

POLICY NOTE

No 2

# Scottish and UK Immigration Policy after Brexit

## Evaluating Options for a Differentiated Approach

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## Introduction

As Brexit talks start, the UK government must turn its attention to the immense challenges Brexit poses – despite the ongoing uncertainty over the stability of the minority government post-election. One of the most pressing issues is that of immigration: not so much the preoccupation with how to limit inflows, which featured so prominently in the election campaigns of many of the parties; but rather, the challenge of sustaining much-needed flows of EU nationals to fill jobs in sectors such as agriculture, services and construction.

The Scottish government has been vocal in expressing its aim of sustaining EU immigration, both to address demographic challenges, and to fill labour and skills shortages. Scotland has seen net immigration averaging at around 15,000 in recent years, and the government fears that a reduction in EU immigration would leave it unable to achieve its demographic, economic and social-cultural goals. EU nationals make up 43% of Scotland's foreign-born population, and 3% of the overall population. Over the past 12 years, inflows of EU nationals have helped offset labour shortages and contributed to population growth. Indeed, 90% of projected population growth in Scotland is predicated on sustaining current levels of net migration.

Scotland is clearly in a bind: under the current devolution settlement, it has limited powers over decisions on the selection and admission of labour migrants. Scotland enjoyed some autonomy over immigration policy through the Fresh Talent – Working in Scotland scheme, which was in place from 2005 – 2008. Under current UK immigration policy, there is a separate shortage occupation list for Scotland, which identifies the occupations for which Scottish employers can recruit foreign workers without demonstrating that UK residents are unavailable for the job. However, the mechanism is cumbersome and its use has been very limited. And despite some noises from Conservative politicians about the need to sustain certain types of EU immigration, the UK government has reiterated its pledge to radically reduce net migration to the tens of thousands. So is there any leeway for Scotland to meet its immigration goals?

In this policy note, we set out a range of options for a 'differentiated' approach to immigration, drawing on examples from across Europe, North America and Australasia.<sup>1</sup> We assess various options for migration on three main criteria: how well they meet Scotland's demographic, economic and social needs; how easy they would be to implement and enforce; and how politically viable they are.

This policy note sets out our main findings and the opportunities for Scotland and the UK going forward.

## Scotland's Demographic, Economic and Social Needs

It has long been argued that Scotland faces a distinct set of immigration challenges compared to the rest of the UK (rUK), linked to its particular demographic and labour market conditions. Much of this debate tends to focus on demographic considerations, and especially the concern to meet population growth targets. The projected 7% increase in the Scottish population by 2039 is premised on sustaining current levels of immigration. This implies continued net migration of around 9,500 per year. If instead

one assumes zero net migration, the population is projected to decline by 2%. The difference between these scenarios demonstrates how important net migration is for population growth in Scotland. The substantial contribution that EEA immigration has played, in sustaining higher levels of net migration in recent years, implies that a reduction of flows of EEA nationals would have a significant effect on population.

Related to this is the challenge of ageing population. Like many OECD countries, Scotland has seen declining birth rates and improved life expectancy leading to a change in the age composition of its population. Estimates for the year to 30 June 2015 show that the proportion of the population aged 16 or under is now smaller (17%) than that aged 65 or over (18%). EU migration to Scotland has partially offset Scotland's ageing population since around 2004. EU nationals in Scotland have a lower age profile to the Scottish population: 57% are aged 25-49, compared with 33% of the Scottish population. Moreover, 80% of EU nationals in Scotland are of working age, compared to 65% of the Scottish population as a whole.

An ageing population can also contribute to aggregate labour shortages, because the share of the population in employment is lower. And it can produce particular shortages in sectors on which older people are more dependent, such as health and social care. Many of the occupations set to face shortages are likely to be relatively low-skilled, including in social care and hospitality. Annual Population Survey data shows that non-UK EU nationals have been concentrated in some of these sectors. But other sectors also face labour shortages, including agriculture and food-processing sector, which are particularly dependent on EU labour.

The case for sustained immigration to Scotland is not just linked to demographic change and labour shortages. It also reflects the importance of diversity – both economically, and as a social value. It is widely recognised that skilled and talented immigrants can bring substantial benefits to the economy. In many sectors, skilled and specialised human capital is now the most valuable factor of production, creating a 'knowledge-based economy'. The importance of attracting high skilled labour was recognised in the 'Fresh Talent' programme, which allowed graduates of Scottish higher education institutions to work for up to two years following their graduation. Furthermore, successive Scottish Governments have been keen to encourage diversity as a social good, and to ensure Scotland is outward looking and international. The case for diversity has been strongly made in the context of debates on Brexit and in relation to Scottish independence.

These considerations have generated demands for greater differentiation of immigration policy. The case has grown more pressing with the prospect of a decline in EU immigration. With the prospect of an end to EU free movement, attention has turned to options for sustaining immigration flows to Scotland post-Brexit.

