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Scottish Affairs Committee

Immigration and Scotland

Fourth Report of Session 2017–19

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

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The Scottish Affairs Committee

The Scottish Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Scotland Office (including (i) relations with the Scottish Parliament and (ii) administration and expenditure of the offices of the Advocate General for Scotland (but excluding individual cases and advice given within government by the Advocate General)).

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Publication

Committee reports are published on the [Committee's website](#) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Ben Williams (Clerk), Laura-Jane Tiley (Second Clerk), Allen Gallagher (Inquiry Manager), Ben Rayner (Committee Specialist), Chloe Freeman (Senior Committee Assistant), Robert McQuade (Committee Assistant), and George Perry (Media Officer).

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Contents

1	Introduction	3
	Current immigration framework	3
	Our inquiry	3
2	Scotland's immigration needs	4
	Demographic challenges	4
	Economic challenges	6
	The role of migration in meeting demographic and economic challenges	8
3	Lessons from the current immigration system for non-EU nationals	11
	UK's points based visa system	11
	Tier 2 visas	12
	Complexity of visa arrangements	12
	Visa cap and salary levels	13
	Shortage occupation lists	14
	Immigration skills charge	16
4	EU migration and the impact of Brexit	18
	Post-Brexit arrangements for EU citizens currently living in Scotland	18
	The future of freedom of movement	20
	General principles of a replacement system	20
	Seasonal agriculture workers scheme	24
5	International students	25
	Tier 4 visas	25
	Students and the net migration target	25
	Post-study work visas	26
6	Increasing Scottish influence on immigration policy	29
	Greater influence within the existing UK immigration system	29
	Shortage occupation list for Scotland and Scottish representation on MAC	29
	Joint Ministerial Committee on immigration	30
	Differentiation within the existing UK immigration system	30
	Regional visas	31
	Arguments for and against differentiation	32

Conclusions and recommendations	35
Formal minutes	39
Witnesses	40
Published written evidence	42
List of Reports from the Committee during the current Parliament	43

1 Introduction

1. Immigration was a significant theme in several of the inquiries conducted by our predecessor Committee, particularly its work into Post-study work schemes for Scotland¹ and the Demography of Scotland and the implications for devolution.² The UK’s decision to leave the EU, and the UK Government’s intention of ending freedom of movement has created uncertainty about future immigration arrangements; it is also an opportunity to review immigration policy to ensure it reflects the needs of all parts of the UK, including Scotland.

Current immigration framework

2. Immigration policy is reserved to the UK and decisions about the levels and composition of migration are managed by the Home Office. The UK Government’s current policy is to reduce net migration to the UK to the “tens of thousands”. The Government is supported by the Migration Advisory Committee—made up of a Chair and other independent economists—which is responsible for providing transparent, independent and evidence-based advice to the Government on migration issues including: the impacts of immigration, the limits on immigration under the current points based system, and skills shortages within occupations. The Scottish Government has no formal role in immigration policy but is responsible for some related policy areas, such as migrant integration.

3. As a member of the European Union and the European Single Market, all citizens of countries in the European Economic Area (EEA) currently have the right to move freely and work in the UK. The vast majority of other overseas citizens who wish to come to the UK to work, study, invest or train must apply for a visa under the UK Government’s points-based visa system.³

Our inquiry

4. We launched this inquiry to examine Scotland’s immigration needs and explore the extent to which they are met by the current immigration framework; to hear the views of businesses and other experts about how the system could be improved; and to explore options for meeting Scotland’s immigration needs post-Brexit. We started this work in October 2017, and have taken evidence from: academics, business representatives, EU citizens living in Scotland, the Chair of the Migration Advisory Committee and Ministers from the Scottish and UK Governments. We are grateful to everyone who contributed to this inquiry.

1 Scottish Affairs Committee, [Post-study work scheme](#), Fourth Report of the Session 2015–16, HC 593

2 Scottish Affairs Committee, [Demography of Scotland and the implications for devolution](#), Second Report of the Session 2016–7, HC 82

3 For some exemptions see https://www.visa-point.com/page/Travel_without_visa/

2 Scotland's immigration needs

5. During this inquiry we heard two main arguments about the importance of immigration to Scotland: that immigration was necessary to address the demographic challenges Scotland faces, and that immigration was needed to support the Scottish economy.

Demographic challenges

6. During our predecessor Committee's inquiry into the demography of Scotland, it heard that although Scotland now has a growing population, natural changes (changes from births and deaths) cannot sustain the future population which Scotland needs to achieve economic growth and to meet the needs of an ageing population. That Committee concluded that measures to encourage population growth, including continuing to encourage migration into Scotland, were necessary to ensure that Scotland's economy and society have a thriving future.

7. Scotland's current population, at 5,404,700, is the highest ever recorded and has increased by 5.3% over the last ten years, but there are concerns about whether future growth can be sustained. Dr Eve Hepburn told us that Scotland's projected population increase is one of the lowest in Europe, and is heavily dependent on migration.⁴ Similarly Chris Murray, IPPR Scotland, argued that population growth was the biggest demographic issue for Scotland, noting that its population was growing less quickly than the population of England.⁵ In the last year, Scotland's population growth was entirely due to net inward migration from the rest of the UK and from overseas,⁶ and all projected future population growth over the next 25 years is expected to be from migration.⁷

8. More than half of Scotland's population is concentrated in the central belt from Glasgow in the West through to Fife and Edinburgh in the East. Many more rural parts of Scotland—which have some of the lowest levels of population density in the EU—are experiencing population decline, with more than one third of local authority areas projected to have declining populations. Professor Kay told us that Scotland was “not an even playing field” and that some areas were potentially facing much more severe depopulation than others. She pointed out that some of these areas are home to industrial sectors which are particularly reliant on migrant workers, such as tourism, hospitality, agriculture and food processing.⁸

9. We heard that migrants, particularly those from the EU, made a critical contribution towards sustaining and repopulating rural Scotland. Although the numbers of migrants in rural Scottish communities are low compared to those for London and the South East, they can be a deciding factor in whether fragile communities thrive or fail. Highlands and Islands Enterprise stated that the estimated 13,000 EU citizens living in remote areas of Scotland make a valued contribution to community life, and their presence helps to

4 [Q3](#)

5 [Q325](#)

6 National Records of Scotland, [Mid-year Population Estimates Scotland, Mid-2016](#), April 2017

7 Scottish Government, [Scotland's population needs and migration policy: Discussion paper on evidence, policy and powers for the Scottish Parliament](#), para 52, February 2018

8 [Q7](#)

sustain the critical mass necessary for delivery of public services. The Highlands and Islands face challenges in filling education, health and social care posts, particularly in remote mainland and island locations because of the limited pool of local labour.⁹

10. Dr Alasdair Allan MSP, Minister for International Development and Europe, Scottish Government, stated:

Where Scotland has distinct needs is demographics and the role of migration in sustaining the working age population. All of Scotland's population growth over the next 25 years will come through migration. There will be more deaths than births each year. The pension age population in Scotland will grow by 25% by 2041 and the population of over-75s in Scotland will increase by 79%. The crucial point is that the working age population in Scotland is essentially flat, growing by only 1% in the principal projection. In variant population projections, which assume lower migration, Scotland's working age population actually falls. That is not true for the rest of the UK or the UK as a whole.¹⁰

He continued that the Scottish Government's view was that "Scotland's population needs are distinct and need a different approach to migration policy."¹¹

11. The Rt Hon David Mundell MP, Secretary of State for Scotland, agreed that Scotland faced challenges from depopulation and an ageing population, but noted that these were not unique to Scotland:

I think we have to deal with issues of an ageing population; I think we have to deal with issues of ensuring that we have seasonal workers in Scotland. But these issues affect other parts of the United Kingdom and therefore the solutions that can be found to those issues are best found on a United Kingdom-wide basis.¹²

12. Similarly, the Migration Advisory Committee's interim report on the role of EEA workers concluded that whilst Scotland faced challenges in maintaining future population growth, other parts of the UK had similar issues:

Scotland, with little or no contribution to population growth from natural change is particularly reliant on migration flows to avoid a return to a declining population. However, other regions and nations of the UK are not too dissimilar. Both the North East of England and Wales have, and are expected to continue to see relatively low levels of natural change and small positive or negative net flows to the rest of the UK. As such, they are also reliant on international migration. Furthermore, comparisons across regions miss the within-region differences, which are often larger than the differences between regions.¹³

9 Highlands and Islands Enterprise ([IAS0017](#))

10 [Q472](#)

11 [Q472](#)

12 [Q623](#)

13 Migration Advisory Committee, [EEA-workers in the UK labour market: Interim Update](#), para 2.38, March 2018

Economic challenges

13. All of our witnesses agreed that attracting and retaining migrant workers to Scotland is essential for Scotland's economic growth, with a wide range of business sectors and public services in Scotland relying on migrant workers to meet their skills needs. Dr Eve Hepburn told us that migrants had become an important part of the Scottish labour force, and that any future decreases in immigration to Scotland could create skills shortages and difficulties in recruitment to specific sectors.¹⁴ Chris Murray, IPPR, pointed out that because business sectors employing relatively high numbers of migrant workers, such as tourism and hospitality, represented a bigger proportion of the Scottish economy, changes to migration flows would have a greater impact on Scotland.¹⁵ Dr Greening, Migration Watch, pointed out that the Labour Force Survey indicated that only 10% of the Scottish workforce was non-UK born, compared to 17% of the UK workforce, and that this indicated that Scotland was therefore less dependent on migrant labour.¹⁶ That said, Dr Greening told us that Migration Watch did "believe in immigration as a dynamic part of an open economy and society".¹⁷

14. Migrants also play a critical role in supporting the delivery of public services in Scotland. Dr Macaskill, Chief Executive, Scottish Care told us that in care homes, about 68% of social care nurses came from the EEA.¹⁸ Shirley Rogers, Director of Health Workforce and Strategic Change, Scottish Government, told us about the challenges of recruiting and retaining Scotland's health workforce, and the need to continue welcoming workers from the EU, saying that:

400,000 people across Scotland, through the NHS, local government or [private care providers], work in health and social care. That is a fairly whopping proportion of the working population of Scotland. Broadly, 1.5 out of every 10 kids at school at the moment have to be interested in health and social care in order for us to be sustainable at current levels.¹⁹

15. We also heard from other sectors who were concerned about how they would meet their labour needs without access to migrant labour. Willie Macleod, Executive Director for Scotland at the British Hospitality Association said that across the whole of the UK the hospitality sector needed 62,000 new employees each year to fill vacancies and sustain anticipated growth in the sector, and that currently this demand was being met largely by EU migration.²⁰ The Food and Drink Federation Scotland told us that migration from the EU was fundamental for its industry and that around 30% of all labour in food and drink manufacturing alone was from the EU.²¹ NFUS pointed to the role of EU workers in a range of roles which form essential parts of the food supply chain, such as road haulage, abattoirs and egg packing.²² The Royal College of Veterinary Surgeons pointed out that 14% of the 2,252 vets working in Scotland are from the EU.²³ In the education sector, around 9% of students at Scottish universities are non-UK EU nationals and EU

14 Dr Eve Hepburn, [Options for Differentiating the UK's Immigration System](#), 2017

15 [Q337](#)

16 [Q337](#)

17 [Q328](#)

18 [Q150](#)

19 [Q156](#)

20 [Qq191-192](#)

