



## **Important Communique**

### **Call to end inappropriate government policy against UK's hospitality industry**

This is an urgent plea calling on the government to amend the 'Shortage Occupation' skills criteria for non EU Specialist Chefs that is blocking the recruitment of these desperately needed Chefs, causing severe hardship and economic damage to huge swathes of the restaurant and catering industry throughout UK

The government claims non EU Chefs are welcome and includes them in the official Shortage Occupations list. However this is grossly disingenuous as the qualifying criteria is wholly unrealistic and unworkable.

The criteria defines a high skill based restaurant as a low skill 'fast food outlet' if it provides a take away facility. Practically every restaurant facilitates collection and delivery for home dining. The trend for ordering restaurant food 'to go' has exploded in the advent of ordering app. 'Eating in' is a standard service offered even by high fine dining establishments. However the government claims the shortage skills criteria is only met if an individual restaurant, with an individual menu serves an individually cooked to order complex dish for regular table dining. However if this restaurant serves the same expertly prepared dish for collection or delivery it falls below the skills threshold and therefore ineligible to recruit a professional non EU Chef.

The government also disqualifies other catering activities involving high culinary skills such as banqueting and bespoke events catering, and all forms of volume output. These are classed as 'bulk food' and 'standard fare' in spite of requiring a higher degree of skill and dexterity than a single made to order serving.

The minimum salary threshold for non EU Chefs is also a massive inhibiting factor. Other than in high end restaurants in Central London £29,570 is wholly unworkable for almost every other region in UK. The average salary\* for the most in demand position of Chef De Partie / Specialist Chef is between £23,000 and £25,000 (the figure for Central London is £25,000). A Head Chef post ranges between £25,000 and £28,000 outside Central London. (\*salary figures obtained from Caterer.com as at October 2017)

The restrictions to accessing non EU Chefs are wholly fallacious and unrealistic, and are thwarting the sustainability let alone potential growth of UK's hospitality industry. These restrictions were immigration policy devised by Home Office following consultation with Migration Advisory Committee (MAC) and duly sanctioned by the government.

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The MAC is a government sponsored economic and social migration policy advisor to the Home Office. They are made up of labour market experts and economists.

The 'shortage occupation' criterion was an alternative to the resident labour market test which enabled recruitment without this process. Most non EU recruitment continued under pre rule changes as those Chefs were unaffected by the current restrictions. However by 2016 Chefs entering before April 2011 gained settlement and many exited the market. In spite of labour market transitions and commercial expansion, skill shortages intensified but Home Office maintained these restrictions seemingly to force greater engagement with what was wrongly perceived as vast pool of skilled workers within UK and EU. The current skills equation has been retained as a blunt immigration control instrument.

There is now an urgent need for Home Office to address this highly contentious and wholly unrealistic ruling which is needlessly damaging a colossal multi billion pound SME section of the economy in the name of outmoded migration politics. It is causing chaos and crisis to specialist skill based establishments whose plight is now compounded by pre Brexit drain of EU workers.

The government repeatedly cites 'undercutting of wages' as justification for non EU skills control. The reality is employers are being forced to reign back on growth and development due to the lack of interest in spite of high salary offers. Circumstances out with employers control undermine efforts to recruit UK workers. The gig economy has lured thousands of hospitality workers, including many Chefs into Uber and Amazon opportunities. Parts of the catering industry has been a long standing gig economy luring many from salaried employment to working 'off the books' unregulated employment, or below the tax threshold thus gaining access to state income.

Highly prohibitive policies against non EU skilled workers are inadvertently sustaining the black economy, and placing an ever increasing illicit burden on the welfare state, whilst depriving the treasury of additional PAYE and VAT revenue. The government is inadvertently aiding the 'undercutting' of lawful employment by subsidising and cushioning unregulated employment.

The main component in every hospitality establishment is the experienced Chef whose craft has taken years to develop and hone and whose skills can be imparted to junior ranks. There is a serious misunderstanding and misconception of skill deployment. Please see following extract of immigration rules governing the recruitment of non EU Chefs.

