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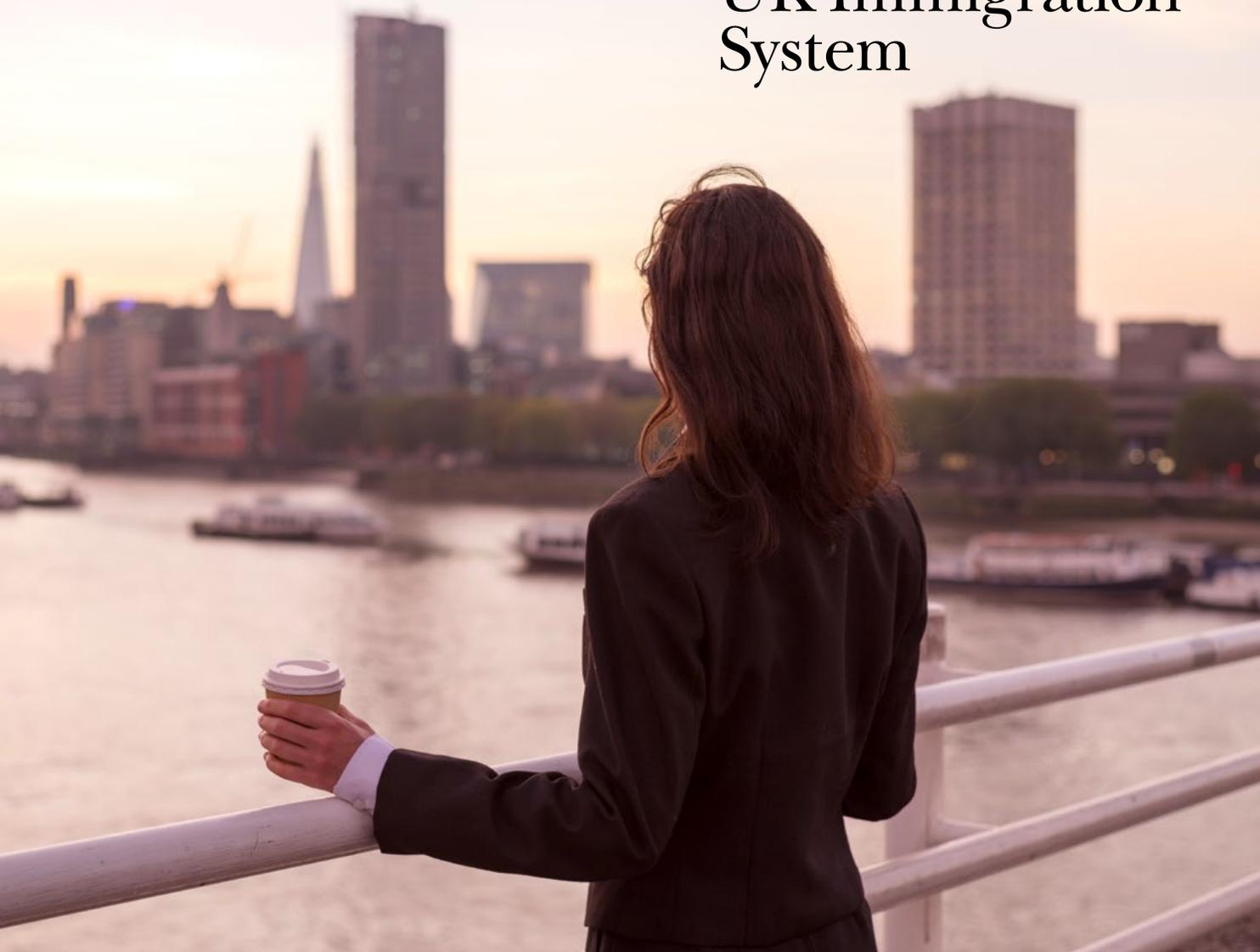
**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
SUMMER 2016

## Up for Grabs: A 'Post-Brexit' UK Immigration System



# UP FOR GRABS: A 'POST-BREXIT' UK IMMIGRATION SYSTEM

WITH THE REFERENDUM DEBATE  
REACHING FEVER PITCH,  
WE ARE NOW JUST DAYS AWAY  
FROM FINALLY ANSWERING THE  
DEFINING QUESTION:

*Should the United Kingdom remain  
a member of the European Union,  
or leave the European Union?*

One of the principal themes of this referendum centres on immigration and whether there is a need to restrict the free movement of EU migrants to the UK. With many in the 'leave' camp believing that the only way to reduce migration is to restrict the continued free movement of EU migrants, could the current immigration landscape change significantly if the UK walks away from Europe?

