



HOUSE OF LORDS

Select Committee on the European Union

Home Affairs Sub-Committee

Oral evidence: Brexit: future EU migration to the UK for work

Wednesday 20 February 2019

10.40 am

Watch the meeting

Members present: Lord Jay of Ewelme; Lord Haselhurst; Baroness Janke; Lord Kirkhope of Harrogate; Baroness Pinnock; Lord Ribeiro; Lord Ricketts; Lord Soley; Lord Watts.

Evidence Session No. 1

Heard in Public

Questions 1 - 10

Witnesses

[I](#): Dr Kristian Niemietz, Head of Political Economy, Institute of Economic Affairs; Madeleine Sumption MBE, Director of the Migration Observatory, University of Oxford; Marley Morris, Senior Research Fellow, Institute for Public Policy Research.

Examination of witnesses

Dr Kristian Niemietz, Madeleine Sumption and Marley Morris.

The Chairman: Good morning to all of you. We are very grateful to you for coming to give evidence in our short inquiry on future EU migration to the UK for work. This is a public session and it will be reported. At the end of the session we will send you a transcript so that you can check that we have recorded correctly what you said to us.

Would each of you like to introduce yourselves and your institution or organisation? Then we will go to the first question.

Dr Kristian Niemietz: I am Head of Political Economy at the Institute of Economic Affairs.

Madeleine Sumption: I am the Director of the Migration Observatory at the University of Oxford. We do impartial analysis of immigration and migration policy in the UK.

Marley Morris: I am a Senior Research Fellow leading the work on Brexit migration at the Institute for Public Policy Research.

Q1 **The Chairman:** Thank you very much. I hope that you will between you cover a wide spectrum of views that interest us. Do you think it is likely that the future UK-EU relationship will include an agreement on preferential treatment for EU nationals coming to work in the UK and the other way round? What are your views on that general question?

Madeleine Sumption: It is very likely that there will be something, for the reason that it is in the White Paper. There are a number of different options there, and it is something the EU has done before and included in its trade agreements. So it would be unlikely if there were nothing at all.

On the other hand, the preferential agreements are not necessarily likely to be enormously significant or to shape the entire immigration system. Of the things in the White Paper that are basically reciprocal in nature, and of the kinds of things that the EU has done before, probably the most significant is the Youth Mobility Scheme. The Government have said that they want to expand the Youth Mobility Scheme to EU countries. There are some questions about how that would be done, and whether it would be by bilateral agreements with EU countries that already have youth mobility schemes and we just get added to the list—that is quite simple—or whether it would be something more complicated and negotiated with the EU, which could create negotiating complexities. Either way, I think that that is very likely to happen. Depending on what the caps are and how big the schemes are, it is potentially quite a significant supply of labour for the UK labour market.

The other areas are probably a bit more marginal. A number of things proposed in the White Paper have also been in other EU trade agreements such as CETA. They are mostly about business-related temporary mobility—for example, business visits and clarifying what

people can do if they come on a short-term visit or providing services. Intra-company transfers is another area where there are some relatively minor agreements on procedural issues.

Probably the most interesting one relates to self-employed professionals. It is interesting because currently there are few options for self-employment in the UK immigration system. It has been done in other EU trade agreements. We are party to one of them, CETA, but it has been done in a very narrow way.

The Chairman: Do you mean that there is a narrow definition of what a self-employed professional is?

Madeleine Sumption: The definition of a self-employed professional is relatively broad; it requires a certain amount of experience for someone to be in a professional job, but the way you qualify for it, at least in the UK, is that, in theory, I can hire a Canadian architect to design my residential extension, but in practice that person has to come under Tier 5 of the immigration system and I have to become a Tier 5 licensed sponsor.

The Chairman: Could you explain Tier 5?

Madeleine Sumption: Tier 5 is a catch-all category of the immigration system. It includes youth mobility and various temporary work schemes and it has a category called International Agreements, which is the way that many of the reciprocal agreements with other countries are implemented.

If I wanted to hire a self-employed Canadian architect to design my residential extension, I would have to become a Tier 5 licensed sponsor, which looks pretty much like becoming an employer sponsor. It is probably no surprise that, in the first three quarters of 2018, the number of Canadians who came under Tier 5 (International Agreements) was zero. So, if we just rolled out what was in CETA to the EU, I do not think that we would get particularly large numbers of EU people coming by that route.

The Chairman: Do our other witnesses agree with that?

Dr Kristian Niemietz: I differ a bit. Not just in the White Paper but well before it, the ending of free movement has always been framed as a way to get a unitary system that applies to everybody regardless of where they come from, and it would be a bit odd if they now rowed back from that and said, "We are going to have a preferential system for some groups". You are right that it was mentioned as a possibility in the White Paper, but it sounded more like an insurance policy. It would have to be a situation where you got significantly better access to the Single Market in return for some relatively small concession—but politically I cannot see that happening right now.

Marley Morris: The relevant document is not so much the White Paper as the political declaration on the future relationship, which sets the

framework for future relations between the UK and the EU. That has a section on labour mobility, so there is likely to be some kind of arrangement, but, as Madeleine said, it is likely to be quite limited.

The key point is that it is down to the overall framework of the UK's relationship with the EU. The UK is choosing to leave the Single Market and the customs union, and in that context it is very unlikely that there will be a relationship between the UK and the EU that will continue provisions on long-term migration. There may well be provisions on short-term movement around the provision of services in the context of a trade agreement that covers goods and services, but that does not mean that they will extend to long-term migration and movement. In that context, the idea of a preferential system is very unlikely to transpire, unless the UK shifts considerably its red lines on freedom of movement and other aspects of ECJ jurisdiction.

The Chairman: We started bang on time. Is it okay if we go on until 12 o'clock? We must finish by then because we have other things to do. We have a number of questions but we will try to keep them to a reasonable limit.

Q2 Lord Kirkhope of Harrogate: My question is primarily to Dr Niemietz, but I shall be very grateful if others come in if they think it is appropriate. I am quite interested in reading the short paper you produced on picking the lower-hanging fruits. At first hearing, it sounds rather attractive, but I am curious to look at how you based your science and assumptions and whether they are purely in relation to polling that may have taken place, and attitudes, or whether they are based on some kind of hard evidence that you could achieve what you suggest, particularly in the proposal about free movement with the old EU 14 countries. I would like you to elaborate on how you define that and how you can separate them out, bearing in mind that, when this country leaves the EU, the EU will continue to maintain its visa regimes and other systems internally with the remaining member states.

