



**SECURING  
OUR BORDER  
CONTROLLING  
MIGRATION**

# **EMPLOYMENT-RELATED SETTLEMENT, TIER 5 AND OVERSEAS DOMESTIC WORKERS**

**A CONSULTATION**

June 2011



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# MINISTERIAL FOREWORD



The Government believes that immigration has enriched our culture and strengthened our economy, but that it must be controlled so that people have confidence in the system. We have already announced a limit on the number of skilled non-EEA workers coming through Tiers 1 and 2 of the points-based system and also changes to the student visa system in Tier 4 of the points-based system. We shall be consulting separately on the rules applying to those who come to the UK for family reasons such as marriage.

In this consultation we review how those who come here to work in Tiers 1 and 2 may be granted indefinite leave to remain, or settlement, in the UK. Reducing net migration is not just about reducing the numbers coming here; it is also about increasing the numbers who leave after their initial stay. My message here is simple. We want the brightest and best, those who contribute to our economy and who are really needed by the UK, to be able to stay here permanently. However Tier 2 of the points-based system will in future be regarded as a temporary, not a permanent migration route. Only Tier 1 will give a pathway from entry to settlement for investors and entrepreneurs. We expect that most Tier 2 migrants will return home at the end of their stay. A few will be allowed to switch into Tier 1, or into a new route that sits alongside Tier 1, and to proceed to settlement. This consultation is about the mechanisms for selecting those migrants.

Second, this consultation reviews the routes by which migrants can enter the UK to work, other than through Tiers 1 and 2 of the points-based system. This includes Tier 5 of the points-based system (Temporary workers and youth mobility), overseas domestic workers in private households and UK ancestry. I am consulting on some changes to Tier 5 to underline the fact that this is intended to be a temporary, not permanent route. I am also proposing to remove the route for domestic workers in private households, or reform it and the route for private workers in diplomatic households by removing their right to switch employer and to settle here. Their assignments should be strictly temporary.

At the same time we need to look at what more we can do to equip new migrants with the tools they need to integrate, communicate and contribute to society. An ability to speak English is vital. Those migrants who come here to work have, for a number of years, been required to meet an English language requirement prior to entry. I now want to consider whether we should require dependants of Tier 2 workers to speak English as a condition of switching into a settlement route.

In 1997, less than 10,000 migrant workers, including dependants, were granted indefinite leave to remain in the UK. By 2010, this had increased to 84,000<sup>1</sup>. This represents an increase from 17% of total settlement grants in 1997 to 35% in 2010. Progression to settlement has become almost automatic for those who choose to stay. I shall break that link and return to a position where Britain will continue to attract the brightest and best workers, who will make a strong contribution to our economy and society during their stay, then return home. A small number of exceptional migrants will be able to stay permanently but for the majority, coming here to work will not lead automatically to settlement in the UK.

A handwritten signature in black ink, which appears to read 'Theresa May'.

**Theresa May**  
Home Secretary and minister for women and equalities

<sup>1</sup> Source: Appendix B, Table 1.

# HOW TO RESPOND TO THIS CONSULTATION

The consultation document and online survey can be found at [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk). Responses can alternatively be posted, using the online template, mailing your response to:

Work and Settlement Consultation  
UK Border Agency  
1st Floor, Green Park House  
29 Wellesley Road  
Croydon  
CR0 2AJ

Or responses may be emailed to:

[Worksettlementconsultations@homeoffice.gsi.gov.uk](mailto:Worksettlementconsultations@homeoffice.gsi.gov.uk)

The closing date for responses is:

9 September 2011

# 1. CONTEXT AND OVERVIEW

- 1.1 Between 1997 and 2009, net migration to Britain totalled more than 2.2 million people. Net migration in 2009 was 198,000. We have indicated that, through a more rigorous and controlled approach, we will see fewer non-EU migrants than in the past. Our goal is an improved system that commands the confidence of the public and serves our economic interests. We would expect this to come through a system which shows a significant fall in net migration to the UK. That objective will be met by reducing the number of new migrants coming to the UK and being more selective of those we allow to stay.
- 1.2 We have already taken action to reduce inward migration through Tiers 1 and 2 of the points-based system. A limit to non-EU migration will prevent entry to the UK for those who

have the lowest skills. Since April 2011, the Tier 2 General category has been subject to a limit of 20,700 and restricted to graduate level vacancies. We have closed the old Tier 1 General route, which provided unrestricted access to the UK labour market. We set out our plans to reduce abuse of the student visa route on 31 March; these include introducing higher entry criteria, limits on work entitlements and closure of the post-study work route. To reduce migration to sustainable levels however, we need to go further. Now we are considering what we can do to reform other work-related migration routes to the UK and to ensure that only exceptional economic migrants are able to stay permanently. Throughout this process we have listened carefully to the views and opinions of the business sector and we will continue to do so.

Fig 1: Historic levels of net migration 1970-2009



**THE POINTS-BASED SYSTEM FROM APRIL 2011**

<b>Tier 1</b>		
Category	Purpose	Key changes from April 2011
Investors	For high net worth individuals making a substantial financial investment to the UK.	Accelerated settlement in 2 or 3 years for larger investments.
Entrepreneurs	For migrants who wish to establish, join or take over 1 or more businesses in the UK.	Alternative entry criteria. Accelerated settlement in 3 years for businesses which have made greater contributions to the economy.
Exceptional talent	For exceptional people in the fields of science, arts and humanities. Applicants must be internationally recognised as world leaders in their field.	New route. Applicants require endorsement from a competent body. Limit of 1,000 places in the first year.
General	For highly skilled migrants who wish to work, or become self-employed in the UK.	Closed, except for extension applications.
Post-study work	For international graduates who have studied in the UK to stay on and do skilled or highly skilled work.	Closure from April 2012. Students may switch into Tier 2.

<b>Tier 2</b>		
Category	Purpose	Key changes from April 2011
General	For UK employers to recruit skilled workers from outside the EEA to fill a particular vacancy that cannot be filled by a British or EEA worker.	Annual limit of 20,700 visas (in-country applications exempted). Skill threshold raised from NVQ 3 jobs to graduate jobs. English threshold raised from A1 to B1.
Intra-company transfers	For multinational employers to transfer their existing employees from outside the EEA to their UK branch for training purposes or to fill a particular vacancy that cannot be filled by a British or EEA worker.	Salary threshold raised to £40,000 for transfers of 1 – 5 years. Salary threshold of £24,000 for transfers of up to 1 year. Minimum period overseas before transferees can return to the UK.
Ministers of religion	For ministers of religion undertaking preaching and pastoral work, missionaries or members of religious orders, taking up employment or a post/role within their faith community in the UK.	None.
Sportspeople	For elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level.	None.

Tier 3		
Category	Purpose	Key changes from April 2011
Unskilled workers	Closed.	N/A.

Tier 4		
Category	Purpose	Key changes from April 2011
Students	For adult students coming to the UK for post-16 education and child students coming to be educated at an independent fee-paying school, or coming for post-16 education.	Stricter accreditation regime for sponsors. Tougher entry requirements for students, reduced entitlements to work and sponsor dependants.

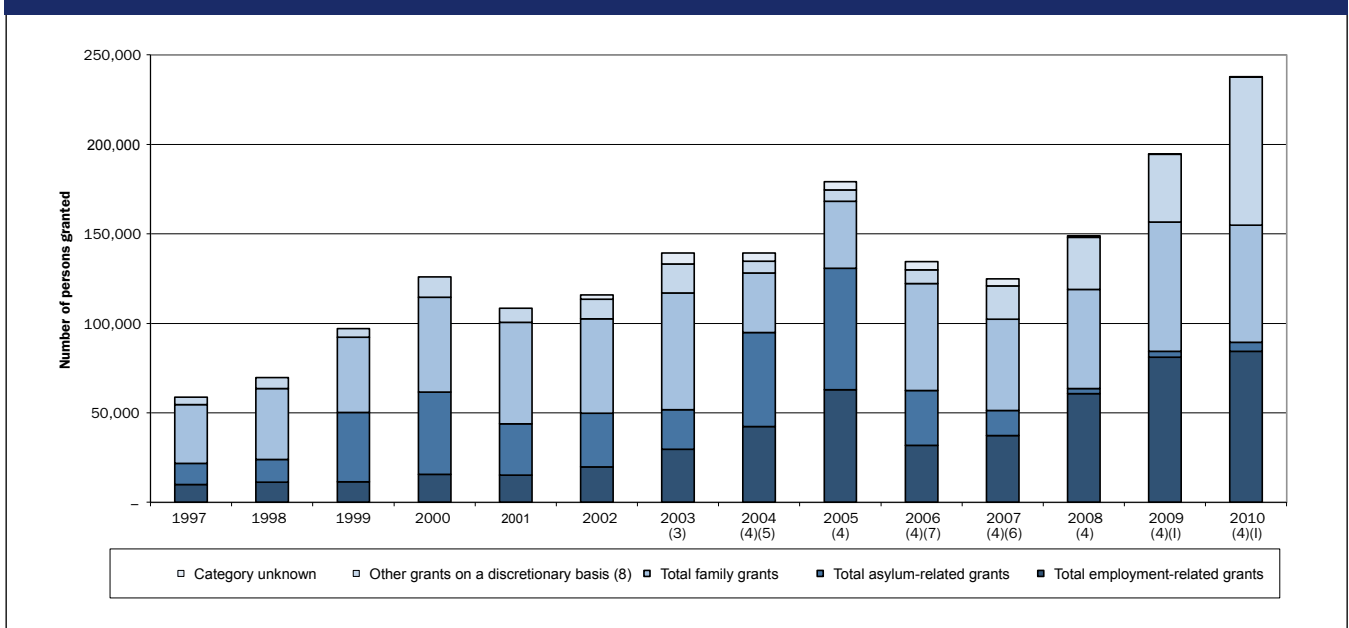
Tier 5		
Category	Purpose	Key changes from April 2011
Temporary workers	For people coming to work in the UK temporarily, primarily for non-economic purposes: creative and sporting; government authorised exchange; charity workers; religious workers; international agreements.	None – but subject to review as per the proposals laid out in chapter 6 of this consultation document.
Youth mobility	For reciprocal cultural exchange opportunities with participating countries.	None.

## SETTLING IN THE UK

1.3 In 2010, there were 238,000 grants of settlement, of which 84,000 were from employment routes, 65,000 from family, 5,000 from asylum and 83,000 from other routes. In 1997 there were 59,000 grants of settlement in total and less than 10,000 employment related grants.<sup>2</sup> As immigration to the UK has increased, so too have grants of settlement. We want to end the notion that coming to the UK to work will result in permanent stay for all those who want it.

1.4 Migrants who enter or remain in the UK as a result of a family connection to a British citizen or permanent resident will be unaffected by the changes proposed in this consultation. We will continue to have regard to a migrant’s right to private and family life under Article 8 of the European Convention on Human Rights. A route to settlement will be maintained for those in the family route. We shall consult separately on the family route.

**Fig. 2:** Grants of settlement in the UK by category of grant, excluding EEA and Swiss nationals<sup>1,2</sup>, 1997-2010<sup>3</sup>



<sup>2</sup> Source: Appendix B, Table 1.

<sup>3</sup> Footnote

(1) Nationals of EU accession countries are included or excluded according to their accession date.

(2) Data from 2003 exclude dependants of EEA and Swiss nationals in confirmed relationships granted permanent residence.

(3) Excludes reconsideration cases.

(4) May include a small number of cases in which a decision is recorded twice, where an individual has dual nationality.

(5) Includes nationals of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia before 1 May 2004, but excludes them from this date.

(6) Excludes Bulgaria and Romania after their accession to the EU on 1st January 2007.

(7) In 2006 the qualifying period for settlement in all employment-related categories changed from 4 to 5 years.

