



Scottish Affairs Committee

Oral evidence: [Post-Study Work Schemes](#), HC 593

Wednesday 9 December 2015

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Members present: Pete Wishart (Chair); Kirsty Blackman; Mr Christopher Chope; Mr Jim Cunningham; Margaret Ferrier; Chris Law; Maggie Throup

Examination of Witnesses

Witnesses: **Professor Robert Wright**, Professor of Economics, Strathclyde University, **Stuart McWilliams**, Deputy Convener, Immigration and Asylum Law Sub-Committee, Law Society of Scotland, and **Jamie Kerr**, Convenor, Scottish Regional Working Group, Immigration Law Practitioners' Association, gave evidence.

Q100 Chair: Welcome to the Scottish Affairs Committee and our inquiry into post-study work schemes, and hello down there. As you can see, this is about the largest Committee room we have in the House of Commons, but it was all that was available to us today, so we can just about make you out down there. I hope you can hear us all right from here. Are you hearing everything fine and okay? Yes. We will try to speak up as much as possible to help you out, but thank you ever so much for coming to the Scottish Affairs Committee inquiry today and helping us out with our report. Just for the record—I am going to go from left to right, from my side—tell me who you are and who you represent, and if you have any initial short statement that you want to make, please feel free to do so, starting with you, Jamie.

Jamie Kerr: I am Jamie Kerr. I am a partner at Thorntons Solicitors. I am also the Convenor of the Immigration Law Practitioners' Association's Scottish regional working group—quite a mouthful. I specialise solely in immigration law. I have been working in the field for close to 10 years now.

Stuart McWilliams: I am Stuart McWilliams. I am another immigration specialist and I am with Morton Fraser. I am here as the Deputy Convener of—another long title—the immigration and asylum law sub-committee of the Law Society of Scotland.

Professor Wright: My name is Robert Wright. I am Professor of Economics at the University of Strathclyde in Glasgow. I am originally from Canada. I have been here in Scotland since 1991. My main research interest is in the relationship between demography and economics, so the costs of the ageing population, costs and benefits of immigration

and so on, and I have served as the president of two international organisations that have been interested in these issues.

Q101 Chair: Thank you ever so much. We set up this inquiry a few weeks ago. We had a session in Aberdeen where we spoke to academic colleagues, the trade unions and some business interests. What we have found thus far—and practically all the evidence is suggesting this—is that there does seem to be a big desire and a big requirement for some form of post-study work scheme in Scotland. In our first report of the session, which was the work of the Committee, this was a theme that came across quite loudly in the evidence. That is why this Committee is looking at this as an inquiry, and we are hoping to make a report with recommendations. First of all, going round the table, there has been strong cross-party and cross-sector support for a post-study work scheme for international students; what are your particular views on this, and do you think this would be something that would be useful for our higher education sector and our economy? We will start with you, Mr Kerr.

Jamie Kerr: I think it would be very useful. I have had interaction with the work that the Scottish Government have been doing through a number of forums, and I think you are right to say that there is cross-party support. There is support from employers and business, from higher education, from the trade unions and cross-party support. My only criticism, if I had one, of the work that has been done already would be that I think it has focused too much on the higher education sector. I would like to see more of a focus on business and skills. On one view, there is a perception that the post-study work is simply something for universities to sell additional places with. That is important in itself, but what we have not seen, and what I would hope to see moving forward, is more of a link to see the post-study work option being a real bridge on to something else, where we will reap the economic benefits of it.

Q102 Chair: That is fine. There will be a look at the conversation about Tier 2, work and some of the concerns raised with us by business and the few take-ups we have had in Tier 2, so thanks for that. Mr McWilliams?

Stuart McWilliams: Very similar to Jamie—I have been a supporter of it. You actually struggle at the moment to find somebody who is not in support of it, although I think the witness appearing after us later today might not be. I do a lot of work with SMEs, particularly in the technology sector, and it is something that they are crying out for. They find Tier 2 is very difficult for them and it does not suit their needs, at least at the outset of an employment. What they look for is to be able to hire graduates. Scottish universities are attracting a high calibre of students from across the world at the moment. They are turning out excellent graduates, and there seems to be a fatal flaw in our thinking if we cannot keep them here and benefit from their training.

Professor Wright: That does not answer the question of why we should have this programme, but let's think about a couple of facts. If you look at the higher education sector in Scotland, it is extremely important to the Scottish economy. In scale terms, it is much more important in Scotland than it is in England, so it is central to our future economic growth. However, one thing we forget is that there is heavy competition on the internet internationally for international students. This not only comes from the traditional English-speaking countries, or English-speaking dominated countries, like Australia, Canada and the United States; it is now coming from other countries where English is not the native language. This has always been the case in Sweden, where post-graduate

education was taught in English, but now it also happens in France, Italy and Germany, so the competition is ratcheting up.

The thing is with the Scottish higher education set-up, at universities where there are no tuition fees for Scottish-domiciled students, you can see there is a hole in the funding, so the international students are more important than in the rest of the UK, because they receive income from tuition fees. Anything we can do to increase the competitiveness of the higher education sector in the universities in Scotland should be done. We are doing the opposite because our major competitors have some sort of scheme, like the one we are discussing today, and students tell us that this is an option that they like to see. Just because it is there, does not mean they are going to use it, but it is one of the factors that enters into the decision-making of where to end up studying for those people who have chosen to study in an English-speaking environment in a foreign country. If you do not have that, you are disadvantaging that sector and, if it continues like this, I can see that the Scottish higher education sector will get much smaller and, therefore, it will have a negative knock-on effect on the Scottish economy. We have to be as competitive as we can. We cannot set policies and put policies in place that reduce our international competitiveness if we want to have a higher education sector that is at the forefront of Scottish economic growth.

Q103 Chair: Thank you for that. An issue and a theme that has been developed by higher education colleagues is about the competitive nature of international students and attracting the best and most talented. This is maybe more for Professor Wright. When you looked at the international examples—and obviously you had a look—are there any that you have identified as a sort of gold standard that we should aspire to? What are other countries doing that we, with a points-based system and being a devolved country within a larger union, can do specifically in order to attract international students?

Professor Wright: I think that is a two-part question. I come from Canada but I do think the Canadian system is the best in terms of this. Basically what happens is they look at students who want to study in Canada. They are going to study somewhere else, so it is not like we are stealing good students away from poor countries in the third world. They welcome these students and they compete for them. Once they arrive they are allowed to stay and work for a given period of time afterwards. It varies province by province, but the whole idea is that this is very attractive to these students. Think about it: who is paying for their education? It is not the Canadian taxpayer who is paying for their education. The money is coming from somewhere else. It is like the investment to skill up an individual to a high level is being made by somebody else. They are not going to return to that country, or that is their desire, and this is the type of person who is a big benefit to a society because you did not have to pay the costs of their education to begin with.

That might sound selfish but if you keep in the back of your mind that they are going to do this anyway, why do we want to put ourselves out of the competition? That is what we are doing because this is an important feature of the higher education experience, gaining experience after graduation. It may not necessarily just be working in the job—for example, with economics, working in a consulting firm. You may be interested in improving your language skills, understanding the culture of the society a bit more because you want to trade with them in the future, whatever. So we should not fixate on the fact of what these students do after they graduate—that is their business—but we should allow them the opportunity.

The difficulty we have here—the second part of your question—of course, is this problem with a rather bizarre situation that international students are counted as immigrants. Government policy is to reduce net immigration through reduced immigration, so reducing the number of foreign students reduces immigration, which reduces net migration, which is something that is seen as good. With that policy in place at a national level—we have no control over immigration at all in Scotland—we have to knuckle under and follow this policy. I do not see why this has to be the case, because a system of visas could be created that allows an international student to stay and work in Scotland, but they have to live in Scotland and they have to work in Scotland. That is the deal. This happens throughout the provinces in Canada. A deal is a deal, and if you don't live up to the deal, then there are problems, just like if we rob a bank there is a problem, because you are going to get prosecuted if you are caught.

Again, I do not think it is a matter of technology. It is a matter of political will; the Scottish Government have to work in conjunction with the UK Government to design a system that benefits both; Scotland benefits and the UK benefits. It is not difficult to do, but the political dialogue is just not there to do it at the moment. We could have this type of programme specifically in Scotland. They can do whatever they like in Wales, England and Northern Ireland, and it does not have to be the same as it is now.

Q104 Chair: Of course, in the UK we did have a sub-national scheme, Fresh Talent, which operated quite effectively for a number of years. I don't know if Mr Kerr or Mr McWilliams have any view about any of the schemes that they have observed internationally. Do you have any views about the success of Fresh Talent, and whether that gave us a little bit of competitive advantage over the rest of the United Kingdom, and perhaps internationally? Do you have anything to say about that?

Jamie Kerr: I think without a doubt Fresh Talent did give us a competitive advantage. There is absolutely no doubt about it. On one view, the Fresh Talent scheme was so successful that it was rolled out UK-wide in the format of the Tier 1 post-study work visa, and with the scrapping of the post-study work visa internationally what I found, from speaking to clients and delegations from abroad—from China, India, the Middle East—is that it has created a perception that the UK and Scotland are closed for their students. That is why we see the students going elsewhere; it is very clear. We spoke to a delegation of Chinese judges from a rural province. They were speaking to some of the corporate lawyers in the office and the question that they asked when we spoke to them briefly about immigration was: is it true you don't want our students anymore? So the message is out there. Whether intended or otherwise, that is the perception. That is clearly damaging.

Stuart McWilliams: I would agree with that as well. Fresh Talent was a massive success for Scotland. It gave the universities a real selling point. Now when I am assisting clients who are looking to apply for student visas, one of the earliest questions they have is, "What can I do afterwards because I have heard it is really difficult?" You end up having to give them advice on all these other options and they say, "I could go to Canada, for example, and I can stay automatically and I can study there. Why would I come to the UK?" Fresh Talent was a massive success there.

Q105 Kirsty Blackman: Professor Wright has already kind of answered this question, but for the other two: when the last Scottish Affairs Committee looked at the issue of student immigration, the Home Office Minister told us that it is impossible to have separate rules for

Scotland in the immigration sphere because there isn't a border. Is he right? If he is not right, how could this be implemented? How could it work? Do you have any views on that?

Jamie Kerr: I think Fresh Talent shows that you can have regionalised policy, for want of a better phrase. Fresh Talent allowed people to stay and work in Scotland and did not apply in the rest of the UK, and it worked relatively well. There were challenges with the Fresh Talent scheme that someone will no doubt ask about as the session goes on, but overall it worked. Looking at the way the system works at the moment, we could very easily, in my view, design a scheme within our current points-based system around the rules that we have with, on one view, very little hassle on the part of the Home Office, if the political will were there. The Scottish Government, in everything they have been saying and doing, appear to be very keen to implement a system. I read the transcript of the evidence session you had with the Scottish Minister. He appeared to be very keen to do it, so if the will is there on the other side, then there is absolutely no doubt whatsoever that, within the existing system, you could design a scheme that works for Scotland.

Stuart McWilliams: I would agree with that as well. The concern would obviously be somebody getting a visa in Scotland then moving to England. Well, you endorse their visa to say, "Only valid for work in Scotland". Every employer has to carry out a check when somebody starts work to check they have the right to work, so it would come up then. As of February next year, landlords are going to have to carry out a check to make sure someone has the right to rent. If somebody wants to move from Scotland to England they are going to have to do that, and they won't be able to find somewhere to live. There is a framework there that could be used to regionalise, and I think it would be something that would work quite well.

