



House of Commons  
Scottish Affairs Committee

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# The Referendum on Separation for Scotland: the impact on higher education, research and tuition fees

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**Seventh Report of Session 2013–14**

*Report, together with formal minutes relating  
to the report*

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

### Committee staff

The current staff of the Committee are Rebecca Davies (Clerk), Rhiannon Hollis (Clerk), Phil Jones (Committee Specialist), Elizabeth McEnhill (Assistant Policy Analyst), Gabrielle Hill (Senior Committee Assistant) and Rosie Tate (Committee Assistant).

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## Summary

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The impact of separation on the higher education sector in Scotland would be substantial, and far greater than that acknowledged by the Scottish Government.

**Research Councils:** Scottish universities currently receive over 50% more in research grants from the UK Research Councils than they would if allocation of funding was based on population share. The UK Minister for Universities and Science told us that in the event of separation, “the rest of the UK would carry on with its Research Councils, Scotland would not be part of that structure.” The Scottish Government must now make clear how it would deal with this loss of financial support and the stated decision of the UK to redraw the boundaries of the Research Councils to conform with a new constitutional settlement.

**Anti-UK tuition fees policy:** all the evidence that we have received indicates that the Scottish Government’s proposals to discriminate against students from the rest of the UK would not be legally sustainable in the event of separation and eventual accession to the EU. Based on current student numbers, this puts a £150 million black hole in Scotland’s higher education budget but the expectation is that this figure would rise. The Scottish Government must publish its plan B.

**Academic co-operation:** the Scottish Government has not made it clear why it expects the UK’s universities and academics to freely co-operate with a separate Scotland which is intent on discriminating against UK students. The Scottish Government must make clear how it would overcome the expected loss of unrestricted access to the UK’s research base that would inevitably follow separation.

**Global networking:** Scotland’s universities and researchers would lose access to the United Kingdom’s Science and Innovation Network (SIN) based in British Embassies, High Commissions and Consulates around the world. This network is key to enabling the Scottish research community access to sources of international funding and expertise. It is unclear how a separate Scotland could replicate such a far-reaching and high quality structure.

**Immigration:** we recognise the attraction of achieving a degree of flexibility on immigration which separation may offer and believe the United Kingdom Government should clarify whether any such gains could be made available within the existing immigration system.

Higher education and research is one of the policy areas where the divergence between the assertions of the Scottish Government and reality are at their starkest. The Scottish Government has a clear responsibility to tell the Scottish people how it would manage the damaging effects of changes in higher education and research that separation would bring.



## Conclusions and recommendations

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Conclusions are in plain text, recommendations are in italics.

### Science in a global arena

1. Scottish universities, like those throughout the United Kingdom, benefit greatly from the representation they receive via the UK's embassy and consular network, access to the Science and Innovation Network and the work of the British Council, both in terms of promoting the work of Scottish academics overseas and attracting investment, scientists and students to Scotland. The opinion in the Scottish Government's White Paper that a separate Scotland would be more effective at promoting Scottish universities overseas includes the premise that it would be *entitled* to a share of the UK's existing overseas properties network. This does not accord with the evidence we heard or statements in the Scotland analysis paper on international issues produced by the UK Government. We therefore conclude there is no evidence, only assertion, that Scottish universities would be better promoted by a separate Scotland. (Paragraph 10)

### Immigration

2. *The Scottish Government should be clear that if a separate Scotland were to join the Common Travel Area it would not be free to pursue a wholly independent immigration policy that differed significantly from the rest of the UK. However, since separation may provide scope for marginal changes, which might be beneficial to the recruitment of foreign students, we believe the UK Government should look at whether changes sought can be accommodated within the framework and objectives of existing policy.* (Paragraph 16)

### Research Councils: collaboration?

3. We agree with the Scottish Government that there are benefits in maintaining a common structure that can support researchers working together across boundaries. However, after separation, underlying forces would inevitably cause the research systems in Scotland and the UK to diverge, making a common structure difficult to maintain. (Paragraph 21)
4. *It is unclear whether this extra resource is already accounted for in projections for the fiscal balance of a separate Scotland. We recommend that the Scottish Government provide immediate clarification on this issue by publishing a more detailed and complete breakdown of the figures which make up the projected fiscal balance of a separate Scotland.* (Paragraph 26)
5. It is to Scotland's credit that the excellence of its higher education institutes mean they attract a disproportionate share of UK Research Council funding. It is disappointing that the White Paper does not provide clarity how such extra funding would be provided in the event of separation. In fact, the White Paper offers no guarantee that the extra resource would be found. This is unwelcome risk and uncertainty for Scotland's research sector. (Paragraph 28)

6. *The UK Government has made it clear that a separate Scotland would not be part of the UK Research Council structure. The Scottish Government must now set out its plan B and provide clarity not only in terms of the level of research funding that would be available post-separation but also the process by which that funding would be allocated. It would appear that this has been neither costed nor provided for in the projections for the fiscal balance of a separate Scotland, for which we seek greater detail.* (Paragraph 34)

#### Tuition fees: discrimination?

7. The Scottish Government is right to be concerned about the potential impact of separation and accession into the EU on its flagship policy of free higher education for its citizens, but there is absolutely no precedent of an EU Member State successfully applying for a derogation from the provisions on student mobility. (Paragraph 47)
8. It is extremely unlikely that the European Court of Justice will accept the Scottish Government's position, which is to directly discriminate against students from the UK. This puts a £150 million hole in the Scottish Government's plans for funding higher education in Scotland post-separation. We agree with the Minister for Universities and Science that "a serious document would have engaged with how they would tackle the black hole in the finances of a Scottish Government if those sources of revenue are lost." (Paragraph 51)
9. *For Scottish higher education institutions to have confidence in future levels of funding, the Scottish Government must now provide further details of its 'objective justification' for a derogation and how it would continue to fund Scottish higher education if that objective justification fails.* (Paragraph 52)
10. The Scottish Government wants to continue to receive the benefits of the UK's world-class research base but, at same time, states its intention to directly discriminate against students from the UK. It is inconceivable that the UK would allow Scottish researchers automatic access to its research infrastructure if Scotland was discriminating against UK students. (Paragraph 53)