I am particularly interested to hear from you as to how you conclude, again presumably through polling, that there is an appetite for maintaining free movement in what I would term the 'old' Commonwealth, in particular Canada, Australia and New Zealand, but not other countries from the Commonwealth. You say, quite rightly perhaps, that one of the issues in the consideration of immigration is cultural differences. Can you clarify how, if you relied on that, you could separate the remaining EU countries and the 14 you prefer? I would like to know how you reached those conclusions.

Dr Kristian Niemietz: What I tried to do was spell out the most liberal migration policy that is just about compatible with public opinion. In a sense, it is a follow-up from an earlier IEA paper written by a different IEA author. He proposed a system that was almost complete free movement with the whole world. I thought that might be ideal from an economic perspective, but it is clearly not going to happen, so: which

liberalisations of migration could be politically feasible and unlikely to provoke a lot of resistance? That is how I ended up there.

On the specific question of free movement, if it were up to me, I would keep free movement with the whole of the European Economic Area. Free movement has been a huge success economically, and it is the kind of immigration that does not cause problems of integration, social cohesion and all the things that critics of an open approach are usually sceptical about. It does not apply here. I would simply keep it. I think the Government made a huge mistake in ruling out free movement so quickly after the referendum. It would have been perfectly possible in the summer of 2016 to say, "We are going to implement the result of the referendum and leave the EU, but leave voters will not get absolutely everything they want. We are going to keep some aspects of EU membership, and free movement is one of them". That would have been possible. However, two and a half years later, with the Government, and the Prime Minister in particular, repeatedly reaffirming the commitment to ending free movement, it has created a political expectation and probably it would now no longer be possible.

I have looked at attitude surveys, some quantitative and some qualitative, focus group interviews and some purely large-scale surveys. I found that there is a massive difference in public acceptance of migration on the basis of country of origin. Almost nobody has a problem with western Europeans coming here; for eastern Europe, there is a much more divided picture. For the more prosperous eastern European countries such as Poland there is a mixed picture. Roughly a third say, "Yes, I am okay with free movement from those countries"; a third say, "No, absolutely not"; and many others are undecided. With the poorest eastern European countries—Romania and Bulgaria—you get the biggest resistance. That is why I say, "Why not save the parts of free movement that are politically uncontroversial?"

Lord Kirkhope of Harrogate: Part of your paper talks about all of this being based on economics and the economic status of a particular EU country. I am assuming that is how it works. You refer to the EU14. Presumably, the others are mostly the poorer EU countries. Yet when we look at the movement of labour and the statistics we have at the moment, do they not show that, in many public services and other areas where EU migrants have worked and are working here, those individuals are coming from the very countries that would be excluded from your 14? In the 14 countries, which are probably the most economically advanced, the desire to come and work here would be much less and, therefore, we would not achieve our ends in having the sort of workforce we would require in future. I do not quite understand this.

Dr Kristian Niemietz: That is not completely true. Some of the biggest migrant groups are from the old EU, in particular Ireland. The second or third biggest group of foreign-born residents is Irish. To a lesser extent, French and German-born people form some of the biggest groups. It is not so much that being economically advanced reduces migration; you

still get migration in certain sectors. Somebody might work in the financial industry where there is simply no continental counterpart to the City of London and they come for that reason. It is not so much that they would be in absolute terms better off; it is simply a sectoral interest.

What happens as countries grow richer is that there is a skills bias in migration. Pretty much only highly skilled people move here from western Europe. For eastern Europe, it is a much more differentiated picture; you get some very highly skilled but also very low-skilled people—it is a more bi-modal distribution. The public are generally more comfortable with skilled migrants, for reasons that I do not quite understand. I do not have a problem with low-skilled migration, but apparently that view is not widely held. If you allowed free movement from rich countries, it would produce by self-selection pretty much the same outcome that, for example, a heavily skills-based points system would produce—except that it would do it with zero administrative cost.

Marley Morris: There are two big problems with the proposal. The first is the diplomatic challenge. Frankly, one of the core principles of the EU's approach to its future relations with the UK and in its broader policy is non-discrimination between member states. I am afraid that the proposal would probably be toxic in negotiations with the EU. Even if it was approached and done unilaterally, it would still be very problematic because it would damage the relationship between the UK and the EU in that sense. I do not think it could be countenanced for that reason.

Morally there is a problem. We obviously discriminate at the moment between EU and non-EU nationals; that is part of our wider diplomatic relations in our relationship with and membership of the EU. If there is no good diplomatic reason, discriminating between different countries has some serious moral issues.

The Chairman: Madeleine Sumption, do you have views on that?

Madeleine Sumption: I think there will be discrimination by nationality in our immigration system. Even for non-EU nationals now, there is already a fair amount of differentiation, at least in certain routes such as youth mobility; only a narrow list of countries is eligible for that. The White Paper is based very much on the idea that we will discriminate between countries. It talks about low-risk nationalities, which are not specified but presumably would include the likes of Canada, the United States and some or all EU countries. That is probably the direction in which we are going, but I certainly agree with Marley that the possibility that the EU would countenance reciprocal free movement with only some EU member states is vanishingly small.

Lord Watts: Dr Niemietz, I understand the point you are making about your proposals being based on public opinion. That is probably true. How would you deal with the fact that people from Syria, for example, who have gone to Germany in large numbers would, under your system, be able to come to the UK because they would be German citizens?

Dr Kristian Niemietz: That is a possibility, but the hurdles to get German citizenship are fairly high at the moment; they are not going to get it any time soon. Once they have gone through all that effort, I do not see that there would be a great desire to move somewhere else in the EU.¹ It would have been hard enough to move from Syria to Germany, learn the language, get a job and all the rest of it, so I do not think that upping sticks again and moving somewhere else would happen.

Lord Watts: If Germany has difficulties, other countries are more liberal in their citizenship and they can move there. I am making the practical point that they would then be treated as nationals from those countries so they would be allowed to come here.

Baroness Pinnock: One of the challenges to the approach you have taken is that, as we have heard, and as has been well documented, one of the largest areas of labour needed in this country is for less skilled jobs in hospitality, agriculture and so on. Those are the ones that have been filled and are being filled by the movement of people from countries that would be excluded under your approach. How would that fit? How do you think the Government would square that circle?

