

# **Call for evidence by the Migration Advisory Committee on the level of the 2012/13 annual limit on Tier 2 and associated policies**

## **Response by the Wellcome Trust**

December 2011

### **Key Points**

1. The limits on Tier 2 have been in place for less than a year. Retaining the annual limit at the 2011/12 level is the most sensible option as this will provide stability and certainty to employers and migrants and give the system time to bed down.
2. The reasons for the lower than expected uptake of Tier 2 certificates of sponsorship are not clear, and in the absence of further evidence there are significant risks to lowering the annual limit. It is possible that the international community remains confused by the recent changes. The Government needs to take further action to communicate, clearly, its strategy for attracting and retaining the brightest and the best individuals to the UK and the routes open to them for entry. Only after a longer period should any consideration be given to lowering the annual limit.
3. We are pleased that the MAC is looking at the Resident Labour Market Test requirement and would argue that PhD level jobs should be exempt from this requirement.

### **INTRODUCTION**

4. The operation of the Tier 2 category is of particular concern to the Wellcome Trust as it is the major route of entry for research and academic talent. We welcomed the Government's decision to prioritise PhD level jobs within Tier 2.
5. When the Government announced its intention to introduce an annual limit, the Home Secretary said "We need an approach which will not only get immigration down to sustainable levels but at the same time, protects those businesses and institutions which are vital to our economy". We would argue that the existing annual limits on Tier 2 strikes the right balance between these two objectives. The costly and time-consuming process for obtaining a Tier 2 Certificate of Sponsorship means that many employers see recruiting a non-EEA worker as a last resort. Reducing the annual limits on Tier 2 to a point where employers are forced to compete for Certificates of Sponsorship would not "protect those businesses and institutions which are vital to our economy".
6. While the uptake of Tier 2 visas during 2011 has consistently fallen below the monthly limit, the difficult and uncertain economic climate means that current recruitment levels should not be seen as typical. As the system has been in operation for less than a year, the Government must take a cautious approach. Repeatedly moving the goalposts will cause considerable uncertainty both for employers and for talented individuals considering whether to come to the UK.

7. The Government risks an internal policy conflict between its vision “to make the UK the global hub for life sciences”, as articulated in the Strategy for UK Life Sciences released on 5 December, and the perceived or actual barriers faced by talented individuals wishing to work in the UK and contribute to this vision. There is a risk of further mixed messages to the life sciences sector and the international community if the Government decides to further reduce the annual limit on Tier 2.
8. We welcome the Government’s decision to revisit the Resident Labour Market Test (RLMT) requirement. Reducing the salary level that is exempt from the RLMT seems sensible, but from our perspective there is also compelling evidence to remove the RLMT requirement for PhD level jobs. We attach a paper by the Wellcome Trust, which is supported by 21 organisations from across the research and higher education sector, that makes this case. This paper has been sent to the Home Secretary.

## Response to specific questions

9. We have responded only to those questions of relevance to the Wellcome Trust and the research and higher education sector.

***Q1. What has been the impact of the annual limit on Tier 2 (General) of 20,700 in 2011-12 on the UK economy and labour market? What would be the impacts of setting a limit below the 2011/12 level in 2012/13?***

10. Research and higher education employers continue to view the immigration system with considerable anxiety. While the annual limit for 2011/12 was not exceeded, the potential for further reductions in the Tier 2 limit, combined with the impact of Tier 4 restrictions on student recruitment, and the likelihood of further changes in the area of settlement and Tier 5, has led to an environment of considerable uncertainty both for those seeking to recruit, and those considering advancing their career in the UK. Lowering the cap for Tier 2 does not send the message that “the UK is open for business” and is likely to have a further negative impact on our ability to attract top international talent to the UK.
11. The impacts of setting a limit below the 2011/12 level would of course depend on how much lower the new limit was. The MAC may be tempted to recommend a limit below the 2011/12 level but above the observed levels of uptake for 2011/12, if they perceive that this would have less severe or immediate impacts on employers. However, given the Government’s public signals that steady downward pressure will be applied to all immigration routes, we are very concerned that once a lower limit is adopted it will be politically difficult to reverse, even if economic conditions improve and demand for foreign workers increases.
12. If the limit was set at or below the observed levels of uptake for 2011/12, we would expect an immediate impact on employers, as some applications for Restricted Certificates of Sponsorship (CoS) would be declined, leading to positions going unfilled. Employers would continue to incur the significant costs of recruitment and application for certificates of sponsorship, but with a reduced certainty of success. In the research and higher education sector, charity-funded research institutes and small spin-out firms are likely to find the increased recruitment costs particularly burdensome. The higher education sector is also facing significant financial constraints.