# 1 Introduction

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1. On 18 September 2014 the people of Scotland will vote in a referendum on whether Scotland should leave the United Kingdom and become a separate state. As part of our inquiry into the Referendum, we have taken evidence on a series of major issues which have been the focus of debate so far. The higher education and research sector is important to the referendum debate as it has wider implications for the economy and society as a whole, and governments play a central role in supporting it. In this Report we explore the Scottish Government's proposals for higher education and research in the event of separation, as set out in its November 2013 White Paper, *Scotland's future: your guide to an independent Scotland*.<sup>1</sup> We also consider the UK Government's analysis on how Scotland's research and science sector contributes to, and benefits from, being part of the UK.<sup>2</sup>

2. In its White Paper, the Scottish Government claims that separation would have limited impact on higher education and research in Scotland. It asserts that access to research funding and facilities would continue in a similar vein to current arrangements, through the maintenance of a common research area with the rest of the UK. Crucially, the Scottish Government states that its current policy of charging tuition fees only to students from the rest of the UK (and not to those from Scotland or the rest of the EU) would continue. The Scottish Government is proposing a more open immigration policy than is likely in the rest of UK, which, it argues, would lead to more international students and researchers coming to Scotland. It suggests that Scotland's higher education institutions would benefit from this approach, and would be further aided by an independent Scottish Government, which would prioritise the international promotion of the Scottish higher education sector through its own overseas diplomatic and trade network.<sup>3</sup>

3. We discussed both the Scottish Government's vision for higher education and research and the UK Government's analysis paper with Professor David Raffe, Professor of Sociology and Education and Member of the Centre for Educational Sociology, University of Edinburgh, Alastair Sim, Director of Universities Scotland, Professor Hugh Pennington, Emeritus Professor of Bacteriology, University of Aberdeen, Rt Hon David Mundell MP, Under-Secretary of State for Scotland, and Rt Hon David Willetts MP, Minister for Universities and Science. We are grateful to them for assisting us with our inquiry.

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1 Scottish Government White Paper, *Scotland's future: your guide to an independent Scotland*, November 2013

2 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013

3 *Scotland's future: your guide to an independent Scotland*, p197

## 2 Science in a global arena

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4. The United Kingdom has a highly successful, heavily integrated, research base and ranks only behind the US in terms of world-class research. UK universities produce 7.9% of all research papers published globally, 11.8% of all citations and 14.4% of the world's most cited papers.<sup>4</sup> Of the top 200 universities in the world, 31 are in the UK, five of which are in Scotland. The UK Government Minister for Universities and Science, Rt Hon David Willetts MP, told us that being a world power in research meant that the UK had a seat at almost every major international science conference, science policy discussion and science grouping.<sup>5</sup>

5. Mr Willetts argued that, in the event of separation, the academic community in Scotland would have less influence on world research than it does as part of the UK-wide academic community. He warned that it might find that the only way it could gain representation at major conferences would be via an EU Commissioner acting on behalf of a number of European States:

[A separate Scotland] would lose that ability to be part of the global debate shaping research priorities through groups like the G8 Science Ministers' summit, which we hosted last year. You can put Alzheimer's, antibiotic resistance or climate change on the agenda; you help to shape it. Despite everyone's best efforts, Scotland would inevitably have less ability to shape that global agenda.

[...] the kind of events I am describing there are eight, 10 or 12 seats round the table; there aren't 25 or 30 seats round the table. For example, the smaller European states might be represented via the European Commission, so if Scotland entered the EU, it might have the Commissioner representing it, but I would say that being represented by a Brussels Commissioner is rather less effective than being represented by a UK Minister who is absolutely aware directly of our responsibilities to Scotland.<sup>6</sup>

6. The market for academics and students is a global one and international collaboration in research is increasingly important. A quarter of academics in Scotland are from outside the UK and almost half of Scotland's academic papers are co-authored with researchers based outside the UK. Mr Willetts argued that a separate Scotland would lose access to the United Kingdom's Science and Innovation Network (SIN) of over 90 staff based in British Embassies, High Commissions and Consulates around the world. The role of SIN officers is to "engage with the local science and innovation community in support of UK policy overseas [and] provide support to UK researchers seeking international opportunities".<sup>7</sup>

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4 The Royal Society of Edinburgh, *Enlightening the constitutional debate: Science and Higher Education*, 17 October 2013, p2

5 Q4392

6 Q4392

7 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p42

The UK Government's Analysis Paper illustrates the benefits that the SIN network can offer: it gives the example of SIN India and the RCUK India team securing £100 million of research funding for collaborative projects, including projects involving Scottish universities.<sup>8</sup>

7. In addition to the SIN network and Research Council UK overseas teams, Scottish universities currently benefit from British Council services to support international recruitment of academics.<sup>9</sup> Alastair Sim, Director of Universities Scotland, told us that access to the British Council network throughout the world:

gives you very good local intelligence and the ability to set up visits, arrangements and bilateral relationships. That is a real strength, and that strength at the moment is complemented by having a strong British Council Scotland, a strong Scottish Development International, which works very well within an overall UK brand proposition.<sup>10</sup>

8. The Scottish Government's White Paper asserts that post-separation "Scotland and our universities will be in a stronger position [...] to promote Scottish higher education overseas with a dedicated overseas diplomatic and trade network".<sup>11</sup> Professor Raffae and Alastair Sim told us that, despite its excellence, the Scottish higher education and research sector was not as visible internationally as it could be because it was perceived as being part of the overall UK brand.<sup>12</sup> Alastair Sim suggested that Scotland could create its own strong brand but, "there might be challenges in establishing that separate brand [...] you would have to be imaginative and put the money in."<sup>13</sup>