21 [Q102](#)

22 NFU Scotland ([IAS0008](#))

23 British Veterinary Association ([IAS0016](#))

citizens make up around 17% of academic staff and 25% of research staff. The Scottish Government's response to the Migration Advisory Committee's call for evidence on the role of EEA workers in the UK labour market notes that, in 2016, there were about 209,000 EU citizens living in Scotland, representing around 3.9% of the total population.²⁴

16. Mike Park, Chief Executive Officer, Scottish White Fish Producers Association, told us that while the industry's long-term aspiration was for its fleets to be crewed entirely by a local workforce, this would take at least ten years to achieve, and that in the short to medium term it was likely to rely on non-UK workers from other fishing nations such as Sri Lanka, Indonesia and the Philippines to crew fishing vessels.²⁵ He also noted that the onshore processing sector currently relied on 70% EEA workers and were already finding it difficult to recruit staff to roles such as fish filleting.²⁶

17. In its migration discussion paper *Scotland's Population Needs and Migration Policy*, the Scottish Government presents economic modelling data which suggests that Scotland's future economy is reliant on continued inward migration. It states that if the UK Government were to meet its target to reduce net migration to the tens of thousands, real GDP would fall in Scotland by 9.3% compared to a fall in the rest of the UK of 7.6%.²⁷ Rachel Sunderland, Head of the Migration and Free Movement of People Unit, Scottish Government, told us that "in a scenario where net migration to the UK was reduced to the tens of thousands in line with the UK Government target, Scotland would lose over £10 billion per year in GDP by 2040."²⁸ The Home Affairs Select Committee, in its report *Immigration policy: basis for building consensus*, recommended that the Government should replace its net migration target with an evidence-based framework for different types of immigration that takes into account the UK's needs and its international obligations to accept people, arising from both trade and humanitarian agreements.²⁹

18. The Immigration Minister told us that the net migration target "set a clear direction of travel and has been included in successive manifestos and endorsed by the electorate." She continued:

I believe that the British people sent us a very clear message during the referendum in 2016 that they want the United Kingdom to have more control over immigration and our borders. I am very conscious that people who come here to work contribute a great deal to our country. They bring significant benefits. However, there is no consent from the British people for uncontrolled immigration.³⁰

24 Scottish Government, [The contribution of EEA citizens to Scotland: The Scottish Government's response to the Migration Advisory Committee call for evidence on the role of EEA workers in the UK labour market](#), Evidence Annex, November 2017

25 [Qq106-107](#)

26 [Q110](#)

27 Scottish Government, [Scotland Population Needs and Migration Policy](#), February 2018

28 [Q476](#)

29 Home Affairs Select Committee, [Immigration policy: basis for building consensus](#), *Second Report of the Session 2017-19, HC 500*

30 [Q640](#)

19. When asked how this target would be captured in the UK's post-Brexit immigration policy we did not get a direct response. Instead the Minister said that the UK had “the opportunity through the immigration rules [...] to redefine our immigration policy, but it is important that we do that from a position of strength, through evidence.” She continued that this was why the Government had commissioned the Migration Advisory Committee (MAC) to explore this issue and that she was “very conscious” that there would still be a need for people to come to the UK to work after Brexit, saying:

what I must reflect on is how we do that through the prism of no consent for uncontrolled immigration and a determination to continue in the direction of travel that we are currently on.³¹

More recently the UK Government has indicated that it may be willing to reconsider the net migration target with the Home Secretary, Sajid Javid, saying that he would “think more carefully” about the cap on the number of skilled workers given visas,³² and on 15 June the Home Office announced that foreign doctors and nurses will be excluded from the government's visa cap.³³

20. Migration to Scotland has helped to create a prosperous and diverse nation with a thriving economy and a tolerant, diverse society. We welcome the benefits that migrants have brought to Scotland, and acknowledge the importance of ensuring that future immigration policy enables Scotland to continue to attract people from overseas to work, raise their families and contribute to Scottish society.

21. Scotland faces a number of demographic challenges. The population of more than a third of Scotland's local authority areas is projected to decline, and future population growth in Scotland is expected to be entirely dependent on inward migration. Like the rest of the UK the population is ageing, and a declining proportion of the population is of working age. None of these challenges are unique to Scotland; however, these problems are especially pronounced in Scotland and must be accounted for in the debate about the future of migration.

22. Reducing migration will have a negative effect on population and economic growth in Scotland, with this in mind we recommend the UK Government reviews its target to reduce migration to the UK. It should also consider how Scotland can increase its share of migrants who come to the UK.

The role of migration in meeting demographic and economic challenges

23. Most witnesses agreed that migration was one of a number of policies which could be used to tackle demographic challenges and skills shortages. Chris Murray, IPPR Scotland, said that some countries with declining or ageing populations were still able to thrive economically and socially,³⁴ and explained that there were many levers that the Government had to use, including skills and investment as well as migration policy.³⁵ Similar points

31 Home Affairs Select Committee, Fifth Special Report, [Immigration policy: basis for building consensus: Government and Office for National Statistics Responses to the Committee's Second Report](#), HC961

32 BBC News, [Sajid Javid pledges “fresh look” at migration rules](#), 3 June 2018

33 UK Government, [Doctors and nurses to be taken out of Tier 2 visa cap](#), 15 June 2018

34 [Q325](#)

35 [Q351](#)

were made during our predecessor Committee's inquiry into the demography of Scotland. That Committee heard that policies such as investment in broadband infrastructure and in skills and education could help retain native population in rural areas and stimulate economic growth.³⁶

24. Madeleine Sumption, Director of the Migration Observatory, said that whilst migration could be part of a solution to demographic and economic challenges, it was also important to understand the causes of population decline, and not to assume that encouraging more migration would, in itself, be beneficial:

If one of the drivers of population decline is the fact the local economy is not creating jobs, trying to solve the problem by sending more migrants there might not work, because you may end up simply generating higher levels of unemployment and poor integration [...] Migration can be part of the solution, but you have to be careful about some of the potential negative impacts as well.³⁷

25. Professor Boswell, Professor of Politics, Edinburgh University, also argued that migration was not a panacea to an ageing population noting that “even sustaining or moderately increasing current levels of net migration could not counter-act population ageing”³⁸ and that other measures, such as raising retirement age or encouraging caregivers to return to work, would also be needed. Similarly, she explained that labour shortages could be addressed by investing in less labour-intensive types of production rather than seeking additional labour from abroad.³⁹

26. A number of these alternative policy levers are the responsibility of the Scottish Government, which also has responsibility for migrant integration policies in Scotland. Professor Boswell noted that an important strand of the Scottish Government's approach to migration had been to create a proper framework of migrant integration and retention policies.⁴⁰ COSLA agreed that migrant integration was essential for any successful immigration scheme and said that Scottish local authorities were already carrying out significant work to make their areas attractive places to live and work.⁴¹ Professor Kay agreed that the quality of local services, including education, health and housing, was important in terms of attracting and retaining migrants.⁴² The perception of how welcoming a country is to migrants can also have an impact on its success in attracting people to emigrate to that country, and we heard from members of the Fife Migrants Forum that their own perception of how welcoming the people of Scotland are had influenced their decision to move to Scotland.^{43 44}

36 Scottish Affairs Committee, [Demography of Scotland and the implications for devolution](#), Second Report of the Session 2016–7, HC 82

37 [Q323](#)

38 Boswell, C, Kyambi, S & Smellie, S 2017 '[Scottish Immigration Policy After Brexit: Evaluating Options for a Differentiated Approach](#)

39 [Q14](#)

40 [Q32](#)

41 COSLA ([IAS0007](#))

42 [Q31](#)

43 [Q387](#)

44 [Q393](#)

27. Rt Hon David Mundell MP, Secretary of State for Scotland said that Ministers recognised the great contribution which generations of migrants had made to the socio-economic wellbeing of Scotland. However, whilst Mr Mundell acknowledged that immigration would continue to make an important contribution to Scotland, he said it was not the only factor in maintaining a healthy, sustainable population and economy in Scotland.⁴⁵ He added that it was important to understand why people leave Scotland, and how to make Scotland as attractive as possible for people to want to live there.⁴⁶

28. Immigration is not the only solution to meeting Scotland’s demographic and economic challenges, and both the UK and the Scottish Governments have levers and powers which they can use to grow Scotland’s population and support its economy. However, migration policy is a key part of responding to these challenges, particularly given Scotland’s dependence on immigration for its future. In the following chapter we consider: what lessons can be learnt from the current immigration system, how this might inform the arrangement post-Brexit and the options for increasing Scotland’s voice in how the system operates.

45 [Q620](#)

46 [Q624](#)

3 Lessons from the current immigration system for non-EU nationals

29. Although there is currently a lack of clarity about post-Brexit immigration arrangements, which we consider in the next chapter, there are lessons to be learned from the operation of the current points-based immigration system. Over the course of our inquiry we heard from several business representatives and groups that had experience of recruiting high-skilled migrants from outside the EEA. The majority of this evidence related to Tier 2 visas for skilled workers.⁴⁷

30. In this Chapter we consider this evidence and recommend changes to the operation of the current points based system. We also hope the Government will consider these recommendations when it is designing the post-Brexit immigration regime.

UK's points based visa system

31. The UK's points based visa system was first introduced in 2008. Applicants must score sufficient points to qualify for a visa, and the minimum number of points required varies for each tier. For work visa applications, points are generally awarded according to the applicant's ability, experience and age. The five tiers are:

- Tier 1 is for 'high-value migrants' which includes entrepreneurs, investors, and those of 'exceptional talent';
- Tier 2 is for skilled workers with a job offer in the UK (and includes inter-company transfers) and skilled workers where there is a proven shortage in the UK;
- Tier 3 was designed for low-skilled workers filling specific temporary labour shortages, but has not been used;
- Tier 4 is for students aged over 16 who wish to study in the UK and have a place at a registered UK educational establishment;
- Tier 5 is for temporary workers, and has six sub-tiers including creative and sporting, charity, religious workers, and the youth mobility scheme.

32. In 2010, the UK Government first announced an objective to reduce net migration 'to the tens of thousands' throughout the UK. Since then, it has made a number of changes to the points-based visa system with the aim of reducing inward migration. These include changes to the qualifying criteria; the introduction of a cap on the annual number of visas which can be issued for skilled workers; and the introduction of a charge for employers recruiting skilled workers from overseas.

⁴⁷ Tier 4, student visas, are considered in more detail in chapter 5

33. The UK immigration system has been criticised for its complexity, cost to employers and frequent changes to the way it operates. The Institute for Government has described it as “a significant burden on business, requiring employers to grapple with 10,000 pages of guidance when applying to sponsor a non-EU national”,⁴⁸ while the Supreme Court has called UK immigration law as “an impenetrable jungle of intertwined statutory provisions and judicial decisions”.⁴⁹ The then Home Secretary, Amber Rudd MP, has told the Home Affairs Committee that simplifying the immigration system is a “personal mission” and that she has asked the Law Commission to review the rules with the aim of making the system more user-friendly.⁵⁰

Tier 2 visas

34. Tier 2 is for skilled workers and includes inter-company transfers. All employees sponsored under Tier 2 (General) must meet minimum skill level⁵¹ and salary requirements. From 6 April 2017, the minimum salary rate for Tier 2 ‘new entrants’ is £20,800, and for ‘experienced workers’ is £30,000. The job stated on a Tier 2 certificate of sponsorship must pay an ‘appropriate’ salary which usually means the greater of the relevant minimum (i.e. either £20,800 or £30,000) and the minimum rate for jobs falling within the relevant occupation code. Tier 2 workers who wish to leave their job and work for a new employer need to apply for a new Tier 2 visa. When applying for a visa under the points-based system, applicants are allocated a certain number of points based on having been assigned a certificate of sponsorship; earning the appropriate salary; English language skills; and ability to meet maintenance criteria.⁵² Most employers will also be required to carry out a resident labour market test, which involves placing at least two advertisements for the role to show that there are no suitable domestic candidates before being able to recruit a non-UK worker.

