



Select Committee on the European Union

Home Affairs Sub-Committee

Corrected oral evidence: Brexit: UK-EU Movement of People

Wednesday 30 November 2016

10.30 am

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Members present: Baroness Prashar (Chairman); Lord Condon; Lord Cormack; Baroness Janke; Lord Jay of Ewelme; Lord O'Neill of Clackmannan; Lord Ribeiro; Lord Soley; Lord Watts.

Evidence Session No. 1

Heard in Public

Questions 1 - 14

Witnesses

Jonathan Portes, Senior Fellow, UK in a Changing Europe; Madeleine Sumption, Director, Migration Observatory.

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Examination of witnesses

Jonathan Portes and Madeleine Sumption.

Q1 **The Chairman:** Good morning to both of you. Welcome to the Committee, and thank you for your time. This is a public session. It is being webcast live. You will be sent a transcript of your evidence. If you want to correct it, by all means do so. If there is any information you want to send us by way of supplementary evidence, that would be very helpful too. It would be helpful if you could say a little about yourselves and the work you are currently doing before we get into questions.

Madeleine Sumption: My name is Madeleine Sumption, the director of the Migration Observatory at the University of Oxford. We do analysis of the impacts of immigration on the UK. We look at migration data, the numbers of people coming in and out; we synthesise evidence on the characteristics of migrants; and we look at how we can identify the impacts of different policies on migration.

Jonathan Portes: I am Jonathan Portes. I am a fellow at the National Institute of Economic and Social Research. I am also a senior fellow at the UK in a Changing Europe, an ESRC-funded programme that produces academic research on aspects of the UK-EU relationship. I specialise in particular on the interaction between the EU, Brexit, the free movement of labour and mobility. Before I was at NIESR I was chief economist at the Cabinet Office, and before that at the Department for Work and Pensions. In one capacity or another I have worked on immigration issues in government for a very long time.

Q2 **The Chairman:** As you are aware, we are examining the possible arrangements for the migration of EU citizens to the UK after the UK ceases to be a member of the EU and the implications of that. It would be helpful if you could briefly set out for us what you see as the key considerations and choices relating to UK-EU migration that the Government need to be thinking about in the lead-up to the renegotiations.

Jonathan Portes: The most immediate question, but not necessarily the most important one, is what to do about EU citizens currently resident in the UK. In my view, negotiating the basic principle that EU citizens here should broadly be allowed to stay, and similarly that UK citizens resident in the EU should be allowed to stay, will probably not be that difficult compared with the other very difficult issues in the negotiations. As I have written, the practical aspects of identifying some 3 million people, offering them the right to register their presence here in some way, determining who is eligible and who is not, and processing that is a formidable logistical, bureaucratic, administrative and legal task. Therefore, it should be a priority for the Government to do some very serious and detailed work on that as soon as possible. That is the most urgent priority.

In terms of the broader issues for negotiation, the first question the Government have to ask is whether they want to have what Vote Leave

offered, which is a non-discriminatory system that treats EU and non-EU nationals equally for immigration purposes, or at least immigration for work purposes, after Brexit. That, in some sense, is independent of whether the system is liberal or restrictive, but it seems to me that the question whether we are going to have a non-discriminatory system or preserve a measure of European preference needs to be resolved quickly, because it clearly determines our negotiating position.

The third question is whether we or the EU are going to negotiate at all. The Prime Minister said in her conference speech that after leaving, immigration would be under the control of the UK Government and Parliament and that we would no longer be subject to the ruling of the European Court of Justice. That sort of implies that even if we have a system of European preference of some sort, it will still be entirely under our control, we can change it whenever we like, we can adjust the numbers up and down and the rules back and forth, and there will be no treaty or legal basis for any new system, in which case our European partners may well say, "You are saying there is nothing to negotiate about. This is not part of the deal", whatever the deal is. If that is the case, obviously that will have quite a profound impact not just on this aspect of any negotiations but much more broadly. Again, the Government have to decide whether they want to negotiate and they think our EU partners want to and will be prepared to negotiate at all on immigration and free movement.

Madeleine Sumption: I agree that those are really important considerations. I would add that if we are to go for a system where the UK is setting essentially its own immigration policies for EU citizens, regardless of whether they are the same or different from what we have for non-EU citizens, there are a lot of really important questions about the design of that system, particularly on issues like the kinds of jobs that would be eligible. That is most important when we are looking at the issue of low and middle-skilled work, because those are the kinds of jobs that are currently not eligible for work permits for non-EU citizens coming to the UK.

There are important questions about what kind of rights and authorisation people would get under a work permit or similar system, for example whether it is temporary or permanent.

There is also a broader conceptual question: if free movement is going to come to an end and we have some sort of work permit system, how complex is that system going to be? The Government will need to make some important choices. Are they going to have a system that applies relatively uniform criteria across the board to different industries and sectors, maybe with some selection based on skill, or are they going to try to fine-tune the rules of the system or to specific policy priorities?

Immigration is very varied in the different sectors, so a lot of considerations reach well beyond immigration policy and end up looking a little more like industrial strategy. Social care, for example, is an industry that has relied very heavily on migrant workers. You might say that this

is an argument for having a specific programme to bring people into social care because you think it is an important sector. That would be pitted against trade-offs such as whether we should be investing more in a higher-skilled workforce in social care that may be less reliant on migrant workers.

