

EU Home Affairs Sub-Committee

Corrected oral evidence: Brexit: UK-EU movement of people

Wednesday 7 December 2016

10.31 am

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

Evidence Session No. 2

Heard in Public

Questions 15 - 29

Witnesses

[I](#): Marley Morris, Research Fellow, Institute for Public Policy Research; Lord Green of Deddington, Chairman, Migration Watch UK.

[II](#): Owen Tudor, Head of European and International Relations, TUC; John Earls, Head of Research, Unite.

Examination of witnesses

Marley Morris and Lord Green of Deddington.

Q15 **The Chairman:** Good morning, Lord Green and Mr Morris. Thank you very much indeed for your time. As you know, this is a public session and it is being webcast. The transcript will be sent to you, and if you wish to make any corrections, please feel free to do so. If you want to give us any further evidence, you can also do that.

As you are aware, we are examining the possible future arrangements for the migration of EU citizens to the UK after the UK has ceased to be a member of the EU. In that context, it would be very helpful if you can begin by telling us what are the key considerations or choices relating to UK-EU migration that the Government need to be thinking about in the run-up to the negotiations.

Lord Green of Deddington: Thank you, Lord Chairman. In our view, the key consideration is the objective of these negotiations, and we would describe that as achieving a substantial reduction in net EU migration. It seems to us that if we fail to achieve that, we will have some very angry Brexiteers and some very angry Remainers, who will ask why we were put through all this for really very little impact on one of the major considerations before the electorate.

It is a non-trivial issue in the sense that this runs right into the medium and longer term. It is not what happens next year; it is what happens over the next medium and long term because we have 100 million people in Eastern Europe at a standard of living of about a third or a quarter of our own, so the pressure of migration from those countries will continue. Obviously, I am not saying they will all come here, but there will be continued pressure, that will be difficult for those communities which are already finding it difficult. At the same time, we think there should be an additional objective, which is to minimise disruption between the UK and Europe so that we can, to the best of our ability, retain the social, cultural and economic links that are so historical. The slogan of course is "Leaving the EU, but not leaving Europe".

Last week, Lord Chairman, you had a very useful tour of the technicalities, but this week in my evidence I would like to focus on the policy. I noted particularly, a question from Lord Jay which indicated that the Committee were broadly considering four possible ways forward. I will argue, when we come to it, that three of those are undesirable and that the fourth one is a suitable way forward. Shall I leave it there?

The Chairman: That is very helpful. Thank you.

Marley Morris: Thank you very much. There are basically two schools of thought when it comes to how to approach immigration in the upcoming negotiations with the EU. Obviously, there are many details within those schools of thought, but there are two fundamental schools of thought. One is that we do not really need to negotiate on immigration at all. We just need to set out our policy on immigration, go to the EU and say,

"This is our policy and what we want to do", and then we make sure that all the other negotiations work around that so that whatever we get, immigration is a fixed point within the negotiations.

The second school of thought says, "Actually, immigration is up for negotiation. We should think about how to negotiate immigration policy because immigration is so important within the total negotiations in order to retain close relations in trade in goods and services with the EU". Of course, we know that the free movement of people and EU migration policy are intertwined with so many of the other aspects of trade. One clear example, for instance, is the passporting of financial services—a key aspect of current trade relations that could be at risk depending on what kind of relationship we agree with the EU in the future.

This approach basically says, "We want to keep as much as possible our membership of the single market, perhaps partial membership of the single market as in the case of Switzerland, but we want those kinds of close relationships that we have now and so we are prepared to find some kind of compromise on immigration policy in order to keep those relations". There are those two fundamental schools of thought, and whichever you choose makes a fundamental difference to what policy you end up with.

They are two completely different intellectual exercises because one is, "We can just come up with any immigration policy. Let us just choose what we fancy and go to the EU with that, and we do not really mind what the economic consequences are". The other is, "No, let us think a bit about what the consequences are for the other aspects of trade", and in that case it becomes much more about thinking of whether there is a potential compromise to be had.

There are other considerations as well, not least the economic impact of reducing immigration for particular sectors, for instance. Public opinion is absolutely crucial, obviously. Many people voted to leave the EU because they had concerns about immigration, so that needs to be taken into account. The feasibility of the system—how it can be implemented—is crucial, as well as how resource-intensive it is, and of course how the system will impact on UK nationals if they were to want to leave the UK to live and work in other EU countries. All these things are important, but again it really comes down to the two fundamental schools of thought. Both of us will probably have different perspectives on those two schools of thought in the forthcoming discussion.

The Chairman: Thank you very much for those two very clear answers. I am going to ask Lord Ribeiro to follow up.

Q16 **Lord Ribeiro:** Yes, good morning. My question is really about the pros and cons of free movement with the emergency brake. I do not mean here the emergency brake that the previous Prime Minister tried to negotiate on benefits, but the emergency brake that you discussed as part of your brief from the IPPR. In particular, what would the implications be of giving Ministers control over the number and the

characteristics of EU migrants? What are the issues around enforceability? What would be the impact on employers and the labour market, and what would be the implications for UK citizens here—which is one of the things that has been called a bargaining chip—in terms of reciprocal restrictions in the EU?

Marley Morris: I will answer that, because—

Lord Green of Deddington: It is your idea.

Marley Morris: Exactly. First of all, the IPPR is not committed precisely to one idea at the moment in terms of how to compromise on immigration policy. We are looking at a number of different options, but I will talk about the free movement with an emergency brake, because it is one idea that we have proposed. I will just give a bit of background to explain how we think it could work because it is quite important and not entirely straightforward, so it is worth explaining how we think it could work. It would be a three-stage process. Firstly, there would be as part of the upcoming Brexit negotiations an agreement with the EU about how the emergency brake would work; that is, what could trigger the brake: what kinds of circumstances? For instance those could be things that are very much like the previous brake on in-work benefits which was agreed by former Prime Minister David Cameron around very high levels of immigration putting excessive pressure on public services, undermining our labour markets or social security systems. It could be things like that, which are the kinds of broad parameters.

There would be agreement about how long the brake would last, or the extent to which it could last: there could be a maximum period. For instance it could again be the seven-year period that was agreed by Cameron around his emergency brake on in-work benefits. There would also have to be a system for how to work out this brake in practice. The only way the brake could work would be if there were some kind of independent adjudication body that was independent of both the UK and the EU which could decide whether some use of the brake was acceptable in particular circumstances.

The way it could work, for instance, would be that the UK could invoke the brake unilaterally, but if the European Commission decided, “Hang on, we do not think that the terms of the negotiation have been successfully adhered to. We do not think that the brake has been used as we initially accepted in the negotiation”, then they could call on this body to adjudicate and see whether there was evidence that the UK was using the brake appropriately. There would have to be some kind of independent body. It could not be the European Commission because the European Commission would be one of the partners in the negotiation, so they would have a bias, and it could not be the UK. It would have to be some kind of independent body.

Secondly, as soon as Brexit was agreed, the second stage would have to be some kind of registration system for all incoming EU nationals in the UK. That would have to be the case because we would have to know

where people were and how long they had been in the UK, at least for those in employment, in order for the emergency brake to work in practice. For instance, when EU migrants join an employer, the employer would have to submit to the Home Office some details of their thier¹ presence in the labour market. That would have to be the case, just so that we knew that they were coming at that moment, because otherwise the system would not work when the emergency brake was triggered. That would be the second stage, and it is worth saying that in itself that would not necessarily undermine free movement. As we know, Switzerland has a residence permit system while also accepting the basic free movement rules.

Thirdly, once the emergency brake was invoked, you could create a system, for instance, to decide, "There are unsustainable/excessive pressures on public services in the UK". The UK could decide, "Let us temporarily restrict EU migration for workers who are working below a certain skill threshold or income threshold". The brake would be temporary and it would be enforced t the labour market. It would not be enforced at the border but by employers, and we would be able to do that because we would have a registration system in place that would enable us to do it. That brake would last for a certain period.

That is the basic system that could work. It would give Ministers some control over immigration because if there were evidence of real pressures in the labour market or pressures on public services, they could say, "We want to use the brake". They could use it for a certain period and restrict migration for that period, and they could do it in quite a subtle way. I am sorry, would you like to ask a question?

Lord Ribeiro: Britain has a population of 60 million or so. Lichtenstein has a population of 37,000. They would be likely to introduce an emergency brake on migration and that would be acceptable to the European Union. I think it would be very difficult to make the case when there are other European Union countries with much smaller populations than Britain.

