



Isle of Man
Government

Reiltys Ellan Vannin



Isle of Man Immigration Points Based System

Consultation Summary of Responses

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Foreword

The programme for Government seeks to achieve the outcome *'We have an economy where local entrepreneurship is supported and thriving and more new businesses are choosing to call the Isle of Man home'*.

As part of the work to deliver this outcome the Programme specifically commits the Cabinet Office to *'Review the Points Based System Immigration Rules and implement new rules by March 2018.'*

The Cabinet Office at the request of the Council of Ministers issued a Consultation to provide an opportunity for members of the public, and those who have direct experience of the current Immigration Points Based System, to submit their views. The consultation closed 18 August 2017 and received 23 responses.

The purpose of the consultation was not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy.

The consultation responses have provided thorough and informed suggestions and observations relating to the current system and areas of the Points Based Immigration Rules that are of concern to industry.

This consultation was published prior to the release of the new Government Consultation Hub that now facilitates online submissions by respondents. As such respondents were not asked for permission to publish their responses in full. Therefore this document contains summary extracts of responses to the consultation for demonstrative purposes only. This should not be construed that extracts contained in this document are the only considerations being made. All 23 responses to the consultation are being considered in their entirety.

The consultation has identified Tier 2 as the route where the most could be done with regards to flexibility to meet the needs of the Island's economic growth, and as the primary route allowing employers to employ non-European Economic Area (EEA) nationals in the Isle of Man.

The Cabinet Office would like to take this opportunity to thank all those who took part and provided feedback to the consultation.

Executive Summary

The consultation received 23 responses, some of which covered all Tiers; others provided detailed responses on specific areas of concern.

A significant proportion of responses received are both lengthy and technical; therefore statistical information in the traditional sense has not been possible. This document provides an overview of the comments, areas of concern and suggestions made by respondents.

Many elements of the points based system were commented on by respondents; however there were recurring comments throughout. Table 1 shows these themes listed by frequency.

This table and the corresponding responses will be analysed further in each section of this document.

Comments/Concerns/Suggestions	No. of Respondents	Percentage of All 23 Respondents
Tier 2 General - Comments	13	56.52%
Shortage Occupation List - Not fit for purpose	12	52.17%
Skills Shortage Comments	11	47.83%
Salary thresholds Comments	10	43.48%
Tier 1 Investor - Comments	10	43.48%
Common Travel Area - Maintain Comments	9	39.13%
Skill Level (RQF) - Comments	9	39.13%
Investment Types - Suggestions	8	34.78%
Is Time Spent Important? - Yes	8	34.78%
RQF Level 6 - Too High	8	34.78%
Tier 2 ICT - Comments	8	34.78%
Access to Banking - Concerns Identified	7	30.43%
Create Local Policies - Comments	7	30.43%
PBS Reform - Comments	7	30.43%
Tier 1 - Entrepreneur - Comments	7	30.43%
Access to Banking - Suggestions	6	26.09%
Is Visa Reciprocity Important - Yes	6	26.09%
Complexity of Rules - Comments	5	21.74%
Tier 2 - Desire for ability to switch from ICT to General	5	21.74%
Tier 2 - Identified as a key route	5	21.74%
Tier 4 - Comments	5	21.74%
Application Process - Comments	4	17.39%

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Sector Based Scheme suggested / Key sectors identified	4	17.39%
Tier 1 Exceptional Talent - Comments	4	17.39%
Tier 1 Exceptional Talent - Questions use to the IoM	4	17.39%
Tier 1 Grad Ent - Comments	4	17.39%
Appendix A - Amendment Suggestions	3	13.04%
Criminal Record Checks - Comments	3	13.04%
UKVI Interaction - Concerns Identified	3	13.04%
Appendix A - Concerns Identified	2	8.696%
Entrepreneur Route - Retain broad parity to UK - Comments	2	8.696%
Is Time Spent Important - No	2	8.696%
Is Visa Reciprocity Important - No	2	8.696%
Resident Labour Market Test - Reform Suggestions	2	8.696%
UKVI Interaction - Suggestions	1	4.348%
Shortage Occupation List - Yes fit for purpose	0	0%

Section 1 - Tier 1

The Tier 1 immigration route is for highly skilled migrants who will contribute to the growth and productivity of the Isle of Man and consists of four subcategories, each of which was addressed in the consultation. This section provides a brief analysis of key themes and commonality of comments relating to each Tier 1 subcategory.

Tier 1 (Entrepreneur) & Tier 1 (Investor)

Overview

- 1.1 These Tiers are analysed together owing to similarities of feedback provided by respondents regarding both routes.
- 1.2 Table 2 below, provides an overview of responses regarding the Entrepreneur and Investor categories.

Comments/Concerns/Suggestions	No. of Respondents
Tier 1 Investor - Comments	10
Tier 1 - Entrepreneur - Comments	7
Access to Banking - Concerns Identified	7
Access to Banking - Suggestions	6
Investment Types Suggestions	6
Appendix A - Amendment Suggestions	3

- 1.3 This table shows 10 respondents made comments relating to the Investor Route, and 7 made comments regarding the Tier 1 Entrepreneur route.
- 1.4 To score points under the Tier 1 (Investor) route an applicant fundamentally must demonstrate:
 - (a) has money of his own under his control held in a regulated financial institution and disposable in the Isle of Man amounting to not less than £2 million; and
 - (b) has opened an account with an Isle of Man regulated bank for the purposes of investing not less than £2 million in the Isle of Man.
- 1.5 Many of the respondents in Table 2 made comments regarding access to banking for both Investors and Entrepreneurs. Respondents also made comments relating to the level of funds required for Investor applicants.

