Joan McAlpine MSP, Convener  
Culture, Tourism Europe and External Affairs Committee  
M5.12  
The Scottish Parliament  
Edinburgh  
EH99 1SP  

27 January 2020  

Dear Joan,  

I am writing to advise the Committee that the Scottish Government has today published a paper, Migration: Helping Scotland Prosper, which I attach. This paper fulfils our 2019/20 Programme for Government commitment to produce a follow-up to our February 2018 paper on Scotland’s unique population needs and a tailored migration policy.

The case for the devolution of new powers on migration to allow a tailored migration policy for Scotland is driven by two principal factors: 1) how best to address Scotland’s long-term population and demographic challenges; and 2) how to help mitigate the impact of the UK leaving the EU and ending the free movement of people.

Figures published in October by the Office of National Statistics (ONS), and the National Records of Scotland (NRS) show that up until mid-2043 all of Scotland’s population growth is projected to come from migration, after which population growth could stall as current levels of migration are outweighed by natural decline. This is despite the fact that Scotland has experienced positive net migration over recent years from both the rest of the UK and overseas.

In recognition of Scotland’s population challenge, last year we established a Ministerial Task Force on Population to consider the range of activity across Scottish Government and partner organisations to try to ensure population supports the needs of communities and sustainable economic growth. However, if free movement of people ends, in addition to declining birth rates in Scotland, the difficulties of fulfilling this remit will be exacerbated.
In particular, research produced by the Scottish Government’s Expert Advisory Group predicts that any reduction in EU immigration would be especially challenging for those sectors most reliant on lower-paid, non-UK workers, including occupations such as social care, leisure and travel, sales and elementary occupations. Restricted routes for EU immigration would also be particularly disruptive for rural and remote areas of Scotland, where the old age structure means that in-migration is the only means of countering depopulation. The prevalence of lower-paid jobs in these areas implies it would not be feasible to recruit workers under Tier 2. Furthermore, some of these remote and rural communities are dependent upon roles within a handful of businesses and thus any downsizing or closures (as indicated could be the case) could be detrimental.

Since the EU referendum, it has become increasingly clear that Scotland requires a different approach from the rest of the UK in order to meet our unique demographic challenges. Since June 2016, we have engaged extensively with stakeholders across Scotland and have found overwhelming support for a tailored migration solution for Scotland (recent feedback from representatives of key sectors in Scotland is included in the attached paper).

Scottish Government officials have also conducted regular engagement with the other Devolved Administrations and the Home Office to ensure Scotland’s voice is heard and the needs of our country, our communities and our citizens are taken into account in the design of the future borders and immigration system in the UK.

It is vital that the new system works for Scotland and, since our needs are demonstrably unique, the need for a tailored solution is clear. With this in mind, I note that the CTEEA’s inquiry on how the UK’s immigration policy can best respond to Scotland’s demographic and skills needs is ongoing. My predecessor, Dr Allan, Minister for International Development and Europe, appeared before the Committee in November 2017, and I too would be pleased to appear before the Committee to provide evidence, should this be required.

Ben Macpherson MSP
Minister for Europe, Migration and International Development
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Migration is an issue which is crucial for our future economic and social wellbeing. We need a solution that meets Scotland’s needs and allows our communities and our economy to flourish.

Nicola Sturgeon
First Minister of Scotland
We are a nation which has been shaped by migration – but in the past that has meant many of our young people leaving Scotland to build a future elsewhere. Our experience of migration throughout much of the twentieth century is distinctly different to that of the rest of the UK. Scotland is one of only four European countries to have had a smaller population in 2001 than it had in 1971.

Yet Scotland is now a nation of in-migration with a growing population. People from across the world are choosing to become new Scots and to make Scotland their home. People from the EU, EEA and Switzerland have been able to choose to live and work here as a result of free movement. This includes people coming here to study who chose to stay after university and forge their careers here. The Scottish Government’s preference would be to continue to benefit from free movement of people as a Member State of the EU. This would help address Scotland’s distinct needs.

Population projections show that deaths are expected to outnumber births in every one of the next 25 years and the gap is widening – there could be over 18,000 more deaths than births in Scotland in 2043. Scotland is not the only country facing such demographic pressures. Many other nations are facing similar issues and have the policy levers they need to respond to the challenge, including by tailoring their immigration programmes to meet their distinct needs.

The establishment of the Scottish Parliament was designed to allow distinct solutions to be developed to respond to distinct challenges. Decisions about Scotland’s population and migration needs should be taken by Scottish Ministers, accountable to the Scottish Parliament and to the people of Scotland. There is cross-party consensus in the Scottish Parliament about the benefits that migration has brought to Scotland and wide agreement that Scotland needs the powers to tailor migration policy according to our circumstances.

We have worked closely with employers, trade unions, elected representatives and individuals to develop proposals to suit Scotland’s needs. We have looked closely at international models to learn about what works in delivering a tailored approach to migration. We are proposing a cohesive, evidence-based approach that meets the needs of all of the country.

As the world becomes more interconnected people need to move across international boundaries for work and for learning. This includes international students, researchers, artists, performers, people who want to grow their career or indeed just to experience life and work in a different culture. Yet our immigration system is a barrier to this. Scotland can do better.

The current immigration system is not meeting Scotland’s needs. We need a tailored migration policy for Scotland which allows our communities, our economy and our public services to thrive.
Our vision for migration policy

NJABULO (NJ)
TENNIS COACH AND FATHER OF ARIANA
PICTURED IN CRAIGLOCKHART, EDINBURGH
BORN IN SWAZILAND
INTRODUCTION

In February 2018, the Scottish Government published Scotland’s Population Needs and Migration Policy, a discussion paper which explored:

- why migration is crucial to Scotland’s future prosperity;
- how current UK Government migration policy is not appropriate for Scotland; and
- how a tailored approach to migration for Scotland could operate.

Scotland has distinct demographic and geographical needs. Freedom of movement has had a positive impact on Scotland but the current immigration system for international migration is not meeting the needs of Scotland’s communities and employers. Unfortunately the UK Government is committed to leaving the EU and ending free movement of people. As a result the UK will need a new immigration system. Furthermore, it is clear that even if the UK were not to leave the EU, or if free movement were to continue, the current immigration system is not fit for purpose.

The Scottish Government established an independent Expert Advisory Group on Migration and Population to consider the impact of migration on Scotland’s communities, economy and public services and has engaged extensively with employers, elected representatives, representative organisations, communities and organisations across Scotland.

The evidence from those sources, and others, is summarised in the annexes to this paper.

This paper builds on that evidence base and engagement process. It proposes further change to the UK-wide immigration system, changes which could benefit all of the UK, as well as practical tailored policies which provide solutions to Scotland’s needs drawing on international models. This moves towards a coherent, whole system approach to reform of the immigration system, rather than a series of short-term fixes.

There is a pressing need for a different approach to migration policy for Scotland. This approach should be tailored to Scotland’s particular needs and support economic growth and help respond to the implications of demographic change. It should be fairer and provide a better experience for those seeking to live here, and it should incorporate local accountability for decisions through the Scottish Parliament.

This paper shows how that could work.
SCOTLAND’S NATIONAL PERFORMANCE FRAMEWORK

Scotland’s migration policy would be developed in the context of the National Performance Framework (NPF). The NPF sets out the kind of Scotland we want to see recognising that while economic progress is important, success is about more than GDP. That is why the purpose has at its heart opportunities for all, improved wellbeing and sustainable and inclusive economic growth.

Figure 1: Scotland’s National Performance Framework
The NPF is intended to inform discussion, collaboration and planning of policy and services across Scotland, encompassing the public sector, businesses, civil society and communities. The NPF is also Scotland’s framework to localise the United Nations Sustainable Development Goals.

The values at the heart of the NPF are a unique way to frame government activity.

These values will guide an approach to developing a migration policy that:

- treats all people with kindness, dignity and compassion;
- respects the rule of law; and
- acts in an open and transparent way.

The Scottish Government has set a precedent in adopting an outcomes-focused approach to delivering public services, and migration policy should also contribute to delivery of those outcomes.

The National Outcomes on International, Economy and Communities are particularly relevant to migration policy.

We are open, connected and make a positive contribution internationally.

We have a globally competitive, entrepreneurial, inclusive and sustainable economy.

We live in communities that are inclusive, empowered, resilient and safe.

Also relevant are the National Outcomes related to fair work, vibrant and diverse communities and respecting human rights.

A tailored approach to migration policy can help contribute to Scotland achieving the National Outcomes. Migration is important for economic growth, but it is not only a feature of aggregate supply and demand: the positive impacts of migration are felt across Scotland’s communities. A tailored, responsive and humane migration policy can help improve outcomes through a positive impact on productivity, increasing innovation and knowledge transfer, and contributing to economic growth and sustainability of public finances, as well as enhancing diversity and connections within communities.

LEARNING FROM OTHER AREAS OF DEVOLUTION

The Scottish Parliament was established in 1999 with a range of powers over devolved areas of responsibility. However, the constitutional arrangements have evolved since 1999 and there have been a number of changes to the responsibilities of the Scottish Parliament. The Scotland Act 2012 devolved further powers to the Scottish Parliament including over a range of financial powers and the creation of Revenue Scotland. The Scotland Act 2016 devolved further powers to Scotland including areas of income tax and social security.

All parties have therefore accepted that where a case for further change has been made there is the potential to expand the powers of the Scottish Parliament.

The transfer of powers over social security is a helpful model and there is much that can be learned from the experience of developing the vision, principles and values that inform social security in Scotland when thinking about a different approach for migration policy.

The vision for social security in Scotland is that social security is important to all of us and able to support each of us when we need it.

The vision focuses on the values of dignity, fairness and respect. These values have become touchstones in the design of policy, establishment of the new public body Social Security Scotland and delivery of the devolved social security benefits.
VISION, VALUES AND PRINCIPLES FOR MIGRATION POLICY

The Scottish Government’s aim is to grow our population to ensure Scotland has sustainable, vibrant, and resilient communities and drive improvements in inclusive growth. Our vision for migration policy must support that aim.

If agreement was reached with the UK Government on a tailored migration policy for Scotland with new powers for the Scottish Parliament, the Scottish Government would undertake public consultation in designing and developing that policy. Such a consultation would include discussion with communities, migrants, employers, trade unions, public services and wider civic society about the values that would underpin policy.
For example, some of the important values discussed through devolution of social security could also be relevant in the context of immigration policy:

- **Dignity**
- **Fairness**
- **Respect**

**Dignity** could mean welcoming people who want to make Scotland their home, to live, work and raise their families here as part of our communities, as well as people who want to study, visit or work in Scotland for a time, valuing and celebrating the contribution they make to society and the economy and respecting people interacting with our system and the impact that has on their lives and the lives of their family, and treating them with kindness.

**Fairness** could mean putting in place clear rules that everyone can understand and follow, making decisions on those rules consistently and transparently, and making sure decisions can be reviewed or appealed. It could also mean preventing and identifying fraud and abuse of the system.

**Respect** could mean developing and delivering policies which have democratic accountability at their heart, with clear aims developed in conjunction with employers, representative organisations and communities. The Scottish Government would make decisions openly, explain decisions, and be accountable for them in the Scottish Parliament and to the people of Scotland. Under the current system, too many immigration changes are made without adequate opportunity for clear democratic accountability.

The Scottish Government’s first discussion paper on *Scotland’s Population Needs and Migration Policy* suggested seven principles that attempted to capture some of the many questions to consider and perspectives to reflect on when thinking about future migration policy. For example, they aimed to balance accessibility for migrants and employers with necessary control measures to ensure security and integrity of the system.

The draft principles proposed were:

1. **Migration policy should address the needs of all of Scotland, including those areas most at risk of depopulation.**
2. **Migration policy should encourage and enable long-term settlement in Scotland, welcoming people with the range of skills we need to work, raise families and make a positive contribution to society.**
3. **Scotland should be able to attract talented and committed people from Europe and across the world to work and study here without excessive barriers, and our migration policy should support mobility, collaboration and innovation.**
4. **Migration policy should support fair work, protecting workers’ rights, pay and access to employment and preventing exploitation and abuse.**
5. **People who are entitled to live in Scotland – both international migrants and UK citizens – should be able to bring close family with them and migrants should have access to services and support to encourage integration into communities.**
6. **The migration system should be easy to access and understand and focused on what a prospective migrant can contribute, not on their ability to pay – therefore fees and charges should be proportionate.**
7. **Migration should be controlled to deter and prevent abuse, fraud and criminal activity, including terrorism, human trafficking and other serious offences.**

These draft principles are important tests to measure policy proposals against.
OPTIONS IN THE IMMIGRATION SYSTEM

The immigration system should be simpler and easier to understand and access, and should have sufficient options to allow for the level and type of migration that the economy and communities need to prosper.

The options outlined in this paper are based on evidence about Scotland’s distinct needs and analysis of the effectiveness of international models of tailored migration policies. The Scottish Government’s proposals have been developed following engagement with partners and reflect the needs of Scotland’s employers, public services and communities.

The current UK immigration system is complex and consists of a number of different routes and visas for work and study in an unclear system of tiers alongside a restrictive approach to family migration. The Law Commission published their report on simplification of the UK immigration rules in January 2020, with many recommendations the UK Government should reflect on. This paper sets out proposals both for changes in the current system and new additional visa routes with the goal of balancing simplification and clarity with sufficient breadth of options.

Figure 2 on the next page shows a simplified way to present the range of options that could make up a future UK immigration system. This categorises them under the Scotland is Now themes of Live, Work, Study, Visit and Invest. This also shows how a tailored approach for Scotland could mean new Scottish-specific routes in addition to the existing options the UK Government offers for immigration anywhere in the UK.

One of those options is for a Scottish Visa, and this paper sets out in more detail how this could work as part of a UK framework for immigration and addresses questions and issues raised in discussions on the proposal. This is explored in the next chapter.

Another option should be an additional visa with a more specific focus on ensuring settlement by migrants in remote and rural areas, whether in Scotland or in other parts of the UK. The Migration Advisory Committee (MAC), a UK non-departmental public body that provides advice to Home Office Ministers on migration issues, has recommended pilot projects be established to look at retention of migrants in remote and rural areas. The Scottish Government’s priorities for how these pilot schemes should be defined and targeted and how it could work with the Home Office to support their delivery and evaluation in Scotland is set out in the subsequent chapter.

The final chapter explores changes to UK-wide immigration routes summarised in Figure 2, as well as the potential points-based immigration system the UK Government intends to deliver. This will be challenging to implement properly in the available timescale. What is likely instead is that the UK Government will maintain the current system with its focus on sponsorship and salary levels and then add a points-based element to that system. This is not likely to resemble the points-based immigration systems used in territories such as Canada, New Zealand and Australia.

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Figure 2: Options in the UK immigration system

Points-Based Visa
- Additional points-based route in UK system
- No salary threshold and no job offer requirement

Scottish Visa
- Criteria and weights reflect human capital and social value
- Principle of regional nomination could extend to DAs, cities

Rural Pilots
- Target based on local population/skills need

Exceptional Talent
- Endorsed route for leaders in field and emerging talent

Family

Ancestry

LIVE

WORK

STUDY

VISIT

INVEST

Skilled Worker
- Quick, efficient employer-led route
- Salary and skill level requirement

EEA Worker
- 24 month entry
- No skills or salary requirements
- Open only to specified countries (ie EEA & Switzerland)
- Switching onto other routes permitted

Post-Study Work
- Two-year entitlement to stay after studies.
- Make open to HND in Scotland in line with Fresh Talent

Visitor
- All nationalities require ETA, some are visa-free, some require visit visa
- 6 months entry, with some extensions
- Short-term study allowed

Investor
- Capital investment requirement (currently £2 million)

Entrepreneur
- Innovative, scalable business establishment route

Start-Up
- Graduate and new business start ups
- Switching onto Entrepreneur route allowed

Temporary Worker
- Existing sub-categories of creative and sporting, charity, religious and international agreement

Youth Mobility
- 24 month entry
- Reciprocal arrangement with specific countries
- Consider additional year to stay in Scotland

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Summary of key proposals

VISION, VALUES AND PRINCIPLES

• Scottish Government will consult on values to inform a Scottish approach to migration policy, if agreement reached on need for a tailored policy.

A TAILORED APPROACH FOR SCOTLAND

• Responsibility for migration should be devolved to Scotland, as part of a UK framework, to allow new routes to be created for migration to Scotland.

• Scottish Government will consult on delivery models for a Scottish Visa, if agreement reached on need for a tailored policy.

A PLACE-BASED ROUTE FOR MIGRATION TO RURAL AREAS

• Scottish Government and UK Government should work together to design, develop and evaluate pilot schemes to encourage migration to rural areas.

• The Scottish Government will commission the Expert Advisory Group on Migration and Population to consider what a pilot approach to migration in remote areas would need to achieve in order to benefit Scotland’s rural and island communities.

KEY FEATURES OF A SCOTTISH VISA

• Eligibility criteria set according to needs identified in Scotland, clear rules leading to greater certainty

• Scottish Ministers accountable to Scottish Parliament for policy and decisions

• Migrants holding Scottish Visa required to live in Scotland

• An additional option alongside all other UK visas

• No sponsorship role for employers in this route – so no sponsor licencing costs or bureaucracy

• Not liable to Immigration Skills Charge, as currently defined by UK Government

• No salary threshold in this route

• Online application process

• Offers pathway to permanent settlement in Scotland
INFLUENCING CHANGE IN THE UK SYSTEM

- Targets to bring down migration to the UK should be ended.

- Fees and charges for UK immigration, settlement and citizenship applications should be reduced.

- All existing routes in the UK immigration system should be reviewed and simplified, removing financial and administrative burdens on applicants and sponsors.

- A new points-based system for the UK should follow international examples and include regional or devolved schemes.

- Family migration should be significantly reviewed, looking at definition of family members, costs, and children born here.

- The Scottish Government will commission the Expert Advisory Group on Migration and Population to look more closely at the impact that current family migration rules have on families in Scotland.

- The employer-sponsored visa should have a lower salary threshold.

- The proposed transitional 12-month visa should be extended to 24 months and made a permanent option for EU citizens after the UK leaves the EU.

- Arrangements for working visitors should be extended to six months, and a broader range of activities should be allowed.

