



House of Commons
Scottish Affairs Committee

**Post-study work
schemes: Government
Response to the
Committee's Fourth
Report of Session
2015–16**

Third Special Report of Session 2016–17

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The Scottish Affairs Committee

The Scottish Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Scotland Office (including (i) relations with the Scottish Parliament and (ii) administration and expenditure of the offices of the Advocate General for Scotland (but excluding individual cases and advice given within government by the Advocate General)).

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the [Committee's website](#) and in print by Order of the House. Evidence relating to this report is published on the [inquiry page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Jyoti Chandola (Clerk), Peter Stam (Second Clerk), Edward Faulkner (Committee Specialist), Pansy Barrett (Senior Committee Assistant), Jake Barker (Social Media Assistant) and George Perry (Media Officer).

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Third Special Report

The Scottish Affairs Committee published its Fourth Report of Session 2015–16, [Post-study work schemes, HC 593](#), on 15 February 2016. The Government response to the Report was received on 19 October 2016, and is published as an appendix to this Report.

Appendix: Government response

I am grateful to the Scottish Affairs Committee for its report on post-study work schemes, published on 15 February. Please find enclosed the Government's written response to the conclusions and recommendations in the Committee's report. The timing of the response has been delayed owing to the Purdah periods affecting the elections to the Scottish Parliament and the EU referendum, and subsequent Ministerial changes.

Robert Goodwill MP
Minister of State for Immigration

The Government's response to the Scottish Affairs Committee's Fourth Report of Session 2015–16: Post-study work schemes, published on 15 February 2016

The Government would like to thank the Committee for its report on post-study work schemes, published on 15 February 2016.

We are delivering an immigration system which works in the national interest and is fair to British citizens. Migrant workers can fill gaps in our labour market and can help to boost our economy. In the past, however, it has been too easy for employers to bring in workers from overseas rather than to take the long-term decision to train our workforce here at home. Uncontrolled, mass immigration also makes it difficult to maintain social cohesion, puts pressure on public services and can drive down wages for people on low incomes.

We remain committed to attracting the brightest and best graduates to the UK, however, the post-study provisions we have in place must strike a careful balance between providing competitive options for the brightest graduates from around the globe to remain in the UK to work, whilst also maintaining safeguards against the type of widespread abuse that was seen under former post-study work schemes. This abuse undermined our work routes and damaged the reputation of our education system.

We consider that the four visa categories available to non-European Economic Area (EEA) graduates of UK universities wishing to remain in the UK to work comprise an excellent post-study work offer. Those with an offer of a graduate-level job, paying an appropriate salary, may take up sponsored employment through Tier 2. Those who have been identified by their higher education institution or UK Trade & Investment can stay on for up to two years to develop their business in the UK under the Tier 1 (Graduate Entrepreneur) category. Graduates wishing to undertake a period of professional training or a corporate internship related to their qualifications can do so in Tier 5, whilst PhD students can stay in the UK for an extra year, under the Tier 4 Doctorate Extension Scheme, to look for work or start their own business.

The Government welcomes international students who choose to study in Scotland and is pleased to note that over recent years there have been increases in both visa applications from international students to study at Scottish universities, and in international student enrolments at Scottish universities. It is clear that Scottish universities continue to thrive and remain highly attractive amongst international students as destinations to study, thereby providing a strong stream of talent who can benefit from our excellent post-study work provisions.

We want to ensure that international graduates attending Scottish universities, as well as Scottish employers, are fully aware of the strength of the opportunities we already have in place for those seeking to undertake skilled work in the UK after their studies.

We have considered the conclusions and recommendations within the report and the Government's response is below.

International Students in Scotland

Conclusion/Recommendation 1

We welcome all international students who choose to study at Scottish Higher Education Institutions. The number of both EU and non-EU international students at Scottish HEIs is a testament to the high quality of Scottish universities. These students help create a global environment which is of benefit to students of all nationalities, and non-EU international students also make an important financial contribution to both the higher education sector and local economies. (Paragraph 18)

Government's Response:

International students are greatly valued by the UK. It is recognised that they make an important contribution during their time here, and they help make our education system one of the best in the world. The UK remains the second most popular destination in the world for international higher education students and we want to continue to attract the brightest and best to study at our world-leading institutions, including those in Scotland.

