



COMMENTARY

Skilled Non-EU Migration: Is the Cap In Hand?

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After years of existing mostly on paper, the cap on the number of skilled non-EU workers employers can bring to the country has finally started to bite. For the fourth month in a row, demand for Certificates of Sponsorship (CoS), which allow employers to hire workers with a Tier 2 work visa, [outstripped supply](#).

This means that employers hoping to recruit non-EU workers in most graduate jobs in March needed to pay a salary of at least £60,000 unless an exemption applied. This is double the £30,000 threshold that has been in place since April 2017 following recommendations from the Migration Advisory Committee. Until December 2017, the cap had been hit briefly in mid-2015, but only for a few months.

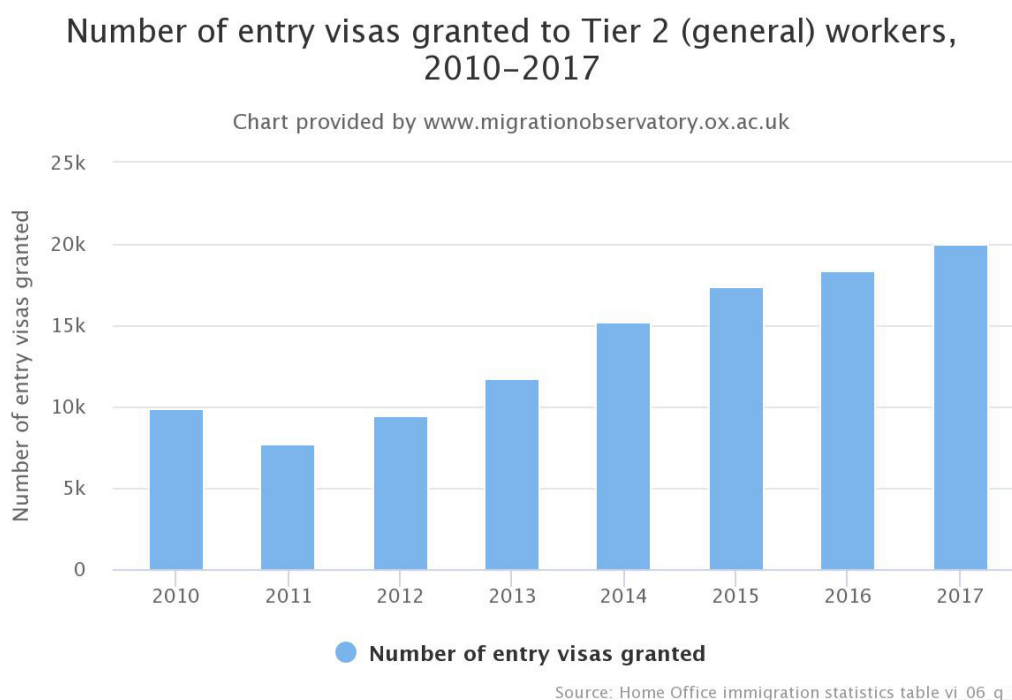
Occupations that require a PhD or that are on the shortage occupation list (including nurses) do not face the £60,000 threshold, as explained below.

Why is demand for Tier 2 places larger than the number available?

The total number of CoS that can be used by employers each year is capped at 20,700. This cap on non-EU skilled migration was initially the centrepiece of the suite of policies introduced under the coalition government in 2011 to cut net migration to the “tens of thousands”. Until recently, however, the cap actually did little to restrict migrant numbers as it was set at a level that was greater than demand.

However, demand for non-EU skilled workers has gradually increased over the years. The cap was introduced while the UK labour market was still relatively weak following the economic crisis and has not increased over time, so it is not surprising that the cap was eventually hit as the strength of the UK labour market improved.

Figure 1



The 20,700 CoS are split into monthly allocations: If fewer people apply in a given month than CoS are available, certificates that are not needed are rolled-over and made available the following month. The number of CoS set aside for each month is ‘front-loaded’, so more are available at the beginning of the fiscal year (April) than towards the end.

