

Kingsley Napley LLP's Response to Migration Advisory Committee's Call for Evidence on the Review of the Tier 2 Minimum Salary Thresholds

July 2015

Executive summary

Kingsley Napley LLP (KN) is an internationally recognised law firm with a highly rated immigration team. We act for leading international businesses in a wide variety of sectors including financial services, law firms, media, biosciences, engineering, architecture, IT, professional services, as well as a broad range of private clients including investors, entrepreneurs and internationally famous people.

In the short timescale since the publication of the consultation, KN has undertaken primary research with Tier 2 Sponsor clients through survey feedback and discussions with clients. KN has also hosted a Home Office Roundtable event at our premises on 23 June 2015 where Gary Cook (Assistant Director at the Home Office's Migration Policy Unit) was present, as well as a good representative sample of our clients. Following this KN also hosted a Migration Advisory Committee ("MAC") event along with a number of other practitioners on 1 July 2015, attended by Sir David Metcalf, Tim Harrison and Anna Lacey. Our key findings from our discussions, survey feedback and from our own extensive expertise are that:

- A majority of Sponsors have reported that Tier 2 salary thresholds tend to align to Sponsors' wage structures, although there are a significant number of Sponsors who have had to increase their salary offer in order to employ a Tier 2 migrant.
- A number of Sponsors reported that pay is not necessarily a good proxy for high levels of specialisation/skill, for example, in certain sectors where wages tend to be lower, e.g. engineering, the public sector, architecture, scientific research posts and the oil and gas industry. This also applies to start-ups.
- The vast majority of Sponsors reported that there would be a detrimental impact if minimum salary levels for more junior positions were raised to align more with salaries paid for highly skilled/specialised positions. This is explored in depth in our response below.
- Specifically with regard to the proposal to increase the percentile for new entrant workers from the 10th to 25th, a high number of sponsors reported either a severe impact, high impact or some impact particularly in relation to global Graduate Recruitment Schemes (see below). Outside these schemes, lower wage, high-skilled sectors and start-ups, where salary is not a proxy for skills, would be particularly severely affected.
- A much greater detrimental impact was reported by the vast majority of Sponsors with regard to the proposal to increase the experienced worker minimum salary threshold to the 50th percentile. The main impact here for certain Sponsors would be the large increase in salary required when moving from the new entrant to the experienced worker rate after three years. For those migrants obtaining five year visas, Sponsors would need to pay them at the 50th percentile, irrespective of whether or not they are new graduate hires, which will create a huge gulf between the salaries paid to these migrants compared to the salary for graduate hires paid to resident workers.
- For those Sponsors who have established International Graduate Schemes in the UK, for example law firms, professional services firms and those operating in the oil and gas sector, the minimum salary issue has become critical. Many were unable to secure Tier 2 Restrictive Certificates of Sponsorship for their 2015 intake of graduates as the June allocation was taken up by those applicants earning in excess of £46,000. Market data sources indicate (see PayScale market rate data in Appendix 1) that very few graduate programmes offer salaries of such magnitude and therefore these firms will continue to struggle with the monthly restricted Certificate of Sponsorship allocation. While this is most likely an issue for the

wider Tier 2 Call for Evidence, it is mentioned as it is important for the current Call for Evidence to look at the wider context of raising salary thresholds.

In conclusion, whilst most Sponsors are aware of the key drivers for this review of Tier 2 minimum salary thresholds, i.e. the desire to reduce net migration, Sponsors would expect the MAC to take account of the true market rates payable for each of the roles set out in the SOC codes. You will see from the PayScale market rate data in Appendix 1 that for most occupations, the proposed uplift in minimum salaries for new entrants and experienced workers, would effectively require Sponsors to pay Tier 2 migrants in excess of the market rate. Not only would this expose Sponsors to claims of indirect discrimination from their resident worker employees, but this would severely impact the UK's ability to compete in the global market place and at worst could force firms to transfer their International Graduate Schemes and other business divisions overseas to more "friendly" countries. This would then all have an impact on British graduates and other resident workers and therefore, in its recommendations to the government, we hope the MAC will take into account the unintended consequences of forcing firms to increase their pay scales in the short term if they wish to continue sponsoring Tier 2 migrants.

Finally, we also urge the MAC to consider the minimum salary evidence when making its recommendations to the government following the second Call for Evidence, as it is so closely linked.

Response – Tier 2 Minimum Salary Threshold Consultation

1. HOW DO THE EXISTING SALARY THRESHOLDS FOR TIER 2 COMPARE TO, AND IMPACT ON, THE OVERALL WAGE DISTRIBUTION FOR EACH OCCUPATION?

The answer to this question largely depends on the sector and size of the organisation; one size does not fit all.

In order to avoid wide discrepancies in pay for each role, some Sponsors report that there is no differentiation in pay between what is paid to a Tier 2 migrant and what is paid to a resident worker. However, this would potentially change if minimum salary levels were to increase as proposed in the consultation. Other Sponsors have stated that they have to pay more to hire Tier 2 migrants because they need the skills which migrants bring. Sponsors are also reporting that migrants in turn add value to the company in terms of productivity.

For those in the banking/finance sector, with the exception of start-ups, Sponsors state they are unaffected by the current minimum salary levels as their salaries are higher. However, they warn that if minimum salary levels were significantly increased, this could have a damaging knock on effect on their competitiveness and ability to operate effectively in the UK market.