(8) Data for 2007, 2008 and 2009 include persons granted indefinite leave outside the immigration rules under measures aimed at clearing the backlog of outstanding unresolved cases.

(l) Initial figures, with final release due August 2011.

Source: Home Office, Migration Statistics



1.5 We recognise that there is a careful balance to be struck and we are committed to consultation with the public, migrants, business and other interested sectors before taking final decisions on the proposals contained in this consultation. However, we are confident that a more selective approach to permanent migration and a reduction in net

migration can be achieved in harmony with a strong and growing economy. Independent advice on the economic effects of restricting or removing settlement, as set out in the proposals later in this consultation document, has been commissioned from the Migration Advisory Committee.

## WHAT DO WE MEAN BY SETTLEMENT?

After living in the UK for a certain length of time (usually 5 years for workers) certain categories of migrant may apply for permission to settle here. This is known as ‘indefinite leave to remain’ or ‘settlement’; it is sometimes also referred to as ‘permanent residence’.

To qualify for settlement, a person will generally need to show they have spent a continuous period of 5 years lawfully in the UK and demonstrate knowledge of the English language and life in the UK. Tier 1 and Tier 2 migrants are required to show they continue to be employed and, since April 2011, to meet income requirements. Criminal convictions will usually act as bar to settlement.

Once a person has obtained settlement, he or she is entitled to live in the UK permanently, without immigration restrictions, to travel freely into and out of the UK and to access state benefits, including access to the NHS on the same basis as a British citizen. A person present and settled in the UK may sponsor an immigration application, for example to be joined by a spouse or an elderly dependant relative; and a child born in the UK to a settled parent will be a British citizen.

Settlement rights may be lost if a person lives outside the UK for more than 2 years, but otherwise settlement rights are generally only removed in cases of fraud or deception, or where a person is liable to deportation or removal but they cannot be deported for legal reasons.

Dependants are eligible to apply for settlement at the same time as the principal migrant, as long as they have lived with him or her in the UK for a minimum of 2 years. Children are usually eligible to apply for settlement at the same time as their parents.

Settlement is not the same as citizenship; it does not entitle a person to a British passport, or to vote in general elections. However, a person in the UK without time restrictions attached to their stay may apply for naturalisation as a British citizen, subject to meeting the requirements of the British Nationality Act 1981.

## WORK-RELATED SETTLEMENT

1.6 The number of workers entering the UK has increased significantly since the 1990s. Changes in the immigration system over time mean we do not have complete, comparable statistics for all work-related migration for this period but we estimate that total work-related migration was in the region of 120,000<sup>4</sup> in 1997 compared to a peak of 240,000 in 2003 and 161,000 in 2009. In 1997, 63,000 work permit holders and their dependants were

admitted to the UK. By 2006, this had risen to 145,000.<sup>5</sup> The work permit category was replaced in 2008 with the introduction of the points-based system. Numbers in the equivalent categories have decreased somewhat in recent years, but they remain high. Just over 89,000 workers were admitted as work permit holders and under Tiers 1 and 2 of the points-based system, including dependants, in 2009, the latest year for which full year figures are available.<sup>6</sup>

**Table 2:** Grants of leave to enter, leave to remain and settlement in work-related categories (incl. dependants)  
(1) (2) <sup>7</sup>

Year	Passengers granted leave to enter (3) (4) (5) (6) (7) (8) (9) (10)	Grants of applications to extend leave to remain (11) (12) (13) (14)	Grants of settlement (15)
1990	77,300	:	:
1991	74,900	:	:
1992	66,700	35,500	:
1993	64,800	31,460	:
1994	62,100	32,440	:
1995	70,400	23,340	:
1996	78,900	25,870	:
1997	120,000	24,500	9,910
1998	135,000	25,140	11,230
1999	148,000	26,390	11,480
2000	198,180	42,250	15,610
2001	205,665	63,785	15,255
2002	230,785	83,475	19,800
2003	240,030	119,700	29,635
2004	232,645	147,005	42,260
2005	236,770	161,445	63,015
2006	235,350	172,070	31,830
2007	204,220	150,025	37,210
2008	183,010	188,470	60,770
2009 (I)	160,765	163,465	81,185
2010 (I)	:	127,020	84,370

<sup>4</sup> In some instances, data on work-related immigration categories prior to 2000 are unavailable because they were grouped with other non work categories and cannot be disaggregated. Examples include Domestic Workers and Ministers of Religion. However we estimate the total numbers in such categories to be relatively small.

<sup>5</sup> Source: Control of Immigration Statistics 2007 <http://tna.europarchive.org/20100413151426/rds.homeoffice.gov.uk/rds/pdfs08/hosb1008.pdf>

<sup>6</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>.

<sup>7</sup> (1) Nationals of EU accession countries are included or excluded according to their accession date.

(2) Figures rounded to the nearest 5 for Leave to enter data 2000 - 2009, leave to remain and settlement data; rounded to 3 significant figures for leave to enter data between 1990 and 1999.

(3) Excludes some dependants who would have been categorised under "Other reasons"

(4) Excludes Domestic Workers between 1990 and 1999

(5) Excludes Ministers of Religion between 1990 and 1999

(6) Excludes Working Holidaymakers between 1990 and 1996

(7) Excludes Seasonal Agricultural Workers between 1990 and 1999

(8) Excludes Diplomats, consular officers etc. between 1992 and 1999

(9) Excludes various other work categories coded as "others given leave to enter" between 1990 and 2003

(10) Data for 1990 to 1999 has been sourced from hard copy publications and is therefore the sum of rounded data - totals may differ from those published. Data may also have been revised slightly in subsequent years

(11) Excludes dependants between 1992 and 2003

(12) Excludes UK Ancestry between 1992 and 2004

(13) Excludes Au Pairs between 1992 and 2002

(14) Data for 1992 to 2002 has been sourced from hard copy publications and is therefore the sum of rounded data - totals may differ from those published. Data may also have been revised slightly in subsequent years

(15) In 2006 the qualifying period for settlement in all employment-related categories changed from 4 to 5 years.

(I) Initial figures, with final release due August 2011.

: Not available.

- 1.7 It has also been possible, historically, for migrants in the UK for other reasons (for example as students) to switch into work routes once they are here. Again, we do not have a complete time series but the data we have suggests numbers of in-country, work-related grants of leave increased significantly in the mid-2000s. Some of these will have been extensions of leave for those who entered in earlier years, but others will have been as the result of switching. In 2010, there were 75,960 grants of leave to remain in the UK, excluding dependants<sup>8</sup>, under the work-related tiers of the points-based system, representing a mix of extending and new applicants, the vast majority in Tiers 1 and 2, which means they will be able to apply for settlement after completing 5 years residence. We have taken action to restrict this. The post-study work route into Tier 1, which accounted for 33,985 grants of leave to remain in 2010<sup>9</sup>, will be closed from April 2012 and, instead, we will allow graduating students to apply for a job with a UK Border Agency licensed Tier 2 sponsor.
- 1.10 In 2010, employment-related grants of settlement, including dependants, were 4% higher than in 2009 and nearly nine times the number of equivalent grants in 1997. Settlement grants to migrant workers and their dependants represented 17% of total settlement grants in 1997; in 2010 they accounted for 35%.<sup>11</sup> We should be proud that people from all over the world see the UK as an attractive place to do business and work and we believe that immigration has enriched our culture but this historic level of settlement grants needs to be reduced to sustainable levels.
- 1.11 Uncontrolled settlement is detrimental to the UK; it does not deliver the best outcome for the economy or for society. Unlimited settlement can place pressure on public services.
- 1.12 A recent IpsosMori poll found that 75% of Britons believe that immigration is currently a problem and 44% thought it was a problem because of abuse of or burdens on public services.<sup>12</sup> The Department for Communities and Local Government Citizenship Survey found that 78% of people thought that the number of immigrants coming to Britain should be reduced.<sup>13</sup> Reserving settlement and the rights it affords, including the ability to access welfare benefits and apply for British citizenship, to those migrants who make the biggest contribution to the UK would help address these concerns.

## WORK ROUTES TO SETTLEMENT

- 1.8 Under the current arrangements, settlement is available to Tier 1, most Tier 2 and a small proportion of Tier 5 migrants. There are also some work-related routes to settlement that sit outside the points-based system (see Chapter 6).
- 1.9 Recent analysis of those entering the UK in 2004 suggested that 29% of those admitted on work routes potentially leading to settlement had achieved settled status after 5 years; and a further 11% remained in the immigration system, indicating they continued to remain in the UK.<sup>10</sup> While this indicates that many workers come to the UK for a few years then leave, the high volume of workers entering the UK is contributing to record levels of settlement.

<sup>8</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>.

<sup>9</sup> *ibid.*

<sup>10</sup> Published Home Office analysis, *The Migrant Journey*, Lorrach Achato, Mike Eaton and Chris Jones, September 2010

<sup>11</sup> Source: Appendix B, Table 1

<sup>12</sup> Ipsos MORI <http://www.ipsos-mori.com/newsevents/latestnews/644/Strong-support-for-a-cap-on-immigration-amidst-economic-concern.aspx>, February 2011

<sup>13</sup> <http://www.communities.gov.uk/publications/corporate/statistics/citizenshipsurveyq2201011>

## 2. SUMMARY OF PROPOSALS

2.1 This consultation document proposes changes to the settlement rights of those coming to the UK to work as well as changes to Tier 5 of the points-based system and the rules for overseas domestic workers. Our proposals, on which we now invite views, are as follows:

### CLEARLY DEFINE TEMPORARY AND PERMANENT MIGRATION ROUTES

- Categorise all visas as either ‘temporary’ or ‘permanent’. Permanent visas will be those which allow migrants to apply for settlement (indefinite leave to remain) in the UK.

### ALLOWING ONLY THE BRIGHTEST AND BEST WORKERS TO STAY PERMANENTLY

- Consider capping the maximum period of Tier 1 temporary leave at 5 years and restricting the number of exceptional talent migrants granted settlement.
- Define Tier 2 as temporary and thereby end the assumption that settlement will be available for those who enter on this route.
- Consider whether certain categories of Tier 2 migrant (for example ministers of religion, elite sportspeople, those earning over £150,000) should retain an automatic route to settlement.
- Create a new category into which, after 3 years in the UK, the most exceptional Tier 2 migrants can switch and go on to apply for settlement.
- Apply robust selection criteria to those Tier 2 migrants who wish to switch and possibly a limit on the total number of migrants allowed to switch.

- Allow those Tier 2 migrants who do not switch into a settlement route to stay for a maximum of 5 years with the expectation that they and any dependants will leave at the end of their leave.
- Apply these changes to those entering the points-based system from April 2011.

### ENGLISH LANGUAGE REQUIREMENT FOR DEPENDANTS OF TIER 2 MIGRANTS APPLYING FOR A ROUTE TO SETTLEMENT

- Introduce an English language requirement for adult dependants of Tier 2 migrants applying to switch into a route to settlement.

### TIER 5 TEMPORARY WORKERS

- Consider restricting the maximum period of leave in Tier 5 (Temporary workers) to 12 months.
- Consider removing the ability of Tier 5 (Temporary workers) to sponsor dependants and/or remove the right of their dependants to work.
- Raise the minimum skill level in the government authorised exchange sub-category to graduate level.

### OVERSEAS DOMESTIC WORKERS

- Abolish the route for overseas domestic workers in private households or consider restricting leave to a 6 month period as a visitor only, or 12 months where accompanying a Tier 1 or Tier 2 migrant, with no possibility of extension, no right to change employer, no ability to sponsor dependants or alternatively no right for dependants to work in the UK, and no right to settlement.

If the route remains: strengthen the pre-entry requirements to minimise the possibility of abusive or exploitative employer/employee relationships being imported into the UK; and continue to provide access to assessed forms of protection for genuine victims of trafficking.

