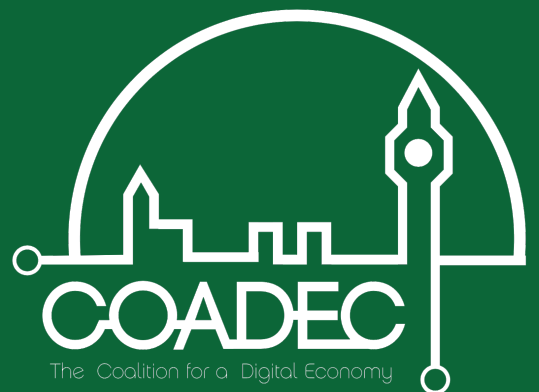


# 10

## ways to fix our broken visa system



# About Coadec

The Coalition for a Digital Economy (Coadec) is the policy voice of UK tech startups and scaleups in Westminster, Whitehall and Brussels.

Founded by Mike Butcher (TechCrunch) and Jeff Lynn (Seedrs) in 2010, Coadec has fought for a policy environment that helps early-stage British tech companies grow, scale and compete globally.

Coadec works across a range of priority issues for startups including access to finance, immigration and skills, and technology policy.

## Acknowledgements

We're extremely grateful to the members of the startup community who have contributed to this report - either in person or via email. Ultimately, this report is for and about you. We're also really appreciative of the support and guidance offered by Ian Robinson and Zahira Patel at Fragomen who have provided valuable counsel throughout the paper's development. Finally, huge thanks to the paper's primary authors - Vincent Carroll-Battaglino and Flossie Hunt.

# Foreword

**Skilled migration, and the visa system that facilitates it, is a subject close to my heart.**

I came to Britain from the United States in 2005 on a Work Permit (as it was then called) sponsored by my law firm. After a few years, I decided I wanted to leave the law and try my hand at something entrepreneurial. I didn't know exactly what I wanted to start or how I would do it, but I was optimistic that, given a bit of time and flexibility, I could make something work. And I was keen to stay in Britain to do it: this had become my home, and I thought it would be a wonderful place to start a business.

At that time, Britain then had a scheme called the Highly Skilled Migrants Programme (HSMP), which allowed people from around the world to live and work here if they had sufficient educational background and met a few other reasonable criteria. There was no need for a tie to a specific company and no requirement of substantial investment or financial backing.

**I applied for and was granted an HSMP visa before leaving my law firm, so I was free to stay in the country. I used that flexibility to dabble in a few things before eventually co-founding and building Seedrs, an online investment marketplace which has been named among the fastest-growing and most innovative businesses in Britain today.**

There has been nothing heroic or extraordinary about any of this, but hopefully it is not too immodest to say that, on balance, Britain has probably benefited a little bit from the fact that I was allowed to stay here, find my feet and go on to build Seedrs. **My story is one of so many similar ones: a huge proportion of the entrepreneurs who have built successful businesses over the past decade, arrived or stayed here either under the HSMP or its equivalents or else through European free movement.**

However, concerns about net migration levels led to the phasing out of HSMP-style programmes a few years ago, and now Brexit is set to end free movement. **So if we want the next generation of entrepreneurs and wealth-creators to be able to do what I and so many of my peers did, we need a visa system that works for skilled migrants.**

This paper looks at how such a system might work, what it needs to contain and what it must avoid. I think it is an excellent piece of work, and I very much hope that politicians and civil servants will consider seriously its recommendations as they look to bring a new visa system into force.

**Jeff Lynn**  
**Executive Chairman & Co-Founder, Seedrs**  
**Chairman, Coadec**

# 10 ways to fix our broken visa system

## 1 Replace the Tier 1 Entrepreneur Visa with a third-party endorsed route for entrepreneurs without a capital requirement

The Tier 1 Entrepreneur Visa is not fit for purpose. What is needed is a route for founders who don't have the personal capital to invest £200,000. This route would fall "in-between" the current Entrepreneur Visa with its high capital requirements and Tier 2 (General), with its low company equity limit. To provide the government with certainty on compliance, this replacement route could use a system of third-party endorsement, from organisations deeply involved in the tech startup sector.

## 2 Retain (or reduce) the £30,000 minimum salary for skilled migrants

The current salary requirement has proved difficult for many startups to meet – and we would prefer if this came down – but it would be impossible if it was permanently £50,000 or more. It is critical that early-stage companies (for whom large salaries aren't likely) are not locked out of the Tier 2 system.