9. At the moment, the Scottish higher education sector benefits from the reach and resources of the FCO. In the event of separation, the institution of the FCO would remain an institution of the rest of the UK, but it is unclear whether the Scottish Government would receive a share the FCO's existing overseas property network. The White Paper states that the running costs of a dedicated Scottish overseas diplomatic and trade network would be £90-120 million, and that "Scotland would be entitled to a fair share of the UK's extensive overseas properties (or a share in their value) allowing us to use existing premises for some overseas posts".<sup>14</sup> Professor Tomkins, John Millar Chair of Public Law, University of Glasgow, disagreed and told us this assertion was mistaken:

international law provides that State property would remain the property of the continuator State (here, the rUK) unless it was located in the territory of the new State (here, Scotland). In the *Scotland Analysis Paper* on EU and International Issues (Cm 8765, January 2014), the UK Government correctly

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8 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p43

9 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p42

10 Q4295

11 *Scotland's future: your guide to an independent Scotland*, p202

12 Q4292 and Q4296

13 Q4296

14 *Scotland's future: your guide to an independent Scotland*, p211

state that “An independent Scottish state would not be entitled by right to any UK diplomatic premises, equipment or staff” (para 2.16).<sup>15</sup>

**10. Scottish universities, like those throughout the United Kingdom, benefit greatly from the representation they receive via the UK’s embassy and consular network, access to the Science and Innovation Network and the work of the British Council, both in terms of promoting the work of Scottish academics overseas and attracting investment, scientists and students to Scotland. The opinion in the Scottish Government’s White Paper that a separate Scotland would be more effective at promoting Scottish universities overseas includes the premise that it would be *entitled* to a share of the UK’s existing overseas properties network. This does not accord with the evidence we heard or statements in the Scotland analysis paper on international issues produced by the UK Government. We therefore conclude there is no evidence, only assertion, that Scottish universities would be better promoted by a separate Scotland.**

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15 Written evidence submitted by Professor Tomkins

### 3 Immigration

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11. Overseas students are a crucial funding stream for the UK's higher education institutions. In Scotland alone, in 2012-13, overseas students accounted for 12% of the total student body, providing Scottish institutions with £337 million in fees.<sup>16</sup> However, the number of overseas students coming to study in the UK overall fell last year by 1.5%. While the number of students coming from China, the UK's largest source of non-EU students, rose by 6%, the number coming from India, the second-largest source, fell by 25%, following a 32% drop the year before.<sup>17</sup> Universities have expressed concern that tougher visa restrictions imposed by the Home Office since 2011 are affecting the number of overseas students applying to the UK's universities.<sup>18</sup> Professor Raffé told us that:

there is a perception at the moment, both with respect to staff and students, but especially students, that existing controls are seen to be inhibiting and cramping Scotland's ability to compete, not so much south of the border but with institutions elsewhere in the globe where overseas numbers are increasing much faster.<sup>19</sup>

12. Alastair Sim, Director of Universities Scotland, explained the UK's 'offer' to overseas students was not as attractive as it could be when compared to its main competitors, for example, the United States, Canada and Australia. He cited the example of entitlements, such as being able to stay on post-study for a work period or bringing your spouse with you when you are doing a one-year master's degree, as being an important part of the package in attracting students.<sup>20</sup> Mr Willetts emphasised that while the new UK wide immigration regime was tightened to tackle abuse, there is no cap on the number of 'legitimate' students applying to study in the UK:

We have set rather higher standards for their basic English, for example; we are much more actively checking up on the academic qualifications they say they have, to be sure they really have them and that they are not making misleading claims about prior academic attainment but after that there is no cap on the number.<sup>21</sup>

13. The Scottish Government contends, however, that existing UK immigration policy is "damaging the ability of Scotland's colleges and universities to attract high-quality international students," and has pledged to reverse some of those decisions in the event of separation.<sup>22</sup> The example of the post-study work visa is cited in the White Paper:

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16 *Herald Scotland*, Fall in foreign students after crackdown on immigration, 17 January 2014.

17 *Times Higher Education*, Overseas student total falls 'for first time' as Indian numbers collapse, 18 January 2014

18 See Scottish Affairs Committee, Fifth Report of Session 2010-12, *The student immigration system in Scotland*, HC 912, 25 July 2011

19 Q4304

20 Q4301

21 Q4416

22 *Scotland's future: your guide to an independent Scotland*, p255

In April 2012, the Westminster Government stopped the post-study work visa, which allowed recent graduates to work or set up a business in the UK for 24 months thus retaining skilled and educated graduates as part of the UK labour force. [...]

This Government plans to reintroduce the post-study work visa. This visa will encourage more talented people from around the world to further their education in Scotland, providing income for Scotland's education institutions and contributing to the local economy and community diversity.<sup>23</sup>

14. However, it is not clear whether the Scottish Government will be in the position to deliver this commitment and reform immigration policy. In the event of separation, the Scottish Government intends Scotland to join the Common Travel Area (CTA) formed by the United Kingdom, Ireland, Isle of Man and States of Jersey and Guernsey.<sup>24</sup> Professor Tomkins told us, pursuing a wholly independent immigration policy is incompatible with being a member of a common travel area:

Ireland does not pursue a wholly independent immigration policy. It is not as if Ireland's immigration policy is set by London, but there are agreements, as part of the operation of the common travel area between London and Dublin, about immigration. The Scottish Government have said, "We don't want to pursue the same immigration policy as is pursued in London. We want our own independent and substantively different immigration policy," and that is incompatible with membership of the common travel area, at least as it currently operates.<sup>25</sup>

15. In its Analysis Paper on borders and citizenship, the UK Government confirmed that a separate Scotland's membership of the CTA would need to be negotiated with existing members and would be subject to the Scottish Government's agreement to co-operate and align with other members of the CTA on certain visa and immigration policies (assuming Scotland is not forced by the EU to join Schengen).<sup>26</sup> The Analysis Paper further states that "a significant divergence of Scottish policy on short-term visas or immigration policies could strain the current cooperative arrangements of the CTA".<sup>27</sup>