Dr Kristian Niemietz: That would be a problem, and that is why I am emphasising that it is a second-best solution. If it were up to me, I would simply keep free movement, maybe with minor tweaks. The limits of free movement can be more strictly enforced than they are now. It is the case that free movement applies only to people who exercise treaty rights. The UK has never been particularly good at identifying people who are not exercising treaty rights and removing them, as some other EU countries do. That has always been a possibility, but domestically it has not been done.

My first preference would be to keep free movement and apply those limitations to it. This is the second-best solution, but ideally it would not stop at the old EU14 for long; you could expand it eastwards. I suggest as a rule of thumb that, as soon as a country has GDP per capita of 80% of the UK level, it should automatically qualify for free movement. That is for the sake of simplicity. It would be absurd to subject people to unnecessary bureaucracy if it is not required for political reasons and the public have no problem with them coming here. To keep in place a highly bureaucratic system just so that you can say you are not discriminating against anyone strikes me as absurd. If there is such widespread acceptance of some nationalities—countries in western Europe, and New Zealand, Canada and Australia, as you mentioned—I would say that, as soon as it is in any way possible to move those countries into the free movement zone, it should be done.

Baroness Pinnock: From where I am sitting, the fundamental flaw in the approach you have taken is that we need free movement, but we will pander to popular opinion to enable some immigration rather than

¹ Note by the witness: 'I meant "in Europe", not just in the EU. By the time that that may become an issue, Britain will, of course, have left the EU already.'

challenge popular opinion and enable it to change.

Dr Kristian Niemietz: I would be completely comfortable with that. It is just that for this paper I set myself the limit of making only proposals that are politically possible. Describing the ideal system has already been done; that is the easy bit. I set myself that hurdle and, therefore, came to that conclusion, but I completely agree that ideally free movement should simply persist.

Q3 Baroness Janke: You say in your first paragraph that the British public are overwhelmingly against immigration. However, the UK is itself quite diverse. I understand that in Scotland, for example, it is not overwhelmingly unpopular; similarly, in different parts of the UK, such as London, it is not overwhelmingly unpopular. You have taken a differentiated approach, yet you have treated the cultural demands and attitudes as being rather monolithic. Have you looked into the different bases of your assertion?

Dr Kristian Niemietz: There is that plurality. My worry would be that, if you tried to design a system that reflected that, it would quickly become quite complicated. People would need a work visa that applied only to Scotland or London, or maybe a sectoral work visa.

Baroness Janke: Perhaps it is a case for devolved powers. There are limited levels of devolution within the UK, are there not?

Dr Kristian Niemietz: I have not looked at that. I am sure there are some places that do that. We would have to look at the outcomes and whether it required a lot more bureaucracy, but if it can be done in a low-cost way, I cannot see why not.

The Chairman: Mr Morris, you commented a bit on that in your paper. Do you want to come in at this point?

Marley Morris: On the devolution of powers, there is a strong case for giving different parts of the UK, whether Scotland but also potentially some of the regions of England, more powers over immigration policy. There are a few cases. Given that the debate over immigration over past years has been that people feel they have not had control over the system, giving local areas and regions more power, more influence could potentially help to foster a more constructive debate on immigration in localities.

There are some arguments that a one-size-fits-all immigration system does not work for different parts of the UK. For instance, a fixed salary threshold which might work for some parts of London and the south-east might be tougher and harder for businesses outside those regions to meet when they are going through the sponsorship requirements. There are arguments in that sense. A lot of the arguments around feasibility are somewhat misleading. A lot of the enforcement of immigration is done through the labour market. In fact, a lot of it can be enforced through employer checks rather than additional borders or anything like that.

Q4 Lord Haselhurst: It is true that immigration was a factor in determining the referendum decision but, when we start to look at particulars, I am not sure how great a factor it was. If I may pick up the term “the low-hanging fruits”, I think the Government are looking for them, but they are in the wrong orchard. Never in my 40-odd years as a Member of Parliament did I receive complaints from my constituents that we should get rid of foreign students from this country. I never received requests that we should be clearing out Poles and other eastern Europeans from our care sector, without whom many of my care homes would have closed; and I certainly never had requests that we should be getting rid of people who had worked for generations in our hospitality sector. All of this is part of the rich tapestry of British life, and it accounts for a rather large number of people.

Thinking of the catering industry in particular, I could walk you to one or two high-end hotels in this city where most of the staff are Romanian, so I am a bit worried about Dr Niemietz’s idea that we should be putting a barrier between near-European and further-European countries. Young Poles, young Hungarians and so on are following a path beaten over a very long time by French, Italian, Spanish and Portuguese citizens. None of those, apart from in the occasional odd case, is in any way harming the British economy. It could be said that we are doing it very late in the day, but we are only just now seemingly looking at whether or not we have got it right as far as particular sectors are concerned. The hospitality sector represents 4% of our national income; it is pretty important.

The Minister said yesterday in the House of Lords that the only specific exception in the Immigration White Paper so far was about seasonal workers in agriculture. Indeed, it is. I never had any problems from constituents about those who came over and worked with our farmers. The Minister said: “There is a case for looking at other industries, such as tourism, and that is why the Home Office has said that it will engage. We at DCMS will certainly liaise and engage with the tourism sector”. He said “will”; apparently not yet completely so. Would they not discover that some of the suggestions that have been put forward by advisers and experts, as well as what is coming through government itself and from the industry, will probably obstruct rather than benefit the British economy? These are not the numbers we need to control to the extent that has been suggested.

How do we begin to define low-skilled, medium-skilled and high-skilled in the catering sector, for example, particularly when for many continentals history shows that they regard catering as a worthwhile career to pursue, and they may go from a lowly post to a very high one in the course of their time, in a way the British have never quite embraced? We rely heavily on those people, and it seems there is a risk. We are making it very complicated for them to contemplate those jobs in the future.

The numbers appear to be reducing already. If our tourism industry, contrary to the figures for 2018, resumes its increase—we certainly want it to—we are going to need more and more of those people. Do we not need the simplest system that allows somebody to come, with the

prospect that, if they succeed and enjoy it, they will rise in their profession and not have to start filling in more forms and papers in order to be able to stay? I would like your comments, please.

