

Scottish Affairs Committee

Oral evidence: [Immigration and Scotland](#), HC 488

Monday 27 November 2017, Glasgow

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Members present: Pete Wishart (Chair); Deidre Brock; David Duguid; Hugh Gaffney; Christine Jardine; Gerard Killen; Danielle Rowley; Ross Thomson.

Questions 67-100

Witnesses

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

Written evidence from witnesses:

- [Written Evidence submitted by The Federation of Small Businesses](#)



Examination of witnesses

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

Q67 **Chair:** Good morning and welcome to the Scottish Affairs Committee evidence session into immigration and Scotland. Unfortunately we are not going to be able to be joined by Shane Taylor who cannot make it this morning, but we do have Mr Gareth Williams and Mr Barry McCulloch. Could you say which organisation you represent and anything by way of a short introductory statement?

Gareth Williams: Good morning, everyone, and thanks for the invitation to come along and give evidence this morning. I am Head of Policy at the Scottish Council for Development and Industry. I do not have much to say at the outset, other than the industrial strategy is out today and, from our perspective, immigration has a key role in meeting the challenges for the economy, not just centrally but regionally. I think that is why it is important that we have the discussion about Scotland's immigration needs.

Barry McCulloch: Good morning and thank you for the invitation to contribute to what I think is a timely inquiry. By way of an opening remark, I would direct you to a lot of the research on Brexit that the FSB has published over the last year. What we have tried to do is gauge the impact that Brexit will have on small businesses in four different areas: international trade, freedom of movement, skills and labour, regulation, and EU funding. I think when you step back from that you see without doubt the impact that freedom of movement coming to an end will have. The creation of new immigration arrangements will be a significant implication for the business community. There are a few other points I would quite like to make.

Q68 **Chair:** Would you just stop for a minute, Mr McCulloch? I am having real difficulty hearing some of this. I think what would help us is if one of these speakers could be turned towards the Committee. Would that be possible? There is a strange echo that is quite disconcerting and I am finding it difficult to follow the witnesses here. Is there anything that can be done to improve that? I notice both the speakers are facing towards the public. If one was turned towards us, would that help? We will try that and if you can speak closer to the microphone.

Barry McCulloch: Of course. My aim is not to be disconcerting and I will take your advice. What we are saying is that without doubt the introduction of new immigration arrangements and the end of freedom of movement will have acute challenges for business owners. To put that into perspective, currently 95% of small firms—

Chair: Sorry, we really are going to have to get this resolved, because I am finding it so hard to hear what is being said. That is a lot better. Could you just start again for us, Mr McCulloch? Sorry about that.



Barry McCulloch: What we are saying is that to put that into perspective, currently 95% of all small employers have no experience of the UK's points-based immigration system and they do not have the capacity or the expertise, mostly because they have never needed to. They have satisfied their labour and skill needs from local, national and EU labour markets. At the moment the percentage of small businesses who have at least one member of staff from the EU is about 26%. That is 5% higher than for the rest of the UK. That figure climbs to 41% for employers in the Highlands and climbs again to 45% for firms in the tourism and leisure sectors. These are sectors that in particular will be hard hit. EU workers are not just in low-skilled jobs. They operate across a wide variety of occupations and in fact the greatest concentration could be found in trained skills in occupations such as care, construction and so on.

The research that we published recently showed that on the whole employers would react in two ways if freedom of movement comes to an end. There are those who would adapt their recruitment practices and hire UK citizens or EU citizens and accept a different cost, but there is another group who foresee substantial changes to their business and would reduce their operations, wind the business down or move their operations abroad.

Q69 **Chair:** Thank you. All of that is very serious and we are going to be looking at it in the course of this morning. Mr Williams, I noticed something that you stated recently that: "The demographic issues for Scotland differ from the UK as a whole." Could you tell us a little about what the SCDI meant by that and what your conclusions are from that statement?

Gareth Williams: I know the Committee will have seen some of the projections, but clearly we have a much greater reliance on immigration from the EU for future population growth than do the UK as a whole where there is projected to be much more increase due to births and higher fertility rates. We also have a higher dependency ratio and that will increase over time. We have a marginally higher median age. We have challenges that relate to the rural nature of large parts of the Scottish economy where there is depopulation. That is projected to continue in those areas and will have significant impact on future prospects. It goes without saying we have a tight labour market at present, historically high levels of employment and low levels of unemployment. The concern for us is that if we do not address this demographic picture it is going to have a long-term detrimental impact on the economy, public services and the success of Scotland.

Q70 **Chair:** You have both concluded that this is going to have a massive impact on the economy of Scotland. Is the central issue that there are not enough workers in the Scottish labour market rather than where they come from?



Barry McCulloch: To carry on from Gareth's points, you have a situation at the moment where population growth has been absolutely fundamental to Scotland's economic prosperity. It was not that long ago that there were fears that Scotland's population would fall below the 5 million mark and the reason that did not happen was because of European working age migrants coming to Scotland and contributing. There is a definite fear about the size of the labour force in the event of not having any European migrants coming to Scotland and settling to work. There is also a fear that it will affect demand in the economy and the supply of goods and services. In areas within the Highlands and Islands that already face substantial depopulation challenges at the moment, there are additional problems and issues. To put that into context, there are skilled roles in many areas that are continuing to deteriorate at the moment. Without the supply of extra European labour, there would be substantial skill challenges in the future.

Q71 **Chair:** When we presented and published the demography report we had conversations with the Minister about so many of these issues. What we were told in response is that, "Scotland's skills needs are largely aligned with the rest of the United Kingdom". We got the sense that the problem in the UK is very much same in its range of issues and difficulties as the rest of the United Kingdom. Is that a view that you share? If it is not a view that you share, tell us significantly where that might be different?

