK or in Scotland only. The content of the list is recommended by the MAC and those recommendations are revised periodically, most recently in September 2011 (Migration Advisory Committee, 2011b).

- 3.26 For an occupation or job title to be recommended by the MAC for inclusion on the shortage occupation list it must be:

- **skilled** to the required skill level for Tier 2 (currently NQF4+);
- experiencing a **shortage** of labour; and
- it must be demonstrably **sensible** to fill these shortages using labour from outside the EEA.

Intra-company transfer route

- 3.27 The **intra-company transfer** route is for employees of multi-national companies being transferred to a UK based branch of the same organisation either on a long-term basis or for short visits.

- 3.28 Intra-company transfers have to meet salary requirements as follows (salary bands are before tax (gross) and yearly):

- Long-term staff paid £40,000 and above and at least the appropriate rate.
- Short-term staff paid £24,000 and above and at least the appropriate rate.

- Persons in the UK as an intra-company transferee under the rules in place before 6 April 2011 paid at least the appropriate rate.
- 3.29 Migrants paid between £24,000 and £40,000 are allowed to come to the UK for no longer than 12 months, at which point they must leave the UK and are not able to re-apply for 12 months. Migrants paid £40,000 or more are given permission to stay for up to three years, with the possibility of extending for a further two years. Intra-company transfers are not included in the annual limit on migration.
- 3.30 The UK is party to the World Trade Organisation's (WTO) General Agreement on Trade in Services (GATS). The GATS was created to extend to the service sector the system for merchandise trade set out in the General Agreement on Tariffs and Trade, but with some differences to reflect the different nature of services trade. The GATS entered into force in January 1995.
- 3.31 Under the GATS, the UK is committed to allowing the temporary presence of intra-company transferees where: they are managers or specialists (Box 3.1 sets out how these are defined within GATS); and are transferred to the UK by a company established in the territory of another WTO member; and are transferred here in the context of the provision of a service through a commercial presence in the UK. The UK is committed to doing this where the worker has been employed by the sending business for at least one year. It is also committed to do it without applying an economic needs test, such as the RLMT.

Box 3.1: Definition of managers and specialists

The General Agreement on Trade in Services (GATS) defines managers as:

“Persons working in a senior position within a juridical person³, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including: directing the establishment or a department or sub-division of the establishment; supervising and controlling the work of other supervisory, professional or managerial employees; having the authority personally to hire and fire or recommend hiring, firing or other personnel actions.”

The GATS defines specialists as:

“Persons who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.”

³ A juridical person is any legal entity duly constituted or otherwise organised under applicable law.

Allowances

- 3.32 Allowances for accommodation and travel can count towards the salary required to meet the minimum earnings thresholds under the intra-company transfer route. This includes daily payments to cover the additional cost of living in the UK but does not include expenses to cover travel to and from their home country. Travel and subsistence expenditure is not taxed if the immigrant is coming for under two years.
- 3.33 We previously questioned whether the use of allowances for intra-company transfers creates the potential for undercutting of UK workers (Migration Advisory Committee, 2009). A hypothetical example is provided in Box 3.2 to illustrate the point.

Box 3.2: Example of use of allowances

A multinational company with offices in the UK has a vacancy. It can either use a UK worker to fill this post or bring in a foreign employee on an intra-company transfer.

There is a pool of appropriately skilled resident workers available to do the job for £48,000 per annum, of which we assume, for illustrative purposes, that 25 per cent would be payable in income tax. The reasonable salary rate for the occupation set by the UK Border Agency is under £46,000.

Under scenario A, the employer recruits from within the UK on a salary of £48,000 p.a.

- The salary cost to the employer is £48,000.
- The resident employee receives a salary of £36,000 after tax.

Under scenario B, the employer agrees to employ an intra-company transferee on £34,700 per annum, with a tax-free allowance of £10,000.

- The total cost to the employer in terms of salary and allowance is £44,700.
- The immigrant employee receives a salary of just over £26,000 after tax, plus a tax-free allowance of £10,000: just over £36,000 in total.