For any industry you look at there will be these different types of considerations. Therefore, at the macro level there is a trade-off; do we try to create a system that responds in individual sectors to the different priorities the Government are trying to meet, potentially at the cost of having a system that is very complicated and may be more difficult to enforce because the Home Office would have to police the boundaries between different categories and manage different sub-quotas of people? Fine-tuning often feels like a good idea, but it is more difficult to manage. There is no clear answer to that, but if we are to go for a work permit system it will need a lot of thought.

Lord Jay of Ewelme: I want to follow up the rather interesting point Jonathan Portes made that there might not be a negotiation: that the EU might decide not to offer anything in particular, so let us leave things as they are. If that were to happen, what would be the implications for EU citizens here and for our citizens in the rest of the EU if they are in effect left out of it?

Jonathan Portes: You could have a situation where the EU says there is nothing to negotiate on future arrangements post Brexit, whatever the Brexit date, but from a practical point of view there would still have to be some discussion of what happens to people who are already here. Even if there were no substantive negotiations, we already have our own legal and ECHR obligations. Essentially, anybody who has been here for five years would have to be granted residence, but we would be pretty much free to make our own law as to what happened to people who did not fit those criteria.

Lord Jay of Ewelme: From what you say, you are talking more about the future, as it were.

Jonathan Portes: Yes.

Lord Jay of Ewelme: You still work on the assumption that there will need to be some kind of agreement about what happens to those who are already here and to UK citizens who are already in the EU, no doubt with some other difficult grey area about exactly how you manage the cut off.

Jonathan Portes: Exactly.

The Chairman: You are making a distinction in relation to the transitional arrangements, because in essence acquired rights are different from what immigration policy might be and the movement of people afterwards.

Jonathan Portes: Yes. It is the same for trade, if you like. The EU may say, "You are not serious. You will just have to go to standard World

Trade Organization rules". That does not mean that we will not still have to negotiate on the details of companies with existing legal contracts made under the current laws, for example.

Lord Cormack: Would not the simplest solution be to say that every EU citizen who was here on 23 June 2016 and every British subject who was resident within the EU on that date just does not come into it? Would that not be a very good basis on which to start?

Jonathan Portes: It is simple, but it is, very obviously, totally unrealistic and undesirable. It would mean that a Spanish schoolboy who was here to tour this building on 23 June would effectively be given—

Lord Cormack: I am talking about people resident at that point.

Jonathan Portes: We do not have a definition of residence, or proof of residence, for people who have been here. What about the Polish shopkeeper who went home on 23 June to visit family? We do not know who was in the country. I was not in this country on 23 June, as it happens, but there is no bureaucratic record that says where I was on 23 June. There just is not.

The Chairman: Can I bring us back to the fact that the Committee is looking at the movement of people post-Brexit? We are getting into acquired rights. I want to make that distinction. We are not looking at what is going to happen now; we are looking at what the movement of people will be like after the negotiations.

Q3 **Lord Ribeiro:** We are often told that statistics are open to interpretation, but this Committee understands that the statistics on the nature and number of EU migrants to the UK and UK migrants in the EU are incomplete, which makes it rather difficult to formulate policy. We would like to know your assessment of the figures in regard to migration flows, and how accurate they are. What do they tell us about UK-EU migration flows in both directions?

Madeleine Sumption: I am sure Jonathan will also have a lot to say about this, because this is something he has worked on quite extensively. My general take on this is that we have a number of different sources of data. By international standards, they are not too bad. We have more sources than policymakers in many other countries. One issue is that we have these different sources and they do not all say the same thing, and there is no definitive truth about migration. Not absolutely everyone is in the datasets that we think of as definitive, such as the census. Some of the differences between data sources are things that we would expect, because they count people in slightly different ways different groups under or overcounted, and it is not necessarily something to get too worried about.

There are also differences that cannot be explained, and it would be useful to get to the bottom of why there are some differences. The Office for National Statistics has been doing a fair amount of work on this. There are ways to improve the data. There is a capacity to do a lot more with

the HMRC data that we have just started to see being used for statistical purposes, but it would need a lot more work to be produced regularly and to become a high-quality national statistic. That would be very useful for policy purposes.

More broadly, the question is: to what extent is this a problem for policy? It is always useful to have better data, but I would not want to give the impression that we simply cannot do anything with the data that we have. Whether the deficiencies in the data are a problem depends on what you want to do with it. For some purposes, the data that we have is probably not too bad. Let us say that we are looking prospectively at new policies towards EU citizens who might come to the UK and we want to know what the impact would be on the numbers coming here and the potential knock-on economic impacts of those changes. Not knowing exactly whether there are 3.6 million or 3.9 million EU citizens in the UK would not necessarily be a problem for that exercise, because, frankly, the statistical methods that we have to estimate the impacts of future policies will not be so accurate that a 10% margin either way will make a huge difference.

There are other policies that rely much more on the data being spot on. If you are looking at net migration targets, for example, and trying to fine-tune different policies within those targets, relying on the idea that we are accurately measuring net migration of non-EU students, it is much more problematic. There are two questions: how can we improve the data, and how can we develop policy that does not rely on the data being 100% accurate, which it will probably never be?

Lord Ribeiro: You make the point that the data may have a 10% variation one way or the other, but is it more accurate for those coming in as opposed to UK citizens going out?