## 3 Consider equity and stock options as part of the salary threshold for visas

In the case of startups, equity and future expectations can be more important than salary and many people are paid less in the early stages. Stock options are included for other reporting, such as measuring the gender pay gap, so there is no reason it should not be taken into account for visas too. It would be reasonable to expect the equity would be written into the contract and worth under 30% of the total compensation package. Taking this into consideration would allow startups to make the right long-term appointments incentivised by equity offers not short-term higher salaries.

## 4 Introduce tiered fee rates for visa applications, based on company size

If startups can't afford to hire the best, they won't be the best. Costs for each non-EU hire can hit £6,000 in government charges alone – before any additional costs. This puts us at a disadvantage compared with similar EU countries. If this high cost is replicated for EU hires after Brexit, the damage to British startups will be severe. The government should introduce an escalator for visa admin fees to make the process more affordable for startups. A fee reduction of 20% for smaller companies could be offset by a similar increase for stable larger companies.

## **5 Speed up the visa process by removing the Resident Labour Market Test**

Currently, making a single hire via the Tier 1 or Tier 2 visa routes takes around four months. This simply isn't quick enough for startups, and leaves the UK far behind many other European countries, where the comparable time can be just a month. We already know we have a skills shortage in certain areas, so the Resident Labour Market Test has become merely a delaying exercise for many tech companies.

## **6 Redesign the visa process to increase transparency and usability, and digitise the process where possible**

Current government efforts to digitise the process should be accelerated. We need to introduce a more user-friendly approach that would allow visa applications on multiple platforms (from apps to offline) in a well-designed and transparent structure. Making the visa process easier to use will expand the number and type of startups willing to use it to make crucial hires.

## **7 Remove the Tier 2 cap**

Currently, there are only 20,700 Tier 2 visas available each year. These are allocated on a monthly basis, but the monthly limit was exceeded seven months in a row earlier this year. If the government is serious about prioritising skilled immigration and making it easier as the Migration Advisory Committee has recommended, the Tier 2 cap should be removed. The removal of this cap will ensure a higher level of flexibility for employers in the tech industry and other critical high-growth sectors.

## **8 Introduce a meaningful list of roles “highly in demand and needed by the UK tech sector”**

The shortage occupation list is in dire need of updating and reforming. For key roles, we need to limit any friction to get people into the UK, because the local labour market is not meeting the demand. Fast-tracking a small number of crucial roles for which there is a domestic shortage has the potential to turbocharge the growth of the tech industry.

## **9 Expand the Tier 5 Youth Mobility visa to EU Citizens (and potentially further in new trade deals)**

The Tier 5 Youth Mobility visa for eight countries as well as British overseas citizens allows employers to bring in young talent under 30 years old for up to two years. To retain the influx of new exciting ideas and talent (whilst retaining control of immigration overall), we should expand the Tier 5 system to cover all EU citizens. We should also consider the potential inclusion of Tier 5 access as part of future trade deals the Government is considering with the United States and beyond.

## **10 Allow visa switching after a set period of time (possibly a year), without the employee having to return to their home country**

We should smooth the process of switching between long-term visa types if visa recipients are adding value to the UK. For example, if a Tier 5 worker has sufficient skill to be considered under Tier 2, delaying the process presents a time and cost disruption for otherwise productive small businesses.

# Section 1:

# Our looming skills gap

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*The Current Context*

**In 2016, DueDil found that there were 35,193 directors of newly-founded UK tech businesses, with 7,426 of those being foreign nationals. This represents a 133% rise in foreign directors of UK tech startups since 2010, and means that one in five new companies were started by immigrants. According to the Tech Nation 2017 report, 13% of jobs in the tech sector are filled by international workers. This is substantially higher in London – where EU workers hold 11% of tech jobs in London and 20% are held by non-EU nationals.**

**How do these people come into the country at present? Broadly, the current answer is that skilled workers come from the EU. The Atomico State of European Tech in 2017 found that the UK was the largest importer of tech talent in Europe – with tech workers from Southern and Eastern Europe the most frequent entrants. It is statement of fact that the closing off of EU immigration will be detrimental to the UK's growing tech sector – and 77% of UK investors we surveyed for research published earlier this month agreed that “it's vital that immigration policies are designed to help the best talent set up and join tech companies.”**

**With the UK leaving the European Union (and the Government making clear that Brexit also means an end to free movement) it is the perfect moment to reflect on how to plug the gap currently filled by the free movement of European tech workers to the UK – we need to adapt and reform the ways in which Britain's fast-growing tech startups access talent.**

# Upskilling the UK

Of course, one obvious long-term solution to the UK's talent question is through the training and development of UK workers. Coadec has long supported a range of policies that can drive the UK skills agenda many of which we outlined in our 2017 'Global Britain' report. These include:

- A large-scale expansion in software development apprenticeships, which can be more effective than many university routes.
- To move to a system where all 16-19 year olds are expected to study mathematics to a level above GCSE, and introduce a SAT-style exam in maths for university applicants (which is the norm for American universities).
- Funding support for young people, including existing graduates, who wish to become developers.