Gareth Williams: I think there are common issues across the UK in relation to particular skills and sectors but, as I have outlined and as Barry has outlined, the challenges are that much greater in Scotland, particularly in parts of Scotland. If we do lose access to EU labour on current terms, those are likely to get even more significant in the future. We have supported some differentiation within the immigration system to recognise that fact, building on what is already there. It is quite hard to comment on exactly what that would look like when we don't know what Brexit will look like or what the future UK immigration system will look like, but as a point of principle, recognising the need, we think that is the direction of policy.

Barry McCulloch: This is a live issue with the Migration Advisory Committee inquiry and I thought the Scottish Government put forward a very convincing case to show why Scotland's needs are different. If you look at the central nature of our economy, it relies on mobile labour from the European Economic Area and the sectors that are concentrated in Scotland are reliant on this labour. I think there are definitely issues where in the future small businesses would be unable to meet their labour and skills needs, whether that is in Perthshire or here in Glasgow city centre. From a relative outsider's perspective, it is a challenge to analyse and examine who is right in this situation because you have the Scottish Government and the UK Government with very different positions. It is definitely fair to say that the extent of differentiation that has to take place is predicated on the belief that Scotland's needs are different. We have different demographic pressures, a different skills base



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and our economy requires a degree of labour that is low, medium and high skills and that does come from the European Economic Area.

Q72 **David Duguid:** Mr McCulloch, you have described various demographic issues. Have you done any analysis on what is causing the depopulation of Scotland in the first place? If something was to be done, how long might that take?

Barry McCulloch: Unfortunately, that is not analysis that we have conducted. If population growth can be driven through other forces that would have a knock-on economic effect, but the immigration restructure that will take place, either from EU or non-EU people, is relatively unknown. If you are a business owner in Scotland you are facing a huge amount of uncertainty at the moment because you do not know if you will be able to employ European workers via freedom of movement or it will be through a larger points-based immigration system, which can be costly, complicated and quite heavy-handed if you get things wrong.

Q73 **Chair:** I think it was you, Mr McCulloch, who said that 15, 20 years ago there was a real concern that Scotland's population might drop below the 5 million mark, and certainly in my early days as a Member of Parliament that was one of the major things we were addressing. I think we all appreciate and understand this has been addressed by immigration. What on earth did businesses do before we had that availability of labour in order to address some of these difficult questions, or was it just a story of ongoing decline and difficulty?

Barry McCulloch: I think the nature of small business owners is just to get on with things and to react and adapt to the situation that they find themselves in. It is arguable that post-Brexit they will do the same but looking back to how small businesses prospered in the early 2000s, they had consistent barriers to growth that are still here. They had access to skills and infrastructure issues and to an extent these have been exacerbated over time. When you speak to business owners, you are struck by how powerless they feel in the current situation because they don't know what they know. They are trying to plan for the next two to three years and they are unable to do so because there is not the information available to look at their capital investment plans, future staffing needs, how to upskill their workforce, because that has been driven quite consistently by European workers.

Q74 **Hugh Gaffney:** There are concerns about the high levels of employment of non-UK workers because that puts downward pressure on wages and reduces opportunities for UK-born workers. Do you agree with that statement?

Gareth Williams: There was a report that found some limited evidence in certain circumstances that there can be an effect on wages, but there are a number of other reports that say the contrary. I do not think we can say that that evidence is particularly strong. On the contrary, there is good evidence that an international workforce can increase opportunities



for UK workers. For example, many businesses have centres of excellence for training within the UK. They might be drawing people in from all around the world but the fact it is located in the UK increases the opportunities for UK workers to go to those centres of excellence. The oil and gas sector is an example of that.

There are lots of other potential benefits in having a more diverse workforce in being able to improve contacts with customers, increasing immigration rates and so on that obviously follow through to higher productivity and the potential for higher wages for all members of staff, including the UK workforce. I think the evidence is probably stronger to the contrary and that the UK as a whole, including its workers, benefits from migrant workers.

Barry McCulloch: I am by no means an economist but the research of the Scottish Government and the academics who came to the Committee last week is fairly clear on this matter. The gains from migrant workers far outstrip the costs. To take one example, which we don't often talk about, migrant workers, meaning people who are not born in the UK, are substantially more likely to start a business. If you look at the Global Entrepreneurship Monitor or some research that we are undertaking currently, the gap is about three times. People who are born outside of the UK are three times more likely to start a business. They provide a lot of that entrepreneurship that otherwise would not happen.

Post-Brexit there is a concern that the pipeline of entrepreneurs—people who come to Scotland to perhaps start work but struggle to see another way have a go at starting their own business. We have one member in Inverness who came to Scotland to work in hospitality and within a couple of years he was running his own cleaning and property maintenance business. That is a common story in Scotland where people with ideas and drive come to a country that is willing to give them a shot, give them support through Business Gateway and the Enterprise Network. That definitely outweighs the costs that some people identify from migration.

Q75 **Chair:** This is quite a key issue and I know that there is a political debate about it. We are struggling to find anybody who is prepared to give us evidence that supports some of the claims that migrants drive down wages. We have the Scottish Government report that you mentioned. It says: "The available evidence indicates that any adverse wage effects of migration are likely to be greatest for resident workers who are themselves migrants". I don't know if you recognise that. Eve Hepburn, who I think you were referring to in your response, Mr McCulloch, says: "Migration does not appear to have had statistically significant impacts on the average wages and employment opportunities of the UK-born population in periods when the economy is strong, although there is some evidence of labour market displacement when the economy is in recession". I don't know if you recognise that statement. What is your view about that and also on the fact that the Scottish Government have



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found there might be an impact on foreign workers who are already in Scotland?