13. As previous reports from the MAC have shown that the research and higher education sector is a heavy user of Tier 2, any further restrictions are likely to have a particular impact on our sector. Although PhD-level jobs are given relative priority, this designation does not cover all occupation groups where the research and higher education sector recruits. For example, the Wellcome Trust Sanger Institute employs a significant number of IT and software professionals as it operates one of the largest genetic sequencing centres in the world, with an associated need to handle large volumes of data. PhD-level jobs also receive lower priority compared to jobs on the Shortage Occupation List, so it should not be assumed that our sector would not be impacted by a lower limit.
14. Setting the annual limit at a level where strong applications will be declined will lead to the unhelpful impression that employers and sectors must compete to secure the limited number of CoS.

**Q2. Why has uptake of Tier 2 (General) visas consistently been below the implied monthly limit during 2011? Do you expect the level of uptake of such visas to change in the future, and why?**

15. There are a number of reasons why uptake may have been lower than expected, for example:
  - the poor performance of the UK economy and the uncertain prospects for its turnaround may be causing employers to delay taking on additional staff, unless absolutely essential;
  - the demand from foreign workers wishing to come to the UK may have reduced, either as a result of global economic conditions, reduced job prospects in the UK, or the perception that the UK is no longer welcoming foreign talent;
  - the perception of excessive bureaucracy and red tape within Tier 2, including the need to complete a Resident Labour Market Test, may be deterring some employers from applying;
  - employers may be preferring to invest in training and up-skilling local workers rather than recruiting internationally;
  - employers may be deferring recruitment while they wait for the system to bed down – for example, waiting to understand their chances of securing a restricted CoS before committing resources.
16. Anecdotal evidence suggests that the first three of these are certainly an issue, but we suggest that a more systematic assessment – for example a survey of employers – should be undertaken. We appreciate the MAC's efforts to gather evidence through this consultation but we are concerned that respondents are unlikely to be representative of UK employers as a whole.
17. In the absence of clearer evidence about which factors are most significant in driving the observed low uptake, the Government should adopt a cautious approach to lowering the annual limits. For example, if employers are responding to the Government's signals that they should invest in training local workers, they should be encouraged to continue, rather than punished by further restrictions on foreign recruitment. If the lack of uptake is

due to skilled foreign workers being deterred from coming to the UK, further reductions in the cap are likely to exacerbate this problem. This would create skill shortages for those with a genuine ongoing need for top foreign talent, such as our world-leading universities and research institutes.

18. We appreciate that the MAC has been asked to advise on the impacts of lowering the annual limit rather than weighing up the arguments in favour of such a move. However, we are concerned that no clear case for lowering the cap has been made. We cannot see any benefits of lowering the cap and the fact that uptake has been lower than expected is not a sufficient argument for change. Spare capacity is not necessarily a problem.
19. Retaining the limit at the current level allows the Government to meet its objectives to control immigration but also ensures that, should there be an upturn in the economic situation, employers are able to recruit any additional skilled workforce that they need to bolster the recovery. Recent research from the University of Oxford suggests that the public does not support further restrictions on skilled migration of scientists and researchers<sup>1</sup>. If the Government halved the current cap of 20,700, this would make a negligible difference to net migration figures but would have a disproportionate negative impact on employers and on the UK economy.

**Q3. What responses to the limit on Tier 2 (General) migration have been considered and put in place by employers, including measures to recruit from and train the UK workforce?**

20. Many research and higher education employers already invest substantially in training the local workforce. For example, the Wellcome Trust and the Wellcome Trust Sanger Institute already operate a wide variety of schemes to encourage and support UK nationals to pursue a research career. These include:

- PhD programmes and studentships to support postgraduate training in biomedical sciences;
- fellowships for postdoctoral and early career researchers that support the transition to an independent research career;
- work experience placements at the Wellcome Trust Sanger Institute, which enable school age students to gain an insight into careers in scientific research;
- vacation scholarships, which provide promising undergraduates with hands-on experience of research during the summer vacation;
- industrial placements at the Wellcome Trust Sanger Institute, for students who are following a degree course with a 'sandwich year';

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<sup>1</sup> <http://migrationobservatory.ox.ac.uk/understanding-uk-public-opinion/executive-summary>. When asked about scientists and researchers 59 per cent of survey respondents thought immigration levels for this group should remain the same or be increased.

- a range of initiatives to improve the quality of UK science education and teaching, including the Science Learning Centres, which offer high-quality professional development for science teachers.

We have not put in place any new training initiatives specifically in response to the Tier 2 limits.

