

## **Migration Advisory Committee – Call for Evidence on the Review of Tier 2**

### **UCEA response on behalf of HE sector employers**

**September 2015**

#### **1. Introduction and background**

- 1.1 This is a response by the Universities and Colleges Employers Association (UCEA), which represents the views of higher education institutions (HEIs) across the UK in their capacity as employers. We have sought the views of our member HEIs in forming this response. Our response compiles evidence from UCEA's UK-wide HEI members and Higher Education (HE) sector data in order to inform the MAC call for evidence on the Review of Tier 2.
- 1.2 Our member HEIs place a very high value on their ability to recruit the best talent from both the UK and overseas. The sector wishes to continue to work with the MAC, Home Office and UK Visas and Immigration (UKVI) to ensure the ongoing effectiveness of the Points Based System (PBS) and to be involved in any revision to the Tier 2 system in order to ensure that the UK maintains its international status for research excellence and is seen as a premier destination for academic talent. We must also ensure that our graduates receive the best possible tuition and that the skills shortages in science technology, engineering, and mathematics (STEM) subjects can be addressed. Should there be any clarification required relating to the evidence or proposals set out in this document we would be happy to discuss these in further detail with the Committee.
- 1.3 The academic employment market is highly international in scope and ranges from the retention of non-EEA research students studying in the UK, who comprise 29.5 per cent of postgraduate research students, through to the recruitment of leading academics from overseas. It is common practice for academics to spend a period of time employed away from their home country, both for UK-domiciled employees working abroad and for non-EEA talent

spending part of their career conducting their research and teaching in the UK. This is critical for knowledge exchange, international collaboration and research development.

- 1.4 11.4 per cent of the academic workforce in the UK is from non-EU nationalities and the figures are significantly higher in STEM disciplines - 20.1 per cent of the sector's academic workforce in engineering and technology are from non-EU nationalities and 14.1 per cent of those in biological, mathematical and physical sciences. These two groups comprise 27.1 per cent of the total academic workforce and are critical to delivering high-quality research and preparing STEM graduates for the UK economy.
- 1.5 HEIs are significant users of the Tier 2 route through the Resident Labour Market Test (RLMT) gateway but their use of that route comprised just 0.7 per cent of total immigration (based on annual figures to December 2014). In the year ending March 2015, 3,550 new Certificates of Sponsorship were issued to individuals in 2119 SOC code jobs and 1,229 to 2311 SOC code jobs; this comprised 13.5 per cent of all RLMT route Certificates in 2014-15 and both categories were in the top ten occupations last year. However, these Certificates represent just 6 per cent of all new Certificates in 2014-15. Any change to Tier 2 that result in reductions in Certificates issued to the HE sector would be extremely damaging to HE and the UK, but would do very little to reduce the overall UK immigration levels.
- 1.6 The proposals outlined in the call for evidence, if implemented, would cause considerable damage to the HE sector in terms of its ability to recruit international academic talent, which in turn enables it to maintain international competitiveness in research and innovation, produce world-class research, and deliver excellent teaching to UK students.
- 1.7 **In Summary:**
  - The HE sector believes that the current Tier 2 system has typically enabled HEIs to recruit the highly valuable staff it requires from non-EEA countries. The partial RLMT exemption for PhD-level roles (2119 and 2311), is very important to the sector and should be retained.
  - The proposal to restrict the Tier 2 route to shortage occupations and highly specialist experts is supported, as long as researchers and higher education teaching professionals would fall within the classification of highly specialist experts.
  - The HE sector is a high user of the RLMT route for Certificates of

Sponsorship. The sector's use of the RLMT for SOC codes 2119 and 2311 has demonstrated that there is often no domestic or EEA labour available, thereby demonstrating that there is a shortage in these areas. As such, these two codes should be added to an expanded Shortage Occupation List.

- The HE sector strongly favours a focus on qualifications and skills in appropriate occupational codes with retention of the existing salary thresholds linked to the sector's national pay spine. We therefore ask that in any recommendations on a reformed Tier 2 route, the MAC will continue to acknowledge that earnings thresholds alone are not fit for purpose as a proxy for the level of skill and specialisation necessary to undertake research and teaching roles in universities.
- Significant increases to the current salary thresholds such as those proposed in the salary threshold consultation would be disastrous for the sector and would harm the Government's economic objectives without a noticeable reduction in net migration.
- The Codes of Practice for higher education teaching professionals (2311) should retain the link to the sector's national negotiated pay spine. The introduction of minimum appropriate pay linked to percentile earnings would undermine this arrangement and have negative unintended consequences in the form of pay inequalities and salary inflation. As noted in our salary threshold evidence, the use of the 25<sup>th</sup> percentile ASHE earnings or median earnings for new entrants workers would require HEIs either to appoint new entrants at the top of the entry lecturer grade or entirely prohibit recruitment. The use of the upper quartile for experienced workers would limit HEIs to recruiting to the level of professor (15 per cent of the academic workforce).
- The salary thresholds for researchers (211x) should be set with reference to the evidence previously supplied by RCUK and UCEA on salary levels. The use of the 25<sup>th</sup> percentile for new entrants would be a 40.6 per cent increase on the current threshold while the use of the median would largely prohibit recruitment into early career research grades. As noted in our response to the consultation on salary thresholds, the HE sector is also concerned about salary differentials between the new entrant and experienced rates which potentially require large salary increases after three years in post, which would not normally apply under the national

pay spine in HE<sup>1</sup>.

