

Recording Abuses of the Points Based Immigration System

Introduction

PCG is launching a campaign to gather evidence on abuses to Tier 2 of the new Points-Based System (PBS) for immigration, following a number of reports of abuse, particularly regarding lower cost Intra Company Transfers being used to replace contractors.

In November 2008, Tier 2 (the “skilled workers tier”) of the points based system of immigration (PBS) was launched, replacing the previous work permits system. This system still retained “Intra Company Transfers”, but added a number of new requirements on employers and migrants, including minimum salaries.

In the past few months, we have been receiving reports from numerous contractors about abuses, either of the old system just before it was replaced, or of the new system. In most cases these involve contractors being replaced with onshored workers being paid below the market rate.

Others have also spotted advertisements for skilled IT jobs at unreasonably low rates of pay. **PCG urges all contractors who suspect an abuse of the system to submit evidence to this campaign. Depending on the response, we intend to pass a dossier of this evidence on to the UK Borders Agency.**

Below is an outline of how the system should work. If you see something that looks suspicious, you can refer to this outline to see whether it might be unlawful. If, having read this guide, you think the behaviour is unlawful, please let us know on the PCG forums, or by emailing policy@pcg.org.uk.

A brief introduction to the Points Based System

Under the PBS, businesses need to have a “sponsor’s license” to sponsor a migrant, which they need to issue the migrant with a “Certificate of Sponsorship”. Those who administer the system incorrectly may have their license revoked. The migrant must meet a set of criteria, each worth a certain number of points, to qualify for entry into the United Kingdom to work. The table below details these requirements:

Section	Certificate of Sponsorship	Qualifications	Salary
A Must score 50 points, with points from each column	50 points if Job offer is in a shortage occupation	5 points for NVQ3 or equivalent	5 points for £17-19.9k
	30 points if Job offer passes the Resident Labour Market Test	10 points for Bachelor or Masters	10 points for £20-21.9k
	30 points if Job offer is part of an Intra Company Transfer	15 points for PhD	15 points for £22-23.9k
B Must score 10	10 points for competence in English language (not required for Intra Company Transfers unless staying beyond 3 years)		
C Must score 10	10 points for “Maintenance” i.e. sufficient funds to support self and dependants.		

Resident Labour Market Test (RLMT)

With the exception of Intra Company Transfers, and occupations on the “shortage list” (which does not include any IT professions), any post offered to a migrant must have first met the Resident Labour Market Test. Companies who have employed migrants for jobs which do not meet this requirement should be reported to PCG.

The RLMT asks whether an employer can meet their requirements by hiring by a UK or EEA worker: if they can, they are not allowed to bring in a worker from outside the EEA.

The RLMT compels the employer/sponsor to have advertised the relevant post for at least two weeks at Jobcentre Plus, and at another location. This location would be drawn from a specified list specific to the job title, drawn up by UKBA (available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pointsbasedsystem/sectionjcodeofpractice.pdf>)

The job must also be advertised at an appropriate salary, above a limit specified by the UKBA. A **list of appropriate salaries for jobs in the IT sector can be found on the PCG website.**

Intra Company Transfers

The “Intra Company Transfers” system allows multinational companies to bring in workers from their overseas arms to work in a skilled post at a related UK entity.

Intra company transfers do not currently require the job to be advertised anywhere **but the job must still meet the appropriate salary test above.** For IT contractors, “ICTs” brought in to replace them will often be paid at a lower rate. Whilst this in itself is not an abuse of the system, in some cases this rate will be below the official “market rate” as specified by the UKBA.

What you can do

- **If you see a job on a recruitment website, on Jobcentre Plus, or elsewhere for what seems an unreasonably low salary:**
Take a screenshot, and compare the salary with the minimum salary requirement in the attached list. If these do not match, send the evidence to PCG
- **If you suspect ICTs at your client are being paid below market rate OR**
• **If you think an unskilled position is being filled by an ICT:**
Send PCG the evidence with details of their salary and exact job title or role if possible. We will not be able to act on circumstantial evidence, so the more detail you are able to provide the better.
- **If you have applied, and been rejected for, a post which you suspect has been advertised solely as a “box-ticking” exercise to meet the criteria of the PBS, where it appears the relevant client had no intention of hiring a UK or EEA worker.** Send PCG the evidence with details of the salary and exact job title or role if possible. Send a copy of the advertisement, ideally as a screenshot, if possible. (Sending us the link alone is not enough, as it can expire or be amended.
- **If you have been threatened with replacement by an ICT if you do not accept a very low or below market rate:**
Supply us with any written evidence you have, plus any further details.
- **If you have any other concerns please post them in the relevant thread.** We will investigate further if necessary, and the sharing of any details is a useful exercise in encouraging others to come forward.