16. The Scottish Government accepts that in order to join the Common Travel Area its visa and immigration controls and practice must meet certain shared standards and that these would be subject to negotiation.<sup>28</sup> However, it does not acknowledge that such negotiations could impact on its proposals to reform immigration policy. ***The Scottish Government should be clear that if a separate Scotland were to join the Common Travel Area it would***

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23 *Scotland's future: your guide to an independent Scotland*, p268-270

24 *Scotland's future: your guide to an independent Scotland*, p223

25 Q4208

26 HM Government, *Scotland analysis: Borders and citizenship*, Cm 8726, January 2014, p37

27 HM Government, *Scotland analysis: Borders and citizenship*, Cm 8726, January 2014, p37

28 *Scotland's future: your guide to an independent Scotland*, p224

*not be free to pursue a wholly independent immigration policy that differed significantly from the rest of the UK. However, since separation may provide scope for marginal changes, which might be beneficial to the recruitment of foreign students, we believe the UK Government should look at whether changes sought can be accommodated within the framework and objectives of existing policy.*

## 4 Research Councils: collaboration?

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17. As well as seeking to join the Common Travel Area, the Scottish Government also proposes that a separate Scotland would maintain the existing shared research arrangements with the UK in the form of a ‘Common Research Area’.<sup>29</sup> As part of the UK, Scotland already contributes to, and benefits from, a common strategic research framework which allows funding, research collaborations and knowledge to flow freely across the UK. Researchers from across the UK, including Scotland, benefit from access to the UK’s domestic research infrastructure regardless of where it is located and access to those international facilities to which the UK subscribes, such as CERN and the European Space Agency.<sup>30</sup>

18. The lack of barriers within the UK makes it easier for researchers to collaborate. Collaboration is increasingly seen as key to successful research; it can improve its quality and reduce costs, as expertise and experience are shared.<sup>31</sup> Professor Pennington suggested that the two-way collaboration between Scotland and the other countries within the UK has been “absolutely fundamental” to the success of research in all countries.<sup>32</sup> He pointed to the lack of a border as a vital component of this success:

The absence of barriers allows not just funding and people, but ideas and innovation, to flow freely across borders. It is this two-way, cross-border collaboration together with our unified labour market that unlocks opportunities and allows our researchers to move easily across the UK to follow ideas, not be bound by borders.<sup>33</sup>

An example of the depth of collaboration within the UK was provided by Professor Rick Rylance, Chief Executive of the Arts and Humanities Research Council, during a debate on higher education at the Royal Society of Edinburgh:

collaborative projects have not just been established within Scotland’s borders but also operate cross-border—for example, out of the 1,100 grants awarded by the Engineering and Physical Sciences Research Council, about 400 involve collaboration between researchers in different areas of the UK.<sup>34</sup>

19. The Scottish Government recognises the “benefits [...] of maintaining long-term stability in research funding and systems that support initiatives of scale and researchers

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29 *Scotland’s future: your guide to an independent Scotland*, p201

30 HM Government, *Analysis Paper: Science and research*, November 2013, Cm 8728, p31

31 The Royal Society of Edinburgh, *Enlightening the constitutional debate: Science and Higher Education*, 17 October 2013 [Professor Rylance]; HM Government, *Analysis Paper: Science and research*, November 2013, p39

32 Professor Pennington, *Scotland’s research and science sector thrives as part of the UK. Why put this at risk?*, 4 November 2013

33 Professor Pennington, *Scotland’s research and science sector thrives as part of the UK. Why put this at risk?*, 4 November 2013

34 The Royal Society of Edinburgh, *Enlightening the constitutional debate: Science and Higher Education*, 17 October 2013



working together across boundaries”.<sup>35</sup> In the White Paper, the Scottish Government states that post-separation “it is clearly in the interests of both Scotland and the rest of the UK to maintain a common research area including shared research councils, access to facilities and peer review”.<sup>36</sup> The UK Government, however, disagrees that the existing structure could be maintained:

In the event of a vote in favour of independence all collaboration between researchers in the continuing UK and an independent Scottish state would be international in nature and could involve additional administrative effort, time and risk.<sup>37</sup>

Mr Willetts explained to us that separation would inevitably cause barriers to arise that would make it difficult for the existing, integrated structure to continue:

Every week a decision would be taken by a Scottish Government, not even necessarily a science decision, that pulled the system apart [...] As soon as you have a different regime for cage sizes, animal protections in a lab, a different pension regime for a researcher, a slightly different rule on what you publish, or a different test of the industrial implications of your research and research priorities, all that type of stuff pulls them apart, so it ceases to be fully integrated. You have international co-operation, but that is not the same as a single integrated system.

**20. We agree with the Scottish Government that there are benefits in maintaining a common structure that can support researchers working together across boundaries. However, after separation, underlying forces would inevitably cause the research systems in Scotland and the UK to diverge, making a common structure difficult to maintain.**

### Research Council funding: more than a proportionate share

21. Under the existing structure, public funding for university research across the UK is delivered by a dual support system comprising a block grant from the funding council of each country (funded from devolved budgets), and competitively awarded grants from UK-wide Research Councils funded from the UK tax base. As the table below illustrates, these two sources make up the majority of university research income in Scotland; other sources include funding from charities, business, government departments (for example, contracts from the MoD and Department of Health), and EU funding programmes.