Madeleine Sumption: Emigration is one of the features of migration that is most difficult to measure, partly because we rely mainly on the international passenger survey. Some conceptual issues are very difficult to verify by looking at other datasets, even the census. For example, in order for someone to be counted in the net migration figures as having emigrated, they need to be emigrating for at least a year. Someone may not be sure about their intentions when they leave. Let us say a student has been studying in the UK and would like to get a job here but does not have a job yet. They go travelling or go home for a short period. Do they say that they are coming back or leaving for a year or not?

At the moment, we do not know exactly how people are answering those questions. Over the longer term, there are theoretically ways to try to address that. For example, if you collected an identifier in the survey that you were then able to link to other datasets, such as entry and exit checks or visa data, you might over time be able to get a picture of whether people have been answering the question in the way we think they are. Those exercises are feasible and would be very useful. It is a long-term project, though. It is not the kind of thing you can necessarily

get the Office for National Statistics to sort out overnight in order to answer an immediate policy question.

Lord Ribeiro: So in terms of hard facts, “net migration” is a rather woolly term.

Jonathan Portes: I agree entirely with everything Madeleine said. I make a couple of supplementary points. One is that there is a really quite serious conceptual problem here. Our definition of an immigrant is somebody who comes here intending to stay for more than a year. That was probably quite meaningful and reasonably clean in the 1950s, 1960s and 1970s, when people who planned to come and live here came from the Caribbean or India with a work visa. If those people wanted to come here they had to have a visa that gave them an entitlement to do that, and they probably intended to stay for more than a year. If you are coming from Poland, Latvia or France, there is no legal, moral or practical obligation on you. When you come here and flash your passport with no visa in it you may very well not know whether you intend to stay for a month, six months or the rest of your life. Even if you did have some vague intention, it could well change and you are perfectly entitled to do that. Such statistics that we have on this show that there has been a very large increase in short-term and circular migration. There is a fundamental conceptual problem with net migration statistics.

On the purposes of the target—as Madeleine says and as we all know that has serious disadvantages—obviously the Home Office needs to know the number of people coming and going to be able to process them, but it is rather more important from our point of view to know who is actually here. I am in some sense more worried about issues and deficiencies with things like the Labour Force Survey and annual population survey on which we rely for an awful lot of statistics. They are not directly relevant to migration, but they are all sorts of statistics that everyone—central government, local government and so on—use for planning purposes to ensure they are right. On that, I entirely agree with Madeleine that the prospects for improving those depend crucially on being able to link administrative data with survey data. Government has done quite a bit, but there is an awful lot that could be done. The Digital Economy Bill, which is currently going through Parliament, will break down some of the legal barriers to this. I know that the ONS is doing a lot of work on this, which I think is extremely important.

Lord Ribeiro: In medicine we are often told we have to practise evidence-based medicine. What specific data do we need to ensure that we can develop evidence-based policies around this? You have talked about some of the others floating around.

Jonathan Portes: The priority for me would be to use the administrative databases that we have, as Madeleine says, particularly those based on national insurance number registrations, which both DWP and HMRC hold. Those track people’s interactions with the tax and benefits system from the moment they register, when they are identified as foreign nationals, and throughout the rest of their lives whenever they interact with the

system. In theory, therefore, there is no reason why we cannot look at the number of people who registered for a national insurance number in 2007 and say what their trajectories look like over time. Did they stay here permanently, or at least continue to interact with the systems permanently? Did they jump in and out? Did they stay for a couple of years and then vanish entirely? Combining that and linking it with other data sources you can begin to get a picture not just of who comes in and is here at any one time but what people's life trajectories look like. That seems to me to be the sort of specific analysis that has not been done at all in this country as yet. That would provide a really useful guide for policy across a whole spectrum of policy issues.

Madeleine Sumption: I would agree with that. There are some interesting examples from other countries that have very good immigration statistics. Canada, for example, has created a dataset where they have linked tax and immigration system records, which means that they can track people. For example, a person came in as an investor in 2005. What are they doing five years later? Are they employed? How much are they earning based on their tax records? Once you have that kind of route-specific information so that you see the policies that admitted people and their life trajectories over time, you start to get a much better picture of how the immigration system is used and what its likely impacts will be. In the longer run, experimenting with systems like that would be really useful.

Lord Ribeiro: So it might not work for the low-skilled category.

Madeleine Sumption: Even for the low-skilled categories it is very useful to know people's employment rates and whether they are interacting with the system at all. Obviously, some people who are not eligible to pay any tax will not be in the system, but they may show up on the benefits side of the equation.

Jonathan Portes: That is a really interesting question. We know that most recent European migrants, particularly from eastern and central European countries, who come here go into low-skilled work. We also know that, as we measure their qualifications and skill levels, they are rather more skilled than the British population. The really interesting question is: is this a problem or not? You might think that they come in and probably do not speak English that well, they have no connections here, they start off in low-skilled jobs, but over time they may move up within the labour market to jobs that reflect their skills and qualifications, which would be a very good thing for them and for us. On the other hand, if they just get stuck in low-skilled jobs because they cannot move up, for whatever reason, that is a bad thing for them, for us and for their home countries, which are losing skilled people. We know almost nothing about the answer to the question: what are the people who come and work in low-skilled jobs doing five or 10 years later?

Q4 **Lord Watts:** Do we know how the EU migration figures to and from the UK compare with other EU countries? Do we know the difference between them?