21. It is important to note that, while research and higher education employers are strongly committed to training, this is seen as a long term investment in the sustainability of the UK research base rather than a solution to short term recruitment issues. Many research and academic positions are highly specialised and it will often be impractical train a local worker within a reasonable timeframe.

**Q8. What would be the economic impact of raising the minimum skill level for the intra-company transfer, RLMT and shortage occupation route from NQF4+ to NQF6+?**

22. The majority of research and higher education occupations are skilled to NQF6+, so the impact on our sector of raising the minimum skill level from NQF4+ to NQF6+ would be less significant than for many other economic sectors.

23. Looking at the list of occupations in Table A2 it appears that the broader economic impact of raising the skill level would be significant, as many occupations that have traditionally included significant numbers of foreign workers, such as physiotherapy, would need to meet their workforce needs entirely from within Europe. It seems likely that significant skill shortages would eventuate, particularly if the intention is to apply the new skill requirement from 2012. Such a timeframe does not give employers and industries adequate time to plan, particularly given that these are skilled occupations requiring several years training.

24. While we understand that the MAC has been specifically tasked with assessing economic impacts, it is clear that the social and cultural impact of restricting Tier 2 to NQF6+ would also be significant, and it is important that the Government also takes this into account in its decision-making. We note that the list of professions in Table A2 includes many of the artistic professions including artists, authors, actors and dancers.

**Q9. What would be the impact on employers and the economy of lowering the threshold for exemption from the RLMT from the current level of £150,000 a year to somewhere in the range of £70,000 to £100,000 per year?**

**Q10. What would be the impact on the UK labour market, including on employment opportunities of UK workers, of making the above change?**

25. The RLMT is a significant frustration to research and higher education employers. As we are typically advertising to fill specialised and highly skilled roles, advertising in JobCentrePlus (JCP) seldom yields appropriate candidates. The process also causes delays to the recruitment process – particularly an issue now that there are additional delays associated with the need to apply to UKBA for a restricted CoS.

26. The Wellcome Trust has conducted a survey to gather evidence on the impact of the RLMT on our sector. The survey results strongly support the view that advertising in the JCP is not an effective or efficient means of testing the resident labour market for highly

skilled jobs in the research and academic sector. While employers are routinely advertising in the JCP to comply with UKBA requirements, very few have attracted suitable candidates through this route. Research organisations are also concerned about other aspects of the RLMT process, in particular the length of time a job is required to be advertised in the JCP, and the need to repeat the RLMT in the event that the recruitment and selection process cannot be completed in six months.

27. Lowering the threshold for exemption from the RLMT from the current salary level of £150,000 a year to somewhere in the range of £70,000 to £100,000 per year would be unlikely to resolve this issue satisfactorily, as only a small proportion of research and academic staff are paid over £70,000 – very few are paid over £100,000. A more helpful course of action would be for Government to exempt PhD-level jobs from the RLMT. Such a move would be consistent with Government's decision to award extra points to PhD-level jobs within Tier 2, which recognised the need to continue to attract the brightest and best international scientific and academic talent to the UK.
28. We attach as Annex A a paper that details the evidence from the Wellcome Trust survey and the arguments for exempting PhD level jobs from the RLMT. The recommendations of this paper have broad support from across the research and higher education sector, with 21 organisations – including the Russell Group, Research Councils UK and the Association of the British Pharmaceutical Industry – formally indicating their support. Copies of this paper have been sent to the Home Secretary and UKBA officials.
29. As we pointed out in our submission to the MAC on the settlement consultation, increased migration of talented and researchers and academics should have a positive impact on employment opportunities for current UK residents. These individuals generate commercially-exploitable ideas, are critical to the success of knowledge-intensive industries such as the life sciences, and play a key role in teaching and training the next generation through the new ideas, knowledge and experience they bring.
30. We are not aware of any evidence that the presence of a significant migrant workforce in the sciences restricts job opportunities or depresses salaries for UK residents. The science workforce is highly international, and many UK-trained scientists choose to spend part of their careers working overseas, while their international compatriots choose to work in and contribute to the UK.

## Resident Labour Market Test – proposal to introduce an exemption for PhD-level jobs

November 2011

### PURPOSE

1. On 4 April 2011 representatives from the Wellcome Trust and partner organisations met with Jonathan Sedgwick from the UK Border Agency. At this meeting, it was suggested that the current Resident Labour Market Test (RLMT) process presented barriers to the recruitment of highly skilled research and higher education staff. UKBA indicated that it would be open to evidence and proposals from the research and higher education sector in relation to the continuing use of the RLMT. This paper presents such evidence, and recommends that the Government waive the RLMT requirement for PhD-level jobs.