Lord Cormack: Yes, it seems to me that you are proposing an amazingly complex and complicated solution which is utterly impracticable.

Marley Morris: I disagree.

Lord Cormack: Are you going to have to recruit an enormous army of immigrant bureaucrats to monitor this?

Marley Morris: Any system will have to have lots more enforcement. Any proposal that has restrictions on EU migration in the labour market will have to have similar systems of registration and of control. The key difference between our proposal and some of the other proposals around work permits² is that it would be temporary. That is why I think there is some hope, although I agree that it is not hugely likely, that a

¹ Employee's [correction added by Marley Morris]

² For instance, the Migration Watch proposal [correction added by Marley Morris]

compromise is available with the EU. I think that that is important because of its temporary nature. I am sorry, would you like to say something?

Lord Green of Deddington: If I could follow up, particularly on Lord Cormack's remark. The Committee is right to question whether an effective brake is negotiable and acceptable, and right to focus on the trigger mechanism. It raises a whole range of questions, some of which Mr Morris has touched on. I will just list them; there are six of them, but I do not think that you need the detail, frankly. Whose foot is on the brake? The Norway precedent is no help because they have to enter into consultations. Every three months it has to be reviewed, with a view to abolition. It has never been used because the Norwegians are afraid of retaliation, and I think the IPPR agrees with that. That is the first question: whose foot is on the brake?

Secondly, when could it be applied? Mr Morris has raised various possibilities for that but it is very complex. Thirdly, who would it apply to: skilled workers, unskilled workers, or both; short-term workers or long-term workers? How do you distinguish? Fourthly, could it be re-imposed? Presumably, it could. Fifthly, what will the impact be on employers? The uncertainty and unpredictability would be no help whatever. Then there is the risk of retaliation if we were to employ it. Our bottom line on this one is that it would be an administrative nightmare and would not achieve the objective that I have set out.

Q17 **Lord Condon:** Probably both of you have answered what was listed as our Question 3, which was, "What should the trigger be for the use of the emergency brake?" I guess the bit that you have not answered is, "What are the prospects that the EU 27 would accept any sort of proposed trigger?" Perhaps, Mr Morris, you could give us a bit more about the practicalities of whether you think a compromise is negotiable and how in the real world, if an independent arbiter is part of that compromise, you can imagine that sort of arbiter working.

Marley Morris: Any compromise with the EU on immigration is going to be extremely difficult and it is clear from many of the comments that have been made by EU officials that at the moment they are not considering a compromise. What we do not know is, when the negotiations begin and when things develop over the coming months and years, whether that will change. One clear instance of that happening is the previous renegotiation that the former Prime Minister began last year. Initially, the EU was very clear in saying that there would be no way of restricting in-work benefits for EU migrants, but by the end there was an agreement on restricting in-work benefits. Things change as the negotiations develop.

There are two main reasons why this proposal is most likely to see a potential compromise. The first is that it is temporary, as I said, and that was a key part of the previous agreement on restricting in-work benefits: it was temporary and so it did not amount to a fundamental undermining of the principle of free movement. That is why it has been discussed so

much. The second reason is that it would involve some evidence base having to be proposed. For instance, if as you mentioned the independent adjudicator was having to review whether the UK had proposed the emergency brake correctly, it would have to receive evidence from both sides about whether that was the case. One of the key criticisms that the EU has made of the UK about its arguments around freedom of movement has been that the UK has been unable to provide the evidence of pressures from migration. I do not think that is impossible, by the way; there is evidence to be found. The Civil Service as a body can provide evidence of pressure on public services at the local level. It would push the Government to get the evidence and that would make the European Commission and the other institutions far more comfortable with such a deal.

It is also worth noting—this is my final point—that the European Commission, during the last renegotiation with the former Prime Minister, did accept in its final comments that there were unsustainable pressures on the UK from high levels of migration which would mean that an emergency brake could be introduced. The European Commission has already accepted, in the past year, the principle that there are these very high levels of migration to the UK, so there is something to go on. Of course, the final point is that there is some precedent with, as has been referred to, the EEA agreement, Article 112 and the reference to safeguard measures and so on. Of course, the UK would have to negotiate a separate deal because it would not be part of the EEA to agree this emergency brake, but some precedent is there for a compromise.

Lord Condon: Could you say a bit more about what sort of individual, body or committee you would see composing the independent arbiter?

Marley Morris: That is a complex question, but there is likely to be some kind of independent body that will have to deal with cross-border disputes, whatever happens. A number of legal professionals have highlighted, referring not just to migration but to trade policy generally, that there is going to have to be some kind of investor-state³ dispute resolution mechanism to resolve these cross-border disputes. I imagine that this arbitration system could be part of that mechanism, so it is likely to happen anyway, and this could be built into that system.

Lord Condon: Do you think it is politically saleable, realistic or viable that the British Government would attempt to trigger a brake because they believed it was necessary and then live with the consequences of an arbiter saying, “No, sorry”?

Marley Morris: As I said, there is likely to be some kind of arbitration body whatever happens, regardless of migration, and of course there will be some political consequences to that. The key though is that it will not be the European Commission. It will not be an EU body; it will be an

³ And state-to-state [correction added by Marley Morris]

independent body. I think that will make all the difference to how this is received by the public.

Lord Cormack: Have you talked to any politician who has agreed with you?

Marley Morris: We have spoken to a number of politicians about this idea. At the moment, politicians are quite keen to look at a range of options.

The Chairman: Could you answer a different question: what would be the implications if the EU were to have a similar emergency brake for British workers? Did you look at those implications?

Marley Morris: Yes, absolutely. Part of any deal is that there is likely to be some element of reciprocity. Regardless of any of the proposals we have imagined, if there are going to be some restrictions on migration in the UK, there are likely to be some restrictions on migration⁴ in the EU. The key thing here is that the UK could, as I said before, go to the independent body to challenge a decision by the European Commission to restrict migration, just as the European Commission could do the same thing to us. There would be an element of fairness in that.

Lord Green of Deddington: If I may comment on all this, Lord Chairman. It is a matter of judgment. I personally do not think that this is negotiable and I do not think it is worth having if it is only temporary.

Q18 **Lord Jay of Ewelme:** This is the moment that Lord Green has been waiting for. Thank you very much for your paper, no doubt drafted by Alp Mehmet, but I thought it was extremely interesting and clear. Could you say a bit about what you see as the advantages of the proposal that Migration Watch itself is making, which I think you described in your paper as a widening of our present work permit system to include EU workers offered highly skilled jobs. Could you describe that? How would that affect the four issues raised by Lord Ribeiro in relation to the earlier point, that is, giving Ministers control over the numbers and characteristics of migrants, its enforceability, its impact on employers and the labour market which I think will come up in subsequent questions as well, and the point that has just been made, which is a key one, which is the implications for UK citizens were they to face reciprocal action in the form of restrictions in EU countries?

Lord Green of Deddington: We start from the point that we already have an immigration system which is far from perfect but is at least a known quantity and known to employers. Our suggestion is in effect that that system should be adapted, and that in adapting it we should focus on the problem area, which is work. That is underlined by the fact that 70% of EU migrants—that is, those who say they are coming here for a year or more—come to work or to seek work. Some 80% of those are in low-paid work. If you were to introduce work permits that confined that

⁴ Of UK nationals [correction added by Marley Morris]

inflow to skilled labour, you would in fact, reduce net migration from the European Union by something of the order of 100,000 a year. I note that our calculation has not been challenged by anybody else, and indeed, I believe that the IPPR more or less accepted it, as did others.

You would do this by requiring work permits for those who want to work, but you would have visa-free access for the rest. This would not be free movement, which is a technical term, but you would have visa-free access for tourists, students, business visitors and the self-sufficient—almost anyone except those who want to work. Those wanting to work would have to meet pretty well the same requirement that now exists: a job offer, degree-level employment, a salary from next April of £30,000 a year, and they would not have benefits for the first five years, as is the case for non-EU. That is the outline. There are various ways in which it could be modified which I will come to in a second, but let me deal first with Lord Jay's question about retaliation. I would not call it that.

Lord Jay of Ewelme: I think I said, "reciprocal restrictions"; I do not think I said "retaliation".

Lord Green of Deddington: Whatever is agreed is likely to be reciprocal, yes. We have looked at their blue card system which is coming into effect. At the moment it is not much used, but it is coming into effect, and it seemed to us that it was by no means an insuperable obstacle for British people wishing to work in the European Union. Reciprocity in relation to work permits does not strike us as being a particular problem, and of course reciprocity in all the other fields of visa-free access would be very welcome.