Barry McCulloch: Regrettably, it is not something that we have come across in our research on labour and skills and Brexit-related issues. Any of our members in the north of Scotland in the past have struggled to access skills and staff because they go off to the central belt or London and a lot of the young people in the Islands leave. Migrant workers from the European Economic Area in particular have provided the supply of labour that otherwise would not have happened. There are plenty of stories in the research that we publish that show that business growth in many parts of Scotland would not have happened without that access to labour and skills.

Q76 David Duguid: I wanted to touch again on the issue of the requirement for migrant workers to come to places like the Highlands and Islands and other places around Scotland because of this exodus in the past to the central belt and further away. Do you have any feel for what might happen for the second generation of migrants that become UK-born citizens? What is stopping them leaving these same communities and going to the central belt and London, or back home for that matter?

Gareth Williams: The evidence seems to be that workforce mobility as a whole is reducing and it has over the last 20 years or so. As you say, there has been the historic exodus from parts of Scotland. There is the potential, through digital connectivity for example, to make it easier to run businesses from these locations and make it more attractive particularly for young people to be based in those areas. We know quality of life, quality of education is very important for families and for young people. A lot of work has been put into addressing those sort of issues in the Highlands and Islands in recent decades and I think that has had an impact. With the creation of a new south of Scotland agency, we are looking at similar moves in the south of Scotland.

There is always going to be a flow of people. Young people are always going to want to spread their wings, and that should not be discouraged, but we need to make sure that we are attracting enough people to come back in so that we can supply the skills that businesses need and create vibrant communities.

Q77 Hugh Gaffney: Migration Watch has argued that instead of relying on high inflows of cheap labour from abroad, Scotland should do more to mobilise Scottish workers and give them better pay and conditions. Is this possible? Could we do this? You mentioned there were no reports on the evidence found about low pay for migrant workers and UK workers. Is there a report that looks at this? To follow up on the second point, could UK workers be better paid?

Gareth Williams: I did not mean to say that there were no reports. What I meant to say was there was one report that I was aware of that suggested there might be some impact in certain circumstances. But



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there were other reports that did not show that, and in fact showed that there was a net benefit. There may be some value in looking at that more closely, but there is evidence out there.

It is fair to point out that with increases in national minimum wage and the national living wage, there is effort going on to increase pay rates for all. If we are going to increase productivity we have to see that continue but at a rate that is sustainable for the economy. I do not see it as an either/or for migration or the indigenous workforce. I think we need both, given the demographics and the skills situation. We very much support developing the young workforce agenda. We need to help workers with transitions as we have a more disrupted economy. Lifelong learning probably needs more priority than it has had in recent times. We need to think about how we can help older people stay in the labour market productively for longer if that is what they want to do. As I say, it is not an either/or from our point of view.

Barry McCulloch: I do not see that distinction. I think that migrants and indigenous workers create a competitive labour market and the employers choose the right person for the job irrespective of where they are from. It is who has the best skills and the best attitude for that business. We have looked at this and examined the research and it just did not come up. It was about attitude and willingness to work. They recruit openly and whoever applied for the job and made it through, made it through. They were blind to the distinctions.

Q78 Hugh Gaffney: I hear what you are saying there but there are a lot of places that do employ certain nationals from the EU and it is all the same employees. I have a big interest in lifelong learning because there is a language barrier. Even in a lot of places where there is low migrant workers, there is both languages. I am interested in that side of it as well.

That brings me on to my second question about the data. Do we have data across the UK about where most migrant workers are? For whoever is taking the lion's share, there is a big impact. There are a lot of foreign workers in certain places and other places do not seem to have any. Is there national data UK-wide on migrant workers?

Gareth Williams: There is some data from Government and trade associations. I am aware that the Scottish Government is looking at getting better data at present. From discussions with the Migration Advisory Committee recently, there is a particular need for better data on self-employment and entrepreneurship. There are some findings from FSB but there could be more on that. We probably need to look a bit more closely within sectors at particular roles and supply chains. The business itself might not employ a large number of workers from the EU but if its supply chain does there could be real knock-on consequences for a much wider range of businesses than perhaps we are immediately aware of.



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Barry McCulloch: At the moment we are playing catch-up. There is a lot of data gaps and it is only after the referendum result that people began to think about this issue seriously. Our research looks at the occupation or segregation of EU workers and, as I said at the start, it is not just low-skilled occupations. In fact, there is almost a three-part distinction: 48% of small businesses with EU workers have people in mid-skilled roles, 31% use low-skilled occupations and 21% employ EU workers in higher-skilled roles. I do not think we fully understand that complexion, why they have congregated and concentrated in certain areas, but from our members' perspective, if you take tourism as one example, that is a sector that employs just about the same number of people as the NHS. It is a massive employer and if you go about in the country and visit hotels you will see that there is a significant employment footprint from EU nationals, but that is not through design. If you speak to the employers, it is because they are the best people for the job. Places like the Highlands have always struggled to access that labour and they have the mobility of labour from Europe. People who have come over from eastern Europe have freedom of movement and they have chosen to start in that sector.

Q79 **Chair:** If I have got this correct, you were saying that there is 31% of EU nationals in low-skilled work, 48% in mid-skilled and 21% higher-skilled. Is that what you said?

Barry McCulloch: Yes.