Access to Banking

- 2.1 Seven respondents highlighted concerns relating to access to banking, some highlight this in relation to Entrepreneur others regarding the Investor route, or both. Six respondents provided suggestions regarding amendments to the Immigration Rules on this matter. A randomly selected sample of those comments has been extracted below:

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- *"We believe there is a significant problem in the Tier 1 (Entrepreneur) route in terms of access to banking..... In effect, potential Tier 1 (Entrepreneur) migrants are being put off establishing new businesses and creating jobs in the Isle of Man, because the decision of private sector banks not to offer facilities to their businesses prevents them from getting a visa or leave to remain."*
- *"In the current risk-averse environment, there is hardly a bank in the Isle of Man that wants to accept money from sources outside the EEA, which are classed as automatically high-risk by sole reason of their geographical origin."*
- *"Tier 1 (Investor).... We believe the requirement to open an IOM Bank Account should be removed given the associated issues"*
- *T1 (INV).... Obtaining a bank account on the Island as required by the Rules can be quite onerous and difficult for certain nationalities particularly prior to relocating. The requirement could be varied to allow the individual to have an account in an equivalent jurisdiction such as the UK.*
- *"Tier 1 (Investor)... My proposal would be to insert after the condition (b), opening 'an account with an Isle of Man regulated bank'*

'or a bank regulated in a jurisdiction that is included in the Equivalent Jurisdiction List in Appendix C to the Anti-Money Laundering and Countering the Financing of Terrorism Handbook' of the Isle of Man.

This way, as long as money is accessible from an account in a better-resourced banking jurisdiction such as Switzerland (where the banks have personnel to study the file), the application process can be started at this stage. Experience shows that once the client (applicant) takes residence in the Isle of Man, it will be easier for him or her to open an Isle of Man bank account.

2.2 Several respondents suggested amendments to Appendix A of the Immigration Rules regarding access to banking on the Isle of Man. These suggestions will be considered in due course.

Tier 1 (Investor) - Required Level of Funds

3.1 Regarding Tier 1 Investors, several respondents made comment regarding the level of funds required currently set at £2 Million GBP.

3.2 A randomly selected sample of those comments has been extracted below:

- *- The amount of £2 million is too high and consideration should be given to lowering this limit*
- The rules regarding the investment in question are also too prescribed - need more flexibility.
- *Tier 1 (Investor)*
We consider that £2 million is too high an amount and the investment rules should be made more flexible with different ways to measure investment.

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- *T1 (INV).... The increase from £1M to £2M has led to a reduction in the number of application from 5 in Apr 2014-May 2015, to 3 in Apr 2015-Mar 2016. Reverting back to the previous level would potentially be likely to increase volumes.*

3.3 Consideration will be given to the level of funds required under the current immigration rules.

Tier 1 (Investor) – Allowable Investment

4.1 There were many comments regarding allowable investments under the Immigration Rules; a randomly selected sample of those comments has been extracted below:

- *"At present, the route is not well structured for the purposes of general business in the Isle of Man. This is because of the Isle of Man Immigration Rules dictate that investment funds cannot be invested into companies mainly engaged in property investment, property management or property development.*

It appears comparatively unlikely that many domestic Isle of Man businesses would require third party investment of GBP2,000,000 or more without real property being acquired, developed or managed, due to the sums involved."

- *Migrants in this category are currently prohibited (paragraph 47 of Appendix A to the Isle of Man Immigration Rules) from including in their investment and business activity any investment in residential accommodation, property development or property management.... We consider that paragraph 47 could be changed by including the words "outside the Isle of Man". This would mean that the migrant could invest in Isle of Man property, but not property outside the Isle of Man (such as property in the United Kingdom).*
- *The rules regarding the investment in question are also too prescribed - need more flexibility.... Different ways of measuring investment need to be considered with reference to the Island and how the Island benefits from any investment.*
- *The criteria for "investment" for the investor visa should be critically analysed as it is currently too prescriptive. There are other ways in which investment can be measured other than the methods prescribed by the current rules. For examples of recognised methods of investments in other jurisdictions – Cyprus – property investment; Guernsey – specific projects of deemed benefit to the Island, for example incubators for hospitals. The Island needs to look at what we want to benefit – in the UK there are public bonds – money is going into infrastructure – we don't have these bonds, so we need an alternative.*

4.2 All comments relating to Investment criteria under the Immigration Rules are noted. The Cabinet Office will work with the Department for Enterprise and other relevant bodies regarding future allowable investment under the Immigration Rules.

Criminal Record Checks

5.1 Table 1 shows Three respondents made comment in relation to criminal record checks.

5.2 Applicants for entry clearance under Tier 1 Entrepreneur and Investor Immigration Rules must provide either an original or scanned copy of a criminal record certificate

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from any country they have lived in for 12 months or more (whether continuously or in total) in the past 10 years, while aged 18 or over.

- 5.3 This requirement is in place to strengthen safeguards against those with a criminal history seeking to come to the UK.
- 5.4 In October 2017^T the Chief Minister for the Isle of Man Government signed a Memorandum of Understanding (MoU) with The United Kingdom and Northern Ireland represented by the Home Office. This MoU reaffirms;

"both territories' commitment to the preservation of the Common Travel Area ("CTA") and the free movement of legitimate travellers within the CTA which contributes to the economic, social and cultural well-being of both territories and acknowledging the historic ongoing cooperation between the two territories in strengthening and enhancing the CTA"

- 5.5 Whilst comments relating to this requirement are noted, these Isle of Man Immigration requirements are aligned to the UK in order to maintain and enhance the security and integrity of the Common Travel Area.