There are various ways in which this could be modified because clearly life is not that simple. There will be tremendous pressure from employers, and we are already seeing some of that. Not all of it will be well-founded, but there will be plenty of it. There are three or four things that could be done. One is a seasonal agricultural workers' system, and I stress "seasonal". That has existed in various forms since 1945 and could be revived, provided that it was seasonal and so on. Secondly, there is the Shortage Occupation List, as some of you will know, for structural problems where we know there is a shortage of this, that or the other. Some 127 jobs are now covered by that, and it could perhaps be extended to European workers. A further possibility would be a youth mobility scheme, which again already exists. It allows young people from certain designated countries to come here for two years. You cannot switch into another category and you cannot bring your dependants, but it would perhaps meet the need for waiters or whatever.

Our suggestion is that we should go in this direction and narrow down the points of difference with the European Union. It is not entirely a matter of negotiation because you do not normally negotiate your immigration relationship with foreign countries. The Americans do not negotiate with us about their visas, but we are in the very different situation of having had free movement and therefore we must reach agreement with our

former partners as to what is a sensible way forward that will meet the overriding objective I started with.

Lord Jay of Ewelme: Can I ask one follow-up question? We talked earlier about the bureaucracy that would surround the emergency brake option. To what extent would the proposal you have outlined lead to new bureaucratic problems or a substantial extension of the present bureaucracy needed to work the existing system?

Lord Green of Deddington: It would not do that to a great extent, although obviously there will have to be an expansion. We are not even suggesting a cap, but our estimate is that if there were some limit in mind or a number in mind, something like 30,000 work permits a year would enable these skilled EU personnel to change over in the way that they have historically done and would allow for some headroom. Secondly, there is an existing system that employers know, and 99% of straightforward applications are approved within the two-month period that is advertised. Yes, you need more officials and yes, the whole thing is going to be difficult, which is another reason for not making it too complex.

Lord Cormack: You are looking to the future and you are producing suggestions that are clearly practicable although obviously debatable. However, and this is what worries me, what about those people who are here now, and British nationals who are living within the European Union?

The Chairman: Lord Cormack, may I just interrupt you? I think that takes us into the current situation but we are looking at the future. "Acquired rights", which is what I said, is not what we are looking at, so in view of time, do you mind if I just move on?

Lord Cormack: It is fundamental, as far as I am concerned, that we have to solve the problem of those who are here and look entirely to the future.

The Chairman: Yes, that is right, but this is about what happens after we have left, and therefore I do not want to go in that direction, if you do not mind. Is your question following on?

Lord O'Neill of Clackmannan: Yes, it is. You suggested we would be able to reduce immigration by 100,000. We know that part of our current immigration is from low-skilled agricultural workers—fruit pickers, vegetable gatherers and the like—and you have indicated that you think you could make a category for them. Would this cover the number of people who are currently in the UK within a 12-month period—perhaps only for three months, perhaps for a little longer? We have already had representations which suggest that there would be difficulties for Lincolnshire farmers and farmers in the Carse of Gowrie in Scotland regarding picking raspberries and strawberries for jam and the like. Do you see these areas as unnecessarily affected or can they be accommodated under the provisions that you have indicated for, as it were, short-term category workers?

Lord Green of Deddington: What we have suggested is adjustable in the light of the evidence if there is a clear case of a need for low-skilled workers that cannot be met by British workers. That is an important point. There are nearly 1.2 million British workers working part-time who would like more work, so there is some scope for British workers to help out here as they have in the past. However, the short answer to your question is that the scheme is adjustable. If the evidence is there, it would be open to Government to act.

Lord O'Neill of Clackmannan: At the moment, you are really just speaking in the dark on the issue.

Lord Green of Deddington: No.

Lord O'Neill of Clackmannan: You do not have the figures to justify what you are saying, but you think it might work out all right if it is flexible enough.

Lord Green of Deddington: We do have the figures on the key points, because we have examined the Labour Force Survey which tells us how many EU workers are working at low wages. We say if you cut those out, you get your 100,000 reduction. Against that, it might be that we have 10,000 or 20,000 people here for three months, but they are not migrants. They do not acquire rights to stay here and they do not add so much to the pressures on public services.

The Chairman: Lord Soley, is your question related?

Lord Soley: It directly picks up a couple of points.

The Chairman: But it is not about acquired rights.

Lord Soley: No, not at all. Quite simply, I am slightly dubious about your 100,000 figure, but let us leave that aside for a moment. One of the problems we have here is that if you look at where the pressures are most intense—Lincolnshire and East Anglia are two of them because of the agricultural and food processing system—you have already indicated that some of that might be made up, if you brought in your system, by part-time British workers doing the work, presumably on increased rates of pay, because that is why employers bring them in. In fact, what happens in those situations with increased rates of pay is that you either mechanise or you do it overseas, and in fact you would do the work overseas because it is much easier to grow strawberries in Spain than it is in East Anglia if you have increased the price dramatically. I really am asking you this. Even if they are coming in on a temporary basis, the point is that a lot of food production and food processing now goes on throughout the year. It is true apples are done at one point in time, and some other things like that, but many other crops are grown under intense processes, and that means you cannot cut it.

Lord Green of Deddington: That is right. I was specifically talking about seasonal work, which is not an immigration problem.

Lord Soley: But that is a small part.

Lord Green of Deddington: It is certainly not a major part. There is going to be a problem. There are employers who have done very well indeed out of cheap labour—indeed, an unlimited supply of cheap labour. You have to ask what that does to the wage rates in these areas and you have to ask whether the effect of that is that the minimum wage becomes the maximum wage, as some people would say, locally. You cannot prove it nationally, but some people would say that. Yes, there would be pressure on employers to do the various things that any economist will tell you, like changing your production methods, changing your production, raising your wages—all of these things, yes.

Lord Soley: Or going overseas.

Lord Green of Deddington: Or sometimes going overseas, yes. There might well be a need for a tapering of the arrangements that were made in order to see them through the interim, but it is not unreasonable that the pressures engendered by large-scale immigration should be tackled in a way that may not be entirely favourable to those who have made a lot of money out of it.

Marley Morris: May I just make a brief comment?

The Chairman: A brief comment, please, yes.

Marley Morris: I want to comment on the sheer extent of those restrictions. If you were to deploy a non-EU system for EU migrant workers and use the same rules, Migration Observatory figures say that in sectors such as agriculture, forestry and fishing, 96% of all the people currently working in those sectors would not meet those requirements. That is a huge number. We are talking about wiping out those groups. That is quite extraordinary and it would have quite a sizable impact. It is also worth saying that in rural areas, outside of urban areas, employers are concerned. They cannot easily hire other people because there are fewer people there. They have low unemployment but there are no obvious other people to employ.

Lord Green of Deddington: Lord Chairman, there is one important point here which is directly relevant to this exchange: there is no cliff-edge as far as employers are concerned. The reason for that is that the very people Lord Soley was referring to tend to stay. Again, if you look at the Labour Force Survey, you will find that EU migrants in low-paid jobs who arrived in 2004 are still here. In fact there are more here than declared themselves as migrants at the time, so short-term people have stayed. We can assume, therefore—it is a reasonable assumption—that the existing labour force will decline slowly rather than quickly and that would help to give time for employers to adjust. However, I do agree that they need to adjust.

Lord Soley: That will not alter your number, then. That will not make much difference to your 100,000.

Q19 Baroness Massey of Darwen: I realise that this could go on for a day and I will have to try to pull it back a bit. First of all, thank you very much for your very interesting papers. Migration Watch, your first sentence about the referendum—that the British public wants net migration reduced—is challenged in today's *Guardian*, but I will not go into that now. I will show you the article later. My question is this: looking at your preferred option, would EU citizens for whom free movement would continue—for example, students—be entitled to work, bring dependants et cetera? Also, would the dependants of those entering to fill a high-skilled job be entitled to work in a low-skilled job?

Lord Green of Deddington: That would be a matter for decision and it would be for the Government to take a view. The obvious thing would be to say that students could work on the same conditions as non-EU students, so that you have things square. As for dependants, the dependants of students are not allowed to work, if I recall correctly, so the short answer is: make it consistent with the existing system.

Marley Morris: Can I just make a very brief comment on that? If that were to be introduced, it would obviously not be free movement of students or family members in quite the same way as we have now. There would have to be restrictions across all those different groups, not just workers, if you were to implement a system like that.