Visa applications from international students to study at Scottish universities have increased by 10 per cent since 2010. The most recent figures, for the year ending June 2016, show a continued year-on-year increase. Almost 15,000 visa applications were made to study at Scottish universities over this period.

Figures produced by the independent Higher Education Statistics Agency (HESA) show that between 2013/14 and 2014/15, there was a 3 per cent increase in the total number of full-time, non-EU student enrolments at Scottish universities (up to 26,335). Over the same period, there was a 3 per cent increase in the number of full-time, non-EU new entrants at Scottish universities (up to 14,745).

It is also noted that between 2013/14 and 2014/15, there has been an increase in the number of non-EU students enrolling in their first year at Scottish universities from countries such as India (an increase of 10 per cent, up to 810), Malaysia (an increase of 6 per cent, up to 585) and Hong Kong (an increase of 33 per cent, up to 355).

Past and present post-study work routes

Conclusion/Recommendation 2

The closure of the Tier 1 (Post-Study Work) visa in 2012 has resulted in the number of non-EU international students moving to work visas after their studies falling by over 80%. This is far beyond what the Government predicted in its impact assessment of closing this route, indicating the results have been more drastic than intended. It is extremely disappointing that the Home Office is not able to identify the specific impact to Scotland, but we have heard that it has been significant and negative. (Paragraph 28)

Government's Response:

The closure of the Tier 1 (Post Study Work) category was announced in March 2011 and implemented in April 2012, as part of a package of reforms to immigration requirements for overseas students. The Post Study Work category permitted students graduating from a UK university to stay in the UK for up to two years after they finished their course, with unrestricted access to the labour market. Numbers of applications were significant, climbing from 20,015 grants of extension of stay in 2008 to 43,719 in 2011, when the route accounted for 45 per cent of all grants of extension of stay for the purpose of work.

The underlying rationale for closing the scheme was the Government's commitment to applying a limit to non-EEA migration, delivered through a refocusing of the system on provision for workers coming to fill specific skilled vacancies under Tier 2, and removal of Tier 1 provisions under which the highly skilled were given free access to the labour market. This was supported by evidence that the availability of the Tier 1 (Post Study Work) category gave rise to a cohort of migrants who, to a significant degree, were unemployed or engaged in unskilled work and was likely to seek to abuse the immigration system in order to prolong their stay. We also saw a large number of fraudulent applications. This undermined our work migration routes and damaged the reputation of our education system.

A published operational assessment¹ of the employment status of Tier 1 migrants undertaken in October 2010 found that three in five users of the Tier 1 (Post Study Work) category were in unskilled work. In addition, UK Visas and Immigration (UKVI) intelligence assessments made in 2009 found that applications to switch into the Tier 1 (Post Study Work) category were associated with high levels of abuse, including the submission of suspected bogus educational qualifications.

Furthermore, a 2014 analysis of the tax status of migrants who had switched from the Tier 1 (Post Study Work) category to the Tier 1 (Entrepreneur) category found that the majority had no declared economic activity or were working in breach of their conditions of stay. With a focus on greater selectivity, and a limit on economic migrants with a skilled job offer applying from overseas, it would be inappropriate to continue to operate a route which allowed graduates to remain unemployed or in unskilled work.

The Government is keen to ensure that international students who genuinely want and are able to undertake skilled work in the UK are aware of the routes on offer, and to

1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115913/occ91.pdf

understand and address any potential barriers they may face in using them. It should also be noted that factors outside the immigration system will have had an impact on the recruitment of graduates (for example, the strength of the economy).

It is noted that the evidence heard by the Committee, that the specific impact on Scotland has been significant and negative, is primarily anecdotal. In particular, those holding leave under the Tier 1 (Post Study Work) category did not have to notify or seek authorisation from the Home Office in order to work in any location in the UK. This means that the Home Office does not hold specific data on the numbers of migrants in that category who were working in Scotland.