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35 *Scotland's future: your guide to an independent Scotland*, p201

36 *Scotland's future: your guide to an independent Scotland*, p201

37 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p43

**Table 1: Breakdown of sources of research income for Scottish Higher Education Institutions 2011-12 (total = £861 million)**

Source of funding	Amount	% of total
Funding Council Research Grant (including HEFCE and SFC devolved funding)	£251 million	30% of total
Research Councils Research Grant	£219 million	26% of total
Research Income: Charities	£131 million	15% of total
Research Income: Public	£96 million	11% of total
Research Income: Business	£64 million	7% of total
Research Income: Europe	£63 million	7% of total
Research Income: Other	£36 million	4% of total

Source HM Government, *Scotland Analysis: Science and research*, November 2013, Cm 8728

Proportions can vary from institute to institute: for example, in 2011-12 the majority of the University of Edinburgh's research income came from the UK Research Councils (33.2%).<sup>38</sup>

22. Funding from the seven UK Research Councils is allocated through a process of peer review. The panel peer review process is widely recognised internationally and helps uphold the UK's reputation for research excellence. Professor Pennington argued that this process is an "essential ingredient in the success of Scottish research. The competitive UK-wide peer review system inspires innovation, drives up standards and stimulates not just great but the very best ideas".<sup>39</sup>

23. Scottish higher education institutions have been very successful in securing Research Council funding through the peer review process. In 2012-13 Scottish researchers were allocated £257 million in Research Council grants, 13.1% of the UK total, significantly more than Scotland's 8% share of UK GDP or 8.4% share of the population.<sup>40</sup> When all Research Council funding is included (such as spending on infrastructure), the figure rises £307 million, with Scotland securing 10.7% of the UK total.<sup>41</sup>

24. In the event of separation, the Scottish Government wants Scotland to remain part of the UK Research Council structure:

38 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p21

39 Professor Pennington, *Scotland's research and science sector thrives as part of the UK. Why put this at risk?*, 4 November 2013

40 Figure excludes research funding to Research Council Institutes, IROs, infrastructure funding.

41 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p19

With independence, we would intend to negotiate with the Westminster Government a fair funding formula for Scotland's contribution [to funding of Research Councils] based on population share but taking reasonable account of the fact that the amount of research funding received by Scottish institutions from the Research Councils may reflect higher or lower levels of funding.<sup>42</sup>

25. If Research Council grant funding in 2012-13 was based on population share rather than excellence, Scottish higher education institutes would have seen their income fall by £93 million—this is equivalent to all the Research Council grant funding for the Universities of Glasgow, Stirling, Dundee, St Andrews, Aberdeen and Heriot-Watt combined.<sup>43</sup> When asked about the implications of separation on funding from Research Councils, Mr Willetts stated that: “the rest of the UK would not be using the rest of the UK's research budget to pay for institutions in Scotland”.<sup>44</sup> This means that in the event of separation, if the current level of government funding for research in Scottish higher education institutions is to be maintained, then the Scottish Government would have to find an additional £93 million. ***It is unclear whether this extra resource is already accounted for in projections for the fiscal balance of a separate Scotland. We recommend that the Scottish Government provide immediate clarification on this issue by publishing a more detailed and complete breakdown of the figures which make up the projected fiscal balance of a separate Scotland.***

26. From our scrutiny of the White Paper, we found no guarantee that such funding would be available. The Scottish Government merely asserts that its funding formula would take “reasonable account” of fluctuations in funding above and below a contribution based on population share. It does not say where extra funding would come from nor does it suggest how such a system would work in practice. Speaking in a debate at the Royal Society in Edinburgh, Professor Hawkesworth, Deputy Principal and Vice-Principal for Research at the University of St Andrews, expressed his concern that the uncertainty caused by the Referendum debate was holding back investment and making academics (both researchers and students) wary of coming to Scotland. In his view, “it is difficult to evaluate how funding structures and opportunities will operate, whatever the outcome” of the Referendum.<sup>45</sup>

**27. It is to Scotland's credit that the excellence of its higher education institutes mean they attract a disproportionate share of UK Research Council funding. It is disappointing that the White Paper does not provide clarity how such extra funding would be provided in the event of separation. In fact, the White Paper offers no guarantee that the extra resource would be found. This is unwelcome risk and uncertainty for Scotland's research sector.**

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42 *Scotland's future: your guide to an independent Scotland*, p203

43 UK Government, *Scotland analysis: science and research*, Cm 8728, November 2013, p20

44 Business, Innovation and Skills Committee, Oral evidence, 5 February 2014, Q34

45 The Royal Society of Edinburgh, *Enlightening the constitutional debate: Science and Higher Education*, 17 October 2013

28. Professor David Raffé told us that for many Scottish academics, funding from Research Councils is second to the need to preserve the ‘academic eco-system’ and a lot of the joint activities that take place:<sup>46</sup>

Although funding is part of that eco-system, it is not the most important part. The most important part is opportunities—the facility of collaboration, access to shared facilities and the various quality assurance and assessment systems that operate across the various borders. [...] It would be as important, if not more important, to maintain that eco-system in this rather broader and more qualitative sense than to worry about relatively small margins of funding.<sup>47</sup>

29. We agree, but unfortunately it is clear to us that those parts of the research structure that Professor Raffé said were so important—the ease of collaboration, access to shared facilities and assessment systems—may be put at risk if Scotland opted to become a separate state. As we discussed earlier, research structures in separate countries inevitably diverge, no matter how closely integrated they might have been in the past, as underlying forces pull them apart. This process of divergence makes it difficult to foresee resources being shared in the manner envisaged by the Scottish Government. Taking infrastructure as an example, the terms of access for Scottish researchers to research infrastructure based in the rest of the UK would likely change in the event of a vote for separation. In its analysis paper on science and research, the UK Government states that:

accessing existing infrastructure, both mobile and non-mobile, in a continuing UK could become more complex for academics in an independent Scottish state. Where facilities are owned by UK Research Councils, this could mean access granted on the basis of peer-reviewed applications or collaboration with UK academics.<sup>48</sup>

Professor Pennington told us he didn’t know “of any country in the world that does not have its own research infrastructure and funding for its own ends”.<sup>49</sup>

30. While the Scottish Government wants a separate Scotland to remain part of the UK Research Council structure and believes this would be in the interests of both nations, the UK Government has made its position clear.<sup>50</sup> The UK Minister for Universities and Science told us that:

the rest of the UK would carry on with its research councils and Scotland would not be part of that structure.<sup>51</sup>

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46 Q4274

47 Q4275

48 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p35

49 Q4274

50 *Scotland’s future: your guide to an independent Scotland*, p203

51 Q4407

31. Given the Minister's comments, it is evident that in the event of separation the Scottish Government would need to set up its own structure to support Scottish research. As a minimum this would mean setting up a system to allocate research funding which, given the Scottish Government's desire to be part of the UK Research Council structure, would include a process of peer review.