Madeleine Sumption: Most other EU countries do not have an equivalent of the international passenger survey, which gives the flows in and out. They all have individual or household surveys that give us a sense of who is in the country, so you can construct a crude estimate of net migration by looking at the change in population over time. For example, if you look at Eurostat data, they report the number of EU citizens who have moved, not the nationality of the host country, and are living in EU countries over time. If you look at the increase in the number of EU citizens—of course some people will naturalise and be lost from the data—between, say, 2010 and 2015 and compare it across EU countries, the UK is at the top; it is the country that has seen the greatest increase in absolute terms. Of course, it is also one of the biggest countries in the EU. Germany is just behind the UK on that measure. If you look at it as a percentage of the population, the UK falls down the rankings a little bit. If you look at countries—not necessarily EU countries—with free movement, Norway and Switzerland on a per capita basis have more EU migration and Luxembourg is often an outlier, but the UK is still in the top five or 10.

Lord Watts: Do we know the difference between the people who are migrants and active in the workforce and those who are not? One suggestion is that large numbers of our migrants are retired pensioners living in Spain and Portugal. Do we have the information to know whether the migrants who come here are in work or the numbers reflect some who have come here to retire? Is it that sophisticated? Can we tell the difference between the two?

Madeleine Sumption: Certainly, where someone is working we have relatively detailed information from the Labour Force Survey. Employment rates of EU citizens in the UK, particularly eastern European ones, are quite high. We have less systematic data on UK citizens going to other EU countries just because you need to go into the separate databases of different countries. I am not aware of anyone who has done that work, although it may exist.

Lord Watts: So, once again, are you saying that we can tell with some certainty what is happening in the UK, but to compare it with other EU states is much more difficult?

Madeleine Sumption: That is right. It is not just a question of employment rates or activity status. The Labour Force Survey collects very detailed information on the types of jobs that people are doing: occupation, industry, the number of hours they are working and the type of contract they have. There are hundreds of questions in there, so we can get a pretty detailed picture of those people, subject, of course, to any limitations as a result of any people who are undercounted in the survey. Looking at Brits abroad at that level of detail systematically across the whole EU is more difficult, although in theory it is not impossible.

Lord Watts: Finally, we have heard from previous witnesses that statistics are gathered by a number of different bodies. Is there any

move to bring all those statistics together and have someone who actually produces them with fairly comprehensive oversight? It seems to us that different departments of state are not necessarily keeping statistics in the same way, and it becomes difficult for the Committee, certainly for me, to understand the total package of what the statistics mean.

Jonathan Portes: I was at a seminar yesterday held by the UK Statistics Authority and the Office for National Statistics at which the National Statistician, John Pullinger, presented his vision for the future of migration statistics. There were a number of representatives of different owners. As you say, various different government departments own relevant statistical databases. Somebody there said, "Should there not be just a population register and effectively one unique identifier for everybody?" I think that is regarded as being politically unrealistic at the moment, but the idea that much more of this data could be linked together, with the ONS holding the ring and having the overall vision and control of the migration statistics system, is, I think, pretty widely shared, certainly by analysts and statisticians in the various government departments as well as external people like me.

Of course, there are other legal, bureaucratic and resource barriers to delivering that vision; it is not going to happen overnight. But I think the statisticians, economists and analysts around government are pretty much behind the idea that it needs to be brought together, with the ONS holding the central focus.

Q5 Lord Condon: We would be interested in your views on the economic impact of reducing migration, particularly in the context of the OBR estimates in relation to the Autumn Statement. They said that the cost could be £16 billion, on the assumption that migration would not reduce to below 100,000. Could you help us understand what you think are the assumptions they have made about that? More specifically, what are your own views about the direct and indirect costs of reducing migration? Anything you can assist us with on that would be very helpful.

Jonathan Portes: What the OBR has done, and I am sure Robert Chote would be the first to admit it, is the most basic arithmetic calculation. They are not assuming a reduction to 100,000, or to below 100,000; they are saying that, in the absence of Brexit, they would expect migration to continue to trundle along quite a bit above what the ONS is assuming in its principal projection, which is 185,000 a year: "We are not really sure what Brexit is going to do, but in the absence of any further information from the Government on policy we will assume that the ONS's principal projection of 185,000 a year will turn out to be right". That translates to a medium-term reduction of about 80,000 a year from what it thinks it otherwise would have been. "We are simply going to apply that arithmetically, knowing that migrants tend to be more likely to be of working age. We are going to apply what that 80,000 means to the size of the labour force and hence to the potential output growth purely in proportion. In other words, we are going to say that this reduces potential labour force growth by 0.2% in the medium term". That reduces

potential output GDP growth by 0.2%. It is nothing more sophisticated than that. Since potential output determines, certainly in the medium to long term, actual output, that just depresses GDP, which in turn translates into the fiscal accounts, again purely on a proportional basis. It really is very much a simple arithmetic.

There are two stages. There is an assumption about the reduction in net migration resulting from Brexit, which they recognise is purely arbitrary because they have no better information to go to. That in turn is translated into an impact on GDP and the fiscal accounts, which is purely arithmetic; it just reduces the size of the labour force, the population, the economy and hence the tax revenue in proportion. It is nothing more than that. I can say a bit more about the work I am currently doing on this.

Lord Condon: Yes, please. That would be helpful.