Chair: Those figures are quite staggering. The common perception is that all EU nationals are in low-skilled work, and this relates to some of the questions that Mr Gaffney asked about displacement in the labour market. Why is this belief allowed to emerge that EU nationals who are working in Scotland have low-skilled jobs when from what you said it quite clearly is not the case?

Barry McCulloch: I struggle to reconcile the two realities, for want of a better expression. The reality we have is from the ONS classifications and the public debate that seems to concentrate on the low-skilled angle and the displacement angle. I think they are difficult to recognise because at the moment, certainly from the Scottish Government paper, if you look at the creative sector and the skills gaps that they have at the moment, these are high value, high impact jobs to which many European workers contribute.

In our report on access to skills and labour, we had a member from Edinburgh who runs a software development company and he was reporting challenges he had attracting staff because he is competing in the global marketplace. The staff that he is looking for are very mobile and he was finding it increasingly challenging. He had staff leaving to work in other European capitals because they can. They have a skillset that is in great demand, and that is the other angle here. We are not just competing locally, regionally or nationally. We are competing globally and



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the decisions that we make will have significant implications for the future of our economy.

Chair: I think that is a really important set of statistics. It deserves and requires to be advertised a bit more thoroughly and robustly.

Q80 **David Duguid:** As you have already mentioned, the migration for EU workers is currently unrestricted and the UK has work visas for only non-EU or non-EEA nationals. Can you tell us to what extent Scottish businesses employ non-EU nationals using these visas, or what proportion?

Gareth Williams: I don't have statistics for employment of non-EU nationals. Certainly the existing route is seen as unattractive by many businesses, so where they can meet their needs from within the EU they tend to go down that route. I am sure I could help with statistics if you don't—

Q81 **David Duguid:** I have some data here, that looks like it is from 2016, that non-UK EU nationals made up about 5% of Scotland's workforce. Does that sound about right? It also says that non-EU nationals made up about 2.5%, so about half, a two-to-one ratio.

Gareth Williams: Certainly on the EU figure—I wasn't sure of the non-EU—that sounds about right.

Q82 **David Duguid:** You mentioned the cost and difficulty and I think it was 95% of SMEs had never had any experience. What do you think it would take to build up the competence in these businesses to be able to handle that points system?

Barry McCulloch: I think that would be a significant challenge. It really all depends on whether or not the Immigration Acts of 2014 and 2016 serve as the foundation for a new system. If we operate the system that we have at the moment for non-EU staff, it is very restrictive, very complicated, can be quite burdensome, and it is unsurprising that many employers choose not to go through that route. As Professor Boswell said last week, it does encompass a significant bureaucratic and cost outlay and if they can access staff who have freedom of movement in Europe obviously they will prefer that route. We have concerns about how employers from the small business side, who employ somewhere in the region of 1 million people, could work up their capabilities and their skills. They don't have the experience the larger businesses have or the HR departments to process right to work checks. I don't think it is insurmountable but it is not ideal either. Significant Government intervention would be required, particularly on the HR side, to enable small businesses to function in that environment.

Q83 **David Duguid:** My next question is about the checks that employers are obliged to make on the entitlement of their employees to work in the UK. Are those requirements clear to the kind of employers you are talking about? How onerous are the checks on those employers?



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Barry McCulloch: We do not have that many employers who are members who call on staff from outside the EU, but for those that do there is definitely the impression that they are being penalised for hiring foreign workers. If you look at some of the language in the Immigration Acts or on the Home Office website, the thrust of the policy is quite punitive rather than, "How do we get businesses to comply? How do we bring them along?" I think that is the culture within the Scottish regulation although it is a bit more discursive and less punitive. The introduction of the immigration skills charge is designed to reduce the demand for migrant labour. The objective of the policy is to make that labour more expensive. The feeling we get from members is that they are engaging in a free labour market, hiring the best person for the job and they are being singled out for doing that.

There are serious consequences for getting it wrong, such as quite weighty fines per employee if you get it wrong. I think there are several penalties of up to £20,000 per worker. That could be due to administrative errors, so if you are not keeping your right to work checks in proper order. There are things that employers may not know; they are not willingly breaking the rules. To jump forward to post Brexit, it would be deeply troubling for Scottish employers if the new immigration system works in that format.

Q84 **David Duguid:** What I am hearing is whatever the new system has to be, the employers you are talking about need to be brought up to speed between now and then?

Barry McCulloch: Absolutely. We will have a problem if we are not starting to build those capabilities and capacities now. The difficulty is that we do not know what system will be introduced. We are presuming that it will be based on the 2016 Immigration Act but we do not know whether it will be an extension of tier 2 visas or a sponsorship system. That uncertainty is very damaging for businesses that are trying to make those day-in, day-out decisions to run a viable enterprise in Scotland.

Q85 **Deidre Brock:** You mentioned significant intervention from Government might be needed. What sort of intervention would you envisage, how costly might that be and which Government? Should this all fall on the UK Government's shoulders?

Barry McCulloch: Some of the most effective interventions from Government come at a local level where they have a relationship with the local business community. One programme we have in mind is called Business Gateway Plus that tried to look at the HR capabilities of businesses to allow them to scale up. Rather than looking at growth in a fairly abstract sense, they drilled down into the business owner's capabilities to do the basics because they did not have the administrative skills. Quite often a small business owner is doing 100 million things and administration and HR is just one. They don't have the specialism or access to the advice, unless they are a member of the FSB.