- Youth mobility schemes to the UK should be extended for a year if young people live in Scotland during that time.
A tailored approach for Scotland
WHAT COULD WORK FOR SCOTLAND

The Scottish Government has reflected on the input and views from stakeholders in Scotland and beyond on priorities for the immigration system, and used that to inform engagement with the UK Government on the future immigration system for the UK.

The engagement with stakeholders has also helped shape this updated policy position showing how devolution of some aspects of immigration policy within a UK framework could allow the Scottish Government, accountable to the Scottish Parliament, to set criteria for a new international migration route to start to meet Scotland’s needs. This would include requiring migrants to live in Scotland with a Scottish tax code and working with the UK Government on delivery and monitoring.

The UK Government has said it wants the UK immigration system to work for all parts of the UK. While Scotland is part of the UK, the Scottish Government has set out how it thinks tailored migration policies are increasingly necessary to enable Scotland to continue to succeed and remain attractive to migrants in a post-Brexit scenario.

Employers, business organisations, universities, trade unions, local government and immigration experts support a tailored approach to immigration in Scotland. The UK Parliament’s Scottish Affairs Committee and the All Party Parliamentary Group on Social Integration have agreed that the current migration system needs to change to reflect local circumstances. The Scottish Parliament has accepted the need for the development of a differentiated, more flexible migration solution tailored to meet Scotland’s specific needs.

“We have argued that there should be a system in Scotland which responds to the particular needs of Scottish industry and demography.”

FSB Scotland

“SCDI supports greater flexibilities on immigration for Scotland to respond to its distinct demographic and employment needs... Other countries successfully operate regional migration schemes which target the specific needs of their economies and SCDI believes that there are workable options for more differentiation in the UK’s system.”

SCDI

“The First Minister is right to highlight both the negative effect of pandering to anti-migrant sentiment & the need for a separate Scottish approach. The STUC supports additional powers on migration for the Scottish Parliament.”

STUC

“Bespoke visa schemes for Scotland, combined with expanding international outreach activities in relation to immigration to advertise these new arrangements, would be an effective way of ensuring that immigration policy meets Scotland’s needs.”

Law Society of Scotland

“Scotland’s future immigration needs are distinct from those of England: in particular, we need higher rates of migration. This means that we require a system which can take account of different needs in different parts of the UK, as well as different needs across Scotland.”

David Hume Institute

“Of the various approaches available, a differentiated points-based system would be the most effective in responding to Scotland’s demographic, economic and socio-cultural goals.”

Royal Society of Edinburgh
A SCOTTISH VISA

Scotland faces distinct demographic and population challenges. Other countries face similar issues around rural depopulation, population shift and demographic change.

Places such as Canada and Australia have successfully used regional immigration schemes to allow states and provinces to attract and retain people with the skills and attributes needed to benefit the local economy and local communities and address these challenges.

Learning from these international models has helped the Scottish Government develop a tailored proposal for migration to address the distinct needs of Scotland, involving devolution of some new powers over migration policy within a UK framework. The Expert Advisory Group on Migration and Population published a report on the lessons that could be learned from Australia, Canada and continental Europe, and their findings are summarised throughout this paper.

The Scottish Government proposes that Scottish Ministers would set the criteria and rules for a visa to enter the UK that would let migrants live and work in Scotland, with a Scottish tax code. Holders of this visa would have to live in Scotland and could not live elsewhere in the UK. The Scottish tax code is an example of an existing framework based on residence and would help ensure that people with a Scottish Visa stayed in Scotland and contributed to the Scottish economy.

Under this proposal both migrants and employers recruiting workers would have a choice of routes through the UK immigration system.

A Scottish Visa would present an additional option for people who want to live, work and eventually settle in Scotland. The Scottish Visa would be an extra option in the UK system, and the Scottish Government would work in partnership with the UK Government to deliver this additional Scottish Visa. It would not prevent employers in Scotland or migrants to Scotland applying for any other UK visas.

The Scottish Government would also work with stakeholders and communities to design responsive solutions that work for Scotland, giving local accountability for decisions in the Scottish Parliament. The Scottish Government wants to provide reliable solutions, and understands that stability in immigration policy is beneficial for attracting migrants and to businesses who are making investment decisions based on access to skills and workers.

The Scottish Government doesn’t currently have the powers needed to deliver tailored immigration policies for Scotland. Devolution of aspects of migration policy within the UK system would start to allow Scotland's most acute needs to be met. Shared responsibility for migration would allow additional routes, options and solutions for Scotland, which the Scottish Government would aim to make less restrictive in Scotland than existing UK policy.

WHO HAS A SCOTTISH TAX CODE?

The Scotland Act 2012 defined who will be a Scottish taxpayer for the purposes of the Scottish rate of income tax. There are a number of tests to determine Scottish taxpayer status. For most people who have only a single ‘place of residence’, they will be a Scottish taxpayer if they are UK resident for tax purposes and their ‘place of residence’ is in Scotland. Some people will have more than one ‘place of residence’, and if they have their ‘main place of residence’ in Scotland for at least as much of the tax year as it has been in any one other part of the UK then they will be a Scottish taxpayer. Place of residence is therefore key to establishing whether an individual is a Scottish taxpayer.

[Source: HMRC]
What the Scottish Government is proposing is devolution of immigration with shared responsibility for delivery, within a UK framework. This could mean:

- The Scottish Government defines the criteria for an additional route for migration to Scotland, receives and assesses applications, and then nominates successful applicants to the UK Government, where the Home Office receives and assesses the application at this second stage, and issues a visa to successful applicants (Model 3); or

- The Scottish Government has powers to establish additional routes for migration to Scotland and define eligibility criteria, it receives applications and assesses them, and then refers applications to the UK Government, where the Home Office will verify for identity and security only and issue a visa to successful applicants (Model 4).

Although it is not what the Scottish Government is focusing on in this paper, it would of course also be possible to establish an entirely devolved/separate immigration system (Model 5). An independent Scotland would establish its own immigration system.
Other options could also be conceived, depending on discussion and negotiation. UK Government delivery of regional variation as in Model 1 is similar to the existing Scotland Shortage Occupation List. This is underused, insufficiently responsive to need, and has no formal input from either the Scottish Government or the Scottish Parliament.

Model 2 would give the Scottish Government some role in shaping policy, with all delivery to be undertaken by the UK Government. This is similar to the experience of the Fresh Talent: Working in Scotland Scheme from 2005 to 2008. That was a successful scheme, that allowed over 8,000 students to settle in Scotland after their studies, but was ended by the UK Government against the wishes of the Scottish Government and contrary to the policy goals it was established to address. An approach along these lines would also not include a formal role for the Scottish Parliament in scrutinising policy and delivery.

Although there are many ways this could be delivered, the Scottish Government wants to see an approach where policy is set in Scotland, by Scottish Ministers who are scrutinised and held to account by the Scottish Parliament.

The Canadian and Australian examples show there is space within a regulated and controlled federal, or national-level government immigration system for a regional or devolved approach – particularly where the regional or devolved contribution is on selection of migrants along locally-determined need or criteria, with admission controlled at national level.

Here, the UK Government sets the criteria to select eligible migrants, considers applications and grants leave to enter and remain in the UK, permits entry at the border to those authorised, and monitors ongoing compliance with immigration controls. The proposal for a Scottish Visa is that the Scottish Government should have the ability to set the rules and criteria for an additional migration route to Scotland and receive and decide applications for visas, but that it would still be for the UK Government to issue visas to enter and reside in the UK, enforce border control and, working with the Scottish Government where appropriate, ensure ongoing compliance with immigration rules.

This chapter therefore explores in more detail those two similar but distinct models to create a tailored approach for Scotland:

- a devolved system designed for Scotland (Model 4), and
- a regional immigration model in the UK (Model 3).
Case Study:

Canadian regional immigration programmes

Canada is an example of an immigration system with regional differentiation. Canada has established a series of Provincial Nominee Programmes (PNP) with all its provinces and territories except Nunavut, which is remote and sparsely populated and does not operate a PNP; and Quebec, which has a separate and more extensive bilateral agreement on immigration.

Provincial Nominee Programmes

- The PNPs create an additional migration route to Canada for individuals who intend to settle in a particular province or territory.
- The provincial government is able to set the criteria to select immigrants with characteristics that would benefit their economy or society.
- Immigrants apply to the provincial government, which assesses their application against the criteria they have set. If the application is successful, the provincial government ‘nominates’ the applicant to the federal government to allow their admission to Canada.
- The federal government retains exclusive responsibility for admission and border control, and also runs its own nation-wide routes to select migrants who can then settle in any province or territory – except Quebec.
- Ministers of the federal and provincial governments responsible for migration meet annually to agree quotas for the PNPs.
- Retention rates in the province of entry for those entering through PNPs vary: it is as high as 82% after five to eight years in Alberta, whereas smaller Atlantic provinces have lower retention levels.
- The Canadian government has announced a further ‘Atlantic Immigration Pilot’ to enhance options for migrants to these smaller, remoter provinces.

Bilateral agreement with Quebec

- As with the PNPs, the Quebec government sets rules and criteria to select migrants, and then nominates them for admission to Canada by the federal government.
- However, Quebec has exclusive responsibility for selection of migrants – the routes the federal government makes available do not allow migrants to settle in Quebec. If a migrant has the intention to immigrate to Quebec directly, they must be selected through the Quebec government immigration scheme.
- Quebec places particular emphasis on French language and culture when selecting migrants, as well as targeting particular demographic and economic needs (i.e. skills) the provincial government has identified.
- Internal mobility within Canada is not restricted – anyone can move from another province to Quebec freely.

Further information on Canadian regional immigration programmes is included at Annex C.
A DEVOLVED APPROACH FOR SCOTLAND (MODEL 4)

This model describes devolution allowing the Scottish Government to establish a new immigration route, working in partnership with the UK Government on delivery with a formal role the Scottish Parliament in scrutinising any policy, legislation and decisions made by Scottish Ministers.

This model, where tailored policy is set in the Scottish Parliament, draws on international examples of regional schemes. The Scottish Visa proposal outlined in the 2018 discussion paper is broadly analogous to the Canadian PNPs, although described in language and constitutional terms more relevant to the UK and Scottish context. It is not as extensive as the powers exercised by Quebec – for example, Scotland would still receive migrants through existing UK-wide visa routes, along with an additional flow of migrants selected through the criteria the Scottish Government would set in a Scottish Visa.

The Scottish Government would develop policy for the selection of migrants, and introduce regulations in the Scottish Parliament. Eligibility for the route would be satisfied by the Scottish Government checking the initial application against criteria it has set. The Scottish Government would intend to develop a selection approach that captures social as well as economic value. The Scottish Government would similarly wish to explore using devolved powers on immigration to support a less restrictive approach to family migration. Having assessed applications and selected migrants, the Scottish Government would then propose them for entry to the UK through a visa issued by the UK Government. The UK Government would make checks to verify identity, including checking immigration history; and to satisfy security requirements.

This would create a two stage process – the prospective migrant would apply first to the Scottish Government, which would consider applications, and reject or approve them based on criteria they have set. The application would move to the Home Office to consider eligibility for admission to the UK. The Home Office would verify identity, including checking immigration history; and satisfy security requirements. The Home Office would not reassess the application, and would be able to refuse admission only on clear and pre-agreed grounds such as criminality. The Scottish Government first set out in February 2018 that it would commit to an agreed approach with the UK Government on matters of criminality, fraud and abuse in the immigration system.

Endorsement and sponsorship are established concepts in the UK immigration system, and nomination in this way would be similar to those processes, albeit the nominating body would be the Scottish Government rather than an employer. In Canada, the provincial government ‘nominates’ the applicant to the federal government for admission. In Australia, the state government issues an ‘invitation to apply’ to migrants they are proposing through their regional system, with the second-stage application being processed by the federal government.

The Scottish Government would be willing to consult with the UK Government on the number of applicants able to apply through this route. A quota for each regional scheme is set by agreement between the federal and state or provincial governments in the Canadian example. However, a cap or quota on a devolved approach that was driven by the UK net migration target would not be acceptable, and the UK Government should formally abandon that target in order to engage in a rational, evidence-based way on immigration policy.
The proposed Scottish Visa would not have a sponsorship role for employers, removing a significant burden from the small and medium enterprises which make up a higher share of the economy in Scotland than in the rest of the UK. Because it would not be a sponsored visa, employers taking on someone through this route would not need to be licenced by the Home Office. That also means the immigration skills charge would not apply, as currently defined by the UK. There would be no salary threshold although earnings could be part of the selection process. This could encourage highly skilled people to take up quality jobs in Scotland but not exclude anyone solely on the basis of salary.

Applications would be online by default. The UK is investing in upgrades to the IT systems supporting the Borders, Immigration and Citizenship System. In both the regional model and the tailored approach for Scotland described above, the initial application would be to the Scottish Government. This could be through a shared online portal, or a dedicated interface. Guidance would be provided to ensure that users understand their options in the UK immigration system and are able to apply for the route that best fits their needs and circumstances.

**A REGIONAL APPROACH FOR THE UK (MODEL 3)**

This model describes an immigration route established by the UK Government, in which the Scottish Government and potentially other governments and bodies participate. This shows how an additional route in the UK immigration system that meets Scotland’s needs could be designed to be adapted according to the needs of other parts of the UK as well. Although there are different levels of devolution within the UK, there are other areas with the local accountability and administrative capacity needed to participate in a regional migration policy, such as the city regions with metro mayors in England as well as the devolved administrations. This could be described as a ‘regional nomination scheme’, where a designated public authority – the Scottish Government, for example – would endorse applicants they have selected according to criteria they set, and nominate them for entry to the UK through a visa issued by the UK Government.

The UK Government could establish a regional nomination scheme as a pilot in Scotland, with the Home Office working in partnership with the Scottish Government to design, deliver and evaluate it. Scotland is uniquely well placed to take forward such a pilot arrangement.

For a pilot scheme, a lower initial cap or quota might be an appropriate control as systems, processes and demand are tested. A pilot might start with a low volume with the aim of expanding over time, following evaluation of benefit.

This would still be a two stage process – the applicant first applies online to the endorsing body (such as the Scottish Government) for a ‘certificate of endorsement’ or ‘work permit endorsement’. The nominating body would consider applications and reject or approve them based on criteria they have set. When a decision has been made by the nominating body, the nomination would be sent to the UK Government to make necessary identity, immigration history and security checks, then grant entry to the UK.

As before, admission would be refused only on clear and pre-agreed grounds at this stage.

Family members of the primary applicant would be eligible for visas through existing UK family migration routes under this proposal.

This approach would require political agreement and changes to the devolution settlement to allow the Scottish Government to select and endorse applicants for immigration purposes. This would still involve a role for the Scottish Parliament in scrutinising eligibility criteria, retaining an important aspect of local accountability for decision-making. However, without devolution to allow the Scottish Government to establish the new route there is a risk that this model might not guarantee the permanence of the arrangement.
RESIDENCE IN SCOTLAND AS A REQUIREMENT

A condition for admittance on a Scottish Visa route should be residence in Scotland. This is easy to understand and follow and residence is the basis of existing obligations and entitlements. For example, the Scottish tax code is based on residence, as is eligibility for many public services and benefits delivered by the Scottish Government and local government in Scotland.

The Scottish Government would consider carefully what compliance framework would need to be put in place to ensure proportionate, risk-based control for the requirement that holders of this visa stay in Scotland. That would include what information and data sharing arrangements are then put in place with UK authorities; particularly Immigration Enforcement, but also other bodies such as HMRC who are responsible for the Scottish tax code.

In the majority of cases, a requirement to ordinarily reside in Scotland would likely also mean an individual would be working in Scotland. Therefore, the Scottish Government is not proposing additional restrictions on working within the UK — although would be prepared to discuss that with the UK Government if needed.

The previous and current examples of regional differentiation for Scotland did not include any additional control mechanisms to ensure retention. For example, the Fresh Talent: Working in Scotland Scheme was open to graduates of Scottish institutions who intended to live in Scotland for up to two years after their studies; but residence anywhere in the UK was valid for compliance with the visa. The current Scotland Shortage Occupation List creates an easier pathway through the immigration system for roles that are in shortage in Scotland; but there is no ongoing control to ensure that (for example) a chemist in the nuclear industry recruited on the basis of that occupation being on the Scottish SOL remains employed in Scotland after they first enter the UK.

A residence requirement is an innovation to help ensure that migrants entering through this route are contributing to the Scottish Government’s strategic goal to ensure communities in Scotland can grow and thrive.

Currently applicants, once in the UK, can arrange for delivery of a residence permit to a home address or to a local Post Office. The Home Office is increasingly moving to a digital-only residence status, and not issuing physical permits. The Scottish Government would consider whether a physical proof of status (e.g. a residency card) would aid understanding and compliance, learning from the experience and concerns raised about the use of a digital-only status in the EU Settlement Scheme.
LENGTH OF STAY AND PERMANENT SETTLEMENT

The goal of this approach is to provide an additional route for migration to Scotland with an explicit focus on attracting people with the intention to permanently live and work here. There are therefore questions about the duration of a visa (the time the individual is under ‘immigration control’) and what pathway is available to permanent settlement, known as Indefinite Leave to Remain (ILR).

The main skilled worker visa currently allows applications for ILR after five years’ lawful residence. Some categories of visa have expedited eligibility for ILR, and some may take longer. Some visas do not allow a pathway to settlement, for example student visas or temporary work visas, but may allow switching onto other routes that can lead to settlement. Looking at international examples, the Australian regional route

The Scottish Government would want to ensure there was a pathway from the Scottish Visa to ILR. It is currently intended that someone holding a Scottish Visa would make an application for ILR to the UK Government. This would be for leave to remain in the UK. If granted, it would remove the requirement to reside ordinarily in Scotland. If this was not possible, alternative arrangements for permanent settlement in Scotland could be considered.