In truth, no-one knows. The immigration strategies and policies which the UK would adopt should the British public vote to leave the EU are still to be determined. What we do know is that migration would definitely be a key issue in any negotiation with the EU on a post-exit trading relationship, and that the outcome of these talks would unquestionably influence the immigration system.

## FREE MOVEMENT V. NO MOVEMENT

Irrespective of the potential fall-out, many in the Brexit camp relentlessly call for tighter immigration controls and point to the fact that since 2004, when 10 new countries joined the EU, net-migration from Europe has increased to well over 100,000 per year. Armed with the fact that an estimated 3 million EU-born migrants are now residing in the UK, Brexit campaigners would look to end one of the founding principles of being in Europe should they win the referendum - free movement.

Although Home Secretary Theresa May is backing the 'in' campaign, she has previously admitted that the founding principle of free movement within the

EU makes it more difficult to reduce immigration to the UK. As she continues to champion the government's aim of reducing net migration down to the tens of thousands during this parliament, the Home Secretary may well hold a greater mandate to slow down the rate of migration from 24 June.

Any decision to take effective control over UK borders could rule out the negotiation of a post-Brexit move to join Iceland, Liechtenstein and Norway in the European Economic Area, where free movement of workers also applies.

It is premature to assume that, should immigration restrictions be placed on EU citizens, these would mirror those already in place for non-EU migrant workers. A move in this direction, however, would almost certainly lead to a fall in low-skilled EU migration to the United Kingdom.

## WORK VISA RESTRICTIONS FOR EU EMPLOYEES?

Eligibility for the UK's current work-related visa programme, known as Tier 2, is not only based upon non-EU nationals being sponsored by a UK-based employer, but also requires any role being offered to meet specific skill and salary levels.

If the same selection criteria were to be placed on those EU nationals seeking to work in the United Kingdom post-Brexit, employers from within low-skilled and low-paid industries such as agriculture, and the service sector would undoubtedly find their ability to recruit EU workers to be severely limited.

Imagine your local Italian coffee shop barista needing a work permit to serve you. It might just happen.

In addition, caps on available numbers of visas could be imposed, and visa fees for Europeans might well be introduced. Such restrictions would therefore be far-reaching and impact many.

Fortunately, wide-scale policy change is unlikely to take place overnight. Huge decisions will need to be taken, not only in relation to EU migration strategies but also as to whether the country's existing immigration programme should be fundamentally reformed. There is also the issue of UK citizens living in other European countries. Specific arrangements with other EU countries would therefore need to be negotiated to cover an array of different situations and eventualities.

Until the votes have been counted and verified, the introduction of seismic UK immigration reform should not be ruled out.

## SMITH STONE WALTERS

*This edition of Insight tackles the upcoming changes to UK immigration policies and the new Tech Nation Visa Scheme. We also celebrated another great night at the recent Re:locate Awards where the Smith Stone Walters team was Highly Commended for TWO separate awards! Until the next time, have a great summer.*

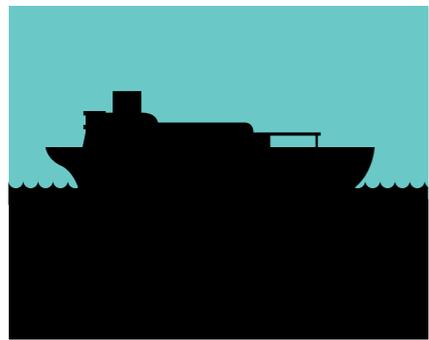
# UK IMMIGRATION IN NUMBERS 2015

We take a look at long-term\* migration to and from the UK over the past year, making use of the latest estimates from the Office for National Statistics which determine the main reasons for the flow of people in and out of the UK. All data shown here relates to the year ending December 2015 unless otherwise stated.