However, the sad truth remains that not enough progress has been made on the UK skills agenda. 81% of UK VCs we surveyed agreed that it was vital the government invest in tech-related education to avoid negatively impacting the startup environment. Over 50% of respondents to the Tech Nation 2017 survey said they experienced a shortage of highly skilled employees, and nearly 25% described sourcing talent as a “major challenge”. The Government has consistently made the right noises on digital skills, apprenticeships and more whilst ducking the big reforms needed to give Britain's tech sector the skills it needs (and allow more British people the opportunity to tap into the growing number of well-paid tech sector jobs).

We look forward to outlining our ideas for tackling the tech skills gap in further detail in early 2019. Whatever the solution, it won't come soon enough for startups that need skilled workers right now. The UK tech skills base is a long-term problem, and it will need a long-term solution. Startups are fast-growing and on short time frames. Hiring questions need to be addressed next week not next year. They simply cannot wait 10 to 15 years for Government action – that is why we need to get our post-Brexit immigration system right.

# Section 2:

# Our visa

# system today

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*Britain's Current Immigration Policy*



**Beyond the free movement that currently exists for EU citizens (and the Government says it will end post-Brexit), the UK operates an immigration system based on four visa tiers:**

**[1] Tier 1 visas include several classes relevant to tech startups:**

**[a] Exceptional talent (or promise) in selected industries including digital technology. These are granted through five endorsing organisations (Tech Nation, Arts Council England, The British Academy, The Royal Society, and The Royal Academy of Engineering).**

**[b] Entrepreneur Visas for founders with either:**

**[i] £50,000 to invest sourced from a UK governmental department, a seed funding competition endorsed by Department for International Trade (DIT), or a Financial Conduct Authority (FCA) regulated capital firm.**

**[ii] £200,000 to invest of their own or their spouse's money.**

**[c] High-value investors with £2 million or more to invest.**

**[2] Tier 2 is for skilled workers in all sectors, and is the main route of non-EU immigration into the UK. Tier 2 immigration is subject to limitations including:**

**[a] A minimum salary threshold of £30,000.**

**[b] The requirement that the worker has a job offer and a certificate of sponsorship from a UK employer with a valid Tier 2 sponsorship licence.**

**[c] An annual cap of 20,700 (since 2011), allocated on a monthly basis.**

**[3] Tier 4 visas are for students, and are strictly time limited.**

**[4] Tier 5 is for temporary workers, including young people (18-30) under the Youth Mobility Scheme from eight countries (Australia, Canada, Japan, Monaco, New Zealand, Hong Kong, Republic of Korea, Taiwan) as well as British overseas citizens.**

## Recent changes

As a result of industry experience and demand, the government has made several changes to the visa system in the last year:

In June 2018, the government announced that doctors and nurses would not be included in the Tier 2 visa cap, as part of a “long-term government plan for the NHS”. At the time, the cap had been hit for seven months in a row, and demand from the NHS accounted for 40% of all Tier 2 places. The Government specifically flagged IT professionals as one of the occupations that would benefit from the freeing up of places within the Tier 2 quota. As the Financial Times reported in June, 1,950 IT professionals from outside the EU had been refused visas in those seven months.

During London Tech Week this year, the government announced a new “startup visa” for entrepreneurs ready to start their own business in the UK. This reform is partly a response to feedback from the tech sector, and it set to replace a route intended solely for graduates by spring 2019. Applicants will require sponsorship from a university or approved business. The principle of making immigration easier for entrepreneurs was widely welcomed, but more information is needed before a true judgement can be made.

Effective from early 2018, the Exceptional Talent (Tier 1) visa allocation was doubled from 1,000 to 2,000 between the five endorsing organisations.

# The Migration Advisory Committee report

The Migration Advisory Committee (MAC) is the independent non-departmental public body set up to advise the government on migration issues. It published its long-awaited EEA migration in the UK: Final report on 18 September 2018. The report's aim is to provide an evidential basis for government immigration policy following the UK's exit from the European Union in 2019. The report is the end of a process which begun in July 2017 and included 417 responses to the committee's call for evidence.

The broad recommendation of the report is that the UK moves to a system of managed migration with no preferential access for EU citizens – that is to say, that free movement from the EU should end after Brexit. While recommending an end to free movement, the MAC report called for “an open, welcoming approach to migration”, akin to that of Canada. Crucial to that is the recommendation to abolish the Tier 2 cap, currently set at 20,700 a year. The committee's research found that overall migration had a small net effect on employment and wages, but that neither the large detriments nor the large benefits claimed by some were attributable to migration.