The immigrant employee under scenario B is equally well remunerated as the resident employee under option A. Yet the employer pays less under scenario B than scenario A. So there is a potential incentive for the employer to recruit an immigrant employee in place of an equally skilled resident one.

- 3.34 Currently within the long-term staff category, allowances made available solely for the purpose of accommodation will only be counted to make up to 30 per cent of the total gross salary package. This means that the migrant's salary and other (non-accommodation allowances) must be at least 70 per cent of the maximum package that is taken into account. Due to the higher costs of short-term

accommodation, accommodation allowances up to 40 per cent of the gross salary are permitted for applicants in the short-term staff sub-categories. This means that the migrant's salary and other (non-accommodation) allowances must be at least 60 per cent of the maximum package that is taken into account.

Operation of annual limit

- 3.35 The limit on Tier 2 migration operates by restricting the number of Tier 2 Certificates of Sponsorship approved by the UK Border Agency. It operates on a monthly basis with 4,200 places reserved for the first month of operation (April 2011) and 1,500 places per month thereafter. If the limit is undersubscribed in a given month the places are carried over to the next month. Where the limit is oversubscribed places are prioritised according to scarcity of skills in the first instance and then according to salary. Scientists, academics and researchers are afforded an additional premium.
- 3.36 As shown in the data context section, recent data on the take-up of Tier 2 (General) Certificates of Sponsorship show that the monthly allocation of CoS has not been taken up.

4. Call for evidence questions

- 4.1 In this section we set out the questions for which we are seeking evidence, and briefly discuss the basis for these questions.

Impact and level of the Tier 2 (General) limit

- 4.2 The Government's commission to us said "*The Government will deliver an improved migration system that commands public confidence and serves our economic interests. It will be more efficient and less open to abuse and will reduce the number of non-EU migrants. The Government is developing policies to meet this objective. As a result of these policies the Government anticipates that net migration will be in the tens of thousands in future. In this context, at what level should the limit on Tier 2 (General) be set for 2012, taking account of the economic, labour market, social and public service impacts of the limit; and of the uptake of Tier 2 (General) and intra-company transferee visas in 2011/12?*"
- 4.3 As discussed in Migration Advisory Committee (2010), potentially relevant economic impacts of migration include those on: economic growth and Gross Domestic Product (GDP) per capita and the Government's budget (also known as the net fiscal impact). Labour market impacts include those on wages, employment of already-resident workers and the industrial and occupational structure of the labour market. We would value evidence relating to the economic and labour market impacts of the first annual limit.

Q1. What has been the impact of the annual limit on Tier 2 (General) of 20,700 in 2011/12 on the UK economy and labour market? What would be the impacts of setting a limit below the 2011/12 level in 2012/13?

- 4.4 As shown in Section 3, the full Tier 2 (General) Certificate of Sponsorship (CoS) allocation has been, to date, significantly under-subscribed. This could be related to a variety of factors. The current economic situation in the UK may be resulting in reduced recruitment. Employers may have been able to source staff from people within the UK or European Economic Area (EEA) without resorting to non-EEA migrants. Employers may have been put off by the process required to become a sponsor for non-EEA migrants. Alternatively, it may be that employers are delaying recruiting non-EEA staff until later in the current annual period.

Q2. Why has uptake of Tier 2 (General) visas consistently been below the implied monthly limit during 2011? Do you expect the level of uptake of such visas to change in the future, and why?

- 4.5 Another factor that could be influencing current demand for CoS, or which may influence it in the future, is the extent to which employers are able to recruit from, and raise the skills of, the resident workforce.

As such, we would like to receive evidence on how employers have responded to the introduction of limits on migration.

Q3. What responses to the limit on Tier 2 (General) migration have been considered and put in place by employers, including measures to recruit from and train the UK workforce?

Intra-company transfer route

- 4.6 In relation to the Tier 2 intra-company transfer route the Government asked *“Is the £40,000 minimum salary threshold for intra-company transfers seeking to stay for 12 months or longer an appropriate proxy test to ensure that migrants meet the General Agreement on Trade in Services (GATS) definition of senior Managers and Specialists? The MAC is asked to provide economic rather than legal advice when considering the compatibility of the definition. Should the £40,000 be a national rate or allow for regional variations in pay? Current policy allows the £40,000 threshold to be met through a combination of salary and allowances. Does the inclusion of non-salary remuneration undermine the use of the £40,000 threshold as a proxy test of skill level?”*
- 4.7 Given the references to the GATS definition of managers and specialists for intra-company transfers (see Box 3.1) and regional variations we are inviting views in relation to the question below.