On average Tier 2 migrants represent between 10-25% of the workforce for most of our Sponsors. There are some exceptions where the percentage is as high as 50%, but in these organisations the reasons for the relatively high number of migrants is due to a language requirement being a significant component of the role – an ability to converse with clients in their native tongue. This would apply to Japanese Sponsors for example. These clients report that their minimum salary levels are in excess of the Tier 2 minimum, but any significant increase to the minimum level could potentially impact their business.

Continuing with the crucial issue of language skills, many Sponsors report that where they are investing in for example emerging markets and operate international desks in London, it is vital that they can bring Tier 2 migrants with these language skills to the UK, in order to liaise with customers and clients from around the world.

These themes are explored in more detail below.

2. WHAT TYPES OF JOBS AND OCCUPATIONS ARE DONE BY HIGHLY-SPECIALISED AND/OR HIGHLY-SKILLED EXPERTS, AND IS PAY A GOOD PROXY FOR THIS HIGH LEVEL OF SPECIALISATION OR SKILL?

All Sponsors report that their Tier 2 migrants are performing highly specialised and/or highly skilled roles. Often due to client demand, Sponsors need Tier 2 migrants who can bring skills and knowledge which they have acquired overseas, for example in the banking sector migrants will bring previous exposure to the securities regulation environment in say the US. Other Tier 2 migrants bring market contacts particularly when operating in a relationship based market.

Tier 2 migrants often bring language skills which are not necessarily reflected in the salary package. We understand that the MAC would consider using language skills as a potential criteria for inclusion on the Shortage Occupation List.

For sectors with a traditionally low wage structure, for example architecture, engineering, the public sector, International Graduate Schemes, the oil and gas industry and start-ups, pay is not considered a good proxy for this high level of specialisation or skill. Therefore for these sectors, increasing minimum salary thresholds will

have a disproportionate effect. As stated in greater detail below, minimum salary levels should be set according to the market rate for the given sector.

Oil and Gas Sector

One Sponsor reports that their highly specialised and/or highly skilled roles are performed by Reservoir Engineers, Geophysicists, Geoscientists and Drilling Engineers. Also professionals with valuable company experience, such as Global Account Managers, Research Scientists, Software Engineers and Mechanical Engineers.

Pay is not necessarily a good proxy for this high level of specialisation or skill as the oil industry is a regional industry, attracting lower salaries than the London region. This issue is explored in further detail at Question 10 below.

Architecture Sector

One Sponsor, a well-known global architectural practice has reported that pay is not a good proxy for high levels of specialisation/skill as it is too crude to reflect the creative nature of this highly skilled profession. This is especially apparent at the new entrant rate, and would severely affect recruiting the most talented architects from the top Architecture schools both from within the UK and overseas. The young talented graduate architects are the people that will ultimately, in years to come, be the ambassadors for the firm as it exports its UK services overseas. In many cases, these architects speak languages which are not readily available in the UK and which are vital in exporting and maintaining the UK brand on major overseas projects.

3. WHAT WOULD BE THE IMPACT OF INCREASING THE THRESHOLDS TO A LEVEL THAT BETTER ALIGNS WITH THE SALARIES OF HIGHLY-SPECIALISED AND/OR HIGHLY-SKILLED EXPERTS?

New Entrant

Sponsors report that if the new entrant rate were to be increased to a level which better aligns with highly-specialised or highly-skilled experts, this would make it impossible to continue with the recruitment of juniors under the Tier 2 category. With the failure experienced by many Sponsors to secure sponsorship for applicants to join their International Graduate Scheme in June this year, this will force many Sponsors to consider alternatives such as moving their graduate schemes overseas. This will potentially have a severe impact on UK graduates looking for a graduate place, as the number of graduate recruitment programmes available will be depleted.

Experienced Worker

All Sponsors report that increasing the minimum salary levels for experienced workers could have a detrimental effect on their business, depending on the size of the increase. For example, it will force some Sponsors to increase pay scales for each role across the board as their wage structure would not cater for paying differential rates to Tier 2 migrants. This would therefore impact annual increments and budget allocations. Also, increasing the minimum salary levels could potentially have the knock on effect of increasing the overall market rate of the role across all businesses, leading to wage inflation and lack of competitiveness.

Other Sponsors report that this would have an impact upon underlying client revenues which may force the client to reconsider the feasibility of their contracts with the Sponsor and lead to potential loss of business.

Start-Ups

For start-ups the minimum salary threshold issue is more acute than for say large clients in the banking sector. As a stated policy aim of increasing inward investment into the UK, particularly in the finance sector in order to maintain the UK's pre-eminent position, it will be important for consideration to be given to start-ups. Feedback we have received is that the size of the business dictates the level of the salaries and start-ups rely heavily on specialist migrant skills to exploit niche markets or business areas where a gap in the market has been identified.

In this sector in particular, Tier 2 migrants enable the UK start-up to grow quickly, which in turn leads to the recruitment of resident workers.

Oil and Gas Sector

One of our Sponsors has an International Graduate Scheme which is geared to having a percentage of UK graduates employed overseas and a percentage of non-EEA migrants employed in the UK to ensure all graduates are exposed early in their career to a wide range of technical operations, to prepare them for future management roles, potentially in their own country of origin. Tier 2 ICTs generally transfer to the UK as managers and technical experts, either to bring specific knowledge to UK operations which the UK does not have, or to give them experience of a specific aspect of business that these employees do not currently possess. If this Sponsor was unable to hire Tier 2 migrants for entry level graduate positions due to a significant increase in the minimum salary threshold for new entrants, this would have a corresponding negative impact upon the overseas positions for UK graduates as these opportunities would be significantly reduced. Effectively, the Sponsor's policy to hire a culturally diverse range of graduates, to support international operations, would be severely compromised. The Sponsor would therefore find it very difficult to train UK graduates in skills not currently available in the UK and to bring these skills back to the UK later in their careers to benefit the UK operation.

