

Following a call for evidence in relation to a proposed increase in Tier 2 salary minimum thresholds on which we reported in [June](#), we submitted a formal response to the Migration Advisory Committee (MAC). In summary, our response to the MAC advised that:

- The New Entrant salary threshold should remain at the 10th percentile.
- The Experienced Worker salary threshold should remain at the 25th percentile.
- Any material rise in Tier 2 minimum salary thresholds will make the UK a less attractive place to do business, particularly for global businesses, **and** effectively close the door on any possibility for post-study work in the UK for non-EEA students who might choose to study here.
- The nature of the MAC's call for evidence implies that there is only a need to meet skills shortages in the UK in the case of very senior or highly specialised roles which command higher than average salaries. This does not reflect our clients' experience, particularly in sectors such as architecture, engineering, pharmaceuticals and technology where salary levels are not necessarily a good indicator of the highly technical education, experience and expertise required to carry out relatively junior level roles.

The MAC has today published its report on Tier 2 salary minimum thresholds but rather than making any recommendations in its 172 pages, it has instead provided analysis on "the economic rationale for and the impact on net migration of setting new minimum salary thresholds with a focus on ensuring that Tier 2 migrants are not undercutting the resident labour force".

We are pleased to confirm that the report is generally supportive of businesses' concerns and that the MAC is **not** currently recommending an immediate increase in Tier 2 salary thresholds. However, the Government has previously indicated that it will push ahead with fast-track measures to increase salary thresholds in the Autumn regardless, so it remains to be seen whether the report will influence its proposals.

Key points from the MAC's analysis can be summarised as follows:

- Having looked at the salary distribution for Tier 2 migrants compared to all skilled workers in the UK labour market, **its initial analysis does not provide much evidence of undercutting**. However, this conclusion is tentative and the MAC will be conducting more in-depth analysis for its report in relation to the wider review of Tier 2 due in December 2015.

- An increase in salary thresholds will likely contribute to the Government's aim of reducing skilled immigration to the UK. **However, aside from helping the Government achieve its aim of reducing migration, a rise in the salary threshold would have a range of potentially negative economic impacts:**
 - If employers are unable to afford skilled Tier 2 labour and cannot source appropriate labour from within the UK or EEA, this could lead to bottlenecks constraining the growth of individual firms, particularly as the UK approaches full employment.
 - Restricting Tier 2 inflows could also limit UK productivity growth because of the skill level of Tier 2 migrants. Skilled migrants contribute to productivity growth both through a compositional effect on the workforce (being more skilled than the average resident worker) and also through dynamic impacts which, although difficult to measure, help raise productivity across the board. These dynamic impacts arise as a result of the different set of skills, knowledge, experience and connections to other countries that skilled migrants bring which can lead to improvements in the way UK firms do business.
- **There is little doubt that an immediate introduction of a minimum salary threshold for Tier 2 (General) at between £31,000 and £39,000 (as opposed to the current £20,800) would be strongly opposed by many employers** and would cause serious problems in particular sectors, including the education and health sectors. However, it should be noted that the annual limit of 20,700 for most Tier 2 (General) visas has created a "prioritisation" system which means that salaries for such visas are presently within the £31,000 – £39,000 range in any event.
- **The £41,500 threshold for Tier 2 long-term intra-company transfers still seems appropriate.** However, there may be a rationale for increasing this threshold if the Government's aim is to reduce economic migration.
- **There was significant concern amongst respondents over the impact on business of an increase in salary thresholds.** Responses included the potential increase in the cost of their services, the increased likelihood of businesses off-shoring their services and the impact on specific regions or types of firm (e.g. start-ups). **By their very nature, new entrants would be most impacted by any increase in the minimum salary thresholds.** A number of respondents raised concerns about the impact on graduate schemes and international students if there were an increase in the minimum threshold. The MAC has specifically urged a "temporary respite" regarding salary increases for this population and public sector workers, at least until the wider review of Tier 2 has been completed in December 2015.

- The proposal for a skills levy is bound up with the question of raising salary thresholds. Both would increase the cost for employers to hire skilled migrants from outside the EEA and most likely result in a decline in the use of migrant workers. **As the MAC has been asked to address the skills levy in its wider review of Tier 2, it is too early to advise fully on salary thresholds at this stage.**
- **The MAC prefers occupation-specific thresholds, based on the percentile salaries for each occupation, rather than flat thresholds which apply across all occupations.** Occupation-specific thresholds, unlike flat thresholds, take into account the different distributions of pay within each occupation and do not prevent certain occupations from being able to recruit. However, there is also a good case for increasing the overall minimum threshold of £20,800 for Tier 2 (General) as this was calculated in 2009 when the skill requirement was NQF3 and it is now NQF6.
- Finally, the MAC urges caution in making any significant changes to the salary thresholds until the wider review of Tier 2 has been completed in December 2015. **The salary thresholds should not be considered in isolation as they interact with the other proposals within the commission, not least the proposed skills levy.** In addition, the tight timetable for producing the MAC's report means that it has not had sufficient time to carry out the analysis required or fully consider the extensive evidence provided by respondents. Therefore, at this stage, it draws no conclusions about the impact of raising Tier 2 salary thresholds.

In the meantime, our Business Immigration team is also asking for client and contact feedback in relation to the MAC's wider review of Tier 2. This includes a number of wide-ranging proposals such as:

- **restricting Tier 2 (General) recruitment to genuine skills shortages and highly specialist experts only**
- **tightening the Tier 2 ICT route along similar lines and including a potential cap on numbers**
- **restricting the ability of Tier 2 dependants to work in the UK**
- **introducing a "skills levy" to businesses recruiting from outside the EEA, the proceeds from which would be used to fund apprenticeships in the UK**

For further details on how to contribute to our response, see our publication: "[Migration Advisory Committee's Second Consultation Regarding A Wider Review Of Tier 2 Now Launched](#)".

As part of this consultation process, **we are hosting a roundtable discussion with representatives of the MAC on 8 September 2015 from 3:30 p.m.** The event will give clients and contacts the opportunity to discuss the Government's proposals directly with the MAC, ask questions and raise concerns that are relevant to your business. The discussion will also inform our formal response to the consultation, which closes on 24 September 2015. You can find further information, including how to register, [online](#).

Contact

Annabel Mace

Partner

T +44 20 7655 1487

E annabel.mace@squirepb.com

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Patton Boggs.