Dr Kristian Niemietz: I completely agree. I can but repeat that keeping free movement for only a part of Europe is a second-best solution; it is not my solution. My preferred solution would be to keep free movement as it is now, partly for the reasons you mentioned.

You are completely right about acceptance and skill levels. An interesting study on that looked at the popularity of different immigrant groups, one distinguishing factor being skill levels. If you ask people whether they think there should be more highly skilled immigrants, almost everyone says yes. If you ask whether it should be harder for low-skilled immigrants to come here, almost everyone says yes. But once you break it down you get a completely different picture. If you substitute “highly skilled” with something more specific, such as lawyers, IT specialists, academics or whatever, the results stay the same, but if you replace “low-skilled” as a generic term with people working in agriculture, in pubs, or in the hospitality industry, suddenly acceptance is a lot higher. Once you name a specific profession, most respondents think, “Well, that’s actually quite useful”. It may not technically be a highly skilled profession, but so what? It is useful. The term “low-skilled” is somehow loaded, but, once you put it in more specific terms, a lot of the resistance goes away. That is one of the reasons why it would not have been politically impossible to say after the referendum, “We are going to keep free movement”.

Madeleine Sumption: I am not going to comment on the politics and public opinion of this. In the research evidence in general, one thing that is not contested is that there are differences in the economic impacts depending on skill level, however you want to define it, and that high-skilled immigration is more economically beneficial than low-skilled immigration across almost all the metrics you may want to look at. What you do with that and how you implement it in an immigration system is something on which reasonable people will disagree, but we can assume, based on pretty solid evidence, that the impacts of high skills are more positive.

I do think we can answer the question of how you define skill. All jobs require skills. Even some very low-paid jobs require skills—for example, customer service skills, people skills, or knowledge of health and safety requirements in particular occupations. Salary and the length of training required are, however, important indicators of what people intuitively think of as skill. Some jobs require many years of training in order to be able to do them. That has implications for the immigration system because there is greater rationale for bringing in someone if they have those skills rather than assuming that someone who is already here could quickly acquire them.

In general, jobs with a longer duration of training pay more, unsurprisingly. There are some exceptions—for example, heavy goods

vehicle drivers. You do not need a very long duration of training to do it, but it is relatively well paid. In general, I do not think it is crazy to take the duration of training required as an indication of skill. That is what the Office for National Statistics does when it creates its skill classifications.

Marley Morris: On hospitality in particular, it is important to note in the context of the Government's proposals on immigration that the IPPR's analysis of their impact suggests that approximately 90% of EU full-time employees currently working in the hospitality sector would not be eligible under the rules of the new system. If you were to implement those kinds of rules and have a £30,000 salary threshold, which I understand is still under review, it would have quite a severe impact on future growth of the hospitality sector.

I suppose the question is to what degree that is important, which is part of the debate around the Migration Advisory Committee report. You could argue that the sector has relatively low productivity and that it is not important. Those were some of the arguments of the Migration Advisory Committee. You could argue that it is an important sector for tourism and other things and is part of our industrial strategy, so we need to grow it. The question for the Government is: which sectors do they care about? They need to think about the implications of the immigration proposals for particular sectors. In the case of hospitality, they will have quite a severe impact.

Lord Haselhurst: With what we see so far of the proposals, is there not a risk that a person at the start of their career in the catering or hospitality sector may not have at that stage great skills and may have to do a lowly job, but nevertheless it is seen by that person and the prospective employer as merely the first step on a road that might lead to their being a leading sommelier or a sous chef and ultimately owning their own restaurant? That is perhaps the thing we have to think about. If people think it is no good seeking a post if they are doing what is deemed only a low-skilled job, they will never be able to fulfil their dream. It seems to me that in almost any sector of life a substantial number of people begin humbly but hope they might go higher in due course. This is an important sector of the British economy, and we do not want to create a system that is guarding numbers on the one hand in the belief that we are satisfying public opinion but is actually self-harming.

Marley Morris: That is a fair point. There are lower salary thresholds for younger people, so that can ease it to some degree. Your point is very relevant for the temporary work visa proposal, which maybe we will come to, because that is time-limited to 12 months. If, say, a hospitality employer wants to recruit someone, are they going to invest in training and skilling up that person to be able to go up the chain in their hotel if they can be in the UK only for a maximum of 12 months?

The Chairman: Perhaps you could tell us a bit more about the Government's proposal to create a time-limited route for temporary short-term workers to come for a maximum of 12 months. Perhaps I could ask all of you what your view is on that.

Marley Morris: I think the reason the Government put that in the White Paper is that the original proposals from the Migration Advisory Committee would have resulted in a sharp cut-off and a heavy restriction on EU migration that would come in after the end of the transition period, or whenever the Government introduced their new proposals. I think they recognise that that will be quite difficult for employers to adjust to, so we need some kind of mechanism for adjustment. The problem with the proposal is that it creates another whole set of problems, one of which is about whether it is really what employers want and need. Employers want to be able to skill up and develop their employees. Do they want people to come just for a maximum of 12 months?

Secondly, there is a risk around enforcement. It is a very flexible system; it does not require sponsorship. There is a risk of people being confused and overstaying. At that point, there is also a risk of exploitation by unscrupulous employers. Thirdly, there is a risk to integration. People who know they can stay for only a temporary period might say, "Is it worth my time investing in learning the language, integrating with my community and getting the opportunity to develop my skills in the labour market?" There are a number of risks. They need far more consideration over the next year as the Government develop their proposals.

The Chairman: Do others have views?

Madeleine Sumption: The short-term work route is probably the most interesting thing about the White Paper. It was unexpected and quite radical. There are two interesting things about it. The first is that it takes us very much in the direction of being a country that has a lot of temporary migration. That has been to some extent the direction of travel anyway over the last 10 years. Since 2010, the Government have had an explicit policy of severing the link between initial entry and settlement, but this is a very big step even further in that direction. For some people that will work fine. There is a lot of short-term migration from EU countries for work and study anyway; a lot of people will be perfectly happy with those visas. On the other hand, there are a lot of people who stay permanently, so for them this system will be a massive change from the status quo.