If five years’ residence on the Scottish Visa was required to apply for ILR, the visa could be offered for five years at the outset (or five years and three months, to allow a window for ILR application). Alternatively, a shorter initial visa term could be offered, with a renewal point required to reach five years, for example, three years plus three years. This would potentially include a caseworker review of compliance with the residence requirement, complementing ongoing monitoring. A six-year period of immigration control overall would allow a full year toward the end of the visa term to apply for ILR.
**WORKING WITH UK IMMIGRATION AUTHORITIES**

Devolution within a UK framework implies a strong focus on partnership working with both the Scottish and UK Governments taking responsibility for different elements of the system. The key in both instances is that the process for employers and for individuals should be easy to navigate and understand, the decision making process should be transparent and prompt while charges should reflect the cost of the process. This commitment to transparency should also mean that the immigration exemption in the Data Protection Act should be removed.

Although the Scottish Government favours a system where applications are determined in Scotland, a different approach would be for the relevant UK body – in this case, UK Visas and Immigration, part of the Home Office – determine applications based on the rules and criteria set by Scottish Ministers.

An example of a UK body following devolved policy in delivering a service is HMRC, which collects income tax from Scottish taxpayers according to the rates and bands for non-savings non-dividends income set in the Scottish Parliament.

However, the judgment made in devolution of powers on social security was that a new executive agency in Scotland should be established to deliver that service, rather than delivering through a UK body.

Therefore, if powers over immigration are devolved, the Scottish Government will consult on the most appropriate mechanism to receive, process and make decisions on behalf of Scottish Ministers.

Whatever option is most advantageous, it will be important to learn lessons from all relevant sources on issues such as organisational culture, and training and support to empower caseworking staff, helping them to make better decisions that are correct first time. While an appropriate appeals process is necessary, good decision-making and clearer rules will also help reduce the burden of reviews.

This is important in Scotland where the Court of Session undertakes judicial review of decisions made at immigration tribunals. Three-quarters of all judicial reviews initiated at the Court of Session in 2017-18 related to immigration decisions. The number of judicial reviews of immigration decisions disposed of by the Court of Session in 2017-18 had more than doubled since 2008-09.

The 2018 discussion paper proposed no changes to arrangements for border control. When the applicant presents at the UK border (on arrival at a port), Border Force officials would review their documentation and make a decision on whether to allow entry to the UK.

The Scottish Government remains concerned about the use of long-term and indefinite immigration detention and wants to see the system of immigration detention centres, such as Dungavel, replaced with a more humane approach including a maximum 28-day limit on immigration detention. The UK is the only European country that allows indefinite immigration detention with no statutory time limit. The Scottish Government is keen to explore with the Home Office how to increase the use of community-based solutions for people currently held in immigration detention, where no crime has been committed or where a sentence has already been served. Closure of Dungavel should be part of a wholesale reform, otherwise it risks further isolating vulnerable people who could be transferred to another facility in the UK, limiting access to family and legal representation.
USER JOURNEY THROUGH SCOTTISH VISA APPLICATION

START

User considers options available

Wants to live permanently in Scotland

Wants to be able to move elsewhere in UK

Scottish Visa

User applies to Scottish Government with supporting evidence of eligibility

SG assesses application eligibility against criteria it has set

Successful eligible applications move to Home Office

Home Office review application for identity and security checks

Home Office grants leave to enter UK with condition to reside in Scotland

END
UK Immigration Policy After Leaving The EU:

Impacts on Scotland’s Economy, Population and Society

The impact of ending free movement from the EU and restricting future immigration will have a more pronounced detrimental impact in Scotland than in other parts of the UK. The first report of the Expert Advisory Group on Migration and Population showed how future UK Government migration policy changes are likely to affect Scotland. This analysis helped inform the Scottish Government’s proposals for a tailored approach to migration policy for Scotland.

The UK’s departure from the EU will usher in important changes to immigration policy. The UK Government’s proposals on immigration... suggest that from January 2021, EU nationals will be subject to UK immigration rules. The proposals also suggest changes to the current points based system... [and] are intended to reduce overall net migration to the UK, while expanding opportunities for skilled migrants.

The UK’s withdrawal from free movement would restrict EU immigration to the points based system, with most labour migration channelled through Tier 2 [the Skilled Worker route].

Drawing on a range of data, we develop two scenarios for future migration flows.

**Scenario 1:** 80% reduction in EU net migration

**Scenario 2:** 50% reduction in EU net migration

The first scenario builds on the analysis of the White Paper, while the second takes into account inflows of dependents, family migration, and also factors in an expected increase in non-EU nationals because of changes to Tier 2.

Based on these scenarios, we project that the proposed changes could lead to a reduction in annual overseas net migration to Scotland of between one third and one half after 2020.

Key to understanding the effects of this change is how reduced migration flows are distributed – both across sectors, and across different areas of Scotland.

Overall, 63% of workers in Scotland earn less than the proposed £30,000 salary threshold. In occupations such as textiles, social care, leisure and travel, sales, and elementary occupations, almost no jobs would qualify for a £30,000 threshold.

One example of a severely affected sector is social care, where less than 10% of those in caring personal service occupations in Scotland earn above £25,000, and none earn £30,000. Therefore, the proposed changes will exacerbate existing labour shortages in many areas.
Looking at the effects by age and gender, only 25% of those aged 22-29 meet the £30,000 threshold, rising to between 43% and 45% for those in their 30s and 40s. A far lower proportion of female employees meet the £30,000 threshold... implying that the proposed arrangements could create a gender disparity in the supply of future migrants.

If we look at the regional distribution of salaries across Scotland, we see a wide variation in the proportion of jobs that meet the £30,000 threshold, ranging from 49.5% in East Renfrewshire to just 16% in Na h-Eileanan Siar. This implies that very few migrants would be able to move to those areas to work under Tier 2. This would limit labour migration in areas of Scotland that already... face challenges of depopulation.

The fiscal effects of EU migrants on the Scottish economy are similar to the effects on the UK economy as a whole. The UK evidence suggests that EU migrants typically contribute more through tax revenues than they consume by way of public services. As in the rest of the UK, EU migrants to Scotland are typically young and economically active, and people of their age group tend to consume a relatively small amount of public services because they are not usually receiving welfare benefits, nor are they heavy users of health and social care services... [T]he lifetime balance of their contribution to tax revenues and use of public spending will tend to be favourable.

While immigration will not significantly reduce the speed of population ageing in Scotland, it will have a considerable effect on the absolute size and age composition of the working age population. At current immigration rates, the working age population is expected to remain stable over the next 25 years, whereas with reduced migration from the EU, it is projected to decline by between 3% and 5%. Reduced EU migration would lead to a gradually declining and rapidly ageing working age population. This is in contrast to the UK as a whole, where the working age population would still grow with reduced international migration. Overseas migration is especially conducive to future demographic stability because of its relatively young age structure.

For remoter rural areas and islands, attracting working-age migrants is the only realistic option to avert a downward demographic spiral driven by the age structure legacy of selective out-migration. Free movement has enabled EU migrants to live and work across Scotland including in rural and remote areas, including through routes that begin elsewhere in the UK. The flexibility of free movement has facilitated the emergence of migrant networks, as family and friends move to join previous migrants, and such networks facilitate integration and settlement. In some areas facing population decline, EU nationals have made an important contribution to sustaining [public] services, in turn helping to retain existing populations in these areas.

Source: Expert Advisory Group on Migration and Population (February 2019)
A place-based route for migration to rural areas
RURAL PILOT SCHEMES

Population change in our most remote rural and island communities has received increased attention due to a growing body of evidence around the nature and impact of depopulation in rural Scotland. This was reflected in the first report of the Expert Advisory Group on Migration and Population, who highlighted the challenge faced by remote rural and island and sparsely populated areas.

The Rural Economy Action Plan set a goal to increase the number of people living and working in rural Scotland. The proposed National Islands Plan contains a strategic objective for Scottish Ministers to address population decline and ensure a healthy, balanced population profile across Scotland’s islands. Increasing the population of rural areas of Scotland is included as one of four outcomes for the revised National Planning Framework.

The intention is that this will be achieved through a number of mechanisms and policy levers – including economic development, and skills. The Scottish Government is already taking action coordinated through the Ministerial Task Force on Population to address challenges around housing, transport and digital connectivity. In recognition of the particular challenges for some remote communities around population change the Scottish Government committed in our Programme for Government to develop an action plan to support repopulation of our rural and island communities and work with partners to test approaches using small scale pilots.

However, migration is a key lever to address depopulation of rural Scotland – as the Expert Advisory Group concluded, past out-migration and the ageing of the population that remains means natural change cannot contribute to recovery in these areas. The Scottish Government has emphasised the challenge for remote rural and island communities of ending free movement and restricting immigration, as many of these areas are particularly dependent on migration to sustain communities, and very few roles in rural areas would meet a £30,000 salary threshold for instance.

The Migration Advisory Committee highlighted evidence from the Scottish Government on remote communities in their report of May 2019, and recommended the UK Government pilot a scheme to attract and retain migrants in rural areas.

They said:

“The Immigration White paper briefly discussed the particular challenges faced by some remote communities, notably de-population, and the possible role for the immigration system in addressing those problems. We have also had responses highlighting these problems from the Scottish Government and some employers in these areas.

“The current migration system is not very effective in dealing with the particular problems remote communities experience. If these problems are to be addressed something more bespoke for these areas is needed. The international evidence suggests that such regional schemes can struggle to retain migrants in the areas they were recruited in once they have the freedom to move, so the key question is whether migrants into these remote areas settle there permanently or leave for other parts of the UK.

“The only way to address this question in the UK context would be to pilot a scheme that facilitated migration to these areas, then monitor what happens over several years and evaluate the outcomes. The MAC is willing to provide advice on the design of a pilot scheme for remote communities.”
Most European countries have adopted employer-based programmes, and those most relevant to addressing shortages created by demographic change are programmes that encourage longer-term settlement, spanning a range of occupations and skills levels. The Spanish Catalogue of Hard-to-Fill Occupations, and the Swedish 2008 Immigration Law are examples the Group considered.

**KEY FINDINGS**

**Importance of job offer:** Especially in remoter regions, a job offer helps to promote labour market integration and encourage settlement.

**Rights and retention:** Even where entry is conditional on a specific job or place of stay, over time migrants’ rights expand.

**Promoting settlement:** Schemes can encourage longer-term settlement through weighting selection criteria to those most likely to stay in the region or through working with employers and community organisations to support settlement.

**Regional differentiation:** Schemes can seek to address geographic shortages through either direct or indirect differentiation.

**Enforcement:** The schemes carry different challenges in relation to enforcement related to complexity and the role of employer sponsorship.

**Vulnerability:** Risks for migrants if scheme not tied to employment, higher in sectors associated with casual and informal work.

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The previous Home Secretary, Sajid Javid, made a Written Ministerial Statement on 23 July 2019 accepting the recommendation to develop a pilot scheme.ii

Although there has been no further indication from the UK Government on how they will approach these pilots, the Scottish Government is ready to work with them to design and develop solutions in a UK migration system tailored to Scotland’s needs.

The Scottish Government therefore intends to commission the Expert Advisory Group on Migration and Population to consider what a pilot approach to migration in remote areas would need to achieve in order to benefit Scotland’s rural and island communities, in order to further inform thinking around this interesting proposal. These pilots could form the basis of an additional place-based migration scheme to complement the Scottish Visa proposal.

**LEARNING FROM INTERNATIONAL EXAMPLES**

The Expert Advisory Group has already looked at the experience of immigration policy and demographic change in Australia, Canada and continental Europe. They find that national and local governments have sought to address geographic shortages through encouraging population retention and increased migration. Immigration can provide an effective and efficient mitigation as part of a wider package of measures.

Canada and Australia both have regionally differentiated points-based systems. They have traditionally been human capital schemes, but also build in employer-based considerations. They offer extensive rights and pathways to settlement. As well as regionalised immigration programmes in each country, the Group also analysed Canada’s recent Atlantic Immigration Pilot Program to promote retention in remote areas, which is of particular relevance to Scotland.
MINISTERIAL TASK FORCE ON POPULATION

Against the backdrop of Scotland’s ageing population, and population shift both from west to east and from rural to urban areas, the Scottish Government has established a Ministerial Task Force on Population. Chaired by the Cabinet Secretary for Culture, Tourism and External Affairs, the Task Force seeks to deliver a cross-government approach to improve Scotland’s population profile by helping make Scotland’s communities more attractive places to live, work and bring up families.

The Task Force will focus on work underway across Scottish Government including talent attraction, rural policy, infrastructure, islands policy, transport and public services to identify any gaps and what areas of work need to be intensified.

The impact of population change varies across Scotland with rural and island communities particularly vulnerable. Rural areas are home to one-fifth of Scotland’s population as well as approximately a third of Scotland’s small and medium sized enterprises.

Research by the James Hutton Institute has established that the historical legacy of depopulation means that Scotland’s sparsely populated areas are at risk of losing more than a quarter of their population by the middle of the century if current demographic trends are left unchanged. In addition to focusing on total population the Task Force will therefore also consider the dispersal of population across Scotland and how the economic benefits of future sustainable population growth are realised across all communities.

While there will be a strong focus on maximising the impact of devolved policies on population and demographic change the reality is that with a falling birth rate and an ageing generation of Baby Boomers, any future population growth over the next 25 years will be driven entirely by migration including from the rest of the UK. International evidence clearly demonstrates the extent to which other nations facing similar demographic challenges are using immigration policy to help to address population change.
Case Study:

Non-EU crew in Scottish fishing fleet

In addition to the vital contribution made by EU citizens to the success of Scotland’s seafood industries, non-EU citizens are highly skilled, highly sought after workers, who make a vital contribution to the success of the Scottish fishing fleet.

The Scottish fleet has taken, and continues to take, positive steps to attract new domestic entrants (recognising the ongoing difficulties in doing so due to factors such as the strength and attractiveness of the oil industry). Some access to non-EU labour will, however, continue to be required in the short to medium term as the fleet continues its stated ambition to transition to a largely, or fully, domestic crew. This dependence will, in all likelihood, be exacerbated even further if the UK Government insists on ending freedom of movement from the EU; with the fleet likely replacing current crew from the EU with those from outwith it, given ongoing difficulties in recruiting domestic labour.

The key concern relating to the current system for employment of non-EU nationals relates to the ongoing use of transit visas. While the use of this route allows the fleet to employ non-EU crew who would otherwise be inaccessible under current immigration law, it is a wholly inappropriate means of crewing the fleet.

Use of this visa route limits non-EU citizens to working outwith 12 nautical miles, severely restricts their right to enter and remain in the UK, and means that UK employment law does not apply to these workers (including the UK “National Living Wage” and the ability to freely change employer). This places workers in some parts of the fleet at significant risk of maltreatment and exploitation; up to, and including, possible offences under the Human Trafficking and Exploitation (Scotland) Act 2015. The payment of low wages to foreign crew also significantly undercuts domestic labour, hampering efforts to attract new domestic entrants.

From an industry perspective, and in addition to the impact on workers, by arbitrarily restricting non-EU crew to working outwith 12 nautical miles, the use of transit visas also creates an uneven playing field based on the geographic location and operational area of fishing vessels; with the west coast fleet being disproportionately unable to utilise non-EU labour, despite having, in many cases, the greatest need for additional crew. This element is particularly punitive for the west coast fleet where inshore waters (i.e. within 12 nautical miles) are among the best fishing grounds for langoustine.

In view of the above, the current immigration system demonstrably does not meet the needs of either employers or workers in the Scottish fleet.
Migration: Helping Scotland Prosper
Influencing change in the UK system
OVERARCHING OBJECTIVES

The Scottish Visa and the rural pilot schemes are both new measures that the Scottish Government believes should be introduced in the UK immigration system. Further reform of other immigration routes is also essential.

The current UK immigration system does not reflect the values and principles that the Scottish Government has identified. The first discussion paper set out five areas where the UK Government should revise its policy:

- Reintroduce the post-study work visa recommended by the Smith Commission;
- End the net migration target;
- End the immigration skills charge;
- Give the Scottish Government a greater say in the Scotland Shortage Occupation List; and
- Extend and protect rights in family migration.

The net migration target, to reduce net migration to the UK to the “tens of thousands,” was introduced in 2010. The target is arbitrary, not based on evidence, feeds negative rhetoric about migration and contributes to the sense of the UK as a hostile environment for migrants. It is practically undeliverable, but if it were achieved would be deeply damaging to all of the UK and to Scotland in particular. Economic modelling published by the Scottish Government in 2018 suggests the GDP impact for Scotland of the UK reducing net migration in this way could be over £10 billion per year by 2040. While the current UK Government has suggested that they will move away from a numerical target they remain committed to reducing the level of migration. The UK Government should formally abandon the net migration target and end the distorting effect it has on policy.

The UK Government intends that income generation through fees and charges will underpin the future border and immigration system. As well as excessive fees related to applications for visas, settlement and citizenship, the Home Office levies two specific charges it should review:

- The Immigration Skills Charge is a £1000 per year charge on employers for each migrant worker they recruit under the current Tier 2. It will be levied on all recruitment through the proposed Skilled Worker route. The charge is reduced for some small and third sector organisations.
- The Immigration Health Surcharge is a £400 per year charge on non-EEA migrants, including all members of a family at the same rate. A rise in the surcharge to £625 has been proposed. There is currently a lower charge of £300 per year for students and those on the youth mobility scheme. All long-term migrants will be liable for the charge after free movement ends.

Both charges are payable upfront for the entire period of a visa – typically five years. The MAC recommended that the Immigration Skills Charge be retained at its current level of £1000 per skilled worker. This will particularly penalise small and medium enterprises that currently rely on European workers, who would have to pay £5000 upfront for each new recruit on the skilled worker visa.

If that worker arrived as part of a family of four, they would personally have to pay an additional £8000 upfront for the health surcharge. The Scottish Government strongly opposed the introduction of the health surcharge and believes it should be removed, despite receiving £20.8 million in Barnett consequentials from the surcharge in 2018. The decision in December 2018 to double the Immigration Health Surcharge was morally wrong, as is the new proposal for a £625 charge which more than triples the cost in the space of only a year.

People coming to Scotland will effectively pay twice for healthcare services, both through the health surcharge and their own tax and national insurance contributions. NHS Boards in Scotland have noted that staff such as nurses are having to pay this excessive charge to access the service to which they make such a vital contribution.

The Scottish Government remains deeply concerned that the burden of these charges will make Scotland a less attractive destination for skilled workers and international students.