\*Long-term migration is considered to be any stay longer than 12 months.

## NET MIGRATION

A net total of **333,000** people are estimated to have immigrated to the UK in the year ending December 2015. This is 20,000 more long-term arrivals than during the previous year, and continues to hover well above the government's net migration target of 100,000 per annum.



333,000

## WORK

**308,000** people migrated to the UK for work-related reasons (30,000 more than during the previous year). Of these, 61% were EU citizens, 24% were non-EU citizens and 15% were British, with just over half of all arrivals entering the UK with a definite job to go to.



308,000

## EU2 MIGRATION

**58,000** EU2 citizens immigrated to the UK in 2015 from Bulgaria and Romania. This is another significant increase on the previous year and 84% of these individuals came to the UK for work-related reasons.

58,000



## EU MIGRATION

Around 270,000 EU nationals immigrated to the UK during the year and around 61% of this number came for work purposes. This builds upon last year's significant rise in EU migration to the UK by only **2%**.

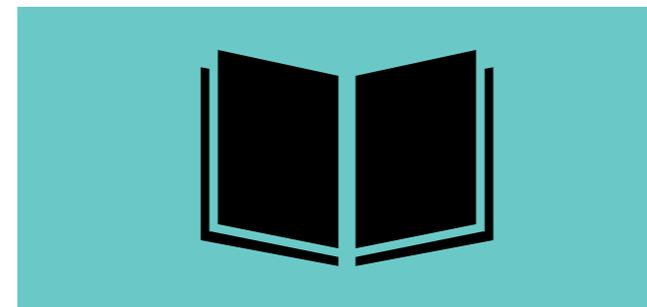
2% ↑



## STUDY

**167,000** individuals came to the UK to study during this reporting year. This is a drop of 13% on the previous year and is the lowest number of migrant students since 2007. Furthermore, there was a fall of 5% in the number of study visas issued with the most notable decrease in migrant student numbers to be found in the number of students coming to the UK from countries outside the EU.

167,000



## EMPLOYERS

**31,787** employers were registered to sponsor migrant employees as of May 2016. This is 619 more than at this point last year but could soon decrease due to the imminent introduction of more stringent immigration costs.



31,787

## FAMILY

**38,274** family visas were granted to non-EEA nationals in the year ending March 2016. Family visas enable non-EEA nationals to join their relations who are either settled in the UK or are British citizens.



38,274

## SETTLEMENT

89,923 settlement applications were granted in the year ending December 2015. This is **14%** fewer than the previous year and is low compared to a notable peak in 2010.



14% ↓

## EU EMIGRATION

**297,000** people emigrated from the UK. According to the latest estimates, 41% of these were British nationals, 29% were EU nationals, and 30% non-EU nationals. Although emigration figures have remained relatively stable over the past few years, they do show a slow but continuous decrease in the number of UK nationals leaving the country on a yearly basis.

297,000

## UPCOMING CHANGES FOR TIER 2



*The UK immigration landscape will be changing over the coming year, dramatically affecting the way in which UK businesses recruit and employ workers from outside the EU.*

The first batch of changes will take place this autumn with a second set to follow in April 2017.

Notable changes include:

- *An Immigration Skills Charge for UK employers* – The government has accepted the MAC's recommendation of an Immigration Skills Charge, payable to the UK government by UK employers. As of April 2017 UK organisations will be charged £1,000 per year, per Tier 2 employee, whilst a reduced rate of £364 will apply to small and charitable sponsors. Some visa routes, such as the Intra-company Transfer Graduate Trainee subcategory, will be exempt from the charge completely.
- *An increased minimum salary threshold for Tier 2 General applicants* – The minimum salary threshold for experienced workers applying for a Tier 2 (General) visa will be increased to £25,000 in autumn 2016, and to £30,000 in April 2017. This increase will not apply to certain public sector roles, such as nurses, paramedics and teachers, until July 2019. For new entrants, the minimum salary threshold will remain at £20,800.
- *A simplified Tier 2 Intra-company Transfer (ICT) route* – The government intends to simplify this visa route by closing down the Tier 2 ICT sub-categories of Skills Transfer (autumn 2016) and Short Term (April 2017). From then on, all intra-company transferees will apply via the one remaining Tier 2 ICT visa route which will ensure that only leading specialists and senior managers are transferred to the UK.