- Stop granting settlement to domestic workers in diplomatic households, restrict temporary leave to 12 months and remove their ability to sponsor dependants, or alternatively remove the right for dependants to work in the UK.

## 3. DEFINING TEMPORARY AND PERMANENT MIGRATION ROUTES

- 3.1 Each year the UK Border Agency receives around 3.5 million applications. Most migrants enter the UK on a temporary or visit visa. A visitor visa is for a fixed short period of time, cannot usually be extended and does not lead to settlement. A temporary visa allows a period of temporary residence, the length of which can vary depending on the route of entry (5 years in the case of most workers). After completing a period of temporary residence, certain categories of migrant on a temporary visa are able to apply for settlement. These categories are principally, skilled and highly skilled workers, family members of British citizens or people settled here, and refugees/those here on other human rights grounds. If they meet the criteria in place at the time of application their application will be successful and they will be granted indefinite leave to remain (settlement).
- 3.2 If a migrant wants to know whether the visa they hold permits them to apply for settlement they can find that information in published guidance or the Immigration Rules. However, there are numerous routes that lead to settlement and even more that do not. We believe this lack of effective labelling creates confusion for migrants and the public alike. For example, it is a common misconception that students have a direct route to settlement.
- 3.3 The UK Border Agency is already undertaking a business transformation programme that will streamline processes; promote new ways of working; make substantial improvements to IT; improve the quality and accuracy of decisions; enhance customer service; and modernise the workplace. We will simplify the customer experience by increasing and simplifying the information we provide online. For example, the UK Border Agency now offers customers a tool which quickly directs them to the right interactive application form. Clearly defining visas as either temporary or permanent will provide the customer with clear information from the outset.
- 3.4 We want to bring transparency to the permanent migration system. Where a visa has the potential to lead to settlement we should state so. And where a visa is purely temporary we should clearly label it as such. Any person in the UK on a temporary visa should be clear that they are expected to leave at the end of their stay.
- 3.5 We are therefore proposing to categorise all visas as either temporary or permanent as indicated in Tables 3 and 4.
- 3.6 The granting of a visa that allows an application for permanent residence in due course, does not and will not mean that the grant of settlement definitely follows. Applicants will still have to meet the criteria in place at the time of application for settlement. However, these clear categories will provide simplicity and allow migrants to plan for the future.
- Question 1: Would creating clear categories of temporary and permanent visas help migrants and the public better understand the immigration system?**

**Table 3:** Permanent Migrant Visa Category

Visa holders in these categories have the ability to apply for indefinite leave to remain after a certain period in the UK, or in some cases may be granted indefinite leave to enter

Family – principally marriage applicants, plus children, elderly dependent relatives and spouses of HM Armed Forces personnel and their dependants
Tier 1 investor, entrepreneur, exceptional talent <sup>14</sup> and their dependants
Exceptional Tier 2 (General) migrants, who switch into a permanent route, and their dependants
Tier 2 minister of religion, sports people and their dependants <sup>15</sup>
EEA family members and their dependants
UK ancestry migrants and their dependants

**Table 4:** Temporary Migrant Visa Category

Visa holders in these categories are admitted to the UK for a temporary purpose.

Possibility to switch into Permanent Migrant category?

Visitors	No
Tier 2 (General) and their dependants	Yes <sup>16</sup>
Tier 2 (intra company transfers) and their dependants	No
Tier 4 (Students) and their dependants	No
Tier 5 (Temporary workers, youth mobility) and their dependants	No
Tier 1 (Post-study work) and their dependants <sup>17</sup>	Yes
Domestic workers and their dependants <sup>18</sup>	No

<sup>14</sup> Subject to review as set out in Chapter 4

<sup>15</sup> Subject to review as set out in Chapter 4

<sup>16</sup> Subject to review as set out in Chapter 4

<sup>17</sup> Closure from April 2012, after which students may switch into Tier 2.

<sup>18</sup> Chapter 7 of this document considers the possibility of closing this route.



## 4. CONTROLLING SETTLEMENT: TIERS 1 & 2

4.1 The Government is committed to a policy based on greater selectivity of migrants and does not believe it is in the UK's interests to allow every skilled migrant to settle. To the contrary, the Government believes that settlement should be a privilege and restricted to those who make the biggest contribution.

4.2 We made a start in April this year by introducing some preliminary tightening of the settlement rules. Migrants in Tier 1 and Tier 2, and their predecessor routes, are now required to show they continue to earn an appropriate income; and they may no longer meet the knowledge of language and life in the UK requirement for settlement by obtaining an English for Speakers of Other Languages (ESOL) with citizenship qualification, instead they are required to take the Life in the UK Test.<sup>19</sup> A new criminality test will mean that migrants with an unspent conviction will be refused settlement. Now we intend to embark on a more radical overhaul of the settlement rules to break the automatic link between coming to work and staying permanently. We propose to apply these new settlement criteria to those entering Tiers 1 and 2 from April 2011.

### TIER 1

4.3 We have restructured Tiers 1 and 2 of the points-based system to be much more selective about those we allow to come to the UK for work. From 6 April this year, Tier 1 has been reserved for:

- Entrepreneurs – those investing in the UK by setting up or taking over, and being actively involved in the running of, a business.

- Investors – high net worth individuals making a substantial financial investment in the UK.
- Those migrants with exceptional talent in the fields of the arts, science and humanities.

### TIER 1 – SETTLEMENT

4.4 These are the highly skilled people the UK needs to help drive economic growth. The Government's approach to Tier 1 clearly demonstrates our desire to attract more of these individuals. We need to ensure the UK continues to be an attractive destination, therefore we believe it is right that Tier 1 continues to be a direct route to settlement for entrepreneurs and investors. To encourage more high value investors and entrepreneurs we will accelerate the journey to settlement if the applicant meets an enhanced level of investment or business activity.

4.5 Tier 1 investors and entrepreneurs are currently eligible to accelerate their journey to settlement in the following ways. We have no plans to change this:

#### Investors may apply for settlement after:

- 5 years if they have invested between £1m and £5m;
- 3 years if they have invested between £5 and 10m;
- 2 years if they have invested more than £10m.

<sup>19</sup> Subject to transitional arrangements



**Entrepreneurs may apply for settlement after:**

- 3 years if they have created the equivalent of 10 full time equivalent posts for resident workers for at least 12 months; or the company has generated £5m in turnover within a three year period;
- 5 years if they continue to be engaged in business activity.

4.6 We have also introduced more flexible rules on allowable absences: investors and entrepreneurs may spend up to 180 days a year outside the UK, instead of the previous 90 days, without losing their eligibility for settlement. This offers an attractive package to those people the UK needs to help drive economic growth.

4.7 We are introducing a new route for exceptionally talented migrants who have already been recognised or have the potential to be recognised as leaders in the field of science, arts and humanities. There will be a limit of 1,000 places in the first year.

4.8 The rules we announced for exceptionally talented migrants, in April this year, enable them to apply for settlement after 5 years. The creation of the exceptional talent route recognises that they are desirable migrants from whose presence the UK can benefit. However, as we are critically reviewing the work routes leading to settlement, we want to consider whether a direct route to settlement should be a key component of the route. We would welcome views.

**Question 2: Should exceptional talent migrants have an automatic route to settlement after 5 years?****TIER 1 – CAPPING TEMPORARY LEAVE**

4.9 Currently, Tier 1 migrants who have been in the UK for 5 years and are eligible to apply for settlement are able to opt to apply instead for further leave to remain. Provided they meet the relevant requirements of the Immigration Rules, such as character, qualifications and income, further leave will be granted. Some migrants apply for further temporary leave purely out of preference. Others may do so because they do not meet the settlement

criteria, but can fulfil the further leave to remain criteria, which for example do not include a knowledge of language and life in the UK requirement.

4.10 We want to continue to offer a package that attracts the brightest and best migrants who will enter the UK under the re-shaped Tier 1 category. The Government would welcome views on whether we should allow Tier 1 migrants, who choose not to apply for settlement after five years in the UK, the possibility of a further period of temporary leave or whether temporary leave should be capped at a maximum of 5 years. As these are the high value migrants the UK wants to attract, we are minded to retain the current position, which would enable entrepreneurs, investors and migrants of exceptional talent to seek repeat grants of temporary leave indefinitely, should they so wish. With the changes introduced in April, Tier 1 is now much more selective than previously, so we believe the number of Tier 1 migrants opting for further leave because they fall short of the requirements for settlement is likely to be very small and made up of those migrants who significantly contribute to the economy. Nonetheless, we would be interested to hear if there are contrary views.

**Question 3: Should temporary leave for Tier 1 migrants be capped at a maximum of 5 years (those who wish to stay longer will be obliged to apply for settlement)?****TIER 2**

4.11 Tier 2 currently includes:

- Tier 2 (General) for skilled workers;
- Intra-company transfers for multi-national employers who wish to bring in existing employees from outside the EEA for training or to fill vacancies that cannot otherwise be filled;
- Ministers of religion for those undertaking preaching or pastoral work, missionaries or members of religious orders; and
- Sportspeople for elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level.

The reform of the Tier 1 route, from April 2011, will in all likelihood mean that some migrants who would previously have applied for entry via Tier 1 will, in the future, apply via Tier 2. References to ‘Tier 2’ throughout this chapter refer to all Tier 2 migrants except intra-company transfers.

**TIER 2 – CAPPING TEMPORARY LEAVE**

4.12 The Tier 2 (General) route and the work permit categories that preceded it were intended to be a means of filling temporary skills gaps in the domestic labour market. At present a Tier 2 migrant is able to extend his temporary leave beyond 5 years except in the case of intra-company transferees, who are now restricted to a maximum of 5 years residence with no possibility of settlement. The Government believes there is a strong case for capping all Tier 2 leave at 5 years (i.e. initial leave of up to 3 years, plus an extension of up to 2 years), after which the migrant would have to leave the UK, unless he qualified for indefinite leave to remain. This would reinforce the temporary nature of this route by ensuring that those who came to fill temporary skills gaps leave after 5 years.

**Question 4: Should temporary leave for Tier 2 migrants be capped at a maximum of 5 years?**

**Question 5: If you answered ‘yes’ to question 4, should a Tier 2 migrant who has completed five years in a temporary capacity be permitted to re-apply for a Tier 2 visa after they have left the UK?**

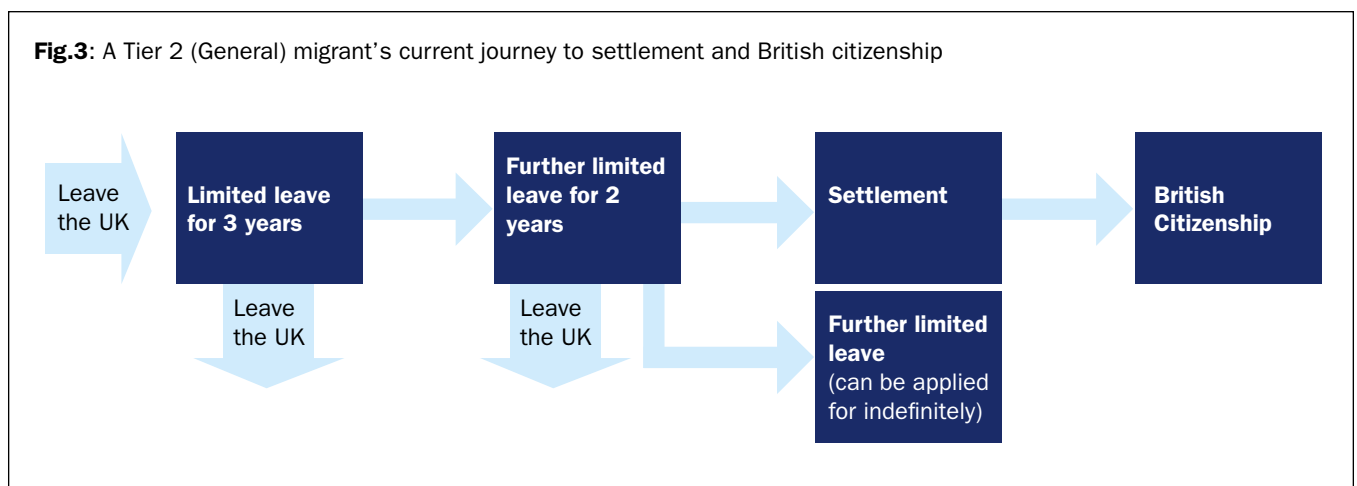
**Question 6: If you answered ‘yes’ to question 5, should there be a grace period (say 12 months) before resubmitting a further application for a Tier 2 visa?**

**TIER 2 – SETTLEMENT**

4.13 The temporary nature of the Tier 2 route could also be emphasised by restricting the right to apply for settlement. In 2009, 62,000 settlement grants were made to those who completed 5 years in the Tier 2 predecessor work permit route, including dependants. In 2010, this figure was 55,000, which is the second highest ever recorded and represents 65% of employment-related settlement.<sup>20</sup> Tier 2 has become a route which leads inexorably to permanent residence in the UK for those who want it.