It was therefore right to close the Tier 1 (Post Study Work) category, and replace it with a more selective system. The availability of the Tier 1 (Post Study Work) route accounted in part for a student migration system that lacked sufficient regulation and attracted migrants to the UK for the wrong reasons. The National Audit Office reported that up to 50,000 migrants came on a student visa to work, not study, in 2009/10 alone.

With our current post-study provisions, the number of international students switching from Tier 4 into Tier 2 in the UK has been increasing. In 2015, more than 6,000 international students switched from Tier 4 to Tier 2 from within the UK. This is up from around 5,500 grants in 2014, and around 4,000 grants in 2013. Unlike former post-study work schemes, these students will all be moving into skilled employment with employers who have appropriate sponsorship duties placed upon them.

The case for improving post-study work routes in Scotland

Conclusion/Recommendation 3

Scotland has different demographic needs than other parts of the UK, due to slower population growth and a need to expand the size of the workforce, and also faces significant skills shortages in a variety of sectors. Retaining non-EU international graduates to work in Scotland is an important element of the response to these challenges. Our forthcoming inquiry into Scotland's demography will explore in more detail the demographic challenges faced by Scotland, and consider which policy levers are needed to respond to them. (Paragraph 32)

Government's Response:

We note the Committee's comments and look forward to seeing further details about the inquiry about Scotland's demography in due course. We note the independent Office for National Statistics' (ONS) National Population Projections² forecast a 3.1 per cent increase in Scotland's population by 2024.

The UK has a single policy of migration for employment which ensures that employers, wherever they are in the UK, can mitigate skill shortages by recruiting from outside the EEA. It is implemented through a visa system carefully designed to ensure only those with the skills the economy needs are permitted to migrate to the UK. Within this unified

2 <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojection/s/bulletins/nationalpopulationprojections/2015-10-29>

system, Scotland's particular circumstances and need for skilled labour are accounted for through the Scotland-specific Shortage Occupation List which provides for immigration to address gaps in Scotland's labour market.

Applying different immigration rules to different parts of the UK would complicate the immigration system, harming its integrity, and cause difficulties for employers with a presence in more than one part of the UK.

Conclusion/Recommendation 4

The world class reputation of Scottish Higher Education Institutions means they have had great success in attracting international students from across the world. However, there is clear evidence that post-study work offers play a significant role in decisions by international students of where to study, and Scottish HEIs are at a competitive disadvantage compared to countries outside of the UK with more generous post-study work offers. The Government should consider how the post-study work routes available in the UK relate to its desire to “increase the number of high quality, genuine international students coming to our world-class universities”. (Paragraph 37)

Government's Response:

British universities successfully compete internationally on the basis of their academic excellence, and those based in Scotland are no exception. We remain clear that we continue to welcome the brightest and the best to our world-leading universities. The Government believes that the quality of the education on offer, not the possibility of post-study work, is rightly the primary determinant of where students choose to study.

We do recognise that the availability of post-study work may be one of many factors that some international students take into account when making choices about where they wish to study. We have a highly competitive post-study work offer for graduates seeking to undertake skilled work after their studies. This is why it is important that there is collective effort from governments and the education sector to communicate the strength of our excellent offer for study and post-study work in Scotland.

We will continue to work with the higher education sector and sponsors to ensure messages address information gaps and that materials explaining our post-study provisions are accessible and widely shared. In the autumn we are also planning a communications initiative aimed at Scottish universities to assist them in recruiting talented international graduates.

We have taken important steps to reform the student migration system, and we have no plans to re-introduce a post-study work scheme that does not lead to skilled work and could reintroduce many or all of the issues we saw under the former Tier 1 (Post Study Work) category.

Our strategy of clamping down on abuse and ensuring that work migration routes are not undermined whilst also maintaining an excellent offer for the brightest and best is working. The grant rate for Tier 4 (General) visa applications has increased every year

since 2010, and 94 per cent of such applications were granted in 2015—indicating that the calibre of international students applying to study at our world-class institutions is increasing and non-genuine students are being deterred.