Architecture Sector

A Sponsor has commented that there should be no need for the government to increase the current Tier 2 salary thresholds as they are already benchmarked against the Royal Institute of British Architects (RIBA) recommended salaries for Part 1, Part 2, Part 3 and experienced (registered) architects. This is clearly detailed in the Home Office's published codes of practice. Also, in the MAC's previous recommendations in relation to the Architecture profession it was recommended that for part-qualified Architects the rates should be "bespoke pay scales" rather than "new entrant" and "experienced worker" and would not be subject to the rules on pay progression after three years as a new entrant. With this in mind then it would be a logical step for the MAC to continue to categorise Architects using bespoke pay scales, and base their recommendations on RIBA's current recommended salaries, not a blanket rate across the board for all sectors. Professions such as Architecture with a governing body (RIBA) are closely regulated in any case and UK/settled workers will in most cases be paid the same rate as Tier 2 migrants, as the governing body rate is widely known as the benchmark.

IT Sector

We understand the government and the MAC are concerned about the large number of Tier 2 intra-company transfer Certificates of Sponsorship being issued to IT workers, when there are very high rates of unemployment among British computer science graduates. However, it is general knowledge that the demand is currently being created by the government, due to the fact that a large number of UK government IT contracts are awarded to overseas IT companies, presumably on the basis of cost. One area where changes could be made to improve the position of UK graduates would be to introduce the requirement that the UK government takes all possible steps

to encourage the award of IT contracts to British/EU companies which pay its employees the market rate for the role. If those companies then needed to sponsor Tier 2 migrants from overseas it would be on the basis of a demand for skills rather than cost. In order to ensure greater transparency around the payment of salary and allowances, one solution could be to introduce the requirement that all migrants receive their salary and allowances via a UK payroll, thereby providing visibility to HMRC for tax and national insurance purposes. This proposal was covered in a previous MAC report.

4. WHAT WOULD BE THE IMPACT OF INCREASING THE THRESHOLDS TO A LEVEL THAT RESTRICTS THE ROUTE TO OCCUPATIONS WHICH ARE EXPERIENCING SKILLS SHORTAGES SKILLED TO NQF LEVEL 6 OR HIGHER?

For one of our Sponsors in the advertising sector, this would impact the Tier 2 creative codes for example SOC 3411 for Artists and 3412 for Authors. For another Sponsor this would impact the Tier 2 creative code 3414 for dancers. These currently meet the NQF level 4 criteria. If the MAC is minded to significantly increase the minimum salary for these roles then consideration should be given to creating a new route for these migrants, outside of Tier 2, specifically set up to cater for creative and others with specialist skills that cannot be sourced from the UK. Specialist chefs would be another example here. Any measure which effectively prevented these low paid specialists to enter the UK job market would be detrimental to the UK economy and cultural diversity which ultimately benefits society.

5. WHAT WOULD BE THE IMPACT OF INCREASING THE TIER 2 MINIMUM THRESHOLDS FROM THE 10TH TO THE 25TH PERCENTILE FOR EACH OCCUPATION FOR NEW ENTRANT WORKERS?

We received a mixed response from Sponsors ranging from no impact for those who do not sponsor Tier 2 migrants for junior positions, to those where their new entrant salary rates are higher than the Tier 2 minimum, to those who will be highly impacted. Those Sponsors who will feel the impact of any increase most keenly include the oil and gas sector, the architecture sector, new start-ups and those with graduate recruitment programmes. The worry is that any significant increase in the new entrant salary threshold will force companies to relocate their graduate programmes overseas. It will also be a major disincentive for companies establishing these programmes to locate them in the UK and consequently could affect key decisions on whether to locate EMEA headquarters in the UK where transferring or hiring graduate talent is impossible, because the salary rates required are not commercially viable. This is in addition to the impact of the immigration limit, which may be an even greater barrier to hiring into these graduate programmes. As stated above, this will have an adverse impact on UK graduates who will have reduced opportunities to enter such a programme in the UK.

Sponsors also report that it will have the effect of pushing up salaries across the board, leading to reduced budgets for hiring staff, including resident workers. For those Sponsors with client contracts to service, higher staff costs will impact their competitiveness and could potentially lead Sponsors to relocate their business to a country with lower salary costs.

One Sponsor in the private health sector has experienced acute difficulties with recruiting suitable intensive care nurses from the resident labour market despite offering salaries above the minimum set by the NHS Bands 5 and 6. This Sponsor has developed a specialist care programme in partnership with the Guys and St Thomas' Foundation Trust for patients suffering acute respiratory failure. If the new entrant minimum salary threshold moves to the 25th percentile, this will increase the salary payable for graduate Band 5 nurses to £26,390 which

would have an impact on the Sponsor's ability to recruit sufficient staff to roll out this programme more widely. This then underlies the healthcare impact of raising minimum salary levels beyond the market rate.

One solution for the graduate scheme problem would be to increase the number of Tier 2 Intra-company Transfer Graduate Trainee positions for each Sponsor. The current number of a maximum of 5 is very low for some of the bigger Sponsors of graduate programmes in the UK. The maximum number of Tier 2 ICT graduate hire places should vary, depending on the size of the Sponsor. This would be a relatively easy fix to include in the October Immigration Rules and such changes would have the effect of removing a number of these applicants from the monthly Tier 2 immigration cap for Tier 2 General Restricted applicants.

