Should different immigration rules be applied to different parts of the UK post-Brexit?

Immigration System & Policy: MW 397

Summary

1. The application of substantially different immigration rules in the UK's various devolved authorities and cities after the UK leaves the European Union would be unjustified and impracticable. Such a system would also be extremely complex, distort competition and introduce local anomalies. Fundamentally, it would seriously undermine the government's efforts to reduce net migration which are widely supported by the public. Schemes elsewhere in countries whose objective is to increase immigration have had questionable success and, in any case, are irrelevant to the situation in the UK.

Introduction

2. The Scottish Government have called for the devolution of immigration responsibility from London to Edinburgh in a bid to retain free movement in Scotland post-Brexit[1], while London Mayor Sadiq Khan has threatened to call for the introduction of London-specific work permits exclusively for use by firms in the Capital if access to skilled migration is restricted.[2] There have also been calls for an examination of the merits of devolving immigration responsibility regarding EU citizens from Westminster to Stormont.[3] Others have called for regional criteria to be added to the UK's immigration system.[4] This paper assesses the arguments.

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1   *Reuters*, October 2016, URL: http://uk.reuters.com/article/uk-britain-eu-scotland-idUKKBN12E1YX
2   *City* AM, 30th November 2016, URL: http://www.cityam.com/254657/sadiq-khan-vowing-take-downing-street-task-over-skilled
3   The Institute of Public Policy Research (IPPR), the Convention of Scottish Local Authorities and the House of Commons Scottish Affairs Committee have all suggested there is a case for examining the merits of devolving immigration control. The House of Lords European Union Select Committee meanwhile has recommended that powers be devolved to the Stormont Government to grant or deny freedom of movement to EU nationals in Northern Ireland post-Brexit.
4   The City of London Corporation and London Chamber of Commerce and Industry (LCCI) have both suggested adding a substantive regional element (e.g. London-only visas) to UK immigration policy, to be administered either by the Home Office or by local authorities.

Models proposed by third-sector organisations since the EU referendum

3. The London Chamber of Commerce and Industry's (LCCI) proposed policy would involve Capital Work Permits to allow London employers to continue to draw on migrant labour to meet its needs. These would be issued by a London Work Permit Sponsorship Body that would be licensed as a 'sponsor' by UK Visas and Immigration (UKVI) to act as a broker between London employers and non-UK applicants for work permits. Capital Work Permit holders would only have permission to work within the 33 local authority areas of London. This would be enforced by a prefix added to their national insurance number. According to the LCCI: "The number of permits granted would be informed through a new Shortage Occupation List for London, a newly defined resident labour market test and an annual London Skills Audit."

4. The City of London Corporation proposes that regional visas could either be governed jointly by local authorities and businesses or wholly overseen by UKVI. Under the former option, business 'would submit a case to a local authority, evidencing that they had tried to recruit locally and nationally'. Under the latter option, the UKVI would employ 'hub casework teams, industry experts and regional knowledge to judge the merits of cases put forward by business'. They would approve a set number of regional visas and allocate them to the relevant employer.

5. The Institute of Public Policy Research (IPPR) has called for an immigration policy that would allow London and Scotland to 'keep free movement, or something close to it'. In the IPPR's words:

> *"[The model] could work by using certificates of sponsorship to require employers to specify the place of work and residence of the employees they sponsor; and set regional-specific quotas for these certificates by sector (and possibly by pay level)."*

6. The IPPR adds that an important element of their proposal would be 'democratic control' of work permit quotas by regional political bodies such as the Scottish Government and the GLA, as well as other 'bespoke' bodies throughout the rest of the country. Employers would be required to register a place of work for migrants, and ensure their home address was a commutable distance from the place of work.

Enforcement

7. The Migration Observatory cites a Canadian study of internal migration of international migrants before and after the introduction of their regional immigration policy.[5] The study showed no change in the rate of internal movement of migrants which could suggest that migrants continued to move despite the residency terms attached to their visa. However, they later note that there were very few examples of violations of the agreement or even deportations as a result of a violation. This could suggest that violations are not being detected as a result of a lack of enforcement.