Since the publication of the discussion paper in February 2018 the UK Government has agreed to reintroduce a post-study work visa. While this is welcome it is regrettable that such a change has taken so long when the evidence base for reintroducing the post-study work visa was so clear.
Case Study:

Australian immigration system

The Australian immigration system includes both points-based routes, and employer sponsored routes, along with a strong regional focus. It is designed to promote migration to Australia of people with the skills and characteristics the Australian economy and communities in Australia need: according to the Australian Bureau of Statistics, overseas migration to and from Australia in 2018 resulted in a net increase to Australia’s population of 237,200 people.

The equivalent figure for net migration to the UK in year-ending December 2018 was 258,000. The UK has over twice the population of Australia. Migrants make up a larger proportion of the population of Australia than in most OECD countries.

Individual States and Territories work with the Department of Home Affairs to attract eligible skilled and business migrants through State and Territory nominated visa programs. The Australian Government’s 2019-20 Budget announcement of a ‘New Regional Visas — Population Package’ significantly expands the regional aspect of the Australian immigration system. The Federal Government is committing $49.6 million (£26 million) in funding to introduce new visas to better support the needs of regional Australia.

New measures as part of this package include:

- Working holiday makers (a youth mobility scheme) can now apply for a third extension to their visas where they have completed prescribed work in regional Australia.
- The definition of ‘regional Australia’ is expanded to include all of Australia except the urban centres of Sydney, Melbourne, Brisbane, Gold Coast and Perth.
- New Skilled Work Regional and the Skilled Employer Sponsored Regional replace the existing regional visa schemes. The new visas will require skilled migrants to stay and work in regional Australia before transitioning to permanent residency with the ability to move anywhere in the country.
- The option of a second Temporary Graduate visa for international graduates of regional universities.

Further information on the Australian immigration system is included at Annex C.
A points-based approach to selecting migrants can be an effective way to broaden the range of criteria for eligibility, allowing migrants to score points across multiple human capital characteristics. It is typically not tied to a migrant having a job offer, although that could be one of the criteria for which points are awarded. Migrants are able to enter the labour market and seek work in the same way as resident workers. Therefore, it is not inherently problematic that some migrants entering through a points-based route find work in roles that would not be eligible for the Skilled Worker route. Even if this was considered an ‘abuse’ of the route, the context in which the previous points-based visa route was offered in the years immediately after the financial crisis was very different to today.

The Tier 1 (General) UK visa requirements before it was finally closed awarded points according to:
- Qualifications
- Previous Earnings
- UK Experience
- Age

It also had mandatory minimum criteria in English language ability, and Maintenance (checking that the individual had sufficient funds to support themselves on entry, set at £945 at that time). The English language requirement was satisfied by being a national of a specified majority English-speaking country (Australia, Canada, New Zealand and the USA, as well as a larger group of Caribbean nations), possessing a degree taught in English, or passing an English language test.

Migrants had to score 80 points overall. They were awarded 30 points for holding a Bachelor degree, 35 points for a Masters degree, or 45 points for a PhD. Points awarded for previous earnings ranged from 5 points if earnings had been in the range of £25,000-30,000, up to 80 points for earnings of £150,000 or above. An additional 5 points were awarded if these previous earnings were earned in the UK (e.g. through working as a student, on a post-study work visa, or another route). Migrants under 30 were awarded 20 points, while those aged 30 to 34 earned 10 points and those aged 35 to 39 earned 5 points.

A points-based system in itself does not imply either an open or a restrictive approach to managing immigration. That is determined by the policy intent of the government, the criteria they select and the points weighting they attach to those criteria. The experience of territories who currently use points-based immigration systems, such as Canada, New Zealand and Australia, is that they are effective in promoting migration by allowing applicants to score points across a range of characteristics.

Both the Canadian and Australian immigration systems include measures to encourage migrants to live and work beyond primary urban centres. It has been suggested that one possibility for the points-based system the UK Government is considering could be additional weighting for living outside of London, to encourage migrants to live and work in other parts of the UK.

Currently, around a third of all non-British nationals in the UK live in London. All other parts of the UK – Scotland, Wales, Northern Ireland and the regions of England – have a lower share of the non-British population in the UK than their share of the UK population overall.

A points-based system for the UK with a regional or devolved element could potentially be of benefit to Scotland, allowing the Scottish Government to establish a more progressive set of criteria, but what the UK Government has proposed does not go far enough in either the scope of its ambition or the certainty it offers. It is not guaranteed to be a long-term feature of the UK immigration system – like Fresh Talent, it could be removed at will by a future UK Government. That is one reason why the Scottish Government is seeking a tailored approach for Scotland with devolution of powers on migration, which would mean withdrawal in this way could not happen without much greater difficulty. Any move to a points-based immigration system must therefore include a commitment to regional differentiation and to enable a tailored and progressive approach to migration policy for Scotland.
Shortage Occupation Lists

The MAC completed its recent review of the shortage occupation lists in the context of the current immigration system, and was not able to consider what role the lists might play in a new points-based system.

Feedback from stakeholders the Scottish Government has received is that the shortage occupation lists as they stand were felt not to be an adequate mechanism for responding to labour market demands. It was generally agreed that the shortage lists need to be independent, to be reviewed more frequently, with increased stakeholder input and must incorporate a way of reacting to regional labour shortages.

The review by the MAC produced a welcome expansion of roles eligible for special consideration in the immigration system. However, the reforms the UK Government has proposed to the Skilled Worker route call into question the purpose of the shortage occupation lists in future. Ending the cap on the number of skilled workers able to come to the UK each year, and removing the unnecessary burden on employers of the Resident Labour Market Test are both welcome improvements, but would negate the main benefits available to shortage occupations.

One option is for the shortage occupation lists to be a feature of a future points-based system. Additional points could be awarded to migrants suitably qualified for roles in these shortage occupations, such as nurses and scientists.

The shortage lists could also interact with the salary threshold in the Skilled Worker route by allowing important roles that fall below the £30,000 threshold a reduced salary requirement. While this could be of benefit in some cases, it is not guaranteed to be an adequate substitute for reviewing the design of the immigration system, and the Skilled Worker route in particular, to ensure that it is suitable for the needs of employers across all sectors of the economy.

If the shortage occupation lists continue to play a meaningful role in the future immigration system – whether through a points-based approach or in the Skilled Worker route – the Scottish Government should have the ability to influence and determine what is on the Scotland Shortage Occupation List, as should the other devolved administrations for the new shortage lists in Wales and Northern Ireland.

Family Migration

The term ‘family migration’ usually relates to non-EU nationals entering, remaining in or settling in the UK on the basis of a relationship with a British citizen or a person settled legally in the UK. The term can include fiancée[s], proposed civil partners, spouses, civil partners, unmarried or same-sex partners, dependent children, adopted children, parents of children and adult dependents.

Analysis by the Migration Observatory at Oxford University shows that a majority of non-EU nationals admitted to the UK through family migration in 2017 were partners or children. In 2017, female partners of male residents made up 55% of all family admissions in the UK, male partners of female residents made up 20%, civil partners taken together made up 9%, and children made up 10%.

The UK Government excluded family migration from the review by the MAC of the impact of EEA migration in the UK, and there are no changes to family migration rules proposed in the immigration white paper. The expectation is that when free movement ends after the UK leaves the EU, the current family migration rules would then apply to family members joining European migrants, and to the European family of British citizens.

The UK family migration rules are considered to be some of the most restrictive among high-income countries, scoring just 33 out of 100 in the Migrant Integration Policy Index (MIPEX) in 2015. The Migration Observatory have estimated that over 40% of working people in the UK in 2015 could not meet the income requirement for family reunion in the UK immigration system. Increasing the number of people subject to the rules as they stand, rather than improving them to the benefit of all, would be unacceptable.
The restrictive nature of the family migration route is regularly highlighted in public correspondence to Scottish Ministers. These cases reinforce the concern of the Scottish Government that restrictions on family migration in the UK are having a damaging impact on many Scottish people, their families, their communities and the economy.

In 2012, as part of the ‘hostile environment’ measures, the UK Government introduced a number of changes to the family migration route including:

- A minimum salary threshold of £18,600, with a higher threshold where there are children involved;
- Abolishing immediate settlement of family members on arrival where a couple have been living together for at least four years overseas;
- A minimum probationary period of five years before family members can apply for settlement in the UK, the rationale being to test the genuineness of the relationship;
- A very high threshold for adult dependant relatives, who are now granted leave to remain in the UK only if, through age, illness or disability they cannot perform everyday tasks and they cannot receive care in their home country.

The Scottish Government believes fundamental change is needed to the approach to family migration. There are several areas where policy changes and improvements could be made to better meet Scotland’s needs. An attitudinal change is also required. UK policy frames family migration as a burden on society. The Scottish Government believes this is not true, and that people who are entitled to live in Scotland – both international migrants and UK citizens – should be able to bring their family with them. Scotland needs people to live, work and raise their families here, in light of the pronounced demographic challenge ahead. There is evidence that the ability to bring family members to Scotland is an important factor which encourages migrants to stay long-term. The policy approach to family migration approach to family migration needs to reflect that.

The core policy changes the Scottish Government wants to see in family migration can be grouped into three broad categories:

- Defining family members – including revising the restrictive definition of ‘family members’ under the family migration route, reforming the current rules whereby when children reach a certain age they are no longer considered to be ‘dependent’ on their parents and therefore cannot enter through the family migration route, and reviewing rules on adult dependant relatives.
- Financial and maintenance requirements – the income thresholds that sponsoring family members have to meet, along with the savings and maintenance requirements and the provisions for allowing third parties to contribute their support.
- Children born or raised in Scotland – a more compassionate and flexible approach to cases involving children and young people who are born in Scotland or have spent their formative years here, with consideration given to individual circumstances, the extent of their integration into society and the length of time they have been living in the UK.

To facilitate a broader discussion about how the family migration rules should operate, the Scottish Government will commission the Expert Advisory Group on Migration and Population to look more closely at the impact that current family migration rules have on families in Scotland, with particular regard to the impact on areas of devolved responsibility.
Migration: Helping Scotland Prosper

Ancestry
The Ancestry Visa route is currently open to Commonwealth citizens who wish to work in the UK, and have a grandparent born in the UK. This route was introduced in a different context and there are declining numbers of people eligible for it. The Ancestry Visa should be expanded to EU citizens in the same situation, in order to give an additional option for the family of British citizens living in the EU.

British nationality rules mean that if a British citizen born in the UK has a child, that child is automatically British no matter where they are born; but their children in turn are not generally entitled to British citizenship if born abroad. Additionally, some countries – including some EU Member States – do not allow for dual citizenship.

Expanding the Ancestry Visa to allow EU citizens to apply would help ensure that family of British nationals in the EU are able to choose to come to the UK to live and work in future through a dedicated, streamlined route.

Global Talent
The recent focus by the UK Government on exceptional talent for researchers in science, engineering, technology and maths (STEM) fields should be extended to other disciplines, with more endorsing bodies from Scotland.

The new fast-track route will provide eligible individuals with a three-year visa, during which they can come and go from the UK as they choose and promises several advantages such as no visa cap or minimum salary threshold, applicants not requiring a job offer before arriving in the UK, an accelerated route to settlement and the ability to bring dependents (spouses and children) who will have full access to the labour market.

Whilst the Scottish Government welcomes efforts to help make the UK a more attractive place to work for those in STEM fields, the new visa is effectively an expanded version of the Current Tier 1 (Exceptional Talent) scheme which already offered all of those features. The Exceptional Talent route was underutilised with only a small proportion of the allocation of 2,000 visas per year being filled. Even when the cap was set at only 1,000 per year, it was not breached. The Exceptional Talent visa only offers a fast track route for researchers at the highest level, and many early career researchers and support technicians will require other visa routes. These changes do not go far enough to ensure that Scotland can retain and attract a pipeline of talented researchers.

A positive improvement on the new visa would be to expand the pool of research institutes, bodies and universities able to endorse candidates across all regions of the UK. Currently several endorsing bodies for what is a UK-wide visa have an England-only remit.

Changes to Routes to Work in Scotland

A sponsored route for skilled workers
An employer-sponsored route for skilled workers should be one of the options available in the UK immigration system. It is familiar to many employers, and should serve as a way to allow businesses to make sure they can get the person they need, with the skills they need, when they need them.

However, the UK Government position in the immigration white paper that all work migration will be through a single route for highly skilled and skilled workers from all countries is not appropriate. There should be additional options alongside it to meet the needs of different employers and different migrants and their families.

The Scottish Government agrees that there should be no cap on the numbers of skilled workers allowed to enter through this route, and the resident labour market test should no longer be required, as the MAC recommended. There is no need to wait until the new immigration system is implemented – the UK Government should immediately remove the annual cap of 20,700 sponsorship certificates, and the resident labour market test requirement, from the current Tier 2 route.
The UK Government intends that there will be a salary threshold in this route, as in Tier 2 at present. The MAC recommended retaining the minimum salary threshold at £30,000, although they are undertaking a subsequent review on that question. A salary threshold could be an appropriate control measure in an employer-sponsored route for higher-earning skilled workers, if it is set at a point that reflects earnings at the skill level the route is open to and the situation in the wider labour market, and if additional options with different controls are available. A salary threshold of £30,000 is too high for this route.

The UK Government should retain a lower salary threshold for new entrants under the age of 26, currently set at £20,800. This should be set at an appropriate level relative to the main salary threshold, for example at the 10th percentile of the range of earnings in eligible roles. The rate at which it is expected new entrants’ earnings should increase in order to renew their visa and apply for settlement should be reviewed. The thresholds are currently set at £30,000 to renew after three years, and around £35,000 to apply for leave to remain after five years.

The main threshold in Tier 2 was previously set at the 25th percentile of the range of earnings in roles at the minimum skill level required for the route, currently graduate roles at RQF 6. The new Skilled Worker route is proposed to be open to RQF 3 level roles (equivalent to A-levels or Highers). The MAC found that the 25th percentile of the range of earnings in roles at RQF 3 was £20,100.

Some stakeholders have suggested a salary threshold set at a level that is a multiplier of National Minimum Wage. For example, a full-time salary that is 50% above National Minimum Wage is approximately £23,000.

Many organisations and stakeholders who have made a public statement of their views on the salary threshold to date, with or without an expressed methodology, have clustered in the range of £20,000 to £24,000, approximately. The Russell Group and Universities Scotland suggest £21,000, and the Welsh Centre for Public Policy (commissioned and endorsed by the Welsh Government) proposes £20,000.

One of the policy purposes of a salary threshold is to prevent downward pressure on salary levels through employers recruiting foreign workers at lower wages than the resident workforce would accept. However, this is a fundamental misconception of the way migration interacts with the labour market.

The MAC found in their comprehensive analysis of the impact of EEA migration on the UK labour market that there is “overall no evidence that EEA migration has reduced wages for UK-born workers on average.” There is no selection mechanism in migration from the EU, and no salary threshold those workers have to meet – but nevertheless, EU migration has had, on average, no impact on wages for resident workers. That calls into question the purpose of a salary threshold intended to prevent wage undercutting through migration when the available evidence suggests that does not happen.

“If the goal of the salary threshold is to address the perception of this problem and provide reassurance to resident workers that migration is not undercutting wages, linking the minimum threshold to National Minimum Wage or the National Living Wage could be an option to explore. This would automatically uprate as changes to minimum wage levels come into place.”

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Even with a salary threshold set below £30,000, the design of the Skilled Worker route may not be suitable for some key sectors. In many cases, developing additional options in the immigration system should allow employers to adapt to changes in migration rules, and access the skills and labour they require. There remains a risk that the social care sector, among others, may still be exposed to a particular challenge. The UK Government should work closely with the sector to understand the need for overseas workers in social care roles, and ensure the immigration system is able to help respond to demographic change and meet the needs of an ageing society.

“the effect of low-skilled migration on low-skilled wages is zero.”

Professor Esther Duflo,
2019 Nobel prize winning economist
The MAC observes that beyond London and parts of the South East, average salary levels across the rest of the UK are broadly similar: in fact, Scotland is one of the highest-salaried areas in the UK outwith London. They suggested that a higher threshold for London, with a single lower threshold for other parts of the UK, would be a possible approach to regional salary levels.

A “London weighting” in the salary threshold for this route could offer some benefit to Scotland; however, approaches that are designed to encourage and facilitate migration to Scotland are more likely to be successful and meet Scotland’s needs than approaches that are designed to discourage migration to other parts of the UK.

The Scottish Visa proposed in this paper would not have a salary threshold, and a true points-based immigration system should not have a salary threshold. In thinking about a Scottish Visa, and potentially also a UK points-based system, the Scottish Government is interested in exploring an approach that captures social value and contribution alongside economic value. Within the Skilled Worker route, the priority is a more appropriate salary threshold. However, a focus on salary and earnings above all else privileges certain elements of the economy and certain geographies, and additional options should be available in the immigration system that are more closely aligned to social value.

Alongside policy changes, the UK Government should deliver on simplifying bureaucracy and reducing costs. The Home Office aims to make the system as straightforward and light touch as possible, and low cost to employers, and that is a welcome ambition.

A new route for European workers

As a transitional measure after leaving the EU and ending free movement, the UK Government has proposed a time-limited route for temporary workers. This will allow people to come for a maximum of 12 months, with a cooling-off period of a further 12 months. There is no sponsorship requirement, but it will not carry entitlements to access public funds or rights to extend a stay, switch to other routes, bring dependents or lead to permanent settlement. It will only be open to nationals of specified low risk countries, which have not yet been defined. The UK Government intends to review this route by 2025 and expects to close it at some point.

The temporary worker route was intended to prevent a ‘cliff-edge’ for employers who had previously relied on free movement. Although eligibility based on nationality has not been defined, it would be expected to include EEA countries who currently have free movement rights. However, the short term of stay and the cooling-off period preventing returns within 12 months mean that for many sectors, it is not an adequate replacement or transitional measure. It would potentially disincentivise investment in training of workers to improve productivity, and creates problems in sectors where continuity of employment is important, for example in social care.