It should be noted that this preference for sustaining positive net migration to Scotland is not necessarily shared by voters in Scotland. While surveys suggest that public opinion in Scotland is less concerned about immigration compared to attitudes in other parts of the UK, the majority of those polled nonetheless favour a reduction in immigration. For example, according to the 2013 British Social Attitudes Survey 69% of Scottish respondents believed that immigration should be reduced, compared to 78% in

England and 86% in Wales. Concerns about immigration tend to revolve around the perceived impact on welfare and public services, as well as impacts on wages and employment (despite the fact that research on these questions has found that recent immigration has made a net positive fiscal contribution, and has a negligible effect on wages and employment).

Given public concerns about immigration, it is important to consider not just how well different immigration systems would respond to the economic, demographic and social needs identified by the Scottish government and other commentators. It is also crucial to consider how politically viable different options would be, in terms of Scottish and UK public opinion.

## The Options for a Differentiated Approach to Immigration

Our analysis suggests four main approaches that could be considered for Scotland – each with distinct advantages and disadvantages. We assess these options according to three criteria: 1) how well the scheme addresses the economic, demographic and social needs of Scotland in relation to immigration; 2) how far it is practically feasible, in relation to implementation and enforcement; 3) the potential of the scheme to secure political support within Scotland and the UK.

### (1) Canadian/Australian style or human capital points-based system

Canada and Australia both have a points-based system under which different states, territories or provinces can select immigrants to enter and settle in a particular region, based on a points scheme that weights applicants according to their skills, experience, age or existing ties to the region. Entrants are granted permanent residency status from the outset, and a swift route to citizenship.

We consider this scheme to be the most promising in terms of meeting Scotland's longer-term demographic needs, contributing to population growth targets and allowing Scotland/the UK to prioritise recruitment of younger immigrants who are most likely to settle in Scotland. The scheme could also help meet skills shortages, as points can be weighted to reflect particular occupational or skills gaps.

However, this scheme scores poorly in terms of political viability: of all the schemes, we consider it the most controversial because of its orientation towards extensive rights and permanent settlement. More than the other schemes, it could also raise concerns about retention and onward movement to rUK, as stay is not tied to a particular job.

### (2) Post-study work scheme

Scotland previously enjoyed some autonomy over immigration policy through the 'Fresh Talent – Working in Scotland' scheme. Under this scheme, graduates were permitted to work in Scotland for 2 years following completion of their studies. This scheme could potentially be revived, with graduates able to work for 2 years and then transfer into another immigration scheme.

Such a scheme could help meet Scotland's demographic goals although, as it supports shorter-term stays, it would not contribute as strongly to meeting population growth

targets. It would also help meet skills shortages – although again with some caveats, given that the skills of graduates may not always meet existing shortages, and graduates may not always find jobs at the level of their qualifications.

Unlike the points-based system, however, the scheme is likely to be more politically viable: temporary programmes for graduates are likely to be less controversial, and the scheme would in effect revive the ‘Fresh Talent’ scheme (which received widespread support in Scotland).

### **(3) Employer-led approach**

Employer-led schemes involve allowing employers with sponsor status to recruit foreign nationals to fill vacancies. Typically, a number of conditions need to be met, including ensuring there are no residents able to fill the job, and – in the current UK system – ensuring that jobs are above a certain salary and skills threshold. There are various options for building on current provisions under the UK ‘Tier 2’, whereby Scottish employers would be subject to a lower skills threshold/salary than other parts of the UK.<sup>2</sup> In this way, Scottish employers would benefit from less stringent conditions for recruiting workers from abroad. The scheme could involve setting a quota for Scotland, agreed with the Home Office in consultation with business and trade unions.

This scheme could help meet demographic needs, and would be especially well placed to meet immediate labour shortages, as employers would have more flexibility in recruiting workers from overseas to fill vacancies. However, smaller firms may face barriers to securing sponsorship status and meeting labour market tests. The scheme would be less well suited to meet longer-term economic needs, as recruitment responds to immediate employer needs rather than projected shortages.

We also consider it to be more practically and politically viable than some of the other schemes, as it builds on current Tier 2 provisions. It would be more controversial if it introduced a lower skills/salary threshold for Scotland.

### **(4) Occupational shortage approach**

to recruit workers from abroad. The main difference would be that for certain occupations that are identified as facing acute shortages, firms could recruit without carrying out a ‘resident labour test’. There is already a precedent for adopting a differentiated approach under such a scheme. Under the current Tier 2 scheme, there is a Scotland-specific occupational shortage list, although it has rarely been used. We suggest the list could be expanded to include a wider list of occupations. It could also involve a lower skills threshold, so that it could include lower-skilled occupations that are likely to suffer from shortages. As with the employer-led scheme outlined above, it would involve setting a quota for Scotland, agreed with the Home Office in consultation with stakeholders.