Lord Green of Deddington: Yes.

Lord Watts: Lord Green, you have answered my main question, but can I drill down a bit further? I was going to ask the reason for the concentration on low-skilled versus high-skilled, but you have made the point that that is where the numbers are. Let us go through some of the exemptions that may arise; we are already talking about care workers, building workers and farm workers. Out of the 100,000 that you estimate would be reduced if you had a clamp-down on low-skilled, how do those exemptions affect the numbers? I would have thought that most people who come here to work are in those sectors, so is it not likely that that 100,000 will go nowhere near to manifesting itself if you implement the policy as you outlined?

Lord Green of Deddington: It is certainly true that the people we are targeting, so to speak, are in the sectors you have described. To the extent that the Government introduced transitional arrangements, that 100,000 figure would be lower, but the objective needs to be clear: we cannot and should not go on with a very large inflow of people coming to work in low-skilled jobs because of the implications for our population which are very severe. I think you are aware that our population is due to grow by half a million every year, certainly for the next 10 years. That is building the city of Liverpool every single year. If I may suggest it, we need to balance the cost of a rapidly growing population with the inconvenience to certain employers—which, I agree, needs to be met.

Lord Watts: However, Lord Green, is it not the case that the population is growing, but the ageing population is probably going to require even

more people to come in to look after them? There are a number of pressures. For example, I would imagine that no matter what you do, care workers—who are low-skilled by their very nature—would be increasing rather than decreasing under your system.

Lord Green of Deddington: Yes. First of all, the population increase is 75% down to immigration, so to the extent that you reduce your population increase, you reduce the pressure on your public services. However, you are absolutely right that at present the care services rely on very low paid people. One part of it is to increase the pay. That is difficult to do when it is local government that is paying for it, but these are all adjustments that need to be made over a period of five or 10 years. It cannot be done overnight for the very reasons you describe. The question is, in which direction are we going? Are we going to continue in the direction of a very rapid increase in the size of our population, which is widely unwelcome—not entirely, but widely unwelcome—or are we going to change tack and look for ways that we can reduce our dependency on immigrant labour, which is far greater now than it was 10 years ago, for example? It is not automatic that you need massive levels of immigration in order to do these jobs. It simply was not the case until 1998.

Q20 **Baroness Janke:** Are you satisfied that the statistical information on immigration to the UK, and migration to the EU, is fit for purpose?

Marley Morris: There are some issues with the statistical data. There are two key data sources to look at: the International Passenger Survey which measures flows, and the Labour Force Survey and Annual Population Survey, which measure stocks of EU migrants. Both have challenges. The IPS is largely based on intentions data, so it is based on people saying that they are going to stay for more than a year, why they are going to come and so on. There are some challenges there. Indeed, in the past the IPS has underestimated some EU flows, so that is an issue. Also, it is difficult for the Labour Force Survey to capture short-term migrants because they come for very short periods. The Labour Force Survey, because it is a household survey, may find it difficult to sample those groups. It also does not sample most communal accommodation so we miss those people as well. There are definitely challenges in the data.

In particular—this is an important question for this inquiry—there is limited data on the churn of EU migration. We were discussing before, “Oh, yes, we will protect EU migrants here”, but when talking to employer groups they are saying that there are very high levels of churn in sectors such as hotels and restaurants. If we were going to impose a new system, it would affect new people coming in, and if there is lots of churn in the system in the form of short-term migration, that is going to have a big impact. That is where a lot of the data is missing at the moment.

Baroness Janke: I understand that emigration figures for UK citizens are particularly difficult to establish.

Marley Morris: Yes, there is a particular challenge around emigration, particularly of non-EU students where the figures do not seem to align with some of the other data sources. However, the ONS is looking into it and hopefully there will be some new analysis in the coming year.

Baroness Janke: In this note on government migration statistics there are at least three definitions of “migrants”. Equally there are figures which say that non-EU immigration is higher than EU immigration, so that begs the question of why we are focusing so much on EU immigration as opposed to other immigration.

Marley Morris: Yes, that is what the IPS says. Again, there is some uncertainty in the data, particularly around student flows because at the moment it is saying that lots of students are coming but not many students are leaving. That is a bit strange and does not match with what the population data says. The population data says that there are not that many students or even former students going on to work who are in the UK, and that is not increasing that much. There is a slight disparity. However, for the purpose of EU migration and work, the main challenge is around short-term churn.

Lord Green of Deddington: That is right. I certainly agree that attention should be paid to non-EU migration as well, and we have been doing that for the last 15 years. These are hard nuts to crack but there has been some limited progress. It is worth pointing out that the actual number of movements is very large. Non-British arrivals in the last year were 50 million, which is a million every week. It does not take very much inaccuracy in your survey to cause some doubts. That is why the ONS itself says that the 330,000 is plus or minus 40,000, but it does give a general picture. Until 1998 it was seldom more than 50,000, so clearly something has happened. Also, you will find that if you look at the population statistics, they are more or less in line. If you look at births to foreign-born parents and so on, they are going up very sharply. Although the statistics are far from precise, they are pointing at a broadly accurate picture.

Baroness Janke: With the doubt over emigration, surely the net migration figures are seriously open to question, as you have said. The estimation of the margin of error perhaps might also be questioned.

Lord Green of Deddington: Yes, it might be. Exit checks will eventually tell us something, but again it is not as simple as it sounds.

Q21 **Lord O'Neill of Clackmannan:** You have touched on the resource implications of the two regimes—the free movement with an emergency brake and merging the requirements for EU/EEA and non-EU/EEA workers, as proposed by Migration Watch. Perhaps you could be a little more specific. Could each of you give an estimate of the resource implications of your favoured options?

Marley Morris: Absolutely. I cannot give precise figures because they have to be worked out, but I can give a sense of what it would involve.

As I have mentioned, for the emergency brake there would have to be some kind of registration system but it could be very light-touch; indeed, it could be a very simple online system. It is important generally for there to be quite a light-touch system. If you were simply to move all EU migrants into the non-EU system, that could create a huge level of bureaucracy for employers. Even if they could get the workers and even if those workers did meet the income threshold, it could add a lot of bureaucracy because the current Tier 2 system is quite complex. You have to register as a sponsor first. You then have to move on to apply for a certificate of sponsorship for a migrant, so it is quite complicated.

A registration system that is quite light-touch and online, perhaps a bit like the worker registration scheme for A8 migrants after 2004, could work. When the emergency brake is invoked, obviously that would create a greater level of bureaucracy in the system and demand more resources, but it would be a temporary measure.

Lord Green of Deddington: The short answer is that there would be a cost but it would not be huge because you would just be doubling what you do on work permits now, which is a fairly small element.

Lord Chairman, could I make a couple of comments on the other two ideas that Lord Jay mentioned last week? One was free movement, including free movement for workers provided they have a job offer, and that has cropped up once or twice. Frankly, we think that would be unlikely to have any significant effect on numbers because they would just make sure they had a job before they came. Sorry to talk about "they"; I am talking about candidates. They have relatives here already and so on. It would be a boon for employment agencies, so we do not think that that is a useful way forward. We have the opposite difficulty with visas for everybody, which was your fourth option. We think that it would be unmanageable, unnecessary and undesirable. It would be unmanageable because we have 38 million arrivals just from the EEA every year. It would be unnecessary. We did not talk about policing the workplace, but you would obviously have to police the workplace if you had a work permit system for the EU. You would have to expand your policing.

Lord Jay of Ewelme: What does "police the workplace" mean, exactly?

Lord Green of Deddington: It means inspecting employers to see whether the employees have a right to work here. They do it already on much too small a scale, but you would have more resources for that.

Lord Jay of Ewelme: It would be an expansion of the existing system.

Lord Green of Deddington: Exactly.

Lord Jay of Ewelme: Therefore more bureaucratic and more costly.

Lord Green of Deddington: Yes, but we think it would also be undesirable to require visas of everybody because we would be not cutting but certainly undermining our links with Europe. If they had to

have a full visa every time they came here, that is going to be very bad for tourism, bad for commerce, and bad because of what I would call the political reaction with people feeling that they cannot even get into countries they could simply walk into and feel at home without a visa. The psychological shock, if you like, of not being able to go to France without a visa would be quite considerable and is better avoided.