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5   The Migration Observatory, Oxford University, September 2013, URL: http://www.migrationobservatory.ox.ac.uk/resources/primers/migrants-in-london-policy-challenges/

8. Former New Zealand immigration minister Aussie Malcolm has criticised regional immigration policies. "In the past when they've tried to take regional approaches … you can't guarantee people stay there, they go to the regions then they gravitate back to the cities."[6] In Canada, meanwhile, there are question marks about the legality of the regional policy. Indeed, in the UK the Liberal Democrats abandoned their proposal for a regional immigration policy, contained in the 2010 General Election manifesto, after acknowledging that it was not practicable.[7]

9. Because 90% of current migrants to the UK currently choose to go to England, it is likely that easier access to Scotland could become a back door to England.[8] The Migration Observatory acknowledges this could be the case unless the policy was 'rigorously enforced'.[9] Given the UK's current enforcement problems this outcome is likely. Other proponents of the policy admit that it 'would involve a steady drumbeat' of stories in the media finding people working where they were not registered.[10] The think-tank British Future notes: "Regional immigration systems can be difficult to enforce, which in turn risks increasing illegal working, the exploitation of migrants and damage to public confidence in the management of migration."[11] The Chief Inspector of Borders and Immigration (CIBI) and Home Affairs Select Committee have pointed to major limitations on its current enforcement capacity.[12] In a situation where the public's confidence in the ability of authorities to control the border and enforce the law on immigration is shaky at best, this alone should be enough to rule out such a policy.

Complexity

10. It is likely that the creation of a host of new competing and fragmented immigration authorities would undermine any sense of new found sovereign control over immigration that large numbers voted for on 23rd June. As the government has noted, 'applying substantially different immigration rules to different parts of the UK would complicate the immigration system, harming its integrity, and cause confusion for applicants and difficulties for employers who need the flexibility to deploy their staff to other parts of the UK'.[13] Indeed, the Migration Advisory Committee 'has recommended against region-specific pay thresholds on the basis that they would create unnecessary complexity – especially for employees who work in more than one location'.[14]

11. Immigration systems can be complicated for people to navigate, especially small businesses. Regional policies could introduce further complications and may in fact prevent business from accessing the talent they need. For instance, the IPPR policy could massively increase bureaucracy by requiring quotas of work permits to be set by both region and sector [and possibly by pay level]. The breadth of industry bodies with whom the government would have to negotiate and liaise would extremely cumbersome. It

6   Radio NZ, July 2015, URL: http://www.radionz.co.nz/news/political/279783/will-migrants-stay-in-the-regions
7   BBC News, September 2013, URL: http://www.bbc.co.uk/news/uk-politics-24109632
8   See also Migration Watch UK paper, April 2015, URL: https://www.migrationwatchuk.org/briefing-paper/359
9   Migration Observatory, September 2013.
10   *New Statesman*, October 2016, URL: http://www.newstatesman.com/politics/uk/2016/12/autumn-statement-proved-it-we-need-real-alternative-austerity-now
11   British Future, October 2016.
12   The CIBI has found that tens of thousands of foreign nationals could be escaping deportation because police are failing to check that they are allowed to be in the country when they are arrested. URL: http://icinspector.independent.gov.uk/wp-content/uploads/2016/10/Police-identifying-foreign-nationals.pdf
13   Parliamentary answer by Immigration Minister Robert Goodwill, September 2016, URL: http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-09-02/44683/
14   Migration Policy Institute (MPI), July 2014, URL: http://www.migrationpolicy.org/research/giving-cities-and-regions-voice-immigration-policy-can-national-policies-meet-local-demand

would also pit one area of the economy against others. The Migration Policy Institute (MPI) argues: "This complexity reduces transparency, making it harder to monitor program outcomes."[15] The Financial Times notes that previous proposals for a London-only visa involved the Greater London Authority or business groups sponsoring visas themselves, a task neither seems willing or able to take on.[16] Research by Charles Darwin University academics also finds that the lack of centralised reporting standards, eligibility criteria and procedures in Canada's immigration system undermines its effectiveness.[17]

Distorting competition

12. A regional policy would distort fair competition by allowing a company in a particular region to employ a worker under more favourable terms than one nearby outside of the jurisdiction. As British Future argues: "A London visa would see employers in Dartford face recruitment restrictions that did not apply in Bexley; firms in Pinner would be eligible but their neighbouring competitors in Elstree and Borehamwood would not."[18] This would give one company an unfair advantage over another.