The UK Government should consider revising this proposed route to better meet the needs of employers and migrants. Several stakeholders, including the CBI, have proposed extending the length of stay to 24 months. If this was combined with the ability to easily transfer onto other eligible visa routes while the migrant is in the UK, this could represent a useful option for workers from the EEA to come to the UK.
The UK should prioritise a close relationship with the EU after it leaves, including facilitated access for EU workers to the UK labour market, and British workers into the EU, even if the right to free movement is ended. The UK Government should learn from precedents in existing EU relationships with third countries through trade deals, association agreements and other undertakings. One model in an existing EU agreement, with Turkey, requires continued employment with a single employer for a specified duration before wider options open.

The revised temporary worker route could therefore represent a pathway in the UK immigration system to a reciprocally negotiated agreement on labour market access.

Some stakeholders have suggested a six-month temporary worker visa, with a six-month cooling-off period, could provide a helpful option for sectors which rely on a seasonal workforce. These include tourism and hospitality, food processing, forestry and other land-based industries, including edible horticulture which is currently the focus of a limited Seasonal Workers Pilot Scheme. This is explored further in a proposal for a ‘Working Visitor’ visa later in this chapter.

### CHANGES TO ROUTES TO STUDY IN SCOTLAND

#### International students

The UK Government should reduce the unnecessary administrative burdens on education institutions and international students introduced as part of the ‘hostile environment’ measures. Home Office figures show that the scale of the perceived abuse of the system by students overstaying their visa at the end of their studies is significantly smaller than previously suggested. The UK Government had stated that around one hundred thousand students had overstayed their visa, when in fact it was fewer than five thousand. The excessive compliance bureaucracy introduced to combat this should be rolled back, with more trust placed in established colleges and universities to recruit international students on the basis of academic ability.

English language skills are often essential for overseas nationals hoping to enter the UK and they have to meet different requirements depending on the type of visa for which they apply. As part of the overreaction of the ‘hostile environment’ a 2014 investigation into exam cheating resulted in an excessive remedy of tens of thousands of people’s visas being revoked, wrongly in many cases.

While it is welcome that around 3,700 people accused of cheating on the Test of English for International Communication (TOEIC) have won appeals in the First-tier Tribunal, 35,870 visas have been revoked and an estimated 11,400 people caught up in the scandal have subsequently left the UK.

The House of Commons Committee of Public Accounts has noted the detrimental impact on the lives of overseas students accused of cheating. The Committee highlighted that the design of the Tier 4 visa system left it open to large-scale abuse but that the UK Government rushed to penalise students without establishing whether it had reliable evidence of cheating and that it has not acted to put right these wrongs.

#### Short-term study

Recent positive steps to improve entry to the UK at the border for visitors from certain countries through access to e-gates has inadvertently created a potential issue for students coming for short-term courses of study being issued with the wrong visa if they do not speak to a Border Force officer on arrival. Signage has been introduced to highlight the issue, but it will become more pronounced when students from EU countries are also subject to these rules. The UK Government should consider options to resolve this, including potentially removing the short-term study visa and permitting study on short courses under the standard visitor rules.
Case Study:

European Temporary Leave to Remain

If the UK was to leave the EU without a deal, it is expected that an interim ‘European Temporary Leave to Remain’ scheme would become available for EU citizens coming to the UK. They will be required to apply to stay in the UK for up to three years, after which they would have to switch on to an appropriate visa in the new immigration system.

The proposed three-year non-extendable time limit will have serious consequences for Scottish education institutions, putting them at a competitive disadvantage with regards to undergraduate recruitment. Scottish undergraduate degrees are typically four years, and many advanced degrees across the UK are longer than three years.

Limiting Europeans to three years without any clarity on what system they will move onto, or how much it will cost, risks putting students and staff off thinking of coming to Scotland to study and work. Despite repeated urging from the Scottish Government and the sector, and acknowledgment of the problem by the UK Government, it has not been clarified how this disadvantage to Scottish universities will be resolved.

Post-study work visa

The UK Government has announced the reintroduction of a post-study work visa from the summer of 2021. This follows the recommendation of the Smith Commission that post study work visa should be reintroduced, as well as the findings of a working group representing universities, employers, civic society and all political parties in the Scottish Parliament.

The work following Smith to develop that proposal brought in a wide range of stakeholders from education, business and civic society, and gained cross-party support and consensus in the Scottish Parliament.

Post-study work has continued relevance because attracting and retaining highly-skilled workers is important for economic goals; and attracting and retaining young people is important for demographic goals. Graduates tend to be highly-skilled young people. There is a strong focus across the world in attracting international graduates and the post study work visa offer is seen as an important element of the wider package which employers, universities and research bodies use to attract graduates.

The new post-study work visa is a welcome step, but one that is long overdue. The UK Government should bring forward the planned introduction so that students in the UK due to graduate next summer can benefit.

Fresh Talent, and the post-study work visa that replaced it in 2008, was open to students who had gained an HND-level qualification, or higher, at a Scottish institution. The UK Government should reintroduce this allowance in the new route.
CHANGES TO ROUTES TO VISIT SCOTLAND

Welcoming visitors and enabling collaboration

Standard visitors can enter the UK and remain for up to six months, compared to around three months in most comparable countries. This relatively generous offer by international standards is skewed by an approach to risk management based on nationality that in practice can make it very difficult for citizens of certain countries to enter the UK. This is particularly pronounced in the Scottish context during the Edinburgh festivals, when artists, performers and participants from all over the globe want to come to Scotland.

The Cabinet Secretary for Culture, Tourism and External Affairs is due to convene a Festivals Visa Summit to address these issues and has invited Ministers from the UK Government and Welsh Government, representatives of the Northern Ireland Civil Service, and stakeholders in the cultural and creative sectors across Scotland and the UK.

The permit-free festivals scheme benefits many festivals in Scotland and around the UK, by allowing performers to come to the UK on a visitor visa rather than a work visa. This scheme should be retained, but the annual reporting and application procedure should be reviewed and made more straightforward for established festivals.

The UK Government does not intend to require EU visitors to obtain a visitor visa in advance of travel once the UK has left the EU, in common with other low-risk countries. EU citizens should also still able to use e-gates to enter the UK after the UK leaves the EU, rather than speaking to a Border Force officer.

In the case of nationals of countries who do require a visitor visa, where there is no review or appeal process for refusals, it is important that decision-making is accurate, fair and transparent.

Working visitors

The Permitted Paid Engagement (PPE) visa in the visitor rules allows limited paid engagements in certain categories on a visit of up to four weeks. For example, performers at festivals and cultural events that are not part of the permit-free festivals scheme must apply for a PPE visa if they are to be paid in the UK.

Feedback from stakeholders is that this visa route is helpful and necessary, but that in some cases four weeks is not long enough. The UK Government should consider extending the length of stay under this route to six months, in line with the standard visitor visa, as well as extending and clarifying the permitted activities under this route.

A six-month visa along these lines might also take in seasonal work in specific sectors, rather than devising multiple sector-specific schemes. The Home Office and Defra are currently running a small-scale pilot scheme for agricultural workers in the edible horticulture sector, of only 2,500 workers for the whole of the UK. This limited pilot has been a relative success according to feedback from stakeholders in Scotland, but questions remain about scalability to the level labour shortfalls in the sector demand in a model where workers require sponsorship from a labour services provider. There is also no concession to other sectors that rely on a seasonal workforce such as tourism and hospitality or food processing, or other land-based industries such as forestry. Schemes intended for lower-skilled or lower-waged employment which tie an individual’s immigration status to a particular employer potentially open the risk of exploitation. A system that allowed workers to change employer at will, as they can under free movement from Europe, putting more rights in their hands.
Case Study:

Seasonal Workers Pilot Scheme

Productivity is key to the future success of the Scottish agri-food industry, a key growth sector of the Scottish economy. The Scottish food and drink sector and Scottish Government’s joint target to double the sector’s turnover to £30 billion by 2030 will not be reached if the sector cannot employ workers throughout the food chain.

The evidence gathered by NFU Scotland from members who employ both temporary and permanent workers from outside of the UK was that 50% of respondents have experienced problems in recruiting non-UK workers over the last three years.

Many NFU Scotland members have tried repeatedly over a number of years to attract local or domestic workers but with little success. Key issues were the calibre and commitment of local recruits; local recruits did not tend to stay in the job or express willingness to undergo training to get up to speed with more experienced workers. According to a recent NFU Scotland survey, the majority of temporary workers fulfilling jobs in Scottish agri-food stayed between three and nine months in horticulture and potatoes sectors, as well as processing.

Many horticultural and potatoes businesses reported that they recruit returning staff for a number of years who upskill within their roles into senior positions such as pack house managers, team leaders and harvesting supervisors. A significant number of non-UK temporary workers return to the UK year-on-year, having been trained within their posts and built a trusting relationship with their employer – therefore attracting higher wages to reflect role progression year-on-year. The EEA Worker visa proposal in this paper, with a longer 24-month initial entry period and options to switch onto other routes, would be better for workers like this, while a six-month temporary visa scheme may be appropriate for others.
Expanded Youth Mobility

The Seasonal Workers Pilot Scheme of 2,500 places in 2019 is understood to have attracted mainly student workers. This is perhaps due to the conditions of the visa: workers can stay a maximum of six months, during which time they live on-site in communal accommodation provided by employers. Those with families or partners are not catered for. The route is therefore attractive as a working holiday for young single people wishing to come to the UK, for whom other routes would be closed.

An expanded Youth Mobility route could also help alleviate shortages in some sectors, although it is not guaranteed that the available supply through a youth mobility route would match the demand in either quantity, skills or even interest from young people in certain industries.

The UK Government has proposed extending a Youth Mobility scheme to European countries after leaving the EU, alongside current reciprocal schemes agreed with countries including Australia, New Zealand and South Korea. This would be a positive step, although a two-year working holiday visa does not match the possibilities available to young people under free movement as EU citizens.

The UK could learn from the Australian system of working holiday visas, where young people are eligible to extend their stay in Australia if they live in a particular region, such as a rural area, or work in a particular occupation. Therefore, the UK Government should work with the Scottish Government to develop a pilot scheme to allow individuals in the UK on the Tier 5 Youth Mobility visa to extend their stay for up to an additional year if they reside in Scotland during that time. This would be an early opportunity to test a residence requirement as a visa condition in a low-risk context.

The UK Government should also allow in-country switching from Tier 5 Youth Mobility into other visa categories, rather than requiring applicants to leave the UK in order to submit a new application. This could provide another route to help attract and retain talented young migrants.

CHANGES TO ROUTES TO INVEST IN SCOTLAND

Innovator and Start-Up routes

The UK Government should work with stakeholders to make improvements to the Innovator and Start-Up visa routes, which have had a poor reception since their introduction in April 2019, and if necessary reinstate the Entrepreneur and Graduate Entrepreneur routes they replaced until the new routes are appropriately amended.

The Innovator and Start-Up visa categories are intended for experienced entrepreneurs and new business start-ups, respectively, with innovative, scalable business ideas to benefit the UK economy. The new schemes were introduced, and the old routes closed to new applications, with little notice or consultation with relevant stakeholders.

This has led to very limited take-up of the new routes, which need to be endorsed by a registered body in the UK such as a university or tech incubator. Of the two new routes the Start-Up visa has been more positively received, with 122 universities across the UK acting as endorsers for their students and recent alumni.

Comparatively there are currently only 35 organisations on the Innovator endorsing bodies list, the majority of which will generally only endorse applicants for their own programmes. This is in part to combat the administrative challenge of sifting low-quality speculative applications.

This need to participate in a business accelerator programme limits the opportunities for international entrepreneurs to secure endorsement. Coupled with the added risk of being able to meet the extremely high bar for settlement and relinquishing equity in exchange for approval on the start-up route, these schemes have become undesirable to international innovators.
There were only four Innovator visas issued in the new schemes’ first three months. In comparison, the visa it replaced had 1,160 visas issued in 2018. Scottish EDGE requested four tickets of the 25 available to endorsers as standard and have yet to issue any endorsements but are nearing completion on their first. Similarly Invest Northern Ireland had only issued three endorsements out of an allocation of 25 by the end of 2019. Other delivery partners also issued endorsements in lower volumes compared to the previous Entrepreneur and Graduate Entrepreneur routes.

Tech Nation had previously announced that they would begin operating the Start-up and Innovator visa routes in September 2019. However they have decided it is necessary to delay endorsement of these routes in order to explore a new Tech Nation initiative that would enable them to support international entrepreneurs. They aim to begin endorsing applications by April 2020.

Some organisations were approached to act as endorsing bodies before the official guidance was made available and so they were not aware of the rigorous monitoring and compliance burden they would have to meet in order to maintain endorser status. Since the launch of the schemes the guidance has been updated to add additional conditions with which endorsing bodies will need to comply.

The operation of these routes centres around third party endorsement by industry experts, an idea which came from the 2015 MAC review of entrepreneur visas. Shifting the relationship and responsibility away from the Home Office and onto industry could open endorsing bodies up to legal action as the innovator’s immigration status and ability to remain in the UK is reliant upon the maintenance and extension of the endorsement. Equally if an endorsing body maintains or extends the endorsement despite the business not meeting the rigorous criteria, they are then non-compliant and risk being penalised and potentially having their endorser status revoked.

In addition, the innovator receiving endorsement would not be required to be based in Scotland and consequently would not necessarily create jobs in Scotland or contribute to the Scottish tax base. There is also the added complexity around monitoring and compliance as to whether endorsers should be assessing businesses that are not based in their countries. It makes sense therefore that Scottish based endorsers would only expect to endorse innovators who are making a contribution to the Scottish economy or society.
Next Steps
The Scottish Government believes that migration strengthens society and the nation benefits from the skills, experience and expertise of people who have chosen to live, work, study and raise their families in Scotland. Inward migration, whether from the rest of the UK, the EU or further afield, has made an overwhelmingly positive contribution to Scotland’s economy and society, and migrants play a vital part in ensuring that Scotland remains a diverse and outward-looking country that is open to the world.

Scotland also needs a different approach to migration policy. With more deaths than births projected each year going forward until at least 2043, all of Scotland’s population growth will come from migration. It is important to ensure that the immigration system enables businesses and public services to recruit individuals with the skills that they need; allows communities to prosper and is fair and transparent to individuals and employers seeking to navigate the system; and is designed and targeted in a way to help respond to the implications of demographic change.

Equally, whether or not the UK leaves the EU and ends free movement, or remains in the European Single Market and free movement continues, the different situation in Scotland demands different, additional solutions. The UK Government has suggested the adoption of a points-based immigration system. Countries with similar systems such as Canada and Australia incorporate regional flexibilities by working with provincial, state and territorial governments to offer a range of tailored migration initiatives.

There is an obvious parallel there with Scotland’s situation in relation to the rest of the UK. The establishment of the Scottish Parliament reflected an acceptance of the need for a differentiated approach to policy making in Scotland across a range of key issues. It allows for tailored approaches to specific challenges. As the Migration Observatory noted in a 2017 report on regional migration policy, Australia and Canada have full federal structures with democratically elected legislatures and executives to manage such regional differentiation. Scotland, as in Wales and Northern Ireland, also has a democratically elected legislature along with executive and administrative capacity and governance and accountability mechanisms to manage such policy differentiation in the UK context.

It is clear that a tailored approach to migration policy for Scotland could work – it requires political will, and an ongoing commitment to partnership working, to make it happen.

**WELCOME TO SCOTLAND**

Migration into Scotland comprises people moving to Scotland from the rest of the UK and those moving from other countries. In every year since mid-2000 the number of people moving to Scotland from the rest of the UK exceeded the number of those moving in the opposite direction. Similarly the number of people who moved to Scotland from overseas exceeded the number of people who left Scotland in the opposite direction. People want to move to Scotland. It is an attractive destination. However, proposals to end freedom of movement and the constraints that the UK Government has placed on international migration prevent people from moving to Scotland and making a positive contribution to our economy and our communities.

Moving to a new country can be challenging. Individuals and families may need help to understand their rights and responsibilities and navigate and access the appropriate information and services.

The *Welcome to Scotland* resource is a practical online tool to help and assist people who have chosen to make Scotland their home. It will aim to ensure individuals are well informed, knowledgeable and empowered when moving to Scotland. It will also aim to mitigate any barriers that migrants may face following their decision to move to Scotland, such as perceived lack of support, difficulty accessing public services or complexity of information.
Annex A: What we have heard from the discussion

Speaking to businesses and communities

The Scottish Government has engaged with business groups, employers, immigration policy experts, and migrant and community groups, and has taken on board concerns about the current immigration system, the challenges presented by leaving the EU, and the opportunities of a tailored approach to migration policy for Scotland.
SEASONAL AGRICULTURE
Employers
Scotland’s Rural College estimates that over 9,000 non-UK seasonal workers are employed on Scottish farms every year, the majority of whom come from other EU countries. Scotland accounts for around a quarter of UK strawberry production and the soft fruit sector is of considerable value to the Scottish economy with an estimated income of £134 million in 2017.

Migration Minister Ben Macpherson visited Allanhill Farming Company, near St Andrews, which supplies strawberries to major supermarket chains and employs over 500 workers in the season, many of whom return to work year on year with some being promoted to supervisory and managerial roles.

The business relies mainly on Polish, Bulgarian and Romanian seasonal workers to harvest the crop. However during the 2018 season it experienced a labour shortfall of around 12%. Allanhill, like many producers, are concerned that the loss of free movement and the uncertainty around Brexit will considerably exacerbate current labour shortages.

The new seasonal workers pilot scheme has been welcomed, with recruits making up 25% of their workforce in 2019. However, candidates were late arriving due to recruitment and visa issues which led to labour planning issues.

TOURISM SECTOR
Ministerial Roundtables
Tourism makes a significant contribution to Scotland’s economy, particularly rural areas such as the Scottish Highlands. The industry accounts for around one in every twelve jobs in Scotland and in 2017 spending by tourists generated around £14 billion of economic activity in the wider Scottish supply chain and contributed around £8 billion to Scottish GDP.

There are approximately 21,000 EU nationals working in tourism, which is around 11.5% of employment in the sector. It is estimated that 90% of the workforce in Distribution, Hotels and Restaurants earn below £30,000. This rises to over 96% of the non-UK workforce.

Migration Minister Ben Macpherson met sector leaders in a roundtable discussion in Inverness. The consensus was that labour mobility and access is the most pressing issue as is the impact of restricted labour to the industry supply chain, particularly during high season.