Lord Jay of Ewelme: As a former ambassador in Paris—

Baroness Janke: Would this additional administration, in your view, affect the ability of companies—for example, the automotive industry or the aerospace industry—to invest in employment in this country, given that they would have such restraints? They work globally; they have to be able to move people around for short, medium and long-term periods. Do you believe that this would have a negative impact on these companies investing in the UK?

Lord Green of Deddington: It would be very important to minimise any such impact. Firstly, as I mentioned, you require a work permit, but a degree level is not a terribly high level of skill if you are an international company. That should not be too much of a hurdle. Secondly, there is now, as you know, what is called the intra-company transfer scheme, which allows companies with subsidiaries in Britain to post senior staff around without any difficulty. All those things would be in place. Furthermore, international companies are already familiar with the work permit system.

Baroness Janke: Yes. I am really talking about supply chains, which are not necessarily highly paid and highly placed employees but very skilled and difficult to find in this country, apparently. I understand that that is a major factor in their decisions about future investment in this country.

Lord Green of Deddington: It could be. There are other factors, like language and so on, which operate in the other direction. Quite a lot of these questions—as several of your colleagues have asked similar questions—come down to the extent to which we invest in skills in the UK. There was a very interesting paper written by Baroness Wolf last year, I think, showing that the money spent by companies on training—serious training, not one-day courses—had fallen very sharply in the last 10 years. One effect of tightening the immigration system, together with other incentives, might be to increase the effort to train our own people.

Baroness Janke: However, that might be at the loss of jobs in, certainly, the short-to-medium term.

Lord Green of Deddington: That is a possibility.

Marley Morris: Can I make a quick point, as well? SMEs, particularly, are going to really struggle with a full new work permit system, just because they are not used to it. At the moment, they are able to recruit very easily from the EU, and many have not registered as a Tier 2

sponsor at the moment. It is a whole new bureaucratic process for them, and they would struggle. There would need to be some kind of support system for them.

Lord Green of Deddington: I agree.

- Q22 **Lord Ribeiro:** Just as a matter of principle, one of the first tenets of European membership was the free movement of labour. Some of the things that you have been saying about letting students in et cetera have been about the free movement of persons or people. How is this going to affect our negotiating hand when we come to negotiating in Europe? On the one hand, the 27 are going to say, "This is an inviolable principle, the free movement of labour", and in effect, we are restricting that, yet on the other hand saying, "We will have your students; we will have your retirees, and we will have your dependants", because that is about people.

Lord Green of Deddington: It is certainly the case that our European partners are saying that there can be no membership of the single market without free movement of people, including workers. That might fray at the edges or it might not. If it did not fray at the edges, it would then be a question of access to the single market, rather than membership, and that is the key distinction. If, when we get into a negotiation, we find there is a blank wall there—and I have no idea whether there will be or not—then, okay, end of story: we now negotiate access. That brings you into the WTO and matters that I am not expert on.

Marley Morris: Can I make a point on that? This is a critical point. It is very clear that Migration Watch's proposal would not be compatible in any sense with membership of the single market. Pulling out of the single market fully would mean the end of passporting rights, the increase of non-tariff barriers and potentially even tariff barriers to trade. It would create a number of additional hurdles. This would have significant economic consequences. It is not to be ignored, in this debate, that there is a serious compromise here, and the position that Migration Watch is proposing is basically saying, "Look, let us give up on one side of that debate, and let us just have a migration policy, accepting all the economic consequences of that", which would be significant.

Another critical point is that there is an assumption about reciprocity on students and family members, and on retirees, which is very important, because a lot of UK nationals like to retire abroad. The fact is that there is no reason to assume there is going to be that reciprocity, because under this agreement, we are having our own migration policy. The EU can decide its own migration policy. Indeed, why would the EU and the UK agree this proposal that involves free movement for retirees, which seems to benefit the UK so much? All those retirees can move abroad to Spain or France, but it does not benefit these many eastern European and western European migrant workers who want to come to the UK. I do not really see why there would be reciprocity under such an arrangement.

Lord Green of Deddington: There is a converse approach to this. We are not suggesting that we give up on trade with Europe. We are suggesting that the outcome of the referendum had a very clear view on a number of issues, one of which was immigration, and to go into a negotiation with the European Union with a proposal that was extremely unlikely to work—and would be seen as such—would be a strange thing for a British Government to do.

We have tried, as I said at the beginning, to start from where we are and construct a proposal that is workable and would meet the objective of getting net migration down. We are not saying it is easy—there are plenty of difficulties—but that seems, starting where we are, to be the most sensible way to approach it.

Baroness Pinnock: It may or may not be that the referendum spoke about migration. We do not know what the Government's objective is, in terms of reducing inward migration, but do you think there is any merit in considering other aspects of the migration system, such as the speed at which migrants get residency rights, citizenship et cetera?

Lord Green of Deddington: I do not think that would make any difference. The central issue is freedom of movement; I think we are agreed about that. The other things will fall out in due course. Indeed, the whole negotiation—like any major negotiation—might go in directions you had not expected. It seems to me that the question for now, though, is what the sensible mark is at which this element of policy should be aimed, and then seeing how we get on.

Marley Morris: I would broadly agree with that. The key issue is freedom of movement, and if we are going to try to find a compromise, asking for changes on permanent residence does not really seem worth it in the big picture. The core area of contention is free movement of workers.

The Chairman: That is all from us. Thank you very much indeed, and if, on reflection, there is anything further you wish to send us, please feel free to do so. We are most grateful to both of you for your time this morning. Thank you.

Examination of witnesses

Owen Tudor and John Earls.

Q23 **The Chairman:** Good morning, Mr Tudor and Mr Earls. Thank you very much for your time this morning. As you are aware, we are looking at the possible future arrangements for migration of EU citizens to the UK after the UK has ceased to be a member of the European Union. In that context, it would be very helpful if you can tell us from your point of view the key considerations or choices relating to UK-EU migration that the Government need to be thinking about in the lead-up to the Brexit negotiations.

Owen Tudor: Thank you very much indeed. Thank you for having us to give evidence. We are very pleased that you invited us. I am Owen Tudor. I am the head of the European Union and international relations department at the TUC. My department covers migration as well as covering the European Union, so it has been a track record of unparalleled success over the years.

The main objective from our perspective that the Government need to be thinking about is ensuring that workers do not pay the price of the decision to leave the European Union. In terms of migration, we do not particularly have a policy prescription or objective in mind in terms of overall levels of migration or the policies by which migration is dealt with, other than those that affect working peoples' conditions at work, the communities they live in and so on. That may seem like a bit of an "angels on the head of a pin" distinction, but our approach leads from what would be good for working people.

In terms of migration, our two main concerns are the need to prevent exploitation, mostly of migrants, and undercutting of existing workers' terms and conditions. We also want to ensure that there are a growing number of jobs so that full employment is achieved, and that those jobs are not just any jobs but good jobs—decent jobs with good pay and conditions.

John Earls: I would echo that, not surprisingly. I am John Earls. I am head of research at Unite the union. We are quite keen to try to open the debate beyond the mere description of things in terms of freedom of movement and controls, and to consider things like safeguards, both for workers, communities and employers. For us, part of those safeguards is having a structure that recognises the role that strong trade unions can play and things like central collective bargaining.

The Chairman: By way of background, can you give us a general picture of trade union membership among EU migrant populations?

Owen Tudor: It is quite difficult to do, because we do not directly collect data on people's nationality when they join unions. A lot of what we are saying depends on the occasional survey that we have done, or reports that we get back from unions, branches and workplaces. Our experience is that migrant workers are almost exactly the same as the general population anyway. We are not hugely surprised by this. If they go to work in a workplace that has a high level of union membership and a recognition agreement with the employer, they tend to join. If they are working in a workplace that does not have those characteristics, they do not tend to join. When migrants go to work in the National Health Service, they tend to join in the same sorts of numbers as you would expect from workers generally. When they go to work in hotel and catering, they have relatively low levels of unionisation, with one or two bright spots.

Effectively, there is no particular difference. It is our experience that there are large numbers of EU migrants working in those un-unionised

sectors of the economy. Therefore, there are large numbers of migrants who are not members of trade unions. On the other hand, there are large numbers of EU migrants who are working in the health service and the education service who are therefore in quite largely unionised areas. It is not possible to be exact about this. Tesco is the largest employer of unionised labour in Europe in the private sector, so if you go and work for Tesco as an EU migrant, you are quite likely to join a union. If you go to work in Marks & Spencer, which has one of the lowest levels of unionisation, you are not.