- The sector does not favour work restrictions on dependants as these individuals bring significant human capital to the UK in addition to the principal visa holder. Evidence from our members and from a survey by the Permits Foundation shows that the vast majority of Tier 2 dependants hold at least a Masters qualification and one-third hold PhD qualifications. Four-fifths are working in managerial or professional occupations in the UK. It is in the interests of the UK to enable such individuals to be active in the labour market and contribute to the state, rather than design policies that promote economic inactivity. Feedback from Tier 2 migrants in the sector suggests that excessive restrictions on the working rights of dependants would deter them from choosing the UK as their location of choice for research as conditions in other competitor countries, such as Australia<sup>2</sup>, Canada<sup>3</sup> and the US<sup>4</sup>, would be seen as being more favourable.
- Barriers to the employment of emerging early career researchers, such as an increase in salary thresholds and restrictions on dependants' right to work would be disastrous for the UK's status as a premier destination for the best and brightest researchers in the world. It would also reduce the likelihood of future academic and business collaborations built upon the networks that are created through hosting these individuals at the beginning of their career.
- The sector delivers the vast majority of level NFQ6+ qualifications in the UK and therefore should be exempt from a levy that redirects a surcharge on the employment of migrants towards the long-term sustainability of the UK's skills base. The sector believes that such an approach would be an inefficient recycling of money back into the sector as well as an unnecessary cost to publicly-funded research. At levels below NFQ6, the sector has already made good progress in providing apprenticeship opportunities with 57 per cent of HEIs reporting that they have at least one apprentice, according to UCEA's 2015 Workforce Survey.

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<sup>1</sup> please see paragraph 4.28 of that response.

<sup>2</sup> Temporary Partner Visa.

<sup>3</sup> Canadian Skilled Worker Visa.

<sup>4</sup> Spouses of H1B visas have been allowed to work in the country since 26 May 2015.

## 2 HEIs as employers

- 2.1 HEIs are valuable strategic assets operating in an international context. The academic employment market is highly international in scope and ranges from the retention of non-EU research students studying in the UK, who comprise 29.5 per cent of postgraduate research students, through to the recruitment of leading academics from overseas. It is commonplace for academics to spend a period of time employed outside of their home country, with the UK an attractive destination due to its world-leading research and the international character of its campuses.
- 2.2 Non-EEA academics play an important role in supporting the UK's world-leading academic institutions and departments. International academics help in the development of international collaborations and attract funding from European and international research funders. Universities also employ a wide range of non-academic staff at NQF6+. They seek to attract the best candidates to these roles, irrespective of nationality, in order to continue to advance their reputation and standing domestically and internationally.
- 2.3 As shown in Table 1, 11.4 per cent of the academic workforce is from non-EU nationalities and the figures are significantly higher in STEM subjects - 20.1 per cent of the sector's academic workforce in engineering and technology are from non-EU nationalities and 14.1 per cent of those in biological, mathematical and physical sciences. These two groups comprise 27.1 per cent of the total academic workforce and are critical to delivering high-quality research and preparing STEM graduates for the UK economy.

**Table 1: Higher education staff by nationality and cost centre, 2013-14**

Cost centre	Nationality				
	UK	EU (excluding UK)	Non- EU	Unknown	Total
Engineering & technology	61.3%	17.0%	20.1%	1.5%	100.0%
Administrative & business studies	67.2%	14.6%	15.4%	2.8%	100.0%
Biological, mathematical & physical sciences	62.6%	21.1%	14.1%	2.1%	100.0%
Humanities & language based studies & archaeology	64.8%	20.6%	12.2%	2.4%	100.0%
Social studies	69.5%	16.2%	11.8%	2.5%	100.0%
Architecture & planning	73.1%	13.0%	10.3%	3.4%	100.0%
Medicine, dentistry & health	75.9%	13.2%	8.6%	2.3%	100.0%
Agriculture, forestry & veterinary science	75.2%	15.8%	8.1%	0.6%	100.0%

Cost centre	Nationality				
Design, creative & performing arts	79.3%	7.8%	5.4%	7.5%	100.0%
Education	88.0%	6.4%	3.5%	2.0%	100.0%
<b>Total all cost centres</b>	<b>70.9%</b>	<b>15.0%</b>	<b>11.4%</b>	<b>2.7%</b>	<b>100.0%</b>

Source: HESA staff record: Table 14 - Academic staff (excluding atypical) by nationality and cost centre group 2013/14

### 3. Responses to the MAC Questions

#### Q.1 - What impact, if any, will reducing the level of Tier 2 migration have on the economy? What are the reasons for your answer?

- 3.1 The Government's report *Fixing the foundations: Creating a more prosperous nation* (July 2015) identifies 'world-leading universities' and 'high quality science and innovation' as vital components of the UK's economic growth engine.<sup>5</sup> The evidence emphasising the sector's economic impact is well established<sup>6</sup>, as noted by the report:

*Science and innovation is an area of great UK strength. The UK produces 16% of top quality published research findings, with less than 1% of the world's population. Foreign investors are drawn by the strength of UK research, including the opportunity for knowledge sharing with universities and access to high quality R&D personnel... To build on these strengths, the UK needs to ensure that it retains its position of international excellence in science, while increasing its strategic focus.*

- 3.2 The UK's 'world-leading universities' are reliant on world-leading academics to maintain and improve their teaching and research performance. Greater restrictions on the ability to attract 'high quality R&D personnel' will necessarily harm the sector and therefore the economy. HEIs would not be able to recruit the talent they need to stay at the forefront of teaching and research excellence. The ability to recruit the brightest and the best is dependent on the reputation of the university and the ability to attract research funding. To be world-leading, HEIs need to be able to attract the best talent irrespective of

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/443897/Productivity\\_Plan\\_print.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443897/Productivity_Plan_print.pdf)