Concerns were raised about lack of interest from the resident population in pursuing a career in tourism leading to a greater reliance on non-UK workers. Stakeholders also noted the perception that roles within the sector were ‘low skill’ is purely based on salary thresholds and disregard the complex needs of the sector.

SOCIAL CARE
EU citizens events
The Camphill movement provides a mutually supportive environment, a home and meaningful work for all those involved and openly encourages volunteers to come from all over the world to join, live in and work in their communities.

There are 11 Camphill communities in Scotland, supporting more than 600 people with learning disabilities and other support needs. Over two-thirds of the short-term co-workers currently living in Camphill communities in Scotland and over half of the long-term co-workers are from other EU countries.

Migration Minister Ben Macpherson visited the Camphill community at Newton Dee, where there are around 200 people within the community, nearly half of those being villagers with special needs and the other being co-workers and their families. Co-workers and villagers live together and as a result there are no on/off duty times within households ranging from four to sixteen people.

Volunteers from other EU countries shared their concerns about the potential impact of Brexit and worries that they would not be able to continue to live in the UK or have similar access to the EU volunteers.
WHY CURRENT UK IMMIGRATION POLICY DOESN’T MEET SCOTLAND’S NEEDS

The Scottish Government has engaged with a wide range of stakeholders across Scotland to explore their current experience of the UK immigration system. This has included Ministerial roundtable discussions, visits and meetings, and workshops and requests for input led by officials.

Sponsorship

Many of the stakeholders spoken to expressed concerns about the current process of sponsorship, the means by which employers can bring international talent into the UK to work. The system of sponsorship has been in operation in the UK for over ten years.

The main concerns raised about the current system of sponsorship centred on its cost, complexity and issues relating to compliance.

The cost and complexity of the process can make sponsorship prohibitive for small businesses and start-ups, many of which do not have the resource to cope with the sponsorship system in its current form. The length and complexity of the application form and the resource-intensive nature of the auditing process that sponsors must undergo were considered the most onerous aspects. Even large organisations, with the capacity and resources to apportion to the sponsorship process, often struggle to keep up with any changes in the sponsorship process.

The complexity of the process also increases the likelihood of errors being made by the sponsor or the employee, the repercussions of which were felt to be disproportionate. A sponsor could lose their licence for a relatively minor, unintentional error – if for example an employee was audited and found to be fulfilling tasks not detailed in their job description. This disproportionate risk was seen to unfairly disadvantage smaller businesses which are unlikely to have the capital or resources to successfully challenge the revocation of their sponsor licence.

Concerns were also raised that given the cost, complexity, and risks for those taking part in the sponsorship process, the system could not be scaled up quickly and effectively enough to satisfy labour force demand in the event of free movement ending. Some questioned whether large numbers of employers engaging with the sponsorship process for the first time would get the support they need, and whether the Home Office would find adequate resources to maintain a complex, admin-heavy process on a far larger scale than previously.
Salary Threshold

The current international immigration system includes salary and qualifications thresholds, with the expectation that similar thresholds would apply to EU citizens in future. There is no salary (or skills) requirement to come to the UK under freedom of movement.

The UK Government has placed a strong focus on ‘skilled migration’ and uses qualifications and salary as measures to assess skill levels. Many respondents raised concerns that this definition of “skilled work” excluded important skilled professions, vital to Scotland’s economy (one example given was that of dairy stockmen who can earn over £30,000, but where there are no formal training schemes or qualifications to measure the skill level of this role, which is based on experience). One suggested solution was that sector bodies could be employed in an endorsing capacity to help with the definition and measurement of skill for roles in their sector.

The salary threshold potentially prevents migrants coming to the UK in entry-level jobs and developing their career here, incentivising only “top” jobs, leaving lower skilled, lower paid work for the resident population. In rural communities and in an era of high employment there is often not a resident population seeking this work.

Concerns were also raised that pay progression in some roles is not realistically reflected in the requirements for those wishing to renew their visas or apply for indefinite leave to remain. This is particularly pronounced for ‘new entrants’, young graduates who have a lower initial salary threshold of £20,800 but must meet higher thresholds at renewal and settlement. This potentially removes skilled workers from the UK labour force and prevents workers settling in the UK.

It was also recognised that the current system has no means of measuring the social value of workers – to their communities and to the wider economy. Social care is often quoted as an example of a profession with high social value but for which there is no route within the current immigration system. With average annual salaries of £17,000, this falls far short of the £30,000 threshold and when extended to EU citizens will have a devastating effect on a workforce already facing shortages.

The current system is viewed by stakeholders as overly bureaucratic, placing significant administrative and financial burdens on employers and individuals. The view was that the process takes too long, is complex, inflexible and the rigid focus on salary and qualifications often means that employers are unable to recruit the individuals they need, or individuals with the skills and experience valued by society.

Freedom of movement in contrast has provided a low cost, flexible route to employment for individuals with skills and experience in sectors across all parts of Scotland.
Impact on Scotland

The UK Government has been clear that it is committed to ending free movement of people once the UK has left the EU. Employers across Scotland have consistently expressed concern that any restriction on free movement of EU labour could negatively affect their businesses especially if it were to involve new administrative or bureaucratic requirements that would impose financial or other costs.

For many small and medium-sized enterprises in particular, applying the same restrictive rules on migration to EEA migrants risks removing another valuable source of labour from smaller businesses and adding significant cost and bureaucracy to recruitment. These challenges would also face public services.

The clear consensus from stakeholders was that the initial proposal for a £30,000 salary threshold in the skilled worker route does not work for the majority of sectors including health, social care, hospitality and food and drink.

The independent Expert Advisory Group on Migration and Population, in their February 2019 report, analysed differences in income across Scotland. Their analysis shows that 63% of employees in Scotland (both UK and non-UK nationals) earn less than £30,000 and a salary threshold at that level would dramatically constrain Scottish employers’ access to skills and the workers they need to deliver and grow.

The overall reduction in EU migration would be especially challenging for those sectors most reliant on lower-paid, non-UK workers, including occupations such as textiles, social care, leisure and travel, sales and elementary occupations. Many of these sectors would be unable to adjust by increased investment in skills or capital. Employers in rural and island communities would be significantly affected by a high salary threshold. Placing further restrictions on migration to Scotland is likely to harm the rural economy.

As well as engaging directly with the Scottish Government, business leaders in Scotland made their position clear in their response to the UK Government white paper.

“The proposals outlined in the white paper don’t meet Scotland’s needs or the needs of the UK as a whole, and would be a sucker punch for many firms right across the country.”

CBI Scotland

“The UK government’s obstinate approach to immigration is a clear threat to many of Scotland’s businesses and local communities. These proposals will make it nigh impossible for the vast majority of Scottish firms to access any non-UK labour and the skills they need to grow and sustain their operations.”

FSB Scotland

“[There] is no doubt the government’s plans will exacerbate the existing recruitment crisis considerably, placing our tourism industry and what is one of the most important economic drivers for Scotland in severe jeopardy.”

Scottish Tourism Alliance

“It is becoming clear to NFU Scotland there is misleading and damaging rhetoric coming from UK government and its advisors on where the gaps in skills and labour are. It is very concerning to us, and other stakeholders in the wider food and drink processing industry, that the strong evidence of our sectors has not been heeded.”

NFU Scotland
Migration: Helping Scotland Prosper

CLAIRE
FARMER
PICTURED IN TORLOISK FARM, ISLE OF MULL
BORN IN SWITZERLAND
Annex B: Scotland’s distinct population and migration needs
SCOTLAND’S POPULATION IN RECENT HISTORY

Scotland’s history of migration is different to that of much of the rest of the UK. The dominant migration story through much of Scotland’s history has been a story of out migration, of people leaving Scotland to build their future elsewhere. Throughout much of the twentieth century while England and Wales saw strong in-migration Scotland experienced population decline. It is only since 2001 that Scotland has been in a period of sustained net in-migration, driven by the growth in both the numbers of EU citizens and those from the rest of the UK coming to live and work in Scotland.

Figure 5: Components of Scotland’s population change, 1957-2018

Source: National Records of Scotland
Free movement has enabled people from across the EU to live, work and study here, helping to grow Scotland’s working age population and Scotland. Scotland has also benefitted economically and culturally from the people who have chosen to make their home here and to make a positive contribution.

In the year to mid-2018, migration alone contributed to Scotland’s population growth with 20,900 more people coming to Scotland than leaving. This is a reduction from +23,900 people in the year to mid-2017 and +31,700 people in the year to mid-2016, and coincides with the period after the UK’s decision to leave the EU.

Overall, 7% of the resident population of Scotland have non-British nationality. Of all non-British nationals living in Scotland, 237,000 (64%) were EU nationals and 135,000 (36%) were non-EU nationals in the year-ending June 2019. Over half of EU nationals living in Scotland were from EU8 countries.

However, Scotland’s history of out-migration and population decline has left a structural legacy. Communities, especially rural communities, did not just lose those individuals who left, but also lost potential future generations of their children and grandchildren. That legacy means that Scotland is more reliant on migration than elsewhere in the UK.

**Figure 6: Number of non-British nationals living in Scotland, year-ending June 2019**

**Number of non-British nationals**

<table>
<thead>
<tr>
<th>EU</th>
<th>EU8</th>
<th>EU2</th>
<th>EU Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>237,000</td>
<td>135,000</td>
<td>22,000</td>
<td>2,000</td>
</tr>
<tr>
<td>Non-EU</td>
<td>Asia</td>
<td>Rest of World</td>
<td></td>
</tr>
<tr>
<td>135,000</td>
<td>64,000</td>
<td>63,000</td>
<td></td>
</tr>
</tbody>
</table>

Source: National Records of Scotland
At the same time as migration has grown, natural change has not contributed to Scotland’s recent population growth: there were 7,700 more deaths than births in the latest year. This is the largest natural decrease on record to date. The number of births in Scotland continued to fall in 2018. There were 51,308 live births registered in 2018, the lowest annual total since 2002 and the second lowest annual total since records began in 1855.

This means that Scotland has an unbalanced population: a growing older population and decline in the number of children.

Figure 7 shows the age structure of the population in Scotland and the UK in the year to mid-2018. Currently, Scotland has a lower than average share of the population who are 20 or younger – due to a lower birth rate. Scotland has a higher than average share of the population who are 50 or older.

Figure 7: Age structure of the population, Scotland and the UK, year to mid-2018

Population growth is also not distributed evenly across all areas. Last year 14 of Scotland’s local authorities, or nearly half, experienced depopulation.
A number of nations are facing similar issues of an ageing population, a declining birth rate and population decline in rural communities. Scotland’s challenges are more pronounced when compared to the experience in other parts of the UK but are not untypical when compared to the issues facing many other nations.

Research by the Expert Advisory Group on Migration and Population published in November 2019 shows how Scotland’s average annual population growth has compared with the rest of Europe [Figure 9].

### Figure 8: Population change across Scotland’s local authorities, 2017-2018

<table>
<thead>
<tr>
<th>Council Area</th>
<th>Percentage change from 2017 to 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Midlothian</td>
<td>1.39%</td>
</tr>
<tr>
<td>City of Edinburgh</td>
<td>1.03%</td>
</tr>
<tr>
<td>East Lothian</td>
<td>0.91%</td>
</tr>
<tr>
<td>Glasgow City</td>
<td>0.87%</td>
</tr>
<tr>
<td>Orkney Islands</td>
<td>0.86%</td>
</tr>
<tr>
<td>Renfrewshire</td>
<td>0.54%</td>
</tr>
<tr>
<td>West Lothian</td>
<td>0.46%</td>
</tr>
<tr>
<td>East Renfrewshire</td>
<td>0.43%</td>
</tr>
<tr>
<td>Stirling</td>
<td>0.35%</td>
</tr>
<tr>
<td>South Lanarkshire</td>
<td>0.27%</td>
</tr>
<tr>
<td><strong>Scotland</strong></td>
<td><strong>0.25%</strong></td>
</tr>
<tr>
<td>Scottish Borders</td>
<td>0.22%</td>
</tr>
<tr>
<td>East Dunbartonshire</td>
<td>0.18%</td>
</tr>
<tr>
<td>Highland</td>
<td>0.15%</td>
</tr>
<tr>
<td>Fife</td>
<td>0.13%</td>
</tr>
<tr>
<td>Perth and Kinross</td>
<td>0.13%</td>
</tr>
<tr>
<td>North Lanarkshire</td>
<td>0.13%</td>
</tr>
<tr>
<td>Dundee City</td>
<td>0.06%</td>
</tr>
<tr>
<td>East Ayrshire</td>
<td>-0.08%</td>
</tr>
<tr>
<td>Clackmannanshire</td>
<td>-0.10%</td>
</tr>
<tr>
<td>South Ayrshire</td>
<td>-0.12%</td>
</tr>
<tr>
<td>Aberdeenshire</td>
<td>-0.13%</td>
</tr>
<tr>
<td>Angus</td>
<td>-0.21%</td>
</tr>
<tr>
<td>Moray</td>
<td>-0.27%</td>
</tr>
<tr>
<td>Dumfries and Galloway</td>
<td>-0.27%</td>
</tr>
<tr>
<td>North Ayrshire</td>
<td>-0.38%</td>
</tr>
<tr>
<td>Shetland Islands</td>
<td>-0.39%</td>
</tr>
<tr>
<td>Na h-Eileanan Siar</td>
<td>-0.45%</td>
</tr>
<tr>
<td>West Dunbartonshire</td>
<td>-0.54%</td>
</tr>
<tr>
<td>Aberdeen City</td>
<td>-0.54%</td>
</tr>
<tr>
<td>Argyll and Bute</td>
<td>-0.63%</td>
</tr>
<tr>
<td>Inverclyde</td>
<td>-0.77%</td>
</tr>
</tbody>
</table>

Source: National Records of Scotland
In Scotland the areas experiencing depopulation are mostly rural or island communities as well as areas in the West of Scotland. The James Hutton Institute has undertaken research on Sparsely Populated Areas of Scotland (Figure 10). While these areas contain only 2.6% of Scotland’s population they extend to almost half of the land area of Scotland. It is the scale and potential impact of the issue which makes it a distinctive challenge for Scotland and a challenge which needs to be addressed.

Figure 9: Average annual population growth rate by NUTS 3 region (per inhabitants), 2013-2018.

Source: Expert Advisory Group on Migration and Population
As other nations have experienced the challenge of depopulation and population ageing they have developed solutions to deal with these challenges, including tailored migration policies.
SCOTLAND’S POPULATION IN FUTURE

The structure of Scotland’s population is therefore strongly influenced by a history of out-migration. These demographic challenges, including geographical aspects, are felt more sharply in Scotland than elsewhere in the UK.

This will have an impact on future population change as well. National Population Projections are released every two years. The 2018-based projections for Scotland were published in October 2019 by National Records of Scotland, along with projections for the UK produced by the Office for National Statistics.

The projections are widely used in planning of public services, resource allocation, understanding potential demand for health services including the impact of our ageing population and teacher workforce planning.

They are also used by the independent fiscal institutions, the Office for Budget Responsibility and the Scottish Fiscal Commission, to inform their economic and fiscal forecasts. However, they do not make any assumptions about future policy change and therefore do not reflect the ending of free movement.

The 2018-based National Population Projections show Scotland’s population is projected to continue to increase, by 1.8% in the first ten years of the projections, and by 2.5% over 25 years to reach 5.57 million by mid-2043. There is considerable variation across Scotland in relation to projected population growth. Research from the James Hutton Institute suggests that Scotland’s sparsely populated areas are set to lose more than a quarter of their population by 2046.

Figure 11: Projected population of Scotland, mid-2018 to mid-2043

Number of people

What is a projection?
A projection is a calculation showing what happens under certain assumptions about future fertility, mortality and migration. The assumptions are based on past trends.

Source: National Records of Scotland
All of the projected growth in Scotland’s population is from inward migration. There is no natural growth projected, with more deaths than births projected each year going forward.

Scotland’s population growth is projected to be slower than previously expected. There are projected to be just under 125,000 people less in mid-2043, compared to previous projections.

Figure 12: Projected rate of Scotland’s population growth, mid-2018 to mid-2043

Although Scotland’s population is projected to grow in the period up until mid-2043, growth could stall as the levels of migration are outweighed by natural decline in the population.

By mid-2043, there are projected to be 18,800 more deaths than births which would be the largest natural decrease on record. Net migration is projected to be positive in mid-2043 with an estimated 18,500 more people coming to Scotland than leaving. This means that Scotland’s population could start to decline at the end of the projection period, as negative natural change is estimated to be greater than positive net migration.

Scotland’s population is projected to continue an ageing trend. Over the 10 years to mid-2028 there are projected to be 38,100 more people of pensionable age in Scotland with the number projected to increase by 240,300 in the 25 years to mid-2043.
Scotland’s working age population is projected to be slightly smaller in mid-2043 than in mid-2018. In mid-2018, there were approximately 3.484 million working age people in Scotland, making up 64% of the population. In mid-2043, the working age population is projected to be 3.477 million, making up 62% of the population. The reduction in the working age population is a particular issue in rural communities. The James Hutton Institute has estimated a 33% reduction in the working age population by 2046 in sparsely populated areas.

The population of the UK as a whole is projected to grow at a faster rate than Scotland, increasing by 9.0% to reach 72.4 million by mid-2043. If these changes were realised, Scotland’s share of the UK population could fall from 8.2% to 7.7% by mid-2043.

The working age population of the UK is projected to increase by 6.4% by mid-2043, whereas Scotland’s working age population is projected to be very similar to mid-2018 levels.

The UK as a whole is projected to experience more births than deaths, with 16% of its projected population growth coming from this. In Scotland, migration is the only projected driver of population growth.
The population projections use assumptions about future migration (as well as fertility and mortality) that are based on past trends and are not intended to be forecasts. This means the projections do not attempt to predict the impact of policy or political circumstances, such as the UK leaving the EU and ending free movement.

As well as the principal projections and standard variants, NRS also produce illustrative variants using alternative assumptions about future EU migration. These provide illustrations of the possible effect on the population of changes in levels of EU migration.

Changes to migration affect the age structure of the population in Scotland more than in the rest of the UK. If EU migration is reduced, it is projected the working age population in Scotland will decline at a faster rate than otherwise anticipated. It is projected to continue to grow in the rest of the UK in all scenarios. Figure 14 illustrates this projected change in working age population in both Scotland and the UK. The principal projection assumes no change to migration policy, while the variant projection shows the impact of removing all EU migration.