### SUMMARY

2. As part of changes to the points-based immigration system introduced in April 2011, the Government decided to award additional points to PhD-level jobs<sup>2</sup> within Tier 2 of the points-based system. The research and higher education sector welcomed the Government's recognition that highly skilled individuals working in PhD-level jobs generate significant value for the UK, beyond their personal salary. Many PhD-level jobs are highly specialised and require employers to recruit in a global labour market. There is fierce global competition for the best research and academic talent, and the UK's track record of attracting international staff has made a very important contribution to the nation's economic success.
3. Under Tier 2 of the points-based immigration system, employers are required to complete a Resident Labour Market Test (RLMT) before employing a non-EEA worker. To meet the RLMT requirement, a job must be advertised in the JobCentrePlus (JCP) for 28 days, and via one other method identified in UKBA's occupation-specific 'codes of practice' – typically a national newspaper or website.
4. The research and higher education sector has questioned whether advertising in the JCP is an appropriate means of identifying suitable EEA candidates for skilled research and academic positions. For example, between April 2009 and October 2010 the Wellcome Trust Sanger Institute advertised 95 jobs in the JCP, but did not receive any applications through this route.
5. To assess whether the Sanger Institute's experience with the RLMT was consistent with that of other research and higher education employers, the Wellcome Trust conducted a short online survey of research and higher education employers (see Annex for a summary of findings). The survey aimed to collect quantitative information about positions advertised in the JCP, in addition to respondents' opinions about the process. We were particularly interested in job vacancies at PhD level and above.
6. The survey results strongly support the view that advertising in the JCP is not an effective or efficient means of testing the resident labour market for highly skilled jobs in

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<sup>2</sup> PhD-level jobs are defined as all jobs falling within the list of Standard Occupational Classification (SOC) codes given in paragraph 19, irrespective of whether the individual in question holds a PhD or not

the research and academic sector. While employers are routinely advertising in the JCP to comply with UKBA requirements, very few have attracted suitable candidates through this route. Research organisations are also concerned about other aspects of the RLMT process, in particular the length of time a job is required to be advertised in the JCP, and the need to repeat the RLMT in the event that the recruitment and selection process cannot be completed in six months.

7. Our survey evidence demonstrates that the RLMT adds little value to PhD-level recruitment. As the Government has already recognised the special character of PhD-level jobs within Tier 2 of the points-based system, this paper recommends that the Government extend this approach by exempting PhD-level vacancies<sup>3</sup> from the requirement to carry out a RLMT.
8. If there is a desire to retain some form of RLMT for PhD-level jobs, this could be achieved by:
  - removing the requirement to advertise in Job Centre Plus – employers could instead be required to advertise the job via two appropriate methods identified in the relevant occupation codes of practice;
  - extending the six month validity of the RLMT to one year, in line with the extended timeframes for research and academic recruitment.

## BACKGROUND

9. There are two questions that must be considered as part of the case to exempt some research and academic positions from the requirement for a RLMT:
  1. Is there evidence to suggest that the RLMT is not fit-for-purpose?
  2. Is it possible to identify a transparent and appropriate set of criteria to define which jobs should be exempt from the RLMT requirement?

These questions are discussed further below.

### Is the RLMT requirement fit-for-purpose?

10. A significant proportion of research and academic staff originate from outside the EEA. Non-EEA nationals make up 10.6 per cent of all academic staff, although in some science and engineering disciplines the proportion is as high as 26 per cent<sup>4</sup>. However, growth in the number of researchers is low by international standards, leading a recent report commissioned by the Department of Business, Innovation and Skills to highlight “a potential developing paucity of skilled human capital in the UK versus comparator countries...” and conclude that “there is a risk that failure to develop, attract and retain enough researchers may have consequences for national R&D capacity.”<sup>5</sup> The report also reveals that the UK research workforce has a high degree of international mobility and that this has a positive impact on performance, with evidence that those individuals

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<sup>3</sup> Defined as those vacancies falling within UKBA’s existing list of PhD-level Standard Occupational Classification (SOC) codes:

<sup>4</sup> Higher Education Statistics Agency, 2009/10

<sup>5</sup> Elsevier, ‘International Comparative Performance of the Research Base – 2011’. Available at <http://www.bis.gov.uk/assets/biscore/science/docs/i/11-p123-international-comparative-performance-uk-research-base>

who either come or return to the UK after a period working overseas are significantly more productive than those who have never left the UK.