Q4. If intra-company transfers were strictly limited to the GATS definition of senior managers and specialists, what impact would that have on employers? Is £40,000 per year a reasonable minimum pay threshold for such jobs, or should this threshold be higher? Should it vary amongst different regions of the UK and why?

- 4.8 The Government also asked about the use of non-salary remuneration under the intra-company transfer route. In Section 3, we discussed how use of allowances by migrants using this route may lead to migrants undercutting resident workers and displacing them from particular jobs or the labour market. We would like to obtain views as to whether undercutting is a significant issue and whether counting allowances towards the £40,000 threshold undermines salary as a proxy for skill.

Q5. Does the current inclusion of non-salary remuneration (allowances) in the £40,000 pay threshold for the intra-company transfer route undermine the validity of that threshold as a test of skill? Does it actually or potentially create an unfair advantage to migrants and their employers as discussed in Box 3.2 in Section 3 and, if not, why not?

Skill level for Tier 2

- 4.9 The Government put the following question to us: *“In order to allow the Government to identify an appropriate skill level for Tier 2 can the MAC*

confirm the list of occupations in Table B1 of its February 2011 report on the list of skilled occupations in Tier 2, i.e. those occupations skilled to National Qualification Framework level 4 and above (NQF4+) but not to National Qualification Framework level 6 and above (NQF6+), undertake a review of the non-NQF6+ job titles currently on the shortage list and estimate the impact on numbers of migrants in Tier 2 if the skills bar were raised to NQF6+?”

- 4.10 Section 3 described the work we carried out earlier in 2011 to develop a list of occupations skilled to NQF4+ for use in Tier 2, and an indicative list of occupations skilled to NQF6+. A full list of occupations we found to be skilled to NQF6+ is provided in Table A.1 in Annex A (this is the same list as referred to in the Government’s question).
- 4.11 A similar list of occupations we found to be skilled to NQF4+ but not NQF6+ is provided in Table A.2 in Annex A. This is a list of occupations that are currently sufficiently skilled for Tier 2 (General) but would not be in the future if (a) we confirmed our previous advice stood and (b) the Government used that advice to raise the minimum skill level to NQF6+. We welcome views and evidence on the methodology we used to develop the lists in Tables A.1 and A.2, the occupations in those lists, and the economic impact of raising the Tier 2 skill level from NQF4+ to NQF6+.

Q6. Can the methodology used to identify the skill levels of occupations, discussed in Section 3 of this call for evidence, and in our report “Analysis of the Points Based System: List of occupations skilled to NQF level 4 and above for Tier 2” (Migration Advisory Committee, February 2011), be improved, and if so how?

Q7. Are any of the occupations listed in Table A.2 skilled to National Qualifications Framework level 6 or above (NQF6+)? Are any of the occupations listed in Table A.1 not skilled to NQF6+? In either case please supply evidence to support your view.

Q8. What would be the economic impact of raising the minimum skill level for the intra-company transfer, RLMT and shortage occupation route from NQF4+ to NQF6+?

Resident Labour Market Test route

- 4.12 The Government’s final question to us was as follows: *“Currently jobs paid more than £150,000 are exempt from the Resident Labour Market Test (RLMT) requirement in recognition of the fact that, at that level, there will be little threat of disturbance to the resident labour market and such jobs are likely to be more global in character. If that threshold were lowered to a range of £70,000-£100,000, what would be the impact on demand for Tier 2 visas, the resident labour force and employers?”*
- 4.13 We are therefore interested in whether lowering the threshold as suggested would affect employment opportunities for resident workers and whether the existing RLMT is helping to create employment

opportunities for resident employees in jobs paying £70,000 or more per year. We are inviting evidence in relation to the questions below.