Another solution for the legal profession would be to move legal training contracts from Tier 2 to the Tier 5 Government Authorised Exchange route. This could be facilitated by the Law Society – Migrant lawyers scheme acting as the overarching body. Prior to the Points Based System, these legal training contracts were covered by the Training and Work Experience Scheme which was effectively replaced by Tier 5. Whilst law firms originally lobbied for training contracts to be brought within Tier 2, due to the inability for a migrant to switch from Tier 5 to Tier 2 once the trainee obtained a permanent role with the firm, if a carve out for law firms could be created, permitting Tier 5 to Tier 2 switching, then this would have the desired result of a decrease in Tier 2 migrant numbers and would assist law firms by removing these migrants from the Tier 2 General Restricted cap quota.

6. WHAT WOULD BE THE IMPACT OF INCREASING THE TIER 2 MINIMUM THRESHOLDS FROM THE 25TH TO THE 50TH OR 75TH PERCENTILES FOR EACH OCCUPATION FOR EXPERIENCED WORKERS?

The same issues were raised by Sponsors as in Question 5 above. Sponsors are reporting that just as the economy is picking up enabling them to employ more staff and achieve their growth targets, any increase in minimum pay thresholds for Tier 2 migrants will hamper the ability for Sponsors to hire the number of staff they need. Although some Sponsors report that they need to overpay Tier 2 migrants compared to their resident workers in order to meet the current Tier 2 minimum salary thresholds, others are concerned over the difficulties this would pose vis a vis their wage structure as a whole. A major concern for Sponsors in having to pay Tier 2 migrants a higher salary than their resident workforce is the exposure to indirect discrimination claims from their resident labour force. This will be exacerbated if the difference between entry level salaries and the experienced rate required to be achieved after three years means that migrant workers' salaries need to increase significantly far above the pay levels paid to resident workers.

With public sector workers for example, salary bandings are set nationally, without reference to immigration minimum salary thresholds. These Sponsors are therefore not in a position to arbitrarily increase the salary for a given role in order to recruit Tier 2 migrants to fill vacancies. Vacancies in the NHS are currently running at 7% and to fill this labour shortage NHS Sponsors are being forced to recruit agency workers at a much higher cost. The Royal College of Nursing has stated that expenditure on agency staff by the NHS has increased by 231% over the past three years. Increasing the minimum salary threshold for Tier 2 applicants in the public sector will therefore be a costly and retrograde step for the British taxpayer.

Oil and Gas Sector

One of our Sponsors has reported that further increases in the minimum salary threshold to the 50th or 75th percentile will severely impact the Sponsor's ability to develop a culturally diverse workforce for international operations and to fulfil local contract requirements. This raises the likelihood that the Tier 2 route will be limited in future to those in highly paid, senior positions only and will exclude entry level graduates and technical experts

in the oil and gas sector where, due to the mature nature of the industry, imported expertise is essential but salaries are not exceptionally high.

As we have seen in the past, a lack of suitably skilled geophysicists led to this particular occupation being included on the shortage occupation list. Therefore any move which would have the effect of limiting the number of skilled geophysicists coming through the pipeline will just compound problems of skills shortages for engineers in future. The effects of this may not be felt at the present time as the industry is currently suffering from a global contraction in the area of exploration, but will be felt in future years once the industry recovers.

Architecture Sector

A Sponsor reports that within Architecture, attracting and retaining a pool of high talented, multilingual and mobile architects is vital to them competing in the global marketplace. As with other leading global architectural practices, a significant source of its revenue is from projects outside the UK particularly in high-growth developing economies that do not have the local skills to design major iconic buildings. UK firms compete against competitors from all over the world in international tenders where experience and price and is often a key driver. If the UK immigration system prevents these UK companies from hiring the brightest and best and if their pay levels are uncompetitive, these firms will be at a competitive disadvantage.

Any increase in the experienced worker rate will mean that the talented newly qualified architects may be lost, as they will be unable to extend their visas once qualified if the salary jump is to the 50th or 75th percentile. This is due to the fact that when these levels are reached, it is only Associates and Partners who receive these higher rates of pay. Firms would need to discourage Part 2 architects from undertaking the Part 3 qualification and qualifying as a registered architect, to ensure a higher salary is not required at extension. As this would lead to a de-skilling of the workforce it is not a viable option.

7. AS AN EMPLOYER, WHAT WOULD BE THE IMPACT OF INCREASING THE TIER 2 MINIMUM THRESHOLDS ON: A) HIRING MIGRANT WORKERS FROM OUTSIDE THE EU; B) HIRING MIGRANT WORKERS FROM WITHIN THE EU; C) HIRING NATIVES?

- a) As stated above, the impact on hiring migrant workers from outside the EU will be that Sponsors will either need to increase salaries in order to sponsor Tier 2 migrants which will in turn expose them to discrimination claims and impact their competitiveness and ability to hire the required number of staff, or, where this is not workable, Sponsors will simply relocate their business overseas.
- b) and c) Most Sponsors have reported little or no impact for these two options other than the fact that recruitment budgets will be impacted by having to pay more for Tier 2 migrants thereby resulting in a reduced remaining budget to hire EU or resident workers.