Conclusion/Recommendation 5

We welcome the Government’s recognition that “there should be opportunities for the brightest and best graduates from UK universities to remain in the UK to work”. The majority of evidence we have heard argued that the UK’s current post-study work routes fail to achieve this and are not meeting the needs of Scotland. This was contradicted, however, by the Minister for Immigration who told us that there was currently “a very good arrangement in place.” Evidence we received argued that the period of time international students have to find a Tier 2 job—four months—is too short, the minimum salary thresholds do not reflect the reality of graduate salaries in Scotland, and acting as a Tier 2 sponsor is costly and burdensome for employers. These issues are a particular barrier to SMEs, which make up the vast majority of employers in Scotland. SMEs are less able to offer salaries at the Tier 2 thresholds and lack the resources and expertise to navigate the complicated process of being a Tier 2 sponsor. It is disappointing that the complaints we have heard from business groups, the education sector and the Scottish Government were not recognised by the Minister for Immigration. (Paragraph 47)

Taken with

Conclusion/Recommendation 6

We agree with the overwhelming majority of contributors to our inquiry who argued that, given the particular skills and demographic needs of Scotland, and inadequacy of current arrangements, post-study work routes for non-EU international students attending Scottish HEIs need to be reformed. Improving the ability, within Scotland, to retain non-EU international graduates would increase the pool of skilled workers available to Scottish employers, and play an important role in filling skills shortages. Improved post-study work opportunities would also enhance the ability of Scottish universities, which operate in an extremely competitive international market, to attract international students. Although these arguments might also apply elsewhere in the UK, the skills and demographic needs of Scotland mean that there is a specific case for Scotland. (Paragraph 48)

Taken with

Conclusion/Recommendation 7

Several parliamentary committees and groups have considered post-study work routes on a UK-wide basis, and recommended that they be improved. It is disappointing that the Government has not responded positively to any of these recommendations. We urge the Government to take a more constructive approach not only to this report but to the work into this issue that has already been done, and is currently being undertaken, by parliamentarians across the UK. (Paragraph 50)

Taken with

Conclusion/Recommendation 8

In order for the Tier 2 (General) visa to be an effective post-study work option for non-EU international students attending Scottish HEIs, it is essential that the current system be reformed. Specific issues which must be addressed are the length of time international graduates have to find Tier 2 employment, the minimum salary thresholds that apply in Scotland, and the burden faced by employers which sponsor Tier 2 jobs. We welcome the Home Affairs Committee’s recommendation that the Government consider how it might devise policies that reduce the barriers for international students to stay in the UK and take up high skilled employment, and the Secretary of State for Scotland’s willingness to take forward the recommendations set out in this Report. (Paragraph 57)

Government’s Response:

The Government recognises that there should be opportunities for highly achieving international students who graduate from UK universities. As part of the Home Office’s continued efforts to ensure that the UK maintains an excellent offer to attract the brightest and best to study at our world-leading institutions we have introduced a Tier 4 pilot. Its main aim is to help simplify the visa application process for international students looking to study on a Masters’ course, in the UK, of 13 months or less. It will also help to support students who wish to switch into a work route and take up a graduate role by extending the leave period following the end of their study to up to six months.

The institutions taking part³ in the pilot were chosen due to their consistently low level of visa refusals. Should the pilot be a success, the Home Office will be considering expansion of the pilot further, including to highly compliant institutions in Scotland.

Currently, international students on courses lasting 12 months or longer are granted leave for the full length of their course, plus an additional four months at the end.

Applications for many graduate level roles start up to 12 months before the roles begin. International students can apply for graduate level roles whilst they are studying and during the four months at the end of their course. International students can then formally switch into Tier 2 once they have successfully completed their degree. International university students who switch from a Tier 4 visa to a Tier 2 visa are exempt from the Tier 2 limit, and the resident labour market test. This enables employers to recruit the brightest and best talent from UK universities, and for international students graduating in the UK to apply for skilled jobs on a level playing field with domestic students. Tier 2 (General) visas can be granted for up to five years and the overwhelming majority of decisions on applications for all visa extensions in Tier 2 are grants (93 per cent in 2015).