Q9. What would be the impact on employers and the economy of lowering the threshold for exemption from the RLMT from the current level of £150,000 per year to somewhere in the range of £70,000 to £100,000 per year?

Q10. What would be the impact on the UK labour market, including on employment opportunities of UK workers, of making the above change?

5. Responding to this call for evidence

- 5.1 Responses to this call for evidence can be sent direct to the MAC at either:

mac@homeoffice.gsi.gov.uk

or

Migration Advisory Committee
2nd Floor
Fry Building
2 Marsham Street
London
SW1P 4DF

- 5.2 Respondents are not required to answer all call for evidence questions. However, all responses should explicitly state which questions are being addressed.
- 5.3 **The closing date for this call for evidence is 21 December 2011.**
- 5.4 The responses we receive will be drawn upon in our consideration of the level of the limits for Tier 2. We will report on this call for evidence as part of our overall report to the Government in early 2012.
- 5.5 This call for evidence document can be downloaded from our website at www.bia.homeoffice.gov.uk/mac.
- 5.6 The questions on which evidence is invited are set out below. Respondents are not required to answer all of the questions.
- 5.7 Please note that we may quote evidence received, attributed to the individual or organisation that supplied it, in our published report unless we are explicitly asked not to do so.

Annual limit on Tier 2 General

Q1. What has been the impact of the annual limit on Tier 2 (General) of 20,700 in 2011/12 on the UK economy and labour market? What would be the impacts of setting a limit below the 2011/12 level in 2012/13?

Q2. Why has uptake of Tier 2 (General) visas consistently been below the implied monthly limit during 2011? Do you expect the level of uptake of such visas to change in the future, and why?

Q3. What responses to the limit on Tier 2 (General) migration have been considered and put in place by employers, including measures to recruit from and train the UK workforce?

Intra-company transfers

Q4. If intra-company transfers were strictly limited to the GATS definition of senior managers and specialists, what impact would that have on employers? Is £40,000 per year a reasonable minimum pay threshold for such jobs, or should this threshold be higher? Should it vary amongst different regions of the UK and why?

Q5. Does the current inclusion of non-salary remuneration (allowances) in the £40,000 pay threshold for the intra-company transfer route undermine the validity of that threshold as a test of skill? Does it actually or potentially create an unfair advantage to migrants and their employers as discussed in Box 3.2 in Section 3 and, if not, why not?

Skill level for Tier 2

Q6. Can the methodology used to identify the skill levels of occupations, discussed in Section 3 of this call for evidence, and in our report “Analysis of the Points Based System: List of occupations skilled to NQF level 4 and above for Tier 2” (Migration Advisory Committee, February 2011), be improved, and if so how?

Q7. Are any of the occupations listed in Table A.2 skilled to National Qualifications Framework level 6 or above (NQF6+)? Are any of the occupations listed in Table A.1 not skilled to NQF6+? In either case please supply evidence to support your view.

Q8. What would be the economic impact of raising the minimum skill level for the intra-company transfer, RLMT and shortage occupation route from NQF4+ to NQF6+?

Resident Labour Market Test

Q9. What would be the impact on employers and the economy of lowering the threshold for exemption from the RLMT from the current level of £150,000 per year to somewhere in the range of £70,000 to £100,000 per year?

Q10. What would be the impact on the UK labour market, including on employment opportunities of UK workers, of making the above change?

Annex A. Occupations skilled to NQF6+

- A.1 Table A.1 lists those 87 occupations which according to Migration Advisory Committee (2011a) meet the skill level of National Qualifications Framework level 6 and above (NQF6+).
- A.2 Table A.2 lists those 34 occupations which our work showed to meet a National Qualifications Framework level 4 and above (NQF4+) threshold but not a NQF6+ one. These occupations could potentially be excluded from Tier 2 if the skill level was raised to NQF6+.
- A.3 In both cases the associated levels of employment and median hourly earnings are also provided.