There are some important considerations for the costs and benefits of the proposed system. One of the problems is that they are not quite commensurable, so it is difficult to know how to weigh them up. The probable reason that governments are attracted to this system is that it is a way of hedging your bets; employers can hire people from abroad, but because they do not stay permanently we are not going to see a net growth in the migrant population over time. We also do not have to worry about fiscal impacts because, if someone is on the short-term work route, there will be no dependants and people will be able to stay for only a year. A young person in their early 20s does not have to earn very much at all to be a net fiscal contributor. On a minimum wage job, they pay in more than they take out; it is mostly when people have kids and start to make more demands on the healthcare system that you see more fiscal

costs. Therefore, from a fiscal perspective there is an argument for a temporary work route.

The challenge is in the implications of all this temporary migration. We have a system where integration is designed out; by definition, people are not expected to integrate. That means that, over time, on average you are likely to have more people with lower levels of language ability and who are, therefore, probably less likely to enforce their employment rights, because it is harder for them to do so; and there is more churn within communities. Some of those things are really important trade-offs.

The other interesting thing about the short-term work route proposal, which has not had much attention at all, is that it is not tied to employers. Someone can come in and be self-sponsored; they do whatever they want and can switch easily between employers. One of the tricky things about work routes that are tied to employers is that you make the worker dependent on their employer for their right to stay in the country, which is important in the discussion about salary thresholds and whether they should be much lower, or whether any employer should be able to sponsor someone. There are problems with tying people to employers.

There is some evidence, which we summarised in a recent Migration Observatory report, that people who are tied to their employers appear to get lower wage increases and are more likely to be at risk of exploitation. What is interesting about the short-term work route proposal is that the Government have studiously avoided having a system that ties low-wage workers to their employers, which is where we care most about exploitation.

There is one final technical point, which comes back to your question about upward mobility. I suspect this is something on which businesses will lobby a lot. The White Paper says there is no switching between routes and there will be cooling-off periods. Someone will be able to come in, but then they would have to go home for a certain amount of time and could not switch directly to another route. That raises questions about those who may be eligible for another route. Let us say that someone comes in and could be working as a nurse or doctor but maybe their English is not quite good enough, so they do another job and brush up their English. Now they are eligible and someone wants to hire them under Tier 2 on a skilled work visa. I do not fully understand the rationale for not allowing that switching. There may be one, but it is not 100% clear. I suspect that that will be an area of controversy as the Government develop the proposals.

Dr Kristian Niemietz: I agree. A temporary work visa system is definitely inferior to the system we have now; it is inferior to free movement. The sectors that will most heavily make use of it are those such as retail and hospitality that already have a high turnover and problems with retaining staff. They are generally low-productivity sectors, and the problems are only going to get worse. If you have people who can stay for only a year, it changes the incentives. It means they have

even more turnover and less incentive to invest in people's skills. It is definitely inferior to what we have now. That said, it is better to have a loophole like that than no possibility at all for someone who cannot earn £30,000 to come in.

Lord Watts: What fascinates me is how the Government are forming their policy on immigration. I do not quite understand it. As I understand it, the Migration Advisory Committee is making recommendations to them. On the back of one of them, the Government seem to have accepted the need for temporary workers in the agricultural industry. On the basis of the discussions we are having this morning on hospitality and other industries, how are the Government making sure that they have a view on the impacts for those industries when setting their policies?

Madeleine Sumption: That is something you will have to ask them, although the White Paper says there is a programme of engagement with employers and that the Government will be meeting various employers and trying to understand their views. There was some modelling in the White Paper; for example, a technical annex has relatively detailed modelling of what the economic impacts would be, including an occupation-by-occupation analysis of how different occupations would respond.

Lord Watts: You are not clear yourselves how that is done; even people working in the area are not clear how the Government are going about their investigations into the issue.

Madeleine Sumption: I do not think I usually would be in a position to understand. My understanding is that they are organising meetings with employers in the sector to get their views, but maybe Marley knows more.

The Chairman: Those are questions we can ask the Minister when she comes.

Q5

Lord Soley: I want to turn to self-employment and its effect on employment and pay in the UK. I am aware of the evidence that you and others have presented that there is a greater effect on low-paid people from immigration than on higher-paid people. One of the things that interests me is the effect of self-employment, which stems from my time as an MP. Frankly, a major complaint was that people came in—very often Poland was named—as builders, plumbers or whatever and set up their own companies, which were basically themselves, maybe with friends or relatives. Frequently, local people said, "I can't compete with the prices they are charging". There was a recognition of what was clearly the case; those companies would charge less than a builder or plumber here. That had a knock-on effect on people employed in those areas.

I understand that there is not much evidence about that. One of the things that puzzles me is why. Although I can see that it is complex to check, I suspect that it has a big effect in certain areas of the UK. The

question that follows from that is: what should be the policy for people coming from the European Economic Area as self-employed and setting up in the UK as self-employed? What evidence is there that it has an impact on both self-employment and other employment here? What rules should the Government think about introducing for self-employed people coming in? As you know, there are different rules on that.

Madeleine Sumption: There is not much evidence. Some could in theory be generated using HMRC data, but there has been a lack of data on self-employment, which is one of the main reasons why there is not much evidence. Hopefully, that will change in the future.

In general, immigration systems struggle with self-employment for two reasons. First, you have to know whether a job is actually self-employment. If a route that allows self-employment is more open than one for employees, you run the risk of misclassification. One of the interesting things we observed about the system for Romanians and Bulgarians between 2007 and 2014 was the very high rate of self-employment among Romanians and Bulgarians because there were relatively few ways for them to be employees. We do not know how much of that was real self-employment and how much was bogus self-employment, but there is that risk. If it is the easiest way to get in; people will end up saying they are self-employed when they are not, which is obviously not desirable for the labour market overall.

The other point about self-employment is that it is difficult to impose criteria. With employees, there is an employer who can be monitored by the Government in various ways; they pay PAYE, and you can have requirements on the industry they are in, pay thresholds and so forth. With self-employment, it is much more difficult. Unless you have an intrusive system, with people following them around and working out what they are actually doing, realistically it is very hard to have criteria about what the workers should be doing.

The White Paper includes a preferential route for self-employment, which is the same as for employment; in other words, the short-term work route would allow people to be self-employed. The Youth Mobility Scheme also allows people to be self-employed, although there are some restrictions on setting up a business. That system would be very open, at least in the short run.