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Extract from Appendix K of immigration rules (as at 7th April 2016)

**SOC Code 5434 –**

*Skilled chef where the pay is at least £29,570 per year after deductions for accommodation, meals etc; and the job requires five or more years relevant experience in a role of at least equivalent status to the one they are entering; and the job is not in either a fast food outlet, a standard fare outlet, or an establishment which provides a take-away service; A fast food outlet is one where food is prepared in bulk for speed of service, rather than to individual order. A standard fare outlet is one where the menu is designed centrally for outlets in a chain / franchise, rather than by a chef or chefs in the individual restaurant. Standard fare outlets also include those where dishes and / or cooking sauces are bought in ready-made, rather than prepared from fresh / raw ingredients.*

Muddled and contradictory wording has enabled government an opportunity to target virtually the entire catering industry by defining it as 'fast food outlets'. The Home Office interpretation of Chef rules are causing confusion, chaos and hardship to those affected. Chef's work visa applications are being refused and many sponsors have felt 'criminalised' by sponsor licence revocations. There are thought to be approximately **500** (possibly double this number) Chefs currently facing deportation as a result.

Access to non EU Chefs only requires a few modifications to present rules, specifically removal of the following restrictions;

**Rule 1. – No take away or delivery** - This is wholly unrealistic and impractical as virtually EVERY quality / high end establishment facilitates home dining

**Rule 2. - No 'Bulk food' production** – This is seriously impacting the event catering industry, buffet restaurants, central kitchen and producers of specialist cultural food products

**Rule 3. - Unrealistic minimum salary threshold** - £29,570 is fine for London weighting but is not viable for the vast majority of businesses for rest of UK. A realistic min figure for Chefs of primary need i.e. Chef De Partie / Specialist Chef should be between £20,000 to £23,000. Sous Chef / Head Chef - £23,000 to £25,000 to £28,000 depending on location and employer

There is an undeniable shortage of skilled specialist Chefs within the UK and EU labour market, and thereby unavoidable need for non EU Chefs to fill immediate vacancies, and to enable training and cultivation of home grown Chefs.

Whilst dedicated culinary or 'curry colleges' have a supporting role they are not capable of producing adequately skilled Chefs to address immediate skill needs. A lack of experienced craft Chefs means there's no trainers in these 'colleges to train anyone, not to mention the lack of interested trainees. In any case culinary training is prolonged needing long term retention of students which itself can be a challenge. A skilled Chef only becomes a skilled Chef through years of practical work experience, which requires expert Chefs trainers.

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Goldstar Chefs are working on creation of 'national curry apprenticeship' programme and will provide training frameworks for generating home grown Chefs through on site skill development and experience. We aim is to attract and train as many people as possible from the resident market to fill majority of nationwide vacancies but this will require the aid of experienced imported Chefs to cultivate a new generation of home grown Chefs.

Global cuisine makes up one the largest sections of UK's booming £multi-billion hospitality industry. However the sustainability and growth of an estimated 20,000 speciality restaurants and catering organisations is being stifled by obstinate and misplaced government policy. This policy purposely distorts the skills equation to meet net migration targets. The criteria for non EU employment is flawed, injurious and outmoded in today's UK booming leisure economy. Practically every town and city in UK is affected. The profession is not viewed with reverence by the indigenous labour culture in spite of attractive rewards and prospects.

Hospitality and foodservice is a major part of UK's economy but the indigenous labour market is by and large irreverent, this is evident by huge amount of Europeans who make up the majority of the workforce. However the current pre Brexit mood and the low pound is now driving away Europeans which further rationalises the need for skill based migration from outside EU.

From our work in addressing these issues I suggest the following six areas for focus and redress;

#### **#Area 1 – The rules and the effects**

- ❖ Under the official shortage occupation criteria a specialist Chef is deemed to have the necessary skill level only if he or she produces a single portion complex dish
- ❖ Home Office has defined collection and delivery of skilfully prepared restaurant food, event catering and centralised preparation of complex cuisine as standard fare, bulk food or 'fast food' and thereby not having high level culinary expertise or complex skills input.
- ❖ Collection and delivery is an integral part of a restaurant's business, and a sub industry in itself. However Home Office claim take away services are NOT historically associated with high quality restaurants, even though this vital function has always been a mainstay in just about every quality restaurant in the land since the beginning of time
- ❖ There are but a handful of restaurants in UK, mainly in Mayfair and Knightsbridge that currently meet criteria. Till now these have remained dine in only, however even they have succumbed to demand for dining at home driven by ordering apps and gig economy delivery systems. The government's 'take away clause' is outmoded for today's restaurant industry