Jonathan Portes: That is what the OBR are doing. What I and my colleague Giuseppe, who is sitting at the back, are working on at the moment is an attempt to refine both ends of that calculation, first in terms of forecasting the reduction in migration that Brexit is likely to result in, both in the short and long term. We are doing some econometric analyses of the determinants of migration flows and trying to work out in terms of the macro-economy what drives migration, and how much free movement matters to migration, using that to forecast migration flows. We are also using some work Madeleine and colleagues did previously on the likely impact of a possible set of restrictions that might come in if we ended free movement to develop some longer-term scenarios. We are doing that on the one hand. Then, in terms of working out how that reduction in migration translates into economic impacts, we are looking at cross-country literature on the impact of migration on growth per capita, GDP and productivity, on which a very important and interesting paper was published a couple of months ago by the International Monetary Fund. That tries to look not just at the raw impact of migration on the labour force and the size of the economy but the indirect impacts on productivity and growth, very much as the Treasury, IMF and OECD did for trade in the context of their pre-Brexit analysis.

Lord Condon: Is the work that you and your colleagues are doing likely to come to fruition in a way that might help the Committee over the next couple of months, or is this longer term than that?

Jonathan Portes: As you doubtless know, there is a new set of migration statistics to be published tomorrow. We intend to incorporate some of that into our analysis and run the analysis, and we hope to be publishing something a week from today. This will be preliminary and subject to lots of criticism, both academic and other I suspect, but we will at least begin to make a contribution to this debate in the next week or so.

Madeleine Sumption: When we are thinking about what the overall economic impacts of change in policy might be it is quite important to

consider the skill composition of the people coming in. As the OBR recognise, they are assuming a generic reduction in migration across the board and not necessarily looking at what the impacts will be if one just disproportionately reduced low-skilled migration. On average, if you focus on reducing lower-skilled migration, the impacts of that on any reduction in the fiscal balance, for example, would be less negative, because you are focusing on the groups that are making a smaller economic contribution. The uncertainty about exactly what the policies will be is one of the things that makes it quite difficult at this point to say anything solid.

Q6 Lord O'Neill of Clackmannan: We have already seen claims being made, not so much evidence, that, if we prevent low-skilled workers coming in—the kind of people who are engaged in fruit-gathering and that kind of thing—we will have to find workers who will be prepared to do it but only for higher wages, and there would be a knock-on effect on the price of fruit, food and so on. To what extent do you think that is a valid point? People like the CBI, the Institute of Directors and the British Chamber of Commerce tell us, whenever something like the living wage is introduced, that it will be the end of western civilisation. We have heard in the past couple of days that the impact of wage rise has not been what they anticipated. Do you think this particular area is of a more specific kind and likely to cause inflationary increases of the nature suggested?

Jonathan Portes: I think it is likely to be highly variable from sector to sector. If you think about how employers could respond to a reduction in the supply of migrant workers, there are lots of different ways. They range from simply shutting down and going out of business, in which case British consumers would buy different products or products from abroad, and in some sectors that may be quite likely. For example, my understanding is that the UK strawberry sector is quite a lot bigger than it used to be before we had the availability of flexible labour from eastern Europe. There are plenty of other countries that can grow strawberries. That is one possible response.

Another response is higher wages, which would presumably in a competitive market probably be passed on to consumers, although employers might have to reduce profits if they were making enough. Another possibility is investment in labour-saving machinery. For example, observationally in London there are very large numbers of European workers employed in coffee shops. The technology for making coffee has evolved quite a bit; it is now done much more by the touch of a button rather than a barista fiddling around.

All one can say for certain is that the economy would adjust; we would move to a new equilibrium, but to what dimensions it would adjust will differ quite a lot from sector to sector. It is quite difficult to know in advance what will be the most important margins of adjustment. The evidence we have suggests that, on the whole, additional immigration does not lead to reduced employment of UK workers. Of course, unemployment in the UK is already pretty low at the moment, so it

seems unlikely that the main way employers would adjust for it would be simply by hiring Brits. Would it be wages? There is some evidence that there are wage impacts, but they are pretty small. My guess would be that in some sectors there would be wage impacts, but it probably would not be that big economy-wide. Would employers increase productivity and make capital investment to save on labour? One would hope so, but we do not know that.

Q7 Lord Jay of Ewelme: There are a number of ways in which the Government could move to a new system of immigration, and so far we have identified four main ones: free movement with an emergency brake, rather like the previous Prime Minister was trying to negotiate earlier; free movement for workers with a job offer; labour market restrictions on EU migrants, but leaving others without any controls; or visa restrictions on EU migrants as a whole, which I suppose puts EU migrants into the same category as others. Would you say those four are the main ones, or is there anything wrong with them? Is there anything we have not thought of?

Madeleine Sumption: There are many variants. In some ways, you could boil it down to just two options: a variant on free movement, defining free movement essentially as a system where the decision to migrate is made by the individual and the employer does not require specific application or permission to hire them, and a system where permission is required so people would have to apply for a work permit.

There are some hybrids. You mentioned the possibility of restrictions on people's ability to work, but not on family, self-sufficient migrants or students. There are some technical questions about how feasible that is, but there are ways of approximating it, but it is difficult retain free movement in its present form for some people but not everyone, because you get into enforcement challenges.

Lord Jay of Ewelme: If you were charged with coming up with two or three main options to drill down, what would they be? Would they be the two you mentioned, or variations of those?

Madeleine Sumption: It would be a variation on free movement and a work permit system of some kind, probably also with restrictions on family members, or at least with an application process for family members, students or self-sufficient people.

Jonathan Portes: I agree with that classification. To my mind, visa restrictions are a slightly separate issue from rights to work. The ability to work in this country is no different if you are an American or Indian. You need to get a work permit of some description, but your visa requirements are quite different. Americans can come in and show their passports, but an Indian has to have a visa in order to come here. Those seem to me to be slightly different conceptually.