Desirability

13. Sub-national visa programmes as they operate in Australia and Canada are 'first and foremost a tool for admitting workers at the middle- or low-skill level'.[19] In 2016 the Migration Advisory Committee did not find any positive impact on the budget, GDP per head or productivity from migration into such lower-skilled work.[20] This type of migration also has less public support. An ICM poll found in August 2016 that 62% of those surveyed want lower-skilled immigration reduced.[21]

14. Although the academic evidence is mixed, some academics have argued that regional immigration policies as they operate , for instance in Canada, 'have not yet had any powerful impact on the economic prosperity of regional Canada, nor have they had any major, sustained and relative population impact'.[22]

15. Jo Hennessy, an immigration lawyer at Pinsent Masons, has also said that a London-only visa could lead to 'pushback from other parts of the UK that have their own immigration needs'.[23] Indeed, if London and Scotland are granted the right to set their own immigration policy this will naturally lead to calls from elsewhere, for instance from a devolved 'Northern Powerhouse' based in Manchester.

Justification

16. The arguments for implementing a regional system to the UK do not stand up to scrutiny. The Centre for Economic and Business Research (CEBR) proposes introducing London-focused visas post-Brexit on the grounds that, if current Tier 2 visas were applied to EU citizens, 160,000 EU nationals, particularly in

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15   Ibid.
16   *Financial Times*, November 2016, URL: https://www.ft.com/content/e2cd9232-a683-11e6-8b69-02899e8bd9d1
17   Kate Golebiowska, 'Canadian Regional Immigration Policies: Provincial Strategies and Their Outcomes in a Comparative Perspective', Korea Review of International Studies.
18   British Future, October 2016, URL: http://www.britishfuture.org/wp-content/uploads/2016/10/Britains-immigration-offer-to-Europe.pdf
19   MPI, July 2014.
20   Migration Advisory Committee, 'Work Immigration and the Labour Market' (2016), URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/547697/MAC-_report_immigration_and_the_labour_market.pdf
21   British Future, August 2016, URL: http://www.britishfuture.org/articles/what-next-after-brexit/
22   Kate Golebiowska, 'Canadian Regional Immigration Policies: Provincial Strategies and Their Outcomes in a Comparative Perspective', Korea Review of International Studies.
23   Financial Times, 10th November 2016, URL: https://www.ft.com/content/e2cd9232-a683-11e6-8b69-02899e8bd9d1

lower-paid occupations, would not meet the £30,000 salary threshold for experienced employees which will take effect in April 2017.[24]

17. A regional immigration policy for London is mooted primarily as a means of catering for London's supposedly 'special' immigration needs. The justification for such arrangements in other countries, such as New Zealand and Australia, has been to attract migrants to regions that suffer from low populations and retention rates. Far from being an area of low attraction for migrants to the UK, London attracted 28% of international immigration to the UK in 2015, when the city accounted for just under 14% of the total UK population.[25] As a result, London has a population growth rate twice that of the UK.[26] Indeed, the CEBR notes that with no restrictions on EU labour, as is the case currently, London's population would grow by around two million by 2036. The report is silent on how an extra two million people can be accommodated in London, or where the associated schools, hospitals will go or how they will be paid for [at a time when the government seeks to close the budget deficit], or how the resulting risk of further general congestion can be dealt with.