There is much that the startup community should like about the MAC report. The very premise of an evidence-based approach which government will find hard to ignore is welcomed in itself. And the overarching recommendation of an open welcoming immigration policy is a necessary starting point for our members.

The MAC final report confirms what the startup community already knows: high-skilled immigration is beneficial to productivity and innovation in the UK. In both its recommendations and tone, the report calls for a policy focus on higher skilled workers over lower skilled ones.

## The relevant recommendations are:

1. General principle that migration should be easier for higher-skilled workers than lower-skilled workers.
2. No preference for EU citizens vs non-EU citizens.
3. Abolition of the Tier 2 (General) cap.
4. Medium-skilled jobs (RQF3 and above) should be eligible for Tier 2 (General) not just high-skilled jobs as at present.
5. The Tier 2 salary threshold at £30,000 should be retained, although it was recommended that the list of eligible occupations be expanded.
6. The Immigration Skills Charge should also cover EEA citizens.
7. Retain but review Immigration Skills Charge.
8. Consider abolition of the Resident Labour Market Test (RLMT). If not abolished, extend the numbers who are exempt through lowering the salary required for exemption.
9. Review how the current sponsor licensing system works for small and medium-sized businesses.
10. In-country ability to change employers should be made easier for Tier 2 migrants.

The effect of the recommendations would be to allow employers to hire migrants into medium-skilled jobs, but the retention of the salary threshold would also result in upward pressure on earnings in the sector. The removal of the RLMT would represent a significant change in policy direction with regard to protection for UK workers. The MAC report instead relies on a robust approach to the salary threshold and the Immigration Skill Charge as a way to guard against migrant labour undercutting UK-born workers.

A policy focus on bringing in required skills, rather than net numbers or the lower-skilled end of the market, is a welcome development that speaks to business. Now the government has the evidence base to act on that.

# The Government's current thinking on immigration

Understandably, with no agreements in place yet, Brexit dominated the agenda at the Conservative Party Conference in October. The Prime Minister set out in some detail a vision for immigration policy after Brexit. What was outlined took on board several of the recommendations of the MAC report.

The Prime minister committed to:

End free movement “once and for all” with a single system for migrants from all countries, “based on what skills you have not which country you come from.” The Prime Minister also claimed this will give British businesses an incentive to increase investment in training and technology to improve productivity

Reduce net migration, primarily by tightly controlling incoming lower-skilled labour. While a seasonal exemption will be piloted for fruit and vegetable pickers, further sector-by-sector exemptions have been ruled out.

Retain a salary threshold as a proof of an in-demand skillset that cannot be met in the UK. Currently 76% of all EU migrants earn below the £30,000 threshold. The amount was not initially set, but in practice, the effective threshold has already this year been around £50,000 due to the high level of demand for Tier 2 visas and the institutional preference for approving applications at higher salaries.

Successful applicants for high-skilled work would be able to bring their immediate family “but only if sponsored by their future employers”.

It is unclear whether the cap on Tier 2 is to be retained, lifted, or modified.

The commitments were met with a mixed response from business stakeholders. Negative responses were primarily from those business sectors that rely on lower-skilled migrant workers and would find it difficult to recruit under the youth mobility visa scheme.

Moving forward, we can expect a government white paper proposing how the new system will work before the end of the year, ahead of a formal Immigration Bill next year

# **Section 3:**

# **How startups**

# **use the current**

# **visa system**

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*What works and what doesn't*

**When we surveyed founders in 2017 for our report ‘Global Britain’, we found that three out of four startups had hired EU employees, and around half had hired non-EU employees.**

**Further, of those who had hired from outside the EU, 75% of their hires were already in the country – often as students or working for another company.**

**Just under half of those startups who had hired from outside the EU lost good candidates during the process. For a third of those, this was a direct result of the complexity of the current visa application system.**

**Our findings supported the widespread view that the current visa system places a heavy burden on startups if they want to hire talent from abroad.**

**For this report, we spoke to founders about what visa tier they used and why. The response showed a range of uses of the system – some startups had pursued both tracks simultaneously, some had only considered Tier 1, some only Tier 2, and some had used both for different hires. What follows is a summary of what we heard.**

## TIER 1 EXCEPTIONAL TALENT

## TIER 2 GENERAL WORK VISA

### WHO USES IT

Startups of smaller size looking for pivotal first hire

Individuals looking to come to the country

Companies who have raised enough capital to pay legal and HR fees

Larger companies who have an HR department to handle paperwork

### WHY THEY USE IT

Theoretically lifts HR/process burden from company to (potential) employee (although in practice founders do spend time on this)