Table A.1: List of occupations identified in Migration Advisory Committee (2011a) as skilled to NQF6+ (February 2011)			
Standard Occupational Classification (SOC) code	Occupation title	Employment (000s)	Median earnings (£/hr)
1111	Senior officials in national government	9	32.28
1112	Directors and chief executives of major organisations	48	49.13
1113	Senior officials in local government	22	25.61
1114	Senior officials of special interest organisations	23	18.81
1121	Production, works and maintenance managers	325	19.7
1122	Managers in construction	185	19.11
1123	Managers in mining and energy	15	23.3
1131	Financial managers and chartered secretaries	191	28.28
1132	Marketing and sales managers	459	22.16
1133	Purchasing managers	41	21.79
1134	Advertising and public relations managers	45	21.27
1135	Personnel, training and industrial relations managers	126	21.9
1136	Information and communication technology managers	271	23.55
1137	Research and development managers	57	23.94
1141	Quality assurance managers	44	18.96
1142	Customer care managers	82	17.37
1151	Financial institution managers	140	21.48
1161	Transport and distribution managers	71	16.59
1171	Officers in armed forces	24	22.12†
1172	Police officers (inspectors and above)	15	26.46
1173	Senior officers in fire, ambulance, prison and related services	15	18.57
1174	Security managers	16	17.08

Table A.1: List of occupations identified in Migration Advisory Committee (2011a) as skilled to NQF6+ (February 2011)

Standard Occupational Classification (SOC) code	Occupation title	Employment (000s)	Median earnings (£/hr)
1181	Hospital and health service managers	64	23.02
1182	Pharmacy managers	7	19.22
1184	Social services managers	43	19.82
1212	Natural environment and conservation managers	6	18.64
2111	Chemists	21	16.43
2112	Biological scientists and biochemists	77	18.62
2113	Physicists, geologists and meteorologists	20	21.41
2121	Civil engineers	67	16.84
2122	Mechanical engineers	68	19.6
2123	Electrical engineers	48	21.04
2124	Electronics engineers	31	21.47
2125	Chemical engineers	8	17.66‡
2126	Design and development engineers	51	17.37
2127	Production and process engineers	30	16.33
2128	Planning and quality control engineers	27	15.99
2129	Engineering professionals n.e.c.	72	17.81
2131	IT strategy and planning professionals	106	23.41
2132	Software professionals	283	18.54
2211	Medical practitioners	143	32.03
2212	Psychologists	18	19.87
2213	Pharmacists/pharmacologists	22	19.7
2214	Ophthalmic opticians	8	20.37
2215	Dental practitioners	6	26.83‡
2216	Veterinarians	8	15.77
2311	Higher education teaching professionals	92	24.09
2312	Further education teaching professionals	78	18.21
2313	Education officers, school inspectors	17	20.79
2314	Secondary education teaching professionals	346	21.9
2315	Primary and nursery education teaching professionals	291	20.86
2316	Special needs education teaching professionals	41	21.24
2317	Registrars and senior administrators of educational establishments	29	17.78
2319	Teaching professionals n.e.c.	43	15.32
2321	Scientific researchers	14	17.41
2322	Social science researchers	12	12.3
2329	Researchers n.e.c.	40	16.35
2411	Solicitors and lawyers, judges and coroners	93	24.77
2419	Legal professionals n.e.c.	13	19.35
2421	Chartered and certified accountants	106	19.42

Table A.1: List of occupations identified in Migration Advisory Committee (2011a) as skilled to NQF6+ (February 2011)

Standard Occupational Classification (SOC) code	Occupation title	Employment (000s)	Median earnings (£/hr)
2422	Management accountants	67	19.85
2423	Management consultants, actuaries, economists and statisticians	120	20.72
2431	Architects	29	18.98
2432	Town planners	20	18.08
2433	Quantity surveyors	37	18.12
2434	Chartered surveyors (not quantity surveyors)	50	18.53
2441	Public service administrative professionals	25	23.72
2442	Social workers	81	16.78
2443	Probation officers	12	15.53
2444	Clergy	30	11.35
2451	Librarians	21	14.39
2452	Archivists and curators	7	12.88
3212	Midwives	22	18.41
3214	Medical radiographers	19	18.64
3215	Chiropodists	3	16.99
3222	Occupational therapists	19	16.07
3223	Speech and language therapists	7	16.21
3229	Therapists n.e.c.	15	16.32
3415	Musicians	4	17.03
3416	Arts officers, producers and directors	18	16.47
3432	Broadcasting associate professionals	30	21.14
3512	Aircraft pilots and flight engineers	18	36.85
3532	Brokers	41	24.9
3534	Finance and investment analysts/advisers	117	18.7
3535	Taxation experts	19	16.26
3565	Inspectors of factories, utilities and trading standards passed	13	16.98
3568	Environmental health officers	10	16.46