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The broader point is that Government intervention, either from the Scottish Government or the UK Government, would be required for a significant period of time. I could not put a figure on that but I would like to think that focusing particularly on the HR side would be a fruitful way to allow employers to feel more confident. At the moment, employers feel like they are de facto immigration officers. If that perception is out there, which it is, it will not take long for that spread to other employers and that will affect the decisions that they make. It might lead them to automate and invest in capital more than people and that would have quite fundamental challenges for the labour market.

- Q86 **Deidre Brock:** Intervention, making sure that all the small- and medium-sized businesses have an understanding of the complexities of the immigration system under Brexit is really vital, isn't it? Therefore, potentially it can cause quite significant extra costs for the Scottish Government. Business Gateway Plus would be under the Scottish Government's responsibility, wouldn't it?

Barry McCulloch: Yes. I think there is a very good market failure argument here that would justify Government intervention, but naturally this would come at a cost. If you reflect on Brexit and all its ramifications, it seems like a fairly small, arcane point, but how employers employ and navigate this system is absolutely central to these conversations.

- Q87 **Deidre Brock:** Absolutely. I know the complexity of the immigration system, having to deal with it as a constituency MP very frequently.

Can I ask you about the Shortage Occupation List and its application to Scotland? While it has been pointed out that the UK Government has permitted some departure from it, it is pretty minimal. In 2010, for example, the only additional item for Scotland was restricted to consultant radiologists. What are your thoughts on increasing the role of the Scottish Government in setting the SOL and potentially getting a Scottish seat on the MAC, the Migration Advisory Committee, as well? That has been mooted by some folk as a possible way of increasing Scotland's influence in these matters.

Gareth Williams: Would it be okay if I refer to the previous question as well?

Deidre Brock: Yes, of course. I am sorry, Mr Williams.

Gareth Williams: I would question, reflecting what Barry said, whether the current non-EEA system is ever going to be fit for purpose for EU workers. There is 205 pages of guidance; the skills immigration charge for resident labour market. It would need such a major overhaul to be applicable, in addition to all the work that would be needed to upskill particularly smaller businesses.

I think it is useful to have the Shortage Occupation List within the current system and any flexibility that is available for Scotland has to be positive. We are certainly aware that there have been more requests from



particular sectors of the Scottish economy to be included within those lists, so perhaps more use could be made of it. I think there is a question mark as to how effective it is ever going to be, particularly when you have a dynamic economy that is changing all the time and how that can be reflected through, especially in a post-Brexit scenario.

Being able to have more Scottish influence would be welcome. It would be open to debate whether we could go down the road of a Scottish seat or that would need to reflect the interests of other nations and regions of the UK. But having a voice and looking at that geographic aspect would be helpful as long as it is backed up by input from employers in particular, trade unions and others that are interested in this area, so that whoever it was that was representing the Scottish economy in that process had as much information as possible.

Barry McCulloch: There are a number of problems with the Shortage Occupation List at the moment. It is really a one-size-fits-all system where the salary and skill thresholds are set at a UK level, which does not necessarily work particularly well for Scotland. As was noted last week, it is clunky, bureaucratic and costly, so obviously that hits demand from the private sector. To pick up your point specifically, there are opportunities to revise and expand the Shortage Occupation List and give the Scottish Government the responsibility for doing that to look at the labour market gaps, the skill shortages. There seems to be a fault-line emerging now between the Scottish Government and the UK Government on this particular issue, but from a small business perspective we would welcome Scotland's voice being that bit louder within the immigration system, that we look at concrete and practical ways to devolve aspects of that system. Certainly the Shortage Occupation List is one way you could do that.

The other way is by giving the Scottish Government representation on the Migration Advisory Committee. There is a precedent, as we pointed out in the paper. There is a Scotland rep on the Ofcom board and we see no reason why that should not happen in this context. As Gareth pointed out, there are other nations and regions in the UK that would also make that point and they have to be represented. A footnote to the research from Dr Hepburn is that many other nations run differential immigration systems and run them well. I see no reason why Scotland and the UK is different.

Q88 **Deidre Brock:** That was very next question I was going to ask. You have FSB, Colleges Scotland, Unison, the Scottish Chamber of Commerce and many other bodies calling for at the very least a more flexible approach to immigration for Scotland. As you have mentioned, experts in the last evidence session made it clear that there are many examples of this across the world. We are still getting quite significant resistance from the UK Government to this particular issue. Do you have any sympathy with their approach? What are your thoughts on that? There is clearly evidence of where this has worked elsewhere in the world and I am struggling to understand the resistance to it, to be honest.



Barry McCulloch: There is one aspect that we have some question marks over and it is whether or not differentiation leads to greater complexities and costs for employers. That is why we have called for other research on this issue. To be honest, we don't know but I suspect if other nations can do this and they can respond to a substate's market needs, why can't Scotland and the UK? If you look through the research and the literature, it relies on very strong intergovernmental work and requires strong political commitment. Devolving aspects of the immigration system in Quebec took almost two decades. I think there is perhaps a reaction to the belief that devolving immigration is a panacea for Scotland's problems and I do not think it is. It is certainly part of the solution, but it will take time and commitment from the both Scottish and UK Governments to come together and make the system operable and effective for small employers.

Gareth Williams: I think the Home Office has a very clear focus on the net migration target and that drives so much of what it does. From our point of view, it would be helpful if the debate could be focused on a number of different measures that highlight more the positive influence of migration on skills. That is a potential role for the proposed Scottish population strategy, for example, but at a UK level it would be good to see something similar. We would like students to be removed from that target and I think the direction of travel seems to be quite positive there.