John Earls: The only thing I would add is there is a sectoral dimension to this, which Owen has touched on. Trade union membership and density figures in themselves by sector are quite difficult to get hold of. When we were trying to explore density levels beyond broad sector categories, we had to make a freedom of information request to do so. That is just to get trade union density levels within particular sectors.

In respect of that sectoral dimension, where there are protections and safeguards at a sectoral level, by definition migrant workers in those sectors will be beneficiaries of some of the protections that they might not otherwise receive. However, one may need to examine the particular nature of what protections and safeguards are appropriate in certain sectors.

The Chairman: Can we assume that EU workers have the same key rights and protections in the UK that UK workers do?

John Earls: I do not think you can assume that. Looking at particular sectors, we know from the work that we have done in the hospitality sector in London, where there is quite a strong number of migrant workers, that there are serious issues around things like employers not recognising their obligations in respect of TUPE legislation and workers not receiving pay that they are due for the time that they have worked. They are especially vulnerable to this because it is a less well-organised sector and it is less covered by things like collective agreements.

Owen Tudor: There is a particular problem we have with the implementation of the EU's posted workers directive. It is not so much that people are covered by different legislation because of where they come from; it is just that their experience of how that legislation is implemented is going to be different. In terms of the posted workers directive, the UK operates a system that does not enforce the rate for the job, as decided by collective bargaining, for posted workers. That means that where you have workers brought over from other countries who would be covered by the posted workers directive, their wages tend to be lower than the going rate, for instance in engineering and construction, which is, admittedly, a relatively well-paid industry.

Q24 **Lord Jay of Ewelme:** Just for interest, would unions normally or sometimes identify or make an effort to identify workers who had come in who did not have the language skills, or did not have other skills, to explain and encourage them to join unions? Would the unions focus on

the particular problems that they might face through language problems or lack of knowledge of what the normal social conditions would be in the British workplace?

Owen Tudor: John can say a bit more about what an individual union does. At the TUC level, we have ensured that we produce a booklet called *Your Rights at Work*, which we translate into many of the European Union and other non-European languages. When the transitional arrangements were in place and people had to register from eastern Europe, they were sent a copy of the guide. Mark Boleat, when he was at the Association of Labour Providers, was kind enough to say it was the only benefit anyone received for the registration fee, although he thought £92 was a bit much to pay for a TUC booklet. Although it was an extremely good booklet, I would be willing to accept his point on that.

We produce that material and we work with community groups and EU embassies in the UK to distribute it. We work with our fellow trade unionists in the source countries to make sure people are aware of those rights in their own languages. There are a limited number of people who come to work in the UK who do not already speak English or do not pick it up relatively quickly. We would not want to overstate the problem of their lack of language in that regard. There are rules in many parts of the public services to ensure that people do have a working knowledge of English.

We also know of unions that have put a special effort into making sure that they identify the people in that circumstance who they might need to address in a particular workplace. This may be one of the areas that John could cover. Where a group of workers has been brought in, often from abroad, as agency workers supernumerary to the existing employment sector, very often the unions will try to make sure that they are brought into the permanent workforce and subject to collective bargaining. We have examples of unions deploying Polish organisers to recruit Polish workers. To be honest, that is in the same way as two or three generations ago we would have deployed Irish organisers to recruit Irish workers in the UK.

John Earls: Similarly, we are conscious of trying to produce our materials in a number of languages to make them more accessible to members and potential members. We also have a community membership system, which tries to put us in touch with community groups, providing things such as training and support in language skills. When we organise in particular workplaces and sectors, we are very conscious of the fact that what really works best is like for like recruitment. I mentioned the hospitality sector earlier. There is quite strong support and organisation for migrant workers to not only help organise themselves and gain confidence but build a support network. People are more likely to express themselves and communicate with each other if it is somebody who thinks they have a similar understanding and background.

Q25 **Lord Condon:** Good morning. To help inform the debate, the Committee

were looking at alternatives to free movement of labour and people. We have narrowed it down not exclusively but particularly to four high-level options to explore as part of the inquiry. I think you are aware of them. Just to rehearse them again: free movement with an emergency brake, free movement for workers with a job offer, labour market restrictions on EU migrants, and visa restrictions on EU migrants. We welcome your views not necessarily on choosing the best or the worse but on what you see as the strengths and weaknesses, particularly, from your viewpoint, the impact on employers and the labour market, and the impact on wages and perhaps on enforceability and reciprocity. What are your views on those four big options?

Owen Tudor: As I said in my introduction, we are not particularly expert at identifying the right methods for dealing with immigration itself. Our way of looking at this would be much more along the lines of: if you want to manage migration more effectively, the main tools that should be deployed are ones that would control the labour market into which people are already moving. We are much more interested and much more aware of the difference that would be made by different enforcement regimes in terms of employment rights and so on. In that sense, we do not really have a view on different options between these.

In terms of what we think would be more likely to have an effect, free movement for workers with a job offer, as one of your earlier witnesses suggested, is unlikely to make an enormous difference to the numbers. Our experience is there are not that many people arriving who do not already have some sort of job offer. It would not be particularly difficult to extend that. We would be worried about any expansion in the number of employment agencies recruiting solely outside of the UK, therefore not giving the opportunity to local people to apply for jobs. There are unintended consequences sometimes of introducing those sorts of arrangements.

When we have looked at emergency brake issues, we have not been able to identify how much difference that would make either. If you look at the emergency brake that is available for the Norwegians, as far as I am aware they have not deployed it, simply because they do not meet the tests that would be required to reach that level.

Our experience of how controls on migration have operated in terms of the labour market has very often been that, if you create two tiers based on "who is allowed to be in the labour force", you pass extra power to employers, in terms of the relationship with their workforce. This applies even to the existing work permit systems that operate. It does not say that you should simply not have any controls. We have come across examples where employers are perfectly happy to accept people into their labour force without the right entitlements. They then suddenly discover, *Casablanca*-like, that people are illegal immigrants at the point at which they ask for a wage rise or something like that. Similarly, there are people whose permission to work in a country is pinned to being with that employer.

We are concerned that you are shifting the balance of power between the employer and the employee in a way that means that the employee is disadvantaged and less able to enforce their rights. Again, this is looking at the unintended consequences of requirements in these areas. I do not think that is a full answer to your question.

Lord Condon: Do you feel there is anything you can add around issues like enforceability in the workplace if you have concerns that that could become a more oppressive regime for workers?

Owen Tudor: I am a former health and safety commissioner. We adopted a view on the Health and Safety Commission that, if you asked health and safety inspectors to also look at people's migration status, you would reduce their effectiveness as health and safety inspectors. I would be of the view that if you were going to put more enforcement into workplaces, it would be better to address exploitation and abuses of workers in those workplaces, rather than putting the effort into spot checks about whether people were entitled to be in the country or not. It is more likely that you would reduce illegal immigration by making it less advantageous to employ illegal immigrants than by trying to check everyone's papers.

John Earls: I said in my introductory remarks that we were quite keen to move away from freedom of movement on the one hand and controls on the other hand, to consider an approach that looked at safeguards and the role that trade unions and collective bargaining could play in that. We are keen to end this drive for going for ever-cheaper labour, and move from a race-to-the-bottom culture to a rate-for-the-job culture. When we speak to our members, the problems that they identify and that they face are not really to do with the method of how migrants arrive. It is to do with what happens to them and how they are treated by employers when they are here.

On the issue of undercutting, the construction sector was mentioned earlier. We have been involved in a dispute around the construction of a waste-to-energy plant in Teesside. It involved the refusal to abide by a national agreement, whereby migrant workers were employed through agencies and umbrella companies, and facilitated through a false self-employment route, effectively undercutting the national agreement. Some of these concerns that arise in terms of migrant workers are to do with what happens and how they are treated and the implications for the workforce.

That does not identify or choose one of the four options that you gave, because we want another approach. However, if you apply your other four criteria to the safeguard approach that we are suggesting, the impact on employers and the labour market would be that it would prevent undercutting. It would help prevent abuse such as bogus self-employments and social dumping, and help close some of those loopholes. It would enable good employers to operate on a fair and level playing field. It would impact on wages. It would help to reduce inequality. Collective bargaining and strong trade unions are one of

those mechanisms that help reduce wage inequality. It would also provide a degree of stability and efficiency in the sectors.

Trade unions would clearly have a role to play in enforcement of some of these things. They are labour market institutions. However, there is a very strong public policy role here, because these institutions need to be supported through public policy.