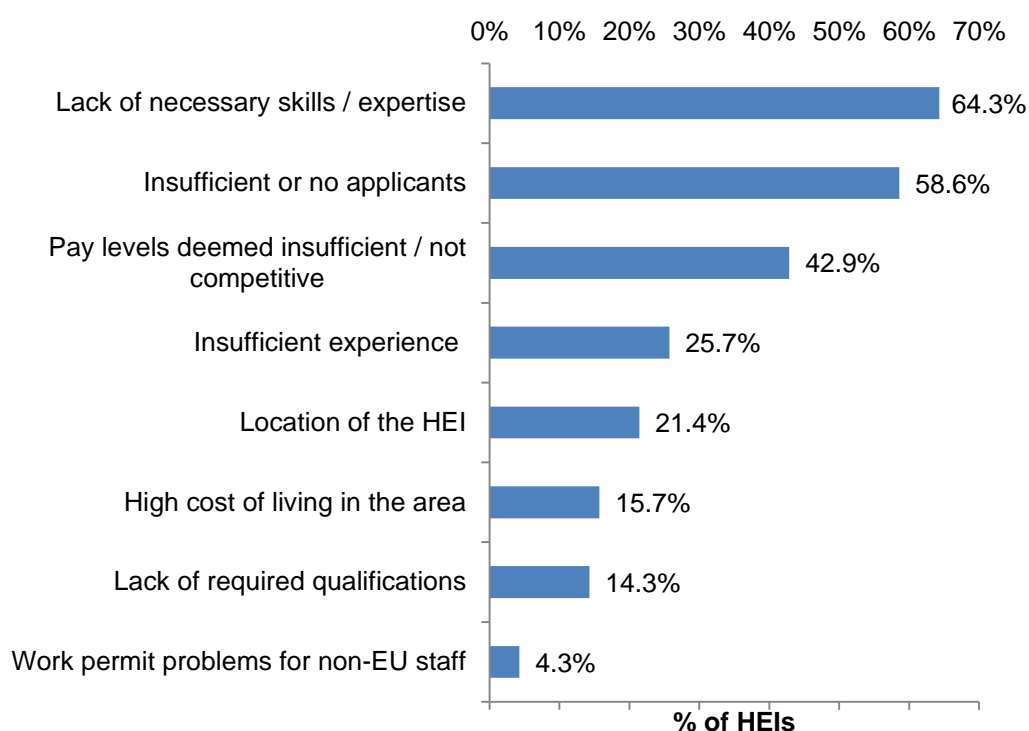
<sup>6</sup> According to Universities UK, the higher education sector generated over £73 billion of output (both direct and indirect effects) and contributed 2.8% of UK GDP, up from 2.3% in 2007.

nationality. A pre-1992 University which operates in international locations, states that:

*“Relying on increasing our staff numbers abroad rather than employing highly specialised migrants within the UK would not ultimately resolve the issue of employing highly sought-after researchers and teachers to teach and develop UK students in their home country. Any reduction in our ability to recruit the very best internationally renowned teachers and researchers impacts on our “products” offered within our UK campuses, affects the student experience and ultimately reduces our effectiveness and contribution to the UK economy.”*

- 3.3 A reduction in Tier 2 migration, which comprised 12 per cent of inward migration in 2014-15, will restrict the ability of UK employers to fill critical skill-shortage vacancies but will have very little impact on the Government’s immigration target. With regard to the HE sector, 4,779 Certificates of Sponsorship were issued to non-EEA researchers and higher education teaching professionals employed in UK universities in 2014-15, or just 0.7 per cent of the total inward migration (640,000) in the year to December 2014. Given that 20 per cent of the sector’s academic workforce in engineering and technology are from non-EEA countries, it is inevitable that a restriction will have a dangerous disproportionate impact on the HE sector and the wider economy with little impact on the Government’s migration target.
- 3.4 If the sector’s ability to recruit the brightest and the best talent in highly specialist areas is restricted, HEIs’ current ability to increase student knowledge and UK capacity through teaching and research will decrease. This would exacerbate current skills shortages in the UK, as HEIs would be less able to train the next generation of specialists.
- 3.5 The table below from the UCEA Workforce Survey 2015 (forthcoming) shows that a lack of the necessary skills/expertise is the most significant reason for recruitment difficulties within the HE Sector. Academics and researchers have highly specialised skills in very specific disciplines that can be very difficult to source from the domestic and wider European labour market. Often there may be only a handful of people in the world specialising in a particular subject area and it is not possible to fill vacancies in those subjects from the domestic labour market. Therefore it is vital that HEIs are able to source staff from non-EEA countries where necessary.

**Figure 1: Main reasons for academic staff recruitment difficulties in 2013-14**



- 3.6 If UK HEIs are not able to recruit the world-leading academics that they need, these highly sought-after individuals will instead work at universities and research centres in competitor countries.
- 3.7 The brightest and the best academics will want to work on cutting-edge research in world-leading HEIs. If the quality of research in the UK deteriorates, together with UK HEI world rankings, due to a decrease in highly skilled non-EEA talent working in the sector, this is likely to lead to outward migration of British academic staff leaving the UK to work in competitor countries. As such, the UK will lose the most talented of its existing UK academic workforce, as well as losing the important contribution of non-EEA academics.
- 3.9 Many UK HEIs also employ a high number of clinical academic staff from overseas, due to shortages within the UK. If the number of clinical academic staff that the sector is able to recruit is restricted as a result of the Tier 2 route being further limited, this would impact on clinical training and clinical practice, which would be detrimental to the NHS and health research.
- 3.9 HE staff (particularly SOC codes 2111, 2119, 2311) are required as part of their role to undertake '3<sup>rd</sup> mission activities' i.e. working with small businesses and research centres in and around the local community through knowledge exchange. Such support contributes to the future success of these businesses and is highly valued. If the sector is unable to recruit to these positions as a



result of a reduction in the Tier 2 route, this type of activity will be hindered which will have a knock-on effect to the economy.

- 3.10 International students are attracted by the UK HEIs' standing in university league tables and the international nature of their campuses. Any deterioration in these standards, due to fewer overseas leading academics, could lead to a fall in international student numbers. Revenue from international students is essential to a HEI's operation and helps to create further local jobs.
- 3.11 The ability to recruit leading researchers and academics regardless of nationality impacts on the HE sector's ability to attract international research funding. This in turn attracts investment to local regions and benefits the economy. Principal investigators may bring research funding with them, to the benefit of UK HE. These staff may then also require a local research and support team, which creates employment opportunities in the UK.

*Example*

At Royal Holloway University of London a world renowned Australian professor is carrying out research with regard to determining what indigeneity has come to mean in particular places at key moments over the last several decades regarding cultural representation and dynamic social practice. Migrants from Canada, Peru, South Africa and Europe were involved in the research. The project was awarded over £2m from the European Research Council to the benefit of the UK economy.