Professor Wright: Again, you just have to look at the experience of other countries. Both Australia and Canada have these regionalised policies. They are called provincial nominee programmes. If you agree to live and work and stay in this country, it makes it easier for you to immigrate, so there are lessons to be learned from immigration that we can apply to the student issue as well. What is the success of this policy? It is not necessarily that success is only in take-up rates. The success is: how does that factor into the decision of students to come to study in Scotland? We asked students this, of course, when the policy was in place that I helped design—the Fresh Talent initiative—and they said it was one of the factors that led to them coming to Scotland. It wasn't the most important factor. The most important factor always is English-speaking universities of high international stature, of which we have many in Scotland. That is the main consideration, and if you let that slip, that is where the big cost will come, and I think that is what is happening.

Some people will say, "The policy wasn't very successful because the take-up rate wasn't that high". Well, what is high, what is low? The thing to remember about that is it is only a feature; it is only a part of the information that is relevant. The other thing that Canada particularly and Australia think about is that if someone comes to your country and you educate them up to a high international standard, then these are the type of people you hope would be queuing up at the top of your immigration list. They also make it easier and attractive for people who have been educated in Canada and Australia to immigrate through the immigration system. As I understand the current situation here, once you graduate you have three months to leave, which again makes these universities less competitive, particularly in Scotland where, if you believe the demographic population projections, the labour force is going to shrink in the coming decades and, with an ageing population, where are the workers going to come from to pay for this if they are not being born?

I think it is a mistake to call international students immigrants. They are like tourists in a way. They come here with money that they spend on accommodation and food. Tourists go to the Tower of London. International students study at the University of Edinburgh. They are buying different services, but the bottom line, at the end of the day, is that the vast majority of them go home, and they are here and it is a big economic benefit to Scotland, as well as the individual institutions that you have been talking to. They see a value added of having an international distribution of students. I can't see the negative in much of this, even though, basically, we have shut the door to all these possibilities.

Q106 Chair: Do you not appreciate that this particular Government have an election pledge to secure immigration to tens of thousands? There is concern about use of services and so on—all the things that we hear as traditional themes from Government when this is put to them. Don't they have a point, in that they were elected on the basis of getting immigration down, and if they want to include students in the immigration figures, surely that is up to them in trying to achieve this objective?

Professor Wright: That is right, but they also say they want to put in policies that make the United Kingdom, and all the regions in the countries in the United Kingdom, very competitive, and this is not leading to a competitive higher education sector. It is something that is removing the competitiveness. When they think of it in those terms, it is quite easy to say what the policy should be. Basically, foreign students should not be included in the immigration statistics, just as tourists are not, because they are not immigrating here. They are coming here to buy services, and most of them return. Part of that service might be to allow them to work for one or two years after they graduate, and to pay taxes, so it is a package. University education is not, and it is showing up in their leaving. It is a package of characteristics. For example, now universities have invested heavily in accommodation and facilities because they need to compete, as other countries have very good facilities. We had to bring up the standards of the facilities in Scotland and the UK, and they are doing this. The days are gone when people just said, "Okay, the UK has great English-speaking universities, as does Scotland. I want to come and study here, and then I am going to go home". It is just not this millennium.

Q107 Chair: One of the responses the Government have given us to a series of parliamentary questions we have asked over the years is about these universities just being used as bogus institutions to allow people access to the United Kingdom. Again, do they not have some sort of point about Tier 1 being abused by people who were coming in and using the student route to secure cheap employment in the UK?

Jamie Kerr: I personally do not think this would be a challenge moving forward for the Government, because what the Government have done is a lot of work within that sector in terms of Tier 4 licensing. The universities and the colleges are very tightly regulated—more so than anyone else, more so than employers. On one view, the UK Government have done such a good job in tightening up and tackling what they see as abuse in the university and college sector that the only people graduating, who would be moving into some form of post-study work visa, would be bona fide students coming out of appropriate institutions. Any form of bogus institution would not be able to produce international students, simply because they either would not be able to obtain the relevant Tier 4 licence they need or, if they had obtained it, the Home Office would very quickly and very efficiently take it away from them if they were not following very stringent procedures. So, moving forward, I don't think that would be a challenge.

Stuart McWilliams: I would agree with that. Just to highlight this, one of the main concerns about post-study work was people who graduated and then stayed in low-paid, what would be termed unskilled, jobs. The immigration law has moved on since then. Back then, somebody who did that and was still earning enough through three or four of those jobs could still get on to the Tier 1 general route and eventually apply to remain in the UK permanently. That Tier 1 general route is closed now, so if we had a new scheme, there would be no incentive to do that. You would have to still look to get a graduate-level job to move on to Tier 2.

Q108 Mr Jim Cunningham: We have heard from a range of witnesses that the current rates for international students to move to work visas, and particularly the Tier 2 visa, are not suitable for retaining skilled graduate international students. Would you agree with that and why?

Jamie Kerr: Yes. That is a very good point and I think that is the question that should be at the heart of any discussion on post-study work. On one view, it is all very well having a scheme that allows graduates to stay for two years, but the question is: where are they going to? I am very firmly of the view that any new post-study work scheme ought to be a bridge towards somewhere, more than likely Tier 2, in a way that the old post-study work scheme—the old Fresh Talent scheme—was a bridge on to the Tier 1 general visa. The Tier 2 system is under review at the moment. The Migration Advisory Committee is probably due to publish its findings relatively soon, and we will probably have a new system by, I guess, April 2016.

On one view, Scotland gets a very raw deal from the current Tier 2 system for a number of reasons, and many of them are already touched upon in the report on post-study work that the APPG on migration did. That is borne out if you look at the statistics on how many licences there are in Scotland. I think that report—a relatively recent report from the start of this year—said that something like 2% of the UK's Tier 2 sponsor licences are located in Scotland and Northern Ireland. It groups Scotland and Northern Ireland together as a region, so 2% in Scotland. We could argue that the Home Office might say, "Well, some licences are held centrally in head office, which may be in London, and that would boost the Scottish numbers". The other challenge that Scotland is going to see on Tier 2 is the potential for the salaries being increased. The Migration Advisory Committee was consulting on that, and there seems to be a general feeling that salaries will rise—the minimum salary threshold for Tier 2 sponsorship. That is going to create additional hurdles for businesses.

The final challenge with the Tier 2 scheme is simply that it is very complex to deal with. I deal with it day in and day out, and I still find it complex, and you can miss something if you are looking through hundreds of pages of policy guidance. If I as an immigration expert find the system difficult after dealing with it since it has been introduced, then you can understand how small and medium-sized businesses feel. Given that something like 99% of Scotland's businesses are apparently SMEs, then you can see how the system is not, on one view, suited to the needs of Scottish business.

Q109 Mr Jim Cunningham: Do you have any other experiences of these barriers to the international students that you could relate as a lawyer?

Jamie Kerr: As a lawyer, yes. Once the students are here, they have the Tier 4 barriers. The key barrier is where they go to when they finish their degree. It tends to be that they have three months to find an employer or move on to another type of visa. In reality, there are only two other types of visas that they would in general move on to. One would be maybe a partnership visa, if they have a long-term partner, or potentially they are moving on to an entrepreneur visa. For that you need £200,000 of your own money, or sometimes a lower amount of £50,000 of Government money, and that is very hard for people to find. So, other than Tier 2, graduates are limited. On the employer side we do see—employers don't try to hide it—that they find the system so difficult that they are put off from recruiting international graduates simply because the system is too hard. The key challenge that the graduates find is that employers simply are not willing to recruit them, and that is not just small business. That is very large businesses as well, known businesses; we see emails day in, day out, saying, "Sorry, we can't take your application any further forward". I think they are good questions because international graduates face real challenges in finding work and navigating through a very complex system.

Q110 Mr Jim Cunningham: That is different from what the Government say. They say that employers within about 30 minutes can go online and get the two-tier system up and running.

Jamie Kerr: My advice to a client would usually be that if they are trying to bring someone from abroad, they should build in at least three months to go through the full process. If they are recruiting from inside the UK, I would still be saying, "It is potentially going to take you three months". You can get your licence online relatively quickly, but then you have to request certificates of sponsorship from the Home Office. If your candidate is coming from abroad you have to have advertised for a month, first of all, so we sometimes find students going back home for a month or two before wanting to come back in again. In that scenario an employer is looking at three to six months to get the person back in.

Q111 Mr Jim Cunningham: Is it possible to reform the present system?

Jamie Kerr: Yes, without any doubt the present system could be easily reformed, and it would solve a lot of the challenges that employers, graduates and the universities have.

Q112 Mr Jim Cunningham: How could you do it?

Jamie Kerr: I think the Tier 2 system could easily be reformed. The challenge in immigration reform, in my view, is the UK Government's net migration target. We can argue about whether we should take students out or whether we should keep asylum seekers in and that type of thing, but the reality is the fact that there is a net migration target and political will coming from the very top of Government to reduce net migration to the tens of thousands. That is the challenge, because the only aspect of migration that they can control is, realistically, the people that one would want to be bringing into the country: entrepreneurs, investors, bright students, people with specialist skills. So the focus on the net migration target means that we are squeezing migration in the sectors that we need and that we want. In answer to the question, the starting point needs to be a review of the net migration target and politically that is—

Q113 Chair: This is your view as an immigration lawyer, and this is your observance of what is happening. We know of the Government's determination to drive immigration

numbers down to tens of thousands, but what we saw in the last few weeks was the largest ever net migration to the UK. I think it was 336,000. Obviously something is not working, and if you are right that they are picking on all the soft targets, what, in your view, do they need to do if they are going to achieve this objective? Surely students should be playing a role in trying to manage these figures adequately.

Jamie Kerr: My view is if we look at what the Government can and cannot control, they cannot control generally who leaves. They don't control who leaves. In terms of who is coming in, they have no control over the Europeans who are exercising their free movement rights. They have no control over asylum seekers and refugees who are lawfully entitled to come here and make a protection claim. The people they can control are skilled workers and those defined as highly skilled workers—those on Tier 1 and the students. So if they are to meet the net migration target, that is the only place that the focus can go to, and one wonders if that is why we are having a reform of Tier 2 to push the salaries up higher, and that will reduce the number of employers sponsoring people.

Q114 Chair: There are more people than ever coming into the United Kingdom. That would strike me as something is not working, and something is profoundly not working where the whole drive and the whole agenda is to get immigration down to the tens of thousands but the opposite is happening. Do you have any suggestions as to why this has gone so badly wrong for them in terms of what they are trying to do with their objectives?

Professor Wright: You have to remember that net migration is the difference between immigration and emigration. For several years these figures have jumped up because fewer people are leaving, so if you want to reduce net migration, just convince people to leave the UK. That drives it down as well. The focus is on immigration.

To get back to the gentleman here, the thing is there is no doubt that the immigration system is complicated both for employers and potential employees. If that was not the case, then we would not need all the immigration lawyers that we have all over the place. Think about it. It is complicated, regardless of what the Government say. We are talking, I think, about having a programme in Scotland, because that is the focus. The thing is that any programme for Scotland that somehow is going to be part of this main points-based immigration system with all these tiers is going to be hard to do. What you need to think about is that system being amended with something that is specific to Scotland, and we have heard that it should not be any problem; it should be visas and so on. We are not in a sense talking about a system. We are changing the system for the United Kingdom, so that the Government can pursue their policy. What we are talking about is a situation specific to Scotland, because they have had the system; they thought it was successful; and they would like it back, and there is a good reason for it. If the UK Government doesn't want to listen to these good reasons, which you can apply to the UK as a whole, then that is their business, but I don't think the Scottish Government and Scotland institutions should be handicapped because of this, and just trying to wedge it in somehow into this points-based system is always going to be tough.