*"The government will also give extra weighting to applications from overseas graduates during the Tier 2 visa application process."*

- *The Immigration Health Surcharge (IHS) for Tier 2 ICT applicants* – As of autumn 2016, applicants of the Tier 2 ICT visa category will no longer be exempt from this UK immigration charge which is payable upfront during the application process.
- *New measures for the hiring of overseas graduates* – The government will increase the number of Tier 2 ICT Graduate Trainee places available to each UK company from five to twenty each year, with the minimum salary threshold for this category being reduced from £24,800 to £23,000. The government will give also extra weighting to applications from overseas graduates during the Tier 2 visa application process.

In light of the upcoming changes we advise that the sponsors of migrant employees take the time to examine their recruitment needs and budget well ahead of the introduction of new immigration legislation in autumn 2016 and April 2017.



## NARIC – THE NEW ELIGIBILITY SERVICE FOR UK VISA APPLICANTS

*UK visa applicants are now expected to use a new service run by NARIC in order to ascertain whether or not their academic qualifications and English language ability are valid in support of their immigration application.*

Up until 6 April 2016, the online points-based calculator operated on a cost-free basis and helped applicants to identify their eligibility to work or study in the UK under the Points-based System by assessing the level of their international qualifications.

This online service has recently closed, however, and applicants are now required to pay to use a new UK Visas and Nationality Service provided by NARIC.

Like the points-based calculator before it, this new service identifies and confirms the academic qualification levels and/or English-language proficiency level of each applicant.

Once it has been ascertained that a non-EEA national has the relevant academic and language levels to allow them to apply for the relevant UK visa, NARIC will provide proof of this to the applicant for use in support of their immigration application.

## TIER 2 & SPONSOR COMPLIANCE WITH SMITH STONE WALTERS



Held at techUK's modern venue in the heart of London, SSW's first seminar of 2016 presented the latest updates to Tier 2 and sponsor compliance legislation.

With a range of new rules for Tier 2 migrants and their employers being implemented over the coming year, there was a lot to talk about and a lively discussion was enjoyed by all.

SSW speakers Naomi Hanrahan-Soar and Anthony Hall also focussed on current compliance issues for sponsor licence holders, as well as updating attendees on how to avoid the more common pitfalls of employing foreign migrant workers.

*Our thanks go to all those who took the time to attend and we look forward to seeing you at our next UK immigration event!*

## SSW & THE TECH NATION VISA SCHEME



Smith Stone Walters is proud to announce its partnership with Tech City UK in association with the new Tech Nation Visa Scheme.

In the midst of stringent UK immigration reform, the scheme is dedicated to attracting the world's best and brightest tech minds to the UK.

Introduced in November 2015, the scheme enables applicants of the Tier 1 (Exceptional Talent) visa category to receive endorsement from Tech City UK, a Home Office appointed Designated Competent Body, before their visa application is passed over to the Home Office for consideration.

As a legal partner for the visa scheme, Smith Stone Walters advises clients on their visa applications, increasing their chance of success whilst making the process as smooth and stress-free as possible.

## RE:LOCATE REWARDS 2015/16!



Smith Stone Walters was shortlisted to win two awards at this year's prestigious Re:locate Awards and we are delighted to have been awarded Highly Commended in both categories!

The prestigious awards took place in the heart of London where the best of the relocation industry were named and entertained.

Smith Stone Walters achieved Highly Commended for both the Immigration Team of the Year and Outstanding HR & Supplier Partnership award categories – well done Team SSW!

*Congratulations to all award winners and we look forward to doing it all again next year!*

## SSW BRINGS UK IMMIGRATION TO VEGAS!

Smith Stone Walters is once again bringing UK immigration law to the US, this time at the 2016 Annual Conference on Immigration Law.

Hosted by the American Immigration Lawyers Association (AILA), the four-day premier gathering on immigration law will take place in the fabulous city of Las Vegas, allowing attendees, speakers and exhibitors alike plenty of distractions after a busy day of industry insight.