11. These findings suggest that demand for research and academic staff from outside the EEA is likely to continue, and also that the immigration system must not create undue barriers to their recruitment if the UK is to remain globally competitive.
12. The concept behind the RLMT is that employers should advertise a job to the UK and European labour market before offering it to an individual outside the EEA. Some categories of job are exempt from the RLMT, including those paying over £150,000<sup>6</sup> and those on the official Shortage Occupation List. None of the Standard Occupation Classification (SOC) codes identified by UKBA as 'PhD level' (paragraph 19 refers), and within which respondents to the Wellcome Trust survey commonly recruit, are currently on the Shortage Occupation List.
13. It is statistically unlikely that employers seeking to fill a research or academic vacancy will find a suitable candidate in the JCP. PhD-qualified people make up less than one per cent of the UK working population<sup>7</sup>. In practice the number of suitably qualified individuals for a given job is likely to be much smaller than this, as most research and academic jobs require a PhD in a particular discipline, often combined with specific postdoctoral experience. For senior-level vacancies, there may be only a handful of appropriately qualified individuals in Europe. It makes sense for employers seeking to fill PhD-level vacancies to adopt a targeted approach to advertising, particularly if we accept that highly-skilled people are less likely to be unemployed and to use JCP services.
14. Evidence from our survey supports the argument that advertising in the JCP is not an effective or efficient way to test the domestic labour market for PhD-level jobs. Of those respondents with access to detailed numerical data, 85% reported that no suitable candidates had been attracted through the JCP over a 12 month period.<sup>8</sup> This was backed up by the qualitative data, which revealed that employers feel that the quality of EEA applicants coming via the JCP is consistently lower than that coming through other advertising routes. 100% of the survey respondents disagreed with the statement that "advertising with JCP is an effective means of identifying EEA candidates for PhD-level positions".
15. The need to advertise in the JCP also generates a significant compliance burden. For the reasons discussed in paragraph 13, most employers would not choose to advertise in the JCP as a means of filling highly skilled vacancies. However, because it is difficult to predict in advance whether a RLMT will be needed (i.e. whether a suitable EEA candidate will be found to fill an advertised vacancy), many are adopting a pre-emptive strategy of advertising all vacancies, or all vacancies above a certain skill level, in the JCP. This avoids the need for a four-week delay in the recruitment process to meet the JCP requirement, in the event that the preferred candidate is from outside the EEA. However, some employers responding to our survey reported that the process had created extra work by attracting large numbers of unsuitable applicants. In some cases

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<sup>6</sup> The Migration Advisory Committee is consulting on whether the £150,000 threshold could be lowered to in the region of £70,000-£100,000. While this may ease recruitment of senior academic staff, most research and academic salaries fall below £70,000. There is also a risk that the reduced salary threshold may come at the cost of additional restrictions on recruitment to lower paid positions.

<sup>7</sup> Quarterly Labour Force Survey Jan-Mar 2011. 612 people from a sample of 106,201 had a PhD (0.58%).

<sup>8</sup> The question asked about PhD level jobs only. However, it appears that some respondents may have answered it in relation to all jobs they had advertised in the JCP, not only PhD level positions.

advertisements had been edited by the JCP, resulting in the removal of important details, and the need to re-advertise.

16. Although the requirement to carry out a RLMT as part of the Tier 2 process is not new, the compliance burden for employers has increased significantly following the abolition of the Tier 1 (General) category. Many research and academic staff previously came through the Tier 1 route, which did not require a labour market test. Following the Government's decision to abolish the dedicated immigration category for highly skilled migrants, it makes sense to consider whether the existing Tier 2 settings are meeting the needs of employers who regularly recruit highly skilled staff from outside the EEA.
17. The Migration Advisory Committee is currently consulting on the implications of exempting jobs paying over £70,000 from the RLMT – a significant reduction from the current threshold of £150,000. We would suggest that the arguments given in the MAC consultation for exempting highly paid jobs from the RLMT – the minimal risk of disturbance to the resident labour market and the fact that such jobs are “more global in character” – equally apply to PhD-level jobs. As discussed in paragraph 10-11, there is evidence that the healthy two-way flow of research staff across the UK's borders is central to its current high degree of scientific competitiveness. It is also true that a number of migrant scientists (such as Andre Geim, Konstantin Novoselov and Venki Ramakrishnan) have won Nobel Prizes while working in British labs.
18. PhD-level jobs are concentrated in the research and higher education sector. An exemption from the RLMT would reduce the bureaucratic burden faced by employers within this sector, including the UK's world-leading universities, research institutes and life sciences companies. Our survey results suggest that UK research and academic employers will advertise positions to the UK resident workforce irrespective of any formal requirement to do so, but that the RLMT does not assist them in identifying appropriate British or EU workers.