In a scenario of 50% less EU migration, Scotland’s population is projected to grow at a slower rate and start to decline after 2033. Overall, the population would still grow but only by 1.0% over the 25 year projection period to mid-2043, compared to 2.5% using the principal projection.

The UK population is projected to grow faster than Scotland’s in the principal projection and in both of the additional EU migration variants. In the scenario of 50% less EU migration, the UK population would grow by 7.7% over the next 25 years, compared to 1.0% for Scotland. This is why EU migration is so crucial to Scotland’s future population growth and prosperity.
Figure 14: Projected change of components of Scotland and UK population growth, mid-2018 to mid-2043 using variant future migration scenarios

Scotland

UK

Source: National Records of Scotland
In scenarios of reduced EU migration, Scotland is projected to experience a much faster rate of shrinkage to the size of its working age population whilst the UK continues to see projected increases.

The Scottish Fiscal Commission employs the 50% less EU migration variant projection in their economic and fiscal forecasts. The Commission has warned of the specific risk to Scotland of reduced migration on the size of the tax-paying working age population repeatedly in their forecasts, stating:

“The size of the population aged 16 to 64, which makes up most of the working age population, is very important for the economy and the public finances. These individuals are more likely to be working and will be generating the highest tax receipts, for example, in income tax.”

External think tanks and research institutes have also highlighted the challenge of potential reductions in migration to Scotland. The Fraser of Allander Institute have shown that, while immediate impacts of leaving the EU, for example on trade, will heavily determine the future of Scotland’s economy: ‘arguably a bigger challenge is what [leaving the EU] might mean for Scotland’s population’. They say that:

“[a] significant proportion of Scotland’s long-term growth gap with the UK can be explained by population growth. Should Brexit make in-migration more difficult – or less attractive – then this could have implications for key sectors and the economy at large.”

The fiscal framework agreed between the Scottish Government and the UK Government in respect of the devolved taxes insulates the Scottish budget from differences in overall population growth. However, this does not protect the Scottish budget from all demographic change. The budget is not protected from a reduction in the proportion of the population accounted for by working age people, and a consequent reduction in tax revenues per head.

The Scottish Government said, in response to a Finance Committee report on the 2019 Scottish Budget, that the upcoming review of the Fiscal Framework should investigate how demographic change needs to be further reflected in the Fiscal Framework.
The Fraser of Allander Institute in Figure 15 take a long-run view (10 year rolling average) of GDP growth (i.e. the size of the economy). Throughout the 1980s and early 2000s, the UK economy as a whole grew more quickly than the Scottish economy. This reflects the general trend that GDP growth rates tend to be positively correlated with population growth rates. With larger populations, in particular the working age population, countries have greater economic capacity, allowing them to produce more goods and services.

In Figure 15 the periods where GDP in Scotland grew more closely to that of the UK as a whole can be directly linked to periods where Scotland’s population growth was also similar. With migration projected to be the sole driver of population growth in Scotland over the next 25 years, it is not difficult to see its central importance. Any attempts to reduce migration will have adverse economic impacts.
Similarly, evidence suggests that migration boosts long term GDP per capita, through increased diversity of skills and through higher innovation activity. In-migration is found to have both direct effects on company productivity as well as indirect impacts by raising the productivity of resident human capital through knowledge transfer.

Additional economic modelling conducted by the Scottish Government found that there would be a proportionately larger economic impact in Scotland as a result of reduced levels of migration than there would in the rest of the UK.

The modelling estimates that real GDP in Scotland will be 4.5% lower by 2040 than it would have been otherwise, as a result of lower migration. This is equivalent to almost £5 billion in GDP by 2040. The impact across the rest of the UK of a corresponding reduction in migration is found to be smaller. The model results show real GDP in the rest of the UK will be 3.7% lower by 2040 than it would have been otherwise, as a result of lower migration. These results reflect the greater reliance Scotland has on migration when compared to the rest of the UK.

Growing the working age population is recognised as an important component of Scotland’s economic and labour market strategies. The projected decline in working age population is one of Scotland’s key economic challenges, with the negative impacts likely to be felt unevenly throughout Scotland.

Scotland experiences a proportionately larger negative economic impact – relative to the rest of the UK – if the size of its working age population shrinks. The proportionately larger impact on Scotland is equivalent to £1.2 billion a year by 2040.

Figure 16: Change in real GDP, Scotland and rest of the UK from lower working age population

Source: Scottish Government
The Scottish Government asked the independent Expert Advisory Group on Migration and Population to consider the impacts in Scotland of expected changes to the UK immigration system.

In their report on *UK Immigration Policy After Leaving the EU: Impacts on Scotland’s Economy, Population and Society*, published in February 2019, the Expert Advisory Group estimate a 30-50% reduction in migration to Scotland over the next two decades as a consequence of the UK Government choosing to end free movement as it leaves the EU, and imposing a more restrictive system in its place.

This would potentially result in the working age population in Scotland declining by as much as 5%. That contrasts sharply with the position in the rest of the UK where, assuming the same immigration scenarios, the working age population would continue to grow.

Restricting routes for EU migrants would be particularly disruptive for Scotland’s remote rural and island areas. The relatively older age structure of these areas means that inward migration is the only practical method of countering depopulation.

The indirect consequences of reduced migration are also important. For example, a focus on only highly paid migrants is likely to lead to sectoral shortages in lower to medium wage areas including social care. In the social care example reduced migration could adversely affect female family members who themselves are most likely to exit the labour market to cover gaps in care provision that would have otherwise been delivered by a migrant workforce.

**BROADER BENEFITS OF MIGRATION**

The economic benefits of migration are well-understood, and there is an extensive evidence base to support that, at both Scotland and UK level.

The Scottish Fiscal Commission noted in their May 2019 economic and fiscal forecast report that they ‘expect growth in Scottish GDP to be significantly lower than in the UK, primarily because of slower population growth in Scotland’. The Fraser of Allander Institute analysis of GDP statistics observed that ‘population growth and migration issues are central in discussions about the Scottish economy, and attracting more people to live and work in Scotland is important for long—term prosperity.’

Scottish Government analysis shows that, on average, each additional EU citizen working in Scotland adds over £10,000 to government revenue and over £34,000 to GDP, each year. If migration from the EU was to fall by half after the UK leaves the EU, this could mean GDP in Scotland being 6.2% lower by 2040 than it would have been otherwise. This is equivalent to almost £6.8 billion per year by 2040.

The MAC compiled a comprehensive assessment of the impacts of EEA migration on the UK labour market for their 2018 report. This considered a wide range of impacts using both quantitative and qualitative evidence. While in some cases the evidence on impacts is clear, and others less so, their key findings, summarised in Figure 17, show that those migrants make a net fiscal contribution to the UK – that is, they pay more in taxes than they receive in public services – and that migration increases innovation and productivity. Conversely, the MAC also show that there is no evidence EEA migration has reduced wages or employment and training opportunities for those in the UK.

Even where the MAC does identify potential issues concerning the impact of migration, they acknowledge there is significant uncertainty in the evidence base, and often other factors at play.

Overall, the analysis by the MAC is a credible and authoritative assessment of the impact of migration in the UK. It explicitly refutes many of the most common arguments made to oppose an open and flexible approach to migration generally, and free movement of people within the European Single Market specifically. These arguments are often overstated or not based in evidence. The MAC’s summary of their evidence is reproduced in Figure 17.
Figure 17: Summary of Migration Advisory Committee report into the impacts of EEA workers at a UK-Level

**LABOUR MARKET**

**Employment and Unemployment**
- Overall no evidence that EEA migration has reduced employment opportunities for UK-born on average.
- Some evidence that migration reduces employment and raises unemployment of some groups (e.g. the young and less well-educated) but subject to significant uncertainty.

**Wages**
- Overall no evidence that EEA migration has reduced wages for UK-born workers on average.
- Some evidence that migration has reduced earnings growth for the lower-paid and raised it for the higher-paid, but again these findings are subject to uncertainty.

**Productivity**
- Evidence that immigration has, on average, a positive impact on productivity.
- Some evidence that this impact is larger for high-skilled migrants than lower-skilled migrants.

**ECONOMY**

**Innovation**
- High-skilled immigrants increase innovation.

**Training**
- No evidence that migration has reduced the training opportunities of the UK-born.

**Prices**
- Evidence that migration, especially lower-skilled, has reduced the prices of personal services.
- Evidence that migration has raised house prices, more in areas where housebuilding is more restricted.

**Public Finance**
- EEA migrants, especially those from EU13+, pay more in taxes than they receive in welfare benefits and consume in public services.
- Net fiscal benefit is strongly related to earnings and to age.
PUBLIC SERVICES

Health
• EEA migrants make a larger contribution both in terms of money and work to the NHS than they receive in health services.
• No evidence that migration has reduced the quality of healthcare.

Social Care
• EEA migrants are a small but increasing share of social care workforce.
• Very few EEA migrants receive social care.
• Growing demand for social care but wages and conditions make it hard to recruit and retain UK residents. May also struggle to recruit migrants with other options. Sector needs a coherent approach to financing.

Education
• Migrants or the children of migrants make up an increasing proportion of the school-age population. EEA migrants are a smaller proportion of workers than students in primary and secondary education but a higher proportion in higher education.
• Children with English as an additional language academically out-perform children with English as first language.
• No evidence that migration has reduced the educational attainment of other children or the choice of schools.

Social Housing
• EEA migrants, especially NMS migrants, are an increasing share of new tenancies. Given low level of new construction of social housing this is very likely to be at the expense of someone else.

DAILY LIFE

Crime
• No evidence that migration affects the overall level of crime.

Life Satisfaction
• Overall, no evidence of an impact of migration on self-reported life satisfaction.
• Some evidence that positive effect among those with a more favourable view of migration and negative among those with a less favourable view.
Annex C: Learning from international examples

ROLANDS
FISH FARMER
PICTURED IN FORT WILLIAM
BORN IN LATVIA
The Expert Advisory Group on Migration and Population looked at international examples of regional immigration programmes. These more detailed case studies on the Canadian and Australian schemes are extracted from their November 2019 report.

**CANADIAN PROVINCIAL NOMINEE PROGRAMMES (PNPS)**

For a number of decades, Canadian economic migration policy has been explicitly targeted at meeting demographic goals. Provincial Nominee Programmes (PNPs) were developed at the behest of Provinces and Territories, reflecting concerns about the uneven distribution of immigration across Canada and the high proportion of migrants who were moving to Montreal, Toronto and Vancouver. PNPs comprise a range of programmes, many of which are points-based, explicitly designed to meet differential labour market needs and to promote population growth across Canadian provinces and territories. Since the first permanent PNP agreements were signed in the early 2000s, all Canadian provinces and territories except Nunavut and Quebec operate their own PNP. Quebec has a specific agreement, the Canada-Quebec Accord, in which the province is responsible for most aspects of migrant selection and integration.

Bilateral PNP agreements between the federal government and the province/territory allow the latter to nominate a certain number of immigrants, generally selected based on their skills, experience and demographic characteristics. As such, these programmes are predominantly human capital-based, although in many cases there is an employer-led element, as a job offer is seen as a way of proving a clear link and intention to settle in the province. Indeed, there is a trend towards ‘hybridisation’ of human capital and employer-led approaches. Those admitted through PNP schemes are generally ‘skilled’ or ‘semi-skilled’ workers, temporary foreign workers already in Canada, business investors, families of PNP migrants, and international student graduates.

**HOW IT WORKS**

Provinces develop a set of criteria by which they can nominate certain migrants who can then progress through a fast-tracked process towards permanent residency status. These criteria may change from year to year, based on varying needs or new priorities in the province. These changes are negotiated and agreed with the federal government.

All PNPs have both a skilled worker and business stream. However, many also offer streams for workers at a range of skills and qualifications levels. For example, the Saskatchewan and Alberta PNPs both offered channels for workers with lower qualifications (for example trucking, hotel and lodging, food processing, and food services industries in Alberta).

Nominees are granted extensive rights, including the eligibility to apply for permanent residence for themselves and their families, subject to criminal background and medical checks. Once they have become permanent residents, they receive access to social benefits and health care coverage, and the right to live, work or study anywhere in Canada. The right to free movement within Canada is enshrined in the Canadian Charter of Rights and Freedoms. After three years of permanent residence, residents may apply for Canadian citizenship. Nominees may also be eligible to apply for a work permit while the permanent residence application is being processed. If the nomination is based on a job-offer, they receive a closed employer-specific work permit.
To provide a more specific case, we examine the Manitoba PNP. It is the most extensive PNP, with 24.2% of provincial nominees coming to Manitoba and is often seen as a ‘model’ PNP. The first Manitoba PNP began as a programme to bring garment workers to Winnipeg, and has since expanded to address labour shortages in other sectors including construction, mechanic work, welding, engineering, trucking, biotechnology and manufacturing.

The Manitoba PNP has three streams: the Skilled Worker Stream [which comprises the Skilled Worker in Manitoba and Skilled Worker Overseas categories]; the International Education Stream; and the Business Investor Stream. The Skilled Worker Stream is targeted towards a list of ‘in-demand occupations’, which is extensive. The occupations list also includes differentiation within the province. For example, nursing is ‘in-demand’ if the migrant intends to settle in a rural area, outside of the Manitoba Capital region. Some streams require job offers and some are purely human capital based.

Applicants to this PNP must demonstrate a connection to Manitoba through the support of family members or friends, previous education or work experience in the province, or an invitation to apply from the Manitoba PNP as part of a Strategic Recruitment Initiative. In demographic terms, the age factor is particularly interesting. The maximum points are awarded to those of working age between 21 and 45. Those 50 and older receive zero points for the age category. Points may be deducted for applicants judged to be at higher risk of settling elsewhere (for example because of family or previous work/study in another province). The maximum amount of points, 500, can be allocated for ‘Adaptability’.

The maximum amount of points (500) can be allocated for ‘Adaptability’. Under this factor, all applicants must demonstrate some connection to Manitoba. By prioritising prior relationships and integration within the province, the system is aimed at migrants who are likely to settle in the province. Applicants can receive points for only one type of connection to Manitoba, even if more apply. For example, if an applicant has both a close relative in Manitoba and previous work experience in Manitoba, only one of these categories will count towards their overall point total. However, migrants may receive additional ‘regional immigration’ points for planning to settle in a region of Manitoba outside the city of Winnipeg.

The Manitoba PNP is seen as particularly successful in building close cooperation with employers, and building on a thorough consultation process to understand local needs.
EFFECTIVENESS

The PNPs have had a clear effect of attracting migrants to more peripheral areas, and data suggests that they have influenced a redistribution of migration away from the main cities of Montreal, Vancouver and Toronto: in 2017, 34% of economic immigrants settled outside Ontario, British Columbia and Quebec, compared to just 10% in 1997.

Looking specifically at the Manitoba case, in 1996, just 233 people were admitted through the first PNP in Manitoba, increasing to 9,958 by 2016. Over the period 1999-2007 Manitoba attracted 40,000 migrants; it has been estimated that in the absence of the PNP, the number over this period would have been 12,000. In terms of geographic dispersal, the provincial government highlighted that 28,000 nominees settled in at least 130 rural communities, and the program is credited for the growth of cities such as Morden, Neepawa, Steinbach and Winkler. However, if we look at PNPs across Canada, redistribution of migrants to the less central provinces has been more modest. For example, of the nearly 50,000 migrants admitted through PNP pathways in 2017, almost 42,000 were admitted into Manitoba, Saskatchewan, Ontario, and British Columbia.

Compared to federal economic migrants, provincial nominees have substantially higher earnings in the year after arrival. This is likely to be due to the link between PNP migration and employment. Interestingly, a study by Statistics Canada from 2008 also showed that migrants entering more peripheral regions and smaller urban areas were more likely to be economically successful. These immigrants were able to use their credentials more effectively and were able to overcome their lack of linguistic ability more easily.

The effectiveness of PNPs has been measured by looking both at the ability of provinces to attract migrants, and their abilities to retain them. In terms of retention, an evaluation of PNPs in 2017 found that 83% of PNP migrants admitted to Canada between 2002 and 2014 were still residing in their province or territory of nomination in 2014. However, this varied significantly, and more remote areas had lower retention rates. Prince Edward Island had only 27% retention, with 56.7% in Newfoundland and Labrador, 59% in New Brunswick and 65% for Nova Scotia. Retention in Canada overall was high, with only 4% leaving Canada after receiving permanent residency. Migrants reported that the most significant factor affecting retention in the province of nomination was economic: onward movement was most likely to occur where they considered that better or more job opportunities were available outside of their original province. This points to the importance of linking provincial migration with labour market opportunities.

Challenges with retention have been especially pronounced in the Atlantic provinces (Newfoundland and Labrador, Prince Edward Island, Nova Scotia, and New Brunswick), prompting the development of targeted measures to attract and retain migrants within the Atlantic Growth Strategy. This Canadian Atlantic Immigration Pilot Program is included as a further case study within the report.
RELEVANCE

The PNPs are explicitly oriented to addressing labour needs and stimulating economic development in less central/urban areas of Canada, challenges which are to a significant degree impacted by population decline. As such, they can be understood as in part a response to the types of demographic challenges similar to those faced in Scotland: ageing population, combined with population decline in a number of (especially rural and remote) areas. The points-based systems build in flexibility to accommodate a range of labour market and demographic needs, which can be varied in terms of location (across and within provinces/territories), occupational and skills shortages, and over time. Thus, for example, the points system can be weighted to impose lower conditions for particular occupations in specific rural areas.

In terms of rights of migrants, PNPs are among the most generous programmes in the world, offering permanent residency from the outset, and access to citizenship after three years. There are no restrictions on movement within Canada once the nominee receives permanent residence.

One of the main challenges, however, has been to attract and retain migrants to remoter areas, and Canadian provinces/territories have sought to address this through selecting nominees based on their likelihood to settle in the area. They have also combined admissions programmes with measures to encourage longer-term integration and settlement, notably in the Atlantic area.