We consider it reasonable to expect students who aspire to find a graduate job after studying to begin looking for skilled work before they complete their course – and indeed for employers to take advantage of this opportunity to recruit talented UK and international graduates. In 2014, more than 5,500 visas were issued to Tier 4 students to switch into Tier 2 in the UK. In 2015 this number increased to more than 6,000. The numbers switching successfully from Tier 4 to Tier 2 demonstrate this four month period is a sufficient amount of time for international students to find skilled employment.

3 The Universities of Oxford, Cambridge, Bath and Imperial College London

Scotland's particular circumstances and need for skilled labour are accounted for through the Scotland-specific Shortage Occupation List which allows immigration to address the gaps in Scotland's labour market. The list broadly reflects the wider UK Shortage Occupation List, suggesting that Scotland's skills needs are largely aligned with the rest of the UK.

Last year, the Home Office commissioned the independent Migration Advisory Committee (MAC) to advise on how to restrict non-EU recruitment to genuine skills shortages and highly specialist experts only, but with flexibility to include high value roles and key public service workers. The Government announced its response to the MAC's report on 24 March 2016. We are introducing changes to Tier 2 which balance the needs of employers and our commitment to support and up-skill the resident labour market. However, the current Tier 2 minimum salary threshold of £20,800 for new entrants, including those switching from Tier 4 to Tier 2, will remain.

Our commission to the MAC explicitly asked them to consider the regional impacts of their recommendations. The MAC considered these and, in line with previous reports, recommended against introducing regional salary requirements:

“[W]e once again recommend that there should not be different salary thresholds for different regions. We acknowledge that wages paid in London are significantly higher than in other areas of the country. However, those working in London will generally be drawn from higher up in the wage distribution. The 25th percentile, which is our recommended benchmark for salary thresholds, is more representative of a typical worker from regions at the lower end of the distribution. It does not represent a typical worker in London.”⁴

Tier 2 salary requirements are, for the most part, based on the Annual Survey of Hours and Earnings (ASHE), published by the independent ONS. These data are UK-wide and therefore take account of salary levels in Scotland. The latest ASHE data show that salaries in Scotland are higher than those in any other part of the UK outside London and the South East, at the 10th, 25th and 50th percentiles, so graduates should be able to find jobs in Scotland offering salaries that meet the Tier 2 minimum threshold for new entrants. Indeed, as with previous ASHE data, salaries in Scotland are higher than salaries for the UK as a whole, meaning that if we were to apply regional salary requirements, the minimum salaries required to sponsor Tier 2 migrants in Scotland would be higher than they would be using UK-wide data. London earnings did not have a significant impact on the UK average. Having a single national set of salary rules across the UK also provides clarity and simplicity for applicants and sponsors.

Over 28,000 UK employers are licensed by the Home Office to sponsor non-EEA nationals to work in the UK under Tier 2. The majority of these are SMEs. Businesses can apply for a sponsor licence online in 30 minutes, with a reduced application fee for small employers. 80 per cent of licence applications are decided within 8 weeks. We believe sponsorship is straightforward and business-friendly. A business helpdesk is available to provide support. The duties we ask of sponsors are not onerous; they are similar to the normal practice of

4 <https://www.gov.uk/government/publications/migration-advisory-committee-mac-review-tier-2-migration>

any good employer. Businesses who use the system tell us that the UK immigration system compares well with our global competitors—they like its speed and certainty. However, we welcome any feedback from users of the system on how we can improve.

As part of our excellent post-study offer for international students, we have introduced a Tier 1 route for graduate entrepreneurs, the first of its kind in the world. Those who have been identified by a higher education institution or UK Trade & Investment can stay on for up to two years to develop their business in the UK before switching into Tier 2 or the main Tier 1 (Entrepreneur) route. The independent MAC published its review of the Tier 1 (Entrepreneur) and Tier 1 (Graduate Entrepreneur) routes in October 2015. The MAC concluded that the Graduate Entrepreneur scheme works well – it has limited numbers and attracts high quality people. There are 11 higher education institutions in Scotland registered to endorse applications under the Tier 1 (Graduate Entrepreneur) scheme.