There is a lot in Dr Hepburn's report that we would support from the soft to medium labour perspective. We do find different views in the membership when it gets towards the harder levers. There are businesses and sectors that operate around the UK and want to be able to flexibly deploy their staff around the UK, so they want to understand how that differentiated system could work for them and more thought is needed there. For most employers it is: is what is proposed going to make it simpler, less time consuming, less costly to get the skills that they need, "If the system that is proposed has an element of Scottish control and an element of UK control, can we make sure that that is seamless and we get the objective that we really want for our business?"

Q89 **David Duguid:** On the point of the subnational immigration policy or elements of that policy, I was just doing some rough not very scientific calculations on the size of places like Canada and Australia compared to the fairly compressed nature of our small islands here. Would that be a concern? I was working out roughly that Canada is about 40 times the landmass of the British Isles and I think Australia is about 50 times. Australia has reported problems of people being allowed to work in one state but then moving between states and having difficulty controlling that. Do you think that could be a concern for the UK Government?

Barry McCulloch: There is definitely a correlation between federalism and size. It makes sense. Would it be challenging in a smaller country? Yes, I think it probably would. We are slightly mindful that the direction of travel is that employers in Scotland would be there to legitimately



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assess whether or not someone can work in Scotland or not. What that means practically is that if you are engaging in immigration activities as a business owner, when you are not running the other aspects of your business you are not growing it. I think there are definite opportunity costs there. We are mindful that there is greater flexibility but you have to retain the mobility of European workers in the UK. There cannot be an either/or, because otherwise it becomes somewhat pointless and redundant. How we do that and how we achieve it is unknown and that is why they are calling for the Scottish Government and the UK Government to get together and analyse the economic impact of this.

Q90 Chair: The UK Government are currently designing the new immigration policy and we would expect to see a Bill in the next few months. We are anticipating this would be a pan-UK Bill, given what you have said that there might be devolved aspects to it. What would you ideally like to see in a UK Immigration Bill for EU nationals?

Gareth Williams: It is a bit unfortunate that the Bill seems to be coming out before the report from the Migration Advisory Committee because that was supposed to be aligning policy with industrial strategy, for example. From our perspective, we want businesses to be able to access the skills they need in as frictionless a way as possible. We want to make sure that those needs are met across different sectors and different regions and that the diversity of demography and economy is taken into account. We also want the Bill to recognise the need for businesses to continue to move people around within their companies, so inter-company transfers, for example to locations in Europe, which might take place at short notice, where there might be needs for specialist skills and so on.

We want the Bill to be used as far as possible to change the narrative as well. I think that is a major point. There is lots of evidence that having people in this country leads to further investment. Any time spent in this country leads people to be more likely to want to invest here. It has to try to meet all those needs.

Q91 Chair: Just before I come to you Mr McCulloch, it does seem at least there are strong hints that it may just replicate the immigration procedures and policies for non-EU nationals. What do you feel about that, given some of the things you have said about tier 2 and the other issues about tier 5?

Barry McCulloch: It would be a significant challenge for employers to react to that system. To go back to the original point, less than 5% have any experience in navigating the UK's points-based immigration system. They do not understand it and have never needed to understand it, unless they are put in a situation where they will have to go through that, and it will have cost, business and economic implications. From the Bill itself we are hoping to see a practical road map that sets out how greater flexibility could be delivered but not at the cost of the economy, that we retain the mobility of EEA staff irrespective of what is devolved and what



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is not. But we are also hoping that with the sheer challenge of processing 3 million applications in the stated timescales, the process is simple, easy and inexpensive so that the members of staff who are from the European Union can process through that quickly. The last thing that employers want is their staff agonising about their future and becoming less productive. That would also affect their ability to commit to the long term in that business environment.

Deidre Brock: In relation to a Scotland-only visa, given all of the complexities potentially that could come out of a possible EU national visa system, Dr Hepburn made the point that she did not think there would be additional significant costs because businesses would be having to go through that process anyway. I just make that point because I think it is an interesting one.

Q92 Danielle Rowley: The UK Government have published proposals for safeguarding the rights of EU citizens currently resident in the UK. Could you give me your thoughts on those proposals specifically? Do you think that they provide the necessary certainty for workers in the UK?

Barry McCulloch: The measures by the UK Government to simplify the permanent residency process for EU nationals are very welcome. I think you have covered the Home Secretary's comments that there would be a default position of acceptance for those who apply for settled status, if they meet the right conditions, and that is also very welcome. However, to go back to the point I made before, there are major concerns about the feasibility of registering 3 million EU nationals in the stated time space and the impact that this will have on the employers with EU staff. The last thing employers want to see is their EU staff leave because of teething problems with a new IT system.

Gareth Williams: I agree with what Barry said. Our members continue to report concerns among EU staff, that people are looking elsewhere or going elsewhere. There are issues that need to be resolved to give them more certainty.

Q93 Christine Jardine: We have already touched on the immigration arrangements for non-EU nationals and the requirements current EU national migrants might need to meet. Mr Duguid touched on, if we were to devolve immigration, the difference in scale in Scotland from, say, Canada or Australia. We know that freedom of movement was essential, and has been regarded as essential, for the success of the European single market. Is there a danger or is there not a danger that if you start putting in restrictions within the UK single market, in the same way as Australia, which has vast federal areas, and Canada has as well, the devolved unit in Scotland might not be big enough to survive within that single market, with that delineation, that it might start to undermine the very fabric of the single market and make it difficult for your members to progress on the same level playing field as the rest of the UK if they have, for example, more complicated immigration fulfilments and have to have their own HR departments, with different rules?