Tier 1 (Entrepreneur) & (Investor) Summary

- 6.1 General comments made by respondents indicate that Investor and Entrepreneur categories are desired; however the current requirements and structure do not suit or support the Isle of Man current economic need.
- 6.2 The following areas will be reviewed, and responses to this consultation will be fully considered, by the Cabinet Office in collaboration with the Department for Enterprise and other relevant bodies:
- Level of funds required by an Investor applicant;
 - The requirement for applicants to hold an Isle of Man bank account; and
 - Allowable investments under the Immigration Rules.

Tier 1 (Exceptional Talent)

- 7.1 This route was introduced in the Isle of Man in March 2016 (SD 2016/0092). The route is for individuals endorsed as a recognised leader (exceptional talent), or an emerging leader (exceptional promise), by Designated Competent Bodies in the fields of science, humanities, engineering, medicine, digital technology or the arts. If granted this category imposes few restrictions on their economic activity.
- 7.2 Of the 23 respondents four made comment relating to the Exceptional Talent route.
- *We suspect that no entry clearance or leave to remain has in fact been granted since this category was introduced. None of these bodies has any connection with or knowledge of the Isle of Man. We doubt that this route will be of any value to the Isle of Man economy unless it is significantly reformed. We believe that all "Designated Competent Bodies" in respect of the Isle of Man should be properly qualified Isle of Man organisations, such as the Department of Economic Development and the Isle of Man Arts Council.*

- *This makes no sense for the Isle of Man in the current form. It can either be ignored or it could be changed to one that could be supported and recommended by the locally re-formed Competent Bodies on an ad-hoc basis with limited numbers. The conditions should include the no recourse to public funds (as above) but the other exclusions can be removed*
- *We have not provided comments on the Exceptional Talent route as it seems to Chamber to be for such a small pool of people that this will not assist the Isle of Man economy massively.*
- *The Isle of Man is not part of the UK. The Isle of Man's idea of what constitutes "exceptional talent" will no doubt differ from that in the UK. The Isle of Man should not be part of the UK's endorsement limit of 1,000 endorsements per year: it should have its own limit of, for instance, 10 endorsements per year.*

We believe that all "Designated Competent Bodies" in respect of the Isle of Man should be properly qualified Isle of Man organisations, such as the Department of Economic Development and the Isle of Man Arts Council

- 7.3 Respondents have stated that the benefit to the Isle of Man of this route is not known. Consideration will be given to the routes' value to the Isle of Man.

Tier 1 (Graduate Entrepreneur)

- 8.1 The intention of this route is to provide an avenue for UK graduates identified as having a genuine and credible business ideas and entrepreneurial skills to establish one or more businesses.
- 8.2 Of 23 Respondents, four made comments relating to the Graduate Entrepreneur route. A general comment from all four respondents states that the Rules as currently drafted for this route are not fit for purpose for the Isle of Man, a selection of extracts are below for reference:

- *We suspect that no entry clearance or leave to remain applications have in fact been made in this category, due to apparent defects in the Isle of Man Immigration Rules.*

The route is only open to applicants endorsed by "an Isle of Man Higher Education Institution... with degree-awarding powers". We know of no such institution, given that degrees of UCM (University College Isle of Man) are, we understand, accredited and awarded by UK institutions.

Even if graduates of Isle of Man institutions are accepted in practice, this restriction places the Isle of Man at a competitive disadvantage, as it means that promising entrepreneurial graduates of UK educational institutions cannot switch to the Isle of Man in this route upon graduation.

Table 10 in Appendix A to the Isle of Man Immigration Rules could be amended to "...endorsed by an Isle of Man Higher Education Institution or UK Higher Education Institution...". This would open the route to candidates endorsed by UK institutions of higher education, to enable promising entrepreneurial graduates of those institutions to establish their businesses in the Isle of Man.

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- *Graduate entrepreneurs – at present students have disincentives to stay, but they should be better encouraged to do so and build a business*
- *We suspect that no entry clearance or leave to remain applications have in fact been made in this category, due to apparent defects in the Isle of Man Immigration Rules.*

The route is only open to applicants endorsed by "an Isle of Man Higher Education Institution... with degree-awarding powers." We know of no such institution, given that degrees of UCM (University College Isle of Man) are, we understand, accredited and awarded by UK institutions.

Even if graduates of Isle of Man institutions are accepted in practice, this restriction places the Isle of Man at a competitive disadvantage, as it means that promising entrepreneurial graduates of UK educational institutions cannot switch to the Isle of Man in this route upon graduation.

8.3 This route will be reviewed in due course in light of responses to this consultation.

Section 2 - Tier 2

Tier 2 of the Points Based System allows Isle of Man employers to employ nationals from outside the settled workforce to fill skilled jobs which cannot be filled by settled workers. A migrant sponsored under any Tier 2 category must not displace a suitable settled worker, which means that a Sponsor can only offer a job to a migrant if there is no suitable settled worker available to fill the vacancy. A settled worker cannot be made redundant to create a vacancy to be filled by a Tier 2 migrant. For Immigration purposes a settled worker includes an Isle of Man worker, a British Citizen or other EEA national.

Tier 2 (General) & Intra Company Transfer (ICT)

Overview

1.1 Table 3 below indicates a number and key themes contained within responses in relation to the Tier 2 (General) & (ICT) Route.