In terms of implications for UK citizens where they face reciprocal restrictions in EU countries, we would support the extension of sectoral collective bargaining across Europe. There is an international dimension to this. It is not just about cheap labour in one country; it is about cheap labour across a number of countries.

Lord Ribeiro: Safeguarding seems to work very well where you have an industrial market base. Mr Tudor, you have described the hotel industry, the agricultural industry and a whole raft of industries out there where this would not apply. How are you going to make it work in that context?

Owen Tudor: It is entirely feasible to extend inspection regimes and the enforcement of legal requirements into those sectors. In many ways, because they are open to the public, they are rather easier to see in some cases.

Lord Ribeiro: What about collective bargaining?

Owen Tudor: We have been operating off the back of 20 or 30 years of, at best, government indifference to collective bargaining and, at worst, hostility. The situation before the war was that there was a cross-party agreement that collective bargaining was a good way of dealing with employer-employee relations, and collective bargaining was promoted as a way of dealing with these issues. If we could get back to that, we think that would be the priority that should be adopted, rather than trying to find a fix that is at the same time less flexible and less effective.

Those sectors have in the past had levels of collective bargaining that have ebbed and flowed. At the moment it is low. If you look at other countries around Europe, you can find hotels and catering in some countries are extremely highly covered by sectoral agreements. If you want to move in that direction, the issue is precisely—as John was hinting—that you take a sectoral approach to these things rather than a workplace-by-workplace approach. I know some of John's organisers in the hotel and catering sector. They work very hard to try to unionise hotel by hotel and things like that, but it is extremely difficult, not least because the employers are not in a position to raise wages in one hotel, fearing the possibility of being undercut by the next one. If you do it at a sectoral level and take out those opportunities for undercutting, you can see a much better arrangement. Las Vegas is a case in point where, generally speaking, the hotel industry is highly unionised, as it is in New York. It is done because it is done at a sectoral level.

Q26 **Baroness Massey of Darwen:** On wages, if the immigration system for

EU migration were to be merged with that for non-EU migration, should we expect this to lead to increased wages or employment for British workers? Would that be the case in some sectors or all sectors? Could higher wages be at the expense of higher prices for consumers?

Owen Tudor: I am a simple soul, so there is a bit of me that says, "I wish it were so", in answer to the first question. If there were only a relatively simple, at-a-stroke way of increasing wages in low-paid sectors, that would be fantastic. I fear not, because I do not think that levels of migration are the reason why you have low pay in those sectors. The reason is problems of enforcement, ie lack of enforcement, the reduction in the strength of trade unions and collective bargaining, and so on. Those are the reasons why there is low pay endemic in large sectors of the economy. It is not the level of migration. If you put some artificial barrier on the number of people coming into the labour market, I do not think it would work.

My general secretary, for reasons that are probably fairly obvious, draws attention to the impact of increasing women's engagement in the labour market. Some employers, as they do with migration, tried to use that as a way to reduce wages—to push wages down. But the solution to that problem was not to turn around and say that women should not come into the labour force. It was to make sure that women and men were treated equally in the labour force. My general secretary points out that she looks forward to the day when that is the case, but at the very least we are in a better position now than we used to be in. It is about what you do about low pay, which is endemic in some sectors of the economy not because of migration, and has been endemic whether there have been high levels of migration or not over the years.

In terms of whether higher wages generally lead to higher prices for consumers, it can be the case. You can now get your car washed in a supermarket car park by an eastern European migrant and that service did not exist before migration started. There is an argument that if you paid these people properly, the jobs would either disappear or the cost of the service would go up.

Our experience of wage rises generally is that they push employers to increase productivity. There is no automatic relationship between what you pay a worker and the price to the consumer, because it is subject to many other factors. Obviously it depends to a certain extent how much you can increase productivity and how capitalised the sector can be. Even to take the example of hotels, just in case you were going to pounce on me again with hotels, if you look at the way German hotels operate, they use much more efficient cleaning equipment. Therefore people can clean rooms much faster and more efficiently. Even in relatively lowly capitalised sectors you can still do things to increase productivity. That is more likely to have an impact on price than wages.

Internationally a number of people say that if we only bought more expensive clothing, higher wages could be paid to the staff, which is the obverse of your argument. Our experience is that if you buy an

expensive piece of clothing from Bangladesh you are simply increasing the profit rate, rather than increasing the wage of the person in Bangladesh who is making it.

John Earls: The only thing I would add is that the second part of your question quite rightly identified the sectoral dimension to this, and that each sector does need to be considered specifically. If I may, there is another point I would make in respect of the sectoral position and the point that was made in terms of areas that are less well organised. Sectoral agreements can cover that problem. Many years ago we used to have things called wages councils. Winston Churchill identified the need to have such institutions to avoid bad employers undercutting other employers. The last of those wages councils was the Agricultural Wages Board, which was abolished by the last coalition Government.

Q27 The Chairman: Can we move on to the issue of low-skilled workers? It has been suggested that we want to restrict low-skilled migrants. What would be the implications of that, both on workers in those sectors and the economy generally, but particularly on sectors that currently rely on EU migration, like social care, agriculture, hospitality, manufacturing and construction?

Owen Tudor: First, I have recently noted that there has been a shift in some of the arguments. We are now apparently going to be offering special deals for high-skilled workers and low-skilled workers, which may spell the end of migration for middling skilled workers or something like that. I am not entirely certain. I have a suspicion they will meet in the middle.

It is probably the only area where the economic data suggests that there is an impact of migration on wage levels. There is some evidence of it holding down wage levels at the lower end of the economy. If you push more low-skilled workers into an economy, you might have a bit of a drag effect, in a different way from what would happen if you had high-skilled workers coming in, although our argument would be that the main impact on that has been because of other changes in the labour market. There would be only a very nugatory effect.

I should say that quite often when we are talking in these terms we are talking about the average. If you lined five immigration economists up against a wall and punched one of them on the nose, on average you would not have hit anybody. There are still pockets where low-skilled workers have been brought in from the European Union specifically to undermine terms and conditions in a very particular sector. We would say there are other ways of addressing that than broad-brush approaches to the economy generally. Our answer is that we do not think it would have an enormous impact on UK workers in those sectors and on the economy generally.

The Chairman: Is that the case even in those industries that rely on low-skilled workers?

Owen Tudor: Remember there will still be other ways of getting migrants in to do those jobs, rather than EU free movement and so on. There are all sorts of other methods. If an employer in one of those sectors could not obtain labour from other sources, they would have a range of responses to that circumstance. I am uncertain that the immediate move would be that it would change the wage structure in the industry.

The Chairman: What you are suggesting is there will still be need for migration, but it may come from sources other than the EU.

Owen Tudor: Yes.

The Chairman: Do you wish to add anything, Mr Earls?

John Earls: You raised the example of social care. I do not think the public policy dimension can be avoided, in terms of public funding for some of these services. You need to make a decision about the quality of the service and how you are going to fund it.

Owen Tudor: Just on that one, David Metcalf has regularly chastised the unions in the care sector for not demanding higher wages so that people locally can be employed. Obviously they do ask for higher wages, but the unions' response is the reason they do not push for increasingly higher wages is that the business model currently operating in social care simply does not provide for that. In a sign of responsibility from the union movement, they have not attempted to push those industries into bankruptcy. The solution to the problem of how much you pay care workers is the amount of money that goes into social care, not the sources of labour supply.

Q28 **Lord Jay of Ewelme:** On seasonal workers, would you accept that if there were a ban on low-skilled seasonal workers coming in, that would have an effect on certain industries or certain parts of the agricultural sector that are dependent on seasonal workers? We had somebody in last week giving evidence who said if this did happen you just would not grow strawberries. You would buy them from abroad instead, which is the peculiar consequence of trying to restrict migration.

Owen Tudor: That is one of the answers. That is the supermarket car cleaners example. In many ways these are products of availability of labour and so on. Far be it for me as a trade unionist to praise the incredible adaptability and flexibility of the employers in this country and their incredible ingenuity. My worry is that other ways would be found of making that business model work in that situation—for instance, massively introducing zero-hours work as an opportunity. I would not put it past some employers to go back to the idea that the kids in the local area would be doing stuff without adequate policing of what was going on. There are all sorts of ways of doing this.

Lord Jay of Ewelme: You said earlier we were going to end up with high-skilled, medium-skilled and low-skilled workers. What exactly is a low-skilled worker and how do you define a low-skilled worker? Does it

depend on the worker or the job he or she is going to? How does it work? Do you know what a low-skilled worker is?