The question, therefore, is: what do you do if you want an option for the longer term for people who would be self-employed and then stay permanently? You could do something preferential, but there are all the caveats I mentioned about a system that is difficult to enforce. You could have something that allowed people to stay longer and accept that maybe there will be some violation of the rules. The other approach would be to reform Tier 1, which currently has a route for entrepreneurs that requires them to have a certain amount of start-up capital. Maybe you could tweak that route and try to make it easier for the more standard self-employed people to fit within it in some way, but in general it will be an area of the immigration system that is difficult to manage.

The Chairman: We will have to speed up a bit if we are to get through all the questions.

Lord Soley: Do you have any evidence that people find the United Kingdom attractive because it is easy to do self-employment—certainly easier than in many European countries, particularly in eastern Europe where the bureaucracy has been more inhibiting?

Madeleine Sumption: I have not seen any evidence. I do not know whether my colleagues have any.

Lord Kirkhope of Harrogate: The cases currently going through the courts, regarding Uber and others in relation to the categorisation of self-employment, make it even more complicated, do they not? An awful lot of people who come from the EU claiming self-employment will now find themselves not self-employed if those cases proceed in the way they are going at the moment.

Madeleine Sumption: Yes. There is a debate among immigration policy wonks about whether the immigration system should facilitate the direction of travel of the labour market, which is towards more self-employment and flexible types of working, or whether we should say that the immigration system is for traditional models of employment that are fully regulated and so forth.

Q6 **Baroness Janke:** My first question is about your assessment of the current threshold of £30,000 and occupation-specific salary thresholds, the Tier 2 visas, and the sectors that you think are particularly problematic in the light of those. The second one is about the Government's policy to lower the skills threshold for the new skilled route to include some medium-skilled workers. Which medium-skilled roles do you think should be included in that expansion?

Marley Morris: As I mentioned earlier, the IPPR has carried out some analysis of the implications of the £30,000 threshold and some of the other criteria the White Paper talks about. It does not include the short-term temporary route, but, if you were to apply the types of criteria that are being talked about, about 75% of EU nationals working full-time as employees in the UK would not be eligible under those rules. It is quite a significant change to immigration policy.

Certain sectors would be particularly affected. They include hotels and restaurants, manufacturing, transport and storage, and agriculture, although there are potentially other routes for agriculture. There are certainly some sectors that would be severely affected. There is then a question about which sectors are particularly important from a socioeconomic perspective. Social care is talked about a lot in that context. Many of the occupations there would not meet the skills threshold, and, even if they did, they certainly would not meet the salary threshold. Construction would be significantly impacted. As we have just been saying, lots of people working in construction are self-employed. That would create problems because there is no clear self-employment

route, other than the short-term temporary transitional route for people. There would be quite severe impacts.

Opening up to medium-skilled jobs is predefined in immigration rules. We know the kinds of medium-skilled jobs where that would apply. It certainly opens up to a number of other types of jobs, but the issue is that, if we still applied the £30,000 salary threshold, many people would not meet the threshold anyway, so it would not make a huge difference for a lot of people. Unless you change the salary threshold to match the reduction in the skills threshold, it will not make a huge difference. It would make a significant difference to the labour market and would have a big impact on employment growth in certain sectors.

Going back to what I said before, the argument of the Migration Advisory Committee is that some of these sectors are relatively low productivity and low paid, so it is not a problem. Our concern is that there are certain sectors that are particularly important, whether for the Government's industrial strategy or for public services such as social care. That is important, and we need to think about how we fill those jobs in future. There certainly needs to be some thought about how to transition to the new system, given that it is such a big change. We have the short-term temporary route. Will it really do the trick, given the concerns we have mentioned? Those are some of our concerns about the future system.

Madeleine Sumption: We all talk about the £30,000 threshold. It is important to bear in mind that it is not a single threshold. There are currently different thresholds for each occupation under Tier 2, and some people are exempt from it. There is a common misconception about nurses. Nurses do not have to meet the £30,000 threshold, which is why there are so many of them coming under Tier 2 from non-EU countries at the moment. New entrants face a threshold of £20,800. They are young people getting their first work visa, and they would be expected to make it up to £30,000 after a few years. There are questions about how the transition works, but we should not assume that everyone has to meet the £30,000 threshold. If you look at Certificates of Sponsorship used in the last fiscal year, including extensions, just under 20% of people had salaries of less than £30,000, and the number would be higher if you looked only at the initial Certificates of Sponsorship.

In general, is £30,000 okay as a salary threshold? The idea of having a salary threshold for skilled visas around that level is not hugely radical. In other countries, salary thresholds for skilled work tend to be around the median, and the assumption is that the point of immigration is to push up average salaries and productivity in the country in question. The more controversial question is about the transition. How do we get from here to there, given that, like it or not, we have many industries that are heavily reliant on free movement and their whole business model depends on its availability? If you want to get to a certain destination, do you need to phase that in more slowly?

Are there exemptions in particular areas? Obviously, social care is the totemic example, but there would be others. I do not have strong views

on exactly how it should be done, but one has to be careful about a lower salary threshold that implies an employer-sponsored visa where someone is basically tied to their employer. Even if they are allowed in theory to switch, they may find it difficult. There are risks. The lower the salary with those types of visas, the greater the risk of exploitation, and probably the greater the arguments for a non-employer-linked visa such as the short-term work route.

I agree with Marley about medium-skilled occupations. Lowering skill thresholds to A-level is not particularly selective. The big question is: what salary thresholds apply? There is an important analytical question about whether you use salary thresholds to define which medium-skilled occupations qualify or whether you try to take case-by-case decisions about where there is greater need. A very important point about the case-by-case approach is that there is no perfect science about how to do it. You could think of it as a shortage list or an analysis of specific occupations to work out what is needed, but the idea of labour market need is a slippery concept, and you will end up with a certain amount of arbitrary decision-making if you try to decide which occupations are more deserving than others. There is no fully objective way to do it.

Dr Kristian Niemietz: I see no good reason for having a second salary threshold at all. There is some rationale for the first one because the Migration Advisory Committee showed in its report that £30,000 is roughly the level at which people become fiscal net contributors. Even then, that is an aggregate and, as Madeleine said earlier, you can be a net contributor on the minimum wage; it depends on many other factors. If the main worry is that somebody will be a net recipient, there are more elegant ways of addressing it. You could have a qualifying period for tax credits, housing benefit and in-work benefits more generally. Nonetheless, I can see a case for an absolute salary threshold on fiscal grounds, but why have a sector-specific threshold on top of that?