Complexity of visa arrangements

35. Although around 8.4% of the UK population lives in Scotland, as at December 2017, only around 3.8% of certificates of sponsorship for Tier 2 (General) were from Scotland.⁵³ Witnesses suggested that a key factor for the low proportion of Tier 2 visa issued in Scotland was the complexity of the system, especially for smaller businesses. The Law Society of Scotland told us that “Scottish businesses employing non-EEA nationals are often unhappy with the cost and complexity of the Tier 2 system” and has said that any reforms should be designed to ensure the system is simplified and accessible.⁵⁴ The Federation of Small Businesses told us that 95% of small employers had no experience of the UK’s points-based immigration system, and did not have the capacity or the expertise to do so.⁵⁵ CBI Scotland said that the existing non-EEA visa system was “a highly complex, time consuming and expensive process which many employers struggle to navigate”.⁵⁶

48 Institute for Government, [Implementing Brexit: Immigration](#), (accessed 4 July 2018)

49 Supreme Court, [Patel and others \(appellants\) v Secretary of State for the Home Department \[2013\] UKSC 72](#)

50 Home Affairs Committee, [Home Office delivery of Brexit: immigration](#). Third Report of Session 2017–19, HC 421 para 73

51 The required skill levels and occupation codes are published by Government at <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-j-codes-of-practice-for-skilled-work> (accessed 4 July 2018)

52 The maintenance criteria involves proving that the migrant and any dependent can be supported without recourse to public funds.

53 Scotland Office (IAS0024)

54 Law Society of Scotland (IAS0015)

55 Q68

56 CBI Scotland (IAS0020)

36. **The existing points-based UK immigration system for recruiting skilled workers from outside the EU is complicated and bureaucratic. The former Home Secretary herself has acknowledged the need to reform and simplify the system. The Tier 2 system is used proportionately less by businesses in Scotland than in England. The evidence we heard indicated that this is because of the complexity and expense for visa sponsors, especially for small businesses.**

Visa cap and salary levels

37. The Home Office has set a limit on the number of Tier 2 visas which can be granted each year. The annual quota is 20,700, which is allocated as 1,700 Tier 2 visas per month. If the monthly cap is reached, applications are scored and prioritised based on salary, qualification level and shortage occupation status. If an application is unsuccessful because the cap is reached in a particular month, the applicant can reapply in a subsequent month. In practice, once the cap is reached, the qualifying salary level is increased. Prior to the end of 2017 the cap had previously only been reached once, in 2015, but reports published in February 2018 indicated that it had recently been reached for the third successive month.⁵⁷ One explanation offered for this change is that fewer EU nationals have been applying for skilled jobs since the EU referendum.⁵⁸ The Scottish Government described the impact of reaching the cap on Scottish employers:

For much of 2017, applications were within the monthly caps. In December 2017, the cap was reached, resulting in the salary threshold for a certificate jumping from £20,800 to £55,000. This meant that, without warning, many Scottish employers were unable to recruit from overseas, despite otherwise complying with all the rules. For example, the starting salary for a teacher is £27,438 while the top of the main grade teaching scale is £36,480.⁵⁹

38. Madeleine Sumption described the Tier 2 prioritisation mechanism as “slightly odd”. She explained that:

Because there is a cap, when the applications come in they are prioritised and one of the most important factors is salary. For most types of jobs, in the January allocation, the salary limit went up from £30,000 to £50,000. That means there is a category of occupations earning between £30,000 to £50,000 that had been eligible for Tier 2 visas and suddenly are not.⁶⁰

39. Barry McCulloch, FSB Scotland, described the current situation as a “one-size-fits-all system where the salary and skill thresholds are set at a UK level, which does not necessarily work particularly well for Scotland.”⁶¹ One option proposed by the Scottish Council for Development and Industry is the introduction of minimum salary levels which are more appropriate to the Scottish, rather than the London, labour market.⁶² However, the MAC has repeatedly recommended that the UK should not operate different salary thresholds

57 Immigration Advice Service, [Tier 2 Visa Cap reached for third month in a row](#), February 2018

58 Lexvisa, [UK reaches Tier 2 Visa cap for skilled workers for third consecutive month](#) (accessed 4 July 2018)

59 Scottish Government, [Scotland’s population needs and migration policy: Discussion paper on evidence, policy and powers for the Scottish Parliament](#), page 34, February 2018

60 [Q356](#)

61 [Q87](#)

62 Scottish Parliament’s Culture, Tourism, Europe and External Relations Committee, [Written evidence from the SCDI](#)

for different regions and nations. Professor Madeleine Sumption, Migration Observatory, argued that as wages in Scotland were “relatively close to the UK average [...] Scotland would probably not be hugely affected by a change in the salary thresholds”⁶³

40. Since we concluded taking evidence for this inquiry, the Home Office announced that foreign doctors and nurses would be excluded from the government’s visa cap.⁶⁴ Whilst the detailed impact on Scotland is unknown, it is likely to reduce the number of times the monthly visa cap is hit and the minimum salary level increases. NHS Scotland will also directly benefit from the ability to recruit medical staff without the constraint of the caps. This will particularly help with the recruitment of those medical professionals where there is a specific shortage in Scotland, as reflected in the Scotland only Shortage Occupation list.^{65 66}

41. Measures introduced by the Government in order to meet its target to reduce net migration have added further complexity and cost into the immigration systems. The cap on the total number of Tier 2 visas issued each month is intended to help reduce net inward migration, but we heard evidence that in practice it prioritises those roles with the very highest salaries to the exclusion of other criteria—disadvantaging Scottish businesses in favour of those in London and the South East who offer the highest salaries. While we welcome the decision to remove doctors and nurses from the current cap the underlying issue of what happens when the cap is hit remains. We recommend that the Government review how the visa cap operates to ensure that it does not disproportionately benefit London and the South East at the expense of the rest of the UK—including Scotland.

Shortage occupation lists

42. Another feature of the Tier 2 visa system is the shortage occupation list. This list is compiled by the Migration Advisory Committee on the basis of skills needs submitted by businesses and criteria set by the Home Office. In order to qualify for the list, jobs must meet the required skill level for Tier 2; be experiencing a national shortage of labour; and a case must be made for filling these shortages using labour from outside the EEA. There are currently 34 job categories on the list.⁶⁷ For jobs on the list, employers don’t have to conduct the resident labour market test⁶⁸ and applications are given priority if the cap on the maximum number of Tier 2 visas is exceeded. The minimum salary thresholds and immigration skills charge still apply. The Migration Advisory Committee conducts periodic reviews of the shortage occupation list, when requested to do so by the Home Office.

63 [Q357](#)

64 UK Government, [Doctors and nurses to be taken out of Tier 2 visa cap](#), 15 June 2018

65 UK Government, [Scotland only Shortage Occupation List](#), Accessed 14 June 2018

66 We discuss the shortage occupation list for Scotland in more detail in the next section of this report

67 <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-k-shortage-occupation-list>

68 Which involves advertising the job in the UK twice to show there are no UK workers who can fill the role.

43. There is a separate specific shortage occupation list for Scotland, which enables the Migration Advisory Committee to recommend a different set of shortage occupations for Scotland. This includes all roles on the main UK-wide list, and two additional job categories on the Scotland list—medical practitioners and medical radiographers.⁶⁹ The Scotland Office offered this as evidence that “Scotland’s skills needs are largely aligned with the rest of the UK”.⁷⁰ Rt Hon Caroline Nokes MP, Minister for Immigration, told us that the Government’s view was that “by maintaining a separate shortage occupation list for Scotland, we do take into account the different circumstances”.⁷¹

44. However, witnesses told us that the Scotland shortage occupation list did not reflect all of the skills shortages in Scotland, and that attempts to add new roles to the list had been unsuccessful. COSLA told us that it had a long-standing history of responding to Migration Advisory Committee consultations but “have to date had little success in influencing the shortage occupation list for Scotland”.⁷² Professor Boswell has claimed that Migration Advisory Committee reports considering occupations for the shortage occupation list for Scotland “frequently discount evidence on shortages from Scottish employers and other representatives as insufficiently persuasive”. She states that this could indicate that “it is possible the lack of use of the shortage occupation list for Scotland may be due to an inability of Scotland’s relatively smaller economy to make full use of this facility rather than indicating a genuine lack of variance”.⁷³

45. Giving evidence to our predecessor Committee’s inquiry on the demography of Scotland the Scottish Government said that there had been “a great deal of disappointment” amongst Scottish business stakeholders, who have “put forward very good cases to the Migration Advisory Committee as to why more jobs should be on the shortage occupation list in Scotland and that there evidence has not been used to put those vacancies on.”⁷⁴

46. Professor Manning, Chair of the MAC, described to us the decision-making process used when reviewing shortage occupations, saying that there were three criteria: is the job skilled, is there a shortage and, is it sensible to solve that shortage by putting it on the shortage occupation list?⁷⁵ In the case of the teachers, where unsuccessful application had been made to get some teachings roles on the shortage occupation list for Scotland, Professor Manning said the decision to refuse the application was based on the fact that, as there had been fewer than ten visa sponsorship applications for teachers in the previous year from Scotland, not enough teachers were being recruited through the Tier 2 visa process to merit placing it on the shortage occupation list.⁷⁶

69 <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-k-shortage-occupation-list>

70 Scotland Office (IAS0004)

71 [Q636](#)

72 [Q452](#)

73 Boswell, C, Kyambi, S & Smellie, ‘[Scottish Immigration Policy After Brexit: Evaluating Options for a Differentiated Approach](#)’, 2017.

74 Oral evidence to Scottish Affairs Committee on Demography of Scotland and the Implications of Devolution, HC 82, Q299

75 [Q596](#)

76 [Q596](#)

47. The Immigration Minister told us that the existence of the shortage occupation list for Scotland indicated that the UK immigration system was able to take account of Scotland's needs. However, at present, there are few additional roles on the Scottish list and we heard that Scottish businesses and sectors struggled to get roles, where they are experiencing a shortage, on the list. There is also no process for groups which have made a submission to the Migration Advisory Committee to receive a formal response or explanation if their proposal is rejected. *We recommend that the Migration Advisory Committee review how the shortage occupation list is compiled, how the business and academic communities are engaged in this process, and how it communicates the outcome of its reviews, particularly to groups that have been unsuccessful in suggesting roles are included on the list. The Government should also empower the MAC to conduct regular reviews of the shortage occupation list for Scotland without requiring a specific commission from the UK Government.* We consider further how Scottish input into the work of the MAC can be improved in chapter 6.