But again, at the end of the day, if students are counted as immigrants, then if they go down, immigration goes down, but emigration doesn't change, and then net migration goes down. I think that is the bottom line and if, as we say, international students were not in these statistics, you would have less net migration to begin with. So it is how you perceive these people or what they are and, as I said earlier, to me they are not immigrants. They are coming

here to buy services, like many other groups of individuals do, and they leave when they are finished.

Say we have a two-year system; we then have to remember we have to be realistic about the labour market. It takes many people many months to find a job. Often you end up in an unskilled or low-paid job while you are searching for a better job. I am sure most of the people in this room had this experience or worked in low-skilled jobs when they were going to university and so on. That is just a fact of life. The fact is that they graduate and somehow we expect they are going to jump right in to a high-skilled job that complements their training to a tee. If that is a requirement then, of course, it is not possible for everybody. But the opportunity to gain experience, and experience comes a variety of different ways, is a good thing, whether it be directly relevant job experience or improving your language skills or cultural understanding or whatever.

Q115 Mr Jim Cunningham: Why do you think the Government will not extract these figures from the immigration figures?

Professor Wright: As the Chair said, it is a soft target. All you do is make it more difficult for students to come here and you reduce the number of immigrants. That is what we see is happening.

Q116 Mr Jim Cunningham: Logically, if the figures for students were extracted, it would probably bring the Government nearer their target, wouldn't it?

Professor Wright: That is what you think. It is a historical legacy. They set up the points base, and the immigration system before the points-based system was chaotic and even harder to understand. It was just a minefield. So they simplified the system and these students were put in the same category as me, a high-skilled immigrant, and that was a mistake. The thing is international students don't go in the immigration statistics in Canada and many other countries because they are, in a sense, temporary residents. They are not applying to immigrate. They don't want to stay there, or most of them don't want to stay there, and they leave afterwards. The facts fit the description of not being an immigrant better than being an immigrant, but it is easy to reduce the numbers because you just make it harder to do so.

One of the things that I think has had a positive benefit was mentioned earlier, this process of tightening up the rules and regulations. We have fewer of these bogus institutions bringing people in mainly to turn them into low-skilled labour. A lot of these institutions were shut down. I can say, working in a Scottish institution since 1991, that the world is very different in terms of the requirements and what the students have to prove. They have the money to stay here, they have the grades, they have the language skills and so on that they did not have when I first started, so there have been big changes, and that has been good. It is another reason why, if we want to have increased international students to help the universities be competitive, in a sense they have to be considered different from immigrants who intend to come here and work and stay forever.

Q117 Mr Jim Cunningham: Finally, Mr Chairman, one of the things that I find strange—going back to Jamie Kerr's point—is that they cannot tell us how many people are leaving the country, but we can find out in other ways that there are about 4 to 5 million Britons working abroad. I find that a sort of contradiction.

Professor Wright: The issue with immigration is that in many countries if you leave the country you have to register. Another thing is that a lot of the immigrants that come back to the United Kingdom are British citizens anyway. They have just been living somewhere else. If you want to reduce immigration, you are going to have to reduce people who are British citizens as well, so those who were born in Britain and lived in Australia and came back. It is even more complicated than it first seems to reduce immigration because you are not in the situation of stopping British-born subjects coming back to Britain after 30 years or 25 years living in Australia, Canada or wherever, and that proportion of people is not trivial.

I think it is feasible to have the Scottish system that we had before. It is probably more efficient and it would probably attract more people. It would provide a boost to the labour force in Scotland and improve the competitiveness of the Scottish higher education sector. I cannot see any negative consequences for Scotland, beyond the fact that if these people are included as immigrants then they go in the immigration statistics and the Government get unhappy if they cannot get that number down.

Q118 Mr Chope: Surely if we weren't in the European Union we would be able to treat all non-UK citizens on a level playing field. That is really what you are arguing for, isn't it? You think that all non-UK citizens should be able to be treated on merit, and what you are finding frustrating is that because EU citizens can come here as a right, we have to have artificially hard restrictions on the people who are from outside the EU.

Professor Wright: You can think of it that way. The issue there is that this is the agreement that you have with the EU. EU-domiciled students who want to come to study in the United Kingdom are required to pay whatever the England, Welsh, Northern Ireland or Scottish domiciled students are paying. That is the situation at the moment and we are tied to that situation. The only way to get out of that, as you say, would be to leave the EU, which may be a possibility. We will find out shortly. There might be a benefit, with respect to the higher education sector, of doing this in some way because some of these students would still come and study here and be prepared to pay the higher tuition fees, but then there are all these other costs of leaving the EU that would certainly outweigh any benefit from what you suggest. I am working under the assumption that the current situation is going to continue.

I think there are two things that need to be done in Scotland. One thing for sure is we have to think about how long we can afford not to charge tuition fees to Scottish students. If we charge tuition fees to Scottish students, then de facto we charge tuition fees to EU students, so we have that important revenue source. I think there are reasons why that would be something sensible to put in place. Then we are tied to this rule where someone from another EU member state can come and work, live and stay in Scotland or Wales or whatever. I think we should have an option for that with restrictions for other international students. Again, that is a two-part policy, but it seems to me it is also one that would make the higher education sector more financially viable in Scotland, as well as make it more attractive, without having to, in a sense, leave the EU.

Q119 Mr Chope: Can I follow up on the last point? You are saying you think there is a strong case for lifting the cap on the number of UK and Scottish students who can go to Scottish universities, and that could be done by allowing fees to be charged. Then that would increase the revenue of these Scottish institutions of higher education and they would be less

dependent upon non-EU foreign students, who at the moment are contributing about 50% of the cost, compared with about 30% in the rest of the United Kingdom. So your solution is that one that you have taken to the Scottish Government and said, “Don’t get so hung up on this dogma of not charging fees for Scottish undergraduates and, therefore, for European Union citizens. Why don’t you get off that hook, and then we would be able to free up the system?”

Professor Wright: I agree; in other words, having the system that you have in England and most other countries. There is a contribution made by the state to higher education, and there is a contribution made by the individual. The challenge is: how do you manage this for people that cannot afford it up front? So you have picked the policy in England, which is basically very similar to the one they have in Canada and many other countries as well. It is logical to do that, but it is politically a difficult thing to do. If they don’t want to do this, then the sector will probably have to get smaller, but you are right: if there is more money in the system, then we become less reliant on international students for the money side of the story. I know people in the academic sector try to downplay the financial importance of international students, but the arithmetic suggests it is £400 million in Scotland. It is a big chunk of the budget, as you have indicated.

We have a variety of different reasons why the different Governments in Scotland have always wanted to keep no tuition fees for Scottish-domiciled students, but it should be returned to the debate. I think if it is not, then the sector will have to get much smaller, because the sector is big in Scotland, relative to England and relative to most other countries. It is a big sector. It is being handcuffed because of finances and also the fact is that the UK policy makes it less competitive internationally. It is a situation that cannot go on forever. Something is going to have to break. What we are talking about today is the international students making that side of it more competitive. Maybe next year we will be talking about introducing tuition fees in Scotland at half the level of England. I don’t know. But this discussion and this debate has to start and, as far as I am concerned, the sooner it starts the better.

Q120 Chair: We have an election coming up in the next few months for the Scottish Parliament. I am pretty certain that these things will be put. I know that the political parties are lining up with their specific manifesto commitments, and I think that will be an offer that the Scottish people will be asked to endorse or not endorse but—

Professor Wright: The outcome is the sector gets smaller. Maybe that is the question you should be asking the politicians, your counterparts in Scotland.

Q121 Chair: Professor Wright, we have heard about the economic side and evidence was given to us from the University of Scotland where the economic side is very important to Scotland. As you say, we have a large sector here. One of the things they said to us, which was very interesting, was what they did for campuses across Scotland was give this international cultural mix that we have in Scotland, and for them that was as important as any of the economic factors and benefits that we have. Do any of you have a view about what this brings to the enriching experience for indigenous Scottish students? No?

Professor Wright: Banting, Best, Crick and Watson—half of them were international students, and look what you got: major advances in science. This list goes on and on and on. One of the outputs of the higher education sector and the university sector is the production of knowledge. There is no doubt that an international mix of people is something that exerts a

positive influence on that. We just have to list the Nobel Prize winners and who they worked with and where they lived when they were working and so on, and it demonstrates this quite categorically. I think there are other reasons. As you say, it is interesting; you learn if you meet other people, especially if you have not travelled much when you were young and so on. I think the evidence is there that greater international variety in the university set-up, at the undergraduate and particularly the postgraduate level, is really important for a university's success, and I think generating knowledge and teaching is a measure of success. What you need to remember is when we look at United Kingdom universities in the international rankings they do very well, given they have a lot of competition from North America. I think one of the reasons that they have been so successful is because, at least in the past, they have encouraged this international mix of students.

Q122 Chris Law: I want to ask a little bit about whether you have some measure of how deep and how damaging the impact has been on both businesses and international students since the removal or the closing of the old post-study work visa.

Jamie Kerr: I think it is hugely damaging for everyone. From a business viewpoint, the post-study work visa allowed them to keep someone who was a graduate. That follows on from the question the Chair asked: what do these international graduates bring? One thing that we haven't touched on is that most international students, while they are studying here, are allowed to work part-time for 20 hours and many of them are working in businesses. Places like the University of Glasgow, University of Edinburgh, are pushing to put their students into businesses who are looking to export, for instance, to China. During the student's studies, the business is getting the benefit of part-time work and maybe having a student looking at export opportunities.

Of businesses who did employ people on a post-study work visa, it tended to be that the first category were people who already had a student working with them part-time throughout their studies, and would have liked to keep them on and to have seen how things developed—to have seen if there was a workload. Then the businesses were more willing to sponsor, because they knew the candidate and their value, and were therefore more willing to make the commitment to paying the fees and going through the hassle of sponsoring the student. On one view, you could say post-study work allowed employers to try before they buy. You could have someone in with no commitment and then, if you liked them at the end of the two years, employers were more willing to phone the lawyer and say, "How much is it going to cost? How long does it take? Is it a hassle? Well, even so, we will go through with it".

Now that that is away, employers are facing the question as to whether they will continue to employ someone, or employ someone based on a very quick interview with them, and then they are looking at the regulation that comes with the Tier 2 system and many are saying, "We are not going to do it". The post-study work was great for business and was also great for the students, the graduates, on the basis that employers were more willing to take them on initially, and if things didn't work out in two years' time, they didn't work out in two years' time. Taking that away has been a real loss for both business and graduates.

Stuart McWilliams: When you look at the statistics, it is about an 88% drop in the number of international students who stayed after PSW closed. I think that was in the APPG report. It has been exceptionally detrimental for SMEs. As Jamie mentioned, the post-study work was a "try before you buy". Now that decision has to be made very quickly, and I suppose the response would be, "Well, you have the three-month period at the end of your visa to

work full-time”. Getting a licence doesn’t take 30 minutes. To get a licence, first of all, you are going to have to read five separate guidance documents that are about 250 pages. You need to make the application online. The Home Office takes about five weeks to decide an application at the moment. It takes about one to two weeks to get the documents together if you are rushing. So you actually need to make the decision about six or seven weeks into the three-month period of trying before you buy. If somebody starts work immediately after completing their course, the employer has a very limited period of time. That is part of the reason why so many employers don’t go down the Tier 2 route: at that stage, you just don’t know enough to say, “We are willing to put in the commitment, get the policies and procedures in place and deal with this compliance regime when we have only known the person for six weeks, maybe eight weeks”.