- 3.12 Restrictions to Tier 2 would reduce the ability of the HE sector to collaborate on important international research and secure international funding. This in turn could have a negative impact on the ability of UK HE to compete in the student market.
- 3.13 There is also a risk to the sector in losing entry level research talent. UK HEIs need to attract the best career-entry academics whose work may contribute to ground-breaking research. It is highly beneficial to the UK HE sector and to the wider UK economy for these talented individuals to undertake such research in the UK rather than in competitor countries.
- 3.14 While restrictions to Tier 2 would be of great concern to the sector in terms of STEM subjects: a world-class workforce, which may include non-EEA staff, is important for all subject areas. As noted in our submission to the salary thresholds consultation<sup>7</sup>, 15.4% of staff in Business and Administration subjects

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<sup>7</sup> Please see our previous submission – page 4, table 1.

are from outside the EU, and 12.2% of humanities, archaeology and language-based staff are non-EU nationals.

- 3.15 For certain subjects, for example modern languages or international politics, it is highly likely in many cases that vacancies can only be filled by international staff and native speakers. HEIs' ability to recruit non-EEA specialists to these subject areas should not be decreased.
- 3.16 The recruitment of non-EEA labour into the HE sector does not just benefit the migrant and the individual HEI employer; rather it has a significant and positive knock-on effect, benefiting: the students who are taught by world-leading specialists; the economy through cutting-edge research and associated funding (that would otherwise go to other countries) and knowledge exchange with local enterprises (through 3<sup>rd</sup> mission activities).

**Q2. - How well does the Resident Labour Market Test provide evidence that no domestic labour is available?**

- 3.17 Open recruitment practices are standard in the HE sector and promoted through the Concordat to Support the Career Development of Researchers which embodies the principles of the European Code of Conduct for the Recruitment of Researchers. Jobs are typically advertised on jobs.ac.uk which will be the primary site of choice for job seekers looking for roles in the HE sector. As part of a commitment to the European Charter and Code, many HEIs advertise positions on the EURAXESS portal.<sup>8</sup> The primary driver of open recruitment in the sector is to deliver transparent, efficient and supportive recruitment practices in the sector that enable talent from all backgrounds to identify opportunities and be considered in a fair process. PhD roles are exempt from the requirement to advertise through Job Centres which is a sensible approach that should be continued. The “academic leave” and “supernumerary research” provisions in Tier 2 are also valued.
- 3.18 Open recruitment practices, of which the RLMT is a basic type, do ensure that opportunities are advertised through appropriate platforms and provide evidence about skill-shortage vacancies to the effect that applications can be counted and assessed against required criteria. HEIs do seek to recruit resident labour to fill vacancies; however, their use of Certificates of Sponsorship through the RLMT route demonstrates that there are no EEA workers available with the necessary highly specialist skills set in many cases.

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<sup>8</sup> <http://ec.europa.eu/euraxess/index.cfm/jobs/index>

The non-EEA staff that HEIs recruit into those vacancies do not displace domestic labour, as proven by the RLMT process.

- 3.19 It should be emphasised that skill-shortage vacancies in research are not directly comparable to shortages in other professional occupations such as nursing, management consultancy and accountancy where there is a high degree of skill, but not always a high degree of specialisation. Although researchers possess a set of transferable skills, their selection is primarily dependent on the relevance of their specialist knowledge in highly specific areas. There may be very few people globally who possess the required knowledge, and their work cannot be substituted by another academic without the same subject specialism. If an HEI is not able to recruit from the small academic pool in a particular subject area, there would be no option other than for that particular vacancy to be left unfilled.

#### **How could the test be improved?**

- 3.20 The RLMT provides an adequate test of the labour market at the point that recruitment exercises are being conducted. The test could be improved in the following ways:

- Simplified and improved guidance.
- A reduction in the 28 day requirement which is excessive and leads to project delays and difficulties for term-dependent employment. We recommend 14 days.
- Recognition of LinkedIn as a valid form of advertising platform.
- Exemption from RLMT for recurring recruitment difficulties for similar positions.

#### **Q.3 - Does the points mechanism operating in respect of the limit on Tier 2 certificates of sponsorship prioritise those migrants of greatest benefit to the UK?**

- 3.21 Feedback from our member HEIs suggests that the Certificate of Sponsorship currently prioritises those migrants of greatest benefit to the UK. The HE sector provides important public goods and benefits in the form of research and teaching that drive economic growth, technological advances and cultural enrichment. The international component of the HE workforce is critical to maintaining the sector's performance and therefore the benefits of Tier 2

sponsorship not only accrue to the migrant and the sponsor, but to the wider UK public.<sup>9</sup>

- 3.22 PhD-level occupations are given additional points compared to non-PhD level occupations and this allows the HE sector to recruit highly-skilled individuals from outside the EEA where necessary. It is essential that this prioritisation is maintained in any revised Tier 2 system. Salaries in PhD-level occupations are often lower compared to the private sector so the extra points awarded for PhD-level occupations provide a fair counter-weight.
- 3.23 With regard to sectors of the economy, we believe there is a case for prioritising those sectors that deliver public goods and services including human health and social work (SIC 86), education (SIC 85) (including higher education – SIC 8542), and public administration and defence (SIC 84). The MAC may also wish to consider sectors of strategic economic value, of which HE should be included.
- 3.24 However, if the demand on Tier 2 (General) increases as it has over the past few years, with any further breaches of the Tier 2 cap, we need to ensure that HE's ability to recruit necessary overseas talent is not adversely affected by competition for Certificates of Sponsorship with higher-paying sectors, despite the additional points awarded for PhD level qualifications.

#### **How could its efficiency at doing this be improved?**

- 3.25 To have a PhD is to be recognised as a subject specialist. The use of PhD-level occupations as a proxy for highly-specialist roles should be retained as this provides a straightforward mechanism for assigning points and prioritising applicants that will provide a net benefit to the UK.
- 3.26 The use of minimum salaries should also be retained but these salaries should remain linked to the appropriate salary benchmarks as set out in our salary threshold guidance and noted in the introduction.