AUSTRALIAN STATE SPECIFIC AND REGIONAL MIGRATION (SSRM) SCHEME

In common with other OECD countries, Australia faces challenges related to an ageing population, and has adopted a range of measures to increase labour force participation and enhance productivity, as well as using immigration policy as a tool to mitigate shortages. This is reflected in its points-based system, which provides channels for recruiting skilled employees, students, investors and entrepreneurs. Alongside its federal scheme, a major focus has been to counter the perceived over-centralisation of the population (including foreign-born nationals) in major cities. By contrast, many local (and especially non-urban) areas are facing population decline, created by a decline in natural increase which is not being offset by in-migration. As a consequence, much of Australia’s immigration policy has been oriented towards encouraging settlement in remoter parts of Australia, and relieving pressures on urban areas. This goal has guided recent decisions to increase the quota of permanent visas, and expand options for acquiring a regional visa.

In recognition of regional disparities, the first State Specific and Regional Migration (SSRM) schemes were introduced in 1995. These schemes are designed to promote the spatial redistribution of migrants, in order to meet regional labour shortages. The SSRM fall within Australia’s skilled migration category, which accounted for 68.4% of migrants in 2017-18. Most of the schemes are human capital based, in that they recruit people based on points awarded for various characteristics (skills, qualifications, and so on). However, many of the schemes have increasingly incorporated a specific job offer as one of the criteria, another example of the 'hybridisation of human capital points-based systems.
**HOW IT WORKS**

SSRM visa schemes are generally targeted at applicants who fall just short of the pass threshold of Australia’s wider Points Assessment Scheme. The schemes mainly target ‘skilled’ workers, defined as those in the top four Australian Standard Classification of Occupations (ASCO) categories: managers, professionals, paraprofessionals, and skilled tradespeople. The SSRM includes the following schemes:

- The Regional Sponsored Migration Scheme (RSMS), which enables employers in regional and low population growth areas to sponsor skilled employees. It is part of the Employer Sponsored category and accounted for 6,221 migrants in 2017/18. While only open to skilled migrants under 45 years of age, it allows a relaxation of some of the skills and age and language requirements in place for the federal-level scheme and offers applicants lower fees. Sponsored migrants require a job offer from an employer.

- State and Territory Nominated Independent (STNI) Scheme, which allows the state or territory to nominate migrants who have narrowly missed the pass threshold for the federal-level General Skilled Migration scheme. Nominees must be skilled migrants, who will support local economic development needs and address local labour shortages. In 2017/18 around 27,400 migrants were recruited under this route.

In November 2019, a new scheme, the Skilled Employer Sponsored Regional (Provisional) visa [was] introduced to replace the RSMS. This new visa is designed to promote settlement in regions, through making permanent residency contingent on living and working in the relevant region while holding the visa. Holders of the new regional provisional visas will be required to live and work in regional Australia for the duration of their visa, which will have a validity period of up to five years. To be eligible for permanent residence, regional provisional visa holders will need to demonstrate they have lived and worked in regional Australia as holders of a regional provisional visa and had a taxable income at a minimum level for three years.

The SSRM schemes recognise that labour needs in ‘Regional Australia’ are different to those of more metropolitan areas. For example, employers nominating migrants through the new Skilled Employer Sponsored Regional visa will have access to 450 more occupations than the equivalent non-regional visa. Entrants will also have priority processing over non-regional equivalents.

There was also an expansion of the temporary graduate visa, allowing international students to remain for an extra year of post-study work. Graduates become eligible for this extension if they have graduated from a regional campus of a registered higher education/postgraduate university or institution and if they remain in a regional area during their first Temporary Graduate visa.

All Australian states and territories take part in some of these SSRM schemes, although not all areas are eligible for each type of visa. The original eligibility criteria for the areas which could take part in the SSRM schemes were explicitly demographic: areas with less than 200,000 inhabitants at the 2001 Census or that had a population growth rate less than half that of the national average (1996-2001). This meant that, within most Australian states, SSRM migrants do not have the opportunity to settle in Australia’s largest metropolitan centres. The policy thus aims at the redistribution of migrants to more peripheral states and to more rural and remote areas within popular settlement states. Since 2019, the eligibility for areas that can receive state/regional sponsored visas has been simplified. Now, the definition of Regional Australia includes all of Australia except for selected metropolitan areas: Sydney, Melbourne, Brisbane, Gold Coast and Perth.
Prior to the November 2019 changes, most SSRM schemes had built in a residency requirement to stay for a period of two to three years in the state or territory they entered. For example, entrants through the RSMS were granted a five-year entry visa to live and work in Australia, and were required to live in the relevant location for at least two of these five years in order to have their visa reissued (for a further five years). Entrants were required to notify immigration authorities of any change of address, and could have their visa cancelled if they had not made a genuine effort to remain in the nominated position for at least two years. They could be eligible for citizenship after four consecutive years in Australia.

The South Australian state sought to counteract this trend through the creation of a population policy in 2004, which explicitly aimed at growing the South Australian population through attracting more immigrants. South Australia’s capital, Adelaide, meets the criteria for SSRM visas due to its slower than average population growth. The presence of a smaller capital means that South Australia is one of the few states that allows migrants to settle in a metropolitan place through the SSRM.

EFFECTIVENESS
State specific and regional migration mechanisms have grown as a proportion of the overall entryways for migrants. In 1997, the number of visas granted via SSRM categories accounted for only 2.3% of the total non-humanitarian intake; by 2017-18, 32.6% of migrants entered through SSRMs. This is in the context of a broadly steady level of non-humanitarian immigration over this period. This suggests that the system is in demand by both migrants and states, and has contributed to the goal of addressing aggregate shortages caused by demographic change.

To evaluate the spatial redistribution of migrants after the introduction of the SSRM, it is possible to consider the number of new settler arrivals in each region of Australia over time. By separating into four separate regions: New South Wales, Victoria, and Queensland (the three top recipients of migrants in 1991-1996) and the rest of Australia, it is evident that since the introduction of the SSRMs, there has been a shift away from New South Wales towards other Australian regions. There has been an increase of migrant arrivals to Queensland and Victoria, as well as a decrease of 5% in New South Wales.

For peripheral regions, the picture is less clear. While over the longer term there seems to be an increase in migrant arrivals, this is very modest: suggesting that SSRM visas must be paired with a clear and explicit commitment to attracting migrants (as can be seen in South Australia’s implementation of a wider ‘population policy’ alongside its embrace of the SSRM mechanisms).
It is difficult to assess the success of the SSRM in retaining migrants. Unlike Canada, the Australian Statistics agency does not publish information on migrant retention. However, available data suggest that while these schemes have led to substantial in-flows of foreign nationals, many regions continue to see high levels of out-migration of both foreign nationals and Australians to other parts of the country. December 2018 population statistics disaggregated urban centres and the ‘rest of’ the state. They showed that outside of Adelaide, in the ‘rest of South Australia’ there were net inflows through overseas migration (960 people) but a loss of 973 people (including native born) through net internal migration. Clearly, concerns about retention motivated the introduction of the new Skilled Employer Sponsored Regional (Provisional) visa, with its more stringent requirements for living and working in the sponsoring region.

There have been some criticisms of the scheme, revolving around the impact of residential requirements within the SSRM, which is perceived by many as creating a two-class system of migration in which some migrants have freedom of movement while SSRM migrants are regionally restricted. Furthermore, the complexity, multiplicity, and changing nature of SSRM mechanisms can make it more challenging for migrants to navigate the state and regional specific schemes.

**RELEVANCE**

The Australian SSRM mechanisms offer multiple entry mechanisms, designed to address a range of demography-related goals: addressing aggregate shortages, specific occupational shortages, and encouraging migration to regions especially affected by population decline. This latter is achieved by selecting those who have narrowly missed qualifying for the federal-level scheme. Unlike other schemes discussed in this report, the SSRM mechanisms are mainly limited to high skilled migrants. The fact that Australia has managed to attract substantial numbers of high skilled migrants to both federal and SSRM schemes, including to areas outside of the major cities, attests to the appeal of Australia as a country of destination. Scotland may face more significant impediments in attracting high skilled migrants at these levels, especially to remote/rural areas, especially as many of the jobs available in areas facing population decline would not meet these skills criteria.

The SSRM have built in provisions to promote retention, including a residence requirement of 2-3 years, with permanent residency status obtainable after 4 years. These requirements are being made more stringent under the November 2019 regional visas, which require entrants to stay in the sponsoring region for 5 years, including demonstrating 3 years of taxable income. Under the previous schemes, less popular destination areas such as areas of South Australia outside of Adelaide have continued to suffer from net out-flows to other parts of Australia, which have offset positive inflows from overseas. These areas have found they need to introduce a wider set of measures to encourage longer-term settlement of migrants. It will be instructive to monitor whether the new, more rigorous residency and work requirements lead to higher levels of retention in more peripheral regions of Australia.
The Expert Advisory Group on Migration and Population developed a matrix to describe different approaches to the selection criteria of immigration programmes. Immigration programmes may select potential migrants based on specific job vacancies or shortage (employment based); or they may select based on the characteristics of those being admitted (human capital based). A points-based system would typically look at human capital characteristics, although some schemes can combine features of both employer-based and human capital-based programmes.

Employment-based programmes encompass both sectoral schemes, which select migrants based on their fit to shortage occupations, as well as employer-led schemes, which rely on employers to identify workers to fill vacancies. In both cases, migrants typically need a job offer before being admitted.

Human capital based programmes select migrants based on their characteristics, such as age and family status, skills and experience, or prior links with the destination country. Such programmes often take the form of points-based systems, which give different weight to such characteristics. They may prioritise migrants with particular skills or qualifications, in order to address sectoral/occupational shortages, or they may prioritise migrants with a link to a particular local area, in order to encourage settlement.

The Expert Advisory Group also distinguished programmes in terms of their package of rights and pathways to settlement. Restrictive programmes are associated with temporary stay and limited rights to family reunion, welfare and social benefits, or access to public services. Expansive programmes build in more generous rights and pathways to permanent residency, often from the outset.

The Group categorised the main route in the current UK immigration system, Tier 2, as a restrictive employment-based system. The Scottish Government proposal for a Scottish Visa describes an expansive human capital based system, similar to the regional programmes in Canada and Australia.

Human capital-based programmes with expansive rights (such as the Canadian Provincial Nominee Programs and the Australian State Specific and Regional Migration schemes) may be designed to expand the working-age population, meet sectoral shortages, or alleviate population shortages in particular areas. Migrants may be selected through points-based systems that prioritise based on demographic features, and may also build in preference for particular skills or qualifications.

**Figure 18: Mapping selection criteria of immigration programmes**

<table>
<thead>
<tr>
<th>Employment-based</th>
<th>Human Capital-based</th>
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<tbody>
<tr>
<td>SAWs (UK)</td>
<td>Fresh Talent (Scotland)</td>
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<tr>
<td>Tier 2 (UK)</td>
<td>PNPs (Canada)</td>
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<tr>
<td>Catalogue (Spain)</td>
<td>SSRM (Australia)</td>
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<tr>
<td>2008 Law (Sweden)</td>
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**Glossary**

**SELECTION CRITERIA OF IMMIGRATION PROGRAMMES**
NOTE ON TERMINOLOGY

This paper uses the term ‘migrant’. When discussing the flow of migration, this refers to a person not currently resident in Scotland who moves to Scotland with the intention of remaining here for more than 12 months.

The term migrant may therefore refer to:

- UK nationals if they are resident elsewhere in the UK or abroad and move to Scotland, and would be counted in migration flows. When talking about the population of migrants in Scotland, this normally refers only to non-UK nationals, split between EU and other international migration.

- Irish nationals have rights within the Common Travel Area to live and work in the UK that are separate from their right to free movement as EU citizens. As they are EU citizens, this paper refers to Irish nationals within the flow of migration from the EU and within the population of EU migrants in Scotland.

- EU citizens, EEA nationals and Swiss nationals who have rights under treaties and directives governing the European Single Market and free movement of people to live and work in other EU Member States, countries within the EEA and Switzerland. This paper normally refers to EU citizens and EU migration rather than EEA, unless greater clarity is required, as the number of EEA nationals and Swiss nationals in Scotland is low.

- International migrants from other countries. Most international migrants in Scotland are issued with a visa under one of the tiers of the UK immigration system. The other main route for international migrants is family migration. A small proportion of international migrants in Scotland entered by seeking asylum and there are particular humanitarian obligations in relation to refugees and asylum seekers.

Countries in the EU are sometimes grouped according to how long they have been a Member State. Terms used in this paper include:

- EU14, meaning the 14 other Member States (excluding the UK) prior to the 2004 enlargement. These are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain and Sweden.

- EU8, meaning the eastern and central European countries that joined the EU in the 2004 enlargement. These are Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

- EU2, meaning Bulgaria and Romania, countries that joined the EU in 2007.

- EU Other, meaning Cyprus and Malta (joined in 2004), and Croatia (joined in 2013).

The current system for international migration was first introduced in the UK in 2008 and consists of five tiers, each of which can contain multiple categories of visa. **Tier 1** is for high value and exceptional talent, including entrepreneurs and investors. **Tier 2** is for skilled workers sponsored by an employer. **Tier 3** is for low-skilled workers, but has never been implemented. **Tier 4** is for students, and **Tier 5** is for temporary workers, including youth mobility entrants and the new Seasonal Workers Pilot Scheme.
## LIST OF ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASCO</td>
<td>Australian Standard Classification of Occupations</td>
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<td>CBI</td>
<td>Confederation of British Industry</td>
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<td>EEA</td>
<td>European Economic Area</td>
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<td>ETA</td>
<td>Electronic Travel Authorisation</td>
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<td>EU</td>
<td>European Union</td>
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<td>FSB</td>
<td>Federation of Small Businesses</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>HMRC</td>
<td>Her Majesty’s Revenue and Customs</td>
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<td>HND</td>
<td>Higher National Diploma</td>
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<tr>
<td>ILR</td>
<td>Indefinite Leave to Remain</td>
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<tr>
<td>IT</td>
<td>Information Technology</td>
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<tr>
<td>MAC</td>
<td>Migration Advisory Committee</td>
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<td>MIPEX</td>
<td>Migration Integration Policy Index</td>
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<td>NFU</td>
<td>National Farmers Union</td>
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<td>NHS</td>
<td>National Health Service</td>
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<td>NPF</td>
<td>National Performance Framework</td>
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<td>NRS</td>
<td>National Records of Scotland</td>
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<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
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<td>PhD</td>
<td>Doctor of Philosophy</td>
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<td>PNP</td>
<td>Provincial Nominee Program</td>
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<td>PPE</td>
<td>Permitted Paid Engagement</td>
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<td>RQF</td>
<td>Regulated Qualifications Framework</td>
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<td>RSMS</td>
<td>Regional Sponsored Migration Scheme</td>
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<td>SAWS</td>
<td>Seasonal Agricultural Workers Scheme</td>
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<tr>
<td>SCDI</td>
<td>Scottish Council for Development and Industry</td>
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<tr>
<td>SG</td>
<td>Scottish Government</td>
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<tr>
<td>SOL</td>
<td>Shortage Occupation List</td>
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<tr>
<td>SPA</td>
<td>Sparsely Populated Areas</td>
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<tr>
<td>SSRM</td>
<td>State Specific and Regional Migration</td>
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<tr>
<td>STEM</td>
<td>Science, Technology, Engineering, Mathematics</td>
</tr>
<tr>
<td>STNI</td>
<td>State and Territory Nominated Independent</td>
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<tr>
<td>STUC</td>
<td>Scottish Trades Union Congress</td>
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<tr>
<td>TOEIC</td>
<td>Test of English for International Communication</td>
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<tr>
<td>UK</td>
<td>United Kingdom</td>
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<td>USA</td>
<td>United States of America</td>
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<td>WTO</td>
<td>World Trade Organisation</td>
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</table>
References

**SCOTTISH GOVERNMENT**


**UK GOVERNMENT**


**MIGRATION ADVISORY COMMITTEE**


EXPERT ADVISORY GROUP ON MIGRATION AND POPULATION


OTHER GOVERNMENTS AND BODIES


ENDNOTES

i. Michael Anderson, *Scotland’s Populations from the 1850s to Today* (Oxford University Press, 2018)


Case Study:

Stay in Scotland

Since the United Kingdom voted to leave the EU on 23 June 2016, EU citizens in Scotland and across the UK have been faced with great uncertainty as to how leaving the EU will affect their lives, careers and families. The referendum cast into doubt the ability of EU citizens to continue to live in a country they had chosen, in good faith, to make their home. The failure to quickly and unilaterally guarantee the rights of EU citizens living in the UK compounded this uncertainty and created unnecessary anxiety.

The Stay in Scotland campaign aims to:

- raise awareness of the UK Government’s EU Settlement Scheme in Scotland;
- publicly state our desire for EU citizens to remain in Scotland; and
- provide practical information and direct support and advice to help EU citizens through the EU Settlement Scheme and to remain in Scotland and continue to access devolved public services to which they are entitled.

The campaign includes a toolkit for EU citizens and employers, a guide for employers, a factsheet, poster and leaflet, along with a media campaign including radio, digital and social adverts and £250,000 of resource for community-based support across Scotland. The Scottish Government is also providing £800,000 of funding over three years to Citizens Advice Scotland, who are delivering some of this support through a dedicated advice and support service which includes a helpline and face-to-face advice.

The Stay in Scotland materials have now been sent to GP surgeries, nurseries and community centres across Scotland. Further information and copies of the materials are available at www.gov.scot/stayinscotland. Hard copies of the materials are available and can be requested via eucitizensrights@gov.scot.

This dedicated service delivered by Citizens Advice Scotland launched in April 2019 and is for EU citizens with more complex support needs including those who may face obstacles to applying for settled status such as limited digital access, language barriers or residency issues. The service includes a full-time telephone service for EU citizens resident in Scotland on 0800 916 9847.
RABIA
BOXER
PICTURED IN CLOVENSTONE BOXING CLUB, EDINBURGH
FAMILY FROM PAKISTAN
Citizens Advice Scotland operate a free national helpline as part of the Advice and Support Service. You can receive information, advice and support by calling the helpline on 0800 916 9847. Devices for completing the ID document check can also be accessed through your local Citizens Advice Bureau. Further information and copies of the materials are available at www.gov.scot/stayinscotland.