This scheme would be moderately well placed to meet demographic needs. However, as with the employer-led scheme, its contribution to overall population growth would depend on how easily people could access permanent settlement. In contrast to the employer-led scheme, this approach scores well in terms of meeting immediate and

projected labour shortages, since government and/or a ‘Migration Advisory Committee Scotland’ (‘MAC Scotland’) has a greater role in planning and monitoring.

Such a scheme would also be viable in terms of enforcement, as it builds on the current Tier 2 system, under which entry and leave to remain are contingent on a specific job. However, if such a scheme incorporated lower-skilled occupations, it may raise additional challenges for immigration control (including the risk of potential onward movement to the UK). We also consider the scheme to be politically viable, as it would require relatively small adjustments to the existing Scotland occupational shortage list. However, it would be more controversial if it introduced a lower skills/salary threshold.

## An Overall Assessment of the Options

The table below offers a suggested scoring of each of the options across the three criteria. The scores are aggregated from a more fine-tuned grading system.<sup>3</sup> It is important to note that this table is an appraisal tool that can be differently applied. Depending on their interpretation of different schemes, readers might give diverging scores across the criteria. Moreover, the criteria might be weighted differently according to one’s perspective, for example attaching more or less importance to the third criterion of political viability.

**Table 1: Overall Assessment of Immigration Policy Options**

<i>Recruitment Model</i>	<b>Meets Scottish Needs (Max 12)</b>	<b>Implementation Enforcement (Max 6)</b>	<b>Political Viability (Max 6)</b>	<b>Score (Max 24)</b>
<b>Points-based System</b>	11	4	2	17
<b>Post-study Work Visa</b>	9	4	4	17
<b>Employer-led</b>	8	4	4	16
<b>Occupational Shortage</b>	9	4	4	17

Our summary assessment allocates the same score to the human capital points-based system, post-study work visas and occupational shortage approaches, but arrives at these scores on different grounds. The human capital points-based model is clearly the best suited to address Scotland’s demographic needs, but it is the least politically viable. The post-study work visa and occupational shortage approaches may be less strong in terms of meeting demographic needs, but they are more politically viable, building on existing or previous schemes.

Different approaches can be combined; indeed the current UK points-based system includes a range of different programmes, including elements of human capital, employer-led and occupational shortage approaches. Some combination of schemes would probably be best suited to Scotland’s needs. We suggest three possible combinations:

1. A human capital points-based system could be weighted to address various criteria – for example giving particular credit to graduates of Scottish universities or those with skills in occupations facing shortages.
2. If a human capital points-based system proves unfeasible, a future differentiated system could involve a regional quota that combines elements of employer-led and occupational shortage criteria. These schemes could be differentiated to allow lower thresholds for Scottish employers, for example setting lower skills or salary thresholds than for rUK, or waiving elements of labour market tests.
3. Scotland could combine a post-study work scheme with a differentiated occupational shortage list and/or employer-led approach. Under such a system, graduates of Scottish higher education institutions would have initial leave to stay and work for 2 years following their study, with the possibility of switching to an expanded Tier 2 (Scottish) route (see 2 above). This would widen the pool of available skilled migrants already living in Scotland.

## Conclusion

There are a number of promising channels for meeting Scotland's needs that do not require a radical overhaul of current UK immigration policy, or of the current constitutional settlement. The challenges in realising them reflect the heat of debate on immigration more than the practical difficulties of implementing them.

Any scheme will need to address labour shortages in lower and unskilled occupations. There are various options for achieving this, through the existing UK points-based system (under a Tier 2 or Tier 3), and/or the reintroduction of a seasonal worker scheme across some sectors. Scotland will have an interest in ensuring such schemes offer generous conditions to immigrants: ideally, they should encourage the longer-term residency and integration of workers filling jobs that would otherwise face shortages.

Key to addressing demographic problems are the pathways offered to permanent settlement. This is one of the most difficult challenges facing the design of a future system, given public concerns about the impacts of immigration, and about immigrants' access to welfare and public services. A differentiated system incorporating permanent settlement rights is also likely to raise concerns about retention and onward movement to rUK. However, the virtues of such systems are that they invest in recruiting those who are most likely to integrate and settle; and through offering generous rights, they ensure immigrants can contribute positively to the host society and economy. Arguably, this is a far more foresighted approach to recruitment than a focus on addressing labour market gaps through short-term visas.

If Scotland wants to adopt such a settlement-oriented model, political leaders will need to think carefully about how to make a convincing case for embracing such an expansive approach to immigration. We hope that our analysis can allay some of the concerns about enforcement and constitutional change, contributing to a less politically-charged debate.

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<sup>1</sup> This draws on our research presented in a fuller [policy paper](#): Christina Boswell, Sarah Kyambi and Saskia Smellie, 'Scottish and UK Immigration Policy After Brexit: Options for a Differentiated Approach (University of Edinburgh, 20 June 2017)

<sup>2</sup> See the full paper

<sup>3</sup> The paper sets out more detail of how the scores are derived