4.14 We propose that those Tier 2 General migrants who have entered the UK under the new limit – i.e. since April 2011 – should have no direct path to settlement. Removing Tier 2 migrants’ automatic right to apply for settlement after 5 years UK residence will encourage employers to look beyond migrant workers to upskill the domestic labour force. A temporary Tier 2 route will maintain employers’ ability to fill short term skills gaps from overseas, while discouraging over-reliance on foreign workers.

4.15 Ministers of religion, sportspeople and those in Tier 2 General earning over £150,000 annually are exempt from the Tier 2 limit on



<sup>20</sup> Source: Appendix B, Table 1

entry. We would welcome views on whether these exemptions should be extended and these categories should continue to have a right to apply for settlement. We would also welcome views on whether there are occupations that, as a result of their economic or social value to the UK, should be selected as having a route to settlement prior to entry.

4.16 We have considered whether we should make Tier 2 (General) a completely temporary route. This would be consistent with its core purpose of filling short-term skills shortages. It would be clear for all concerned and simple for the UK Border Agency to administer. We would welcome views on this.

**Question 7: Should Tier 2 General become a wholly temporary route with no avenue to settlement?**

**Question 8: If you answered ‘yes’ to question 7, should the following migrants be exempt from the policy and continue to have a direct route to settlement?**

- Those earning over £150,000;
- Sportspeople;
- Ministers of religion;
- Other

**NUMBERS SETTLING AND SELECTION MECHANISMS**

4.17 We recognise that a flexible system allowing some migrant workers to settle may deliver the best outcomes for the economy. We are therefore minded to allow a tightly controlled minority of Tier 2 migrants to stay permanently where it is in the interests of the UK to do so. We propose to allow a small number of the brightest and best Tier 2 General migrants to apply to switch into a permanent visa category after 3 years. This allows the sponsoring business and the migrant 2 years in which to plan for the migrant’s settlement or departure from the UK.

4.18 There are a number of ways in which we could operate a policy to control the numbers settling in the UK. These include:

- introducing a limit;
- via a selective points test; or
- by random allocation in a ‘lottery’.

4.19 A **numerical limit** would provide the highest level of control over the numbers progressing to settlement. It could operate by selecting applicants, up to the level of the limit, according to objective criteria – in the same way as our pre-entry limit – and would therefore also mean we could select the very brightest and best migrants to stay permanently. A limit could be set as a proportion of those entering under the pre-entry limit (for example the pre-entry limit for Tier 2(General) in 2011/12 is 20,700). The Migrant Journey report (Achato et al 2010) showed that of those admitted to the UK in the permanent work route in 2004, 29% had settled after 5 years and in total 40% still had valid leave to remain. We would propose to reduce this proportion but will take account of advice from the Migration Advisory Committee and views from the public and employers before taking a final decision.

4.20 A **points test** could operate without an express numerical limit, allowing all those who meet the points test to apply for settlement. This would retain selectivity but give less certainty over numbers as criteria would need to be pre-determined. From the employer and migrant perspective, however, there would be a higher degree of certainty at the outset over whether a particular worker admitted under the Tier 2 pre-entry limit might be allowed to settle permanently.

4.21 A **random allocation**, or lottery, of settlement visas coupled with a numerical limit would help reduce settlement numbers but would not allow for selection from amongst the migrants in the Tier 2 pool. It would offer every Tier 2 migrant an equal chance of settling, but with a high degree of uncertainty over what the outcome might be.

**Question 9: Should there be an annual limit on the number of Tier 2 migrants progressing to settlement?**

**Question 10: If you answered ‘yes’ to question 9, what proportion of Tier 2 migrants should be allowed to progress towards settlement?**

- 10%
- 25%
- 40%
- 50%
- 75%
- 100%

**Question 11: How should we determine which migrants can apply for settlement? By setting objective criteria or by random allocation?**

### SELECTION CRITERIA

4.22 We could rank migrants using criteria such as salary, academic or professional qualification and whether the job being filled was liable to remain in shortage. In order to achieve a spread across the different groups represented in Tier 2, we might, for example, ring-fence places for groups, such as healthcare professionals, scientists, and long term shortage or desired occupations. Competent bodies might also be able to play a role. We have asked the Migration Advisory Committee (MAC) to advise on: which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement; and whether there would be merit in making allowance for specific skills or occupations, as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent. We also want to give employers, migrants and the wider public an opportunity to comment via this consultation.

**Question 12: If you answered ‘by setting objective criteria’ to question 11, what criteria should we use to identify settlement candidates?**

### WHEN DO WE DECIDE WHO IS ELIGIBLE FOR SETTLEMENT?

4.23 We could structure the refocused Tier 2 route, according to when in the migrant journey it would be most appropriate to decide who should be permitted to progress to settlement. Currently, the settlement decision is taken after a migrant has spent 5 years in the UK. We believe there would be advantages to indicating sooner which migrants might settle. We are considering 2 options:

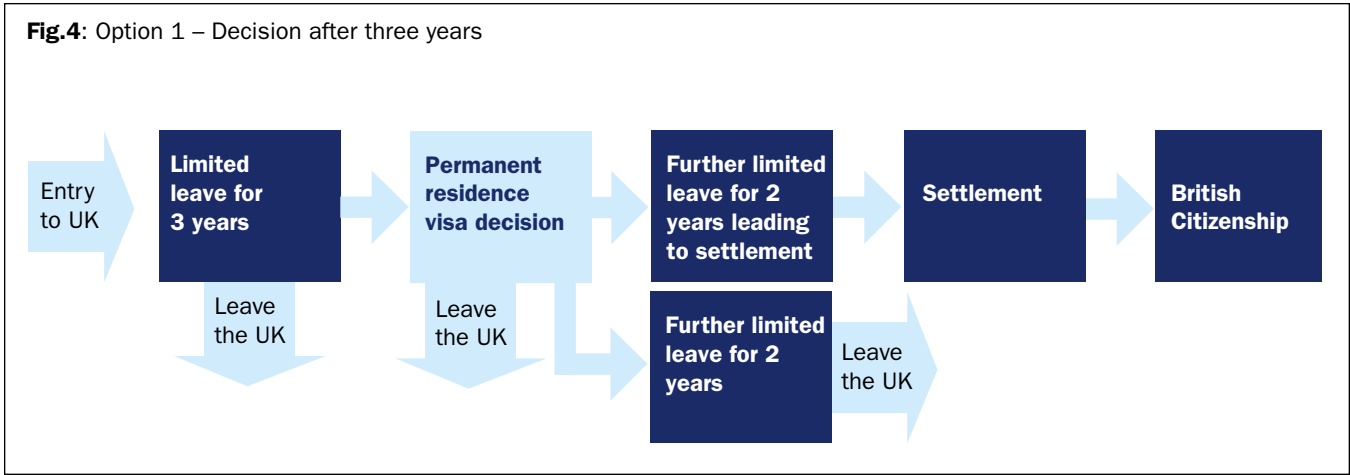
#### Option 1

4.24 We could admit all Tier 2 migrants for 3 years initially, then take a decision at that point about whether they may switch into a permanent visa category (see figure 4). This could be either a new route; a further subset of Tier 2; or an extension of the Tier 1 exceptional talent route. Taking the decision at the 3 year point would enable those who are ineligible for settlement time to plan for their departure from the UK. Those migrants who successfully applied for a permanent visa would need to complete another 2 years in the UK as temporary residents before being able to apply for settlement. Those who chose not to apply for a permanent visa or whose application was refused, would still be able apply for a further 2 year period of temporary leave. Once that leave expired we would expect them to leave the UK. The fee for a visa which includes a right to apply for settlement would be higher than for a visa which provides only for a maximum additional 2 years limited leave.

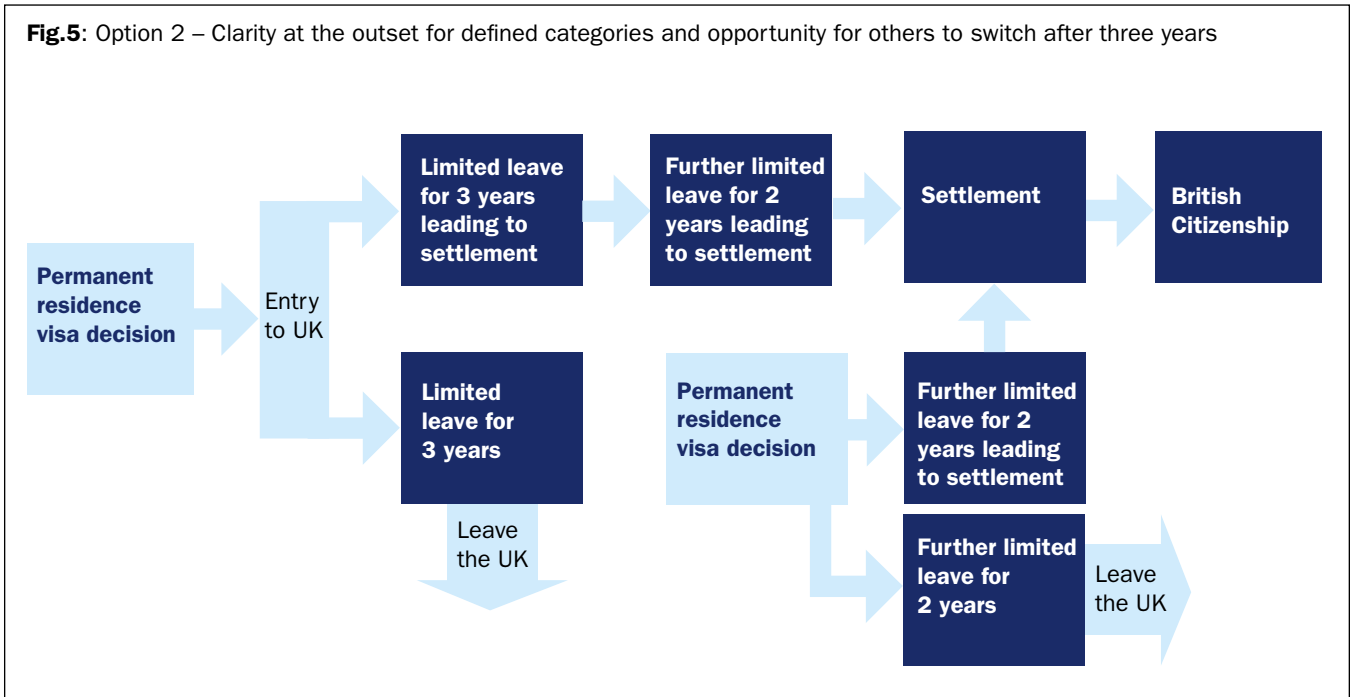
#### Option 2

4.25 An alternative would be a scheme which both identifies those who can enter with a route to settlement at the outset and also allows for a limited number of temporary migrants to switch into a permanent route at the 3 year stage (see figure 5). This would be more complicated than the option described above but could offer more flexibility for migrants and employers, as well as certainty for those migrants identified at the outset as being eligible for settlement.