***Recommendation: UKBA should exempt PhD-level jobs from the requirement to carry out a RLMT***

The Government recognises that for some jobs the talent pool is global, having the best people is essential to UK growth, and so international recruitment is little threat to jobs for local people. For these jobs the RLMT is a burden which does not benefit UK residents. Our evidence suggests that advertising in the JCP is not an effective means of testing the resident labour market for these specialised positions. The requirement is also generating a significant compliance burden for the sector. The Government is considering exempting jobs earning over £70,000 from the RLMT requirement, and should take the opportunity to also remove it for recognised PhD-level jobs.

**Which jobs should be exempt from the RLMT requirement?**

19. In implementing a numerical cap on the Tier 2 category, the Government has agreed to give priority to 'PhD level' jobs. PhD level jobs are defined as those falling within the following Standard Occupational Classification (SOC) codes, regardless of whether the individual themselves holds a PhD or not:

- 1137 – Research and Development Managers

- 2111 – Chemists
- 2112 – Biological Scientists and Biochemists
- 2113 – Physicists, Geologists and Meteorologists
- 2311 – Higher Education Teaching Professionals
- 2321 – Scientific Researchers
- 2322 – Social Science Researchers
- 2329 – Researchers not elsewhere classified

20. The Wellcome Trust survey asked research and academic employers a series of questions about their recruitment activity over the last 12 months. Organisations were asked to list the SOC codes they had recruited under over that period, and all the 'PhD level' codes listed in paragraph 9 were represented. With the exception of 2132 (software professionals), the SOC codes that were not included on the PhD-level list appear to be largely managerial and administrative posts, where we might reasonably expect a RLMT requirement to apply.

***Recommendation 2: The exemption to the RLMT should apply to vacancies within UKBA's existing list of 'PhD level' Standard Occupational Classification (SOC) codes***

If there is to be a change to the RLMT for highly skilled research and academic jobs, basing the qualifying criteria around the existing list of PhD-level jobs is likely to be the simplest and most transparent option. The results of our survey suggest that these SOC codes are likely to cover the majority of research and academic appointments.

***Would it be possible to devise an alternative RLMT for PhD-level jobs?***

21. The sector's preference is for an exemption to the RLMT for PhD-level jobs rather than changes to the test requirements. We believe an exemption would be simpler and more consistent with the Government's existing recognition for PhD-level recruitment within Tier 2 of the PBS. It would also remove the need for UKBA to devise a new monitoring process for the relatively small number of PhD-level jobs, in the event that JCP is no longer used.

22. If the Government is not prepared to consider an exemption to the RLMT for PhD-level jobs at this time, as a minimum we would request the following changes to the process:

**1. Remove the requirement to advertise PhD-level vacancies in the JobCentre**

23. The occupational codes of practice for Tier 2 require employers to advertise in the JCP and one other approved medium, which differs depending on the occupational code. Our survey suggests that the lists of approved media identified in the codes of practice broadly correlate with the media that universities and research organisations prefer to use. In particular, our survey suggests that jobs.ac.uk is frequently used, and that employers have attracted suitable EEA candidates through this route. The site describes itself as listing "vacancies in universities, colleges, research institutions, commercial and public sector, schools and charities." Approximately 3000 vacancies are currently listed. The website's published statistics suggest that the site attracts over 600,000 job seekers

per month, of which over 200,000 have a PhD. 76 per cent of people using the site were UK residents.

24. In addition to the advertising required to meet the RLMT, most research organisations advertise vacancies through their own websites, and it appears that a significant proportion of candidates are attracted through this route. Many respondents to our survey also reported advertising in specialist media appropriate to the research or academic discipline in question. This suggests that employers are motivated to find suitably qualified UK or European candidates, irrespective of the formal labour market test.
25. If there is a desire to retain some form of RLMT for PhD-level jobs, this could be achieved by requiring employers to advertise the job via two appropriate methods identified in the relevant occupation codes of practice.
26. We would prefer that employers were given the flexibility to choose from the longer lists set out in the occupational codes of practice, rather than including a mandatory advertising requirement. If there is a desire (for example for ease of monitoring) to retain one mandatory advertising method, our survey results suggest that jobs.ac.uk. would be the most appropriate<sup>9</sup>. However, jobs.ac.uk is a commercial website which charges employers to place advertisements and it would be undesirable to impose this additional cost on employers. Allowing employers to select any two methods from the occupation codes of practice would give flexibility to employers who wish to avoid incurring additional advertising costs, and for this reason JCP should be retained as one of the approved methods. However, employers should have the alternative to advertise in other, more targeted media if they wish.