Table 3 – Tier 2 (General) & (ICT)	
Comments/Concerns/Suggestions	No. of Respondents
Tier 2 (General) - Comments	13
Shortage Occupation List - Not fit for purpose	12
Skills Shortage Comments	11
Salary thresholds Comments	10
Skill Level (RQF) – General Comments	9
RQF Level 6 – Stated as Too High	8
Tier 2 (ICT) - Comments	8
Tier 2 - Desire for ability to switch from ICT to General	5
Tier 2 - Identified as a key route	5
Sector Based Scheme suggested / Key sectors identified	4
Resident Labour Market Test - Reform Suggestions	2
Shortage Occupation List - Yes fit for purpose	0

1.2 Of 23 respondents over half (13 respondents) made comment regarding the Tier 2 (General) route, eight made comment in relation to the (ICT) route.

1.3 The Tier 2 route is the available option for employers to employ foreign nationals in the Isle of Man. Of all 23 respondents, five identified Tier 2 as the key Immigration Route to the Isle of Man. One respondent specifically stated they "*see this route as being central to any change in the Immigration Rules*".

1.4 Each of the Tier 2 (General) & (ICT) respondents have varying knowledge and experience of the route, ranging from infrequent experience to regular use of the Tier 2 Immigration Rules and framework.

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- 1.5 The consultation document asked several questions in relation to both the (General) and (ICT) routes including the sponsorship System, salary and skill thresholds. Key themes of the responses are analysed below.

Tier 2 (General) Skill Level

- 2.1 Appendix J of the Immigration Rules contains the Codes of Practice for Skilled Workers and sets out the appropriate skill level and salary rate for jobs. The Job itself is identified by the Standard Occupational Classification Codes that are based on the SOC 2010 system designed by the Office for National Statistics that is designed to cover all possible jobs.
- 2.2 The Job for which a Tier 2 applicant is applying must correlate to a relevant SOC Code. That Code indicates whether or not the job is at the appropriate Skill Level and sets the appropriate salary level for that SOC Code.
- 2.3 Applicants may only apply under Tier 2 in a role listed under Table 2 of Appendix J of the Immigration Rules; these occupations are skilled at RQF Level 6 or above. Therefore RQF 6 is the minimum skill level allowable under the Immigration Rules.
- 2.4 However some jobs are eligible at below RQF level 6 if they appear on the Shortage Occupation list at appendix K or in the following SOC Codes:
- (1) 3411 Artists,
 - (2) 3412 Authors, writers and translators,
 - (3) 3413 Actors, entertainers and presenters,
 - (4) 3414 Dancers and choreographers, or
 - (5) 3422 Product, clothing and related designers
- 2.5 Currently the Tier 2 Immigration Rules specify the minimum skill threshold for a role to be held by a Tier 2 migrant is Regulated Qualification Framework (RQF) Level 6.
- 2.6 As shown in Table 3 above 9 respondents made comment relating to the required Skill Level, 8 respondents made comments suggesting RQF Level 6 is too high. A selection of comments is below for reference:
- *The RQF should be removed – this means little or nothing to most companies and as they are grouped by the RQF level, it is very onerous to find the code that you're looking for.*
 - *(the Codes of Practice for Skilled Workers) should be removed and replaced with a locally relevant list as these are also taken from the UK. They have no relevance here. Grouped by industry or a professional competency level would make more sense. The lists should be reviewed on a regular basis to ensure that they are reflective of the Island's needs.*
 - *jobs listed at Appendix J seem to be only for RQF level 6 which appears too high to plug the skills shortages (e.g. 1150 – insurance manager, 3532 – broker)..... The entire SOC2010 codes, Appendices J and K need to be reviewed*

- *The process should be 'owned' by the IOM Government, not just mirroring what the UK have put in place and adapting to suit. Use key business groups/bodies to help identify gaps in the local economy and where skills shortages apply.*

Tier 2 (General) Salary Thresholds

3.1 Salary thresholds are set out in Appendix J of the Immigration Rules. The current salary thresholds were recommended by the UK's Migration Advisory Committee (MAC).

3.2 The MAC carried out an *Analysis of Salary Thresholds*¹ in July 2015, followed by a wider *Review of Tier 2*². The MAC recommended the thresholds be based on the distribution of salary for all employees in the UK working within occupations skilled to RQF6 and above, for Tier 2 (General) this is set at the 25th percentile (£30,000), and at the 10th percentile (£23,000) for new entrants³ (Migration Advisory Committee, 2016).

3.3 Of respondents who made comment in relation to salary thresholds under the Tier 2 route, a significant majority have clearly stated that the threshold is too high for the Isle of Man.

- *The salary levels are not relevant to the local market and this should be reflected. Again, this is just taken from the UK legislation and is not relevant to the Isle of Man job market.*
- *Appendix J We would propose that for each code:..... the salary rates and ranges are replaced with a single entry for each entry which is something like 'salary to exceed GBP25,000' (which is in line with the work permit ICT exemption).*
- *We would like to see the salary requirements reduced. For ICT occupations on the SOL, we would propose a base salary of £25k, in line with the ICT work permit exemption.*
- *Qualifications and wage requirements too high – should be allowed lower if they meet requirements for work permits to encourage Manx business expansion*
- *Problem –*
 - *Appropriate salary - too high in many instances and not suitable to merely adopt UK stats and figures to the IOM.*

Suggestion –

 - *The minimum salary is high. The migrant must have a minimum salary of at least £41,500.*

¹ *Review of Tier 2: Analysis of Salary Thresholds*. Migration Advisory Committee, July 2015
<https://www.gov.uk/government/publications/review-of-tier-2-analysis-of-salary-thresholds>

² *Review of Tier 2: Balancing migrant selectivity, investment in skills and impacts on UK productivity and competitiveness*. Migration Advisory Committee, December 2015
<https://www.gov.uk/government/publications/migration-advisory-committee-mac-review-tier-2-migration>