*SSW is excited to be exhibiting for the fifth year in a row, and looks forward to meeting the best and the brightest in American immigration law!*



## SSW & CORPORATE SOCIAL RESPONSIBILITY

*Smith Stone Walters has been busy supporting its chosen charity in a variety of different ways since the last issue of Insight.*

### SSW TRUSTS IN FASHION

March 2016 saw the return of London's prestigious fashion event, Trust in Fashion, at The Savoy Hotel London, for its sixth year running.

Hosted by Rainbow Trust Children's Charity which supports the families of terminally ill children, Smith Stone Walters was proud to support this worthy cause by inviting clients and colleagues to enjoy an afternoon of exquisite food and fabulous fashion.

The afternoon raised a grand total of £64,000 which will help to support a whopping 38 families for one whole year.



### CHARITY KICK-OFF



Our summer of support kicked off with a Southern Counties East Football League match in April between Tunbridge Wells and Deal Town at the Culverden Stadium, organised by SSW employee Phill Allcorn.

With the sun shining and the Rainbow Trust in attendance for the second year running, the match drew a record crowd and even Bungle made a guest appearance!

The afternoon raised a fabulous sum for the Rainbow Trust – well done players and spectators alike!

### IT'S TIME FOR TEA!

SSW's charity efforts recently turned towards food, with an Alice in Wonderland themed Mad Hatter's Tea Party!

SSW bakers went full steam ahead to produce a scrumptious array of tea-time goodies which went on sale in our London offices in support of the Rainbow Trust. A substantial sum was raised by the culinary delights.

Well done team!



*The proceeds from our combined efforts will aid the Rainbow Trust Children's Charity in continuing to provide families with the emotional and practical support they need in order to come to terms with a bereavement or their child's ongoing illness.*

## WHAT OUR CLIENTS SAY ABOUT US...

*We make it our priority to deliver a service worth shouting about.*

*Over the past three months, 91% of our clients were 'very satisfied' with our service.*

“

SUPER TIMELY

RESPONSIVE

PROFESSIONAL

HELPFUL

”



*'The Team at SSW has for the last 10 years served me well, when I have needed support and guidance they have been super.'*

*G.C., private client*

*'Liesel Nel (SSW UK) has been brilliant with her support during every step of the process. This is the fourth time I have worked with SSW and it has been always a pleasure.'*

*S.P., international bank*

*'Thanks for making the process straight forward!'*

*Z.Y., medical research institute*

*'The SSW London & Hong Kong teams always [...] go over and above to ensure that customers are satisfied and kept well-informed of all steps of visa application processes.'*

*S.A., investment bank*

*'Very professional and impressed with the support and guidance provided by SSW (INDIA) throughout the visa process. Thanks a ton for all your support!'*

*K.S., printing technology supplier*

*'Jack (SSW USA) was tremendously responsive and very helpful, as was Gary and the team in the UK. Many thanks... You made it easy and were true professionals!'*

*Z.S., children's' rights organisation*

*'Great service!! Magdalena (SSW UK) was very professional and timely! Highly appreciated.'*

*O.B., financial information services*

*In this edition of Focus, we look at the Tech Nation Visa Scheme, outlining the scheme's processes and key features.*

The recently revamped and renamed Tech Nation Visa Scheme now makes it easier for exceptional tech talent from around the world to come and work in the UK's booming digital technology sector.

As the UK continues to bolster its position as a globally competitive digital economy, this scheme is playing an important role in allowing companies to recruit the highly skilled individuals needed to fill specific talent gaps.

99 applications for a Tech Nation Visa were filed in the last financial year, and a total of 200 new endorsements are now up for grabs to potential candidates in the year to April 2017.

Since demand is expected to outstrip supply, exceptionally talented tech individuals seeking to gain tech employment in the United Kingdom should not hesitate in applying for a visa via this route.

### *How do I apply for a Tech Nation Visa?*

You need to receive endorsement from Tech City UK ahead of submitting your application for a Tier 1 Exceptional Talent visa application.

Tech City UK is the Home Office's Designated Competent Body for the digital technology sector, and as such has the ability to endorse applications for this visa category.

If you are successful in receiving an endorsement from Tech City UK, then you will be eligible to submit your visa application to the Home Office.