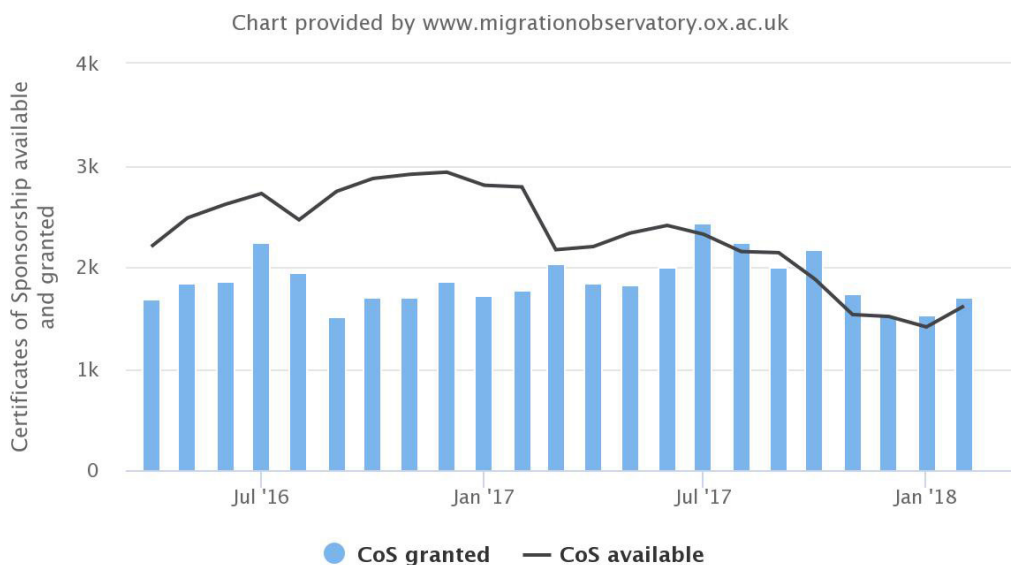
In the year ending March 2017, demand for CoS remained below supply in most months so the cap was not exceeded in any month (all but 288 certificates from that year’s annual allocation were used). But from April 2017 to March 2018, higher demand throughout the fiscal year meant that fewer visas were rolled over from one month

to the next and the number of CoS available each month declined from June onwards (Figure 1). As a result, the cap started preventing some non-EU skilled workers from taking positions in the UK from December 2017, although the precise number of applications rejected is not publicly available.

It is possible that there will be some respite for employers using Tier 2 in the coming months. This is because over the last few years more CoS have been allocated in April (2,200) and May–September (2,000) than later in the financial year (1,000–1,500). But if current policies remain in place and demand for visas remains the same or continues to increase, it will re-emerge.

Figure 2

Certificates of Sponsorship available and granted, April 2016 to March 2018



Source: Migration Observatory analysis of data extracted from Gov.uk, accessed 16 March 2018

Note: Grants constrained by cap from December 2017 onwards; If employers apply for CoS but do not use them within 3 months, they are reclaimed and added back to future months' allocations; because of these unused CoS, the total number granted may appear to exceed the 20,700 cap.

Note that the 20,700 cap does not cover all non-EU skilled migration: employers who want to move existing members of staff from overseas to UK-based offices use a different system (for intra-company transfers or ICTs). The most highly-paid workers – those earning in excess of £159,600 per year – are also exempt from the cap.

Who gets priority when the cap is hit?

When demand for CoS outstrips supply, the government prioritises applications using a [points test](#). The highest priority is given to jobs that are on the 'shortage occupation list' (130 points) and jobs that require a PhD (70 points), with a smaller premium awarded to people hired via certain graduate recruitment programmes (30 points). All other jobs that pass the Resident Labour Market Test (RLMT), which requires employers to advertise the position to UK residents, receive 20 points.

The second major consideration is pay. If more applications are received than CoS are available, the government ranks applications based on the proposed salary. The minimum income required for a Tier 2 (general) visa is £30,000 (which adds 10 points to an application's score). There are some exceptions, such as new entrants to the labour market under the age of 26, for whom the minimum income is £20,800 (1 point).