³ "new entrant" has the same meaning as defined in Appendix J of the [Isle of Man Immigration Rules](#)

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- *Young people wanting to come over to the Island may not be able to achieve the minimum salary requirement.*

- *the salary requirement is particularly high (new entrant = £33,000 and experienced worker is £44,100). We therefore see it a necessary to make legal professional roles within tier 2 more flexible and at an appropriate salary entry rate.*
- *Shortage Occupation Lists (SOL) and salary threshold levels- the current SOL, which is created by the UK, is very prescriptive and doesn't appear to allow scope for the specific needs of the Island. The ability to amend this list and the salary thresholds to reflect our current occupation shortages on the island and to evolve and change this list at pace appropriate to the Isle of Man would be a very positive step*

3.4 All feedback relating to salary thresholds under the Tier 2 General route are being considered by the Cabinet Office and the Department for Enterprise. It is clear that the salary thresholds should be reflective of the regional variation rates of pay and may differ from those in the UK.

3.5 In making these considerations, the Cabinet Office and Department for Enterprise will be consider that should salary thresholds for immigration purposes be lower than comparable settled workers' there would be potential for those settled workers to be displaced, undercutting the resident work force.

Resident Labour Market Test (RLMT)

4.1 The RLMT protects the settled workforce; employers must advertise a job allowing settled workers an opportunity to apply. Employers may only recruit a migrant if:

- they have completed a RLMT and can demonstrate that no suitable settled worker is available to fill the job; or
- the job is exempt from the RLMT. Exemptions are where the job appears on the Shortage Occupation List, or where the total salary package for the job is £155,300 or above.

4.2 Under current requirements the job must be advertised for a minimum of 28 and via specified advertising methods as set out in the Immigration Rules.

4.3 Two respondents made comment relating to the RLMT and suggestions for amendment:

- *an amendment to the RLMT timescale to 10 days would still meet its aims without impeding Departments' ability to recruit.*
- *The resident labour market test is considered to be inappropriate for the Isle of Man as the Island does not have access to the same or similar work force as the UK, which the criteria is aimed at. This places the Island at a distinct disadvantage*

4.4 Reformed RLMT requirements are being considered.

Shortage Occupation List (SOL)

- 5.1 In a similar manner to the Codes of Practice for Skilled Workers (Appendix J) the SOL is duplicated from the UK Immigration Rules. The MAC conduct analysis of shortage trends across the UK, the recommendations of which are considered by the Home Office, to create a shortage occupation list facilitating an exemption from the RLMT and therefore an expedited visa application process.
- 5.2 Many respondents made comment to the applicability of the UK's SOL on the Isle of Man.
- 5.3 Whilst some respondents commented on the SOL in general, others had comments relating to specific sectors namely the Information Communication Technology sector.
- 5.4 A randomly selected sample of those comments has been extracted below::

➤ *The 'Shortage Occupation List, Appendix K' DOES NOT REFLECT THE NEEDS OF THE IOM ECONOMY. The majority of enterprises here are small, < 20 employees..... A few companies like Manx Telecom, Pokerstars and Microgaming have more than 250 workers but are suffering from the same shortage of labour skills. NONE of the aforementioned enterprises will qualify for the 'Shortage Occupation List' (in Information Communication Technology)!*

➤ *The current Shortage Occupation List is a copy of the main Shortage Occupation List for the UK: it was not prepared with any regard to which occupations were in fact in short supply in the Isle of Man. It features many occupations that are not required in the Isle of Man, such as "radiological protection advisor in the civil nuclear industry". At the same time, it omits other occupations which are in short supply in the Isle of Man, such as certain medical specialisations.*

In the UK Immigration Rules, there is a special "Scotland Shortage Occupation List", allowing additional shortage occupations recognised only in respect of that country. This establishes the principle that different countries within and without the UK will have different areas of shortage.

A Shortage Occupation List specifically for the Isle of Man should be adopted in place of the current list, after further consultation with industry.

- *the current job categories defining shortage of skills need to be expanded to:*
- *1136 Information technology and telecommunications directors*
- *2133 IT specialist managers*
- 2134 IT project and programme managers*
- 2135 IT business analysts, architects and systems designers*
- 2136 Programmers and software development professionals*
- 2137 Web design and development professionals*
- 2139 Information technology and telecommunications professionals n.e.c.*
- 2423 Management consultants and business analysts*
- 2424 Business and financial project management professionals*
- 2425 Actuaries, economists and statisticians*
- 2426 Business and related research professionals*
- 3131 IT operations technicians*

3132 IT user support technicians

This represents all elements of ICT and is as an alternative to creating sector exemption specifically because these job needs exist across a number of sectors. In these cases we should remove any existing sub-categorisations of jobs as defined in the original legislation within these categories and replace the condition in each category with two caveats which are the same as those currently existing for work permit exemptions – namely the requirement for a salary above £25k and a set of qualifications/experience that meets an SFIA Level 5 Competency

- *The Shortage Occupation List is not fit for purpose on the Isle of Man. This is taken from the UK legislation which does not reflect the needs of the local businesses. This list should be IOM specific and recognise the skills shortages within our working population. The CEA has already identified some areas, such as e-gaming and ICT under the CEA permit scheme, so the same should be effective here.*
- *The shortage occupation list needs to represent what Employers in the Isle of Man need. We need to make sure that the list allows Employers to utilise the list for genuine shortages in employment. Possibilities - Sector based rather than by skill level?*

Sponsor Licensing System

6.1 Respondents had various comments in relation to the Sponsor Licensing System. No particular concerns were raised with the principle of a registration process for applicants, and indeed one extract below indicates a desire for a continuation of 'some form of registration process. However respondents made comment relating to the complexity and length of the Immigration Sponsor Licensing Policy.