### *What are the eligibility criteria?*

If you are exceptionally talented or show exceptional promise, you can apply for endorsement as long as you are able to satisfy at least one of the mandatory criteria:

- You have a proven track record of innovation in the digital technology sector as a director, founder or employee of a digital technology company.
- You can prove recognition for work outside of your immediate occupation which has contributed to the advancement of the sector.

Once you are confident that you can satisfy at least one of the mandatory criteria, you should ensure that you meet at least two of the qualifying criteria:

- You have made significant technical, commercial, or entrepreneurial contributions in the digital technology sector as either a director, founder, or employee of a digital technology company.
- You have been recognised as a world-leading talent in the digital technology sector.
- You have undergone continuous learning/mastery of new digital skills (commercial and/or technical) throughout your career.
- You have demonstrated exceptional ability in the field by making academic contributions through research.

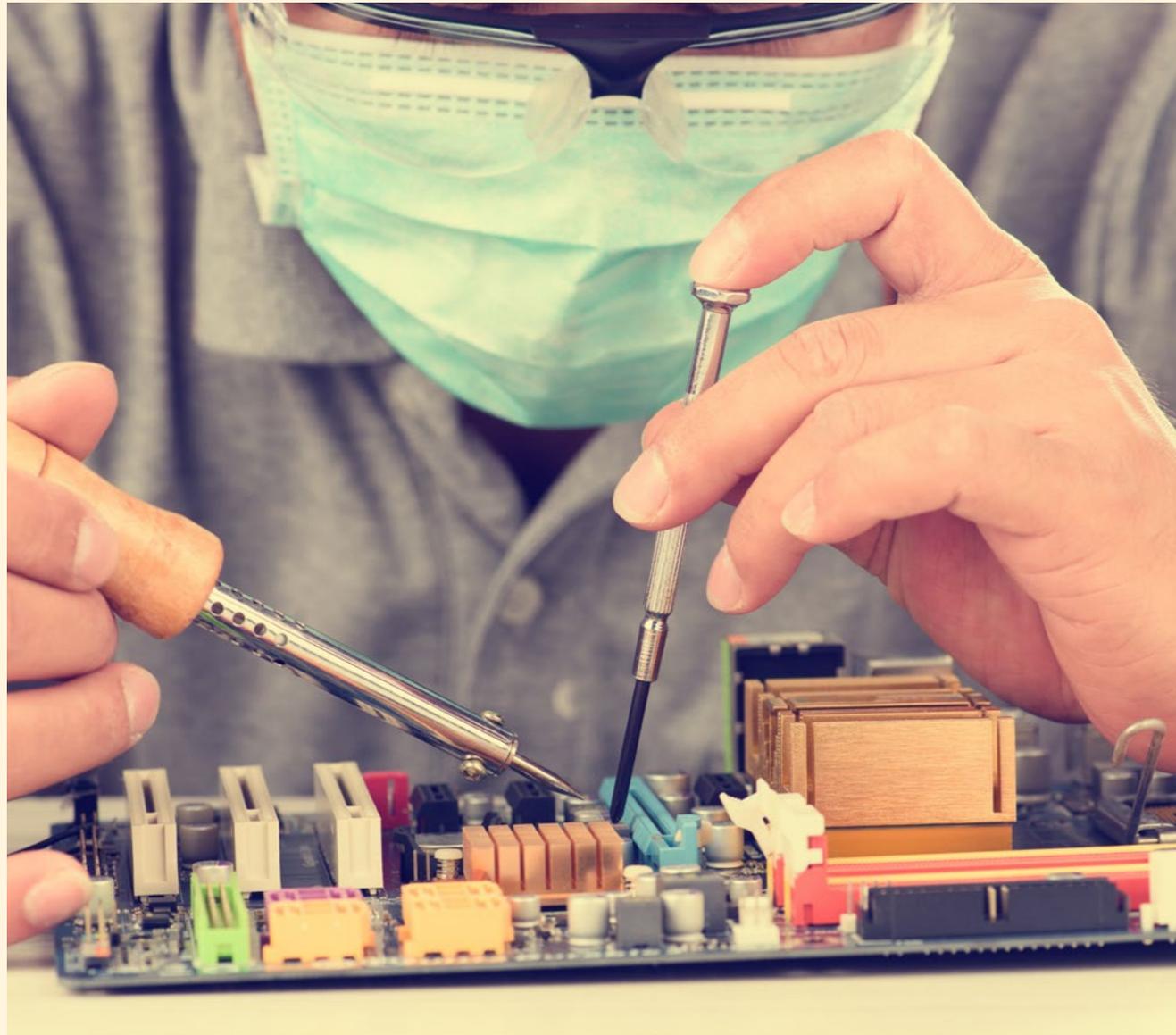
It is up to you to provide relevant evidence in support of the mandatory and qualifying criteria listed above. For example, to demonstrate that you have been recognised as a world leading talent in the digital technology sector, you may decide to provide evidence that you are the author of well-reviewed material published in a professional or major trade publication. If you need to demonstrate that you have made academic contributions to the field through research, evidence may include an award or prize that has been granted by an organisation of a similar standing as the Royal Society.