Barry McCulloch: Without doubt. That is why in our paper to this Committee's inquiry and the Scottish Parliament's inquiry into this we heavily caveat our call for greater differentiation by asking for further research, because fundamentally we do not know if it would affect the mobility of EU workers; we do not know if that would create additional costs for employers. At the moment, and this goes back to the point that Deidre Brock made, employers are staring into this void, that things are going to change, thinking about how it will all end. What we are trying to do, based on the information that is published, is try to gauge the optimal solution for members to access the right staff at the right time, with ease and low costs. What we have at the moment works, and works very well. We already have within that system stubborn skill shortages in a variety of sectors so even now, with access to a substantially bigger pool of labour, businesses are struggling to find the right staff with the right skill levels. My concern is that, going forward four or five years, those concerns are exacerbated by a reduced pool of labour and that that has a knock-on effect on the bottom line of most private sector businesses.

Q94 **Christine Jardine:** Talking again about the difference between EU national migrants and non-EU national migrants, is there a need to distinguish between the two if we are not in the European Union?

Barry McCulloch: That is a fascinating question and it is one that I sighted on after last week's session. Fundamentally employers are hiring on the basis of who is right for the job, who is the most suitable, who comes through the recruitment process, who impresses during the interview, and nationality does not come into it. If you are putting me on the spot, I would probably say that employers would be fairly ambivalent about that because if they can get the same level of staff from other sources, then what would be the problem in many ways. The point I would make is that these routes of labour have developed over many decades and I do not think there is going to be a switch. Even when we have trade deals with other partners, it is going to take time. Quite often in those deals, if you want to have a trade deal with India, they will want preferential access to your labour market. There is a lot to work out but I do not think it is unsurmountable; I think it is something that we could do.

Q95 **Christine Jardine:** You mentioned earlier that it has taken decades to implement a different immigration system in Quebec and that was done at a time when Canada was not pulling out of a single market and going through the economic impact that we are going to be facing in the UK, in leaving the EU. Do you think there is a danger that the complication of coming out of the EU, married with trying to devolve immigration policy, could potentially be damaging to the Scottish economy?

Gareth Williams: We certainly have said that any devolution would have to take a long period of time. That said, there are areas that we would like more immediate attention to, the reintroduction of post-study work visas for example. I would not see any reason why that could not be done very quickly—we have already had that in place—and it could have not



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only a beneficial, albeit a relatively small, impact on the labour market but it could help to address the problems that universities are going to have with future recruitment of EU students. As you say, the process in Australia and Canada has taken a number of decades to evolve and it is going to be difficult to get support from the Home Office for anything that is particularly radical at this stage. Let's try to focus on the short to medium levers that Dr Hepburn has suggested, but keep in mind the potential for those to be expanded upon over time.

Q96 Danielle Rowley: There are many suggestions on how Scotland's migration needs could be better taken into account when informing UK immigration policy. Some of these include increased representation of Scotland in making policy, specific visas for Scotland, or even areas of immigration policy that could be devolved. Would you endorse any of those suggestions? Do you have any suggestions of your own?

Barry McCulloch: Yes, without a doubt. In our submission, we outlined an incremental approach to the devolution of immigration policy, much as it happens elsewhere. As Gareth said, it makes sense to start with the low and mid-range levers. Increasing Scotland's voice in the system is a fairly easy win. As someone said last week, there is a lot of low-hanging fruit, from introducing the Scottish Government's representation on MAC, to revising and expanding the Shortage Occupation List, and then to look forward to not just increasing the integration of economic migrants but thinking about how we make sure, following Brexit, that we do not have a hit on our business start-up rate, and to look what role the international offices that the Scottish Government currently have in promoting and identifying Scotland as a great place to come and start a business. They are the three prongs, the areas we outlined in our paper, that we would like to see some movement on.

Gareth Williams: I would agree with that. Following on from the enterprise and skills review, there is increased thought being given to how we make the best use of Scotland's international presence, not only governmental but in universities and businesses and so on. There is capacity there to get the message out that Scotland is open for talent. There is potential to make better use of UK embassies as well. We have seen some evidence from a business perspective that that is taking place, so we can build on that and look at potential around immigration, too. I have mentioned post-study work visas. Getting the message right about Scotland's attractiveness and what we have to offer, linked to that population strategy, could be helpful, not only on the attraction side but also on the retention side.

Q97 Chair: Could I have a look at the some of the subnational immigration policy that exists elsewhere in the world? You have both mentioned Quebec and Australia as examples of where this works, not without issues, but seems to work quite efficiently and effectively. Every time this has been put to the UK Government, they raise concerns about a divergence of migration policy across the UK. I noted the words of



Damian Green, I think in front of our Committee, when he said, "It is impossible to have to separate rules for Scotland in the immigration sphere because there isn't a border". He went on to say, "If you are trying to exercise immigration control, you can't have Scottish-specific immigration rules". Both of you have referenced some of the remarks by Dr Hepburn last week, where she says that this is possible and there is a range of mechanisms that could be deployed to achieve this. Where do you sit in all this? Is this something that is possible and desirable or do you recognise what the Secretary of State's concerns are about a divergence in immigration policy that might be detrimental to the whole of the UK?

Barry McCulloch: Differentiating the immigration system can be done; it is not impossible. If you look at the way in which enforcement currently operates, as someone said earlier, it does lie a lot with the employers and the landlords; they are on the front line in border control. Hypothetically, that could change and morph in a different environment. Whether or not that is the right thing to do, our view is that small businesses are better spent growing their businesses rather than on being immigration officers, but that appears to be a bit of moot point.