**Fig.4:** Option 1 – Decision after three years



**Fig.5:** Option 2 – Clarity at the outset for defined categories and opportunity for others to switch after three years



4.26 Such a scheme could operate by pre-selecting certain groups of migrants identified as being in demand. For example, ministers of religion and sportspeople, due to the contribution they make in their respective fields; Tier 2 (General) migrants paid over £150,000 per year; and those who work in professions deemed critical to the economy or in shortage could be guaranteed a route to settlement. All other migrants, who entered on a temporary Tier 2 route, would need to apply to switch into a permanent visa category after 3 years and their success would be determined by the type of selection mechanisms and criteria discussed earlier in this document.

4.27 We would welcome views on the schemes described above.

**Question 13: If some Tier 2 migrants are permitted to enter a route that leads to settlement, when should the decision be taken?**

## A STRONGER ROLE FOR EMPLOYERS

4.28 Currently, employers are required to confirm the Tier 2 migrant is still needed for employment prior to a grant of further leave and prior to a settlement grant. They have no further involvement. The Government believes employers should be considering carefully whether they need a migrant worker in the long term, and whether investing in the domestic workforce is a viable alternative. Giving the employer a direct role in a migrant's application for settlement could help achieve these aims. This could include confirmation from the employer that they expect the resident labour market to be unable to supply a suitable worker for the foreseeable future and/or that the employer acts as a direct sponsor and pays a financial contribution in support of the migrant's application for a permanent visa. If there is truly a business imperative for the employee, then we would expect the employer to be willing to meet these requirements.

4.29 As part of these enhanced responsibilities, we would expect employers to re-confirm their need for the migrant at the settlement application stage, and/or at the 3 year point where certain migrants will be selected to transfer into the settlement route. In the event the employer decides they no longer require a migrant worker, and the migrant is unable to transfer to an alternative employer willing to sponsor their application for settlement, the settlement application would fail. In this circumstance, the migrant would be expected to leave the UK at the end of their 5 years temporary residence.

**Question 14: Should employers be required to sponsor a Tier 2 General migrant seeking to stay in the UK permanently?**

**Question 15: If you answered 'yes' to question 14, should sponsorship be required at the 3 year or 5 year point, or both?**

**Question 16: Should the employer be expected to pay to sponsor their Tier 2 General employee's transfer to a permanent visa?**

**Question 17: Should Tier 2 migrants be able to switch employers as they can now?**



## 5. ENGLISH LANGUAGE REQUIREMENT FOR DEPENDANTS OF TIER 2 MIGRANTS APPLYING TO SWITCH INTO A SETTLEMENT ROUTE

- 5.1 The Government announced in July last year that we would be reviewing English language requirements across the immigration system. The Home Secretary has said that she believes speaking English should be a pre-requisite for anyone who wishes to settle here.
- 5.2 Although the majority of main applicants for entry to the UK under the points-based system have their English proficiency assessed, there is currently no such requirement for their dependants. The first stage at which a dependant is likely to have their English language skills assessed under the current arrangements is on application for settlement. This could be up to 5 years after entering the UK.
- 5.3 English language ability is important for integration into British society and employment. We want to consider what more we can do to ensure those who intend to settle in the UK develop the language skills that enable them to integrate and participate in British life. Since 2007, applicants applying for settlement have been required to demonstrate they meet knowledge of life and language criteria. They can do this by sitting the Life in the UK Test which is designed for those who have an English language proficiency equivalent to level B1 of the Common European Framework of Reference (CEFR).<sup>21</sup> Alternatively, the English for Speakers of Other Languages (ESOL) with Citizenship course is available to those whose language proficiency is assessed as being below level B1 to develop their English language skills. Those who take the ESOL course are required to complete a recognised ESOL qualification and demonstrate progression from one level to the next.
- 5.4 In November 2010, we introduced a pre-entry English language requirement for non EEA nationals seeking to enter or remain in the UK as the spouse or partner of a British citizen or person settled here. This is set at level A1 (speaking and listening) of the CEFR. Level A1 is a basic level at which an individual should be able to interact with others in a simple way. Migrants entering the UK as a result of marriage to a British citizen or permanent resident have a direct route to settlement. The new rule was introduced to help promote the economic well-being of the UK, for example by encouraging integration and protecting public services. It will also assist in removing cultural barriers, broaden opportunities for migrants and help to ensure that they are equipped to play a full part in British life.
- 5.5 In order to meet similar objectives, the Government believes there is merit in considering whether adult (i.e. aged between 18 and 65) dependants of work migrants should meet an English language requirement earlier in their migrant journey.
- 5.6 Dependants of workers with a route to settlement in the UK are able to apply to remain permanently in the UK with the main applicant. As soon as they enter the UK, dependants also have unrestricted access to our labour market. We believe requiring those dependants who are likely to remain here permanently to have appropriate English language skills will benefit them and UK society. We know that language ability of migrants has a positive impact on their ability to integrate, their employment prospects as well as improving earnings levels.<sup>22</sup>

<sup>21</sup> The Common European Framework of Reference for languages (CEFR) was developed by the Council of Europe to establish international standards for language learning, teaching and assessment in all modern languages, including English. There are various levels within the framework, representing different levels of language capability.

<sup>22</sup> Labour market performance of immigrants in the UK labour market by Christian Dustmann, Francesca Fabbri, Ian Preston, and Jonathan Wadsworth, Home Office Online Report 05/03, 2003

- 5.7 For some migrants, the ability to bring a dependant is an important consideration. We do not want to discourage those migrants the UK needs and who meet the entry criteria from coming to the UK. Nor do we want to place additional burdens on those highly successful or mobile individuals who contribute most to the UK or who may only seek to enter the UK with their families for a short period.
- 5.8 We therefore propose to apply an English language test to dependants of migrants who specifically apply for a route to settlement and whose intention to settle is therefore clear. Under the new arrangements for Tier 2 migrants proposed in Chapter 4, we are envisaging that skilled workers might apply to switch to a permanent visa after 3 years in the UK. If we follow this model, we would propose introducing a language requirement at that point. This would mean that the adult dependants of Tier 2 migrants who applied to switch from a temporary to a permanent route after 3 years in the UK, would, as part of the main applicant's application, be required to pass an English language test.
- 5.9 We envisage introducing an English language requirement set at level A1 of the CEFR. This is the same level as expected of spouses and the first level on the CEFR scale. Those who choose to go on to apply for settlement will need to meet a further English language requirement at that stage.
- 5.10 To mitigate the impact on those with a disability, there would be an exemption for those who suffer from a physical or mental impairment which would prevent them from learning English and/or taking a test. This would mirror the exemption which currently operates in respect of the language requirement for spouses and at the settlement stage.

**Question 18: Should adult dependants of Tier 2 migrants, who switch from a temporary to a permanent route, be subject to an English language test?**

**Question 19: If you answered 'yes' to question 18, what level of language requirement would be appropriate?**

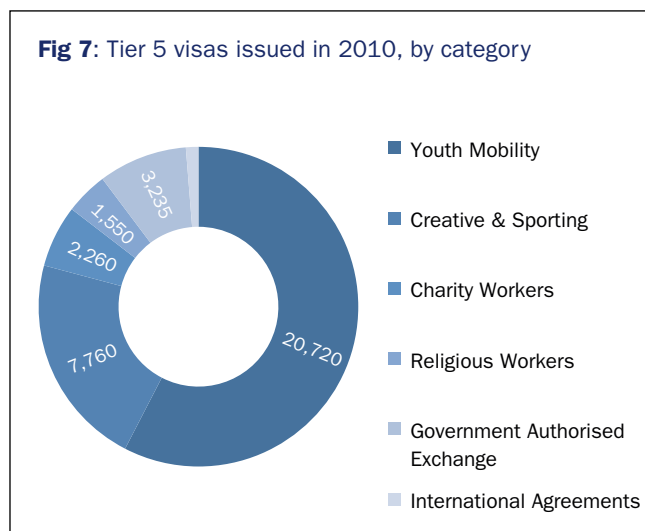
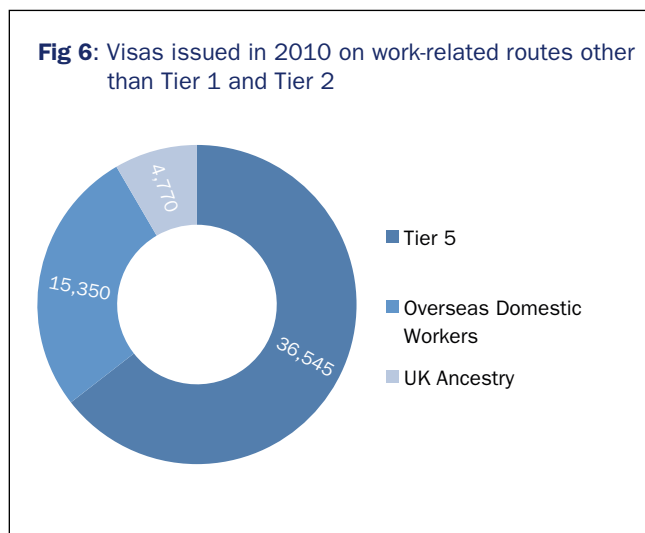
**Question 20: If you answered 'yes' to question 18, which of the following should we test?**

- Speaking
- Listening
- Reading
- Writing



## 6. TIER 5 AND UK ANCESTRY

6.1 In 2010 there were approximately 57,000 visas issued to migrants on routes which give a right to work other than PBS Tiers 1 and 2.<sup>23</sup>



### UK ANCESTRY

6.2 Since 1972, the Immigration Rules have provided a UK ancestry route which allows Commonwealth nationals who have a UK-born grandparent and are over the age of 17, to enter the UK, work and ultimately settle here. In 2009, 96% of migrants utilising this route came from just four countries: Australia, New Zealand, South Africa and Canada.

6.3 Numbers entering the UK under this route and choosing to remain permanently have decreased over recent years with grants of leave to enter, excluding dependants, down 46% between 2005 and 2009 (from 8,260 to 4,430<sup>24</sup>) and grants of settlement based on ancestry down 59% (from 4,795 to 1,975) over the same period. In 2010, settlement grants in the UK ancestry route rose very slightly to 2,015.<sup>25</sup> This general downward trend is likely to reflect changed emigration patterns from the UK, meaning that fewer Commonwealth nationals have a UK born grandparent. In recognition of our historical ties with the Commonwealth and the decreasing use of the route we are not proposing to make any changes at this time.

### TIER 5 TEMPORARY WORKERS AND YOUTH MOBILITY

6.4 Outside of Tiers 1 and 2, the main employment route of entry to the UK is Tier 5. This comprises the youth mobility and temporary worker categories. The latter includes the route for private servants in

<sup>23</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>.

<sup>24</sup> Source: Control of Immigration Statistics, United Kingdom, 2009 <http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1510.pdf> and subsets of these data. (LTE figures for 2010 are not yet available.)

<sup>25</sup> Source: Appendix B, Table 1

diplomatic households, which is discussed separately in the following chapter.