Q123 Chris Law: The follow-up question is: under the old system did you come across significant abuse, or was it open to abuse in Scotland, with people staying on to work in semi-skilled or unskilled jobs? Is that something in your findings?

Jamie Kerr: The challenge with the old system, which the Home Office will no doubt raise, was that at the end of the two-year period there were people who had been working in low-skilled jobs, maybe two or three low-skilled jobs. They had nowhere to go to. They did not have money to go into entrepreneur investor visas, and they did not have an employer willing to sponsor them because they were not doing skilled enough work, or they could not find skilled enough work. Under the old system, initially that was not a problem when the system was designed, because the idea was that the graduates were moving on to the Tier 1 general system. But it was a genuine points system where they looked at your earnings, and that could be from three or four low-skilled jobs, looked at your age and your educational qualifications. When that was removed when the Tier 1 general scheme formally closed, then we had people on post-study work doing low-skilled jobs, and they were really not on a visa pathway, if we can call it that. Yes, they were bringing benefits to the businesses that they worked in and they were gaining work experience, but in reality they were not going anywhere in terms of visas, and at the end of the two years had no other visa to move on to.

I don’t think there was abuse of the Fresh Talent or post-study work system, but I think the key challenge with it was people doing low-skilled work. That may be an objection that the UK Government have to reintroducing a post-study work in the same format that it was in, on the basis that we will have people doing low-skilled jobs not going anywhere. But that is easily dealt with. You could design a more sophisticated system that says the choice, I suppose, is whether someone can work anywhere or whether they are only able to work in jobs suitable for Tier 2 sponsorship. If you are going to have that discussion, it will presumably have to wait until the Government decide what they are doing in the review of Tier 2, because they are looking at what jobs can and cannot be sponsored.

Q124 Chair: We have a figure that only 672 employers in Scotland have sponsored through Tier 2. I don’t know if that is a figure you recognise. We are obviously aware that the Government are looking at reviewing Tier 2, and they will bring forward the plans in due course. Is there anything that any of you identify within the current powers of the Scottish Government that they could do more to encourage the take-up at Tier 2? I have heard about all the difficulties you mentioned, particularly the salary that has to be met, £20,800, and some of the red tape issues, but is there something that Ministers in the Scottish Government can actively do to encourage a bigger take-up in Tier 2?

Jamie Kerr: There probably is. We talk about Tier 2 being complex, but if you know what you are doing with the process—well, I can get from one end of Tier 2 to the other relatively straightforwardly in most cases; but for an employer doing it for the first time, or for a small business doing it, you are trying to pile through guidance. I think there is an awareness-raising exercise that could be conducted. The reaction we see from many employers is, “We can keep international graduates?” and the answer is sometimes, “Yes, you can. There is a way through. You just have to know what the route forward is”. But the reality sometimes on Tier 2 and the Tier 2s that we deal with is that salaries are simply a barrier.

Q125 Chair: £20,800 is the starting salary that is required for a Tier 2.

Jamie Kerr: That is an absolute minimum, so any job under that is not going to be sponsored, but each job has a different code with a different salary attributed to it, and sometimes the minimum salary will be £24,000 or £25,000; sometimes it is as high as £28,000.

Q126 Chair: On Tier 2, then, if it is going ahead, which we presume it is, is there anything that could be done where the Scottish Government can secure a bit more leverage or specific powers that would enable them to be able to get a bigger take-up in Tier 2? Is there anything that you could think of that could be given as a responsibility to Scottish Ministers to try to ensure they get a better take-up in Tier 2?

Jamie Kerr: That is a very difficult question on the basis that the barriers that there are, the perceived barriers and the actual barriers, are inherent to Tier 2. The one thing that the Scottish Government may wish to be speaking to the Home Office about is a question as to whether it would be appropriate to have regionalised salaries. For some of the proposals moving forward within Tier 2 salaries, some jobs where the Scottish sector say that there are chronic shortages, the salary scale will be higher than the median salary of any of Scotland’s cities and counties—higher than Aberdeen, higher than Edinburgh. That is a real challenge that is right at the very heart of Tier 2 and other stuff that is in the line of things like the new skills levy, an additional levy on employers looking to recruit from abroad. That is going to create another barrier, certainly for some sectors that will be liable for an apprenticeship levy at the same time. There are real challenges moving ahead, so it is very hard to know what the Scottish Government can do in relation to Tier 2, other than try to promote awareness of how the scheme works and maybe start speaking about the question of regionalised salaries, which on one view is a double-edged sword.

Professor Wright: Certainly the Scottish Government can invest money in providing advice, and make it easier for people to get through the paperwork, which I think we all agree is very complicated. The problem with regionalised salaries is that, sure, they are higher or lower here or there, but that does not answer the question about staying in a particular place. If you want the people to stay in Scotland and work in Scotland then there has to be something in their visa requirement because you might say, “Okay, I will work in Scotland for three weeks and then move to London” or some other place where perhaps you want to be in the first place. This was always an issue discussed; you need a border.

The study to work programme, to me, is not supposed to be a programme where, for example, somebody has been here two years trying to find a job that is a close match to their skills and they cannot get that. That sends a message about that person, and perhaps

that is not the type of person you want to stay. After those two years, if there has not been some indication of success, then that person should be required to return home, and they would probably do that anyway because that would be a very discouraging experience for them. But really what you want is a system that keeps the very successful—the people who are going to make a big contribution to the economy—because if we had six Bill Gates or six Tom Hunters here, it would make a big difference. This is not an option, and the three-month period they have is not enough time for the student or the person who wants to stay to understand the system inside and out and generally all the paperwork, plus for the potential employer to fill in the paperwork and send all the other material that needs to be done. The system is complicated. That is one of the problems.

I think there are only limited things you can do by somehow trying to patch or fix up the current system. If it is going to be successful, and it is going to be Scottish-specific and the rest of the UK is not required to be part of it, then it is going to have to be a separate category within the immigration system, or a separate category within the Home Office, if you are not going to consider these people to be immigrants. I don't think there is an easy way of fixing the current system to make this work to Scotland's advantage.

Q127 Mr Chope: Can I ask you about the meeting of what was called the stakeholder workshop to look at post-study work routes? What was the result of that meeting or event?

Jamie Kerr: My understanding from the relevant Minister's comments was that the feedback was going to be taken from a very wide range of stakeholders. Feedback was taken and there was a report due to be produced, I understand, in March 2016. My understanding is that the stakeholder workshop was organised by the Post Study Work Working Group that the Scottish Government have. Essentially, they were looking more broadly for ideas as to how a system could work, what the challenges would be, what the pitfalls would be.

Q128 Mr Chope: Did you get any insight into the work that has to be done between now and a report being made in March?

Jamie Kerr: The working group has already published a report, and my understanding is that this is going to be an additional one. I am not party to any discussions as to what is going to be in it, what shape it is going to be, whether it will propose a system or whether it will rule out options. That is probably a question for the Minister.

Q129 Mr Chope: Mr McWilliams, were you there at this workshop?

Stuart McWilliams: Yes, I was. As Jamie said, they are looking to now produce proposals. I think there needs to be a lot of thought and discussion going into that, but there was—certainly in the groups that I was part of that day—a general view that it is not going to be sufficient to say to the Home Office, “We want post-study work back as it was”. I think there is an acceptance that that is not going to happen, and it is trying to devise a system that will counter some of the concerns that exist with post-study work and Fresh Talent but still benefit Scotland's universities and businesses. There are a range of options from a variety of people, so there were no sort of concrete proposals by the end of the day.

Professor Wright: Yes, but basically don't forget that they are not trying to create a policy where there is no precedent in other countries that they can learn from. It is not difficult to

do what Scotland would like to have done, and that does not have a cost for the rest of the UK and England. But what is difficult is the political will to work together to get this, and there are some legal complications. For example, within the EU you have this right of free movement of people, and if you said to someone, “You are going to have to stay in Scotland and you can’t move to England”, you violate the general principle that the EU holds so central.

I think there are some complicated issues, but it is not about how to do it; it is the political side of it and also the legal side that is going to create a little bit of a challenge. But it is critical that we move forward with this, and we try to sort something out the best we can because the cost to the Scottish higher education system and the university sector could be very high. That is what we do not want to incur because of the importance of that sector to the Scottish economy. Scotland is a world leader in providing higher education to people around the world, and we want to continue to do that, and we want to do that the best we can. The situation now is that we are trying to do it with one hand tied behind our back, and it makes no sense to do that, at least from an economics point of view.

Q130 Mr Chope: Is potentially charging for Scottish undergraduates and EU undergraduates a part of the agenda that is being looked at?

Professor Wright: If you did that, the sector would not have to get smaller. If they do not do that, the sector, in my view, is going to have to get smaller because it is big, relative to the population and the other aspects of the Scottish economy. Maybe that is what will happen: we will have a smaller higher education sector. Then some of these issues we are talking about today will not be issues, because it will be more self-sustaining and more self-financing. But do you as a Scottish politician, or do you as a Scottish person, want to see a smaller higher education sector in Scotland? I think nobody wants to see that, because you are very successful at it. Why throw away success when the changes that you need to put in place are relatively simple to do, based on the experience of others, and it is just a political disagreement and different political ideology that is the stumbling block? We have more consensus in Canada, where the provincial Governments and the federal Government work together. It is not a difficult challenge if you have that mentality of working together.

Q131 Chris Law: Just on the back of that, you described the Scottish higher education sector as large, but we never had tuition fees while it has been large. Is the fact that we are looking at shrinking it largely to do with the very issue we are talking about today, which is the fact that we are not attracting the key international students that we once were under the old system of the post-study work visa?

Professor Wright: The old system was very exclusive. The percentage of young Scots that used to go on to university was very low, as it was in England not too long ago, and there has been a massive expansion of this. Now you have a very big sector. The number of young people in Scotland is not growing very much and it is expected to decrease in the future, so the core business of Scottish universities—educating young Scottish people—is going to dry up. You have to think about where you are going to get the students from, or get smaller. That is the choice: you need more students or you get smaller; there is nothing in between. It is a tough problem but it is not a problem that can’t be dealt with, with more discussion and more agreement like we are doing today.

Chair: We are going to have to end now. I am pretty certain that the debate that Professor Wright is suggesting is going to be one of the hot debates in the course of the next few months as we face up to the Scottish election. There will be a series of choices available for the Scottish people to make up their minds on that one. Thank you ever so much for coming along this afternoon; we really appreciate your evidence. If there is anything that you have observed or have not been able to give to the Committee, please give it in writing. We are always happy to receive further representations on this. Thank you ever so much for coming along to the Committee this afternoon.

Examination of Witness

Witness: **The right Hon. James Brokenshire MP**, Minister for Immigration, Home Office, gave evidence.

Q132 Chair: Minister, thank you very much for coming along this afternoon. We will try to rattle through the session. We know we have a vote at 4 pm, so we will see if we can conclude at that point. If we have not made much progress, we will have to ask you back again, but we will see how we get on, but hello down there.