Immigration skills charge

48. In April 2017, the Government introduced the immigration skills charge with the aim of cutting down on the number of businesses taking on migrant workers and incentivising businesses instead to train domestic workers to fill those jobs.⁷⁷ It is currently set at £1,000 per employee per year, with a reduced rate of £364 for small or charitable organisations. This charge applies whether or not a job is on the Shortage Occupation List. The Conservative Party's 2017 manifesto pledged to double the immigration skills charge by the end of the Parliament, and use the revenue to invest in higher level skills training for workers in the UK.⁷⁸

49. CBI Scotland told us that the charge was not meeting its intended objectives and that the revenue raised was "not used to address the skill shortages that increased the demand for overseas workers".⁷⁹ The Scottish Government has described the immigration skills charge as "an unhelpful burden on employers seeking access to skills and talent from across the world" and has called for it to be discontinued in Scotland.⁸⁰

50. Professor Manning told us that the Migration Advisory Committee had recommended the immigration skills charge to the Government as "a useful tool" and a good way of encouraging businesses to employ local residents without actually stopping them from employing migrants.⁸¹ However he said that "there is not much of an evidence base at the moment" as to whether it was successful in incentivising employers to train up the resident workforce.⁸² The Immigration Minister described the charge as:

an important part of our suite of policies to make sure that we have a vibrant UK labour market that, while facilitating the attraction of the brightest and the best to the UK, also very clearly reinforces the message that we want employers to look at home-grown talent first.⁸³

77 UK Government Press Release, [Government's new Immigration Skills Charge to incentivise training of British workers](#), March 2016

78 Conservative Party, [2017 Manifesto](#)

79 CBI Scotland ([IAS0020](#))

80 Scottish Government, [Scotland's population needs and migration policy: Discussion paper on evidence, policy and powers for the Scottish Parliament](#), para 60, February 2018 0

81 [Q592](#)

82 [Q594](#)

83 [Q667](#)

51. It is not clear whether the immigration skills charge is meeting its objective of supporting investment in improving the skills of the UK workforce or incentivising employers to try and fill vacancies with domestic workers. *We recommend that the Government commission the MAC to investigate whether the skills charge is an effective tool for encouraging investment in the domestic workforce before deciding whether to replicate the charge in the post-Brexit immigration system.*

52. Given that one of the main purposes of the immigration skills charge is to incentivise employers to recruit locally, it is perverse that the charge applies to jobs which are included on the shortage occupation list—where the Government has acknowledged there is a shortage of domestic workers to fill these roles. *We recommend that jobs which are on the shortage occupation list be exempt from the immigration skills charge.*

4 EU migration and the impact of Brexit

53. There is currently limited information available about the likely structure of the UK's immigration system after Brexit. The Home Office had originally indicated that it would publish an Immigration White Paper in the autumn of 2017, but this has been delayed and no revised date has been announced. The Home Office has said that this is because it wants to receive the report it has commissioned from the Migration Advisory Committee (MAC) before setting out proposals for the long term.⁸⁴ The Home Affairs Committee, in its report, "*Home Office delivery of Brexit: immigration*", said that it was "extremely regrettable" that the Government's immigration white paper had been delayed.⁸⁵

54. At the moment, EEA citizens are able to freely move to Scotland, and the rest of the UK for work, study and leisure. Recognising that ending freedom of movement was a major factor behind the referendum result, the UK Government intends to stop freedom of movement in its current form when it leaves the EU, and to introduce new arrangements for EEA citizens who wish to come to the UK. However, the Government has also been clear that businesses must be able to attract and employ the people they need, and has said that it is open to discussing with the EU how this will be facilitated post-Brexit.

Post-Brexit arrangements for EU citizens currently living in Scotland

55. The Government and the EU have drawn up arrangements to establish the rights after Brexit of EU citizens already living in the UK. The main points of the agreement are:

- People who, by 29 March 2019, have been continuously and lawfully living here for 5 years will be able to apply to stay indefinitely by getting 'settled status'.
- People who arrive by 29 March 2019, but won't have been living here lawfully for 5 years when we leave the EU, will be able to apply for leave to stay in the UK until they have reached the 5-year threshold, at which point they can apply to stay indefinitely by getting 'settled status'.⁸⁶

However, we heard from Fife Migrants Forum that EU citizens living in the UK still felt there was uncertainty about their future status and rights. For example, Margarita Permomaite, originally from Lithuania, told us that:

As far as I know, most EU citizens feel unsure of what to do. Friends told me that they don't feel welcome anymore in Scotland, because they are not sure about their future. They have their jobs here. They have their homes. Many of them have bought a home. Their children go to nurseries, to schools, and they cannot guarantee what is going to happen to them and their children, their families, their lives, to their jobs.⁸⁷

84 HC Deb, 5 February 2018, [col 1211](#) [Commons Chamber]

85 Home Affairs Select Committee, [Home Office delivery of Brexit: immigration](#), Third Report of the Session 2017–19, HC 421, para 7

86 UK Government, [Status of EU citizens in the UK: what you need to know](#) (accessed 4 July 2018)

87 [Q394](#)

56. Employers have also called for the Government to make a clearer commitment to EU citizens currently living in the UK. Universities Scotland has called for “urgent confirmation of the right of EU staff and their dependents who are in Scotland before Brexit to live and work in the UK and to access public services”.⁸⁸ CBI Scotland stated that “it is critical that EU citizens living in the UK are given certainty that their right to continue living and working in the UK will be protected, even in the event of ‘no deal’ on the rest of the withdrawal agreement.”⁸⁹

57. There were also concerns about the proposed system for registering EU citizens who are already in the UK. The FSB questioned “the feasibility of registering 3 million EU nationals in the stated time space and the impact that this will have on the employers with EU staff”.⁹⁰ The Committee on Exiting the EU has noted that “There is considerable scepticism that the Government’s online system for Settled Status and temporary status will be operational in time to start processing applications later this year”.⁹¹

58. The Immigration Minister told us that safeguarding the rights of EU citizens living in the UK was a priority for the Government, and that the agreement reached between the UK and EU “will provide them with certainty about their rights”.⁹² She said that the Government had embarked on a digital advertising campaign to inform citizens of their rights, with bespoke digital content people living in Scotland.⁹³ She added that the voluntary scheme which enables eligible EU citizens to apply for their permission to stay would go live in the autumn.⁹⁴

59. On 21 June the Government announced more detail about how EU migrants would be able to apply for settled status, and the information they would need to provide to support an application. The Government has said that it will be possible to apply online but that assistance would be provided to those who did not have access to computers, or who are unable to use them. It has also said that help with translation will be offered.⁹⁵

60. We heard from witnesses that uncertainty over the future rights and status of EU citizens was causing difficulties for both employers and employees. We welcome the progress made between the EU and the UK on EU citizens’ rights and emphasise the importance of agreement being secured on this issue in the final deal. We also welcome the assurances given by the Immigration Minister that the Government has now started a comprehensive communications campaign to provide greater clarity to EU citizens throughout the UK. We recommend that the UK Government work with the Scottish Government and all parts of Scottish society to reach all EU citizens currently residing in Scotland, and Scottish businesses employing EU workers to ensure they have all the information they need to successfully apply for settled status.

88 Universities Scotland, [Universities Scotland’s Brexit Priorities](#), 2017

89 CBI Scotland ([IAS0020](#))

90 [Q92](#)

91 Exiting the European Union Committee, [The progress of the UK’s negotiations on EU withdrawal: December 2017 to March 2018](#), Third Report of Session 2017–19, HC884

92 [Q620](#)

93 [Q643](#)

94 [Q644](#)

95 BBC News, [Brexit: Three ‘simple’ requirements for EU citizens to stay in UK](#), 21 June 2017

The future of freedom of movement

61. The UK Government has not yet announced its post-Brexit immigration policy, but it has said that it will end freedom of movement and that it has an overall objective to reduce net migration to “sustainable levels”.⁹⁶ It is therefore expected that future policy will be more restrictive than at present. The Immigration Minister told us that “The absolute imperative in the Immigration Bill is that it turns off free movement and we have to set that down in primary legislation”.⁹⁷ She also said that the Government’s future strategy would be based on evidence from the Migration Advisory Committee’s consultation on the role of EEA workers, including its interim report which was published in March, and its final report which is expected in September.⁹⁸

62. In contrast, the Scottish Government wishes to maintain freedom of movement for EU citizens, or for any new system to be as close as possible to present arrangements. It has stated that future migration is important for filling gaps in key sectors of the Scottish economy and that access to labour from the EU is a fundamental concern for many businesses in Scotland. The Scottish Government also wants any future system to provide a route for migrants to settle permanently in Scotland, and not just grant temporary rights to work.⁹⁹

63. When asked whether the Government was considering using Tier 3 as a future route for unskilled workers, the Immigration Minister implied that this option had not been ruled out, saying that “what I am very conscious of is that we have five tiers to our immigration system and one of those is currently dormant, but I certainly am not going to sit here and make up policy on the hoof”.¹⁰⁰

General principles of a replacement system

64. As part of our investigations, we asked businesses what they want from a new immigration system, and how this should enable them to meet labour demands in Scotland which are currently met by EU nationals under freedom of movement. We summarise the evidence we received below.

Ease of use

65. During the course of this inquiry we have consistently heard about the value of freedom of movement to Scottish businesses. Employers in Scotland have welcomed the access to EEA migrant workers which has come with membership of the EU. The lack of bureaucracy and costs associated with hiring workers from the EEA has meant that even small employers have been able to employ EEA workers. This has been particularly important for Scotland as around 99% of its businesses are SMEs, and the majority of these workers are performing roles for which it would be difficult or impossible for them to secure a Tier 2 visa under the current rules.

96 Reuters, [‘Sustainable migration’ target is challenging to meet, says UK minister](#), March 2018

97 [Q641](#)

98 [Q620](#)

99 Scottish Government, [Scotland’s population needs and migration policy; Discussion paper on evidence, policy and powers for the Scottish Parliament](#), 7 February 2018

100 [Q648](#)

66. Witnesses gave a clear message that any replacement system would need to be straightforward to operate and use. David Thompson, Food and Drink Federation Scotland, said that the aim should be for a low cost and low maintenance system.¹⁰¹ Willie Macleod, British Hospitality Association, called for “the most flexible, least bureaucratic, low-cost work permit system there can be”.¹⁰² Gareth Williams, Head of Policy, Scottish Council for Development and Industry said that businesses needed to be able to access skills in as frictionless a way as possible.¹⁰³

67. Witnesses suggested that a points-based system would be too complicated to meet the needs of all employers. The FSB expressed concerns about how small businesses would develop the capabilities to use a points-based system, saying that “significant Government intervention would be required, particularly on the HR side, to enable small businesses to function in that environment”.¹⁰⁴ Shirley Rogers, Scottish Care, said that the future process would have to be administratively as easy as possible in order to attract young people who might not necessarily have all of the certification required for a points-based system.¹⁰⁵

Skills

68. EU citizens living in Scotland currently work in a wide range of sectors and occupations. Many work in highly skilled roles, for example, witnesses pointed out that skilled roles filled by EU workers are critical for the oil and gas,¹⁰⁶ life sciences,¹⁰⁷ and higher education sectors.¹⁰⁸ However, the evidence we received from employers highlighted a particular concern about how they will recruit workers for roles which have to date been met through freedom of movement and do not meet Tier 2 criteria for skilled workers. In her report on post-Brexit immigration, Professor Boswell explained that:

The majority of EU citizens currently working in the UK are concentrated in relatively low-skilled occupations in sectors such as social care, hospitality and fruit picking. If migration from the EU becomes subject to immigration controls similar to those currently in place for third country nationals, this will create severe shortages, particularly in lower skilled or lower paid jobs in these sectors.¹⁰⁹

69. As we saw in Chapter 3 the current visa system largely relies on salary level as a proxy for skill. However, several employers explained that for many roles, whilst they do not meet the Tier 2 criteria for skill level, they nevertheless require particular levels of training, skills and expertise. CBI Scotland explained:

Under the current non-EEA route for skilled migration, the Tier 2 visa route, skilled is defined as holding a degree. Businesses in Scotland and across the

101 [Q124](#)

102 [Q194](#)

103 [Q90](#)

104 [Q82](#)

105 [Q170](#)

106 Oil and Gas UK, [Brexit and the UK oil and gas industry](#), May 2017

107 Med-Tech Innovation News, [Life Sciences Scotland voices concerns over Brexit](#), November 2017

108 Universities Scotland, [Universities Scotland's Brexit Priorities](#), 2017

109 Boswell, C, Kyambi, S & Smellie, ['Scottish Immigration Policy After Brexit: Evaluating Options for a Differentiated Approach'](#), 2017

UK are clear that this is an overly simplistic and unsatisfactory definition of skilled. Many roles require a large degree of relevant experience or a high level of technical training but would not meet the current definition of skilled. Furthermore, many of the biggest immediate skills pressures, including large goods vehicle drivers and technician roles in manufacturing, would not meet a graduate level skills test.