## **2. For PhD-level jobs, extend the six-month validity of the RLMT to one year**

27. A number of employers responding to our survey mentioned the difficulties presented by the existing time limits associated with the RLMT process. If employers have not completed their recruitment process and requested a Certificate of Sponsorship (CoS) from UKBA within six months of the date the advertisement first appeared in JCP, they are required to repeat the process. Employment must commence within six months of the date that the CoS has been approved by UKBA. In practice it can be difficult to meet these timing requirements for academic recruitment, due to the long notice periods academics are required to give, and the need to complete existing research and teaching commitments.
28. UKBA has already accepted this argument in relation to 'research fellows' employed by a higher education institution, where the RLMT time limit has been extended to 12 months. However, the use of the term 'research fellow' in the current guidance is restricted to a relatively small number of academic staff, and does not cover research staff outside HEIs – such as those employed by charitable research institutes. UKBA should extend the existing 12 month extension granted to research fellows to all staff within the PhD-level SOC codes.

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<sup>9</sup> The jobs.ac.uk site refers to independently-commissioned research that indicates that it was “over four times more effective than The Guardian, Times Higher Education and the national journals combined in appointing candidates to academic appointments” and that “the average university is receiving more than one third of its academic appointments through jobs.ac.uk”. However, the research also concluded that a university's own website is the single most effective source of university job appointments.

## Annex A – Survey Findings

29. The survey was carried out during August-September 2011, using an online response form. Responses were received from 62 organisations, including 48 universities, five charity-funded research institutes, four publicly-funded research institutes, three private companies, one Research Council and one national academy.
30. Organisations were asked how many jobs they had advertised in the JCP over the past year. Of the 20 organisations that provided data, the number of jobs advertised ranged from 5 to 742, with an average of 197. The majority (54%) of organisations indicated that they only advertise in the JCP where positions are assessed as needing to meet the RLMT – a further 29% advertise all positions in the JCP.
31. All organisations responding reported that a significant number of the jobs they advertised in JCP were at PhD level. They were also asked which Standard Occupation Classification (SOC) codes they had advertised under. All eight of the SOC codes designated by UKBA as ‘PhD-level jobs’ were used by at least one organisation responding to the survey, the most common being 2321 (scientific researchers), 2329 (researchers not elsewhere classified) and 2311 (higher education teaching professionals). SOC codes not falling under UKBA’s ‘PhD level’ designation included: 2132 (software professionals); 2317 (registrars and senior administrators); 1136 (information and communication technology managers); 1131 (financial managers and chartered secretaries) and 1152 (office managers).
32. Only a small number (13) of respondents were able to provide specific information about how the positions advertised in the JCP were ultimately filled. Of these, 11/13 (85%) reported that no positions had been filled by candidates from the JCP. This correlates with anecdotal information from a larger group of organisations, who reported that while they did not have access to numerical breakdowns, their experience was that very few suitable candidates had been recruited as a result of advertising in the JCP, particularly for positions requiring higher qualifications. 100% of respondents disagreed with the statement that “advertising with JobCentrePlus is an effective means of identifying EEA candidates for PhD-level positions”.

### **Case study 1: Large research-intensive university**

*Over a 12 month period this university advertised 495 jobs in the JCP, of which 108 were at graduate level, 56 were at Masters level and 331 were at PhD level.*

*332 of the positions were ultimately filled by EEA candidates and 146 by non-EEA candidates (17 positions were not filled).*

*No positions were filled by candidates from JCP. Successful candidates came via the university’s own website; major academic journals including New Scientist, Nature, Science and the British Medical Journal; websites that specialise in academy vacancies such as jobs.ac.uk and find-a-post-doc.com; and a range of specialist channels appropriate to the position in question e.g. British Neuropathological Society.*

### **Case study 2: Charity-funded research institute**

*Over a 12 month period the institute advertised 71 positions in the JCP, including 11 at graduate level, 13 at Masters level and 47 at PhD level. Of these, 57 were filled by EEA candidates, and 11 by non-EEA candidates, none of which came from JCP.*