We have also made provision to switch into Tier 5 for those graduates wishing to undertake a period of professional training or a corporate internship related to their qualifications, before pursuing a career overseas. Furthermore, PhD students can stay in the UK for an extra year, under the Tier 4 Doctorate Extension Scheme, to look for work or start their own business.

All of these post-study work provisions are available to non-EEA graduates of UK universities, including those in Scotland. It is important that we continue to attract the brightest and the best to study at our world-class institutions and work in skilled jobs, and there is nothing to prevent institutions growing their international student numbers in a sustainable way. We must also ensure, however, that a desire to maximise revenue does not lead to some universities placing too great a focus on recruiting international students who pay a premium for the ability to come to the UK. We would have concern about what impact this could have on sector capacity and the number of places available at universities for British students.

We take careful note of the work being carried out by other interested parties on the issue of post-study work schemes, and will continue to respond as appropriate. Suggestions for change must be supported by evidence-based analysis and contain safeguards against the widespread abuse and ineffectiveness we saw under the previous post-study work routes. Consideration of post-study work routes within the UK must be sure to take into account that the number of international students applying to study at Scottish universities continues to increase year on year, as well as properly acknowledging the strength of our existing offer.

Options for improving post-study work routes

Conclusion/Recommendation 9

We recommend that the Government commission the Migration Advisory Committee to review current provisions for transferring from a Tier 4 (General) student visa to a Tier 2 (General) visa, with a view to making recommendations to better enable highly skilled non-EU international students graduating from further and higher education institutions to remain in the UK and contribute to economic activity for a defined period of time. Options which should be considered include extending the period of time international students have at the end of their student visa and looking at how

sponsorship can be made less costly and burdensome for employers. This should be carried out alongside work, which we recommend in the next section, to consider regional salary thresholds for Scotland. (Paragraph 58)

Taken with

Conclusion/Recommendation 10

We note with great concern the outcome of the Migration Advisory Committee's recent review of the Tier 2 visa. We strongly oppose any changes to the Tier 2 visa which would restrict the ability of non-EU international students, attending Scottish HEIs, to move from a student to a work visa. We are particularly concerned that the MAC's findings do not meet the needs of Scotland, and that the implementation of its recommendations would further concentrate post-graduate work, for non-EU international graduates, in London and the South East of England. (Paragraph 63)

Taken with

Conclusion/Recommendation 11

We recommend that the UK Government delay any decision on implementing the MAC's recommended changes to the Tier 2 visa until the MAC has provided advice on improving post-study work routes for non-EU international students and, specifically, on how Tier 2 salary thresholds can be made to account for the reality of graduate salaries in Scotland. This advice should then inform the Government's consideration of how Scottish interests can be reflected in the current visa framework. (Paragraph 64)

Government's Response:

Last year, the Home Office commissioned the MAC to advise us on how to restrict non-EU recruitment to genuine skills shortages and highly specialist experts only, but with flexibility to include high value roles and key public service workers. The Government announced its response to the MAC's report on 24 March 2016. We are introducing changes which balance the needs of employers and our commitment to support and up-skill the resident labour market.

As set out in more detail above, our commission to the MAC last year explicitly asked the Committee to consider the regional impacts of their recommendations. The MAC recommended against introducing regional salary requirements.

In response to the MAC's report, the Government has in fact enhanced our offer for graduates. From autumn 2016, we will give graduates applying from overseas extra weighting within the prioritisation mechanism for allocating places under the Tier 2 limit, and we will allow all graduates to switch roles within a company once they have completed a graduate training programme, without requiring a further resident labour market test.

The main changes we are making to Tier 2 include:

- increasing the salary threshold for experienced workers in Tier 2 (General) to £30,000. We will maintain the current threshold of £20,800 for new entrants, including students switching from Tier 4 to Tier 2 after their studies;
- introducing the Immigration Skills Charge of £1,000 per sponsored worker per year, with a reduced rate of £364 for small sponsors and charities. PhD roles, Tier 2 (Intra-Company Transfer) Graduate Trainees, and those switching from Tier 4 to Tier 2 will be exempt; and
- simplifying the Intra-Company Transfer route from four categories to two.