As well as requiring recognition of both technical skills and graduate skills, this assessment must also take into account experience. Any new migration system must be flexible enough to allow businesses to recruit experienced workers and not restrict the pool to those with formal qualifications only.¹¹⁰

70. Mike Park, Chief Executive Officer, Scottish White Fish Producers Association explained that there was a limited pool of people prepared to take on the tough working conditions of the Scottish fishing industry, and the sector therefore needed to recruit from outside the UK. Although it generally took years to acquire the necessary range of practical and computer navigational skills to operate a fishing vessel, this work did not meet the Tier 2 criteria for skilled work.¹¹¹ He added that the onshore part of the fishing sector was “70% dependent on an EEA workforce” and already had difficulty filling some roles such as fish filleting. He described existing immigration arrangements as “a bit of a bugger’s muddle”.¹¹² Jonnie Hall, NFUS made similar points about the range of skills required in agricultural work:

We continue to emphasise the point that it is not just about bodies on the ground who are basically there to provide a bit of brawn. To modern-day agriculture and food processing, it is a very technical and very skilled sector indeed. [...] Yes, there are different levels of skill need; nevertheless, we always talk about skilled and competent, we never talk about unskilled.¹¹³

71. Professor Manning agreed that there was uncertainty about future arrangements for lower skilled workers, who were currently ineligible for Tier 2 visas. He agreed that these jobs required a range of skills, but explained that the current rationale was to define skill level according to the number of years of training which would be required to train up a UK resident to fill a role. Jobs requiring eight or nine years training were more likely to be prioritised for migrant recruitment in the short term, but current policy was that those requiring a few months training might better be met by training up a UK worker.¹¹⁴

Timeliness

72. If the Government wishes to end freedom of movement as soon as the Brexit implementation period comes to an end, it will need to have new immigration arrangements in place by January 2021, which is less than three years away. The Institute for Government has pointed out that once a new system is agreed, the implementation timetable must allow businesses sufficient time to prepare, and that previous major changes for employers have been phased in over a number of years. It has said that exiting the EU does not necessarily mean that the Government has no choice but to change its immigration regime, and recommended that:

110 CBI Scotland ([IAS0020](#))

111 [Q112](#)

112 [Q110](#), [Q117](#)

113 [Q437](#)

114 [Q588](#)

In this context, and with a requirement to process EU nationals already resident in the UK, to retain some flexibility to support negotiations and to ensure the UK economy and businesses have access to critical labour, the UK Government should pursue a phased implementation for its future immigration regime.¹¹⁵

Meeting the needs of all sectors

73. Professor Boswell told us that one possible solution being considered by the Government was a sectoral approach, based on identifying particular occupational or sectoral shortages.¹¹⁶ The Institute for Government has said that whilst sectoral visas could support industries dependent on medium- and low-skilled workers from abroad, it would open up the Government to lobbying from industries and would require a centralised system in Whitehall for conducting analysis and planning which would require additional capacity and capability.¹¹⁷ Dr Allan, MSP, Minister for International Development and Europe, Scottish Government, told us that sectoral arrangements would not work for Scotland because so many sectors were affected, arrangements were likely to be complicated and inadequate, and would not solve Scotland's demographic problems.¹¹⁸ Professor Manning argued that one of the risks of having a sectoral approach was that it could give an artificial advantage to particular sectors, given that workers at lower skilled levels were much more fluid across jobs and sectors.¹¹⁹

74. Post-Brexit immigration policy for EU citizens will have a substantial impact on Scotland's businesses and public service delivery. A key benefit of the current freedom of movement is the lack of administrative and financial burdens for both employers and employees, which is in marked contrast to the current system for recruiting non-EU workers. The overwhelming message we received from employers was that if freedom of movement ends when the UK leaves the EU, employers will need another route for recruiting workers from outside the UK. Any post-Brexit system for recruiting non-UK workers must be straightforward enough to be used by small businesses. Given businesses' concerns about the complexity and cost of the current Tier 2 visa system, which we explored in the previous chapter, the existing points based UK immigration system would need substantial reform and simplification if it is to be able to provide a suitable basis for replacing freedom of movement.

75. It is essential that any future immigration system provides businesses with the ability to recruit workers who do not meet the existing Tier 2 skilled worker criteria. We heard from different business sectors about the range of skills, training, qualifications and expertise required in different roles and heard evidence about a number of urgent labour shortages in highly skilled roles in a range of occupations across Scotland, from agriculture and fisheries to the care sector. The Government must ensure that the future immigration system has a more sophisticated way to make judgements on migrant workers skills than the current system which focuses purely on salary level and whether the role requires a degree.

115 Institute for Government, [Implementing Brexit: Immigration](#), (accessed 4 July 2018)

116 [Q49](#)

117 Institute for Government, [Implementing Brexit: Immigration](#), (accessed 4 July 2018)

118 [Q495](#)

119 [Q587](#)

Seasonal agriculture workers scheme

76. The NFUS estimates that there are between 5,000 and 15,000 seasonal workers employed within Scottish agriculture at any one time, but during this inquiry we heard that the sector was already experiencing significant recruitment difficulties, with a declining number of EU nationals wanting to do this work.¹²⁰ Jonnie Hall, NFUS, told us that he had experience of farmers “who have very, very high-value crops in the field that have simply rotted over the winter because there has not been the labour to pick the vegetables”.¹²¹ It is particularly challenging for the agricultural sector to employ domestic labour, which is generally regarded as unattractive.

77. NFUS has called for a new seasonal agricultural workers scheme, covering non-EU as well as EU citizens, to be introduced as a matter of urgency,¹²² saying that “mechanisms to allow access to workers must be in place soon to ensure workers will be able to come to Scotland in spring 2019, with a trial scheme rolled out from 2018”.¹²³ The Government has previously operated seasonal immigration programmes for those employed in the agriculture and food production industries, but these were closed as it became clear that demand for workers could be met from the EU under freedom of movement.¹²⁴

78. Professor Manning, Chair of the MAC said that “at the moment, seasonal workers in Scotland but also elsewhere in the UK are a big issue.” He agreed that there were “very real problems” for farmers but said that these existed already, even though freedom of movement was still in operation.¹²⁵ Michael Gove MP, the Secretary of State for Agriculture Food and Rural Affairs has said the case for a Seasonal Agriculture Workers Scheme after Brexit is “compelling” as he accepted the farming sector will need “access to foreign workers” after Brexit.¹²⁶ The Immigration Minister said that the Government was “listening to the calls for a seasonal workers scheme very closely”,¹²⁷ but explained that:

There are a number of concerns. First, I think that it is important that any scheme be very tightly time-limited. I think it is important that we would need to find mechanisms so that people who came here to work in agriculture were restricted to working in agriculture.¹²⁸

79. There is evidence that access to the UK and EEA labour markets is already insufficient to meet the current demand for seasonal agriculture workers. We recommend that the Government introduce a new Seasonal Agricultural Workers Scheme at the earliest possible date. The UK Government must consult the Scottish agricultural sector on the design of this scheme to ensure that it meets its needs.

120 NFU Scotland ([IAS0008](#))

121 [Q429](#)

122 [Q420](#)

123 NFU Scotland ([IAS0008](#))

124 BBC news, [Seasonal agricultural migration scheme scrapped](#), 12 September 2013

125 [Qq581–586](#)

126 Financial Times, [Gove calls for post-Brexit seasonal workers scheme for farms](#), 20 February 2018

127 [Q650](#)

128 [Q653](#)

5 International students

Tier 4 visas

80. Scotland is home to around 50,000 international students,¹²⁹ with over 21% of students in Scotland being non-UK national in the academic year 2015/16.¹³⁰ At present, EU nationals can live and study in Scotland without a visa. Tier 4 visas are available to non-EU nationals aged 16 or over who have an offer of a place to study, at a certain level, from education providers with a Home Office licence to sponsor international students.¹³¹ Tier 4 visas generally expire four months after the end of a course, and international students must apply for another visa if they wish to stay in the UK after that time. International students moving from a Tier 4 student visa to a Tier 2 work visa are exempt from the resident labour market test and the Tier 2 cap and are not subject to an immigration skills charge.¹³² The Government has said that exempting international students from the charge was “a key protection to help retain the talented workers and students who are vital in helping the British economy grow”.¹³³

Students and the net migration target

81. Foreign student numbers are included in the figures which are used to monitor the UK Government’s target to reduce net migration. This means that if universities are successful in attracting more international students, as the Government wants them to be, its net migration target is less likely to be met without placing further restrictions on other forms of migration. The higher education sector argues that including international students within the target makes the UK look like a less welcoming country to prospective students than its competitors. Professor Nolan, Universities Scotland, pointed out that removing students from the target would send out a more positive message that the UK wished to welcome in talented people to help the economy.¹³⁴

82. The Home Affairs Select Committee has recommended that there should be no national target to restrict the numbers of students coming to the UK and that the Government should remove immediately student migration from the net migration target.¹³⁵ The Scottish Government has also recommended that student numbers are removed from the net migration target,¹³⁶ as have other parties in the Scottish Parliament.¹³⁷ Professor Manning told us that the Migration Advisory Committee was considering this question, but that in his view, removing student numbers would make little difference to migration figures because most students left the UK at the end of their studies.¹³⁸

129 Migration Advisory Committee, [International Students: A briefing note to accompany the call for evidence](#), para 3.1

130 Higher Education Statistics Authority, [Higher education student enrolments and qualifications obtained at higher education providers in the United Kingdom 2015/16](#), Table 1a

131 Home Office, [Tier 4 of the Points Based System – Policy Guidance](#), November 2015, paras 45–6

132 Home Office, [Tiers 2 and 5: guidance for sponsors](#), May 2017

133 UK Government Press Release, [Government’s new Immigration Skills Charge to incentivise training of British workers](#), March 2016

134 [Q236](#)

135 Home Affairs Select Committee, [Immigration policy: basis for building consensus](#), Second Report of the Session 2017–19, HC 500 para 70

136 Scottish Government, [Scotland’s population needs and migration policy: Discussion paper on evidence, policy and powers for the Scottish Parliament](#), para 68, February 2018

137 The Scotsman, [Davidson challenges PM on immigration target for UK](#), 9 August 2017

138 [Q608](#)

83. The Immigration Minister confirmed to us that “we want international students to come here, we welcome them. There is no cap on them”.¹³⁹ More recently the Home Secretary acknowledged that there was a “perception problem” with the decision to include students in net migration figures, suggesting that the Government may be reconsidering this issue.¹⁴⁰

84. The Higher Education sector is an important asset to the Scottish economy and encouraging international students to live and study in Scotland is an effective way of bringing new talent to the country. We do not believe it makes sense for the Government to include student numbers in the net migration target, whilst at the same time investing in ways of encouraging more students to come to the UK. Whilst we accept that the actual impact of student numbers on the target may well be minimal, we believe that the message given by current policy is confused and counter-productive. We recommend that student numbers are removed from the figures used to monitor the net migration target, and that the Government clarifies its message to welcome international students to the UK.