18. London's need for skills going forward could be adequately addressed in three alternative ways. As the Resolution Foundation points out, there is scope for increasing productivity in some sectors which are more dependent on foreign labour. Restrictions on EU labour could also encourage companies to offer higher wages and attract more UK-born staff.[27] This might be more appropriate in some industries, such as hospitality and the food and beverage industry, where employers have come to rely on a constant inflow of migrant foreign labour and have not had to raise wages to attract existing workers. In the short-run, and before such reforms have taken hold, London's labour needs can be met through UK wide work permits for EU nationals, possibly accompanied by an expanded Shortage Occupation List to cater for areas where there are genuine skills shortages, or through temporary and tapered Key Workers Schemes for particular low-paid sectors in the UK as a whole.[28]

19. The justifications given for Scotland to have special immigration powers do not stand up to scrutiny. Although Scotland already has a special Shortage Occupation List which includes seven roles, such as medical physicist and clinical oncologist which are not on the UK-wide list[29], a 2014 survey of employers and industry representatives in key economic sectors in Scotland found they are 'emphatic' that Scotland's employment needs are not different from the rest of the UK, apart from London and the South-East.[30] Analysis of the Labour Force Survey suggests that Scotland has around one in 13 of the high-skilled workers in the UK, broadly in line with their proportion of all workers and indeed of population.[31] It is hard to see any more robust basis for estimation of Scottish 'need' than a simple attribution on this basis. With an estimation of the UK's overall requirements for EU labour in skilled

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24   Centre for Economic and Business Research, commissioned by the London Chamber of Commerce and Industry, November 2016, URL: https://www.cebr.com/wp/wp-content/uploads/2016/11/Working-Capital-Release.pdf

25   ONS International Passenger Survey 4.04, area of destination or origin within the UK by citizenship, December 2016, URL: https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/ipsareaofdestinationororiginwithintheukbycitizenship

26   The Guardian, October 2016, URL: https://www.theguardian.com/uk-news/2016/oct/12/london-population-growth-twice-that-of-uk-official-figures-show

27   Resolution Foundation, July 2016, URL: http://www.resolutionfoundation.org/app/uploads/2016/07/Robot-wars.pdf

28   For proposals along these lines by Migration Watch UK, see briefing papers from November 2016, URL: https://www.migrationwatchuk.org/briefing-paper/396 & https://www.migrationwatchuk.org/briefing-paper/395

29   Tier 2 Shortage Occupation List, p. 13, URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486107/Shortage_Occupation_List_-_November_2015.pdf

30   Scottish Government report, October 2016, URL: http://www.gov.scot/Resource/0050/00508814.pdf

31   ONS Labour Force Survey. The number of high-skilled (SOC major groups 1-3) employees in Scotland who arrived during the previous 10 years is around 30,000.

roles of around 30,000[32], that would mean just under 2,500 work permits (1/13 of 30,000 or 2,300) for EU migrants going into highly-skilled work annually in Scotland.

20. The Scottish Government has committed to maintain currently historically high levels of net migration in part to match average European (EU15) population growth over the period from 2007 to 2017. But the Scottish government has already acknowledged that by 2010 population growth in Scotland was greater than that of the EU15 countries.[33] Indeed, National Records of Scotland project Scotland's population will continue to grow by 7% by 2039.[34] Scotland would continue to grow healthily until 2039 even if net EU migration into lower-skilled work were reduced by about 4,000 a year.[35]

21. Policy makers in both London and Scotland have argued that increasing migration is necessary because it would help address the UK's age-dependency ratio. However, demographers, and indeed the UN, have noted that, immigration is not a solution to an ageing population as migrants age themselves and continually increasing inflows are needed to a necessarily unsustainable point.[36]

22. Finally, it is imperative that immigration reforms take account of the British people's expressed desire for net migration to be brought down. Regional immigration systems in other countries operate as part of points-based systems where the intention of the government is to increase migration, in part in order to fill vast empty spaces in areas of low population. The MPI has found that sub-national programs 'are likely to be most effective in large countries with large regional disparities'.[37] Indeed, many Australians believe that they have a strategic need to grow and the space to do so. Similarly, Canada's immigration minister said in August 2016: "Why not substantially increase the number of immigrants coming to Canada? And that is, I think, I hope, what we are about to do."[38] The Migration Observatory argues that the key purpose of the regional system would be to 'increase' migration to parts of the UK such as Scotland. Yet such a goal would be contrary to the reduction in migration that opinion polls have shown is demanded by the majority of British voters, including a majority of Scots and Londoners.