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- ❖ Restaurants that provide buffet dining, banqueting or other catering services are deemed to have insufficient skill needs as this is crudely referred to as 'bulk food'
- ❖ High end event caterers and / or restaurants that provide large scale dining are also ranked as low skilled (bulk food), in spite of processes deploying higher skill and dexterity than in a single made to order dish Specialist business such as 'Asian sweet centres' in high concentration Asian populous parts of UK that mass produce highly complex intricate cultural fare in are in crisis due to being denigrated as low skill 'bulk food' A Brexit led hospitality industry is simply unsustainable, let alone grow, without immediate skill ready professional chefs from the rest of the world
- ❖ Appendix K of immigration rules (as on 7<sup>th</sup> April 2016) governing SOC code 5434 is unfit for purpose, it is inherently ambiguous, confusing and misapplied in many instances (see extract below)
- ❖ The Shortage Occupation rules are in fact being **UNLAWFULLY** applied because it states "*.....made to order complex dish prepared from scratch using fresh raw ingredients....*" It also cites that a menu should be designed by the Chef or Chefs in the individual restaurant. Every restaurant offering a collection or home delivery meets the above criteria
- ❖ For more on this see [www.goldstarchefs.co.uk](http://www.goldstarchefs.co.uk) [www.goldstarchefs.co.uk/campaigns/](http://www.goldstarchefs.co.uk/campaigns/)

## Area 2 - The damage

- ❖ There has been misapplication and inconsistencies in Home Office decision making.
- ❖ Restaurants are being stripped of their sponsor licences and robbed of their Chefs
- ❖ There are estimated to be between 500 and 1000 (non EU) skilled Chefs facing deportation due to decision inconsistency and retrospective penalisation
- ❖ Adverse shortage occupation criteria is 'criminalising' essential Chef recruitment
- ❖ Employers are forced pay to excessive tax free wages to mostly resident Chefs who are exploiting skill shortages
- ❖ The shortage of Chefs has spawned a transient casual employee culture unwilling to engage in formal gross salaried employment to access state income.

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- ❖ From our experience both as a recruiter and immigration practitioner the majority of newly settled workers pursue unregulated employment immediately upon gaining indefinite leave. They resign without notice from the employer who has pledged continuity of employment at the salary level that enabled settlement approval in the first place.
- ❖ Much of settlement granted to former Tier 2 migrants associated with the catering sector in question has caused dramatic displacement of skilled labour from lawful employers
- ❖ It is entirely wrong and unjust for lawfully operating businesses to be unfairly disadvantaged by (tax payer subsidised) unregulated employment inadvertently cushioned by government policy against non EU recruitment
- ❖ The industry is also suffering a serious authenticity and skills erosion, and thereby plummeting food quality due to a lack of ability and professionalism
- ❖ Many establishments are fearful of decline in health & safety and food safety standards. Poor literacy, non-adherence to quality practices among resident Chefs is a risk factor
- ❖ The blockade and retrospective removal of fully salaried non EU Chefs denies treasury of taxes. It also inhibits business sustainability growth and development which denies the treasury of millions in additional VAT income
- ❖ Confusion, vagueness and ambiguity over right to work among pending is inadvertently placing lawful businesses at risk as desperate employers are forced to make uninformed choices and compromises
- ❖ Vicious circle of chronically overstretched and under resourced businesses wandering into risk based employment due to punitive migration policies.
- ❖ Most business owners and operators are at breaking point due to;
  - Stress and overwork
  - Potential danger to mental and as well as physical health
  - Unable to deliver customer satisfaction and function effectively
  - Family and work life balance in turmoil
  - Unable to grow and develop
  - Unable to partake in training & skills development programmes having no proper skilled Chefs on board to facilitate this
  - Worry and uncertainty about future sustainability of livelihood

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- ❖ The Asian restaurant sector is viewed as 'high risk' and subjected to the infamous 'hostile environment' policy. Counterproductive ill-judged decision making is wreaking havoc!