- *There should continue to be some form of registration process for sponsor companies where they meet set criteria, for example, legitimacy of the company, financial accounting, employers liability insurance and general reputation as an employer. This is very similar to what exists at the moment.*
- *We suggest the removal of the need for any qualification of sponsor companies other than the fact that they are approved by DED via the sponsor application which would determine the criteria outside of the legislation and within DED policy.*
- *Immigration Sponsor Licensing Policy- whilst recognising and fully accepting the responsibility that goes with being a Sponsor organisation, any action to reduce the policy from its current length of 82 pages including appendices would be welcomed. This document is onerous to us as a large employer who applies the policy fairly regularly. This must seem even more onerous for a smaller employer who rarely applies for a visa.*
- *(the) Department needs to have the resources available to make the process a lot more user friendly. Having an online process for applying for Certificates of Sponsorship would be welcomed. The current manual process of form filling by hand and having to personally deliver and pay for the CoS application at the*

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Immigration Office is not workable in the current working environment. Having the ability for companies to be invoiced for CoS applications also (as it was through the DED) would be welcomed.

- 6.2 The Cabinet Office is considering reforms to the Sponsor Licensing System with a view to significantly reduce the administrative burden placed on employers, in doing so also reducing the administrative requirements on immigration officers.
- 6.3 Comments relating to guidance and information provided to migrants and employers have been taken on board. It is hoped that with a simplified immigration system the Cabinet Office will have resource available to provide comprehensive guidance documentation use by applicants and employers.

Tier 2 (ICT)

- 7.1 The ICT route is intended to be a short term visa to allow international companies to transfer skills and knowledge between branches overseas and those in the Isle of Man. As the route is a short term visa requirements such as the RLMT and English Language requirements under Tier 2(General) are not required to be met under the (ICT) route.
- 7.2 Of 97 current Sponsor License holders, 20 hold ICT Licenses. Since 6 April 2016 applications received by the Cabinet Office for Certificates of Sponsorship for the ICT route total 90. From these figures and from responses received to the consultation, it is clear industry has use of the ICT route, and therefore can conclude that this route or similar should continue.
- 7.3 Many respondents approve the principle of this short term route that does not lead to settlement (Indefinite Leave to Remain). However many voiced frustration that where business needs change, and the company wishes to hire an individual currently in possession of an ICT visa, the migrant must return to their home country, be absent for 12 months before then eligible to apply for a Tier 2 (General) visa.
- 7.4 These comments are being considered, with a view to allow individuals to switch from the ICT to the General route in country, provided the individual and employer meets all necessary requirements under the General route, or any newly created equivalent route.
- 7.5 A randomly selected sample of those comments has been extracted below:relating to the ICT route:
- *The minimum salary level and the length of the ICT visa should be more flexible.*
 - *The salary levels are not relevant to the local market and this should be reflected. Again, this is just taken from the UK legislation and is not relevant to the Isle of Man job market.*
 - *Suggestion - Make it easier to switch:*
 - *An option would be by-pass the cooling-off period and the exemption by allowing the migrant to switch to a tier 2 visa. This would mean that if a migrant decides they wish to stay in the Isle of Man- they could then apply for a Tier 2 general visa (and satisfy the two extra requirements- i.e. English language and*

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knowledge of Manx life) and then start their time spent from the point which there visa is transferred to a general visa.

- *This would therefore mean that migrants can decide to stay in the Isle of Man if they wish to by moving to a tier 2 general visa.*
- *It also keeps Intra-company transfer route in place for those people coming over on a short-term basis. Important to encourage and understand this route as a basis for people to come over*
- *The length of the visa can be an issue as whilst it can be extended up to a period of 5 years, people are not then able to apply for ILR even though they have built a life for themselves but are unable to then stay or transfer to a general visa, or apply for an alternative visa. This route should be specifically for training purposes and before between one and twelve months, maximum. Where there is a need for someone to fill a role that cannot be filled by a settled or EEA worker should be addressed via a more long term route (i.e. Tier 2 General)*

Tier 2 (General) & (ICT) Summary

8.1 Tier 2 has been identified by this consultation as being a key route for Isle of Man employers. Taking on board all responses made in relation to the Tier 2 Route, work is underway by the Cabinet Office and Department for Enterprise to make recommendations to significantly overhaul the current Tier 2 system. Considerations include but are not limited to:

- Review of current Salary thresholds;
- Review of Skill level requirements, currently set at RQF Level6;
- Sponsor Licencing System overhaul, with a view to significantly reduce administrative burden on Employers and the Cabinet Office;
- RLMT review in light of responses to this consultation;
- Review of Tier 2(ICT) and restriction on switching from this to the (General) route;
- Review of the current shortage occupation list

Section 3 – Tier 4

Overview

1.1 Tier 4 is the available route for students from outside the European Economic Area to study in the Isle of Man. Of 23 respondents four made comment relating to the Tier 4 route. A randomly selected sample of those comments has been extracted below:

- *Inability to transfer "in country" from UK Tier 4*
Rule 245HD(b)(ii)(1) of the Isle of Man Immigration Rules provides that a Tier 4 student may only switch "in country" to Tier 2 (General) upon graduation if his Tier 4 sponsor was "a Sponsor registered on the Isle of Man Register of Licenced Sponsors".

This means, on the face of the Rules, that an Isle of Man business cannot employ a graduate directly out of a UK university, but would instead have to send that potential employee back to his or her country of origin to apply afresh. This places Isle of Man employers at a huge disadvantage compared with UK employers, who can employ directly out of UK universities, and the Isle of Man employers may not get the employees they need.