The Migration Advisory Committee report is quite clear about the evidence of the impact of migration on the salaries of the native workforce. There is some weak evidence that migration may have a small negative impact on the wages of unskilled people, but higher up the skills distribution that effect disappears. There is no impact on the wages of people who earn around the average or above, so why should there be an attempt to prevent wage competition through a second salary threshold? Why not have just one single threshold? Maybe there could be some exemptions and you can go below it, but there should be no requirement for anyone to earn more than £30,000. Why not leave it at that?

It seems to me that there is some double-counting going on when you have a salary threshold on the one hand and a skills threshold on the other hand. How will you realistically earn £30,000 if you are completely unskilled? The same goes for language requirements and so forth. How are you going to earn £30,000 if you do not speak the language of the country? I would phase out pretty much all of that and just have a salary threshold.

Q7 Lord Ribeiro: Increasing pressure on the NHS has led to the Government removing the cap on doctors and nurses. I think that happened last summer. Notwithstanding that, nurses and doctors probably make up about 50% or so of the groups in the Tier 2 category. What do you think will be the effect of abolishing the cap on Tier 2 visas, mindful that that other group has been taken out of the equation?

Madeleine Sumption: The main impact is that the Government can have a policy on what salaries are required. The issue with the cap was that there was no policy on what the salary threshold was; it hopped around depending on how many people happened to apply for a visa that month. The impact of the cap was to create unpredictability and a fluctuating salary threshold whereby whether you were considered to be of as much value as, say, an engineer depended on how many graphic designers and others had applied that month. From an economic perspective, that is difficult to justify. The main impact of getting rid of it is stability. The Government can say, "This is the salary threshold", and it always will be until they change it, and not because the algorithm says so.

Dr Kristian Niemietz: It can only be positive. That cap should never have existed in the first place. I can see no reason for it. It is economically damaging, and there is not even a political need for it. Highly skilled migration was never controversial. That is the type of immigration that is clearly economically beneficial and politically popular, so why was it ever capped in the first place? I would never have done that.

Lord Ribeiro: It is very interesting because the salary of a senior house officer, basically the engine room of the National Health Service, even with all the subsidies he or she gets, is less than £30,000; it is about £28,000. Therefore, it would have made very little difference to that group. Do you think that non-EU workers will put pressure on this, because that is where the NHS gets most of its workers? Do you think it will have any particular beneficial effects for prospective EU migrants?

Madeleine Sumption: Do you mean the abolition of the cap?

Lord Ribeiro: Yes.

Marley Morris: Assuming that EU nationals are brought into the Tier 2 system, in that context at the very minimum you would have to increase the cap anyway to account for more people using the system. In the context of ending free movement, overall the system is more restrictive for EU nationals.

I am not entirely convinced that removing the cap will make a huge practical difference at a macro level, because for many years the cap was not hit at all at any point. Once it was hit, more recently, the Government realised that they had to change their policy anyway and remove doctors and nurses from the cap, so that resolved the issue about the cap being hit. In a sense, the cap had an impact recently, but for a long while it had

no impact at all. Either you have to set the cap at a level where it will never be hit, in order not to cause any problems, or you just remove it anyway. In the context of the wider immigration system and bringing EU nationals into it, I do not think that removing the cap makes a huge difference; it makes things a bit easier, but the real difference is that EU nationals will be subject to completely different rules in the future.

Q8 Lord Ribeiro: How will the skilled worker proposal outlined in the White Paper affect levels of immigration by EEA nationals to the UK who want to work in the long term?

Marley Morris: The analysis done previously by the IPPR shows that a significant number of the people currently here would not be eligible under the system, which suggests that there would be quite a big impact on how easy it would be for EU nationals to come to the UK in future. Having said that, it is very difficult to forecast the number of people who will come in future, because the impacts and implications of policy on future migration are hard to disentangle from other factors.

Lots of things happening in the future will impact on the movement of people between the UK and the EU. It will depend on the value of the pound, the growth of European economies and, I suspect, wider political and diplomatic relationships between the UK and the EU and how the debate plays out in the coming years. There will be lots of implications and different factors that affect overall migration to the UK from the EU. Policy is only one aspect. At the end of the day, people have to choose to come to the UK; they have to decide they want to do it. We do not decide exactly how many people come just from our policy alone.

Lord Ribeiro: Another point that has been brought up is the NHS health surcharge. The impact on people paying the surcharge is that it gives them the right effectively to bring in dependants and so forth. How do you see that affecting migration?

Madeleine Sumption: Basic economic theory predicts that anything that makes it more difficult or expensive for someone to come here means that there will be less immigration. I agree with Marley that it is horribly difficult to forecast the impacts of the proposals on migration levels, but there are two effects. There is the basic effect of people not being eligible at all. Various assessments suggest that maybe 80% of EU citizens trying to come for work would not be eligible. Obviously, there is family, there is study and so forth.

In addition, you have the effect of the visa requirement itself. We can say that in principle that has to be a deterrent because there is an additional cost. Sometimes the employer pays the NHS surcharge, and there are additional costs such as the 'immigration skills charge'. That makes it more expensive for employers, so they will be less willing to do it. For the workers themselves, there are also some disadvantages. It has to be less attractive. The real challenge is that we do not know empirically how big that deterrent effect is, and there is not much evidence on which we can base a judgment.

Lord Ribeiro: People are on a spectrum; there is an easy way to bring in dependants, who can then work and become a challenge to the home workforce, but that does not work for you, because it will be too expensive for employers.

Madeleine Sumption: Are you suggesting that people might come but not bring dependants because they could not pay the health surcharge?

Lord Ribeiro: I am suggesting that having the ability to bring in dependants puts pressure on workers here, who may see it as a disadvantage to them.

Madeleine Sumption: The economics of dependants is quite complicated, because it depends on whether they work. If they are children, the long-term economic perspective depends on whether the whole family stays and gets settlement, in which case investment in their education can be considered an investment for the future. If they stay for a few years and then leave, you have paid for the education, but you are not getting anything back. So, I would be reluctant to make overall assessments of how dependants affect the economics of immigration.

The Chairman: To finish, we have a couple of questions on a no-deal scenario, which nobody seems to want but everybody thinks, alas, might happen, so it is an important subject to cover.