Q8 Baroness Janke: Some of the sectors I have spoken to, particularly aerospace and automotive, have very much interconnected supply chains

through Europe and have a need for free movement, not necessarily permanent or whatever. What kinds of arrangements could facilitate that, because that sort of follow-through activity seems very much a threat? You have to have a visa. You cannot wait three days if you have issues about failing machinery and people need to travel to deal with it. How would what is proposed here address that particular situation?

Madeleine Sumption: It depends on how the system is designed. If free movement comes to an end and you are looking at a work permit system of some kind, there has to be an application process. You can have a premium service and ways to speed that up, but in most plausible designs of that system it is going to take some time, especially if there is a requirement for the employer to advertise a job. That said, for example currently intra-company transfers visas for non-EU citizens do not require the employer to advertise the job; they allow people to move in and out for relatively short periods. People can have multiple-entry visas, if that is deemed appropriate.

I think the issues are: what are the criteria? How easy it is for employers to move people in ways roughly comparable with what they have been doing so far will depend on the criteria. We are seeing various changes to the intra-company transfer system by increasing the salary that someone has in order to be able to qualify for that visa. Therefore, employers hoping to move people who are earning £22,000 a year will find they cannot do that, but if someone is earning £60,000 a year, as long as their HR operation is sufficiently organised so they have all the paperwork lined up in advance—obviously, that is much easier for larger employers—in principle that system would work relatively smoothly. It depends a lot on how the system is designed.

Baroness Janke: Many of these are quite small companies that provide networks throughout the country. You are saying that effectively that it would be much more difficult for these organisations to be able to carry on in the same way as they do at the moment.

Madeleine Sumption: In general, the impact of work permit systems is biggest for small employers just because they are moving fewer people; they do not necessarily have experience of making the same applications; they do not necessarily have a centralised HR team that can sort it out perfectly.

Baroness Janke: Lots of these companies would go out of business if they cannot do this. Has that factor been considered?

Madeleine Sumption: There are some models for third-party sponsorship, for example, where the employer literally hands over responsibility for going through the application process and making sure all the criteria are met to another body that has more experience of it. There are some models, for example the tier 5 system that we currently have in the UK, whereby Australians, New Zealanders and people from other Commonwealth countries can come in. They are either sponsored by a recognised agency or make an application on an individual basis,

potentially sponsored by their Government. Models do exist that do not require the employer to be the one who is doing the sponsorship, but it is time-consuming, complicated and requires more resource.

Q9 Lord Ribeiro: Do you consider that retaining free movement for certain categories of EU migrants only—here I am thinking particularly of students and the economically self-sufficient, including retirees—is technically feasible? In an earlier answer you referred to tier 5. Clearly, we have a tier system. Is that translatable in this context?

Madeleine Sumption: If you define free movement as we currently define it—you do not need any paperwork at all; you can show up and have the right to work, and essentially your authorisation is your passport—I do not think you can have that for some people and not others, the reason being that, if some people are authorised to work and others are not, you need a way of distinguishing between them; otherwise, in principle everyone could say, “I am one of the people authorised to work”, and there is no verification process.

If you say that it will not be free movement as we currently know it, but you are going to make it as easy as possible for certain groups of people to come to the UK to work—a family member or whatever—you would still need some form of application and documentation so people can demonstrate they are complying with immigration law, employers know they are complying and so forth.

In theory, you could design a very light-touch system that said, “You still have to go through this application process, but there will be very few requirements”. For example, if you are a worker the employer does not have to advertise in the local labour market first or pay the usual fees; if you are a student, you get domestic tuition rates and do not have to work for a registered sponsor; and if you are a family member, you do not have to meet the family income threshold. In all those cases, essentially it would not be free movement because there would be an application process, but the Government can do whatever they want in terms of whether they impose restrictions and a lot of eligibility criteria, or whether they say they are going to make it so easy a process that it will feel a little bit like free movement, even if it is not.

Some enforcement challenges come up if you have different routes where one is very generous and quite easy to qualify for and another is much harder. For example, if you said we are going to have extremely generous family migration policies for EU citizens but a work permit is required, what is there to stop someone coming in as a family migrant and working? Would they be barred from working? If so, are they eligible for benefits, and essentially are we preventing people from supporting themselves? If they are not barred from working, would we not see people divert via that route because it is an easier way to get work? There are lots of operational considerations about enforceability that would come up.

Lord Ribeiro: That would be challenged because free movement is part

of the four tenets of the European Union. Do you think they would allow that?

Madeleine Sumption: Allow a system where there were work permit restrictions?

Lord Ribeiro: Yes.

Madeleine Sumption: The European Union has been very clear that it sees free movement as the full package, including access to welfare and no restrictions on the skill level someone has to have to do the job. Obviously, once you enter into negotiations potentially other options are on the table that have not been used before, but that is very difficult to predict.

Jonathan Portes: For me, the answer to this question is mostly yes, in the sense that ending free movement will in practice be enforced in the workplace. Unless we impose visa restrictions—it seems unlikely to me that we will impose restrictions on French people that we do not impose on Americans or Australians—we will still be letting Europeans come here. In practice, we will still allow people who are economically self-sufficient to come here and do pretty much what they want. Therefore, the restrictions we impose will not be about movement at the borders; they will be restrictions on the benefits system. Presumably, we will say that people cannot claim until they have established permanent residence, and in the workplace we will say to people that unless they have some sort of permit, whatever that is, they will not be able to work. I do not see any particular problem with retaining free movement for, say, economically self-sufficient people at the same time as saying we are going to end the free movement of workers, and workers will have to have a work permit system, whether it is more or less restrictive along the lines Madeleine describes.

