



Tier 1 (Investor) Visas Category No Notice Closure

18 February 2022

After roughly 24 hours of leaks and briefing, yesterday at 16:00 the Secretary of State for the Home Department, Priti Patel, closed the Tier 1 (Investor) category with no formal notice. Her explanation for not providing the usual notice was seeking to avoid a 'closing down sale' rush of applications. There was no acknowledgment, transitional provisions or due care given to the many perfectly legitimate applicants who were already in the process of preparing their Tier 1 (Investor) visa applications. Many had made plans on the basis of meeting the requirements for the visa and had incurred substantial costs.

The explanatory note published by the Secretary of State described the Tier 1 (Investor) visa as facilitating economic crime and corruption in the UK. We are of the firm view that such comments are so broad brush and generalised that they are inappropriate, factually inaccurate and symptomatic of political posturing. The government appears to be using a sledgehammer to crack a nut. Whilst there are clearly some bad apples (which law firms and banks are duty bound to root out), the overwhelming majority of Tier 1 (Investor) applicants are perfectly legitimate. Indeed, we had started to see an increase in applicants from continental Europe, and particularly Switzerland and France including families behind well-known brands. These are not Putin affiliates. Most developed nations in the world offer an investor visa programme and do so without causing a 'national security issue' (to use the words of the Secretary of State). The Tier 1 (Investor) visa has raised billions for the public purse over the years in direct and indirect investment. No clear plans have yet been published as to new visa categories to replace it. Applicants simply do not know at this stage whether they will qualify or not, resulting in plans being on hold and confusion reigning.

Setting aside the principle of the investor visa, the Secretary of State's conduct – the process by which she closed the route - is lamentable. A cornerstone of a modern democracy and the rule of law is setting out public policy that individuals can rely on to make life and investment decisions. That is one way in which states make themselves attractive to investment. Knowledge that the state in question will conduct itself in a reliable, steady and foreseeable manner is important. Public policy changes should not be made on the back of briefings and leaks and then wholesale closure without notice. Our common law jurisdiction also has a long and proud history of incremental changes in the law. This conduct has been opening the floodgates in reverse – Priti Patel has closed the floodgates with no flood and without any thought given to those applicants who were already in the process of applying with perfectly bona fide funds to invest.

If this closure is part of diplomatic posturing to prevent a Russian invasion of Ukraine then there were far more targeted and accurate tools that the British authorities had at their disposal to target Putin's inner circle. The investor visa simply does not play any major part in facilitating their money laundering.

An individual does not need to be present or resident in the UK to purchase property and an investor visa is not necessary to invest in assets in the UK. The UK still does not have a register which publishes the beneficial ownership of property, despite the government having set out its intentions in that regard in 2019. Banks and law firms remain regulated in exactly the same way regardless of whether a client has an investor visa or not. The visa category has become symbolic of something far more than it is. On the whole, it is used by HNW individuals who wish to access the UK for its schooling (for their children) and the lifestyle the UK offers, to allow them to do business here in person, and to ultimately become British given the UK's status as a safe haven in contrast to many politically unstable regimes abroad. Many simply do not want to go through the regular administration and costs of applying for visit visas and being (at times aggressively) questioned at the airport on arrival. If we do not want Putin's affiliates to enjoy the benefits of being able to come to the UK in person then travel bans and sanctions would have been preferable. It is clear instead that the Secretary of State has thrown the baby out with the bath water.

Our Citizenship and Immigration team are on-hand to answer any queries that you may have regarding the closure of the Tier 1 (Investor) visa and are looking at legal challenges to the process used to close the visa category without notice.