The overriding response from Sponsors has been that Tier 2 migrants represent only 10-25% of their workforce and Sponsors will not go down this route unless they cannot source the skilled resources they need from the resident labour market. If Sponsors are forced to pay more to hire Tier 2 migrants they would be unable to meet customer requirements and will run the risk of losing revenue and future business for the UK.

Oil and Gas Sector

One Sponsor reports that a high impact would be felt across the board. If the requisite skills are not available in the UK, or the EU, restrictions on the ability to import non-EU labour could potentially have a severe impact on

business. By way of an example, the UK North Sea is a highly technical and highly challenging environment. As the basin is now very mature, new technically innovative skills are required to extract further oil from existing fields. This requires people with exceptionally technical skill sets, which are learned over a period of years and sometimes many years, through wide international experience. The business therefore needs to be permitted to bring these required skills to the UK in order to fulfil contractual obligations and supplement local workforces. Oil clients often demand several years of relevant experience before a decision is taken as to whether to accept someone to provide the service. This often means importing that experience from overseas.

Architecture Sector

One Sponsor in this sector reports that if the salary levels are increased, this would not be in line with RIBA's salary recommendations, and would lead to migrant workers being paid more than UK/settled workers. This would inevitably expose firms to the possibility of indirect discrimination claims, based on nationality, which would be very difficult for an employer to justify was a fair reason.

If the firm decided that the higher salary thresholds suggested by the MAC are not financially viable, this would have a huge impact on employing the brightest and the best architects in the UK. The international nature of the firm is ultimately dependent on originality and inspirationally creative ideas. Often fresh ideas and international perspectives come straight from the overseas Architecture Schools/Universities where many of the senior UK Architects in private practice, lecture and teach the foreign students, for example Harvard, Yale, Vienna School of Architecture and many Chinese Architecture schools. There is a strong link between academia and private practice within the Architectural Industry and to raise the new entrant rate from the 10th to 25th percentile would have a devastating effect on this sector. The sector relies on migrant architects' language skills, but just as important is the knowledge of vernacular architecture based on local needs, knowledge of foreign terrain, climate issues and construction materials all reflecting local traditions, which migrant architects bring to the UK. Clearly this is intrinsic knowledge that would be extremely difficult to find/teach to a UK/EU settled worker.

IT Sector

Several Sponsors have reported that if the Tier 2 salary thresholds are increased this will have one of two effects, neither of which the UK government will welcome. Firstly, the increase in salary costs will be passed onto the UK customer, putting an increased burden on the UK economy as UK companies may struggle to shoulder these increased costs. Secondly, if the UK customer cannot afford the extra costs, the foreign IT Company will simply offshore the UK operation back to the home country and leave a skeleton staff in the UK operation. This would create job losses for the UK workers of the IT company; accountants, lawyers, HR, administration workers, cleaners etc. would all be affected. The other downside to this offshoring model is that the number of business visitors would increase, undertaking fact finding and site visits in line with the Immigration Rules. As the business visitor route is a notoriously grey area this would increase compliance costs to the Home Office in policing this large influx in offshore IT workers coming to the UK to fact find, in order to undertake the productive work in their home country.

8. ARE THERE ADDITIONAL NATIONAL PAY SCALES OR SOURCES OF SALARY DATA THAT SHOULD BE USED TO SET THE THRESHOLDS?

Most Sponsors obtain market rate salary information from external sources appropriate to their particular sector. For example, salary benchmarking surveys such as McLagan are widely used in the Finance and Banking sectors. Mercer surveys are widely used throughout a number of sectors including advertising and the oil and gas sector.

These surveys are costly for employers to commission, with annual fees charged ranging from £1,000-£5,000, depending on the sector and size of business. Please also refer to Appendix 2 for a table covering the market rates for the SOC codes most used by the Sponsors who responded to our survey.

One Sponsor reports that they currently use three annual compensation surveys to benchmark compensation: the Hay survey and the Mercer survey for functional positions and offshore oilfield specific roles and the TPep survey is used for petro-technical expert positions.

Sponsors are urging the MAC to take account of the market rate data, rather than the ASHE 2014 data, which does not appear to be an accurate reflection of the market rates payable. Also we question whether the MAC should place such reliance on ASHE given that it is unable to provide figures for certain percentiles (SOC code 3532 for Brokers is a good example here).

In addition, we suggest that the MAC should also consult with regulatory bodies regarding salary levels, for example the FCA, The SRA and RIBA.

9. WHAT OTHER APPROPRIATE MEASURES WOULD YOU LIKE TO SEE FOR DETERMINING THE MINIMUM SALARY THRESHOLDS?

A number of Sponsors have suggested that it would be appropriate for the MAC to look at salary levels sector by sector and make use of sector salary surveys to understand the market rate for particular roles within the sector. Most roles have a salary banding attached to them which tend to apply across the industry sector. Factors such as age, experience and scarcity will then impact on whether a Sponsor will pay towards the bottom or top of the salary band.

Reference to percentiles is fairly meaningless when assessing new entrant roles as each sector will have their own rate for their graduate intake, irrespective of what the Tier 2 new entrant figure is. This figure is based on market rates for the role as dictated by salary surveys, as per the attached document.

One Sponsor also confirms that additional measures for determining the minimum salary threshold should include regional and industry specific compensation surveys.

10. SHOULD THE MINIMUM SALARY THRESHOLD TAKE ACCOUNT OF VARIATIONS IN REGIONAL PAY? IF SO, HOW?

Evidence suggests that those in regional locations find it difficult to meet the minimum salary thresholds. Wages across the board in these locations are lower and Sponsors report they use different, lower salary bands in regional offices.