#### **Q.4 - What criteria should be used to select jobs and occupations that are genuine skills shortages and people that are highly specialist experts? What use should be made of selection criteria such as salaries, points for particular**

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<sup>9</sup> For example, the OECD estimates that the net return (NPV) to UK taxpayers on the public costs of supporting a man in higher education was US\$80,179 in 2009 and US\$86,861 for a woman. Table A7.2a and A7.2b.  
[http://www.oecd.org/edu/eag2013%20\(eng\)--FINAL%2020%20June%202013.pdf](http://www.oecd.org/edu/eag2013%20(eng)--FINAL%2020%20June%202013.pdf)

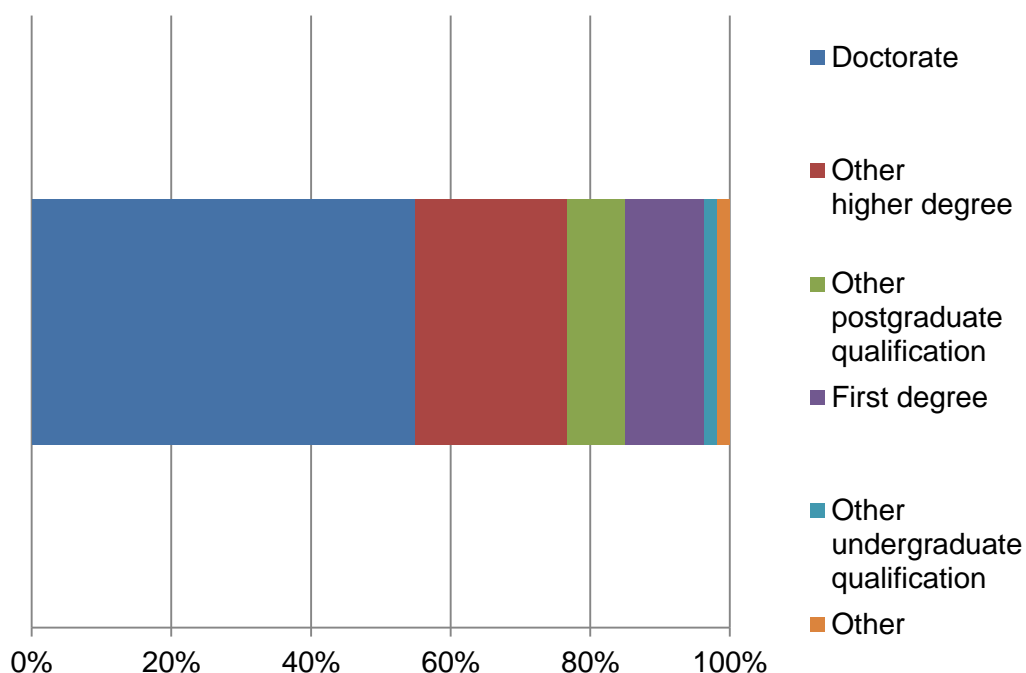
**attributes, economic need, number and length of vacancies and skills level?  
What other criteria should be considered?**

- 3.27 Academic and research roles are highly-specialist occupations filled by subject experts. We would expect that these occupations would be included under a definition of highly-specialist experts and therefore be eligible for Certificates of Sponsorship within a more restricted Tier 2 route subject to the existing salary thresholds.
- 3.28 Qualifications, occupation, sector (see Q3) and salary should be the primary criteria for highly-specialist experts. However, as noted elsewhere, salary thresholds should be kept at the current levels with increases linked to the national HE pay spine.
- 3.29 With regard to highly-specialist expert occupations, the following PhD-level SOC codes, as set out in the Home Office Tier 2 policy guidance, should be adopted as the minimum criteria:

SOC 2010	Job Title
Code 2111	Chemical Scientists
Code 2112	Biological Scientists & Biochemists
Code 2113	Physical Scientists
Code 2114	Social & Humanities Scientists
Code 2119	Natural and Social Scientists not elsewhere classified
Code 2150	Research & Development Managers
Code 2311	Higher Education teaching professionals

- 3.30 In addition to the current points allocated for PhD-level occupations (211x and 2311), additional points could be allocated to applicants with qualifications at NQF Level 7 or above. As shown in the chart below this would cover 85 per cent of the existing academic workforce.

**Figure 2: Academic staff (excluding atypical) by highest qualification held, 2013-14**



Source: HESA. Excludes 'Unknown'.

- 3.31 There is a degree of overlap between skills shortages and highly-specialist experts as the latter are typically in limited supply relative to market needs. In HE there is a lower degree of substitution due to the tightness of specialisation compared to professions such as nursing or IT that will operate within a set of standard practices. We would therefore recommend that highly-specialist experts are not put at a disadvantage vis-à-vis shortage occupations in the points-based system.
- 3.32 In terms of typical skill shortage indicators, many of these are not well suited to HE research and teaching professionals. Increases in pay for staff in SOC codes 211x and 2311 in the HE sector rise in line with the annual base pay uplift for all staff in the sector and therefore increases in pay are not a good proxy for market need. Market supplements are used by many institutions but typically reflect pay relativities with the private sector rather than skill shortages.
- 3.33 Labour Force Survey data for both 2311 and 211x is unreliable so indicators such as vacancy rates and employment/unemployment levels cannot be used. The length of vacancies at an organisational level should not be used as a measure for skills shortage as this would be an unnecessary delay to the recruitment process.

3.34 There is strong consensus amongst the HE sector that the age criteria for the Tier 2 (general) experience workers minimum salary threshold should be abolished as this could be in breach of the 2010 Equality Act.

**Q.5 - What will be the impact of restricting Tier 2 (General) to genuine skills shortages and highly specialist experts?**

3.35 The sector's expectation is that researchers (211x) and higher education teaching professionals (2311) would be sensibly classified as highly specialist experts. As long as this is the case, the restriction would still allow HEIs to recruit non-EEA talent where required.