James Brokenshire: It seems a long way away down the other end, but it is good to be back with your Committee again.

Chair: It is a pleasure to have you in front of us today. Obviously you know that we are doing this look at post-study work schemes. Why are we doing it? Maybe a bit of background and context for you, if it is helpful: the first report this Committee undertook was to ask Scotland what they wanted us to look at, and we received a whole range of views from across Scottish civic society representative bodies. We asked industry, we asked trade unions, we asked our colleagues in higher education, and this was an issue that overwhelmingly came up. I think quite a number of members of this Committee were surprised by how regular a feature it was. It was something that came from industry and from the higher education sector, and we felt compelled and obliged to have a look at this once again.

I have to say, Minister, that the overwhelming majority of representations from the higher education sector, all the business representations that we secured, and the representations from students and trade unions wanted a scheme in Scotland, and they think this would benefit not just the higher education sector but our economy. But every time this has been raised with you, it is, “No, you are not getting to do it; you can’t do it; we are not going to allow you to.” Why are they all wrong and why are you right? Why will you stop Scotland from getting a scheme that they feel would be economically useful as well as educationally useful?

James Brokenshire: Mr Wishart, thank you so much for the invitation to be here. I look forward to breaking down some of the component parts of the question that you have just raised with me. It is important to say that there is a post-study work offer, and one of the issues that I raised with the educational sector, as well as to business, on the Tier 2 post-study work option that is there is: use it. The numbers show that in the last year, around 5,500 people did transfer from Tier 4 to the Tier 2 scheme. The important thing to note is that it does not count in the overall cap that otherwise would be there on Tier 2 level employment at around 20,700; it is outside all that. Therefore, there is a perfect opportunity for business and industry to use that, to use their milk rounds to be able to

recruit graduates from Scottish universities as well as other universities. That is a message that I give very clearly to industry as well as to the sector itself.

But even with all that, sometimes I have presented back to me, “Is it this? Is it that?” and a sense that there is a decline in the number of overseas students, whereas I know that you have seen the numbers; effectively the numbers since 2010 have gone up by around 11%. Within that, I think that there are some interesting questions about certain countries, India being redolent, but equally China and a number of other countries have seen significant increases in the number of foreign students who are coming to study at our world-leading universities. The Russell Group universities have continued to see a growth in foreign students.

I suppose my opening response is that there is a good offer there. I am very keen to underline that, to work with the Scottish Government, to work with the sector as well as industry, to see that we are harnessing that effectively.

Q133 Chair: If only that was the case, Minister, but what we have found in evidence, particularly some of the oral evidence secured from our colleagues in the higher education sector, is that there has been a massive drop in international students staying within Scotland in order to continue their work. In fact, in the route that you describe, the Tier 4 to Tier 2, only 672 offered sponsorship to international students. What business says to us is that it is just too onerous, too difficult to do. It is unrealistic to be able to expect to afford a new graduate with the salary set at £20,800. There are all sorts of issues about other sponsorship arrangements. Do you recognise any of that at all?

James Brokenshire: If we take the salary issue first, that is something that we have asked the Migration Advisory Committee to look at on a number of different occasions, and it has always come back to say that it is appropriate to maintain the national level, having a single number for the whole of the UK on policy setting and the level that is set for graduate-level employment, as you know. But the interesting thing on that is, for example, the minimum salary requirements for occupations in Tier 2 more generally are, for the most part, set using the annual survey of hours and earnings data, which are UK-wide and therefore take into account salary levels in Scotland. But that data suggests that the median full-time earnings in Scotland are very close to the UK average; the figures are high only in London and the south-east. The risk may be that if you go to a country-specific approach, you may ironically end up with a reverse situation of those levels going up. It is a fair point. It is something that I know that, for example, the Migration Advisory Committee is looking at, at the moment, as part of its broad review of Tier 2. But it just needs to be looked at carefully in that context, which is why we take the evidence-driven approach that we do through the MAC.

Perhaps equally, on this issue of the difficulties, you can break it down in two ways. The first is being a Tier 2 sponsor. The processes are pretty straightforward, and I am surprised if there are obstacles that prevent that from taking place. Equally, some people say that it is only four months post the end of study. If you look at most recruitment, that takes place during the period of study.

So if there are issues that need to be overcome, I am very clear on setting out those messages. I have been to China and underlined the message of the welcome that we have for Chinese students, and I intend to go to India in the new year and make those points again. There are some interesting issues, if you look at what is happening in India, and I do

ask the question as to why, whereas other countries have seen an increase, India has seen a reduction. That is something that is more complex. I think the availability of finance is one issue. There are other factors such as exchange rates. The way in which the agents operate in India is another factor that sits alongside this. I want to assure the Committee that we are not just sitting back and saying, “No, this is something that we are not—”

Q134 Chair: We are grateful, but we really wanted to explore some of the conversations we had with Scottish Government colleagues. We heard from the Minister when we had a session in Aberdeen, and he was very unhappy about the communication that he has had with the Home Office about this, and about the very strong appeals he has had to try to pursue this. But I am glad you mentioned the differences between Scotland and the rest of the United Kingdom. We have to ask if you recognise some of the specific demographic population challenges we have here, and the size of the sector in Scotland, and how important it is to us. Do you recognise that there are differences between Scotland and their higher education sector and the general population requirements of the rest of the United Kingdom?

James Brokenshire: If you take the basic principle, the Migration Advisory Committee, for example, has a separate shortage occupation list for our general Tier 2 visas for Scotland, as contrasted with the rest of the UK. We do have some reflection, through Tier 2, of certain differences.

Q135 Chair: But it only varies in small sectors. Fish processing was included up until about two years ago, and that has now gone, but nursing care is the only different sector, included on the list for Scotland but not the list for the rest of the United Kingdom. It is not a real reflection of some of the different challenges we have in our nation.

James Brokenshire: No doubt we will come on to perhaps some of the experience of the past on post-study work, and indeed the previous Fresh Talent scheme that operated there, and I am happy to respond on that in a bit more detail. On the point you raised about the shortage occupation list, that is not something that we in the Home Office do ourselves. We do that very much based on the advice that we get from the Migration Advisory Committee, who are independent, deliberately so. They look at the employment markets and they provide that independent advice to us, and I very much welcome the input that they give. Certainly, on differences that may be redolent for the Scottish economy, I would always encourage—and I hope that this has been the case on the Tier 2 review that the Migration Advisory Committee has been undertaking—that it has had good evidence from Scotland to underline those themes and the different skill sets that may be required for different economies that effectively feed into the advice that it gives me and the Home Secretary on the shortage occupation list.

Q136 Chair: Do you think there is any case—and all the sectors are telling us that we require this—for a Scottish post-work scheme that could work for the United Kingdom?

James Brokenshire: When I look at the post-study work situation at the moment, I would argue that there is a very good arrangement in place with the different options that are there.

Q137 Chair: But do you recognise there is a case for Scotland to have a specific post-work scheme? Is there at least a case for it? It does not mean you have to do it but do you understand—

James Brokenshire: I have not seen that case made out specifically for Scotland as yet, and that is based on the experience of the past as well, when there was a Scottish-specific scheme in place. This Committee in the last Parliament highlighted the weaknesses that were shown, where the figures were that around 50 % of people left Scotland, and around a quarter of the numbers that were affected were in jobs that you might call graduate work, where you could arguably say they were adding to the value of their degree. It is based on that experience of the past. Some of the challenges that arose from that were how you would create a separate scheme for Scotland in any event, because one of the challenges we had was other universities in the north of England saying there was an unfair competitive issue. Therefore, looking at this in the whole of the United Kingdom sense is certainly my starting point, but I will continue to look at the evidence and the information that is provided to us by the Scottish Government.

Chair: I think that is the best we are going to get just now.

Q138 Margaret Ferrier: Minister, you stated earlier that you are happy to work with the Scottish Government. However, we find that is not the case. When we were taking evidence from the Scottish Minister for Europe and International Development, Humza Yousaf, he told us that you had declined to meet him to discuss the issue. Is this true, and why have you not met him?

James Brokenshire: This was pointed out to me when I was preparing for this Committee, and I was surprised. Initially, the Minister wrote to me to ask for a meeting and I said at that stage that there was a meeting that was due to take place between the Home Secretary and Michael Matheson. I said that it is probably right that that meeting takes place first, and then I would be pleased to meet with him, and I have said again in September that I would be pleased to meet with him. I am concerned if there has been some breakdown in communication here, and I hope through this Committee that I may be able to underline that message. I very much look forward to meeting with the Minister, to be able to sit down and hear what he would like to say.

Margaret Ferrier: He has done a lot of work in that area so—

James Brokenshire: I know there is more work that is ongoing as well.

Q139 Margaret Ferrier: Yes. Will you give a commitment today through our Committee to meet with him?

James Brokenshire: Absolutely. The offer is out there, and I look forward to the call to set it up.

Q140 Margaret Ferrier: On that basis, we have been told that there is cross-party and cross-sector support in Scotland for this post-study work group for international students. Obviously it is important that we get a serious engagement around that.

Secondly, just another question about the Smith commission and what came out of that. It stated that “the Scottish and UK Governments should work together to...explore the

possibility of introducing formal schemes to allow international higher education students graduating from Scottish further and higher education institutions to remain in Scotland and contribute to economic activity”. We heard in the earlier session it is very important for our economics in Scotland to encourage that. Have you had any other discussions to date and are the UK Government open to introducing such a scheme?

James Brokenshire: There had been discussion between officials and there was a meeting between the Home Secretary and Michael Matheson, although the Home Secretary did underline that it was not our intent to reintroduce the post-study work visa that had been in place previously. That is because we think that there are those arrangements that I have already highlighted in respect of the transfer to Tier 2. There are other options as well on Tier 5, on the doctorate route and the graduate entrepreneur scheme. There are different options that we would genuinely want to work with the Scottish Government to underline, to make sure that we are playing our part to see that those are being telegraphed, transmitted and communicated efficiently and effectively. I do absolutely recognise the comment that was made in the Smith commission report, but it did not recommend that the two Governments discuss the reintroduction of the post-study work route. But clearly we stand ready to have further engagement.

Q141 Chris Law: Can I just ask a supplementary question on the Tier 2? How successfully do you see it working? For example, it has been said that it takes about 30 minutes to apply for online, but we have been listening to immigration lawyers saying that actually you need about three months. Which is it to be?

James Brokenshire: I am surprised if they are saying that. I have not seen precisely what the lawyers say but, having previously been a lawyer myself, sometimes you may look for complexity that may not always be there. Therefore, we think that it is a speedy, effective process for making the applications. I would not want it to be a barrier, or the need to have a three-month process. Certainly as far as we see it, it is a speedy, efficient process to make your application, and it should be so. But if there is feedback from ILPA or others on how we can continue to reflect to make that process even more efficient, then certainly I am very open to looking at that further.

Q142 Chris Law: It is fair to say three months is quite extraordinary.

James Brokenshire: That is why I said I do not recognise that at all. The clear picture that I see is the speedy process of being able to make the application, and seeing that you can do it easily yourself. Certainly, from a sponsorship perspective, UK Visas and Immigration do seek to process those applications promptly. The actual processing time would be around seven weeks: there is that 30-minute window for you to put in your application, and then our sponsorship teams do their due diligence, their investigations. We do always look for greater efficiencies and being able to speed up the process, but equally—as I am sure you will recognise, Mr Law—there are those who do seek to abuse this. We do see fraud in this environment, and we have to be constantly vigilant on having the right checks in place. Indeed, a number of the changes that we made around the whole student system were absolutely to confront that fraud—to confront those who were not coming here to study but simply coming here to work and using this as a means of trying to get through the system. That is why we have had to take the steps that we have done on removing over 900 sponsors from the register on Tier 4, where they were not compliant with the relevant

regulations. We have taken a number of important steps to clean up the sector in the best interests of the sector.