Notes: The indicator value is coloured green if the indicator passes our threshold for median hourly earnings (£13.40 per hour) and red if it does not. ‡ Indicates occupations where ASHE earnings data is deemed unreliable at the SOC 4-digit level, and the 3-digit value is used instead. Employment figures refer to working-age, full-time employees only and are rounded to the nearest thousand.

Source: Based on analysis set out in Migration Advisory Committee (2011a). Employment data: LFS 2007Q4 to 2010Q3. Earnings data: ASHE 2010.

Table A.2: List of occupations assessed in Migration Advisory Committee (2011a) as skilled to NQF4+ but not NQF6+ (February 2011)

SOC code	Occupation	Employment (000s)	Median earnings (£/hr)
1152	Office managers	204	15.97
1183	Healthcare practice managers	16	15.03
1185	Residential and day care managers	45	15.26
1219	Managers in animal husbandry, forestry and fishing n.e.c.	5	13.54
1222	Conference and exhibition managers	15	13.72
1231	Property, housing and land managers	71	17.68
1235	Recycling and refuse disposal managers	6	15.38
1239	Managers and proprietors in other services n.e.c.	131	16.51
3121	Architectural technologists and town planning technicians	18	13.52
3123	Building inspectors	3	15.23
3131	IT operations technicians	105	15.23
3211	Nurses	343	15.81
3213	Paramedics	18	17.63
3218	Medical and dental technicians	23	14.05
3221	Physiotherapists	20	15.6
3319	Protective service associate professionals n.e.c.	28	14.1
3411	Artists	5	14.73
3412	Authors, writers	19	14.7
3413	Actors, entertainers	3	15.19‡
3414	Dancers and choreographers	2	15.66
3422	Product, clothing and related designers	27	13.76
3431	Journalists, newspaper and periodical editors	37	15.66
3433	Public relations officers	21	14.01
3513	Ship and hovercraft officers	15	22.30‡
3531	Estimators, valuers and assessors	52	14.24
3537	Financial and accounting technicians	21	17.62
3539	Business and related associate professionals n.e.c.	106	14.39
3541	Buyers and purchasing officers	56	14.8
3543	Marketing associate professionals	91	14.07
3551	Conservation and environmental protection officers	20	14.58
3561	Public service associate professionals	60	15.92
3564	Careers advisers and vocational guidance specialists	22	13.91
3566	Statutory examiners	14	13.47
3567	Occupational hygienists and safety officers (health and safety)	31	16.7
	Thresholds		15.98

Notes: The indicator value is coloured green if the indicator passes our threshold for median hourly earnings (£15.98 per hour) and red if it does not. ‡ Indicates occupations where ASHE earnings data is SOC 4-digit level, and the 3-digit value is used instead.. Employment figures refer to working-age, full-time employees only and are rounded to the nearest thousand. Source: Based on analysis set out in Migration Advisory Committee (2011a). Employment data: LFS 2007Q4 to 2010Q3. Earnings data: ASHE 2010.

References

Migration Advisory Committee (2010). *Limits on Tier 1 and Tier 2 for 2011/12 and supporting policies*. Migration Advisory Committee, London. November 2010.

Migration Advisory Committee (2011a). *Analysis of the Points Based System – List of occupations skilled to NQF level 4 and above for Tier 2*. Migration Advisory Committee, London. February 2011.

Migration Advisory Committee (2011b). *Skilled, shortage and sensible – Full review of the recommended shortage occupation lists for the UK and Scotland*. Migration Advisory Committee, London. September 2011.

Migration Advisory Committee (2009). *Analysis of the Points Based System: Tier 2 and dependants*. Migration Advisory Committee, London. August 2009