3.36 However, the ability for students to work following graduation and transfer into the Tier 2 route is valued and important to the sector. Universities UK's evidence provides further detail.

3.37 Furthermore, if consideration is given to expanding the genuine skills shortage list, decisions on what should be regarded as shortage skills should be informed by trends and shortages identified by the UK research community with particular notice given to shortages in the STEM subjects.

**Q.6 - How could a restricted Tier 2 (General) route maintain flexibility to include: a) high value roles; b) key public service workers?**

3.38 As noted in Q3, we recommend that the MAC consider the feasibility of assigning weight to SIC codes in sectors that provide public goods and services: 84, 85 and 86.

**Q.7 - What evidence is there of significant regional differences in skills shortages?**

3.39 We do not have evidence that indicates regional differences in skills shortages, however, there are often differences within regions and between metropolitan areas. For example, the UKCES Employer Skills Survey 2013 found that 31 per cent of hard-to-fill vacancies in Cambridgeshire were due to skill shortages compared to 8 per cent in Sheffield. The findings suggest that regional approaches based on the former 'government office regions' would not be suitable. Instead the system should provide enough flexibility to respond to the needs of areas such as the Cambridgeshire example cited.

3.40 Universities have a key role to play in the government's Northern Powerhouse agenda, therefore if the UK is to be successful in encouraging industry and

innovation in the north, HEIs would need to be able to attract and recruit the best candidates in their field, regardless of nationality. If there are significant migration changes, this could limit the potential for expansion in enterprise, industry and innovation in the North West as there is an absence of the critical population required to provide the skills needed in that area of the UK.

**Q.8 - What evidence is there of the need to recruit highly specialist experts?**

3.41 The HE sector would deem all academic positions to be highly specialist experts with the need to demonstrate innovative teaching practices and international research skills. As noted in Q4, 85 per cent of the academic workforce is qualified to NFQ Level 7 or above with a majority holding PhD qualifications.

3.42 Inability to fill senior scientist posts in areas of cutting edge science e.g. epigenetics, where globally there may only be a handful of people with the relevant skills is just one example of evidence that there is a need to recruit highly specialist experts.

*Examples:*

- The University of Surrey has 140 Staff currently on time limited visas, 89 of them on Tier 2 making up 12 per cent of their research and teaching staff.
- The Royal Holloway University is recognised as a leader in Geoscience. The University currently employs two world-leading academics from North America who have unique expertise in this field: a Senior Lecturer in Geophysics who is world-leader in numerical modelling of multiphase flow of geological fluids, and a Professor of Geophysics, who is a world-leader in numerical modelling of mantle convection and the dynamics of mid-ocean ridges using bespoke parallel codes. These are such specific subject areas that it is sometimes necessary to recruit from outside the EEA. If freedom to recruit were restricted this could cause research to decline and affect the international reputation of the university.

**Q.9 - What would be the impact on business and the economy of restricting recruitment to genuine skills shortages and highly specialised experts for: migrants switching from the Tier 4 student route?**

3.43 As noted in Q5, the sector's expectation is that researchers (211x) and higher education teaching professionals (2311) would be sensibly classified as highly specialist experts. However, students are less likely to come to the UK to study if they are unable to continue working beyond their course without first



returning home. Universities UK has provided further evidence on this point in its submission.

**Q.10 - How could the methodology to set the Shortage Occupation List be expanded to develop a revised Tier 2 (General) which restricts the route to genuine skills shortages and highly specialised experts only?**

3.44 See responses to questions 3 and 4.

**Q.11 - What occupations would you expect to see on an expanded shortage occupation list? How does the occupation or job title you are suggesting satisfy each of our criteria in relation to “skilled”, “shortage” and “sensible”? Alternatively, what other criteria does the occupation or job title satisfy that meets the requirement of being in a genuine skills shortage or for highly specialised experts?**

3.45 As noted in our response to question 4, the HE sector would expect academic and research roles to be classified as highly specialist experts. However, there is also a case for PhD-level roles to be added to an expanded shortage occupation list. Academics (2311) and research (211x) occupations are currently identified as PhD-level occupations within the Home Office guidance and we would expect that this categorisation would remain unchanged. The SOC descriptions outlined in table 2 below clearly identify these roles as skilled roles and the proportion of employees with NQF 6+ and indeed NQF 7+ qualifications (see Q4) also supports this classification. In terms of evidence of a shortage, both SOC codes were in the top 10 of Certificates of Sponsorship issued by occupation through the RLMT. This indicates that nearly 5,000 jobs in these occupations could not be filled through the domestic or European labour market. Finally, the ability of HEIs to recruit into these roles is sensible given the duties attributed to them in the SOC definition as well as the evidence provided in Q3.

**Table 2**

	<b>SOC 2311</b>	<b>SOC 211x</b>
Skilled (from SOC description)	“Entry will require a good honours first degree plus a higher degree or an equivalent professional qualification.”  “Higher education teaching professionals deliver	“Entry is most common with a degree or equivalent qualification but is possible with other academic qualifications and/or relevant experience.”  “plans, directs and undertakes research into natural phenomena;”

	lectures and teach students to at least first degree level, undertake research and write journal articles and books in their chosen field of study.”	
Shortage	1,229 successful CoSs as a result of RLMT in 2014-15.	3,550 successful CoSs as a result of RLMT in 2014-15.
Sensible (from SOC description)	<p>“prepares, delivers and directs lectures, seminars and tutorials”</p> <p>“provides pastoral care or guidance to students”</p> <p>“directs the work of postgraduate students”</p>	<p>“applies models and techniques to medical, industrial, agricultural, military and similar applications”</p> <p>“advises government, private organisations and special interest groups on policy issues”</p> <p>“writes journal articles, books, and addresses conferences, seminars and the media to reveal research findings”</p>

**Q.12 - What would be the impact of an expanded Shortage Occupation List on business and the economy?**

**Q.13 - How far in advance can your organisation, sector or local area anticipate a potential shortage in skilled labour?**

3.46 HEIs found it difficult to estimate this as it would depend on the nature of the role/vacancy. The majority felt this was dependent on strategic plans in place.