Post-study work visas

85. The UK used to have a Tier 1 (Post-Study Work) visa, which replaced a similar Fresh Talent: Working in Scotland visa, that allowed international students to remain in the UK to work after their studies for up to two years. This route was closed to new applicants on 5 April 2012, and there have been calls both in Scotland and across the UK for its reintroduction ever since.¹⁴¹ Professor Boswell told us that the Fresh Talent scheme had been very popular with the higher education sector and with employers and that when it was in operation between 2005 and 2008 it accounted for a boost of around 3,000 students into the Scottish higher education system.¹⁴² The Scottish Government’s Post-Study Work Working Group, with representation for all the political parties represented in the Scottish Parliament, found broad support for reintroducing a post study work scheme in Scotland across a range of business, education and student organisations.¹⁴³

86. Our predecessor Committee’s Report on Post-study work schemes noted that the closure of the Tier 1 (Post-Study Work) visa in 2012 had resulted in the number of non-EU international students moving to work visas after their studies falling by over 80%, far beyond what the Government had predicted, and concluded that the lack of a scheme placed Scottish education institutions at a “competitive disadvantage compared to countries outside of the UK with more generous post-study work offers” when it came to attracting international students.¹⁴⁴ It also noted that retaining non-EU international graduates to work in Scotland was an important element of Scotland’s response to its demographic challenges and skills needs.¹⁴⁵

139 [Q670](#)

140 BBC News, [Sajid Javid pledges “fresh look” at migration rules](#), 3 June 2018

141 [Scotland’s colleges back return of post study work visa](#), Scottish Government, 25 June 2015, [Post Study Work Working Group: Report to Scottish Ministers](#), Scottish Government, March 2015, [UK post study work opportunities for international students](#), All-Party Parliamentary Group on Migration, February 2015

142 [Q12](#)

143 Scottish Government, [Post Study Work Steering Group Report of Final Recommendations](#), March 2016

144 Scottish Affairs Committee, [Post study work schemes](#), Fourth Report of the Session 2015–16, Para 37

145 Scottish Affairs Committee, [Post study work schemes](#), Fourth Report of the Session 2015–16

87. In its Report on Demography of Scotland and the implications for devolution, the previous Committee noted its disappointment with the UK Government's response to its recommendation for the UK Government to work with the Scottish Government to bring forward proposals for an improved post-study work scheme that could better meet Scotland's needs. Throughout that inquiry, witnesses criticised current arrangements for employing international students after their studies, and reiterated the call for a more effective scheme.¹⁴⁶ That Report recommended that UK Government enter into discussions with the Scottish Government to explore introducing formal post-study work schemes for international higher education students graduating from Scottish further and higher education institutions. The Government subsequently rejected this recommendation, saying that the UK already had an excellent post-study work offer.¹⁴⁷

88. In July 2016, the Home Office launched a Tier 4 visa pilot for one-year Masters degree students studying at the universities of Oxford, Cambridge, Bath and Imperial College London. The pilot visa allowed participants to stay on for six months after the end of the course and to submit fewer evidential documents with their visa application.¹⁴⁸ In December 2017 the UK Government announced that the Tier 4 pilot would be extended to a further 23 HEIs, including the University of Edinburgh and University of Glasgow.¹⁴⁹ Professor Nolan, Universities Scotland, welcomed the extension of the pilot to two Scottish universities, but pointed out that the Government pilot only applied to Masters students. She said that she was in favour of post-study work visas and that she would like to see a scheme which included anyone on a Tier 4 visa who had stayed in the UK and was complying with regulations.¹⁵⁰

89. Professor Boswell pointed out that post-study work visas had been one way in which Scotland's particular needs could be catered for within the existing UK immigration system.¹⁵¹ She judged that post-study work schemes scored well in terms of political viability, as temporary programmes for graduates were likely to be less controversial, and the scheme would in effect revive the Fresh Talent scheme which received widespread support in Scotland.¹⁵²

90. Professor Manning said that the Migration Advisory Committee would be considering an appropriate post-study work regime in its September report on international students, and that it was important first to understand what problems were associated with the old scheme. For example, with previous schemes, although the students themselves were high skilled, there were indications that in some cases the jobs they were employed in were not—under the previous post-study work visa, there was no requirement for graduates to take up employment of a particular skill level. This contrasted with the Tier 2 system, where visas were only issued for high skilled roles.¹⁵³ The Immigration Minister made a similar point, saying that:

146 Scottish Affairs Committee, [Demography of Scotland and the implications for devolution](#), Second Report of the Session 2016–7, HC 82

147 Scottish Affairs Committee, [Demography of Scotland and the implications for devolution](#), Second Report of the Session 2016–7, HC 82

148 Home Office, [Tier 4 of the Points Based System – Policy Guidance](#), Annex 6: Tier 4 Pilot, June 2016

149 UK Visas and Immigration, [Twenty three universities join student visa pilot](#), 18 December 2017

150 [Q256](#)

151 [Q41](#)

152 Boswell, C, Kyambi, S & Smellie, 'Scottish Immigration Policy After Brexit: Evaluating Options for a Differentiated Approach', 2017

153 [Q610](#)

What I am really keen to ensure is that graduates move into graduate-level jobs. I do not want to open up any route whatsoever that would enable graduates to move into low-paid jobs that might otherwise be taken up by British people who perhaps do not have that level of qualification.¹⁵⁴

91. **We agree with the Government that immigration policy should encourage talented and highly qualified people to seek work in the UK, and we believe that post-study work visa schemes are an effective way of doing so. We welcome the Government's Tier 4 visa pilot to enable one-year Masters degree students to stay on for six months after the end of their course and are pleased that this has finally been extended to two Scottish universities. *We recommend that the UK Government closely monitors the pilot with a view to its extension.***

92. **We call on the UK Government to work with the Scottish Government to explore the possibility of introducing a broader post study work scheme for international higher education students graduating from Scottish further and higher education institutions. *In the absence of a UK wide scheme, we recommend that the Government ask the Migration Advisory Committee to include an assessment of Scotland-specific post-study work visa schemes in its forthcoming report on international students.***

6 Increasing Scottish influence on immigration policy

93. In this Chapter, we consider options for increasing Scotland’s influence on migration policy. Whilst immigration policy is a reserved matter, we have heard throughout our inquiry that there are several ways in which immigration policy, and the way it is formulated, could better reflect Scotland’s interests. Both Scottish and UK Government Ministers expressed a desire to find mechanisms which would give Scotland more influence within the UK system, rather than developing a separate Scottish immigration system. Dr Allan said that the Scottish Government’s position was that it “would like to see these things fixed at the UK level”.¹⁵⁵ David Mundell agreed that there was a need to deal with issues such as depopulation, an ageing population and a shortage of seasonal workers, but said that these issues also affected other parts of the UK and “therefore the solutions that can be found to those issues are best found on a United Kingdom-wide basis”.¹⁵⁶

Greater influence within the existing UK immigration system

94. The Scottish Government has expressed its support for some of the options presented in Dr Eve Hepburn’s report for the Scottish Parliament’s Culture, Tourism, Europe and External Relations Committee on options for differentiating the UK’s immigration system, following the UK’s exit from the EU.¹⁵⁷ In terms of changes which would increase Scotland’s influence within UK-policy making, Dr Hepburn suggested revising and expanding the shortage occupation list for Scotland in consultation with Scottish industry stakeholders, to take account of Scotland’s skills shortages; Scottish representation on the Migration Advisory Committee, either through a representative on the Committee or by creating a sub-committee representing the UK’s nations and regions; and establishing a JMC sub-committee on immigration.

Shortage occupation list for Scotland and Scottish representation on MAC

95. The Scottish Government pointed out that currently it has no formal role in determining which occupations are on the shortage occupation list for Scotland and that Scottish Ministers cannot commission the MAC to consider changes to the list. Instead the Scottish Government contributes to calls for evidence in the same way as any other stakeholder. It supports the proposal in Dr Hepburn’s report that the UK Government should give it a formal role in commissioning and determining what occupations are in shortage in Scotland, but has also expressed reservations about whether the shortage occupation list is a helpful measure in the longer term.¹⁵⁸ Dr Allan told us that:

We feel that Scottish Ministers could not unreasonably have some role in the say on what the Scottish shortage occupation list is. At the moment, we can be consulted in the same way as a trade union or a business interest can be consulted, but Scotland is a bit more than that and we feel that we should have more of a role.¹⁵⁹

155 [Q479](#)

156 [Q623](#)

157 Dr Eve Hepburn, [Options for Differentiating the UK’s Immigration System](#), 2017

158 Dr Eve Hepburn, [Options for Differentiating the UK’s Immigration System](#), 2017, para 72

159 [Q511](#)

96. When asked whether Scottish Ministers should have a formal input to the Migration Advisory Committee and the process of determining the Scottish list, Professor Manning said that he would view that as a political issue on which he could not express a view. From an operational perspective, he said “it could conceivably work”, but that it would be important to have some sort of overarching structure so that the labour market in Scotland did not end up very different from the rest of the UK. He added that “it is not something that I think is completely impossible, but neither is it something that I think sounds like a great idea”.¹⁶⁰ The Minister for Immigration said that decisions on the shortage occupation list were made by the expert economists on the Migration Advisory Committee and not by Ministers.¹⁶¹ She added that whilst there was a Home Office official on the Committee, it would not be appropriate to have a Scottish Government official because immigration was a reserved matter.¹⁶²

Joint Ministerial Committee on immigration

97. The Institute for Government report on Devolution after Brexit highlighted the importance of strong and effective mechanisms for inter-governmental working between the UK Government and the devolved administrations, saying that “Brexit will require the UK and the devolved nations to co-operate actively in a way that has not always been necessary within the EU structures” and that “The four nations should seize this chance to strengthen their relationship”.¹⁶³ David Mundell told us that whilst he wanted the UK and Scottish Governments to work well together, “we need to continue to evolve the mechanisms that allow us to do that most effectively”.¹⁶⁴ He added that he was not “signing up to a Joint Ministerial Committee on Immigration” because that was too narrow a discussion, and said that there were “a number of existing arrangements that could be enhanced” such as the joint group in relation to the economy.¹⁶⁵

98. The UK and Scottish Governments both recognise the importance of reflecting Scottish interests in immigration policy, but it appears that current mechanisms do not adequately enable this to happen. We recommend that the UK Government reviews how the Scotland specific shortage occupation list is agreed, including considering having a Scottish representative involved in the decision-making process. We also recommend that the UK Government reviews how it engages with the devolved administrations on areas of policy—such as immigration—which are reserved but of clear importance to the devolved administrations.