- 6.5 The **youth mobility** category involves quota-based migration arrangements negotiated with a small number of qualifying countries – currently Australia, New Zealand, Canada, Japan and Monaco. These agreements involve young people from these countries coming to the UK – to work if they wish – for up to 2 years. The category is intended to provide an opportunity for young people from participating countries to experience life in the UK. Participants must be aged between 18 and 31 and their government acts as their sponsor. Dependants are not permitted; nor are extensions of leave beyond the initial 2 years.
- 6.6 Almost 21,000 youth mobility visas were issued in 2010.<sup>26</sup> These arrangements are entirely reciprocal (i.e. 1 in – 1 out) and young British people are able to – and do – take up exactly the same opportunity in the 5 youth mobility countries. Any tightening of the route would be likely to result in a reduction of similar opportunities for British nationals. We are not, therefore, considering any changes in respect of this category.
- 6.7 The **temporary worker** category allows people to come to the UK temporarily, primarily for non-economic purposes. It comprises 5 sub-categories. Rounded numbers of visas issued in 2010<sup>27</sup> in each sub-category, excluding dependants, are shown in brackets:
- Creative and sporting – for creative workers and sportspeople coming to work or perform in their relevant sector (7,760);
  - Charity workers – for people coming to do voluntary fieldwork directly related to a UK charity (2,260);
  - Religious workers – for people coming to do religious work, for example in non-pastoral roles (1,550);

- Government authorised exchange – for a variety of approved schemes aimed at sharing knowledge, experience and best practice through skilled work (3,235);
  - International agreement – for migrants coming under contract to provide a service that is covered under international law, including world and bilateral trade agreements, employees of overseas governments and international organisations and the provision for private servants in diplomatic households (455).
- 6.8 The underlying concept of this tier is that allowing migrants to come to the UK temporarily for these purposes helps satisfy the UK's cultural, charitable, religious or international objectives. Migrants coming under any of these sub-categories are currently able to bring their dependants with them to the UK, who in turn have almost unrestricted access to the labour market.

#### TIER 5 TEMPORARY WORKERS – PERIOD OF LEAVE

- 6.9 A total of 16,535<sup>28</sup> visas were issued in the Tier 5 (Temporary worker) categories in 2010 (including dependants). The maximum permissible lengths of stay for migrants in each of the sub-categories are set out in Appendix C. The arrangements across the category are far from uniform but it is possible to stay longer than 12 months in every sub-category except for charity workers and it is currently possible for some migrants in some categories to stay for periods of up to 6 years. The total number of relevant Tier 5 (Temporary worker) visas issued in 2010, which were for over 12 months duration, was 4,286.<sup>29</sup>
- 6.10 There is a case for reinforcing the intended temporary nature of the Tier 5 (Temporary worker) route by capping leave in this category to a maximum of 12 months. A migrant on this route would therefore not be able to extend their leave and would be expected to

<sup>26</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>. Table 0.1

<sup>27</sup> *ibid*

<sup>28</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>. and subsets of these data

<sup>29</sup> Statistic derived from additional analysis of UK Border Agency casework records.

leave the UK. We would be interested to hear views on this proposal.

**Question 21: Should those who enter on the temporary worker route be restricted to a maximum of 12 months leave to reinforce the temporary nature of the route?**

**Question 22: If you answered ‘no’ to question 21 please explain why.**

## **TIER 5 TEMPORARY WORKERS – DEPENDANTS**

6.11 All migrants under the Tier 5 temporary worker route are currently able to bring their dependants (spouses, partners and children) with them to the UK and dependants are given largely unrestricted access to the labour market. Around 815 dependant visas were issued in 2010 for periods of more than 12 months.<sup>30</sup> As indicated, we believe capping the maximum period of stay of a temporary worker at 12 months would re-establish the temporary nature of this route. We also consider there is a strong case for considering whether a route which is specifically designed for short and temporary periods of stay in the UK should allow the applicants to bring dependants with them. The nature of a temporary route is different to that of a permanent route, particularly if that temporary route is capped at a maximum of 12 months. Bringing dependants and enabling them to access the labour market runs counter to the Government’s intention to drive down net migration and restrict access to only the brightest and best. Any separation between family members would be for a short period and the rules clear from the outset.

**Question 23: Should the ability to bring dependants in the Tier 5 (Temporary worker) category be removed?**

**Question 24: If we were to continue to allow Tier 5 temporary workers to bring their dependants, should those dependants’ right to work be removed?**

6.12 In general, no minimum skill levels are set for the Tier 5 (Temporary worker) sub-categories because of their specialised and varied nature. The exception is in the government authorised exchange (GAE) sub-category where applicants must be undertaking skilled work equivalent to N/SVQ level 3 or above.

6.13 The GAE sub-category is for approved schemes which, through provision of skilled work placements in the UK, are aimed at sharing knowledge, experience and best practice. The route also aims to promote circular migration, so that the migrant may use the skills they have developed in the UK on return to their home country. The category must not be used to fill genuine vacancies in order to circumvent Tier 2, or to provide low or unskilled labour. Each scheme under Tier 5 GAE first requires the support of a UK Government department, confirming that the scheme is required to assist that department in meeting one of its public service agreement obligations. An overarching body, who is not the employer of any individuals using the scheme, must also be identified to act as sponsor and administer the scheme on a day to day basis. An exception to this is that higher education institutions which are also licensed Tier 4 sponsors are permitted to directly sponsor researchers coming to the UK to join a research project at the institution. A list of GAE schemes as at August 2010 is at Appendix D.

6.14 We will separately review the various schemes created under the Tier 5 GAE category to ensure that they are delivering on their primary objective of sharing knowledge, experience and best practice. In the meantime, there is a case, in terms of overall system consistency, for raising the skills requirement for the GAE sub-category to graduate level – N/SVQ level 4 – bringing it into line with the revised Tier 2 requirements. Such a change could be applied to all new GAE schemes which are proposed. We would, however, retain the existing exception for schemes

<sup>30</sup> Source: derived from additional analysis of table O.1 of Control of Immigration: Quarterly Statistical Summary, United Kingdom, Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf>.

such as the EU Lifelong learning programme, where the migrant may undertake vocational education and training at a lower skill level.

**Question 25: Should the minimum skill level in the government authorised exchange sub-category be raised to graduate level (N/SVQ level 4 or above)?**

## 7. OVERSEAS DOMESTIC WORKERS

7.1 There are 2 ways to enter the UK as an Overseas Domestic Worker (ODW):

- **To work as a domestic worker in a private household**

An arrangement enabling people coming to the UK to bring with them their foreign domestic staff – for example cooks and nannies – to work in their private household, was brought into the Immigration Rules in 2002. This route sits outside of the points-based system because the sponsoring employer, in this circumstance, is not necessarily permanently based in the UK. The majority of ODWs who come to work in a private household do so as visitors, for up to 6 months, but it is also possible to be admitted for 12 months initially. In both cases, leave is extendable to a 5 year maximum depending on the length and purpose of their employer's stay. ODWs in private households may leave the employer who brought them to the UK, for any reason, once here and take up domestic employment with another UK employer. After 5 years' continuous domestic employment, the ODW can apply for settlement.

- **To work as a private servant for a foreign diplomat**

This is for ODWs coming to the UK with or to join a diplomat to work in their private household. This route is provided, as a consequence of the UK's ratification of the Vienna Convention on Diplomatic Relations 1961 (VCDR), in the International Agreement category of Tier 5 of the points-based system. This is one of the Tier 5 categories that may stay for longer than 12 months: private servants may stay in total for up to 6 years. Private servants may change their employer, but only to another diplomat in the same mission for which the diplomat by whom they were first employed works. They may apply for settlement after 5 years' continuous employment in a domestic capacity.

7.2 ODWs do not have an independent right of entry to fill skills gaps in the labour market whatever their route of entry. Those who enter in this capacity are not assessed against the economic needs of the country. They are here because their employer came/is coming here. The main countries from which domestic workers originate are the Philippines, India and Indonesia.

### OVERSEAS DOMESTIC WORKERS IN PRIVATE HOUSEHOLDS

7.3 Control of Immigration statistics for 2003 to 2009 show that the numbers seeking to enter as either a visitor or for 12 months on the private household route have remained relatively steady across time, with the number of visas issued ranging between 12,500 in 2006 and 10,100 in 2009.<sup>31</sup> Initial figures for 2010 show 15,350 visas were issued for ODWs in private households.

7.4 However, an ODW's entry to the UK rests entirely on the proposition that their employer, for whom they may have worked abroad, is coming to or has come to the UK and needs to bring the ODW with them. ODWs are generally doing low skilled work. Allowing such unrestricted low skilled entry for an extended period runs counter to the Government's policy of raising the skills levels of workers in Tiers 1 and 2, and restricting their numbers. While we are restricting skilled work it would arguably be counter intuitive to retain a route into the UK labour market for low skilled domestic workers via the private household route.

<sup>31</sup> Source: Control of Immigration Statistics, United Kingdom, 2009 <http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1510.pdf> and subsets of these data.

- 7.5 Another important consideration is that there can be serious problems associated with the treatment of people working for others in a domestic capacity. The current route reflects protections designed to minimise the potential for such abuses. The key protection for private household ODWs before entry to the UK is in seeking to establish that the employer/employee relationship is a genuine and not an abusive one. Evidence is required to demonstrate that an ODW has worked for his or her employer for at least 12 months prior to their application. The employer is also required to sign a document covering the main conditions of employment. Once in the UK, the ODW may change employer for any reason and has an avenue to settlement.
- 7.6 The documented abuses combined with current levels of unemployment in the UK domestic labour market indicate there is a case for abolishing the private household route. Some might argue that closure would inflict economic damage, because people who we may want to attract to visit or work here may be unable or unwilling to come if they cannot bring their domestic support staff with them. We are not aware of evidence to justify this concern. While there have been no suggestions that the majority of ODWs are not in genuine employer/employee relationships, the case for closure is strengthened where there is suspicion that the route enables people to be brought here to be abused or exploited while on UK soil.
- 7.7 Evidence obtained from a 2009 enquiry suggests that the UK is more generous in its provision for ODWs than other EU countries.<sup>32</sup> Only 3 other countries (of the 13 respondents) have specific arrangements for domestic workers employed in private households. Only 1 or 2 countries' work permit provisions lead to settlement after 4 or 5 years, for example Sweden.

**Question 26: Should the route for domestic workers in private households be closed?**

- 7.8 An alternative proposal would be to retain entry for a maximum period of 6 months leave as a visitor, or up to 12 months where

accompanying a worker in Tier 1 or Tier 2, with no possibility of extension in either case. For those visiting the UK for relatively short periods, it may be impractical to recruit UK-based workers and this option would allow them to be supported by their existing staff while in the UK. Similarly, whilst the Government considers it is reasonable to expect people who we want to come and work here to recruit domestic workers from the UK labour pool, there may be a case for arrangements which would allow a highly skilled or skilled migrant to be accompanied by their overseas-based domestic staff for up to a year to ease the transition to life in the UK and allow time for recruitment from the UK labour market.

**Question 27: If we were to continue to allow domestic workers in private households to enter the UK, should their leave be capped (at a maximum of 6 months, or 12 months if accompanying a skilled worker)?**

- 7.9 If a short term visitor-only provision were retained, the policies formerly introduced to address alleged abuse would need to be reassessed. The current terms of entry under the route could be tightened to remove or minimise the risk of abusive or exploitative employer/employee relationships being imported into the UK in the first place.
- 7.10 Domestic workers in private households who are already in the UK are currently able to leave their employer whatever the reason, which provides protection against abuse or exploitation should it occur. Migrants who do so are able to find other domestic employment and to apply, when their leave expires, for it to be extended and for settlement after five years' continuous domestic employment here.
- 7.11 If a domestic worker's leave is capped at 6 or 12 months as proposed above, we believe that a measured and assessed form of protection for genuine victims is what is required. A mechanism of this kind did not exist when the right to change employer was introduced. In April 2009, however, the National Referral Mechanism (NRM) for identifying victims of trafficking was established, which provides a mechanism for responding to exploitation of overseas domestic workers. The NRM is a multi-agency framework which considers referrals of potential victims of trafficking

<sup>32</sup> Source: EMN website <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?jsessionid=A57C47D38CBBA01F60605372B894C98B?entryTitle=Protection>



and provides appropriate support and a 45 day period of recovery and reflection where there are reasonable grounds for believing a person has been trafficked. Referral to the NRM can be made by designated organisations such as the UK Border Agency, local authorities, police and certain NGOs on behalf of anyone who believes they have been trafficked. Cases linked to domestic servitude form a significant part of the NRM's caseload. Over the period April 2009 to December 2010, 1254 cases have been referred to the NRM, with 219 in the domestic servitude category<sup>33</sup>.