Without a doubt, divergence would be a challenge at a time of unprecedented change. There is a possibility, as someone said earlier, that you could see a situation where people come to Scotland to gain entry because it is less onerous and less strict with its requirements but, as was pointed out in evidence last week, that does not tend to happen in other states; they are fairly sticky. Once they move to a place and settle and work, they live there, and contribute for a long time, but whether or not the porous nature of the internal market would be affected is completely unknown. That is why we keep on asking for more research.

Q98 **Chair:** The series of immigration polls that we have had particularly referenced the landlords having to check on people who rent and also some of the requirements of employers to have work checks. Are we not going to get into a situation where concerns about divergence and seepage into other parts of the UK can start to effectively address have we got this wrong, does more work to be done? Maybe you can help us with this, Mr Williams?

Gareth Williams: I think that is true. The introduction of biometric residence permits, those sorts of things, offer opportunities. The introduction of a Scottish rate of income tax is another means. Employers obviously do have concerns about their role and the potential for increased bureaucracy, but the evidence from elsewhere suggests that a mix of those kinds of levers, and also some softer ones around statements of commitment to remain and so on, can be effective.

You are always going to have a little bit of risk of people moving around, but I go back to the point I made at the start about industrial strategy. The risk on the other hand here is that we are going to set up a system where the nations and regions of the UK cannot get access to the skills



they need and London probably will exert massive attraction for people from right around the world, and from within the UK, so we might have a more unbalanced economy. We need to find a way where we can encourage people to work where they would most benefit different parts of the country.

- Q99 Chair:** What I think is always difficult to understand and comprehend in relation to subnational immigration policy is if somebody from the EU or the rest of the world is offered an opportunity to work in Scotland and, subject to this, are able to work freely and legally, why on earth they would risk all that opportunity to work there, descend into the black market, go to other parts of England, where obviously, if they are going to be located and found to be working illegally, they are going to be kicked out. I do not understand why there is a concern that on one side you work freely and legally, are given a job, and on the other side you enter into a no-man's zone where if you are caught you would be in front of a whole load of sanctions. Surely there is no incentive. Do you know of any examples where people would leave that free and safe environment and get into a place of a number of associated risks?

Gareth Williams: Feelings from abroad suggest that there is a risk but it is limited. Whether or not it is related to people not really understanding the requirements that are placed upon them at any particular point in time, other circumstances and so on, but it seemed to be that movement was much more likely to take place after the requirements on the individual had passed. From a UK Government perspective, maybe they would see that in itself as a risk in the longer term but if Scotland is offering good employment prospects, good progression prospects, quality of life, all those sorts of things, then we can address some of those concerns.

- Q100 Ross Thomson:** Apologies for being late. I can now testify that it is easier to get to London from Aberdeen than it is to Glasgow.

Following on from your answer to the Chair's question, about the challenge of how in Scotland we recruit and retain staff particularly in areas where there are skills shortages, in the northeast for example, which I represent. We also heard when we were up in Inverness last week about the demographic challenges there in trying to recruit and retain people. We have talked about a divergence in the immigration system, but what is your view on the divergence of our taxation system, for example if we were to be paying more in tax in Scotland than the rest of the United Kingdom? There is a question, as you know, looking at this issue. Already in the 2016 Scottish budget, the higher threshold was not passed on. What are your thoughts? What is your view on the impact that would have on recruiting and retention from other parts of the UK?

Barry McCulloch: Again, that is something that we just do not know. We are entering into what feels like a new and different era, with the Scottish Government very likely going to exercise their income tax powers. For our part, we are currently conducting research with our members to



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gauge their opinions. From previous research, we have noted that we would prefer that income tax rates were the same, but I do not think that is a position that will be unchanged because the vast majority of small businesses are basic rate payers. I think it is highly likely that if the Scottish Government are to move on this, they will increase the burden of taxation for those who earn over £130,000, or perhaps lower. Again, I am unsure.

It is difficult to answer when there is nothing concrete to comment on, but would it have an effect? I am not entirely sure, given that there is a social conflict. Whether you buy into it or not, there is a cost and a benefit to the way in which the Scottish Government operate their system and what we are trying to understand is, if the Scottish Government decide to do this, what it would mean for our members. If they are self-employed, would they incorporate to reduce their tax liabilities? Would they move to another part of the United Kingdom to avoid paying that level of taxation? Again, we do not know but from the research that I have come across, the mobility of individuals' tax terms is slightly overinflated in that once people settle in a location and run a business, they tend to stay. All eyes will be on the Finance Secretary's announcement on 14 December and in particular what income tax rates he introduces.

Gareth Williams: Like Barry, we are very much looking at this issue just now. It probably was not on the radar for a lot of our members until relatively recently so we do not have firm conclusions from speaking with them. From our point of view, the extent of the divergence and whether that divergence gets wider and wider over time are factors that we would like to understand, so some idea about longer-term intentions would be helpful. We have previously picked up some concern about whether it would be more difficult to retain and recruit, more particularly from other parts of the UK. That said, you can look at other countries that have higher rates of taxation and are very successful. It is always hard to measure, but if you are able to demonstrate that that funding is being utilised effectively, efficiently and it improves the quality of your country, we should be prepared to do it.

Chair: We are running out of time. I know the debate about the Scottish budget is fascinating but we will try to keep it confined to the scope of this inquiry. The last question is from Christine Jardine.

Christine Jardine: I think Mr Thomson has covered what I was going to say. I was going to ask about the complications that we could be facing in certain systems, but you have covered everything we could possibly ask you today.

Chair: Great. There is a very helpful question at the end of the session. We are grateful for the continued participation of both of you in the work of this Committee. If there is anything further that you feel you could usefully contribute to this inquiry, please send it on. Thank you once again.