Conclusion

23. Regional immigration policies are notable in the world for their rarity, with only a few examples in operation (see Annex A). Although the evidence of their effectiveness is mixed, this type of policy typically works better in larger countries and is aimed at attracting migrants into mid- and lower-skilled work. If implemented in the UK, such a policy would fail to command public confidence and likely further undermine credibility in the system by increasing clandestine migration. A better alternative would be to extend the UK's current work permit system to cover EU nationals, while continuing free movement in both directions for students, the self-sufficient, business visitors and genuine marriage. Government at the national, regional and local levels, and business groups, should also concentrate on instituting longer-term reforms to improve productivity, wages, conditions and opportunities for young, British school leavers.

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32   See Migration Watch UK briefing paper, September 2016, URL: https://www.migrationwatchuk.org/briefing-paper/391
33   Scottish Government website, URL: http://www.gov.scot/topics/archive/About-Archive/scotlandperforms/purposes/population
34   National Records of Scotland, Projected population of Scotland (2014-based), October 2015, URL: https://www.nrscotland.gov.uk/files//statistics/population-projections/2014-based/pp14.pdf
35   Migration Watch UK briefing paper, June 2016, URL: https://www.migrationwatchuk.org/briefing-paper/385
36   This point is also made by London School of Economics Professor Michael Murphy in Population Insights, No. 3, April 2016, URL: http://www.population-europe.eu/file/1532/download?token=unkM8cyK
37   MPI, July 2014.
38   *CBC News*, August, 2016, URL: http://www.cbc.ca/news/politics/john-mccallum-substantially-increase-immigration-labour-shortages-1.3718831

Annex A: Immigration systems that have an element of devolution or which include substantive regional criteria in other parts of the world

Canada

In Canada, immigration is a constitutional responsibility shared between the Canadian federal and ten provincial governments [and one of three territorial governments]. Under negotiated Provincial Nominee Programmes (PNPs), applicants with certain skills face a lower immigration requirement if they agree to live and work in a certain province for a minimum of three years. This is also the period of time required before a migrant becomes eligible for Canadian citizenship. As the Migration Observatory notes: "Alongside certain national standards, provinces set their own supplementary requirements to respond to local labour needs by tailoring the selection criteria of their own PNP." An agreement between the federal government and the government of Quebec devolves responsibility for immigration to the province. Potential immigrants apply directly to the Quebec government and not to the dominion of Canada. In Quebec, there is more focus on language and less on human capital and employability than in the rest of the country.

Australia

Australia's immigration arrangements contain provisions designed to address the skills needs of its various territories. State and territorial governments can actively nominate candidates with particular skills under the Skilled Regional (Provisional) visa (subclass 190). Under this visa, the applicant is not linked to a particular employer. State and territory governments can select candidates using an online skilled migration program. The national government has also established a system of awarding points, of which the candidate must secure a minimum number. The Regional Skilled Migration Scheme (subclass 187) is not points-based and allows employers in regional or low population growth areas to fill skilled positions they are unable to fill from the local labour market.

New Zealand

New Zealand introduced a points-based system, based on the Canadian model, in 1991. From November 2015, migrants to New Zealand who have been offered a job outside Auckland are awarded higher bonus points when applying for residency. In return, migrants need to commit to a specific regions for at least twelve months. For entrepreneurs, the number of points they are awarded is double the previous amount, while bonus points for skilled immigrants are triple the previous amount if they set up a business or accept a job offer outside Auckland.

China

Although international migrants in China are free to move to live in whichever part of the country they

like, China has in place a household registration system – or Hukou – to regulate the movement of Chinese citizens from rural to urban areas. The Hukou or was introduced in 1958. It determines whether a person may enjoy subsidised public services in urban areas. Migrant workers from rural areas are able to apply for a residency permit in cities to use certain services if they have lived in a city for six months, and can show either an employment contract or a tenancy agreement. This permit allows access to state health care where the migrants live, and permits their children to go to local state schools up to the age of 15.

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