One Sponsor reports that salary thresholds today favour London Regional applicants, where salaries are generally higher than in the regions. Non-London regions are therefore unfairly penalised if salary is the threshold used to approve visa applications. Consideration should be given by the MAC to the fact that the oil industry is a regional industry, requiring specific skills and where pay is not always a good proxy for this particular level of specialisation/skill.

Contributors

The following Sponsors expressed their consent to being acknowledged within this report:

- [Please note that the names of contributors have been removed for reasons of client confidentiality]

Sectors covered by this report include:

- Architecture
- Global Digital Agencies
- Finance and accounting
- Information Technology
- Legal
- Media
- Nurses
- Oil and gas

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Appendix 1 – PayScale UK Average Salaries (as of 25/06/2015)

PayScale works from a database of over 40 million salary profiles which are updated daily and uses intelligent software to provide accurate results on regional salaries. For more information please see the methodology section from their website below.

PayScale administers the largest real-time salary survey in the world with more than 150,000 new survey records added every month. The database of more than 40 million total salary profiles is updated nightly to reflect the most detailed, up-to-date compensation information available. Data collection is strongly correlated with the size of the pool being considered, representing the diversity of the general workforce.

PayScale leverages proprietary internal taxonomies as well as proprietary mappings to third party data sources to assure accurate mapping. The breadth and depth of the data assets used to standardize and match data is unparalleled in the industry.

PayScale applies a set of propriety algorithms to assure the consistency and accuracy of every data point used in our compensation models and reports. Our data team regularly compares PayScale compensation data with external sources of data, both publically and privately available. This research has shown that our market data is strongly correlated with other sources of compensation data, including employer submitted data. This research has also shown the breadth and depth of our data is wider than other sources due to our collection methods and software product, where users are able to more precisely describe and price positions, including both the type and size of the organization, and the skills and experience of the position.

Our software does not need to modify or blend profile data, use inflation or cost-of-living adjustments, or age data. This way, we help our customers avoid the shortcomings of traditional salary surveys that dilute the market data using "averages of averages" or "surveys of surveys" approaches.

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Corporate Managers and Directors	11	£81,649	£58,000	£65,000	£82,000	£120,000	£150,000
Chief Executives and Senior Officials	1115	£98,671	£45,000	£66,000	£99,000	£140,000	£180,000
Production Managers and Directors in Construction	1121	£77,788	£41,000	£65,000	£78,000	£84,000	£120,000
Financial Managers and Directors	1131	£59,129	£36,000	£46,000	£59,000	£71,000	£97,000

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Marketing and Sales Directors	1132	£66,187	£38,000	£50,000	£66,000	£82,000	£99,000
Advertising and Public Relations Directors	1134	£51,951	£31,000	£40,000	£52,000	£70,000	£86,000
Human Resource Managers and Directors	1135	£33,973	£24,000	£29,000	£34,000	£41,000	£49,000
Information Technology and Telecommunications Directors	1136	£73,607	£45,000	£58,000	£74,000	£89,000	£100,000
Functional Managers and Directors n.e.c.	1139	£59,978*	£44,000	£50,000	£60,000	£71,000	£90,000
Financial Institution Managers and Directors	1150	£59,129	£36,000	£46,000	£59,000	£71,000	£97,000
Managers and Directors in Transport and Logistics	1161	£67,374	£40,000	£52,000	£67,000	£82,000	£100,000
Managers and Directors in Transport and Distribution	1161	£31,840	£19,000	£26,000	£32,000	£39,000	£46,000
Managers and Directors in Storage and Warehousing	1162	£23,805	£16,000	£20,000	£24,000	£29,000	£35,000
Science, Research, Engineering and Technology Professionals	21	£29,729	£22,000	£25,000	£30,000	£34,000	£39,000
Mechanical Engineer	2122	£29,861	£20,000	£25,000	£30,000	£36,000	£43,000
Production and Process Engineer	2127	£34,173	£25,000	£29,000	£34,000	£41,000	£51,000

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Engineering Professionals n.e.c.	2129	Too wide					
IT Specialist Managers	2133	£38,859	£25,000	£30,000	£39,000	£49,000	£60,000
IT Project and Programme Managers	2134	£43,895	£29,000	£35,000	£44,000	£54,000	£68,000
IT Business Analysts, Architects and Systems Designers	2135	£37,685	£25,000	£31,000	£38,000	£46,000	£57,000
Programmers and Software Development Professionals	2136	£29,974	£20,000	£25,000	£30,000	£37,000	£48,000
Web Design and Development Professionals	2137	£23,072	£23,072	£15,000	£18,000	£28,000	£35,000
Information Technology and Telecommunications Professionals n.e.c.	2139	Too wide					
Research and Development Managers	215	£46,424	£30,000	£37,000	£46,000	£55,000	£61,000
Nurses	2231	£23,071	£18,000	£21,000	£23,000	£27,000	£31,000
Barristers (and Judges)	2412	£48,884	£25,000	£35,000	£49,000	£78,000	£130,000
Solicitors	2413	£34,035	£22,000	£27,000	£34,000	£42,000	£57,000
Legal Professionals n.e.c.	2419	Too wide					