Q143 Chair: Surely the success you have had in cleaning up Tier 4 means there are no real issues? It is so hard now for any higher education institution to become a sponsor because of the new regulations. There is hardly any scope for abuse anymore because of the way that you have introduced this now. How does this, therefore, have an impact on post-study work schemes? Is it a bit erroneous?

James Brokenshire: I describe it as those who constantly look for the chinks of darkness in the immigration system to try to get through to abuse our hospitality, and we saw only last year the issues that we had to deal with in relation to false language certificates being provided. That was one of the first things that, when I came into post as Immigration Minister last year, I had to start to sort out. Sadly, Mr Wishart, there are always those who will seek to exploit the system.

Q144 Chair: Most higher education institutions in Scotland are terrified of losing their most trusted status. I have a university in my constituency, the University of the Highlands and Islands. If they get three people who do not meet your requirements they will lose that status. That is their main fear, the main driver of looking at these issues. There are very few, if any, in Scotland of these bogus colleges that may have been an issue years and years ago, but certainly are not an issue now.

James Brokenshire: You are right to highlight the important steps that the higher education sector has taken, and that we are in a very different space to the situation we were in five years ago but, nonetheless, we have to be vigilant to abuse. I think sometimes the visa arrangements can be set up as a negative issue, whereas there is an effective process there. When I look at the whole issue of students wanting to come to the UK, there has been some very interesting work done, for example videos in Chinese to explain to Chinese students that this is not some sort of scary thing that they have to go through; there is this process to try to break down some of those misconceptions. It is precisely those sorts of issues that I do want to challenge again when I go to India, where we know that some of the agents will seek to present a false prospectus, a false picture of our country and the visa system that is in operation. It is something that I am examining, and I am constantly seeking to present that positive message. I would encourage the sector itself to do so, so that they are not playing into the hands of those who would like to present it in a different way.

Q145 Chair: I would be interested when you do go to India. You understand more than anybody that there is an international market for overseas students, and we are in that market, trying to compete for the brightest and the best. Surely they are going to bypass the United Kingdom if there is no opportunity for post-study work.

James Brokenshire: But there is an opportunity for post-study work. That is the point that I come back to. For graduate-level employment it is there. You can move in that way, and it is outside some of the other restrictions on the shortage occupation list and various other things that would otherwise apply.

Q146 Chair: But there are also some more attractive schemes in Canada and Australia and other English-speaking countries, and if they are looking at Scotland, they have a two-month period to try to find some sort of secure employment for salaries of £20,800. In Canada, there are much more attractive, enticing schemes for post-study work opportunities. Why on earth would they come to Scotland?

James Brokenshire: Because of the fantastic institutions and the education that is provided, and the prospect of being able to get work afterwards at graduate level. Let's be clear on this. The reason that we set this up in this way of having a graduate-level job is that it can't be in the best interest of the Scottish economy, or even the overall UK economy, if you are seeing graduates coming here who are then going into non-skilled work when that could be served by the domestic labour market. It is absolutely right to structure the policy in that way. It is interesting also that countries like Australia have changed their approach in relation to post-study work relatively recently, but I was also interested to note in that context that, for example, there is this issue that I have highlighted over abuses and things like that. The figures that I saw showed that in Australia their rate of termination of people's visas had increased by around 30%. There is the need for vigilance, and there is the need to see how we want to get the skilled and the talented, the brightest and the best into our graduate-level employment, which is something I support. Equally, there is no cap on the number of students who can come to this country. I do want to see students coming to our great institutions in Scotland and in the rest of the UK to study. I think that enriches the environment within our institutions as well, and there are routes to be able to get graduate-level employment.

Q147 Chris Law: I take on board what you are saying, but it does not chime with the evidence we have been taking. Particularly last week, this was brought up, and the analogy was used of a train. There is a train coming past Scotland and it is not stopping, yet it is stopping at Canada, Australia, America, and many other places. They are getting double digit figures in increasing growth in international students, who are bringing vital moneys into these educational establishments, and we are not there. The big anxiety that came across is in actual fact we are going to go into sharp decline if something is not done about this soon. That was right across universities and colleges in Scotland. Are they right to have these fears? What options do we have to alter and modify it, to improve our study visa system at the moment?

James Brokenshire: I do not think they are right. Obviously I have heard the warnings that have been given over a number of years, yet we have continued to see growth in our student market. It has not declined, despite some suggestions to the contrary. I gave the figure that I did of around 11% since 2010, and we are seeing significant growth in a number of different countries. China is one that stands out quite significantly, with the growth that we have seen from there. Where we have seen declines has been in India, which is why I made the point that I did about that particular country, and why I look forward to going out to India in the new year. But I think the picture is more complicated than saying, "Is it about post-study work?" I am not convinced on that, because there is a genuine offer that we have to make and we are making, and it is a good one. Yes, there are those other factors that may be redolent in India on agents, the availability of finance and a number of other things. It is important, therefore, that we continue to make those messages.

I have regular discussions with Jo Johnson, my opposite number in the Department for Business, Innovation and Skills. I have had joint meetings with the Indian High Commissioner over this. We are working to underscore and puncture some of the myths

that are perpetuated around our visa scheme, and that we do have post-study work arrangements that I think are generous and appropriate. Obviously, we will continue to look at the evidence.

Q148 Mr Jim Cunningham: There have been reports that the Chancellor of the Exchequer believes that the international students should be taken out of the immigration numbers. What is the Home Office view about that, and is there a Cabinet view on that?

James Brokenshire: Our view is based on how the Office for National Statistics calculates net migration, and they keep students within that number. That is consistent with the approach that is taken by Australia, Canada, New Zealand and the United States. I do not think the sense of how this fits into the overall calculation has any bearing on how we set our policy and how we do not have limits on students. I think that some have sought to read quite a lot into what the Chancellor of the Exchequer said to the Treasury Select Committee, so I looked back on precisely what he said. He said, “If you talk about the Government’s commitment on reducing migration, I would say where that strikes a public chord and has public sympathy is where we are trying to reduce permanent migration to the country”. Then later he said, “We have taken a decision, which I absolutely support and endorse, which is that having studied in this country you can remain in this country, but only if you are doing graduate-level employment. We do not want people just coming to this country, studying in universities and then, frankly, doing work in this country for which they are essentially overqualified and, therefore, adding to the overall net migration in this country on a more permanent basis.”

The approach that we take as a Government is that it is right to keep students in the net migration figures because it bears on this issue of how we see impact on public services and is consistent with what other countries do as well. Equally, we do want to attract the skilled and the talented, the brightest and the best and, for the reasons that I have outlined, I think that offer is there in terms of that transfer post-graduation.

Q149 Mr Jim Cunningham: Would excluding international students from immigration figures make it easier to establish a time-limited post-study work scheme for international students without compromising the Government’s commitment to reduce net migration?

James Brokenshire: I suppose my immediate response to that, Mr Cunningham, is that we count students in net migration. There are figures that you can look at in the latest ONS data on the inflows versus the outflows that tend to suggest a net figure of around 93,000 as the impact of this. We have now introduced exit checks, which is starting to produce data that will give us, over time, greater information on the flows of people coming in and going out. I suppose what you are actually asking me is more of a policy-based decision, which I do not think is affected by the ONS’s treatment of students. I think that is more of the policy decision that we take. For the reasons I have outlined, we think that the post-study work option should be related to graduate-level employment, as the Chancellor highlighted in his comments to the Treasury Select Committee, and that the offer that we are making is consistent with that, and we want to underline that to business and to the academic sector.

Q150 Mr Jim Cunningham: The thing that strikes me about that—and it may be more complex than I think, as you possibly know better than I do with all the information you have

at your disposal—is that you will have an element of students coming into this country who will not necessarily want to do postgraduate work here. They will possibly want to go back home or go to another country, for a variety of reasons. I do not know whether you can do it or not, but if you were to extract that group from your immigration figures, do you not think that would be more realistic on the record?

James Brokenshire: That is what I am saying: that over time, I think our exit checks programme will give us more and more data around this, so that we are able to see who is departing at the end of their studies. We obviously are concerned that people come here to study and then do not regularise their stay at all, overstay and then get into illegal working, hence why we are taking the steps that we are in the Immigration Bill at the moment. But equally, we continue to work with the sector to see that, while we absolutely welcome people to come to this country to study, that is not a conflation with coming to this country to work. That is why I think it is right that you have this distinction between your study visa and your post-study arrangements and the transfer to Tier 2. That is what concerns me about the survey data that the ONS produces on this net 93,000. That is suggesting that there are a significant number of students who are overstaying—that is, without regularising their stay—and we are very focused on what further steps may be needed, or may be appropriate, in dealing with overstaying, which, frankly, is not in the best interests of this country.

Q151 Kirsty Blackman: In March this year, the Scottish Government produced a report on post-study work from the Post Study Work Working Group. Have you read the report and are you planning to respond to it?

James Brokenshire: I have seen the report, and I have it in front of me. It is interesting to read the findings that came from it, which effectively were, as I see it, the academic sector and industry making various different points on the issue of post-study work. It talks about a decline in enrolments of international students at Scottish universities from key overseas markets. From that, I read the issue of India, which I think I have responded to in this session, and some of the analysis and further work that we are doing on that. It does not necessarily comment on the risk of conflation of study with work, and some of those risks that are perhaps identified on how you risk going into unskilled employment. While it may be that industry wants more students, what is not clear to me is the graduate-level requirement that we think is quite important. But certainly it is an interesting report. I believe the Scottish Government are following up on this report and may be coming forward with further analysis, and I look forward to seeing that further report.

Q152 Kirsty Blackman: Yes, I was just going to ask about that. The next report is planned to come out in March next year. In terms of that, will the UK Government be engaging in the process that they are undertaking? Will you be responding to the report that has been made?

James Brokenshire: As I said, the initial report was not sent to us by the Scottish Government to crystallise some sort of response. I do not know, but reading into this, it may have been a first stage of evidence gathering in that sense. We look forward to seeing a further report and, as I have indicated, I stand ready to meet the Minister and to hear his perspective, and equally to underline how I think there is a good offer there and how we can work together to make that offer and underline that benefit.

Q153 Kirsty Blackman: On the subject of key overseas markets—you have talked about India and you have also talked about China—we have heard concerns that the Chinese situation may not continue, and that there are concerns in China about coming here. There are also other key markets. I represent Aberdeen, where the oil industry is still very important despite its current issues. We have key Nigerian markets and things like that; Nigerian people are coming over to study in our universities because we are a centre of excellence for that. Will the exit questionnaires that you are undertaking capture some of that? How much conversation are you having with business about what they need? You have mentioned the fact that the universities want more students, but you want the graduate market to be there for jobs. How active are you being?