We believe this is a mere oversight and the intention would be to allow UK graduates to switch to the Isle of Man. Rule 245HD(b)(ii) could perhaps be adapted to include the same wording as the UK Immigration Rules, as follows:

- "(1) a Sponsor registered on the Isle of Man Register of Licensed Sponsors;*
 - (2) a UK recognised body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or*
 - (3) an overseas higher education institution to undertake a short-term study abroad programme in the Isle of Man."*
- *Conditions need to be changed so that any type of work can be done in conjunction with a local approved course*
 - *This category has become increasingly restrictive over the years in line with the ever changing UK immigration policies. The ability to obtain indefinite leave to remain in this category has now been removed.*

Unless an applicant is able to switch into either a Tier 1 or Tier 2 General categories upon completion of their studies, they will have to leave the Island/UK.

This could mean that a family member of a Tier 1 or Tier 2 holder would be forced to become separated from the remainder of their family, which would be an unintended consequence.

The restriction does not assist the Isle of Man in recruiting and maintaining PBS workers with children who are 18 years or older, and wish to maintain strong family ties.

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There would be a good argument to reinstate the ILR route for those Tier 4 students who have spent all or a significant proportion of their time studying in the Isle of Man. In these circumstances studying in the UK at degree level and above should count as 'time spent'.

Children of PBS Migrants

- 2.1 A couple of respondents made comment regarding Tier 4 migrants being the children of Points Based System (PBS) migrants, therefore the Tier 4 category not accruing time for Indefinite Leave to Remain (ILR) could result in families being separated. The Cabinet Office would like to take this opportunity to correct this perception.
- 2.2 The Tier 4 route is for those between the age of 4 and 18 (Tier 4 (Child) route) and aged 16 or over (Tier 4 (General) route) who wish to study in the Isle of Man.
- 2.3 The Tier 4 route is not for the families of PBS migrants.
- 2.4 Families of PBS migrants apply for a Dependent visa under Part 8 (paragraph 319AA – 319E) of the Immigration Rules. The grant of a PBS Dependent visa is reliant on the main PBS migrant continuing to meet the terms of their visa (e.g. Tier 1 or Tier 2). The grant of the Dependent visa permits children attendance at an Isle of Man school.

Switch Tier 4 to Tier 2

- 3.1 Other comments regarding the Tier 4 route were limited, however two respondents made comment relating to an inability for Tier 4 students to switch to Tier 2.
- 3.2 These comments and suggestions are noted and will be taken into consideration for any changes going forward.

Section 4 – Cross Cutting Comments

- 1.1 This section provides brief analysis of other key themes and comments made by respondents to the consultation not address in the sections above.
- 1.2 Table 4 below shows the topics to be address in this section that have not been addressed elsewhere in this summary of responses.

Table 4 – Cross Cutting Comments	
Comments/Concerns/Suggestions	No. of Respondents
Common Travel Area - Maintain Comments	9
Is Time Spent Important? - Yes	8
Create Local Policies - Comments	7
PBS Reform - Comments	7
Is Visa Reciprocity Important - Yes	6
Complexity of Rules - Comments	5
Application Process - Comments	4
Sector Based Scheme suggested / Key sectors identified	4
UKVI Interaction - Concerns Identified	3
Is Time Spent Important - No	2
Is Visa Reciprocity Important - No	2
UKVI Interaction - Suggestions	1

Common Travel Area (CTA)

- 2.1 Of the 23 respondents nine made comment regarding the maintenance of the CTA. As discussed at Section 1 paragraph 5.3 and 5.4 above, the Isle of Man and United Kingdom have “commitment to the preservation of the Common Travel Area (“CTA”) and the free movement of legitimate travellers within the CTA”.
- 2.2 The comments below show themes throughout the responses:
- *The existence of the Common Travel Area means that the Isle of Man must maintain broad parity with the UK immigration system, even if we would prefer to simplify our requirements.*
 - *We should seek to detach ourselves from EEA or UK specific requirements (one of these being the requirement to advertise and ensure that a position cannot be filled within the EEA) Requirements should be based on both local requirements and local tests as these are the only ones that are sustainable and measurable. Having said that we do need to maintain the common travel area across UK and Channel Islands*

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- *Whilst remaining in the Common Travel Area is very important, pushing the boundaries to explore changes that the Isle of Man can implement to support economic growth is to be encouraged.*
- *did not want the CTA to be compromised in any way..... the CTA must be maintained and preserved.*
- *would not wish for any changes to disrupt the Common Travel Area and believe that this will need to be carefully considered.*
- *The maintenance of the Common Travel Area ("CTA") is significant and important. As a consequence, any changes to the Isle of Man Immigration Rules cannot differ significantly from the UK so that it is no longer broadly similar or fundamentally similar to the UK rules. These diverging requirements caused obvious difficulties for the Island communities and the immigration system that is under consideration.*

2.3 Any changes made to the immigration rules will be fully considered and will in no way jeopardise the CTA arrangements.

Time Spent Reciprocity

3.1 Time spent recognition between jurisdictions over the various PBS immigration routes has been discussed as part of the consultation.