32. A new 'Scottish Research Council' would not be without its benefits, and precedents for such new arrangements do exist. As Colin Macilwain, Editor of *Research Europe* and Associate Editor of *Research Fortnight*, writes in *Nature*, "Science Foundation Ireland was started from nothing in 2000 and the European Research Council (ERC) has established a formidable reputation in just six years".<sup>52</sup>

33. A new Scottish Research Council could target funding to areas of interest to Scotland such as agriculture, forestry, fisheries and energy, and those involved in allocating funding may have a better knowledge of Scotland than academics on Research Councils based south of the border. A smaller research council might also be more nimble in responding to emerging issues. However, researchers applying to a Scottish Research Council would lose the benefit of being part of a sizeable competitive system. It would also be harder to run such an organisation in as efficient way as UK Research Councils due to economies of scale.

34. The existing UK Research Councils are internationally respected and, in terms of the money spent, deliver extremely good results.<sup>53</sup> ***The UK Government has made it clear that a separate Scotland would not be part of the UK Research Council structure. The Scottish Government must now set out its plan B and provide clarity not only in terms of the level of research funding that would be available post-separation but also the process by which that funding would be allocated. It would appear that this has been neither costed nor provided for in the projections for the fiscal balance of a separate Scotland, for which we seek greater detail.***

## Other sources of funding

35. As illustrated in Table 1, while the Scottish Funding Council and UK Research Councils provide the majority of research funding, a significant proportion (44%) of funding comes from other income streams. In 2011-12 charities contributed £131 million to Scottish research, 15% of the UK total—a more than proportionate share which, again, demonstrates the strength of the Scottish research sector.<sup>54</sup> The UK Government warns that separation could leave charities facing additional burdens as they would have to negotiate two separate regulatory and tax regimes if they are to continue operating across the border: this could lead to charities concentrating funding within their own territory.<sup>55</sup>

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52 *Nature*, Scottish science is ready to go it alone, 30 January 2014

53 Q4282 [Professor Pennington]

54 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p17

55 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p26

Sharmila Nebhrajani, the chief executive of the Association of Medical Charities, gives the example of how multi-site trials could be impacted by separation:

Multi-site trials are set up across tens of hospitals across the UK, and at present they don't have to worry about differing regimes. If Scotland was to be independent and that consistency was lost, the multi-site trial becomes much more difficult. That is probably bad for the Scottish population.<sup>56</sup>

36. The Wellcome Trust, which has invested £600 million in research in Scotland over the last ten years, has also cautioned about its future commitment to Scotland: “the eligibility of Scottish institutions for trust support, would need to be reviewed. There is no guarantee that our funding would be maintained at current levels.” The Trust points to the potential for different regulatory regimes as being a key cause of concern.<sup>57</sup>

37. Wider UK Government investment in Scottish higher education institutions could also be affected by separation. In 2011-12 the UK public sector invested £96 million in research in Scotland, 11% of the £805 million total UK public sector spend on research. The Analysis Paper on science and research describes the MoD's Science and Technology Programme which invests over £400 million per year in projects across the UK. The MoD makes use of the expertise and capabilities offered by higher education institutions across Scotland, including the Universities of Heriot-Watt, Strathclyde and St Andrews, as well as industry and other suppliers.

38. The Analysis Paper warns that higher education institutes in a separate Scotland may lose access to this wider Government support for research. For example, it states that the MoD's Science and Technology Programme is “typically invested in the UK to achieve operational advantage and maintain security of supply”.<sup>58</sup> Beyond the higher education sector, many of MoD's main contractors have sites in Scotland including Babcock, BAE Systems, Rolls-Royce, Selex ES, Thales, Raytheon and QinetiQ. The Analysis Paper on defence suggests that, in the event of separation, those in Scotland who are currently certified to undertake classified defence work would find their ability to participate in current and future UK research programmes complicated by nationality caveats that prevent classified documentation and technologies being shared with foreign countries and its nationals.<sup>59</sup> These contractors, which employ very large numbers of people in many areas across the country, are likely to find their research and development funding affected.

39. In our previous Report on the defence industry we concluded that the impact of separation on that sector of the economy would be substantial and distinctively negative. We were unable to identify any defence supplier who would benefit from separation while firms dependent on contracts from the UK military were at substantial risk of losing that work, putting jobs at stake.

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56 *Daily Telegraph*, Scottish independence risks medical funding, charities warn, 21 December 2013

57 *Daily Telegraph*, Scottish independence risks medical funding, charities warn, 21 December 2013

58 HM Government, *Scotland analysis: Science and research*, Cm 8728, November 2013, p25

59 HM Government, *Scotland analysis: Defence*, Cm 8714, October 2013, p75

40. The research sector in Scotland receives a more than proportionate share of funding from UK Government departments. Departments including Health, International Development, Energy and Climate Change, and the Ministry of Defence, all invest in research in Scotland. It is difficult to envisage UK Government departments investing such large sums in Scotland in the future if it becomes a foreign country. Indeed, in some circumstances, security protocols would undoubtedly prevent it from doing so.

## 5 Tuition fees: discrimination?

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41. Under the Scottish Government’s policy of free access to higher education for citizens domiciled in Scotland, Scottish students are exempt from any tuition fees charged by Scotland’s higher education institutions. EU rules on the mobility of students extend this exemption to students from all EU Member States, as they must be treated the same as students of the host country. The regulations governing discrimination **between** Member States do not apply to students from Wales, England and Northern Ireland, as, at present, they are **within** the same Member State. Scotland’s higher education institutions are therefore free to—and do—charge students from the rest of the UK up to £9,000 per year in tuition fees.