### **Areas - 3 Changes needed on both sides**

- ❖ The Home Office should HALT its onslaught on legitimate use of Tier 2 sponsorship within the hospitality industry. The Home Office must apply realistic, fair and sensible parameters in both the skills measure and salary thresholds
- ❖ The current entry salary level for the elevated Tier 2 skills threshold (NQF level 6 is £25,100), (this applies to many highly skilled professions), the minimum salary level for incumbent Tier 2 at this level is now £30,000, the shortage occupation salary threshold of £29,570 is both unrealistically high and unworkable. The minimum threshold ought to be in the range of £20,000 to £25,000, a higher salary would be paid anyway for London and high cost residential areas. Accommodation allowances should be allowed in package
- ❖ Instead of pursuing licence revocations, the Home Office ought to help employers gain a better understanding and harnessing of rules, rules also need to be realistic and fair
- ❖ There needs to be proactive engagement with the business community instead of the deeply aloof and contempt laced culture, and the two way demonisation that results
- ❖ The sponsorship route should not be viewed as a primary means of fulfilling staff needs, this should be a temporary route for sourcing for specialist culinary craft, and should be conditional to deployment of a training and skills development programme, which Goldstar Chefs can facilitate
- ❖ Importing highly skilled Chefs should be a short term measure to aid long term skill development within resident labour market
- ❖ Only proven skilled professionals should be eligible for entry into UK for specialist deployment, and not to be filling posts that can realistically be filled within resident market
- ❖ Calibre and quality of international Chefs must be paramount. Goldstar Chefs would provide robust skill vetting and credibility.
- ❖ The Asian restaurant community must distance itself from the notion of importing low skilled workers under high skilled based routes

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- ❖ Ethnic culinary skilling and employment must be open to the wider community and not be kept ethnically exclusive.
- ❖ Micro businesses may not meet requirements for sponsor licensing nor find it economically viable to import Chefs. However they should position themselves by adopting required standards of employment & HR practices. This will enable them gain partial access to Chefs through 'supplementary employment' in cooperation with a main sponsor without needing to be a sponsor licence holder.
- ❖ See <http://www.goldstarchefs.co.uk/sponsor-licensing/> and read all about sponsor licensing for your industry sector.

#### **Area 4 - The importance of proper representation**

- ❖ It is vital for mainstream national business support organisations, chambers of commerce, MP's celebrity Chefs and foodservice media to press the government for urgent removal of punitive restrictions

#### **Area 5 - The importance of getting it right!**

- ❖ The industry must get the message right,
- ❖ Imported skilled labour should not be viewed as primary means of fulfilling staff needs
- ❖ In house training to create home grown Chefs must be evident
- ❖ Goldstar Chefs are engaged in aligning with apprenticeship programmes, and devising wider skills development frameworks, both in UK and overseas
- ❖ There is an URGENT need for removal of unrealistic and outmoded restrictions to take off the pressure
- ❖ Goldstar Chefs seeks to be recognised as a reputable gateway, as well as gatekeeper for access to non EU skilled Chefs





## Area 6 - Proposals for getting it right!

- ❖ Acceptable ratio/ quota of established full time domestic employees to non EU
- ❖ Non EU labour to fulfil specialist skills needs based on realistic skill parameters and a robust inclusive employment hierarchy
- ❖ Importing skills to be linked to evidence of in house training systems in place eg. apprenticeships
- ❖ Acceptable standards of trading and employability ie. VAT registration, accounts, min trading period or sufficiently capitalised if new
- ❖ Realistic median salary levels
- ❖ Removal of immigration skills charge (ISC)
- ❖ Funding to access to wider skills development frameworks, both in UK and overseas
- ❖ IMMEDIATE removal of unrealistic and outmoded restrictions to take off the pressure
- ❖ Automatic right to apply for settlement should be excluded, the Tier 2 skilled worker system should be a temporary route only, at least in the first 6 years duration
- ❖ Future indefinite leave to remain should not enable immediate entitlement to state income, ILR status should be subject to immigration control albeit lesser
- ❖ Consultation with relevant experts in Tier 2 (General) pertaining to the hospitality industry, on design, parameters and implementation of Tier 2 system.

I invite your comments and ask for your help to gain resolve to what is a crisis of common sense and realism!

Yours faithfully,

Hans Raj Ram (CEO)

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