Owen Tudor: I sometimes recognise them when I see them.

Lord Jay of Ewelme: That is a different point.

Owen Tudor: Seriously, seasonal agriculture is a good example of where it is low-skilled work that we are talking about very often. Among eastern European workers we find coming into those industries, we quite often find people who are extremely highly skilled. There are various reasons for this. It can be different relative wage rates in different economies. It can be lack of language skills, meaning that you cannot do customer-facing work but you can face a strawberry. There is quite a lot of evidence that migrants from eastern Europe certainly are, on average, doing jobs that are further below their skill capability than domestic workers, although it also applies to a whole range of domestic workers. If I take women coming back into the labour force after childcare responsibilities, exactly the same thing happens.

You cannot help looking at that and saying what is distinguishing whether they go into low-skilled work or higher skilled work is their lack of power in the labour market, rather than their incipient skill levels. It is very difficult. That is one of the reasons why we find it slightly difficult to work out a policing system for the border, because it is quite difficult to work out. You could easily envisage someone coming in on the basis that they have a PhD and £1 million, but if they like the outdoor life they might end up working in the fields. It is very difficult to police.

I would be in favour of a stronger Border Force able to do more things about checking who is coming in and going out, because it is useful to have that data. However, I am not sure that you could control at the border what was going on and then expect it to have an impact on the rest of the economy. That is one of the reasons why we argue the case for greater enforcement of the current laws on workforce exploitation, and stronger trade unions who can be there whenever the factory or workplace of any kind is operating.

Lord Jay of Ewelme: Mr Earls, do you have any views on this?

John Earls: There are some difficulties around how you define skill and low skill. As an observation on your proxy for skill being a wage level—£30,000, £35,000—the average wage of a chef, for example, is £17,000 or £17,500, but that is a relatively skilled job.

Lord Jay of Ewelme: We hope so.

John Earls: Can I give you a quote from a bit of research that we did? This is a Unite member who is a waiter in a London hotel. He said to us, "Let me see you manage a station of 12 tables on a busy Thursday night when you have a queue at the door, the bar is four deep already and that hen party has just ordered eight mojitos". There is a degree of skill involved in that.

The final point that I would make is even with low-skilled jobs people deserve to be treated fairly and have decent employment conditions.

The Chairman: In that context, we all will be low skilled.

Q29 **Lord Soley:** I am grateful we will not be defined as low skilled, although one could make a good case for it. You touched on some of the things that would be necessary now to protect EU migrants from exploitation, trafficking and so on after we have left the European Union. Can you pick out those which would be the most important in order to prevent exploitation and trafficking in this context?

Owen Tudor: I have just come from a meeting in the other place where my general secretary was being quizzed by Hilary Benn's committee about employment protections. We are still arguing the case for continued compliance with EU employment laws after we leave the European Union. In some cases, there might not be an enormous difference in terms of the legal responsibilities involved. Certainly, we have had assurances from the Government that they will maintain the existing employment laws. We are not satisfied, quite, with those assurances and we want to go further so that we do not fall behind other countries.

I think the most important element of labour market control is the right to join a union and the right to have your wages and terms and conditions determined by collective bargaining—but I would say that, wouldn't I? That is the overriding, most important element of control.

If you then go into what are the legal requirements that you would place on employers, I suspect that the most important elements would be things like control over agency, part-time and temporary work, which are very important in terms of the sort of exploitation we see. Another is policing basic elements of the employment contract, such as whether people are being paid wages or being given their holiday entitlements and so on. Those elements are most susceptible in exploiting someone who does not exactly know their rights in the labour market. But, as I say, the main thing is promoting trade unions.

Lord Soley: You implied in some of your previous answers that some element of inspection was required. Can you say more about that?

Owen Tudor: In particular, there needs to be inspection of, for instance, payments of the minimum wage. We have noticed there has been a small up-tick in government action to enforce the minimum wage in the last year or two. That is very helpful. Inspection of that would be very useful, and greater inspection sends out a signal about what is and is not acceptable—what certain people think they can get away with, for instance. That sort of inspection would be the most important element in terms of dealing with exploitation of migrants and therefore undercutting of existing workers.

Lord Soley: How would you spot trafficking at the moment? How do you think you could identify that?

Owen Tudor: Trafficking is undoubtedly abhorrent. We welcome the steps the Government are currently taking to try to get rid of trafficking and step up enforcement against trafficking both by new legislation and by the exploitation regime—the expansion of the former Gangmasters Licensing Authority and so on—although I am not entirely certain that they are not being given a mammoth task with too little resources.

But in terms of comparisons, I suspect the number of people who are not being paid what they are supposed to be paid according to their contract, compared with what we would classically understand as trafficking, is the far greater problem. There is obviously a blurring of the lines, because one of the elements of modern slavery is precisely not providing people with the terms and conditions that they have been promised and on which basis they have been recruited from overseas. There is a bit of blurring of the lines there. The TiSC requirements about openness in terms of slavery and looking through supply chains is having a cultural impact on employers such that they understand better what it is they ought to be worried about not doing.

John Earls: Owen has identified the priorities quite eloquently. The other point I would make is on the new Gangmasters and Labour Abuse Authority. Whilst the proposal to extend the remit across sectors is very welcome, I do have concerns it will not be adequately resourced in order to meet that. Whilst it is right to try to identify priority areas, our experience is sometimes those small, minor infringements lead on to a culture that people can then extend to more serious breaches. To a certain extent, investing in being able to do that properly at an early stage does pay dividends.

Lord Soley: Thinking about the pressure on those areas that have experienced a great deal of very rapid immigration—East Anglia, Lincolnshire and so on—what sort of support are you giving to those areas and people in those areas?

Owen Tudor: As you will probably know, the TUC has been arguing for a number of years for the reintroduction, at a much higher level, of a migration impacts fund. There are two elements to it. First, there are benefits to the economy as a whole of migration, even though there are some cases where some people lose out. It is important to spread those benefits more fairly. One of the ways that you do that is by making sure you identify those areas that have had the highest and fastest migration rates—because it is a combination. If you look at the areas with the highest levels of migration, they are all places like London or Manchester or Birmingham. If you look at the areas where there is most concern, they are areas where it is as a result of relatively smaller numbers of people arriving in very short order.

One of the ways you deal with the fairness aspect of this is to make sure the resources go to the areas that have the extra need as a result of that. Part of that need is precisely about dealing with new arrivals rather than a gradual increase in an existing situation where people are better able to cope with the situation. If you could imagine a school in Thetford that

has not seen someone from outside of Thetford for a generation, the arrival of four or five people from outside is much more significant. I used to live in Tottenham and there was a regular throughput of people who were new arrivals and the schools knew how to cope with that issue.

I should say that parts of our concern—things like pressure on public services and transport and housing and all that sort of stuff—are better dealt with not through a migration mechanism at all. They would be better dealt with by building more houses, providing more funds for the health service and the education service and so on. Most of the problems have been caused by reductions in government spending on those areas.

But it is also important to make sure local people are aware that with greater increases in the number of people moving into the local area come greater resources to tackle that problem, paid for, essentially, by the increased economic activity that results. One of things we have said about our proposed migration impacts fund is that it must have a very strong area of local controls so that it is local people who are deciding what problems in their community need addressing and how to deploy the resources accordingly.

Lord Soley: Within that, how do you relate to job offers to local people?

Owen Tudor: The Wales TUC at the moment is running a campaign called *Better Jobs, Closer to Home*. The idea would be that, if you have people locally who can do things, get those people locally to do them rather than have to move people around. We do not have a formal policy on this, but we have always been a little unhappy with the idea that what is described as free movement is people being forced out of their homes by economic circumstance to travel across the continent to do a not very good job. It is an odd description of that as free movement, which sounds like a noble ideal.

By and large the TUC does not write anything into agreements, because it is done by our unions, but on the big national projects that we get involved in, like the London 2012 Olympics, we do build in issues around giving opportunities for local labour. I should say that by local labour we mean precisely local labour. It is not code for anything. It just means people in the locality. Large numbers of people who got jobs on the London Olympics in east London in 2012 were not born in east London but they were local; they were the people in the area already. They were not being brought in from outside to do them.

The Chairman: That is all from us. We have covered all the areas we needed to cover. Thank you very much indeed for your time. If, on reflection, there is anything you wish to send us further, please feel free to do so. We will send you a transcript of this particular evidence, and you can correct it and send it back to us. Thank you very much indeed.