33. Respondents were asked if they had any suggestions for alternative ways of satisfying the RLMT, other than through advertising with the JCP. The great majority of employers responding to this question mentioned the jobs.ac.uk website, suggesting that this is seen as the market leader for academic advertising. A number of respondents suggested jobs.ac.uk plus one other medium. Others suggested retaining JCP plus one other medium as an option for satisfying the RLMT, but offering an alternative option of advertising in two other media. It was also suggested that large employers should have the option of advertising through their own website.
34. Respondents were also asked to indicate any process changes they would like to see in the event that the requirement to advertise in the JCP was retained. 81% favoured a reduction in the four-week advertising requirement; 44% wanted to see greater flexibility in the six month deadline to apply for a restricted certificate of sponsorship; and 25% wanted to see more active or targeted marketing of jobs by the JCP.
35. In relation to the four week timeframe, some respondents commented that the four week requirement was creating unnecessary delays to the recruitment process, particularly as the number and quality of candidates received was poor. Others made the point that a long advertising period led to a large number of speculative or unsuitable applications, increasing the burden on the recruitment team.
- “4 week requirement slows down the recruitment process and doesn’t get us better applicants.”
  - “The key issues concern the 4 week advertising period... since this creates delays in the recruitment process i.e. we either advertise every job for 4 weeks on the off-chance that a non-EEA candidate might need to be recruited where no suitable EEA candidates apply or we advertise jobs for an initial period of 2 weeks then have to re-advertise for a further 2 weeks where there are no suitable EEA candidates. In many cases a suitable non-EEA candidate will have been identified following the initial 2 week advertising period yet their application has to be put on hold whilst the position is re-advertised for a further 2 weeks... where a suitable EEA candidate is identified we would then have to reject the non-EEA candidate or where the non EEA candidate remained the only suitable candidate and, assuming that they have not found alternative employment in the meantime, then they can be appointed. Either way this does not send the right message in terms of good recruitment practice or encouraging the brightest and the best.”
36. A number of respondents suggested that the six month deadline can be difficult to meet for academic appointments, as academic contracts often require long notice periods to avoid disruption to the academic term, and individuals sometimes needed to complete research projects before moving:
- “We find ourselves having to re-advertise posts to ensure compliance with the 6 month RLMT timeframe – if there are only a handful of people in the world with the skills that you need to complete a role then it is a frustrating hoop to jump through.”
  - “Most roles take longer than 6 months from advert to offer”.
  - “Following the April changes and the removal of the Tier 1 Highly Skilled route, the 6 month deadline has caused the College significant problems when recruiting non EEA nationals to academic positions. As the vacancy has to be advertised for 4 weeks in total and given that, where it is necessary to obtain a RCoS, we have to apply at least 2 months in advance in order to ensure that we

are able to obtain and assign the RCoS within the 6 month limit, this effectively leaves only 3 months to arrange shortlisting and interview panels which often comprise of Senior Academics with extremely limited availability. Given the current economic climate, we are also often in a position where we are trying to attract and compete for highly skilled individuals with unique/scarce specialist skills which often takes a prolonged period of time. In addition, the individuals themselves are often required to give at least one academic term's notice of resignation from their current workplace and this, along with the upheaval of moving themselves and their family to the UK, can take significantly longer than the 3 months available from the point that the RCoS is assigned. We would therefore be grateful for an extension of the RLMT timescale, similar to the 12 month limit already in place for Research Fellow vacancies, for Academic appointments of 12 -24 months dependent on the level of seniority of the position."

37. Respondents were invited to make general comments on their experience of attracting suitable EEA candidates. While in general most commented favourably, some respondents noted that there were special circumstances which could make it difficult to recruit from within the EEA

- "Some of the University's research is so specialised that only a few individuals worldwide hold the skills and experience required to complete the research. In such circumstances, it would not be surprising if most, if not all, of the applicants were non-EEA nationals. To put this into context, almost one-third of our academic teaching and research staff and 47 per cent of our research-only staff are from overseas."
- "We are a specialist institution, with most academic roles requiring knowledge of the languages and cultures of Africa and Asia - we cannot restrict our search to EEA countries."
- "Certain areas, where there are only a handful of individuals who are qualified in the required specialism, rely on there being someone who is willing to move at the time that you are advertising - the field is therefore very limited. Such circumstances should be recognised within a special case which can be made along the lines of a "shortage occupation".
- "Although we successfully recruit suitable EEA candidates to certain positions, we would not want to limit recruitment to just the EEA. The specialist nature of research means you cannot always develop and train candidates with the right skills in house; they may not be available in EEA and therefore we have to be able to look further afield to attract the brightest and the best internationally to remain competitive."

38. Finally, respondents were asked to make general comments on the RLMT and the JCP process. A number of respondents took the opportunity to reinforce earlier points on the red tape associated with the process and the fact that good candidates were seldom obtained through the JCP route. Some respondents commented on the RLMT more generally:

- "Rather than gaining the best candidate for the position who will excel over and above all others the RLMT forces us to get a candidate from the EEA if they have the skill set as was advertised even if they are not the best candidate in terms of future potential, development of a project and future scientific discoveries."

- “The blanket approach of the RLMT hinders the recruitment activity of institutions with specialist needs.”
- “The test is ok, albeit JCP is pointless.”
- “The RLMT is frustrating because it only generally achieves a delay in the recruitment process.”
- “The RLMT as it currently stands has significantly increased the time period for the recruitment process. Colleagues find this frustrating as they need to appoint in time for the start of projects.”