42. The Scottish Government proposes that these arrangements would continue in a separate Scotland, even if it were to become an EU Member State. The White Paper states that the *status quo* would remain and students from all EU Member States, except the UK, would be entitled to the same free tuition as Scottish students “in accordance with our support for student mobility across Europe”.<sup>60</sup> However, as we set out below, the Scottish Government’s ability to directly discriminate against students from one Member State has been strongly challenged and there is currently no available legal advice in support of its position.

43. Student mobility is enshrined in EU Treaty provisions which confer on citizens of EU Member States a series of substantive and enforceable rights.<sup>61</sup> Professor Niamh Nic Shuibhne, Professor of European Law at the University of Edinburgh, writes that:

The right not to be discriminated against on the grounds of nationality is a fundamental element of that legal framework, as confirmed by Article 18 of the TFEU. It is important to remember that EU free movement law does not create an entitlement to *special* treatment for citizens who move to other Member States. But it does create the right to *equal* treatment. In other words, it is not generally permissible under EU law to discriminate against students from another Member State on the basis of their nationality alone.<sup>62</sup>

44. The Scottish Government is clear that it intends to continue to charge tuition fees only to students from the UK (and from outside the EU). It argues that a failure to do so would see Scottish universities overwhelmed with applications from students from the UK which would put pressure on the number of places available to students domiciled in Scotland. Rt Hon David Mundell MP, Under-Secretary of State for Scotland, told us that there had already been a significant increase in the number of students from the Republic of Ireland

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60 *Scotland’s future: your guide to an independent Scotland*, p200

61 Professor Niamh Nic Shuibhne, University Fees and rUK Students – the EU Legal Framework, Scottish Constitutional Futures Forum, 18 December 2013

62 Professor Niamh Nic Shuibhne, University Fees and rUK Students – the EU Legal Framework, Scottish Constitutional Futures Forum, 18 December 2013



who have chosen to study in Scotland, since the Scottish Government adopted its policy on tuition fees.

45. Unsustainable student flows would not be the only concern for a separate Scotland, as Alastair Sim told us:

If undergraduate students from the rest of the (current) UK had the same entitlement as that currently available to undergraduate students from the rest of the EU, the total cost of fee and teaching grant provision for these RUK students has been estimated by the Scottish Government (October 2012) as approximately £150 million.<sup>63</sup>

The £150 million cost is currently met by the tuition fees paid by students from the rest of the UK. The White Paper makes no mention of the almost certain loss of £150 million in income and the funding black hole that could result; instead it focuses on the possibility that the Scottish Government may be able to make an ‘objective justification’ and obtain a derogation from EU law.

46. The EU law on free movement is not absolute: there are limitations and conditions which allow for the principle that Member States may wish to restrict movement rights in limited circumstances.<sup>64</sup> The Scottish Government believes it will be possible to establish an objective justification based on:

the unique and exceptional position of Scotland in relation to other parts of the UK, on the relative size of the rest of the UK, on the fee differential, on our shared land border and common language, on the qualification structure, on the quality of our university sector and on the high demand for places.<sup>65</sup>

47. **The Scottish Government is right to be concerned about the potential impact of separation and accession into the EU on its flagship policy of free higher education for its citizens, but there is absolutely no precedent of an EU Member State successfully applying for a derogation from the provisions on student mobility.** When asked about the Scottish Government’s plans, the European Commissioner for Education, Androulla Vassiliou, commented that any attempt to treat Scottish students and non-Scottish students differently could be regarded as:

a covert form of discrimination on grounds of nationality [...] conditions of access to education, including tuition fees, fall within the scope of EU law and any discrimination on grounds of nationality is prohibited”.<sup>66</sup>

48. Past case law suggests that the Scottish Government would find it difficult to achieve a derogation. Grounds for a derogation from the free movement of persons expressly

63 Letter from Alastair Sim, Director, Universities Scotland, to the Chair of the Scottish Affairs Committee, 11 February 2014

64 Professor Niamh Nic Shuibhne, University Fees and rUK Students – the EU Legal Framework, Scottish Constitutional Futures Forum, 18 December 2013

65 *Scotland’s future: your guide to an independent Scotland*, p200

66 *The Scotsman*, ‘No precedent’ for charging English students, insists EU, 12 February 2014

included in the Treaty are limited to concerns about public health, public security, and public policy. Professor Nic Shuibhne states that “despite the potential breadth of the notion of ‘public policy’, the Court of Justice has always interpreted its scope extremely narrowly in reality, emphasising instead the fact that the public policy exception, like all derogations from a fundamental principle of the Treaty, must be interpreted restrictively”.<sup>67</sup> Furthermore, the Scottish Government would be seeking an exemption from a fundamental principle of the Treaty while, at the same time, trying to negotiate an expedited accession into the EU.

49. Legal advice sought by Universities Scotland provides a potential way forward for the Scottish Government. It notes that the Scottish Government could use a maintenance grant based on residency requirements to offset fees charged to Scottish students. However, doing so would not only be against the Scottish Government’s no fees policy, but it would also result in EU students being charged to study in Scotland—again, at a time when Scotland is negotiating to join the EU. What is clear is that the legal advice sought by Universities Scotland addresses a different scenario to that proposed by the Scottish Government and cannot be used as evidence to support the Scottish Government’s argument for an objective justification as set out in the White Paper.