**Question 28: Given the existence of the National Referral Mechanism for identifying victims of trafficking, should the unrestricted right of overseas domestic workers in private households to change employer be removed?**

**PRIVATE SERVANTS IN DIPLOMATIC HOUSEHOLDS**

7.12 The UK Border Agency does not hold statistics on the number of private servants in diplomatic households entering the UK, but the nature of the route is such that the numbers are estimated to be small. As mentioned above, the Vienna Convention on Diplomatic Relations requires us to provide for diplomats to bring their domestic staff here, so there are no plans to remove this route. However, we do believe that in line with the proposal on Tier 5 generally, the length of time diplomats may be accompanied by their private servants should be restricted to 12 months.

**Question 29: Should leave for private servants in diplomatic households be capped at 12 months?**

**SETTLEMENT**

7.13 The total number of domestic workers in private households granted settlement in 2010 was 1,060, an increase of 34% on 2009.<sup>34</sup> Although we do not collect data on the numbers of private servants in diplomatic households who settle in the UK, private servants in diplomatic households are unique in Tier 5 in having an avenue to settlement.

<sup>33</sup> <http://www.soca.gov.uk/about-soca/about-the-ukhtc/statistical-data>.

<sup>34</sup> Source: Control of Immigration: Quarterly Statistical Summary. United Kingdom. Quarter 4 2010 (October-December): <http://rds.homeoffice.gov.uk/rds/pdfs11/control-immigration-q4-2010.pdf> and subsets of these data

The case for providing this privilege to domestic workers on both routes rests solely on their potential vulnerability to mistreatment and abuse. While we should seek to minimise the potential for exploitation of domestic workers, it does not automatically follow that the correct response to such abuse is to facilitate settlement in the UK. As the Government moves to restrict settlement to exceptional economic migrants only, we must consider whether it is logical or fair to continue to permit lower skilled workers to apply for permanent residence when access is being restricted for the more highly skilled. In line with our proposals for Tier 2, we propose to end the link between temporary migration and settlement by removing the ability to apply for settlement in both these routes. In the future, we would expect domestic workers in private households and private servants in diplomatic households to leave the UK after a maximum of 12 months.

**Question 30: Should an avenue to settlement be removed from overseas domestic workers (private servants in diplomatic households and domestic workers in private households)?**

**DEPENDANTS**

7.14 Both ODW routes currently allow the ODW to bring their dependants (spouses and children) with them to the UK and dependants are given full access to the labour market. We do not think this is consistent with the nature of temporary routes, particularly not ones which – in respect of domestic workers in private households – may be capped at a maximum of 6 or 12 months and in respect of private servants in diplomatic households at 12 months maximum. Family members would still be eligible to apply to come to the UK in their own right – for example, as workers or visitors.

**Question 31: Should the right for overseas domestic workers (private servants in diplomatic households and domestic workers in private households) to bring their dependants (spouses and children) to the UK be removed?**

**Question 32: If we were to continue to allow overseas domestic workers to bring their dependants, should those dependants' right to work be removed?**

# APPENDIX A – LIST OF CONSULTATION QUESTIONS

**Question 1: Would creating clear categories of temporary and permanent visas help migrants and the public better understand the immigration system?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 2: Should exceptional talent migrants have an automatic route to settlement after 5 years?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 3: Should temporary leave for Tier 1 migrants be capped at a maximum of 5 years (those who wish to stay longer will be obliged to apply for settlement)?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 4: Should temporary leave for Tier 2 migrants be capped at a maximum of 5 years?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 5: If you answered 'yes' to question 4, should a Tier 2 migrant who has completed 5 years in a temporary capacity be permitted to re-apply for a Tier 2 visa after they have left the UK?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 6: If you answered 'yes' to question 5, should there be a grace period (say 12 months) before resubmitting a further application for a Tier 2 visa?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 7: Should Tier 2 General become a wholly temporary route with no avenue to settlement?**

Please select 1 answer only

- YES
- NO
- NO OPINION



**Question 8: If you answered ‘yes’ to question 7, should the following migrants be exempt from the policy and continue to have a direct route to settlement?**

**Those earning over £150,000?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Sportspeople?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Ministers of religion?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Other?**

Please specify

**Question 9: Should there be an annual limit on the number of Tier 2 migrants progressing to settlement?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 10: If you answered ‘yes’ to question 9, what proportion of Tier 2 migrants should be allowed to progress towards settlement?**

Please select 1 answer only

- 10%;
- 25%;
- 40%;
- 50%;
- 75%;
- 100%.

**Question 11: How should we determine which migrants can apply for settlement? By setting objective criteria or by random allocation?**

Please select 1 answer only

- BY SETTING OBJECTIVE CRITERIA
- BY RANDOM ALLOCATION

**Question 12: If you answered ‘by setting objective criteria’ to question 11, what criteria should we use to identify settlement candidates?**

Please select all that apply

- SALARY, OR A COMBINATION OF SALARY AND AGE
- ACADEMIC QUALIFICATIONS
- PROFESSIONAL/VOCATIONAL QUALIFICATIONS
- PRE-DETERMINED SECTORAL OR OCCUPATIONAL GROUPS
- WORKING IN A RECOGNISED SHORTAGE OCCUPATION AT THE TIME OF THE SETTLEMENT DECISION
- THOSE SET BY COMPETENT PROFESSIONAL BODIES
- OTHER – PLEASE SPECIFY
- NO OPINION

**Question 13: If some Tier 2 migrants are permitted to enter a route that leads to settlement, when should the decision be taken?**

Please select 1 answer only

- AFTER 3 YEARS IN THE UK FOR ALL CASES (THIS IS OPTION 1)
- ON ENTRY IN SELECTED CASES, BUT AFTER 3 YEARS IN THE UK FOR THE MAJORITY (THIS IS OPTION 2)
- NO OPINION

**Question 14: Should employers be required to sponsor a Tier 2 General migrant seeking to stay in the UK permanently?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 15: If you answered 'yes' to question 14, should sponsorship be required at the 3 year or 5 year point, or both?**

Please select 1 answer only

- THE 3 YEAR POINT
- THE 5 YEAR POINT
- BOTH

**Question 16: Should the employer be expected to pay to sponsor their Tier 2 General employee's transfer to a permanent visa?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 17: Should Tier 2 migrants be able to switch employers as they can now?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 18: Should adult dependants of Tier 2 migrants, who switch from a temporary to a permanent route, be subject to an English language test?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 19: If you answered 'yes' to question 18, what level of language requirement would be appropriate?**

Please select 1 answer only

- BASIC
- INTERMEDIATE
- NO OPINION

**Question 20: If you answered 'yes' to question 18, which of the following should we test?**

Please tick all that apply

- SPEAKING
- LISTENING
- READING
- WRITING
- NO OPINION

**Question 21: Should those who enter on the temporary worker route be restricted to a maximum of 12 months leave to reinforce the temporary nature of the route?**

Please select 1 answer only

- YES
- NO
- NO OPINION

**Question 22: If you answered 'no' to question 21 please explain why.**

FREE TEXT

**Question 23: Should the ability to bring dependants in the Tier 5 (Temporary worker) category be removed?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 24: If we were to continue to allow Tier 5 temporary workers to bring their dependants, should those dependants' right to work be removed?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 25: Should the minimum skill level in the government authorised exchange sub-category be raised to graduate level (N/SVQ level 4 or above)?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 26: Should the route for domestic workers in private households be closed?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 27: If we were to continue to allow domestic workers in private households to enter the UK, should their leave be capped (at a maximum of 6 months, or 12 months if accompanying a skilled worker)?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 28: Given the existence of the National Referral Mechanism for identifying victims of trafficking, should the unrestricted right of overseas domestic workers in private households to change employer be removed?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 29: Should leave for private servants in diplomatic households be capped at 12 months?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 30: Should an avenue to settlement be removed from overseas domestic workers (private servants in diplomatic households and domestic workers in private households)?**

Please select 1 answer only:

- YES
- NO
- NO OPINION

**Question 31: Should the right for overseas domestic workers (private servants in diplomatic households and domestic workers in private households) to bring their dependants (spouses and children) to the UK be removed?**

Please select 1 answer only

- YES
  
- NO
  
- NO OPINION

**Question 32: If we were to continue to allow overseas domestic workers to bring their dependants, should those dependants' right to work be removed?**

Please select 1 answer only

- YES
  
- NO
  
- NO OPINION

# APPENDIX B – GRANTS OF SETTLEMENT IN THE UK, 1997-2010

**Table 1 Grants of settlement in the UK by category of grant, excluding EEA and Swiss nationals (1)(2), 1997-2009**

United Kingdom													Number of persons		
Broad category of grant	1997	1998	1999	2000	2001	2002	2003 (3)	2004 (4)(5)	2005 2006 (4) (4)(7)	2007 (4)(6)	2008 (4)	2009 (4)(l)	2010 (4)(l)		
<b>Employment</b>	Employment with a work permit after 4/5 years	2,840	3,150	3,280	4,445	4,335	5,845	9,190	16,205	25,470	11,270	15,165	23,270	25,425	23,060
	- spouses and dependants	3,565	3,790	3,580	5,140	5,045	6,835	10,620	17,050	27,340	12,340	18,065	30,575	36,810	31,670
	5 years aggregate of pre PBS categories and Tiers 1 and 2 (8)	:	:	:	:	:	:	:	:	:	:	5	1,995	6,615	
	- spouses and dependants	:	:	:	:	:	:	:	:	:	:	5	2,860	8,280	
	Permit-free employment, businessman, persons of independent means	975	1,060	835	1,685	1,050	1,095	1,550	1,545	1,945	3,265	865	2,065	4,880	5,780
	- spouses and dependants	1,195	1,190	1,005	1,115	845	680	1,050	1,020	1,570	2,315	700	1,790	6,275	6,000
	Commonwealth citizens with a UK-born grandparent	1,110	1,675	2,240	2,580	3,255	4,060	5,275	4,755	4,795	1,900	1,675	2,090	1,975	2,015
	- spouses and dependants	225	365	540	640	725	1,290	1,945	1,680	1,895	740	730	970	965	945
	<b>Total employment-related grants</b>	<b>9,910</b>	<b>11,230</b>	<b>11,480</b>	<b>15,610</b>	<b>15,255</b>	<b>19,800</b>	<b>29,635</b>	<b>42,260</b>	<b>63,015</b>	<b>31,830</b>	<b>37,210</b>	<b>60,770</b>	<b>81,185</b>	<b>84,370</b>
<b>Asylum (9)</b>	Refugees (10) and persons given exceptional leave to remain	4,830	6,680	22,505	25,355	17,965	18,235	12,185	19,025	33,850	19,075	10,250	1,995	2,100	3,165
	- spouses and dependants	6,950	5,955	16,155	20,600	10,555	11,705	9,915	33,525	33,960	11,580	3,940	830	1,010	1,960
	<b>Total asylum-related grants</b>	<b>11,780</b>	<b>12,630</b>	<b>38,660</b>	<b>45,950</b>	<b>28,520</b>	<b>29,940</b>	<b>22,105</b>	<b>52,555</b>	<b>67,810</b>	<b>30,655</b>	<b>14,190</b>	<b>2,825</b>	<b>3,110</b>	<b>5,125</b>
<b>Family formation and reunion</b>	Husbands (12)	10,715	13,020	14,580	14,495	16,915	15,520	17,370	8,185	8,710	15,520	13,810	15,990	19,870	18,330
	Wives (12)	16,310	18,515	20,095	24,265	26,835	25,120	30,790	12,920	15,585	27,200	23,175	25,340	35,730	34,320
	Children	3,830	3,865	4,340	6,870	6,795	6,355	8,950	5,850	6,715	9,290	8,495	8,265	10,145	8,155
	Parents and grandparents	1,185	1,335	1,080	2,435	1,760	1,750	3,090	1,985	1,450	1,470	1,000	975	1,005	1,240
	Other and unspecified dependents	945	290	2,065	5,000	4,570	4,015	5,000	4,300	4,880	6,325	4,345	4,780	5,490	3,265
	<b>Total family grants</b>	<b>32,985</b>	<b>39,615</b>	<b>42,155</b>	<b>53,065</b>	<b>56,875</b>	<b>52,760</b>	<b>65,200</b>	<b>33,240</b>	<b>37,335</b>	<b>59,800</b>	<b>50,820</b>	<b>55,350</b>	<b>72,240</b>	<b>65,310</b>
	<b>Other grants on a discretionary basis (8)</b>	<b>4,050</b>	<b>6,305</b>	<b>4,820</b>	<b>11,320</b>	<b>7,760</b>	<b>10,980</b>	<b>16,160</b>	<b>6,715</b>	<b>6,400</b>	<b>7,720</b>	<b>18,750</b>	<b>29,095</b>	<b>37,940</b>	<b>82,710</b>
<b>Category unknown</b>	<b>Category unknown</b>	:	:	:	:	:	2,490	6,175	4,440	4,565	4,440	3,880	900	305	380
<b>Grand Total</b>	<b>Grand Total</b>	<b>58,725</b>	<b>69,790</b>	<b>97,115</b>	<b>125,945</b>	<b>108,410</b>	<b>115,965</b>	<b>139,280</b>	<b>139,210</b>	<b>179,120</b>	<b>134,445</b>	<b>124,855</b>	<b>148,935</b>	<b>194,780</b>	<b>237,890</b>