Lord Ribeiro: What are the likely numerical implications if we were to allow that to happen?

Jonathan Portes: The vast majority of long-term EU migrants come here in order to work. If we succeed in stopping them—there are some pretty formidable enforcement challenges here, as Madeleine has rightly said—by saying that effectively Europeans will not be able to work here illegally and will be subject to a strict quota, along the lines of the system we currently apply to non-EU migrants, the numerical implications will be potentially quite significant. Madeleine can give her estimates, which we are looking at as well.

Madeleine Sumption: We looked at the number of jobs in different sectors that would meet the current criteria for visas for non-EU citizens. Looking across the workforce as a whole, regardless of the nationality of the person holding the job, it varies a lot by sector. If you look at hospitality, for example, which is the largest employer of EU citizens, more than 90% of people in that sector are not in graduate jobs that pay at least £30,000, which from next year will be the main criterion.

Lord Ribeiro: Currently, it is about £23,000, is it?

Madeleine Sumption: For new entrants and experienced workers, it has just gone up to £25,000, and it will increase to £30,000 in April. Hospitality is at one end of the spectrum. The vast majority of people, if you kept the current system in place, would not meet those criteria. It was higher but still a minority of people in banking and finance. Health and education also tend to rely on more skilled jobs. It varies a lot. It depends completely on what the skill criteria are and whether we keep the current ones or they become more generous.

Q10 **Lord O'Neill of Clackmannan:** We are talking about negotiations and the factors involved in that. Once we get a settlement we will be looking for delivery. The Home Office has been dubbed by a former home secretary as not fit for purpose. What confidence do you have in the Home Office being able to deliver the fruits of the negotiated settlement, given its past record of incompetence?

Jonathan Portes: That is a slightly loaded question.

Lord O'Neill of Clackmannan: I refer to its performance; I would not use "incompetence".

Jonathan Portes: The Home Office is, I think, very severely resource constrained in delivering its current tasks. The Home Office quite likes free movement. The nice thing about it is that you do not have to worry about the Europeans for the most part, apart from security and crime where there are issues. However, from an immigration point of view you do not have to worry about Europeans; they do not require any forms or bureaucracy, so for the Home Office this is an absolutely huge challenge by which they are, not surprisingly, extremely daunted at the moment.

What messages should one take away? First, it is very important that the Government give the Home Offices the resources it needs—people, systems and time—to make any new system work. Secondly, there is a very strong premium in designing any new system to make sure it is light-touch, non-bureaucratic, non-intrusive, does not require visiting every employer in the country and does not require employers to wade through huge numbers of forms so they have to call a helpline for it to be interpreted. It is important to design from the beginning a system not just on the basis of what is seen to be politically acceptable or desirable but on the basis of what can be delivered given the available resources.

Q11 **Lord Cormack:** I find all this very interesting. In your view, what would be the most effective and efficient way to limit the entry of the low-skilled and low paid? You have just talked about the enormous bureaucratic load and all the rest of it and how difficult it is for the Home Office. What would be the simplest way of dealing with this, if it has to be dealt with?

Madeleine Sumption: If you want to focus reductions on migration on people working in low-skilled jobs, the most straightforward way of doing it is a work permit system. For other options like the emergency brake, generally it is assumed that those would be first-come-first-served

systems so they would not discriminate on the basis of skill. If you have a work permit system it will affect all employers, including those with high-skilled jobs, because they will have an application process to go through, but larger employers especially will absorb that cost.

You would then see disproportionate reductions in skilled workers, with the caveat that there may be some exceptions if the Government decided they wanted to facilitate low-skilled migration into particular sectors like agriculture, social care or whatever, and there would also be an enforcement challenge to make sure that, in a world where employers have become quite reliant on low-skilled workers and, if there were no visa restrictions, it would probably be quite easy for people to come and go from the UK, illegal working did not become a greater problem.

Jonathan Portes: I broadly agree. The simplest thing, which would be rough and ready and not perfect, is to have an overall quota, say 10,000 a month, 50,000 a year or whatever was the suitable number for Europeans. That quota would be first come first served; you just get a stamp that allows you to work. After that, people would have to go through the normal system that non-EU people currently have to go through. You could liberalise that somewhat so it would go down more easily.

Lord Cormack: To do this efficiently and speedily what sort of extra resources are we looking at?

Jonathan Portes: It is impossible for me to say; you would have to ask the Home Office about it. It would be significant, but I think that would be the least resource-intensive way of doing it. You already have the non-EU system. You could liberalise that somewhat by increasing the quota and lowering the skill requirements. That just involves scaling up the existing system. A system that on a first-come-first-served basis gave people a national insurance number and permission to work would still have formidable enforcement challenges, but it is probably doable reasonably quickly.

Q12 **Lord Jay of Ewelme:** If you had a system like that, you would not be looking at the skills of the person coming in; you would be looking at the skills required by the job for which they were applying. Is that right?

Madeleine Sumption: You can in principle do that. The Australian-style points system, which I understand is no longer under consideration, is focused more on the skills of the individual. If you care about the economic impacts, in the long run it is the job they are doing that is more important than the skills of the individual, because we know there are a lot of people who come in who are highly educated but they are working in low-wage positions. If you are to use one metric, it is the skill of the job that matters more.