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Chartered and Certified Accountants	2421	£32,812	£20,000	£25,000	£33,000	£42,000	£55,000
Management Consultants and Business Analysts	2423	£47,212	£29,000	£36,000	£47,000	£66,000	£84,000
Business and Financial Project Management Professionals	2424	£32,553 *	£22,000	£27,000	£33,000	£40,000	£50,000
Actuaries, Economists and Statisticians	2425	£37,491	£25,000	£30,000	£37,000	£50,000	£63,000
Business and Related Research Professionals	2426	£32,397*	£23,000	£27,000	£32,000	£41,000	£51,000
Business, Research and Administrative Professionals n.e.c.	2429	£36821*	Not available	£35,000	£37,000	£41,000	Not available
Architects	2431	£33,002	£22,000	£28,000	£33,000	£40,000	£51,000
Librarians	2451	£23,609	£14,000	£19,000	£24,000	£27,000	£34,000
Quality Control and Planning Engineers	2461	£28,507	£18,000	£23,000	£29,000	£33,000	£38,000
Quality Assurance and Regulatory Professionals	2462	£35,329*	£23,000	£28,000	£35,000	£45,000	£59,000
Journalists, Newspaper and Periodical Editors	2471	£24,547	£15,000	£20,000	£25,000	£31,000	£40,000
Public Relations Professionals	2472	£29,672	£19,000	Not Available	£42,000	£30,000	£55,000

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Advertising Accounts Managers and Creative Directors	2473	£41,670	£30,000	£36,000	£42,000	£49,000	£57,000
Architectural and Town Planning Technicians	3121	£23,225	£15,000	£19,000	£23,000	£28,000	£34,000
IT Operations Technicians	3131	£20,805	£13,000	£17,000	£21,000	£25,000	£26,000
IT User Support Technicians	3121	£18,417	£13,000	£16,000	£18,000	£22,000	£26,000
Authors, Writers and Translators	3412	£29,491	£18,000	£22,000	£29,000	£36,000	£43,000
Dancers and Choreographers	3414	£21,962	£12,000	£16,000	£22,000	£31,000	£72,000
Arts Officers, Producers and Directors	3416	£36,019	£21,000	£28,000	£36,000	£44,000	£52,000
Graphic Designers	3421	£21,351	£16,000	£18,000	£21,000	£25,000	£29,000
Product, Clothing and Related Designers	3422	£22,788	£17,000	£19,000	£23,000	£28,000	£36,000
Legal Associate Professionals	352						
Business, Finance and Related Associate Professionals	3520	£28,904	£17,000	£20,000	£29,000	£44,000	£54,000
Brokers	3532	£38,709	£15,000	£25,000	£39,000	£66,000	£100,000

Profession	SOC Code	Median	Percentiles (to nearest £1,000)				
			10%	25%	50%	75%	90%
Insurance Underwriters	3533	£25,754	£18,000	£20,000	£26,000	£35,000	£46,000
Finance and Investment Analysts and Advisers	3534	£29,241	£20,000	£24,000	£29,000	£36,000	£44,000
Taxation Experts	3535	£31,030	£20,000	£24,000	£31,000	£38,000	£49,000
Financial Accounts Manager	3538	£35,352	£22,000	£28,000	£35,000	£49,000	£68,000
Business and Related Associate Professionals n.e.c.	3539	£24,750*	£18,000	£20,000	£25,000	£30,000	£36,000
Business Sales Executives	3542	£31,072*	£21,000	£25,000	£31,000	£44,000	£51,000
Marketing Associate Professionals	3543	£25,740	£18,000	£21,000	£26,000	£35,000	£48,000
Sales Accounts and Business Development Managers	3545	£35,201	£22,000	£28,000	£35,000	£45,000	£57,000
Human Resources and Industrial Relations Officers	3562	£23,766	£18,000	£21,000	£24,000	£27,000	£31,000
Finance Officers	4124	£22,086	£16,000	£19,000	£22,000	£25,000	£29,000
Chefs	5434	£24,675	£17,000	£20,000	£25,000	£29,000	£35,000

* Indicates that data on the job title could not be found, however we could find data on the "related job titles" listed in the Codes of Practice Guidance.

Appendix 2 – Table covering the market rates for the SOC codes most used by the Sponsors who responded to Kingsley Napley LLP's Survey

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Chief Executives and Senior Officials	1115	£35,300	£52,900	£52,850	£81,521	£127,896
Production Managers and Directors in Construction	1121	£20,800	£31,000	£31,000	£44,567	£65,219
Financial Managers and Directors	1131	£26,700	£40,400	£40,365	£61,108	£92,886
Marketing and Sales Directors	1132	£33,300	£47,900	£47,903	£70,742	£98,530
Advertising and Public Relations Directors	1134	£28,300	£46,000	Data not listed	Data not listed	Data not listed
Human Resource Managers and Directors	1135	£27,000	£35,000	£35,030	£45,593	£64,901
Information Technology and Telecommunications Directors	1136	£32,000	£75,500	£47,854	£64,511	Data not listed
Functional Managers and Directors n.e.c.	1139	£24,100	£35,100	£35,136	£48,929	Data not listed
Financial Institution Managers and Directors	1150	£26,600	£35,800	£35,750	£53,621	£91,393