Differentiation within the existing UK immigration system

99. Professor Boswell told us that there was a range of relatively minor adjustments which could be made within the existing Tier 2 system to cater for Scotland’s needs. She pointed to the Fresh Talent scheme and the shortage occupation list for Scotland as precedents for this sort of differentiation, and said that other possible adjustments could include a differentiated salary or skills threshold for Tier 2 immigration and an improved

160 [Qq601–602](#)

161 [Q663](#)

162 [Q665](#)

163 Institute for Government, [Devolution after Brexit](#), (accessed 4 July 2018)

164 [Q677](#)

165 [Q679](#)

methodology for identifying the occupations on the shortage occupation list for Scotland.¹⁶⁶ In her research report, she outlined the main features of how an employer-led scheme might operate with differentiated criteria for Scotland:

Employers with sponsor status may recruit foreign nationals to fill vacancies where a number of conditions are met, including specified salary and skills thresholds and a resident labour market test. A differentiated scheme could build on the current Tier 2 scheme, but Scottish employers would be subject to a lower skills threshold/salary than other parts of the UK, and certain elements of the labour market test could be waived. It would involve setting a quota for Scotland, agreed with the Home Office and following consultation with key stakeholders, and the MAC (or a ‘MAC Scotland’).¹⁶⁷

100. The Welsh Government has also proposed an approach of allocating a quota of Tier 2 visas to specific nations. It has called for longer term reforms to UK immigration policy so that it recognises the distinct needs of Wales and other nations and regions within the UK, which cannot be met through “the blunt and resource-intensive UK-wide approach currently in place”. It seeks a differentiated approach, where the Welsh Government would have a stronger role in determining how future migration to Wales would be managed. It suggests that one way of ensuring a future system better met the needs of Wales would be to allocate a specific number of Tier 2 visas to Wales, which could then be managed to respond to labour and skills shortages within the Welsh economy.¹⁶⁸

Regional visas

101. One option presented in the Scottish Government’s migration discussion paper is a proposal that the Scottish Government, working in partnership with the UK Government and its agencies, would have the powers to issue regional, ‘Scotland-only’ visas. These regional visas would be in addition to, not instead of, the existing UK-wide visas, and the intention would be that they target Scotland’s specific needs. Scotland would not be included in the net migration target; it would not be allocated a quota under the UK system, or a cap on the number of regional visas it could issue; and Scottish Ministers would control policy to enable migrants to bring their family members to live with them in Scotland. The Scottish Government acknowledges concerns that “the rest of the UK might expect [Scotland-only visa] migrants to stay in Scotland” and says that:

... a central feature of Scottish migration policy would be to restrict migrants to living in Scotland as a condition of entry for the duration of the time they are under immigration control. How a residence restriction is defined and enforced would need to be agreed with the UK Government, but there are existing frameworks (for example, the arrangements that govern eligibility for higher education support) that could prove instructive and demonstrate the feasibility of such an approach.¹⁶⁹

166 [Q21 Q51](#)

167 Boswell, C, Kyambi, S & Smellie, ‘[Scottish Immigration Policy After Brexit: Evaluating Options for a Differentiated Approach](#)’, 2017

168 Welsh Government, [Brexit and Fair Movement of People](#), September 2017

169 Scottish Government, [Scotland’s populations needs and migration policy: discussion paper](#), para 99

Arguments for and against differentiation

102. The evidence we heard from academics was that differentiated immigration systems had been successfully implemented in other countries, and that there was no practical reason why they could not be implemented in the UK. Dr Hepburn told us that the UK was currently “one of the few multi-level states in the world that does not take regional and sub-state interests and needs into account”,¹⁷⁰ and that sub-state visa sponsorship schemes had been implemented in Canada and Australia.¹⁷¹

103. In its analysis of the arguments for and against some form of regionalisation, the Migration Observatory concluded that such systems were feasible and noted that “the argument that they would be unenforceable is not well founded”.¹⁷² Chris Murray, IPPR, said that, given the changes being planned for the immigration system “it seems to be sensible to try to address the concerns of those communities and the concerns of other parts of the country that may be facing skills gaps, and population decline” and that “it is possible to allow for small amounts of variation on a regional basis that could take us in that direction”.¹⁷³

104. In its interim report on the integration of immigrants, the APPG on Social Integration called on the government to seriously consider offering a degree of control over immigration policy powers to the constituent nations and regions of the UK so as to boost levels of integration.¹⁷⁴ It noted that the UK’s points-based immigration system was “generally unresponsive to demographic, economic, and cultural differences between our constituent nations and regions” and recommended that the Government appoint an independent commission to explore how a regionally-led immigration system might work. In particular, it suggested that consideration be given to the introduction of region specific visas, and for the quotas for these visas to be agreed by devolved administrations, city regions, and other democratic forums. The City of London has also proposed the introduction of a regional visa scheme as a post-Brexit solution to labour shortages. Its report, ‘Regional Visas—A unique immigration solution?’ looked at how a flexible regional visa system could help businesses address their local skills shortages and potentially better integrate migrants into the community.¹⁷⁵

105. The IPPR’s discussion paper on the UK’s future immigration strategy set out six guiding principles for a new system, one of which was that future immigration strategy should actively address geographical imbalances in the economy. It suggested that geographical flexibility could allow the immigration system to better reflect local and regional economic and demographic needs, rather than central targets. It concluded that a sub-state policy would present a new set of logistical challenges for the Home Office, but that these challenges were surmountable and a system with geographical flexibility could

170 [Q49](#)

171 Dr Eve Hepburn, [Options for Differentiating the UK’s Immigration System](#), 2017

172 Migration Observatory, [Location, Location, Location: Should Differed Parts of the UK have Different Immigration Policies](#), October 2017,

173 [Q370](#)

174 All Party Parliamentary Group on Social Integration, [Interim Report into Integration of Immigrants](#), January 2017

175 <https://www.pwc.co.uk/who-we-are/regional-sites/london/insights/city-of-london-proposes-post-brexit-regional-visa-system.html>

be both administratively manageable and enforceable.¹⁷⁶ While discussing this Report during his appearance before the Committee, Chris Murray of the IPPR said:

I definitely think it would be very hard not to have quite strong and strict levels of cohesion across the UK. The question is whether it needs to be completely rigid or whether there is scope for some variation in specific sectors. The proposals that we made would only be for skilled labour migration or post-study work, for example. If you wanted wholesale changes, that would create difficulties if there was strong divergence.¹⁷⁷

106. Witnesses agreed that whilst differentiation was feasible, there were other factors to consider. Madeleine Sumption explained that it was “fundamentally a political decision that involved weighing up pros and cons”. Factors such as the economic costs of a more complex system would have to be considered against increased local accountability and control over migration.¹⁷⁸ Indications are that public opinion does not support a regional approach to immigration. A recent survey by NatCen found that 63% of people polled in Scotland would like Scotland to keep the same rules on immigration as the rest of the UK.¹⁷⁹ Madeleine Sumption pointed out that there was also evidence that the vast majority of employers, including in Scotland, did not favour regional variation, primarily because of the compliance costs and the burden on employers of “keeping track of where people are, making sure they are complying and then being visited or audited”.¹⁸⁰

107. Business representatives expressed their concerns about Scotland taking a different approach to immigration from the rest of the UK. FSB Scotland said that small businesses did not have the capabilities to process right to work checks and that “significant Government intervention would be required, particularly on the HR side, to enable small businesses to function in that environment”.¹⁸¹ Willie Macleod, Executive Director for Scotland, British Hospitality Association, said that the possible restriction on the flexibility of movement of people would be a problem for cross-border industries which needed to move people around the UK.¹⁸² CBI Scotland told us that “businesses would be best served by a single, UK-wide immigration system, provided it is flexible enough to meet Scotland’s needs” and that “many firms in Scotland who hire overseas workers have concerns that separate immigration rules and procedures would create additional burdens and make Scotland a less attractive place to do business”.¹⁸³

108. David Mundell told us that he was not convinced that the benefits of having a regional immigration system would outweigh the dis-benefits,¹⁸⁴ saying that:

I remain to be convinced that there is a rationale for the additional bureaucracy that would be created by having a regional immigration system that is separate to Scotland or Wales.¹⁸⁵

176 IPPR, [An immigration strategy for the UK: Six proposals to manage migration for economic success](#), December 2017

177 [Q366](#)

178 [Q379](#)

179 The Times, [Scots reject the SNP call for immigration powers](#), 10 January 2018

180 [Q368](#)

181 [Q83](#)

182 [Q202](#)

183 CBI Scotland ([IAS0020](#))

184 [Q684](#)

185 [Q624](#)

109. **Greater differentiation within the UK system might provide a way to better match immigration policy with local needs. During our inquiry we heard evidence on sub-national schemes. More work is needed to determine the advantages and disadvantages of greater differentiation within the UK. *We recommend that the Government commission a review of all options for increased regional differentiation, particularly for Scotland, in the UK immigration system which sets out the impacts this would have on businesses, local employment and communities.***

Conclusions and recommendations

Scotland's immigration needs

1. Migration to Scotland has helped to create a prosperous and diverse nation with a thriving economy and a tolerant, diverse society. We welcome the benefits that migrants have brought to Scotland, and acknowledge the importance of ensuring that future immigration policy enables Scotland to continue to attract people from overseas to work, raise their families and contribute to Scottish society. (Paragraph 20)
2. Scotland faces a number of demographic challenges. The population of more than a third of Scotland's local authority areas is projected to decline, and future population growth in Scotland is expected to be entirely dependent on inward migration. Like the rest of the UK the population is ageing, and a declining proportion of the population is of working age. None of these challenges are unique to Scotland; however, these problems are especially pronounced in Scotland and must be accounted for in the debate about the future of migration. (Paragraph 21)
3. *Reducing migration will have a negative effect on population and economic growth in Scotland, with this in mind we recommend the UK Government reviews its target to reduce migration to the UK. It should also consider how Scotland can increase its share of migrants who come to the UK.* (Paragraph 22)
4. Immigration is not the only solution to meeting Scotland's demographic and economic challenges, and both the UK and the Scottish Governments have levers and powers which they can use to grow Scotland's population and support its economy. However, migration policy is a key part of responding to these challenges, particularly given Scotland's dependence on immigration for its future. (Paragraph 28)

Lessons from the current immigration system for non-EU nationals

5. The existing points-based UK immigration system for recruiting skilled workers from outside the EU is complicated and bureaucratic. The former Home Secretary herself has acknowledged the need to reform and simplify the system. The Tier 2 system is used proportionately less by businesses in Scotland than in England. The evidence we heard indicated that this is because of the complexity and expense for visa sponsors, especially for small businesses. (Paragraph 36)
6. Measures introduced by the Government in order to meet its target to reduce net migration have added further complexity and cost into the immigration systems. The cap on the total number of Tier 2 visas issued each month is intended to help reduce net inward migration, but we heard evidence that in practice it prioritises those roles with the very highest salaries to the exclusion of other criteria—disadvantaging Scottish businesses in favour of those in London and the South East who offer the highest salaries. While we welcome the decision to remove doctors and nurses from the current cap the underlying issue of what happens when the cap is hit remains.