James Brokenshire: I am looking forward to receiving the Migration Advisory Committee's report on the Tier 2, which is effectively the skilled work-base visa route that you can transfer into, as I have indicated. I think the MAC is due to issue its report in the next few weeks. It is effectively a bottom-up review of the Tier 2 arrangements to equally ensure that we are not ingraining structural unemployment in certain sectors. In other words, if you go on the shortage occupation list, you stay there forever and a day, which cannot be right. There is also the reliance that business may have on overseas labour and how that interfaces with the domestic labour market. So I think that that will provide some quite important evidence and analysis by the MAC in the coming weeks.

The exit check data when you leave the country is effectively taking either a passport swipe or using advance passenger information to be able to “clock off” whether someone has left after they had entered, and that is being used for a number of different purposes. But I am keen to see that we do use this smartly around the whole area of study visas as well, and that we get a better sense of students who are leaving, and work with the institutions around this. I think that over time that will give us a lot more.

Q154 Mr Chope: I think the Minister has answered the questions about the Tier 2 visas in his introductory remarks, but can I ask him about the distortions in the system? Obviously there is one major distortion in the system, and that is that citizens from the EU can come here as a right under the free movement rules. If we were not in the EU, then we would be able to choose which students we wanted to have here and which people we wanted to have here on merit, and perhaps give greater priority to citizens from the Commonwealth countries and international students from outside the EU.

Will the Minister also accept that another distortion in the system is that the Scottish Government wish to provide free tuition to their own students from Scotland, but as a consequence of being in the EU, they also have to provide free tuition to EU undergraduates, with the consequence that they starve their own higher education institutions of valuable funds so that those institutions are dependent on international students to the extent of 50% of their fees, as against about 30% of the fees of other institutions of higher education?

Will the Minister also accept another distortion, and that is that the case is being made for a separate system for postgraduate entry into Scotland with visas? Again, that would be possible if we were not in the European Union, but because we are in the European Union and there are rights of free movement across the whole of the United Kingdom, we would be able to satisfy the aspirations of the Scottish Government to have a Scottish system that was distinct on its own only if we left the EU.

James Brokenshire: Thank you, Mr Chope. I think you are tempting me into a much broader debate. As a Government, we are in the process of renegotiation and presenting the strongest possible case to the British people as a result of that, and I remain confident that the Prime Minister will secure an appropriate deal for us. Certainly we are not contemplating the sort of scenario that you are alluding to, but clearly we need to ensure that we get that renegotiation effectively, and the Prime Minister has been very firm and very clear on that.

You make the point about distortions in, I suppose, budgets, and I have to be very clear: this is not a matter for UK Government Ministers. It is a matter for the Scottish Government in relation to their education policies. I do not think it would be right for me to comment on that. But it has been notable—and I did see when I was preparing for this session, looking at the numbers from the HESA data, the Higher Education and Statistics Agency—that some of the institutions continued to see growth in their overseas students, non-EU. The University of Glasgow has had a 30% increase from 2011, 2012, 2013 and 2014; the University of Edinburgh; the Royal Conservatoire of Scotland, obviously much smaller. But it has also been notable to see the very big increases in EU students who are attending, and it would be for those institutions to decide on their policies for receiving students. *[Interruption.]*

Q155 Chair: Thank you, Minister. I think we will have to come back, if that is okay with you. I think we have quite a lot of questions we would like to explore with you, and I am sure you will be more than happy to oblige us for another 20 minutes or so.

James Brokenshire: Of course, and I will perhaps finish off Mr Chope's question.

Chair: Yes, please. I am sure Mr Chope has more questions of that nature for you coming up. Can we come back in 10 minutes' time?

James Brokenshire: Okay. Thank you.

Chair: We will reconvene in 10 minutes.

Sitting suspended for a Division in the House.

On resuming—

Q156 Chair: Thank you, everybody, for getting back so promptly. We will start where we left off, which was with Mr Christopher Chope.

Mr Chope: I think the Minister was going to volunteer some more information.

James Brokenshire: I was just in the process of responding to Mr Chope's three points, two of which were related to Europe and the other was related to education.

What I found interesting was some of the different factors that may impact on migratory issues, and I did note the evidence that Dame Jocelyn Bell Burnell, the President of the Royal Society of Edinburgh, highlighted in relation to, for example, the Scottish Government's Higher Education Governance (Scotland) Bill. She made some quite strong comments about the impact this may have on the reputation of Scottish universities externally from Scotland and how that might have some issues. I think what that highlights is that, clearly, there are a number of different factors, and there are no single issues that

you can point to, and why we keep the evidence under review, but equally why we think that we still make a strong offer.

Q157 Mr Chope: Following up on the issue about freedom of movement within the UK under EU rules, do you, as the Minister, think there is a problem there if we try to introduce a post-work study visa that was tied to staying in Scotland?

James Brokenshire: The success of the Fresh Talent scheme that was launched in 2005 and ended around 2008 was limited, as many of the international students involved did move to London and the south-east to look for work. I think around 50% were shown to be no longer in Scotland, at least. That was some of the indicative data that was provided, which led the Scottish Affairs Committee in its July 2011 report to highlight that there was a flaw because of the fact of those movements, and equally seeing that around only a quarter, as I earlier indicated, of those who had been part of it ended up in work that could be considered to be graduate level or work on their degrees.

I think it highlights the challenges and limitations if you are seeking to look at a Scotland-specific scheme, but the Tier 2 post-study work is equally applicable to Scotland and the rest of the UK. I underline the points that I have made in previous answers to questions in this evidence session.

Q158 Chair: Have you any evidence at all that would suggest that when Fresh Talent became subsumed by Tier 1, that was when we saw the greatest movement of students from Scotland to the rest of the United Kingdom, given it became a UK-wide scheme?

James Brokenshire: When we looked at the Tier 1 post-study work scheme, which was introduced in 2008 and which allowed students graduating in the UK as a whole to stay for up to two years on completion of their course, the challenge we saw was this issue of people not studying, or not working in graduate-level employment. There are a lot of examples that we can certainly point to there.

Q159 Chair: But the point, Minister, and I think it is quite an important point, is you said that Fresh Talent meant that people were moving on. Do you have figures that show when the Fresh Talent scheme worked as an individual scheme as opposed to when it became Tier 1?

James Brokenshire: Yes.

Chair: You do have those figures? Could you maybe share them?

James Brokenshire: There was evidence submitted to this Committee back in 2011 by Phil Taylor, the then UKBA Scotland and Northern Ireland Regional Director, upon which the recommendations in a report of this Committee from the last Parliament were probably drawn. That spoke to the 50% number that I have identified. No figures are ever perfect in this, but I think it did underline why this Committee in the last Parliament highlighted some weaknesses and the challenges that were involved there. That is why, I suppose, we do look at this in the light of that experience, in assessing things as we do now.

Chair: We want to explore post-national schemes a little, because there are very many successful international examples, as you know, but we will come to that. Mr Chope, are you finished with your question?

Q160 Mr Chope: Just a last point. On this issue of having a scheme that is linked exclusively to Scotland, would it be possible to enforce such a scheme? If somebody came to Scotland on a post-study work visa and they had to stay in Scotland and then they did not stay in Scotland, would it be possible for the Minister's Department to take enforcement action against them for being in breach, because they decided to stay elsewhere in the UK, other than in Scotland?

James Brokenshire: In all honesty, I think it would be very difficult. For example, one of the issues that we are looking at the moment is potential abuse within the Tier 2 system of effectively one person taking work with a particular employer and then transferring to another employer, which would be outwith their Tier 2 requirements. That is something that we do see in Tier 2 and that our sponsorship department, UK Visas and Immigration, is seeking to crack down on. But it does have challenges within it on being able to track where an individual is in respect of their employment.

Chair: We will move straight to the post-national, because this gets to the heart of whether these things can work or not. We have heard your comments thus far, but Chris Law has a couple of questions.

Q161 Chris Law: In taking evidence we have heard quite a number of options, and I want to explore each of these options with you, to improve the post-study work route in Scotland. I just want to know your views on each and every one of them. I have four here, in fact. The first one is the reintroduction of the old post-study work visa but with a visa condition—and it echoes what Christopher Chope has said—limiting people to living and working in Scotland. This has been seen elsewhere in the world. What are your thoughts on that?

James Brokenshire: I suppose on that I would highlight the response that I have just given to Mr Chope, on how you would follow where a person is. It would be challenging in many ways in the enforcement of it and, equally, from the experience we had from the Fresh Talent scheme in respect of people staying in Scotland.

Q162 Chair: This point is very important. Fresh Talent did not have that condition about movement to the rest of the United Kingdom. Surely you accept that it must be within the wit of the Home Office, if the conditions are to stay in Scotland—we have Revenue Scotland now, for example, which would show taxpayers in Scotland who were residents. You are not trying to tell this Committee that it would not be possible to design a sub-national post-study work scheme?

James Brokenshire: What I would say is that it would need to be quite intensive, in the sense of trying to follow where a person is at a particular point in time. It would strike me as being very bureaucratic, having to inspect and to underline that. Again, it is not something we are contemplating, because we think it is better to look at a UK-wide approach and follow through on the Tier 2 mechanism that I have already alluded to.

Q163 Chris Law: A suggestion just comes to me as we are speaking about this. When people are paying income tax, and we are going to have that devolved to Scotland, we would have a separate code that would show up straight away if somebody moved. But also we can look elsewhere. Canada does this very successfully; in fact we took some evidence. Would you consider looking, for example, at what is happening in the Canadian territories?

James Brokenshire: We always look at evidence but, as I say, my strong view is that we have a scheme that is appropriate, and that we will continue to underline how to make that as effective as possible. When we look at the graduate level of employment that I have already referred to, we judge that is the right approach, but obviously we continue to look at what other countries are doing and the evidence that is presented to us.

Q164 Chris Law: A second area would be your thoughts on introducing a post-study work visa for international students with qualifications where there is a skills shortage or, for example, STEM subjects?

James Brokenshire: One of the benefits of Tier 2 is that in essence you do not have to jump through the hoops of the resident labour market test—I should have said that in one of my earlier questions rather than the shortage occupation list—in having to satisfy that. For the general Tier 2 we have a shortage occupation list requirement that you get priority treatment within our Tier 2, but because our transfer from Tier 4 to Tier 2 does not fall within the overall cap and because it does not require that resident labour market test, I think it does give some flexibility that would be beneficial where there may be some skill shortages. Again, I think there are ways in which you can see and ensure that industry understand how this is there for them to use.

Q165 Chris Law: What about considering extending the length of the Tier 4 visa to give international students a longer time to find a Tier 2 job?

James Brokenshire: We come back to the four-month period, which is something that we have touched on in previous questions.

Q166 Chris Law: Can I just stop you there for a second? Can I ask you, when you graduated how long did it take you to find a job? We have heard for weeks now that the 16 weeks is far too short a period of time to go from straight out of university and into a £20,800 job as a graduate with no work experience. I just want to know from your experience or from some evidence in the wider—

James Brokenshire: As I think I said in earlier questions, I am a lawyer by background. Solicitor was my professional background. The way that the larger law firms tend to recruit is that they do it several years in advance. So I remember going for my interviews in the second year of my studies and having a job at the start of my third year, obviously subject to getting the degree. A lot of the milk rounds at our universities do take place well in advance of graduation. I have made this point at industry round tables and events I do with industry. I said, “Just look at how you do your milk rounds. You do not need to leave it until after someone has graduated, in terms of attenuating that recruitment cycle”, which is why we judge that that four-month period remains appropriate. In a large measure, a lot of firms will do recruitment processes in advance of graduation, and that is why we still continue to judge that period is an appropriate one.