### *What other documents should be submitted in support of the application?*

In addition to the above, you must also submit the following as part of your application for endorsement:

- completed Home Office and Tech City UK application forms, including a personal statement written by yourself, to explain the contribution that you will make to the UK's digital technology sector;
- a short curriculum vitae outlining your career and publication history;
- two letters of recommendation from recognised experts who are familiar with your work and contribution to the field and are qualified to assess your claim to be a potential world leader in the field;
- evidence of any active or dissolved digital technology businesses in the last five years, or evidence of share ownership through business in a digital technology sector company; and
- the payment of the associated fee of £287.

*"99 applications for a Tech Nation Visa were filed in the last financial year, and a total of 200 new endorsements are now up for grabs to potential candidates in the year to April 2017."*



*"Our dedicated UK immigration offices in London, New York, Hong Kong and Mumbai have been specifically established to support clients in filing successful UK immigration applications"*

### *What happens next?*

Should your application satisfy all criteria, it will be endorsed by Tech City UK and recommended to the Home Office for approval. You will then be able to submit your Tier 1 Exceptional Talent visa application to UK Visas and Immigration (UKVI).

When you apply for your visa from UKVI you will need to provide:

- a printed copy of your endorsement letter;
- a current passport;
- your tuberculosis test results if you're from a country where you have to take the test;
- Payment of the associated visa fees.

### *How long does it take to complete the separate endorsement and visa application stages?*

It can take up to 25 working days for Tech City UK to review your application for endorsement, unless you are eligible for one of the fast-track options. If this is the case then your application will be assessed in the slightly shorter time of 18 working days. Once endorsement has been received, it could be eight weeks before you receive a decision on your visa application.

### *How do I qualify for fast-track processing?*

There are certain circumstances whereby a Tech Nation Visa applicant will qualify for their application to be fast-tracked. For example, if you intend to make a contribution in the North of the UK (i.e. plan to work in or set up a company in one of Tech North's seven cities: Hull, Leeds, Liverpool, Manchester, Newcastle, Sheffield, Sunderland, or the surrounding regions), Tech City UK will fast track the endorsement review process.

### *How long can I stay in the UK on my Tier 1 Exceptional Talent visa?*

You can stay in the UK for up to:

- 5 years and 4 months if you apply outside the UK
- 5 years if you apply inside the UK

### *Do I need a job offer to be eligible?*

No, a job offer is not necessary to receive endorsement. However, your personal statement (mentioned above) should detail what you will be doing once you are in the UK and how you'll be participating to UK digital growth. This will play an important role in the assessment of your application.

### *What if I don't meet the requirements?*

If you do not meet the requirements, don't panic. There may be other visa routes open to you. If you would like to start your own company, for example, you could apply for an Entrepreneur visa. If you would like to work for a UK tech company in the UK, you can apply for a Tier 2 General visa.

### *How can Smith Stone Walters help?*

Our dedicated UK immigration offices in London, New York, Hong Kong and Mumbai have been specifically established to support clients in filing successful UK immigration applications. Our teams of experienced staff are based across the globe and specialise in preparing UK visa petitions.

Should you have any queries on how to secure the right to live, work or study in the UK, do not hesitate to contact Smith Stone Walters today.

*Moving people to the UK is our business.  
It is what we do best.*

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