**Q.14 - Alternatively, is it sensible to leave the present Tier 2 (General) route intact and achieve any reduction in economic migration by raising the pay thresholds only?**

3.47 The sector is strongly opposed to an approach that uses an increase in pay thresholds to reduce economic migration. As noted in our salary threshold consultation submission:

- Significant increases to the current salary thresholds such as those proposed in the salary threshold consultation would be disastrous for the sector and would harm the Government’s economic objectives without

any noticeable reduction in net migration.

- The Codes of Practice for higher education teaching professionals (2311) should retain the link to the sector's national negotiated pay spine. The introduction of minimum appropriate pay linked to percentile earnings would undermine this arrangement and have negative unintended consequences in the form of pay inequalities and salary inflation. As noted in our salary threshold evidence, the use of the 25<sup>th</sup> percentile ASHE earnings or median earnings for new entrants workers would require HEIs either to appoint new entrants at the top of the entry lecturer grade or entirely prohibit recruitment. The use of the upper quartile for experienced workers would limit HEIs to recruiting to the level of professor (15 per cent of the academic workforce).
- The salary thresholds for researchers (211x) should be set with reference to the evidence supplied by RCUK and UCEA on salary levels. The use of the 25<sup>th</sup> percentile for new entrants would be a 40.6 per cent increase on the current threshold while the use of the median would largely prohibit recruitment into early career research grades.

**Q.15 - The MAC has been asked how to limit the length of time occupations can be classed as having shortages:**

3.48 The sector will always have a requirement to recruit highly-specialist experts who, by the nature of their expertise, will be in short supply. For this reason we would urge that the PhD-level occupation list should not be time-limited in an expanded shortage occupation list.

**Q.16 - The Tier 2 (Intra-Company Transfer) category is the most used route under Tier 2. The Government has asked that the MAC consider the scope for action to tighten the intra-company transfer provisions:**

3.49 Few HEIs not use the intra-company transfer category.

**Q.17 - Skills levy /Surcharge**

**The Government has asked that the MAC consider to which businesses a skills levy should apply and the impact this may have, balancing the need to maximise the incentive for employers to recruit and train UK workers with the ability of businesses to access the skilled migrants they need. The proceeds of the levy would fund apprenticeships in the UK.**

3.50 Without any detail on the level, structure or use of the proposed surcharge, it is difficult to provide meaningful comment. However, HEIs oppose the introduction of a levy to the sector. It is already expensive, time-consuming and bureaucratic for employers to recruit from outside the EEA. The sector only recruits from outside the EEA where it needs to in order to secure the brightest and best talent for the UK. HEIs recruit non-EEA staff when they have been unable to source suitable domestic labour, as evidenced by the RLMT. As such, they would have no choice but to recruit from outside the EEA and pay the consequent levy. HEIs would effectively be penalised for a lack of domestic workers with the requisite highly specialist skills.

a. *What would be the impact of different levels of levy on your occupation or sector? Would a skills levy affect the way you recruit?*

3.51 In theory, the skills levy would not affect the way the HE recruits its staff, as for certain roles the sector will continue to need highly specialist talent regardless of nationality, but a levy will increase the cost of recruitment which would be a strain on an already reduced budget. Increased recruitment costs would have a knock-on effect on other areas of expenditure.

b. *Should a skills levy apply to all businesses recruiting from outside the EEA? If not, to which businesses should a skills levy apply and why? Why should other businesses be exempt from the levy?*

3.52 HEIs strongly believe that they should be exempt from such a levy.

3.53 HE is a not-for-profit sector and does not have the ability to redirect funds from other areas to meet additional recruitment costs, without a significant detrimental impact on services. Imposing a levy would cause a strain on already stretched HEI budgets, which would in turn have a knock-on effect on HEIs' ability to provide quality education to students in the UK.

3.54 HEIs would be paying the levy from public research funds. These funds are limited to the cost of research and staffing cost and it would not be helpful to have to use these public funds to cover a skills surcharge. This would essentially be recycling government funding and diverting it away from its original intended use.

3.55 If a skills levy were introduced in addition to the proposed apprenticeship levy, this would introduce potentially damaging additional costs to recruit to hard-to-fill vacancies. Such costs will be very difficult for not-for-profit employers, such as HEIs, to cover.

- 3.56 The HE sector already contributes significantly to education and training to degree level and beyond, thereby developing future specialists in the UK.
- 3.57 By bringing in expertise from the international community that is not available in the UK and wider EEA, universities are enabling these skills and knowledge to be shared with the future workforce thereby reducing the skills gap.
- 3.58 As employers, HEIs have made good progress in providing apprenticeship opportunities. According to the UCEA/HEFCE Workforce Survey 2015 (forthcoming), 61 per cent of HEIs currently employ apprentices or have done so in recent years and a further 20 per cent intend to do so in the near future.
- 3.59 If the HE sector is not to be exempt then it would expect to see a percentage of the funds targeted towards supporting higher level apprenticeships or is utilised to progress the strategic aims of the HE sector through developing the skill the sector requires for delivery of future capacity building.
- c. Should a skills levy be a one-off payment at the point of recruitment of a Tier 2 migrant or should it be on an annual basis for the duration of the migrant's stay under their initial Tier 2 visa?*

3.60 If HEIs were required to pay a skills levy, preference would be for a one-off payment as this would be less work to administer – but with a chance of a pro-rata refund if the individual leaves earlier than planned.

*d. Would a skills levy have specific regional impacts?*

3.61 There is likely to be regional impact if the money from the skills surcharge is ploughed back into areas which have the most apprenticeships roles such as manufacturing and engineering.

3.62 There would also be disproportionate return on investment if the funding is targeted for growth of apprenticeships that do not feature in the HE sector.