Because Tier 2 is too onerous in terms of reporting

Reliable enough to form part of business planning

Larger companies building teams rather than individual hires

### PROS

Tech Nation perceived as helpful and informative

Exceptional individuals can have a big impact on the ecosystem

Introduction of Exceptional Promise provides a secondary route for candidates with less experience

Employee is tied to one role at one company - provides certainty for the employer

If reliably obtainable, forms part of business planning

Sponsorship status (once achieved) can also be used for future hires

### CONS

Process sits in two halves - Home Office section is very confusing

Cost - time and money

Proving 'exceptional' status is difficult

Visa not tied to specific employer or job

Money and time cost of getting sponsor status is onerous for small companies

Resident Labour Market Test delays the process

Skill shortage list not accurate to tech space

Minimum salary (£30,000) is high for startups

“

On wasted time and costs

*We were put off by the fact that [the Tier 2 process] seemed prohibitively difficult for the stage the company was at and the amount of time, energy and money that would have been necessary to complete an application...it took us another couple of months to find a suitable candidate.*

”

“

On bringing talent to the UK post-Brexit

*When I had offers from London, Barcelona and Berlin in early 2016 London was a no brainer. I am not sure I would be so keen now. The UK process is too cumbersome, too expensive, too restrictive, too volatile and at times verging on humiliating.*

”

“

On bureaucracy

*Governments always talk of cutting red tape: the ONLY red tape that I encounter that impacts my business is the difficulty (effective impossibility) of recruiting through Tier 2.*

”

“We were denied five Tier 2 General certificates of sponsorship, despite having applied on the same basis and through the same process as we had for similar numbers in previous years. Sufficient explanation was not received as to why the refusal occurred. We subsequently secured one certificate through an urgent application, and eventually the other four through a whole new application. However this caused more than two months’ delay to our hiring plans, significantly affecting business planning and almost causing us to lose an important candidate.

Furthermore, it created an impression of the Tier 2 system as capricious and arbitrary, which we could not rely on for predictable business planning, build teams.”

This was coupled with contemporary media reports that the system was being intentionally subject to a “go-slow” to reduce immigration numbers through bureaucratic interference rather than public policy choices. If London is to remain a leading European tech hub after Brexit, a predictable, transparent and efficient system for bringing in significant numbers of skilled workers is the first requirement.

Tier 1 is of little use – the criteria are tight, not necessarily relevant to the areas in which we wish to hire, and require just as much time investment to bring in one person when we are looking to build teams.”

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## Case Study 1:

### A large app developer with offices across Europe, including a major presence in London, finds visa process unreliable

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On the visa process

*It's a shitshow. Takes too long, too many stakeholders involved and costs too much money for early-stage businesses (who are resource and cash poor)*

”



“

On the need to recruit

*There is a global skills shortage in cyber security and data science. Our US competitors have a talent pool of 325m to draw on domestically, and post-Brexit we go from 500m to 60m. We need to retain the ability to recruit for these skills from overseas.*

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## Case Study 2:

### Small startup aborts visa sponsorship due to complexity and loses good candidate

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“We considered hiring a talented full-stack software engineer who was from Israel, but was keen to move to London. We had been struggling to fill the role from the domestic market.

We looked into both types of visas, and established that we would almost certainly need to use the Tier 2 route, and seek to become a sponsoring organisation. We were put off by the fact that this seemed prohibitively difficult for the stage the company was at and the amount of time, energy and money that would have been necessary to complete an application. Had we been successful, the legal obligations and requirements for monitoring and reporting were very burdensome.

In the end we did not pursue the visa, in the main part because the candidate was unhappy that we couldn't provide him with certainty while we applied to be a sponsor ourselves, and the candidate found another organisation where he could be more certain of a job. It took us another couple of months to find a suitable candidate.

Speed, cost and - as far as possible - certainty are the key concerns for us when it comes to hiring. Spending £1,000 to bring on a member of the team is a costly undertaking for us at the early stage we are at, especially when there is uncertainty around the hire, and our hiring window is one to two months maximum.”

# Case Study 3:

## Company hires using Tier 1, but hedges bets by also applying for Tier 2

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“Ours is a highly specialised industry - it didn’t exist until 5 years ago, and most of the expert knowledge sits in the USA.

Earlier this year we needed to hire a UX designer. We knew we needed to source this role deliberately, because it was both crucial to the success of our business, and highly specialised. After looking in London, we turned to the USA, and found a great candidate who had worked on Microsoft’s Cortana assistant.