Q9 **Lord Watts:** Do you think that the Government's planned European Temporary Leave to Remain system for EU nationals in a no-deal scenario could ensure a stable labour market in the UK?

Dr Kristian Niemietz: Not on its own, but hopefully it would not stay that way for ever; it would depend on how long the no-deal situation lasted. Even if we had a no-deal Brexit, it would not stay that way for ever; there would be a deal at some point, just not at the point of exit. How long that would last, who knows?

Lord Watts: Obviously, there are further deals to be done down the road. What do you think would be the impact in the near future after a no-deal scenario? How would that affect the labour market?

Dr Kristian Niemietz: Badly. There would be even more uncertainty than now.

Madeleine Sumption: If you are talking specifically about the European Temporary Leave to Remain system, in some respects it is continuity for employers. Although it would not be free movement per se, people would be able to come in, do any job and stay for three years. From an employer's perspective, on the face of it that looks pretty much like the status quo. However, there is quite a lot of legal fuzziness about exactly how it would work for a couple of reasons.

The first is enforceability. The responsibility would be on individuals to apply if they wanted to stay for more than three months. They would need to apply. If they did not, in principle they would be working illegally,

but the employer will have no obligation to check that, because they will still be able to employ someone based solely on their EU passport. That would be the only right to work check required of them. So, there is a question about whether it is enforceable. Though people who think they will be eligible for something at the end of the three years may have an incentive to make sure that their status is all in order.

The key challenge, which comes back to legal uncertainty, is for employers who want to distinguish between someone who arrived before a no-deal Brexit, and is therefore eligible for settled status and can stay permanently, and those who arrive afterwards and have only 36 months' leave, especially in occupations that are not expected to be eligible for anything when the new immigration system comes in. In those cases, an employer will not have an official document that can confirm whether the individual is one of the old people eligible for settled status or one of the new people who are not. Some employers will not care about that at all—if they are expecting to hire someone for only a year or two, it will not necessarily matter to them—but employers who care about keeping someone for the longer term will not have a way to check that officially. The worker can tell them when they came in, but if the worker lied to them there would be nothing the employer could do to check it.

Marley Morris: I agree with Madeleine. It feels like a bit of a stopgap, not a fully worked-out proposal. For a number of the reasons Madeleine gave, there will be no real enforcement or compliance mechanisms until the end of December 2020 and into 2021. There is no clear sense about what the new system will be for the three-year temporary leave that can be applied for. We presume that it might be similar to the White Paper, but we do not know the details yet, so it is difficult to be able to plan for the long term if you are an employer, even if you have a kind of temporary confidence that the system will remain roughly as it is and you can hire people for 36 months. It does not feel entirely worked out and clear. Indeed, people who are coming to the UK and do not know what the system is going to be like in a few years might feel, "I have some confidence about 36 months, but I do not know what my long-term prospects will be in the UK". It could have an impact psychologically on people, and that could have a long-term impact on immigration and how easy it is to recruit from the EU.

Lord Watts: It could make a difference to how people perceive the scheme. If they believe that something is happening but it is not being checked, the Government can claim they are doing something that, in effect, they are not doing because there is no enforcement behind it.

Marley Morris: With EU Settled Status, European Temporary Leave to Remain and a new system that will be introduced in a couple of years, I suspect that there will be a lot of confusion. Given that there will not be a clear system of compliance until 2021, a lot of people may not want to break the rules but will end up doing so just because they are confused about what the rules actually are.

The Chairman: The last question is from Lord Ricketts.

Q10 Lord Ricketts: It is the lot of the person with the last question that it has already been answered in many ways. This question is to reinforce the point about the enforceability of the different categories that would exist in a no-deal scenario. There will be categories of people who have Settled Status; those who are entitled to Settled Status but have not yet obtained it; those under Temporary Leave to Remain; and others who do not yet have it.

From what you suggest, there is only limited liability on employers in those situations to establish the status of their workers. In the tangle of different statuses that will exist in a no-deal scenario, they could find that they are employing people who are working illegally. Is that what people are expecting? Will it lead to a great deal of litigation, as employers are found to be employing people who are working illegally? That would be one way of enforcing it, but it would be a massive administrative burden for employers, and for the judicial system presumably.

Marley Morris: As I understand it, the Government have said that employers can just look at passports and continue as they do now until the end of December 2020, so there will be no additional obligations on employers in the short term.

Lord Ricketts: Even in a no-deal scenario.

Marley Morris: Even in a no-deal scenario. However, in the longer term, things might get very complicated. As Madeleine said, if you want to hire someone and you do not necessarily know whether they have been here before, whether they have settled status or whether they are here on European Temporary Leave to Remain, it might get complicated after December 2020, when the new rules will be introduced about the status someone has and how it will actually work at that point.

In the short term, it should not raise issues. Another longer-term question is that there are people who may have been here for a number of years but do not apply for Settled Status, or do not get it. Then you have a complication, because you have people in a grey area. They have not necessarily applied for European Temporary Leave to Remain because they have been here for a long time, but they do not have Settled Status. At that point, I suspect that it could get rather complicated for an employer—but that is a slightly medium to long-term issue.

Lord Ricketts: Is it right that the significance of December 2020 in a no-deal scenario is that that is the point at which the White Paper provisions are supposed to come into force? There will be no great significance for EU-UK relations in 2020 if we are in a no-deal scenario.

Madeleine Sumption: The Government have said that it will be December 2020, and in January 2021, under a no-deal scenario, the new immigration system will kick in. Under a withdrawal agreement scenario, the deadline for applying for Settled Status would be mid-2021, so the point at which employers start having to distinguish would go back by six months.

The Chairman: Dr Niemietz, do you have any points on that?

Dr Kristian Niemietz: Directly after the referendum, there was a spike in applications for permanent residence status. That should be a very straightforward procedure. If you have been working or studying here for five years, or exercising treaty rights in some way for five years, you should get permanent residence status. Nonetheless, there was a high refusal rate; about one applicant in four was refused a permanent residence card. I do not know why that was, but it does not bode well for the future system. There is confusion. Lots of people living here may never have bothered to get the documentation to show how long they have been here, so the distinction between people who qualify for Settled Status and those who do not will not be so clear.

The Chairman: Thank you all very much. It has been extremely helpful to us. We have run a little over the time that we expected, but not by much. On behalf of all of us, thank you very much indeed for coming to give evidence. We are very grateful to you.