#### **Q.18 - Dependants**

**Dependants of Tier 2 migrants, such as partners, spouses and adult minors, presently have the unrestricted right to work in the UK. The MAC is asked to consider the impact of removing this automatic right:**

*a. How would removing the automatic right of dependants to work affect main applicants' decision of whether to come to work in the UK?*

- 3.63 The right of dependants to work is an important factor in migrants' decisions about whether to move to work in UK HE. In a survey carried out by the Permits Foundation<sup>10</sup>, over 80% of the 222 Tier 2 HE sector staff who responded to the survey said that they would probably not (40.09%) or definitely not (40.99%) have accepted the current assignment if their spouse or partner did not have the right to work in the UK. To quote one of the respondents: "When I was reviewing my offer, my spouse having the option to work was an important consideration".
- 3.64 A further example, from a survey conducted by the University of Cambridge on the types of queries received from non-EEA staff (from June to August 2015), demonstrates the importance of dependants in a migrants' decision-making: the survey found that 48% of the queries made by non-EEA staff related to questions regarding dependant visas, including the eligibility to work, restrictions and duration.
- 3.65 Potential non-EEA staff will want to ensure that their spouse has the right to work so as not to interrupt their career nor limit their opportunities for social integration in a new country. Academic and research staff have highly international careers and restrictions on the working rights of dependants would deter them from choosing the UK to continue their career, in favour of other competitor countries such as Australia<sup>11</sup>, Canada<sup>12</sup> and the US<sup>13</sup> which would have more favourable conditions for their partners.
- 3.66 If a dependant's right to work, and consequently earn a living, were restricted, the migrant would be the sole earner, which would cause practical difficulties as the UK has a relatively high cost of living. This would particularly be the case for early career entrants whose starting salary would be in the region of £24,775.

*b. How many of your Tier 2 employees bring dependants? If so, do they work whilst in the UK? Are they qualified to degree level? What occupations do they work in? If possible, please specify occupations or job titles according to the SOC 2010 classification.*

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<sup>10</sup> Data extract from survey by Permits Foundation to access the mobility and social impacts of restricting the right of dependants of Tier 2 visa holders to work in the UK (September 2015).

<sup>11</sup> Temporary Partner Visa

<sup>12</sup> Canadian Skilled Worker Visa

<sup>13</sup> Spouses of H1B visas have been allowed to work in the country since 26 May 2015

- 3.67 HEIs do not generally keep data on their employees' dependants. As such, we are not able to provide figures on the proportion of Tier 2 employees who bring dependants.
- 3.68 The Permits Foundation survey, however, found that 167 of the Tier 2 HE sector staff who responded classed their spouse or partner as being either employed (61.08%) or self-employed (4.79%).
- 3.69 The Permits Foundation survey also found that 97.6% of the dependants of respondent Tier 2 visa holders were educated to degree level (NQF 6) and above. 70.2% of the dependants in the survey hold a Masters degree (36.9%) or a doctorate or PhD (33.3%).
- 3.70 With regard to the type of occupations that Tier 2 dependants work in, the Permits Foundation survey found that 64.4% of dependants of respondents work in professional occupations that require a degree or equivalent qualification. A further 6.8% work in managerial or director level roles.

*Examples:*

- The University of Cambridge employs 125 individuals on dependant visas; 72.8% of whom are in skilled occupations (NQF Level 6 and above) with the majority of these employed in PhD level roles.
- Heriot-Watt University also employs a number of individuals on dependant visas; 80% of those are working in PhD level posts.

*c. How would removing the automatic right of dependants to work impact on:*

*i. the economy;*

- 3.71 As demonstrated by the data in the Permits Foundation survey, and our feedback from member HEIs, the majority of dependants are employed or self-employed. If the right to work was restricted there would be a loss to the economy in terms of the loss of tax revenue and also in terms of reduced spending power in a single-income family.
- 3.72 Given that most of the dependants are employed in high level professional roles requiring NQF level 6 qualifications, there would also be a loss to the economy in terms of knowledge exchange.

- 3.73 The main visa holder may be unable to bring their spouse or partner to the UK and therefore spend less of their earnings in the UK as they would have to send money back to their family.
- 3.74 A respondent on a Tier 2 visa who responded to the Permit Foundation survey stated that the “Cost of living in the UK is high. On my current wages without a second income, there would be a considerable strain on the family finances. My partner would also have to suffer a career disruption which would be undesirable”.
- 3.75 Importantly, a removal of, or heavy restriction on, dependants’ right to work would deter potential academic and research migrants from accepting offers or work, or even applying to offers, in UK HEIs. As outlined in the previous questions to this submission, this would have serious detrimental consequences for the UK HE sector and the wider economy.

*ii. public finances?*

- 3.76 It would increase the population but would render the dependants of Tier 2 migrants economically inactive. It would thereby remove the fiscal contribution that the dependants make through taxation.
- 3.77 As Tier 2 migrants and their dependants are required to pay an NHS surcharge, their use of public funds is very limited. However, a restriction on dependants’ right to work would mean that the migrant’s spouse or partner would not be able to contribute to the state through taxes.

*d. Would removing the automatic right of dependants to work have social impacts?*

- 3.78 Work is a positive life experience for most people and as such restricting dependants from working is likely to have a detrimental effect on their general wellbeing. Without the wider network of people to interact with through work, dependants are less likely to integrate well and feel part of the general UK society.

*e. Would removing the automatic right of dependants to work have specific regional impacts?*

- 3.79 There was no evidence of any regional impact for the HE sector.

**Salary Thresholds  
Questions 21 – 30**



- 3.80 We would like to refer the MAC to the previous UCEA response to the salary threshold consultation for our position (a copy is attached for ease of reference).
- 3.81 UCEA would like to use this opportunity to restate the HE sector's position. The proposals outlined in the call for evidence, if implemented, would cause considerable damage to the HE sector in terms of its ability to recruit international academic talent, maintain international competitiveness in research and innovation, and deliver world class research in an efficient manner.
- 3.82 We hope that in any recommendations on a reformed Tier 2 route, the MAC will continue to acknowledge that earnings thresholds alone are not fit for purpose as a proxy for the level of skill and specialisation necessary to undertake research and teaching roles in universities.