We had no experience of applying for a visa before, we were a company of 5. We pursued both Tier 1 and Tier 2 visa tracks simultaneously, because we weren’t sure that our candidate would meet the ‘exceptional’ requirements of a Tier 1, as she was relatively junior.

She was eventually accepted under a Tier 1 visa through the ‘exceptional promise’ route. We supported her through the process, but we appreciated the fact that it was candidate-led. Some of the requirements - such as how references had to be formatted - felt tedious and unnecessary. There was also some confusion along the way around practical issues, such as what to do when the visa had been granted, which almost resulted in us losing it.

Our Tier 2 process was much less straightforward. We had our first application for sponsorship rejected, but were accepted the second time around. The main difficulty of the process was the Resident Labour Market Test. We’d already searched in the UK, and for such a specialised role an open job listing makes very little sense. The RLMT ate up valuable time and energy, especially when we had to re-list the job after we had negotiated a salary increase, which delayed proceedings by a month.

We began the process in early April, and secured the visa in July. The hire was in jeopardy as they received competing job offers during this time. We would be very reluctant to go through the process again, even though we had gained experience of it and are now a Tier 2 visa sponsor”

## Case Study 4:

# Company uses Tier 1 visa, finds it very time-consuming for founder

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“I was involved in an application for an Exceptional Talent Tier 1 Visa for a Data Scientist from Mexico. His application was endorsed by The British Computer Society and many other high profile organisations - and we had support from Tech Nation.

It took us about 3-4 months to get everything ready from the moment he decided to apply. Despite the fact that it was a Tier 1 visa, I still personally spent about a week of my own time as the process went through. This was even though I knew the visa was a personal one and there was no legal certainty that he would join

us in the end. As co-founder of the company, this represents a significant investment in the process.

The fact that the 60 pages of documentation had to be printed and sent by post felt very inefficient.”

## Locked out of the existing system

Another important point is who isn't using the visa system. Anecdotally, many small companies we spoke to are getting shut out of the process because it is too expensive.

These small, early-stage companies hire many staff visa-free from the EU, and there is a lot of concern about the possible effects of Brexit on their ability to continue to do this. They fear that if they need to enter into a similar visa process for EU hires, they will not be able to go through the process because of expense, and as a result will not be able to hire the roles they need. The possibilities for the post-Brexit visa system are considered in subsequent sections of this report.

Similarly, small companies would like to be able to access more talent outside of the EU - for example from countries like the US that have deep expertise in the technology sector. However, they do not feel that they have the resources or time to apply for visa sponsorship and dedicate the time to manage the resulting HR burden of having a hire on a Tier 2 visa.

Meanwhile, bona fide non-EU entrepreneurs are poorly served by the Tier 1 Entrepreneur Visa with its high minimum requirement of £200,000 investment. Many potential entrepreneurs with some capital to invest will fall “in-between” this route and Tier 2, which prevents entrants taking on more than 10% equity in the sponsoring company.

# Section 4:

# Startup

# challenges

# and our

# solutions

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*A way forward*

**If free movement for Europeans does end, it is even more crucial that the visa process is simplified. From our discussions with startups, we have found that there are universal difficulties faced when dealing with the current visa system. These broadly fall into three categories:**

**[1] Access**

**In several ways, the design of the system has the effect of restricting startup access to visas. This includes the direct cost of the process, and the minimum salary threshold in place for the Tier 2 route.**

**[2] Bureaucracy**

**Startups generally find the visa process burdensome in terms of the time it takes to make a hire and the labour intensive nature of the process. In order to retain the attractiveness of the UK for applicants and competitiveness for companies, we need the removal of much of the bureaucracy involved in the visa process.**

**[3] The lack of an evidence-based approach**

**Startups looking to hire from abroad require a visa system that is evidence-based and relevant to the sector and the broader economy as it is now, rather than some time ago. By failing to keep pace with a fast developing sector and the modern job market, the current visa process can hold them back.**

# Access

## CHALLENGES

### Entrepreneurs not welcomed by either Tier 2 or the Entrepreneur Visa

Early stage companies struggle to bring in entrepreneurs who are willing to invest in the company, via either route. The Tier 1 Entrepreneur Visa requires a ready investment of £200,000 which is often out of the reach of proven entrepreneurs from abroad. On the other hand, the Tier 2 General Visa limits company equity to 10% so restricts access to hires who would take on a significant share in the company.

### Prohibitive Tier 2 minimum salary requirements

Current salary requirements generally handicap startups, who often offer equity to key hires in lieu of higher salary. The £30,000 salary requirement has in practice recently been around £50,000 due to decision to take the highest earning applicants to fulfil the Tier 2 cap when the route is oversubscribed. This makes it difficult to use the Tier 2 to hire junior and mid-level positions as their salaries would not meet the effective minimum threshold. These positions cannot be hired easily via the Tier 1 system either, leaving a hiring gap for many companies.