The updated rules will come into effect in two stages (autumn 2016 and April 2017) to make sure that employers have time to plan for the changes.

We note the Committee's recommendation that we commission the MAC to review the current provisions for transferring from a Tier 4 (General) student visa to a Tier 2 (General) visa. However, these provisions have been considered by the MAC a number of times in the past, including as part of its most recent Tier 2 review. We have no plans to commission the MAC to review them again.

Conclusion/Recommendation 12

The UK Government should work with the Scottish Government and Higher Education Institutions (HEIs) in Scotland to ensure that post-study work offers available to non-EU international students attending Scottish HEIs are better promoted to potential and current international students, as well as employers who may want to access international talent. Promoting the UK's post-study work offer will be much more difficult if the Government implements the Migration Advisory Committee's recommendations for further restrictions to Tier 2 visas. (Paragraph 67)

Government's Response:

We will continue to work with the education sector and the Scottish Government to ensure our post-study work offer is communicated effectively to current and potential international students and better understood. We are currently reviewing what further support our universities require to help ensure there is clarity on the strength of our post-study work offer. It is also important that the education sector, with support from governments, looks at what more can be done to support our universities in marketing their education offer effectively, to help them compete with their international counterparts.

We set out above how we are responding to the MAC's Tier 2 report.

Conclusion/Recommendation 13

We acknowledge the challenges which would be involved in establishing a "Scotland-only" post-study work visa for non-EU international students who have studied at Scottish universities, but we have received compelling evidence that these challenges could be overcome. The requirements for employers to check right to work and landlords to check right to rent would facilitate the existence of a Scotland-specific

visa. The Government should not use the need to develop practical details of how such a scheme could be implemented as an excuse for not engaging in discussions about introducing a formal post-study work scheme for Scotland. (Paragraph 75)

Government's Response:

The report has asserted clearly that some of those who gave evidence to the Committee are keen to see the establishment of a 'Scotland-only' post-study work visa. The report however contains no evidence that the current offer is not delivering for Scotland, nor does it provide evidence to support a fundamental change of approach.

Immigration policy is reserved and there are no plans to change this. The UK has a single policy of migration for employment which ensures that employers, wherever they are in the UK, can mitigate skill shortages by recruiting from outside the EEA. It is implemented through a visa system carefully designed to ensure only those with the skills the economy needs are allowed to migrate to the UK. Within this unified system Scotland's particular circumstances and need for skilled labour are accounted for through the Scotland-specific shortage list which allows immigration to address the gaps in Scotland's labour market.

Evidence to date suggests that Scotland's needs are broadly aligned with the rest of the UK. We do not consider a Scotland-specific visa scheme to be in the best interests of the integrity of the immigration system, or in the interests of UK employers and landlords who would be required to check whether a migrant's status restricted their ability to work to Scotland. Such a scheme would not be practicable, for example, for employers who are headquartered in Scotland but need the flexibility to deploy their staff to other parts of the UK to engage in employment activity.

Conclusion/Recommendation 14

There are several lessons which can be learned from past post-study work schemes. These include the effectiveness of past post-study work schemes in enabling international graduates to find skilled employment, and also the risks that if such schemes are not structured to lead people into graduate level work they can result in international graduates staying in the UK and taking up unskilled work. We hope that the lessons we have identified will inform proposals for a post-study work scheme for Scotland. (Paragraph 84)

Government's Response:

We believe that there were significant limitations with the Fresh Talent: Working in Scotland Scheme. It granted free access to the whole of the UK labour market and anecdotal evidence suggested many international students chose to move to London and the South East to look for work after joining the scheme in Scotland. An evidence review of the Fresh Talent scheme, published by Scottish Government Social Research in 2008, refers to analysis of in-country applications conducted by the Border and Immigration Agency between June and August 2007, which indicated that only 44 per cent of applicants had remained in Scotland at the end of their two years' leave on the scheme. That same evidence review also included data from a non-compulsory monitoring questionnaire sent to those who successfully applied for the Fresh Talent scheme. This showed that a

significant proportion of respondents were not in the type of jobs they would like to be in, with around four in ten stating that their employment was not linked to their career choice, and more than half saying that it was not appropriate for their level of education.