Table 1 - Points allocated to Certificate of Sponsorship applications

Characteristic		Points allocated	
<i>Job type</i>			
Shortage occupation		130	
PhD level occupation		70	
Graduate recruitment*		30	
Others (RLMT)		20	
<i>Salary</i>			
£20,800 to £21,999.99	1	£37,000 to £37,999.99	17
£22,000 to £22,999.99	2	£38,000 to £38,999.99	18
£23,000 to £23,999.99	3	£39,000 to £39,999.99	19
£24,000 to £24,999.99	4	£40,000 to £40,999.99	20
£25,000 to £25,999.99	5	£41,000 to £41,999.99	21
£26,000 to £26,999.99	6	£42,000 to £42,999.99	22
£27,000 to £27,999.99	7	£43,000 to £43,999.99	23
£28,000 to £28,999.99	8	£44,000 to £44,999.99	24
£29,000 to £29,999.99	9	£45,000 to £49,999.99	25
£30,000 to £30,999.99	10	£50,000 to £54,999.99	30
£31,000 to £31,999.99	11	£55,000 to £59,999.99	35
£32,000 to £32,999.99	12	£60,000 to £64,999.99	40
£33,000 to £33,999.99	13	£65,000 to £69,999.99	45
£34,000 to £34,999.99	14	£70,000 to £74,999.99	50
£35,000 to £35,999.99	15	£75,000 to £99,999.99	55
£36,000 to £36,999.99	16	£100,000 to £159,599.99	60

Source: Home Office, Tiers 2 and 5 guidance for sponsors. Note: applications can receive points for only one of the 'job type' characteristics. *Graduates gain points in this category if they are hired via 'milkround' process during which employers make recruiting visits to multiple UK universities.

The minimum number of points required for a Tier 2 visa until November 2017 was 21. This means that under 26-year-olds who met the RMLT and were paid more than £20,800, and other workers in graduate jobs paid at least £30,000 could reasonably expect to get a Tier 2 visa. In December 2017, the minimum number of points required increased to 55, which means that the minimum salary required for most workers (those who are not new entrants, in PhD positions or in shortage occupations) was £55,000. In January and February 2018 slightly lower demand meant this salary requirement dropped to £50,000, and in March 2018 it rose to £60,000.

Who is affected by the higher salary requirements?

Because jobs on the shortage occupation list are allocated so many points, they will always receive priority over non-shortage occupations regardless of the salary. One notable addition to the [shortage list](#) is nurses, who were [added to the list](#) after the last time the Tier 2 cap was hit in mid-2015. Qualifying [PhD level jobs](#) also have a strong advantage: a PhD level job paying £30,000 would be ranked equally with a non-priority job paying £100,000. For the rest of the positions, the effect of the cap is that those with the lowest salaries will be rejected, pushing up the effective minimum salary threshold.

Table 1 shows where the £30,000 and £60,000 thresholds fall in the distribution of earnings for full-time employees of any nationality working in the UK. The £30,000 threshold, which was [recommended](#) by the Migration Advisory Committee in 2015 as part of a major review of Tier 2, was designed so that a majority of professional and managerial jobs in the UK workforce would have salaries high enough to qualify for work visas. With an effective salary threshold of £60,000, by contrast, a majority of these jobs would not qualify. More than 60% of managerial jobs and more than 80% of professional jobs such as accountants, architects, and journalists earned less than £60,000 in 2017.