### Cost

Founders report that once legal fees and HR are included, it can cost at least £15,000 to make a hire from EU, and £20,000 from outside EU. For smaller companies, even the £1,000+ immediate expense represents a significant amount of money.

## OUR RECOMMENDATIONS

### **Recommendation 1: Replace the Tier 1 Entrepreneur Visa with a third-party endorsed route for entrepreneurs without a capital requirement**

The Tier 1 Entrepreneur Visa is not fit for purpose. What is needed is a route for founders who don't have the personal capital to invest £200,000. The state of South Australia has done just this, waiving the usual \$200,000 requirement for applicants for entrepreneur visas. This route would fall "in-between" the current Entrepreneur Visa with its high capital requirements and Tier 2 (General), with its low company equity limit. To provide the government with certainty on compliance, this replacement route could use a system of third-party endorsement, from organisations deeply involved in the tech startup sector.

### **Recommendation 2: Retain (or reduce) the £30,000 minimum salary for skilled immigrants**

The current salary requirement has proved difficult for many startups to meet – and we would prefer if this came down - but it would be impossible if it was permanently £50,000 or more. It is critical that early-stage companies (for whom large salaries aren't likely) are not locked out of the Tier 2 system.

### **Recommendation 3: Consider equity and stock options as part of the salary threshold for visas**

In the case of startups, equity and future expectations can be more important than salary and many people are paid less in the early stages. Stock options are included for other reporting, such as measuring the gender pay gap, so there is no reason it should not be taken into account for visas too. It would be reasonable to expect the equity would be written into the contract and worth under 30% of the total compensation package. Taking this into consideration would allow startups to make the right long-term appointments incentivised by equity offers not short-term higher salaries.

### **Recommendation 4: Introduce tiered fee rates for visa applications, based on company size**

If startups can't afford to hire the best, they won't be the best. Costs for each non-EU hire can hit £6,000 in government charges alone – before any additional costs. This puts us at a disadvantage compared with similar EU countries. If this high cost is replicated for EU hires after Brexit, the damage to British startups will be severe. The government should introduce an escalator for visa admin fees to make the process more affordable for startups. A fee reduction of 20% for smaller companies could be offset by a similar increase for stable larger companies.

# Bureaucracy

## CHALLENGES

### Speed and time taken on process

The visa process usually takes about four months, but many startup founders report that an acceptable hiring window is one to two months. The need for new roles presents itself very quickly in early-stage companies at the start of a steep growth curve, and getting new hires in as soon as possible is vital to the direction of the company. The impact is greater on earlier stage companies, as founders take on the majority of the burden of visa applications – as in Case Studies 3 and 4, this eats up a lot of valuable time. Later-stage companies can afford HR staff to handle visas.

### Transparency and accessibility of process, user experience

Founders tell us that the user experience of the application process is poor for both Tier 1 and Tier 2. It's unclear where one is in the process, what decisions are being made and what the next steps are. The Gov.uk website is dated, with a catalogue of out-of-date information, making it unclear or confusing. The sponsorship management service website is also dated, and has been known to crash halfway through an application. Instructions on the SMS can be confusing. For example, it instructs the sponsor to 'add a full list of responsibilities' and then restricts the number of characters one can include.

Rejections happen for what appear to be spurious reasons (whether they are or not is another matter - this would be helped by more transparency). Currently there is a requirement to print and send multiple paper forms for a prospective sponsor to get a Certificate of Sponsorship.

### Resident Labour Market Test (RLMT)

The RLMT makes little sense for some hires, when it is very clear that the skill is in such shortage that it won't be found in the UK. This just causes friction in the hiring process. For example in Case Study 3, where the role was extremely specialist, and only to be found in companies in the USA. RLMT delayed the process by almost two months. When conducting an RLMT, finding someone senior for the role and requiring a certain number of years' experience is actually in conflict with age non-discrimination requirements when placing an advert. Yet domestic candidates cannot be refused based on a criterion they don't meet, if the criteria are not listed on the job advert.



## OUR RECOMMENDATIONS

### **Recommendation 5: Speed up the visa process by removing the Resident Labour Market Test**

The four months it takes to make a single hire via the Tier 1 or Tier 2 visa routes simply isn't quick enough for startups, and leaves the UK far behind many other European countries. We already know we have a skills shortage in certain areas, so the Resident Labour Market Test has become merely a delaying exercise for many tech companies. Removing the Resident Labour Market Test has is an instant way to reduce hiring time and make British startups more competitive in the post-Brexit period in which free movement may not be maintained.