We closed the Tier 1 (Post Study Work) route in April 2012. This route granted free access to the UK labour market for two years to international students who graduated in the UK. Too many individuals in the route were unemployed or in low-skilled work, and too many were using the student route merely as a means to work in the UK, without any intention of study. We also saw a large number of fraudulent applications. This undermined our work routes and damaged the reputation of our education system.

These former schemes have been integral in shaping our current post-study provisions for international students. The more selective system we currently have in place contains important safeguards to protect against abuse, the undermining of our work migration routes, and students being exploited by being used in low-skilled work or remaining in the UK unemployed.

The purposes of our economic migration routes are to attract the brightest and best and to fill skills gaps in our economy. In that context, we believe it is right that our post-study offer is focused on those who are able to quickly obtain an offer of a skilled job, or to establish their own business.

Engagement by the UK Government

Conclusion/Recommendation 15

The Smith Commission stated that the UK and Scottish governments should “work together” to explore the possibility of introducing formal schemes to allow international higher education students graduating from Scottish further and higher education institutions to remain in Scotland and contribute to economic activity for a defined period of time. The UK Government has failed to engage on this issue, and its insistence that the schemes referred to by the Smith Commission already exist is plainly at odds with the recommendation made by the Commission. The lack of engagement by the UK Government is particularly disappointing given the overwhelming view from Scotland that the current system is not suitable and a better solution is needed. It is impossible to conclude anything other than that the UK Government is failing to fulfil the recommendation of the Smith Commission on this issue. (Paragraph 91)

Taken with

Conclusion/Recommendation 16

Although we have been disappointed with the Government’s engagement on this issue thus far, we welcome the Minister for Immigration’s confirmation that he is happy to meet with Scottish Ministers, and the Secretary of State for Scotland’s statement that he would take forward any improvements to existing arrangements we identified, which would benefit Scotland. That said, given the Scotland Office is meant to represent Scottish interests within the UK Government, it is disappointing that the Secretary of State for Scotland has so far failed to lead on an issue which is of such importance to Scotland. (Paragraph 92)

Taken with

Conclusion/Recommendation 17

We recommend, in line with the recommendation of the Smith Commission, that the UK Government enter into discussions with the Scottish Government to explore introducing formal post-study work schemes for international higher education students graduating from Scottish further and higher education institutions. The Secretary of State for Scotland should ensure that the UK Government responds positively to the recommendation made by the Smith Commission. (Paragraph 93)

Government's Response:

We greatly value our relationship with the Scottish Government, and are mindful of our responsibilities under the terms of the Smith Commission Agreement. The Smith Commission found that the parties represented in the Scottish Parliament agreed that the Scottish and UK Governments should work together to explore the possibility of introducing formal schemes to allow international higher education students to remain in Scotland and contribute to economic activity for a defined period of time.

The UK currently has formal post-study work schemes for graduates of Scottish universities seeking to undertake skilled work in the UK after their studies and contribute to economic activity.

The Smith report neither referred to, nor recommended, the re-introduction of the former Tier 1 (Post Study Work) Visa, nor the former Fresh Talent: Working in Scotland Scheme which it replaced.

However, awareness of the strength of the opportunities we already have in place can no doubt be improved. We will continue to take every opportunity to explain the excellent post-study work options that already exist, to ensure they are understood by students, universities and employers. We remain willing to engage in discussions with the Scottish Government about how best to achieve this shared goal. The Immigration Minister has written, most recently in August, to the Scottish Government's Minister for Europe and International Development, Alasdair Allan, inviting them to discuss how we can best ensure that international graduates attending Scottish universities are fully aware of the strength of the post-study opportunities we have in place.