We recommend that the Government review how the visa cap operates to ensure that it does not disproportionately benefit London and the South East at the expense of the rest of the UK—including Scotland. (Paragraph 41)

7. The Immigration Minister told us that the existence of the shortage occupation list for Scotland indicated that the UK immigration system was able to take account of Scotland's needs. However, at present, there are few additional roles on the Scottish list and we heard that Scottish businesses and sectors struggled to get roles, where they are experiencing a shortage, on the list. There is also no process for groups which have made a submission to the Migration Advisory Committee to receive a formal response or explanation if their proposal is rejected. *We recommend that the Migration Advisory Committee review how the shortage occupation list is compiled, how the business and academic communities are engaged in this process, and how it communicates the outcome of its reviews, particularly to groups that have been unsuccessful in suggesting roles are included on the list. The Government should also empower the MAC to conduct regular reviews of the shortage occupation list for Scotland without requiring a specific commission from the UK Government. (Paragraph 47)*
8. It is not clear whether the immigration skills charge is meeting its objective of supporting investment in improving the skills of the UK workforce or incentivising employers to try and fill vacancies with domestic workers. *We recommend that the Government commission the MAC to investigate whether the skills charge is an effective tool for encouraging investment in the domestic workforce before deciding whether to replicate the charge in the post-Brexit immigration system. (Paragraph 51)*
9. Given that one of the main purposes of the immigration skills charge is to incentivise employers to recruit locally, it is perverse that the charge applies to jobs which are included on the shortage occupation list—where the Government has acknowledged there is a shortage of domestic workers to fill these roles. *We recommend that jobs which are on the shortage occupation list be exempt from the immigration skills charge. (Paragraph 52)*

EU migration and the impact of Brexit

10. We heard from witnesses that uncertainty over the future rights and status of EU citizens was causing difficulties for both employers and employees. We welcome the progress made between the EU and the UK on EU citizens' rights and emphasise the importance of agreement being secured on this issue in the final deal. We also welcome the assurances given by the Immigration Minister that the Government has now started a comprehensive communications campaign to provide greater clarity to EU citizens throughout the UK. *We recommend that the UK Government work with the Scottish Government and all parts of Scottish society to reach all EU citizens currently residing in Scotland, and Scottish businesses employing EU workers to ensure they have all the information they need to successfully apply for settled status. (Paragraph 60)*

11. Post-Brexit immigration policy for EU citizens will have a substantial impact on Scotland's businesses and public service delivery. A key benefit of the current freedom of movement is the lack of administrative and financial burdens for both employers and employees, which is in marked contrast to the current system for recruiting non-EU workers. The overwhelming message we received from employers was that if freedom of movement ends when the UK leaves the EU, employers will need another route for recruiting workers from outside the UK. Any post-Brexit system for recruiting non-UK workers must be straightforward enough to be used by small businesses. Given businesses' concerns about the complexity and cost of the current Tier 2 visa system, which we explored in the previous chapter, the existing points based UK immigration system would need substantial reform and simplification if it is to be able to provide a suitable basis for replacing freedom of movement. (Paragraph 74)
12. It is essential that any future immigration system provides businesses with the ability to recruit workers who do not meet the existing Tier 2 skilled worker criteria. We heard from different business sectors about the range of skills, training, qualifications and expertise required in different roles and heard evidence about a number of urgent labour shortages in highly skilled roles in a range of occupations across Scotland, from agriculture and fisheries to the care sector. The Government must ensure that the future immigration system has a more sophisticated way to make judgements on migrant workers skills than the current system which focuses purely on salary level and whether the role requires a degree. (Paragraph 75)
13. There is evidence that access to the UK and EEA labour markets is already insufficient to meet the current demand for seasonal agriculture workers. *We recommend that the Government introduce a new Seasonal Agricultural Workers Scheme at the earliest possible date. The UK Government must consult the Scottish agricultural sector on the design of this scheme to ensure that it meets its needs.* (Paragraph 79)

International students

14. The Higher Education sector is an important asset to the Scottish economy and encouraging international students to live and study in Scotland is an effective way of bringing new talent to the country. We do not believe it makes sense for the Government to include student numbers in the net migration target, whilst at the same time investing in ways of encouraging more students to come to the UK. Whilst we accept that the actual impact of student numbers on the target may well be minimal, we believe that the message given by current policy is confused and counter-productive. *We recommend that student numbers are removed from the figures used to monitor the net migration target, and that the Government clarifies its message to welcome international students to the UK.* (Paragraph 84)
15. We agree with the Government that immigration policy should encourage talented and highly qualified people to seek work in the UK, and we believe that post-study work visa schemes are an effective way of doing so. We welcome the Government's Tier 4 visa pilot to enable one-year Masters degree students to stay on for six months

after the end of their course and are pleased that this has finally been extended to two Scottish universities. *We recommend that the UK Government closely monitors the pilot with a view to its extension.* (Paragraph 91)

16. We call on the UK Government to work with the Scottish Government to explore the possibility of introducing a broader post study work scheme for international higher education students graduating from Scottish further and higher education institutions. *In the absence of a UK wide scheme, we recommend that the Government ask the Migration Advisory Committee to include an assessment of Scotland-specific post-study work visa schemes in its forthcoming report on international students.* (Paragraph 92)

Increasing Scottish influence on immigration policy

17. The UK and Scottish Governments both recognise the importance of reflecting Scottish interests in immigration policy, but it appears that current mechanisms do not adequately enable this to happen. *We recommend that the UK Government reviews how the Scotland specific shortage occupation list is agreed, including considering having a Scottish representative involved in the decision-making process. We also recommend that the UK Government reviews how it engages with the devolved administrations on areas of policy—such as immigration—which are reserved but of clear importance to the devolved administrations.* (Paragraph 98)
18. Greater differentiation within the UK system might provide a way to better match immigration policy with local needs. During our inquiry we heard evidence on sub-national schemes. More work is needed to determine the advantages and disadvantages of greater differentiation within the UK. *We recommend that the Government commission a review of all options for increased regional differentiation, particularly for Scotland, in the UK immigration system which sets out the impacts this would have on businesses, local employment and communities.* (Paragraph 109)

Formal minutes

Wednesday 4 July 2018

Members present:

Pete Wishart, in the Chair

Deidre Brock	John Lamont
David Duguid	Paul Masterton
Hugh Gaffney	Tommy Sheppard
Christine Jardine	Ross Thomson
Ged Killen	

Draft Report (*Immigration and Scotland*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 109 read and agreed to.

Resolved, That the Report be the Fourth 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 (Standing Order No. 134)

[Adjourned till Tuesday 10 July at 11:45am.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 14 November 2018

Dr Eve Hepburn, Director, PolicyScribe; **Professor Christina Boswell**, Professor of Politics, University of Edinburgh, and Fellow, Royal Society of Edinburgh; and **Professor Rebecca Kay**, Professor of Russian Gender Studies, University of Glasgow

[Q1–66](#)

Monday 27 November 2017

Barry McCulloch, Senior Policy Adviser, Federation of Small Businesses Scotland, and **Gareth Williams**, Head of Policy, Scottish Council for Development and Industry

[Q67–100](#)

Monday 18 December 2017

Mike Park, Chief Executive Officer, Scottish White Fish Producers Association, and **David Thomson**, Chief Executive Officer, Food and Drink Federation Scotland

[Q101–145](#)

Shirley Rogers, Director of Health Workforce and Strategic Change, Scottish Government and **Dr Donald Macaskill**, Chief Executive, Scottish Care

[Q146–179](#)

Willie Macleod, Executive Director for Scotland, British Hospitality Association, and **Marc Crothall**, Chief Executive, Scottish Tourism Alliance

[Q180–209](#)

Tuesday 16 January 2018

Professor Andrea Nolan, Convener, Universities Scotland and Principal, Edinburgh Napier University, **Andrew Witty**, Director of Sector Policy, Colleges Scotland, and **Annette Bruton**, Principal, Edinburgh College

[Q210–262](#)

Alix Thom, Workforce Engagement and Skills Manager, **Scott Johnstone**, Chief Executive Officer, Scottish Life Sciences Association, and **Kirsty Ramsay**, HR Director (UK and Ireland), IQVIA

[Q263–323](#)

Tuesday 30 January 2018

Madeleine Sumption, Director, Migration Observatory, **Dr Benedict Greening**, Senior Researcher, Migration Watch, and **Chris Murray**, Research Fellow, IPPR Scotland

[Q322–383](#)

Tuesday 20 February 2018

Maciej Dokurno, Fife Migrants Forum, **Margarita Permomaite**, Fife Migrants Forum, and **Saphia Clough**, Fife Migrants Forum [Q384–411](#)

Jonnie Hall, Director of Policy and Member Services, National Farmers Union, Scotland [Q412–445](#)

Lorraine Cook, Policy Manager, Migration, Population and Diversity Team, Convention of Scottish Local Authorities, and **Carroll Buxton**, Regional Development Director, Highlands and Islands Enterprise [Q446–471](#)

Tuesday 13 March 2018

Dr Alasdair Allan MSP, Minister for International Development and Europe, Scottish Government; **Rachel Sunderland**, Head of the Migration and Free Movement of People Unit, Scottish Government; **Craig Thomson**, Migration Strategy Team Leader, Scottish Government [Q472–553](#)

Tuesday 20 March 2018

Professor Alan Manning, Chair, Migration Advisory Committee [Q554–619](#)

Tuesday 27 March 2018

Rt Hon David Mundell MP, Secretary of State for Scotland; and **Rt Hon Caroline Nokes MP**, Minister for Immigration [Q620–702](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

IAS numbers are generated by the evidence processing system and so may not be complete.

- 1 British Hospitality Association ([IAS0011](#))
- 2 British Veterinary Association ([IAS0016](#))
- 3 CBI Scotland ([IAS0020](#))
- 4 COSLA ([IAS0007](#))
- 5 Colleges Scotland ([IAS0005](#))
- 6 Colleges Scotland ([IAS0019](#))
- 7 FSB ([IAS0006](#))
- 8 Grant, Mr Peter ([IAS0001](#))
- 9 Highlands and Islands Enterprise ([IAS0017](#))
- 10 Law Society of Scotland ([IAS0015](#))
- 11 Migration Watch UK ([IAS0002](#))
- 12 NFU Scotland ([IAS0008](#))
- 13 The Prince's Trust Scotland ([IAS0023](#))
- 14 Scotland Office ([IAS0004](#))
- 15 Scotland Office ([IAS0024](#))
- 16 Scottish Care ([IAS0009](#))
- 17 Scottish Fishermen's Federation ([IAS0022](#))
- 18 The Scottish Government ([IAS0013](#))
- 19 Scottish Social Services Council ([IAS0010](#))
- 20 Scottish Tourism Alliance ([IAS0012](#))
- 21 Skills Development Scotland ([IAS0014](#))
- 22 UNISON Scotland ([IAS0003](#))
- 23 Universities Scotland ([IAS0018](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	European Union (Withdrawal) Bill: Implications for devolution	HC 375
Second Report	The future of working practices in Scotland	HC 449 (HC 1067)
Third Report	Royal Bank of Scotland branch closures	HC 682
First Special Report	Jobcentre Plus closures in Scotland: Government Response to the Committee's Third Report of Session 2016–17	HC 432
Second Special Report	The future of working practices in Scotland: Government Response to the Committee's Second Report	HC 1067