

Points-based visa for startups could stimulate the UK's economic recovery

Samar Shams, Immigration and Global Mobility Partner at Spencer West LLP argues that the UK should speed up plans for a new visa for entrepreneurs in light of COVID-19's acceleration of the transition to tech across business sectors.

Why? Because speedy implementation of a new, points-based route could enhance the UK's attractiveness to startups attracting the E-commerce, automation, and robotics talent that will build the future of business in the UK.

A broad route for a small number

The Migration Advisory Committee (MAC), a body advising the government on immigration policy, made suggestions for a true points-based route for highly skilled individuals to come to the UK without a job offer, in its [latest report](#). This future route could be the best option for entrepreneurs hoping to set up in business in the UK.

Based on similar schemes elsewhere in the world, the MAC recommends that hopeful applicants first submit details to create a profile and register their

interest. The UK would rank the profiles by allocating points to candidates based on characteristics such as age, qualifications, having studied in the UK and high-value skills. Candidates with the highest points would be invited to submit visa applications.

In a [policy statement](#) on the UK's future immigration system, the Government states that it will apply the MAC's recommendations to create a new type of visa. The Government will consider awarding points awarded for characteristics such as age, qualifications and work experience.

Small and slow

In that policy statement, published on 19 February 2020, before the pandemic pressed pause on a large swathe of UK economic activity, the Government stated that the new, 'broader' route will allow 'a smaller number' of highly skilled workers to come to the UK.

The Government plans to cap the number of visas available under this route. Caps on other visa types tend not to be substantive. For example, the annual cap of 2,000 Global Talent visas (previously called Tier 1 Exceptional Talent) is irrelevant: the MAC notes in its report that only 600 of this type of visa were granted in the year for which the latest data was available.

The government has already warned us that it will proceed slowly, exploring proposals for a year, then carefully monitoring an implementation phase. 'This route will take longer to implement', the government concludes.

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Open for business?

Existing visa routes available for setting up in business in the UK are narrow, with restrictive eligibility criteria and low numbers of visas granted.

The Global Talent visa

The Global Talent route (previously 'Tier 1 Exceptional Talent') requires

endorsement by Tech Nation, Arts Council England or one of a few other bodies approved for particular industries. This route authorises a successful applicant to set up in business in the UK or to work as an employee.

Eligibility requirements for endorsement are difficult to meet and the documentation requirements are unreasonable. Only 62% of applications for endorsement by Tech Nation have been successful. The Migration Advisory Committee (MAC), a body advising the government on immigration policy, deemed the Global Talent route a failure based on low numbers of visas granted, in its latest report.

The Government has modified the Global Talent route since the MAC's report was published, but endorsement criteria have not changed for tech, arts and culture, architecture, fashion, and film and television. Substantive rules changes only apply to researchers.

Replacement of the Tier 1 Entrepreneur visa with the Innovator visa

In March 2019, the Home Office closed the Tier 1 Entrepreneur visa route to new applicants. The standard investment requirement under that route was £200,000. Some applicants were eligible on the basis of £50,000, for example, if they secured those funds from a venture capitalist firm. Tier 1 Entrepreneurs had to employ two workers who were already settled in the UK for two full-time positions, in order to be able to extend their visas and eventually settle in the UK.

The Tier 1 Entrepreneur route was extremely complex. For example, the rules around what counts as two settled workers changed several times. However, the route was accessible and well-used. Immigration statistics indicate that, in the route's final year of operation, the Home Office granted a total of 2,301 initial Tier 1 Entrepreneur visas to applicants in the UK and overseas. At the time of writing, we only have data on the first 9 months since the Innovator visa replaced the Tier 1 Entrepreneur visa. In those 9 months, a total of 99 Innovator visa applications were granted to applicants in the UK and overseas. That is equivalent to less than 6% of the visas granted under the Tier 1 Entrepreneur route.

The Tier 1 Entrepreneur visa route itself had little take-up for its first 5 years. It might be that the Innovator route would need a similar period before becoming meaningful. An Innovator visa applicant requires endorsement from an approved endorsing body. The route could develop if the government is willing to make changes to the endorsement requirement which currently narrows the route significantly.

One problem with endorsement is that each endorsing body has its own requirements, one of which is often participation in their own weeks-long

entrepreneurship programme or similar. Endorsing bodies include incubators, accelerators, government agencies and business development organisations that the Home Office considers to have a track record of supporting UK entrepreneurs.

Also, the Home Office expects a lot from endorsing bodies, both in terms of the process for being approved and whilst endorsement is ongoing. Meanwhile, just managing the avalanche of queries any endorsing body receives requires significant resources.

The Startup visa route that replaced the Tier 1 Graduate Entrepreneur visa has been more popular. However, the Startup visa does not lead to settlement rights in the UK. Endorsing bodies include some of the same organisations that endorse Innovator visa applicants, with the same issues arising. Other startup endorsing bodies are educational institutions. These tend to restrict eligibility for endorsement to their own graduates.

Representatives of Overseas Business and Investors

The UK also offers a Representative of Overseas Business visa and an Investor visa. An overseas business can use the Representative of Overseas Business route to enable an employee to set up a UK branch or subsidiary. The business owner cannot come to the UK as a Representative of Overseas Business themselves because one of the eligibility criteria is that the applicant is not a majority shareholder in the overseas business.

Once the business is set up in the UK and employing at least two people, the business owner could apply to come to the UK under the Investor visa route. They would have to invest at least £2M in their UK business or other UK businesses that meet the government's requirements for appropriate investments for this visa type.

Overall, the above routes for setting up a business in the UK are too limited to affect the UK's economic recovery after restrictions on businesses and movement are lifted.

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New businesses, new jobs

One might argue that the rise in unemployment caused by the pandemic and subsequent restrictions reinforces the logic of setting a low cap on the number of visas available under the new points-based visa route for those without a job offer in the UK and of delaying implementation the route. We can assume a rise in unemployment, though we will not have official figures for the lockdown period March-May until July.

However, those applying under the new points-based visa route for those without a job offer would likely be doing so in the hopes of starting a business in the UK. Although the route would be open to those seeking employment, highly skilled people seeking employment would be unlikely to move without a job offer. Those with a job offer could enter under the more certain visa route for sponsored skilled workers, with the support of their prospective UK employer. Migrants under the new visa route would not be competing with the newly unemployed for jobs. Rather, they would be creating jobs and nurturing recovery of the UK economy.

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