- *Time spent in other jurisdictions in the CTA should count towards long term settlement*
- *Reciprocity for "time spent" in this route (Tier 2 General) is less important than for Tier 1 migrants, because most employees will be employed full time in the Isle of Man and not spend appreciable amounts of time in the UK or elsewhere. However, Isle of Man employers may wish to second workers to UK offices from time to time, and some roles (such as marketing roles) will require employees to spend considerable periods of time in the UK and elsewhere. Were time spent in the UK counted for Isle of Man ILR purposes, this would no doubt be a benefit to both the Isle of Man employer and the employee and increase the appeal to multinational employers of basing staff in the Isle of Man.*
- *Were time spent in the UK not to count for this category (Tier 1 Entrepreneur), it would limit migrants' willingness to spend time in the UK making business contacts and so increase the likelihood that the business would fail, the settled employees would lose their jobs and the migrant be obliged to switch to a different visa or to leave.*
- *With regards to Reciprocity of Time Spent the ideal for this would be one way (that we would accept this but the UK would not) as this would have advantage for keeping people here but being able allow people to move to the Isle of Man without losing pre-qualification coming here or having to apply again should they transfer. The same would be true of Visa Reciprocity. Both of these may be the trade-off of us having some slightly different rules and is offset for the UK with the Common Trade Area being in place anyway.*

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- *Were time spent in the UK not to count for this category (Tier 1 Investor), it would limit migrants' willingness to spend time in the UK making business contacts and so increase the likelihood that the business would fail. The inability to spend significant periods of time in London would also be a deterrent, from a lifestyle perspective – unhindered access to London and its entertainment and retail sectors being a primary selling point for high net worth families settling in the Isle of Man.*
- *mutual recognition of each jurisdiction's visas runs in tandem with the principles of the CTA. The previous state of affairs where there was no mutual recognition (i.e. the UK did not recognise time spent in the Isle of Man), caused untold misery and heartache to many migrants through no fault of their own.*
- *With regards to Reciprocity of Time Spent, we do not believe it to be an issue if it is one way – ie, we would accept time spent in the UK and Channel Islands, whilst recognising that the UK may not reciprocate if our Visa requirements were lower than the UK.*

3.2 As the sample of comments above indicates there are varying views as to the 'time spent' recognition. However the majority of respondents have stated that reciprocity of time spent is certainly important, but the level of importance differs from Tier to Tier.

3.3 Any proposed changes to the immigration rules will be considered and put to the Home Office to determine likelihood of reciprocity of time spent in a category equivalent to the ILR route being considered by the UK at that time e.g. Tier 2.

Visa Reciprocity

4.1 Comments relating to visa reciprocity were similar to those made for 'time spent' reciprocity. Samples of comments are below for reference:

- *there is no practical way to have a lack of visa reciprocity with the UK. There are very few ways by which a migrant could in fact reach the Isle of Man without first crossing a UK port of entry. The existence of the Common Travel Area means that the Isle of Man must maintain broad parity with the UK immigration system, even if we would prefer to simplify our requirements.*
- *With regards to Reciprocity of Time Spent the ideal for this would be one way (that we would accept this but the UK would not) as this would have advantage for keeping people here but being able allow people to move to the Isle of Man without losing pre-qualification coming here or having to apply again should they transfer. The same would be true of Visa Reciprocity. Both of these may be the trade-off of us having some slightly different rules and is offset for the UK with the Common Trade Area being in place anyway.*
- *In terms of reciprocity of visa, again, there were mixed views on this. Chamber Members did not wish to disrupt the CTA and wish to try and encourage retention of individuals on the Island for as long as possible.*
- *This may facilitate businesses relocating from other territories.*

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- 4.2 Any proposed changes to the immigration rules will be considered and put to the Home Office to determine likelihood of visa reciprocity in conjunction with the principles of the CTA.

Local Policies & PBS reform

- 5.1 Several respondents made comments highlighting the complexity of the immigration rules and lack of Isle of Man specific guidance relating to the Immigration rules, for applicants and employers.
- 5.2 It is the intention of the Cabinet Office to make proposals to the Council of Ministers to create simplified immigration rules in response to this consultation. As a consequence of simplified immigration rules it will be possible to create guidance for applicants and employers.

Application Process

- 6.1 Several respondents made comment relating to the application process and the Isle of Man's relationship with UK Visas and Immigration (UKVI). Whilst comments relating to the length of time taken to apply etc. are noted, the immigration office relies on the services of the Home Office visa application centres around the world that deal with thousands of applications per week.
- 6.2 In the year ending 2016 there were a total of 531,375 grants of entry clearance made by the home office to individuals outside of the UK⁴. Within that volume the Crown Dependencies (Isle of Man, Jersey and Guernsey), volume is miniscule. Whilst the impact of immigration to the Isle of Man is recognised, the Crown Dependencies are limited as to the carving out of a separate process with UKVI for Crown Dependency applications.
- 6.3 The UKVI operate the same referral process to each of the Crown Dependencies. IOM Immigration Service work closely with UKVI to improve processes where able to do so.

Sector Based Scheme

- 7.1 Four respondents made comments making suggestion for a sector based scheme, these comments are currently being considered by the Cabinet Office and the Department for Enterprise, those considerations may inform proposals for immigration rules going forward. A sample of those comments are below for reference:
- *Increasing flexibility within the system once appointed- this would include the ability to pick up 2nd roles in the same sector and/or increase and decrease hours within roles*
 - *Suggestion: that rather than do it by Qualification level, sectors are used in order to target employment in particular sectors. Some members see the benefit of this; others feel that to keep the rules role based.*

⁴ Statistics obtained from the UK Home Office website "National Statistics: Visas"
<https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2016/visas>

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- *The shortage occupation list needs to represent what Employers in the Isle of Man need. We need to make sure that the list allows Employers to utilise the list for genuine shortages in employment. Possibilities - Sector based rather than by skill level?*
- *This list should be reviewed by all Sectors on the Island and relevant occupation codes added to the list to properly reflect the roles that the Island is short of.*

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Cabinet Office
Government Office
Bucks Road
Douglas
IM1 3PN