Lord Jay of Ewelme: You have already answered my second question in a response given earlier to Lord O'Neill. There is an assumption that most of the difficulties arise from eastern and central European people coming

here and working in low-skilled jobs. If you were to have some restrictions, particularly on eastern and central Europeans, which sectors would be most affected? We have talked a bit about agriculture. It was said that one of the options would be just to close down certain things and buy from abroad, which is ironic in the circumstances, but would other sectors be affected as well as agriculture?

Jonathan Portes: Madeleine mentioned social care.

Madeleine Sumption: Hospitality is a big one; manufacturing and construction is slightly less but has still seen significantly increased reliance on EU citizens, particularly those from eastern Europe. If you are thinking particularly about eastern Europeans, they are more likely to be working in low-skilled positions compared with people from the older EU countries, so it is the sectors that rely most on low-skilled workers that would be most affected.

Lord Jay of Ewelme: The sectors are agriculture, social care, hospitality and construction.

Jonathan Portes: It is not just agriculture but factories where food processing happens. That is also a big one.

Lord Jay of Ewelme: What would be the implications for those sectors? You have already answered that in part.

Jonathan Portes: Reduced output; higher prices; and possibly investment in labour-saving machinery.

Lord Cormack: Fewer people being looked after in care homes.

Jonathan Portes: Care homes are conceptually different, because in the others we are talking basically about the private sector. Its incentives and budget constraints will change and it will have to respond in some way. In social care, where you have effectively constrained government funding, it is much more a set of political questions as to how you respond, whether it is more money, less care or some combination.

Q13 **The Chairman:** If there were to be restrictions on skilled workers coming from the EU, would that have any impact on skilled workers eventually?

Jonathan Portes: I think it is inevitable. By definition, if you have a system that restricts low-skilled workers you are requiring people to prove they are not low skilled but high skilled in some sense, however you want to define it. That involves some sort of bureaucratic process: applications, forms and fees. At the moment, you can simply say, "I am leaving my job in a French bank and going to work in a bank in London". You get on Eurostar and that is it. In future, you will have to go through the Home Office bureaucracy in some form or another. It is unclear what it will be.

Moreover, the right that you then acquire to live and work here can be taken away by the Home Office bureaucracy. It will probably be time

limited, as the current ones are. You may have a spouse or children. They will not be high-skilled workers; they will have a whole set of rights and entitlements which will have changed. There is a huge difference between coming here as a European citizen, which for most practical purposes means you have the rights of a UK citizen, and coming here even as a high-skilled worker with a work permit of some sort. Your long-term prospects, integration into wider society and rights are different. For that reason you are considerably less likely to come here, or, having come here, considerably less likely to stay. That is why you hear a lot of anecdotal evidence of academics, for instance, talking about going back to universities in the EU. That is not because they think we are going to kick them out, or that realistically they would not be eligible for a work permit, but because their sense of wanting to stay here permanently has changed.

Lord Cormack: It is basic security, is it not?

Jonathan Portes: Yes.

Madeleine Sumption: Obviously, if one is comparing free movement with a system where one has a complex application it will be harder even for high-skilled workers to go through that process, but you can still be an attractive country for high-skilled workers even with a complicated application process. If you look at the United States, the US immigration system is a complete chaotic mess. They are allocating visas by lottery half of the year; there are times when they have no idea when the visas are going to run out and who will and will not be eligible, but it is still an extremely desirable place and a lot of people want to go there. While there are questions about the administrative burden of applications, which is true, people do not move because of immigration policies but because of the opportunities they want in those countries, and in many cases they are willing to go through quite a lot of hurdles.

The Chairman: Can I request some further written evidence from you? When you were talking earlier about the range of options for future immigration policy you talked about two significant ones and some nuances of the options we listed for you. I would also like to hear a little more from you about the implications of these options which would give Ministers the control over the number and characteristics of EU migrants. What is the impact on employers and the labour market and the implication for citizens? In a way, those are the options. What are the implications? Ministers talk about having control over the numbers that come in. We also want to know what the implications will be for the labour market and employers and what it means for citizens. I think it would be very helpful if you would not mind giving us some written evidence on that.

Q14 **Lord Condon:** Is the Government's mantra of no running commentary inhibiting their Departments from accessing experts like you and others, or do you get a sense that your expertise is being inputted into the various modelling choices? I am not asking you to betray confidences, but in the round do you sense that departments are tapping into

expertise on migration in the way you would hope?

Jonathan Portes: I think it is a bit ad hoc at the moment. I have had a number of contacts with people who work on immigration policy. I have not yet got an impression of whether there is a systematic attempt to tap into external expertise across the spectrum, of which there is quite a lot. It is more a matter of, "We heard you wrote this. Can you send us a copy?" rather than anything more systematic.

Madeleine Sumption: I would say the same. I have had contacts with people but it is difficult to know, based on my experience, how systematic that is and what it looks like for other people.

Lord Jay of Ewelme: Are the approaches coming from the Department for Exiting the European Union or the Home Office, or is it a bit spasmodic and ad hoc?

Madeleine Sumption: I am sure it will vary. I speak on a regular basis to people in the Home Office, for example.

Jonathan Portes: I have spoken to people in DExEU, but again it is ad hoc rather than systematic.

The Chairman: Thank you very much indeed. You have been very helpful. I would be very grateful for further information, if you would not mind sending us written evidence on that.