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Managers and Directors in Transport and Distribution	1161	£23,200	£29,000	£28,988	£37,054	Data not listed
Managers and Directors in Storage and Warehousing	1162	Data not listed	£22,000	£22,011	£28,555	£35,000
Science, Research, Engineering and Technology Professionals	21	Data not listed	Data not listed	£30,692	£39,361	£50,237
Mechanical Engineer	2122	£27,400	£32,900	Data not listed	£40,558	Data not listed
Production and Process Engineer	2127	£22,900	£30,000	£29,996	£36,861	£43,800
Engineering Professionals n.e.c.	2129	£26,100	£32,000	£31,961	£38,974	£46,707
IT Specialist Managers	2133	£26,500	£40,300	£34,219	£44,906	£59,911
IT Project and Programme Managers	2134	£28,200	£40,600	£36,990	£46,997	£57,532
IT Business Analysts, Architects and Systems Designers	2135	£25,800	£33,000	£33,026	£41,983	£55,115
Programmers and Software Development Professionals	2136	£24,000	£31,100	£31,144	£40,007	£49,302

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Web Design and Development Professionals	2137	£20,800	£23,400	£23,396	£29,171	£37,901
Information Technology and Telecommunications Professionals n.e.c.	2139	£20,800	£29,900	£29,850	£39,759	£52,609
Research and Development Managers	215	Data not listed	Data not listed	Data not listed	£45,191	Data not listed
Nurses	2231	See band rates	See band rates	£26,390	£31,641	£36,907
Barristers (and Judges)	2412	£20,800	£31,900	Data not listed	Data not listed	Data not listed
Solicitors	2413	£24,700	£32,000	£32,048	£41,178	£52,547
Legal Professionals n.e.c.	2419	£33,300	£44,100	Data not listed	Data not listed	Data not listed
Chartered and Certified Accountants	2421	£21,600	£28,600	£28,578	£37,680	£49,545
Management Consultants and Business Analysts	2423	£23,000	£30,000	£30,021	£40,691	£54,120
Business and Financial Project Management Professionals	2424	£24,100	£33,300	£33,302	£43,069	£59,960

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Actuaries, Economists and Statisticians	2425	£26,500	£34,700	£34,682	£43,493	Data not listed
Business and Related Research Professionals	2426	£20,800	£26,500	£26,509	£31,913	£36,540
Business, Research and Administrative Professionals n.e.c.	2429	£24,300	£29,400	£29,412	£34,635	£45,935
Architects	2431	£21,000 (Part 1 Graduate). £23,100 (Part 2 Graduate)	£27,300 (Part 3 Graduate/Newly Registered) £31,400 (Experienced Worker)	£29,550	£38,000	Data not listed
Librarians	2451	£20,800 (All Workers)	£20,800 (All Workers)	£19,241	£25,600	£35,042
Quality Control and Planning Engineers	2461	£23,000	£29,400	£29,413	£35,809	£42,542
Quality Assurance and Regulatory Professionals	2462	£24,300	£30,400	£30,398	£38,563	Data not listed
Journalists, Newspaper and Periodical Editors	2471	£20,800	£25,100	£25,083	£31,980	Data not listed
Public Relations Professionals	2472	£20,800	£23,000	£23,013	£28,973	£37,389

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Advertising Accounts Managers and Creative Directors	2473	£22,800	£28,300	£28,253	£38,107	£51,210
Architectural and Town Planning Technicians	3121	£20,800	£23,000	£23,070	£28,799	Data not listed
IT Operations Technicians	3131	£20,800	£21,800	£21,818	£27,840	£35,742
IT User Support Technicians	3132	Data not listed	£22,800	£22,808	£28,519	£35,330
Authors, Writers and Translators	3412	£20,800	£22,800	£22,805	£26,642	Data not listed
Dancers and Choreographers	3414	£20,800	£24,200	Data not listed	Data not listed	Data not listed
Arts Officers, Producers and Directors	3416	£24,600	£30,500	£30,521	£37,830	£45,713
Graphic Designers	3421	Data not listed	£21,200	£21,224	£25,507	£31,067
Product, Clothing and Related Designers	3422	£20,800	£23,000	£23,045	£28,336	Data not listed
Legal Associate Professionals	3520	Data not listed	£21,000	£21,025	£28,303	Data not listed

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Brokers	3532	£22,200	£40,500	£40,531	Data not listed	Data not listed
Insurance Underwriters	3533	Data not listed	£24,700	£24,747	£32,347	Data not listed
Finance and Investment Analysts and Advisers	3534	£21,400	£26,900	£26,871	£34,337	£49,951
Taxation Experts	3535	£20,800	£33,900	£33,899	£44,641	Data not listed
Financial Accounts Manager	3538	£22,200	£27,500	£27,474	£36,998	£49,078
Business and Related Associate Professionals n.e.c.	3539	£20,800	£21,900	£21,862	£28,027	£35,737
Business Sales Executives	3542	Data not listed	£22,700	£22,653	£30,499	£41,346
Marketing Associate Professionals	3543	£20,800	£21,900	£21,946	£27,500	£34,943
Sales Accounts and Business Development Managers	3545	£25,000	£32,500	£32,486	£42,595	£57,887
Human Resources and Industrial Relations Officers	3562	Data not listed	£22,100	Data not listed	£28,369	£35,243

Profession	SOC Code	CURRENT NEW ENTRANT MINIMUM RATE (£) – 10 th PERCENTILE	CURRENT MINIMUM EXPERIENCED RATE (£) – 25 th PERCENTILE	PROPOSED MINIMUM NEW ENTRANT RATE (£) – 25 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 50 TH PERCENTILE	PROPOSED MINIMUM EXPERIENCED RATE (£) – 75 TH PERCENTILE
Finance Officers	4124	Data not listed	Data not listed	£20,196	£23,600	£27,863
Chefs	5434		£15,300 (Other Chef), £29,570 (Skilled Chef)	£15,343	£18,676	£22,634