Q167 Chris Law: What are your thoughts about enabling universities as a co-sponsor, for example, of international students who secure work with a local employer? This was something that was put forward by the University of Edinburgh.

James Brokenshire: If I look at the graduate entrepreneur route that we have, 11 higher education institutions in Scotland are registered to endorse applications under the Tier 1 graduate entrepreneur scheme. As a principle, we have sought to reflect that in the sense of supporting students who may have new ideas. I would suggest that we do provide a link into the graduate entrepreneur route and institutions having a role to play in respect of that.

Q168 Kirsty Blackman: The UK Government are making it more and more difficult and constantly shifting the goalposts for employers. The rules have changed and the rules continue to change. I do not understand what incentive employers have to take people on. Why would they choose to take on an international student when they have to jump through so many hoops and when they do not know if the current visa structure is going to continue to be the visa structure in the future?

James Brokenshire: I would argue that we have had a relative period of stability in relation to our main visa routes under the tiered system and that was something that business and industry had asked us to do. We are looking at Tier 2 as a whole at the moment. I do not want to prejudge what the Migration Advisory Committee will say or tell us in respect of its report, but ultimately employers would be missing out on some fantastic candidates who have spent several years at our institutions, our universities, and therefore they would be missing out on talent and why we have the arrangements in place that we do. I would repeat that becoming a sponsor under Tier 2 is not an arduous process. It is a reasonably simple, straightforward process and that is how I would want it to be so that employers have the ability to recruit some fantastic students who are coming out of Scottish universities and other academic institutions.

Q169 Kirsty Blackman: The Scottish Government and Scottish institutions have consistently opposed the abolition of post-study work visas. What consideration was given to the needs of Scotland ahead of closing the post-study work visa?

James Brokenshire: That was a decision that was taken around 2011-2012 and it was the fact that we had the old Tier 1 post-study work route that applied to the whole of the United Kingdom. An operational assessment in the employment status of Tier 1 migrants undertaken in October 2010 found that three in five users of the Tier 1 post-study work category were in unskilled work. In addition, UKVI—UK Visas and Immigration—intelligence assessments made in 2009 found that applications to switch into the Tier 1 post-study work category were associated with high levels of abuse, including the submission of suspected bogus educational qualifications. It was rather done on a macro basis, given that the post-study work arrangements under Tier 1 covered the whole of the United Kingdom. My understanding is that it was on that basis that the decision was made, given this issue of what was seen as unskilled work being the larger outcome from the post-study work route, and a clear focus by this Government to say that we do want the skilled and talented to remain post-study but in the graduate-level employment, which is why the Tier 2 route was structured in the way that it was.

Q170 Kirsty Blackman: The Government impact assessment of closing the post-study work visa estimated that it would reduce the number of individuals staying in the UK under a post-study work route by 49%, but statistics from the Home Office suggest that the actual reduction has been much greater. How many students do stay in the UK under one of the

existing post-study work routes currently? Is the drastic reduction considered to be a success or a failure?

James Brokenshire: I think I already indicated in response to a previous question that with the use of the transfer from Tier 4 to the Tier 2 route, the last numbers were about 5,500. It is certainly ensuring and has ensured that the route is focused on graduate-level employment, so it is doing that job. It is part and parcel of our brake on people seeing study, and the visa for study, as study rather than being applying for a student visa thinking that you are getting a work visa on that basis. I think that was the big problem that we saw back in 2010 when we were starting to reform the visa process.

The policy has worked, has been effective. Is there more that we can do to underline that message that I have given here today on the availability of post-study work? I think there is and that is what we continue to do both in-country and, as I have explained, in key markets as well overseas.

Q171 Kirsty Blackman: Would the UK Government consider having differential salary rates for different employments? I understand that in the technology sector, for example, graduates are not getting the salaries that they are getting in the banking sector, where they are earning £45,000 from when they come out of university. Would the Government consider having different salaries, because we do desperately need the graduates in all areas?

James Brokenshire: I will always be guided on those salary thresholds on the objective analysis that is provided by the Migration Advisory Committee. I look to it to advise me. It has some very eminent people who look at the employment data, some of the real economics behind all of this, in a way that I think really adds to our consideration of these policy issues. We ask the MAC to look at these things in a number of different ways. I am expecting the Migration Advisory Committee to report back on the salary threshold levels around Tier 2 as part of its next report. But we have asked it to look at differentials in different ways, whether that be country-specific to the UK or regional, or indeed at different approaches for different types of work. It has tended to say that the most appropriate way is to look at it in a single way, but again I will be guided by it on the evidence that it produces.

Q172 Chris Law: I want to go back to the range of options slightly. I know we have jumped ahead, but we have been listening to a whole range of voices who are consistently saying that the current system is not working for Scotland. Yet I am listening to you today and you are telling me it is. So I want to ask you a very simple question: is there a post-study work scheme for Scotland that the UK is most amenable to and what would that be?

James Brokenshire: I think that the scheme that we have in place is the appropriate one to take, the focus on graduate-level employment, the way in which it works within our Tier 2 arrangements. As I say, I stand ready to work with Scottish institutions and with the Scottish Government to ensure that that is presented in the most effective way possible, and ensure that employers and institutions see that it does provide that really positive benefit. We are seeing increases from a number of countries and jurisdictions for students coming to study in this country, which I support. There is no cap on the number of students who can study here. I do look forward to having further discussions with the Scottish Government around these issues, because I think there is a really positive message to sell of how we could do that together to underline that our institutions absolutely remain open

to attract students. How we are seeing that, yes, an 11% increase since 2010, but equally how we can continue to underline that.

Q173 Chris Law: Would you agree with me that there is a need for a specific case for Scotland or do you see it being subsumed by the UK? You are quoting 11% but just a couple of weeks ago we were being told in Scotland it is about a 1% growth per year. Even at 11%, that is 2% growth. We have double digits in Australia and Canada, we have high growth figures in parts of Europe. Why are we lagging behind if this system for the post-study work visa is so successful?

James Brokenshire: We still remain a very significant player in the international student market. I want us to maintain that position and, indeed, that we still seek to attract the good students to come and study in Scotland or the rest of the UK. I think the experience of the past suggests to me that it is right that we look at this on a pan-UK basis—and equally the reasons why immigration policy remains reserved—but it is right that we continue to discuss with the Scottish Government to understand if there are Scotland-specific issues. As I have already indicated, we have taken that approach in relation to the shortage occupation list to ensure that we continue to reflect on this. That is certainly something that I am content to do. From what I have seen thus far, I think that the right approach remains the post-study arrangements that we have in place for the benefit of the whole of the UK, including Scotland, but we will continue to maintain that dialogue with the Scottish Government.

Q174 Chris Law: Am I safe to assume that when the Scottish Affairs Select Committee publishes its report you will look at it with an open mind and perhaps review your position as a result of the evidence?

James Brokenshire: I will obviously look at the evidence that you provide. There are other committees that have made suggestions in relation to post-study work in the past. When I look at the fundamental requirement of seeing that we have students moving into graduate-level employment, when I look at the issues of abuse that we have had to deal with and the need to have a separation between study visa and a work visa—I am not conflating the two, which I think does draw you down some of the mistakes of the past—our judgment remains that the arrangements are appropriate and we have no current plans to change them. But we will always look at reports and the evidence presented to us.

Q175 Chair: Can I just say, Minister, I think people from Scotland, particularly colleagues who have been looking at this, who have given us detailed evidence about what they think Scotland requires in order to drive this agenda forward, would be profoundly disappointed in your response. What you are in effect saying to them is, “Everything is fine. Don’t worry, everything is working perfectly. There is no need to have any specific arrangement for Scotland”, even though there are sub-national schemes that obviously work and we are perfectly equipped with having Revenue Scotland to introduce a scheme that would benefit from it. Why can’t Scotland have its own scheme, which obviously is what the sector is crying out for? Why can’t we have it?

James Brokenshire: We will continue to discuss these issues on international students, but our view is that adequate opportunities are there and it is a question of an open mind of the Scottish Government equally working with the UK Government to underline that message,

to make sure that those arrangements are working effectively. That is what I stand absolutely ready to do with the Scottish Government, to see that it is done in that way with Scottish employers and with Scottish academic institutions to underline what we think are the adequate opportunities for graduating in Scotland and moving into employment opportunities commensurate with qualifications. That is why I genuinely stand ready to continue that dialogue.

Q176 Chair: Let's try it another way then. If you are not open to the suggestion or the proposition of a distinct Scottish post-study work scheme, what about Tier 2? You are currently looking at Tier 2 just now; it is going to be reviewed. Is there anything that you can do that could give us any sort of comfort that our specific arrangements in Scotland would be considered when you are reviewing Tier 2?

James Brokenshire: As I have already indicated to this Committee, the starting-off point in relation to that is the report of the Migration Advisory Committee and it has been given a very broad remit to look at Tier 2 in its entirety, recognising that already within Tier 2 there is the shortage occupation list that relates to Scotland.

Q177 Chair: Do you know the difference between the list for Scotland and the rest of the United Kingdom?

James Brokenshire: The point is that the distinction is not one that I will draw up; it will be the MAC—

Chair: But do you know the difference just now? Do you know what is included?

James Brokenshire: I think the distinctions, Mr Wishart, as you have indicated in this Committee, are relatively minor, but having said that, I support having the separate list that gives flexibility if circumstances alter, if there are specific skill needs for Scotland. So if we need to prioritise within the overall Tier 2 cap to make sure that shortage occupation list jobs are prioritised then that absolutely provides the mechanism for doing so.

Q178 Chair: Would you be prepared, therefore, to look at beyond what the Migration Advisory Council suggests, amending Tier 2 where it could meet some of the concerns that are raised in Scotland to do with salaries?

James Brokenshire: I will reserve my judgment until the MAC has produced its report, which is going to be very shortly. The commission that the Prime Minister has given to the Migration Advisory Committee is to look at it in this way and we want that to be effective for the whole of the United Kingdom, recognising the reserved nature of immigration policy but equally recognising that Tier 2 does have that specific mechanism already embodied within it in relation to Scottish skills.

Q179 Chair: Just lastly, we are going through the Scotland Bill just now, so this is a conclusion of the Smith commission and all the other issues to do with the Bill. The Smith commission was quite clear when it came to immigration and post-study work visas that there should be a dialogue between UK Government and Scottish Government about the possibility of engineering and designing a scheme. Do you recognise that within the Smith commission and what have you done to try to meet that requirement that is included there?

James Brokenshire: As I have already indicated, Mr Wishart, the Smith commission did state that we would explore options for international higher education students graduating from Scottish further education institutions to remain in Scotland and contribute to economic activity. The point I would make is that that does not mean that you have a post-study work visa. We are very clear that we do not think that is the right way forward. There have been meetings that have taken place with officials, there has been the initial meeting that took place between the Home Secretary and Michael Matheson and, as I have indicated to you today, I would be happy to meet Humza Yousaf to follow up on this issue further.

Q180 Chair: The words were “formal scheme” I believe when it came to the Smith commission. Unless other colleagues have any other questions that they want to conclude with, Minister, you have been patient with us and we are very grateful for your time. If there is anything further you could add to the work of this Committee when we are considering this, please give any further submissions to us.

James Brokenshire: Thank you very much, Mr Wishart, and thank you to the other members of the Committee for their consideration and their questions.

Chair: Merry Christmas to everybody on the Committee. This is our last session, so have a good break, everybody, and we will see you back in the new year.