### **Recommendation 6: Redesign the visa process to increase transparency and usability, and digitise the process where possible**

For years, the hostile environment for immigration has manifested itself in poorly designed and difficult to use visa application systems aimed at deterring applicants rather than welcoming them.

We need to introduce a more user-friendly approach by:

- Accelerating current government efforts to digitise the process.
- Allowing visa applications on multiple platforms, from apps to offline.
- Introducing a well-designed and transparent structure, with a clear overview of where an application is in the system.
- The government allowing employees to retain passports for the duration of the visa application, so that work and personal travel is not prevented.

# Lack of an evidence-based approach

## CHALLENGES

### Tier 2 cap

The Tier 2 cap limits overall level of immigration with no reference to business requirements. It is counterproductive and flies in the face of all economic data and evidence. Coadec particularly welcomes the recent MAC recommendation for the abolition of the Tier 2 cap, and the MAC's evidence of the economic value of doing so.

### Lack of clarity in definitions and categorisations

The Tier 2 classification of 'skilled worker' isn't well defined. For example, "has five years' experience and is over a certain age". Companies report having hired someone through sponsorship on a skilled worker salary because they are over a certain age, but don't yet have the five years' experience.

It can be difficult to prove 'exceptional talent' for Tier 1 visas. This is especially the case for certain skills and professions that don't involve a degree and publications. A very talented designer or programmer who had never been to college might struggle to find enough evidence. The definition is geared towards highly technical skills, and the skills shortage list is not responsive or accurate enough for our sector. This all has the effect that an employer can't be sure a potential hire will qualify.

### Predictability and dependability for business planning

In order for it to be able to feature in stable business planning, both Tier 1 and Tier 2 visas need to be predictability. Tier 2 should be predictable, but as in Case Study 1, this is not proving the case because companies have no certainty other whether a visa application will be accepted. Tier 1 is much less predictable as it is harder to know whether someone will meet the criteria of 'exceptional.' This makes it hard to do business planning for the short to medium-term. In Case Study 3, the founder ended up pursuing both routes because the hire was relatively young but also had very specialist experience.

## OUR RECOMMENDATIONS

### **Recommendation 7: Remove the Tier 2 cap**

Currently, there are only 20,700 Tier 2 visas available each year. These are allocated on a monthly basis, but the monthly limit was exceeded seven months in a row earlier this year. If the government is serious about prioritising skilled immigration and making it easier as the Migration Advisory Committee has recommended, the Tier 2 cap should be removed. The removal of this cap will ensure a higher level of flexibility for employers in the tech industry and other critical high-growth sectors.

### **Recommendation 8: Introduce a meaningful list of roles “highly in demand and needed by the UK tech sector”**

The shortage occupation list is in dire need of updating and reforming. For key roles, we need to limit any friction to get people into the UK, because the local labour market is not meeting the demand. Fast-tracking a small number of crucial roles for which there is a domestic shortage has the potential to turbocharge the growth of the tech industry.

# Lack of an evidence-based approach

## CHALLENGES

### Switching an applicant across visa categories

There isn't a route for employers to keep employees and just switch them into a Tier 2 category visa (mainly from Tier 5 Youth Mobility) once the employee has been with them for a certain period of time (perhaps one year).

In that time, especially in technology startups, the employee is very likely to gain specialist expertise and knowledge of a very specific product/use of technology. Therefore finding someone who is a better match externally (through the RLMT) is extremely unlikely and just adds lots of extra work for the company to conduct a RLMT.

The employee also currently needs to travel to their home country to apply for the visa, which is another major disruption for the business.

## OUR RECOMMENDATIONS

### **Recommendation 9: Expand the Tier 5 Youth Mobility visa to EU Citizens (and potentially further in new trade deals).**

The Tier 5 Youth Mobility visa for eight countries as well as British overseas citizens allows employers to bring in young talent under 30 years old for up to two years. To retain the influx of new exciting ideas and talent (whilst retaining control of immigration overall), we should expand the Tier 5 system to cover all EU citizens. We should also consider the potential inclusion of Tier 5 access as part of future trade deals the Government is considering with the United States and beyond.

### **Recommendation 10: Allow visa switching after a set period of time (possibly a year), without the employee having to return to their home country**

We should smooth the process of switching between long-term visa types if visa recipients are adding value to the UK. For example, if a Tier 5 worker has sufficient skill to be considered under Tier 2, delaying the process presents a time and cost disruption for otherwise productive small businesses – sponsors may even find themselves paying for planes back and forth from the employee's home country. In tandem with Recommendation 9, this will increase the talent pool available to startups and scaleups via Tier 5 and other routes, as well as helping new ideas and companies develop.