50. Mr Willetts told us that Scotland seeking to discriminate against students from the rest of the UK could also impact on negotiations over sharing facilities within the UK:

You cannot put up a new barrier aimed specifically at keeping out students from Manchester, at the same time as saying that your aim is to be a single integrated research area with Manchester.<sup>68</sup>

**51. It is extremely unlikely that the European Court of Justice will accept the Scottish Government’s position, which is to directly discriminate against students from the UK. This puts a £150 million hole in the Scottish Government’s plans for funding higher education in Scotland post-separation. We agree with the Minister for Universities and Science that “a serious document would have engaged with how they would tackle the black hole in the finances of a Scottish Government if those sources of revenue are lost.”**

*52. For Scottish higher education institutions to have confidence in future levels of funding, the Scottish Government must now provide further details of its ‘objective justification’ for a derogation and how it would continue to fund Scottish higher education if that objective justification fails.*

**53. The Scottish Government wants to continue to receive the benefits of the UK’s world-class research base but, at same time, states its intention to directly discriminate against students from the UK. It is inconceivable that the UK would allow Scottish researchers automatic access to its research infrastructure if Scotland was discriminating against UK students.**

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67 Professor Niamh Nic Shuibhne, University Fees and rUK Students – the EU Legal Framework, Scottish Constitutional Futures Forum, 18 December 2013

68 Q4430

## 6 Conclusion

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54. Scotland, as well as the other countries within the UK, benefits from the existing common framework for research coordination and collaboration, which is a highly integrated and interdependent, well-aligned system. As Mr Willetts told us:

[separation] would be a lose-lose situation. At the moment, we are in a win-win situation. It is not something I would relish from the point of view of the UK. We all gain from this arrangement; we all gain from being part of a big integrated system where funding is allocated by merit, not geography. That is what we have at the moment; that is why we are world-class in science, and both the remaining UK and Scotland would lose from that separation when it comes to science.<sup>69</sup>

In the event of separation Scotland would be leaving a system that delivers well for the UK's research community. Professor Pennington highlighted the success of the Research Councils:

The advantage of keeping the system as it is at the moment is that the research councils, in terms of the money they spend, deliver extremely good results. If you compare, for example, our research system with European research systems, it is more successful in terms of the money spent and the outcomes in terms of peer-reviewed papers, discoveries, Nobel prizes and so on. My concern, obviously, is that any break-up of that system would diminish the likelihood of that success continuing.<sup>70</sup>

55. Those on the pro-union side of debate are frequently, and unfairly, accused of scare-mongering and talking down the prospects for a separate Scotland, the suggestion being that we should also talk about the positives. In this Report we have identified the many benefits of pooling and sharing resources and the reduced risk and uncertainty that the existing UK structure provides for higher education and research in Scotland. The Scottish Government must now quantify the many risks and costs of their proposals and clarify how they will be addressed. This evidence-based Report focuses only on those matters which affect higher education, but even within this limited policy area we have found bold assertions that are either legally inaccurate or unlikely to become true, for example that Scotland is entitled to a fair share of the UK's overseas properties; that Scotland would remain part of the UK Research Council structure and, as an EU Member State that Scotland would be able to charge tuition fees only to students from the UK.

56. Scotland and the rest of the UK share a large, heavily integrated, and thriving research base which is second only to the US in terms of world-class research. Agreement with the rest of the UK on continuing access to that research base cannot be guaranteed just because that is the Scottish Government's desired position. We hope the evidence we have taken

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69 Q4411

70 Q4281

will allow the people of Scotland to make an informed choice about how Scotland's formidable reputation for research would be best supported in the future.

# Formal Minutes

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**Wednesday 12 March 2014**

Members present:

Ian Davidson, in the Chair

Jim McGovern  
Graeme Morrice  
Pamela Nash

Simon Reeve  
Mr Alan Reid  
Lindsay Roy

Draft Report (*The Referendum on Separation for Scotland: the impact on higher education, research and tuition fees*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 56 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 18 March at 2.00 pm]

## Witnesses

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The following witnesses gave oral evidence. The evidence is available on the Committee's website at [www.parliament.uk/scotaffcom](http://www.parliament.uk/scotaffcom)

### Wednesday 29 January 2014

Question number

**Professor Hugh Pennington CBE**, Emeritus Professor of Bacteriology, University of Aberdeen, **Alastair Sim**, Director, Universities Scotland, and **Professor David Raffé**, Professor of Sociology and Education and Member of the Centre for Educational Sociology, University of Edinburgh

Qq4259-4372

### Tuesday 4 February 2014

**Rt Hon David Willetts MP**, Minister for Universities and Science, Department for Business, Innovation and Skills, and **Rt Hon David Mundell MP**, Under-Secretary of State for Scotland

Qq4373-4446

# List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2010–12

First Report	Postal Services in Scotland	HC 669 (HC 884)
Second Report	Video Games Industry in Scotland	HC 500 (Cm 8067)
Third Report	UK Border Agency and Glasgow City Council	HC 733
Fourth Report	The Scotland Bill	HC 775
Fifth Report	Student Immigration System in Scotland	HC 912 (Cm 8192)
Sixth Report	The Referendum on Separation for Scotland: Unanswered Questions	HC 1806
Seventh Report	The Crown Estate in Scotland	HC 1117
Eighth Report	The Referendum on Separation for Scotland: Do you agree this is a biased question?	HC 1942

## Session 2012–13

First Report	A Robust Grid for 21 <sup>st</sup> Century Scotland	HC 499
Second Report	The Referendum on Separation for Scotland: making the process legal	HC 542
Third Report	The Referendum on Separation for Scotland: a multi-option question?	HC 543
Fourth Report	The Referendum on Separation for Scotland: Terminating Trident—Days or Decades?	HC 676 (HC 861)
Fifth Report	The Future of HM Coastguard in Scotland	HC 583
Sixth Report	The Referendum on Separation for Scotland: The proposed section 30 Order—Can a player also be the referee?	HC 863
Seventh Report	The Referendum on Separation for Scotland: Separation shuts shipyards	HC 892
Eighth Report	The Referendum on Separation for Scotland: How would Separation affect jobs in the Scottish Defence Industry?	HC 957 (HC 257)

## Session 2013–14

First Report	Remploy Marine Fife	HC 454
Second Report	The Referendum on Separation for Scotland: The Need for Truth	HC 828
Third Report	The Referendum on Separation for Scotland: A Defence Force for Scotland—A Conspiracy of Optimism?	HC 842
Fourth Report	The impact of the Bedroom Tax in Scotland: Interim Report	HC 288
Fifth Report	The Crown Estate in Scotland: follow up	HC 889
Sixth Report	Blacklisting in Employment: addressing the crimes of the past; moving towards best Practice	HC 543