Table 2 - Share of UK full-time employees earning less than £30,000 or £60,000 in 2017

Occupation	Percent earning less than £30,000	Percent earning less than £60,000
All employees	50% to 60%	More than 90%
Managers, directors and senior officials, of which:	25% to 30%	60% to 70%
Health and social services managers/directors	20% to 25%	More than 75%
Financial institution managers/directors	10% to 20%	60% to 70%
HR managers/directors	Less than 20%	70% to 75%
Professional occupations, of which:	25% to 30%	80% to 90%
Medical practitioners	Less than 10%	30% to 40%
Primary school teachers	30% to 40%	More than 90%
Secondary school teachers	20% to 25%	More than 90%
Legal professionals	10% to 20%	60% to 70%
Accountants	25% to 30%	More than 80%
Architects, surveyors and town planners	20% to 25%	More than 80%
Journalists	30% to 40%	More than 80%
Finance and investment analysts	30% to 40%	More than 80%

Source: Migration Observatory analysis of Annual Survey of Hours and Earnings table 14.7a. The ONS published tables provide income distribution deciles and quartiles, so the figures in this table show the two points in the distribution between which the relevant threshold falls. Figures are for annual gross pay, for employees who have been in the same job for at least a year. Note: some secondary school teachers are on the shortage list (maths, physics, computer science and Mandarin).

Examples of specific occupations in Table 1 are selected from the larger occupations that do not currently appear on the shortage occupation list. Because pay varies by occupation, salary thresholds usually affect some jobs more than others. So, senior managers hoping to work in the UK should be affected less than lower ranking professionals. This is visible to some extent from the broad occupational groupings in Table 1. For example, more than 90% of primary and secondary school teachers earned less than £60,000 in 2017. A higher share of doctors earned at this level, although it still excludes more than 30% of medical practitioner jobs. In some respects, what is striking about a £60,000 threshold is that the effects are not just confined to traditionally lower-paying occupations such as teaching, but affects workers in higher-paying industries such as finance and law.

What are the implications of the cap being hit?

If work-permit applications need to be capped and prioritised, then using salary is, from an economic perspective, a coherent way of doing so because salary is closely related to the productivity and skill level of the worker. The economic benefits of immigration are also correlated with skill level (e.g. fiscal impacts, contributions to productivity and economic growth), and all else equal, higher paying, higher-productivity jobs are expected to be more economically beneficial. This is the basis on which the Migration Advisory Committee (MAC) recommended retaining a salary-based system in its [2015 review](#). In that respect, the current prioritisation mechanism is evidence based.

On the other hand, an economic drawback of the cap is unpredictability. The prioritisation mechanism effectively means that the salary requirements employers must meet to sponsor non-EU workers are not known in advance. This uncertainty creates economic costs, because employers cannot run recruitment processes knowing what the rules are and which jobs are eligible.

A second challenge is that pay does not always reflect the perceived value of a job to society—as is clear from public debates about the cap once it has been hit and restrictions are biting. NHS staff are the most commonly

cited special case, although there are also others, including other public sector workers such as teachers or people working in creative industries.

From a political perspective, [it has been argued](#) that using numerical limits rather than others ways of regulating migration are in large part a device to demonstrate control in the face of declining trust in political institutions. That said, increased salary requirements that result from the monthly cap being exceeded bring their own political complications.

In 2015, the cap being (temporarily) hit prompted the government to undertake a [major review](#) of the entire Tier 2 system and add nurses to the shortage list to prevent risks to NHS recruitment. This was despite the fact that the two factors that led to this happening were both predictable in advance: firstly that the cap would eventually be hit and secondly, that this would affect lower-paid skilled jobs like nursing more than others. Now that the effective salary threshold has gone even higher and some NHS doctors have also been rejected due to the cap—again, a possibility that could have been predicted in advance—there have been calls for further changes such as exempting NHS workers or jobs on the shortage list from the cap entirely. In other words, it appears that the politics of the Tier 2 cap may play out somewhat differently in the abstract than in reality.

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The Migration Observatory

Based at the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford, the Migration Observatory provides independent, authoritative, evidence-based analysis of data on migration and migrants in the UK, to inform media, public and policy debates, and to generate high quality research on international migration and public policy issues. The Observatory's analysis involves experts from a wide range of disciplines and departments at the University of Oxford.



COMPAS

The Migration Observatory is based at the ESRC Centre on Migration, Policy and Society (COMPAS) at the University of Oxford. The mission of COMPAS is to conduct high quality research in order to develop theory and knowledge, inform policy-making and public debate, and engage users of research within the field of migration.

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