- (1) Nationals of EU accession countries are included or excluded according to their accession date.  
(2) Data from 2003 exclude dependants of EEA and Swiss nationals in confirmed relationships granted permanent residence  
(3) Excludes reconsideration cases.  
(4) May include a small number of cases in which a decision is recorded twice, where an individual has dual nationality.  
(5) Includes nationals of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia before 1 May 2004, but excludes them from this date.  
(6) Excludes Bulgaria and Romania after their accession to the EU on 1st January 2007.  
(7) In 2006 the qualifying period for settlement in all employment-related categories changed from 4 to 5 years.  
(8) Grants of settlement that combine qualifying periods of residence in Points Based System Tier 1 Highly Skilled or Tier 2 Skilled Workers and other pre PBS categories.  
(9) Includes grants under the Family ILR exercise.  
(10) Excludes reconsideration cases and the outcome of appeals.  
(11) Spouses and dependants joining British citizens or persons previously granted settlement.  
(12) Includes civil and unmarried partners.  
(13) but (8) in chart Data for 2007 to 2010 include persons granted indefinite leave outside the immigration rules under measures aimed at clearing the backlog of outstanding unresolved cases.  
Data rounded to the nearest 5. : = Not applicable. i - initial figures with final release date due August 2011

# APPENDIX C – MAXIMUM LENGTH OF LEAVE TIER 5, UK ANCESTRY, OVERSEAS DOMESTIC WORKERS

Category	Maximum length of leave	Settlement
Youth Mobility	24 months	No
Creative & sporting	12 months (plus for creative sector, migrants can be granted an additional 12 months max if the original sponsor requires migrant to stay beyond original period granted – total stay can be up to 24 months)	Yes – footballers who have switched into Tier 2 (sports person)
Charity workers	12 months	No
Religious workers	24 months	No
Government authorised exchange	24 months	No
International Agreement	24 months (plus after the initial grant period, overseas government employees and private servants in diplomatic households can apply for further leave of 12 months at a time, until they have spent up to a maximum of 6 years in the UK).	Yes – private servants in diplomatic households who are eligible to apply for settlement after 5 years
Domestic workers (private)	6/12 months initially extendable to maximum of 5 years	Yes
UK Ancestry	5 years	Yes

# APPENDIX D – APPROVED TIER 5 GOVERNMENT AUTHORISED EXCHANGE SCHEMES, AUGUST 2010

Scheme	Overarching body (Sponsor)	Supporting department	Date of approval
International Exchange Programme (UK) Ltd	International Exchange Programme (UK) Ltd	Department for Environment, Food and Rural Affairs (DEFRA)	11 November 2008
Foreign Language Assistants Programme	British Council Scotland	Scottish Government	4 December 2008
Foreign Language Assistants Programme	British Council	Department for Children, Schools and Families (DCSF)	5 December 2008
Fulbright UK/US Teacher Exchange Programme	British Council	Department for Children, Schools and Families (DCSF)	5 December 2008
Fulbright UK/US Teacher Exchange Programme	British Council Scotland	No	5 December 2008
European Voluntary Service	British Council	Yes – private servants in diplomatic households who are eligible to apply for settlement after 5 years	5 December 2008
IAESTE	British Council Scotland	Scottish Government	15 December 2008
Foreign Language Assistants Programme	Higher Educational Institutions	Department for Business, Innovation and Skills (DBIS)	16 December 2008
Fulbright UK/US Teacher Exchange Programme	British Council Northern Ireland	Department of Education, Northern Ireland	19 December 2008
IAESTE	Target (GTI) Investments Ltd	Department of Education, Northern Ireland	19 December 2008
UK China Graduate Work Experience Programme	Target (GTI) Investments Ltd	Department of Education, Northern Ireland	19 December 2008
Erasmus	British Council Scotland	Department for Innovation, Universities and Skills (DIUS)	07 January 2009
Erasmus	British Council	Scottish Government	20 February 2009
IAESTE	British Council	Department for Business, Innovation and Skills (DBIS)	26 February 2009
Law Society	Law Society	Department for Business, Innovation and Skills (DBIS)	26 February 2009

Scheme	Overarching body (Sponsor)	Supporting department	Date of approval
UK-India Education and Research Initiative	British Council	Department for Business, Innovation and Skills (DBIS)	26 February 2009
National Physical Laboratory	International Guest Worker and Secondment Scheme	Department for Business, Innovation and Skills (DBIS)	03 March 2009
Commonwealth Exchange Programme	League for the Exchange of Commonwealth Teachers	Department for Children, Schools and Families (DCFS)	09 March 2009
Mountbatten Programme	St Mary's University College Twickenham	Department for Business, Innovation and Skills (DBIS)	09 March 2009
Erasmus	British Council Wales	Welsh Assembly Government	6 April 2009
Foreign Language Assistants Programme	British Council Wales	Welsh Assembly Government	6 April 2009
Grundtvig	ECOTEC Research and Consulting Ltd	Department for Business, Innovation and Skills (DBIS)	6 April 2009
IAESTE	British Council Wales	Welsh Assembly Government	6 April 2009
Leonardo da Vinci	ECOTEC Research and Consulting Ltd	Department for Business, Innovation and Skills (DBIS)	6 April 2009
UK-India Education and Research Initiative	British Council Wales	Welsh Assembly Government	6 April 2009
European Voluntary Service, EU Youth in Action Programme	British Council	Department for Children, Schools and Families (DCFS00)	6 April 2009
Glasgow Caledonian University	Glasgow Caledonian University	Scottish Government	22 May 2009
British Universities North America Club (BUNAC)	British Universities North America Club (BUNAC)	Department for Business, Innovation and Skills (DBIS)	22 May 2009
Welsh Language Teaching Programme in Patagonia	British Council Wales	Welsh Assembly Government	22 May 2009
Encouraging Dynamic Global Entrepreneurs (EDGE)	Scottish Enterprise	Scottish Government	22 May 2009
Competition Commission	Competition Commission	Department for Business, Innovation and Skills (DBIS)	22 May 2009
The US-UK Education Commission (aka The Fulbright Commission)	The US-UK Education Commission (aka The Fulbright Commission)	Joint International Unit (on behalf of DBIS)	4 June 2009
Jiangsu Centre for Chinese Studies in Essex	Essex County Council	Department for Children, Schools and Families (DCSF)	4 June 2009



<b>Scheme</b>	<b>Overarching body (Sponsor)</b>	<b>Supporting department</b>	<b>Date of approval</b>
International Science and Innovation Unit (ISIU)	Department for Business, Innovation and Skills (DBIS)	Department for Business, Innovation and Skills (DBIS)	4 June 2009
Foreign & Commonwealth Office	Foreign & Commonwealth Office	Foreign & Commonwealth Office (FCO)	3 July 2009
Overseas Fellows Post	National Health Service (NHS) Highland	Scottish Government	3 July 2009
UK-India Graduate Work Experience Programme	GTI Recruiting Solutions	Department for Business, Innovation and Skills (DBIS)	3 July 2009
The Finance Ministries and Central Banks	Her Majesty's Treasury (HMT)	Her Majesty's Treasury (HMT)	13 July 2009 <sup>1</sup>
EU/China Managers Exchange and Training Programme (METP)	Manchester Metropolitan University	UK Trade and Investment (DBIS)	13 July 2009 <sup>1</sup>
Broadening Horizons	The Sir Bernard Lovell Language College	Department for Children, Schools and Families (DCSF)	17 July 2009 <sup>1</sup>
Overseas Visiting Fellowships	The Royal Institute of International Affairs, Chatham House	Foreign & Commonwealth Office (FCO)	23 July 2009
Commonwealth Scholarships and Fellowships Plan (CSFP)	The British Council	Department for International Development (DFID)	24 July 2009
The National Assembly for Wales Intern Programme	The National Assembly for Wales	The National Assembly for Wales	1 September 2009
Medical Training Initiative for Dentistry	The Royal College of Surgeons of England	Department of Health	31 July 2009
Mandarin Teachers Programme	Specialist Schools and Academies Trust	Joint International Unit (on behalf of DCSF)	10 August 2009
BOND Business Internships	British Council	Department for Business, Innovation and Skills (DBIS)	9 September 2009
AIIESEC Internships	AIIESEC	Department for Business, Innovation and Skills (DBIS)	9 September 2009
Chevening Programme	The British Council	Foreign & Commonwealth Office	2 November 2009
HMRC Exchange Scheme	HM Revenue & Customs	HM Revenue & Customs	24 December 2010
BNSC Satellite KHTT Programme	British National Space Centre (BIS)	Department for Business, Innovation and Skills (DBIS)	4 January 2010
City Fellowships Scheme	SEO (London)	Foreign & Commonwealth Office	7 January 2010
American Institute for Foreign Study	AIFS (UK) Ltd	Department for Business, Innovation and Skills (DBIS)	27 January 2010

<b>Scheme</b>	<b>Overarching body (Sponsor)</b>	<b>Supporting department</b>	<b>Date of approval</b>
Office of Gas & Electricity Markets (Ofgem)	Office of Gas & Electricity Markets (Ofgem)	Department of Energy & Climate Change	11 February 2010
Lord Chancellor's Training Scheme for Young Chinese Lawyers	British Council	Ministry of Justice	4 March 2010
Tier 5 Interns scheme	GTI Recruiting Solutions	Department for Business, Innovation and Skills (DBIS)	17 March 2010
Medical Training Initiative	Academy of Medical Royal Colleges	Department of Health	19 April 2010

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